

## **Informal Land Dispossession: A pilot study in Kakamega County**

Dr Adelaide Lusambili<sup>1</sup>; Fr Dr Kizito Muchanga Lusambili<sup>2</sup> and  
Sabwa Felix Savai<sup>3</sup>

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### **ABSTRACT**

**Background:** Recent international research primarily focuses on how foreign investment has led to increased 'land grabbing'. Yet while foreign-funded land grabs are under increasing scrutiny in Kenya and other parts of the developing world, land accumulation by local elites remains largely unexplored. Reports of land grabs in Kenya have concentrated on exposing irregular and illegal mechanisms used to acquire public lands such as public land set aside for graveyards, school playgrounds, forests, road reserves, riparian land, undeveloped community land, among others.

**Aims:** To understand mechanisms and causes of informal land dispossessions

**Place of study:** Kakamega County

**Methodology:** A pilot study that used expert consultation panels with key informants and case studies.

**Findings:** The use of land as collateral for motorcycle transport (*boda boda*, locally referred to as *pikipiki*) business, elite accumulation and the need for land for emerging new universities are some of the mechanisms used, or that prepare the way for local elites to dispossess current owners of their lands. Indigenous people who owned ancestral lands and even those who inherited land are gradually losing their land tenure due to undocumented land ownership. In addition, family feuds over land, a lack of legal documentation of land during succession processes and corrupt dealings during lands adjudication processes on community land are some of the key causes of land dispossession. Those who cannot defend their parcels of land especially those without land titles end up as squatters, a state that has a negative impact on food security in the region.

**Conclusions:** The study's results underscore the urgent need for new government policies to secure indigenous people's livelihoods and land. The endemic nature of these risk factors further suggests the need for more research to inform the development of a land dispossession framework.

**Key words:** Land dispossession, Kakamega county, informal land grab, land loss.

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### **I. INTRODUCTION**

Global debate on land grabbing in Africa has concentrated on Western multinationals' role in the scramble for land in developing countries (World Bank, 2009; Barlow, 2008; Cotula, 2009; Anderlini, 2008). These land deals are for bio-fuel projects, agriculture, and food and energy security. In contrast, informal land grabs at the local level are generally ignored in global land debates. Infact, the disruption of local subsistence farming that supports the continent's burgeoning rural population have disastrous effects. Rather than producing more food for subsistence and export, foreign powers' acquisition of African land has increased food insecurity across the continent (McLure, 2009; Cotula, 2009).

Even more devastating to local rural economies is the fact that the move to large farms, whether internationally or indigenously owned, has forced large numbers of local subsistence smallholders off their ancestral lands (Katchika, 2010). Although the effects of this process on food security are not well documented, there are concerns that dispossessing African smallholders has exacerbated already poor agricultural conditions and put additional economic stress on the rural poor (Cotula *et al.*, 2009). According to an OXFAM report (Katchika, 2010), the new and increasingly widespread practice of land grabbing in Sub-Saharan Africa

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<sup>1</sup> Currently, Aga Khan University Centre in Women Health and Excellence. Current Email: Adelaide.Lusambili@aku.edu

<sup>2</sup> Masinde Muliro University – Email: kmuchanga@mmust.ac.ke

<sup>3</sup> Fremo Africa Consultancy Limited – Email: savaif.sabwa@gmail.com

frustrated attempts to meet Millennium Development Goals (MDGs) and now Social Development Goals (SDGs) for food security and avoid widespread hunger.

In stipulating the MDGs for food security and benchmarks to prevent hunger in Africa, the UN made no mention of how in developing countries, agricultural sustainability – both for subsistence and for cash crops – depends in large part on laws promulgated by urban elites. Agricultural disasters in sub-Saharan Africa are traditionally ascribed to natural agency such as climate change-induced drought or mismanagement, such as lack of functional political institutions or corruption (Edame, *et al.*, 2011; FAO, 2008; IFAD, 2008). Little attention has been paid to the effects of changing patterns of land tenure and use of food production.

In addition to the above issues, the epidemic of ‘land grabbing’ across the continent in recent years has been documented as a contributing factor to food insecurity among other socioeconomic negatives on a society. In this regard, development researchers such as Hall, (2011); Borras, *et al.*, (2011) have begun to focus on this epidemic’s causes and effects. There is need for research that sheds light on the context based informal mechanism of land dispossession that is emerging in rural Africa.

This research draws on sociological elitism theory. The theory of Elitism posits that, power in society is held by a minority, made up of individuals who excel (Bottomore, 1993; Mills, 1993). According to this theory, educated and powerful people join together to form a small, cohesive cadre that monopolises resources and rules the majority of the population (Schwartz, 1987; Mills, 1953).

## **II. RESEARCH SITE**

This research was conducted in Kakamega County, Western Kenya. The county covers an area of 3,033.8 km<sup>2</sup> and a population of approximately 1,660,651. Kakamega County is one of the poorest Counties in Kenya, despite having a wide range of natural resources such as forests, minerals, wetlands, and good agricultural soils (Miheho, 2014). Due to high population, the average land holding in the area is estimated to be 0.57ha. Most people in the County live on their ancestral property most of which is inherited from the parents. There is a long-standing tradition among the residents of Kakamega that ancestral land is divided among the male children (sons) with little consideration of the daughters in the family. This trend has seen the prevalence of patriarchal pattern in family/ancestral land ownership in the county. Emerging from this system of land acquisition and ownership is that very few families therefore follow up on the titling of the parcels of land that they receive as rites. In fact, as of 2012, it was estimated that less than 40% owned title deeds.

In Kakamega County, just like in many other parts of the developing world, the impact of Structural Adjustment Programmes (SAPS) in early eighties increased poverty and, in particular, feminisation of poverty (Parsitau, 2008; World Bank, 1994a). Structural Adjustment Programmes were introduced in the 1980s, forcing governments to reduce 50% of their formal workforce, who were mainly men. The County is the poorest in relative and absolute poverty (Miheho, 2014), in part due to the fact that land holdings are too small for any meaningful economic viability. With agriculture being the main economic activity, the reduced parcels of land that are owned per person can therefore only support subsistence production of food, which is hardly enough to last from one harvest season to another. What is even more detrimental is that cash crop farming in the area has been marred by corruption and poor returns.

## **III. METHODOLOGY**

Individual cases studies, in-depth interviews, and panel consultations with key informants were employed in various stages of the research. Data for this study was collected in three stages. Fieldwork were conducted in stage 1 and stage 2 between 2011 and 2013, while stage 3 involved conducting of interviews in the summer of 2017. Lack of adequate funding for the research was the reason for the long gap in completing the project. The initial small grant for stages 1 and 2 was awarded by the International Institute of Social Studies (IISS) to author 1. Since the research was incomplete, author 2 and author 3 privately funded stage 3 of the research in the summer of 2017.

Stage 1: Explored questions around land tenure and mechanism of land dispossession. It was made possible from the assistance by the local leaders - 15 key informants from across the county who were selected to participate in the study. The participants were recruited on the basis of their economic activities, gender, location and age as posited by Griffiths, *et al.*, (1993).

Step 2: Assisted by the local leaders, two consultative panels were held each consisting of 17 people drawn from community leaders, village political representatives, the church leaders and the Head of Households (HH). The purpose of the panel was to understand the issues around local land dispossession including mechanism, impact and ways they thought this could be improved.

Step 3: Three years after the initial interviews, a follow up study through two focus groups were conducted to substantiate the initial findings. This study also revealed a new agent of land loss: the emergence of new universities in the County and the local peoples’ traditions and customs. The study revealed that the move from traditional farming to mechanisation increased food insecurity.

#### IV. FINDINGS

Four main themes emerged regarding the chief causes and mechanism of informal land loss in Kakamega County. These were: [1] Poverty and the rise of Motorbike Transport [Boda Boda], [2] squatterisation and reverse rental markets, [3] the emergence of new universities and [4] the local residents' traditions. The move from traditional farming to commercialisation and use of modern technology was seen as a threat to food insecurity.

##### **1. Youth Unemployment, Poverty, Land-Use Policy, and the Rise of Motorbike (Boda Boda) Transport**

Data gathered by this study confirmed that Kakamega County suffers from unusually high rates of unemployment, especially among the youth resulting in extreme poverty for a large swathe of the County's population. It is also confirmed that the County's roads are poorly maintained and virtually impassable during the rainy season, and that it is expensive to travel by car. Given the state of the roads and residents' lack of money, many have turned to motorbikes as the cheapest and most accessible mode of transportation. Similarly, the poor state of road network in the County, increases the cost of repair and maintenance of the motorbikes (bodaboda) hence making local transport and servicing of autos to be expensive.

In addition, participants revealed that the cultivation of a small piece of land is often expensive and that farmers may not realise a profit for many months. Most informants reported that having a motorbike business yields higher, consistent and quicker returns, and that with these returns, the family could buy more land. The need for capital to fund a motorbike business caused a number of informants (unemployed youths) to sell their land-rights cheaply, below market value, or to pledge them as collateral, to obtain a motorbike. These transactions are conducted secretly between the seller and the buyer and hardly involve the local chiefs or family members. In part family members are left out to avoid complications and delays associated with involving third parties.

Interviews further revealed that, when land is disposed of in the form of collateral, the informant's motorbike business rarely makes enough money to pay for its value. In other cases, motorbikes were either stolen by other vendors or broke down before the yields required to repay the loan were realised. In the following instance, a local leader relates how he was involved as a mediator to settle an unresolved land rights incident:

I have cases where a middle-aged unemployed man who had inherited five acres of land sold it to some rich people from the capital (Nairobi) to buy 10 motorbikes to start a motorbike transport business chain. The land was sold without legal process, ... no witnesses, no proper documentation. After eight months the motorbikes broke down and some of his workers disappeared with three of the motorbikes. Now, there is a big problem. The people who bought the land cannot legally own it because the title deed still belongs to his deceased father, while the buyers have put a caveat (lien) on the land. This young man has been thrown out of the home and cannot use any part of the land unless this issue is resolved. (*Key Informant, Male Village Leader*)

In the following story, an 86-year-old woman narrates how her son used her land as a collateral for loan without her knowledge and the mental health implications this had on her.

My neighbour came and told me that there are people walking around my land. And then a tractor came to start ploughing. I don't understand English and, because the people who came were hostile, I went to the chief's place, and the chief came and talked to them and they said they had rented the land from my son. It was like a dream. So I called my son, who is doing business on the Uganda-Kenya border and he said not to worry. The next day the people returned and started ploughing the land. They said they had been given permission by son whom they had lend money to start business. I rushed to the chief to come and stop them. The chief called my son and his phone was off. The neighbours and the chief talked to these people who stopped ploughing and now they keep coming because they claim the land is theirs for 4 years.... I am always worried. I have sleepless nights. My husband was buried here and I am thinking what if I lose this land....and my son is nowhere... (*Female Interviewee, 86 years old*)

The above stories highlight the linkages between youth poverty and land loss.

##### **2. Squatterisation' and Reverse Rental Markets by the elites**

In this paper, 'squatting' is used to denote a process where farmers find themselves landless on their indigenous land after leasing their farms to either elites, local leaders, private companies, or informal associations. The process starts by farmers initially leasing a portion of the land either to obtain money to pay school fees for their children or to buy farm equipment. The lease is usually temporary with no legal documentation involved. In the following story, a female worker on a sugarcane plantation in the Mumias area

narrates how she is employed as a caretaker on her own land, but she has no power over it because it is under a lease for the next five years.

We have grown sugarcane on this land for many years. Nine years ago, the sugar company had problems and so we were not paid and the sugarcane that was due for harvesting was not harvested because there was an over-surplus. So we lost and watched the sugarcane get spoilt in the plantation. We had no money at all, and my husband decided to lease 6 of our 8 acres to a group of businessmen. This was helpful because the money we got, we paid school fees for our children and constructed a stone house. The businessmen grew sugarcane, which took around 18 months to mature, and by then we did not have money and my two children were going to university. So we leased one acre. Living expenses kept increasing – my sons' school fees plus other needs. Because we were desperate we asked the businessmen to loan us \$1000 to start a timber business. The business did not take off. We were in debt and could not pay them. So we leased the 6 acres again even before the first contract came to an end. It is our land, yes, but we don't own it until 2019 when the lease ends. We only take care of it... (Female Landowner/Worker, 46 years old)

Squatterising did not only happen with farmers in the cash crop producing zone, but also among small subsistence farmers. In a discussion during a panel consultation, participants noted the dire circumstances under which small farmers were finding themselves.

Some of the people lease land to the people from the city [elites] without an understanding that they are entering a lifetime of slavery on their own farms. The sad thing is that they use the money they are given in a month and then keep on leasing each piece of the land, and then they find that they have no land for many years which becomes a cause of conflicts... (Key informant, Male, 56 years old)

Participants also noted issues around land dispossession and feminisation of poverty among older widows. For example, it was reported that there were cases where older sons sold land belonging to their older mothers and grandmothers, who are semi-illiterate and lack knowledge on the transactions pertaining their land. In the following narrative, a local leader reveals how an 82-year-old widow almost became a squatter on her own land.

A widow, 82 years old, found herself at the brink of losing the land her husband had left her in 1974. Before her husband's death, he had left a written will that allowed her to have control over the whole estate, which contained tea bushes and a coffee plantation. She has seven sons and four daughters, all well-educated. Some of her sons took advantage of her lack of literacy and old age and began to share the land un-proportionally without the widow's consent. She only became aware of this when suddenly she realised that the whole estate was being fenced in small portions by her sons. Not knowing what to do in her old age, she went into depression... this was later solved by interventions from the community chief. (Key Informant, Widow, 82 years old).

This situation shows how the old, the widows and the illiterate can be vulnerable in land issues hence subject to manipulation by their own family members as well as to the elites. A widow whose home is near a forest reserve area reported an attempt to move her to another area to pave way for government projects.

My husband died in 1964 and left behind 10 acres of land. I could not change the title deed because the culture required that the land be transferred to my sons when they grow up. We lived on the land my husband left for me with my children and did not bother about the title deed as it was assumed that nobody would take a widow's land. In the early 1990s we were told by the local chief that this land had been set aside for a government project and we had to move out to a new place. The new place that was designated for us was small in size, it was not suitable for agriculture, and I did not know anyone in the neighbourhood. I decided that I was not going to move out as this land belongs to my husband. We went to the Ministry of Lands and we were told that the title deed for this land is in the government's name.... since then, we have not heard anything but I am always worried. (Key Informant, Widow, 82 years old)

### **3. Emergent of new Universities in Kakamega County**

The follow up study in stage 3 revealed that the emergence of newly established universities in the County required land for classrooms, offices, and student housing, as well as for the rise of related businesses, both formal and informal. Locals were therefore deprived of large tracts, so that many farmers were forced to rely on more remote and less productive lands. In Kakamega town, for instance, business entrepreneurs formed

partnerships and pooled their resources to buy out small businesses that were unable to compete in the market. Land around new universities appreciated in value and hence attracting the elites, who were wealthier and could offer landowners high prices and other incentives. This follow-up study demonstrated new factors underlying changing land-ownership patterns in Kakamega County.

#### **4. Residents' Traditions and Customs in Kakamega County**

Respondents for this study mentioned in passing the key traditions and customs among the Abaluhya that led to land dispossession. For example, killing or murdering someone amongst fellow clansmen or committing incest results into excommunication of the whole family. In this case the perpetrator and his family are forced to vacate their land.

According to Abaluhya culture, from long time ago, many people have lost their ancestral land. A person who killed a neighbour or a clansman. Or say committing incest was very costly to a whole family up to second generation. For such an act property is destroyed and the land that is left behind cannot be followed up by the family member of the alleged perpetrator. In most cases, the local elites, who have ready cash come to lure such vulnerable family members to have the land. I can tell you many families that were displaced because of a sin of one family member... (Key Informant, Male 87 years old).

These findings were substantiated by a female interviewee who lives around the Equatorial forest in Kakamega County.

... 20 years ago, land around the forest was free, my husband moved here when his brother killed their neighbour who had committing adultery with his wife. I was newly married by then... we never went back to our home because we were told we would be killed if we showed up. ...

#### **5. Land dispossession through mechanisation: a threat to food security**

Findings from the study revealed that the increase in informal land dispossession through uptake of mechanized cash crop in Kakamega County is associated with food insecurity. Sugarcane farming is a highly mechanized venture in the County that requires large tracks of land in order to realize efficiency. For this reason, very little land is left for food crops such as maize production, which is also the staple food for most residents of the county. Participants highlighted their frustration with the elites who are involved in mechanised farming.

The elites lure smallholder framers into disposing off their small parcels of land in order to migrate to new settlements. The subdivision of land to accommodate the growing population leads to families owning very small pieces of land, which can barely accommodate their shelter and a very small backyard, which can hardly be used for food production. This means that there is an increase in sugarcane production whereas the acreage for food production reduces marginally (*Focus Group 1*).

Equally, it was observed that in addition to mechanisation, the coming of agricultural based non-governmental organizations have introduced modern, yet 'destructive' methods of farming that are slowly amplifying the food insecurity in the County.

There is a local NGO by the name, *One Acre Fund* that operates in the region. The organization advises its member-farmers to use inert fertilizers, whose long term usage acidifies the soils. The organisation has advocated for artificial fertilizers that are fed directly to the plants, as opposed to the scientific recommendation of feeding the soil with relevant nutrients so that the plant can extract what it needs from the soil. Even though artificial fertilizers boost crop yields, this is only short term. The overconcentration of acids and other elements in the used fertilizers chock the soil hence reducing crop production over time (Consultative Panel In Lugari).

### **V. DISCUSSIONS AND CONCLUSIONS**

This exploratory study has looked at mechanisms for land dispossession in Kakamega County. The study has highlighted the local mechanism of land grabbing which is largely ignored in the international land grab literature that has predominantly focused on the international foreigners and corporations. Findings highlights the gaps on issues relating to security of tenure, in particular, how land is disposed in rural Kenya. Alongside security of tenure, findings highlight the link between illiteracy, gender and age. The findings also show a lack of meaningful or informed consultation by all the local stakeholders as, more often than not, landowners and local leaders are only informed when the deals go awry. Older widows may be victims of land loss through their elite sons and relatives, who may use the land for collateral or sell it without their knowledge. This revelation demonstrates how women's land rights are fragile in this context. As such, there is a need for the development of a land dispossession framework that is contextually tailored to the local people's needs.

Although findings from this research correlate with previous studies in Zimbabwe, Nigeria, Ethiopia, Tanzania and Mozambique (Cotula, *et al.*, 2009; Borrás, *et al.*, 2011; Ariyo, 2011), this research is limited in scope, and only provides a working idea to be developed further in future studies. More research should be explored on the link between land dispossession and poverty, mental health, traditions and food security. Findings from this study collaborate with Shimelles *et al.* (2009) study, - whose findings revealed that shortage of land, the structure of land tenure, the lack of proper land ownership as well as lack of improved agricultural technology and changing climatic conditions were increasing food insecurity in the County. These findings underscore the need for on-going research to identify changing patterns and trends. There is also a need for an academically rigorous data that speaks to the risks of elite dispossession for local farmers in Kakamega county, traditions and customs, gender dynamics and poverty, - under developed government.

Short as it is, while findings may suggest that land grabs by local elites could be significant in Kakamega county, more research is needed to explore this and compare it with other areas.

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