Respectable femininities: Discourses on widow inheritance in Kenya

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Biographical note

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Abstract

This chapter draws on a doctoral field study conducted over in 2007 in Ahero in the Western part of Kenya. Using sexuality as an analytical frame, I examine how the construction of womanhood and manhood become mobilized within broad and volatile debates on rights, power and national identity in Kenya. To do so, I analyse discourses on widow inheritance and the inherent tension manifest in the preservation of ‘cultural norms’ - the framework within which the surveillance of women’s sexuality occurs - and ethnic identities. The nexus between power and pleasure is key to the examination of the idea of respectable femininities and wayward sexualities, which become routes that are used by women to subvert the control of their sexual autonomy.

Keywords

Widow inheritance, sexuality, culture, feminism, pleasure

Introduction

Debates about African women’s sexualities have been shrouded in narratives of disease, harmful traditional practices or violence - in a word they have been framed through constraint even when seeking freedom. McFadden (2003) contends that the focus on “safe” zones such as reproduction often within marriage or violence, mute pleasure and choice as powerful political and transformative tools. Literature and activism on widow inheritance across Africa has often followed the trend identified by McFadden through an emphasis on the lack of agency of women and a positioning of “cultural practices” as falling within two contested binaries modernity/urbanity/Christianity and tradition/rurality/un-civilised. These broad generalisations while informed by the intention to seek women’s rights including those associated with bodily autonomy and therefore sexual pleasure, often wish away the many
ways in which women exercise agency. This article and the field study on which it is based sought to destabilise the notion that a focus on pleasure and choice is secondary in contexts where daily realities are framed by the constrains brought about by poverty, HIV/AIDS and violence.

**Why widow inheritance**

You can’t tell why [widow] inheritance [occurs] because we started seeing it a long time ago, so we grew up seeing it happening. So you must be inherited. If you have children you are inherited so that you do not mess up their future. If you do not have children it [widow inheritance] helps to continue the lineage. Research participant

Amongst the Luo people of Kenya, ‘widow inheritance’,1 also referred to as wife inheritance, is contested amongst those who have been ‘inherited’, have inherited or are external observers. As a result of these contestations there are multiple discourses that are generated in both popular and scholarly work on the subject. I would like to focus on three in this article. The first set of discourses are produced by scholars working within traditions of cultural anthropology who argue that what happens amongst the Luo is not ‘inheritance’, but a leviratic union, where a levir (a husband’s brother)2 is required by tradition to take on the brother’s widow to provide support and protection (Ocholla-Ayayo, 1980; Ogot, 1967; Ogutu, 2001: 12). Widow inheritance is therefore argued to be a misleading interpretation of what happens. In defending leviratic unions, these scholars rehearse the ‘modernity/tradition’ binary by emphasizing how urbanization has contributed to a regression from traditional ways (Ocholla-Ayayo, 1980; Ogot, 1967; Ogutu, 2001: 12). As a result, ‘respectable’ women are produced and contrasted against their ‘wayward’ counterparts, who are often framed as economically empowered and mobile.

The second set of discourses on widow inheritance creates a polarity between women as victims on the one hand and as vectors of disease, dirt and pollution on the other. This framing is developed to varying degrees by researchers writing within public health, women’s
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rights and cultural anthropology frameworks. I would like to focus here on the analysis that proceeds from a public health framework, which generates three major arguments around ‘dirt’ ‘pollution’ and ‘disease’. The first argument is developed out of an interest in the causal factors behind the spread of HIV/AIDS and the need to devise mechanisms to contain new infections. Widow inheritance therefore serves as a vehicle for the spread of HIV. The second develops widow inheritance as a vehicle for oppressing women given their inability to negotiate for safe sex. Safer sex is seen as a mechanism for reducing new HIV infections (NASCOP and MOH, 1998). The third develops the containment argument noting that the surveillance of a ‘single woman’s’ sexual partners through a known inheritor is useful for containing the spread of HIV/AIDS (Adetunji and Oni, 2007).

The third and final discourse, constructs widow inheritance as dangerous, therefore situating it as a ‘harmful traditional practice’ (Kiragu, 1995; Sleap, 2001; Wahome, 2001). The rehearsal of women as victims and widow inheritance as harmful is developed by researchers working from a human and women’s rights perspective as well as by theologians. The rights framework in particular develops this position based on women’s rights to inheritance and affirming their personhood. In doing so, the modernity/tradition binary emerges, which casts choice as ‘modern’ and oppression of women as ‘traditional’. The rights discourse also deploys development as a route to defining the modern and developed state as one that guarantees access and control of factors of production, particularly land (Bunch, 1995; Chapman, 1990; CREAW, 2008; Sweetman, 2008).

My interest in widow inheritance as a research area arose in relation to the debates highlighted above and two major issues that arise within them. The first is a contradiction in existing research, which positions women who acquiesce to widowhood rites as compliant while at the same time suggesting agency through a critique of acts that are considered subversive. Scholars proceeding from this position such as Ogutu (2001) and Ayikukwei et al. (2007), construct widows as passive actors who fear penalties and punishments, such as being
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...ostracized for failure to conform to ‘normative Luo ethics’. In constructing the ‘normative Lotus woman’, two types of women are subsequently produced: licentious, hot-blooded women, who are unable to control their sexual desires, juxtaposed against women who conform and are guided by ‘normative cultural ethics’ that act as a bulwark against the ‘largesse’ exhibited by the former. Constructed in this way, Ogutu and others produce widows as individuals who are unable to exercise choice and/or manoeuvre through societal constraints. This is at odds, with the positioning of women as sexual beings who also identify the potential inheritor albeit within the parameters of cultural norms thereby suggesting that decisions are not simply imposed upon them.

I am interested in expanding analysis on widow inheritance from those that simply pit it as a battle between modernity and tradition thus creating a group of women who are HIV positive, landless and whose lives as sexual beings are framed by force. It is in the narrative of the absolute that the opportunities for re-imagining occur. I wanted to understand the constructions of gendered and sexual identities during discussions on widow inheritance. Consequently, one of my research objectives was a re-examination of widow inheritance by paying attention to widows’ narrations of acts of subversion and the counter-narratives developed to critique their actions. This article draws on aspects of a two-year research project to offer my reflections.

**Researching widow inheritance**

Feminist and post-colonial scholars have troubled the notion of research and consequently contributed to a body of knowledge that has expanded the praxis of research and the meaning of being a researcher. Key to feminist research scholarship is the recognition of power as a central factor in the research process and the need to re-imagine different relationships to voice, language and narratives (Bennett, 2008; Kapoor, 2006; Mohanty, 2002; Reinharz, 1992; Spivak, 1993; Tuhiwai-Smith, 2006). All research processes are acts of power framed...
by selecting, arranging, presenting knowledge, privileging sets of texts and views about what issues count as significant. These acts of selection in my case are shaped by my feminist politics, my location in the global South and Africa to be precise, the histories of knowledge production that have defined how the broader African context and women have been constructed and the academic process that drove my research. I can argue that my insider/outsider position places me in a distinctly advantageous position in terms of access to specific narratives and my ability to understand the nuances of language and context, but it can also place me at a disadvantage. This disadvantage may be assessed on the basis of the class dynamics that shaped my upbringing, my age, my feminist positioning and the demands of the academy. I was conscious of these factors but the scope of this article does not facilitate a robust reflection on the dynamics of doing field research on this subject as a feminist scholar. However, I summarize below the environment I worked in and the factors that drove my choices. Even though presented in a linear manner, the dynamics that shaped my engagement in the field were more fluid.

My research was conducted in sections of Kisumu East District specifically in Kadibo division in the villages of Kadibo, K’akoko, and K’ayim. This is an area that is best described as peri-urban, given its proximity to Kisumu the third largest city in Kenya. At the time of conducting my study, the District Development Plan noted that women bore a disproportionately large share of both domestic and agricultural work (Republic of Kenya, 2008: 24). The literacy rate stands at 85% against the female rate of 81.4%. The need to enhance women’s contribution to district development is recognized through the identification of a range of development processes aimed at ensuring that women’s ‘time resources’ are efficiently utilized (Republic of Kenya, 2008: 24). However, improving the status of women is largely driven by the need to enhance productivity and development to the area and less about broader equity concerns shaped for instance by citizenship.
Participant selection was shaped by a review of literature, which facilitated a mapping of the key generators of discourses on widow inheritance based on their societal position. The seemingly homogeneous categories described below did not limit my engagement with participants solely within these boundaries, but rather conversations often involved a mix of individuals. At other times, however, I worked within the more or less rigid categories described below.

The first set of participants were widows between the ages 25–50 years old. I wanted to ensure that I was working with women whose husbands had died within the last ten years as a period of focus for my study. This broad age group, although useful for setting initial parameters, did not hold during the actual fieldwork, since some of the older matriarchs within the homes where the focus group discussions (FGDs) were held became participants. Other variables, such as the type of marriage (monogamous or polygamous) and the cause of spousal death, were not specified as factors that would influence the sampling process. This omission was intentional since the broad objectives of my research were not driven by generating data that would distinguish between categories of women that have already been largely pathologized as vulnerable and oppressed within dominant literature of widow inheritance. This choice enabled an organic engagement with these factors when they emerged as part of the interviews and FGDs. All of the women considered themselves Christians and had completed secondary school education.

The second group of research participants were levirates (joter) and ‘ritual cleansers’ (jokowiny). I made an effort to distinguish between levirates and ritual cleansers, who are often conflated in most literature on widow inheritance in Kenya. However, most of the men who were interviewed simply defined themselves as levirates even though triangulation revealed the contrary. This decision was due to local constructions of ritual cleansers as businessmen who have commercialized the practice. Although joter and ‘ritual cleansers’
were key groups, it was difficult to find a significant number of men who were willing to speak about their experiences; hence, there were fewer interviewed than the widows.

The final group of research participants were key informants: cultural custodians, including representatives of the Luo Council of Elders, chiefs and local clan elders. I initially referred to this category of participants as key informants; individuals who could be defined as knowledgeable resource persons and were gatekeepers who, if left out of the process or not consulted, could have a negative impact on my work. When I began my work some of the ‘holders of knowledge’ turned out to be patriarchs and matriarchs in some homesteads, teachers or clan elders.

I conducted thirty interviews; six were with individuals identified as ‘inheritors’, three were with key informants, eleven were with widows and ten were triangulations with in-laws and other relations of the widows and ‘inheritors’. In addition, six FGDs were conducted over a period of four months with sixty women and men. Five of the FGDs were kept as same gender groups. Of these, three were with women and two with men. I made a decision to have single gender FGDs because I wanted to create a space for candid conversations unhindered by the fact that male in-laws were present. All FGDs consisted of women and men across different age brackets. The sixth FGD was designed as a mixed discussion to observe how both space and narratives were arrogated when men and women were together. This decision was driven by one of the male only FGDs that launched a scathing attack on women as the source of problems in the community. The analysis generated from the mixed FGD, the pilot and key informant interviews do not form the focus of this article.

**Working with field material**

FGDs elicit a variety of linguistic genres, such as questions, explanations and narratives in the form of anecdotes. Analytically, discourse and conversation analysis were the main ways I
worked with the material from the FGDs. This meant that in some instances I deployed a form of conversation analysis, where emphasis was placed on the positioning of speakers (the sites from which the speaker derives their authority) and how this informed the construction and production of particular kinds of subjectivities. It also meant paying attention to the ways in which gender and power were negotiated and space organized and/or arrogated. In using discourse analysis, I collected content across a number of FGDs in order to develop discourse, followed by an analysis of discursive devices, as they presented themselves in the course of FGD conversations.

My analysis does not offer a collective description of widow inheritance. Instead, I explore how an engagement with descriptions of diverse experiences of widow inheritance gives rise to discourses on gender, sexuality, power and identity. It is the discourses produced during the narration of experiences rather than the experiences themselves that my research analysed. I draw on a theoretical tradition that views gender as constructed and performative even though the daily negotiations of gender during my field work functioned within paradigms that took patriarchy as given (Butler, 1990; Pereira, 2005; Rubin, 1984; Stoler, 2002). Heterosexuality is therefore foregrounded as one of the ways in which patriarchy, and as a result, gender and sexuality are reinforced in daily practices and norms. I concur with Jackson (2006) who highlights the ordering role that heterosexuality plays beyond the domestic sphere to other macro zones, thus legitimizing particular performances of gender and sexuality as correct and others as incorrect. It therefore becomes important to critically analyse institutions such as the family, the clan, the state, and the market as routes through which sexual and political ordering occurs (Douglas, 2002; McClintock, 1995; Stoler, 2002; Thomas, 2005; Yuval-Davis and Anthias, 1989).

Finally, my research and analysis was also informed by the political debates in Kenya, in the aftermath of the post-election crisis in Kenya in 2008. These events had implications for gendered bodies and citizenship, and discursively re-cast the function of widow inheritance.
Debates about women’s sexuality in general, reproduction in particular, and communities’ physical and metaphorical borders came into sharp focus. In the sections that follow, I will examine the discourses that emerged around the performance of ‘good womanhood’ and how it interfaced with particular framings of femininity and sexuality. Through the narratives of the women and men I engaged with, it was evident that normative descriptions of femininity and masculinity are contested and subverted within expected widow inheritance rites. Women who have been predominantly constructed as oppressed find ways to work within the cultural constraints imposed upon them to secure the right to housing, ownership of property and sexual agency – read here as the right to choose a sexual partner or not, the choice to have children and the choice to not be de-sexualized because they refuse to acquiesce to cultural norms. Power relations are constantly negotiated, shifting and changing through everyday acts of bodily resistance.

**Wayward sexualities**

By becoming *chi oganda* [wife of the clan] a Luo wife will be granted the right to full membership of the family, and the right to have a say in and determine the upbringing and future of her children (Ogutu, 2001: 10).

Ogutu (2001) offers hierarchies of becoming a wife in the Luo nation through a description that suggests homogenous ideas of how men and women are gendered. While drawing attention to the ways in which women acquire power as wives, his analysis maintains hetero-patriarchy as given. Cultural anthropological descriptions of Luo marriage norms such as Ogutu’s are useful to my reading of acts of subversion since these texts as sustained in daily life through a range of cultural and social norms about belonging to the Luo nation and how that is negotiated within a larger state building project. In these texts, people of Luo decent are taken as a largely homogenous group, sharing a language and sets of practices that define
them as a nation. I was interested in whether these descriptions existed in a linear and fixed manner held by cultural custodians for the women and men I interacted with. If not, what alternative narratives and ways of being were negotiated and how?

Scholars writing from a historical and anthropological tradition, situate the institution of marriage as the de facto means through which non-filial bonds are contracted between men and women. Marriage is argued to act as the primary means through which heterosexual relations are negotiated and concluded (Ocholla-Ayayo, 1980; Ogot, 1967; Pala, 1980). Ogutu (2001) argues that marriage was entered into after an extended process of courtship often involving go-betweens.5 The families of the man and the woman were (and still are) directly involved in marriage negotiations, which culminate in sealing the marriage deal through the payment of bride wealth:

The nature of the negotiation and sealing process meant that once marriage was contracted it was permanent and there was no room for divorce unless the man was impotent. Death did not bring marriage to an end. (Ogutu, 2001: 11)

A premium is placed on male virility as the only basis for the dissolution of a marriage. Conversely, the reproductive capacities of women become a central part of marriage. However, there is overall silence both in literature and practice with regard to the ‘options’ available to reproductively challenged women, beyond men’s ability to marry another wife through a polygamous arrangement. This could partly be explained by the exogamous nature of marriage that sees, a wife as a stranger who needs to be fully integrated into the family. According to Ogutu (2001: 10), the processes associated with consummating the marriage include childbirth and transitioning the woman from the wife of her husband, to the wife of the household, to the wife of the homestead, and, ultimately, to the wife of the clan. Ogutu places a high value on the aspiration to become chi oganda (wife of the clan), with the least-desired status being that of chi chwore (wife of the husband), which is viewed by the clan as
selfish and characteristic of urban and economically mobile women (Ogutu, 2001: 9). *Chi oganda*, according to Ogutu (2001: 15), fully accepts Luo beliefs and practices and therefore becomes a Luo wife par excellence. ‘By becoming chi oganda, a Luo wife will be granted the right to full membership of the family, and the right to have a say in and determine the upbringing and future of her children’ (Ogutu, 2001: 10).

I offer family structure as a way to locate the link between widow inheritance, heterosexual family ties and the regulation of women’s sexuality. Heteronormative gender roles, which are rehearsed through cultural anthropological literature, assert particular performances of femininities as correct. The assertion of these femininities and associated norms justifies the role of widow inheritance in maintaining and in reinforcing performance of ‘respectable’ femininities and dominant masculinities. Widow inheritance rites therefore serve as a framework to contain these norms and the institution of marriage upon its dissolution through death.

**Becoming a jater**

Cultural anthropologists emphasize the ritualistic function of widow inheritance. Cleansing a woman – where sex is a ritual act and the woman’s body a container - serves the function of establishing new boundaries by setting the stage for the appointment of a ‘legitimate’ partner. This male partner acts as an interlocutor for the home as well as ‘protects’ and continues the family lineage if the woman can bear children. Widows are traditionally inherited by a husband’s brother or another male relative who according to Potash (1986) is usually approached by the widow to establish his interest in a ‘re-marriage’ (ter) (Kirwen, 1979; Ndisi, 1974). The consensus on who should inherit the widow rests with the elders and in-laws (Ogutu, 1995, 2001; Potash, 1986). The proposed *jater* needs to fit within the boundaries above (brother or male relative) in order to meet the elders’ approval. The insistence on a
levir from the same community preferably clan is an essential part of this boundary preserving project.

Research participants in the study pointed to a more complex reality, which draws attention to regulatory discourses that place non-compliant women in a tenuous relationship to sexual agency. Culture, in this instance widow inheritance, is continually produced and reproduced through social practices that are seen to define sociable beings. Consequently, the gendered body as central to this process, positions itself as a political field upon which power relations have an immediate hold: ‘they invest it, mark it, train it, torture it, force it to carry out tasks to perform ceremonies, to emit signs’ (Bell, 1992: 202). As a result, the re-negotiation of power during ritual acts and the ways in which ritual strategies and symbols associated with sexual danger, such as those evident in widow inheritance rites, begin to shift hierarchies and symmetries that apply to larger social systems is key to my analysis.

That women become protagonists through the seduction of the potential jater (levir) was consistent amongst the women research participants. However, it was also clear that power symmetries were re-negotiated in two major ways. The first way is through the retention of ‘respectable femininities’ by acquiescing to inheritance while deviating from communally sanctioned norms about who should be an inheritor and the role that the inheritor plays in their lives. This is seen in the women’s discussion below:

Jerusha: When your husband dies, you are the one who seduces a man. No one does it for you.
Teresa: Yes. You are expected to go around pleading with a man to be with you and often it is somebody else’s husband. So when he comes, you treat him nicely.
Plister: In today’s inheritance, you can even bring someone from a different tribe to inherit you. You might be working with a Kikuyu man, and when your husband dies,
you can decide to bring him home to build a home for you, and then go back to where you work.

Auma: I have a sister who got married after her husband died, so she left her two children with their grandmother to go and earn some money. She ended up building her own home. She had a ‘friend’ [lover] from Migori who helped her build the house.

There is one major conclusion that can be drawn from the excerpt above, which collates a selection of views from across five FGDs with women. This conclusion is derived from dominant discussions on widow inheritance, which insist that choice exercised in an environment framed by expectations is not choice at all. What was evident, however, in the discussions was the fact that even where choice was framed by the idea of ‘repression’ the women pointed to the power they had in these new relationships, which differed significantly from their marriages. This shift in power is demonstrated in three main ways.

The first way in which this new power and therefore hierarchies are destabilized is through the decision to choose a jater based on need. Need was often a house – a representation of security and geographical memory – in a context where you are considered a stranger (Ogutu, 2001). Viewed in this context, male power becomes symbolic and women’s repression becomes tenuous. Male power is re-constructed above through an instrumentalization of the process. Male authority within a widow inheritance arrangement is invested in processes that are created to affirm this power, such as being witness to the construction of a house, the negotiation and payment of a dowry or convening of family meetings. However, the identification and pursuit of a jater, transforms this power. A widow becomes an active agent who makes decisions regarding the presence or absence of the man in her life, the choices as Auma points to, all based on the terms she negotiates upon his arrival, as is illustrated in a men only discussion later in this article. Plister’s assertions above highlight the fact that the ter relationship is sometimes reliant on the woman providing economically thus moving away
from the notion of a man as provider and placing the woman in a position of economic agency.

Secondly, the fluidity in the boundaries associated with who can be a *jater*, which is evident in the choice of non-Luo men and ‘friends’ as inheritors. This fluidity is a pointer to a subversion of the hierarchies of power and associated surveillance. The choice of friends [lovers] who extended family members have no option but to accept as a levir destabilizes the regulatory role of widow inheritance rites. A widow is acquiescing to widowhood rites and plying the boundaries associated with doing what is expected, but she is moving away from normative expectations of a communally sanctioned *jater* as her sole and legitimate sexual partner. There are multiple layers of gender and sexual agency operating here.

A third way in which we see power shift is through the issue of sex and sexuality. Sexual agency is inferred through the notion of seduction but is not constructed as constraining and repressive, as represented within developmental discourses. Instead, sex and the performance of desire is viewed as a powerful negotiating tool to secure a widow’s future and that of her children. A widow’s agency is derived not only through her control over family resources but also from the liminality of widowhood. It has been argued that women’s power in some communities is negotiated via marriage and motherhood (Amadiume, 1997; Oyewumi, 2002; Tamale, 2005). A married woman commands more respectability in comparison to a single woman and a married woman with children commands more respect than a married woman without children, therefore a woman who has been married before and is now single presents a different set of power dynamics which do not fit neatly within the binaries of married, single, childless or divorced. Widows’ sexual agency is therefore recast as contrary to expected norms in response to a shifting terrain for men’s roles and power. The field discussions below illustrate men’s discomfort with the liminality that widows embody.
Odongo: As a young man, I developed an interest in looking for a partner and especially older women who are easier to seduce than a young woman. I can also do a hit and run and then run off to another place. I also think wealth is a big factor. Let me give you an example. If you come with a vehicle, approach me as a peasant and take me somewhere for a drink, I will accept.

Ogolla: That is not inheritance; that is purely sex. You have not followed Luo culture. A woman cannot direct you to inherit her if you have not cleansed her in the house.

Ernest: I want to go back to the subject of young men inheriting women. Women are a mess especially when their husbands left some wealth; they will now use this money to buy the boys by buying them clothes.

Onyango: Let me give them an example: Wambui Otieno and Mbugua. This young man went there for Wambui’s wealth. We blame the women for going for those young men, because they are the ones who choose them.

The debate above illustrates discomfort with the choice of younger jater and situates the jater and the widows who chose them as ‘culturally unacceptable’, particularly when the jater’s role is primarily to serve as a symbolic border guard for key objectives that the widow desires, such as being present as a house is constructed. Ogolla’s rejection of Odongo’s actions is a rejection of the subversion of male power by women and telling of the ways in which women are continually subverting the very structures – ter - that are designed to constrain them. Ernest and Onyango resolve the changing performances of masculinities evident through Odongo as decisions shaped by the constraints of poverty. The economic mobility of older women is suggested as a key factor for their ability to seduce younger men. Economically mobile and sexually agent women are constructed as ‘out of control’.
An out of control widow is defined by the following actions: she takes unilateral decisions regarding the use of financial resources, exercises sexual autonomy, and does not defer to men in a context where heterosexual relationships clearly define the gendered division of labour and power. By acting contrary to heteronormative expectations contained within widowhood rites, Ogolla and Ernest place women’s subversion in the terrain of culturally inappropriate and in doing so frame the widows’ actions as counter-hegemonic. ‘Out of control’ women appropriate cultural norms by exercising sexual power and therefore illuminate transgression across gendered sites of power. The notion of transgression is pursued in Ogolla’s argument that economically empowered widows instrumentalize widowhood rites by exercising choice around a jater. For Ogolla, sex only becomes culturally appropriate when it is conducted on the terms in which a man exercises full control and determines the rules of engagement.

Regulatory discourses prescribe the institution of marriage and associated cultural frameworks – in this case, widow inheritance – as the only space in which sex for widows is considered respectable. Assertions around ‘respectable femininities’ therefore become anchored within a framework of heteronormative continuity as explored in the excerpt below from a men-only discussion:

Onyango: It is true that, when a woman loses her husband, she is the one to seduce the man. So maybe after some months, she will chase away the man and bring in another man. I am an inheritor and the big problem is the question of respect. So men burn the houses, so that we see where she will live with that new man.

Aduda: What happens with a lot of young women today is that they already had an in-law whom they liked before the man died. A woman who has been inherited is a woman who has already lived with a man and she has experience in marriage, so it’s so difficult to handle her, unlike a newly married woman. Nowadays, married women
have really changed: they always behave like young girls in that even when you call her the name ‘mother’, she doesn’t like it – they lack respect.

Ernest: The reason why women say the inheritors are bad is often because the men want to control them, because you might see that a woman is misusing the property of her late husband to buy luxurious things, and if you try to ask her, it starts a quarrel.

What causes the burning of houses is this: the inheritor spends too much time where he has been ‘seconded’, and abandons his primary home. His wife could potentially send him away and when he returns to this other home, he is chased away. Meanwhile, he is the person who ‘built’ the house [meaning that he symbolically stood as the man of the home] after which her behaviour changes.

The transformation of men’s roles within widow inheritance unions, particularly those aspects associated with control over a woman, destabilizes the notion of heteronormative continuity. Inheritors find themselves on the opposite side of the fence, as invited guests into a home where they are unable to exert any power. The idea of women in control, in a terrain that has traditionally positioned the man as a protagonist, as the head, is unsettling for men. As a result, participants in this study revert to continuity and the role of widow inheritance in re-inscribing male power through normative roles of women and men within marriage. The control of women who were previously married and who redefine the terms of the heterosexual relationships they engage in leads to multiple levels of containment. As seen in the next section, reproduction emerges as an important strategy to manage women’s sexual autonomy.

Respectable femininities: reproduction and boundaries

Like most hetero-sexist cultures, a high premium is placed on bearing sons to symbolically carry on the male lineage (Pala, 1980). Consequently, young widows are expected to continue childbearing, with any new children bearing the name of the deceased husband. The centrality
of children and women’s reproductive capacities therefore results in the surveillance of
women’s sexualities as seen below:

Aduda [man]: Your brother might die and the woman he leaves behind is still young, so the woman should be inherited so that she could give birth to a child who can be named after him.

Betty [woman]: So Luos brought it [widow inheritance] to get another man for the girl so that she could give birth and the children can be recognized as the late husband’s children. So I support it in terms of continuing the lineage.

Phyllis: [woman]: I agree that it is a good practice to ensure that you get someone to stay with you and give children to that home – so that she [the widow] can raise the flag of that home and preserve the name of the man.

Dixon: [man]: One of the reasons Joluo also insisted that young widows were inherited was to ensure that there is clarity on who you are now with and that the children born after that will become the late husband’s children. One of the major things that made Joluo inherit is to bring continuity by ensuring that more children are born.

Surveillance as reflected in the discussion above, occurs in two major ways. The first is by restricting women’s sexual freedom. This is seen in Dixon’s statement ‘clarity on who you are now with’. Widow inheritance rites ensure that a woman’s sexual liaisons become public. The second way in which surveillance and containment occurs is through the management of reproduction, through the insistence on bearing children within the widow inheritance union. Children borne out of an inheritance union serve the function of containment:

Onyango: I will speak about what I have seen. A long time ago, when women were inherited, they gave birth with their inheritors. Today, even the young ones do not have children with their inheritors. These women are just inherited for fun. The respect that women who were inherited had for their inheritors is non-existent today. The respect
she gave her husband, she does not give the inheritor, and so you cannot control her.

Women who are older and inherited have no respect and cannot be controlled. Today, inheritance does not help at all, because women are not giving birth. There is also no development you can take to that home.

Lillian: Some refuse inheritance, but after some time you will start noticing that she has somebody outside her home that she sees secretly. So it is better to remain calm and abstain. Some women even pretend that they are not married, but they have men in their lives. She says that she is not inherited, but later on she becomes pregnant and decides to abort, because people would start talking that how could she be pregnant and she is alone. If you decide not to be inherited, then stay [without a man in your life]. If you do decide to be inherited, then take a man and live with him in your house.

Caroline: Women should not be controlled by their body and should make their blood cold [keep their sexual urges in check] and close that chapter of their lives once you decide [not to be inherited]. The idea that you don’t want to be inherited, but you are busy spending time in town with men friends is a problem.

Where a rejection of these containment and surveillance strategies occurs, as alluded to in the discussion above, a link is made between sexual choice and self-control. This is alluded to in the conversation around ‘keeping calm and keeping one’s blood cold’. Containment emerges as a response to choice and pleasure with the link between ‘unbridled sexuality’ and economic mobility being reaffirmed. This is developed in conversations that explore the connection between women working in the city and their rejection of cultural norms, a husband’s death enabling women to exercise more control over family resources or women’s refusal to give birth. Women’s sexual agency and choice result in the disruption of normative constructions of femininity that privilege reproduction within the confines of marriage, the heterosexual family and widow inheritance unions. Consequently, the sexualization of a widow in terms that do not challenge normative perceptions of womanhood, motherhood, and femininity occur through the immediate construction of any man’s presence as an inheritor.
This reconstruction is informed by a concern amongst women about impropriety, which is derived from the reluctance to see women as sexual beings, except in designated spaces - marriage. Reclaimed versions of widow inheritance create an opportunity to ‘rescue’ a woman’s honour.

Conclusions

This article set out to understand the ways in which gender and sexual identities are reconstructed during discussions on widow inheritance. An event (death) and a transitional process (widowhood) create the space for the disruption of the normative gender and sexual order. Disruption creates an opportunity for the subversion of cultural expectations around women’s roles as widows and the value of men within widowhood inheritance rites, and opens up the opportunity for women to redefine their sexualities after the death of a spouse. Widows’ redefinition of heterosexual relationships is critical given that marriage and widow inheritance rites are the sites within which both patrilineal and patriarchal power is sustained.

Widow inheritance rites rely on the public/private dichotomy. This dichotomy defines gender power through a complex network of overt gender roles and covertly through symbols, taboos and linguistic practices. Widow inheritance therefore acts as a framework to offer continuity for male power and accompanying roles through the figure of the jater once the institution of marriage is dissolved by the death of a spouse. The construction of particular decisions and functions as impossible in the absence of men – such as house building, dowry payment or the resolution of family disputes – is ‘resolved’ by containing and ritualizing women’s sexuality and its performance. However, women’s acts of subversion when they usurp the devices deployed to maintain male hegemonic power destabilizes the public/private dichotomy and blurs heteronormative power dynamics. This is seen in the symbolic deployment of male power through alternative routes to inheritance such as: the choice of a jater who may or may not come from the community, the choice of a jater from within the
community to simply secure communal approval for house construction following a husband’s death, and finally, in the choices made over reproduction. Inherent in these choices is sexual currency and its use. It is evident that women are having sex for diverse reasons depending on the relationships they opt for. There is sex for pleasure when it is evident that a ‘friend’ is chosen as a jater or when a younger man is pursued or when a woman chooses not to conceive within a widow inheritance union. Sex as a means to an end is seen in a widow’s choice of a community approved jater to fulfil specific functions. While contagion theories have pervaded discussions on widow inheritance rites, disease, death and illness did not emerge as a central narrative in the research participants’ account of inheritance rites. This is not to argue that illness, whether as a result of HIV/AIDS or other causes, is not a factor. However, the fact that it did not pre-occupy the women’s discursive negotiation of respectable or wayward femininities is worth highlighting.

Finally, the liminality created by widowhood is in itself a space of power. Widows are able to navigate alternative sexual relationships within widowhood rites by drawing on the respectability accorded to a married woman who is considered to have voice in her own home. The respectability drawn from widowhood positions the jater as not being a ‘real husband’; his legitimacy is affirmed by the widow. Even though counter-hegemonic narratives performed by women participants take heteronormativity as given, they offer a window into the destabilizing effects of alternative heterosexualities as developed by ‘wayward’ widows.

Notes

1 Given the vast debates on the term and rites associated with it I use widow inheritance in quotation marks in the first instance and drop it later in the article to represent the contested nature and reflect that I do not use it uncritically.
2 A brother is an expansive term that refers to any male relative from the same clan.
3 ‘Single’ here is constructed against the notion of an identifiable male partner in the form of a husband. A widowed woman could also be referred to as single and targeted by these programmes.
4 I adopted purposive sampling, which means that I targeted people who possessed the attributes or histories being studied. I also utilized snowball sampling, where participants referred me to other
individuals who had similar narratives or were central to their own stories. The participants were identified through a community organizer I had previously worked with on development initiatives in the region.

5 I draw extensively on the work of Gilbert Ogutu, who has written widely on widow inheritance and traditional institutions of the Luo, and specifically their relevance (or not) to women’s rights concerns. As the current secretary general of the Luo Council of Elders, his views as a key scholar in this regard are important.

6 Wambui Otieno was a Kenyan Mau Mau freedom fighter who was half Maasai and half Kikuyu. In 1985, she challenged her husband S M Otieno’s clan to the patrilineal rights to his body for burial. The S M Otieno case, as it is popularly referred to, has drawn significant popular and theoretical analysis. In 2003, at 67 years Wambui married a 28-year-old man to the chagrin of many in Kenya.

References


