

Effect of National Government Administration Officers on Resolution of Land Inheritance Disputes in Nakuru County, Kenya

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Abstract

Since independence, land disputes have remained contentious in Kenya; given that most of the population continues to depend on land for their livelihoods. Although the National Government Administration Officers (NGAO) are critical in solving the land conflict in Kenya, few scholarly studies have focused on their role. This study sought to assess the effect of NGAO in solving land inheritance disputes in Kuresoi South Sub-County, Nakuru County. The study was anchored on the Agency theory owing to the agency role of administrative officers. A descriptive research design was used in this study. The study's target population included area residents, the national administration officers, and other key informants such as county commissioners, civic leaders, senior security personnel; lands officers, and leaders of faith-based groups. The research used a purposive sampling technique and a sample of 384 respondents. Data was collected through structured and unstructured questionnaires and analysed through descriptive and thematic analyses. The findings indicated that NGAO enhanced the resolution of disputes about land inheritance primarily through awareness of land rights and land inheritance accountability issues. The study further observed that NGAO faced different challenges in their pursuit to reduce land-induced conflicts such as workload, lack of motivation owing to lack of incentives for the officers, and lack of cooperation from members of the Kuresoi- South Community. The policymakers might want to incentivize the role played by NGAO officers in promoting stability concerning land conflicts.

Keywords: *National Government Administration Officers, Land Inheritance Disputes, Nakuru County*

1.0 Introduction

Since independence, the land issue has remained a contentious and emotive issue in Kenya (Meyaku, 2009). Despite Kenya's progress since independence, the majority of the population continues to rely on the land for livelihood and economic well-being (Veit, 2019). New land-related issues emanating from the Rapid population have compounded historical legacies, resulting in a maze of problems that necessitate concentrated and serious care. However, the government's reluctance to fully address the problem continues to jeopardize the nation's social, political, and economic well-being (Kameri-Mbote, 2009).

In a study on land-use conflicts in developing countries, Magsi (2014) discovered that in Georgia's rural areas, the most common property dispute was parcel clashing between two parties. Some land disputes are the result of erroneous data in the cadastre, as there were formerly no surveying standards, which occasionally resulted in poor data quality. Other dominating land disputes happen in India as a result of limited land access caused by discrimination by law, custom, or practice over competing uses/rights on common and communal land, unauthorized use of common property, and competing uses/rights on state property. They advocated for land administration to promote tenure security while also attempting to reduce boundary and territory conflicts Adisa (2012), conducted a study on land use conflict between farmers and herdsmen in Kwara State, Nigeria. The scholar discovered that the majority of respondents suffered various consequences as a result of their mutual conflict. The consequences for both parties ranged from physical to economic to socio-psychological. Material resource depletion, on the other hand, was more common among farmers.

Mutava (2016) sought to determine the mechanism put in place by the government in resolving land-related conflict in Kenya. The scholar discovered that Kenya's land reform strategy has taken into account the continent's land policy principles. The reform program is oriented toward developing land guiding principles and laws that address land setbacks, one of which is conflict on land. Kariuki (2017) concluded that traditional dispute resolution mechanisms are commonly utilized by communities to settle a wide range of disputes and so cannot be wished away. The idea of institutionalizing traditional dispute resolution mechanisms and other community justice systems deserves consideration and effective implementation.

Mutugi (2016) conducted a study on trends of internal displacement in Kuresoi North Sub-County from the period 1992–to 2008. He predicted that three fundamental trends contribute to displacement. First, internal displacement in the area of study was motivated by political competition. Second, patterns of internal displacement occurred during General Elections. He recommended stern action against politicians for hate speech and ethnic incitements. On historical grievances over land rights in the study area, the National Land Commission needs to move with speed and address the problem.

NGAO is a recent government initiative aimed at enhancing the provision of public service by the national government. NGAO was designed to replace the long-service provincial administration, especially at the onset of a devolved government. One of the functions of NGAO officers is to coordinate national government functions in regional areas (Wanzala, 2014). This function pertains to defining the national government by schedule 4 of the constitution in maintaining law and order within the country, a domain in which land conflicts fall. The overarching goal for introducing NGAO was to not only enhance service delivery in coordination with county governments but also ensure that emerging administrative needs among the electorate are addressed (Wanzala, 2014). NGAO was initiated in 2014, which means that the administrative arm of government has been in service for over half a decade. Notably, the effectiveness of this government function on the delivery of public service in different regions has barely been researched.

1.1 Statement of the Problem

Indigenous conflict resolution mechanism has been in place in Kuresoi south sub-county for a very long time (Karari, 2013). NGAO is very critical in solving the land conflict in Kenya, yet few scholarly studies have focused on this. Many land matters are waiting in courts, prompting the Nakuru County government to train mediators to assist in resolving disputes and expediting

the issuance of title deeds to citizens (Mutugi, 2016). The encumbrance on Mau Forest land has hampered the title issue in four sub-counties.

The effectiveness of land resolution in Kenya has been researched in the past. For instance, Mayeku (2009) conducted a study to explore the resolution of land conflicts in Kenya, especially in pastoral communities. Notably, the study was conducted over a decade ago and was based on the traditional form of administration, which involved provincial officers. Considering NGAO introduced new approaches to regional administration characterized by strong cooperation with national and county governments (Wanzala, 2014), it would be expected that the contentious issue of land resolution has substantially changed. However, the persistent land-related conflict in Kuresoi posits a different picture, which raises the question of the extent to which NGAO has been effective in facilitating land conflict resolution. Moreover, Mayeku (2009), recognized the fact that all administrative efforts put in place at the time had failed to quell the land-related conflict in Kuresoi.

Besides, Mayeku and other studies have been conducted to explore the issue of conflict resolution in Kuresoi and other parts of the country. For instance, Mutugi (2016) conducted a study on trends of internal displacement in Kuresoi North Sub-County. Kariuki (2017) conducted a study institutionalizing traditional dispute resolution mechanisms and other community justice systems. Magsi (2014) conducted a study on the conflicts concerning the use of land in developing countries. However, none of this study was based on the involvement of NGAO officers in the resolution of land conflicts in their target regions. As such, this study sought to assess the effect of NGAO in solving land inheritance disputes, a case study of Kuresoi south sub-county, Nakuru County.

2.0 Literature Review

2.1 Theoretical Framework

The agency theory describes the idea of an agent designated to operate on behalf of a principle (Buluma & Obande, 2015). The underlying assertion of this theory is the delegation of duties and powers from the principle to an agent with the goal of efficiency. In public service, the citizenry constitutes the principle while the government is the agent. In a democratic society like Kenya, the citizenry selects representative agents through elections or political processes, who constitute leadership and government (Buluma & Obande, 2015). The expectation among the citizenry is that the elected agent will serve in the best interest of the principle. This expectation does not always meet reality, especially where the agent elevates selfish interests (Bosse & Phillips, 2016).

This theory is considered ideal for examining the efficacy of an agent in managing the relationship between the principles and the stakeholders. The suitability of this theory arises from the fact that it allows the involvement of two related subjects namely the agent and the principal. In this study, the agent presents the NGAO regional officers in Kuresoi as representatives of the national government while the principal is the people of Kuresoi to whom administrative services are provided. The people of Kuresoi delegate their power and decision-making authority to the NGAO officers in the region through which they provide administrative services. Moreover, the theory's proposition of the principal-agent problem helps in understanding the different areas where the agent falls short in meeting the expectations of the principal.

It is important to acknowledge the idea that the selection of an agent by the principal does not guarantee that the agent will serve the expected interests of the agent. According to Bosse and Phillips (2016), agents are susceptible to pursuing their interests, which may be against the

interests of the principal resulting in a principal-agent problem. It is common for the elected to neglect the interests of the citizenry in the pursuit of selfish interests, which results in denial of public service or poor service. As such, while NGAO may be designated to enhance efficiency in the delivery of public service around the country, there is no guarantee that this would happen. Researching to examine the effectiveness of the agent (NGAO) in delivering peace through land conflict resolution to the principal (People of Kuresoi) is a better way to ascertain whether expectations meet reality.

2.2 Empirical Review

Land inheritance disputes between generations have occurred in various parts of the world, for instance in Afghanistan, Wily (2014) sought to determine the impact of war on inheriting land. The study used a snowball sampling method whereby 589 respondents from Kabul districts took part. According to the study, approximately 5.7 million Afghans who fled during previous conflicts returned to Afghanistan with a desire to reclaim their homeland. However, to their disappointment, the majority discovered that their inherited land had been taken away. According to the findings of the study, a weak land administration system, general insecurity, and corruption produced a conducive climate for widespread land grabs by prominent government leaders and their associates.

Garikipati (2014) in his study on the effects of land inheritance in the United Kingdom noted that asset control could improve working conditions and households' participation in public decision-making processes. It does not necessarily contribute to better personal wellbeing. The findings of the study noted that in 70 percent of the households interviewed, women were the main financial decision-makers. However, just 10% of the women had their names on the land contract, although 68% managed the household's daily expenditure and planning and had authority over at least a portion of their husband's income.

In South Africa, Griffiths (2015) sought to establish the effectiveness of government-supported committees in solving land inheritance disputes, the study adopted descriptive research methods whereas a total of 187 respondents took part in this study. The study highlighted those local committees supported by the government were effective in solving land inheritance disputes given that the majority of the complainants did not trust the members while others indicated that the committee members were easily compromised and thus subverting justice.

In Ghana, Cooper (2012) sought to determine the effectiveness of the current policy in addressing land inheritance cases. The study established that the differences in social-cultural norms among societies were still recognized as dispute resolution avenues and constitutional changes were made to unify ethnic groups of people who presented a conflict of interest and a challenge within the administrative process. In regions where the land administration system is weak and population pressure is intensifying, there is a possibility that large-scale land conflicts between men and women may occur over family, lineage, young people and the elderly, and land access, boundaries, and inheritance rights (Okumu, 2010). Young people may be particularly concerned when access to land and resources is limited.

Some ethnic communities consider community land ownership tenure as the sole inheritance from their forefathers. The resolution of land inheritance disputes necessitates NGAO to protect the interests of persons involved in inheritance claims. However, the lack of long-term accountability from the government has fueled clashes under this system According to Cordes et al. (2016) some land assignments can be controversial, resulting in difficulties in determining the legal owners.

NGAO has been at the forefront in observing strict observation of land inheritance rights. According to international conventions, the control of property inheritance rights should be equitable. Equality clauses in international human rights treaties also demand that every individual be afforded equal protection under the law. This goal has gained international recognition as a fundamental pillar of social justice and equity. However, according to a study conducted by Kunyehia (2013), the implementation of principles of equity by courts still leaves some individuals, such as children and wives, at the mercy of judges and their interpretation of case law and comprehension of rules of equity. This study seeks to understand the effectiveness of its strides in ensuring strict observation of land inheritance rights disputes by all in Kuresoi south sub-county, Nakuru County.

Land administration officers keep track of the documents that explain various land rights and supervise the registration of existing rights as well as the issuing of new ones to non-community land claimants. In Brazil, Andrade and Joia (2012) sought to determine the effect of the modernization of the land administrative filing system on inheritance justice, using a meta-analysis. The study concluded that administrative simplification through ICT enhanced quick access to justice and enhanced trust among the parties. It also saved time, cost and boosted transparency in the handling of land inheritance cases.

3.0 Methodology

A descriptive research design was used in this study. The study's target population included area residents, the national administration officers, and other key informants such as county commissioners, civic leaders, senior security personnel; lands officers, and leaders of faith-based groups. The research used a purposive sampling technique and a sample of 384 respondents comprising 359 residents, 5 national administration officers, 5 officers from the lands department, 5 senior security personnel, 5 civic leaders, and 5 civil society and faith-based groups representatives. Data was collected through structured and unstructured questionnaires and analyzed through descriptive and thematic analyses.

4.0 Results and Discussion

4.1 NGAO and Land Conflict Experience

The research examined whether the participants of the survey had engaged in a land-related conflict. The author assessed whether each of the participants had inherited land, or engaged in any form of land conflict. Concerning that, 57.77 percent and 55.3 percent of the participants had inherited land and had a land conflict respectively.

All the interviewed NGAO officers narrated a burdensome experience in the resolution of land disputes in the study region. Respondent KRS801 indicated that *the task of land conflict resolution was demanding for the NGAO in the area considering the numerous cases of conflicts*. Similar comments were echoed by other informants in other distinctions including religious leaders and the civic leaders involved in the assessment. This demanding experience is notable considering that NGAO officers are the primary arbiters in land and boundary conflicts in Kuresoi South (Onguny & Gillies, 2019). The officers characterized the burdensome experience with a high number of conflicts when each was starting their administrative assignments. Respondent KRS832 indicated that some members of the communities had high expectations of the officers because of their accessibility, which meant that even the smallest of land conflicts were presented to the officers for arbitration.

Respondent KRS900 noted that he had never had a week *“without receiving a land-related complaint from a member of a mwananchi”*. The land is an emotive issue for individuals in

communities that rely on the resource for daily livelihood which is the case for people in Kuresoi. KRS923 noted, “*People here value land so much such that you cannot joke with another person’s land*”. Another factor that led to the sensitivity of land in the area was the size of the average land owned by individuals or households in the region. Respondent KRS923 explained, “*The average person here owns a very small parcel of land, probably less than an acre. They are therefore not going to entertain anyone they think is taking their land away.*”

A similar narrative was provided by other civic officers and leaders who took part in the study. For instance, KRS850 noted that he had been approached countless times by individuals concerning land sale cases and inheritance issues. The respondent indicated, “*there are cases where someone sold a piece of land that did not belong to them, or someone bought a land that did not turn out the way they thought, especially on size issues*”. The vitality and seriousness of land conflicts in Kuresoi are notably documented. A possible cause of this state of land affairs in the region is the fact that the region borders the Mau Forest, which is highly protected by the national government. As such, losing an existing piece of land to the government as part of the Mau Rehabilitation is more of a possibility than expanding an existing parcel.

4.2 NGAO and Solving Land Inheritance Disputes

The researcher set out to examine the perceptions and views of the respondents concerning the respondents’ concern about the role NGAO was playing in solving land inheritance disputes in the sub-county. A series of questions were provided to the respondents, which were measured against a Likert scale. The analysis of this assessment was based on the popularity of each response in the face of the respondents, the average response, and the standard deviation as shown in Table 1.

Table 1: Views on the role of NGAO in solving land inheritance disputes

	Strongly disagree	Disagree	Undecided	Agree	Strongly agree	Average	Deviation Standard
NGAO has strengthened the resolution of land inheritance conflicts.	6.6	6.2	26.2	33.2	27.6	2.7	0.9
The Wananchi are now aware of land rights according to the new constitution.	5.6	8.0	23.4	31.4	32.1	3.3	0.2
There is more accountability and transparency during the land transfer process.	6.0	7.6	21.4	30.5	34.8	3.5	0.5
More families are documenting their inheritance arrangements and wills.	5.7	7.6	23.7	36.2	27.0	3.4	0.3
There is fair and efficient compensation for communities where their land is taken by government projects.	4.7	8.5	23.4	30.7	32.7	3.5	0.3
Average	5.9	7.9	23.0	32.2	31.0	3.3	2.3

The respondents agreed (33.2%) and strongly agreed (27.6%) that NGAO had strengthened the resolution of land inheritance cases, although some were undecided on this issue (26.2%) (MM

= 2.7, SSSS = 0.9). The participants also agreed (31.4%) and strongly agreed that NGAO had enhanced the awareness of land rights and land use based on the new constitution ($MM = 3.3$, $SSSS = 0.2$). On average, the participants agreed that NGAO had improved the accountability and transparency during the land transfer process ($MM = 3.5$, $SSSS = 0.5$). NGAO had also led to more families recording and documenting their wills as part of minimizing land wrangles ($MM = 3.4$, $SSSS = 0.5$). NGAO had also seen an enhancement in the compensation that people were receiving when the national government was using their land resources, mainly for infrastructure projects.

5.0 Conclusion

The participating residents agreed that administrative officers under the national government enhanced the resolution of land inheritance disputes 66% of the time ($M=3.2$). The offices made *wananchi* aware of their land rights brought more accountability to land inheritance issues, and motivated families to document their land inheritance activities. Based on the observations made herein, the study concludes that indeed, NGAO has helped in resolving the land inheritance conflict.

6.0 Recommendations

The policymakers might want to incentivize the role played by NGAO officers in promoting stability concerning land conflicts. While the study has shown that these officers play a pivotal role in counter conflicts related to land, it also showed that the officers are demotivated at times by the little incentives that come with the cumbersome and unending job. As such, policymakers might want to ensure that the officers receive incentives that could enhance the outcomes of their work. Second, there is a need to enhance the security of the officers in the line of duty. As such, policymakers might want to consider options that might achieve this security, which involves full-time police attachment as opposed to on-field security attachments.

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