INVASION OF VACANT LANDS IN THE REALM OF URBAN DEVELOPMENT: A CASE STUDY OF THE KENYA COAST

Muhammad SWAZURI, Geoffrey NYAMASEGE, Tom CHAVANGI & Esterina DOKHE
National Land Commission, P. O. Box 44417 – 00100, Nairobi, KENYA

gnyamasege@gmail.com
www.landcommission.go.ke

Paper prepared for presentation at the “2017 WORLD BANK CONFERENCE ON LAND AND POVERTY”

©2017
Abstract

Many cities in Africa, by extension the developing world continue to experience pressures on urban land in the realm of urban development. As a result of this urban land administration has been rocked with colossal challenges. Kenya has witnessed a massive growth in its major towns/cities from the recent past. Populations have also increased both in the urban cities and counties with a total estimate of 26.4% urban population in the year 2016 as compared to 10.3% in 1970s. While this is a great urban development milestone achieved, it has brought new challenges to the cities – congestion, escalating costs of living and high crimes are just but a few problems encountered.

It is estimated that more than 250,000 Kenyans move into the cities every year. One of the World Bank’s fourth Economic Update titles “Turning Tide in Turbulent Times” argues that East Africa’s largest economy can benefit from demographic change and rapid urbanization, despite the pains it entails. One of those pains Kenya entails and the most critical issues is the invasion of land (public and private lands). This is resulting from problems of urban squatters, increasing populations and land grabbers.

A clear outstanding mark of urban land conflicts is confronting the authorities! The problem presented is complex. 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 study focused on the invasion of vacant lands in the realm of urban development in the Kenyan Coastal region. We have found in this study that Invasion of vacant lands is a huge and complex problem. It involves individuals and groups of individuals or communities, sometimes fueled by politicians. The NLC has been given powers by the constitution of Kenya and the Land Act Section 160(2) to deal with this issue. The Commission’s efforts are increasingly having positive impact on the problem.

Keywords: Squatters, Land grabbing, Vacant Lands, Urban Development, Rural-Urban Migration, Settlement, Squatters, Corruption, Conflict
1.0 Introduction

1.1 The Land Question in Africa

Land is a very unique resource for socio-economic and cultural development. Land is equally a key driver to conflict. This valuable resource is increasingly acknowledged as a critical factor to the attainment of secure land tenure rights, development, peacemaking and peace building.

The land question in Africa has been in the timeline over the years. The land question in Africa has been attributed to the lack of post-colonial African states’ focus to implementing reforms in
the land sector as a result of imbalances caused from the colonial rule. It was believed then that, such reforms would address the injustices caused by the colonial regimes in Africa on Land administration.

Largely, the Land question in Africa is widely theorized in terms of inequalities relating to ownership of, access to and control over land in the rural setup, leading to issues of social justice and equity (Moyo, 2004). By extension in their writings, (Moyo, 2004: Obala & Mattingly, 2014) argued that in Africa land access and ownership much as its skewed and unequal in most urban areas, its silent and largely not spoken about. Mafeje, (2003), agrees with Obata by laying an emphasis that there are specific countries where rural areas are affected, especially those with large numbers of white settlers, Mafeje’s study cited those countries such as Kenya, Algeria, Zimbabwe, Namibia and South Africa to be included in this category. In these countries, the squatter problem is not only rural-based issue but, by extension, also an urban problem.

Just like the rest of Africa, the land question lingers in Kenya. It has remained at the centre of the country’s socio-economic and political development. The land question dates back to the 1900s during the colonial underpinnings and the post-Independence Kenya. Moreover, both the Njonjo Commission and the National Land Policy of 2009 trace the genesis of the land question from the colonial times when the objective was 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.

Kenya’s economy is largely land-based and, therefore, the issues of tenure, access, distribution and regulation are critical in matters land. In addition, land is also attached to the administrative and political control of the economy. In view of the above, Kenya is heavily dependent on agriculture for its wellbeing and livelihood. Through land struggles, Kenya gained its independent and became a sovereign state (Kameri-Mbote, 2009).
However, there were fears that the land related conflicts may arise between the larger and popular groups and create divisions. All these concerns brought in issues of handling land in Kenya. Due to pre and post-independence, the issue of historical land injustices worsened the situation of land and made it a complicated issue that needed to be addressed as reported in the past decades. The land issue has resonated in the form of uncontrolled urban development, increased rural-urban migration, squatting, land grabbing, corruption and social conflicts.

1.2 The Problem Statement

The coastal region of Kenya covers an area that was colonized by Arabs, Portuguese, Germans and the British in that sequence. As a result of these rulers, several land tenure regimes combined with local traditional land management customs and traditions resulted into:

- Large parcels of land alienated to the rulers and their subjects
- All prime land being allocated to the same
- Local indigenous people left homeless and without titles for those few who were allocated
- The locals were confined to hinterland of the coastal area, which is largely dry and unfit for arable farming.

In the recent past, especially after the enactment of the new Constitution 2010, a trend has increasingly emerged, where groups of persons and communities invade any private or public land for settlement and farming. Ironically, these invasions selectively leave out or avoid community land parcels. They usually target large private lands whether in urban or rural areas and public lands that are either vacant or underutilized or not fenced. At times, the invaders are so bold as to enter into, occupy and threaten to evict seating land owners. The overall results has been overwhelming: legal land owners are being prevented from enjoying their lands, properties worth millions of shillings are being destroyed, skirmishes between invaders and the owners and the police are the order of the day and the NLC, together with
the county and national administrators, have been kept unnecessarily busy trying to ward-off and evict the invaders.

1.3 The Mandate of the National Land Commission

We shall restrict the discussion to the relevant mandate related to the subject at hand. Research in land matters plays a pivotal role in the land reform process as envisaged under Article 67(1:d) where the NLC must ‘conduct research related to land and the use of natural resources and make recommendations to appropriate authorities to inform advocacy and policy. The Commission is the body charged with the responsibility of efficient and effective management of public land on behalf of National and County governments under Article 67(1) and Article 62(2) of the constitution, the Land Registration Act, and the National Land Commission Act, 2012. In the Land Act of 2012, the Commission is required to identify, prepare and keep a database of all public land, and it’s assumed that this data will be constantly up-dated. Therefore, it is imperative to carry out research on public land¹, with a view to understanding how much public land is available in the counties and the country at large and to identify what percentage of public land has been invaded by the squatters in the country.

Section 160(2) of the Land Act states that without prejudice to the foregoing, the National Land Commission shall have the powers to make regulations;

(a) To secure the land rights of the minority communities to individually or collectively access and use land and land based resources following an inventory of the existing minority communities to obtain a clear assessment of their status and land rights

(b) To prevent and manage land based disasters and to provide for settlement in the event of natural disasters.

(c) To establish, plan and manage refugee camps

¹ National Land Commission Act 2012)
(d) To deal with issues that arise from internal displacement of persons and provide for the settlement of the internally displaced persons; and

(e) With respect to squatters—

- To establish appropriate mechanisms for their removal from unsuitable land and their settlement
- To facilitate negotiation between private owners and squatters in cases of squatter settlements found on private land;

**Figure 2: Title in land (Source: The Standard Group)**

- To transfer unutilized land and land belonging to absentee land owners to squatters; and
- To facilitate the regularization of existing squatter settlements found on public and community land for purposes of upgrading or development.
1.4 Overall Objective

The main purpose of this study was drawn from the problem statement, which was to evaluate the invasion of unoccupied/vacant lands in the realm of urban development in the coastal region of Kenya. The specific Objectives included:

- To assess the status of land and percentage of land invaded in the coastal region
- To investigate the causes and factors of land invasions in the coastal region
- To determine the impact of land invasions on urban development

2.0 Literature Review

Before the coming of the British colony, the land use patterns in Kenya were intertwined in such ways of making a living from the land, the lakes, and the sea. Small scale farmers, pastoralists, and hunter-gatherers occupied lands over which they had control over. The population during that time was relatively small as compared to the current situations where land is scarce. Back then, butter trade, cattle rustling and shared uses of land and natural resources for agriculture meant a lot of give-and-take between different groups in Africa. In this regards, the introduction of the British system both administrative and legislative including their governance system and
policies distorted their land use planning. This has led to increased demand for land (Michigan State University, n.d.).

2.1 Urban Land and Development

Land around the world is an important resource but more essentially in African Countries because prosperity is entirely dependent on how land is utilized by every society. This is because land is a key primary factor of production in Kenya but yet scary! Thus, management of this resource is critical to the stability and development in the country. If poorly managed, there would be instability, no development!

Like the rest of Africa, Kenya’s urban land is acutely contested! It has been indicated elsewhere that there are regular land occupations in urban centres. Some of the occupations, over the years have taken the form of encroachments to public utilities and private properties. Notably, other encroachments have taken the form of political acts. This scenario presents a view that Land access and ownership in urbans areas is largely skewed. With huge population migrating into the urban sett-up, everyone wants space to settle, as more and more people are in towns and cities across the country to seek opportunities in towns and cities to better their livelihood. These individuals end up being excluded because of the high cost of urban land and the lop-sided in land ownership. Significantly, there is a growing concentration of land in the urban centres, unlike in the upcountry. Nevertheless, it is witnessed that every opportunity present an opening for one to struggle to gain and or regain control over land (Mkele, Mcanda, Mkele, & others, 2015). As such, the high population in urban increases demand for land intensifies and it becomes scarce resource leading to communal conflicts and disputes.

However, the only demand for land realm of development has on one hand helped shape the urban economy. Economic growth in urban centres has been hampered greatly due to recurrent conflicts and land disputes related to land. This has caused insecurity, and as a result, investors have shied away from investing in volatile urban areas. Hence, land tenure and shelter both in the urban and rural areas have become rather insecure even for the ordinary citizens. Again,
there has been reported of unclear property rights including insecurities have become pertinent situations that has presented single most major obstacles to development (Daily Nation, 2015).

Continued increasingly demand for the lands in the urban has shifted the assumption that the Land question is no longer a rural matter, but rather an urban matter as well which greatly affects urban development. If the key element of the land question in Africa is about inequality and injustice in the way land is distributed, accessed, owned and controlled, then the land question cannot be restricted to the country side only (Chitonge & Mfune, 2015). This aspect has put to focus that the urban land is a complex and emotive issue. Population growth, market development, land use planning, have mounted pressure and competition for scarce land resources in cities and major towns.

Nevertheless, land in Kenya is greatly valued regardless of its scarcity in most regions of the country. It lies at the heart of social, political and economic life of the people of Kenya whereby agriculture, and land based activities are fundamental to their livelihoods. As a result, the country provides rich ground for exploring both rural and urban land for development besides exploring conflict, ethnicity and corruption nexus. The country has been experiencing high rates of urbanization due to increased population as well as rural and urban migration. It’s reported that the country is developing fast amidst increasing poverty (Olima and Kreibich, 2002), setting the stage for competition for the available resources and in particular in this case urban resources. Already Corruption and ethnically tinged violent conflict in its land sector has become notorious. Corruption dealings has been witnessed in the upcountry where communities are experiencing problems of competing for the little land resources. This in return has continued to attract ethnically tinged violent conflicts in its land sector. The history of Kenya documents this continued historical injustices over the years. It’s important to note that at one time this, was not a major issue because the populations were very small and as such land seemed almost inexhaustible. This has changed with increased competition for land resources, and urbanization (Obala & Mattingly, 2014).
Key to urban development is urban planning. This is important because, planning urban centres is key for development. Another justification as to why there are many cases of land invasions. The poor planning cities and urban centres would aggravate in the future causing poor development yet giving sufficient grounds for invasions to thrive. Therefore understanding the history of land and planning in urban centres for development cannot be ignored. Its development would help in understanding approaches to land administration in urban centres in the realm of development. This would be an opportune moment to control and prevent land invasions.

The history of skewed development and injustice will be forever present and, although often painful and emotive, inaugurated during the advent of colonialism in sub-saharan Africa, the consequences of this history was further complicated by the policies of the newly independent countries. Such policies encouraged nationalization of land, others allocated huge chunks of land for private ownership making it difficult for other members of the society and communities to access land to improve their livelihoods as family size increased over time. Currently, the situation has been complicated yet again, by land fragmentation and invasions in the urban centres. All these difficulties must be addressed head on – including who is considered an urban resident, how plans and decisions are made, and for whom. Clearly strong political leadership will be needed to address, in an honest and nuanced manner, land politics and its influence on the broader politics around cities and towns. It’s critical to note that conversations on land and land related activities in cities and major towns has not yet been given priority. Even agencies that deals with land related matters have neglected the urban conversation related to land, giving room for corrupt deals and land grabbing, as well as illegal and unstructured land use planning. It’s then believed that such acts would be detrimental to the protection of land rights (Mkele et al., 2015).

With the high rate of population growth and urbanization in Kenya, the country is expected to experience an unparalleled rural-urban transformation, and unparalled land invasions for investments and development purposes, as long as land injustice is not amicably addressed. It has been indicated elsewhere that this kind of transformations will significantly impact the way
people live, work, socialize and do business. Further rapid urban growth is expected to increase the urbanization level from the current 34% to 50% by 2030. This urban transition is likely to present enormous social and economic opportunities as well as significant challenges. It is anticipated that urbanization will bring about agglomeration and socio-economic benefits that will spur economic growth and reduce poverty. However, urbanization may also pose governance, infrastructure, housing, environmental and resource challenges that may hamper progress and development. In view of this, clear polices and legislative frameworks would help control urbanization, put mechanisms for land use planning, and prevent urban land invasions.

Further to the above sentiments, Kenya has witnessed a massive growth in its major towns/ cities from the recent past. Populations have also increased both in the urban centres and counties with a total estimate of 26.4% urban population in the year 2016 as compared to 10.3% in 1970s. While this is a great urban development milestone achieved, it has brought new challenges to the cities – congestions, escalating costs of living and high crimes are just but a few problems encountered. All these achievements with the realization of high urbanization, it is estimated that more than 250,000 Kenyans move into the cities every year. One of the World Bank’s fourth Economic Update titles “Turning Tide in Turbulent Times” argues that East Africa’s largest economy can benefit from demographic change and rapid urbanization, despite the pains it entails.

One of those pains Kenya entails and the most critical issues is the invasion of public and private lands, as discussed herein. This is resulting from problems of urban squatters, increasing populations and land grabbers. The importance of urban development in today’s socio-economic development cannot be disputed. This is simply because the country is rapidly urbanizing besides the fact that Kenya is still predominantly rural. With this in mind, these developments have seen thousands of people migrating from rural to urban areas, especially in urbanized areas. Largely due to unparalleled population growth, it looks like people have abandoned upcountry living for better offer or promised better life in the cities. They have termed it as economically stricken countryside where poverty is rampant. As such, the problem presented is far complex. Here is the danger; on one hand, majority of these people have invaded public utilities and private
properties without having any lawful right to be on the land they occupy. Some of the research done state that the result has been that a variety of types of squatters have grown up on vacant lands in the central areas and on the outskirts of major cities. Any attempts to evict them from those lands they occupy has complicated land ownership and brought serious issues in urban development due forcible resistance. On another hand, there comes an isolated situations of land-grabbing by individuals and private developers– lawless individuals. Unlike the squatter situations which are as a result of social movements based on legitimate needs for settlements, land grabbers are mostly the rich groups and or individuals members of the society.

It’s important to note that most urban squatting and land grabbing mostly takes place on public land. A classic example is the land in the Kenyan coast. Squatting and land grabbing in this region is highly reported and contested. The few pieces of land have been reserved for public purposes. Invasion into these lands in the realms of urban development is of great concern, mostly tied to the history of colonization and separation of the coastal region by Arabs, Portuguese and the British.

3.0 Study Methodology

This section presented the study areas, sampling procedures, target groups, data collection methods, and data analysis and interpretation.

3.1 Study Areas

The study was undertaken in two counties namely Mombasa and Kilifi Counties. Mombasa County was chosen because it is one of the oldest cities while Kilifi County is the proposed resort city under the flagship of Vision 2030. The two counties were chosen to give a general picture of the extent of land invasion in the coastal region of Kenya. This region is constituted by 6 counties namely Mombasa, Kwale, Tana River, Taita Taveta, Kilifi and Lamu under the Constitution of Kenya, 2010.

Generally the coastal region is situated in the south of equator; it covers a distance by air of some 450 km. The actual length of the sea front of the region is around 600 km and extensive
mangroves and coral reefs with near-shore Islands in the far south. Some of the unique features are Mombasa Island straddles a creek System with natural harbours on both sides. Kilifi County lies northwards with deep water creeks of Mtwapa and shallow mida creek. On the other hand, lies Malindi sub-county in Kilifi County, halfway up the coast along Ungwana Bay, landscape and habitation of the Northern Coast. The region is known for long and sandy beaches and the narrow coastal plains which widens and extends far inland (Foeken, Hoorweg, & Obudho, 2000).

(Map adapted and modified from Aura et al., 2016).

Coast region, like other urban centres in the country, has experienced drastic spatial and population growth over the years. Rural – urban and urban – urban migration have sustained this growth. The population census of 2009 indicated that the regions accounts for 3,369,889 people. Despite the fairly relatively small proportion of the population that is urbanized in the coastal
region, it’s noted that the proliferation of the informal land markets, land grabbing, corruption, ethnicity, land speculation among other land related conflicts have continued to intensify over the year.

Fig. Coastal of Kenya, Marine

3.2 Target Groups

The target groups for this study were both primary (Community) and secondary (Land administrators) stakeholders. The study focused on the squatters within the aforementioned counties while the target professionals include, Planners, Valuers, adjudication and Settlement professionals, surveyors, registrars, Land Administrators within the area of study.

3.3 Research Ethics

The researchers applied high standards of ethics when conducting focus group discussions and during questionnaire preparations. The questionnaires and interviews were structured in a way that were not offensive and the researchers had an informed consent from the community representatives. In addition, the researchers gave explanations of the context of the study and their responses which was treated with confidentially.
3.4 Sampling

Purposive samplings technique was adopted in this study for the quick survey and was administered to the land administrators in the two Counties both from the Commission, Ministry of lands and the County Governments. They were invited to complete the survey based on their expertise and knowledge to give a general picture about the land invasions in the coastal region. Similarly, the communities interviewed were chosen randomly by the NLC County Coordinators of the two counties. A total number of 9 focus groups were interviewed (Mombasa County - 6 groups and Kilifi County – 3 groups).

3.5 Data Collection Methods

The study applied a qualitative research approach to be able to get in-depth information from the professionals and communities by using open-ended questionnaires for the professionals and used interviews guide for the communities.

3.6 Data Analysis and Interpretation Methodology

The data was analyzed using SPSS. Qualitative techniques were also applied during data analysis. The data was interpreted using tables. A total of 25 questionnaires were distributed to the land experts and a total of 22 questionnaires were filled and returned. All the 9 focus groups were interviewed. Thus, the high rate of respondents from the expertise and the communities was at 88% and 100% respectively. This shows the highest level of confidences in these results.

4.0 Study Findings

Age of the community members and work experience was used to investigate if the group in the sample had rich knowledge on the issue of land invasion in these areas. Those who were interviewed are the surveyors, land administrators, land economists, Valuers, planners land Registrars, adjudication and settlement officers. Majority of the respondents from the land sector had rich and high level of experience in the matters land invasion.
On the other hand, the researchers wanted to establish if those respondents from the community had knowledge on the same by stating their age brackets during the group discussions. The majority of the respondents were at the age bracket 61-70, 41-50 and 51-60 in that order, meaning that invaders who enter other peoples’ land are those above 40 years of age. This shows that these people were borne elsewhere and only migrated to the targeted lands as adults. Further scrutiny of the invaders through their national identity cards revealed that almost 85% of them were borne outside the areas they invaded. Those of ages lower than 40 years were found to be off-springs’ of the older invaders, and even majority of these were borne in the regions of origin of their parents. This depicts that these group are at the old age and they have valuable information. Table 1 and 2 below highlights the experiences and ages of the participants.

**Table 1: Years of Experience in the land sector**

<table>
<thead>
<tr>
<th>Experience</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 5 years</td>
<td>4</td>
<td>18.2</td>
<td>18.2</td>
<td>18.2</td>
</tr>
<tr>
<td>6-10 years</td>
<td>2</td>
<td>9.1</td>
<td>9.1</td>
<td>27.3</td>
</tr>
<tr>
<td>11-15 years</td>
<td>4</td>
<td>18.2</td>
<td>18.2</td>
<td>45.5</td>
</tr>
<tr>
<td>16-20 years</td>
<td>4</td>
<td>18.2</td>
<td>18.2</td>
<td>63.6</td>
</tr>
<tr>
<td>21-25 years</td>
<td>2</td>
<td>9.1</td>
<td>9.1</td>
<td>72.7</td>
</tr>
<tr>
<td>26-30 years</td>
<td>4</td>
<td>18.2</td>
<td>18.2</td>
<td>90.9</td>
</tr>
<tr>
<td>Over 31 years</td>
<td>2</td>
<td>9.1</td>
<td>9.1</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>22</td>
<td>100.0</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

**Table 2: Age of the Participants**

<table>
<thead>
<tr>
<th>Age</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>31-40</td>
<td>4</td>
<td>12.5</td>
<td>12.5</td>
<td>12.5</td>
</tr>
<tr>
<td>41-50</td>
<td>10</td>
<td>31.3</td>
<td>31.3</td>
<td>43.8</td>
</tr>
<tr>
<td>51-60</td>
<td>6</td>
<td>18.8</td>
<td>18.8</td>
<td>62.5</td>
</tr>
<tr>
<td>61-70</td>
<td>11</td>
<td>34.4</td>
<td>34.4</td>
<td>96.9</td>
</tr>
<tr>
<td>71</td>
<td>1</td>
<td>3.1</td>
<td>3.1</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>32</td>
<td>100.0</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>
4.1 Status of public land and the percentage of invaded land in Mombasa and Kilifi Counties

The status of public land as well as the percentage of land invaded by squatters in the two aforementioned counties is not known with certainty. The overall response to this question shows that public land has not been audited and research on how much land has been invaded has not been done yet. This is due to insufficient funds for the Commission to audit all the public land in the country. Despite this, it was clear from the study that in Mombasa County, there were many illegally and irregularly acquired lands, and that public land is the most vulnerable, owing to lack of fencing. Invaders almost exclusively targeted public land (70%) and only 30% of private land. Public land targets mainly belonged to parastatals, national ministries and the local county governments. Private lands occupied are those of absentee landlords, those of a large size of more than 20 acres, parcels located in hilly or stony environments and those parcels that are embroiled in prolonged court cases.

In Kilifi County invaders concentrate on large parcels of private land, whether occupied or vacant and any public vacant lands on the grounds of ancestral rights.

Fig. Some of the possible areas of invasion
4.2 Causes of land Invasion in the coastal region

In this study, the researchers distinguished between causes and factors. They termed the causes as the root cause/problem of the land invasions while factors as the problems that led to the continuity of the land invasions.

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. This findings confirmed why 8 out 9 focus groups raised issues of historical injustices during the interviews.

4.3 Contributory factors that lead to the continuation of land invasions

The respondents were asked about contributory factors that lead to the continuation of land invasion in the two counties. All the respondents indicated the following as some of the factors that led to land invasions:

- Cultural factors; the belief that the land in question is their own ancestral land therefore being the rightful owners.
- The fact that those land are vacant/unoccupied and the issue of absentee land lords
- The assumption and beliefs there was no justice during the land allocation
- Poverty levels as a result of historical land injustices
- Lack of information on land laws by the indigenous people
- Scarcity of land due to population growth over the years to community who have increased in numbers
• Land which remain undeveloped by the owners who have title deeds, thus tempting the landless to invade
• High Land value - Value of land has escalated over the years because there mechanism from the government to control price on land or land related activities.
• High Illiteracy levels
• Ignorance of law – lack of respect to land laws and sanctity of titles
• Tribalism and influence from leaders
• Professional squatters, these are people invading land so that they can get and sell
• Poor land management (Public and community land not audited)
• Lack of ownership documentation by the locals and whilst the fact that outsiders have land documents.
• High standard of living thus attempt by people to sell some plots to uplift standard of living
• Land used a campaign tools
• Corruption
Fig. Kilifi, possible areas of invasion

On squatters and or land invaders, the respondents were asked the question: “who are the common land invaders?” The study revealed the following key findings from the professionals in the land sector:

- Organized groups of squatters
- Locals who are the Mijikenda
- Indigenous people
- Private developers
- Leaders who use power to snatch land from the community
- Professional squatters - The local residents who get land elsewhere and sell then proceed to squad on other people’s land
• People from up country

A further similar question was posed to the focus group discussions with a view to understand their take in regards to who in their opinion are the squatters/land invaders. According to them, squatters are private developers and leaders who use power to snatch land from the community. The findings here are more or less same to those findings revealed from the land professionals. However, the results from the findings implies then that, on the part of the communities (squatters) the term squatters is misplaced because they are the really owners of the land. As such, they are just mere victims of circumstances.

4.4 Challenges faced by the Land Administrators

On the challenges land administrators face as they carried out their duties. The respondents were asked the question: “What are the key challenges faced by land administrators in ensuring effective and efficient management of land in the coastal region?” The following are some of the comments provided:

• How to solve many the issues on Historical land injustices
• Increase Land disputes
• Invasion of land
• Private developers destroying the houses for the community;
• Paper based land information system
• Lack of resources
• Unclear land laws
• The indigenous/local are hostile
• Lack of information from the indigenous people
• Determination given out, then still the invaders are still on said parcel deny fully right of ownership to the ownership to the owner
• Type of land tenure
4.5 Challenges faced by the Squatters

A further question for the focus groups on what key challenges they faced/continue to face, the findings of the study revealed the following comments from the squatters/invaders:

- We are afraid of eviction because the title deeds are not in our names
- Political interferences—during election time. The government promises to bring solution
- Courts Cases
- High level of Corruption in the land sector

4.6 The Impact of Land Invasions

In a bid to solicit information from the land experts on their views on the impacts of land invasions in regards to urbanization, the respondents were asked the question: “What is the impact of these invasions on the realm of urban development and investments?” The responses were as follows:

- Compromise controlled development
- To some extent they hinder development and investment
- Lack of development on the area
- Poverty levels keep escalating over the years within squatters because people are denied the right ownership
- Increase in Insecurity issues and raised of informal settlement within these areas
- Scare away investors
- Poor planning as the squatters don’t allow anybody in planning—land administrators to enter the land
- Wastage of natural resources i.e. resources not utilized.
- The investors have no confidence in land

On the part of the communities (focus groups), the results from survey revealed a vicious cycle of poverty as the major impact of land invasions. All the nine focus groups alluded to poverty.
However, in regards to this question, All the respondent from the community mentioned that the National Land Commission has continued to intervene in their circumstances by writing to the absentee landlords not evict them as an amicable solution is reached.

4.7 Respondents’ comments and suggestions

The respondents were asked to provide additional information /comments that would help in addressing their grievances on land and land related activities. The following are some of the comments provided:

- If historical land injustices would be addressed, then minimal land invasions would be experienced
- All public land be located, identified. Implementation and facilitation of digital land information system for effective management of land.
- Ensure all the land is registered
- Sanitize local communities on the effects of land invasions
- The government should help in reducing poverty in coastal region
- Sensitization and awareness on land matters
- Consultation and involvement of the concerned peoples/parties
- Initiate settlement schemes programmes to the landless people
- Make sure all the communities are settled and issued with title deeds for the land
- Re-check all title deeds claimed to be acquired through fraud
- Sensitization on land laws
- Identification of all settlement schemes
- A good working relationship within the land stakeholders
- Less politics in matters land
- Demarcate and survey all community and public land
- The government must give them what belong to them
It is important to note that, the group argued that no member of the Mijikenda have title deeds in their names expert the politicians and the rich people in the society. In addition, the members felt that the government favoured the foreigners instead of its own citizens. This shows that the government and agencies tasked with the management of land have a responsibility of ensuring that the publics are empowered on matters land and land related activities. The government particularly has a role of ensuring that the land rights of the people of Kenya are adhered to. In reality, however, the NLC found out that land in the ten-miles coastal strip has all but been titled, although not all land owners have collected their titles from respective land registries. By August 2013, there were over 120,000 uncollected title deeds to land parcels in the coastal strip alone.

5.0 Conclusion and Way forward

It’s clear from the study that the land question is no longer a rural concern. It’s right in the urban centres as well. It has become a complex issue to handle without proper mechanisms and frameworks in place. With the ever increasing rural-urban immigration, the demand for land has gone up and it’s expected to rise even further!

The study found out that, largely invasions take place in idle lands where there are absentee landlords a situation that complicates land issues.

The study also found out that, the poor are constantly victims of the circumstances, on one hand, the desperate poor in urban setups, have no choice than to grab idle lands for their livelihoods. They end up squatting on land that belongs to individuals they have never seen. On another hand, the poor get used by the wealthy individuals to grab idle lands on their behalf and or alongside them. The wealthy individuals allocate themselves huge chunks of lands again living the poor vulnerable. The outcome in these cases, leads to the establishment of development investments by well-off individuals. On the contrary for the part of the poor, clear formation and growth of informal settlements and markets on the invaded idle land becomes evident.

In view of this and going forward, the National Land Commission strongly recommend:-
1) Strengthening the devolved government structures to enable land development to be undertaken in all the areas as a way of slowing down rural-urban migration and urban land invasions

2) The NLC has published guidelines and mechanisms for land use planning throughout the country in partnership with county governments. This will eventually lead to proper land development whereby reducing the affinity for land invasion.

3) Full implementation of the constitution of Kenya and the relevant land laws, especially those sections or Articles on dialogue between squatters and land owners.

4) Setting aside alternative land for settlement of squatters.

5) Convincing invaders to purchase the land they have occupied.

6) Eviction of the invaders with the collaboration and assistance of national and county governments.

7) Repatriation of invaders through their origins.
Fig: NLC Collaboration with County governments
Reference


