



## Oligarchy and Proprietary Rights on Land in Kenya

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### Abstract

This study sought to discuss oligarchy and proprietary rights on land in Kenya. Oligarch Landownership in Kenya has been a persistent problem, with few monarchs holding the larger tracks of land for their selfish gains, whereas the majority of the population, which comprises marginalised peasants, are left scrambling for the infertile leftovers, enough reason which triggered an investigation, a thorough research into how this came to be and its implications for proprietary rights. Through this research acting as a looking glass into this nightmare haunting most Kenyans, solutions are proposed to improve the solution and ensure that the core of justice and fairness are adhered to. Secondary sources were selected for data analysis from various academic sources and scrutinised for viability for inclusion in the study. A meta-synthesis of the selected samples was conducted, and literature gaps were identified in solutions to the proposed problem. The results from this study indicate that historical, political, and economic aspects in Kenya have played a major role in the grounding of oligarchy land ownership in Kenya. The study's conclusion includes examining the broader implications of oligarchic landownership for Kenya's social, economic, and political development. The study proposes several potential solutions and reforms, including advocating for comprehensive land reforms, fortified land administration systems, empowerment of marginalised groups, and cultivating accountability and transparency in land governance.

**Key terms:** Land conflicts, land reforms, landownership, oligarchy, rights.

## 1.0 INTRODUCTION

In Kenya, an oligarchy is a governance system characterised by the concentration of power among a select few intricately connected to land ownership. The historical backdrop of land ownership in the country, shaped by colonial land alienation and the rise of an elite class, has laid the groundwork for an oligarchic land system. This system, marked by a privileged few's extensive accumulation of land, wields significant influence over Kenya's political and economic spheres. The consequences of oligarchic land ownership directly impact proprietary rights, encompassing the legal entitlements associated with land possession. The dominance of a small group in land ownership has often resulted in the erosion of proprietary rights for marginalised communities, indigenous groups, and small-scale farmers, leading to land disputes, conflicts, and a prevailing sense of disenfranchisement among many Kenyan citizens. A comprehensive examination of the interplay between oligarchy and proprietary rights on land is imperative for grasping the intricate dynamics of Kenya's social, economic, and political landscape (Fitzpatrick, 2005). Effectively addressing the challenges of oligarchic land ownership necessitates holistic reforms that advocate for fair land distribution, safeguard proprietary rights, and empower marginalised communities.

For various reasons, exploring the link between oligarchy and land ownership rights in Kenya is highly important. Firstly, it helps us grasp the origins of the significant land inequality in the country, shedding light on the historical, political, and economic factors that led to a few individuals holding most of the land. Secondly, it allows us to understand how oligarchy affects proprietary rights, especially for marginalised groups. This analysis is crucial for recognising the difficulties in upholding land ownership rights when faced with the dominance of a small elite. Thirdly, delving into this connection is vital for any meaningful land reform efforts in Kenya, aiding in developing effective policies that support fair land distribution and secure tenure for all citizens (Onyalo, 2020).

Additionally, it is essential for addressing social and economic disparities and promoting justice and equal access to land benefits. Lastly, tackling oligarchic land ownership is key to reducing tension and conflicts in Kenya, fostering political stability, and creating an environment conducive to sustainable economic growth (Onyalo, 2020). Therefore, examining the oligarchy-proprietary rights relationship is not only an academic exercise but also a crucial step towards understanding and solving some of Kenya's most urgent challenges, leading to a more equitable, just, and prosperous society.

## 2.0 LITERATURE REVIEW

### Historical Context of Land Ownership in Kenya

Examining the historical evolution of land ownership in Kenya reveals a nuanced narrative spanning precolonial, colonial and post-colonial eras. In the precolonial era, land ownership was predominantly communal, where communities exercised control over access and use based on customary practices. The communal holding of land served as a collective resource, fostering social cohesion and ensuring sustainable utilisation. Traditional leadership structures played a pivotal role in governing land rights and settling disputes related to land (Gochberg, 2020).

Land ownership was taken away from the community during the colonial era, which spanned from 1895 to 1963, as British colonisation introduced individual land titles, fundamentally altering land ownership structures. The establishment of native reserves further restricted African access to fertile lands, creating a preference for European settlers engaged in large-scale commercial agriculture. Consequently, colonial

land policies exacerbated land inequality, setting the stage for a concentrated form of land ownership that persisted into the post-colonial era (Monday, 2017).

Despite gaining independence in 1963, Kenya grappled with skewed land ownership patterns. A small elite retained control over significant land, perpetuating social disparities. Attempts at land reform addressing these inequalities faced substantial hurdles, including political pressures and deeply rooted interests (Monday, 2017). The legacy of oligarchic landownership endured, influencing Kenya's political, economic, and social dynamics by shaping the distribution, use, and access to land. In the present day, the historical trajectory of land ownership in Kenya is a backdrop to ongoing discussions and challenges related to equitable land distribution and the empowerment of marginalised communities.

The influence of British colonisation on land tenure systems and the formation of an oligarchic class in Kenya was profound and enduring. The British's establishment of individual land titles drastically altered traditional communal land management practices, eroding the authority of customary leadership structures and diminishing the protection of community land rights Di (Gregorio et al., 2008). Colonial policies favoured European settlers, granting them extensive land for agricultural and commercial purposes, leading to the dispossession of African communities and a glaring imbalance in land ownership. The accrual of land by European settlers and their associates laid the groundwork for the emergence of an oligarchic class in Kenya. These oligarchs utilised their substantial land holdings to amass political and economic influence, significantly influencing Kenya's post-colonial development trajectory. Leveraging their wealth and power, they acquired even more land, consolidating their position at the apex of the socioeconomic hierarchy (Moosa, 2023). This concentration of landownership has left an indelible mark on Kenya's political, economic, and social landscape, perpetuating inequality and restricting opportunities for marginalised groups.

The British implementing individual land titles favoured European settlers, providing them access to fertile lands and creating a powerful landowning class. This elite enjoyed preferential land, capital, and infrastructure privileges, further entrenching their economic and political dominance. The emergence of this colonial landowning elite exacerbated land inequality, setting the stage for the continuation of oligarchic landownership in post-colonial Kenya (Gochberg, 2020). The disruption of customary land tenure systems during colonisation contributed to the erosion of traditional leadership structures and the loss of indigenous knowledge related to land use and management (Barzel, 1997). Overall, British colonisation fundamentally transformed land ownership patterns in Kenya, transitioning from communal to individual ownership and concentrating land in the hands of a select few. This historical legacy continues to shape Kenya's social, economic, and political spheres by perpetuating an oligarchic land system.

## The Rise of Oligarchy and Land Inequality in Kenya

Oligarchy is a governmental structure where a small, privileged elite, including individuals, families, or corporations, holds significant power, influencing political, economic, and social institutions. Such systems are characterised by the concentration of wealth and authority in the hands of a limited group, resulting in restricted social mobility and political engagement for the wider population. Key features of oligarchic systems include this elite's centralised control of political, economic, and social power, allowing them to influence processes for decision-making and shape various aspects of society. Political participation for ordinary citizens is often constrained, involving limitations on voting rights, suppression of dissent, and

manipulation of elections to favour elite interests (Platteau, 1996). Economic inequality is a prominent characteristic, with the privileged few accumulating substantial wealth while a significant portion of the populace faces poverty. This economic divide reinforces the elite's power and hinders social mobility.

Additionally, the rule of law may be compromised as the elite manipulate legal systems to safeguard their interests, fostering a sense of injustice among the broader population (Harris, 2020). Oligarchic societies also tend to exhibit rigid social stratification, with the elite occupying privileged positions. At the same time, the majority faces restricted opportunities and limited social mobility, contributing to social unrest and instability (Harris, 2020).

The emergence of oligarchy in Kenya is a multifaceted phenomenon deeply rooted in historical, political, and economic intricacies, profoundly shaping the nation's social, economic, and political fabric. The historical legacy of colonial land alienation, particularly under British rule, was pivotal in laying the groundwork for oligarchy (Onoma, 2009). The systematic alienation of extensive land from African communities, coupled with the establishment of native reserves, deprived many Kenyans of their customary land rights, consolidating control over fertile lands in the hands of a privileged few and setting the stage for the formation of an oligarchic class.

Political corruption has been a pervasive force, significantly contributing to the ascent of oligarchy. Corrupt politicians, leveraging their positions of authority, have exploited government resources to amass wealth and influence, consolidating their economic and political dominance (Chemin et al., n.d). This abuse of power has facilitated the acquisition of vast landholdings, further entrenching the oligarchic structure. Similarly, Kenya's economic landscape is marred by pronounced disparities, with a small elite exerting disproportionate control over wealth and resources (Haber et al., 2003). This economic inequality empowers the elite to influence political processes and perpetuates oligarchic rule by limiting opportunities for the majority, entrenching cycles of poverty and inequality.

The prevalence of patronage networks and nepotism in Kenyan society has fostered a culture of favouritism, reinforcing the elite's power. Politically influential figures and wealthy individuals exploit their positions to extend favours and opportunities to loyal supporters and family members, creating barriers to social mobility and fortifying the oligarchic structure. Thus, the confluence of these factors has propelled the rise of oligarchy in Kenya, shaping its political, economic, and social dynamics. Effectively addressing this challenge necessitates comprehensive reforms targeting equitable land distribution, combating political corruption, fostering inclusive economic development, and dismantling patronage networks. By tackling the root causes of oligarchy, Kenya can aspire to cultivate a more just and equitable society where power and wealth are distributed more fairly.

Oligarchs in Kenya have amassed extensive land holdings, consolidating their influence through various means. The historical context of land acquisition reveals that during the colonial era, British settlers acquired vast tracts through dubious methods such as forced evictions and unfair deals, and post-independence, much of this land remained in the hands of a privileged few, contributing to their wealth and influence. The nexus between land ownership and political power is pronounced, as oligarchs leverage their landholdings to sway elections, finance political campaigns, and secure influential appointments. This enables them to mould government policies in their favour, reinforcing their affluence and authority. Economic exploitation is another facet, with oligarchs extracting rent by leasing land at exorbitant rates,

employing exploitative farming practices, or speculating in the real estate market, exacerbating the wealth disparity. Corruption is pivotal in oligarchic consolidation, involving bribery to obtain land titles, manipulation of land registries through influence, and fraudulent land dealings (Haber et al., 2003).

Furthermore, oligarchs utilise their wealth to establish patronage networks, favouring those who support them, perpetuating a system that hinders social mobility and solidifies their rule. This concentration of landownership among a select few oligarchs profoundly impacts Kenyan society, fostering widespread land inequality, worsening poverty and marginalisation, and contributing to social unrest and conflict. Effectively addressing these challenges involves various solutions, including land redistribution, recognition of customary and collective land rights emp, empowerment of the marginalised communities through education on their rights, and sensitisation campaigns on the extent of this problem in the country.

Oligarchic control over land ownership has significantly shaped the landscape of land distribution, use, and access in Kenya. The country's land distribution is highly skewed due to oligarchic land ownership, where a minority holds a disproportionately large share of land, leading to widespread landlessness among most of the population (Azadi & Vanhaute, 2019). This concentration of land in the hands of a select few has far-reaching consequences for the nation's social and economic fabric. The impact of oligarchic landownership extends to land use practices, as these powerful individuals often prioritise profit over sustainability. This has resulted in environmental degradation and the depletion of natural resources. Oligarchs may engage in unsustainable farming methods, clear forests for timber or agriculture, and use their land for speculative purposes without considering the long-term environmental consequences. The pursuit of short-term gains has contributed to the deterioration of Kenya's ecosystems.

Moreover, oligarchic landownership has restricted land access for many Kenyans, particularly affecting small-scale farmers and pastoralists. Oligarchs may enclose their land, preventing others from accessing traditional grazing areas or vital water sources. Additionally, they may leverage their influence to manipulate land laws and regulations in their favour, further marginalising already vulnerable communities and limiting their access to essential resources. The concentration of land in the hands of oligarchs has detrimental effects on Kenya's land resources and the livelihoods of its citizens, exacerbating poverty, inequality, and environmental harm (Robison, 2008). To address these challenges, comprehensive land reforms are imperative. Such reforms should promote equitable land distribution, advocate for sustainable land use practices, and ensure secure land access for all Kenyans, fostering a more just and environmentally sustainable future.

### 3.0 RESULTS AND FINDINGS

#### **The Implications of Oligarchic Landownership for Proprietary Rights**

Proprietary rights, constituting the legal entitlements tied to land ownership, are essential elements that confer individuals or entities the authority to utilise, control, and transfer land. This framework is integral to a functional land tenure system, ensuring secure ownership and encouraging responsible land management practices (Meng, 2020). These legal entitlements encompass various facets related to land ownership, including the right to physical possession and occupation, utilisation for farming, residential or commercial purposes, deriving income through rent or resource extraction, exclusion of unauthorised entry or use, transfer of ownership through sale, gift, or inheritance, and the capacity to develop the land through construction or physical alteration (Kenya, 2023). The significance of proprietary rights lies in their role in land ownership and management, providing benefits such as secure land tenure, reduction of land

disputes, promotion of responsible land use, facilitation of efficient land markets, encouragement of investment and economic development, and contribution to social equity through fair distribution and recognition of proprietary rights.

However, in Kenya, proprietary rights encounter several challenges. Historical land injustices stemming from colonial land alienation and subsequent land reforms have created a complex and contested land ownership landscape. Weaknesses in land administration systems, characterised by inadequate registries, corruption, and unclear land laws, hinder the recognition and enforcement of proprietary rights. Indigenous communities often face marginalisation as their customary land rights are not formally acknowledged, leading to conflicts and dispossession. Gender inequality further compounds the issue, with women experiencing discrimination in accessing and securing proprietary rights. Additionally, unsustainable land use practices pose environmental concerns, eroding the value of proprietary rights and undermining long-term land productivity (Lazarev, 2012).

In response to these challenges, adopting a comprehensive, multi-pronged approach is essential. Land reforms should be instituted to rectify historical injustices, promote equitable land distribution, and fortify land administration systems. Legal recognition and protection of customary land rights are crucial to safeguard the rights of indigenous communities. Gender equality measures must be implemented to empower women in land ownership and access. Integrating sustainable land use practices and environmental safeguards into land tenure systems is imperative. Public awareness campaigns and education programs can enhance understanding of proprietary rights and support responsible land management (Kalyanpur, 2020). Kenya can strengthen proprietary rights by implementing these measures, fostering secure land tenure, responsible land use, and a more just and equitable society.

Oligarchic landownership in Kenya has significantly and adversely impacted proprietary rights, affecting individuals, communities, and indigenous groups across various dimensions. On an individual level, the extensive landholdings of oligarchs cast a shadow over individual rights, resulting in diminished security of tenure. This vulnerability exposes individuals to threats of eviction, encroachment, and coercion to surrender their land, eroding their capacity to enjoy the benefits of ownership. Furthermore, the concentration of land in the hands of oligarchs restricts access for individuals, particularly small-scale farmers and landless communities, curtailing their opportunities for agricultural production, economic advancement, and sustainable livelihoods. Oligarchs' economic and political dominance further weakens the bargaining power of individuals in land-related negotiations, fostering unfair agreements, resource exploitation, and the marginalisation of individuals in land-use decisions (Lazarev, 2012).

At the community level, oligarchic landownership often disregards the customary land rights of communities, particularly indigenous groups. This neglect can spark land conflicts, endanger cultural heritage, and disrupt traditional land management practices. The control exerted by oligarchs over land may limit communities' access to vital communal resources such as grazing pastures, water sources, and sacred sites, disrupting their livelihoods, cultural practices, and social cohesion (Bulmer & White, 2022). Additionally, the influence of oligarchs may undermine the authority of traditional leadership structures, weakening community control over land management decisions. This dynamic can result in unsustainable land use practices and the erosion of community-based resource management systems.

Indigenous groups bear a disproportionate impact from oligarchic landownership, facing dispossession from their ancestral lands, loss of cultural heritage, displacement, and marginalisation. The collective land rights of indigenous groups often go unrecognised and unprotected under oligarchic landownership, infringing upon their right to self-determination, autonomy over their lands, and the preservation of their cultural identity. Oligarchs' control over land may further curtail the ability of indigenous groups to practice traditional land use practices, such as subsistence farming, sacred ceremonies, or spiritual connections to the land.

Addressing the repercussions of oligarchic landownership on proprietary rights in Kenya necessitates a comprehensive approach. First and foremost, comprehensive land reforms are imperative to rectify historical injustices, promote equitable land distribution, and strengthen land administration systems. Formal recognition and protection of customary and collective land rights are crucial to safeguard the rights of communities and indigenous groups. Empowering these groups in land management decisions and ensuring their active participation in land-related processes is vital for protecting their rights. Legal aid and advocacy support for individuals, communities, and indigenous groups can aid in asserting their rights and challenging unfair land practices. Public awareness campaigns and educational programs can contribute to a broader understanding of land rights, promote responsible land use, and foster respect for the rights of all stakeholders (Markus, 2016). Addressing the challenges posed by oligarchic landownership in Kenya can promote secure proprietary rights for all individuals, ensure equitable access to land, and safeguard the rights of communities and indigenous groups, fostering a more just and inclusive land governance system.

Enforcing proprietary rights within the framework of oligarchic landownership is impeded by many challenges and limitations, hindering the effective safeguarding of land rights and the equitable distribution of land. The pervasive political influence wielded by oligarchs enables them to exert pressure on legal and enforcement entities, resulting in the overlooking of proprietary rights violations. Weak institutions, corruption, and inadequate legal frameworks create vulnerabilities that oligarchs exploit to manipulate land records, evade legal consequences, and subvert proprietary rights enforcement. Resource constraints faced by government agencies tasked with enforcement limit their ability to investigate disputes, monitor land use practices, and ensure compliance, disproportionately favouring oligarchic interests (Rithmire, 2015). Access to legal remedies is impeded by the complexity of land laws, high litigation costs, and fear of oligarch reprisals. Cultural and social barriers, rooted in norms and power dynamics, further hinder marginalised groups from asserting their proprietary rights effectively.

The enforcement limitations stem from historical injustices, complex land tenure arrangements, and unclear land laws that oligarchs exploit to circumvent mechanisms. Incomplete land registries, poor communication infrastructure, and lack of access to accurate land records make verifying ownership claims and identifying rights violations challenging (Acemoglu & Robinson, 2008). Inefficient dispute resolution mechanisms exacerbate conflicts, delaying enforcement and eroding public trust. A critical factor is the need for more political will and commitment, necessitating sustained efforts to address oligarchic landownership. Overcoming these challenges demands a comprehensive approach encompassing land reforms, strengthened administration systems, improved legal representation for marginalised groups, heightened public awareness of land rights, and the cultivation of a culture of transparency and accountability in land governance.

The pervasive influence of oligarchic landownership in Kenya has unleashed profound and deleterious consequences on both land tenure security and land-related conflicts, intensifying tensions and eroding the stability of land tenure arrangements. This oligarchic concentration of land has resulted in insecure tenure for marginalised groups, exposing individuals, communities, and indigenous populations to the constant spectre of eviction, encroachment, or coercive land relinquishment. These powerful entities' manipulation of land records and legal processes further exacerbates the problem, with oligarchs leveraging their resources to forge documents, influence legal proceedings, and dispossess rightful landowners (Markus, 2015). Enforcement of land rights is weakened under the sway of oligarchs, who wield political and economic power to obstruct justice, intimidate those seeking legal remedies, and skew land-related decisions in their favour. This creates a climate where the powerful act with impunity, disregarding the rights of marginalised groups. On the front of land-related conflicts, oligarchic landownership gives rise to heightened disputes as affected parties contest the legitimacy of oligarchs' landholdings and vie for the recognition of their rights, often escalating into violent confrontations in fiercely contested land areas (Markus, 2015).

Moreover, disrupting traditional land management systems, historically ensuring equitable access and sustainable use, contributes to resource scarcity, environmental degradation, and social unrest. Oligarchs' influence also undermines alternative dispute resolution mechanisms, eroding the effectiveness of traditional or community-based approaches in favour of formal legal systems that may align with the interests of the powerful. Effectively addressing the multifaceted impact of oligarchic landownership necessitates comprehensive land reforms, fortifying land administration systems, fostering transparency and accountability in land governance, and empowering communities to manage their lands sustainably.

## 4.0 CONCLUSION AND RECOMMENDATIONS

**Conclusion:** In Kenya, the intricate connection between oligarchy and land ownership has been a defining factor shaping the nation's social, economic, and political dynamics. Rooted in the historical legacy of colonial land alienation, political corruption, and economic disparities, this concentration of land in the hands of a few has given rise to an oligarchic system that significantly impacts proprietary rights, land tenure security, and land-related conflicts. The repercussions are profound, exacerbating inequalities, undermining land management practices, and fueling disputes. To address these challenges, comprehensive reforms are imperative, encompassing equitable land distribution, strengthened land administration systems, enhanced legal representation for marginalised groups, heightened public awareness of land rights, and the cultivation of a culture of accountability and transparency in land governance. The broader implications of oligarchic landownership extend to perpetuating social and economic inequalities, constraining social mobility, and intensifying poverty among marginalised groups. The concentration of land in the hands of a select few impedes sustainable economic development by limiting access for small-scale farmers, entrepreneurs, and other potential economic actors, thereby hindering inclusive growth. Moreover, it undermines political stability and democratic processes, concentrating power within a small elite and limiting the participation of marginalised groups in decision-making.

**Recommendations:** Land redistribution and recognition of customary and collective land rights are vital among the solutions to land reforms. Strengthening land administration systems is crucial, involving efforts to enhance capacity, transparency, accurate land records, efficient titling processes, and effective dispute resolution mechanisms. Empowering marginalised groups through legal aid, education, and support is essential for asserting their land rights and participation in land governance. Through education

on the marginalised communities, for example, the law and their rights to land ownership, the few individuals who have the power to grab land from others would not be able to defend their acts against the courts of law. Also, the marginalised communities would not fear when standing for their right to land ownership. Campaigns to raise public awareness and community engagement initiatives are needed to promote an understanding of land rights and governance principles, emphasising the importance of equitable land distribution. Additionally, fostering accountability in land governance through anti-corruption measures, public audits, and independent oversight mechanisms is crucial for sustainable and just land management systems.

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