

**DETERMINANTS OF LAND OWNERS PERCEPTION ON COMPULSORY LAND  
ACQUISITION BY GOVERNMENT FOR PROJECT IMPLEMENTATION: A CASE  
OF IMENTI SOUTH SUB COUNTY, KENYA**

**By**

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## DECLARATION

I, John Gachuhi Wanyoike, declare that this is my original work and has never been presented for an award in any other University

Signed ..... Date .....

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This Research Project has been presented with my approval as university supervisor.

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## **DEDICATION**

This research project is dedicated to my wife Veronica, my sons Victor and Jesse and my daughter Mercy.

## **ACKNOWLEDGEMENT**

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## **ABBREVIATIONS AND ACCRONYMS**

**NLDP:** National Land Use Policy

**ICESCR:** International Covenant on Economic, Social and Cultural Rights

**FAO:** Food and Agriculture Organization

**FGD:** Focus Group Discussion

**NCSTI:** National Commission for Science, Technology and Innovation

**SPSS:** Statistical Package for Social Sciences.

**IDHS:** Istanbul Declaration on Human Settlements

## ABSTRACT

Land must be provided for investments such as roads, railways, hospitals, schools among others. For instance, over the last six years, there has been a tremendous development of infrastructure projects in virtually all corners of Kenya in form of road improvement, water and sewerage improvement projects and the electricity transmission improvement projects as envisioned in the Kenya vision 2030. These projects have therefore forced the government to acquire private property compulsorily for implementation of the projects. Therefore, compulsory acquisition of land is the power of government to acquire private rights in land without the willing consent of its owner in order to benefit society. Therefore this study established the determinants of land owners' perception on government's compulsory land acquisition. The study focused on the following objectives; To assess how land owners' awareness on the legislation, how involvement of land owners, how social cultural factors and timing of compensation determines their perception on compulsory land acquisition by government for project implementation. The study employed descriptive survey design which allowed the researcher to generate both numerical and descriptive data. The target population of this study was all the 683 land owners affected by Meru – Marimba - Nkubu –Mitunguu road project. This study employed stratified random sampling and 202 land owners were selected. This study used the questionnaire and focus group discussions instruments to collect data. The study found out that there was a weak negative relationship between land owners' awareness on the legislation on compulsory land acquisition (-0.015) as well as social cultural factors determining perception of land owners (-0.028). The study also found out that more than half (57.3%) of the landowners were not aware of the legislation of compulsory land acquisition. The study recommended that land owners should be involved in the entire land acquisition process, right from the planning, to the negotiation and the implementation. This will ensure that both parties are well represented and their demand and needs are well taken care of without exploiting either side of the negotiation.





## **CHAPTER ONE**

### **INTRODUCTION**

#### **1.1 Background of the study**

Compulsory acquisition is the power of government to acquire private rights in land without the willing consent of its owner or occupant in order to benefit society. It is a power possessed in one form or another by governments of all modern nations. This power is often necessary for social and economic development and the protection of the natural environment. Land must be provided for investments such as roads, railways, harbours and airports; for hospitals and schools; for electricity, water and sewage facilities; and for the protection against flooding and the protection of water courses and environmentally fragile areas. However, a number of countries require that the government should attempt to buy the required land in good faith before it uses its power of compulsory acquisition.

Despite the rural-urban migration, there are still a larger numbers of Kenyans living in the rural areas. It is estimated that about 67 - 72% of people in Kenyans live in rural areas hence land is central to many Kenyans (Nyamboga, 2006). Most of the Kenyans living in rural areas are poor and hence depend on land for their income. Many smallholder areas are suffering continuous fragmentation of holdings into uneconomic sizes, and farms sizes are getting smaller in the high rainfall areas and in the drier zones (Adams, & Palmer, 2007). In addition, many large farms that used to produce seeds and breeding stock have been sub-divided into smaller units and transferred from state to private ownership. The National Development Plan (2002-2008) had proposed the formulation of a National Land Use Policy (NLDP) that would facilitate the preparation and implementation of land use plans for all urban and rural areas (Bower, 2003).



Compulsory land acquisition in common law is the inherent power of the state to seize private property, expropriate property or right in the property without the owner's consent (FAO, 2008). It can also be termed as the right and action of the government to take possession of property it does not own for public use (Chan 2003). Compulsory land acquisition has different terms in different countries. In the United States it is called eminent domain, compulsory purchase in the United Kingdom and in New Zealand, Ireland, resumption, compulsory acquisition in Australia or expropriation in South Africa and Canada's common law systems.

In India, land acquisition literally means acquiring of land for some public purpose by government or a government agency, as authorized by the law. This land is acquired from the individual landowners after paying a fixed compensation in lieu of losses incurred by the land owner (Larbi, Antwi, & Olomolaiye, 2008). This is the inherent power of the state to seize a citizen's private property, expropriate property, or seize a citizen's rights in property with due monetary compensation, but without the owner's consent. The property is taken either for government use or by delegation to third parties who will devote it to public or civic use or, in some cases, economic development (Larbi et al 2008).

In Kenya, compulsory acquisition is embodied in Chapter Four Part Two Section 40 subsection 3 of the constitution 2010. Compulsory Land Acquisition Act and Way Leaves Act have been repealed by Land Act 2012 Part VIII (Compulsory acquisition of interest in Land) and Part X (Easements and analogous rights) respectively. Part VIII, section 107 of Land Act 2012 states that "whenever the national or county government is satisfied that it may be necessary to acquire some particular land under section 110, the respective Cabinet Secretary or the County Executive

Committee Member shall submit a request for acquisition of public land to the National Land Commission to acquire the land on its behalf.

In some countries, laws provide an itemized list of land uses that fall within the definition of public purpose (Keith, 2008). Some of the public purposes include transportation uses including roads, canals, highways, railways, bridges, wharves and airports; public buildings including schools, libraries, hospitals, factories, religious institutions and public housing; public utilities for water, sewage, electricity, gas, communication, irrigation and drainage, dams and reservoirs; public parks, playgrounds, gardens, sports facilities and cemeteries and lastly defence purposes (Okoth, 2009).

The important role land plays in the lives of people is enormous, therefore improper management of the acquisition process as a result of not following due process of the law have great impact on the social and economic activities and in effect violates human rights such as property rights, housing, food and basic standard of living.

Despite being a core and necessary governmental power, compulsory land acquisition has always attracted controversy, both in theory and practice. This is because whenever people are displaced, the human costs in terms of disruption to community cohesion, livelihood patterns and way of life, may go beyond what can be fully compensated through standard compensation packages. The compensations are sometimes compounded especially where the process is designed or implemented poorly or tenure insecurity is exacerbated. In such cases, land markets are weakened, investment incentives are undermined, and communities and livelihoods are destroyed. This has led to the land owners having to fight against compulsory government compulsory land acquisition. However, they have no control over the situation since the

government has to take land. Most governments have laws that allow them to compulsorily acquire land in the public interest (Kasanga & Kotey, 2001; Larbi et al., 2004; FAO, 2009). Compulsory acquisition is unpopular since it extinguishes all prior interests and encumbrances in the land. Land rights-holders are compensated by an amount usually determined by a government agency (FAO, 2009), often without much consultation with the affected communities. Contest over the loss of land rights may result in challenges in court or through reoccupation. With customary lands, the payment of compensation is problematic since, by definition, customary rights-owners are inter-generational (Kasanga & Kotey, 2001).

Although the Kenyan constitution recognises the right to own property and is categorical that no property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired; it also gives a large and significant exception by allowing for provision(s) for the compulsory acquisition of land for the public benefit (Bruce, 2009). The constitution states that where it has been satisfied that the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of property so as to promote the public benefit, then the right to own property may be waived. When a property is forcibly acquired, it is the Commissioner of Lands who makes inquiries into the value of the land and determines the value in accordance with government principles. It is likely that the compensation value given by the government would be way below the expected value by each owner (Antwi & Adams, 2008).

In valuing the land, the government looks at the market value of the property, and also at any damage that the owners may suffer from the land being severed from their other land as well as

damages that others may suffer if they are adversely affected by the government's intervention. Government will also offer some compensation if affected parties need to change their residence or place of business as a consequence of the acquisition. Under the law, apart from these matters, no other matters should be considered in valuing the land.

## **1.2 Statement of the problem**

Over the last six years, there has been a tremendous development of infrastructure projects in virtually all corners of Kenya. This has taken the form of road improvement, water and sewerage improvement projects and the electricity transmission improvement projects as envisioned in the Kenya vision 2030 (Nzoki, 2009). Meru – Marimba – Nkubu – Mitunguu road project is one of the Government's infrastructural development projects. The project was carried out mainly in Imenti South Sub-county with a small section passing through Imenti Central and Imenti North Sub-counties. The project covers a total of 47 Kilometers as follows: Meru – Marimba section 17KM, Marimaba - Nkubu section 15KM, Nkubu - Mitunguu- 15Km. It was started in year 2011 and completed in year 2013. However, although the road project is complete, a substantial number of land owners had not been paid their compensation by end of 2013. The constitution requires that if land is acquired compulsorily, just compensation be paid promptly as per the compensation policy. Delay in compensation of land acquired has inconvenienced most of the land owners hence affecting their perception towards the whole issue of compulsory land acquisition. The researcher has for over the last eight years worked in various projects involving compulsory land acquisition. Some of this includes Mai Mahiu – Lanet road in year 2007, Njoro turnoff – Timboroa road in year 2009, Meru – Mikinduri – Maua road in year 2009, Isiolo International Airport in year 2010 among others. In all the projects, the researcher has noted that

there are several shortcomings which include delayed compensation. For example in Meru – Mikinduri road project 383 land owners out of the affected 517 land owners had not been paid their compensation by end of year 2013. Land prices have changed and even if they are paid today, they cannot manage to buy equivalent land. The land owners have expressed concerns over what they term as infringement to their right of ownership of land. This study therefore established the determinants of land owners’ perception on government’s compulsory land acquisition: a case of Meru- Marimba - Nkubu - Mitunguu Road Project- Imenti South Sub County.

### **1.3 Purpose of the study**

The purpose of this study was to establish the determinants of land owners’ perception on government’s compulsory land acquisition: a case of Meru- Marimba - Nkubu - Mitunguu Road Project in Imenti South Sub County Meru County.

### **1.4 Objectives of the study**

The study was guided by the following research objectives

- i. To determine land owners perception of compulsory land acquisition by government for project implementation
- ii. To assess how land owners’ awareness of compulsory land acquisition legislation determines their perception on compulsory land acquisition by government for project implementation
- iii. To determine how involvement of land owners in the acquisition process determines their perception on compulsory land acquisition by government for project implementation.

- iv. To establish how social cultural factors determines land owners perception on compulsory land acquisition by government for project implementation
- v. To assess how timing of compensation determines land owners perception on compulsory land acquisition by government for project implementation

### **1.5 Research questions**

The following research questions guided the study;

- i. What is the land owners' perception of compulsory land acquisition by government for project implementation?
- ii. How does land owners' awareness of compulsory land acquisition legislation determine their perception on compulsory land acquisition by government for project implementation?
- iii. How does involvement of land owners in the acquisition process determine their perception on compulsory land acquisition by government for project implementation?
- iv. How do social cultural factors determine land owners perception on compulsory land acquisition by government for project implementation?
- v. How does timing of compensation influence land owners perception on compulsory land acquisition by government for project implementation?

### **1.6 Significance of the study**

The study will be significant in a number of ways. First the findings of the study will advice the government on how best they can improve the process of compulsory land acquisition. Secondly the study findings will bring out the landowners perceptions which will assist in finding ways of making the process efficient. The study findings will be important in advising the government in

matters of law regarding compulsory land acquisition. The study may also form a base for scholars wishing to investigate further in this area of study.

### **1.7 Delimitations of the study**

The study was conducted in Imenti South Sub County. It concentrated on one transport project named Meru – Marimba – Nkubu – Mitunguu road construction project. The road project was carried out mainly in Imenti South Sub County but with a small section in Imenti Central and North in order to connect with Meru Town. Only land owners who were affected were interviewed since they were deemed to have the needed information.

### **1.8 Limitations of the study**

One of the limitations of the study was that the study relied on respondents' perceptions. Human beings may be influenced to give socially acceptable responses to please the researcher. Another limitation is that the study was carried out in one project namely, Meru- Marimba - Nkubu - Mitunguu road project which is basically a transport project. The respondents for the study had diverse background including levels of education; this become a challenge during data collection.

### **1.9 Assumptions of the study**

The following were the assumptions of the study

- i. The land owners will be truthful in responding to the questionnaire items
- ii. That the land owners have formed a perception on the governing compulsory land acquisition

## **1.10 Definition of significant terms**

**Awareness** Having knowledge of legislation

**Compensation** Refers to the amount of money given to the land owner once his or her property has been taken by the state

**Compulsory acquisitions** refer to taking over a property by the Government or its agency for public use, without private negotiations, without the consent of the owner but with a just compensation.

**Involvement** Being part of the negotiation for compensation of compulsory land acquisition

**Land owners** Individuals who possess land

**Legislation** Laws that guide acquisition of land by government

**Perception** The attitude towards compulsory acquisition of land by government

**Social-cultural factors** Interrelations between members of a community and their behaviours

## **1.11 Organization of the Study**

The study is organized in Five Chapters. Chapter One is introduction of the study which introduces the background of the study area. Chapter Two reviews the literature which have been done by others people. Chapter Three focuses on research methodology while Chapter Four analysis, present and interpret the data collected. It ends with Chapter Five which has the findings, discussions conclusions and recommendations of the study.



## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

This chapter focuses on literature review. The review focuses on theoretical review which focuses on land owners' awareness on the legislation and compulsory land acquisition, notice of intention to acquire land and government's compulsory land acquisition, involvement of landowners in determining their compensation and government's compulsory land acquisition, prompt compensation and government's compulsory land acquisition, critique of existing literature and summary of literature review. The chapter also presents the conceptual framework of the study.

#### **2.2 Perception of land owners on compulsory land acquisition by government for project implementation**

The basic principles and processes in compulsory acquisition of land and compensation are perceived to be quite similar even though the practice may vary in different nations or regions. Compulsory acquisition is the process by which local and national governments obtain land and premises for development purposes when they consider being in the best interest of the community. The process of valuation for compulsory acquisition of landed property is governed by legislative statutes that vary from one country to another. The term compulsory acquisition has a number of variants some of which are compulsory purchase; expropriation; land-take or eminent domain. In all this cases, the owners are denied their property rights for overriding

public interest and are entitled to full, just, fair, equitable and adequate compensation. Ideally, compulsory purchase is an important tool in land acquisition although in many countries land acquisition is arranged through other means such as by voluntary agreements (Viitanen and Kakulu, 2009)

Land acquisition for overriding public interest, public purpose, or public benefit can be easily understood and accepted where the purpose is to build a school, hospital, recreational facility or to provide infrastructure and services that members of the public can physically see and use. However, where in the process of acquisition a private undertaking is able to profit from the taking of land at a price which disregards the value of the land to the project, then there is bound to be some form of resistance by the land owners (Denyer-Green, 2000). Further, some projects may not pass the “public purpose” test because of subsisting private interests and profit orientation motives. Alterman (2007) asserts that “public purpose” is the core of expropriation and the core of its legitimacy and prescribes a conceptual model of dimensions for use in determining the “public purpose” in land-expropriation law and policy.

Compulsory land acquisition is one of the most challenging questions in land management. It is a process that is undesired by the land owners, as they have to be dispossessed against their will. In addition, the issue of compensation payable in respect to the acquisition is also alarming. Although several measures have been used by acquiring authorities to improve the compensation package, affected land owners are still dissatisfied. In fact, land acquisition has raised a number of criticisms and has caused conflict between the land owners or occupiers and the acquiring authority (Martin 2010).

### **2.3 Land owners' awareness on the legislation of land acquisition and their perception on compulsory land acquisition**

The compulsory acquisition of land has always been a delicate issue and is increasingly so nowadays in the context of rapid growth and changes in land use. Governments are under increasing pressure to deliver public services in the face of an already high and growing demand for land. Many recent policy dialogues on land have highlighted compulsory acquisition as an area filled with tension especially when the land owners are not aware of the legislation on land acquisition (Government of Kenya, 2011). From the perspective of government and other economic actors, the often conflictual and inefficient aspects of the process are seen as a constraint to economic growth and rational development. Land owners need to be aware of the legislation in dealings with land acquisition. The process also brings tension for people who are threatened with dispossession (Nzioki & Kariuki, 2012). Compulsory land acquisition involves four key steps, namely (i) Planning and the decision to acquire land, (ii) Legal preliminaries including getting statutory authority, surveying and serving notices, (iii) Field investigations including valuation and holding of inquiry, and (iv) Payment of compensation to those being dispossessed.

Although compulsory acquisition of land for development purposes may ultimately bring benefits to society, it is disruptive to people whose land is acquired (Nyamboga, 2006). It displaces families from their homes, farmers from their fields, and businesses from their neighborhoods. It may separate families, interfere with livelihoods, deprive communities of important religious or cultural sites, and destroy networks of social relations. If land owners are

not aware of the land acquisition procedures, they feel cheated and feel that their rights are infringed into by the government. If compulsory land acquisition is done poorly, it may leave people homeless and landless, with no way of earning a livelihood, without access to necessary resources or community support, and with the feeling that they have suffered a grave injustice. If, on the other hand, governments carry out compulsory land acquisition satisfactorily, they leave communities and people in equivalent situations while at the same time providing the intended benefits to society (Nzioki & Kariuki, 2012).

For public participation of citizens to be useful and meaningful, it must be effective participation. This can only happen if citizens and organisations are provided with all the necessary information to enable them to meaningfully engage in any consultations. This is because information raises the level of debate and influences opinion that might otherwise be compromised by mistrust and bias.

The power of compulsory land acquisition can be abused. Unfair procedures for the compulsory acquisition of land and lack of involvement of the land owners and inequitable compensation for its loss can reduce land tenure security, increase tensions between the government and citizens, and reduce public confidence in the rule of law. Unclear, unpredictable and unenforceable procedures create opportunities for corruption (Adams and Palma, 2007). There is need to have the land owners involved in the process and make them aware of the legislation so that they feel part of the dealings. Good governance is necessary to provide a balance between the need of the government to acquire land rapidly, and the need to protect the rights of people whose land is to be acquired. According to FAO (2009) conflict is reduced when there are clear policies that define the specific purposes for which the government may acquire land, and when there are

transparent and fair procedures for acquiring land and for providing equitable compensation. Effective and fair compulsory acquisition cannot exist without good governance and adherence to the rule of law

Bruce (2009) states that one of the ways of making the victims aware is having public meetings at the initial stages of the land acquisition. Public meetings provide an opportunity for people to learn more about the project and the legal provision. In these meetings they are able to receive answers to their questions about the process and its procedures, and to voice their concerns. The meetings illustrate accountability and transparency when the government has to justify its proposal to compulsorily acquire land (Larbi, 2008). Open discussion at public meetings help the government to improve its understanding of the needs and concerns of affected communities, and to prepare responses that reduce the number of challenges to the compulsory acquisition (Kombe, 2008). Ongoing, open communication with land owners about the project can be crucial to its success: when people are not given sufficient opportunity to express dissent as part of the normal process, they may engage in other forms of protest that block the project. Meetings should be held at times and places that are convenient for all affected people, both men and women, and should be planned and designed with local communities to ensure that all are heard, especially the vulnerable. Local languages should be used in presentations and discussions (Kombe, & Kreibich, 2006).

The period for public comment begins with preparation of documents that describe the main features of the project. The information should be displayed in a location that is easily accessible to the public. People should have the opportunity to review the documents and submit written or oral objections to the project. The government should respond to these objections in writing. The

body overseeing the public review should recommend whether or not to alter the original plan as a result of the objections received. Based on the report received, the decision of the relevant government official is final unless any appeal is received (Olima, & Syagga, 2006). Once notice has been given and the public review process is concluded, people should submit claims for compensation of losses that will result from the compulsory acquisition of their land. When governments compulsorily acquire land, they have an obligation to ensure that the process is completed in an equitable and transparent manner. People should not be impoverished because their land was acquired by government. Equitable and transparent procedures are also needed for economic growth: compulsory acquisition will destabilize the economy if investors perceive that their rights to land are not adequately protected by the government.

#### **2.4 Involvement of land owners in determining their compensation in compulsory land acquisition by government for project implementation**

During the valuation phase, the acquiring agency and the people whose land is being acquired gather information and evidence to support their arguments for the compensation values they believe to be equitable. This work is triggered by the notice of intention to compulsorily acquire land (FAO, 2008). The notice of intention to acquire should set a deadline by which each affected owner or occupant submits a claim for compensation. Responsibility for the valuation of land varies from one country to another. In some countries the work is done by or for the acquiring agency while in other countries the valuations are the responsibility of independent commissions. The notice of inquiry into compulsory land acquisition should set a deadline by which each affected owner or occupant submits a claim for compensation (FAO, 2008). At some point after notice has been given, the project's valuers must enter the land to inspect it and all Legislation should enable the clear definition of the date at which the land should be valued as

values can change rapidly as a result of awareness of the project. The most equitable approach is to have a valuation date that sets the value of the land as if the proposed project did not exist. For this reason, it is common for legislation to require that the value of a land parcel is linked to the date of the publication of notice. If legislation does not specifically link the date of valuation to such an event, the acquiring agency should specify dates appropriate to the nature of the project (FAO, 2008).

Normally it is the local or central government that initiates the process of land acquisition for public use (Wehrmann, 2008). Valuation of land and other improvements therein is done either by the government or private companies but central government must give approval. Whilst dispossessed households are entitled to fair and prompt compensation, the allocation of alternative land for resettlement is not a right, but at the discretion of the government or any other institution involved in the acquisition of land for public use (Kombe and Kreibich, 2006). This situation calls into question the statutory provisions which aim to protect the rights of the land occupiers, or aim to restore dispossessed persons to the same position they were in before the acquisition. In the Tanzanian context, the provision of alternative land in an appropriate location seems to be a key pre-condition not only for restoring land occupiers to the situation they were in before the acquisition of their land for public use, but also for promoting sustainable use of environmental resources on which the survival of urban settlers depends (Shivji, 1999).

When a number of members of a family, including women and children, jointly own land, it may be unclear who should receive compensation. Some members of the family may live together on the land and jointly cultivate it while other co-owners may have migrated elsewhere to seek work. Conflicts may arise when the land is compulsorily acquired: siblings may contest

inheritance claims, or there may be inter-generational disputes. Women and children may have a great stake in the family home or agricultural land but hold few rights to control what happens to it (FAO, 2008). Local laws, or cultural or religious rules, may prevent women and other vulnerable groups from having a legal claim to the land on which they live and work. The male head of the family may be automatically considered the landowner and receive the compensation; this decision may lead to injustice and the eventual impoverishment of the entire family if the funds are mismanaged (FAO, 2008).

The payment of financial compensation may present challenges. The compensation for the loss of shared resources may be complicated by arguments as to who is eligible to share in the award. Leaders may divide the compensation according to customs which discriminate against women and other vulnerable groups. Even payment of compensation for the loss of land used exclusively by an individual or family may be complicated if it is culturally and legally inappropriate for the acquiring agency to make the payment directly to the intended beneficiary. Yet if payment for all affected families is made as a lump sum to the customary leaders, there is a danger that the leaders will keep an unduly high amount for themselves, and will give the affected families amounts that are insufficient to allow them to re-establish their livelihoods elsewhere (FAO, 2008).

There may be occasions when financial compensation is inadequate. In cases where a community is to be displaced, the allocation of land for resettlement or leasing arrangements may remove the problems associated with financial compensation but the provision of alternative land as compensation can bring its own problems (Deininger, 2007). In cases where only portion of a community's land is to be acquired, negotiations may reveal that compensation could also take



the form of the provision of facilities such as schools, clinics, public toilets, wells, markets or storage areas. The loss of forest land may be partially compensated through assistance with reforestation of other community lands. Legislation should anticipate such instances for the valuation and compensation of customary land by including mechanisms that fairly and effectively resolve them. It should require that qualitative and quantitative research be carried out with the people affected to ensure that they receive equitable compensation when customary land is to be acquired (Bower, 2003).

## **2.5 Social Cultural factors and land owners perception on compulsory land acquisition by government for project implementation.**

Issues surrounding compensation for losses suffered who-gets-what when government acquires a piece of land are typically the most complex and controversial aspects of compulsory acquisition. A long-standing principle in many jurisdictions is that compensation should be guided by the objectives of “equity” and “equivalence” that is, the adequacy of compensation should be measured against the goal of ensuring that people are neither impoverished nor enriched (Keith, 2008). Social cultural factors include issues such as; who receives compensation on behalf of the family or those affected, how are non monetary issues like loss of friends and neighbors considered, among others. This is because; in cases of complete relocation, we look only into issues of loss of property but we ignore even psychological torture and the hustles of looking for alternative land. The factors also touch on how the money will be spent. Some family members fear if the money is paid to men it may end up in beer dens.

A variation on this standard view argues that it may be appropriate in some cases, particularly where a taking is occurring in the context of a development project or program, to aim beyond equivalence to improving the position of those affected wherever possible. This is the principle

articulated in the World Bank Policy on Involuntary Resettlement: “Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.” In either case, applying the principles of compensation in practice has always been an extremely complex challenge. Appreciation of this complexity has deepened as fuller and more nuanced views of the rights that people hold over land has taken root in many parts of the world.

Indeed, one key insight supported by comparative analysis is that legal approaches developed in the context of Europe or North America where land rights are generally standardized and well defined, land markets function, and land records are reliable have proven to be ill-equipped for dealing with many developing country contexts where such attributes are less common. Compensation issues can be conveniently grouped according to two overlapping sets of questions: who should receive compensation for what kind of loss; and how should the quantum and type of compensation be determined?

All affected owners and occupants may be at a disadvantage when their land is being compulsorily acquired, but the burden is particularly hard on the poor. They may not know their rights or how to safeguard them during negotiations with experienced officials who are supported with all the powers and resources of government. In addition, it is often the land of the poorest and most vulnerable that is compulsorily acquired for projects (Government of Kenya, 2004). The value of their land is usually low compared with land owned by others, making it less costly to acquire and thereby lowering the total costs of the project. It is also easier to locate an unpopular public works project in a poor area because the residents lack the political influence

and other resources to successfully block the choice of location. As well, local governments may have an interest in redeveloping the poorest areas in order to increase the tax-base. Such redevelopment usually requires the removal of residents (Government of Kenya, 2004).

People whose land is being compulsorily acquired should be given help to understand every aspect of the compensation process. They may need assistance contesting the decisions and actions of the acquiring agency, getting second opinions on the value of their land, and ensuring that compensation is paid. The Habitat Agenda, reaffirmed by the Istanbul Declaration on Human Settlements (1996), asserts that governments should pro-actively provide advocacy assistance to affected individuals. It states that governments should provide access to effective judicial and administrative channels for affected individuals and groups so they can challenge or seek redress from decisions and actions that are socially and environmentally harmful or violate human rights; broaden the procedural right of individuals and civil society organizations to take legal action on behalf of affected communities or groups that do not have the resources or skills to take action themselves; and facilitate access to legal services by people living in poverty and other low-income groups through the provision of facilities as legal aid and free legal advice centres (Larbi, Antwi & Olomolaiye, 2008).

The calculation of compensation is based on the value of the land rights and improvements to the land, and on any related costs. The determination of equivalent compensation can be difficult, particularly when land markets are weak or do not exist, when land is held communally, or when people have only rights to use the land. Many factors can lead to inadequate compensation. Legislation should ensure fair processes for determining valuation and compensation. While the public interest in keeping costs as low as possible is important, this concern should not deprive

people of the equivalent compensation they need in order re-establish their lives after the loss of their land (Nyamboga, 2006).

Sometimes there is Poor communication and non-involvement of landowners. Conflicts have also emerged because sitting land occupiers are not being involved or educated about the rationale for the valuation process and the method used to compute the compensation payable for land and other developments therein. Often, sitting land occupiers are not directly represented in key decision-making stages related to the expropriation of their land, leading to protracted disputes particularly between public authorities and sitting land occupiers (Kombe & Kreibich, 2006). Other major causes of land conflicts include dysfunctional land management and problematic governance institutions, including a lack of transparency especially in public land acquisition; weak structures for checking land grabbing; and exclusion of the disadvantaged. There are also problems related to nepotism, corruption and the disregard of regulations, and unregulated informal land acquisitions (Wehrmann, 2008).

FAO (2012) states that there are several factors that lead to unjust compensation. For example, poorly drafted laws and regulations create confusion, error, conflicting outcomes, and opportunities for abuse of power. Determination of equivalent compensation is difficult when people do not have clear legal rights to the land. Affected owners and occupants often have less negotiating power, experience and skills than the acquiring agency (Okoth-Ogendo, 2009). They may be unaware of their rights, and under pressure to accept a low offer in order to be able to resettle elsewhere quickly. The rich may be able to afford professional advice on the value of compensation but the poor are likely to be at a disadvantage. Lack of standards and good

governance practices allows corrupt officials to provide favourable compensation to those who offer bribes (Komu, 2002).

Accurate valuation is difficult because it is time-consuming and expensive: each land parcel must be inspected to determine the value of the land and improvements. A shortage of skilled valuers will increase the time required to complete the work. It may be difficult to prepare reliable indicators for valuation when land sales are informal, or where markets do not exist or are just developing. It may be also difficult to financially quantify non-economic losses, e.g. religious, historical or cultural claims to the land (Larbi, 2008). News of the project may affect the market value of the land. Legislation that does not clearly state the basis for compensation which may result in inequitably low compensation if values fall and inequitably high compensation and greater costs to the government if values rise. Appeals processes that are expensive and difficult to use are accessible only to the rich. The poor may have little option but to accept the offer of compensation even if they believe it is inadequate (Larbi, 2008).

A drawback of negotiation is that there can be an imbalance in negotiating power. The government should ensure that owners and occupants know about the negotiation procedures and what their rights are in the process. It should cover the reasonable costs of specialists such as valuers and lawyers as a part of the compensation claim. Special assistance will be needed for most claimants, but it is particularly likely to be necessary for indigenous communities and other vulnerable groups (Olima & Syagga, 2006).

At times, owners and occupants may refuse to cooperate. Precautions should be taken to ensure that they have not refused because they did not receive notice of the compulsory acquisition or do not understand the contents of the notice. Legislation should allow the government to pay

compensation into special accounts held in trust for any such people so that the acquiring agency is able to enter and take possession of land according to its schedule (Olima & Syagga, 2006).

The government has the primary responsibility for ensuring that affected owners and occupants do not suffer injustice as a result of compulsory land acquisition. The acquiring agency should take measures to guarantee that people are given voice, power and protection of due process throughout the process. While doing so may seem costly in the short term, the long term effects may be a quicker, more efficient acquisition process, fewer appeals, and fewer impoverished people dependant on state support (Olima & Syagga, 2006).

## **2.6 Timing of compensation and land owners perception on compulsory land acquisition by government**

The timing of the payment of monetary compensation or the provision of other types of compensation (such as land) is of critical importance. In many parts of the world, failure of governments to provide compensation in a timely fashion has left dispossessed people in limbo, and without even the leverage that comes from still occupying the property that was the subject of the expropriation. This outcome is facilitated by some national laws that vest ownership of land in the government from the moment an expropriation decree is issued, leaving compensation as a post taking obligation of government only (Bruce, 2006).

Bruce (2006) states that a sounder approach found in a number of countries is to require full provision of compensation as a prerequisite for government taking possession of the land in question, and a showing by the acquiring entity that the funds for compensation have been set aside before the taking is approved by government decision makers. To prevent the possibility of development being stalled indefinitely by affected people challenging the compensation in court,

a number of laws (as well as the World Bank's Involuntary Resettlement Policy) provide for the possibility of establishing an escrow account for the payment of compensation when disputes have been finally adjudicated (Bruce, 2006).

Many constitutions state that compensation should be paid promptly. However, the period in which payment is to be made is often left undefined in relevant legislation. When the acquiring agency takes possession before full compensation is paid, there may be little incentive for it to make the final payment (Olima & Syagga, 2006). Legislation should ensure that people receive full payment of the agreed-upon compensation sum in a timely manner. Any departure from a standard compensation rule should be based on clearly stated grounds set out in the law, and should be approved by a judicial body or administrative officer superior to the acquiring agency. Legislation should require that possession takes place only after a substantial percentage of the compensation offer has been paid. The laws of some countries include provisions for payment plans, time limits, and other procedures by which people can force payment (Olima & Syagga, 2006). Legislation should entitle people to claim interest on any unpaid compensation starting from the date of possession (Olima & Syagga, 2006).

Compensation, whether in financial form or as replacement land or structures, is at the heart of compulsory acquisition. As a direct result of government action, people lose their homes, their land, and at times their means of livelihood. Compensation is to repay them for these losses, and should be based on principles of equity and equivalence. The principle of equivalence is crucial to determining compensation: affected owners and occupants should be neither enriched nor impoverished as a result of the compulsory acquisition. Financial compensation on the basis of equivalence of only the loss of land rarely achieves the aim of putting those affected in the same

position as they were before the acquisition; the money paid cannot fully replace what is lost. In some countries, there is legal provision recognizing this in the form of additional compensation to reflect the compulsory nature of the acquisition. In practice, given that the aim of the acquisition is to support development, there are strong arguments for compensation to improve the position of those affected wherever possible (Chengri, 2007).

There is always need to ensure that compensation is provided in a timely manner. The timing of the payment of monetary compensation or the provision of other types of compensation (such as land) is of critical importance. In many parts of the world, failure of governments to provide compensation in a timely fashion has left dispossessed people in limbo, and without even the leverage that comes from still occupying the property that was the subject of the expropriation. This outcome is facilitated by some national laws that vest ownership of land in the government from the moment an expropriation decree is issued, leaving compensation as a posttaking obligation of government only (Olima & Syagga, 2006). A sounder approach found in a number of countries is to require full provision of compensation as a prerequisite for government taking possession of the land in question, and a showing by the acquiring entity that the funds for compensation have been set aside before the taking is approved by government decision makers. To prevent the possibility of development being stalled indefinitely by affected people challenging the compensation in court, a number of laws (as well as the World Bank's Involuntary Resettlement Policy) provide for the possibility of establishing an escrow account for the payment of compensation when disputes have been finally adjudicated. The payment of compensation for rights that are not legally recognized raises difficult policy questions (Larbi, 2008).



Compensation should address both de facto and de jure rights in an equitable manner following the principle of equivalence. Where occupants have no recognizable legal right or claim to the land occupied, they may be entitled to resettlement assistance and to compensation for assets other than land (Olima & Syagga, 2006). Some form of fair payment for squatters is important, particularly where they are poor, are driven to informality out of necessity, and especially where government has condoned or encouraged the settlement in the first place. The compensation should show fairness and transparency. The negotiating powers of the acquiring agency and affected people should be as equal as possible (Shivji, 1999). Reasonable costs of affected people, including support to the poor and illiterate in negotiations, should be paid as part of the compensation. Negotiations should be based on an open exchange of information. The Constitution is explicit on the issue of payment of fair and prompt compensation before land or property can be acquired for public use. In practice, however, these provisions are often not observed. Delays of up to five years or more are not unusual after valuations have been done. There are also problems associated with clandestine selling after compensation is paid to land occupiers (Shivji, 1999).

Most laws on compulsory acquisition broadly define equivalent compensation with reference to market value or “just compensation”. In general, compensation should be for loss of any land acquired; for buildings and other improvements to the land acquired; for the reduction in value of any land retained as a result of the acquisition; and for any disturbances or other losses to the livelihoods of the owners or occupants caused by the acquisition and dispossession.

Compensation first aims to protect socially and legally recognised rights, second, the spirit is to ensure that the dispossessed are restored to the position they were in before the acquisition of

land by the state. In other words, an individual ought not to gain or lose from the decision by the state to acquire his or her land for public interest. In democratic states, governments have evolved protocols for participation and negotiation between sitting land occupiers and the state, thus the use of the powers of eminent domain or forceful acquisition is seen as a last resort. Despite elaborate protocols and statutory provisions, acquisition of land for public use is one of the most contentious undertakings primarily because of the intractable problems to which it often gives rise. These include excessive bureaucracy and delays in compulsory land acquisition projects, weak coordination between actors, alienation of local communities (including land occupiers) and disregard of social costs such as disruption of social networks and the livelihoods of the dispossessed land occupiers (World Bank, 1990; Olima and Syagga, 1996). This apart, often decisions taken by bureaucrats on behalf of the government seem to ignore the democratic rights of the wider community of land occupiers.

## **2.7 Theoretical review of the study**

The theoretical review under this section focuses on land owners' awareness on the legislation on their perception of compulsory land acquisition, effects of valuation of intention to acquire land on land owners perception of government's compulsory land acquisition, involvement of landowners in determining their compensation and government's compulsory land acquisition and lastly the effects of prompt compensation on land owners perception of government's compulsory land acquisition

Compulsory land acquisition reflects the feudal underpinning of English property law according to Benson (2008). The English Magna Carta had a primary purpose to curb royal prerogative with regard to the barons by specifying certain laws whereby the king should interact with the

barons and others—concessions were made, for example, to the church and the merchants (Benson, 2008, 426). The Magna Carta recognised the power of the English king to expropriate for his household, or for defence purposes, but it required that immediate cash payment be made for such expropriation. Gradually the monarch's power began to dwindle until tenants claimed ownership rights rather than mere possessory rights. Thus the monarch lost the absolute right of ownership (Benson, 2008). The Curia Regis – the ruling elite grew in power and eventually became the parliament, the representations of new political power, who could petition the throne for special rights and privileges in exchange of support and taxes.

Compulsory acquisition can be beneficial to the community both economically and socially. However, Jackson (2010) argues that if a government abuses its power through compulsory acquisition, the costs can far outweigh the benefits and social justice suffers. The poorest of the poor, who have the least legal, political and economic resources bear the brunt of compulsory acquisition (Jackson, 2010). Poor land owners or occupants often have less negotiating power, experience and skills than the acquiring agency (FAO, 2009). They may be unaware of their rights and may under-value their assets. In such a case compensation may seem lucrative. They may simply be put under pressure to accept a low offer and relocate elsewhere. Advocates of relocation, however, seem to lose sight of the fact that one's home/land is more than just a piece of property that can be taken and replaced (Jackson, 2010). Research shows people feel a common connection to their homes, whether these homes are shacks, huts or mansions (Jackson, 2010). Williamson et al. (2010) document the range of concepts of land which are related to different aspects of value. Both individuals and institutions share the responsibility of recognising the value of land to people and to protect the land rights of the weak and promoting social justice (Ravenell & Davis, 2006).

In international human right law, there is no codification of land as a specific right that form part of fundamental rights. However land constitutes the main asset, from which rural poor are able to derive a livelihood, millions of families, though they toil on their land, do not enjoy ownership rights over it and are considered landless (Kothari, 2008). In Quan (2000: pg 31-49) article she explain the importance of land and how access to land provides the primary means in poverty eradication especially in sub-Saharan Africa, therefore the need for security of land rights and reforms as a way in helping the rural poor in income generation in sustaining their livelihoods.

Huggins (2011) in his article made mention of the fact that, the lack of attention to land right in international agreement has led some experts to claim that land tenure rights, and their administration, are largely unaffected by international law. However, while land right are not directly addressed in international treaties such as the ICESCR, international law does place a number of important restriction on the ways in which States can deal with the land rights of their citizens. For example international law outlaws the arbitrary infringements of property rights. The denial of access to land in several ways affect other rights that must be enjoyed such as food, water, etc. Thus it provides the means of people or a community an adequate standard of living which must not be discriminated upon (Huggins, 2011).

In Kenya the discourse on compensation and government's compulsory land acquisition power are causing alarming concern with the destructions of people's sources of livelihoods and causing a lot of human rights violations as a result of people's interest and best practices are not followed per the law. Compulsory land acquisition process by States has been an eminent issue in Ghana since the colonial era. Although the Constitution of Kenya grants individual citizens the right to property The Constitution has vested in the government the legitimate power to

compulsorily acquire land from individuals or communities based on satisfaction of conditions of lawful, public interest and payment of compensation. However the constitution demands that prompt and adequate compensation shall be paid to individuals whose lands are compulsorily taken (Kenya Government, 2012).

Compulsory land acquisition is the power of government to acquire private rights in land without the willing consent of its owner or occupant in order to benefit society. This power is often necessary for social and economic development and the protection of the natural environment. Compulsory land acquisition requires finding the balance between the public need for land on the one hand and the provision of land tenure security and the protection of private property rights on the other hand (Abdulai, 2007). Compulsory acquisition is inherently disruptive. Even when compensation is generous and procedures are generally fair and efficient, the displacement of people from established homes, businesses and communities will still entail significant human costs. Where the process is designed or implemented poorly, the economic, social and political costs may be enormous. Attention to the procedures of compulsory acquisition is critical if a government's exercise of compulsory acquisition is to be efficient, fair and legitimate (Asante, 2007).

The most important justification for the acquisition of land for public use is for protection and enhancement of benefits to the wider community or society. It is therefore argued that the state, using the powers of eminent domain can - and should - have the authority to acquire or purchase privately held land or property for the utility of the general public. The economic justification for the deployment of compulsory acquisition is to ensure that public interests or projects such as economic ventures, public infrastructure development such as highways, water pipelines,

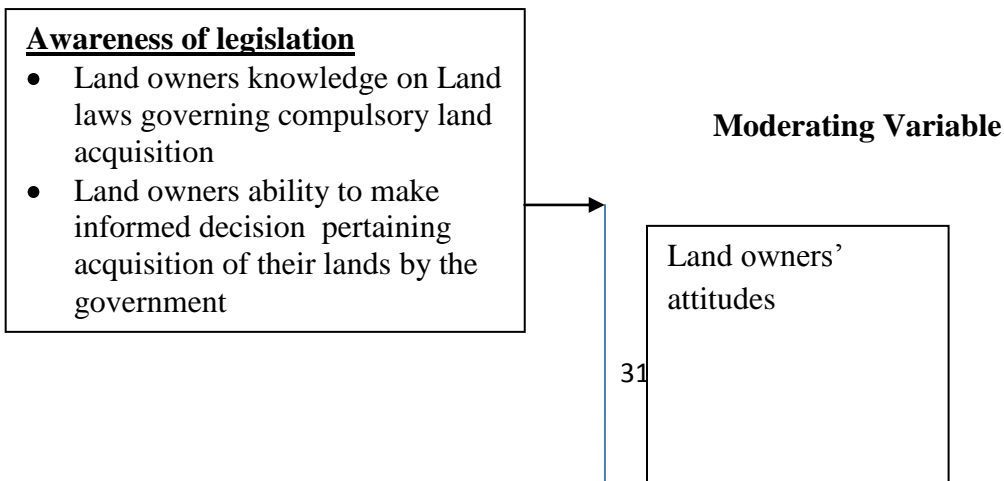
electricity, or the provision of social services such as the construction of schools and hospitals which cater for the wider public interest are not frustrated by an individual refusal to sell land to the government at a reasonable price (Miceli & Segerson, 1999 cited in Ndjovu 2003). If the public cannot access land forcefully, individuals could block social projects or demand unrealistically high sums, which the public cannot pay. Therefore, this provision is intended to ensure that an individual cannot veto the acquisition of land by the state because of self-interest or other motives including profit maximization.

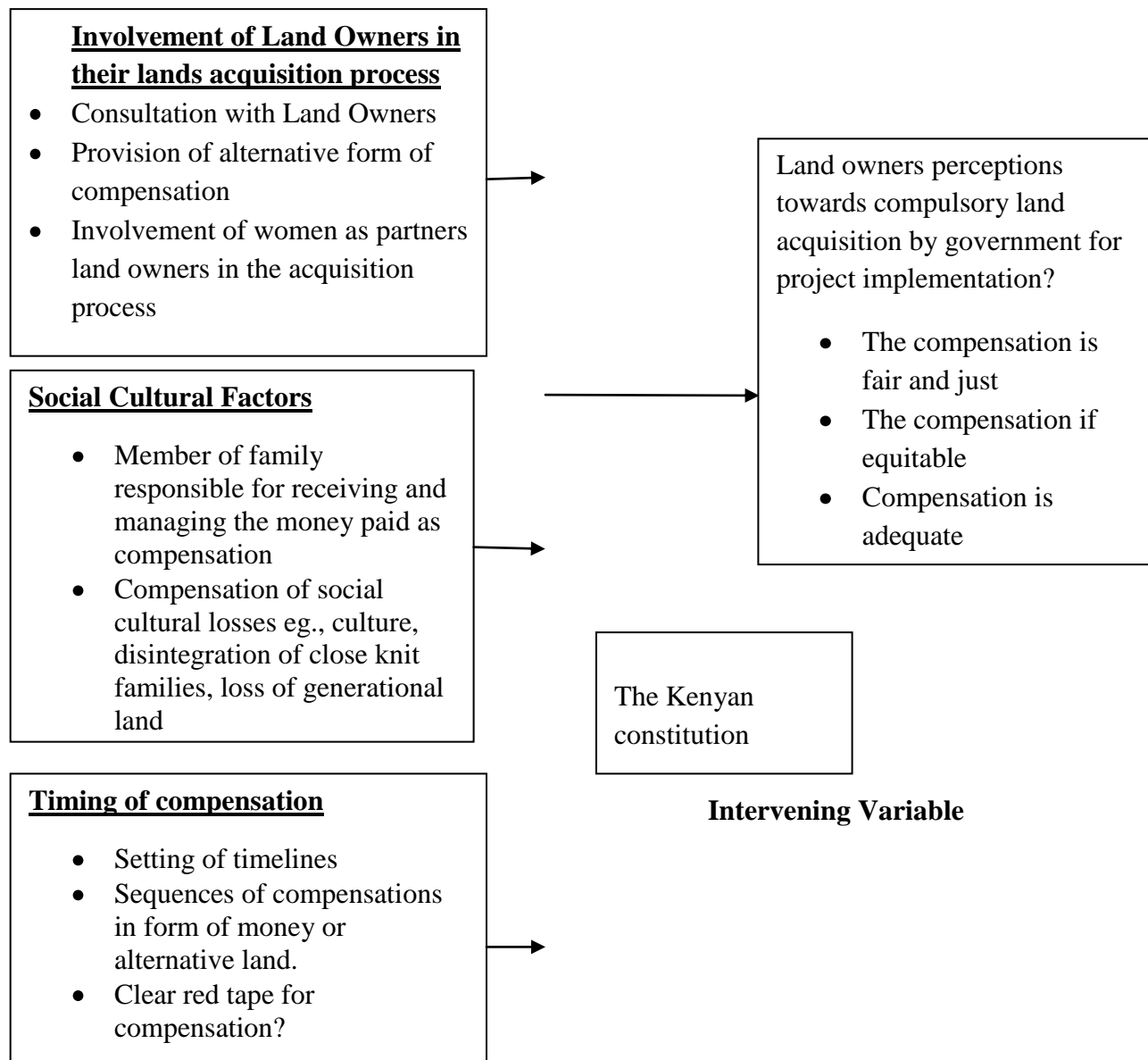
The compulsory acquisition of land has always been a delicate issue and is increasingly so nowadays in the context of rapid growth and changes in land use. Governments are under increasing pressure to deliver public services in the face of an already high and growing demand for land. Many recent policy dialogues on land have highlighted compulsory acquisition as an area filled with tension. From the perspective of government and other economic actors, the often conflictual and inefficient aspects of the process are seen as a constraint to economic growth and rational development (Kasanga, 2001).

## 2.8 Conceptual framework

### Independent Variables

### Dependent variable





**Figure 1: Conceptual framework**

The conceptual framework presented in Figure 1 shows the diagrammatical representation of the interrelationship among variables of the study. The figure shows the factors that deem to influence land owners perception towards compulsory land acquisition by government for project implementation. The framework shows that land owners perceptions are influenced by perceived factors such as their level of awareness of the legislation on compulsory land

acquisition, involvement of landowners in the process, social cultural factors and timing of compensation. These are the independent variables which when manipulated will have an impact on how land owners perceive the whole process of compulsory land acquisition by government for project implementation. The moderating factor between the independent variables and the dependent variable is the land owners' attitude while intervening variable is the Kenyan constitution. The intervening variable will not be studied as it cannot be influenced.

## **2.9 Research Gaps**

While several research projects have been carried out on compulsory land acquisition, there is none that has endeavored to investigate the determinants of land owners perception on compulsory land acquisition by government for project implementation. This research project sought to address this gap by investigation the determinants of land owners perception

## **2.10 Summary of literature review**

Nzioki and Kariuki (2012) have opined that there is conflictual and inefficient aspects of the process of compulsory acquisition of land especially when the land owners are not consulted and are not aware of the process. Nyamboga (2006) on the other hand states that although compulsory acquisition of land for development purposes may ultimately bring benefits to society, it is



disruptive to people whose land is acquired. It displaces families from their homes, farmers from their fields, and businesses from their neighborhoods. It may separate families, interfere with livelihoods, deprive communities of important religious or cultural sites, and destroy networks of social relations. Where of land owners are not aware of the land acquisition procedures, they feel cheated and feel that their rights are infringed into by the government. He therefore suggests that landowners need to be informed of the process and be made aware of the process. Nzioki and Kariuki (2012) state that public participation of citizens to be useful and meaningful, it must be effective participation. They further state that land owners participation in the process is can only happen if citizens are provided with all the necessary information to enable them to meaningfully engage in any consultations. Adms and Palma (2007) have indicated that unfair procedures for the compulsory acquisition of land and lack of involvement of the land owners and inequitable compensation for its loss can reduce land tenure security. The process can increase tensions between the government and citizens, and reduce public confidence in the rule of law. Bruce (2009) on the other hand indicates that one of the ways of making the land owners aware is having public meetings and the initial stages of the land acquisition. Public meetings provide an opportunity for people to learn more about the project and the legal provision. All these authors have shown the need of making land owners aware of the land acquisition process.

Wehrmann (2008) has indicated that valuation of land and other improvements is done either by the government or private companies but central government must give approval. Conflicts may arise when the land is compulsorily acquired without proper valuation. Conflicts further occur when the land owners are not given chance to have their own valuers. Improper valuation may lead to financial compensation being inadequate. In cases where a community is to be displaced, the allocation of land for resettlement or leasing arrangements may remove the problems

associated with financial compensation but, as shown below, the provision of alternative land as compensation can bring its own problems (Deininger, 2007). Bower, 2003) suggests that legislation should anticipate such instances for the valuation and compensation of customary land by including mechanisms that fairly and effectively resolve them.

Keith (2008) asserts that issues surrounding compensation for losses suffered who-gets-what when government acquires a piece of land are typically the most complex and controversial aspects of compulsory acquisition. Lack of involvement of the land owners in the compensation decisions may leave the land owners disadvantaged when their land is being compulsorily acquired without proper compensations agreements. Keith (2008); Larbi, Antwi & Olomolaiye, (2008 further states that people whose land is being compulsorily acquired should be given help to understand every aspect of the compensation process.

Larbi (2008) however states that accurate valuation is difficult because it is time-consuming and expensive: each land parcel must be inspected to determine the value of the land and improvements. A shortage of skilled Valuers further increase the time required to complete the work. Olima and Syagga (2006) suggests that special assistance is needed for most claimants, but it is particularly likely to be necessary for indigenous communities and other vulnerable groups even though sometimes victims refuse to cooperate.

Bruce (2006) underlines that importance of timing for compensation where he states that the timing of the payment of monetary compensation or the provision of other types of compensation (such as land) is of critical importance. He adds that any departure from a standard compensation rule should be based on clearly stated grounds set out in the law, and should be approved by a judicial body or administrative officer superior to the acquiring agency. The payment of

compensation for rights that are not legally recognized raises difficult policy questions as stated by Larbi (2008). As stated by World Bank (1990); Olima and Syagga, (1996), despite elaborate statutory provisions, acquisition of land for public use is one of the most contentious undertakings primarily because of the intractable problems to which it often gives rise. These include excessive bureaucracy and delays in compensation for most land owners who may perceive the whole process as an infringement of human rights.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Introduction**

This chapter presents the research methodology for the study under the following headings: research design, target population, sampling techniques and sample size, research instruments, validity of instruments, reliability of instruments, data collection procedures and data analysis techniques.

#### **3.2. Research Design**

The study employed descriptive survey design. Descriptive survey research seeks to obtain information that describes existing phenomena by asking individuals about their perceptions, attitudes, behavior or values (Mugenda & Mugenda, 2003). Descriptive research design is a scientific method which involves observing and describing the behavior of a subject without influencing it in any way. Descriptive research design is a valid method for researching specific subjects and as a precursor to more quantitative studies. Descriptive survey suited this study because the populations in question are large and difficult to observe the characteristics of each individual. This design allowed the researcher to generate both numerical and descriptive data that was used in measuring relationships between variables. Qualitative research allowed the researcher to exercise judgment and do appraisal and interpretation of the relationships that reveal themselves as a constitutive of various human activities. Such activities allowed the research to determine and attach meaning and significance within wider paradigm of knowledge.

### 3.3 Target Population

A population consists of a group that share common characteristics from which individuals or units of analysis are then chosen out of the population for the study, i.e. such a sample consists of a small portion of the total group that will make up the study (Fox & Bayat, 2007). The target population of this study was all the 683 land owners affected by Meru – Marimba - Nkubu – Mitunguu road project, distributed in Locations as shown in Table 3.1. The unit of analysis was the individual farmer.

**Table 3.1 Population distribution**

<b>S/NO</b>	<b>LOCATION</b>	<b>POPULATION</b>
1	Ntakira	39
2	Nthimbiri	18
3	Katheri	48
4	Githongo	16
5	Kithirune	27
6	Uruku	17
7	Kathera	248
8	Taita	19
9	Lower Mikumbune	9
10	Kithunguri	16
11	Ng'onysi	69
12.	Nkumari	157
	<b>Total</b>	<b>683</b>

### **3.4 Sample and Sampling technique**

#### **3.4.1 Sample Size**

Sampling means selecting a given number of subjects from a defined population as representative of that population. A sample is a portion of large population, which is thought to be representative of the larger population. Sampling is that part of statistical practice concerned with the selection of individual observations intended to yield some knowledge about a population of concern, especially for the purposes of statistical inference (Mugenda & Mugenda, 2003). Gay (2003) recommends that when the target population is small (less than 1000 members), a minimum sample of 20% is adequate for social science research. This implies that 205 household heads was selected.

#### **3.4.2 Sampling Procedure**

This study employed stratified random sampling. The entire population was grouped according to Land Locations (Also called Land Registration Sections) as determined by the Ministry of Land, Kenya. Samples were then picked randomly from these strata. As per Kenya gazette notice nos. 11143 & 11144 of 6<sup>th</sup> October, 2009; 14567, 14568 & 14569 of 26<sup>th</sup> November, 2010 and 8 of January 2011, 683 land parcels in 12 Land Registration Sections were earmarked for acquisition for construction of Meru – Marimba – Nkubu – Mitunguu road. Thus the target population in this research was 683 land parcels. Among them, 30% of this population was selected, which according to Ardilly and Tille (2006) provides a significant variation of the population proportion. Hence, 30% of the total population is made up 202 land parcels. Table

3.2 presents the sampling frame of the 202 respondents that was sampled in the 12 Land Registration Sections.

**Table 3.2: Sample frame**

S/NO	LOCATION	POPULATION	30% OF POPULATION	SAMPLE SIZE
1	Ntakira	39	11.7	12
2	Nthimbiri	18	5.4	5
3	Katheri	48	11.4	11
4	Githongo	16	4.8	5
5	Kithirune	27	8.1	8
6	Uruku	17	5.1	5
7	Kathera	248	74.4	74
8	Taita	19	5.7	6
9	Lower Mikumbune	9	2.7	3
10	Kithunguri	16	4.8	5
11	Ng'onyi	69	20.7	21
12.	Nkumari	157	47.1	47
	<b>Total</b>	<b>683</b>		<b>202</b>

### 3.5 Data Collection Procedures

This study applied the questionnaire and the focus group discussions instruments to collect data. The questionnaire aided in collecting more personal and in-depth information while the focus group discussions collected general and public information which assisted in confirming the information given through the questionnaire.

### **3.5.1 Questionnaire**

Data was collected using questionnaires because they allowed the researcher to reach a large sample within a limited time. Borg and Gall (1989) observed that questionnaires are used to obtain descriptive information from a larger sample. It also ensures objective replies due to its confidentiality. The researcher used both open ended and close ended questions on the questionnaire. Open ended allowed respondents to respond in depth information using their own words while close ended questions are easy to complete and do not put off respondents. They also help the researcher to compare responses given to different items and hence minimize subjectivity and make possible to use quantitative analysis (Mugenda & Mugenda 2003).

### **3.5.2 Focus group discussions**

The focus group discussion is said to be a type of group interview where the participants interact, argue and make joint contribution on the topic of concern rather than making individualized contributions (Bryman, 2008). The focus group discussion with the land owners provided an interactive forum through which participants gave information which otherwise would not have been obtained through individual questionnaire. This also provided the advantage of exploring issues of interest in a broad, free and interesting style where participants shared and debate. Three focus group discussions were formed; each group chose a chairperson and a secretary to regulate their discussion. In the processes, all the outputs of the discussions were written down by the researcher after a consensus on a given point reached. The focus group discussion (FGD) for this study involved a total of 50 household head, as Bryman (2008) asserts that a FGD may



involve more than 50 participants. The 250 participants were divided into 5 groups in a given geographical area. The focus group discussion guide had two major sections; the first section sought information about area they come from, number of discussants and their gender compositions and the name of the recorder. The second section contained eleven items for discussion that sought information based on the research objectives.

### **3.6 Data collection Procedures**

Data collection started with acquiring a research permit from the National Commission for Science, Technology and Innovation (NCSTI). The permit was used by the researcher to introduce to the area administration and the respondents. The researcher undertook some reconnaissance prior to the actual study to familiarize with the study area and build rapport with the respondents. He thereafter visited the area of the study and sample respondents. During the study the researcher administered questionnaires to the respondents and collected them the same day. For the case of respondents who were illiterate, the questionnaire was explained to them in the language that they understood and assisted to fill appropriately.

### **3.7 Validity and reliability**

Data validity refers to the degree to which results obtained from analysis of data actually represents phenomenon under study, Mugenda and Mugenda (1999). Reliability of data is the consistency of measures in a study (Bryman and Bell, 2003). It is the degree to which research instruments yields consistent results of data after trials.

#### **3.7.1 Validity of research instruments**

Validity shows whether the research items measures what they are supposed to measure. Instrument validity was ascertained through consultation with experts, supervisors and review of related literature. To augment face validity, the researcher critically ascertained whether the variables under study were reflected in the items that were in the instruments. The study also ascertained content validity by consulting with supervisors at the University of Nairobi. The researcher took the feedback given by the two supervisors and incorporated them in the study.

### 3.7.2 Reliability of research instruments

The reliability of questionnaires was established through the test-retest procedure. Questionnaire was first tested in ten randomly selected household not in the study sample. A period of two weeks was allowed before the tools were administered again for a retest. The scores was then correlated using Pearson's Product Moment Correlation Coefficient as an estimate of reliability. The test showed a coefficient of 0.820 which is sufficient since, a correlation coefficient of above 0.7 implies that the items in the instruments correlate highly among themselves hence consistent. This test is illustrated in table 3.2

**Table 3.2 Reliability test coefficient**

Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items	N of Items
.760	.820	10

### 3.8 Methods of Data Analysis

Data analysis was conducted after the data was collected. The research yielded both qualitative and quantitative data from the structured and the unstructured items. Coding was done for the

structured items. Coding is usually done through which categories of data are transformed into symbols that may be tabulated and counted (Kothari, 2004). The analysis of the coded data was done using the Statistical Package for Social Sciences (SPSS). Quantitative and qualitative methods of data analysis was used in which descriptive statistics like frequencies and percentages were applied to summarize quantitative data while the qualitative data was arranged into themes. Quantitative data from the structured interviews was coded and analyzed using descriptive statistics.

### **3.9 Ethical consideration**

Written permission to conduct this research was sought from National Commission for Science, Technology and Innovation (NCSTI). The researcher maintained honesty and confidentiality through the study and also assured the respondents of the same.

### **3.10 Operationalization of variables**

**Table 3.2 Operationalization of Variables**

<b>OBJECTIVE</b>	<b>INDEPENDENT VARIABLE</b>	<b>MEASURABLE INDICATORS</b>	<b>MEASURE</b>	<b>SCALE OF MEASUREMENT</b>	<b>TOOL OF ANALYSIS</b>
To assess how land owners' awareness on the legislation on compulsory land acquisition determine their perception on compulsory land acquisition by government for project implementation	Land owners' awareness on the legislation	<ul style="list-style-type: none"> <li>Land owners knowledge on specific laws of land acquisition</li> <li>Land owners ability to make informed decision pertaining acquisition of their lands by the government</li> </ul>	<ul style="list-style-type: none"> <li>Number of land owners who can explain the specific laws on land acquisition</li> <li>Number of land owners who can explain the acquisition process as explained by government officials and consultants</li> </ul>	Nominal  Ordinal	Descriptive statistics: Percentages Cross tabulation  Inferential statistics: regression
To determine how involvement of land owners determine their perception on compulsory land acquisition by government for project implementation	Involvement of land owners in compulsory land acquisition process	<ul style="list-style-type: none"> <li>Involvement of land owners</li> <li>Consultation between government and land owners</li> <li>Provision of alternatives to land owners</li> </ul>	<ul style="list-style-type: none"> <li>Number of meetings with the land owners</li> <li>Number of landowners engaged in inquiry sessions on land acquisition process.</li> </ul>	Ordinal	Descriptive: Mean, median and standard deviation  Inferential Regression

<p>To establish how social cultural factors determine land owners perception on compulsory land acquisition by government for project implementation</p>	<p>Social cultural factors</p>	<ul style="list-style-type: none"> <li>• Who receives compensation money</li> <li>• Are social cultural values compensated</li> </ul>	<p>Number of women who receives compensation and whether they were the land owners.</p> <p>Number of land owners who lost generational land</p> <p>Number of land owners who lost long term friends and long term neighbours.</p>	<p>Nominal Ordinal</p>	<p>Descriptive: Percentages, mean median and standard deviation</p> <p>Inferential statistics: Regression</p>
<p>To assess how timing of compensation determine land owners perception on compulsory land acquisition by government for project implementation</p>	<p>Prompt compensation</p>	<ul style="list-style-type: none"> <li>• Setting of timelines for compensation</li> <li>• Sequences of compensations</li> <li>• Clear laws on compensation</li> </ul>	<p>Set timelines for compensation</p>	<p>Nominal Ordinal</p>	<p>Descriptive: Mean, mode and median and percentages</p> <p>Inferential: Regression</p>

## **CHAPTER FOUR**

### **DATA ANALYSIS, PRESENTATION AND INTERPRETATION**

#### **4.1 Introduction**

The chapter is structured in sections as follows; first the questionnaires response return rate, followed by the findings as per the objectives of the study. The findings are explained using percentages, means and standard deviation in tabular form and in descriptions form. The section also presents the findings of inferential statistics in form of a multi-regression. The questionnaires were divided into sections. Section A focused on respondents' personal information on demographic variables and Section B focused on the dependent variable while Section C focused on the independent variables.

#### **4.2 Questionnaire Return Rate.**

The total number of questionnaires delivered was 202 out which 192 (95.0%) were returned. According to Dilliman (2000) a sixty (60%) return rate of research instruments is deemed as sufficient and therefore researchers should aspire to achieve at least a 60% or more return rate of research instruments. The distribution of questionnaires was as shown in Table 4.1

**Table 4.1 Questionnaire return rate**

<b>Location</b>	<b>Questionnaires Distributed</b>	<b>Questionnaires Returned</b>	<b>Percentage</b>
Ntakira	12	11	91.7
Nthimbiri	5	5	100
Katheri	11	11	100
Githongo	5	5	100
Kithirune	8	8	100
Uruku	5	5	100
Kathera	74	70	94.6
Taita	6	6	100
Lower Mikumbune	3	3	100
Kithunguri	5	5	100
Ng'onoyi	21	21	100
Nkumari	47	42	89.4
<b>Total</b>	<b>202</b>	<b>192</b>	<b>95</b>

### 4.3 Demographic characteristics of respondents

This section presents the findings on the demographic data of the landowners who participated in this study. The section is composed of; the age distribution of the land owners, the income levels of the respondents and the usage of land.

#### 4.3.1 Age distribution of land owners

The study sought to establish the age distribution of the land owners. This will help in ensuring that all the age groups are represented. The assumption is that land owners of different ages have different perceptions on government's land acquisition. The findings are summarized in Table 4.2

**Table 4.2 Age distribution of land owners**

Age	Frequency	Percentage
Below 25	4	2.1
26-30	18	9.4
31-45	22	11.5
36-40	62	32.3
41-45	34	17.7
Above 46	52	27.1
Total	192	100

The findings revealed that majority of the land owners in Imenti south sub county (32.3%) are between 36 and 40 years of age. Further, almost half of land owners (44.8%) were above 40 years of age. This shows that majority of land owners are of mature age which shows stability



especially in form of land ownership and land usage. Further, according to the African culture, most parents tend to hold land for several years before subdividing to the children. More so, while the older group is likely to buy land in addition to inherited land, it is difficult for young people to purchase land, given the amount of investment that goes into it.

#### **4.3.2 Average Income distribution of land owners**

The study wanted to establish the income distribution of land owners in Imenti south sub county. The findings are summarized in Table 4.3. The assumption was that the income levels of landowners are likely to influence their perception on compensation.

**Table 4.3 Average Monthly Income from farming distribution of land owners in the past three years**

<b>Income</b>	<b>Frequency</b>	<b>Percentage</b>
1001-2000	7	3.6
3001-4000	19	9.6
4001-5000	12	6.3
5001 and above	154	80.2
<b>Total</b>	<b>192</b>	<b>100</b>
Mean	5.59	
Standard Deviation	0.939	

The findings demonstrated a mean income of 5001 and above and a standard deviation of 0.939 which means that the values of income of landowners are concentrated closely around the mean.

The study also revealed that over half of the land owners (79.7%) used land for subsistence purposes while only 20.3% of them used land for commercial purposes. This finding confirms the observation made by Njati *et.al* (2014) in their study on growth of farming business in Meru County where they found out that majority of farmers in Meru County are subsistence farmers.

#### **4.4. Land owners' awareness on the legislation and their perception on compulsory land acquisition by government for project implementation**

The study wanted to assess how land owners' awareness on the legislation governing compulsory land acquisition determines their perception on compulsory land acquisition by government for project implementation.

##### **4.4.1 Awareness of land owners on the laws that govern compulsory land acquisition in Kenya**

The study sought to establish awareness of land owners on the laws that govern compulsory land acquisition in Kenya. This information would help in understanding the proportion of landowners who are knowledgeable on the legislation of compulsory land acquisition. The findings showed that more than half (57.3%) of the landowners were not aware of the compulsory land acquisition laws in Kenya. These finding supports the observation made by Bruce (2009) that most of the victims of compulsory land acquisition are not aware of policies and legislation and therefore it is important to hold public meetings at the initial stages of the land acquisition.

#### 4.4.2 Statements explaining awareness of legislation on compulsory land acquisition

The study presented statements to landowners to measure their awareness of legislation on compulsory land acquisition. The statements were presented in form of 5-scale likert scale ranging from strongly agree at 5, agree at 4, undecided at 3, disagree at 2 and strongly agree at 1. The data was analyzed in terms of mean, median, mode and standard deviation. The results are shown in Table 4.5

**Table 4.5 Awareness of legislation on compulsory land acquisition**

<b>Variables</b>	<b>Mean</b>	<b>Median</b>	<b>Mode</b>	<b>S.D</b>
Compulsory acquisition is a delicate issue	4.44	5.00	5.00	0.77
Land owners need to be aware of what the law says on acquisition	4.56	5.00	5.00	0.60
Landowners experience unfair procedures because they do not know their rights in compulsory land acquisition	4.38	5.00	5.00	0.86
Open discussion help improve understanding of law				

and the process of compulsory land acquisition	3.81	4.00	5.00	1.46
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The findings revealed that majority of the landowners strongly agreed to the statement that compulsory acquisition of land was always a delicate issue as well as that land owners experienced unfair procedures for the compulsory acquisition of land with a mode of 5.00. Further the study showed that the statement that open discussion at public meetings help the government to improve its understanding of the needs and concerns of landowners had the largest standard deviation of 1.46 which reveals that the data obtained is spread further away from the mean as compared to other statements. These findings supports the observations made by Adams and Palma (2007) that; unclear, unpredictable and unenforceable procedures are common experiences faced by land owners which is likely to create opportunities for corruption.

#### **4.5 Social cultural factors determining perception of land owners**

The study wanted to establish the social cultural factors that determine perception of land owners. The study investigated the persons who received compensation money in the family, as well as whether the person was the land owner. The study also measured likert statements on social cultural factors that determine perception of land owners.

##### **4.5.1 Who received compensation money in family**

The study sought to find out the person who received compensation money for land in their families. The study also went further to establish whether the person who received compensation

was the land owner. Keith (2008) said that who-gets-what when government acquires a piece of land are typically one of the most complex and controversial aspects of compulsory acquisition. Therefore a cross tabulation was conducted on the person who received compensation across whether the person is the land owner. The findings are summarized in Table 4.6.

**Table 4.6 Cross tabulation of person who received compensation and whether the person is the land owner**

Received compensation	Is Person land owner		Total
	Yes	No	
Head of the Family	40 36.0%	71 64.0%	111 100.0%
Others	30 36.4%	51 63.0%	81 100.0%
Total	70 36.4%	122 63.5%	192 100.0%

The results demonstrated that 63.5 of the people who received compensation were not the land owners with a close percentage between those who said that the head of family received the compensation and those who said that the other people received the compensation at 64.0% and 63.0% respectively. A further probe from the landowners revealed that most of the land owners said that the lands that they use are family lands inherited from their parents and which they are likely to pass over to their children. Keith (2008) said that compensation should be based on equity and equivalence, and hence this study supports this proposition.

#### **4.5.2 Statements explaining social cultural factors determining perception of land owners**

The study further presented the landowners with statements inform of 5-scale likert scale to measure the social cultural factors that determine perception of land owners. The likert scale ranged from strongly agree at 5, agree at 4, undecided at 3, disagree at 2 and strongly agree at 1. The findings are summarized in table 4.7

**Table 4.7 Social cultural factors determining perception of land owners**

<b>Variables</b>	<b>Mean</b>	<b>Median</b>	<b>Mode</b>	<b>S.D</b>
Acquisition of land led to loss of established long term friendships	4.41	5.00	5.00	0.81
Acquisition of land led to distancing from extended family	4.29	4.00	4.00	0.58
Households are entitled to choose & type of compensation (money or alternative land)	4.64	5.00	5.00	0.61
Presence of landowners in valuation process protects land owners rights	4.49	5.00	5.00	0.54
Compensation was directed to acquisition of new land	2.61	1.00	1.00	1.88

The study showed that majority of landowners strongly disagreed with the statement that compensation acquired from the land was directed back to acquisition of new land with a mode of 1.00. This implied that when landowners received compensation on their compulsory acquired lands, most of them did not use the money to purchase new land but for other uses. The standard deviation of the same statement was largest at 1.88 which showed that the data was dispersed further from the mean as compared to other statements.

#### **4.6 Land owners' perception on their involvement in determining their compensation**

The study sought to investigate land owners perception on their involvement in determining compensation of compulsory acquired land. The study presented 5-scale likert scale statements to the owners to measure the land owners’ perception on their involvement in determining compensation of compulsory acquired land. The scale ranged from; strongly agree at 5, agree at 4, undecided at 3, disagree at 2 and strongly agree at 1. FAO (2008) highlighted that prior to the compensation process, the notice of intention to acquire should be presented to the landowners, which ensures that they are involved in every process of the acquisition. The findings are as shown in table 4.8.

**Table 4.8 Land owners’ perception on their involvement in determining their compensation**

Variables	Mean	Median	Mode	S.D
Households involves in determining who receives compensation	4.03	4.00	4.00	0.96
Accurate valuation is time consuming				

and expensive land	4.15	4.00	4.00	0.86
The poor are most affected by compulsory land acquisition	4.21	4.00	5.00	0.89
Help should be given in understanding compensation Process	4.59	5.00	5.00	0.57
Many households are not aware of calculation of Compensation and related costs	4.36	5.00	5.00	0.96

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The study found out that majority of land owners agreed to the statement that households are involved in determining who should receive compensation as well as accurate valuation is time consuming and expensive with a mode of 4.00. Further, a report by Istanbul Declaration on Human Settlements (IDHS) (1996) explained that people whose land is being compulsorily acquired should be given help to understand every aspect of the compensation process. However, in this study, majority of land owners said that help should have be given to them in understanding the compensation process with a mode of 5.00 which implies that they were not extended help as suggested by IDHS (1996)

#### **4.7 Land owners perception towards timing of compensation**

The study wanted to establish the land owners' perception towards the timing taken for compensation. This is because; Bruce (2006) explained that the timing of payment of monetary compensation or provision of other types of compensation (such as land) is of critical importance. Hence, the researcher asked land owners whether they were compensated promptly.



The findings showed that almost all the land owners (91.1%) said that they were not promptly compensated for compulsory acquired land. This finding agrees with Bruce (2006) report that in many parts of the world, failure of governments to provide compensation in a timely fashion has left dispossessed people in limbo.

#### 4.7.1 Statements on land owners' perception towards timing of compensation

The study conducted a 5-score likert scale to establish the land owners' perception towards timing of compensations. The scale ranged from 5 at strongly agree, 4 at agree, 3 at undecided, 2 disagreed and 1 strongly disagreed. The findings are showed in table 4.10.

**Table 4.10 Statements on land owners' perception towards timing of compensation**

<b>Variables</b>	<b>Mean</b>	<b>Median</b>	<b>Mode</b>	<b>S.D</b>
Compensation should be paid promptly	4.74	5.00	5.00	0.73
Period in which payment is made should be defined	4.68	5.00	5.00	0.59
Poor households accept the offer of compensation even if they believe it is inadequate	4.59	5.00	5.00	0.59
Compensation should be based on principalities of equity	4.64	5.00	5.00	0.48
Individuals should not gain or lose from decision made by state to acquire their land for public interest	4.65	5.00	5.00	0.74

The findings showed that majority of landowners felt that compensation offered to landowners should be based on principles of equity and equivalence and that poor households accept the offer of compensation even if they believe it is inadequate at a mode of 5.00. The study also revealed that all the statements measuring land owners' perception towards timing of

compensation, has a small standard deviation all lying below 1.00. This shows that the data is not dispersed far from the means.

#### **4.8 Multi-regression analysis of determinants of land owners' perception and government's compulsory land acquisition**

The study conducted a multi regression analysis to determine the relationship between the dependent variable and the independent variables of this study. The dependent variable of the study is land owners perception on governments' compulsory land acquisition while the determinants represents the independent variables. The findings are summarized in Table 4.11

**Table 4.11 Multi regression of determinants of land owners' perception and government's compulsory land acquisition (adequacy of compensation on compulsory land acquisition)**

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<b>Variable</b>	<b>Beta</b>	<b>Significance</b>
Land Owners' awareness on the legislation	-0.015	0.850

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on compulsory land acquisition

Social cultural factors determining perception of land owners	-0.028	0.759
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Land owners perception on their involvement in determining their compensation	0.197	0.036
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Land owners' perception towards timing of compensation	0.023	0.772
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R	0.204
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R <sup>2</sup>	0.042
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F	2.027
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Significance	0.092
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The study showed that there is a weak negative relationship between land owners' awareness on the legislation on compulsory land acquisition at a coefficient of -0.015 as well as social cultural factors determining perception of land owners at a coefficient of -0.028. This implies that the more the land owners are aware on the legislation on compulsory land acquisition, the more negative the perception on government's land acquisition. This is because; having more knowledge on legislation on compulsory land acquisition puts governments under more pressure to deliver public services.

The study also showed that only the determinant of land owners' perception on their involvement in determining their compensation on acquired land was statistically significant in explaining land owners perception on governments compulsory land acquisition, with a p-value of 0.036 at 95% confidence interval. This is because; the p-value (0.036) is less than the confidence interval (0.050)

A further analysis showed that the regression coefficient R was 0.204 while  $R^2$  was 0.042. This shows that only 4.2% of land owners' perception on government's compulsory land acquisition can be explained by the determinants stated. Hence 95.8% of land owners' perception on government's compulsory land acquisition can be explained by other factors. In addition, the study revealed that the determinants were not statistically significant in explaining land owners' perception on government's compulsory land acquisition with a p-value of 0.092 at 95% confidence level.

## **CHAPTER FIVE**

### **SUMMARY OF FINDINGS, DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS OF THE STUDY**

## **5.1 Introduction**

The overall aim of this study was to establish the determinants of land owners' perception on government's compulsory land acquisition. This chapter presents the summary of the findings, conclusions of the study, recommendations of the study and suggestions for further research. The section comprises of findings are presented according to the objectives of the study.

## **5.2 Summary of the findings**

The following section presents the summary of the findings as obtained in the previous chapter.

The summary is organized according to the objectives of the study.

### **5.2.1 Land owners' awareness on the legislation and their perception on compulsory land acquisition by government for project implementation**

The study assessed how land owners' awareness on the legislation determines their perception on compulsory land acquisition by government for project implementation. The findings showed that more than half of the landowners (57.3%) were not aware of the legislation. The study further revealed that majority of the landowners strongly agreed to that compulsory acquisition of land was always a delicate issue and that land owners experienced unfair procedures for the compulsory acquisition of land with a mode of 5.00.

The landowners also strongly agreed to that compulsory acquisition of land displace families, farmers, and businesses with a mode 5.00 and a standard deviation of 0.58. The study also showed that there is a negative weak relationship between land owners' awareness on the legislation and their perception on compulsory land acquisition by government for project

implementation (-0.015) In addition, findings showed that the determinant was not statistically significant in explaining perception of landowners on compulsory land acquisition (0.850).

### **5.2.2 Social cultural factors determining perception of land owners**

The study wanted to establish the social cultural factors that determine perception of land owners. Therefore, the study first sought to understand the person who received compensation money for land in their families followed by establishing whether the person who received compensation was the land owner. The results found out that over half of the people who received compensation (63.5%) were not the land owners. There was also a close percentage between those who said that the father received the compensation and those who said that the mother received the compensation at 64.0% and 63.0% respectively.

The study further revealed that majority of landowners strongly disagreed to that compensation acquired from the land was directed back to acquisition of new land with a mode of 1.00. The findings further demonstrated that there is a weak negative relationship between social cultural factors and perception of land owners on compulsory land acquisition (-0.028) and that the determinant is not statistically significant in explaining perception of land owners on compulsory land acquisition at a significance of 0.759.

### **5.2.3 Land owners' perception on their involvement in determining their compensation**

The study investigated land owners perception on their involvement in determining compensation of compulsory acquired land. The study found out that majority of land owners

were in agreement that households are involved in determining who should receive compensation as well as accurate valuation of lands is time consuming and expensive with a mode of 4.00 and standard deviation of 0.96 and 0.86 respectively. In addition, the findings showed that there was a weak positive relationship between land owners perception on their involvement in determining compensation and their perception on compulsory land acquisition (0.197). The results further revealed that this determinant was statistically significant in explaining perception of land owners on compulsory land acquisition at significance of 0.036.

#### **5.2.4 Land owners perception towards timing of compensation**

The study wanted to establish the land owners' perception towards the timing taken for compensation. The findings revealed that almost all the land owners (91.1%) said that they were not promptly compensated for compulsory acquired land.

Further, the findings showed that majority of landowners felt that compensation offered to landowners should be based on principles of equity and equivalence and that poor households accept the offer of compensation even if they believe it is inadequate at a mode of 5.00. The findings further showed that majority of the landowners strongly agree that the timing of compensation should be clearly defined with a mode of 5.00. A further analysis of the study showed that land owners' perception towards the timing taken for compensation had a weak positive relationship with perception of landowners on compulsory acquisition of land (0.023). In addition, the study showed that the determinant is not statistically significant in explaining perception of landowners on compulsory acquisition of land at a significance level of 0.772.

### **5.3 Discussion of findings**

This section presents the discussion of the findings of this study. The section is categorized according to the objectives of the study.

#### **5.3.1 Land owners' awareness on the legislation and their perception on compulsory land acquisition by government for project implementation**

The study assessed how land owners' awareness on the legislation determines their perception on compulsory land acquisition by government for project implementation. The findings showed that more than half (57.3%) of the landowners were not aware of the legislation. This finding supports the observation made by Bruce (2009) that most of the victims of compulsory land acquisition are not aware of policies and legislation and therefore it is important to hold public meetings at the initial stages of the land acquisition.

The study further revealed that majority of the landowners strongly agreed to that compulsory acquisition of land was always a delicate issue and that land owners experienced unfair procedures for the compulsory acquisition of land with a mode of 5.00. These findings supports the observations made by Adams and Palma (2007) that; unclear, unpredictable and unenforceable procedures are common experiences faced by land owners which is likely to create opportunities for corruption.

The landowners also strongly agreed to that compulsory acquisition of land displace families, farmers, and businesses with a mode 5.00 and a standard deviation of 0.58. Thus, supporting the observation made by Kasanga & Kotey (2001) who said that despite being a core and necessary governmental power, compulsory land acquisition has always attracted controversy, both in



theory and practice since it involves displacement of people and families which disrupts community cohesion, livelihood patterns and way of life.

### **5.3.2 Social cultural factors determining perception of land owners**

The study wanted to establish the social cultural factors that determine perception of land owners. Therefore, the study first sought to understand the person who received compensation money for land in their families followed by establishing whether the person who received compensation was the land owner. This is because; Keith (2008) highlighted that who-gets-what when government acquires a piece of land is one of the most complex and controversial aspects of compulsory acquisition.

The results found out that over half of the people who received compensation (63.5%) were not the land owners. There was also a close percentage between those who said that the father received the compensation and those who said that the mother received the compensation at 64.0% and 63.0% respectively. When the researcher probed further, the landowners said that the lands that they use are family lands owned by their parents. These close percentages between land owners and others who received compensation clearly supports the claim made by Keith (2008) that compensation should be based on equity and equivalence.

The study further revealed that majority of landowners strongly disagreed to that compensation acquired from the land was directed back to acquisition of new land with a mode of 1.00. This implied that when landowners received compensation on their compulsory acquired lands, most of them did not use the money to purchase new land but for other uses. However a report by the Government of Kenya (2004) defends the land owners by explaining that one of the reasons that

the landowners would not direct compensation back to acquisition of new land is since the value of compensation of their land is usually low compared with land owned by others.

### **5.3.3 Land owners' perception on their involvement in determining their compensation**

The study investigated land owners perception on their involvement in determining compensation of compulsory acquired land. This determinant was based by a report by FAO (2008) who highlighted that; prior to the compensation process, the notice of intention to acquire should be presented to the landowners, which ensures that they are involved in every process of the acquisition.

The study found out that majority of land owners were in agreement that households are involved in determining who should receive compensation as well as accurate valuation of lands is time consuming and expensive. Further, a report by Istanbul Declaration on Human Settlements (IDHS) (1996) explained that people whose land is being compulsorily acquired should be given help to understand every aspect of the compensation process. However, in this study, majority of land owners said that help should have be given to them in understanding the compensation process with a mode of 5.00 which implies that they were not extended help as suggested by IDHS (1996)

### **5.3.4 Land owners perception towards timing of compensation**

The study wanted to establish the land owners' perception towards the timing taken for compensation. The rationale behind this is that Bruce (2006) pointed out that the timing of payment of monetary compensation or provision of other types of compensation (such as land) is of critical importance. Thus, the findings revealed that almost all the land owners (91.1%) said

that they were not promptly compensated for compulsory acquired land. This finding is in support of Bruce (2006), who reported that in many parts of the world, failure of governments to provide compensation in a timely fashion has left dispossessed people in limbo.

Further, the findings showed that majority of landowners felt that compensation offered to landowners should be based on principles of equity and equivalence and that poor households accept the offer of compensation even if they believe it is inadequate at a mode of 5.00. This happens because according to Komu (2002) most of the poor households are unaware of their rights and are often under pressure to accept a low offer in order to be able to resettle elsewhere quickly. On the other hand, the rich may be able to afford professional advice on the value of compensation; hence the poor are likely to be at a disadvantage.

The findings further showed that majority of the landowners strongly agree that the timing of compensation should be clearly defined with a mode of 5.00. This statement is in line with the observation made by Olima & Syagga (2006) who also said that the period in which payment is to be made is often left undefined in relevant legislation. This is because, when the acquiring agency takes possession of the land before full compensation is paid, there is usually little incentive for it to make the final payment.

#### **5.4 Conclusion of the study.**

From the study results the following conclusion can be made;

More than half of the landowners are not aware of the legislation. This therefore implies that it is important to hold public meetings at the initial stages of the land acquisition in order to empower

land owners on the acquisition process, their rights as well as their responsibilities throughout the process. In addition, compulsory acquisition of land is delicate issue and that land owners experience unfair procedures for the compulsory acquisition of land. These unclear, unpredictable and unenforceable procedures are likely to create opportunities for corruption and therefore needs to be solved earlier in the acquisition process. The study also unveiled the fact that compulsory acquisition of land displaces families, farmers, and businesses which ends up disrupting community cohesion, livelihood patterns and way of life.

More to this, the study concludes that, over half of the people who received compensation are not the land owners. This is because, majority of the land owners use family possessed land which is passed down generations. Further analysis showed that there exists a close percentage between fathers who receive the compensation and mothers received the compensation on behalf of the households. The study further revealed that majority of landowners strongly disagreed to that compensation acquired from the land was directed back to acquisition of new land. This implied that when landowners received compensation on their compulsory acquired lands, most of them did not use the money to purchase new land but for other uses.

Moreover, the study concludes that majority of land owners agree that households are involved in determining who should receive compensation as well as that accurate valuation of lands is time consuming and expensive.

The study also concludes that almost all the land owners said that they were not promptly compensated for compulsory acquired land. Further, majority of landowners feel that compensation offered to landowners should be based on principles of equity and equivalence and also that poor households accept the offer of compensation even if they believe it is inadequate.

This happens because most of the poor households are unaware of their rights and are often under pressure to accept a low offer in order to be able to resettle elsewhere quickly. On the other hand, the rich may be able to afford professional advice on the value of compensation; hence the poor are likely to be at a disadvantage.

### **5.5. Recommendation of the study**

Based on data collection and analyses, the study suggests the following recommendations:

1. The government needs to come up with measures to enlighten land owners on the legislation and the policies that govern compulsory acquisition of land for projects implementation. This is important in attaining support from the public and well as defending the rights of the land owners.
2. While monetary compensation is necessary for compulsory acquisition of land for public project implementation, the government needs to come up with other non-monetary compensation, to compensate for other social effects such as loss of friends, disruption of families as well as loss of neighbors.
3. Land owners need to be involved in the entire land acquisition process, right from the planning, to the negotiation and the implementation. This will ensure that both parties are well represented and their demand and needs are well taken care of without exploiting either side of the negotiation. In addition, it is important to maintain equity in the involvement to ensure that both genders are well represented.

4. Governments need to come up with strategies to ensure that they provide compensation in a timely fashion and within the discussed time frame.

### **5.6 Suggestions for further research**

This study focused on only one government project dubbed the Meru- Marimba - Nkubu - Mitunguu Road Project in Imenti South Sub County Meru County. A similar study needs to be conducted on a different project based in a different area in order to find out whether the findings of this study are replicable to other areas.

While the study focused on four determinants, a different study focusing on a different set of determinants needs to be conducted in order to establish whether the level of significance differs from this study.

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## APPENDICES

### APPENDIX I: Introductory letter to respondents

John G. Wanyoike  
PO Box 6824 - 00300  
**NAIROBI**

DATE.....

Dear participants.

#### **RE: REQUEST TO CARRY OUT RESEARCH**

I am Master of Arts (Project Planning and Management) student at the University of Nairobi. As part of the requirement for the award of the degree, I am undertaking a research on “Determinants of land owners’ perception on government’s compulsory land acquisition: a case of Meru- Marimba - Nkubu - Mitunguu Road Project in Imenti South Sub County Meru County”

I am therefore seeking your assistance to fill the questionnaire attached herewith. Kindly complete all the questions. The research result will be used for academic purposes only and your identity will be treated with confidentiality.

Thank you for your cooperation and assistance.

Yours Sincerely,

John Wanyoike

L50/61287/2013

## APPENDIX II: Questionnaire for land owners

The purpose of this questionnaire is to solicit information on the determinants of land owners' perception on government's compulsory land acquisition: a case of Meru- Marimba - Nkubu - Mitunguu Road Project in Imenti South Sub County Meru County. Kindly fill in this questionnaire. You are requested to respond to each item in the questionnaire.

### Section A: Demographic data

1. What is your age?

- |                |        |               |        |
|----------------|--------|---------------|--------|
| Below 25 years | [    ] | 26 – 30 years | [    ] |
| 31 – 35 years  | [    ] | 36 – 40       | [    ] |
| 41– 45 years   | [    ] | Above 46      | [    ] |

2. What is your level of education?

- |              |        |                  |        |
|--------------|--------|------------------|--------|
| Primary      | [    ] | Secondary        | [    ] |
| College      | [    ] | University level | [    ] |
| Postgraduate | [    ] |                  |        |

3. What is your marital status

- |               |        |
|---------------|--------|
| Single        | [    ] |
| Married       | [    ] |
| Widow/widowed | [    ] |

4. What is your occupation?

.....

.....

.....

5. How many children do you have?

1-2 Children [     ]                      2-4 Children                      [     ]

4-6 Children [     ]                      More than 6 children                      [     ]

6. What was your average income per month in the last three years?

Below 1000ksh [     ] 1001 2000 [     ]

2001- 3000 [     ] 3001 – 4000 [     ]

4001 5000 [     ] 5001 and above [     ]

7. What do you use you land for?

Commercial purposes [     ]                      Subsistent farming [     ]

**Section B: Land owners' awareness on the legislation on compulsory land acquisition**

1. Are you aware of what the laws says on compulsory land acquisition in Kenya?

Yes [     ]                      No [     ]

2. In a scale of 1 to 5 where 5 is strongly agree and 1 is strongly disagree, indicate the extent to which you agree or disagree with the following statements:

**Key 5 – Strongly agree; 4 Agree; 3 = Undecided; 2 Disagree; 1 Strongly disagree**

SN	Statement	5	4	3	2	1
1	Compulsory acquisition of land has always been a delicate issue					
2	Land owners need to be aware of the legislation in dealings with land acquisition.					
3	Compulsory acquisition of land displaces families, farmers, and businesses					
4	Landowners experience unfair procedures for the compulsory acquisition of land					
5	Open discussion at public meetings help the government to improve its understanding of the needs and concerns of landowners					

**Section C: Social cultural factors determining perception of land owners**

3. Who received compensation money in your family?

Father [ ] Mother [ ] Child [ ]

4. Was this person in question above the land owner?

Yes [ ] No [ ]

5. In a scale of 1 to 5 where 5 is strongly agree and 1 is strongly disagree, indicate the extent to which you agree or disagree with the following statements:

**Key 5 – Strongly agree; 4 Agree; 3 = Undecided; 2 Disagree; 1 Strongly disagree**

SN	Statement	5	4	3	2	1
1	Acquisition of land by government led to loss of close friends for the family					
2	Acquisition of land government led to loss of neighbors for the family					
3	Households are entitled choice of the type of compensation					
4	Presence of landowners in valuation process protect the rights of the land occupiers					
5	Compensation acquired from the land was directed back to acquisition of new land					

**Section D: Land owners’ perception on their involvement in determining their compensation**

1. Were you consulted in the process of compensation for compulsory acquired land?

Yes [ ] No [ ]

2. In your opinion, how would you rate the involvement of spouses of land owners in the determination of compensation?

Very well [ ] Well [ ] Neutral [ ] Not well [ ] Not involved at all [ ]



3. In a scale of 1 to 5 where 5 is strongly agree and 1 is strongly disagree, indicate the extent to which you agree or disagree with the following statements

**Key 5 – Strongly agree; 4 Agree; 3 = Undecided; 2 Disagree; 1 Strongly disagree**

SN	Statement	5	4	3	2	1
1	Household are involved in determining who should receive compensation					
2	Accurate valuation is time-consuming and expensive					
3	Land of the poorest and most vulnerable that is compulsorily acquired for projects					
4	People whose land is being compulsorily acquired should be given help to understand every aspect of the compensation process					
5	Many households are not aware of the calculation of compensation and any related costs					

**Section E: Land owners’ perception towards timing of compensation**

4. Were you paid promptly for your compulsory acquired land?

Yes [     ]     No [     ]

5. In a scale of 1 to 5 where 5 is strongly agree and 1 is strongly disagree, indicate the extent to which you agree or disagree with the following statements:

**Key 5 – Strongly agree; 4 - Agree; 3 - Undecided; 2 - Disagree; 1 - Strongly disagree**

SN	Statement	5	4	3	2	1
1	Compensation should be paid promptly					
2	Period in which payment is to be made should be defined					
3	Poor households accept the offer of compensation even if they believe it is inadequate					
4	Compensation should be based on principles of equity and equivalence					
5	An individual should not to gain or lose from the decision by the state to acquire his or her land for public interest					

### **APPENDIX III: Focus group discussion**

The following semi-structured questions constitute the items in the focus group discussion with the household heads

Name of the area \_\_\_\_\_  
Number of discussants      Male \_\_\_\_\_  
   Female \_\_\_\_\_  
Name of recorder \_\_\_\_\_

#### **Focus group discussion questions**

- i.    What is your awareness on the legislation on government's compulsory land acquisition?  
(Probe group on their awareness of legislation)
- ii.   How was valuation process carried out? (Probe on the valuation process and the household involvement)
- iii.  Were you involved in determining the amount of compensation after government's compulsory land acquisition? (probe on household involvement in determining compensation)

Were you paid your compensation in time (probe on the time taken to be paid the compensation and how that affected them economically or otherwise)