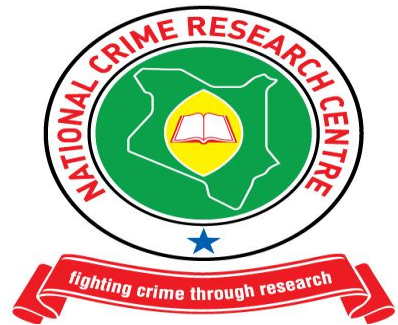


## NATIONAL CRIME RESEARCH CENTRE



## SITUATIONAL ANALYSIS OF LAND RELATED CRIMES IN KENYA



**Dickson Gitonga Njiru**

**Joash Rono**

# **NATIONAL CRIME RESEARCH CENTRE**



## **SITUATIONAL ANALYSIS OF LAND RELATED CRIMES IN KENYA**

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## OPERATIONAL DEFINATION OF TERMS

**Land:** Refers to the earth surface with all its natural resources excluding the atmosphere

**Co-tenancy:** means the ownership of land by two or more persons in undivided shares and includes joint tenancy or tenancy in common;

**Customary land:** means private land on which one or more members of the family have customary rights of ownership;

**Customary land rights:** refer to rights conferred by or derived from Kenyan customary law whether formally recognized by legislation or not

**Development :** means the carrying out of any building operation, engineering operation, farming activities or mining operation in, on, under or over land or the making of any change of a substantial nature in the use of land;

**Disposition:** means any sale, charge, transfer, grant, partition, exchange, lease, assignment, surrender, or disclaimer and includes the disclaimer or the creation of an easement, a usufructuary right, or other servitude or any other interest in a land or a lease and any other act by the owner of land or under a lease where the owner's rights over that land or lease are affected or an agreement to undertake any of the dispositions

## **ABBREVIATIONS AND ACRONYMS**

ADC:	Agricultural Development Corporation.
DNA:	Daily Nation Newspaper.
NCRC:	National Crime Research Centre.
NLC:	National Land Commission
TJRC:	Truth Justice and Reconciliation Commission
DFID:	Department for International Development (UK)



# CHAPTER ONE: INTRODUCTION

## 1.1 Background to the Study

### 1.1.1 Overview of Land Conflicts and Related Crimes

Land resource is critical in global human development and it is an important means for the economic life of a majority of people in Kenya. The land question remains high on Kenya's social, economic and political agendas.<sup>1</sup> Economists define land as a necessary factor of production upon which other constructive processes take place. It refers to the water body, forests, mineral resources under earth crust (surface) and the atmosphere. The way people handle and use land resource is decisive for their social and economic well-being as well as for the sustained quality of land resources. However, land use is not only a realm of those directly using it; it is exposed to part of the wider reality of social and economic development and change.<sup>2</sup>

Globally, land conflicts in various communities occur in many forms and these include: conflicts that occur between single parties in the society, for example boundary conflicts between neighbors; inheritance conflicts between siblings and disputes over the use of a given piece of land and which are comparably easy to solve; and those conflicts that include several parties such as group invasions or evictions of entire settlements which are more difficult to deal with.<sup>3</sup> In many countries, indigenous people have been dispossessed or their lives put at risk of being dispossessed due to either failure to recognize their rights to land or invalidation of those rights by the state, or through expropriation or privatization of their lands by the state. But by far, the most complex land conflicts are those that include corrupt land administration and state capture.

All land conflicts, no matter how peaceful or violent they are, produce negative consequences for individual people as well as for the entire society. Many families across the world have seen their shelters and their homes being bulldozed out of existence. Ownership wrangles during selling of land have been witnessed in many parts of Africa. Whenever there is a land conflict, someone suffers economic consequences. Moreover, in extreme but not rare situations, people find

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<sup>1</sup> Denninger K, Seleod H and Burns A, (2012), The Land Governance assessment Framework: Identifying and Monitoring Good Practice in the Land Sector, The world Bank

<sup>2</sup> National Land Use Policy [www.ardhi.go.ke/wp-content/.../06/Draft-National-Land-Use-Policy-May-2016.pdf](http://www.ardhi.go.ke/wp-content/.../06/Draft-National-Land-Use-Policy-May-2016.pdf)

<sup>3</sup> Brazilian Ministry of Agrarian Development 2001

themselves landless and/or without shelter. In the case of a farmer, this often includes the loss of his/her production base.<sup>4</sup>

Further, where there are many land conflicts, social stability within society is affected, as land conflicts undermine trust and increase fear and suspicion which is often between formerly close people such as neighbors and family members. The fear of becoming a victim of conflict or land related crime can also have a traumatizing effect on those who are or feel at risk. In addition, whenever state land is allocated illegally, it generally affects the nation's budget negatively and often results in ecological destruction or social exclusion. Other consequences of land conflicts are unorganized, unstructured land development and the subsequent additional costs for infrastructure provision. The costs of these have to be borne by the entire society. So, all over the world, people struggle for land. Many of them struggle with land conflicts and some of them struggle to solve them peacefully<sup>5</sup>.

### **1.1.2 Land Conflicts in Africa**

The Berlin conference of 1885 on the scramble and partition of Africa marked the genesis of the Africa Land problem. The resolutions of this conference have had influence on land, governance, trade, and social cultural fulcrum of the continent to date. Western countries engaged in territorial expansionism, introduced new system of government, trade preference, farming, settlements, and their languages in the running of territories (protectorates) against the traditional systems which attracted resistance from indigenous communities. The seed of conflict was sewn at this time in point with the larger block divided into interests of European powers-French, Portuguese, Italian, British, Arabs, Belgians and German protectorates. The aftermath was displacement of indigenous people and resistance due to discontent.

The current land systems in Africa may not be well equipped to resolve such conflicts.<sup>6</sup> Africa has had a history of land trajectories and contestations partially based on its use and administration, which have contributed to inequalities in distribution and instigated land related conflicts.<sup>7</sup> These conflicts have rendered the use of land almost impossible and affected many families' livelihoods. The World Bank report, for example, attests that more than half of Africa's

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<sup>4</sup> Wehrmann, B. (2008) Land Conflicts: A practical guide to dealing with land disputes

<sup>5</sup> Ibid

<sup>6</sup> Cotula, et. al, 2004; van Donge, 1999 cited in #####

<sup>7</sup> Bob Urmillar, ( 2010 ), Land related conflicts in Sub Saharan Africa, University of KwaZulu-Natal

usable land is currently uncultivable.<sup>8</sup> Additionally, millions of people in the continent have been displaced from one region to another due to land conflicts for example in the Central Africa Republic and Great lakes region.<sup>9</sup> In spite of its abundant resources, the African continent experiences a disconnect between resource potential and real level of social development where more than half of its population languishes in poverty, living on below one dollar per day.

Incidences of land conflict in the East African region have are associated with different land tenure systems ranging from freehold or private, communal or traditional systems, public land and squatting. From the pre-colonial period, a number of factors come into play in land conflicts and related crimes. This includes but is not limited to community, family, individual and government interests in access and use of land through established land management and administration policies.<sup>10</sup> Different regimes have attempted to resolve land conflicts and related crimes in the past and present without major success.<sup>11</sup> Therefore, whether it is at the heart of a conflict or gets dragged into it, land requires a careful approach by policy makers because it is a central element in the evolution of societies.<sup>12</sup>

### **1.1.3 Kenyan Land Conflicts Perspective**

#### **1.1.3.1 Prevalence and patterns**

Kenya has endured a long history of land conflicts, dating back to its colonial period when first the Germans, Arabs, and the British promulgated policies and practices that alienated people from their customary land and pitted one ethnic group against another.<sup>13</sup> A review of literature indicates that from the early beginning of Kenya's independence history, conflicts associated with land ownership have been experienced in almost every part of the country.

In recent times the media has highlighted many incidences of such conflicts and crimes, for example in Kagumoini village in Kandara, villagers killed a man in a family feud (DNA, 5<sup>th</sup> Sept 2018), grabbing of Kenya railways land-Mombasa, dispute on northern collector tunnel-

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<sup>8</sup> Denninger K, Seleod H and Burns A, (2012), The Land Governance assessment Framework: Identifying and monitoring Good Practice in the Land Sector, The World Bank.

<sup>9</sup> Bob Urmillar, ( 2010 ), Land related conflicts in Sub Saharan Africa, University of KwaZulu-Natal

<sup>10</sup> Yamano Takashi and Deininger Klaus ( 2005 ), Land Conflicts in Kenya, causes, Impact and Resolution, FASID, World Bank

<sup>11</sup> Yamano Takashi and Deininger Klaus ( 2005 ), Land Conflicts in Kenya, causes, Impact and Resolution, FASID, World Bank

<sup>12</sup> (PonsVignon, 2004). #####

<sup>13</sup> History of Land Conflicts in Kenya. Placing land rights at the heart of development. [ Online] Available at.....

Kirieni, Gatanga disputed Ruaka land, quarters on ADC farm, demolitions of illegal structures (DNA August 28<sup>th</sup> 2018) to mention a few.

### **1.1.3.2 Causes of land conflicts and related crimes**

Interests of the colonial regime coupled with population growth (pressure), agricultural commercialization, urbanization and demand for new land use patterns and practices have heightened land crimes contributing to violence and disruption societal systems<sup>14</sup>. Reforms which were introduced exploited short-term political ends further contributing to the current prevalence of land conflicts and crimes which are always at the core politics during every electioneering period (Okowa, 2012, and .NCRC 2017). Different commissions of enquiry investigating on Land grabbing and historical injustice point to land factor as a single factor triggering conflicts' in the country. (Akiwumi, 1998, Ndungu 2004 and TJRC 2013)<sup>15</sup>.

Land conflicts have also been caused by individual greed and disagreements within members of the family, fraud, poor land registration system, high value attached to land, territorial expansion linked to politics, corruption and commercialization of farming activities. (DNA August 17<sup>th</sup> 2018)

### **1.1.3.3 Perpetrators of Land Conflicts**

Perpetrators of land conflicts are far and wide. There are several parties involved right from individuals, members of the community or organized groups, business people or land buying companies, clandestine groups, government agencies and officers, and members of the political class. Some groups have been severally mentioned in Akiwumi and Ndungu reports cited above. At domestic level NCRC 2018 report<sup>16</sup> underscore that land factor is at the core of family /domestic violence where men are perpetrators and women being victims of conflicts at the family unit. Men seek control and dominion over women in use of domestic resource.

There are indication that NLC was investigating a tycoon in Malindi behind grabbing of 62 acre of land, public officials are also implicated in having hand in land crimes leading to conflicts

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<sup>14</sup> Deininger Kand Yamano T. (2005). Land Conflicts in Kenya: Causes, Impact and Resolutions. FASID Discussion Paper, 2005-12-002, World Bank.

<sup>15</sup> Akiwumi. (1998). Commission of enquiry into ethnic clashes in Kenya. Government printers.  
Ndungu S. (2004). Commission of enquiry on corruption and land grabbing in Kenya. Government printers.  
Kiplagat Bethwel (2013). Commission of enquiry on historical injustice in Kenya, Government Printers.

<sup>16</sup> NCRC, 2018, A rapid assessment of domestic violence in Kenya, NCRC.

through fraudulent transfers or changing of ownership e.g. the case of KWL/FUNZI/64 which is occasioned by prominent people.

#### **1.1.3.4 Impact of land conflicts and related crimes**

The immediate and long term impact of conflicts is disastrous, For instance, they have contributed to injuries, loss of lives and property, displacement of people (IDP) ,demomolitions of illegal structures, informal settlements, encroachment of private and government land reserves, ethnic animosity, increased fake title deeds and court cases, derailed development and hindering of the smooth implementation of activities necessary to support the economic development of the country in the big four Agenda.

Incidences of land conflicts have been on the rise as land becomes competitive and scarce. The colonial regime led displacement of indigenous people, creation of new land settlement, hiving of productive land “ white highlands”, evictions, land grabbing, fighting among communities, land clashes, incidences of increased violence, fraud, corruption in land deals, fake titling, deaths, assaults, family disagreements and unfair land distribution. The country has also experienced international land conflicts and disputes leading to deteriorated relations-migingao Island, Somalia claim of a section of Kenya, Kenya Uganda boundary issues.

After 2007/2008 post-election violence, Kenya drew international attention when widespread violence resulted in the death of 1,300 people and the displacement of as many as 600,000 individuals (Waki, 2009). During the period, much of the violence was linked to long-standing land disputes. This has hurt domestic and foreign economy investment,

#### **1.1.3.5 Existing Interventions to land conflicts**

The new Constitution<sup>17</sup> and other legal frameworks have expanded citizen rights to access, use and ownership of land resource. Most communities find value in land like the arid and semi-arid where mineral resources have been discovered recently. The NLC 2012 Act, enactment of Land registration Act 2012, setting up of Land and Environment Court with high court status, Disbanding and reconstituting land tribunals at the county levels and legislative reviews by parliament.

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<sup>17</sup> Republic of Kenya,(2010),The constitution of Kenya, Government Printers.

Although all these legislations are in place, our inability to adequately address the land question has implied that the basic needs of a significant proportion of the Kenyan population are not met. The whole basis of law and order are likely to be threatened in situations where basic needs are unsatisfied since such needs are universal and need to be fulfilled.

Further, with the government establishing different commissions to investigate on certain crime incidence related to land e.g. Akikumi commission on Land and ethnic clashes, 1998, Ndungu commission on corruption land grabbing 2004, and TJRC on Historical injustices 2013,<sup>18</sup> The question at hand is the current land regime-Legislation, systems and practice positioned to resolve persistent land conflicts threatening to derail development in Kenya?

## **1.2 Problem Statement**

Land conflicts and related crimes have become a commonplace in Kenya with far-reaching socio-economic (including emotional and psychological) and political ramifications within families, the community and society. For instance, they have contributed in injuries, loss of lives and property and hindered the smooth implementation of activities necessary to support the economic development of the country.

These land conflicts and related crimes are a serious threat to the realization of the country's Vision 2030 in general and the "Big Four" Agenda of food security, accessible and affordable housing, universal healthcare and manufacturing. This study therefore seeks to understand the dynamics of the problem of land conflicts and crime in the country with a view to informing the right policy and programmes.

## **1.3 Objectives of the Study**

### **1.3.1 General Objectives**

The general objective of this study will be to explore the dynamics of the problem of land conflicts and related crimes which has persisted overtime in Kenya.

### **1.3.2 Specific Objectives**

The specific objectives of the study will be to:

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<sup>18</sup> Okowa Duncan, (2012), Land Reforms in Kenya: Achievements and Missing Link, Institute for Law and Environmental Governance.

- i. Ascertain the prevalence and patterns of land conflicts and related crimes in Kenya.
- ii. Establish the causes of land conflicts and related crimes in Kenya.
- iii. Identify the perpetrators of land conflicts and related crimes and their mode of operation in Kenya.
- iv. Determine the impact of land conflicts and related crimes in Kenya.
- v. Evaluate the existing interventions for addressing land conflicts and related crimes in Kenya.
- vi. Explore the challenges encountered in the implementation of land reforms in Kenya.

#### **1.4 Justification of the study**

Land conflicts and related crimes are a serious threat to the “Big Four” Agenda, national security and the general development of the country. Therefore, addressing the problem using evidence-based interventions remains paramount.

Land remains to be an indispensable resource in human life. It's held high by all communities. Research on land conflicts and related crimes in the country appears scanty with previous research appearing to have concentrated more on land as a factor of production in the economy. The findings of the study will therefore help to fill knowledge gaps in the field of land economics and crime. The study will also provide opportunity to decision and policy formulators /implementers to evaluate previous legislations and improve on any weaknesses/gaps identified to come up with good working policies in resolving land conflicts and preventing related crimes. The technical bench in aspect of land governance in the country will stand to benefit from availability of data which will enhance its practical decisions.

#### **1.5 Assumptions of the Study**

The study makes the following assumptions.

- i. That the subject of the study is emotive and will generate public discourses.
- ii. That participants will answer the interview questions in an honest and candid manner.
- iii. That participants have knowledge and/or experience of land conflicts and related crimes.
- iv. That participants will have a sincere interest in participating in this research.

## **1.6 Scope of the Study**

This study will be confined to: prevalence and patterns of land conflicts and related crimes in Kenya; causes of land conflicts and related crimes in Kenya; perpetrators of land conflicts and related crimes and their mode of operation in Kenya; impact of land conflicts and related crimes in Kenya; existing interventions for addressing land conflicts and related crimes in Kenya; and challenges encountered in the implementation of land reforms in Kenya.

Geographically the study will cover all the regional administrative units delineated by the National government (Former Provinces-Nairobi, Central, Coast, Rift Valley, Eastern, North Eastern, Nyanza and Western).

Methodologically the study will adopt a concurrent qualitative and quantitative approach in data collection to build on the unique strengths of each technique..

## **1.7. Theoretical Framework**

Three sociological theories will be applied in understanding factors perpetuating perennial land conflicts and related crimes in Kenya: conflict theory, symbolic interactionism and social control. So theories were essentially used by scholars in the analysis of society. In particular, the study will adopt a "Critical" social theory; a neo-Marxist theory. Social conflict theory is a Marxist-based theory which argues that individuals and groups (social classes) within society have differing amounts of material and nonmaterial resources (the wealthy vs. the poor) and that the more powerful groups use their power in order to exploit groups with less power. Further, the theory contends that community resources have competing needs which therefore exerts pressure on its use.

This theory explains causes and consequences of conflicts and class struggle. It best explains dominion by modern capitalist who strive to accumulate more wealth and resources at the expense of the poor or proletariat, where the poor find a justification to revolt against such unfair advances manifested in gender inequality, power, cultural and social injustice. In the end of such struggles a new society will be born from the death ashes of unfair systems. Current trends of grabbing, fraud, corruption, resource competition interplay, conflicts, encroachment, impunity in land system and appetite for waste lands potentially breeding systematic conflicts.



Symbolic interactionism theory propounded by Blumer (1969) explains how people in society construct their roles and negotiate their way and build new realities in the prevailing situation. They heavily rely on symbols like words, gestures to build meaning. Hand shake for example denotes friendship, peace, trust and confidence. Society reacts to situation as it interpretes symbols. Abusive words may attract tension and negative reaction. The theory is important as it explains people's reactions on others intensions hence defining co-existence among different people and their interests on issues of land ownership and use.

Social control theory on the other hand provides an explanation to conformance to the norms and laws prescribed by society as people relate among themselves. Where people show strong attachment, commitment, involvement and belief towards each other brings about (bonding), people are unlikely to engage into criminal activities against each other. At this level, society experiences no conflicts as the social structure is said to be stable. (Travis, 1969).people are obligated to respect the law in order to realise harmony. In essence this explains why we have laws governing land administration which are meant to promote fairness in addressing land challenges.

## **CHAPTER TWO: METHODOLOGY OF STUDY**

### **2.1 Introduction**

This section discusses the research design, methods and tools for data collection, data collection and management procedures, data analysis approaches and ethical considerations to be applied in the study.

### **2.2 Research Design**

This study report relied on secondary data received from 7 government agencies which are; Kenya Police Service Records; Kenya Law Reports; Kenya Electricity Transmission Company Ltd; Mandera County; Marakwet County; National Environmental Management and select Counties Security Committee reports.

#### **2.2.1 Sampling and Size Determination**

In this study, NCRC wrote purposively to government agencies to that have a role in matters of land. Only seven institutions that replied and give data.

### **2.3 Methods and Tools of Data Collection**

#### **2.3.1 Data Collection Methods**

Secondary data was collected using a structured template that was circulated to the head offices. After all the reports was received from the institutions, the data was arranged by specific institutions, coded, and entered into a platform created using the statistical package for social sciences (SPSS) and Microsoft excel software and later analyzed.

#### **2.3.2 Tools of data collection**

In this study, no primary data was collected either using sample respondent questionnaire, FGD guides or Key Informant Interview Guides. The reports comprises of secondary data collected from government reports and official publications on the subject.

## **2.4 Data Collection and Management Procedures**

The National Crime Research Centre (NCRC) worked closely with relevant institutions in support of realizing the objective. Computer applications was used in management of data from the field.

## **2.5 Methods of Data Analysis**

Quantitative data from was coded and analyzed using the Statistical Package for Social Sciences (SPSS) data analysis software version 20.1. Qualitative data was also analyzed through content analysis in the various thematic themes.

## **2.6 Ethical Considerations**

- i. All the data received from the agencies was treated with outmost confidentiality
- ii. The Centre disclosed its research objectives when requesting for data from the institutions.

## CHAPTER THREE: RESULTS AND DISCUSSION

### 3.1 Introduction

This chapter presents the results and discussion of the data collected from the seven agencies.

### 3.2 Types of Land Ownership

The study sought to find out the type of land ownership where cases of crimes recorded to have been committed. From the findings, according to data received from the various agencies, most of the cases recorded emanated from land owned by private individuals.

Kenya Police received 470 cases, Kenya Law Reforms had 17 cases while KETRACO had 2 cases on private land ownership. Community category of land ownership was second with Kenya Police receiving 16 cases, 2 cases from Mandera County and 1 case from the Kenya Law Reforms respectively. Public land ownership category was third with Kenya Police receiving 9 cases, KETRACO 7 cases, Mandera County 4 cases while Kenya Law Reports received 2 cases. From this findings it was evident that in the Kenya Police captured the highest number of land related crimes in all the three categories followed by Kenya Law Reports, KETRACO and Mandera County respectively as shown in table 1 below.

**Table 1 Types of Land Ownership**

<i>Types of land ownership</i>	<i>Kenya Police Service</i>	<i>Kenya Law Reports</i>	<i>Ketracco</i>	<i>Mandera County</i>	<i>Marakwet County</i>	<i>NEMA</i>	<i>Select Counties Security Committee</i>
	<i>Frequency</i>						
<i>Public</i>	9	2	7	4	-	-	
<i>Private</i>	470	17	2	-	-	-	
<i>Community</i>	16	1	-	2	-	-	
					-	-	
<i>Total</i>	<b>495</b>	<b>20</b>	<b>9</b>	<b>6</b>	<b>-</b>		

### 3.3 Land Use Related Crimes/Offences Recorded

In the study, results from the reports received from the agencies on land use related crimes/offences recorded showed that; Forcible detainer offences, malicious damage, trespass, destruction of trees, obtaining by false pretense, creating disturbance and assault respectively had over 20 entries for each offence category from police records.

Most of these cases emanated from the Kenya Police which had a total of 489 cases as indicated in table 2 below.

**Table 2. Land Use Related Crimes**

<b>Land Use Related Crimes/Offences Recorded</b>	<b>Kenya Police Service</b>	<b>Kenya Law Reports</b>	<b>KETTRA CO</b>	<b>Mandera County</b>	<b>Marakwet County</b>	<b>NEMA</b>
Forcible detainer C/S 91 of the Penal Code	129	4	-	-	-	-
Malicious damage C/S 339 of the Penal Code	65	2	-	3	-	-
Trespass Chapter 294 Laws of Kenya	65	7	-	-	-	-
Destroying trees C/S 334 (c) of the Penal Code	35	-	-	2	-	-
Obtaining by false pretense C/S 320 of the Penal Code	34	1	1	-	-	1
Creating disturbance C/S 95(1) of Penal Code	24	-	-	-	-	-
Assault C/S 250,251,252,253 of the Penal Code	24	-	-	-	-	-
Forcible entry C/S 90 of the Penal Code	18	2	1	1	3	-
Forgery C/S 350, 351, 352, 353, 354, 355, 356 and 357 of the Penal Code	16	2	-	-	-	1
Assault causing actual bodily harm C/S 251 of the Penal Code	13	-	-	-	-	-
Border dispute	12	-	-	-	-	-
Fraud C/S 316 (a)/ Dispute leasing/ Cheating C/S 315 of the Penal Code	10	-	-	-	9	-
Land possessed by two people/ land subdivision dispute	7	-	7	-	-	-
Stealing C/S 267- 285 of the Penal Code	5	1	-	-	-	-
Murder C/S 203 of the Penal Code	4	-	-	-	-	-

Threat to kill C/S 223 of the Penal Code	4	-	-	-	-	
Illegal grazing on private land C/S 3(1) of the Trespass Act	3	-	-	-	-	
Arson C/S 332 of the Penal Code	3	-	-	-	-	
Affray C/S 92 of the Penal Code	3	-	-	-	-	
Incitement to violence C/S 95 of the Penal Code	3	-	-	-	-	
Attempted arson C/S 333 of the Penal Code	2	-	-	-	-	
Attempted murder C/S 220 of the Penal Code	2	-	-	-	-	
Commencing a project without Environmental Impact Assessment C/S 58 (1) of Environmental Management and Coordination Act (1999)	1	1	-	-	-	7
Intermeddling with deceased property C/S 45(1) of the Succession Act	1	-	-	-	-	
Contempt of court*	1	-	-	-	-	1
Offensive conduct conducive to breach of peace C/S 94 of the Penal Code	1	-	-	-	-	-
Illegal grazing in forest C/S 64 of the Forest Conservation Management Act (2016)	1	-	-	-	-	-
Human/ wildlife conflict	1	-	-	-	-	-
Illegal dumping contrary to (EMCA Act 1999)	1	1	-	-	-	-
Defamation C/S 195 of the Penal Code	1	-	-	-	-	-
Contravening a measure C/S 140(b) Environmental Management Act		-	-	-	-	55
Carrying out sand harvesting without license C/S 4 (1) Environmental Management Act		-	-	-	-	1
Giving false information C/S 137(g) Environmental Management Act		-	-	-	-	1
	<b>489</b>	<b>21</b>	<b>9</b>	<b>6</b>	<b>12</b>	<b>67</b>

### 3.4 Name of County Affected with Land Use Related Crimes/Offences

The findings from the police reports revealed a number of counties are affected by land use related crimes. On top of the list are; Kilifi County, Makueni, Meru, Kiambu, Machakos, Laikipia County, Siaya, Nakuru, Kakamega, Nyandarua, Migori, Embu, Murang'a and Bomet Counties which had above 10 cases each respectively as shown in table 3 below.

**Table 3. Counties with Land Related Crimes**

<b>Name of County Affected</b>	<b>Kenya Police Service Frequency</b>	<b>Kenya Law Reports</b>	<b>Kettraco</b>	<b>Mandera County</b>	<b>Marakwet County</b>	<b>NEMA</b>
Kilifi County	71	-	-			1
Makueni County	48	-	-			
Meru County	35	-	-			
Kiambu County	31	2	1			2
Machakos County	27	-	-			11
Laikipia County	27	1	1			1
Siaya County	24	-	-			
Nakuru County	23	3	2			
Kakamega County	22	2	-			
Nyandarua County	19	-	-			
Migori County	15	-	-			
Embu County	13	-	2			3
Murang'a County	12	-	-			
Bomet County	12	-	-			
Isiolo County	9	-	-			
Lamu County	8	-	-			
Kisii County	8	-	1			
Homa Bay County	8	-	-			
Bungoma County	8	-	-			
Kisumu County	7	-	-			
Vihiga County	6	-	-			
Kajiado County	6	-	1			
Busia County	6	-	-			
Nandi County	5	-	-			
Elgeyo-Marakwet County	3	-	-		9	
Trans Nzoia County	2	-	-			
Taita-Taveta County	2	-	-			1
Nairobi County	2	4	-			41
Garissa County	2	-	-			
Nyamira County	1	-	-			
Mombasa County	1	2	-			2
Kwale County	1	-	-			
Wajir County		1	-			
Nyeri County		1	-			2
Kirinyaga County		1	-			
Uasin Gishu		1	-			

Baringo		1	-			
Kericho		1	-			
Tana River		-	-	1		
Mandera					1	
Tharaka Nithi County						1
Kitui						1
Narok						1

### 3.5 The Area affected by land Use Related Crimes

The findings from the reports showed that rural areas are majorly affected by land use related cases. According to the data from the police, rural cases were 423 while urban cases formed only 61 cases.

According to data form National Council for Law Reporting, there were 13 case from urban areas recorded and 7 cases from rural areas. Kettraco and Mandera County had 9 and 6 cases respectively emanating from rural case and had nothing to report for urban cases. This implies that land related cases are more prone in the rural areas as shown in table 4 below.

**Table 4. Areas Affected by Land use Crimes**

The area affected	Kenya Police Service	Kenya Law Reports	Kettraco	Mandera County	Marakwet county	Nema
Rural	423	13	9	6		-
Urban	61	7	-			-

### 3.5 Reported Perpetrators by Complainants

According to the reports from the agencies, most perpetrators of land use related crimes as recorded from the complainants were; individuals which had 402 cases, family/ relatives which were 29 case, community groups/ neighbors which were 23 cases, Squatters which were 20 cases and land brokers/ land fraudsters which were 19 cases respectively and formed the number of complaints which were above 10 case as illustrated in table 5 below. This implies that land related crimes a perpetrated majorly by individuals in Kenya.



**Table 5. Perpetrators of Land use Related Crimes**

<b>Reported Perpetrators by Complainants</b>	<b>Kenya Police Service</b>	<b>Kenya Law Reports</b>	<b>KETRACO</b>	<b>Mandera County</b>	<b>Marakwet</b>	<b>Nema</b>
	N					
Individual	381	13	2	3	3	
Family/ Relatives	26	2	1			
Community group/ Neighbors	23					
Squatters	20		1			
Land brokers/ Land fraudsters	19					
Land buying/ Selling companies	8		1			
Private developers	4	4				
Land administrators/ Government officials eg National Youth Service, Police, Kenya Wildlife Service, Kenya Forest Service	3	1	4		5	
Organized criminal gangs	2					
Youth	1					

### **3.6 Victims of Land Use Related Crimes/ Offences**

From the study, results emanating from this reports puts individuals as the main victims of land use related crimes according to the police at 393 case followed by community groups at 35 cases, land administrators/ government officials at 17 cases and land buying/selling companies at 13 case. The other agencies reported less than 10 cases in all the areas as illustrated in table 6 below.

**Table 6. Victims of Land Use Related Crimes**

<b>Victims of Land Use Related Crimes/ Offences</b>	<b>Kenya Police Service</b>	<b>Kenya Law Reform</b>	<b>KETRACO</b>	<b>Mandera county</b>	<b>Mararakwet</b>	<b>Nema</b>
	<b>Frequencies</b>					
Individual	393	7	3	6		
Private developers	6					
Squatters	1	4				

Land buying/ selling companies	13		1			
Community group/ Neighbors	35	2	1			
Family/ Relatives	17		1			
Land administrators/ Government officials e.g. National Youth Service, Police, Kenya Wildlife Service, Kenya Forest Service	15	1	5		8	
Extremely aged	4					
Widows/ widowers	3					
Children & youths	5	1				

### 3.7 Drivers of Land Use Related Crimes/Offences

This study sought to establish the perpetrators of land use related crimes and according to the agencies who forwarded their data and according to the police, individuals with 70 cases were reported to be the ones causing land use related crimes followed closely by judicial officials and family disputes at 56 respectively, boundary demarcation at 38 cases, land disputes at 30 cases, community and neighbors at 29 cases, squatters at 28 cases in that order. Kenya law reports reported corruption at 10 case and greed with 6 cases. Mandera County reported corruption as the driver behind land use related crimes as shown in Table 7 below.

**Table 7. Drivers of Land Use Related Cases**

<b>Drivers of Land Use Related Crimes/Offences</b>	<b>Kenya Police Service</b>	<b>Kenya Law Reports</b>	<b>KETRACO</b>	<b>Mandera county</b>	<b>Marakwet County</b>	<b>Nema</b>
	N					
<b>Double allocation</b>	6	1				
<b>Corruption/ Land grabbing</b>	19	10		1	5	
<b>Poor documentation/ Same land allocation</b>	8	1				
<b>Local administration (Chief/ Village elders)</b>	27					
<b>Ministry of land officials/ National Land Commission</b>	19					
<b>Village elders</b>	9					
<b>Judicial officials</b>	56				1	
<b>Individuals</b>	70					

<b>Boundary demarcation</b>	38	1		1		
<b>Polygamy/ Existence of large family</b>	5					
<b>Family disputes</b>	56					
<b>Children</b>	2					
<b>Widows/ Widowers</b>	2					
<b>Next of kin</b>	4					
<b>Brokers/ Private surveyors/ Businessmen</b>	20					
<b>Squatters</b>	28					
<b>Community and neighbors</b>	29					
<b>Land buying and selling companies</b>	12					
<b>Resources/ land scarcity</b>	12			1		
<b>Population density</b>	6					
<b>Political instigation</b>	3					
<b>Poverty</b>	2					
<b>Absentee land lords/ Undeveloped land</b>	9					
<b>Ignorance of the law</b>	11	1				
<b>Lack of knowledge on land succession laws eg will</b>	9					
<b>Greed</b>	9	6				
<b>Land disputes</b>	30					
<b>Delayed cases in courts</b>	1					
<b>Illegal gangs</b>	3					

### **3.8 Consequences of Land Use Related Crimes/ Offences**

Findings from the reports received indicated quite a number of consequences emanating from land use related crimes. Majority of the consequences were reported by the Kenya police as follows; filing of court cases/prosecution which had a frequency of 132, relationship conflicts/disharmony/ ethnic clashes at 60, destruction of property at 59, assault at 55, murder at 34, unresolved issues at 28, issuing threats at 20 among others. Kenya law reports indicated destruction of property and Forcible entry/Land grabbing with 6 incidences each. Mandera and Marakwet counties reported Destruction of property/ Malicious damage with 3 incidences each as illustrated in table 8 below.

**Table 8. Consequences of Land Use Related Crimes**

Consequences of Land Use Related Crimes/ Offences	Kenya Police Service	Kenya Law Reports	KETRACO	Mandera County	Marakwet County	Nema
	N					
Filing of court cases/ prosecution	132		1			
Relationship conflicts/ Disharmony/Ethnic clashes	60					
Destruction of property/ Malicious damage	59	6		3	3	
Assault	55					
Murder	34					
Unresolved disputes e.g land boundary	28	1	4			
Issuing of threats/ Intimidation	20		1			
Caveat	18					
food insecurity	17				1	
Imprisonment	14					
Suicide	12					
Breach of law, peace and order	9	1				
Creating disturbance	8					
Divorce in the family/ Family breakups	7		2			
Displacement of families	7					
Fines/ compensation of damages	6					
Fraudulent dealings	6	1				
Revocation of title deeds	5				2	
Forcible detainer	5	1				
Arrest of the perpetrators	4					
Illegal encroachment	4	1				
Obtaining by false pretense	3	3				
Forcible entry/Land grabbing	3	6		1		
Poverty	2					
Coercion	2					
Arson	1			2		
Land pollution	1	1				

### 3.9 Challenges in Addressing Land Use Related Crimes/Offences

The results from the agencies on the challenges in addressing land use related crimes were given as follows: the Kenya police indicated; delayed land adjudication process/ succession at a

frequency of 163, poor documentation 63, lack of proper demarcation/ surveying/ encroachment 63, lack of issuance of titles 49, family conflicts/ ethnic conflicts 45 and interference by local political leaders at 38. Kenya law reports indicated delayed land adjudication process/ succession at a frequency of 10. Marakwet County indicated poor documentation and system bureaucracy/ laxity at a frequency of 9 each as illustrated in table 9 below.

**Table 9.Challenges in Addressing Land Use Related Crimes**

<b>Challenges in Addressing Land Use Related Crimes/Offences</b>	<b>Kenya Police Service</b>	<b>Kenya Law Reports</b>	<b>KETRACO</b>	<b>Mandera County</b>	<b>Marakwet County</b>	<b>Nema</b>
	N					
Delayed land adjudication process/ Succession	163	10				
Poor documentation	63	1		1	9	
Lack of proper demarcation/ Surveying/ Encroachment	62					
Lack of issuance of titles	49			1		
Family conflicts/ Ethnic conflicts	45					
Interference by local political leaders	38	1				
Illiteracy	29					
Corruption	28					
Poverty and greed	24					
Double titling of land	20					
Caveat	16					
System bureaucracy/ Laxity	13	1		4	9	
Ignorance of the law	10	3				
Poor infrastructure & resources	5					
Irregular allocation of land	3	1				

### **3.10 Existing Programmes for Interventions**

This study sought to establish whether there were any existing interventions to address land use related cases and according to the Kenya police; land adjudication/ succession had a frequency of 114, public engagement/barazas/ sensitization had frequency of 75, land administrators/village elders/community leaders had a frequency of 51, family reconciliation and enforcement/

compliance of existing laws had a frequency of 38 each, trespass Act at had a frequency of 35, titling/ surveying/.digitalization had a frequency of 33 and enforcement of Land Act at a frequency of 33 among other existing laws and regulations as indicated in table 8 below. Kenya law reports indicated Lands Act and Land regulations at a frequency of 10 and 6 respectively. Mandera County indicated penal Code Cap 63 at a frequency of 6 whereas Marakwet County indicated enforcement and compliance of the existing laws and Land Act at a frequency of 8 respectively as shown in table 10 below.

**Table 10. Existing Interventions for Land Use Related Crimes**

<b>Existing Programmes for Interventions</b>	<b>Kenya Police Service</b>	<b>Kenya Law Reports</b>	<b>KETRACO</b>	<b>Mandera County</b>	<b>Marakwet County</b>	<b>NEMA</b>
	N					
<b>Land adjudication/ Succession</b>	114					
<b>Public engagement/ Barazas/ Sensitization</b>	75					
<b>Local administrators/ village elders/ community leaders</b>	51					
<b>Family reconciliation</b>	38					
<b>Enforcement and compliance of existing laws</b>	38				8	
<b>Trespass Act Cap 294</b>	35	3				
<b>Titling/ surveying/ Digitization</b>	33					
<b>Land Act</b>	32	10			8	
<b>Penal Code Cap 63</b>	29	1		6		
<b>Alternative Dispute Resolution</b>	10					
<b>Land regulations</b>	6	6				
<b>Physical planning Act</b>	4	1				
<b>Vetting of land companies</b>	4					
<b>Environmental Management and coordination Act (1999)</b>	3	2				

### **3.11 Recommendations**

1. Vetting(public officials, land buying companies)
2. Transfers of land registrars who have overstayed in one office to reduce corruption
3. Strict adherence to the laws on land transfer, ownership and succession
4. Sensitization on process of land ownerships on buying and succession
5. Proper documentation and digitization / Titling
6. Proper demarcation/ Surveying
7. Punitive measures on offenders/ Arrest and prosecution
8. Timely determination of court matters/ Conclusion on land disputes/ Tribunals
9. Cooperation of state agencies on matters of land adjudication
10. Operationalization of land regulation(community land boards)
11. Making use of alternative dispute resolution mechanism
12. Land ministry and National Land Commission to address land related issues within reasonable time

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