

Women, Home and Personal Narrative in Kenya

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Summary

The reading of home is especially problematic with regard to a great many women in the postcolony of Kenya, and the major part of this article will focus on how one of Kenya's most controversial women's rights activists, Wambui Waiyaki Otieno, has become unhomed. In particular, I shall concentrate on a select number of chapters in her autobiography, *Mau Mau's Daughter* (1998) – those dealing with the burial of her husband, where the idea of home in the ways in which English uses it, was turned on its head.

Opsomming

Die kwessie van tuiste is besonder problematies wanneer dit in verband met die meerderheid vroue in die postkolonie van Kenia gelees word. Die grootste deel van hierdie artikel lê klem op een van Kenia se mees kontroversiële vroue-aktiviste, Wambui Waiyaki Otieno, en hoe sy "ont-tuis" word. In besonder fokus ek op 'n paar uitgesoekte hoofstukke van haar outobiografie, *Mau Mau's Daughter* (1998) – dié wat handel oor die plek van haar man se teraardebestelling. Die idee van tuiste, of "home" soos dit dikwels in Engels verstaan word, word omvergewerp.

In 1962, a year prior to Kenya's independence from Britain, first- and second-generation members of the East Africa Women's League published glossy photographs of elaborate tapestries representing the towns and cities established by their communities. Each representation had an embroidered border depicting that area's flora and fauna. A short history of each of these settlements was published alongside the photographs. The book, entitled *They Made It Their Home*, sold thousands of copies as the majority of settlers packed their belongings and made their way to countries that no longer felt like home. The title appears ironic, as the book was published in a time of political change and shortly after the cessation of the Emergency precipitated by the Mau Mau rebellion. But it was not so intended – Kenya had become home. The use of the third-person pronouns "they" and "their" rather than the first person pronouns "we" and "our" in the title already embodies a status of dissociation from "home", but also reveals that the book is the very product of what it is dissociating itself from. The sense of having made history that the contributors to *They Made It Their Home*

attempted to convey is undermined by the very uncertainty of the continued sense of “home” in a country where settlers were experiencing the effects of alienation themselves. Home in this instance was an attitude which presented itself as a place of identity and a site of belonging – an aspect reflected in a number of autobiographies that have also emerged from the pens of settlers and post-independence expatriates.

The first line of Karen Blixen’s *Out of Africa*, for instance, starts with the immortalised line, “I had a farm in Africa, at the foot of the Ngong Hills”, and a little later she writes: “[I]n the highlands you woke up in the morning and thought: Here I am, where I ought to be” (1979: 13-14). Sixty years later, Kuki Gallmann unselfconsciously extends the metaphor of settlement and belonging in her narrative, *I Dreamed of Africa*: “The desire to go to Africa seemed to have been an obscure yearning to return. A nostalgic inherited need to migrate back to where our ancestors came from. It was a memory carried in my genes. The urge to fly home, like the swallows” (Gallman 1992: 8).

Home, whether it refers to a continent, a country, a locality that is intensely familiar, or a dwelling place, is almost always already idealised. The word carries with it, quite often, the negation of the real – a reality that can be abusive, discriminatory and utterly alienating. Nonetheless, home continues to be loaded with a sense of kinship and community and is generally affiliated with an emotionalism that defies sober assessment. Home also carries with it a status of reification that operates on several levels – but implies that at whichever level, the idea of homogeneity and belonging exists. Home, when it is opposed to exile or homelessness, is always, as Egerer remarks, the “primary and privileged term” (1996: 50). Edward Said says in his “The Mind of Winter: Reflections of Life in Exile” that we “take home and language for granted; they become second nature, and their underlying assumptions recede into dogma and orthodoxy. The exile knows that in a secular and contingent world, homes are always provisional. Borders and barriers, which enclose us within the safety of familiar territory, can also become prisons, and are often defended beyond reason and necessity” (1984: 49-55). Martin and Mohanty write that “both leftists and feminists have realised the importance of not handing over notions of home and community to the Right” and warn against “unexamined notions of home, family, and nation” (1997: 293). Despite these cautionary caveats, in the English language, the idea of home remains the subject of a great many platitudes and clichés – “Home, sweet home”, “A man’s home is his castle”, “Home is where the heart is” and “There’s no place like home” – which generally remain largely unexamined.

Home can be considered a concept within discourse that has receded into an orthodoxy which often defies the questioning of its underlying assumptions. If one were to apply the tools of analysis which Foucault provides when he looks at discourse one would attempt to question the way in which

an order is *given* to things, as opposed to the idea of the order of things. In other words, things such as ideas, statements, the truth, thought, etc. are constituted within a particular discourse and obtain their validity thereby. The so-called validity of an idea, such as home for instance, is not taken as evidence of truth, it is taken as an indicator of a field of thought on the way in which the world has been constituted around particular notions, questions and modes of thought.

Critics such as Said, Martin and Mohanty, George, Gready, Bhabha and others write in the English language where the consideration and reflection of home or unhomefulness is a matter of attitude – a personal affair which is almost always negotiable. Home is an idea or an ideal that may or may not have a material and tangible manifestation. The physical home is always linked to the idealised and privileged notion of home in the English language and constitutes as such a field of thought. But home also has implications in terms of British colonial policies – aspects which European Union- and American-based critics tend to ignore.

In Kenya during the nineteen-eighties the notion of home was turned on its head for indigenous Kenyan women. A dispute arose between Wambui Waiyaki Otieno, a prominent activist and politician, and members of her deceased husband's male clan as to where he should be buried. In a series of twelve court actions in the courts of Nairobi, customary law which determined that only men can have homes was upheld by the Supreme Court. Sylvano Melea Otieno, or SM, as he was popularly called, was an urbane, cosmopolitan, foreign-educated, criminal lawyer who died just before Christmas in 1986. His brother argued that he had to be buried at his home in the traditional clan land of the Luo, an ethnic group from western Kenya. His widow, Wambui, invoking common law, argued that he should be buried on his farm near Nairobi in the central province of Kenya in accordance with wishes SM expressed orally to his immediate family and several associates. Wambui writes that SM had no confidence in written wills, fearing, through his legal experience that it would be contested (1998: 175).

The court actions, which stretched over a period of six months, were headline news in Kenya. Mounted police and soldiers in armoured vehicles were called in to restrain the crowds gathered daily outside the court rooms. Word by word transcripts of testimony given during the hearings were carried daily by major newspapers and subsequent to the Supreme Court's decision, these transcripts were published in book form. The University of Nairobi held a high-profile seminar attended by academic luminaries and legal experts in 1998 and ten years later a follow-up seminar was held.

The burial saga, as it came to be known, forms part of Otieno's autobiography, *Mau Mau's Daughter*, a testimony published in 1998 by Lynne Rienner. The first sentence of the life history sets the tone for the way women in Kenya have been largely ignored in precolonial, colonial and postcolonial Kenyan history:

We Kikuyu trace our families' descent on the paternal side, so my family has no idea of the life of our courageous ancestress who walked from South Kinangop with her son to Kikuyuland in the eighteenth century. We can only recount our family history beginning with her young son, whose life she was saving. She is simply known as Nyina wa Hinga, "mother of Hinga".

(Otieno 1998: 11)

The namelessness of the ancestress is echoed a couple of hundred years later when the post-independence governments of Kenya ignored the contribution by women in the Mau Mau and systematically tried to silence Wambui Otieno when it came to the burial of her husband. Two chapters of her life history deal specifically with women in Kenya: "Gender and Politics" and "Planting the Seeds of Freedom". Wambui Otieno is in a particularly authoritative position to write about women's issues as she has been a founder member and has served on the executive committees and women's wings of almost every single political party in Kenya – firstly the ruling party, KANU, and thereafter the many opposition parties which were being systematically silenced and hamstrung by an increasingly authoritarian regime under the presidency of Daniel arap Moi. Wambui Otieno has stood for parliament twice, suffering for her efforts continual harassment and physical assault. During the 1969 election, for instance, she was informed that ballot boxes, with her photograph pasted on the side, were being burned and/or pitched out of the electoral truck proceeding to the counting hall. In 1992 Wambui was often frustrated in her attempts to register as a candidate. She was also physically assaulted and suffered numerous injuries.

Wambui Otieno was born in 1938 and her parents raised her as an uncircumcised Christian Kikuyu in a traditionalist rural area of Kenya. She is distantly related to Kenya's first post-independence president, Jomo Kenyatta, and her father worked for the colonial government. In 1952, when she was sixteen, she joined the Mau Mau movement as a scout (spy) and was pivotal in the movement's initial successes at insurgency and insurrection against the colonial authorities. Later she became an urban guerrilla, running several cells composed of women who were tasked to steal firearms and documents. She was regularly detained and spent some time on Lamu Island in 1961 where she was incarcerated by the colonial authorities as an incorrigible. In 1963, shortly before Kenya's independence, Wambui married SM, a member of the Luo ethnic group and an eminent criminal lawyer in Kenya. Wambui continued with her political career and became well known for her efforts in promoting women's rights in Kenya and abroad.

The publication of Wambui Otieno's autobiography has brought many of the issues raised by the burial saga into the foreground again. In *Mau Mau's Daughter*, Wambui reinserts herself in a system that has systematically tried to silence her and, as Cohen and Odhiambo note, reduce her "social and political capital [to] nil" (1992: 33). Where Wambui locates herself can be read as a political act of transgression which problematises the notion of

community as nation and the reading of home within the multiple ethnic and cultural, customary, colonial and postcolonial boundaries of Kenya.

Unlike the autobiographies of her settler counterparts in Kenya, Wambui's life history is not about fabulous landscapes and distant views offered from the verandah of a farmhouse; neither is it a life history which includes lion hunts (Blixen) or ivory bonfires (Gallmann), nor ethnographic accounts of black employees or labour problems on large estates. Wambui Otieno's account is about land restitution claims, liberation movements, and the abuses of human and especially women's rights by colonial and postcolonial authorities. It is only on aspects of discrimination against women that some points of correspondence emerge between Wambui Otieno's life history and those of her settler counterparts. *Mau Mau's Daughter* is an account by a woman who stayed at home in her country of birth while consistently refusing to sublimate a self-identity which had been forged during the Mau Mau rebellion and honed thereafter in Kenya's political arena. But home, as George remarks, can manifest patterns of "inclusion and exclusion" (1996: 18) that continually appear at national, ethnic, class, gender and domestic levels.

The dispute between the parties involved in the burial of SM hinged on the notion of home. If the Luo clansmen could prove to the courts that SM's home was in the place of his birth, the issue as to whether African customary law or English-based common law should apply would fall in favour of the former. Contestations about home provided the Luo and indirectly the Kenyan state with the opportunity to silence and unhome Wambui Otieno at national, ethnic, class and gender levels. On a domestic level she clung to her perception of home. She writes:

As I said before, many books have been written about this case, and some by expert authors. But I am writing as a layman, writing what I felt and still feel, not what people imagined went on in my mind. This is from my heart, regardless of what others may think. It is my experience, not fiction. It goes beyond mourning; it is history.

(Otieno 1998: 190)

Wambui Otieno provides evidence in her life history that the issue of home is also contingent upon the law and becomes through a judicial decision part of a national history. Home, in Kenya, has expanded its parameters beyond the Western imagination where home is almost always conjured as a personal option. Notions of home and identity emerging from Wambui Otieno's life history provide a telling correlate to those issues of home and belonging which are projected in the autobiographies and memoirs by white settlers in Kenya.

However, within the Luo, an ethnic polity found mainly in western Kenya alongside the shores of Lake Victoria, home can only be created according to customary rituals. If these rituals are not carried out, there is no home –

merely a house or a dwelling place. An individual cannot simply declare a house a home or, in Dholuo, the language of the Luo, an *ot* (house) a *dala* (home). The rituals appropriate for making a house a home are claimed as being prescriptive within the customs of the Luo. Homes in this instance are considered legitimate only when custom and tradition authorise them to be so. Only men can have homes, women may only have houses. Women are expected, however, to be involved in the process of homemaking for the benefit of the husband, but have no customary right to a home themselves. In the Luo tongue home is not a negotiable entity. It is neither a personal affair nor an attitude. Although Dholuo is spoken by over a million people in Kenya it does not have the currency which the official languages, English and Swahili, enjoy. And yet, with what can only be termed an exquisite sleight of tongue, a community in East Africa has succeeded in adding a new dimension to the field of thought which constitutes the notion of home in English. Many would consider this an unacceptable transgression of linguistic and legal boundaries. Yet others may feel that such transgression is a necessary strike where the customary has managed to reinsert its value over the language and ideas of a foreign colonising force. Inevitably, the consequences are devastating for women and for those who have crossed the bridge between indigenous ethnic custom and the social and political forces of a modernising ex-colony. Wambui Waiyaki Otieno had crossed the bridge and understood home within its English-language context – as a place of belonging, as a matter of attitude.

After Kenya's independence in 1963, Wambui and SM also had a farm in Africa. It was situated close to Nairobi at Upper Matasia, a few kilometres beyond the Ngong, the range of hills immortalised by Karen Blixen. At the beginning of the twentieth century this had been Masai territory, but in the course of a hundred years first the colonists and then many of the professional elite from Nairobi bought into the area. The Otienos' farm or *shamba* consisted of six acres – as opposed to Blixen's 6000 – but supported goats and six bulls. Members of the family stayed in a house on the property and SM was especially fond of showing friends around whenever he got a chance to go there. He had a thriving legal practice in downtown Nairobi and commuted daily from his upmarket suburban house at Langata, which bordered on the suburb of Karen. Probably due to its proximity to a nature reserve and the Karen Blixen Museum which take in busloads of tourists every day, a cultural centre where one could watch the different ethnic dances of Kenya had also been set up. SM fraternised at the centre's pub almost every evening, sparring with friends by way of quotations from Shakespeare. In the nearby shopping centre, a restaurant in mock Tudor style served dishes from around the world. Residents' associations saw to it that streets were kept in good order and had organised a refuse collection service amongst themselves as well as a basic security service.

SM was born into the Umira Kager clan of the Luo ethnic group. Although he was a member of the clan, he did not take part in any of its activities and only attended the odd family burial in his district of birth. SM had spent most of his working life in Nairobi, several hundred kilometres south-west of traditional Luo territory. He was considered the doyen of Kenya's criminal lawyers when he died at the end of 1986. While SM was a Luo, his wife, Wambui, was a member of the Kikuyu – the largest ethnic group in Kenya. Both SM and Wambui were Christians and spoke English or Swahili to each other. None of their children was taught Dholuo or Kikuyu. For relaxation SM read Bernard Shaw and Perry Mason novels and watched soccer on television rather than attending the matches at the Nairobi stadium because he did not like the hooliganism at matches. He was basically a cosmopolitan, urbanised and urbane member of Kenya's elite. He himself had been educated in India and his children had attended schools and colleges in Germany and the United States.

Wambui and SM had married a few months prior to Kenya's independence at a time when the nationalist imperative was at its height. The Kikuyu and Luo had formed a strong political alliance and the anathema of inter-ethnic marriages was pushed into the background, especially in the urban areas. By the time SM died, the political scenario had completely changed. Daniel arap Moi, Kenya's president and member of the significantly smaller Kalenjin ethnic polity had survived largely by playing one group off against the other. The two largest groups, the Kikuyu and Luo, although not at loggerheads, were certainly ethnically at odds with each other. Patricia Stamp believes that the burial saga occurred at a time when Moi's challenge was "to contain the formerly dominant Kikuyu without arousing them to revolt, while maintaining the Luo as quiescent allies, supportive of his regime but not so powerful as to defy it" (1991: 814).

It was in Moi's interest to curtail the potency of the Kikuyu by using a section of the Luo to do so. The psychological significance would enhance his struggle to legitimise his increasingly authoritarian policies. One of Moi's chief adversaries was Odinga Oginga – the patriarch of the Luo ethnic polity but not a member of the Umira Kager clan. It was fairly open knowledge that Odinga supported Wambui's efforts to bury her husband. The Umira Kager clan, the clan SM belonged to by birth, blocked the burial plans. The clan insisted that Joash Ochieng' Ougo, SM's younger brother, was now the head of the family and that the clan had the right to make decisions with regard to his burial. In terms of Luo customary law, his blood family were next of kin. In terms of English common law, the law which Wambui and her counsel invoked, she was the next of kin. Well into 1987, the two parties fought each other in court. Legally, the saga ended with the Court of Appeal awarding custody of the remains of SM jointly to his clansmen and Wambui for burial in his birthplace in western Kenya according to Luo custom. In all this time, SM's body lay in the Nairobi

mortuary and had to be embalmed over and over again as the legal tussle ensued. Principal within the court's deliberations was which law should be applied. Wambui and her legal counsel insisted that English-based common law which takes precedence over customary law should be used as SM had shed all close affiliations to his clan. He had also verbally communicated his burial preferences. The clan argued that because SM could never shed membership of his clan, customary law should apply. The Court of Appeal concurred with the clan observing:

At present there is no way in which an African citizen of Kenya can divest himself of the association with the tribe of his father if those customs are patrilineal. It is thus clear that Mr Otieno having been born and bred a Luo remained a member of the Luo tribe and subject to the customary law of the Luo people.

(Cotran 1987: 336)

The legal decisions, public opinion and the numerous debates in the Kenyan media read the burial saga as being an issue of tradition. "Tradition", Wambui writes, "was used as a cudgel to dispossess me and my children of the right to bury our beloved", but, she correctly maintains, "the real issue was about gender, not tradition" (1998: 158). She cites numerous instances where her husband's immediate family, including his father, abandoned traditions and customs according to the contingency of the moment.

The clan maintained that SM's remains should return to western Kenya because that was where his home was while his preferred place of residence in Nairobi was simply a house. The fact that SM had consistently refused to put up a house at his birthplace and have the necessary ceremonies done to make it a home did not matter. His house in Nairobi had not become a home because SM's father had not performed the prescribed rituals that would make his house a home. It did not matter that SM regarded it as his home, neither did it matter that his father had stayed there while he was still alive – the ceremonies had not been performed. Establishing a home is not a personal affair or simply the decision by an individual or family to create one.

Okoth-Okombo maintains that a man cannot just "feel" that the building in which he lives is his *dala* (home). Thus no matter how much one "feels at home" in a given *ot* (house) one cannot just declare it *dala* (home) without the appropriate ritual (1989: 93). In order to build a home, a man must already have a child, preferably a male one. Wambui gives an outline of the custom:

The father rises early in the morning and is accompanied to the proposed site by the son who wants to build a home and the child. The son carries an axe [a symbol of work] and the father carries a cock [a symbol of good fortune] and some fire [used to assist in starting the home fire]. At the chosen spot, the father ties up the cock, covers it with a basket, and leaves it there overnight.

The next day they return to the spot. If the cock is not there, the site is considered unsuitable and an alternative spot must be sought The son's wife is not permitted to be there.

(1998: 188)

Wambui remarks: “[S]urely the business of being shown where to build a home by a cock cannot be anything else but primitive!” (1998: 189). Throughout her autobiography Wambui regards the clan and its Luo customs as savage and barbaric while she emphasises her Christian background and continually involves the Church in her struggle to bury SM. Cohen and Odhiambo have remarked on her proclivity to continually cast the Umira Kager clan as the “other”, the epitome of darkest Africa where the Luo were “lazy, half-witted, primitive, obdurate” (1992: 66). In the process Wambui fails utterly in taking a critical look at some of the “weird” rituals that Christianity demands – such as the symbolic ritual of drinking the blood and eating the body of Christ during Holy Communion. Wambui infers that everyone should feel at home in the House of God. Perhaps she has a point – ninety per cent of Kenyans belong either to the Christian or Moslem religions. Wambui and SM's great-grandfather and grandfather, respectively, were the first Kikuyu and Luo in their districts to donate land to missionary societies to build churches, schools and mission stations. During the court proceedings members of the clan invoked their own belief in Christianity and felt that Luo customs were perfectly harmonised with the Christian religion. This enables a multiplicity of identities without excluding either traditionalists or Christians.

During the trial, the clan's spokesman and chairman of the burial committee, Omolo Siranga, was asked by Wambui's lawyer, Khaminwa, whether Mr Otieno had a home in Nairobi. Siranga, who was fluent in English, replied: “In Nairobi, we have houses and not a home. Even when it is fenced and has a gate, it is still a house” (*Nation Newspapers* 1987: 46).¹ In fact, all the clan's witnesses who spoke English made this distinction. Okech-Owiti has remarked that it sounded like a well-rehearsed chorus (1989: 27).

Repeatedly, Wambui's counsel tried to confuse and trick the clan's witnesses during cross-examination. For example, the exchange between Khaminwa (Wambui's counsel) and Bishop Yahuma:

Khaminwa: You said you went to Mr Otieno's home in Langata?

Yahuma: Not home but house. Yes. I went there and Mr Otieno and his wife slaughtered a sheep for us.

1. (Subsequent references to *Nation Newspapers* will be indicated by *NN*). Full transcripts of the day's court proceedings were often published in the national newspapers. Some of these transcripts are considered more accurate than the edited and oddly punctuated official court transcripts.

Khaminwa: Were you impressed by the home?
Yahuma: Not a home, a house!
Khaminwa: Who told you about this?

Yahuma: A house is a house and a home is a home These differences are very clear!

(NN: 74)

The clan's witnesses had most certainly been carefully briefed by the clan's lawyer and in almost every instance anticipated trick questions regarding house and home during cross-examination. What is interesting from the court transcripts is the manner in which they have been transcribed and edited. In many instances, when witnesses reply to Wambui's counsel's questions regarding Luo customs, the typed court transcripts contain exclamation marks – as if to imply that Khaminwa's questions are idiotic and that any fool would know these customs by heart. These transcripts have been edited in terms of content as well. In *Mau Mau's Daughter* Wambui alleges that “the court record was changed to exclude testimony that would have made it more difficult for Judge Bosire to rule against me” and that the other witnesses' evidence was thus also misrepresented (1998: 166).

What is significant, however, is that by imposing Dholuo semantics on the English word “home” the clan forced a deviation in the understanding of the word “home” within English. Okoth-Okombo maintains that

[s]ince the word “home” was used throughout in the communication which was to be recorded by the judges, it was clear that in the proceedings in this case the word “home” was used as a metalinguistic concept which, as such, did not belong to the vocabulary of any particular language. A concept of that category is supposed to have a universal technical meaning which it retains in every language irrespective of how it is represented at word level. Thus, by engaging in a disputation over the concept of “home” the litigants and their counsels gave it the status of a legal technical term, which it was not.

(Okoth-Okombo 1989: 94)

Thus, even though all the legal proceedings were recorded in English, the word “home” was reified with a bias toward a very specific cultural and customary context. The clan's counsel, Richard Kwach, himself a Luo speaker, manipulated the notion of home brilliantly. In the Court of Appeal's decision the word *dala* is not used at all – it is replaced by the word “home”. However, other Dholuo words such as *magenga* (the funeral fire), *tero buro* (the ritual to chase away evil omens before the widow may remarry) are used. Home achieves a status which is conferred semantically and never questioned. By failing to distinguish between home and *dala*, the focus of the dispute shifted to the advantage of the clan.

For the Luo, the fact that one could never discard one's ethnic identity enabled it to claim a legitimising authority with regard to home. Home, as

presented by the clan, became a narratological discourse of extraordinary power. A new essentialist ethnography of home was established. The ethnography of home became normative and was presented as a custom that had endured onslaughts upon it by cultural, economic, social and political changes. Part of its power lay therein that it was presented as exquisitely authentic. SM Otieno's body would be returned to his father's home (*dala*). Dholuo is a Nilotic language and is related to the languages spoken by some people in Uganda and the Sudan. It becomes especially ironic that etymologically, the word *dala* has no Nilotic origins, but is actually a Bantu word which was adopted into Luo speech (Evans-Pritchard 1949: 25). It is possible that the Luo adapted *ndalo* (meaning a garden or farmland) from their immediate geographical neighbours, the Bantu Luyhia.

Furthermore, if one truly wanted a more accurate translation of the word into English, it might be closer to the word "homestead". Khaminwa, Wambui's legal counsel, is not a Dholuo-speaker. If he had called in an expert linguist, he might have disrupted the opposing counsel's manipulations and forced the court to employ greater semantic accuracy. By questioning the legal-technical status the word "home" achieved, he might have reduced its power as well as the ethnographic authenticity it claimed. By so doing, Khaminwa's case that SM was no longer subject to customary law might also have been strengthened.

At first glance it appears especially ironic that the ethnography presented by the clan as normative and authentic was itself totally imprinted upon by practices introduced by Christianity and modern life – such as the practice of saying prayers over the body for four days and burying the body in a coffin and having the ceremony officiated by a priest and not the elders or male clan members. Custom is dynamic and many witnesses testified with regard to changes surrounding a burial concerning the widow's clothes, the presence of the church, the way the body is laid and the direction it faces, the presence of women at the grave side, etc. The ironies of such dynamism were ignored by the Court of Appeal just as much as the ironies and tensions of ethnicity/nationalism as products of the colonial imagination were ignored.

In his testimony in court, Odera Oruka, Professor of Philosophy at the University of Nairobi and author of articles and books on sage philosophy, maintained that a dead person's spirit would haunt one if certain actions were taken which were against custom – not necessarily against personal wishes (*NN*: 80). However, he did endow a spirit with a certain level of common sense. When Wambui's counsel posed the hypothetical question that if a terrible, contagious disease should break out in Nairobi and the authorities decided that for health-safety reasons no bodies could be taken beyond the confines of Nairobi would a dead Luo's spirit haunt one, Odera replied that government policies should prevail – the body would be buried in Nairobi, but the customs of burial would be fulfilled at the *dala* with a

piece of wood which represented the body. Odera did not think that the spirit would object under those circumstances.

Earlier in the proceedings, when SM's brother Ochieng' gave his testimony the evidence led was far more prescriptive (see word for word transcripts in *Nation Newspapers*):

Khaminwa: Can you tell us how you will be cursed if you let your brother be buried in Nairobi?

Ochieng': Wherever I go, my clanspeople will spit on me and say I am *Bure* (nothing). The spirit of the dead will follow the whole family of Jairo as he was the head of the family.

Khaminwa: What will happen then?

Ochieng': I will not be able to sleep properly because wherever I go, there will be ghosts haunting me for having let my brother be buried elsewhere other than at home.

Khaminwa: Is it not strange that you as a Christian believe this?

Ochieng': No. This is because it is fitting with Christianity.

....

Khaminwa: Can you not explain to these ghosts and spirits that it is not your fault?

Ochieng': No. This is because you cannot catch these spirits or talk to them.

(NN: 59-60)

Khaminwa did not pursue contradictions in this line of argument and from the court transcripts it is evident that the matter is left there – neither to be taken up in the closing arguments nor in the various courts' decisions. Witnesses for Wambui who confirmed that SM had said that his spirit would go-a-haunting if he should be buried beyond the boundaries of Nairobi were vilified by the judges. This of course raises the interesting question as to what the implications of being buried at home without feeling at home are. In her autobiography, written eleven years after the burial saga, Wambui relates that grave misfortunes have befallen members of the Umira Kager clan, while her family has gone from strength to strength. A major point of criticism of *Mau Mau's Daughter* is the fact that there is almost no level of self-reflection by Wambui. The clan's misfortunes are not delineated, but the vindictive glee in Wambui's tone jars. At the time of the court proceedings the international press had a field day – finding no problem in casting the burial saga as a clash between traditionalist, darkest Africa and a modern, enlightened, African moneyed elite. The subtleties of Luo interclan politics, inter-ethnic power struggles, and questions of gender and class within Kenya were largely ignored by the foreign press.

Okech-Owiti examined some socio-legal issues with regard to the burial saga at a high-profile seminar given by academic luminaries in Kenya. He believes that Wambui's counsel as well as the court erred in not examining evidence led more closely or expert witnesses. In a footnote in the publication of the seminar proceedings he says that it "was possible to

produce evidence to the effect that these customs, even assuming that they had existed in this form, and had been applied with the rigour expressed by the witnesses and accepted by the judge, had been eroded to the point of non-existence in large parts of Luoland” (Okech-Owiti 1989: 27). In another footnote Okech-Owiti avers that “the concept of ‘home’ and ‘house’ have been so affected by social change in the last twenty years alone that the distinction has ceased to have any special place” (p. 27). He cites scarcity of land, migration, the breakdown of the cohesiveness of rural communities, financial strictures and so on as possible reasons for this. This might have been the case. From the transcript of the Appeal Court’s decision it is evident that many of the customs pertaining to burial were ignored or acknowledged as having changed – with the exception of the notion of home. The imposition of the Dholuo meaning of *dala* on the English word “home” was actually very easy, and this is the main point of this argument – it was easy because even in English, even though the word “home” signifies an attitude rather than an actual ceremony for its establishment, it remains a concept of exclusion and inclusion – it is a conservative term that is always privileged, idealised and mystified. In Kenya, the court’s decision effectively set a precedent where women could be unhomed beyond the Western notion of gender discrimination.

SM attempted to transgress the boundary between customary and cosmopolitan in terms of his burial wishes. He lost (posthumously) and now his heart lies at a home where he does not feel at home. All her life Wambui has transgressed – fighting systems, whether colonial or within the postcolony of Kenya, which she feels are discriminatory and unfair. Her outspokenness and her castigation of President arap Moi are legendary in Kenya. The burial saga, the outcome of which, it is rumoured, was influenced by the president, provided a space in which a patriarchal society could unhome Wambui. Patricia Stamp (1991) and April Gordon (1995) have written at length about issues of inter-ethnic conflict, class, power struggles and gender with regard to the saga, and these aspects will not be dwelt on here. The point is that the axis which enabled the judges to rule against Wambui pivoted on the issue of home – a home which only a male could have. Wambui’s counsel failed to question the notion and the matter of which law to apply, no matter how convoluted the judges’ reasoning, became easier. This was one way in which a combatative and agonistic woman who lambasted patriarchal systems, castigated authoritarian presidents and who refused to quieten down, could be silenced – albeit temporarily.

The court decided that

[t]here is nothing repugnant or immoral about any of ... the customary laws. The evidence of “magenga” [the funeral fire], the shaving hair “tero buro” and other rites shows that the practices are innocent and are meant to underscore the deep loss to the clan We are persuaded from our perusal of the evidence

and from a summary of the ebb and flow of the argument ... that there is nothing in Luo customary law which a *reasonable man* in Kenya would find repugnant to justice and morality.

(Cotran 1987: 343-344, my italics)

The many ethnographic texts cited during the court proceedings were accepted as valid scientific documents which represented the authenticity of cultural practices. But, as Clifford and Marcus have so often noted, ethnographic writing is a form of rhetorical practice which employs strong elements of persuasion (see for instance Clifford 1986). The traditional, in an ironic twist, became insured and thus assured, by the ethnographies of modernism. Home was a male prerogative and a woman had no place there. Wambui did not stand a chance.

In *Mau Mau's Daughter* Wambui quotes the clan lawyer as saying to a reporter that she was a “bossy whore ... [and] that not a single Luo woman has ever gone to court over these matters ever since the world began” (Otieno 1998: 158-159). Wambui and her children refused to attend the burial in Nyalunga in western Kenya and perforce SM had to be buried as an “unmarried” man according to Luo customary law. The refusal is not only a matter of principle but a clear indication that home is what Wambui and her family choose it to be.

In her autobiography Wambui writes that “because of the discrimination against me as a woman, I had said publicly – both inside and outside the court – that I would not attend the ceremony” (p. 180). However, shortly before the internment Wambui was visited by a female delegation from President Daniel arap Moi urging her to attend the ceremony and stating if necessary, the government would “import a dress from Great Britain” for the occasion (p. 181). The international press had given extensive coverage to the court proceedings and Wambui was acutely aware of pressure on the president to resolve the matter. She reflects: “I knew the trick Moi wanted to play on me He wanted, first, to show the world that I had no principles. Second, he knew that if I went to the burial, that would stop the matter from being discussed as a violation of human rights and as discrimination against women” (p. 180).

The immediate family (in the common-law sense) refused to attend the burial as a matter of principle – but considering the emotionally charged atmosphere outside the court (the mounted police and army units were called in to maintain some semblance of order) and the scenes at the actual internment in Nyalunga, Wambui's refusal could also be seen as a matter of personal safety. The Luo believed that SM had been brought home. For Wambui, the place of her husband's home-going had become a site of danger.

In *Mau Mau's Daughter*, Wambui writes that the highest court “had decided that I and my children were irrelevant to SM's burial” (p. 180). In an exquisite reversal of Joash Ochieng's claim that “Wambui was still our

wife” (p. 208), Wambui relates that in her reply to the president’s delegation she “also told them that there were three men involved in stopping me from burying my husband – what was left for them was to distinguish between themselves who was the first, the second, and the third wife of SM. Then they could proceed to bury *their* husband” (pp. 180-181).

Carole Boyce Davies observes that in black women’s autobiography, and it could be added, in many women’s writings these days, “home is often portrayed as a place of alienation and displacement ... the mystified notions of home and family are removed from their romantic, idealised moorings, [where women] speak of pain, movement, difficulty ...” (1994: 21). But even if home is shown as a space of contestation and alienation, it does not really disturb the asymmetry of the notion of home with its possible opposites such as homeless, unhomed, exile, exclusion. It is difficult to refute the idea of home – it has become a discourse of immutability – and for the moment continues deftly to fling aside attempts at levelling it. The clan managed to manipulate the notion of home, thereby imposing an African customary conception of home, a male prerogative, on a foreign, colonising language. The empire had spoken back, and one of the most precious, most unexamined concepts within the English language, has moved from the personal prerogative to the prerogative of the male members of a customary community. At a press conference held by Wambui before the start of the “trial” which the Court of Appeal had ordered (approximately the sixth court action initiated by either Wambui or the clan) Wambui declared that “[e]very woman in Kenya should look at this case keenly. There is no need of getting married if this is the way women will be treated when their husbands die” (Otieno in Cohen & Odhiambo 1992: 10).

There is no doubt that Wambui and SM regarded their houses in Langata and Upper Matasia as home on the domestic level and Kenya their home on the national level. Both, but more certainly SM, thought that they had sloughed off the implications of “home” on ethnic and clan levels. In the realities of postcolonial Kenyan politics however, “home” had accrued to it ethnic territorial implications as well – adopted from British colonial policies and adapted to serve as whipping sticks against political dissidents. In the run-up to independence from Britain in 1963 and in the years immediately following the transition from colony to postcolony, native reserves were scrapped, but the idea of a homeland persisted in the imagination. As Kenyatta and Moi’s leadership became more autocratic in the late sixties and thereafter, political resistance increased. Students and university academics were regularly singled out for their opposition to government and its policies,² and when a university campus was closed,

2. See E.S Atieno Odhiambo’s text of a public lecture given at the University of Nebraska in 1998, “Ethnicity and Democracy in Kenya”, which provides a run-down of anti-intellectual crackdowns by the Kenyan government (<<http://www.unl.edu/HumanR/pubs/HRHD-odhiambo.pdf>>).

students were sent “home” to their traditional ethnic lands as a measure of discipline.³ In a paradoxical repeat of the colonial government’s actions, former native reserves became places where control could be reimposed. “Home” became exile: a place of exclusion from a political process for the dissident student. Like his/her predecessors who were denied employment opportunities because they had been confined to a reserve, a blacklisted student could be denied readmission to university once the institution reopened.

Almost every Kenyan followed the SM burial saga keenly: here was an instance of a well-known and articulate woman daring to challenge patriarchal probity. For many male Kenyans the fact that the Luo were involved was incidental, the fact that patriarchy was being challenged was the primary issue. Wambui understood this micronarrative perfectly while non-Kenyans preferred to see the court actions as a battle between tradition (read barbarism) and modernity (read enlightenment). The micronarrative of challenges to patriarchy surfaced especially during the appeal court hearings. At one point Khaminwa, referring to Thomas Jefferson’s dying wife, was interrupted by Justice Nyarangi who said that “Jefferson was very lucky [as opposed to SM]. He never met a twister of a woman” (NN: 140). His interjection was greeted with “prolonged laughter” (NN:140). More laughter and murmurs followed when Kwach, counsel for the Luo, gave a summary of the lives of urban women like Wambui:

Kwach: ... That is why in some sense, Wambui is a rebel without a cause. No one is trying to bury her at Siaya. She is only challenging them because she is not a member of that tribe. No Luo woman has gone to the High court to assert those rights.

Platt [Chief Justice]: If these customs are well-known, why is it unpalatable for widows these days to follow customs?

Kwach: Equality of the sexes. These days women wear trousers but they forget you put one leg on at a time.

Platt: That sounds superficial. Nothing deeper than that?

Kwach: Just a squak [sic]. The following day they fall into tune? (laughter)

....

Platt: But when are widows becoming unpalatable?

Kwach: Most women live in urban areas and get over their dead husbands in three days’ time at Langata and are back to the market (murmurs and laughter).

(NN: 159)

Kwach ended his appeal that Luo customary law rather than common law should apply, to the High Court, when he paradoxically to the outsider perhaps, quoted almost the entire first chapter of the Book of Ruth from the Old Testament as an example which Wambui would do well to emulate

3. I am grateful to Dr James Ogude for pointing this out to me.

(*NN*: 163-164). (Ruth, a Moabite, refused to return to her people when her husband died, preferring instead to remain with her in-law family, saying: “Intreat me not to leave thee [Naomi] ... for wither thou goest, I will go; and where thou lodgest, I will lodge: thy people shall be my people, and thy God my God” (verse16).) The judges of the Appeal Court did not demur and while stopping short of declaring Wambui herself subject to Luo customs, declared that the body was to be buried in Nyalunga.

The ramifications of the burial saga for women expand much further than the confines of Kenya. Kenya is a member of the British Commonwealth and although each member country has its own laws and judicial system, a significant decision in one country may be cited as a guideline or be used for its persuasive value in a particular judicial decision in another.⁴ In societies where there is traditionally a strong patriarchal bias and where customary law is often deferred to, it is quite probable that the notion of home will continue to expand.

References

- Blixen, Karen
1979 *Out of Africa*. Harmondsworth: Penguin.
- Bhabha, Homi K.
1994 *The Location of Culture*. London: Routledge.
- Clifford, James
1986 “On Ethnographic Authority”. In: Clifford, James & Marcus, George E. (eds) *Writing Culture: The Poetics and Politics of Ethnography*. Berkeley & Los Angeles: University of California Press, pp. 98-121.
- Cohen, David William, & Odhiambo, E.S. Atieno
1992 *Burying SM: The Politics of Knowledge and the Sociology of Power in Africa*. Nairobi: East African Educational Publishers.
- Cotran, Eugene
1987 *Casebook on Kenya Customary Law*. Nairobi: Nairobi University Press.
- Davies, Carole Boyce
1994 *Black Women, Writing and Identity: Migrations of the Subject*. London: Routledge.
- East Africa Women’s League
1962 *They Made It Their Home*. Nairobi: East African Standard.
- Egerer, Claudia
1996 The Homefulness of Exile in David Malouf’s *Remembering Babylon*. In: Nas, Loes & Wittenberg, Hermann (eds) *Proceedings of the Conference of the Association of English Teachers of South Africa*. Bellville: University of the Western Cape Press, pp. 48-53.

4. Discussion with Prof. Gardiell van Niekerk, Department of Indigenous Law, University of South Africa, Pretoria, on 10 September 2000.

- Evans-Pritchard, E.E.
 1949 Luo Tribes and Clans. *Rhodes-Livingstone Journal* 10: 24-40.
- Gallmann, Kuki
 1992 *I Dreamed of Africa*. Harmondsworth: Penguin.
- George, Rosemary Mangoly
 1996 *The Politics of Home: Postcolonial Relocations and Twentieth-Century Fiction*. Cambridge: Cambridge University Press.
- Gordon, April
 1995 Gender, Ethnicity, and Class in Kenya: "Burying Otieno" Revisited. *Signs: Journal of Women in Culture* 68(3): 883-912.
- Gready, Paul
 1994 The South African Experience of Home and Homecoming. *World Literature Today* 68(3): 509-515.
- Huxley, Elspeth
 1957 *No Easy Way: A History of the Kenya Farmers' Association & UNGA Limited*. Nairobi: East African Standard.
 1962 Introduction to *They Made It Their Home*, presented by East Africa Women's League. Nairobi: East African Standard, pp. 1-5.
- Martin, Bidy, & Chandra, Talpade Mohanty
 1997 Feminist Politics: What's Home Got To Do With It? In: Warhol, Robyn R. & Herndl, Diane Price (eds) *Feminisms: An Anthology of Literary Theory and Criticism*. Basingstoke: Macmillan, pp. 293-310.
- Nation Newspapers*
 1987 *S.M. Otieno: Kenya's Unique Burial Saga*. Nairobi: Nation Newspapers.
- Odera Oruka, Henry
 1987 Testimony Given at Burial Saga Trial, Day 12. Court Transcripts Contained in *S.M. Otieno: Kenya's Unique Burial Saga*. Nairobi: Nation Newspapers, pp. 79-82.
- Ojwang, J.B. & Mugambi, J.N.K.
 1989 *The S.M. Otieno Case: Death and Burial in Modern Kenya*. Nairobi: Nairobi University Press.
- Okech-Owiti, M.D.
 1989 Some Socio-Legal Issues. In: Ojwang J.B. & Mugambi, J.N.K. (eds) *The S.M. Otieno Case: Death and Burial in Modern Kenya*. Nairobi: Nairobi University Press, pp. 11-29.
- Okoth-Okombo, Duncan
 1989 Semantic Issues. In: Ojwang, J.B. & Mugambi, J.N.K. (eds) *The S.M. Otieno Case: Death and Burial in Modern Kenya*. Nairobi: Nairobi University Press, pp. 89-97.
- Otieno, Wambui Waiyaki
 1998 *Mau Mau's Daughter: A Life History*. Boulder & London: Lynne Rienner.
- Said, Edward
 1984 The Mind of Winter: Reflections of Life in Exile. *Harper's Magazine*, September, pp. 49-55.
- Stamp, Patricia
 1991 Burying Otieno: The Politics of Gender and Ethnicity in Kenya. *Signs: Journal of Women in Culture* 16(4): 808-845.