



FACTORS PERPETUATING PRIVATE LAND INVASION BY MARGINALIZED COMMUNITIES IN KENYA, A STUDY OF KILIFI SOUTH SUB COUNTY- KILIFI COUNTY

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ABSTRACT

Purpose of the study: Land is a very unique resource for socio- economic and cultural development. Due to its importance every aspect of human survival or existence to some extent depends on availability of land. Owing to its importance land has posed the greatest challenge to many societies and it's the main cause of conflicts which have been experienced for over and over. The purpose of the study is to examine factors perpetuating private land invasion in Kilifi South Sub County. The specific objectives were to find out the relationship between land management systems and private land invasion in Kilifi South Sub County, to find out if political incitement perpetuates private land invasion in Kilifi South Sub County and to determine the extent to which landlessness contributes to private land invasion in Kilifi South Sub County.

Methodology: The study employed descriptive survey research design. The target groups for this study were 3181 squatters in Kilifi South Sub County. The study also targeted 13 land administrators Kilifi South Sub County. The study used key informant interview guide for the land administrators and researcher administered questionnaire guide for the squatters.

Results of the study: The study established that that land use, management and cultural practices (eg, absentee landlordism, squatter dorm, and public and community land) contribute to private land invasion by unauthorized persons. When land is vacant and only used for grazing purposes, there is a high tendency for locals to invade. Further, when the owner of the land is absent, invaders tend to take this advantage to invade the land. Some communities invade some

lands because they attach cultural beliefs in that area. They believe that their ancestors and “gods” reside there. There are also religious beliefs attached to particular lands. It was also established that political incitement of the locals is a contributing factor to land invasion. It was indicated that political incitement especially during campaigns contributes immensely to escalated cases of land invasion. It was established that other factors that spurred land invasion included skewed land policies, historical injustices, demand for fertile lands and population outgrowth. It was concluded that several factors contribute to private land invasion in the region. The factors have been highlighted to include skewed land policies, historical injustices, landlessness, demand for fertile lands and population outgrowth.

Conclusion and policy recommendation: The study recommends the government must implement the land policies recommended in the Ndungu report and solve historical land injustices by implementing the TJRC report. There must be a sincere political goodwill to implement the recommendations of these reports in order to solve land issues in Kenya particularly in Kilifi South Sub County. The study also recommends the digitization of land records at the ministry of land offices across the county.

Keywords: *Land use tenure, political incitement, landlessness, private land invasion, Kilifi South Sub County*

1.1 INTRODUCTION

In African countries Land is a critical factor of production. Owing to its importance as a factor of production, there are a lot of conflicts surrounding its use and ownership. Alston and Mueller (2010), point out important elements that account for the causes of land conflicts. While the causes of land conflicts are many, land inequality and skewed distribution contributes to most land conflicts across the world. Amacher et al. (2008), for example, identifies illegal invasion as one of the main problems facing especially private land owners across the globe. Owing to its importance land has posed serious security challenges to many societies (Hidalgo, Naidu, Nichter& Richardson, 2010). Sometimes these land related challenges keep mutating in form and shape culminating in to a complex web of political, ethnic and regional tensions (Lund, Odgaard&Sjaastad, 2006). This is why land issues need to be handled fairly, justly and in a clearly stipulated legal framework (UN-HABITAT, 2012).

Land is a very unique resource for socio- economic and cultural development. Land is equally a key driver to conflict (Klaus & Mitchell, 2015). Land and people are the foundation of every nation; rapid economic and population growth is exerting sustained pressure on land demand (Zhou, Zhao & Zhou, 2016). However, there exists an eternal conflict between humankind and

land. Demand for land is invariably greater than land supply (Wang, Shen, Tang & Skitmore, 2013).

There is a literature on the identification of the determinants of land invasions. Alston and Mueller (2010), point out important elements that account for the probability of land invasion. While the investigation of the determinants of the probability of land invasions is wide, land inequality and degree of title to land contributes to land invasions. Amacher et al. (2008), for example, identifies illegal invasion as one of the main problems facing land issues across the globe.

Due to its importance every aspect of human survival or existence to some extent depends on availability of land. Owing to its importance land has posed the greatest challenge to many societies and it's the main cause of conflicts which have been experienced for over and over (Hidalgo Naidu, Nichter & Richardson, 2010). At times land invasion have mutated to political, ethnic and social upheavals which have at some point contributed to near complete breakdown of law and order regarding land issues. The land issues have overtime resulted to injustices and unfair allocation of land amongst people while disregarding land policies, sound legal and institutional framework to address land problems.

Because of many related land injustices, land invasion becomes one of the alternative tactics that the poor, powerless and homeless people resorts to access land on which to build their shelter and farm. Land invasion by squatters is a consequence of desperation for space to put up a shelter. It occurs spontaneously. Land invasion continues unabated because disputes related to land remain unsolved. For this reasons, land invasion still remains a challenge to the Ministry of Lands and Land Commission in Kenya.

According to World Social Forum (WSF) in Mumbai, India and the World Economic Forum in Davos, Switzerland 2014, many landless people rely on illegal occupation of land to sustain their livelihood. A lot of land conflicts including private land invasion are as results of the need to sustain livelihood. However the activities of greedy individuals who incite the poor and landless individuals to invade private land so that in the confusion they can get an opportunity to grab land to satisfy their greed cannot be underestimated when interrogating issues of private land invasion. The WSF indicated lack of proper land policies has led to the rise in the cases of land conflict and private land invasion across the globe. There is need to carefully understand the

dynamics involved in private land invasion to be able to effectively manage prevention of conflicts and damage arising from the same (World Social Forum, 2014). Land invasion seems to be a reactive process, which requires its antecedents to be managed effectively as prevention

In Brazil, a study on violent land conflict between landless peasants and land administrators on public land in Brazil was conducted by Alston, Libecap, and Mueller (2005). They describe how land conflicts led by the Landless Peasants Movement influences political instability in the country. In another important study, Alston, Libecap, and Mueller (2010) develop a multi-principal, multitask model of interest group behavior to examine how groups with limited resources, such as the Landless Peasants Movement invade lands illegally (Simmons et al., 2010). Land inequality has long persisted in Brazil. The Gini coefficient of land inequality remained stable between 1967 and 1998, measuring 0.84 in both the beginning and end of the period.

In African countries land is critical resource having social, political, economic and cultural dimensions. Land issues are often root causes of major resource related security threats (Kameri-Mbote & Kindiki, 2008). Land is increasingly becoming a source of conflicts in Sub-Saharan Africa. Land conflict continues unabated because disputes related to land remain unsolved (Odgaard, 2006).

In Kenya, land is a major source of livelihood. Land in Kenya remains the single most explosive issue after national elections and tribalism. Sometimes it is hard to draw a line between the three emotive issues which are mutually complimenting producing synergetic effects of threats to security and stability of the county.

Along the coast, and particularly along the ten mile strip (Mwambao) which was under the suzerainty of the Sultan of Zanzibar, problems around control and ownership of land have roots in the pre-colonial situation. The land question here formulated after the Arabs and the Swahili settled in the area and consolidated slave trade after which they gained control of the land. The colonial state deepened the problem by introducing a legislation that enabled only the subjects of the Sultan (comprising mainly Arabs and the Swahili Muslims) to register land as private property (Ghai & McAuslan 1970:29; Charo 1977; Cooper 1980). The post-colonial state worsened the problem by giving grants of land to politicians even in areas already occupied by indigenous Mijikenda groups. This resulted in increasing landlessness and squatter problems.

It was a major issue in the quest for independence. Evolution of the land question on the coast entered into a new phase with the negotiations for political independence in the wider colony. At the time of transition to independence, the British government entered into a pre-independence agreement with the Kenyatta administration and the Sultan regarding control of land in Mwambao (Salim, 1968: 224; Ghai and MacAuslan 1970: 187-188). Kenyatta conceded to the Sultans demands for recognition of private land rights on the Coast and promised to adjudicate and register such rights where they were not adjudicated, notwithstanding the negated land rights of the indigenous groups.

Both the agreement and negotiations over independence concluded the process of creating the squatter phenomenon: they transformed the Mijikenda into squatters or tenants of the Arabs and the Swahili landowners. Because of this, land being a source of livelihoods, it has remained a potential base for confrontations in Kenya especially in coastal Kenya, Rift valley region, Central Kenya and western Kenya (Klaus & Mitchell, 2015). Several proscribed gangs purporting to fight for communal land rights including Mombasa Resistant Movement (MRM), Sabaot Land Defense Forces (SLDF) and Mungiki uprising are some of the groups that have threatened the peace and stability of the country and even encouraged invasion of private land with impunity citing real and perceived land ownership and use injustices in Kenya (Boone, 2012; Bienen, 2015). The requirements and demand for land always supersedes the supply (Wang, Shen, Tang & Skitmore, 2013). For this reasons, landless and greedy people result to invading privately owned land either in search for livelihood support or to satisfy their greed.

Several factors have been identified to escalate private land invasions in Kenya. They have been documented to include cultural factors; the belief that the land in question is their own ancestral land therefore being the rightful owners, presence of unoccupied huge tracts of land posing a temptation to landless people who need a livelihood support base, the assumption and beliefs there was no justice during the land allocation and adjudication, high poverty levels including perceived and real historical land injustices, ignorance of land laws by the indigenous people, population pressure, increasing land value against diminishing returns, tribalism and political incitement, land grabbing cartels' activities, skewed land management policies, squatter dorm, and using land as a campaign tool among others (National Land Commission 2015; Daily Nation, 2015).

Due to the above background reasons, landless people searching for alternative land for farming, settlement or even for sale and greedy land grabbers are the main groups involved in private land invasion business. This is a problem posing a peace and security threat and also discouraging private investors from investing in Kilifi South Sub county and Kenya as a country,

The main aim of this study was to investigate the factors that motivate these groups to invade privately owned land with impunity and find out how they identify susceptible land for invasion.

1.2 STATEMENT OF THE PROBLEM

Private land invasion is a major complex and common phenomenon in the Kenya coast. Kilifi South Sub County has also been affected by frequent private land invasion incidences making it the major problem and source of conflict in the sub county. Squatting and land invasion is highly reported and contested in this sub county. The national administrators are kept unnecessarily busy trying to ward off and evict the invaders. This problem is worsened by economic disparities between the poor and rich. Economically, private land invasion can cause permanent economic losses on land owners. The damage is far reaching when the sub county being one of the major tourist destination in particular and the country in general has to lose investors confidence and tourists owing to instability arising from private land invasions and conflicts.

Most indigenous residents of Kilifi South Sub County do not possess title deeds. They either occupy government land, community land or are squatters on privately owned land. The land tenure systems, land use and land management systems complicate the matter further. Some people have entered into a kind of quasi squatter-tenant agreement with land owners, the so called absentee landlords. In other incidences squatters just occupy and live in privately owned land as though it were their own. The owner of the land cannot reclaim the land for fear of the squatters and the squatters cannot officially own the land because they have no basis in law to occupy the land. In other words, a sizeable majority of the region's people live as squatters on land they do not officially.

These arrangements have exacerbated the complex issue surrounding private land invasion in Kilifi South. It has also encouraged new invasions as people learn from their neighbours that they can invade with impunity privately owned land.

This problem has resulted in serious economic losses in the whole of Kilifi County and the country as investors pull out for fear of economic losses. This situation is common in Magarini salt farms, the Magarini golf city, the watamu beach hotels, Kilifi plantation, Khosla Farm, the Kilifi South East Farmers cooperative Society Limited and many others.

This situation of private land invasion by landless or greedy Kenyans should get the country worried and investigate the motivating factors so that they can be addressed so that the situation can be arrested before it escalates to unmanageable levels.

A survey by Nation (2016) indicated that invasion of private land by people purporting to be squatters had reached an alarming level. Some locals have, for the last five years, formed a habit of invading undeveloped land or that owned by absentee land owners. Some influential personalities have also been fronting locals to invade private land, beach plots and prime properties, especially those owned by foreigners. For instance for the past five years, Ihaleni community has been invading land privately owned by a firm, Kilifi Plantation, at Mavuni in Kilifi South Sub-county.

There are studies related to land issues. World Bank (2017) conducted a study on conflict of vacant lands in the realm of urban development the case study of the Kenya Coast. The study established that the trend of land conflicts has witnessed individuals and ‘landless’ people having invaded public and private properties without having any lawful right to be on the land they occupy. However, the study solely focused on the conflict of urban lands and ignored land conflict in rural areas.

Orellano, Azevedo, Saes and Nascimento (2015) conducted a study on land conflicts, insecure property rights and production decisions in Brazil. The context of Brazil land conflict may not be the same as those land issues in Kilifi County. Mutero and Makwara (2018) conducted a study on the economic impact of illegal land conflict: a case study of Lwandle Informal Settlement, Cape Town in South Africa. Findings of the study were that illegal land occupation was driven by lack of government support in providing accommodation for illegal land invaders in Lwandle. The study however focused on the economic impacts of illegal land conflict contrasted on the current study which attempts to explore what motivates land invasion in Kilifi South Sub-County.

Hidalgo, Naidu, Nichter and Richardson (2007) conducted a study on economic determinants of land conflicts in Brazil. The study confirmed the importance of land inequality in explaining redistributive conflict. The context of Brazil land conflict may not be the same as those land issues in Kilifi South Sub County. O'Brien (2011) conducted a study on irregular and illegal land acquisition by Kenya's elites, trends, processes, and impacts of Kenya's land-grabbing phenomenon. The study context was slightly different from the current one which focuses on land invasion by locals. The study therefore seeks to fill the research gap by examining factors motivating invasion of private land in Kilifi South County.

1.3 RESEARCH OBJECTIVES

- i. Find out the relationship between land use tenure and private land invasion in Kilifi South Sub County.
- ii. Find out if political incitement perpetuates private land invasion in Kilifi South Sub County.
- iii. To determine the extent to which landlessness contributes to private land invasion in Kilifi South Sub County.

1.4 RESEARCH QUESTIONS

- i. Is there a relationship between the land use tenure and private land invasion in Kilifi South Sub County?
- ii. Is political incitement a factor perpetuating private land invasion in Kilifi South Sub County?
- iii. To what extent does landlessness contribute to private land invasions in Kilifi South Sub County?

2.1 THEORITICAL REVIEW/ FRAMEWORK

Access Theory

Access Theory emphasizes that accessing things for instance resources (Ribot & Peluso, 2003). It is a bundle or web of powers that enables actors to gain, control, and maintain access to things in which they have or perceive a stake and derive benefits from them. Thus, property is not only about rights, but also about all different forms of obtaining access, which may be irregular or

illegal in relation to some other laws. To this extent, rights are just one of many forms of power that enable access to resources. The concept of access, used in access theory, facilitates grounded analyses of who actually benefits from land reforms and through what processes they are able to do so. In the context of this paper, access in the land sector relates to instances where powerful individuals are able to assert their authority in the land market so that others with land rights find their ability to derive benefits from the land severely restricted.

Ribot and Peluso (2003) see access as constituted of material, cultural, political, and economic strands within “bundles” and “webs” of powers. Property and access are about relations among people concerning benefits or values their appropriation, accumulation, transfer, and distribution. Therefore, access is framed within dynamic political and economic relations that help identify the circumstances by which some people are able to benefit from particular resources while others are not. The theory relates to the study as it paints a picture and situations that determines access to land rights in Kilifi South Sub County.

When this theory is juxtaposed with the Kilifi South Sub County situation leading to land reforms, we see that the issue of illegal and irregular land allocation was as a result of a flawed system with loopholes and no accountability checks that allowed the ruling class in this case the political elite to have their way when it came to acquiring land. This was done with great disregard to squatters among other stakeholders, the communities that had known such land as their home from time immemorial. The land reforms that came along decades after using the now defunct land administration system shows an uprising of a revolution where the Kilifi people had a homogenous outcry as to the land issues that had bothered them for a long time. It is not an uprising against capitalism per say as was a big pillar in Marxism rather an uprising against the laws in place that are only there to serve the elite by furthering capitalism.

Natural theory

In this research it is intended to compare the natural law theory to the different kinds of historical land injustices in Kilifi South Sub County, both past and present. In the pre-colonial times, people held values to the land. Every member of the community was entitled to ownership of a portion of land. It was not for the father or any head of the family to decide whether their child would get land or not. It was almost guaranteed to every member of the society safe those who may have been ex-communicated or banished from the society.

2.2 EMPIRICAL REVIEW

The section explores factors influencing land conflicts in Kilifi South Sub County. The factors have been crafted to empirically describe the situation in Kilifi South Sub County. The factors are specifically applicable to the area under the study. World Bank (2017) conducted a study on land conflict in the realm of urban development the case study of the Kenya Coast. The trend of land conflicts has caused individuals and ‘landless’ people having invaded public and private properties without having any lawful right to be on the land they occupy. The study focused on the conflicts in vacant lands in the realm of urban development in the Kenyan Coastal region. They found in this study that land conflicts in vacant lands are a huge and complex problem. It involves individuals and groups of individuals or communities, sometimes fueled by politicians. The results from the study revealed that the main causes of land conflicts are historical land injustices in nature, as per the narration of both experts and communities. The respondents argued that they had 3 successive colonial administrators in the region, namely the Portuguese, Arab and British that whittled the land rights and left them as squatters in their own ancestral lands. They further argued that the colonial administrators used legislation through acquiring title deed of their lands without the communities’ consent due to their illiteracy. The situation was worsened by the successive regimes through legislation and government policies which gave the presidents’ powers to allocate land. However, the study solely focused on the conflicts in urban lands and ignored land conflicts in rural areas.

Land policies are rules of the ministry of lands that facilitate distribution and allocation of lands to its people. In this case, land policies are seen as how they facilitate equal or unequal and unfair land distribution. Land policy is the system of laws, rules regulations and practices to govern the rights of allocating land. Introduction of multiple land use will depend on formulation of a national land use policy enacted and enforced to guide and harmonize land-use planning activities.

However, the land policy is silent as to the use of scarce land resources and enforcement of regulations and practices that govern rights and obligations of landowners. This has encouraged the mushrooming of conflicting land uses. Despite the fact that several aspects of land policy are currently found in various sections of the constitution of Kenya, presidential decrees, administrative circulars, Sessional papers and various Ministry of Land, issue of skewed land

allocation in Kenya has led to the rise in the cases of land conflicts in Kenya including Kilifi County.

Land policy-making encompasses the drafting of all aspects of land management and is usually led by the State. Some land reform policies tend to be more radical, being focused on restructuring the distribution of land ownership rights. Land and the way governments deal with land, is in all countries (whatever stage of development they are in) an important topic of government policy (Molen, 2001). Land policy consists of socio-economic and legal prescriptions that dictate how the land and the benefits from the land are to be allocated. The implementation of land policy has a lot to do with institutional arrangement such as the organizational framework of land administration, enforcement of land laws and the allocation and monitoring of land administration mandates in the public sector,

The colonial administration caused the infringement of entitlements to land access and ownership. Since the struggle for independence, the country has been grappling with deliberate misapplication of laws and policies, purposive subversion of land administration processes, and illegal pre-independence treaties. Sometimes ambiguous post-independence skewed settlement policies have been our benchmarks with regard to addressing land issues, and we are still struggling to close the lid on double-edged foreign concepts of land ownership.

In a paper titled “The Politics of Land Rights and Squatting in Coastal Kenya”, Kanyinga (2000) explains the genesis of the problem, which began with the Arab slave trade in the 19th century when Kenya’s coastal region was loosely federated to the Sultanate of Zanzibar and which continued when the region became a British protectorate in the early part of the 20th century and when Kenya achieved independence from Britain in 1963. It created two systems of land tenure based on principles of English property law applying to high potential areas, and a largely neglected regime of customary property law in the marginal areas. It also facilitated a structure of land distribution characterized by large holdings of high potential land by the white settlers, on the one hand, and fragmented small holdings on the African reserves, on the other hand. Further, the policy environment was designed to facilitate the development of the high potential areas and neglect of counterpart marginal areas.

Moreover, the post-colonial governments under the leadership of Kenyatta and Moi sustained the colonial policies and further contributed to the infringement of citizens’ rights to land. As the

Njonjo Commission (GOK, 2002) and the National Land Policy (GOK, 2009) observed, the policies of the colonial government helped to entrench a dominant settler economy while subjugating the African economy through administrative and legal mechanisms. Citing the ten-mile coastal strip and the entire country, this was largely shaped by economic, political, social and legal parameters.

In all honesty, it was not until the promulgation of the new Constitution in 2010 that the first rays of addressing historical land injustices began to show. Although there is still a long way to go, the country has made tremendous progress in seeing about the implementation of the recommendations in the Ndung'u Report and the TJRC report. Key among issues on land in the 2010 Constitution is the establishment a National Land Commission (NLC) to manage land on behalf of central and county governments. The NLC is constitutionally mandated to undertake investigations on claims of historical and present land injustices so as to recommend appropriate redress.

Quite a number of persons living in Kilifi South Sub County are landless. In Kenya several factors have been identified to cause land conflicts. They have been documented to include poverty levels. The vicious cycle of poverty is the major cause of land conflicts in coastal region.

The entrenchment of the colonial administration in Kenya led directly to inequality in land ownership and use, landlessness, squatting, land degradation, resultant poverty, and Africans' resentment of the white settlers. The colonial administration contributed to the infringement of entitlements to land access and ownership in several ways. Additional serious aspects of the land issue have been environmental degradation, uneconomic land subdivisions, unjust land distribution and other land related problems. One result of all this has been increased poverty among some communities.

Orellano, Azevedo, Saes and Nascimento (2015) conducted a study on land conflicts, insecure property rights and production decisions. The paper investigated empirically the effect of land conflicts on farm production decisions. They used a county-level dataset for the state of Paraná, Brazil, from 2003 to 2007, with 1,995 observations. The panel data structure allows us to control for fixed effects, such as the formalization of land titles and land concentration, which might be correlated with the intensity of land conflicts. The finding is that land conflicts are associated

with lower long-term crop production and a higher percentage of annual crops, which could accelerate land degradation, and undermine environmental sustainability. The context of Brazil land conflicts may not be the same as those land issues in Kilifi South Sub County.

Syagga (2011) conducted a study on public land, historical land injustices and the new Constitution. The study made four significant recommendations: First, the study contends that the public must be sensitized through civic education on the benefits of land reform that aims to achieve three objectives: equity in terms of opportunities for land access and ownership; efficiency in terms of improved land use; and development of the national economy. Second, the National Land Commission should be sufficiently funded, be accessible to the public, and be empowered to impose significant penalties on non-compliance with the law on land management and administration. In this regard there must be mechanisms in place for monitoring the activities of the professionals, ensuring that errant professionals are penalized and providing opportunities for the public to report any errant professionals. Third, the study recommends the establishment of a Land Claims Tribunal to handle land restitution claims, including land repossession, in a clearly defined process. And finally, the study recommends that redistribution and resettlement programmes must be guided by a legal framework to ensure fairness and transparency. Underpinned by the concept of entitlement as its theoretical paradigm, this study examines the genesis of public land ownership and its disposition in the post-colonial era, how this has disadvantaged some sections of society and given rise to claims of historical land injustices. From this analysis, the study made proposals on how best to redress historical land injustices and disputed land allocations, as well as the institution of an effective National Land Commission as envisaged by the Constitution.

Hawley, Miranda and Sawyer (2017) conducted a study on land values, property rights, and home ownership: implications for property taxation in Peru. This research studies land values and the associated property tax implications of formal property rights, informal property rights, and squatting. Using the Peruvian Living Standards Measurement Survey data from 2007 to 2012, the research provided the estimates of the land value and property tax losses associated with property rights and squatting. They used hedonic model to obtain these estimates which are then used to provide the implied value of property taxes that are not being collected as a result of informal property rights. The policy implications of the results suggest improved methods for

property right assignment that would led to enhanced property tax collections that may lead to funds for the provision of infrastructure in the affected communities.

2.3 CONCEPTUAL FRAMEWORK

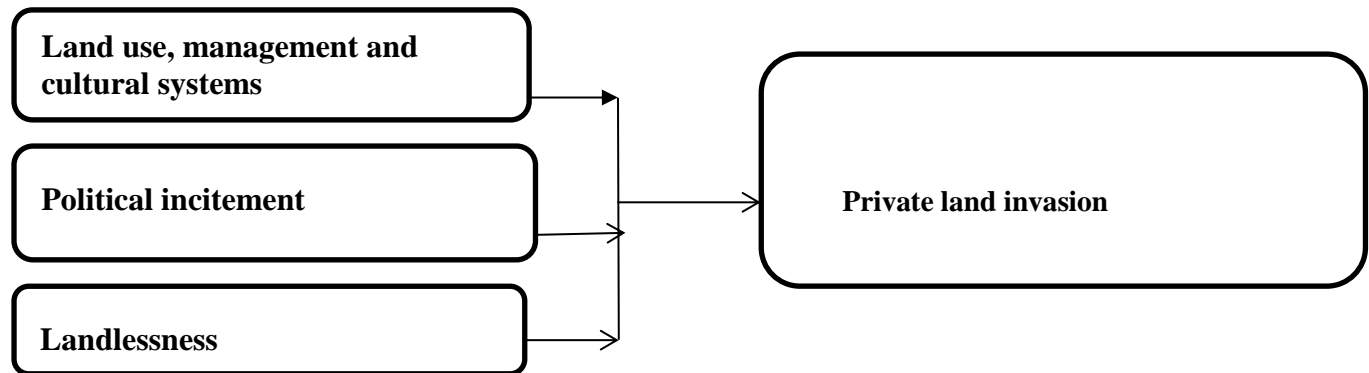


Figure 2.1: Conceptual framework

3.1 RESEARCH METHODOLOGY

This study adopted descriptive survey research design. By mixing both quantitative and qualitative research and data, the researcher gains in depth understanding of phenomena under investigation and relationships between variables. The target group for this study was 3181 squatters from five wards in Kilifi South Sub County (National Land Commission, 2016). The study also targeted 13 land administrators Kilifi South Sub County. The study focuses on the squatters within the Sub County under study. The land administrators included professional like, planners, valuers, adjudication and settlement professionals, surveyors, registrars, land administrators within the area of study. Fifty (50) squatters were selected from each ward to form a sample size of 250 squatters. The study used key informant interview guide for the land administrators and researcher administered questionnaire guide for the squatters. Questionnaires were researcher-administered with the help of two research assistants. The study also held in-depth interviews with land administrators. This study specifically also employed qualitative method in order to provide an extensive explanation on the subject matter. Content analysis method was used to analyses collected data. Content analysis categorizes phrases, describe the

logical structure of expressions and ascertain associations, connotations, denotations, elocutionary forces and other interpretations.

4.1 RESULTS AND DISCUSSIONS

Response Rate of the participants

Two hundred and fifty squatters participated in the study; however 217 questionnaires were properly filled and returned. This was 86.8% return rate indicating an acceptable return rate. Further, 11 land administrators out of 15 land administrators participated in the study. This was 73.3% return rate. As indicated by Kothari (2004) a reaction rate of over 50 percent is satisfactory for an examination.

Factors perpetuating private land invasion

The respondents were asked to respond on particular statements regarding factors perpetuating private land invasion in Kilifi South Sub County. The results are presented in Table 1.

Table 1: Factors perpetuating private land invasion

Statement	no	yes
Land use, management and cultural practices (eg, absentee landlordism, squatter dorm, public and community land) contribute to private land invasion by unauthorized persons	33.2%	66.8%
Political incitement and interests contribute to increased private land invasion	23.5%	76.5%
Landlessness perpetuates invasion of private land by unauthorized individuals	18.0%	82.0%
There are other factors apart from landlessness, political incitement and land use management practices that perpetuate private land invasion by unauthorized persons	29.0%	71.0%

The results of the study showed that majority 66.8% of the respondents acknowledged that land use, management and cultural practices (eg, absentee landlordism, squatter dorm, and public and community land) contribute to private land invasion by unauthorized persons. When land is vacant and only used for grazing purposes, there is a high tendency for locals to invade. Further, when the owner of the land is absent, invaders tend to take this advantage to invade the land. Some communities invade some lands because they attach cultural beliefs in that area. They believe that their ancestors and “gods” reside there. There are also religious beliefs attached to particular lands. Seventy six point five (76.5%) of the respondents agreed that political

incitement and interests contribute to increased private land invasion. According to the respondents, political incitement of the locals is a contributing factor to land invasion. It was indicated that political incitement especially during campaigns contributes immensely to escalated cases of land invasion.

Further, majority 82.0% of the squatters agreed that landlessness perpetuates invasion of private land by unauthorized individuals. Quite a number of persons living in South Sub-County are landless. In Kenya several factors have been identified to escalate land invasion. They have been documented to include poverty levels. The vicious cycle of poverty is the major cause of land invasions in coastal region. The entrenchment of the colonial administration in Kenya led directly to inequality in land ownership and use, landlessness, squatting, land degradation, resultant poverty, and Africans' resentment of the white settlers. The colonial administration contributed to the infringement of entitlements to land access and ownership in several ways. Additional serious aspects of the land issue have been environmental degradation, uneconomic land subdivisions, unjust land distribution and other land related problems. One result of all this has been increased poverty among some communities. The results agree with Mutero and Makwara (2018) conducted a study on the economic impact of illegal land invasion on land conflicts the case study of Lwandle informal settlement, Cape Town, South Africa and established that illegal land occupation was driven by lack of government support in providing accommodation for illegal land invaders in Lwandle.

Finally, majority 71.0% of the respondents agreed that there are other factors apart from landlessness, political incitement and land use management practices that perpetuate private land invasion by unauthorized persons. It was established that other factors that spurred land invasion included skewed land policies, historical injustices, demand for fertile lands and population outgrowth. The results agree with World Bank (2017) that a study on land conflict in the realm of urban development the case study of the Kenya Coast and found in land conflicts in vacant lands are a huge and complex problem. It involves individuals and groups of individuals or communities, sometimes fueled by politicians. The results from the study revealed that the main causes of land conflicts are historical land injustices in nature, as per the narration of both experts and communities.

Land policies are rules of the ministry of lands that facilitate distribution and allocation of lands to its people. In this case, land policies are seen as how they facilitate equal or unequal and unfair land distribution. However, the land policy is silent as to the use of scarce land resources and enforcement of regulations and practices that govern rights and obligations of landowners. This has encouraged the mushrooming of conflicting land uses. Despite the fact that several aspects of land policy are currently found in various sections of the constitution of Kenya, presidential decrees, administrative circulars, Sessional papers and various Ministry of Land, issue of skewed land allocation in Kenya has led to the rise in the cases of land invasion in Kenya including Kilifi Sub County. The results agree with Syagga (2011) land question in Kenya has been marred with historical land injustices.

According to the Kenya National Bureau of Statistics (2016), inequality in Kilifi County is closely linked to historical injustices that left large swathes of land in the hands of non-residents. Squatter existence in Kilifi County is historical dating back to pre-independence. The colonial administration caused the infringement of entitlements to land access and ownership. Since the struggle for independence, the country has been grappling with deliberate misapplication of laws and policies, purposive subversion of land administration processes, and illegal pre-independence treaties. The results agree with O'Brien (2011) that irregular and illegal land acquisition by Kenya's elites, trends, processes, and impacts of Kenya's land-grabbing phenomenon has been major problem in land reforms for so long.

The results from the study revealed that the main causes of land invasions and land related issues are historical land injustices in nature, as per the narration of both experts and communities. The respondents gave a chronology of the pre and post historical land injustices. They argued that they had 3 successive colonial administrators in the region, namely the Portuguese, Arab and British that whittled the land rights and left them as squatters in their own ancestral lands. They further argued that the colonial administrators used legislation through acquiring title deed of their lands without the communities' consent due to their illiteracy. The situation was worsened by the successive regimes through legislation and government policies which gave the presidents' powers to allocate land. These findings confirmed why 8 out of 9 focus groups raised issues of historical injustices during the interviews.

The respondents were asked were asked to indicate whether they have ever been evicted from their lands. The results of the study are presented in Figure 1. The results indicated that majority 62% of the squatters had once been evicted from their lands. This implies that land invasion and forceful land eviction is a major problem in Kilifi South Sub County.

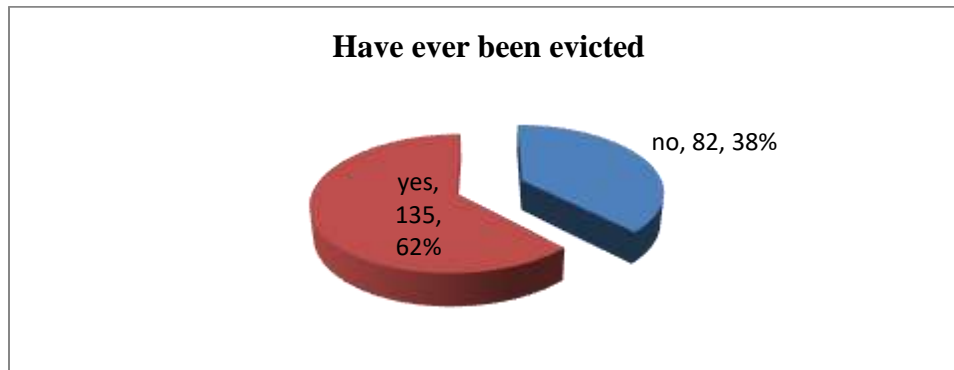


Figure 1: Have ever been evicted

In Kilifi County several factors have been identified to escalate land invasion. They have been documented to include cultural factors; the belief that the land in question is their own ancestral land therefore being the rightful owners, presence of unoccupied, the assumption and beliefs there was no justice during the land allocation and the consequences of historical land injustices. The trend of land Invasions has witnessed individuals and 'landless' people having invaded public and private properties without having any lawful right to be on the land they occupy.

The respondents were asked were asked to indicate whether they have ever heard rumors that they might be evicted from their lands. The results of the study are presented in Figure 2. The results indicated that majority 58% of the squatters agreed that they have ever had rumors of forcefully eviction from their lands. This implies that land invasion is a menace in Kilifi South Sub County.

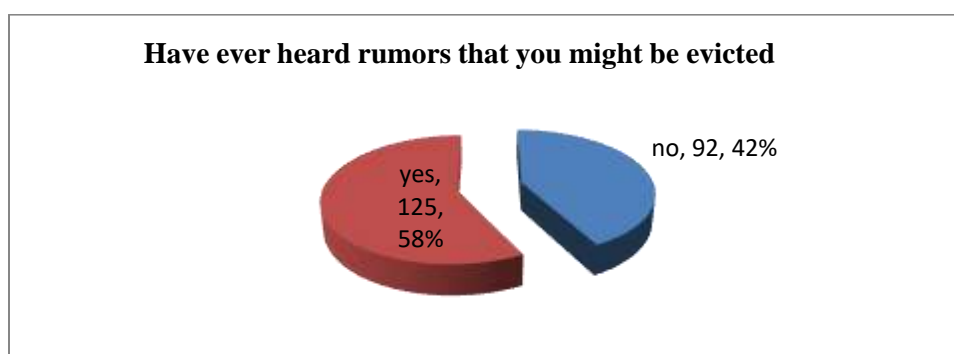


Figure 2: Have ever heard rumors that you might be evicted

Further, the respondents were asked to indicate whether they felt safe in their land. The results of the study are presented in figure 3. Results of the study indicated that majority 58% of the respondents said that they did not feel safe in their land. They indicated that they feared for land invasion by locals owing to the land problem in the region. The re-emergence of land invasions in Kilifi South Sub-County, have scared away investors. There is loss of lives in the event of land invasion.

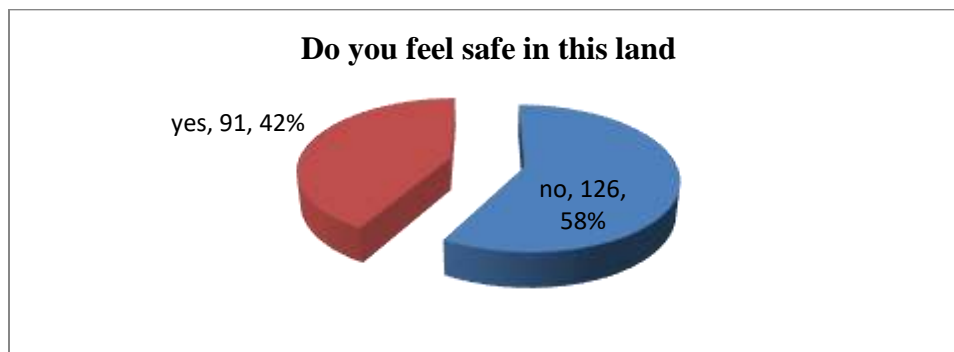


Figure 3: Do you feel safe in this land

When asked about the future of their families, majority of the respondents indicated that they weren't sure whether the land issue in the region will be solved and their families have a secure place to live. The squatters with their families feel unsafe for fear of evictions.

When asked what the government should do in order to stop invasion, the respondents indicated that there was need to formally allocate land to the genuine owners. The exercise must be followed by issuance of land titles. In Kilifi South Sub-County, it was estimated that 11.3 percent of the households in the county are landless. Many of these people are squatters on private land. This situation leads to invasion to available unoccupied land by residents to accommodate the growing populations. In an effort to address the situation, the government must address land problems by issuing title to original owners. Many people in the rural parts of the sub-county have no title deeds and they own the land communally. The results are in agreement with Syagga (2011) who conducted a study on public land, historical land injustices and the new Constitution and recommends the establishment of a Land Claims Tribunal to handle land restitution claims, including land repossession, in a clearly defined process.

The absence of title deeds and formal ownership of lands have led to the rise of land inversion cases in the region. Further, for those squatters with no land, the government must look for alternative pieces of land to allocate them. There was also a need to review land policies which according the respondents were skewed and only favored the elite and the rich. Finally, there was need to address land historical injustices. According to them, historical land injustices could be solved by implementing diligently the Ndung'u Report, the TJRC report and the National Land commission report on land.

Content analysis

In an interview with land administrators in Kilifi South Sub County, the land officers indicated that the government had undertaken several steps to reduce private land invasion menace in Kilifi South Sub County. It was established the government had embarked in reviewing boundaries to ensure that no one lives on another land. The government had also taken a step of issuing land titles deeds to genuine owners in order to reduce cases of private land invasion by outsiders. For those persons without land, the government was contemplating in looking for alternative pieces of land to issues squatters. The government through the Ministry of Lands was keen in implementing the Ndungu and the TJRC report in order to solve historical injustices that have surrounded land issue in the region.

By implementing land commission reports and reviewing land boundaries, the cases of private land invasion have reduced significantly. People in Kilifi South County were living harmoniously without fear of attacks from land invaders in the region. Cases of land grabbing by powerful politicians and business tycoons have reduced considerably. However, the government face myriad of challenges in curbing private land invasion menace in Kilifi South Sub County. The challenges include lack of political good will, inconsistent provisions; land records are still in the process of digitization. The workforce capacity is also lacking.

Another challenge is the conflicting records of land ownership in the land registration act (LRA). The Act gives the National Land Commission or the Cabinet Secretary power to make rules where applicable to ensure the better carrying out of the Act. The challenge with the provisions is that the LRA makes it easy for land to be registered in the names of private individuals. The repealed land laws made provisions protecting first registration, which is to the effect that a title deed makes one, an indefeasible owner despite historical injustices. There is however need to

reconcile the provisions of the Land Registration Act and the Land Act. Whereas it is possible to register land in the names of few private individuals, the Land Act has made provisions to transfer unutilized land to landless. The issue that would then arise is the issue of transferring land that is already registered.

Previously, the government bought land from private owners and in such instances negotiations were done with the private owners. The Land Act makes provisions for the role of the National Land Commission to implement settlement programmes and to provide access to land for shelter and livelihood. This is to be done on behalf of the national and county governments. The settlement programmes are supposed to provide access to land for landless among other things.

To curb private land invasion, the government must implement the land policies recommended in the Ndungu report and solve historical land injustices by implementing the TJRC report. Further, there should be the digitization of land records at the ministry of land offices across the county. Land records in Kilifi South Sub County have been over the years managed through paper-based systems, which are vulnerable to loss, wear and tear, compromise and poor usability. Consequently, land administration processes became inefficient, time consuming, unreliable, costly and ineffective. To address these challenges, the Government of Kenya through the County government of Kilifi must automate all land records and transactions by developing and deploying a land information management system founded on big data technology which is capable of holding vast and diverse data sets on land ownership and transactions. The decision to automate land records and transactions was in compliance with the provisions of the country's National Land Policy launched in 2009. The results agree with Atieno (2016) assessed the effectiveness of the national Land Commission in addressing irregular and illegal allocation of land in Kenya. Irregular and Illegal allocation of land is a major component of the land question in Kenya. The study found that there exists a Constitutional and legislative framework that is ill-prepared to curb illegal and irregular land allocations; lack of a critical mass of political goodwill and the obscure mandate of the National Land Commission; and, the capacity of the National Land Commission to investigate historical land injustices having been tied to Parliament's legislative discretion and political whims. It was recommended the establishment of a fund account for the National Land Commission as well as a raft of Constitutional and legislative amendments, not only to reinforce National Land Commission's institutional capacity

to address the problem, but also to expand its scope to cover the management of community land. It also recommended speedy digitization of land records.

5.1 CONCLUSIONS

The study concluded that cases of private land invasion in Kilifi South Sub County are still very high. It was concluded that several factors contribute to private land invasion in the region. The factors have been highlighted to include skewed land policies, historical injustices, landlessness, demand for fertile lands and population outgrowth. It was also concluded that land use and political incitement contribute to private land invasion in Kilifi South Sub County.

6.1 RECOMMENDATIONS

The study recommends the government must implement the land policies recommended in the Ndungu report and solve historical land injustices by implementing the TJRC report. There must be a sincere political goodwill to implement the recommendations of these reports in order to solve land issues in Kenya particularly in Kilifi South Sub County. The study also recommends the digitization of land records at the ministry of land offices across the county. Land records in Kilifi South Sub County have been over the years managed through paper-based systems, which are vulnerable to loss, wear and tear, compromise and poor usability. This way, there will be no double registration of land ownership by more than two persons. For this to happen, it will require the government through the Ministry of Lands, The County Government of Kilifi and the people within the area to sincerely come together and support the implementation of land policies suggested.

The study recommends that redistribution and resettlement programmes must be guided by a legal framework to ensure fairness and transparency. Underpinned by the concept of entitlement as its theoretical paradigm, this study examines the genesis of public land ownership and its disposition in the post-colonial era, how this has disadvantaged some sections of society and given rise to claims of historical land injustices. From this analysis, the study made proposals on how best to redress historical land injustices and disputed land allocations, as well as the institution of an effective National Land Commission as envisaged by the Constitution.

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