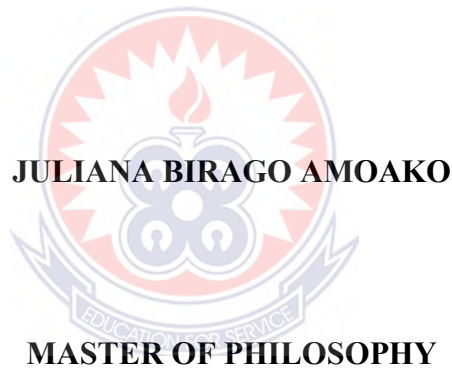


UNIVERSITY OF EDUCATION, WINNEBA

**LAND RIGHTS OF WIDOWS IN THE MATRILINEAL SYSTEM OF
INHERITANCE: THE CASE OF BADU COMMUNITY IN THE TAIN
DISTRICT**



2024

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DISTRICT**

JULIANA BIRAGO AMOAKO

(202113729)



**A thesis in the Center for Conflict, Human Rights and Peace Studies,
Faculty of Social Sciences Education, submitted to the School of
Graduate Studies in partial fulfillment**

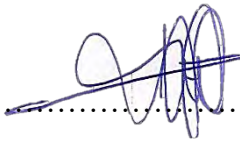
**of the requirement for the award of the degree,
Master of Philosophy
(Conflict, Human Rights and Peace Studies)
in the University of Education, Winneba**

MARCH, 2024

DECLARATION

STUDENT'S DECLARATION

I, Juliana Birago Amoako hereby, declare that this thesis, except for quotations and references contained in published works which have all been identified and duly acknowledged, is entirely my own original work and it has not been submitted, either in part or whole, for another degree elsewhere.

Signature: 

Date:

SUPERVISOR'S DECLARATION

I hereby, declare that the preparation and presentation of this work was supervised in accordance with the guidelines for supervision of thesis as laid down by the University of Education, Winneba.

Supervisor's: Dr. Michael N. Doggu

Signature:

Date:

DEDICATION

This work is affectionately dedicated to my family especially my lovely and supportive husband and children.



ACKNOWLEDGEMENTS

I am indebted to my supervisor, Dr. Michael N. Doggu for his acceptance to supervise my work and bring it to speed when the thesis did not first go through. In fact, I am grateful for his timeless dedication and meticulous manner of supervision of this work. Special appreciation also goes to people of Badu community in the Tain District for their cooperation in gathering the data.

To all student colleagues and other supporting members, I thank them for their commitment and contribution of ideas. May God grant them his choicest blessings.



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LIST OF ACRONYMS

PNDCL	Provisional National Defense Council Law
SDG	Sustainable Development Goal
IFWL	International Federation of Women Lawyers
LAW 111	Provisional National Defense Council Law
BC	Badu Community
PTRL	Property Title Registration Law
HFAL	Head of Family Accountability Law



ABSTRACT

This research was undertaken to examine how the matrilineal system of inheritance affects widows and children's access to land in the Badu community in the Tain District of the Bono Region. Badu was selected as a location because, it is one of the Districts in Ghana that practice matrilineal inheritance. The study adopted the qualitative research approach to obtain data from chiefs, elders, spouses and children with practical experience, knowledge and understanding of matrilineal system of inheritance. The study include use of purposeful sampling technique. Interviews were conducted as primary data collection instruments together with documents and online articles as the secondary data for the study. It emerged in the study that, matrilineal system of inheritance has effects on widows' access to land in the Badu Community. It was revealed that access to shelter, farmlands, instances of inequality, injustice and gendered stereotypes and widows' land rights, were some of the effects widows have to battle with. Also, statutory laws and the cultural compliance of land ownership in the Badu Community shows the inaccessibility of formal legal system, lack of information about the laws and dangers of lineage reprisal for violating customary laws. Human rights implications of land ownership in the matrilineal system of inheritance in Badu Community revealed violation of right to access and use of land and violation of the right to shelter as the major land rights challenges in the Badu Community.



CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

From the days of pre-colonial times, Africans have had access to land, labour and capital for agricultural production. According to Berry (1989), the right to occupy, hunt, administer or cultivate land for instance, were often contingent on membership or status in a compound, descent group or community. Outsiders acquiring access to such privileges required authorization from the land-holding group or real membership in the group through marriage, fostering, capture, purchase, or placing themselves under the protection and authority of its leaders.

The widespread rejection of a women ability to inherit land and other property is a significant impediment to the attainment of women's human rights in Africa (La Ferrara & Milazzo, 2017). Land usage, housing and the transfer of land and housing between generations are governed by customary law in many traditional communities in Sub-Saharan Africa, which primarily bans women from property ownership and inheritance (Ba-an, Dery, Segbefia, Agbenyo & Kpeleku, 2022). In the absence of strong land and property rights, widows and orphans are frequently left homeless and penniless following the death of their spouse or father (Ba-an et al., 2022). Women's economic stability and independence, as well as their access to cultivation of food and housing, are severely harmed by disinheritance (Addaney, 2022). The denial of land rights to women also contributes to the feminization of poverty and stunted economic development in countries where harmful inheritance practices are common (Addaney, 2022).

In many Sub-Saharan African civilizations, inheritance and property distribution schemes are strongly ingrained in cultural and traditional beliefs (Bonye, 2022). They are inextricably linked to other rituals, such as death, funerals, mourning, traditional festivals or ceremonies, the most notable of them is the passing of traditional leaders among families and broader ethnic groups (Allott, 2021). These land, property and power transfers are almost invariably limited to men. Though the protection of women's rights, is gradually making its way into the constitutions and legislation of many Sub-Saharan African nations, there is still a significant gap between official policy and real practice (Abebe & Flintan, 2021).

Many nations have a dual legal system that simultaneously espouses the notion of equal rights and legitimizes traditional traditions that are acts of gender prejudice. Official efforts to rectify discriminatory inheritance laws have traditionally taken place at the statutory level as evidenced by the following summary of inheritance laws and practices in Botswana, Zambia and Ghana. These statutory reforms have no practical impact on the vast mass of the population, who are regulated by customary law in family and personal concerns. (Genicot & Hernandez-de-Benito, 2022). This thus, explains the fact that, it is only the same kin that are mandated to have access to properties of relatives especially land in Africa.

In Ghana, "family" may refer to people who are genealogically related either by fictive or putative consanguinity. These people who are related by blood rather than marriage and whose genealogy may be traced either through the female line (matrilineal) or the male line (patrilineal). The term "family" can also refer to a nuclear family. However, in Ghana, spouses are not regarded as related to one another in the same way as in a Western

conception of the family. Historically, the importance of the extended family or lineage as a social institution, far outweighed that of the nuclear family (Agbosu, 1983: 96).

The Kulago people live in the area of Badu and its adjacent villages in the Tain district. Like other Akan-speaking peoples, the Kulago are matrilineal. Therefore, succession is passed down through the female line to other generations. When a member of the maternal family passes away, the head of the maternal family ensures that the deceased's personal things are securely packed, and an elder or elders may be asked to keep a watch on them. Following the service or ritual known as *nsagu*, the family appoints a successor or schedules a day to call all the family members to a special assembly to appoint the successor. This is frequently accompanied by traditional sacrifices, invocation and blessing ceremonies.

A lineage, or extended family, is a much broader network of connections in which all members share a male or female progenitor. Relationships with extended family members can be vital and, in some circumstances, even more important than, relationships with spouses and children. Lineages have traditionally been strongholds of emotional and material support (Plateau, 1991). Lineages can pay for education and training, and their social safety nets can encourage risk-taking and entrepreneurial endeavours. Expectations of being supported by, and having to support, family members might, on the other hand, hinder human capital accumulation, labor supply, entrepreneurship, and risk taking (Chiteji & Hamilton, 2002).

Inheritance could also be a significant mechanism of transferring or excluding people's amassed physical capital. The transfer of physical assets from parents to children can offer the necessary start-up capital for the younger generation's future self-sufficiency and

economic output (Fafchamps and Quisumbing, 2005). Exclusion from asset succession, on the other hand, might heighten vulnerability to chronic poverty and therefore poverty transmission over generations (Bird, 2004).

The 1992 Constitution of Ghana, recognizes customary law and company trust as the basis for tenure. Land rights and tenure systems however, are nonetheless subject to legal pluralism. Constitutional provisions, customary governance systems, and a variety of other pieces of statutory legislation may all be relevant. As a result, there are numerous institutional and administrative entities, each with its own set of land-related responsibilities. The Property Title Registration Law 1986 (PNDCL, 152) is one of the most important statutory laws in Ghana as it provides various types of tenure security to various types of landholders by providing land titles for freehold, usufruct, lease, and tenancy agreements. Land must be registered before any transfer can take place under this law and because the law provides for co-registration of land (for example, between a husband and wife), a land transfer requires the approval of all those who are registered.

The Head of Family Accountability Law (1985) protects family property from being sold without other members being informed, giving consent, or taking advantage of the proceeds. If a loved one who features a beneficial right to such property deems that the family head is mismanaging the property, they will file a claim against the family head in Ghana's Supreme Court after first seeking redress at the family level. This law may be a potential avenue for relations to safeguard their inheritance rights to family property, although it is often presumed to need significant social fissures.

Until 1985, intestate succession was handled by customary law for most estates, with rules of succession that essentially excluded spouses (Kuenyehia, 1998). In 1985, a regulation

aimed at better protecting the interests of spouses, particularly widows, drastically transformed the system. (P.N.D.C.L111)

Despite this statutory shift, an appreciation about the nature of family as an institutions in Ghana, the customary law controlling marriage, property rights and succession, is critical to understanding the issues that Ghanaian widows face today. Traditionally, a man makes use of family resources in building his own wealth directly or indirectly instead of that of the family. However, the land, cannot be treated as completely self-acquired. Again, the family is normally involved in building the houses on family lands which suggest that the properties on such a land should belong to the entire family and not one person. In this regard, this study explores how inheritance rules in the matrilineal systems affect land accessibility after the demise of one spouse in marriage and the worrying situation of widows and their children, more so, in the Kulago Matrilineal System in Ghana.

1.2 Statement of the Problem

Even though there have been some studies conducted by prominent scholars in earlier times, yet, there is more to be unraveled about the land rights of widows and children in the Kulago Matrilineal System and how such widows and Children endure unfair treatment after the death of their husband (father). The core premise of this study will focus on widows and child land rights in Ghana's matrilineal system of inheritance, notably among the Kalugo people, which I believe strongly warrants more empirical and conceptual inquiry.

Every Ghanaian belongs to a traditional family Unit (Ollennu 1968). Indeed, belonging to a family is one of the most cherished and free gift to everyone either by blood relationship, marriage and adoption. In Ghana, there are two forms of lineage systems: matrilineal and patrilineal, and each person belongs to one of them (Fenrich & Higgins, 2001). Children in matrilineal communities are members of their mother's family and a matrilineal extended family would therefore consist of a woman, her mother, her brothers, sisters, maternal aunts, uncles, her male and female children, her daughters' offspring among others. Because the mother-child bond is so deep, children of the same mother have traditionally had strong bonds to one another (Oppong, 1977).

Although the matrilineal system is based on relationships to common female ancestors, , matriarchal men usually occupy the positions of authority within this system. For example, the *wofa*, or mother's brother, is typically the head of the smaller family unit. He is the guardian on which women and children within the extended family depend on and often have a very close relationship with his sisters' children.

In Ghana, family relations are generally governed by customary law, as a type of traditional law unique to a particular region and varies according to ethnic groups and localities. Although statutes or common law have superseded it, nevertheless, customary law still governs many aspects of family life in Ghana, including the requirements for marriage, the rights and duties of husbands and wives, the obligations toward and custody of children, the ownership of property acquired during marriage, and many other aspects of family life.

In Ghana, as in many African countries, inheritance rights are a critical issue for Ghanaian widows and their children. In Badu within the Tain district, a widow and her children had no right to inherit property from the demise spouse estate even when the property was

acquired during the marriage. As a result, widows and their children were often left destitute and homeless upon the death of their spouse. A spouse does not have inheritance rights from his or her partner under Kulagos customary law. Furthermore, a man's children are not entitled to inherit his estate. A person can, however, leave a portion of his personal estate as a gift to his wife/wives and/or children (Christensen 1954; Oppong, 1981; Wilson, 2000). When compared to patrilineal society, where children have a stronger claim on their father's estates, the matrilineal position poses several challenges in terms of providing uniform legislation across a country with a diverse culture and legal pluralism.

When each of the individuals in a marriage contract comes from different unilineal descent groups or systems, such as when a wife comes from a patrilineal society and a husband comes from a matrilineal society, their offspring are unable to trace their lineage back to either their father's or mother's. They will be treated as second-class members of either lineage in such case. The inference is that they have no inheritance rights from either their father's or mother's lineages, according to customary norms.

Attempts have been made by successive governments, including colonial governments, to enact family and inheritance laws, but all these efforts have failed. In 1985, the government of the time approved the Intestate Succession Law, which was the closest to success (PNDCL 111). However, enforcing the law has grown challenging. As a result, the 1992 Constitution Ghana, Article 22 (2), now mandates Parliament to pass legislation governing spouses' property rights. Although the constitution has been in effect since 1993, this law is yet to be passed.

Evidence from matrilineal groups in Ghana, the study examines the implications of social norm for the pattern of transfers from person to person using household level data from rural Ghana, on matrilineal line. Surveys such as that conducted by Quisumbing, Payongayong, Aidoo and Otsuka (2001) focused their research on the implication for tree-resource management in Western Ghana in relation to Women's land rights in transition to individualized ownership. The survey suggested among other things that children should respond to the threat of disinheritance by increasing transfers to their parents during lifetime to induce a donation of land before the default (matrilineal) inheritance is enforced. Other studies have considered the integration of cultural and legal reforms among Women's inheritance rights in Africa (Richardson, 2004).

1.3 Main Objective

The main objective of this study is to assess matrilineal inheritance and land rights in Ghana in the Badu community Tain District of the Bono Region of Ghana.

1.3.1 Specific Objectives

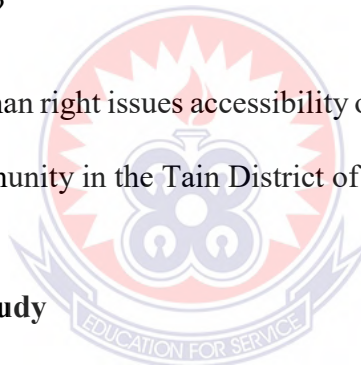
These specific objectives as stated below are what the study seeks to achieve namely:

- i. To analyze the effects of the matrilineal system of inheritance on land rights and women and their children in the Badu community in the Tain District of the Bono Region of Ghana.
- ii. To identify how the matrilineal system of inheritance discriminates against women and their children on land rights in the Badu community in the Tain District of the Bono Region of Ghana.

- iii. To identify how accessibility of land by women and their children is a human rights issue in the Badu community in the Tain District of the Bono Region of Ghana.

1.4 Research Questions

- i. What are the effects of matrilineal inheritance on land rights of women and their children in the Badu community in the Tain District of the Bono Region of Ghana?
- ii. How matrilineal system of inheritance does discriminates against women and their children on land rights in the Badu community in the Tain District of the Bono Region of Ghana?
- iii. What are the Human right issues accessibility of land by women and their children in the Badu community in the Tain District of the Bono Region of Ghana?



1.5 Significance of the Study

The frequent reoccurrence of land litigation between communities, families, ethnic groups, spouses, and children remains a source of worry to many people especially the inhabitants of Badu in the Tain District of Ghana. Matrilineal inheritance could therefore, be attributed to the land conflict, in the area despite government, chiefs, elders, and stakeholders attempt to resolve such conflicts. Such land conflict have cause insecurity and fragile relations between families, spouses, children, within the community. This research seems to explore a suitable proposed solution and peace. Even though PNDCL.111 was passed to reduce land and property conflict, rights, and discrimination against spouses and children in

general within the Ghanaian settings, the effect of matrilineal systems of inheritance on land rights and land ownership still persists.

In Badu community, there is inadequately documentation on matrilineal land inheritance as a source of fueling conflict in Badu. It is against this background that this study becomes significant because it hopes to uncover the specific issues underlying the strained relations between feuding parties over land rights and land ownership and human rights issues. By understanding these issues, appropriate measures could be adopted to promote harmonious, sustainable, and peaceful co-existence between families, spouses, children, and the community.

Additionally, the study has provided empirical knowledge on the nexus between matrilineal inheritance and how land conflict discriminates against families, widows and children. This will be useful to international donors, government agencies, non-governmental organizations, and policymakers in their attempt to implement programs that bring on board people's involvement. Finally, the study has added to the existing literature on the effects of matrilineal inheritance and how it affects the human rights of children and spouses and to provide a stratagem for consensus-building of peace which will serve as a reference to other researchers.

1.6 Delimitation

Theoretically, the scope of this study was defined in terms of the concepts and theories underlying the study, and the spatial coverage in line with research philosophy as well as methodology. In terms of major concepts, the study will focus on matrilineal inheritance and land rights. Geographically, the specific spatial focus of the study will be the Badu community of the Tain District in the Bono Region of Ghana.

1. 7 Organization of the Study

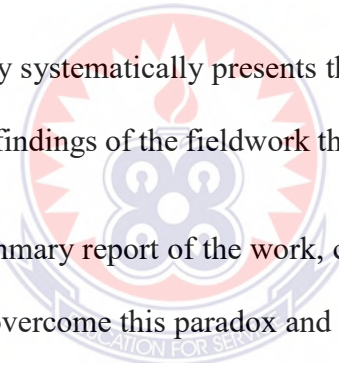
This study is organized into five (5) main chapters. Chapter one (1), presents an overview of the study with its coverage on these thematic the background to the research, a statement of the problem and, the aim, and objectives. It also captures the research questions, significance of the study as well as the delimitation the organization of the study.

Chapter two (2) contextualized matrilineal inheritance and land rights and presents the theories that underpin and support the concept of matrilineal inheritance and land rights.

Chapter three (3) focuses on the methodology that was employed for the study which embraced field research relative to matrilineal inheritance and land rights.

Chapter four (4) of the study systematically presents the empirical finding of the research and critically discussed the findings of the fieldwork that was conducted by the researcher.

Chapter five (5) gives a summary report of the work, conclusion as well as bringing forth some recommendations to overcome this paradox and for further research.



CHAPTER TWO

REVIEW OF RELEVANT LITERATURE

2.0 Introduction

This chapter deals with the review of literature which involves both theoretical and empirical approaches of broad overview about literature related to the study. The empirical review concentrated on secondary data from books, newspapers, thesis, internet and journal articles to discuss major themes which includes; importance of land ownership, land rights in different cultures; women's land rights under customary tenure; widow's land rights; matrilineal and land rights; matrilineal inheritance and land rights in Ghana and inheritance under the statutory Laws in Ghana.

Under the theoretical approach, collective replacement theory and concept of inheritance was discussed, particularly, matrilineal inheritance.



2.1 Theoretical Framework

2.1.1 Collective Replacement Theory.

This theory draws on socialist ideologies and focuses on the non-individualization outcome of land tenure reforms (Nkwae, 2006). It is aimed at addressing the social and economic inequality associated with land acquisition. The theory also emphasizes the strength of nationalization which aims at redistributing for collective benefit through leasehold (Bruce, 2014). The Collective Replacement Theory mainly emphasizes the customary tenure system where in this case state serves as the successor to the tribe. The second aspect of the theory concentrates on ensuring improvement in production through collective farming.

Specifically, the Collective Replacement Theory focuses on areas such as equitable distribution of resources; democratization of traditional and community leadership, increased development and improved land productivity, self-reliance and efficient distribution of service such as water, electricity, education and health (Okoth, 1993). The collective ownership of land normally serves as an opportunity for the poor and vulnerable to be part of the beneficiaries of reforms because it gives them the sense of belongingness in the customary tenure (Lahiff, 2008). Even though collective ownership and production may not be problematic by themselves, however, it may not consider the needs and desires of inexperienced groups. The beneficiaries may also not be given enough post-settlement support from the state (Bruce, 2014). Due to this most of such farming schemes in African countries have found it difficult to meet their statutory obligations. Some of the African countries have not lived up to expectations and have led to the abandonment of the schemes (Unruh, 2001).

It seems that those who are in support of the Collective Replacement Theory base their argument on communal paradigm that assumes people are interested in working and living together in a community which in the end fails to take into consideration the rights of individuals within customary land system. Bruce (2014) concludes that cooperatives are best seen as a “transitional mechanism” for rapid transfer of title to groups of people on large farms, but which should be followed by subdivision and individuation. The theory directly underpins the current trend that matrilineal cultures focus on collective ownership of land. For instance, in matrilineal system which can be found in Akan communities in Ghana. The lands are owned collectively by family headed by the family head called “*abusuapanin*”. In the patrilineal cultures lands are owned by the family of the husband.

This collective ownership has the great tendency to deny minorities such as widows and children who become vulnerable after the death of the husbands and fathers, respectively. The situation cut across several countries, especially developing countries. The situation has led to countries taking the role of and representing themselves as tribes through the establishment of statutory laws to ensure vulnerable groups have access to lands.

2.2 Concept of Property Inheritance

According to Berge, Kambewa, Munthali and Wiig (2014), there are two main systems of inheritance which are patrilineal and matrilineal. However, most societies are dominated by patrilineal system. The patrilineal societies refer to societies that connect generations through their father's line. Scholars such as Mattison, Beheim, Chak and Buston (2016) believe that most societies still live under patriarchy where people inherit custom and property through their father's lineage. However, few cultures historically were matrilineal which suggests that they are generationally connected through their mother's line.

Research has suggested that in most societies, patrilineal succession dominates family units (Yunxian, 2020). Customs, traditions and properties are passed on to the next generation through a male line. In the patrilineal succession system, properties, names, titles etc. are normally inherited by males. However, Grabe, Grose, and Dutt (2015) were of the view that females could also inherit when there are no male heirs. Even with this, male relatives who are distant are even preferred to inherit as compared to the closed female relatives. According to Goldman, Davis, and Little (2016), most societies have confidence in males inheriting from the father because they believe that the females will get married and will

be under the control of the husband. Therefore, females inheriting properties will be under the control of another family.

On the contrary, in matrilineal societies, inheritance of properties, names, titles etc. are through the mother's line (Mishra & Sam, 2016). In other words, the culture and norms of the mother, are passed on to the children or the next generation. Both men and women are permitted to inherit properties from their mother's line unlike patrilineal system where preference is given to men more than women (Lawry et al., 2017). Specifically, men who inherit from the mother's line mostly do so through their mother's brother which is subsequently passed on to their sister's children.

2.3 Empirical Review

This section reviews previous studies on the importance of land ownership, land rights in different cultures, women land rights under customary tenure, widow's land rights, matrilineal and land rights; matrilineal inheritance and land rights under the statutory laws in Ghana.

2.3.1 Importance of Land Ownership

Land has been considered very important to most societies. According to Yucer, Kan, Demirtas and Kalanlar (2016), the importance of land can be witnessed in both developed and developing societies. Historically, people are dependent on land for survival. Dillon and Voena, (2018) were of the view that land has been part of the culture of human societies which has been passed from generation to generation. To support the argument, Estudillo, Quisumbing and Otsuka (2001), were of the view that land has been central part of the economic values of most traditional African societies. In other words, land ownership in

several communities is considered very important cultural norm for people's survival. Place, (2009) pointed out that the individuals' livelihood and economic growth depend largely on availability of land. In this regard people do whatever they can to protect their lands so that they can pass on to the next generation. This is mostly to ensure that future generation have something to survive on.

Research has shown that land ownership had been important to people across societies due to food security. The availability of food depends on availability of land (Headey, Dereje and Taffesse, 2014). In this regard families and communities ensure that there is availability of food through their agricultural activities. This was particularly so in the olden days where agriculture was the main economic activity for individuals in a community. All forms of agriculture such as farming and rearing all depended on the availability of land. Pilgeram and Amos (2015) therefore, asserted that land was part and parcel to individuals and groups to the extent that they did whatever they could to protect it. Again, Doghle, King and Akaabre (2018) argued that land ownership helps minimize poverty in societies. This is because, people use lands for economic activities such as agriculture which in turn ensure their sustainability. In essence, land ownership as well as availability of labour, give people the opportunity to produce food for home consumption and for sale to cater for other needs.

Ferguson (2013) study on how to do things with land, found that most rural folks cultivate their land to provide food for their families and others in the community. He further asserted that those with land rights are the most respected in society because others depend on them for their survival. This is even more evident in communities where agriculture is

the main economic activity for the people. People with land can cultivate these lands to improve their living standards whilst those with no land will have to depend on landowners to indulge in agricultural activities (Kaarhus 2010). Heltberg's (2002) who also in a study on property rights and natural resources management in developing countries, rightly asserted that land has been significant to the lives of people, and this is because, people depend on the land for farming, rearing, and irrigation among others. It can thus be said that when land degrades, it makes it very difficult for people to sustain their livelihoods which results in challenges such as food insecurity, poverty, and rural-urban migration.

2.3.2 Land Rights in Different Cultures

According to Yngstrom (2002), property rights in several societies are imbibed in the customary law. Land as a property is passed on from one generation to the other. To this effect, Knight, (2010) stressed that land in sub-Saharan Africa has a significant effect on people's political, economic, and social lives. Land ownership to a large extent determines the power relationship in society. Odeny (2013) indicated that there were different levels of land ownership and the level determines the kind of power the owner has. The authors indicated that some owned large scales of land and others owned an average of small land. Those who owned large-scale land were considered noble in society as compared to those with average and small.

Others do not own their land and must depend on others for land to sustain their livelihoods. In this regard, people since historical times have ensured that they acquire lands for themselves and their dependents to help them remain relevant in society (Benjaminsen and Lund, 2012). This has been the orientation of olden generations which have been handed to the subsequent generations. However, Benjaminsen and Lund (2012) were of the view

that the way in which land is acquired and handed to the next generation vary from culture to culture. Research has shown that, in most cultures in sub-Saharan Africa, land rights are mostly through family units (Kusi et al., 2022). The family could be nuclear or extended, and the type of family determines the ease in which one can own a land or not.

According to Matsudo (2021), in most of the African society, especially, in the olden days, one should belong to a group to be able to have access to land and the notable and basic group that people identified themselves with was the family. This assertion was supported by Korang-Okrah and Haight (2015), who were of the view that one's membership with a family normally gives him or her the power and the right to occupy and cultivate land. Their tie with a family gives them protection, especially, from the leaders and other members of the family. Stephens, (1963) cited in (Weigel, 2008) defined family as "a social arrangement based on marriage and the marriage contract, including recognition of the rights and duties of parenthood, common residence for husband, wife and children, and reciprocal economic obligations between husband and wife".

2.3.3 Widow's Land Rights under Customary Tenure System

From Johnson, Kovarik, Meinzen-Dick, Njuki and Quisumbing, (2016), they explained that, in almost all societies in Africa with exception of few cultures, land ownership is mostly patriarchal in nature. Most lands are owned by men and even with the few situations where women owned lands, it is normally under the control of men. This assertion is collaborated by Massay (2019) who also argued that women in most cultures are considered weak to take care of family properties including land. In situations where women are even entitled to lands, men are supposed to be the guardians of the family properties.

Yunxian (2020) indicated that most cultures across the globe give more credence to men than women as far as land ownership is concerned. For instance, he was of the view that in China women did not have land or property rights legally and this is because the society is a patriarchal one. He added, that the situation is still in place where the family considers women to be living with them temporarily and that they will leave for marriage sometime to come. Due to this, Pankhurst and Jacobs (2019) asserted that women are made to depend on family members, especially men when it comes to land matters. To them, women in most societies become vulnerable and are more likely to lose their properties even when they own one.

Doss, Meinzen-Dick, Quisumbing and Theis (2018) in their study conducted on women in agriculture were of the view that, despite the effort of global communities such as United Nations and other international bodies striving for Sustainable Developmental Goal (SDG), especially, the SDG 5 which emphasize on gender equality and women's right, women are discriminated against as far as land ownership is concerned. Despite women enormous contribution to food production, they are not allowed to own lands in most cultures (Goldman et al., 2016). This is even more predominant in conservative societies where women are expected to live under the control of their husbands. In essence, it is the husband who takes care of the wife's properties and women will have to consult their husband whenever they need some of the properties to sustain themselves (Doss, Kovarik, Peterman, Quisumbing & Van Den Bold, 2015). This is part of the reason why most families do not want women to own properties for the fear that they might lose them to their husbands.

In a study conducted by Meizen-Dick, Quisumbing, Doss and Theis (2019) on women's land rights as a pathway to poverty reduction, it was argued that many households depend on resources such as land to sustain their livelihoods. It was further argued that women play critical role in terms of family survival through agricultural production. They further explained that despite key role played by women in agricultural production, they find it difficult to own lands. In relations, Menon, Van Der Meulen Rodgers and Nguyen (2014) were of the view that inability to own land resulted to poverty in most societies. Muchomba, Wang and Agosta (2014), wrote that women in such societies will have to depend on men for their agricultural production which sometimes comes with a cost and most of these women cannot afford to pay for the lease. This assertion is supported by the views of Kumar and Quisumbing (2015) who also showed that in most cultures, men own more lands and other properties compared to women. In other words, the most valuable asserts are entrusted under the care of men with women made to own fewer valuable ones if there is opportunity at all.

According to Doss et al., (2014), even in situations where women are allowed to own properties, some cultures have designed the system in such a way that they must jointly own them with other persons, particularly men. In effect, men control is still in force as women could not own properties by themselves. To add to the debate, Peterman, Quisumbing, Behrman and Nkonya (2011) in their study conducted on understanding the complexities surrounding gender differences in agricultural production in Nigeria and Uganda, indicated that even though women are striving hard in terms of agricultural activities, their major problem is land. Most of the lands are owned by men which makes it difficult for them to expand their agricultural activities.

Owoo and Boakye-Yiadom (2015) also conducted a study on gender dimension of the effects of land tenure security on agricultural productivity. They indicated that when women own land they have the capacity to produce more even than some men. However, they indicated that women in most of the cultures are not allowed to own lands. In certain circumstances where they are allowed to do so, there is a limit in which a woman is allowed and not to go beyond. Doss, (2018) in his study on women and agricultural productivity argued that women are a strong force in agricultural activities in developing countries. He further attested that, most women in rural areas engage in agricultural activities to cater for their families. In this regard, land has been considered very important for women because, they are empowered economically through agricultural production. Doss, (2018) concludes that, women historically have not been empowered to own lands because they are denied of land rights which turn to be detrimental to the survival as well as that of their families.

The structural inequalities, deny women land rights. Thus, women rights are violated as far as inheritance of property is concerned. Grebe et al., (2015) indicated that, the violation of women land rights is due to power injustice where men dominate in all spheres of life and women are to play second role by supporting the authority of men. Pankhurst and Jacobs (2019) conducted a study on land tenure, gender relations and agricultural production in Zimbabwe. The findings of their study support the views of other scholars and according to them in Zimbabwe people live a communal life and the basic tenet of the communalism is the family unit. In relations to women status on land rights, they were of the view that women do not have the power to own land as compared to men. Pankhurst and Jacobs, (2019) further argued that women depend on family members for land for agricultural activities. However, they were of the view that due to modernization and laws on land

rights, there has been improvement on women land rights but indicated that there is still a long way to go.

Similarly, Massay (2019) conducted a study on the struggles for land rights by rural women in sub-Saharan Africa was of the view that in Tanzania, women land rights are violated and women are largely discriminated against with regards to the capacity to own lands. The study further revealed that land ownership and control are prerogative of men who have the power over women. Also, Madzudzo (2021) conducted investigation into securing land rights and communal land reform in Namibia which reveals that, before independence, women did not have right to land, but some women have the rights to lands after independence. The assertion of Madzudzo, is therefore in line with Kumar and Quisumbing, (2012) who also indicated that in as much as women found it difficult to own lands, sometime ago, the situation is improving as in most societies women now have land rights, but they were quick to add that men still have the right to own more lands compared to women. Otto, Isinika and Musahara, (2019) also revealed in their book titled “Land tenure dynamics in East Africa: changing practices and rights to land” that due to modernization, the situation where women in most cultures did not have rights to land ownership are changing and this can be attributed to laws and measures putting in place by countries to deal with the discrimination.

2.3.4 Widows Land Rights in Different Cultures

Dillon and Voena (2018) research works shows that in many traditional settings lands right becomes challenge to widows because it is considered that the husband’s properties are for his family and not for the woman and children. The authors further noted that lands are normally controlled by family heads who end up deciding fates of the widows as far as

family lands are concern. This is much similar to a study by Mumma, Maleche and Achieng'Oluoch (2021) on facilitating legal aid through traditional dispute resolution mechanisms and how widows access justice through council of elders. It was found that widows in most parts of the world suffer discrimination with regards to inheritance of family properties. It was observed that most of the discrimination were perpetrated by men who were mostly the head of family or ethnic group.

The assertion of widows having to struggle to acquire legal aid to get access to what belongs to them was collaborated by Nara, Lengoiboni and Zevenbergen (2020) who were also of the opinion that widows are sometimes maltreated in the quest to claim properties due them. The authors also indicated that most of these widows unfortunately do not have the capacity to seek for legal support and that the rights to land in most cultures significantly varied which mostly leads to inequalities. The inequalities in land rights, are usually experienced by the weaker groups in societies who suffer discriminations against their right to own lands. The authors specifically identified that one of the weaker groups who normally suffer the discrimination are widows. This is because, widows are normally considered not to be part of the family of their husbands and therefore do not have land rights.

Agarwal, Anthwal and Mahesh, (2021) found that women in India find it difficult to own lands as compared to men. This situation is more profound as far as widows are concern in Badu. Furthermore, Veit (2019) commenting on women and customary land rights in Uganda, indicated that customary rights on land across many cultures in sub-Saharan Africa, are discriminating against women. Worst still, widows and their children are discriminated against by their husband's family members. Most widows only have access

to lands after they have remarried which means that widows who decide not to remarry finds it difficult to own lands. However, despite the discrimination against women on land rights, some cultures give women and widows opportunity to own lands. Unlike Badu community in Ghana, Ugandan women in Langi, Acholi have rights to own lands. The study also reviewed literature on Kenya, Rwanda and Uganda and found out that most women in Kenya, Rwanda and Uganda have the right to land for those women who are tied to the number of children a woman has and even that the gender and age of the children play a critical role on women's land right.

The most disadvantaged as far as land rights are concern is a widow with no child (Djurfeldt 2020). Such childless-women are highly discriminated against on many grounds and are not entitled to the husband's properties including land. Again, Platzer, (2018) conducted investigation on victimization of elderly women, particularly, witches and widows. He was of the view that women have suffered and continue to suffer discrimination in many societies. They were of the view that among the various categories of women, it is the widows and those considered as witches in society are the most disadvantage. In other words, they are the ones who society discriminate against. The widows and those considered to be witches have no land and other property rights which further impoverished their lives.

In addition, Phillips (2019) in his study on culture as against the constitutions indicated that Zulu widows are discriminated against in terms of land rights. The Zulu widow's rights to land are limited which makes it difficult for most of them and their children to survive. Phillips (2019) wrote that there is a conflict between the customary laws and constitution

as far as Zulu customary laws on women rights to lands are concerned. Most of the time people in certain societies want to maintain their cultural norms and values which may be against the constitution and this makes it difficult for the victims involved.

In the light of studies conducted on Land rights of widows in the matrilineal system of inheritance in the case of Badu community in the Tain district, Korang-Okrah, Haight, Gibson and Black (2019) on solutions to property rights ‘violations’ experienced by Ghanaian (Akan) widows and their children, indicated that most widows in Akan communities in Ghana tend to lose their rights to property following the death of their husbands. He added that the widows and children are supposed to survive on the properties of their husbands, however, because the women are considered not part of the husband’s family, they are sometimes driven away with the children which makes their economic survival difficult. According to Korang-Okrah et al. (2019), the situation negatively affects the education of the children which subsequently affect their life satisfaction in adulthood.

Similarly, Dube (2021) in his attempt at exploring intervention for widows in Binga district in Zimbabwe indicated that many women upon the death of their husbands are denied access to their husband’s property which includes land. According to him, most of the widows are made to find their own ways to survive as the husband’s family members take control of the properties. Dube (2021) further indicated it is not only the poor widows who suffer such fate, but the children of the deceased sometimes are denied access to the fathers’ properties which goes a long to negatively impact on their lives. He further stressed that most of these widows are not aware of their right to properties including land and this is because, most of these women live in the remote areas where there is not enough information and knowledge on widow’s rights to own properties by their husbands.

Veit (2019) conducted research on custom, law and women's land rights in Zambia. The study revealed that most land in Zambia is held under custom where most of the customary tenure system do not provide women with significant land rights. From Veit (2019) view point, even where women have some rights to land under the customary tenure system, traditional institutions do not effectively implement the rules. He added that such discrimination often renders widows and their children in extreme poverty. Veit (2019) was of the view that even though the statutory laws such as the Interstate Succession Action which governs the administration of an estate make provision to such women, it is not significant as the surviving spouse inherits only 20% of the deceased's estate. He therefore, suggested that there must be effective laws and ways to support widows during the death of their husbands so that they can have their fair share of their husband's properties without discrimination.

Genicot and Hernandez-de-Benito, (2019) conducted a study on women's rights and village council in Tanzania. They argued that land is considered as very critical asset in villages due to its importance in agricultural activities. However, they indicated that the situation has improved in recent times compared to the olden days. They further argued that even though women in general have difficulty in terms of land ownership, widows turn to suffer more as compared to women who lives with their husbands. Therefore, National Land Policy should help address the discrimination in the land tenure system. Muteithia (2019) who conducted a study on access to justice regarding property rights for widows in Kenya indicated that most widows are denied access to their husband's properties and indicated that in the midst of this injustice most of these widows fail to get the required justice. This mostly worsens the plight of the widows and their children. Muteithia (2019) proceeded to

suggested that, for widows to have access to their husband's properties, they should be empowered and be educated on their rights to their husbands' properties.

Again, measures must be put in place by statutory laws to ensure that widows who face discrimination with regards to property inheritance have access to the legal justice system. Izzi and Fab-Eme (2020) also conducted studies on widows and inheritance rights in Nigeria. They argued in the study that widows in most parts of Nigeria face discrimination and dehumanizing experiences. The authors were of the view that the discrimination women face with regards to property inheritance comes in different forms and can be subtle or overt. According to Izzi and Fab-Eme (2020), most of the women who shared their experiences indicated that they cannot own lands due to tradition which does not permit them to do so. Even though there are laws to protect women from the injustice that is being perpetrated on them according to Izzi and Fab-Eme (2020), these laws are inadequate in protecting widows from such traditions.

2.3.5 Matrilineal and Patrilineal Inheritance and Land Rights

According to Peters (2010) study in Southern Malawi, only daughters are the heirs to their matrilineal land, while sons use their wives' land or in special circumstances, have temporary use of fields belonging to their female matrikin. This is in contrast to many cultures where the line of inheritance is a patrilineal system. This matrilineal system of inheritance as practiced in Southern Malawi has played to the advantage of women who can own lands and subsequently make a livelihood. Pain and Pema (2004) study on matrilineal inheritance of land in Bhutan revealed that Bhutan also has a matrilineal system of inheritance where women inherit and own lands as compared to a patrilineal system. Pain and Pema (2004) indicated that the matrilineal system of inheritance in

Bhutan has empowered women to own lands which has also empowered them economically.

The findings of Peters (2010) and Pain and Pema, (2004) suggest that matrilineal system of inheritance give women opportunity to own lands as men even in certain situations, women could own more lands than men. This is certainly good for women who are mostly considered minority and weak in most societies and are not allowed to own properties to empower themselves economically. Berge, Kambewa, Munthali and Wiig (2014) study on lineage and land reforms in Malawi and how matrilineal and patrilineal landholding systems represent a problem for land reforms in Malawi.

The study revealed that, in Malawi, both matrilineal and patrilineal systems of inheritance are practiced. However, it was revealed that, matrilineal devolution and descent of land rights are the traditional norms of most population, whereas the formal landholding system is modelled on patrilineal English legislation. Their study further found that the southern and central part of Malawi are dominated by matrilineal cultures whereas the patrilineal cultures dominate in the north.

They observe that both patrilineal and matrilineal inheritance discriminate against males, females and children. In that in patrilineal cultures, mostly discriminate against females and children whilst matrilineal cultures also discriminate against males and children. The above emerging picture is that either system had a high tendency to discriminate against one of the genders (males or females). However, children seem to be victims in both cultures. Daley and Englert (2010) conducted a study on securing land rights for women. The study revealed that in Tanzania, matrilineal inheritance is practiced among the cultures

in the Uluguru Mountains and that females inherit lands in the matrilineal system. However, the system has been adapted in such a way that sons are also allowed to inherit land from their mother's clan. In this system, even though the culture is matrilineal, the system has made provision for males to also inherit land.

The situation has the tendency to avoid the discrimination against one gender and children that used to pertain in either patrilineal or matrilineal system. The matrilineal land tenure systems welfare and decisions-making in rural Malawi revealed that some cultures in Malawi are predominantly matrilineal where females own and have control of lands.

The authors further indicated that the control of lands by women have significant effect on agricultural productivity. They however, suggest that there is the need for land reforms to ensure that there is gender equality with regards to land ownership. The fact is that there are other cultures where men control resources such as land, the situation is not the same everywhere as in some cultures women are equally allowed to control lands and properties. Dondeyne, Vanthournout, Wembah-Rashid and Deckers (2003) explained the dynamics of changing land tenure regimes in a matrilineal village of Southeastern Tanzania. It was found out that both men and women have access to land. In other words, land ownership is not a prerogative right of men or women. However, these authorities were of the view that one's membership with a clan is defined by maternal line of descent which gives an indication that an association to the clan is more matrilineal in nature.

The authors further revealed that in terms of land control, men seem to have more control as compared to women and this is due to marriages that tend to be patrilocal. This tend to be different from the rest where the whole cultural system subjects itself to three different

scenarios. That is, one's clan membership is defined by maternal line of descent, inheritance happens according to a bilinear pattern and marriages tend to be patrilocal.

The study shows that in southern and central Malawi, the culture is matrilineal where daughters inherit properties including land from their maternal line. In this regard, women have land rights, and the land tenure has traditionally been based on matrilineal rules and practices. A situation where women control more lands than men could serve as a hindrance to men agricultural activities as their economic empowerment will have to depend on women making lands available to them.

Babere and Mbeya (2020) study found that Kasanga settlement in Morogoro in Tanzania were of the view that Kasanga and Morogoro communities have traditionally been matrilineal in nature and this has given the women the opportunity to own a land. The matrilineal tradition has led to women land rights, the situation is fast changing due to migration. Similarly, migration has influence land ownership to the extent that the ownership is now transferred from women to men in many situations. This situation according to the authors has the tendency to deny women equal rights to access, inherit and control lands where the current situation is turning some of the communities into patrilineal system and this could negatively affect women, especially, widows and the children. For instance, a widow and her children can be denied access to inherit the lands of their husbands and father, respectively.

Narciso and Henriques (2020) study on whether the matrilineal; makes differences with regards to kinship and women's empowerment in Bobonaro district, found that the culture of Limor-Leste is matrilineal system and women have greater access to land as compared

to men. There are other issues such as the ownership of land, level of participation in decision making, level of literacy among others that determine women empowerment. The authors, therefore, suggested that even in situation where women have access to and own lands there is the need to look at other factors that help to holistically empower women. The study concluded that women must be allowed to participate in local decision making.

Kongela (2020) research work study on gender equality in ownership of agricultural land in rural Tanzania reveals that Tanzania culture consists of both matrilineal and patrilineal systems where the line of inheritance is from mother's line and fathers' line respectively. The study found that in Kisarawe and Mkuranga districts in Tanzania, the cultures are mainly matrilineal. In this regard, agricultural lands are inherited from the mother's line. The study of Kongela (2020) revealed that due to the matrilineal system of inheritance, women own lands which help them in their agricultural activities, particularly, those in the rural areas. However, the author also found that in as much as the cultures are predominant in the area, there are few situations where women especially widows are discriminated against in terms of land rights and ownership. Kongela (2020) therefore, suggested that there should be more statutory laws to enhance gender equality on land ownership. Thus, Robinson and Gottlieb (2019) study on the gender gap in political participation through lessons from matrilineal societies in Africa were of the view that even in matrilineal societies, men still dominate political power and the system normally discriminate against women participation in decision making. Keeni, Takashino, Nongkynrih and Fuyuki (2018) also conducted a study on women empowerment in a Rural Matrilineal society of Meghalaya in India. The study revealed that women have land rights under the matrilineal inheritance and are also empowered to be part of a socio-economic group. However, these

women still considered their husbands as head of the family which give the husbands some level of control of these lands.

2.3.6 Matrilineal Inheritance and Land Rights in Ghana

According to La Ferrara (2007), the patrilineal inheritance system discriminates against women, and this is because, power is entrusted into the hands of men and women have not right to inheritance. To support the assertion of La Ferrara (2007), Sedziafa, Tenkorang and Owusu (2016) also reiterated that majority of the cultures in Ghana are patrilineal system. They indicated most of the cases of women abuse are reported in societies where the cultures are mainly patrilineal. From the above it can be said that most cultures in Ghana are patrilineal and most patrilineal system discriminate against women in terms of inheritance and access to properties. This means that for women to have rights to properties such as land, there should be more statutory laws to help women, especially widows and their children to have access to properties. Kusi et al. (2022) indicated that matrilineal system of inheritance is mainly practice in Akan communities, particularly, Asante communities. Asante have six (6) Akan community clans in Ghana that migrated from the basin of Pra and Offin Rivers up north because of the political instability among Dankyira and Akwamu in the 17th century (Akyeampong & Obeng (1995).

With the matrilineal inheritance among the matrilineal cultures in Ghana, males inherit from their maternal uncles, however, family lands are entrusted under the head of the family (Hughes & Knox, 2019). Research has also indicated that in Akan societies in Ghana, certain properties such as farmlands do not belong to the individuals but to the family which is entrusted under the care of the family head (*Abusuapanyin*). The family

head decides the sharing of lands which is normally done according to the customary practices (Korang-Okrah, Haight, Gibson & Black, 2019).

Kuusaana, Kidido and Halidu-Adam (2013) who conducted their study on customary land ownership and gender disparity: evidence in Wa municipality in Ghana, argued that women land rights in the matrilineal cultures is somehow better as compared to that of patrilineal system. This is because women are allowed to own lands in the matrilineal societies. However, Asaaga and Hirons (2019) argued that both patrilineal and matrilineal societies discriminate against women, especially, widows and their children. To them, even under the matrilineal system, it is mostly difficult for widows and the children to have access to the husband's properties. The above assertion is backed by Quisumbing, Payongayong, Aidoo and Otsuka (2001) who conducted research on women's land rights in the transition to individualized ownership.

They revealed that even in the matrilineal inheritance system in Akan communities in Ghana, land is transferred from a deceased man to his brothers or nephews (sister's son) in line with the matrilineal customary norms. Gedzi (2009) in his book entitled "principles and practices of dispute resolution in Ghana: Ewe and Akan procedures on females' inheritance and property rights" of the view that in both patrilineal and matrilineal societies women are not entitled to the properties of the husband's lineage. And that it is a major issue which needs to be addressed by both statutory laws and customary tenure norms and values. It was further revealed that both cultures prefer to transfer lands to male heirs because, they believed that males have the power and authority to control family's properties as compared to females. Again, Korang-Okrah (2015) research found that widows in matrilineal inheritance system have challenging times to access the properties of their late

husbands. The author further argued that there is structural inequality in issues related to resource tenure rights of men and women. For Korang-Okrah (2015), women in Ghana where agricultural is significant to the livelihood of people requires, land is required to achieve such economic prowess. However, widows particularly have difficulty accessing and inheriting lands of their dead husbands which mostly deny them and their children economic livelihood.

Similarly, Korang-Okrah and Haight (2015) study on “Ghanaian (Akan) women’s experiences of widowhood and property rights violations” pointed out that most women in Akan communities, matrilineal cultures lose their rights to inherit lands or own and manage property upon the death of their husbands. The study which looks at two matrilineal communities in Ashanti and Brong-Ahafo regions found that widows (women) property rights were violated after the death of the husbands which pose difficulties on them and their children. These women as the studies indicated, were survived on the benevolence of their families and friends. In addition, Gedzi (2012) critique on women’s property relations after intestate succession PNDC Law 111 in Ghana indicates in Ghana, both matrilineal and patrilineal inheritance systems deny widows and their children their rights to inherit lands and own properties during the death of their husbands and children, respectively. In view of this, the widows and the children go through difficulties in their quest to make live for themselves.

2.3.7 Inheritance under the Statutory Laws in Ghana

According to Hughes and Knox (2019), statutory laws in Ghana on inheritance were mainly to support women children’s rights to property including land. In other words, it was to make it easier for women and children to inherit property. First, the constitution of

Ghana which was adopted in 1992 and came into effect on January 7, 1993, devoted chapter five to fundamental human rights and freedom. These provisions are consistent with the International Bill of Rights which include political and civil rights as well as economic, social and cultural rights. Examples are, article 17 which states that all persons are equal before the law, article 7(2) which states that a person shall not be discriminated against on grounds of gender, race, social, ethnic origin, religion, creed, social or economic status, article 17(4) which is made up of special legislation or policies to address socio-cultural, economic or educational imbalance in the Ghanaian society, which discriminate against women (Constitution of Ghana, 1992).

To protect the vulnerable in society such as women and children to have access to productive resources and asserts, the Interstate Succession Law, 1985 (PNDC Law111), amended in 1991 came into force to help secure two-thirds of a deceased's self-acquired properties for the men and women who have lost their partner (Doghle, King and Akaabre, 2018). Also included in the two-thirds are the children who are also considered as vulnerable in the society. After, this the remaining one-third is giving to the rest of family members. Despite these laws, it is obvious that women and children, particularly, those in rural areas are normally denied access to inherit and own lands of their late husbands. (Berry, 2021). This assertion is supported by Doghle et al., (2018) who indicated that due to high illiteracy rate in most rural communities, knowledge on statutory laws is limited which serve as a barrier for most of these women to fight for themselves. This according to Hammond (2019) is a much worrying situation which needs to be critically looked at. A study by Hughes and Knox (2019) on women's evolving land rights in the face of economic change, revealed that in Akan societies, the cultures are made up of both

patrilineal and matrilineal. According to the authors, in matrilineal cultures, women are empowered to own properties. The women in these cultures are king makers and they are empowered to own lands and undertake other economic activities. Under the matrilineal system in Akan communities, males inherit from their maternal uncles, however family lands are entrusted under the head of the family. According to Hughes and Knox (2019) women normally access land through their male relatives. The authors indicated that even though the system is matrilineal which is supposed to empower women, including widows and their children, they at times suffer discrimination which negatively affect their livelihood and survival.



CHAPTER THREE

METHODOLOGY

3.0 Introduction

This chapter emphasized on the research methodology adopted for the study. This includes philosophical underpinning, research approach, research design, population, target population, sample, sampling technique, data collection procedure, data analysis, trustworthiness, and ethical consideration.

3.1 Philosophical Underpinning

Interpretivism paradigm

Researchers have identified different types of paradigms such as positivism, interpretivism, pragmatism, relativism, realism and critical realism Mackenzie and Knipe, (2006). Each paradigm has its own fundamental belief explaining it. This research adapts the interpretivist paradigm because it is in line with qualitative approach. According to interpretivists, individuals have a consciousness and react to external social forces. They are also of the view that individuals are complex to the extent that different people understand and experience the same objective reality differently (Creswell, & Creswell, 2017). The aim of the research is to get deep insight into the lives of the participants to gain better understanding of the way they act and do things.

3.2 Research Approach

A qualitative technique was adopted for this study. This is because qualitative research allows a researcher to explore the details of participation and how they make sense of their social and personal world. It gives the researcher the opportunity to examine participants

in detail and allow them to give their personal experience and accounts of an object or event.

The researcher employed qualitative research approach to allow for participant observation through interviews (semi-structured interview) and observation in order to acquire in-depth information about the phenomenon. Qualitative research provides a more realistic feel of the world that cannot be experienced in the numerical data statistical analysis used in quantitative.

Denzin and Lincoln (2005) posits that qualitative research entails interpretive and naturalistic approach to the world. This according to them means, “qualitative research study things in their natural setting, attempting to make sense of, or interpret phenomena in terms of the meanings people bring to them” (quoted in Creswell, 2007:36). Qualitative data is usually difficult to graph or display in mathematical terms. The researcher’s role needs a great amount of critical attention because in qualitative research the possibility of the researcher taking a neutral position is seen as more rear in practical terms. Therefore, qualitative researchers are often admonished to reflect on their role in the research process and make this clear in the analysis.

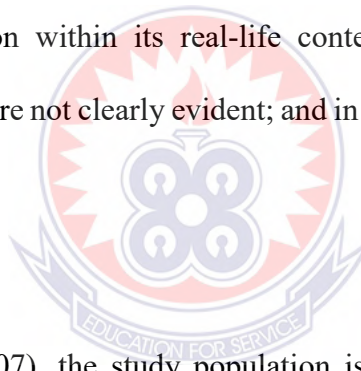
3.3 Research Design

The research design was the framework or structure employed by the researcher in collecting and analyzing the data relevant to the study in focus. Case study design was used for this study.

Case study as a qualitative research approach was used because ‘case study’ is a mode of understanding an authentic life happening in its deepest form. Creswell (2007) admits that, in case study, the researcher explores a case or multiple cases over time through detailed,

in-depth data gathering by way of observation, interview, audiovisual material and documents. In this vein, qualitative approach, using case study aids the understanding of the study.

Leedy and Ormrod (2005) noted that, case study is especially suitable for learning a lot about a little known or poorly understood situation such as life in prison communities in Ghana. Berg (2007) tends to endorse the fact that case study can provide an in-depth understanding of phenomenon, events, people and organizations and eventually gives real meaning to processes created and used by individuals involved in such settings. Yin (2009) defined the case study research method as an empirical inquiry that investigates a contemporary phenomenon within its real-life context when the boundaries between phenomenon and context are not clearly evident; and in which multiple sources of evidence are used.



3.4 Population

According to Babbie (2007), the study population is the collection of people that the researcher is interested in gathering data and generalizing about for the basis of analysis. Lope & Whitehead (2013) intimated that, population of the study is defined as a group of individuals or objects targeted for a scientific reason. Amin (2003) argue that population of the study is the population who will be concerned by the results of the study.

3.5 Target Population

Choosing a group of persons for research is an integral part of the research process. Research becomes impossible when the researcher uses the large population due to size and diversity. Therefore, the researcher must narrow the population to a particular unit or

group within the large population and this is known as target population. The target population is the complete group of specific population element relevant to the research project (Zikmund, 2003). For this study, the target population was the family heads and widow who lost their partners and children been affected by matrilineal inheritance with in Badu community in the Tain district.

3.6 Sample

A sample is a small segment of the population that is selected for observation and analysis (Ewie, 2017). Sampling is the process or technique of selecting a suitable size or a representative part of a population for the purpose of determining parameters or characteristics of the whole population (Best & Kahn, 2006). In view of the different classes of respondents and the kind of differing questions that need to be answered to achieve the objectives of this study, purposive sampling methods were used in the study. The sample size for the research was Twenty (20) key community members. In selection process ten (10) spouses who lost their partners, five (5) children who have been affected by matrilineal inheritance and five (5) chief and family heads.

The reasons informed the selection of this sample size. First, to ensure manageability, stay economical and understand in details a phenomenon under study in a qualitative research, it is important to focus on just a minor group out of an entire population (Borrego, Douglas & Amelink, 2009). McCombes further argue that, the sample size for a qualitative research should not be too small nor excessively large because it has significant effect on the quality of a research's findings. Following this logic, he further suggested an average sample size of between 10-30 as the ideal sample size for an interview-base qualitative research. Hence

the researcher used the sample size of Twenty (20) to be able to work within the stipulated time-frame for this study and also gain in-depth information from participants on why land rights of widows in the matrilineal system of inheritance as a case study at Badu Community in the Tain District.

3.7 Sampling Technique

Purposive sampling technique. The purposive selection of these groups of key informants stems from the fact that they are individuals who provide in-depth and proficient information about a particular phenomenon (Kumekpor, 2002).

3.8 Data Collection Procedure

Data refer to the fact that some information and knowledge is represented for better use, it is collected and analyzed, they can help to know deeply the situation and facilitate decision making (Ajayi 2017). The researcher must collect relevant data using appropriate instruments. Data collection is the process of getting data related to the research questions to evaluate outcomes using tools, techniques or procedures which are appropriate to the nature of research and population of the study (Kabil 2016). In research methodology, there are two types of data; primary and secondary data (Mahto 2011).

3.8.1 Primary Data

Primary data are those afresh data getting as first-hand information from the field or ground, by the researcher him/her self-related to the study (Bulman 2004 and Mahto 2011). The researcher will go on the ground at Badu Community in Tain District to meet sampling population in order to get afresh information.

The researcher uses interview in primary data as a conversation between interviewer and interviewee; it is organized in order to get information with deeper understanding of different point of view from interviewees and the interviewer uses interview guide during the process of conversation (Bryman 2012). The secondary data was obtained from documentary sources, including reports, books, thesis, newsletters, internet and journals.

Semi-structured interview guide was used as a data collection instrument for the study. Semi structure interview is about conversation of interviewer and interviewee to get data with deep understanding of the problem under study. The researcher pre-prepare the questions to ask as a guild to be used which should be flexible depending on the reactions of respondents (Dawson 2002). The interview guide helped the interviewer to stay focus on the aims and objectives of the study. Thus; the questions included on the interview guide was carefully coined to get credible answers to the research questions and the research problems. Voice recorder was employed to record the interviews. The use of voice recorder made it easier to document and report the responses accurately. In addition to the voice recorder, a reporter's note book was used to write down the very salient responses of the interview of the participants.

Two weeks was used for the interviews. The participants consent was sought in order to record the interview and the record interview was also played back to them. The researcher and a research assistant through this process was able to assure respondents of confidentiality of their responses.

3.9 Data Analysis

Thematic analysis which involves common threads, identification search that stretches across an entire interview will be used to analyze the qualitative data (Miles & Huberman, 1994). Braun and Clarke (2006) steps will be followed to analyze the data.

The steps are (1) Familiarizing with data, which involves, transcribing the data, reading and rereading the data and noting down initial ideas.

(2) Generating initial codes, which involves coding interesting features of the data systematically across the entire data set, collating data relevant to each code.

(3) Searching for themes which entails collating codes into potential themes, gathering all data relevant to each potential theme.

(4) Reviewing themes which deal with checking if the themes work in relation to the coded extracts in the entire data set, generating a thematic map.

(5) Defining and naming themes which involves the ongoing analysis to refining the specifics of each theme and the overall story that the analysis tells, generating clear definitions and names for each of them.

(6) Producing the report, which gives the final opportunity for analysis. Selection of vivid, compelling extract examples, final analysis of selected extracts, relating back of the analysis to the research questions and literature, producing a report of the analysis.

3.10 Trustworthiness

Cope (2014) observed that the truth value of qualitative research otherwise known as trustworthiness and transparency of the conduct of the study are crucial to the usefulness and integrity of the findings. Pilot and Beck (2014) cited in Connelly (2016) defined trustworthiness as the degree of confidence in data, interpretation, and methods used to

ensure the quality of a study. Thus, the research should be able to establish the protocols and procedures necessary for a study to be considered worthy of consideration by readers. These criteria and protocols include credibility, dependability, confirmability and transferability.

Credibility refers to the truth of the data or the participant's views and the interpretation and representation of theme by the researcher (Polit & Beck, 2012). The researcher established credibility by engaging the participants through an interview guide to enable them to express their views about the problem under study.

Dependability refers to the constancy of the data over similar conditions. With the rigorous research methodology through the descriptions and the processes employed for the study, the study findings could be replicated with similar participants in similar conditions to achieve similar results. An appropriate method of measurement was chosen for the study which is a case study design from the qualitative approach was considered.

Again, for the researcher to apply confirmability, the study demonstrated that the data represent the participants' responses and not the researcher's biases or viewpoints. The information was obtained directly from the respondents and was not under any form of coercion or pressure to satisfy the researcher. Rich quotes from the participants that depict each emerging theme were extensively provided in the study.

Houghton et al. (2013) opined that transferability refers to findings that can be applied to other settings or groups. Thus the results have meaning to individuals not involved in the study and can be associated with the results by others' own experiences. The study provided sufficient information on the informants and research context to enable others to access the

findings' capability of being fit or transferable. Thus the study drew certain conclusions with the findings of the study.

3.11 Ethical Consideration

The principle of voluntary participation was strictly adhered to. The participant was not coerced to participate in the research. The respondents were informed about the purpose of the study. The confidentiality of the participants was guaranteed. Every research has the potential of exposing respondents or participants to potential risks associated with their participation in the study which may be a physical, psychological, or social injury. Ethical consideration will be taken into account by first seeking approval from respondents. Respondents of the study have a free will to either participate in the study or not and could withdraw from partaking in the study at any time they desire to.

In answering the interview guide, the right to privacy, free consent, and anonymity of the respondents were taken into consideration. Also, information collected was not revealed to any third party and the right of respondents to privacy was respected. Again, ethical consideration will be ensured by briefing the respondents as to the purpose of the research, their relevance in the research process.

CHAPTER FOUR

DATA ANALYSIS AND PRESENTATION OF FINDINGS

4.0 Introduction

This chapter presents a discussion of results and findings. The study was set to examine how the matrilineal system of inheritance affects women and children right to inherit land and ownership of property in the Badu community in the Tain District in the Bono Region. It is also to explore how statutory laws on land ownership affect the cultural compliance of land ownership in the Badu community, in the Tain District and to analyze the human rights implications of land ownership in the matrilineal system of inheritance in Badu community.

Based on the research objectives, the following research questions were posed: How does the matrilineal system of inheritance affect women and children's rights to land in the Badu community in the Tain District in the Bono Region? How do statutory laws on land ownership affect the cultural compliance of land ownership in the Badu community in the Tain District? What are the human rights implications of land ownership in the matrilineal system of inheritance in the Badu community in the Tain District? The data analysis was done within the remits of the theoretical framework and the literature reviewed earlier in chapter two. In doing so, the chapter presents the findings based on the three objectives and research questions.

4.1 Matrilineal System of Inheritance and Its Effects on Widows Access to Land in the Badu Community

Objective one of the studies is set to investigate how the matrilineal system of inheritance affects women access to land in the Badu Community. It is worth noting that the common inheritance system among the Badu people is matrilineal which is governed mainly by

customary rules. Under customary rules, the deceased and all the property of a person who dies without having written a will (an intestate decedent) are passed on to the family. One's family is customarily defined as one's lineage: "the extended group of lineal descent of a common ancestor or ancestress" (Kludze, 1983). The head of the lineage appoints a "successor" to assume the estate, rights, and obligations of the decedent on behalf of the lineage. Only a legal will overrides customary law, and few Ghanaians have legal wills. The applicable customary law varies across ethnic groups, and each tribal tradition is an intricate body of rules, obligations, and norms.

However, Ghana's customary legal regimes as regards inheritances can be meaningfully divided into two broad categories: matrilineal and patrilineal traditions: matrilineal and patrilineal. Under matrilineal tradition, a family's controlling spirit passes from generation to generation only through female bloodlines, from whom Akan children are believed to inherit their "flesh and blood," their source of existence (Bleeker, 1966). Family ties traced only through female ancestors, define one's extended family, and lineage. In a matrilineal tribe, one is thus related by blood to one's mother, full siblings, and half-siblings by a common mother (uterine half-siblings), but not to one's father nor to any half-siblings by a common father. Thus, children belong to their mother's lineage, but not their father's. A traditional Akan male thus, feels blood kinship to his mother's brother (*wɔfa*), but at most a weak connection to his father's brother. An Akan male does not consider his children to be his blood kin. His closest blood relative in the next generation is his sister's son, and this maternal nephew (*wɔfase*) is his presumed heir if his brothers predecease him, and he dies intestate. Because Akan traditional rules revert a married couple's acquired property to the decedent's matrilineal extended family (Awusabo, 1990), a widow and her children

can be left destitute by the husband's death. She must thus look to her brothers for support; children must look to their maternal uncles for bequests.

The expectation of inheriting a maternal uncle's wealth is often said to blunt an Akan nephew's incentives to acquire human capital or seek a job and is captured neatly in an old Akan adage "wofa woho nti me nye edwuma" (Literally, "I have a rich uncle; I don't need a job"). To be sure, findings in this study suggest that; the matrilineal system of inheritance denies widows access to shelter, access to farmlands and leads to Injustice and Inequality as well as gendered.

4.1.2 Access to Shelter

It emerged in the study that the situation where the property (land) of deceased males is passed on to their family members, poses a serious problem for children as well as widows. These were gathered from the responses from the widows.

"When my husband died, there was no will. ...the painful part is that he did not build house, we live in a family house. Come and see, I did not take it [lightly] with his family. They wanted me out of the house" (Interview with widow).

Yaa Tia

"I have this problem, but I do not know how to handle it. The land on which this building is built belongs to my husband's family. I have heard that they want to eject me at the end of this year" (Interview with widow, Akosua Agyeiwaa).

“Every day I say this because there are a lot of injustice surround this. There are occasions they will not even give you at all. When you are lucky, they will give some to you. For instance, if they may give you 4 rooms out of 10 rooms when you and the children are 5 or 10 and the family will keep the other 6. So, there is never fair or equity in the sharing of the properties. The one who successor has a share or a room in the properties and even sometimes the nephews and nieces. At the end you and the children do not get anything. When there is mature person among the children, he or she begins to ask questions then they become irritated that you are a child and that is how it is done customarily. But legally this is not fair. So, in my opinion I see there is cheating or sort of unfairness” (Interview with widow, Akua Manko).

“As I have mentioned earlier, if you meet a generous family then they could give a land or room from the Man’s house. However, if he could build then will that get that for you, my sister! They can also give some to the children. For example, when my husband died, they gave land to the children but this house we built together was not given to us” (Interview with widow, Akua Manko).

The above statement suggests how the traditional inheritance system reiterates the passing of the property (land) of deceased males onto their family members and how it is a serious problem for widows. According to the participant, following the death of her husband, the family members want her to relocate from the family house where they lived with her husband. This according to the participant poses threats to her right to shelter. The above finding corroborates with a study conducted by (Korang-Okrah, Haight, Gibson, and Black 2019) on solutions to property rights ‘violations’

experienced by Ghanaian (Akan) widows and their children, the study indicated that most widows in Akan communities in Ghana tend to lose their rights to property following the death of their husbands.

4.1.3 Access to Farmlands

The study revealed that, in the absence of the will of the husband, the only available legal opportunity in case of death will be to apply the customary law. This means that one of the parties must prove beyond reasonable doubt that the property was really acquired jointly.

These are what the participants told the researcher;

“We have planted cashew. That one too belongs to his family. I know the law, but I do not want to do anything because they will attack me spiritually. Now I farm on the portion that the family gave to the children” (Interview with widow, Afia Serwaa).

“This is how I see it. It is view as a gift to him. In fact, after the dead of my father, we farm on the land for 5 years and this is 7 years after his death. We have worked on the land for 15 years while he was alive. The family later told me that the land does not belong to him alone, so henceforth I should not step a foot on that land again. While alive he was a teacher so when the retirement benefit came it was shared among the children and the family, but I am responsible for the schooling of the children, so it is unfair in this case. They cheat the widow and children in this situation since the family receive a portion of the retirement benefit but have left the responsibility for the children to me

only. Whether we will eat or drink it is my mothers' responsibility, but the family have already squandered the money, meanwhile the land that could that cushioned me they have taken it away claiming it is for the family. They could have allocated a portion of the land to the woman but nothing like that is in place. So, this place if your husband dies, whether you eat or drink no family member cares. At least they should have considered us to farm on the land, but they do not care whether you eat or drink. Now the money is finished, and the family have stop us from farming on the land as well” (Interview with children, narrator Kofi Yeboah).

From the above statement, it is clear how the matrilineal inheritance system discriminates and denies women and children their right to access land after the demise of their husbands. This finding is consistent with (Korang-Okrah et al. ,2019) who found that widows and children are supposed to survive on the properties of their husbands, however, because the women are considered not part of the husband's family, they are sometimes driven away with the children which makes their economic survival difficult.

4.1.4 Inequality and Injustice

A key finding is that, because customary rules are not documented and only apply to local communities, they vary from place to place and are sometimes challenging to implement. Due to these factors, the Badu community does not meet several conditions that will guarantee that the laws be administered equally. The participants claim that when a man passes away without leaving a will, many widows are denied a right to housing and farmland, and when they are given some of the deceased man's land, they are not always

given the same size of land as the family. This is perceived to be discriminatory and unjust among the widows in Badu Community.

...I was lucky to get part of our farmland when my father died, but it is very small considering the size I have and what the family has taken. Hmm! What can I do? If I do not take care, they will fight me spiritually (Interview with children, Yaw Asamoah)

“...once our father is no more, I expected that his properties will be given to us. However small portion was allotted to us. Which should not have been the case” (Interview with children, Kofi Donkor)

Others had these to say;

“Things are done behind the children. It is later that you will discover that small portion have been allotted to you. I think as a child you should be involved or engaged in all aspect”. (Kwabena Asante)

“With this it depends, each family have their own challenges. The children may sometimes fight among themselves. For instance, recently some happen to friend of mine. The man had children from different women, after his death the children suggested that the properties should be shared by wives and children. Meanwhile, there are 8 children from one mother and only 2 from other women. This would not be fair when sharing of the properties is done. Eventually, if the children are from different mothers, it becomes difficult and result into conflicts” (Interview with Family head, Opayin Kwadwo Krah)

“There is no fairness in the land right. for instance, if there is any type of plantation on the land and the successor is instructed to use that to cater for the children, they must do that except the children are aggressive enough to claim that” (Interview with Sub Queen mother, Obaapayin Akosua Afrah)

The statements above demonstrate the inequalities that the matrilineal system of inheritance perpetrates against widows in the Badu community. According to the participants, widows do not have much to say in the allocation of farmlands after the demise of their husbands. Some are even completely denied access to these farmlands leaving them in impoverished lives. This finding agrees with (Muteithia, 2019) who conducted a study on access to justice regarding property rights for widows in Kenya and found that most widows are denied access to their husband’s properties. It further argued that in the mist of this injustice most of these widows fail to get the required justice. This mostly worsens the plight of the widows and their children.

4.1.5 Gendered Stereotypes and Widows’ Land Rights

Like other Ghanaian communities, the Badu Community has ingrained societal stereotypes that shape and describe women's place in the community. Most of these stereotypes emphasize women's submission and promote male superiority. The gender socialization practices that are ingrained in the cultural contexts have had some influence on these preconceptions. The adolescent child in Badu is educated to recognize and accept the polarized gender standards of society at a young age. Males take on more dominant positions while females are instructed to perform more household chores. Women believe it is their duty to care for the home (including cooking, looking after children, and keeping

the house clean), and as a result, they are responsible for raising their girl children accordingly.

This strengthens their loyalty to the family and housekeeping roles, within which their identity is seen, given the perception that childbearing and raising children is the most notable contribution of the women to their family. While doing so, parents train their sons to take on more responsibilities, such as holding and managing property. Males and females have similar innate abilities for great success, according to interview respondents. Because a woman's success is typically associated with men, they also saw male superiority as a "win" for women. According to the proverb "*Obaa animuoyam ne awaree*," which means, (The glory of the woman lies in marriage).

These stereotypes convey an unfavorable viewpoint of women's access to land. According to social beliefs, women have more qualitative than quantitative access to land, to produce food and have living space, number of plots, their distribution and scale of production. A woman was said to not need to acquire big plots of land; all that is required is just enough to be able to care for or feed themselves and their children. To avoid being identified as the true owners of inherited land or other properties, some women even preferred that men (either their brothers, sons, or husbands) control the properties. A widow who stated that "*Obaa to tuo a, etwere barima dan mu*" supported this claim (Literally, whatever is owned by the woman is held under the domain of the man and so men manage our properties). Socially, this is regarded as being more appropriate and respectful in the Badu community. These unfavorable perceptions of women also help to impose societal barriers that make it more difficult for widows to acquire land, which adds to their landlessness. For example,

a participant stated: *Se Enimma nsae, Wofase nni adee* (When there are surviving brothers of a deceased man, it is unlikely that his sister's child will inherit). Thus, so long as there are men, women will not be considered suitable to manage family lands.

4.2 Statutory Laws and the Cultural Compliance of Land Ownership in the Badu Community

The Intestate Succession Law (PNDC) Law 111, 1985, sometimes known as Law 111, is the most relevant in this study. I was set to explore how statutory laws on land ownership affect the cultural compliance of land ownership in the Badu community, in the Tain District of Ghana's Bono Region. Thus, balancing traditional inheritance norms and legal provisions I therefore take a moment to explain. Even though Law 111 is written to be gender-neutral, it was celebrated by women's rights organizations as a triumph for women. The legislation permits a widow and her children to be the main beneficiaries of the deceased husband, even though they had previously been fully denied access to the assets (land) of the nuclear family under matrilineal norms.

There are two limitations on the authority conferred by Law 111. First, only property not left in a legal will is covered by the law. This restriction is not seen as being of the utmost importance because most Ghanaians pass away intestate. More crucially, lineage property a concept that is foreign to most Western observers is not covered by Law 111. Many pieces of land, as well as other types of property, belong to a bloodline rather than to a single person. When a matrilineal tribe member dies, any property given to the deceased husband for use during his lifetime instantly reverts to the lineage and most likely passes to one or more of his maternal nephews.

Only assets that the deceased, or his nuclear family, purchased or generated during his life are covered by Law 111. A conjugal family's self-acquired property almost generally reverted to a deceased husband's lineage because the husband is typically regarded as its only owner. In any capacity, a woman's role was rarely acknowledged. It is the right that the husband with whom the woman has lived and who she has likely served is the person on whose property she must depend after his death, as stated in an accompanying Memorandum that outlined the reforms.

Household chattels and residue assets are the two categories into which Law 111 divides a decedent's possessions. Clothing, furniture, appliances, a family non-commercial car, farm machinery, and domesticated animals are all considered home chattels. The conjugal family automatically inherits all household goods. Assets associated to business and investments, such as commercial real estate, non-primary residential properties, bank accounts, savings, and investments, are considered residual assets.

According to a few formulas outlined in sections 5 through to 8 and 11 (Articles 1 and 2) of Law 111, leftover assets are allocated to the decedent's immediate and extended family members. The research question two aimed at interrogating how statutory laws on land ownership affect the cultural compliance on land ownership in the Badu community. To achieve this, I posed the question, how do statutory laws on land ownership affect the cultural compliance of land ownership in the Badu community in the Tain District of Ghana's Bono Region? Interviews with widows revealed that, the statutory laws have less effects on the cultural compliance of land ownership in the Badu community. To justify their claims, the following issues emerged:

4.2.1 Inaccessibility of the Formal Legal System

The study found that widows frequently lack the financial means to mount a legal challenge and are frequently confused and frustrated by a lengthy legal process. For instance, the widow needs the consent of the head of the decedent's lineage, who is normally a contesting party, in order to request a Letter of Administration from the courts in order to establish standing. She must also seek qualified legal counsel to execute this document correctly and in compliance with Law 111, as any procedural error renders her lawsuit null and void. The cost of the deceased's funeral and burial ceremonies, which the widow is required to pay in full if she challenges the customary law, is added to the expenditure of legal counsel. Given the significance of lavish funerals in the Ghanaian society prices are often exorbitant. The community normally demands a lavish funeral, and only with the support of the decedent's lineage is this financially feasible. The social expenses a widow faces by defying social standards may be much more frightening than all these financial expenditures. The consequences of flagrantly disobeying deeply ingrained tribal norm can be disastrous.

If the decedent left a will, this complex and contentious process, with all its costs, conflicts, and negative outcomes, may be easily avoided. However, most widows who were interviewed did not know if their husbands had a will and had never discussed the issue with him.

“Regarding the inheritance of properties if you observe nowadays with the death of someone, everyone knows the properties of the father belongs to the children. Aside this, if the father has property with other families’ member, his share belongs to the children. So, this does not result into court litigation except

in cases where your father gifted it out to you and a family member comes to say the Land does not belong to your father alone ” (Interview with children, Kofi Donkor).

“If your father farms on the land with you and if he does not give to you, after the death of your father it becomes difficult” (Interview with children, Kofi Donkor).

“A lot of stories unfold upon the death of the father such as he is not part of it just that he farms on it. But if the father is alive that time and demand the sharing and demarcation of the land then it becomes easier for the children to inherit his properties after his death” (Interview with children, Kofi Donkor).

4.2.2 Lack of Information about the Laws

Customary law is more accessible to illiterate people since it is transmitted orally as opposed to statute law, which is a written body of knowledge. Tribal tradition typically prevails when legislation disagrees with it. According to the study, many widows are unaware of PNDC Law 111. Interviews with widow’s reveal that very few people, even those who have heard of the statutory law, are not familiar with its specifics.

.... if there could be a change it would be a step in the right direction because there are a lot of injustices involved in this inheritance issues. You often hear it belongs to our great grandfather. One person will take over the land which is not the best practice. So, if we can change this in Badu it would have been the best. (Opinion Leader, Yaw Aboagye)

“Even in the case of the land belonging to his uncle or siblings the family should be a bit considerate by allowing us to farm on the land to feed ourselves and the children by the virtue that we have children with him. If they take all, where are we going to feed from but because of corrupt practices in these times they want to take everything and add up to cater for their children. There are a lot of injustices, so if there can be change it will be helpful. This selfishness and greed are common in Ghana. When you are not circumspective you can fall sick or even die out of these issues” (Opinion Leader) AKO.

*“I know there is law, but I do not know much about it. Somebody told me I can take it to court. **hmm! fameko no wohen!** [literally, meaning take me go not there! to mean no money to go to court]” (Opinion Leader) AKO.*

This finding affirmed a study by the Ghana office of the International Federation of Women Lawyers, (FIDA 2007) which found that about 40% of survey respondents in the capital Accra, which has a predominantly patrilineal inheritance system, the second-largest city Kumasi, which has a predominantly matrilineal inheritance system, and Koforidua, which has a mixture of inheritance systems, either had no knowledge of Law 111 or had incorrect knowledge of it. These responses were much more common among those with only 3% of people were fully versed in the law.

4.2.3 Dangers of Lineage Reprisal for Violating Customary Laws

The consequences of flagrantly disobeying deeply ingrained tribal norm can be disastrous. If the decedent left a will, this complex and contentious process, with all its costs, conflicts, and negative outcomes, may be easily avoided. The study discovered that many of the men in the Badu community die intestate, making it impossible for the surviving nuclear family members to oppose the customary norms.

“I was unable to ask as to whether my husband had a will. He would even accuse me of wanting to kill him in order to steal his assets if I asked; he might even accuse me of being a witch or doing other bad things. Besides that, he might ask for a divorce” (Interviews with widow, Yaa Tia)

...If there is Will then that comes to intervene for you the widow. With this they could, they can say one is for the widow and that for the children. But without they use their parochial means to take over everything and cannot say anything. If you want to talk, they say you are challenging the customs (interview with widow, Yaa Tia)

From the above the implication is that if you are a widow and seems assertive, you are accused of challenging the existing customs and this discourage the widows in the Badu community to seek for justice following the death of their husbands. There is an immediate need to engage in public sensitization to create awareness on the need to write will when one is still alive to avoid these challenges and promote the rights of surviving nuclear family members. Some participants indicated these as follows:

.... thank you, I will advocate for a change. For there to be fairness in sharing land right, for my opinion, if I am a father and farm on a family land I will have to tell and made my children understand while alive, so they will not struggle with the family after my death that is first. Secondly, if it is my land, while am alive I must share the land among my children even if they are 10 in number because there is always unfairness with the person who shares after your death (Interview with widow). Akua Manko

“Share whatever while alive, even if you would have to go the court register it, do so. This will bring peace; the younger child would not encroach the elderly one’s share. Let the family knows that this is what I have given to my children and the portion that belongs to the family. So, the family will be satisfied and would not fight over my properties after my death” (Interview with widow). Akua Manko

4.3 Human Rights Implications of Land Ownership in the Matrilineal System of Inheritance in Badu Community

4.3.1 Violation of Right to Access and Use Land

The rights of vulnerable groups, such as widows, are not adequately protected when it comes to access to and use of land as a productive asset, despite the variety of legal provisions in Ghana emphasizing equality of all persons before the law.

Articles 17 and 18 of the 1992 Constitution of Ghana, the Intestate Succession Law of 1985, the Head of Family Accountability Law of 1985, and the Customary Marriage and Divorce Law of 1985, for instance, were all meant to guarantee the equality of all people before the law and the protection of citizens' rights to property. However, in the Badu community, widows' access to and control over land is not reflected by these provisions. It

emerged in this study that a variety of economic, social, and cultural issues prevented the law from taking effect limiting widows' ability to access and exercise authority over land in the Badu community. Excerpts from the interviews with widows indicated this as follows:

“Well, I begin like this, there are laws in Ghana on this. So, assume that if there would be a violation in the inheritance rights of children there it means the fellow did not make a provision for that via the law. Like a will if you do not have one in place, then the family will violate the right of the children. But as far as it under the law then it will be fairness, I hope that in Ghana there is no violation in the children rights of inheritances” (Interview with widows, Akua Manko).

Therefore, the importance of traditional leaders and family heads cannot be understated for anyone in Ghana, including widows who wish to acquire land for any reason. The threat is often more severe in matrilineal communities in Ghana, even though the fraternity of traditional leaders and family heads is male-dominated and potentially biased against widows' interests. The matrilineal system of inheritance places traditional leaders in naturally prominent positions regarding issues of land rights and the distribution of land to their people for various uses, including agriculture, which is the primary economic activity in rural areas like Badu community.

4.3.2 Violation of the Right to Shelter

A group of people's culture shapes their way of life, including their behavior, beliefs, values, and symbols that they uphold and express through rituals and customs. These customs are passed down orally from one generation to the next and may be used to continue discriminatory actions. Even though Article 26 of the Constitution Ghanaian states that everyone has the right to enjoy, practice, profess, maintain, and promote any culture, language, tradition, or religion if it complies with the Constitution's rules, it also imposes obligations on the populace. The constitution expressly forbids any customary actions that dehumanize people or harm their bodily or emotional wellbeing. However, this is not the reality at the Badu community in Ghana.

The findings of this research revealed several cultural obstacles preventing widows in the Badu community from accessing housing. In Ghana, purchasing, inheriting, receiving a gift, getting married, and building a house are the main ways people obtain housing. Each option provides widows with a variety of obstacles to overcome before they may obtain shelter in their communities.

Acquiring an inheritance is one way to get shelter. Matrilineal and patrilineal inheritance systems are prevalent in Ghana. Inheritance through the mother's lineage is encouraged by the matrilineal system of inheritance, whereas inheritance through the father's lineage is encouraged by the patrilineal system. Women face their fair share of obstacles when it comes to shelter inheritance under the two inheritance regimes. Both systems treat women as second-class homeowners because they are not allowed to own the homes they live in and only have temporary access to the land. This custom is founded on the myth that women will take property from the

family. A spouse shall not be denied a reasonable provision from a spouse's estate, whether the spouse died having made a will, according to Ghana's constitution's article 22. This is because article 22 states that assets jointly acquired during marriage shall be distributed equitably between the spouses upon dissolution of the marriage. Additionally, the Intestate Succession Law ensures that the surviving spouse, children, parents, and the customary family have the right to succeed, and a larger percentage of the estate is divided between the surviving spouse and children. Due to misunderstanding and inconsistent application of the law, women continue to endure discrimination in obtaining their property rights despite these provisions in our legal systems.

Excerpts from interviews with the widows in Badu community stated as follows:

“When my husband died, his family people told me and my children to move out of the house stating that the land on which the building is built belong to the family” (Interview with widows).

“After the burial of my late husband, it came out that he did not make any will for us so the family decided to give I and my children only one room out of his five bedroom house, madam is this situation fair?” (Interview with widows).

“My husband has disappointed us big time, now I have loose every property I sweat with my husband now I came empty handed and am going the same way I came, god will not forgive this people!!!” (Interview with widows).

In conclusion, improving the welfare of widows and their children in Ghana will largely depend on the enforcement of legal provisions protecting women's rights, particularly their property rights, and the review of traditional practices affecting widows' land rights in rural communities by our traditional authorities.



CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

The summary provides highlights of the issues discussed so far in the current study. The chapter also attempts to give a conclusion on the issues discussed in the study and further proposes some recommendations for future research and policy formulation.

5.1 Summary

The study examines how the matrilineal system of inheritance affects widows and children's access to land in the Badu community, in the Tain District of Ghana's Bono Region; explore how statutory laws on land ownership affect the cultural compliance of land ownership in the Badu community, in the Tain District of Ghana's Bono Region and to analyze the human rights implications of land ownership in the matrilineal system of inheritance in Badu community, in the Tain District of Ghana's Bono Region. Based on the research objectives, the following research questions were posed: How does the matrilineal system of inheritance affect widows' and children's rights to land in the Badu community in the Tain District of Ghana's Bono Region? How do statutory laws on land ownership affect the cultural compliance of land ownership in the Badu community in the Tain District of Ghana's Bono Region? What are the human rights implications of land ownership in the matrilineal system of inheritance in the Badu community in the Tain District of Ghana's Bono Region?

These themes have been captured in chapter four of this study. Taken these themes together, it emerged in the study that, matrilineal system of inheritance has effects on

widows' access to land in the Badu Community in the following ways: Access to shelter, access to farmlands, inequality and injustice and gendered stereotypes and widows' land rights. Also, statutory laws and the cultural compliance of land ownership in the Badu Community revealed; inaccessibility of the formal legal system, lack of information about the laws and dangers of lineage reprisal for violating customary laws. Human rights implications of land ownership in the matrilineal system of inheritance in Badu Community revealed violation of right to access and use of land as well as violation of the right to shelter as the major human rights challenges in the Badu Community.

5.2 Conclusion

The widespread rejection of a woman's ability to inherit land and other property is a significant impediment to the attainment of women's human rights in Africa. Land usage, housing, and the transfer of land and housing between generations are governed by customary law in many traditional communities in Sub-Saharan Africa, which primarily bans women from property ownership and inheritance. In the absence of strong land and property rights, widows and orphans are frequently left homeless and penniless following the death of their spouse or father. Women's economic stability and independence, as well as their access to enough food and housing, are severely harmed by disinheritance. The denial of land rights to women also contributes to the feminization of poverty and stunted economic development in countries where harmful inheritance practices are common.

This study was interested in how the matrilineal system of inheritance affects widows and children's access to land in the Badu community, in the Tain District of Ghana's Bono Region; explore how statutory laws on land ownership affect the cultural compliance of land ownership in the Badu community, in the Tain District of Ghana's Bono Region and

to analyze the human rights implications of land ownership in the matrilineal system of inheritance in Badu community, in the Tain District of Ghana's Bono Region.

The study employed an interpretive research paradigm using a qualitative research approach to offer better analysis of the phenomenon under study. The study adopted 16 Participants for the interviews were purposively sampled and sample size determined by data saturation.

It emerged in the study that, matrilineal system of inheritance has effects on widows' access to land in the Badu Community in the following ways: Access to shelter, access to farmlands, inequality and injustice and gendered stereotypes and widows' land rights. Also, statutory laws and the cultural compliance of land ownership in the BC revealed; inaccessibility of the formal legal system, lack of information about the laws and dangers of lineage reprisal for violating customary laws. Human rights implications of land ownership in the matrilineal system of inheritance in Badu Community revealed violation of right to access and use of land and violation of the right to shelter as the major human rights challenges in the Badu Community.

Based on the findings, the study concludes that, in the Badu Community, widows and orphans are regularly abandoned without a place to live after their spouse or father passes away due to weak land and property rights. Disinheritance has a negative impact on women's access to enough food and housing, as well as their capacity to maintain their economic independence and stability. Negative inheritance practices are prevalent and deny women the opportunity to own land and this adds to the feminization of poverty in the area.

5.3 Recommendations

Based on the findings as captured in the study, I therefore recommend the following as indicated below.

1. The issue about the participants claiming that when a man passes away without leaving a will, most widows are denied a right to housing and farmland and when they are given some of the deceased man's land, they are not always given the same size of land as the family. This is perceived to be discriminatory and unjust among the widows in Badu Community. I recommend that men in Badu Community should be encouraged to make a will to save the surviving spouse from these injustices that widows suffer after the demise of their spouses.
2. Also, the study found that customary law is more accessible to illiterate people since it is transmitted orally as opposed to statute law, which is a written body of knowledge. Tribal tradition typically prevails when legislation disagrees with it. According to the study, many widows are unaware of PNDC Law 111. Interviews with widows reveal that very few people, even those who have heard of the statutory law, are not familiar with its specifics. It may be useful and more applicable if the stakeholders, namely; religious leaders, Chiefs elders, community-based organizations, civil society organizations, etc. should sensitize and create awareness of the PNDC Law 111 among the people of the Badu Community.
3. Towards improving the welfare of widows and their children in the Badu Community will largely depend on the enforcement of legal provisions protecting women's rights, particularly their property rights, and the review of traditional practices affecting widows' land rights in Badu communities by our traditional

authorities. Following the importance of the study, the researcher recommends further research on widows inheritance land rights of widows in the matrilineal system of inheritance in Badu community in the Tain District, in Bono Region of Ghana.

5.4 Limitation of the Study

The researcher faced a number of difficulties which threatened to limit the effectiveness and reliability of this study. The first limitation was inadequate funds to purchase stationery for the study and also to commute between the schools and to take care of other pertinent issues pertaining to this study. The researcher however took care of this by securing loans from friends and family.



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APPENDICES

APPENDIX I

The interview guide is designed to gather information on “**Matrilineal inheritance and land rights in Ghana: A case study of Badu in the Tain district**”. Your contribution towards answering the questions is highly appreciated. Please be assured that the information you provide will be used only for academic purposes and given the utmost confidentiality needed.

INTERVIEW GUIDE FOR FAMILY HEADS AND TRADITIONAL LEADERS

The interview guide is designed to gather information on “**Matrilineal inheritance and land rights in Ghana: A case study of Badu in the Tain district**”. Your contribution towards answering the questions is highly appreciated. Please be assured that the information you provide will be used only for academic purposes and given the utmost confidentiality needed.

1. Gender a. Male b. Female .
2. Age a. 20 – 29 b. 30 – 39 c. 40 – 49 d. 50 - 59 e. 60 and above
3. What is
4. Position.....
5. Occupation.....
6. Marital Status a. Married b. Single c. Divorced d. Widowed

7. What is your ethnic background.....
8. Which of the following applies to you?
 - a. I am a royal in this community. []
 - b. I am an indigene. []
 - c. I am a migrant. []
9. I would want to know -What system of land and property inheritance pertains in this community/ traditional area?
10. What is the land and property inheritance rights of a. males b females c husbands d. wives e. children f. nephews g. nieces h. uncles i. aunts.
11. Is there any other person or group who have the right to inherit lands other than spouses and their children? Please explain.
12. How does the current system of inheritance affect children of spouses? Please explain
13. How does the current system of inheritance affect spouses' right to inherit a land?
14. How does the current system of inheritance affect the children of the spouses' right to inherit a land and property? Please explain.
15. Do you perceive fairness in the current system of inheritance on land rights? Please explain
16. Do you perceive fairness in spouses land rights under the current system of inheritance? Please explain?
17. Do you perceive fairness in children of the spouses land rights under the current system of inheritance? Please explain.

18. Would you wish for a change in the land rights under the current system of inheritance given the opportunity?
19. In your estimation, do you perceive that under current system of inheritance, spouses, right to lands are being violated? Please explain.
20. Do you perceive that under current system of inheritance, children of spouses' right to lands are being violated? Please explain



APPENDIX II

INTERVIEW GUIDE FOR WIVES

The interview guide is designed to gather information on “**Matrilineal inheritance and land rights in Ghana: A case study of Badu in the Tain district**”. Your contribution towards answering the questions is highly appreciated. Please be assured that the information you provide will be used only for academic purposes and given the utmost confidentiality needed.

1. Gender a. Male [] b. Female []
2. Age a. 20 – 29 [] b. 30 – 39 [] c. 40 – 49 [] d. 50 - 59 [] e. 60 and above []
3. What is your level of education a. No Formal Education [] b. JSS/JHS c. SSS/SHS [] d. Tertiary []
4. Position.....
5. Occupation.....
6. Marital Status a. Married [] b. Single [] c. Divorced [] d. Widowed []
7. What is your ethnic background.....
8. Which of the following applies to you?
 - d. I am a royal in this community. []
 - e. I am an indigene. []
 - f. I am a migrant. []

9. I would want to know -What system of land and property inheritance pertains in this community/ traditional area?
10. What is the inheritance rights of wives? Please explain
11. Do you perceive fairness of inheritance on land rights of wives? Please explain
12. Would you wish for a change in the land rights under the current system of inheritance given the opportunity?
13. Do you perceive that under the current inheritance system, wives right to lands are being violated? Please explain.



APPENDIX III

INTERVIEW GUIDE FOR HUSBANDS

The interview guide is designed to gather information on “**Matrilineal inheritance and land rights in Ghana: A case study of Badu in the Tain district**”. Your contribution towards answering the questions is highly appreciated. Please be assured that the information you provide will be used only for academic purposes and given the utmost confidentiality needed.

1. Gender a. Male b. Female
2. Age a. 20 – 29 b. 30 – 39 c. 40 – 49 d. 50 - 59 e. 60 and above
3. What is your level of education a. No Formal Education b. JSS/JHS c. SSS/SHS d. Tertiary
4. Position.....
5. Occupation.....
6. Marital Status a. Married b. Single c. Divorced d. Widowed
7. What is your ethnic background.....
8. Which of the following applies to you?
 - g. I am a royal in this community.
 - h. I am an indigene.
 - i. I am a migrant.

9. I would want to know -What system of land and property inheritance pertains in this community/ traditional area?
10. What is the inheritance rights of husbands? Please explain
11. Do you perceive fairness of inheritance on land rights of husbands? Please explain
12. Would you wish for a change in the land rights under the current system of inheritance given the opportunity?



APPENDIX IV

INTERVIEW GUIDE FOR EXPERTS AND COURT OFFICIALS

The interview guide is designed to gather information on “**Matrilineal inheritance and land rights in Ghana: A case study of Badu in the Tain district**”. Your contribution towards answering the questions is highly appreciated. Please be assured that the information you provide will be used only for academic purposes and given the utmost confidentiality needed.

1. Gender a. Male b. Female
2. Age a. 20 – 29 c. 30 – 39 d. 40 – 49 e. 50 - 59 f. 60 and above
3. What is your level of education
4. Position.....
5. Occupation.....
6. Marital Status a. Married b. Single c. Divorced d. Widowed
7. What is the position of the law with regards to the land and property inheritance rights of a. males b females c husbands d. wives e. nephews f. nieces g. uncles h. aunts
8. Under the various inheritance systems, how do land rights conform or deviates from the laws of Ghana? Please explain.
9. In your estimation, do you perceive that under current system of inheritance, spouses, children, nephew, nieces etc. right to lands are being violated? Please explain.

10. Has land rights of spouses and children under the various systems of inheritance (matrilineal and patrilineal) resulted in litigation?

11. If yes to question 11, how was it resolved? Please Explain



APPENDIX V

INTERVIEW GUIDE FOR CHILDREN

The interview guide is designed to gather information on “**Matrilineal inheritance and land rights in Ghana: A case study of Badu in the Tain district**”. Your contribution towards answering the questions is highly appreciated. Please be assured that the information you provide will be used only for academic purposes and given the utmost confidentiality needed.

1. Gender a. Male b. Female
2. Age a. below 20 b. 20 – 29 c. 30 – 39 d. 40 – 49 e. 50 - 59
f. 60 and above
3. What is your level of education a. No Formal Education b. JSS/JHS c. SSS/SHS d. Tertiary
4. Position.....
5. Occupation.....
6. Marital Status a. Married b. Single c. Divorced d. Widowed
7. What is your ethnic background.....
8. Which of the following applies to you?
 - j. I am a royal in this community.
 - k. I am an indigene.
 - l. I am a migrant.
9. I would want to know -What system of land and property inheritance pertains in this community/ traditional area?

10. What is the inheritance rights of children? Please explain
11. Do you perceive fairness of inheritance on land rights of children? Please explain
12. Would you wish for a change in the land rights under the current system of inheritance given the opportunity?
13. Do you perceive that under current inheritance system, children right to lands are being violated? Please explain.

