

Land and Societies in Coastal Kenya, 1908-1933

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INTRODUCTION

Before the colonial period, the coastal areas of Kenya were part of the Sultan of Zanzibar's dominions. The region became more important, economically and politically, after Sultan Sayyid Said bin Sultan (1806-1856) transferred the capital of his sultanate from Musqat (in Oman) to the island of Zanzibar in 1841. The relationship between the Sultanate of Zanzibar and the people living along the coast was, however, only vaguely defined. As Pouwels points out, the authority of Zanzibar depended very much upon the personality of the sultan.¹ This system of government required the sultan "to be a master of compromise, procrastination, and conciliation" to govern his dominions effectively.²

Zanzibar's control over the coastal areas of Kenya varied from one place to another, according to the importance of internal political and economic factors. As Nicholls observes, this was accentuated further by the differences between the towns prior to rule from Zanzibar.³ In the early decades of the nineteenth century (1828-1837), Mombasa was administered under the Mazrui dynasty. The Mazrui families in Mombasa rejected Sayyid Said's appointment as Sultan of Oman and his strategies to extend his power over the East Africa coast. Mazrui attempts to protect Mombasa's independence culminated in their defeat

at the hands of Sayyid Said in 1837.⁴ Eventually, Mombasa emerged as one of the major centers of trade on the coast of East Africa after the Sultanate of Zanzibar lamented its influence.⁵ In the Lamu archipelago, the nature of Zanzibar's rule differed slightly from that in Mombasa. Despite the introduction of Zanzibar's *Liwali* (Governor) in 1813, the influence of Zanzibar's Sultanate in the archipelago of Lamu was not as substantial as in Mombasa. The political instability in Lamu's archipelago during the nineteenth century contributed to the limited power of the Sultan of Zanzibar. In the early decades of the nineteenth century, there had been three independent city-states in the archipelago, namely Pate, Lamu and Siyu. Each competed with the others in trade and politics, trying to be the major city-state.⁶

Zanzibar's rule in Malindi during the nineteenth century differed, yet again, from that in both Mombasa and Lamu. During the period of Portuguese rule, Malindi had been one of the major ports along the East African coast but its prosperity subsequently declined. It was not until the 1850s that Malindi redeveloped under Zanzibar's rule. Sometime toward the end of the 1854, the Sultan of Zanzibar sent 50 Arab settlers, 150 Baluchis soldiers and 1,000 slaves to rebuild and redevelop Malindi. The Sultan personally granted land in the area to the Arab settlers and supplied them with money to buy slaves from Musqat and Lamu. In 1870, Salim bin Khalfan Al-Busaidi was appointed as *Liwali* of Malindi. Zanzibar's rule in Malindi was more direct compared to other areas of the coast. In Malindi, Arabs (the Hadramis and Omanis) were the major ethnic groups.⁷ In administrative matters, despite the introduction of the *Liwalis* to represent the Sultan, Sultanate of Zanzibar nevertheless also recognised the power of the leaders of the local inhabitants along the coast.⁸

For the coastal societies, such as Swahili⁹ and Arab,¹⁰ they had their own land tenure laws, which were in part based on Islamic law or *Shari'a*. The Nyika¹¹ people also had their own laws, which were based on their own customs regarding land. The introduction of colonial land laws, particularly the Land Titles Ordinance of 1908 (L.T.O.) disregarded these previous laws and practices and created a new situation which affected not only the land issues but also the very nature of coastal society. The abolition of slavery in 1907 will also be examined in relation to the question of land because questions of labour directly affected the development of land.

Previous studies on the Kenyan coastal region have not covered the many important issues relating to land and coastal societies. A.I. Salim's *The Swahili*

Speaking Peoples of Kenya's Coast"¹² only concentrates on Arab and Swahili society during the colonial period. He opens a discussion on how the way of life of the Arab aristocracy was changed, showing that Arab influence was declining politically and economically at the beginning of the colonial period. Salim also analyses the changing lifestyle, custom and culture of the so-called Swahili people. Later, Cooper's book "*From Slaves to Squatters*"¹³ covered the issues of the ex-slaves and their ex-owners, concentrating on socio-economic development particularly after the abolition of slavery in 1907. Cooper brilliantly shows how the ex-slaves' and the ex-owners' lives were changed. In economic terms: landowners wanted to secure their land tenure, at the same time, the fact that the squatters who were actually cultivating that land were insecure and without legal land title brought coastal economic production into decline. "*From Slaves to Squatters*" is an excellent work on how the abolition of slavery changed coastal societies, showing how the landowners suffered and failed to prosper as planters and ex-slaves became squatters and legally landless.

Brantley's "*The Giriama and Colonial Resistance in Kenya*"¹⁴ has also failed to give attention to the importance of the land issues. Brantley succeeds in explaining how colonial policies disrupted the Giriama¹⁵ economy and how the Giriama continuously sustained their economic independence from the influence of colonialism. "*The Giriama and Colonial Resistance in Kenya*" shows how the British were unable to understand the African ruling system and production capabilities in the region. However, Brantley seems to deny the importance of the land issues in her discussion: she only touches upon land issues after the Giriama uprising.

Obviously, the coast of Kenya and development of its society still presents interesting issues for study: what happened when the colonial practices tried to modify the status quo to the colonial model? Who owned land and who used it? This article attempts to define what kind of problems were created by the colonial land laws and how these "new" problems affected the coastal identities and ethnicity, particularly after the abolition of slavery in 1907. The year 1933 is used as a time divider for the land problems in the coastal region of Kenya. The Kenya Land Commission of 1933 has been seen as a solution created by the colonial government for land problems in the coastal area.

COLONIAL LAND LAW: REASONS AND PURPOSES

The period of the British colonial administration in Kenya was a vital period that forever changed Kenya in general and the coast of Kenya in particular. The coastal region of Kenya was a "complex area" for the colonial government. The vaguely defined relationship between Kenya's coastal areas and the Sultan of Zanzibar was part of this complexity and it haunted the colonial administration during the colonial period. In addition, the land issues here were more complex compared with those in the upcountry areas of Kenya, such as the "White Highlands". The colonial administrative was faced with many particular problems at the coast.

The British East Africa Protectorate (which later became Kenya) was proclaimed at Mombasa on 1 July 1895.¹⁶ This proclamation brought a "new era" for the coastal inhabitants. Theoretically, the coastal areas remained under the sovereignty of the Sultan of Zanzibar and would be administrated by a new administration that will protect the former one. The British promised that Islam as a religion would be respected and all legal disputes with the "Natives" in this area would continue to be judged under the *Shari'a* Law.¹⁷ Initially, British Colonial administrators, such as Hardinge, strongly believed in and depended on the Arab aristocracy and wanted to use them more in administration work. However, in this early period of colonisation the role of the "man on the spot" was very important, and Hardinge's dream of harnessing the existing coastal aristocracy was buried by his successors. They did not share the same desires as him and showed no concern over the decline of the Arab aristocracy.¹⁸ The British desire to abolish slavery had had an enormous effect by the end of the 19th century and the influence of the Arab aristocracy was already declining, politically, and more importantly, economically.¹⁹ Gradually, the British Colonial administration rejected the former administration and personnel.

The system of government through Arab Officials has not been altogether successful [...], the District Officers have exercised more than usual personal supervision in administrative affairs, and the Arab officers have confined themselves more exclusively to the control of their countrymen, and this has resulted satisfactorily to all parties.²⁰

Obviously, the major land problems in the coastal areas depended on the definition of the boundaries. Problem of defining the accurate boundaries of the 10-mile zone²¹ was never solved during the colonial period. When the British

declared the Protectorate of Kenya in 1895, the British colonial administration recognised the Sultan of Zanzibar's sovereignty in the coastal areas: a narrow 10-mile coastal belt of land stretching from Kipini in the north to Tunghi Bay in the south.²² Theoretically, this area was under the domain of the Sultan of Zanzibar. In practice, while the previous system of administration and *Sbari'a* law were maintained by the colonial administration, the British colonial administration gradually administrated this area without consulting the Sultan of Zanzibar. From a legal perspective, the ambiguity of the 10-mile zone constantly "haunted" the colonial administration during the colonial period: even after 1921 when the rest of Kenya became a colony, this area was still maintained as Protectorate. In practice, the colonial administration never resolved the problem of defining the accurate boundaries of the 10-mile zone and there was no uniformity in the mapping of this zone. Therefore the colonial administration itself was confused about where the Protectorate ended and the Colony began.²³ This major problem eventually influenced other issues. A report on the Native land tenure in 1909 clearly realised this problem:

Inside the Ten Mile Zone, land tenure presents extraordinary difficulties owing to the conflict of Nyika and Mohammedan law and custom. The "Ten Mile Zone" is a general description which, like most generalisations, is not always accurate. The territory rented from the Zanzibar Government some- times passes and sometimes does not reach the ten mile limit.²⁴

Prior to 1895, there were three separate domains of law relating to land tenure, each of which overlapped, to some extent, with the others. For the Nyika, customary law regulated land disputes, while the coastal Muslim communities (Arab and Swahili) commonly called upon *Sbari'a* law, but also occasionally reverted to a system known as *mila*. *Mila* was a locally negotiated settlement of legal cases, a hybrid system that drew upon both *Sbari'a* law and Swahili customary law. It consists of an accumulation of non-Islamic values, rituals and customs that were absorbed, assimilated, and practiced by the local Muslims and varied from place to place. Some practices of *mila* clearly contradicted *Sbari'a* law. However, there was a provision in the *Sbari'a* which permitted customary practice or '*ada* among Muslims. This provision usually referred to and was used by the local '*ulama* to justify the practice of *mila* at the coast.²⁵

With these three bodies of overlapping law, the incoming colonial government was confronted by a highly complex situation.

The practice of land registration introduced by the Imperial British East Africa Company (IBEAC) in the last two decades of the 19th century added yet another dimension to land matters.²⁶ The uncertainties around land ownership practiced under *Shari'a* law and *mila* at the coast influenced the Company to introduce measures to increase the security of land ownership. In 1891, the IBEAC introduced a registration system to encourage the practice of systematic recording of land transactions at the coast. Land transactions, especially involving land in the areas of the major coastal towns such as Mombasa, Malindi and Lamu, were subsequently carried out under this system.²⁷ The transactions were recorded because the buyers or moneylenders, who were mainly Indians and the leading Arabs, insisted that the transactions be recorded for the security of the transaction.²⁸

However, the system of registration introduced only recorded very basic details, usually consisting of the name of the seller and the buyer and the price agreed, but no survey or proper measurement of the land was taken or recorded. In some transactions, the boundaries of the land were measured by adding measurements of adjoining owners. Under the supervision of British officials, the transactions were recorded on handwritten documents (known as *kbatt* among the locals), which summarised the transaction in Arabic. For the purposes of legality, the *Liwalis*, *Qadhis*, or *Mudirs* of the area had to witness, approve, and later endorse those documents. This system was only implemented in the main towns in the coastal region, predominantly Mombasa, Malindi and Lamu.

After the proclamation of the Protectorate, the dramatic rise and fall of the plantation slavery economy in the closing decades of the nineteenth century led many early colonial officials to believe that former plantation land was 'unoccupied' and 'waste land' and therefore free to be redeveloped for colonial purposes. This misunderstanding was to add yet another layer of complexity to the problem of land tenure along Kenya's coast. The government was determined to foster European investment in the coastal economy, and the perception that 'unoccupied' or 'waste land' was available for development gave impetus to many colonial schemes for commercial agriculture and settlement. The world rubber boom in the early twentieth century, together with the decline of the Arab plantation economy inevitably brought plantation speculators to the

coastal area of Kenya.²⁹ While certain companies and individuals were granted concessions and leases from the government, other Europeans privately purchased plantation lands from Arabs and Swahilis. In Malindi, between 1906 and 1911, Europeans purchased at least sixty-four plantations that previously belonged to Arabs and Swahilis.³⁰

These schemes, however, quickly encountered the reality of the claims and counter-claims to the lands as colonial development plans were frustrated by the assertion of African land rights. In some cases, large tracts of land granted to European planters on favourable terms were not only subsequently claimed by other owners, but had been occupied by African farmers. In 1907, at least twenty-three applications by Europeans around the area north of Mombasa and Malindi were withheld pending the investigation of the legal rights of Africans in those areas.³¹ In some cases, to avoid possible legal agitation, the government only granted a minimal amount of land, far less than required by the planters.³² This alerted the government to the difficulty of adjudicating land issues along the coast. By this time, the colonial administration was very aware that the uncertainty of land ownership and title jeopardized investment and development from prospective large-scale planters.³³ The colonial administration was afraid that European investors might have to face expensive law suits because of future land litigation. At worst, land concessions might be invalidated if Africans brought their cases to court because these claims were from people who had occupied those areas for centuries.³⁴ These worries were now causing delays to applications for land grants because the rights of Africans had to be adjudicated.

The need to define the extent of African rights was becoming apparent. Planters began to turn away from the coastal areas because they were offered no security of title.³⁵ The policy to encourage the establishment of European capital investment in the region was in jeopardy. Under these pressures, the government became less concerned with the validity of the land granted. The Crown Advocate summed up the situation in May 1908:

The insecurity of title to land on the coast does and will materially retard the economic development of the country if the difficulties that are now observed are not removed from the path. There is however no doubt that if they are removed great attraction will be held out to the profitable and secure investment of European capital and the Government will benefit

both in being able to utilise their own lands to the best advantage and in the general development of the country.⁵⁶

In reality, the colonial government needed land regulations that could be used as an instrument of control and a legal basis for their "economic model" of development. One of the major pillars in the colonial "economic model" to develop the coastal areas was labour. Despite an awareness that local Nyika were not interested in working on European plantations, senior officials still strongly believed this was not the case⁵⁷ and maintained that those Nyika and ex-slaves would be a perfect solution for the supply of labour at the coast.⁵⁸

LAND, LABOUR AND RESERVES

Regarding land legislation, since the proclamation of the Protectorate (1895) until the introduction of the L.T.O., there was no single specific and clear legislation was introduced. The system of Registration introduced by the IBEAC was adopted by the colonial administration and turned as The Registration of Document Ordinance of 1901 (R.D.O.). But, this Ordinance did not specifically covered land matter, it only related to registration of any document involved in transaction. Therefore, coastal areas, which had had no systematic registration of land, become a nightmare for the land market. Land transactions were recorded under the R.D.O., in the District Offices in the major coastal townships, but lands involved were never surveyed. The transactions were also conducted without proper legal ownership certificates or titles of land being admitted.⁵⁹

The speculative factor, particularly in the building of the railways and of potential plantation land, stimulated the land market. However, the sale of lands that had not been surveyed and without evidence of ownership, increased fraud and cheating in land transactions. The land sales by unauthorized people were increasing. The British colonial officials were concerned about this and afraid that such "unhealthy" activity would affect the future of land settlement.⁶⁰ However, the British colonial officials' strong prejudice can be seen in the way they viewed the land problems in this region: as an exploitation by one side of the others, i.e. the case of the Muslims exploiting the Nyika. Therefore, the Arab and Swahili were seen as a "deceiver" and the Nyika were portrayed as incapable of handling themselves. In addition, the Colonial officials thought that imple-

menting *Shari'a* law was not sufficient enough to sustain the situation. Therefore, the L.T.O. was promulgated by the colonial administration to "protect the innocent Nyika from being exploited".⁴¹

On the one hand, the L.T.O. was partly introduced to assist the Europeans in their processes to own land in the coast. On the other hand, the colonial government was desperate to secure land to encourage the establishment of European capital in that region.⁴² The growth of the coastal economy seemed dependent upon securing legal land tenure for European development. The colonial administration thought that an entire economic system for the coastal area had to be created to develop coastal societies into the colonial "economic model", similar to that in the upcountry areas.⁴³ It also required labour to work the land, but, because of their investigation into land rights, the authorities came to realise that they were also confronted with a labour problem. Most Africans did in fact have access to land, and, even among ex-slaves, it was difficult to find a landless element that might readily take to agrarian wage labour. Defining the limits of land ownership, and settling the legal and geographical boundaries of those areas to be reserved for the Nyika and ex-slaves settlements, therefore became a crucial factor in the creation of a labour market.⁴⁴

In reality, the colonial government needed land regulations that could be used as an instrument of control and a legal basis for their "economic model" of development. One of the major pillars in the colonial "economic model" to develop the coastal areas was labour. Despite an awareness that local Mijikenda were not interested in working on European plantations, senior officials still strongly believed this was not the case⁴⁵ and maintained that those Mijikenda and ex-slaves would be a perfect solution for the supply of labour at the coast.⁴⁶ In 1896, the Assistant Collector of Malindi complained that he could not get even 25 labourers from Malindi and Mambui to work on the construction of the Uganda Railway in Mombasa.⁴⁷ In some cases, despite being struck by famine, Mijikenda still did not turn up to work as wage labourers.⁴⁸ By 1907, as the local Mijikenda showed no interest in working on European plantations, planters asked the colonial government's permission to import indentured labour from India to fulfill labour requirements on their plantation.⁴⁹ European planters argued that only indentured labour from India could solve the problem of labour on the coast.⁵⁰

One of the main reasons forwarded by the planters for the shortage of labour was that Africans at the coast had too much of their own land to work on which made them less dependent on wages from European plantations.⁵¹ This made the government to introduce "closer administration" to make Africans participate more effectively in the government's "economic model" by creating Native Reserves. The creation of Native Reserves was seen as a means to "increase the severity of the struggle for existence and force the native tribes to develop more rapidly in the direction of civilization than they otherwise would if left alone."⁵² 'Civilization' in this sense simply meant turning Africans into wage labourers on European plantations. At the coast, officials were concerned about the absence of Reserves for Africans in that area. In 1907, the Secretary of Native Affairs, A.C. Hollis argued that "it is also time that the Africans living near the coast should have Reserves allotted to them."⁵³ The creation of Reserves was seen as means of transforming Mijikenda and ex-slaves from squatters with "illegal" land tenure within the 10-mile zone, to wage labourers for European plantations residing in Reserves.

In any case we [the government] shall have to allow the various tribes sufficient room to allow of their natural expansion under the Pax Britannia, though doubtless landlords and concession holders would be only too glad to encourage their settlement on their leaseholds, for the labour they would bring.⁵⁴

Eventhough Governor Girouard admitted in his report on 1912 that colonial administration in the coastal areas was "much out of hand",⁵⁵ the L.T.O. was introduced by the British colonial administration to solve the land and labour problems in the coastal areas on 30 November 1908. In addition, the Ordinance was formed to legalise the government measures to claim possession of what the colonial goverment saw as 'waste land' as Crown Land.⁵⁶ Under Section 17 of this Ordinance, it was clearly stated that all land with regard of this Ordinance that had no certificate of ownership should be deemed as Crown Land. The procedures and criteria used by the colonial administration under the L.T.O. were set to dismiss claims especially those submitted by the Nyika and ex-slaves.⁵⁷ In effect, landlessness was being created by the L.T.O. The problem of creating landlessness was recognised by the British colonial officials. British

colonial officials tried to settle the problem of the ex-slaves and Nyika's by the usual instrument: creating Reserve areas.⁵⁸

The L.T.O. assisted in the creation of Reserves in two ways. Firstly, it prevented people who were supposed to live in the Reserves from owning land. The special Land Court known as the Land Registration Court was established and was prohibited from dealing with any claims submitted by the Nyika (either Muslim or non-Muslim). Nonetheless, when the L.T.O. was implemented in Malindi areas in 1909, Mijikenda did submit land claims. The Arbitration Board, however, dismissed these claims. In the eyes of the Board, the Nyika claimants were only squatters on land owned by other people.⁵⁹ Secondly, the implementation of the L.T.O. should ensure that no individual claims could be entertained within the Reserves.⁶⁰ To facilitate these measures, the Land Court was instructed not to grant any titles within the area decreed by government to 'belong' to the Mijikenda. The provincial administration constantly reminded the district officials to monitor the work of the C.L.S. so that it would successfully carry out both of the above-mentioned measures.⁶¹

It is neither necessary nor advisable for members of the Nyika tribe to submit applications for ownership or interest in land within the boundaries of the Nyika district as the interest of the members of the tribe will be safeguarded by government and as soon as possible the area of their land will be gazetted as a Native Reserve.⁶²

MANIPULATION AND ABUSE: THE L.T.O. IN ACTION

In 1916, Nyika Native Reserve was officially gazetted. This huge Reserve was located within three administrative districts, namely Malindi, Kilifi and Mombasa. Under the Government Notice No. 394 of 1926, other Reserves were officially gazetted at the coast, such as the Pokomo Native Reserve and the Digo Native Reserves.⁶³ Reserves for ex-slaves and Muslim Nyika were also established at Tezo, Mavueni, Roka, Pumwani and South of Mtanganyiko. However, Africans gradually manipulated the existing Reserves to get more land. The Natives already living there admitted the squatters who occupied land neighbouring on the Reserves into these Reserves. They then claimed to the colonial officials that they had always been there and that the present inhabitants were their kin. Thus, they could trick the colonial officials into allocating more land to the reserve because their population was increasing.⁶⁴

However, the assumption that the Nyika, Arabs and Swahili i.e. the Twelve Tribes⁶⁵ were only harmed by the introduction of the Ordinance would be totally incorrect. Many Africans were actually took full advantage of the colonial administration's "misunderstanding" of the situation. Land sales by unauthorised people were increasing throughout the first decade of the implementation of the Ordinance.⁶⁶ The Nyika such as Digo, who converted to Islam, greedily claimed their lands to obtain legal ownership and later sold it to Indian or European buyers. However, according to the Nyika custom, land could not be sold by individuals, but when the Nyika became Muslim they claimed that they were no longer bound by that custom, and claimed that under the *Sbari'a* law they were permitted to sell their land individually.⁶⁷ While the Swahili also claimed land partly to sell it, the Arabs sold their land after receiving their land title legally in order to finance their extravagant lifestyles. Sheikh Abdullah Boke and Sheikh Mohammed Maawia admitted in their evidence before the Kenya Land Commission that land selling occurred among the Arabs partly because of their suffering due to the abolition of slavery.⁶⁸

In effect, the L.T.O. altered the distribution of land among the coastal societies. In practice, land distribution under the Ordinance benefitted only several groups of people: the collaborators. The Land Arbitration Board was formed to assist the implementation of the Ordinance and its Chairman was a European officer. However, the Deputy Chairman of the Land Arbitration Board, Sir Ali bin Salim, his father Salim bin Khalfan, and his brother Seif bin Salim (also a member of the Board) became the largest landholders in the coastal area,⁶⁹ an excellent example of the "fairness" of the L.T.O. The Ordinance clearly benefitted a certain group of people: literate group. In Mombasa for example, more expensive plots of land were owned by Asians and Europeans who left the smaller plots and lower value land to Swahili and Arab owners.⁷⁰ By the early 1920s, forty-one percent of the adjudicated plantation lands under this Ordinance had been bought by Indians.⁷¹

The complexity of coastal land tenure was therefore greatly exacerbated by the introduction of the Ordinance. Previously, disputes between individuals and social groups were solved reciprocally, but after 1908 claims to ownership of land were transformed into freehold titles, issued to individuals through the L.T.O.⁷² With the introduction of Ordinance, different interpretations of land laws and tenure emerged among the coastal societies. Generally, for the Natives such changes on the land tenure laws had an impact on existing systems of land

tenure and they began to evaluate the land they used. Increasingly, land disputes and legal battles emerged in court with the claimants and their opponents fighting for immediate use or gain of land.⁷³ The colonial laws contradicted the use of *Shari'a* law and other Native customs upon the land tenure. The Islamic Law of inheritance, for example, was a major problem faced by the colonial administrative. The Native customs regarding the Land such as no individual tenure also made the situation more complex. According to the Nyika customary law, land belong to God and not to individuals.

The coastal societies claimed land communally and individually under the L.T.O. The communal claimants usually used the historical argument that their predecessors who first cultivated those lands that they had claimed. For example, the Arabs of Lamu claimed large areas of land stating that for the past 200 years they had cultivated that land and had their *shambas* (farms) in it.⁷⁴ On the other hand, individual claims were usually based more on the contemporary evidence: they were living on that land and cultivating it. However, the natives who tried to exploit the situation and claimed more land than the actual one they occupied, did so by cultivating trees on that land and thus claimed that was their land, with the trees as proof. The Digo and Duruma people for example, used their moving villages and claimed each village and *shamba* that they stayed in and cultivated for those years as their land.⁷⁵

Normally land was claimed through inheritance but not because of current occupation and use of it. However, so many cases within the land claims in this Ordinance show that the land-owners actually lost contact with their land but still claimed it as their own and were given titles for it under this Ordinance. Land claims cases between 1912 and 1924 highlighted this situation and showed that land-owners sometimes lost virtually all contact with their land, leaving it to ex-slaves or the Nyika who wanted to cultivate and use it.⁷⁶ The *Shari'a* laws, which permitted the landowners to lend their land, complicated the situation all the more. The landowners lent their land to the natives for cultivation or building purposes, but legal security was never on the tenant's side: the tenancy was terminable at the will of the land-owners.⁷⁷ The ownership that was strongly emphasized by the colonial administration gradually undermined the reciprocity of the relationships within the coastal societies concerning land. Peoples who were in fact cultivating the lands were evicted by the new owner, after some time they were give some money as compensation for

leaving their land: a Indian who bought lands from Nine Tribes give Rs. 50 to the squatters.⁷⁸

In practice, the colonial administration through the L.T.O., recognised the landowners' right to that land, but not the right of the ex-slaves or Nyika who in fact cultivated and used the land.⁷⁹ The government feared that the squatters would acquire legal rights to the land they occupied. This would mean that the government intention to convert them into wage labourers would fail because they had their own land to work on. The Natives and ex-slaves were implicitly denied their rights to claim land. They had to provide a massive number of witnesses to support their claims, and decisions to strengthen the veracity of this evidence were left in the hands of certain local officers - usually Arab - who in fact were the owners of considerable land. If the claimants met these requirements, the final obstacle was usually a difficult one to surmount. They had to convince the Arbitration Board to grant them the land ownership titles.⁸⁰ The L.T.O. did not recognise the claims based on use of the land. It was the ex-slaves who suffered most from this. In Kisauni, only 13% of landholders were ex-slaves and the land in their possession only amounted to 3% of the entire Kisuani area.⁸¹

Colonial officials, through the Ordinance, also undermined previous Native elders' powers regarding the land issues. The elders of the Twelve Tribes, for example, continuously tried to reclaim their control over the land among the Swahili by claiming that land sales among the Swahili were illegal without their approval. Colonial officials denied this claim, partly to limit control of the elders over the land and partly to transfer this power and control over the land to benefit of the colonial government.⁸² In addition, the Colonial Officials claimed that the Swahili elders were using their position to sell the land for their own benefit and so making their own people landless.⁸³

The L.T.O. also created problems by making land disputes more complex. "Legal Pluralism" was created. Three types of law now co-existed, each having legitimacy in its own sphere; but they also overlapped with each other. Natives sometimes manipulated the existence of "Legal Pluralism" to their own advantage. Legal cases regarding the land dispute were increasing. Natives had multiple laws to choose from to pursue their claims. A classic example of the land dispute was that of the Jibana Tribe versus Abdurassool Alidina Vikram. In this case, on the one hand, the Jibana pursued their claim through their custom-based legal system law and succeeded. The Jibana Tribe claimed that the

land sold to Vikram by the Jibana as individuals was illegal because that was not their custom. Judge Hamilton decided that the land sales were illegal on that basis. The question is that the Jibana who sold their land were Muslims who thought they were bound by the *Shari'a* law, which permitted land sales.⁸⁴ On the other hand, the Judge's decision clearly undermined practiced *Shari'a* law and made the land tenure more complex and confused the Native to which laws they should follow.

The *Shari'a* law of inheritance also created some problems under the L.T.O. When a Muslim died, his decedents inherited his land. In many cases, the area of land was very small and had to be divided among them. Often land titles registration only registered one sole owner of this land. When the person whose name the land titles were in sold the land, despite their right stated in *Shari'a* law, they became landless and legally lost their land. When Said Simani died, his only living heir in Malindi was Hamis bin Said, the other heirs were living elsewhere. However, when Hamis died, 7 people inherited his land. Later, two of the heirs, Massor and Said, sold the land without approval of the other heirs.⁸⁵ This happened because Said's name was the only one registered under the Ordinance. His action contradicted existing *Shari'a* Laws practised by the Muslims of the Kenyan Coast, but it was legally approved under the Ordinance. The L.T.O. was not sufficiently comprehensive to cover all the issues regarding the land problems, and as a consequence of this weakness, landlessness was gradually created during the colonial period.

All this meant that because of these weaknesses, illegal land sales were still practised despite the existing laws and as the land problems became more complex, people were confused about which law they should follow: Native customs; *Shari'a*; or Colonial laws. This discussion showed that the land problems worsened, the L.T.O. did not benefit the natives and only served to make them landless. A few people controlled the land distributions, and the ex-slaves and the natives were still denied their rights to land.

LAND AND SLAVERY: THE ROLE OF THE L.T.O.

One of the main issues regarding land in the coastal areas was slavery. What had happened to the thousands of ex-slaves after the Abolition of Slavery Ordinance of 1907? Except from Cooper's "*From Slaves to Squatters*", none of the works mentioned above have discussed the development of the ex-slaves' society. After

the abolition of the slavery in 1907, the colonial government took a step forward by paying compensation to the slave-owners to free their slaves; by the end of the abolition measures in 1916; the number of slaves freed amounted to 7,683.⁸⁶ However, these numbers did not represent the real number of slaves on the Kenyan coast. Slaves had run away even before the abolition movements and those deserted slaves formed their own communities.⁸⁷ In fact, the slaveowners only freed those slaves who were the "troublemakers" and the aged, who were not important for them.⁸⁸ Furthermore, it was an insult to the slave-owners to be tried in front of their slaves during the emancipation hearings, these "unpleasant moments" stopped the slaveowners from coming forward to state the number of slaves they had.⁸⁹

It was thought by the Colonial administration that these ex-slaves would become wage labourers according to the colonial "economic model". However, this assumption was proved incorrect, because the majority of ex-slaves did not become wage labourers as had been predicted. The ex-slaves were still working and cultivating their lands that had been granted to them by their ex-owners when slavery was still enforced.⁹⁰ Similarly, the Nyika took the decision to resist the "tyranny of the clock and the contract" which subjected to them to the new economic model which was supported by the colonial administration.⁹¹ That why the colonial administration introduced the L.T.O., to push the ex-slaves from this "illegal" land tenure, and put them into the Reserves, and later turn them into wage labourers. However, the Nyika and the ex-slaves were not interested in staying and working on the reserves and began to search outside the reserves not for the work provided by the colonial economic but for land that they could work on.

The Tezo Reserve was formed in 1911 for the ex-slaves. However, the ex-slaves did not come to the reserve but chose to move from one land to another in order to escape from the enforced contracts imposed by the new planters.⁹² Furthermore, the colonial government did not support the ex-slaves trying to survive in their new world. When, the ex-slaves made an application for land security and demanded lands and *shambas* with proper legal security for their future, the colonial administration settled their application by providing them with the Tezo Settlement. The colonial officials considered this area as a suitable place for a settlement of ex-slaves.⁹³ When the Tezo reserve was formed, the colonial administration provided only Rs 3 a month per capita for the slaves to survive, despite the ex-slaves' lower economic income caused by the aboli-

tion of slavery.⁹⁴ The L.T.O. limited the access to land among the ex-slaves⁹⁵ In addition, each ex-slaves who settled in the Tezo settlement was charged Rs 1 for annual rent.⁹⁶ All these obstacles made the ex-slaves choose to stay outside the Tezo settlement and to be squatters on their ex-owners' lands. By 1915, only 56 slaves had settled and paid rent in the Tezo settlement and only 30 more were expected to take up their plots there.⁹⁷ Gradually, the lack of population and the abundance of space, which existed in the Tezo Reserve, invited the Nyika to settle and later cultivated in the area. The ex-slaves who wanted to forget their past had no objection to this "invasion" by the Nyika and actually integrated with them.⁹⁸

The L.T.O. hardly achieved its purpose partly because of the "complexity" of the land tenure in the coastal areas. In the coastal areas, because of the abolition of slavery in 1907, previous planters who later became landowners did not cultivate their land. The abolition of slavery paralysed the coastal plantation system that strongly depended on the slaves for its operation. Usually the landowners would permit their ex-slaves to stay and cultivate some plot of their land in return for taking care of it; sometimes rent would be collected from them.⁹⁹ In many cases the landowners did not remain in the same area. In other cases, such as in Malindi, the land was just left by the ex-planter (owners) and was later occupied by the Nyika (in this case Giriama) who migrated to and cultivated that area.¹⁰⁰

In Lamu, as Romero points out, the abolition of slavery had only a slight impact on the relationship between the ex-slaves and ex-owners.¹⁰¹ They actually stayed on their ex-owner's land and maintained a similar relationship as before. The ex-slaves in fact had little choice about staying on their ex-master's lands. In many cases, ex-slaves returned to their ex-owners' place because they preferred the previous social stratification and relationship in Lamu to the hardship that they faced in other areas.¹⁰² Religion was one of the reasons why the ex-slaves stayed. Their faith kept the ex-slaves tied and stills dependent on their ex-owners:

Most slaves learned parts of the Koran by rote, and were taught enough Muslim law to know that only masters had the right to free them. When the British had attempted emancipation in Lamu, they succeeded in freeing those who wanted to be free, or those whose owners were glad to part with them. Those who stayed on seemed also to be those who accepted the teaching of the Koran and the Sharia.¹⁰³

In fact, the ex-slaves mixed with the natives in that area in order to survive. In Lamu, the officials reported that the numbers of ex-slaves staying on were falling and estimated that this was because they had migrated to other areas or was "due to disease and to their natural inability to feud for themselves". The population of Bajun increased up by 25% at the same time.¹⁰⁴ The colonial officials failed to investigate how the Bajun population had increased except for saying that the Bajun were more energetic and an agriculturist tribe and the increase of numbers among them had occurred without any obvious evidence of migration.¹⁰⁵

In Malindi, the situation was different. Here ex-slaves mixed with the Giriama who had migrated to the abandoned land after the abolition of slavery. Many of the ex-slaves still remained and cultivated their ex-owners' lands.¹⁰⁶ The Giriama occupied the abandoned area particularly to the north of the Sabaki River and in the Malindi interior and worked together with the ex-slave community in economic production.¹⁰⁷ On the one hand, they were assimilated and, it is not an exaggeration to mention that the ex-slave became a native because of this economic co-operation. On the other hand, the Giriama production was increased because they had extra labour: ex-slaves. The ex-slaves used their advantages as ex-slaves to acquire a new identity i.e. to become Swahili or Nyika.¹⁰⁸

Despite religious differences, intermarriages between Mijikenda and ex-slaves took place. Mijikenda society also provided mechanism by which both men and women could be absorbed into Mijikenda kinship institutions.¹⁰⁹

The reciprocal relationship between ex-slaves and ex-owners was undermined by the L.T.O., which made the ex-slaves turn into Nyika for the access to lands. The Giriama and ex-slaves shared the same insecurity of land tenure and relationship with the landowners.¹¹⁰ The new generation of ex-slaves had a choice: either adopting and manipulating Islam, and using a Swahili idiom of their ex-owner, or becoming closely mixed with the Giriama. The latter was more accepted by ex-slaves.¹¹¹ The younger generation of ex-slaves gradually became independent from their former relationship with their ex-owners.¹¹²

The history of life together with their slaves provided ex-slave owners with an ideology that could be used to rationalize the basis of dependent relationships with ex-slaves, even though the power and most of the profit of those relationships had slipped away; and it gave ex-slaves a foothold based in the landlord's cultural and religious norms to assert their own rights to land and patronage.¹¹³

THE KENYA LAND COMMISSION: SOLVING WHOSE PROBLEMS?

In the 1930s, the colonial government tried to solve the land disputes in the Kenyan Coastal region through the Kenya Land Commission, appointed in 1932. However, its limited knowledge of coastal society and their land disputes limited the Kenya Land Commission's involvement to only dealing with certain aspects of the land disputes in that region.

We [the Kenya Land Commission] have not, fortunately, to deal with all the land problems of the Coast belt, but only with such as either fall directly within our terms of reference or which have to be reviewed because they might in some way affect or qualify our general recommendations.¹¹⁴

What the Kenya Land Commission attempted to achieve in the coastal areas was to create a better economic situation within the coastal society. They tried to do this by granting "sufficient" amounts of land particularly in the Reserves for the Native to work and cultivate. However, what the Kenya Land Commission did was not to settle the land dispute in that region, but rather to worsen it, and to the detriment of the future of the coast. The Kenya Land Commission saw the real land question disputes in the coastal area as beyond their terms of reference. In the coastal region, on the one hand, the Kenya Land Commission had little knowledge of how to solve the problems of the land disputes which occurred between the Natives. Furthermore, the Kenya Land Commission's main concern was to protect the European and private interests by defining the European land ownership: "one of the chief concerns of the Commission [Kenya Land Commission] was to be the entrenchment of special European land right". This was a rather curious task for a commission on African land rights.¹¹⁵

The Kenya Land Commission did succeed in solving the land disputes involving Europeans and Natives, such as the East Africa Estates Limited disputes with the Digo,¹¹⁶ and the Ramisi Sugar Company issues but it did not really

solve the land disputes among Natives in the Kenyan coastal region. In addition, the Kenya Land Commission had little interest in the coastal land problems "because of their special nature and the additional time it would have needed to examine them fully".¹¹⁷ On the other hand, the reason why the Kenya Land Commission decided that the coastal areas' land problems were "beyond their term of references" was because they realised that land problems in this region were very complex and they were not able to cope with them.

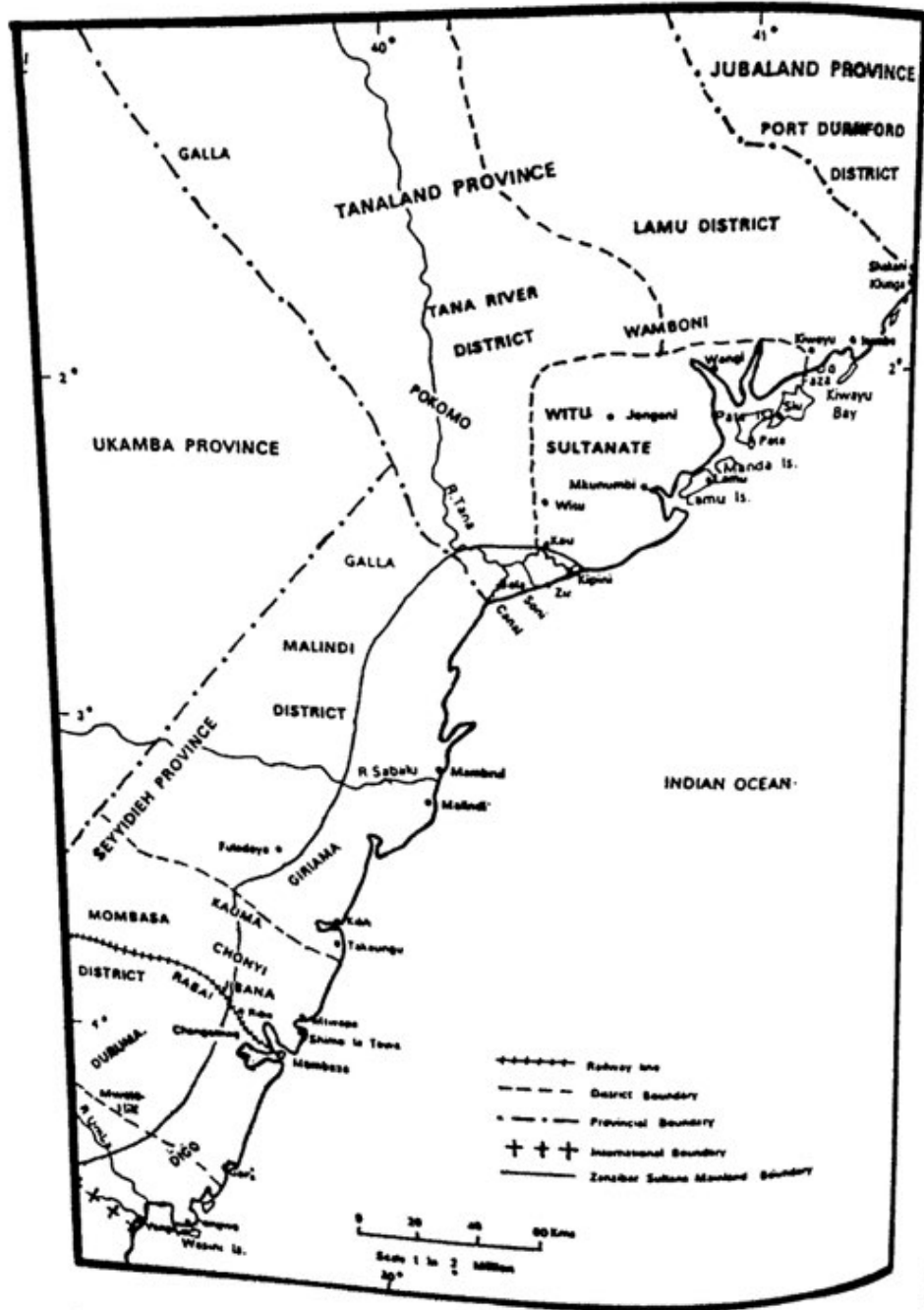
The Kenya Land Commission's failure to understand the "real" problems in the coastal areas of Kenya, especially those concerning land and identities came out because they only had a one-sided view of this region. Information about the Kenyan coastal region and the coastal society were only collected from local "collaborators", such as Sir Ali, and based on the colonial officials' evidences, but not from the lower-class or people who actually suffered because of these disputes about lands. Despite their limited knowledge of land disputes between Africans and their lack of expertise regarding these problems, the evidence submitted by the colonial officials had very important influences on the Kenya land Commission's decision.¹¹⁸ Sir Ali bin Salim was thought of by the colonial administration as the best person to assist them in understanding the coastal region.¹¹⁹ In fact, Sir Ali himself had personal interests in the coastal areas, especially land interests: he was one of the major landholders in the Kenyan coastal areas.¹²⁰

CONCLUSION

Land was a major factor in the changes that were experienced by the coastal societies in the coast of Kenya in the early decades of the 20th century. The changes in land tenure and land laws that were brought by the colonial administration slowly influenced the relationships between members of the coastal society and later gradually altered the coastal society completely. By the time of the proclamation of the Protectorate in 1895, the issue of land ownership at the coast was already deeply complex. With a lack of regulations and no defined legal or geographical boundaries, the government began to lease what it thought of as "waste" or "unoccupied" land to European planters, an action that invited conflicts. The Ordinance managed to secure individual title for some people, but others found themselves denied lands they thought they owned. All came to realize that the criteria used by the colonial government in adjudicating land

matters bore little relationship to local understandings of custom and rights. The most significant victim of the L.T.O. was the ex-slaves and Muslim Nyika. Their rights in individual land ownership had been taken away. Many, including ex-slaves, were rendered landless. This also created an unwelcome anomaly. While they did not own land legally, in practice they continued to occupy and cultivate land on the coast. Thus a new and enlarge category of agrarian squatters had been created.

East Africa Protectorate, administrative boundaries, 1912



Source: A. I. Salim, Speaking Peoples of Kenya's Coast (East African Publishing House, Nairobi, 1973).

NOTE

- 1 R.L. Pouwels, **Horn and Crescent: Cultural Change and Traditional Islam on the East African Coast** (Cambridge University Press, London, 1987), p. 108.
- 2 C.S. Nicholls, **Swahili Coast**, (George Allen & Unwin, London, 1971), pp. 270-73.
- 3 Nicholls, **Swahili Coast**, p. 295.
- 4 F.J. Berg, 'Mombasa Under the Busaidi Sultanate: The City and Its Hinterland in the Nineteenth Century' (Ph.D. Dissertation, University of Wisconsin, 1971), p. 76.
- 5 F. Cooper, **Plantation Slavery on the East Coast of Africa** (Yale University Press, New Haven, 1977), p. 98
- 6 At this time the Sultanate of Pate was the most powerful sultanate but there was a challenge from the people of Lamu for their own independent state, KNA(Nbl), IX/Lamu/3/1, Lamu PRB. Yvisaker, **Lamu in the Nineteenth Century: Land, Trade and Politics** (Boston University, Boston, 1979), pp. 66-7; Nicholls, **Swahili Coast**, pp. 59-65.
- 7 Cooper, **Plantation Slavery**, pp. 81-3; A.H.M. Abdul Sheriff, **Slaves, Spices & Ivory in Zanzibar** (James Currey, London, 1987), p. 16; see also E.B. Martin, **The History of Malindi** (East African Publishing House, Nairobi, 1973).
- 8 Berg, 'Mombasa Under the Busaidi', p. 31; Nicholls, **Swahili Coast**, pp. 309-310.
- 9 The Swahili people are the local inhabitants of the coast of Kenya. Generally, Swahili people are the product of the long contacts and intermarriages between the local Bantu (black Africans) with the outsiders, particularly from the Arabia, who migrated to the coast of East Africa. The long contact with the wider world distinguished Swahili culture and identity from their hinterland neighbours. Especially the important of Islam as the core of its culture. However, it is generally accepted today that the Swahili culture, customs and identity is mainly derived from the hinterland people. Currently, the identity of the Swahili is stills one of the hottest debates in African history, see J. D. V. Allen, **Swahili Origins: Swahili Culture & the Shungwaya Phenomenon** (James Currey, London, 1993); Al Amin M. Mazrui and Ibrahim Noor Shariff, **The Swahili: Idiom and Identity of an African People** (Africa World Press, New Jersey, 1994); J. Willis, **Mombasa, Swahili and the Making of the Mijikenda** (Clarendon University Press, Oxford, 1995); A.H.J. Prins, **The Swahili Speaking People of Zanzibar and the East African Coast** (International African Institut, London, 1961); W. Arens, 'The WaSwahili: The Social History of an Ethnic Group', **Africa**, Vol. XLV, (1975), pp. 426-437, C. M. Eastman, 'Who are the WaSwahili', **Africa**, VOL. XLC, No.3, (1971), pp. 228-236; A.I. Salim, 'Native' or 'Non-Native'? The problem of Identity and the Social Stratification of the Arab-Swahili of Kenya in B.A. Ogot (ed.), **Hadith 6: History of Social Change in East Africa** (Kenya Literature Bureau, Nairobi, 1975), pp. 65-85; A.I. Salim, 'The Elusive 'Mswahili' – Some reflection on his identity and Culture', in D. Parkin and J. Maw (eds.), **Swahili Language and Society** (Beitrage Zan Africanist, Band 23, 1984), pp. 215-228.
- 10 The Arabs had a very long contact with the areas of the coast of East Africa. The interaction between the people of the Arabia and the coast of East Africa became more important from the 7th and 8th century. However, with the mergence of the Sultanate of Zanzibar in the

middle of the 19th century, the role of the Arabs in the coastal societies changed and the Arabs were associated more with the ruling class especially the Omanis. See Allen, *Swahili Origin*, pp. 240-5; see also N. Chittick, 'Kilwa and the Arab Settlement of the East African Coast', *Journal of African History*, Vol. 4, No. 2, (1963) pp. 179-190.

- 11 The Nyika was also the local inhabitants of the coast. The Nyika was consisted of nine groups of people, namely the Giriama, Digo, Segeju, Jibana, Ribe, Rabai, Chonyi, Duruma and Kambe. At the end of 1940s, the term Nyika was replaced by 'Mijikenda' as a "descriptive terms" for peopole who share a common linguistic and cultural heritage", see T. Spear, **Kaya Complex: A History of the Mijikenda Peoples of the Kenya Coast to 1900** (Kenya Literature Bureau, Nairobi, 1978), p. 4; see also J. Wiliis, **Mombasa, Swahili and the Making of the Mijikenda** (Clarendon University Press, Oxford, 1995); However, the coast of Kenya was also home to other groups of Bantu-Speaking peoples such as, Segeju, Pokomo, Boni and Sanye. See A.H.J. Prins, **The Coastal Tribe of North Eastern Bantu** (International African Institute, London, 1952); T.H.R. Cashmore, 'Notes on the Chronology of the Wanika', **Tanganyika Notes and Records**, No. 57, (1961), pp. 153-172; A. Werner, 'The Bantu Coast Tribes of the East Africa Protectorate', **Journal of the Royal Anthropological Society**, Vol. 45, (1915), pp. 326-354.
- 12 A. I Salim, **The Swahili-Speaking Peoples of Kenya's Coast** (East African House Publishing, Nairobi, 1972).
- 13 F. Cooper, **From Slaves to Squatters** (Yale University Press, London, 1980).
- 14 C. Brantley, **The Giriama and Colonial Resistance in Kenya, 1800-1920** (University of California Press, London, 1981).
- 15 Giriama is one of the groups of people which consisted the Nyika.
- 16 The Report of the East Africa Protectorate, 1895-1896, Parliamentary Papers (PP), no. LX, 1898, by Sir. A. Hardinge, p.1.
- 17 G.H. Mungeam, **Kenya: Selected Historical Documents, 1884-1923** (East Africa Publishing House, Nairobi, 1978), p. 68.
- 18 G.H. Mungeam, **British Rule in Kenya, 1895-1912** (Clarendon Press, Oxford, 1966), p. 240-1.
- 19 Salim, **Swahili- Speaking Peoples**, pp. 75-99.
- 20 Seiyidie Province AR, 1915-16.
- 21 Please refer to map
- 22 Mungeam, **British Rule in Kenya**, p. 9.
- 23 Willis, **Mombasa, the Swahili**, p. 118.
- 24 **The Report of the Kenya Land Commission: Evidence and memorandum: Vol. III, [Here After K.L.C: E & R]** (London, HMSO, 1933), pp. 2500-2503.
- 25 Pouwels, **Horn and Crescent**, pp. 67-8; Trimmingham, **Islam in East Africa**, pp. 69, 149-158; J. Middleton, **The World of Swahili** (Yale University Press, London, 1992), p. 119.
- 26 In 1887, the Sultan of Zanzibae leased Mombasa to the British East Africa Company (BEAC). In 1888 the BEAC became the Imperial British East Africa Company (IBEAC). In 1895, IBEAC surrendered its claims on the areas at the coast and the British Protectorate

- was later proclaimed in the coastal region of Kenya. See, Willis, *Mombasa, the Swahili*, p. 47; see also Nicholls, *Swahili Coast*.
- 27 KNA(Nbi), PC/Coast/1/1/130, Principal of Registrar of Documents to Ag. P.C. Coast, 26 September 1907. To say that before the coming of the IBEAC there was no system of documentation of land transactions is highly contentious. In 1907, A.C. Hollis discovered two documents which referred to land in Mombasa localities sold by two Frenchmen to the *Liwali* of Mombasa in 1873 and 1874, see KNA(Msa), CY/1/2, Report on the Rights of the Africans at the Coast between the Tana River and Mombasa, by A.C. Hollis, 30 September 1907.
- 28 Prins, *Swahili Speaking Peoples*, pp. 63-4; Cooper, *Slaves to Squatters*, p. 193.
- 29 J. Forbes-Munro, 'British Rubber Companies in East Africa before the First World War', *Journal of African History*, Vol. 24, (1983), pp. 369-379.
- 30 KNA(Msa), CY/1/3, Land Officer (L.O.) to P.C. Coast, 9 April 1910; Cooper, *Slaves to Squatters*, pp. 203-205.
- 31 KNA(Msa) CY/1/2, C.O.L. to C.A., 15 November 1907; PCLO(Msa), file no. 335, P.C. Lamu to Ag. D.C. Kipini, 18 December 1909, Ag. P.C. Lamu to L.O., 25 July 1910, Ag. D.C. Kipini to Ag. P.C. Lamu, 1 July 1911. In Tana River the colonial government had to await the implementation of the L.T.O. to clarify the status of land there despite large numbers of applications for land submitted in that area.
- 32 For example, The Mombasa Trading and Development Company was only granted 1,000 acres, half of what they applied for, see KNA(Msa), CY/1/2, A.D.C. Malindi to Ag. P.C. Coast, 7 September 1907.
- 33 PRO, CO 533/33, Gov. (Sadler) to Secretary of State, 9 December 1907; East African Standard, 28 November 1907.
- 34 PRO, CO 879/99, Gov. (Sadler) to Secretary of State, 8 May 1908.
- 35 Report of the East Africa Protectorate, 1910-1911, PP, no. 55, 1912-1913, by E. P. Girourd, p. 21.
- 36 PRO, CO 533/44, Gov. (Sadler) to Secretary of State, 15 May 1908, enclosed a Memorandum by the C.A. explaining the objective, scope and reason of the L.T.O.; The Report for East Africa Protectorate, 1910-1911, PP, no. 55, 1912-1913, by E. P. Girourd, p. 55.
- 37 KNA(Nbi), PC/Coast/1/1/132, Shimoni HOR, by C.E. Spences, enclosed in P.C. Coast to Gov., 23 September 1908; PCLO(Msa), file no. 8117, Report by the Director of Agriculture on his safari on the areas between Mombasa and Vanga for the application of land by the East African Estates. He indicated that the local Mijikenda would not be interested in becoming wage labourers in the European plantations as they themselves were busy with their own cultivation; KNA(Nbi), PC/Coast/1/1/138, Minute Papers, D.C. Mombasa to Secretary of Africans Affairs, 17 July 1908.
- 38 KNA(Nbi), AG/1/437, Report on Slavery and Free Labour in the British East Africa Protectorate by W.J. Monson, 14 April 1908, enclosed in Gov. (Eliot) to Lansdowne (C.O.), 2 May 1903. For fully detailed studies of labour supply at the coast, see Cooper, *Slaves to Squatters* and Willis, *Mombasa, the Swahili*.
- 39 Willis, *Mombasa, the Swahili*, p. 119.

- 40 Seiyidie Province, AR 1912-13
- 41 Willis, *Mombasa, the Swahili*, pp. 119-20
- 42 Willis, *Mombasa, the Swahili*, pp. 122-3.
- 43 Cooper, *Slaves to Squatters*, p. 175.
- 44 See A. Clayton and D. Savage, *Government and Labour in Kenya, 1895-1963* (Cass, London, 1974); R. van Zwanenberg, *Colonial Capitalism and Labour in Kenya 1919-1939* (East African Literature Bureau, Nairobi, 1975).
- 45 KNA(Nbi), PC/Coast/1/1/132, Shimoni HOR, by C.E. Spences, enclosed in P.C. Coast to Gov., 23 September 1908; PCLO(Msa), file no. 8117, Report by the Director of Agriculture on his safari on the areas between Mombasa and Vanga for the application of land by the East African Estates. He indicated that the local Mijikenda would not be interested in becoming wage labourers in the European plantations as they themselves were busy with their own cultivation; KNA(Nbi), PC/Coast/1/1/138, Minute Papers, D.C. Mombasa to Secretary of Africans Affairs, 17 July 1908.
- 46 KNA(Nbi), AG/1/437, Report on Slavery and Free Labour in the British East Africa Protectorate by W.J. Monson, 14 April 1908, enclosed in Gov. (Eliot) to Lansdowne (C.O.), 2 May 1903. For fully detailed studies of labour supply at the coast, see Cooper, *Slaves to Squatters* and Willis, *Mombasa, the Swahili*.
- 47 KNA(Nbi), PC/Coast/1/1/21A, Ag. D.O. Malindi to Sub-Commissioner Mombasa, 14 August 1896.
- 48 KNA(Nbi), PC/Coast/1/1/21A, K. MacDougall (District Collector of Malindi) to Sub-Commissioner Mombasa, 3 June 1898.
- 49 For example, in Malindi the Coast Planters Association (C.P.A.) argued in 1908 that around 250 coolies would be needed to work on that area, see KNA(Nbi), PC/Coast/1/1/132, Edmund Barker (Secretary of C.P.A.) to A.J. MacLean, (D.C. Malindi), enclosed in P.C. Coast to Gov., 11 June 1908.
- 50 PRO, CO 533/29, Gov. (Sadler) to Secretary of State, 11 June 1907.
- 51 Native Labour Commission, 1912-1913: Evidence and Report.
- 52 KNA(Nbi), PC/Coast/1/1/124, Circular by Ag. Senior Commissioner to Ag. P.C. Seyyidie, 7 September 1907.
- 53 KNA(Nbi), PC/Coast/1/1/124, Hollis to Secretary of Administration, 28 August 1907.
- 54 KNA(Msa), CY/1/2, Minutes Paper by Gov. (Sadler), 31 June 1907.
- 55 Mungeam, *British Rule in Kenya*, p. 244.
- 56 Willis, *Mombasa, the Swahili*, p. 122.
- 57 Willis, *Mombasa, the Swahili*, p. 6.
- 58 KFI/11 Kilifi Political Record Book
- 59 KNA(Msa), CY/3/3, Ch. A.B. to R.O.T., 30 January 1912.
- 60 KNA(Nbi), PC/Coast/1/1/312, R.O.T. to P.C. Coast, 2 June 1913.
- 61 KNA(Nbi), PC/Coast/1/1/315, A.G. to Ag. P.C. Coast, 16 June 1914.
- 62 KNA(Nbi), PC/Coast/1/1/318, P.C. Coast to D.C. Rabai, 23 February 1915.
- 63 *The Report of the Kenya Land Commission* [Here After KLC: Report] (Colonial Office, London, Cmd. 4556, 1934). p. 309.

- 64 K.L.C: Report, p. 321.
- 65 The Twelve Tribes consist two confederations: the Three Tribes and the Twelve Tribes, The Three Tribes which was the largest consisted of the Wa-Changambe, Wa-Kilindi and Wa-Tangana. The Nine Tribes which included Wa-Mvita, Wa Jomvu, Wa-Kilifi, Wa-Mtwapa, Wa-Pate, Wa-Faza, Wa-Shaka, Wa-Bajuni and Wa-Katwa.
- 66 Seyidie Province AR 1911-12.
- 67 MSA/7 Mombasa Political Record Book.
- 68 K.L.C: E & R , p. 2652.
- 69 Cooper, *Slaves to Squatters*, p. 197.
- 70 R.E. Stern, *Housing the Urban Poor in Africa* (University of California, Berkeley, 1978), p. 113.
- 71 Cooper, *Slaves to Squatters*, p. 201.
- 72 Cooper, *Slaves to Squatters*, pp. 191-3.
- 73 E. Colson, 'The impact of the Colonial Period on the Definition of Land Rights', in V. Turner (ed.), *Colonialism in Africa 1870-1960: Vol 3: Profile of Change* (Cambridge University Press, Cambridge, 1974), p. 194.
- 74 K.L.C: E & R, p. 2624.
- 75 K.L.C: E & R, pp. 2506-7.
- 76 Cooper, *Slaves to Squatters*, p. 182.
- 77 K.L.C: E & R, p. 2504.
- 78 Cooper, *Slaves to Squatters*, p. 202.
- 79 E.Cooper, *On the African Water front* (Yale University Press, London, 1987), p. 22.
- 80 Willis, *Mombasa, the Swahili*, p. 124.
- 81 Cooper, *Slaves to Squatters*, p. 202.
- 82 Willis, *Mombasa, the Swahili*, p. 121.
- 83 K.L.C: E & R, p. 2556.
- 84 Mombasa Political Record Book, Vol. 1.
- 85 Malindi District AR, 1920-21.
- 86 Cooper, *Slaves to Squatters*, p. 177.
- 87 J. Glassman, *Feast and Riot* (James Currey, London, 1995) and F. Morton, *Children of Ham* (Westview Press, San Francisco, 1990) analyse the history of runaway slaves in East Africa.
- 88 P. Romero, 'Where Have All the Slaves Gone? Emancipation and Post-Emancipation in Lamu, Kenya', *Journal of African History*, Vol. 27, (1986), pp. 500-1.
- 89 Romero, 'Where Have All the Slaves Gone?', p 500-1.
- 90 Seyidie Province AR, 1915-16.
- 91 Willis, *Mombasa, the Swahili*, p. 79.
- 92 Cooper, *On the African Waterfront*, p. 22.
- 93 Seyidie Province, AR 1911-12.
- 94 In East Africa, slaves had some access to income by working their plots on their day off or working as labourers at other places. See F. Cooper, 'The Treatment of Slaves on the Kenya

Coast in the 19th Century', **Kenya Historical Review**, No. 11, (1973); M. Strobel's article 'Slave and Free in Mombasa', **Kenya Historical Review**, Vol. 6, No 1&2, (1978) and Romero's 'Where have All the Slaves Gone?' discuss about slaves "freedom" in East Africa during the slavery period.

- 95 Cooper, **Slaves to Squatters**, p. 179.
- 96 Seiyidie Province AR, 1911-12.
- 97 K.L.C: E & R, p. 2483.
- 98 K.L.C: Report, p. 333.
- 99 Cooper, **Slaves to Squatters**, p. 176.
- 100 Brantley, **Giriama and Colonial Resistance**, p. 60.
- 101 Romero, 'Where Have All the Slaves Gone?', p. 500.
- 102 Romero, 'Where Have All the Slaves Gone?', pp. 505-506.
- 103 Romero, 'Where Have All the Slaves Gone?', p. 508.
- 104 Lamu AR, 1929.
- 105 Native Affair Department, AR 1918-1925.
- 106 Seiyidie Province AR 1915-16; Malindi Distric AR 1915-16.
- 107 Brantley, **Giriama and Colonial Resistance**, p. 61.
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