

The Impact of External Institutions on Kuria Marriages in Tanzania

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Abstract

This article provides an ethnographic attention to the interface between traditional Kuria marriages, socio-economic changes, and consequences of interventions by institutions of the state, foreign religions and non-governmental organisations (NGOs) explicating themes of agency and lineage perpetuation. Attention is paid to continuities and changes happening in the described relationships, and how the changing market economy and new forms of economic interaction in Tarime District have given some women access to wealth, thereby enabling them to arrange their marriages. Additionally, other forms of marriage that are prohibited by law and religious institutions, such as marriage of young daughters still continue, and unmarried daughters continue to experience structural control. Overall, the current article points to the fact that, despite adopting foreign beliefs such as Christianity and Islam, Kuria tradition still plays a key role as a way of life.

Introduction

In Tanzania, Kuria-speaking people live in Tarime, Rorya, Musoma Rural, Serengeti, and Bunda Districts of Tanzania. This study endeavours to explain the impact of socio-economic, state, non-government, and religious changes occurring among the Kuria people and their consequences for customary marriages. When Christianity was introduced in Tanzania the colonial administrators and missionaries were against some Kuria marriages and viewed them as contradicting Christian faith (Rwezaura, 1981). The Kuria people have adapted to Christian and Islamic faiths in the forms made available to them. Equally noted, the current state laws do not recognise some arrangements of the Kuria marriages. However, the Kuria have found

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ways of continuing with their own practices, such as a union with a dead single daughter. The mother's single status meant that children were fatherless. Under Kuria norms, unless bridewealth is paid for a woman, she would always be recognised as single. On another note, Christian women have found a way out of their infertility problems by adopting children of dead single mothers. Other unions such as *ekebeta* (with a young girl as a guarantor of a loan) and *potataro* (with a young boy), although changing, still exist to some extent. The changing market economy and women's new ways to gain access to wealth have also modified some Kuria marriages, enabling some women and widows to pay bridewealth for daughters-in-law, even more than one, to gain social and economic status. Regardless of the new opportunities for women to twist Kuria rules to their own advantage, there has been only minimal improvement in women's social and economic position. This study illustrates the way Kuria have modified some of their practices to appear in new guises to fit the foreign regulations, while also seen as fit to their "traditional" practices, but in fact, they are not, therefore indicating both continuity and change. It is argued that despite all these changes, the Kuria people have persistently held on to their principles of high fertility, marriage, and personhood, thereby carrying out a form of silent opposition.

This study draws on theories of and observations by Parkin and Nyamwaya (1987) and Burnham (1987) to reveal the agency of individuals. Agency as understood in this context implies that actors "continuously engage patterns and repertoires from the past, project hypothetical pathways forward in time, and adjust their actions to the exigencies of emerging situations" (Emirbayer and Mische; 1998: 1012). Influenced by Levi-Strauss' work, the essays edited by Parkin and Nyamwaya (1987) portray people as pursuing their interests both competitively and in alliance. While critiquing the functionalist tendency to recognise domestic relations as being in harmony, essays edited by Parkin and Nyamwaya (1987) remind us to explore ways that men and women, and their kin, are able to interact. This work explores ways in which individuals are structurally controlled, yet as social actors may employ agency for or against structures. Therefore this work shows the inventions made by individuals as social actors in the different marriages in order to survive in a Kuria sociocultural system and in response to external influence. Following on Parkin and Nyamwaya's work, this study shows the ways in which individual interests are sought competitively or in alliance with Kuria values. Even though unmarried daughters may delay marriage or enter

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into marriages with dead men¹ in order to continue their freedom from husband control, such a strategy is consonant with Kuria values while also representing individual interests.

Burnham (1987) suggests the need to explore types of marriage as resulting from people's strategies and as ways that people have to enter various relationships. I also consider Burnham's suggestion that it would be useful to explore the impacts that economy and religion have on marriage. In a passage related to this study, Burnham (1987: 43) holds that:

One should always work from the hypothesis that the structure of conjugal relations in any society is a function of the articulation between marriage practices and other features of the social system...This is not to say that we should concentrate solely on the analysis of political and economic influences on marital relations;... religious influences, for example, are also of substantial importance...

Following Burnham's suggestion, I consider the structure of conjugal relations in connection with the economy, foreign religion, and state as well as NGO policies. Childless or sonless women who have converted to Christianity are adopting children of mothers who died while unmarried in order to avoid expulsion from the church. This study shows that, marriages with young girls or boys still continue in secrecy. Men who married when they were young and uphold their marriages are expelled from the church or prevented from having Holy Communion and excluded from leadership in the church. Meanwhile, husbands who uphold Christian principles deny sexual rights of the women married to them when they were young. However, this situation leads to confusion in Kuria society, as they continue to recognise them as husbands of the women whom they sexually neglect and require such husbands to furnish the socioeconomic welfare of the neglected women and their children. Influence from external institutions like religion, state and NGOs has rendered young girls' marriages very secretive. Additionally, girl marriages are decreasing due to socioeconomic changes which led to individualism, uncertainty in lending, and disloyalty among people.

Methods

The current study makes use of ethnographic data collected in one year from July 2008 to June 2009 from among the Kuria. It is supplemented by library, archival materials, and internet information on Kuria marriages. Available

reports and studies on Kuria marriages were carried out by Baker in the early 1930s, Hans Cory from 1940s to 1950s, Barthazar Rwezaura from 1985, Eva Tobisson from 1986, and Michael Kirwen in 1979. Topics covered in these studies include Kuria leviratic custom, boys and girls married while young, and woman-to-woman marriage. Currently, internet and newspaper reports confirm the continuation of these practices (Maweni Farmers, 2012; Maningo, 2014a; Maningo, 2014b; Masinde, 2014; Nyakeke, 2014; Stewart, 2014), justifying the use of ethnographic data for a deeper understanding of the practices and for covering the gap in knowledge. Producing such data is expensive requiring a researcher to stay long in the place of study. Hence this article provides further knowledge on the topic by exploring changes that have happened, while at the same critiquing previous writings on Kuria marriages.

Fieldwork for this study was in Nyarero Village, Tarime District, in Mara Region. The main method of data collection was participant observation. I spent twelve months in the area and was involved in the activities of the community. The use of this method enabled me to collect wide-ranging data and various versions of different events. I particularly concentrated on casual questions about relationships, seeking to establish how males and females perform agency, and followed up respondents beyond Nyarero Village within the surrounding areas of Tarime District. I also looked at the language and how it reveals different meanings. At the beginning I used a male research assistant and later a female research assistant in contacting male and female respondents, mainly for translation when engaging with children and senior people who do not speak Swahili. After three months of only employing participant observation, other methods including face to face interview and focus group discussions, both formal and informal, were utilized. In addition to the above, a participatory tool, namely social network mapping, was used in exploring relationships in order to determine respondent's link to individuals or groups of people. This enabled to understand various relationships within Kuria society.

The sample of population was recruited through a chain referral. Schensul et al (1999a:241), picking up on Diaz et al (1992), describe chain referral selection as a way of getting to new target populations through the use of initial study participants. During the period, Nyarero Village had 1,402 men and 1,502 women totalling to 2,904 people. Of these 1,212 were children below the age of 17. The village had 440 households with an average size of 7 people.

Religious Constraints on Kuria Traditional Marriages

In the then Tanganyika, now Mainland Tanzania, German colonial rule (1885-1914) led to various changes in state laws. Unlike British impositions, during German colonial rule (1918-1961), to a great extent, they did not interfere with traditional practices of Kuria marriage institution. It was during the British rule, and subsequently independent Tanganyika, when the Kuria traditional laws were affected. The introduction of formal education financed jointly by the local administration and the central government materialised in Tarime District as the first primary school opened in 1938 in Tarime, followed by two other primary schools in Kinessi in 1939, and in Nyamwaga, in 1941 (Rwezaura, 1985:60). Missionaries also opened primary schools at almost every Christian missionary post. Other Kuria people attended schools away from their natal homes in different areas of Kenya and Tanganyika. The prospects for education were limited during the colonial period because of parents' resistance to enrol their children. However, as the expansion of education took place during the colonial and post-colonial periods, parents' resistance declined and ultimately, a decision that affected Kuria family relations and marriage (Rwezaura, 1985: 61). Further expansion of education took place during the post-independence period, when more primary and secondary schools were opened up between 1969 and 1976 (Rwezaura, 1985:60-2). The introduction of education and wage employment led to movement of people, which further transformed marriage relations. Some young people migrated to urban areas in search for jobs. Such young people were able to acquire cash independently for use as bridewealth. In addition, it reduced parents' control over their employed children. So children could choose their own spouses. Some children ended up marrying wives or husbands from other ethnic groups, which was disapproved of by many parents (Rwezaura, 1985:64-5).

Missionaries went to Tarime District in the early 1930s. The spread of various Christian denominations during the colonial and post-independence periods led to changes in practices of marriage and divorce. For example, if an adult male with more than one wife wanted to be baptised, he was obliged to undergo sacraments of baptism and marriage. This means that such a person was married and baptised at the same time, but with some restrictions. The restrictions required the man to choose one wife from among his wives, and the remaining wives were either kept at home without marital rights or were viewed as divorced women (Rwezaura, 1981:1ff). Some women, who entered into woman-to-woman unions because

they were childless women, complained about the unfairness of such Christian laws by claiming that it did not take into account the fact that they took a daughter-in-law so as to enable them to have children (Mhando, 2005:78). Nevertheless, the Christian laws recognised the fact that the Kuria did not want to abandon their traditional practices entirely, and therefore, certain aspects of marriage, which were not directly opposed to church laws, such as bridewealth and some traditional ceremonies were tolerated (Rwezaura, 1981:1).

Not much is known about the conversion of some Kuria to Islam. It might have taken place in Tanzania and Kenya because they worked as members of the police forces and armies (Kirwen, 1979:70). The interviews that were recorded in this study suggest that some conversion to Islam took place within East Africa and in foreign areas when Kuria participated in the First and Second World Wars as soldiers under the colonial governments. In the First World War, the Kuria fought in the established colonial territorial boundary under the East African Campaign, and in the Second World War, they experienced the war of the wider world as soldiers of King's African Rifles. However, information obtained from key informants indicates that some of the Kuria were converted to Islam by Arab missionaries who came to Nyamwaga in the early 1930s. By 1935, the first mosque had been built in Nyamwaga by an Indian merchant who bought crops from local farmers. Introduction of Islamic laws also saw new restrictions for its followers. For example, a Muslim woman was discouraged to marry a man of a different religion, while a Muslim man could marry a Christian woman (Rwezaura, 1981:2). Generally, there were fewer Muslims than Christians among the Kuria.² Kirwen's survey in Tarime District from the early 1970s indicates that 54 percent of Kuria people at that time were traditionalist, 36 percent were Christians and 10 percent were Muslims (1979:70).

The colonial misunderstanding of and intervention in Kuria marital unions is illustrated by the colonial administrator Bonavia's abolition of woman-to-woman unions in 1927.³ He maintained that future colonial administrators should work to eradicate the custom. Later on, Baker (another colonial administrator) thought that the custom of woman-to-woman union no longer existed. He (Baker, 1935: 7) further misunderstood the position of the married girls and their offspring as he recorded:

Such girls were in fact slaves...If any children were born to the young girl they were considered as the children of the widow and her

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deceased husband...The *Ba-kamona* (*daughters-in-law*) had no stable married life nor had they any legal connection with their children.

In 1945, Cory, a government sociologist, misunderstood the custom of Kuria woman-to-woman union by thinking that the married girl became a prostitute. Furthermore, he mistakenly considered a girl in a union with a sonless widowed woman to be the wife of her dead husband. He explained that since children born from such a union were taken to be of the woman's dead husband's, the married girl became a co-wife to the widowed woman (Cory, 1945:7-8). This is a misrepresentation of the relationship because the young woman was in fact the widow's daughter-in-law as she was married to her "non-existent" son⁴ (dead or imaginary) and her children were the widow's grandchildren. In 1958, Cory tried to abolish the practice of child marriage and *ekebete*, a custom in which the bridewealth was paid in instalments. *Ekebete* is also a marriage that involves female children of any age who are placed as loan guarantors.

Thus, there were several misconceptions held by colonial officers. Baker (1935) and Bonavia⁵ considered woman-to-woman union as a form of slavery, while Cory mistakenly thought that the married girl became wife of the sonless woman's dead husband. Both Cory and Baker saw that the offspring became grandchildren to the childless or sonless woman, and so remained as children to the married girl. Cory thought that by passing his decree against the paying of bridewealth in instalments before marriage he would put an end to the custom.

In this way, colonial administrators mistakenly thought that by intervening and making proclamations against some Kuria customary unions they would be able to eradicate such practices. This notion might have been enhanced by fear of punishment from colonial officials like in court. Some litigants denied the existence of such practices when it was to their advantage to do so (Rwezaura, 1985:148). Such denial continued even after independence.

It is important to emphasise here that woman-to-woman union as described by colonial officials and ethnographers was based on the variant of a union between a living mother-in-law and daughter-in-law, and they did not refer to a union of a non-living mother-in-law and a daughter-in-law or a union of a dead man and a woman. That might have been caused by confusion or failure to distinguish the relations involved in a Kuria homestead where

the local term for daughter-in-law (a wife of one's child; pl. *abaka moona*) was the word used for all daughters-in-law in the different marital relationships.

The first marriage law in Tanganyika was established by British colonialists in 1921. Majority of disputes concerning marriage were heard by local courts, which held authority over all people of African origin. Appeal cases were forwarded to the central government courts. Faced with a situation of legal pluralism, the law depended on whether one was African, Asian or European, while traditional laws were regarded with scorn, and most of the ruling was unfair to people of African origin, because it followed British colonial standards (Rwezaura, 1981: 2-3). This is exemplified by the District Commissioner's statement of rule in 1950, in which he made a note at the end of his judgement explaining that since 1930 the courts refused to recognise the legality of woman-to-woman marriage.⁶

Following independence in 1961, and enactment of the Law of Marriage Act (LMA) in 1971 and onwards, the marriage laws were strengthened and instituted. However, the LMA still did not recognise the Kuria union between a living or non-living mother-in-law with a daughter-in-law, and does not explain the position of a woman in a union with a dead man. For example, Lugoe (1965) records a divorce case related to a union between a living mother-in-law and a daughter-in-law. The relationship involved Nyangi, a woman married to Mugaya, her female husband. In contracting the marriage relationship, Mugaya appointed Siongo, a male consort who had a sexual relationship with Nyangi. The relationship between Nyangi and Mugaya lasted for ten years before Nyangi decided to discontinue it. The Primary Court Magistrate awarded a divorce to Nyangi and Siongo, because the court looked at Siongo as the husband of Nyangi, instead of viewing him as an appointed male consort. Nyangi appealed on grounds that the union was between her and Mugaya, and not Siongo who was simply the appointed male consort. In the appeal case, the District Court Magistrate overturned the ruling, saying that since no marriage had taken place, a divorce could not be awarded to Nyangi. Rwezaura also provides examples of court cases that took place in primary and district courts, and cases heard by the High Court judges at Mwanza registry. He (Rwezaura, 1985: 151ff) explains that by 1978 it had been clearly indicated that the majority of the judges treated woman-to-woman union as a non-marriage. For example, in the case of Nyangi against Mugaya, the state ended up ruling against Siongo, the male consort, instead of Mugaya, against whom the appellant intended to bring the matter.

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The Marriage Act of 1971 forbids a woman to enter into another marriage if not divorced (section 15), while section 11 allows men who are in monogamous relationships to enter into polygamous marriage, if both husband and wife agree, except where the marriage is between Christians and was celebrated in church (Fimbo, 1991:31). A marriage between two women or two men is not recognised by the law, but accepts only a marital union between a man and a woman (Runger, 1982). The unusual Kuria marriage practices that are not included in the marriage law should not be confused with homosexuality, since a union between a living mother-in-law and a daughter-in-law does not involve sexual relations.

Tanzanian marriage laws are a result of a triple heritage of traditional, Islamic and colonial (mostly western) influences expressed through a combined recognition of state, religious, and customary laws. The presented examples show the way legal pluralism may have an impact on how people arrange marriage, but the state is the overall controller. Among the Kuria, the status of a mother-in-law in a union with a daughter-in-law, or the status of a daughter-in-law in a union with a dead mother-in-law or a woman in a union with a dead man cannot be determined easily, and so it is not easy for the state to rule justly. The same applies to the status of a young male husband, whether in a monogamous or polygamous relationship.

Nowadays, the daughters-in-law in unions with living or non-living mothers-in-law or dead men are despised in the light of modern values, which depict such unions as improper and outdated. The daughters-in-law married in such unions are seen as prostitutes because they lack a proper male husband and instead, they have sexual relations with male consorts. Such restrictions have led some childless women who are Christians to enter into unions with dead single mothers to simultaneously acquire children and avoid expulsion from their churches.

The different denominations, Roman Catholic (RC), Seventh-day Adventist (SDA), the Mennonite Church of Tanzania, the Evangelical Lutheran Church of Tanzania (ELCT), Evangelist Assemblies of God Tanzania (EAGT), and some other Christian charismatic churches expel members who enter into unions with living or non-living mothers-in-law, or dead men. Members are also prohibited from entering unions with young children and marrying more than one wife. Those members who convert to Christianity while already practising such unions are accordingly required to divorce or separate from their partners. Usually, the church recognises first

wives as legal partners, and the other wives and husbands are seen as evidence of promiscuity. Women in unions with daughters-in-law are required to give them freedom to return to their parents or allow them to marry male husbands. Widowed women are forbidden to enter into leviratic unions and instead, they are encouraged to remain single or remarry. This is regarded to be strange among the Kuria because remaining single is thought to encourage prostitution, while remarrying leads to complications in the custody of children and has resource implications. It is expected that land and property received when a husband dies should be transferred to his sons and so be protected by his lineage. The restrictions put upon members' participation in such unions and their involvement in church activities vary from one denomination to another. Some denominations are lenient in allowing such members to attend services but do not recognise them fully. For example, such members under RC or ELCT are not allowed to take Holy Communion or participate in church leadership or in the church choir. However, in most cases, where a practising member breaks the law by entering into prohibited union, he or she is expelled from the congregation. Despite the negative perception held by different Christian denominations about daughters-in-laws in different woman-to-woman variants and wives married to young sons, they seem to be lenient towards wives married to mentally unwell men since their involvement with male consorts is clandestine. Although some ministers acknowledge being cognisant of the Kuria traditions that allow such wives to have secret affairs with male consorts, it only becomes a problem to the church if it is proved that church members who are in such unions are having sexual relations with men other than their husbands. This is different from daughters-in-law with no male husbands, whose lack of male husbands is proof that they are definitely involved with male consorts.

Muslims are also prohibited from entering into unions with a living or non-living mother-in-law, or a dead man. A rigid position is taken against those who are already practising such unions, and they are denied membership into mosques. Therefore, Christian and Islamic laws lead to suspension or dismissal of some church members or mosques discredited people for practising their customs, and support the idea that such practices are outdated. As will be seen below, in the presence of external influences, different strategies are pursued by the Kuria people to maintain their main ideas of fertility and personhood. Analytically, personhood is used to represent an individual passing through different phases of rights with acknowledged roles and status as they develop to become full persons, including puberty,

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circumcision, marriage, and parenthood, and eventually accomplishing the position of an adult, and continuing to become an ancestor. Ruel warns us not to see ancestorhood as an extension of “life after death” since in Kuria an individual may die before reaching full social maturity as an elder in the community, but that will not prohibit him/her from becoming an ancestor who is remembered through her/his offspring (Ruel, 1965:301-3), viewed here through the different strategies available among Kuria society to enable that.

Union with a Dead Single Woman

A new version of a union between a living mother-in-law and daughter-in-law is that of between a woman and a dead single mother which has evolved because of the negative implications from religious teachings and education. An example of a woman who took children of a dead single mother with assistance from her husband is Esta, the first wife of Range. Although they married traditionally, after two years, Esta and her husband joined the Seventh Day Adventist church and became active members. In the sixth year of their marriage, her husband decided to take a second wife because Esta failed to have children. He was expelled from church membership, but Esta continued attending church as an active member. She was advised for several times by her friends and relatives to take a daughter-in-law but refused because her church pastor and some fellow church members advised her not to. In the meantime, her husband started a business in which she was also involved, selling clothes and shoes. She sold the items in the market closest to her village, while her husband dealt with bringing the items from neighbouring towns. While managing her business, she became a very close friend to a woman who informed her of two children left by a dead single mother living in a neighbouring village. She convinced her husband to help her take the children of the dead single mother. Her husband followed-up and made arrangements with the dead single mother’s parents. They paid five cattle for her marriage and a small private ceremony was held at their in-laws’ house. After eighteen years without a child, Esta became a mother to the two children.

Another example is of Yunisi, working as a nurse in a health centre. She lived separately from her husband and husband’s kin because of her infertility, which led to frequent quarrels with her husband. Tired of the harassment and arguments with her husband, she moved to another village. She saved money from her salary until she managed to get enough to buy

cattle with which she paid for a dead single mother who had left a son. She told me,

Since I am an active member of the Mennonite Church, I cannot take a daughter-in-law. I asked my friends and relatives to look for children without a lineage. When I heard of a son, whose single mother had died, it became a good opportunity for me. My friend's husband helped me to negotiate her bridewealth. I now have a son and hope that he will take up my property and look after me when I get old (Field notes, Nyarero Village 2009).

The presented examples show the importance of having sons so that women can access resources and security for old age. Such a system allows women to maintain membership in their churches. When a single woman dies and leaves children, the bridewealth is paid for her by a married, widowed, or separated woman who is childless. This can be done with assistance from her husband or husband's kin. Yet, as noted in Yunisti's case, some women initiate such unions from the bridewealth acquired through their own endeavours. The changing economic opportunities in rural Tarime District have enabled some women to acquire incomes through informal means or through formal paid labour used to pay bridewealth for single dead women, a point I will return to later on. Children of the dead single woman are taken by the woman who initiated the union and they become her children.

A single dead woman is referred to as *ikeneraka* (pl. *ichinkeneraka*), a word that is also used to ridicule a living single daughter who stays in her father's homestead for years before getting married. Therefore, an *ikeneraka* can be a dead or a living single daughter with or without children. The word is also used to refer to children of a dead single woman in disapproval of their situation for lacking a lineage.

Although I met a few women who adopted sons from a poor background or orphans from other ethnic groups, people frequently express their disapproval of such a procedure. Such sons are perceived to be alien, not well accepted by the majority of people. They are distinguished from other children as "bought children." The statement also holds a historical meaning, as previously, Kuria men "bought" children from neighbouring ethnic groups, such as the Maasai, particularly during the 1890s when famine, drought and rinderpest outbreak struck many East African

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communities (Lugard, 1893; Illife, 1979), causing wives and children from other ethnic groups to become refugees among the highland Kuria who were much less affected. Kuria people, who are agro-pastoralist, were less affected by the drought because they had crop reserves, compared to neighbouring pastoral communities, 90 to 95 percent whose livestock were killed by rinderpest (Illife, 1979:124). Men with wives who did not give birth to male children took advantage of the situation and “bought” children from neighbouring ethnic groups. The act of adopting children from other ethnic groups has decreased due to distrust. Some of the adopted children from other ethnic groups were seen as traitors in the different wars against their neighbouring ethnic groups or in cattle thefts. Previously, adopted children from other ethnic groups were buried in fields outside the homestead compounds, while children belonging to homesteads were buried in the cattle-byre. Although this has changed, because nowadays most people, regardless of their age, gender or status, are buried outside the homestead compounds, adopted children from other ethnic groups are still regarded as being of a lower status and in most cases, they do not have the right to inherit from the homesteads in which they live.

Kuria people prefer taking children from their own ethnic group so that they can easily find out about the characteristics of such children’s families. A woman could secure the future of her sons while she is still alive through marrying a disabled man, a crazy man, a sterile man, a dead man, a living mother-in-law, or a dead mother-in-law. If she dies while unmarried, her children can be adopted. This provides the formal legitimate status of wife, within which it is possible to have legitimate children, and thus, be guaranteed proper lineage belonging.

It is important to note here that Christian women, because of their lack of children or sons, initiate unions with dead single women, who had actually given birth to children, and adopt them. Such children then lose their membership of their biological mother's group as they take up residence with their new mother towards whom they are expected to be loyal. Such women are not expelled from the church like the women who initiate unions with daughters-in-law while practising Christians. Presumably this is glossed as adoption, and accepted by the church because the daughter-in-law (single mother) is dead, and not like the living daughter-in-law (in a union with a living or non-living mother- in-law, or a dead man) who is in a sexual relation with a male consort. The church is against such unions because they are deemed to allow fornication. Thus, adoption seems chaste,

and other “alternative” marriages are seen as promiscuous and inappropriately sexual. However, under Kuria regulations, such adoption is a traditional marriage because negotiations and payments of bridewealth are carried out, and the dead single mother is viewed as a dead daughter-in-law married to an imaginary “non-existent” son.

The ceremony held for children of a dead single mother is usually a small, private affair and takes place in the homestead of parents of the dead single woman. Normally, it is attended by a few people to mark the official transfer of her children. The children take up a new residence and a new lineage, that of their adoptive father, and hence, drop usage of the previous name “*ikeneraka*” and uphold their adoptive father's name. (The father referred to here is the husband of the adopting mother). Also they are given a new name from their adoptive father's lineage. The children are expected to remain loyal to their lineage and not to return to their mother's parents. The same applies in cases where a single daughter marries, as she and her children drop the status of *ikeneraka* and she becomes a married daughter (*omosubaati*) with a more respectable status than had previously been.

Changes and Continuities: The Situation of Single Daughters

Older people acknowledge that there have always been single women in the Kuria society, but emphasise the fact that in the past there were fewer in number and most remained childless. Most of these women remained single under the care of their mothers because they lacked suitors due to their different disabilities. When they died they were buried away from their father's cattle-byre. Even now single women are not considered to be full persons.

For example, I met Asha, a childless Kuria woman in her forties who converted to Islam when she lived in Dar es Salaam where she had an informal business selling of clothes. When she returned to live with her parents in the village, she was put under pressure to get married, but declined to marry a mentally unwell man and refused to take a daughter-in-law to have grandchildren for her. She told me that “these practices are outdated and not allowed by Islamic law” (Field notes, Nyarero village 2009).

Asha's modern attitude indicates arrival of new generations of women with new ideas. Such ideas may spring from their contacts with people other than Kuria, with different ideas, and from conversion to other religious beliefs.

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Although some parents provide their single daughters with a house and allocate them land to farm, usually within the portion of their mother's land, freedom to remain in their father's homestead and use their parents' property is threatened by death of their parents.

I met a few single women who, through their own efforts, managed to buy land and build their own houses. Though still unusual, such few single women are able to delay their entry into marital relationships by rejecting some suitors until they get proposals from ones they prefer at the right time for them. Others remain single because they prefer independence from husbands' control and abuse, and do not wish to marry. This is similar to Nuer people who live in Sudan and Ethiopia. Nuer unmarried concubines move from one sexual relation to another (see Evans-Pritchard, 1951: 117ff). However unlike Nuer concubines who moved around to live with men they cohabited with, Kuria single women mostly settled on their father's land and occupied a house separate from other children, or established their own "house" closer to their paternal kin. Lovers came to visit them in their house. Women who remain single for an extended period of time or throughout their life are stigmatised and seen as threat to married women because they might become lovers to other women's husbands.

Changes and Continuities in the *Potataro*: Union with a Young Boy

Potataro is a word used to identify union between a young boy and a young girl or an older woman. It also implies that the young boy did not go through the process of courtship as his marriage was arranged for him before reaching the circumcision stage. (After circumcision he would be regarded as a grown up man and thus, should be able to initiate courtship on his own). The young boy can marry more than one wife, depending on the availability of bridewealth from his sisters' marriages. A young son's marriage to an older woman is usually initiated for a lone son preceded by one or more elder sisters, or less frequently, it can occur if a previously sonless woman in a union with a daughter-in-law gives birth to a son. The daughter-in-law then is "recycled" to become a wife of her mother-in-law's newly born son.

When a mother convinces her husband to arrange a union for her young boy with an older woman, usually one of the young boys' lineage brothers is appointed to assist in impregnating the wife. The appointed male consort in such union has the same characteristics and status like in other unions. The difference here is that the wife of the young son is expected to maintain

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sexual relations with the appointed male consort until her husband is circumcised, at which point the latter takes over the role. The wife's child and the consort can be registered in school under the latter's name or can be named after his/her young social father. Irrespective of the name that they acquire, they are recognised as children of the young boy.

Previously *potataro* ceremonies resembled those of other Kuria unions but in some cases, they were larger and more elaborate. Although currently such unions continue to be performed mostly for lone sons and thus, regarded as special occasions by their mothers, the ceremonies are no longer done openly, and involve fewer people than it was the case in the past. Nowadays, most people hesitate to have big public ceremonies for young boys because of the government regulation, which identifies boys as mature and able to enter into marriage only at the age of 18. Some Kuria families who have converted to Christianity arrange such unions secretly for fear of being excommunicated from church membership. Most people hide existence of or involvement in young son's or young girl's marriages unless they trust the person to whom they reveal the truth. It took me more than five months before I was able to identify a young boy who had married an older woman. The boy was ten years old and was still attending a primary school while his wife who was 20 had a sexual relationship with his half brother. Before I came to learn of this situation, my informants had stressed that such unions are no longer performed, and they frequently referred me to couples who had been married previously in that way and were seniors. Besides, such unions being advantageous to the girl's father (wife-giver) who increases his herd (also noted by Tobisson, 1986: 166), in most situations, it is a strategy adopted by the boy's mother to save her young son's bridewealth.

Although being an only male or female child is likewise challenging to the politics of the Kuria "house," its implications differ. Having only one daughter or being with a smaller number of daughters than sons leads to problems of availability of bridewealth for sons' marriages. The situation is different where a "house" has an *omosorori* son (or younger sons) preceded by elder sisters. This implies that there is availability of bridewealth from the sisters' marriages, but since the boy is still young, his mother may insist on or initiate a union for her young son with the aim of protecting the bridewealth obtained from her daughters' marriages from misuse by her husband. Like the union initiated by a mother for a dead man, this union is deliberately insisted on or initiated by a mother to ensure that the posterity of her "house" and that of her son's homestead. As also observed by

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Tobisson (1986:163-4), a husband can misuse a daughter's bridewealth by marrying another wife himself. Cash is more expendable than cattle. Nowadays, a husband may also carelessly spend "cash" obtained as part of bridewealth, a reason most people in the rural Kuria area preferred cattle to cash. A woman with a lone son may convince her husband to hasten circumcision of her son so as to enable him to marry at a young age even before he completes his primary education.

I met an *omosorori* son aged 36 who had three wives. He was circumcised at 14, six years before his age-group. He married his first wife when she was not fully mature (before she had experienced her first menarche) when he was 14. Together they were baptised and became Christians. After eight years, at the age of 22, he was convinced by his mother to take a second wife after his two sisters got married. He was then prohibited from having Holy Communion or taking any leadership position in the church. After six years, he was expelled from church when he took a third wife. When I met him he was looking for a fourth wife.

Lone sons are more likely to have more than one wife as they face major demands from their parents, especially mothers in need of increasing offsprings in their "houses." Such demands are also encountered by males who are only children (*omomomu*), but because of lack of a sister's bridewealth, it is difficult for such a male child to marry when he is young. From 2008 to 2009, because of pressure caused by fighting between clans and frequent cattle theft, some parents initiated unions for their single circumcised sons as a tactic to use residual cattle left by their married sisters efficiently. Brides for such sons were sought from distant villages that were not affected by the war.

When married young sons grow up, they are expected to have sexual relationships with their older wives. Many wives in such unions refuse to have sexual relationships with their husbands, comparing them to their children, who are of the same age. When they grow up most young husbands, marry other wives to whom they relate sexually and decline to have sexual relations with their older wives married for them when they were young. Such a situation shows a kind of contested area in marriage between, on the one hand, practices, which are not about individuals' decisions but about proper patterns and relations in a structural sense, and on the other hand, practices which reflect what individual women and men feel about their partners. The spread of education and religion in the Kuria

society contributes to this tension, especially when the young husband grows up to become a member of a Christian denomination that discourages such unions.

I met a Christian man who had five wives when he was young, and when he grew up married a sixth wife. The man refused to have sexual relations with his first five wives, which led to a lineage meeting at which it was agreed that he should continue to provide for his wives and their children. The man stood as a father to his children and provided for his wives without sexually relating to them.

This example shows how the church has influenced Kuria marriages, and to a certain extent, has changed the procedures of their marriages. This has created a double status for the man, where, in the eyes of his lineage members, continued to be the husband of all six wives, while, in the church, he was taken as only the husband of the sixth wife. Normally when the husband or wife refuses to have sexual relations with his/her partner, the wife maintains a sexual relationship with the appointed male consort or with another male lover, preferably from her husband's lineage. Although a wife in a union with a young boy may be pressured by her in-laws to maintain sexual relations within her young husband's lineage, it is now difficult for her affine to ensure that. Because of education, foreign religions and contact with other customs that view such unions as outdated and improper, in-laws are forced to be lenient so as to entice women into accepting such unions, and generally, marriages with young sons appear to be decreasing.

In general, in support of the colonial administrators' disapproval of the Kuria traditional practices, missionaries (in introducing Christianity in Tanzania) were against such marriage institutions and viewed them as contradicting Christian conduct. Since colonial times, there have been continued efforts by Christians to regulate Kuria customary unions. It is exemplified by restrictions placed by Christian denominations upon their members, preventing their participation in different customary unions and their related practices. Christian women solve problems of ensuring perpetuation of their line and of countering childlessness by taking children of dead single women. Here, I want to emphasize specifically that because of Christian religious prohibitions, converted Kuria women solve the problem of their infertility or their lack of sons by entering into unions with dead single mothers. They adopt children in order to escape excommunication, suspension, or expulsion from church congregations. Furthermore, such a

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mechanism is highly acceptable because children of dead single mothers have been born and raised by fellow Kuria or by people whom they know or with whom they have kinship links. Thus, by adopting children of dead single mothers, they are continuing the older traditions of expanding their "house". Although education, foreign religion and contact with exotic customs influence some women to delay their marriages or remain single, and discourage unions with young sons, generally, they continue to face antagonism from the Kuria people. The next section considers the influence of the state and NGOs on marital practices, considering how they view and manage labour, labour welfare, and sexual exploitation.

State and NGO Policies: Inequality of Women

The colonial and post-colonial policies made changes that had negative effects on labour, especially women's labour (Tobisson, 1986:56ff). This was through the introduction of forced labour by colonial governments, which meant an increased burden on women because they worked with men as forced labourers, or remained home where they had to carry out both household chores and agricultural duties to support their "houses". Old women were said to be highly resistant to the various plans instituted by colonial officials because of their inability to accept changes. Such views were held by colonial administrators, as documented in the 1925 report on prospects for Tanganyika development (Ormsby-Gore, 1925:40) and the United Nations report by Her Majesty's Government (1955:90), as cited by Tobisson (1986: 56-7).

In the post-independence period, women's inequality in Tanzania was highlighted by the first President in the *Arusha Declaration made in 1967*. Nyerere (1967:5) emphasized the uneven workloads between women and men in rural Tanzania. He said:

It would be appropriate to ask our farmers, especially the men, how many hours a week and how many weeks a year they work. Many do not even work for half as many hours as the wage-earner does. The truth is that in the villages the women work very hard. At times they work for 12 or 14 hours a day. They even work on Sundays and public holidays. Women who live in the villages work harder than anybody else in Tanzania. But the men who live in villages (and some of the women in towns) are on leave for half of their life.

However, despite the president's intention that "African socialism" policies would relieve the burden of work that women bore, in practice, farming owned and done communally did not relieve women from greater works because the Kuria patriarchal system at the homestead level superseded policy implementation. In fact, this led, to an increase in the workload for women. The other failure of the policy was reflected in the introduction of villagization since formation of new villages required people to register in one village. Although women were eligible to register in their own rights, most women's registration in villages was done through their husbands or male kinsmen as homestead heads. It was observed by Tobisson (1986: 60) that, "... even in the cases where a husband has not showed up for as long as five and ten years, the wife and children are still registered as his dependents."

The introduction of the National Land Policy of 1995 confirmed and regularised the effect of the villagization programme by accommodating appeals on decisions affirming customary land tenure rights of the local people. Besides, it protected individual land rights of every adult woman in acquiring, holding, and using land (United Republic of Tanzania, 1997). The enactment of the Land Act of 1999, the Village Land Act of 1999⁷, and its effective use from 2001, further recognised the equality of men and women in ownership of land. However, due to continuation of the village land being administered through the Village Land Council, generally, women continue to face discrimination because most land is allocated to household heads who are usually men. Furthermore, inheritance of clan land continues to be determined by customs and traditions such that among the Kuria, only male children can inherit land from their father. Nevertheless, the National Land Policy has provided more opportunities for women than before because they can acquire land in their own right, not only through buying, but also through allocation.

Cattle rustling and gold prospecting supported the economy of many Kuria homesteads before the government made efforts to mount a crackdown on cattle-raiding, and to their detriment the neighbouring North Mara gold mine was privatised. Such a measure minimised reliance of young and middle-aged men's incomes on cattle-rustling, leaving it to specialised small-groups of robbers operating across the border between Tanzania and Kenya. Although, privatisation of the mine has been detrimental to local people as most are unqualified to take up the mining

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jobs, it has enabled more people to undertake service activities, market their local produce, and embark on land deals with the mining company.

The integration of the Kuria economy into a wider capitalist economy through opening up of market possibilities for agricultural produce, small businesses, land investment, and migrant labour has, to a certain extent, recently brought income-generating opportunities for women in the rural Kuria area. These new economic opportunities and social situations of out-migrating women have enabled women to take a daughter-in-law to acquire labour and support. In some cases, women have taken more than one daughter-in-law.

An example is of Boke, a childless married woman who took a daughter-in-law through her own efforts and is living separately from her husband. She separated from her husband for the first time after failing to bear children, and moved to Nairobi (in Kenya) where she worked as a domestic servant for six years. She then returned to her husband and took a daughter-in-law. Another example is of a woman with more than two daughters-in-law. She saved the small income she received and managed to buy cattle used as bridewealth to get the daughters-in-law (see Wanazuoni forum, 2014).

Marriage Rights Discourse

Marriage laws were enacted during the colonial period and strengthened during the post-colonial period. Such laws led to the creation of local and central government courts. During the colonial period, the reality of legal pluralist resulted in unfairness in the judicial judgement for people of African origin, as judgement was mostly based on British standards. The Tanzanian government recognises four types of marriage, namely monogamous Christian marriages, polygamous Muslim marriages, civil marriages, and traditional marriages that are potentially polygamous (Mukangara and Koda, 1997). In the current situation, state laws do not recognise some kinds of Kuria unions. Tanzania law stipulates that a child is a person under the age of 18. However, a contradiction is noted such that from the age of 15, girls are identified as mature and eligible to enter into marital relationships.⁸ However, this is higher than the Kuria marriage age and does not recognise same sex unions, such as that between a living mother-in-law and a daughter-in-law. Most wives in *ekebete* unions and some wives and husbands in other Kuria customary unions are not married according to this law, as they are under the legal marriage age (see Nyakeke,

2014). The position of a young boy married to an older woman is regarded to be illegitimate because such boys marry before the age of 18.

Criticisms of local practices and government laws that are against marriage rights standard have been articulated since the commencement of NGO activities in Tanzania in the 1970s and 1980s. Currently, NGOs continue to advocate for rights of marriage influenced by international rights discourses such as of divorce and division of matrimonial assets, custody and maintenance of children, inheritance, gender based violence, widows and land rights.

Certain problems related to marriage laws, which discriminate against women can be readily identified. The law demonstrates a discrepancy between having a neutral stance on the custody of children, while in actual practice, if contested in a court of law, a father is more likely to win custody of his children because of influence of the customs of the community to which the participants belong. Under section 175 of the Law of Persons of 1963 government notice number 436, children are regarded as rightly belonging in the custody of the father. Afterwards, the Marriage Act of 1971 explains that a mother or father can hold custody of their children, indicating a neutral position (LHRC, 2010). Yet, in reality, a mother loses the prospect of getting custody of her children if the father contests it. This is because the law in practice considers the customs of the parties and the community in regarding custody.

There are contradictions between marriage laws and rights in other instances, such as where the Customary Law Declaration Order of 1963 forbids widows to inherit land from their deceased husbands, and the Marriage Act of 1971 allows young girls to enter marriage relationships even below the age of fifteen (LHRC, 2010:77). The Customary Law (Declaration) Order of 1963 provides rules related to inheritance. In patrilineal societies, daughters are not allowed to inherit land for fear that they will eventually marry away from their parents. Widowed women are even more vulnerable as they do not hold rights to property except through their male children. Currently, in the process of constitutional review in Tanzania, among others, the Customary Law (Declaration) Order of 1963 was identified as discriminating girls on low age of marriage, women on property ownership, and elderly women on the lack of protection (Gender Forum Coalition, 2013). As will be seen in the foregoing, many rules introduced to govern marital

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behaviour contradict Kuria beliefs, and instead, they are based on foreign and exotic marriage standards.

Ekebete: A Young Girl as a Loan Guarantor

A Kuria father can arrange marriage for his young daughters in situations of famine, where a homestead is in need of food crops or cattle. Such a tactic may also be used by a father who is in need of bridewealth for his own union (also noted by Tobisson, 1986: 163) or that of his son. Although unions involving young girls may cater for a father's different needs, this strategy may also be employed by childless women in order to get a daughter-in-law. Furthermore, some Christian women seeking to maintain their membership in the church may provide a loan to families with young daughters as a means for protecting their young sons' bridewealth from misuse by their husbands, until their sons reach an appropriate age for marrying (following church laws). Such an arrangement is referred to as *ekebete*, implying that a girl is used as a security for a loan. Usually, in situations of emergency such as famine or debt, a father can borrow crops or cattle from another homestead, by showing that he has a daughter to give as a bride if he fails to return the borrowed items. Although unions arranged through *ekebete* because of famine have decreased among Kuria living in highland area, where high rainfall supports growth of both subsistence and cash crops, they are still initiated by fathers in the lowland areas because of frequent droughts that affect such areas. Some Kuria men who live in the lowland areas continue to use their daughters as collateral when borrowing food crops and/or cattle from highland Kuria. Previously such a loan was given by a father. But now women who raise property through their own efforts may also provide a loan as a means for solving their infertility problems through establishing a union with a young girl. Moreover, a woman, ostensibly upholding membership in Christian denominations, may use such a union to establish an engagement between her young son and a young girl secretly. The young girl remains in her parents' house until she reaches marriageable age, at which point an official wedding ceremony precedes the girl's move to live with her grown-up husband. When a father approaches his lender, he affirms that he has a young girl he can provide as security, "*nena mabindigi umugi wane*," literally meaning that "I have a young growing daughter in my homestead." The daughter can either remain in her parents' house or move to live in the homestead of the lender. Currently, when a bride moves to live with her spouse at a young age, an *ekebete* ceremony is either held privately or not held at all, but families who have

waited until the bride and groom are mature, hold big ceremonies like those held for other marriages.

I met a young girl from lowland Kuria who was married to a young boy of her age through *ekebeta* in 2007 when she was ten years old. She was living with her affine and continued attending primary school. Her marriage took place due to his father's need for cattle after all his livestock died because of drought. Her father went and borrowed six cattle from her affine. Since all of her mother-in-law's daughters were married, someone was needed to assist her with the household chore.

Ekebeta arrangements are also made secretly to avoid remonstrations by NGOs and as a way of evading punishment from government laws against marrying young girls. Since primary school committees and head teachers have the authority to enforce students' attendance, most parents and people who marry young girls ensure that they carry on with their primary education. In other cases, parents may pretend that their young daughters have moved to live with relatives in order to conceal their marriage situation. Given that school committees and village leaderships comprise mostly local people, the implementation of the law continues to face antipathy. Most people are not prepared to enforce this regulation and thus, many Kuria parents find a loophole for contravening this regulation.

Although previously most Kuria heads of homesteads considered it necessary to assist each other and thus gave loans, nowadays many people express their uncertainty and doubt about lending cattle to other people because of disloyalty. Assistance is mostly given only to trusted kin, friends and neighbours. Previously when a borrower failed to repay a loan, for instance, due to death of the daughter placed as a guarantor or where such a daughter escaped; there were other means of ensuring compensation. Nowadays, it is complicated to demand compensation through the village or court assistance because it is illegal to engage and marry a girl below the age of 15.

Conclusion

The spread of Christianity and Islam has negative and positive effects upon people's lives because of their condemnation and disapproval of some customary unions and a number of its related practices. Several decrees have been made intentionally by colonial officials to regulate Kuria customs. Marriage laws were enacted during the colonial period and were

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strengthened during the post-colonial period. Such laws enabled the establishment of local and central government courts. During the colonial period, the reality of legal pluralism meant judicial injustice for people of African origin, as judgment was mostly based on British standards. In the post-colonial period, the laws have continued to disregard and disallow traditional Kuria marriages by introducing new policies with the intention of improving the positions of women. Generally, it is observed that such prohibitions failed to eliminate Kuria practices completely thereby turning such customs clandestine. Despite refusal from colonial and post-colonial governments and foreign religions to recognise Kuria customary unions, they continue to be practiced, and some have adapted to changes resulting to adaptation of old practices into newer acceptable ones.

As a solution to their infertility, childless Christian women have adapted to their faiths in forms made available to them. Yet, they have also found ways to continue with their former practices through transformed versions (by adopting children of dead single mothers) to fit the Christian regulations. This is in conformity with the Kuria patriarchal structural system that requires women and their children to belong to lineages. Additionally, as this is a male dominated society where property passes over to sons, women intentionally seek to acquire sons in order to access resources and property. The anomalous position of children of dead single mothers is solved by Christian women who enter into unions with deceased single-parent mothers and adopt children whose background can easily be determined. Here old practices appear in new guises, and new practices, which appear to be the same as “traditional” but in fact, they are not, thereby demonstrating both continuity and change. To the church, such women appear to be adopting orphans, but to fellow Kuria, they are understood to be marrying dead daughters-in-law. Much of the agency shown highlights the importance of sustaining Kuria notions of personhood through producing children and descendants.

I hold a different opinion from Tobisson’s uncertainty about some Kuria women being able to possess and control wealth in their own right. As well, my data clearly negate Huber’s prediction that Kuria traditional marriages would lose their importance because of the economic and social changes that would affect the primacy of cattle in marriages. Although it is true that Kuria women who are able to own and manage wealth are an exception, especially in rural settings, the transformation into a market economy, instead of discouraging traditional Kuria marriages, has enabled some women (barren or

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with daughters only), who earn cash through income-generating activities, to take daughters-in-law by their own efforts. Additionally some wealthy women with sons, due to loneliness caused by their sons living away from them or because of the need for labour to run their projects, even take more than one daughter-in-law. This reveals the failure to consider gender power systems led by the transformation of the economy which enabled women to access cattle through the cash earned in the different income-generating activities

Kuria customary marriages involving young girls continue to face opposition from NGOs and foreign religions. I was unable to have discussions about children's rights in young boys' marriages. This might be because it is anticipated that when a young boy marries, normally, a senior man is appointed to act on his place until he is grown up, whereas young girls may assume wifely responsibilities, including sex (if circumcised), even before they become adults, under the state law. Moreover, when young boys grow up they can take another wife of their choice, whereas girls are usually married only once.

This study illustrates the complex position of single mothers (dead or alive) and their children. Being born legitimate is a precondition for personhood, performed through upholding lineage belonging. Although still uncommon, nowadays, a contradiction is noted where women deliberately decide to remain single due to influence of education and foreign religion.

Although women have new opportunities to twist Kuria rules to their own advantages, improvement in women's social and economic positions is slow. Kuria traditional processes of social interaction continue to be of great importance in women's daily lives, impinging on their progress, visible through a continued emphasis on adherence to the Kuria structures. Thus, there is persistent stigmatisation of single mothers and single daughters, and a contradiction in achieving rights of girls and boys. Kuria people have adapted rather successfully to all these changes, and yet, they have tenaciously held on to their dominant ideas about marriage, fertility, and personhood, in effect, practising a form of quiet resistance.

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Notes

1. This marriage arrangement involves a woman and a dead man. A kin of the dead man pays bridewealth on his behalf. Further explanation on this marriage is provided in an article that I am still developing.
2. In 2009, there were only two Muslim members in Nyarero Village.
3. Notes by Baker recorded in *Musoma District Book*, Tanzania National Archive. The Musoma District Book (British administrative records ranging from 1917 to 1960 located in Tanzania National Archives).
4. A “non-existent son” is a concept used here to represent the Kuria notion of an imaginary son or of a son who existed but is now dead in a marriage with a woman.
5. See *Musoma District Book*.
6. See Mgya daughter of Nyahure v. Mgesi daughter of Marwa, appeal to the District Commissioner, Musoma: No. 43/1950 (unreported), Tanzania National Archive.
7. Rwebangira (1996) provides a description of the Law of Marriage Act of 1971 and Customary Law in relation to child custody, inheritance, and widow’s rights; situating her discussion around poverty in Tanzania.
8. See section 13 of the Law of Marriage Act, 1971.

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