

THE INTERNATIONAL JOURNAL OF HUMANITIES & SOCIAL STUDIES

Colonial Land Policies among the Embu East (1895–1963)

Scott Munene Njeru

Student, Department of Humanities and Social Sciences, Tharaka University, Kenya

Dr. Ambrose Daniel Kimanthi Vengi

Lecturer, Department of Humanities and Social Sciences, Tharaka University, Kenya

Abstract:

Land in Kenya is valued as the most critical asset. This is because of the significant impact it has on the lives of Kenyan people, whether wealthy or poor. It is an essential factor of production and is central to the country's economic activities. In pre-colonial Kenya, land ownership was on a communal basis. The arrival of colonial masters in East Africa, Kenya and Embu East specifically placed land more critical than ever. This led to land tenure disparagements, effectively leading to land alienation and disputes over land issues among the Embu East. This, in response, led to social and economic suffering among the people. The research adopted a historical research design. The target population was the Embu East sub-county. Purposive and snowballing sampling techniques were used. Archival and oral information constituted primary sources, while library textbooks, journals and periodicals were secondary sources. A sample size of 51 participants was used for this informed study. The introduction of colonial land policies resulted in a change in land ownership structures, leading to land expropriation and conflict.

Keywords: Land, land ordinances, colonialism

1. Introduction

Veit (2019) observes that Kenya became a British protectorate on July 1 1895, following the incapacity of the Imperial British East Africa Company (IBEAC) to rule through the territory effectively. Dille (1966) was closely followed by the commissioning of the Kenya-Uganda Railway, which aimed at connecting the landlocked Uganda with the Indian Ocean, which had remained a key target of the British after they had discovered the source of the River Nile. Leakey's (1977) establishment and reign of the IBEAC in the area significantly boosted colonialists. This is because, during the pre-colonial period, they had established stations in areas that had been left vacant by militaries, who were conducting military expeditions against the resisting communities. Moreover, the time came when colonial administrators had to ensure that a full seizure of the country happened to ease their governing. At around 1902, communities neighboring Embu had come under the control of the colonists and different institutions including trade and land affected.

Tignor (1976) asserts that Aembu had constantly frustrated such efforts, like trade through their constant raids and hence the establishment of the new administration. By this period, the British had conquered and colonized the whole of Kikuyu land and had already established Fort Hall at Muranga. Captain Fredrick Lugard had built the Fort in 1891. Karigi (2015), This came at a time when the Kikuyu had already collaborated, and the Mbeere, who neighbors the Embu to the south, had made several trips to Fort Hall asking the white man to establish a Fort in Mbeere. As a result, the white men found a way to establish a base at Embu. In addition, the government officials envied Embu livestock wealth, which they looked upon as a potential source of government revenue, while the collaborators yearned for a share of the spoils if the Embu were subdued.

According to Syagga (2011), the problem of expropriation of Kenyan indigenous land began in 1888 when the Sultan of Zanzibar signed an agreement with the imperial British East Africa Company (IBEAC), which meant he ceded all land rights apart from private lands to the company. The Imperial British East Africa Company (IBEAC) was a commercial association founded to develop African trade in the areas controlled by the British Empire. The company was incorporated in London on April 18, 1888, and granted a royal charter by Queen Victoria on September 6, 1888. It granted immunity from prosecution to British subjects and allowed them the right to raise taxes, impose custom duties, administer justice, make treaties, and otherwise act as the government of the area. By that time, the IBEAC had well-established structures or fortified stations from which they had executed military expeditions against their opponents. Apart from having the stations, they also viewed this period as a time when they would have expanded to cover the whole country for effective administration.

Omwoyo (1990) explains that, just like the many areas conquered by the British, the interest of these colonial masters was to extract and exploit the available natural resources for their gain. In this response, their interest for Embu was not to develop the area agriculturally but to make maximum use of any available resource. Sorrenson (1967) expands on this by further explaining that it was not only for cash crops, but it was also crucial for the area to be under British masters since it was an area endowed with enough food; hence, seizing the area meant provisions of food to the European caravans. The new regime of the chiefdom was tasked with assistance in the administration of the area. However, for

effectiveness, they could not do that alone and had to appoint helpers called headmen through the power vested upon them by the colonial masters.

1.1. Research Objective

To critically examine the colonial land policies among the Embu East.

1.2. Research Question

Which colonial land policies were introduced by colonialism among the Embu East?

2. Theoretical Framework

This research adopted the articulation of modes of production theory as the tool for analysis. Colonialism saw a change in the existing structure and policies. Initially, customary laws dominated the place. The onset of colonialism witnessed a change in the policies to suit their needs. Omwoyo (1990) contends that articulation modes of production are where a capitalist mode of production superimposes over non-capitalistic modes of production. This happens when both systems work together. Cherop (2019) states that when the capitalistic modes of production are imposed over the pre-capitalistic modes, it does not at once outdo the existing modes of production. However, the capitalistic modes of production with time align with the non-capitalistic but gradually utilize them for their benefit. Omwoyo (1990) and Essese (1990) further assert that the pre-capitalistic mode was not entirely eliminated. However, it continued to exist through what can be termed preservation and destruction or dissolution and conservation. Articulation of modes of production theory was adopted, for it explained the interaction of the colonial masters and their ideology on the existing traditional land structures.

3. Research Methodology

This research was conducted among the Aembu of Embu County, specifically Embu East Sub County. Embu is a county in Kenya. The County occupies an area of 2,821 km. The County is divided into five sub-counties, with 20 county assembly wards, 51 locations, and 127 sub-locations. Embu County has a total population of 608,599 persons, of which 304,208 are males, 304,367 females, and 24 intersex persons, and it has an average size of 3.3 persons per household. Embu East sub-county has a population of 129,564, the second largest in Embu County after Mbeere South (KNBS 2020). This study adopted the historical research design, which was based on qualitative procedures. The design was chosen because of the nature of the objective that guided the study. The research employed purposive and snowballing techniques. A sample size of 51 informants was identified and interviewed by the end of the research. The purposive sampling procedure also allowed the researcher to select resourceful information from respondents, especially those above 50 years of age, former and current administrators, politicians, religious leaders, the council of elders, and land officers, among other members of the population. Both primary and secondary data were sourced for this study. Primary data for this study was obtained from archival and oral sources, while secondary sources were obtained from books and journal articles.

4. Literature Review

Land is an essential factor of production, a scarce commodity that is endlessly needed for various reasons (Migereko, 2013). Land does not necessarily refer to a singular entity but all kinds of natural resources, including forest areas occupied by minerals, fishing grounds, and arable lands (Hanson, 1996). During the pre-colonial period, the land was communally owned, whereby chiefs and village leaders had a more significant say in the usage of the land (Wayumba, 2015). However, this was greatly affected by colonialism in that it provided a mechanism by which Kenyan land was alienated, disregarding existing Indigenous tenure arrangements (Karigi, 2015; Essese, 1990; Rodney, 1972). This was happening at a time when raw materials were seriously needed in Europe, hence fueling the need for colonial resource extraction (Omwoyo, 2004). Cherop (2023) supports that this made the colonial masters set in place mechanisms that would help settlers alienate Kenyans from their indigenous land. Brett (1973) said that this would help the settler economy and provide raw materials for their industries. Hopkin (1973), by enacting these policies then, would exclude the natives from the power to produce as land owners but mere tenants.

The genesis of land tenure reform in Kenya dates back to 1895 after Kenya was declared a British protectorate. This marked the onset of a series of Ordinances, which eventually led to the alienation of large tracts of land (Wangari, 1998). For this to happen, the colonialists had to devise a mechanism of systematically destroying the existing pre-capitalist structures to achieve this (Vengi, 2016). In 1896, the colonial office recommended the protectorate of the land ordinance as an alternative to the Land Regulations of 1894. This regulation was seen to be unattractive to the Europeans, especially settlers. As a way of galvanizing their economic interests, the British acquired effective control of land in the region by pushing the Indian Land Acquisition Act into the interior of the country in 1897 (Okoth Ogenjo, 1987).

The East African Lands Order in Council (1901) was drawn from the British Foreign Jurisdiction Act of 1880 and the East African Land Regulation of 1887. The East African Land Order Council, in 1901, laid Crown Lands under the commissioner. The Ordinance defined crown land as all public lands as long as they were within the East African protectorate, which was under the control of His Majesty. This Ordinance was both ambiguous and vital. It is important that before it, no other ordinance was trying to explain Crown land. However, it was ambiguous as it described Crown land as all public land (Vengi, 2016). This formed the ground for the enactment of the Crown Lands Ordinance 1902, which

provided a basis for the alienation of Indigenous land and, consequently, the first group of white settlers in Kenya (Wanyumba, 2017).

The Ordinance made it possible to sell and lease land to the Europeans for a period of 99 years, though it was later increased to 999. The crown land was simply explained as public land without further breakdown defining what public land meant. It included any portion of land outside the Sultan's ten-mile strip (KNA/PC/34/1901). The Ordinance provided that only temporary occupation licenses, which were limited to one year and a maximum of five acres, would be issued to Africans and other non-Europeans on the basis that they would be able to use the land. The 1915 crown land gave power to the governor to reserve any crown land which he viewed helpful in the colony (East Africa Royal Commission Report 1953).

Mwaniki (2010) says that although there was rich agricultural land in Embu because of its nature, terrains, and being far from the railway line, the place did not attract them. According to Musalia (2010), they favored the areas that were closer to the railway, like Kiambu and areas around Nairobi. Njiru O.I 9/1/23, no land in Embu was alienated for agricultural activities apart from the Kanja dairy project, which also never took off. However, later there was land alienation for the establishment of chief camps, the establishment of social places, markets, and missions. According to Gathogo (2020), as missionaries arrived in colonial Kenya in the early 1900, just like the settlers, they needed land to settle and build mission centers. As part of civilizing, they wanted land for agricultural demonstrations and the establishment of schools, churches, and hospitals. Gathogo (2008), the first expedition conducted in 1894 and led by Major Smith, was the Dagoretti-Kiambu in present-day Kiambu. The second one, led by Francis Hall, took place in 1901 in present-day Muranga County. Then came the (1904) led by Captain Richard Meinertzhagen to occupy the current Kirinyaga, Embu counties. Gathogo (2013) Captain Richard killed around 797 natives from Gichugu and Ndia. Additionally, 250 residents of Embu-Mbeere were also murdered in cold blood after spraying them with bullets (Kungu et al., 2022). Roger Swynnerton came to Kenya in January 1951 on transfer from the Tanganyika Agricultural Department. Through him, the Swynnerton plan was initiated in Kenya between 1954 and 1959. This was the most comprehensive of all agricultural as well as colonial developmental policy in Kenya, objectively aiming at increasing colonial production and raw material. It led to an intensification of agriculture and the introduction of cash crops. The plan was arrived at as a response to the land use crisis in the central province, originating from political decisions taken earlier regarding land tenure.

However, according to Karigi (2015), in the case of Embu, labor and tax policies were the tools used to force the Africans to seek waged labor both within and outside the country. This is so, for, this time, the foreign office was concerned with the number of grants in terms of aid sent to the Kenyan protectorate administration and punitive expeditions, like the one conducted in the area in the period 1906 to conquer the region. To enforce this, the first policy was introduced, forcing people to engage in communal labor for government projects, which included building infrastructure such as roads and bridges. Mwaruvie (1992), by 1902, land, labor, and taxes were already effective in Embu and their neighboring communities. The village headmen ordinance of 1902 permitted appointed government officials to recruit labor for public work that was seen to be in the interest of the village (KNA/PC/CP/1/1/1/189). At the same time, using the native authority laws of 1910 and 1912, the headmen were required to compel Africans to suspend their domestic production to work on assigned government projects (Mwaruvie, 1991). This was expected of both the energetic males and females in the society. However, the Embu community did not lose their land to the white settlers; the relationship that existed between land, labor, and taxes saw them lose most of their land. Additionally, the creation of reserves for Africans further pushed the Embians towards landlessness.

5. Findings

The colonial land policies had several consequences for the natives. However, the implications were heavily felt among the natives, inhibiting the now-occupied white highlands, among the Masaais, and among the central community. These impacts would later spill over to adjacent areas, greatly affecting the existing tenure system and African land use. This resulted in discomfort among the Africans, leading to the rise of nationalism (Kanogo, 1987).

Okoth (1991) and Berman (1990) state that the Crown Land Ordinance of 1902 meant that all unoccupied land was rendered crown land. Okoth (1991) further explains that under this declaration, no African was allowed to own a title deed, and his only claim to land was restricted to the areas he could use and should be occupying. This means the moment a person migrated or left land fallow in case he was cultivating it, the period he stopped using it and leaving to gain fertility, he lost ownership of that land. This was a new system of land ownership. It was used because the Europeans either needed help understanding or chose to underscore the traditional system of ownership by introducing the Western aspect. To them, by capitalism, they recognized individual ownership of resources.

The Indian Acquisition Act of 1894 provided a mechanism for sine qua non take over of African land for the colonialists to be used for public work, which was effected by the protectorate in 1896 (Vengi, 2016). Additionally, Kanyinga (1998) asserts that preter legal mechanisms made it easy to superimpose laws and institutions, which greatly affected how Europeans accessed and used land. This act made it easy for Europeans to impose legal institutions among the natives, which led to changes in tenure arrangements during that period. This greatly affected the Aembu as they lost their land by alienation to enable the building of administrative units for the colonial masters as well as schools and hospitals. Mwangi wa Githumo (1981), as an alternative to the Land Regulation Act of 1894, which had been unpopular with Europeans intending to settle in Kenya, introduced a better policy in terms of land ordinances. This further alienated the Embian land, leading to landlessness and squatters among the Aembu.

The East Africa Land Order Council in 1901 made all land in the protectorate to be under the trust of the queen. This included any parcels of land that were within the East African protectorate. It stated that all public land was crown land.

This meant that the Aembu were only entitled to the land that they were using and could not claim any parcel of land they left fallow. The Ordinance further allowed the commissioners in charge of Kenya to sell or even grant leases on any parcel of land (Sorrenson, 1968). This led to land alienation among the Aembu. The 1902 Crown Land Ordinance galvanized this. The policy opened a new chapter of expropriation. Through the Ordinance, large tracts of land were alienated for European settlers. Most of the settlers preferred the white highlands and parts of central Kenya. This then pushed the landless in those areas to neighboring communities such as Embu. They came as *avoi*. Due to the increasing pressure for land and related resources, this resulted in a class where the wealthy accumulated more land while the poor lost their parcels through land selling. The 1905 ordinance took away the indigenous land rights. This worsened the situation by allowing land registration; although the registration was for settlers, the native Embians became tenants at the will of the colonial government. This was irrespective of the fact that Africans and, specifically, Embians, were occupying the native reserves.

Kaaria et al. (2022), colonialists forced the Aembu into forced labor, a policy that had been introduced in the country. The Aembu had been taken to work in different parts of the country, especially the white highlands and central Kenya. The objective was to enable them to acquire money to pay the introduced taxes, which were commonly referred to as *Kuthukuma*. It is the strong men who were recruited. Initially, this altered the social organization as women were left to look after the homestead. However, over time there was the introduction of native reserves where most people were concentrated. This was to enable the colonial masters to be able to effectively administer the area. However, by the time people were coming out of the reserves, these men who had been taken away found out that most of their land had been alienated. To a greater extent, they were pushed to unproductive lands. This led to the genesis of land conflict among the Embu East.

The Swynnerton plan was carried out as quickly as feasible to prevent a potential return of military politics from the incoming Ex-Mau Mau captives (Mugo, O.I.: 26/6/2023). The plan called for the adjudication, consolidation, registration, and titling in the area. Poor farmers, sometimes known as bad farmers, were denied access to land by Swynnerton's codified legislation, which rewarded those in prominent positions in society (Elkins, 2005). The idea created a class of landed and landless people in response. This allowed them to reintegrate into society rather than within their historically defined ethnic enclaves (Swynnerton, 1954).

6. Conclusion

The objective of this research was to discuss colonial land policies among the Aembu. The study indicated that, before the coming of colonial masters in Embu East, the land was communally owned. Colonial penetrations introduced several regulations on land that influenced the land tenure arrangements over time. Among the policies were land ordinances, the introduction of taxes, labor, and the introduction of the Swynnerton plan. Historically, the establishment of colonial rule and the colonial policies among the Embu East greatly affected customary land tenure by limiting and denying the natives traditional rights of ownership and access to land for agricultural activities. As explained by articulation modes of production, the new colonial government advanced the Western ownership system. This disregarded the traditional system. Over time, the colonial land policies disrupted the existing tenure arrangements. Consequently, this led to land alienation among the Embu East, resulting in land conflicts.

7. References

- i. Brett, E. A. (1973). *Colonialism and underdevelopment in East Africa: The politics of economic change, 1919-1939*. London: Heinemann.
- ii. Cherop, C. K. (2019). *A history of food security mechanism among the Marakwet, Kenya, c. 1850-2000* (Master's thesis, Masinde Muliro University of Science and Technology).
- iii. Cherop, C. K. (2023). The impact of colonial land tenure policies on the Keiyo agro-pastoral economy, 1895-1963. *Journal of African Interdisciplinary Studies*, 7(11), 269-285.
- iv. Dilley, R. M. (1966). *British policy in Kenya Colony*. London: Heinemann.
- v. Esese, J. (1990). *Agriculture and social-economic change among the Wanga of Mumias Division, 1860-1945* (Unpublished master's thesis, Kenyatta University).
- vi. Gathogo, J. (2008). The quest for religious freedom in Kenya (1887-1963). *Studia Historiae Ecclesiasticae*, 34(1), 1-26.
- vii. Gathogo, J. (2013). Unsung heroes and heroines at Mutira Mission, Kenya (1907-2012). *Studia Historiae Ecclesiasticae*, 39(1)
- viii. Hanson, J. L. (1966). The factors of production. In *a textbook of economics* (4th ed., pp. 1-15). London: Macdonald and Evans Ltd.
- ix. Hopkins, A. G. (1973). *An economic history of West Africa*. London: Longman.
- x. Karigi, G. (2015). The system of land ownership and crop production: The case of Embu North Sub-County, 1890-1963 (Doctoral dissertation, Kenyatta University).
- xi. Kanyinga, K. (1998). *Struggles of access to land: The squatter question in coastal Kenya*. Nairobi: Heinemann.
- xii. Kungu, J. N., & Gichobi, B. K. C. N. (2022). The Swynnerton Plan and political economy of land in Kenya: A historical perspective.
- xiii. Kanogo, T. (1987). *Squatters and the Roots of Mau Mau 1905-1963*. Nairobi: Heinemann.
- xiv. Leakey, L. S. B. (1977). *The Southern Kikuyu before 1903* (Vol. 3). Academic Press.
- xv. Leo, C. (1984). *Land and class in Kenya*. Toronto: University of Toronto Press.

- xvi. Migereko, D. (2013). The Uganda national land policy. Ministry of Lands, Housing and Urban Development.
- xvii. Musalia, M. W. (2010). *Gender relations and food crop production: A case of Kiambu District, Kenya, 1920–1985* (Unpublished doctoral dissertation, Kenyatta University, Nairobi, Kenya).
- xviii. Mwaniki, H. S. K. (2010). *Roots, migrations of Mount Kenya peoples: Focus on the Embu, circa 1400–1908*. Nakuru: Media Document Supplies.
- xix. Okoth-Ogendo, H. (1986). Paper presented at the Annual Meeting of the African Studies Association, Madison, Wisconsin.
- xx. Omwoyo, S. M. (1990). *The colonial transformation of Gusii agriculture* (M.A. thesis, Kenyatta University).
- xxi. Omwoyo, S. M. (2004). *The agricultural changes in the Kipsigis land, c.1894–1963: A history inquiry* (Ph.D. thesis, Kenyatta University).
- xxii. Rodney, W. (1972). *How Europe Underdeveloped Africa*. Dar-es-salaam: Tanzania Publishing House.
- xxiii. Sorrenson, M. P. K. (1967). *Land reform in the Kikuyu country: A study in government policy*.
- xxiv. Sorrenson, M. P. K. (1968). *Origins of European settlement in Kenya*.
- xxv. Swynnerton, R. J. M. (1954). *A plan to intensify the development of African agriculture in Kenya*.
- xxvi. Syagga, P. (2011). Land tenure in slum upgrading projects. *Les cahiers d'Afrique de l'est*, 103–113.
- xxvii. Tignor, L. (1976). *The colonial transformation of Kenya: The Kamba, Kikuyu and Maasai from 1900 to 1939*. New Jersey: Princeton University Press.
- xxviii. Veit, P. (2019). History of land conflicts in Kenya. *Gates Open Research*, 3, 982.
- xxix. Vengi, A. (2016). *Akamba land tenure system and its impacts on women's land ownership in Masinga Division, 1895–2010* (Master of Science thesis, Kenyatta University, Kenya).
- xxx. Wayumba, G. (2017). A historical review of land tenure reforms in Kenya.
- xxxi. Wa-Githumo, M. (1981). Land and nationalism: The impact of land expropriation and land grievances upon the rise and development of nationalist movements in Kenya, 1885–1939.
- xxxii. Wangari, W. (1998). Land registration and its impact on small-scale farming in Kenya: The case of Mbeere in Embu District. IDS, University of Nairobi, Working Paper No. 464.