



LAND CONFLICTS IN TAITA TAVETA, 1963 – 2010

BY

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CONFLICT AND PEACE STUDIES

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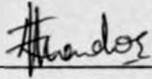


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DECLARATION

This is my original work and has not been presented for the award of degree in any other University.



22.11.2012

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This project has been submitted for examination with our approval as the university supervisors.



26th Nov 2013

PROF. MILCAH AMOLO ACHOLA

DATE



26/11/2013

DR. AMATSIMBI HERBERT MISIGO

DATE

DEDICATION

To my husband Kenneth Kang'ee Waiganjo and our beloved sons, Edley Darryl Wagacha Kang'ee and Kenley Cyril Mwalwala Kang'ee who always stood by me and dealt with all of my absences, from many family occasions, with a smile.

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I solemnly thank God for enabling me to do this work that required enormous funds, ample time, patience and tranquillity of mind than I had.

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I cannot find words to express my appreciation of the efforts of my late sister, Katherine Olive Waindi, who tirelessly encouraged me throughout my course. Kate, it is sad that you did not live to see the fruits of your efforts. *Chawucha sana dada, sere ikaiye. (Many thanks sister, may peace prevail).*

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ABSTRACT

The focus of this research is the role of land as a factor in conflict in Taita Taveta since independence. The research begins with an examination and analysis of the people of Taita Taveta, their relationship with their neighbours the Akamba and Maasai, as well as their relationship with the sisal estates, Tsavo National Park and mining companies in different historical times. This provides a background to the understanding of the conflict and the role of land in it. The study was carried out among the Wadawida who live around Dawida area which comprises of the massif Taita Hills and Watuweta who live around Taveta area located near the Kenya Tanzania border of the Taita Taveta.

The study examined the conflicts from 1963 to 2010. It is argued that land was a major factor in conflict in Taita Taveta. However, the problem is that, studies carried out on the area did not draw attention to the symbolical identity of land to the Wadawida and Watuweta, and how it influenced their social political behaviour; neither did they reveal the historical linkages between land, symbolical identity, subsequent reallocation and the prevalence of land conflict in Taita Taveta. In order to understand the conflict, the study was guided by three objectives; to determine the nature and types of land conflict in the area, to examine the causes of such conflicts and to evaluate the impact of the conflicts.

The weapons that were used were mainly traditional weapons which included *ndana na mawamu ga wusungu*.¹ These weapons were easily available and used by both men and women of all ages since pre-colonial era.

As the conflict intensified, the colonial government disarmed the people of Taita Taveta. However, the post - colonial governments were faced by various challenges. The new discoveries of various precious stones in Taita Taveta in the 20th century attracted local and international companies. Meanwhile, politicians from the area are exploiting the issue of land conflict to whip up nationalist sentiment while threatening to secede from the rest of Kenya. It, therefore, became hard for the government security personnel to rid the region of the modern and more deadly weapon, such as guns and pistols.

The study further argues that the conflict impacted on the people of Taita Taveta and their neighbours in the entire region in both negative and positive ways. For example, the conflict inflicted suffering on a large section of the population, who lost their family members and livelihood. It disrupted school learning, displaced people and destroyed property. However, there were gains associated with the conflict, ranging from accumulation of stolen gemstones to benefits gained by those who took part in trading in arms.

¹*Ndana na Mawamu ga Wusungu*. It means bows and poisonous arrows in Taita Taveta.

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LIST OF ACRONYMS

- ACK - Anglican Church of Kenya
- ASAL – Arid and Semi-Arid Land
- AD – After Christ
- AFC – Agricultural Finance Corporation
- BC – Before Christ
- CMS – Christian Mission Society
- DO – District Officer
- DC – District Commissioner
- EAI – East Africa Industries
- GoK – Government of Kenya
- IBEAC – Imperial British East Africa Company
- IMAS – Industrial Mission Aid Society
- JKML – Jomo Kenyatta Memorial Library
- KANU – Kenya African National Union
- KCA – Kikuyu Central Association
- KNA - Kenya National Archives
- KNUT – Kenya National Union of Teachers
- KWS – Kenya Wildlife Services
- MP – Member of Parliament
- MRC – Mombasa Republican Council
- NARC – National Rainbow Coalition
- NLC – National Land Commission
- NPs -National Parks
- OCPD – Officer Commanding Police Division

TTWF- Taita Taveta Worldlife Forum

THA – Taita Hills Association

UNHCR – United Nations High Commission for Refugees

WMS – Welfare Monitoring Survey

OPERATIONAL DEFINITIONS

Marxism

Marxism is an economic and socio – political world view and method of socio economic inquiry that centres upon a materialist interpretation of history, a dialectical view of social change, and a critique of capitalism, pioneered in the early to mid-19th century by two German philosophers, Karl Marx and Friedrich Engels.²

Conflict

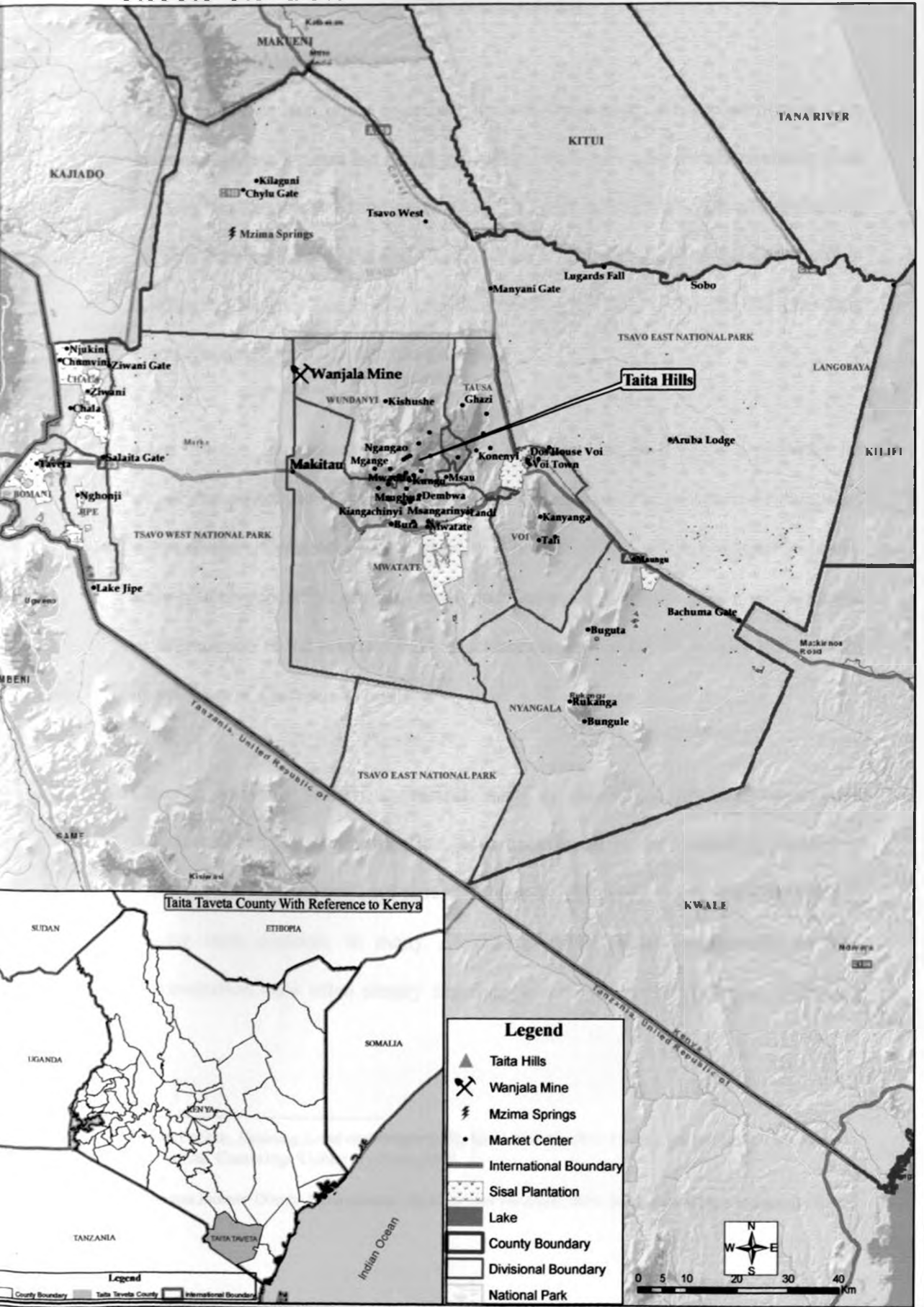
Conflict is an expressed struggle between at least two interdependent parties who pursue incompatible goals, scarce resources, and interference from others in achieving their goals.³

² Bridget O' Laughlin, *Marxist Approaches in Anthropology*, Annual Review of Anthropology Vol.4, Stanford University, Stanford: California, October 1975, pp 341-370.

William Roseberry, *Marx and Anthropology*, Annual Review of Anthropology, Vol 26, Stanford University, Stanford: California, October 1997, pp 25-46.

³ W.W.Wilmot, & J.L.Hocker, *Interpersonal Conflict*, Newyork NY:MC Craw Hill, 2007.

TAITA TAVETA ADMINISTRATIVE BOUNDARIES



CHAPTER ONE

1.0 INTRODUCTION

The human race has fought over land since the beginning of recorded history. An example is Mesopotamia and Egypt in 1000BC. Population growth and environmental stresses have exacerbated the perception of land as a dwindling resource tightening the connection between land and violent conflict.⁴ Land is often a significant factor in widespread violence and is also a critical element in peace - building and economic reconstruction in post - conflict situations.⁵

Land matters, like issues of other natural resources, always contain a potential for physical violence especially where distribution is skewed. Homer-Dixon distinguishes between three forms of resource scarcity. These are firstly demand-induced scarcity arising from population growth, supply induced scarcity resulting from the depletion or degradation of the resource, and structural scarcity which originates from skewed distribution of a particular resource.⁶

Changes in some underlying factors, such as population pressure, agricultural commercialization and urbanization, have contributed to the increasing number of land conflicts. The current land tenure systems in Africa may not be well-equipped to resolve such conflicts. In many African countries, formal institutions for land administration were often simply superimposed on traditional structures without a

⁴ Scott Leckie, *Housing, Land and Property Rights in Post Conflict United Nations and Other Peace Operations*, Cambridge University Press, 2009.

⁵ *Ibid.*

⁶ Thomas Homer Dixon, *Environment, Scarcity and Violence*, New Jersey: Princeton University Press, 1999.

clear delineation of responsibilities and competencies, implying that they lack both outreach and social legitimacy.⁷

Kenya's land conflicts have been fundamentally informed by structural scarcity. Land ownership, access and use have been refracted since time immemorial.⁸ The measurement of armed conflict is mainly based on news reporting, which suffers from national and cultural biases. Scrutiny of armed conflict is becoming more intense and new sources of information are emerging.⁹

1.1 Background of the Study

Rural and remote areas worldwide are becoming increasingly sought after for their land and resources.¹⁰ In-migration due to population pressure, mining of oil and gas, agro-industry, logging, building of dams, privatization of water schemes, establishment of protected areas and bio prospecting augment pressures on local conflict management arrangements. Sometimes these forces connect with other social fault lines. For example, misunderstandings around property rights systems may lead to policy failure. Conflict then escalates into violence or armed warfare.¹¹

⁷ Takashi Yamano and Klaus Deininger, *Land Conflicts in Kenya: Causes, Impacts, and Resolutions*, Foundation for Advanced Studies for International Development (FASID), World Bank, 2005.

⁸ *Ibid.*

⁹ Mikael Eriksson, Peter Wallensteen & Margareta Sollenberg, *Armed Conflict*, Journal of Peace Research, Department of Peace and Conflict, Uppsala University, 1989–2002.

¹⁰ Stephen Baranyi & Viviane Weitzner, *Transforming Land Related Conflicts: Policy practise and possibilities*, International Land Coalition, Rome: Italy, 2006.

¹¹ *Ibid.*

Land is increasingly becoming a source of conflicts in Sub-Saharan Africa, where land access had traditionally been relatively egalitarian. It has been shown that local land conflicts can erupt into large-scale civil strife and political movements.¹²

The inability to adequately address the land question implies 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 frustrated.¹³ According to the 2010 Constitution of Kenya, there are linkages between human needs and violent conflict. Thus the land question in Kenya is likely to continue to lead to violence unless its root causes are addressed. The land question will, therefore, remain high on Kenyan's political and development agenda. The nature and characteristics of the issues surrounding land are intricately intertwined with the country's history and have been shaped by political and economic change from the colonial period to the present.¹⁴

Taita Taveta covers an area of 16,975 square kilometres. The land is classified as Arid and Semi-Arid (hereafter ASAL). The bulk, made up of 11,100 square kilometres, is within Tsavo East and Tsavo West National Parks. The remaining 5,876 km² is occupied by the people of Taita Taveta, who are the Wadawida and Watuweta or company owned ranches and sisal estates. There are also water bodies, such as Lakes Chala and Jipe and the hilltop forests (see the map on page xv).

¹² Andre C, and J.P. Platteau, *et al*, "Land Relations under Unbearable Stress: Rwanda caught in the Malthusian Trap," *Journal of Economic Behavior and Organization*, vol. 34 (1) Faculty of Economics, University of Namur, Namur:Belgium, 1998, p.1-47.

¹³ J.Burton, *Violence Explained*, Manchester: Manchester University Press, 1997, pp. 32-40.

¹⁴ Government of Kenya (hereafter GOK), *The Constitution of Kenya*, Nairobi. Government Printers, 2010.

The Wadawida and the Watuweta speak *kidawida* and *kituweta* which are Bantu languages. Bantu, speaking peoples first moved to the area of the Taita Taveta in approximately AD 1000-1300.¹⁵ They migrated to Kenya through Tanzania in five groups each group settling in different parts of the present Taita Taveta.¹⁶ The Taita can be divided into Wadawida who traditionally lived around Voi, Mwatate Wundanyi, Mwambirwa and Tausa. The Taveta speak *kituweta*. They inhabit mainly the land between Tsavo National Park and the Tanzania border, up to the slopes of Mount Kilimanjaro. (See map on page xv). In the course of migrating to and settling in these areas the Wadawida and Watuweta interacted with other communities particularly the Pare of Tanzania, the Borana, Wakamba and the Maasai.¹⁷

According to the population census results released on 31st August 2010 Taita Taveta, was listed amongst the 10 least populated counties in Kenya with 145 334 male and 139 323 female giving a total population of 284 657.¹⁸ According to the 2005-2010 Taita Taveta District Strategic Plan, the population density is recorded as 17 per square kilometres.¹⁹

The conflict in Taita Taveta is amongst communities of the same language group. In addition, there is often conflict between the local people and their neighbours, the Maasai and the Kamba. Others include conflict between the local people and owners of large sisal estates, the Kenya Wildlife Service and the Provincial Administration.

¹⁵ N. Vogt & J. Wiesenhütter, *Land use and socio-economic structure of Taita-Taveta District (S-Kenya) – Potentials and constraints*, October 2000.

¹⁶ Bravman. B, *Making Ethnic Ways: Communities and Their Transformations in Taita, Kenya, 1800 to 1950* James Currey, 1987.

¹⁷ *Ibid.*

¹⁸ GOK, Ministry of Planning, 2009' Population & Housing Census Results', Government Printers, 31st August 2010, p.23.

¹⁹ GOK, Ministry of Planning and National Development, *Taita Taveta District Strategic Plan 2005-2010 for the Implementation of the National Population Policy for Sustainable Development*, National Coordination Agency for Population and Development, 2005.

The economic activities of Taita Taveta include peasantry agriculture, small and large-scale ranching, mining, tourism and trade, among others. The main market centres are Voi, Maungu, Wundanyi, Mwatate, Bura Station, Bura Mission, Mwakitau, Tali, Nyache, Msau, Mgange Mrughua, Dembwa, Msangarinyi, Nyache, Tausa, Iriwa, Mkwachunyi, Wasinyi, Kungu, Taveta, Chala, Njukini, Nghonji, Rukanga, Bungule, Ngangao, Mkwachunyi, Mwanda, Ghazi, Njukini, Ziwani, Kanyanga, Buguta and Rong'e juu .(See map on page xv).

Figure 2: Tavorite Gem Stones Mined at Taita Taveta, Cut and Polished in Germany



Taita Taveta is not only endowed with one of the richest diversities of wild animals in the world but it also boasts resources in minerals and gemstones, including garnet, tourmalines, rubies, red

rubies, and water sapphires. These attract tourists both local and international. Potentially, the locals could be very rich but are the opposite. The climate in Taita Taveta is under the influence of both, north-eastern and south – eastern trade winds. There are two rainy seasons in the year; the main rains fall from March to May or June and the minor rains in October to December.

The average rainfall in the area varies between 500 mm/year (or less) in the lowlands and 1500 mm (or more) up in the hills.²⁰ Because of the major difference in altitude compared to the Tsavo plains, the Taita Hills create a shelter on the northern and north-western parts of the hills. The rainfall in these sheltered areas is lower because due to the south-eastern trade winds, they fall on the southern and south-eastern slopes of the hills. Taita Taveta altitude varies between 481m above sea level in the lowlands to 2,200m above sea level in the highlands. The average temperature in the district is 23°C.²¹ The climatic and geological setting is crucial to the understanding of the nature and types of its intra and inter-ethnic land conflicts.

The so called Eastern Arc Mountains are recognized as one of the 24 globally important 'hot spots' for forest biodiversity, also known as Taita Hills.²² The forests in the slopes of these hills accommodate many endemic species of plants, birds and insects that occur only in Taita Hills or in East Africa.²³

In Taita Taveta area, potential for soil erosion hazard varied from very low on the plains to the Taita Hills slopes.²⁴ Within Taita Hills, the highest erosion risk occurred in the foothills, where gully erosion, which is arguably the most serious form of water erosion, was very common. This caused direct damage to agriculture and constructed

²⁰ Ritva Kivikkokangas-Sandgren, Sakari Tuhkanen & Jyrki Uotila, *The Taita Hills – a verdant mountain massif surrounded by a dry savanna in southeastern Kenya*, Finnish Association for Development Geography: 1990; pp.24.171.

²¹ GOK, Office of the President, *Special Programmes Arid Lands Resource Management Project II Taita Taveta District Annual Progress Report for the Year 2006/07*, Government Printers, 2007.

²² Eastern Arc Mountains; Eastern Arc Mountains information source 2004, <http://www.easternarc.org>. Accessed on 10th January 2009.

²³ Bytebier Benny, *Taita Hills Biodiversity Project Report*, National Museums of Kenya, Nairobi, 2001.p121.

²⁴ Food Agricultural Organisation (hereafter FAO) Soils bulletin; *Agro-ecological assessments for national planning: the example of Kenya*, Volume 67, 1993.

sites and, further, siltation of rivers and reservoirs²⁵. Regional gully erosion resulted from deforestation, overgrazing and inappropriate farming techniques.²⁶

²⁵ *Ibid.*

²⁶ *Ibid.*

1.2 Statement of the Problem

Land has been at the core of economic cultural and socio- economic change in Taita Taveta. Majority of the population continue to have difficulties, not only in adopting to the modern agrarian economy, but also in coping with the increasingly crumbly and marginal environment, land degradation, low agricultural output and intensifying conflicts over access to and control of land. Inadequate resolution of the land question is also a major cause of poverty in the area. Conflicts over land have occurred sporadically causing major social and economic instability. For example, on 13thOctober 2010 , retired teachers in the area went on a demonstration in the streets of Voi area of Taita Taveta against the Kenya national Union of Teachers over an alleged deal to sell 100 acres of prime land belonging to the teachers, investment company and which had been acquired in 1980.²⁷

There is need to draw attention to what land means to the people of Taita Taveta in order to uncover how it is valued, its symbolical identity and how it affects political behaviour and beliefs. This focus is especially useful in understanding the prevalence of land conflicts in Taita Taveta. Studies need to trace the migration of a group of individuals to a common area giving them a sense of identity and ownership. This will reveal the historical linkages between land, a group's identity, subsequent reallocation of land and the prevalence of land conflict.. This research will try to remedy these shortfalls through an attempt to examine the types of land conflicts in Taita Taveta, determining the causes of land conflict in the area and assessing their impact on the population.

²⁷ Nation Correspondent, 'Retired Teachers and Knut Officials wrangle over Land', in *Daily Nation*, Wednesday 13th October 2010.

This study examines the evolution, nature and impact of land conflict in Taita Taveta in the period between 1963 to 2010. This period is useful in describing land conflict in Taita Taveta from colonial historical land injustices when Kenya attained Independence in 1963 to postcolonial period up to the year 2010 when Kenya promulgated the new constitution which addressed the land question outlining principles of land policy under chapter five of the constitution.²⁸

1.3 Objectives of the Study

The main objective of this research was to examine the nature, causes and impact of the land conflict in Taita Taveta. The study, therefore, is based on the following secondary objectives:

- a) To examine the nature or types of land conflicts in Taita Taveta.
- b) To determine the causes of land conflicts in Taita Taveta.
- c) To evaluate the impact of land conflicts in Taita Taveta.

1.4 Justification of the Study

The Wadawida and Watuweta have experienced major land conflicts since independence. These conflicts have exacted a heavy toll in terms of destruction of social infrastructure and loss in property and human lives. Although much research has been done on the Taita Taveta population, no systematic study has been done on land conflict in the area. A great deal of scholarly work has discussed the issues of land and conflict in Kenya during and after the colonial period. However, most of

²⁸GOK, *The Constitution of Kenya*, Nairobi, Government Printers, 2010.

Some places were not accessible by motor vehicle especially during the rainy season. In the lowlands, some areas are very insecure because of bandits. As a result, these areas were visited fewer times. In general, this resulted in less supervision of the research assistance than was originally envisaged. However, recruiting experienced research assistants, who were given good pre-survey training, mitigated this.

1.6 Literature Review

Land conflicts in Taita Taveta have been in existence since colonial era. Yet, there is a glaring inadequacy of literature on land conflict in this area. Although many scholars have done research on Taita Taveta one common element of these studies is the exclusion of land as a factor in conflict in Taita Taveta.

The review is approached from three perspectives. Part one is a review on research on Africa and global approach to conflict based on land. Part two is on literature available on Kenya, on the historical development of the land tenure systems and on land conflict in the country. Part three reviews literature available on Taita Taveta.

1.6.1 Literature on Africa and the Globe on Conflict Based on Land

From 1869 to the start of World War 1, the British developed and imposed imperialism in Africa out of fear of losing their larger empire. They therefore took other parts of Africa for example, South Africa in 1877 led by Sir Theophilus Shepston.³⁰

³⁰ Jeff Guy, *The Destruction of the Zulu Kingdom*. Pietermaritzburg, University of Natal Press, 1994.

They also annexed other parts of Africa. For example, according to Sarah Millin, British South Africa Company of Cecil Rhodes was expanding by 1890 in Congo. Rhodes referring to Africa once declared that;

'All these stars...these vast worlds that remain out of reach. If I could, I would annex other planets.'³¹

However, Sarah Millin does not explain why the British annexed land instead of trying to convince the people on the benefits of their policies, and why the people seemingly were less important than the land. This research is, therefore, important because it not only determines the causes of land conflict in Taita Taveta, but also examines the types of conflict and evaluates the impact of the conflict in the area.

According to Richardson (1960) Wright (1965) Wallenstein and Sollenberg (1999) and Gleditsch (2001) , struggles over territory are recognized to be the most pervasive form of conflicts and the largest category of causes of inter-state wars as well as intra-state conflicts. Micro level empirical studies of land disputes include André and Platteau (1998) and Platteau and Baland (2000) who noticed that when land pressures become particularly severe weaker categories of land rights holders may be discriminated against.³²Such groups include poor peasants, proletarians, widows, children and the like. This is crucial to this study. The Wadawida and Watuweta represent severe weaker categories of land right holders, for example, the peasant farmers, farm labourers and workers in the mines and sisal estates. According to some respondents, widows and children in the area are often subjected to discrimination on their rights to land ownership.³³However the authors did not explain who was likely to discriminate against the weaker categories of land right holders

³¹ S. Gertrude Millin, *Rhodes*, London, 1933, p 138.

³² T. Holden et al, *Impact of land registration and certification on land border conflicts in Ethiopia*, World Bank, 1990.

³³ Oral Interview, Raphael Mwakala, Pastor, Voi, 02/12/2009.

when land pressures become severe. It is not clear from the literature whether it is the State or the bourgeoisies who were likely to discriminate the weaker categories of land right holders.

According to Z Skweyiya, in South Africa the issue of land cannot be separated from apartheid's policies of "homelands", Group Areas, housing and urbanisation. He further argues that land issues remain the core of South African race politics because land is a resource around which racial competition, animosity, and black anger have often crystallised.³⁴ Approximately 3.5 million Africans were forcibly removed from their communal homes to the 'homelands' between 1960 and 1983 as part of apartheid.³⁵ However, the author does not suggest the measures to be undertaken so that land does not continue to be a source of conflict in post-apartheid South Africa or elsewhere in the world. Land could instead take a significant place in negotiating for peace in a country in conflict.

According to Chris Huggins and J Clover, many African nations have experienced a resurgence of land reform over the last century following the retreat of colonial rule. Land lies at the heart of social, economic and political life in most of Africa. However, across much of the continent there is a lack of clarity regarding property rights. Therefore land tenure is contested. In many African countries, the struggle for independence, although aimed at achieving universal suffrage, human dignity, and equal opportunities, was mostly to address the land issue. Issues of justice based on reclaiming lost lands were the central aspect of nationalists' demands for

³⁴ Z Skweyiya, *Towards a Solution to the Land Question in Post-Apartheid South Africa: Problems and Models*, 1989.

³⁵ LG Robinson, *Rationales for rural land redistribution in South Africa*, 23 *Brooklyn J of Int'l Law*, 1997.

independence.³⁶ They argue further that land rights, like all property rights, are socially-mediated entitlements. It has even been suggested that the way land use is governed is not simply an economic question, but also a critical aspect of the management of political affairs. The administration of land use is the most important political issue in most African countries. One of the defining features of the land rights situation in most parts of Africa is the dichotomy between customary land tenure arrangements which dominate the African landscape, and the statutory systems based largely on western models, which dominate in urban and particularly high-value areas.³⁷ The authors condemn western models of land tenure, but do not affirm the way forward to ending land conflict in Africa. They also do not state whether the customary land tenure arrangements could be the solution to land conflict as opposed to the western models.

According to Babette Wehrmann, land conflicts are a widespread phenomenon, and can occur at any time or place. Both need and greed can lead to them, and scarcity and increases in land value can make things worse. Land conflicts especially occur when there is a chance to obtain land for free – no matter if this land is state, common or someone's private property. Inheritance conflicts and disputes between neighbours are most often about land (and other immobile property). In post-conflict situations or during the early phases of economic transition, for example, privatization, when regulatory institutions, controls and mechanisms of sanctions are not yet in place, people eagerly seize land if their position allows for it. Others may forfeit land if they are in a weak position. During colonial times, dominant European nations tried to occupy all the land outside Europe that seemed useful (fertile or rich in minerals). In

³⁶ C Huggins and J Clover, *From the Ground Up: Land Rights, Conflict and Peace in Sub-Saharan Africa*, 2005.

³⁷ *Ibid.*

the 21st century, the powerful are mostly national elites and international mining companies. The conflicts are similar. Local people with long-standing *de facto*³⁸ rights often held for several generations lose their land to the powerful.³⁹ However the author does not explain how this illegal land appropriation can be avoided. Nor does he discuss the legacy of the colonial European nations on contemporary land conflicts.

Jared Diamond ascertains that, if conflict cannot be managed peacefully and through courts, it may be managed in “nastier” ways, such as mass killings. He points to the Rwandan genocide in 1994 and argues that a rising population led to unsustainable resource use which in turn created conflict.⁴⁰ Families had to divide land into smaller and smaller pieces when children married, making a bad situation worse over time.⁴¹ He further argued that ordinary citizens participated in the violence because they were desperate and lured by property. Running away or killing a Tutsi or a Hutu (tribes in conflict in Rwanda) lead to possession of the missing or dead person’s land. This would mean ability to feed family and perhaps earn some income from the sale of crops, such as coffee or tea. Alternatively, running away or killing people would keep these competitors for scarce resources from taking one’s land.⁴² However, Diamond does not explain the nature of the land that the people of Rwanda were fighting for, whether it was just any parcel of land or land for agriculture, and what its real value was, for it to have led to genocide.

³⁸ *De facto*. It means by fact.

³⁹ Babette. Wehrmann. *Land Conflict: A practical guide to dealing with land disputes*, Eschborn, Germany, 2008.

⁴⁰ Jared Diamond, *Collapse: How Societies Choose to Fail or Succeed* New York, Penguin, 2005.

⁴¹ Catherine Newbury, *Background to Genocide: Rwanda. Issue: A Journal of Opinion Vol 23, No 2*, African Studies Association, 1995.

⁴² *Ibid*.

It is evident from the literature that land played and continues to play an integral role in conflicts within and between nations. The British annexed Africa to create allies in case a war started. This struggle over territory is what is termed as one of the largest causes of inter-state wars which are also caused by intra-state wars. This study is focussed on intra-state war. For example, what happened in Taita Taveta after the British annexed Africa and what happened after 1963.

1.6.2 Literature on Kenya

The Historical Development of the Land Tenure Systems in Kenya

Indigenous people's legal systems were based on the customs and practices of the various people. These customs were enforced by elders and clan leaders who performed both civic and spiritual duties. The communities determined the powers exercised by the clan elders. These powers included keeping peace, settling disputes (involving marriage, divorce, the marital status of women and men, the rights of children, inheritance, election of customary heirs and land), performance of rituals, protection of gods and shrines and guarding against drought, famine and other disasters. Land tenure tended to be communal under the authority and advice of community elders, clan heads and or kings.⁴³ However, the report does not show whether the said communal ownership of land led to lesser or lower rates of land conflicts as opposed to the late 20th and 21st centuries. Land may not have been perceived in exact the same way by all communities. However, the elders and clan elders of the various communities tried to ensure that the people overcame conflicts and lived peacefully, but still there were many conflicts.

⁴³ United Nations Centre for Human Settlements , *Land Information Service in Kenya* ,Nairobi, UN-HABITAT, 2001,p1-2,1-3and 1-4.

The end of the 19th century marked the beginning of the colonial era. The colonial government regarded the indigenous people as incapable of holding interest in land. According to Okoth-Ogendo and H.W.O, in 1897, the Commissioner for the Protectorate, using the Land Acquisition Act of India (1894), which was extended to Kenya, appropriated all lands situated within one-mile on either side of the Kenya-Uganda railway for the construction of the railway. The Act was also used to compulsorily acquire land for other public purposes such as government buildings. In 1915, the 1902 Ordinance was repealed and replaced by a new Crown Land Ordinance that now declared all land within the protectorate as Crown Land, whether or not such land was occupied by the natives or reserved for native occupation. The effect was that Africans became tenants of the Crown, with no more than temporary occupation rights to land.⁴⁴

In 1915, all land was declared Crown Land. According to The Crown Land ordinance of 1915, Crown Land is defined as; All land subject to the control of His Majesty's Protectorate and all land which shall have been acquired for the service or otherwise and shall include all the land occupied by the native tribes of the protectorate and all land reserved for the use of any tribe. However, the authors fail to mention whether or not the ordinance did provided a legal and policy framework for the registration of collective titles. This is important to the research because land was communally owned in Taita Taveta before the advent of the colonialism. Additionally, the lack of enforcement of the Land Law results in a continued vulnerability of indigenous groups to land speculators, while pressure from outsiders and the limited access to information make it very difficult for them to successfully claim their rights.

⁴⁴ Okoth-Ogendo, H.W.O, *Tenants of the Crown: Evolution of agricultural law and Institutions in Kenya*, Nairobi, African Centre for Technology Studies Press, 1991.

According to the United Nations Centre for Human Settlement Report on Land Information Services in Kenya, in 1926 the boundaries of all land occupied by Africans were defined and gazetted. In 1930, these areas were declared Native Reserves for the use and benefit of the indigenous inhabitants of the colony forever. This was the first time land was ever categorised on a racial occupation basis. With political emancipation in 1963, all land categorized as Native Land Reserves, Temporary Reserves or Leasehold Areas were declared to be Trustlands.⁴⁵ The land tenure system is important to the research in that it shows categorically the importance of land for livelihoods and identity, hence leading to conflict like in Taita Taveta as ethnic groups experience land losses. However, contrary to the report, in reality, titling of land is increasingly linked to the personal interests of those in power. The result is that those who live on land that is sought after by powerful individuals or companies do not receive valid land titles.⁴⁶

According to B.A Ogot and W.R Ochieng, the plan implementation, however, must be viewed in the context of the greater Mau Mau Uprising and the colonial government's declaration of a State of Emergency. During this time, villagisation of the Kikuyu occurred to serve the politically expedient needs of the colonial government. These reforms were intended to increase the opportunities for Africans in the colonial society and to integrate them more effectively into the changing pattern of the economy. However, they could not contain African politics. Nor could African politicians be 'pocketed' because the land and other economic reforms that had been introduced, while benefiting indigenous capital interests, fell far short of popular

⁴⁵ United Nations Centre for Human Settlements , *Land Information Service in Kenya* ,Nairobi, UN-HABITAT, 2001,p1-2,1-3and 1-4.

⁴⁶ *Ibid.*

demands.⁴⁷ For example, the land consolidation programme had repressive objectives. In the words of the Special Commissioner for Central Province' land consolidation was to complete the work of the emergency: to stabilize a conservative middle class, based on the loyalists. It was also to confirm the landlessness of the rebels.⁴⁸ This is important to the research in that it shows how land influenced the distinction of the African people to classes. The upper class is represented by the colonial government, the middleclass being the loyalists who supported the colonial government and the lower class being the landless who rebelled against the colonial government. However, the authors do not mention who the loyalists and the landless were in Taita Taveta; nor do they mention whether there was a conflict or resistance between the classes in Taita Taveta.

According to Syagga and W.H.A Olima, in Kenya the post-colonial State is empowered to acquire land compulsorily for public use provided that a fair compensation is paid for such land. The principle legislation that confers powers of acquisition on the public bodies includes the Kenya Constitution 2010, the Land Acquisition Act of 1968, the Water Act and the Electric Power Act.⁴⁹ However, the authors fail to explain why there is a problem of idle land belonging to a few individuals while the majority of the population are without adequate land in Taita Taveta.

Ndung'u report of 2004 revealed that former Presidents Kenyatta and Moi, as well as cabinet ministers, former high ranking civil servants and other influential people have

⁴⁷ Ogot B.A & W.R.Ochieng (Eds), "*The Decisive years*". Decolonization & Independence in Kenya 1940-93, Nairobi, East African Educational Publishers, 1995 pp.48-79.

⁴⁸ Anderson D. *Histories of the hanged*, New York: W. W. Norton. 2005, p.24.

⁴⁹ P.M. Syagga and W.H.A. Olima, *The impact of Compulsory Land Acquisition on Displaced Households: The case of the Third Nairobi Water Supply Project, Kenya*, Nairobi, 1995.

been among the major beneficiaries of illegal allocations of public land. Land 'grabbing' in Kenya is such a common phenomenon that it is even reflected in contemporary art.⁵⁰ The Kenyan painter Lonaa, who documents the everyday street life of the poor, placed a hoarding with the sign "Land reserved for grabbers" in the centre of one of his recent paintings. Corruption – bribery, fraud, nepotism, favouritism and clientelism – in land administration and state land management is a widespread problem, and leads to a high number of land conflicts in Kenya as indeed all over the world.⁵¹ However the Ndung'u report did not explain the complexities and risks associated with trying to undo a corrupt past to curb land conflicts; neither did it suggest whether it could be much better to attempt to prevent corruption than to cure its consequences in order to end land conflicts.

1.6.3 Literature on Taita Taveta County



Figure 3: Lumo Animal Sanctuary

According to Mwandawiro Mghanga, the Taita Hills Hotel, the Salt Lick Lodge, the Lumo Animal Sanctuary, the Kenyatta family and several large

commercial ranches cover a large fraction of the peasant's 1930km². The researcher further argues that more and more of the community land is encroached upon by the sisal estates, the national parks, tourists and mineral prospectors. The latter include

⁵⁰ GOK, *Report of the Ndung'u Land Commission*, Government Press, Nairobi, 2004.

⁵¹ *Ibid.*

animal sanctuaries run by Mr Marcos and Mr Morgan at Mwakitau and Kishushe areas of Nyache respectively, and Wanjala iron ore mining at Wanjala in Nyache area. However, Mwandawiro Mghanga does not explain whether these parcels of land were unlawfully acquired nor whether the Wadawida and Watuweta were consulted prior to the allocation of the land; neither does he state whether the establishments are of any benefit to the people.

According to Gutto and Kanyinga, partly due to lack of land for farming and for a reasonable living, at least half the members of every family in Taita live outside the county. As a consequence, Taita Taveta, like the rest of the Coast Province, has thousands of squatters. It is no wonder struggles and conflicts over access and right to land and land resources are part and parcel of past and present history of the area.⁵² However the authors did not explain how lack of land for farming and reasonable living in Taita Taveta came about; neither did they explain who was responsible in order to contribute to a solution of the problem. The National Land Policy of 2007 stated that the government will ensure that all land is put into productive use on a sustainable basis by facilitating the implementation of key principles on land use, productivity targets and guidelines as well as conservation, However, slow land adjudication process and delay in finalization of settlement programmes have denied the locals secure access to land.⁵³ This situation in Taita Taveta has provoked frustrations amongst the local people aggravating conflict over the scarce land resource. These findings were supported by the Waki Commission Report of 2008 .According to the report, unresolved land issues have been singled out

⁵² Mwandawiro Mghanga, *Usipoziba Ufa utajenga Ukuta; Land Elections and Conflicts in Kenya's Coast Province*. Heinrich Böll Stiftung, East and Horn of Africa, 2010.

⁵³ GOK, Ministry of Lands, National Land Policy 2007 , Government Printers,2007.

as some of the most important root causes of the recent post-election violence of 2007-2008 and also of the past⁵⁴.

According to Koigi wa Wamwere, many people argued that various groups and people took advantage of the disputed election results of 2007 to reclaim “their rights to their ancestral lands that had been ‘grabbed’ or taken by individuals or groups”⁵⁵. However Koigi does not explain whether this was the exact situation in Taita Taveta. Similarly, the study established that the root causes of past conflicts and violence in the country have been attributed to the issue of land and land resources.

Mwandawiro Mghanga further claims that in August 2008, 562 km² of land belonging to the local community in Taita Taveta were gazetted to provide land for a private company. This was the Sisal Exploration East Africa Limited, which obtained exclusive license to prospect for precious and non-precious minerals in the area.⁵⁶ He recalls that the residents of Taita Taveta were taken by surprise by this gazettelement. He further adds that it is not just lack of a land policy that is the basic problem, but rather lack of political will to implement progressive land policies through reforms. The ruling elite class itself is part and parcel of the injustices over land in the country dispossession of the Coastal people from their ancestral land and land resources.⁵⁷ Mwandawiro Mghanga asserts that the residents of Taita Taveta were not involved in the decisions making process on their community land. However, he does not explain

⁵⁴ Waki Commission, report of the Commission of Inquiry to investigate the Post Election Violence (CIPEV), National Council Communication of Kenya (NCCCK), 2008:30-33.

⁵⁵ Koigi wa Wamwere, *Towards Genocide in Kenya*, Mvule Africa Publishers, 2008.

⁵⁶ GOK, Gazette Notice No.7261, Nairobi, Government Printers, 8th August 2008.

⁵⁷ Mwandawiro Mghanga. *Usipoziba Ufa utajenga Ukuta; Land Elections and Conflicts in Kenya's Coast Province*, Heinrich Böll Stiftung, East and Horn of Africa, 2010.

who owns the land and how the process affects the Wadawida and Watuweta; neither does he explain any violation of the land law that requires to be addressed.

In summary the literature review has identified a number of gaps in relation to the study on land conflict in Taita Taveta, such as determining the causes and natures of land conflict in the area, assessing the impact of the land conflicts in the area which the authors failed to address. This study is, therefore, of great importance as it attempts to fill in the gaps and to propose possible solutions to the land conflicts which can be applicable not only in Taita Taveta, but elsewhere in the world.

1.7 Theoretical Framework

The study adopts the Marxist Structural Conflict Theory. This begins with an analysis of material conditions, starting with the necessary economic activities required by human society to provide for material needs. The form of economic organization, or mode of production, is understood to be the basis which creates or greatly influences the majority of other social phenomena, including social relations, political and legal systems, morality and ideology. These social relations form the superstructure of the organization and the economic system forms the base. As the forces of production, most notably technology, improve existing forms of social organization become inefficient and stifle further progress.⁵⁸ According to Marx's analysis, the emphasis of the necessity of material conditions to form the basis of economic organization reverberates well with the alienation of land by the British where a number of the Wadawida and Watuweta were evicted from their ancestral land without their consent. For example, in Taveta, Ewart Grogan a colonial settler acquired land and started sisal

⁵⁸ Callinicos Alex, *The Revolutionary Ideas of Karl Marx*. Bloomsbury, London, 1983.

farming in the area. The material condition of land was necessary for Grogan to carry out his economic activities of sisal farming in the area. This is relevant to the study because land forms the basis of economic organization in Taita Taveta.

Furthermore, Karl Marx states that inefficiencies manifest themselves as social contradictions in society in the form of class struggle. Under the capitalist mode of production, this struggle materializes between the minority who own the means of production, namely the bourgeoisie, and the vast majority of the population who produce goods and services, namely the proletariat. Taking the idea that social change occurs because of the struggle between different classes within society which are in contradiction to each other, the Marxist analysis leads to the conclusion that capitalism oppresses the proletariat, and the inevitable result is a proletarian revolution.

The struggles here explain the conflict in Taita Taveta where the classes are in constant competition for the scarce material condition-Land. The classes in the area involve the peasants, squatters, large scale miners, small scale miners, land owners, and investors, among others. The land conflicts in the area can be classified as conflicts within clans, with neighbours, over settlement schemes, with the wildlife, between the bourgeoisie and the proletariats who are the vast number of workers in mines and sisal estates, between small scale and large scale miners, over infrastructure, and between widows and their in-laws.

The theory views the emergence of a socialist system as a historical inevitability that arises from the obsolescence of capitalism. There is then corresponding social revolution, where private property in the means of production would be superseded by

co-operative ownership. Production would be organized for use, as opposed to being carried out for profit. Eventually, socialism would give way to a communist stage of history. This would be a classless, stateless system based on common ownership and free-access, superabundance and maximum freedom for individuals to develop their own capacities and talents. As a political movement, Marxism advocates for the creation of such a society. This analysis of an obsolescence of capitalism resulting to a social revolution is an important concept to the study which explains why the Wadawida and Watuweta formed Taita Hills Association (hereafter THA) during the colonial era, in 1939 which was a protest political movement against the British Administration.⁵⁹ This was because of the British alienation of large parcels of fertile land for white settlement and their enactment of harsh labour laws to force the Africans to work at low wages on settler farms and public works. This marked the beginning of land conflicts in Taita Taveta.

A class, according to Karl Marx, is defined by the ownership of property. Such ownership vests a person with the power to exclude others from the property and to use it for personal purposes. For example, bourgeoisie Ewart Grogan had the power to acquire land and evict the Wadawida and Watuweta from their land and use it for his sisal farming. According to Marx, there are three great classes of society: the bourgeoisie (who own the means of production such as machinery and factory buildings, and whose source of income is profit), landowners (whose income is rent), and the proletariat (who own their labour and sell it for a wage). Class thus is determined by property, not by income or status. These are determined by distribution and consumption, which itself ultimately reflects the production and power relations

⁵⁹ Bravman, B, *Making Ethnic Ways: Communities and their Transformations in Taita, Kenya, 1800–1950*, James Currey, Oxford, 1998.

of classes. The social conditions of bourgeoisie production are defined by bourgeois property. Class is, therefore, a theoretical and formal relationship among individuals.⁶⁰ Karl Marx's three classes of the society are reflected in the land conflict in Taita Taveta. The bourgeoisie, for example, will correspond to the owners of machineries for mining in the area. Land owners can be, owners of ranches or those who own sisal estates or lease their land for use by the bourgeoisie some of them also provide housing and collect rent from their workers. The proletariats are the miners and labourers in the ranches and sisal estates.

According to Karl Marx, the force transforming latent class membership into a struggle of classes is class interest. Out of similar class situations, individuals come to act similarly. They develop a mutual dependence, a community; a shared interest interrelated with a common income of profit or of wages. From this common interest, classes are formed, and for Marx, individuals form classes to the extent that their interests engage them in a struggle with the opposite class. At first, the interests associated with land ownership and rent is different from those of the bourgeoisie. But as society matures, capital (i.e., the property of production) and land ownership merge, as do the interests of landowners and bourgeoisie. Finally, the relation of production, the natural opposition between proletariat and bourgeoisie, determines all other activities. This force transforming latent class membership into a struggle is what led to the formation of the THA in 1939 intensifying land conflict in Taita Taveta.

⁶⁰ R.J. Rummel, *Understanding Conflict and War*: Volume 3, Sage Publications, 1977.

As Marx saw it, the development of class conflict, the struggle between classes, was initially confined to individual factories. Eventually, given the maturing of capitalism, the growing disparity between life conditions of bourgeoisie and proletariat, and the increasing homogenization within each class, individual struggles become generalized to coalitions across factories. Increasingly class conflict is manifested at the societal level. Class consciousness is increased, common interests and policies are organized, and the use of and struggle for political power occurs. Classes become political forces.⁶¹ This fact is important to the study of land conflict in Taita Taveta in that it aids in describing why and how the majority of the Wadawida and Watuweta male labourers from the sisal estates and mines joined forces with fellow youths from other parts of the Coast Province through recruitment in 2007 to the Mombasa Republican Council (hereafter MRC) which was established in 1999.⁶² One of the key complaints by the Council that it seeks to be addressed is that large areas of nominally Trust Lands at the Coast remained 'crown' land and have been given to outsiders, state elites, and wealthy investors while locals could not get title deeds.

The distribution of political power is determined by power over production (i.e., capital). Capital confers political power, which the bourgeois class uses to legitimize and protect their property and consequent social relations. Class relations are political, and in the mature capitalist society, the state's business is that of the bourgeoisie. Moreover, the intellectual basis of state rule, the ideas justifying the use of state power and its distribution, are those of the ruling class. The intellectual-social culture is merely a superstructure resting on the relation of production, on ownership of the means of production.

⁶¹ Callinicos Alex, *The Revolutionary Ideas of Karl Marx*. Bloomsbury, London, 1983.

⁶² Oral Interview, Anonymous Respondent, Voi, 02/12/2009.

Finally, the division between classes will widen and the condition of the exploited worker will deteriorate so badly that the social structure collapses. The class struggle is transformed into a proletarian revolution. The workers' triumph will eliminate the basis of class division in property through public ownership of the means of production. With the basis of classes thus wiped away, a classless society will ensue (by definition), and since political power to protect the bourgeoisie against the workers is unnecessary, political authority and the state will wither away.⁶³

The Marxist Structural Conflict Theory is relevant to the study of land conflict in Taita Taveta. This is because the conflict is focused on competition for resources between the owners of the means of production such as the owners of mining companies and sisal estates, and those who do not own the means of production such as the workers in the mines and sisal estates. The theory suggests that the conflicts need to be addressed before the social structure collapses as the increase in disparities between the classes pose a threat to political power.

1.8 Research Hypotheses

The research was based on the following hypotheses;

- a) Denial of secure access to land is a major determinant of the nature and cause of land conflicts in Taita Taveta.
- b) Land conflicts have impacted negatively or positively on the people of Taita Taveta.

⁶³Callinicos Alex, *The Revolutionary Ideas of Karl Marx*. Bloomsbury, London, 1983.

1.9 Methodology

1.9.1 Methods of Data Collection

The study was based on both secondary and primary data. Secondary sources included books and articles from scholarly journals. Also utilized were relevant books and journals found in the University of Nairobi's Jomo Kenyatta Memorial Library (JKML), The United Nations Library at Gigiri, the United Nations High Commission for Refugees (UNHCR) library in Westlands, Nation Media library housed in Nation House, Nairobi and The Standard Media library housed in the I&M building in Nairobi. Internet publications on the study area were also used. Gaps that were identified in the books and journals were filled by use of primary sources.

The study's primary sources included archival materials and oral interviews. Archival materials from the Kenya National Archives (hereafter, KNA) that were used in this study included letters, provincial annual reports, maps, newspapers reports and magazines. The archival material is fundamental in providing a historical perspective on the conflict from 1963 to the present. For the archives, I obtained a study permit number 16135 that enabled me to go to the field.

To surmount the language barrier, the services of two research assistants, a Mdawida and a Mtuweta, were used. They helped in translations during interviews with local respondents. Village elders and the Anglican Church of Kenya (ACK) leaders helped establish a rapport with the local people. Data was collected from various respondents.

Sampling in the field was through purposive and snowballing method. This is where initial subjects with desired characteristics were identified.⁶⁴ Key informants were identified in the readings and were interviewed during pre-study period. Examples of key informants were former Member of Parliament and political activist Mr. Mwandawiro Mghanga, the District Statistics Officer Mr. Norman Mwasigwa, District Officer, Officer Commanding Police Division (OCPD), among others.

Initial subjects identified, in turn, named others that they knew had the required characteristics. The method was also useful because the populations that had the characteristics needed for the study were not well known. Key informants were local authority employees, school teachers and retired teachers, leaders of different groups, District Peace Committee members, among others.

The study was largely qualitative in nature. The qualitative approach recognizes that anybody is capable of constructing knowledge. Information was obtained from anybody with desired characteristics. The qualitative approach enabled the researcher to make use of records that were not necessarily meant for historical analysis and other useful information from informants from diverse backgrounds.

⁶⁴ Mugenda O. and A. Mugenda, *Research Methods*, Nairobi: Acts Press, 1999, p. 51.

CHAPTER TWO

WADAWIDA AND WATUWETA

2.0 Introduction

This chapter will examine the social organization of the people of Taita Taveta, and their relationship at different times of their history. The chapter will also examine their relations with their neighbours the Maasai and the Akamba, with large estate owners, with the Kenya Wildlife Service and with the mining companies. According to the Marxist Structural Conflict theory, the conflicting relationships were the results of resources and the geography of the region. The chapter is, therefore, largely a historical background that is aimed at helping one understand the settlement of the area. This will lead to a better understanding of land conflict in Taita Taveta.

2.1 The Social and Political Organisation

The people of Taita Taveta were organised in clans which were referred to as *vichuku*. (sin. *kichuku*)⁶⁵. None of the clans was limited to one portion of the hill alone but it was possible to find regions in which members of one clan were preponderant. For example, Waikumi of Mgange, Wasadu of Sagalla and the Wanya of Wusi are good examples. Clan offshoots had spread all over the hills to such an extent that it would be difficult to find areas where clansmen of a certain *kichuku* are entirely lacking.⁶⁶

The *vichuku* are patrilineal groups. The lineage referred to as *kivalo*, or *kichuku*, has a span generally corresponding to a depth of four generations. It was a descent group incorporating relations by marriage, not only by blood kinship. The *kivalo* was much more prominent than the clan in everyday life. For instance, it was a cult group for

⁶⁵ *Vichuku*. (Sin. *Kichuku/Kivalo*). It means Patrilineal groups in Taita Taveta.

⁶⁶ G.C. Mkangi, *The Social Cost of Small Families and Land Reform. A case Study of the Waitaita of Kenya*, Pergamon Press Ltd, Oxford 1983.

affairs concerning the ritual status of its members, their village and their land. The segments of the *kivalo*, which were the next smallest units in the series of lineages, were known as *nyumba*.⁶⁷ The nuclear unit in the series of kinship group was the patri-local extended family known as *kinyumba*. The *kinyumba* included the father, his wife or wives, his sons with their wives and children and his unmarried daughters. The *kinyumba*'s main functions was maintaining the close relationships of members and giving them a sense of community. Furthermore, it was the principal land and cattle owning unit of which the head of the extended family was the legal representative. The *nyumba* was a dispersed group within one district. It was religiously self-sufficient in minor cases and it had special significance as a group providing help, protection and shelter, if necessary, to women or members who had married outside it. Young men expected assistance from their relatives in getting cattle for bride price, as well as assistance in hut building.

Pre-colonial Taita territory was divided into administrative *malolo* (singular *ilolo*).⁶⁸ The boundaries were strips of no-man's land which were made up of high, bare, uninhabitable plateau, too steep a slope or such like. In more densely populated parts one could find small rivers without natural vegetation in their beds.⁶⁹

According to Adriaan Hendrik Johan Prins, religious ties existed among the people and were of great importance. Kinship ties also formed an integral part of relationships, but neither were they distinctive of this unit. The main principles were common territory and political identity, rights over land and conformity of culture, a vague expression shared by the Wadawida and Watuweta as a basis for unity.

⁶⁷ *Nyumba*. (Sin.*Kinyumba*). It means House.

⁶⁸ *Malolo*. (Sin.*Ilolo*). It means Districts.

⁶⁹ Prinns A.H.J; *The Coastal Tribes of the Northeastern Bantu: Pokomo, Nyika, Teita*, 1952.

However, the district was the smallest unit in which being culturally distinct was both felt and expressed.⁷⁰

Similarly, during the pre-colonial periods, rights over land were held by other units and by kin groups in general and specifically by the *Kinyumba* whose head held the land rights and owned gardens, on its behalf, within the *ilolo* and could acquire any of the available cultivatable parts within the boundaries. According to P Fleuret, Taita structural aspects of social organization at the community level influenced access to the management of land, water, livestock, and labour. At the household level, gender based division of responsibilities and expectations among men, women, and children influenced the use of individual and household resources⁷¹. Resource management strategies were thus shaped by variation in household structure, by the interests of men and women which were not necessarily congruent or complementary, and by supra-household relations. Married women obtained right to use land through their husbands, but husbands could allocate land they owned to others, for example, their brothers and cousins and other male kin members. Decisions about the disposition of plots were thus largely in husbands, hands⁷². Unmarried women had lesser and insecure access to land through their fathers or brothers, and generally had to request, or *kulomba*, their brothers or fathers, for renewal of land use rights on an annual or seasonal basis.⁷³

⁷⁰ *Ibid.*

⁷¹ P.Fleuret and A.Fleuret, Social Organization, Resource Management, and Child Nutrition in the Taita Hills, Kenya. *American Anthropologist*, New Series, Vol. 93, No. 1, March 1991, pp. 91-114.

⁷² *Ibid.*

⁷³ *Kulomba*. It means Pray or Beg in Taita Taveta.

During the same period, most cattle were obtained through inheritance, purchase, as gifts, or as bride price and passed on to sons. Women got access to milk and manure (the most significant animal products) as well as land, largely through marriage or guardianship. Unmarried women mostly managed their affairs in association with their natal homes, thus generating matrilineal extended households. Generally men did not establish a separate household upon marriage, but continued to co-reside, at least for a time, with their parents. This entailed a variable degree of pooling of land, labour, livestock, capital, and managerial resources.⁷⁴

The political organisation, during the precolonial period, primarily consisted of: first, a single deliberative governing body, the *Njama*,⁷⁵ in which all of Taita Taveta principal political groups which included chiefs and clan elders were represented; and, secondly was an age set, or *irika* system⁷⁶, which provided for the community's defence and other social relationships⁷⁷.

The *Njama* appears to have evolved from the traditional customs and branches of several Bantu peoples who had settled in Taveta. It consisted of lineage heads, chiefs from successive age-sets and wealthy and influential men especially those "talented" in the community (brave warriors, gifted orators, or those with special magical powers). Until the end of the nineteenth century, the *Njama's* membership appeared not to have exceeded forty members. The duties of the *Njama* were to settle disputes, questions pertaining to land and to act as a court of law among the clans. It also had powers to make or alter laws to suit the needs of the time. The *Njama* also led ritual

⁷⁴ *Ibid.*

⁷⁵ *Njama*. It means governing body in Taita Taveta.

⁷⁶ *Irika*. It means age set in Taita Taveta.

⁷⁷ Ann E. Frontera, *Persistence and Change: A history of Taveta*, Crossroad Press, 1978.

ceremonies, conducted at special sacred sites, on occasions such as natural disasters, for example drought, epidemics or floods. *Njama* had no calendar for meetings but the chiefs and clan elders called meetings, chaired by the chiefs, whenever there was need for it to do so. Its decisions were based on established customary law and were always arrived at in deliberations carried out in strict confidence.

The second tier of authority was the *irika* or age-set system. The origin of the system may be traced to the Maasai and Bantu customs as both groups had developed the age-set system within their communities before the Taita Taveta area was occupied. The system provided a natural and mutually beneficial framework for organized life in Taita Taveta. The age-set system divided the society into a succession of horizontal strata, with a new stratum beginning approximately every fifteen years. Each of the age strata or *irika* had its own name, special rights and responsibilities with regard to the rest of the community.⁷⁸ Members of a particular age set, for example, participated in work, travel, wars, and expeditions together. Moreover, they were expected to help each other in times of crisis and to show hospitality to their age mates from other parts of Taita Taveta. This corporate identity, along with the ceremonies that went into the formation of the age-set, helped engender an artificial bond of kinship uniting its members and setting them off from other age-sets set up both before and after their own. Age set strata were not founded on the basis of age alone, but also by the initiation of all circumcised men over the age of puberty that did not yet belong to an age set. Consequently, there was some overlap in age between successive age sets, with some junior members of one *irika* being younger than some senior members of

⁷⁸ Prinns A.H.J; *The Coastal Tribes of the Northeastern Bantu: Pokomo, Nyika, Teita*, 1952.

the next⁷⁹. This is important to the study because the *Irika*, initiated by the local chiefs and clan elders, played an active role in protecting the community, from those perceived as enemies, using arms, such as bows and poisonous arrows as well as spears, for self defence against their enemies and in hunting the rich wildlife.

It was in Taveta area where the German and British colonial forces clashed at a place later called Slaughter Hill by the British. The Wadawida and Watuweta could not pronounce the name and called it '*Salaita*'⁸⁰. Many lives were lost on both sides during the war. The Taveta cemetery is the only place in Kenya where English and Germans are laid to rest side by side. Salaita Hill and *Kidong'u* Hill are known to have provided an effective barrier and hideout to both the British and German soldiers from each other during the First World War.

It is important to note that the Wadawida and Watuweta were attracted to settle on the hills not only because of the rich climate and scenic beauty but also because the hills afforded them safety from their neighbours, just as they afforded the Germans and British soldiers.

2.2 The Main Economic Activities of the Wadawida and Watuweta

The economic activity in Taita Taveta, during the precolonial era, was influenced by the locality of the people as distributed in their five divisions. The Wadawida and Watuweta located in the highlands were mainly involved in commercial and subsistence farming, with the main cash crops being bananas, beans, cotton, sugarcane, maize, sisal, coffee, cassava, sweet potatoes, exotic and tropical fruits

⁷⁹ *Ibid.*

⁸⁰ *Salaita*. It means Slaughter Hill.

especially mangoes and avocados, and many other horticultural products. In addition, apiculture in bee keeping and honey production was an important economic activity in areas like Voi and Wundanyi (see map on page xv).

During the post-colonial period, the upper zones of Wundanyi division experienced acute food deficits attributed to high levels of soil erosion. Farmers preferred to grow high value horticultural crops, most of which were sold in Mombasa. However, many farmers dealt with middlemen instead of selling their produce directly at the wholesale market in Kongowea. This was because the middlemen, from neighbouring communities, had adequate vehicles to handle tough terrains such as lack of a proper road network, as well as storage facilities to preserve the agricultural goods. This made the Wadawida and Watuweta vulnerable to manipulation by middlemen when prices were set far below prevailing market prices in Mombasa.⁸¹

During the same period, productive land in Mwatate division was limited. Most people could not afford the type of irrigation infrastructure required to cultivate in such areas. Mining activities, though having high returns, came with high risks, such as huge open cast pits left behind posing a risk to the residents, especially children. Effluent seeping into the ground and contaminated water sources, as well as flying stone pieces, were also other risks involved. This was not received well by the locals as reported by some anonymous respondents.

Apart from being home to Maungu Buguta Settlement Scheme, Voi town was strategically located providing a myriad of opportunities for potential entrepreneurs

⁸¹ Mwandawiro Mghanga, *Usipoziba Ufa Utajenga Ukuta; Land, Elections and Conflicts in Kenya's Coast Province*, Heinrich Böll Stiftung, East and Horn of Africa, 2010.

and a big market for agricultural produce. The least populated divisions were Tausa and Mwambirwa (see map on page xv) located in the lowlands with inadequate rainfall, and were only suitable for range activities. A major problem in the two divisions was the poor road network, leading to not only extremely high prices of food and non-food items, but also a general lack of investments due to transportation problems. Farm production was low. One contributing factor being due to lack of arable land, and most farmers lacked adequate food reserves.⁸²

2.3 Wadawida and Watuweta and their Neighbours: The Akamba and the Maasai

Kenya's coast communities were generally not closed units. Language, culture and appearance often overlapped. Families consisted of members of different communities, and among the Wadawida and Watuweta, a person's "tribe" was determined by his/her father's or mother's descent. The Wadawida and Watuweta lived near the Maasai in Kajiado (see the map on page xv) who were believed to have been in the same migration group with the Akamba. The Akamba are the fifth largest ethnic group in Kenya.⁸³ They are also a Bantu ethnic group who live in the Eastern Part of Kenya.⁸⁴ They live in Machakos, Makueni and Kitui to the north of Taita Taveta (See the map on page xv).

⁸² *Ibid*

⁸³ GOK. Ministry of Planning, 2009 Population & Housing Census Results, Nairobi, Government Printers, 31st August 2010.

⁸⁴ Donald Reiman Jacobs, *The culture themes and puberty rites of the Akamba, a Bantu tribe of East Africa*, New York University, 1961.

In the mid-eighteenth century, a large number of Akamba pastoral groups moved eastwards from the Tsavo and Kibwezi areas to the Coast. This migration was the result of extensive drought leading to lack of pasture for their cattle. They settled in areas such as Kwale, (See map on page xv), creating the beginnings of urban settlement. They are still found in large numbers in these towns, and have been absorbed into the cultural, economic and political life of the modern-day Coast region. Several notable politicians, businessmen and women, as well as professional men and women are direct descendants of these itinerant pastoralists.⁸⁵

The Akamba were hunters and gatherers.⁸⁶ They traded in locally produced goods such as cane beer, ivory, brass amulets, tools and weapons, millet, and cattle with their neighbours the Wadawida and Watuweta and the Maasai extending across central part of Kenya. The food obtained from trading helped offset shortages caused by droughts and famines. They also traded in medicinal products known as '*Miti*'⁸⁷, made from various parts of the numerous medicinal plants found on the East African plains. Further, the Akamba are still known for their fine work in basketry and pottery. Their artistic inclination is evidenced in the sculpture work that is on display in many craft shops and galleries in the major cities and towns of Kenya and East Africa. The Akamba are also well known for their honey which they sell from their bee keeping activities.

The Maasai (sometimes misspelled "Masai") are a Nilotic ethnic group of semi-nomadic people located in southern Kenya and northern Tanzania. They were among the best known of African ethnic groups, due to their distinctive customs and dress

⁸⁵ Kaplan Irving. *Kenya a Country Study*, Foreign Area Studies, American University, 1884.

⁸⁶ *Ibid.*

⁸⁷ *Miti*. It means Plants.

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⁸⁵ Kaplan Irving, *Kenya a Country Study*, Foreign Area Studies, American University, 1884.

⁸⁶ *Ibid.*

⁸⁷ *Miti*. It means Plants.

and residence near the many game parks of East Africa.⁸⁸ They spoke Maa (Ol Maa, Kimaa or Simply Maasai),⁸⁹ a member of the Nilo-Saharan language family that was related to Dinka and Nuer, and was also educated in the official languages of Kenya and Tanzania: Swahili and English. The Maasai population has been reported as numbering 840,000 in Kenya in the 2009 census. This was compared to 377,000 in 1989 and 400,000 in 2000. The Tanzanian and Kenyan governments had instituted programmes to encourage the Maasai to abandon their traditional semi-nomadic lifestyle, but some of them have continued their age-old customs.⁹⁰

According to their oral history, the Maasai originated from the lower Nile valley north of Lake Turkana and began migrating south around the 15th century, finally settling, between the 17th and 18th century, in a long trunk of land stretching from northern Kenya to central Tanzania. Maasai territory reached its largest size in the mid-19th century, and covered almost all of the Great Rift Valley and adjacent lands from Mount Marsabit in the north to Dodoma in the south.⁹¹ At this time the Maasai, as well as the larger Nilotic group they were part of, raided for cattle as far east as the Tanga coast in Tanzania. Raiders used spears and shields, but were most feared for throwing *orinka*⁹² which could be accurately thrown from up to approximately 100 metres.

⁸⁸ *Ibid.*

⁸⁹ Jens Finke, *Traditional Music and Cultures of Kenya*, Bluegecko Organisation, 2000-2003.

⁹⁰ Mohamed Amin, Duncan Willetts, John Eames, *The Last of the Maasai*, Camerapix Publishers International, 1987, Page 122.

⁹¹ Phillip Briggs, *Northern Tanzania with Kilimanjaro and Zanzibar*, 2006, page 200.

⁹² *Orinka*. It means Clubs.

In 1857, after having depopulated the “Wakuavi wilderness” in southeastern Kenya, Maasai warriors threatened Mombasa on the Kenyan coast.⁹³ One of the principal forces working for political change in Taveta during the 19th century was Wakuavi or agricultural Maasai immigration into the area as a result of conflicts between the Maasai sub-groups. These conflicts arose over cattle raiding and grazing land which found expression through the fighting culture built into Maasai social structure. When the Wakuavi came under sustained military pressure from other Maasai sub-groups, the Taveta who were impressed by the martial spirit of the Wakuavi sided with them. Apparently, even before the Wakuavi influx, Wataveta had already begun to adopt the Wakuavi style of circumcision, predisposing them to easily accept the Wakuavi request to come and live among the Wataveta during a time when Wataveta were still actively accepting immigrants from other population groups. Immigrant groups were given land and were attached to one of the existing Wataveta clans and thereby placed under the jurisdiction of the community elders. They were expected to participate in the community's circumcision rites and ceremonies and thereby to be brought into the Wataveta *Irika* system. Through these processes, new comers were accepted and assimilated into the community and became Wataveta. As late as the famine of the 1880s the Taveta language remained more or less what it had been before the Wakuavi influx.

By one estimate, two-thirds of the Maasai died during the period between 1883 and 1904 as a result of epidemics of contagious bovine pleuropneumonia, rinderpest and smallpox⁹⁴. This followed by British alienation of Maasai land starting with a 1904

⁹³ Toyin Falola, Christian Jennings, *Sources and Methods in African History: Spoken, Written, Unearthed*, Boydell & Brewer, 2003, page 18 2.

⁹⁴ *Ibid*

treaty⁹⁵, and followed by another in 1911. Maasai lands in Kenya were reduced by 60 percent when the British evicted them to make room for settler ranches. This subsequently confined them to the present day Kajiado and Narok districts. The Maasai in Tanzania were displaced from the fertile lands between Mount Meru and Mount Kilimanjaro by white settlers. They also lost most of their fertile highlands near Ngorongoro in the 1940s⁹⁶. More land was taken to create wildlife reserves and national parks. These were Amboseli, Nairobi National Park, Maasai Mara, Samburu, Lake Nakuru and Tsavo in Kenya. In Tanzania, Maasai land created animal reserves like Manyara, Ngorongoro, Tarangire and Serengeti⁹⁷.

The Maasai people stood up against slavery and lived alongside most wild animals with an aversion to eating game and birds.⁹⁸ They have though demanded grazing rights to many of the national parks in both countries.

The economic conditions of the Maasai have changed throughout their history, in response to a myriad of factors. The primary source of income for the Maasai was livestock, such as cattle, goats and sheep. Livestock served as a social utility and played an important role in the Maasai economy. Livestock were traded for other livestock, cash or livestock products such as milk. However, the Maasai economy was increasingly dependent on the market economy. Livestock products were sold to other groups in Kenya like their neighbours, the Kamba and Taita Taveta, for the purchase of beads, clothing and grains. Cows and goats were also sold for uniform and school fees for children.

⁹⁵ *Ibid*

⁹⁶ Jonathan S. Adams, Thomas O. McShane, *The Myth of Wild Africa: Conservation Without Illusion*, University of California Press, 1996,p44.

⁹⁷ *Ibid*

⁹⁸ *Ibid*

This information is vital in understanding the neighbours of Taita Taveta and their influence on the area. It is clear that the Maasai and the Wadawida and Watuweta have a lot in common. However, land conflicts between the Wadawida and Watuweta and their neighbours the Maasai persisted from the time of drought in 1904 and by 22 February 1961, the then Chief of Chawia Location in Mwatate (see the map on page xv), wrote a letter to the District Commissioner complaining that the Akamba whom he had previously ordered to vacate Mgeno and Mwatunge areas of Mwatate, in Taita Taveta, (See the map on page xv) had not done so. They were required to vacate the areas and go to Machakos. However, the letter noted that the Akamba men had left for a battle between the Akamba and Maasai leaving behind their wives and livestock. The chief wanted them to be issued with a permit to vacate the land. This shows that the Akamba were viewed as intruders on Taita Taveta land.

Similarly, In November 1962, D Mwanyumba, the then District Commissioner for Taita Taveta, in his letter to the Minister for Internal Security and Defence, reported concerning clashes between the people of Taita Taveta and the Maasai. He wrote;

In the previous year 1961, the Maasai had grazed 40,000 herds of cattle in Taita Taveta land and the people of Taita Taveta had complained to the government but no positive action had been taken. In 1962 the people of Taita Taveta protested against the government for disarming them, prohibiting them from using bows and poisonous arrows which were their traditional weapons for their defence. They vowed that they must use their weapons to protect themselves, their families and their livestock.⁹⁹

2.4 Sisal Estates in Taita Taveta County

Sisal farming is a leading commercial enterprise in Taita Taveta. It was started by colonial settler, Ewart Grogan, who in the early 1920s began to convert what was then seen as waste land into a productive agricultural region. According to Ann Frontera,

⁹⁹ KNA,DC/TTA/3/8/101, Clashes Between the Maasai and Taita/Taveta, LND 5, 28/11/1962.

confusion exists as to when Grogan acquired the land in Taveta.¹⁰⁰ However, sisal farming as a method of land use conflicted with subsistence farming and herding of cattle by local people and depleted the grass upon which they had earlier grazed. Sisal farming blossomed largely because of the high demand for the 'white gold' as the processed sisal was then known during the First and Second World Wars.¹⁰¹

The raw material used for making gunny bags, cordage, and other heavy duty fabrics, was needed in huge volumes to sustain the war effort. Thus large scale sisal production in Taita Taveta placed the region on the world map. Ewart Grogan was very determined to "develop" the Kilimanjaro hinterland. He thus encouraged leading colonial farmers, such as Morris Egerton and John Ramsden, to plan large scale irrigation farming in the region. Conrad Walsh, known as the sisal king of Tanganyika and special advisor to the investors, propelled sisal farming to new heights with plantation soon spreading over the former Taveta bush lands.

Some of the main operating sisal estates in the County include, Teita Sisal Estate owned by Kryiaz family of Greek origin, Voi Sisal Estate owned by an Asian investor and Taveta Sisal Estate owned by former Taveta MP, Basil Criticos .The Teita Sisal Estate is one of the largest sisal estates in the world. It is located near Mwatate town. The company is not only engaged in growing sisal, but also manufactures sisal products such as ropes, sacks, and baling twine, at its manufacturing facility in Nairobi. The Voi Sisal Estate is located near the township of Voi. In addition to growing sisal, it specializes in production of sisal fiber and farming of pineapples.

¹⁰⁰ Ann E.Frontera, *Persistence and Change: A History of Taveta*. Crossroads Press, 1978.

¹⁰¹ Oral Interview, Anonymous Respondent, Jipe, 0412/2009.

The Taveta Sisal Estate is located in Taveta town. (See map on page xv). The farms employ thousands of employees.

2.4.1 Relationship with the Sisal Estates Management

The sisal estates provided a source of income for the many employees hired by the firms yet it appears that land conflicts first emerged before independence. Squatting in the County can be traced back as early as 1892 when the Catholic Holy Ghost Fathers Missionaries arrived in Taita. They established the Bura Mission on 1,000 acres alienated in Bura from the Wadawida and Watuweta. The Catholics believed in both religious enlightenment and vocational training (material wellbeing). They alienated land for building their centres and for other uses, particularly agriculture.¹⁰² There was resentment by the inhabitants over the alienation of this land. Conflict emerged between them and the missionaries. For example, one respondent Mzee Ayubu reiterated that the Wadawida and Watuweta had refused to vacate the area, demanding their rights on the land. Meetings were organised at night to battle with the missionaries. They would sharpen their arrows during the day in the forests in readiness to attack at night. This was because the missionaries had guns, and the locals were scared for their lives, after the death of their hero, powerful soldier and chief known as Mwangeka wa Malowa.¹⁰³ However, the displaced people moved to the lower parts of Bura where they grew sugar cane for *denge*¹⁰⁴. This beer was used in land transactions.¹⁰⁵ For example, as explained by one informant, the beer was used

¹⁰² James Gichia Njogu, *Community-based conservation in an entitlement perspective: Wildlife and forest biodiversity conservation in Taita, Kenya*, African Studies Centre, Leiden, 2004.

¹⁰³ Oral Interview, Mzee Ayubu, Mwatate, 03/12/2009.

¹⁰⁴ *Denge*. It means a local Brew.

¹⁰⁵ James Gichia Njogu, *Community-based conservation in an entitlement perspective: Wildlife and forest biodiversity conservation in Taita, Kenya*, African Studies Centre, Leiden, 2004.

as a form of payment, before permission was granted for cultivation on a piece of land belonging to one's neighbours.¹⁰⁶

In 1903, the Industrial Mission Aid Society (hereafter IMAS) of Church Missionary Society (hereafter CMS) alienated an even larger parcel of land, amounting to 1,288 acres, for establishing the Wundanyi Mission in the hills. Bishop Peel, acting as Director of IMAS, offered to compensate the affected Wadawida and Watuweta, but this was not done. Instead the CMS facilitated alienation of land. This was in contravention of the Crown Land Ordinance of 1902, Section 30 which declared that all land belonged to the British Imperial Government. This is because late in 1906, the land was transferred to East Africa Industries Ltd (hereafter EAI), a company formed in 1904 by Victor Buxton.¹⁰⁷ The alienation of this land caused a lot of resentment among the Taita in Wundanyi, reflected by demonstrations held by the locals, during the day. These took place mainly on the day they were expected to go for worship. They would abandon the church service in protest with their tools for tilling the land in their hands, such as hoes together with *rungus*.¹⁰⁸ Other lands alienated include land for the Wusi Mission (CMS), Mbale Mission (CMS) and some 90 acres bought by Rev. Verbi.¹⁰⁹

According to James Njogu, the land transferred from IMAS to EIA, situated in the middle of the Native Reserve, was later sold in 1916 to a company called Wundanyi Ltd.¹¹⁰ According to Nazzaro, 'transactions were more 'paper' than actual, as the

¹⁰⁶ Oral Interview, Anonymous Respondent, Mwatate, 03/12/2009.

¹⁰⁷ James Gichia Njogu, *Community-based conservation in an entitlement perspective; Wildlife and forest biodiversity conservation in Taita, Kenya*. African Studies Centre, Leiden, 2004.

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*

purchaser and seller had the same address in London'. This showed that there was no transfer of the company done to someone else, but it was an attempt to conceal ownership to avoid resistance from the locals. Wundanyi Ltd leased the land in 1922 to Major Drury for ten years. He had direct conflicts with the Wadawida and Watuweta, as he was accused of evicting some of them and uprooting their crop. In return, they resisted and claimed compensation as well as engaging in intense conflict. They attacked Major Drury over the alienation of their land.¹¹¹

The alienation of land for the establishment of sisal estates for example the Kedai Sisal Estate in 1920 appeared to have created less conflict with the Wadawida and Watuweta, as it was on a drier side of Dabida hill. However, a major source of conflict was the diversion of water pipes to the Sisal Estate instead of the area settled by the people. According to one informant, the youth and men engaged in physical fighting with the Sisal Estate workers. They attempted to destroy the water pipes supplying water to the Estate one morning after a leading social activist blew a whistle calling upon them to come out of their homes and fight for water. This went on and off for a period of three weeks when the Sisal Estate owners engaged heavy security to guard the area with guns which scared some of the youth and men most of whom had sustained injuries.¹¹²

Taita Concessions Limited, which engaged in sisal farming in Voi and south of Mwatate, began its operations in 1927 with leased land of about 36,184 acres from the government. The company displaced the Taita people who had settled in Mwatate. The Kasigau people who had settled there were moved back to Kasigau. The

¹¹¹ *Ibid.*

¹¹² Oral Interview, Anonymous informant, Voi, 18/04/2009.

establishment of the Voi Sisal Estate also led to displacement of local cultivators though the company attempted to secure land near Voi River. The local cultivators resisted eviction and fought to secure their livelihoods. However, owners of the sisal estate used force and frightened the people away with guns¹¹³.

On 27th January 1962 the District Commissioner of Taita Taveta, Apollo Kilelu wrote a letter to the Game Officer, National Parks and the manager of Voi Sisal Estate asking them to allow people to cultivate land at Msinga Estate which covers 15 acres of land. He argued that the Wadawida and Watuweta had been resettled on Msinga plantation because they 'had no land' and were not allowed to cultivate there. He, however, noted that, the people had been prevented by the Estate owners from cultivating in the region. Fights erupted and led to about 100 people fleeing the area. Thus, they were suffering from famine and sought help from the government.¹¹⁴

It is evident that land conflicts between the Wadawida and Watuweta, on the one hand, and the Sisal estates, on the other, persisted after independence. Kenya National Assembly official records show that, on 12th March 1983 squatter houses and property were burnt down by personnel from the Taveta Sisal Estates. This included 6 homesteads, comprising of 22 huts situated in Kimala and Jipe. The Member of Parliament for Wundanyi at the time, Mwashengu wa Mwachofi, took the matter to parliament seeking investigation on what had led to the incident. It was established

¹¹³ *Ibid*.

¹¹⁴ KNA/DC/TTA/3/8/74, Letter from A. Kilelu, District Commissioner, Voi, LND3, 27/01/1962.

from the investigations that the Taveta Sisal Estate had served the squatters deemed illegal with quit notices on 15th January 1983.¹¹⁵

Mwashengu wa Mwachofi termed the act as a classic case of people or an organisation taking law into their hands. He argued that the management of the sisal estate acted in an irresponsible manner in destroying squatters property without properly referring the matter to the relevant government organs. He called upon the government not to condone any harassment of squatters by land owners, let alone foreigners owning land in Kenya.¹¹⁶ It can there for be concluded that the establishment of the sisal estates in Taita Taveta aggravated the already polarised situation of the community.

2.5 Tsavo National Park

Tsavo National Park is one of the oldest and largest parks in Kenya. It is located in Taita Taveta and occupies an area of about 11,747 square kilometres (See map on page xv). It was opened in April 1948, and is divided into east and west sections on the A109 road and a railway. It borders the Chyulu Hills National Park, and the Mkomazi Game Reserve in Tanzania. It was named after the Tsavo River, which flows from west to east through the national park. The park is very popular with tourists due to the vast amounts and the diversity of wildlife that can be seen, including the famous 'big five' (lion, black rhino, cape buffalo, elephant and leopard). The park is also home to a great variety of bird life, such as the black kite, crowned crane, lovebird and the African sacred ibis. Tsavo East is the larger of the two. It is generally flat, with dry plains across which the Galana River flows. Tsavo west is more mountainous and wetter, with swamps, Lake Jipe and the Mzima Springs. It is

¹¹⁵ Kenya National Assembly Official Record (hereafter Hansard), *Burning of squatters houses and property in Taveta*, 15th March - 12th July, 1983.

¹¹⁶ *Ibid.*

known for bird life and for its large mammals and is also home to a black rhino sanctuary.¹¹⁷

The indigenous people became squatters in their land as the park occupied at least 65% of Taita Taveta. This caused land conflicts due to competition for land, between the indigenous people and the Ministry of Tourism, Forests and Wild Life over National Park boundaries in 1962. For example, According to S. Cobb, Local communities in Taita Taveta compete with wildlife for space. Destruction of wildlife habitat, including protected forests, is considered as one of the major causes of biodiversity loss, both of flora and fauna. Encroachment on protected forest areas and movement of people from the densely populated Taita hills to the lowlands which are used by wildlife, clearly demonstrate this problem.¹¹⁸

As a result, Parliamentary Secretary Dawson Mwanyumba' wrote a letter to the Ministry of Tourism, Forests and wildlife as a plea for the land to be reverted back to the Wadawida and Watuweta. He affirmed that, there would be no harm done to the wild animals if the pieces of land were reverted to the local people since they represented a very small fraction of what is the National Parks in the district. Mwanyumba also mentioned that the neighbouring Maasai were being more militant and aggressive and he further states that the fact that the government had turned a deaf ear to such land claims had been received by his people with deep regret.¹¹⁹

¹¹⁷ World Database on Protected Areas; Tsavo East National Park, <http://protectedplanet.net/sites/752> Accessed on 2nd October 2010.

¹¹⁸ S.COBB, *The distribution and abundance of the large herbivores communities of Tsavo National Park (East), Kenya*. PhD Thesis, Oxford University, 1976.

¹¹⁹ KNA,DC/TTA/3/8/101,Letter from D. Mwanyumba ,Parliamentary Secretary Voi.LND2,15/06/1962.

According to one informant, this was followed by episodes of fighting between the indigenous people and the Maasai. The indigenous people organised themselves in groups mostly of young men and chose a leader whose qualities included a loud voice, physical fitness, masculinity and great fighting skills. The voice was important in commanding the crowd and giving directions on which way to go, when to attack, where to hide and when to raise an alarm.¹²⁰ Mobilisation of the Wadawida and Watuweta fighting groups was said to have been taking place in the evening after sunset especially when they targeted to attack their enemies who were the Maasai nomads who raided cattle at night. The indigenous people would then set out in large numbers with poisonous bows and arrows ready to attack their enemies. There was a rule not to spare the enemy but to kill them in order to stop the war. Hundreds of wildlife were destroyed in the process and a number of people killed, who comprised both the indigenous and the Maasai. Maasai also fought unsparingly with bows and arrows.¹²¹

According to the Kenya National Assembly Official Records in 1964, one of the Members of Parliament asked the Minister for Natural resources if he would like to tell the House when he intended to carry out a review of the boundary between Tsavo National Park and Kitui with a view to altering it where necessary. However the Minister for Natural Resources, Lawrence Sagini, answered that he had found no adequate reason why he should attempt to alter or amend it. He pointed out that such a step would be contrary to the declared policy of Government to conserve wildlife with all the means available.¹²² This paved way for further conflict between the angry

¹²⁰ Interview, Anonymous Informant, Voi, 02/12/2009.

¹²¹ *Ibid.*

¹²² Kenya National Assembly Official Records (Hansard); Question 162; 'The involvement of communities in drawing boundaries for Tsavo West National Park,' 16/06/2010.

indigenous people and the wildlife. As explained by Kantai 'Maasai,' that the period between late 1960s to 1999, there was an increased illegal killing of elephants possibly a way of revenge by the Wadawida and Watuweta to seek audience from the government. The killing was an attempt to not only protect themselves against the animals but to attack and kill the wildlife using poisonous bows and arrows so that the government could listen to their plea and review the boundary in their favour. ¹²³

According to P Olindo, I Douglas-Hamilton, P Hamilton P, in 1988 counts of elephants, showed a 75% decline in elephant numbers within the protected areas and a further 87% decline in the adjacent non-protected areas since the 1972 total counts.¹²⁴ Also, a study carried out by Robert Smith and Samuel Kasiki in January 2000 in the Taita Taveta revealed that the people of Taita Taveta had a very negative attitude towards wildlife conservation. This is because elephants often escape from Tsavo National Park in search of grazing land thus causing people to use arms to defend themselves and their livestock¹²⁵.

In the same year 2000, Taita Taveta local landowners formed The Taita Taveta Wildlife Forum- a Community Based Organization operating in the Tsavo ecosystem. It was also a membership organization which was incorporated as a trust under the Perpetual Succession Act Cap 264 of the Laws of Kenya in March 2003. The forum was to address the so-called human-wildlife conflict in the region, environmental destruction and the quest for benefit-sharing from Tsavo National Park. ¹²⁶

¹²³ Interview, Kantai 'Maasai', Former Game Ranger, Tsavo East, 04/12/2009.

¹²⁴ P Olindo, Douglas-Hamilton I, Hamilton P, Tsavo elephant count 1988. Wildlife Conservation and Management Department, Nairobi, 1988.

¹²⁵ Robert J Smith and Samuel M. Kasiki: *A spatial analysis of the human elephant conflict in the Tsavo ecosystem Kenya*, Gland: Switzerland, 2000.

¹²⁶ Taita Taveta Wildlife Forum: *Our History*, <http://ttwforum.org/projects> Accessed 14/02/2010.

On benefit sharing, the organisation lobbied and advocated for favourable local and national policy and legislation governing natural resource management and utilization. It also promoted natural resource conservation outside protected areas for the benefit of the community through sound nature-based enterprises. This was to ensure that the park also benefited the community and in return the community would conserve the wildlife and avoid further destruction.¹²⁷

The organisation was governed by 15 elected trustees drawn from its administrative zones – Kasigau, Central, Taita hills, Tsavo West and Taveta. The mission of the forum was to conserve the Natural Resources through sustainable utilization for wealth creation to improve the standard of living in Taita Taveta County. Its objectives were to provide a platform for its members to participate meaningfully in matters related to conservation and management outside protected areas in Taita Taveta County, to promote natural resource conservation outside protected areas for the benefit of the community through sound nature-based enterprises, to sensitize the community on issues relating to natural resource conservation and utilization and to lobby and advocate for favourable local and national policy and legislation governing natural resource management and utilization.¹²⁸

According to a Parliamentary debate which occurred in June 2010, members argued that there was a need for the involvement of the communities in drawing boundaries for Tsavo West National Park. It was further argued that, the Legal Notice was issued in 1953 and the title deed was given in 2000. The Wadawida and Watuwetas were not involved, but the Ministry took their reserve land up to Tsavo River. The Wadawida

¹²⁷ *Ibid.*

¹²⁸ *Ibid.*

and Watuweta refused to have the electric fence on that boundary.¹²⁹ This was expressed by protests of the Wadawida and Watuweta who were said to have blocked attempts by the government to put up a fence. They pulled the wooded posts which had marked the boundaries and used them for firewood.¹³⁰

This shows an accusation was being made that the government was not involving the community in decision making on boundaries in Taita Taveta and thus encouraging conflict between humans and wildlife in the area.

2.6 Mining in Taita Taveta

Taita Taveta has precious gemstones such as tsavorite, golden and chrome tourmaline, red garnet, apatite, among others which were found and mined in the lower plain¹³¹ (See map on page xv). The gemstones lie close to the surface and the community members could easily use simple tools to mine them.¹³² The discovery in 1971 of important deposits of ruby and high-quality green "Tsavorite" garnet, named in 1974 by Henry B. Platt former President of Tiffany & Company and Campbell Bridges after the famous Tsavo National Park game preserve in Kenya. Tiffany & Co in New York, introduced the gemstone to the world market.¹³³ Minerals also found in Taita Taveta include iron ore which was predominantly found in Kishushe area of Nyache, asbestos in Sangenyi village in Wundanyi, chalk and limestone in Mto-Mwagodi area of Msau as well as construction stone and sand at Voi River. (See map on page xv).

¹²⁹ Kenya National Assembly Official Records; Question 162; *The Involvement of Communities in Drawing Boundaries for Tsavo West National Park*, Nairobi, 16 June 2010.

¹³⁰ Interview, Kipara Mzee, Elder, Msau, 12/02/2010.

¹³¹ GOK, Office of the President, *Special programmes Arid Lands Resource Management Project II Taita Taveta district Annual Progress Report for the Year 2006/07*, Government Printers, 2007.

¹³² Taita Taveta Wildlife Forum: *Mining*, <http://ttwforum.org/projects> Accessed 14/02/2010.

¹³³ Bridges C, *Gems of East Africa*. International Gemological Symposium. Gemological Institute of America, Santa Monica, Calif, 1982.

Iron ore deposits discovered in 1992 have lately attracted companies. However, individuals were keen on exploiting the mineral, resulting in a scramble previously unseen in the area.¹³⁴ There was a new discovery of the 'Tsavorite' garnet, in 2009, in Kamtonga village in Mwatate. The green grossularite, which is a calcium rich member of the garnet family. According to Bridges, Tsavorite was tough and durable. Tsavorite was also at least a thousand times rarer than emerald, especially in sizes over 3 carats. Tsavorite was unique to East Africa, in that it was only found in commercial quantities in two countries throughout the world – Kenya and Tanzania.¹³⁵ According to one respondent interviewed in Mwatate,¹³⁶ this discovery amongst others made the quality of land in the County to be highly valued and even those who do not own a piece of land felt agitated to secure land.¹³⁷

The size and design of the mines, was mostly kept a secret by the owners and workers. The area was all fenced up with tight security all round. There are security patrol vehicles throughout the day. There was stiff competition between the various mines found in the area in terms of wealth generated and even wages that they paid their workers. For example, those companies that paid more attracted more labourers. The number of labourers could also mean that extraction of gems was faster, and thus this enabled the company to prospect for more. Some of the leading Mining Companies in Taita Taveta included, Wanjala Mining Company, Rock Land Mining Company, Aqua Mining Company, Megalith Mining Company, Baraka Tsavorite Co-operation Mining Company, First Green Garnet Mining Company, Davis Mining Company and Classic Mining Company.

¹³⁴ *Ibid.*

¹³⁵ *What is Tsavorite.* <http://www.tsavorite.org> Accessed 03/10/2010.

¹³⁶ Interview, Anonymous Respondent. Mwatate, 03/12/2009.

¹³⁷ *Ibid.*

2.7.1 Relationship between the Wadawida and Watuweta and the Mining

Companies

Mining activities have very high returns, but the risks are also very high.¹³⁸ Mining in Taita Taveta has resulted in a struggle which has led to confrontations and killings. Victims include miners, who had been contracted by local investors, upon disagreement between the investors and miners on dishonesty. For example, in most cases when miners were suspected of not having remitted the actual collection of gems they have discovered to their employers, such situations end in a serious fight.¹³⁹

According to one of the respondents interviewed in Bura,¹⁴⁰ most of the employers at the mines were wealthy businessmen and women living in Nairobi. They leave the workers in the hands of their relatives, under tight security. There is usually a leader of the workers who is to report every stage and finding to the supervisor and at times he is contacted directly by the employer. When gemstones are discovered the employers are quickly informed. They visit the site and keep guard. Depending on the deposits, it can take several hours or days to collect the precious stones. At this point, supervision of the miners is very strict and they are thoroughly searched to avoid stealing of the gems. Some of their wages were as low as 5000 Kenya shillings per month.

The struggle as the Marxist Structural theory says, is between the powerful, mining companies, and the powerless, individuals who could be the residents of the county.

In January 2009, a family at Kamtonga Village, Mwatate, in the mineral rich Taita

¹³⁸ *Ibid.*

¹³⁹ Oral Interview, John Kanja, Businessman, Voi, 02/12/2009.

¹⁴⁰ Oral Interview, Anonymous Respondent, Bura, 03/12/2009.

District, was forced out of its home after more than 400 villagers raided a piece of land to excavate gemstones. This was after word went round that the home was sitting on deposits.

In September 2009, a Scottish gemstone miner Campbell Bridges was speared to death over mining tussles at Kabanga, Mwatate District. The assailants were armed with arrows, spears and machetes. His killing was due to an apparent dispute over mining rights. The deputy police chief of the area at the time, Mr John Leshirondo, said that the attackers were probably employees of other investors interested in mining in the area. A lawmaker who knew the gemstone miner said Campbell Bridges, 72, had received death threats and that his attackers were incited to kill him.¹⁴¹ Inciters are said to be unknown competitors in the mining business in Taita Taveta.

Extraction of gemstones in Taita Taveta proved a very difficult venture. Miners used hand tools such as jack hammers and could go for months without pay. The people were poverty stricken, not all children attended school. The mining companies were not helping with the development of the area despite the wealth they obtained from the land. This was exhibited, for example, by the poor infrastructure in the area, such as roads, school buildings, and the like.

This goes to show that as much as the mining business looks like a positive venture in uplifting the economic status of Taita Taveta, it is met by a number of protestations by its residents. The protestation by the residents is partly due to the treatment they get

¹⁴¹Tom Odula, *Campbell Bridges Dead: Mob Kills Famous Geologist In Kenya: Police Report* www.huffingtonpost.com. Accessed on 13/08/2009.

from the investors and the large expectations they had on their infrastructure that has not materialised.

2.9 Conclusion

According to oral tradition, the people of Taita Taveta share a lot in common with their neighbours the Akamba and Maasai. They share a territory which is ASAL. They are in constant interaction through trade, intermarriages and development projects. Due to the scarcity of resources, such as water and pasture for animals, the communities have a long history of conflict. Indeed this proves the structural conflict theorists right. The theorists argued that protracted conflicts in society are caused by competition over resources. Apart from being central in their economy, livestock are also central in social life.

According to one respondent¹⁴², with a view shared by the majority of the respondents, status in Taita Taveta, was seen in terms of land and livestock. Lack of land and livestock also affected the marriage life of an individual, in that a man could only marry if he was capable of raising livestock for dowry. Traditionally, marriage was a very important and expensive institution in terms of dowry payment. To raise dowry, young people who wished to marry were forced to engage in cattle raids, which explains why the conflict between the people of Taita Taveta, the Maasai and Akamba persist. Their relationship from the precolonial times to date can be said to have been partly friendly and partly hostile. The relationship is also influenced by prevailing conditions that struck the area like famine and drought in 1904.¹⁴³

¹⁴²Oral Interview, Anonymous Respondent, Bomani, 04/12/2009.

¹⁴³*Ibid.*

CHAPTER THREE

THE NATURE AND TYPES OF LAND CONFLICTS IN TAITA TAVETA AND THEIR CAUSES

3.0 Introduction

The conflicts in Taita Taveta were manifested as internal and external. Internal conflict among the Wadawida and Watuweta and external between them and external factors. These were, for example, their neighbours the Maasai and Akamba, the mining companies, large estate owners, and the Kenya Wildlife Service. These conflicts were caused by resource, environmental, commercial, security, political, historical and cultural factors. In this section, also, various causes of land conflicts in Taita Taveta will be analyzed.

3.1 Inter -Clan Land Conflicts

Within Taita Taveta, there were conflicts between various clans which claim ancestral rights to different parts of the lower zones or plains of the district since the pre-colonial era. As more and more people move down to the plains or Nyika as a result of population pressure in Taita Hills, the conflicts escalate. To make matters worse, the village, sub-location, location and division, boundaries are not well defined and the assistant chiefs, chiefs, district officers and district commissioners do not clearly know the boundaries of their jurisdictions.

For example, conflicts between the clans of Werugha and Mgange at Kishushe and Sangenyi have been going on since the colonial era and have in the past resulted into violence, the destruction of crops, forceful occupation of farmed land and the burning of houses. Similar conflicts exist between the people of Mbololo and those of

Kishushe at Mlilo and Paranga, Mwanda and Mrughua at Kwamnengwa and Msorongoghwa Mfu, Chawia and Bura at Alia and Mwachabo. For example, the fightings between the people of Mbololo and those from Kishushe have existed since 1960s. The fighting were over grazing land at Mbulia ranch and have led to thousands of cattle stolen and dead and the herdsmen injured. Both Kishushe and Mbololo clans claim the ranch to belong to them.¹⁴⁴

It was also established that owing to the nature and pressure of land in the Taita Taveta, members of the families, especially men, had moved to the urban cities in search for livelihoods. Wives and children were left behind in their homesteads due to child bearing and child rearing activities and at times these spouses were not able to till the portion of land left to them by their spouses.¹⁴⁵

Reports from Voi District Hospital show that inter-clan conflicts were common causes of most of the casualty victims they receive. According to one respondent from the hospital, they received a victim or victims of land clashes at the hospital every week. That sometimes the victims were rushed to the dispensaries and later transferred to the district hospital due to the nature of the injuries they had incurred. Others were received at the hospital after attempting to nurse their wounds at home.¹⁴⁶

3.2 Land Conflicts with the Wild Life

The earliest records of human-elephant conflict in Tsavo are from 1916 when the District Commissioner of Voi asked permission from the Government administration

¹⁴⁴ Mwandawiro Mghanga, *Usipoziba Ufa utajenga Ukuta: Land Elections and Conflicts in Kenya's Coast Province*. Heinrich Böll Stiftung, East and Horn of Africa, 2010.

¹⁴⁵ Oral Interview, Nathan Mwalufu 'Mwalupanga', Farmer, Voi, 02/01/2010.

¹⁴⁶ Oral Interview, Anonymous Respondent. Voi District Hospital, 03/12/2009.

to allow the local people to kill elephants that were damaging crops.¹⁴⁷ The existence of Tsavo National Park between Taita and Taveta Districts hindered the free movement of people and goods and impeded development of its districts. One local man remembered having killed several elephants to defend his maize and other crops and to sell the ivory in the early 1940s.¹⁴⁸ An estate manager of a sisal plantation in Voi gives accounts of elephants raiding sisal plantations and cultivated areas adjacent to the Tsavo NPs from the 1950s to the mid 1970s.¹⁴⁹ The problem became so intense that growing of food crops and sisal was abandoned altogether in certain areas in the early 1970s. The years 1970 to 1972 were the worst. A severe drought forced large herds of elephants to leave the Tsavo NPs in search of food and water in the surrounding areas and to invade human territory where cultivation took place.¹⁵⁰

3.3 Land Conflicts over Settlement Schemes

According to Joe Khamisi, perhaps one of the most tragic excesses of Kenyatta's presidency was the creation of the Lake Kenyatta Settlement Scheme in Taita Taveta. Two families, namely the Kenyatta family and the immigrant Criticos family from Greece, acquired the land in 1965. This happened amidst protests from the landless communities. The new owners employed members on the land at poor salaries in snake infested sisal plantations. They also invested in the mining of semi-precious stones. Most of the revenue went to the middlemen, who were brokers between the owners of the mines and the customers. Workers were left in abject poverty.¹⁵¹ For example bitterness over this land where the indigenous were rendered squatters never

¹⁴⁷ *Ibid.*

¹⁴⁸ Samuel M. Kasiki & Robert J. Smith, *A Spatial Analysis of Human-Elephant Conflict in the Tsavo Ecosystem Kenya*, Gland, Switzerland, 2000.

¹⁴⁹ M. G. Visram, *On a Plantation in Kenya*, Scriptmate, 1987.

¹⁵⁰ *Ibid.*

¹⁵¹ Joe Khamisi, *The Politics of Betrayal: Diary of a Kenyan Legislator*, Trafford Publishing, 2011, p.71.

ceased. There were numerous demonstrations by the local people demanding their land. This many at times led to forceful eviction of the squatters from the land by policemen who were hired by the owners of the land, such as Basil Criticos. However such eviction lasted for about a couple of weeks or a month and the squatters would return back again. For this reason therefore, it was very difficult for the Wadawida and Watuweta to accept any other groups of individuals from other parts of the country settling amidst them. Such groups were rejected due to the scarce land resource.¹⁵²

On 25th June 1980, Mwashengu wa Mwachofi the then MP for Taita Taveta enquired on the progress of Maungu Buguta settlement scheme in the area through a parliamentary debate. He wanted to know why some officers were suspended from working in the scheme. Mr Salat – the Assistant Minister Office of the President stated that Maungu Buguta area was State Land, through which the Maungu Buguta water project for Kasighau location passed. That the previous year a number of officers who worked for the water project attempted to issue themselves with plots in the State Land which was an illegal act and as part of discipline, the provincial administration had requested the Ministry in charge of the water project to transfer the officers elsewhere.¹⁵³

Following the 'land grabbing' by the officers residents of the area demonstrated on the streets of Voi, barricading roads as they expressed their hostility to any police officer they came across, claiming a vote of no confidence. This exchange ended with numerous injuries of the residence

¹⁵² Oral Interview, Oduor Peter, Squatter, Voi, 03/12/2009.

¹⁵³ Kenya National Assembly Official Record (Hansard), *Progress of Maungu Buguta settlement scheme*, Nairobi, 25/06/1980p85.

This shows how land in Taita Taveta had been on high demand for decades. Even government officers posted to work in the area could not resist the temptation and attempted to acquire land illegally whilst the indigenous people themselves were squatting. There were grudges against the Kikuyu even before the 2007 elections were announced. From independence, there has been a substantial population of Luo and Kikuyu in Taita Taveta. Most of them were descendants of labourers who were taken there to work in sisal plantations. According to one informant from Voi, the Kikuyu had been telling the Wadawida and Watuweta that a head of one Kikuyu woman is equivalent to that of ten of their men.¹⁵⁴ A shop belonging to a Kamba man was also broken into and looted when Kalonzo Musyoka was appointed Vice President by Mwai Kibaki.¹⁵⁵ This attempt was for the local people to evade and occupy the land of the Kamba businessman. However, the Kikuyu shopkeepers did not reopen their shops. During his era, Kenyatta promised to send tractors to Taita Taveta. However, settlers most of them from Kikuyu were resettled in the area. According to some informants in Voi,¹⁵⁶ this had caused a lot of hatred between the two communities. The Kikuyu were seen as intruders in Taita Taveta. After the post-election violence of 2007, there was a very militant demonstration in Taita Taveta. The youth went on rampage in Taveta, Voi and Mwatate. The locals did not want any Internally Displaced Persons settled among them.¹⁵⁷

3.4 Land Conflicts between Widows and their In-Laws

Land rights among widows are variable, but many widows are in a good position because they are the guardians of deceased husbands' assets on behalf of their sons

¹⁵⁴ Oral Interview, Mary Mshila Mnyamari, Voi, 02/12/2009.

¹⁵⁵ *Ibid.*

¹⁵⁶ Oral Interview, Gilbert Mailu, Miner, Nyache, 02/12/2009.

¹⁵⁷ Oral Interview, Jackson Kitololo, Businessman, Mwandau, 12/02/2010.

while divorcees' rights to the use of land are tenuous, but like never-married women they may be assisted by a male consanguine.¹⁵⁸ Many times owing to the scarcity and scramble for land, widows were deprived of their deceased husband's land. They therefore engaged in to conflict with brothers of the deceased regarding ownership and inheritance. The view concerning widows in such instances is that they can always get married to other men who will give them property. Thus brothers of the deceased take advantage and grab the land depriving the widow of her rights.

In Bura in 2009 for example, three widows were forcefully evicted from their matrimonial homes by brothers of their deceased husbands. One widow in protest sent her brothers with a group of young men about 8 in total from her neighbouring village to go and fight her two brothers-in-law and drive them out of her home. The fight resulted in one of the in-laws being hospitalised at the Voi District Hospital. However her brother's- in-law had succeeded in forcefully evicting her. The matter had been reported to the chief, waiting to be resolved.¹⁵⁹

3.5 Land Conflicts with Neighbours

The boundaries between Taita Taveta and the neighbouring districts were not clear to the residents, the Taita-Taveta County Council, the district and provincial administrations. Taita elders complained that their district had been encroached upon by their neighbours each time there was a conflict. Various meetings attempting to determine the district boundaries were held between elders councillors, MPs, District and Provincial Commissioners from Taita Taveta District and Coast Province, on the one hand, and their counterparts from Kibwezi District and Eastern Province on the

¹⁵⁸ *Ibid.*

¹⁵⁹ Oral Interview, Anonymous Respondent, Bura, 02/12/2009.

other. The town of Mtito Andei was claimed by Taita Taveta Municipal Council that used to collect revenue from it since independence.

In September 2009 there were demonstrations by the Kamba and Taita ethnic groups following a dispute at the highway township of Mtito Andei. Taita Taveta County Council had put the border at the Mtito Andei River, which meant that Mtito Andei town was under the jurisdiction of Taita District of Coast Province. The root of the dispute between Makueni and Taita Taveta was the collection of revenue from highway businesses at Mtito Andei.¹⁶⁰

The boundary between Taita Taveta and Kajiado Districts had also not been conclusively defined. Later in the same year 2009, conflict arose between Kishushe community and herders from Kajiado district over drinking water for livestock. Kishushe community members accused the Kajiado community members of overgrazing their land. A report from the Office of the Prime Minister showed that indeed, herders from Kajiado District and North Eastern continued to dominate through forcefully invading the ranches located at the lowlands of Taita Taveta County resulting in overgrazing. The herders moved with thousands of cattle.¹⁶¹

There have been other unresolved issues of the boundaries between Taita Taveta and Kwale District. Since independence, the Wadawid and Watuweta have been having boundary disputes with the Mijikenda of neighbouring Kwale. According to the Wadawida and Watuweta, the boundary stretches up to Taru Hill, while their Mijikenda in Kwale claimed that the border was at Miasenyi trading centre in Voi

¹⁶⁰ Correspondent, 'Conflict Between Kambas and Taitas Brewing', in *The Nairobi Chronicle on-line journal*, 13th September 2009.

¹⁶¹ *Ibid.*

District. The leaders also accused the Government of failing to address the boundary disputes between Taita-Taveta and its neighbours in Kibwezi and Kajiado districts. However, leaders from both Kwale and Taita Taveta have used the boundary disputes to their advantage in order to win more votes on their sides.¹⁶² The Wadawida and Watuweta have voted for their leaders with the hope to resolve the boundary problems as they had promised but to no avail.¹⁶³

3.6 Land Conflicts between the Bourgeoisie and the Proletariats

In Taita Taveta, conflicts erupted between poor peasants struggling for more land and squatters demanding access to and land rights as part and parcel of daily life. According to Mwandawiro Mghanga, the people of Taveta claimed that their land was acquired unjustly by the Kenyatta family and Basil Criticos and that they had prior and ancestral rights to access and ownership of the land. In any case, they questioned whether there could be justice when only two families owned almost the whole of the district. There were invasions and forced occupations of the lands by the poor peasants and squatters. The ensuing evictions, arrests, imprisonments and violence from the owners, police and public administration occurred more often than not in Taveta.

Mwandawiro Mghanga shows that as a consequence of the struggle for the land, in 2006 the Kenyatta family was forced to surrender 10,000 acres of land. The land would later be distributed by the government to the landless people. The government also forcibly acquired 15 per cent of land belonging to Criticos after he was unable to pay the loan from the National Bank of Kenya to purchase the land. The land had

¹⁶² Oral Interview, Anonymous Respondent, Voi, 03/12/2009.

¹⁶³ *Ibid.*

been earmarked for settlement of squatters. At the same time, the government was planning to forcibly acquire another 7,000 acres of land from Criticos also for settling squatters as he had also been unable to pay the loan from another government parastatal, the Agricultural Finance Corporation (hereafter AFC). However, Criticos claimed that his rights were being violated because he is a 'white' Kenyan'. In the meantime, the squatters and poor peasants continued to demand access to and ownership of more land owned by the two rich families, most of which is idle. The land problem in the area is yet to be resolved.¹⁶⁴

3.7 Land Conflicts between Small Scale and Large Scale Miners

Conflicts between small-scale miners and large scale-miners erupted at Kasighau, Chungaunga, Kamtonga, Mwachabo, Alia and all parts of the lower zones of Taita where mining is a major economic activity. Most of the large scale miner's hail from outside the area, in Nairobi. Examples include companies like the Sanghani/Wanjala Mines and Devki Steel Mills which have invested billions of shillings.¹⁶⁵ In 2010 Devki Steel Mills which had acquired a 300-acre-plot at Mbulia Group Ranch in Tausa Division, confirmed that the construction mining industry would be implemented in three phases, and would have the capacity to process 250,000 tonnes of iron ore annually when fully operational. The firm intended to spend Sh16 billion in the first and second phases of the project, and Sh20 billion in the third stage.¹⁶⁶

However, the news of the investment by Devki Steel Mills was not received well by the Wadawida and Watuweta. They claimed that Wundanyi MP, Thomas Mwadeghu,

¹⁶⁴ Mwandawiro Mghanga, *Usipoziba Ufa utajenga Ukuta: Land Elections and Conflicts in Kenya's Coast Province*, Heinrich Böll Stiftung, East and Horn of Africa, 2010.

¹⁶⁵ Renson Mnyamwezi, 'Taita to host new steel plant', in *The Standard*, 19th November 2010.

¹⁶⁶ *Ibid.*

had colluded with some Taita-Taveta County Council officers to issue mining license to an investor who was extracting iron ore in the land without consulting the residents.¹⁶⁷

3.8 Land Conflicts over Infrastructure

Wadawida and Watuweta have listed poor infrastructure as a cause of conflict in the area. The civil society and professionals have petitioned the Government to address pertinent issues affecting the local community's infrastructure. Both economic infrastructures such as public utilities and physical infrastructure such as transport networks in the area are poor. As a result, Voi residents in November 2010 took to the streets and barricaded the Mombasa highway to protest against the poor state of roads in Taita Taveta. Protesters paralysed transport between Mombasa and Nairobi for the better part of the day as travellers were left stranded.¹⁶⁸ Transporters appealed to the government to intervene and save them from such frequent incidents that were a threat to their passengers. The Mombasa highway also links Kenya with the neighbouring countries of Uganda, Rwanda, the Democratic Republic of Congo and Southern Sudan. The Coast provincial police boss, affirmed that an appropriate response to the situation was being worked out by the police. However, the protesters insisted they would only relent after they were addressed by the Roads Minister at the time, Mr Franklin Bett. Matatu operators, despite losing business for the day, vowed to continue with the protests on the highway until the Mr Bett assured them of a solution.¹⁶⁹

¹⁶⁷ *Ibid.*

¹⁶⁸ Jonathan Manyindo, Anthony Kitimo and Galgalo Bocha, "Kenya: Residents Block Busy Highway to protest at poor Road Network", in *Daily Nation*, 09th November 2010.

¹⁶⁹ *Ibid.*

According to one respondent, Wadawida and Watuweta have protested against officials in Taita Taveta who are said to be colluding with private developers to sell public land.¹⁷⁰ The matters were taken seriously by the local administration who promised to investigate and take action on the law offenders.¹⁷¹

3.9 Land Conflicts over Areas of Jurisdiction

In 2003, President Mwai Kibaki established Taveta District, carved out from what used to be Taita Taveta District. According to Mwandawiro Mghanga, the problem was that the decision to create the new district was taken without consulting the people of the districts and without determining the boundaries between Taveta and the new Taita District. This added yet another source of conflict. Furthermore, the residents of the two districts, therefore, constantly called for the removal of the park from the districts.¹⁷² One of the respondents, who was a chief, mentioned that, each time he patrolled the area he perceived to be his jurisdiction, he would meet with his fellow colleagues doing the same.¹⁷³ He added that every fortnight there was a conflict between him and his colleagues, and the people they represent for there were no clear boundaries. He had also been allocated his job after his predecessor engaged in a fight after a confrontation with a colleague over their areas of jurisdiction and the people they represented. This goes ahead to show that even those in the local administration were not sure of their own areas of jurisdiction, thereby, paving way for the neighbouring clans to easily engage in land conflict.

¹⁷⁰ Oral Interview, Anonymous Respondent, Mwatate, 03/12/2009.

¹⁷¹ *Ibid.*

¹⁷² *Ibid.*

¹⁷³ Oral Interview, Anonymus Respondent Wundanyi, 02/12/2009.

3.10 Causes of Land Conflicts in Taita Taveta

3.10.1 Social Factors: Overpopulation of Human and Stock Pre-Colonial To

Post-Colonial Period

In 1884 Joseph Thomson in describing the Taita Hills mentioned that;

The Hills were strikingly suggestive of an archipelago of islands rising with great abruptness from a greyish-green sea. He added that they were the divide between the Voi river and the channels draining the hills on the north to the Tsavo.¹⁷⁴

This is the reason why most people were attracted to stay at the Hills unlike the slopes hence scrambles for fertile land and the scenic beauty.

However, according to a circular by the provincial commissioner of Coast province in 1962, one of the main land problems in the Coast Province was over population of humans and stock in the Taita Hills. The memorandum affirmed that the Carter Commission in 1933 had noted in *para. 1236*, that the population density in the Hills had averaged 198 per square mile. It also showed that the population was increasing at a rate of over 4.4% per annum. Since then the population had doubled rising at the rate of 15% p.a since 1933. According to the then District Agricultural Officer's estimate, at least 5,000 families were to be moved off the hills by the colonial government.¹⁷⁵ The eviction, was met with a lot of resistance by the Wadawida and Watuweta who could not understand why they would vacate from their fertile land to struggle for survival in the dry lower lands.¹⁷⁶

Holford-Walker, who was the District Commissioner for Taita Taveta, had stressed that additional land was to be made available to avoid fragmentation of holdings and

¹⁷⁴ John Parkinson, *A Note on the Taita Hills Kenya Colony*; *The Geographical Journal*, Vol.01, No.4, Apr 1943, pp161-162.

¹⁷⁵ KNA. DC. TTA/3/8/101 *Land Problems –Coast Province* .LEG.23/1/82, LND2,07/12/1962.

¹⁷⁶ Oral Interview, John Mbele, Farmer, Taveta, 13/02/2009.

to make available the maximum amount of land for afforestation and water conservation.¹⁷⁷

In addition to overpopulation and the need for resettlement, there was another contradiction that is 'Large areas of Crown land lying idle under the noses of land hungry population'. The Commissioner predicted that there was more hope of the Taita Taveta co-operating in control measures, if the land was given to them at the time rather than if the issues were left to be solved at some future date. According to the Commissioner, the land was to be returned to the Wadawida and Watuweta in due course hopefully to settle some of their 5000 families referred to above, on the Taveta Sisal Estate. However, despite availability of some limited funds for the activity, no action was taken.¹⁷⁸

Overpopulation of humans and livestock in the Taita Hills, was therefore a major cause of the conflict in the area during this period as the society attempted to adjust to its rapid growth. Yet by 2010 the Wadawida and Watuweta had greatly increased in number over the years and nothing had been done to expand their territory. The Wadawida and Watuweta were still overcrowded in the same piece of land, making survival very difficult. Meanwhile, as time went on different trends developed with the emerging changes and discoveries.

¹⁷⁷KNA,DC,TTA/3/8/101 *Land Problems –Coast Province* .LEG.23/1/82 ,LND2.07/12/1962.

¹⁷⁸ *Ibid.*

3.11 Political Factors 1963 - 2010

The traditional political organisation of the Wadawida and Watuweta clans was based on *wagosi*.¹⁷⁹ Members were the most respected people in the society and were associated with wisdom. The councils or *mwandu gwa wagosi*¹⁸⁰ discussed matters affecting the community and settled disputes among the people. The coming of the missionaries and the establishment of mission communities, for example, in Sagalla and Taveta. Gann and Dignan, for example, have argued that in a stateless society or among people with weakly defined political authority, the missionary would often make their first converts among outcasts, runaway slaves, exiles or old women without relatives, the *de'racines*¹⁸¹ of tribal society.¹⁸²

This was the case in Taita Taveta where for example, J.A Wray a twenty five year old missionary and former mechanic was posted in Sagalla in 1883. His posting coincided with a severe drought and famine in Taita Taveta. Which people thought he could be of religious or material assistance hence he found himself settling among small community of about one to two hundred people. However, most of the Sagalla saw in Wray the cause of their misfortune and thought that his mirror, thermometer, harmonium and bell were the instruments of his malevolent withholding of rain. Only the protection of his followers saved Wray from his enemies. However, when Wray returned to Taita Taveta in mid-1886, he attempted to assert complete political control over his followers arguing that according to African custom, they were his 'slaves' since he had rescued them from famine. Those who had earlier fled from famine, begun to return to their community. With arguments, ridicule and threat of violence

¹⁷⁹ *Wagosi*. It means Clan Elders.

¹⁸⁰ *Mwandu gwa Wagosi*. It means Council of Clan Elders.

¹⁸¹ *De racine*. It means root.

¹⁸² Robert W. Strayer. *The Making of Mission Communities in East Africa*; 1978p52.

they succeeded in drawing away a number of Wray's following, reducing him in the process to a state of impotent rage. He wrote to CMS authorities asking for a dozen men from Fulladoyo to strike a little terror' into them and to the British consul in Zanzibar requesting imprisonment for the opposition leaders. His racial and cultural consciousness was fully engaged as he argued that Taita should be told plainly that they cannot rob and threaten a European with impunity. There had been a sharp military encounter with IBEAC in 1890. The Protectorate had been declared in 1895. The Taita hills lay very close to the route of Uganda railroad resulting in a substantial demand for potters. At Wray's request the people of Sagalla donated a hill of great political and religious significance and by 1901 the Bishop estimated that some five hundred people could be classed as 'adherents'.¹⁸³ However, there was a rise of marauding 'vishingila'¹⁸⁴, Taita Taveta Warriors, who were young unmarried men who organised themselves under their own leader, although they still remained under the authority of *mwandu gwa wagosi*.¹⁸⁵

The concept that land in Kenya was '*terra nullius*'¹⁸⁶, and its citizens 'tenants of the crown', was at the heart of the colonial land tenure system. According to this legalistic argument, Africans did not have legal ownership rights to the land they customarily owned; they had only user rights. This was a paradigm for dispossession and disenfranchisement and has been fundamental in the history of land tenure in Kenya. Every ethnic group experienced land losses, though some groups lost more than others. On the 10-mile coastal strip, the colonial regime recognized the claims of the Sultan of Zanzibar, at the expense of those controlled through force of arms and

¹⁸³ *Ibid.*

¹⁸⁴ *Vishingila*. It means Taita Taveta Warriors.

¹⁸⁵ *Ibid.*

¹⁸⁶ *Terra nullius*. It means land belonging to no one.

economic might. It was only the sultans' subjects who could register their ownership of land. The colonial period was characterised by the use, or threat, of violence to acquire land, population displacement, and oppressive rule. This meant that up to 25% of the indigenous population were turned into landless squatters, without the ownership of land on which they had lived for generations.¹⁸⁷

The state of landlessness caused tension and as it heightened, a political organization, the THA was established in 1939, as a branch of Kikuyu Central Association (KCA). It was banned in 1940 with the KCA and Ukamba Members Association.¹⁸⁸ The main political goals of the association were; ¹⁸⁹to restore the alienated lands of the Wadawida and Watuweta, to keep checks on the destocking policies of the colonial government, to get the explanation on the threat of the removal of Wataita to Samburu, to gain personal rights such as the removal of the Kipande system. The association had 4000 supporters, but, at the beginning of Mau Mau uprising the association diminished.

Kenya's late-colonial land-tenure reform was intended to presage an agrarian revolution along pre-industrial European lines. The programme began in central Kenya in the 1950s under the Swynnerton Plan and by the turn of 21st century was being extended to other regions of the country.¹⁹⁰ It was first undertaken with the advantage of confinement of much of Central Province's African population into

¹⁸⁷ J. Wakungu, E. Nyukuri and C. Huggins: *Land Tenure and Violent Conflict in Kenya*, African Centre for Technology Studies (ACTS), 2008.

¹⁸⁸ Bravman, B, *Making Ethnic Ways: Communities and their Transformations in Taita, Kenya, 1800–1950*, James Currey, Oxford, 1998.

¹⁸⁹ Mnjama, N, "Taita Hills Association," Revised BA dissertation, University of Nairobi, 1991.

¹⁹⁰ *Ibid.*

fortified emergency villages established to contain the 1950s Mau Mau rebellion.¹⁹¹ Prompted by the political and economic need to address African, rather than European, farming interests, the programme involved a series of steps from adjudication of clan and individual rights to consolidation of fragmented holdings, enclosure and, finally, registration of individual freehold titles.¹⁹² According to Okoth Ogendo, land tenure itself drew attention not so much to man—land relationships as to the man—man relations which created and determine power in land-based societies. Access to such power arose in association with membership in some unit of production and was maintained through active participation in the processes of production and reproduction at particular levels of social organisation.¹⁹³ This was the case in Taita Taveta. According to a letter of 16th December 1963 from the Assistant Regional Government Agent the names of squatters for eviction had been submitted and notices given as per the Attorney General's Circular No.1 of 1961. The squatters were to be given three months' notice to vacate the land.¹⁹⁴

From independence, there were a series of motions in Parliament attempting to seek solutions to the land question in Taita Taveta. A motion of 22nd April 1981, on Taita Taveta District suggested that the state and foreign owned land to be given to the landless. The then MP, Mwashengu wa Mwachofi, stated that the boundaries that were established in 1930 were still in existence 17 years after independence. Mwachofi proposed that the government should open part of the state land for occupation by the landless in the district. He argued, furthermore, that the state should acquire all the large scale farms and open them for occupation by the landless

¹⁹¹ *Ibid.*

¹⁹² *Ibid.*

¹⁹³ Okoth -Ogendo and H.W.O, *Tenants of the Crown: Evolution of agricultural law and institutions in Kenya*, Nairobi, African Centre for Technology Studies Press, 1991.

¹⁹⁴ KNA, DC/TTA/3/8/74, "Illegal Squatters": *Voi LND5*, 16/12/1963.

squatters in the district. That the state stop forthwith the proposed land deal where Banila Estates proposed to buy 56,000 acres from Kenya Trade Developers in order to facilitate the landless squatters. Mwachofi argued that if the motion was passed over 100 000 Kenyans would be able to find socio-economic and political peace, and would also be able to contribute to Kenya's development and stability. Thus the aspirations of over 100 000 Kenyans would have been honoured and realised in the interest of the whole country. Kenya's natural resource, that is land and labour, would be better utilised for the good of all Kenyans.¹⁹⁵

Mwachofi pointed out that the Crown Land Ordinances 1902 and 1915 divided Kenya into a category of lands and that Taita Taveta, had the Crown land, the game reserves and the Native lands and that after independence the boundaries that were made in the 1920's were never changed. The only things that changed were names; so that instead of Crown land became State land and Native land became Trust Land. There were no changes despite the fact that the people of Taita/Taveta took part in the struggle for independence in the country for the purpose of freeing their land.¹⁹⁶

According to one Respondent, throughout the Moi era 1978 to 1991 squatters had been living in fear, arming themselves with *pangas* and machetes, bows and arrows in preparation to fight those who attempted to evict them.¹⁹⁷ There were empty promises by the former Members of Parliament from the area such as Darius Mbela of Wundanyi and Retired Major Marsden Madoka of Mwatate that they would ensure that squatters were given land but this never took place. The Members of parliament

¹⁹⁵ Kenya National Assembly Official Records (Hansard), *Taita/Taveta District State and Foreign owned land to be given to the landless*, Nairobi, 22/04/1981, p.1234.

¹⁹⁶ *Ibid.*

¹⁹⁷ Oral Interview, T. Okoth, Casual Labourer, Voi Sisal Estate, 03/12/2009.

were very close allies of President Moi but failed to present the land problems of their community to seek justice. The land issue and promises of solving the problem were largely used in campaigns by the two members of parliament when seeking re-election to Parliament.¹⁹⁸

However, the proletariats continued to suffer eviction from the land owned by the Bourgeoisies. The attacks to drive away squatters by the police, mainly took place during the night or in the evenings. This prompted the squatters to choose a leader whose qualities had to be those of a fearless strong man who could easily hit a target enemy using a bow and an arrow.¹⁹⁹ The leader would alert squatters whenever there was suspicion of an enemy invading their premise. This was done by blowing a whistle calling the squatters to urgently hurry to a particular place where they would assemble and get directions from him. Only pregnant women and those with children were left in the houses. Everyone else was expected to leave their homes with arms to face their enemies. The men both young and old would carry poisonous bows and arrows which they referred to as *ndana na mawanu*²⁰⁰ *gha wusungu* whilst the women would carry *pangas* and machetes. The attacks would at times last a whole night or a couple of days during which the squatters would be fighting in the bushes. During that time the men would fetch for *taghashiko*²⁰¹ which grew in the thorny bushes and share with the women to boost their energies. Those injured in the fight, were treated with some juice from *chugharamba*²⁰² which stopped bleeding and healed the wounds.²⁰³

¹⁹⁸ Oral Interview, Henry Mwachofi, Farmer, Wundanyi, 02/12/2009.

¹⁹⁹ *Ibid.*

²⁰⁰ *Ndana na Mawanu gha Wusungu*. It means Poisonous bows and arrows.

²⁰¹ *Taghashiko*. It is means Wild Fruits found in Taita Taveta.

²⁰² *Chugharamba*. It means special medicinal leaves.

²⁰³ Oral Interview, 'Mghosi Mwaikoti', Ghazi, 02/01/2010.

In 2002, KANU leaders resisted the temptation to use violence following the electoral victory of the National Rainbow Coalition (hereafter NARC), headed by Mwai Kibaki as was the case in the previous election in 1997. However the NARC government also failed to adequately provide for those who had been displaced in the postelection violence. In 2003, the government stated its intention to identify land for settlement of victims who were unwilling to return to their stolen lands. This was never achieved.

Meanwhile, tensions over land tenure in the slums resulted in violent clashes between gangs, made up of youth and the police. The NARC government set up the “Ndungu Commission” an inquiry into illegal allocation of land. It recommended that the ultimate responsibility for land rests with a National Land Commission, rather than the President, and that a review of land titles be initiated, due to the huge number of irregular or illegal Deeds in existence. The findings of the Commission were largely welcomed by the general public. However, most of the report’s recommendations were ignored. While the fundamental and systemic aspects of the land problems identified by the Commission’s report have been left to fester, evictions of communities from ‘gazetted’ (protected) forest areas have been implemented with excess force and without resettlement of many of those evicted.²⁰⁴Taita Taveta continued to experience land conflicts.

During the 2007 elections, for example in Werugha, members of the Kikuyu ethnic groups were victims after the presidential results were announced. Some Kikuyus who were business men and women had for decades been operating wholesale and retail shops which were famous for the availability of goods provided and needed by the

²⁰⁴ GOK, *Report of the Ndung'u Land Commission*, Government Press, Nairobi, 2004.

residents. However, as violence took its toll in the country, the shops were broken into in search of the owners so they could be beaten and evicted from their shops and land where they had been living. They were believed to have been living within the premise but had escaped at the time. When they were not found, their goods were looted. The violence erupted owing to long-term rivalry, jealousy and hatred by the Wadawida and Watuweta against Kikuyus and Kambas. According to one respondent, the intention of the gang was to take over the land owned by the shop owners.²⁰⁵

The National Land Policy of 2009 made a number of recommendations which were aimed at solving the current and future land problems in Kenya. Some of which were incorporated into the chapter on Land and Environment in Kenya's new Constitution²⁰⁶. The constitution provided a framework for the implementation of the recommendations in the National Land Policy. The establishment of a National Land Commission (hereafter NLC) to manage land on behalf of central and county governments, is key among issues on land in the 2010 Constitution. The new Constitution as well as the National Land Policy address the failures of the land management system and call for new legislation to be put in place that will question the legality of titles granted through allocation of public land, and take corrective measures as appropriate.²⁰⁷

3.12 Economic Factors: 1963 - 2010

The pre-colonial era can serve as a historical-geographical baseline for the consideration of the roles that the mission societies, commercial companies, and the

²⁰⁵ Oral Interview, Gibo Suleiman, Businessman, Voi, 02/12/2009.

²⁰⁶ GOK, *National Land Policy*. Government Printers, Nairobi, 2009.

²⁰⁷ Paul Syagga, *Public Land, Historical Land Injustices and the New Constitution*. Society for International Development, 2010.

colonial government played, in the colonial era, in reshaping the Wadawida and Watuweta use of resources.

According to Kusimba, the development of trade in luxury items between the East African coast and interior was largely spawned by the desire of coastal urban merchants to obtain agricultural and pastoral products from their hinterland neighbours. They also sought non-perishable trade items such as honey wax, elephant tusks, rhinoceros horns and cat skins. Swahili merchants would provide glass beads, iron and copper commodities, bracelets, cloth, bangles and coastal shells.²⁰⁸ Kusimba, provides the only solid confirmation that trade was occurring between the coast and Tsavo before AD 653 (7th century).²⁰⁹

According to research carried out on early regional interactions of East African trade, certain motifs found on ceramic sherds recovered from middle Holocene PN contexts in Tsavo have unmistakable decorative parallels to later designs that have been attributed to early iron using people elsewhere in East Africa despite the fact that the occurrences are separated by less than 2,000 years in the instances in which these occurrences are found. Thus Tsavo area was central to trade between the Wadawida and Watuweta and their neighbours. The establishment of Tsavo National park, was met by resistance by the Wadawida and Watuweta. They felt cut off from accessing their once common ground for trade.²¹⁰

After Independence in 1963, there were concerns on contemporary patterns of resource identification and land use. The arrangement of farm-plots differed largely

²⁰⁸ C.M Kusimba, *The Rise and Fall of Swahili States Alta Mira*, Walnut Creek, CA, 1999b.

²⁰⁹ *Ibid.*

²¹⁰ David K Wright, *New Perspective of Early Regional Interaction Networks of East African Trade: A View from Tsavo National Park Kenya*. African Archaeological Review, Vol. 22, No. 3, September 2005.

as a result of land consolidation. In Werugha, where consolidation was completed by 1969, housing patterns had begun to shift from agglomerated to dispersed. Werugha farm plots became more rectangular in shape. The Wadawida and Watuweta have become committed to participation in the cash economy by supplying cash-labourers and by producing high quality agricultural goods for both regional and world markets. Regionally, vegetables played an important role and internationally, coffee is important. These changes and others reflected the expanded resource inventory with which contemporary Taita Taveta operated.²¹¹ This thus contributed to the value of land in the Taita Taveta, hence aggravating the demand for land by the squatters.

During the parliamentary debate in 1981, there was a motion in support of Taita Taveta district. The motion suggested that state and foreign owned land should be given to the squatters.²¹² Members of Parliament argued that in normal circumstances animals lived in the bushes. Human beings lived on fertile land for agriculture and for their dwellings. However, with the case of Taita Taveta nature had been reverted. Animals had been given fertile land and human beings were barely surviving in the arid land allocated to them. That it was a shame and a mistake by the government. It was a case of deprivation which needed to be corrected immediately.²¹³

This shows that the land problem in Taita Taveta had become of great national concern. Further, the discovery of rich deposits of minerals in Taita Taveta raised the land value. This came about after the residents endured years of grinding poverty. However, there appeared to be a number of uncertainties. On Respondent whose

²¹¹ Nazarro Andrew Allen, *Changing Use of the resource base among the Taita of Kenya*, Michigan, Michigan State University, 1974.

²¹² Kenya National Assembly Official records(Hansard), " *Taita/Taveta District State and Foreign owned land to be given to the landless.*" Nairobi, 22/04/1981.

²¹³ *Ibid.*

sentiments were common to the majority of the interviewees affirmed that the land was rich with minerals and precious stones. However, a majority of the people did not have any knowledge on extraction of minerals. Neither did they complete their O'level studies due to poverty. Besides, the land had attracted companies both local and from abroad which employed and paid very little money to the uneducated young men who dwelt at the mines in harsh conditions extracting precious stones.²¹⁴ The mining companies were seen to be depriving the workers, who are the proletariats, arousing tension over land as the minerals increased the value of Land in Taita Taveta. The workers together with small scale miners demanded that the government investigate private investors who were carrying out mining activities in the area to avoid exploitation of workers. They recommended that not anyone was to be allowed to mine in the region without the resident's consent for their land to be used for mining. This was aimed at those mining companies operating in the area illegally.

3.13 Conclusion

Access to rural land is essential. This is because it is one means by which rural residents, as well as seasonal and longer-term migrants, maintain local and descent group affiliations. These affiliations remain important in dealing with the new economic opportunities and risks associated with the spread of commercialisation. It is not unusual for claims on rural land to multiply even when the land is relatively unproductive and when claimants' other economic pursuits keep them away from rural areas for much of their lives.²¹⁵

²¹⁴ Oral Interview, James Mwameso Mbararia, Miner, Kasighau, 02/12/2009.

²¹⁵ Angelique Haugerud, Land Tenure and Agrarian Change in Kenya, 2001.

This chapter has revealed that the pre-colonial period in Taita Taveta was marked by societal disruptions caused by cattle rustling, and persistent droughts that weakened pre-existing regional networks of interaction, exchange, and crisis management. Insecurity confined people within ethnic boundaries.²¹⁶

In the 20th century, Christianity played a large role in influencing the political set up of the Taita Taveta. Ironically, violence was used by the very same missionaries who came to spread the word of God that emphasised love for one another and peace. There was classification of people. This is in line with the Marxist Structural Theory that, when we have various classes, there is bound to be a struggle which is attributed to conflict. The area of Tsavo was of great importance as a place of trade between Wadawida and Watuweta and their neighbours. However, in the post colonial period it became a national park.

The discovery of minerals was met with mixed feelings from the Wadawida and Wataita as a majority were squatters in their own land. There was a concern as to who benefits from the mineral discovery when the poverty stricken population did not even have the knowledge of extraction of minerals?

²¹⁶ *Ibid.*

This chapter has expounded on the nature or types of land conflicts in Taita Taveta and the factors causing land conflicts in the area, providing for a clear picture on what was the situation in the past and what is going on in the area. How this impacts the people of Taita Taveta is discussed in the next chapter.

CHAPTER FOUR

IMPACT OF LAND CONFLICT IN TAITA TAVETA 1963 - 2010

4.0 Introduction

Chapter Three, identified the nature and types of Land Conflicts in Taita Taveta. Social, political and economic factors were identified to have been the major causes of conflict in Taita Taveta. This Chapter will examine the impact of such conflict on the communities living in Taita Taveta. In examining the impact of conflict, the chapter will employ the Marxist structural theory.

4.2 Displacement

According to a report in *The Standard* Newspaper on November 2009, people who had been living in Kamtonga village prior to the discovery of minerals were uprooted from their home and community and consequently made vulnerable to violence, exploitation, discrimination, and other human rights violations.²¹⁷ A man by the name Lukas Kitumbi discovered Chawia Garnet, a rare and highly priced gemstone, in his farm. He considered it a miracle as he struck the gemstone when he least expected it, while digging a pit latrine. But as word spread out in the area about his lucky strike, the unexpected happened. A gang of miners locally known as *zururas*, raided his 30 acre Kamtonga farm armed with their tools of trade and started mining the gemstone without his authority. As the confrontation went on, his daughter, who was in Standard Eight, was shot dead by armed gangsters who raided his home at night. His wife, too, was seriously injured during the raid which he says was aimed at driving him out of the farm. The robbers stole gemstones worth millions of shillings and destroyed property of unknown value. It was also noted that the 'illegal miners' had

²¹⁷ Renson Mnyamwezi, 'A fatally Attractive Mining Business', in *The Standard*, 11th November 2009.

rendered the Kamtonga-Chunga Unga road impassable before finally storming into Lukas Itumbi's farm and the neighbouring Kutumi Ranch. He was forced to abandon his farm and seek shelter at his father's house following the invasion which he said had made his family's life unbearable. Kitumbi had lived in his farm for 27 years.²¹⁸

According to one respondent from Msau, Lucas Kitumbi and his family were subjected to heightened vulnerabilities in areas of personal safety, human rights, and livelihoods. They were in need of protection and assistance in finding adequate shelter, food, medical treatment, and employment. They also suffered discrimination from their neighbours as a result of being displaced. They endured loss, destruction and confiscation of identity cards, and other important personal documentation. They faced an especially high risk of losing ownership of their housing, property, and land²¹⁹.

Owing to the land conflicts in Taita Taveta, those not displaced, moved to the urban centres in search of employment. According to the statistics held by the government in the Taita Taveta County urbanisation, approximately 25% of the entire population is in the urban centres.²²⁰ Most of the people moved to Mombasa the nearest town and others to Nairobi.²²¹

This demonstrates power of the bourgeoisies in Taita Taveta over the proletariat peasants in the area.

²¹⁸ *Ibid.*

²¹⁹ Oral Interview, Anonymous Respondent. Msau. on 03/12/2009.

²²⁰ *Ibid.*

²²¹ GOK .Ministry of Finance and Planning:Taita Taveta District Development plan-effective Management and Sustainable economic Growth and Poverty Reduction.(s.a)Government Printers.2002-2008.

4.3 The Decline of Trade

Land conflicts in Taita Taveta had led to public demonstrations and conflicts over infrastructure. These had led to disruption of trade in the region as business operations were disrupted as noted by most respondents from Voi, that it was not possible for shop owners to conduct their businesses whenever such demonstrations and confrontations took place. This was because of fear of losing their goods through looting by the angry mobs²²².

4.4 Disruption of Education

Public demonstrations due to land conflicts over infrastructure not only disrupted trade but also education. A respondent from Mwatate, who was a labourer from Aqua and a parent with school going children, affirmed that he would not allow his children to go to school during such demonstrations because he feared they could succumb to injuries. He added that in most instances the demonstrators were engaged by the police. Innocent pedestrians had found themselves nursing injuries for being near by the demonstrators²²³. This shows how the proletariat continue to be oppressed, their children denied opportunity to study due to land conflicts in the area whilst the Bourgeoisie make profits from their sisal estates and mines in the area. This view was also shared by other respondents who were parents with school going children.

4.5 Squatting

The Problem of squatters in Taita Taveta since independence appears to be unresolved leaving majority of the population squatting in their own land whereas Bourgeoisies such as Basil Criticos, own 19 000 acres of land in the area which is lying idle. According to Mary Theresa Howard and Ann V Millard discussing the Mount

²²² Oral Interview, Anonymous Respondents, interviewed at Voi, on 03/12/2009.

²²³ Oral Interview, Anonymous Respondent, interviewed at Mwatate, on 04/12/2009

Kilimanjaro area, continued population growth in addition to reducing opportunities to control land in a variety of ecological zones had forced some Taita farmers to become permanent squatters on the semi-arid plains surrounding the hills, rather than temporary visitors exploiting the bush for seasonal extensive cultivation, herding, hunting, or collecting such products like honey, gum Arabic and fuel. Permanent dwellers of the plains also have a tendency to be socially marginalised.

It is believed that they opted for plains settlement because of loss of pawned land. Some of the plain dwellers were non Taita who had been forced by economic or other circumstances into permanent migration. Others were retired long time sisal estate workers who no longer owned land or user rights over land in the hills. Since permanent plains residents were a recent development (post 1960), and the original homes of these people is very diverse, there had been little opportunity for the formation of ties of consanguinity and affinity in the area. These ties normally bound the inhabitants into networks of co-operation and exchange. According to Pekka Hurskainen, the most recent growth of informal settlements had been taking place outside the Voi town circle (the township boundaries), namely Mwakingali A (Kedu), Bomani and Kaloleni.²²⁴ In practice, this meant, that all land outside the town circle belonged either to the government or individual landlords, falling outside the jurisdiction of Voi Municipal Council.²²⁵

²²⁴ Pellikka, P. J. Ylhaisi & B. Clark. Taita Hills and Kenya, 2004 – Seminar, reports and journal of a field excursion to Kenya, 2004.

²²⁵ Mary Theresa Howard, Ann V. Millard, *Hunger and Shame: Poverty and Child Malnutrition on Mount Kilimanjaro*. Psychology Press, 1997, p219.

4.6 “No Wives to Marry”

Land conflicts in Taita Taveta had led to “No wives for the men in the county to marry”. One of the informants, a miner, remarked that most of the ladies from Taita Taveta did not want to get married to Wadawida or Watuweta men. They were afraid of associating themselves with such men who were still fighting for land, had no place to take their new wives nor land to cultivate and get some food. The ladies thus preferred getting married to men from other communities with no such land conflicts as their men. While he acknowledged that the ladies were justified to fear, he feared that, if their own ladies rejected them, then others ladies from neighbouring communities would do the same. He wanted the government to give them back their land which it had turned in Tsavo National Park.²²⁶

This appeared to be an issue shared by most of the youth across Taita Taveta and thus another driving force, energising the local people to continue claiming their land that was given to the Tsavo National Park. The bitterness in these rejected youths is clear from their words²²⁷. They wanted back their land from the government. This goes to show the attitude people of Taita Taveta had on the establishment of the Tsavo National Parks.

4.7 Loss of Life

Land conflicts in Taita Taveta had led to hundreds of deaths of both the local people and investors. One of the respondents from Wundanyi remarked that in 2002 his father fought with his uncle over a piece of land which the father had inherited in Wundanyi. The uncle had to be rushed to Mwambirwa district hospital and later died of head injuries. This is an example of family disputes over land that had led to deaths

²²⁶ Oral Interview, ‘Kijana Tinga’, Miner, Voi, on 06/11/2009.

²²⁷ Oral Interview, Elijah Mwakazi, Miner, Kasighau, 18/04/2009.

in Taita Taveta²²⁸. In 2009 Maev Kennedy reported in the *Guardian* Newspaper in the United Kingdom that;

Police in Kenya were hunting a gang believed to have murdered a renowned Scottish gem expert Bridges Campbell, who was attacked with knives, clubs and spears in what they believe was a dispute over mining rights.²²⁹

Bridges Campbell owned 600 hectare (1,482 acre) of land in Taita Taveta. The killing of Bridges Campbell one of the bourgeoisie in the area by a gang of local people in Taita Taveta can also be explained by the Marxist Structural Conflict Theory that when division between the classes widened and the condition of the exploited proletariat workers in the mines and sisal estates had deteriorated, the proletariats took the law in their hands to end the class struggle.

The scramble for land was not only between human beings, elephants and other wild animals, in search for food, led into conflict with the Wadawida and Watuweta leading to several deaths as reported. For example, A man, who had lived all his life in the wildlife infested area of Bura, Mwatate District, was trampled to death, as he walked home in the evening, by an elephant that had roamed into his village. The death of the man who was known as Mwakisakenyi, a steward at the Tsavo Taita Hills Lodge had brought to three the number of people trampled to death by elephants in three weeks. The previous week another jumbo had killed a 65-year-old man in Voi district. The casualties had brought to ten the number of people killed that year by wild animals while several others had been seriously injured.²³⁰

According to a Member of the TTWF, Elephants from Kenya's Tsavo National Park had destroyed the crops and livelihoods of communities in Taita Taveta, and left them

²²⁸ Oral Interview, Anonymous Respondent, Wundanyi, on 02/12/2009.

²²⁹ Maev Kennedy, 'Gem expert Campbell Bridges killed in mob attack in Kenya', in *The Guardian*, 13th August 2009.

²³⁰ Renson Mnyamwezi, 'Wild Animals Invade Taita-Taveta', in *The Standard*, 14th October 2009.

dependent on unaffordable maize flour and government relief supplies. Members of the forum urged the government to fulfill its constitutional obligation to ensure the community's right to food and protection of livelihood. Residents of Mwatate Constituency had been greatly hit by attacks by the wild animals.²³¹

4.8 Conclusion

It is evident from this chapter that the land issue in Taita Taveta still remains unresolved 47 years later since Kenya attained Independence. The bourgeoisie minority who own the means of production, such as sisal estates and Mines in Taita Taveta continue to oppress the proletariat workers in their firms. The establishment of the Tsavo National Park appears to be bringing more harm than good to the residents with the increase in human -elephant conflict. The land conflict is impacting negatively on the people of Taita Taveta. The people have lived with this conflict and it is part and parcel of their daily life. The next chapter will draw conclusions of the research.

²³¹ Oral Interview, Anonymous Respondent. Mwatate. 03/12/2009.

CHAPTER FIVE

CONCLUSION

This study set out to examine land conflicts in Taita Taveta County, in terms of causes of the conflict, the nature or types of the conflict and how the conflict impacted on the people of Taita Taveta County and the general society from the pre-colonial period to the post-colonial period. In order to achieve these goals, the study has brought on board the physical geography of Taita Taveta, causes of the conflict, the history of the conflict, and the main actors in the conflict. The research was intended to add to academic understanding of the Taita Taveta. This was to be through filling in the existing research gaps of the most vital issue in Taita Taveta, namely, land conflict.

The study applied the Marxist structural conflict theory in order to achieve the objective. The theory highlighted the rationality of factors that provoked the conflict. The factors ranged from economic, social to political as argued by the Marxist structural conflict theory.

The research has shown that in pre-colonial times, all land was under customary law and it was not likely that there was any land in Kenya free from tribal occupation by residence or use, whether periodically, seasonally or throughout the year. After 1963, there were sections for communal use and for private individual use at the family level. During the colonial period, the customary land was reduced to include only what came to be called 'native land'. The rest was either the settler reserves alienated from core areas of some tribal customary land or Crown Land, which was mainly, previous pasture land. Later, in the post-colonial period, land tenure categories were regrouped into three; namely, trust lands, government or public land

and private or individual land. The research has there proved that denial of secure access to land is a significant determinant of the nature and cause of land conflicts in Taita Taveta.

The research has also shown that the physical geography of the Taita Taveta dictated the settlement pattern and influenced the economic activities of communities living there. The land alienated and allocated to the Tsavo National Park, and that occupied by the sisal estates played a major role in creating the conflict that continues to affect the Wadawida and Watuweta. The land that was located to the Tsavo West National Park was indeed more fertile than the land occupied by the Wadawida and Watuweta, given the rich water bodies like Lake Jipc and Mzima springs. This exacerbated the land conflict in Taita Taveta. However, the government and Kenya Wildlife Service could compensate and pay damages to the victims of human-wildlife conflict, and respect the constitutional right to food as anchored under the Article 37 of the Constitution of Kenya.

The geography of the region determines how these communities relate as well as the general life in Taita Taveta. It is through economic activities, such as trade, that the Wadawida and Watuweta and their neighbours, the Akamba and the Maasai, interact. Before the establishment of the Tsavo National Park, the area was a convergence zone where trade between the Wadawida and Watuweta and their neighbours took place. Inhabitants cultivated the land for subsistence farming. However, they were rendered landless and left to be squatters in their own land after the government allocated the land to Tsavo National Park, yet the population growth rate of the Wadawida and Watuweta was high.

The conflict and trade relations in Taita Taveta are as old as the history of settlement in the region. There were various factors that caused the land conflict in Taita Taveta. Political factors, such as the entrenchment of the colonial administration in Kenya, had led directly to inequality in land ownership and use, landlessness, squatting, land degradation and the resultant poverty and Africans' resentment of the white settlers. The struggle for survival involved fighting over scarce resources.²³² Community involvement in decision making in the Taita Taveta is vital. It appears that most of the decisions made in the area tend not to involve the people of Taita Taveta therefore causing grievances and an environment for conflict. The people have blamed their leadership for the land problems they encounter.

In some cases, where private property rights were not viewed as legitimate or not enforced adequately, *de jure*²³³ private property and government land has become *de facto*²³⁴ open access land. For example, the *de jure* owners, such as Basil Criticos in Taita Taveta, would fight back through court petitions against the locals, claim to the land and using police to forcefully evict the squatters on his land. All individuals need to be protected against being arbitrarily displaced from their homes or place of residence. The government needs to support the resettling of the persons elsewhere like the family in Kamatunga village which was displaced from its home after the discovery of minerals in their home. Measures could be put in place to handle such situations in a manner that does not result in a violation of human rights.

²³² Callinicos Alex, *The Revolutionary Ideas of Karl Mar*, Bloomsbury, London, 2010.

²³³ *De jure* It means concerning law.

²³⁴ *De facto*. It means concerning fact.

Taita Taveta is rated amongst the poorest in the country. Victims of the land conflict have been conditioned to live in a state of insecurity in fear of possible further attacks. People, who had ostensibly lived peacefully with a degree of interdependence, find it difficult to co-exist with their new made enemies after land conflicts. There is need for the government to restore people's entitlement to public land that was irregularly or illegally acquired, as well as the delivery of efficient outcomes in the ownership and use of land. For instance, the Tsavo National Park, is one of the major tourists attraction in Kenya, but the Wadawida and Watuweta enjoy minimal benefits from the Park. Similarly, Mzima Springs which is one of the main sources of water to residents in the neighbouring Mombasa county does not seem to be of any economic value to the indigenous people of Taita Taveta.

Economic factors, such as the discovery of minerals in the county, have increased the desire for land for the landless and even those who had access to land wanted some more. As the Marxist structural theory entails, there is formation of two classes. Those who own the means of production are referred to as the bourgeoisies. The workers are Proletariats. As an example from the study, we gather that there were conflicts between the owners of the mining companies, sisal estates versus the workers in the mines and the sisal estates. The struggle can be related to a proletarian revolution in the Marxist theory, thus explaining the prevalence of the conflict in Taita Taveta County. The conflict is, therefore, intensifying.

The study found out that the conflict impacted on the people of Taita Taveta County. It affected their general lives negatively, more so when they were uprooted from their homes and main economic activities, when they were denied access to cultivate the

idle land owned by the bourgeoisies, and the Tsavo National Park reducing them to squatting by the Park. It is evident from the study that the land issues in Taita Taita Taveta led the people to taking matters in their hands, for example, the threats and eventually the brutal killing of the internationally renowned geologist and gemstone miner, Campbell Bridges in 2009. The Wadawida and Watuweta could benefit from civic education with the advent of the vast mineral resources. This will ensure proper management of the resources and enable the public to understand how beneficial the resources will be to them. As it is, any foreigner in the mining area is viewed as an intruder impounding on the rich resources of Taita Taveta.

The study has also shown that, land conflicts have also had some positive impacts in Taita Taveta. For example, the armed gangsters that raided the family at Kamtonga Village escaped with stolen gemstone²³⁵. Those who traded in arms for example, to supply the gangsters who attacked the family in Kamtonga, made money. Politicians who used the land conflict to lure people to vote for them during campaigns with the promise of assisting them to reclaim their land if re-elected, benefitted from the votes and were re-elected to represent the people in government.²³⁶ However, with proper civic education on the population, people will become more aware of their rights as voters and the qualities to look for in a leader. This awareness will safeguard against manipulation of voters by some leaders. To mitigate the issue of proliferation of arms in the area, the government can launch an operation for disarmament to avoid such conflicts. The Wadawida and Watuweta also need to be each other's keeper and take responsibility to know their neighbours well and report to the administration any irregularities they encounter for example, illegal arms. This will assist the government

²³⁵ Renson Mnyamwezi, 'A fatally attractive mining business' in *The Standard*, 11th November 2009.

²³⁶ Oral interview, Ali Husein, Businessman, Chala, 04/12/2009.

o respond promptly before the weapons are used to endanger the lives of the population.

On the whole, the study on land conflicts in Taita Taveta represents an attempt at understanding the conflict from an all-round angle. What had began at migration as a single group of people sharing the same origin and cultural values developed into an arena of conflict due to different reasons. The research has proved that the long standing history of the Wadawida and Watuweta even after disarmament in 1962 has been to fight for their right to secure access to land as reported in the letter by Mr Mwanyumba the then district commissioner on 25th November 1962.²³⁷ Also, the study has proved that traditional weapons were used alongside newly acquired modern weapons, such as guns. Land pressures provoked the people to violence.

²³⁷ KNA, DC/TTA/3/8/101, *Clashes Between the Maasai and Taita/Taveta* LND 6.28/11/1962.

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