Kenyan Land Disputes in the context of Social Conflict Theory

By

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Kenyan Land Disputes in the context of Social Conflict Theory

The events after the disputed Presidential elections necessitates that we go back to basics and establish the theories of Kenyan Land disputes.

It’s been acknowledged from all quarters that the post election violence was not about elections but about land and more specifically disputed land-long standing and ongoing land disputes.
Kenyan Land Disputes in the context of Social Conflict Theory

The effect were;
- Civil strife
- Loss of lives
- Population displacement
- Destruction of property
- Depressed Land Market
Internally displaced persons Camp
Internally Displaced in a Camp
Why all these? What are the Underlying Factors? What explanation can Humanity offer?

i. Theory of Materialist Interpretation of History

ii. Theory of Dialectical Method of Analysis

iii. Theory of Political Program of Revolution
Why all these? What are the Underlying Factor? What explanation can Humanity offer?

i. Theory of Materialist Interpretation of History-It is not consciousness that determine existence but social existence that determines consciousness example-
The substantial and Procedural abuse of the legal systems and the existing land legislation.
There is no political existence without kinship backing. To ensure kinship backing, successive governments have been dishing public land to loyalists for land is the main means of generating income, accumulating wealth and transferring the wealth between successive political unit
Why all these? What are the Underlying Factor? What explanation can Humanity offer?

ii. Theory of Dialectical Method of Analysis

In view of the theory of dialectical method of analysis, any stages of history based on exploitative economic and political arrangements generate within itself the seeds of dispute.

Example-Land expropriation from the indigenous land owners by colonialists and the subsequent transfer of the same to Kenyan, elites gave forth a class of squatters and the slum’s urban poor. Thus the squatter problem at Kenyan Coast, the Pastoralist versus Ranch owner’s problem in Laikipia and the large Kenyan Slums
Why all these? What are the Underlying Factor? What explanation can Humanity offer?

iii. Theory of Political Program of Revolution - In the context of the theory of political program of revolution, political reform must be oriented towards socialism and not capitalism to avoid conflict in society. Thus;

- tenure-political evolution must ensure;
- The sanctity of the doctrine of public interest with respect to the traditional practices and legal systems.
Why all these? What are the Underlying Factor? What explanation can Humanity offer?

Ancestral sovereignty in rural settings and complete cultural integration in urban settings

Restrictions on the marketability of land rights i.e. broadening land access or forestalling reductions in access through restrictions of purchase by foreigners, ceilings on land ownership, preferential lease/buy rights etc
Why all these? What are the Underlying Factor? What explanation can Humanity offer?
Why all these? What are the Underlying Factor? What explanation can Humanity offer?

Tax regimes that ensure betterment for communal biased land holding and worsenment for individual biased land holding, i.e. Taxation regimes that impose a wider array of cost and benefits upon society at large than those borne by the individual land owners.
Why all these? What are the Underlying Factor? What explanation can Humanity offer?

This was never the case in Kenya. Instead;
Systematic discrediting of customary laws and judicial enactment of statutory laws
Haphazard legislation and institutionalisation of multiple and conflicting land statutes
Acquisition, ownership and administration of land and implementation of legal systems in sections of the country by coercion and not through democratic fixes or mutual agreements
Massive population displacement.
Forced settlements in non ancestral lands and thus Politicisation, regionalisation and ethnicization of land ownership
Institutionalisation of disparities and class wars in land ownership
Procedural and substantive abuse of existing land laws/legal systems, registration, transfer and conveyance procedures.
Corruption in administration and management of land and land issues
Why all these? What are the Underlying Factor? What explanation can Humanity offer?

Figure 1
Key Characteristics of Kenyan Land Ten Evolution and Their Contribution to Assert of Conflicting Claims on Land Ownership
Conclusion

The origin of Kenyan land disputes is historically traceable.

Kenyan land disputes are numerous and scattered within the conflict cycle. Potential resolution mechanisms’ complexities vary with the stage of the dispute cycle (figure1).
Conclusion

Resolution Mechanism (Simple) - Negotiation and Mediation

<table>
<thead>
<tr>
<th>No Dispute</th>
<th>Embryonic Land Dispute</th>
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Resolution Mechanism (Complex) - Legal Reforms

<table>
<thead>
<tr>
<th>Heated, Invisibly Deeply Rooted Land Dispute</th>
<th>Open, visibly loosely rooted Land Dispute</th>
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<tr>
<td>1</td>
<td>2</td>
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<td>3</td>
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Resolution Mechanism (Very complex) - nullification of titles, resettlement of communities and Land redistribution