

**THE POLITICAL ECONOMY OF WARS IN MOUNT ELGON, 1968-2008**

**BY**

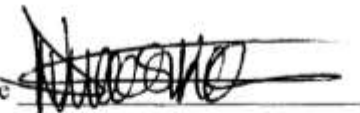
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DOCTOR OF PHILOSOPHY (Ph. D) IN CONFLICT AND PEACE  
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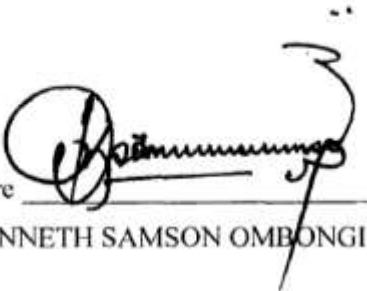
## DECLARATION

This thesis is my original work and has not been presented for the award of a degree in any other university.

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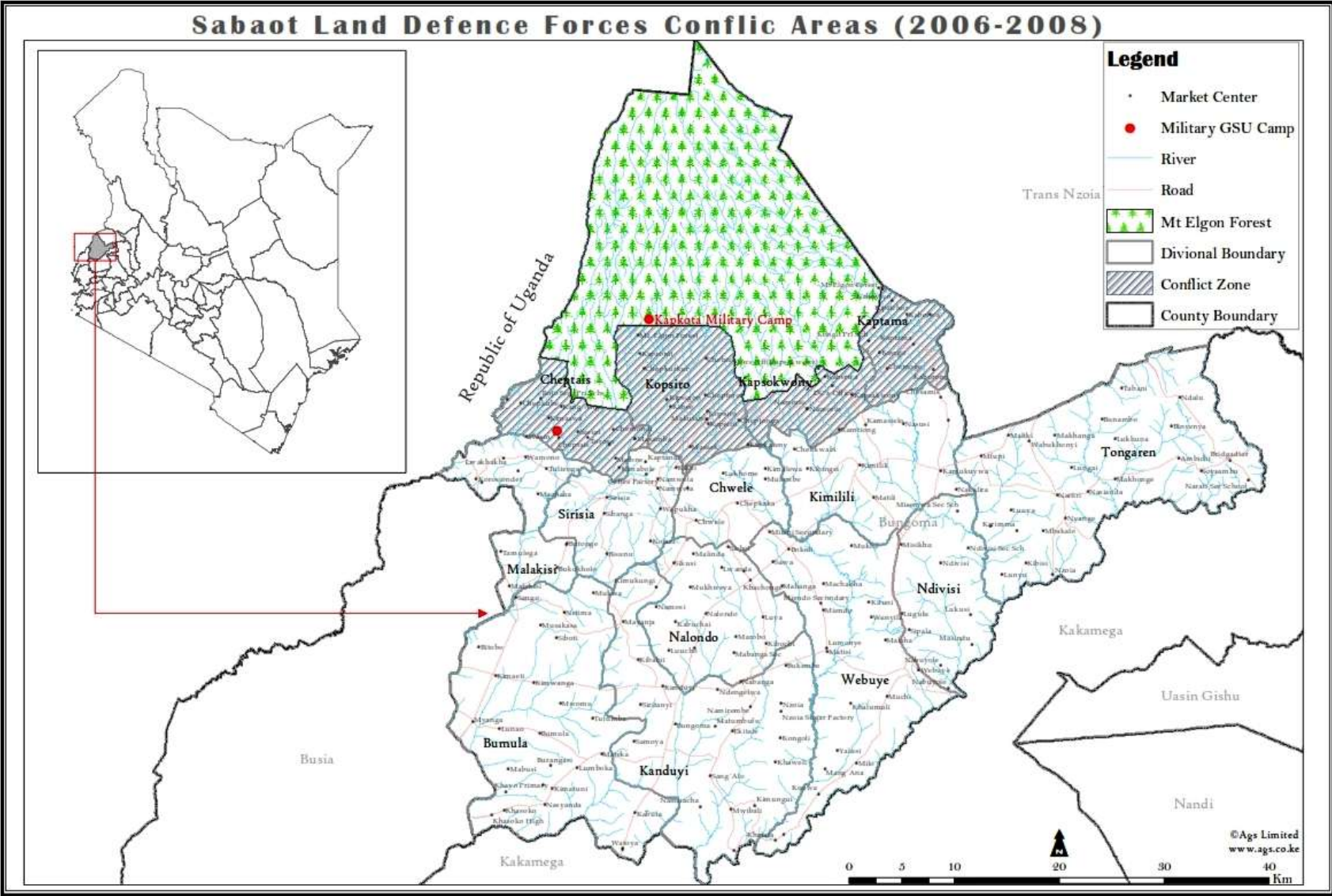
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## **LIST OF ACRONYMS**

<b>IDP</b>	Internally Displaced Persons
<b>JKML</b>	Jomo Kenyatta Memorial Library
<b>KNA:</b>	Kenya National Archives
<b>NARC:</b>	National Rainbow Coalition
<b>NGO:</b>	Non-Governmental Organisation
<b>NRC:</b>	Norwegian Refugee Council
<b>SLDF</b>	Sabaot Land Defence Force
<b>SNV</b>	Netherlands Development Cooperation
<b>UNDP</b>	United Nations Development Programme
<b>UNHCR</b>	United Nations High Commission for Refugees

MAP SHOWING RESEARCH AREA



## ABSTRACT

The current understanding of armed conflict is often mediated by the dichotomy between nurture and nature, genetic and social disposition to violence. Away from this prevalent binary, the recent study made an attempt to juxtapose markets of violence with socially constructed notions of autochthony on forging enduring and contending identities as one single most important stimulus to Mount Elgon wars. The main concern of this thesis is to analyze the political economy of conflicts in African setting characterized by dismal state hegemony. Drawing examples from various countries such as Sierra Leone, Cambodia, Afghanistan, Liberia and many others, in this study we argued that conflicts provides a significant theatre for marketeering and racketeering. The thesis argues that the wars of Mount Elgon are traced to the period of migration and settlement of various communities and subsequent claims and counter-claims over territories in the area. Later on the entry of the British colonial rule introduced a new dimension on land ownership. The British administration introduced new land legal regimes which turned land claimed by Mount Elgon communities to the control of His Majesty the King of England whose agents annexed and allocated it to European settlers. What followed were different wars fought by different actors over land claims.

The thesis establishes that at independence, the hope of the people of Mount Elgon to regain control over land dwindled with failure of the post-colonial African government to put in place proper institutions to manage the land issue. This influenced the post-colonial wars in Mount Elgon over land. Failure of the state to manage land issues led to emergence of charismatic leaders who mobilized the masses to fight for what they perceived as theirs. The thesis therefore, explores the genealogy and evolution of the Sabaot Land Defense Force (SLDF) and the Moor Land Defense Force and other militia groups that emerged in the region to attempt to impose the solution to the people grievances. The militia groups rose to the level that the civil authority in Kenya could not handle resulting into intervention by the military as an agent of the state. In these wars, the thesis establishes that in the shadows of war, there are profiteers and losers. It demonstrated that in the invisible space in warzones there were profiteers. The thesis contains an analysis of the factors leading to emergence of SLDF and other militia groups in the region and their recruitment of fighters. The thesis attempts to link the historical evolution Mount Elgon wars and the struggles over land and identity in pre and post-independence era. It sets up a theoretical framework which defines the relevant concepts of the political economy of war. To explain the justification to conflict, the just war theoretical framework is used which operationalizes the concept of war. Data about the violent ethno political conflict was collected, which helped to build the composite and individual pictures of Mount Elgon wars through time.

## DEFINITION OF TERMS

**Commoditisation:** Commoditisation is a state whereby, products or services generated by a business are evaluated exclusively in terms of price and entails a move towards perfect competition where goods or services thought to be unique or scarce are sold for a price and are expected to generate a profit. According to Sturtz and Barney, commoditisation is the shift toward undifferentiated competition between two or more groups offering the same good or service.<sup>1</sup> In the context of Mt. Elgon wars, while the conflict was commoditised by political elites and state authorities, is a unique practice which the communities living in the region would view as unwanted and yet superior authorities used it to make economic gains. Superior authorities will refer to traditional political institutions, militia groups and the modern government.

**Eating a dog:** A traditional peace-making ceremony between the Bukusu people and their enemies intended to end hostilities. While the tradition denotes the eating of a dog, there is actual “eating of a dog” during the ceremony. Essentially, the ceremony entails holding of a two- or three-day puppy by two elders from warring communities while a third person cuts the puppy into two while uttering words of peace. The ceremony is usually performed at a place where paths split and is recognised as a boundary between the two communities.<sup>2</sup> In the case of Mt. Elgon the ceremony symbolises the existence of hostilities between communities living in the region and that is why such efforts were in place to try and bring peace.

**Political economy:** This is the interaction between politics and economies and often engages social and institutional processes through which economic and political elites choose to allocate scarce productive resources for their own benefit or for their own benefit and the wider benefit of the larger population.<sup>3</sup>

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<sup>1</sup> Sturtz, Frederick P. and Barney Warf, *The World Economy: Resource, Location, Trade and Development*, Upper Saddle River: Pearsobn Education, 2007, p. 33.

<sup>2</sup> Vincent G. Simiyu, *Elijah Masinde: A Biography*, Nairobi: East African Publishers, 1997.

<sup>3</sup> Michael P. Todaro, *Economics for a Developing World*, Burnt Mill, Hallow: Longman Group Limited 1997, p.7.

## CHAPTER ONE

### GENERAL INTRODUCTION

#### 1.1 Background to the Study

This chapter is an introduction of the research and presents the research problem, aims and objectives, the justification, scope and limitations of the study. Additionally, the chapter critically examines existing literature around the research objectives and proffers the theoretical framework, research hypothesis and methodology that underpin the research.

Understanding the genesis and dynamics of the Mt. Elgon wars is a challenge given the diversity of the communities, majority of whom migrated into the territory from different places, carrying with them their unique political and economic structures.<sup>4</sup> Despite the protracted wars in the area, the conflict gained national prominence and piqued the interest of scholars from across disciplines with the emergence of the Sabaot Land Defence Force (SLDF) led war, with the majority focussing on political incitement as a basis of the war.<sup>56</sup> This focus on political incitement neglects the historical account and perspectives of the inhabitants of Mt. Elgon, especially in view of their diverse and complex political, cultural, philosophical and religious backgrounds. The diversity of the inhabitants of Mt. Elgon has dictated not only the trends of conflict in the region, but also the policies to address their socio-political and economic life. Consequently, for one to understand the wars of Mt. Elgon there is need to study how the objectives of the various wars fought in the region interact with the economic plans of the warring parties, an area yet to be interrogated by scholars.

The Bukusu, a Bantu sub-tribe and the Iteso and the Sabaot, Nilotic sub-tribes, are the predominant inhabitants of Mt. Elgon. In addition to these three sub-tribes are other ethnic groups who migrated into the region in search for land.<sup>7</sup> The Bukusu are believed to have originated from a place called Misiri, to the north of Mt. Elgon. They moved to a place called

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<sup>4</sup> Vincent G. Simiyu. "Historical Background", in Gideon S. Were and Osaga Odak (ed) *Bungoma District Socio-cultural Profile*, Nairobi: Government Printer, 1995, p.5.

<sup>5</sup> Klopp Jacqueline M. "Ethnic Clashes" and Winning Elections: The Case of Kenya's Electoral Despotism in the *Canadian Journal of African Studies*, pp.473-512. <http://www.jstor.org/stable/486297>, Accessed on 14/03/2009.

<sup>6</sup> KNCHR, *On the Brink of the Precipice: A Human Rights Account of Kenya's Post-2007 Election Violence Final Report*, Nairobi: KNCHR 2008 pp.63-69.

<sup>7</sup> Ibid.

Mbayi, where they settled for some time.<sup>8</sup> Between 1300 and 1500 A.D, the Bukusu then moved to the western flanks of Mt. Elgon, in present day Uganda.<sup>9</sup> From here, they finally moved into their present home, in Bungoma County (formerly Bungoma and Mt. Elgon Districts). Throughout their migration and settlement, the Bukusu built forts because of the general insecurity arising from wars, especially with the Iteso, the Sabaot and the Nandi.<sup>10</sup> These forts were still of use up to the 19<sup>th</sup> Century indicating that the Bukusu were constantly challenged by invasions. The situation continued until the second half of the 19<sup>th</sup> Century, when Bukusu leaders made peace with the leaders of their enemies in a ceremony known as *khulia embwa* “eating a dog”.<sup>11</sup> In spite of the peace treaty, however, the Bukusu often found themselves at war with the Sabaot, a fact that signifies the deep and long-lasting mistrust existing between the two communities.

The second group in Mt. Elgon is the *Etesot*, or the Iteso, who are plain Nilotes.<sup>12</sup> It is believed that they originally came from a place called Mbayi, from where they migrated to Sorot.<sup>13</sup> From here, they moved to Tororo in Uganda, where they encountered the Bukusu for the first time. At Tororo the two communities engaged in wars (over resources such as land) that would define and shape their relations. These wars progressively intensified and by the 19<sup>th</sup> Century, a complex trail of hatred, grudges, death and destruction of property can be traced. In particular, the battle of Kimwanga (fought in 1887) was so destructive that the two communities decided to make peace at Mwiala wa Mango. The Iteso and Bukusu elders “ate the dog”,<sup>14</sup> in a ceremony signifying lasting peace.<sup>15</sup> To the north, however, the Bukusu were still skirmishing with the Sabaot, a Kalenjin-speaking people, whose history has not been fully documented. The oral tradition of the Sabaot claims that their original home was Misiri (somewhere in the North), from

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<sup>8</sup> Ibid, p.11

<sup>9</sup> Ibid.

<sup>10</sup> Ibid, p.15

<sup>11</sup> Vincent G. Simiyu, “Historical Background”, in Gideon S. Were and Osaga Odak (ed) *Bungoma District Socio-cultural Profile*, Nairobi: Government Printer, 1995, p.5

<sup>12</sup> Since our main interest is the wars of Mt. Elgon the research will concentrate on the Iteso who live in Mt. Elgon and not those in Bungoma and Busia districts, although we will not avoid referring to those Iteso people of the two districts because their history is the same.

<sup>13</sup> Vincent G. Simiyu, “Historical Background”, Ibid, p.23

<sup>14</sup> Eating a dog is a traditional peace ceremony conducted by traditional religious leaders. During the ceremony the leaders of the peace parties each hold a dog from both sides, one from the hind part while the other from the front side then the dog is cut into two to simplify end of hostilities. After the ceremony no more hostilities would be experienced.

<sup>15</sup> Ibid. p.25



where they moved and settled alongside the Bukusu people in Mt. Elgon, particularly in Bungoma and Trans Nzoia.<sup>16</sup>

Upon their arrival in the area, the Sabaot fought battles against the Bukusu at Kolani, Milani (near Chebukaka) and at Bokoli. They also fought against the Bagisu of eastern Uganda, and against other Kalenjin-speaking people, like the Nandi. The Pokot, Maasai, Iteso and the Turkana also fought occasional wars to resist the Sabaot incursions.<sup>17</sup> The most famous of these wars was the battle for Chonge Fort, which was occupied by the Sabaot at the end of the 19<sup>th</sup> century.<sup>18</sup> Chonge was a very wealthy Sabaot, who had taken over the land and fort which originally belonged to Bamuyonga clan of the Bukusu.<sup>19</sup> He had a large following and a great herd of cattle. This is said to have provoked the avarice and jealousy of the Bukusu who attacked the fort in 1880 but were repulsed and driven close to the rivers Namubira (near Tulienge' market) and Khabukoya (near Wamono market) where they were massacred. The Bukusu subsequently never fought another major war with the Sabaot, until the coming of the British colonial rule, although they occasionally engaged in minor wars.<sup>20</sup> By the 20<sup>th</sup> century, the Sabaot had come under colonial domination which dispossessed them of their land. They were also subjected to persecution perpetrated by the Bukusu colonial chiefs imposed on them by the British colonial government. These "foreign chiefs" forcefully robbed the Sabaot their land, cattle and sometimes levied excess taxes. This laid the foundation for those future wars that were witnessed in the post-colonial era.

There is, therefore, a history behind the past wars in Mt. Elgon region. The more recent conflicts in the area can be traced to the colonial policy of alienating African land and subsequent destruction of the Bukusu, Sabaot and Iteso traditional political economy.<sup>21</sup> For instance, through colonial alienation of land some Sabaot were displaced (particularly the Mosop clan) to Chepkitale trust land. The Soy clan, however, opted to settle on the lower slopes of Mt. Elgon.<sup>22</sup>

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<sup>16</sup> KNA, DC/NN/3/1/1, North Kavirondo District, Part 1 General Description of the District.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid, p.16

<sup>19</sup> Simiyu Wandiba, interview with author, Nairobi, 27/06/2020

<sup>20</sup> Vincent G. Simiyu, "Historical Background", *ibid*, p. 22.

<sup>21</sup> Kenya Land Commission, *Kenya Land Commission Evidence*, Nairobi: Government Printer, 1963, pp. 2080-2081.

<sup>22</sup> Robert Romborah Simiyu, *Militarization of Resource, Conflicts: The Case of Land-based Conflict in the Mount Elgon Region of Western Kenya*, Nairobi: Institute for Security Studies, 2008, pp. 13-14.

By virtue of their geographical location on the slopes of Mt. Elgon and away from the international border with Uganda, the Soy clan were somehow safe from the Bagisu incursions although in constant conflicts with the Bukusu. The Mosop, however, were continually subjected to violent incursions by communities living across the border in Uganda, who persistently raided them for their cattle.<sup>23</sup> In 1965, the Government of Kenya stepped in to protect the Mosop, as well as the Chepkitale water catchment area. It was decided that the Mosop be moved from the region. In 1968, the government designated the Chepkitale area a game reserve, forcing the Mosop to leave without compensation.<sup>24</sup> In 1971, the government relocated the Mosop to a settlement scheme in Chepyuk, which the Soy clan also wanted a share of.

The first resettlement phase was implemented between 1971 and 1974 at Emia and Chepyuk location where 468 Mosop families were settled. Since there was a mandatory legal minimum of 600 families to constitute a settlement scheme, it was necessary for the Soy and some Bukusu and Iteso people to move in, because the Mosop alone did not constitute the legal minimum.<sup>25</sup> The Mosop (who were herders) then decided to sell some of their land to the Soy, but later turned round and demanded the land they had sold to the members of Soy clan though they would not raise a refund.<sup>26</sup> The provincial administration intervened, by vetting and reducing the size of the land holding to 2 hectares per family, forcing members of other communities who had purchased more land in Chepyuk to lose it.<sup>27</sup> The government created another scheme, Chepyuk III, in 1993 to resettle those affected by the new policy of land re-allocation but once again revised the land allocation to one (1) hectare per family and introduced a policy of equal sharing between the Soy and the Mosop.

The Mosop gave the names of beneficiaries but the Soy nominations were politicised and subsequently, the question of who was benefiting and why became key. In the new plan, an estimated 1500 families most of whom were members of the Soy clan faced eviction, though

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<sup>23</sup> *Ibid.*

<sup>24</sup> Human Rights Watch, *All the Men Have Gone: War Crimes in Kenya's Mt. Elgon Conflict*, New York: Human Rights watch, 2008, p.11

<sup>25</sup> Robert Romborah Simiyu, *Militarization of Resource Conflicts: The Case of Land-based Conflict in the Mount Elgon Region of Western Kenya*, Nairobi: Institute for Security Studies, 2008, p. 15.

<sup>26</sup> *Ibid*

<sup>27</sup> *Ibid*

they had lived in the scheme since 1971.<sup>28</sup> Young Soy men protested the move by taking up arms and resisting. Their protest culminated in the formation of the militia group known as the Sabaot Land Defence Force (SLDF).<sup>29</sup> SLDF waged war in which they targeted the Mosop clan and other communities living in Mt. Elgon claiming that they were being favoured by the government plan of land allocation. Non-Sabaot ethnic groups were also targeted on claims of acquiring land at the expense of the Soy clan who are claimed to be the indigenous inhabitants. The SLDF militia expanded its target to include the provincial administrators and later, even to those members of the Soy clan who were thought to be in favour of the government plan of land allocation. The militia further imposed taxes on both the locals and civil servants working in the district. The locals were also forced to donate harvested food, a clear indication of an emerging insurgency economy.<sup>30</sup> There appears to be perpetual conflicts in Mt. Elgon and as this study will show the political economy played was critical in these conflicts.

## **1.2 Statement of the Research Problem**

There has been increasing interest among scholars to understand and delve into the underlying causes of ethnic clashes in Kenya given the periodicity of the conflicts since 1991. Existing literature are on the whole inclined towards political incitement as the basis of these conflicts,<sup>31</sup> however, wars in contemporary Kenya cannot be explained from a purely political perspective. While political factors should not be dismissed, the interaction of political and economic agendas of war has to be deciphered and understood. Drawing on examples from other countries such as Sierra Leone and Cambodia, the continuation of war was not understood solely in reference to the political objectives and policies of the conflicting parties.<sup>32</sup> Wars or conflicts can be understood best if their objectives interact with and are juxtaposed against the economic agendas of the various warring parties, an area less studied and which is the focus of this discourse.

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<sup>28</sup> Human Rights Watch, *All the Men Have Gone, War Crimes in Kenya's Mt. Elgon Conflict*, New York: Human Rights Watch, 2008, p.12.

<sup>29</sup> Robert Romborah Simiyu, *Militarization of Resource Conflicts: The Case of Land- based Conflict in the Mount Elgon Region of Western Kenya*, Nairobi: Institute for Security Studies, 2008, p. 24.

<sup>30</sup> *Ibid.*

<sup>31</sup> Fred Jonyo "Ethnicity in multiparty Electoral Politics" in *Electoral Politics in Kenya*, Nairobi: Claripress 2002. pp. 86-107.

<sup>32</sup> Mats Berdal, and David Keen, "Violence and Economic Agendas in Civil Wars: Some Policy Implications", in *Millennium: journal of International Studies* 26(3), 1997, pp. 795- 818.

The political economy of conflicts in African setting which are characterised by dismal state hegemony is the premise of this dissertation. Drawing examples from countries, such as Sierra Leone and Cambodia, and using a case study of wars in Mt. Elgon, the study proffers that conflicts give rise to and perpetuate suitable conditions for marketeering and racketeering. Additionally, the study proposes that the perpetual nature of conflicts in Africa should not be seen, solely, from the lens of contending political objectives but also within the framework of ‘markets of conflict’. The study repudiates, the heretofore, conventional approach, which confines the intrinsic character of war to destruction. Aside from delving into political incitement and historical land issues as key drivers of the wars in Mt. Elgon, this treatise investigates key issues related to appropriation of wars, including financing and benefits of the Mt. Elgon wars, the purpose of the wars and ownership of the various wars. Secondly, the discourse explores issues of justification of the wars and the extreme measures of war used by the various parties, issues that have not been broached by other studies on the wars of Mt. Elgon. It is evident that, these issues that play out in any war engagement are hardly addressed by authors of studies on the wars of Mt. Elgon. The focus on the recent developments in Mt Elgon has been on SLDF, portraying it as the “evil” that befell the area. Yet, the wars of Mt. Elgon did not begin with SLDF. There is therefore the problem of not historicizing this militia group and probably finding its links with earlier war groups in Mt. Elgon. It may be inappropriate to limit the emergence of SLDF to the return of multiparty democracy in Kenya in 1990s as portrayed in the literature or even the land question in the area. There is the possibility that SLDF is about “unfinished business” in earlier wars of Mt. Elgon and this has to be studied to have a better understanding of the issues thereof. The study unravels the development of SLDF and its historical linkages but importantly explores the justifications for the wars including the extreme measures of war (chopping of ears, rapes, and sodomy and so on) measures unheard of in previous wars in Mt. Elgon. Additionally, the study explores the underlying markets of the SLDF war.

### **1.3 Objectives**

The main objectives of the research are:

1. To investigate how land claims and counter-claims informed community relations in Mt. Elgon
2. To investigate the historical linkage between the wars of the past and the SLDF

3. To establish the justifications of war in Mt. Elgon; and
4. To examine the interaction of political and economic agendas of the Mt. Elgon wars.

#### **1.4 Research Questions**

1. Who are the main occupants of Mount Elgon region and how do they relate with each other?
2. Why is there a contest over land in Mount Elgon and who are the contestants?
3. What are the main causes of the wars in Mount Elgon?
4. Are there any historical linkages between earlier wars fought in Mount Elgon and the recent SLDF-led one?
5. What motivates and drives the wars in Mount Elgon?
6. How did the Mount Elgon wars turn up to be a significant theatre for marketeering and racketeering?

#### **1.5 Justification**

Throughout history, economic factors have played a significant role in warfare. However, in recent times, economic dimensions of wars, especially in Africa, have received little attention let alone systematic scholarly assessment. A main impetus for this research was the need to increase acknowledgement among scholars, analysts and policymakers that wars have become increasingly not only economic but also self-financing in nature. Viewing Mt. Elgon wars from a political economy perspective can increase our understanding of the dynamics of many of today's wars. It can also lead to a more systematic understanding of how these dynamics impact on war, conflict resolution and post-conflict peacebuilding. As such, the political economy of armed conflict should be seen as an important addition to contemporary conflict analysis and policy development by scholars, government, development and the private sector actors who are concerned with war and peace. There is more in conflict dynamics than mere political incitement. The benefits of war (negative as well as positive), the justification and the historical linkages of the past wars are issues less discussed in the literature, a lacuna that was filled with a study of Mt. Elgon wars.

Moreover, the involvement of the military, ordinarily, reserved to protect the country from external aggression is a gap in literature on Kenyan conflicts, which this study seeks to fill especially given that it was only in Mt. Elgon that the military was deployed to execute war functions within internal boundaries. In normal circumstances such duties usually lie under the purview of the Kenya Police. Consequently, one wonders why the Government sent the military and not the well-trained Recce Company of the General Service Unit (GSU), to Mt. Elgon. Could this have been an indicator of the government's perception of the deep-seated nature of this conflict? These questions demonstrate the necessity of a more thorough academic inquiry of the root causes and enablers of the Mount Elgon wars.

### **1.6 Scope and Limitation**

The study examines the economic and social factors underlying the perpetuation of wars in Mt. Elgon by exploring the economic incentives and disincentives available to actors in the wars. The research endeavours to reveal the interaction of political and economic agendas of conflicts that were widely associated with the Mt. Elgon wars and appraised to what extent did the citizens in post independent Kenya could reach so as to question the legitimate authority of the government and whether the questioning was for a just cause. The study explores the political economy of war in Africa and how dismally state hegemony performed. This study espouses the appropriateness and appropriation of war and how the political economy played out to justify the wars that were fought in Mt. Elgon and how it informed the relationships of different ethnic groups living in Mt. Elgon, the formation and role of militia groups in the conflict.

The study covers the period between 1968 and 2008. In 1968, the government of Kenya passed the legal notice no. 35 of 1968, which declared the Chepkitale region a Trust Land and game reserve. This necessitated the re-location of the members of the Mosop clan of the Sabaot to Chepyuk region which was also claimed by the members of the Soy clan of the Sabaot and other non-Kalenjin speaking communities. This led to conflict not only between the two Sabaot clans but also with other communities who had settled in Mt. Elgon district.

In 2008, the government of Kenya launched a military operation in the area in a bid to flush out the SLDF militia group.<sup>33</sup> This led to the killing of Wycliffe Matakwei, the commander of SLDF, destroying the foundation of the group's operation. A number of challenges hindered the study including the shortage of funds as well as the terrain. To counter this limitation, I sourced some funds from my own savings, friends and family to finance the research. The second limitation that was the remoteness, rugged terrain and underdeveloped infrastructure which posed a challenge while trying to access informants. However, pre-arrangements were made with a research assistant who had a good grasp of the terrain to facilitate movement in the region and engagement with interviewees.

### **1.7 Literature Review**

Globally, economic and ethnic deprivations are seen as the primary causes of collective rebellion, although various forms of discontent are important motivators for ethnic collective action.<sup>34</sup> Ethnic grievances can take on many forms, the most common of which is economic discrimination which is manifested through housing and employment discrimination, inequitable land distribution, as well as lack of educational opportunities. These factors contribute to the low socioeconomic status of ethnic minorities<sup>35</sup> and perpetuates their marginalisation as they are unable to occupy positions of influence and through disenfranchisement they are an ineffective or inadequate voting blocs. The domination by the majority enhances hostilities among minorities towards the dominant communities that may provide a motivation for action meant to increase minority political power.<sup>36</sup> Additionally, the marginalisation of minority groups can perpetuate persistent conflict over access to scarce resources. This notion of the relation between war and ethnic identity as well as economic injustice is proffered by Sherry Lawrence in her discourse on the Israeli conflict. Lawrence explores the relationship between grievances, identity, and ethnic wars at the individual level and argues that sometimes the ethnically oriented individuals use

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<sup>33</sup> Although there were other militia groups in Mt. Elgon, the centre of reference will be SLDF because other militia groups were formed to counter SLDF. Their objectives were almost similar to the governments' objective and had nothing to do with the past Mt. Elgon wars. Moreover, they collapsed immediately the SLDF was destroyed by government troops.

<sup>34</sup> Sherry Lawrence, "Identity, Grievances and Political Action: Recent Evidence from the Palestinian Community in Israel," in *International Political Science Review/ Revue Internationale de Science Politique*, Vol. 27, No 2, London: Sage Publications Ltd, 2006, pp. 167-190

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

state institutions to favour the majority over the indigenous population.<sup>37</sup> Consequently, it is evident that ethnic grievances are important in collective action and rebellion.

According to Yasin Abdalla Eltayeb Elhadary, land in most African rural communities is not just a means of livelihood but also a source of wealth, tribal identity, social peace, and a source of conflicts.<sup>38</sup> The coming of European colonial rulers interfered with communal land ownership by introducing several land laws aimed at giving the state full authority to control land resources,<sup>39</sup> which undermined the traditional and communal rights of the indigenous people. Elhadary's discussion on the changes in land tenure informs this study in that these changes could have been the basis for the wars that happened in Mt. Elgon. However, Elhadary's framework is limiting in that it did not broach the economic and social factors underlying the perpetuation of wars in Mt. Elgon and does not take into account the economic rationality of conflict for the belligerents as well as the economic strategies that elites use to sustain their positions, and in what situations the actors find war to be more profitable than peace.

Mary Anderson in her discourse identifies five predictable ways in which economic and political resources affect conflict. Anderson argues that, resources are often stolen by warriors and used to support fighters and buy weapons.<sup>40</sup> Subsequently, these resources affect markets by reinforcing either the war economy or the peace economy. The distributional impacts of resources affect intergroup relationships, either feeding tensions or reinforcing connections. The author further argues that, resources legitimise people and their actions or agendas, in the pursuit of war.<sup>41</sup> Anderson's work is important for the purpose of this dissertation as it proffers indicators of appropriation of war, which is the focus of this treatise: who benefited from the wars of Mt. Elgon.

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<sup>37</sup> Sherry Lawrence, "Identity, Grievances, and Political Action: Recent Evidence from the Palestinian Community in Israel", in *the International Political Science Review / Revue internationale de science politique*, Vol.27, No. 2, London: Sage Publications, Ltd., 2006, pp. 167-190.

<sup>38</sup> Yasin Abdalla Eltayeb Elhadary, "Challenges facing land tenure system in relation to pastoral livelihood security in Gedarif state, Eastern Sudan", Post Doctoral Thesis, Universiti Sains Malaysia, Penang, Malaysia, 2010, p. 1.

<sup>39</sup> Ibid.

<sup>40</sup> Mary Anderson, *Do No Harm: How Aid Can Support Peace or War*, London: Lynne Rienner, 1999

<sup>41</sup> Ibid.



The dynamics of the war economy are explored by Paul Atkinson in his analysis of the war in Liberia based on which he contends that the political economy of war rests on the violent control of resources. Atkinson further avers that as war progresses the general population is integrated in the war economy through its participation in the informal economy.<sup>42</sup> Atkinson's work can be used as a reference point for a number of key questions regarding the wars of Mt. Elgon, specifically, in whose hands did the wars in Mt. Elgon rest? How has the general population in Mt. Elgon been integrated into and/or engaged in these wars? On their part Berdal and Keen argue that, violence in contemporary conflicts cannot easily be explained as political. Rather, it appears to have more local and immediate aims and functions, very often economic.<sup>43</sup> While political factors should not be dismissed in the Mt. Elgon wars, the interaction of political and economic agendas of conflict has to be divulged. Similarly, Carbonnier and Flemming who examine relationships between war and the economy and the complex interactions thereof from a perspective of a globalised world and the ever-changing pattern of warfare, contend that money and war sheds light on the economic dynamics of war. Focusing on the underlying economic causes, they argue that economics constitute a new analytical tool for understanding conflicts.<sup>44</sup> This perspective is pertinent to this study as it exposes the relationships between war, economy and the complex interactions between the two, aspects that are also present in the Mt. Elgon case. From this viewpoint, the treatise will discuss and seek to determine whether the local or national economy influenced the changing pattern of warfare that fuelled the extreme war strategies in Mt. Elgon.

According to Chingono, war is a most unusual catalyst of social change, change which shapes both the course of the war itself and the social system. In the anarchy created by the war the hitherto disenfranchised find unprecedented opportunities to carve out a social and political space for themselves and to demand more freedom. For Chingono, this intensifies the struggle for dominance among and between the emergent social forces, in which political alliances shift

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<sup>42</sup> Paul Atkinson, *The War Economy in Liberia: a Political Analysis*, London: Overseas Development Institute, London, 1997.

<sup>43</sup> Mats Berdal, and D. Keen, "Violence and Economic Agendas in Civil Wars: Some Policy Implications", in *Millennium: Journal of International Studies* 26(3), 1997, pp. 795- 818.

<sup>44</sup>Gilles Carbonnier and S. Flemming, *Forum: War, Money, and Survival*, Geneva: ICRC, 2000.

and/or disintegrate.<sup>45</sup> This shift in or disintegration of political alliances is accompanied by the reconfiguration of power relations, the redistribution of wealth and changes in norms and attitudes, which are characterised by numerous conflicting forces and processes, in the forms of political and economic engagement. With regard to economy, there is often some form of a ‘quantum leap effect’ resulting from war that leads to the emergence of the grass-roots war economy. Thus, war should not be considered purely in terms of disaster. Rather, it must be viewed in its dialectical relation to society as a social process capable of inducing simultaneous deconstruction and reconstruction, destroying some markets and creating others where none existed, ruining some people while making others very rich.<sup>46</sup> Chingono’s work raises key issues, which necessitate deeper investigation especially in the case of Mt. Elgon. Key questions of specific interest to this research include: How have the wars in Mt. Elgon served as a catalyst of social and economic change? How did they create new markets and how did they profit some people? And who are these people?

According to Collier, discussions of civil conflict are dominated by the narrative of grievance. Hence, policies on conflict tend to be focused on assuaging perceived grievances on one hand, and on the other, attempting to reconcile populations with deep-rooted hatreds.<sup>47</sup> Collier further observes that evidence on the causes of conflict do not really support this interpretation as the objective factors, which might contribute to grievance, such as income and asset inequality, ethnic and religious divisions and political repression, do not seem to increase the risks of conflict.<sup>48</sup> Indeed, to the extent that they have any effect, the primary function of policies on conflict is to make societies safer. Evidence on causes of conflict points to economic factors as drivers of war. Specifically, namely the combination of large exports of primary commodities, low education, a high proportion of young men and economic decline added together drastically increase the risk of war and, although societies as a whole suffer economically from civil war, some small identifiable groups do quite well out of it. They thus have an interest in the initiation,

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<sup>45</sup>Mark Chingono, *The State, Violence and Development: The Political Economy of War in Mozambique 1975-1992*, Aldershot: Avebury Press, 1996 pp. 23-45.

<sup>46</sup> Ibid.

<sup>47</sup>Paul Collier, “Doing Well Out of War”, in M. Berdal and D. Malone (eds.) *Greed and Grievance: Economic Agendas in Civil Wars*, London: Lynne Rienner, 2000.

<sup>48</sup> Ibid.

perpetuation and renewal of conflict.<sup>49</sup> In this research, I explore the actors in the wars of Mt. Elgon who had an interest in the perpetuation of war and what was their primary motivation and/or ultimate benefit.

Duffield in his discourse on the political economy of internal war observes that the political survival of groups in conditions marked by collapsing economies, widespread destruction and human misery calls for the proposition that these prolonged complex emergencies have winners and losers. Duffield further expounds this proposition to define a political economy of complex emergencies by highlighting the benefits gained by the politically strong from the transfer of assets owned by the weak during times of conflict. He indicates that the appropriation is often violent when he states that ‘the more direct or coercive the form of conflict, the more likely it is that winners have mobilised ethnic, national or religious sectarianism as justification for their extra-legal activity’.<sup>50</sup> This is important because it speaks to issues of socio-economic transformation of people due to conflict an aspect that has not been explored in the case of Mt. Elgon even though this perspective provides a basis for understanding matters around conflict transformation. Furthermore, in his discourse on modern conflict, Duffield espouses the current dynamics of conflicts and war economies in relation to the changing nature of the nation-state. Following the growth and peak of the nation-state between the late 1940s until the early 1970s in both capitalist and socialist developed countries as well as to a relative extent in developing countries, the model of state-engineered modernism gave way to a ‘post-modern’ process of globalisation characterised by an economic deregulation and growing influence of markets reducing the power and legitimacy of the state.<sup>51</sup> This dynamic change in the political space is aptly captured by the growth of warlordism in which local strongmen are able to control an area and to establish commercial activities, while keeping weak central authorities at bay. Based on Duffield’s proposition, one is bound to ask if this was the case of Mt. Elgon.

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<sup>49</sup> Ibid.

<sup>50</sup> Mark Duffield, “The Political Economy of Internal War: Asset Transfer, Complex Emergencies and International Aid”, in J. Macrae and A. Zwi (eds.) *War and Hunger: Rethinking International Responses to Complex Emergencies*, London: Led Books, 1994.

<sup>51</sup> Mark Duffield, “Post-Modern Conflict: Warlords, Post-adjustment States and Private Protection”, in *Civil Wars 1(1)*, 1998, pp. 66-102.

According to Kaldor, these new wars are aimed at political mobilisation on the basis of identity and as such, divisive and exclusive form of politics cannot be disentangled from the economic basis of war. War provides a basis for legitimising various criminal forms of private aggrandisement while at the same time these criminal activities are necessary sources of revenue in order to sustain a war. The warring parties need more or less permanent conflict both to reproduce their positions of power and for access to resources.<sup>52</sup> While this predatory set of social relationships is most prevalent in war zones, it has not been clearly investigated in the wars of Mt. Elgon. The new war economy could be represented as a continuum, starting with the combination of criminality and extremes that were committed against the people of Mt. Elgon. However, how could these extremes be committed where the local state apparatus continued to function, where taxes were raised, services were provided, and some level of production maintained as was the case of Mt. Elgon? These issues necessitate an investigation of the underlying root causes that forced the actors in the wars of Mt. Elgon to resort to war despite the presence of the state and a somewhat functional economy.

This perspective is one that has been researched by Keen who demonstrates the importance of understanding the economics underpinning violence in civil wars. While not dismissing psychological, social and political factors driving violent conflicts, the author argues that short-term economic benefits have become paramount in the dynamics of contemporary conflicts. He further indicates that current conflicts have been often depicted as irrational, ethnically driven and uniformly disastrous.<sup>53</sup> This research endeavours to move beyond this by examining the rationality of violence and how wars in Mt. Elgon increasingly became the continuation of economics by other means', rather than politics. The analysis of Mt. Elgon wars in this research will therefore focus on the specific political economy that generates violence through an approach that considers war as the emergence of alternative systems of profit, power and even protection, rather than simply the breakdown of a particular system. Of particular importance in this research is the examination of the functions of war in Mt. Elgon beyond its use by political groups to change or retain the legal and administrative framework. Specifically, I will seek to

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<sup>52</sup> Mary Kaldor, *New and Old Wars: Organized Violence in a Global Era*, Cambridge: Polity Press, 1999.

<sup>53</sup> David Keen, "The Economic Functions of Violence in Civil Wars", *Adelphi Paper No. 320*, London: Adelphi, 1998.

explore whether the wars in Mt. Elgon served as a profitable economic, security and psychological functions for different groups.

Keen's perspective on the need to understand the role of economics in war is echoed by Mwanasali who argues that informal economic activities taking place during conflicts should not be equated to illegal or criminal acts. Instead, an analysis of informal economic activities should seek to understand the reasons why people choose to produce and exchange outside of the state-controlled economy. Mwanasali further avers that most of these reasons relate to the stifling and discriminatory effects of a legal system and enforcement institutions often operating for the benefit of privileged groups. In the context of war, informal activities may facilitate or impede a war as informal producers and traders entertain complex relations with warring factions.<sup>54</sup> Similarly, according to Reno government officials in weak states chose to exercise political control through a shadow state. Such a shadow state will then exercise its power through market channels, rather than politically risky and financially costly projects requiring the building of effective state institutions.<sup>55</sup> Richan shares a similar perspective when he states that the war system has been able to sustain itself because of lack of institutional mechanisms to quell conflicts between antagonistic groups, all of which benefit from the war situation as long as none achieves outright victory. He further avers that some antagonistic groups have even found a common interest in the war situation, leading to policies of tacit agreement and the maintenance of a status quo.<sup>56</sup> The main questions around the economic dynamics of war that this research will attempt to answer will focus on what relations existed if any in the wars of Mt. Elgon, who controlled the market channels during war and which antagonistic groups benefited from the wars of Mt. Elgon and how?

Barnett Rubin basing his arguments on Carl von Clausewitz's dictum of war opines that nothing else but the pursuit of politics through both peaceful and violent means requires money. Just as in many parts of the world political power is a principal means to the pursuit of wealth, war too

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<sup>54</sup> Musifky Mwanasali, "The View from Below", in M. Berdal and D. Malone (eds.) *Creed and Grievance: Economic Agendas in Civil Wars*, London: Lynne Rienner, 1999.

<sup>55</sup> William Reno, "Shadow States and the Political Economy of War", in M. Berdal and D. Malone (ed) *Greed and Grievance: Economic Agendas in Civil Wars*, London: Lynne Rienner, 1999.

<sup>56</sup> Nazih Richani, "The Political Economy of Violence: The War-System in Colombia", *Journal of Inter-American Studies and World Affairs* 39(2), 1997, pp. 37-82.

may create conditions for economic activity, though often of a predatory nature.<sup>57</sup> The longer the war persists, the more society and economy adapt to war, creating a relatively stable type of social formation, a civil or transnational war economy. However, despite society adapting to the war and establishing war economies, few actors profit from wars and in the case of the Mt. Elgon wars, there is minimal scholarly research focusing on the actors who profited from the Mt. Elgon wars. Of specific interest to this paper is establishing what made the local communities in Mt. Elgon develop parallel power structures to shield themselves from the state, rather than participate in the existing state structures.

This is an area that Rufin espouses in his discourse on war economy, which he describes as a system of economic resources organised to sustain prolonged conflicts. Rufin identifies two main types of war economies, closed, and open. In the closed war economy, fighters can count only on local resources and must therefore be ‘like a fish in a pond’ among the civilian population, in particular with regard to their supplies and once local supplies dry up the war is likely to dissipate. This is contrary to an open war economy, which is often sustained by external supplies and is as such likely to be protracted and recurrent. The open war can be likened to the foci or centre theoretical model as developed by the Cuban revolutionary, Che Guevara, where a limited number of fighters in a small but strategic centre can destabilise a regime and gain the support of the population, thus the war gains a life of its own.<sup>58</sup> While Rufin puts forth a sound argument, it is limiting in that it falls short of explaining how the people who are perceived as supporters of the war economy tend to flee fighting areas if they benefit from the war. As demonstrated by Rufin war economies can be connected to local resources, with local communities supporting and contributing to the war and its continuation. This local dimension is an area that has not been fully addressed in existing analysis of the Mt. Elgon wars. To fill in these gaps, this discourse will explore the political objectives of the factions engaged in the war efforts in Mt. Elgon, the pre-conflict economy, the spatial distribution of resources, the role of the state, and how the wars contributed to a shift from a control of populations to a control of populations and resources.

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<sup>57</sup> Barnett Rubin, *The Political Economy of War and Peace in Afghanistan*, New York, Council on Foreign Relations, 1999.

<sup>58</sup> Jean Christopher Rufin, “Les Economies de Guerre dans les Conflits Internes”, in F. Jean and J.-C. Rufin (eds.) *Economie des Guerres Civiles*, Paris: Haehette, 1996.

These are issues that are explored by Uvin who argues that structural violence due to inequality of life chances, clientelism, corruption, arbitrariness, social and economic exclusion, lack of access to information, education, health and other basic services and an authoritarian and condescending state and aid system are long-standing, contributing factors to deep seated racial prejudice and structural violence. Furthermore, Uvin avers that all these factors combined with secondary factors such as material opportunism, impunity for past violence and massacres, and an absence of external constraints, may lead to war.<sup>59</sup> The arguments proffered by Uvin are reflective of the backdrop against which wars were fought in Mt. Elgon, and could possibly explain why a people living in one of the most productive areas of Kenya could, apparently so ‘suddenly’, collapse into extremes of wars. Could the hardships resulting from economic stagnation be the reason that made ordinary people more receptive to such manipulation? While these factors could be used to justify the wars in Mt. Elgon they are still insufficient in explaining why so many ordinary people who had lived together chose to abandon their moral values and actively start slaughtering their neighbours.

This descent into war by ordinary citizens can perhaps be explained by Stan Weeber and Daniel Rodeheaver, who argue that the lack of sociological interest and feelings of powerlessness play a major role in peasant rebellions, protest movements, wars and related phenomena.<sup>60</sup> They aver that rebels feeling the strain of living up to cultural goals and the established means of achieving them, reject and substitute both the culturally prescribed goals as well as the institutionalised means of achieving those goals. This rejection contributes to wars, revolutions and radical social movements from the standpoint of strain.<sup>61</sup> As such, these socially dislocated people join radical movements such as militia groups, which often harbour strong anti-government rhetoric and general support for extreme measures to prevent exploitation or denial.<sup>62</sup> Subsequently, the emergence of these militia groups may trigger an uprising against the institutionalised system in order to reassure participants that something is being done to redress the underlying source of strain.

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<sup>59</sup> Peter Uvin, *Aiding Violence: The Development Enterprise in Rwanda*, West Hartford: Kumarian Press, 1998.

<sup>60</sup> Stan Weeber and Daniel G. Rodeheaver, “Militias at the Millennium: A Test of Smelser's Theory of Collective Behavior”, in *The Sociological Quarterly*, Vol. 44, No. 2, Texas: Blackwell Publishing, 2003, pp. 181-204.

<sup>61</sup> Robert Merton, “Social Structure and Anomie,” in *the American Sociological Review* 3, 1938, pp. 672-682.

<sup>62</sup> Ibid.

Weeber's and Rodeheaver's arguments on the reasons why militia groups wage wars are plausible, but there is need to determine who the militia groups fight for, particularly in cases such as that of Mt. Elgon where the SLDF militia group waged war even against its own community members including employing extreme forms of war against their opponents such as rape or torture. Similarly, Mike O'Brien argues that for a better understanding of conflict where militias are involved, cognizance must be placed on socialisation of the society. This is because militiamen remain part of civilian society throughout their period of operation. Besides, any study on conflict where militias were active must take into account factors such as ethnicity and, most importantly capitalist economic social relations.<sup>63</sup> O'Brien's arguments are closely aligned to the approach I have adopted for this study as he recognises capitalist social relations as determining the direction of war. Such an understanding necessitates an interrogation of hierarchies of benefits of war as well as the control and ownership of wars.

In terms of land claims and rights, Nicholas Ekutu Makana proffers that pre-colonial African societies had an intricate system and mechanisms to mediate the relationship between human material needs and the imperative of environmental sustainability based on an intricate indigenous land tenure system.<sup>64</sup> The primacy of land in the indigenous political and production processes renders the analysis of accessibility to, and the acquisition and disposal of this fundamental resource paramount in any discussion of pre-capitalist modes of production.<sup>65</sup> Communal ownership of land was the rule rather than the exception in most pre-colonial African societies. The logical inference drawn from this observation is that individual usufruct rights to land are first and foremost transmitted or defined through traditional political economy. However, if this is the case, how then did the move away from communal land ownership to individual title inform subsequent wars in Mt. Elgon?

In her discourse on ethnic clashes in Kenya in the 1990s, Lucy Mulli explores the clashes in Kenya from a political point of view. While political factors should not be dismissed, the

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<sup>63</sup> Mike O'Brien, "Manhood and the Militia Myth: Masculinity, Class and Militarism in Ontario, 1902-1914," in *Labour / Le Travail*, Vol. 42, *Masculinities and Working-Class History*, Ontario: Athabasca University Press, 1998, pp.115-141.

<sup>64</sup> Nicholas Ekutu Makana, "Changing Patterns of Indigenous Economic Systems: Agrarian Change and Rural Transformation in Bungoma District 1930-1960," Phd, Dissertation, Eberly College of Arts and Sciences, West Virginia University, 2006, pp. 37-42.

<sup>65</sup> Ibid.



interaction of political and economic objectives of conflicts has to be acknowledged and understood. Mulli avers that ethnic clashes in Kenya can be traced back to 1991 when Kenya was to have its first multiparty elections and that the first incidents were noticed in October 1991 when a gang of youths from the Kalenjin ethnic group attacked non-Kalenjin communities living in their neighbourhoods and<sup>66</sup> the same pattern was repeated during the second multiparty elections in 1997, resulting in the displacement of thousands of people. Similarly, Walter Oyugi analysis on how ethnicity characterises relations between the indigenous ethnic groups and the immigrant groups highlights that in the presence of immigrants' indigenous groups will always complain of domination by the visitors.<sup>67</sup> In such a scenario, leading politicians from the indigenous communities will then rise to influence their people against the immigrants who become targets of attack. These arguments are plausible but fail to demonstrate why people who speak the same language, have the same culture and origin such as the Mosop and Soy clans of Mt. Elgon would rise against each other. Beyond the indigenous versus outsiders' debate, little research has been undertaken to understand the appropriation of war in Mt. Elgon. For instance, how was the war organised? From whence did the actors get their resources? What were their economic links? What were their relations with civilian populations? The possibilities of groups within Mt. Elgon fighting each other were existent, however, the focus has been on the attacks of outsiders by the indigenous.

As documented by Kipketter ChirChir-Chuma, the wars in Mt. Elgon date back to between 1860 and 1890 when the Sabaot fought with their neighbours including their fellow Kalenjin tribe members such as the Nandi.<sup>68</sup> Chuma avows that these wars were characterised by cattle raids and kidnapping of women and men, though the men who were captured were not enslaved as Kalenjin norms did not allow enslavement of people who could not defend themselves.<sup>69</sup> Aside from fighting their fellow tribe members, the Sabaot also warred with the Bukusu, the Bagisu of

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<sup>66</sup> Lucy Mulli, "Understanding election clashes in Kenya, 1992 and 1997" in *Africa Watch*, Nairobi: Institute for Security Studies.

<sup>67</sup> Walter O. Oyugi "politicized Ethnic, conflict in Kenya: a Periodic phenomenon" Addis Ababa conference, 2000, p. 11.

<sup>68</sup> Kipketerr ChirChir-Chuma, "Aspects of Nandi Society and Culture in the Nineteenth Century", in *Kenya Historical Review*, Vol. 3 No. 1 1975, pp. 90-91.

<sup>69</sup> Ibid.

Uganda, the Pokot, Maasai and Turkana.<sup>70</sup> These wars were frequent before the entire Mt. Elgon region fell under the British colonial rule and resulted in the imposition of Bukusu chiefs over the Sabaot, which served to exacerbate the old enmity between the two communities.<sup>71</sup> This research investigates whether the pre-colonial wars had a bearing on the 21<sup>st</sup> century wars in Mt. Elgon. In the same vein as Chuma, John Oucho argues that the conflict in Mt. Elgon has a long history and that the Bukusu and the Sabaot having been engaged in frequent conflicts though recent wars had strong political undertones, which culminated in the carving out of Mt. Elgon District for the Sabaot people from Bungoma District where the Bukusu are dominant. While traditionally the Sabaot and the Bukusu have had uneasy co-existence, which frequently culminated into wars between the two communities, the hostilities reached a worrying scale during the 1991-93 ethnic clashes.<sup>72</sup> Oucho blames the conflict on political fears of domination of the Bukusu over the Sabaot who claimed that the former was cannibals who would decimate the Sabaot.<sup>73</sup> Was the economic logic crucial, or was there any economic dimension in the Bukusu cannibalism claims by the Sabaot?

While land and natural resources appearing to play a central role in the conflicts of Mt. Elgon some World Bank economists and developmental experts such as Burrows and Roth, Migot-Adholla and Bruce have dismissed the myth of land causing conflict. They argue that that there is no relationship between land privatisation and increased agricultural production.<sup>74</sup><sup>75</sup><sup>76</sup> According to these scholars there is no way change in land ownership would have caused war. What then caused frequent wars in most parts of Kenya and Mt. Elgon in particular? Did the economic dimension of war play a key role in defining the mechanisms of mobilization in the Mt. Elgon wars? Simiyu disagrees with this outlook and emphasises the land question as being a driver of

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<sup>70</sup> Vincent G. Simiyu, "Historical Background", in Gideon S. Were and Osaga Odak (ed) *Bungoma District Socio-Cultural Profile Draft Report*, Nairobi: Government Printer, 1995, p. 21.

<sup>71</sup> Vincent G. Simiyu, "Historical Background", in Gideon S. Were and Osaga Odak, *Ibid*, p. 22.

<sup>72</sup> John O. Oucho, *Undercurrent of Ethnic conflict in Kenya*, Leiden: Konin Klijke Brill, 2002, p.78.

<sup>73</sup> *Ibid*, p.79.

<sup>74</sup> Richard Barrows, and M. Roth, "Land Tenure and Investment in African Agriculture: Theory and Evidence", in *The Journal of Modern African Studies*, Vol. 28, 1990, p. 2.

<sup>75</sup> Migot-Adholla, S. E. and J. W. Bruce, "Are Indigenous African Tenure Systems Insecure", in J. W. Bruce and S. E. Migot-Adholla (eds) *Searching for Land Tenure Security in Africa*, Dubuque, IA: Kenda/ hunt Publishing Co. 1994.

<sup>76</sup> Migot-Adholla, S. E., F. Place and W. Oluoch-Kosura, "Security of Tenure and Land Productivity in Kenya", in J. W. Bruce and S. E. Migot-Adholla, (eds) *Searching for Land Tenure Security in Africa*, Dubuque, IA: Kenda/ hunt Publishing Co. 1994.

the conflict in Mt. Elgon and traces the issues to the colonial policy of alienation of African land, which resulted in Sabaot lands being appropriated by the colonial administration in 1930s without compensation.<sup>77</sup> Based on Simiyu's arguments one can argue that the British colonial policy destabilised the social and political economies of the members of two Sabaot clans, the Soy and Mosop. The situation was compounded by frequent attacks on the Mosop by communities across the border in Uganda, which compelled the Kenyan government to intervene in order to save the Mosop people. The government moved to protect the Mosop by establishing a settlement scheme in Chepyuk for them and turned Chepkitale into trust land.<sup>78</sup> While the actions of the government of Kenya seem to have been noble it inherently caused more issues among communities, however, of interest is to understand how it caused war between people who had lived together for long?

### **1.8 Theoretical framework**

This research is primarily hinged on two main theories, the political economy theory and the just war theory, although more theories that are in line with the main theories are integrated to facilitate the analysis of specific issue in the different chapters. This research utilises the political economy theory as expounded by Gordon Tullock and Collier, et al. The political economy approach emphasises how an economy functions within the confines of a government or group policy and how set rules influence economic behaviour in many activities.<sup>79</sup> Political economy as a name of a special science is the invention of Antoine de Montchr'etien who first employed the term around the beginning of the 17<sup>th</sup> Century but was later expounded by Jean Jacques Rousseau (1755) and Adam Smith (1727-1790), who argue that political economy is all about medley of politics and economics. The political economy analyses the operational aspects of the economy by examining change within the system of society and seeks to proffer reasons for that change by identifying classes and ideologies, which cause conflict not only in society but also

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<sup>77</sup> Robert Romborah Simiyu, *Militarization of Resource Conflicts: the case of land-based conflict in the Mount Elgon Region of Western Kenya*, Nairobi: Institute for Security Studies, 2008. p. 13.

<sup>78</sup> Ibid, p. 14

<sup>79</sup> Denise E. Markovich and Ronald E. Pynn, *American Political Economy: Using Economics with Politics*, Pacific Grove: Brooks/Cole publishing company, 1988, p.10.

between nations.<sup>80</sup> It focuses on economic and socio-political constructs in the comparative analysis of marketing of commoditisation relations.<sup>81</sup>

The political economy theory as expounded by Adam Smith introduces the concept of value as a basic tool of political economic analysis. Smith explains how expenditure of labour is the true social cost of wealth. He further discusses how to derive the price of a commodity from the prices of the inputs of labour, capital and land that enter into production. Smith contends that when value and labour function well, they become a source of social and political benefit but if they become dysfunctional, then they become the source of intractable conflict.<sup>82</sup> Gordon Tullock used Smith's ideas to explain the political economy of conflict. He analysed political behaviour within rent-seeking societies at war. He argues that contest over resources leads competing parties to devote a certain amount of effort in conflict to pursue rewarding outcome.<sup>83</sup> Paul Collier et al, employed Tullock's theory of political economy of conflict to explain civil wars arguing that rewards are expressed as claims over resources. They include interests such as territories, political positions and rents.<sup>84</sup> The theory provides tools for analysing exchange structures and processes within and between organisations and therefore are important to this study as it focuses on authority and control patterns, conflict and conflict management procedures, and external and internal determinants of institutional change. It presents the argument of how politics combine with economy to play a central role in the society's activities. In particular, it predicts the commoditisation of war.<sup>85</sup>

The commoditisation theory as expounded by Karl Marx is part of the political economy approach, which argues that a commodity is, in the first place, an object outside us, a thing that by its properties satisfies human wants of some sort or another.<sup>86</sup> In saying this, Marx was

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<sup>80</sup> Ibid, p.11.

<sup>81</sup> Johan Arndt, "The Political Economy Paradigms: Foundation for Theory building in Market", in *Journal of Marketing*, Vol. 47, 1983, pp. 44-54.

<sup>82</sup> Duncan K. Foley, Notes on the Theoretical Foundations of Political Economy, 1999, p. 4. <http://economia.unam.mx>

<sup>83</sup> Nicos Christodoulakis, *An Economic Analysis of Conflict with an Application to the Greek Civil War 1946-1949*, New York: Springer Publishers, 2016, pp. 31-36.

<sup>84</sup> Paul Collier, Anke Hoeffler and Mans Soderbon, "On the Duration of Civil War," in *Journal of Peace Research*, 41 (3), 2004, pp. 253-273.

<sup>85</sup> Ibid.

<sup>86</sup> Karl Marx, *Capital: A Student Edition*, edited by Arthur, C.J., Lawrence & Wishart, London, 1992, pp. 3-6.

concerned with the difference between the use-value, the exchange-value and the value of these objects. By use-value, Marx was referring to the useful qualities of a thing that becomes a reality only by its use or consumption. By exchange-value, he meant the mode of expression, an abstraction generally expressed in prices of something contained in a commodity, yet distinguishable from it. And by value, he meant the aggregation of values that allows the existence of both use-value and exchange-value.<sup>87</sup> In the commoditisation of any product or service to a group, there must be delivery, administration and costs. It is up to actors to uncover the needs and connect the benefits of their service to the agreed upon needs. This activity creates value.<sup>88</sup> Commoditisation is a generalised Darwinian selection pressure in economic evolution driven by profit and seeking exploitation of key resources. Commoditisation distorts development in ways that intensify negative social outcomes experienced by oppressed groups and undermines the possibility for sustainable development.<sup>89</sup> This theory is used to gauge the value that the wars brought to the people of Mt. Elgon and to groups such as SLDF whether the services of this group was needed and that they had to be delivered.

This theory assisted in understanding and addressing the critical issues of war and changes as they occurred in the marketeering and racketeering processes of Mt. Elgon wars. In particular, the commoditisation theory was critical in the analysis of the merchandise process of war, as well as the resultant products, their consumption and the role of different players in these processes. When war is being organised or planned, the actors are prepared to part with their money in order to consume it, it is merchandised into a product. To some actors, the Mt. Elgon wars became a branded product, which was promoted, at a particular place, and tagged with an applicable price.<sup>90</sup> This theory was also vital in addressing critical issues of war and change as they occur in the commoditisation of Mt. Elgon wars as well as unpacking the processes, issues and products involved in the Mt. Elgon wars. Furthermore, the theory was imperative in

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<sup>87</sup> Ibid.

<sup>88</sup> Philippa Atkinson, *The War Economy in Liberia: a Political Analysis*, London: Overseas Development Institute, 1997.

<sup>89</sup> Jack Manno, "pression", in *Annals of the New York academy of Science, Issue: Ecological Economics review*, Department of Environmental Studies, SUNY College of Environmental Science and Forestry, 211A Marshall Hall, Syracuse, NY 13210. jpmanno@esf.edu

<sup>90</sup> Smangele, Clerah Buyisiwe Xulu, "Gender, Tradition and Change: The Role of Rural women in the Commoditization of Zulu culture at Selected tourist attraction in Zululand", PhD. Thesis in the Department of Isizulu Namagugu, University of Zululand, 2005, pp. 36-40.

demonstrating the commodification of war and how war was turned into a marketable product, which was to be sold to and consumed by, in this case, the actors of the Mt. Elgon wars as well as the residents of Mt. Elgon region.

Although the political and the commoditisation approach may explain the social formation caused by the wars in Mt. Elgon, it does not provide a framework for rationalising why war became a recourse or why the participants in the war resorted to extreme measures. The approach omits the examination of other reasons that justify why societies resort to war. The approach fails to explain consequences of war. In real life situations, failed rebellion is most likely followed by reprisals against the defeated, which gives rise to longer conflicts. Moreover, the political economy approach describes a static situation where parties decide to enter into conflict for a single and terminally decisive fight. However, this does not reflect the reality where wars are protracted, leading to a conflict trap where parties justify violence against their neighbours or the other party. The political economy theories do not as such address the question of justification of war. To fill in this gap, the study employed the just war theory.

Historically, the just war concept is traced to an early Christian tradition in the teachings of St. Augustine with Saint Thomas Aquinas, which was later adapted and explicated in his *Summa Theologiae*.<sup>91</sup> St. Aquinas maintained that a war may be waged justly under three conditions: first, the legitimate authority who has the duty of preserving the common good must declare the war. Based on this precondition, a private individual, no matter how much clout he may wield, does not have the right to commit a region or country to war. Secondly, a just cause for war must exist. Finally, the warring party must have the right intention, meaning that they intend the advancement of good or the avoidance of evil. In essence, according to St. Aquinas, a war must confront an unquestioned danger, the legitimate authority must declare the war and must be acting on behalf of the people, the reasons for declaring the war must actually be the objectives, not a masking of ulterior motives. Additionally, all reasonable peaceful alternatives must have been exhausted or have been deemed impractical or ineffective and the good that is achieved by waging war must not be outweighed by the harm and the achievement of the war's purpose must

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<sup>91</sup> Saunders, Rev. William. "The Church's Just War Theory (Part 1)" In the *Arlington Catholic Herald*, Baltimore: Baltimore Cathedral Press, 2003.

have a reasonable chance of success.<sup>92</sup> The just war perspective is used in this research to explain to what extent the wars in Mt. Elgon were justified and also determine the legitimacy of SLDF in declaring use force. Moreover, it offers a framework for assessing whether any good was achieved through the Mt. Elgon wars. Although the research primarily utilises these two theories, where applicable reference is made to some specific theoretical or scholarly debates to explain specific phenomenon, but this is done without prejudice and these debates or theories do not necessarily undermine the central underpinning theories of this research work.

### **1.9 Research Hypotheses**

The discourse is underpinned by three hypotheses, which are used in interpreting both primary and secondary data.

1. Communities in Mt. Elgon laid claims and counter-claims over land which influenced their relations.
2. There is a historical link between the pre-colonial, colonial and post-independent conflicts in Mt. Elgon.
3. The actors in the Mt. Elgon conflicts had justifiable reasons to engage in the wars
4. The wars in Mt. Elgon were a function of the interaction between politics and the economy.

### **1.10 Research Design and Methodology**

#### **1.10.1 Introduction**

The qualitative research design was used in the study. In-depth reading and individual interviews were conducted in the study area to understand the issues under research. In qualitative research, stress is placed on the socially constructed nature of reality. According to Denzin and Lincoln, in qualitative method, the researcher seeks answers to questions that stress how social experience is created and given meaning.<sup>93</sup> Qualitative researchers study behavior in context and the interpretation of the context. By applying a constructivist approach within qualitative method of inquiry, the researcher was able to get information on how and why participants in wars of Mt. Elgon acted the way they did in specific situations. This type of investigation allows unravelling

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<sup>92</sup> Walzer Michael, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, New York: Basic Books, 1977, p. 21.

<sup>93</sup> Norman K. Denzin and Yvonna S. Lincoln, "Introduction: The Discipline and Practice of Qualitative Research," in *The Sage Handbook of Qualitative Research*, <https://uk.sagepub.com>, accessed on 19/11/2023

of human experience. Qualitative approach was ideal for explorative research to unravel social experience. The purpose of this study was to explore and describe land contestation, wars of Mount Elgon and the economic motives in these wars. Qualitative inquiry and analysis was therefore suited for this study. The study is exploratory in nature and therefore, allowing the data to speak for itself was necessary.

### **1.10.2 Research Design**

The qualitative design using in-depth reading of books, book chapters and articles in journals was utilised. In this, the review focused mainly on the histories of the communities inhabiting Mt. Elgon as well as the wars in the area starting from pre-colonial times to the post-independent Kenya. Historical review was critical to the study since the conflict in Mt. Elgon has a lot of historical connotation and this needed to be brought to light. Reading material were sourced from various libraries including the University of Nairobi's Jomo Kenyatta Memorial Library (JKML), which proved to be a critical source for documentation on land conflicts in Kenya and other regions as well as the Africa Peace Forum and the British Eastern African libraries, with the former providing access to documentation on land conflicts and a wide variety of reports from Non-Governmental Organisations (NGOs) operating in Mt. Elgon and the latter access to books on the history of and conflict in East Africa and the rest of the continent which enriched the research. Additionally, secondary data also derived from newspaper articles from local dailies, which were sourced from the Nation Media library housed in Nation House the Standard Media library housed in I&M building in Nairobi. Newspaper reports on conflict in Mount Elgon were of great importance to this study.

Another key source for secondary data was the Kenya National Archives, which has an extensive repository of both colonial documents including handover reports of Provincial Commissioners, District Commissioners and Chiefs, petitions and complaints filed by indigenous communities to the Provincial Administrators as well as intelligence reports. These documents were analysed and information pertinent to the discourse catalogued and used to argue and support the research. In addition, the post-colonial government reports which included provincial annual reports, handing over reports, letters, and minutes of *barazas* (meetings) held and personal diaries of senior officials of NGOs working in Mt. Elgon region were analysed to enrich the research. In



addition to the repository of KNA, I also consulted documents available in the Provincial Archives in Kakamega the resource centres of the Netherlands Development Organization (SNV) resource centre in Nairobi and the Catholic Peace and Justice Commission resource centre as well as documents available at the resource centres of other NGO'S working in Mt. Elgon district. While the archival materials were critical in providing a historical perspective on the conflict in Mt. Elgon, there were various gaps in the information, especially regarding the perspectives of the local communities on the conflict. Consequently, primary data, in the form of oral interviews, were undertaken and served to fill in gaps in the secondary data.

### **1.10.3 Field Data Collection**

In collecting field data, semi-structured one-to-one interviews was utilized. The researcher sought in-depth understanding of the perceptions of the people of Mount Elgon on land contestation, wars in the region and if there were any economic motives involved.

### **1.10.4 Instruments Used**

Semi-structured interview guide was used. This type of interview guide allows the researcher to have flexibility in the way to ask questions and the respondents have freedom to explain issues. The researcher captured the data through note taking and where permission was given, the interviews were tape-recorded.

### **1.10.5 Oral Interviews**

In the field, the researcher briefed the respondents about the study and gave them surety that the research was strictly academic and if they wished confidentiality would be observed. With the respondents' consent, the researcher carried out interviews. The tape-recording consent was requested and if permission was granted then recording was done. The researcher wished to be transparent in the work. Semi-structured, one-to-one interviews were used to get in-depth information on the histories, wars and their motives in Mount Elgon. During the interview, the tape recorder was used. Making use of a tape recorder allowed the researcher to record fully and accurately what was being said rather than depending on just taking notes during the interviews.

Additionally, to streamline data collection and to counter the problem of language barrier, the researcher employed the services of research assistants from the area. The research assistants

primarily facilitated translations of Sabaot and Iteso languages into English and or Swahili during interviews with local respondents who had limited grasp of Swahili or English. However, for Bukusu respondents, the researcher conducted the interviews directly as he is conversant with the language. Generally, language was not a major issue because most of the members of the Sabaot and Iteso communities understand and speak the Bukusu language, which was an advantage to the researcher as it enabled him to understand the deeper nuances on their perspectives without relying on an intermediary.

In terms of sampling, purposive and snowball sampling were used to identify key informants to participate in the research. Purposive sampling was deemed the most appropriate method as the research primary focus was on a specific geographic and the information sought could only be provided by people who had witnessed or participated, overtly or covertly in the wars and who could as such provide first account information. Additionally, using the method enabled me to cover all divisions of Mt. Elgon thus ensuring the information collected was not skewed or biased towards one specific area.<sup>94</sup> The primary key informants were identified based on the database of a United Nations Development Program project, entitled “Cultural Methods of Peace-making and Reconciliation in Selected Kenyan Communities,”<sup>95</sup> which covered Mt. Elgon and other region and which I supported as a research assistant. It should be noted that the UNDP project was used primarily for identifying key informants and is not used in this research as reference as the focus of the project was on traditional mechanisms of conflict management, which is outside the purview of this research. Additional respondents were identified through the primary respondents who provided suggestions of people who could fill in gaps or provided additional information. The additional respondents were critical in reinforcing information gleaned from the primary respondents and in some case provided different perspectives, which enriched the research.

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<sup>94</sup> Olive Mugenda and Mugenda A. *Research Methods*. Nairobi: Acts Press 1999 p. 51.

<sup>95</sup> Barrack Muluka and George Gona, *Cultural Methods of Peacemaking and Reconciliation in Selected Kenyan Communities*, Nairobi: UNDP, 2009.

### **1.10.6 Data Analysis**

The thematic content analysis was used to analyze the collected data. This analysis method comprised of: transcription, analysis and interpretation. Thematic analysis enabled the researcher to systematically organise and analyse data in sets that resonate with the chapters.

### **1.10.7 Ethical Considerations**

To comply with ethical considerations while conducting this research, all participants provided verbal consent to be interviewed or to participate in the research. Participants were approached by the researcher who explained to them the purpose of the study, after which interviews were carried out on a willing basis. Verbal consent was the most appropriate because in a qualitative research, strength lies in informality of communication and interactive nature of the interview.<sup>96</sup> In cases where recording was done, permission to record the interview was obtained from the participants. Before recording, the researcher explained to participants that the information will remain confidential and will only be discussed with supervisors. The supervisor and participants were unknown to each other and therefore there was no fear of exposure. Participants who did not wish their names to be revealed, pseudonyms were used to conceal their real names. Finally, it must be noted that none of the participants had difficulties with interviews and recording.

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<sup>96</sup> Roschelle L. Fritz and Roxanne Vandermause, “Data Collection Via in-Depth Email Interviewing: Lessons from the Field,” <https://doi.org/10.1177/1049732316689067>, accessed on 18/11/2023

## CHAPTER TWO

### WHOSE LAND? MOUNT ELGON AND CONTESTED AUTOCHTHONY TO 1920

#### 2.1 Introduction

This chapter focuses on the issues of land contestation in Mount Elgon. Specifically, the chapter seeks to trace and outline land ownership contestation, competition over land and how these territorial claims and counterclaims through the years are linked to and/or influenced the various wars fought in the region. The question of who are the “owners” of Mt. Elgon is answered. The chapter contends that wars over land are a problem arising from multiple claims over space by different ethnic groups that inhabit Mt. Elgon and later the British claim through the crown.

The varying interests of the communities occupying Mount Elgon over land have often resulted in animosity among the groups as each group sought to acquire, annex, defend and exercise claims on specific territories in Mt. Elgon since their migration and settlement in the area. With the onset of colonial rule, the British introduced new claims on land exacerbating the problem through the enactment of the Crown Lands Ordinances of 1902 and 1915, which transferred all public land within the East African Protectorate to the control of his Majesty the King of England. This annexation by the British Crown and transfer of hitherto indigenous communal land to European settlers introduced the British Crown as a claimant of land. This had far reaching effects on indigenous communities by rendering local communities landless and had no rights on land they had previously occupied and utilised. This exacerbated the existing competition over land among the indigenous communities as well as with the colonial settlers. Consequently, the engagement of the British as a competitor and a claimer for the same lands that Africans claimed and occupied complicate land ownership and contestation. In the case of Mt. Elgon, the competition was compounded by the fact that there existed various claims over the same land, which further entrenched the ownership insecurity of the indigenous communities that had laid claim to the territories of Mt. Elgon and would serve as an impetus for land contestations during both the colonial and post-colonial periods. The chapter begins by framing the concept of land contestation through various scholar’s lens before analysing autochthonous claims by various communities.

## 2.2 Framing Land Contestation

Historically and even in contemporary times, ethnic groups involved in territorial disputes and/or land claims sought or tend seek to achieve bargaining leverage by linking their entitlement to physical and spiritual aspects of the said land. Before the colonial period, Africans had primordial territorial claims, which acted as a means to prove their ownership. Through linkage assertion, claimant ethnic groups attempted to persuade their adversaries that their relationship with the claimed land cannot be reduced to legal interests as the land was imbued with spiritual qualities, which could not be alienated, mortgaged or given away under lease. By asserting the traditional claims approach to land, this chapter presents territorial claims, where communities have a strong attachment to physical features attributed to ancestors that identify the claims thereby building upon primeval, state of nature, claims through wars and modern legal frameworks around how ethnic sectarian narratives have informed land claims. Additionally, the chapter explores the strong affinity to land among communities and how land is a salient and common feature of all societies and how it is primary, state of nature and legal attachment to all societies. Such attachments make human beings to give their lives for land protection which they believe to be theirs or they own it. Land associated to these claims remain extremely important and affects the organisation of human society.

A substantial body of literature from a Lockean perspective allude to land as being a natural gift from the supernatural, asserting that it is God given from the beginning and originally owned in common, but that anyone could chose to acquire a rightful property claim to a specific piece of land by labouring on it to make it more productive.<sup>97</sup> This Lockean perspective is apparent in primordial claims to land, with historical evidence denoting that all features of territorial rights were present already in pre-political society, with communities deeming land as being the natural property and rights of individuals and their communities. David Miller points out that cultural nations or ethnic nations can have territorial claims based on occupancy and transformation of a piece of land and that modern legitimate states only gain territorial rights over a particular territory as representatives of the people they govern. Consequently, the territorial rights of states

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<sup>97</sup> John Douglas Bishop, "Locke's Theory of Original Appropriation and the Right of Settlement in Iroquois Territory: Reviewed work(s)," in *Canadian Journal of Philosophy*, Vol. 27, No. 3, (Sep., 1997), pp. 311-337. <http://www.jstor.org/stable/40231987>, accessed: 08/03/2013 17:47

depend on previous and independently existing territorial claims.<sup>98</sup> On his part Kolers developed a theory that avers that eligible subjects of territorial rights are ethno-geographic communities sharing a common conception of land, and genuine claims to land require such communities to demonstrate empirical and intentional plenitude.<sup>99</sup>

Another perspective on land rights and ownership is proposed by Elisabeth Eide who proffers the concept of strategic essentialism to presuppose that land claims are associated with a group or a category of objects/people who share some defining features exclusive to the members of this particular group or category.<sup>100</sup> Essentialism encompasses several distinct beliefs about categories or groups of people over things they hold dearly such as land. It is the idea that some social categories are perceived as tied to specific land claim than the other.<sup>101</sup> Essentialist practices and modes of representation have been applied by groups and individuals in the promotion of certain claims or demands over land rights. However, strategic essentialism only examines the politicised side of land claims while the purpose of this discourse is to demonstrate how land claims extend beyond political motivations and influence and are of more importance to communities as a physical space imbued with sacredness based on beliefs than an economic asset. This is the case of the Mt. Elgon region, where territorial claims by the different ethnic groups are linked to specific areas, sites and beliefs, which can be deemed to be informed by the concept of nativeness of the area, a concept that Lonsdale in his article terms as “sons of the soil.”<sup>102</sup> Lonsdale describes nativeness or real sons of the soil as those first-comers whose claims over land are in terms of historical depth, a notion that is not the most convincing means of claiming ownership of land or territory. This notion of ownership is widely held among the communities of Mt. Elgon and can be viewed as the genesis of land wars in the region as each ethnic group asserts their perception of first comers as a right to claim land in the region. This has resulted in continued tussles among the distinct groups, with each community trying to prove

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<sup>98</sup> David Miller, *National Responsibility and Global Justice*, Oxford: Oxford University Press, 2007, pp. 217-219.

<sup>99</sup> Avery Kolers, *Land, Conflict, and Justice: A Political Theory of Territory*, Cambridge: Cambridge University Press, 2009, pp. 32-40.

<sup>100</sup> Elisabeth Eide, Strategic Essentialism and Ethnification: Hand in Glove? In *Nordicom Review* 31 (2010) 2, pp. 63-78. <https://oda.hioa.no/nb/strategic-essentialism-and-ethnification-hand-in-glove/asset/dspace:1760/511697.pdf>

<sup>101</sup> Telli Davoodi, et al, “Essentialization of Social Categories Across Development in Two Cultures,” in *Child Development* 91 (3), 2019, pp. 1-18. <https://srcd.onlinelibrary.wiley.com/doi/>, accessed 01/07/2020

<sup>102</sup> John Lonsdale, “Soil, Work, Civilization, and Citizenship in Kenya,” *Journal of Eastern African Studies*, 2:2, 2008, pp. 305-314. <https://doi.org/10.1080/17531050802058450>, accessed on 04/07/2020.

that they were first to occupy the land and that others are newcomers. A claim to be first comers is the weapon each community uses to justify that Mount Elgon belongs to them and why they must fight to protect what is theirs.

Contestation over land ownership and land use rights are major issues globally, often resulting into wars and Kenya is not an exception. Before the advent of colonial rule, claims over land in most parts of Kenya took a primordial dimension. The concept of primordial claim is associated with Clifford Geertz who argued that ancient attachments to land refers to the very primitive owner whose right of claim originates from the very first or remote given or the assumed givens of the social existence of humans.<sup>103</sup> Primordial claims are associated with immediate contiguity and kin connection or congruities of blood, speech, beliefs, attitudes and customs. Ancient claims over territories in Africa are well articulated by Ali Mazrui, who described this as being natives of the soil and blood. Building on Mazrui's analogy to fit in intra-African land claims, one can argue that natives of the blood are defined in ethnic and genealogical terms based on their identification as an ethnic group occupying specific soil or land geographically. This means that, both territoriality and ethnicity are used simultaneously in identifying the African land claims.<sup>104</sup> Ethnic groups of the soil are identified with a specific region, nationality and ancestral location. In Mount Elgon, bearing an ethnic identity is an aspect of selfhood and a basis of territorial claim and thereafter struggle over land. Land is a mobilizing factor that ignites the politics of belonging or who are the ancient owners of territories, thus demonstrating the strong linkages with primordial land claims.<sup>105</sup> Primordialism is perceived by people as inexpressible and binds kinsmen, or a personal affection, practical necessity, common interest, or obligation, but in great part by virtue of some absolute importance attributed to the very tie itself. Propagators of primordial land claims hold that the roots of such claims may be traced back to a period in the distant past or prehistoric times<sup>106</sup> and these claims are founded on the historical

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<sup>103</sup> Viera Bocova, "The Construction of National Identity from Primordialism and Instrumentalism," Institute of Social Sciences, Slovak Academy of Sciences, Karpatsk· 5, 040 01 Košice, Slovakia. <https://www.sav.sk/journals/hum/full/hum198c.pdf> accessed on 01/05/2018

<sup>104</sup> Ali A. Mazrui, "African of the Blood and Africans of the Soil," in *The Daily Monitor*, Saturday December 12, 2009. <https://www.monitor.co.ug>, accessed on 05/07/2020

<sup>105</sup> Jocqueline M. Klopp, "Can Moral Ethnicity Trump Political Tribalism? The Struggle for Land and Nation in Kenya," in *African Studies*, 61, 2. 2002, pp. 270-288.

<sup>106</sup> John Breuilly, "Approaches to Nationalism," in Gopal Balakrishnan, ed., *Mapping the Nation*, London: Verso, 1996, p. 149.

land link of the current generations given based on the long and continuous ancestral occupancy, use and ownership over the said land.

Primordial claims are strongly associated with myths of origin, which seek to elaborate the genealogical claim over territories and perhaps to pinpoint particular critical moments in their development and how such land played a central role in the history of a specific group with some communities claiming to have occupied a specific territory from time immemorial.<sup>107</sup> In Pearce's view, the flavour of the primordial component in land claims or any attachment is like a divine religion whereby land claim bears the marks of unity, of sanctity and sometimes a religious perspective. Through unity, the primordial concept envisages the claimants and the territory as one and the territory as being holy to those who live on it. Through such claims all members of the community or those living on the claimed land are embraced and all the men and women who believe in the narrative are responsible for passing it down from generation to generation. Consequently, primordial stewardship is heavily invested on ancestral bequeathing, where current owners claim to have gotten it from the ancestors who are fathers of the community. The claim is therefore not affected by the accidents of time and circumstance. It does not vary with the passage of time, or with the comings and goings of men or of governments.<sup>108</sup>

Classical economists agree with primordial claims by arguing that there are two social-economic groups competing for land. The first group are traditional landowners' whose claim over territories is based on being the earliest occupants of such land. This group bases its argument on their ethnic nations predating modern legal claimants such as the capitalist-based states.<sup>109</sup> This group's view is that land is a central issue because it defines their very existence since time immemorial and their ancestors believed in cosmology where the creator was linked with other deities and spirit through their land. These groups believe in the myths of origin of land and that everything connected to it were created by the deities. Because land was of divine origin, it is sacred and not subject to private ownership, sale, purchase or lease. Any other idea of claim over

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<sup>107</sup> John Coakley, *Nationalism, Ethnicity and the State: Making and Breaking Nations*, London: Sage, 2012, pp. 101-103.

<sup>108</sup> Patrick Pearce, *Ghosts*, Dublin: Whelan and Son, 1916, pp. 4-5.

<sup>109</sup> Geir Ulfstein, "Indigenous Peoples' Right to Land," in Max Planck UNYB 8 (2004), [www.mpil.de/files/pdf/accessed\\_on\\_27/02/2017](http://www.mpil.de/files/pdf/accessed_on_27/02/2017) also refer to the article by Jose Memcio Molintas, "The Philippine Indigenous Peoples' Struggle for Land and Life: Challenging Legal Texts," [www.arizonajournal.org/wp\\_accessed\\_on\\_27/02/2017](http://www.arizonajournal.org/wp_accessed_on_27/02/2017), p. 275.



land by any group including the modern state would therefore result in serious contestation and if need be, communities can sanction wars to protect such land. In general, indigenous owners of land rebel against land laws imposed on them.

The second view proffered by classical economists is that of capitalist's tenant farmers claims over land. These groups' claims over land are based on colonial conquest and introduction of land tenure policies based on foreign ideologies.<sup>110</sup> The capitalist tenant farmers apportion to themselves large pieces of land in the name of landlord and reap where they never sowed. They exploit both the traditional landowners who lose their land to the colonial occupiers and the labourers who seek to work for them while being paid very little. In this type of claim, landowners reap a lot of benefits from economic growth to the expenses of the other claimants.<sup>111</sup> The interests of capitalist landowners conflict with those of traditional land owners and labourers, which in the long run culminate into an armed struggle.

Critics of the classical theory like Deepak Lal argue that classical theorists by and large are concerned with the question of "why" land claims, which contrast neoclassical theorists who are concerned with the "how" question.<sup>112</sup> Neoclassical economic theorists embrace the idea of the process involved in claiming land, which to some extent involves forcefully taking from indigenous owners and transferring ownership to the new owners in the name of improving productivity and increasing security of a few individuals as was done by colonial regimes. John Lonsdale and Bruce Berman argue that by so doing, the colonial state sanctioned an intensification of the work process by reallocating public resources, in order to rescue the rate of profit from the claims of labour.<sup>113</sup> However, Lonsdale and Berman caution that the process by the colonial state brewed a crisis, which led to resistance and thereafter erosion of the state autonomy. The colonial state was seen as an instrument of dominance, which pushed natives to resort to violence. Thus the state was seen as the predator rather than protector of native interests and was only out to protect capitalist social relations, which are relations of conflict.

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<sup>110</sup> Jean Jacques Rousseau, "Discourse on the origins of social inequality", in *The Social Contract and Discourses*, London: Everyman's Library, 1913, p. 192.

<sup>111</sup> Ibid.

<sup>112</sup> Deepak Lal, "In Praise of the Classics: The Relevance of Classical Political Economy for Development Policy.

<sup>113</sup> John Lonsdale and Bruce Berman, "Coping with the Contradictions: The Development of the Colonial State in Kenya, 1895-1914," in *The Journal of African History*, Vol. 20, No. 4, 1979, pp. 487-505. <http://www.jstor.org/stable/181774>, accessed: 07/09/2011 06:29

The neo-classical economic theorists aver that the forceful takeover of land, which formerly belonged to indigenous claimants and entrusting it to private owners in the name of improving productivity and increasing security of tenure was a catalyst for land wars.<sup>114</sup> Montainer Larson and Jenelle Brown point out that this privatisation of land ownership informs all wars over land. They opine that no man made the land and therefore, it is the original inheritance of the whole species that live on it and that the first man who enclosed a piece of ground as his was the founder of the wars over land. Larson and Brown delve into issues of social inequality in society<sup>115</sup> and point out that appropriating a gift of nature for private gain at the expense of majority poor is wrong and unnatural, because land belongs to all, a perspective that is supported by Jean Jacques Rousseau.<sup>116</sup> Consequently, it is evident that when the communal land is taken over by capitalist private owners thus denying the poor access then the marginalised majority will try to access what they rightfully consider theirs and in the process war emerges.

The capitalist land ownership notion involves a compulsory takeover of land by the state and distributing it to its supporters without consideration of the traditional owners.<sup>117</sup> The argument fronted by the colonial government for titling of land tenure was that it wanted to improve productivity and increase security of land ownership. However, the increase in security of tenure was in favour of its people and production benefited non-residents as Karuti Kanyinga demonstrated, who avers that the practice of individualising public land by the colonial regimes and subsequent post-colonial governments created more people without land and generated wars over ownership or claims of ownership.<sup>118</sup> To date, individualisation and private land tenure has continued to hold a privileged position over customary land claims. This individualisation has been reinforced by judiciary systems, which do not consider ethnic claims over land as legitimate or in most cases are manipulated to cater to the interests of the elite.

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<sup>114</sup> World Bank, *Land Policies for Growth and Poverty Reduction*, Washington DC; Publication for World Bank and Oxford University Press, 2003.

<sup>115</sup> Montainer Larson, Janelle B. "land ownership and Property Rights", Pennsy /Vania: the Pennsylvania state university press in Encyclopedia of life support system <http://www.eolss.net/Eolss-sample>, Allchapter.aspx accessed on 14/10/2015

<sup>116</sup> Jean Jacques Rousseau, "Discourse on the origins of social inequality", in *The Social Contract and Discourses*, London: Everyman's Library, 1913, p. 192.

<sup>117</sup> Montainer Larson and Janelle B" Land Ownership and Property Rights", Ibid.

<sup>118</sup> Karuti Kanyinga, "The legacy of the white Highlands: land Rights, ethnicity and the post 2007 Election violence in Kenya", in journal of contemporary Africa n studies 27 (3), 2009, pp. 325- 344.

Modern judicial systems, which have a lot of resemblance to the colonial ones, dismiss customary claims and laws forcing them to be subordinate to the state law.<sup>119</sup> The state law introduced by colonial authorities placed a lot of emphasis on the central administration pushing customary land claims to the periphery, a policy that has been perpetuated by the modern judicial and post-colonial governments. This centre-periphery relationship has created political interference and patronage over land claims. The issue of who should get access to land or who is the legitimate stakeholder, who should control the land and on what terms has been the topic of debate between citizens *and* politicians.<sup>120</sup> Since politicians wield a lot of power in society, they sometimes neglect tribal/traditional claimants as genuine stakeholders of land issues. Consequently, this leaves communities with no recourse other than to take up arms and fight in order to gain state attention or to reclaim their rights to hold land as bonafide stakeholders.

The evolution of land claims may thus be envisioned through different theoretical arguments that outline the legitimacy of the claims of the different stakeholders. Although modern judicial systems based on English law recognise the state as the owner of land through title deeds, naturally local communities are stakeholders of the land they occupy as asserted by Christina Holt who points out that a stakeholder of land is any person, group, community or body that has something to gain or lose from a change in management of land resources. In discussing the concept of stakeholders, Holt led a group of researchers from University of Kansas who came up with a way to characterise stakeholders by view of their relationship to land claims. They argued that there were several categories of stakeholders ranging from primary, secondary and key stakeholders. Primary stakeholders are the people or communities that stand to be directly affected, either positively or negatively, by an effort or the actions of an agency, institution, or organisation.<sup>121</sup> In this case, these are communities living on claimed or contested land or whose ancestors lived on the said land.

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<sup>119</sup> Prosper Musafiri Nobirabo, "Local Communities' Access to Justice and the State in Kenya: Impunity, Legal Pluralism and the Resolution of Conflicts," 4 Working Paper Presented at Bern and Zurich, June 2013, p. 3. [www.snis.ch/systemfiles/239](http://www.snis.ch/systemfiles/239), accessed on 27/02/2017.

<sup>120</sup> Sara Berry, "Debating the land question in Africa", in comparative studies in society and History, 44, 2002, pp. 638-668.

<sup>121</sup> Christina Holt, et al, *Community Tool Box*, University of Kansas: Work Group for Community Health and Development, 2015. [ctb.ku.edu/en/who-we-are](http://ctb.ku.edu/en/who-we-are), accessed on 15/01/2016.

Secondary stakeholders are people or groups that are indirectly affected, either positively or negatively, by an effort or the actions of an agency, institution, or organisation. They can be institutions that work to solve the issues arising from contests by primary stakeholders. For example, stopping or minimising wars related to land, for instance, could have a positive effect on those employed to deal with the crisis or work to reduce the probability of armed conflict occurrence. This could entail more training for police and military to improve their capacity to manage or deter violence. Key stakeholders might belong to either or neither of the first two groups and are those actors who can have a positive or negative effect on an effort, or who are important within or to an organisation, agency, or institution engaged in an effort<sup>122</sup> and include governments who are an obvious key player not only in wars but also as a custodian of land. Primary stakeholders (communities) have a right while secondary stakeholders (state) have interests. Primary stakeholders insist on their right to access land while secondary stakeholders pursue specific interests. Given the competing priorities, the two world views may contradict resulting into conflict. According to Mahmood Mamdani conflicts are informed by what he describes as the split of power around racial domination but through ethnically organised local establishments, which is a lasting legacy of colonialism.<sup>123</sup> These establishments categorisation of citizens along racial lines and based on one's race, one was either accorded or denied rights and inherently the system benefitted the whites and the subjects, Africans, were denied rights over land.

Stakeholders are generally said to have an interest in an effort or resource based on whether they can affect or be affected by it. The more they stand to benefit or lose by it, the stronger their interest is likely to be.<sup>124</sup> Territorial stakeholders' interests can be many and varied. For instance, where the local communities see land as the only resource, they can use to improve their economic prospects, which can lead to their social change. Social change is an effort to improve ethnic harmony, which could alter the social climate for members of both the ethnic minority and the majority in contested land claims. This involves decision-making that can enhance community life and make people more satisfied, protection of open spaces, conservation of

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<sup>122</sup> Ibid.

<sup>123</sup> Mahmood Mamdani, *Citizens and Subjects*, Princeton: Princeton University Press, 2018.

<sup>124</sup> Ibid.

resources as well as attention to climate change, and other environmental efforts that can positively impact everyday life and community safety initiatives.

The political economy approach that integrates the stakeholder idea helps in mapping out relations and nature of wars associated with land claims all over the world and in our case, it can be applied in understanding territorial wars in Mount Elgon.<sup>125</sup> The stakeholder point of view is a conceptual framework for identifying and describing contesting groups in the area, which is done by analysing the attributes, interrelationships and interests of different actors in relation to land. Therefore, the Sabaot, Bukusu and Iteso, colonial and post-colonial states are stakeholders, with the latter two being included given their interest and role in formulating and implementing land policies as well as management and administration of land. The state policies have an impact on how the stakeholders relate to land in the region and have affected, positively or negatively relations between different stakeholders thus they play a central role in shaping stakeholder engagements. The state through the policies it formulated imposed itself as a stakeholder in the sense that it owns land and is a custodian on behalf of its citizens.<sup>126</sup> The question of who owns land around Mount Elgon therefore became a big issue for the Sabaot/Sebei, Bukusu/Bagisu, the Iteso people, Europeans and other African migrants who moved into the area during and after the colonial rule. All these groups were attracted to the region not only for its fertility but capacity to also support livestock production, wildlife conservation and forestation under the gazetted crown land forests. The economic value associated with land in Mt. Elgon has dominated and influenced the politics of the region as whoever dominates the land dominates the economy, politics and occupies higher space in the social structure of the region.<sup>127</sup>

Mount Elgon region has been home to various ethnic groups with diverse backgrounds. This diversity has informed different claims and counter claims over land surrounding the mountain. Different ethnic groups provide contrasting views as to why they think the land belongs to them and not to “others” and there exist different narratives on the legitimacy of each claim. Currently,

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<sup>125</sup> Tache Boku and B. Irwin “Traditional Institutions, Multiple Stakeholders and Modern Perspectives in Common Property” in *Securing the Commons* (4) pp. 1-47.

<sup>126</sup> Tache Boku and B. Irwin “Traditional Institutions, Multiple Stakeholders and Modern Perspectives in Common Property”.

<sup>127</sup> Samwel Ong’wen Okuro, *The Land Question in Kenya: The Place of Land Tribunals in the Land Reform, Process in Kimbewa Division*, Kampala: The Codestria General Assembly, 2002, pp. 24-30.

the region is predominantly inhabited by the Sabaot who occupy the immediate slopes of the mountain with the Bukusu and Iteso neighbouring them on the Kenyan side and the Bagisu and Sebei on the Ugandan side.<sup>128</sup> Each of these communities feel that they are the legitimate owners of the land around Mount Elgon. In the next section, I analyse different claims from these groups' primordial perspectives prior to the colonial conquest.

### **2.3 Discursive Approach to Understanding Autochthony in Mount Elgon**

In this section, I analyse how the different groups that lay claim on Mt. Elgon have historically constructed the appropriation of Mount Elgon and how that has fashioned their interaction and dynamics of conflicts as well as insecurity. The history and origins of ethnic land claims in Mount Elgon is difficult to trace. The difficulty stems from lack of systematic documentary evidence of who came or settled in the region earlier than the other and consequently, who owned the land first. Who are the real “sons of the soil” is the underlying question of the claims and counterclaims. The concept of sons of the soil is deeply embedded in the human psyche and explains the link and interplay between people and what they believe is their place of birth and confers some benefits, rights, roles and responsibilities on them, which may not apply to “others”, a reference to newcomers. The sons of soil doctrine support the view that Mount Elgon specifically belongs to a claimant ethnic group who refer to the region exclusively as their ‘homeland’. These claims and counterclaims lead to perceiving others who live in Mount Elgon or are settled there and whose ethnicity is different as “outsiders”, a perception that has been the genesis of conflict between the different groups inhabiting the region.

The situation gets even more complicated when each ethnic group claims originality through their own oral narratives, which can only be self-authenticated. Based on the ethnic narratives, much of what is known of land claims is based on oral traditions such as folklore, stories and songs passed down from one generation to another. These stories do not give a singular or systematic claim of who is the true owner of the land, what comes across from the narratives are multiple-layered autochthonous trajectory, which then entrench complexity and emotion around land issues in Mount Elgon. These descriptions are fluid and open to varied interpretations.

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<sup>128</sup> Kiragu Wachira, Barrack Muluka and Manasseh Wepundi, *MT. Elgon Conflict: A Rapid Assessment of the Underpinning Socio-Economic, Governance and Security Factors*, Nairobi: UNDP/OCHA, 2008, p. 3.

Based on the histories of migration and settlement of various Kenyan communities there is evidence that the communities of Mount Elgon migrated from different places to their present settlement, however, what is not clear from the oral stories of each community is who is the real original claimant of the land around the mountain.

In discussing the contestation over land in Mount Elgon, the people's interaction with the environment is of significance as is their history, which informs a wide range of complex social, economic and political instability of human dealings. The communal and ethnic interactions that informed territorial claims traditionally originated from moral and spiritual attachment to gods and ancestral spirits that live in the mountain. As a result of spiritual beliefs, the Sabaot and Bukusu have given a special status to land in Mount Elgon to reinforce their originality and autochthony. Natural sites such as the mountain, its rivers, caves, forest groves have been set aside as sacred places that justify each communities' claims. The reasons for their sacredness have been tied to the existence of the abodes of deities and ancestral spirits. For instance, the Sabaot view Mount Elgon as a sacred place and therefore call the mountain "*Momo nyenyo*," our mother, and previously worshipped the mountain.<sup>129</sup> By referring to the mountain as *Momo nyenyo* the Sabaot deemed Mount Elgon as their reason for being as without the mother nobody could exist on earth. Womanhood is seen from a Sabaot point of view as a source of life with women culturally occupying various positions of a mother, a wife, a daughter, a priestess, or even a witch. The way a woman is perceived depends on the position she occupies in the society, a construct that is clearly depicted and reflected in songs, works of art, music, language, and religion.

Although many African traditions are patriarchal in nature, autochthonous claims over territories are strengthened by the concept of motherhood. The Sabaot people conceptualise motherhood as a symbol of the nationhood. These communities deploy their land-as-mother symbolism to mobilise patriotic sentiments. They express their love for their land in terms of the love for mother. This notion is apparent across many communities in Africa, where the mother figure is

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<sup>129</sup> Bondet Kisebe, "The Role of the Worgoondet and Kirwogindet in the History of the Sabaot People of Mount Elgon during the Late Nineteenth Century and Twentieth Century," A Dissertation Submitted in Partial Fulfilment of the Requirement of the Bachelor of Education (B.ED) Degree of the University of Nairobi, March, 1978, p.38.

glorified and the love of mother and love of homeland are taken as one and the same. The highest value is given to women as mothers among the Sabaot and it goes without saying that they revere motherhood. They present motherhood as very precious and there is nothing that can be equated to a mother. She is worthy of being worshipped. Motherhood was and still is a sign of preservation of humanity. A mother is seen as the cornerstone of the family and forms the foundation of not only the homestead but also the clan. As a mother, a woman is adored and praised for her duty in childbearing, rearing and feeding. By equating Mount Elgon to a mother, the Sabaot bestow a deity status on the mountain, consequently, it is seen as everything in their life and therefore the community was and is not ready to compromise their claim on the region in the same way no one can compromise the position of their mother.

As a mother, the mountain is a source of nourishment in terms of the holy rivers which run from it and whose water bears a religious significance to each of the Sabaot clans. The rivers are sacred and have holy spots where certain rituals are performed some of which the Sabaot cannot live without. For instance, during circumcision, Sabaot initiates are required to carry out customary practical lessons by the river side and in the caves.<sup>130</sup> Each clan of the Sabaot has its specific river, which is historically and religiously associated to them. Consequently, the mountain and the rivers, namely Rakook, Terem, Sosio, Kisawoi and Suam have spiritual, emotional and cultural connotations for the Sabaot thus forming the basis of and strengthening their claims of the territories surrounding the mountain and the rivers.<sup>131</sup> The Sabaot territorial claim is well articulated in the song *Tulwop Kony*, which is a praise song of Mount Elgon (*Tulwop Kony*) as the origin of all the Kalenjin people and which they describe as a lovely mountain. *Tulwop Kony* is therefore a sacred place which is not only linked to and claimed by the Sabaot but the entire highland Nilotes, who view it as a place for offering sacrifices and a dwelling abode for their ancestors.

Over the years, the Sabaot people have cultivated an intricate relationship with Mount Elgon region and its immediate surroundings, imbued with spiritual/religious connotations as well as economic and cultural significance. The mountain is seen as the abode of their spirits and their

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<sup>130</sup> Godfrey Kipsisey, "The Sabaot Cultural Centre". [www.sabaot.com/sabaot\\_cultural\\_center.html](http://www.sabaot.com/sabaot_cultural_center.html), accessed on 2/4/2018

<sup>131</sup> Ibid.



dead and perceived as a source of life (pastures and food), a place of offering sacrifices and initiating the youth into adulthood. Aside from claiming sole ownership of the territories around Mount Elgon, the Sabaot also lay claim to most parts of Bungoma and Trans Nzoia with historical accounts attesting to this. According to Sabaot oral history, the entire Kalenjin speaking people first settled in the region before some dispersed to their present homes. The Sabaot remained in the region to secure *momo nyenyo* their mother “*Tulwop Kony*” presently Mount Elgon.<sup>132</sup> They lived in Mount Elgon and the surrounding territories long before the colonial invasion of Kenya while using the territories of Bungoma and Trans Nzoia for grazing of their livestock. The Sabaot and the larger Kalenjin group claim that they settled in the region even before the Bantu invasion. Consequently, for the Kalenjin and the Sabaot, the Mount Elgon region is legitimately their territory and not that of the Bukusu and/or the Teso people.<sup>133</sup>

The Sabaot reference to Mount Elgon as *Nagamet Nyiitororot*, a holy mountain, depicts how the community valued it as sacred and their belief that it was given to them by God. According to oral folklore, god gave the mountain and *Koret* (land) to their *Ayiik bikapkeny* (ancestors) to protect it by all means including engaging in *boriet* (war). God’s instruction to the Sabaot is that they must not leave the land,<sup>134</sup> which validates the Sabaot willingness to engage in war over land, as they deem it justified based on their religious beliefs. Aside from the lush lands and rivers, within the mountain are *kebenet* (caves), which are cultural sites where the Sabaot perform their ceremonies and rituals. For instance, in one folklore the Sabaot describe the initiation process and the centrality of the caves for undertaking the rite of passage. During circumcision (*meiche kebaa sakas biko chiisosegeiy*), initiates are taken into a sacred *kebenet* (cave) where grey mud (*ng’entha*) is taken and smeared on initiates both male and female.<sup>135</sup> When the initiates go for *ng’entha* (grey mud) they must not speak while in the *kebenet* (caves) as speaking will disturb the ancestor’s peace thereby provoking their anger.

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<sup>132</sup> Peter Simatei, “Kalenjin Popular Music and the Contestation of the National Space in Kenya”, Paper presented at CODESRIA Conference in Yaounde, Cameroun on 07-11, December, 2008.

<sup>133</sup> Elias Wakhisi Musiambo, “The Land Question in Trans Nzoia: A Continuing Challenge”, in Afri-Governance, Wednesday, September, 7, 2011. [www.generationafricorgpolitics.blogspot.co.ke](http://www.generationafricorgpolitics.blogspot.co.ke), accessed on 19/01/2016

<sup>134</sup> John Kiprotich, interview with the author. 07/06/2016

<sup>135</sup> Johnson Cheprot Takur, interview with the author, Cheptais Sun-County, Kaimugul, 04/06/2016.

The Sabaot believe that ancestors live in the caves and nobody should speak while inside unless if the mud spot is not located, that's when a special song is sung to request the ancestors to provide a sign, which might be oozing water. Additionally, the caves were used as a place of offerings.<sup>136</sup> Similarly, they believed that God gave the Sabaot special animals, birds and trees found in Mount Elgon forest. These special animals include *Beniondet*, (elephant) and *Soyet*, (buffalo), which offer special protection to the Sabaot people. Culturally, elephant dung is dried and then burned, and bulls and dogs are forced to sniff it, which is said to make them ferocious towards strangers and dangerous people.<sup>137</sup> The dung has a protection importance to the Sabaot. The emphasis of the special attachment of the Sabaot to the mountain is passed on to younger people in everyday talk to instil in them the responsibility to protect it from intruders like the Bukusu whom they consider as aliens who were brought or came later from Uganda and do not have indigenous claim to Bungoma and Trans Nzoia.

On their part, the Bukusu have a counter claim to that of the Sabaot on the territories of Mount Elgon. They view the Sabaot as aliens invading Bukusu-land and just like the Sabaot they claim that Mount Elgon is their sacred and original home, so do the Bukusu. These claims are best explained through their myth of origin, which asserts that *Wele Khabumbi, Khakaba*, God the creator and giver, created the first man Mwambu and his wife Sela and gave them land to settle on the foothills of *Lukulu lwa Masaba*, Mount Elgon from where their descendants grew to form the current *Bamasaba*, people of Mount Masaba where the Bukusu belong.<sup>138</sup> The Bukusu contend that Mount Elgon is theirs and refer to it as *lituru lia mai*, our mother's breast. To the Bukusu *Lukulu lwa Masaba* is everything in their life, the originator of their existence, just as a mother is to her child. The importance of *Lukulu lwa Masaba* to the Babukusu is captured by Vincent Simiyu in his book *Elijah Masinde* where he states that,

Mzee Panda a recognized Bukusu elder wearing *lichabe* (the Bukusu ivory regalia for elders) and *ekutusi* (ceremonial gown made out of special skin) says when he dies, he must be buried traditionally as a Bukusu elder. He said that being laid in the grave, he must face *Lukulu lwa Masaaba* (Mount Elgon).<sup>139</sup>

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<sup>136</sup> Ibid, interview with the author.

<sup>137</sup> Silas Kiplimo Naibei, interview with the author, Chebyuk Location, Cheptais, 04/06/2016.

<sup>138</sup> Yusto Mbuliki, interview with the author, Kibichori Village, Chwele, 21/12/2016.

<sup>139</sup> Vincent Simiyu, *Elijah Masinde: A Biography*, Nairobi: East African Publishers, 1997, p. 39.

Mzee Panda's insistence on following the Bukusu burial rites and facing *Lukulu Iwa Masaaba* while in the grave reflects the importance and influence of Mount Elgon to the Bukusu. This signifies the dead going back to their original home, the home of *Babukusu* ancestors. The Bukusu are therefore not ready to lose the mountain and the region because it would mean they would have lost not only their identity but also their lineage. Equally important are the rivers from the mountain where the Babukusu built shrines such as the Malaba shrine. Fred Makila notes that,

Malaba is a male shrine dedicated to *Wele Murumwa*/messenger god. According to Babukusu creation myth, *Wele*/God created the universe and is the source of all being. First he created heaven, his home, and supported it on pillars as he continued to create other things. He lived with his two assistants, Mukhoro and Murumwa hence the origin of Malaba shrine.<sup>140</sup> It was usually built on mound of the riverside in a hidden place, away from public paths. The Bukusu would then offer sacrifices in the shrine.<sup>141</sup>

The Babukusu myth of origin, which emphasises the importance of *Lukulu Iwa Masaaba* (Mount Elgon) as the homeland is well captured in a letter written to the colonial government in which the Bukusu aimed to prove their claims through the age-sets that were initiated around the mountain and their respective years of initiation prior to the arrival of British colonialists.

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<sup>140</sup> Levera Levi, *Together in Christ*, Nairobi: East African Educational Publishers LTD, 2005, p. 16.

<sup>141</sup> Fred Makila, *Significance of Chetambe Fort in Bukusu History*, Nairobi: Ministry of Culture and Social Services, 1982, p. 180.

ELGON ( MASABA ).  
BUKUSU HISTORY IN ELGON LOCATION.

Bukusu walibuni nchi hii ya mlima wa Elgon (Masaba) tangu 1712. Ambaya siku hizi huitwa Elgon. Wakati huo hakukuwa na kabila lolote katika huu Mlima wa Masaba, mwaka 1883 Mzungu wa kwanza kufika Mlima huu wa Masaba aliwapata Wabukumu katika mlima huu.

Wabukusu wana rika nyingi sana za kutahiriwa katika mlima huu. Hizi ndizi rika za Wabukusu za kutahiriwa katika nchi hii, pamoja na miaka yao; hata sasa Wabukusu ndio Daktari wa kutahisha Waelgon.

(A) SIKANANACHI.

1. Sya Libusi 1824.
2. Sikenya sya Wanyama 1826.
3. Sya Malenya 1828.
4. Sya Wambirira 1830.
5. Sya Namanya Esiloba 1832.
6. Sya Musanga Wamasibo 1834.

(B) SIKINYIKEWI.

1. Khanjekho 1836.
2. Wachibonda 1838.
3. Sengeteti 1840.
4. Sya Nakhokho 1842.
5. Sya Wachiye 1844.
6. Sya Nasibondoli 1846.

(C) SISINYANGE.

1. Sya Masafu 1848.
2. Sya Khafukulu 1850.
3. Kisenge wa Makuta 1852.
4. Sya Mukhwana 1854.
5. Sya Bakisila 1856.
6. Sya Nasionwe 1858.

(D) SISINWA. SIMBINA.

1. Sya Silima 1860.
2. Sya Wachiye 1862.
3. Sya Kalundu 1864.
4. Wabwile Wamutilile 1866.
5. Sya Nakhoba 1868.
6. Sya Makheti wanelima 1870.

(E) SICHUMA.

1. Sichuma 1872.
2. Sya Masayi 1874.
3. Sya Ng'eniesi 1876.
4. Sya Makona 1878.
5. Sya Kwape 1880.
6. Sya Khalundu 1882.
7. Sya Machakhu 1884.
8. Sya Nakibandanyi 1886.

(F) SISAWA.

1. Sisawa 1888.
2. Sya Maliongobi 1890.
3. Sya Masayi 1892.
4. Sya Mukhalaki 1894.
5. Sya Misiko 1896.
6. Sya Nasibondoli 1898.

(G) SIKOLONGOLO.

1. Sya Nandemu 1900.
2. Sya Nabiswa 1902.
3. Sya Bisuche 1904.
4. Sya Manyonge. 1906.
5. Sya Biketi 1908.
6. Sya Khaoya 1910.

(H) SIKIKWAMETI.

Bukusu claims over the territories around Mount Elgon are depicted in their sacred ritual of *khuswala kumuse*, which has existed for centuries. The ritual is said to be traced back to the death of Samba Sambarani Ngunyi who is mentioned as the first Bukusu man to be circumcised. The ritual is performed the third day after the burial of a respected Bukusu elder who had circumcised his grandchildren in a traditional way. The power of *Kumuse* is said to come directly from *Wele Khakaba* (God the Giver). During the ritual the *oswala kumuse* (ritual performer) details the Bukusu history and names Bukusu territories. A good example can be drawn from the oral narration from a *kumuse* ritual as performed by the late Wanyonyi Manguliechi, which goes:

Eee!  
Bibala bienywe  
Muliwa, Omukasa Walumoli,  
Mundebe (Endebes) Nandebe Omukimweyi,  
Kitale, Kitalya Omukamukong'i,  
Moibeni, Mayuba omwana Muengele,  
Emaini, Sirengo okhwa Muone,  
Mukimilili, Kimareni Omurefu,  
Kaptola, Nabutola Omuchemwile,  
Webuye, Webuye wa Singoro,  
Chwele wa Mwolobi omwana Mubuya,  
Namwela wo omukhana Mubuya wandaye Nakhurenya,  
Bungoma, Mung'oma Omubichachi

### **Translation**

Now!  
These are Bukusu territories  
Muliwa (in Trans Nzoia) was under elder Walumoli  
Mundebe (Endebes in Trans Nzoia) Elder Nandebe of Bakimwei clan  
Kitale, elder Kitalya of Bakamukong'i clan  
Moiben (Uasin Gishu) elder Mayuba of Baengele clan  
Maeni, elder Sirengo son of Muone  
Kimilili, elder Kimareni of Barefu clan,  
Kabutola, elder Nabutola of Bachemwile clan,  
Webuye, Webuye son of Singoro,  
Chwele, elder Mwolobi of Babuya clan,  
Namwela, territory of Babuya clan  
Bungoma, Mung'oma of Babichachi clan.

The ritual narrative puts emphasis on the Bukusu land claim over most territories in Trans Nzoia, Bungoma and Uasin Gishu. Thus, the ritual is often invoked as a justification for Bukusu land

claims and rejection of the claims of “others” by encouraging and rousing the Bukusu people to adopt defensive measures against perceived intruders in the name of the Sabaot and later the British colonialists and their settler economy. From the narrative, it can be discerned that the Bukusu believe Mount Elgon region belongs to them and want the Sabaot and the British to give way for the Bukusu to reign supreme.

The Bukusu claims are similar to those of their cousins, the Bagisu, who live on the Ugandan side of the mountain. In their myth, the Bagisu believe that the first man Mundu and his wife Seera emerged from a hole on top of Mount *Masaba* (Elgon) and the two founded the Bamasaba communities (Bagisu and Babukusu).<sup>142</sup> The two later separated when the Bukusu moved to the Eastern side of the mountain while the Bagisu remained on the western side where they still reside to date. The history of the origin of the Bamasaba is one of the most intriguing pieces of oral literature, which buttresses the claim by the Bamasaba that their founding ancestors, Mundu and his wife Seera, were the earliest inhabitants of Mount Masaba (Elgon) many years before the *biyobo* (Sabaot people) ventured to the region. The Bagisu believe that the descendants of the *Mundu* began cultivating the land around Mt. Elgon because of its fertile volcanic soils.<sup>143</sup> The fable of the Bagisu around their primordial claims on Mt. Elgon is very similar to that of the Bukusu, The Bamasaba therefore believe that they were the earliest occupants of the land around Mount Masaaba.<sup>144</sup> The Bukusu and Bagisu term for the Sabaot, *Bayobo or Biyobo*, singular and plural respectively, is a derogatory terms used in reference to the Sabaot to connote unintelligible way of Sabaot speech. It should be noted that the contempt is mutual, as on their part, the Sabaot refer to the Bukusu as *lemek* meaning enemies, poor people or aliens.<sup>145</sup>

Unlike the Sabaot and Bukusu primordial contestation and claims, the Iteso acquired land in Mount Elgon region through wars. Throughout history, humans have shown willingness to fight and die to seize or defend territory, a fact that is evident in the history of the communities of Mt.

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<sup>142</sup> Timothy Wangusa, *Upon this Mountain*, Nairobi: Heinemann International, 1989, pp. 29-30, 70.

<sup>143</sup> John Finch, “The History and Culture of Buyobo (including the impact of the Women’s Microfinance Initiative Loan Program),” 2011, pp. 1-3. <http://wmionline.org/History-and-Culture-of-Buyobo.pdf>, accessed on 6/4/2018

<sup>144</sup> Godfrey Mwakikagile, *Uganda: The Land and Its People*, Dar es Salaam: New Africa Press, 2009, p. 129.

<sup>145</sup> Geoffreyson Khamala, “Gender Dimension of Ethnic Identities and Conflicts in Kenya: The Case of Bukusu and Sabaot Communities,” A Thesis Submitted to the School of Humanities and Social Sciences in Partial Fulfilment of the Requirements for the Degree of Master of Arts in Political Science of Kenyatta University, October, 2009, pp. 71-78.

Elgon based on their folklore. The narratives, which have become part of the identity and culture of the communities living in Mount Elgon, depict a long history of fighting off intruders and are imbued with reverence for warriors who died defending the land. The centrality of land and pride in defending community land in these narratives demonstrates how territory is central to the conflicts of Mount Elgon, especially where different groups lay claim to the same land. For example, the historical desire of the Iteso for land was a predominant cause of war with their neighbours.

Historically, war was the primary method through which many communities acquired territories and this was no different for the communities of Mt. Elgon and Africa as a whole. Catherine Hafer describes this method as a process of capitalising on the absence of socio-political institutions that define and enforce property claims to impose their claim through the prominence of costly war.<sup>146</sup> Based on this, war can be seen as a function of primitive skills to acquire property given the assumption that territories were claimed by force without the permission of the original owners. This was the function that the Iteso used to capture territories from their neighbours. It was a process of acquiring territories through the rules of nature whereby there was no enforcement of claims except individually provided, coercive force to capture land. Land claims through war is a common theme among the oral traditions of the Iteso and this has also been documented by researchers and explorers such as Henry Hamilton Johnston who referred to the Iteso as people who were fearless in war, which they used to capture territories between Elgon and Bukedi.<sup>147</sup> Johnson's views are supported by James Bertin Webster who agrees with the notion that the Iteso occupied the land with a series of hills through conquest during migrations. Those who did not want war were the old people (*Amojong*) who remained in what came to be known as Karamojong land while the young (*Atesin*) soldiered on to conquer and occupy territories between Tororo and Usuk (presently Pokot land).<sup>148</sup>

The Iteso oral accounts also narrate their view of occupation of the territory through conquest. They explain their movement from the land known as *Jewai*, which is believed to be in Uganda

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<sup>146</sup> Catherine Hafer, "On the Origins of Property Rights: Conflict and Production in the State of Nature". [www.nyu.edu/gsas](http://www.nyu.edu/gsas), accessed on 6/5/2018

<sup>147</sup> Henry Hamilton Johnstone, *The Uganda Protectorate*, London: Hutchinson, 1902, p. 66.

<sup>148</sup> James Bertin Webster, *The Iteso during the Asonya*, Nairobi: East African Publishing House, 1973, pp. 143-155.

to Malaba during the *nukokolong k'asonyo* (long time ago), when their *ikapolok* (ancestors) migrated from Soroti (*Kumam*).<sup>149</sup> In their migration, they fought with people they encountered as they moved on. Through these wars they conquered and established settlements near Tororo and continued to spread into Busia near Mount Elgon. Bette accounts that the Iteso fought wars with the Bagisu and Bukusu whom they conquered and thereafter expanded their territory from Mbale to near Kitale.<sup>150</sup> The Iteso further acknowledge that they were the latest to arrive in the region and only acquired the territories through acceleration of military pressure on earlier settlers of the region. They attribute their successes to the efficient war machine led by their warriors such as Malinga who was succeeded by Okoce in the later stage of the Asonya wars.<sup>151</sup>

From their oral accounts, the Iteso conquered and took over some territories which they referred to as their land. In an interview with Mzee Aunya (85yrs) in Ang'orom village, he revealed that the Iteso claimed their land through war where warriors, "Emong'o (bulls) fought and pushed away the Bantu and Southern Nilotes.<sup>152</sup> This is well expressed in the Iteso song *ëyala/egong'/epura* which goes like:

*Akwap'kosi nak'Iteso na \_\_\_\_\_ x2*

*Nya'I \_\_\_\_\_ x2*

*Akwap'kosi nak'Iteso na \_\_\_\_\_ x2*

*Nya'i bati eriba nyai \_\_\_\_\_ x2*

*Akwap'kosi nak'Iteso na \_\_\_\_\_ x2*

### **Translation**

This is our land of Iteso\_\_\_\_\_

Who is even worried, who?

This is our land of Iteso. This is our land\_\_\_\_

Who is even surprised, who? We are not fearing

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<sup>149</sup> Benson Ishapel Opagala, interview with the author, Kolanya Sub-Location, North Teso, 02/06/2017.

<sup>150</sup> Bette J. M. Ekeya, "The Emurwon Diviner/Prophet in the Religion of the Iteso," A Thesis Submitted in Fulfilment for the Degree of Doctor of Philosophy for the University of Nairobi, July, 1984, p.31.

<sup>151</sup> Ibid.

<sup>152</sup> Interview with Mzee Aunya (85yrs) Ang'orom Village



Eyala is a war song which the Iteso sung after conquering the land around Mount Elgon. The song praises Iteso warriors for victory and securing new land which they declared theirs. In the song the word “kwap” means land, “kosi” stands for “ours”.

In another song *Rwaai*, the Iteso claim to have ambushed the Bantu (Imoo) ruthlessly expelling them from the land which (Imoo) occupied:

*Rwaai\_\_ Rwaai kochun ne\_\_\_ x2 (soloist)*

*Rwaai\_\_ Rwaai kochum ne\_\_\_ x2 (response)*

*Adoki lolo kochuu ne\_\_\_x2 (soloist)*

*Rwaai\_\_ Rwaai kochem ne\_\_\_ x2 (response)*

### **Translation**

Get out of here\_\_\_\_\_x2

Get out of here\_\_\_\_\_x2

Don't allow them take anything\_\_\_x2

Don't allow them take anything\_\_\_x2

The song was sung after war and victory over the Bantu thereafter expelling them and occupying the land formerly owned by the Bantu. The words *Rwaai kochun ne* means clean the land by expelling the imoo (Bantu) from it. Don't allow them take anything, ambush them by surprise, attack them without prior information.<sup>153</sup>

The exploits of the Iteso are documented by Ivan Karp who states that the Iteso conquered the Bagisu between 1652 and 1733 before they migrated into Kenya via the eastern side of Mount Elgon where they conquered and acquired territories around the mountain which had earlier been settled by the Bukusu.<sup>154</sup> Karp's account is supported by the oral accounts of the Iteso as recounted by John Omuse who avers that the Iteso fought at Tororo and Ebwayi (present day

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<sup>153</sup> Mzee Amu in Adung'osi Village, Busia

<sup>154</sup> Ivan Karp, *Fields of Change among the Iteso of Kenya*, London: Routledge and Kegan Paul Ltd, 1978, pp. 4-7.

Amukura) where they drove the Bukusu people out of both areas.<sup>155</sup> The narrative of the Iteso conquering and capturing Bukusu-land is further supported by John Middleton and Amal Rassam and is also upheld by Bukusu oral traditions, which hold that in the 17<sup>th</sup> century, they engaged in a persistent war with their Iteso neighbours whom they referred to as *Bamia* or Iteso. The earliest war between the two communities ever recorded and remembered orally is around 1840<sup>156</sup> with the narratives indicating that the period following this was filled with frequent wars over land and livestock resources. This is affirmed by Gideon Were who opines that wars between the Bukusu and Iteso were as a result of quarrels over land, cattle raids and desire to demonstrate military prowess on each other,<sup>157</sup> but it is Robert Wesonga who provides a detailed account of the Bukusu-Iteso war of 1848.<sup>158</sup>

On his part, Asante Darkwa recounts another war between the two at around 1860 describing the Iteso warfare as brutal and terrifying.<sup>159</sup> In this war, the Iteso war party led by Wamurwe Lipopo, Opata, Onyangarinyanga, Okirimongo Asako, Angiro, Ongaria and Sulemeti,<sup>160</sup> attacked the Bukusu and dislodged them from the areas around Tororo, Malaba, Amukura, Mwalie and Malakisi.<sup>161</sup> The war came as a surprise to the Bukusu who were not prepared and therefore their warriors could not withstand the attack by the well-organised enemy. As a result, many Bukusu were killed in the process whereby the Iteso burnt down their villages forcing them to flee to other territories of other Luhya communities, specifically, the territories of the Bunyala, Marachi, Bugisu, Kabras and Tachoni, where they became fugitives.<sup>162</sup> However, existing evidence indicates that after 1860, the Bukusu were mobilised to return to their homeland as described by Peter Wekesa in his thesis where he states that the Bukusu were forced to reorganise their

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<sup>155</sup> John Omuse, interview with the author, Chebukui Area, 86years, 28/12/2014.

<sup>156</sup> John Middleton and Amal Rassam, "Iteso," in *Encyclopedia of World Cultures: Africa and the Middle East*, Boston: G.K. Hall and Company, 1995, p. 127.  
halleinstitute.emory.edu/karp/articles/iteso\_kenya/1995\_iteso\_encyclopedia\_of\_world\_cultures.pdf, accessed on 8/2/2017

<sup>157</sup> Gideon Were, *A History of the Abaluyia of Western Kenya C 1500-1930*, Nairobi: East African Publishing House, 1967, p. 54.

<sup>158</sup> Robert Wesonga, "The Pre-colonial Military Organization of the Bukusu," in Wandiba S. (ed) *History and Culture in Western Kenya*, Nairobi: Were Press, 1985.

<sup>159</sup> Asante Darkwa, "Traditional Music and Dance Practices of the Iteso of Kenya," in *The Cambridge Journal of Anthropology*, Vol. 9, No. 1 (1984), pp. 68-76. <http://www.jstor.org/stable/23816253>

<sup>160</sup> KNA/DC/EN/3/2/4- Political Records Ethnology, 1929-1935.

<sup>161</sup> Robert Wesonga, "The Pre-colonial Military Organization of the Bukusu", in Wandibba Simiyu, (ed) *History and Culture in Western Kenya*, Nairobi: G. S. Were Press, 1982, p. 11.

<sup>162</sup> KNA/DC/EN/3/2/4- Political Records: Ethnology.

military under Mukite Wa Nameme,<sup>163</sup> into three regiments namely, the *Bayoti* (intelligence gathering unit), the *Elamali*, who were advance warriors who engaged in direct fighting contact with the enemy and the *Eng'etuti*, who were warriors who defended the rear to ensure that the fighters were not encircled.<sup>164</sup> It was this re-organisation that enabled the Bukusu to fight to reclaim their lost territories from the Iteso.

Upon their return, the Bukusu are said to have waged a revenge war against the Iteso. They were joined by their Bagisu cousins and together they attacked the Iteso villages around Malakisi burning down the village of Obilimurwe where they killed and seized many cattle. In this war, the Iteso were driven away from regions of Kibachenja and Mutulumba where the Bukusu built forts. The Bukusu still occupy these territories at present. The battles at Mutulumba and Kibachenja were one of the most intense between the two ethnic nations. The Iteso were not convinced that the Bukusu had recovered some of their territories, and therefore waged a counter revenge war against the Bukusu under the leadership of Opata but with Bagisu help, the Iteso lost again and driven beyond Malakisi, which became the boundary between the two communities.<sup>165</sup> The devastating effects of war on the side of the Iteso forced them to seek peace with the Bukusu. Oral narratives indicate that Iteso leader Kimaru called the Iteso Council of Elders and told them that “Either we go back to Soroti (Iteso original homeland) or we make peace with the Bukusu.”<sup>166</sup> While the elders agreed on making peace, it was however rebuffed by one of the Bukusu leaders who argued that the Bukusu could not make peace with *Bamia* (Iteso) who came with evil intent to kill their people and yet the Bukusu had not wronged them. They vowed to drive them away.<sup>167</sup> The Bukusu believed that the only way to make peace with the Iteso was thorough war hence the Bukusu idiom, “*Khupa Omumia akhulindile kamamela*” meaning beat the Iteso thoroughly and he will do your wish. The Bukusu warriors then composed and sang the song that encouraged the Bukusu to continue fighting. The song goes,

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<sup>163</sup> Peter Wekesa, “Politics and Nationalism in Colonial Kenya: The Case of the Babukusu of Bungoma District, C. 1894-1963”, A Thesis Submitted to the Faculty of Arts in Partial Fulfilment of the Requirement for the Degree of Master of Arts of Kenyatta University, June 2000, pp. 60-61. Can be accessed from Hal Archives-Ouvertes-Social Anthropology and ethnology.2000, [dumas.ccsd.cnrs.fr/dumas-01302492](http://dumas.ccsd.cnrs.fr/dumas-01302492)

<sup>164</sup> Mzee Crescent Werunga, interview with the author, Nzoia Location, Lugari, 26/12/2014.

<sup>165</sup> DC/EN/3/2/4- Political Records: Ethnology.

<sup>166</sup> Ibid.

<sup>167</sup> Ibid.

*Injamulole Nakhafu nasena*  
*Kameno keweinja mulole*  
*Mukibachenjainja mulole*

Come and see Nakhafu cleaning his teeth  
Come and see. At Kibachenja come and see

In this song, the Bukusu are implying that attacks on the Iteso were cleaning the enemy off their land, pushing away all the Iteso from Bukusu territories.<sup>168</sup> Despite the Bukusu push for war, the Iteso leaders never gave up on the push for peace. The main reason that forced the Iteso to seriously pursue peace was that they had been cut off from the Iteso of Uganda and therefore did not have reinforcement. Some Iteso argued that they had married Bukusu women and therefore were relatives. The Iteso felt that the Bukusu leaders should be considerate. Kimaru himself had married Namumbia, a daughter of a prominent elder called Tototo of the *Babulo* clan, while his second wife, Nang'oni, was a daughter of Malemo who was also a Bukusu of *Bakiyabi* clan. In the end, the Iteso and the Bukusu made peace. They held a huge ceremony known as “*khulia embwa*” eating a dog, which symbolised the end of hostilities between the two communities. “*Khulia embwa*” translated as “to eat a dog” means “to seal a covenant”.<sup>169</sup>

It is not easy to imagine literally the idea of eating a dog. It may also not be fathomable to some to talk about eating a dog and in both Bukusu and Iteso cultures, dogs are not eaten.<sup>170</sup> However, the idiom depicts the concept of discussions between two groups to reach an agreement and stop the enmity that punctuated their relationship by symbolically holding a dog and cutting it at once into two pieces and burying the two pieces on the lands of the two warring groups while swearing to end hostilities. The groups swore never to fight thereafter and endeavour to build understanding and lasting peace. It is the swearing (oathing) part of it that marks the climax of the covenant and the participants walk away convinced that reneging on the covenant reached is the equivalent of eating a dog, an animal culturally not edible.<sup>171</sup> In the case of the oathing agreement between the Bukusu and the Iteso, both parties vowed never to fight again and true to

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<sup>168</sup>Mzee Wilson Namtembi, interview with the author, Nzoia Location, Lugari, 26/12/2014.

<sup>169</sup> Ibid.

<sup>170</sup> Joseph Matifari, A Descriptive Study of the Idiom in Lubukusu: A Relevance Theoretical Approach, A Research Project Submitted in Partial fulfillment of the Requirement for the Degree of Master of Arts (M.A) Linguistics, Department of Linguistics and Languages, University of Nairobi. 2016, pp. 55-71.

<sup>171</sup> Ibid.

that peace agreement, the two communities never engaged in any protracted war apart from skirmishes, which could be resolved by local elders. Additionally, after the peace agreement there were a lot of intermarriages between the two.<sup>172</sup> It can be concluded therefore that, the most obvious ground for the Iteso land claims on ownership were based on wars of conquering and occupying regions.

Aside from the dominant Bukusu, Sabaot and Iteso, there are other minority groups inhabiting the region, notably the Ogiek who have been overshadowed by the Sabaot and the Bukusu. As these two dominant groups flex their muscles over land in Mount Elgon, the fate of the Ogiek remains in the balance. The Ogiek, who are an indigenous people of the region inhabiting the land adjacent to Mount Elgon National Park,<sup>173</sup> have been forced to the cold moorland of the forest where they are victims of both Bukusu and Sabaot domination. Additionally, a sizeable number have also been assimilated into the two communities further reinforcing their minority status. State imposed laws have also adversely affected their traditional way of live with those living adjacent to Mount Elgon National Park not permitted to access any forest products nor practice their traditional worship or graze their livestock inside the parks. The law treats them as trespassers, subject to arrest for illegal activities inside the park. Furthermore, this denies the indigenous peoples the right to access and benefit from the forest resources within the national parks.

Although the Bantu and Highland Nilotes migration into East Africa is argued to be a recent phenomenon in historical terms, it is evident that on arrival in the region, the Sabaot and Bukusu established sacred natural sites in the territories they occupied to reinforce their claims over these territories. It should also be noted that while many of the sacred natural sites have historical significance, they are not static in time or space, new sites can be created in response to changing circumstances and environment.

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<sup>172</sup> Chief Okisegere, interview with the author, Kaburwet, 29/12/2014.

<sup>173</sup> Forest People, *Kenya: Protected Areas in Kenya-The Case of Mount Elgon in North West Kenya*, London: Fosseway Business Center, 2008. [www.forestpeoples.org](http://www.forestpeoples.org), accessed on 06/07/2020

## 2.4 The “Owners” of Mount Elgon

Land claims in Mount Elgon are complicated if we consider each claimants view of being the first to arrive in the area. The experience of the region demonstrates not only how complicated the primordial claims-driven process can be but also the disproportionality between expectations and eventual outcomes. Primordial claims have to be recognised and acknowledged, however, in a situation where two or three parallel land claims exist, it is difficult if not impossible to have a peaceful coexistence because of the prevailing claims and counterclaims over land. The analysis of the claims and counter claims of the Sabaot, Bukusu and Iteso indicate that each community has tangible reasons as to why they claim Mount Elgon with the Sabaot and Bukusu each having a primordial claim backed by religious belief, which are difficult to compromise nor disregard. The two view the mountain as a place of consulting the spirits of their ancestors who bring good fortune like bumper harvests, childbearing, blessings during circumcisions and many other boons.<sup>174</sup> And failure to observe religious rituals around *Tulwop Kony* as known to the Sabaot and *lukulu lwa Masaba* as referred to by the Bukusu would lead to misfortunes, which these communities are not ready for.

Apart from being an abode for ancestral spirits, both communities believe that the area around Mount Elgon is the abode of gods who need to be nurtured and appeased. If offered the right sacrifices, they would dispense aid and grant special favours, and this can only be done around sacred trees/groves in the mountain which are regarded as the abode of spirits/gods/supernatural beings. Specifically, Mount Elgon forest is also associated with the rain/thunder god. Both communities believe that the sources of rain are some form or another of deity, especially deities associated with the heavens or with creation in general. In keeping with these beliefs, rainmaking rituals are undertaken deep in the forest, a space that is well guarded, befitting a sacred site. Shrines for rainmaking consist of huge and rare indigenous trees, which form a canopy and are sanctified. The forest attracts reptiles, birds, and insects whose behaviour are monitored by rainmakers in order to predict weather patterns. Interpretation of the events of animals, birds and

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<sup>174</sup> Mzee Samuel Ngewo, interview with the author, Kopsiro, Mount Elgon, 29/12/2014.

insects is transformed into a ritual act.<sup>175</sup> Turning the interpretation into a ritual automatically converts the place where the act is done into a sacred place for the community.

The sanctity of trees among communities is common as affirmed by Dafni who highlights how special trees are useful while carrying out conciliations between families, clans and even tribes especially when serious quarrels or murder are involved.<sup>176</sup> In the case of the communities of Mount Elgon, meetings were sometimes held at the foothills of Mount Elgon to reconcile the antagonistic groups. The notion of conciliation in African indigenous tradition encompasses a conscious effort to ensure communal wellness and cooperation by all because Africans see everybody as belonging to a single family. This is why the notion of differences, antagonism and war in traditional African society is not to neutralise the other. Africans have a short memory of hate. After quarrels, they will initiate peace processes.<sup>177</sup> Mazrui supports this point of view by arguing that what made Africans to have a short memory of hatred was because of their belief in Ubuntu.<sup>178</sup> Through Ubuntu, children were taught the process of reconciliation, promotion of dialogue and the spirit of letting go of hatred. African communities believe in a collective life and often gather under a sacred tree or rock where agents of peace such as elders, priests and family heads, leaders of age sets would speak to the communities on the need for peace.<sup>179</sup>

Aside from acting as shrines, specific trees from the Mount Elgon forest were also very instrumental during the resolution of disputed boundaries. The use of trees to demarcate boundaries exist in almost every known human culture, going beyond the limitations of religion, geography and time. In many communities, especially in Africa, boundary trees planted by elders cannot be uprooted as culturally, community members believe that uprooting such trees would invite a curse. Moreover, uprooting such trees is considered breaching an existing oath, which

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<sup>175</sup> Sussy Gumo, "Praying for Rain: Indigenous Systems of Rainmaking in Kenya," in *The Ecumenical Review*, p. 8. <https://onlinelibrary.wiley.com/doi/pdf>, accessed on 14/04/2018

<sup>176</sup> Amots Dafni, "Rituals, ceremonies and customs related to sacred trees with a special reference to the Middle East," in *J Ethnobiol Ethnomed*, Jul. 2007, pp. 3-28. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1988790/>

<sup>177</sup> Isaac Olawale Albert, *Perspectives on Peace and Conflict in Africa: Essays in Honour of General (Dr.) Abdulsalami Abubakar*, Ibadan: Archers Press, 2005.

<sup>178</sup> Ali Mazrui, *The Africans: A Triple Heritage*, Boston: Little Brown and Co. Publishers, 1986.

<sup>179</sup> David Oladimeji Alao, "Interrogating the Involvement of Native Gods in Contemporary African Conflict Management," in *Global Journal of Politics and Law Research*, Vol.3, No.3, pp. 57-71. [www.eajournals.org](http://www.eajournals.org), accessed on 14/04/2018

would provoke the ancestors and incur their wrath in the form of a calamity.<sup>180</sup> For the communities living around Mt. Elgon, the mountain and the surrounding forests are sacred as this is where they take oaths and perform other rituals to appease their gods and view these spaces as being realms where they can commune with the gods and the spirits of the through the mediation of elders.<sup>181</sup>

Given this complex relation with and attachment to the land, it is evident that each community inhabiting the area are unlikely to readily give up the territory on which they stand. The connection to the land reinforces the primordial territorial claims of the communities as primordial claims use tangible objects to justify their claims.<sup>182</sup> Consequently, the objects became a territorial issue that can easily escalate to war and produce protracted conflicts and enduring rivalries. The issues can be tangible objects such as control over particular territory, specific sacred trees and sacred groves, which play very important roles in the belief systems of the communities. Mount Elgon offers these opportunities to the Bukusu, Sabaot and Iteso. There are specific trees found around Mt. Elgon that are highly valued by the communities including the *Lusiola* (*Markhamia lutea*) valued among the Bukus and the *Korkopsarmoi* (*Apiaceae*), *Tabongwet* (*Asteraceae*) and *Kipsmin* (*Amaranthaceae*), which have medicinal values and which are highly valued by the Sabaot.<sup>183</sup> Some of the tree species are so sacred that they are deemed as the property of the gods and are not exploited.

Aside from tangible objects, primordial claims also encompasses intangible objects such as influence, prestige, ideology and myths. The traditional religious beliefs and practices of the Bukusu and the Sabaot are deeply linked to Mount Elgon as demonstrated by their belief that the spirits of their ancestors reside in specific sites, which are bestowed the status of shrines. The presence of these intangible objects bolsters the tendency of the communities to be territorial and makes it more difficult for outsiders to settle among these communities. Intangible territorial issues are the most dangerous to deal with because they easily evoke emotions. Territories

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<sup>180</sup>Hubert J., "Sacred beliefs and belief of sacredness," in Carmichael DL, Hubert J, Reeves B, Schanche A, editor, *Sacred Sites, Sacred Places*, London and New York: Routledge; 1998, pp. 9-19.

<sup>181</sup> Ibid.

<sup>182</sup> Paul Hensel and Sara Mcclaughlin Mitchel, "issue indivisibility and territorial claims in Geojournal December 2005, volume 64, issue 4, pp. 275-285.

<sup>183</sup> S.V Okello, et al "Ethnobotanical study of medicinal plant used by Sabaots of Mt Elgon Kenya", in African Journal of traditional complementary and Alternative medicines, 2010.7(1), pp. 1-19.



valued largely for intangible reasons will result in greater image and reputational losses for communities if they make concessions.<sup>184</sup> This results in rigid bargaining when trying to deal with such territories and the greater the intangible salience of the territory the more difficult it is to resolve any issues revolving around the territory. Given the severity of intangible claims, these claims often give rise to more frequent and bloodier battles than those with tangible resources. Consequently, intangible issues cannot be resolved easily because intangibly valued land is integral to communal or national identity, which is perceived as personal, indivisible and immutable.

The debate demonstrates that the primordial claims of the communities inhabiting Mt. Elgon were informed by various factors among them religious claims to territories around the mountain, which were seen as sacred spaces and significantly less divisible than other disputed territories. Under these primordial claims, each ethnic group has demonstrated through objects as well as other physical features their respective community's special attachment to Mt. Elgon. The oral narratives of both ethnic groups demonstrate an intricate relationship with the land making it almost impossible to separate the land and the people. For both communities, Mt. Elgon is the genesis of their tribes and it is where the earthly and spiritual realms converge and as such, is a consecrated land that links the communities to their ancestors. Based on these primordial claims there is evidence that the wars in the region are rooted in the physical space, which has been attributed a transcendent spiritual value, which defy simple material partition. Thus the concept of indivisibility of a sacred region becomes a ritual practice and belief and wars emerge if these constructs are threatened. The high value placed on these territories make access by or the presence of perceived foreigners or their conduct in such territories as offensive and a challenge to the territorial integrity of the communities. Additionally, the presence of such foreigners is perceived as disrespect to the ancestral spirits and the deities. Furtherer, multiple claims to these spaces/territories as they are in Mount Elgon makes them more likely to ignite violent armed conflict than similar contested claims to non-sacred or religious territories. And in the case of Mt. Elgon, the wars that are experienced in the region over territories, might be informed by elderly and religious adherents who truly believe that the mountain offers a unique window to the divine, which must be defended from non-residents or intruders at all costs.

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<sup>184</sup> Paul Hensel and Sara McLaughlin Mitchel, *Ibid.* pp. 275-285.

Another significant aspect of the primordial claims was the communal land tenure system. Community life is described by those who believe in communal land tenure as structured by patriarchal descent in terms of clans and lineages. These clans trace a common descent from the original settler of an area. In the case of the communities of Mt. Elgon, the identity of a Sabaot, a Bukusu and Iteso is established through clan affiliation. Affiliation to a clan implies a right to live on, use and pass over the land to future generations. And while each community had its own clan system, all the member of these communities' claimed Mount Elgon as their mother (*momo nyenyo* for the Sabaot and *lituru lia mayi* for the Bukusu) when asked about their right over land in Mount Elgon. Land in this primordial ideology is inherited and held by a corporate entity, the clan or tribe and subsequently, the people derive their identity from their mother and clans. The ownership of this land is therefore inalienable from the claimants.

The preceding discussion highlights the trends in land use in pre-colonial Mount Elgon and demonstrates how claims featured around who settled first in the area. Based on the narratives of the communities living in Mt. Elgon it is evident that primordial claims determined engagements between the communities occupying the region as well as the relations with the land and ancestral spirits and also influenced the protection of such land. However, the situation changed with the British incursion into the region as their arrival challenged most of these territorial claims when the British became a new claimant to the territory. How this played out, is the subject of the next section.

## **2.5 The Crown as a Claimant of Land in Mount Elgon**

The Crown claims over land in Mount Elgon formed the foundation on which the colonial state was build. Although it was established in the early twentieth century, the roots can be traced earlier to 1883 when the first European Joseph Thomson arrived in in the region. He was closely followed by Sir Fredrick Jackson of the Imperial British East African Company, which had been given the mandate to administer the region on behalf of the British government. Sir Fredrick Jackson established a camp in Mumias from where he hunted elephants in Mt. Elgon for ivory.<sup>185</sup> In 1890, the Anglo-German Treaty gave the British authority over territories in East Africa

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<sup>185</sup> Gideon Were, *A History of the Abaluhya of Western Kenya C 1500-1930*, Nairobi: East African Publishing House, 1967, p. 156.

thereafter the British declared the region as their sphere of influence, which later on came to be known as Kenya after July 23, 1920. This agreement, better known as the Treaty of Helgoland, is important not only to the history of Mt. Elgon but what was to later become Kenya. Helgoland was a British Island, but the Germans attached a lot of importance to it for two reasons, first for strategic defence purposes and secondly, given the constitution of the island's population, majority of whom were Germans.<sup>186</sup> Although the Island had been at the centre of Anglo-German Diplomacy for long, it gained greater importance with the rush for colonial territories in East Africa. On March 21, 1890 *the Times* newspaper stated that William II would indulge in machinations to secure all of East Africa for Germany at the expense of the British.<sup>187</sup> However, since the British had greater interest in the region because of the source of the Nile River, they were not comfortable with such an arrangement. Consequently, the British colonial ambitions in East Africa motivated Lord Salisbury to propose that disputes between the British and Germans had to be settled by arbitration.<sup>188</sup>

In May 1890, Sir Percy Anderson of the Colonial Department in the British Foreign Office went to Berlin for diplomatic negotiations on colonial issues and it emerged that the question of Zanzibar and German possession of Witu was the primary obstacle to British ambitions. Additionally, there were disagreements on the demarcation of the boundary in the Lake region of East Africa,<sup>189</sup> as the British desired to connect the coast with their Uganda protectorate. It was then that Anderson secured concessions from the Germans who agreed to surrender their protectorate over Witu, Manda and Patte Islands. On their side the British would surrender Helgoland Islands to the Germans.<sup>190</sup> After securing the region, the British commissioned the Imperial British East Africa Company to administer the territory. However, faced many problems, which hindered its operation in the region.<sup>191</sup>

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<sup>186</sup> Duane Niler Pyeatt, "Helgoland and the Making of the Anglo-German Colonial Agreement in 1890," A Thesis in History, Submitted to the Graduate Faculty of Texas Tech University for the Degree of Master of Arts in May, 1988, pp. 72-76.

<sup>187</sup> Ibid.

<sup>188</sup> Ibid.

<sup>189</sup> Marshall A. Yokell, "The Treaty of Helgoland-Zanzibar: The Beginning of the End for the Anglo-German Friendship?" Master's Theses, University of Richmond, UR Scholarship Respository. [scholarship.richmond.edu/cgi/viewcontent.cgi](http://scholarship.richmond.edu/cgi/viewcontent.cgi)

<sup>190</sup> Ibid, p. 76.

<sup>191</sup> R. B. Mowat, "Agreement between Great Britain and German, 1890," Select Treaties and Documents 1815-1916, Oxford: Clarendon Press, 1916, pp. 112-114.

The Helgoland Treaty paved the way for the full establishment of colonial rule in the early years of the twentieth century, which thereafter altered the stable and flexible traditional access to land not only in Mount Elgon but also in the entire country. The colonial conquest marked the onset of the capitalist economy, which was individual and profit centred as compared to the African communal one, where the good of the collective was prioritised. In the capitalist economy, European settlers were favoured against the indigenous African people in terms of land claims.<sup>192</sup> To sustain the capitalist economy, the British colonial administration expropriated land through military conquest and a number of legal mechanisms to settle the European farmers. Immediately after conquering and subduing Africans, the British extended the Foreign Jurisdiction Act of 1890 under which the imperial power purported to acquire rights of control and administration over foreign lands in their sphere of influence. In exercising this legislation, the British authority annexed several territories occupied by the indigenous Africans.<sup>193</sup>

The Foreign Jurisdiction Act of 1890 assigned her Majesty's government jurisdiction on foreign territories whereby in the name of the Crown, territories could be obtained by treaty, capitulation, grant, sufferance or any other means. The Foreign Jurisdiction Act provided that where a foreign country was not subject to some form of government, then her Majesty by virtue of the Act had jurisdiction over subjects in the occupied territories, in the case of East Africa her Majesty exerted her authority over the indigenous subjects through the Imperial British East African Company. The Act therefore accorded the Crown powers to control and assign unoccupied land in the protectorate to the European settlers.<sup>194</sup> However, in 1894, the Imperial British East African Company became bankrupt, and therefore withdrew from the region and thereafter, the British government took over administrative responsibility and established an administrative station at Mumias under Mr. Valet Spire who was named as the officer in-charge. Spire was very much determined to subdue the indigenous African communities in the region by all means including through war. Spire's endeavour to subjugate the Bukusu was supported by Nabongo Mumia of the Wanga Kingdom who exploited the opportunity created by Anglo-

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<sup>192</sup> Hastings Okoth-Ogendo, *The Tragic African Commons: A century of expropriation, suppression and subversion*, pp. 111-112. <http://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/8098/>, accessed on 24/04/2018

<sup>193</sup> Hastings Okoth Ogendo, *Land Reform and Agrarian change in Southern Africa: An Occasional Paper Series No. 24*, School of Government, Cape Town: Programme for Land and Agrarian Studies, School of Government, University of the Western Cape, 2002, pp. 5-9.

<sup>194</sup> The Foreign Jurisdiction Acts, 1890, 53 and 54 Vic. C. 37, State Law Revision Act, 1908, 8 Edw. 7, c. 49, pp. 37-44. [media.sclqld.org.au/documents/digitisation/v08](http://media.sclqld.org.au/documents/digitisation/v08)

Wanga diplomacy to inform the British that the Bukusu had guns and the only way was to disarm them by force.<sup>195</sup> Mumia informed Spire that the Bukusu were very dangerous people, warlike and uncooperative, in a bid to have his Wanga community dominate the Bukusu.<sup>196</sup> Thereafter, Spire embarked on plans to disarm the Bukusu bringing two groups into open war.

While Spire was determined to force the Bukusu to surrender their guns without giving them a chance for peaceful negotiation, it should be noted that the Bukusu had anticipated such a development and had prepared to deal with any eventuality to defend their land. Their resolve to resist the British was bolstered by the mere fact that Spire had arrived in the region through Wanga-land, one of their loathed enemies as told in the folklore. Traditionally, the Bukusu would tell their children that, “*lukhila natikha emoni khukhila nenjila omukhana muwanga* translated as I better lose my two eyes rather than falling in love with a Wanga girl, or “*Rarao nakhukhwela ebuwanga aba kakhuleka*”, meaning if your father pays bride price for your Wanga girl then know that he has rejected you.”<sup>197</sup>

As the British were plotting for an offensive, Wakoli son of Mukisu Lufwalula emerged to lead the Bukusu against the British.<sup>198</sup> To fight the British, the Bukusu had to learn about British strength and their military plan. They therefore sent out Wakoli Lufwalula during the early part of 1894 to Mumias to gain inside knowledge of the British military plan. Lufwalula was selected as he learned some Kiswahili language, which was introduced in Mumias by Swahili traders who had settled in the region, and as such, could easily glean information on the plans of the British.<sup>199</sup> Wakoli spent three months in Mumias, disguised as a Muganda seeking employment among the Wanga people. He was employed as a cook by Namisi a Swahili businessman who revealed to Wakoli the plot to subdue the Bukusu.<sup>200</sup> Faking ignorance about the use of a gun, Wakoli requested to be taught how to use it so that he could also assist in fighting the Bukusu.

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<sup>195</sup> Ibid.

<sup>196</sup> Fred Makila, “Significance of Chetambe Fort in Bukusu History”, Unpublished Manuscript, Department of Cultural Official Monograph, Kenya National Archives, 1982, p. 209.

<sup>197</sup> Yonah Namuli, interview with the author, Sanandiki, Chwele, 30/12/2014.

<sup>198</sup> Mzee Yakobo Kitonini, interview with the author, Kikwechi, 31/12/2014.

<sup>199</sup> Kisaka Nagulu “Resistance to the Imposition of Colonial Rule in Bungoma District: A Case Study of the Lumboka-Chetambe War of 1894-1896”, A Dissertation Submitted in Partial Fulfilment of the Requirement of the B.A. Degree of the University of Nairobi, June 1986.

<sup>200</sup> Fred Makila, “Significance of Chetambe Fort in Bukusu History”, Unpublished Manuscript, Department of Cultural Official Monograph, Kenya National Archives, 1982.

Namisi authorised an *askari* by the name Okwara wa Tindi to teach Wakoli how to use a gun and thereafter suggested that he be enlisted as a soldier to assist in the impending war with the Bukusu.<sup>201</sup> In the beginning of 1894, after acquiring the information that he needed on the British plans against the Bukusu, Wakoli ran away with a stolen gun and bullets to Bukusu-land. He went to Lumboka fort and revealed the British plan to wage war against the Bukusu people. The Bukusu council of elders headed by Wamurwa Okhwatenge made a decision to prepare for war.<sup>202</sup> As part of the preparation, the Bukusu put a large army under the command of Wakoli Lufwalula on alert. As a military commander, Wakoli trained the Bukusu warriors on the war techniques he had learned while at Mumias.<sup>203</sup> In urging the Bukusu to take matters of the planned attack by the British seriously, the elders referred to the earlier prophecy of Mutonyi wa Nabukelembe,<sup>204</sup> who had stated:

*Bandu Khabecha Musibala siefwe be sikhoba sibesemu sifwana nga eswa enunda. Nobalola ouka oli beakhile kumutobo kumubesemu. Bali ne lichune lilei nga busafwe bwekhafu. Kamafumo kabwe kerera a tayi. Babandu bano balimutula bamukhole barumwa babwe. Mulibakholela ekasi. Mulibatekhela. Bali ne bibindu biwanga bifwana chingayu nibio balirumikhila khulia chikhafu chenywe.*<sup>205</sup>

Strangers are coming into our country whose skins are as red as red termites. You can think their bodies are smeared with red ochre. Their hair is long as the hair on a cow's tail. Their spears kill from a distance. They will capture and enslave you. You will work for them and even cook for them. They have white articles (European currency) which will eat up all your cattle.<sup>206</sup>

The prophecy unified the Bukusu militarily in preparing to fight with the new breed of strangers.<sup>207</sup> In preparation to deal with the impending danger, the Bukusu acquired firearms from Swahili and Arab traders who had ventured into Bukusu territory in their search for ivory. The prophecy was still fresh in people's minds when the British started to penetrate Bukusu-land.

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<sup>201</sup> Ibid.

<sup>202</sup> Mzee Yakobo Kitonini, interview with the author, Kikwechi, 31/12/2014.

<sup>203</sup> Ibid.

<sup>204</sup> Mutonyi wa Nabukembe's prophecy was in 1840 where he foresaw foreigners taking over Bukusu-land and enslaving them.

<sup>205</sup> Elisha Wakube, interview with the author, Busakala, Chwele, 30/12/2014.

<sup>206</sup> Ibid.

<sup>207</sup> Fred Makila, *An Outline History of Babukusu of Western Kenya*, Nairobi: Kenya Literature Bureau, 1978, p. 217.

On its part, the British-Wanga alliance also continued its preparations for the invasion and subjugation of the Bukusu. As part of the preparations, Nabongo Mumia and Spire sent spies to the Bukusu country to gather information in mid-1894. It was then that they discovered that Wakoli was a Bukusu and that he was living in the Lumboka fort. Having learnt this about Wakoli, Spire sent 20 Swahili soldiers backed by Wanga warriors to go and demand the surrender of guns from the Bukusu.<sup>208</sup> The Bukusu refused to surrender the guns, which Spire interpreted as arrogance on their part. This prompted the British to mobilise their troops for war against the Bukusu with the first assault directed at the fort of Kibachenja near Lumboka. The assault sparked an eruption of war between the two groups with both sides incurring a lot of casualties among them Namisi the highest African commander in the British army in western Kenya at the time.<sup>209</sup> The Bukusu defeated and managed to repulse the British forces and also captured guns used by the British as Spire escaped back to Mumias. The Bukusu military strength sent shock waves within the British administration.<sup>210</sup>

Following the Bukusu repulsion of the British, Spire was relieved of his duties as the commander of British Forces in Western Kenya for failing to plan well and for underestimating the military strength of the Bukusu. Following Spire's decommissioning, Charles Hobley (the Bukusu referred to him as *Obilo* because they could not pronounce the name Hobley), was appointed as the commander. Hobley did not rush to attack the Bukusu instead he advised the government to reinforce its military strength before thinking of waging another war against the Bukusu.<sup>211</sup> Following on his advice the government deployed a strong reinforcement of 900 soldiers from Uganda led by Major William Grant and later another 150 Sudanese soldiers were deployed to join the war against the Bukusu. With these soldiers in addition to the British, Wanga and Uasin Gishu Maasai soldiers already in Mumias, Hobley was ready for the assault to subdue the Bukusu.<sup>212</sup>

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<sup>208</sup> Ibid.

<sup>209</sup> Ann Kisaka Nagulu "Resistance to the Imposition of Colonial Rule in Bungoma District: A Case Study of the Lumboka-Chetambe War of 1894-1896", A Dissertation Submitted in Partial Fulfillment of the Requirement of the B.A. Degree of the University of Nairobi, June 1986.

<sup>210</sup> Ibid.

<sup>211</sup> Ibid.

<sup>212</sup> Ibid.

Hobley organised and moved the combined troops across Sio River and attacked the Lumboka fort, which was the major stronghold for the Bukusu during the war with the British. The Bukusu soldiers had prepared in advance before the British army attacked, armed with guns the Bukusu put up a strong fight that dragged on resulting in many deaths and casualties on both sides.<sup>213</sup> However, despite the increased numbers of the British soldiers, the Bukusu were able to overpower the British and drive them away. This was the second time the Bukusu fighters were humiliating the British forces. The Bukusu were aware that the British would plan for retaliatory attacks as they had done in 1894 and 1895 and therefore decided to seek an alternative strategic position where they could better defend themselves in case the British attacked again. After consultations, the elders decided that they should evacuate the Lumboka fort and move to the Tachoni fort near Webuye named after Chetambe a Tachoni leader.<sup>214</sup> To avoid major casualties in-case the British ambushed them, the Bukusu organised themselves into regiments placed under military commanders including Nabalokha, Wepalapacha, Namukosi, Kukali, Mayeku, Nandoli and Nakhanywinywi.<sup>215</sup> They then converged at Chetambe fort built strategically on Maanga Hill, which made it hard to attack. On their way to Chetambe fort, the Bukusu were reinforced by warriors from Mabanga, Nalondo, Busakala and Emutoto wa Wangusi Forts.<sup>216</sup>

The British pursued the Bukusu war parties to Maanga Hill at Chetambe Fort in the Tachoni place. Unlike other times when the Tachoni helped them fight the Sabaot, the Tachoni did not do so this time and on learning that the Bukusu were being pursued, Chetambe persuaded his people to abandon the fort otherwise they risked being wiped out by the British army.<sup>217</sup> No sooner had the Tachoni people left the fort did Charles Hobley and Major William Grant attack the fort using the Hotchkiss gun. The Hotchkiss gun was developed in 1878 by Benjamin Hotchkiss. It is a French army standard heavy tripod mounted rapid machine gun with a maximum effective range of approximately 3,800 metres and capable of firing 68 rounds per minutes.<sup>218</sup> The

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<sup>213</sup> Fred Makila, "Significance of Chetambe Fort in Bukusu History", Unpublished Manuscript, Department of Cultural Official Monograph, Kenya National Archives, 1982.

<sup>214</sup> Ibid.

<sup>215</sup> Fred Makila, "Significance of Chetambe Fort in Bukusu History", Unpublished Manuscript, Department of Cultural Official Monograph, Kenya National Archives, 1982.

<sup>216</sup> Ann Kisaka Nagulu "Resistance to the Imposition of Colonial Rule in Bungoma District: A Case Study of the Lumboka-Chetambe War of 1894-1896", A Dissertation Submitted in Partial Fulfillment of the Requirement of the B.A. Degree of the University of Nairobi, June 1986.

<sup>217</sup> Ibid.

<sup>218</sup> F.W.B Leanington, Complete Guide to the Hotchkiss Machine Gun, London: Gale and Polden Ltd, 2012, pp. 1-8.



deployment of such a high calibre weapon was an indication of how serious the British considered their war with the Bukusu. Bukusu warriors fought back with gunfire, spears and arrows in an attempt to defend their land. Again, as was the case in Lumboka they managed to push back the British forces, from the fort killing and wounding many of the British soldiers as noted by Hobley, who stated “The Kitosh with great gallantry counter-attacked and our forces experienced considerable loss, two Sudanese officers being killed, and about half the rank and file either killed or wounded.”<sup>219</sup>

Following the defeat, Hobley and Major Grant then decided to utilise the Maxim gun to engage the Bukusu fighters. Their main objective was to break the thick wall of the fort and expose the Bukusu warriors to on a one-on-one combat. When the gun went off the fort walls could not withstand its fire power and collapsed.<sup>220</sup> It was at this point that the British forces entered and waged a one-on-one combat war killing the Bukusu in large numbers. The British forces finally took over the fort and burnt everything in it. However, despite the casualties on the Bukusu side, the British troops losses were much severe as pointed out by Makila points who indicates that more than 2000 Bukusu warriors were killed while the British forces lost approximately 3000 soldiers, among them 700 Europeans.<sup>221</sup> Following the fall of Chetambe fort, the British confiscated Bukusu cattle and took over 304 Bukusu women and children as prisoners of war to Mumias.<sup>222</sup> To negotiate their release, Bukusu elders chose Wandabwa son of Musamali to lead a peace mission to Mumias. He was joined by Makhaso, Maelo wa Khaindi, Sudi Namachanja, Namasaka wa Kiteki, Namunyu and Chemuku. They carried a small black dog with them. While in Mumias, they negotiated, paid the fine after which they entered into a peace agreement with the British by performing “*Khulia embwa*” (eating a dog) to symbolise the end of hostilities. Hobley held the hind of a dog while Wandabwa held the dog’s head then Chemuku cut it into two as a sign of the ending hostility between the British and the Bukusu. However, despite this symbolic peace treaty and the two parties only buried the hatchet, for a time. The British had silenced the Bukusu and their land was forcefully taken, and colonial administration imposed on them.

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<sup>219</sup>Charles Hobley, *Kenya from Chartered Company to Crown Colony*, London: H. F.G. Witherby, 1929.

<sup>220</sup> Stephen Nyongesa Masikini, interview with the author, Trans Nzoia, 26/12/2014.

<sup>221</sup> Fred Makila, “Significant of Chetambe Fort in Bukusu History,” Unpublished Manuscript, Department of Cultural Official Monograph, Kenya National Archives, 1982.

<sup>222</sup> Charles Hobley, *Kenya From Chartered Company to Crown Colony*, London: H. F. G. Witherby, 1929.

As earlier stated, the British government made several declarations, which gave it power to claim land in various parts of Kenya. On 15<sup>th</sup> June 1895, the British colonial government declared a protectorate over much of what is now Kenya.<sup>223</sup> The declaration turned the British colonial state into a claimer of territories and thereafter a participant in the ensuing wars over control of land resources in different parts of Kenya. In 1897, through the East African Order in Council, the Commissioner was given power and rights to resell land in the protectorate. The Order was followed closely by the East African Land Regulations Act of 1897 which accorded the Commissioner for the Protectorate further powers to appropriate land for settlers and as well as land for the construction of a rail line, which resulted in the appropriation of all lands situated within one mile on either side of what is currently the Kenyan-Uganda rail line.<sup>224</sup>

Apart from acquiring land for railway construction, a series of measures were implemented by the colonial regime to enable a shift from primordial African land claims to colonial claims. The British used their laws as a powerful weapon for acquisition of land. At the onset, as already discussed above, the British extended the Foreign Jurisdiction Act of 1890 to the occupied territories, which established a legal sanction for the extension of British authority and thereafter application of the English law as a basis of administration in occupied territories.<sup>225</sup> The Act was followed by the Advisory Opinion to the Law officers of the Crown enacted on 13<sup>th</sup> December 1899, which gave the colonial officials in occupied territory powers to control and dispose of land. The Advisory opinion was not the last of the colonial legal regime in matters concerning dispossessing African land. In 1901 and 1902 the East African Orders in Councils were passed, which empowered the colonial commissioner to promulgate any law that could give him power to delineate more land for settler economy.<sup>226</sup>

In 1901, the Registration of Documents Act was enacted, which made it compulsory to register all documents relating to land. The registration conferred rights to claim land on European titles holders and also described land holding by reference to landmarks such as trees, mountains and

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<sup>223</sup> Paul Syagga *Public Land, Historical Land Injustices and the New Constitution*, Nairobi: Society for International Development, 2013 p. 13.

<sup>224</sup> The Foreign Jurisdiction Acts, 1890, 53 and 54 Vic. C. 37, State Law Revision Act, 1908, 8 Edw. 7, c. 49, [media.sclqld.org.au/documents/digitisation/v08](http://media.sclqld.org.au/documents/digitisation/v08), pp. 37-44.

<sup>225</sup> Ibid.

<sup>226</sup> Her Majesty's Stationary Office, *Colonial Report-Annual No. 1425: Colony and Protectorate of Kenya, Report for 1927*, London: His Majesty Stationary Office, 1929.

rivers. This was a collective description of land without consideration to African rights and primordial descriptions.<sup>227</sup> In 1902, the Crown Lands Ordinance was promulgated giving effect to the 1901 Order-in-Council, which empowered the Commissioner to sell any land which was under Africans without their consent.<sup>228</sup> As the colonial state gave itself powers to claim African land, European settlers were also busy consolidating themselves under the Farmers and Planters' Association to strengthen their voice on land claims.<sup>229</sup> For instance, in January 1903, Delamere assumed leadership of the settlers and became the first president of the association and thereafter undertook the association's first political action, which was to secure from the colonial Commissioner a guarantee of claim over parts of the highlands suitable for agriculture. In 1904, the Association managed to convince the Commissioner to reserve for European immigrants parts of the highlands<sup>230</sup> and Africans were forcefully removed from highlands to allow Europeans to settle on these lands.

These legal changes resulted in the alienation of land occupied and hitherto owned by indigenous African communities and the subsequent consolidation and entrenchment of European structures. All land in the territory firmly placed under Crown land subject to the control by His Majesty the King of England. The legal changes gave the White settlers certificates of occupancy for 21 years and, later this was extended to 99 years. This was aimed at encouraging European settlement that would in turn pay for the railway.<sup>231</sup> These regulations represented a serious blow on the claim rights of African communities as their land was expropriated and conveyed to white settlers. Through this appropriation a new claimant over land not only in the Mount Elgon area but the entire Kenya colony came into play. This was reinforced by the continual introduction of more laws that made it easier for the new claimant to acquire land in the colony. For example, in 1915, the 1902 ordinance was repealed to further reinforce the crown's claim over land. The new ordinance declared all land within the protectorate as crown land whether or not such land was occupied by natives.

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<sup>227</sup> Valentine Wakoko, "The Evolution of Land Law in Kenya". <https://www.academia.edu/8972722>

<sup>228</sup> Ibid.

<sup>229</sup> Elspeth Huxley, *White Man's Country: Lord Delamere and The Making of Kenya*, Vol. 1, 1870-1914, London: Macmillan and Co., Limited, 1935, p. 189.

<sup>230</sup> Ibid.

<sup>231</sup> Paul Syagga, *Public Land, Historical Land Injustices and the New Constitution*, Nairobi: Society for International Development, 2013, p. 6.

Through the ordinance, the state became the sole claimant of land making Africans tenants of the crown and the commissioner of the protectorate was vested with the authority to grant land to settlers for leases of up to 999 years up from the previous 99 years. This was how settlers like Hoeys, Babiton (who the Bukusu called Baba), Chrips, Boshof, Menti and others found themselves in Trans Nzoia and Bungoma.<sup>232</sup> These settlers were allocated land by the then Commissioners of Lands, Colonel J.A.L. Montgomery, while Piet van Breda (in his capacity as a land surveyor), allocated the Van Rensburg and John de Waal the land in Trans Nzoia on the plateau and each family began farming.<sup>233</sup> The protectorate administration gave no cognisance to customary land claims therefore by 1915 it had demarcated more than 5 million acres of land for use by settlers, land that was taken from Africans in the protectorate.<sup>234</sup>



Photo by Christine Nicholls depicting a Boer family arriving in Kitale from South Africa This photo can also be found in Kitale Club.

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<sup>232</sup> D.S. Mortensen, "The White Man's Country", *ibid.*

<sup>233</sup> Christine Nicholls, "Early White Settlers from Britain in Trans-Nzoia", in *Old Africa Stories from East Africa's Past*, Nov 20, 2014. [www.csnicholls.co.uk](http://www.csnicholls.co.uk)- accessed on 19/01/2016

<sup>234</sup> D.S. Mortensen, "The White Man's Country", in *Partnernew*, 4(3), pp. 4-5.

The British intrusion and subsequent takeover of Kenya challenged and threatened African primordial claims over land. In the wake of the takeover, large numbers of European migrated to the colony and established settlements, which would at the end shape African's experiences of colonialism. The new administration dispossessed communities of their land and forcibly moved them to rural reserves.<sup>235</sup> The imperial rule was characterised by alienation of land and imposition of its ethos,<sup>236</sup> which entailed the imposition of title and private property rights in delineated areas and the propagation of an economy-based production system focusing on cash crops. This appropriation, and imposition of a western economic system were at the core of the loss of access to and control of land by indigenous communities but also was the genesis of Africans becoming colonial property as averred by Hastings Okoth-Ogendo. Property in this context meant that the owner, who was the colonial state, had exclusive right of property use, abuse and disposition.<sup>237</sup> As such, when the rights of land claims were shifted from communal system and vested on another entity, the colonial state, which was recognised by the British legal system, Africans became part of the claimed property. From the legal point of view on which Hastings seems to build his case, the African was already a colonial property and therefore had no basis on which they could claim another property. The colonial appropriation of the Africans on behalf of the imperial power had adverse consequences for the natives in what Okoth-Ogendo refers to as the tragic consequence for Africans<sup>238</sup> as they were transformed into labourers available for allocation to colonial settlers. As an instrument of domination over the African, the colonial state ensured good conditions for settler capitalism. The colony completely became an imagery of a settler state.<sup>239</sup> The imposed colonial system failed to recognise the proprietary character of African people.

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<sup>235</sup> Norman Humphrey, *The Liguru and Land: Colony and Protectorate of Kenya*, Nairobi: Government Printer, 1948, p. 15.

<sup>236</sup> Karuti Kanyingo "Struggles of Access to Land: The Squatter Question in Coastal Kenya," CDR Working Paper 98. 7, June 1998, p. 3. <http://www.djis.dk>, accessed on 10/11/2017

<sup>237</sup> Hastings Okoth-Ogendo, "The Tragic African Commons: A Century of Expropriation, Suppression and Subversion," *University of Nairobi Law Journal* Vol. 1, 2003, p. 109.

<sup>238</sup> *Ibid*, p. 110.

<sup>239</sup> John Murphy, "The Colonial State in Kenya: Paternalism, Legitimation and Modernity," in *Politics* Monash University, [afsaa.org.au](http://afsaa.org.au), accessed on 29/4/2018, p. 2.

As an instrument of domination over the African, the colonial state ensured good conditions for settler capitalism. The colony completely became imagery of a settler state.<sup>240</sup> In asserting its constructs of ethos and exclusive control of the territory, the British colonial government never took into account the concerns of the natives. This ethos restructured by and for a dominant class is what Lonsdale and Berman see as a contradictory articulation of settler capitalist interests at the expense of neglected African peasant.<sup>241</sup> It therefore played a dominant role in establishing and maintaining settler plantation capital by supervising expropriation of African land, thereafter turning the African into a labourer whose development was suppressed.<sup>242</sup> With these changes, the British officially turned the African into property to be used in settler production, in what would shape African history for long. Through the various ordinances, the British eliminated competition over land by prohibiting Africans from growing cash crops and reserving fertile lands for Europeans and forest reserves.

Using the same laws, the colonial regime initiated discrimination, which created a society where political and economic privileges were based on race with the Europeans benefiting the most while Africans had no choice but to be labourers. All native rights disappeared when they became tenants of the crown. Access to land by Africans became a thorny issue as over 86% of land was controlled by Europeans, which was further compounded by the relocation of Africans to reserves, where the majority found it difficult to meet their daily basic needs.<sup>243</sup> In 1920, the final blow on African rights over land was sealed by the legislation of the Kenya Annexation Order in Council.<sup>244</sup> The order brought most territories including those outside mainland into a colony under British control. The order marked the end of African primordial claim and control over land not only in Mount Elgon areas but the entire Kenya.

Unwilling to recognise the reality that this was African communal land, the colonial state aimed to address land scarcity for European settlers by excluding Africans from access to land in the

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<sup>240</sup> John Murphy, "The Colonial State in Kenya: Paternalism, Legitimation and Modernity," in *Politics* Monash University, [afsaap.org.au](http://afsaap.org.au), accessed on 29/4/2018, .p. 2.

<sup>241</sup> Lonsdale and Berman, *Coping with the Contradictions*, pp. 487-505.

<sup>242</sup> Ibid.

<sup>243</sup> Hastings Okoth-Ogendo, "The Tragic African Commons: A Century of Expropriation, Suppression and Subversion".

<sup>244</sup> Her Majesty's Stationary Office, *Colonial Report-Annual No. 1425: Colony and Protectorate of Kenya, Report for 1927*, London: Her Majesty's Stationary Office, 1929, p. 15.

newly created white Highlands through a series of measures implemented under colonialism which would shape the context of African relationships relative to land tenure arrangements. A case in point was the imposition of chiefs of African descent who were loyal and subservient to the colonial state. The imposition of these parallel systems of authority including chiefs undermined the traditional governing structures. The chiefs were accorded the power to administer communal lands assigned to natives and as the sole African decision-makers in respect of communal land these structures further undermined and eroded customary practices that recognised the entitlements vested in ordinary people when it came to application of land rights. The colonial's legal, police and economic apparatus helped chiefs protect their positions by suppressing structures that threatened their power, including allocation and use of land. Through these structures, the colonial conquest further impinged on the land rights of indigenous communities and further exacerbated land shortage for Africans. In the context of severe land shortages and insecure land rights, indigenous communities around Mount Elgon were increasingly excluded from accessing land for crop and livestock production.

The end of the First World War exacerbated the increasingly complex and volatile situation around land claims as more land was annexed in the highland areas for ex-soldier settlement schemes. As part of its patronage political culture the imperial empire through the colonial state decreed that each British volunteer or soldier that took part in the East African campaign was eligible for a block of land and consequently, 28,000 acres were earmarked in Trans Nzoia alone for these soldiers and volunteers while 25,000 acres was carved from the areas around Mount Elgon for disabled soldiers.<sup>245</sup> Africans complained over loss of land, but they were reminded that there was a distinction between Crown land for which titles could be granted and native lands, held in trust by the Crown for those in actual occupation.<sup>246</sup> The allocation of land to the ex-soldiers resulted in further displacement of the local people mostly the Sabaot and the Bukusu who hitherto were the bonafide inhabitants. The settlement of ex-soldiers exacerbated

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<sup>245</sup> Timothy Parsons, "No Country Fit for Heroes: The Plight of Disabled Veterans," p. 210.

<sup>246</sup> Okoth-Ogendo, *Legislative Approaches to Customary Tenure and Tenure Reform in East Africa* in Camilla Toulmin and Julian Quam (eds), *Evolving land rights, poverty and tenure in Africa*, London: DFID, IIED, NRI, 2000.

controversies over land claims in Trans Nzoia and parts of Bungoma.<sup>247</sup> The Soldier-Settlement scheme was the single most significant event in the shaping of land claims in Mount Elgon region of Kenya and inevitably marked an increase in not only contested claims over land but also demand for African forced labour on the same appropriated land.<sup>248</sup>

The compensation of the European ex-soldiers and the disabled with land demonstrated the segregatory policies as the colonial state refused to reward Kenyan African *askaris* who equally served in the wars stating that the African askaris were subjects of the British Empire and therefore did not have a right to claim any benefit. Although the British metropolitan government had promised African soldiers' compensation after the war, Kenyan Black *askaris* were missing from government development plans.<sup>249</sup> The British colonial government later dismissed any attempt to compensate Africans and termed their claims as unfounded. This view was supported by John Ainsworth who asserted that "East African tribesmen did not need government pension because: They have a home and land to go to."<sup>250</sup> It was on the pretext of terming Africans as simple tribesmen that the British authorities denied the Africans the dignity and privileges associated with land claims accorded to soldiers serving in the regular British forces during the First World War. Although £ 50, 000 was set aside to compensate African ex-servicemen, the colonial government argued that it had used it to purchase land from White Settlers to expand the Native Reserves.<sup>251</sup> According to Judith Byfield, the paternalist imperial rhetoric depicted Africans as "backward protected persons not capable of assuming the responsibility of citizenship."<sup>252</sup> This was a big blow to Africans, not only for those who had worked as carrier-cops but also the statement indicated that Africans had lost citizenship.

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<sup>247</sup> E. K. Fedorowich, "Foredoomed to Failure: The Resettlement of British Ex-Servicemen in The Dominions, 1914-1930," A thesis Submitted for the Degree of Doctor of Philosophy at the University of London, June 1990, p. 106.

<sup>248</sup> C. J. D., Duder, "The Soldier Settlement Scheme of 1919 in Kenya", Ph.D. Thesis, Aberdeen University, 1978.

<sup>249</sup> Will Jackson, "White Man's Country: Kenya Colony and the Making of a Myth," *Journal of Eastern African Studies*, Volume 5, 2011, Issue 2. <https://www.tandfonline.com>, accessed on 9/05/2018

<sup>250</sup> KNA, PC/CST/1/11/68/2, Minutes by John Ainsworth, January, 1916.

<sup>251</sup> Timothy Parsons, "No Country Fit for Heroes: The Plight of Disabled Veterans," in Judith A. Byfield et al, *Africa and World War II*, New York: Cambridge University Press, 2015, p. 210-219.

<sup>252</sup> Timothy Parsons, "No Country Fit for Heroes: The Plight of Disabled Veterans," in Judith A. Byfield et al, *Africa and World War II*, New York: Cambridge University Press, 2015, p. 210.



## **2.6 Conclusion**

This chapter is a preliminary ethnographic analysis based on fieldwork in Mount Elgon region, Kenya. It is about contested autochthony: land and wars of Mount Elgon. The chapter discussed multiple autochthonous claims, by different communities, and how the competition over land has driven and induced cyclical violence in Mount Elgon. The chapter anchors the analysis on the framework of primordialism, long drawn physical and cultural attachment to space, and strategic essentialism, the association of land with an exclusive and defining features of nativeness. The twin factors were compounded by the colonial crown land policy predicated on the English private property legal dispensation to complicate Mount Elgon contestation over land. The shadow of the colonial land policy will hang on Mount Elgon far after colonial rule, hence the continuation of the contest after independence. This claims and counter-claims clearly demonstrate that the history of Mount Elgon is one of contested land claims.

**CHAPTER THREE**  
**SHADOWS OF COLONIALISM: COLONIAL STATE AND THE COLONISED**  
**PEOPLE**

**3.1 Introduction**

A number of historians have praised colonialism as a system that was responsible with diffusion of liberal values in Sub-Saharan Africa, wilfully ignoring the fact that colonial precepts, wreaked havoc in Africa. For instance, John Lonsdale contends that colonialists brought social processes and introduced the values of liberty, which benefited Africans.<sup>1</sup> The views proffered by pro-colonial scholars like Lonsdale have spurred debates on Africa's social, political and economic development against the backdrop of colonial rule. The assertions of Lonsdale and other pro-colonial researchers have brought to the fore the question of whether Africa's economic development would have been different without colonialism. Additionally, others have questioned whether colonial rule as predatory as many have claimed? The debate in this chapter evaluates these question by analysing the colonial state and its ethos as well as colonial hangovers in the postcolonial state.

The history of the world has for long been characterised by violent attempts by either one community or people to impose it authority on and/or subjugate others, which demonstrates that communities behave like individual human beings and are driven by *ego conquiro* and *ego cogito*.<sup>2</sup> According to Elizabeth Wolgast, nature has made men claim to themselves any benefit, which may be contested by others. Consequently, it could be said that people both mentally and physically are driven by desires and motives of self-interest, which yield competition as a natural way of life, a competition that is unrelenting, harsh and deadly because each group desires the same thing, which they cannot both enjoy, thus forcing them to become enemies that endeavour to destroy, or subdue one another.<sup>3</sup> *Ego conquiro* can be defined as a state whereby people believe in the idea that "war" is the origin of everything forcing dominant communities to use their power and armies to control the weak while *ego cogito* refers to that that part of conscious

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<sup>1</sup> John Lonsdale, "States and Social Processes in Africa: A Historiographical Survey," in *African Studies Review*, Vol. 24, No. 2/3, 1981, pp. 139-225. <https://www.jstor.org>, accessed on 01/07/2020

<sup>2</sup>Tshepo Lephakga, "The History of the Conquering of the Being of Africans through Land Dispossession, Epistemicide and Proselytisation," *UNISA StudiaHistorieEcclesiasticae*, Volume 41, Number 2, 2015, p. 148. DOI: <http://dx.doi.org>, accessed on 22/08/2018

<sup>3</sup> Elizabeth H. Wolgast, "A World of Social Atoms". <http://people.tamu.edu/sdaniel/Notes/wolgast%20reading.pdf>

mind and self-identity that considers oneself as being better than others. Consequently, it is the *ego conquiro* and *ego cogito*, which gives people a moral justification to conquer and subjugate others. The *ego conquiro* and *ego cogito* formed an integral part of the socialisation process of the Europeans civilization. It gave the Europeans the feeling that they are superior and thereafter, served as a moral justification for the colonisation of others, in this case Africans. Colonisation through conquest embraced the physical, human and spiritual aspects. To succeed, the colonialists developed what Valentin Mudimbe calls domination of the physical space, the reformation of natives' minds, and the integration of local economic histories into the Western perspectives,<sup>4</sup> which clearly demonstrates the colonial idea of alienation, domination and control. Mudimbe's perception is affirmed by Aime Cesaire who describes colonialism as a process that constituted the great historical tragedy of Africa.

Those who executed the colonial process were harbingers of a superior order from the metropole states whose argument centred on concepts of progress. This reasoning was based on the Hegel/Comte vision of European view on Africa, which argued that Africans needed to be colonised because they were primitive people who needed modernization. The so-called process of modernization was done through what Cesaire describes as Europeans having the order and right to kill, to plunder and to enslave the culprit, in this case, the African.<sup>5</sup> This order was in fact promoted at the metropolitan level, where a military budget related to colonial conquest and the so called "pacification" had been earmarked.<sup>6</sup> The order gave the colonial agent express permit to kill, torture and imprison until the colonised would accept that they had no power over themselves. From Cesaire's viewpoint, aside from being a historical tragedy, colonial Europe is responsible before the human community for the highest heap of corpses on the African continent.<sup>7</sup> Cesaire's sentiments echo what is captured in diaries of colonial agents like Colonel Richard Meinertzhagen;

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<sup>4</sup> Valentin Mudimbe, *The Invention of Africa: Gnosis, Philosophy, and the Order of Knowledge*, Indianapolis> Indiana University Press, 1988, p. 15.

<sup>5</sup> Aime Cesaire, *Discours sur le colonialism. Presence Africaine (Discourse on Colonialism*, New York: Monthly Review Press, 1972, p.2. [www.abahlali.org](http://www.abahlali.org), accessed on 5/8/2018

<sup>6</sup> Elise Huillery, "The Black Man's Burden – The Cost of Colonization of French West Africa." <https://spire.sciencespo.fr>; accessed on 28/08/2018

<sup>7</sup> Aime Cesaire, *Discourse on Colonialism*, New York: Monthly Review Press, 2000, p.45

I have performed a most unpleasant duty today. I made a night march to the village at the edge of forest where the white settler had been so brutally murdered. By the light of fires, we could see savages dancing. I gave orders that every living thing should be killed without mercy. Every soul was either shot or bayoneted, and I am happy to say that we burned all huts and razed the banana plantations to the ground.<sup>8</sup>

Meinertzhagen's utterance clearly indicate that capital punishment in British colonial Africa was not just a method of crime control or individual punishment, but an integral aspect of colonial operations. Africans were condemned and executed through violence as the state gave itself legal rights to kill its subjects. This arrogation of the right to kill and the atrocious ways the colonial regime systematically killed the natives contradict the notion held by scholars like Daniel Butt who aver that colonialism was a good thing, which brought different civilizations in contact with each other and that it was an excellent thing to blend different worlds.<sup>9</sup> However, many issues emerge when considering the past interaction between the colonisers and the colonised. Available evidence expose mass murders of the natives as the British colonizing project expanded in the late nineteenth century and early twentieth century.<sup>10</sup> Some issues that emerged during colonial conquest are explored in this chapter where I seek to understand the character of the post-colonial state in handling contested land issues in Mount Elgon through the lens of colonialism. Before considering the post-colonial state, I examine the character of the colonial state then discuss whether the post-colonial state perpetuated the tenets of the colonial state and in the affirmative, which characteristics of the colonial state were carried into independence especially in Mount Elgon region where there was contestation of land.

### **3.2 The Colonial State and the African People**

Colonialism can be defined as a process whereby there is direct and overall domination of one country by another. Therefore, the state power of the dominated country is in the hands of a foreign power whose principal objectives are political domination and exploitation of resources in the colonised territory.<sup>11</sup> It involves a process of subjugation, domination and exploitation of a

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<sup>8</sup> Richard Meinertzhagen, *Kenya Diary 1902-1906*, London: Oliver and Boyd, 1957, pp. 51-52.

<sup>9</sup> Daniel Butt, "Colonialism and Postcolonialism," in Lafollette (ed). *The International Encyclopedia of Ethics*, Willy-Blackwel, 2013. users.ox.ac.uk, accessed on 08/07/2020

<sup>10</sup> Frederick Cooper, *Africa Since 1940: The Past of the Present*, Cambridge: Cambridge University Press, 2002, pp. 91-120.

<sup>11</sup> Stephen Ocheni, Basil C. Nwankwo, "Analysis of Colonialism and Its Impact in Africa," *Cross-Cultural Communication*, 8 (3), 2012, pp. 46-54. Available from URL: <http://www.cscanada.net>, accessed on 08/07/2020

people politically, economically and culturally. Although colonialism is as old as human history, modern domination can be attributed to the economic, political and social changes that happened in Europe with the emergence of industries and the subsequent change in the balance of power.<sup>12</sup> The aftermath of industrial development and balance of power saw European expansionism efforts move to other regions of the world such as Africa. The period between 1870s and 1900, witnessed the occupation of Africa by European imperialists through aggressive military invasions and the eventual conquest and colonisation. From then on colonialism became a term loaded with historical, if not ideological weight and applicability to processes of expansion, settlement and conquest.<sup>13</sup> In some instances, some forms of historical and contemporary interaction have been described as colonial or neo-colonial in character, an indication that sometimes colonialism has been described in relation to events. In Robert Young's view, colonialism is a practice that involves an extraordinary range of different cultures including sector colonies. It is a particular model of political organisation typified by exploitation of the indigenous, which culminates into domination by a metropole western state.<sup>14</sup>

Although the African continent experienced the brunt of colonialism from the 18<sup>th</sup> century, western states adopted the oppressive attitude of colonialism during the 16<sup>th</sup> Century and it was this oppressive nature of their life that would later culminate into colonialism. Towards the beginning of the 16<sup>th</sup> century, Europe's ruling class pursued policies and introduced strategies that favoured capitalism which permitted not only challenging existing authorities but also conquest of indigenous communities and accumulation of wealth,<sup>15</sup> resulting in colonialism being identifiable by three main characteristics of domination, cultural imposition and exploitation through subjugation of one people by the other whereby individuals or groups' territories were controlled by a metropolitan state.<sup>16</sup> Domination was executed through a form of a varied institutional arrangement, which was introduced by the colonizing power.<sup>17</sup> In terms of culture,

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<sup>12</sup> Mark Kishlansky, Patrick Geary and Patricia O'Brien, *Civilization in the West*, Vol. II., New York: Pearson, 2006, p. 774.

<sup>13</sup> Michael Sommer, "Colonies-Colonisation-Colonialism: A Typological Reappraisal," in *AWE* 10, 2011. <https://uol.de>, accessed on 29/08/2018

<sup>14</sup> Robert Young, *The Colonial State: The Civilizer of the Colonized or Brutalizer*.

<sup>15</sup> Jason Moore, "The Crisis of Feudalism: An Environmental History," in *Organization and Environment*, 15(3) pp. 296-315. <https://www.researchgate.net>, accessed on 13/09/2018

<sup>16</sup> Daniel, Butt, "Colonialism and Postcolonialism and Post-colonialism," in Hugh LaFollette (ed). *The International Encyclopaedia of Ethics*, Wiley- Blackwell, 2013. users.Ox.ac.uk, accessed on 5/8/2018.

<sup>17</sup> Ibid

the colonial state imposed foreign customs over the colonised Africans. The cultural imposition was hinged on the belief of the racial and cultural superiority of the coloniser and their perceived duty to spread particular practices, which necessitated the exploitative characteristic.<sup>18</sup> The justification and legitimization of the colonial system was achieved through the premise of a civilizing mission in which the Europeans terming themselves as the “civilised society” believed that they were duty-bound to “civilise” the world.<sup>19</sup> Despite these pretentious premises, it is apparent that the driving motivation of colonialism was pursuit of material exploitation and cultural domination, but also European self-aggrandisement. Colonial exploitation took different forms including policies, exploitative trade relations, misappropriation of cultural property and natural resources, forcible introduction of capitalist’s forms of production and the legacy of governance practices that are deeply contested.<sup>20</sup>

Understanding the colonial state therefore necessitates a deep analysis of historical actors, their influence on society and accounting for contemporary activities, whether positive or negative. Whether colonialism was good or bad for the African continent is debatable depending on the school of thought behind the explanation. For instance, John Locke, John Stuart Mill and Parekh support the legitimacy of colonialism arguing that it played a civilizing role.<sup>21</sup> Surprisingly, the same scholars are ardent supporters of the liberty of people, which according to Locke, is the lack of necessity whereby people are free and have ability to do or forbear an action in accordance with the preference of their mind.<sup>22</sup> Locke’s viewpoint on freedom needs further interrogation as his assertion of colonialism as being good in terms of bringing civilisation goes against the concept of freedom he proffers. Especially given the injustices perpetrated under colonialism. While it is true that there were some positives associated with colonialism in the name of building of schools, hospitals and put to a stop some harmful practices, the injustices far

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<sup>18</sup>Patrick Ziltener and Daniel Kiinzler, “Impact of Colonialism- A Research Survey,” in *Journal of World-Systems Research*, American Sociological Association, Volume 19, Number 2, pp. 290-311.

<sup>19</sup> Moses Onyango, “Postcolonial Politics in Kenya”. erepo.usiu.ac.ke, accessed on 29/08/2018.

<sup>20</sup> Hussein Bulhan, “Stages of Colonialism in Africa: From Occupation of Land to Occupation of Being,” in *Journal of Social and Political Psychology*. <https://jspp.psychopen.eu>, accessed on 29/08/2018.

<sup>21</sup> Judith Whitehead, “John Locke, Accumulation by Dispossession and the Governance of Colonial India,” in *Journal of Contemporary Asia*, Vol. 42, No. 1, Routledge, February 2012, pp. 1-21. <http://content.csbs.utah.edu>, accessed on 29/08/2018.

<sup>22</sup>Aysel Dogan, “Locke on Liberty and Necessity,” in *Biling Autumn*, 2005, No. 35, p. 208. [www.acarindex.com](http://www.acarindex.com), accessed on 29/08/2018.

outweighed the good.<sup>23</sup> For example, in some instances, colonial domination involved genocide, slavery, rape, murder, torture, forcible displacement and separation of families. The colonial state was a law unto itself, which went against the moral principles of humanity and the precepts of any civilised government.

The original role of a government as stipulated by ancient Greek philosophers was aimed at dealing with human behaviour in a humane way and regulating the governed in cases of misbehaviour. Thus the government can be seen as being centred around justice, which in Plato's words is closer to "righteousness" or virtue in general. The essence of government is to make its subjects as virtuous as possible, and so it does everything possible to achieve this.<sup>24</sup> Greek philosophers called upon governments not only to be custodians of the law but to also respect the law and operate in a state framework whereby the law is supreme. However, this was not the case of the colonial state. The colonial state did exactly the contrary when dealing with Africans. Instead of state power protecting the African subjects, it was used to enhance colonial interests by establishing relations of subjection. The colonial state declared itself as an autonomous institution with the unquestionable right to dispose. This assessment is supported by Achille Mbembe's analysis of the authority of the colonial state, when he states that the law in a colony rested in an imaginary of state sovereignty, which had in principle two features, weakness of right and non-respect of the rights of the colonised. The colonial model of the state, therefore, was in both theory and practice an exact opposite of what was expected of a state in relation to people's rights.<sup>25</sup>

The concept of the rights of the colonised was void in the colonial arrangement. The coercive practices employed by the British in Kenya for instance, were in violation of any standard of rights. The state sanctioned violence by treating the colonised as vassals and not citizens. Colonial sovereignty over Africans was founded through violence and genocide, which underpinned the right of conquest. These coercive practices helped create the space for the colonial state to operate and exercise whatever it wanted in the colonies. The human rights

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<sup>23</sup> Benson Igboin, "Colonialism and African Cultural Values," in *African Journal of History and Culture*, Vol. 3(6), July 2011. <http://www.academicjournals.org/ajhc>

<sup>24</sup>William Keith Chambers Guthrie, *A History of Greek Philosophy*, Vol. 1, Cambridge: Cambridge University Press, 1962, pp. 11-12.

<sup>25</sup>Achille Mbembe, *On the Post Colony*. Los Angeles: University of California Press, 2002.

jurisprudence was created and manipulated in this arrangement to serve as a legalizing tool for the colonial appropriation and violations of African rights.<sup>26</sup> The colonial state regarded itself as the sole power to make laws, use the same laws to judge and execute the judgment. It assumed the supreme right of the act of annihilating and denying rights to the colonised. The right to colonise was used to legitimise the colonial state, with the state arrogating itself the power of self-interpreting the language and model of colonial order thereby creating the capacity to convert founding violence into authority.<sup>27</sup> To maintain the authority the colonial state used war not only to spread, and establish itself permanently, accumulate numerous acts, and rituals and but also to control the African everyday life.

Although Lonsdale and Berman view colonialism in Kenya as a contradiction, which fashioned itself in several trajectories, they argue that the British colonial state remained an exploitative agent. It was a conquest state, the ultimate unit of economic development, accumulation and social control which had some aspects of accommodation as a means of consolidating its power.<sup>28</sup> From Lonsdale and Berman analysis, it is evident that the British colonial rulers did not give much opportunity for the native. Their main objective was to continuously extract African natural wealth and human resources. The British colonial regime was for much of its existence substantially immaterial to the people of Kenya as it presented itself as an intrinsically divisive and exploitative system through its tax demands, labour obligations and practices of racially stratified modernization and the violence that it meted out on Africans. The newly introduced colonial political economy resulted in extensive labour migration, heightened burdens on women and a politicization of the old pillars of civic virtue. There were many brutal episodes in the British colonial history as its authority depended ultimately upon the use of violence.<sup>29</sup> For

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<sup>26</sup> Vitus Ozoke, "The Imperialism of Rights: Tracing the Politics and History of Human Rights," in *American International Journal of Contemporary Research*, Vol. 4, No. 12, December 2014. [www.ajcnet.com](http://www.ajcnet.com), accessed on 01/09/2018

<sup>27</sup> Achille Mbembe, *On the Postcolony*, Ibid.

<sup>28</sup> John Lonsdale and Bruce Berman, "Coping with the Contradictions: The Development of the Colonial State in Kenya, 1895-1914," in *The Journal of African History*, Vol. 20, No. 4, 1979, pp. 487-505. <http://www.jstor.org/stable/181774>, Accessed: 07/09/2011 06:29

<sup>29</sup> John Darwin, "A Roundtable on John Darwin's, *The Empire Project*: Reply", *Journal of British Studies* 54: October 2015, pp. 993-997.



example, areas where Africans settled within the colony became epicentres of British security forces who exposed Africans to agonizing choices within the colonial forms of violence.<sup>30</sup>

It is evident that, the colonial rule only existed in areas where the said forms of violence existed or were deployed. The violence meted out on natives demoralised them and generated a feeling among the locals of having lost all to the colonial power, which interpreted everything the way it wanted and left the natives with no alternative but to cooperate. Anybody who did not recognise the violence of the colonial regime as authority was deemed as savage and criminal and could be disposed as per the wish of the state. Through its projects, the colonial state exercised naked aggression against natives thereby destroying African indigenous forms of social organisation and economic production. The colonial state, which acted with unfettered impunity did not see any aspect of humanity in the image of the colonised natives, whom they simply considered as prototype of an animal as averred by Whittingham who states:

The ‘hearts and minds of the people’ were to be won by “butcher and bolt” style methods. Such ideas were based on the perceived importance of ‘moral factors’ and need to deal the rebels a heavy blow.<sup>31</sup>

Controversial as it is, the colonial state is viewed by Hegalian scholars like Shohat and Stam as a progressive growth path based on the belief that history follows a linear path from Greece through Rome to the rest of the world.<sup>32</sup> In their view, inherent progress unfolds along the intra-European line towards freedom, equality and liberal values.<sup>33</sup> Shohat and Stam argue that imposition of colonialism over some groups was justified because of a simple reason that it spreads the principle and spirit of freedom.<sup>34</sup> Accordingly, although the colonial imposition denied freedom to colonised people, the denial was legitimate because it enabled the colonised people to gain freedom in the longer term. Additionally, while Shohat and Stam believe that

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<sup>30</sup> Heike Schmidt, “Colonialism and Violence: A History of Suffering,” in *The Journal of Imperialism and Commonwealth History*, Vol. 42, 2014, pp. 776-777. <https://www.tandfonline.com>, accessed on 02/09/2017

<sup>31</sup> Kim Wagner, “Savage Warfare: Violence and the Rule of Colonial Difference in Early British Counterinsurgency” in *History Workshop Journal*, January 3, 2018, p. 230. <https://academic.oup.com/hwj>, accessed on 02/09/2018

<sup>32</sup> Ella Shohat and Robert Stam, *Unthinking Eurocentrism: Multiculturalism and the Media*, 2<sup>nd</sup> Edition, London: Routledge, 2014.

<sup>33</sup> Teshale Tibebe, *Hegel and the Third World: The Making of Eurocentrism in World History*, Syracuse NY: Syracuse University Press, 2010.

<sup>34</sup> Alston Stone, “Hegel and Colonialism”, pp. 1-5. [eprints.lancs.ac.uk](http://eprints.lancs.ac.uk), accessed on 8/8/2018

European enslavement of Africans was wrong, they claim that no one can blame the coloniser as the Africans did not know their capacity and therefore colonialism uncovered what they had but were not aware of. In Hegelian tradition, the native was subjected to power as an animal that was completely savage with no realisation of self nor an understanding of the world.

Given the circumstances, the European had no alternative other than to adopt a civilisation, which was one of violence and domination to lead the African to the path of experience.<sup>35</sup> In the master and servant relationship, the colonised was envisaged as property, a thing of power and a tool, which is subordinate to the coloniser who could fashion it for use and alter its state at will. Consequently, the natives were equated to objects, which could be destroyed just as one may kill an animal, cut it, cook it and if need be eat it. The Hegelian theorists therefore outline how the colonial state viewed Africans as insignificant entities, who could be exploited, punished and if in the process they died, their deaths mattered little, because their existence had minimal significance on earth.

Hegelian tradition/ theory is not the only one that denotes the colonised African as lesser humans. The Bergsonian theory is another proponent of this outlook with the coloniser being seen as having the right to treat the colonised as they would an animal and even when the colonisers sympathised or showed love to the colonised, these were just external gestures, as pointed out by Achille Mbembe in his analysis of the theory. This subservient relationship meant that even when the colonised would render his colonial master affection, the colonised African meant nothing to the master. The main characteristic of Bergsonian school of thought was familiarity between the coloniser and the colonised and finally domestication of the later. The coloniser assumed his position as the master whose responsibility was to lead the colonised beast to an experience of life. In the journey of experience, the colonised was to remain at the mercy of the master. The African in this relationship was to be groomed by the European coloniser whose responsibility was partly to inculcate certain habits to his subject. The coloniser, therefore, had the self-imposed right to treat the African violently if need be, treat him as a child and above all colonise him like an animal or an object of experimentation.<sup>36</sup> The coloniser perceived the

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<sup>35</sup>Achille Mbembe, *on post colony*.

<sup>36</sup>Achille Mbembe, *ibid*.

African like a savage animal that had no conscious thought of its life and simply existed and like an animal it could only be domesticated and although they have needs, the African could never accede to the sphere of humanity.

Under the British rule in Kenya, Africans were reduced to objects and subjects of the colonial commandment. In the words of Albert Sarraut, Africans in the colonial state were unformed clay of primitive multitudes whom the colonialists were tasked to shape and that meant colonial powers like the British were at liberty to mould Africans in the colony as they deemed fit.<sup>37</sup> The British gave themselves a duty in which they claimed to shape Kenyans. The “shaping” of natives was in most cases undertaken through punishment administered by the colonial apparatus and some indigenous apparatus, the latter which had been reshaped to fit colonial use. The British colonialists saw the colonised Kenyan as a marked and broken-in individual who could be compelled to produce forced labour or be tamed for maximum use. Kenyans including people of Mount Elgon were not citizens nor did they have citizens’ rights, which were a reserve of the coloniser alone. It was the colonisers (British) who were considered citizens who were entitled to enjoy civil and political liberties including the right to own land.<sup>38</sup>

The penal code in colonial Kenya recognised only two categories of humans, namely the free and the slaves, and the distinction between the two was based on race. The European race belonged to the free category and had the right to own property while Africans belonged to the class of slaves with no right of ownership of property. The African was instead owned by the European race. Moreover, under the racial segregation system, the African could be punished, tortured and cruelly treated by members of the European race. This is what characterised the colonial state, which gave itself the right to dispose of Kenyan natives as things. . It dispossessed Kenyan natives all their land and turned them into squatters and refugees on their own land. The British colonial state therefore through their degrading treatment exposed Africans to socio-economic and cultural injustice, which had repercussions even after the departure of the colonialists. The brutal treatment of the African by the coloniser and demonstrates that the coloniser was more of a savage than the African whom they perceived as such.

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<sup>37</sup> Erick Bleich, “The legacies of History? Colonization and Immigrant integration in Britain and France,” in *Theory and society*. Vol. 34, No 2, Apr., 2005, pp. 171-192. <http://www.jstor.org>, accessed on 8/8/2018

<sup>38</sup> *Ibid*, Achille Mbembe.

### 3.3 Colonialism, European Settlers and African Land Claims in Mount Elgon

The onslaught of colonialism gave rise to the possibilities of conflict and war because of the contested claim over land. The colonial fresh claims were a contradiction to what was already a volatile environment in which various African groups were previously contesting land ownership in Mount Elgon. However, it should be noted that in pre-colonial time, territories in Kenya and by extension Mount Elgon were not centrally governed by any single authority or political system. Almost every ethnic group in the country had their traditional system that they used to govern resource use and management. In such an arrangement, members of a specific community had rights to access and use resources as long as they identified with the community that laid claim to the said resource.<sup>39</sup> In order to ensure equity in terms of access to land resources, traditional authorities governed by customary law ensured access rights to territories were contingent upon membership to social groups and allegiance to traditional authorities.<sup>40</sup> Access was highly influenced by the economic activities that various communities engaged in. For instance, those who were farmers would clear virgin land or inherited land for use while pastoralists secured pasture and water points for their livestock.<sup>41</sup>

The oral traditions from various communities in Kenya prove that customary land and its resources were perceived as communal property, which were collectively owned by through patrilineal units or clans.<sup>42</sup> In the collective ownership arrangement, both sexes had rights to access land resources. Before the colonial invasion, territories could not be owned or claimed exclusively either by an individual or a family although their rights of usage were assured.<sup>43</sup> Such an arrangement assured not only protection of all communities living in any territory but also brought stability. Thus colonial intrusion tilted the balance by introducing the notion and practice of legal claims over land based on English laws. The colonialists misunderstood the African customary law and assumed that communal ownership meant free or unclaimed land. Based on

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<sup>39</sup> Peter Little, "Pastoralism and Strategies: Socio-economic Changes on the Pastoral Sector of Baringo District", Nairobi: University of Nairobi, Institute of Development Studies 1980.

<sup>40</sup> Hastings Okoth- Ogendo, Formalizing "Informal" Property System: The Problematique in Land Right Reform in Africa, Nairobi, 2006.

<sup>41</sup> Fauz Twaib *Land Law and Land Ownership in Africa*, Bayreuth: Bayreuth University, 1996, p. 85.

<sup>42</sup> Ibid.

<sup>43</sup> Kassa Negussie Getatchew, "Resource Conflict among the Afar of North-East Ethiopia", in Mohamed Saleh and Mohamed Ahmed, *African Pastoralism: Conflict Institution and Government*, London: Chase Publishing Services, 2001.

the notion that no legal claim existed, the British imposed themselves on the people of Kenya and assumed powers to politically appropriate and allocate what they referred to as “unclaimed” land.<sup>44</sup> In the true sense the territories were claimed, and it was a misconception to believe that the land in Kenya was free for the British taking.

Taking advantage of the unwritten customary law, colonialists promoted the idea that Africans in Kenya could only have what Willy Alden termed as “usufruct rights over territories”. Usufruct is a Civil Law term, which means enjoying use of the property of another or a right of being on that property accidentally.<sup>45</sup> So in the eyes of the British, Africans were on the land accidentally, but how could the British see Africans as being on their land accidentally? The British colonialist believed that Africans occupied land accidentally until the true owner (the colonial government) legally took over by authority as stipulated in the terms of the Berlin Conference which demanded that after declaration of interest, European powers were required to occupy the territories. What followed was the imposition of a new system of territorial laws on the communities. The enactment of the crown land policies rendered communal claim rights null and resulted in Africans losing their territories. The laws were contradictory to African collective land ownership systems and were designed to favour the intruders over the local people.<sup>46</sup>

Consequently, the colonial administration introduced state owned territories in various parts of the country thereafter creating a new claimant in the name of the state and the changes associated with state claims disrupted the livelihood system of the natives. In such an arrangement, two parallel land tenure systems existed, one imposed on Africans by colonial state, with the colonial state allocating itself authority as a direct allocator and manager of land access and use and the African customary system, which favoured collective land ownership. Under the colonial land tenure system, Africans were forcibly displaced and restricted to specific reserves to create space for settler farms. On the other hand, Africans still held on to their customary tenure causing them

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<sup>44</sup> Pauline Peters, “Inequality and Social Conflict Over Land in African”, in *Journal of Agrarian Change*, Vol. 4 (No. 3) 2004, pp. 269-314.

<sup>45</sup> Willy Alden, *Land Rights Reform and Governance in Africa: How to Make it Work in the 21st Century?* New York: United Nations Development Programme, 2006, p. 18.

<sup>46</sup> Hastings Okoth- Ogendo, Formalising “informal” property systems, The problematique in land rights reform in Africa, Nairobi.

to be at a crossroads and not knowing which tenure to follow,<sup>47</sup> as described by Mazrui who states that instead of African land tenure dying, it persisted in the midst of the imposed European one therefore leaving the African in the middle of nowhere.

Legitimacy of state ownership of land was strongly backed by English laws and Acts of Parliament borrowed from the United Kingdom.<sup>48</sup> The laws decreed the transfer of ethnic groups from the territories they had previously occupied to Native Reserves, which can be described as concentration zones. Moreover, the British demarcated boundaries as a new way of exacting control over movement of the natives.<sup>49</sup> These boundaries were to ensure proper native monitoring by the colonial state through creation of territorial spheres of chiefly authorities who reported to European administrators known as District Officers.<sup>50</sup> Any native found on the White Settler land without a pass was considered as trespassing, which was a criminal offense under the prevailing British laws. Legally, trespass was considered as an act of unlawful entry into another person's property, even if no harm is done to the property.<sup>51</sup>

These legal structures were used to formalise conditions of land tenure resulting into privatised system of land property rights. In turn, this exposed the local communities to more problems caused by not only loss of their economic livelihood but also curtailed their freedom of movement.<sup>52</sup> Having economically and socially subjugated the natives, the British colonial state was now at liberty to deal with local communities on matters of land without reference to or due recognition of their rights. This stance was acknowledged by a colonial Chief Justice of Kenya in his judgment, which stated:

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<sup>47</sup> Boone, Catherine, "Land Tenure Regimes and State Structure in Rural Africa: Implications for the forms of Resistance to Large-scale Land Acquisitions by Outsiders," in *Journal of Contemporary African Studies*, 33 (2). 2015, pp. 171-190. <http://eprints.lse.ac.uk>, accessed on 12/07/2020

<sup>48</sup> Peter Onyango, "Balancing of Rights in Land Law: A Key Challenge in Kenya," School of Law, University of Nairobi, Department of Commercial Law-Kisumu Campus. <https://profiles.uonbi.ac.ke>, accessed on 28/02/2017

<sup>49</sup>Carola Lentz, Contested Boundaries: decentralization and land conflicts in Northwestern Ghana, a PAD conference, institute furEthnologie and Africa studien, Universitat Mainz, 2002.

<sup>50</sup> Oral interview, Robins Chepkum, Koitongwa, Cheptais, 27/12/2015.

<sup>51</sup>Crown Prosecuting Service, "Legal Guidance, Trespass and Nuisance on Land". [http://cps.gov.uk/legal/s\\_to\\_u/trespass\\_and\\_nuisance\\_on\\_land](http://cps.gov.uk/legal/s_to_u/trespass_and_nuisance_on_land), accessed 30 October 2014

<sup>52</sup> Sara Berry, "Debating the land question in Africa", in *comparative studies in society and History*. 44, 2002, pp. 638-668.

The effect of appropriation of the commons as Crown land was inter alia to vest land reserved for use of a native tribe in the Crown. If that is so then all native rights in such reserved land, whatever they were disappeared and natives in occupation of such Crown land became tenants at the will of the Crown of land actually occupied including land which huts were built with their appurtenances and land cultivated by the occupier.<sup>53</sup>

In his discourse of land issues during the colonial period, Okoth-Ogendo avers that the ruling by the British Judge marked the beginning of the tragic deterioration of not only the African claim over land in the British colony but also the African economic power. This outlook is supported by Walter Rodney, who argues that this was one way through which Europe underdeveloped Africa during colonial period as they appropriated resources and subdued local communities, which resulted in Africans not only losing their land but also becoming enslaved.<sup>54</sup> The crown land laws imposed by colonial regimes favoured European settlers and decreed the eviction of local communities from their lands and settlement in “reserves” or the least productive and most difficult areas within the colony.<sup>55</sup> Ownership of fertile areas changed from local communities to private European settlers and the permit to occupy such territories was the title deed granted by the British administration.<sup>56</sup>

The processes of establishing the European settler system were characterised by brutality. The formative years of colonial occupation bore a trait of conquering and subduing Africans and by 1920, the colonial state had silenced African voices. During the same period, the British had silenced the Indian urge for land in the White Highlands through the Devonshire White Paper. It should be noted that from 1900 until the early 1920s, there was a bitter battle between Asian and European settlers to determine the nature of colonial government and the future political development of the region.<sup>57</sup> The struggle for East Africa coincided with important changes in land tenure initiated by the British to strengthen their hold on land and eliminate competition. The efforts by Indians to claim space in the White Highlands were part of British India’s painful adjustment to post WWI reform realities, which ultimately defined the Indian place within the

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<sup>53</sup>Okoth-Ogendo, “Land Reform and Agrarian Change in Southern Africa, The Tragic African Commons: A Century of Expropriation, Suppression and Subversion.” An Occasional Paper Series, No. 24, School of Government, University of the Western Cape, Cape Town: University of the Western Cape, 2002, p. 6.

<sup>54</sup> Walter Rodney, *How Europe Underdeveloped Africa*, London: Bogle-L’Ouverture Publications, 1973, p. 143.

<sup>55</sup> Richard Roberts and Kristin Mann, (Eds), *Law in Colonial Africa: Social History of Africa*, London: Heinemann education Books, 1991, p. 61.

<sup>56</sup>Fauz Twaib, *Land Law and land ownership in Africa*, Bayreuth: Bayreuth University 1996.

<sup>57</sup> Robert J. Blyth, *The Empire of the Raj: India, East Africa and the Middle East 1858-1947*.

British East Africa Empire. With its systems in place, the colonial government introduced the Registration of Titles Act (RTA), Cap 281 of 1920, and the Registered Land Act (RLA) where the state was to guarantee titles for the settlers, which was undertaken after thorough scrutiny and before registration of transactions.

The enactment and imposition of these British laws and others on Kenya led to immense alienation of land and dispossession of the indigenous people of their land. This dispossession, which turned indigenous populations into “tenants” in their own land, marked the beginning of the land problem in Kenya and by extension Mount Elgon. Upon enactment of the Land Ordinances the people of Mount Elgon found themselves without any claim to the lands they had hitherto considered theirs rightfully by virtue of their long-term occupation and ancestral attachment. The African communities who formerly had owned Trans Nzoia and Mt. Elgon including its slopes, forests, caves, adjoining plains of Bungoma and territories as far as Cherangany Hills for thousands of years now lost it to European intruders.<sup>58</sup> The situation of native land loss worsened with the extension of the railway line to Kitale, which opened access of the region exacerbating systematic land alienation from the African communities and thereafter settlement of European settlers. The laws and continuous appropriation of native land by the colonial settlers were a source of the land dilemma and grievances that would haunt the people of Mount Elgon for long.<sup>59</sup>

The beginning of White Highlands Policy by the British colonial government marked the start of the tragedy that befell the African people of Mount Elgon regions. The signs that Africans were in the verge of losing land were seen when Charles Hopley sighted the Trans Nzoia peneplain in 1896 during his excursion on the foothills of Mount Elgon where he declared the land around was very fit for European use,<sup>60</sup> a sentiment that is in line with that of Harry Johnston who had also traversed the Rift Valley and remarked that the highlands around Mount Elgon were admirably suited for a white man’s country. These recommendations gave the colonial administrators a high appetite for land in the region and soon it adopted more laws that accorded the white man

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<sup>58</sup> Gregory Ngeywa, “Chronology of the Sabaoth History and Land Dilemma”, Presented to the Task Force on Resettlement of Beneficiaries of Chepyuk Phase III Settlement Scheme in Mount Elgon, December, 2008.

<sup>59</sup>The Kenya Gazette, The Task Force on Resettlement of Beneficiaries of Chepyuk Phase III Settlement Scheme in Mount Elgon, Vol. CX-No. 93, Special Issue, Nairobi, 4<sup>th</sup> December, 2008.

<sup>60</sup> Charles Hopley, *Kenya from Chartered Company to Crown Colony*, London: Witherby, 1929, pp. 95-96.



dominion over land and perpetuated the supremacy of European interests. European settlers coming in to the country now had powers to violate the rights of Africans with impunity. The level of impunity is exemplified by the actions of Ewart Grogan and other whites when they flogged three hapless Africans outside the Nairobi Court house and no action was taken to punish this criminal act. This act demonstrates the European's profound disdain for indigenous communities and their innate racist arrogance, which was validated by the colonial state through its actions and inactions, in this case inaction.<sup>61</sup>

The years after 1920 witnessed drastic changes in African history. The colonial government promoted white settlements, which resulted in more loss of land and secondly, adoption of labour policies that promoted access to cheap African labour and racial segregation. Through these policies, Africans were frequently conscripted and if they refused, District Commissioners' like Corbett, advised Europeans settlers to adopt whipping to induce compliance.<sup>62</sup> The Mount Elgon region, which extended to Trans Nzoia, was appraised for European settlement with approximately over one million acres being surveyed and demarcated into three hundred farms of three thousand acres each for the European settlers. Earlier Europeans to be settled in the region included Van Rensberg's, H.C. Kirk, A.K. Macdonald and many ex-WWI soldiers.<sup>63</sup> Other settlers were Hoey who was also the Member of Legislative Council for Plateau North, Major Weller, Henry Barberton and three hundred settlers who were allocated land in the region.<sup>64</sup>

With the annexation and occupation of Mount Elgon and western Trans Nzoia, the colonial administration had now fully imposed itself on the African population and the Sabaot who had been utilizing the forests on the foothills of Mount Elgon and the fertile soils of western Trans Nzoia as pasture and for subsistence cultivation begun to feel the heat. Moreover, the then District Commissioner Colonel John Watkins began the forceful movement of Africans from Trans Nzoia to pave way for more European settlers in what the Sabaot referred to as "*Operation*

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<sup>61</sup> Joseph Nabwera, "European Settlers in the Trans Nzoia District: A Case Study of Racial Domination in the Kenya White Highlands, 1920-1946," A Thesis Submitted in Partial Fulfilment for the Degree of Master of Arts in the University of Nairobi, Department of History, August, 1987.

<sup>62</sup> Report of the Native Labour Commission, p. 149.

<sup>63</sup> Eroll Trzebinski, *The Kenya Pioneers*, London: Heinemann, 1985, pp. 134-136.

<sup>64</sup> Christine Nicholls, "Cecil Hoey and Hoey's Bridge (now Moi's Bridge)", in *Old Africa: Stories from East Africa's Past*. oldafricamagazine.com, accessed on 16/09/2018

*Elgonyi Kwenda*".<sup>65</sup> When Mr. Arthur Champion, known by the locals as *Bwana Chemben*, took over from John Watkins the forceful evictions were intensified. Many Bukusu families who were living around Kisawai and Kamukuywa rivers had their land alienated and moved to areas around Kuywa River while the Pokot were restricted access to pasture in Trans Nzoia. Given the foregoing it is evident that white settler arrangement affected African modes of production by restricting access to the land and the narrative of natives as squatters was proliferated among incoming Europeans.<sup>66</sup>

The situation reached a critical point in 1929 when disgruntled Africans began causing trouble over their land, however, their pleas were rejected by the colonial government who stated that the natives were labourers not landowners and the government refused to accede to the claims. Calls to reclaim land were not only directed towards what the British occupied, the Sabaot and Bukusu were also accusing each other of intruding on what each termed as their ancestral land leading to a tussle over who was the indigenous owner of the contested territories. Both groups appeared before the Carter Land Commission in 1932 in Kitale, whereby Chief Arap Kasis and seven other Sabaot elders claimed before the commission that the Bukusu were not indigenous in Kenya and had been brought in from Uganda by settlers as labourers to work on farms. In their submissions to the commission, Chief Arap Kasis asserted that Kataleel (Kitale) was the centre of his original country and that his Sabaot people had extended across Trans Nzoia as far as Moiben, Cherangany and Kapenguria.<sup>67</sup> Consequently, he demanded for compensation over their land. However, even though the commission made recommendations that justice should be done for the Sabaot, there were no reparations and the attitude by the commission was derogatory, with the commission stating that the Sabaot were wandering over the vast area from North Kavirondo, Trans Nzoia to Sebei country of Uganda doing nothing in the region with their miserably small beasts (Zebu cattle).

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<sup>65</sup> Reuben C. Butaki (For and on Behalf of Koony Council of Elders), "Report of the Discussion by Koony Council of Elders on Chebyuk Settlement Scheme Problem and Suggested Solutions", 20/01/2009.

<sup>66</sup> Trans Nzoia was surveyed in 1910 under the acting D.C Col. John Watkins who also administered Mumias and in 1912, he moved the natives from Trans Nzoia to pave way for European Settlers.

<sup>67</sup> Gregory Ngeywa, "Chronology of the Sabaot History and Land Dilemma", Presented to the Task Force on Resettlement of Beneficiaries of Chepyuk Phase III Settlement Scheme in Mount Elgon, December, 2008.

On their part, the Bukusu claimed that the land around the mountain was rightfully theirs and blamed the British government for alienating it from them. They cited the Bukusu war against the British between 1893 and 1895 at Chetambe and Lumboka where the former was defending their land. They also claimed that the Bukusu Chiefs, Sudi Namachanja and Murunga, ruled Elgon,<sup>68</sup> Malakisi and Kimilili at a time when “the Sabaot were perching on trees in the forest.”<sup>69</sup> The Bukusu elders before the commission further claimed that the Sabaot first moved into Bukusu territory in 1908 when Taboi settled in Kibingei in Ngutukus Fort and Kesisu moved to Kimalewa to the fort of Mundamuloma and Kibuteki the father to ex-Chief Tendet migrated to the area from Lumbwa in 1910. It was at this time that the Sebei people moved into Bukusu country and settled around Mount Masaba (Elgon) from Uganda. They called themselves as Elgony people and thereafter Livingstone Naibei emerged as their leader. In 1925, ex-Chief Murunga who was based in Kimilili appointed Walucho, a Bukusu, as his assistant to help him administer Mount Masaba (Elgon) region. Following the appointment, many Bukus moved to assistant Walucho’s territory because they felt discriminated in Naibei’s territory. Consequently, it can be said that the enmity between the Sabaot and Bukusu begun during reign of Chief Naibei.<sup>70</sup> Given these positions on land ownership, wars between the Bukusu and Sabaot continued to fester but were compounded by the colonial intrusion and subsequent settler economy as expounded in the next section. The British colonial rule generally altered the Bukusu position in Bungoma and was an onslaught on Bukusu hegemony, which was ascending in the early colonial era and heralded the decline of the Wanga.

### **3.4 Colonialism, Settler Economy and Africans as Foreigners in Mount Elgon**

The earliest impact of European land alienation in Kenya was that it produced Africans who were foreigners in their own lands and subsequently, laid the foundation of African reserves and squatterdom. This sub-section focuses on how European land alienation and the narrative of Africans as foreigners played out in Mount Elgon. Early Europeans who arrived in Mount Elgon region described the area as an uninhabited land with no legitimate owner. Based on these

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<sup>68</sup> It should be noted that long before colonial rule, chiefs played a very vital role in defining community land or territories indicating where their land claims started and stopped. However, colonialist transformed the ritual function of the chief into a political tool and enhanced chiefly authority over land. This was a deviation from the custom and practices of the people and which was meant to enable colonial powers to use chiefs as conduits to gaining concessions for the exploitation of land for the good of the colonial metropole.

<sup>69</sup> Land Commission Report of 1932.

<sup>70</sup> KNA/DC/KMG/2/13/3-Administration, Divisional and Location Boundaries.

allegations, the region was opened up for survey for purposes of proliferating European political and economic interests and subsequent takeover of the region. Soon after European takeover, African natives of the area complained about the denial of their land rights. In response to the complaints, Governor Henry Belfield, acting on advice of the Provincial Commissioner for Naivasha, directed that all natives should be confined to the reserves and those out of reserves to be regarded as farm squatters prone to punishment because of trespass. However, it should be noted that the native reserve boundaries were not clearly demarcated as Africans had removed the original beacons, which had been fixed between 1911 and 1912 and occupied parts of the lands reserved for the settler.<sup>71</sup> Grazing cattle by natives in the region became a big issue as they were said to be grazing with impunity. In response, the Senior Commissioner for Kerio Province called for police action against squatters grazing on un-alienated Crown Land. Despite the tough warnings, the natives continued to graze their animals on alienated land arguing that it was their land while European farmers on their part considered movements by African natives as tantamount to trespassing on privately owned land.<sup>72</sup>

It is evident that the presence of White settlement in the Mount Elgon region compounded access to land, water and other natural resources for the natives and created competition for natural resources and space with the Africans being unwilling to cede any territory. Eventually, the land disputes came before the Kenya Land Commission, however, the commissioned denounced African land claims as baseless and recommended that they should restrict their activities within the native reserve areas.<sup>73</sup> Africans dismissed the commission's recommendations and continued to infiltrate the delineated land and ignored warnings by government agents over the sanctity of private property under the European system of land tenure. To the natives, it was the Europeans who had infringed on the land rights of the natives and therefore the latter had no legitimacy to control African movement. Notwithstanding, government officials continued to reiterate that Africans squatting on delineated land were not protected under colonial land law and were therefore, liable for any punishment meted by European settlers. For instance, in June 1925, ten squatters on Arthur Cecil Hoey's farm were arrested and charged with trespass while others had

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<sup>71</sup> PC/RVP 2/5/1 Annual Report 1920.

<sup>72</sup> KNA/DC/West Pokot 1/7/17 DC West Suk to Senior Commissioner, Kerio Province, 6 May 1927, Senior Commissioner, Kerio Province to Chief Native Commissioner, Nairobi, 13 May 1927.

<sup>73</sup> KNA-Government of Kenya, Department of Agriculture, Annual Report, 1921, Nairobi: Government Printer, 1922.

their cattle, sheep and goats rounded up.<sup>74</sup> In 1925 the Squatter Ordinance was enacted and provided for administrative intervention in regulating African movement into European settler areas. Following the enactment of the ordinance, white settlers held a meeting in Kitale on 11 July 1925 under the auspices of the Farmers Association, where members lauded the decision sanctioning the use of force by authorities to evict Africans from areas where Europeans had shown interests.<sup>75</sup>

Evictions were to take care of European settler's interests which coincided with those of African squatters. In such a case, African interests were subordinated to the demands of European farmers. African arrogance was not to be entertained because Europeans considered them as being on the wrong in case there was a clash of interests. Africans became suspect for any mishap that occurred on settler farms even if they were not involved and the response by the colonial authority was always communal punishment, which was meted out on as many Africans as possible. For instance, when fire gutted buildings on Captain Hewitt's farm in Trans Nzoia, some African suspects were convicted and thereafter collective punishment meted out on Bukusu squatters in the vicinity.<sup>76</sup> This was done without according the community the opportunity to defend themselves against the accusations instead they were simply ordered to hand over the culprits, failure to which punishment would follow. A fine of 2800 shillings was imposed on some fifty-six Bukusu squatters and when they were not able to raise it their cattle was seized and auctioned.<sup>77</sup> This became routine and anytime there was any loss of settler livestock, squatters in the neighbouring reserves were accused of stock theft and a collective fine was subsequently imposed even if in most cases there was no evidence that the surrounding communities were involved. Despite the unfair and brutal treatment, farm squatters were primarily a reserve of resident labour for European farms.

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<sup>74</sup> Joseph Nabwera, "European Settlers in the Trans Nzoia District: A Case Study of Racial Domination in the Kenya White Highlands, 1920-1946," A Thesis Submitted in Partial Fulfilment for the Degree of Masters of Arts in the University of Nairobi, Department of History, August, 1987, pp. 159-187.

<sup>75</sup> KNA/AG 4/1559, Acting Governor, forwarded by the acting Colonial Secretary to Attorney General, 27 September 1925.

<sup>76</sup> KNA/PC/RVP. 6A/29/2: Population Returns, Trans Nzoia 1933, 1938.

<sup>77</sup> Joseph Nabwera, "European Settlers in the Trans Nzoia District: A Case Study of Racial Domination in the Kenya White Highlands, 1920-1946," A Thesis Submitted in Partial Fulfilment for the Degree of Masters of Arts in the University of Nairobi, Department of History, August, 1987, pp. 159-187.

African social and economic interests were of little concern to the British as they colonialists viewed and presumed Africans as racially subordinate to the “superior” European race. Africans including the so-called tribal chiefs had no voice. Where the African administration existed in European settled areas, their principal role was to enforce the law without question and majority of the tribal chiefs enforced government orders in very a brutal manner. Left with very little to hold on, African economic conditions worsened, and the majority were forced to work as labourers on European farms as a way of raising money to pay the taxes imposed by the colonial government as non-payment resulted in the confiscation of thousands of squatter cattle as well as impositions of fines. The situation was compounded if the cattle were unbranded. Branding was adopted by the colonial government as a method of controlling the spread of rinderpest, which was done after immunization. However, the cost of branding was rather expensive, costing Shillings 2.50 a shot, which many Africans could not afford, thus they opted not to immunise their cattle. However, this proved to be a non-win situation since if they were found with unimmunised cattle while grazing on settler farms they were forced to pay fines.<sup>78</sup>

Paying of fines was in one way or another a method adopted by the government to raise revenue for its operations. Apart from paying fines in terms of livestock, the colonial government also adopted policies whereby settlers would utilise squatter labour for free as stipulated by the Resident Native Labourers Ordinance no. 30 of 1937, which came into force in 1939. The ordinance expunged any remaining tenancy rights of squatters and gave District Councils the authority to limit the numbers of livestock held by squatters and restricted the land available to squatters. Additionally, it decreed the eviction of from their farms to create more room for European settlers as well as increasing the hours that squatters were required to work to 270 days per year.<sup>79</sup>

The outbreak of World War II in 1939 interrupted the process and provided a reprieve for natives given that the British were already engaged in war in multiple fronts and consequently, did not want to create additional conflict with the natives, though the directive was revisited in 1941.

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<sup>78</sup> Richard Waller, “Clean and Dirty”: Cattle Disease and Control Policy in Colonial Kenya, 1900-40”, in *The Journal of African History*, Vol. 45, No. 1. 2004, p. 50. <https://www.jstor.org>, accessed on 16.09.2018

<sup>79</sup> David Anderson, “Master and Servant in Colonial Kenya”, in *The Journal of African History*, Vol. 41, No. 3, 2000, p. 466. <https://www.jstor.org>, accessed on 16/09/2018

The renewed debate of evictions was widened to include reduction of the number of squatter livestock (destocking policy). The colonial government demanded that the terms of the Resident Labourers Ordinance had to be respected thereby restricting squatter access to land to a maximum of two acres and each family was limited to ten head of cattle and five sheep.<sup>80</sup>

In 1943, the colonial government enacted another law that prohibited squatters from selling maize to anyone besides the settlers. The intention of the law was to further reduce the economic power of the locals and compel them to comply with colonial demands. The law outlawed Africans from accessing informal markets, which offered better prices. The drastic reduction of squatter livestock and prohibition to access free market negatively affected African agricultural production and livelihoods. In some areas squatters were not allowed to raise cattle because white settlers were zealous about protecting their imported exotic herds from diseases, with some settlers going as far as shooting or rounding up the livestock of squatters. By the end of the Second World War the settlers were determined to press the squatter relationship to the point of crisis.<sup>81</sup> As if these brutal policies were not enough, by 1946, District Councils of districts around Mount Elgon passed a legislation to eliminate squatter cattle completely from European settled areas.

The aforementioned clearly demonstrates that settler occupation and their subsequent activities disrupted the economies of those communities inhabiting the area around Mount Elgon from the pre-colonial period. The Bukusu and Sabaot in particular, were forced off their farmland with the Sabaot forced to retreat up the slopes of Mount Elgon and some into Uganda while the Bukusu remained in the areas west of Kamukuywa reserves from where they would frequently be exploited as labourers. On their part, the Sabaot were described by European settlers as “a useless and lazy lot”. For some time, the Sabaot would be allowed in Mount Elgon forest, but this did not last long as the colonial administration demanded their removal.<sup>82</sup>

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<sup>80</sup> Maria Fibaek and Erik Green, “Labour Control and the Establishment of Profitable Settler Agriculture in Colonial Kenya, c. 1920–45,” *Economic History of Developing Regions*, 2019, 34:1, pp. 72-110. DOI: 10.1080/20780389.2019.1581058, accessed on 13/06/2020

<sup>81</sup> Tabitha Kanogo, *Squatters and the Roots of Mau Mau, 1905-63*, Nairobi: Eastern African Publishers, 1987, p. 105.

<sup>82</sup> Joseph Nabwera, “European Settlers in the Trans Nzoia District: A Case Study of Racial Domination in the Kenya White Highlands, 1920-1946,” A Thesis Submitted in Partial Fulfilment for the Degree of Master of Arts in the University of Nairobi, Department of History, August, 1987, p. 177.

To justify the removal of the Sabaot from Mount Elgon forest, the Colonial Forest Department observed that all forest reserves are under government control and that severe encroachment on Mount Elgon forest by the Sabaot would severely degrade the forest cover. The Sabaot and their livestock were considered a menace and dangerous not only to the forest but because they also allegedly stole cattle from European farms and took them deep into the forest. Moreover, they were also accused of burning the forest cover while collecting honey hence, they were to be pushed out of the forest into North Kavirondo which was inhabited by the Bukusu. Frequent police raids of villages in the forest became the order of the day as livestock owned by African were confiscated and the owners charged with offences under the Forest Ordinance and animal diseases rules. If they failed to raise an imposed fine, more African cattle were seized and auctioned to European farmers.<sup>83</sup> European settlement therefore meant African economic dislocation through loss of livestock and agricultural land. From the occupation period through the period of colonialism, land remained the basis of African grievances even long after eviction from their land and the entrenchment of colonialism. Africans who formally owned land became squatters who offered farm labour on land that they had lost to settlers in Mount Elgon region. Additionally, Africans were forced to work from 7 am to 3 p.m. for very low wages, averaging between six and eight shillings per month.<sup>84</sup>

It is important to note that the claims and counter claims did not influence the British and thus the natives lost their land and all ancestral rights over it. Some had been dispersed in various parts of the colony as labourers, while others had gone to seek refuge as far as Sebei, Yembe and Busoga in Uganda. During the major part of the colonial administration the status quo remained until the end of the WWII when Africans strongly started agitating for their land rights forcing the British Government to embark on land reforms through the Swynnerton Plan.<sup>85</sup> However, the plan further eliminated indigenous land tenure, imposed a tenure regime of private property rights based on English Laws. Land adjudication, registration and titling were undertaken under the provisions of the plan thus encouraging land speculation, a fact that is reiterated by Karuti

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<sup>83</sup> Ibid.

<sup>84</sup> Ewout Frankema, Erik Green and Ellen Hillbom, "Success and Failure of European Settler Farming in Colonial Africa," in *African Economic History Working Paper Series, No. 16/2014*. <https://portal.research.lu.se>, accessed on 16/09/2018

<sup>85</sup> John Massy Swynnerton, *A plan to Intensify the Development of African Agriculture in Kenya Colony and Protectorate of Kenya*, Nairobi: Government printers, 1954.



Kanyinga, who points out that the process of land reforms initiated through the Swynnerton Plan opened doors for corruption, tilting of claims and exploration of land earlier meant for locals.<sup>86</sup> The changes aggravated armed confrontations and created landlessness through unequal access to territories based on class and ethnicity, which contradicted the earlier communal ownership of territories leading to severe wars, associated with territorial claims as local communities emphasised their inalienable claims over land.

The impact of European settlements in Mount Elgon was so severe to the point that in 1948, the Sabaot accused the British of decimating the population of the Sabaot, which they said had reduced drastically as a result of losing their land and the destruction of the local economy.<sup>87</sup> While in 1952, Luhya leaders formed a delegation which presented a memorandum to the East African Royal Commission asking for return of their land which was part of the White Highlands.<sup>88</sup> Both the Bukusu and Sabaot each claimed Trans Nzoia and Bungoma as being rightfully theirs and the Bukusu mounted pressure on the colonial administration to recognise them as the sole owners of the region though the colonial government did not accede to the pressure. In 1956, the colonial government created the Elgon Nyanza District (later renamed Bungoma) with headquarters in Bungoma town and in 1957, Mr. Masinde Muliro was elected to the Legislative Council (LEGCO) to represent North Nyanza constituency of Nyanza Province. The election of Muliro, a Bukusu, did not go down well with the Sabaot who interpreted it to mean the Kitosh/Bukusu were ruling them. In 1959, Pascal Nabwana and other Bukusu elders planned to rename the newly created Bungoma District to Elgon Masaba District but the move was bluntly rejected by the colonial DC, Mr. Winsor, who feared the Sabaot resistance.<sup>89</sup>

In 1960, as Kenya moved towards independence, the British government pledged to give Kenya a grant of £6 million for the acquisition of land for African settlement schemes from the settlers.

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<sup>86</sup>Karuti Kanyinga, "Politics and Struggles for Access to Land: Grants from Above and Squatters in Coastal Kenya". <https://learning.uonbi.ac.ke>, accessed on 28/02/2017

<sup>87</sup>William T. W. Morgan, "The Ethnic Geography of Kenya on the Eve of Independence: The 1962 Census," in *Erdkunde*, Jan. - Mar., 2000, pp. 76-87 Published by: Erdkunde. Stable URL: <http://www.jstor.com/stable/25647252>, accessed on 10/07/2020

<sup>88</sup>Christopher P. Youé, "Settler Capital and the Assault on the Squatter Peasantry in Kenya's Uasin Gishu District, 1942-63." in *African Affairs*, Jul., 1988, Vol. 87, No. 348, pp. 393-418, Published by: Oxford University Press on behalf of The Royal African Society. Stable URL: <http://www.jstor.com/stable/722440>

<sup>89</sup>Minorities at Risk Project, *Chronology for Luhya in Kenya*, 2004. <https://www.refworld.org/docid/469f38aec.html>, accessed 10 July 2020

Bukusu and Sabaot leaders began mobilizing their people to take advantage of the opportunity leading to a bitter contest that culminated into armed confrontations between the two communities. However, due to the Bukusu's high numbers and the influence of their leaders including Masinde Muliro, the Bukusu benefited favourably from the newly created settlement schemes than the Sabaot. In 1962, Bungoma District was created as an administrative unit of Western Province while Trans Nzoia District was put under Rift Valley Province. The administrative arrangement caused an uproar from both communities, with both protesting against the decision with on one hand the Bukusu demanding that Trans Nzoia should be part of Western Province while majority of the Sabaot wanted to be relocated to Trans Nzoia in Rift Valley where their Kalenjin kinsmen resided. However, they were forcefully placed under Bungoma District despite their protests to the Kenya Regional Boundaries Commission.<sup>90</sup>

The Sabaot leaders did not see the reason why they should not be moved to Rift Valley as had happened to other communities. They cited the example of the Kipsigis who occupied Kericho District, which was initially administered under the Nyanza Province administration but due to the community lobbying, the district was administratively transferred to Rift Valley Province.<sup>91</sup> The animosity between the Bukusu and the Sabaot continued right up to independence and during the 1963 General Elections, each tribe campaigned for the interests of their people in the former white owned farms. The then president of the Rift Valley Region, Mr. Daniel Arap Moi, warned outsiders not to buy land in the region without the consent of the Regional Assembly (the Kalenjin and the Maasai), adding that those who dared disregard the warning will be buying land and farming in the area at their own risk.<sup>92</sup> Mr. Moi's sentiments were echoed by Mr. John Konchella who warned the Abaluhya that if they attacked the Elgon Maasai and Kalenjin to annex Kitale to their own region then the two ethnic groups would fight for their birth right.<sup>93</sup> It was obvious that the primordial contest and enmity between the Bukusu and Sabaot, which had been exacerbated by the status of Africans under the colonial regime was far from over.

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<sup>90</sup> Jon GeirPetursson and Paul Vedeld, "The "Nine Lives" of Protected Areas: A Historical-Institutional Analysis from the Transboundary Mt. Elgon, Uganda and Kenya", in *Land Use Policy*, Volume 42, January 2015, pp. 251-263.

<sup>91</sup> Ibid.

<sup>92</sup> Clyde Sanger and John Nottingham, "The Kenya General Election of 1963," in *The Journal of Modern African Studies*, Mar., 1964, Vol. 2, No. 1, pp. 1-40.

<sup>93</sup> Reuben C. Butaki (For and on Behalf of Koony Council of Elders), "Report of the Discussion by Koony Council of Elders on Chebyuk Settlement Scheme Problem and Suggested Solutions", 20/01/2009.

The section demonstrates how the colonial government supplanted African subsistence agriculture and the existent barter trade system with a colonial agrarian wage economy. In the emergent hierarchical arrangements, the African was in labour employment and the settler was an employer.

### **3.5 Independence or Dependence? Postcolonial State in the Shadows of Colonialism**

The joy that characterised the independence of most African states ended abruptly with the emergence of personal rule and the accompanying consequences, which included the decay of the state as an institution built on social contract with the people with the ruling elite using the power of their offices to seize control of not only the economy but also the power to allocate resources. The ruling class soon began to loot the economy and thereafter collapsed the effective administration.<sup>94</sup> As was in the colonial period, the post-colonial state in Africa and by extension Kenya adopted the principle of single law for all whereby a number of African elites took overpower and used it to assign wealth to themselves. These elites assigned themselves superior power to control the peasants in the similar manner as the colonial rulers. Social and political order was under influential elites who not only monopolised power, but also accorded themselves privileges and immunities against prosecution by the law. Just like the colonial arrangement, the political elites bestowed on themselves absolute power to determine who owns land and who should be granted titles.

Mimicking the colonial state, Kenya's post-colonial state made no distinction between ruling and offering services to its citizens. Through inherited colonial tenets, Kenya's post-independence government alienated itself from the governed in the same way the colonial administration had done and rapidly the elitist led state became foreign to the governed who saw it as an exploitative institution rather than a service-oriented government. The post-colonial state was thus conceived on the basis of an imaginary state. Imaginary because it failed to engage in the execution of the functions expected of a real state as conceived by philosophers who coined the concept of the state. For instance, in reference to an ideal state, Aristotle opined that, "Every state is a

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<sup>94</sup> Tony Killick, *Explaining Africa's Post-Independence Development Experiences*: Working Paper 60, London: Overseas Development Institute, 1992, p. 35. <https://www.odi.org>, accessed on 23/09/2018

community of some kind and every community is established with a view to some good, for mankind always act in order to obtain that which they think is good for the governed.”<sup>95</sup>

Aristotle’s embodiment of an ideal state whose purpose is to serve and enable its citizens live a happy life by engaging in the organisation of public happiness was totally absent in post-independent Kenya. The post-colonial state in Kenya failed Aristotle’s litmus test and instead it arrogated itself the power of exercising unlimited hold over every individual. The Kenyan post-colonial state was fundamentally a continuity of the colonial state as it conceived itself as an immutable authority over the citizens in the same way as the colonial state had done. It adopted a brutal form of control by giving itself the right to kill and use force to compel subjects to perform the obligations expected of them without question. The arrogation of these powers by the state enabled Kenya’s post-independence state to establish, equip and deploy institutions which were not intended to attain any particular public good. The primary purpose of this state was to coerce the subjects to submission and to obey orders. It perpetuated the narrative of subjugation, albeit of its own people. It looted needed commodities like land from the people, it was possessive, unjust, and cruel but yet the benefitting elites conceived it as carrying a burden of services to the ruled.<sup>96</sup> The state formed no bond with its subjects forcing the latter to the realisation that there was no mutual need or benefit in the relationship.

This type of a state became everything, it promulgated self-serving laws, and defined its right to rule and command as well quash any resistance of subjects who questioned the way it operated. It had no covenant with the ruled, yet it portrayed itself as a catalyst for alleviating the poverty of its subjects to paraphrase the words of Sarraut, who defines this as “the right of the stronger to aid the weaker.”<sup>97</sup> Not only did the state impose itself on the people, it proclaimed itself as a protective instrument for the people. It derived its strength based on the grandiose notion that it had a right to protect the governed and yet that was not the case. As stated earlier, the state is supposed to exist for the good and goodness of its subjects, however, there is no way that

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<sup>95</sup>Olivera Z. Mijuskovic, “Aristotle’s Concept of the State” in Socrates, Vol. 4 No 4, 2016 December Issue, International Association of Greek Philosophy, University of Athens, Greece, URCID. <http://orcid.org>

<sup>96</sup>Achille Mbembe, *On the Postcolony*, Berkeley: University of California Press, 1957, p. 102.

<sup>97</sup>Albert Sarraut, *La mise en valeur des colonies francaises*, Paris: Payot, 1923.

Kenya's post-colonial state could be perceived from that lens seeing as it propagated the colonial agenda of excluding the citizens from the operations of the state.

As earlier demonstrated in this chapter, colonial rule in Africa typically displayed three main characteristics of alienation, domination and control. However, while these issues have already been discussed and reference will be made to these issues in the subsequent sections, the following sections will focus on the exploitative nature of colonial rule, how and to what extent this influenced post-colonial Kenya and what impact this has had on present day distribution of benefits and burdens in Kenya. Evidence from research undertaken by various scholars focusing on post-colonial practices of states demonstrate that the effects of colonialism continue to linger or are present in contemporary Africa. Therefore, I contend that post-colonial discourse should not simply seek to unravel what happened upon the departure of the colonial rulers rather it should seek to critically analyse the inherent colonial legacies inherited or co-opted by African states. A perception that is underscored by Young who opines that post-colonial Africa still experiences oppression and coercive domination by the state in a manner similar to that of the colonial state.<sup>98</sup> The political space in Africa is currently defined by gender, class and ethnicity, which further serve to reinforce the idea that neo-colonial state in Africa did not just duplicate the colonial administration but also introduced new dimensions of class and ethnicity with post-colonial elites substituting the colonisers as the new masters. However, unlike the colonial rulers who mainly used laws and economic wherewithal to harness and consolidate power, the post-colonial elites went a step further to strengthen and secure their positions, which has been achieved through the continuous perpetuation of negative and ethnic-oriented politics thus pitting the citizenry against each other and in the process creating room for the elites to loot and appropriate public resources.

The politics of ethnic division, which defined the terrain of postcolonial state in Kenya, clearly denote that decolonisation and achieving liberation goes beyond taking over state apparatus as averred by Diana Brydon, who states that post-colonialism issues are far from being complete given that independent African states carried on with colonial mentalities including perpetuation

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<sup>98</sup> Robert Young, *Postcolonialism: An Historical Introduction*, Blackwell: Oxford University Press, 2001, p. 11.

and nurturing of inequalities.<sup>99</sup> In his theory on post-colonialism, Edward Said argues that Africa started off on a false image, which was inherited from the colonial state. Said in his discourse avers that a powerful coloniser imposed his ideas on the oriental people in order to exploit their wealth in the name of enlightening, civilizing and even humanizing. He further asserts that the consequences continue to persist in the form of chaos, coups, corruption, civil wars and bloodshed.<sup>100</sup> Said's observation seems to apply to post-independent Africa, where although during the fight for independence, Africans fought against instituted domination, in the wake of independence, political elites maintained the same structures that colonialists used to exploit the local communities to further their own agendas, which in essence reinforces Said's analysis in that the governance system did not change, what changed was the colour/race of those governing but the inherent colonial practices remained.

Drawing from these post-colonial scholars and others like Ngugi wa Thiong'o, Jalal al-Ahmad, Amicar Cabral and Jose Manategui, one can justifiably avow that the foundation of independent African regimes were laid by the colonial state.<sup>101</sup> For instance, Ngugi wa Thiong'o insinuates that the colonial experiences of African countries have refused to dissipate decades after the colonisers left.<sup>102</sup> Consequently, it is evident that understanding the deeds of colonialism, both good and bad, is necessary in understanding the context in which contemporary governments in Africa operate. In my assertion, understanding colonial wrongs in terms of economic exploitation and physical violence is imperative for establishing and putting into perspective the existing forms of domination in Africa.

One serious problem that the post-colonial African state faced was a decomposing character whereby it lost the authority to control some spaces. The situation worsened with the end of cold war, which rendered client states incapable of continuing their monopolies of violence,

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<sup>99</sup> Rosalind O'Hanlon and David Washbrook, "After Orientalism: Culture, Criticism, and Politics in the Third World," in Diana Brydon (ed.) *Postcolonialism: Critical Concepts in Literary and Cultural Studies*, Volume III, New York: Routledge, 2000, pp. 889-915.

<sup>100</sup> Lutfi Hamadi, "Edward Said: The Postcolonial Theory and the Literature of Decolonization," in *European Scientific Journal*, June 2014/SPECIAL/edition vol. 2, p. 2. <https://eujournal.org>, accessed on 03/01/2019

<sup>101</sup> Ugwanyi Dele Maxwell, "Postcolonialism and the Politics of Resistance: Ngugi wa Thiong'o's Wizard of the Crow," in *The Journal of Pan African Studies*, Vol. 4, no. 5, September 2011, p. 218. [www.jpnafrica.org](http://www.jpnafrica.org), accessed on 02/01/2019

<sup>102</sup> Ibid.

accumulation of resources and continuation of the patronage system.<sup>103</sup> Consequently, the state was not felt in some parts of territories which it claimed. For instance, the Kenyan government had no full control of its frontier territories on the permitting the emergence of warlords who capitalised on the absence of the state and attempted to establish stability within an anarchy in what Mamdani terms “decentralized despotism.”<sup>104</sup> With the failure of the government to control its border with Somalia, Ethiopia, Sudan and Uganda warlords began rebuilding their own patronage networks and contracts. They used the existing anarchy to establish warlord economies with goods and weapons easily smuggled into the country. The continued inability of the state to reinstate control prompted non-state actors to fill the persistent power vacuum by imposing their own pseudo-state systems. The situation was further compounded by the fact that the post-colonial Kenyan state did not respect its subjects as citizens with rights and freedoms. Furthermore, the state remained apathetic and did not clearly come out try to demonstrate its value to the people or indicate that it could manage utilities and/or resources in contexts of scarcity.

The perpetuation of this colonial approach in addressing issues specifically allocation of resources by the state further alienated the government from its subjects. The government failed to invent the means through which conflict over allocation and competing interests could be contained and arbitrated. Furthermore, the regime were unable to clearly demarcate the juridical sphere and state absolutism and state did not understand or wilfully chose to ignore the practical tenets of the constitutional freedoms and rights of the people, which were consistently violated by the state. The lack of respect for the basic rights of the people resulted in the loss of trust among the citizens not only in government but also in its institutions, the latter which presumably were to stabilise the country. The state’s disregard for the rule of law is aptly demonstrated by the number of times the constitution was changed to bestow the power of allocation of resources and rights to the executive arm. Consequently, parliament lost its oversight role as political elites and by extensions their cronies dominated every space. This situation was further compounded by the fact that the ruling elite seemed not to understand the

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<sup>103</sup> Jackson Herbs, *States and Power in Africa*, Princeton: Princeton University Press, 2000, p. 13.

<sup>104</sup> Mahmood Mamdani *Citizens and Subject: Contemporary Africa and the Legacy of Late Colonialism*, Princeton: Princeton University Press, 1996.

notion of a social contract between the state and its subjects,<sup>105</sup> which resulted in citizens losing not only state protection of individuals but also the state protection of their property.

With the presence of a rogue state in the name of government of Kenya, the only recourse available to the citizens was the judiciary. However, the judiciary too had fallen prey to the absolute powers of the executive and as such, it lacked the authority to impose justice unless that ‘justice was perceived by the executive’ as being necessary. A fact that was highlighted by the disregard by the executive of any ruling made by judiciary, which contravened the position of the executive arm. The contempt of the judicial system by the executive arm perpetuated impunity and citizens bore the brunt. In the same spirit of the colonial state, the Kenya’s post-independence government monopolised authority and kept distance between the governor and the governed resulting in the governed resenting and contesting the legitimacy of the so called independent state. On this basis, one could contend that post-colonial African society was not a civil society, because there can be no civility without respect for institutional and individual spaces.

The emergence of dissenting voices led to decomposition of the post-colonial African state in terms of control of its subjects. The state was perceived as never having been nothing more than a structure which imposed itself on people through violence with those living on the periphery not owning it as they saw the state as a hostile institution that did not have the good of the citizens in mind. The majority of communities living on the periphery did not differentiate the post-independence state from the colonial state as there was no restructuring of the governing systems and institutions after independence to meet the interests of the citizens, especially the native Africans instead the state was inclined to the interests of the educated elites.<sup>106</sup> Even after independence practices of power followed directly in the footsteps of the colonial political culture where the state was hostile to public debate. It paid little distinction between what was justified and what was arbitrary as the government allocated itself the right to command and control. The inherited administrative apparatus could not distinguish between right and wrong

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<sup>105</sup> Larry Diamond, “The Political Drivers of Low Trust,” in Hasan Munyema (ed.), *Trust: The Fight to Win it Back*, Open Government Partnership, 2017, pp. 10-11. <https://www.opengovpartnership.org>, accessed on 05/01/2019

<sup>106</sup> Achille Mbembe, *On the Postcolony*, Los Angeles: University of California Press, 2002, p. 38.



and oppositional voices became an anathema just as Africans opposing colonialism were to the colonial authorities.

Lack of support from the people forced the state to use various methods to induce submission of subjects. These methods included material incentives and where this was not effective, obedience was sought through extensive public coercion. The state openly committed abuses against citizens in a bid to force them accept the powers that were and in practice, there was no distinction between the execution of public affairs (government), violence and coercion. The state became totally authoritarian and left no room to challenge it as state organs were used to clamp down dissidents, crush insurgencies and stifle any voices that rose against those in power. Breaking authoritarianism was almost impossible as the administration of violence and exercise of power did not allow for opportunities to create effective organisation to challenge the authoritarian state.<sup>107</sup> Consequently, citizens were reduced to observers rather than participants in the management of their affairs.

The ruling elite designed the government in a manner that assured political payoff by allocation of development for those areas that toed the line and as such, this resulted in the proliferation and consolidation of the politics of patronage. In an environment where the governed were simply spectators, the ruling elites took control of productive activities as a method to guarantee them control over the citizens. The state was therefore a vast machinery, which created and regulated inequalities thereby inculcating dependency syndrome among the governed.

The situation began to change in the 1970s when it became clear that the bulk of national wealth was in the hands of a small group of tyrants appropriating state funds to make interests and profits. Following state failure to control the periphery in the 1970s, many people turned to criminal activities to survive. It was a lucrative business which made some professionals to abandon their careers and engage in illicit trafficking.<sup>108</sup> The bleak economic and social conditions, prevalent corruption, conflict scenarios, porous borders, deteriorating national administrations, and a growing culture of impunity feed the development of criminal practices in

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<sup>107</sup> Carl Henrik Knutsen, "Africa's Growth Tragedy Revisited: Weak States, Strong Rulers," GARNET Working Paper No: 71/09, November 2009, University of Ohio. <https://warwick.ac.uk>, accessed on 06/01/2019

<sup>108</sup> Ibid

uncontrolled spaces in Kenya. The inability by the state to systematically enforce the rule of law and guarantee the security of individuals and economic stakeholders provided the most conducive environment for the development of criminal enterprises aimed at generating easy profits.<sup>109</sup>

It was during this period that Kenya saw the emergence of indigenous merchant businessmen, money lenders and smugglers. The porosity of borders between the three East African countries allowed for the establishment and growth of various trafficking and smuggling networks across large areas through the support of local actors. For instance, along the Kenya-Uganda border, these illicit activities contributed to the regeneration of local economies through the coffee smuggling with virtually no regulation by either state.<sup>110</sup>

In the wake of these smuggling rings, no-go zones developed at the edges of the Kenya-Uganda border under the control of non-state groups with strong community anchoring. A transnational criminal economy emerged with the complicity of local populations. The smuggling activities thrived as effective surveillance of these areas by the Kenya and Uganda governments were hindered due to the difficult terrain with most of these border areas being mountainous heavily forested. Additionally, despite the areas being juridically recognised as international borders, the regions were in fact socially borderless as the local communities did not recognise nor respect the boundaries.<sup>111</sup> Aside from the porous Kenya-Uganda border, there existed many illegal routes linking Uganda and South Sudan, which are unmanned, unprotected and are for the most part unknown to security agencies and thus serve as trade routes for arms and ammunitions into many areas in Uganda and Kenya including the Mount Elgon region.

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<sup>109</sup>Mayank S Bubna, The Case for Mercenaries in Africa, IDSA Issue Brief. [https://idsa.in/system/files/IB\\_MercenariesinAfrica.pdf](https://idsa.in/system/files/IB_MercenariesinAfrica.pdf), accessed on 06/01/2019

<sup>110</sup> Sammy Maina, "The Kenyan Popular Thriller and History: A Reading of Black Gold of Chepkube and Three Days on The Cross," A Thesis Submitted in Partial Fulfilment of the Requirements for the Degree of Master of Arts in Literature of the Department of Literature, Theatre and Film Studies, Moi University July, 2018, pp. 31-75.

<sup>111</sup> Goddy Osimen, et al., "The Borderless-Border and Internal Security Challenges in Nigeria." in *International Journal of Political Science* (IJPS) Volume 3, Issue 3, 2017, pp. 17-27. [www.arcjournals.org](http://www.arcjournals.org), accessed on 12/07/2020

Kenya's economic and political woes were to continue throughout the 1980s. At the beginning of the decade, Kenya faced economic challenges including the fall on prices for cash crops, and an economic showdown that resulted in the erosion of external finances.<sup>112</sup> The drying up of external financing further accelerated the deterioration of state institutions and subsequent decline of public authority. With the decline of state authority, the government utilised its agencies of violence in the name of the police, army and private militias to regain power, which provided an opportunity for the personnel of these agencies exploit the situation to their own advantage. The police, army and private militias capitalised on the opportunity to develop their means of survival, which included racketeering, murder and violent seizure of property, which forced citizens to adopt counter-measures. With the state striving to maintain its authority and people contesting its legitimacy the situation became messy and war became inevitable. The end result of this internal strife was social breakdown, which fed on a culture of raiding government coffers further degenerating the living conditions of the citizenry and exposing them to disease and worsening civil dissension and thereafter violent deaths.<sup>113</sup>

The state reverted to selective circulation of commodities articulating social stratification. Those who benefitted from circulation of commodities were those perceived to be pro-system, while those who were not pro-state were side-lined. Any struggle against the system was brutally suppressed.<sup>114</sup> With state brutality on the rise, subjects resigned to genealogy, witchcraft and religious dissidence as depicted in the ruling made in the High Court whereby witchcraft is said to have been used in Bungoma.<sup>115</sup> As the lower class resigned to genealogy, witchcraft and religion, the middle class were put in a compromising situation in terms of guaranteeing welfare while the ruling elites controlled the economy. The ruling elite had power to use coercion and brutal administration of violence as an avenue to buy loyalty and corner allegiance. In such an arrangement, there was total lack of distinction between public money and private property as

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<sup>112</sup> Felix Kiruthu and Patrick Mbataru, "Globalization and Conflict in Central Kenya: The Case of Nyeri County, 1980-2010," in *Research on Humanities and Social Sciences*, Vol. No. 19, 2014, pp. 69-71. [www.ku.ac.ke](http://www.ku.ac.ke), accessed on 06/01/2019

<sup>113</sup> Ibid.

<sup>114</sup> Akoko Akech, "Kitu Kichafu Sana: Daniel Arap Moi and the Dirty Business of Dismembering Kenya's Body Politic," MISR Working Paper, 24, Makerere Institute of Social Research, Makerere University, October 2015. <https://idl-bnc-idrc.dspacedirect.org>, accessed on 06/01/2019

<sup>115</sup> The High Court of Kenya, Election Petition 64 of 1993 in the Matter of The National Assembly and Presidential Election Act and the Regulation made thereunder and in the Matter of Election for Webuye Constituency, Ruling Delivered by Justice Okubasu, Justice Mbitio and Justice Mwera, on 17<sup>th</sup> November 1994.

the elites used public resource to coerce allegiance. The local indigenes were not beneficiaries in this arrangement. The political economy of the time paid little heed to productivity which supported the poor.

The behaviour of the state in the 1970s and 1980s indicates that it maintained the predatory facets of colonisation by legitimizing coercion and making it morally tolerable within its ranks. However, it should be noted that while the state indiscriminately meted out violence on its subjects, subjects cannot be said to have accepted such treatment rather they simply resigned to fate.

The patrimonial Moi administration was a reflection of the colonial administration as both were built to perpetuate patronage and patrimonialism. At the centre of perpetuation was a hard and an enduring narrative of ethnicity and extreme authoritarianism, which used all means to suppress any opposition. Both regimes muzzled and intimidated or banned any anti-government movement as well as the civil society resulting in the shrinking of the civil space.<sup>116</sup> The state occupied the entire public sphere. In the 1990s, the pressure mounted by reform movements forced most African states to adopt multiparty system. Some changes were caused by industries in free trade and world markets, which compelled economies to reposition themselves. These changes affected the operations of most African countries and the conditions worsened further following the push by the World Bank and the International Monetary Fund (IMF) for the integration of African economies into the world economic activities through privatization of government-owned industries and parastatals and allowing foreign firms to invest and compete with local firms. The donor community also imposed funding restrictions on Kenya due to lack of transparency, corruption and violations of human rights.

These sanctions reduced the capacity of the Kenya government to initiate development or offer required services to the people as the economy had collapsed. The situation was further compounded with the introduction of the structural adjustments programs under the instigation of global financial institutions. The programs not only halted state employment processes but also

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<sup>116</sup> Stephen Mutula, Wilson Muna and Geoffrey Koma, "Leadership and Political Corruption in Kenya: Analysis of the 2010 Constitution Provisions on the Presidency," in *The Journal of Social, Political and Economic Studies*, Volume 38, Number 3, Fall 2013, p. 271.

required the government to lay off some employees.<sup>117</sup> In the wake of the SAPs, political elites continued to manipulate the system to serve their own agendas and used the programs to punish those seen as not being politically correct. However, the burden of domestic debt, decline in state expenditure on wages and services, rising costs of living and the decline of gross domestic product not only incapacitated government in terms of service delivery to the people but also adversely affected the standards of living for the common citizen. Subsequently, there was a fiscal crisis that not only destabilised the economy but also disrupted political stability, which was to affect the country throughout the 1990s and well into the first decade of the 21<sup>st</sup> century. The political instability caused multinational companies to embark on extensive transfer of capital from the country, which led to a near collapse of Kenyan economy.

The social and political effects of these changes affected the incumbent Moi administration as well as government operations and thereby eroded the legitimacy of the Moi regime. In a bid to regain control and assert its authority, the government suppressed citizens and curtailed civil rights. Albeit at the time, what passed for citizenship was not in essence citizenship as the populace had limited political rights and the government controlled and limited the right to representation, social rights and the right to work. With a shrinking public space and fearing a backlash from the citizens, the government adopted a survival mechanism of pitting citizens against each other in order to allow few political elites to benefit from the system. Thus the state was akin to a private entity<sup>118</sup> controlled by a few elites who also used it to subdue the citizens and in the process the state lost bonds of allegiance from the citizens. On their part, the citizens faced with a predatory society and an absentee state, sought protection from non-state relations and networks and started banking on family, kin and religious brotherhood for survival and protection.

Lack of support from the governed led to the disintegration of state power and the state lost its grip on peripheral territories thereby creating a vacuum in terms of political control. To fill the vacuum created by the weak state, people on the periphery recomposed themselves politically

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<sup>117</sup> Joseph Kipkemboi Rono, "The Impact of the Structural Adjustment Programmes on Kenyan Society," in *The Journal of Social Development in Africa*, Vol. 17, No. 1, January, 2002, pp. 84-96.

<sup>118</sup> Patrick Chapel and Jean-Pascal Daloz, *Africa Works: The Political Instrumentalization of Disorder*, Bloomington, IN: International African Institute, 1999, p. 192.

through resurgence of not only predatory economy but also formation of militia type of organisations to replace the absent government. The planners of such militia organisations argued that their main objective was to address the economic grievances and weak development in the region due to neglect by the government.<sup>119</sup> Based on this argument, the militia groups won the support of the people in their respective regions. In this way, the militias explained that the deepening poverty associated with lack of security, employment, loss of social standing, drop of school enrolment and fall in incomes drawn from agriculture would be addressed. The militia organisations resonated with people's grievances leading to emergence of mob mentality with the culture of rioting and racketeering. The mob engaged in intense hunt for land and underground economic practices, displaced legal traders, criminalised the society and finally militarised it. With the non-state systems deeply entrenched in the economic and socio-political spaces belated efforts by the state to counter the activities and reclaim its space reactivated conflicts, which in the long run undermined the legitimacy of the same state.

### **3.6 Conclusion**

In this chapter, I have demonstrated that Africans went through a mixed patch (rough to some and beneficial to others) during the colonial period. The way Africans were portrayed during the colonial era as expounded in this chapter has captivated social scientists for more than a century and provoked endless debates on the impact of colonialism on social, political and economic development on the continent. As discussed, some scholars like Lenin maintain that European colonialism had positive effects on the African economies.<sup>120</sup> While other scholars like Resnick, Warren, Sender and Smith challenged the positive impact view and held that imperialism dragged the African continent toward capitalism thus challenging the African indigenous institutions towards a negative direction. Scholars espousing colonialism as an agent of positive change cite introduction of western education, infrastructure development and introduction of the Weberian model of the state as positive aspects of the colonial regime. Further averring that the development initiated by the colonial state changed the continent towards modernity. However, those who challenge the development view assert that colonialism was from the onset a violent

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<sup>119</sup> Clionadh Raleigh and Roudabeh Kishi, "Hired Guns: Using Pro-Government Militias for Political Competition". <https://doi.org/10>, accessed on 07/01/2019

<sup>120</sup> Leander Heldring and James A. Robinson, "Colonialism and Economic Development in Africa, National Economic Development in Africa, National Bureau of Economic Research, Massachusetts, working paper 18566, November 2012. <http://www/nber.org/papers/w18566>

and exploitative institution, which ruined the African continent rather than developing it and that the colonial institution was a reflection of Africa's underdevelopment as the regime proliferated and reinforced the domination of Africa not only politically but also socially and economically.

These discussions denote the need to examine the colonial state policy of economic surplus, resource accumulation and subsequent transfer from Kenya to the British metropolis state, when analysing the impact of colonial rule on the African people and specifically, its impact on the communities of Mount Elgon.<sup>121</sup> From 19<sup>th</sup> Century to Kenya's independence, British mechanisms of accumulation of property and resources from Mount Elgon region were directly linked to benefit the British monarchy. The British did not allow accumulation within local populations or domestic societies. Produce from the plantation economies that were introduced in the region, where local communities toiled, was intended for overseas British consumption. In line with this exploitation the British capitalists transferred revenues collected from domestic communities to owners of industrial enterprises in the British metropolis. The British colonial exploitation of Kenya and to be specific Mount Elgon was synonymous with robbery, which had no benefit for the local people, with British colonisers annexing people's land and resources as well as imposing forced labour, all which were done through treacherous means and self-serving laws.

The people of Mount Elgon suffered terribly under the colonial economy as everything was geared towards benefiting the British colonizing power. The British colonial structures in Mount Elgon imposed foreign authority and customs upon the African population, forcing them to cultivate crops determined by the colonial government in Britain through the policy of forced labour, which consisted of forced enlistment, low wages and payment of taxes.<sup>122</sup> Colonialism for the African people implied political control and exploitation, which involved territorial annexation and loss of land. It imposed itself upon existing structures of society by establishing itself with specific relations of exploitation and laid the foundation for further exploitation even after independence.

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<sup>121</sup>Beluce Bellucci, "The state in Africa", in *The Perspective of the World Review*, Vo.2.n.3, Dec 2010, p. 17.

<sup>122</sup> Olusegun Adeyeri and Kehinde David Adejuwon, "The Implications of British Colonial Economic Policies on Nigeria's Development", in *International Journal of Advanced Research in Management and Social Sciences*, vol.1 No.2 August 2012. [www.garph.co.uk](http://www.garph.co.uk) accessed on 14/08/2018

To understand the impact of colonialism on the communities living in Mount Elgon, we must think about what happened after colonialism. The debate of the state of Africa after colonialism is therefore the subject of concern in the next section. Realistically it would be presumptuous from a conceptual perspective to assess the impact of colonialism on the development of the people of Kenya and by extension on the communities of Mount Elgon by focussing on the actual occurrences during and impact of the colonial period as there is need to interpret what happened at the end of the colonial regime and the seizure of power by local elites. This is necessitated by the fact that key facets of colonialism remained an innate part of the post-independence governance system. After independence most African countries experienced various challenges ranging from economic decline, political turmoil and cultural confusion, which were rooted in the perpetuation of colonialism. While on the surface it appeared as if things had changed, they remained much the same because of the various colonial related structural challenges that haunted the post-colonial state. It seemed as if the post-colonial state in Africa would not accomplish much in the absence of colonialism and consequently, it maintained the same mechanisms that led to the decline of African societies during the colonial period. The continuation of the oppressive colonial institutions provoked resistance from the citizens and in some cases this resulted in wars.



## CHAPTER FOUR

### MOUNT ELGON WARS: CONCEPTS AND CHARACTERISATION OF WAR

*Man is a warring animal and as there is among individuals an innate tendency for the subjugation of others in the struggle for existence, so with nations the unquenchable thirst for domination generates a tendency for waging war.<sup>123</sup> It also emanates from selfishness and misdirected aggression and stupidity.<sup>124</sup>*

#### 4.1 Introduction

In order to grasp the concept of war, a scrutiny of existing literature by various scholars on the subject is necessary. This chapter examines the question of war in a non-westernized African society from the perspective of different western scholars. Additionally, the chapter further investigates the concept and characteristics of war from an African perspective with reference to communities in Mount Elgon. It theorises the concept of war as espoused by different scholars then juxtaposes it with the Sabaot, Bukusu and Iteso view of war. How do Western scholars see war and is it perceived from a different angle, perhaps different from the African perception of war? For instance, western scholars such as Dan Reiter defined war based on the bargaining approach or war as a bargaining process,<sup>125</sup> while Van der Dennen on his part viewed war in biological terms as a species in the genus of violence which has the characteristics of collective, direct manifest, personal, intentional, organised, institutionalised, instrumental, sanctioned, and sometimes ritualised regulated, violence.<sup>126</sup> Clausewitz views war as the continuation of policy by other means,<sup>127</sup> while Barbera defines war from a political realists' point of view by arguing that the phenomenon of war lies in the dimension of power.<sup>128</sup> Political realists point out that the common basis of policy in war is the quest for power. Are these views different from African understanding?

While many scholars have attempted to discern the concept of war throughout history, the majority have approached the issue from the Eurocentric point of view, which is informed by the

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<sup>123</sup> Frank Przetacznik, The Philosophical and Legal Concept of War, in International Journal on World Peace, Vol. 12, No. 1 (MARCH 1995), pp. 115-120, Published by: Professors World Peace Academy. Stable URL: <http://www.jstor.org/stable/20752022>, Accessed: 08-04-2017 07:39 UTC

<sup>124</sup> Kenneth N. Waltz, *Man, the State and War: A theoretical Analysis*, New York: Columbia University Press, 2001, p. 16.

<sup>125</sup> Dan Reiter, "Exploring the Bargaining Model of War". [www.apsanet.org](http://www.apsanet.org), accessed on 10/03/2017

<sup>126</sup> Johan van der Dennen, "On War: Concepts, Definitions, Research Data - a Short Literature Review and Bibliography," University of Groningen. <https://www.researchgate.net/publication>, accessed on 21/06/2018

<sup>127</sup> Carl Von Clausewitz, *On War*, Oxford University Press, 1976, p. 13.

<sup>128</sup> Barbera Walter, *Committing to Peace*, Princeton, Princeton University Press, 1973, p. 3.

Westphalia concept. Since war from the Westphalia perspective presumes a formal administration within a state, scholars who support this viewpoint believe that there was no way Africans engaged in war since they did not have the Westphalia model of the state. Yet the ideas, words, utterances of Africans point to wars in similar ways as conceptualised by the West. The commonalities emanate from analysing similarities of earlier wars and modern ones, then deriving a definition by distinguishing war from fights or riots. There is a general agreement from both Eurocentric and African viewpoints that war is organised, collective and open ended. It is collective and not a personal feud and it is a conflict encompassing both violent and non-violent hostilities and such, may exist without battles.<sup>129</sup>

In this chapter, I investigate the concept and characteristic of war from an African perspective with particular reference to communities in Mount Elgon. The chapter begins by theorizing war from the perspectives of various scholars and drawing a comparison with the Sabaot, Bukusu and Iteso world view of war. Consequently, the main focus of this chapter will be to understand what war is and in defining this I will lay the foundation for discussing the wars that were fought in Mount Elgon in the subsequent chapters.

In general, it is obvious that, the definition of “war” is a contested one and this is unlikely to be different in Mount Elgon. How then can we begin to particularise and characterise the armed confrontations in Mount Elgon as “wars?” How legitimate is it to talk of war in the region, which once the Eurocentric scholars characterised as having no formal administration?<sup>130</sup>

## 4.2 Conceptualising War

For centuries scholars have debated on and also challenged our understanding of war. Philosophers from the days of Plato to modern times have made efforts to try and explain war but still no common understanding has been reached in the concept. The classical notions of war proffered by scholars such as Carl von Clausewitz, Leo Tolstoy, Sun Tzu and St. Augustine explain war from different dimensions in an attempt to answer the frequently asked questions of

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<sup>129</sup> Alexander Moseley, *A philosophy of War*, New York: Algora Publishing, 2002, pp. 13-21.

<sup>130</sup> George Ayittey, *Indigenous African Institutions*, New York: Transnational Publishers, 1991, pp. 112-113. George Ayittey recognizes two broad types of African pre-colonial political formations namely stateless or a cephalous societies and states with centralized authority. Stateless societies include most of Kenyan societies.

what is war and to what extent people can be said to be engaging in war. These questions have been critically analysed from various perspectives including archaeological, anthropological, biological, and historical, among other disciplines.

For example, Andrew Gatha views war as being part of human life, and a product of both beliefs and ideas that inform the human society.<sup>131</sup> Gatha avers that man has many beliefs, which are not necessarily rational hence these beliefs if internalised can lead to ideological systems that then inform man's actions and it is here that war finds its origin. Although Gatha holds that man is free to choose among beliefs, the choices of beliefs might not necessarily go down well with or be acceptable to society. Consequently, there might arise contradictions and it's through these contradictions that wars may emerge. Therefore it would not be a contradiction to state that what maintains war is the choices, social cooperation, inherited traditions and expectations, among other notions that inform and characterise human society. Moreover, it is in defence of these beliefs that human society adopts violence. Concurrently, one could argue that biologically, humans are inevitably predisposed to wage war in self-defence or defence of their beliefs.

Gatha's perspective of war is supported by Jeff McMahan who argues that "wars were a product of issues that affected man."<sup>132</sup> These are issues of life, which guided man's thinking and being complex they make war a complex phenomenon, which cannot be disconnected from society. According to McMahan, wars are part of people's culture, which are transmitted from parents to children and that cultural practices are visible in values, beliefs and behaviour of members of a given society.<sup>133</sup> On his part, Swami Krishnananda opines that in defining war the connection of wars to systems of thought such as political, social and economic values of the society must be taken into account.<sup>134</sup> Helge Kragh's exposition of war as being not only a confrontation between two antagonistic political entities that involve military, political and economic actions, but also

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<sup>131</sup> Andrew Gatha, "Anti-War, Pacifism and Principle of Self- Defense," A Thesis Submitted to the School of Graduate Studies, in partial fulfilment of the Requirement for the Degree of Master of Arts, McMaster University, June 2001, p. 9.

<sup>132</sup> Jeff McMahan, "Innocence, Self-Defence and Killing in War" in *Journal of Political Philosophy* 1993, 1994, p. 2.

<sup>133</sup> Isabella Albert and Gisela Trommsdorff, "The Role of Culture in Social Development over the Life Span: An Interpersonal Relations Approach," *Online Reading in Psychology and Culture*, International Association for Cross-Cultural Psychology, 2014, p. 11. accessed on 03/07/2018

<sup>134</sup> Swami Krishnananda, "The philosophy of life". <https://www.swami-krisnananda.org>, accessed on 29/6/2018.

as a confrontation between two opposing world views in which science and philosophy, directly and indirectly, are part of the political agenda reinforces Krishnananda's view. Based on Kragh's view, wars are well-coordinated and systematised actions that are most disruptive to human affairs a standing that is similar to that of Engels who viewed wars as worrying action, which had the prospects of running down the universe.<sup>135</sup>

Based on McMahan's, Krishnananda's and Kragh's analysis of wars in the western world, it can be concluded that they were products of issues that affect man's thinking with these issues playing a central role in the perpetuation of war as they are often transmitted from generation to generation. The key issue among the various issues that affect man and contribute to war is the idea of defending what people view as rightfully theirs "the land",<sup>136</sup> an idea that resonates with issues that caused wars in Mount Elgon. Land issues in Mount Elgon are central to communities in the region who attach a lot of cultural importance to it. For example, among the Bukusu, Sabaot and Iteso land is associated to certain beliefs about manhood. To be a man, one has to own land and protect the community and its land. Manhood begins when the father bestows land to his sons.<sup>137</sup> The importance of land makes it a primary motive of war in Mount Elgon region as experienced since the period of colonial intrusion whereby the British interfered with the traditional land-rights depriving local communities' access to their principal source of livelihood. Additionally, since the issues of land that emanated during the colonial era were never resolved, as is discussed in the chapters that follow, they continued to proliferate ethnic and intra-ethnic land grievances in Mount Elgon that inspired wars in the region in post-independent Kenya.

The principles of war involves all aspects of nature, culture and thinking which are present in both Eurocentric and Afrocentric world view. People wage war because they think and believe in fighting as the way to protect what they believe is theirs. War according to Mathew Johnson et.al, is natural in human beings who are tribal in nature with a strong feeling of identity and

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<sup>135</sup> Helge Kragh, "The Universe, the Cold War, and Dialectical Materialism," pp. 5-8. <http://arxiv.org>, accessed on 03/07/2018.

<sup>136</sup> Jeff McMahan, "The Ethics of Killing". <https://www.law.upenn.edu>, accessed on 03/06/2020.

<sup>137</sup> Gary Barker and Christine Ricardo, "Young Men and the Construction of Masculinity in Sub-Saharan Africa: Implications for HIV/AIDS, Conflict and Violence," Washington DC: World Bank, 2005, Conflict Prevention and Reconstruction Paper, No. 26/ June 2005, p. 6. <http://www.worldbank.org>, accessed on 04/06/2020.

bound by the desire to protect not only themselves but their territories as well.<sup>138</sup> People the world over, not only in western world, believe in fighting and therefore precepts of reasons are not sufficient to extinguish man's passion for war. Alexander Mosley contends that reason is the slave of passion because what people are passionate about is determined by what they possess. It is determined by the values that people think and believe as well as their expectations. People believe in their actions and that belief is dictated by sources and those sources are issues that affect their daily lives.<sup>139</sup> When the issues that people believe in are under threat they abandon positive thinking and revert to what they already know of others (prejudices), which in effect becomes propaganda that easily degenerates into war.

This debate indicates that war is embedded in our articulated ideas and our expectations about each other and the world. War needs assessment alongside all other features of society and therefore cannot be reduced to a single explanatory variable. War performs a multitude of duties, it therefore possess a multitude of meanings and explanations that cannot be reduced into a single description gained from economics, sociology, history, biology, anthropology or any other discipline. War necessitates an all-encompassing explanation of human life and therefore is a pursuit of complex truths from different angles or perspectives. To proceed with the debate of war, I attempt to define it from various schools of thought before considering the views from various communities in the area of study. Different positions are examined for their cogency in explaining war.

According to Joram Van Ackers, the concept of war is static and does not change with the exception of the motivations and the actors. Consequently, the manner in which we define the first war is the same with the last one we experienced.<sup>140</sup> Liddel Hart supports the notion that wars do not change their character and that recent wars are an expansion of the last wars.<sup>141</sup> The actors remained the same pursuing the same interests that caused the earlier wars. Liddell Hart

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<sup>138</sup> Matthew Jackson and Massimo Morelli, "The Reasons for Wars-An Updated Survey", 2009, p. 1. <https://webstanford.edu>

<sup>139</sup> Alexander Moseley, *A Philosophy of War*, New York: Algora Publishing, 2002, pp. 5-21.

<sup>140</sup> Joram Van Acker, "Working Through the war: processing wartime Trauma since post war literature of the first world war", paper submitted in partial fulfillment of the requirements for the degree of master in de, Jaal-en Letter Kunde: Engels Dults", Ghent University, Faculty of Arts and Philosophy, 2015. <http://lib.ugent.be>, accessed on 30/6/2018

<sup>141</sup> Liddel Hart, B.H. *Sherman: Soldier Realist, American*, New York: Frederick Praeger, 1960, p. vii.

criticises the idea that every war is different from the last and terms such views as the delusion of those who know nothing in history. Michael Parsons in his discourse on the concept of war, introduces the aspect of propaganda. Parsons believes that the definition of war must include propaganda because it is every member of society's duty to use every avenue of communication to influence the opinion and behaviour of the targeted audience in an effort to achieve politico-military ends during times of war.<sup>142</sup> Viewed from this perspective, then the earliest form of propaganda in war was in the primordial clashes of the Mesolithic and Epipaleolithic periods as seen through archaeological evidences where cave paintings depicted groups of men fighting and their glorious victories thereafter as a way of intimidating the enemy.<sup>143</sup> This view is well explained by Steven LeBlanc who used archaeological and anthropological evidence to explain the concept of war.

LeBlanc analysed human remains, tools and weapons and based on his analysis argues that wars that are found in contemporary human society are similar to those that occurred millions of years ago with the same causes, tactics and attitudes.<sup>144</sup> LeBlanc asserts that what changed was the circumstances that were influenced by growth in terms of population, ecological imbalance and the climate. However, Leblanc avers that wars which are organised violent competition over scarce resources between different groups to alleviate scarcity of resources remain the same and while the involved parties in these wars may invent myths about why they went to war the primary reason, scarcity, remains constant.<sup>145</sup>

In the case of the wars of Mount Elgon, there are archaeological remains of weapons and ruins of forts found in Mount Elgon that depict the war history of the region. The forts built specifically by the Bukusu people are scattered across the region and have been used by the Bukusu as marks of claims of the coverage of their ancestral land before European invasion.<sup>146</sup> Archaeological remains found in Mount Elgon including iron tools and other weapons depict the type of warfare

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<sup>142</sup> Michael Parsons "The Times and the Liberals during the Great War," in *Cercles*, 21, 2011, p. 56. <https://www.cercles.com>

<sup>143</sup> Ingram Haroro, "A Brief History of Propaganda During Conflict: Lessons for Counter-Terrorism Strategic Communications," in International Centre for Counter-Terrorism (ICCT) Research Paper, The Hague, June 2016, p. 6. <https://icct.nl>, accessed on 05/07/2018

<sup>144</sup> Steven LeBlanc, *Constant Battles*, New York: St. Martin's Press, 2003, p. 230.

<sup>145</sup> Ibid.

<sup>146</sup> KNA: DC/EN/3/2/4-Political Records Ethnology.

that the communities engaged in. These remains have been found in sites inside Kayoyoni Farm at the foothills of Mount Elgon and the Moiben escarpment. The remains include weapons and ruins of forts that were either burnt down or destroyed during war. These ruins and weapons correlate with oral traditions on inter-community wars in the region. These wars are traced to the people's ancestors in the narratives of heroes who defended community land from the enemy intruders. There are three main areas of evidence of the wars in Mount Elgon wars that demonstrate a parallel with the western perspective of wars. First of all, there is archaeological evidence of traditional weapons and fort ruins. Additionally, there are skeletal remains with injuries including cracked skulls and finally, there are the paintings on caves in the region. All these evidences correlate with oral traditions, which depict persistent wars in the region over land resources.

Aside from the concept of war arising from issues facing humans the other most common theorization of war often concerns relationships with power. It is often conceived as the expression or extension of power, as highlighted in Carl von Clausewitz's classic dictum, which states that war is the continuation of political intercourse by other means.<sup>147</sup> Clausewitz's axiom suggests that war is the most important type of socially organised violence specifically connected to political power.<sup>148</sup> The connection of politics and war was clearly tightened with the rise of the modern nation-state and the concept of state monopoly of legitimate violence.

So, what is war? This question is as old as human history and historically there have been various definitions of war. For instance, the Oxford English Dictionary defines war as any situation in which there is hostile contestation by means of armed forces of nations or any other parties against each other. It is an act of organised violence by voluntary enlisted armed groups and it involves use of weapons.<sup>149</sup> Consequently, war can be waged by states, clandestine fighters, warlords, and guerrillas, terrorist and ethnic groups. Looking at it from this point, war becomes a ubiquitous feature of human condition, which has existed throughout humanity's existence and served as a mechanism of natural selection in which the fittest prevailed to obtain

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<sup>147</sup> Carl von Clausewitz, *On War*, London: Princeton: Princeton University Press, 1976, pp. 75-90.

<sup>148</sup> Ibid.

<sup>149</sup> John Kekes, "War," in *Philosophy*, Vol. 85, No. 332 (April, 2010), pp. 201-218, Cambridge University Press. <http://www.jstor.org>, accessed on 22-02-2018.

companions and resources. Although these views are heavily borrowed from the western perception, the ideas, words and utterances are similar to those of the Sabaot, Bukusu and Iteso people of Mount Elgon. Just as it is in the western world, war among the Mount Elgon communities is rendered as a violent organised confrontation between different groups through use of armed forces and as a product of beliefs and ideas. It was found in the metaphysical connection to land, which integrates the belief of “our land, given to us by our super natural being and our ancestors making it a responsibility of the living to defend the land from non-natives and reclaim their land rights. To these communities, it was unheard-of to abandon the land bequeathed to them by ancestors. Wars in Mount Elgon were therefore maintained by the choices of the local communities to hold on to inherited beliefs over land in conjunction with the interplay between the spiritual, terrestrial and ancestral links with current and future generations.

Some western scholars including Barbara Walter argue that wars are organised fights between competing identity groups and that these wars are intractable and difficult to reconcile hence become a repeated confrontation.<sup>150</sup> Walters’s ideas are strongly reflected in Afrocentric wars, which are also organised fights mostly due to competition over resources like land, water and pasture. Looking at the scenario of Mount Elgon for instance, inter-ethnic wars in the region were rooted in previous wars as portrayed in oral traditions. Communities in the region have long-standing competing land interests with persistent claims and counter-claims on who owns specific areas and where the perceived boundaries between communities are supposed to be. The inability of the communities to agree on who is supposed to occupy a given area has led to wars between the various ethnic or clan factions in Mount Elgon. This reflects the Western point of view that wars are connected to systems of thought, which are informed by political, social and economic interests. As argued by Swami Krishnananda, wars have played important roles in the evolution of humanity including its political, social and economic institutions.<sup>151</sup> In a similar way, oral traditions from communities in Mount Elgon indicate that their institutions, particularly the political, economic, social and military were highly influenced by their encounter with enemies as well as systems of thought over land claims in the region. To the communities in

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<sup>150</sup> Barbara Walter, “Does Conflict Beget Conflict? Explaining Recurring Civil War,” in *Journal of Peace Research*, Vol. 41, No.3, May 2004, p. 372. <http://www.jstor.org>, accessed on 04/06/2020.

<sup>151</sup> Swami Krishnananda, “The Struggle for Perfection,” Tehri-Garhwal: The Divine Life Society, 1989, p. 1. <http://www.rsl.ukans.edu>, accessed on 04/06/2020.



Mount Elgon, wars were their natural way of expressing their political agenda, which was informed by the urge to protect themselves and their territories. Persistent wars in Mount Elgon activated political and military institutions. For instance, among the Sabaot, after initiation one joined an age-set (*Ibindo*) where they became warriors with the responsibility of protecting the community and its land from external aggressors. The warriors were referred to as *Murenik* translating to “those who lay down their lives for the community land”. Moreover, the skills of war associated with the Sabaot military organisation were developed from their experiences from earlier wars.<sup>152</sup>

The Iteso too were organised into a series of *etem*, referring to territorial groups, of which each had a highly coordinated military organisation whose functions were to protect and defend Iteso land. The military organisation evolved because of the Iteso’s frequent wars with the Bukusu and Bagisu of Uganda.<sup>153</sup> On their part, the Bukusu military organisation was also influenced by their notion of the need to defend their community land from Sabaot and Iteso aggression. Additionally, the Bukusu strong belief around ancestral land resulted in frequent wars with the Sabaot (*Barwa ba yoboyi*) and the Iteso (*Bamia*) who the Bukusu perceived as wanting to occupy the fertile highlands inhabited by the Bukusu.<sup>154</sup>

#### **4.3 War: Perspectives of the Sabaot, Bukusu and Iteso**

Traditionally, war for the Sabaot, Bukusu and Iteso communities were customary and a common part of their histories. However, while war was a common occurrence, these communities relied upon idioms, metaphors and narratives to explain or talk about war as was common among other African societies. It should be noted that the concept of war is difficult to define from an African perspective and therefore, there is a reliance on expressions in explaining it. The expressions include narratives as illustrated by John Iliffes’ description of African warriors as fighters with honour. They extolled themselves for their accomplishments during war and for them to achieve

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<sup>152</sup> Florence Chelimo, “Pre-Colonial Political Organization of the Kalenjin of Kenya: An Overview,” in *International Journal of Innovative Research and Development*, Vol. 5. Issue 13, November, 2016. <http://www.ijrd.com>, accessed on 05/06/2020/

<sup>153</sup> Ivan Karp, *A Century of Change in Eastern Africa*, The Hague: Mouton Publishers, 1976, p. 151.

<sup>154</sup> Ann Nangulu Kisaka, “Resistance to the Imposition of Colonial Rule in Bungoma District: A Case of the Lumboka-Chetambe War of 1894-1896, a dissertation Submitted in Partial Fulfilment of the Requirement of the B.A. Degree of the University of Nairobi, 1986, p. 20.

this, they had to be self-controlled, reserved and courageous.<sup>155</sup> These fighters withstood pain stoically without flinching and boasted of their prowess by challenging their enemies while remaining loyal to their fellow warriors. They protected the community. We get the concept of war in what Iliffe referred to as the warrior philosophy, which encompassed ethos, praise songs, boasting, humiliation of the enemy and an emphasis on hand-to-hand fighting.<sup>156</sup> The use of such illustrations and historical means, events and eras to derive the meaning formed part of the peoples understanding and explanation of war. The meaning is embedded in lived experiences, description and memory. War is therefore a feature of all human societies, and potentially an aspect of all social relationships. However, ideas about war differ widely, and how the western world may conceive war, may not necessarily be similar to an African perspective.

In traditional African society, for instance, war existed on several levels and there are several ways through which war is viewed. For most African societies, war is a multi-faceted phenomenon, which is examined by considering the different causal sequences. Many African communities viewed it as a social and cultural phenomenon, which reflected a community's values and sense of self. Accordingly, war was a force that shaped life in the African society either positively or negatively. For example, military prowess in pre-colonial African society permitted communities to display courage and winning a war as a great honour to the community. Achievement in war was celebrated by all African societies and therefore, wars were very important practices that brought not only social standing in society but also respect, material benefit and political advancement.<sup>157</sup>

An understanding of war from the African perspective can only begin with an appreciation of certain key drivers and dynamism of the continent. This understanding can be directly linked to customs associated with what it means to be an African. This entails an investigation of social capital, trust, kinship ties, colonial legacy, social opportunities, political freedom, ethnic coalitions and economics of territories. All these factors affect the emotional growth of African people. The roles of emotion, environment and economy are central in African social, cultural and political spaces and are therefore depicted in the African view of war. War in African

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<sup>155</sup> John Iliffe, *Honour in African History*, Cambridge: Cambridge University Press, 2005.

<sup>156</sup> Ibid.

<sup>157</sup> Richard Reid, *Warfare in African History*, Cambridge: Cambridge University Press, 2012, p. 9.

societies is clearly depicted through excitement and emotion associated with military exploits as expressed in African traditional poetry. Songs were used to rouse warriors to fight,<sup>158</sup> with certain expressions in the songs stirring up rulers and warriors to declare war or prepare for war. War songs were sometimes used in various African communities as an expression and reinforcement of military strength.<sup>159</sup> Songs depicted glorification and expression of high morale and refer to community's protection of its economic production. Often they are sung before war with the aim to mobilise the military to stand-out and bring glory to the community.

Singing was not a preserve of men or warriors, women often join in the songs and dance and the tempo could be intensified to inspire men with the lust for war. In most cases, the war songs were ended by the stamping of feet and clashing of spears and shields, brandishing spears and vigorous bodily movements signifying courage and defiance.<sup>160</sup> Aside from songs to stir up warriors, some songs were sung to celebrate military success when warriors return home from war. The songs bestow special honour to warriors who killed by the enemy. These songs were performed to caution the warriors on the magnitude of the enemy and lift their spirits in order to confront the enemy with a lot of confidence in future wars. Women would greet warriors with shrill cries expressing joy and delight more so if they had defeated the enemy and brought home war loot. This serves to magnify and boost men's sense of heroism. Additionally, the songs also touched on events of war and demonstrate the role of religion in the victory.<sup>161</sup>

Although women actively participated in psyching men through songs and dance, participation in war was deeply gendered. War was a male affair and courage associated with it was almost always masculine. For example, going to war provided young males a chance to prove their manhood and to substantiate prove what they were taught during initiation (to fight and protect the community). This is why initiation songs in most African societies were and still are war songs. However, women were not totally absent, they supported war efforts by maintaining the economies of their communities through farm work and trading. They also provided narratives

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<sup>158</sup> Laura Boulton, *Africa Music*, Chicago: Folkways Records and Service Corp, 1957, p. 5.

<sup>159</sup> Ruth Finnegan, *Oral Literature in Africa*, Cambridge: Open Book Publishers, 2012, p. 202.

<sup>160</sup> *Ibid.*

<sup>161</sup> Evans Omosa Nyamwaka, "Creative Arts and Cultural Dynamism: A Study of Music and Dance among the Abagusii of Kenya, 1904-2002," A Thesis Submitted to the School of Humanities and Social Sciences in Fulfilment of the Requirements for Award of the Degree of Doctor of Philosophy of Kenyatta University, March, 2011, p. 84.

and critiques during and after war. More importantly, women were rewards by which success in war was measured. Captured girls were married off to courageous men as rewards for their prowess in war.<sup>162</sup> Both men and women invested in the cultural and ethnic identities developed around war. Stories of heroism and martial prowess were woven into national narratives and militarism was celebrated as community's achievements. War from the African perspective was therefore continually historicised and past wars were very much present in organisation of present wars as societies sought historical precedence and heroic forebears for inspiration and solace.

In explaining war from an African perspective, the spiritual dimension plays a pivotal role. Traditionally, wars were waged with divine sanction especially when belief systems periodically demanded violence to appease ancestral spirits.<sup>163</sup> Wars, whether on a small or large scale, often draw on religious justifications, whether or not they are over religious differences.<sup>164</sup> It is worth mentioning that, in the African context, ghosts also participated in the battles, and as such, gods and the dead were routinely consulted in advance before the war. Spirits were called upon to keep men safe and ensure quick healing in case of injuries during war.

Politically, two broad political systems waged war. The systems reflected exigencies of economy and environment, which was a clear indication that the two determined war. As a society that heavily depended on land, African societies often fought to assert or resist control over war materials, land, river basins and other environmental resources. This outlook is espoused by Renner who argues that throughout human history, struggles over access to and control over natural resources have been the cause of war and there are various historical records that provide pertinent examples of how societies that were destabilised by environmental destruction collapsed into war.<sup>165</sup> Environmental collapse affected the economic livelihood of every African community. For instance, if drought caused loss of livestock, communities that were highly

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<sup>162</sup> Sabelo Ndlovu-Gatsheni, "Who Ruled by the Spear? Rethinking the Form of Governance in Ndebele State," in *African Studies Quarterly*, Volume 10, Issues 2 and 3, Fall 2008. <http://clas.ufl.edu>, accessed on 20/05/2019

<sup>163</sup> Alhassan Alolo Nawawu, "African Traditional Religion and Concepts of Development: A Background Paper," Working Paper 17-2007, p. 39. <https://www.birmingham.ac.uk>, accessed on 15/07/2018

<sup>164</sup> Ibid.

<sup>165</sup> Michael Renner, Mario Pianta and Francis Cinzia, "International Conflict and Environmental Degradation," in Vayrynen, Raimo (Ed): *New Directions in Conflict Theory, Conflict Resolution and Conflict Transformation*, London: SAGE, 1991, pp. 108-128.

depended on it were forced to raid their neighbours, thus sparking a conflict. Consequently, political authorities incorporated military command thereafter making the African culture to be frequently militarised. War itself was the result of proliferation of armed mobile frontiers, which represented a creative political vortex, organised violence and struggle for control of people and access of resources. Wars were intensely a local affair waged between neighbouring groups and therefore a core component of African life. Various communities had different ways of explaining war. In the following sections, I explore the Sabaot, Bukusu and Iteso view of war.

For the most part, the Sabaot viewed war as a means to expand their territories by conquering and displacing their neighbours, acquire wealth through raiding cattle from neighbours' and as act of sharpening the fighting skills of their morans (new initiates). It was a means of gauging Sabaot prowess against their neighbours. Wars were not confined externally to other communities alone, as there were instances where clans fought wars over grazing land, watering points and caves as sources of salt licks for their cattle. Before the Sabaot warriors could go to war, elders had to prepare them through rituals performed by nominated elders who were considered untainted and respected in the community.<sup>166</sup> Once the elders had concluded their ceremony, women were called in to give the warriors milk mixed with blood from cattle and some herbs. They then sung praise songs to motivate the warriors to fight on and win the war because they were doing it for the community. The only time war songs were recited is when the community was invaded by external communities and this was done to arouse warriors to defend the community. Women were very instrumental in crying for men to protect them against aggression and the language used was deliberately packaged to incite men against the enemy.

### **Sabaot war Song**

*Wui, wui, wui, wui, wui.....*

*Kawa ...buniikomito numureniik?*

*Mnyonu mureniik kapkorooni?*

*Gegisichoksioribech, omiiteonu?*

*Agwekmureniikndowerik?*

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<sup>166</sup> Ibid.

*Ogwaneewoleomite, kame goret?*

*Ogwandegarikchegeripegoret*

*Yemomi mureniik akgarikalachseregonikkapchesok*

*Ogwakewanyech bunik*

### **Translation in English**

Wui, wui, wui, wui, wui.....

The enemies have come, where are our husbands?

Where are the initiated men of this community?

We gave birth to men to protect us against the enemy but where are you?

Come out from wherever you are to protect us and your children

Are you men enough are you are boys?

Come with all the arsenal of war to protect us

If you have no weapons to protect us then wear our skirts so that we become the same

Come in numbers or else the enemy will finish all of us

This song was recited over and over again until men came out in numbers to fight the enemy. This enthusiasm for war is reflected in oral traditions and transcends rational consideration. It clearly demonstrates that when a people were determined that they must go to war, it is considered cowardly and fool hardy for any member to argue against the wisdom or demands of the majority to go to war.<sup>167</sup> In this case warriors were simply glad of the opportunity to show their heroic spirit: As narrated by John, a Sabaot interviewed for this thesis, “The brave man of war (warrior) is a stubborn man according to oral traditions of the Sabaot community who plunges straight into the battle.”<sup>168</sup> John further states that those that engaged in arguments were seen as “stupid and cowardly,” and “should never have been born and should crawl back into

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<sup>167</sup>Isidore Okpeuho, *African Oral Literature Backgrounds, Character and Continuity*, Indiana: Indiana University Press, 1992, pp. 151-164.

<sup>168</sup> Oral interview, John Ngeiywa, Kakilongo Village, 28/12/2015.

their mothers' wombs and get out of the way of the brave men of war."<sup>169</sup> Calling themselves brave, warriors pressed the point that they had warlike spirit in their blood and therefore called enemies cowards as a kind of scorn to provoke them to war.<sup>170</sup>

The Sabaot expression of *boriet* (war) can be discerned through various social practices, their war songs and other practices attached to war. The songs sung by the Sabaot are similar to those of other Kalenjin groups<sup>171</sup> as reflected in Ciarunji Chesaina's anthology of the oral literature of the Kalenjin, which uses phrases such as *Kolenjin Ki muren che kiratei songol* translated as "Kalenjin were men who tied war-feathers on themselves".<sup>172</sup> Another phrase, *Kituchi mwaimiat*, which means that during inter-ethnic wars, it was customary for the Kalenjin to spare the life of one individual to convey the message of the prowess of the Kalenjin.<sup>173</sup> These songs are similar to the war songs sung by the Sabaot as demonstrated in the subsequent sections. The Sabaot view *boriet* (war) as a situation in which the warriors with the permission of elders and medicine men raid and fight their neighbours in pursuit of community interests. *Boriet* often occurred in the form of raids for livestock, revenge after an attack, fights for grazing land or water points, repossession of appropriated land and political space as well as border points, with the purpose of the war expressed through the war songs.<sup>174</sup>

The Sabaot used the songs to encourage or motivate the warriors to go to war, ridicule the men who do not go to war and praise those who participated in war. Additionally, there were mockery songs, which were directed towards communities that were defeated during war and songs sung by women and children to welcome warriors back home after a successful war.<sup>175</sup> War according to the Sabaot people means destruction and suffering. It was associated with burning of granaries, *manyattas* (huts), deaths and casualties' and in some situations children and women were kidnapped by the enemy warriors. Children and women were kidnapped as the Sabaot culture does not allow warriors to kill children or women. A fact that is demonstrated by one raid instigated by the Sabaot against the Bagisu (currently in Uganda) in the 1890s. During the raid,

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<sup>169</sup> Ibid.

<sup>170</sup> Ibid.

<sup>171</sup> Ciarunji Chesaina, *Oral Literature of the Kalenjin*, Nairobi: East Africa Educational Publishes, 1994, p. 135.

<sup>172</sup> Ibid.

<sup>173</sup> Ibid, p. 153.

<sup>174</sup> Robin Chepkum, interview with author, Kaitongwa-Cheptais, 27/12/2015.

<sup>175</sup> Ibid.

Sabaot warriors invaded the home of a prominent Bagisu man called “Bukimba” and in the ensuing melee, they burnt huts, granaries, killed people, kidnapped women and children and also stole thousands heads of cattle. However, they could not cross river “Rokook” (currently Lwakhakha River) as Bukimba’s kinsmen mobilised reinforcements and pursued the Sabaot catching up with them before they could cross the river. Thereafter, the two groups fought for two days leading to heavy mortalities on both sides. Legend has it that the river turned “red” because of the bloodshed of the victims. Following the failure of the raid and the high number of deaths, the Sabaot perceived that the raid was not sanctioned by the spirits and blamed the *Orkoyiet* (spiritual adviser and/or sage) for misleading the warriors. To date, there is a song that the Sabaot still sing that depicts how Manyiroor, the then Sabaot *Orkoyiet* misled warriors to a death trap.<sup>176</sup> The song goes as follows.

### **Sabaot version**

*Manyiror..., kibaka chbikyo*

*Manyiror..., kiberbering maatapmatini*

*Manyiror..., ndekilumnga’alekapmweshekndemiibikyo*

*Manyiror..., ndesichoortukapmukimba*

*Manyiro..., miyatmuchasta*

*Manyiror..., kwamingkorotiik*

### **Translation to English**

Manyiror, you killed our people

Manyiror the Whiteman gun cheated you to mislead our people

Mannyiror you would have listened to the advice of our wiseman

Manyiror why did you steal from Mukimba?

Manyiror your greed killed you

Manyiror, though dead but the blood of the innocent will curse your generation

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<sup>176</sup> Patrick Nyoki, interview with the author, Nairobi, 15/03/2017.



The Bukusu also have similar accounts of their war experiences. According to the Bukusu, *lie* (war) was a means of resolving conflicts of interests especially whenever there was a contest with neighbouring communities. Consequently, war became one of the most common ways of interactions. In Bukusu, *lie* (war) is defined broadly ranging from rage, rifts, misunderstanding, brawls, skirmishes, assaults that include boundary and territorial disputes.<sup>177</sup> As such, it can be deduced that wars emerged when two or more parties could not agree on an issues or issues. Parties at war, be they ethnic groups or clans, sought to achieve their objectives of acquiring or securing territories, access to markets, prestige or protecting alliances by engaging in *lie*.<sup>178</sup> In this sense, identifiable groups, tribal, ethnic or cultural, pursue incompatible goals and the only ability to gain depends on war. Among the Bukusu, the term war was used to explain opposing and incongruous actions, small or big. War ranged from a simple non-verbal grudge or disagreement between parties to armed violence.

The Bukusu define war as a struggle over values and claims to scarce status, power and resources or it can be a fight to neutralise or eliminate rivals. Generally in the Bukusu point of view *lie* (war) was an act of *khukhwirana/khuchukha sifuki* (struggle characterised by cruel death or shedding blood). A close scrutiny of Bukusu history, indicates that war situations were frequently reflected in their oral poetry where by conflict was portrayed as *lie* (fighting or war or a struggle).<sup>179</sup> The Bukusu war songs depicted the fighting with enemies or a fighting spirit which provided a concept of war. Fighting with enemy communities like *Barwa ba yoboyi* translated as the “the enemy who can’t speak well”, (Sabaot) features prominently in their other forms of oral traditions. War according to the Bukusu was a male affair conceptualised after initiation into manhood. It provided Bukusu men with the opportunity to put their manhood to test as well as establishing a pride of place in the society and getting a sense of meaning in life through war.<sup>180</sup>

*Lie* (war) is quite sophisticated and a serious business. The seriousness is depicted in the community’s performance of rituals in the event of a looming war. Senior spirit mediums were consulted by the warriors of the community who wished to receive protection, legitimacy and

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<sup>177</sup> Alfred Nyanya, interview with the author, Tulwet, 02/01/2016.

<sup>178</sup> Ibid.

<sup>179</sup> Isidore Okpeuho, *African Oral Literature: Backgrounds, Character and Continuity*, Indiana University Press 1992, pp. 151- 164.

<sup>180</sup> Alfred Nyanya, interview with the author, Tulwet, 02/01/2016.

advice because (*lie*) war was very dangerous as depicted in not only rituals but expressions of the people. For the Bukusu, war is expressed in various ways for instance, *lie busiku* (war is enmity or danger), *sifuki* (bloody), *lifwa* (death),<sup>181</sup> terms that are not taken lightly in Bukusu society. Before engaging in war, the Bukusu similarly to the Sabaot had to consult spiritual mediums who performed war rituals calling upon the Bukusu ancestors to help promote unity and morale among the warriors. Based on the practices of the Sabaot and the Bukusu, it is clear that war rituals are powerful vehicles of meaning during war and offer the opportunity to contain and express emotional support for warriors. Additionally, war rituals permitted the Bukusu community to come together, witness and interpret war events for its own survival. Thus the rituals reinforced a collective identity and purpose.

The belief in rituals is informed by the idea that the spiritual world contain certain powers and actions that will influence the course of events during *lie/* war.<sup>182</sup> Bukusu war rituals have a primarily apotropaic (anxiolytic) function of reducing fear and anxiety not only among warriors but also the entire community. As such, war rituals were used to reduce anxiety and fear and instil confidence by giving assurance of victory and reason for war. They played another role of reinforcing solidarity and mobilizing the society behind the warriors. As such, they have the effect of coordinating preparations for action among members of the society, warriors and elders. In addition to the rituals undertaken in preparation for war, there were other rituals that were undertaken during war. For example, community members would be barred from engaging in some activities such as sexual intercourse during war as the act may portend badly for the warriors and lead to defeat.<sup>183</sup> Therefore rituals functioned as a means of organizing the perception of reality of war and subsequently plays an important and even indispensable role in social interaction.

Furthermore, rituals were used to justify hostile armed defensive war and assurance that no curse will befall the warriors for shedding the enemy blood.<sup>184</sup> War rituals supported warrior values and

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<sup>181</sup> Ibid.

<sup>182</sup>Edward Norbeck, "African Rituals of Conflict," in *American Anthropologist*, 65, 1963, p. 1255. <https://anthrosource.onlinelibrary.wiley.com>, accessed on 17/07/2018

<sup>183</sup> Yonnah Namuli, Bekusu Ritual Elder, interview with the author, Nanandiki, Chwele.

<sup>184</sup> Johan M.G. van der Dennen, "Ritualized 'Primitive' Warfare and Rituals in War," in *Default Journal*. <https://www.rug.nl/research/portal/files/14454226/RITUAL.pdf>, accessed on 17/7/2018

warfare by ceremonially transforming the guilt of killing into self-righteous virtue and strength. Transformation of the guilt of killing into righteous virtue was very important because Africans placed sanctity on life. They considered shedding of unjustified blood as a taboo and this resonates with Michael Walzers' view of war for a just cause. This was the reason to why war activity was often shrouded in rituals. The Bukusu performed a series of rituals before they went out to fight the enemy in battle. The most obvious of these rituals was the *khukhwisira ne kamanyasi* or the protection ritual, which served the purpose of protecting the warrior from harm and death. Warriors were reassured through the ritual that they had a reasonable chance of avoiding death or injury.

The protective ritual entailed prayers, offerings and wearing of magic amulets provided by *Omufumu* (magician) or *Omung'osi* (foreteller) who forecasted the outcome and interpretation of omens, dreams and visions if any. At this point ritualised sexual abstinence before going to war was emphasised as it was believed that women had feminine substances that could contaminate the warriors. After the rituals, warriors went through an oath taking ceremony whereby they swore not to retreat or leave their captured comrades behind.<sup>185</sup> When warriors returned, if victorious, orgiastic victory dances were conducted, where gloating, bragging and frenzied joyful dancing predominated. Special meat was prepared, with food and alcohol consumed in great quantities and to top it off, sexual energies that had previously been dammed based on the prevailing beliefs, were released. Much of this behaviour was of course a kind of ritualised release of tension and fear.<sup>186</sup>

Despite, the celebrations that ensued after a victorious war, war, as commonly perceived among the Bukusu, was the worst thing they wished to happen as depicted in the heavy symbolism, allusion and imagery such as *lie/war*, *busiku/danger*, war songs that called upon the Bukusu fighters to carry their *engabo/shield*, *lichabe* or *lifumo/* spears, *wamachabe* (war swords).<sup>187</sup> These images were a symbol of danger in Bukusu oral narrations and brought out a picture of seriousness. Narratives of war featured prominently in Bukusu oral traditions which showed that they were in constant fights with *Barwa/Sabaot* and *Bamia/Iteso* over territory, property, matters

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<sup>185</sup> Samson Misiko, interview with the author, Nzoia Scheme, Sinoko Location.

<sup>186</sup> Yonah Namuli, interview with the author, Sinandiki, Chwele, 30/12/2014.

<sup>187</sup> Ibid.

of honour and punishing an insult or abduction of a girl.<sup>188</sup> The war accounts through songs occupy a prominent place in the Bukusu imaginations. Here the spoken word captures and re-enacts human mind, intention, emotion, opinion and prediction.<sup>189</sup> Oral narratives provided life essentials and strengthened the communal fibre and ideological direction. Consciousness of war comes early in the life of a Bukusu male (*omusani*) through *embalu* (initiation) ceremonies organised for teenage boys where the youth are ushered into manhood, which prepares them to protect the community.<sup>190</sup> During the *embalu* (initiation), Bukusu initiates are not supposed to show any sign of pain in the process. The boys are expected to show courage throughout the process and are reminded that courage is needed in their role as future defenders of the community and their land. Initiation provides the inspiration.

*Embalu* (circumcision) rituals among the Bukusu aim at strengthening the protection of the community. *Embalu* (circumcision) rituals accompanied by songs that construct the Bukusu identity by making them stand out as true *basani* “men” who can fight in war as opposed to *basinde* (uncircumcised) who are considered as boys.<sup>191</sup> A point of view that is reinforced by Yonah Namuli, a Bukusu, who stated that *embalu* “real” Bukusu men are those who are *basani*, they must be aggressive, strong, and assertive. He further explained that a “real” *omusani* must be strong because he needs to defend himself, his household and society during war. Apart from being strong, aggressive and assertive, *omusani* must have land, animals and food and makes sure that his and community property is not tempered with by other people.<sup>192</sup> *Embalu* is indeed a site for testing manhood. Throughout the process, the song and dances are associated with men like aggressiveness, strength and persistence are emphasised.

Namuli’s assertions were underscored by another interviewee, Edward Mutambo, who contended that a “real” *omusani* must be strong because after *embalu* (circumcision), he is expected to

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<sup>188</sup> Eliud Motoi, interview with the author, Maseki Village, 27/12/2015.

<sup>189</sup> Sikiru Adeyemi Ogundokun, “The Role of Orature in African Socio-cultural Space,” in *International Journal of English and Literature*, 2015, p. 1. <https://www.researchgate.net>, accessed on 18/7/2017

<sup>190</sup> John Muluha, interview with the author, Nzoia Village, Sinoko, 31/12/2015.

<sup>191</sup> Dominic D.B Makwa, “Musicking and Dancing Imbalu Circumcision Rituals (Khushina Imbalu): Performing Gender among the Bagisu of Eastern Uganda,” A Dissertation Submitted to the Department of Music, Dance and Drama in the Faculty of Arts in Partial Fulfillment for the Requirements of the Award of the Degree of Master of Arts in Music of Makerere University November, 2010, pp. 46-70.

<sup>192</sup> Yonah Namuli, interview with the author.

protect his children and the community.<sup>193</sup> Further, in case of any *lie* (war), *basani* (circumcised men) are the ones called upon to defend the society. As a warrior, *omusani* must conquer his fear by convincing himself that he has the strength to overcome an enemy. During the dances, candidates for *embalu* are expected to bend the upper parts of the body and stamp the ground heavily, with their right feet with their arms extending outwards from the main body, *khukhumburara* (sharpening) the arms in a posture of protection. *Embalu* is “war” and therefore, *basani* must mobilise their relations (near and far) to come and stand by their side.<sup>194</sup> After initiation the initiates join an age-set where they gain a sense of belonging in the same age group, same clan, and same ethnic group, “we are one, we fight as one in a war just as we did in circumcision.” This perspective is underscored by the fact that the majority of initiation songs are in fact war songs.<sup>195</sup> For example, one initiation song entitled *khwera omurwa* passes a war message to the initiates, telling them that they are now ready to kill an *Omurwa/Sabaot* in war:

**Soloist**

**Response**

Yaya khwera Omurwa

Aah khwera Omurwa

Sobona Khwera Omurwa;

Aaa khwera omurwa

Yaya khwera Omurwa

Aaa khwera omurwa

Omusani khwera omurwa

Aah khwera Omurwa

**Soloist**

**Response**

1. My brother we have killed omurwa (Sabaot)

Aah we have killed omurwa (Sabaot)

2. We have killed omurwa (Sabaot); my brother

we have killed omurwa (Sabaot)

Aah we have killed omurwa (Sabaot)

3. We have killed omurwa; my father

we have killed omurwa (Sabaot)

Aah we have killed omurwa (Sabaot)

<sup>193</sup> Edward Mutambo, interview with the author, Birunda Farm, Saboti Sub-County, 26/12/2018.

<sup>194</sup> Edward Mutambo Wamachio, interview with the author.

<sup>195</sup> Ibid.

4. We have killed omurwa; my age group

we have killed omurwa (Sabaot)

Aah we have killed omurwa (Sabaot)

5. We have killed omurwa; my chuma age group

we have killed omurwa Aah we have killed omurwa

The soloist goes on and on listing enemy communities emphasising to the initiates that they have a duty or role to fight many Bukusu enemies. This contemptuous treatment of the enemy serves to demonstrate that the Bukusu were in constant war with their Sabaot and Iteso neighbours and since they have overcome the knife in *embalu* (initiation) then they can equally overcome the Sabaot and Iteso. Although war in traditional African initiation practice is a metaphor for the bloody experience initiates go through, these young men conceive their future as warriors fighting to defend their nations against enemies.<sup>196</sup> As such, the notion of defending the nation in a war is inculcated into male members of the community from a young age and this is subsequently embraced with considerable enthusiasm and pride as demonstrated in the traditional songs of the Mount Elgon communities. Among the Bukusu, Sabaot and Iteso traditional war songs are imbued with ridicule for the enemy while songs celebrating victories are infused with unlimited arrogance. A good example is a Bukusu victory song “Talangi”, which goes:

**Soloist**

**Response**

Mauko Eeee Mauko

Ndifwe talang’i talang’i

Mauko

Ndifwe talang’i talang’i

Mauko

Khwaula Emboko Sitera, ndifwe talang’i

Mauko ooh Mauko

ndifwe talang’i talang’i

Mauko

khwaula Emboko sitera,

Mauko

Ndifwe talang’i

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<sup>196</sup> Yonah Namuli, interview with the author, Sinandiki, Chwele, 30/12/2014.

## Translation

### Soloist

### Response

Surprise!!! Ohh surprise

We are lions...lions...

Surprise Eee:

We are the lions

Surprise

We have killed the Buffalo in daytime

Surprise my people

We are lions.... lions

Surprise ohh

We killed the Buffalo daytime

Surprise

We are lions for killing the Buffalo in daytime

“*Mauko eee mauko*”, is a refrain sung by warriors returning from a victorious war, which is sung with a lot of arrogance, boasting of how they have killed their enemies, either the Sabaot or the Iteso. The concept of surprise is pronounced in this song because the enemies of the Bukusu were fearful fighters and therefore victory over them was not always assured. These war songs paint a picture of traditional Bukusu war with their enemies and show the confidence and courage with which they fight their enemies. Additionally, the songs describe the Bukusu war gear namely spears and shields. The frequent wars fought by the community gave rise to specialised poetry, narrations and songs, which are still common in Bukusu oral narratives.<sup>197</sup> Aside from conquest, war in the context of traditional African communities encompass romance and glorification of warriors as depicted in poetry and songs on the subject. Songs are used to boast about and to honour warriors who killed the enemies of the community, actions that are seen as being out of ordinary everyday pursuits. As such, it is evident that communities viewed war as involving danger, and necessitated warriors to be courageous and willing to face the inherent risks of war.<sup>198</sup> This is demonstrated by a song sung by Bukusu women in the face of a looming war. The women would sing:

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<sup>197</sup> Ruth Finnegan, *Oral Literature in Africa*, Cambridge: Open Book Publishers, 2012, pp. 201-234.

<sup>198</sup> Susan Webi, interview with the author, Makhonge Village, Kibichori Chwele, 06/01/2016.

**Soloist****Response**

Basoreri Mukhabangaa...

Manani kali lwanyiiiiiii

Basoreri Mukhabanga

manani kali lwanyiiii

Enywe Mukhabanga...

manani kali lwanyiii

Bachuma mukhabanga

manani kali lwanyiii

Bamaina Mukhabanga

manani kali lwanyiii

Bakinyikewi Mukhabanga

manani kali lwanyiii

Basawa Mukhabanga

manani kali lwanyi

Bakolongolo Mukhabanga

manani kali lwanyi

Bakananachi Mukhabanga

manani kali lwanyi

Bakikwameti Mukhabanga

manani kali lwanyi

**Translation****Soloist****Response**

Men you always boast...

Ogres (enemies) are outside

Men you always boast...

Ogres (enemies) are outside

Warriors you always boast

Ogres (enemies) are outside

Men of Chuma age-set you always boast

Ogres (enemies) are outside

Men of Chuma age-set you always boast

Ogres (enemies) are outside

Men of Maina age-set you always boast

Ogres (enemies) are outside



Men of Kinyikewi age-set you always boast	Ogres (enemies) are outside
Men of Sawa age-set you always boast	Ogres (enemies) are outside
Men of Kolongolo age-set you always boast	Ogres (enemies) are outside
Men of Kananachi age-set you always boast	Ogres (enemies) are outside
Men of Kikwameti age-set you always boast	Ogres (enemies) are outside
Men you always boast...	Ogres (enemies) are outside

The ogre in the song depicts the enemy warriors either from the Sabaot or the Iteso who are said to be coming to attack. Ogres are depicted in African narratives as imaginary creatures who are scary,<sup>199</sup> grotesque and cannibalistic. Ogre songs are used to instil keenness, wisdom, bravery and team work because it is lack of these that the monsters harm human kind. This kind of scary depictions facilitated the construction of a narrative of patriotic members of the society who were willing to die for their people and land. In the song, it is perceived that without men or warriors around to protect the society, women and children would perish in the hands of the *kamanani* (meaning ogre or enemy). Indeed the emotional attachment to looming death indicated the frustration women would go through because in most cases they were taken as captives and shared among the enemy as wives. In the song, the men are reminded that they must be worried about the safety of their land, women and children. Women fear that the enemy compared to *Linani/ Kamanani* will harm them if left alone and if men of the different age-sets do not fight.<sup>200</sup>

The *Kamanani* (enemies) are seen as man-eaters who attacked and destroyed the community. It took real men to fight these monsters, to conquer them and to have them subdued and surrender all the humans they had eaten.<sup>201</sup> Eaten is symbolic of all the people they took captive. The men in the song are depicted as not only as the saviours of their land, women and children, but of mankind. It would be argued that the real intention of such portrayal of the men is to ensure that

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<sup>199</sup> Yonah Namuli, interview with the author, Sinandiki, Chwele, 30/12/2014

<sup>200</sup> Ibid

<sup>201</sup> Joseph Muleka, Gendered Memory in Oral Narratives and the Socialization of the Girl Child in the African Society, in *International Journal of Humanities and Social Science Invention ISSN (Online)*, Volume 5 Issue 9, September. 2016, p. 2-3. [www.ijhssi.org](http://www.ijhssi.org), accessed on 22/7/2018

men realise that the safety of Bukusu land and the community depends on their presence and courage since if children and women are taken by the enemy the lineage of the Bukusu would be weakened. The warriors on the other hand, come out as immortals that made the enemies of the community tremble in fear. Various folk songs that depict the engagement of the Bukusu and their enemies, who as noted earlier were often referred to as *Kamanani* (ogres) narrate that warriors would organise counter attacks if their enemies happened to seize their cattle and took women and children captive, which shows the importance the community placed on women, children and cattle. In Emotive songs would be sung by both men and women in order to mobilise Bukusu warriors to prepare to engage the *Kamanani*, with women singing these song while shedding tears and urging men to put on war-gear and fight the enemy so that they (women) and their children would not be killed together with their children. To provoke the men into action, the women would mention the Bukusu age-sets, which served to remind men of their role in the community, and as the rite of initiation is what defines *omusani*/ a man in the Bukusu culture, men would be compelled to demonstrate their manhood.<sup>202</sup>

Men who were not willing to face the enemy would be ridiculed by women and challenged to pack their belongings and go to the world of the un-circumcised.<sup>203</sup> “*Oooo oooo kirichanga kicha ebunyoloooo*”... “Oooo oooo those who fear should go to the land of the uncircumcised.”<sup>204</sup> Such war songs are an expression and reinforcement of military strength of the Bukusu community. This perspective resonates with perceptions of war raised by Martin Van Creveld whose view on warfare is portrayed as being between ethnic and religious groups fighting to protect their land, interests and are largely constructed and fought based on charismatic leaders rather than institutions.<sup>205</sup> The songs sung by the Bukusu are of struggle for supremacy during war periods and often the songs beseeched supernatural assistance to bolster the courage of the warriors to go to battle and ensure their success.<sup>206</sup>

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<sup>202</sup> Alfred Nyanya, interview with the author, Tulwet-Kitale, 02/01/2016.

<sup>203</sup> Ibid.

<sup>204</sup> Ibid.

<sup>205</sup> Martin Van Creveld, *The Transformation of War*, New York: The Free Press, 1991: ix, 197: 207.

<sup>206</sup> Celestine Chukwuemeka Mbaegbu, “The Effective Power of Music in Africa,” in *Open Journal of Philosophy*, 2015, 5, pp. 176-183. <http://www.scirp.org/journal/ojpp>, accessed on 23/03/2017

The perceptions of war expressed by as well as the narrations of war used by the Bukusu are similar to those of the Iteso people. Though for the Iteso their relation with war is rooted in their history including the derivation of the name of the community. The term Iteso is derived from the word “*ates*”, which traditionally means to die and be buried because of war in defence of land, cattle and community.<sup>207</sup> In Iteso community the concept of war is equated to life. War is seen not only as a threat to life but also in terms of death and destruction. The Iteso use the term *ajore* to describe war, a term that is used to define battle or perhaps war.<sup>208</sup> They also refer to war as *ejie*,<sup>209</sup> which brings *ichan*, poverty, suffering, affliction, sorrow and misery.<sup>210</sup> *Ichan* (war) is evil in the eyes of Iteso because it threatens life, which is the greatest gift God has bestowed on humans. *Ichan* for the Iteso symbolises loss of life, wealth, kin, friends and other people. And is seen as the genesis of the destruction of *oree* (home). *Oree* phonologically has a connotation of belonging, a place where the Iteso belong, a place of access to resources of land, emotional help, and relations of birth, marriage, death and nexus of the history of self.<sup>211</sup> Since war was seen as destruction to the institutions that define life among the Iteso, war was also used to validate the role of Iteso warriors, whose purpose was to fight in the name protecting the threatened communal interests. Iteso combatants, the *polyono*, which means stubborn and clever, ensured the protection of Iteso-land. However, for the Iteso war did not end with the real fight or battle, rather it was a process of defending communal interest that continued throughout one’s life. War also entailed what happened after a battle and extended beyond physical death to the spiritual realm. War is an *emamete aijar*, loss of life. It is a struggle even in death as portrayed in a dirge commonly sung by the Acholi, Lang’o and Iteso

Behold an Iteso warrior fights alone  
The bull dies alone,  
O men of the lineage of Ateker,  
What has the son of my mother done to you?

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<sup>207</sup> John Omuse, interview with the author, Chebukui Village, 86yrs, 28/12/2014..

<sup>208</sup> Ivan Karp, *Fields of Change among the Iteso of Kenya*, London: Routledge, 1978, p. 54.

<sup>209</sup> Ibid, p. 60.

<sup>210</sup> Bramuel Otwane, interview with the author, Ngachi Sub-Location, Cheptais, 03/06/2017.

<sup>211</sup> Joanna de Berry, “Life after Loss: An Anthropological Study of Post-War Recovery, Teso, East Uganda, with Special Reference to Young People,” Thesis Submitted for Degree of Doctor of Philosophy, Department of Political Science, University of London, July 1999, pp. 108-120.

That he should be deserted  
Behold the warrior fights single-handed

My brother is armed with bows and barbed-headed arrows  
He fights alone, not a single helper beside him  
My brother fights alone,  
He struggles with death.<sup>212</sup>

Based on this dirge, it is evident that even in death an Iteso warrior continues to fight. Additionally, during the interment of a war, the warrior would be buried with objects of war to protect them enemies that they may come across while in the grave and on the journey to the ancestral world. In their narratives, the Iteso speak of their decision to go to war as being influenced by frustration, anger at the loss of land, cattle and the need to maintain their freedom. They talk of war in relation to a threat to a deeply important aspect of their sense of identity and way of life including loss of life and cattle. These losses are threats to young men and the wider community and thus significantly resonates with the community. For example, the loss of wealth in terms of cattle had profound material, psychological and ideological consequences.<sup>213</sup> The loss of land and cattle was seen as taking young men's ability to marry and therefore they had to wage war as noted by John Omuse, an interviewee who participated in this research,

Our people went to war to protect our land and cattle. If you took our cattle, can you imagine that? You wake-up one day all cattle are gone. What did we think every day when looking after those cattle? Those cattle we could use to get wives and children. If cattle are taken, it is no use sitting doing nothing. We go to war and fight.<sup>214</sup>

According to Omuse, emotions of loss among the Iteso fuelled participation in war. He further stated that, "we fought in war because our interests were at stake and we would go to war again

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<sup>212</sup> Okot p'Bitek, "The concept of Death among the Acholi and Lango," *The Uganda Journal*, vol. XXVII, no. 1 1963, p. 20.

<sup>213</sup> Joanna de Berry, "Life after Loss: An Anthropological Study of Post-War Recovery, Teso, East Uganda, with Special Reference to Young People", Ph. D Thesis Submitted London School of Economics and Political Science, University of London, July 1999, pp. 63-66.

<sup>214</sup> John Omuse, interview with the author, Chebukui Village, 86yrs, 28/12/2014.

for the very same reason.<sup>215</sup> War meant any fight with enemies to safeguard the interests of the community, which could not be compromised. As a community with a name rooted in war and death, the narrations of war to the Iteso are strongly linked to their historical engagement in armed conflict based on the nature of political alignment and inter-ethnic politics of the Iteso and their neighbours. The discussions in this section reveal that the Sabaot, Bukusu and Iteso communities have a particular way of defining and conceptualizing war. It is evident that in their definition of war, the concept of struggle over values and claims for supremacy and status as well as competition over resources or bargaining for the same are paramount.

#### **4.4 Conclusion**

Based on the foregoing discussion, the term “war” can be said to denote events that entail organised, open-ended and collective violence with these events being an organised violent clash of interests between antagonistic groups, which might have traditionally established themselves as nation-states or non-state groups.<sup>216</sup> It is evident that in war, there is a strong sense of organisation regardless of the size of the group. For instance, terrorist attacks may be deemed as acts of war because of the concept of organisation. Additionally, war does not require combatants to be identifiable by dress or declarations of war.

In defining war in this chapter I purposed to encompass the commonalities of war from both Eurocentric and Afrocentric perspectives. The central theme evident in both perspectives is that current wars reflect historic wars and are based on collective organisation. A review of existing literature on war in western history and the oral narratives of the communities of Mount Elgon on war draws parallels of how war is seen as a state of an organised and open-ended collective conflict, which is distinguishable from other forms of human violence. This perspective informed my definition and contextual understanding of war and as such, this discourse contextualises war as a fluid phenomenon, whose meaning varies depending on the environment of the user of the term war. In our case, the context enabled us to expand the meaning in order to bring more understanding based on a schematic construct, which was taken as relevant in defining war especially in the context of the communities of Mount Elgon.

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<sup>215</sup> Ibid.

<sup>216</sup> US. Marine Corps, *War fighting*, Washington, D.C., department of the Navy, 1997, p.3.

This construct enabled me to proffer a pragmatic meaning of war, which denotes different things to different people. For instance, the meaning of war to children may possess simplistic notions of violence involving soldiers fighting in a chaotic confusion. However, the adolescents understanding of war may be widened to incorporate the destruction of property, loss of life and misery caused by physical violence. In a similar way Eurocentric scholars may define war in relation to the state, based on the European state set-up, which might be very different to the African societal set-up. The incorporation of the state in the meaning of war might not apply fully to the African scenario because, a state as conceived under the Westphalian or Weberian model is a new phenomenon introduced to Africa following western incursion and subsequent colonial rule. This model suggested that the state was the sole actor in war with the said state exercising dominion over the community and possessing the monopoly of violence given to it by the perceived legitimate authority to declare war. This conflicting conception of war forced me to adopt the context approach in order to broaden the definition of war and incorporate other aspects, which are not identifiable under the Westphalian state.

For instance, in defining war, ancient Romans emphasised politics and its legality of war by stating that it involved two sides at least in a duel of mastery. This definition still influences our view today, but it is important to note that war was not necessarily confined to politics but was also deeply rooted in cultures and other institutions that lie far removed from law and politics. What is therefore needed is a definition that acknowledges not only the political side of war, but also the cultural, biological and other aspects of human society and nature. The debate on war has shown that not all wars involved states or politics. Some of the wars fought by humans over time were primal reactions to social or environmental factors while others were perceived as forms of inter-societal rituals. For example an analysis of the works of Kant, Clausewitz, Marx, Engels and Tolstoy and Walter Bryce Gallie, reveal that they perceived war as being not only logical but a physical, brutal and bloody affair.<sup>217</sup> In my argument, I demonstrate that war is a form of organised violence involving large groups of people resulting from a plurality of origins in man's nature and is also influenced by cultural socialisation and man's inherent instinct for aggression. This perspective is informed by the analysis of the views of war held by the different

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<sup>217</sup> Walter Bryce Gallie, *Philosophers of Peace and War: Kant Clausewitz, Mar Engles and Totstoy*, Cambridge: Cambridge University Press, 1978, pp.66-99.

communities of Mount Elgon (Sabaot, Bukusu and Iteso) as inferred from their folk lore as well first person interviews, which were then juxtaposed against the perceptions of war proffered by western scholars. The comparison demonstrates some parallels including the idea that war inherently involved all aspects of human activity. Additionally, it is evident that from both perspectives was is an open ended condition of organised violence that may involve states but not necessarily, with the definition of state varying depending on the society.

## CHAPTER FIVE

### THE MOUNTAIN OF WAR: CHANGING PATTERNS OF MOUNT ELGON WARS

#### 5.1 Introduction

This chapter traces the earlier wars fought between the communities of Mount Elgon and subsequently juxtaposes these against later day wars with view to understanding the extent to which their causalities were similar or different. While discussing the idea of recurrence of war scholars such as Paul Collier and Nicholas Sambanis argue that persistent wars create a conflict trap whereby people repeatedly fight.<sup>218</sup> Consequently, societies that have experienced one war are prone to recurrent wars. However, why do wars recur? Are the reasons for their emergence and recurrence the same? What does the existing discourse on the recurrence of wars suggest?

This chapter seeks to answer these questions by analysing the wars of Mount Elgon and exploring whether there are any linkages between past conflicts and the current ones. It acknowledges that for a better understanding of current wars it is necessary to investigate the earlier ones and determine any linkages between the wars. The central question guiding the discussions in this chapter is can the historical understanding of the earlier wars in Mount Elgon inform the understanding and genesis of the later wars experienced in the region? This chapter therefore seeks to analyse the distinct historical and complex character of wars in Mount Elgon and whether the prior wars influenced recent wars.

#### 5.2 Motivation for the Recurrence of the Wars in Mount Elgon

The recent wars in Mount Elgon provide a critical opportunity to evaluate the post-colonial experience in relation to the earlier wars fought in the region. Given the end of the coercive nature of British colonial system in Kenya, which was divisive, one would expect that the transitions to independence would signal peaceful coexistence and social cohesion within the society. However, this was not the case for most states including Kenya. Since independence, a central experience for the communities of Mount Elgon has been large-scale armed confrontations with the recent SLDF-led conflict demonstrating a proclivity to war. I attempt to

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<sup>218</sup> Paul Collier and Nicholas Sambanis, "Understanding Civil War: A New Agenda," *Journal of Conflict Resolution* 46(1), 2002, pp. 3-12.



evaluate critically the endemic wars by undertaking a critical analysis of the major longitudinal trends of warfare in Mount Elgon so as to unravel the underlying causes, drivers and enablers of the persistent wars in the region, which are not well covered by existing literature.

A number of perspectives have been proffered by scholars of African history on the causes of the persistent wars in the continent, however, the arguments put forth are superficial and do not focus on specificities of the conflicts. For example, William Reno who undertook an analysis of the history of armed conflict in Africa in the period since independence, which occurred in the 1960s for most countries, attributes the wars to the shifts from anti-colonial, to Marxist-Leninist, to reformist and to warlordism ideologies.<sup>219</sup> Reno's argument is countered by Straus who avers that the recurrence of wars can be mainly attributed to the weak nature of political authority in most African states most of which have no control over peripheral territories.<sup>220</sup> While both arguments have a basis, they do not expound on the longevity of the wars even in cases where a specific political ideology has taken root and become dominant or in case where the state has extended its authority to peripheral areas. Consequently, there is a missing link in terms of the drivers of the recurrent wars and their longevity and as such, these aspects merit further and profound research other than theoretical attention that they are generally accorded in the existing literature on political violence.

My analysis of the recurrent wars in Mt. Elgon, I endeavour to determine whether deprivation informed the frustration and aggression were key drivers of the wars. Albeit there is no other element that has shaped the history of Mount Elgon more than the wars to secure and control resources, there is limited understanding of how earlier political, social and economic power around resources, shaped interests of the different communities and whether they later shaped wars that wreaked havoc, causing thousands of deaths and informed political changes in the region. These issues as well as the persistence of these wars are the focus of this chapter. Additionally, the chapter analyses the types of wars experienced previously and whether the

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<sup>219</sup> William Reno, *Warfare in Independent Africa (New Approaches to African History)*, Cambridge: Cambridge University Press, 2011, pp. 242-256.

<sup>220</sup> Scott Straus, "Wars Do End: Changing Patterns of Political Violence in Sub-Saharan Africa," *African Affairs*, 111/443, 1 March 2012, pp. 179–201. <https://watermark.silverchair.com/ad>, accessed on 2/6/2019

recent wars a continuation of earlier ones and the motivation for the various actors to engage in these wars.

This perspective is aptly captured by Pearl Buck, who states that “if you want to understand today, you have to search yesterday.”<sup>221</sup> The words of Pearl Buck are particularly pertinent to the discourse around recurrent wars and he avers that empirical data clearly demonstrate the ubiquitous tendency of former foes to repeat engagements. Buck’s viewpoint is shared and supported by other scholars including Susan Graseck who avows that to understand the present wars we must explore the past because in the past we find the issues that shape modern wars in society.<sup>222</sup> Graseck’s outlook is echoed by Michael Berdine, who quotes the words of Carl Sagan and states that you have to know the past in order to understand the present.<sup>223</sup> On his part, Ronald Standler argues that history shows how individuals and nations encountered problems that caused wars and if these problems are not resolved they are bound to repeat in the form of contemporary wars.<sup>224</sup> These scholars believe that, conflict events are linked and to better understand current wars we have to investigate the earlier ones.<sup>225</sup> This retrospective analysis applies not only to large scale wars but also localised conflicts such as the ones of Mt. Elgon. This chapter seeks to analyse the distinct historical and complex character of wars in Mount Elgon and is largely informed by Abdalla Bujra’s postulation on wars in Africa. Abdalla Bujra analysed several factors that have significant bearing on conflicts and wars in the context of Africa including the evolution of traditional military systems and wars.<sup>226</sup> Additionally, Bujra explores a broad spectrum of wars in Africa showing how they were experienced thus grounding his findings on war in the African context.

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<sup>221</sup> Pearl S. Buck, BrainyQuote.com. Retrieved September 19, 2016, from BrainyQuote.com Website: <http://www.brainyquote.com/quotes/p/pearlsbuc383096.html>

<sup>222</sup> Susan Graseck, “Explore the Past to Understand the Present and Shape the Future,” in *Social Studies*, 72 (7) 2008, pp. 367-370.

<sup>223</sup> Michael Berdine, “The Importance of History,” CMC, Papers No. 7. [www.cambridgemuslimcollege.org](http://www.cambridgemuslimcollege.org), accessed on 03/02/2017

<sup>224</sup> Ronald Standler, “What is History and Why is History Important?” 18 Feb. 2013, p. 2. [www.rbs0.com/wh.phf](http://www.rbs0.com/wh.phf), accessed on 03/02/2017

<sup>225</sup> Paul D. Stephen and Senese Quackenbush, ‘Sowing the Seeds of Conflict: The Effect of Dispute Settlements on Durations of Peace’, in the *Journal of Politics*, Vol. 65, No. 3, August 2003, pp. 696-717.

<sup>226</sup> Abdalla Bujra, “Africa Conflicts: Their Causes and Their Political and Social Environment”, Addis Ababa: Development Policy Management Forum (DPMF) 2002. <http://www.dpmf.org>

Bujra discussion on the types of wars in Africa are based on the theories of Collier and Binswanger.<sup>227</sup> Borrowing from Collier, Bujra analysed why wars recur and concluded that it is mainly due to loot-seekers and justice seekers.<sup>228</sup> Loot-seeking involved systematic theft of communal or state resources by actors in a war through smuggling and siphoning, with the actions benefiting specific players. Historically, wars emerged between communities because of loot-seekers who instigated wars and capitalised on the confusion to siphon available resources. Those who lost their resources become victims and also fight in wars to reclaim what they had lost or to correct the damage done earlier, thus giving birth to just-seeking wars. Communities or nations went to war because they saw their members being dehumanised by loot-seekers who siphon community resources and consequently exposing the communities to the hostile effects of poverty. Such wars are difficult to end unless the causes are corrected, failure to which the wars will recur as the aggrieved communities will opt for war, which most members may see as the only option for protecting what belongs to them. They see war as worth the ultimate sacrifice and are ready to engage in it throughout their life.

According to Bujra the two types of wars (loot-seeking and justice-seeking) can occur at different levels of society and can be intra or inter. For example, at inter level wars can occur between states or communities fighting over boundaries resulting from colonial scramble, which resulted in imprecise boundaries some of which are straddled by a large ethnic group and sometimes have economically viable resources as compared to others.<sup>229</sup> The second type, which is of interest to the Mount Elgon case study, is internal wars. Although these wars became more common after the Cold War, Bujra observes that they were also witnessed during the pre-colonial period. These wars were resource-based, with communities fighting over grazing land, livestock, water sources and cultivatable land. Bujra argues that while these wars took place in different historical epochs they are the same wars, which keeps on recurring.<sup>230</sup> Informed by Bujra's framework, this chapter posits that motivation to engage in wars and the recurrence of wars can be categorised into the three main historical eras of Kenya. During the pre-colonial

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<sup>227</sup> Paul Collier and Hans Binswanger, "Ethnic Loyalties, State Formation and Conflict" A background paper prepared for Africa in the 21st Century Project, Washington DC: 1999.

<sup>228</sup> Abdalla Bujra, "Africa Conflicts: Their Causes and Their Political and Social Environment", Ibid.

<sup>229</sup> Abdalla Bujra, *African Conflicts: Their Causes and Their Political and Social Environment*, Addis Ababa Development Policy Management (DPME) 2002, pp.1-23.

<sup>230</sup> Ibid.

period as will be discussed in this chapter, the question of land, control of hunting areas and ownership of other resources features in the different wars.

Bujras' formulation of war resonates with Ifeonu Eberechi,<sup>231</sup> Muhabe Mekonnen<sup>232</sup> and Patrick Kuhn<sup>233</sup> views on wars in Africa. The three argue that Africa has a long history of war informed by poverty, failed political institutions and economic dependence on natural resources, factors which make wars to recur frequently. Eberechi apportions some blame on the colonial component, which created a socio-political and economic mess, by transforming relatively homogeneous societies to ethnically plural states. These states remained problematic as incompatible groups were compelled to live together as a political unit.<sup>234</sup> They therefore continued with their incompatible characteristics, which inform the recurrence of conflicts. In his article, Kuhn blames intra-group economic inequality as being responsible to recurrence of wars in most African regions.

Clearly, many factors have played a role in the various wars experienced in Africa, either as motivational or in terms of shaping the course of war. Ethnicity, socio, political, psychological and political alignments are some of the factors emphasised as motivating and propagating conflict and wars in the continent and the same factors have been used in an attempt to explain the wars in Mount Elgon. However, economic accounts have not been grounded in systematic empirical studies of the determinants of participation and the recurrence of wars in the region. Why did the communities in Mt. Elgon take enormous risks to participate in wars frequently? What motivated them to fight? Scholars such as Karen Ballentine and Heiko Nitzsctike in their analysis of the political economy of civil wars and conflict transformation argue that wars are sustained by alternative sources of revenue, which include lucrative natural resources.<sup>235</sup> Yet despite the evidence that economies play a central role in war, there is still minimal individual-

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<sup>231</sup> Ifeonu Eberechi, "Armed Conflicts in Africa and Western Complicity: A Disincentive for African Unions Cooperation with the ICC," in *African Journal of Legal Studies*, S. Africa, J. Leg. Stud., 2009, pp.53-76.

<sup>232</sup> Muhabe Mekonnen Mengistu, "The Root Causes of Conflict in the Horn of Africa," in *American Journal of Psychology*, Volume 4, Issue 2, March 2015, pp. 28-32.

<sup>233</sup> Patrick Kuhn and Nils Weidmann, "Unequal We Fight: Between- and Within-Group Inequality and Ethnic Civil War," Published online by Cambridge University Press, 10 April, 2015. <https://doi.org/10.1017/psrm.2015.7>

<sup>234</sup> Ifeonu Ebereci, "Armed Conflicts in Africa and Western Complicity: A Disincentive for African Unions Cooperation with the ICC," in *African Journal of Legal Studies*, S. Africa, J. Leg. Stud., 2009, pp. 53-76.

<sup>235</sup> Karen Ballentine and Heiko Nitzsctike .The Political Economy of Civil War and Conflict Transformation, 2005. <http://www.borghof-handbook.net.accessed>, on 19/01/2017.

level empirical investigation into the different motives that drove Mount Elgon residents to consider engaging in wars and risking the recurrence of those wars.

As noted by Bujra and based on the evidence gathered from the field research, political, economic and social factors have played a central role in the warfare in Mount Elgon regardless of the period and these factors ensured the recurrence of war in the region as inferred from researches done in countries such as Sudan, Angola, Sierra Leone, Cambodia, Nicaragua, Uganda and many others where wars occurred and reoccurred, the motivational factors have always been political, social and economic functions. Supporting the notion that economic factors play a crucial role, David Keen analysed the economic functions of war by expounding on Carl Von Clausewitz's dictum from an economic perspective based on which he observed that war is a continuation of economics by other means.<sup>236</sup>

The argument put forth by Keen is reflective of wars in the African context, where the desire to acquire more land, control of hunting areas and sole ownership of resources are the causes and drivers of wars and their recurrence in many African societies. The desire for more land and control of natural resources perpetuated by greed (loot-seeking) may justify recurrence of wars. As such, it is obvious that greed can be a basis for societies to rationalise and engage in war and this can occur when some communities are driven by greed to appropriate more resources and the other communities are forced to defend themselves from the greed of their neighbours. This notion is aligned with mainstream economics as per Parkin's argument, where he avers that's rationality simply means that people behave in ways consistent with their preference.<sup>237</sup> In terms of conflict, wars remain a preference for people as long as it can make them achieve upward mobility in terms of improving their lives. However, as communities engage in wars to achieve their preference in terms of economy, additional problems including the "the question of grievance" arise. Hypothetically, if all the communities were equal, it might be of insignificant difference who makes decisions in an economy, but since this is not the reality it is logical that there communities that are disadvantaged, perceived or real, in any given economy.

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<sup>236</sup> David Keen, "The Economic Functions of Violence in Civil War," (Special Issue) in *The Adelphi Papers*, 38 (320) pp.1-89, ISSN 0567-9, 1998. <http://www.tendfonline.com/toc/tad/20/current>, accessed 30/01/2017

<sup>237</sup> David Parkin, John Appleby and Alan Maynard, "Economics: The Biggest Fraud ever Perpetuated on the World?" in *The Lancet* 382, (9900) 2013, pp.11-15.

Consequently, this explains the origin of mistrust that leads to frequent wars because the incentives to seek the best outcomes are more often than not inclined towards war.

Mistrust and perceived greediness among communities result in persistent fear. The fear that the other community is out to grab their land and other natural resources motivates wars and their recurrence. Psychological evidence proves that people who live distrusting of others live in constant fear, and may be more likely to go to war than to negotiate or seek conciliation with enemies.<sup>238</sup> In such a scenario, warfare becomes an adaptive method for some people to get those resources that are in the control of others. The above thinking can best be explained through Paul Collier and Hoeffler's greed or grievance dichotomy,<sup>239</sup> in which they aver that economic motivations and opportunities are highly correlated with the onset and recurrence of wars in any region. Resource wealth as seen by Collier and Hoeffler makes war feasibly motivated by gains. However, the greed and grievance must be shaped by the politics of who benefitted from the wars fought since pre-colonial period as will be discussed latter in the chapter on profiteers and losers in war.

The history of Mount Elgon region is replete with land conflicts as the region has been and continues to be highly susceptible to intra and inter-ethnic land related wars and conflicts. The persistence of land grievances and the inability of the state to meaningfully address these grievances to the satisfaction of all the parties involved has made the wars recurrent and as a result, the region is one of the worst conflict-affected and unstable zones in Western Kenya. Interacting with residents of Mount Elgon one can easily infer that the major confluence among the inhabitants of the region is conflict and wars. Since the migration and settlement of the different ethnic groups as discussed in previous chapters, land contestation has been consistent and a series of wars have been fought to assert each groups claims, with key wars including the Sabaot-Bu2kusu wars, Bukusu-Iteso wars and Soy/Bok-Mosop/Ndorobo intra-clan wars led by SLDF, MLDF and other militia groups as detailed in chapter six.

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<sup>238</sup> Carol Ember and Melvin Ember, "Resource Unpredictability, Mistrust, and War," in *Journal of Conflict Resolution*, Vol. 36 No. 2, June 1992, p. 245.

<sup>239</sup> Paul Collier and A. Hoeffler Greed and Grievance in civil wars, (Policy Research Paper No. 2355) Washington D.C: The World Bank, 2000.

As has been discussed in previous chapters, the regularity and recurrence of armed conflicts in Mount Elgon has become one of the distinct characteristics of the region. However, it is apt to note that the region does not have the monopoly of armed conflicts in Kenya as other regions of the country are also riddled with land related armed conflicts. For instance, the Rift Valley, Nyanza, Coast and North Eastern are also prone to land conflicts pitting ethnic and clans against each other with claims and counter-claims and the perception of some ethnic groups or clans as “others”, foreigners who have no right to claim the lands under contestation. Given the continued contestations and pursuit of land rights and ownership by the different people, nations and groups pursue, disagreements, disputes and armed conflict will continue to recur and will be inescapable as long as the government does not redress actual and perceived grievances. The root causes of the wars in Mount Elgon can be directly linked to disputes arising from land ownership and a multiplicity of other factors such as district borders created by the British colonial regime, which combined heterogeneous ethnic groups under one administration. The other reason for recurrence of wars in the region is inept political leadership and corruption in managing land distribution, issues that are expounded on in various chapters of this dissertation. Having discussed scholarly views on recurrence of war, the next section grapples with various wars that occurred in Mount Elgon.

### **5.3 The Bukusu and Iteso (*Bamia*) Wars**

The Bukusu migration to and settlement in their current home, Mount Elgon region, in the 17<sup>th</sup> century placed them on persistent war track with their Iteso (*Bamia*) neighbours. The earliest war between the two communities ever recorded and remembered orally was around 1830s-1840.<sup>240</sup> The period that would follow witnessed frequent wars over land and livestock resources as clearly expounded by Gideon Were who argues that wars between the Bukusu and Iteso were as a result of quarrels over land, cattle raids and desire to demonstrate military prowess on each other.<sup>241</sup> While giving an account of the war of 1848, Robert Wesonga describes how the Iteso war party led by Wamurwe Lipopo and Opata attacked the Bukusu and dislodged them from

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<sup>240</sup> John Middleton and Amal Rassam, “Iteso,” in *Encyclopedia of World Cultures: Africa and the Middle East*, Boston: G.K. Hall and Company, 1995, p. 127.

[halleinstitute.emory.edu/karp/articles/iteso\\_kenya/1995\\_iteso\\_encyclopedia\\_of\\_world\\_cultures.pdf](http://halleinstitute.emory.edu/karp/articles/iteso_kenya/1995_iteso_encyclopedia_of_world_cultures.pdf), accessed on 8/2/2017

<sup>241</sup> Gideon Were, *A History of the Abaluyia of Western Kenya C 1500-1930*, Nairobi: East African Publishing House, 1967, p. 54.

areas around Tororo, Malaba, Amukura, Mwalie and Malakisi.<sup>242</sup> This was the period when the Kikwameti, Kinyikewi and Kanaanachi age-sets dominated the warrior class among the Bukusu. The war came as a surprise to the Bukusu who were not prepared and therefore their warriors could not counter the attack by the Iteso. As a consequence, many Bukusu were killed as the Iteso burnt down their villages forcing the Bukusu to flee to the territories of other Luhya sub-tribes including the Bunyala, Marachi, Bugisu, Kabras and Tachoni where they became fugitives.<sup>243</sup>

The defeat of the Bukusu had devastating consequences, including the internment and relocation of many of them to Bunyala and Marachi in modern-day Busia. Others sought refuge in Kabras, modern day Kakamega, while others were pushed into Bugisu land in Uganda.<sup>244</sup> The oral narratives of the Bukusu speak about the period after this defeat as one of exile and as the worst in their history.<sup>245</sup> Those who went to Bunyala recall their suffering in the hands of their host who abducted their women and children.<sup>246</sup> This enslavement adversely affected the economy of the Bukusu as women and children were the main labour force of the Bukusu agriculture-based economy. While the Bukusu suffered under the hands of their fellow tribesmen where they had sought refuge, the narratives denote that they place the blame of their negative experiences on the Iteso as they were the reason for the war that pushed the Bukusu into exile, a grudge that the Bukusu still hold against the Iteso to date.

Whereas those who went to live among the Banyala recall the period as one of their worst experiences, those who went to live among the Marachi have a different perspective and remember a life of care, peace and respect accorded by their hosts. This experience of the Bukusu among the Marachi left huge a positive and lasting impact on the Bukusu-Marachi relationship,<sup>247</sup> and since then, the Bukusu refer to the Marachi as uncles. In the Bukusu extended family system, an uncle is a very important and respected person. The Marachi are therefore respected by the Bukusu to date, hence the saying, “*Ebumaraki ebukhocha khukhesia*

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<sup>242</sup> Robert Wesonga, “The Pre-colonial Military Organization of the Bukusu”, in Wandibba Simiyu, (ed) History and Culture in Western Kenya, Nairobi: G. S. Were Press, 1982, p. 11.

<sup>243</sup> KNA/DC/EN/3/2/4. Political Records: Ethnology.

<sup>244</sup> Ibid.

<sup>245</sup> Mzee Yonah Namuli, interview with the author, Sanandiki Chwele, 24/12/2014.

<sup>246</sup> Eugene Manana, interview with the author, Nalubito, Bokoli, Webuye District, 31/12/2014.

<sup>247</sup> Mzee Wilson Namtembi, interview with the author, Nzoia Location, Lugari, 26/12/2014.



*Kimilembe*,” translated as; “Marachi are our uncles and we will always salute them in respect and peace.” It is the norm for Bukusu children to extend respect to the Marachi people regardless of whether they are kin or not.<sup>248</sup>

The Bukusu did not stay in exile for long, after a while they reorganised their military and reconquered their territory. After 1840, the Bukusu resettled back to their land, Mukite and Bukusu warriors then planned to wage a revenge war against the Iteso,<sup>249</sup> with their Bagisu cousins joining them in the revenge attack. Together they attacked the Iteso villages around Malakisi, where the warriors raided and burned down the village of Obilimurwe, killed and seized many cattle. In this war, the Iteso were driven away from regions of Kibachenja and Mutulumba where the Bukusu built forts and still occupy the territories to date. The battles at Mutulumba and Kibachenja were one of the largest between the two ethnic nations. Despite losing the battles, the Iteso recovered from the war and loss and under the command of Opata, they schemed to wage a revenge war against the Bukusu. Opata was a great Iteso war leader who had initiated several wars against the Bukusu people and their neighbours. He was an extremely proud leader who constantly insulted the Bukusu and threatened to drive them away again as they had earlier done in the previous wars and to live up to his threats and win against the Bukusu, he is known to have rigorously prepared his warriors and planned well in advance of attacking. However, in the counter-attack Opata was planning, the Bukusu had prior intelligence from its *Bayoti* (intelligence gatherers) and as such, were able to mobilise and plan for defensive attack. Frightened by the experience of earlier wars, the Bukusu prepared to deal with the impending attack.<sup>250</sup> As part of the preparation to defend their land, the Bukusu sent word to their cousins the Bagisu, who inhabit modern day Uganda calling upon them to assist in thwart the imminent attack planned by the Iteso.

Between 1841 and 1868 the Bagisu allied with the Bukusu to prepare to defend their people from the aggression of the Iteso. The intelligence gathered indicated that the Iteso were known for waging daytime war because, they did not have shields (*batechela moni* – those who defended themselves by their bare eyes) so the Bukusu and Bagisu considered these factors in the

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<sup>248</sup> Wasike Sahani, Mayanja, interview with the author, Bungoma, 31/12/2014.

<sup>249</sup> KNA/ DC/EN/3/2/4. Political Records: Ethnology.

<sup>250</sup> Ibid.

preparation of the Iteso attacks.<sup>251</sup> The Bagisu war committee introduced weaponry, which entailed poisoned arrows, which worked to their advantage. In the war that ensued many of the Iteso warriors died of arrow-wounds, with the Bukusu poisoned arrows causing fatalities even when they only scratched the opponents.<sup>252</sup> As the Bukusu and Bagisu warriors pursued the Iteso fighters, they razed down enemy villages at night. According to the oral accounts of the Iteso, it was the most tragic war with the Bukusu. The joint efforts of the Bukusu and Bagisu drove the Iteso away back to their country beyond Malakisi region, which became the boundary between the two communities.<sup>253</sup> Following this war, the Bukusu managed to recapture their land from the Iteso.<sup>254</sup>

This war was devastating to the Iteso and forced them to seek peace with the Bukusu. Oral narratives of the Iteso indicate that the then Iteso leader, Chief Kimaru, called the Iteso Council of Elders and told them, “Either we go back to Soroti or we make peace with the Bukusu.”<sup>255</sup> However, this peace gesture was rebuffed by one of the Bukusu leaders arguing that the Bukusu could not make peace with people who had evil intent to kill the Bukusu and yet they had not wronged them. The Bukusu vowed to drive them away,<sup>256</sup> a vow that is reiterated in a song composed by Bukusu warriors, which goes:

*Injamulole Nakhafu nasena*  
*Kameno keweinja mulole*  
*Mukibachenjainja mulole*

**Translation:**

Come and see Nakhafu cleaning his teeth  
Come and see. At Kibachenja come and see

In this song, the phrase on Nakhafu cleaning his teeth refers to Bukusu attacks on the Iteso, where the Bukusu see themselves as waging war in order to cleanse their land of the enemy and

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<sup>251</sup> Ibid.

<sup>252</sup> Mzee Yonah Namuli, interview with the author, Sanandiki Chwele, 24/12/2014.

<sup>253</sup> KNA/DC/EN/3/2/4. Political Records: Ethnology. Kenya National Archives.

<sup>254</sup> Ibid.

<sup>255</sup> Ibid.

<sup>256</sup> Ibid.

pushing away all the Iteso from Bukusu territories.<sup>257</sup> Despite the arrogance and reluctance of the Bukusu to consider the Iteso's peace offering, the Iteso did not give up hope of negotiating peace with the Bukusu and in 1848 the Iteso made efforts to establish truce with the Bukusu. They reasoned that they had married Bukusu girls and therefore, the Bukusu leaders should be considerate. The leader of the Iteso, Chief Kimaru, argued that he himself had married from the Bukusu, with his first wife, Namumbia, being the daughter of a prominent elder called Tototo of the *Babulo* clan, while his second wife, Nang'oni, was the daughter of Malemo, of the *Bakiyabi* clan. Following this second attempt, the Bukusu finally caved in and the Iteso and the Bukusu made peace. A huge ceremony known as "*khulia embwa*", meaning eating a dog, was held, which symbolised the end of hostilities between the two communities. They vowed never to fight again and true to this peace agreement, the two communities never engaged in war apart from some skirmishes, which were resolved by elders. Instead, an increase in intermarriages between the two groups ensued, symbolising the peace between the two groups.<sup>258</sup>

The wars between the Bukusu and Iteso demonstrate how each tribe was prepared and determined to protect their property and social, political, economic and cultural freedom from foreign domination. The wars occurred because there was a historical claim over the resources and each community was ready to pay the ultimate price to defend it. Additionally, the section examined the changing dynamics of ethnic tensions between the Bukusu and Iteso people. The two communities fought in different wars, which were driven by ethnic imperial nationalism, with each ethnic group craving to exert its authority over the other. This struggle for supremacy was also combined with competition over with each ethnic group desiring to acquire more land, to which end they were willing to use force. However, for the Bukusu the struggle to exert its dominance was not limited to the Iteso only rather it extended to other groups bordering them including the Sabaot, who bordered them on the eastern front, with whom the Bukusu fought.

#### **5.4 The Sabaot versus the Bukusu Wars**

This sub-section examines the tensions and wars between the Bukusu and Sabaot people of Mount Elgon and in so doing, will seek to trace the evolution of hostilities and wars between the

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<sup>257</sup> Mzee Wilson Namtembi, interview with the author, Nzoia Location, Lugari, 26/12/2014.

<sup>258</sup> Chief Okisegere, interview with the author, Kaburwet, 29/12/2014.

two communities chronologically over time and highlight the roles played by different actors. In Vincent Simiyu's research on the emergence of the Bukusu nation, Simiyu avers that Bukusu and Sabaot interactions can be traced back to the 15<sup>th</sup> century.<sup>259</sup> He further notes that oral history of the Bukusu indicates that in the various encounters and interactions with other nations, the Bukusu developed relations with the Kalenjin-speaking people who lived on the slopes of the Mount Elgon specifically the Kony (el kony), the Bongomek (Bang'oma) and the Soy/Bok (Balaku) who are part of the modern day Sabaot. Historically, the Bukusu-Sabaot relationships has been marked by periods of harmony and war as supported by the oral narratives of the Sirikwa, which indicate that the communities lived in peace but the situation changed when the Sabaot started admiring Bukusu livestock and wealth in general. According to Simiyu the Sabaot intensified raids against the Bukusu targeting the livestock and crops yields, which forced the Bukusu to modify their military techniques, including adopting new weaponry like spears and shields as well as building defensive forts to ward off the attacks of the Sabaot.<sup>260</sup> These developments enabled the Bukusu to engage in several wars with the Sabaot including the war known to the Bukusu as Kikai war and to the Sabaot as Kapkikai war. The Kikai/Kapkikai war started when the Bukusu invited the Sabaot, who were under the leadership of Soito, the Sabaot *kirwangindet* (chief), to make peace at Kikai at the home of Kukali, a respected Bukusu leader.<sup>261</sup>

The overtures for peace were accepted by the Sabaot and subsequently the two tribes, the Bukusu under the leadership of Kukali and the Sabaot under Soito, sealed a peace agreement with the performance of "*Khulia embwa*" "eating a dog" ritual, a traditional ceremony that entailed cutting a dog into two pieces to mark end of hostilities. During the ceremony, Kukali held the head and front legs of a dog while Soito held the hind legs and then the dog was cut into two symbolising end of hostilities between the communities.<sup>262</sup> Although the two communities differ in historical origins, the Sabaot and the Bukusu occupy a geo-political world characterised by shared socio-cultural practices and traditions, which are critical in situations where peace had

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<sup>259</sup> Vincent Simiyu, "The Emergence of a Sub-Nation: A History of Babukusu to 1900," in *Transafrican Journal of History*, Vol. 20, 1991, pp. 125-144. <https://www.jstor.org>, accessed on 01/06/2019

<sup>260</sup> Fred Makila, *An Outline History of the Babukusu*, Nairobi: Kenya Literature Review, 1978, p. 42.

<sup>261</sup> Pius Wanyonyi Kakai, "History of Inter- Ethnic Relations in Bungoma, Mt Elgon and Trans Nzoia District, 1875-1997", PhD Thesis, Faculty of Arts, Kenyatta University, 2000 pp.74.

<sup>262</sup> Patrick Ngaina Kisembe, interview with the author, Ngachi Sub-location, Cheptais, Mount Elgon, 03/06/2016.

been abused.<sup>263</sup> This was the reason why rituals such as “*eating a dog*” were performed to end hostilities. According to the folklore of the two communities’ war caused suffering, but the suffering could be transformed into a healing power particularly with the performance of rituals. Historically, many communities in Africa, including the communities of Mount Elgon, lived in a social world that held the belief that war was a traumatic act, which results in the violation of taboos such as the killing of human beings without metaphysical and/or social legitimisation. Killing was therefore an offence that required immediate redress through atonement rituals.<sup>264</sup> This is why practices such as the one of ‘eating a dog’ as practiced by the Bukusu and Sabaot were undertaken as symbolisms for ending hostilities and as an oath between the warring parties never to fight each other again. The ritual of *khulia embwa* (eating a dog) was used metaphorically to demonstrate the importance of the symbol in solving complex, deep-rooted conflicts between the Bukusu and their enemies. A viewpoint that is supported by Lisa Schirch, who asserts that rituals are used in Africa to engage people’s emotions and senses and capture their imagination and interest.

For the Bukusu, the use of a dog in the ritual is due to its position in human life. Dogs are animals that entered the human environment long ago and are seen as belonging to two worlds, on the one-hand they belong to the human world by virtue of having been domesticated and on the other hand are of the non-human world, as they are not human. Additionally, the ritual of *khulia embwa* occurs in a unique social space with the act of cutting the dog into two pieces evoking the people senses and emotions through the vivid and lethal imagery, which are more effective than relying primarily on words or rational thought. In this ritual, actors engaged in the conflict learn by doing and utilise nonverbal communication, which transforms their worldviews, identities, and relationships with others. This ritual is significant because of its ability to penetrate the seemingly impenetrable, overwhelm the defensive, and convey complex messages without saying a word and demonstrate the centrality of rituals in relationships and establishing a foundation for communicating. After the ritual of eating a dog, the two parties started feasting together to seal the peace agreement. In the process of celebrating, oral narratives allege that

Kukali and Soito disagreed, and the feasting ended tragically,<sup>265</sup> albeit it is not very clear what transpired to trigger conflict as each side has its version of the story.

The Sabaot argue that Soito's team had arrived late in the evening at Kikai and since it was very cold because it had rained, the Bukusu lit fires for the Sabaot party to dry and warm themselves. Additionally, since it was in the evening, Kukali's herd of cattle, which was sizeable, were returning to the homestead from grazing and as the cattle came in, one of Soito's warriors was shedding tears due to smoke, which had apparently affected his eyes,<sup>266</sup> an action that the Sabaot believe the Bukusu warriors misinterpreted to mean that the Sabaot warriors were shedding tears because they were envious of the large herd they had seen and that this was a sign that the Sabaot warriors would plan a raid to steal the cattle. Consequently, as narrated by the Sabaot in their folklore the Bukusu mobilised their warriors without considering the peace agreement the two parties had entered into and attacked the Sabaot party with the sole intent of killing Soito, his bodyguards and the entire peace party,<sup>267</sup> which they managed to do with the exception of four members of Soito's party who escaped and fled back to Sabaot country to convey the message of the Bukusu killing of their *Kirwogindet*.

On their part, the Bukusu have a different account of how the events unfolded. Based on their folklore, the Bukusu claim that their leaders, Kukali and Wandabwa, received Soito's party warmly without any ulterior motive in mind and even went as far as slaughtering a bull and preparing beer for their guests as evidence of their goodwill. However, it seems that despite the honour bestowed on them, Soito and his men overindulged and got drunk and thereafter began to scorn and abuse their Bukusu hosts, ridiculing Bukusu warriors as being weak and cowardly and that they could not dare fight the Sabaot.<sup>268</sup> The actions of the Sabaot party angered the Bukusu warriors who regarded the utterances as an insult and disrespectful not only to them but also to

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<sup>265</sup> Silas Kiplimo Naibei, interview with the author, Chepyuk, Cheptais, 04/06/2016.

<sup>266</sup> Bondet Arap Kisémbé, "The Role of the Worgondet and the Kirwogindet in the History of the Sabaot Peoples of Mount Elgon during the Late Nineteenth Century and Twentieth Century", A Dissertation Submitted in Partial Fulfilment of the Requirement of the Bachelor of education (BED) Degree of the University of Nairobi, March 1978.

<sup>267</sup> Bondet Arap Kisémbé, "The Role of the Worgondet and the Kirwogindet in the History of the Sabaot Peoples of Mount Elgon during the Late Nineteenth Century and Twentieth Century", A Dissertation Submitted in Partial Fulfilment of the Requirement of the Bachelor of education (BED) Degree of the University of Nairobi, March 1978.

<sup>268</sup> Patrick Ngaina Kisémbé, interview with the author, Ngachi Sub-location, Cheptais, Mount Elgon, 03/06/2016.

the entire Bukusu nation. Subsequently, the Bukusu warriors mobilised to teach the Sabaot party a lesson, an act that ended tragically when a Bukusu warrior, by the name Wakoli son of Waswa, snatched Soito's spear and impaled him to death. This sparked off a battle but the Sabaot party was too small to counter the Bukusu warriors, who had the advantage of being in their home base with adequate weaponry unlike the Sabaot who had come ill-prepared. The Sabaot were subsequently over-powered and killed except for two warriors who escaped to inform the Sabaot of Soito's death and the massacre of the Sabaot party.<sup>269</sup>

Another version of what transpired is proffered by Bondet Kitembe in his dissertation on the role of Worgondet of the Sabaot people, where he points out that, the Kikai war/Kapkikai war was triggered following the murder of the Sabaot *Kirwogindet*, Soito, after being invited by the Bukusu in the guise of making peace. Immediately, Soito and his party arrived at Kukalis' home at Kikai, Bukusu children, started shouting at him saying "*Kimiino*", a foul term in the Bukusu language that means protruding ugly teeth.<sup>270</sup> This verbal abuse maddened the Sabaot party who could not withstand the attack on the person of their *Kirwogindet*. They demanded that the Bukusu show respect but instead their party was killed. In Kitembe's view, the Sabaot blame the Bukusu for starting the war, which led to the deaths of many people and further contends that the Bukusu knew that they would never win a war against the Sabaot if the *kirwogindet* was still alive as the *kirwogindet* possessed magical powers, which he could have used to blind the Bukusu fighters and such, ensured the Sabaot leader was eliminated.<sup>271</sup> Kitembe's contention is plausible as based on the events that unfolded during the festivities to mark the peace deal, it can be inferred that, unknown to the Sabaot, the Bukusu had used the calls for peace talks as a ruse lure the Sabaot into their territory and lull them into a false sense of security, while all along they, the Bukusu, had no intention of the honouring the peace deal and only sought to entrap the Sabaot and exert revenge for the losses faced by the Bukusu in the previous raids by the Sabaot.<sup>272</sup> Additionally, on the side of the Sabaot, it can be surmised that the Sabaot in their

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<sup>269</sup> Ibid.

<sup>270</sup> Bondet Arap Kitembe, "The Role of the Worgondet and the Kirwogindet in the History of the Sabaot Peoples of Mount Elgon during the Late Nineteenth Century and Twentieth Century", A Dissertation Submitted in Partial Fulfilment of the Requirement of the Bachelor of education (BED) Degree of the University of Nairobi, March 1978.

<sup>271</sup> Ibid.

<sup>272</sup> Pius Wanyonyi Kakai, "History of Inter- Ethnic Relations in Bungoma, Mt Elgon and Trans Nzoia District, 1875-1997", PhD Thesis, Faculty of Arts, Kenyatta University, 2000 pp.74

arrogance deluded themselves into thinking they had subjugated their enemy, the Bukusu, to the extent that the latter would seek to establish a peace deal rather than continue warring with them. Consequently, the Sabaot blindly went to Bukusu territory without undertaking any due diligence on the real intentions of the Bukusu and were subsequently caught off guard when the Bukusu decided to attack in the middle of the festivities.

For the Sabaot, the death of Soito, their *kirwogindet*, could not go unavenged, especially given his prominence not only among the Sabaot but also among the Kamugony (Suk-Pokot) who always visited him, for advice as well as among the Sebei of Uganda. The two groups had and continue to have close affinities with the Sabaot. When the Kamugony (Pokot) learnt of the death of *Kirwogindet* Soito at the hands of the Bukusu, they were dismayed and swore to punish those responsible and subsequently they allied with the Sabaot to wage a revenge war against the Bukusu, which was fought at Kikai/Kipkikai.<sup>273</sup> During the revenge attack, the Sabaot and Pokot warriors burned down Bukusu villages, killing many Bukusu people including women and children, with the latter act incensing the Bukusu as it went against the Bukusu traditional warfare in which women and children were sacred and were never to be targeted in any war. The acts of the Sabaot and the Pokot implanted the seed of long term enmity, which the Bukusu still recall to date. Aside from burning down Bukusu villages and massacring the inhabitants, the Sabaot and the Pokot also looted property and livestock and took some Bukusu women as captives. The Sabaot and Pokot warriors were victorious in the Kikai/Kapkikai war because they found the Bukusu warriors unprepared and unaware. Consequently, the Bukusu incurred heavy losses because they were ill prepared.<sup>274</sup> The Sabaot attacks extended to other Bukusu forts specifically the fort of Musuya of the *Babuya* clan as well as the areas of Miendo, Bokoli, Kibochi, Chekulo and Kibanga where the fort of Katila stood.<sup>275</sup> The Sabaot attacks were well organised and extensive, resulting in high fatalities among the Bukusu including women and children, which convinced the Sabaot that they had totally destroyed the Bukusu military power.<sup>276</sup>

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<sup>273</sup> Ibid.

<sup>274</sup> KNA/DC/EN/3/2/4. Political Records: Ethnology. Kenya National Archives.

<sup>275</sup> Ibid.

<sup>276</sup> Patrick Ngaina Kisembe, interview with the author, Ngachi Sub-location, Cheptais, Mount Elgon, 03/06/2016.



Following these victories, the Sabaot planned more attacks but the Bukusu sought support from their kinsmen, who mobilised and valiantly fought the Sabaot in what is known as the Bukusu and Sabaot war of Wangusi.<sup>277</sup> It should be noted that the Bukusu had support from other Luhya sub-tribes extending to modern day Bungoma and Trans Nzoia as well as to some parts of Kakamega and as such, when the Bukusu sent out a distress call to these regions, it often came without delay as affirmed by Mzee Yakobo Kitonini who averred that military help came from as far as Tachoni country and other regions inhabited by their kinsmen.<sup>278</sup> Faced with the frequent attacks from the Sabaot, the Bukusu sought support from their kinsmen and reinforcements came from Sirare, Bokoli and Lurende under the command of Kisabuli and his brother Masibo while other reinforcement came from Wabuchune under the command of Ndolane and Totolela of the Bukusu.<sup>279</sup> The Tachoni from the fort of Munyiwana also quickly mobilised warriors to rescue the Bukusu from the Sabaot army.<sup>280</sup> The joint Bukusu and Tachoni armies ambushed the Sabaot invaders as they tried to cross the River Kuywa and fought them back to the Mount Elgon slopes killing many of them on the way.<sup>281</sup>

To demonstrate the magnitude of the war at Kuywa River, a story is told among the Bukusu, Tachoni and the Sabaot that so many died that bodies of Sabaot warriors filled the river and that the Bukusu and Tachoni warriors, used fallen Sabaot bodies as a bridge to cross the river.<sup>282</sup> This narrative appears exaggerated and told in a heroic ethnic narrative manner, yet it serves to show the severity of the battle. After vanquishing the Sabaot, the Bukusu and Tachoni warriors rounded up all the cattle that the Sabaot had raided and returned them as another party of warriors forced the enemy up the mountain. The age-sets which fought the war of Emutoto wa Wangusi in 1870s were from the Nyange, Maina, and Chuma age-group.<sup>283</sup> In their arrogance the Sabaot had not requested the support of the Pokot and had underestimated the capability of the Bukusu based on since they had overrun them previously during the Kikai/Kakikai war.

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<sup>277</sup> KNA/DC/EN/3/2/4. Political Records: Ethnology. Kenya National Archives.

<sup>278</sup> Mzee Yakobo Kitonini, interview with the author, Kikwechi, 31/12/2014.

<sup>279</sup> Ibid.

<sup>280</sup> Ibid.

<sup>281</sup> Laban Wafula Simiyu, interview with the author, Chepwak Sub-location, Chepkube Location, 03/06/2016.

<sup>282</sup> Ibid.

<sup>283</sup> KNA/DC/EN/3/2/4. Political Records: Ethnology. Kenya National Archives.

Ethnic wars around Mount Elgon have been a component of the region's politics with armed confrontation that characterising the relationships of the Sabaot and the Bukusu. The war of Wangusi was not the last the two communities fought as from 1890 to 1905 they engaged in another war at Ngachi/Chonge, current day Cheptais.<sup>284</sup> The Cheptais area was formerly occupied by the Bukusu before they were driven out by the Iteso to the neighbouring communities. When they returned they found the area, which belonged to the Bamuyonga clan of the Bukusu had been taken over by the Sabaot under Worgoondet Chonge. It was then that the Bukusu decided to wage war to reclaim their territory from the Sabaot, especially when sections of the Sabaot people started to target, harass and murder the Bukusu without provocation<sup>285</sup> as demonstrated by one incident where a group of Bukusu were ambushed by the Sabaot while on their way to visit their cousins in Bukisu in modern day Uganda. There were other instances where the Sabaot would cross from Ngachi/Cheptais area into Bukusu territory, undertook raids and murdered the Bukusu and then retreated back to their territory. Due to these frequent raids and ambushes the Sabaot acquired a lot of livestock from the Bukusu and the unprovoked raids and massacres infuriated the Bukusu who hoped to revenge the loss.<sup>286</sup><sup>287</sup>

Subsequently, the Bukusu planned to wage a war against the Sabaot at Ngachi, which came to be known as the war of Chonge, named after an influential Sabaot leader. Chonge was a Sabaot prophet and medicine man (*Worgoondet*) from the Mamarat clan who lived at Ngachi (Cheptais) towards the end of the 19<sup>th</sup> century.<sup>288</sup> The Sabaot in the area had become very wealthy with large herds of cattle most of which had been acquired from raiding the Bukusu. For the Bukusu, as it was with many other African cultures, vengeance was a community matter and if one member of the community was injured or killed, it was the absolute obligation of the entire community to exact revenge. The Bukusu viewed the murder of one of their own by the Sabaot as a stain upon their land, a pollution of an entire people and this pollution could only be cleaned by

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<sup>284</sup> Bondet Arap Kiseembe, "The Role of the Worgoondet and the Kirwogindet in the History of the Sabaot Peoples of Mount Elgon during the Late Nineteenth Century and Twentieth Century", A Dissertation Submitted in Partial Fulfilment of the Requirement of the Bachelor of Education (B. ED) Degree of the University of Nairobi, March, 1978, p. 60.

<sup>285</sup> Laban Wafula Simiyu, interview with the author, Chepwak Sub-location, Chepkube Location, 03/06/2016.

<sup>286</sup> Pius Wanyonyi Kakai, "History of Inter- Ethnic Relations in Bungoma, Mt. Elgon and Tran Nzoia District, 1875-1997,"PhD. Thesis, Faculty of Arts, Kenyatta University, 2000, pp.74-77.

<sup>287</sup> Patrick Ngaina Kiseembe, interview with the author, Ngachi Sub-location, Cheptais, Mount Elgon, 03/06/2016.

<sup>288</sup> KNA/DC/NN/3/1/1, North Kavirondo District, General description of District, Kenya National Archives.

compensation in terms of livestock or by fighting back and shedding the blood of the enemy blood. Furthermore, if revenge could not be adequately exacted in the present generation, then it was obligatorily passed on to the next and the generations to come. In essence, this explains why the Sabaot, Bukusu and Iteso have a long history of ethnic vendetta and blood feuds. Consequently, based on the Bukusu traditions and the refusal of the Sabaot people to materially compensate the Bukusu for the killings by the Ngachi Sabaot, the Bukusu organised a revenge attack. They mobilised and trained their warriors in readiness for the war. However, sensing danger, Chonge, who as earlier mentioned was a seer and medicine man, called the Sabaot warriors (*Murenik*) and informed them of the looming war from the east by the Bukusu. He advised them to prepare, because he foresaw destruction if they did not prepare well. He also gave them medicine (*Murenik Satanik*), which the warriors would fore-plant on the possible paths that the Bukusu warriors would use in their attack of the Sabaot.<sup>289</sup> This narrative is affirmed by Bondet Kisembe who notes that:

Before the Ngachi/Chonge war, Chonge of the *Kamarat* clan sent his *Barmondet* that he would like to talk to the elders. When the elders came, he covered himself with a skin (*Sumbet*) and slept. In his dream he told the people that there was impending danger from the East. He said that Ngachi was no longer and that he saw blood. He told the people to slaughter a cow, and examine the entrails of the animal's stomach for the odd sign. He then asked them to summon some Murenik who would receive his blessings and be given the Setanik (medicine) which they would fore-plant on the possible paths the enemy (Bukusu) would use. This was done so that instead of the enemy approaching Ngachi (present Cheptais) from the East, they changed the course at a place called Kumoror and approached Ngachi from the South.<sup>290</sup>

The medicine was meant to confuse and prevent the Bukusu warriors from approaching Ngachi (Cheptais) from the east, which would have put the Sabaot at a disadvantage as that would have meant that the Bukusu would descend from the mountainous terrain thus giving them a geographical advantage over the Sabaot. Chonge hoped that by fore-planting the medicine the Bukusu would be forced to attack from the lower side of the mountain, from Kumobor to the south of the mountain, therefore giving the Sabaot warriors a geographical advantage and

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<sup>289</sup> Pius Wanyonyi Kakai, "History of Inter- Ethnic Relations in Bungoma, Mt. Elgon and Trans Nzoia District , 1875- 1997, Ph.D. Thesis, Faculty of Arts , Kenyatta University, 2000, pp.74-77.

<sup>290</sup> Bondet Arap-Kisembe, "The Role of the Worgoondet and the Kirwogindet in the History of the Sabaot peoples of Mount Elgon during the late nineteenth century and Twentieth century", A Dissertation submitted in partial fulfilment of the requirement of the Bachelor of Education (B.ED) Degree of the University of Nairobi, March 1978, p. 58.

rendering the Bukusu warriors easy prey for the Sabaot. Chonge advised the Sabaot that if the Bukusu warriors avoided the east, route in the attack then the Sabaot would hold a tactical advantage over the enemy.<sup>291</sup> This was because the Sabaot understood how the terrain would affect enemy operations. This is why the medicine was important in confusing the Bukusu warriors.<sup>292</sup>

As the Sabaot prepared to deal with the impending war with the Bukusu, the later tried to seek guidance from their seers and prophets. Bukusu elders recall that Bukusu warriors had been forbidden by their prophets against attacking Chonge Fort. According to Pius Wanyonyi Kakai, the Bukusu prophets of the time, Mutonyi wa Nabukelembe, Wachie wa Naumbwa, Maina wa Nalukale, Mutiambu Kitwanganyi, Soita Kimukeyi and Situma Wachie, warned the Bukusu against waging war with the Sabaot.<sup>293</sup> However, the Bukusu warriors did not heed the advice and sought a second opinion from Manyi, a Bukusu seer, whom they threatened to kill if he did not advise them to attack the Chonge Fort. Fearing for his life, Manyi yielded to their pressure and gave them a go ahead. Subsequently, under the leadership of Mamai wa Wamamba, Ngubesi wa Mukwele, Machote wa Manana, Kiliswa wa Weng'ang'a, Kuyo wa Naliwa and Namusole Omuafu the Bukusu waged their revenge attack against the Sabaot. However, Chonge, the Sabaot seer, had foreseen the plans of the Bukusu and no sooner did the Bukusu commence their attack on Ngachi than Chonge triggered a heavy storm to act as a weapon to deter the Bukusu. Under the shadow of the storm, Sabaot warriors armed with spears and the medicine from Chonge managed to repulse the Bukusu.<sup>294</sup> A story is told that when the Bukusu attacked Ngachi, Chonge caused darkness and heavy downpour that confused them and in the confusion the Sabaot warriors came out and massacred many Bukusu warriors. Another story is also told by the Sabaot to their children that their warriors killed so many Bukusu warriors that their spears were aching from the effects of the operation in war.<sup>295</sup> These stories, which are passed on from one

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<sup>291</sup> Patrick Ngaina Kiseembe, interview with the author, Ngachi Sub-location, Cheptais, Mount Elgon, 03/06/2016.

<sup>292</sup> Ibid.

<sup>293</sup> Pius Wanyonyi Kakai, "History of Inter- Ethnic Relations in Bungoma, Mt. Elgon and Trans Nzoia District , 1875- 1997, Ph.D. Thesis, Faculty of Arts , Kenyatta University, 2000, pp.74-77.

<sup>294</sup> Patrick Ngaina Kiseembe, interview with the author, Ngachi Sub-location, Cheptais, Mount Elgon, 03/06/2016.

<sup>295</sup> Bondet Arap-Kiseembe, "The Role of the Worgoondet and the Kirwogindet in the History of the Sabaot peoples of Mount Elgon during the late nineteenth century and Twentieth century", A Dissertation submitted in partial fulfilment of the requirement of the Bachelor of Education (B.ED) Degree of the University of Nairobi, March 1978.

generation to another, are intended to keep the histories of both communities alive in the memory of younger generations and sow the seeds of the need to revenge, thus perpetuating the feud between the two communities.

The Ngachi war was catastrophic with oral narratives by both the Bukusu and Sabaot indicating that there was much blood which flowed and swelled rivers Khabukoya and Namubila. The notion of blood flowing and swelling the river is used as a metaphor whose hidden meaning is many people died as a result of the war. Bloodletting is intricately interwoven with the relationships between the Bukusu and Sabaot people of Mount Elgon, metaphorically, it involves the shedding of human blood. The metaphor “blood swelled the river” represents a terribly fractured past experience of war in the region. The Bukusu and Sabaot mythology makes a great use of blood metaphor and symbolism. The imagery of blood among the Bukusu and Sabaot as it is among the majority of African communities represents death, murder and guilt.<sup>296</sup> Death is the worst thing that can happen to any African community including the Bukusu and Sabaot especially from illness, but not when defending the community and their land. The concept of defence of community and their land is well depicted in the work of Robin Toskin Chepsigor who presents an imagery of arousing the senses and perceptions that appeal to the warriors to defend the community and their land in the song *Tulweenyo, Riipkweech ng’o tulweenyo*, meaning, “Our mountain, who will guard our mountain?”<sup>297</sup> In the song *Tulweenyo* everyone is called upon to defend the mountain against invasion by nearby enemies and exert territorial supremacy. Chepsigor indicates that in the song, the mountain symbolises the Sabaot territory.<sup>298</sup>

The Bukusu also use imagery and artistic expressions to bring out, expand and enhance the literal meaning of their concept of bloody war and defence of their territory. For instance, the *Lie wa Chonge* song uses similes, metaphors, symbols, and other figurative expressions to evoke memories and experiences of the war that create a sombre mood and generate intense emotions among the community members. The song constructs images of bodies and blood that turned

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<sup>296</sup> Ewa Unoke, “Blood Metaphor and Blood Guilt in Political Transitions”. <https://www.kckcc.edu>, accessed on 24/09/2020

<sup>297</sup> Robin Toskin Chepsigor, *The Construction of Images of Power Among the Sabaot of Kenya as Represented in Their Male Initiation Poetry*, A Thesis Submitted to The School of Humanities and Social Sciences in Partial Fulfilment of the Requirements of Master of Arts (Literature) Of Kenyatta University, January, 2019.

<sup>298</sup> Ibid.

river waters as red as scarlet. Consequently, in honour of their fallen soldiers the Bukusu vowed never to drink water from the two rivers. Since then most Bukusu particularly the elderly do not drink the water of the two rivers. They maintain that if they drunk the waters of these rivers, they would be drinking the blood of their massacred warriors. The gruesome memories of this war are emphasised in a common cultural citation by Bukusu elders, which states, “*Nakhanyua Nakhamela senywa mukhabukoya nende Namubila ta*”, loosely translated as, “even if I am drunk of alcohol, I cannot drink the waters of Khabukoya and Namubila Rivers. The Bukusu relive the war at Chonge through various songs, which were composed after the war and continue to be adopted by modern artists as demonstrated by the song entitled *Lie wa Chonge*, which goes:

### *Lie wa Chonge*

*Omuchuma narakikha mbolela babukusu  
Kumwenya kwe wa Chonge  
Babukusu nga bacha mubarwa,  
Mulukoba lwe wa Chonge,  
Babukusu babunilamo.*

*Barebana bali Barwa Bano bechile  
Ekhamubira nende Ekhamukoya,  
Chaba chinjichi chibili, khukhola khurie  
Mamai wa Wamamba, kaba omurafu sana,  
Bamurakho bali ewe khowimelele babasio  
Nga mukenda, babukusu benyokha pebe,*

*Ne bakhacha wa Chonge taa,  
Bababolela bali ima bang’osi babakulukutile chingila,  
Bamulake bulai, Mutonyi wa Nabukelembe Omutilu,  
Wang’ola siara ta, bacha wa Wachie wa Naumbwa,  
Mulukoba lwe Marakaru, wang’ola siara ta,*

*Khabola khali nemucha wa Chonge,  
Mucha kumukhono kumukhasi,  
Engila ya Kitaria, oli muyukha mwichile  
Kumusecha aba mwabakhilile muluchi,  
Namubila ne Khabukoya muberera mubwenomu,*

*Babukusu nga bacha Marombocha Omubulo,  
Ali ese manyile engila, wacha oli bola katikati,  
Wabatimia wabesia kumukhono kumusecha,  
Khane Omurwa omukulukuti, Wababone nga becha,*

*Balekhula kamafumu kecha, lifumo liatabula,  
Marombocha litondo babukusu besindukha,  
Babona Marombocha ebweni mbayo ta,  
Kamala kali enje, basoreri basalanikha,  
Bali belukhe siara ta, Khana babakhalile muluchi khabukoya,*

*Basoreri balila kamasika, bali batumile  
Mukhamubila siara ta,  
Kamakhua kakhaya babukusu babaramire Belukha,  
Becha bechuba bali nakhanywa nakhamela  
Senywa Mukhabukoya nende Namubila,  
Nenywa aba nywa kamafuli ke babefwe,  
Nakhanywa nakhamela senywa ekhamubila  
Nende Nabukoya.*

### **Translation**

#### **Chonge War**

I of chuma age-set, speaking to the Bukusu,  
About the Chonge war,  
The Bukusu went to these enemies at Chonge fort,  
Our people perished there,

The Bukusu people asked themselves,  
That these people have come to our land,  
Mamai son of Wamamba was chosen  
To lead the war party

Before they went to war,  
They were advised to seek counsel from prophets,  
To blind the enemy, Prophet Mutonyi son of Nabukelembe,  
Warned the Bukusu against war,  
Prophet Wachie son of Naumbwa, did the same,

They went to Prophet Manyi of Bakhurarwa clan  
The prophet told them to attack Chonge fort from Kitaria direction,  
Then exit from the direction of Khabukoya and Namubila rivers,  
Kill them in the river, But while they were mid-way,  
Marombocha of Babulo clan misled them,  
Not knowing that Sabaot warriors had seen them,

The Bukusu war party was ambushed,  
They were massacred by Sabaot warriors,  
Many warriors perished,  
While crossing Namubila and Khabukoya rivers

The Bukusu were overpowered and killed  
We swore that even when drunk we can't drink  
Waters of Namubila and Khabukoya  
We will be drinking our own blood

While the Chonge war song was composed after the war to rekindle the experience of Bukusu warriors in the hands of enemy Sabaot, there is evidence of the use of the reference to and usage of the Chonge war experience in modern times as a mobilising tactic among the Bukusu against any perceived danger specifically from the Sabaot. As demonstrated in chapter two, the two communities lived side by side in Bungoma and Trans Nzoia and compete in almost every aspect of life. Any time the Bukusu leaders have a feeling that there is a threat posed by the Sabaot in Bungoma and Trans Nzoia, automatically the Chonge war and the massacre of the Bukusu in the war is revisited. The Chonge war experience is therefore a powerful strategy for mobilising the Bukusu against the Sabaot as depicted by Wanyonyi wa Khatundi in his version of the song of the Chonge war, which goes:

#### **Wanyonyi wa Khatundi song on Chonge war**

*Bachuma khwerao, Selukho bona yakwa,  
Ngenda ne nilila, wa Mayi owacha khusera,  
Omusani chaba lomo, Kumoyo kusiuka,  
Kumoyo kusilila,*

*Kumoyo kusiuka basiange nakhaloma,  
Kumoyo kusilenya, babacha khusera,  
Basani bakamayo, Babukusu khusilila,  
Kakhwichamo, kamarafu,*

*Enywe khakhubanule babukusu,  
Nyanga niyo, enywe khekhubanule,  
Nali shetani niyo kamenya,  
Luno khumumanyile nandaloma,  
Khukenda khulila khuri*

*Bali wa Chonge luliyo,  
Wa Chonge baluyaba,  
Wa Chonge basoreri basiliyo,  
Wa Chonge baluyaba*

*Kombo ne Mukhisa, wa Chonge baluyaba,*



*Wa Chonge baluyaba,  
Moses Wetangula ne Wakoli, musiliyo,  
Wa Chonge baluyaba*

*Basoreri Wamunyinyi, basoreri musiliyo,  
Wa Chonge baluyaba, wa Chonge baluyaba,  
Nakhanywa nakhamela senywa ekhabukoya,  
Wa Chonge baluyaba*

*Mamai wa Wamamba, Kuya wa Naliwa,  
Ngubesi wa Mukwele, Namusole omuaftu,  
Basoreri banyange, basoreri bachuma  
Wa Chonge baluyaba,*

*Khuloma ne khwibasia, basiange,  
Nise oloma, wa Chonge kasiliyo,  
Enda ya mubukusu bakhwira,  
Ne makhua kasiliyo wa Chonge*

### **Translation**

We of the chuma age-set  
We still mourn our men, who fell at Chonge fort,  
They went to raid never to come back  
Our Bukusu hearts are still in pain,

My heart still grieves, never to be consoled,  
My heart is still heavy about the Sabaot,  
Our people's blood still at Chonge,  
Bukusu still mourning  
You Bukusu we will take our spears,  
One day, we will take our spears,  
If it's the devil, now we know him,  
We know this devil,  
We still mourn our people, who perished,

At Chonge fort, we are not done,  
Our people perished, our people perished,  
At Chonge fort our young men are still there,  
At Chonge fort we perished,

Our leaders, Kombo, Mukhisa,  
At Chonge our young men are still there,  
At Chonge we perished  
Moses Wetangula, and Wakoli, who will defend us,  
You should know that our blood is still at Chonge fort,

Men like Wanunyinyi, are you still there,  
At Chonge fort we perished  
Even if I am so drunk I can't drink the waters of  
Namubila and Khabukoya,

Men like Mamai son of Wamamba, Kuya son of Naliwa,  
Ngubesi son of Mukwele, Namusole of baafu clan,  
Men of nyange age-set, men of chuma age-set  
At Chonge it's not over,

I am still telling you my people,  
I am still saying we are not done with Chonge,  
Children of Bukusu womb, they killed us,  
We still have a grudge to settle at Chonge fort

As is evidenced in the phrasings, the songs are sung when the Bukusu are wronged by the Sabaot or when the Bukusu are facing any threat of losing their land and serves as a reminder to the Bukusu that there is still a grudge to be settled with the Sabaot people who are still occupying land around Cheptais where the Bamuyonga Fort stood. The songs remind the Bukusu that the blood of their people is still flowing the waters of rivers Namubila and Khabukoya, and that any time they see these rivers, the Bukusu must remember their fallen warriors who died defending Bukusu territory and they should ensure that one day the Sabaot pay for the blood of their fallen warriors. The songs are also intended to remind Bukusu political leaders of the wars fought over land with the Sabaot. These songs shape the historical oral accounts of the lost territories of the Bukusu and are passed down from generation to generation. The songs induce an uneasy feeling in any Bukusu, the feeling that all is not well with the Sabaot people.

The titling of the song is in remembrance of Worgoondet Chonge, a religious and military commander, whom the Sabaot proudly claim of having defeated the Bukusu during one of the wars, the Ngachi war. Since then, the place where the battle was fought is referred to as Chonges/Cheptais. The Chonge war is remembered by the two communities as a war which the two communities fought during the pre-colonial period and was fought to establish supremacy and control over land. The political dynamics between the Sabaot and the Bukusu centred not only on land but were also hegemonic. The Bukusu hegemonic desire made them dangerous to their more proximate neighbours including the Sabaot. The Bukusu desire to control the land and other neighbouring communities led to emergence of extended periods of contestation with the

Sabaot and Iteso as earlier discussed in this chapter. The Bukusu pursued a policy of assimilation or elimination of resistant Sabaot populations as once claimed by Wilberforce Kisiero.<sup>299</sup> In order to survive the Bukusu hegemonic move the Sabaot rose to challenge the legitimacy of hegemonic expansion. They forged struggles for political, economic and social survival that revolved around the imperative return of the perceived Sabaot land by claiming to be the origin inhabitants of the mountain.

Soon after the Chonge war, the British invaded the region and begun to impose colonial rule. Consequently, the enemy changed from recurring Bukusu/ Sabaot wars to the new invader, the British, who threatened the sovereignty of both communities. As discussed in chapter two, by 1899, the British colonialists had declared that all land was Crown Land and through the ordinances, the British took over the fertile highlands, which became a white enclave for British and South Africans settlers who established large-scale coffee and tea plantations. With this change in land tenure, Africans were transformed overnight from land owners into farm labourers and any protest was silenced by brutally by the British colonial force. The brutality of the British forced the indigenous community into compliance and it was not until 1937 with the emergence of Dini ya Msambwa that the region began witnessing resurgence of violent confrontation and was to intensify at the beginning of 1941 when the British embarked on a series of forceful evictions and resettlement of Africans in designated resettlement schemes.

Dini ya Msambwa was an anti-European socio-religious and political movement that attracted many Bukusu followers. Founded by Elijah Masinde in 1937. He was born in 1911 at Maeni in Kimilili at a time when Christian evangelism was penetrating the western region of Kenya. Masinde was converted to Christianity by the Friends Mission Society, however, his association with the mission was short-lived as he was expelled by the church after he married the second wife, an act seen by the church as ungodly. Thereafter, Masinde developed a hatred for European colonial behaviour and subsequently, he encouraged two of his friends, Joash Walumoli and Israel Khaoya, to denounce the church, claiming it was a symbol of oppression and part of the

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<sup>299</sup> John Oucho, *African Social Studies Series, Undercurrents of Ethnic Conflict in Kenya*, Leiden: Brill, 2002.

British colonial oppressive regime.<sup>300</sup> After denouncing the church, Masinde and his two friends founded Dini ya Msambwa, which started preached about the British exploitation of the Bukusu people.<sup>301</sup> The strategy adopted by Masinde under the aegis of the Dini ya Msambwa has generated debates on whether Elijah Masinde was a nationalist leader or a religious cult leader who used divine claims for his own ends. This research notes that there is a close historical connection between Christianity and Dini ya Msambwa, as the leader of the latter was a former Christian who had been excommunicated by his church and the majority of its first members were former Christians who had differed with the church's position on and attitude towards polygamy. However, while the movement started off as an anti-church movement, the members became radicalised and joined the struggle against the British rule in Kenya.

Masinde infused rituals in his mobilisation efforts, which served to psychologically rouse his followers against the British rule. Evidence demonstrates that integrating religious rituals into politics can provide a stronger linkage with the masses as political rituals in themselves often lack the emotional force that is characteristic of traditional or religious customs,<sup>302</sup> as religious rituals and traditions have over time acquired a symbolic authenticity, which secular politics cannot achieve.<sup>303</sup> Masinde must have noted that secular politics alone could not manufacture the desired secular sentiments and symbols, which were appealing to the masses. This integration of religious beliefs in the struggle for land that the British had alienated as well as in reconstructing Bukusu identity and nationalism created a mystical aura around Masinde, which was appealing to his followers. In his charismatic attack on British behaviour, Masinde influenced the perception of African labourers, mainly from the Bukusu sub-ethnic group, towards the colonial settlers and indoctrinated the labourers with anti-colonial ideas. His hatred for White people worsened when he was briefly employed as a *nyapara* (supervisor) on a European farm between 1938 and 1941, where he came under constant abuse by the European settler who demanded that

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<sup>300</sup> David Reed, "Dini ya Msambwa- 1: The Bukusu and the Suk," in *Institute of Current World Affairs Newsletters*, 522 Fifth Avenue, New York 36, DER- 20, July 6, 1954.

<sup>301</sup> Joseph Ndalilah, "Migrant Labour in Kimilili, Kenya: Capitalism and African Responses, 1940-1963", in *Journal of Emerging Trends in Educational Research and Policy Studies*, (JETERAPS) 3 (5): 701-709 @ Scholar-link Research Institute Journals, 2012 [jeteraps.scholarlinkresearch.org](http://jeteraps.scholarlinkresearch.org)

<sup>302</sup> Jaco Beyers, "Religion as Political Instrument: The Case of Japan and South Africa," in *Journal for the Study of Religion*, Vol. 23, Pretoria 2015. <http://www.scielo.org.za>, accessed on 24/09/2020

<sup>303</sup> Bryan S. Turner, "Religion and Politics: Nationalism, Globalisation and Empire," in *Asian Journal of Social Science*, 2006, Vol. 34, No. 2 (2006), pp. 209-224 Published by: Brill. <https://www.jstor.org>, accessed on 24/09/2020

Masinde calls him *Bwana Mkubwa* and would at times refer to Masinde as a *shamba-boy*, which irked Masinde.<sup>304</sup> Masinde also never liked the title *nyapara*, which to him was nothing other than a senior labourer.

In 1941, Masinde quit his position as a *nyapara* and warned the settler at Namanjalala in Kitale that the time was coming when the settler would one day leave his big farm to Africans. He then returned to the African reserve areas where he preached to the people and informed them of his vision from God. Folklore has it that one night in April 1943, God visited him and told him to tell the Bukusu people to revert to their traditions and desist from following the European religion. Masinde invoked the concept of an African God as he knew that Africans by nature were deeply religious and that everything about African life and culture has a strong foundation in religion, and as such, religion could be a significant mobilising force.<sup>305</sup> In African tradition, religion is seen as an expression of hope and fear and is hinged on the belief in an unseen supernatural being who if called upon would protect the community. The supernatural being with whom the community communed through ancestor worship were believed by the Bukusu to be protectors, who would ensure the security and wellbeing of Bukusu land from foreign British domination.

It is also believed that God told him to tell the Bukusu people to prepare to fight the colonial settlers and to remove them from Bukusu-land. Based on the oral narratives of the Bukusu, God spoke to Masinde and told him that “I am your God *Wele of Msambwa Spirit*, speaking from the consecrated Mount Elgon, tell Msambwa followers not to wear clothes of Europeans, wear skins of monkeys and resist the European practices and worship.”<sup>306</sup> In the early 1940s, Masinde and his aides embarked on a mass recruitment drive of Bukusu, Bagisu and Pokot people to join the Dini ya Msambwa Movement. Gradually, it became a socio-religious and political movement that attracted many Bukusu people who were against the British occupation of their territory. At the beginning it was sort of an underground movement, holding its meetings at night in the African reserves and White settler farms unnoticed. However, when Elijah Masinde started

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<sup>304</sup> Ibid.

<sup>305</sup> Chinedu N. Mbalisi, Nwachukwu J. Obiakor and Chiemela A. Okeke, “Colonialism: Nexus for Myriad Religious Contentions in Post-Colonial Igboland (An Historical Overview),” in Ayadele E.A., *African Historical Studies*, London: Frank Cass, 1988, pp. 131-132.

<sup>306</sup> Ibid.

preaching the word of *Wele* (God) to the Bukusu whom he sought to turn against the Europeans, it became clear to the British that the movement had mutated to an anti-European religious sect, which was willing to adopt violence to achieve their objectives.<sup>307</sup>

The activities of Masinde and his followers' caused fear among colonial administrators and the police who thought that they were going to have another Mau Mau-like movement in the region due to the Bukusu's bitterness and anti-European sentiments. Given the type of warfare Masinde was waging against the colonial regime, a spiritual and mental warfare, the British had a difficult battling him and his movement.<sup>308</sup> Eventually, the British were forced to launch a crackdown against Dini ya Msambwa followers, which triggered an open confrontation between them and the Bukusu. Masinde on his part continued to hold huge rallies where he criticised the unjust policies of the colonial regime and demanded the surrender of Bukusu-land by the Europeans and urged the Bukusu to make guns to drive the Europeans out, which heightened tensions.<sup>309</sup> In one particular incident, Masinde while addressing a highly-charged crowd at Kimilili and Kimalewa urged the Bukusu to take up arms and fight the colonialists upon which confrontations ensued at Kimilili leading to destruction of property and fatalities when the colonial police opened fire on the crowd.<sup>310</sup>

In 1944, Masinde told the Bukusu not to listen to any advice given by the British. Subsequently, he incited his followers to burn down a European agricultural inspector's home at Kimilili. He told the people not to be recruited into the British Army to fight in the Second World War, arguing that it was a European war not their own. His utterances put him on the radar of the British administration and in 1946, he was arrested by the District Commissioner and sent to prison for one year. After his release in 1947, Masinde returned to Bukusu-land and reverted to preaching and rousing the community to rise up against the colonialists. He took advantage of the people's deep affinity with and emotional attachment to religion to push his agenda, often rhetorically asking the large crowds "why should the Europeans interfere with our religion?" He

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<sup>307</sup> David Reed, "Dini ya Msambwa- 1: The Bukusu and the Suk," in *Institute of Current World Affairs Newsletters*, 522 Fifth Avenue, New York 36, DER- 20, July 6, 1954.

<sup>308</sup> Ibid.

<sup>309</sup> Ibid.

<sup>310</sup> Ibid.

declared that since Trans Nzoia had been taken from the Bukusu by force, the Europeans too had to be turned away by force.<sup>311</sup>

During one of his rallies in August 1947, Masinde gathered more than 400 people at Kimalewa and told them to make guns to drive the Europeans out of Bukusu-land.<sup>312</sup> A month later, Masinde led a crowd of followers estimated by European records to be 5000 people to Lumboka fort near Lugulu where Hopley had fought with the Bukusu. They made sacrifices calling on the spirits of their fallen heroes to join them in the renewed war against the British.<sup>313</sup> The authorities became increasingly worried about the movement's activities and begun to proactively hunt down its leaders led by Masinde, but he kept eluding them. On February 7<sup>th</sup> 1948, he led about 800 Bukusu men to attack a Roman Catholic Mission at Kimilili and wanted to burn it down forcing the priests to open fire and with the help of the British colonial police managed to disperse the crowd, which repeated the attack the following day now with about 500 people. They stripped naked and charged towards the mission, but the police responded quickly and in time, to avert burning down of the mission.<sup>314</sup>

The police arrested many of the followers of Dini ya Msambwa and some were taken into custody at Malakisi Police Station. In an effort to free their comrades, on 10<sup>th</sup> February 1948, the followers of the movement attacked the British colonial administration offices and police station at Malakisi and managed to injure a European Police Officer, after striking him on the head, which prompted the other police officers to open fire during which eleven Dini ya Msambwa followers were killed on the spot.<sup>315</sup> Consequently, police arrested many of his followers and Masinde was also arrested and sent to detention in the Northern Frontier District. With the arrest of Masinde, the movement went silent, but flared up again in 1949 when its followers attacked schools, churches and European farms. While Masinde mainly concentrated his insurrectionary activities in predominantly Bukusu areas, the recruitment drive undertaken by the movement ensured that the rebelliousness spread as far as Kapenguria among the Pokot where again it

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<sup>311</sup> Mzee Yakobo Kitonini, interview with the author, Kikwechi, 31/12/2014.

<sup>312</sup> David Reeds, "Dini ya Msambwa: The Bukusu and the Suk", in *Institute of Current World Affairs Newsletters*, 522 Fifth Avenue, New York 36, DER-20, July 6, 1954.

<sup>313</sup> Mzee Yakobo Kitonini, interview with the author, Kikwechi, 31/12/2014.

<sup>314</sup> David Reeds, "Dini ya Msambwa: The Bukusu and the Suk".

<sup>315</sup> Ibid.

influenced the Pokot uprising that led to bloodshed that culminated into the Affray at Kollowa in Baringo.<sup>316</sup> While the British did manage to brutally crush the potency of Dini ya Msambwa through the arrest and incarceration of its leaders, the movement remained active even after Kenya's independence in 1963.

In 1963, Kenya gained political independence but citizens were not freed from continued economic exploitation by the British and the African political elites who continued the exploitative relationship established by the former colonial regime. In the wake of independence, the former colonisers sought to retain influence over their former territories and as such, cultivated relationships with the political elite, of which the African elites capitalised on and ensured that the political structures imposed by the British colonial regime continued as they were a vital mechanism for their self-enrichment. A point of view that is affirmed by Frantz Fanon who avers that this continued relationship benefited African politicians and the small middle class but did not benefit the majority.<sup>317</sup> On his part, Diamond avers that ethnically divided politics became the vehicle for promoting accumulation by one cultural section of the society.<sup>318</sup> The result was tension between the ruling classes and the majority of the population that prompted the propagation of ethnic and regional-based political competition, which acted as a major obstacle for national unity and progressive rule. An assertion that is supported by Larry Diamond and Walter Oyugi, with the former postulating that ethnically divided politics became the vehicle for promoting accumulation by one cultural section of the society.<sup>319</sup> On his part, Oyugi in his discourse on ethnicity and the electoral process avers that ethnicity in independent Kenya became progressively accentuated as a factor in national and regional politics.<sup>320</sup> Generally, failure to create a nation state and identity facilitated an ethnicised society, which meant independence celebrations were short lived in peripheral regions like Mount Elgon.

As the rest of Kenya celebrated independence tensions between the Sabao and the Bukusu continued to simmer, with the ethnonationalist sentiments, which had characterised relations

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<sup>316</sup> Benjamin Kipkorir, "The Koloa Affray, Kenya 1950", in *Trans-African Journal of History*, 1972, pp. 114-129.

<sup>317</sup> Frantz Fanon, *Toward the African Revolution*, New York: Grove Press, 1964.

<sup>318</sup> Larry Diamond, *Class, Ethnicity and Democracy in Nigeria*, Syracuse: Syracuse University Press, 1986.

<sup>319</sup> Larry Diamond, *Class, Ethnicity and Democracy in Nigeria*, Syracuse: Syracuse University Press, 1986.

<sup>320</sup> Walter Oyugi, "Ethnicity in the Electoral Process: The 1992 General Elections in Kenya," in *The Africa e-Journals*, Afri. Polit. Sci. (1997), Vol. 2 No. 1, pp. 41-69.



between the two seeming not to have faded despite Kenya's independence and the departure of the colonialists. The Sabaot, for a long time had complained about Bukusu social, economic and political domination with these sentiments often generating calls for the Sabaot to be administered from Rift Valley and not Western Province.<sup>321</sup> Politicians capitalised on the sentiments expressed by their ethnic groups and used it to stoke the existent animosity to their own political advantage. At the forefront on the side of the Bukusu were political heavyweights, Henry Masinde Muliro and Nathan Munoko while on the side of the Sabaot were Daniel Mossi, Kiti Chemonges and Kiberenge among others, who manipulated the prevailing ethnonationalism to leverage political success. The general belief among these politicians was that the loss of political power by one of their own meant loss of economic privilege, which they hitherto enjoyed. These politicians as such equated political control with economic success and made sure that ethnic tensions intensified and prevailed.<sup>322</sup>

The politicians from the two communities had mastered the art of privatisation and ethnicisation of public and political authority because the government of the day had failed to cultivate what Mamdani terms as patriotism between not only the state and its citizens but also between citizens from different ethnicities.<sup>323</sup> This political behaviour was contrary to the promises the political elites had made at the onset of independence, when they swore to unite various ethnic groups through a government whose institutions worked for the good of the people, however, the ruling elite ran a government system far removed from the western state model where institutions worked for the good of the masses.<sup>324</sup> Consequently, it can be said that the violent ethnic hostilities and the associated problems were basically a reflection of self-serving and weak leadership. In post-independent Kenya, the political leadership became the neo-colonialists and people who had been presumed to be liberators turned into the oppressors of their own people. In the words of Fanon, the mere departure of the coloniser was not enough, there was need to do

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<sup>321</sup> Jacques Bertrand and Oded Haklai, *Democratization and Ethnic Minorities: Conflict or compromise?* New York: Routledge, 2014, p. 85.

<sup>322</sup> Beatrice Kedogo Imbuye, "Intra-Ethnic Relations Among the Sabaot of Mt. Elgon, Kenya, 1945 – 2010, A Thesis Submitted to the School of Humanities and Social Sciences in partial fulfillment of the Requirement for the Award of the Degree of Master of Arts of Kenyatta University, November, 2016.

<sup>323</sup> Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of late Colonialism*, Princeton: Princeton University Press, 1996.

<sup>324</sup> Antony Otieno Ong'ayo, "Political Instability in Africa where the Problem Lies and Alternative Perspectives" Presented at the Symposium 2008: Afrika: een continent op drift Organized by Stichting Nationaal Erfgoed Hotel De Wereld Wageningen, 19<sup>th</sup> of September, 2008. <https://www.researchgate.net>, accessed on 25/09/2020

more in terms of providing service and dignity to the people.<sup>325</sup> This could only be achieved if postcolonial institutions adopted to service to the masses and not the few elites. However, as noted by Fanon, the postcolonial elites were still suffering from colonial psychological effects of oppression, which they in turn continued to perpetuate well after independence and utilised state institutions to repress the masses. Aside from the colonial malaise, postcolonial political elites had limited understanding on how the postcolonial institutions functioned and had not been provided with guidance on the processes and delivery on essential services, as such, they aped the behaviour of their colonial predecessors, which was imbued with favouritism and marginalisation. Consequently, state institutions were continuously weakened through political machinations, which was compounded by the predatory nature of Kenyan political elites who introduced an ethnic dimension in the governance of the country.

Ethnicity in Mount Elgon as it was in the larger modern African states existed as a mechanism, of amassing wealth and political power at the expense of others,<sup>326</sup> as demonstrated by the wars of supremacy between the Bukusu and the Sabaot, with the two ethnic groups intent on acquiring dominance over the other and appropriating resources for its own use at the expense of the other group. This competition heightened ethnic consciousness and thereafter creating a possibility of ethnic wars. The ethnic wars that erupted in Mount Elgon soon after independence can be mainly attributed to the dissatisfaction over uneven distribution of resources during the colonial era and which intensified in post-independence period as the political scene became increasingly ethnicised. However, how then did politics play into the ethnic conflicts in Mt. Elgon after independence? This question can be answered by analysing the strategies employed by the colonials to conquer and rule their territories in East Africa. For the case of Kenya, upon entry the British found a weakness in African unity, which was informed by the existence of different ethnicities in what came to be known as Kenya.<sup>327</sup> The British colonial regime, which had mastered the art of divide and rule as a weapon for its benefit capitalised on this weakness and divided the local communities. It was this construct that led to the formation of ethnic groups

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<sup>325</sup> The Rehabilitation of Violence and the Violence of Rehabilitation: Fanon and Colonialism Author(s): Messay Kebede Source: *Journal of Black Studies*, May, 2001, Vol. 31, No. 5, 2001 pp. 539-562, Sage Publications, Inc. <https://www.jstor.org>, accessed on 25/09/2020

<sup>326</sup> Jean-Francois Bayart, Stephen Ellis and Beatrice Hibour, *The Criminalization of the State in Africa*, Oxford: James Currey, 1999, pp. 70-75.

<sup>327</sup> Gabriel Lynch, "Negotiating Ethnicity: Identity Politics in Contemporary Kenya, in *Review of African Political Economy* No. 107, 2006, pp. 49-65.

among them the Luhya and Sabaot, which in the long term produced ethnic categories of the colonial administration. These politics of ethnic identity are strongly linked to the territorial claims for land and administrative status in Mount Elgon that intensified after independence.

Territorial claims in Mount Elgon led to the emergence of Sabaot protests against Bukusu dominance, which became instrumental in the expulsion of non-Sabaot communities from Mount Elgon area during the wars of the 1960s. In 1962, the decision by the Boundaries Commission to administratively place the Sabaot under Elgon Nyanza District angered the Sabaot,<sup>328</sup> who desired and had requested that Mt. Elgon region to be administratively under Trans Nzoia District in Rift Valley province where their kinsmen were. As the country moved towards the first general elections, land issues took a significant place in the campaigns of both KANU and KADU not only in Bungoma but in the entire country. In Bungoma, Mt. Elgon and Trans Nzoia, Henry Masinde Muliro and Daniel Mossi, representing the Bukusu and the Sabaot respectively, took centre stage in the land debate. Muliro reiterated and argued that most regions in Mt. Elgon and Trans Nzoia were part of Luhya land, which echoed the claims that he had made before the Boundaries Commission in 1962, where he stated that the Luhya people had settled in the said regions well before Kalenjin and that the entire territory should be in western Kenya and not Rift Valley.<sup>329</sup> The Sabaot vocally opposed the claims of the Bukusu and argued that the region should be part of the Rift Valley and not Western. To create a forum which could air their grievances the Sabaot formed the West Kalenjin Congress (WKC) in September 1962 and Daniel Mossi was elected as its president. In a letter to the Governor, WKC officials claimed that Trans Nzoia was Kalenjin land and not Luhya. These claims and counter-claims of land as well as the accusations of land encroachment levelled against the Bukusu by the Sabaot further entrenched the rift and heightened tensions between the Bukusu and Sabaot setting them on a collision course.<sup>330</sup> In a bid to gain sympathy of the Boundaries Commission the General Secretary of WKC protested that the Sabaot were being mistreated by the Bukusu and therefore it would be best if the two communities were to part ways.<sup>331</sup> However, this did not sway the commission,

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<sup>328</sup> KNA/DC/KIT/1/5/8, 1962-1963, Registration of Voters and General Correspondence, Kenya National Archives.

<sup>329</sup> KNA/PC/NZA/4/14: Provincial and District Boundaries, Kenya National Archives.

<sup>330</sup> KNA/PC/NZA/3/14/23: Political Records, Kenya National Archives.

<sup>331</sup> Ibid.

who based on their subsequent actions were seen by the Sabaot as favouring the Luhya community.

Tensions worsened when the Boundaries Commission refused to acquiesce to the request of the Sabaot to be placed under the administrative jurisdiction of the Rift Valley province. Instead the commission hived off 150,000 acres of land in Trans Nzoia to establish the settlement schemes of Kamukuywa, Naitiri, Tongaren, Kibisi and Ndal, which were placed administratively under Western province<sup>332</sup> and further hived off more land to create Lugari division of Kakamega. These acts infuriated the Sabaot, who subsequently protested the delineation of land from Trans Nzoia to the benefit of the Luhya community and as a consequence they shifted their allegiance from Kenya African Democratic Union (KADU) to Kenya African National Union (KANU). In a strategic move, the WKC under the leadership of Daniel Mossi campaigned for KANU in the hope that the party would win the elections and in reciprocity, the party would address the land grievances of the Sabaot. The campaigns further strained the Bukusu and Sabaot relations and each community fronted its own candidate for the 1963 general elections, with Daniel Mossi vying for a parliamentary seat under a KANU ticket on behalf of the Sabaot while the Bukusu fronted Henry Masinde Muliro under KADU.<sup>333</sup>

Tensions between the two continued to build-up and the situation was to worsen when Mossi realised that the presence of the Bukusu in Mt. Elgon could deny him the much-needed victory. Consequently, he incited the Sabaot against the Bukusu and in 1963 war erupted following an attack launched by Sabaot warriors against the Bukusu positions during which they razed the homes and farms of Bukusu inhabiting Mt. Elgon region and seized their livestock. The war was eventually extended to other non-Sabaot communities who did not support Daniel Mossi in the election, with the Sabaot labelling these communities as aliens or Bukusu, which therefore justified the attacks.<sup>334</sup> To most Sabaot men, the name Bukusu is equivalent to enemy as they have no recollection of any other community with whom they have fought with apart from the Bukusu and their cousins the Bagisu. Non-Sabaot who were attacked were accused of behaving

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<sup>332</sup> Ibid.

<sup>333</sup> KNA/DC/KIT/1/5/8, 1962-1963: Registration of Voters and General Correspondence, Kenya National Archives.

<sup>334</sup> Pius Kakai, "History of Inter-Ethnic Relations in Bungoma, Mt. Elgon and Trans Nzoia Districts, 1875-1997," PhD Thesis, Submitted to the Faculty of Arts, Kenyatta University, April 2000.

like the Bukusu or *Lamek* (enemies) who had encroached on Sabaot land and assumed lordship over the Sabaot. In a similar manner, the Bukusu referred to the Sabaot as “*Biyobo/Barwa ba yoboyi*”, which means enemies, and strangers whose language is strange. While the Sabaot had hoped the war would pressure the post-independence government to address the grievances of the Sabaot and compel them to administratively transfer Mt. Elgon to the Rift Valley province, the war only served to endanger those Sabaot who were living in the lower parts of Bungoma who bore the ire of the Bukusu. In response to the attacks of the Sabaot the Bukusu launched revenge attacks, razing the homes of the Sabaot and blocked the roads leading in and out of Mt. Elgon, therefore paralysing social services in the higher areas of Mt. Elgon.<sup>335</sup> In response to the conflict the newly installed independence government deployed the security agencies assisted by the British who managed to end the war.<sup>336</sup>

From 1964 to 1967, the region experienced relative calmness, particularly following the dissolution of KADU and subsequent absorption of its members by KANU. However, this was a short-lived respite as in 1968 the antagonism between the two groups worsened and exploded again into open armed conflict when Mossi, the then Sabaot MP, incited the Sabaot against Bukusu domination in Bungoma District.<sup>337</sup> His incitement was soon echoed by other Sabaot and Kalenjin elites including Kiti, Chemonges and, Kiberenge, who called for war against the Bukusu based on their perceived disrespect of the Sabaot. The Sabaot elites claimed that the Bukusu had referred to the Sabaot as barbaric cavemen who had no civilization and only survived on cattle rustling.<sup>338</sup> The Bukusu counter perspective was that the Sabaot were cattle thieves who stole and sold Bukusu livestock to their cousins the Sebei of Uganda. In explaining the 1968 wars, Masinjila argues that the Bukusu never wanted to recognise the Sabaot as a people with the capacity to rule themselves and based on this pejorative narrative, the Sabaot launched wars against the Bukusu to prove their worth and gain recognition.<sup>339</sup>

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<sup>335</sup> Yusto Mubuliki, interview with the author, Kibichori Village, Chwele, 21/12/2016.

<sup>336</sup> Susan Nasimiyu, interview with the author, Makhonge Village, Chwele, 21/12/2016.

<sup>337</sup> Pius Kakai, “History of Inter-Ethnic Relations in Bungoma, Mt. Elgon and Trans Nzoia Districts, 1875-1997”.

<sup>338</sup> Oral Interview, Laban Wafula Simiyu, Cheptais Sub-County, Chepkube Location, Chepwek Sub-location, 03/06/2016.

<sup>339</sup> Masheti Masinjila and Okoth Okombo, *Voices from the Mountain: Personal Life Histories from Mt. Elgon*, Edited by: Masinjila, M. and Okombo, O. Nairobi: Kenya Oral Literature Association, 1998, p. 51.

Anecdotal evidence emanating from the research suggest that, the Sabaot believe that any achievement they have made was through wars and that the Bukusu were not ready to grant the Sabaot any liberties in the larger Bungoma District, which they based on the fact that any time the Sabaot voiced their opinions, the Bukusu simply dismissed them as a backward people. Consequently, the Sabaot demanded representation at the political level and sought to have their own district but the Bukusu were not willing to have Mount Elgon under the administration of the Rift Valley province.<sup>340</sup> According to Masheti Masinjila and Okoth Okombo, the 1968 war was sparked by the killing of five people, two Sabaot and three Bukusu and although the killers of the two Sabaot were unknown, the prime suspects were the Bukusu. However, without any investigations, Sabaot warriors retaliated and killed three Bukusu members of one family, which triggered a full-scale inter-ethnic war. Anecdotal evidence indicate that the war was so intense to the extent that even assimilated members from both sides including those married were targeted. However, despite the intensity it was a short-lived war, which ended following peace talks between the two communities after which community members of both ethnic groups resumed their normal lives.<sup>341</sup>

The truce was also short-lived as war between the two communities erupted again in 1971, which was sparked by the killing of Joshua Shebetai of Cheptais and his wife again by unknown people.<sup>342</sup> Akin to the circumstances of the 1968 war, the immediate suspects were the Bukusu even though there was no irrefutable evidence as to who the killers were and certainly none that pointed to the Bukusu as the killers. Subsequently, the Sabaot undertook a revenge attack and killed Major Kisibo, a Bukusu, and his family.<sup>343</sup> The situation deteriorated when the Bukusu retaliated by killing Francis King'aru, after which war erupted, resulting in the destruction of property and fatalities on both sides.<sup>344</sup> The war came to an end when the government intervened, though tensions between the two communities remained high throughout the 1980s to the 1990s when war erupted again. It should be noted that before 1990, the earlier wars were fought with traditional weaponry but the 1990s wars were fought using modern weapons smuggled in from

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<sup>340</sup> Jacques Bertrand and Oded Haklai, *Democratization and Ethnic Minorities: Conflict or compromise?* New York: Routledge, 2014, p. 85.

<sup>341</sup> Mzee Stanley Kalama, internally displaced person living in Nzoia Scheme, interview with the author Mount Elgon, 03/01/2017.

<sup>342</sup> Laban Wafula Simiyu, interview with the author, Chepkube Location, Cheptais Sub-County, 03/06/2016.

<sup>343</sup> Ibid.

<sup>344</sup> Ibid.

Uganda.<sup>345</sup> There was a shift of warfare as the weapon of choice became the AK-47.<sup>346</sup> This was because both parties could easily access the weapons from their kinsmen living on the Ugandan side, who had access to arms following the prolonged civil war in Uganda, which had resulted in the proliferation of small arms and light weapons around the border regions of Kenya and Uganda including Mount Elgon region. These arms were to later exacerbate the ethnic wars of the 1990s in Mount Elgon. Access to arms was made possible by the kin-state phenomenon, a condition whereby individuals stretch out beyond their borders to engage with co-ethnics living abroad, thus maintaining historic ‘national’ ties, and fostering connections and contacts.<sup>347</sup> One of the reasons why the weapons flow went unnoticed is the concept of existence of international borderless borders imposed by the colonial regime, which states believe hinder cross-border trade, however, these borders are often porous and communities along these borders have ethnic kinship, which continue to date. Across Africa, it is evident that the colonial imposed borders did not respect Africa’s socio-ethnic identities, which are much stronger than the international boundaries imposed by colonial regimes. In comparison to Europe and North America, Africa is relatively new to the Westphalian concept of boundaries,<sup>348</sup> though that is not to suggest in any way that borders did not exist in Africa before colonialism rather African borders existed as a social phenomenon that governed inter-human and inter-communal relationships and not as permanent restriction in terms of movements.

### **5.5 Mount Elgon Wars in the 1990s**

The 1990s witnessed heightened ethnicised politics not only in Mount Elgon but in the entire country. Although ethnic groups in Mount Elgon had lived together even with frequent wars, a new dimension to their problems emerged with calls for pluralism. As earlier noted, instead of transforming the political structures established by the British administration to serve the people, the post-independent political elites substituted themselves as the upper class and used their

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<sup>345</sup> Kennedy Agade Mkuu, “Small Arms and Light Weapons among Pastoral Groups in the Kenya-Uganda Border Area,” in *African Affairs*, Vol. 106, No. 422, 2007, pp. 47-70. <http://www.jstor.com/stable/4496415>, accessed on 14/07/2020

<sup>346</sup> Oral interview, Geoffrey Kipsang, Kaimugul Sub-Location, Chepyuk Location, Cheptais Sub-County, 04/06/2016

<sup>347</sup> Alexandra Liebich, “The “Boomerang Effect” of Kin-state Activism: Cross border Ties and the Securitization of Kin Minorities,” *Journal of Borderlands Studies*, 34:5, 2017, pp. 665-684. <https://doi.org/10.1080/08865655>

<sup>348</sup> The Commission of the African Union, Department of Peace and Security, *Delimitation and Demarcation of Boundaries in Africa General Issues and Case Studies* 2nd edition, Addis Ababa: Commission of the African Union, 2013.

political power to advance their own agendas and undermine the interests of Kenyan citizens. Right from independence in 1963, KANU elites connected the political party system with political entrepreneurship where they used the party system to take advantage of ethnic divisions.<sup>349</sup> The situation was exacerbated with the call for multiparty politics in the 1990s. KANU political elites used the pressure for multipartism to rekindle the deep-rooted historical land injustices, thus making the re-emergence of ethnic animosity and conflict not only political and economic but more so a competition between ethnic groups to gain political dominance.<sup>350</sup> Consequently, ethnicity emerged as the single most important factor in the call for pluralism and political competition and in the ethnic wars that erupted thereafter across Kenya and also in Mount Elgon.

In the case of Mount Elgon, as calls for pluralism intensified, deep ethnic rivalries threatened to spur the region towards armed confrontation. The persistent calls for the repeal of section 2(a) of the Constitution to allow for the reintroduction of a multiparty system in Kenya was viewed by KANU loyalists as a threat to their control of power, having enjoyed de facto control of the political space for over two decades. However, protests and violence that were witnessed across the country forced the KANU regime under the then president, Daniel Arap Moi, to capitulate to the demands of the populace and repeal section 2(a) of the constitution in December 1991.<sup>351</sup> The repeal, however, came with its complications, with KANU elites and mostly leaders of the Kalenjin community interpreting the call for political pluralism as call for *majimboism* (regionalism). Kenya was slowly drifting back to its forgotten history of 1960s.<sup>352</sup> Following the repeal, KANU leaders led by the then president, Daniel Arap Moi, revived the *majimbo* debate,

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<sup>349</sup> Nelly Cherop Yego, "Election Violence in Kenya," Thesis Submitted to the Graduate Degree Program in Global and International Studies and the Graduate Faculty of the University of Kansas in Partial fulfilment of the Requirement for the Degree of Master of Arts, 2015, p. 9.

<sup>350</sup> F. Holmquist and Githinji, M. W., "Default Politics of Ethnicity in Kenya," in *The Brown J. World Affairs* 16, p. 101.

<sup>351</sup> Catherine Boone, "Land Conflict and Distributive Politics in Kenya," *African Studies Review*. <https://www.cambridge.org/core/journals/african-studies>.

<sup>352</sup> Jacqueline M. Klopp, *Electoral Despotism in Kenya: Land, Patronage and Resistance in the Multi-Party Context*, A thesis submitted to the Faculty of Graduate Studies and Research in partial fulfillment of the requirements of the degree of Doctor of Philosophy, Department of Political Science, McGill University, Montreal January 2001, pp. 136-138. Also check, David M. Anderson, "Yours in Struggle for Majimbo: Nationalism and the Party Politics of Decolonization in Kenya, 1955-64," in *Journal of Contemporary History*, Vol. 40, No. 3 (Jul. 2005), pp. 547-564, Published by: Sage Publications, Ltd. Stable URL: <https://www.jstor.org/stable/30036342>, accessed: 18-05-2019 05:15 UTC.



which soon degenerated into ethnic violence.<sup>353</sup> By advocating for *majimboism* in the build-up to and during the 1992 election campaigns, the KANU regime stimulated ethnic violence, especially when the majority of the political elites, mainly from the Kalenjin community, argued that the solution to Kenya's problems lay in devolving powers to the ethnic regions and thereafter, which triggered ethnic conflicts. Violence became an instrument of solidifying the bond between the Kalenjin sub-groups as it was a tool of coercion directed towards other ethnic groups.<sup>354</sup> To maintain their grip on power, the KANU regime responded by deploying of physical force, which culminated in the 1992 election violence. In this way, the KANU elite from Rift Valley and Mount Elgon entrenched their position as a major political bloc at the centre of the political discourse and changes by using the state to perpetuate violence.<sup>355</sup>

While internally, the ethnic conflicts were sparked off by the calls for reintroduction of pluralism and multi-party politics, these calls can be linked to broader political changes that were taking place globally, as asserted by Tade Aina, who states that the wind for change can be traced back to the end of the Cold War that pitted European countries that supported the USA on one side and those on the side of the Union of Soviet Socialist Republics (USSR). Aina refers to 1990s as a period of political watershed triggered by the 1989 fall of the Berlin Wall and subsequent *desovietisation* of the USSR. The fall of the Berlin wall and collapse of the USSR triggered political and ideological changes the world over and ushered in a new world order, which was entrenched in capitalism.<sup>356</sup> This is what Mamdani refers to as a wind of globalisation, which sought to create a world skewed towards the Western vision or thinking. Mamdani further avows that this was a neo-liberal orientation imported into Africa from former colonisers without creating institutions to manage the effects that accompanied this change.<sup>357</sup>

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<sup>353</sup> Joshia O. Osamba, "Violence and the Dynamics of Transition: State, Ethnicity and Governance in Kenya," in *Africa Development / Afrique et Développement*, Vol. 26, No. ½, 2001, pp. 37-54. <http://www.jstor.com/stable/43661154>, accessed on 13/07/2020.

<sup>354</sup> Biniam Bedasso, "Ethnicity, Intra-Elite Differentiation and Political Stability in Kenya," *African Affairs*, Volume 114, Issue 456, July 2015, Pages 361–381. <https://academic.oup.com/afraf/article/114/456/361/24562>, accessed on 18/05/2019.

<sup>355</sup> Patrick Mutahi, 'Political Violence in the Elections', in Henry Maupeu, Musambayi Katumanga, and Winnie Mitullah (eds), *The Moi Succession: The 2002 Elections in Kenya*, Nairobi: Trans-Africa Press, 2005.

<sup>356</sup> Tade Aina, *Globalization and Social Policy in Africa*, Dakar: Codesria, 1997, 8-12.

<sup>357</sup> Mahamod Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, New Jersey: Princeton University Press, 1996, pp. 43-62.

According to Ali Amin Mazrui, Africa did not need to copy paste European institutions and democracy,<sup>358</sup> instead Africa should have and still needs to reinvent itself, redefine its Africanity and articulate its complex condition in order to serve its masses. Mazrui argues that the discourse of the invention and idea of Africa speaks to the complex African identity and can offer a lasting solution to African problems. Mazrui's arguments are supported by Mamdani in his discourse on the calls for multiparty democracy in Africa in which he asserts that the architects of multipartyism or African reformists simply imported the Western systems without building proper institutions to implement the said democracy.<sup>359</sup> Advocates of democracy in Africa equated Western type of democracy as to mean multipartyism, accountability and transparency by government of the day, a perspective that was reiterated by the West and to this end, the West appointed the World Bank and the International Monetary Fund (IMF) to become the ideological watchdog of this type of Western democracy and provide oversight on African governments in terms of accountability and transparency especially in the political and economic space. In the case of Kenya, these watchdog institutions appeared to be against the authoritarian regime of President Moi, which was viewed as corrupt and complicit in the mismanagement of the country, a trend that the institutions deemed as threatening the West's capital investment in the country.<sup>360</sup> On their part, Moi and other African leaders felt threatened by the strategies of the West and blamed the watch dog institutions for adopting neo-colonial mentality to coerce African states into pluralism and multi-party political systems, which they argued were a threat to African unity. The regimes further accused the West of using its financial might to impose directives on African governments.<sup>361</sup>

It was at this point that the then president of Kenya, President Moi, explicitly protested and termed the World Bank's and IMF's demands as being oppressive and not taking into account African problems.<sup>362</sup> He stated that the West wanted to destroy the African economy by proposing structural adjustment programmes that called for reducing employment when Africa was already facing unemployment crisis. Despite the insistence by the proponents of multipartism that they were calling for transparency, the process towards multiparty politics

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<sup>358</sup> Ali Amin Mazrui, *The Africans: A Triple Heritage*, London: BBC Publications, 1986.

<sup>359</sup> Ibid.

<sup>360</sup> Andrew Morton, *Making of the African Statesman*, London: Michael O' Mara Books Ltd, 1998.

<sup>361</sup> Ibid.

<sup>362</sup> Andrew Morton, *Making of the African Statesman*, London: Michael O' Mara Books Ltd, 1998.

increasingly took on an ethnic dimension. For example, in Mount Elgon, the call for a multiparty system provoked inter-ethnic tensions, given that the Sabaot had a shared ethnicity with President Moi, the Kalenjin ethnic group and as such, were supportive of the stance taken by Moi, while some of the key proponents of change came from the Bukusu, who belong to the Luhya ethnic group. Consequently, this pitted the two communities against each other, with the Sabaot and other communities who supported the KANU regime claiming that the process of multiparty was skewed against their ethnicities while the pro-multiparty communities claiming that the change was for the good of the country. Advocates of multiparty like Masinde Muliro had a large following from Bungoma and Trans Nzoia among the Bukusu. Peter Kagwanja and Willy Mutunga in their discourse on *majimboism* observe that *pro-majimbo* Kalenjin KANU supporters were driven by fear of the effects of liberal democracy as they deemed it as a system that gives undue political muscle to numerically larger ethnic groups and threatened ethnic minorities with perpetual exclusion from power.<sup>363</sup> This perception denotes the ethno-dimension the call for multiparty system created and which is what informed the decisions made by President Moi's government to devise survival mechanisms against multiparty democracy.

In a counter-strategy President Moi engineered KANU stalwarts from the Kalenjin community to revive the Kalenjin, Maasai, Turkana and Samburu group (better known as KAMATUSA). The Kalenjin, Maasai, Turkana, and Samburu regarded the land that settlers had occupied in Rift Valley as their ancestral land. The politicians while politicising ethnicity, argued that it was only through a federal system that their people would be provided with guaranteed security of tenure over their lands in view of the constant influx of migrants from other areas of the country.<sup>364</sup> As leaders from KAMATUSA group advocated for reclaiming and securing what they referred to as ancestral land, others communities who had acquired land in these areas were keen to protect their territorial gains outside of their ancestral areas. Based on this, it is evident that the common citizens in Mount Elgon and the larger Rift Valley mistook the notion of *majimbo* as a call for ethnic cleansing.<sup>365</sup> This misconception stoked divisiveness and rapidly became a recipe for ethnic wars. However, not all KANU supporters had this perception as some of them supported

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<sup>363</sup> Peter Kagwanja and Willy Mutunga, "Is Majimbo federalism? Constitutional Debate in a Tribal Shark-tank", in *The Nation*, 20, May, 2001.

<sup>364</sup> Ibid.

<sup>365</sup> Mutuma Ruteere, "Kenya: from its Troubled History Majimbo is Mistaken for Ethnic Cleansing", in *The Daily Nation*, 20 October, 2007.

the *Majimbo* system as they saw it as a mechanism for redressing inequalities, as averred by Kagwanja and Mutunga who state that the 1990 *majimbo* debate was kicked off by Sharrif Nassir and William ole Ntimama as a system that would ensure equitable distribution of resources. The proponents of *majimbo* drew their swords against the unitary state dismissing it, as a colonial autocracy that privileged ethnic majorities, while trampling on rights of ethnic minorities. But it seemed that the *majimbo* debate was driving Kenya towards bloodshed as observed by Kagwanja and Mutunga who note that:

*Majimboism* has its sinister ring and a shed of blood. In many a Kenyan mind, it is twined with what both national and international human rights watchdog have unmasked as politically sponsored ethnic cleansing, indeed genocide in the Rift Valley, Western, Nyanza and Coast Provinces. Politically inspired violence killed and displaced thousands of Kenyans from their homes, destroyed property, brought local economies to their knees, made children destitute and assaulted citizenship and nationhood. *Majimboism* is a prized arrow in the quiver of the ruling elite to secure its place in the sun in the face of mounting local and international pressure for political, change and economic transparency.<sup>366</sup>

The defence of *majimboism* found traction in the classical idea that the diffusion of power prevents tyranny by the majority by distributing it to other levels of government. The proponents believed that distribution of power would enabled all parts of the country to develop and reduce the probability of misuse of absolute power. In their view, *majimboism* guaranteed an autonomy in which ethnic states could be strong building blocks for a nation state.<sup>367</sup> This outlook is shared by Peter Okondo who asserts that Kenyans and indeed all Africans should return to their ‘tribal nation’ because Africans have a natural allegiance to the tribe where they are sure of being secured rather than being bound together in the name of a single nation state. This notion was indeed shared by Kenyans during the 1990s as the pro-*majimbo* movement gained a lot of support and with this immense support, the *majimbo* proponents hoped to threaten the pro-democracy movement to abandon their quest for a multi-party state and the pressure for state transparency.

However, the anti-*majimbo* campaign did not deter the liberalist movement, which called for a public referendum at Kamukunji grounds in Nairobi in July 1990. On July 7<sup>th</sup> 1990 as liberalist

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<sup>366</sup> Ibid.

<sup>367</sup> Peter Habenga Okondo, A Commentary on The Constitution of Kenya.

leaders headed for Kamukunji for the public rally, in what was to later become popular known as the Saba Saba rally, they were all arrested and detained for months without being brought before the courts. Despite the arrest of the rally leaders, the crowd was not deterred and proceeded to the venue where police tried to disperse them. However, the efforts to disperse the crowd by the police resulted to a hostile engagement including street battles, which left over 20 civilians dead and hundreds others injured following the use of live ammunition by the police.<sup>368</sup> One year later after the aborted Saba Saba rally, in August 1991, the Forum for the Restoration of Democracy (FORD) was formed under the leadership of Jaramogi Oginga Odinga, Masinde Muliro, Martin, Shikuku, George Nthenge, Philip Gachoka, Ahmed Bamahriz and young politicians Raila Odinga, Paul Muite and Gitobu Imanyara among others.

Towards the end of 1991, as the forces of change gathered more support and momentum, pressure on the government increased and it became clear to the regime that politics had gone beyond the ethno-dimensional angle. However, despite this awareness, the regime through its stalwarts mainly from the Kalenjin community sought to counter the growing anti-government movement and commenced which entailed a series of rallies in Rift Valley, during which the rhetoric was ethnic-oriented. Key examples of these meetings include the ones held at Kapsabet on 8<sup>th</sup> September 1991, another at Kapkatet in Kericho on 21<sup>st</sup> September 1991, in Narok on 28<sup>th</sup> September 1991 and in Machakos on 7<sup>th</sup> October 1991.<sup>369</sup> At these rallies, top KANU politicians threatened multiparty proponents with dire consequences if they dared set-foot in the Kalenjin dominated zones of Rift Valley.<sup>370</sup> Additionally, they reiterated their intentions to pursue and push for the *majimbo* system of governance and threatened to expel communities that supported multi-party politics from their Kalenjin motherland.<sup>371</sup>

As the antagonism between the two sides' heightened, anti-multiparty crusaders resolved to ban multi-party advocates from Kalenjin controlled regions and it became apparent that the anti-multiparty movement was based on and driven by two commonalities among the proponents,

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<sup>368</sup> Kenneth Kiliku, *The Parliamentary Report on Ethnic Clashes in Kenya*, Nairobi: Government Printer, 1992, p. 7.

<sup>369</sup> Pius Kakai, "History of Inter-Ethnic Relations in Bungoma, Mt. Elgon and Trans Nzoia Districts, 1875-1997," PhD Thesis Submitted to History Department, Kenyatta University, 2000, <https://halshs.archives-ouvertes.fr/tel-01259805>, pp.175-180.

<sup>370</sup> Ibid.

<sup>371</sup> The Editor, "Ethnic Clashes in Kenya," *Weekly Review*, March 20, 1992.

with the first being their association with KANU and the second, being that they supported the idea of *majimboism* based on what their communities perceived as their ancestral homes and the latter was something they were willing to fight for and protect from those they perceived as ‘others’. In the wake of the pro-*majimbo* rallies, ethnic tensions were further heightened following the publications and distribution of anonymous leaflets in Rift Valley and some parts of Western Kenya calling for non-Kalenjin communities to quit the region.<sup>372</sup> The situation deteriorated to the extent that one KANU politician from the Rift Valley sponsored warriors undertake the eviction of non-Kalenjin from their perceived homeland. This rhetoric of incitement is affirmed by Stephen Wafula who notes that in 1991, Mark Too, a KANU stalwart, while addressing a public rally at Kaptama publicly stated, “Why have you Sabaot allowed other communities to live on your grandfathers’ graves? Why have you allowed arrogant Bukusu to live on your land?”<sup>373</sup> This sentiment was taken to heart by residents of Mount Elgon as asserted by Samuel Manjurai, a Sabaot who supported the incitement narrative, when he states that; “ethnic wars started in the Rift Valley, then people came and incited us to chase the other communities.”<sup>374</sup>

The continued incitement eventually resulted in open conflict and fighting broke out in this perceived homeland, with Mount Elgon where fighting broke-out on April 12, 1991 when Kalenjin warriors attacked and burned 120 houses and killed fourteen people of Bukusu origin.<sup>375</sup> The attack was well coordinated with warriors sporting tribal markings (red and white clay on their faces) and donning red tee-shirts and shirts. Prior to the attack, leaflets demanding that the Sabaot must remove the spots (*toa madoadoa*) had been distributed.<sup>376</sup> Following the Kalenjin attack, two Sabaot leaders, Chemonges and Wilberforce Kisiero, brought in well-armed Sebei from Uganda to reinforce the Sabaot in the wars to evict the Bukusu from Mount Elgon region.<sup>377</sup> Consequently, the region became a conflict zone and there was no peace in the area between 1991 and 1992 as ethnic wars persisted until 1992.

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<sup>372</sup> NCCCK, *The Cursed Arrow: Report on Ethnic Clashes in Kenya*, Nairobi: NCCCK, 1992.

<sup>373</sup> Stephen Wafula, interview with the author, Kaptama, 14/02/2017.

<sup>374</sup> Samuel Manjurai, interview with the author, Kaptama, 14/02/2017.

<sup>375</sup> Jacques Bertrand and Oded Haklai, *Democratization and Ethnic Minorities: Conflict or compromise?* New York: Routledge, 2014, p. 85.

<sup>376</sup> Laban Wafula Simiyu, interview with the author, Chepkube Location, Cheptais Sub-County, 03/06/2016.

<sup>377</sup> Ibid.

The eviction wars were intense as demonstrated by the burning down of more than 2,000 houses belonging to the Bukusu in Trans Nzoia in April 1992. The intensity is affirmed by one resident, Grace Njeri Njenga, who said, “In 1992, I lost my husband who was killed by a poisoned arrow shot by Sabaot raiders.”<sup>378</sup> Following these attacks, the Bukusu organised retaliatory attacks against the Sabaot and their supporters. At Chepkube in Bungoma, war erupted when the Bukusu backed by other Luhya communities in the area and Iteso neighbours attacked a Sabaot village and burned it down.<sup>379</sup> In July 1992, the Bukusu warriors who also seemed well organised and coordinated by virtue that they were wearing black coats and caps while armed with guns, *pangas* (machetes) and spears attacked Sabaot strongholds. In a single morning ten Sabaot villagers were killed in what the area chief confessed that it was a different kind of warfare when compared to the previous ones. According to the chief, the Bukusu attack was brutal and inhumane as they killed indiscriminately with even children and women being massacred,<sup>380</sup> something that was not in line with Bukusu traditional warfare, where it was a taboo to kill children and women. One of the residents, Bramuel Otwane, avers that the conflict and wars between the two were mainly triggered by external interference, when he states that:

There was political interference from Nairobi in 1992 because KANU felt it was threatened and worried by multiparty politics which trickled down to Mount Elgon. The war was triggered by the Sabaot stealing livestock from the Bukusu and taking them to the forest. More than 50 Bukusu warriors armed with crude weapons went to the nearby Sabaot village and demanded their livestock. One warrior attacked a Sabaot man with a spear and before security was mobilised the situation had ran out of control. Sabaot fighters armed with modern weapons burned down Bukusu villages killing many people.<sup>381</sup>

The war between the two communities was to later spread beyond the Mount Elgon area to other areas where the two communities had settled. In the previous wars the communities on the lower part of the mountain were on the receiving end but in 1992 they seemed to have also prepared to attack Sabaot positions.<sup>382</sup> Available documented evidence indicates that in the early months of 1992 over 300 people were reported dead, hundreds injured and over 37, 000 people were

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<sup>378</sup> Grace Njeri Njenga, 67 years, interview with the author, Kiboroa Location, Sabot Sub-County, 13/02/2017.

<sup>379</sup> Benson Ishapel Opagala, 74 years, interview with the author, Kolanya Sub-Location, North Teso, 02/06/2016.

<sup>380</sup> Chief Moses Chemoiywo, interview with the author, Cheptais Location, Cheptais Sub-County, 03/06/2017.

<sup>381</sup> Bramuel Otwane, 67 years, interview with the author, Ngachi Sub-Location, Cheptais Location, Cheptais Sub-County, 03/06/2017.

<sup>382</sup> Ibid.

displaced by the conflict.<sup>383</sup> By the time elections were being held, in December 1992 thousands, majority of whom were Bukusu, were unable to cast their votes because of the armed confrontation in the region, which in turn favoured the incumbent, President Moi, who subsequently won the election. Armed confrontation between the Bukusu and Sabaot continued well after the elections and into 1993. And between January and February 1993 Kalenjin warriors launched fresh attacks on Bukusu villages, with the attacks having a strong Sabaot nationalist sentiment with demands that the government should redraw the district boundary lines and give the Sabaot more land from the Bukusu. However, this was not realised as the Bukusu fought back and declared that they would fight to the last man to secure their territories. In the renewed attacks the weapon of choice was a gun, with most of the guns having been acquired from the Sebei in Uganda. The continued conflict between the two tribes saw many people being displaced, with some seeking refuge in other areas of the country while others chose to flee to Uganda, where they became refugees. Towards the end of 1993, the then District Officer, one Mr. Cherotich, held discussions with the Laibon of the Sabaot and subsequently, the Laibon visited all the Sabaot clans preaching peace and through these efforts a peace meeting was convened and a peace ceremony performed to end hostilities and given the seriousness the two tribes placed on oaths, no one dared to break the covenant as they were worried they would die.<sup>384</sup>

Despite the peace covenant of 1993, armed confrontation erupted again in Mount Elgon in the lead up to and during the 1997 General Elections. The elections, which left hundreds of people dead in Mount Elgon and public and private property burned down and destroyed, saw the re-election of the incumbent, Daniel Arap Moi, for a five year term.<sup>385</sup> Prior to these elections, the then President, Daniel Arap Moi, had appointed a Judicial Commission of Inquiry to investigate ethnic clashes in all parts of Kenya, in what is commonly known as the Akiwumi Commission.<sup>386</sup>

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<sup>383</sup> Barasa Kundu Nyukuri, "The Impact of Past and Potential Ethnic Conflicts on Kenyans Stability and Development", a Paper Prepared for the USAID Conference on Conflict Resolution in the Greater Horn of Africa June 2017.

<sup>384</sup> Geoffrey Kipsang, interview with the author, Kaimugul Sub-Location, Chepyuk Location, Cheptais Sub-County, 04/06/2016.

<sup>385</sup> Lucy Ngundo Wangechi, et.al, "Causes of Armed Ethnic Conflict and Implications for Peace Education in Nakuru County, Kenya," in *Journal of Special Needs and Disability Studies*, p. 4.

<sup>386</sup> Akiwumi Commission, *Report of the Judicial Commission Appointed to inquire into the Tribal Clashes in Kenya (Akiwumi Report)*, Nairobi, Government Printer, 1999, pp. 346-347.



The commission found out that violence was triggered by unaddressed land ownership issues dating back to the colonial administration and in the case of Mount Elgon, these unaddressed land issues had pitted the two main tribes, the Sabaot and the Bukusu, against each other, with both claiming that they had been ousted from the fertile ‘White Highlands’ of Bungoma and Trans Nzoia by British settlers. Each community claimed their ancestral land was never returned following the departure of the colonial settlers, with each community accusing the other of occupying their ancestral lands, though the Sabaot also blamed the Luhya of encroachment stating that the Luhya came to occupy the land after independence. Despite the findings of the Akiwumi Commission, President Moi’s government did little to address the issues raised once they were re-elected for a five-year term.

Consequently, the inter-ethnic wars persisted well into 1998 in what the Sabaot called fighting for their survival. They claimed that the Bukusu had an underlying desire to rule and eliminate the Sabaot community from the region. A perception that is well illustrated by John Oucho, when he cites the remarks of one of the Sabaot leaders, Wilberforce Kisiero, who is being on record as saying that the Bukusu were cannibals who were decimating the Sabaot community not only by taking their land but also by marrying their daughters yet not many Bukusu girls get married to the Sabaot. Kisiero further cited an incident where he was compelled to change his name to Ojiambo to reflect Luhya relations so as to access a bursary in Bungoma to confirm his assertions of the intent of the Bukusu to decimate the Sabaot.<sup>387</sup> This notion is supported by another Sabaot interviewed for this research, Silas Kiplimo Naibei, who stated that the Bukusu just hated the Sabaot and cited one instance in the 1980S, when a leading Luhya leader, Elijah Mwangale wrote that “Western is Luhya-land and there are somewhat individuals (Sabaot) in the mountains who live in caves like wild animals and some foreigners (Iteso) who came from Uganda to look after our cows”.<sup>388</sup>

The perception of the Sabaot is further affirmed by the apparent discrimination of the Sabaot in the labour market as demonstrated by the case of Bungoma District, where employment was on ethnic basis, which disadvantaged the Sabaot who in turn decided to adopt war as a method to

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<sup>387</sup> John O. Oucho, *Undercurrents of Ethnic Conflicts in Kenya*, Leiden; Boston; Koln: Brill publishers, 2002, p. 79.

<sup>388</sup> Silas Kiplimo Naibei, interview with the author, Chepyuk Location, Chepyuk Location, Cheptais Sub-County, 04/06/2016.

respond to this perceived unfair treatment. Anecdotal evidence indicates that the use of war as a redress mechanism paid off as asserted by Patrick Ngaina, a Sabaot retired teacher, who stated that following the push back by the Sabaot, the Sabaot who originally had one administrative location, were subsequently accorded several locations in four divisions and a district of their own.<sup>389</sup> However, the Sabaot demands did not stop there, with the allocation of their own district they demanded the government to clearly demarcate the boundary between the Sabaot and the Bukusu to ensure that the two tribes are never be mixed up again in the name of a district, which demonstrates the extent of the animosity the Sabaot felt towards the Bukusu. This perception is supported by Masheti Masinjila and Okoth Okombo, who opine that the Sabaot harboured ill feelings against the Bukusu and therefore, there should be no pretence that there would be peace between them.<sup>390</sup>

To understand the character and trajectories of the 1990s wars in Mount Elgon, we situate them in the broader context of land claims and how democratisation process rekindled land grievances that people had since colonial alienation. As argued earlier, land claims generated hegemonic directed competition between the communities living in the region, which is supported by George Balandier, who avers that the political economy of colonial rule and the postcolonial state formation processes encouraged and deepened intense ethnic conflict in most African states.<sup>391</sup> The process involved differentiating citizens into stratified ethnicities. Inter-ethnic conflicts in Africa were present during precolonial times but become more pronounced in colonial and postcolonial eras, with different ethnic groups fighting over which people should occupy which territory and which people have primordial claim over a given territory as was the case of Mount Elgon. After independence, land politics, scarcity of land and the perceived unfair allocation and distribution land, the urge to impose hegemonic control over other communities and the weak state exacerbated and compounded the volatile situation and entrenched the ethnic divisions. the region would continue to be a contested terrain, that ended up in a deadly theatre of ethnic conflict as communities fought over which ethnic groups owns the land or which ethnic group should control it and its vast resources.

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<sup>389</sup> Patrick Kisémbé Ngaina, 82 years, interview with the author, Ngachi Sub-location, Cheptais Location, Mount Elgon District, 03/06/2016.

<sup>390</sup> Masheti Masinjila and Okoth Okombo, *Voices from the Mountain: Personal Life Histories from Mt. Elgon*, Edited by: Masinjila, M. and Okombo, O. Nairobi: Kenya Oral Literature Association, 1998, pp. 70-71.

<sup>391</sup> George Balandier, *The Sociology of Africa: Social Dynamics in Central Africa*, New York: Praeger, 1970, p. 38.

## 5.6 Conclusion

The discussions in this chapter show that there is a correlation between historically known wars in Mount Elgon since the migration and settlement of the different ethnic groups in the region and the more recent experience of SLDF-led wars. This relationship is robust with land claims and counter-claims and the competition for and intention to control resources. Even though most of the historical wars were not documented in written form, oral narratives among the communities indicate that conflict over land, supremacy and ethnic identity are the most salient driving factors of wars across the different generations, starting from the earliest inhabitants to the current generation, which can serve to explain why the wars keep recurring. The chapter presents a framework within which we can understand why wars keeps on recurring based on existing literature of inter and intra ethnic wars. Additionally, I have outlined how land, ethnic identity and hegemonic and counter-hegemonic struggles existed as incentives for wars in the case of the Mt. Elgon region. The contradictions in the narratives of the Bukusu, Sabaot and Iteso illustrated in the various examples of wars fought in Mount Elgon region are symptomatic of a deeper contradiction over land.

Aside from analysing the driving factors of war in the region, I also examined the various wars fought in Mount Elgon at different times. The intension of the chapter was to establish an understanding of the different wars and determine whether there is a direct relationship between previous wars fought in the region and the SLDF war. Although Mount Elgon wars were fought at different times, there is evidence from various studies that demonstrate that old wars can and still exist within the modern world. This chapter examined the wars and politics of belonging in Mount Elgon region. The region has been troubled by periodic bouts of ethnic wars in 1963, 1971 and at the return of multiparty politics in 1991. The first wars pitted the Sabaot against the Bukusu while the wars witnessed from 2004 to 2008 were intra-communal pitting two Sabaot groups of Mosop/Ndorobo against the Soy/Bok. The politics of belonging occasioned and prompted inter-communal wars between the Bukusu and Sabaot people and while there was some form of peace in the region towards the end of the 20<sup>th</sup> century, war erupted again in 2004. However, unlike the previous wars which pitted the Sabaot and the Bukusu (inter-ethnic), the 2004 wars were internal to the Sabaot community and was fought between two main Sabaot clans (intra-ethnic) as discussed in chapter six.

## **CHAPTER SIX**

### **STATE AND MILITIA GROUPS IN MOUNT ELGON CONFLICT**

#### **6.1 Introduction**

Economic literature on causes of militia-led wars links the probability of their emergence to economic opportunities that make war or armed conflict profitable. This perspective gives a passive view of the failure of the state and emergence of charismatic leaders who mobilise the masses to fight for what they perceive as rightfully theirs but for which they are unjustly denied access. In exploring the genealogy and evolution of the Sabaoth Land Defence Force (SLDF), the Moor Land Defence Force (MLDF) and other militias in Mount Elgon, this chapter provides a dynamic analysis of the rebellion-making decision in which the state played an active role, direct or indirect. The history and evolution of SLDF and MLDF exhibit distinct and similar features that this chapter explores by attempting to answer several questions. Specifically, the chapter seeks to determine why the two main militia groups (SLDF and MLDF) and others emerged. Did the land issues in the region as well as economic and political marginalization play any role in the emergence of the militias? Did competition for and over natural resources such as land and farm products inform the armed conflict, or did this constitute the impetus for the formation of the SLDF? What about MLDF and other militias? How did members of the Soy/Bok collectively manage to sustain the war for such a long time? This chapter explores how militia groups emerge, by posing the following questions: what gap do they emerge to fill? How do they raise their finances? The chapter also theorizes the emergence and actual use of militia groups and delves into the politics that structurally promote such militia groups.

#### **6.2 Conceptualising State Fragility and Militia Formation**

Providing law and order is a core state function, and central to stability of any state. If the state succeeds in their provision, it monopolises legitimate use of force because the governed will be willing to submit to its law. However, if the state presence is fragile then the most likely outcome is the emergence of community-based organisations that attempt to offer services that in reality are supposed to be offered by the state. The collective effect in this is that these organisations become so strong at the expense of the state, thus usurping state power. Once such groups usurp state power, they often engage in large-scale recruitment of fighters that further assists them to

consolidate control over political, social and economic spaces in their areas of operation. Increasingly, they may acquire sophisticated weapons, which enable them to leverage control and to subjugate those under their perceived jurisdiction as well as fight against any perceived threats. Consequently, such groups morph into powerful militia groups, which establish non-state authority over vast tracts of rural periphery, and even orchestrate mass violence against state and society.

The question then begs, how do such militias emerge, control and coordinate outside state authority? In a nutshell, one could argue that the ability of militias to project or wield power depends on state absence or presence. The principal argument in most literature on militia wars justifies their existence on the modern bureaucratic state which is believed to be the most necessary restraint without which wars are likely to arise in ungoverned spaces.<sup>392</sup> However, weak states lack the capacity to restrain militia group operations specifically in peripheral areas where government presence is minimal and policing systems are ineffective or non-existent.<sup>393</sup> The incapacity of a state to exert its control in such spaces often triggers frequent conflicts that can turn into full blown wars if not quashed.<sup>394</sup> Consequently, the absence of or the presence of a weak state poses a challenge to the traditional apperception of the use of violence as a state monopoly, the latter which is seen by scholars such as Max Weber as being necessary for preventing emergence of other organisations of violence.<sup>395</sup>

State fragility or absence of its capable guardianship role motivates non-state actors in the name of militias and warlords to step into the vacuum created by the absent government to exert violent authority and security to the community. However, sometimes militias emerge as state projects as averred by the state-centric proponents, who aver that militia groups emerge in two ways: primarily as state-centred projects where the state enlists support of local youths in the

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<sup>392</sup> Paul Rexton Kan, *The Global Challenge of Militias and Paramilitary Violence*, Switzerland AG: Palgrave Pivot, 2019, pp. 51-75.

<sup>393</sup> Huseyn Aliyev, "Strong Militias, Weak States and Armed Violence: Towards a Theory of 'State-Parallel' Paramilitaries," *Security Dialogue* 47, no. 6 (2016): 498–516.

<sup>394</sup> James Fearon and David Laitin, "Ethnicity, Insurgency, and Civil War," in *The American Political Science Review* 97 (01), 2003, pp. 75-90.

<sup>395</sup> Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, 2<sup>nd</sup> ed. Los Angeles, CA: University of California Press, 1968.

provisions of security services and, secondly, when the state absents itself deliberately.<sup>396</sup> Joshua Chakawa opines that militias are seen as state-centred projects when the state is deliberately unable to perform its functions as a security provider hence driving people to form militia groups for their defence with or without the assistance of governments in times of crisis. This happens when a government fails to guarantee the security to the local population.<sup>397</sup>

On the hand, Mustafa Mirzeler and Crawford Young attribute the emergence of militias on the minimal presence of the state in affected areas or slender hegemony of the state in peripheral areas,<sup>398</sup> which makes it impossible for the state to halt the flow of any weapons or regulate any trade in these areas leaving the inhabitants to engage in sometimes illegal trading activities. Minimal presence of the state means minimal or no social services such as education, health, etc., which play a major role in social development of communities. With no other institutions of social change, weapons like Kalashnikov 47 (AK-47) can easily be incorporated into local social and cultural patterns as demonstrated in many post-conflict states, where the gun becomes an instrument or means to acquire social as well as an economic status.<sup>399</sup> With heightened armament, local conflicts intensify resulting in rivalry groupings, which turn into militia groups.

According to Chakawa, the emergence of ethnic militia movements in Africa can be viewed from the perceived notion that ethnic groups feel they have suffered in the hands of the state.<sup>400</sup> Militias capitalize on ethnic groups feeling of being marginalized and dominated, specifically exclusion from power, exploitation and existing security lapses, promising to change the status quo. These groups primarily comprise of youth who are disgruntled by lapses in security caused by the absent state. In efforts to fill the gap, youth set up their own local security as a mechanism

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<sup>396</sup> David J. Francis “Introduction” in Francis D. J. (Ed.) *Civil Militias: Africa’s Intractable Security Menace*, Aldershot: Ashgate, 2005, p. 1.

<sup>397</sup> Joshua Chakawa, “Making Sense of Militia-Induced Conflict in Post-Colonial Africa and the Importance of Regional Organisations”, in Mammo Muchie, Vusi Gumede, Phindile Lukhele-Olutunju and Hailemichael Teshome Demissie (eds), *Unite or Perish: Africa Fifty Years after the Founding of the OAU*, Pretoria: Africa Institute of South Africa 2004.

<sup>398</sup> Mustafa Mirzeler and Crawford Young, “Pastoral Politics in the Northeast Periphery in Uganda: AK-47 as Change Agent,” in *The Journal of Modern African Studies*, 38, 3, 2000, pp.407-429, <http://www.jstor.org/stable/161705>, accessed on 20/05/2015

<sup>399</sup> Ibid, p. 419.

<sup>400</sup> Ibid.

for protecting the social, economic and political interests of their communities<sup>401</sup> and fight and struggle not only for recognition but also for the control of resources. According to David Thorning, the struggles automatically prompt use of various means including forming militia groups to help in the realisation of their objectives, which mainly focus on drawing attention to the plight of the said communities and seeking to correct the perceived marginalisation of their ethnic nation by the state.<sup>402</sup>

A hybrid model could also be used to explain the emergence of militia groups. The hybrid perspective explains the emergence of militia groups from the security lapse point of view and contends that militia groups emerge because governments cannot guarantee security of its citizens.<sup>403</sup> It is considered a hybrid as the militias can emerge either to assist government efforts in which they may work closely with the government's security agencies or emerge to counter government presence.<sup>404</sup> If they do not claim or seek government support, then the militias may arise as predators bent on scavenging whatever may be left of a decomposing state. Conversely, one can look at the kind of politics that do not take place within the framework of the sovereign state.<sup>405</sup> Actors in such a political space challenge state sovereignty in the name of ethnic nationality or any other identity and the actors involved could come from specific groups in the society with common interests and can include ethnic, cultural and clandestine groups, who interact with the state through claims over their interests.<sup>406</sup> The state-society interaction is positioned as paramount, however, in its absence, statelessness prevails due to the state's failure to offer what communities or certain groups expect. If states cannot meet the expectations of the people, then they are labelled as failed states,<sup>407</sup> due to their inability to rule their territories and its people in a meaningful way, which in turn adversely affects the quality of life of its citizens. Failed states have very limited authority over social institutions, which are supposed to alleviate

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<sup>401</sup> Ibid.

<sup>402</sup> David R. Thorning, "Civil Militia: Indonesia and Nigeria in Comparative Perspective." In: Francis, D.J. (ed.). *Civil Militia: Africa's Intractable Security Menace*, Burlington: Ashgate Publishing Limited, 2005, pp. 89-116.

<sup>403</sup> Usman A. Tar, "The Perspective Manifestations of Civil Militias in Africa: Evidence from Western Sudan," in *Peace, Conflict and Development: An Interdisciplinary Journal*, Vol. 7, July 2005. <http://www.peacestudiesjournal.org.uk>, accessed on 17/2/2019

<sup>404</sup> Ibid.

<sup>405</sup> Joel Migdal, *Strong Societies and Weak States: State-Society Relations and Capabilities in the Third World*, Princeton: Princeton University Press, 1988.

<sup>406</sup> Ibid.

<sup>407</sup> Ibid.

suffering.<sup>408</sup> Joel Migdal offers important insights about failed states, which he characterises as those states that are unable to implement the most basic policies at the local level and not able to govern rural areas, border regions and hinterlands despite wielding formidable military might.<sup>409</sup>

Migdal rejected Marxist and structuralism claims that states' actions are reflections of power by stating that reflections of power can only come about if the subjects accept the authority as justice administrators. If they do not accept such authority, they tend to establish other centres of power to offer the securities they need. It is such efforts that often lead to the emergence of militia groups or warlords.<sup>410</sup> Commanders of militia groups in most cases do not subscribe to the idea that the state is expected to dominate society, instead, they argue that states are a distinct part of society and has a special role to play, which sets it apart or at conflict with other social groups.<sup>411</sup> Consequently, the failure by the state authority to play its essential role of promoting political harmony and economic development leads to contestation of the legitimacy of such a state. Migdal's view is supported by Michael Bratton whose research demonstrated that only 52 percent of adults in Africa think the state can solve their problems while 42 percent find it difficult to acquire services from the state.<sup>412</sup> Bratton's findings indicate that a huge gap that exists between popular expectations of the state and its ability to deliver services and goods to its subjects. It is this gap that communities try to fill by establishing militia groups as happened in the case of Mount Elgon, where the state was unable to accumulate the necessary authority to solve the problems affecting the local people and subsequently, the communities turned to the militia. This occurs because societies are not homogenous as states expect, with communities having multiple layers and groupings, such as clans, social classes, etc., which makes it difficult for a state to satisfy the specific needs of each group. Additionally, these diverse groups are driven by interests that may be in conflict with those of the state and in cases where the interests of the state and the groups are extremely divergent, there is a likelihood that the groups could

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<sup>408</sup> Ibid.

<sup>409</sup> Ibid.

<sup>410</sup> Joel Migdal, *Strong Societies and Weak States: State-Society Relations and Capabilities in the Third World*, Ibid.

<sup>411</sup> Ibid pp. 29-33.

<sup>412</sup> Michael Bratton, "State Building and Democratization in Sub-Sahara Africa: Forwards Backwards or Together?" In *Afrobarometer*, Working Paper No. 43, September 2004, pp. 10-14. <http://www.afrobarometer.org/Afra Paper No. 43., pdf> (19September, 2004) accessed 10/05/2016



threaten the state with violence as they coerce their members to adhere to their particular set of rules.<sup>413</sup>

Moreover, the state may at times neglect its responsibility of securing the periphery making it appear as if it is selling off its authority.<sup>414</sup> Thus by not exerting its authority, the state creates a vacuum and intentionally retracts its sovereignty creating a void, which the militias emerge to fill.<sup>415</sup> The vacuum occurs when the state loses control of some of its regions and has no identifiable authority in those territories. When the state creates a vacuum, it starts competing with informal networks who engage in subversion of state agencies, which further displaces the state.<sup>416</sup> However, it should be noted that militia formation is not an isolated response to an absent or weak state or to society's fear of insecurity rather it is a political process defined by complex issues that evolve when a state is weak states and does not have control of its periphery.

Militia groups can also be explained from the self-defence point of view. In instances where the state cannot provide a satisfactory response to security issues, communities become frustrated and desperate and this desperation provide an opportunity for community leaders and elites to establish "self-defence" groups.<sup>417</sup> John Locke points out that militias may emerge as a result of self-defence necessitated by breakdowns in governance and persistence of conflict sometimes perpetuated by agencies of the state that disrespect the rule of law and justice. In his treatise on governments, Locke argues that in the state of nature there was freedom to adopt any measures necessary to survive and protect themselves and their property.<sup>418</sup> In the process of protecting themselves and their property, men may acquire weapons. In the state of nature, laws of self-defence were clear and brutal and permitted one to destroy anything or anyone that posed a threat to oneself or their property, human or otherwise. Thus in such a society humans could kill fellow

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<sup>413</sup> Daniel Lambach, "State in Society: Joel Migdal and the Limits of State Authority," Paper presented at the Conference of Political Concepts Beyond the Nation State: Cosmopolitanism, Territoriality, Democracy, in Danish Political Theory Network Conference, University of Copenhagen, Department of Political Science, Copenhagen, 27-30 October 2004.

<sup>414</sup> Beatrice Hibow, *Privatizing the State*, New York: Columbia University Press, 2004.

<sup>415</sup> Martin Gainsbough, "Privatization as State Advance: Private Indirect Government in Vietnam," School of Sociology, Politics and International Studies, University of Bristol, Working Paper No. 12-08.

<sup>416</sup> Ibid.

<sup>417</sup> Dudley Althaus and Steven Dudley, "Mexico's Security Dilemma: Michoacan's Militias, The Rise of Vigilantism in Mexico and its Implications Going Forward," in *In Sight Crime*, <https://www.insightcrime.org>, accessed on 26/02/2019

<sup>418</sup> John Locke, *Second Treatise of Government*, Indianapolis: Hackett Publishing Company, 1980, p. 8.

humans if they perceived them as threats, just as they may kill a wolf or a lion.<sup>419</sup> Additionally, Locke asserts that lethal force could be used on a man who attempted to deny another their rightful property, a right that was carried on even after people entered society and established governments. The emergence of governments attempted to offer an alternative to life under the state of nature. However, if the government does not offer the required alternative or if it does not act in a just manner, people still retreat to the state of nature by invoking the right of self-defence and use of violence.<sup>420</sup>

Historically, the marginalisation of Mount Elgon periphery region can be traced to the colonial period. This long-term marginalisation created conditions conducive to state fragility and human insecurity, and relatively high levels of armed violence across a broad region straddling the Kenya and Uganda frontier, where there was with limited state presence on both sides creating conditions conducive to severe poverty and human insecurity. However, the current state fragility in Mount Elgon can be linked to the post-independence governments of Jomo Kenyatta and Daniel Arap Moi, which mismanaged land allocation after the end of colonial rule. The Kenyatta and Moi regimes initiated and perpetuated political and economic conditions conducive for inter-ethnic conflicts, while their political minions used monetary handouts, land allocation, and even infrastructure, education, and health projects to secure support from particular ethnic groups for the formation of dominant ethnic coalitions.<sup>421</sup>

Weak state presence was a common phenomenon in the Mount Elgon region after independence as it was in other marginalised areas including informal settlements in urban areas. This absence and minimal state authority in these areas were to eventually result in communities calling to question the state's capacity and legitimacy. Consequently, with the state incapable of fulfilling its role as a guardian, ethnic security dilemmas took root and prompted the emergence of militia groups that operated under the pretext of the first line of defence for communities. Under conditions of poor state presence, intensive inter-group competition occurred over increasingly

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<sup>419</sup> John Locke, *Second Treatise of Government*, Ibid, P. 14-15.

<sup>420</sup> Ibid p.48.

<sup>421</sup> Joel Barkan, "Ethnic Fractionalization and the Propensity for Conflict in Uganda, Kenya and Tanzania." In *On the Fault Line: Managing Tensions and Divisions Within Societies*, edited by Jeffrey Herbst, Terence McNamee, and Greg Mills, London, 2012.

scarce land resource.<sup>422</sup> Indeed, militia groups emerge as a result of state/government weakness to handle security, political or economic issues affecting an aggrieved people, with these factors combining to create incentives for sub-state responses to state failure. This point of view holds that the emergence of militias such as those that operated in Mount Elgon are intimately linked to the extent of the power of the government and the authority of the state to exert its influence on the periphery. However, in the case where the government exerted its influence and militias emerged, then there would be need to analyse and determine whether the influence was taken positively by all the people in the said region and whether there was a section of the populace that contested the legitimacy of the influence. In the case of Mount Elgon, both there was a contestation of the legitimacy of the state, with the circumstance further compounded by the need for self-defence given the weak and absentee government. Analysing these issues are critical in understanding the Mount Elgon war, which necessitates a systematic analysis of how the Sabaot Land Defence Force (SLDF) and the Moor Land Defence Force (MLDF) emerged.

### **6.3 Land Controversy and the Emergence of SLDF Militia in Mount Elgon**

As demonstrated in earlier chapters, Mount Elgon has a history of land contestation, which has been the subject of conflict as is the case for many other parts of the country where land is contested by different ethnic groups. The role of ethnicity in land conflicts is supported by Karuti Kanyinga who argues that ethnicity and the manner in which the land question has been addressed throughout the post-colonial period played an important role in violence experienced in Kenya.<sup>423</sup> Kanyinga's arguments are supported by Keith Sorenson, though Sorenson goes further and asserts that politics over land in Kenya has roots in colonialism, which was characterised by European alienation and acquisition of land and the eviction of indigenous communities from their lands.<sup>424</sup> The controversies surrounding land distribution and allocation as well as the politics and conflicts thereof are extensively documented by George Gona, who emphasises that the Kenya National Dialogue and Reconciliation identified the land question

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<sup>422</sup> Paul Collier and Anke Hoeffler "Beyond Greed and Grievance: Feasibility and Civil War," in *Oxford Economic Papers* 61, 2009, pp. 1-27. [www.svt.ntnu.no](http://www.svt.ntnu.no), accessed on 26/02/2019

<sup>423</sup> Karuti Kanyinga, "The Legacy of the White Highlands: Land Rights, Ethnicity and the Post-2007 Election Violence in Kenya," in *Journal of Contemporary African Studies*, Volume 27, 2009, pp. 325-344. <https://doi.org>, accessed on 6/4/2019

<sup>424</sup> Keith Sorrenson, *Origin of European Settlement in Kenya*, Nairobi: Oxford University Press, 1968.

“Agenda Four” must be fulfilled as part of peace building.<sup>425</sup> These scholars demonstrate a clear picture of land controversy in Kenya which can better be understood from the colonial policies of land alienation and settlement, centralisation, territorial and administrative control over land. These policies were later adopted by post-independent Kenya governments.

Daniel Lambach argues that there is a lot of controversy ranging from distribution skewed towards political gain, mobilisation of communities around land issue and promising people land, which might not be readily available.<sup>426</sup> This perspective is echoed by Claire Medard who contends that empty promises of land became a post-colonial political strategy to mobilise support for political gains in Kenya.<sup>427</sup> Political elites promised individuals and communities were land in the former colonial settled areas thus making land ownership in the former colonial White Highlands part of political patronage perpetuated by the ruling elite close to Kenyatta and Moi regimes. Subsequently, land became a symbol of wealth and political power hence viewed as a basis for power.<sup>428</sup> Land was not only a symbol of wealth and power, it was also scarce because of the restriction to its access introduced by the colonial administration. For instance, the British colonial government created Mt. Elgon Forest Reserve through Proclamation No. 44 of 30<sup>th</sup> April, 1932. The forest covered an area of 91, 890 hectares, however changes were made through the 1939 Ordinance Vol. XXII, which altered the boundaries of Kavirondo Native Land Unit by creating Elgony Native Land Unit later to be known as Chepkitale that covered 17,000 hectares.<sup>429</sup>

Chepkitale was not only cold but also prone to regular attacks on the Mosop/Ndorobo by the Bagisu people from Uganda. In addition, the settlement was also affecting the water catchment and game reserve of Mount Elgon. The government of Kenya therefore opted to move the

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<sup>425</sup> George Gona and Mbugua wa Mungai, *(Re)Membering Kenya: Interrogating Marginalization and Governance*, Nairobi: Twaweza Communications Limited, 2013, p. 209.

<sup>426</sup> Daniel Lambach, “State in Society: Joel Migdal and the Limits of State Authority,” Paper presented at the Conference of Political Concepts Beyond the Nation State: Cosmopolitanism, Territoriality, Democracy, Danish Political Theory Network Conference, University of Copenhagen, Department of Political Science Copenhagen, 27-30 October 2004. <https://www.researchgate.net>, accessed on 7/4/2019

<sup>427</sup> Claire Medard, “Indigenous Land Claims in Kenya: a case study of Chepyuk Mount Elgon District”, in ward answeeuw and Chris Alden.

<sup>428</sup> Ibid.

<sup>429</sup> The struggle over land in Africa: conflicts, politics and change, Cape Town: Human science Research council, 2010, pp.19-32.

Mosop/Ndorobo to “safety” in a move seen as also securing the water catchment and the game reserve. In 1965, the government decided to move 690 Mosop/Ndorobo families living in Chepkitale which was declared part of the forest. The process was formalized vide Legal Notice No.35 of 1968 under the Land Consolidation Act (Cap 283), which created Mt. Elgon National Park. Through this legal notice, the government argued that the status of the area was that it was government land and therefore was not subject to Land Adjudication. The action by government displaced over 500 families that had originated from Chepkitale who were forced to move to Kaptega, Kiptugot, Kimoson, Romromwet, and Kiboroa in Trans Nzoia where they became squatters.<sup>430</sup>

There was a public outcry on the plight of suffering squatters, to the extent that some members of the Sabaot went to court to petition the government on the same, citing how they had been forced out of their land by the colonial state, “Our forefathers were forcefully evicted by the white settlers and post-colonial government.”<sup>431</sup> It should be noted that the Kenya government arbitrarily designated the areas around Mount Elgon as protected areas, without consulting the Sabaot and Bukusu communities, who occupied the area and co-existed with the ecosystem long before Kenya became a state. It put a side Mount Elgon National Park and forced local communities to move out of the parks without being adequately consulted and compensated, this preservation conservation strategy was resisted. Displacing local communities from their traditional lands, restricting their access to resources within the forest and park, and providing little or no compensation, made them hostile towards the government conservation plan. Often, this led to conflict, compelling the communities to go against the established rules, and harvest resources in what the government saw as illegally. The local people did not see a benefit of conservation. In response to the petition, the government converted some part of the Mount Elgon Forest into Chepyuk Phase I settlement scheme, which was initially meant to settle 690 Mosop/Ndorobo families that the government had moved from Chepkitale. However, some members of the Soy/Bok joined the Mosop/Ndorobo swelling the number of families to 1190. The land that the government had seized in Chepkitale was 39,575 acres but the total acreage of Chepyuk Phase I was only 19,040 acres, which left the Sabaot feeling they had been short-

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<sup>430</sup> KNA/DC/EN/3/2/4. Political Records: Ethnology. Kenya National Archives.

<sup>431</sup> Justin Kenrick, “The Ogiek of Mount Elgon and the Sengwer of the Chepkitale, Apr 18, 2011. <https://justconservation.org>, accessed on 7/4/2019

changed once again by the state.<sup>432</sup> The community knew the government had robbed them off their land and insisted that they receive an acre for an acre which would have translated to each family getting 50 acres.<sup>433</sup> However, each family was only allocated 5 acres as the government had only de-gazetted 3686 acres out of the 19,040 acres, meaning about 15,354 acres continued to be part of Mt. Elgon forest.<sup>434</sup> This meant that the people living on the land were still squatters at the mercy of the state, which could simply evict them if and when it wished. To calm the community, the government held that, it had identified an area to be excised and officially made available in 1974 through legal Notice No. 51 of 1974 in recognition of the squatter problem.<sup>435</sup>

To assist in building a strong case to petition for the de-gazettement of the remaining land, the Mosop/Ndorobo families from Cheptkitale invited 300 families from Soy/Bok group to the area so that they could occupy the whole of Chepyuk farm. The Soy/Bok group, who had interacted with other communities were entrepreneurs and more aggressive on matters related to land.<sup>436</sup> They therefore took advantage of the Mosop/Ndorobo and gradually bought them out, which meant the Mosop/Ndorobo were once again squatters.<sup>437</sup> The situation worsened with the influx of more squatters into Chepyuk Settlement Scheme in 1989 most of whom were from Chepkitale, although others were landless people who took advantage of government ignorance over the real number of families from Chepkitale. The squatters settled to the East and West of the legally excised and adjudicated area and began agitating for formalisation of their settlement within the forest area.<sup>438</sup> The enlarged number of squatters caused a rapid increase in population, which resulted in competition for land. Subsequently, the competition degenerated into quarrels over land ownership, which peaked in the last quarter of 1989, prompting the Mosop/Ndorobo to plead with the government to evict the Soy/Bok group whom they now accused of invading their

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<sup>432</sup> Peter Ng'etich and Bernard Kwalia, "Where Cave Men Kill and Maim Over Land, Families Flee Chepyuk Settlement Scheme after Brutal Attacks by Evicted Squatters", in *Daily Nation*, December, 12, 2006, p. 27.

<sup>433</sup> Memorandum submitted to the Task force on resettlement of Beneficiaries of Chepyuk Phase III scheme in Mount Elgon Established through the Kenya Gazette, Vol.cx- No. 93 of the Republic of Kenya, 4<sup>th</sup> December, 2008.

<sup>434</sup> Ibid.

<sup>435</sup> Ibid.

<sup>436</sup> Silas Kiplimo Naibei, interview with the author, Cheptais Sub-County, Chepyuk, 04/06/2016.

<sup>437</sup> Jacques Bertrand and Oded Haklai, *Democratization and Ethnic Minorities: Conflict or Compromise*, New York: Routledge, 2014, p. 88.

<sup>438</sup> Silas Kiplimo Naibei, interview with the author, Cheptais Sub-County, Chepyuk, 04/06/2016.

land.<sup>439</sup> Tension between the two groups intensified and this prompted the then Western Provincial Commissioner, Francis Lekool, to nullify the entire phase I and II of Chepyuk Settlement Schemes in 1989 which had 3335 and 7, 445 acres respectively. He cited rampant irregularities that marred the land allocation process adding that outsiders had illegally been given land, which was meant for the Mosop/Ndorobo.<sup>440</sup> In reference to Lekool's action, a witness to the TJRC said:

PC Lekool chased away those people who had lived in the forest. They burnt people's properties. They forcefully brought people from Mosop and put them in Cheptoror. We wondered what had happened yet we were given the land by the government.<sup>441</sup>

Earlier during the survey and demarcation of Chepyuk phase I, the government realised that the settlement had been extended beyond the de-gazetted area, mainly around Cheptoror area. Consequently, those who had occupied non-degazetted area were evicted by the Provincial Administration and, subsequently, the forest department undertook re-forestation through a crash programme.<sup>442</sup> The action by the government to revert the land back to the forest department caused discontentment particularly among members of the Soy/Bok. In 1992, a Soy/Bok delegation led by Jackson Psongoywo and the then parliamentary aspirant, Fred Kapondi, visited President Daniel Arap Moi to complain about the government's handling of the land issue and presented their land grievances. President Moi granted them permission to settle on what came to be known as Chepyuk Phase III and authorised the Ministry of Lands to subdivide and allocate plots to the landless people of the area.<sup>443</sup> This was the first formal communication to the Ministry of Lands to undertake settlement in Chepyuk. In mid-August 1992, the ministry sent a team of surveyors to the site to survey the land that included Chepkurkur now referred to as Chepyuk Phase III,<sup>444</sup> which covers an area of 2,500 hectares and was sub-divided into 1,893 plots. Out of these, 66 were designated as public utility plots and of the remaining 1,827 plots, 95

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<sup>439</sup> Geoffrey Kipsang', interview with the author, Cheptais Sub-County, Kaimugul Sub-Location, 04/06/2016.

<sup>440</sup> Johnson Cheprot Takur, interview with the author, Cheptais Sub-County, Chepyuk, 04/06/2016.

<sup>441</sup> TJRC, *Report of the Truth, Justice and Reconciliation Commission*, Volume III, Nairobi: TJRC, p. 49.

<sup>442</sup> Memorandum Submitted to the Task force on Resettlement of Beneficiaries of Chepyuk Phase III Scheme in Mount Elgon.

<sup>443</sup> In a letter Ref. No. PA. 29/51/IX/ (90) dated 6<sup>th</sup> May 1992.

<sup>444</sup> Gregory Ngeywa, *Chronology of the Sabaot History and Land Dilemma*, Presented to the Task Force on Resettlement of Beneficiaries of Chepyuk Phase III Settlement Scheme in Mount Elgon, December, 2008.

were reserved for Laibons (spiritual leaders) of the two communities of the Mosop/Ndorobo and the Soy/Bok. The remaining 1,732 plots were to be allocated to the identified beneficiaries.<sup>445</sup>

Immediately after being allocated land, the majority of the Mosop/Ndorobo beneficiaries sold off all their land parcels and returned to Chepkitale. However, the government did not allow them to resettle in the region and forcefully evicted them, whereby the Mosop/Ndorobo returned to Chepyuk Phase III to lay claim on the land, which they had sold off. This exacerbated the tension between the Mosop/Ndorobo and Soy/Bok and resurrected the previous controversy over the distribution of plots.<sup>446</sup> As the situation threatened to become violent the government nullified the entire Chepyuk Phase III rendering all those who had settled in it as squatters.<sup>447</sup> Thus the government's efforts to resolve the land issues in Mount Elgon came to naught.

The processes of resolving the land issues in Mount Elgon failed because the state prioritised political expediency over social welfare and allocated land to individuals aligned to and supportive of the regime. Benefits from land were closely associated with politics patronage based on one's association with the big men in government and also based on one's ethnicity.<sup>448</sup> The big men held position not to serve the people but to enrich themselves and their cronies who conform to the demands of the system. The big men in government simply reproduced structures of the colonial state, which had taken land from the people of Mount Elgon. Consequently, this made it difficult for the government to resolve the inherited land contestations in the region and this continued to constrain development.<sup>449</sup> Economic decline in Mount Elgon, poor and draconian land reforms, deterioration of the already weak state authority and mismanagement of the land allocation processes compounded by patron-client relations, intensified intra and inter-ethnic conflict in 1990s, which later led to the emergence of militia groups.

The Mount Elgon land clashes were also accelerated by an influx of people into Chepyuk Settlement Scheme, most of whom were not original inhabitants of the area. Other attempts of

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<sup>445</sup> Ibid.

<sup>446</sup> Miriam Ndiwa Chepkemoi, interview with the author, Kapsokwony, 28/12/2014.

<sup>447</sup> John Ngeiywa, interview with the author, Kakilongo, 28/12/2015.

<sup>448</sup> Bruce Berman, "Ethnicity, Patronage and the African State: The Politics of Uncivil Nationalism," in *African Affairs*, 97, 1998, pp. 305-341.

<sup>449</sup> Ibid.



resettlement in 1997 were also abandoned due to a lack of political will and local political interference.<sup>450</sup> Politicians wanted to influence land allocation to favour their cronies in order to solidify their patronage and votes. The land was meant to be allocated to squatters who had been disenfranchised following the conversion of Chepkitale region into forest land, but the politicians wanted to allocate the land to their supporters who were not necessarily squatters. Political elites and the provincial administration abused the powers vested on them and used the power as a tool to serve their selfish interests and for self-aggrandisement at the expense of the indigenous populations. Abuse of power is exemplified by the actions of one District Commissioner, Christopher Munguti, who residents recall as being condescending towards the local residents and high-handed when dealing with the people especially in issues related with land as indicated by his issuance of allotment letters in 1998, where he issued the letters to people despite the land in question being under occupation by local community members.<sup>451</sup> Johnson Cheprot Takur remembered DC Munguti as a government agent who returned evil in Mount Elgon. Takur claimed that:

DC Munguti was an evil man. He came with a map and summoned people to Kapswakwony without even going to see the situation on the ground. He asked people to ballot for their land. He didn't even consider that the land he wanted people ballot was already occupied by other people. After balloting, he (DC Munguti) instructed the surveyors with help of the police to go and remove the persons who were already on the farm.<sup>452</sup>

In 2000, the Permanent Secretary of the Ministry of Environment and Natural Resources (MENR) revisited the issue by authorising an excision of another area covering 3,568 hectares to accommodate the squatters or those who had been forcefully evicted by the provincial administration from Chepkitale. Later, another area covering 496 hectares was authorised for excision to accommodate people who had settled between River Malakisi and its tributary.

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<sup>450</sup> Cleophas Moturo, *Analysing the Conflicts within and Around Mount Elgon Region*, Nairobi: Pauline Publications, 2004, pp. 130-133.

<sup>452</sup> Johnson Cheprot Takur, Chair Council of Mosop Elders, interview with the author, Chepyuk Location, 04/06/2016.

However, to date, these two areas have not been excised and therefore effectively remain part of the forest reserve.<sup>453</sup> It was impossible to excise Chepyuk Phase III because of the conflict between the Mosop/Ndorobo and Soy/Bok groups. The Mosop/Ndorobo began demanding back the land that they had earlier sold and an equal share in the new phase that President Moi had ordered to be allocated to the Soy/Bok, alleging that the greater Chepyuk scheme was originally established to cater for them and not the Soy/Bok.<sup>454</sup> As the 2002 elections drew nearer the land issue in Mount Elgon became more and more controversial forcing the government to halt the allocation process.

In 2003, when the NARC Government under Mwai Kibaki came into power, the allocation process was jump-started. However, the process was never completed as it was again marred by irregularities with claims of politicians and provincial administrators allocating land to themselves, their relatives and powerful friends in government. Politicians also incited their followers not to accept a raw deal from the government, with John Serut, a one-time member of parliament, being one such politician as noted by Patrick Kitembe Ngaina:

Serut came up with a Nyumba kwa Nyumba campaign. In this campaign he demanded that people's land rights must be recognized during survey and allocation and that no reduction of what they already owned. "Sit tight on your land" said Serut.<sup>455</sup>

Overall, corruption and manipulative tendencies by government officers and political elites in the land allocation process led to the government's failure to provide oversight on land contestation in Mount Elgon and instead perpetuated a "survival for the fittest" contest over land. For example, in 2004 community members began to freely and forcefully allocate themselves plots at the forest reserve portion in Chepkurkur with one family, the Komon family, formerly from Cheptais being the largest beneficiary of this self-allocation process.<sup>456</sup> Gradually, the situation started turning violent as the two Sabaot groups began instigating night attacks against each other.

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<sup>453</sup> Reuben C. Butaki (For and on Behalf of Koony Council of Elders), "Report of the Discussion by Koony Council of Elders on Chepyuk Settlement Scheme Problem and Suggested Solutions", 20/01/2009.

<sup>454</sup> The Kenya Gazette, The Task Force on Resettlement of Beneficiaries of Chepyuk Phase III Settlement Scheme in Mount Elgon, Vol. CX-No. 93, Special Issue, Nairobi, 4<sup>th</sup> December, 2008.

<sup>455</sup> Patrick Kitembe Ngaina, interview with the author, Cheptais, Ngachi Sub-location, 03/06/2016.

<sup>456</sup> Truth, Justice, and Reconciliation Commission, "Public Hearing Transcripts - Western - Bungoma - RTJRC11.07 (Christ the King Catholic Church, Bungoma)" (2011). <https://digitalcommons.law.seattleu.edu/tjrc-core/132>

The situation was exacerbated by the availability of illicit guns, which were smuggled into the region via the porous Kenya-Uganda border.<sup>457</sup> By mid-2004, Mount Elgon was already burning and residents started fleeing to IDP camps at Machewa in Trans Nzoia. Privy to the deteriorating situation, the politicians and aggrieved Soy/Bok men started recruiting young men, mostly school-dropouts to join the ever-growing number of would be militia fighters. In addition, the ever-expanding population compounded the situation since the number of the landless people in the region had doubled, and this became a very fertile ground for recruitment by the militia.<sup>458</sup>

As intra-ethnic violence intensified, there was little police intervention to protect lives and property. The weak hegemonic state presence created room for breakdown of law and order combined with local anti-government sentiment, provided room for the growth and expansion of militia influence. As hostilities increased, the Mosop/Ndorobo men took matters in their own hands and began subdividing the available plots. On their part, the Soy/Bok elders and local politicians began overseeing issuance of land allotment letters without consulting the Mosop/Ndorobo elders. On the side, Soy/Bok men secretly organised and conducted meetings in which they planned to raise money to purchase firearms for defending what they saw as their rightful land. In July 2004 the attacks started. In broad day-light, houses belonging to Soy/Bok men were set ablaze at Chepyuk centre. A few months later in Kipsukurok centre more houses were set ablaze. The government was forced to intervene by promising to kick-start the reallocation of the Chepyuk Phase III. However, the government failed to notice that already the Mosop/Ndorobo and some Soy/Bok men occupied the plots.<sup>459</sup> Notable beneficiaries included Mzee Jackson Psongoywo, Wycliffe Kirui Komon Matakwei, Patrick Komon and Benson Chesikaki who would become very instrumental in the formation of SLDF:

As the population swelled, unscrupulous people illegally allocated themselves huge farms. Some bought the land and some were conned of their money. The family of SLDF

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<sup>457</sup> Levi Cheruo Cheptora, *The Ugly Beautiful Tale of a Stupid, Stupid Heart*, Nairobi: Create Space Independent Publishers, 2016, p. 174.

<sup>458</sup> Silas Kiplimo Naibei, interview with the author, Chepyuk Location, Cheptais, 04/06/2016.

<sup>459</sup> Levi Cheruo Cheptora, *The Ugly Beautiful Tale of a Stupid, Stupid Heart*, Nairobi: Create Space Independent Publishers, 2016, p. 201.

Commander Matakwei illegally acquired 400 acres while others literally grabbed land in Chepyuk.<sup>460</sup>

The notable beneficiaries mentioned above were reluctant to settle the land issue peacefully. Wycliffe Kirui Komon Matakwei openly defied government officials who were tasked with surveying the plots and identifying genuine beneficiaries.<sup>461</sup> Matakwei and other discontented Soy/Bok men began holding night meetings to strategise on the way forward. In recalling the event, Matakwei's wife claims to have tried to convince him to negotiate with the government but she says he refused and asserted that:

Wycliffe kept on telling me he was not happy with the way the land was distributed in Chepyuk Settlement Scheme, and kept on telling me that he would do something about it. He said, the government has no right of taking away land from the Soy/Bok people. How do they expect us to live? Where will we go? If we participate in the re-allocation, we will lose everything to those Provincial Administrators and powerful politicians. We swear in the name of our ancestors that we will not allow them take our land. We better return to Cheptais in coffins than alive.<sup>462</sup>

By the end of 2004, the relationship between the Soy/Bok on one side and the government and Mosop/Ndorobo on the other had further degenerated. Although in the media, Matakwei was reported to have been a staunch Christian, he and other Soy/Bok men reportedly sought spiritual blessings meant to assure warriors of their safety during war from the *Kamaraat* clan, the traditionally respected religious leaders of the Sabaot, who, however, declined to bless them. They were forced to settle on the blessings of Mzee Jason Psongoywo of the *Kapchayek* clan who was not only a beneficiary of land but also faced eviction.<sup>463</sup> The two Sabaot sub-groups were now baying for each other's blood and the 2005 referendum on the draft new constitution worsened the situation since the Soy/Bok were opposed to the proposed constitutional change while the Mosop/Ndorobo were supportive of the change. Even though the then incumbent Member of Parliament, John Serut, dangled settlement in Chepyuk as an inducement for the

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<sup>460</sup> Tom Arocho and Isaiah Lucheli, "As the Violence Escalates in Mt. Elgon District, Residents Continue to bear the Brunt of a Complex Problem but which can be resolved Amicably," in *The Sunday Standards*, January 28, 2007, pp. 18-19.

<sup>461</sup> Oti Oteba, "Land is the Main Source of Conflict in Mt. Elgon, Senate Committee on Security has been Told," in *Kenyan News*, April 5, 2018. <https://newsflash.co.ke>

<sup>462</sup> Salome Chepkemoi Ndiwa Matakwei, wife of SLDF Commander Wycliffe Matakwei, interview with the author, Sasuri Location, Cheptais, 04/06/2016.

<sup>463</sup> Levi Cheruo Cheptora, *The Ugly Beautiful Tale of a Stupid, Stupid Heart*, Nairobi: Create Space Independent Publishers, 2016, p. 201.

residents to support the constitutional change and went as far as threatening community members, the ‘No’ camp carried the day and this sent powerful signals to those who supported the government of the coming change in the region.<sup>464</sup> Serut in his campaigns for the constitutional change was quoted saying:

If you vote NO, you will face dire consequences. Instead of following bees for honey, you chose to follow flies and eat human waste. *Pigia NO mtaona; Wanaume mtakimbia mpaka uume wenu urudi ndani*, vote for NO and you will see, men will run until your manhood will disappear.<sup>466</sup>

After the referendum of 2005, at a meeting chaired by the Western Provincial Commissioner, it was resolved that the plots in phase III were to be shared equally between the members of the two groups (Mosop/Ndorobo and Soy/Bok). In that meeting, it was recommended that vetting exercise be conducted by elders in each sub-location to establish genuine squatters.<sup>467</sup> Following the encouragement by government for people to apply to be considered for settlement, 7000 people applied. However, during the vetting exercise, only 2,084 applicants were found to qualify for allocation, which in itself was a problem as there were only 1,893 plots available as highlighted in a report of the National Assembly.

Total number of applications received	7,000
Total number of those who qualified to be allocated land	2,084
Total number of plots available	1,893
Plots allocated for public utility	66
Total plots allocated to Laibons	95
Total plots available for qualified applicants	1,732
Number of applicants left out	352

**Source:** GOK, The National Assembly Report of the Consideration of a Petition by the Executive Regarding the Variation of Boundaries of Mt. Elgon Forest Reserve, July, 2019, p. 14.

Among 1,732 successful applicants, 866 were from the Mosop/Ndorobo clan, while the 352 applicants who missed-out, 41 Mosop/Ndorobo community members and 311 were Soy/Bok

<sup>464</sup> Ibid.

<sup>465</sup> TJRC, *Report of the Truth, Justice and Reconciliation Commission*, Volume III, Nairobi: TJRC, pp. 55-58.

<sup>466</sup> TJRC, *Report of the Truth, Justice and Reconciliation Commission*, Volume III, Nairobi: TJRC, pp. 55-58.

<sup>467</sup> Reuben C. Butaki (For and on Behalf of Koony Council of Elders), “Report of the Discussion by Koony Council of Elders on Chepyuk Settlement Scheme Problem and Suggested Solutions”, 20/01/2009.

community members. According to the minutes of a meeting chaired by the Provincial Commissioner, the 352 cases of those who missed out needed to be dealt with urgently in order to forestall dissatisfaction amongst the unsuccessful applicants.<sup>468</sup> However, this did not materialise and subsequently, the allocation was resisted by the Soy/Bok, who claimed initial ownership of the land given to them by President Moi and that the Mosop/Ndorobo should not have been considered.<sup>469</sup>

It became evident that the two groups would not agree over the land allocation process of Chepyuk Phase III and that the claims and counter-claims would continue as land was central to their identities. In Sabaot custom land is not only the site of production but is at the heart of each clan operation of the cultural system. It represents life, materially and spiritually. A man is tied to his territory by affinity and consanguinity.<sup>470</sup> The clan is its land, just as the clan is its ancestors. Each clan must have some place, some land which belongs to it, which is its territory and can't be compromised. This brings out clan rivalry if land is contested. At a meeting held at Patrick Komon's home, the Soy/Bok Laibon, Kirui Sangula, demanded that squatters who had invaded Chepyuk Phase III settlement scheme and occupied it for over 10 years should be given first priority during official resettlement and not the Mosop/Ndorobo.<sup>471</sup> The Laibon lamented that it was wrong and not justifiable for the government to evict the Soy/Bok and replace them with new allottees from the Mosop/Ndorobo.<sup>472</sup> According to witnesses who participated in the TJRC hearings, the meeting was attended by Soy/Bok opinion leaders among them, Fred Chesebe Kapondi, Jacob Sawos, Benson Chesikaki, Nathan Warsama and Titus Waikei among others. A witness to TJRC stated:

Matakwei was asked what was to be done, Kapondi responded by asking the Soy/Bok to protest, and the only way to protest was by fighting so that our land could not be given to other people. He said: "You must fight so that the government can realize that our land

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<sup>468</sup> GOK, The National Assembly Report of the Consideration of a Petition by the Executive Regarding the Variation of Boundaries of Mt. Elgon Forest Reserve, July, 2019, p. 14. [http://www.parliament.go.ke/sites/default/files/2019-09/MT.%20ELGON%20PETITION\\_compressed.pdf](http://www.parliament.go.ke/sites/default/files/2019-09/MT.%20ELGON%20PETITION_compressed.pdf)

<sup>469</sup> Peter Ng'etich and Bernard Kwalia, "Where Cave Men Kill and Maim Over Land: Families Flee Chepyuk Settlement Scheme after Brutal Attacks by Evicted Squatters," in the *Daily Nation*, November 12, 2006, p.27.

<sup>470</sup> Patrick Kitembe Ngaina, Cheptais Location, Ngachi Sub-County, 03/06/2016.

<sup>471</sup> TJRC, *Report of the Truth, Justice and Reconciliation Commission*, Volume III, Nairobi: TJRC, p. 63-64.

<sup>472</sup> *Ibid.*

should not be taken away,” Kapondi is alleged to have further said; “It is better if people had guns, so that we fight.”<sup>473</sup>

During the same meeting, it was agreed that a second meeting would be held at undisclosed place. It is reported that the meeting was finally held at the home of one of the elders, one Nathan Warsama, where some attendees confirmed to have already acquired guns and ready for the coming war.<sup>474</sup> The guns were displayed and a traditional ritual performed by Psongwoyo Manyiror, the Soy Laibon who was also the largest land owner in Chepyuk to bind those present to the newfound cause. Salome Matakwei noted:

Laibons called for war. Laibon Jason Psongwoyo at a meeting at Warsama’s home ordered for a male sheep to be brought. It was slaughtered and its dung squeezed out of the intestines, then smeared on guns as a sign of blessing the weapons and binding the handlers to the just cause of war.<sup>475</sup>

Soy/Bok elders led by Philip Chebus, a former councillor in the area, asked the government to suspend the allocation process of Chepyuk Phase III until the people reached an agreement.<sup>476</sup> They also demanded that the government grant amnesty to those opposed to the settlement and who had taken refuge in the forest and caves in preparation to launch attacks. Their request was dismissed by the Western Province Provincial Commissioner and John Serut, the local area MP, who rejected the elders’ amnesty request stating that those in the forest, majority of whom were from Soy/Bok community, as thugs, who would face the full force of the state.<sup>477</sup> Given the state’s refusal to halt the allocation process and grant amnesty to the Soy/Bok community members, the community felt it had no alternative other than to fight to regain the land that they had lost and used this as a basis for mobilising community members to form a land defence force as a platform to coordinate the fight to regain their land.

The land allocations went on as planned and the majority of the Soy/Bok men who had supported the opposition or “No camp” were side-lined from the process and even some of those who took

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<sup>473</sup> TJRC, *Report of the Truth, Justice and Reconciliation Commission*, Volume III, Nairobi: TJRC, p. 63-64.

<sup>474</sup> Ibid.

<sup>475</sup> Salome Matakwei, interview with the author, Cheptais District, Sasuri Location, 04/06/2016.

<sup>476</sup> Bernard Kwalia, “Nullify Land Deals, Appeal Leaders,” *Daily Nation*, Tuesday January, 27, 2009. <https://www.nation.co.ke>

<sup>477</sup> Peter Ng’etich and Bernard Kwalia, “Where Cave Men Kill and Maim Over Land: Ibid.

part in the re-allocation process missed out. Those who were excluded joined their compatriots in the forest to prepare for the rebellion.<sup>478</sup> Young Soy/Bok men vowed to die fighting in Chepyuk and swore to ensure that their children would inherit the land. They complained that their Mosop/Ndorobo neighbours backed by the Nairobi government had colluded to dispossess them of their land rights.<sup>479</sup> On the other hand, the Mosop/Ndorobo elders started demanding eviction of the Soy/Bok community from the entire Chepyuk Phase III Settlement Scheme, claiming that the Soy/Bok had enough land in Cheptais, Sasuri, Chepkube, Chebwek and other areas in Mount Elgon and therefore should not be allocated land in Chepyuk.<sup>480</sup> The elders further claimed that they had formerly occupied the Moorland and other adjacent areas, which they had now lost to the National Game Reserve and the Kenya Forest Department and therefore had nowhere to go to. They considered the Soy/Bok as treacherous people who should be evicted.<sup>481</sup> It was in these circumstances that the Sabaot Land Defence Force (SLDF) emerged as a reaction to the government's faulty management of Chepyuk Phase III Settlement Scheme.

The idea to form a land defence group was conceived as early as 2002 but materialise in the mid-2004 and was officially operationalised in 2005 as a reaction to long term perceived injustices and discrimination against the Soy/Bok group.<sup>482</sup> During the 2002 General Elections, politicians vying for the Mount Elgon parliamentary seat used the Chepyuk Phase III land issue as a campaign promise and vowed to settle all community members on a “*Nyumba kwa nyumba*” (House to house) basis.<sup>483</sup> It meant that each household must be given title based on the land they occupied as squatters. The Soy/Bok being majority demanded a lions' share of the promised plots, which was resisted by the Mosop/Ndorobo. During the 2005 Constitutional Referendum, tensions were high and it was evident that a conflict was taking form. Soon opinions of

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<sup>478</sup> Juliah Atwoli Sungu, “Assessing Government and Land Issues as Emergent Dimensions of Insurgencies in East African Region,” A Research Project Submitted in Partial Fulfilment of The Requirement for the Award of Masters of Arts in International Conflict Management, Institute of Diplomacy and International Studies, University of Nairobi, November, 2013, p. 48.

<sup>479</sup> Peter Ng'etich and Bernard Kwalia, “Where Cave Men Kill and Maim Over Land: Families Flee Chepyuk Settlement Scheme after Brutal Attacks by Evicted Squatters” Ibid

<sup>480</sup> Salome Chepkemai Ndiwa, interview with the author, Cheptais Sub-County, Sasuri Location, 05/06/2016.

<sup>481</sup> Silas Kiplimo Naibei, interview with the author, Cheptais Sub-County, Chepyuk Location, 04/06/2016.

<sup>482</sup> Geoffrey Kipsang, interview with the author, Cheptais Sub-County, Chepyuk Location, Kaimugur, Sub-Location, 06/06/2017.

<sup>483</sup> Juliah Atwoli Sungu, “Assessing Government and Land Issues as Emergent Dimensions of Insurgencies in East African Region,” A Research Project Submitted in Partial Fulfilment of The Requirement for the Award of Masters of Arts in International Conflict Management, Institute of Diplomacy and International Studies, University of Nairobi, November, 2013, p. 48.



determined and discussion of who gets what in Chepyuk Settlement Scheme phase III escalated into verbal attacks. While campaigning for “NO camp, Kapondi is quoted to have said; “This is a warning to those who want to remove the Soy/Bok from Chepyuk, that if they want all of us to die let them try.”<sup>484</sup> The utterances by political leaders demonstrated that the concerned parties were not ready to listen to each other and subsequently, the focus of the discussion changed from facts to irrational accusations against “others”. All these were signs that the potential for conflict existed and all that was needed was a triggering event, which would spark off the conflict.<sup>485</sup>

The polarising land issues combined with the resurgence of ethnic and clan-based hate speech seem to have been the triggers that flared up the open conflict. Politicians from both sides degraded each other and promoted hatred as well as encouraging violence against other groups in their speeches.<sup>486</sup> This incitement and calls for ethnic or clan nationalism by political leaders as well as the open hatred of perceived external ethnic or clan groups activated actions at the local level and communities began mobilising to fight for their perceived rightful lands as explained by. Patrick Kisémbé Ngaina:

The government did not do a good job when it came to allocation. The Soy claimed it was their land. The Mosop too claimed the same land. Politicians (Kimkung, Serut and later Kapondi) interfered. Each mobilized his people. Finally the Sabaot fought each other.<sup>487</sup>

In 2005, government officials revisited the Chepyuk Phase III issue but before much could be done to address the contestations surrounding land allocation, Soy/Bok leaders dismissed any efforts by the government as fraudulent. They mobilised their young people to defend their land by resisting evictions, which culminated in the formation of the SLDF and subsequently triggered the SLDF-led war.<sup>488</sup>

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<sup>484</sup> Osinde Obare and Isaiah Lucheli, “State asked to End Clashes in Mt. Elgon,” in *The Standard*, Monday, January 1, 2007, p. 16.

<sup>485</sup> UN, “Understanding Conflict (sessions2): Conflict Negotiation Skills for Youth”, New York: United Nations, 2003. Available at: [www.unescap.org/esid/publications.asp](http://www.unescap.org/esid/publications.asp)

<sup>486</sup> Kenya National Commission on Human Rights, *Behaving Badly: Deception, Chauvinism and Waste during the Referendum Campaigns*, Nairobi: KNCHR, 2006, p. 9.

<sup>487</sup> Patrick Kisémbé Ngaina, interview with the author, Cheptais Location, Ngachi Sub-location, 03/06/2016.

<sup>488</sup> Adams Oloo, “Marginalization and the Rise of Militia Groups in Kenya: the Mungiki and Sabaot Land Defense Force”, in *Militia, Rebels and Islamist Militants*, Pretoria: Institute of Security Studies, 2010, pp. 147-181.

#### **6.4 SLDF Organisation and their Modus Operandi**

As discussed in earlier chapters, the Sabaot people of Mount Elgon have been involved in intra-ethnic land disputes since independence, especially between the Soy/Bok and Mosop/Ndorobo clans in the Kopsiro region. These disputes can be attributed to Sabaot customs, which dictate that land is at the heart of each clan's cultural system and that land is life, wealth and spiritual abode, which means that for the Sabaot the clan is its land, just as the clan is its ancestors and overall, land represents belonging. Consequently, a clan has no identity if it has no territory that it can claim as its own.<sup>489</sup> While the disputes between the Soy/Bok and Mosop/Ndorobo have been ongoing for decades, the completion between the two took on a more sinister turn around 2002, when the Kenyan government began implementing Phase III of the Chepyuk Settlement Scheme. Land allocation in the settlement was marred by accusations of corruption and land-grabbing by influential people and local leaders who arbitrarily allocated land for money and political loyalty and as a consequence of this mismanagement, many members of the Soy/Bok clan were not allocated any land, which they did not take lightly. In view of this injustice, the Soy/Bok then organised themselves into an informal self-defence movement, focusing initially on the recruitment and training of mostly young and disaffected members of the Soy/Bok clan in an attempt to resist the planned eviction.

The organisation of the Soy/Bok following the perceived marginalisation of the clan from land allocation in Chepyuk Phase III is the basis for the birthing of the SLDF militia, with the idea to form SLDF militia group being conceived in 2004 and operationalised in 2006 when the militia started engaging in violence and gradually graduated into military activities. It was in 2006 that Wycliffe Kirui Matakwei officially announced that SLDF would engage in a war to defend the Soy/Bok lands in response to mishandling of the land allocation process of Chepyuk Phase III. Although Matakwei was assisted by other leaders, he became the de facto leader and face of this group. After the official announcement, Matakwei called upon young men to enlist and further directed his juniors to recruit as many young Soy/Bok fighters as possible into the militia,<sup>490</sup> so as to support the efforts to restore their clan to their former ancestral lands, which had been

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<sup>489</sup> Patrick Kitembe Ngaina, Cheptais Location, Ngachi Sub-County, 03/06/2016.

<sup>490</sup> Nairobi Chronicle, "Kenya Government Celebrates Death of Rebel Commander," in Nairobi Chronicle, May 18, 2008. <https://nairobiChronicle.wordpress.com/2008/05/18>

occupied by other clans of the Sabaot community. Matakwei claimed that the Soy/Bok clan had been pushed to the upper areas of Mt. Elgon where it was too cold for agricultural activities.

In terms of recruitment, the SLDF militia resisted any effort to broaden its social base beyond the Soy/Bok clans who were the main aggrieved party in the Chepyuk land allocation and operated as a sort of Soy/Bok closed group that assumed the sole responsibility of fighting for Soy/Bok land rights. The SLDF commanders worked together with the heads of the Soy/Bok clan, community leaders and elders in making decisions concerning recruitment of fighters.<sup>491</sup> The decision to mobilise fighters was made by the highest leadership who authorised the use of all methods including forced recruitment and use of coercion and given that the decisions were made in consultation and conjunction with the traditional leaders and community elders, these decisions were viewed by members of the Soy/Bok clan as legitimate and such, many community members complied. In the early stages, recruitment was voluntary, however, despite the initial recruitment being voluntary based on fighting for Soy/Bok interests, the friendly approach towards villagers changed to force once the government backed the Mosop/Ndorobo. SLDF recruiters were people already known to have defended the interests of the Soy/Bok and therefore found it easy to convince or persuade young people to join SLDF. However, militia leaders would at time resort to coercion and forcing families to volunteer at least one young man and if not to contribute materially or financially to the cause. In some cases, the coercion of young people to join SLDF came from a family member who was already a member of SLDF. The prevalence of forced recruitment strategies applied by SLDF was directly proportionate to the level of pressure the group was facing and was mainly undertaken in areas where SLDF had limited support.<sup>492</sup> As the conflict gained momentum, voluntary recruitment was systematically replaced with forceful conscription and execution of those who resisted.<sup>493</sup> The militia begun kidnapping school boys and girls and took them deep into the forest, where boys underwent military training while girls served as wives for senior militia commanders.<sup>494</sup> A fact that was

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<sup>491</sup> Levi Cheruo Cheptora, *The Ugly Beautiful Tale of a Stupid, Stupid Heart*, Seattle: Create Space Independent Publishers, 2016, pp. 201-255.

<sup>492</sup> Geoffrey Kipsang, interview with the author, Kaimugul Sub-Location, Chepyuk Location, Cheptais Sub-County, 4/6/2016.

<sup>493</sup> Geoffrey Kipsang, interview with the author, Kaimugul Sub-Location, Chepyuk Location, Cheptais Sub-County, 4/6/2016.

<sup>494</sup> Ibid.

corroborated by the then Trans-Nzoia West District Commissioner, Mr Francis Mutie, who stated that:

We have crucial information and names of some politicians believed to be funding the activities of the SLDF. We also have information that some school children were being lured into joining the militia group, through use of traditional charms and magic to bind them as members of SLDF and to their criminal activities.<sup>495</sup>

Aside from forced recruitment, SLDF also forced inhabitants of the areas it controlled into providing logistical support such as carrying goods and cooking, while others were forced to pay some fees towards the militia cost of operation.<sup>496</sup> Additionally, SLDF embarked on the destruction of the property of non-supporters and prohibited the perceived non-supporters from harvesting their agricultural produce. These harsh and violent measures further tarnished the image of SLDF within the community and diminished the attractiveness of SLDF. These activities quickly eroded local acceptance of SLDF and subsequently had to apply even more brutal methods to force the population into submission and obedience.<sup>497</sup> The tyranny of SLDF begun to be felt by the community, when SLDF began tracking down people they perceived as traitors of the cause and brutally murdered or summarily executed them and disposed the bodies of the victims in rivers Emia and Teremi.<sup>498</sup>

The SLDF also stocked up weapons, with military grade hardware acquired from Uganda and smuggled to Mount Elgon through the porous Kenya/Uganda border. As the government upped its offensive and employed excessive force in a bid to subdue SLDF, SLDF's demand for community support in the form finances increased disproportionately and this affected its popularity and subsequently, community acceptance and goodwill started declining. Overall, locals bore the brunt of the violence unleashed by both sides, with the government security forces accusing the community of harbouring SLDF fighters and SLDF in turn terming

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<sup>495</sup> Grace Mungai, "SLDF Militia Shot Dead," Published March 5, 2008.

<https://kenyanemergency.wordpress.com/2008/03/05/>, accessed on 21/03/2019

<sup>496</sup> Geoffrey Kipsang, interview with the author, Kaimugul Sub-Location, Chepyuk Location, Cheptais Sub-County, 4/6/2016.

<sup>497</sup> Ibid.

<sup>498</sup> Ibid.

community members as traitors and collaborators, which put the community at the crosshairs of both actors.

### **6.5 Incentives for Recruitment into SLDF**

Militia members all over the world derive particular benefits from armed conflicts, which they stand to lose when the conflict is terminated. For instance, warlords and their accompanying militias have become a normalised, if not a macabre, part of the African, Latin America, Central Asia and Eastern Europe socio-political and economic landscape. For example, in the Democratic Republic of Congo (DRC), Somalia, Liberia and Sierra Leone, militia groups, which are mainly motivated by economic redistribution and wealth accumulation have become the norm, with disgruntled citizens, majority of whom are in the productive age group, joining these militia groups. Depending on the context and the prevailing circumstances, the militias and warlords may interact and coalesce to exploit opportunities within a particular time frame should their goals align and if not, then they would engage in conflict amongst themselves and against the state.<sup>499</sup>

In the case of Mount Elgon, the incentives for joining militia groups including SLDF were mainly linked to land grievances, with the mismanagement of the land allocation process in Chepyuk Phase III triggering the deep rooted anger among the local communities. Aside from land issues, material and non-material benefits were also an incentive to join the militia. For example, SLDF in a bid to recruit and strengthen its ranks promised employment within SLDF for anyone that enlisted. This was a major incentive for young people who had limited opportunities to employment (wage and self) following the donor instituted structural adjustment programme, in the 1990s, and the subsequent freezing of bilateral and multilateral funds for Kenya, which resulted in the collapse of many industries and a spike in unemployment and as such, jobs were scarce and even those with university degrees had difficulty finding jobs.<sup>500</sup>

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<sup>499</sup> Wendy Isaacs-Martin, “The Motivations of Warlords and the Role of Militias in the Central African Republic” <https://www.accord.org.za/conflict-trends/the-motivations-of-warlords-and-the-role-of-militias-in-the-central-african-republic>, accessed on 17/07/2020

<sup>500</sup> GSDRC, “Youth Unemployment and violence: Rapid Literature Review, November 2016 GSDRC, International Development Department, College of Social Sciences University of Birmingham, B15 2TT, UK. <http://www.gsdrc.org/wp>

Based on this and the promises of a good life, SLDF was seen as an attractive alternative by young people who had become disillusioned with the lack of economic and livelihood opportunities. Additionally, SLDF exploited the emotive land issue and continuously reminded community members and especially young people that it was their responsibility to fight to protect their land from invaders. Spurred by a sense of duty as well as the promises of compensation in the form of land, money, houses, education and employment, a lot of men enlisted.<sup>501</sup> SLDF leaders promised the youth that they will be allocated land within Chepyuk once the war is won, as corroborated by Johnson Cheprot Takur, a resident of Mount Elgon, who averred:

SLDF used different ways to inspire youngsters to join the militia, including offering different incentives such as land and other resources such as captured livestock, money and positions to the young men who join in fighting against the Mosop and the government security agencies.<sup>502</sup>

Consequently, it can be inferred that joblessness, poverty and the government's inattention left many youths in Mount Elgon disillusioned and with limited options, enlisting with the SLDF became the main alternative. This outlook is supported by Bitange Ndemo, a one-time high ranking government official, who noted unemployment in Bungoma had reached a crisis level, which had forced many young men to leave their homes in search of jobs outside of Bungoma, which was disheartening for young people, particularly males aged between 20 and 30.<sup>503</sup> Anecdotal evidence from the community reveal that thousands of educated youth in Mount Elgon enlisted with SLDF because they were unable to find work nor land for economic engagement.

The majority of the recruits were those who were unemployed and seeking to attain prestige among their peers and the community at large. According to oral accounts, the youth in different areas of Mount Elgon joined SLDF because of adventure, honour and pride. They saw SLDF as the winning side and joining its ranks was perceived as "cool".<sup>504</sup> SLDF was seen as a winning

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<sup>501</sup> George Magas, interview with the author, Cheptais Location, Ngachi Sub-Location, 03/06/2016.

<sup>502</sup> Johnson Cheprot Takur, interview with the author, Cheptais Sub-County, Chepyuk Location, 04/06/2016.

<sup>503</sup> Bitange Ndemo, "It's Really Unemployment that is Killing Bungoma's Young Men," *The Daily Nation*, Sunday September 13 2015. <https://www.nation.co.ke>

<sup>504</sup> Silas Kiplimo Naibei, interview with the author, Cheptais Sub-County, Chepyuk Location, 04/06/2016.

side because in the early stages of its war with government and neighbours, it managed to overrun several police stations in the area including the GSU Camp at Cheptais. While we cannot rule out that some members were blackmailed or violently forced to join SLDF, some joined for self-satisfaction. Most members of the Soy/Bok likely self-selected themselves into the militias. SLDF attracted fighters with a willingness to use violence, with recruits finding self-satisfaction in subduing their victims through battery, rape and other means. For the recruits, subduing their victims was a sign of and position of power and the majority of young recruits enjoyed such powers.<sup>505</sup> These recruits capitalised on their association with/membership in SLDF to compensate themselves with looted property, sex and other means that gave them gratification, which Nitzschke and Studdard term as a window of opportunity for self-enrichment as perceived by militia fighters. While militia may be justified in waging war based on their grievances, often the ‘justified war’ transforms into looting and appropriation of wealth, which may eventually become the primary focus of the at the expense of the original grievances.<sup>506</sup> Thus it can be concluded that war gives militia fighters a chance for sudden accumulation of wealth and that the benefits of the spoils of war might outweigh the risks associated with fighting.

Apart from economic incentives, local history and dynamics as well as the intrinsic conflicts over land in Mount Elgon played a significant role in encouraging young people from the Soy/Bok clan to conscript into the ranks of SLDF. Oral evidence indicates that land conflict in Chepyuk between the Soy/Bok and Mosop/Ndorobo triggered the large-scale conflict as the Mosop/Ndorobo contacted government security agencies for help while the Soy/Bok contacted their political elites who provided support in the form of finances and weaponry to enable the Soy/Bok fight against the Mosop/Ndorobo and government. This evidence of political funding of SLDF was corroborated by a number of key government officials including the then Rift Valley PPO, Mr Japheth Ashimallah, the then Trans-Nzoia West DC, Mr Francis Mutie, and other senior provincial and district security officers who were co-coordinating the operation against SLDF. In one press statement, the provincial administration stated that:

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<sup>505</sup> Ibid.

<sup>506</sup> Heiko Nitzschke and Studdard, Kaysie, “The legacies of War Economies: Challenges and Options for Peacemaking and Peacebuilding,” in *International Peacekeeping* 12(2), 2005, pp 222–239.

The Government has crucial information and names of some politicians believed to be funding the activities of the SLDF. We will not allow politicians to continue enjoying peace while at the same time cause innocent residents to suffer. Soon they will be arrested and arraigned in court,<sup>507</sup>

There were also instances where members of the Soy/Bok community joined SLDF in an attempt to seek protection against the Moor Land Defence Force, especially when MLDF began launching revenge attacks targeting Soy/Bok families, where they harassed and abused Soy/Bok community members and also destroyed properties belonging to the Soy/Bok. The Soy/Bok were not only under threat from MLDF but also had to contend with government forces, including the police who often carried out communal punishments in a bid to force the community to disclose SLDF hideouts. However, this did not work as the police expected instead it influenced Soy/Bok youth to join SLDF to fight for local interests, including protection against police brutality as well as fight against government security forces.<sup>508</sup> It is evident that the attacks against civilians by MLDF coupled with the brutal treatment in the hands of government security forces pushed community members into supporting the SLDF.<sup>509</sup>

Apart from the economic and ideological incentives, the militia also employed religious persuasion to entice the youth into joining the SLDF. As a community the Sabaot have a strong affinity to their indigenous religious beliefs, which the militia capitalised on. Religious ideology was an energiser for young men to join SLDF, especially when the *Laibon*, indigenous religious leader and seer, explained that the war was all about fighting the invaders and defending the sacred land given to the Sabaot by their ancestors. Once the youth signed up, oaths were administered by the *Laibon* who also gave spiritual guidance to the fighters. After blessing them, the recruits were given special charms, which were believed to give the fighters protection.<sup>510</sup> The oath was not only administered to the recruits/warriors (*Oloitorian*) but also the commanders, who were known as *Boisiekab Tum* and are picked from clans with the

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<sup>507</sup> Robert Wanyonyi, “[SLDF Militia Shot Dead](https://kenyanemergency.wordpress.com/category/cries-against-humanity/page/2/),” in Kenyan Emergency Word Press, March 5, 2008.

<sup>508</sup> Fredrick Forest Naibei, interview with the author, Chepyuk Location, 04/06/2017.

<sup>509</sup> Levi Cheruo Cheptora, *The Ugly Beautiful Tale of a Stupid, Stupid Heart*, Seattle: Create Space Independent Publishers (Amazon,) 2016.

<sup>510</sup> Beatrice D. Imbuye Kedogo “Intra-Ethnic Relations Among The Sabaot Of Mt.Elgon, Kenya, 1945-2010,” Thesis Submitted To The School of Humanities And Social Sciences In Partial Fulfillment of The Requirements For The Award of The Degree of Master of Arts of Kenyatta University, November, 2016, pp. 120-130.



right/correct totems, which are associated with victory such as Buffalo (*Mooly*), Sun (*Soot*), Hyena (*Tungo*), Baboon (*Kipyegen*), Elephant (*Terek*) and Jackal (*Kaptuul*). Before taking the oath, the warriors kneel down holding their arsenals and then the Laibon and the elders then lead the warriors in cursing (*chubisiet*), with the clans leading the cursing being drawn from the hyena (*tungo*), porcupine (*kobil*) and snake (*ringo*) clans. During the ceremony, elders administer bitter herbs, *kuresiet* and *rerenteet* and then the remains of the concoction are thrown towards the direction of the enemy's land while uttering curses.<sup>511</sup> Use of oaths is very important among the Sabaot and entire Kalenjin community. It is a solemn, formal declaration or promise to fulfil a pledge, often calling on God, a god, or a sacred object as witness. During the launch of SLDF, fighters swore oaths that they will fight for the Soy/Bok land rights in Chepyuk Settlement Scheme.

Initially SLDF recruited its fighters voluntarily but as the pressure for more attacks increased, there was need to mobilise more soldiers and therefore, the militia demanded that every Soy/Bok family should provide at least one son for training and combat duty. Subsequently, over 650 children were recruited into the militia either by force, or donated by parents.<sup>512</sup> The condition put in place by the militia demanded that parents either pay KES 10, 000/- or give a child to be trained and fight for the cause.<sup>513</sup><sup>514</sup> All this was happening without the knowledge of the government as the covert mode of operation adopted by the militia made it very difficult for security agencies to infiltrate it or gather any useful intelligence. Another factor that encouraged community members to enlist with SLDF was the highhanded manner used by security agencies who were deployed to Mount Elgon to quell the SLDF insurgency. While local residents initially welcomed attempts by the government to deal with the rebellion, the indiscriminate rounding up of adult males, unlawful detention, torture, and some accounts of murder resulted in resentment and pushed the community towards SLDF as outlined by a report by the Human Rights Watch, which stated that while thousands of people were displaced by the violence, others joined the

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<sup>511</sup> According to Kalenjin customs it is an abomination to divulge information on the ingredients and process of oath taking, which is sacred and secret. It was difficult to get clear information, but from reliable sources who requested anonymity, what is described here is what happens although the details are scanty.

<sup>512</sup> Human Rights watch, 4 November 2011, "Kenya: Mt Elgon families seeking Justice. <http://www.hrw.org/print/news/2011/11/04/kenya-mt-elgon-families--seeking-justice>, accessed, 6 Sept. 2012

<sup>513</sup> Robins Chepkum, interview with the author, Koitongwa, Cheptais, 27/12/2015.

<sup>514</sup> Adams Oloo, *Marginalisation and the Rise of Militia Groups in Kenya*, p. 168.

militia because they lacked an alternative.<sup>515</sup> This was particularly compelling for young people who were eager to escape state brutality and found a sense of belonging in SLDF, which was the only one providing a social network.

The other incentive that pushed young men to join SLDF was a strong ideological conviction on the objectives and goals of the conflict, with the majority finding a purpose in fighting for their ancestral land. This group self-recruited themselves into SLDF based on their ultra-sub-nationalist vision of a Soy/Bok monopoly of the Chepyuk settlement whereby they viewed other communities inhabiting the settlement as “others”.<sup>516</sup> This anti-other sentiment is demonstrated by one of the interviewees who averred:

This is our mountain and it is ours alone....This mountain has a lot of benefits for us. We get our water supply from the mountain. We feel that if this mountain decides to stop giving us water, we will all die. We fear the mountain a lot and we are not going to allow ‘others’ to settle here. We will fight for our right.<sup>517</sup>

Additionally, fighters joined the cause due to their desire to ‘reclaim their lost land and Soy/Bok purity from the threat of “others” in Chepyuk. The fight against “others” fulfilled an expressive function for militiamen with such radical attitudes. The same applied to individuals who joined the militia motivated by personal grievances as demonstrated by the account of one victim who narrated to the Kenya Human Rights Commission that:

I was woken up by a knocking at the door. I opened it and there were guns and torches staring at me. They rounded up my cows, beat me and stabbed me as we walked. When we reached the bush they tied me by my feet to a tree, my head hanging down. There were others hanging also. They beat me very badly and said, ‘Choose, Either surrender all your possessions including your land or you die now.’ I told them to take it. They cut off my ear as a mark, then they made me eat it. I crawled home, I could not walk.<sup>518</sup>

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<sup>515</sup> Kenya Human Rights, “Army and Rebel Militia Commit War Crimes in Mt. Elgon: End Murder, Torture, and Rape of Civilians,” April 2, 2008. <https://www.hrw.org/news/2008/04/02/kenya-army-and-rebel-militia-commit-war-crimes-mt-elgon>, accessed on 20/03/2019

<sup>516</sup> Patrick Kitembe Ngaina, interview with the author, Cheptais Location, Ngachi Sub-location, 03/06/2016.

<sup>517</sup> Patrick Kitembe Ngaina, interview with the author, Cheptais Location, Ngachi Sub-location, 03/06/2016.

<sup>518</sup> Kenya Human Rights, “Army and Rebel Militia Commit War Crimes in Mt. Elgon: End Murder, Torture, and Rape of Civilians,” April 2, 2008. <https://www.hrw.org/news/2008/04/02/kenya-army-and-rebel-militia-commit-war-crimes-mt-elgon>, accessed on 20/03/2019

Based on the foregoing, it is apparent that various incentives drove young men to join the militia. Additionally, it is evident that the situation surrounding life in Mount Elgon forced young people to develop self-interest in the conflict and this explains why individuals participated in militia activities in the first place and further serves to highlight the interests, motivations and preferences of militia members. Overall, the threat posed by the government's intervention on behalf of the Mosop/Ndorobo, prompted the Soy/Bok to rally as a community to fight their perceived adversaries in the Chepyuk land dispute and eventually the Soy/Bok succeeded in driving the 'others' into the Mount Elgon forest. This was a major victory for the Soy/Bok as the land in question was a very important economic asset due to the area being a prime agricultural land, suitable for farming, which is the main stay of the two Sabaot sub-groups.

## **6.6 SLDF Organisational Structure**

SLDF had a clear organisational structure and chain of command with military, spiritual and political wings. The group's chain-of-command bore a strong resemblance to that of the Lord's Resistance Army of Uganda, which just as the SLDF had drawn great inspiration from the biblical book of Exodus.<sup>519</sup> SLDF and the Lord's Resistance Army frequently attempted to craft a collective consciousness to their supporters by claiming that liberty from oppression can only come from their unity as it happened to the children of Israel during their stay in Israel. Wycliffe Matakwei claimed that the collective oppression of the Soy/Bok should give rise to a unified consciousness about the injustices meted on them. This was the reason to why Matakwei liked preaching the message from the book of Exodus. Wycliffe Matakwei latched upon the Biblical text to mobilize his support by giving many similarities that existed between the Exodus narrative and the state of the Soy/Bok and the Sabaot in Mount Elgon at large.<sup>520</sup> "I remember him preaching from Exodus about the suffering of the Israelites in Egypt. He disappeared into the forest the following day," said His wife Salome Chepkwemoi.<sup>521</sup> He argued that the Soy/Bok continually struggled to establish their humanity against domination by many forces and how the

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<sup>519</sup> Robert Romborah Simiyu, *Militianisation of Resource conflicts: The case of land-based conflict in the Mount Elgon region of Western Kenya*, Monograph 152 October 2008, Pretoria: Institute of Security Studies, 2008, pp. 23-33.

<sup>520</sup> Robert Wanyonyi, "Church elder who turned into a killer," in *The Standard News Paper*. <https://www.standardmedia.co.ke/article/1144007416/church-elder-who-turned-into-a-killer>, accessed on 17/07/2020

<sup>521</sup> Ibid.

government managed the Chepyuk land issue was no exception. Matakwei made it clear that the government treated the Soy/Bok in a brutal manner.

The SLDF leader just like other militia groups the world over mobilised support by taking recourse to spiritual realm because as Jonathan Fox suggested, religion fulfils the dream of militia groups by providing a meaningful framework for understanding the world and provides rules and standards of behaviour that link individual actions and goals to the meaningful framework.<sup>522</sup> Religion links individuals and the community at large to the greater whole by providing a narrative that motivates and organizes people and finally, religion has the ability to legitimize actions and institutions including killing. The spiritual justification of war as perpetuated by militia leaders' makes god the primary and constituent of the reason for war, rendering war justified and ordained by god.<sup>523</sup>

Examining the book of Exodus' role in the lives of the oppressed, offers not only a broad view of the oppressed population but also the hope that they will get to freedom. According to Rhondda Robinson Thomas people who relate with Christianity always use biblical narrative during suffering moments. She identifies the links between people suffering of the time and the Israelites of the Bible. Similarly, Matakwei would use the Exodus narrative to explain how God's love for all oppressed populations and his willingness to intervene on their behalf.<sup>524</sup> While it is true that many Sabaot people did not like SLDF activities, they did relate to the liberation focused themes contained within the book of Exodus, believing that the narrative would empower them and sustained their struggle for land.

At the top of the command was Wycliffe Komon Matakwei who held the position of head of the military wing of the Sabaot Land Defence Force.<sup>525</sup> As a commander, Wycliffe Matakwei played an important role of a commander and controller of the SLDF. He deployed the art as a church leader to control and to lead the SLDF. He was a charismatic preacher who loved preaching from

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<sup>522</sup> Jonathan Fox, "Religion as an Overlooked Element of International Relations," in *International Studies Review*, Vol. 3, No. 3, 2001, pp. 53-73. <https://www.jstor.org/stable/3186242>, accessed on 01/10/2020.

<sup>523</sup> Dave Brannan, "Religious and Theologically Motivated Terrorism Part 1," Presented in Center for Homeland Defense and Security Department of National Security Affairs Naval Postgraduate School. <https://www.chds.us>

<sup>524</sup> Rhondda Robinson Thomas, *Claiming Exodus: A Cultural History of Afro-Atlantic Identity*.

<sup>525</sup> Peter Ngetich and Bernard Kwalia Soldiers Gun Down Sabaot Rebel Leader, *The Sunday Nation*, Saturday May 17 2008. <https://www.nation.co.ke/news>, accessed on 15/03/2019.

the book of Exodus which made him very influential that he was appointed a village elder, a job he quit after serving for one month. He quit his work as a church leader because he never liked the church's advocacy for peaceful solution to the Soy/Bok land grievances in Chepyuk.<sup>526</sup> Morris Sichei, a resident of Mt Elgon says Matakwei was a "staunch" Christian who attended Toroso Pentecostal Church adding he had risen to the position of church elder.

I remember him preaching from Exodus about the suffering of the Israelites in Egypt. We could not relate his message to the situation of the Sabaot. We didn't know that he could become a leader hoping to lead the Sabaot to claim their land until he disappeared into the forest.<sup>527</sup>

Founder and commander of the SLDF, Wycliffe Matakwei remained at SLDF helm until his death 2008. During his leadership, he instilled fear in his subordinates and commanded the SLDF with absolute power and in consultation with other leaders. His charisma was demonstrated by how he managed to persuade both the old and young to support the SLDF cause. He was a very committed leader who managed to transform a small group into a powerful militia group that sent worrying signals to the government.

David Sichei Chemaimak, a former General Service Unit (GSU) officer attached to the Recce Company, was Matakwei's second in command. As the commander in-charge of training and strategist, a position he took up based on his military training and having served as a Presidential Escort, Sichei acted as a go-between within the SLDF command structure.<sup>528</sup> Codenamed "the terminator", Sichei trained SLDF fighters on evasion and covert techniques that would save the SLDF militia from capture by government forces while terminating anybody allied to government. The use of codenames by SLDF is not unusual as codes have been used in human history for thousands of years to send secret messages and their use has evolved from simple codes to more complex ones used for military purposes. The earliest use of recorded codes dates back to those used by Leon Battista Alberti around to conceal some information. In the military, the use of codes dates back to the beginning of the US Army Signal Corps formed in 1860,

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<sup>526</sup> Salome Chepkemoy Ndiwa, interview with the author, Cheptais Sub-County, Sasuri Location, 04/06/2016.

<sup>527</sup> Robert Wanyonyi, "Church Elder who Turned into a Killer," in *The Standard Digital*, 25th Feb 2009. <https://www.standardmedia.co.ke>

<sup>528</sup> Daniel Psirmoi, "The Search for a Former Deputy Commander of the Defunct Sabaot Land Defence Force (SLDF), David Sichei Chemaimak has begun," *Standard Digital*, 03rd Jan 2013 <https://www.standardmedia.co.ke>

where the Corps used flags and torch movements to send messages.<sup>529</sup> SLDF adopted code names for its commanders depending on their roles and this created a myth around the key figures of the militia and also allowed them to operate somewhat anonymously for a period of time. Sichei's code name was "the terminator" the name was based on a dangerous movie character portrayed by Arnold Schwarzenegger in the American science fiction movie of 1984 by the same title directed by James Cameron. In the movie, the lead actors acted as an assassin whose mission was to kill and save humanity against machine guns,<sup>530</sup> a role that was somewhat akin to that of Sichei as the SLDF chief trainer and strategist. As a strategist, Sichei provided vision and focus of SLDF. He assisted in commanding the troops and was critical in instilling leadership skills, and inspiring the fighters to think and act without fear. His military training in Israel came into play as it had equipped him with a deep understanding of war and strategy, which he used to the advantage of SLDF. Apart from developing the war strategy, he oversaw execution of SLDF's strategic plans, intelligence gathering and tactical manoeuvres.<sup>531</sup>

Under David Sichei was Protus Chengut whose code name was "Bull". Protus Chengut "Bull" acquired his code name from the American military, which uses the designation *Bull* in reference to a navy commander of a squadron and earned the moniker from his tendency to severely punishing recruits who showed signs of fear or withdrawal from the SLDF group.<sup>532</sup> In American military tradition, the *Bull* assumes various responsibilities such as teaching less-experienced marines about life at sea, planning and coordinating activities, making sure that the officers' execute their duties effectively and efficiently. The origin of the term *Bull* in military can be traced to the mid-20th century.<sup>533</sup> Within SLDF, Protus Chengut, the "Bull", who recruited by Matakwei, was in charge of new recruits and was tasked with training and hardening the recruits to the expectations of the "boss". The training was ruthless. This meant that recruits were trained to be ruthless and never to have mercy when executing their mandate. In a peace workshop help

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<sup>529</sup> Virginia 4-H, "Making the Future: The History of Codes and Ciphers, Virginia State University [www.ext.vt.edu](http://www.ext.vt.edu), accessed on 01/10/2020

<sup>530</sup> Donald Palumbo, "The Monomyth in James Cameron's The Terminator: Sarah as Monomythic Heroine," in *The Journal of Popular Culture*, 41 (3), 2008, pp. 413-427, Blackwell Publishing, Inc.

<sup>531</sup> Oral interview, Patrick Kitembe Ngaina, interview with the author, Ngachi Sub-location, Cheptais, Mount Elgon, 03/06/2016

<sup>532</sup> Ibid

<sup>533</sup> US. Navy Library, "Naval History and Heritage Command". <https://www.history.navy.mil>, accessed on 02/10/2020

at Kutere Salvation Army Church in Mount Elgon, Chengut had this to say; “I threatened to have their heads chopped off if they turned back or become sell-outs. I detained many youth in the forest for several days.”<sup>534</sup>

Dennis Sangura, was another commander within the ranks of SLDF and he was in-charge of military resources. Following his recruitment, Sangura lived in the forest for two years where he underwent training on the militia. He was one of the most respected commanders in SLDF as he was well versed on the acquisition of weapons and military fatigue. Sangura’s role was to ensure the militia had uniforms that resembled those used by the police officers and the military. These uniforms were purchased from Uganda and some collected from security personnel killed by the militia. The uniforms were later distributed to militiamen who disguised themselves as police or military officers while carrying out attacks in villages. To support the combat and tactical units, SLDF had a well-established and elaborate intelligence network within the government’s security agencies, which kept them informed on the government’s plans in advance enabling the militia to evacuate before any government security raids. The members of the militia’s intelligence mixed freely with civilians during the day as they gathered intelligence on government plans and often attended barazas and crisis meetings even at the DCs Office, where plans on how to deal with the militia were discussed thus providing the militia with detailed information on the government’s operations, which the militia used to their advantage.<sup>535</sup> This is supported by the fact that while the police and even the Kenya Army conducted sting operations on various occasions they rarely managed to capture any males, as more often than not almost all the male adults in the target villages had escaped.<sup>536</sup>

The spiritual division, which was led by Jason Manyiror Psongoywo, was crucial to SLDF’s military strategy. Psongoywo who was born in 1928, was an influential traditional spiritual leader or “*Laibon*” of the Sabaot’s Soy/Bok sub-group and during the SLDF-led war he was responsible for the administration of oaths, encouraging youth to enrol in the militia and

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<sup>534</sup> Erick Ngobilo, “I Led New Recruits in Collecting Human Heads and Ears, Says Ex-SLDF Leader,” in *The Daily Nation*, Tuesday July 2 2013. <https://www.nation.co.ke/news/>, accessed on 14/03/2019

<sup>535</sup> Salome Chepkemoi Ndiwa, interview with the author, Cheptais Sub-County, Sasuri Location, 04/06/2016.

<sup>536</sup> Fred Mukinda, “Military gives Findings on Sabaot Militia,” in *The Daily Nation*, Sunday July 6 2008. <https://www.nation.co.ke/news/>, accessed on 17/03/2019

promising them supernatural protection using charms.<sup>537</sup> These charms infused SLDF fighters with courage and despite repeated and bloody experiences, SLDF fighters never gave up their beliefs in the efficacy of such magic. The fighters believed that war-charms applied by a Sabaot *laibon* on the warriors and their weapons, generated protective and supernatural powers including the ability to deflect the bullets from government security forces.<sup>538</sup> Additionally, apart from protecting fighters, SLDF also used the *laibon* to predict what the fighters should expect in the operations, and how best they could avoid our enemies. These beliefs demonstrate the central role played by the spiritual arm of SLDF in the conflict.

At the height of the conflict, SLDF had more than 30 cells of about 100 people each or more, with each cell being manned by retired security officers.<sup>539</sup> This is a clear indication that SLDF was highly organised, contrary to the dismissals by the Provincial Administration in the area. As stated earlier, if the number by Wycliffe Matakwei were correct, then, SLDF had an equivalent to ten military brigades of NATO standards. This is a formidable force that could not afford neglect by the state as it had happened. And if the western human rights watch was right, then SLDF had a full brigade of the NATO standards. Nonetheless, a brigade is not a negligible force. It must be noted that a brigade is a major tactical military formation that is typically composed of three to six battalions plus supporting elements. Two brigades may constitute a division and, until recently, Kenya only had two divisions' namely the Western Command and the Eastern Command. A brigade's commander is commonly a Major General or Brigadier General, Brigadier or Colonel.<sup>540</sup> It is evident that SLDF had a vibrant chain of command in which a positive combat climate was created that inculcated and fostered trust and mutual understanding among the fighters. The commanders trained their subordinates and they were the focal point for penetrating the terrain of war and instilling in the fighters the will to win against their opponent and regain back their land.

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<sup>537</sup> Geoffrey Kipsang, interview with the author, Kaimugul Sub-Location, Chepyuk Location, Cheptais Sub-County, 4/6/2016.

<sup>538</sup> Ibid.

<sup>539</sup> Adams Oloo, "Marginalisation and the Rise of Militia Groups in Kenya: Mungiki and the Sabaot Land Defence Force," in ed. Wafula, O. and Ikelegbe, O. *Militia, Rebels and Islamist Militants-Human Insecurity and State Crises in Africa*, Pretoria: Remata Enathi, 2010.

<sup>540</sup> John Headlam, *The History of the Royal Artillery, Vol II (1899-1914)*, Woolwich: Royal Artillery Institution, 1937.



At the core of SLDF operations was the political wing, which served as the driving force of the militia group and which was manned by the elites of the community. Since the group operated in the wider society, the members kept its identity a secret and the only known person was the spokesman, who was John Kanai, a former councillor. The political wing was responsible for deciding which methods were to be used to raise funds to finance key operations of the militia. Funds raised that were not used to finance the operations of the militia were deposited in accounts opened in Eldoret under Chepkoos Community Organisation, whose treasurer was Salome Matakwei, the wife to the commander. The political wing, which enjoyed the support of some senior members in the government, also generated propaganda to promote their cause. Around November 2006, for instance, it was the political wing that called for territorial expansion to the border of West Pokot and Trans-Nzoia and later outlined plans to take-over Eldoret town.<sup>541</sup> It remains operational and in close touch with David Sichei Chemaimak who took over the leadership of SLDF in July 2008 following the death of Wycliffe Matakwei. Following the takeover by Chemaimak, the militia underwent a change of name and was renamed the Sabaot People's Patriotic Army (SPPA).<sup>542</sup> In 2009, Chemaimak, who was hiding in Uganda, announced that he intended to continue the fight from where SLDF left to reclaim the Sabaot autochthony over Mount Elgon as per the 1926 boundaries.<sup>543</sup>

## 6.7 The Onset of the War

The war in Mount Elgon evolved from a land dispute over Chepyuk Phase III settlement scheme and in particular the manner in which the government handled the plan to evict Soy/Bok populations inhabiting the scheme and redistribute the land to other communities.<sup>544</sup> The onset of war hinged on historical events surrounding the land question and specifically mismanagement of the Chepyuk Phase III land allocation. Why the war started and more precisely when and where it did is the subject of discussion in this section. Here, I demonstrate the importance of the idiosyncratic factors that sparked off the war. At the onset, the SLDF insurgency was backed by the Soy/Bok people who saw the war as a just cause, with the right intention of defending the

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<sup>541</sup> Salome Matakwei, interview with the author.

<sup>542</sup> Jane's Report, "Sabaot Land Defence Force (SLDF)". [https://www.ci2cig.com/T3/all\\_terror](https://www.ci2cig.com/T3/all_terror)

<sup>543</sup> Jacques Bertrand and Oded Haklai, *Democratization and Ethnic Minorities: Conflict or Compromise?* New York: Routledge, 2014, pp. 98-99.

<sup>544</sup> SOS-torture Network, "Addressing the Economic, Social and cultural Root causes of Torture: Military action Against the Sabaot Land Defense Force in Mount Elgon involves serious Human rights violation, against civilians", in OMCT action File: KENO6008. ESCR.

community and their ancestral land claims.<sup>545</sup> In September 2005, the group spread leaflets warning the pro-government supporters against eviction of the members of the Soy/Bok from Chepyuk. Leaflets were asking the Soy/Bok people to cooperate in a bid to rid Chepyuk area of non-Soy/Bok and free their land.

Instead of the government taking the matter seriously, the district and provincial authorities dismissed the threats by SLDF as emanating from a gang who could do nothing and further alleged that the leaflets were the work of invisible political instigators of clan and ethnic animosities in the region.<sup>546</sup> Subsequently, the government was caught off-guard when the SLDF militia staged its first attack in Cheptoror area, where they killed at least 15 people including the then area chief and raped several women. Following the Cheptoror attack, the SLDF leader and commander, Wycliffe Komon Kirui Matakwei, promised every member of the militia fifty acres of virgin land for fighting.<sup>547</sup> However, he gave the fighters a condition, that this would only happen if SLDF wiped-out the entire Mosop/Ndorobo sub-ethnic group and entirely destroyed their property.<sup>548</sup> Towards the end of 2005, the SLDF commander gave an order to launch war against the Mosop/Ndorobo and government agencies. The killings sent fear among pro-government supporters. In December 2005, the militia attacked Kitalale farm in Trans Nzoia killing six people and injuring several.<sup>549</sup> However, the government did not take the attacks seriously, with the police simply attributing the attacks to the proliferation of illegal guns from Uganda and assured residents that it would apprehend those behind the attacks. In most cases, the attacks in 2005 were dismissed by the police as activities of gangsters who had no other intentions but to scare and disrupt normal life of inhabitants of the region. It became common for the police to issue stern warnings and promises to deal with the group yet without follow-up to the notices. Although the police kept on dismissing the attacks as the work of gangsters, the attacks seemed well planned and coordinated, targeting specific sections of the population. In

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<sup>545</sup> Ibid.

<sup>546</sup> Masinde Kusimba and John Muganda, "Fear Grips District as Fierce Gangsters now take charge", in the standard Newspaper, Saturday, September 24, 2005 p.8.

<sup>547</sup> The term virgin has been highly problematised in regard to land, i.e., the colonial annexation of land termed as virgin hence their activities a way expressing masculinities.

<sup>548</sup> Levi Cheruo Cheptora, *The Ugly Beautiful Tale of a Stupid, Stupid Heart*, Nairobi: Create Space Independent Publishers, 2016, pp. 201-255.

<sup>549</sup> The Editor, "Complementary", in the *Standard Newspaper*, December 27, 2005.

general, the attacks of 2005 can be viewed as a warning of the greater war to come and which started in 2006.

Under Wycliffe Matakwei, SLDF grew steadily and became a law unto itself and as soon as the government carried out the last evictions in August 2006 many of the displaced members from Soy/Bok clan joined SLDF militia and publicly declared war on the Mosop and the state.<sup>550</sup> The militia launched full blown attacks, burning down homes of the Mosop/Ndorobo after which they would retreat into the thick forest from where they organized more attacks.<sup>551</sup> On August 27 2006, shortly after the evictions, a Police Patrol Base and the homesteads of some members of the Mosop/Ndorobo were burnt-down in an attack, which sparked off the worst conflict in the history of the Soy/Bok and Mosop/Ndorobo clans. Following the attack, SLDF began to engage in violent raids on villages around Mount Elgon and also made forays into Trans Nzoia. The militia through its leader declared that it would continue with the raids until land allocations were nullified.<sup>552</sup> In an official press release, Wycliffe Matakwei while addressing the press at Huruma Market in Mount Elgon called for immediate arrest of local politicians for fanning the armed conflict. He also called for immediate transfer of Abdul Mwasera, the then Western Provincial Commissioner and Kuteswa Olaka, the then Mount Elgon District Commissioner. However, the two provincial administrators dismissed the group's statements as mere propaganda.<sup>553</sup>

The conflict intensified towards the end of 2006 with the militia engaging in open destruction of property and butchering of members of the Mosop/Ndorobo clan. The militia did not focus only on the Mosop/Ndorobo and eventually extended the attacks to all perceived foreigners including the Bukusu who were accused of economic exploitation of the Sabaot.<sup>554</sup> From their hideouts, in the caves and the forest, the SLDF militia callously launched attacks on Mosop/Ndorobo and Bukusu residents. By 12<sup>th</sup> December 2006, more than 30 civilians had been shot dead in just less than three months. In addition, 20 primary schools had been shut down as pupils could not go to

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<sup>550</sup> Human Rights “Call for Lasting Solution for Security in Western Regions,” Nairobi 6, March 2008.

<sup>551</sup> Rose Chepkum Belio, interview with the author, Chepais Sub-County, Chepyuk Location, 04/06/2016.

<sup>552</sup> Ibid.

<sup>553</sup> Isaiah Lucheli “30,000 Land Warriors Hiding in the Forest”, in *The Saturday Standard*, January, 13, 2007, p.10.

<sup>554</sup> Xavier Francis Ichani “Military Intervention in Local Conflicts: Justification, Perceptions and Lessons and Recommendations”, in *Journal of International Academic Research for Multidisciplinary, Impact Factor 1393*, ISSN: 2320- 5083, volume, 2, issue 2, March 2004.

school under the circumstances. Thousands of acres of maize were left to rot in the field as the situation got out of control and the region came under the control of the militia fighters.<sup>555</sup> As the attacks intensified and the state failed to protect local residents, residents were left with no option other than to move out or remain in the region and be killed if they did not conform to SLDF demands.<sup>556</sup>

As the situation in Mount Elgon worsened, residents fled in thousands to neighbouring areas including Kapsokwony, Kaptama, Chwele, Kimilili, Trans Nzoia, Marakwet and as far as Uasin Gishu and Nandi counties, while others sought refuge in Uganda as recounted by Dan Baraza, “*tulikuwa tumetorokea usalama kule Uganda, tulikuwa kwa kambi ya wakimbizi*” (We had run for safety in Uganda, we were in a refugee camp).<sup>557</sup> According to the then District Commissioner, at least 45,000 people had been displaced by end of 2006.<sup>558</sup> At the end of 2006, the conflict attracted the attention of both local and international media as various groups urged the government to end the land conflict that had claimed many lives. The pressure mounted when religious leaders led by Rev. Rirei arap Maritim, David Cheron, Dr. Emmanuel Chemengich, Diphus Chemorion and Pastors Tom Cheprony and Sammy Chemwey also condemned the continued violence and called for dialogue to end the killings and destruction of property.<sup>559</sup> The religious leaders further accused the government as having abdicated its responsibility of providing security. In effect, the government had withdrawn from the region as contended by Adams Oloo who avers that there was virtually no government presence in the area. Oloo further asserts that the militia destroyed government installations and totally eliminated anything associated with the Kenya government.<sup>560</sup> Following the exit of government from the region, the militia exerted its authority over the area.

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<sup>555</sup> Peter Nge’etich and Bernard Kwalia, “Where Cave Men Kill and Maim Over Land: Families Flee Chepyuk Settlement Scheme after Brutal Attacks by Evicted Squatters” in *The Daily Nation*, December, 12, 2006, p. 27.

<sup>556</sup> Peter Nge’etich and Bernard Kwalia, “Where Cave Men Kill and Maim Over Land”, *Ibid*.

<sup>557</sup> Dan Baraza, interview with the author, Kapkoto area, 20/05/2017.

<sup>558</sup> Isaiah Lucheli and John Muganda, “Families Flee to Uganda to Escape Mt. Elgon Conflict,” in *The Saturday Standard*, January 6, 2007, p. 5.

<sup>559</sup> Osinde Obare and Isaiah Lucheli, “State asked to end clashes in Mt. Elgon”, in *The standard*, Monday January 1, 2007, p.16.

<sup>560</sup> Adams Oloo, “Marginalization and the Rise of Militia Groups in Kenya: the Mungiki and Sabaot Land Defense Force”, in *Militia, Rebels and Islamist Militants*, Pretoria: Institute of Security Studies, 2010, pp. 147-181.



**Wycliffe Matakwei the SLDF Commander addressing the press at Huruma Market in Mount Elgon where he called for immediate arrest of local politicians from Mt. Elgon. Photo extracted from Ingonews, web.abeingo.org**

The militia operated in a wide area covering the region between Chebwek in Cheptais in Bungoma County to Suam in Endebess, Trans Nzoia County. In Kopsiro, which was the epicentre of war, SLDF adopted a scorched earth policy to clear the Mosop and other communities perceived as ‘others’ from areas the Soy/Bok considered as being rightfully theirs. Thousands of villagers were terrorised into leaving their homes and in some areas, the charred remains of mud huts and schools were the only evidence that there was ever life in the region. The militia destroyed harvests, looted livestock and burned houses to ensure that no Mosop displaced by the conflict would ever return to Chepyuk. Fields that were once seen as a breadbasket became idle, small towns and markets became battlefields, schools turned into hideouts. The war ripped families apart as SLDF militiamen took more civilians into custody deep into the forest and families could no longer provide a secure environment for children as the very young were forced to walk long and dangerous distances without food to safety.<sup>561</sup>

Apart from destroying property, the militia inflicted physical injuries on inhabitants and also murdered those they perceived as being anti Soy/Bok.<sup>562</sup> As the war intensified, SLDF

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<sup>561</sup> Medecins Sans Frontieres, *Mount Elgon: Does Anybody Care?*, Brussels: Medecins Sans Frontieres, May 2008, pp. 2-4.

<sup>562</sup> Silas Kiplimo Naibei, interview with the author, Cheptais Sub-County, Chepyuk Location, 04/06/2016.

commanders ordered even more attacks to send a powerful message to the government that the matter would remain unsettled until the allocation of land in the Chepyuk Phase III settlement was reversed. The killings intensified, gunshots became common all over the area as SLDF killed people on a daily basis,<sup>563</sup> a fact that is supported by Vincas Chepkombe Kipkut who claimed that:

People were always woken up by SLDF fighters breaking their doors open then pointing guns and torches at you. They would take you captive, round up your animals if you had any and lead you deep into the forest. While in the forest, they would beat you and if you are lucky they won't kill you. They would tie people to trees, head hanging down before caning them thoroughly. Then you would be told to choose between surrendering all your possession or be killed. If you surrender your property including land, they would cut off your ear as a mark, then they would make you eat it to seal the agreement.<sup>564</sup>

The warfare techniques adopted by SLDF were similar to those of the Revolutionary United Front (RUF) of Sierra Leone. Whether SLDF were literate enough to be in touch with RUF cannot be confirmed but the eleven-year Sierra Leone war was the main news item in the 1990s and as such, there is a possibility that SLDF were aware of the tactics utilised by the RUF. Additionally, given that some of the SLDF commanders had served in the army and GSU, there is a high probability that they were knowledgeable of what was happening in Sierra Leone as Kenya had deployed peacekeepers to Sierra Leone meaning the Sierra Leone war was well known to Kenyans and more so to the Kenyan military, some of whom had joined SLDF. The Sierra Leone conflict was well known in Kenya as demonstrated by the nicknaming of some notorious people after the RUF leader, Foday Sankoh, who was known for brutal practices such mass rapes and amputations during the Sierra Leone civil war. Sankoh personally ordered many operations, including one called "Operation Pay Yourself" that encouraged troops to loot anything they could find, an approach that is similar to the strategy adopted by SLDF in its operations.<sup>565</sup>

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<sup>563</sup> Kenya National Commission on Human Rights, *"The Mountain of Terror": A Report on the Investigation of Torture by The Military at Mt. Elgon*, Nairobi: KNCHR, May 2008, p. 7.

<sup>564</sup> Vincas Chepkombe Kipkut, Kapnyitt Clan, interview with the author, Cheptais, Mt. Elgon, 28/12/2016.

<sup>565</sup> BBC News, "Foday Sankoh: The cruel rebel," Wednesday, 30 July, 2003.  
<http://news.bbc.co.uk/2/hi/africa/3110629.stm>, accessed on 03/10/2020





Photo showing locals fleeing, taken by Medecins sans Frontiers' *Mount Elgon: Does Anybody Care?* Brussels: Medicins Sans Frontiers, May 2008

SLDF intensified its hunt down on members of the Mosop/Ndorobo and mercilessly butchered them. Numerous Mosop/Ndorobo families in the region have similar stories to that of Sarah Chesame whose son was hunted and killed by SLDF. During the interview Sarah opined that she was mourning her son who was killed by the SLDF militia. “He had scored a B+ in his form four exams and was waiting to join the university. He wanted to become a doctor,” reminisced Sarah.<sup>566</sup> Another respondent, Janerose Nakhumicha had a similar story and recounted how her husband was also hunted down and killed by the SLDF:

*Walimutesa wakimutoa shule Kimamo, walimutesa Zaidi. Nguo walimutolea njiani, wale wamama walikuwepo waliniambia nguo walitolea njiani. Wakamupeleka mpaka kwa Kones, wakamupeleka mpaka kwa Chemonges, wakamuchukua mpaka kwa Matwakei. Huko ndio alimaliziwa. Walitoa kila kitu na mwishowe walimuteketeza.*

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<sup>566</sup> Sarah Chesame, interview with the author, Toloso Mount Elgon, 06/01/2017.

I will not see his body because it was ashes. They dragged my husband from Kimamo Primary School his workplace, tortured him then took him to SLDF leaders; Kones, Chemonges and finally to Matakwei's home. It was at Matakwei's home that they later killed him and burned his body to ashes.<sup>567</sup>

In a similar fashion to the RUF, SLDF fighters adopted rape as a tool of war aimed at scaring Mosop/Ndorobo members to abandon their claims over Chepyuk Phase III. Women bore the heaviest brunt of Mount Elgon war through sexual violations and indiscriminate murder. Although the war started over land grievances, it later took a brutal dimension against the already aggrieved population. Women became an easy target for SLDF fighters. In the Sabaot cultural world view, women are part and parcel of the corporate unilineal descent group that cannot be separated from the rest of the community. They symbolise life and existence of a clan without which there is no Sabaot and as discussed in chapter two, the land around Mount Elgon is referred to as the Sabaot "mothers' breast", which means the land is the originator of life. Despite the sacredness attached to women by the Sabaot, SLDF adopted sexual violence against women as a war strategy, with evidence demonstrating that rape was routinely used by the militia to subjugate both men and women, though women bore the brunt of it as recounted by one respondent, who preferred to remain anonymous:

I had just prepared supper for my family and we were seated in our house. Suddenly the dogs of our neighbour started barking viciously; we heard footsteps, and before we could even realise anything, our door was kicked open by men in huge boots, and carrying all manner of weapons. They took us to the forest, killed my husband and raped me for days, taking it in turns.<sup>568</sup>

Another victim, Lillian Kirei, 20, who shared her experience at the hands of her captors, stated that she was raped and infected her with HIV. Jane Kibiwott, 18, another victim, was also raped for two days by a group of SDLF young men. She too was not only infected by HIV but also conceived and gave birth to a baby who was equally HIV-infected. Jane in her account stated:

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<sup>567</sup> Janerose Nakhumicha, interview with the author, Chemondi Village, Chepais Sub-county, Mount Elgon, 06/07/2017.

<sup>568</sup> Interview with a local woman, anonymous, Kaptama Centre, 11/07/2017.



I can say he is twice unlucky, first, he is a child of rape, and now he is HIV positive and being cared for by an equally HIV positive mother. Cruel things happen at times, especially for us, the poor.<sup>569</sup>

While the 2006 attacks were brutal, they got worse in the following year. Between 1<sup>st</sup> and 6<sup>th</sup> January 2007 armed attackers razed down the villages of Chebwek, Mbambala, Daraja Mungu and Chepkube forcing residents to flee to Makale and Bumbo villages in Uganda, with the majority being women and children.<sup>570</sup> By 6<sup>th</sup> January 2007, more than 250 families had fled their homes and become refugees in Uganda.<sup>571</sup> It was during this period that SLDF changed the nature of its warfare and started to systematically target government installations in the region and not just residents who had settled on the contested land. The change in the nature of warfare was rooted in SLDF opposition to government approach to the land question. As stated earlier, the government was blamed for mismanaging the allocation of land in Chepyuk Phase III making it a candidate for attacks. To make their point heard, SLDF attacked government installations such as police posts, as well as kidnapping of government workers. For instance, between 10<sup>th</sup> and 11<sup>th</sup> January 2007, they raided a police post and engaged the police in a fierce exchange of fire while simultaneously raiding Kipsigon Police Post and Kaboriot Police Station.<sup>572</sup> In the same month, a chief was abducted and held hostage by SLDF who demanded a ransom to secure his release. Submissions to the United Nations Committee against Torture on Kenya indicate that SLDF victims who included officials from the provincial administration were abducted from their homes and then they were marched into the forests, where most were killed.<sup>573</sup>

On 14<sup>th</sup> January 2007, arsonists left over 3,000 people homeless when they razed down over 70 homesteads and attacked police stations in the area. After the attack, the SLDF commander conducted a media briefing on the success of attacks and alleged that they had recruited more than 30,000 youth to join their cause and threatened that his army would move out of the forest

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<sup>569</sup> Medecins Sans Frontières, *Mount Elgon: Does Anybody Care?* Ibid.

<sup>570</sup> Andreas Mehler, Henning Melber and Klaas van Walraven, *Africa Yearbook: Politics, Economy and Society South of the Sahara in 2007*, Leiden: BRILL, 2008, p. 340.

<sup>571</sup> Isaiah Lucheli and John Muganda, "Families flee to Uganda to Escape Mt. Elgon Conflict", in *The Saturday Standard*, January 6, 2007, p.5.

<sup>572</sup> Isaiah Lucheli, John Muganda and Anderson Ojwang, "Now Police Posts are Raided in Mount Elgon", in *The Standard*, Friday, January, 12, 2007, p. 21.

<sup>573</sup> Human Rights Watch African Division, "Submission to 41<sup>st</sup> Session of the United Nations Committee Against Torture on Kenya," September 15, 2008.

and engage in open war.<sup>574</sup> On the same day, another raid was staged at Chepkurkur where shops, hotels and posho-mills were burnt down in Chepkurkur and resulted in the displacement of over 2000 people.<sup>575</sup> By the end of January 2007, Kapkisei, Kabura, Kaboriot, Sosapel, Banantega, Kubura, Kaburwo, Kapkirong, Korngotuny, Chepkowo, Kaptum, Kabee, Chepkurkur, Johnson and Wilson schools had come under attack<sup>576</sup> and in one atrocious incident, three family members were hacked to death after defying militia warnings and trying to harvest their crops. SLDF's offence continued and gunshots rent the air nearly each night as the militia vowed to continue with their operations until the government nullified the land allocation of Chepyuk Phase III.<sup>577</sup> It is clear based on these incidences and others that went unreported that the spirit of death had engulfed the entire Mount Elgon District with men from the hills who introduce themselves as “*pigaap Koreet*”, owners of the land, slaughtered any perceived enemy.<sup>578</sup> The *Pigaap Koreet* mentality demonstrates the Soy/Bok attachment to land, which was at the centre of the brutal killings.<sup>579</sup>

In response to the militia actions, the government deployed a large number of security personnel, drawn from the police force, unfortunately the deployed personnel were unable to contain the situation. The SLDF was able to repulse the security personnel as they had acquired more sophisticated weapons as compared to the ones used by the Kenya police deployed to restore order, as noted by a Kenya Defence Force officer who was part of *Operation Okoa Maisha*, who stated:

We captured a General-Purpose Machine Gun (GPMG) a deadly weapon, which is capable of keeping an entire battalion at bay. The capability of this weapon, it is used by a platoon of thirteen people and as you can see this weapon is fired by a three-gun team and this weapon fires 750 to 900 rounds per minute at a range of 1800 meters. The recovered sophisticated weapon clearly shows that the regular police could not have matched the strength of SLDF.<sup>580</sup>

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<sup>574</sup> The Editor, “Standard Commentary and Analysis: End the Clashes in Mt Elgon once and for All”, in *The Standard*, Monday 15, 2007, p.12.

<sup>575</sup> Patrick Nyoki, interview with the author, Kaptama Centre, Kopsokwony Mount Elgon, 17/03/2017.

<sup>576</sup> Ibid.

<sup>577</sup> Isaiah Lucheli, “Living Under the Shadow of Fear: Thousands of Mt. Elgon Residents Displaced 38 Killed, 16 Schools Closed as a Dreaded Terror Gang Reigns Supreme in the Forsaken Areas”, in *The Standard*, Monday January 15, 2007, P. 16.

<sup>578</sup> George Magas, interview with the author, Cheptais Location, Ngachi Sub-location, 03/06/2016.

<sup>579</sup> Robin Toskin “Land: British, Kenyatta to Blame for Mr. Elgon Woes”, in *The Standard*, Friday, January 26, 2007, p. 13.

<sup>580</sup> Interview with a government security official, 23/03/2019.

While the police had been deployed to quell the uprising and restore order, they also actively brutalized innocent people, which resulted in the local residents turning against the security agencies and refusing to cooperate. The police in a bid to flush out SLDF members resorted to burning down houses in villages as exemplified by the torching of 50 houses in Chebong'ony, Changw'an and Kapsang villages by the police who claimed the residents were harbouring SLDF members.<sup>581</sup> One Mr. Rirei, the Anglican Church of Kenya Diocesan Head of Development Awareness Programme for Eldoret and Kitale region, blamed the government for aggravating the plight of the people of Mount Elgon who had become victims of both SLDF and government security agencies.<sup>582</sup> Other local leaders also blamed the police for killing innocent people over suspicion that they were SLDF members. In another instance, police raided the village of Korngotuny and burnt it down claiming that its inhabitants were members of SLDF<sup>583</sup> because they were dressed in uniform.<sup>584</sup>

By the end of January 2007, Mount Elgon had been cordoned off from the public as the government declared a major security operation and any external persons needed clearance from the District Commissioner to gain entry into the district.<sup>585</sup> In the lead up to the 2007 elections, the conflict in Mount Elgon took on a political and ethno-nationalist dimension as SLDF openly supported politicians allied to the Orange Democratic Movement (ODM), which was supported by a majority of the Kalenjin cluster.<sup>586</sup> Given their political inclination the militia became intolerant of supporters of the then ruling party, the Party of National Unity (PNU) and in some instances executed them publicly to send a strong warning to any member of the community who wished to join the party as noted by Levi Cheruo Cheptora, who notes that SLDF sympathisers allied to ODM ambushed Gitwamba centre killing and injuring many PNU sympathisers.<sup>587</sup> The root cause of SLDF's resentment of PNU and its supporters by SLDF can be attributed to PNU's,

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<sup>581</sup> Isaiah Lucheli, "The State is Now Accused of Harassing Clash Victims", in *The Sunday Standard*, January 28, 2007, pp.18-19. And Titus Oteba, "Police Burn houses in Mt. Elgon Forest to Evict Alleged Encroaches." 25.06/2016. <https://www.standardmedia.co.ke>

<sup>582</sup> Ibid.

<sup>583</sup> Salome Chepkemoi Ndiwa, interview with the author, Cheptais Sub-County, Sasuri Location, 04/06/2016.

<sup>584</sup> Isaiah Lucheli and Osinde Obare, "Police Kill 7 in Mount Elgon", in *The Standard*, Monday January, 29, 2007, p. 5.

<sup>585</sup> Alex Ndegwa, "Police Bar Journalists from Mt. Elgon Region", in *The Standard*, Wednesday January, 31, 2007, p.3.

<sup>586</sup> Patrick Kisembe Ngaina, interview with the author, Ngachi Sub-Location, Cheptais, 03/06/2017.

<sup>587</sup> Levi Cheruo Cheptora, *The Ugly Beautiful Tale of a Stupid, Stupid Heart*, Seattle: Create Space Independent Publishers, 2016, p. 222.

the government of the day, support for the Mosop/Ndorobo stand of the land distribution process in Chepyuk Phase III. Additionally, SLDF was antagonised by the deployment of security agencies by the PNU-led government to the region, with the former being accused of committing atrocities against members of the community.<sup>588</sup>

To drive its point further, SLDF warned any Sabaot interested in any political seat not to contest against any ODM candidate who had been approved by the militia. Consequently, trying to oppose SLDF-approved candidates was tantamount to signing one's own death warrant and the repercussions of such a move did not only affect the individual but were extended to one's supporters.<sup>589</sup> Those opposed to the militia faced the full wrath of the militia. For example, it targeted the then sitting KANU MP, Mr. John Serut, whom they accused of compromising with the Mosop/Ndorobo over the Chepyuk Phase III land issue as well as the government, which went against the interests of the Soy/Bok and the SLDF militia. Based on this, Serut became a wanted man as demonstrated by SLDF's attempt to kill him in May 2007 when they undertook an attack while Serut was delivering a speech at Kapsokwony District Headquarters.<sup>590</sup> Despite the failed attempt, SLDF did not give up on its pursuit of Serut and those close to him. In another incident, Serut was beaten by a civic leader in the presence of the retired president while attending a burial in Mount Elgon, which was also attended by retired president Daniel Arap Moi and ODM leaders led by William Ruto.<sup>591</sup> Later, two of his brothers and a niece were killed when SLDF fighters raided his home in Kapsokwony.

Aside from targeting supposed Sabaot dissidents, SLDF also targeted the Bukusu who resided in Mount Elgon, whom they perceived as being on the wrong side of the political divide. However, SLDF's targeting went beyond the political division as the SLDF had long resented Bukusu presence in Mount Elgon District because of the long history of bad blood between the Sabaot and the Bukusu. The Sabaot felt that the Bukusu, who strongly supported the PNU government led Mwai Kibaki, had over the years taken their land and forced the Sabaot to the more marginal

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<sup>588</sup> Ibid.

<sup>589</sup> Dominic Wabala, "Security: Extortion Racket in Mt. Elgon," in *Daily Nation*, Monday 5, 2008, p. 8.

<sup>590</sup> Adams Oloo, "Marginalisation and the Rise of Militia Groups in Kenya: Mungiki and the Sabaot Land Defence Force," in ed. Wafula, O. and Ikelegbe, O. *Militia, Rebels and Islamist Militants-Human Insecurity and State Crises in Africa*, Pretoria: Remata Enathi, 2010.

<sup>591</sup> Silas Kiplimo Naibei, interview with the author, Cheptais, Chepyuk Sub-Location, 04/06/2017.

areas of the mountain.<sup>592</sup> Consequently, the militia wanted to evict the Bukusu from Mount Elgon region based on what the Sabaot termed as the long-term oppression of their people by the Bukusu. Subsequently, SLDF declared the Bukusu as unwanted people in Mount Elgon region whom they accused of threatening the existence of the Sabaot through assimilation and as such, needed to be eliminated from the area. This outlook was shared by the majority of the Sabaot and became more noticeable both in the virtual and public spheres, as demonstrated by the opinions posted on a blog ran by Mount Elgon elite known as voices from the mountain as well public declarations made by Sabaot political elites. For example, one post on the blog stated that “Bukusu are very proud people who have always looked down upon the Sabaot. They must be fought as our way of resisting their domination in our land.”<sup>593</sup> This antipathy and resentment of the Bukusu was also evident in the public space as demonstrated by the declarations of one Wilberforce Kisiero, a one-time MP of Mount Elgon, when he warned the Bukusu against being the cannibals they had always been as they decimated the Sabaot population through cannibalism.<sup>594</sup> Eventually in the lead up to 2007 elections, the land conflict in Mount Elgon took a new turn as the SLDF officially announced the need to establish an independent state.<sup>595</sup>

## **6.8 Governing the Ungoverned Space: SLDF as a State within a State**

This section concerns governance and land related violence in Mount Elgon ‘ungoverned’ spaces and explores the insecurity, poverty, underdevelopment and ‘ungoverned’ spaces in Mount Elgon, issues that contributed to the emergence of the SLDF and provided them with opportunities to capitalise on. In exploring these issues, I demonstrate that weak government presence, failed land dealings and how the ungoverned space became a fertile ground for militia breeding and how this gave the SLDF free reign and subsequently led to SLDF overran the region. Once SLDF besieged and took over Mount Elgon, it sought to establish itself as a state within a state given the perceived absence of the national state authority and the weak presence of provincial authority. The Kenyan government was not only absent in Mount Elgon but also it was viewed as an enemy of the Sabaot, both of which favoured the SLDF. In the absence of a functional state authority, SLDF established government operations akin to those of a state and

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<sup>592</sup> Mountain voices, “Kenya: Mount Elgon” website presents interviews with over 300 people who live in mountain and Highland Regions Round the world. [mountainvoices.org/k\\_theconflict.asp.html](http://mountainvoices.org/k_theconflict.asp.html), accessed on 24/05/2016

<sup>593</sup> Ibid.

<sup>594</sup> John O. Oucho, *Undercurrents of Ethnic conflicts in Kenya* Leiden; Boston; Koln: Brill publishers, 2002, p.79.

used the self-arrogated state mandate to coerce the local residents. It used coercion as a necessary method to stamp its authority in the region including imposing its own penal code as a means for enforcing social order. Aside from maintaining order, after overrunning most of the security and judicial institutions in the region, the SLDF also usurped the authority for maintaining the peace and meting out justice as well as the authority to collect taxes, which are duties of a state.

SLDF developed an efficient system of taxation with taxation, collection of duties and other tariffs becoming the main source of SLDF's revenue. SLDF imposed taxes across all sectors of the economy, and went as far as taxing each household in the region. At the beginning each household had to pay KES 1,000 as a one-off payment for protection however, SLDF subsequently changed the one-off payment in favour of individual monthly payments depending of their economic stability and those who refused to pay were shot dead once captured.<sup>596</sup> Shopkeepers, farmers and civil servants serving in the area were also taxed with civil servants including teacher required to pay between KES2, 000 and KES5, 000 per month as protection fee. Aside from the taxes, local residents were also required to reserve a certain amount of farm produce for every unit area harvested. For example, it was mandatory for each household to surrender a 90 kilogramme bag of maize for every acre harvested as farming tax.<sup>597</sup>

Apart from collecting taxes, SLDF imposed its own penal code on local residents, a role solely reserved for the state. For the state to carry out this role, it must administer punishment, which in its very conception is acknowledged to be an inherently retributive practice aimed at reforming and rehabilitating offenders. In modern society, it is the state, which is justified to administer punishment, based on the belief that society needs the threat and the practice of punishment, so as to achieve the goal of social order, which cannot be achieved otherwise.<sup>598</sup> For any state to execute punishment there must be a penal code or a set of laws relating to crimes and the punishments for those crimes. These laws must be enacted by a legally constituted assembly of the governed and executed by legally constituted institutions. However, when militia groups assume this responsibility, they are presumed to be acting as a state within a state.

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<sup>596</sup> Silas Kiplimo Naibei, interview with the author, Cheptais Sub-County, Chepyuk Location, 04/06/2016.

<sup>597</sup> John Ndiema, interview with the author, Cheptais Centre, 29/12/2018.

<sup>598</sup> Claudia Card, Claudia, "Retributive Penal Liability," *American Philosophical Quarterly Monographs*, 7, 1973, pp. 17–35.

In the case of Mount Elgon, the absence of a functional state authority and the inability of the existent state structures to uphold law and order, created room for SLDF to usurp this role. Punishment was meted on individuals who went against SLDF's established code of conduct. For example, they forbade consumption alcohol, wife battery, and spying for the government among other crimes as per their code. Any resident in their operation area who violated this code would be subjected to trial before SLDF leadership who held the hearings and meted out punishment at established administrative centres. Punishment included corporal punishment with offenders sometimes being tied to a tree upside down as they were caned. Aside from corporal punishment, offenders could also be ordered to pay a fine and in some cases the punishment was barbaric and could result in bodily harm, such as chopping off of ears and lips and in extreme cases death penalty was meted out,<sup>599</sup> acts that were affirmed by Stephen Naibei Kimtai who stated that, "Up the slopes, drunkards lost their ears and lips, chopped off with blunt knives. Perceived betrayers lost their lives as retribution."<sup>600</sup> Additionally, SLDF resorted to lynching of suspected witches and wizards and their remains burnt to ashes especially in Sasuri, Chebwek, Chepkube, Chewangoi, Chelebei, and Kopsiro villages.<sup>601</sup> SLDF did not only impose itself on the Sabaot but extended its 'authority' to the neighbouring Bukusu community who had been accused of encroaching on Sabaot land. Based on the accusations, SLDF launched widespread raids in Kikai, Chelebei and lower Kapketeny areas, where they forcefully took livestock, torched houses and imposed fines on Bukusu households living among the Sabaot. During the reign of SLDF, all the community members suffered depending on the gravity of his or her perceived crimes.

Given the foregoing, it is evident that the Kenya government failed to exert its control over the peripheral territories of Mount Elgon prompting the SLDF to emerge and create a type of a state. SLDF and its ranks swelled through mass incarceration and consequently, SLDF transformed into a coercive institution, which organised itself as a state authority and taxed local residents. Aside from usurping state authority in terms of tax collection, SLDF also arrogated itself the

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<sup>599</sup> John Ngeiywa, interview with the author, Kakilongo, 28/12/2015.

<sup>600</sup> Stephen Naibei Kimtai, interview with the author, Cheptais Centre, 29/12/2018.

<sup>601</sup> Heri Ryanga, *Women and Conflict in Mt. Elgon: Assessing Rape as a Weapon in Armed Conflict, 1991 – 2008*, Masters Project Paper Submitted in Partial Fulfilment of the Requirements for the Award of Master of Arts in Armed Conflict and Peace Studies, Department of History and Archaeology, University of Nairobi, November 2013, p. 38.

right to establish law and order and orchestrated mass violence across the region under guise of maintaining social order based on its code of conduct. Evidence from other for this study aver that the state's brutal crackdowns in its offensive against the SLDF and the harsher punitive action against community members including torture strengthened the initiatives of the militia.<sup>602</sup> The government's strategy had a reverse effect than what was expected, with the brutal crackdowns have increasing returns for the militia instead of the government, implying that additional force by the government security agencies further eroded state authority.<sup>603</sup> The inability of the state leadership to safeguard state autonomy in Mount Elgon resulted in SLDF usurping and occupying the political space and enabling it to impose its laws including levying taxes on community members.<sup>604</sup>

## 6.9 Sustaining the War

The SLDF insurgency organised itself into several components as demonstrated in its recruitment strategy and command structure, which assisted it to sustain its war efforts for such a long period. Like most insurgents, the SLDF militiamen viewed combat as a personal and honourable calling, with the calling of the SLDF militiamen being to defend their land. Aside from the insurgents who viewed the insurgency as an honourable calling, there were young men who joined the fight or sought to be associated with SLDF with the hope of gaining status and respect in the community for having fought for the rights of the Sabaot people. Additionally, this group hoped to gain power, as well as financial returns and other resources as a result of the taxes and other levies imposed by the militia. There were others who joined the militia to in a bid to fulfil other innate needs such as a sense of identity as a member of the Soy/Bok community fighting against the injustices inflicted on the community, as averred by Robin Chepkum who stated that there were those who felt pride in taking part in correcting the wrongs perpetrated against the people of Mount Elgon.<sup>605</sup>

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<sup>602</sup> Evelyn Kwamboka, "AG Denies Torture in Mt. Elgon, Says Operation Lawful," in *The Standard*, October, 6th 2010. <https://www.standardmedia.co.ke/article/2000019758/ag-denies-torture-in-mt-elgon-says-operation-lawful>, accessed on 17/07/2020

<sup>603</sup> SOS-Torture Network, Addressing the Economic Social and Cultural Root Causes of Torture's Military Action against the Sabaot Land Defense Force in Mount Elgon Involves Serious Human Rights Violations against Civilians", OMCT Action File: KEN06060 8, ESCR.

<sup>604</sup> John Oywa, "Haunted Mt. Elgon Residents Cry for Justice," in *The Standard*, October 30th 2011. <https://www.standardmedia.co.ke/article/2000045854/haunted-mt-elgon-residents-cry-for-justice>, accessed on 17/07/2020

<sup>605</sup> Robin Chepkum, interview with the author, Kaitongwa-Cheptais, 27/12/2015.



SLDF was well organised and adopted a military like command structure with its war efforts taking place at several interrelated levels. This hierarchical system enabled them to coordinate and sustain the fight for long. At the highest level were a team of people who had the responsibility of establishing goals, assigning fighters, providing assets and imposing conditions on use of force, while at the lowest level were the foot soldiers who executed the orders.<sup>606</sup> To strengthen its combat and intelligence strategies, the militia recruited retired army officers and policemen. These former officers were able to provide SLDF with insider knowledge of Kenya's military and police strategies and operational mind-set as they had an understanding of the capacity and some weaknesses of the security forces. Aside from providing SLDF with inside knowledge, these officers provided training for the militia on the best ways for countering or dealing with the government forces. Members of the militia were trained not only on combat but also on intelligence gathering, which enabled the militia intelligence team to monitor government forces and inform command of their movements through communication gadgets that had been acquired.<sup>607</sup> The integration of former military and police officers into SLDF put the government forces at a disadvantage and gave SLDF an upper hand as they had inside knowledge on the operational strategies of the government forces and were also able to monitor the movements of the government forces without the awareness of the government.

In terms of combat strategy, one of the key methods that the militia adopted was ambushes, which enabled them to operate undercover to avoid detection by Kenyan armed forces. Additionally, SLDF capitalised on its knowledge of the Mount Elgon forested terrain, which offered SLDF fighters perfect hideouts and enabled them to conduct their ambushes against government security forces. The dense forest, which extends across the un-monitored international boundary with Uganda, offered passage for militia members who would comfortably hide among their kinsmen in Uganda, especially, when they were being hunted by government forces, as the government forces could not cross the border and venture into Uganda, a sovereign state, as this would be tantamount to declaring war.<sup>608</sup> When pursued, they simply

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<sup>606</sup> Adams Oloo, "Marginalization and Rise of Militia Groups in Kenya," p. 167.

<sup>607</sup> Ibid.

<sup>608</sup> Beatrice Imbuye Kedogo, "Intra- Ethnic relations Among the Sabaot of Mt. Elgon Kenya 1945-2010", Thesis Submitted to the School of Humanities and Social Sciences in Partial Fulfilment of the Requirement for the Award of the Degree of Master of Arts of Kenyatta University, November, 2016.

switched residence to Uganda or to Trans-Nzoia in the North Rift where they were able to manoeuvre and dodge the security forces for long.

Apart from ambushes, SLDF adopted camouflage war strategy, which entailed disguising its fighters by dressing in uniforms similar to those worn by government security personnel, having acquired military fatigues and police uniform. Some of the combat uniforms used by SLDF were smuggled from neighbouring states including Uganda, where SLDF had a strong network based on the close relations between the Sabaot and their cousins the Sebei in Uganda. In Uganda, the Sebei neighbour the Karamojong people who have a long history of armed confrontation and a small arms distribution network, which worked to the advantage of SLDF as they were able to acquire both military fatigues and arms from the Karamojong through the Sebei.<sup>609</sup> With SLDF dressing up in military gear, local residents were unable to distinguish the militia from security personnel as both wore similar uniforms and carried out almost similar operations. For instance, the militia would carry out their operations immediately after the security forces had carried out theirs, and locals could not tell the difference,<sup>610</sup> which enabled the militia to operate incognito for a very long time. Access of small arms and light weapons, which could be easily concealed in terms of smuggling and transporting them from Uganda and in terms of allowing the militia to distribute them to its fighters around the region without undue suspicion assisted the militia to sustain the war for long.<sup>611</sup> SLDF fighters did not carry weapons openly for long to avoid being spotted as SLDF had a secret weapons transportation unit, which delivered the weapons to designated sites in advance and unnoticed allowing the fighters to move freely. It should also be noted that, the availability of small arms combined with the experience of protracted armed conflict in northern Uganda provided a constant supply of weapons to the militia.<sup>612</sup>

The stealthy manner in which SLDF organised and coordinated its attacks was way superior to what government forces had expected. SLDF commanders organised their fighters in small units of between 10 to 12 fighters making it very difficult for security forces to detect their

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<sup>609</sup> Kennedy Agede Mkutu, *Guns and Governance in the Rift Valley: Pastoral Conflict and Small Arms*, Oxford: James Currey, 2008.

<sup>610</sup> Otwane Bramwel, interview with the author, Cheptais Sub-County, 03/06/2016.

<sup>611</sup> Matt Schroeder and Guy Lamb, "The Illicit Arms Trade in Africa". <https://fas.org/asmp/library/articles>, accessed on 29/6/2017

<sup>612</sup> Patrick Kitembe Ngaina, interview with the author, Ngachi Sub-Location, Cheptais, 03/06/2017.

movements.<sup>613</sup> Additionally, the commanders and strategists had specific hiding bases in caves from where they operated and planned before joining the rest of fighters to communicate the directives. Moreover, SLDF used threats and intimidation to silence anyone who could inform government agencies on the members of SLDF. The militia intimidated civilians by openly committing atrocities including beheadings, burning down of houses and cadavers, as well as torturing those that were suspected of being traitors so as to instil fear within the community. Consequently, this choked government access to information, which in turn contributed to the government's inability to effectively fight against the militia.<sup>614</sup>

Another feature that enabled SLDF to sustain its war efforts was its well-established propaganda machinery, which remained active throughout the war. The propaganda team confused Kenyan security forces by spreading misinformation that SLDF fighters were living in the forest yet they lived amongst the local population. In fact, SLDF fighters operated from their homes and only assembled when they were supposed to carry out an operation or attack.<sup>615</sup> After the attack, they would disperse and merge with civilians and carry on with their normal civilian lives to the extent of pretending to be victims who had also suffered SLDF attacks. This complicated any government efforts to counter the militia because it became so hard to distinguish militia members from civilians and to flush them out,<sup>616</sup> which made it easier for SLDF to continue its operations.

## **6.10 Countering SLDF Hegemonic Authority in Mount Elgon: Emergence of Other Militias**

The rise of a domineering hegemonic force like SLDF assumes a given surrender by society or groups to this force, though as observed by Antonio Gramsci such moments in history often give rise to a counter-hegemonic forces to check the dominant hegemony. This was the case of SLDF as other movements emerged to counter SLDF's hegemony. Gramsci as quoted in George Gona

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<sup>613</sup> Adams Oloo, "Marginalisation and the Rise of Militia Groups in Kenya: Mungiki and the Sabaot Land Defence Force," in ed. Wafula, O. and Ikelegbe, O. *Militia, Rebels and Islamist Militants-Human Insecurity and State Crises in Africa*, Pretoria: Remata Enathi, 2010.

<sup>614</sup> Silas Kiplimo Naibei, interview with the author, Cheptais, Chepyuk Sub-Location, 04/06/2017.

<sup>615</sup> Patrick Kitembe Ngaina, interview with the author, Ngachi Sub-Location, Cheptais, 03/06/2017.

<sup>616</sup> Robin Chepkum, interview with the author, Kaitongwa-Cheptais, 27/12/2015.

argues that a hegemony can build-up a force to oppress those it imposes lordship over.<sup>617</sup> Such forces can be so strong and formidable that it erodes and withers away any chances of challenging it,<sup>618</sup> as the hegemony imposes its authority absolutely in a top-down approach and thus does not provide room for the inclusion of any other voices. It is a one-way communication system with no chances of compromise. To counter the brutal hegemonic groups such as SLDF, Gramsci proposes the formation of a social force or movement that can mobilise those victimised from bottom-up. Objectively, the counter-hegemonic groups are nothing other than movements, of purely victimised people, whose aim is to secure the interests of the victims, challenge the hegemonic monopoly and if possible establish their monopoly or create their new hegemony.

The counter-hegemony emanates from the perception that the existing hegemony applies brutal force assuming it cannot be challenged.<sup>619</sup> However, with time there emerges courageous leadership among the dissidents who mobilise the masses to counter the hegemony. Counter-hegemony can therefore be viewed as a mass movement rooted in everyday social reality, which involves domination and control by force using the hegemonic coercive machinery. Based on Joseph V. Femia's arguments, the most important facet of a hegemony is the need for power in order to exert control.<sup>620</sup> Consequently, the struggle for power leads to war over positions whereby actors aim at taking over the state's coercive apparatus. Gramsci argues that the struggle over hegemony takes place in relation to political forces and that countering the hegemony reflect contradictions of the hegemony's policies with the society forcing the latter to mobilise social forces needed to transform the condition.<sup>621</sup> Gramsci further argues that counter-hegemonic groups like the hegemony also constructs and organises ideas for the purpose of proffering an alternative social order.

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<sup>617</sup> George Mtawali Gona, *Workers and the Struggles for Democracy in Kenya, 1963-1998*, PhD Thesis, University of the Witwatersrand, Johannesburg, August 2003, pp. 27-28.

<sup>618</sup> Antonio Gramsci, *Selections from the Prison Notebooks*, (Edited and translated by Quintin Hoare and Geoffrey Nowell-Smith), London: Lawrence and Wishart, 1971, p. 263.

<sup>619</sup> Andrew Morton, *Unraveling Gramsci: Hegemony and Passive Revolution in the Global Economy*, London: Pluto Press, 2007, p. 83.

<sup>620</sup> Joseph V. Femia, *Gramsci's Political Thought: Hegemony, Consciousness, and the Revolutionary Process*, Oxford: Clarendon, 1981, p. 31.

<sup>621</sup> Antonio Gramsci, *Selections from the Prison Notebooks*, 1971, p. 181.

Based on Gramsci's theories, this is the situation that the people in Mount Elgon found themselves in when SLDF established itself as a hegemony through its military prowess. Having usurped state authority, SLDF presumed permanency in terms of dominance over other groups and local residents as its leaders believed that the militia had a monopoly of high level of coercion, which in the traditional Westphalian system is held by the state. However, what SLDF leadership did not envisage is that the hegemony should not be seen as a permanent dominating force because with time it is contested with counter-hegemonic forces emerging to challenge the dominance of the existing hegemony. Prior to the challenge, hegemonic militia may stage-manage their authority by employing coercive force to suppress and rule over the public, thus demonstrating that they are all unchallengeable and are an all-powerful entity as was the case of SLDF. During their hegemonic reign SLDF leaders threatened residents of Mount Elgon through continued brutality, albeit the use of coercive force the status quo was not to be maintained as dissension simmered and eventually erupted.

The dissenting voices that emerged in Mount Elgon emanated from those who had been victimised by the SLDF. After bearing the brunt of SLDF's brutality, the Mosop/Ndorobo people and the Bukusu eventually mobilised themselves to form the counter-insurgency militias to deal with the SLDF hegemonic status. Dissident leaders of the Mosop/Ndorobo and Bukusu joined ranks of the already brutalised local residents to challenge the SLDF.<sup>622</sup> Consequently, their efforts resulted in the formation of the Moor Land Defence Force (MLDF), predominantly made up of the Mosop/Ndorobo community, the Political Revenge Movement (PRM) and the Progressive Defence Forces. These groups received support from non-Soy/Bok ethnic groups residing in the region and their political elites. With the formation of these groups, the space for countering the dominance of the SLDF opened up with the groups' main intention being to liberate the non-Soy/Bok ethnic groups from SLDF oppression as they were perceived as being victims of SLDF operations.<sup>623</sup>

The groups coalesced around a common outcry, which revolved around their people's suffering under SLDF militia. Unlike the SLDF hegemonic militia, which blamed the government for

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<sup>622</sup> Mutahi Ngunyi and Musambayi Katumanga, *From Monopoly to Oligopoly of Violence: Exploration of a Four Point Hypothesis Regarding Organized and Organic Militia in Kenya*, Nairobi: UNDP, 2014, pp. 37-50.

<sup>623</sup> Ibid.

mishandling Chepyuk Phase III land allocation as being the genesis of the armed confrontation, the counter-hegemony militia groups criticised SLDF for promoting war, violence and lawlessness as a survival strategy under the pretext of fighting for the rights of the Soy/Bok. However, instead of focussing on its primary mission SLDF mutated and arrogated itself the authority of the state and used coercive force to subjugate the local residents, forcing communities to live in resigned acceptance of SLDF's over-lordship. SLDF self-deception and presumption that the residents would accept the militia's continuous brutality was short-lived as the residents eventually grew weary of the brutality and chaos instigated by SLDF and self-mobilised to counter SLDF's dominance. This phenomenon is aligned to Corinna Jentsch, Stathis Kalyvas and Livia Isabella Schubiger theory, in which they point out that counter-militias are formed and mobilised because of people's exposure to indiscriminate violence by a dominant militia without efficient state response to protect civilians. Consequently, it can be said that communities exposed to direct and collective targeting are more likely to engage in counter-militia collective action at later stages of the conflict. They emerge later because they wait in vain for state intervention, expecting the state security to protect them or subdue the militia.<sup>624</sup> The failure of the state to intervene and subdue SLDF as well as provide adequate security and protection for the non-Soy/Bok communities was the root cause of the emergence of counter-militias notably MLDF, PRM and PDF in Mount Elgon region.

The SLDF gained international attention because of the brutality and tactics of war. In addition to massacring people during each attack, SLDF routinely maimed survivors by cutting off their ears, lips, noses and hands. SLDF amassed funds by pillaging villagers in harsh reprisals if the militia suspected the villagers were helping the government. As a result of its brutal actions, the SLDF faced repeated security operations mounted by joint efforts to destroy it. The operations were led by the police but failed to secure victims, particularly members of the Mosop/Ndorobo and other non-Soy/Bok groups who were forced to form their own militias for defence.<sup>625</sup> SLDF's brutality towards non-Soy/Bok members in Mount Elgon, including the use of children and sex slaves and its destabilising impact in the region was enough for the victims to mobilise

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<sup>624</sup> Corinna Jentsch, Stathis Kalyvas and Livia Isabella Schubiger, "Militias in Civil Wars," in *Journal of Conflict Resolution* 2015, Vol. 59(5) pp. 755-769, journals.sagepub.com, accessed on 24/6/2017.

<sup>625</sup> Ibid.

to counter its activities.<sup>626</sup> The militia's brutalities became rampant and destroyed the fragile peace that existed in the area. Additionally, SLDF ensured the state could not restore law and order by undertaking frequent raids on the police operating in the area. The Soy/Bok who dominated SLDF relied on it as an autonomous militia, which they believed was destined to ensure they achieved their land goals. However, other militia forces emerged organically to provide security and protection for those who had fallen victim to SLDF and fill the vacuum created by the absence of the state peace and security forces. The reliance on state security by non-Soy/Bok groups proved futile as there were security lapses caused by lack of proper equipment and effective coordination between the different state security agencies. Consequently, the Mosop/Ndorobo had no option other than to organise to outsource violence for protection. In the absence of a concerted response by the government of Kenya to counter SLDF, the Mosop/Ndorobo and their supporters were forced to start their own militias. The militias emerged not only in Mount Elgon but also in Trans Nzoia where SLDF had also staged attacks in the latter half of 2007 and early 2008. It should be noted that by the time the government sent the military to restore order, communities were hesitant to give up their autonomous militia forces, which gave rise to a full-fledged ethno-sectarian war between various militia groups.

Like the SLDF, the MLDF acquired weapons through smugglers from Uganda to counter SLDF attacks and begun engaging in abductions, torture, and murder of members of the Soy/Bok. It was in this context that the MLDF began to actively recruit and empower the Mosop/Ndorobo as a means of thwarting and weakening the SLDF.<sup>627</sup> The Mosop/Ndorobo elites mobilised financial resources to purchase weapons in attempts to effectively shield their people from SLDF. As mentioned earlier, the emergence of counter-militia in Mount Elgon stemmed from the need for self-protection by the non-Soy/Bok communities against the Soy/Bok supported SLDF. Although the state had deployed a heavy presence of security personnel, they had not managed to stop the attacks by SLDF and as such, the state remained synonymous with absence and weak institutions. Given the inability of the state to neutralise SLDF, the Mosop/Ndorobo had no alternative but to form the MLDF, with the idea being mooted by a Mosop/Ndorobo elder and retired Chief, Mr. Tenderes Temoi. The militia operated from where the Mosop/Ndorobo had

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<sup>626</sup> Ibid.

<sup>627</sup> Peter Ng'etich and Bernard Kwalia, "New Squad Formed to Crush Militia," in *Daily Nation*, Monday August, 13, 2007, p.4.

relocated to or where they had strong settlement.<sup>628</sup> Following the incessant attacks of the SLDF, the Mosop/Ndorobo relocated deep into the jungle and secretly organised meetings aimed at coming up with plans of responding accordingly to the attacks by SLDF. As the killings continued and the subjugation of the Mosop/Ndorobo by SLDF amplified, MLDF finally responded. They launched retaliatory night attacks using brand new AK-47s, G3-rifles, razor-sharp machetes, and other crude weaponry.<sup>629</sup> MLDF in a similar fashion to SLDF had also established an intelligence network, which enabled them to monitor the movements of SLDF militia and contributed to the success of their retaliatory attacks. For example, on one occasion MLDF was able undertake a counter-attack on SLDF following intelligence gathered by one of their informant's, who informed them that a contingent of SLDF militia were partying at one of their leader's compound in Chelebei to celebrate a successful raid against the Bukusu, where they had butchered civilians and taken off with a large herd of cattle. With the knowledge that only a handful were wide-awake securing the village while the rest were drunk, MLDF laid an ambush and after a brief exchange of fire with a few guards stationed along the banks of River Emia, the MLDF managed to round up a sizable number of SLDF militia members and Soy/Bok community members alongside a huge herd of cattle and matched them towards their hideout under the cover of the darkness.<sup>630</sup>

Among those captured were women, children and elderly men who were frogmarched through the thick forest to MLDF's base, where they were ordered to lie face down on a cleared field covered with frozen, dewy grass and executed. However, before the executions, MLDF fighters underscored to the captives the underlying reason for their execution, stating that "your kinsmen have raped our women, killed our children and took away everything from us, we can now avenge what your sons have been doing all these months."<sup>631</sup> MLDF continued to undertake more raids and more deaths followed with MLDF also adopting rape as a weapon in the same way SLDF was using it. However, MLDF's victory was short-lived as SLDF launched a

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<sup>628</sup> Beatrice Kedogo Imbuye, "Intra-Ethnic Relations among the Sabaot of Mt. Elgon, Kenya, 1945-2010," a Thesis Submitted to the School of Humanities and Social Sciences in Partial Fulfilment of the Requirements for the Award of the Degree of Master of Arts of Kenyatta University, November, 2016, pp. 136-137.

<sup>629</sup> Silas Kiplimo Naibei, interview with the author, Cheptais Sub-County, Chepyuk Location, 04/06/2016.

<sup>630</sup> Laban Wafula Simiyu, interview with the author, Cheptais Sub-County, Chepkube Location, Chebwek Sub-Location, 03/06/2016.

<sup>631</sup> Levi Cheruo Cheptora, *The Ugly Beautiful Tale of a Stupid, Stupid Hear*, Seattle: Create Space Independent Publisher, 2016, p. 208.



counterattack killing more Mosop/Ndorobo community members forcing them to retreat beyond Gitwamba and seek refuge among their relatives. The ambush conducted by MLDF caused community members of the Mosop/Ndorobo ethnic group to bear the brunt of SLDF's raging anger and rejuvenated vengeance. Subsequently, SLDF members hunted them down, mercilessly butchering men, and gang-raping women and girls before executing them.<sup>632</sup> The key architect of the MLDF, Chief Tenderes, was crudely murdered at Makutano village, just a few kilometres away from a police post on April 6<sup>th</sup>, 2007 as more raids, more lives were lost, properties worth millions destroyed.<sup>633</sup> Even though MLDF just like the SLDF had retired army officers who trained its fighters on combat skills, they could not match the dreaded SLDF with its superior weapons and organisation and consequently, MLDF retreated due to an ever-mounting number of casualties, dwindling rounds of ammunition and a waning spirit to keep fighting an enemy that outnumbered them. Subsequently, the land issue was totally forgotten.<sup>634</sup>

In Trans Nzoia, the Progressive Defence Forces, which was started by Captain Davies Nakitare, a Bukusu elite, recruited hundreds of young Bukusu and Kikuyu men to join efforts to fight the dreaded militia. Captain Nakitare was an influential politician in Saboti constituency who took over as a member of parliament during a by-election that was conducted in the constituency following the death of the then Vice-President, Michael Wamalwa.<sup>635</sup> Nakitare was accused of offering military training as well as providing financial and logistical support to PDF fighters.<sup>636</sup> This allegation was corroborated by the police, who claimed that the youth recruited to join PDF were found undergoing military training on Nakitare's range in Trans Nzoia with the then Kitale DCIO, Issa Mohamud, indicating that a warrant of arrest had been issued, with a press statement quoting Mohamud as stating, "We have secured a warrant of arrest for the former MP

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<sup>632</sup> Heri Ryanga, *Women and Conflict in Mt. Elgon: Assessing Rape as a Weapon in Armed Conflict, 1991 – 2008*, Masters Project Paper Submitted in Partial Fulfilment of the Requirements for the Award of Master of Arts in Armed Conflict and Peace Studies, Department of History and Archaeology, University of Nairobi, November 2013, p. 38.

<sup>633</sup> George Omonso, Edward Koech and Bernard Kwalia, "Bloodshed: Seven Shot Dead in Clash-torn Areas," in *Daily Nation*, Monday August 6, 2007, p.8.

<sup>634</sup> Levi Cheruo Cheptora, *The Ugly Beautiful Tale of a Stupid, Stupid Hear*, Ibid.

<sup>635</sup> Macharia Gaitho, "Kenya: Nakitare is Touted to Take Wamalwa's Saboti Throne," in *Daily Nation*. <https://allafrica.com/stories/200311190435.html>, accessed on 20/07/2020

<sup>636</sup> Beatrice Kedogo Imbuye, "Intra-Ethnic Relations among the Sabaot of Mt. Elgon, Kenya, 1945-2010".

and detectives are on his heels. We want him to shed light on the issue, Nakitare would face charges of promoting warlike activities.”<sup>637</sup>

In another account reported in one of the national dailies, the police confirmed that they had arrested 205 youth allegedly undergoing military training at Nakitare’s range. According to the police the suspects, aged between 18 and 34, were going through military drills when they were arrested.<sup>638</sup> Additionally, the police indicated that when they raided the range, an electric fence at the farm thwarted the escape attempts of some of the youth. The police also indicated they had recovered wood guns. The then Kitale Deputy OCPD, Mr Eliud Okello, was reported in the newspapers saying, “The drills and training were similar to those offered by our military colleagues. We suspect they were being trained for combat.”<sup>639</sup> According to the police, the youth were from Gitwamba, Kalaha, Salama and Teldet areas, which had suffered SLDF incursions. Aside from MLDF and PDF, another militia group emerged, the Political Revenge Movement (PRM), which was formed by the then Mt. Elgon Member of Parliament, John Serut, who had lost a large number of his relatives at the hands of SLDF. This group was based deep in different parts of the Mount Elgon forest and most of its members were key informants and associates of government security forces whom they assisted by identifying members of the SLDF.<sup>640</sup> Despite these significant efforts to counter and defeat SLDF, the group remained a formidable opponent with effective combat tactics, and continued to be a constant threat to thousands of vulnerable civilians in Mount Elgon region.<sup>641</sup> Based on this, it can be concluded that the concerted efforts of the state and the counter-militias were not effective countering SLDF’s hegemony and in bringing to an end its aggression and dominance.

## 6.11 Conclusion

The discussion in this chapter explores the issues of relationships between the state and militia groups in Mount Elgon. In spite of ordinary assurances that the presence of the state is a sign of

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<sup>637</sup> Osinde Obare, “Police seek Former MP Over Training of Militia,” *The East Africa Standard*, 27 February, 2008.

<sup>638</sup> The Standard Reporter, “205 suspected militia arrested, undergoing military training at the home of former MP, Mr Davies Nakitare,” *The Standard*, 26 February, 2008.

<sup>639</sup> Ibid.

<sup>640</sup> Benson Amadala, “Five More Killed in Mt. Elgon,” in *Daily Nation*, Wednesday August, 22, 2007, p. 33.

<sup>641</sup> Daily Nation Correspondence, “Peace returns to Mt Elgon, but bulls remain behind,” in *The Daily Nation*, Tuesday November, 24, 2009. <https://www.nation.co.ke/kenya/news/>, accessed on 20/07/2020

security and control, the case of Mount Elgon demonstrates that to some degree some regions may suffer insecurity because of either a weak or an absentee state authority. Consequently, the weak or absent state authority provides an impetus for militia formation in a bid to fill the gap and in the pretence of providing solutions not availed by the ineffectual or absentee authority. The arguments presented forth in this chapter highlight the different schools of thought around the notion of weak and absentee state in relation to the emergence of militia groups. Some scholars aver that the source, basis and reason for militia formation is linked to state fragility while others have tried to find a completely certain foundation for militia formation to be in people's grievances, denied rights over land, compromises of justice surrounding land and brutal state institutions. These grievances may provide a basis and rationale for people to vent their grievances by forming militia groups to challenge the injustices.

Consequently, it can be concluded that the formation of militia groups is a reaction against persistent injustices with the aggrieved deeming it as a redress mechanism to deal with the injustice. This chapter has demonstrated that SLDF emerged as a reaction to the experiences that the Soy/Bok people encountered locally and their perception of the state and other communities as outsiders out to exploit their natural resources and the subsequent feeling of marginalisation. One issue that comes to the fore, is the community's experiences with how the land issue was tackled at Chepyuk Settlement Scheme that propelled the community to yield to militia organisation and operation and inspired by the new dynamics caused by the weak and/or perceived absence of the state. However, while the community had expected the militia to champion their rights, the militia group modified its objectives by circumventing the communal grievances to create a symbolic state within a state and arrogating itself the authority to govern the perceived ungoverned space. SLDF established a government like structure forcing the state to respond to reclaim its legitimacy. However, the government's efforts were resisted by the militia thus provoking the government to use coercive force, which triggered an all-out war.

## **CHAPTER SEVEN**

### **CIVIL GOVERNMENT FAILURE AND ENTRY OF THE MILITARY IN MOUNT ELGON WARS**

#### **7.1 Introduction**

Land justice has been and continues to be an explosive and emotive issue in Mount Elgon. Injustices surrounding land allocation and distribution is one of the main factors that led to the rise of militia groups that engaged in armed violent confrontation. Whenever people in any society feel aggrieved over the issue of land, it is the duty of the civil government to provide mechanisms to solve the issue in a manner that promotes peace and cordial social relationships between the aggrieved parties. However, this was not the case in Mount Elgon, especially when looking at the way grievances over land were handled. In actual fact it should be noted that there is no single land question that the civil government has been able to resolve in Mount Elgon since the colonial period, which consequently gave rise to discontent among the citizenry and the search for alternative redress mechanisms including violence. The armed violence that was sparked off by the emergence of SLDF, MLDF and other militia groups in Mount Elgon had land injustices as underlying causes. The main contention of these groups was that the instruments of government, namely the provincial administration, judiciary and police, had largely failed to resolve land issues in the region using the available strategies and mechanisms. This failure forced the local residents to articulate grievances over land through armed confrontation, which was undertaken through the formation of militia groups.

The militia groups, especially SLDF, were very strong or powerful for the peace instruments of the government to contain. The failure by the local government administration and the police to contain SLDF in the early days of its formation eventually necessitated the entry of the military. However, the deployment of the military to quell an internal conflict gave rise to a number of pertinent questions including was the state fighting its own people or an external force given that the role of the army is to defend against external aggression? Additionally, based on the manner in which the state fought SLDF, many were left questioning whether SLDF was perceived as a “state” by the Kenya government. This chapter is based on the premise that land is a very critical resource in Mount Elgon, with varied contentions on who owns the land, which multiple

government agencies had failed to resolve thus resulting in armed confrontation that government agencies failed to contain and subsequently necessitated the engagement of the military.

## **7.2 Framing Civil Government Failure in the Dispensation of Justice in Mount Elgon**

In explaining government failure in Mount Elgon this chapter benefits from various theoretical arguments that point to efficient civil authority as an incentive for justice with such a civil authority providing services and goods to society equitably and justly. Failure to do so may mean the failure of a government. Thorstein Veblen in his discourse on the theory of business enterprise presents a general perception of governmental failure based on the delusion of the public emanating from the perception that government policies only benefit the elites. As such, the failure of the civil authority is based on citizens' disenchantment caused by government implementation of policies that only benefit those with influence in society.<sup>642</sup> Consequently, it can be said that government failures occur because political mechanisms fail to channel rational decisions for the good of the collective and instead pursue the aggrandisement of a select few. When people with special interests influence government policy to favour them, such decisions fail to contribute to social welfare and this is what Veblen refers to as failure by government to offer equitable distribution of justice.<sup>643</sup>

The same view is held by Julian le Grand, whose theory of government failure espouses that government institutions fail because of various reasons including the pursuit of interests that benefit those in government while adversely affecting material welfare of the common population by government agents.<sup>644</sup> This in turn creates inefficiencies and inequities, which are the main characteristics of government failure. The failure of government institutions usually refers to the inability of a government to allocate efficiency in terms of service and justice. Le Grand's theory of government failure implies that the allocation of justice will be inefficient if the institutions that are supposed to dispense it face challenges, which could be caused by externalities. In Mount Elgon for instance, externalities to the land issues in the region entailed

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<sup>642</sup> Charles Leathers, "Thorsten Veblen's Theories of Government Failures: The Critic of Capitalism and Democracy Neglected Some Useful Insights Hindsight Shows". <https://www.jstor.org>, accessed on 12/04/2019

<sup>643</sup> Ibid.

<sup>644</sup> Julian le Grand, "The Theory of Government Failure," *British Journal of Political Science*, Vol. 21, No. 4 (Oct. 1991), pp. 423-442, published by: Cambridge University Press. <https://www.jstor.org/stable/193770>, Accessed: 11-04-2019

the entry of other parties who were not meant to benefit from land allocation, and specifically the involvement of influential politicians who affected dispensation of justice to the squatters who had been displaced from the forest and seriously needed a place to call home. The former, influential politicians, had a negative influence on land allocation by denying affected people the required justice.

The essential features of justice is that no one is advantaged or disadvantaged and for justice to be dispensed it needs to be guided by a fair agreement or bargain. This explains the suitability of the term “justice as to mean fairness.”<sup>645</sup> In expounding the concept of justice, John Rawls proffers two principles that each society must practice. The first is, each person in the said society must have equal right to the most extensive basic liberty compatible with a similar liberty for others. Secondly, social and economic inequalities are to be arranged so that they are sensible and depict or appear to be skewed towards everyone’s advantage.<sup>646</sup> If not so, then the government is believed to have failed to offer justice. In post-independent Kenya, the Sabaot community believed that they had a social contract with the government of Kenya and hoped that there would be justice in land distribution in Chepyuk, which if honoured would have resulted in a more secure and comfortable life for the community.<sup>647</sup> However, the government of Kenya failed to administer land justice, which contributed to the involvement of external parties who mismanaged the entire process and engendered acrimony on the side of the local communities. Subsequently, this compelled the aggrieved parties to use force on each other thereafter resulting into bloody wars over land. As the custodian of justice and duty bearer, the failure of the government to provide justice for the communities of Mount Elgon can be said to have triggered the emergence of the insurgency and the bloodbath that followed. In the absence of a just government with a functional and just legal system and in the presence of coercive authority, society will not be free from violence by others.<sup>648</sup> Through various arms such as the judiciary, citizens expected determination of their grievances in the best interest of the entire society.

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<sup>645</sup> John Rawls, “A Theory of Justice,” Cambridge, Mass.: The Belknap Press of Harvard University Press, 1971. <https://www.csus.edu>, accessed on 13/04/2019

<sup>646</sup> Ibid.

<sup>647</sup> Timothy Lang, “Rousseau and the Paradox of the Nation-State,” 2018, History Open Access Publications, 2. [https://scholarworks.umass.edu/history\\_oapubs/2](https://scholarworks.umass.edu/history_oapubs/2)

<sup>648</sup> Pauline Kleingeld, “Kant’s Theory of Peace,” in P. Guyer (ed.), *Cambridge Companion to Kant and Modern Philosophy*, Cambridge: Cambridge University Press, 2006, pp. 477-504.

### **7.3 The Provincial Administration and the Mount Elgon Land Grievances**

This section focuses on the perceived failure of the provincial administration in dealing with the land grievances of the people of Mount Elgon region. Although it was contrary to the provisions of the law for provincial administrators to allocate land, officers working under the provincial administration appropriated these powers and allocated land under the influence and manipulation of the political elite and it became an unofficial decree that local residents of areas like Mount Elgon were no longer viewed as owners of the very land they occupied and had been occupied by their ancestors. All land was seen as belonging to the Kenya government whose powerful machinery was the provincial administration, which allocated land to politically correct individuals for personal enrichment without being considerate of the plight of the local residents. This practice engendered inequalities in land ownership and interfered with indigenous people's land rights.

A case in point of such irregular allocations is that of Chepyuk Settlement Scheme in Mount Elgon, where politicians influenced the provincial administration to favour their cronies for political gain. This made the provincial administration to abuse the authority vested on it and had a cavalier attitude in their dealings with the people of Mount Elgon. In 1998, the then District Commissioner, one Mr. Munguti, allocated land in Chepyuk through balloting and issued allotment letters for lands which were already occupied.<sup>649</sup> During discussions with members of the Truth, Justice and Reconciliation Commission, residents of Mount Elgon described DC Munguti as an evil administrator who never listened to people and would often simply summon the local leaders to his office at Kapswakwony and order them to follow his roadmap for land allocation without going to the ground to verify the situation. Even when he was told that the land he was allocating was already occupied by some members of the community, Mr. Munguti did not take this into consideration and ordered the District Surveyors under police protection to forcefully evict all persons who were already on the farm.<sup>650</sup> Mr. Munguti's attitude clearly demonstrates the failure of the local administration to administer justice and serve citizens equitably.

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<sup>649</sup> TJRC, *Report of the Truth, Justice and Reconciliation Commission*, Volume III, Nairobi: TJRC, p. 51.

<sup>650</sup> Johnson Cheprot Takur, (Chair Council of Mosop Elders), interview with the author, Chepyuk Location, 04/06/2016.

Aside from appropriating power to allocate land, the provincial administration became very corrupt, which can be attributed to the kind of power they had amassed, which rendered them a law unto themselves as well as the absence of effective accountability mechanisms.<sup>651</sup> Even when the National Alliance of the Rainbow Coalition (NARC) government under Mwai Kibaki took power and their promise of accountability in the process of allocation of land, which was jump-started again, the process was never completed. The land allocation process under the NARC government was also marred with irregularities with locals accusing politicians and provincial administrators of allocating some land to themselves, their relatives and powerful friends in the government. Local residents lost hope in any land allocation and distribution efforts conducted by the provincial administrators as noted by Salome Matakwei, wife to the SLDF commander, who recounted how her husband rejected any land allocation led by provincial administrators. Salome says her husband said

If we participate in the re-allocation we will lose everything to those Provincial Administrators and powerful politicians. We swear in the name of our ancestors that we will not allow them take our land. We better return to Cheptais in coffins than alive.<sup>652</sup>

By the end of 2004, the two Sabaot groups, the Mosop/Ndorobo and Soy/Bok, had lost all trust in the provincial administration. However, this was to change in 2005, when the campaigns for the referendum on the new constitution started, the campaigns split the two Sabaot groups into opposing camps, with the Soy/Bok opposing the constitution while the Mosop/Ndorobo supported the government's pro-constitution campaign. After the referendum of 2005, at a meeting chaired by the then Western Provincial Commissioner, it was resolved that the plots in phase III would be shared equally between the members of the two groups (Mosop/Ndorobo and Soy/Bok). However, of the 7,000 people who applied for plots were 7000 while only 2,084 applicants were allocated land,<sup>653</sup> which resulted in the Soy/Bok group disputing the allocation. The Soy/Bok reasserted their claim of owners of the land basing their claim on having been allocated the land by the previous president, Daniel Arap Moi and argued that the

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<sup>651</sup> Migai Akech, "Abuse of Power and Corruption in Kenya: Will the New Constitution Enhance Government Accountability?" in *Indiana journal of Global Legal Studies*, Vol. 18, No. 1, 2011, pp. 341-394.

<sup>652</sup> Salome Chepkemoui Ndiwa Matakwei, (wife of SLDF Commander Wycliffe Matakwei), interview with the author, Sasuri Location, Cheptais, 04/06/2016.

<sup>653</sup> Reuben C. Butaki (For and on Behalf of Koony Council of Elders), "Report of the Discussion by Koony Council of Elders on Chepyuk Settlement Scheme Problem and Suggested Solutions", 20/01/2009.



Mosop/Ndorobo should not have been considered for allocation of land under the scheme as done by the provincial administration.<sup>654</sup> Following the dismissal of the claims of the Soy/Bok by the provincial administration, members of the Soy/Bok resorted to the use of force to stop the allocation arguing that the provincial administration had failed to execute justice to all. This failure gives raise to the question, if the executive function through the provincial administration, why did the judiciary step up and serve justice, issues that are explored in the section.

#### **7.4 The Judicial Process and the Mount Elgon Land Grievances**

In order to understand the situation surrounding the failure of the judiciary in any community, one must analyse the various factors that contribute to its inability to offer justice to people. In this discourse, this is done by considering the failure of judiciary to uphold justice in different situations based on the views of different scholars. For instance, in analysing the failures of the judiciary to offer justice, Pauline Grosjean argues that among the factors that contribute to injustice are the elements of judicial independence, governmental regimes and the processes of appointing those who administer justice. Consequently, based on the type and systems of governance, one needs to ask whether justice is possible in democratic, authoritarian or totalitarian state. Kristian Espelid postulates that systems of governments are critical in determining if justice and rule of law is applied in any society. In arguing her case of judicial independence, Espelid contends that elements of the rule of law are not compatible with authoritarian or totalitarian state because leaders of government in such states determine the outcome of judicial processes and not the judges.<sup>655</sup>

In most African states, it is clear that authoritarian regimes desire to consolidate their power hence they compromise the rule of law by not being ready to entertain any perceived or real threat to their absolute as could be posed by judicial processes or law courts.<sup>656</sup> Consequently, such totalitarian regimes do not allow for fair trial and in practice the judiciary would be thoroughly overshadowed by political considerations with the state exerting total or near-total influence over the courts and their rulings. This system of governance was apparent in most post-

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<sup>654</sup> Peter Ng'etich and Bernard Kwalia, "Where Cave Men Kill and Maim Over Land: Families Flee Chepyuk Settlement Scheme after Brutal Attacks by Evicted Squatters," in the *Daily Nation*, November 12, 2006, p.27.

<sup>655</sup> Kristian Espelid, "Judicial Independence in China: A Post-Totalitarian Story," Thesis Submitted in the Department of Comparative Politics, Faculty of Social Sciences, University of Biergen, June, 2014.

<sup>656</sup> Linz, J.J. *Totalitarian and Authoritarian Regimes*, Boulder: Lynne Rienner Publishers, 2000, pp. 296-327.

independence states in Africa and what these authoritarian regimes failed to acknowledge was that at the centre of good governance is the principle of fairness, which is practiced through the legal framework that needs to be fair and enforced impartially by the judicial system.<sup>657</sup> Since Kenya's independence, the Kenya African National Union (KANU) led government did not respect institutional independence and rarely followed or practiced constitutionalism and yet constitutionalism is embedded in the concept that the government is limited in its powers and its authority depends on its observing these limitations.<sup>658</sup> This helps in exposing the breakdown of justice in dealing with land issue in Mount Elgon. Equally, the land laws used to address the Sabaot grievances were imposed and practised as the imposer defined and wished. Most of the laws, which were imposed by an external actor, the British colonial administration and which were propagated by the post-independence administration, went against the African traditional land tenure, which informed the Sabaot land claims.

The decision by the Sabaot to seek legal redress was informed by the fact that the courts would give the needed justice. It was factual that when various interest groups that were contesting land allocations in Mount Elgon went to court, their main expectation was for the law to prevent the illegalities and irregular allocations of contested land in Chepyuk. They also expected the judiciary to establish the guiding principle for compensation for lands that the government had requisitioned from the Mosop/Ndorobo and converted into a national park. However, the hopes of a fair adjudication by the judiciary was not to be as the judiciary facilitated "business as usual". The deficiencies of the judiciary in upholding the rule of law and providing the needed justice was clear when the courts failed to deal with the elite sabotage of land management in Mount Elgon.

The courts in Kenya as provided for under the constitution and the laws form a crucial element in justice provision including adjudicating on matters related to land regulation and any party that goes to them expects to get a lasting and just solution. The courts are constitutionally empowered to apply all the laws recognised by the state on matters land whether it be customary, common or

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<sup>657</sup> John Graham, Bruce Amos and Tim Plumptre, "Principles for Good Governance in the 21<sup>st</sup> Century," Policy Brief No. 15-Institute on Governance, Ottawa, Canada. [unpan1.un.org/intradeoc/groups/public/documents](http://unpan1.un.org/intradeoc/groups/public/documents), accessed on 04/06/2017

<sup>658</sup> Tamanaha, B. Z., *On the Rule of Law: History, Politics, Theory*, Cambridge: Cambridge University Press, 2004.

statutory law. However, the courts in Kenya have a history of frustrating citizens when it comes to settling lands issues, which was no different when the people of Mount Elgon sought legal redress to settle their land issues. For a start, the people of Mount Elgon were subjected to persistent delays and unexplained adjournments of their land cases, with some of the cases filed over twenty years never being concluded.<sup>659</sup> Plaintiffs aver that they kept on going to court a number of times a year only for the cases to be adjourned without a hearing and some respondents of this research confirmed having gone to court more than hundred times to either block government evictions or stop fresh allocations in Chepyuk Settlement Scheme. However, despite all these efforts nothing positive came out from following due process as the government eventually evicted them by force even though they presented court orders stopping the evictions.<sup>660</sup>

Aside from the delays, majority of the cases did not go beyond preliminary hearings and would often be postponed after appearing before the judge and in some cases the judges and lawyers would be absent on the day of the hearings. It is therefore evident that the frustration and inconvenience experienced by plaintiffs informed their decision to resort to armed violence as the only remedy to assert their rights and reclaim ownership of their lands. The litigants blamed the judges, court officials and lawyers for colluding with the government to postpone the. This state of affairs was deeply frustrating for the people of Mount Elgon and made them desperate as expressed by Silas Kiplimo Naibei:

When our people took our land grievances to court they were optimistic that courts would offer them opportunities to solve the long standing land injustices. Since the establishment of Chepyuk Scheme we have been demanding justice for the people who were evicted from the forest but nothing positive. Our people expected the judiciary to provide a forum to resolve land disputes in Mount Elgon and enforce laws in a fair and rational manner.<sup>661</sup>

To confirm Naibei's claims, I accessed the petition by the people of Mount Elgon to the National Assembly, which outlined the tedious process and long journey the local communities underwent in search of justice, which had not been completed by the time of the research. In the petition, the

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<sup>659</sup> Patrick Kitembe Ngaina, interview with the author, Ngachi Sub-Location, Cheptais Location, 03/06/2016.

<sup>660</sup> Ibid.

<sup>661</sup> Silas Kiplimo Naibei, interview with the author, Cheptais Sub-county, Chepyuk Location, 04/06/2016.

land problems faced by the communities of Mount Elgon began with the gazetting of Chepyuk settlement on 30<sup>th</sup> April 1932. The gazetted settlement covered an area of 91,890 hectares of land and yet by the time of research the Kenya Forest Service Board had not approved the request to degazette Chepyuk Settlement Scheme.<sup>662</sup> The 1939 Ordinance changed the boundaries and created Elgon Native Land Unit, now known as Chepkitale, which again the government gazetted as the Mount Elgon National Park in 1968. The people filed a petition but made no headway. In 1973, the government agreed to resettle the displaced people in Chepyuk Settlement Scheme Phase I through Legal Notice No. 51 of 1974. The people filed a case to have the government formalise the process but once again they were unsuccessful and the land remained under the Kenya Wildlife Service.<sup>663</sup>

As the government delayed in its processes, the numbers of households continued to increase and this meant they could not fit in Chepyuk Phase I. In mid-1992, the government surveyed Chepyuk Settlement Scheme Phases II and III. The two schemes, which covered 5,252 hectares and comprised of 2,576 plots, 80% of which were to be allocated to the Mosop/Ndorobo and 20% to the Soy/Bok. However, processing of title deeds for Chepyuk Phases II and III could not commence since the schemes were still part of Mount Elgon Forest Reserve and had not been degazetted. In an interview done by Titta Lassila and Jan-Matti Tirkkonen of Simenpuu Foundation, Peter Kitelo noted that the Mount Elgon people never received justice even when they contested in court and that many cases are yet to be determined. He noted that the government evicted the community many times and each time they contested in court but no justice was served.<sup>664</sup> In both the judicial and land allocation processes of Chepyuk Settlements, there was lack of transparency, which contributed to the flaring up of armed conflict between the Soy/Bok and Mosop/Ndorobo clans.

Aside from the tedious and unsuccessful petitions, the people of Mount Elgon also had to assume the costs related to the cases, which included paying retainer fees for lawyers. These costs were a

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<sup>662</sup> The Kenya National Assembly, “Departmental Committees on Environment and Natural Resources and Lands: Report of the Consideration of A Petition by the Executive Regarding the Variations of the Boundaries of Mt. Elgon Forest Reserve,” July, 2019, p. 12. <http://www.parliament.go.ke>, accessed on 20/04/2020

<sup>663</sup> Ibid, p.14.

<sup>664</sup> Titta Lassila and Jani-Matti Tirkkonen, “Interview with Peter Kitelo from Chepkitale Indigenous People Development Project (CIPDP), Kenya, September 2015 in Durban. <https://www.simenpuu.org>, accessed on 29/04/2020

barrier, which excluded the poor in Mount Elgon from justice, a fact that is echoed by Salome Chepkemai Ndiwa who asserted: “people have spent too much, they cannot even remember the actual costs since when they began going through the court system.”<sup>665</sup> This is true considering the length and complexity of the cases and the number of times one has to attend court. Additionally, lawyers took advantage of the plight of the communities and imposed high charges keeping in mind that in the High Court it is very difficult to do without a lawyer. Some lawyers demanded 10% of the total value of the land they were representing, which was a lot of money for an average resident of Mount Elgon. Consequently, most of the residents were forced to pull together or reach out to many families with similar land issues and pursue the cases collectively as the rural poor were of course unlikely to have access to this kind of money.<sup>666</sup>

The process was further compounded by the unfriendly environment found in Kenyan courts. A continuation of the British colonial system of justice, Kenya’s courts borrow heavily from the English common law with minimal application of traditional customary law with regards to issues surrounding land. This was evident in the way the Sabaot land cases were handled whereby the plaintiffs witness tried to infuse traditional thinking, the courts shut them down and referred to common law. This preference for the inherited British common law as well as the intimidating physical appearance and organisation of the hearings was daunting for the plaintiffs. The heavy police presence and physical barriers separating the plaintiffs, the public, witnesses and other parties as well as the harassment of plaintiffs and witnesses by lawyers during cross-examination served to reinforce this feeling. This sentiment was expressed by one of the residents who noted that sometimes the lawyers simply wanted to intimidate the witnesses and sway them from the truth.<sup>667</sup> Consequently, it became apparent to the Sabaot that the judicial system was not in their favour and both the courts and the lawyers were colluding and despite their expectations of the judiciary being an objective and fair party, they would not get justice.

Language was another critical barrier to justice though the assertion that the courts are incomprehensible to ordinary Kenyans because they use English is quite erroneous. English is well understood in most urban areas, which are inhabited by elites. However, in rural areas as is

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<sup>665</sup> Salome Chepkemai Ndiwa, interview with the author, Sasuri, Cheptais, 4/6/2016.

<sup>666</sup> Laban Wafula Simiyu, interview with the author, Chepkube Location, 03/06/2016.

<sup>667</sup> Patrick Kitembe Ngaina, interview with the author, Ngachi Sub-Location, Cheptais Location, 03/06/2016.

the case of Mount Elgon, people use their ethnic languages with a few using Kiswahili. To counter these challenges, the judiciary use interpreters to facilitate direct examination and cross-examination of plaintiffs, witnesses and defendants. The main challenge is that often the interpreters do not provide precise interpretations,<sup>668</sup> which in the case of the Sabaot resulted in the misinterpretation of facts during the hearing of their land cases.

All these factors contributed to the residents of Mount Elgon doubting the integrity and ability of the judiciary to protect their land and economic rights. Subsequently, these negative perceptions about the justice system encouraged the citizens of Mount Elgon to resort to armed violence to secure their land rights. Thus it can be inferred that the popular distrust of the judiciary contributed to and fuelled the wars in the region.

### **7.5 Police Failure and the Eruption of Armed Violence**

The failure of the police in curbing the eruption of armed violence in Mount Elgon can be attributed to the lack of trust of the local communities in the police and in their inability to provide services to the people they were entrusted to protect. For most people in Mount Elgon, there were many reasons not to trust the Kenya police. Over the years, the Kenya police remained the subject of sharp criticism for excessive use of force, impunity which in general violated citizen rights.<sup>669</sup> The police acted as if they were law unto themselves, they were corrupt, lacked accountability, acted in arrogance and hostility.<sup>670</sup> The report noted that these actions affected delivery of police service to civilians in Kenya and souring the relationship between police officers and civilians.<sup>671</sup> The people of Mount Elgon viewed the police as an instrument or a structure of force used by the government to subjugate their wish and land rights. For many times the police were used to forcefully and brutally evict the squatters from Mount Elgon forest. The police were viewed as unjust or unfair in their execution of duty. They used force against the weak while favoured the politically and economically privileged members of the society. Yet, for the police to be effective in their work, the people of Mount Elgon must view them as fair and

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<sup>668</sup> Ibid.

<sup>669</sup> Mutuma Ruteere and Marie-Emmanuelle Pommerolle, "Democratizing Security or Decentralizing Repression?: The Ambiguities of Community Policing in Kenya," *African Affairs*, 102, 2003, pp. 587-604.

<sup>670</sup> Government of Kenya, *Report of the National Task Force on Police Reforms*, Nairobi: Kenya Government Printer, 2009, pp. 3-4.

<sup>671</sup> National Task Force on Police Reforms, *Report of the National Task Force on Police Reforms*, Nairobi: The Government Printer, 2009.

trustworthy representatives of the law. They should be viewed as applying the law without bias and use their considerable powers to stop those threatening others and engage in force sparingly, equitably, and justifiably. But this did not happen, the police did not share the same sense of right and wrong as the citizens, they simply executed wrongful orders that left the people more injured and resentful of the police.

The situation worsened due to the authoritarian behaviour of the regime at the time, which did not see the value of establishing and maintaining good relationships between state institutions and the citizens, especially those in the periphery. The attitude of the state was mirrored in the behaviour of the police, who were unprofessional in the conduct and would often intimidate, harass, injure and even kill citizens without fear of recrimination as was the case in Mount Elgon. The end result was the lack of trust in state institutions by the people of Mount Elgon. Without public trust, policing the people of Mount Elgon became difficult or impossible. The end result was deterioration of public safety. The attitude portrayed by the police towards the community is contrary to what was expected of them and entrenched mistrust among the community, which would eventually lead them not to cooperate with the police even after the emergence of SLDF. This perspective is supported by the relational signalling theory, which asserts that human behaviour is goal-directed, but when the goals are not achieved then effort should be made to understand governance problems in institutions, which are supposed to help communities achieve their goals.<sup>672</sup> According to Andrew Goldsmith, there are three major aspects that hinder the performance of police service, structural features, performance aspects and the question of trust.<sup>673</sup> These three issues were apparent in the police service in Mount Elgon and are directly linked to the ineffectiveness of the Kenya police service especially in terms of providing security to the citizens and maintaining the peace. This failure in service provision to the citizenry by the police can be mainly attributed to the manner in which post-colonial government built and structured the police institution. In essence, the post-colonial government established a police force that was centred on providing security for those in authority and not protecting the citizens.

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<sup>672</sup> Frederique Six, *The Trouble with Trust: The Dynamics of Interpersonal Trust Building*, Massachusetts: Edward Elgar Publishing Limited, 2005, p. 11.

<sup>673</sup> Andrew Goldsmith, "Police Reforms and the Problem of Trust," in *Theoretical Criminology*, Vol. 9 (4), Flinders University, SAGE Publication, London. [www.sagepublications.com](http://www.sagepublications.com), accessed on 5/6/2017

Apart from the poor rapport the police had with, structural problems were major hindrances to police response in Mount Elgon. Since independence the area was marginalised and remained under-developed in terms of infrastructure, with minimal physical or communication infrastructure, low level of state presence and under-provision of state security.<sup>674</sup> The poor infrastructure and under-resourcing of the police countrywide and more so in the periphery including the Mount Elgon region, heavily contributed to the incapacity of the police to carry out their functions.<sup>675</sup> The structural problem and the effects thereof were magnified and compounded by the limited physical access due to lack of all-terrain vehicles, which meant that the police were unable to respond to distress calls from the people and this failure further widened the distance between the police and the citizens and reinforced the negative perception of the police among the local communities. This view is affirmed by an article in one of the national dailies, which stated: “The police have failed to secure the people of Mount Elgon. The police officers don’t respond whenever there is an attack. That is why residents have been forced to take the law in their own hands.”<sup>676</sup> According to the journalists, criminals had a free reign in the region and roamed around demanding money, maiming and killing and the police did nothing. This laxity in responding to the plight of the citizens made the people to believe that the local police commanders were colluding with the attackers.<sup>677</sup>

The police who are a government institution have a social contract with the people.<sup>678</sup> And just like other communities in Kenya who enjoyed the protection of the police based on this social contract, the Mount Elgon people had a right to the same service and therefore the people expected the police to be committed to the contract. However, this was not the case in Mount Elgon as the police were not committed to fulfilling their obligations to the local communities. People interviewed for this research observed that the police failed to uphold the laws and in most cases enforced laws that lacked public support such as evictions and burning down houses

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<sup>674</sup> Kennedy Mkutu, *Guns and Governance in the Rift Valley: Pastoralist Conflict and Small Arms*, Oxford: James Currey, 2008, pp. 7-9.

<sup>675</sup> Ibid.

<sup>676</sup> Alex Wakhisi and Raphael Wanjala, “Porous Kenya-Uganda Border Cause of Insecurity in Mt. Elgon,” in *Standard Digital*, 14/December, 2017. <https://www.standardmedia.co.ke>, accessed on 14/4/2020.

<sup>677</sup> Ibid.

<sup>678</sup> Jane Broadbent and Richard Laughlin, “Control and Legitimation in Government Accountability Processes: The Private Finance Initiative in the UK,” April, 2001. [www.apira2013.org/past/apira2001](http://www.apira2013.org/past/apira2001), accessed on 11/06/2017.



belonging to residents of Mount Elgon.<sup>679</sup> This perspective was echoed by a national daily, which asserted that the police seemed incapable of differentiating between the grievances of the people from criminal activity. General suspicion of members of society made the police fail in dealing with the crisis because members of the public withheld important information which could enabled success in their mission in the region.<sup>680</sup> The evidence cited by the residents' and affirmed by journalists' points to a police service that acted with impunity, blatantly disregarding the law, and, at the same time, appeared as if they were immune to legal redress. Consequently, failure of the police to follow the rule of law destroyed public trust and killed people's confidence in the institution.

The lack of trust was mutual, as the police on their part, seemed to suspect every community member in the region as engaging in criminal activities against the state. This perception demonstrates that the police had not shed the colonial mentality of constant suspicion, particularly against members of society in regions disrupted by conflicts and especially those that seem to contest government decisions.<sup>681</sup> Echoing Chtalu, Francis Boateng and Isaac Nortey Darko noted:

As the main law enforcement agency, most police in Africa continue to apply the policies, practices, and behaviours of the colonial policing system. The British for instance established a police system that was para-militaristic in nature and used oppressive tactics to accomplish its mission.<sup>682</sup>

According to Reiner, suspicion of every member of society as being a criminal by the police is what leads to the rise and fall of police legitimacy as it results in the construction of the “us” (society) versus “them” (police) attitude,<sup>683</sup> a mentality that was evident in Mount Elgon. The ‘them’ versus ‘us’ mind-set became ingrained as the police actively abused their power and

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<sup>679</sup> Johnson Cheprot Takur, interview with the author, Cheptais Sub-County, 04/06/2016.

<sup>680</sup> George Omonso and Bernard Kwania, “Insecurity: Two Killed in Night Attacks,” in *Daily Nation*, Tuesday, July 17, 2007, p. 9.

<sup>681</sup> Bruce Chtalu, “The Challenges Related to Police Reforms in Kenya: A Survey of Nairobi County, Kenya,” A Thesis Submitted in Partial Fulfilment of the Requirement for the Award of Degree of Master of Security Management and Police Studies, In the Institute of Peace and Security Studies, Kenyatta University, 2014, p. 11.

<sup>682</sup> Francis Boateng and Isaac Nortey Darko, “Our Past: The Effect of Colonialism on Policing in Ghana,” in *International Journal of Police Science and Management*, Vol. 18(1) 2016, pp. 13. <https://www.policinglaw.info>, accessed on 21/04/2019

<sup>683</sup> Robert Reiner, *The Politics of the Police*, London: Oxford University Press, 2010.

become extremely supportive of the totalitarian regime, thus disregarding its tradition of public service. In essence, the police were generally invisible to citizen concerns and their indifference to and unresponsiveness in preventing the crimes perpetuated against the local communities as well as investigating and prosecuting those who attacked civilians in Mount Elgon was indicative of the prevailing colonial policing system. To date the residents of Mount Elgon believe that the police either entirely failed to respond to attacks, did not arrest individuals responsible for the attacks and when or if they did arrest the perpetrators, they released the attackers without investigations or without taking them to court to ascertain their innocence.<sup>684</sup> This made the attackers to continue with armed raids unabated. In other instances, residents accused the police of simply watching violence unfold, as affirmed by a key informant who averred that “sometimes police watched as markets were burned down by members of the militia.”<sup>685</sup> This failure to respond to the critical situation that the citizens were undergoing as well as their refusal to respond the plight of the led to frustrations among local residents who saw the police as an impediment to the much needed security.<sup>686</sup>

The right to security for the peoples of Mount Elgon was not respected by the police service as a civil authority organ of the government, from the onset of violence. And while the weakness of the police institution contributed to this lapse in provision of security, ultimately it was police negligence of its duty to the citizens, even in its weak state, that contributed to the degeneration of relations between the two and the continued deterioration of insecurity in the region. The police allowed violence to rage in the region resulting in numerous deaths and displacement despite the subsequent deployment of additional police officers. The upsurge of insecurity and attacks continued as the police were unable to stem or prevent repeated attacks and counter attacks on the civilian population and eventually even the police became targets of the attack,<sup>687</sup> as noted by one Robins Chepkum, who recounted how civilians and the police alike became victims:

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<sup>684</sup> Mzee Samuel Ngewo, interview with the author, Kopsiro, Mount Elgon, 29/12/2014.

<sup>685</sup> Robins Chepkum, interview with the author, Koitongwa, Cheptais, 27/12/2015.

<sup>686</sup> CHRIPS (Centre for Human Rights and Policy Studies) and APCOP (African Policing Civilian Oversight Forum), Local Policing Accountability in Kenya: Challenges and Opportunities for Action. <https://www.chrips.or.ke>, accessed on 21/04/2019.

<sup>687</sup> Eliud Motoi, interview with the author, Maseki Village, 27/12/2015.

The police too became targets of the attacks and they too incurred a lot of deaths. We repeatedly attempted to raise concerns about escalating armed attacks with the police and security forces but they either feared or did not take us seriously. They too were being attacked by the militia.<sup>688</sup>

Chepkum's assertions are affirmed by another resident, Oscah Kwemoi Naibei, who affirmed that the militia attacked villages at night, harassed residents, demanded food, money and sometimes took sons and daughters into the forest. He further stated that if villagers did not comply, their houses were burnt, granaries destroyed, and livestock taken without any immediate response by security agents. In some instances the villagers phoned security officers but there was no response from the government side.<sup>689</sup> Often, the police would show up the following day to ask for information about attackers who were long gone as one key informant, Incas Chepkombe Kipkut, noted:

Any village that was known to have been attacked by members of the militia would receive a visit from the police who would beat innocent people up. It was always a double tragedy as villagers came under attack by both security agencies and the members of the militia.<sup>690</sup>

Initially, it was the administration police who visited the villages and harassed them. Later, the General Service Unit (GSU) officers began visiting and accused them of supporting the Sabaoth Land Defence Force (SLDF) whom they accused of supplying the militia with food. In the end, it became a double tragedy, since they were attacked at night by members of the militia and beaten during the day by the police who had declined to respond to distress calls at night. At the peak of the crisis, the residents of Mount Elgon lived in fear of random attacks by the militia and punishment by the very civil authority employed to protect them.<sup>691</sup> Residents faced constant severe pressure from government security agents and SLDF. They were caught at the centre of the cross-fire. During field research, respondents pointed out that sometimes officers deployed to deal with the situation of armed conflict were very few, and therefore overwhelmed by the

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<sup>688</sup> Robins Chepkum, interview with the author, Koitongwa, Cheptais, 27/12/2015.

<sup>689</sup> Oscah Kwemoi Naibei, interview with the author, Kopsiro, Mount Elgon, 29/12/2014.

<sup>690</sup> Robins Chepkum, interview with the author, Koitongwa, Cheptais, 27/12/2015.

<sup>691</sup> Ann, Brue-Lockhart, "Mount Elgon's unseen war," in *the Guardian*, Wednesday 25 June, 2008.

<https://www.theguardian.com/world/2008/Jun/25/Kenya-International-aid-and-development>, accessed on 18/4/2017

militia.<sup>692</sup> As the attacks intensified and there was no police help, the people no longer needed the police for their safety. The residents totally lost hope in the police officers whom they saw not as solution to insecurity but as part of the perpetrators of similar crimes as the militia.<sup>693</sup> People now had to choose on which between the two was the better evil or which group to align with, the security agents or the militia.

The disenfranchisement of the Mount Elgon people was gradual and dates back to colonial times. However, their disillusionment increased disproportionately in the wake of independence and the inability of successive post-independence governments to fairly address the lands issues in the region and the perception by the local communities of being repressed, abused, or discriminated against in terms of land allocation.<sup>694</sup> Consequently, the local communities attempted to force the Kenyan government to listen to their grievances through armed confrontation. The recourse to violence by the communities of Mount Elgon as a strategy for addressing the injustices they faced can be mainly attributed to their profound distrust of the government and the police in particular who were seen as ineffective and complicit to crime. Key institutions of the government, the provincial authority, the judiciary and the police, which had the duty of upholding the law and ensuring the peace, failed the communities who then turned to the militias including SLDF for their survival. Initially, SLDF and the other militias acted in the interests of the people, demanding that the government settle all Sabaot squatters as well as those that were landless and that they be issued with title deeds to enable them run their economy, an action that endeared them to the community. However, this selfless attitude did not run for long as subsequently, the militias instead of acting for the collective good started prioritising their own agendas and interests and went to the extremes in executing their form of justice in the guise of maintaining order. They adopted an extremely brutal and ruthless war on their opponents and carried out scores of public executions, detained and tortured their opponents.<sup>695</sup> Feeling threatened by the SLDF armed violent approach of land issue, the Kenya government was forced to deploy the military to suppress SLDF contestation of the legitimacy of the state.

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<sup>692</sup> Ann, Brue-Lockhart, "Mount Elgon's unseen war," in *the Guardian*, Wednesday 25 June, 2008, Ibid.

<sup>693</sup> Ann, Brue-Lockhart, "Mount Elgon's unseen war," in *the Guardian*, Wednesday 25 June, 2008, Ibid.

<sup>694</sup> Robert Romborah Simiyu, *Militianisation of Resource Conflicts: The Case of Land-Based Conflict in the Mount Elgon Region of Western Kenya*, Monograph 152, October, 2008, pp. 21-25. <https://www.files.ethz.ch>, accessed on 06/04/2020

<sup>695</sup> Fred Kumo, interview with the author, Cheptoror Village, 28/12/2015.

## 7.6 Entry of the Military in the Mount Elgon Conflict – 2008

Armed internal insurgency and conflicts, be they ethnic-oriented, resource-based or ideological, are a major security concern for many countries around the world. This concern has resulted in states establishing mitigation measures and methods of dealing with insurgency including use of the military, which traditionally was not supposed to engage in internal conflicts. In explaining military interventions in internal conflicts, Barry Buzan, Ole Waever and Jaap de Wilde use the social constructivist method of conceptualising security, (securitisation theory),<sup>696</sup> which describes securitisation as the inter subjective and socially constructed process by which a threat to a particular referent object (state) is acknowledged and deemed worth protecting by use of all means including use of the military. Proponents of the securitisation theory argue that, an actor (government) declares a particular issue to be an existential threat to a particular referent object (state) and accepted by relevant audience (citizens) and the acknowledgement of existential threat legitimises suspension of normal politics and thereafter use of emergency measures in the name of the military in responding to that perceived threat.<sup>697</sup>

The concept of securitisation is hinged on the idea of security as survival. It delineates a process of identifying a specific class of threats, existential threats to the state as an object and threat to relevant audience, which are people, then emergency responses are defined which extend to utilising every resource at the disposal of the state.<sup>698</sup> Securitisation is a self-referential practice justified by the presence of a threat to five sectors that are critical for the functioning of the state and maintaining its sovereignty, namely, the economic, the societal, the military, the political and the environmental sector. In each sector, a specific threat is articulated as threatening a referent object.<sup>699</sup> The threats justifies use of armed military action by the state beyond political negotiations. Securitisation theorists aver that the use of military force is necessary to tackle internal conflicts that threaten national sovereignty and security.

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<sup>696</sup> Catherine Charrett, *A Critical Application of Securitization Theory: Overcoming the Normative Dilemma of Writing Security*, Barcelona: International Catalan Institute for Peace, 2009, pp. 13-14.

<sup>697</sup> Sreya Maitra Roychoudhury, "Securitization Theory and Internal Ethnic Conflicts: Interrogating Select Cases from India and Sri Lanka," Paper presented in ISA Asia-Pacific Conference 2016, Hong Kong, Organized by the International Studies Association, June 25th to June 27th 2016.

<sup>698</sup> Barry Buzan, Ole Waever and Jaap de Wilde, *Security: A New Framework of Analysis*, Boulder: Lynne Rienner Publishers, 1998, pp. 20-21.

<sup>699</sup> Clara Eroukhmanoff, "Securitisation Theory: An Introduction". <https://www.e-ir.info/2018/01/14>, accessed on 21/04/2019

The securitisation theory fits into Michal Walzers debate of military intervention in internal conflicts based on the framework of just and unjust war. Walzer holds the view that such an intervention must be as a response to substantive human rights violations, and the intervention must be intended to assist a national community to gain its freedom.<sup>700</sup> The arguments put forth by Walzer can be applied to justify the use of military force in response to the insurgency of the SLDF. In the wake of the threat posed by SLDF in Mount Elgon to both the residents and the authority of the state, the government of Kenya decided to wage war to restore security and state sovereignty as well as protect its citizens (as the aptly characterised by the code to the offense – Operation Okoa Maisha, which means Operation to Save Lives) and punish the militia for the atrocities it had perpetrated. Thus the government of Kenya felt the war was justified and deployment of the military was only used as a last resort given that SLDF was not ready to put down weapons and engage in peaceful talks.<sup>701</sup> Based on Walzers’ conceptualisation, the Kenya government was justified to deploy the military in Mount Elgon on the basis that negotiations and government decrees and pleas to the SLDF militia to stop the attacks had failed.<sup>702</sup>

In as much as the government of Kenya blamed the SLDF for the war, it should be noted that played a role in the emergence of the militia as the government had failed to construct a distinct public and private spheres, which resulted in insecurity in Mount Elgon and in turn created space for militia to emerge and provide the services the state was unable to provide.<sup>703</sup> The weak presence of the state in the region led to the emergence of the SLDF militia group, which operated as a state within a state. When the legitimate state (Kenyan state) attempted to reclaim and reassert its authority, the SLDF group went on the defensive and took up arms to fight the stat.<sup>704</sup> This perspective was articulated by the late SLDF Commander, Wycliffe Matakwei, who argued that the government of Kenya had failed to dispense justice and that they fought to defend

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<sup>700</sup> Michael Walzer, *Just and Unjust Wars*, New York: Basic Books, 1977, p. 22.

<sup>701</sup> Terry Nardin, “From Right to Intervene to Duty to Protect: Michael Walzer on Humanitarian Intervention,” in *The European Journal of International Law* Vol. 24 no. 1 EJIL (2013), Vol. 24 No. 1, 67–82, Published by Oxford University Press on behalf of EJIL Ltd. <https://watermark.silverchair.com>, accessed on 21/04/2019

<sup>702</sup> Xavier Francis Ichani, “Military Intervention in Local Conflicts: Justification, Perceptions and Lessons and Recommendations,” in *Journal of International Academic Research for Multidisciplinary*, Volume 2, Issue 2, March 2014. [www.jjarm.com](http://www.jjarm.com), accessed on 21/04/2019.

<sup>703</sup> John Akokpari, “The Political Economy of Human Insecurity in Sub-Saharan Africa,” in V.R.F Series, No. 431 Oct. 2007, pp. 22-32. <https://www.ide.go.jp>, accessed on 22/04/2019.

<sup>704</sup> Tania Corazza, “Rebel Groups and Guerrilla Warfare in Sub-Saharan Africa: Implications in the Central African Republic,” Thesis submitted to Facolta di Scienze Politiche e Sociali, Universita Cattolica Del Sacro Cuore-Milano, Anno Accademico 2017/2018, p. 25.

the poor and vulnerable squatters of Mount Elgon.<sup>705</sup> Consequently, instrumentalisation of violence became legitimate and defensible in the SLDF operation and culture.<sup>706</sup>

The foregoing demonstrates that the gaps left by poorly organised government institutions led to the insurgency, with insurgency further weakening the civil authority and specifically, their governance and security roles. While Mount Elgon is a classic case where an insurgent group emerged to fight or seek to address the injustice caused by the government on land issues, the insurgency mutated and became a subversive militia intent on ousting the legitimate state authority. After its formation, SLDF decided to launch a political-military campaign and adapted military strategies and tactics in the pretext of fighting for the land rights of the Sabaot people. The groups' firepower was way superior to that of the police and once they overpowered the police and the provincial authorities, SLDF became the law and literally took over Mount Elgon District. They began imposing taxes, recruiting fighters and went as far as setting up Kangaroo courts. Under their absolute rule, SLDF imposed brutal measures that saw the displacement, kidnapping and murder of many people. With a somewhat absent government and the inability of the police to provide security and re-establish law and order, SLDF had a free rein to spread its terror to most parts of the region. Under SLDF, the region witnessed extreme brutality, which later spread to neighbouring regions including Trans Nzoia district and the larger Bungoma region. With its increasing authority and geographic outreach, SLDF became more militarised as openly expressed by one of its commander's, who stated, "We have decided to sell our cattle and purchase guns."<sup>707</sup>

SLDF became a serious threat to state security that the government of Kenya resorted to military intervention. As Hughes noted, some militias are so powerful and equipped with sophisticated weapons that the civil authorities are unable to cope with the militia's atrocities that the atrocities are unprecedented in scale and scope: "They may attack in sequential and highly mobile. They may have multiple teams attacking several locations, combining armed assaults, shootings,

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<sup>705</sup> Abraham Korir Sing'Oei, "Land and Natural Resource Governance," in UNDP, *Rethinking the Role of Law and Justice in Africa's Development*, Addis Ababa: Regional Service Centre for Africa, 2013, p. 80.

<sup>706</sup> William Reno, "Book reviews, department of political science, North Western University, in JANS 38(1), pp. 95-97. Journals Sage Pub. accessed on 04/05/2017.

<sup>707</sup> Ibid.

prefabricated Improvised Explosive Devices, targeted killings and hostage situations,”<sup>708</sup> which was the case of SLDF, who used these tactics not to combat the military but to subjugate civilians.

The atrocities caused by the group are well-articulated by Janerose Nakhumicha when narrating her ordeal at the hands of the militia:

They captured my husband and tortured him all the way from Kimama School, stripped him naked. They dragged him from his work place tortured him and they took him to the SLDF leaders, Kones Chemonges, then to Matwakei. That is where they killed him and burned his body to ashes. We will never see his body.<sup>709</sup>

As narrated by Nakhumicha the militia, while on a routine visit to collect taxes, returned the slain man’s clothes and told her that they had killed her husband. The audaciousness of the militia by not only taking over government roles but also indiscriminately killing those who did not comply with their demands as well as openly admitting to committing such atrocious acts demonstrated how the militia had over-powered the local civil authority.

The atrocious acts of the SLDF and the incapacity of the provincial administration and the police to contain the group forced the government to employ the services of the military to restore order and peace. In countering insurgencies, the government of Kenya has employed the military under what is widely known as the military assistance to civil authorities,<sup>710</sup> with the case of Mount Elgon perhaps being the most prominent instance where military intervention has been used internally in recent times. The frequent attacks exacerbated the insecurity in the area prompting the government to deploy the 20<sup>th</sup> Para-Battalion of the Kenya Army on 9<sup>th</sup> of March 2008 under an operation code-named Okoa Maisha (Operation Save Lives), which signified the official beginning of the military intervention against the SLDF.<sup>711</sup> The operation was jointly carried out by over 400 members of the military, Kenya Police, the General Service Unit, Administration

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<sup>708</sup> Geraint Hughes, *The Military’s Role in Counterterrorism: Examples and Implications for Liberal Democracies*, Carlisle, PA: Strategic Studies Institute, U.S. Army War College, 2011, pp. 2-3.

<sup>709</sup> Janerose Nakhumicha, interview with the author, Sirisia Market, 10/06/2016.

<sup>710</sup> Wendy Hunter “State and Soldier Military Role in Argentina Brazil and Chile Washington, DC; United Institute of peace, 2005, peace works No. 10.

<sup>711</sup> Kenya Defense Forces, “Exclusive Conversations,” in *Majeshi Yetu*, Nairobi: Kenya Defence Force, 2017. [www.mod.go.ke](http://www.mod.go.ke), accessed on 22/04/2019.



Police and the Anti-Stock Theft Unit working closely with the National Intelligence Service (NIS) and the Department of Military Intelligence (DMI).<sup>712</sup>

At the onset of the operation, the government limited access of the media and humanitarian workers to the region, which continued as the operation intensified.<sup>713</sup> The deployment of the military in the region attracted opposition from civil rights groups, who argued that the government was using the military to deal with a civilian conflict. The Kenya Human Rights Commission protested the deployment of the military into the region arguing that it was a violation of the rights of civilians as the army was not trained for policing purposes.<sup>714</sup> But the government, in justifying the deployment, cited the nature of the threat posed by the SLDF to the sovereignty of the state and not just civilians.<sup>715</sup> The government insisted that SLDF had overpowered the civil authority instruments like the police and were using conventional warfare that necessitated a counter force with similar arrangement. The military chiefs emphasised that SLDF was an insurgent group and not an ordinary criminal group. Military chiefs described SLDF insurgents as a deadly group that the police could not have handled<sup>716</sup> a viewpoint that was supported by a KDF officer stationed in the region, who stated:

When dealing with insurgent group operations, situations are more delicate than when dealing with a professional army. SLDF was a militia, which took up arms and their warfare was above what the police could deal with. The militia was a threat to law-and-order forcing the government to deploy the military. The war model used by SLDF was a mortal threat to the state, which could only be addressed by the military force.<sup>717</sup>

Once well established, an insurgent group threatens the sovereignty of any state by harbouring separatists' ideas and developing a political wing that mobilises support for the cause.<sup>718</sup> Militias

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<sup>712</sup> Ibid.

<sup>713</sup> John Komen, "Hundreds Flee and Several Dead in Kenya Army Offensive", in *Reuters World News*, Tue, Mar. 11, 2008. [www.reuters.com/article/us-kenya-elgon](http://www.reuters.com/article/us-kenya-elgon) accessed on 2/5/2017.

<sup>714</sup> Kenya National Commission on Human Rights, "*The Mountain of Terror*": A Report on the Investigation of Torture by The Military at Mt. Elgon, Nairobi: KNCHR, May 2008, p. 7.

<sup>715</sup> Elias Wakhisi Musiambo, "The Land Question in Trans Nzoia: A Continuing Challenge", in *Afri-Governance*, Wednesday, September, 7, 2011. [www.generationafric.org/politics.blogspot.co.ke](http://www.generationafric.org/politics.blogspot.co.ke), accessed on 19/01/2016

<sup>716</sup> Kenya Defense Forces, "Exclusive Conversations," in *Majeshi Yetu*, Nairobi: Kenya Defence Force, 2017. [www.mod.go.ke](http://www.mod.go.ke), accessed on 22/04/2019.

<sup>717</sup> Interview with a KDF Officer, 02/06/2016.

<sup>718</sup> Katharine Boyle and Pierre Englebert, "The Primacy of Politics in Separatist Dynamics". [cega.berkeley.edu](http://cega.berkeley.edu), accessed on 22/04/2019.

develop in five phases: recruitment, training, psychological offensive stage, militarising and finally stabilisation phase. In the stabilisation stage they create a shadow government, which takes over the administration of the region if they manage to oust the instruments of the civil authority.<sup>719</sup> A KDF officer whose name has been withheld for safety reasons had this to say:

SLDF was by no doubt a strong threat to the sovereignty of Kenya as a state and the only instrument that could silence it was the military. By the time of military intervention, SLDF had expelled the Chiefs and Assistant Chiefs from some regions. In some areas the police had also been expelled.<sup>720</sup>

Operations-wise, the military mapped out a Red Zone, which denoted the core area of operation of the SLDF. The term *Red Zone* has a history in the WWI, with its first usage being in reference to the “Zone rouge,” the name given to about 465 square miles of north-eastern France that was destroyed during WWI.<sup>721</sup> In contemporary use, the term is used in reference to unsafe areas in a military operation.<sup>722</sup> The Red Zone in Mount Elgon included Chepkube, Kiptill and Kipkirongo with the military operations in these centres being coordinated from Kapkota Military Camp, which served as logistic troop administration and monitoring base. Kapkota also served as a screening camp where over 3,800 persons were screened in an effort to identify members of the militia hiding among the locals.<sup>723</sup> Several people were killed as army helicopters attacked rebel militia positions while on the ground the heavily armed soldiers combed the forest. Operation Okoa Maisha lasted for three months and on 16 May 2008 the SLDF Commander, Wycliffe Kirui Matakwei, was killed.<sup>724</sup> Following his death the military declared that it had wiped out 98% of the SLDF.<sup>725</sup> The death of Matakwei was covered by local papers with one Nairobi-based publication declaring on its front page, “The Kenya government celebrates the death of Matakwei the rebel commander” and further noting “There was jubilation within Kenya’s

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<sup>719</sup> Robert Lamb and Brooke Shawn, *Political Governance and Strategy in Afghanistan*, Washington, D.C.: Center for Strategic Studies, 2012, p. 20.

<sup>720</sup> Interview with a KDF Officer, 02/06/2016.

<sup>721</sup> Corinna Haven Smith and Caroline Hill, *Rising Above the Ruins in France: An Account of the Progress Made since the Armistice in the Devastated Regions in Re-establishing Industrial Activities and the Normal Life of the People*, New York, GP Putnam’s Sons, 1920, p. 6.

<sup>722</sup> Keith Tidball, “Greening in the Red Zone: Green Space and Disaster Resistance, Recovery and Resilience,” in *Anthropology News*, Jan 1, 2010, p. 10. <https://www.academia.edu>, accessed on 23/04/2019.

<sup>723</sup> UCDP, “The Mount Elgon conflict in Kenya”, in [conflictdatabase@pcr.uu.se](mailto:conflictdatabase@pcr.uu.se) accessed on 20/02/2017

<sup>724</sup> Associated Press, “Kenyan Children Tell of Abductions, Torture: Hundreds Have been Terrorized First by Militia and then the Army”. Africa on NBC NEWS.com 24/06/2008.accessed on 04/5/2017.

<sup>725</sup> Kenya Defense Forces, “Exclusive Conversations,” in *Majeshi Yetu*, Nairobi: Kenya Defence Force, 2017. [www.mod.go.ke](http://www.mod.go.ke), accessed on 22/04/2019.

security circles last Friday after the army killed the commander of a militia outfit after a three month campaign. The Kenya Army celebrates its latest victory.”<sup>726</sup>

Despite the death of Matakwei, a number of questions remained unanswered. Specifically, did the death of Matakwei mean the end of the insurgency? If 98% of SLDF was wiped out, did this mean the end of the military operation? And was the conflict resolved and was there a peace agreement? Johan Galtung observes that a conflict can only come to an end when a conflict resolution defines the goals of the actors engaged in the conflict and the incompatibility function. As such, the best way of resolving a conflict is by making what is acceptable compatible and attainable or by making what is attainable compatible and acceptable.<sup>727</sup> Galtung further states that for a peace agreement to take root and last the actors must strike a breakthrough by removing the incompatible barrier and making what was impossible to become possible.<sup>728</sup> According to Galtung, these are indicators that the conflict has been resolved, which in the case of Mount Elgon begs the question, was the conflict resolved in Mount Elgon, did the actors achieve a breakthrough by removing the incompatible barriers? In the case of Mount Elgon, it can be said that the deployment of the military came a little too late as the militia had already embedded itself and had to a large extent made the civil authority subordinate to its authority. Additionally, given the subjugation of the civil authority by the militia it was going to be difficult to sustain strong civilian control even once the military had quelled the insurgency and as such, this would necessitate the continued presence of the military in the area to assist the civil authority in restore order and upholding civilian rule of law.

Roger Mac Ginty argues that sometimes governments use inaccurate indicators to explain if a conflict has ended because there is a gulf between how people on the ground perceive the end of conflict and the establishment of peace and how those in positions of power perceive peace and conflict resolution.<sup>729</sup> The top-down approach, which originates from a government’s position on

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<sup>726</sup> Nairobi Chronicle Team, “Kenya Government Celebrates Death of Rebel Commander,” in *Nairobi Chronicle*, May 18, 2008. <https://nairobiChronicle.wordpress.com/2008/05/18/>

<sup>727</sup> Johan Galtung, *Theories of Conflict: Definitions, Dimensions, Negotiations, Formations*. [https://www.transcend.org/files/Galtung\\_Book\\_Theories\\_Of\\_Conflict\\_single.pdf](https://www.transcend.org/files/Galtung_Book_Theories_Of_Conflict_single.pdf)

<sup>728</sup> Ibid.

<sup>729</sup> Roger Mac Ginty, “Taking Anecdotal Evidence Seriously: An Alternative View of Peace Indicators, Shared Space,” in *A Research Journal of Peace, Conflict on Community Relations in Northern Ireland*, 16, 2013, pp. 21-36. <http://gsdrc.org/go/display&type=Document&id=559>, accessed on 24/04/2019.

peace, often mistakes containment of a situation to mean conflict resolution.<sup>730</sup> Containment as an indicator of the resolution of a conflict having been is an erroneous position to take because such an approach does not define the goals of the parties involved in the conflict and neither does it address the issue of incompatibility. This failure by the government to define the critical moments towards seeking peace in the case of Mount Elgon are affirmed by the government perception of having resolved the conflict despite not taking into account the subtle differences within and between communities and their perception of the conflict. Additionally, the government did not seek to establish whether the differences that led to conflict in the region had been addressed or whether the measures used had simply contained the situation. This myopic view of containment as being conflict resolution and establishment of peace are contrary to the principles of effective conflict resolution, which necessitates minimising disruption that stemmed from the existence of a conflict, and providing a solution that is satisfactory and acceptable to all parties.

Based on the foregoing, there is need to establish whether government military efforts directed towards achieving these objectives or towards containment. The withdrawal of the military from Mt Elgon in August 2008, a mere four months of engaging the SLDF militia, points to the latter. Following the decision to withdraw, the military declared that their tour of duty had come to an end after “successfully” wiping-out more than 98% of the SLDF militia.<sup>731</sup> Confirming the withdrawal, a police official stated that, “They are no longer here. They left yesterday (Monday).”<sup>732</sup> However, once the news broke that the military had withdrawn broke, leaflets were scattered in some areas warning those who cooperated with the military of dire consequences, a fact that was confirmed by the police, who stated, “We have seen the leaflets but we do not know the source yet. They appear to have been authored by remnants of the SLDF.”<sup>733</sup> This incident pointed out that SLDF had not been fully dismantled and wiped out as claimed by the military. Aside from warning residents of dire consequences for having cooperated with the

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<sup>730</sup> Ibid.

<sup>731</sup> Cyrus Ombati, “Military Officers Now Withdraw from Mt. Elgon,” *Standard Digital*, 01st Aug 2008. <https://www.standardmedia.co.ke/article/1143991346/military-officers-now-withdraw-from-mt-elgon>, accessed on 24/04/2019

<sup>732</sup> Bernard Momanyi, “Mt. Elgon: Tension is High in Mount Elgon District following Withdrawal of Military Officers Conducting a Crackdown on the Ragtag Sabaot Land Defence Force (SLDF) Militia” in *Capital News*. <https://www.capitalfm.co.ke/news/2008/09/tension-in-mt-elgon-as-military-withdraws/>

<sup>733</sup> Ibid.

military, the leaflets also demanded that the military should not withdraw from the area, again indicating that SLDF still existed and was aware of the military presence. This turn of events and the previous experiences of the community under the hands of the militia had some residents advocating for the continued stay of the military in the area. This is well captured in the words of Janerose Nakhumicha who said:

If the military is withdrawn from Mount Elgon, then we also better leave to other places because Mount Elgon killings started a long time ago. In 1992 it happened. Many people have been slaughtered in this forest since then. The police were very weak to stop the killings. They could not help at all as our children were being killed.<sup>734</sup>

Calls by local residents to have the military stay forced the government to change its plan from a complete withdrawal of the military from the region to maintaining a small presence. Consequently, Banandek Military Detachment was established in Mount Elgon to ensure the permanent presence of the military in the area, which could be an indication that the military were aware that some cells of the SLDF militia were still at large and active and hence the reason they maintained Banandek military base in the area, a clear indication that the conflict was not resolved. Despite the call by some residents for the continued presence of the military, there were others who felt that military presence was not the ultimate solution to the grievances of the people and decision makers needed to decide whether they would give justice to the people of Mount Elgon or use force to suppress them. Anecdotal evidence from the findings of the TJRC as well as other studies on the Mount Elgon conflict depict divergent views among the locals on the role of the government in redressing land grievances as well as quelling the insurgency and restoring peace in the region.

According to the findings of Pamela Kimkung and Cristina Espinosa in their research on the gendered dimensions of the conflict, the two aver that locals felt that the government of Kenya had difficulty coming to a commonly held understanding of what constituted people's right to access their land and as such, could not provide justice for the communities of the region with

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<sup>734</sup> Janerose Nakhumicha, interview with the author, Sirisia Market, 10/06/2016.

the residents agreeing that their concept of land rights would never be compromised<sup>735</sup> and others indicating that the struggle to achieve land rights would continue for as long as it took to ensure they achieved their ownership rights. With regards to the engagement of the military in suppressing the insurgency some residents argued that the military approach would actually perpetuate the problem and create more trouble and relying on this approach would actually be counterproductive and could in the long run be more harmful than beneficial to the interests of the government.<sup>736</sup> Whether the answer lies with the military, or justice, it is clear that the government of Kenya must work through local land management mechanisms and prioritise the interests and rights of the local people for a longer-term solution.

## 7.7 Conclusion

This chapter demonstrated the experiences of the people of Mount Elgon with the civil authority, which fell short of the state's duty of securing rights of citizens, administering justice and providing security. This failure of the civil authority is a constant theme in the state-citizen relations in Mount Elgon dating to the colonial period and characterised the land allocation process in Mount Elgon after independence. The inability of the state authority to fairly, efficiently and transparently administer land justice motivated the people of Mount Elgon to seek alternative methods, which included use of armed violence. More importantly, the chapter demonstrates that the failure of the civil authority to administer justice consequently alienated it from the public, and reduced the citizenry confidence in the justice system, thus, leaving them with the option of armed conflict as the only redress mechanism. Furthermore, the chapter highlights how the civil authority in Kenya, namely the provincial administration, the judiciary and the police failed to offer justice to the people of Mount Elgon in relation to their land rights and this inability of the duty-holders forced the people to mobilise under the aegis of the SLDF militia group to defend their land rights. However, the militia eventually mutated and failed to uphold the collective goals and thus became a thorn on the side of both the local residents of Mount Elgon and the government of Kenya.

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<sup>735</sup> Pamela Kimkung and Cristina Espinosa, "The Gender Dimensions of Violence and Conflict: The Case of Inter-Ethnic Land Conflict in Mt. Elgon, Kenya," in *International Journal of Development and Conflict*, Vol. 2, No. 3 (2012), pp. 4-5. <https://www.researchgate.net>, accessed on 30/04/2020

<sup>736</sup> Truth, Justice, and Reconciliation Commission, "Public Hearing Transcripts-Western-Mt. Elgon-RTJRC23.05 (Kibuk Catholic Church)" (2011). *I. Core TJRC Related Documents*. 122. <https://digitalcommons.law.seattleu.edu/tjrc-core/122>

Additionally, the chapter demonstrates that the weak and somewhat absentee civil authority resulted in the inefficiency of the police in dealing with the SLDF, hence causing the national government to deploy the military to support the civil authority to restore order. However, despite the deployment of the military to support the civil authority, anecdotal evidence from locals as noted in this and previous chapters demonstrates that the entry of the military was not a magic bullet as they also became part of the problem and terrorised the local communities in the name of flushing out the insurgents and restoring order.

## **CHAPTER EIGHT**

### **MARKETS OF SLDF WAR: PROFITEERS AND LOSERS, 2004-2008**

#### **8.1 Introduction**

There is a lot that happens in war zones, most of which occur at the edge of official state order and extending outwards to the heart of unordered shadowy space. This chapter explores what happened in the shadowy spaces of the SLDF war, with a focus on the “profiteers and losers.” Specifically, the chapter explores the war economy of the SLDF war and seeks to demonstrate that in the hidden space of the SLDF war in Mount Elgon, there were extra-state and militia activities that tend to remain invisible when one focuses on the political conflict without considering how some actors made profit from those invisible activities while others made losses. The discourse around the hidden space paints a picture of profiteers including local inhabitants, journalists, and business people as well as staff members of NGOs operating in the area who remained in the war zone despite the imminent risks. Throughout this chapter, I seek to determine whether the much of the narratives of the Mount Elgon war leach out of larger accounts of war and why accounts of events of the war ignore specific stories in favour of generalised images of violations. There are several uncomfortable truths that are overlooked in conventional narrations of the Mount Elgon wars, one of which is who committed atrocities in the SLDF wars. Most narrations depict that most casualties were civilians and that the majority of the victims suffered at the hands of military actors, a perspective that is contrary to the narrations of the victims and witnesses interviewed for this dissertation, who denote that the local communities suffered double injustice, as they were exploited and victimised by both the SLDF and the military.

This chapter examines the commoditisation and entrepreneurisation of war in Mount Elgon. Commodification as used in this chapter describes a situation where war suddenly became a commodity that was subjected to profit making and demand while entrepreneurisation is used as a process of designing, launching and running war as a business. The central thesis of the chapter is the contention that war is an economic enterprise with its emphasis on profitability in which SLDF highly benefitted immensely from perpetuating the war in Mount Elgon. While SLDF started off as a defender of the land rights of the Sabao people it later commodified the



somewhat warranted insurgency into a war through which they exploited the local communities and subsequently, turned themselves into war entrepreneurs who subjugated and exploited the very same people in whose name they claimed to be fighting. SLDF used what Steven Lee describes as chaotic experiences of war that is symbolised by extreme human suffering to make profit.<sup>989</sup> When one analyses the SLDF war superficially, it is not evident that there were any gains made by the various actors. However, there was a lot that happened in its shadows and behind the scenes as often much of what actually transpires in war zones happens in the “shadows”, sometimes with little exposure. Just as in any war scenario, what occurs in the shadows are struggles between diverse actors defined by distinct interests, all neatly ordered through economic engagements and profiteering. This is what Laurie Calhoun refers to as making a kill out of killing.<sup>990</sup>

The chapter focuses on what happened in the shadows of SLDF war. It explores the themes of war economy and analyses the different participants and actors and their motivations. Additionally, the chapter explores the actors who were active in the hidden space of the SLDF war in Mount Elgon and demonstrates that there were extra-state and militia actors who are rendered invisible in discourses of the war which focussed mainly on the political perspective of the conflict. As well, most researches on war cling to neat moral divisions between legal and clandestine worlds, ignoring the fact and evidence from various wars indicating the existence of profiteers operating alongside losers/victims. Despite this lapse in documentation, the fact remains that no matter who shot who, certain actors profited from the opportunities that came with the war. These actors might readily cooperate on the ground through profit-making, which begs the question, is war a lucrative business as opposed to being an instrument of suffering? To start off this conversation, I explore the debate around the concept of “profiteering” and “loss” in the shadows of war. The section deconstructs the idea that war engenders complete economic breakdown, anarchy and that no economic benefit is associated with it. In subsequent sections, the chapter demonstrates that war has the potential of creating systems of profit even as it

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<sup>989</sup> Steven Lee, “On the Causes and Remediation of War and its Human Suffering”. <http://genevapeace.org>, accessed on 27/04/2019.

<sup>990</sup> Laurie Calhoun, “The Phenomenology of Paid Killing,” in *The International Journal of Human Rights*, Vol. 6, No. 1, London: Frank Cass, 2002, pp. 1-18.

contributes to extensive human suffering and societal devastation. The wars of Mount Elgon are used to illustrate the political economy approach of war.

## 8.2 “Problematizing Commodification of War”

The theoretical literature on the effects of war on economic growth provides two contrasting views. The first economic view is in Benoit’s popular hypothesis that wars have positive economic growth and development for those who benefit or make profit from it. This argument is in line with Keynesian economic theory, which argues that economic activities practiced in war time can be treated as expansionary fiscal economic policy, which stimulates the economy resulting in positive economic gain.<sup>991</sup> This thinking is not far from an analytic framework for the occurrence of wars, drawn from Paul Collier and Anke Hoeffler economic model of war based on the idea of trade-off between production and appropriation and losses. Both scholars view wars as proxies for profit-making and that people become rebels after weighing economic opportunity loss of violence against expected utility and thereafter decide that war is efficient way to settle disputes.<sup>992</sup> War occurs because of three interacting determinants namely preferences, opportunities and perceptions and given these elements it becomes difficult to negotiate for peace thus making force necessary.

Economies of war underpinned by greed and profit-making opportunities are key triggers and drivers of sustained armed conflicts in many regions of the world. According to Collier and Hoeffler availability of a primary commodity induces conflict and the duration of the conflict.<sup>993</sup> Paying attention to the economic behaviour of combatants in any war and its relation to competition to control and exploit abundant natural resources will reveal how internal wars are fought and the reasons why. In theorising the political economy of war various scholars have come up with different views that justify the economic aspect of war. For instance, David Keen

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<sup>991</sup> Emile Benoit, “Growth and Defense in Developing Countries,” in *Economic Development and Cultural Change*, 26(2), 1978, pp. 271–280.

<sup>992</sup> Paul Collier and Anke Hoeffler, “Greed and Grievance in Civil War,” *Oxford Economic Papers*, 56 (2004), pp. 563-595. <https://www.econ.nyu.edu/user/debraj/Courses/Readings/CollierHoeffler.pdf>, accessed on 12/3/2018

<sup>993</sup> Paul Collier and Anke Hoeffler, “On Economic Causes of Wars Driven by Rapacity or Paucity,” in M. Berdal and D. M. Malone (eds.), *Greed and Grievance: Economic Agenda in Civil Wars*, Lynne Rienner: Boulder Co, 1998, pp. 568-569.

opines that combatants exploit wars to engage in resource accumulation and not winning wars.<sup>994</sup> From this point of view, the pursuit of war may be economically rational to those who wage it and are as such engaged in the war for the economic gains and not necessarily to subdue the enemy. Accordingly, combatants use the anarchical situation created by war to accumulate and control wealth. They commoditise anarchy and may fight to weaken state institutions, which are meant to control and regulate accumulation. Such combatants have no intention of winning the war neither are they interested in ending human suffering caused by war. They are not interested in cumulative societal destructiveness but cumulative wealth making through the institutionalisation of fear.<sup>995</sup>

In his analysis of the most salient variables that determine risk of war, Paul Collier assesses ethnic heterogeneity, political rights and economic mismanagement and concludes that at the core of political and ethnic rights, is underpinned by the concept of the economy and that economic factors are more salient to risk of war than ethnic heterogeneity and political rights.<sup>996</sup> It is clear from Collier's argument that rebel movements and militia groups have a powerful incentive to use violence to acquire wealth and that the longer the wars take the wealthier the rebel leaders become because greed or loot seeking is a key factor in the onset of rebel led wars.<sup>997</sup> It is worth noting that economic resources have a naturally reinforcing correlation to war. Violent wars yield a lot of economic benefits and this motive sustains the war for a very long time. Consequently, one can argue that the prolongation of such wars is because the path to peace is a barrier to wealth generation and if there is internal or external insistence and persistence to follow the path towards peace, the leaders become spoilers in the game of peace. Most civil wars are caused by the feasibility of economic predation, rational pursuit of economic self-interest and control of a primary commodity. Control of such resources is sustained by the availability of a market to sell and also exchange the resources with war equipment.<sup>998</sup> Natural resources therefore are salient and remain an important source of revenue during war.

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<sup>994</sup> David Keen, "Incentives and Disincentives for Violence", in Berdal and Malone, *Greed and Grievances: Economic Agendas in Civil Wars*, Boulder: Lynne Rienner, 2000, p. 26.

<sup>995</sup> Robin Williams, "The Sociology of Ethnic Conflicts: Comparative International Perspectives," in *Annual Review of Sociology*, Vol. 20, 1994, p. 65. <https://www.jstor.org/stable/2083359>.

<sup>996</sup> Paul Collier "Doing Well Out of War," in Berdal and Malone, *Greed and Grievance*, ibid, pp. 90-111.

<sup>997</sup> Ibid.

<sup>998</sup> Paul Collier "Doing Well Out of War".

Approaching the same economic issue but from a different point of view, William Reno argues that chronic diversion of state economic resources through patronage leads to creation of the “shadow state,” which comprises of political elites who deliberately undermine formal bureaucratic institutions while at the same time kleptocrats accrue substantial personal wealth through state channels. All this is done in order to retain power. Rulers deliberately withdraw provision of public goods and if the populous resist, the rulers instrumentalise coercion and corruption to silence the dissenting voices. The end result is a fragmentation of the state, which is already a shadow form of a state with no powers to control the periphery.<sup>999</sup> The weakening of the state into a shadow state results in the state losing its grip on the periphery creating room for warlords to emerge. Consequently, when the rulers no longer maintain control, rebel leaders organise insurgencies by utilising extortionism. Reno therefore contends that the key driver for insurgency is the question of economic profiteering whereby extortion becomes part and parcel of the level of war in society, the latter which is determined by the society believing in violence. The root of such a belief lies within economics.<sup>1000</sup> In as much as people might have other grievances that inform their rebelling against the established government, the economy plays an important role as a mobilising factor for citizens to pick up arms and engage in war. Given that the economic status of any society informs the living standards of people in the same group, the key aspects of war are inexplicable without considering clandestine political economy of war. The clandestine political economy involves access to and supply of war equipment through smuggling networks that sustain the life of any given war.<sup>1001</sup> Smuggling networks involve quasi-private criminal actors as combatants who often are not only the reason for outbreak of war but are also responsible for the persistence of such wars. This is what Jonathan Goodhand refers to as the shadow economy of a war economy.<sup>1002</sup>

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<sup>999</sup> William Reno, “Shadow States and the Political Economy of Civil Wars”, in Mats Berdal and David Malone, eds. *Greed and Grievance: Economic Agendas in Civil Wars*, Boulder: Lynne Rienner, 2000, pp. 43-68.

<sup>1000</sup> Pauline Grosjean, “Economics of culture. Institutions and Crime”, Paper Presented in Sus. DIV FEEM, University of Padua and CEPR, Milan, on 20-22, January 2020.

<sup>1001</sup> Peter Andreas, “The Clandestine Political Economy of War and Peace in Bosnia”, in *International Studies Quarterly*, Vol. 48, No 1 March 2004 pp. 29-51. <http://www.jstor.org/stable2693562>, accessed: 29/07/2011.

<sup>1002</sup> Jonathan Goodhand, “From war economy to peace economy?” Paper presented at State reconstruction and international engagement in Afghanistan, 30 May-1 June 2003, London School of Economics and Political Science and University of Bonn. <http://eprints.lse.ac.uk/28364/>, accessed on 20/07/2020.

David Keen in explaining the economic dimensions of war expounded Carl Von Clausewitz's dictum of war by describing war as the continuation of economics by other means. It is the continuation of economics by means of war denoting those who wage wars have vested economic interests in its continuation rather than peace.<sup>1003</sup> Continuation of war grows some businesses such as exploitation of low-technology, high value commodities like timber, and wildlife products, which are banned by various international conventions. Because of the restrictions imposed by these conventions the anarchical environment caused by war creates an open crime zone and a safer space for extraction and exploitation of banned products.<sup>1004</sup> Consequently, these products and others like war equipment are more profitable in conditions of armed conflict. While the profiteers might be a small minority of population, they are often very influential. This behaviour is evident from various wars across the world, which illustrates how combatants engage in predatory economic activities even when the genesis of the war is due to genuine grievances. This change denotes that grievance-based and instigated wars have the potential to mutate to greed wars with the intention of economic gain or profit making especially with existence of resources.<sup>1005</sup>

Preferences for private gain or profit are what Collier and Hoeffler refer to as “greed”, which drives rebels into indistinguishable habits from bandits or greedy entrepreneurs. From a profit perspective, the instrumental cause of war is the availability of lootable resources and the opportunity to organise and thereafter, war is sustained through looting of available resources and extortion of local populations.<sup>1006</sup> James Fearon and David Laitin share similar views but introduce the concept of state strengths in their discourse. Fearon and Laitin aver that areas with resources are prone to war if a weak state is in place. In wars, instigators require business intermediaries to access commodity, financial or arms market. Consequently, a wider variety of

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<sup>1003</sup> David Keen, “Economic Initiatives to Tackle Conflict: Bringing Politics Back, in Occasional Paper 9, in Crisis States Occasional Papers, Destiny Development Studies Institute May, 2009. [www.ise.ac.uk](http://www.ise.ac.uk) accessed on 24/08/2017.

<sup>1004</sup> Liam Downey, Eric Bonds and Katherine Clark, “Natural Resource Extraction, Armed Violence, and Environmental Degradation” *Organ Environ.* 2010 Dec; 23(4), pp. 417-445. <https://www.ncbi.nlm.nih.gov>, accessed on 20/07/2020

<sup>1005</sup> Karen Ballentine and Heiko Nitzschke, “The Political Economy of Civil War and Conflict Transformation”, pp. 3-5. <http://www.berghof-handbook.net>, accessed on 20/07/2020.

<sup>1006</sup> Nicholas Sambanis, “Using Case Studies to Expand Economic Models of Civil War”. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.352.3256&rep=rep1&type=pdf>, accessed on 12/03/2018.

commercial operators intervene ranging from barefoot local entrepreneurs to international brokers, an aspect that characterise wild zones in war business and earns both the intermediaries and instigators a lot of profit.

The second economic school of thought was developed by scholars associated with the World Bank and argues that war damages the economy through the destruction of resources and shrinking internal and external investment, all of which contribute to high losses. More importantly, expenditures in war activities have a high opportunity cost and crowd-out investment in priority areas such as education, health and infrastructure. Furthermore, war activities not only crowd-out investment in other areas but also hamper direct investment resulting in affected regions incurring heavy financial losses.<sup>1007</sup> In the second school of thought, the cost of destruction and the loss of revenue from services accruing from destroyed property are high with the cost of lost property and lives in a volatile region as well as the longer-term effects of post-traumatic stress disorder (PTSD) on its residents are unspeakable. The costs related to deaths and injuries are not accounted for in the aforementioned financial losses. Albeit all these losses, there are many who make profit. There are several aspects in the above argument that influenced the arms trade in Mount Elgon and war economy among actors in the SLDF-led war.

### **8.3 Arms Trade in Mount Elgon**

This section looks at the brief history of the arms trade in Mount Elgon and the causes of the conflict in the region. In each of these contexts, it looks at how the arms flow exacerbated the conflict and the war economy. Mount Elgon communities live in a region that borders Uganda and not very far from Sudan, countries that were for long affected by wars. Consequently, the region is a reservoir of weapons and business people who engage in guns and ammunition smuggling.<sup>1008</sup> For example, large quantities of small arms were brought across the Uganda border into Busia, Bungoma and Trans Nzoia, where they were sold to the Sabaot and Bukusu

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<sup>1007</sup> Renuka Ganegodage and Alicia N. Rambaldi, "Economic Consequences of War: Evidence from Sri Lanka, School of Economics," the University of Queensland, QLD 4072. Australia Version: 26 October 2013. <http://www.uq.edu.au/economics/abstract/453.pdf>, accessed on 12/3/2018.

<sup>1008</sup> M. Kathina, *Unveiling Women as Pillars of Peace, Peace Building in Communities Fractured by Conflicts in Kenya*. New York: UNDP, 2000, p. 52.

communities. Because of the existing ban on the private trade of weapons in Kenya, the guns were transported in sacks full of grains, from where they were further sold to communities.<sup>1009</sup>

The history of arms trade in Mount Elgon predates colonial rule. From 1840, Seyyid Said Sultan of Zanzibar encouraged trade caravans into the interior of East Africa and it was during this period that Arab and Swahili traders ventured into Western Kenya.<sup>1010</sup> The Arabs and Swahili brought guns into Bukusu-land in Mount Elgon region, and sold them to the Bukusu in exchange for cattle, ivory, leopard skins, ghee and honey.<sup>1011</sup> Historical accounts indicate that from the 1880's, caravan traders on the way to the Buganda Kingdom passed through Mount Elgon region where they exchanged some of their goods, such as beads, cloths, ornaments and even guns and gun-powder for food and other products. According to Vincent Simiyu, the Bukusu under warriors like Mukiite wa Omumeme and Namachanja acquired guns and became proficient in the art of their use.<sup>1012</sup> Additionally, the remnants of guns that were used in the Italo-Abyssinian war later proliferated into Mount Elgon region. After the war, the Turkana and Karamoja traded ivory for arms and by 1910 the guns had largely reached Northern Uganda and Mount Elgon.<sup>1013</sup> At the onset of colonial rule, European explorers who visited the region used guns for game hunting in Mount Elgon and after the imposition of colonial rule and recruitment of colonial agents, guns were used in training colonial soldiers and frequently used to quell rebelling Africans from the region. While the arms were originally introduced at a large scale to protect colonial interests, they slowly found their way into the hands of local communities. Accounts documented in colonial annual reports indicate that guns were highly in use by the Turkana, Pokot and the Bukusu forcing the British to conduct numerous disarming raids from February 1910.<sup>1014</sup> By 1950s onwards, the persistent conflicts between the Karamojong, Turkana, Toposa

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<sup>1009</sup> K. Mkutu, "Pastoral Conflict and Small Arms" *op. cit.*

<sup>1010</sup> Ann Kisaka Nangulu, "Resistance of the Imposition of Colonial Rule in Bungoma District: A Case Study of the Lumboka-Chetambe War of 1894-1896," A dissertation Submitted in Partial Fulfilment of the Requirements of the B.A. Degree of the University of Nairobi, June 1986, p. 30.

<sup>1011</sup> *Ibid.* p. 31.

<sup>1012</sup> Vincent G. Simiyu, "The Emergence of a Sub-Nation: A History of Babukusu to 1990," *Trans African Journal of History*, Vol. 20 (1991), pp. 125-144. <http://www.jstor.com/stable/24520306>, accessed on 02/09/2020.

<sup>1013</sup> *Ibid.*

<sup>1014</sup> John Arianda Owiti, Local Knowledge of, and Responses to, HIV-1/AIDS among the Turkana of Lodwar Township, A Thesis Submitted to McGill University in Partial Fulfilment of the Requirements of the Degree of Doctor of Philosophy in Anthropology, 2007, p. 129.

and Didinga and subsequent failure by the state to provide security provided an incentive for the proliferation of more guns.

Throughout the 1970s and 1980s, guns became a common weapon among the communities living around the Mount Elgon region on both sides of Kenya and Uganda.<sup>1015</sup> The process of arms trade was exacerbated in 1986 when Karamojong warriors in Uganda were recruited into the Uganda National Liberation Army. When Obote was ousted by Museveni in 1986, most Karamojong soldiers fled with all their arms to Karamoja. Most of these arms were later sold to communities across the border in Kenya. With porous borders, the arms trade became a complex web to disentangle and put to an end, especially in view of absentee or weak state authority along the frontiers. The ethnic clashes witnessed in Mount Elgon in 1992 further exacerbated illegal trade in arms whereby cross-borders would acquire and sell guns to other parts of the region and as far as Kitale. The trend of this illegal trade of arms and its proliferation can be mainly attributed to the animosity between the Bukusu and Sabaot communities. However, the proliferation was to escalate following the armed land conflict in Chepyuk settlement scheme between the Soy/Bok and Mosop/Ndorobo groups of the Sabaot. During this period, the Chepkube borderline facilitated easy access to arms by the militia group, the Sabaot Land Defence Forces (SLDF), who bought and smuggled weapons to Cheptais through the porous border.

Apart from arms trade, Mount Elgon region is also known for its long history of coffee smuggling. In the Cheptais area there stands the Chepkube borderline, one of the frontiers between Kenya and Uganda. This borderline came to the national limelight in the 1970s and became famously known by a Swahili term of “*soko ya magendo*”, meaning the smuggling market or black-market. There was unprecedented trade conducted by both Kenyan and Ugandan illegal traders, which mainly entailed trafficking and smuggling of commodities from Uganda into Kenya due to better prices on the Kenyan side.<sup>1016</sup> Between 1974 and 1978, Chepkube was the centre of coffee smuggling, popular known as “Black Gold”, between Kenya and Uganda.

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<sup>1015</sup> James Bevan, *Blowback: Kenya's Illicit Ammunition Problem in Turkana North District*, Geneva: The Small Arms Survey, 2008.

<sup>1016</sup> Roger Kurtz, *Urban Obsession Urban Fears: The Postcolonial Kenya Novel*, Oxford: James Currey Ltd, 1998, p. 169.



The smuggling, which was a multimillion syndicate, was exercised by senior politicians, administrators, traders and prostitutes, all of them connected to and by the cash minting adventure. Chepkube market became a paradise where the most traded commodity was coffee from Mt. Elgon District in Kenya to Bagisu District in Uganda. Given that the main trade routes were under tight security watch, the illegal traders used Chepkube borderline as an alternative route, a route that was very risky and necessitated traders to have weapons for defence.<sup>1017</sup>

Arms are a significant independent variable in analysing armed conflict. The flow of arms significantly creates an environment that is the lethality of armed violence and conflict.<sup>1018</sup> Consequently, the availability of and trade in firearms is an aggravating factor in armed conflict. In Mount Elgon's armed conflicts, firearms were the weapon of choice, the main instrument of death and destruction, and were often used by each side to forcibly push the enemy out of contested lands. The illicit arms trade and market in Mount Elgon region are very complex as there is a multitude of sources of illicit weapons and a wide ranging demand for weapons. This complexity of the market and the porous borders created multiple avenues for firearm smuggling across the borders by different actors involved in the war market. Based on this impression, it can be deduced that the long history of arms trade around Mount Elgon region helped perpetuate the different wars.

#### **8.4 Profiteering in the Shadows of the SLDF War**

Empirical evidence reveal that the personal experience of war are deeply chaotic and bloody with scholars like Milton Leitenberg going as far as describing the war scenario as a death experience.<sup>1019</sup> Despite the complexity of war and the effects thereof, contemporary analysis of war remains deceptively simple, describing struggles and/or between the defined interests of different actors, all neatly ordered for different objectives. However, there some studies undertaken in conflict zones such as Mozambique, Sri Lanka, and Angola, which indicate that although wars fracture lives, there are also elusive, uncharted and connected landscapes that

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<sup>1017</sup> Ibid.

<sup>1018</sup> Owen Green and Nic Marsh, "Governance and small arms and light weapons," in Owen Greene and Nic Marsh (eds) *Small Arms, Crime and Conflict: Global Governance and the Threat of Armed Violence*, London: Routledge, 2012, p. 250.

<sup>1019</sup> Milton Leitenberg, "Death Wars and Conflict in 20<sup>th</sup> Century," Cornell University, Peace Studies Occasional Paper 29, 3<sup>rd</sup> ed. August 2006. <https://www.clingendael.org>, accessed on 25/07/2020.

benefit many. A fact that is supported by Carolyn Nordstrom who argues that much of what actually transpires in contemporary war zones happens in the “shadows”, a zone beginning at the edge of official state order and extending into the heart of legal darkness where a lot of business takes place.<sup>1020</sup> Consequently, one can conclude that while it is a fact that the lives of people living in war zones are radically and significantly disrupted and war situations are always a matter of life and death, at the core of this hostile environment is a thriving business ecosystem conducted through a series of shadow networks, which becomes the only way to survive for those caught up in war.<sup>1021</sup> Research undertaken by Levi Cheruo Cheptora<sup>1022</sup> and Heri Ryanga<sup>1023</sup> on the SLDF war of Mount Elgon demonstrate that the wars caused extensive damage to the lives of the locals, with a lot of fatalities, significant bodily harm, rape, disease, economic loss, as well as psychological and emotional trauma resulting from military and police brutalities. Overall, the cost of the SLDF war was high in terms of human life, property destruction and government security expenditure. However, in spite of the high costs, there was room for under cover economy, which thrived and benefited various actors. This section examines the profiteering that took place in the shadows of the Mount Elgon war.

In order to get more insight into the hidden issues of the Mount Elgon war, the topic of the profits of the war must be analysed. War profiteering is a very old phenomenon probably as old as the war itself. In any war there are always groups supplying material to equip the different groups of fighters engaged in the war and therefore, profit from war. Henk-Jan Ivan Maanen supports this argument when he states that in any war, there must be some people making profit from the troubles that ensue.<sup>1024</sup> Additionally, this perspective is affirmed by P.W. Singer who avers that war is a political instrument used to pursue political commerce and therefore, it is a

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<sup>1020</sup> Carolyn Nordstrom, *Shadows of War: Violence, Power, and International Profiteering in the Twenty-First Century*, Berkeley: University of California Press, 2004.

<sup>1021</sup> Ibid.

<sup>1022</sup> Levi Cheruo Cheptora, *The Ugly Beautiful Tale of a Stupid, Stupid Hear*, Seattle: Create Space Independent Publisher, 2016.

<sup>1023</sup> Heri Ryanga, *Women and Conflict in Mt. Elgon: Assessing Rape as a Weapon in Armed Conflict, 1991 – 2008*, Masters Project Paper Submitted in Partial Fulfilment of the Requirements for the Award of Master of Arts in Armed Conflict and Peace Studies, Department of History and Archaeology, University of Nairobi, November 2013.

<sup>1024</sup> Henk-Jan Van Maanen, “Profiting from the Troubles: How a Profit is being Made on the Troubles and What Impact it has on the Peace process in Northern Ireland,” Master’s Thesis in Human Geography, Radboud University Nijmegen; October 2013.

business competition.<sup>1025</sup> The weapons industry is a classic example but there are many other groups of profiteers who often do not get a lot of media and scholarly attention. These individuals or groups make profit from warfare by selling weapons and other goods to one or even more parties at war.<sup>1026</sup>

Apart from profiteering during war, there is the concept of post-war profits, with existing evidence indicating is always a sharp turnaround at the community level that is intricately linked to the changing nature of profit making from the shadow economy to post-war economy. This notion is supported by a study by the UNDP, which indicates that even when war ends, various actors emerge to engage in activities that lead to post-war profit making.<sup>1027</sup> The principal actors in this process of profit accumulation and concentration are the same as with ending of the war, some actors may shift identity from fighters to peace makers who benefit from peace processes. There is evidence that local communities and individuals are always eager to resume economic activity and recover their livelihoods or find new ones as well as initiatives from the local communities and other actors that stimulate and impel economic activity after war. These activities include reviving livelihood activities, reconstruction and rehabilitation of basic services and infrastructure including schools, health care and community-based peace forums, all of which attract funds from donors.

During the 2004 to 2008 war in Mount Elgon, SLDF battled with MLDF and the state over issues of land, however, while land triggered the war, the war took on political and economic undertones as the war progressed, which provided the war actors with the opportunity to generate profits. It is from this view that this discourse adopts a central argument that war was economically beneficial to a number of actors in Mount Elgon alongside other motivators and seeks to determine how financial benefits were made and how the war and subsequent peace efforts generated wealth and jobs for many people, and how financial gains served as motivation or incentive for some actors to continue with the war. The overall aim being to establish the

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<sup>1025</sup> P. W. Singer, "War, Profits, and the Vacuum of Law: Privatized Military Firms and International Law," in *Columbia Journal of Transnational Law*, Volume 42, No. 2, 2004.

<sup>1026</sup> Southern Studies, "Bechtel the Biggest War Profiteer," 2005. Available at [www.southernstudies.org/reports/bechtel.pdf](http://www.southernstudies.org/reports/bechtel.pdf), accessed on February 23, 2018.

<sup>1027</sup> UNDP, *Post-Conflict Economic Recovery: Enabling Local Ingenuity*, New York: United Nations Development Programme, 2008, pp. 48-55.

economic profits that accrued from the SLDF-led war as it is an area of that has been largely under-researched in existing research on the SLDF war yet based on the theories of Collier and Anke Hoeffler war has an element of motivational feasibility.<sup>1028</sup> As argued by Paul and Hoeffler, economic profit is a very important aspect of war and this was not any different in the Mount Elgon war. Economic profit came into play and was a motivating factor of the continuity of the war although members of the Soy/Bok clan, who instigated the war, were primarily motivated by their grievances over how the land issue was handled at Chepyuk Settlement Scheme. While what came to the fore were the grievances of the people, the shadow economic activities were always present though covertly. In explaining the profiteers in the Mount Elgon war, this section utilises Jonathan Goodland's argument on the taxonomy of the war economy, which proffers three types of war economies, the combat, shadow, and coping economies.<sup>1029</sup>

#### **8.4.1 Combat Economy**

The combat economy funds the war efforts of different actors starting from government to militia fighters with the main aim of achieving the military objectives of the said war or conflict.<sup>1030</sup> The means used to generate resources in combat economy include predatory taxation of licit and illicit economic activities, extortion of local businesses and the control over the exploitation of natural resources among other means. In analysing combat economy, Goodhand argues that these are economic activities that directly sustain actual combat and in analysing these activities, one must consider take into account the social relations, particularly the power relations, which influence the production, distribution, and consumption of resources. To understand the social interactions in societies one must analyse how the prevailing social relations are organised around power or the ability to control other people and processes even in the face of war.<sup>1031</sup> In the case of the SLDF war, the main actors in its combat economy were the security apparatus of the state and various militia groups operating in and around Mount Elgon as well as conflict entrepreneurs who supplied weapons and military material.

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<sup>1028</sup> Paul Collier and Anke Hoeffler, "Greed and Grievance in Civil War," in *Oxford Economic Paper*, Oxford: Oxford University Press, 2004.

<sup>1029</sup> Jonathan Goodhand, "Afghanistan," in: Pugh, M. and N. Cooper, with J. Goodhand, *War Economies in a Regional Context: Challenges of Transformation*, Boulder: Lynne Rienner Publishers, 2004.

<sup>1030</sup> Jörn Brömmelhörster, and W. C. Paes (eds.), *The Military as an Economic Actor: Soldiers in Business*, Basingstoke: Palgrave, 2003.

<sup>1031</sup> Sage, "What is Political Economy? Definitions and Characteristics". [https://us.sagepub.com/sites/default/files/upm-assets/26776\\_book\\_item\\_26776.pdf](https://us.sagepub.com/sites/default/files/upm-assets/26776_book_item_26776.pdf), accessed, 25/07/2020.

The Mount Elgon war placed the Kenyan state in a position to be party to the war profits once it took the responsibility to quash the SLDF from continuing with its operation in Mount Elgon. For the state to effectively execute its objective, it needed the military equipment, which necessitated acquisition and thus by purchasing military equipment to deal with the SLDF insurgency, the state became a stakeholder in the war economy. The purchase of military equipment and other provisions, ranging from weapons to food, required the Kenya government to invite contractors to supply goods and provide certain services. Consequently, this saw the engagement of military contractors to supply weaponry, food provisions and also provide security, logistics and operational services, thus creating a profit making opportunity for these contractors. These economic activities by various actors in conflict turn the war to a process of social transformation in which violence is functional and is used to achieve specific gains.<sup>1032</sup> Additionally, there are various actors who invest in warfare ensuring a vicious cycle of violence because of the associated gains in terms of profit. War therefore creates conflict entrepreneurs who equally played a significant role in sustaining the conflict in Mount Elgon.

Conflict entrepreneurs during the SLD-led war were arms traffickers who crossed the border from Uganda and sold their arms to the militia fighters. It should be noted that the SLDF conflict went on for almost three years before the government's serious intervention hence there was a high demand for weapons and a supply chain was thus established by conflict entrepreneurs. The porous border made it easy for traffickers in arms as the main entry points were located at Lwakhakha, Chepkube and various footpaths through the forest, which were not heavily manned or under surveillance.<sup>1033</sup> Other entry points used by the smugglers and conflict entrepreneurs were Kanyalus, Suam, Amudat and Kiwawa in West Pokot from where the weapons were taken to markets in Mount Elgon through Endebess in Trans Nzoia. Mutual exchange of goods between Kenya and Uganda border communities made it easier for arms traders to acquire guns through barter trade, with militia fighters exchanging livestock for arms.<sup>1034</sup> The arms trade was known to the police, as demonstrated by a report in the one of the national dailies, which quoted a one-time Bungoma Police Boss, Nathan Ochunge as stating:

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<sup>1032</sup> Achim Wennmann, "The Political Economy of Conflict Financing: A Comprehensive Approach Beyond Natural Resources," in *Global Governance*, Vol. 13, No. 3 (July–Sept. 2007), pp. 427-444, Published by: Brill Stable. <http://www.jstor.com/stable/27800670>, accessed on 20/07/2020

<sup>1033</sup> Interview with Silas Kiplimo Naibei, Chepyuk, Cheptais,

<sup>1034</sup> Kamencu, *The Terrorized Citizens*, Nairobi: Security Research and Information Center, 2008

The smugglers sneak into the country illegal firearms and ammunition from Uganda, posing a serious security threat, especially in Mt Elgon region. The region has many illegal firearms, which criminals use to maim innocent people.<sup>1035</sup>

The main types of weapons available in the shadow economy were the Russian-made AK-47 semi-automatic rifles, the MK-4s, G3s, FNs, hand grenades and even anti-aircraft guns. At the time an AK-47 went for between KES 10,000 and 20,000 or could be exchanged with a cow.<sup>1036</sup> Aside from the porous border and non-manned border points, corruption among government security official also aided the arms trade. Conflict entrepreneurs bribed Kenyan security officers to overlook security inspections. The bigger the bribe the higher the possibility that the officer taking the bribe will have little interest in inspecting contraband goods thus providing arms traders with the opportunity to hide weapons inside goods. Trade in arms led to extensive profit making starting with security forces, conflict entrepreneurs and militia groups while civilians, informal enterprises, smugglers and traders bought weapons with the purpose of making profit. Even children as young as five years and disabled persons engaged in the market doing petty trade.<sup>1037</sup> Disabled persons found it easy to smuggle goods across because border officials were hesitant to apprehend them, lest the public interpret it as harassment. Commonly traded goods included polythene bags, cement, cigarettes, wheat flour, cooking oil, radio batteries and salt.<sup>1038</sup>

The outbreak of armed conflict in Mount Elgon created more room for the warring factions to exploit profits from the already existing trade and fund the war. The main actors in this arrangement were militia commanders, fighters of the different warring parties and suppliers of weapons and other war-supporting materials.<sup>1039</sup> The revenue generated funded not only the acquisition of arms and other supplies with which to perpetuate the war but also as a source of personal wealth for the various actors. The latter contributed to the continuation of the war as ending the war was not in the interest of the different actors who sought to maintain the status

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<sup>1035</sup> Nathan Ochunge and Ignatius Odanga, "Uganda Border Points a Safe Haven for Cunning Smugglers," in Standard Digital, 17<sup>th</sup> December, 2017. <https://www.standardmedia.co.ke/article/2001263411/>, accessed on 20/12/2018.

<sup>1036</sup> Patrick Ngaina Kisenbe, interview with the author, Ngachi Sub-location, Cheptais, Mount Elgon, 03/06/2016.

<sup>1037</sup> Joseph Karimi, "Black Gold Trade that Turned Kenyans into Millionaires," in *The Standard*, January 8, 2014. <https://www.standardmedia.co.ke/>

<sup>1038</sup> Ibid.

<sup>1039</sup> Haggai Matsiko, "Stemming gun violence," in *The Independent*, July, 28, 2012. <https://www.independent.co.ug>, accessed on 23/07/2020.

quo in order to continue benefiting from the war. The state security agencies participation by default particularly by taking sides in the conflict and use state resources to support a particular faction. The elite from the region used NGOs to get funds claiming injustice from the Mosop/Ndorobo and the Soy/Bok.<sup>1040</sup>

In discussing combat economy in Mount Elgon, we cannot avoid the question of underground gun markets that developed in the region because of poaching and the availability of arms across the region due to the porous border as noted by Cherotich Mung'ou who asserts that the porous Kenya-Uganda border facilitated trade and the proliferation of small arms and light weapons (SLAWs).<sup>1041</sup> According to a survey undertaken by the Government of Kenya and the Geneva Small Arms Survey Group, the availability of small arms prompted misuse by law enforcement officers and criminals, which increased insecurity across the country.<sup>1042</sup> As averred by Kennedy Mkutu, proliferation of smalls generated a business cartel that comprised government security agents and criminals.<sup>1043</sup> Existing evidence alleges that police rented arms to poachers who used the arms for poaching and thereafter would collude with the police to blame the militias. The sources of firearms appear to be official state stocks, which had been legitimately procured but diverted to the illicit market. After killing the wildlife, animal trophies were used for exchange for firearms thus becoming a valuable currency. The firearms were then used to perpetuate the war as well as support the poaching of animals in the region. The system was beneficial to both criminals and state security agents and the alleged renting of guns to criminals by the police demonstrates how the police were active participants in the combat economy and how their involvement supported and sustained the conflict.

The availability of abundant natural resources including wildlife, timber, land, etc. made the SLDF-led war a self-financing conflict. Evidence reveals that militia leaders and some security

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<sup>1040</sup> Ibid.

<sup>1041</sup> Cherotich Mung'ou, "The Role of Information and Communication Technologies in Peacebuilding in Mount Elgon Region, Kenya," A Thesis submitted to the Institute of Postgraduate Studies and Research, in fulfillment of the requirements for the award of the degree of Doctor of Philosophy in Communication Studies of Kabarak University, June, 2016, pp. 67-69.

<sup>1042</sup> GOK, "Security and Firearms Proliferation in Kenya: Progress and Challenges". <http://www.smallarmssurvey.org/about-us/highlights/highlight-kenya.html>, accessed on 24/07/2020.

<sup>1043</sup> Kennedy Mkutu, "The Private Security Industry in Kenya: Issues and Challenges," in Thomas Jager and Gerhard Kummel (eds) *Private Military and Security Companies: Challenges, Problems, Pitfalls and Prospects*, Heiderberg: Springer Science & Business Media, 2009, p. 196.

agents operated a lucrative poaching operation at a massive scale with state resources deployed to stop the conflict being diverted to finance the illicit operations.<sup>1044</sup> The illicit trade in wildlife products from Mount Elgon became important goods of trade in a criminal enterprise that increasingly militarised the region and the involvement of the police action was proof of the profitability of the Mount Elgon war and the interests of the different actors in ensuring the war continued. This supports the common claim by researchers of war indicating that wars enable warlords to select specific businesses and business people whom they grant monopolies and protection as they go about their businesses.<sup>1045</sup> In the case of Mount Elgon, business was enabled by both the state and the militia. On the side of the state, security agents supported criminals in their poaching enterprise, while on the side of militias, the militia groups supported smuggling activities across the porous border and subsequently shared in the profits generated by the traders. It is worth noting that trade exists in any society before outbreak of war and for the case of Mount Elgon the trade sector was very successful and transcended clan divisions that became apparent following the outbreak of the SLDF-led war. As discussed in the section of history of arms trade, which dates back to colonial era and exacerbated by 1970s goods smuggling, SLDF fighters simply took over the existing trade and developed it into a cartel structure. Before the Chepyuk Phase III land issue cartels primarily focused on the land deals with the provincial administration, but with the outbreak of the war, SLDF began looking inwards, exploiting the local communities to finance their operations. SLDF commanders grew increasingly paranoid of the government, which led to a highly weaponised environment whereby secret entry points from Uganda became the supply line. They took control of footpaths across the porous border monopolising the cross-border trade and benefitted from transaction costs, which included the cost of handling security while dealing with business people who wanted militia protection as well as market and price information of commodities.<sup>1046</sup>

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<sup>1044</sup> Rebecca Okwany, "Ivory worth about Sh100 million seized at Mombasa port," in Daily Nation, Wednesday January 16 2013. <https://www.nation.co.ke/News/Ivory-worth-about-Sh100-million-impounded-at-Mombasa-port/-/1056/1666718/-/1x7ugoz/-/index.html>.

<sup>1045</sup> StigJarle Hansen, "Civil War Economies, the Hunt for Profit and Incentives for "Peace" AE Working Paper No.1, 2007, pp.75-91. <http://www.bath.ac.uk>, accessed on 3/2/2018.

<sup>1046</sup> Rose Chepkum Belio, interview with the author, Chepyuk Sub-location, Cheptais Sub-County, 05/06/2016.



### 8.4.2 The Shadow Economy

Existing literature on the shadow economy demonstrates that there are challenges in explaining the concept with Mara Eugenia Ramona arguing that in the existing literature, a lot of expressions including underground economy, occult, invisible, black, grey, ghost, unofficial or informal being used to describe this type of war economy.<sup>1047</sup> On his part, Philip Smith, defines the shadow economy as an unregistered economic activities that could contribute to the officially calculated gross national product if the activities are recorded. As such, it is a market-based production of goods and services that escapes detection in the official estimates of GDP.<sup>1048</sup> Regardless of the varied terms used by different scholars, the key elements of this economy are that it is unrecorded, hidden and involves illegal market activities and prohibited production, with the latter involving tax evasion.

The shadow economy involves wealth making practices that fall outside state-regulated frameworks with the main actors being conflict profiteers, transport providers, businessmen, militia commanders and other criminals operating in the affected area.<sup>1049</sup> Thus the shadow economy thrives on profit from the unregulated and chaotic business opportunities created by war situations. In a conflict, profit margins widen under coercive militia power and those who are connected to the militia controlling the region gain significantly from cross-border smuggling activities, which are part and parcel of ungoverned peripheral border areas.<sup>1050</sup> It should be understood that, shadow economies do not necessarily start with the conflict, rather the shadow economy exists and is always widespread in any given society. However, in a conflict setting it sometimes becomes part of the incentive that motivates those who wage war to start it because they wish to control the profits. Once conflict erupts, shadow economies are easily captured by combatants and, thus, often become the basis for the combat economy. In Mount Elgon for instance, poaching and hunting for game meat has a long history as does the smuggling of goods across the border areas. However, existence of the shadow economy provided a motivation for

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<sup>1047</sup> Mara Eugenia Ramona, "Causes and Consequences of Underground Economy," Babeş-Bolyai University, Faculty of Economics and Business Administration, 58-60 Th. Mihali Street, Cluj-Napoca, Romania. <https://www.researchgate.net/publication/241765966> .

<sup>1048</sup> Philip Smith, "Assessing the Size of the Underground Economy: The Canadian Statistical Perspectives," in *Canadian Economic Observer*, 1994, pp. 16–33.

<sup>1049</sup> Ballentine and Nitzsche. *The Political Economy of Civil War*.

<sup>1050</sup> F Schneider, and D. Enste, *The Shadow Economy: Theoretical Approaches, Empirical Studies, and Political Implications*, Cambridge: Cambridge University Press, 2002.

militia groups operating in the area to engage in profit making and to use the shadow economy to perpetuate the combat economy. Consequently, once the militia groups acquired arms, they increasingly gained control over these economic activities to finance their armed confrontation in Mount Elgon.

Mount Elgon was an open crime zone given that SLDF and MLDF were civilian militias who were not subject to military code of conduct. Actors in the war established conditions in which unaccountable crime took place without question and where the driving forces was the benefit accruing to them. They sought to privatise the war and adopted kidnapping, torture and rape as combat strategies in order to subjugate the civilians and perpetuate the violence, which is affirmed by Johnson Cheprot Takur, who describes how SLDF terrorised the local population. Takur notes:

They would storm into our homes. Forced the doors open. At a gun point they rounded up cows, beat their captives as they walked them deep into the forest. When they reached the bush they would tie their captives to trees, head hanging down. They would beat them while asking the captives to surrender all their possessions including land or be killed. They would then release one captive to go and bring cash or some valuables to buy the freedom of others. They would then cut off one ear as a mark, and then they made the captive to eat it as a process of sealing the covenant.<sup>1051</sup>

Echoing Takur's view a police officer whose name is withheld stated that:

The SLDF militia captured people and punished them through heavy fines handed down by the bush "courts." Captives had to sell property, livestock or even land when the fines imposed became too heavy. And they would never report to us because they were being watched all the time by people they did not know.<sup>1052</sup>

Kidnapping was a quick source of cash for the militias operating in Mount Elgon and the security forces. The phenomenon began as a means of punishing those involved in criminal activities that the state wanted to contain and those who divulged information to the state and therefore the militias wanted to punish them. However, cash and extortion soon became the main motive

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<sup>1051</sup> Johnson Cheprot Takur, interview with the author, Cheptais Sub-County, Chepyuk Location, 04/06/2016.

<sup>1052</sup> Interview with a local man, Chepyuk-Mount Elgon, 04/06/2016.

behind those who engaged in the kidnappings.<sup>1053</sup> Extortion is a common practice in regions where militia groups or criminal gangs operate. According to the Global Initiative Against Transnational Organized Crime, poor nations that have weak state control risk falling into political turmoil, violence and the takeover of power by militia groups and subsequently, weakened state institutions, shrunken economies, a divided society and systematic perpetuation of violence become characteristic of such societies. In turmoil and armed violence, militia groups run the shadow economy by extorting money and other benefits from their victims.<sup>1054</sup> In Mount Elgon, systematic and large scale extortion by SLDF became the most common facet of the conflict, which affected the highest number of victims with anyone living in SLDF-controlled areas obligated to pay the extortion fees. This included anyone who ran any informal or formal business, such as vendors and shopkeepers, who had to pay a monthly protection fee.<sup>1055</sup> SLDF justified the extortion as financial support for the just cause, which they were fighting on behalf of the Soy/Bok community as was reflected in the name SLDF gave to the levy imposed on the people, the war tax, which accrued to the SLDF leadership.

Scholars such as Clifford Shaw and Henry McKay explain militia extortion from the crime point of view positing that militia presence is due to social disorganisation.<sup>1056</sup> They use spatial mapping focusing on poor housing, poor health, socio-economic disadvantage and the presence of transient populations as preconditions that favour the emergence of shadow economy and extortion syndicates. They aver that extortion as a crime becomes a function of social dynamics emanating from poverty and disgruntlement and not due to individual actors and their actions.<sup>1057</sup> They further assert that areas settled by ethnicised violent groups often experience a breakdown in social norms and order due to ethnic diversity and competing cultural traditions. Consequently, the conventional institutions of social control are therefore weakened and unable to regulate the behaviour of local population, which in turn forms criminal gangs that create insecurity and then commence to exhort their victims. This perspective is supported by Ruggiero

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<sup>1053</sup> Chief Chemoiwo Moses, interview with the author, Cheptais Location, 5/6/2016.

<sup>1054</sup> Global Initiative Against Transnational Organized Crime, *A Criminal Culture Extortion in Central America: An Insight Crime Global Initiative Report*, Geneva: The Global Initiative Against Transnational Organized Crime, 2019.

<sup>1055</sup> Joseph Nandasaba, interview with the author, Cheptais Trading Center, 03/06/2016.

<sup>1056</sup> Clifford Shaw and Henry McKay, "Social Disorganization Theory," in *Encyclopedia of Criminological Theory*, London: SAGE Publications, Inc. 2014, pp. 3-6.

<sup>1057</sup> Ibid.

Vincenzo and Nigel South, who argue that people who are excluded from benefits of government or any allocation have a tendency of sticking together in order to form a unified force to protect themselves with such groups often unified along familiar lines, primarily ethnic affiliations.<sup>1058</sup> These groups then form ethnocentric militia groups in the name of security. In areas where land conflicts are prevalent, various actors continuously subject each other to clashes by invading and taking over territories occupied by others, which results in persistent insecurity. The security threats caused by such violence triggers the formation of militia groups, which emerge to protect their people's interests and to this, the militia groups demand protection fees from those they purport to be protecting as was the case in Mount Elgon during the SLDF-led war.<sup>1059</sup>

Aside from extortion, kidnapping for ransom was a common practice and a profitable business for the SLDF militia and other militia groups. The militias anticipated payoffs for the release of kidnapped women and children, failure to which they threatened to kill their captives. In some incidences, they made true their claims by killing captives whose family members did not comply with their demands.<sup>1060</sup> Kidnapping for ransom as argued by Ian Bannon and Paul Collier, is not new in militia-led wars, and are common globally, with the practice being the third largest source of militia financing around the world.<sup>1061</sup> In Mount Elgon, given the amount of funds raised by the militia through kidnapping, the practice developed into an organised and lucrative business from its ad hoc criminal background.<sup>1062</sup> While there is minimal statistics on the number of abductions and the revenue generated by the militias through kidnappings, anecdotal evidence suggests that there was a significant increase in the number of abductions during the war.<sup>1063</sup> It should be clearly noted that extortion is not restricted to militia groups only, government security agencies also engaged in the practice. Local community members grappled with police demands as security forces randomly arrested civilians with the aim of demanding

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<sup>1058</sup> Ruggiero Vincenzo and Nigel South, Green Criminology and Dirty Collar Crime, in *Critical Criminology* 18 (4) 2010, pp. 251-262.

<sup>1059</sup> Robert E. Park, "Human Migration and the Marginal Man," in *The American Journal of Sociology*, Volume XXXIII, No. 6, May 1928, pp. 882-885. <https://www.journals.uchicago.edu>, accessed on 11/09/2020.

<sup>1060</sup> Bramwel Otwane, interview with the author, Cheptais Location, 03/06/2016.

<sup>1061</sup> Ian Bannon and Paul Collier, *Natural Resources and Violent Conflict: Options and Actions*, Washington D.C.: The World Bank, pp. 1-7.

<sup>1062</sup> Center for Security Studies, "Kidnapping for Ransom as a Source of Funding," CSS Analysis in Security Policy, No. 141, October, 2013. [www.css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-security-studies/pdf](http://www.css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-security-studies/pdf), accessed on 26/11/2017

<sup>1063</sup> Benson Ishepal Opagala, interview with the author, Kolanya/Chemasir, Teso North, 2/6/2016.

money or simply extracting a ransom as bail. Confirming that the police took bribes to release those they had arrested, one resident, Mr. Edward Matep, narrated to the then Western Regional Commissioner, Mongo Chimwaga, at Masaek market that:

The police have failed to secure the region and are instead working with the criminals. Police officers don't respond whenever there is an attack and when they do, they arrest and free criminals without charging them because they are compromised. That is why residents have been forced to take the law in their own hand at times to lynch suspected criminals and their associates, said Matep. Two senior police officers are colluding with criminals after collecting bribes from them.<sup>1064</sup>

Similar sentiments about the police being compromised were raised by Rhoda Chepkemei and John Ndiema, the chairman of Mt. Elgon Peace Forum who asserted that, "*Polisi hawakuji kutusaidia.....polisi kazi yao ni kuokota maiti* (Police don't come when people are in distress, they just come to collect bodies of those killed)." The chairman of Mt Elgon Peace Forum, John Ndiema, alleged that SLDF leaders had close contacts with the police in the area, including the commanders. It seems like they exhort money, and with the heightened corruption, they share it with people in authority.<sup>1065</sup> The behaviour of the police and other security agents resulted in the communities concluding that they had been compromised by SLDF leaders as they were not protecting the communities.

Apart from kidnappings, trade in firewood was another profitable enterprise that emerged during the SLDF-led war. As a primary source of fuel in most rural areas, firewood has a consistent demand, however, in areas where forests are protected, it can become a lucrative shadow business. Historical records suggest that soon after the gazettement of forests as protected areas by government, firewood became scarce and of high economic value.<sup>1066</sup> Trade in firewood was boosted by the growth and expansion of urban centres in Western Kenya and north Rift areas with firewood vendors frequenting Mount Elgon forest zones to purchase firewood from communities living around the mountain. It was this rise in the number of people in the consuming class segments of the population that provided a sufficient market for firewood and

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<sup>1064</sup> Alex Wakhisi and Raphael Wanjala, "Porous Kenya-Uganda Border Cause of Insecurity in Mt. Elgon," in The Standard Newspaper, 14, Dec. 2017. <https://www.standardmedia.co.ke/article/2001263052>

<sup>1065</sup> Stella Cherop and Dennis Lubanga, "Police Put Bounty on Key Suspect in Mt. Elgon," in The Daily Nation, Wednesday March 7, 2018. <https://www.nation.co.ke>

<sup>1066</sup> KNA/PC/NZA/2/10/7: 1931-1951, Forestry, North Kavirono, Mt. Elgon.

charcoal originating from Mount Elgon. It is evident that as urban areas expanded, firewood supply from Mount Elgon became very important.<sup>1067</sup>

Charcoal as firewood is a highly commercialised commodity in Bungoma, Kimilili, Chwele, Kapsokwony and Kitale towns. The charcoal supply chain in the said towns consists of three levels of producers, transporters and vendors. Vendors include the small scale retailers who mostly sell charcoal in small units.<sup>1068</sup> Trade in charcoal was equally an important part of the war economy and as with firewood, there was massive increase in demand for charcoal, which caused a dramatic increase in price and therefore it became an important source of income. During the SLDF-led war, trade in charcoal became increasingly commercialised with the militia becoming involved in the trading of the commodity, displacing charcoal traders, as a strategy for raising funds needed to sustain the war. From the outbreak of the war, there was a massive increase in militia produced and controlled charcoal.<sup>1069</sup> The militia used charcoal to trade for other needed commodities including purchase of weapons. Traders who were not part of the militia would be forced to pay commissions to the militia to be allowed to make use of key charcoal-making tree species like the Elgon Teak as noted by one Chief Geoffrey Kipsang, who asserted:

SLDF took over trading activities in most areas in Chepyuk. You could not sell anything without giving them a share. Those who refused to cooperate were punished severely and sometimes by death.<sup>1070</sup>

These sentiments are echoed in a parliamentary report by the Select Committee on Activities of Unlawful Organisations in Kenya, which cited SLDF as having taken over businesses in Mount Elgon and were also engaging in extortion.<sup>1071</sup>

The charcoal trade was not limited to the militia groups as government security agencies equally promoted and participated in the business. At the time of SLDF-led war, the government of Kenya had imposed a moratorium on logging in all forests across the country. Despite the ban

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<sup>1067</sup> Jairus Wafula Wamachio, interview with the author, Chwele Market, 19/7/2019.

<sup>1068</sup> Ruth Webi, interview with the author, Chwele Market, 11/7/2017.

<sup>1069</sup> Joel Oskuku Imopus, interview with the author, Kolanya, 3/6/2016.

<sup>1070</sup> Chief Geoffrey Kipsang, interview with the author, Chepyuk Location, 04/06/2016.

<sup>1071</sup> Kenya National Assembly, "Report by the Select Committee on Activities of Unlawful Organizations," Report Submitted to the National Assembly on Tuesday 10<sup>th</sup> August 2010, pp. 18-28.

some charcoal dealers in Mount Elgon colluded with police officers and Kenya Forest Service rangers to flout the rules with some claiming they were forced to bribe police officers manning roadblocks after which they were cleared.<sup>1072</sup> This is affirmed by a local charcoal trader who averred:

We have to dig deeper into our pockets to pay police officers while transporting charcoal from Bungoma and Busia, Police were taking advantage of the conflict and logging ban to harass traders. One trader can be forced to spend more than Sh50, 000 on bribing the police. Traders further claimed that the police were arresting traders then demanding that for one to be released they needed a bond of between Sh400, 000 – Sh200, 000.<sup>1073</sup>

Timber was another valuable resource extracted from Mount Elgon forest and which aided war efforts and became a significant commodity in the war economy. Although harvesting and use of timber for housing construction was practiced in the region for generations, commercial trade in poles and timber appears to have intensified during the duration of the SLDF-led. This can be attributed to a number of factors, but was primarily driven by the demand for timber in the neighbouring urban centres and the need for money by the different militia groups to finance the war, as noted by Titus Too in one of the local dailies, where he stated:

The demand for the trees, such as the Elgon Teak, is so high that it takes only hours for one to earn millions from the valuable wood products of the tree that takes between 250 to 300 years to mature. Loggers target the tree for its quality timber for furniture and other wood products. The district has expansive indigenous forests measuring thousands of acres. The wood from the tree is largely used in making wood rails, carvings, and joinery. It is also used in building bridges and for the manufacture of boats, among others. It is on high demand both locally and internationally. Apart from the Elgon Teak, the Brunas Africana, locally called Tendwet, is also a target of loggers due to its quality and medicinal properties. Its wood is strong and can also be used in making bridges and furniture.<sup>1074</sup>

This opportunity was capitalised by the militia groups and SLDF in particular. Having created violent chaos in the region, SLDF sought to reap the financial rewards of its mayhem by logging and offering protection to business people who wanted to engage in illegal logging and sale of timber. The militia also erected roadblocks and demanded payment from those transporting

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<sup>1072</sup> Joseph Nandasaba, interview with the author, Cheptais Trading Center, 03/06/2016.

<sup>1073</sup> Ignatius Odanga, “Charcoal Traders Accuse Police of Extortion and Harassment,” in *Standard Digital*, 12<sup>th</sup> Apr. 2018. <https://www.standardmedia.co.ke/business/article/2001276518/>

<sup>1074</sup> Titus Too, “Loggers Threaten Valuable Trees in Their Pursuit of Riches,” in *Standard Digital*. <https://www.standardmedia.co.ke>, published Mon, November 3<sup>rd</sup>, 2008, accessed on 09/01/2018.

timber. Timber from Elgon Teak tree species is on high demand and is highly expensive and its logging is outlawed by the government of Kenya's forest department.

### **8.4.3 The Coping Economy**

Violent conflicts across the globe adversely affect livelihoods, however, the level of impact varies depending on the livelihood system and resilience levels of the affected people. Existing evidence demonstrates that people who live in areas of war displayed various degrees of resilience in order to survive and according to Paul Collier, some display the capacity of doing well out of conflicts.<sup>1075</sup> The populations in war zones are known to develop coping mechanisms, which enable them to adopt to war induced shocks and which in most cases are determined by the ways in which the conflict affected them. Consequently, war-affected communities develop numerous interactions that provide benefits to civilians particularly the poor and the most vulnerable.<sup>1076</sup> The coping economy is very important in instances where the formal economy and traditional economy, which people depend on, has been destroyed or rendered fragile or inadequate to sustain households during war.<sup>1077</sup> The people of Mount Elgon were not any different from other conflict-affected parts of the world where economies had been destroyed by war. The agricultural economy of Mount Elgon, which is known as the food basket of western Kenya, was destroyed by the SLDF-led war thereby forcing the population in the region to adopt a coping economic strategy which included petty trade, subsistence agriculture, cross-border smuggling and assistance from family members outside the conflict zone.<sup>1078</sup>

Aside from destroying the economy, the war limited the people's ability in Mount Elgon to rely on the assets that they acquired. Consequently, the local communities also took to selling off their assets as a coping strategy. The war affected economic viability of the assets like livestock forcing many households to sell their assets as a coping strategy. The money gained from the sale of the assets was used by households to facilitate their relocation to safer areas, rent houses and start small businesses to support their families. Moreover, while the communities had

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<sup>1075</sup> Paul Collier, "Doing Well out of War," Paper Prepared for Conference on Economic Agendas in Civil Wars, London, April 26-27, 1999. <https://pdf.semanticscholar>, accessed on 03/08/2020.

<sup>1076</sup> Karen Ballentine and Heiko Nitzschike, "The Political Economy of Civil War and Conflict Transformation." <https://www.berghof>. Accessed on 30/07/2020, p. 9.

<sup>1077</sup> Ibid.

<sup>1078</sup> Geoffrey Kipsang, interview with the author, Kaimugul Sub-Location, Cheptais Sub-County, 04/06/2016.



hitherto kept livestock as a form of economic asset and saving, the war made livestock keeping a risky form of saving in the region as they were targeted by militia groups and other thieves who took advantage of insecurity to steal.<sup>1079</sup> Additionally, access to financial services including savings and credit were adversely affected by the devastating impact of the armed conflict as happens in in other conflict zones.<sup>1080</sup> The war made it impossible to access formal or informal credit because of loss of trust over the economic capacity to repay the credit as well as the mobility of the community members who were consistently in movement due to the war.

It is natural that during hard times such as war, households tend to diversify into a range of on-farm and off-farm activities to cope or survive.<sup>1081</sup> Mount Elgon wars exposed the local residents in the region to vulnerability with gradual erosion of agricultural production. Subsistence agriculture and other low-risk activities also became a coping economic strategy for the people of Mount Elgon as these were not of interest to the militia groups given their minimal economic returns. This is supported by the findings of a study done by Tilman Bruck on coping mechanisms in Mozambique, which denoted that most households in the conflict-affected regions tended to minimise risk by either moving to safer areas or resorting to activities that would not attract the attention of the militia groups and government security personnel.<sup>1082</sup> Similarly, the people of Mount Elgon resorted to retaining limited assets and in some instances liquidated their assets and relocating to safer areas, while others resorted to subsistence farming in safer areas of the district or in the larger Bungoma region.<sup>1083</sup> Some families pushed out of their farms relocated into the nearby market and farms to seek casual labour for survival. Displaced persons from Mount Elgon worked on plantations in Bungoma, Trans Nzoia and Kakamega and as far as Uasin Gishu and Marakwet counties. While there is a tendency to assume that those involved in trade were members of militia groups and security personnel, it should be noted that the majority of those involved in the illegal trade or economy were community members motivated by coping or survival.

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<sup>1079</sup> Samuel Manjurai, interview with the author, Kaptama, 14/02.2017.

<sup>1080</sup> Tilman Bruck, "Mozambique: The Economic Effects of the War," in Francis and Valpy Fitzgerald (eds), *War and Underdevelopment* Vol. 2, Oxford: Oxford University Press, 2001.

<sup>1081</sup> Jonathan Goodhand, *From War Economy to Peace Economy?* SOAS, University of London, 2003, p. 3. [http://eprints.lse.ac.uk/28364/1/Goodhand\\_LSERO\\_version.pdf](http://eprints.lse.ac.uk/28364/1/Goodhand_LSERO_version.pdf), accessed 13/05/2019.

<sup>1082</sup> Tilman Bruck, "The Welfare Effects of Farm Household Activity Choices in Post-War Mozambique," HICN Working Paper No. 04, Households in Conflict Network. [www.hicn.org](http://www.hicn.org), accessed on 20/07/2020

<sup>1083</sup> Vincas Chepkombe Kipkut, interview with the author, Cheptais, Mt. Elgon, 28/12/2016.

Subsistence farming was complimented by the informal exchange and employment markets. In order to economically cope under the new economic regime resulting from the violence and the destruction of the hitherto economy of Mount Elgon, the residents begun to engage in informal economic activities such as petty trade which was sometimes illegal. Illegal as it involved smuggling of goods across the Kenya-Uganda border<sup>1084</sup> and given the different taxation regimes in the two countries, with taxes being lower in Uganda, goods from Uganda were much cheaper than goods in Kenya, which made it lucrative to smuggle goods from Uganda into Kenya. Based on 2019 data, prices of goods in Uganda were 14.31% lower compared to goods in Kenya.<sup>1085</sup> Goods that were smuggled included sugar, electronics, clothes and farm produce such as coffee and grains. This trade was termed as informal in terms of the way business was organised. The trade was at a low-level engagement and unregistered and traders were highly vulnerable because if found by state agencies then they were convicted for smuggling whose penalty in court is very severe. Although smuggling across the border dates back to the period when the border was introduced, it was exacerbated by the by the SLDF-led war, as community members were forced to engage in production, trade of food and other commodities thus creating a survival economy.<sup>1086</sup>

Some residents of Mount Elgon opted to move out of the region to seek informal employment in other parts of Bungoma and Trans Nzoia where they worked as casual labourers, mostly as unskilled labourers, as a means of survival.<sup>1087</sup> For many of the displaced people who relocated to Bungoma and Kitale towns, job opportunities in the formal sector were scarce and as such, they had no other alternative but to seek, informal sector jobs on farms, which dominates the agriculturally rich districts of western Kenya and this provided them with their main means of earning an income. Intra-household reallocation of labour was another coping mechanism that the people of Mount Elgon adopted. As a result of war, the composition of households was altered as the majority of the men had either conscripted to fight under SLDF or had been killed during the conflict while others had joined the other militia groups that emerged to counter the hegemonic influence of the SLDF. The absence of men as household heads increased female

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<sup>1084</sup> Ibid.

<sup>1085</sup> The Editor Star News Paper, “Kenyans cross into Uganda for cheaper goods”.  
<https://www.thestar.co.ke/counties/2019-10-30>.

<sup>1086</sup> Sarah Chesame, interview with the author, Toloso, Mount Elgon, 06/01/2017.

<sup>1087</sup> Ibid.

participation in labour and other economic activities and made women household breadwinners.<sup>1088</sup> Thus it can be said that the war had an impact on household dynamics and gender roles, and particularly changed the role of some women within the household. It is worth noting that while Mount Elgon women were usually excluded from paid work because of the traditional gender roles, during the SLDF and the perceived instability of households women were forced to fill the void and as such, had to participate in the labour markets. The participation of women in productive work and assuming the role of household head in some cases, became mandatory because of the effects of the war on households with most households having experienced loss of family and friends, loss of livelihoods, harassment, and imprisonment of male household members, which forced women to enter the informal economy and become breadwinners.<sup>1089</sup>

In Mount Elgon, as in other war-ravaged regions, the destruction and the decline of the economy undermined the position of women and girls and left them vulnerable with no source of livelihood or family as their husbands, fathers or brothers were killed in war. Their activities which before war were focused around the household, home-based businesses and agriculture changed drastically. Moreover, the destruction of resources and the subsequent incapacity or limited capacity to cater to the basic needs of their households, women's self-respect and self-esteem were crushed. As a result, some women were forced to adopt negative coping mechanisms, specifically, sex work, mostly for their own survival and to provide for themselves and their family.<sup>1090</sup> As noted by Heri Ryaga cash expenses related primarily to routine needs of food and other basic needs drove some women to engage in sex for cash. In some instances, women whose families were victimised by the militia and government security forces relocated to other towns like Bungoma and Kimilili where they engaged in sex work in a bid to feed themselves. Women resorting to sex work was a desperate measure as prostitution is highly looked down upon in the communities of Mount Elgon, and their engagement in the industry denotes the adverse economic impact of the war.<sup>1091</sup> While the negative perception of sex work

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<sup>1088</sup> Heri Ryanga, "Conflict in Mt. Elgon: Assessing the Impacts of Insecurity on the Economy," Paper Presented at the 3<sup>rd</sup> Regional Academic Seminar, KEMU Mombasa Campus, 7<sup>th</sup> October, 2015, p. 7.

<sup>1089</sup> Heri Ryanga, *Ibid.*

<sup>1090</sup> Meena Poudel, "Poverty, prostitution and women," *World Health*, 47<sup>th</sup> Year, No. 6, November-December 1994. <https://apps.who.int/iris/bitstream/handle/10665/328773/WH-1994-Nov-Dec-p10-11-eng.pdf>.

<sup>1091</sup> Interview with a local woman, Kaptama Centre, 11/07/2017.

was prevalent during the pre-war period, there were differing opinions from community members after the war with some supporting the notion that prostitution is an immoral vice while others argued that it was justified as it was a source of income after economic activities were disrupted by the war.

### **8.5 ‘Losers’ of the SLDF War**

War poses multifaceted threats to humans and affects the concerned population in different ways, with some being winners and others losers. The debate of ‘losers’ in a war situation can be best determined by assessing how war affects the well-being of the people, specifically, emotionally and mentally and also how the war affects the social, economic, political and the physical and natural environment. War is accompanied by short-term, medium-term and long-term negative effects, such as forced migration, social and moral degeneration, mortalities, deprivation of basic existential needs, changes in livelihood and a higher incidence of mental, psychological, emotional and physical suffering, among others. Existing research on the impact of war point out that the atrocities committed during war inflicts extensive damage on humanity and that war has a profound and devastating social and economic impact although it is never easy to quantify estimates of the losses caused. Overall, war affects all spheres of life and at the individual level, it affects the emotional, mental and spiritual state of both perpetrators and the victims.

According to Paul Collier argue wars impose substantial costs on the domestic economy and social life given that it destroys the social fabric and economic infrastructure, including undermining the legitimacy of the state.<sup>1092</sup> Collier further notes that war reduces the existing stock of capital, which can be described as the accumulated assets of a state or community including the built environment, industries and existing equipment that add to the productive power, by destroying modes of production. Collier observed that war increases the rate of depreciation and reduces investment and growth in output generally leading to many loses.<sup>1093</sup> This perception is supported by Kosuke Imai and Jeremy Weinstein who note that wars threaten institutions by introducing tremendous uncertainty into the economic environment, making both

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<sup>1092</sup> Paul Collier, “On the Economic Consequences of Civil War,” Published in Oxford Economic Papers 51 (1999), pp. 168-183. <http://web.worldbank.org/archive/website01241/WEB/IMAGES/28150.PDF>.

<sup>1093</sup> Ibid, “On the Economic Consequences of Civil War”.

public and private investment riskier.<sup>1094</sup> However, during war these important aspects of production depreciate.

Existing evidence denotes that during war, there are specific groups in warring communities that bear the brunt of war, with women and children being the most affected especially in terms of the adverse effect of war on the social welfare effect is indicative that women were the most vulnerable.<sup>1095</sup> There arises a question of why land wars in Mount Elgon were sometimes fought over women bodies, or why rape women even where the code of conduct that should govern fighters existed. It must be noted that wars are gendered activities, right from the beginning. Actors that engage in war both use and maintains the ideological construction of gender in the definitions of war, masculinity and femininity. Men, among the Soy/Bok and Mosop/Ndorobo ethnic sub-groups, went to war to protect and defend their clan values and land, and to protect and defend “their” women and children and it is the man’s role to provide protection and liberate children and women should they be under threat or be enslaved. Based on the special place women and children occupy within the Sabaot community and other African communities, in the event of war, what happens to women and children of the warring communities determines whether the war is won or lost. Furthermore, abuse of women and children is a strong signal that the “liberator” has lost it.

Evidence from Nuremberg,<sup>1096</sup> Yugoslavia,<sup>1097</sup> Rwanda<sup>1098</sup> and Sierra Leone Special Tribunals<sup>1099</sup> on war crimes and crimes against humanity indicate that sexual violence targeting not just women and girls but also men and boys is on the rise and are increasing being adopted as a weapon of war. Sexual violence has been so rampant to the point of sparking a global debate on

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<sup>1094</sup> Kosuke Imai and Jeremy Weinstein, “Measuring the Economic Impact of Civil War,” Centre for International Development, Harvard University, Working Paper No. 51 June 2000. <http://www.cid.harvard.edu/cidwp/051.pdf>, accessed on 11/05/2019.

<sup>1095</sup> Manson B. Sichari, Jacob W. Wakhungu and Samuel N. Maragia, “Effects of Traumatized Antenatal Mothers on Their Pre-School Children in Mt. Elgon Region, Kenya,” *Journal of Education and Practice*, Vol.6, No.31, 2015. [www.iiste.org](http://www.iiste.org), accessed on 30/08/2020.

<sup>1096</sup> Kirsten Sellars, “Imperfect Justice at Nuremberg and Tokyo,” in *The European Journal of International Law* Vol. 21 No. 4, 2011, pp. 1085–1102.

<sup>1097</sup> Faiza Patel King and Anne-Marie La Rosa, “Jurisprudence of the International Criminal Tribunal for the Former Yugoslavia,” *European Journal of International Law* 9 (1998), 757-760.

<sup>1098</sup> Human Rights Watch, *Genocide, War Crimes and Crimes against Humanity A Digest of the Case Law of the International Criminal Tribunal for Rwanda*, New York: Human Rights Watch, 2010.

<sup>1099</sup> Tom Perriello and Marieke Wierda, *The Special Court for Sierra Leone Under Scrutiny: Prosecutions, Case Studies Series*, Worthington DC, The International Center for Transitional Justice, 2006.

why actors in war rape.<sup>1100</sup> Sexual violence causes direct physical harm, trauma, and social ostracism for the victim and has numerous short and long-term economic, social, cultural and health consequences on the victim. The most evident consequence is the loss of life due to sexual violence related deaths, honour killings or suicide and gynaecological fistula, sexually transmitted infections including HIV/AIDS, all of which make recovery difficult even with relative silence of guns.<sup>1101</sup> Survivors of sexual violence suffer long-term health consequences, which are accompanied by psychological trauma such as isolation, fear, panic attacks, feeling of unworthiness, suicidal thoughts among others. Rape for instance, was used as a weapon of mass silencing of not only women but the entire enemy or opponent in Mount Elgon wars.<sup>1102</sup> Women, who were attacked, as well as children born out of rape, are stigmatised and ostracised as a consequence of these crimes. This adverse impact is evident in the case of the SLDF-led war in Mount Elgon where women who were caught up in the war were sexually violated through rape and other sexually related abuses as affirmed by a report by Urgent Action Fund-Africa, which demonstrates the adverse effect on the war on women.

Some of the women discovered during the camp that they had contracted the HIV virus as a result of rape. Two doctors from Nairobi Women's Hospital, Dr Caroline Mwangi and Omondi Wasunna led a team of nine counsellors, lab technicians and pharmacists who came to Mount Elgon to help the women begin to reconstruct their shattered lives. We saw a woman who has been walking around with her uterus hanging between her legs. She was attacked while in the process of delivering a baby at home. When the SLDF kicked the door, she got frightened and pushed the baby out suddenly. It came out with the uterus.<sup>1103</sup>

The militia groups operating in Mount Elgon adopted sexual violence including rape as a weapon of war, in which they used sexual violence as a way to control, suppress, and ethnically cleanse the land from the enemy. Sexual violence is a phenomenon that is increasingly being

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<sup>1100</sup> Harvard Humanitarian Initiative, "Now, The World Is Without Me": An Investigation of Sexual Violence in Eastern Democratic Republic of Congo A Report by The Harvard Humanitarian Initiative with Support from Oxfam America, April 2010. <http://hhi.harvard.edu>

<sup>1101</sup> Eva La Haye, *War Crimes in Internal Armed Conflicts*, Cambridge: Cambridge University Press, 2008.

<sup>1102</sup> Pamela Kimkung and Cristina Espinosa, "The Gender Dimensions of Violence and Conflict: The Case of Inter-Ethnic Land Conflict in Mt. Elgon, Kenya," in *International Journal of Development and Conflict*, Vol. 02. No. 03, 2012. <https://doi.org/10.1142/S2010269012500184>

<sup>1103</sup> Urgent Action Fund-Africa, "Mount Elgon Conflict Affects Women and Children: Kenyan Women and Children Bear the Brunt of the Mount Elgon Conflict," July 2, 2009, Report by Urgent Action Fund-Africa, CVS Plaza, Kilimani, Nairobi, Kenya. <http://www.urgentactionfund-africa.or.ke>

experienced in conflicts across the globe. Catherine Niarchos in her article, “Women, war and rape outlines a framework of sexual urge and substitution as an attempt to respond to the question, why men rape during war. She refers to rape as a natural but unfortunate by product of war.<sup>1104</sup> . Niarchos argument precipitated hard political and academic questions and works, some of which developed a notion of rape as a gendered weapon of war as demonstrated by the arguments of Lyn Yonack, who avers that rape is associated with asymmetrical power dynamics, where the perpetrator occupies a more powerful or dominant position in relation to the victim.<sup>1105</sup> This perception is supported by a number of scholars including Larissa Peltola, who argues that sexual violence has two objectives, to demoralise and to spread fear.<sup>1106</sup> Maria Erikson and Maria Stern on their part, see rape as integral to warring groups since war is mainly male-dominated and men are subject to their biological sexual needs.<sup>1107</sup> Erikson and Stern’s views are supported by Ruth Seifert who observes that male fighters in any war are driven by their libido, which is a formidably natural force that demands sexual satisfaction from women. Ruth calls it a natural effect which is known as sexual urge or the pressure-cooker theory.<sup>1108</sup> Consequently, it can be argued that wars create conditions whereby every male takes advantage of any woman that comes their way in order to communicate the message of fear and domination.

The arguments proffered cast men as primitive animals that are controlled by their instinctive sexual desires.<sup>1109</sup> Supporters of the sexual urge theory argue that sex by force occurs in war contexts because soldiers do not enjoy normal access to women and when men are not able to achieve sexual relief in a socially acceptable way for example with their wives or girlfriends or with prostitutes they will opt for sex by force, which means that they will look for sex and any woman in their way will become a potential sex partner, though in essence these women will be victims of forced sex, as the men seek to relieve their libido. In a peaceful society, men can

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<sup>1104</sup> Catherine Niarchos, “Women, War, and Rape; Challenges Facing the International Tribunal for the Former Yugoslavia”, in *Human Right Quarterly*, 17 (4), 1995, pp.649-690.

<sup>1105</sup> Lyn Yonack, “Sexual Assault is About Power”. [www.psychologytoday.com](http://www.psychologytoday.com), accessed 12/09/2020

<sup>1106</sup> Larissa Peltola, “Rape as a Weapon of War and Genocide: An Examination of its Historical and Contemporary Tactical Uses, Effects on Victims and Societies and Psychological Explanations”. [www.cmc.edu](http://www.cmc.edu), accessed on 12/09/2020

<sup>1107</sup> Maria Erikson Boaz and Maria Stern, *Sexual Violence as a Weapon of War? Perceptions, Prescriptions, Problems in the Congo and Beyond*, London: Zed Books, 2013, p.17.

<sup>1108</sup> Ruth Seifert, “War and Rape: A Preliminary Analysis”, in A Stiglmeier (ed), *Mass Rape: The War Against Women in Bosnia- Herzegovina*, Lincoln: University of Nebraska Press, 1994, pp. 54-72.

<sup>1109</sup> James Dawes, *Evil Men*, Massachusetts: Harvard University Press, 2013, p. 94.



access women and negotiate for sex and because of the existing social constraints it is not socially acceptable for men to impose themselves on women. However, war suspends social constraints and norms that normally hinder men from behaving like wild animals and in turn this predisposes men to act on their animal instincts.<sup>1110</sup>In war, social norms do not exist because of extreme violence that not only caused women to lose their safe havens (homes) and their protectors, thus making them more vulnerable, but also turns all men from protectors to be potential predators. In this predatory state, disregard social norms and use the opportunity provided by war and to sexually exploit women who are in a vulnerable state due to the absence of protectors.

Consequently, it can be said that in the absence of norms that guide a society during war, women are the principal losers by virtue of being at the mercy of men who are often physically stronger than women. Frustrated by the government for denying them access to land from which they would have been able to obtain resources to enable them marry, young people who joined SLDF felt led down and unworthy as they had no economic power to enable them marry. Given their precarious situation, SLDF presented itself as a saviour to these frustrated young men, especially with the promises of money, land and power, which enticed the young men to enlist and fight the government and those it supported. Young men assumed total power to kill the enemy, to rape their wives and daughters and to die for land as they claimed.<sup>1111</sup>Women and girls became the silent victims of the men's need to demonstrate their dominance and as aptly described by one respondent, the war became a land war fought over women's bodies.

Sexual violence against male civilians and combatants occurred frequently throughout history, across cultures and places, though it remains largely undiscussed. In trying to prove the prevalence of sexual violence against men, Sandesh Sivakumaran observes that Persian armies, for example, carried plates filled with the penises of soldiers of the vanquished enemy, celebrating the symbolic and actual domination of the enemy.<sup>1112</sup> In war, male victims are subjected to denigrating acts intended to physically damage their sexual organs, with the

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<sup>1110</sup> Maria Stern and Marysia Zalewski, "Feminist Fatigue(s): Reflections on Feminism and Familiar Fables of Militarization," in *Review of International Studies*, 35 (3), 2006, pp. 611-630.

<sup>1111</sup> Rose Chepkum Belio, interview with the author, Chepyuk Sub-Location, Cheptais Sub-County, 05/06/2016.

<sup>1112</sup> Sandesh Sivakumaran, "Sexual Violence against Men in Armed Conflict," 18 *EUR., J. INT'LL.* 2007, pp. 253-55.



degrading sexual violence intended to bring out elements of control, power, and domination of the perpetrator and humiliate the victims.<sup>1113</sup> Aside from sexually violation, male victims are often forced to rape their kin, with the intention of making them loose their status as the protector of their kin. Similarly, men lose their confidence and authority when their wives and children are raped in their presence. In order to gain power and control over the enemy, actors in the Mount Elgon war resorted to practices such as abduction, isolation, manipulation, coercion, threats, and sexual abuse. Sexual violence was not necessarily for gratification but was also used to demonstrate dominance and power over the enemy. For men to be subjected to sexual violence, it was to show that their malehood is being questioned which culturally is unacceptable. A report by Medicins Sans Frontieres on victims in Mount Elgon quoted a resident who acknowledged that men had been violated during the war, “We have helped many men who were castrated to get medication. It is a sad case,” said Mr Godfrey Kipsisey, a member of the Mt Elgon professional welfare group in Nairobi.<sup>1114</sup> The report further quoted a man aged 30 who said:

At night, about seven soldiers broke into my house and found me and my wife. They started flogging me and went on and on. When they were tired of beating me ruthlessly, they opened my trousers and pulled my testicles. The part that hurts me most is when they took my wife into the bushes and raped her in turns, leaving her unconscious until she was found the next morning.<sup>1115</sup>

Another aged 47 year old said:

I was arrested twice and taken to Kapkota screening centre. I saw men beaten on their genitals, and their testicles pulled out. The military told us to confess we had guns, otherwise the torture would continue. I know of one man who confessed his sons were part of the militia because of the torture and the fear. But in fact, they are innocent. That day, I also witnessed three men dying right before my eyes. Later on, I heard from the others that three more had died that day.<sup>1116</sup>

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<sup>1113</sup> Gurvinder Kalra and Dinesh Bhugra, “Sexual Violence against Women: Understanding Cross-Cultural Intersections,” in *Indian Journal of Psychiatry*, 2013 Jul-Sep; 55(3): 244–249.

<sup>1114</sup> John Oywa, “Horrrifying Inhumane Acts Visited upon Residents of Mt Elgon” Published Sun, October 30th 2011 at 00:00, Updated Sun, October 30th 2011 at 00:00 GMT +3 Read more at: <https://www.standardmedia.co.ke/article/2000045853/horrifying-inhumane-acts-visited-upon-residents-of-mt-elgon>, accessed on 24/3/2018.

<sup>1115</sup> Medicins San Frontieres, Mount Elgon: Does Anybody Care? MSF Takes Stock after One Year in the Heart of the Crisis in Mount Elgon, Brussels: Medecins Sans Frontieres, 2008, pp. 8-9.

<sup>1116</sup> Ibid.

While another 19 year old stated,

I had a nasty experience. I was picked up by a police lorry while on my farm weeding my tomato plantation. The police took me to a cell and they did very bad things to me. My genitals were tied with a rope and police were pulling so hard to make me reveal where I kept my gun and to mention who else is in the militia group. When I told them that I did not know, they did not believe me. They kept on pulling and inflicting a lot of pain on me as I cried. The rope almost cut them off as it was made of manila. When I walk, I feel pain. I feel pain when I sit. I prefer sleeping to sitting. Honestly speaking, I have never had a gun and never involved myself with the bad group of militia that I was being asked about.<sup>1117</sup>

Male victims in Mount Elgon suffered widespread social stigma and shame, with many of the victims fearing social ostracism if they sought treatment for the mental and physical consequences they suffered, including loss of sexual function and infertility.<sup>1118</sup> These acts, perpetrated by both government security agencies and the militia, shattered many lives.

School children and teachers were another group of losers during the SLDF-led war. During the war, education was disrupted and infrastructure destroyed, as SLDF targeted schools and consequently, access to education was seriously hindered and the situation was further compounded by the fighting as the security of both school children and teachers could not be assured. Schools became a target for SLDF because they were a visible symbol of government rule in the region and the militia resorted to dismantling school infrastructure, selling off materials for cash and destroying the remaining structures.<sup>1119</sup> Apart from destroying schools, the militia perpetrated sexual violence on both teachers and students, which adversely affected the mental health of female students and teachers. These attacks resulted in psychological trauma for both teachers and students, with some teachers preferring to quit, which meant that many children could not continue with their studies due to lack of teachers. Additionally, some school-going children were forcefully recruited by SLDF, with boys being trained to fight, while girls were sexually abused and used for chores.

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<sup>1117</sup> Ibid.

<sup>1118</sup> Fredrick Forest Naibei, interview with the author, Chepyuk Sub-location, Cheptais Sub-county, 05/06/2016.

<sup>1119</sup> Johnson Cheprot Takur, interview with the author, Chepyuk Sub-location, Cheptais Sub-county, 05/06/2016.

Children became afraid of going to school and parents were scared of sending their children to school while teachers were afraid to go to work.<sup>1120</sup> Consequently school attendance dropped and this had a longer term effect on education in the region with schooling rates hit rock bottom during the war. Gross enrolment and transition rates in both basic and secondary education were the lowest compared to any other period in modern history of the region as demonstrated by the primary to secondary school transition rate during the war. Before the war, Mount Elgon District had reported a high primary school enrolment rate of 86.8%,<sup>1121</sup> with secondary school enrolment expected to be at the same level. However, this was not the case as the region registered a mere 20.2% secondary school enrolment.<sup>1122</sup> This is an indication that many children dropped out of school, which in turn affected access to livelihood opportunities, especially in terms of employment as without good education the local population cannot compete fairly with people from other parts of the country for the same opportunities. Aside from low school enrolment and transition,

Aside from affecting the education of children, the war impaired child development with anecdotal evidence indicating that there was an increase in depression among children, which eventually affected their performance in school, with residents attributing the poor performance to the loss of the male figure and the pressure they saw their mothers going through as female heads of households.<sup>1123</sup> It is not only school going children who were affected as there is evidence that even in the earliest phases of infant and toddler development, children who are exposed to violence experience emotional and behavioural problems.<sup>1124</sup> Empirical evidence indicates that infants and toddlers who witness war demonstrate excessive irritability, immature behaviour, sleep disturbances, emotional distress, fears of being alone, and regression in toileting and language.<sup>1125</sup> Manson Sichari observes that during the SLDF war in Mount Elgon only 6.7% of the children born during war had normal growth while 93.3% experienced poor growth partly

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<sup>1120</sup> Geoffrey Kipsang, interview with the author, Kaimugul Sub-location, Cheptais Sub-county, 04/06/2016.

<sup>1121</sup> The Institute of Economic Affairs, *The Little Fact Book: The Socio-Economic and Political Profiles of Kenya's Districts*, Nairobi: The Institute of Economic Affairs, 2002, p. 20.

<sup>1122</sup> Ibid.

<sup>1123</sup> Salome Chepkemai Ndiwa, interview with the author, Sasuri Location, Cheptais District, 04/06/2016.

<sup>1124</sup> Benedetta Margaret Kikechi, *Effect of Ethnic Conflict on Women and Children in Mount Elgon Region (2008-2012)*, a Research Project Submitted in Partial Fulfillment for the Post-Graduate Diploma in International Studies, Institute of Diplomacy and International Studies (IDIS), University of Nairobi, December, 2018, p. 31.

<sup>1125</sup> Joy D. Osofsky, "The Impact of Violence on Children".

[https://www.princeton.edu/futureofchildren/publications/docs/09\\_03\\_2.pdf](https://www.princeton.edu/futureofchildren/publications/docs/09_03_2.pdf), accessed on 09/03/2018

because they were born to traumatised mothers.<sup>1126</sup> Most of these children were traumatised as seen in their sadness, temper, hyperactive anxiety, withdrawal and aggressiveness.<sup>1127</sup>

The impact of war on the economy has been documented widely and this was no different in Mount Elgon where there was extensive damage to the economy and infrastructure. During the course of the war, many trading centres in Mount Elgon served as battlegrounds pitting the government and the militia, which substantial economic losses for the inhabitants as businesses of all kinds ranging from small market stalls, coffee factories and shops were destroyed.<sup>1128</sup> Economic networks, which are essential for business growth, were also disrupted as suppliers were unwilling to distribute to retail shops in the region.<sup>1129</sup> The forced displacement of people that occurred in Mount Elgon during the war resulted in breaking-up of economic lifelines and business confidence resulting in severe contraction of the region's economy while the cost of doing business in the region skyrocketed, which can be attributed to the need for extra security for business operations. Additionally, there was business loss of output due to reduced hours of operation due to the worsening security situation as well as from frequent looting, arson, theft, extortion and fraud. Such insecurities eroded the development of human capital that was important in enhancing business and negatively affected livelihood opportunities, especially for young people who were employed in the sector.<sup>1130</sup>

According to the United Nations wars and other natural disasters damaged and caused losses of over 25% of agricultural and livestock production in the developing countries from 2005-2014, translating to a loss of approximately USD 93 billion.<sup>1131</sup> Agricultural production in Mount Elgon registered high losses during the war as crop fields were turned into battlefields. Agricultural production further declined due to shortage of labour as the war displaced potential workers who fled from the region. As the SLDF war raged in the mountain and its environs, crop and livestock

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<sup>1126</sup> Manson Sichari, "Effect of Traumatized Antenatal Mothers on their Pre-School Children in Mt. Elgon Region, Kenya," in *Journal of Education and Practice*, Vol. 7, No. 12, 2016.

<sup>1127</sup> Ibid.

<sup>1128</sup> Laban Wafula Simiyu, interview with the author, Chepkube Location, Cheptais Sub-County, 03/06/2016.

<sup>1129</sup> World Bank, *The Toll of War: The Economic and Social Consequences of the Conflict in Syria*, Washington D.C.: World Bank, 2017.

<sup>1130</sup> Brace Tilman, Win Naude and Philip Verwime, "Entrepreneurship and Violent Conflicts in Developing Countries," WIDER Working Paper, No. 2013/28. <https://pdf.semanticscholar.org>. accessed on 05/03/2018

<sup>1131</sup> FAO, "The Impact of Disasters on Agriculture: Addressing the Information". [www.fao.org/3/a-i7279e](http://www.fao.org/3/a-i7279e)

production dropped to almost zero as affirmed by Samary Chelagat Sabila, who notes that during the SLDF-led war, the region witnessed loss of farm produce either through destruction of farmland or the militia harvesting farmer's crops.<sup>1132</sup>

As the war was fought in a rural setting, where the majority of the population depended on farming, the war adversely affected the rural economy and environment. The wars resulted to poor agricultural development because most of the people required to offer labour on farms were forced to flee. Similarly, loss of local resources such as livestock and natural resources result in food insecurity.<sup>1133</sup> In some instances SLDF and the MLDF militia fighters used scorched-earth policy whereby they destroyed everything on the lands of their perceived enemies. In such warfare, there is widespread destruction of reserve stock resulting food insecurity in a region, which was known for producing more food than it needed for local consumption during peace time. Sabila's analysis of food insecurity in the region indicates that over 45% of the residents of areas lost all their farm produce while over 38.3% lost some of their farm produce.<sup>1134</sup> Further, Sabila notes that For instance, during the war only 3.4% of granaries were filled with food and they were mostly, in safer parts of Mount Elgon district. 48.6% had some food although not enough while 48% had no food or lost everything to the war.<sup>1135</sup> It is not only residents of Mount Elgon who suffered losses, as areas that are adjacent also incurred high losses due to frequent spill over of the war. This meant that the war led to destruction of not only the food resources but also commercial resources as the residents of Mount Elgon sold livestock and surplus produce of key crops such as maize, Irish potatoes and onions to other regions. These crops and livestock played important roles in the Mount Elgon people's life due to the food, economic, social, historical and spiritual value attached to them.<sup>1136</sup>

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<sup>1132</sup> Samary Chelagat Sabila, "Factors that Influenced Food Security in Rural Households of Mount Elgon Sub-County, Kenya," A Research Project Report for the Award of the Degree of Master of Arts in Project Planning and Management, University of Nairobi, 2014 pp.45-53.

<sup>1133</sup> Muhammad Taeb, *Agriculture for Peace; Promoting Agricultural Development in Support of Peace*, United Nations University- Institute of Advanced Studies, Japan, 2004. <http://www.ias.unu.edu/binaries/UNUIAS-Agforpeacereport.pdf>, accessed on 08/03/2018.

<sup>1134</sup> Samary Chelagat Sabila, "Factors that Influenced Food Security in Rural Households in Mount Elgon Sub-County Kenya".

<sup>1135</sup> Ibid.

<sup>1136</sup> Patrick Ngaina Kisembe, interview with the author, Ngachi Sub-Location, Cheptais Location, 03/06/2016.

The war had a lasting effect on women, with many being forced to become the heads of their households following the death or disappearance of their men. One study revealed a high percentage of women-headed households, with the findings of the study indicating that 45% of households were headed by a woman compared to 35% of male-headed households.<sup>1137</sup> Based on the study, the findings revealed that households headed by a male had better food security compared to those headed by women. The SLDF-led war exacerbated women's access to productive resources as men tended to have principal access to productive resources and with the death or disappearance of the men, women's access to these productive resources diminished further. Additionally, the loss of males in the households resulted in the decline of farm household activities, as men generally undertook farming activities, given the labour-intensive nature of the venture. A farm household activity involves allocation of labour to a task designed to generate subsistence or market income.<sup>1138</sup> Loss of farm household activity is a clear indicator of economic decline of any society and in the case of Mount Elgon, agricultural productivity declined consistently right from the outbreak of the SLDF-led war, which was accompanied by a particularly sharp drop in the primary sector GDP and agricultural employment as well as decrease in the acreage under agricultural production.<sup>1139</sup>

According to Manson Sichari, the quality of life regressed sharply in Mount Elgon right from the outbreak of the war, which can be attributed to the loss of employment, income generation opportunities, which affected the welfare of their households and this in turn, psychologically affected the victims.<sup>1140</sup> Sichari's perspective is supported by Tillman Bruck's analysis of the impact of war on households in Mozambique. Bruck avers that households who lost income or breadwinners were pushed to live in poverty specifically in internally displaced persons camps. IDPs households lost security therefore suffering uncertainty and strong depreciation of physical,

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<sup>1137</sup> Samary Chelagat Sabila, "Factors that Influenced Food Security in Mount Elgon Sub-County, Kenya".

<sup>1138</sup> Tillman Bruck, The Warfare Effects of Farm Household, Activity choices in Post-War Mozambique, Paper Submitted to the Annual Meeting of the German Economic Association. <http://pdfs.semanticscholar.org/8/3/2018>

<sup>1139</sup> KNBS and SID, *Exploring Kenya's Inequality: Pulling Apart or Pooling Together? Bungoma County*, Nairobi: KNBS, 2013.

<sup>1140</sup> Manson Sichari, "Effects of Traumatized Antenatal Mothers on Their Pre-School Children in Mt. Elgon Region, Kenya," in *Journal of Education and Practice*, Vol.7, No.12, 2016. [www.iiste.org](http://www.iiste.org), accessed on 8/3/2018

human and social assets.<sup>1141</sup> In the case of Mount Elgon, given the absence of men, women had to take on the role of household heads and this additional burden weighed them and sometimes resulted in mental health issues, including anxiety disorders, depression, and sleep disorders, to name a few. The psychological effects of the war are underscored by Manson Sichari who points out that during the war, victims exhibited psychosomatic symptoms and anxiety, which is associated with war trauma, social dysfunction and depression.<sup>1142</sup> Sichari further avers that the trauma has a long-term effect on their mental functions, social wellbeing, physiological functions and the development of the victims.<sup>1143</sup> This is especially so if the victims do not receive the mental health care they need, which was the case for the victims of the SLDF-led war. In general, the psychological impact of the war on women seems to have been overlooked by the general public and to some extent by the medical community, especially with regards to providing psychosocial and psychological support to women developed mental health issues as a result of losing their husbands.<sup>1144</sup>

Another major loser in the SLDF-led war was the government. The government's legitimacy was challenged by SLDF and this affected the government's right to govern particularly after its failure to manage the land issues related to the Chepyuk Phase III settlement scheme. It is evident that no government can manage its territories well if it loses its legitimacy among the people. Although the concept of legitimacy is relative and has different meanings for different people based on their respective contexts, there is consensus that legitimacy involves the right to govern with the consent of the governed.<sup>1145</sup> There are four elements that constitute a government's legitimacy to rule, which include trust, fairness, values and openness.<sup>1146</sup> All four elements were absent in Mount Elgon, all of which can be related to how the state dealt with the

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<sup>1141</sup> Tillman Bruck, "The Welfare Effects of Farm Household Activity Choices in Post-War Mozambique," Paper Submitted to the Annual Meeting of the German Economic Association. <https://pdf.semanticscholar.org>, accessed 8/3/2018

<sup>1142</sup> Manson Sichari, "Effects of Traumatized Antenatal Mothers on Their Pre-School Children in Mt. Elgon Region, Kenya.

<sup>1143</sup> Ibid.

<sup>1144</sup> Government of Kenya, Ministry of Agriculture Livestock and Fisheries, Agricultural Sector Development (ASDSP): Household Baseline Survey Report Bungoma County, 2014, Nairobi: GOK, 2014.

<sup>1145</sup> Jean-Marc Coicaud, "Legitimacy and Politics A Contribution to the Study of Political Right and Political Responsibility". <http://assets.cambridge.org/97805217/82616/sample/9780521782616ws.pdf>, accessed on 10/03/2018

<sup>1146</sup> Bruce Gilley, "The Meaning and Measure of State Legitimacy: Results for 72 Countries," in *Journal of Political Research*, Vol. 45, 2006, pp. 499-525.

land issues surrounding the Chepyuk Phase III settlement scheme. The state was not “open” nor fair in allocation of land in Chepyuk Settlement Scheme, which resulted in mistrust among the affected people and also led to local population question the values of the state.<sup>1147</sup> In the case of Mount Elgon, it can be concluded that the government of Kenya begun to lose its legitimacy, given the weakened state presence and authority in the lead up to the conflict and the deterioration of the state’s image among the local population during the war and in the aftermath due to the highhandedness of the state authority and security forces.

Mount Elgon and the surrounding areas are a major tourist destination in the western region tourist circuit and attracts a lot of tourists from around the world. The Kitum cave found in Mount Elgon, an extinct shield volcano that developed as the result of cooling volcanic rock, is one of the popular tourism sites. The cave, which extends some 600 feet into the mountain, has walls covered in salt, which attracts buffaloes, antelopes, leopards, hyenas, and elephants who use the cave as a giant salt lick,<sup>1148</sup> a spectacle that is alluring to tourists keen on watching the animals make their way through the salty walls of the cave.<sup>1149</sup>

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<sup>1147</sup> Patrick Kisembe Ngaina, interview with the author, Ngachi Sub-location, Cheptais Location, 03/06/2016.

<sup>1148</sup> Joyce Lundberg and Donald McFarlane, “Mount Elgon’s Elephant Caves,” SWARA, October-December 2007. <http://faculty.jsd.claremont.edu>, accessed on 09/05/2019.

<sup>1149</sup> Joyce Lundberg, and Donald McFarlane, Microclimate and Niche Constructionism in Tropical Bat Caves: A Case Study from Mount Elgon, Kenya, in Feinberg, J., Gao, Y., and Alexander, E.C., Jr., eds., Caves and Karst A cross Time: Geological Society of America Special Paper 516, 2015. <http://faculty.jsd.claremont.edu/dmcfarlane/Publications/Lundberg> and McFarlane 2015 Mt Elgon Cave Climate.pdf





Photo by Wondermondo, Kitum Cave Salt Mine of Elephants, November 2, 2018,

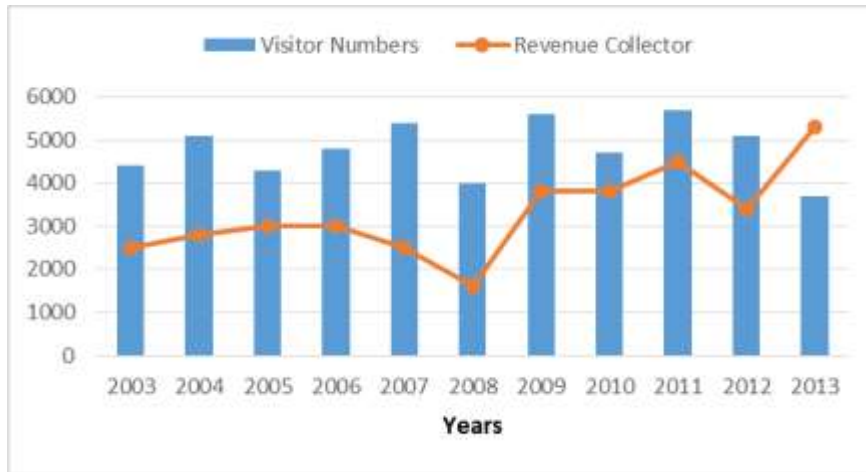
Aside from Kitum cave, there are a number of community-led eco-tourism ventures established by communities living around the Mount Elgon ecosystem. Additionally, the communities living in the areas surrounding Mt. Elgon National Park also made handicrafts that they sold to tourists visiting the park at the park shops located next to the Chorlim gate.<sup>1150</sup> These activities and other community-led tourism-related income-generating ventures were forced to shut down following the outbreak of the SLDF-led war. Consequently, the tourism industry in and around Mount Elgon region, of which the government largely controlled, was adversely affected by the war as the SLDF forced out government officers from the region. Right from the outbreak of the war, tourism in Mount Elgon experienced a down turn with the number of tourists reducing drastically for the entire period of the conflict as indicated by data from the Kenya Wildlife Services.<sup>1151</sup>

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<sup>1150</sup> Patrick Cheromoi Mengich, interview with the author, Kiboroa Location, Saboti Sub-county, 15/09/2017.

<sup>1151</sup> Jacqueline Kariithi, Policy Brief: Awakening the Underutilized Potential of Tourism at The Mount Elgon Protected Areas, Trans Nzoia and Bungoma Counties, October 2018. <http://www.kilimo.go.ke/wp-content/uploads/2018/12/Jacqueline-Kariithi-Policy-Brief.pdf>, accessed on 02/09/2020.

Mount Elgon National Park tourism statistics (revenue and visitors) during the SLDF Conflict.



**Source: Kenya Wildlife, 2014.**

As demonstrated by the Kenya Wildlife Services data, the number of visitors and revenue collected in Mount Elgon from 2003-2013 varied depending on the intensity of armed confrontation, with revenue declining steadily from 2003 – 2008, dipping significantly in 2008. This is the period when conflict intensified in Mount Elgon.<sup>1152</sup> From 2009 until 2013, while the visitor numbers remained high ranging from 4000 to 5500 the average annual revenue was relatively low when compared to other tourist destinations in the country, which can be attributed to the fact that during the period that majority of visitors to the region were mostly security people.<sup>1153</sup> A government policy paper indicates that Mount Elgon Forest Reserve and Chepkitala National Reserve have high potential to attract tourists from all over the world but receive negligible numbers of visitors because of insecurity related to land tenure rights and militia-driven wars.<sup>1154</sup> Data from the government shows a decline of revenue collected from tourists from 2004 through 2008, with the decline reaching its lowest peak in 2008. The decline is correlated to the SLDF-led war, as these were years when the conflict intensified and eventually reached its climax in 2008 following the killing of Wycliffe Matakwei, the SLDF commander.

<sup>1152</sup> A brief synopsis of the situation in Mount Elgon shows that in 2001 the government issued land allotment letters in Chepyuk without consulting Mosop elders thus sparking a contest between various groups. In 2002, John Serut won the Mount Elgon parliamentary seat, accused of favouring the Mosop in land allocation, 2004, ten members of the Mosop were killed by members of the Soy triggering the conflict.

<sup>1153</sup> Jacqueline Kariithi, Policy Brief: Making the Underutilized Mount Elgon Protected Areas, Trans Nzoia and Bungoma Counties. <http://lolimo.go.ke>, accessed on 2/09/2020.

<sup>1154</sup> Ibid.

With Matakwei's death security improved and in tandem tourism also improved, with tourist arrivals and revenue increasing steadily and peaking in 2013.

One significant outcome of war is the loss of life with the number of deaths increasing significantly over the centuries. For example, according to Eric Hobsbawm over 187 million people were killed due to conflicts or allowed to die due to wars in the 20<sup>th</sup> century.<sup>1155</sup> This is supported by Margaret Drabble, a British novelist, who describes the 20<sup>th</sup> century as a beastly century. While the total number of war-related deaths in the SLDF-led war is difficult to establish, a report by the Human Rights Watch indicate that the number of deaths could be higher than what the government records show<sup>1156</sup>, an opinion that is supported by anecdotal evidence, which indicates that there was a steady rise in numbers of civilians killed in the war by all parties. SLDF, MLDF and government forces killed civilians as the fighting parties failed to distinguish between fighters and civilians. Additionally, there were those who remained unaccounted for, meaning the numbers could even be higher as confirmed by the quote from the Human Rights Watch which states that;

Approximately 300 Kenyans disappeared in Kenya's Mt. Elgon region between 2006 and 2008 after being either arrested by Kenyan security forces or abducted by the militia group Sabaot Land Defence Force (SLDF). Three years after a military operation that aimed to human rights abuses, including summary executions, enforced disappearance, and torture the government has taken no action to shed light on the plight of the disappeared or to provide their families with access to justice.<sup>1157</sup>

Details have emerged that show that the army pursued a strategy of rounding up all the adult males in the district some of whose whereabouts remain unknown.<sup>1158</sup> The army was accused of detaining thousands, torturing and arbitrarily killing local residents, resulting in the double victimisation of the local population, first by the militias and by the government forces, therefore

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<sup>1155</sup> Milton Leitenberg, "Death in Wars and Conflicts in the 20<sup>th</sup> Century," Cornell University, Peace Studies Program Occasional Paper #29, 3<sup>rd</sup> ed. August 2006.

<sup>1156</sup> Human Rights Watch, "All the Men have Gone: War Crimes in Kenya's Mount Elgon Conflict". <https://www.hrw.org/report/2008/07/27/all-men-have-gone/war-crimes-kenyas-mt-elgon-conflict>, accessed on 12/03/2018.

<sup>1157</sup> Human Rights Watch, "Hold Your Heart" Waiting for Justice in Kenya's Mt. Elgon Region, New York: Human Rights Watch, 2011, p. 11. <http://www.hrw.org>, accessed on 24/3/2018.

<sup>1158</sup> KNCHR, "The Mountain of Terror," A Report on the Investigation of Torture by the Military at Mt. Elgon, May 2008. [http://www.knchr.org/Portals/0/Reports/Mt\\_Elgon\\_Report.pdf](http://www.knchr.org/Portals/0/Reports/Mt_Elgon_Report.pdf), accessed on 12/3/2018.

incurring loss of life from two fronts.<sup>1159</sup> Lack of clear statistics on the people the military killed was highlighted by the then area MP, Mr. Fred Kapondi who is reported to have asked the then Minister for Interior to inform parliament how many people were killed and arrested in the military operation, which was kept out of the watchful eye of the media. In addition, Mr. Kapondi demanded that the Minister should clarify if the reports of torture suffered by suspects were true. According to a local radio station, Mr. Kapondi is on record as having demanded:

We want to know how many houses and grain stores were destroyed, we also want the military out of Mount Elgon since their actions no longer enjoyed local support. Local residents initially welcomed military attempts to deal with SLDF but later after losses of life and property under the military and rounding up all adult males in the district and torturing them, they demanded the withdraw of the army from the region.<sup>1160</sup>

## **8.6 Conclusion**

In general, the key trajectory of war profiteers involves the movement of illegal commodities across borders into and out of Mount Elgon region. Inside Mount Elgon, coercion was used to acquire goods and commodities while outside the region it was willing sellers and buyers collaborating to successfully achieve their goal. Various actors penetrated the illicit economies, including members of the militia groups operating in the region, traders who supplied commodities or serviced the production and marketing of goods some of which were prohibited by governments. Actors that participate in illicit economies or shadow economies included the populations that produced the commodities and services, criminal groups, some government officials, security personnel and many other participants.

This chapter examined the existence of war-profiteers and losers in the conflict-affected zones of Mount Elgon. The chapter brings to the fore the fact that the one constant singularity, which was widespread but neglected, in the recurrent conflicts in Mount Elgon is war-profiteering, which manifested itself in various facets. The chapter clearly demonstrates how the war was beneficial to a number of actors ranging from government security agencies, militias, politicians and local residents involved in the war economy. While the local communities suffered and experienced

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<sup>1159</sup> Silas Kiplimo Naibei, interview with the author, Chepyuk Location, Cheptais Sub-county, 04/06/2016.

<sup>1160</sup> Nairobi Capital FM, "MP Demand answers on Mount Elgon Operation" May 9, 2008. <https://www.capitalfm.co.ke/news/2008/05/mp-demands-answers-on-mt-elgon-operation/>

loses associated with war, there were those who profited from the war as a lot of people were engaged in various activities that supported the conflict while others were employed in the peace industry, which brought in a lot of financing to support the development and execution of various projects intended to promote peace and bring to an end the conflict. All these activities accrued profits for institutions and/or organisations as well as individuals engaged in the various process. Overall, the arguments presented in the chapter buttresses the prevailing assertion that in any war, there are beneficiaries who take advantage of the war situation to trade in various resources and instruments of war.

The chapter demonstrates that many actors benefited in the shadows of the SLDF war in Mount Elgon, with SLDF playing a central role in encouraging the propagation of the war by actors not directly engaged in the militia. For example, SLDF facilitated the profiteering of traders from the conflict by granting traders who paid a token to the militia a monopoly in specific sectors. In turn, this motivated militia groups to engage in illegal trade, through which faction leaders promoted trade to get income. Militia leaders capitalised on weak consumer protection to impose and grant monopolies to business people who might have based their business on looted property that they wanted to sell.<sup>1161</sup> Lack of regulation opened up price cooperation between various beneficiaries who traded in illegal items, which included drugs, charcoal, products from endangered species and weapons through cross-border smuggling. The privatisation of the SLDF enabled the perpetration of atrocities and turned the region into an open crime zone thereby creating new opportunities for war profiteering. It should be understood that bringing the profit motive to the battlefield introduced a new agent in war whose main objective differed from a military one,<sup>1162</sup> as profiteers do not go to war to pursue community policy or defend the community, rather they engage in and support the war effort solely for the purpose of making a profit and they exploit community grievances as an instrument to achieve this absolute goal.

Despite the clandestine economic activities that flourished during the SLDF war, the income generated cannot be estimated due to the reluctance of the actors to declare their profits, which

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<sup>1161</sup> William Reno, *Shadow States*, in Berdal and Keens, "Greed and Grievance Economic Agendas in Civil War," London: Lynne Rienner, 2001.

<sup>1162</sup> Michele Chwastiak, "War, Incorporated: Private, Unaccountable and Profitable," Paper Presented at Anderson School of Management, University of New Mexico, USA, April 2007. [www.mngt.waikato.ac.nz/ejvot/vol-10](http://www.mngt.waikato.ac.nz/ejvot/vol-10)

was further compounded by weak state presence. Based on the foregoing, it is evident that groups who benefited from the Mount Elgon wars engaged in various activities as a way of generating income with the benefits materialising in different ways. In the case of the SLDF war, the war economy generated a lot of revenue, with a considerable part of the profits accrued being under the custody of militia leaders or commanders thus making it almost impossible to quantify the economic gains of the war.

## **CHAPTER NINE**

### **CONCLUSION**

The study set out to three broad objectives which specifically focuses on issues surrounding the wars in Mount Elgon. The study aimed at examining the interaction of political and economic agendas of Mount Elgon wars, finding out the historical linkage between the wars of the past and the Sabao Land Defense Force and to determine the justification of wars in Mount Elgon. Drawing on examples from other countries such as Sierra Leone and Cambodia and utilizing political economy and just war frameworks, the study juxtaposed the political objectives and policies of conflicting parties in Mount Elgon with economic agendas to give a clear explanation of the continuation of wars in the region. Although war is frequently referred to by various scholars as destructive and catastrophic, this thesis has shown that war is also a most unusual catalyst of social change. Mount Elgon wars gave a chance to the disenfranchised to find unprecedented opportunities to carve out a social and political space for themselves to demand land and economic rights. The key issues that were probed for the case of Mount Elgon were; how did the wars catalyze social and economic change? How did it create new markets and how did it make some people rich? And who were these people?

The study accordingly presents the experiences of the people of Mount Elgon by highlighting the various factors that influence the process of war. These factors are presented in the subsequent chapters as aspects of the political, social and economic dimensions of war. A theme that runs through all the chapters of this thesis. For instance, legal issues are closely connected to access to land which are essential for economic welfare of the people. Similarly, social and political barriers lead to economic exclusion and vice versa. Considering these links, comprehension of Mount Elgon wars is predicated on a holistic approach which acknowledges the interconnectedness of the various dimensions.

This thesis has shown through various chapters that Mt. Elgon wars had political dimensions and economic motivations which spurred political wars in the region. The study has also analysed the SLDF militia group and counter militia efforts, a significant contribution to the world of knowledge. The study has shown the social factors underlying the perpetuation of these wars and

the economic incentives and disincentives available to actors in these wars. This has been done by answering the questions of why a people who lived together for centuries could, suddenly collapse into extremes of war brutality. Beyond attributing the wars in Mt. Elgon to political incitement and the land questions, issues of appropriation of wars, for instance, who financed the wars? What benefits did they get from the wars? For what purposes were the war fought and who owned the wars? Secondly, the issues of justification of the wars, benefits of war and the whole concept of extremes of war have been tackled in this thesis. The study has shown how these issues that played out in any war engagement in the region.

For clear understanding of the wars in Mount Elgon, the study historicized the region creating linkages of SLDF and earlier war groups in Mt. Elgon. It demonstrated how SLDF might have been about the “unfinished business” in earlier wars of Mt. Elgon. The study unraveled the historical trends of these wars. The study has demonstrated that the Mt. Elgon wars had unique characteristics which included a combination of different policies, such as the traditional political institutions policy, the colonial policy, post-colonial government policy and the militia groups’ policy. All these policies informed the political economy, commoditization and justification of the Mt. Elgon wars. The study has demonstrated that the current understanding of conflict or wars is often mediated by dichotomy between nurture and nature, genetic and social disposition to violence. In this sense war resides within man, within structures of states and within the state system. Closely associated with this dichotomy between nurture and nature and man’s social predisposition to violence is the interpretation of war as a product ingrained in people’s cultural life. Various conceptualized, war has therefore been viewed as an expression of culture and a determinant of cultural forms which stems primarily neither from human nature nor economic factors but from the institution of war itself.

This is why the study juxtaposed the economics of violence with socially constructed notions of autochthony in forging and contending identities as one single most important stimulus to Mount Elgon wars. This study which covered from 1968 to 2008 traced the migrations and autochthonous claims and counterclaims over land in Mount Elgon. The situation which was complicated by the colonial intrusion and thereafter introduction of new land regimes that clashed with the indigenous rights. The thesis examined the contestation over land by different



communities and later on the colonial state which introduced foreign laws that disposed locals off their land. The postcolonial state inherited the colonial land mess. However, the postcolonial state was unable to satisfactorily deal with African land grievances caused by the colonial state. It was the inability of the postcolonial government in Kenya that fermented the grievances that led to the formation of SLDF, MLDF and other militia groups that operated in Mount Elgon. The study then built a correlation between land grievances, emergence of militia groups, war making, war economies and state violent response. It found these issues to be highly correlated. The study demonstrated civil government failure to end the conflict between different actors and how it led to increase in war making and thereafter led to decline in SLDF's ability to defend Sabat land and a turn toward to coercive and extraction of resources from local inhabitants of Mount Elgon.

The research demonstrated that territorial claims, land ownership contestation and competition had close relationships with violent wars experienced in Mount Elgon. Multiple claims over space came about when communities with varying interests over land began impinging on one another as they acquired, defended, and exercised the claims and counter claims on territories. The claims influenced relationships between ethnic groups who justified their claims primordially or spiritually thereafter making land a very emotive commodity in Mount Elgon.

In the case of Mount Elgon contested claims over land and territory turned the region into a theatre of war. The arrival of the British in the area exacerbated the wars by imposing their rule and subsequently introduced English laws relating to land ownership, or foreign laws of property ownership which alienated primordial claims. This had far reaching effects of relocating the radical title to land from indigenous communities and thereby massively annexing and allocating it to European settlers in the protectorate. By so doing, the British became a competitor to the same lands that Africans claimed. By fact many claims over same land existed making it obvious for each claimant to feel insecure. Insecurity over land ownership generated a spirit of land defense including resorting to war to secure it. People fought over territory all the time. Whether it was a gang war, a civil war between ethnic groups or a militia fighting the state, people were willing to kill and be killed over land. This created a different understanding of war depending on the objectives and actors. This thesis has demonstrated that war means different things to different communities depending on its purpose. We theorized the concept of war as by different

scholars then juxtaposed it with the Sabaot, Bukusu and Iteso world view of war then discussed various wars fought in Mount Elgon including the SLDF led war. The study searched for historical roots in the earlier wars then argued that the post-colonial Kenyan government failed to resolve the issues that led to perennial wars which haunted Mount Elgon into independence.

The study has shown that like in many other parts of the African continent political independence became a mirage to many people when they realised that little had changed after the colonialist “departed.” The promise of a bright future following a protracted conflict against the colonial state quickly dissipated. The enthusiasm which the people had at independence fizzled out immediately after the celebrations that accompanied the end of colonial rule. There was no proper institutionalization in Africa, a powerful indicator that the continent commenced the independence journey on the wrong footing. It was the failure of institutionalization that influenced the post-colonial wars in Africa and to be specific in Mount Elgon. The failure created a vacuum that the political elites exploited to become corrupt when dealing with public resources. Persistence in corruption resulted into weak institutions that lacked genuine adherence to justice and the rule of law. Consequently, the majority of Kenyans were continuously exposed to the negative impacts of weak institution creating an environment of lawlessness and thereafter violence that degenerated into armed conflicts in areas like Mount Elgon.

The intensification of armed violence led war economies as has been demonstrated by this study. The study has demonstrated that the politico-economic motives were informed by illegal extortion, trade and imposition of illegal laws and extrajudicial activities. The reasons behind war economies in Mount Elgon being mismanagement of land in Chepyuk, state failure to deliver justice and offer security, extraction, and protection activities of the militia groups that operated in Mount Elgon. The research has argued that even if in Mount Elgon wars each actor was interested in economic interests and that was why they used violence against their own base, historical proof indicated that war in the region predated the period when the militia groups began brutalizing the local population. Mount Elgon armed violence dates to the period of migration and occupation of the region by various communities. So apart from economic incentives what else caused the Mount Elgon wars? The study has explained reasons that explain

the shift from defender of people's land rights to brutalization of the same people who had already been victimized by land injustices by demonstrating that the state presence or statelessness demonstrated by state failure to exert control of some territories created a gap that militia groups emerge to fill.

Similarly, the shift in the actors from protection of Sabaot people's land rights to extraction activities were associated with government security agencies indiscriminate use of violence against residents of Mount Elgon particularly of the Soy origin. At the onset, SLDF militia did not have problems with attracting recruits as long as they used the Sabaot land defense narrative to access resources from the local residents. However, as time went by, SLDF became opportunistic portrayed by self-interested leaders and recruits who adopted use violence indiscriminately against the local mount Elgon population. SLDF began by appealing to members of Sabaot community to attain recruits. However, it's worth noting that SLDF's involvement in illegal trade and smuggling across the Kenya-Uganda border placed it in direct competition with the government which sought to exert its legitimacy.

Another useful argument in this study is the state from its inception monopolized the means of coercion through its presence in all territories it controls. This did not happen in most peripheral areas of Kenya such as Mount Elgon. The state did not offer protection to the local population in Mount Elgon. Rather, state security agents carried out their duty through coercive activities which rested on its tendency to monopolize the means of coercion over Mount Elgon people. The state wanted to eradicate SLDF rivalry and strengthens its ability to extract resources, to wage war, and to protect its chief supporters. But in doing so, it ended up hurting many who fell victim to its operation. The study has demonstrated that states emerged to be the dominant organizational form of power wielders, but failure to exert such authority created a lacuna which militia groups emerged to fill. Such militia groups' organizations were state-like form and operate independently. This created power contestation between the state, power holders over territories and populations in the absence of a dominant state. The competition that arised between militia groups and national governments, both of which posited competing and mutually exclusive claims over their right to legitimately monopolize the means of coercion in a national

territory. Multiple claims to authority, or dual sovereignty, was the central condition that led to SLDF led war in Mount Elgon.

Challenge to state authority emerged when the state in question failed to address legitimate grievances of the people of Mount Elgon. The state failed to demonstrate its authority to resolve the problem. It was the land contestation through historical antecedents that informed both economic and political agendas of war in Mount Elgon. Our argument is that they were these grievances that aggravated formation of armed militia groups or rebellions that engage in wars. At the core of the grievances is the rules, institutions and social constraints that are mediated by political process. Presence of stable government institutions is characteristic of stability and respect for the rule of law which promotes social cooperation which fosters peace and good economic opportunities. This does not apply to most countries in the global south where institutions are weak and thereafter suffer from a shortage of political community and effective, authoritative, legitimate government to control the peripheral regions. Such regions are characterized by conflict and even violence perpetuated by groups that emerge to attempt to fill the gaps left by the minimal state presence.

The thesis has demonstrated that weak state presence came with negative effects including underdevelopment and lack of economic resources largely associated with volatile politics, dysfunctional institutions and highly differentiated social structures. Militia groups capitalized on dysfunctionality of the state to not only fill the gap but also to institutionalize themselves to operate as a state within a state in Mount Elgon. Motivations for SLDF and MLDF to wage war were found in the people's land grievances as stated earlier which the Kenya government failed to solve. The two militia groups decided to square it out through war which caused terror to the level that normal civil authority could not handle provoking the government to mobilize intervention by the military.

In exploring the genealogy and evolution of the Sabaot Land Defense Force (hereafter SLDF) and the Moor Land Defense Force (hereinafter, MLDF), the study provided a dynamic analysis of the rebellion-making decision in which the state played an active role, direct or indirect. The history and evolution of SLDF and MLDF displayed many features that existed in ungoverned spaces. We demonstrated how greed for natural resources such as land and farm products

informed the armed conflict and the impetus for formation of SLDF and MLDF. We brought the reasons that made members of the Bok (Soy) to collectively manage to sustain the war for such a long time and how they financed SLDF's operation.

In summary, the study has shown that failure of state institutions to render required justice was an impetus to emergence of militia groups that began as the only remaining avenue to achieve the needed fairness. Failure to deliver justice was a sign of inability of a government to utilize the apparatus of the civil authority to offer services to the citizens. When civil authority instruments failed, the society easily degenerated into anarchy. These failures were seen through actions or inactions of the provincial administration, judiciary and the police which failed to discharge eminently important tasks to fairly and impartially adjudicate socio-economic and political disputes emanating from the land grievances. When the situation degenerated into armed violence, the civil authority also failed in constraining the excesses of the powerful in society, hence exacerbating conditions of armed conflict as a campaign for deprived rights and liberties. At this point the civil authorities were unable to deal with the armed conflict that threatened the Kenyan states' legitimacy.

Whereas the Kenyan state demanded obedience of the law from the people of Mount Elgon, it was clear that the civil authority had failed to offer the highly needed justice to the people of the region. And in the words of Jason Brennan, when the state institutions failed the people of Mount Elgon, they had a duty to resist when government violated their land rights. They were not going to allow the government and its representatives to act without interference. Supporters of SLDF believed that they had no duty to allow the state or its agents to commit land injustice on them. They opted to react or act with acts of uncivil disobedience by sabotaging government position through an armed confrontation. When SLDF turned its violence on government institutions and later to the people the government responded by employing the instruments of the state namely the military to quell the Mount Elgon Strife. The Kenyan army was deployed in March 2008 to quell the insurgency. The military was hardly a neutral arbiter in the resolution of land conflicts in Mount Elgon. In the hidden space of SLDF war in Mount Elgon, there were extra-state and militia activities that would remain invisible when the focus remains on political conflicts without considering how some actors made profit from those invisible activities while others

made loses. The conversation around the hidden space brought out the picture of profiteers of war. One of the central claims of argument in this study is that the militarization of land issues in Mount Elgon both weakened the SLDF and government presence simultaneously.

Whether or not the people of Mount Elgon will reinvent themselves and start another method of warfare to fight for their land, it is difficult to tell because land grievances in the region remain loud although in the calm and silent environment. However, this research achieved its objectives by bringing out the debate on the political economy of Mount Elgon wars. It has shown that the emergence of Mount Elgon wars was as a result of government failure to address land grievances. Violence to civilians resulted from their location within Mount Elgon their relationships embedded and historically contingent to land issues. Militia groups gained legitimacy through their call for protection of Sabaot land which the community dependent on for economic and food survival. This protection required territorial control over land which could only be achieved by effective war-making activities. War making and defense of Sabaot land rested on the militia group's ability to extract resources from the local population to purchase weapons.

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# APPENDICES

## APPENDIX I: NACOSTI AUTHORIZATION LETTER



### NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION

Telephone: +254-20-2213471,  
2241349, 310571, 2219420  
Fax: +254-20-318245, 318249  
Email: secretary@nacosti.go.ke  
Website: www.nacosti.go.ke  
When replying please quote

9<sup>th</sup> Floor, Utalii House  
Uhuru Highway  
P.O. Box 30623-00100  
NAIROBI-KENYA

Ref. No.:

Date:

7<sup>th</sup> October, 2015

**NACOSTI/P/15/5746/8065**

David Neville Masika  
University of Nairobi  
P.O. Box 30197-00100  
NAIROBI.

#### RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on "*The political economy of Mount Elgon Wars 1968-2008*" I am pleased to inform you that you have been authorized to undertake research in **Bungoma County** for a period ending **6<sup>th</sup> October, 2016**.

You are advised to report to **the Court Registrars of selected Courts, the Chief Executive Officers of selected Government Agencies, the County Commissioner and the County Director of Education, Bungoma County** before embarking on the research project.

On completion of the research, you are expected to submit **two hard copies and one soft copy in pdf** of the research report/thesis to our office.

*Said Hussein*  
SAID HUSSEIN  
FOR: DIRECTOR GENERAL/CEO

Copy to:

The Court Registrars  
Selected Courts.

The Chief Executive Officers  
Selected Government Agencies.



The County Commissioner  
Bungoma County.

The County Director of Education  
Bungoma County.

## APPENDIX II: RESEARCH AUTHORIZATION LETTER

REPUBLIC OF KENYA



### THE PRESIDENCY MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

Telephone: 055- 30326  
FAX: 055-30326  
E-mail: ccbungoma@yahoo.com  
When replying please Quote

Office of the County Commissioner  
P.O. Box 550 - 50200  
BUNGOMA

3<sup>rd</sup> June, 2016

REF: ADM/5/13/237

#### TO WHOM IT MAY CONCERN

#### RE: RESEARCH AUTHORIZATION

The bearer of this letter Mr. David Neville Masika of University of Nairobi has sought authority to carry out research on "*The Political Economy of Mount Elgon Wars 1068-2008*" in Bungoma County for a period ending 6<sup>th</sup> October, 2016.

Authority is hereby granted for the specific period and any assistance accorded to him in this pursuit would be highly appreciated.

A handwritten signature in blue ink, appearing to read 'P. N. Njeru'.

P. N. Njeru  
For: County Commissioner  
BUNGOMA COUNTY

**APPENDIX III: MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY  
AUTHORITY TO CARRY OUT RESEARCH LETTER**



REPUBLIC OF KENYA

MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY  
State Department of Education – Bungoma County

When Replying please quote  
e-mail: [bungomacde@gmail.com](mailto:bungomacde@gmail.com)

County Director of Education  
P.O. Box 1620-50200  
BUNGOMA  
Dates: 2<sup>nd</sup> June, 2016

Ref No: BCE/DE/19 VOL 1/212

The Sub County Directors of Education  
**BUNGOMA COUNTY**

**RE: AUTHORITY TO CARRY OUT RESEARCH – DAVID NEVILLE MASIKA –  
REG.NO. C80/91961/2013**

The bearer of this letter David Neville Masika is a student of University of Nairobi. He has been authorized to carry out research on "*The political economy of Mount Elgon Wars 1968-2008*" the research period runs up to **6<sup>th</sup> October, 2016.**

Kindly accord him the necessary assistance.

A handwritten signature in black ink, appearing to read 'Charles A. Anyika'.

**CHARLES A. ANYIKA  
COUNTY DIRECTOR OF BUNGOMA  
BUNGOMA COUNTY**

**APPENDIX IV: NACOSTI RESEARCH CLEARANCE**

**CONDITIONS**

1. You must report to the County Commissioner and the County Education Officer of the area before embarking on your research. Failure to do that may lead to the cancellation of your permit
2. Government Officers will not be interviewed without prior appointment.
3. No questionnaire will be used unless it has been approved.
4. Excavation, filming and collection of biological specimens are subject to further permission from the relevant Government Ministries.
5. You are required to submit at least two(2) hard copies and one(1) soft copy of your final report.
6. The Government of Kenya reserves the right to modify the conditions of this permit including its cancellation without notice.

  
**REPUBLIC OF KENYA**

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

**RESEARCH CLEARANCE  
PERMIT**

Serial No. A **6779**


CONDITIONS: see back page


**THIS IS TO CERTIFY THAT:**  
**MR. DAVID NEVILLE MASIKA**  
of **UNIVERSITY OF NAIROBI, 0-100**  
**NAIROBI**, has been permitted to conduct  
research in **Bungoma County**


on the topic: **THE POLITICAL ECONOMY**  
**OF MOUNT ELGON WARS 1968-2008**

for the period ending:  
**6th October, 2016**

Permit No : **NACOSTI/P/15/5746/8065**  
Date Of Issue : **7th October, 2015**  
Fee Received : **Ksh 2000**



  
Applicant's  
Signature

  
Director General  
National Commission for Science,  
Technology & Innovation



## APPENDIX V: RESEARCH PHOTOS



Photo 1: Researcher interviewing 78 year old Benson Ishapal Opagala at Kolanya/Chemasir, Teso North on 02<sup>nd</sup> June, 2016



Photo 2: Researcher and his assistants pose for group photo after interview at Kolanya/Chemasir, Teso North on 02<sup>nd</sup> June, 2016



Photo 3: Mzee Kaunya, interview with the author, Kolanya/Chemasir, Teso North on 02<sup>nd</sup> June, 2016





Photo 4: Mzee Laban Wafula Simiyu, interview with the author, Chepkube, Cheptais, Mt. Elgon



Photo 5: Researchers with a group of respondents pose for a photo after a focus group discussion at Ngachi in Cheptais on 3<sup>rd</sup> June 2016



Photo 6: Researcher and his assistant interviewing 82 year old Patrick Ngaina Kisembe at Ngachi Sub-Location, Cheptais Location on 03<sup>rd</sup> June, 2016.



Photo 7: Researcher and his assistant interviewing Salome Ndiwa Matakwei (Wife to SLDF-Commander Wycliffe Kirui Matakwei and Silas Kiplimo Naibei at Matakweis home Sasuri Location, Cheptais Sub-County on 03<sup>rd</sup> June, 2016





Photo 8: The researcher and his assistant at the grave of SLDF Commander Wycliffe Kirui Matakwei, joined by Salome Matakwei (right) and son (on top of the grave).



Photo 9: Scenery of Phase III in the disputed Chepyuk Settlement Scheme in Mount Elgon.