

Underlying Causes of Inter-Ethnic Conflict in Tana River County, Kenya

by

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## **DEDICATION**

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This thesis is dedicated to my family for their enduring support and unconditional love.

## **ACKNOWLEDGEMENTS**

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Special thanks to my family. To my father and mother for being supportive parents to me. More appreciation goes to my mother for her love and words of encouragement to never give up. I thank also my sisters and brothers for believing in me, and to Najma, Latifa, Yasmin, Abdul and Harith. To Dr. Adam Arero - thanks for your support and encouragement. You have been so much of an intellectual 'soul-mate' as well! Despite the challenges in the course of this study, my family's love and understanding continued to motivate and inspire me through this journey.

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## **Abstract**

This study was set to assess the inter-ethnic conflict between the Pokomo (farmers) and the Orma (pastoralists) in Tana River, Kenya. It aimed at finding out the underlying causes of conflict, and in doing so; this study examines how peaceful co-existence between these two ethnic groups can be reached. The study was guided by the assumption that the conflict is about competing perceptions of land among the conflicting groups, due to their different life style, use of land, pasture and water resources, and views on land ownership. The researcher used a qualitative case study method using purposeful sampling of both primary and secondary sources.. The field method included informal one on one interviews and participant observation with members of the conflict groups, namely the Pokomo (farmers), Orma and Wardei (pastoralists), however, the Wardei were interviewed because they are a third party in this conflict but are not directly involved. Secondary data comprised of newspapers, textbooks, and archival research materials was also included.

From the research findings, it was concluded that there is a need for balanced policies on land in Tana River. The pastoralists prefer communal land ownership and traditional land uses, while farmers prefer individual ownership, so the needs and interests of all the stakeholders should be taken into consideration in land planning and management. Although the Pokomo and the Orma have the most at stake in the conflict, other stakeholders such as the Kenyan government, the Kenyan population at large, and potential national and foreign investors also have needs and interests which a balanced policy must necessarily address.

In this sense, the Tana River conflict is a microcosm of larger issues related to neo-colonialism, and national, political, and economic sovereignty in Africa.

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## **Acronyms and Abbreviations**

ADR – Alternative Dispute Resolution

CDF – Constituency Development Fund

CBO – Community Based Organization

LUP – Land Use Plan

DFP – District Focus Policy

EAFF – Eastern Africa Farmers' Federation

EIA – Environmental Impact Assessment

EMCA – Environmental Management and Coordination Act

FDI – Foreign Direct Investment

GDP – Gross Domestic Product

GSU – General Service Unit

HRW – Human Rights Watch

IUCN – International Union for Conservation of Nature

KENFAP – Kenya Federation of Agricultural Producers

KES – Kenya Shilling

IDP – Internally Displaced Persons

KRCS – Kenya Red Cross Society

KLA – Kenya Land Alliance

KRC – Kenya Red Cross

PC – Provincial Commissioner

KDHS – Kenya Demographic and Health Survey

KNCHR – Kenya National Commission on Human Rights

KNBS – Kenya National Bureau of Statistics

MRC – Mombasa Republic Council

NEMA – National Environment Management Authority

NLC – National Land Commission

OAU – Organization of African Unity

MTC – Multi-Track Diplomacy

NGO – Non-Governmental Organization

ODA – Official Development Assistance

RLRA– Restitution of Land Rights Act

ID – Identity Card

RLRC – Restitution of Land Rights Commission

KNCHR – Kenyan National Commission on Human Rights

TARDA – Tana and Athi River Development Authority

MP – Member of Parliament

MRC – Mombasa Republic Council

### **Definitions**

Malka – Water Corridor

Gasa – Pokomo Council of Elders

Shifta – Bandit

Gada – Orma Traditional Social Stratification System

## **Chapter One**

### **Introduction**

Ethnic conflicts have made news headlines for many decades, and have been a near constant presence as a major international security concern. The end of the Cold War saw the emergence of a new global challenge; ethnic conflict has the potential to become a major international security problem capable of creating global humanitarian disasters. The end of the Cold War witnessed the dumping of sophisticated weapons into Africa, which gave insurgents in countries like Somalia and Sudan easier access to lethal firepower, which largely contributed to the already ongoing ethnic conflict in the region. These conflicts are worsening the already serious environmental degradation and resource scarcity, increasing human suffering and political instability, and resulting in a social model of 'survival of the fittest' (Wolff, 2006).

These conflicts are mainly attributed to the colonial legacy, which is essentially historical but with ramifications in the post-independence era (Appendix A). It is a historical fact that the indirect rule administered by the British colonialists later turned out to be the 'divide and rule' strategy that polarized the various ethnic groups. The policy of divide and rule was aimed at dividing people along ethnic lines in order to dominate and undermine existing indigenous power structures, and the colonial powers entrenched this model to sow dissension between groups and aggravate existing tensions (Adelman & Suhrke, 1999). In the 1960s after independence, African leaders ascended to governmental structures, which had been intended to preserve the colonial administrative legacy. These leaders perpetuated the Western Constitutional tradition that had oppressed

them, and utilized ill-trained manpower to make provisions for these nascent nation-states, now encompassing diverse ethnic groups with variegated interests. The scramble for resources and the increased ethnic tensions and divisions became the main vehicles through which the acquisition and preservation of power could be achieved. For example, in Rwanda the Belgian colonists favored the Tutsis for government positions and education, which caused long-standing resentment that led to genocide in 1994, where at least 800,000 civilians were slaughtered in a few months (Adelman & Suhrke, 1999).

In Kenya, inter-group conflict has been a challenge both during and after the Britain colonial era since the emergence of multi-party politics in 1991, threatening stability, peace, and sustainable development. The specter of fresh 'ethnic conflicts' raises fears similar to those felt after the violence that rocked Kenya's 1992 multi-party general elections and catalyzed inter-ethnic conflicts in the Rift Valley, Nyanza, Western and some parts of the Coastal provinces. This went down in Kenya's history as the worst violence since independence (Kanyinga, 2009). Tensions during the 1997 Kenyan General elections and the contested presidential election results of 2007 also quickly escalated into high levels of ethnic violence and led to the killing and displacement of thousands of civilians. According to Hornsby (2013), Kenya has enjoyed more than 50 years of relative political and economic stability; demonstrated by regular elections, stable borders, and an absence of conflict with neighbouring countries. Because of this historical stability in the region, Kenya has also accepted large numbers of refugees for many years from Rwanda, Sudan, Somalia, and Ethiopia. During the Cold War period, Kenya's leaders prospered politically partly due to their willingness to accept Western

investment and tourism, and the country has remained a close security partner for Western governments.

However, conflicts continue to occur over increasingly scarce land and water resources and economic and political power. Another contributing factor has been the dramatic increase in population over the past 50 years, exacerbated by the ongoing influx of large numbers of refugees (Hornsby, 2013). These factors have led to Kenya's growing instability and inter-ethnic conflicts, as have external attacks by militia groups such as the Al-shabab from Somalia. The presence of a significant number of Somali refugees in Kenya, some of who are sympathetic to these militia groups, makes the issue of 'ethnic conflicts' a very sensitive yet important subject for discussion, aimed at formulating policy options for conflict management (Weiss, 2004). According to Horowitz (2002), to understand ethnic conflicts it is vital to recognize their root causes and complexity and how they can be addressed to enhance peaceful co-existence. He further notes that timely intervention in these conflicts is essential, because over time violence escalates and becomes more difficult to rein in.

This study focuses on Kenya's Tana River County in the coastal area, which experienced a reoccurrence of inter-group conflict that climaxed in 2012/2013—between two ethnic groups, the Pokomo who are predominantly farmers, and the Orma who are predominantly pastoralists, resulting in death and displacement. Pastoralists and farmer conflicts in Kenya have been ongoing for centuries, but were usually mild, and were resolved by parties using indigenous conflict resolution methods (Bassett, 1993). However, the onset of colonialism and the rise of new independent post-colonial

governments brought a paradigm shift based on capitalist-oriented ideals, which favored cash crop farming and neglected pastoralism.

Bassett (1993) describes how this created a power structure of dominance that gave farmer groups the power for land ownership, with the support of state policies of individualizing land by giving title deeds. Capitalist economic zealots also depicted the pastoralists as primitive and unproductive, due to the structure of their herding systems and their reluctance to embrace crop production.

Furthermore, major international and local development policies favored crop farming, which is considered a backbone of most economies over pastoralism. The accordance of a *stranger* status to pastoral groups, even among communities in which they had been part of society over centuries, suddenly created a psycho-cultural feeling of *us vs. them*. Currently, these pastoral groups are forced to move from one territorial boundary to another in search of greener pastures and water for their cattle. The pastoralist movement has led to engagement of internecine warfare with the farmers they encounter along the way, threatening peace and stability (Bassett, 1993). Pastoralist groups found on the borders of Ethiopia, Somalia, Uganda, and within the coastal areas of Kenya have given the conflict an international dimension (Mills, 1996). The permeable border with Ethiopia and Somalia has significantly contributed to steady inflow of firearms and infiltration of various armed groups available to be hired as mercenaries. Depending on its access to arms supply, a given community's power status is no longer determined by its numerical figure. This reality is amply demonstrated in the on-going conflict between the Orma and the Pokomo.

This new form of firepower in the hands of these groups has greatly undermined the traditional culture of reciprocity and mutual respect (Mills, 1996).

Those who wield the power of the guns know no limits and pay little attention to the values and relational ties of the past. Gone are the days of spears and clubs, having been replaced with rocket launchers and AK-47s (Goldsmith, 2013). According to Meier, Bond & Bond (2007), despite their reputation among some as violent and backwards, pastoralists are one of the groups most misunderstood, vulnerable and marginalized from accessing economic and political resources, mainly because they are settled in very remote areas, and so their access to state institutions is limited. Pastoralists are also largely under-represented in the government. Resilience in the face of daunting odds, migratory patterns, and at times rare displays of courage made pastoralists greatly misunderstood. Policy makers, sections of the media, and other groups that have not come into contact with the pastoralists tend to brand them as unruly and uncivilized. They are often blamed as the source of troubles and violent conflicts, particularly on issues related to water and pasture access (Meier et al, 2007).

Berger (2003) observes that access to pastures and water leads to conflict between pastoralists and farmers. When pastoralists move their cattle into farmers' areas, tension kicks in, leading to competition for the reduced pastures. In addition, water conflicts arise often between pastoralists and settled farmers when access is blocked by fences, when crops are damaged by animals, or when water resources become depleted due to overuse. Clashes over land, water access, or control of water points occur between groups, leading to resource disputes. Scarcity arises when the supply of the same commodity cannot meet up with the demand for the same.

It is for this reason that conflicts of this nature in many areas around this volatile security region should be treated with caution, since a breakdown in one end of the system could affect the entire security of the country (Berger, 2003). In the Tana River district, different ethnic groups live together. These ethnic groups have, to some degree, different needs based on their lifestyle and culture, and different religious backgrounds, leading to conflict that have taken on a dangerous dimension. Adding to the combustion is the availability of dangerous weapons and mercenary elements (Martin, 2012).

In its report, the Kenya Red Cross (2013) stated, the Pokomo and the Orma occasionally come into conflict over resources and land ownership. Under the colonial administration, ethnic conflicts were resolved through farmers allowing the herders pastureland and water corridors called “**Malka**”, with the understanding that when the dry spells were over, the pastoralists would go back to their hinterland areas. Today, this arrangement is no longer respected or honored (Martin, 2012). The Pokomo view land ownership exclusively as individual property that is available for farming and for sale to raise families (Shaiye, 2013). The Orma do not identify with this kind of ownership. Like the “cousins” Boranas of Northern Kenya and Southern Ethiopia, the Orma view land as a gift from God to all and that it is meant to be shared and not individually owned. This belief is due to the fact that nomads generally move from one place to another in search of greener pastures for their livestock (Spencer, 1998).

Conflicting worldviews regarding land use and ownership can be categorized into economic and ethno-cultural views. In terms of economics, the Orma view land purely for livestock grazing, either to use the cattle products such as milk and meat to sustain their livelihoods or to sell these products to earn some money (Shaiye, 2013).

In ethno-cultural terms, the Orma have rich cultural and traditional values that are tied to their pastoral identity, which pass from generation to generation. Ethno-culturally speaking, the Pokomo also view the same land as sacred, and they have cultural and religious values attached to the land and river. They have buried their ancestors in this land, meaning the land has a personal identity. Therefore, land is highly respected among the Pokomo. As a result, they have established shrines, sites for circumcision, age set graduations, and the river is also believed to have medicinal qualities. According to Shaiye, 2013 and Spencer, 1998), encouraging changes in the economic and ethno-cultural views regarding land use and ownership among these communities will be helpful in resolving these recurring conflicts.

According to Fratkin and Mearns (2003), conflicting worldviews on land use and management, the entry of foreign investors and absentee landlords, and skewed government policies have played a role in this conflict. Fratkin and Mearns describe how foreigners buy huge tracts of land in these areas, threatening the livelihood of farmers who rely solely on land for farming, and damaging the security of pastoralist communities, whose sustenance also depends on the same land for grazing their cattle. These competing perceptions on land cannot easily be changed by the introduction of a new economic theory such as free market capitalism. There have been other past cases where land policy was established more on theoretical grounds than practical grounds, with tragic results. For example, in the former Soviet Union, Stalin's forced collectivization of small landholdings into large-scale agricultural holdings in the 1920s and 1930s resulted in widespread famine and the deaths of millions (Viola, 1990).

The forced eviction of Scottish small-land holders in the 17<sup>th</sup> and 18<sup>th</sup> century by the British monarchy to establish large sheep plantations also caused massive suffering and migration (Devine, 1989). Many observers have noted how land reform in post-colonial Zimbabwe has also been mishandled due to unsound economic theory (Kariuki, 2004).

### **Statement of the Problem**

Conflict between the Pokomo and Orma has been a reoccurring issue with no durable solution. So far, this conflict has resulted in many deaths, and severe displacement and trauma within these communities. Of course, a conflict of this kind does not take place without significant underlying issues. The conflict has only been dealt with by track-one diplomacy, meaning the Kenyan government deploys national security forces and tries culprits through legal processes (Martin, 2012). This approach however has not been successful in resolving the underlying factors between these two groups, as conflicts have reoccurred and even escalated. It can be argued that the track-one diplomacy applied to the Pokomo and Orma conflict by the Kenyan government should be supported and complemented with the use of additional approaches, which could get to the core cause of the conflict by understanding the grounds of conflict (Mwagiru, 1997). In recent years, the Tana River conflict has increased both in intensity and frequency, and the cost in terms of loss of human lives and property has been astronomical. However, there is a dearth of research to explain the underlying factors contributing to this conflict. The few published works have largely blamed the competition of politics and ethnicity as the cause of conflict.

Contrary to popular perceptions that this conflict is mainly land-based, ethnic-based, and politically motivated the study argues that the underlying causes of ethnic conflict between the Pokomo and Orma extend beyond their economic interests in land as a resource to encompass their differing values and worldviews held with respect to the land. While the Pokomo and Orma see land in both similar and dissimilar ways, each group values the land as the basis for their connection to the spiritual world. Their broader worldviews are informed, in turn, by the land's central role in the construction of their respective identities and spiritual practices. Over time, both ethnic groups have forged their ethnicity grounded in the specific meaning ascribed by each group to the land. The study further contends that effective mediation of this conflict must therefore necessarily investigate questions of ascribed meaning, spirituality, and ethnic identity, where the same are closely aligned to the land. This understanding is integral to any mediation striving to successfully address the conflict between these two groups.

### **Research Questions**

Arising from the Tana River conflict, the field research study will seek to answer the following questions: The primary question of the research is: *What is the underlying cause of conflict between the Pokomo and the Orma?*

## **Chapter Two – Historical Background**

### **Introduction**

This chapter will give a summary of existing literature on Tana River. The first part will present a historical background of Tana River with regard to the historical injustices experienced in that region since the colonial period, and will also explore geography, climatic issues, and culture of the Tana River people. This chapter will also illustrate how the Tana River conflict between the Pokomos and the Ormas has defied government attempts to contain it, as well as a description of how the conflict reoccurs and escalates.

### **2.1 Land Tenure**

According to Kanyinga (1998), issues regarding land ownership are tied not only to agricultural production and development, but also to the social and political organization of agrarian social formation. He states that the land question, especially in the coastal region, is more complicated than in other parts of Kenya, and has a distinct history. The Portuguese were the first to explore the region of current-day Kenya in the coastal region, when Vasco da Gama arrived via sailing ship in 1498. Da Gama's voyage was successful in reaching India, which permitted the Portuguese to trade with the Far East directly by sea. Portuguese rule in the African Great Lakes region focused mainly on a coastal strip centered in Mombasa. Portugal's main goal in the coastal region was to take control of the spice trade from the Arabs. At this stage, Strandes (1968) notes how

the Portuguese presence in East Africa served the purposes of controlling trade within the Indian Ocean and securing the sea routes linking Europe to Asia.

Portuguese naval vessels were very disruptive to the commerce of Portugal's enemies within the western Indian Ocean, and were able to demand high tariffs on items transported through the sea due to their strategic control of ports and shipping lanes. In 1593, Portuguese hegemony was solidified in the region, but the British and Arab incursions into the Great Lakes region clipped their influence during the 17th century (Strandes, 1968). Kanyinga (1998) further states that the Arabs posed the most direct challenge to Portuguese influence in the African Great Lakes region. They besieged Portuguese fortresses, openly attacked naval vessels, and expelled the Portuguese from the Kenyan coastal region by 1730. The Arabs reclaimed much of the Indian Ocean trade, forcing the Portuguese to retreat south to Mozambique. Arabs settled in the area and consolidated the slave trade. Consequently, more than any other factor, slavery was associated with the eventual Arab control of land. Arab occupation of the Kenyan coast brought the once independent city-states under closer foreign scrutiny and domination than was experienced during the Portuguese period. Like their predecessors, the Arabs were primarily able only to control the coastal areas. However, the creation of clove plantations, as well as the intensification of the slave trade, helped consolidate their gains.

According to Kanyinga (1998), Arab governance of all the major ports along the coastal region continued until British interests (aimed particularly at ending the slave trade and the creation of a wage labor system) began to put pressure on Arab rule. By the late nineteenth century, the slave trade on the open seas had been completely outlawed by the British, and the Arabs had little ability to resist the British navy's ability to enforce

the directive. That author also mentions how the Arab presence in Kenya was checked by British seizure of key ports, and the creation of crucial trade alliances with influential local leaders in the 1880s. Between the 19th and 20th century, East Africa became a theatre of competition between the major imperialistic European nations of the time. During the period of the scramble for Africa, almost every country in the larger region became part of a European colonial empire to varying degrees. The British set foot in the region's most exploitable and promising lands, acquiring what is today Kenya. In addition, the Protectorate of the Colony of Kenya was located in a rich farmland area most appropriate for the cultivation of cash crops like coffee and tea. Moreover, this area had the potential for significant residential expansion, being suitable for the relocation of a large number of British nationals. Prevailing climatic conditions and the region's size allowed the establishment of flourishing European style settlements. From the days of colonization, land in Kenya has been an important political topic and instrument of power and an emotive issue that has caused people to kill or die in great disputes. Land is a huge investment for many people, and in many cases, it ends up in disappointment and frustration for a lot of people in Kenya (Kanyinga, 1998).

Since independence in 1963, three presidents have ruled Kenya, and each one of them has influenced the development in the country significantly. However, the issue of historical land injustice that resulted from colonization has not been addressed conclusively to date. This policy opened up land that was not disputed by the indigenous coastal community. The colonial state deepened this problem by introducing legislation that enabled only the subjects of the Sultan to register land as private property, neglecting the land of the indigenous people. As a result, Kariuki (2014) states that the prolonged

historical injustices faced by coastal people led to marginalization and the emergence of the Mombasa Republic Council (MRC), whose agenda was to present the independence of the coastal region and secede from Kenya<sup>1</sup>.

Karuti (1998) argues that in Kenya's case, this imposition of a foreign approach to land use and control by the British contributed to the breakdown of existing and well-established mechanisms that had functioned for generations to limit the escalation of conflict. For example, the introduction of foreign concepts such as private land ownership was in direct opposition to the traditional view that land was communally held. These conflicts continued even after independence was achieved and continue today. The post-independence government simply retained the colonial land laws and pursued the same land reform objectives as the British colonial power without any major alterations (Karuti, 1998). The land policy also did not change in spite of the complex issues that developed around it. Nevertheless, the government, after independence, identified landlessness as a major constraint to the national goal of self-sufficiency (Alila & Atieno, 2006). According to Berry (2002), growing demand and conflict over land are similar in many parts of Africa, and rapid growth, environmental degradation, and a gradual rate of economic development have changed Africa from a land of plenty in the first half of the twentieth century to one of growing land scarcity.

In addition, Becker and Ostrom (1995) state that it is not the resource itself, which is scarce, but that unreasonable and unsustainable pressures have been placed upon it. Moritz (2006) states that competition for resources has led to tension and violence

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<sup>1</sup> The Mombasa Republican Council was dormant until 2008, when it first raised claims that Mombasa should secede from Kenya to become an independent state. They argued that secession would liberate the people of the coast province from marginalization by the successive governments in Kenya. The slogan they are using is Pwani Si Kenya ("The Coast is not Kenya"). In response, the government declared the group to be an illegal organization, together with another 33 groups.

between these groups. For communities in the Tana region, there are complex compositions of natural, economic, cultural, social, and political life styles, wherein one group is crop farmers and the other group is pastoralists. It has therefore become important to consider how the various processes of change in land use are being managed in the face of these conflicting and complex values. Quarcoopome (1992) argued “the new land tenure legislation was progressively added to the customary law, differing from the latter, and in most cases based upon, when not identical to, the legislation of the colonial power itself. This legislation emphasised a notion of private ownership and development of land, in contrast to the notion of collective use without alienation, which was typical of most customary laws” (p. 48). These changes in the land tenure system explain the cause of conflicts over land. In many parts of Africa, privatization of land has increased landlessness, leading to displacement. As a result, most African land conflict predicaments can be explained by the oppositional relationship between the formal and informal land tenure systems. According to Shipton (1989), formal land tenure is supported by neo-classical economic theorists who emphasize that tilling of the land improves productivity and increases security of tenure.

Contrary to the World Bank’s theory, Okoth-Ogendo (1991) stated that individualization of land has created more people without land, and has generated new types of disputes over ownership. However, private land ownership continues to prevail over customary tenure. The relationship between private and customary land is largely unequal, mainly because judicial law backs private land ownership while the customary system is left to lower state law (Okoth-Ogendo, 1991). Recent writing on land in Africa focuses more on changes in land use and tenure rather than the continuity of traditional

systems utilized prior to the colonial era. Therefore, Berry's (1993) dominant view of property in rural Africa points to multiple interests, the centrality of social identity and status, and hence to the ongoing social processes and 'conversations' (conflicts, litigation, negotiation) as the key to understanding the *de facto* realities of land rights (1993; 2002). Berry's argument brings to light the view of multiple interests involved in the claims of ownership and access, wherein different stakeholders will present differing interests over claims of land, leading to resource-based conflict.

Similarly, Irwin (2007) contended that problems regarding land would occur when differing legal systems are used to determine land use without considering the history and context of each claim. Concerning the conflict situations in Tana River County, a stakeholder analysis that identifies who owns what may be appropriate. However, the fact is that the root cause of the conflict stems from their worldview relative to land, when one group perceives land as personal property, and the other perceives the same land as God-given and meant to be shared.

### **2.1.1 Land Tenure in the Pre-Colonial Period**

Before colonization, the land in Africa was not under any form of central governance. Virtually every ethnic group possessed its own traditions and institutions that oversaw resource use and management. In such systems, members had the collective right to access and use resources (Little, 1987). Natural legal rights, primarily the rights to the land they occupied and rights to access, were contingent upon membership in social groups, and on allegiance to traditional authorities (Cousins, Ben & Claassens 2006). According to Twaib (1996), for farming communities, one usually acquired land

by clearing virgin land or by inheritance. For the pastoralists, each member had the right to access the grazing land and its resources.

Customarily, land and resources were perceived as communal property belonging to the collective patrilineal descent units or groups, the clan, and the lineage members. Colonial Africa was largely characterized by small-scale production based on subsistence farming and barter trade economies. Pastoralists are among the few groups that engage in cattle production both on the individual and family level. For the pastoralists, the more cattle a man owned, the more respect he was given in the predominant patriarchal society. According to Kerven (1987), pastoralists engage in exchange of some of the animal products with farmers for grain to supplement their diets under the general exchange system within the barter economy. Kerven (1987) describes the relationship generated as complementary, where both needed the other in order to have a complete livelihood cycle or food chain. These levels of interdependence existed within a “symbiotic relationship” where both pastoralists and farmers shared certain basic commonalities and needs as a group.

According to Stone and Wright (2006), the World Bank Overseas Evaluation project (1996) stated that both pastoralist and farmer groups depended on each other for survival, even though this was not always mutually exclusive, since farmers always had an advantage in terms of access to the land, and could also replace items like meat with fish or game reserves from hunting. However, they further stated that, the World Bank Overseas Evaluation project also notes that the relationship that existed between the two was considered important beyond the nutritional supplement of food to a beneficial status in terms of production. The herder’s cattle provided dung as manure for the farmer and

sometimes the cattle were used for tilling the land through the bullock system. In return, the herders were allowed to graze their cattle on already harvested fields for surplus. Therefore, the farmer-populated communities provided dry season foods and also functioned as drought reserves for the herders (Stone and Wright, 2006).

### **2.1.2 Land Tenure in Colonial Era**

According to Dickenson (1996), colonialism is the practice of a stronger power extending its control over weaker ones, involving economic exploitation of natural resources, creation of new markets for the colonizing nation, and the geographical expansion of the colonizing nation's ideas, language, and way of life. Colonialism and its legacy continue to attract scholarly attention. For instance, Fage & Tordoff (1995) state “overall colonial legacy casts its shadow over the emergent African state system to a degree unique among the major world regions” (p. 98). Similarly, Mamdani (1996) also states that colonialism has had a powerful and lasting impact on Africa. The implication is that Africa can neither be explained nor understood without first unraveling the continent’s colonial experience. Africans’ encounter and interaction with European colonizers in the early 15<sup>th</sup> century greatly affected local settings and relationships between various groups.

In addition, Mamdani (1996) discusses how the newly established relationship between the colonizers and the local people on the ground reshaped some of the existing social structures. The Industrial Revolution in Europe, the growth of the modernization agenda, and the introduction of a cash system replaced barter trade, which eroded the existing symbiotic relationships. The formal scramble and partitioning of African

territories in the 19<sup>th</sup> century and the eventual drafting of new land legislations based on European feudal systems created a patron-client relationship, which gave colonial regimes wide control over large amounts of land in Africa.

Cousins (2007) argues that, “the new land tenure legislation was progressively added to the customary law, differing from the latter, and in most cases based upon, when not identical to, the legislation of the colonial power itself. The appearance of this legislation emphasised a notion of private ownership and development of land, in contrast to the notion of collective use without alienation, which was typical of most customary laws” (p. 190). In their quest to expand cash crop agricultural activities for export to their home countries, Cousins states that the colonial authorities had to resort to contractual wage labour, partly due to the abolition of slavery, and also because of the migration of rural populations to urban areas, which diminished local food production to a subsistence level and placed more emphasis on exports, which extended a capitalistic, materialistic worldview into African nations. Chauveau (2007) argues that Europeans imposed formal laws on societies that had developed generally informal, but often complex systems of land use and tenure that were only appropriate for local production styles, and that tended to incorporate farmer-herder interaction in the production process. The new land legislations or systems altered the complementary relationship that existed between the Orma and Pokomo groups into a power structure that placed farmers at the top and pastoralists below. Galaty (1994) states that the introduction of capitalism based on a formal system promoted the nationalization of lands under colonial power. According to Okoth-Ogendo (2000a), these changes also encouraged the sedentary nature of pastoralists, who were considered to be unproductive in most colonial enclaves. The

eventual engagement in privatized land projects for commercial cash crop production reduced indigenous peoples' control and access to land. The privatization projects affected farmer groups, who were now forced to abandon their traditional crops for export produce needed to feed western industries. For pastoralists, it marked the beginning of forced migration in search of stable conditions and arable lands. The colonial authorities had gained control of local lands and no longer recognized the pastoralists, since farmers accessed western fertilizers and food supplements from the Europeans, hence cutting out the important role played by the pastoralist group. Colonialism began a process of increased incorporation into the international markets and exchange networks (Okoth-Ogendo, 2000a).

In this context, production for subsistence came to be seen as inadequate and customary or traditional forms of land tenure and resource management were considered primitive and out-dated. Frantz further indicated how the colonial era undermined the basis of the farmer-pastoralist goal of compatibility and customary land tenure systems, which contained conflict management mechanisms, by introducing systems of conflict management based on formal European-style laws and courts, which were ineffective.

### **2.1.3 Land Tenure in Post-Colonial Era**

The post-independence era in African history was a period of intense pressure for most post-colonial governments, as they had to deal with the immediate demand for the fulfillment of the promises made during the nationalist struggles. Events happened so quickly for most inexperienced new governments that the manifestation of new models of

production went on as before, and the pressures of a new market economy put increased pressure on the available land for grazing and other resources (Kahl, 2006).

Rather than restructure land relations in accordance with new development imperatives, these measures simply entrenched, and sometimes expanded, the scope of colonial policy and law (Okoth-Ogendo, 1989). Many African governments have over time failed to implement policies that will adequately address the lapses in the existing land tenure systems, emerging contestations over ownership, and other challenges.

Mikesell (1994) contends that development institutions like Bretton Woods initially linked the growing lack of effective land tenure security since independence to the absence of clearly defined and enforceable property rights, with the appropriate policy direction seen to lie only in the creation of such rights. Unfortunately, the intervention of the state alone still failed to solve the emerging problems of tenure holdings and rights to and security over land on the African continent. The author also states that the region, like many in the third world, had experienced too many trial-and-error development paradigms, from the late 1960's modernization theories to present day neo-liberalism, and these paradigms exacerbated some of the local tensions after wiping out major indigenous means of conflict resolution. All existing and past development paradigms "linked common property regimes and pastoralism to resource degradation, sedentarisation of pastoralists, and the privatization of land have become dominant features of African economy" (Galaty, 1994, p. 115). Despite the importance of these issues, international attention has been lacking for a very long time. It was not surprising, though, since the world had been pre-occupied with the tensions of the Cold War in the 1990's to the fall of

apartheid in South Africa, the Angolan civil war, and the Liberian and Sierra Leone civil wars.

The escalation of the conflict has partly been linked to other factors such as disputed land ownership, political interests and incitement, proliferation of small arms and light weapons, lack of alternative livelihoods, high levels of poverty, breakdown of indigenous governance systems, and inadequate security systems or policies (Galaty, 1994). Violence in the pastoralist areas has had a severe “negative socio-cultural, political and economic impact on the pastoralist communities including loss of human lives and properties, displacement of communities, breakdown of economic activities and infrastructure, environmental degradation, inter-ethnic hatred and mistrust” (Kassahun, 2008, p. 1269).

In addition, Okoth-Ogendo (1991) mentioned that during the colonial period, many displaced people, especially in central Kenya, were evicted from their land through consolidation, where smaller subsistence-level farms and their owners were taken over by larger colonial concerns. According to Syagga (2006), this deliberate reform aggravated landlessness in a number of ways. Those already landless, but accommodated through customary tenure had their rights further violated through registration. Since only male heads of households were generally registered as parcel owners, the reform undermined the rights of women and children, and rendered them liable to landlessness should the owner decide to transfer the land. Syagga concludes that the land grievances stemming from the resultant mass disinheritance of communities of their land have not been resolved to date. Kaplan (1994) also recognizes how these grievances, if not addressed, might lead to even greater anarchy and instability.

Okoth-Ogendo (1991) states that the failure of the independence pact to address land grievances, as well as neglect by post-independence governments has perpetuated historical land injustice to the detriment of the majority of Kenyans. While there were high expectations for the agricultural economy following independence, Okoth-Ogendo asserts that from the point of view of the African sector, there was very little change outside the high potential areas where agricultural production continued to support the economy. Policies, laws, and practices adopted after independence saw a general re-entrenchment and persistence of colonial themes, policies, and patterns of organization in all aspects of Kenya's economy, save only for inconsequential adjustments (Okoth-Ogendo, 1991).

By 1960, Wasserman (1976) reports that the European settlers occupied some 7.5 million acres (3 million hectares) of land held on leases and freehold tenure, which the Africans were demanding. In order to safeguard their possessions in the event of a power transfer, the colonial government initiated a settlement plan for the Africanization of the 'White' Highlands, as well as an elaborate scheme of constitutional and statutory guarantees of property rights (Wasserman, 1976). Initially, the plan was informed by a perceived need on the part of colonial authorities to entrench the settler community firmly in Kenya and maintain the rights they had to land, without having to give any land back to the indigenous peoples. Next, it had to achieve the aim of socializing the new elites into the colonial political, economic, and social patterns, through the establishment of a multiracial alliance of European settlers and African landowners in order to forestall independence and majority rule. Later, the process was geared towards preventing the mobilization of a nationalist base that would be opposed to the continuation of colonial

policies after independence (Wasserman, 1976). However, a common characteristic of all land reforms is the modification or replacement of existing institutional arrangements governing the possession and use of land principal, namely land restitution, land tenure reform, land redistribution and institutional reform (Sihanya, 2013).

Many countries in Africa are devolving land administration and management (Rondinelli & Cheema, 1983). For instance, Rwanda's 2003 land policy introduced land administration by local governments at the district level, and dispute resolution using indigenous mechanisms. In Uganda, the Land Act of 1998 introduced customary land certificates and a decentralized system of District Land Boards, Local Committees, and Tribunals, while in Ethiopia the 1997 Land Law enables each state to develop its own decentralized land policies and laws (Rondinelli & Cheema, 1983). In addition, the land policy in Ghana (1999) created a new single land agency with Customary Land Secretariats and introduced Alternative Dispute Resolution (ADR) systems, and the 1998 Namibia Land Policy introduced decentralized land administration systems for urban and rural areas, including controlling and ratifying land allocation by chiefs (Syagga, 2006).

According to Sihanya (2013), Kenya's National Land Policy is another example of a recent trend in developing countries to articulate national land policy in an integrated and coherent fashion. That trend reflects a realization that governments have often legislated on land matters piecemeal and without due reflection, often resulting in a patchwork of laws that lack coherence and are not guided by a comprehensive land policy vision. The need for such a policy statement is greatest where a watershed political event has taken place and there is considerable uncertainty about the fundamentals of land policy. Post-conflict states often have an urgent need for such an exercise. Sihanya offers

the examples of Liberia and Sudan, which are both working toward National Land Commissions to prepare National Land Policies.

Bassett and Crummey (1993) also note that in Kenya, the demand for a National Land Policy stems from a growing conviction that policy directions need to be reconsidered. Even countries with strong competencies in land administration have used land policy reviews to assess progress and fine-tune policy directions. Botswana, a leader in innovative land administration in eastern and southern Africa, has had a succession of national land policies going back to the late 1960s. Still other countries, including some that have pursued major land tenure reforms since independence (Uganda and Kenya are examples), have had no comparable comprehensive policy declaration.

Nathan (2013) notes that not all land policy exercises are successful. In Lesotho, a donor-driven land policy development effort went off the rails several years ago when the government scrapped the idea and moved on to draft legislation. Land policy has been driven by a conviction that economic growth, accorded the highest priority, requires the transformation of customary land tenure to private ownership of land on the Western model, either as individual property or as group property (in the form of group ranches). Nathan claims this was to both increase security of land tenure and to allow the development of a large, impersonal market in land, which it was hoped would be characterized by distributive efficiency, and to provide landowners with the opportunity to raise capital for investment by mortgaging their land. It is a policy that has been pursued with remarkable consistency by successive governments in Kenya over the years, and the extent of implementation has been impressive: the vast majority of commercial,

residential, and arable land (and much arid land as well) has been brought under private individual ownership by a process of systematic first registration.

While finding the right balance between custom and statutory land tenure is certainly the most conceptually complex issue demanding attention, and the one that will most broadly affect Kenyan agriculture, there are other deeply problematic aspects of the Kenyan land tenure scene (Fratkin & Mearns, 2003). By a variety of mechanisms, sometimes questionable, sometimes fraudulent and irregular, control over much public and trust land has been shifted into the hands of elites and members of politically influential ethnic groups. There have been irregular allocations of public lands, diversions of trust lands from their purpose of supporting traditional users, purchases of land from traditional authorities by land-buying companies, and ill-considered resettlement of smallholders (Fratkin & Mearns, 2003).

Kenya's new Constitution gives the National Land Commission the mandate to manage public land on behalf of national and county governments, among other functions (NLC, Section 67). However, Sihanya (2013) states that the Constitution does not provide for regulations on how best to make the NLC effective. Implementation of the land reform provisions of the new Constitution faces numerous obstacles in the form of governance and political economy risks. The realization of the objectives of the Constitution will depend on how well the reforms are insulated from unnecessary political interference. Recent years have seen a growing acceptance of customary land tenure by economists (Sihanya, 2013). That author mentions that critical literature based on empirical research suggests that Kenya may have pushed its conversion of customary land tenure to private individual ownership too far and too fast, with negative

socioeconomic consequences. Bruce and Migot-Adholla (1994) based on empirical studies funded by USAID and the World Bank in Kenya and elsewhere, urge adaptation rather than abrupt replacement of customary land tenure. The idea of adaptation is not new; colonial regimes selectively developed customary land norms to suit their needs (Chanock, 1991).

Recent World Bank land policy documents (Deininger, 2003) have accepted the workability of customary land tenure, and there has been a growing openness in the development community to working with customary land tenure. Land use policy considers the way land and natural resources are used and managed, placing issues of ownership/tenure secondary (Mwagore, 2002). By land use policy, Virtanen (1995) means primarily the intentions, programs, and operations of public authority to control land use in a desirable direction. Referring to the Finnish planning system, Virtanen divides land use policy into three parts, every part having a different nature of its own: control system, monitoring system and administrative system. These systems consist of different conservative decisions; plan documents, and policies that concern a particular area and region. The issue of whether these plans of land use are realized or not are handled within the monitoring system, where environmental impacts are also assessed.

The public and private administrative system is responsible for producing and executing land use and management (Virtanen, 1995). Kenya's central government operates through the Office of the President and the different ministries. Traditionally, the Office of the President, with the president as its leader, has had a strong role in national policy making. The ministries, in turn, are highly specialized. They are responsible for establishing national sector policies and ensuring that the same are incorporated in

national and district plans. Virtanen further describes how these ministries involve and guide districts in budgetary processes and the implementation of policies.

They are expected to give technical support to district level staff to enable and empower them to perform their duties (Rutten, 1990). In June 1983, the Government of Kenya, with strong presidential backing, issued the District Focus Policy for Rural Development (DFP) through which the decentralization of national development planning has been attempted.

Juma (2010) argued that under the pressure of growing population and declining arable land availability, a decentralized development strategy has been undertaken as a means by the Government to provide the basis for investment in arid and semi-arid areas. Okoth-Ogendo (1999) believes that some development issues that have become the focus of land policy discourse in East Africa, such as land ownership, land demarcation, water use, and so on. Reform is needed to re-determine the role of state and its agents in land matters. A secure system of land tenure needs to be developed and implemented in order to ensure that tenure regimes confer social security and equity, permit economic efficiency, and facilitate the sustainable management of land. He also argues that land policy needs to resolve how to maintain social stability and integrity at the time when changes in land rights take place, by protecting social systems against adverse consequences of change, or by compensating for loss of accrued rights and interests.

For Okoth-Ogendo, the concern is to design policies and laws that ensure proper oversight in the exploitation of resources without delimiting proprietary freedom. The development of land right systems needs coordinative reform of complementary institutions relating to physical infrastructure, and the supply of agrarian inputs and

services. These issues present many challenges for future actions in Kenya. He further argued that genuine development requires designing truly innovative tenure regimes to suit the variety of complex land use systems that characterize the African landscape. This means that a tenure system suited to agricultural communities is not tenable to serve pastoral and nomadic economies. Therefore, Okoth-Ogendo (1999) argues that evolution and development of customary land tenure and law needs to be supported and that this change can be achieved by democratizing land administration systems and structures, which now are heavily overloaded and inefficient.

Finally, Okoth-Ogendo contends that customary land tenure rules need to be codified and integrated into statutory law. In Kenya, the new Government will face these challenges in the constitutional reform process that has already begun. The reforms have usually been characterized by a bureaucratic nature and by an assumption that policy and legal development can be undertaken in the usual course of administration (Okoth-Ogendo, 1991). However, if the legal inconveniences are not somehow handled in the near future, pressure for reform may eventually explode into demands for fundamental change. Political activism in defense of public land rights is expected to crystallize along with Kenya's constitutional review process (Okoth-Ogendo, 1999; Rutten, 1997).

#### **2.1.4 Geographical Location and Climate of Tana River**

The Tana River is situated in the coastal province of Kenya. The majority of the people in Tana River lives in rural areas and makes their livelihoods directly from agriculture or cattle herding, and the area is highly diverse with different ethnic groups. Due to the different needs and interests of these groups, and claims of land ownership by

some groups, conflict is common in this region. This can lead to tension, sporadically accelerating to conflict, and escalating to violence among the different groups.

### **2.1.5 The Tana River Area**

According to the KNBS Census (2009), Tana River County is in the former coast province; it has an area of 35,376 kilometers and a population of 240,000. The area is largely semi-arid. It borders Isiolo to the North West, Garrissa Country to the North, Lamu to the North East, Taita Taveta Country to the South, Kitui County to the West and Kilifi Country to the Southeast. The county is divided into three sub-counties, namely; Tana River, Tana North, and Tana Delta. These are further divided into eight administrative divisions; Galole, Bura, Bangale, Madogo, Wenge, Garsen, Tarassa, and Kipini. The Tana River flows across the plains on its course from the Kenya Highlands to the Indian Ocean (Hughes, 1990).

According to the (Kenya National Archives 1960), Tanaland was abolished in 1920, and in 1923 combined with Lamu to become part of the Coastal province, and was later fully fledged in 1927. The Tana River is located in Kenya's Coastal region, and flows into the Indian Ocean. According to Temper (2010), the river is very important not only to the people of Tana but also to the whole country, because it is the source of electricity. The study area is divided into upper Tana and lower Tana. The upper Tana is an arid and semi-arid area, while lower Tana is a delta region. The semi-arid to arid area is used for agricultural production or permanent grazing areas for cattle of indigenous pastoralists. The pastoralists' movements usually occur during the dry season from the upper Tana to lower Tana and this movement normally causes conflict.

According to Turton (1975), drought can have destructive effects on livestock herds, which leads to migration to water sources. According to Krijtenburg and Evers (2014), several investors have shown an interest in this fertile area, for biofuel production or other agricultural large-scale projects. According to the population census for the year (2009), the population of Tana River County is 240,000 (KNBS, 2009).

In the same census, the population in this region is economically, religiously, and ethnically heterogeneous, and they sustain their livelihood from either pastoralism or agriculture. The majority is Muslim, and the ethnically Cushitic groups in this region are Orma, Wardei, and Somalis from different clans and Waata. The Bantu group includes upper and lower Pokomo, Malatoke, Munyoyaya, Giriama, and other Mijikenda. The Cushitic groups sustain their livelihood from pastoralism; while the Waata are hunter-gatherer communities.

#### **2.1.6 Orma**

The Orma are a Cushitic speaking people, found in eastern Kenya, mostly along the lower Tana River and form part of the larger Oromo nation. The Oromo are an ethnic group inhabiting in Ethiopia, parts of Kenya and Somalia. They belong to the eastern Cushitic group and speak Orma and Swahili, and some speak Somali (Interviewee, 2014). According to Joshua (2014), by 1980, the Orma had grown to 18,000. Today, there are approximately 40,000 Ormas. They are a nomadic people, and some are well known for their tall, slender physiques. The Oromo people became scattered due to artificial boundaries drawn during the colonial period by both European and Ethiopian colonizers in the late 1800s (Jenkins, 2000).

According to Tusso (2000), the Oromo constitute the single largest ethnicity in Ethiopia and the wider Horn of Africa. They speak the Oromo language as a mother tongue, also known as Affan Ormoo.

The Oromos in Kenya are called the Borana and they live at the border with Ethiopia. The Orma who migrated to the coastal part of Kenya in Tana River all share similar socio-economic, religious, and political cultures (Kelly, 1992).

According to Turton (1975), the Orma of Kenya separated from Ethiopia around 1500, spreading down to the north of Mt. Kenya, and moving down the River Tana to the coastal area. It is also believed that by 1620, the Orma had already reached the coastal side of Kenya. According to (Irungu, 2000), the Orma people are divided into three groups, corresponding to their ecology and the river system that defines their homeland in Kenya. They are the Hirman in the arid north bordering Garissa, the Galole, in the intermediate section of Tana River County, and the Chaffa, in the south part along the Tana Delta. Makoloo and Ghai (2005) further stated that the Oromo tribe in Kenya, consisting of the Borana, Gabra Sakuye and Orma speak a dialect of Oromo language, differentiate themselves from other communities through participation and distinct practices of the Gada system. Gada is practiced in such a way that it interconnects with other traditional institutions, such as kinship, age-set, and community effort. According to Tusso (2000), Gada systems are designed to prevent conflict from occurring and escalating; check and balance are created within and between the systems so as to avoid abuse of power (Tusso, 2000).

According to (Lewis, 1965), the pastoralist groups, which include the Orma of Tana River, tied their Gada practices to the pastoralist way of life. The effectiveness of

the Gada establishment depended on the ability of the people to coordinate movements. Among the Orma, the line of descent is traced through patrilineal lines through the males. Masculinity in attitudes, rituals, and symbolism is customary.

Such features as bravery and warrior ethics are also stressed. Spear throwing and fighting are admirable skills among the men and those who have killed dangerous animals or human enemies are honored. The Orma are almost all Muslim and have been so for three or four generations. They are devoted in their faith, observing all the rites and religious festivals of Islam (Joshua, 2014).

### **2.1.7 Pokomo People**

The Pokomo people have been known to sustain themselves from crop products, and fishing, as well as hunting crocodiles and hippopotami; in times of drought they supplement their diets with fruits and seeds (Middleton, 1994). For farming, the Pokomo mainly use flood irrigation. These groups have diversified into growing maize, bananas, mango cultivation, fishing, and livestock keeping for household use (Middleton, 1994). As earlier mentioned, Pokomo are divided into upper and lower Pokomo. Culturally, they share the same values, due to the movement and interaction with other groups and influence from Muslims. The lower Pokomo are Christian due to missionary influence (Conn, 1978). The Pokomo's land typically does not extend 1 to 2 km away from the river at any point. The Pokomo migrated to the Tana River in the 17th century, and have been there ever since.

The Pokomo occupy the lower portion of the river, from Kipini to Mbalambala, north of Mombasa. They are an agricultural and fishing community, growing crops such

as maize, plantains, and sugarcane. Since 2001, the Pokomo have been at odds with the Orma tribe, semi-nomadic herders who also need the Tana River to feed their animals. Conflicts have turned more deadly with the introduction of modern weapons.

Culturally, much of the Pokomo people's old traditions have been cast aside for Muslim and Christian traditions, though there are still some who practice old Pokomo ways. One example of this change in culture is the tune of a song that Pokomo mothers sing to their children. In 1963, it was given new lyrics and adopted as the national anthem of Kenya. The indigenous people of Tana River view land in different ways due to their distinctive lifestyles. According to (Interviewee, 2014), the Tana River land belongs to the Pokomo community, and the Kijo and Gasa distributed the land earlier. These are councils of elders in each sub-clan. The Pokomo have a unique land tenure system, namely; Mafumbo. Each clan is given land from one zone of the river to the other zone. This was meant to avoid conflict. The second system is Mihema ya Walume, referring to land that has not been occupied by anyone before. This land does not belong to anyone, however, the council of elders will assign it to individuals, although they have only a certain period of time to cultivate it; otherwise it will be given to someone else. The third is Bada, which means forest. This land is not to be cultivated; it is preserved for medical plants, firewood, and building materials. Therefore, the Pokomo land is owned as a community, then by clans and families, and lastly by individuals (Nurse & Spear, 1985).

### **2.1.8 The Wardei**

According to Turton (1975), the Orma were earlier known as Wardei. He further stated that the Somalis referred to Orma as Wardei. Kelly (2009a) also stated that the

Orma and the Wardei have the same origin. However, due to their pastoral and migratory lifestyle, the Wardei had contact with Somali people and assimilated to Somali culture and over time adopted the language of the host.

The Wardei settled in Tana River from 1972 (Kelly, 1992), and differ from the Orma in terms of culture. The Orma are cousins to the Boran of Kenya and also to the Oromo people in Ethiopia. According to KHRC (2002), the Wardei were invited by the Orma to move to Tana River, and were encouraged to do so by political elites so as to gain support from the Wardei community.

## **Conclusion**

The historical fact is that both Pokomo and Orma communities have co-existed for centuries in this region, and they had traditional conflict resolution mechanisms in place to mediate disputes. However, the advent of colonialism damaged these mechanisms, without offering credible, culturally appropriate alternatives. Furthermore, the colonial powers introduced specific corridors for pastoralists to use in times of drought, but this had the consequence of separating these communities and that contributed to a lack of familiarity and a rise in mistrust between them, and led to violence that has harmed both.

It is against this backdrop of social isolation and suspicion that the region is on its way to anarchy, as pastoralists have become the object of persecution for both state and non-state actors. The entrenchment of the colonial administration in Kenya led directly to inequality in land ownership and use, landlessness, squatting, land degradation, resultant

poverty, and Africans' resentment of the white settlers, and these issues continue to persist today. The region's former colonial administrators contributed to the infringement of entitlements to land access and ownership in several ways. First, they created two systems of land tenure based on principles of English property law applying to high potential areas, and a largely neglected regime of customary property law in the marginal areas. They also facilitated a structure of land distribution characterized by large holdings of high potential land by the white settlers, on the one hand, and fragmented smallholdings on the African reserves, on the other hand. Also, the policy environment was designed to facilitate the development of the high potential areas and neglect of counterpart marginal areas. Given the clearly negative past and present consequences of colonial and post-colonial land policy across the African continent, the need for effective and equitable land reform can no longer be ignored.

## **Chapter Three**

### Literature Review

#### **Introduction**

Land-based resources, the sprawling population, ethnic-conflict, different land views, and climatic change in Tana River all produce a spillover of socio-economic and spatial effects, which in turn are shaped by policies enacted by the government. Therefore, different theoretical approaches will help in the understanding the conflict. In the first part, resource conflict theories will mainly be used to help explain how individual livelihoods are tied to identity and geographical location. Based on these findings, the researcher will bring to bear how the above factors have affected both individual and communal coexistence.

#### **3.1 Ethnic conflict**

**Ethnic conflict** may be understood as disagreement, violence, or war within or between communities. The conflict may be overt, covert, or non-violent. These ethnic communities in conflict may or may not share attributes of the same origin, culture, history, and system of belief that make them distinct ethnicities. For example, in Somalia, violent conflict has existed within homogenous communities. Ethnic violence tends to fall within two broad categories namely 1) material resources, and 2) identity based in terms of sources (Pieterse, 1996).

In Sudan, fierce war has been fought between heterogeneous communities. For the purpose of this work, while seeking to define an ethnic group it is vital to consider how members of that specific group have come to identify themselves as members of an ethnic group, while identifying the other group as outsiders. In other words, for this

specific group to identify themselves as similar there must be some criteria for inclusion and exclusion from the group. For example, in the Tana River, the Pokomo and the Orma distinguish themselves as different. Since members of these groups saw differences among themselves, it could be seen as a reason or basis for their conflict. In his work, Brass (2000) uses markers and symbols to describe two or more ethnic groups. The markers include physical differences such as bone structure, height, skin color and other attributes that make up humanity. However, this is not to say that these physical differences are the only ways to distinguish one group from the other.

For example, distinguishing a south Sudan Dinka from a Nuer, or homogenous groups like Somali, will be nearly impossible. In other words, physical markers alone are not sufficient to fully differentiate one group from the other. Rather, the consideration of other indicators such as language, dialectics, origin, culture, and history are needed to partition groups of people into subcategories whose members are joined by a shared sense of similarities. These ethnic markers do not necessarily generate distinctions, but rather are used as boundaries between groups by those who wish to instill a sense of homogeneity within a particular group. For the purpose of this study, an ethnic group is defined as a self-aware entity whose members have chosen a sequence of markers to characterize themselves as different from others in terms of physical, social, and cultural ways (Horowitz, 1985). These distinctions can also be forced on groups, so as to exclude them from other groups. The inclusion or the exclusion of certain groups creates polarization and permeability of group boundaries.

### **3.1.1 Malthusian theory**

**Malthusian theory** emphasizes the inverse co-relationship between population growth rate and the supply of natural resources. With respect to land matters, the theory suggests that population will gradually place excessive demands upon available land and that competition over land resources will appear resulting in conflict. According to Malthus, conflicts over land will take place across social and economic classes (Bilsborrow & Ogendo, 1992).

### **3.1.2 Relative deprivation theory**

Ted Gurr (1993) noted that relative deprivation “with reference to any class of commonly held welfare, power, or interpersonal value can lead to collective violence” (p. 355). In Gurr’s case (1974), these values, which are so closely aligned with Maslow’s needs, might constitute a way of evaluating what people “have actually been able to attain or have been provided by their environment”: what people “believe their skills, their fellows, and their rulers will, in the course of time, permit them to keep or attain” (p. 1492).

This establishes an understanding of the phenomenon of externalized deprivation and its power to encourage conflict. Gurr (1993) recognizes a positive link, irrespective of nation, between minority uprisings and their sense of relative economic, political, and cultural deprivation. Gurr (1993) finds that “the tricky part of the relative deprivation is not based on wants or needs alone but on the needs and wants we feel we ought to have” (p.24). As a result, he regards the wants and beliefs of individuals as subjective, and he notes that when groups do not obtain what they want, it can result in increased potential

for violent conflict. Most traditional caretakers of these territories feel that, as the inheritors of this communal land, they should have the right to sell a portion of it without the need for official regulation or oversight. When these custodians are confronted with opposition over this communal ownership, they apply their power and community relationships to depict that detail of oral customary law as out-dated and no longer applicable.

### **3.1.3 Psycho-cultural theory**

**Psycho-cultural theory** posits that there is a relationship between cultural identities, perceptions and the psychological behaviour of individuals in conflict. Toulmin and Quan (2000) presented land as the most definite of identity constructs, possessing great symbolic value for most ethnic groups in Africa; therefore, any potential danger presented to their place of identity strongly influences their attitudes and behaviours regarding perceived enemies. Gunther (2004) argues that “what people are negotiating or fighting about is a fundamental question in analysis of conflict this theory is important for the fact the conflict involved here is not just about resource or livelihood survival, but also cultural identity and the psychological implications it has on these groups overtime” (p. 135).

Ross (1995a) states that individuals do not always fight about real interests, however the disputants will go to any extent to acquire what they believe is their due share, this is evidence that the pursuit of interests has an important psychological component which is not well understood. The psycho-cultural theory, in Ross’ view (1995), mentioned the contribution of culturally shared, deeply held ‘us versus them’ viewpoints, the formation of friends and foes, and longstanding views on human

behaviour arising from the most primitive human societies. According to Utterwulghe (1999), extended conflict could result from prejudice against or denial of a specific group's basic needs, or the belief that others covet their belonging. Groups in conflict occasionally regard themselves in psychological terms, where the self is related to a certain set of social and cultural traits (Duijzings, 2000). Individual and group identities linked to ethnicity represent a portion of the psychological process that helps form psycho-cultural perspectives that lead groups to engage in aggressive or violent behaviour. According to Jenkins (2000), "identity is an aspect of the emotional and psychological constitution of individuals, correspondingly, bound up with the maintenance of personal integrity and security, and may be extremely resistant to change" (p. 12). Extended conflicts can be motivated by identity, and these types of conflicts can produce a 'fear of extinction', 'fear of the future' (Lake & Rothchild, 1996, p.60). Narrative histories of conflict help explain the foundations of various groups, the different aspects of their interactions, and their relative social status. The influence of the 'past' in altering the perceptions of groups regarding the intentions of others is difficult to overstate. Lake and Rothchild (1996) noted "actors form beliefs subjectively, largely on the basis of past interactions" (p. 51). Lake and Rothchild describe how these beliefs, accurate or not, are altered and modified to a great degree over time, and can badly damage inter-group relations. Different groups incorporate these beliefs into identity formation and narratives in order to obstruct access to resources by others.

In such cases, identity politics or motivations then become very crucial to every group or individual. For the purposes of protection, individuals or groups may act in an extreme or violent manner.

According to Utterwulghe, this is more likely to occur when feelings of “inferiority’, ‘backwardness’ and ‘helplessness’” are dominant in a group’s attitudes (1999, p. 5). These group perceptions can make the group act in ways that produce an unnecessary scarcity of resources, or to assign responsibility to others for negative changes in natural conditions. It is for these reasons that Homer-Dixon’s (1998) environmental scarcity theory further provides an interesting explanation, with respect to the three forms of resource scarcity (demand-induced/ supply-induced/ structural scarcity) he identified earlier. Mitchell (1989) also noted the psychological roots of conflict, and how conflicts can escalate based on factors such as environmental stresses from dwindling resources (p. 74).

#### **3.1.4 Environmental scarcity theory**

Environmental scarcity theory as presented by Homer-Dixon and Blitt (1998) asserts that “large populations in many developing countries are highly dependent on four key environmental resources that are very fundamental to crop production: fresh water, cropland, forests, and fish” (p.52-54). Reductions in these resources due to misuse, over-use, or degradation in some circumstances will produce conflicts. According to Homer-Dixon (1999): “Decreases in the quality and quantity of renewable resources, population growth, and unequal resource access act singly or in various combinations to increase the scarcity, for certain population groups, of cropland, water, forests, and fish. This can reduce economic productivity, both for the local groups experiencing the scarcity and for the larger regional and national economies.

The affected people may migrate or be expelled to new lands. Migrating groups often trigger ethnic conflicts when they move to new areas, while decreases in wealth can cause deprivation conflicts” (p. 30). Homer-Dixon (1994) also argued that ensuing scarcity leads to resource capture and ecological marginalization. First, resource capture occurs when increased consumption of a particular resource combines with its degradation to push certain powerful actors to create artificial shortages so that they can maximize the value of what little resource is left for their personal gain. Secondly, ecological marginalization is a combined situation of high resource consumption and structural inequalities in distribution: it is used as a discourse by privileged groups to deny weaker groups access to the available resource, hence forcing them to migrate to ecologically fragile regions that are already degraded. Not all groups migrate, and sometimes those who do migrate gather support to challenge the status quo (Homer-Dixon, 1994). Declining resources increase the chances of success of violent collective action by challenger groups, especially when these groups mobilize resources sufficient to shift the social balance of power in their favour (Gurr, 1993).

### **3.1.5 Indigenous Perspectives**

Without generalizing too broadly, indigenous perspectives demonstrate abundant evidence that indigenous communities around the world typically hold different worldviews, which are largely shaped by their cultural variations. This contrast in worldviews has either facilitated social growth or contributed to potential conflict (Huntington 1996; Sacks 2002; Said 2001).

Wilmer (1993) also mentions how these clashes in perception can lead to conflict, especially when one party sees the land as not only a material resource, but also a source of spiritual strength and identity. However, Indigenous worldviews, which are normally 'collectivist as opposed to individualistic' (Han & Shavitt, 1994; Triandis 2001; Hermans & Kempen 1998), are remarkably consistent in their shared belief in certain core concepts, such as the unity of all living things, a deep respect for the Earth and for all creation, and a belief that humans are not the masters of creation, but rather a part of nature.

In my view, it is also difficult to discuss indigenous perspectives without addressing of the cumulative effect of multiple layers of imperialism and colonial practices. The impact of colonialism on indigenous people took many forms; it destroyed indigenous culture, community, and language. From my perspective, Indigenous communities have also experienced ethnic cleansing and forceful separation from their land affecting their use of resources for survival. Indigenous use of resources was usually much more sustainable, since it reflected a subsistence lifestyle. In contrast, the Western perspective emphasizes the mastery and dominance of man over nature, and the exploitation of resources for profit until the resource is exhausted.

Understanding this contrast is central to identifying the potential it poses for generating conflict over land or other issues. Indeed, the colonial and post-colonial period is rife with examples where the clash in worldviews was exploited for economic gain. Moreover, the self-proclaimed superiority of the Western perspective served to justify not only this economic exploitation, but also the imposition of a foreign cultural perspective

that severely damaged the indigenous local culture, and which set the stage for the present situation, where the communities have become so divided (Lederach, 1997).

According to Wilmer (1993), destroying the traditional social systems and culture of indigenous people, either directly or indirectly, is equivalent to destroying the people themselves. An indigenous person has spiritual, physical, social, cultural connections, and identity tied to the land. For them, the land has a deeper meaning than simply a source of livelihood and food security; it is also a central feature of their identity as a people.

The spiritual meaning of land and its link to identity has been noted as a feature in other indigenous communities in Africa:

*“For example, Mhondoro, who are the mediums between the dead and the living, are a central feature of the religious beliefs of the people of Dande in Northern Zimbabwe. The Mhondoro challenged the government by opposing implementation of land that was apparently meant to “rationalize” local land use. The dead are believed to transform into ancestral spirits who are still concerned about the welfare of their relatives, and will try and protect them from illness and misfortune; they also continue to look after the territories they ruled when they were alive” (Spierenburg, 2005).*

*During data collection for this research, one of the Pokomo respondents discussed the cultural connection her community has with the land close to the river bank: “land is our identity, it has been passed down by ancestors, it is our spiritual place where we hold our religious and cultural ceremonies, such as circumcision site, it is our shrine, it is a connection with our ancestors, and the river water is medicinal” (Interviewee, 2014).*

This view has been supported by the work of Toulmin and Quan (2000), who observed that for many indigenous people, the land possesses its own attributes. These writers describe how the land provides great social value as a location within which people live and to which they return, as well as symbolic and ritual associations such as burial sites, sacred woodlands, and places for spiritual ceremonies. From this understanding, land-based identities shape their way of life, cultural values and the way

they manage the land. For example, the dominant land tenure arrangements in many African societies are rooted mainly in traditional institutions. Under the operation of customary law, these traditional authorities act as stewards of the territory, and are responsible for preserving the land for future generations.

According to Okoth-Ogendo (2008), indigenous communities developed a system of land law whereby they themselves were the juridical persons who therefore controlled territories, terminated access to land in those territories, and allocated property rights, which they transferred, redistributed, and transmitted to future generations. He stated that the colonial masters brought the notion that communities do not own land, because they did not understand how the whole community could own land and leave out the individual right of ownership, thinking that the individual does not have right against community. This means that the colonial masters just assumed, that the indigenous communities had no systems in place that governed the use of land ownership and management. As Okoth-Ogendo explains, indigenous communities do have their own land tenure systems and also had in place systems that governed dispute among themselves.

In indigenous communities, when conflicts do arise, many have their own long-standing mechanisms or processes for resolving them in a way that satisfies all parties. For example, Al-Krenawi and Graham (1999) note that such a traditional conflict resolution practice among the Bedoiun of Egypt's Sinai Peninsula "reflects the social order, reinforces conformity to collective values, deters behaviors that deviate from culturally acceptable norms, and transforms social structures by resolving conflicts

between two or more people and by reinstating a sense of mutually agreed-upon justice” (p. 163).

Fred-Mensah (2005) views indigenous conflict resolution mechanisms as part of the social security and capital unique to a particular cultural group that are used to conduct daily activities. He also noted that “*capability of social norms and customs to hold members of a group together by effectively setting and facilitating the terms of their relationship (...). Sustainability facilitates collective action for achieving mutually beneficial ends*” (p.1). According to Okrah (2003), traditional societies resolved conflicts through internal and external social controls. These internal social controls, widely supported by the people, use processes of deterrence such as rituals, personal shame, and fear of supernatural powers to resolve conflict. The external controls rely on social sanctions associated with actions taken by others in relation to behaviours that may be approved or disapproved. Tusso (2014) identified twelve characteristics of indigenous societies that make them more cohesive and resilient than would liberal concepts of peace making when it comes to solving local conflicts. The most important elements he identified were the bottom-up approach, participatory level, non-complex nature, community-based character, and the focus on restoring relationships rather than on punishment.

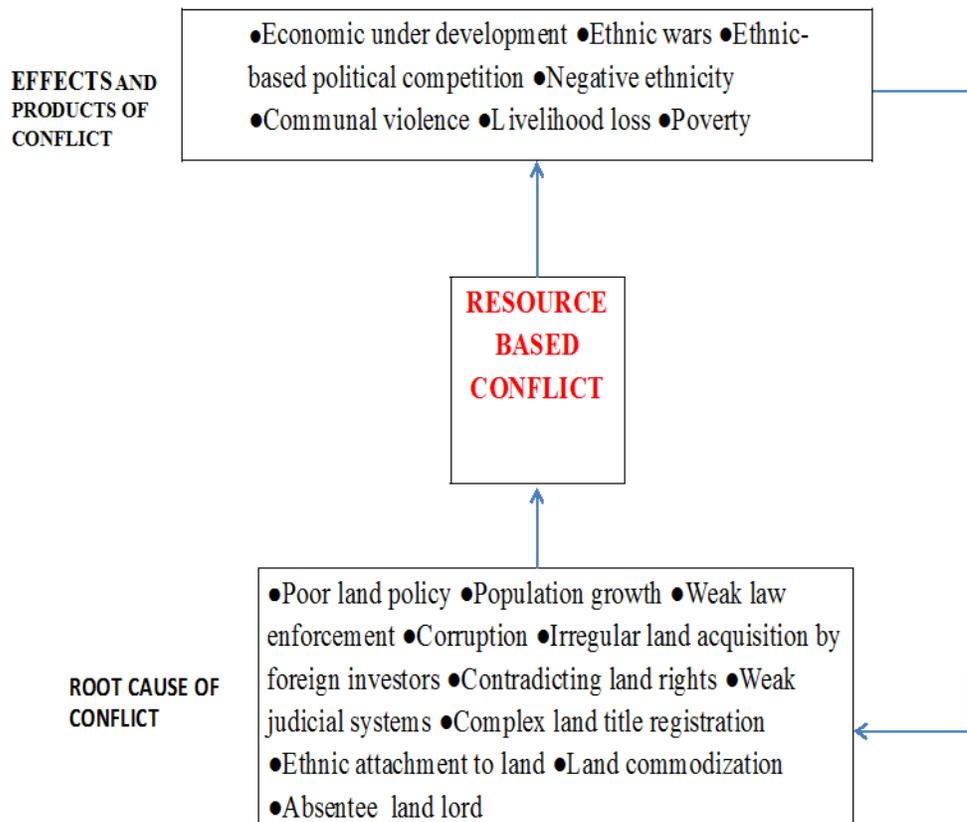
Despite this strength, this over-romanticizing of the indigenous process could create problems as certain human rights violations might be ignored. Land management institutions have come under serious scrutiny and criticisms, (Toulmin et al. 2000; Deininger, 2003; Toulmin, 2009), particularly in developing countries, due to the levels of corruption developed at their core sections.

It is highly possible that African land management institutions have contributed to or enhanced land conflicts generally, partly due to some challenges facing them, specifically the way these resolve emerging contestations. There is evidence that some of the conflicts between pastoralists and farmers in Kenya are linked to more recent “government policies than to historical grievances between these rural communities” (Bond, 2014, p. 121). In other parts of the world like Russia, historical examples showed connections between flawed land reform policies and the serious negative outcomes, such as the “forced collectivization of farms by Stalin in the USSR during the late 1920s and 1930s” (Pryor, 2014, p. 2; Garcelon, 2001; Rosefielde, 1996).

In another example, the Chinese government has introduced a plan to change extremely large areas of pasture to grassland (Ho, 2000; Neupert, 1999), ostensibly in order to reduce the environmental effects of land degradation from overgrazing. This policy has dramatically impacted many of Western China’s pastoralist populations. All of these cases demonstrate that poorly planned land reform policies, combined with historical grievances over land use, and significantly diverse worldviews can contribute to the outbreak of conflicts. As shown in the figure below (Diagram 2) the root causes of the conflict in the Tana River area are of different origins, ranging from contemporary issues such as corruption and historical issues dating back to colonial days. These issues were unaddressed over the years and one breeds the other, leading to resource-based ethnic conflict.

The resource-based conflict generates further challenges such as wars between national elites, ethnic-based political competition, and economic under-development. The researcher is of the strong opinion that issues like political competition and ethnic conflict

are by-products of underlying problems and not a cause of the problems. However, if the by-products of the problem go unresolved, they can become causes of future conflicts.



Conflicts causes and Effects Chart

**Diagram 2**

**3.1.7 Conclusion**

The purpose of this study is to explore the perspective/ experiences of participants about Tana River conflict in Kenya. This study was carried out in Kenya between October and November 2014.

Currently, rising tensions between farming communities and pastoralists in Tana River have raised massive concerns with regards to the way that the state security apparatus has handled the conflicts. The rapid population increase, environmental challenges, land use management, and differing views on land and resource constraints in the entire country is creating social discontent. There is a growing xenophobic feeling towards pastoralists groups who compete for land and water resource use for their livestock. The slow response to the emerging tensions by authorities is destroying the social ties and friendships that existed between the Pokomo and the Orma. Growing *us* versus *them* feelings have created stereotypes and accusations that lead to tensions that escalate into violence.

The other theoretical approaches considered in the framework, including environmental scarcity theory and Malthusian population theory, do have value in the discussion, but they also have their limitations. For example, environmental scarcity theory mentioned by Homer-Dixon discusses how the rising incidence of livestock destroying food crops has been attributed to the changes in the pastoral herding system caused by climate change and as a result of land grabbing by both international and government sectors. While this is true, it fails to account fully for the fact that some conflicts arise over resources that are actually quite abundant. Malthusian theory does address the pressure placed on the environment by these competing groups, but was intended more to explain population phenomenon in industrialized contexts, and does not recognize that mitigating actions could be taken to avoid the consequences of undue pressure on resources.

Ethnic conflict theory also applies to the Tana River case, but it does not reflect the fact that these communities lived and interacted closely without conflict for long periods. In this sense, ethnic conflict has been perceived inaccurately as a cause rather than a symptom of condition in the community.

In the same way, psycho-cultural theory does explain the potential for conflict arising from competing worldviews and cultural attitudes. The region is still dealing with colonial impacts such as the introduction of the concept of private land ownership, which was not practiced prior to the arrival of European settlers. This foreign concept took root during colonial times, and continues to exert a powerful influence over how land use is perceived. However, it does not explain why the Orma and the Wardei continue to fight when they share many cultural attributes. Given the limitations of these other theoretical approaches, the Indigenous approach is the most suitable for addressing the Tana River conflict because prior to the colonial scramble for territory and the post-colonial competition for private land, as well as outright land-grabbing, there were pre-existing successful land tenure and use traditions and mechanisms in place for resolving conflicts. These traditions have broken down, partially because of the legacy of colonialism, and because of the failures of post-independence leaders who pursued short-sighted and destructive policies that aggravated rather than alleviated conflicts.

## **Chapter 4 – Research Design and Methods of Data Collection**

### **Introduction**

Contrary to the portrayal of the Tana River conflict as rooted in ethnicity, politics, or religion, the review of literature has revealed a repeated pattern in the findings that stress the role of land-based identity as a feature of the conflict between the Pokomo and the Orma. An understanding of the nuances and complexities that have contributed to the violence is necessary, especially for those who may be attempting to mediate between the Pokomo and the Orma. The purpose of this research is to identify how differing perspectives on land and its uses contributes to the conflict in Tana River. Therefore, the design of this research must include data collection methods that will allow the researcher to expose how the different groups view land and their relationship to it.

The data presented in this chapter was collected in a post conflict period during October–November 2014, while the conflict presented in the case study took place in the 2012/2013-post election period in Tana River. To further investigate the root causes of this conflict, the researcher undertook a case study in the coastal region of Kenya. Those selected for the research belonged to two ethnic groups: the Pokomo who are predominantly farmers, and the Orma who are predominantly pastoralists. This is done to come up with an objective conclusion, where the perspectives of all respondents were duly considered. Fourteen people in total participated in the study, including six from each conflicting group totaling to twelve and two from a neighbouring community who are also party to the conflict, but who are not directly involved. Qualitative interviews were used to gather data about inter-ethnic conflict in Tana River, Kenya.

Case study research involves a study of a case within a life, contemporary context, or setting. Case study researchers use purposeful sampling to select a few information-rich cases. A case study begins with the identification of a specific case. This case may be a concrete entity, such as an individual, a small group, an organization or a partnership (Creswell, 2012). To ensure a valid and reliable outcome, for this case the researcher employed suitable modes to sampling techniques and data collection method to generate enough data from the study area.

Qualitative research facilitates validation of data in which the respondents are provided a space to communicate their experiences, feelings, and thoughts fully. The research was gathered through the use of five structured questions that will be outlined later in this chapter. The respondents were asked one question at a time and were allowed to give their answers freely. According to Rubin and Rubin (2011), interviewing is an instrument of research that entails skills beyond those of usual conversation; it is a philosophy and an approach to learning guided by a researcher and a deliberate way of acquiring people's feelings, thoughts, and experiences. Therefore, this study opened up space for the respondents to share their experiences and perceptions, and to freely air their views about the conflict.

When necessary, questions were asked in different ways to facilitate understanding. According to Mears (2012), the root of in-depth interviewing is an interest in understanding the lived experience of other people and the meaning they make of that experience. Further, Mears states that the interviewing approaches used in qualitative research have numerous strengths, such as representing what it means to be human,

drawing on the ability of people to symbolize their experience through language, and to focus on understanding.

Most importantly, interviewing focuses on understanding the special and shared meanings of members of a group and how people interpret the world around them, by developing shared understandings, and giving people the rules for operating in their circle (Gephart, 2004). Thus, the approach enables the de-construction of taken for granted cultural realities. Further, Rubin (2011) states that cultural assumptions are entrenched in the language that people use, and so interviewing enables exploration of the words and the symbolic meanings attached to them, allowing the researcher to listen and hear these inherent meanings and to understand and interpret in a way that gives shape to the world view of the respondents, rooted in their first hand experiences.

In other words, it allows the researcher to share the world view of others, to understand what is taking place, why people act the way they do, and how they understand their surroundings. As stated by (Lichtman, 2013), the researcher gathers this information, analyzes it, and synthesizes it as part of hearing the meaning of data and facilitating intervention. Yet as the saying goes, to err is human. It is impossible to fully understand individuals entirely, because to do so one has to experience exactly what the other has experienced. Thus, it is crucial to recognize our own shortcomings of understanding and strive to understand them through their actions. According to (Rubin, 2011), an interview approach enables social advocacy, in which the researcher is involved by means of using information, explanation, evidence and patterns from the field.

#### **4.1 Rationale of the Study**

The rationale for interviewing fourteen participants is that they are not only related to the conflict under study, but also stakeholders and owners of the information. The purpose for doing qualitative data analysis and interpretation is that it enables the researcher to communicate what the interviewees have said in a rich and forthright description. Data analysis helped the researcher to identify the significant points and attach useful descriptions to them. This information has formed the major themes that have been intertwined together to produce a meaningful account for analysis. Given that the researcher speaks the native language of Swahili fluently, which is a national language, there was no need for a translator for either group. People who work and reside in this region were hired as research assistants and helped by showing the researcher around the area of the study. To avoid any bias, they were not involved in data analysis and interpretation.

#### **4.2 Sampling**

A total of fourteen people participated in this study; this included six from each conflicting group totalling to twelve and two from a neighbouring community who are also party to the conflict but are not directly involved. Scholars have suggested smaller and moderately homogeneous numbers of qualitative participants of 6–20 for masters-level research projects (Creswell, 2012). They also assert that research participants should be those who are “information rich” for the researcher’s questions (Patton, 1990). The interview took place in offices and homes, and the participants included the Pokomo and the Orma.

- (1) The warden communities as the third party to the conflict.
- (2) The elite representatives of each community.
- (3) The youth population of the Pokomo and the Orma.
- (4) Civil societies and community leaders from the Pokomo and the Orma.
- (5) The female population from the Pokomo and Orma conflict communities.
- (6) The public officers working in the area.
- (7) Religious leaders.

### **4.3 Data Collection Approach and Instrument**

Data collection involved meeting potential research participants through knowledge of my research assistant and making appointment with the participants. The participants then gave referrals to other potential participants in the area. The researcher explained to the participants about their roles and the content of the interview. This helped in preparation of the field time schedule. This also gave the researcher the opportunity to introduce herself and the research assistant and build rapport with the participant prior to the actual day of the interview. Pseudonyms were used to protect the respondents' identities and later during data analysis numbers were assigned to each of the respondents.

The researcher also used observation as an approach to record body language, expression, and the feelings and attitudes of the respondents. The study put to use both field study methods, namely the one on one interview, participant observation, and secondary sources of data collection, all of which were relevant to the study. The case study of the Pokomo and Orma community was undertaken to understand the root causes

of their conflict. The researcher employed a well-grounded qualitative research method in order to help bring out all the diverse concerns, by using personal informal and in-depth interviews to derive information with individual farmers and pastoralists.

The personal interviews were based on open-ended questions. In-depth life histories were built out of the answers from each respondent to help the researcher understand and analyse the effects of the conflict. The questions were designed to elicit responses that would help achieve the purpose of the study, which is “to understand the underlying cause of inter-group conflict in Tana River, in Kenya”.

The following research questions were used in this study:

- 1. What is the relationship between the Pokomo and Orma?*
- 2. What do you think are the causes of this conflict?*
- 3. How does your community view land?*
- 4. Is there any resource that you share in common with the other group?*
- 5. What are the methods your community has employed to resolve misunderstandings?*

#### **4.4 Role of the Researcher**

The researcher’s role was that of independent interviewer. Even though I had an assistant, his role was only to show me around the area, with which he was familiar, and to introduce me to the respondents. The researcher read ethical rules and ensured that every respondent stated that they understood and agreed to the interview. In addition, since the researcher spoke the native language of the respondents (the national language of Kenya Swahili), the researcher probed and explained technical terms to clarify understanding.

#### **4.5 Limitations, Challenges and Biases**

This section deals with the main challenges encountered in the field during the research, and some shortcomings of the data collected. This collection of data coincided with great insecurity in the area; the latest conflict took place in 2013. As a result, there was tension and poor community relations partly due to the impact of the reoccurring conflict. The research took place in November 2014, and this timing may have impacted the study due to the fact that memories of the violence were still very fresh in the community.

The sample size and time limitations of this study definitely did have an impact on the research value of the results, as no study can address all issues or include all perspectives. For example, while the responders occasionally also mentioned the influence of political elites in this conflict and inter-ethnic political competition as a driving force in the conflict, no politicians were able or willing to respond to requests for direct interviews. Thus their perspectives, which could have offered illumination of the issues, are not present. In addition, the cultural bias against women in the region made it more difficult to attract female respondents, and so their perspective is not included to the degree desired. The researcher was also confronted by suspicion and mistrust from some community members, based on their perception of the researcher as a member of one of the ethnic groups involved. Once this misperception was addressed, the respondents tended to be more open and forthcoming in their interview answers. Therefore, given these limitations, more research on the women's perspective on the underlying causes of these conflicts is needed.

The researcher was not able to access some areas inhabited by nomadic groups because of poor transportation infrastructure and the itinerant nature of the community, time constraints, and logistics.

#### **4.6 Data Analysis**

Following Creswell's (2013) observation that "qualitative researchers organize data into categories on the basis of themes and concepts" (p. 237), the information extracted from the different sources was analysed and discussed thematically. The method of analysis employed in the study is the descriptive analytical method, involving critical examinations and explanations of information and data collected during the fieldwork. In-depth perspectives drawn from people whose lives largely depend on the land use and ownership were analysed, and the peculiar themes and subjects were outlined to draw conclusions.

Attempts were made to capture the major trends and patterns in the lives of affected local residents. Among the several respondents, the perspectives of the meaning attached to land and its effect on farmers and pastoralists were the major units of analysis. The data analysis and interpretation followed the six steps explained by (Creswell, 2012, p. 237). These steps are as follows:

(1) Collection of all field-notes and transcriptions of interviews,(2) Reading the scripted data and coding the points made by the participants, (3) Using the coded data or points about places or people to develop themes for telling the story or explaining the phenomena, (4) Interpreting the meaning of the research findings and the advancement of personal views, making comparisons with the reviewed literature, and suggesting

limitations as well as possibilities for future research, (5) Validating the accuracy of the findings, and (6) Reporting the research findings.

The coding categories generated from the research question in this study include: Causes of the conflict, different land views, land ownership and land use, and finally, available conflict resolution mechanisms in the study area. Chapters on data analysis and presentation will address major themes derived from the responses.

#### **4.7 Data Presentation, Analysis and Discussion**

The central theme in this chapter is data presentation and analysis, demonstrating the underlying cause of conflict between the Pokomo and Orma, which took place in 2012–2013 in Tana. The chapter provides a general view of conflict in Tana River as presented by the respondents, and also analyses the themes and issues in the field based on the findings and the inferences from the respondents. It basically focuses on the obtained body of information from the study area to help advance our understanding of the emerging conflicts and its effect on communal co-existence. According to Sapsford & Jupp (2006), there are no set rules about for the collection of semi-structured data, although the researcher has the responsibility to identify all the themes from the main categories. Afterwards, the themes can be interpreted into key concepts answering the research problem addressed in the research questions. In order to follow these key steps, this chapter will answer the following research questions:

- What is the relationship between the Pokomo and Orma?
- How does your community view land?
- Is there any resource that you share in common with the other group?

## **Conclusion**

This chapter described the research methodology. The aim of a research design is to acquire the most valid and meaningful answers to a research question. This case study research was accomplished by using a qualitative, purposive approach that was contextual. The researcher was the primary data collection instrument. Data was collected through face-to-face interviews, and the researcher interpreted the data by applying a descriptive method to analyse the findings and confirm that the data was reliable. By respecting the core values of fairness, dignity and equality, the study participants were protected both morally and ethically.

## **Chapter 5 – General Analysis of the Conflict**

### **Introduction**

This chapter will include a general analysis of the conflict in the Tana River between the Pokomo and the Orma, including an examination of the root causes, the contributing factors, and a chronological list of reoccurring incidents that have taken place.

Every conflict begins with a latency period, wherein conflict potential exists, but has not yet developed. According to Deutsch (1974), latent conflict may exist for a very long period before it emerges and the actors in the conflict become consciously aware of it and begin to behave accordingly. Similarly, Bartos and Wehr (2002) assert that as the conflict emerges, it produces considerable confusion; interactions of the conflicting parties can change, sometimes radically and abruptly. The levels of emotions, uncertainty and unpredictably rise, leading to unwise and costly decisions being made from a lack of understanding about what is taking place.

Brahm (2003) also stated that the first phase is often listed as “latent conflict” or “unstable peace”. It exists whenever individuals or groups have differences that bother one or the other, but those differences are not great enough to cause one side to act to alter the situation. Differential power, resources, differing interests, or values all have the potential to spark conflict if a triggering event occurs. Bartos and Wehr (2002) observed that, social life is above all a struggle for power and status regardless of the type of structure. An inevitable power differentiation between groups, and rooted in competitions for power that are clumsy and prone to nepotism, where political status and power are granted on the basis of ethnicity, rather than qualification.

In the latter case, the Pokomo and Orma conflict cannot clearly be defined, for example, ethnicity might just be a sub-classification when these two groups fall into conflict. However, based on the evidence available, this conflict is latent due to the existence of repetitive micro-conflicts and gradual escalations in violence. Therefore, it is very crucial to explore this conflict and analyse the triggers that have escalated the violence. During the research period, the majority of respondents referred to previous conflicts that triggered the escalation of another conflict; this means that the triggers were already in place and were waiting to erupt. Both groups blamed each other for initially starting the conflict. Some Pokomo respondents also mentioned that since the Wardei came to the region, the relationship between the Orma and Pokomo has deteriorated, as the majority of the Pokomo and Orma respondents stated that historically, the two groups had co-existed peacefully. The Pokomos stated that during drought season, the Ormas could come live with them till drought was over. In turn, the Ormas stated that during the flood season, the Pokomos could in return come and live with the Ormas. The Wardei on the other hand blamed the Pokomos for starting the conflict.

The Wardei also stated that the Pokomos do not want the Orma and Wardei to unite and that they view this unification as a threat. None of the respondents wanted to take responsibility for the conflict; they all stated that the other group started the conflict. The Pokomo respondents stressed that the Orma and Wardei do not respect individual property and let the cattle destroy their farms and that they only fought back to protect their land from foreigners and avenge the death of their loved ones.<sup>2</sup>

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<sup>2</sup> By foreigners, the Pokomo respondents were referring to the Orma. Other names given to the Orma Community are Shifta, Bandits, Invaders, foreigners; this is due to the fact that the Orma originated from south Ethiopia.

In addition, some of the older respondents in the study claimed that the conflict was escalated by the youth. They stated that majority of these youths are unemployed and are easily manipulated.

**Table 5.1 The Re-occurrence of the Conflict and Casualties as Reported by the Kenya Red Cross, (2012)**

<b>22<sup>nd</sup>/August/2012</b> Pokomo attack on Reketa (Orma village); 52 killed, including women, children, and unarmed men; many were hacked to death with machetes or burned to death; 200 Orma cattle captured; thought to be in retaliation for Orma invasion of Pokomo farms.[14]
<b>7<sup>th</sup>/September/2012</b> Orma attack on Chamwanamuma (Pokomo village); 12 killed, several homes burned down.[15]
<b>10<sup>th</sup>/September/2012</b> Pokomo attack on Kilelengwani (Orma village); 38 killed (31 civilians, 9 police officers).[16]
<b>11<sup>th</sup>/September/2012</b> Orma attacks on Semikaro, Laini, Nduru, and Shirikisho villages; 3 Pokomos killed.[17]
<b>13<sup>th</sup>/September/2012</b> Security forces deployed to the Tana Delta by the Kenyan government.
<b>17<sup>th</sup>/September/2012</b> Attack on Ozi by unknown attackers; 67 homes burned down; local MP claims this was a heavy-handed response by government security forces.[18]
<b>21<sup>st</sup>/December/2012</b> Pokomo attack on Kipao (Orma village); 39 killed (8 attackers, 31 Kipao residents), including women, children, and unarmed men.[19]
<b>9<sup>th</sup>/January/2012</b> Pokomo attack on Nduru (Orma village); 11 killed (6 Ormas, 5 attacked).
<b>10<sup>th</sup>/January/2013</b> Orma attack on Kibusu (Pokomo village); 11 killed (all Pokomo), including women, children, and unarmed men.

The chronology in table 5.1 gives an overview of the violent attacks, including the ethnic background of those involved, the number of the victims and the date and the location. Before analyzing the themes that emerged during the interview, the reasons for the conflict will briefly be explained as stated by the respondents. It is apparent from the research study that none of the groups wanted to take responsibility for starting the conflict. They all stated that the other groups started the attacks and that they were just avenging these acts, and they counter-attacked to let the other group know that they were not afraid. According to the findings of the study, the Pokomo purely fought for land ownership because they felt that the increasing number of pastoralists and cattle in the area would eventually displace them from their ancestral land.

However, according to the respondents, the 2012/2013 violence was not only related to land for the Pokomo, but also to the fear of losing power in the county because of the ability of the pastoralists to unite and vie for electoral positions. The Orma respondents felt that the conflict was not purely about land; instead, many saw the conflict as an opportunity to eliminate and evict the Orma from Tana River and thereby reduce the number of Orma voters. The majority of the Orma respondents stated that the Pokomo sparked the conflict by blocking the path to the river.

Another major contributing factor in this conflict mentioned by the respondents from both groups is politics. The Orma stated that the Pokomo were afraid of losing political power so they hired militia groups to attack Orma villages. The Pokomo claimed that the Orma united with other pastoralist groups because they wanted to steal their land and resources. Another issue that emerged during the study was the mistrust between the Pokomo and the Orma.

This was due to the long-time animosity between the two groups. Many of the respondents felt strongly hostile towards the other group. However, some were more optimistic about the situation and stated that the conflict would end soon and they would all live peacefully as they did in the past.

## **5.2 Emerging Themes**

This section was developed from the responses of the subjects in the research with respect to their views, the cause of conflict, the relationship between them, the resources shared in common, and the methods used by the community to resolve misunderstandings. Therefore, there is a clear need for a comprehensive analysis of the conflict that looks at the core issues involved such as underlying elements, drivers, and accelerators. The following themes emerged from the interview:

### **5.3 Causes of Conflict:**

*“There are three reasons for this war: land, tribal, and politics.” (Pokomo Elder).* The above statement reflects the complicated and challenging issues that have perpetuated the long-standing conflict between the Pokomo and the Orma in Tana River. However, it should be noted that other factors have been identified as well, such as frustration with the government, and animosity and mistrust over security.

#### **5.3.1 Land Ownership, Use and View**

Land has been regarded as a major source of conflict, resulting in unprecedented killings due to conflicts of interest. Conflict over land has predictably resulted in clashes

pitting farmers against pastoralists. As mentioned previously, both communities depend on the same land. Pastoralists depend on the water and grassland for their livestock throughout the year, but more during the dry season, whereas agriculturalists cultivate rice and other crops on the receding floodplain edges and perennial crops along the riverbanks. The majority of the respondents mentioned land and river access as a major factor, and the Pokomo recognize the complicity of land in the conflict over ownership.

According to Pokomo respondents, the number of pastoralists is increasing, apart from the Orma and the Wardei. Other foreign pastoralists from Somalia also migrate in search of greener pastures and end up staying in their land. Conflicts between farmers and herders related to resources are not an exception, due to the fact that the two groups have conflicting needs regarding land and water.

In the interviews, land ownership was particularly salient for the Pokomo, one of whom claimed that their ethnic group has not been granted title deeds for the land that they have farmed for generations. Such claims are likely to contribute to escalations of conflict between Pokomo and Orma. The groups also have different land tenure systems: While the pastoralists prefer to share land communally, the farmers want to own individual land with title deeds. This issue has agitated the Pokomo, who are now reclaiming their land by demanding title deeds. The issue of title deeds was mainly salient among the Pokomo respondents.

According to Hastings (1997), the Pokomo feel that they have no legal recourse in such situations, and are being treated unfairly by the government. Imbalanced ownership of title deeds has undoubtedly brewed animosity between the two groups, a development that makes the existing conflict defy resolution and risk escalation.

For the pastoralists, communal land ownership is important due to their need of wider grazing areas for their livestock pasture. Another major factor that was mentioned by Pokomo respondents is lack of respect for land by the pastoralists. They claimed that while the Orma cattle graze on their land, their cattle tramp on their ancestral and family gravesites, which offends the Pokomo. One respondent stated:

*“This people have no respect for people’s property, their cattle not only destroy our source of income but also wanders in our land going into grave site where we have buried our ancestors and our loved ones” (Participant #6 Pokomo Elder).*

*“The Pokomo are known for their farming skills and abilities, these skills have been passed down to us by our ancestors; land is our identity and also sources of income and livelihood, apart from its spiritual meaning as a cultural sanctuary; the area around the river is medicinal, and it is believed that if we use the water in specific areas we will be healed of all illness, we also hold ceremonies like circumcision and special prayers around specific areas of our land” (Participant #5 Pokomo Elder).*

Conversely, the Orma state that the Pokomo do not respect land, because they expand farms so close to the river path so as to stir unnecessary conflict. One Orma respondent claimed:

*“The Pokomo start conflict by first closing the water path, then when the cattle step on their farms due to how narrow the path is, they kill the cattle by shooting or slashing them, after all this they expect us to just sit and watch them killing our cattle, when the we defend ourselves, they cry wolf by always acting like victims” (Participant #3 Orma).*

The majority of the Orma respondents also mentioned land grabbing by the government land then subsequently sold to foreign nationals like the Qatar government.

For example, one respondent from the Orma community stated:

*“We move from place to place in search of pasture, when we leave one area and come back to it, we find it with electric fences, we cannot claim it since it has already been sold by the government, this in return pushes us closer to the Pokomo which triggers conflict because we have limited area to graze” (Participant # 5 Orma).*

Horowitz (1985) states that land alienation by the state is seen as a major factor in conflict, and plays a critical role in the 'divide and rule' dynamic, using clans as a way of manipulating those with fewer privileges in their society. In this way, pastoralists with bigger clans dominate those with minimal powers. The grievances of the Pokomo residents was expressed thusly:

*"This issue of land has been ongoing for a long time, if only the government can separate us this conflict will be solved, we the Pokomo need title deeds to claim our ancestral land, the Orma on the other hand can go back to where they came from and claim their land there, Tana River belongs to Pokomo"* (Participant #1 Pokomo).

*"We are the original people of this land; these foreigners will either go back to their country or learn to respect our land and us"* (Participant #4 Pokomo).

Some Orma claim that the conflict over land is because the Pokomo fence the land near the water path, and make it impossible for the Orma cattle to pass through and get to the river. Orma respondent stated that:

*"Land is God-given to be used and shared but not to be owned, this land belongs to all of us"* (Participant #5 Orma).

A Pokomo respondent also stated:

*"Pokomo think they own this land, because they claim they lived here before us, how do they know who came here first? We were at the other end and they were at the other end, if the land belonged to the person who was here first, then it belongs to the hunters and gathers the Wasanye people, not the Pokomo"* (Participant #6 Orma).

The Orma respondent also emphasised that the path to the river should be widened to allow more space to move their cattle without trespassing onto Pokomo farms.

*"Cattle are a source of food and livelihood for us the Orma, just like land is to the Pokomo, this cattle are what we know they mean everything to us, without them we could be beggars or working menial jobs like burning charcoal or selling things like vendors, we do not want that for ourselves or for our children, ...we the Ormas feel pride on the number of cattle we have and how healthy they are, this is our pride and if they get attacked, we get attacked too, killing and slashing this"*

*cattle to death is equivalent to killing an Orma, the Pokomo block the path to the river as a means to punish us, we cannot fly the cattle over their farms and our livestock have to drink water, it is not like the water will ever dry up or anything, even if the path is left wide open” (Participant #3 Orma).*

This Orma respondent further stated that:

*“There is more to this conflict that the eyes see, we know for a fact that the Pokomo want to get rid of us, they have been saying that for a long period, but what they do not understand is what we are not going anywhere, we will fight to the end, we are Kenyans just like them, and we have been in this place as long as them, this place belongs to all of us not just them, they use the land as an excuse for other agendas like their hatred, they killed our women and children that shows the amount of hatred they have for us (Participant # 2 Orma).*

### **5.3.2 The Hostile Relations between the Pokomo and Orma Groups**

*“Our donkeys do not mate with Pokomo donkeys” (Orma youth).*

According to the majority of the respondents, both communities historically lived together in relative peace and harmony. However, these relationships have declined over time. As stated by the Kenyan Red Cross, the bitterness still runs deep.

*“I don’t want my children to mingle with sons and daughters of my enemies who killed our people, I cannot trust them” (Participant # 4 Orma).*

*“I hate them, I cannot stand these people, they have killed innocent children and women, they even killed pregnant women, they broke the rule of war, real men do not kill women and children” (Participant #2 Orma).*

*“This people are backwards, I have been told stories by my parents and grandparents of how they behave, they are so violent and have no remorse, I heard that they kill too, they live in the bush and carry guns around like toys, the government should send them back to Ethiopia and Somalia where they came from, we the Pokomo are peace loving people” (Participant #3 Pokomo).*

### **5.3.3 Politics**

Political disagreement is a residual issue that has also existed between the Orma and Pokomo. The Pokomo claimed that the pastoralists mobilized to form an alliance.

Gurr (2002) suggested that ethnic groups are instrumentally organized by their political and economic elites for ethno-political actions and interests that are rarely communal, but rather mostly personal. Wolff (2006) asserts that these leading members of the group often hijack that ethnicity for selfish goals, especially when they are apparently losing out in the socio-political competition. A Pokomo respondent said:

*“We told our leaders to unite but they never listen; now here we are being led by uneducated, uncivilized people. I knew this could happen we have been ruling this region for a long time now we are being ruled, if a Pokomo wants something we now have to be at the mercy of the Orma, you should see them in government office, they do nothing, half of the time they are on field trips going to other regions” (Participant #4 Pokomo Elder Woman).*

On the other hand, the Orma claimed that they missed out on political power due to their nomadic life style, and now they have come to realize the importance of education and are sending their children to school. An Orma respondent expressed this sentiment:

*“The Pokomo view themselves as superior to us because they are educated since the colonial period, we used to run away from the white man so that they do not convert us from Islam to Christianity in exchange for school, and because we moved from place to place, it was hard for the white man to get a hold of us, our lifestyle for a long time has been disadvantageous to us, we move from one place to another in search of pasture, so we do not take our children to school just as our parents never took us to school, but now things have changed, we do not move with our families from place to place , our children are going to school and are getting educated, as a result we have now dominated the political arena in this county, the Pokomo are no longer to make decisions and marginalize us ever again” (Participant #1 Orma).*

*“The previous conflict was based on land, but the last conflict in 2012/2013 was purely based on politics, once the Pokomo realized the pastoralists were uniting, they felt threatened and started attacking, killing, displacing us and burning our homes all this was done so that we do not vote, but despite all that we were victorious we have won most of the elective positions in this region” (Participant #5 Orma).*

### 5.3.4 Elite Manipulation

According to Gagnon (2006), elites turn to ethnic manipulation in response to threats to their power by exploiting people's identity, language, customs, and religion as a means to achieve their greed. Some elites attempt to represent themselves as protectors of a particular ethnic group. Elites define collective interests in such a way that they coincide with their interests, by using fear to maintain power. The majority of respondents stated that political elitism was a factor in this conflict.

The Pokomo claim that the Orma elite manipulates the pastoralist group by Balkanizing them into one entity so as to win the election, while alienating the Pokomo. Wolff (2006) contends that there are other factors that bring different ethnic groups into conflict, particularly when the assimilation, affiliation, and cohesion of the ethnic group are actually under real threats based on attacks on the group's identity, language, culture, history, and land.

According to Horowitz (1985), conflict may become ethnic or inter-ethnic when it did not start on the basis of ethnic differentiation, but rather because of inter-group competition, with one group winning at the expense of the other in the struggle for social, economic, and political advantages. In other words, a political conflict is exploited and then expanded by those with vested interests, who use religion and ethnicity as a means of dividing a community that had previously co-existed peacefully. Fighting between these groups has the propensity to destroy the good life of the ethnic communities that are hosting them. According to some Pokomo respondents:

*“The young people in this region are used by politicians to fight each other, they do not listen to elders anymore, they will do anything without thinking of the consequences, politicians and other people with money are stirring this conflict so*

*as to divide and gain political power” (Participant #3 Pokomo).*

*“People are idle, they have no jobs and no opportunity to prosper in this place, we have to survive and our survival is based on our politicians, we have to elect a Pokomo next coming election, in 2013 the politicians divided us and the Orma used that opportunity, am sure our people have learned a lesson, we will never be divided” (Pokomo youth).*

*“Politicians are greedy, they only think about themselves, they great fear among us and watch us kill each other like animals yet they are protected wherever they live” (Pokomo elder).*

*“As long as we stay united our people will always have political positions we have almost of the majority political leadership positions in this region, we have a long way to go we have to be strong, and always protect and trust each other, otherwise we will be like Pokomo and loss of all the elite positions” (Participant #1 Wardei).*

*“We know for a fact that they won illegally by giving illegal non Kenya with identity cards so as to vote us out of the political space” (Pokomo).*

### **5.3.5 Government Favouritism and Weak Institutions**

This political marginalization has led some Pokomo individuals to feel strongly that the current central Kenyan government treats their community unfairly at all levels. The Orma think the government does not favor them, and they claim that they have been marginalized since the colonial period because of their pastoral life-style, which is not recognized by the government. One interviewee stated:

*“The Pokomo are feeling threatened because we have occupied most of the political positions they have been occupying for years, now it is our time to shine, let them know how it feels to be marginalized, but they are lucky because the governor is very fair, he does not want to exclude them, as they did to us” (Participant # 6 Orma).*

### 5.3.6 Mistrust/Hate

Mistrust and suspicion between Pokomo and Orma is mainly due to their relationships deteriorating over time. In addition to the understandable anger that would be caused by violent atrocities, these resentments also accumulated as a result of perceptions on both sides that past promises were broken, and that each side has a hidden agenda to usurp power from the other. Many Pokomo do not trust the Orma, and this is mainly because the Orma broke the land rule<sup>3</sup>. The Pokomo claim that the Orma betrayed them by allowing the Wardei to stay in Tana River, which in turn created animosity between the two groups.

According to Pruitt, Rubin and Kim (2004), mutual suspicion and mistrust are factors that spark and escalate conflict, because they impact negatively on the relationship. Similarly, Lederach (1995) notes that mistrust and suspicion are products of feelings, perception, and ideas, and he emphasized the importance of working on relationship transformation, which will lead to peaceful co-existence and mutual understanding.

*“We lived peacefully during the colonial period because we had set of rules that were put in place by colonial masters, we had rules on water path, we had rules on land use, apart from colonial rules we have our own traditional rules, that both the Pokomo and Orma respected and followed but since independence and those rules have all been broken, and relationship is sour and tense all the time” (Participant #5 Pokomo).*

In contrast, the Orma claim that the Pokomo are not trustworthy and that they only pretend to be peaceful people, but are actually malicious. They claim that the Pokomo have been monopolizing leadership positions and marginalizing the Orma since

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<sup>3</sup> Boundaries set by colonial masters.

the colonial era, because they were the first people to gain access to formal education from the early missionaries who settled in that region.

The majority of the Orma respondents interviewed stated that the Pokomo wanted to stir conflict among the pastoralists by killing Wardei and blaming it on the Orma.

According to one respondent:

*“They wanted to bring mistrust and division in the community, but that did not work” (Participant #5 Orma).*

*“These people are slaves we call them to do our menial job, they clean our homes, burn charcoal and build houses for us, we do not even consider them as humans.” (Participant #4 Orma).*

*“They are not to be trusted, one day they are laughing with you the next day they attack you, the bodies of some of the Pokomo people who came to attack Orma village were of people known to them” (Participant #6 Orma).*

#### **5.4. Insecurity**

Along with this sense of victimization is the minimal presence of “government”, particularly the lack of security forces in the region. As a result, there is a general feeling of insecurity, which has led to people arming themselves. Pastoralist societies are prone to violence due to structural conditions of environmental vulnerability, scarcity of resources, and decentralized socio-economic political organization (Klem & Hilderink, 2003). These perceptions have persisted among pastoralists despite increases in population in the region.

Pokomo respondents stated that the Orma have brought insecurity into the region due to their life style of moving back and forth through the borders.

In addition, one Pokomo respondent stated that the pastoralist groups bring guns into the area to sell to other pastoralist groups, thus threatening the security of Tana River.

*“This people are affiliated with alshabab because they are from Somalia and they are also Muslims too” (Participant # 2 Pokomo).*

*“We are alone in this county, the government is for the rich, we have to protect ourselves by any means” (Participant #4 Pokomo).*

*“We do not feel safe, there was rumor that a Pokomo doctor tried to inject Orma children with poison to kill them” (Participant #2 Orma).*

According to a Wardei respondent, Pokomo have been have supplied guns by their leaders.

*“The Pokomo leaders accuse the pastoralists for having guns, but yet they supply weapons to their own to kill us, they also hold peace meeting and tell us to give up guns but yet their people do not give up this weapons, and they use it against us” (Participant # 1 Wardei).*

## **5.5 Suggestions by the Respondents**

The following are the major suggestions regarding necessary actions that have been brought forward by the study respondents; Changes in the status of at least some parts of the river area should be considered, such as converting the area to public community land to ensure that people will not be left without land and other resources such as water. Most of the Orma respondents suggested communal land allocation, stating also that they wanted access to water without restrictions. They claimed that the separation of the two groups would solve the problem. The Orma suggested that the government should fund projects to pump water through pipes to a place some distance past the plantation where Orma livestock can easily access water without needing to go

through the plantation. The majority of the Pokomo respondents suggested that the control of foreign pastoralists has to be limited. Therefore, it has to be assessed how many animals the area could feed during dry seasons and clarified as to which areas foreign pastoralists would have access.

The Pokomo also stated that they wanted to be given title deeds for their ancestral land, thus solving the problem faced by the Pokomo, as their acquisition of title deeds would allay their fears of displacement. At the same time, the land along the current riverbanks could be allocated to them since they are the traditional owners. Both groups agreed that due to land scarcity, the government's practice of selling land to foreign investors should be frozen until the issue of land dispute between Pokomo and the Orma has been solved.

They also agreed that both communities should be involved in decision making regarding the selling of land and they suggested the formation of inter-ethnic peace dialogues that include a committee composed of religious leaders, traditional leaders, government representatives, and youths that are responsible for addressing even the slightest of conflicts before these escalate into violence. The respondents also suggested cooperating and electing leaders based on ideology not ethnicity to ensure that no community is left out in the upcoming county government. With this idea, nomination slots would be reserved for those left out to avoid alienation of any specific group. The respondents suggested the creation of peace committees that are inclusive of all the different residents (youth, women, and elders) in Tana River in order to encourage and motivate them to take part in the reconciliation and negotiation process.

The respondents believed that the groups should first negotiate separately, and later have joint meetings where solutions can be found that are backed by all groups.

To summarize this section, the clashes in Tana River between the Pokomo and Orma can be classified as ethnic due to the fact that two different ethnic groups were in conflict. However, ethnicity has been exaggerated as a factor, as these groups also have a long history of peaceful co-existence. It is only when the competition over scarce resources increases that those ethnic lines are drawn, and when this occurs; the conflict can escalate to violent dimensions. Conflict between these two groups existed during the colonial period; however, there were traditional rules, regulations, and mechanisms in place to solve these disputes with the help of elders from both communities. In order to support and reinforce these traditions and prevent violence, the colonial masters introduced the concept of land demarcation for each group, and built boreholes to be used by pastoralists groups during the drought season to reduce conflict.

However, one problematic concept introduced by colonialism was private land ownership, and it had a tremendously negative impact on the pre-existing traditional mechanisms for resolving conflict. When the colonial period ended and Kenya achieved political independence, the new political elite took the place of their previous masters, and essentially continued the same policies, thereby monopolizing the private ownership of land. It is crucial to understand the changes that have taken place over time, resulting in the escalation of previously minor encounters into violence. This research found that there are multiple causes and triggers to this conflict. As mentioned earlier, conflict begins at a latency period. Changes in the interaction between the parties lead to rising emotions and to rash and increasingly costly decisions.

It is evident from the literature review and research study that the central cause of this conflict is the claim of ownership to the same land, combined with different views of land based on their different lifestyles. The farmers use land for economic purposes to sustain their livelihood and feel that land should be individually owned. Pastoralists on the other hand use land mainly for pasture and view land as God-given, to be shared but not owned. They favour traditional customary land tenure systems that allow communal use. The land also has personal meaning for each group since it is their ancestral land and tied to their identity.

The land situation is further complicated by government ownership, private ownership, and leasing to foreign investors, private companies, ranches, and large scale farming, which displace local communities. It is evident from the study that holding political office is viewed as a resource, one that both communities seem to fight for and over. This is mainly due to the fact that politicians manipulate vulnerable populations to fulfill their own vested interests. The introduction of the new Kenyan constitution in 2010, along with a new political system centered on a devolved government, brought new responsibilities, but also expanded powers and authority to the new county governments. For those reasons, the 2013 elective positions were highly contested. Among the new powers of the county government is the control of natural resources and other decision-making powers such as establishing county laws. As a result of political interference and conflicting interests, competition in the 2013 elections centered primarily on the divisions between farmers and pastoralist communities. While there are different opinions regarding how exactly the elections contributed to the conflict, the consequences of the conflict on the elections are rather clear; the communities were Balkanized and these

divisions were exploited by interested elites. For example, some of the Orma respondents in the study claim that they have been “marginalized and now it is our time to shine”. This statement reflects the long-standing sense of political isolation felt by the pastoralist group from the colonial period until recently, when the situation reversed because the Orma allied with other minority groups forcing the Pokomo out of political office.

In most nominally democratic states, the main purpose of factional politics is to influence the composition of the official power apparatus, and to determine which party rules in a given political center. The political economy of natural resources is about the interplay between politics and valuable social assets. The interplay potentially works in both directions: politics can affect the exploitation of natural assets, and natural assets can affect politics. There is a reasonable basis for thinking that both are important. Although possible in any political setting, conflicts within the political leadership in developing countries are among the most common form of political strife. They have occurred in almost every African country throughout the post-independence period. The key means of dealing with elite demands have often been through the manipulation of the poor and vulnerable, policy shifts, and allocation of resources and positions. In regards to the Pokomo and the Orma, factors such as political changes in the current regime, different ethno-cultural views of land and economic, and social inequalities have intensified competition and animosity, leading to greater demands for representation. When these demands are not met, some begin to conscript the idea of ethnocentrism and isolationism as a way of assuring their survival and development.

Another contributing factor to the conflict mentioned in the study was weak government institutions and civil society. As stated previously in the literature review

section, the Kenyan government used track-one diplomacy after the conflict took place, and only intervened after numerous counter attacks. The government relied on underfunded peace meetings to curb the conflict.

In addition, the communities lacked confidence in the peace meetings due to mistrust and animosity among themselves. Their lack of enthusiasm was also related to the fact that the two conflicting groups differ in social structure. The Orma prefer elder intervention since these individuals are viewed as strong and experienced and their decisions are well respected. The disputants do not even have to attend the meeting to make decisions; as long as the elders have attended the peace meeting, whatever verdicts they propose go unopposed by the community. The Pokomo, on the other hand, are not bound by such structures. In their process, the role of women and youth in peace meetings are very crucial to decision-making. Furthermore, the conflict promoted stronger ethnic group coherence, and therefore the relevance of ethnicity as a factor in voting decisions increased. However, voting decisions are usually more complex.

In the case of the Tana River, the alliance of all the pastoralist groups might have played a major role in them winning almost all electoral positions in the county, despite being a minority compared to the Pokomo. If Pokomo political leaders had been united instead of being divided among themselves, perhaps they could have won some electoral positions. Still, in this case, the voting decision cannot be reduced to ethnicity alone. Instead, it can be based on ideology, identity, and interest. While deadly election-period violence did occur, there is no clear evidence linking it solely to the election itself, given the existence of prior conflicts. Although its role should not be exaggerated, identity as a contributing factor in some African conflicts also should not be ignored.

In times of conflict, there is a tendency in such contexts for individuals and groups to withdraw their identification with the nation or state, and invest their faith in religious or ethnic identity, which “sometimes undermined the whole notion of national citizenship” (Boas & Dunn, 2007, p. 6) between individuals, and produces latent conflict in all social relation. There is a danger that such attitudes could intensify without direct efforts by the government to bolster confidence in their capacity to provide equitable rights and services to all citizens, regardless of ethnicity, class, or religion. Without such demonstrable efforts, it may be difficult to motivate disenfranchised populations to participate effectively in the existing state institutions.

## **5.8 Recommendations**

As a Peace and Conflict student, it is crucial to keep in mind that conflict such as the one between the Pokomo and the Orma is deep-rooted and embedded within the parties’ past history, psychological perceptions, cultural norms, and belief systems. However, both these conflicting groups have identities rooted in the land and power politics, which over time have accumulated different meanings and associations to the land that result in violence (Jeong, 2000). It must also be remembered that a one-size-fits-all solution imposed from outside will likely fail, due to the unique nature of this conflict, and the necessity of devising a solution that both sides can accept without compromising their sense of honour. Based on the evidence gathered from the qualitative research in the region, one measure that could improve relations between communities and reduce the potential for conflict is the creation of a community pasture program in the Tana River. For example, the Canadian federal and provincial governments have operated a community pasture program since the 1930s, and allocate land access inversely based on

the size of the producer's herd; the smaller the producer, the greater the access to community pasture land. This system establishes a partnership between herders and farmers, since the herds are pastured on land that has been rotated out of agricultural production, and allowed to graze until the land has recovered its growing potential ([www.agr.gc.ca](http://www.agr.gc.ca)). If possible, members from both the Pokomo and the Orma communities could be invited to view first-hand these types of pastures, so that they can ask questions, observe operations, and potentially formulate a made-in-Tana River solution. Alternatively, the agricultural plots could be safeguarded to reduce the likelihood of farmer/herder conflicts.

Providing core governmental services such as education and health facilities, improving the infrastructure, and working on building trust for peaceful coexistence is also recommended. These steps could include expanding employment opportunities especially for the youths. Furthermore, police need to be better trained and equipped, in conjunction with the installation of additional police posts throughout the area, especially in Orma villages. The evidence from the research study shows that there is still a lot of animosity and mistrust between these conflicting groups. In this case, advanced ideas such as the innovative use of modern technology may help to solve this problem. For example, the concept of an 'early warning' system should be put in place to provide proactive notice of possible future conflicts. If direct violence and retaliation have already occurred, it is too late at that stage for early warning. The recently implemented Sentinel Project, intended to address conflicts triggered by false rumors in the Tana River region, introduced the use of mobile technology and satellite imagery to monitor and verify group compliance with mutual agreements (Sentinel Project, 2013).

Support for this program should continue in order to ensure that conflict does not escalate. Preventive diplomacy is also needed, whereby governments, international agencies, humanitarian organizations, and the media for action to prevent the breaking-out and escalation of conflicts can utilize information gathering, monitoring, and the provision of databases. This also includes good leadership that brings development and prosperity and ultimately mitigates conflicts. Communities in conflict have to find their own answers by comprehending and understanding the underlying causes, and being empowered to enact their own solutions.

It is important to use and support the conflict management structures that are already in place. For example, the Orma have their Gada system and the Pokomo also use Kijo; all this should be utilized for conflict management. Disarming the population is also necessary, since access to powerful weapons can cause conflicts to escalate rapidly, and to a much greater magnitude. However, as long as the residents feel insecure, they are unlikely to willingly surrender their weapons. Also, in cases of a renewed outbreak of violence, the government needs to react faster. If governments are unwilling or unable to provide effective security, then measures like an African Union rapid deployment force of peacekeepers should be considered. Plans have been in the works for several years, but such a force seems to still be years away from full deployment (Aboagye, 2012). Boosting development, increased investment in good governance, and improving the reliability and impartiality of the administration and judiciary is advised. Such actions will support positive outcomes, for example, in fighting corruption and increasing transparency.

Another recommendation is the use of third party mediation as a path to resolution of the conflict between the Pokomo and the Orma. Third-party mediators must carefully consider their approach to a given conflict, based on a detailed assessment and extensive consultation with the parties involved. These steps can help identify the best possible peace-building process. The use of a problem-solving process, for example, is an important step in the de-escalation and settlement of such conflicts. Parties in interest-based conflicts like farmers and pastoralists can reach compromise solutions by turning to alternative methods of conflict resolution, like mediation, negotiation, and the use of Rothman's antagonistic frame, which includes blaming the other side, polarizing the parties, attributing negative characteristics to the other side, and projecting one's own negative traits onto the other side (Rothman, 1997a). This conflict will need to be transformed into problems to be resolved.

In his book *Getting to Yes*, (Ury, 1993) provides a problem-solving strategy for people to cooperate with each other by negotiating principled and mutually satisfactory agreements. The problem-solving approach highlights a negotiating strategy based on a philosophy of working with the other party to negotiate interests in a principled way by separating the people from the problem, focusing on interests and not positions, inventing options for mutual gain, and using objective criteria. Ury further states that the creation of a safe space for discussions is needed so that talks can go on until the parties fully understand the motivations, needs, and concerns of all the others before reaching a negotiated settlement. Conflict like the one faced by these groups cannot be dealt with when there is so much animosity and mistrust. As stated by the respondents, these feelings are at times overwhelming, and emotions run out of control.

Human beings are emotional, but generally tend to be logical and level headed when it comes to solving knotty issues, disputes, and problems. This tendency can be attributed to the influence by upbringing and socializations that make some perceive their world differently when handling a problem or dispute with others. In addition, approaching a problem or dispute with one's own unique perspective often includes little or no regard for other perspectives. This can lead to an overly narrow approach to problem solving, and is often a recipe for conflict and disaster (Ury, 1993). Ury (1993) suggests first inventing options and then deciding on the best mutual course of action after both parties have brainstormed the problem in an accommodating way, by multiplying options and moving between specific aspects of the individual issues and the overall problem itself. Since most disputes generally tend to have multiple components, it is vital to define the problem, analyze the causes into categories by considering possible strategies, and apply broader thinking to resolve the issues and recognize what specific steps could be taken.

Third party interveners also play an important role in the conflict resolution process by facilitating the conflicting parties' analysis of the conflict, by assisting in proper communication style, by asking the right questions, and by dealing with the tangible issues that fuel the conflict. The problem-solving process allows the parties to express their emotions (Ury, 1993). Lederach (1995) notes that this approach to mediation and negotiation can be beneficial to the conflicting parties. He describes how transformational mediation empowers people, and creates a framework for the parties to recognize each other, repair trust, and rebuild the relationship with each other.

A transformational approach in the latter case of Pokomo and Orma could create a context whereby both parties can challenge stereotypes and differing histories empirically, so that both parties are heard and understood. Lederach (1995) further states that the transformative intervener facilitates the parties to effectively analyze the conflict and make effective decisions that clarify their issues. The third party takes on a responsive role to facilitate a discussion of the past and the here-and-now, in order to develop a solid framework based on empowerment and recognition that goes beyond the negotiation. This can also help the public to learn about the root causes of the conflict and society's unequal power structure, as well as to develop mediation and civic education skills. Lederach's process is psychologically, socially, and politically empowering for participants because it builds self-esteem and self-efficacy, teaches problem-solving and listening skills, and forges a critical consciousness (Lederach, 1995). In addition, "reflexive dialogue" is needed so as to allow the parties to articulate to each other the impact of the conflict on their self-definition and experience. This in return permits the parties to share their stories, and to develop shared narratives and meaning (Senehi, 2002). The sharing of stories encourages consciousness-raising because each party develops a deeper understanding of self through a weaving of the collective narrative (Senehi, 2002).

Another very vital approach is cognitive psychology, wherein conflict parties view the world through different cognitive schemas and conceptual frameworks that will determine the questions that the third party intermediary will ask, what facts are relevant, and which options the parties will consider. Future research that links cognitive psychology to the problem-solving practice needs to also focus on the third party

intervener's cognitive factors and distortions, which surely will influence how that third party directs or facilitates the process.

## **5.9 Conclusion**

Every conflict is unique to a particular context; however, the farmer-pastoralist conflict presents some peculiarities in Tana River. This conflict has increased in magnitude over the years and is more prevalent than ever.

The conflict between the two groups is very real, and when not tackled, can harm human security in the region. The movement of pastoralists across the borders, as well as their close relations to other groups with whom they share similar language and culture, may lead to a general perception of them as a migratory group. When this happens, it contributes to a deepening of the 'us versus them' feeling, and may lead to a more complex and violent situation.

Both groups continue to feel a sense of hopelessness and frustration, since parties in conflict experience stress and live in fear, which may eventually affect the level of production in the local economy. If not handled with care, the environmental conflict can have a significant negative affect national, regional, and international security. Kenya is a very volatile region with a huge proliferation of illegal arms, and therefore any level of insecurity at one end of the region could affect other parts.

According to Moritz (2005), the Saleh region possesses overlapping political, economic, and criminal transnational networks through the transit of cattle to livestock markets. A similar situation is found in East Africa as well, so it is in the best interests of countries in the region to monitor the situation closely, since groups who feel they are being neglected could easily be manipulated by organizations to engage in violence

across transnational borders, or to transport arms. Gaining a deeper understanding of farmer-herder relations is crucial to managing conflict and finding an appropriate resolution. This will enhance an understanding of the immediate and underlying causes of conflict, identify the behavior patterns that are most likely to provoke or prevent conflict, and make clear the main mechanisms by which conflict between the groups are resolved or managed.

This measure will also bring about innovative options and incentives that would reduce the incidence and severity of conflicts, enhance livelihoods of both farmers and herders, and promote social harmony within and between communities. The mere presence of many ethnic groups in a country does not necessarily bring about internal instability, animosity, and conflicts. There are many countries around the world that have very ethnically diverse populations, and yet they exist under stable, peaceful, majority rule governments. Minorities in such circumstances do flourish because the democracy exercised in these countries protects minorities. Thus, the measure of the strength of a democracy is not only how well the leadership protects the majority, but also how vigorously it safeguards minority protections. For example, in South Africa, when elected as the president of South Africa in the wake of apartheid, Mandela galvanized a community that was racially, economically, and ethnically divided by protecting the rights of both white and black, and thereby averted a potential ethnic and racial bloodbath. Thus, he managed to bring all people together by embracing a more pluralistic and ethnically inclusive policy that, in turn, noticeably reduced community conflict, and contributed to greater co-existence. This shows that the measure of the strength of a democracy is not only one-person one- vote elections, but also respect for minority rights.

While it is vital that such measures become more noticeable features of Kenyan democracy, such progress is never quick or easy, and so expectations must be balanced with some level of realism. The Tana River study did reveal the multidimensional root causes of conflict such as land access, land ownership, land use and management, and differing worldviews on land. These obstacles to progress and attitudinal challenges do exist, but the study also showed that real progress is possible, and that there are many people of goodwill in both communities that earnestly want to live in peace and prosperity in a united and stable Kenya. Therefore, there is ample reason for optimism.

### **Recommendations for Further Research**

There are some possible recommendations for future research, including an evaluation of alternative approaches to conflict resolution such as cross-cultural youth exchanges and sports programs, and their potential efficacy. In addition, there have been ongoing requests for government-sponsored peace talks between the Pokomo and the Orma, but the funding for these talks has either been inadequate, or it has gone missing due to graft and corruption.

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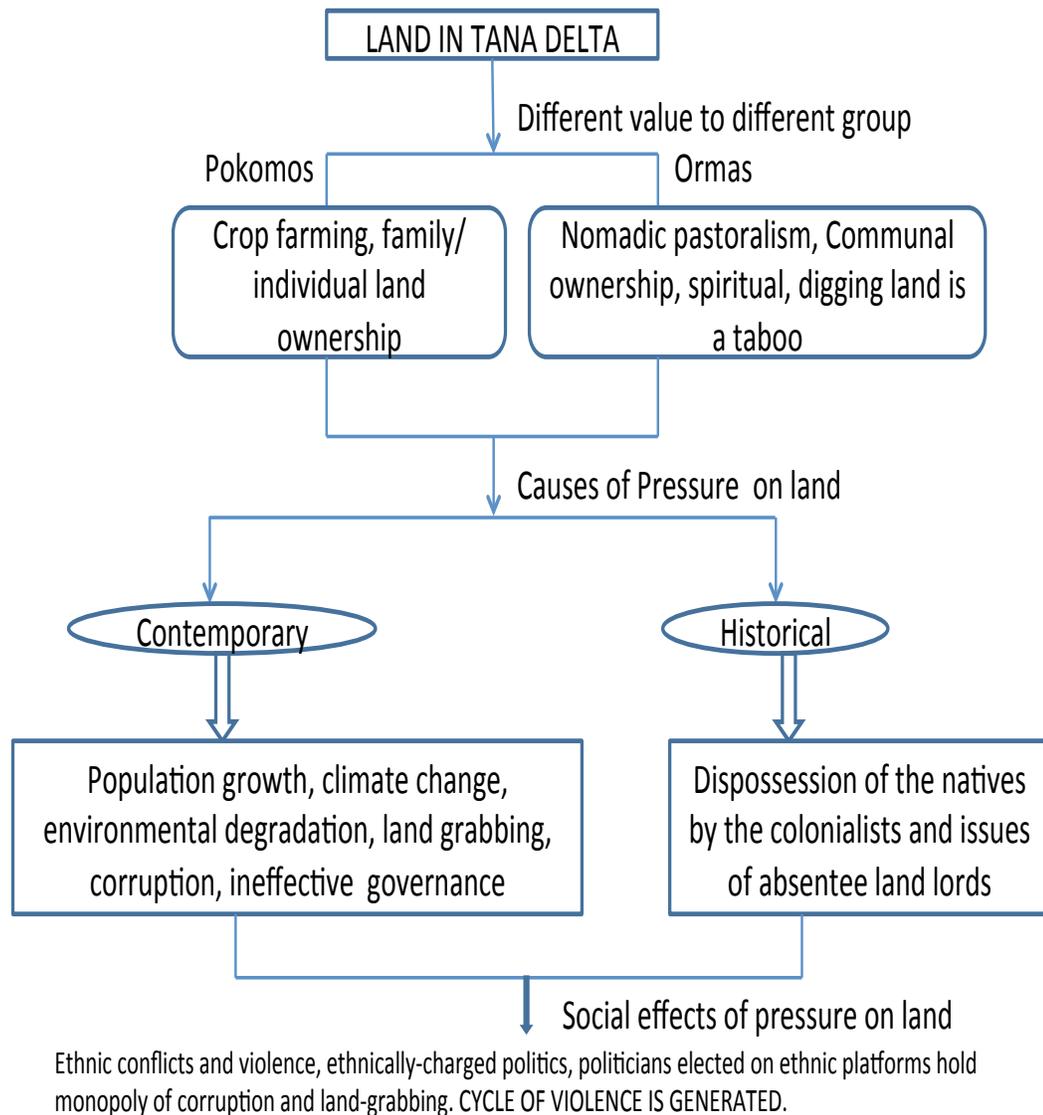
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## APPENDIX A



The Diagram shows how colonial and post-colonial policies have shaped and reshaped social relationships among indigenous communities and land system.

