



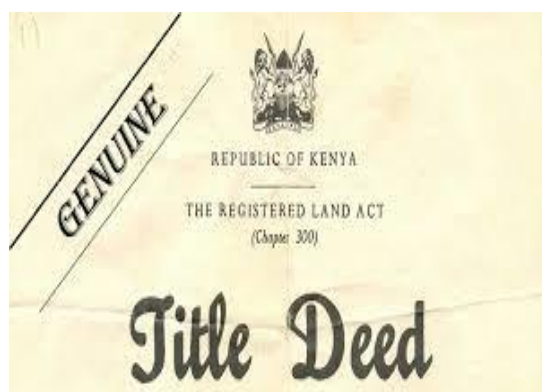
NATIONAL CRIME RESEARCH CENTRE

Fighting Crime through Research



BASELINE SURVEY ON LAND-RELATED CRIMES IN KENYA

SUMMARY OF FINDINGS AND RECOMMENDATIONS



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FOREWORD

Land is an important natural resource and heavily regarded as an asset for social economic advancement but also a very highly emotive issue in Kenya. It is a critical factor in many areas of economic development and agricultural production. The land question has often become an emotive subject in the country that sometimes appears to threaten the security of the nation. In our country people still largely perceive land as wealth or means to it which has brought endless competition. As a result, individuals have acquired land illegally through falsification of title deeds, land grabbing, boundary alteration and illegal acquisition of public land amongst others crimes perpetrated by rogue individuals, land buying companies, land dealers, brokerage firms and real estate companies.

In this regard land-related crimes and offences can negatively impact on the country's mission to achieve the desired development agenda. It is worth to note that land is also an enabler in the government development plan of the Big Four Agenda which is access to affordable and decent housing, universal health care and food security. This study was commissioned to evaluate the prevalence and patterns of land-related crimes in Kenya. The report provides feedback from 1580 households and key informants in all the 33 counties of sample study.

The findings of this Baseline Survey on Land-related Crimes in Kenya established that the most prevalent Land-related crimes were: interfering with land boundaries and beacons, trespass, land fraud and or exploitation, forcible entry and land-related forgery. This study also found out that the main causes of land-related crimes were: greed by some land owners, depravity of mankind, land grabbing, delay in issuance of title deeds, fraudulent double/multiple land sales and land succession disputes. Some of the recommendations are that, the land and environment court of the Judiciary should commit to conclude the land-related cases already filed in court within a set time-frame, also duty bearer institutions on land matters should consider conducting aggressive public sensitization on land-related succession laws, land rights and land transactions procedures as a way of addressing some of the challenges in the land sub-sector.

I am delighted to present this report and I call on all the stakeholders and general public to support any concerted efforts to fight or eliminate land-related crimes and put the country in trajectory path for economic prosperity. Finally, it is my sincere hope that the findings and recommendations of the report will inform the reform agenda on land in Kenya.

**GOVERNING COUNCIL
NATIONAL CRIME RESEARCH CENTRE**

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The Centre equally recognizes the members of Governing Council under the Chairmanship of Attorney General of the Republic of Kenya, Hon. Justice (Rtd) Paul Kihara Kariuki for their commitment in policy guidance and operations support for the Centre and specifically thank the Research and Development Committee for their utmost support from the conceptualization stage of this research proposal to the study conclusion. NCRC is grateful for the valuable technical support provided by the stakeholders during the preliminary consultative engagement prior to the commencement of the study. Also, our appreciation goes to the external resource persons that helped with data collection during the entire study period.

I wish to register my sincere appreciation to NCRC's Senior Research Officer Mr. Dickson Gitonga Njiru and Research Officer Mr. Joash K. Rono for writing the report. In no lesser means, special thanks also go to internal and external peer reviewers and editors who ensured that the data presentations were clear and spent valuable time to proofread the report. I must thank all coordinators, supervisors and research monitors for supporting the exercise to finality. Finally, the Centre is grateful to all the respondents who took part in the study, all state officials including the National and County Government officials for their continued support.

**DIRECTOR/CEO
NATIONAL CRIME RESAERCH CENTRE**

SUMMARY OF FINDINGS AND RECOMMENDATIONS

1.0 Introduction

Land-related crimes have become a prevalent occurrence in Kenya today with far-reaching socio-economic (including emotional and psychological) and political ramifications within families, the community and the country at large. For instance, these crimes have contributed to injuries, loss of lives and property and in some cases hindered the smooth implementation of critical development projects and activities essential for the economic prosperity of the country. These land-related crimes are a serious threat to the realization of the country's Vision 2030 in general and the current government "Big Four" Agenda of food security, accessible and affordable housing, universal healthcare, and manufacturing.

The general objective of this study was to explore the dynamics of the problem of land-related crimes and offences which have persisted over time in Kenya. The study-specific objectives were to: ascertain the forms of land-related crimes in Kenya; explore the extent of victimization on land-related crimes; establish the causes of land-related crimes; identify the perpetrators of land-related crimes and their mode of operation; determine the consequences and impact of land-related crimes; evaluate the existing interventions for addressing land-related crimes; and explore the challenges encountered in addressing land-related crimes in the country.

This study applied crime opportunity theory, social disorganization theory, and social conflict theory. These theories provided a fundamental theoretical framework upon which this study's overall methodology was based. The study design was a cross-sectional survey that involved the integration of qualitative and quantitative approaches. The preference for a cross-sectional study design was that it would provide a snapshot of the land-related crimes at a given point in time and the coping mechanisms.

The study interviewed 1580 sample respondents who were systematically and randomly selected in 33 counties. In addition, 13 focus group discussions were held as well as key informant interviews. A standard structured closed and opened-ended interview schedule was used to collect primary data. The study also utilized a key informant guide which was administered to key government agencies as well as non-state actors in the lands sector.

1.1 Summary of Major Findings

1.1.1 Forms of Land-related Crimes

The study established that the most prevalent types of land-related crimes were: interfering with land boundaries and beacons (63.3%), trespass (31.1%), land fraud and or exploitation (30.7%), forcible entry (29.5%) and land-related forgery (24.3%).

1.1.2 Extent of victimization on land-related crimes

The study established that majority of the respondents had been victims of interfering with boundary marks/beacon (57.5%), forcible entry/ land grabbing (22.7%), trespass (20.7%) and land fraud (17.5%).

The study also established that majority (59.3%) of the respondents, after experiencing land-related crimes, reported to National Government Administration Offices, 27.1% reported to local elders for mediation, court arbitration (22.2%), the police (21.9%), the land registry (19.1%), family mediation (14.8%) and land buying companies (12.3%).

1.1.3 Causes of Land-related Crimes

The major causes of land-related crimes were: greed by some land owners (47.4%), depravity of mankind (42.5%), land grabbing (33.3%), delay in issuance of title deeds (33.0%), fraudulent double/multiple land sales (31.1%) and land succession disputes (31.1%).

1.1.4 Perpetrators of land-related crimes

The main perpetrators of land-related crimes were reported to be land brokers or cartels (41.4%), conceited family members (39.7%), neighbor's (35.1%), National Government Administrative Officers (23.3%), corrupt land buying companies officials (21.9%), Department of Land and National Land Commission (20.7%), unemployed youth (15.2%), land developers (12.9%), self-serving political leaders (10.2%) and corrupt advocates (10.1%).

The study also found out that the “modus operandi” of the perpetrators involved: double allocation (36.5%), removal of land beacons (31.5%), trespass on private land (31.0%), collusion with public officials (25.4%), forging of land documents (23.2%), alteration of lands maps/boundaries (22.0%) and conspiracy to defraud (21.0%).

1.1.5 Consequences of land-related crimes

Land-related crimes were reported to mainly lead to: increased poverty (48.0%), family disharmony (47.2%), loss of life (44.3%), infliction of injuries (31.9%), evictions/displacement of people (30.6%), animosity between communities (22.3%), food insecurity (20.2%) and land-related domestic violence issues (20.0%).

The economic consequences of land-related crimes included: loss of livelihoods (51.2%), damaging of property (45.2%), prolonged cases in courts and time wastage (40.4%), destruction of crops (33.9%) and unutilized land or idle lands (20.4%). The economic consequences of land-related crimes were also measured in terms of monetary income lost by the respondents. The results of the findings were as follows: below Kshs. 100,000 (26.2%), between Kshs 100,001 – 500,000 (33.6%), Kshs. 500,001-1,000,000 (16.3%) and above Kshs. 1 million (24.5%). In terms of the value of the general economic loss, respondents had lost as follows: above Kshs 1 million (37.5%); Kshs. 100,001-500,000 (28.8%), below Kshs. 100,000 (20.4%) and Kshs. 500,001- 1,000,000 (13.3%).

The major political consequences of land-related crimes were: communal/family disharmony (58.1%), politically instigated evictions/displacements (44.7%), politically instigated squatting (28.5%), and land-related electoral violence and conflicts (18.8%).

The major environmental consequences of land-related crimes were land degradation (77.2%) and environmental pollution (46.4%).

The study established that the majority (65.5%) of the respondents had unresolved land issues, the main ones being: pending land ownership disputes (41.4 %); land succession (27.3%); land transfers (25.7%); and land matters in court/Council of Elders (22.2%).

1.1.6 Existing interventions for addressing land-related crimes in Kenya

The study established that the existing interventions to address land related-crimes by aggrieved parties included: victims of land-related crimes reporting to National Government Administrative Offices (48.6%); reporting to the offices of the State Department of Lands (45.0%), Land Control Board(s) (28.0%), private land buying companies (26.9%) and private surveyor's offices (24.6%).

With regard to how to resolve land-related crimes, Alternative Dispute Resolution in terms of land dispute arbitration/mediation/negotiation was the most preferred (80.1%) followed by court/penal processes, that is, instituting civil suits (51.3%).

With regard to the effectiveness of duty bearer institutions in the prevention of land-related crimes, most (43.2%) of the respondents perceived the institutions as ineffective whereas 36.6% maintained that the institutions were effective. Specific institutions were rated as follows in terms of how effective they were in the prevention of land-related crimes: Council of Elders (65.8%); family (56.4%); National Government Administrative Offices (51.2%); Judiciary (39.9%); Religious institutions especially the Church (29.9%); State Department for Lands (29.7%); National Police Service (25.2%); National Land Commission (24.2%); Office of the Director of Public Prosecutions (20.4%); Community Based Organizations (15.4%); Office of the Member of the National Assembly (11.7%); and Land Buying Companies (7.1%).

1.1.7 Challenges in Addressing Land-related Crimes

The major challenges faced in addressing land-related crimes were: culture of corruption (67.1%); high cost of processing land documents (37.6%); lack of awareness on land rights (33.8%); delay of land ownership matters in courts (33.2%); and lack of transparency in land-related matters (32.3%); corrupt land dealers/cartels/companies (27.4%); extreme poverty in some communities (25.1%); difficulties in accessing land-related services (25.0%); illiteracy (24.6%); and unregistered land/ lack of proper documents (20.6%).

1.2 Policy Recommendations

The following recommendations are made.

1. The Ministry of Lands and Physical Planning (MoLPP) should initiate a process of boundary alignments and develop a systematic program to geo-reference boundaries across the country. This can be achieved through the allocation of more resources to Surveys of Kenya. From the study, boundaries and beacon alteration was the most prevalent type of land-related crimes. The government through MoLPP should enhance the efforts of issuance of title deeds to all demarcated lands and roll out mechanisms to conduct land adjudication for non-demarcated land throughout the Republic of Kenya.
2. The Ministry of Interior and Co-ordination of National Government and Office of the Director of Public Prosecutions (ODPP) to work closely in identifying the perpetrators of land-related crimes, conduct arrests and prosecute them regardless of their social status and dismantle the networks of land brokers and cartels. This may require deploying officers from the Directorate of Criminal Investigation (DCI) with a specialty in land issues in all land registries in the country.

Further, Ethics and Anti-Corruption Commission should conduct a lifestyle audit for all public officials in Ministry of lands and National Lands Commission offices.

3. The Ministry of Lands and Physical Planning to expedite the process of digitization of land registries in all the 47 counties and also the operationalization of the National Land Information Management System (NLIMS) in all counties in Kenya. Additionally, NLIMS platform should be customer friendly and transparent for easier tracking of all processes of land conveyancing that involve land administration and registration, land surveying, valuation, and physical and land use planning. The system should also be integrated with other government systems available on the e-citizen platform.
4. There is a need for upgrading the security features and security labels on title deeds by the Ministry of Lands and Physical Planning. This would make it difficult to forge/counterfeit a title deed.
5. The Environment and Land Court to expeditiously conclude land-related cases in court within a set time frame, to address delays. The court and the government should encourage the public to use Alternative Dispute Resolution Mechanisms (ADR) such as community elders, court arbitration, and NGAO which the study established to have a good level of success in the handling of the land disputes. There should be capacity building of these ADR institutions with regard to land laws, land rights, and conflict resolution skills to enable them to conduct this service effectively and efficiently.

6. The Law Society of Kenya should be tasked to regularly update its databases for suspended or blacklisted advocates with land-related cases.
7. The Ministry of Lands and Physical Planning should adopt multi-agency/sector collaboration of land stakeholders in addressing land-related crimes and challenges. In particular, the government should come up with necessary measures to deal comprehensively with corruption in the land sector and colluding public officials in land transactions.
8. The Ministry of Interior and Co-ordination of National Government and the Ministry of Lands and Physical Planning should consider conducting public sensitization on land-related succession laws, land rights, and land transactions processing, how to carry out due diligence when buying or selling land. This will help minimize cases of forgery of land documents, and swindling of land owners or buyers while improving community awareness of land rights. The process can be spearheaded by County Commissioners and line officers.
9. The government should review existing laws to institute severe punishment for perpetrators of land-related crimes. This will help eliminate or minimize issues of fraudulent double/multiple land sales, land grabbing and greed by some land owners, and forcible entry/eviction of less privileged citizens from their genuinely owned land.
10. The government through the Ministry of Lands and Physical Planning to fast-track the issuance of title deeds to all public land in the country and where the application of renewal of lease has been made, proper vetting of the applicant should be done to avoid swindling the original beneficiary.
11. The Ministry of Lands and Physical Planning should review the Estate Agents Act, 1984 Cap 533 Laws of Kenya to ensure that there is strict regulation and punishment of Estate Agents who arrange to defraud through the sale, renting, or management of homes, lands, and buildings. Such regulations will ensure vetting; an investment guarantee fund is deposited with the Estate Agents Registration Board as a regulator before such firms are allowed to go public with land and or property sales, including advertising.