

## **Historical Analysis of the Land Question in Bukusu-Sabaot Inter-Ethnic Conflict In Mt. Elgon Area Since 1850**

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**Abstract:** Ethnic conflicts have been witnessed world over; different communities fight each other over territorial boundaries, limited natural resources and political supremacy. This worrying trend disturbs livelihoods, access to social amenities and affects local and international economies. As a limited resource, with cultural and economic value, land has generated inter-ethnic conflicts world-wide. In Kenya communities like the Maasai and Kipsigis have recently fought over land and cattle. The Pokomo and Oromo have had a history of land conflict in the Tana River Delta. The Gabbra and Dassenetch communities of Marsabit County have fought over grazing land in the recent past. It is against this backdrop that this study examined the historical analysis of the land question in Bukusu-Sabaot inter-ethnic conflict in Mt. Elgon area since 1850, whose specific objectives included, to assess the relationship between the Bukusu-Sabaot during the pre-colonial period, to examine the Bukusu-Sabaot relationship in the colonial period and to analyze the Land question in the post-independence Bukusu-Sabaot conflict. This study was grounded on instrumentalists and constructivists theories of ethnic identity. Barth argued that ethnicity is a product of social process rather than cultural forces. Constructivist argues that ethnic identity is the latest invention in Africa created by colonialists and missionary agents. Instrumentalists on the other hand, view ethnicity as a tool by the elites as a means to achieve certain objectives. The finding revealed that the land question in Mt. Elgon area can be traced to the conflict of migration and settlement between the Bukusu and Sabaots in Mt. Elgon area. The land question was also perpetuated by the both the colonial and post colonial governments through their land and general policies. The study in addition found that socio-political and economic features of both the Bukusu and Sabaots reinforced the land conflict in Mt. Elgon area. The study further found that ethnicity, gender dimensions, politics, elites and infiltration of firearms in Mt. Elgon area fuelled the Bukusu-Sabaot inter-ethnic land conflict in Mt. Elgon area. The study recommended that conflict epicentre should be mapped out and intervention measures concentrated in such areas. The study further recommends that cultural relativity should be emphasised, it also recommended that conflicts actors should be at the centre of conflict mitigation. The study also recommended that gender related pressure regarding land ownership should be dropped and the government should take disarmament exercise seriously in Mt. Elgon area. The study further recommended that there is need to ease pressure on land by establishing alternative sources of livelihood. The study also established that traditional methods of conflict resolution should be fused with religious conflict intervention methods and other modern mitigation methods to avert the conflict.

**Keywords:** Bukusu, Sabaot, Mt. Elgon area, Inter-ethnic land conflict

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Date of Submission: 29-04-2019

Date of acceptance: 13-05-2019

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### **I. INTRODUCTION**

Ethnic conflicts appear to be on the rise. In the recent years, violent conflicts have erupted between ethnic groups in the former Yugoslavia, Russia and Spain. Ethnic conflicts are also a threat to world peace and stability. The effects of the inter-ethnic conflicts have profound ramification to the neighbouring communities and nation states. Forcibly displacements and destruction of stable governments and economies are synonymous with inter-ethnic conflicts. Besides, the harsh reality of inter-ethnic conflicts contributes significantly to loss of lives, destruction of property and disruptions of livelihoods. (Roxborough, 2004:1028; Ember, 554 *et.al.* 2007)

Porous borders have significantly been attributable to the influx of Small and Light Weapons. The unchecked situation aids and enables weapons to end in the hands of the civilians and the militia escalating ethnic conflicts. Fredrick Warurii says;

...inter-ethnic conflicts have been fuelled by the Small and Light Weapons (SALW) Civilians control six hundred and forty million more Small and Light Weapons than the police and governments. An addition, eight

million new weapons enter the market each year. The unrestrained access to SALW by the civilians creates an avenue for regional militarization by illegal gangs.<sup>1</sup>

The twentieth century, witnessed the emergency of 'organized' conflicts and carries the dubious distinction of being the most controversial century in the human conflict history. In Armenia the ottoman Turks engaged in a conflict with the Armenians from 1915 to 1923. Turkish administration in the provinces of Armenia was exploitative and oppressive to the Armenians. In the competition for land, official licensing of Kurds in eastern Anatolia encouraged unlawful transfer of property, the dispossession of the rural Armenia population and their emigration from their homeland. In 1915 Armenians lived in all major cities of Ottoman Empire but by 1923, the Armenian population of Turkey had been reduced to those living around Constantinople. (Gidden, 2006:500)

Vietnam engaged in a land conflict with ethnic Chinese, as known as the war of expansion. Vietnam had invaded Cambodia in 1978. This led to ethnic hostilities between ethnic Chinese and Vietnamese, as a result, about one million ethnic Chinese were deported from Vietnam (Schaefer, 2001:269)

In Africa, a continent believed to be the cradle land of man, inter-ethnic conflicts have littered the continents rich history, in a few words, one can describe Africa as the land of chaos. (Runaku, 1994:268) The Nkonya and Alavanyo have engaged in a perennial land conflict in the Volta region in Ghana, leading to socio-economic implications and political turmoil in the affected Volta region. The disastrous amicably solution has given leeway to unrests in the region that resurrects periodically. The Two communities fight to control land as a social and economic asserts which is inherent in their social and economic spheres. (Asamoah, 2014:61)

In Nigeria the Yoruba farmers and the Hausa-Fulani pastoralists have engaged in inter-ethnic land conflicts in South Western Nigeria. The contested land was either donated or sold by traditional rulers to the Royal Niger Company, which, upon its authority revocation transferred the land in question to the governor of Nigeria. The colonial state like the Royal Niger Company left the land undeveloped and unoccupied creating an avenue for the rights of claim by the Hausa-Fulani and the Yoruba. (Arowosegbe, 2017:13) Arowosegbe further states that;

As indigenous Yoruba farmers embarked on chasing away Hausa-Fulani pastoralists from their land, bitter and bloody struggles ensued. In seeking to stop their Yoruba aggressors, Hausa-Fulani pastoralists instituted several court actions. In the process, litigations and counter-litigations continued into the 1980s, most of which have elicited fatal clashes, thus undermining development and stability.<sup>2</sup>

In DRC Congo, in particular the Kalehe (South Kivu) area, the Tutsi and the Hutu are engaged in inter-ethnic land conflicts. The Tutsi expects to return to their lands on Kalehe's Hauts Plateaux (High Plateaux) mountain range. They left these lands at the height of the Hutu-Tutsi inter-ethnic conflict in Rwanda in 1994 which had a spill over corollary in the area. (Gillian Mathys *et. al*, 2016:5) Gillian and Vlassenroot further explain that;

Prior to their departure, Tutsi communities made arrangements about their concessions, either selling the land or leaving it to custodians or guardians. At present, however, much of this land is occupied by Hutu farmers, who fear the loss of their livelihood options in case the original —Tutsi—landowners return. In this case land disputes have revived long-standing animosities and contribute to the enduring presence of armed groups.<sup>3</sup>

While community leaders use these armed groups to ensure and protect their access to land, the persistence of these groups is also connected to land grabbing by politico-economic elites, which further reduces the livelihood options of Hutu farmers. (Gillian Mathys *et. al*, 2016:5)

The last decade of the 20<sup>th</sup> century saw Rwanda plunge into a vicious Hutu-Tutsi inter-ethnic conflict. The magnitude of the conflict got the attention of the world. Land was the emotive issue that triggered the conflict. Billy Batware shades light on this;

...The Tutsi chiefs accumulated land resource denying the Hutu equal opportunity of ownership. This system of exploitation became untenable, sparking inter-ethnic conflict between the Tutsi and Hutu in Rwanda 1990-1994.<sup>4</sup>

Kenya has witnessed the highest frequency of inter-ethnic conflicts in the region. Land remains the most contested resource in Kenya's inter-ethnic strife. Common conflicts involve the pastoralist communities

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<sup>1</sup>F.K.Warurii: *Inter-ethnic conflicts: trends, causes, effects and intervention in Rumuruti Division of Laikipia*, (Kenyatta University; 2015), p.1.

<sup>2</sup> J.O. Arowosegbe: *Ethnic Minorities and Land Conflicts: Social science research council | working papers*, (University of Ibadan; 2017); p. 13.

<sup>3</sup> Gillian Mathys and Koen Vlassenroot: 'It's not all about the land': *Land disputes and conflict in the eastern Congo* (Rift Valley Institute psrp briefing paper 14, 2016); p. 5.

<sup>4</sup> Billy Batware: *Rwandan ethnic conflict* (Australia: European University; 2012); p.4-5.

fighting to control grazing fields while agriculturalists communities fight to control land for crop cultivation. Fredrick Warurii shares this;

...In Kenya inter-ethnic conflicts have been witnessed in Rumuruti division of Laikipia in the former Rift Valley province between the pastoralist Somali and the agriculturalist Kalenjin over land. In 1992, the Kikuyu and the Kalenjins in Rift valley conflicted over land ownership with Molo being the epicentre. In Gucha and Migori inter- ethnic conflicts have involved the Luo and the Abagusii. The Oromo and the Pokomo in the river Tana delta have engaged in perennial conflicts over the grazing land and water between 2012 and 2013.<sup>5</sup>

The Pokomo and the Orma have engaged in inter-ethnic land conflict in the Tana Delta between 2012 and 2013, the Pokomo –agriculturalists protested the Orma –pastoralists’ invasion on the Kau farm believed to be Orma land. The Orma instead claimed they were using a migratory route that seemed to have been converted into a rice farm. The escalation of the conflict led to the loss of 200 lives and destruction of property that run into millions. (Kirchner, 2013:61)

The Turkana and the Pokot communities have engaged in the inter-ethnic land conflicts in the Turkwel gorge area, whose ownership is contested by both communities. (SRIC, 2016:16) The Security Research Information Centre report states that;

On land disputes, key informants noted that both the Turkana and the Pokot communities accused each other of encroaching on their land particularly in areas such as Turkwel gorge, whose ownership is claimed by both communities.<sup>6</sup>

In Kuresoi North Sub-County the Kipsigis, the dominant ethnic community in the area have engaged in inter-ethnic land conflicts with the Kikuyu and Abagusii. They have branded Kikuyu and Abagusii in the area as ‘foreigners’ who are occasionally evicted during inter-ethnic land conflicts. (Kipkemoi, 2015:18) Kipkemoi further reiterates that;

Different ethnic communities flock to Kuresoi North sub-county to purchase land, since it’s considerably cheaper than in other areas. In times of conflicts, those who purchased land in the recent past are considered “foreigners” and hence get threatened of eviction .The Kipsigis are considered the original inhabitants; who practice both crop and animal husbandry. In the event of impending conflicts, the other ethnic groups mainly the Abagusii and the Agikuyu view themselves as being in a foreign land; hence they in most cases opt to move to other regions till peace prevails.<sup>7</sup>

Mt. Elgon area has been an epicentre for intra-ethnic and inter-ethnic land conflicts for decades. Intra-ethnic conflicts have pitted the Sabaots clans against each other, whereas inter-ethnic land conflict has pitted the Bukusu against the Sabaot. The problem of land has featured prominently in both intra-ethnic and inter-ethnic clashes. The non-commitment by relevant authorities to put to rest land skirmishes in the area, has given leeway to sporadic intra and inter-ethnic land conflicts in the area. Beatrice Imbuye writes;

...In Mt. Elgon area, an intra-ethnic land conflict has erupted between the Soy and Ndorobo. At the centre of the conflict, has been the unresolved land problem. The government initiative to resettle the Ndorobo and incorporate them into mainstream life in 1967 has since been derailed with armed Soy and Ndorobo intra-ethnic conflict in the Mount Elgon Sub-County. Politicians and militia have fanned intra-ethnic conflict between the soy and Ndorobo over land resettlement scheme at the Chebyuk resettlement scheme.<sup>8</sup>

The conflict in the Mt. Elgon area has attracted the attention of scholars from different fields of social sciences. Many studies done in the area had different objectives with the aim of finding a lasting solution to the unending land conflict in the area avoided the Bukusu-Sabaot inter-ethnic land conflict focusing on the intra-ethnic conflicts among the Sabaot clans. This study takes into consideration contributions of other scholars in understanding and shading insights on finding a lasting solution to the Bukusu-Sabaot inter-ethnic land conflict and similar land related conflicts world over.

A historical study grounded on Instrumentalism and constructivist’s theories were handy to study the historical analysis of the land question in the Bukusu-Sabaot inter-ethnic conflict in the Mt. Elgon area since 1850.

Inter-ethnic conflict has attracted attention among, anthropologists, political scientists, sociologists, historians and generally in the field of social sciences. This explains how inter-ethnic conflict has become common. The Bukusu-Sabaot inter-ethnic land conflict is an age old crisis. However, Bukusu-Sabaot inter-ethnic land conflict has failed to the capture the attention of many scholars. This study enacted the historical analysis of the land question in Bukusu-Sabaot inter-ethnic conflict in Mt. Elgon area since 1850. The study

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<sup>5</sup> F. K. Warurii, *op.cit.*, p. 3

<sup>6</sup> *An assessment of social-economic impact of conflict in Turkana and West Pokot Counties*, (SRIC; 2016); p. 16.

<sup>7</sup> L. J. Kipkemoi: *Factors influencing inter-ethnic conflicts in Kuresoi north sub-county Nakuru county, Kenya* (MA thesis, University of Nairobi; 2015); p. 18.

<sup>8</sup> Beatrice Imbuye: *Intra-ethnic Relations among the Sabaot of Mt. Elgon* (Nairobi: MA thesis Kenyatta University; 2016); pp. 121-5.

aimed at assessing the relationship between the Bukusu-Sabaot during the pre-colonial period, examining the Bukusu-Sabaot relationship in the colonial period and analyzes the Land question in the post-independence Bukusu-Sabaot inter-ethnic conflict

## II. METHODOLOGY

This study used qualitative research design to assess the relationship between the Bukusu-Sabaot during the pre-colonial period, examine the Bukusu-Sabaot relationship in the colonial period and analyze the Land question in the post-independence Bukusu-Sabaot inter-ethnic conflict. The design helped to access qualitative data related to research questions and objectives. The research design suited this study given the unique nature of historical evidence. The data presented is non-numeric in analysing and interpreting human behaviour in the Bukusu-Sabaot inter-ethnic conflict. The technique was used to describe things and not to their counts or measure. (Berg *et. al*, 2012:3)

The study looked at the Bukusu and Sabaot groups as main tool of analysis. They are categorized depending on where they have lived and their inter-ethnic conflict and inter-ethnic relationship orientations. These differences helped in finding out aspects of the Bukusu-Sabaot inter-ethnic land conflict in the Mt. Elgon area.

The study was carried out around Mt. Elgon area in Bungoma County (see map on the next page). Bungoma County is in Kenya and Kenya is in Africa (Beatrice Imbuye, 2016) writes;

...the area has arable land and two rainy seasons suitable for agriculture, it is therefore considered a bread basket in Kenya which promotes trade between the region and neighbouring Uganda and South Sudan.<sup>9</sup>

Mt. Elgon area is an ecosystem with a Forest reserve and National Park. The forest is one of the five water towers in the Country, others include; Mt. Kenya, Cherang'ani Hills, Mau Complex forests and Aberdare Range. The National park is famous for its caves which are a tourist attraction. (Imbuye, 2016:27)

The elders, politicians, youths, professionals and government officials were sampled using non probabilistic sampling technique to ensure they represent the target population. The researcher with the help of the research assistant identified experienced informants based on the objective of the study using purposive sampling. Snow balling was used in cases where the researcher and the research assistant were referred to more knowledgeable informants. Sampling put into account the Bukus and Sabaots living in different divisions in the area. At least three Bukus and three Sabaots were selected from each of the four divisions of Mt. Elgon area. The four divisions include; Cheptais, Kaptama, Kapsokwony and Kopsiro. The aged people were given prominence because the study is historical, while gender representation was considered. Since patriarchy is prominent in both the Bukusu and Sabaot, more males than females were represented. At least, twenty four respondents were selected as a sample of the target population.

An interview and questionnaire with open ended questions was used, it helped the researcher to carry out the study according to the set objectives. The researcher used pens, notebooks and a tape recorder to record respondent's accounts. The study also used face to face interviews with politicians and government officials.

## III. FINDINGS AND DISCUSSIONS

### The land Question and production forces in Kenya

At the outset of the 19<sup>th</sup> century, the native people of Kenya had established their forces of production to the level of mutual proprietorship. This was inherent in their traditional land tenure system. (Nasimiya, 1984:62)

The pre-colonial land tenure system in Africa espoused collective title and redistribution of land. Land matters were subject to clan system of patronage, thus, virtually the clan owned the land. The clan further subdivided the land to individual families, but, the kinsmen in the families subscribed to clan patronage regarding land crises and redistribution. Accordingly, land during the pre-colonial period was a common property. Meek shares this;

Land is held on (a) kinship and/or (b) a local group basis. Individuals have definite rights but these are qualified by membership of a family, kindred and word (or small villages). Similarly the individual claims of families exist concurrently with the wider claims of the clan or local group. Title, therefore has a community character –the elder is the custodian of land ownership in the extended family or kindred. Land, once granted to a family, remains the property of that family and the chief has no right to any say in its disposal.<sup>10</sup>

The predominance of patriarchy in the pre-colonial African society, barred women and girls from owning or inheriting land, however, wives of the deceased members of the family were inherited. (KNA/DC/NN/10/1, Political Associations, 1926-40) Wagner sheds more light to this;

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<sup>9</sup>B. Imbuye, *op. cit.*, p. 28.

<sup>10</sup>C.K. Meek: *Land Laws and Customs in the colonies* ( London: Oxford Universities press; 1946); p. 26-27

Girls were given their own gardens at the age of fourteen. The crops raised by them were stored in a special granary which after their marriage were ceremoniously 'opened' by their father in-law and served to give them a start in their own households.<sup>11</sup>

It is contentious as whether women were denied the right over land. Informant accounts postulates that both men and women assumed full responsibility of the assigned land including cultivation and management of the land. However, redistribution of land and custodian rights was bestowed to the male members of the societies. (O.I. Kiprop, 2019) This is shared by Willis;

A woman as a member of her lineage enjoyed all the advantages of a man in respect to rights of usufruct throughout her span of life...as a wife or daughter, she assume full responsibility for the management of her firms and in practice, she is free to tend sections to her kin and friends. Thus, land tenure often meant that both men and women had the right over the land they were assigned to cultivate.<sup>12</sup>

In Mt. Elgon area, the economic sub-structure in the pre-colonial era was driven by low level of forces of production superficially for sustenance, even so, surplus was traded or reserved for posterity, and land was the essential force of production. (Nasimiyu, 1984:39) Nasimiyu further observes that;

Bukusu agriculture was not only a simple subsistence system but produced surplus which was exchanged for other commodities.<sup>13</sup>

To exploit land, pre-colonial African societies took on shifting cultivation and inter-cropping in sustaining land fertility and boasting yields which according to informants was also practised in Mt. Elgon area. All the same, the Europeans presence in the turn of the 19<sup>th</sup> century revolutionised agronomic systems through introduction of sustainable methods of farming. (Nasimiyu, 1984:69; O.I. Musee, 2019) Mamdani observes that;

While pre-capitalists relations (forms) were conserved, their content, the productive forces now functioned strictly in the interests of capitalist's accumulation.<sup>14</sup>

From the foregoing, the advent of colonialism and western capitalism in the form of money economy in the fall of 19<sup>th</sup> century did not destroy the pre-colonial productive forces in Africa, including Mt. Elgon area. Money economy only modified the pre-existing forces in their present form. Odhiambo shares this;

In analysing the impact of the penetration of finance capital has on had on the peasantry in developing countries, as a result of capital conservation the peasantry in dependent relations, capital was not capable of instituting domestic changes in the instruments and forms of the labour.<sup>15</sup>

The introduction of western capitalism in Kenya, at the height of New Imperialism, in the last quarter of the 19<sup>th</sup> century, brought along new systems of production chain that involved import and exports of products to western markets in Europe and America. (Frank, 1967:78-92) Brett shares this;

Colonial society was linked to the outside world through the system of international capitalism whose potential and economic centres were located in the most advanced parts of Europe.<sup>16</sup>

Colonialism and Western capitalism system was complemented with commercial labour; Africans were preferred for the provision of labour in European farms because it was convenient and cost friendly relative to the imported European labour. (Momanyi, 1996:20) Achola further observes that;

The basis of conflict in any society is inherent in their economic substructure...<sup>17</sup>

Land both in pre-capitalist and capitalist societies in Kenya and particularly Mt. Elgon area has been the critical force of production. It has been the basic economic substructure within which intra and inter-ethnic conflicts have been entrenched. Mt. Elgon area in particular is an agrarian society and land is the chief force of production and its differential in access and utility determines social relations which interact with the aspects of superstructure like culture or ethnicity to trigger land related conflicts. Colonial and post-colonial government have exploited land resource for the production of raw materials for both local industrial production and foreign export. (Odhiambo, 2002:5-7) Simiyu sheds more light on this;

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<sup>11</sup>G. Wagner: *The Changing Family among Bantu of Western Kenya* (London: Oxford University Press; 1939); p. 9.

<sup>12</sup>R. G. Willis, *The Fipa and related people's of south-west Tanzania and North-East Zambia: Ethnographic survey of Africa* (London: International African Institute; 1966); p. 47.

<sup>13</sup>R. K. Nasimiyu: 'The participation of women in the political Economy of Kenya: A case study of Bukusu women in Bungoma district, 1902-1960' (MA Thesis, University of Nairobi; 1984); p. 42.

<sup>14</sup>M. Mamdani: *Politics of class formation in Uganda* (London: Heinemann; 1976); p. 138.

<sup>15</sup>M.C. Odhiambo: *Advocating for land policy reforms in Kenya, Uganda and Tanzania: NGO lessons and prospects* (Lagos Nigeria: Paper prepared for the second workshop of the pan-African programme on land and Resource Rights held on 15<sup>th</sup> to 16<sup>th</sup> July; 1977); p. 235

<sup>16</sup>E. A. Brett: *Colonialism and underdevelopment in East Africa: The politics of Economic change 1919-1939* (Nairobi: Heinemann; 1973); p. 31.

<sup>17</sup>Achola (1990:14)

As for the vast majority of the Kenyan rural population, land is the basic and often only economic resource from which they eke a livelihood and it is also around those socio-cultural and spiritual relations among community members are defined and organized.<sup>18</sup>

Population pressure is an emerging factor in utilization of land resource in Kenya, at independence the Kenyan population stood at eight million, with an annual population growth of barely three percent, the population has bloated to more than five times the initial population at independence. Moreover, only twenty percent of the Kenyan land mass is arable. This factors combined exerts pressure on existing and favourable land in Kenya and chiefly Mt. Elgon area. Simiyu shares this;

The ever-growing population also exerts increasing pressure on what is already a scarce resource, against a backdrop of growing environmental awareness and sensitivity which, grounded in the logic of sustainable exploitation of resources and environmental conservation requires that population migration into certain ecological sites be controlled.<sup>19</sup>

African liberations movements in Kenya and beyond the continent just as they agitated for self-determination, the political struggle were also centred on the return of the African land, which had been alienated at the behest of colonial rule in African and by extension Kenya. This has systematically contributed to the development of the land question in Kenya. (Simiyu, 2008:5) Simiyu further observes that;

One of the lasting legacies of colonialism is the alienation of large chunks of prime agricultural areas from African communities which were then handed over to a relatively small number of white settlers.<sup>20</sup>

The colonial land alienation process that was hinged on colonial land policies in the colonial Kenya, led to the disposed Africans in Kenya, further to this, the creation of native reserves led to the uprooting of Africans from their ancestral area and sometimes, such influx of displacement infringed on hitherto foreign ethno-territorial areas, which has historically heightened tensions during and after the colonial period in Kenya. (Simiyu, 2008:5) Kanyinga sheds more light to this;

The resulting skewed patterns of land distribution and in particular, the disinheritance that left many Africans either landless or pushed onto unproductive marginal territories, in time became central grievance in the liberation struggle.<sup>21</sup>

This brings in the application of this study theory of constructivism, through alienation of African land through colonial land policies, the colonial government created ethnic identities. Some communities land was dispossessed at the expense of the other community. For example the Sabaots lost land in the colonial Trans Nzoia and Mt. Elgon area to the Bukusu.

The land question dominated the Lancaster house pre-independence talks, but, while the right to land was enshrined in the independence constitution, issues of gender bias, controversy that man did not mean the colonised person and native was excluded from the notion of native cropped up. Kuria states that;

The clause of land intimated that all Kenyan ethnic groups had to drop all claims to the land that was alienated by the colonial government, either given to the British settlers or treated as crown or government land. It was further agreed that in independent Kenya, land could only be acquired through purchase. There were to be arrangement made for Africans to purchase such lands from settlers.<sup>22</sup>

This became a breeding ground for inter-ethnic tensions and conflicts in the post-colonial Kenya. The post-colonial government remained non-committal in resolving the historical land question in Kenya. But instead, the independence government officials and elites escalated the historical injustices and inequalities in the established policies of land redistribution. (Kariuki, 2004:6) Kariuki further states that;

Land has also been used by successive governments in independent Kenya as a means of political patronage and controls. Public land has been expropriated and dished out to powerful individuals and select groups in exchange as a reward for political support.<sup>23</sup>

Land question in Kenya has been escalated by lack of an inclusive legal, policy and established outline for land regulations and control. Confusing land tenure legislations have been instituted, which fail to restore order in the chaos of happening. This state of affairs has made access, ownership and utilization of land controversial and an emotive issue (Odhiambo, 2002:6-9) Kariuki states that;

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<sup>18</sup>R.R. Simiyu: *Militianisation of Resource Conflicts: The case of land based conflict in Mount Elgon region of western Kenya* (Pretoria: Institute of Security Studies; 2008); p. 4.

<sup>19</sup>Simiyu, *op. cit.*, p. 5.

<sup>20</sup>*ibid*

<sup>21</sup>K. Kanyinga: *Struggle of access to Land: the squatter question in Coastal Kenya* (Copenhagen: CDR working paper, centre for development; 1998); p. 7.

<sup>22</sup>K.K. Kuria: 'Majimboism and ethnic clashes in Kenya today' (in the Nairobi law, Monthly, May ;1993);p .21

<sup>23</sup>S.M. Kariuki: *Can negotiated land reforms deliver? A case of Kenya's of Kenya's South Africa's and Zimbabwe's land reforms policy debates* (ASC working paper, 59/2004: African studies centre 2004); p. 6-10

Ethnic clashes based on land conflicts have recurred with no less devastating consequences in every elections that less taken place since. In away, these clashes have demonstrated that land rights struggle in Kenya increasingly form the contexts within which ethnic identity and local and national citizenship are negotiated and contested.<sup>24</sup>

In Mt. Elgon area, the colonial administration and subsequent colonial land policies created an avenue for the Bukusu to impinge on Sabaots familial land. In addition, the resettlement programme under the Chebyuk settlement scheme has been blemished with political patronage, corruption and favouritism by government officials creating a land crisis that has spanned for ages. This brings in this study theory of constructivism, this study alludes that colonial intrusion in Mt. Elgon area constructed ethnic identities through the colonial activities and policies (Obi, 1999:58; Mwasserah, 2008:6-9) Simiyu sheds more light on this;

...clashes between the Bukusu and the Sabaot occurred in November 1991. By March 1993 Sabaot warriors, helped by their Sebei cousins they hired from across the border in Uganda had carried out several attacks including torching their land, killing over twenty four people and injuring many mo displacing over two thousand people.<sup>25</sup>

The land problem that was created by the colonialists and missionaries in Mt. Elgon area contributed to the construction of ethnic identities between the Bukusu and Sabaots.

### **The land Question in Mt. Elgon area**

Mt. Elgon area has been at the centre of controversy between the Bukusu and Sabaots, the bone of contention has been who between the Bukusu and Sabaots was the first to settle around Mt. Elgon area. Were states the following about the origin of the Bukusu;

It would appear that Mundu either came from a hole in the ground at the top of Mount Elgon, or he came from Abyssinian direction in the north.<sup>26</sup>

This is shared by an informant emphasized that Mt. Elgon area was a Sabaot ethno-territory and the Sabaots intrusion in the area displaced them pushing them to eastern Uganda. The informant argued that the original name of Mt. Elgon was Mt. Masaba. Khamala states further that;

Oral and written sources seem to contradict on whom between the Bukusu and Sabaots were the first to inhabit the present Bungoma and Mt. Elgon districts.<sup>27</sup>

Makila states that during the pre-colonial period pastoralist's communities particularly the Sabaots were the principal inhabitants of Trans Nzoia District and by extension the current Mt. Elgon district but colonial policies dislocated and encouraged the Bukusu to settle in the area. (Kakai, 2000:35) However, Makila refutes this by stating that;

The Bukusu were the original inhabitants of Trans Nzoia districts particularly Uasin Gishu (Sirikwa settlement) and Mt. Elgon area.<sup>28</sup>

From Makila it would seem feasible that the Bukusu who were the original inhabitants of Mt. Elgon area were displaced by the Sabaots incursion in the area pushing them further to areas of modern eastern Uganda. This connects with the occupational approach postulated by Bethwell Ogot, which espouses that pastoralist's socio-political superiority enabled them to push the agriculturalist in the East Africa.

The Bukusu and Sabaots have engaged in ethno-territorial conflicts in Mt. Elgon area. Ethno-territorial conflicts manifest through processes of residential segregation, conflicting group reside within separate housing blocks, separate neighbourhood, separate villages and each respectively; constitute majorities or minorities within separate regions and locales...depending on the actors, ethnic territory has either been an instrument for peace or for animosity in many regions. (Cheweya, L. 2000:232) Kakai states that;

In 1946, the Bukusu and Sabaots clashed over Kimilili-Kamukuywa boundary with Sabaots accusing the Bukusu for encroaching on their land.<sup>29</sup>

This forms the basis of the land question in Mt. Elgon area. In addition, in 1965 the National government initiated the Chebyuk settlement scheme to integrate the Ndorobo into mainstream life on request by the Daniel Moss who was the serving Member of Parliament of Sabaot constituency. Hon. Moss wanted the Sabaot (Ndorobo) to access social amenities as well as incorporated into mainstream life. The Ndorobo were then living in Mt. Elgon forest, the government was also conserving Mt. Elgon forest under the sponsorship of the government of Finland. Initially, land was identified in Nakuru and Uasin Gishu but the Ndorobo turned it down. They were therefore resettled settled on the lower side of Mt. Elgon in 1971. The initial irregular and

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<sup>24</sup> *ibid*, p. 7-10

<sup>25</sup> Simiyu, *op.cit.*, p. 52.

<sup>26</sup> G.S. Were, *op. cit*, p. 43

<sup>27</sup> G. Khamala, *op. cit*, p. 93

<sup>28</sup> Makila, *op. cit*, p. 7

<sup>29</sup> Kakai, *op. cit*, pp. 146-147

unregulated access to land in Chebyuk settlement scheme led to the encroachment of the land by the Bukusu. In some cases, the Sabaot (Ndorobo) sold their land to both the Bukusu and their Soy cousins.(UNDP/OCHA, 2010:16) According to the informant account, the Bukusu-Sabaot inter-ethnic conflicts in 1968 were caused by the claim by the Sabaots that the Bukusu encroached on their land at Chesokwa. The Unoccupied land at Chesokwa was part of the land hived from the forest for settling the Ndorobo. (O.I. Kirong, 2019) The UNDP/OCHA report indicates that;

The Mosop/Ndorobo was initially ill-placed for agrarian activity. This led to being taken advantage of by the agrarian soy and other people. Some Mosop/Ndorobo sold their land to the Soy or to outsiders, including the Bukusu, Teso and even the government officials in the Bungoma District. Others allowed members of these other communities to lease their land in whole or part for pittance consideration.<sup>30</sup>

An informant established that this process of allocation has been patent with political conspiracies and venality since its inception. The Bukusu also benefited from land allocation through fraud or they bought land from either the Soy or the Ndorobo. This has been one the basis of the Bukusu-Sabaot inter-ethnic conflicts in Mt. Elgon area. The Sabaots have always accused the Bukusu for encroaching on their land. These allegations according to the informant surfaced during the Bukusu-Sabaot inter-ethnic conflicts 1991-1992 and 2006-2008 in Mt. Elgon area. (O.I. Kimutai, 2019) Imbuye notes that;

In December 1992, even though there was concentration in expelling Bukus and their allies from the region, some houses belonging to the Ndorobo were burnt at Chepkurkur.<sup>31</sup>

The informant further explains that the Ndorobo sold their allocated land to the Soy and even the Bukusu, in early 1970's but when land was surveyed, between 1988-1989 and the letters of allotment given to the Ndorobo, the Ndorobo who had sold land to the Soy refused to surrender them back to them. Most of the Soy became landless and displaced; they had to intimidate the Bukusu who had also bought land from Soy when they were moving to the Ndorobo designated Chebyuk settlement scheme to move from their former land. This factor played out in the Bukusu-Sabaot inter-ethnic conflicts in Mt. Elgon area between 1991 and 1992. The Bukusu were evicted, their houses torched and vandalized and their cattle confiscated by the Sabaot. The informant states that, although some of the Bukusu sold their land at a throw away price to the Sabaot, some remained behind after the clashes had been contained. (O.I. Mafuta, 2019) A UNDP/OCHA report states that;

A significant number of the Mosop/Ndorobo returned to their former habitation in the forest, where they continued with their former pastoralists and hunter-gatherer activities...land survey eventually took place between 1988 and 1989. The process was driven by the provincial administration, under the stewardship of Mr. Francis Lekoolool. They established that apart from a few original Mosop/Ndorobo immigrants, others who held or lay claim in the land settlement scheme were the Soy who had been invited to work in the Mosop/Ndorobo land in exchange for a portion of land or farming rights, government officials who had corruptly obtained land, local elites (including traditional elites and opinion leader families) who had received disproportionately large portions. THERE were also those people who are known in Kenyan parlance as 'land grabbers'.<sup>32</sup>

This indecisive and inept government move to resolve convincingly the Ndorobo resettlement initiative according to an informant generated the 1991-1992 intra and inter-ethnic conflicts in Mt. Elgon area, especially after the government resettlement programme aborted in early 1990'. Telewa states that;

There is perception that the government has been unfair in the distribution of land in the region.<sup>33</sup>

This study holds that the Sabaots intra-ethnic settlement programme by the national government have contributed immensely to the land conflict between the Bukusu and Sabaots in Mt. Elgon area. The affected Sabaots took to arms to fight for the return of their dispossessed land in Mt. Elgon area targeting the Bukusu because Sabaots perceive the Bukusu as competitors of land in Mt. Elgon area. This brings in the practicability of this study theory of instrumentalism theory, where elites influence inter-ethnic conflicts by manipulating the aspects of ethnicity. The Loibons and politicians fuel ethnic violence with vested interests regarding land in Mt. Elgon area, they were instrumental in the formation of the Sabaot Land Defence Force in Mt. Elgon area.

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<sup>30</sup>Kiragu Wachira, Barrack Muluka and Manasseh Wepundi: *Amani papers: Mt. Elgon Conflict: A Rapid Assessment of the Underpinning socio-economic, Governance and security factors, UNDP Funded Research, Technical report January, 2010*. P. 16.

<sup>31</sup>B. Imbuye, *op. cit*, p. 107.

<sup>32</sup>*ibid*

<sup>33</sup>Peter Telewa: *The people of Mount* (Nairobi: Pauline publication; 2005); p. 105.



### **Ethnicity in the Bukusu-Sabaot inter-ethnic conflict**

Ethnicity is a factor in the development of the post-independence land question in the Bukusu-Sabaot inter-ethnic conflict in Mt. Elgon area. A group homogeneous descent becomes the influence of mobilization and defence against land intrusion by members of a different ethnicity. Lynch, (2006:49-50) In the instrumentalism theory, the aspects of cultural heritage, becomes the factors of mobilization by the elites or a group in the expression of the inter-ethnic land conflict. New man states that;

People tend to evaluate other cultures in comparison to their own. As children, most are taught that they live in their greatest tyranny on earth. Many also take pride in their religious racial or ethnic group or country is the best means that others are not the best.<sup>34</sup>

The society's cleavages created by the base/substructure conditions cultural heritage in the superstructure to be manipulated as a reason for mobilization to agitate for emancipation of the disadvantaged ethnicity.(Bayart, 1993:55; Engel's letter to J. Bloch, 1972:294-296) Were and Amutabi states further on culture;

Culture has been instrumental in the propagation of nationalism. This can be referred to as cultural nationalism. Based on popularly shared beliefs, traditions and customs tend to eventually be promoted as an expression of national aspiration.<sup>35</sup>

Ethnicity is further amplified by ethnocentrism which reinforces ethnic ego and predisposition to consider that one's ethnic or cultural groups is essentially significant than all other groups is centrally measured in relation to one's own. (Ouma, 2013:86) Jones posits that;

Like ethnic groups, moreover, this identification is meaningless without another to define against oneself –there are no in groups without out groups.<sup>36</sup>

It is debatable as whether ethnicity is a creation of new imperialism in Africa. Cheweya argues that;

Colonialism created ethnic self-consciousness and steadily transformed discrete collection of clans' cleavages into an outfit readily tribal.<sup>37</sup>

While a refined concept of ethnicity is often considered to be a western invention, this is open to challenge. Han Chinese, for example, had well-developed ethnic sensibility well before the west's rise to dominance, so too, clearly did the people of the ancient middle East, whose ethnic rivalries and extermination strategies were quiet well advanced, if the relevant religious texts are granted credence. (Jones, 2006:427)

This study, consequently, contends that pre-colonial societies were conscious of ethnic identities, throughout their migration and settlement and colonialism only escalated an already prevailing circumstance. The colonial policies and activities fortified ethnicity in Kenya by creating ethnic enclaves and deprived one ethnic community at the expense of another. This foregoing relates to this study theories of instrumentalism and constructivism. Cheweya highlights that;

Colonial policies in Kenya as is in many other African countries confined communities in Kenya in exclusive native reserves not only to create room for commercial agriculture but also to ease of political control and accessibility of cheap labour. This marked the onset of refinement of ethnic boundaries.<sup>38</sup>

Colonialism brought along new systems of resource allotment and appropriation. Certainly, it essentially created misrepresentation in the local economy by disfranchising particular ethnic groups' access to resources and generating irregular circulation of social benefits. This connects with this study theory constructivism (Cheweya, L. 2000:91) Ouma states that;

Ethnic conflicts in the region arise from the complex interplay between several variables (politics, cultural perception, territory issues and negative ethnicity)<sup>39</sup>

In Kenya, just before independence, ethnic communities amalgamated in both KADU and KANU to fight for liberation. After independence KANU and KADU unification in 1964 beckoned a sense of nationhood and illustrated a multi-ethnic political paradigm shift in Kenya's political history. Yet, as Cheweya posits;

...the sense of nationhood that appeared following the KANU-KADU merger was fragile and ethnic flame flared once again presenting itself in the form of tribal nepotism and regional nepotism, a phenomenon that is perpetuated to date. The nation state is an arena marked by the struggle for ethnic control and aggrandizement of national resource.<sup>40</sup>

<sup>34</sup>D.M. Newman: *Sociology: Exploring the architecture of everyday life*, (Los Angeles: Sage publication.inc; 2012); pp. 114-379.

<sup>35</sup>E.M. Were and M.N. Amutabi, *op. cit*, p.27.

<sup>36</sup>A. Jones, *op. cit*, p. 427.

<sup>37</sup>Ludeki Cheweya, *op. cit*, p.93.

<sup>38</sup>*ibid*, pp. 90-1

<sup>39</sup>Martin Odhiambo Ouma: *Ethnicity and conflict in Molo Region of Nakuru County, Kenya* (Masinde Muliro University of science and Technology: Peace and conflict studies; 2013); p. 82.

<sup>40</sup>Cheweya, *op. cit.*, p. 93.

Ethnic identity in the inter-ethnic land conflicts commonly arise from ethno-territorial conflicts. Ouma sheds more light on this;

Ethno-territorial conflicts manifest through processes of residential segregation, conflicting group reside within separate housing blocks, separate neighbourhood, separate villages and each respectively; constitute majorities or minorities within separate regions and locales...depending on the actors, ethnic territory has either been an instrument for peace or for animosity in many regions.<sup>41</sup>

An informant account confirms that the 1963 conflict in Mt. Elgon area was an ethno-territorial related conflict. Besides the KANU and KADU political affiliations, ethno-territorial aspects also cropped up in the conflict. Both the Sabaots and the Bukus claimed that Mt. Elgon area was their familial land. A District Commissioner from Kakamega was assigned to arbitrate the Bukusu-Sabaot conflict in 1963. During the hearing, the Sabaots claimed that Mt. Elgon area was their ethno-territory. As a proof, the Sabaots produced instruments of power (a file, a crown and a *rungu*) of their Sebei leader who ruled the area that extended to Mt. Elgon area before the European intrusion. The items were under the custody of one Enos Kiberenge –a Sabaot warrior. (I.O. Wanyonyi, 2019) The Truth Justice and Reconciliation Commission (TJRC) reports that;

As the country approached independence in 1963, many communities that had lost land to the colonial administration and its settlers were eagerly awaiting restoration of their land at no charge. While some of the landless community members squatted in certain areas in hope that their occupation would be recognized by the government, others took a confrontational and violent approach to land on grounds of recovering their land which had been alienated by the Europeans.<sup>42</sup>

Thus, during the 1963 Bukusu-Sabaot inter-ethnic conflict the Sabaots wanted to evict the Bukusu from their ethno-territorial land around Cheptais sand Chesikaki.

An informant account point out that the Bukusu impinged on Chesokwa land like the Soy, the unoccupied land that was adjacent to Mt. Elgon forest was cleared by the Bukusu and the Soy for farming and settlement. The Sabaots were enraged by the Bukusu pride and abusive nature; they also felt that the Bukusu were eating into their ethno-territorial land. (O.I. Musee, 2019) Ouma posits that;

Expression of raw ethnic hatred, which is often a pretext for deeper hatred, induces ethnic conflicts<sup>43</sup>

This sparked the 1968 conflict at Chesokwa, the Bukusu were evicted and displaced in the conflict that ensued at Chesokwa in 1968. A Bukusu hawker was informed to go and buy a bull from the Sabaot homestead, he went as directed and negotiated the price and even paid for the bull. Incidentally, the bull did not leave the homestead but a group of Sabaots attacked the hawker and killed him, it looked like a set-up. The Bukusu took arms and attacked the Sabaots in revenge, ethnicity was at play as the Sabaots called the Bukusu *lamek* meaning alien. Khamala explains further that;

The Bukusu depend on rivers originating from sources located within Sabaot territory for drinking water...the Sabaot would deliberately contaminate the water at the source by dumping dead donkeys in it causing the community to be affected by typhoid.<sup>44</sup>

The ethnic hatred between the Bukusu and Sabaot persisted in the 1975, 1991-1992, 2006-2008 conflicts. In 1991-1992 Bukusu-Sabaot inter-ethnic conflict in Mt. Elgon area, an informant account confirms that the Sabaots used a coded statement to evict the Bukusu. The implicit statement –beans cannot exist with maize –was a clarion call for the Sabaot to evict the Bukusu from Mt. Elgon area. As well, the Sabaots has labelled the Bukusu as proud and abusive who intruded on their ancestral land. The informant states that, the Sabaot Land Defence Force planned to uproot the Bukusu from Mt. Elgon area to Chwele boundary or beyond because Mt. Elgon area is a Sabaot ethno-territorial land. During this period, just before military operation dubbed operation Okoa Maisha, the Sabaot Land Defence Force massacred nine Bukus working in a farm in a village called Rwanda. Wasike sheds further light on this;

There also exists discontentment among different tribes in the area. Some tribes have been perceived to be intruders and therefore benefiting from what is not meant to be theirs.<sup>45</sup>

An informant account stated that the Bukusu have been viewed by the Sabaots as aliens and have been referred to as *lamek* –meaning aliens, this gesture of ethnic profiling has contributed immensely to the construction ethnic identities and Bukusu-Sabaot inter-ethnic land conflict in Mt. Elgon area. (O.I. Kimutai, 2019)

This study contended that pre-existing conditions incubated the Bukusu-Sabaot inter-ethnic conflicts in Mt. Elgon area; they include ethnicity, proliferation of Small Arms and Light Weapons, government policies, colonial legacy and gender dimensions.

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<sup>41</sup>*ibid*, p. 91.

<sup>42</sup>TJRC, Vol. II. B. *op. cit.*, p. 206.

<sup>43</sup>M.O. Ouma, *op. cit.*, p. 99.

<sup>44</sup>Geoffrey Khamala, *op. cit.*, p. cxiv

<sup>45</sup>Charles Wasike, *op. cit.*, p. 42.

### **Government policies in the Bukusu-Sabaot inter-ethnic conflict**

The decade of 1960's in Africa was presaged as an era of restitution and optimism across the continent. It has been termed as the decade of independence in Africa. Many African nation states attained independence during this period including Kenya. The outburst of exhilaration witnessed during the pomp that marked Africans new found sovereignty was shortly dimmed by orchestrated schemes by the very nationalist that championed for freedom from colonialists and were its entrusted custodians. (Odinga, 1967:253; Sifuna, 1990:193) Mutua writes that;

Soon after the decade of independence the 1960's –the short burst of enthusiasm was replaced by a long almost unremitting period of despair. Military coups, civil wars, repressive regimes, refugee flows and economic stagnation –soon came to define African state.<sup>46</sup>

The new crop of African leaders turned into autocratic leaders, perpetuating the very undemocratic archetypes they abhorred and fervently opposed during the colonial era. They betrayed the emancipation cause and extended colonial policies and despotism. Were and Amutabi posits that;

It should, however, be noted that in some African countries, the extreme nationalists became reactionaries and opponents of multi-party democracy, some like Hastings Kamuzu Banda and Kenneth led their countries into one party rule. They soon became openly undemocratic and their anti-democracy started to betray the very causes they had been safeguarding against colonialists. The fear of democracy by the first crop of African leaders did not augur well for Africans political development. The parties that won elections at independence soon converted themselves into autocratic instruments.<sup>47</sup>

In Kenya, during the independence transition period, the independence government did not review colonial land policies as widely projected. The colonial government had already recognized private land registration by 1956 and had reviewed laws on customary land rights. Land grabbing has its genesis in pre-independence Kenya when a small group of white settlers were allocated twenty percent of Kenya's landmass consisting of the best agricultural land. The post colonial government of Jomo Kenyatta used the land formerly held by settlers for patronage purposes-to solidify support and build alliances. This trend continued and intensified in the successive Moi regime. The Ndung'u Report demonstrates how illegal land allocations regularly increased around the time of competitive elections under former President Moi. (Ndung'u report, 2013:1)The TJRC report indicates that the independence government adopted the colonial land policies virtually in its totality. The report states that;

By the time Kenya attained independence in 1963; the British colonial administration had established a new system of land tenure, based on a number of laws which were adopted by independent Kenya at independence. In the newly-introduced land tenure, ownership of land would be (and still is) signified and evidenced by ownership of title to land.<sup>48</sup>

It also emerged that in the run up to independence elections in 1963, Kenya African National Union (KANU) that formed the independence government did not include land for the landless in their party manifesto in 1963.The state of affairs prompted the agitation Kenyan communities pressing for a return of their land that was by force and unreasonably taken away from them. There were also those who put their lives on line duty to fight for independence with expectancy that they would get back their alienated land. (TJRC, 2013:206). On the other hand, a section of KANU radicals considered it an apparent pledge to be fulfilled by the incoming government. Collins Leys writes that;

...but it was regarded by some as a commitment of honour and especially by some of the Kikuyu leaders most identified with the forest fighters.<sup>49</sup>

The Sabaot community that had suffered historical land injustices during land consolidation in the colonial period anticipated to be resettled in parts of the colonial Trans Nzoia settlement scheme that stretched from Mt. Elgon in the present Bungoma County, parts of Lugari in Kakamega County, parts of Uasin Gishu County to the present Trans Nzoia County. In its place, the independence government resettled the Bukusu and other Luhya in Trans Nzoia. The Sabaots were evicted from the colonial Trans Nzoia in 1920's in an operation christened 'Elgon Maasai Kwenda' from what they still consider their familial land in colonial Trans Nzoia. Also, the ministry of land and resettlement was converted into the ministry of lands and settlement. During this period, re-grabbing of Sabaot land by the allies of Kenyatta, Moi and Masinde Muliro continued. (TJRC, 2013:191) The post-independence government in Kenya allowed the culture of grabbing land by party henchmen and allies. Kidombo expounds on this;

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<sup>46</sup> Makau Mutua: *Kenya's Quest for Democracy* (Kampala: Taming Leviathan; 2008); p. 2.

<sup>47</sup> E. M. Were and M.N. Amutabi: *Nationalism & Democracy for People Centred Development in Africa* (Moi University: Moi University press; 2000); p. 69.

<sup>48</sup> Truth Justice and Reconciliation Commission, Vol. II. B *op. cit.*, p. 233.

<sup>49</sup> Collin Leys: *Underdevelopment in Kenya: The political Economy of Neo-colonialism* (Nairobi: Heinemann; 1976); p. 214.

The grabbing of public land is a common feature perpetuated from the colonial times and perfected by the last two regimes ... most of the post-independence allocations were made to reward the politically correct individuals without due regard of the interests of the people of Kenya.<sup>50</sup>

The inefficient land policies by the incoming government sparked inter-ethnic conflicts across the country; the landless people, especially among the former squatters or labourers on settler farms, displaced during the establishment of settlement schemes, the ex-convicts or their dependents who had been denied their land in the process of land consolidation took arms to demand their dispossessed land. It should also be noted that during land registration, only the male members of the households were registered. This disfranchised the families whose male heads of families were in detention or were among the forest fighters. (Collin Leys, 1976:214, TJRC, 2013:191-193)

The inability by the government to satisfactorily address the colonial land injustices in Kenya was further worsened by the political merger of Kenya African National Union (KANU) and Kenya African Democratic Union (KADU) in 1964. At the outset, the regions that overwhelmingly supported KADU were the least involved in wage labour and cash crop production. The regions therefore experienced less land alienation atrocities during the colonial era. Collin Leys adds that;

KADU leaders had been attractive to the European politicians precisely because of relative abundance of land in their areas, and their fears that KANU might try to take it away under the pretext of nationalization and distribute it to landless people from other tribes.<sup>51</sup>

An informant explains that in Mt. Elgon area the Bukusu supported KADU while the Sabaots supported KANU. The Sabaots believed that through KANU their historical land injustice would be addressed through land redistribution programme. (O.I. Ngeywa, 2019) But, as Collin Ley puts it, this was far from the truth, as majority of KANU leaders harboured contradictory interests. Ley states that;

They discovered, however, that this was not the intention of most KANU politicians. On the contrary most of these were interested in becoming large land owners and were as anxious as anyone to ensure that landed property in all its forms would not be threatened.<sup>52</sup>

This was noticeably exposed instantaneously after independence in the way the antagonism between KANU and KADU was unexpectedly and painlessly dissolved and substituted by a much more irresolution and lasting hostility between the 'comprador' leaders of both KANU and KADU on the one hand and a group of radicals within KANU on the other hand. (Collin Leys, 1976:212)

By mid-1960's landlessness was still a major problem in Kenya but, with little pressure. Kenya people's Union emerged as a crusader of squatter grievances. The land pressure had been absorbed by the squatter and Harambee settlement schemes, private purchase of land farms by cooperatives companies. On cooperative companies farms squatters secured a place as a labour force or farmed it collectively. The anticipation that Kenya People's Union (KPU) would provide alternative to the entrenched land question in Kenya faded with the fact that they had to recognize the existing land ownership peasantry. They radically proposed the alienation of the remaining non Kenyan white settlers land and given to the landlessness Africans at no cost. (Collin Leys, 1976:227) Collin Ley sheds more light on this;

This was substantially true; the question was what the KPU would propose as an alternative so long as they hoped for popular support they had reckon with intense commitment of the majority of the land owning peasantry to their land, a commitment made more sensitive by growing land hunger and insecurity during the years of colonial administrations. Consequently, they proposed only that land should be taken from the remaining non-Kenyan white settlers and given free to the landless and that no African owned land should be expropriated.<sup>53</sup>

The preceding establishes how national government at independence failed to solve the colonial land injustices especially in Mt. Elgon area. Ley posits that;

With the government support, other communities managed to appropriate, either individually or through land-buying companies, nearly all the former white settler-owned plantations in the Rift Valley.<sup>54</sup>

An informant account stated that the Sabaots were not resettled as expected but in their place the Bukusu were resettled in their familial land in colonial Trans Nzoia that included Mt. Elgon. This created ethnic animosity and was instrumental in shaping the Bukusu-Sabaot inter-ethnic land conflicts in Mt. Elgon area. (O.I. Kipro, 2019)

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<sup>50</sup>Pius K. Kidombo: *The Architecture of Corruption in Kenya* (Nairobi: Sino printers and publishers; 2007); p. 24.

<sup>51</sup>C. Leys, *op. cit*, p. 214.

<sup>52</sup>*ibid*

<sup>53</sup>*ibid*, p. 225.

<sup>54</sup>*ibid*, p. 57.

The land registration conducted by the national government in 1956, considered as a faulty practice was not revisited, the problem of historical land injustice remained unresolved and new system of capitalism and ownership of private under the guise of African socialism was introduced (TJRC, 2013:233-251) The unresolved historical land injustices in Mt. Elgon area by the state through impractical government policies sparks inter-ethnic conflicts as affected communities resort to violence as a means to solve their land problems. This brings in the application of this study theory of instrumentalism where elites mobilize the factors of ethnicity to influence inter-ethnic conflicts to protest government ineffectiveness to solve historical land injustice. The TJRC report states that;

The marginalized Sabaots took up arms in Mount Elgon area to protest decades of conflicts over land allocated to them as squatter when, in fact, they were owners of the land. The unchecked violence in Mount Elgon area escalated in 2006 and 2007 when the Sabaot Land Defence killed hundreds of people perceived to be outsiders and their collaborators in protest over grabbing of their rights in Chebyuk area.<sup>55</sup>

The genesis of maladministration in land redistribution in Chebyuk settlement scheme has spawned intra-ethnic and inter-ethnic conflicts which have spiralled to human rights abuses and atrocities. Political interests have overridden an otherwise vital exercise. The initial to resettlement of the Ndorobo was clutched by political scheming in favour of the Bok under the influence of the then Member of Parliament Daniel Moss to encroach on Chebyuk phase1. Imbuye shares this;

The initial settlement of the Ndorobo in Chebyuk phase one was from 1971 to 1974, more land was cleared than required in collision with authorities. Under the influence of Moss the influence of Daniel Moss, the Bok encroached on this Chebyuk phase one and slowly outnumbered the Ndorobo.<sup>56</sup>

When Wilberforce Kisiero took over from Daniel Moss in 1979, he sought to address the plight of those deprived land by Daniel Moss on political grounds. Land was identified at Cheptoror and Kaimugul to resettle principally the disfranchised Bok and Mosop during Moss reign. In cohort with the government, Chebyuk phase two was created. This exercise was also marred with favouritism and was a political reward window to the political sycophants of Kisiero. It left many people disgruntled and discontented (Oloo, 2010:166) Imbuye notes that;

At the end of 1980's land legalization and occupation was to be effected through registration. New land for settlement had been availed and new applications were to be considered. These were basically to the new generation of the Ndorobo's and those who had been evicted from the forest.<sup>57</sup>

An informant account states that the exercise was overseen by the former Provincial commissioner, Francis Lekoolool and District Commissioner William Chang'ole, but it was riddled with corruption until the Ndorobo successfully protested the sacking of Lekoolool. (Kamoet, 2007:22; O.I. Kirwa, 2019) Imbuye highlights that;

During the 1992 general elections the Sabaots who had been left out of the allocation of the land ganged up with the Bukusu up against Kisiero who lost to Kimkung.<sup>58</sup>

An informant accounts states that John Serut claimed that he delayed the phase three allocation because he wanted to protect the interests of the Soy. The Soy invaded the Chebyuk phase three, hived off from the forests and lay claim on it. In 2001, Fred Kapondi led a delegation to state house to request for the resettlement and issuance of title of the Sabaot squatters in Mt. Elgon area. The president approved the proposal and authorized for the survey of Chebyuk phase. The survey was done and each family was allocated two and a half acres. (O.I. Chemonges, 2019) Imbuye notes that;

...the government cancelled Chebyuk phase I and II allocations and created Chebyuk phase III in 2002.<sup>59</sup>

An Informant accounts spells out that corruption, nepotism and bribery replayed out in Chebyuk Phase III allocation. The implementation was also muddled with high applications. The Mosop also demanded inclusion in allotment, with the help of the area Member of Parliament John Serut; they were incorporated for the reason that John Serut wanted to discipline the Soy for voting in contradiction of the 2005 proposed referendum. (O.I. Chepkwemoi, 2019) Imbuye observes that;

The area Chepkurkur and Kipsigon formed phase III of the Chebyuk. People who farmed in this area were evacuated when reforestation project sponsored by the Government of Finland commenced, the problem of squatters in Mt. Elgon emerged...<sup>60</sup>

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<sup>55</sup>Truth Justice and Reconciliation Commission, *op. cit*, p. 309.

<sup>56</sup>B. Imbuye, *op. cit*, p. 102

<sup>57</sup>*ibid*, p. 104.

<sup>58</sup>*ibid*, pp. 105-6

<sup>59</sup>B. Imbuye, *op. cit*, p. 120.

<sup>60</sup>*ibid*., p. 107.

The involvement of John Serut in the land conflict in Mt. Elgon area brings in the application of this study theory of historical instrumentalism. Informant accounts states that, those who were evacuated from Chebyuk Phase III area before gazette notification and those who missed out in the fresh allotment exercise in 2002 sought litigable interjection and were granted. But the government agents acted with impunity in the eviction exercise especially after the proposed constitution referendum in 2005. The eviction exercise was inhumane despite the restraining court order. (O.I. Masai, 2019) The UNDP/OCHA report states that;

There were perceptions of disregard for the purpose of law by government and general feeling of bitterness and anger among the displaced Soy people. The Sabaot Land Defence Force was formed.<sup>61</sup>

The government has also been indicted for instigating the 1992 ethnic clashes in Mt. Elgon area. During the 1992 first multi-party elections, the government fronted its candidates and manipulates votes in its favour. Reliably, the government orchestrated ethnic violence in pro-opposition zones to scare voters as well as forcefully displace them in the run up to the election. (Wasike, 2009:52) Munene argues that;

Government also cause inter-ethnic conflicts for its own reasons, out of desperation sometimes, African governments have created poverty by mounting wars on their own citizens, in the hope that they can stave off popular demands for change. The violence id generated in the form of clan clashes, ethnic clashes, and cattle raids across the borders or as in the case of Sudan, a full blown war.<sup>62</sup>

Reports emerged of state machinations in the 1992 conflicts, it was alleged that the state was importing metal arrows and arming Kalenjin warriors to create a traditional warfare based on historical rivalries between the Kalenjin and their non-Kalenjin neighbours. (Haugerud, 1993:73) Haugerud further states that;

...slow and half-hearted responses by the provincial administration and security personnel allowed the fighting to escalate, that arrested suspects were released before being charged in courts, and that youthful 'warriors' were hired and transported to clash areas from outside to reinforce the local ones.<sup>63</sup>

An informant account states that on the third day of the 1991-1992 Bukusu-Sabaot ethnic conflicts, police deployment was all over Chelebei and other hot spot areas like Rwanda. But, Sabaot warriors emerged from the forest and killed a man called William Nyongesa at Kakilongo School. The informant further states that the Bukusu killed a Sabaot domestic worker at sub-chief's Simon Kimutai home, because he wanted to attack a Bukusu neighbour. Police from Chesikaki were deployed at sub-Chief's home; they randomly shot a Bukusu onlooker under the pretext of dispersing the crowd. The informant claim that during the 1991-1992 Bukusu-Sabaot inter-ethnic clashes local provincial administrators acted in favour of the Sabaots. Police deployment in Mt. Elgon area was with ethnic bias, majority of the officers deployed to restore in the area were Kalenjins. The officers thus discharged their sense of duty in favour of the Sabaots. (O.I. Wekesa, 2019) Cheweya adds more to this;

In response to the re-introduction of opposition in Kenya in 1991 KANU was reported to have adopted a strategy of repression and organized violence against opposition elements while blaming it on the opposition.<sup>64</sup>

Government involvement in intra-ethnic exposes its citizenry from an otherwise protector to a potential predator, however, this is over-clouded with confusion as politics seeps in. Accusations and counter-accusations are traded between the government and opposition, on who is really responsible for the inter-ethnic conflicts. In Mt. Elgon area, the failure by the government to resettle the Ndorobo and the Soy in Chebyuk settlement scheme since 1989 resulted into Sabaot intra-ethnic conflicts in Mt. Elgon which escalated to inter-ethnic land conflicts. Wasike confirms this;

That shows how complex the Mt. Elgon conflict is. It starts with a few clans then spreads over to other tribes in the area. It is the reason why the Sabaots have conflicts with other tribes like the Teso and the Bukusu. They see them as aliens who are just after grabbing their land.<sup>65</sup>

Informants affirmed that the hiving off of Mt. Elgon district from Bungoma district in 1993 heightened the Bukusu-Sabaot in-ethnic land conflict. The presidential decree was taken to mean Mt. Elgon area and apparently the land, belonged to the Sabaots. (O.I. Namalwa, 2019) Wasike confirms this;

Since the clashes of the early 90s, Mount Elgon has achieved its own status as a district, and many residents' talks of a sense of triumph at finally being able to administer their land, though there is still a lot of concern over land shortage, as the population increases.<sup>66</sup>

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<sup>61</sup>UNDP/OCHA, *op. cit.*, pp. 17-8.

<sup>62</sup>M. Munene: *Historical Reflection on Kenya: Intellectual Adventurism* (University of Nairobi: Politics & International Relations; University of Nairobi press; 2012); p. 87.

<sup>63</sup>Angelique Haugerud: *The culture of politics in Modern Kenya* (London: Cambridge University press; 1993); p. 72

<sup>64</sup>Cheweya, *op. cit.*, p. 99.

<sup>65</sup> Charles Wasike, *op. cit.*, p. 6.

<sup>66</sup> G. Wasike, *op. cit.*, p. 47.

An informant account restates that during the 2006/8 skirmishes in Mt. Elgon area, the conflict was generally intra-ethnic affecting the Sabaots sub-tribes but in the later stage of the conflict, the Sabaot Land Defence Force militia started to target the Bukusu. It was also alleged that SLDF were targeting to force out the Bukusu from Mt. Elgon area and had listed their land to be grabbed and dished out to the Sabaots. The informants also claim that Sabaots use conflicts as an avenue to coerce the Bukusu, who in the long run are constrained to sell their land to them at a throw away price. (Yoroms, 2005:39; KLA, 2007:11; O.I. Chebet, 2019) This is shared by the UNDP/OCHA report which asserts that;

...therefore the demand for the limited land for government allocation continues to increase, which coupled with irregular allocations, gives rise to opportunities for conflict. A families strain to access adequate land, they have become vulnerable to the land based ethnicity perpetuated by political leadership or militia group. Such leadership and groups, as was evidenced by the ideologies of Sabaot Land Defence Force (SLDF), promised more access to land that was in the hands of other clans or communities in the region.<sup>67</sup>

This brings in the application of this study theory of instrumentalism, where politicians and Loibons in cohort with the Government operatives manipulated the election climate to influence the aspects of ethnicity to gain land in Mt. Elgon area.

An informant account states that the creation of Mt. Elgon district in 1993 by president Moi was interpreted by the Sabaots as a secessionist move to break away from the Bukusu, Mt. Elgon therefore, was a declared an a Sabaot ethno-territorial land. (O.I. Kimutai, 2019) This further intensified Bukusu-Sabaot inter-ethnic land hostilities in Mt. Elgon area.

### **Colonial legacy in the Bukusu-Sabaot inter-ethnic conflict**

As discussed in the third chapter, the introduction of colonialism in Mt. Elgon area was sanctioned by the signing of the treaty between *Kirwandeet* Kimingichi and Fredrick Jackson in 1890. Were shares this;

In 1890 Fredrick Jackson signed a treaty with Kirwangindet Kimingichi of Bok in Mt. Elgon area to secure the area for the British East Africa protectorate exploitation of Ivory and wildlife in the region...<sup>68</sup>

By signing the treaty with a Bok leader, an informant account states that the colonialist created a structural conflict between the Bukusu and Sabaot. This implicitly created an ethno-territorial grip and claim by the Sabaot. The Sabaot infer to this treaty as a colonial recognition of Mt. Elgon area as their ethno-territory. (O.I. Kiprop, 2019)The TJRC reports states further that;

Ethnicity and ethnic stereotypes and perceptions created by the colonialists and inter-entrenched by post-independence political leaders are critical variables in the analysis of the complexities of land problems and related injustices in Kenya.<sup>69</sup>

By the decree of the Headman ordinance of 1902, Nabongo Mumia was imposed by the colonial authorities as the Headman of Buluyia the defunct western province. In cohort with the colonial administration, Nabongo Mumia went on to divide up Buluyia into eight administrative entities called Locations in 1908. Chitayi notes that;

Archer, the district commissioner of Mumias from 1907 to 1909 and his successor Dundas, declared that Mumia's position resembled that of King Buganda, his influence extended across Uganda border to the people on the slopes of Mt. Elgon.<sup>70</sup>

An informant account states that the Sabaot believe that the imposition of the non-Sabaots chiefs in Mt. Elgon area, during the colonial period was by design to make life unbearable for them in Mt. Elgon area and eventually make them flee the area and subsequently the Bukusu move in to fill the vacuum. (O.I. Ngeywa, 2019) Wanyage sheds more light on this;

During the colonial era, the Sabaot were ruled by non-Sabaot Chiefs, and many feel that this was a scheme...aimed at making Mount Elgon a Bukusu area.<sup>71</sup>

It is evident that colonial administrations embraced divide and rule policy in order to meritoriously govern Buluyia. Chief Murunga a brother to Nabongo Mumia was entrusted with the authority over *North Kitosh*, the Sabaots misconception was that Murunga was a Bukusu or he acted in favour and collusion with the Bukusu. Kipkorir sheds more light on this;

The African chiefs were the pistons of the engine of colonialism. Their moving force was opportunism.<sup>72</sup>

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<sup>67</sup>UNDP/OCHA, *op. cit.*, p. 9.

<sup>68</sup>G.S. Were, *op. cit.*, p. 157.

<sup>69</sup>The Truth Justice and Reconciliation Commission, *op. cit.*, p. 305.

<sup>70</sup>Bibiana Chitayi: *The impact of inter-ethnic Relations between the Wanga and their Neighbours since the nineteenth century, Luo, Bukusu and Iteso* (MMUST: MA. Thesis; 2015); p. 80.

<sup>71</sup>Peter Wanyage: *Tribal politics in North Rift* (Nairobi: RCC publication; 2005); p.46.

Chief Murunga was ruthless entirely in carrying out the colonial orders for conscription, labour and collection of taxes. Murunga was practically lethal on the Sabaots, majority of the Sabaots had decided to spot dreadlocks as a sign of colonial resistance. Chief Murunga ordered the dreadlocks to be pulled off in public sending shivers among the Sabaots. This repressive regime by chief Murunga forced the Sabaots to escape to Trans Nzoia; the Bukusu took advantage of this by moving in to occupy land and homes deserted by the Sabaots. Wanyange sheds more light on this;

Many Sabaots feel that, although rivalry between the two communities goes back a long way, it was the colonial administration favouring of the Bukusu which shaped the future political conflict between them. They argue that the pulling off of the dreadlocks was to force the Sabaots leave their land for the Bukusu.<sup>73</sup>

The colonial administration in Africa and Kenya introduced restrictive policies that contained Africans in native reserves, to facilitate the running of settler farming in designated settlement scheme, to create an exploitative system of obtainable cheap labour and for effectual colonial administration. (Cheweya, 2002:90-91) Trace Hellen states that;

Many Sabaots feel that white oppression was exchanged for worse oppression by the Bukusu. Some feel the settlers supported the Bukusu, and so increased Sabaot vulnerability to Bukusu dominance.<sup>74</sup>

In 1902, the Commissioner ratified the crown ordinance, presumably to acquire land which he would later sell to the influx of white settlers at two rupees per acre or lease at rental value of fifteen rupees per one hundred acres. The Kenyan white highlands were created and the colonial Trans Nzoia was one of them. The colonial was demarcated from river Kamukuywa which surfaces in Mt. Elgon, through river Kibisi and Nzoia inter-section to River Kipkaren on the reaches of Marabusi hills (Kakai, 2000:104) The TJRC reports asserts that;

During the colonial era, other communities began to move into Trans Nzoia to work in the white farms notably the Bukusu community.<sup>75</sup>

Land that was appropriated during the colonial period led to the dislocation of some ethnic communities. These tensions were intensified during the post-independence period due to politicized and irregular sharing of socio-economic benefits. (Gulliver, 1969:13; Gecaga, 2001:159-174) Cheweya reinforces this;

Colonialism brought along new forms of resource allocation and appropriation. Indeed, it actually created distortion in the local economy by depriving certain ethnic group access to resources, and creating uneven distribution of social benefits.<sup>76</sup>

To create the colonial Trans Nzoia settlement scheme, the colonial government evicted the Sabaots in the operation dubbed, '*Elgon Maasai Kwenda*.' The operation was executed in inhumane manner which included confiscation of their livestock, some of the Sabaots were pushed to the Maasai native reserve others were evicted to Uganda and the rest forced back to Mt. Elgon area. (TJRC report, 2013:189) Harizon Malewa adds that;

The Morris Carter land commission recommended that displaced Sabaots be compensated eight hundred thousand hectares of land for the loss in Trans Nzoia.<sup>77</sup>

The reparation was not effected as recommended by the Carter Land Commission, When Kenya attained her independence from colonial rule in 1963 many of the communities squatting in white farms bought land in Trans Nzoia and the many land settlement schemes initiated in the region did not take into account the indigenous land rights of the Sabaot community. (TJRC, 2013:206) The TJRC report indicates that;

The situation resulted in agitation by Africans who were dissatisfied with the buyout policy...African communities were pressing for a return of their land that was forcibly and unjustifiably taken away from them.<sup>78</sup>

The dissatisfied Sabaots elite manipulated the aspects of ethnicity to facilitate the Bukusu-Sabaot inter-ethnic conflict in Mt. Elgon area for their gain. This brings in the applicability of this study theory of instrumentalism and constructivism, where the colonial policy of land alienation contributed immensely on the construction of ethnic identities between the Bukusu and Sabaots and the Sabaots elites influence the aspects of ethnicity of to violent fight for the return of dispossessed land.

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<sup>72</sup>B.E. Kipkorir: *Biographical essays on imperialism and collaboration in colonial Kenya* (Nairobi: Kenya Literature Bureau; 1980); p. 11.

<sup>73</sup>Peter Wanyange, *op. cit*, p. 77.

<sup>74</sup>Trace Hellen: *Culture and its implication in Kenya development: A case study of western Kenya* (London: Britley publication; 2004) p. 233.

<sup>75</sup>Truth Justice and Reconciliation Commission, *op. cit.*, p. 206.

<sup>76</sup>Cheweya, *op. cit.*, p.91.

<sup>77</sup>Harizon Malewa Chebukwabi: *The intrigue in the land Distribution in Mt. Elgon: who is to blame?* (Nairobi: Pauline publication; 2003); p. 57

<sup>78</sup>Truth Justice and Reconciliation Commission, *op. cit.*, p. 206.



**Fig. 4.1 Map of white settlers in colonial Trans Nzoia**



Source: Nabwera, (1987:iv)

This historical injustice by the colonial government to the Sabaot in respect to land pitted the Bukusu and Sabaot in an ethnic conflict in 1963 in Mt. Elgon area. The Sabaots opposed the move by Masinde Muliro to make Kitale the headquarters of western and claim that Trans Nzoia was the familial land for the Bukusu. The Sabaots decamped from KADU and joined KANU. On noticing that Matifari (KADU) was contesting against Daniel Mossi for Mt. Elgon constituency violence broke out. Matifari's or KADU's supporters houses were torched, property vandalized and their livestock raided; the whole strategy was to expel them from Mt. Elgon. They immediately labelled them as aliens or Bukus who were to be evacuated from the area by the Sabaots. (Arap Kisebe, 1978:123) Cheweya reinforces that;

Colonialism created ethnic self-consciousness and steadily transformed discrete collection of clans, cleavages into an outfit readily tribal.<sup>79</sup>

An informant account states that the Bukusu-Sabaot inter-ethnic land conflicts witnessed in Mt. Elgon area in 1963, 1968, 1991-2, 2006-7 has a bearing to the colonial legacy. (Samita, 1992:85; O.I. Musee, 2019) The Sabaots violently took arms to reclaim their perceived deprived land during the colonial regime. During the colonial period, the Sabaots were ruled by non-Sabaot chiefs who included Murunga, Jeremiah Kukubo and Jonathan Barasa, who aided the Bukusu to acquire land in Mt. Elgon area. Chief Jonathan Barasa precisely gave the Bukusu precedence when land registration was incepted in 1956 to cushion them from eviction by the Sabaots. Ochieng expounds on this;

...during the colonial period, inter-ethnic conflicts, were nurtured by the policies and condition, created by British colonial rule. First, the division of region into districts was done in a manner that did not take into account the interests of the communities concerned. Secondly, the imposition of foreign chiefs on some communities created mistrusts and hatred among the people of the communities concerned...the pattern of development during the colonial period was uneven with resulting disparities in resource and amenities between ethnic groups and districts.<sup>80</sup>

In constructivism theory of this study interpretation the Sabaot were unfairly deprived of their land during the colonial era by the Bukusu and the colonial government through land alienation. An effort for compensation as recommended by the Carter Commission was futile, this unresolved grievances later exploded into post-independence violent land conflict in Mt. Elgon area.

#### **Gender dimension in the Bukusu-Sabaot inter-ethnic conflict**

The oxford Advanced Learner's defines gender as the virtue of being male or female in light to cultural differences. It states that gender is;

<sup>79</sup>Cheweya, *op. cit.*, p. 93.

<sup>80</sup>R.W. Ochieng: *Historical studies and social change in Western: Essay in memory of professor Gideon S. Were* (Nairobi: East African publishers; 2002); p. 269-270.

The fact of being male or female, especially when considered with reference to social and cultural differences...<sup>81</sup>

Among the Bukusu and Sabaots gender sensitivity is prevalent both the two communities practice patriarchy. From the oral tradition, the aspect of patriarchy has been entrenched from the stories of origin. Khamala asserts that;

The founding fathers of both the Bukusu and Sabaot were men. Bukusu and Sabaot genealogies are basically those of men and the different categories of genealogical information such as place names, occupation and family names.<sup>82</sup>

Based on Kakai and Makila's account, the Bukusu regard Mubukusu son of Masaba as their ancestor while the Sabaot especially the *Kony* honour *King'oo* who together with his wife *Tamunae* bore the following children, *Kupsomek, Kongin, Kibok, Kumosop, Kipsengwer* and *Kibongoin* who later became ancestors of *Somek, Bok, Kony, Sengwer, Mosop* and *Bungomek*. (Makila, 1975:31, Kakai, 2000:62) Khamala shares this;

Kinship groups such as the family, lineages, and clans that together constitute either the Sabaot or the Bukusu are characterized by power differentials in favour of men and this is one of the factors that inform and contribute to the construction of ethnic identities.<sup>83</sup>

Gender dimensions illustrate the composition of family, lineage, clans, tribes and ethnicity based on the male members of the family. The father is the head of the family and children are his descendants and they both belong to the same clan. The family unit of a clan forms a subset of a clan –different family units form a clan and different clans based on the male descendants of constituted an ethnic group. Khamala confirms this;

Gender plays a decisive role in the construction of the family, lineage, clans, tribes and ethnic groups. Bukusu and Sabaot kinship system of classification reckons kin relations based on the idea that children are descend from father. As such, the family and kinship groups at broader level of understanding constitute an ethnic group.<sup>84</sup>

An informant account asserts that the traditional land tenure system among the Bukusu and Sabaots is gender prejudiced. Only the male members of the society inherit land, portraying gender inequality and discrimination. (O.I. Wandabwa, 2019) However, Wasike argues that;

Education has been a major force for change although several residents acknowledge that some discrimination remain against girls, the numbers attending school has risen significantly.<sup>85</sup>

Traditionally men were socialized to defend the community among the Bukusu and Sabaot at puberty. Khamala asserts that;

It emerged that young men are easy to mobilize and arm to fight individually or part of a unit to defend their community since they were socialized during puberty rituals.<sup>86</sup>

Despite the global paradigm shift in cultural realms, prospects that men have to secure their societies against external incursion are still rife among the Bukusu and Sabaot. Cultural dissemination still reinforces masculinity and femininity. (Nyerere, 1968:106-144); Kaarsholm, 2006:3) even so Berkely observes that;

In practice, it seems that men and women increasingly play equal important economic role, particularly since education has altered the range of employment opportunities open to women.<sup>87</sup>

Some years prior the Burundi annihilations and the Rwanda ethnic cleansing, pressure between the Tutsi and the Hutu had escalated to frightening level. Educated Hutu men were specifically targeted by the Tutsi controlled military in Burundi in 1972 after a mutiny by Hutu radicals. (Kaarsholm, 2006:2) Kaarsholm further states that;

During the Rwanda genocide in 1994; Tutsi and Hutu moderate males were also the target of Hutu extremists.<sup>88</sup>

An informant accounts confirms the Bukusu and Sabaot inter-ethnic conflict in Mt. Elgon area has been between men. In 1963, Chesikaki was one of the hot spots of Bukusu-Sabaot conflicts. Both the Bukusu and Sabaot men were armed with *ringus* and arrows, Bukusu women and children were sent away to the

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<sup>81</sup>Joanna Turnbull *et. al*: *Oxford Advanced Learner's dictionary of current English: International students edition 8<sup>th</sup> ed.* (London: Oxford University press; 2010); p. 622.

<sup>82</sup>Geoffrey Khamala, *op. cit*, p. lxxi.

<sup>83</sup>*ibid*, p. lxx.

<sup>84</sup>*Ibid*, p. lxxii.

<sup>85</sup>C. Wasike, *op. cit*, p. 30.

<sup>86</sup>G. Khamala, *op. cit*, cxiv.

<sup>87</sup>Hans Berkely: *The inter-play between women empowerment in Kenya: A case of western province* (New York: Brett publication, 2004); p. 21.

<sup>88</sup>Kaarsholm Preben: *States of Failure, societies in collapse? Understanding of violent conflicts in Africa* (Oxford: Preben Kaarsholm (ed.) (2006) *Violence political culture & Development in Africa*); p. 2.

neighbouring areas of Chwele, Sirisia and Namwela. The informant confirms that Sabaot women were also conspicuously missing. (O.I. Nasimiyu, 2019) The UNDP/OCHA reports states that;

The mobilization of young men to join militias, under blessings of some elders (Loibons) it is appreciated that the armed struggle for the land was male dominated.<sup>89</sup>

An informant explanation also point out that during the 1991-1992 Bukusu-Sabaot inter-ethnic conflicts Kikai was an epicentre of the sporadic conflicts. At Kikai, armed Bukusu men pursued Sabaot men who had attacked raided livestock from homes of Mzee Teta, Ainea Wanyonyi and Frank Wasilwa. They had also killed four Bukusu men who included, Mulongo, Tonshore, Yohana and Dismas. An estimated twenty seven cattle had been taken away from the Bukusu, the Bukusu noticing that Sabaots had guns and were using the Kutere route back to Marseek; the Bukusu ambushed and attacked an unaware Sabaots at *Keptunguru* making away with about seven cattle. At Chelebei hot spot in 1975, the informants narrates that Sabaot warriors (young men between fourteen years to thirty) attacked and killed Phillip Shadrack who had dared to attack them with spear when he heard of their imminent attack. Sabaots were avenging the Bukusu encroachment on Chesokwa land. (O.I. Wanyonyi, 2019) Khamala expounds on this;

Evidence from the field indicate that the Bukusu and Sabaot ethnic conflict of 1991/1992 had an explicit gender dimension given the involvement of related young males between fourteen and thirty five years who played a major role in coordination and conduct of the mayhem.<sup>90</sup>

The foregoing proves that women are barred from political leadership and ethnically deprived the right to own land. The fashioned Bukusu and Sabaot ethnic identities interconnect with gender imbalances, to fuel tensions and conflicts in political and economic realm. (Khamala, 2009:56-108) yet, Khamala asserts that;

Indicate that both men and women play significant roles in the perpetuation of acts of violence...in the past women sometimes accompanied men to battle and often shouted to urge warriors on. During such occasions sometimes, women went out in front or they would be shamed before their wives and girlfriends.<sup>91</sup>

Women faintly fit into the sequence of conflict. As mothers, so the perception holds, women pass on narratives of their bigoted community history to their children. This propagates the mental state of injustice as well as rationalization for unrelenting fight for certain identity-based agenda (over generations). (UNDP/OCHA, 2010:25) Kaarsholm confirms that;

Women implicitly support and pro-long communal conflicts given the role that they play in socialization and transmission of cultural values.<sup>92</sup>

While Morans have been prepared to be on war-alert at all times. Even militia leaders respect the voices of their senior female relatives. (UNDP/OCHA, 2010:21). Men are expected to inherit land and in the same way protect it from external intrusion. Still, women appear to encourage them in the process of fighting to protect land.

The contribution of warriors to Bukusu-Sabaot inter-ethnic land conflict connects with this study theory of instrumentalism. Elites use warriors to take up arms to fight for land based on ethnicity with vested interests. (O.I. Electina, 2019)

### **The political factor in the Bukusu-Sabaot inter-ethnic land conflicts**

The electoral cycle in Kenya has witnessed politically and ethnologically inclined conflicts since independence. The political climate around electioneering period across the political divide has always escalates into inter-ethnic tensions and violence especially in hotly contested presidential polls. Njogu shares this;

Kenya has witnessed politically and ethnically instigated conflicts before and after every presidential and general election held in 1992, 1997, 2002 and 2007, especially in western Kenya, Rift Valley and Coast region...<sup>93</sup>

Elites manipulate the electoral process to protect their interests as well as monopolize state and natural resources through ethnic bigotry and violence. The elites hope to intimidate their competitors through violence and ethnic polarization. (Lind et al, 2002:110) Giddens expounds further on this;

Political calculations is a reason for inter-ethnic conflicts...wars are engaged in by organized social groups are fought because political calculations are made about the like hood or success and decisions taken by leaders. They require economic resources to be committed and they usually play on real, perceived or created cultural differences in order to mobilize population emotionally.<sup>94</sup>

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<sup>89</sup>UNDP/OCHA, *op. cit.*, p. 25.

<sup>90</sup>G. Khamala, *op. cit.*, p. cxii.

<sup>91</sup>*ibid*

<sup>92</sup>Kaarsholm Preben, *op. cit.*, p.3.

<sup>93</sup>K. Njogu: *Citizen Participation in Decision Making towards inclusive development in Kenya* (Nairobi: Twaweza communication; 2013); p. 81.

<sup>94</sup>A. Giddens: *Sociology* (Malden: Polity Press; 2006); p. 1027.

This brings in the application of this study theory of instrumentalism which espouses that influence of the elites manipulating the aspects of ethnicity to fuel inter-ethnic conflicts for certain cause. Apart from political elites, cases of government instigating inter-ethnic conflicts are common and likely. African governments in particular abuse the absolute power they have been vested with to negatively manipulate ethnic diversity of its citizenry by pitting them against each other, seemingly to advance their policies and interests. Jones states that;

The more power a government has the more it can act arbitrary according to the whims and desire of the elite and the more it will make war on others and murder its foreign and domestic subjects. The more constrained power is diffused, checked and balanced the less it will aggress on others and commit homicide.<sup>95</sup>

The land question in Kenya is a colonial construction and it featured flagrantly during the Lancaster house conferences in London. It has been widely expected that a Majimbo government would solve the land of land in Kenya regionally; additionally, it has been contended that only a political way out can address the historical land question in Kenya. In a strict sense, such explication heightens rigidities and violence at the height of the electoral process. (Odinga, 1967:230; Mkandawire, 1997:18; Anderson 1998:343; TJRC, 2013:306) The TJRC report sheds more light on regional government solution to solve the land question in Kenya;

The position was affirmed by President Kenyatta who promised the people of Kenya at the time he took over power that there would be regional governments through which communities/tribes would regain and exercise control over land.<sup>96</sup>

Prior to this in Mt. Elgon area, the issue of land entangled the 1963 elections. The hiving off of one hundred thousand and fifty acres of land from the colonial Trans Nzoia settler scheme to create a settlement scheme for the Bukusu and other luhyas in western Kenya instead of the Sabaot provoked the Sabaot to abandon KADU which emphasized on regionalism for KANU. The Bukusu-Sabaot relationship worsened with the refusal by the boundaries commission to annex Mt. Elgon area to Rift Valley province. (Kakai, 2000:140-141) An informant account asserts that the Sabaot felt betrayed by the government in favour of the Bukusu. This sparked an inter-ethnic land conflict in Mt. Elgon area in 1963. (O.I. Ngeywa, 2019) The Sabaots took advantage of the 1963 parliamentary election between Daniel Moss of KANU, a Sabaot and Matifari of KADU a luhya to unleash violence against the Bukusu. Followers of Matifari were driven out of Mt. Elgon area, their houses and their livestock burgled and vandalized. They were branded them as aliens or intruders in Mt. Elgon area. (Arap Kitembe, 1978:123) Cheweya asserts that;

Politicians employ ethnic identity to aggrandize economic and political power while pretending to be acting on behalf and benefit of their respective ethnic communities.<sup>97</sup>

Another informant states that the Sabaots were opposed to KADU and its Majimbo philosophy because they feared that Bukus would marginalize their land rights, especially after they unsuccessfully lobbied to be annexed to Rift Valley province. (O.I. Musee, 2019)

Incidentally, the 1963, 1968, 1975, 1992 and 2006-2007, Bukusu-Sabaot inter-ethnic conflicts in Mt. Elgon area ensued during the electioneering period. The political climate gives latitude for the politicians to whip ethnic emotions on the problem of land in Mt. Elgon area. Cheweya argues that;

The reference point in Kenyan politics is ethnicity disguised as party politics. Elections do not therefore reflect party interest. Instead, they reflect the wishes of ethnic groups; indeed, all political parties are ultimately built on ethnic foundation.<sup>98</sup>

A global pressure group that advocated for the restoration of democracy appeared in early 1989 in Eastern Europe, Africa and China. In Kenya, politicians Kenneth Matiba, Charles Rubia, Raila Odinga and Jaramogi Odinga Oginga teamed up with other Kenyan politicians to demand for the repeal of section two A in the Kenyan constitution to allow multi-party democracy. Local and international pressure, especially from donor organizations and countries forced Moi to finally cave in. (Odhiambo, 1996:30-31) Odhiambo states that;

Eventually, the KANU government gave in to these pressures, amended section 2 two A of the constitution and permitted multi-party politics at the end of 1991.<sup>99</sup>

The opposition outfit FORD soon after the enthusiastic outburst in 1991 would rip into factions by May 1992. Odinga led one splinter group called FORD Kenya and Matiba was at the helm of FORD Asili. (Odhiambo, 1996:30) Cheweya states that;

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<sup>95</sup> A. Jones, *op.cit*, p. 588.

<sup>96</sup> TJRC, *op. cit*, p. 306.

<sup>97</sup> Cheweya, *op. cit*, p. 92.

<sup>98</sup> *ibid*, p. 96.

<sup>99</sup> E.S.A. Odhiambo: *Makers of Kenya's History* (Nairobi: East African Education Publishers; 2003); p. 30.

As the clamour for the multi-party systems gained momentum in Kenya in the early 1990s president Moi prophesied that such a political system would undermine statehood, polarize the society along tribal lines and plunge the country into ethnic violence.<sup>100</sup>

The unresolved question of land cropped up at the height of the clamour for multi-party politics in 1992. The TJRC report states that;

The TJRC report categorically demonstrates the critical linkage between the unresolved land question, multi-party politics and ethnic violence in Kenya.<sup>101</sup>

Multi-party politics in 1992 re-kindled the Majimbo debate which was popular among the Kalenjin and Maasai who had suffered historical land injustices. It was probable that a Majimbo government would solve contentious issues including land by regionally. This reverberated in Mt. Elgon area. Those who opposed plural democracy rooted for Majimboism, which they projected would unravel the historical land injustices. (TJRC, 2013:307) The TJRC report further states that;

That December 1992, violent conflicts spread to Mount Elgon and Bungoma districts between the pro-Majimbo Sabaots and Teso and the pro-FORD Bukusu.<sup>102</sup>

In addition, claims of KANU government orchestrating inter-ethnic conflicts as a strategy to remain in power in 1992 arose. Aggrieved communities who believed that unresolved land issues could be solved through politics took arms against their perceived adversaries. The TJRC report shares this;

It is demonstrated that affected community anger and resolve to rise against those perceived as outsider invaders of other people's 'homelands' has often been expressed through politics.<sup>103</sup>

Informant versions state that in Mt. Elgon area in 1992, Sabaots started to deceptively accuse the Bukusu for larceny and other trifling offenses. The culprits were killed by the Sabaots, this upset the Bukusu. The Bukusu holds that the Sabaots historically have created such unfounded skirmishes to provoke the Bukusu to take arms to retaliate and spark violence. The Bukusu at Machakha revenged against the Sabaots sporadic attacks on the innocent Bukusu. They killed twelve Sabaots who were attending a social gathering. At Chesikaki, claims of the Sabaots warriors training emerged, conflicting speculations emerged as whether they had acquired guns from Uganda or had been given by the KANU government. The Sabaots attacks intensified; Sabaot attacked and killed Bukusos indiscriminately in Chebonde, Chesikaki, Rwanda, Kikai and Kutere. (O.I. Namalwa, 2019) Cheweya further states that;

In response to the re-introduction of opposition in 1991, KANU was reported to have adopted a strategy of repression and organized violence against opposition elements while blaming it on the opposition...depopulation strategy in the opposition strongholds through violence and destruction of property, fear was created which not only led to population outflow, but also intimidate those remaining behind to the extent of not voting...KANU played one ethnic community against another leading to inter-ethnic strife. KANU intimidated otherwise loyal ethnic communities seen to be drifting to the opposition or wavering in their support for the ruling party.<sup>104</sup>

The re-introduction of plural democracy in Kenya was a blessing in disguise as ethnic bigotry reared its ugly face in the Kenya political landscape. It gave latitude politicians and elites to hide under the cover of politics to re-invent traditional ethnic rivalries and hatred. Politicians and elites took advantage of the new political dispensation to exploit and stage-manage ethnic violence in the pretext of safeguarding communities' interest but with vested interests. When the tensions and killings went silent, the issues of historical land injustices for example in Mt. Elgon area remained unresolved. (Telewa, 2005:102, Wasike, 2009:52, TJRC, 2013:307) The TJRC report states that;

The TJRC further discloses that political leaders are determined to take cover under politics and related debates to address land problems through all means, including violence. Yet all post-independent governments in Kenya have had adequate chances and means to address the problems with finality.<sup>105</sup>

The parliamentary committee findings indicted government officials with the 1991/1992 ethnic clashes, principally, the provincial administration. It was also misconceived that the aggrieved communities would repossess back their alienated land during the colonial and post-colonial regimes in Kenya. (Haugerud, 1993:31-56) The TJRC report further;

...faults the government response to ethnic violence as half-hearted often engaging in blame-games with political leaders in the opposition parties. The opposition also counter-accused Moi government of

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<sup>100</sup>Cheweya, *op. cit.*, p. 95.

<sup>101</sup>Truth Justice and Reconciliation Commission, *op. cit.*, p. 305.

<sup>102</sup>*ibid.*, p. 307

<sup>103</sup>*ibid.*, p. 306.

<sup>104</sup>Cheweya, *op. cit.*, pp. 95-99.

<sup>105</sup>Truth Justice and Reconciliation Commission, *op. cit.*, p. 306.

facilitating ethnic conflicts to prove his earlier predictions that multi-parties would create violence in the country.<sup>106</sup>

The criticality of historical land question and injustices re-surfaced in the 2005 constitutional referendum. Kenyans were optimistic that a political solution through constitutional review would resolve historical land injustices. Fallout at Bomas of Kenya led to polarization of the constitutional process lead to political machination against the proposed draft constitution at the referendum. In Mt. Elgon area, the Sabaots voted against the proposed draft at the referendum while the Bukusu voted in favour of the proposed draft. (TJRC, 2013:310) The TJRC report asserts that;

The constitutional referendum held in 2005, failed to gather enough public support for a new constitution and the people of Kenya were left with no constitutional basis for addressing land issues.<sup>107</sup>

The formation of Orange Democratic Movement in the aftermath of the constitutional referendum was an array of hope by the many communities in Kenya, who believed in that an orange Democratic government would address the historical land injustices in Kenya since the colonial era. In Mt. Elgon area the Sabaots were pro – Orange Democratic Movement (ODM) while the Bukusu were pro – Party of National Unity (PNU). (TJRC, 2013:310) The TJRC report states that;

The unprecedented violent activities of various militia groups nearly drove Kenya to a civil war between December 31, 2007 soon after, flawed presidential results were announced, a report of the commission that investigated post-election violence in Kenya traces roots of the 2007-2008 violence to inequalities in land acquisition and settlement.<sup>108</sup>

An informant account recapitulates that the Bukusu were targeted by the Sabaot Land Defence Force during the election period. The Bukusu were intimidated before and during the voting process. They were under duress to vote specific candidates or face execution or amputation. The Sabaots assumption was that an Orange Democratic Union (ODM) government would solve their historical land question in Mt. Elgon area. (O.I. Chebet, 2019)

The promulgation of the new constitution in 2010 steered in a new legal framework as regards land in Kenya. The new dispensation in article sixty three and sixty seven admits the existence of community land and safeguards hitherto vulnerable communities' land against predators. It also institutes the National land commission that is vested with the mandate to embolden the application of traditional dispute resolution mechanism in land conflicts. Sadly, this constitutional milestone, does not offer clarification on the historical land question in Kenya. (Kenyan constitution, 2010:48)

Reputable judicial and parliamentary commission suppositions allude to land, at the centre of inter-ethnic controversies. They have projected that a resolution to historical land problems will be an antidote to the perpetual inter-ethnic conflicts in Kenya. Yet, a political solution to the historical land question in Mt. Elgon area and Kenya has been implausible and impracticable by insincerity of the politicians to implement its recommendations (Muoka, 2015:133)

An informant account confirmed that politicians and elites like the Loibons have always used the election climate to fuel the Bukusu-Sabaot inter-ethnic land conflict in Mt. Elgon area. This connects with this study theory of instrumentalism which espoused elite manipulation of the aspects of ethnicity to achieve certain gains. The informant reiterated that politicians fuel the conflict in order to control unoccupied land Chebyuk phase III. (O.I. Ngeywa, 2019)

The politicisation of the land conflicts in Mt. Elgon area by elites brings into application this study theory of instrumentalism. Elites influenced the aspects of ethnicity to cause Bukusu-Sabaot inter-ethnic conflicts for certain vested interests which included acquiring large tracts of land in Mt. Elgon area.

### **The infiltration of Small and Light Arms**

Political volatility and the Lord's Resistance Army militia presence in eastern Uganda have given latitude to cross border transit of illicit firearms through black market. The proximity of Mt. Elgon area to eastern Uganda is a blessing in disguise as illegal arms have exchange hands in this region resulting into escalation of inter-ethnic conflict in Kenya and beyond. Imbue notes that;

This is attributed to the many years of war and instability in Uganda, particularly northern Uganda between the Lord's Resistance Army (LRA) led by Joseph Kony an assumed relative of the Sabaot and the government of Uganda.<sup>109</sup>

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<sup>106</sup> *ibid.*, p.309.

<sup>107</sup> *ibid.*, p. 310.

<sup>108</sup> *ibid.*, p. 258.

<sup>109</sup> G. Imbuye, *op. cit.*, p. 125.

This window of prospect enriched the proliferation of Small Arms and Light Weapons in Mt. Elgon area expressly at the advent of multi-party democracy in Kenya. The Sabaots in particular have been the key beneficiaries of this despicable cycle. Simiyu adds more to this;

The history of militarization of the Sabaot has been facilitated by the proliferation of Small Arms and Light Weapons (SALW) along the Kenya-Uganda border.<sup>110</sup>

Available indication points out that the border points of Suam in Kwanza district and Bungoma West district has been the avenue for sneaking into Mt. Elgon area illegal weapons. Based on an informant account, guns were first used by the Sabaots during the 1991/1992 Bukusu-Sabaot inter-ethnic conflicts. It was speculated that they were given guns by their Sebei cousins. Nonetheless, the UNDP/OCHA report states that;

Research indicates that the use of Mt. Elgon as a corridor of small arms to Rift Valley spans decades. The use of illicit arms in the Mt. Elgon conflict can similarly be traced to the 1990's clashes. Potential illicit arms entry points include the border point of Lwakhakha (a popular smuggling point to black market) and the Suam border point in Kwanza district.<sup>111</sup>

Informant versions recap that during the Bukusu-Sabaot inter-ethnic conflicts in 1963 and 1968, stones, rungs and arrows were the dependable weapons in Chesikaki, Chebonde, Rwanda, Kikai and Kakilongo regions. During the Bukusu-Sabaot inter-ethnic conflicts in Mt. Elgon area in 1975, Chelebei was the hardest hit region. The Sabaots were armed with mostly arrows; Phillip Shadrack was killed by an arrow shot. Permanent houses became hideouts for the Bukus, others who were not so lucky but survived arrow shots include Joshua Wepukhulu, John Simiyu and Wanyonyi Walubengo. (O.I. Kirwa, 2019) The UNDP/OCHA report indicates the possibility of illicit firearms from Pokot finding its way into Mt. Elgon area. It states;

It is possible for arms from greater Pokot to find their way into Elgon.<sup>112</sup>

In 1990's an outlawed group February Eighteen Movement emerged under the stewardship of brigadier Odongo and Wangamati. The movement purportedly was training in eastern Uganda presumably to take over the Kenyan government. A military wing February Eighteen Movement Army had been annexed to the movement. Supposedly, the Kenyan government countered the impending revolution by recruiting and arming youths in Mt. Elgon area in readiness to combat FERA subversion. (UNDP/OCHA, 2000:18) The UNDP/OCHA report observes that;

The arms that were given to youths in Mt. Elgon area to protect Kenya from Brigadier Odongo never left the mountain.<sup>113</sup>

Reports emerged of state machinations in the 1992 conflicts, it was alleged that the state was importing metal arrows and arming Kalenjin warriors to create a traditional warfare based on historical rivalries between the Kalenjin and their non-Kalenjin neighbours. Informant account by extension confirms such insinuations in Mt. Elgon area. Sabaots molested the Bukusu in Mt. Elgon area with guns, in some extreme cases, some Bukusu were shot dead making the surviving fugitives to scamper for safety. (Haugerud, 1993:73)

During the 2005 referendum, a leading politician in the district is reported to have been extremely annoyed that his side lost to the referendum. He is reported to have bought some 14 guns and placed them in the hands of the hired youths. (UNDP/OCHA, 2000:18) The Saferworld reports that;

The military's recovery of one hundred assorted weapons (including bazookas, rocket propelled grenades, jumping mines and AK forty seven) and one thousand one hundred and fifty three pieces of ammunitions.<sup>114</sup>

The Sabaot Land Defence Force (SLDF) were armed with guns, even so, they did not carry them. They also dressed in police uniform. Informant account observes that, in a prearranged strategy, the rebels were handed guns within the close range of the target. This was their guerrilla tactics to avoid police radar and facade from community suspicion. (Imbuye, 2016:125; O.I. Wandabwa, 2019) This is expounded further;

Usual for groups in the area they wore jungle camouflage uniforms and had access to ammunition – although AK47 and other guns are easily accessible from bordering nation such as Somalia...<sup>115</sup>

The proliferation of the Small Arms and Light Weapons (SALW) in Mt. Elgon area since 1990's has empowered the Sabaots to arms themselves against the Bukusu on grounds that the Bukusu encroached on their land during colonial and post-colonial period. The illicit firearms were also central in the strengthening the operation of the Sabaot Land Defence Force during the Sabaot intra-ethnic conflict 2006/8 in Mt. Elgon area. Kareith and Lucheli affirm that;

<sup>110</sup>R.R. Simiyu: *Militianisation of Resource conflicts: The case of Land based-Conflict in Mount Elgon region of Western Kenya* (Pretoria: ISS; 2008); p. 53.

<sup>111</sup>UNDP/OCHA, *op. cit.*, pp. 22-36.

<sup>112</sup>*ibid.*, p. 36.

<sup>113</sup>*ibid.*, p. 18.

<sup>114</sup>*Saferworld, Western province (Mt. Elgon scooping: 2007)*; pp. 3-20.

<sup>115</sup>Un-reported world -10/1 - 'Kenya's Human Time bomb.' Channel 4. 22 April 2008

The government initially treated the Sabaot Land Defence Force (SLDF) as common criminals, but has begun to treat them as organized group. An Amnesty offered equivalent to US dollars two point six five to fighters to surrendering their weapons, but no weapon were surrendered...<sup>116</sup>

The disarmament exercise and establishment of Kamarang' military barrack during the military operation, *Okoa Maisha* did not in its entirety seal the loopholes and trafficking of illicit firearms in Mt. Elgon area, following the eruption of yet another militia, Forty two brothers in Mt. Elgon area in 2017.<sup>117</sup>

#### **4.2.9 Religious and Traditional methods of Intervention in the conflict**

The Roman Catholic Church was instrumental conflict intervention and mitigation. The church premises housed Internally Displaced Persons at the height of the Bukusu-Sabaot inter-ethnic conflict. Wachege and Nyongesa states that;

The RCC premises were used as oasis of peace and welfare centres in accommodating an overwhelming number of the escapees virtually reducing it to a refugee camp.<sup>118</sup>

The Roman Catholic Church was overstretched in handling big numbers of Internally Displaced Persons, through the activities of the Sabaot Land Defence Force. Many of the IDPs sought refuge in the church premises and the church was faced with the enormous duty of providing them with food, shelter and medical supplies. (Wachege *et. al*, 2018:66)

An informant accounts confirms that the Roman Catholic Church in Cheptais provided material support and also sheltered affected families at the height of the Sabaot Land Defence Force unrest. (O.I. Kimutai, 2019) Wachege *et. al* shares this;

The church had to re-organize its steps to take responsibility of encouraging the people in the region particularly in church so that they can play the role of giving hope to the displaced ones assisting them to have a homecoming.<sup>119</sup>

The church in Mount Elgon gave hope among affected members by reiterating ethical values that had been abused during the conflict. In addition, the church received SLDF converts who confessed their evil deeds and convinced the community to bear with their past . (Wachege *et. al*, 2018:66-67) Wachege *et. al* further states that;

The RCC in Mount Elgon region was heavily affected by SLDF conflict in that there was immense increase of helpless orphans...the church had to involve herself profoundly to console and embrace young children. It had to provide necessary support to them for instance food, clothing and shelter from her meagre resources.<sup>120</sup>

An informant account stated that the Roman Catholic Church at Kibuk provided shelter, food, and medical supplies as well as was at the centre of conflict mitigation. (O.I. Electine, 2019) Wachege *et. al* reiterates this;

The RCC as an institution has taken a commendable responsibility to make necessary effort and calling for peace throughout the universe. In Mt. Elgon particularly the RCC in Cheptais, she has been seen preaching peace and promoting unity upon the family to embrace reconciliation and healing. (Wachege *et. al*, 2018:70)

The Roman Catholic Church engaged the youths in activities and programmes that were geared towards creating awareness on conflict mitigation and sensitizing them against being used to cause conflicts in the area . (UNDP/OCHA, 2016:31; Wachege *et. al*, 2018:70)

The entrenchment of Traditional African Religion and Christianity in Mt. Elgon area influenced the course of the Bukusu-Sabaots inter-ethnic conflicts in Mt. Elgon area. (UNDP/OCHA, 2016:31) An informant account explicates the eating of a dog between the Bukusu and Sabaots in Sirisia and Chelebei which promoted lasting peace in the area. (O.I. Kiprop, 2019) The UNDP/OCHA report further states that;

The Loibons have specific 'spiritual' territory upon which exert their influence. They have a following and the communities in Mt. Elgon seem to reverse them. Some Loibons were among the privileged few who acquired huge tracts of land in the settlement scheme...dispossessing Loibons of their tracts of land in Chebyuk phase III process of their tracts of land in Chebyuk phase III process was a major accelerant of the conflict.<sup>121</sup>

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<sup>116</sup> *Amos Kareithi & Isaiah Lucheli (10<sup>th</sup> April 2017). "SLDF militia a force to reckon with" – The Standard.*

<sup>117</sup> *The Standard 28<sup>th</sup> February, 2018; Daily Nation 8<sup>th</sup> April, 2018; Daily Nation 3<sup>rd</sup> May, 2018*

<sup>118</sup> Wachege P.N. and Kubet, L.N: *Impact of Sabaot Land Defence Force conflict (2006-2008) on the Roman Catholic Church in Cheptais Region, Bungoma County*, (IOSR Journal of Humanities and Social sciences: University of Nairobi; 2018); p. 66.

<sup>119</sup> *ibid*, p. 66.

<sup>120</sup> *ibid*, p. 68.

<sup>121</sup> UNDP/OCHA, *op. cit*, p. 31



The immensity of the Loibons authority and power overshadowed the church leaders' influence in Mt. Elgon in the thick of the conflict. As much, it has been observed that the credibility of churches dwindled as the power of traditional leaders was elevated. (UNDP/OCHA, 2016:31) The influence of the Loibons brings in the applicability of this study theory of instrumentalism, where the elites manipulate ethnicity for their own gain. An informant account stated that the Loibons were instrumental in the Bukusu-Sabaot conflicts as they were consulted and presided over the oath-taking of warriors before engaging in the conflict. (O.I. Kimutai, 2019) The UNDP/OCHA report states that;

The need to adopt traditional approaches to reconciliation among peace structures is also vital. For initiative, respondents talked of the importance of traditional ceremonies in peace building.<sup>122</sup>

Religious leaders have played some role in facilitating dialogue at various levels. Some inter-community problem solving sessions were supported by faith-based organisations, while some recognised religious leaders engaged SLDF in dialogue. These efforts achieved some results – some of the militia demands and the SLDF command structure was understood, and dialogue sessions that involved the provincial administration began narrowing points of difference as solutions were sought.

### **The effects of the Bukusu-Sabaot inter-ethnic conflicts**

Mt. Elgon conflicts have displaced scores of people since independence. The informants' explanations come to an agreement that the Bukusu have been the most affected in this development. Most of the Bukusu ever since 1992 in Mt. Elgon area have disposed of their land at the throw away price as the conflicts certainly recur in the area.<sup>123</sup> The Kenya Red Cross;

...reveals that the conflict displaced about one hundred and sixteen thousand two hundred and twenty people (almost the entire district population) and resulted in...the spill-over effects of the conflict were felt in Bungoma District and in Kwana, in the west of Trans Nzoia District.<sup>124</sup>

Mt. Elgon conflicts have also caused physical bodily harm and loss of life. Informant accounts specified that the 1963 was not bloody. Though, in 1968 at least one person was killed in the Chesokwa conflict, this was replicated in 1975 at Chelebei epicentre, where one person was killed. At least twenty six people were killed in the 1992 conflicts. (Namulunda, 2011:119; O.I. Wanyonyi, 2019) Namulunda further makes clear that;

In the post-independence era Bukusu communities bordering Sabaot and Kalenjins have engaged in land conflicts, especially during the 1990s pre-election ethnic clashes. The clashes that swept across the land arose among otherwise tolerant ethnic groups. Besides, the loss of lives, which is significant in itself, it disrupted social life and development projects and also heightened ethnic intolerance.<sup>125</sup>

The actual number of deaths as a result of the 2006-2008 conflict in Mt. Elgon is yet to be established, but according to the Human Rights Watch, approximately six hundred people were killed by SLDF. There were others who were maimed, had their ears chopped or tortured as a way of punishing them. As a result, the number of widows and orphans surged in the district.<sup>126</sup>

The Bukusu-Sabaot conflict has triggered obliteration of shelter. Informant observes that the most affected were the Bukusu. They were mostly evicted and their houses torched, those who fled shelters were vandalized and looted. (O.I. Ndiema, 2019) Sibomana sheds more light on this;

Every war drags in its wake share of unscrupulous opportunity and greedy vultures...<sup>127</sup>

Based on International Rescue Committee (IRC) report, shelters were wrecked or set ablaze by the Sabaot Land Defence Force (SLDF). Due to financial constraints by those who lost shelter they were incapacitated to restructure them even with their alacrity to return to their households (International Rescue Committee: Kenya Humanitarian Assessment Mount Elgon District 2008)

The conflict in Mt. Elgon area interrupted livelihoods for the most part the agro-industry. Informants reach agreement that Cheptais market was bustling in early 1990's, it was one of the principal open air markets in Kenya, systematized with more volumes of agricultural produce than Chwele. But endemic conflicts have turned Cheptais market into a pale shell of its former glory. (O.I. Ngeywa, 2019; O.I. Nasimiyu, 2019) The international rescue committee notes that;

...the conflict and violence in Mt. Elgon disrupted the agricultural activities in the District as people fled from their homes for fear of their lives. Five of the informants during the research reported that their

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<sup>122</sup> *ibid*

<sup>123</sup> *Daily Monitor, 17 March 2008*

<sup>124</sup> *Kenya Red Cross Society, Mount Elgon Clashes Status report, 4<sup>th</sup> April, 2007.*

<sup>125</sup> Namulunda Florence: *The Bukusu of Kenya* (North Carolina: Carolina Academic press; 2011); p. 119.

<sup>126</sup> *Human rights watch, All Men Have Gone War Crimes in Kenya's Mt. Elgon conflict 2008*

<sup>127</sup> R. Sibomana: *Hope for Rwanda* (Dar es Salaam: Pluto Press; 1999); p. 103

businesses were destroyed by the militia during the conflict and were struggling financially to rebuild those businesses. One of the informants also reported how she lost over heads of cattle to the SLDF.<sup>128</sup>

Rape and sexual abuse have been prevalent in the Bukusu-Sabaot inter-ethnic land conflicts. Women and girls informers agree have been vulnerable to rape and sexual harassment by the police, the military and militia.<sup>129</sup> UNDP/OCHA point out that;

...there were a high number of women who were raped or sexually abused by either the SLDF or the security forces. Some of the women had been held as sex slaves by the militia. This information is corroborated by reports by other organisations that have undertaken.<sup>130</sup>

Trauma and stress expressly during the Sabaot Land Defence reign of terror exposed victims to untold torture and emotional torture. Informants reach agreement that the Sabaot Land Defence Force committed heinous human abuse; the militia became a law unto themselves and established an extra-judicial system that included amputations, maiming and others witnessed the execution of their kin. Those who went through such ordeal remained traumatised and lived in fear of the Sabaot Land Defences Force (1; O.I. Kirwa, 2019; O.I. Musee, 2019) The Human Rights Watch specifies that;

There are men, women and children who were seriously traumatised by the conflict. Some watched as their relatives or neighbours got killed by SLDF. One informant during the research narrated how one morning she was picked by three young men from SLDF on the account of being an informer with local administration and refusing to pay "taxes". She was taken to the forest and charged in their "court". She had been sentenced to death but they later changed their minds and decided to let her free. However, they took her to a tent nearby where she was made to witness three people being killed as a warning to her if she did not abide by their law. Others had to flee on foot and trekked for long distances as they escaped from the conflict. Majority of them were tortured and maimed and are still living with the trauma and pain. Those who were raped and sexually violated still suffer psychological trauma and shame.<sup>131</sup>

The conflict in Mt. Elgon area gave rise to into the collapse of governance in the area, the provincial administration initially was indicted for overseeing a corrupt exercise during the Chebyuk settlement, government officials were compromised and worked in collusion with land cartels to inflate and apportion land to under serving beneficiaries. The UNDP/OCHA report states that;

...the conflict in Mt. Elgon has often been informed not just by what can only be described as corrupt and poor decisions by provincial administration; there has often been collapse of governance and even apparent complicity of government officials in prurient and atrocious activities.<sup>132</sup>

The rise of militia groups like Sabaot Land Defences Force, Forty Two brothers and Moorland Defences Force has in the recent past based on the informants accounts upset normalcy. (O.I. Chebet, 2019) Dispensation of the basic social services like health and education was greatly hampered as schools and hospitals closed down. Sibomana notes that;

...enlisting of young soldiers, some in their school going age, cripples learning and development altogether.<sup>133</sup>

The militia and chiefly the Sabaot Land Defences Force (SLDF) in Mt. Elgon area basing on informants illumination conscripted school going children leading to disruption of learning and forcible dislocation of the populace. Josphat Makori notes that;

The SLDF was funded by unofficial 'taxation' of the local residents, and has implemented a parallel administration.<sup>134</sup>

The Military deployment in March 2008 even so stopped the conflict but claims of gross violence of fundamental human rights have been widely documented. This has fanned the narrative of a state persecuting a community exacerbating further deep resented sentiments of marginalization and historical injustice.<sup>135</sup> Simiyu further states that;

However, in its determination to rout out the militia, the army applied brutal interrogation tactics, which included torture, mass detentions, forced confessions and extrajudicial killings, exacerbating the misery and precarious position of the local residents. The military, the police high command and the provincial

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<sup>128</sup> *International Rescue Committee: Kenya Humanitarian Assessment Mount Elgon District 2008*

<sup>129</sup> *Daily Nation, 6 April 2008*

<sup>130</sup> UNDP/OCHA, *op. cit.*, p. 11.

<sup>131</sup> *Human rights watch, All Men Have Gone War Crimes in Kenya's Mt. Elgon conflict 2008*

<sup>132</sup> UNDP/OCHA report, *op.cit.*, p.18

<sup>133</sup> Sibomana, *op. cit.*, p. 103.

<sup>134</sup> *Josphat Makori (11<sup>th</sup> February 2008). 'Kenyan militia strike back'. BBC News. Retrived 2018-12-28*

<sup>135</sup> *East African Standard, 6 April 2008; Human Rights Watch (2008:4); East African Standard, 17 May 2008; KNCHR 2008:11; IMLU 2008:8*

administration have all dismissed these allegations and challenged complainants to present evidence to the police for investigation.<sup>136</sup>

An informant account stated that the military operation was carried out inhumane and harsh way, many innocent people suffered in the hands of the military personnel, some were wrongly mistaken to be SLDF and others were victims of rape. (O.I. Chebet, 2019)

#### IV. CONCLUSION

This sub-section has established how aspects of ethnicity, government policies, colonial legacy, gender dimension, infiltration of fire arms interact with the land question in the countenance of the Bukusu-Sabaot inter-ethnic land conflict in Mt. Elgon area. This chapter took into attention the pre-colonial and colonial land question in the development to the post-independence land question in the Bukusu-Sabaot inter-ethnic conflict.

The study reconnoitred ethnic variability in the development of the land question and manifestation of the Bukusu-Sabaot inter-ethnic conflict in Mt. Elgon area in the post-colonial era. Ethnicity becomes the aspect of mobilization in protesting for the marginalization and emancipation in regard to the land question. The study posits that, in as much as pre-colonial societies were conscious of ethnic identities, colonial administration policies and appropriation of resources discriminated one ethnic group in favour of the next. In Mt. Elgon area the Sabaots felt marginalized by the Bukusu at the behest of the colonial administration. During the colonial period, the Mt. Elgon area colonial chiefs were mostly Bukusu or non-Sabaots who created window for the Bukusu to move in Mt. Elgon area and acquire land. Chief Suleiman Murunga in particular was ruthless against the Sabaots, prompting them to flee to Trans Nzoia, the Bukusu utilized the opportunity to move in and fill the vacuum created by the fleeing Sabaots. Chief, Jeremiah Kukubo and Jonathan Barasa encouraged the Bukusu to acquire land in Mt. Elgon area through buyout arrangements with the Sabaots. The Sabaots claim the Mt. Elgon area is their ethno-territorial land. Sabaots opted for ferocious conflicts especially when the post-independence government failed to resettle them but instead resettled the Bukusu in their place. Ethnic intolerance also pops up, as the Sabaots label the Bukusu as proud, *lamek* (aliens) and abusive, while the Bukusu refer the Sabaots as dirt.

The study argued that post-colonial government land policies were oblivious to the plight of Kenyan squatters whose familial land was forcibly dispossessed during the colonial despotic regime. The adoption of the African socialism discouraged community interests and agitation for addressing historical injustices particularly on land issues. African Socialism emphasized private enterprise and government patronage in socio-economic policy formulation, regulation and execution. This was followed by political upheavals that included muzzling and intimidating radicals in the ruling coalition. Thus, the post-independence governments implicitly fashioned inter-ethnic conflicts as avenue for the disfranchised communities in Kenya to express their disapproval especially the vehement inter-ethnic conflicts that hit parts of Kenya in 1963 including Mt. Elgon area.

The study asserted that initiative by the Kenyan government to settle the Sabaots in Chebyuk to integrate in the mainstream life became an opportunity by politicians, brokers and land grabbers to impinge on the scheme through duplicitous means. The government delay to survey and allocate land, made the process susceptible to manipulations. Land survey and allotment among the Sabaots was highly controversial affecting Bukusu who had encroached on Chebyuk settlement scheme. This state of affairs is mostly attributable for the 1991/2 inter-ethnic conflicts in Mt. Elgon area. The dispossessed Sabaots were forced to recover the land they had sold to the Bukusu when they moved to Chebyuk scheme. The creation of Chebyuk phase two was yet another time bomb, as corruption, bribery and land grabbing reappeared in the appropriation exercise in cohort with the authorities. The government committed yet another seditious verdict by annulling Chebyuk phase one and two and creating Chebyuk phase three. Political infiltration in the exercise led to the formation of the Sabaot Land Defence Force, an armed militia that drew membership mostly from the Sabaot.

The study affirmed that Sabaot Land Defences Force sought to expel the Bukusu from Mt. Elgon area because they perceived them as competitors to access to land in Mt. Elgon area but this plan was nabbed in a bud through the military intervention.

The study maintained that advent of multi-party democracy was marred with controversy. Opposition blamed the KANU government for orchestrating inter-ethnic conflicts, with the aim of forcibly displacing opponents and depriving them their civic rights to vote. This reverberated in Mt. Elgon area where it was alleged the government armed the Sabaots to displace the Bukusu in the area.

The study emphasized that infiltration of Small Arms and Light Weapons escalated the Bukusu-Sabaot inter-ethnic conflicts in Mt. Elgon area, the porous border point of Lwakhakha and Suam and the political upheaval in S. Sudan, eastern Uganda and Somalia enables transit of illegal firearms in the area. Fire arms are also believed to have been placed in the hands of the youths to protect Kenya from FERA Movement. As such, the guns did not leave the mountain ever since the alleged incident. The military disarmament exercise

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<sup>136</sup>R. Simiyu, *op. cit.*, p. iv

recovered about one hundred firearms in the hands of civilians. Arms have been procured over time seemingly to defend land either as a militia or individuals.

The study stressed that gender aspect is vital in the Bukusu-Sabaot inter-ethnic land conflict, as boys are socialised to defend their community at puberty among the Bukusu and Sabaots. Patriarchy is prevalent among the Bukusu and Sabaots and only men inherit land and defend it from external factors. Women on their part, through cultural transmission hand down the issues of land injustices to their generation, they also urge warriors, boyfriends and husbands to fight for land. The next chapter discussed the summary of this and other previous chapters in shading in-depth insights in the development of the land question in the Bukusu-Sabaot inter-ethnic conflict while recommending for the possible solution to the perennial land conflicts in Mt. Elgon area.

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