

EVOLUTION OF LAND TENURE SYSTEMS AMONG THE KIPSIGIS PEOPLE OF KERICHO COUNTY, KENYA, UP TO 1884

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ABSTRACT

Land governance in Kenya, especially in Kericho County, has been significantly influenced by historical injustices, colonial legacies, and changing land policies over time. It has also been shaped by the interaction of local tenure systems, colonial takeover, and post-independence policies. This paper lays the historical groundwork for understanding later colonial and post-colonial land policy by providing a summary of the development of indigenous land tenure systems in Kenya before 1884. It focuses on the customary rules that control land access, use, and inheritance in African communities, with a specific emphasis on the Kipsigis in Kericho County. The study discusses major subject such as customary tenure rules, gender roles in landholding, and the early external forces that reshaped traditional institutions prior to the formal establishment of colonial control. It adopted a combination of Political Ecology and Political Economy theories. The study adopted a qualitative historical research design. It was conducted in Kericho County, focusing on Ainamoi, Kipkelion, Belgut, and Bureti wards. Participants included historians, researchers who specialize in Kenyan history and land policy, legal experts, land surveyors, economists, and environmentalists. A total of 30 informants were selected purposefully. Primary data sources included government documents, policies, and archival records from the Kenya National Archives, such as land surveys, court records, and legal documents. Secondary materials included published books, journal articles, newspapers, and magazines related to land distribution and utilization patterns. Thematic analysis was used to analyse and present data. The study revealed that, among the Kipsigis, land had several purposes, including providing a means of subsistence, conserving cultural memory, and providing a foundation for identity. The distribution of resources was arranged according to age groups and clans, and women, although being prohibited from ownership, performed important roles in agriculture and ensuring food security. The communal structure was progressively eroded by the introduction of new concepts of property and commerce that were brought about by foreign connections with Arab-Swahili merchants, missionaries, and explorers by the middle of the nineteenth century. These early impacts laid the groundwork for the colonial invasion that occurred after the year 1884. During this time, British policies formalized land alienation, reconfigured governmental power, and redefined socio-economic life. The findings provide a critical perspective on the long-term effects of land policies in Kericho, adding to the discussion on land reform and fair governance in Kenya.

Keywords: Evolution, Land Tenure Systems, Kipsigis People, Kericho County, 1884

INTRODUCTION

Land is the most important factor in achieving economic development, cultural identity, and social fairness. Although the topic of land is a serious problem in every region of the globe, in post-colonial cultures, the injustices that occurred in the past regarding land continue to have an impact on the social and political landscapes that exist now. The issue of persisting land ownership, distribution, and access is a problem that plagues a significant number of nations in

Asia, Latin America, and Africa (Roth, 2016). This issue often dates back to the legal frameworks and conventions that were established before colonial rule. In Latin America, for example, land injustices are deeply intertwined with its colonial past, which brought about profound changes in land ownership and governance. Before colonization, indigenous communities managed land collectively, with local leaders overseeing its allocation and use (Lane, 2014). However, the advent of colonialism in the 16th and

17th centuries significantly altered these traditional systems. Large tracts of land were expropriated by European colonial powers, particularly in fertile regions, to establish plantations and other commercial enterprises, leading to widespread dispossession and long-lasting socio-political implications (Lane, 2014). Similar experiences such as Brazil's land redistribution efforts (Assunção, 2008) and India's land market reforms (Deininger & Feder, 2009) offer comparative insights into the impact of land policies on social and economic equity.

The history of land tenure and policy in Kenya has a significant relationship to the colonial period, which was a time when the British government implemented various regulations that had a catastrophic influence on the ownership of land by indigenous people. The Kipsigis and other people in the Rift Valley, particularly those living in Kericho County, shared land ownership prior to the beginning of colonialism (Ochieng, 1997). This was accomplished via the presence of local leaders who were in charge of regulating land consumption. In contrast, land dispossession was a regular practice throughout the time of colonial control, which occurred in the late 19th century. It was the European settlers and the British government who were responsible for the acquisition of vast tracts of rich land, particularly in the region known as the White Highlands (Okoth-Ogendo, 1991).

Land tenure systems have played an important role in the formation of social, economic, and cultural institutions in Indigenous communities all over the globe (Asch, 2019). The transition from community land ownership to individual property rights often occurred as a result of colonial acts that broke people's links to the land that had been in their family for generations. For instance, Asch investigated the shifts that have occurred in Indigenous land rights in Canada. He highlighted the fact that significant judicial rulings such as *Calder v. British Columbia* (1973) recognized the continued existence of pre-colonial land rights, despite the policies that were implemented by colonial governments regarding land. Garcia-Arias *et al.* (2021) also investigated the ways in which colonial regimes in Latin America introduced private land ownership models. These models undermined sustainable community management methods and excluded

Indigenous groups, which ultimately resulted in reduced social relationships.

The colonial administration imposed alien land policies that transformed communal, customary ownership into a regime of nationalization, privatization and commercialization, effectively erasing centuries-old community land systems (Onwuzuruigbo, 2019). By redefining land as an “economic resource” the colonial state granted permanent occupation rights to settlers and corporations while prohibiting the sale of “communal” land, prompting chiefs and colonial agents to appropriate vast tracts for personal gain (Cousins, 2009). The introduction of individual title-holding and rigid boundaries replaced the traditional collective tenure, a shift described as “the most fundamental” problem facing colonial governments (Mair, 1931). In practice, these policies generated large-scale land grabs, such as the seizure by Warrant Chief Raphael Akwubaldigo in Nigeria and the alienation of 1.08 million ha to the British South Africa Company in Malawi (Onwuzuruigbo, 2019).

Across the Sub-Saharan Africa, the imposition of colonial legal traditions displaced customary law, leaving indigenous peoples with insecure, often “common-property” rights that were vulnerable to state appropriation and exploitation (Bruce, 2003). According to Bruce, the cumulative effect was the systematic destruction of longstanding communal land regimes throughout the continent. During the British colonial period in East Africa, for example, land reforms were adopted that benefited settlers, which resulted in the dispossession of African populations from their native areas. Ogot (1968) observes that the Crown Lands Ordinance (1915) of Kenya gave the British the authority to appropriate enormous tracts of land from populations such as the Kipsigis population. According to Carayannis (2015), these policies were a contributing factor in the disintegration of African communal land systems and helped to pave the way for land battles throughout the continent following independence.

In Kenya, groups such as the Kipsigis were especially negatively impacted by the land reforms that were implemented during the colonial era. Prior to the appearance of colonization, land was an essential

component of the social, economic, and cultural systems of indigenous peoples (Huntingford, 1953). The Kipsigis, like many other ethnic groups in Kenya, administered land collectively among clans and families, governed by traditional traditions and community agreements. This was accomplished via the use of communal agreements and clans. According to Chesaina (1991), these systems prioritized sustainability, equitable distribution, and communal cohesion. They made certain that resources were used in an effective and equitable manner, giving everyone the opportunity to profit from them. Elders were responsible for overseeing landholdings, which were not just an economic asset but also a spiritual and cultural one. They ensured that the land was used responsibly and preserved for future generations.

Land was administered collectively and inherited, often via patrilineal or matrilineal systems, depending on the community (Chesaina, 1991). Kipsigis were responsible for the management of land via the usage of familial relations. Land was used for reasons other than agriculture, including grazing and spiritual activities. Land was considered a communal resource that was held in trust by those who were considered to be clan leaders and family heads (Ngeny, 1967). However, new individual land tenure systems were introduced during the time of British colonial control. These new systems led to the fragmentation of communal landholdings and a reduction in the responsibilities that traditional leaders played. The Kipsigis society saw a weakening of its social, economic, and cultural fabric as a result of these upheavals. The formalization of these shifts was accomplished by the establishment of legislative measures such as the Crown Lands Ordinance (1915). The indigenous land tenure structure was eroded as a result of such measures. Ogot (1968) points out that these policies not only made it easier for Africans to alienate a considerable amount of land. African populations, mainly the Kipsigis, were forced to relocate as a result of the redistribution of their land to settlements established by Europeans. After these movements, there was a loss of authority over the land, there was an interruption in the customary usage of the land, and there were long-term effects on the economy. In the years after Kenya's independence, efforts to

protect customary land rights were made more difficult by the instability of indigenous governing institutions.

Kericho County was one of the places where the consequences of these national policies were most noticeable. During the time when Kericho was a part of the White Highlands, which was a territory that was designated for European settlement, a significant amount of land was taken away in order to build tea plantations. According to Mwaura (2007), significant tracts of land in Kericho were taken away from the indigenous populations and handed to European settlers as well as international tea firms. Because of this alienation, many Kipsigis families were forced to relocate, and they were deprived of land that was essential to their means of subsistence as well as their cultural and spiritual activities. As a result of the relocation, their economic base was adversely affected, and the inequities that still exist today were exacerbated.

Statement of the Problem

Indigenous populations in Kericho County had traditional land tenure systems that were deeply impacted by British colonial actions. The establishment of large-scale tea plantations played a significant role in this disruption. As a result, Kericho County still faces persistent disputes over property ownership, economic inequalities, and conflicts rooted in colonial land laws. Traditional land management practices were weakened, and many locals were displaced due to forced evictions. Since gaining independence, local groups have been fighting for fair land access, further highlighting long-standing issues. Despite various attempts to tackle these problems, challenges in achieving fair land distribution continue. This research, covering the period up to 1884, provides a basis for understanding how these historical legacies have shaped land governance, ownership patterns, and economic outcomes in the region.

Origin and Settlement of the Kipsigis upto 1850

The Kipsigis constitute the largest group of the larger Kalenjin ethnic group residing mainly in Kenya. The Kalenjin are a Nilotic ethnic minority that lives in the western part of Kenya, namely in the Rift Valley area (Mwanzi, 1979). According to Chesaina (1991), the Kalenjin are made up of seven primary dialectic groups: the Kipsigis, the Nandi, the Tugen, the Marakwet, the Pokot (Suk), the Sabaot (Sabiny), and

the Terik. It is thought that the Kalenjin moved from the region around South-East Khartoum in what is now Sudan, following the Nile, and originally settled at *TulwopKony* (Mount Elgon) about the year 700 B.C. (Kipkorir, 1978). A research conducted by TehutiFoundation (2016), the Kalenjin dispersed to their present communities, i.e. the Kipsigis, Nandi, Tugen, Marakwet, Pokot (Suk), Sabaot (Sabiny) and the Terik in different sections of the Rift Valley in Kenya in around 1600A.D.

According to Tanui (2015), when the Kalenjin moved back to their old home at the base of Mount Elgon, they discovered that the Maasai had taken over a significant portion of the rich and agricultural land in the region of Uasin Gishu, Trans-Nzoia, and all the way to the South-Rift. Because the Maasai were also pastoralists, they were subjected to years of invasions and were finally forced to relocate to the south. While the Sabaot stayed in the vicinity of Mount Elgon, the Nandi established their home in what is now UasinGishu County, while the Kipsigis went southward and established their home in what is now, Kericho. The Pokot relocated to the northern side, and they were flanked by the Marakwet and Keiyo, who inhabited a significant portion of the Kerio valley and its escarpments. The Tugen crossed the valley into what is now Baringo and portions of Laikipia.

The term "Kipsigis," has several references to a variety of different traditions. Oral information suggested that it was a nickname that originated when the Kipsigis settled in *Tuluopsigis* and started growing *wimbi* (Chelulei, O.I., 2024). Their neighbours, such as the Ogiek, started making containers called *Kipsigik* or *Kiisyet*. As a result, the society began to call them Kipsigis, which is a corruption of the *Kipsigik* name (Persitany, 1939). This was due to the fact that they purchased these containers to store grains because they were pastoralists. There is a relationship between the *kiisyet* (basket) and the name Kipsigis, according to Mwanzi (1979), who provides a description of the *Kapkowelek* clan of the Kipsigis. According to the narrative, soon after the tribe established their presence in the Londiani region, they started cutting down trees for agricultural reasons. Since the *Kipsamaek* clan lived in the forest, they were compelled to weave baskets, known as *kiisyet*, in order to satisfy their need for food with the agriculturalists. The Kipsamaek were given the moniker Kipsigis,

which is derived from the term *Kiisyet*, at that time (Toweett, 1979).

The research noted that the migration of the Kipsigis was affected by a number of circumstances, including but not limited to: external assaults, overcrowding, the hunt for water and pasture for their cattle, a sense of adventure, and drought and hunger, which were the primary causes of their movement. To prevent this from happening, there is a custom that involves a *rerisiet*, sometimes known as a bat, carrying a blade of green grass in its mouth and directing people to areas where there was green grass, which is a symbol of bountiful land. The Kipsigis fled their native territory in search of better pastures for their herds (Peristiany, 1939). This was because of the drought that they were experiencing. This relocation was not merely a response to environmental issues, but it was also a strategic move into the lush highlands, which gave chances for farming and grazing area.

The Maasai were the first society that the Kipsigis engaged with in trading (Sutton, 1973). The Maasai, who were pastoralists, were known to be fierce and their aggressive behaviour caused disturbances in the communities they encountered. The people were separated into two primary groups: those who kept cattle (known as *Il-Maasai*) and those who worked in agriculture (known as *Wakawawavi*). *Il-lumbwa* was a term that the Maasai people used to refer to their neighbors who practiced farming. This is how the term "*lumbwa*" is used when referring to the Kipsigis. The ancestors of the Kipsigis came into contact with a Maasai tribe sometimes referred to as the Sigilai (Toweett, 1979). They engaged in a series of battles on the plains of the Rift Valley for a considerable amount of time in the early 19th century. The Kipsigis, on the other hand, were defeated and driven out to the north of what is now the Tambach District, where they remained for a very extended period of time. Their number increased, and they migrated out from the Keiyo lowlands and into other nations that were near to the regions that had been held by the Sigilai Maasai. This occurred as their population density increased (Toweett, 1979). Toweett observed that the younger and more courageous members of the Kipsigis people travelled to spend some time in Rongai, which is located in the Rift Valley, while Elgeyo emerged from the group of individuals who stayed in the Tambach District (Rono, 2000). The people who are known as

Tugen today are a product of another stock that was abandoned at Rongai. The Kipsigis had a spirit for adventure. As one informant mentioned:

“Our forefathers were a curious and adventurous people. They would travel as far as *Nauro* (Nakuru) and the *Mao* (Mau) hills. They collected honey from the hills and trapped wild animals for food. Those who had cattle occupied the plains of the Rift Valley. Only the young and stronger ones were the ones who proceeded on to other sections for adventure.” (Chelulei, OI: 2024).

During focus group discussions with eight respondents, comprising five men and three women of the age bracket 50-90, they referred to the Kipsigis and the Nandi as half-brothers due to their relationship with one another and even migration and having been the only two groups who remained. After separating from the Tugen people who had resided in the area surrounding Mau Summit, Molo, and Londiani for a considerable amount of time, the two populations eventually established their own histories of settlement (Toweett, 1979).

A peace treaty between the Nandi and the Kipsigis is thought to have been written at Lumbwa, which is located in what is now Kipkelion, around the 19th century. According to Mwanzi (1979), this peace treaty was partially responsible for the Nandi and Kipsigis successfully cultivating land and raising animals, as well as maintaining their harmonious relationship. These two towns had a long-standing pact for defence, and there were no obstacles to the interchange of goods and services between them. There are quite a few traditions that are associated with the eventual dissolution of the two villages. Rutto (2016) argues that it was caused by an unintentional dispute over property, and one sub-section of the community chose to go to the south, while the other sub-section relocated to the west. Those individuals that relocated to the west were known as the Nandi, while the other group became known as the Kipsigis.

The Kipsigis did not want to relocate so far away from their brothers, the Nandi, and as a result, they migrated to the west and settled at the base of the Nandi Hills with their families around Kedowa, Lumbwa, Fort Tenan, Kibigori, Muhoroni, Tulwap Kipsigis, and Binyiny were the places where they made their homes (Toweett, 1979). In an effort to find better grazing

places, some of the people who lived in Binyiny relocated to deeper southern regions. Upon arriving at the Chemosit river, they made the discovery that the Bureti side of the nation went as far as Togat, which is derived from the name *tekyat*, which means bamboo.

According to Toweett (1979), the Kipsigis encounter with the Kisii was once again caused by their need for more territory, and it was because of this desire that they moved their flock westward to the hills that are now Kisii. Around Chagaik, Chemogondany (*Chemogonde*), they established their settlement. In the vicinity of Kerenga, where the majority of the Kisii were located at the time, others went in the direction of Kabianga (*Kapyanga*) (Rutto & Maritim, 2016). During the course of some of the conflicts that took place between the Kisii and the Kipsigis, one of the informants narrated that, "We have always fought for survival with the Kisii" (Cosmas, O.I., 2014). They were forced to return to Kaisugu and Togat once again after going through a number of years of conflict. The theft of their livestock, which was a primary source of sustenance, caused them to endure a great deal of suffering for a number of years. They then relocated from *tekyat* to other regions of Jamji and Kimulot after moving there.

During the 16th and 17th centuries, the Kipsigis people made the decision to leave the bamboo land (Toweett, 1979). The Kipsigis relocated to the regions around Kimulot, Jamji, Chemosit, and Chemosot. Fights between the Kipsigis and the Kisii are visible with battles of Chemoiben, Ngoina, Tiriit ap Moita, Kibongwa, Chemelei, Kapsabanut, Mabasi and the Mogori massacre of 1890 (Toweett, 1979). The Kipsigis and the Luo did not have anything in common (Mwanzi, 1979). The only thing they had in common was the battle of Mogori, which was caused by the Kipsigis looting livestock. Furthermore, as the majority of scholars have pointed out, by the 19th century, the Kipsigis did not originate from any particular place. Through a series of contacts and assimilations between people of different ethnicities, it evolved. Belgut, located in the north, Bureti, located in the centre, and Sot (Sotik), located in the south, were the three unique sub-territories that the Kipsigis originated (Ogot, 2000). Every region had an important role as a central hub for the administration of resources and social government.

Political Organization of the Kipsigis upto 1884

The Kipsigis were organized in patrilineal clans. Families that are closely linked to one another via blood are the members of a clan. In addition to having a name, each clan also has a totem animal known as *Tiondo*, which they are not permitted to kill or consume (Kigen, 2018). There was a strict prohibition on anyone marrying within their own clan or marrying within the clans of their mother. This, along with other elaborate marriage rites, was intended to reduce the likelihood of marriages between members of the same family while forging inter-clan alliances essential for military and judicial cooperation. There are also minor differences between clans in the different Kalenjin groups (Chesaina, 1991). These differences originated from dialectic differences. It is connected to an oral tradition in order to provide an explanation for the origin of the clans.

According to Chesaina (1991), following the completion of the circumcision procedure at the *tulwopngétik*, the individuals were instructed to pronounce their surnames. In addition to their name, they would put the phrase "*kap*" before it. For instance, a person may make the claim that they are known as *parangwek*, while the clan in question would be referred to as *kap-arangwekto* signify membership in *Kaparangwek* political unit responsible for ward-level governance and age-set recruitment. This rite formalized adult entry into the *kokwet*'s military (judicial structure), linking individual identity to collective political authority (Fish & Fish, 1995).

It is considered that the communities that individuals engaged with throughout their journey served as a source of inspiration or motivation for leadership (Mwanzi, 1979). The legend of the three sons of Koitalelrap Samoei, namely Koilegei, Manyinya, and Kipchomber. Koitalel was not a member of the Nandi people. During the struggle for power, his little son Kipchomber fought with his father. After some time had passed, he resigned from his position as an Orgoiyot in the Kipsigis area, just before to the murder of his father. A replica of the office of the Orgoiyot was created by the Kipsigis. According to Mwanzi, this job was one that contributed to the unification of society. In order to symbolize a certain region, he selected one *Maotiot*. Through the transmission of communications, they served as intermediaries between the sovereign and those who were governed.

Additionally, he gave his approval for raids before they were carried out.

The Orgoiyot was a strong character who was thought to call gods, bewitch, or lay down curses on people who were not in favour of him (Toweett, 1977). He was also supposed to throw out curses on anyone who were not in his favour. The Kipsigis were led by him throughout the attacks, and he provided them with instructions like as the colour of the animals they should anticipate. It was possible to find the leadership of *ibinda* (age-sets). The following age groups are mentioned by Toweett (1979): Maina, Chumo, Sawe, Korongoro, Kaplelach, Kimnyige, and Nyongi age groups. They did not, however, participate in a significant amount of land-related matters. They could only do so if they were at an age where they were selected by the elders to speak on things pertaining to land and if they were of the appropriate age.

The village (*kokwet*), was the smallest political entity (Mwanzi, 1979). The formation of these occurred in the wooden savanna when a group of households would get together for the sake of providing a collective defence against wild creatures as well as threats from the outside (Peristiany, 1939). A war captain, also known as an *alamalyet*, served as the commander of this defence force, which was also aided by a religious leader of some type. The subsequent unit was made up of a number of different village communities, each of which was led by a chief warrior (*kiptainik*), who was also known as a *mestowot*. They were entrusted with the responsibility of maintaining peace within the community, mediating disagreements amongst the members, bestowing blessings upon warriors, and receiving *ngótiit* (spear) (Cosmas, O.I., 2024). This spear was composed of many sections: *ngeuneit*, which is the court of arms at the moment, *meleito*, which are the sharpened portions; *eut*, which is the handle, and *chileiywot*, which is the tip-end. These headmen basically employed this spear as a symbol of authority (Kwonya, O.I., 2023). There was a number of similar units that came together to create a division, such as Bureti or Sot (Daniel, 2013). Oral tradition states that the *maotiot* designated a divisional commander known as "*Kiptayatnebo Boriosiek*" to lead each division. This individual was responsible for overseeing the operations of the division. *Boriosiek*, on the other hand, were geographical divisions that matched to successive

patterns of settlements (Hannaford *et al.*, 2026). The Kipsigis are said to have been cursed and later blessed by a *pyot*, which is an elderly man, according to the oral tradition where the clans began. One informant stated thus:

“Oral tradition among the Kipsigis, passed down through the ages, states that there was once an old man known as *Poyot*. *Poyot* went on a trip, and upon his return, he became angry because his children had used his gourd. As they fought over it, they broke it. It was taboo to use a *Poyot*'s belongings, as doing so would bring a curse from their forefathers. To break the curse, they were told that they would reach *TulwopNgetik*, be circumcised, and from then on become separate clans. They would then go their separate ways and occupy their own lands, each owning its own property” (Chelulei, O.I., 2024).

These four *bororiosiek* came into being as a result of the events as narrated by oral informants: Kipkaige, Kepeni, Kasanet, and Ngétunyo. Each one of them carried out its own raids, and they all had land practices and customary rules that were associated with land ownership that were distinct from one another (Mwanzi, 1979). A Mauritius thorn (*chepkomon*) served as a symbolic marker for the boundaries for their homesteads. This served as a border that was respected by the individual. *Kiptainik* was in charge of monitoring these procedures. When a rich someone desired to acquire the property of a neighbour, they were required to kill a goat in order to curry favour with the neighbour. Therefore, favouritism was established. A man with few or no cattle was regarded to as poor and had no wealth and would often lose his land to the men with large herds, who were considered wealthy (Chelulei, O.I., 2024).

The traditional Kipsigis society had the family as the basic political unit headed by a man. A man's social position often relied on the number of wives and children one had. A homestead (*kaita*) was established by a man upon circumcision. Due to the fact that girls did not have the legal right to inherit land or property, a man granted property to his boys. There was an expectation that the boys would continue the family bloodline. It was said that the man of the *kaita* had an established system in place for distributing land among

his sons, a practice that was passed down orally from one generation to the next. In the evening, when night fell, he would go for a walk around his homestead. If he sensed heat coming from the right side of the house, he would insert a stick into the ground at that spot; this marked the place where the eldest son would build his *kaita*. The left side of the homestead was reserved for the second born son, and the space around the central homestead was meant to be used for the creation of the family's history and maintain social memory. On the other hand, women were only permitted to handle the crops that were grown in their own *mbarets* (shambas) (Maiwa, O.I., 2024).

Socio-Economic Organization of the Kipsigis Community upto 1884

The pre-colonial Kipsigis socio-economic activities ranged from cattle keeping, land governance and kinship. Cattle keeping formed the core of the economy, providing not only subsistence but also wealth, social status, and ritual currency. Land was used for grazing, farming and ritual practices (Mwaura, 2007). This form of production fostered a sense of community, in which economic survival depended on working as a community and sharing responsibilities for land and livestock. A strong sense of community, strong links to family, and shared control over resources were the pillars around which their way of life was built. According to Foglacco (2001), the family was a separate social unit that was linked by blood and shared duties. This aligns with Mbiti's (1969) conception of the African family as a large and all-encompassing entity that encompasses not only the living but also the dead and the unborn, hence fostering a profound feeling of continuity and belonging. Lineages among the Kipsigis were traced through the male line strengthening patrilineal inheritance of land, cattle and social authority from one generation to the next (Toweett, 1979).

The Kipsigis belonged to one of the four principal clans (*bororiosiek*): Kipkaige (or Kipkwaige), Kasanet, Kipng'etuny, and Kebeni. According to Toweett (1979), marriages that took place inside one's own clan (*boryet*) were absolutely prohibited. Despite this, the *Kipsigisland* was originally subdivided into four *emotinmwek*, which are districts, because to the fact that the Kipsigis hold the number four in particular in high regard. The names of these *emotinmwek* are as

follows: *Peelkut*, which literally translates to "warm mouth" due to the fact that it is an ideal location for grazing; *Waldai*, which means "change right hand"; *Pureti*, which is called after the Pureti mountain near Tulu, and *Sot*, which is named after a Kipsigis hero named *Kipsot* (Rutto, 2016).

According to Sheriff (1987), hunting and gathering was a ubiquitous practice that served as a means of replenishing meals. The Kipsigis were hunters and gatherers by nature, and this hunting and gathering habit is being carried out to this day, although on a much smaller scale. Hunting and collecting were two of the ways that the Kipsigis supported their animal husbandry and agriculture practices. A variety of fruits and roots, including *mogoiwet* (which is consumed by children), wild berries, *tigainmanik*, *legetetiet* (*leketetik*), *simbwetnukuuk*, and *sirondet*, were among the foods that were often harvested by women (Joyce Chepkwony, O.I., 2024). Not only was hunting big animals an essential aspect of existence, but it was particularly significant for warriors. When it came to hunting and capturing animals, it was considered a pastime that needed a substantial amount of knowledge and expertise. The Kipsigis hunted big animals using spears, arrows while small animals were trapped using both traps and snares (Peristiany, 1939). It was known that the Kipsigis were pastoralists in the past, and they did not actually have a place that they could call their own originally. They resolved on carrying out their operations as a result of their contacts with the people that were located in close proximity to them and the patterns of settlement that they had established. Each household had its own cattle, sheep, and goats, which served as a comprehensive indicator of a Kipsigis man's level of wealth (Mwanzi, 1979). Women were not permitted to own or own any cattle in any kind. A bride was purchased with these animals, and they were also employed as a method of trade. All of the animals, including cattle, belonged to the head of the family or the person who succeeded him. The males were the ones who were responsible for taking care of their livestock in the kraals, also known as the *kaptich*.

Before the arrival of Europeans, the cultivation of crops had not yet reached the same level of significance as pastoralism (Mwaura, 2007). The Kipsigis employed shifting cultivation. The Kipsigis were of the opinion that the ground that had been

recently farmed had an excessive amount of weeds, which rendered it unfit for replanting. The Kipsigis did not have any knowledge of individual land ownership instead land was owned communally for planting in a new season (Mwaura, 2007). The Kipsigis households worked together to cultivate a single plot of land inside a village. Each family kept its own portion of the property. Families in a certain village selected the western side of their land as they are to cultivation their *wimbi*. Eventually, it became common practice for every family to have their shamba located just next to their home. As a result, the process of transporting product from the shambas to the storage area became less difficult. According to Peristiany (1939), the amount of the parcel of land that was farmed was determined by each son's approximate estimation of his capacity to handle the land. For the purpose of cultivating the land, the Kipsigis agriculturalists used sticks and elephant ribs as tools before they had adopted iron-working technology from the Kisii. Once they acquired this expertise, the Kipsigis were able to forge iron using a hammer known as *kitany*. They then used this hammer to make iron implements such as *mogombet* (a hoe), *morut* (a panga), cow bells, armlets, axes (*aiywet*), and spears.

Zezeza (1986) asserts that the Kipsigis seem to have absorbed the practice of intercropping, which he refers to as "the heart of African agriculture." Intercropping sorghum with *wimbi* (eleusine grain). The cultivation of vegetables also took place, but on smaller plots known as the *kapingkui/kabungut* (vegetable garden) that were located close to the homestead for the female members to carry out cultivation on this particular region. Despite the fact that the Kipsigis household was patriarchal, with the father serving as the head and authority, the male was not permitted to do anything on the *kabungut/kapingkui*. This was due to the fact that it was the exclusive prerogative of women to determine what to plant and how to utilize it (Omwoyo, 2000). Oral evidence, including testimony from Kipsigis elder (Daniel Serem, OI, 2024), suggests that once a plot of land was identified for agriculture often using plants and grasses as markers of soil fertility it was typically cleared and burned by male household members. This cleansing and burning occurred after the area had been formally recognized and selected for cultivation, aligning with wider

African patterns of using fire in land-preparation practices.

Peristiany (1939) noted that another kind of cultivation that was used, which was referred to as the *imbareta'mossop*. This method of cultivation was also referred to as the "field of the house," and it was owned and used by each of a man's wives to plant basic crops such as *wimbi* and provide food for their homes. In contrast, the *imbaret ab soi*, which was subsequently renamed *kapande* once maize was chosen as the official crop, was land that was owned and governed by the man personally, and it was distinct from the fields that his wife operated. Oral tradition informs that the other plot is the *kok*, which is the area directly outside of one's house where cows were milked. This area was considered private property, and it was *roret*, which were places that were utilized for temporary cultivation but were returned to communal usage once agriculture was discontinued (Maiwa, O.I., 2024). In addition, there were the *tirita*, which were grazing fields that were devoid of trees; the *tulonok*, which were hills that were reserved for grazing and thatching grass; the *ainet*, which were rivers that were accessible to all animals for drinking; and the *ng'eny*, which were salt licks. Sacred locations like as the *kapkoros*, which were places of sacrifice, were considered to be untouchable communal property (DC/KER/4/1). On the other hand, *orop* preferred to the public routes that were utilized for carrying livestock.

There were many *temet* that grouped together to make a *temetabkokwet*, which is a hamlet. Additionally, numerous hamlets came together to form a *kokwet*, which was the smallest political-administrative entity. The *kokwet* was responsible for coordinating actions related to farming, organizing mutual defense, and hosting festivities for the community. Young warriors, under the command of the *kiptayat ab murenk* (the war commander), safeguarded the village and its animals, so showing the profound relationship that exists between land, means of subsistence, and safety. When disagreements arose within the *kokwet*, they were resolved by councils of elders, while more complicated issues were brought before the *kiruogindet neo*, also known as the great judge of the shire (Orchardson, 1971).

Elder Cosmas Kiprotich (O.I., 2025) narrated that there was a delicate nature of disagreements about garden plots or burial places, pointing out that these

issues were strongly connected to the dignity of the family and the spiritual safety of the community. In the event that there was a disagreement over land, she provided an account of the cultural rites that were to be conducted and the manner in which borders were honoured. He says whenever there was a dispute, the *kaploinit*, which is a spear used to drain blood from a cow's neck, was used. A *kwanget* (bow), and *sinendet* (a type of plant associated with good powers), were tied together. A stick with knots (*nogirwet*), was also taken and placed in the *mapwaita* (left side of the hut), of the wronged house. A special stick (*siritiet*), was then dug into the ground using a sacred rope (*borowet ab kipsotet*). Later, the clan members would be called together. They would then make a sacrifice using a young she-cow (*iringotit*). Milk from both the accused and the accuser would be poured into a *sufuria*. The *oiyo* (sorry), would cleanse them both so their homesteads could live in peace (Cosmas Kiprotich, O.I., 2025).

Mwanzi (1979) describes how the Kipsigis were active in trade. They exchanged iron tools for cattle from the Gusii. Although the Kipsigis smiths did not thrive in the market, they still gained from iron trading. This trade provided them with food, especially millet. They also engaged with the Okiek in trade from an early date. *Segerek* served as a form of currency, and oral tradition notes that during famines and droughts, the Kipsigis would sell their children to obtain food from the Gusii. Even with cattle raiding involving the Gusii, the *Ipinda*, who were young men, were responsible for securing the cattle, as it was crucial during droughts. Toweett (1979) indicated that the *Ipinda* maintained land customs and were seen as role models for teaching the young about their cultural traditions.

MATERIALS AND METHODS

The study adopted a qualitative historical research design. This research design allowed for deep analysis of archival records, policy documents, and oral histories. The research was conducted in Kericho County in Kenya's Rift Valley region. This area has a significant history related to land distribution and agricultural growth, particularly in tea farming. Kericho sits about 2,200 meters above sea level and borders Bomet, Nakuru, and Kisumu counties. It lies along the western edge of the Mau Forest complex. The region has fertile soils and a good climate, which supported large tea plantations established during the

colonial period (Jerobon, 2021). Historical land acquisition and distribution shaped the area's development, especially through organizations like the Tea Board of Kenya. These factors made Kericho County an ideal place to study the long-term impacts of colonial and post-colonial land policies.

Elders, community leaders, small-scale farmers, large-scale tea plantation owners, government officials from land-related ministries, historians, legal experts, and researchers who specialize in land problems in Kenya were among the respondents who were targeted for this survey. The researcher used non-probability sampling approaches, notably purposive sampling and snowball sampling, to select participants. Participants were purposefully selected on the basis of their knowledge, experiences, or formal duties in relation to land governance, totalling to 30 informants. This number was sufficient for a qualitative historical study because it aimed for a deep understanding of land politics and tenure change. The selection was made based on defined criteria: candidate's residence or professional activity in the four chosen wards, namely Ainamoi, Kipkelion, Belgut, and Bureti, as well as their awareness of the changes in land policy that occurred between the years 1884 and 2010. The snowball sampling method was used to enable the first informants to propose other participants who had expertise. via the use of snowball sampling, the researcher was able to locate people who were acknowledged in the community for their competence but who would not have been accessible via official channels.

Primary and secondary sources were used for data collection in this study. Primary sources included government documents, policies, and archival records from the Kenya National Archives, such as land surveys, court records, and legal documents. Secondary materials included published books, journal articles, newspapers, and magazines related to land distribution and utilization patterns. Data was collected using semi-structured interview schedules, focus group discussion guides, document analysis guide, audiotape recorders and observation checklists were utilized. Data analysis involved a thorough review of the collected data to identify emerging themes and patterns related to the study's objectives. To begin, the researcher made sure that the interview guides, focus group discussion guides, and observation checklists

were consistent with one another and that they included all of the necessary information (Kothari, 2004). Transcripts of the audio-recorded interviews and discussions that took place in focus groups were arranged according to the most important research topics. Through thematic analysis, a full knowledge of the participants' lived experiences and perspectives of land governance in Kericho County was achieved. For the purpose of enhancing authenticity and capturing socio-political and economic subtleties, verbatim extracts were emphasized across the document.

RESULTS AND DISCUSSION

The Kipsigis Land Tenure System in Pre-Colonial Kericho

According to Peristiany (1939), the Kipsigis land tenure systems were based on community ownership. There was a strong connection between this system and the architecture of clans, age-grade systems, and spiritual beliefs. The Kipsigis considered land to be one of the most important factors in ensuring their economic existence, identity, legacy, and spiritual continuance (Orchadson, 1971). In addition to their primary occupation as pastoralists, Kipsigis were also dependent on agricultural cultivation. The Kipsigis had a strong communal connection to land; pre-colonial tenure was organized around clan and age-grade institutions, with land use rights granted through continuous cultivation and regulated by collective decision-making (Toweett, 1979). "Property" therefore referred to resources acquired by one's own labour land that a person tills remains his, but if left uncultivated it reverts to communal ownership while spiritual beliefs and clan authority anchored land within the shared cultural framework. This includes trees that were cut down for the sake of obtaining firewood, honey boxes, dwellings, cultivated crops, or livestock that was gained via personal possessions (Peristiany, 1939). It was common property to own land and the natural riches that it contained, such as stones and salt licks. Once they had completed their work on the land, individuals claimed ownership of it. The ground, grass, trees, salt licks, and wild animals were all considered to be gifts from God and offered and accessible to the people of the community. It was only after work was done on them that they were considered to be the property of a person (Orchardson, 1971).

A member of the Kipsigis community who was cultivating a piece of land was granted permission to utilize it by the clan. However, if they allowed it to return to its natural state of grass or shrubs, it would once again become public property (Orchardson, 1971). Upon returning to land that had been farmed in the past, every family was required to retake the plot that they had previously cultivated. For the sake of cultivation, any land that was not being utilized was available to the members of the clan. According to Toweett (1979), an individual or family were responsible for clearing an area for the first time was required to re-cultivate their previous plot upon their return to their uncultivated land, but they had the option to do otherwise.

Clans, also known as *orets*, were the primary groups responsible for controlling land ownership in the community. For the purposes of farming, grazing, and shelter, land within each clan was distributed among different extended relatives. An elder council, known as a *kirotet*, was responsible for enforcing the severe customary regulations that were observed by these informal divisions. The elders had a vital role in the distribution of land, the resolution of conflicts, and the establishment of borders via the use of oral history and holy markers such as places of burial, rivers, or trees. The term *kokwet* refers to the economic unit that included all of the people who lived in huts and fields in a certain region. It was common practice to use trees, rivers, or field marks to demarcate the boundaries between *kokwetimwek*(plural). An oral informant narrated that, individual members of a *kokwet* were required to construct fences around their cultivated land in order to prevent cattle and goats from grazing on it. It was customary to construct *tuitafences* around areas that were used for temporary cultivation. The *karaita* and the *roret* were often encircled by a hedge. All disagreements over land or limits were settled by the elders of the *Kokwet* tribe. As a result of the fact that a *kokwet* was a geographical region, it was possible that the elders may not share the same lineage or clan (ElijshBelion, O.I., 2024). They made choices based on the opinions of the majority, which helped to eliminate prejudice in the process of resolving disputes within the family (DC/KER/4/1).

Farming and cattle rearing were complementary fields of endeavour. In order to keep the soil from being depleted, the Kipsigis engaged in rotational farming,

also known as *koret ap tabin*. In order to prevent excessive grazing, the Kipsigis created community grazing pastures according to the seasons and supervised them (Ngeny, 1967). Forested areas were protected for the sake of preserving medicinal plants, hunting, harvesting vegetables, giving shade while grazing, protecting soil, and conducting spiritual rites (KNA/DC/KE/10/1). According to Ochieng' (1985), rain-making rituals, initiation rites, and ancestor worship were often associated with particular areas, which served to deepen their spiritual links to the land. Several renowned elders, such as ArapKirui (Belgut) and Tabutany (Bureti), have provided oral histories that shed light on the traditional significance of land. It was brought to ArapKirui's attention that disagreements about border trees might result in protracted tribal talks. It was underlined by Tabutany that land was never considered a commodity. He stated, "It was given to us by the ancestors and must return to them" (ArapKirui, O.I., 2025; Tabutany, O.I., 2025).

According to Okoth-Ogendo (1991), male members of the Kipsigis, were given land by their fathers by the time they reached the age of adulthood or married. In many cases, the responsibility of caring for the family land fell on the oldest son. This was done to ensure that the family lineage and the productivity of the land were maintained (Kibwana, 1998). Land was not considered to be private property so much as it was considered to be a community trust for the benefit of future generations (Ogot, 1976). Although women were able to get access to property via male relatives, such as spouses or kids, they were not directly able to possess it. On the other hand, widows were able to maintain their use rights, particularly if they continued to reside on their husband's property (Chege, 1981).

There were no complicated regulations, laws, or formal written traditions governing land inheritance among the Kipsigis since they did not have individual land ownership. Land was held communally through the clan and lineage. The only exception to this was the inheritance of crops. The task of dividing the property of a dead individual was assigned to the oldest son of the first wife, who acted as the executor of his father's estate. Under the guidance of two elder relatives of the deceased, this son allocated livestock, tools, and stored or standing crops according to custom and kinship obligations. This practice reflects how pre-colonial Kipsigis society managed property within

a communal land-tenure framework, where inheritance focused on use rights and household-level assets, not on the transfer of privately-owned land titles. There is a common misunderstanding that the oldest son inherits all; in reality, he simply inherits the responsibility of distributing his father's possessions in a fair manner among his younger siblings who were married to various women (Mwanzi, 1979).

An oral informant states that in the event that a man passed away, his wives were entitled to inherit his property, which was subsequently distributed in an equal manner among the sons of each of the wives (ArapCherutich, O.I., 2024). However, the property that was inherited did not really belong to the sons; rather, it continued to be distributed among all of his descendants alike. The inherited property might be used by the sons, but they were not allowed to sell it to other parties, with the exception of marriage presents. The idea of selling land was not comprehended by the Kipsigis people. At a predetermined price, the crops that were cultivated on the land were sold or traded for cows, goats, or other items (Ngeny, 1967). On the other hand, after the buyer harvested the crops, the land went back to the original owner as *roret* or returned to bush, so becoming common property once again. According to Orchardson (1961), the sale of a residence in a *karitawa* was a possibility. Should the hut continue to be located on the property, the buyer would immediately assume responsibility for the *roret* of the settler. Furthermore, the *roret* remained with the seller for gardening purposes in the event that the buyer dismantled the hut. For the purpose of witnessing and blessing the transfer of land, each land transaction was required to take place in front of a *kokwet* elder (Persitany, 1939).

According to Toweett (1979), it was customary to lend a *roret* to someone who lived nearby, even if the owner resided a considerable distance away. After harvesting, the owner has the ability to make a request for its return at any moment. It was obliged to be returned to the owner by the borrower. It was always necessary to get the permission of the owner in order to cultivate a borrowed *roret*. Tenants were not in a precarious position since there were no people who were without land inside the community. There were advantages for both the owner and the renter under this scheme. As the renter was located in close proximity

to their farmhouse, they chose to cultivate the plot rather than clear new ground altogether. In order to keep the area from returning to bush, it was a cost-effective method for the owner to use. Tenancy applications were often approved by males who had just married new women or who were responsible for providing for bigger families. There was a possibility for families to engage into a tenancy arrangement prior to clearing their own land. This would take place after households had established huts in an adjacent *kokwet*.

Early Arab and European Influence on Indigenous Land Tenure Systems

The period leading to the establishment of colonial rule, prior to the establishment of the colonial government. Maxon (1992) analyses the effects of missionaries as well as the political shifts that occurred. He notes that Kenya was subjected to considerable external forces that started to disrupt indigenous land ownership structures a long time before the colonial invasion. European missionaries, explorers, Arab Swahili merchants, and imperial agents, went into the interior of Kenya. According to Ochieng' (1985), the Arabs and Europeans contacts resulted in the creation of new economic pressures, political influences, and changes in beliefs, all of which undermined the administration and management of resources associated with indigenous communities. Kitching (1980) asserts that despite the fact that all of these procedures differed from area to region, they were crucial in laying the groundwork for subsequent colonial land acquisition rules.

Beginning from the 17th century, Arab Swahili merchants began to participate in the commerce that took place along the coast of East Africa, which was led by the Indian Ocean trade network linking East Africa with the Arabian Peninsula, India, and beyond (Salim, 1976). This coastal trade gradually extended inland, laying the groundwork for the deeper penetration of commercial networks into the interior by the 19th century. The 19th century saw the expansion of commerce caravans into the interior of the country, reaching regions close to Lake Victoria and the western highlands, including Kericho (Cooper, 1987). Ogutu (1993) states that despite the fact that this trade had a very little impact on the land tenure of the Kipsigis, it did result in the formation of new economic ties that led to the commodification of resources that were associated with land, such as

cattle, metal tools, and labour. Oral histories among the Kipsigis describe early encounters with coastal merchants. According to oral information, the Kipsigis referred to these merchants as *mukunguik ab misri*, which means "people with metal tools and cloth" (ArapChelagat, O.I., 2025).

The arrival of European Christian missionaries came, their goals were to spread the gospel and "civilize" the region. As a result of their purchase and use of land for the establishment of schools and towns, traditional community land practices started to undergo transformation (Gathogo, 2020). In spite of the fact that Kericho originally refrained from participating in missionary endeavours, the Kipsigis became more Christian prior to the establishment of colonial regulations. Young converts who had interactions with missionaries went home with new religious notions, which challenged the authority of clan elders and disrupted spiritual land traditions with their newfound beliefs (Maxon, 1992). According to the oral testimony of Belgut elders (O.I., 2025), Christian teachings altered people's ideas of land, transforming it from a holy communal inheritance to something that was held by individuals. This resulted in land fencing and claims brokered through the Imperial British East Africa Company (IBEACo), which laid legal grounds for land titling and private ownership of land. Missionary education resulted in the formation of a new literate class that would later become involved in colonial land administration, so further replacing traditional stewardship positions (Anderson, 2005). This process is regarded to be both ideological and ecological displacement since the clearance of *kapchepkendi* (holy groves) affected not only the spiritual rituals but also the natural equilibrium and the access that the community had to resources (Sankar, 2020).

The spiritual foundation upon which the Kipsigis based their land ownership was destabilized by European Christian missionaries and colonial agents who supported them. This foundation was tied to rituals for creating rain (*kipkaptai*), initiation rites (*tumdo*), and holy burial places. Missionaries condemned sacred natural sites and replaced them with churches and mission compounds (Hannaford *et al.*, 2026). Oral accounts lament the loss of sacred rituals that created a sense of identity for them:

"The *kapchepkendi* were our sacred places, where we sought protection and blessings for our land and people. When the missionaries came, they cleared some of these groves to build schools. Others who converted fenced them off. We lost not only the trees but also the spirits that guarded our lands." (Jepngetich, O.I., 2024).

Christianity and Islam introduced new ideas that emphasized land is property to be owned and developed, motivating social and environmental changes that aligned with shifting power dynamics. The emergence of early self-serving elders marked a shift toward class stratification and the commodification of land, reshaping social relations and access to resources (Hannaford *et al.*, 2026).

CONCLUSION

Among the ancient Kipsigis society, land was not only an economic asset but rather a sacred community trust that was managed by unwritten customary rules. Land had several purposes, including providing a means of subsistence, conserving cultural memory, and providing a foundation for identity. The distribution of resources was arranged according to age groups and clans, and women, although being prohibited from ownership, performed important roles in agriculture and ensuring food security. The communal structure was progressively eroded by the introduction of new concepts of property and commerce that were brought about by foreign connections with Arab-Swahili merchants, missionaries, and explorers by the middle of the nineteenth century. These early impacts laid the groundwork for the colonial invasion that occurred after the year 1884. During this time, British policies formalized land alienation, reconfigured governmental power, and redefined socio-economic life.

RECOMMENDATIONS

To remedy disruptions in pre-colonial land tenure systems, the government should invest in documenting and integrating indigenous land practices through cultural institutions and research. This includes acknowledging indigenous systems like *bororiet* and *kokwet*, conserving oral histories through community-led archives, and ensuring that these frameworks guide future land policies. Incorporating customary tenure into formal legal systems promotes legitimacy and cultural continuity.

Kericho County urgently requires a detailed historical land audit. This should trace land ownership from colonial expropriations to post-independence transactions, emphasizing the role of political elites in land distribution. The findings must drive a transparent restitution or compensation procedure that addresses injustices caused by political manipulation of land policy. Where land restoration is not attainable, community development funds or reparative activities should be prioritized.

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