Kenya experience in Land Reform: the 'million-acre settlement scheme'[1]

Karuti Kanyinga[2]

Introduction:

Recent years have witnessed increased interest in issues of access to and control of land in many countries in Sub-Saharan Africa. The subject of land reforms is being debated with unprecedented interest and vigour. In some instances, the subject of land reforms has become the main event around which social-political and economic issues revolve. The reasons for this include the fact that economies of many countries in the sub-continent depend on agriculture and therefore issues around access to and control of land questions are embedded in and interwoven into the entire socio-political and economic structures. In this context, land matters are not confined to the economic sphere; they are deeply ingrained into the social and political realms of the society.

At the centre of the current debate on land reforms in Kenya, are issues about redistribution of land, restitution and settlement of historical grievances. These are the issues that are at the core of the discourse of land reforms and have found their way into policy discussions as well as in the discussions on constitutional reforms. This paper discusses the political history of the land reforms in Kenya. The paper specifically discusses the land reforms from the early 1950s and the factors that occasioned the reforms. The discussion also focuses on land redistribution efforts – the One Million Acre Scheme - during the twilight years of the colonial period as well as the resettlement efforts carried out immediately after independence in 1963. The final part of the paper discusses the current land distribution issues in Kenya with specific reference to the on going land policy debate. Lessons learnt from the redistributive efforts are addressed within the concluding section of the paper.

It is noteworthy that Kenya's land question has roots in the colonial situation where events stemming from three distinct but interrelated processes shaped it (Okoth Ogendo, 1991; Wanjala, 1996). The first, from which others followed, was alienation and acquisition of land by the protectorate as a prelude to the establishment of a colonial state. The sequel to this was imposition of English property law and its acclamation of title and private property rights. This, together with other legislation introduced at the time, provided a juridical context for the appropriation of land that had already taken place and that which was to follow. Land tenure reform followed, and both deepened the land question and diversified its content. Combined, the three factors, aroused social conflict whose main manifestation was the peasant rebellion against the colonial administration. The Mau Mau peasant rebellion or revolt came to occupy an important part of Kenya's history and its roots causes and consequences continues to inform and shape the main political events in the country today.

The Colonial Land Reforms and the Mau Mau Peasant Rebellion

The land question in Kenya evolved from the processes via which the colonial state was forged (Sorresnson, 1965; Okoth-Ogendo, 1991). While a generally stable and flexible structure of access and control of land obtained in pre-colonial Kenya, the establishment of the colonial state at the beginning of the century twentieth century impacted on this structure in many ways. First the establishment of a capitalist development economy through a process that favoured colonial settlers laid the foundation for land problems. The colonial administration expropriated land for establishment of settlement schemes to settle new 'immigrants' on the assumption that they would develop the area and that gains from that development would go into financing the establishment of a railway line linking the Kenyan coast and Uganda (Sorrenson, 1965). The administration used a set of legal devices to alienate land, often through compulsory acquisitions, for the purpose of settlers.

To provide for a secure and stable land tenure for settlers, the administration used several legislative and judicial means. Land expropriation and alienation had to be based on law. A legal framework had to be established to promote further alienation and protect what the state had already acquired. But the legislative and the judicial means could not work without enforcement. A regime of force complemented these frameworks. Through force, the state subdued different communities opposed to land expropriation. In particular, the state introduced the Crown Lands legislation which underlined that the Crown had original title to land and that where Africans were vacated or deserted land, that land was considered waste. The land had to revert back to the Corwn to be given to the settlers (Okoth-Ogendo, 1991). The legislation also created the reserves for

'natives' and located them away from areas 'scheduled' for European settlement – the White Highlands. Creation of what Mamdani (1996) refers to as citizens (Settlers) and Subjects (natives) had begun in earnest. From the outset, therefore, the colonial administration introduced a dual system of land tenure and land administration. The White Highlands were scheduled for the white settlers; they were curved from high potential areas of what was now defined as 'Crown Lands' and African settled on them were moved away through different means. The Native Reserves, on the other hands, were in the periphery of the 'Scheduled areas' and mostly in the marginal and relatively non-productive areas which were not suitable for European settlement.

Although the settlers acquired land, they lacked labour and skills to utilise their farms. They had to secure a series of laws and administrative arrangements from the colonial administration to enable them acquire, directly and indirectly, African labour (Van Zwanenberg, 1975; Berman 1990). Enticed by wage labour opportunities and constrained by diminishing land frontiers around the reserves, many Africans trekked to the White Highlands where they remained without secure land rights - squatters. Mainly affected were the Kikuyu from Central Kenya. After land alienation, they had no frontier to absorb the growing population.

In the Native Reserves, there was general problem of congestion and absence of land to absorb the growing population. Size of land holdings continued to drop as families subdivided existing land holdings among family members. Productivity also reduced significantly owing to overuse and overgrazing. Furthermore, the colonial administration neglected African agriculture in favour of the settler one. This gradually resulted in political unrest (see below) and an economic crisis both of which could only be addressed by paying attention to the African's demands for more suitable land and for greater integration as producers in to the expanding cash economy. The reform

program was introduced in about 1956 to arrest both the political and economic crisis arising from land alienation, creation of native reserves, and imposition of laws to govern agricultural development and specifically to promote the settler agricultural economy.

Establishment of Native Reserves had an additional profound consequence. The reserves 'eroded the virtues of customary structure of access to land, for in the reserves individual families rather than clan or kinship evolved as an important medium of acquiring land' (Okoth-Ogendo, 1976; Bruce and Migot-Adhola, 1994). Relatedly, boundaries designed for the reserves made it impossible for people to acquire land rights elsewhere because they 'halted migrations into frontier lands thereby adding pressure to the land carrying capacity which the African customary tenure practice of out-migration easily addressed whenever there was a population increase or shortage of land' (Okoth-Ogendo, 1976). The effects of land alienation on the frontier were being felt in central Kenya where population density was high. This had put small land owning households in a vulnerable position which in turn started to trigger unofficial migrations to 'White Highlands' thereby adding to the mass of squatters (over 100, 000) who had settled on European farms and estates in the period between 1918 and 1928 during the first wave of displacement (Kitching, 1985).

In the meantime, colonial agronomists responded by introducing – through coercion – conservation measures in the Native Reserves. These were again no solution to the growing disaffection. Use of force in these measures became another source of consternation for the people in the reserves. Nonetheless, the problem of land had to be addressed to stop further spread of unrest. With this view in mind, the government came up with a 'Plan to Intensify the Development of African Agriculture in Kenya', which diagnosed the problem of agriculture in the reserves as one of system of land tenure. This plan, which came to be known as the Swynnerton Plan, named after the then

Assistant Director of Agriculture who designed it, pointed out that in the Reserves, the land tenure system was characterised by diffuse rights. Control was required to alter the form of collective control of land which obtained. The plan proposed institutionalisation of private property rights by giving individuals control of their individual holdings to make people busy in their holdings and by that prevent them from participating in the growing Mau Mau rebellion.

The above suggests that the first form of land redistribution in the country aimed at attending to the needs of the settler colonial economy. Land was alienated for the purpose of colonial settlers. This resulted in restructuring of relations among the Africans; they were confined in the native reserves and their frontiers foreclosed. The second form of reforms took place at the urging of colonial agronomists. The aim here again was not to provide Africans with better land or address their grievances. Change of land tenure system to private individual holdings introduced new dimensions in ownership of land. In the process, more African lost land. Communal relations were also restructured. The aim of this approach was essentially to undermine the social basis of peasant rebellion. It did not. It instead made the land problem a much more complex problem for the colonial administration.

The Mau Mau peasant rebellion

The colonial system of land ownership, sustained by laws that rigidly separated the settlers from Africans into strata of differentiated rights had one important outcome. It resulted in a racial structure of land ownership in which the Whites Highland was 'scheduled' for the settlers. The settlers had certain rights and privileges which the colonial administration introduced in order to interest them to the colony. The settlers were governed by modern statutory

institutions with complete separation of powers. They had the rights of 'citizens'. The natives in the Native Reserves, on the other hand, were confined to the reserves where they lacked secure individual land rights and where the customary law and practice ensued centralized forms of oppression. The judicial and the legislative framework differentiating the settlers' White Highlands from the natives' Native Reserves reflected in the structure of land ownership and distribution between the settlers and the natives.

The White Highlands for the settlers was equivalent to three Million hectares of which over have was high potential arable land suitable for cash crop farming – coffee, tea and sugar plantations. The rest was suited for large scale livestock farming and other purposes. There were over 3600 farms and land holding sizes ranged from 400 to over 800 hectares although in the pastoral half one could find holdings of more than 20,000 hectares. Estimates show that the White Highlands constituted about 21,000 of Kenya's 356,000 square-kilometre area (Leo, 1989) or about six percent of Kenya's land. This was not small considering that 68 per cent of Kenya's land is remote and unsuited for farming. This implies therefore that the Highlands – or 3600 farms and by implication families - occupied six per cent of the remaining 32 % of arable land. The remaining 26 per cent of the land was shared by about six million Africans.

The reserves occupied about 84,000 square kilometres. The quality of land varied considerably but there were some high potential areas. Each of the reserves or collection of land units was reserved for the use of a particular ethnic group. This laid a firm framework for ethnicization of the Kenyan society. The administration placed a firm social-political boundary between the reserves. By doing so, the administration succeeded preventing 'social-political' interactions between the reserves and therefore prevented inter-ethnic political relations. This had the effect of solidifying ethnic identities and creating huge social-political disparities

through negative discourses that the colonial administration propagated.

As already mentioned, land alienation and establishment of native reserves restructured the land tenure system. Another important consequence, however, was the creation of people without secure land rights – the squatters. The problem of tenure insecurity that the squatters faced in the White Highlands and disaffection in the reserves, combined, laid a firm foundation for the peasant uprising – the Mau Mau. In the first instance, the squatter system evolved as a framework for supporting settler economy by providing cheap labour. Pressure in the reserves occasioned mass migration into the highlands by people seeking wage labour as well as many others who were running away from the 'declining land carrying capacity' in the reserves. The majority of the squatters resident outside of the reserves were Kikuyu and their numbers continued to grow. Their numbers grew in tandem with a deepening of economic difficulties and a clear decline in their standards of living. They became more discontented and dissatisfied with the squatter arrangements. Their discontentment escalated into open revolt and in particular demonstrations in 1946 and 1947. By 1948, the name Mau Mau was receiving official mention as a 'politico-religious association' originating from the Kikuyu reserves and organised around the problem of land (Leo, 1989).

The Mau Mau peasant uprising thus evolved from both the squatter activities in the Highlands and from the natives in the reserves. Disaffection in both the reserves and the highlands laid the basis for the rapid spread of Mau Mau which was now organised as a Land Freedom Army. Although loosely organised, the group was opposed to the colonial administration and the evolving structure of land ownership. The group was organised around the bitterness of landlessness that was becoming the fate many Africans. They sought support by means of oathing. This helped to create a sense of common identity and destiny as well as shaping a collective image of the colonial

administration as the enemy and land redistribution as their ultimate goal. With a common vision, the Mau Mau sought to disrupt the colonial administrative structures. They targeted for elimination the administrators and African loyalists. The terror against colonial establishment spread rapidly throughout the white highlands and central Kenya. In October 1952, the colonial administration declared a state of emergency because by now Mau Mau was threatening to alter the existing structure of administration as well as land ownership. The emergency was meant to provide a framework through which the Mau Mau would be isolated from rest of the society. For several years between then and 1960 when the emergency was lifted, many Kikuyu were incarcerated while others lost their land rights in the reserves.

Mau Mau was clearly founded on a platform of land-hunger and demand for freedom. It was a land and freedom army. The peasantry, through Mau Mau, articulated demands for return of their land on one hand, and decolonisation on the other. It was both a grievance-based and democracy movement. As a movement, it articulated demands for restoration of property rights to Africans and restoration of their freedoms as well as establishment of a social justice framework through which the society would be governed. This demand for restoration of property rights (control of land) and enhancement of freedom continued to inform the thinking of Mau Mau adherents and those associated with them even after independence in 1963. Articulation of these demands thus became a threat to the new government which was bent on maintaining status quo in order to avoid altering the structure of the liberal economic set up. The new government thus kept the Mau Mau at bay and in the periphery of leadership. They were neither incorporated into the structure of leadership nor were compensated for their loss of land while they were in concentration camps. A policy to contain Mau Mau grievances over land appear to have been set into motion in the early 1960s when the government declined

to re-settle former Mau Mau war veterans. The government simply said '*hakuna cha bure*' (Kiswahili for nothing for free). Mau Mau remained a proscribed organisation for over forth years; from the colonial period until early 2003 when a new government lifted the ban on Mau Mau. Its activities were often declared unlawful and members prohibited from re-grouping and articulating their demands.

Towards Land Transfer: plans for redistribution

The Mau Mau peasant rebellion aimed at removing racial considerations in the structure of land ownership. Loss of land and land rights was at the heart of the rebellion. The colonial administration was aware that landlessness played an important role in the conflict. However, this lesson did not inform the design of subsequent land policies. Notably, in 1959 the administration formulated a new policy of removing racial barriers from regulations governing ownership of agricultural land and also undertook to promote land purchase by Africans. Arguably, the aim was to resolve the land question through an arrangement that favoured prosperous Africans.

This notwithstanding, at the time of transition to independence in 1963, the colonial government had agreed to a solution of the land question by establishing settlement schemes for both the landless and the prosperous Africans. The Land Development and Settlement Board (LDSB) was established to organise resettlement. But the colonial administration engineered solution to the land question without involving some of the main political parties and KANU in particular because of its position on the date of independence. The party preferred that the land question be shelved until independence was obtained. The administration moved first to establish the Board with token representation of

Africans. This gave the settlers and the administration, with the support of another African party by minority groups – KADU- a free hand to organise land redistribution efforts. Because of token representation, the settler community was given more voice in the board and the resettlement efforts that followed.

This first phase of resettlement during the transition involved acquiring land to settle about 1800 yeomen and 6000 peasants on 73000 hectares before 1963. The land selected for purchase would be valued at the 1959 prices and purchase would be on basis of willing buyer willing seller' negotiations between the Board and the prospective sellers. After take over by the Board, the would be subdivided into holdings for the yeomen and the peasants. The yeomen holdings would have about 20 hectares on average and the peasant ones about six hectares. It was hoped that the scheme would placate the Africans by providing opportunities to alter the structure of racial ownership of land and at the same time restore the settlers confidence by supporting the land market (Leo, 1989; Njonjo, 1977). The administration argued that the yeomen would be placed strategically proximate to the white settlers to learn farming techniques so as to become economically part of the highlands. However, the peasants would not be integrated into the large scale farming areas; they were placed on the periphery in the marginal areas. To the colonial administration, access to the settlement schemes would build their capacity to later accede to areas where Africans were initially not allowed to own land.

But the approach to independence caused fears among some settlers. Although they wanted to sell their land to the Board, the terms of purchase were not attractive. They became increasingly worried that a new government would renege on the terms or they would loose their land altogether. Negotiations with the Minster of Agriculture led to improved terms of purchase. While some accepted the new terms, others were still worried that introduction of small holder peasant

holdings and yeomen African farms in the neighbourhood of large scale farms was a threat to the settler economy. They wanted their social milieu maintained and preserved.

This first phase of settlement clearly did not address landlessness which shaped the Mau Mau peasant rebellion. The settlement schemes were being established in the twilight years of the colonial administration and therefore had all weaknesses of a system that was coming to an end. Significant also is that the settlers dominated the conception, planning and implementation phases of the programme and by that failed to address the main land question at the time – landlessness and squatting. Furthermore, the schemes appears to have been meant to address only the problems around racial structure of land ownership in the country. Programme therefore failed to address the concerns of peasantry and the Africans in general. These were the gaps that the One Million Acre Scheme was meant to fill.

The One Million Acre Settlement Scheme and re-Africanisation programme

The One Million Acre Scheme differed from the previous ones on account the One million acre schemes was designed to accommodate masses of landless families; it was not designed for relatively small number of carefully selected farmers. What such a scheme required therefore was huge financial support in terms of loans and grants. The World Bank, the British and West German Governments provided this assistance. In 1962, the colonial administration negotiated terms of the scheme on which there would be settled 35,000 families of smallholders – landless – and more than one million acres of largely high density settlement. This new scheme, established at a cost of sterling pounds twenty five million, was different from the other schemes because

it was more realistic in its approach to the land question. It was mean to benefit both the landless and the prosperous Africans.

The main features of the scheme included purchase of about one million acres of land, bought in large blocks located in the periphery of the reserves. About 80,000 hectares were to be bought each year for a period of five years. This was expected offer market for European settlers who wanted to sell their land. In order to attract the settlers to the purchase, the administration improved the terms of payment to make them generous and attractive. From July 1962, a new policy was introduced underlining full cash payment at the time of buying the land. The settlers had the right to choose where to be paid: London or Kenya. This feature thus brought with it benefits for the settlers than did the previous schemes.

Another remarkable feature of the scheme was its thrust into high density settlement. About 5000 peasants were to be accommodated on 73,000 hectares. The initial plans provided for sharing of this amount between the peasants and the yeomen or assisted farmers. As noted above, the total cost of the scheme was about £25 million of which £19.6 million was to support the high density settlement. These were organized into separate units or schemes with scores of individual plots. Planning took into account the income to be produced by individual plots. The cost for the plots in the schemes was based on the scheme's potential and calculation of what the crops could yield. The new settlers therefore assumed debts in the form of settlement charge which covered the costs of purchasing and administration of the settlement scheme. It is noteworthy that the plots in the schemes could only be purchased by individuals rather than groups of people; there was no place for collective enterprises such as cooperatives and land buying companies.

The government assumed control of the scheme after dissatisfaction with the Board's management of the previous schemes especially because of the high prices the Board offered for relatively less valuable land. The Board was eventually removed from the pivotal role of planning and implementation of the programme and the Ministry of Agriculture took the responsibility. In the meantime, the settlement scheme had its own bureaucracy. It had a four tier administrative structure. At the top of the structure was a Director of Settlement. Below this position was Area Settlement Controllers after which there were senior settlement officers. Below them were tens of settlement officers. At each of these levels, there was other seconded staff from the Ministry and relevant government departments including the Provincial Administration. The structure thus was designed for control particularly because of the huge land set aside for the scheme and the number of families that were to be settled. The control structure was meant to ensure success of the programme. The settlers were given sets of incentives to ensure economic success of the scheme. There were also sanctions for failure.

The scheme had an ethnic character; the scheme reflected the ethnic structure and geographical settlement pattern of the Kenyan society. And this stemmed from political negotiations that were taking place simultaneous with the design of the settlement schemes. In these negotiations, the dominant political party – KANU – having won the 1961 elections, began negotiations on regional government which the party agreed to in order quicken the pace for independence. The concession to have a regional government required drawing of regional boundaries and a Commission was set up for the purpose. In December 1962, the Commission tabled its report on which ethnic groups should be grouped together within the various regional boundaries. The report observed that the Masai preferred not to be together with the Kamba. The Meru also preferred to be separate from the Kikuyu. In the final report, therefore, the Commission recommended putting together the Kikuyu in Central Kenya and putting the Meru and Kamba together in the Eastern Region. The Masai were placed in Rift Valley

together with groups such as the Kalenjin sub-groups.

The settlement plan followed the new ethnic boundaries. Land purchased for settlement was meant to accommodate specific ethnic groups. The largest singly settlement area was excised from the Rift Valley to settle the Kikuyu who were had the largest number of squatters and land hungry people in the highlands and in their reserves. This strip of land was now included in Central Kenya although it was associated with Rift Valley throughout the colonial period. This in itself began to arouse ethnic animosity and tensions between the various groups in the Rift Valley who saw the Kikuyu as the main beneficiaries of the programme. The schemes thus laid a base for inter-ethnic conflicts which continued to erupt in the region even today.

The schemes continued to attract people's interest throughout the 1960s into the 1970s. There were several reasons for this. One, there was the myth of economic potential of large scale farms (the low density schemes). The salaried, business people as well as politicians saw the low density schemes as a means for accumulation of capital. The politicians in particular saw the schemes as providing opportunity to 'translate political influence into ownership of capital, by becoming a large farm owner' (Leys, 1975: 73-85). But there were still others interested in the schemes because those not many who had acquired them had paid. By 1970, the schemes had 44 per cent debt service in arrears. Total indebtedness was climbing out of reach of the ability of the small plots to pay (ibid). A re-evaluation of the scheme resulted in the government making gradual evictions; the government began to evict those who had not paid but the process was so gradual that it did not have the desired impact.

The foregoing discussion raises the need to examine the question of viability and achievement of the One Million Acre Settlement Scheme in Kenya's social political and economic sphere. From a social-political view point and bearing in mind that the settlement schemes were a response to political unrest and land hunger among the squatters, the schemes succeeded in containing the political unrest especially after the military defeat of the Mau Mau. Politically the schemes placated the African demands for altering the racial structure of land ownership by providing opportunities a new settlement pattern that provided for racial interaction in the Highlands. But the schemes did not address landlessness. The colonial administration favoured policies that explicitly created people without secure land rights so that they could support the colonial settler economy. The idea of the settlement scheme and its linkage to landlessness was coincidental. Both the high and the low density schemes for the yeomen were meant to provide incentives to contribute to the economic framework rather than resolve land hunger. The opening of the schemes created land rush which in turned opened the eyes of the administration to the problem of landlessness. As argued by Leo (1989: 122), 'the decision to settle landless people was a response to the threat implicit in that land rush'. The schemes were simply designed to control the landless (ibid). On the whole, the programme reduced political risks associated with land hunger. The squatters were provided with opportunities to own secure rights even though they were under pressure to produce enough for subsistence and for sale to repay the costs of their plots.

The schemes politically assuaged the Africans who were demanding alteration of the racial structure of land ownership. Access to the White Highlands and eventual control of land by the squatters, although limited and predicated on the ability to pay, minimised the rising political tensions over access and control to land. This of course meant new challenges for the post-colonial administration; the new government had to address, directly, the problem of landlessness which the colonial administration had simply touched on the surface. Getting deeper into this problem required the new government to redesign

settlement schemes. The new scheme now provided for group access to land through cooperatives and land buying companies. It is through such efforts that many landless got access to secure land rights.

From an economic point of view, the schemes were a success because they prevented the destruction of the colonial economic structure. The provided for economic stability during the transition to independence and ensured that the stability of the Kenyan economy remained unaltered. With provisions for both low density schemes for the emerging capitalist farmers as well as the salaried and the business people, the structure of the large scale farms was not interfered with in any significant manner. Even though the new black elites had no experience in large scale farming, their engagement in farming provided for continuity of the principle economic activities that were taking place during the domination of the European farmers. On the other hand, the high density schemes dominated by former landless and land hungry people residing in the reserves and/or already settled in the highlands, expanded small holder farming. Although the holdings were too small to support essential expenditure of the small holders, the income from the few crops they grew supplemented wage labour income. The new elites provided opportunities for wages as did the settlers. The high density schemes thus served an important social function: providing social stability of the society threatened by huge inequalities in land ownership.

Continuity rather than alteration of the structure of land ownership as well as maintaining the stability of the economy may be argued to have been the most important economic achievements of the schemes. But i is ironical that the exodus of the settlers opened opportunities for 'land redistribution' under the guise of settlement schemes. The reasons that led to land alienation to provide for settler economy turned out to inform alienation of land for the re-settlement of the landless who lost land rights through alienation to pave way for European settlers.

The schemes had certain important weaknesses too. The settlement schemes through the land purchase programme did not resolve land hunger neither did they considerably alter the land question. In the redistribution that followed, grants of large land holdings were dominated by politicians allied to the governing elites, bureaucrats and other men of influence. In Nakuru alone, in the late 1970s, there were 40 individually owned African farms with over 500 acres each and on mixed farm land (Hunt: 1984: 287-288; Bradshaw 1990: 1-28). In other cases the peasants in high density schemes were bought out by the urban elites who had the means to raise the required deposits (Harbeson, 1973). The result of the resettlement schemes ensued with relatively concentrated patterns of landownership (Njonjo: 1981: 39)

As already mentioned resettlement schemes provided grounds for further inter-ethnic conflicts. The conflicts had origins in the amount of land apportioned to the Kikuyu in the eastern part of the Rift Valley and elsewhere because they (Kikuyu) had been identified by the administration as the most land hungry and the most threatening group. Due to their wealth and numbers, in addition to the support they enjoyed from the government of President Kenyatta, a Kikuyu, they found their way into schemes meant for other ethnic groups. This caused tension which in turn erupted – and continues to do erupt – into violent conflicts between the Kikuyu and groups such as the Kalenjin settled in the Rift Valley.

Outcome of the settlement and re-Africanisation programme

The settlement scheme through the land purchase programme was expected to alter the racial structure of land ownership in the White Highlands. The government bought some of the European settler farmers and turned them over to those with ability to pay. In the course of time, the highlands purchase programme opened to group that could buy the farms and subdivide them among members. Some of the groups employed managers who would supervise farming on them on the understanding that members would share profits after sale of farm produce. Attempts to rehabilitate some of them failed partly due to growing demands for subdivision and individual titles and partly due to lack of funds (Kanyinga, 1998). Informal sub-divisions also impeded corporate farming against the government's wish to retain the existing structure of land holdings to avoid interfering with agricultural production. The government relented on this and relaxed its pressure against subdivisions after the International Labour Organisation (ILO) conducted a survey whose findings demonstrated the viability of small holdings as superior than large scale farmers in terms of efficiency of resource use, productivity per hectare and labour absorption (ILO, 1972). In general the land transfer programme resulted in the subdivision of the large farms into fragmented holdings. This increased the number of holdings. The number and size of large holdings did not change significantly after re-africanisation implying that the land that was available for establishment of settlement schemes for landless people was relatively small(Kanyinga, 1998: 200-206). .Much of it had been bought up by groups and/or new African elites.

An important outcome was also increased agricultural production especially of some of the principal crops particularly maize. The area of land under cultivation increased but underutilized farms increased as the process of re-africanisation and resettlement efforts continued. For instance, from a situation where about 17 per cent of total land was under cultivation in 1980, the area dropped to about 10 per cent in 1982. Only about 12 per cent was under cultivation in 1988 and 1989. This dropped further to 9 per cent but rose to 11 in 1992 and fluctuated between this and 9 per cent from 2000 to 2005.

In terms of outputs, the large farm lags behind the small farm sector. The share production of the small farms is above 68 per cent. Between 1974 and 1985 both sectors had an almost equal share of gross marketed production: the whole period was characterised by inter-annual variability and increasing yields. In 1974 the share of the large farms was about 49.4% i.e K, 73.4 millions out of K, 148.4 millions. This share fluctuated between 45% and 50% throughout the 70s and early 1980s. This obtained until 1986 when the share of the small sector fell by about 10% while that of the large sector increased by the same margin. The share contribution of the small farms gradually picked up and attained an all mark high of 68% in 1996. From then on, the share contribution of small firms continued to increase. The share contribution of small farms in terms of their sale of marketing boards stood been on increase. It increased to 73 per cent in 2004 (Statistical Abstracts 1974-192005).

This suggests that large farms remain underutilized. However, underutilization is increasingly depoliticized - officially, it remains depoliticized. The bureaucrats and senior politicians who own most of these huge tracts of land are generally reluctant to see this as a problem in the national context of the land question. Every time discussions on underutilization of such lands and the demands for ceilings on how much individuals should own is brought to public debate, the senior

bureaucrats and politicians are quick to point out that these are private properties established in line with the constitution. The implication of this is that only a comprehensive constitutional reform can seek to reform the skewed nature of the structure of land ownership in the country.

In the meantime, the existence of underutilized large farms proximate to land hungry small holders naturally arouses the expectations for resettlement and redistribution. Underutilization of these lands has been a point of common reference in debates on the land question in which some have called for acquisition of land and subsequent sub-division among the landless. Others have called for ceilings on the amount of land that individuals can hold. However, the government has been slow in establishing new settlement schemes of the size and momentum witnessed in the 1960s. Furthermore, every time radical proposals are made to resolve the land question, the government shoots down such proposals on the argument that such proposals cannot be implemented outside of a national land policy to direct future structure of land ownership. Radical proposals thus have continued to be made amidst increasing pressure on arable land. Debate on national land policy has also been ongoing for several years alongside the constitutional reform initiatives.

The current land questions: redistribution or concentration?

The resettlement schemes did not address the problem of landlessness. Although many families gained access to land through these schemes, we have noted that the land available for their resettlement was not adequate to resolve landlessness. It is also apparent that the government opted to maintain the existing structure of land ownership although it allowed markets to provide natural alterations.

Some alteration took place through subdivision of large farms acquired from European settlers by land buying cooperatives or companies. Sensibilities around land redistribution and the ethnic overtones it acquired over time led the government to put the programme under the carpet. This in itself reproduced several a complex dimensions that continue to make land distribution issues a complex political and legal matter. We now turn to some of these new dimensions of the land question and how they have affected issues of distribution.

One of these dimensions is use of land as for political patronage purposes. Subsequent post-colonial regimes turned to expropriating public land to reward loyal groups and individuals. This form of political patronage deepened in tandem with the declining capacity of the state to provide development since the mid 1980s. With dwindling political legitimacy, the state turned to rewarding loyalists by giving them land which they would in turn sell at inflated prices to public institutions. Political patronage rapidly gave rise to land grabbing of public land including land on which squatters were settled. Grabbing of public land meant reduction in amount of land that would have been used to settle the landless. Use of land to strengthen political patronage thus had the effect of ignoring landlessness and reduced attention on the settlement schemes altogether.

Second is the significant reduction of interest on settlement schemes as a means of addressing the land question. In many of the settlement schemes established after the One Million Acre Schemes, beneficiaries were often found to include people who were not bona fide members of the landless. Government officials took the opportunity to acquire more land while politicians saw the schemes as an opportunity of rewarding their own supporters. The schemes thus became an avenue for land concentration rather than a means for resolving landlessness.

Third has been ethnicization and subsequent politicization of the land

question. The ethnic structure of land ownership that followed the establishment of the One Million Acre Scheme, meant continued ethnicization of issues of land especially in multi-ethnic areas. The politics of this structure came to the fore with re-introduction of multi-party politics in the early 1990s when the ruling elites picked on the land question to mobilize ethnic support. Ethnicity and politics intertwined to shape the character of political transition from one party regime to multi-party democracy. The transition was marked by violent inter-ethnic conflicts over land in which many groups of the Kikuyu ethnic community were evicted from some of the settlement schemes in the Rift Valley.

The fourth flows from the above. The land question has been used increasingly to undermine the democratization process. Notably, the land question and its ethnic dimensions has continued to resurface during the periods leading to general elections and has remained a significant feature of the constitutional reform process for a long while. Inter-ethnic conflicts based on the land question continue to recur especially in different parts of the country. Some groups claim ownership of land in certain areas by invoking claims of first occupation during the pre-colonial period. They prefer eviction of groups that acceded to these areas through the settlement scheme programme of the government.

In addressing some of these challenges, the government agreed to a processes that would lead to a national land policy. The process towards a national land policy began through popular struggles in the 1990s. Civil society groups under the auspices of the Kenya Land Alliance and several social movements based in urban areas organized to articulate issues around land. In 1999 the government established a Commission of Inquiry into the Land Law Systems of Kenya ('Njonjo Commission'). The Commission recommended formulation and subsequent implementation of a national land policy. The government, in consultation with several stakeholders,

began a process to formulate the national land policy. The draft policy was produced in 2006. It recognizes people as owners of land. It provides for land redistribution, restitution, resettlement, alteration of structure of land ownership and taxation. The draft seeks to restore rights to those who lost their land rights through unfair government policies; it also seeks to settle the disadvantaged groups to ensure they have secure rights to land. The policy also underlines the need to establish a land bank for purposes of accessing land for the purpose of settling the landless.

The draft policy, however, was developed in anticipation of a new constitutional dispensation but the people rejected a new draft constitution of Kenya in a referendum in November 2005. The draft constitution did contain provisions reflecting the principles articulated in the draft national land policy but its rejection implies that implementation of the policy shall be done administratively awaiting a new constitutional dispensation. Although the process leading to a new constitution is ongoing, the provisions on the land question may not significantly change.

Conclusion

The land problem in Kenya has historical antecedents that reach the colonial situation. Expropriation of land and subsequent eviction of large groups of Africans from their land in order to create room for European settler economy laid a foundation for the land question in the country. Problems emanating from how the colonial administration responded to this problem as well as economic pressures and social difficulties that Africans faced in the reserves and in the 'scheduled' areas as squatters, led to Mau Mau peasant rebellion in the early 1950s.

The government designed settlement schemes to settle the Africans and therefore minimize political unrest. The design of the schemes, however, did not erode the basis for political unrest. Although the schemes were aimed at

improved incomes for the black Africans and general economic improvement, they failed to make any significant changes especially because of the numbers that got access to the schemes and the fact that the new elites who took over large farms had no experience in large scale farming. The schemes, however, altered the racial structure of land ownership. The redistribution efforts that followed through the land purchase programme from the early period of independence failed to reach the core of the land question. The settlement schemes were not sufficient in terms of addressing landlessness. The schemes nonetheless ensured economic stability throughout the period of transition from settler economy to African large scale farming. Again these schemes did not appease the radical and the militant groups. The majority of the people who were actually settled were far from being the absolutely landless - the people who had given the political impetus for the scheme. Some of the high density schemes were also located in the worst non productive areas in the former white Highlands where it was difficult for the poor peasants to scratch anything; the size of plots was also quite small compared to those in low density schemes located in high potential areas suited for easy farming of high priced cash crops and livestock.

Throughout the post-colonial period, there has been little interest in establishing large scale resettlement efforts. Land that would have been turned for resettlement of the landless was acquired by senior bureaucrats and influential politicians through the land purchase programme as well as through political patronage. Moreover, redistribution efforts became increasingly ethnicized and provided a base for inter-ethnic conflicts. There has been no radical agrarian and reforms. Both the constitution making process and the draft national land policy remain the only mechanisms through which a viable solution to the land question in Kenya will be found.

On the whole, the land redistribution efforts in Kenya have not adequately addressed the challenges of landlessness. There are many people without secure land rights and the phenomenon of landlessness is on increase. Through the resettlement efforts of the earlier period of independence, new political and economic elites acquired more land at the expense of the landless. The redistribution efforts resulted in concentration of land. Elites acquired more land while the poor continued to hold on to small patches of land that are insufficient even for subsistence farming. Large holdings are in the hands of new political and economic elites who acquired much of it through the markets and/or through political patronage.

There are several lessons learnt from the Kenyan experience. One, markets are not necessarily the most viable mechanism for redistributing land. The land purchase programme resulted in those who had the ability to pay, buying more land at the expense of the land hungry individuals. Markets results in skewed structure of land ownership and therefore do not address problems around issues of access and control of land. Second, landlessness is a political issues and therefore land redistribution efforts are always political; they require a political solution. The government has been addressing landlessness from an administrative and technical point of view but there are numerous competing interests around issues of land. These interests cannot be satisfied through administrative and technical procedures. They require political negotiations much of which can be addressed through policy considerations. This leads to the third point: that political interests should not override technical and administrative requirements for solution to land problems. Fourth, a clear policy on land redistribution is required in order to address the political and economic challenges around issues of land. Lack of a clear policy has meant shifts in ideas as well as interests in addressing the land question.

Select references

Bates, R. (1989) *Beyond the Miracle of the Market: The Political Economy of Agrarian Development in Kenya*. Cambridge: Cambridge University Press.

Berman, B. (1990) *Control and Crisis in Colonial Kenya: the Dialectic of Domination*, London: James Currey.

Bradshaw, Y. W. (1990) 'Perpetuating underdevelopment in Kenya: The Link between Agriculture, class, and state', *African Studies Review,* Vol. 33 (1):1-28.

Brett, E. A. (1973) *Colonialism and Underdevelopment in East Africa*, London: Heinmann.

Harbeson, J. W. (1973) *Nation Building in Kenya: The Role of Land Reform*. Evanston: North- Western European Press.

Kiamba, C.M. (1994) 'The Kenyan Experience with Changes in Land Tenure Systems and their Impact on Economic Development', Nairobi: College of Architecture and Engineering, University of Nairobi, Mimeo.

Leo, C., (1989) *Land and Class in Kenya,* Harare: Nehands.

Leys, C. (1975) *Underdevelopment in Kenya: The Political Economy of Neo-colonialism 1964- 1971,* London Heinmann.

Lonsdale, J. (1992) 'The Conquest State of Kenya, 1895-1905' in Berman, B.and Lonsdale, J (1992) *Unhappy Valley: Conflict in Kenya and Africa*. Book Two: *Violence and Ethnicity*. London: James Currey.

Low, D. A. (1965) "British East Africa: The Establishment of British Rule, 1895-1912, in Harlow, V., Chilver, E. M., and Smith, A. (Eds) History of East Africa. London: Oxford University Press.

Maloba, W. O. (1994) *Mau Mau and Kenya: An Analysis of a Peasant Revolt*. Bloomington: Indiana University Press.

Mamdani, M. (1996), Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism. Princeton: Princeton University Press.

Migot-Adhola, S. E and J. W. Bruce (1994) 'Are Indigenous African Tenure Systems Insecure,' in J. W. Bruce and S. E Migot-Adhola (eds) *Searching for Land Tenure Security in Africa*, Washington DC: The World Bank.

Njonjo, A,. (1978) 'The Africanisation of the White Highlands': A Study in Agrarian Class Struggles in Kenya, 1950-1974. Ph.D Dissertation, Princeton University.

Okoth-Ogendo, H.W.O (1976) "African Land Tenure Reform', Heyer, J., Maitha, J., and Senga, W. (eds) (1976) *Agricultural Development in Kenya*, Nairobi: Oxford University Press.

Okoth-Ogendo, W. H. O. (1979) 'Imposition of Property Law in Kenya' in B. Harrell-Bond and S. Burman (eds) *The Imposition of Law*, New York: Academic Press.

Okoth-Ogendo, W. H. O. (1981) 'Land Ownership and Land Distribution in Kenya's Large Farm Areas', in T. Killick (ed) Papers on the Kenyan Economy: Performance, Problems and Policies. London: Heinemann.

Okoth-Ogendo, W.H.O. (1991) *Tenants of the Crown*. Nairobi: ACTS Press.

Republic of Kenya (2007). The Draft National Land Policy. Ministry of Lands. National Land Policy Secretariat. Nairobi: Ministry of Lands

Sorrenson, M. P. K. (1965) Land Policy in Kenya 1895-1945 in Harlow, V. E., M. Chilver, and A. Smith, *History of East Africa* London: Oxford University Press.

Van Zwanenberg, R.M.A (1975) *Colonial Capitalism and Labour in Kenya*, Nairobi: East African Literature Bureau.

Wanjala, S. (1996) 'Recurrent Themes in Kenya's Land Reform Discourse since Independence' Paper presented in Eastern and Southern Africa Regional Conference on Experiences, Perspectives and Strategies on Land Reform and Land Rights in rural and Urban Settings, Johannesburg, June.