ALIENATION OF ABASHITAHO’s LAND RIGHTS, 1920-1963

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DECLARATION

This thesis is my original work and has not been presented for a degree in any other University.

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DEDICATION

To my parents Joab Okwisia and Joyce Nangira whose love for education and hard work inspired me to go to school.
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<tr>
<td>KALRO</td>
<td>Kenya agricultural and livestock research organization.</td>
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OPERATIONAL DEFINITIONS OF TERMS.

Abacheri                      Cunning People.
Ababira                        People knowledgeable in witchcraft.
Abadinyu                      Difficulty people to deal with.
Abakolerwa                   Have no relationships with other people.
Abamahaka                    Troublesome people.
Colonialism-                The act one group of people dominating another in all spheres of life.
Mushevano                    Salt made from burning plants especially banana leaves.
Shieywe                      Local name for Kakamega town.
Shiholo                      Traditional implement with curved edge for cutting grass.
Milimani                    Any area in Kakamega town that was set aside for European residence only.
Nyasaye                     The name for God among Abashitaho.
Omwami                      Chief.
Terra nullius                Historical claim that land belongs to nobody.
ABSTRACT

This study interrogates the effect of European colonialism on traditional land ownership, access and use. The exposure of European capitalism on traditional land ownership, access and use abolished the land rights of Abashitaho between 1920 and 1963. The pre-colonial land ownership, accessibility and user rights had made the community stable and peaceful. It also investigated European colonial land policies and its pitfalls on the community leading to legacy of land right question after independence of 1963. This study is necessary because a lot of studies by scholars have focused on large general areas and communities to the exclusion of minority but important communities in the locality. While those studies were important, there is need to explore issues in such isolated localities which dominated outcomes that impacted on large communities during colonial period. The study narrowed down the unit of focus to that of Abashitaho land rights to help provide a more detailed account. The overall objective of the study was to demonstrate factors that have undermined land rights among Abashitaho despite Kenya having attained independence. The study employed a descriptive research design and applied the purposive and simple random sampling techniques. The study focused on Abashitaho knowledgeable elders and any other persons within Kakamega County to obtain information. A total of 40 respondents were sampled for oral interviews, focus group discussions and some filled questionnaires. Analysis of library and archival sources was also used to obtain information. The study used a systems approach and dependency and underdevelopment theories to interrogate traditional system of land rights and capitalist system as they clashed to analyze the outcomes of problems of land rights within an African community. These theories helped provide an avenue for understanding reasons why land rights and the land question was still a major problem in independent Kenya in 1963. The study was premised on argument that colonialism introduced changes in land ownership accessibility and use that removed the community’s base of wealth accumulation. Colonialism also brought in new methods of land ownership with title which ignored traditional rights to access and use land which weakened African modes of production and created class differences in society. The study revealed that due to differences in ownership, accessibility and use of land some people grew richer as others became progressively poor due to policies institutionalized. The study therefore exposed the challenge of land question that endures and undermines wealth accumulation and stability of society at independence.
CHAPTER ONE

1.0 Introduction

This chapter will discuss the background to the study, statement of the problem, research questions, research objectives, research premises, justification and significance, scope and limitations, theoretical framework, literature review and research methodology used to investigate Abashitaho land rights between 1920 and 1963.

1.1 Background to the Study

Land ownership, accessibility and use are important for a community to be stable and peaceful. Land in traditional African communities provided the base for wealth accumulation. Land also provided supply of food, recreational facilities and burial sites after death and religious shrines for the communities. Land was owned by the community collectively. Land was interfered with when colonialism came.

Colonialism is one of the three human phenomena that left permanent negative marks on human life let alone that of Africans. Others are slavery and neo-colonialism; (Aseka, 1991). The three ills of society have influenced and shaped actions of people in all spheres of life.

Mazrui (2009,) posited, “Colonialism came with a bang in Africa that made Africans to coil permanently”. This means that colonialism disabled Africans in many areas and that Africans are ‘lame’, and it will take long to correct ills committed by colonialism. Colonial domination was experienced in all aspects including political, economic, social and scientific, (Brett, 1973).
Zwanenberg (1972) asserted that colonialism changed traditional agriculture that was able to adequately supply food for subsistence and introduced new agrarian systems that mainly relied on production of cash crops and raw materials for export. These changes limited local community’s ability of producing food crops and made many communities to face increased frequencies of famine.

Ayot (1972) argued that it was colonialism which created an African peasantry as international money system interacted with traditional societies in each of the colonial territories it operated. He further argued that due to colonialism African communities became poorer the more they became exposed to colonialism. Leys (1984) further argued that colonialism led to creation of business elite among Kenyans who are compradors to foreign capital and who are nothing but lumpen bourgeoisie promoting lumpen development. This was a class of its own that was alienated from the majority of the population and who lived off land for its reproduction.

Land and accessibility was the most affected by colonialism. Ochieng (1992) argued that colonialism introduced new legal framework on land ownership in Kenya that progressively led to new modes of land use. This new legal framework introduced new rules for land allocation to communities based on race. Europeans were given fertile lands on attractive terms taken away from Africans. Africans became tenants in the land which they originally owned. This created a few privileged European land owners as local Africans progressively become landless.

Kibutu (2007) argued that colonialism introduced new legal land ownership which varied from tenancy and paternalism. The way African lands were taken away depended on the
European circumstances. Africans were not consulted nor was their opinion sought before their land was taken.

Land and tenure constitute a very important subject in Africa, Kenya and among individuals. Land was the main factor of production and agriculture the main activity in many communities. Owning land signified production in the community, (Ochieng, 1990). Land ownership and access could be by individual, groups of people or by all community.

In pre-colonial Kenya land tenure system was vested in families and community. Communal access to land was possible immediately upon settlement of the various people in what was to become Kenya mainly because land was abundantly available, (Ochieng, 1990). Title to land was vested in the joint family. Each family was made up of people related by blood. The eldest of the family members led the rest in land allocation and use. Such land would not be given out without all mature male members agreeing.

The use of the same land and accessibility was within the family male members. Individuals would also acquire land with their own efforts by clearing part of virgin land in their areas or by accepting it as gift or by inheritance. Hence, the individual would use the land without transferring it or giving it out without consent from their family.

Alongside family land there existed communal land over which grazing, fishing, water and firewood collection rights were shared equally. Individuals had the right to share in or benefit from all land resources as some rights like those of fishing and hunting were common to the group.
The coming of the British in Kenya, however, introduced the British system of land tenure. The British did this by acquiring land in Kenya using various methods. First, they used a succession of laws starting with 1901 East African order in council and ending with 1915 Crown Land Ordinances,(Ochieng,1990). This marked the beginning of giving land out to European settlers to be held under individual tenure. Land rights of indigenous were taken away. They became tenants at will. Whereas in practice some indigenous people accessed and used land to practice subsistence agriculture, their rights were limited.


The area they live in is bounded by river Isiukhu and Kakamega forest to the east of Kakamega Town, Abakhulunya clan of Isukha to the north in areas like Shimalavandu, mwiyała and Maiakalo, Abatsotso to the North West, Kakamega town to the west and Abakhulunya clan of Isukha to the south in areas like Matende, Bukhulunya, Shikoye, Hirumbi, Rosterman and Lutonyi. Abakhulunya were divided into two when Kakamega town was set up. One group was pushed to the north of the town as another was pushed to south. Map on page xi refers.
The Abashitaho occupy about 20 square kilometers and have a population of about 6000 people and a population density of about 550 persons per square kilometer (Population census 2009). They live in an area that is gently sloping but with an altitude range of between 1400 metres and 2000 metres above sea level. Their area receives ample rainfall of about 1890mm per year. Rainfall is adequate and well distributed throughout the year. Rainfall is highest between March and June, lowest between September and October. It has double maxima. Temperatures vary between 21 and 26 degrees centigrade, (Kakamega County Agriculture Department reports 2010).

The Abashitaho were faced by colonialism directly in 1920 when the British set up an administrative post in their area. The post was called Fox Maxsted. British Influence had reached Abashitaho earlier when the British set up a fort in the area in 1903 and made roads and bridges over rivers in the area through their Chiefs. The chiefs were appointed to replace traditional rulers at the beginning of the twentieth century when the colonial government introduced the Chief’s Act in 1905. The British leaders beginning with Hobley had been based at Mumias which was far away from Abashitaho. The new arrangement made them feel foreign rule more directly. It, also, marked the start of Kakamega town, (Baker 1950).

The study sought to analyze the changing trends of the nature of colonial land policy and its impact on Abashitaho land rights from a historical perspective between 1920 and 1963.
1.2 Statement of the problem

Land ownership, accessibility and use in a community was significant in ensuring social stability, economic development, and poverty alleviation as well as protecting natural resources from degradation and pollution in a community. Land also provides a base for production of food through cultivation of crops and keeping of livestock, provides playgrounds for recreation and burial and spiritual sites for people. Having land or accessing land for use gave many people dignity in society. This is more so with agricultural communities like Abashitaho who basically relied on land for their livelihood. The study sought to investigate factors that contributed to denial of land access and use for the period under study. Colonialism alienated Abashitaho land between 1920 and 1963 limiting the community from enjoying their various land rights like for ownership and access, residence, movement Agriculture, hunting and gathering, recreation, religion and industry. The weakness continued to be observed at the time of independence in 1963. The researcher was allowed to question why Land ownership, accessibility and use was a problem to the Abashitaho community at independence.

The study interrogated the status of the Abashitaho land ownership and use in the pre-colonial era and what kind of land rights they had. Colonial advent and the methods it employed against the Abashitaho between the periods under review equally formed part of the core issue of investigation. Besides, the study examined the effect of colonialism on Abashitaho land rights between 1920 and 1963. 1920 was the time the British set up Kenya colony and Fort Maxsted within Abashitaho land and the community began feeling colonial power directly. It also marks the time their land was first taken away without their authority by foreigners. 1963 is the year Kenya attained self-rule and matters
on land rights started being administered by Africans who are majority in Kenya. Abashitaho community is the most famous community in Kakamega Municipality. Other communities include Abatsotso, Abakhulunya and Abashikulu.

1.3 Research objectives

The objectives of the study was to:

i. investigate the pre-colonial land rights among the Abashitaho.

ii. inquire into how colonialism impacted on traditional Abashitaho land rights between 1920 and 1963.

iii. assess the response of Abashitaho to colonial land rights interference.

iv. Investigate the legacy of colonialism on the Abashitaho community land rights as at 1963.

1.4 Research questions

The study was guided by the following research questions:

i. what were the pre-colonial land rights of Abashitaho?

ii. what was the impact of colonialism on Abashitaho land rights between 1920 and 1963.

iii. what were the responses of the community to the interference of their land rights?

iv. what legacy did colonialism leave on the land tenure systems of Abashitaho?
1.5 Research premises

This research was based on premise that:-

(i) Before the onset of colonialism, Abashitaho had communal land ownership rights.

(ii) The imposition of colonialism on Abashitaho affected their traditional forms of land ownership rights between 1920 and 1963.

(iii) Abashitaho community to reacted in different ways to the new land policies introduced by colonialism.

(iv) Colonialism left new legacy on the land rights of Abashitaho community by 1963.

1.6 Justification and significance of the study

This was a study of effect of colonialism on a community. It is a subject that has been widely dealt with by various scholars. Their works, however, have been done as general focusing on the whole Luhyia community and area to the exclusion of minority but important communities or clans within it. While those studies were important there was need to explore issues of relations among communities during this period at the clan level also. This is because it was clan issues in small localities that dominated the outcome which affected large communities during colonial rule. This study narrowed down the unit of focus to that of the Abashitaho land rights to help provide a more detailed account. There was no earlier historical study, in my view, done on the Abashitaho.
The findings will assist the community have their history while they still have a few resourceful elders. Any delay would have been unfortunate because had elders passed on before the information was tapped, a lot of information about the past would have been lost.

The findings will also assist the government have information for planning the decisions affecting the Abashitaho in their social economic welfare.

1.7 Scope and limitations

This study covered the period between 1920 and 1963. The year 1920 was chosen because it was when real influence of British administration in Kenya begun when the eastern part of British East Africa was made Kenya colony and also set up an administration post in Abashitaho land. The post was called Fox Maxsted police post. This was the first fort close to the Abashitaho. From this post land was taken away and many new things were introduced that affected the community, changing it permanently. Abashitaho became progressively subjected to more direct British rule and many other conditions. The date is flexible as issues that occurred earlier were discussed.

The year 1963 was chosen because it is when Kenya attained her independence and so could make her own decisions related to communities in Kenya without reference to foreign influence. This was flexible as issues after independence were analyzed for purpose of clarification. The scope of this study was confined to the history of Abashitaho community during colonial rule.

The study was confined to Abashitaho in Kakamega County. The area the community occupy is large and could not be covered whole by the researcher alone. Travel in the
area was difficult since there were many ridges spread over a wide region. The area is located next to Kakamega forest which was not only dangerous due to wild animals but also inaccessible due to presence of many rivers that had no bridges. It was expensive and slow to move around the community alone. Three research assistants knowledgeable in the community matters were hired to help the researcher move on fast. Some respondents failed to turn up for interviews and focus discussion sessions. Efforts were made to travel to areas outside Kakamega municipality to Mosop in Nandi County to find out respondents that had information.

1.8 Theoretical framework

The study sought and used two approaches of general systems and dependency analysis. General systems will discuss the traditional African system and the capitalist system.

The world system approach was expounded by Wallerstein (1995) who saw the development process as starting with the capitalist world economy. Bermann (1991) saw the internal changes in the developing countries as common and independent of the struggle that took place in the specific parts of the world.

General systems approach was based on the principle that communities were continuously growing and that these changes could be analyzed in the same way as a system. (Corbett, 1978). It treated communities as parts of a system that could adjust to changes in its environment while retaining features that identified it as the same system. It was an attempt to come up with an acceptable analysis of a community that is applicable to other communities.
A system is an organized whole in dynamic interaction where the elements interact symbiotically for the benefit of each other. Each system tries to give the ideal condition for its parts or sections by reinforcing the other parts to work well.

This gives rise to bonds which hold the system together, (Corbett, 1978). The parts of the system depend on one another and hold each other making the system to function well.

It has a short run and long run approaches. In the short run focus was on the action of individuals and groups of people in shaping actions of communities while long run approach focused on activities of the whole community as a system.

The treatment between government and communities was treated from various perspectives which concern the interactions, responses and how and why and in what ways they changed or remained stable, (Reynold 1971).

Systems theory has been criticized for its role of humanity. First the linkages between people and their actions cannot be the same as different people have different cultural backgrounds, abilities and skills in tackling issues. Secondly, the theory averred that people are perfect in their actions yet they make mistakes which are sometimes fatal against humanity. Thirdly, it argued that all people should be at the same level of technology and development yet some have lower levels as others have higher levels of technology due individual differences in abilities and circumstances. (Harris, 1975). Lastly, it fails to acknowledge that actions of people, communities and their leaders vary from one community to another and could not be removed from those of government (Kinyanjui, 1979).
The study employed a community as an analytical variable for the actions of people, and government. It analyzed actions of leaders of the community as they related to government within the changing circumstances from the pre-colonial period, colonial period and at independence. It assumed that people related with the community as a whole and with government and its leaders in influencing leaders’ actions in the community.

The Abashitaho had their own way of relating in their society which allowed or limited change before they were exposed to European rule. They also had their own leadership structures that influenced the activities which changed by the arrival of Europeans. The community had their own system that was politically stable and economically self-sustaining. That with the arrival of Europeans, anew system higher in technology was put onto that of Abashitaho suddenly by professionals skilled in technology i.e. medicine, Education, religion and commerce making the community to abandon their system and take on the European system. But due to the low level technology the community could not fit perfectly making its members to stagnate.

The study investigated the evolution of Abashitaho as a community within a context of systems approach. The main economic, social and political institutions they had before the coming of the Europeans. It aimed at finding out the relationship within the community and outside. It endeavoured to find out how such institutions responded to intrusion of Europeans into their land and how they adjusted to the interference into their land tenure, how they limited or promote their rights to produce and accumulate wealth.
Systems approach included all the activities of government during colonial rule and focused on all policies and actions of both individual rulers and government and how they affected the Abashitaho community. This helped shed light on current plight of Abashitaho community.

This analysis was used mainly in explaining the effects of establishment of an administrative post within Abashitaho land and how this led to rise of Kakamega Town which expanded into their former farms using colonial land policies as a system. The system approach helped to explain relations between the Abashitaho and other communities in Kenya and how they adjusted to new external colonialism.

Dependency and underdevelopment analysis was also, applied. Dependency means a situation in which the economies of some countries are conditioned by the development and the expansion of others that are superior to them, (Santos, 1970 and Brett, 1973). In this situation the dominant economies, usually those of industrialized states, expanded and maintained self-sustaining growth while the dependent economies of the non-industrialized countries could only expand and grow as a reflection of the expansion of the former. This condition created the underdevelopment, (Bath and James, 1975).

In the case of Kenya, colonialism forcefully changed the traditional economy into a modern colonial economy dominated by Britain. This made Kenyan economy to become an extension of western capitalist system. Kenya and her communities became suppliers of raw materials and a market for their finished goods. Kenya’s economy became minor to that of Britain. This destroyed Kenyan communities’ process of existing independently
in their economic and social structures. It, therefore, promoted reliance upon the developed nations for goods during colonial period.

Dependency and underdevelopment theory emerged in the 1950s from Latin American scholars who were dissatisfied with the development policies based on modernization theory. Dependency and underdevelopment came out as alternative approach to modernization theory. It was fronted by United Nations Economic Commission for Latin America under the leadership of economist Paul Prebisch. The issues it raises were relevant to Kenya and its communities. It studied the causes of under development. The dependency and underdevelopment was publicized by Amin (1976) when he focused his historical processes of under development based on capital accumulation and world economy which led to increased poverty in developing countries.

This theory saw under developed countries and their communities as part and parcel of the capitalized economy. The internal activities of communities were explained in terms of incorporation in the world economic system. Dependency and underdevelopment was seen to have conditioned not only developed countries in Europe but also the developing countries as well as their modes of production in agriculture, trade, land tenure and distribution of resources between subsistence agriculture and export agriculture.

Dependency and underdevelopment was used to analyze and examine the economic, political and social activities between the minority communities in Kenya (Abashitaho) and those of the capitalist world. In using Dependency and underdevelopment, Abashitaho were suppliers of raw materials like animal skins, simsim, beans, later coffee and tea that were collected at Kakamega Town and Shikulu market at cheap prices then
transported for export to Europe where they were then changed into highly priced goods in factories. Manufactured goods from these materials were then returned and sold to Abashitaho at Kakamega Town market. Britain where these raw materials were exported to benefited and was centre that benefited at the expense of Abashitaho who supplied the raw materials that was at the periphery and less developed. Dependency and underdevelopment analysis was used to explain the patterns of marginalization the community underwent during colonial period. Dependency and underdevelopment theory was relevant in this case because the Abashitaho depend on Kakamega town market for selling their produce. They get their manufactured items from the same market.

The framework of study adopted these analyses so that the shortcoming of one of them in explaining the complex nature of the problem under consideration in depth was reinforced by the other. The systems approach was used to explain the relations between communities in Kenya and how they adjusted to new external influence of colonialism. The dependency and underdevelopment approach explained how the Abashitaho responded to policies during colonial period up to 1963.

1.9 Literature review

Literature review was done thematically. It focused on studies on Africa, Kenya and Kakamega County that deal with property ownership. The review enriched and clarified the problem facing the subgroup in a wide environment.

Both Boahen (1989) and Mazrui (1981) argued that colonialism led to land alienation among African communities. That without land the base for accumulation of wealth and the livelihood of communities in Africa became poor so that they could easily be ruled.
This study focused on a specific community under research. Their study enriched this research. The case of Abashitaho is different in sense that land was taken away in an African reserve to set up colonial infrastructures like water supplies, residential area and recreational facilities, research stations and market without giving the community any alternative area.

Murphy (1986) contended that colonial government adapted racial discrimination which made Europeans superior and Africans inferior. Use of racial discrimination created separation between Africans and Europeans in Africa. Through discrimination, Europeans were given priority in property ownership. They were given large pieces of productive land almost for free. Africans were denied and were moved into crowded reserves whose land was less productive. Africans in reserves were meant to be poor so that they could go out to provide labour on European farms. This enriched the study though it took sometime before members of the community accepted to enlist as colonial workers.

Bermann (1990) posited that colonialists employed various terms to refer to Africans to convince their governments in forming public policy on property ownership. Such policies not only referred to Africans as primitive but also to African property as without owners. Such terms convinced colonial governments in Europe that there were empty lands in African areas and also made colonial governments to formulate laws to limit African activities on such lands which gave Europeans advantage over Africans. They also applied laws selectively towards land use and property ownership. It broadened the study.
Swarty (2004) asserted that land use policies and practices that affected the growth of urban areas and populations were deliberate in separating Europeans from African areas in Africa. European thinking and actions influenced the plight of Africans in urban centres during colonial period. This was a generalized study and more research was needed to find out how colonial policies affected the Abashitaho who live in an area which is part of Kakamega town.

Situma and Asiema (1994) argued that colonial authorities used agreements to declare forceful occupation of part of Maasai community land. Such agreements ensured colonial pacification of communities. It, also, led to forceful evacuation from their land. Such lands were then given to Europeans for their occupation and use. This explained why the colonialists preferred private ownership of property against Africans system of communal ownership. It increasingly made Africans poor. The study went a long way in explaining European psychology at the time they established their rule over the Abashitaho as it, also enriched the study.

Both Sorrenson (1967) and Owen (1995) asserted that the British employed trusteeship to lock out Africans in land ownership and in agricultural production. This led to poverty among Africans as Europeans accumulated wealth. The study unraveled what happened with the Abashitaho.

Sialai (1997) argued the case of the Talai clan among the Kipsigis sub ethnic group in Kericho when they interacted with European settlers. They were not only outlawed as citizens but, were also, evacuated to the lowlands in Qwassi area within present day Kisumu County so as to create room for establishment of tea growing plantations in what
used to their communal lands in 1940s. The Talai community members have been living like squatters within Kericho and Nandi Counties since the time they were evicted. Some of their members were forced to live with relatives outside their counties and homelands. Whereas this study is similar to the intended study, it focused on rich highland agricultural area in Kenya highlands that were in high demand by European settlers since it had similar climatic conditions like that found in Europe. The Abashitaho are in Kakamega reserve that was meant to confine Africans - African reserve. Nonetheless Talai’s case enriched the work as it showed how different laws were applied to different communities at different times to suit European circumstances.

Shilaro (1997) argued out racial discrimination employed by the British government in London and in Kenya colony to separate African areas from European areas in Kenya. She showed how the colonial government failed to practice trusteeship over African interests and land when gold was discovered in Kakamega in 1930. The colonial government in Kenya and in Britain accepted the version of the settlers at the displeasure of the local leaders who presented locals grievances during the Carter land commission of 1932. The Abashitaho interest was land upon which they settled on and did agricultural activities. The community lives to the east of the region where mining of Gold was done and as a result of this activity new people from Gem were brought to their area and settled reducing their land sizes further without their consent or compensation. Abashitaho land has no Gold. This enriched the study.

Mennen and Movel, (2012), highlighted the case of the Endorois land that was taken and made a game reserve in central Baringo. By declaring their land a game reserve denied
them their hunting and gathering rights that they had lived with for many generations. It also opened their land for abuse by public servants claiming it as a trust land and open to become public land. The same is true for land of the Ogiek in Mau forest in the rift valley of Kenya that had Ogiek evicted between 1920 and 1930s to settle the Maasai who had been cheated to move south of the rift valley by British by the colonial government. Land was hived out of Mau forest to create settlement for British farmers too,(Star,10-11 July,2017). In both cases, the communities were removed from their base of wealth accumulation and survival making them poor and subject to nature. They had also lived on their land without degrading it by maintaining conservation.

Both Barker (1950) and Were (1967) argued that the Europeans introduced a larger administration over traditional councils of elders in African communities in Western Kenya at the beginning of colonization. This shows what happened that affected the activities of large communities to the exclusion of what how minority ones like the Abashitaho were treated. This was the gap the study hoped to fill.

Aseka (1991) argued the general political economy of Buluyia during colonial period. He identified groups with council of elders and those that had Chiefs. The political organization of most Luhyia communities had Omwami as their rulers, but their way of choosing leaders depended on the community. Whereas his work shed light on the communities there was need to focus the study on a specific group in a localized area which go into details of how colonial activities affected clans in locally like Abashitaho. This study filled that gap by looking at Abashitaho of Kakamega County who live in an urban setting specifically.
Ayot (1972) argued that the introduction of cash economy in African. Colonialism imposed itself using high level technology using men skilled in education, religion and medicine to quickly change traditional economy. That made some people to become progressively richer because they possessed the new methods of production and others poor because of having low level technology. This study did aim to provide more detailed effects on specific community.

Rodney (1972) and Achebe (1990) argued that colonialism led to resource exploitation from Africa to benefit Europe. Colonialism affected individual communities and people as a whole but people perceived it differently in different communities. Those communities that cooperated with colonialism lost their dignity but benefited materially. The more Africans sold their animals and other goods to get Europeans the more they were exploited the more European countries and traders benefited. This study attempted to amplify how colonial activities affected single but small communities in small towns in African reserve. This is what the study has filled.

Both Brett (1973) and Leys (1980) argued that colonialism used men skilled in religion, education and medical care to effect changes in the African, East Africa and Kenya in particular. It was a general study. Studies is on Abashitaho were important since they live in a polluted environment within an urban setting.

Fanon (1967) argued the case of use of education to colonize the mind of the African. This was done using men skilled in education. The Africans became brain washed and left their ways of manufacturing goods and adapted European manners and consumerism and was conditioned to European goods. Murunga (1998) argued the case of using
colonial education to influence urbanization. He argued the case of Mumias that started as an institution growing to become part of Mumias Town. Whereas that enriched the study, there were differences between the locations of Mumias from that of Abashitaho whose location near a forest and a big river had barriers to education. Besides, Abashitaho did not have a centralized system of government like that of Wanga during colonial period that would have attracted European attention.

Although some of the works were general on certain Luyia communities they possessed important information that enriched the study. The study by Esese (1994) enriched this work by giving information on how agricultural practices within Mumias affected the lives of people in Mumias sub County of Kakamega County. Kakamega Town is the main market in the County where goods are traded from all over the region. Murunga, (1994) enriched the study in terms of using schools as a pole of development of urbanization as Abashitaho live in town. Mumias emerged earlier than Kakamega Town. The schools of education in their environment did come much later after Kenya got her independence. Muchanga’s, (1994) work shed more light on how the environment shaped the Abashitaho social behavior generally. Most Isukha and Idakho live in rural areas of Kakamega County. Abashitaho live within Kakamega Town environment and should be given special attention compared to other Isukha clans which live in rural setting. This is what the study attempted to fill.

No study had attempted examination of the underlying factors behind the historical trends among the Abashitaho community during the period under review. This study addressed
itself to these issues so as to contribute to historiography of Abashitaho land rights during pre-colonial and colonial period.

The next section will examine the pre-colonial organization of Abashitaho by 1920. It will also discuss the pre-colonial rights to access, use and own land.

1.10 Research methodology

1.10.1. Research design

The research design for this study was descriptive in nature. This design is appropriate since it relies on a research strategy that is flexible and interactive such as interviews and focus discussion groups. It is also relevant since the research involved examining people’s values, attitudes, biases, affiliations and perceptions.

1.10.2. Study area

The study was carried out in Abashitaho villages of Lukongo, Inzakula, Shikulu, Ebwichina, Lusiola, Ebuchuunwa, Emilabi, Lukaala, Busiahi, Matende, and Ilesi within both Kakamega Central Sub County and Kakamega East Sub County of Kakamega County. The above areas are found within Bukhungu location, Mahiakalo and Shirere sub locations within Kakamega Municipality division of Kakamega central sub County and Muranda sub location in Khayega location of Khayega division of Kakamega East sub County within Kakamega County. Refer to maps on figures 1, 2, and 3 on pages ix, x and xi respectively.
1.10.3. Study population

The target population in this study comprised of resource persons such as knowledgeable elders from among Abashitaho community. These are people that possess information on matters about the community. Other resource persons interviewed were members of civil society, former administrators and academicians. Gender composition within the respondents was taken into consideration.

1.10.4. Sampling Design

Since the nature of the study required resource persons, purposive sampling was employed. Purposive sampling was used on knowledgeable elders from Abashitaho community who have information of their past history. Purposive sampling was used to identify respondents from administration, civil society and academia that have information on Abashitaho people.

1.10.5. Sample size

The study had a total of 61 respondents’. The researcher used the views of respondents who had information as identified by the research assistant and area chief. The respondents were drawn for 54 Abashitaho knowledgeable elders, one member of civil society, five former administrators and one academician. Some members of the community, civil society, former administrators and the academician requested for anonymity as they were interviewed. These were the respondents that were chosen for me by the elders and administrators as being knowledgeable in the whole community.
1.10.6. Research Instruments

The research used interviews and focus discussion groups to get information. Assistant Chiefs for Mahiakalo and Shirere sub locations helped in identifying knowledgeable elders among Abashitaho community from their areas for the researcher that formed focus discussion groups and that were interviewed by the researcher. Each focus discussion group was made up of six members. The focus discussion groups sat at different days and places. Questionnaires were also introduced for those respondents who were busy for the interviews. Questions were open ended refer to questions in Appendix I-II on pages 135-137. Questionnaires were also used to get information from respondents from the civil society and academician on matters on matters of the attitude of colonialists to the Abashitaho during colonial period. Note taking was used in writing down information obtained from respondents.

1.10.7. Data analysis and interpretation

The presentation in chapter two, three, four and five take a historical approach in order to capture the various issues on Abashitaho community between 1920 and 1963.

In keeping with the topic under study all the information collected was categorised according to objectives and premises of the study. To authenticate the data collected, corroboration of both primary and secondary data was done to determine their adequacy, credibility, usefulness, consistency and validity of premises. The study relied on qualitative techniques of analysis, interpretation and presentation of data in drawing
logical conclusions and interpretations. Moreover, verification was also done to obtain reliable and objective information.

1.10.8. Ethical considerations.

In keeping with ethical considerations, the researcher obtained permission from post graduate school of Kenyatta University, The National Council of Science and Technology, County Commissioner, Kakamega and County Director of Education, Kakamega before conducting research and having access to respondents. The respondents were not coerced to give information. Some names of respondents were omitted at the respondents own request. Confidentiality of respondents was up held. For the list of respondents see appendix IV-VII pages 137-140. Appointments were given on time allowing respondents to schedule their time for interviews and for group discussions.

1.11 Summary

This section dealt with background to the study, statement of the problem, research objectives, research premises, research questions, justification and significance of study, scope and limitations, Theoretical framework, Literature review and research methodology. Data obtained is laid in the next chapter that will examine the pre-colonial history of Abashitaho.
CHAPTER TWO
The pre-colonial History of Abashitaho (1800 AD)

2.0 Introduction
This section will deal with the origin of Abashitaho, their social, economic and political organization in pre-colonial time and the pre-colonial land rights using system approach by 1800 AD.

2.1 Origin of Abashitaho
The history of Abashitaho clan is closely related to that of the whole Luhyia society of Western region of Kenya. It is close to that of Idakho and Isukha sub-groups of Luhyia that live in Kakamega County in particular. Both the Luhyia history and that of Idakho and Isukha is complex. The same Luhyia have been mistaken to have a common origin, culture, and language, (Were, 1967). To most writers the Abaluyia have seemed to be ethnically homogenous, that is in origin. Having rightly perceived them as a people with a common language and culture, some writers have hastily jumped to the conclusion that the Abaluyia must have a common origin a corporate past. The proximity of Busoga, Bunyole, Samia and Bugishu in Eastern Uganda and the linguistic and cultural similarities between these communities and the Abaluyia have further been readily used to prove that the later originally came from Eastern Uganda. Thus, there is a preconceived and highly misleading idea that there existed unity even at this early stage before the formation of the community itself,(Were,1967).From Were’s point of view, Luhyia sub-groups formed as community much later preferably elsewhere after leaving Uganda, in western Kenya. This makes Luhyia history complex and one that requires more research to unravel the origin of its sub groups and clans.
Despite the complexity, several attempts have been made to explain origin of society. Hobley did the first attempt. He was one of the Colonial Administrators in Kenya about 1906, who after carefully examining the distinguishing features in character and culture of Abaluyia, like forms of government, dress, weapons, food and language concluded that the Luhyia came from the south in the country of the Nyamwezi and entered Kenya from south eastern side of Lake Victoria. His study links the Luhyia to other Bantu groups to the south and central Africa.

Secondly, Wagner (1948) suggested that majority of the Luhyia moved from Eastern Uganda as different groups and after a long time settled and produced heterogeneous groups of Luhyia peoples. Thirdly, Barker (1950) advanced that the earliest Abaluyia settlers arrived about 1250 A D and consisted of the ancestors of Abalogoli, Abanyole, Abagusii of Kisii and Abatiriki. Some groups followed them later. Lonsdale (1964) asserted that all the sub-groups and clans of Luhyia except Abalogoli came from the interlacustrine area in Uganda and travelled eastwards along the northern shores of Lake Victoria. He explained that only the Abalogoli came from the south end of Lake Victoria. Ogot (1967) reinforced Lonsdale’s view and pointed out that all 18 sub-groups of Luhyia moved into their present country of western Kenya from eastern Uganda. He asserted that later some Bantu migrated to Sangalo in the direction of present day Bunyore. They found present day Marachi, Bukhayo, Maragoli,Butsotsto and Tiriki populated by the Cushites, Nilotes and hunter gatherer population and after wondering for several generations in southern Buluyia they finally established themselves in Marama,Bunyore, North Gem,Kisa and Idakho intermingling with and absorbing the earlier population. These
early Bantu migrants into Buluyia are today represented by Abamakho, Abakotse, Abatere, Abetakho, Abamulukhu and Abanyukhu. With the arrival of the Luo from about 1490 AD, a number of these people felt completely insecure and gave way. Of those who left we know little, (Ochieng, 1975).

With settlement of many people from various directions in Buluyia, the number of people increased. The increase came from both the already existing populations and from that brought about by new comers. Due to that, high number of peoples in Buluyia emerged groups of related peoples and clans. The original peoples absorbed new comers’ making them Bantus if the new comers were non Bantus. The new comers acquired Bantu language and culture. Increase in numbers of people caused population pressure in southern Buluyia. Families with large members experienced family squabbles. Quarrels made some family members to break off and move out to new areas where they started new families. After a long period, such offshoots formed new clans. The clans absorbed other peoples from other communities through intermarriage and became different from their former groups that they broke away from, (Were, 1967).

Mwayuuli (1973) argued that the Isukha and Idakho sub-group of Luhyia are composed of peoples that moved from different directions and at different times. Those early groups to settle in Southern Buluyia were the early base from which later groups merged.

All the developments contributed to the emergence of the Abaluyia. That being the case, it is only reasonable to expect that the product of such highly complex migration movements should be an amalgam of all sorts—a hybrid community. Thus in reconstructing the history of the Abaluyia, it is necessary to take as little notice as
possible of the present Bantu Identity. This being so, the question as to whether the ancestors of the Abaluyia originally came from the west or south becomes a false question. The early history of the Abaluyia can only be examined by analyzing the origins of their various clans within the wider context of intergroup movements in eastern Uganda and western Kenya, (Were, 1967).

It is in the light of the complex nature of history of Luhyia that the history of Isukha and that of the Abashitaho in particular is envisaged.

Most of Luhyia clans’ traditions regard “misri” as their cradle land (Were, 1967). However, the traditions of the clan ancestors in Isukha are different in that each has its own area they point to as their ancestral land.

There hasn’t been any common ancestor of the whole Abesukha except in a recently invented tradition of the Maragoli type ancestors called “Mwisukha”, (Were, 1967). Were argued that earliest written record on Abesukha was by Maragoli writers who invented the explanation of Mwisukha. It is confusing since each clan has its own peculiar tradition of its ancestors and migrations. He suggested that the Abesukha have been a congregation of various people who came from all directions and at different times.

Each Isukha community has their own origin, migration route and areas where they first settled as a small group before they increased in number and spread out to occupy their current areas.

By comparison the Abesukha Clans seem to be ideologically more separated. There is no such centre or cluster of neither clans, nor systematic ways of incorporation into a
common group values. Here each clan is ideally more independent and equal despite the fact that there are actually differences in size and influence among their clans, (Nakabayashi, 1973)

The Isukha of Kakamega County is made up of different peoples that came from different areas and settled in their present homelands in the recent past. Isukha clans show a skeleton genealogy of successive ancestors from the founder of the clan. Most clans only remember few names of their ancestors; (Wasike, O.I. 2016). A generation is mature to start bearing children at the age of 25 years. This is confirmed by (Were, 1967). How did the Abashitaho come about?

Oral traditions of the Abashitaho regard their area of origin among the Marama clans of Abatere and Abashibembe who currently live in the Butere Sub County of Kakamega County. They point out that they originated from Shitawa whose parents were either Abatere or Abashibembe who once lived in an area near present day Namasoli. It is not clear whether Shitawa’s father was Omshibembe and mother Omutere or vice versa. Traditions state that Shitawa separated from his parents in Marama and moved eastwards to settle in Idakho where he domiciled with his pregnant wife who was of Luo descend. It states that he ran away with another person’s wife who was expectant and wondered about within Idakho for some time before settling at Shikhuyu near present day area between Malinya Market and Musingu high school, (Wasike, O.I.2016).

At Shikhuyu, the wife bore for him four sons namely Wanda, Namuloo, Chiunwa and Chituyia. The First born son was called Wanda to mean the mother came when pregnant and from that bore a son. The last born was called Chituyia. The last son was sterile and
did not have off springs. Shitawa’s family members lived for long around Shikhuyu that each of the sons got their own families too. It is not clear where Shitawa died and was buried but tradition point to Shikhuyu, (Wasike, O.I. 2016). It is clear that from him came the descendants of Abashitaho.

Due to increase in number of members of Shitawa descendants, there was pressure on land for cultivation which increased family squabbles due to shortage of land for farming. Attacks from pests like mosquitoes, Tsetse flies and diseases like Trypanosomiasis and East Coast Fever made some members of Shitawa to move out into new areas. Oral Traditions points out that the sons Namuloo and Chiunwa moved northwards to settle in the present day area that is occupied by Wimalia. In this area they lived for long before spreading to Ilesi and Muraka areas. While within the Wimalia country, they encountered the Mwilonje Clan of the Isukha who constantly caused them sickness due to witchcraft. Witchcraft and quarrels forced the Abashitaho to move eastwards to reach Ebwichina from where they crossed river Isiukhu and settled in their current homelands, (Wasike, O.I. 2016).

Another son, Wanda and his group of descendants moved out from Shikhuyu to Makhaya area of Shipalo, Buyokha and over time crossed river Yala and Kalukolu to Tiriki where they lived. Increase in population and wars in the area they occupied Tiriki forced a few descendant families to retrace their movements back to their relatives, the descendants of Namuloo and Chiunwa who had by then reached and occupied their current homelands about the time of European occupation of Kakamega. The reunion of all descendants of Shitawa made them be called Abashitaho, (Wasike, O.I. 2016).
The Abashitaho absorbed small groups of people that they came in contact with. They also absorbed off springs of their daughters whose fathers would not be traced and friendly strangers who had run away from other communities. In the course of migration Abashitaho intermarried with peoples from communities they came in contact. They also fought battles to protect themselves, carried out trade and held festivals with their neighbours. (Wasike, O.I. 2016).

The Abashitaho traditions show a skeleton genealogy of successive ancestors from the founder of the clan, Shitawa. This shows that the clan emerged recently in the area where they currently live in.

2.2 Organization of Abashitaho in Pre Colonial period (by 1800 AD)

2.2.1 Social Organization

The Abashitaho had a well-knit social relationship. Life was centred round the family. People who had blood relationship lived next to one another. Family lineage was patrilineal. Several families formed a lineage. Each lineage lived on one ridge. The ideal situation had members of one family living on one ridge but since all Abashitaho belong to one ancestry, marriage was prohibited between lineages. Three lineages made up the community. Each of the three lineages occupying a ridge or more based on the size of their lineage. Bigger lineages occupied more area compared to small ones. Both descendants of Namuloo and Chiunwa occupied bigger areas compared to Wanda which had fewer members. Each lineage lived in fortified ridges surrounded by earthen embankment. Fortification of homes ensured safety from attacks from the neighbours of
Abashitaho valued family ties within their different lineages. Members of the clan were not allowed to intermarry. They married from their neighbours who were not Abashitaho. Their daughters would only marry outside their community to extend their family ties and reduce incest, (Wasike, O.I.2016).

Abashitaho believed in God whom they called “Nyasaye” and worshipped him in special areas especially under a big tree. The trees were huge and mature preferably having taken many years to grow. The main tree species used as shrines were either that of “Murhembe” or “Munyenya”. They believed in life after death and usually named their children after their dead ancestors. They believed in ancestral spirits whom they prayed to through diviners and to whom they made sacrifices so that misfortunes could not afflict them. The community had special peoples who included medicine men, priests, soothsayers, rainmakers and diviners. Each played special roles in the community, (Malusu, 1968).

The community held various festivals in which song and dance were conducted. They included the beginning of the year, planting season, harvesting time, birth of children, initiation of boys, marriage and after death. Each had special instruments that accompanied the dance and the songs. For example, after burial there was dancing accompanied by singing.

Circumcision was done on boys only to enable them graduate to youth from puberty. After circumcision, boys lived in quarters away from their parents where they were treated with herbs until they healed. After healing, they performed singing in the evening along footpaths in the village to express their joy having completed the circumcision.

ceremony without problems and to indicate that they are ready for mature roles in the community. People circumcised within the same period became bound together for life as close relatives in an age set. Five age sets made up one age grade. Thereafter the initiates were allowed to marry.

Medicine men were important members of the community. They treated the sick from various ailments that afflicted Abashitaho community. They also had the powers to exorcise the community from bad omen like sickness, witchcraft and famine. Abashitaho have mastery of traditional medical knowledge. This was due to their wide exposure during their formative years as they interacted with many other groups within their migrations. Intermarriage between Abashitaho and other clans especially, transferred skills of medicine to Abashitaho. Mastery of medical skills among Abashitaho made many other Isukha clans to respect and fear them. This is because they knew traditional concoctions that not only treated ailments of animals as well as humans, (Wasike, O.I.2016). The pre-colonial Abashitaho were both brave and hardy as they lived close to forested environment where they faced many challenges from wildlife.

2.2.2 Economic Organization

Abashitaho cultivated crops like sweet potatoes, sorghum, millet, cassava, peas, beans and bananas and kept livestock such as cattle, sheep, goats and chicken. Crops and livestock supplied food and other requirements like hides and skins. Livestock was used for paying bride price and other social obligations. The member with highest number of livestock in the community had the highest status in the community, (Wasike, O.I.2016). The Community had rich grazing grounds around them and ample water for the livestock
from river Isiukhu. Saltlicks were available from the marshy river Shirongo for their cattle.

The community had knowledge of manufacturing salt for domestic use from burned banana leaves. They had Furnaces from where they worked iron to obtained hoes, machetes, knives, shiholo, arrows and spears. They practiced pottery with skilled precision. This was due to availability of clay soils in the area they lived and that made them produce many types and shapes of pots, (Wasike,O.I.2016). They were skilled hunters and gatherers of roots, nuts, vegetative materials of plants and animals like rabbits and other wild animals that enriched their diet. This was made better by the fact that Abashitaho live close to forested environment of Kakamega that was rich in wild animals. Abashitaho learned hunting skills through sports like racing and arching. Abashitaho traded with their neighbours Abamwilonje, Abakhulunya, Abatsotso, Abasagala and Abashikulu from their environment but also with Arab and Swahili towards end of 19th century. They also did weaving of bark clothes, fishing and basketry.

2.2.3 Political Organization
The family was the most basic level of governance. It was headed by a man and the lineage was patrilineal. Several families related in blood and which traced their ancestry to one founder formed the lineage. Members of one lineage lived in one or more ridges depending on the size of the lineage. Bigger lineages occupied more land stretching beyond one ridge. Each ridge was headed by village elder known as “Omwami” or headman who was the highest level of leadership,(Wasike,O.I.2016). Omwami was assisted by a council of elders made up of the senior most in age and who were respected
due to their high level of knowledge. Omwami led the council of elders in settling interfamily and family quarrels, allocation of land to the members of various families, called lineage meetings and blessed the community warriors before they went to war. Omwami and council of elders led their people in ceremonies like circumcision and subdivided booty looted by warriors from other communities to families in the community. Any problem facing the whole clan would bring together the whole clan leadership. For example, attack from their neighbours. Circumcised boys took over the role of defending the community from attacks from neighbouring communities.

2.3 Pre Colonial Land Rights

Land and land ownership and accessibility was vested in the whole community. The authority over land was entrusted to clan leader assisted by clan elders. The clan leadership acquired land on behalf of the community from forest areas and by invading neighbouring communities as they expanded their territory. Once virgin land was found, it would be cleared by members drawn from various families, (Wasike, O.I. 2016). This is confirmed by, Ochieng (1990). Clan heads would then subdivide and allocate the same to family heads.

Family heads would then subdivide land and give to their individual mature male members. Individual families would also look for land for their members. All were allowed to have access to land for communal grazing, fishing, saltlicks and cultivation. Land was used communally and for individual benefit. Council of elders supervised such pieces of land. Individuals owned land on which they grew crops for subsistence. Land was readily available due to low population.
Land would also be acquired by families and individuals through clearing forest as well as exchanged where individuals wanted to move away from infertile areas to productive ones. Individuals would exchange land with one another in return for animals. Land scarcity was rare as there was an adequate forested and unprotected area. Individuals would own several pieces of plots cultivating them in turns until fertility declined. When the farm yields became low farmers abandoned the plots and moved elsewhere. Infertile farms were used as grazing areas for animals.

Land was available for members of the community for carrying out all their own activities such as cultivation, grazing, collecting of firewood, sporting activities like bull fighting, arching and for burial of their dead.

With adequate land for all the community developed uniformly and enjoyed benefits and rights to use land equally. This made the community stable and peaceful for the common good of all.

2.4 Summary

This section examined the origin, migration, settlement and spread of Abashitaho. It also looked at their social, economic and political organization the community. It was observed that Abashitaho had communal land ownership and use that allowed all members to own and enjoy various land rights within the community in beginning of 19th century. Due to their organization, the community was peaceful and stable in pre-colonial period as they exploited land to accumulate wealth. Did the same cordial relations continue when Abashitaho became closer to colonizer from 1920? That will be dealt within the next section.
CHAPTER THREE
Colonialism and the Abashitaho (1920 to 1963)

3.0 Introduction
This section will examine colonial activities on land rights, trade, administration and religion to determine colonial impact on Abashitaho land rights. It will also examine Abashitaho responses to colonialism using a systems and dependency and underdevelopment theories.

3.1 Colonial Impact on Land Rights
European colonialism refers to the all-round domination of other peoples by Europeans. Domination was either political, economic or social (Brett, 1973). Europeans introduced new structures of administration and leadership in the areas they dominated. These were based on those in their respective countries they came from in Europe. They introduced new modes of production and distribution of resources and wealth in the countries and among the people they colonized let alone new cultures and languages.

Colonialism begun in Europe but reached Africa in the Eighteenth and East Africa and Kenya in nineteenth centuries respectively. Colonialism brought along with it new property rights including those affecting land ownership, trade, political leadership and religion. Kanyinga et al. (2000) argued that following the creation of East African protectorate in 1895, the British Foreign Office decided to promote the development of the area by encouraging settler colonization. Legislative instruments were created that invested all waste and unoccupied land in the Crown and enabled the colonial
government to release this land to settler farmers on leases for 999 years. Land was effectively divided into native reserves and areas reserved for European settlement.

Mamdani (1996) asserted that a dual system of land administration developed based on citizens or settlers and subjects or natives. Customary tenure governed the natives’ relation to land. And was enforced by chiefs, who were appointed by the colonial government to help in the administration of the natives and consolidation of the power of the state. An individualized tenure regime with high level of civil rights was limited to the citizen white settlers.

Okoth Ogendo (1991) argued that various land ordinances were promulgated that effectively vested the African land rights in the Crown and transformed Africans into tenants of the Crown. The ordinances included the Crown lands Act 1901, the Crown Amendment Act 1915 and the Kenya Annexation Order of 1920. The government located the reserves in areas deemed unsuitable for European settlement and drew boundaries along ethnic lines to prevent one ethnic group from interfering into other groups’ reserve. The appropriation of land by the Crown created land shortages for the natives or subjects that resulted into crises linked to access and control of land.

Establishment of native reserves had profound effects. Access to land became based on membership of individual families rather than extended clan or Kinship. Boundaries designed for the reserves made it impossible for people to acquire land rights elsewhere, because they prevented migrations into new frontier lands. This increased population pressure because it did not allow the communities to adjust during the period between 1918 and 1928 when displacement occurred in Kenya. The situation increased conflicts
in the reserves. Buffer zones were created through European settlement on land disputed by various African communities. The earliest interventions that addressed the problem of land pressure in the reserves were driven by conservation objectives forced on people without adequate means to secure a livelihood. The possibility for looking for additional land to resettle surplus population was discounted by the colonial state since expansion of the reserves would have led to encroachment on areas set aside for the settlers. A settlement Board was set up in 1919 to resettle the landless but failed because there was no high priced cash crop suitable for marginal land used for resettlement and access to land by Africans would go contrary to colonial land policies (Kanyinga, 2000).

Colonial land policies evolved three distinct categories of land. The first consisted of government land defined by the 1902 Crown Lands Ordinance as all public land subject to the control of Her Majesty’s Protectorate and all land acquired for the public service including unutilized land reserved for future use by the government itself or by the public. The second category included the trust lands which were defined and gazette in 1926 for use by residents of different native reserves and the third category of registered or private land. Private land included land under lease or freeholds held by individuals or companies. Private land could be owned privately in freehold or in leasehold after registration and issue of title deeds following land consolidation and adjudication. Freeholds gave the holders of land absolute ownership of land and had no restrictions regarding use and occupation while leaseholds provide ownership for a definite term of years 999 years for agricultural land and 99 for urban plots. Both freehold and leasehold provided a title to land ownership.
The coming of Europeans changed the forms of land ownership and the rights to access and use land among people in Africa, Kenya and Abashitaho. Land which was originally communally owned begun belonging to the crown of England through various land ordinances. For example, Kenya was declared a British protectorate in 1895, the right to freedom of various communities within the territory called British East Africa protectorate lost their right to independence and right to own and access land. Through the Crown ordinances of 1901 through to 1915, they lost the right to land ownership. Both Boahen (1989) and Mazrui (1981) argued out that colonialism led to land alienation among communities in Africa. That without land which was the base for wealth accumulation the lives of African communities became poorer. This included the communities in Kenya and Abashitaho in particular. For Abashitaho land upon which they had settled was taken away and they lost the rights to access communal land, communal shrines, were limited in practicing traditional agriculture of grazing their livestock and cultivating crops, hunting and gathering and leisurely activities like games like bull fighting and arching.

Ochieng (1990) asserted that colonialism introduced new legal framework on land ownership in Kenya that led to new modes of land use when it introduced new rules for land allocation based on race and money making Africans become tenants in lands that they originally owned and thereby made them poor and some landless.

Bermann (1990) posited that colonialists employed various terms to refer to Africans and their property to convince their governments in Europe in forming public policy ownership in Africa and Kenya in particular. Such policies not only referred to Africans
in Kenya as primitive but also to African property as without owners. Such terms convinced colonial governments in Europe that there were empty lands in African areas and also made colonial governments to formulate laws to limit African activities on such lands acquired by Europeans in African areas. This gave Europeans advantage over Africans rights in use of land. Laws were applied selectively towards land use and property ownership. In the case of Abashitaho, by the time a British fort was set up in their land in 1920 called Fox Maxsted, the Catholic missionaries in Mukumu had shown the surrounding communities how powerful Europeans were using maxima guns and converted many local people from among Abashitaho to Christianity. The use of both technology and religion made Abashitaho adopt passive resistance by moving away from the fort. Besides that the population of Abashitaho was low compared to the size land available allowing them to practice rotational farming and had reserved some areas as shrines or grazing lands. This convinced the colonialist to think that there was empty land

Kibutu (2007) argued that colonialism introduced new legal land ownership that varied from tenancy to paternalism. The way land was taken away depended on European circumstances. African opinion or consent was not sought before their land was taken away. Abashitaho woke up to a European camp in their land since the British believed and used surprise methods to subdue Abashitaho.

Swarty (2004) asserted that land use policies and practices adopted by the colonialists were deliberate in separating European areas from African ones especially in urban areas. From the time a European fort called Maxsted was set up in Abashitaho land in 1920 various efforts were done to separate the Europeans areas from those of Abashitaho.
Some members of the community were pushed southwards towards the valley of river Isiukhu and Iyanira. Others became landless and migrated as some moved into Kakamega forest to start the settlements in Inzakula and Lukongo. Some families disappeared and have not been heard since colonial period. Crowding of population resulted as people increased in number as well as over use of land leading to soil erosion and pollution of resources in Abashitaho areas as areas of European settled were large and conducive. Abashitaho were limited by their chiefs from carrying on their activities in European areas. The separation reduced their right to graze their livestock and cultivate crops as well as their hunting and gathering on lands taken by Europeans.

Colonialism led to loss of land use rights among Abashitaho. Several families lost their homes when the British set their residence within Abashitaho land in 1920. The eviction was done in three successful times between 1920 and 1961. The Abashitaho leaders within the period who were tasked with implementation of British policies were as per table below on table 1:-
The first time land was taken was during the tenure of Litali Lumenyelwa, in 1920. During this period a small portion of land was taken away to set up the first set of offices for administrators and the police post. The second one was during Lwoba Sangale’s tenure from about 1936 to 1948. The last and most disastrous period was during the tenure of Bitinyu Mwera about 1948 to 1961, when force was applied to remove the last batch of Abashitaho from their homes to create burial grounds for Europeans, have golf course for games, airstrip, home for Leprosy patients, Hospital and administration and residential area for Europeans, stadium and agricultural research station for crops and animals. The families that evicted were many. Refer to appendix ix on pages 140-143.

Apart from land alienated from Abashitaho, Land was also got from Abakhuluny in Shikoye and Marramu areas that was used to set up Amalemba and Majengo residential area for African peoples, Kakamega School, Prison, Government workers residential area, market, Stadium and police station. Land was also, taken away from Abatsotso in
Lutonyi, Shikhambi and Lurambi to set up Somali Muslim part of trading area and a research station for coffee.

Within the period 1920 to 1963, the area of Kakamega County was administered by the following European District Commissioners who implemented colonial policies including those that led to land alienation. Refer table 2 below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Name Of District Commissioner</th>
</tr>
</thead>
<tbody>
<tr>
<td>1920-1932</td>
<td>H.R Montegomery</td>
</tr>
<tr>
<td>1932-1943</td>
<td>H.B Thompson</td>
</tr>
<tr>
<td>1943-1945</td>
<td>C.F Parry</td>
</tr>
<tr>
<td>1948-1955</td>
<td>Williams Peter</td>
</tr>
<tr>
<td>1955-1959</td>
<td>R.X Tearnent</td>
</tr>
<tr>
<td>1959-1960</td>
<td>T.P Randle</td>
</tr>
<tr>
<td>1960-1961</td>
<td>R.C Mills</td>
</tr>
<tr>
<td>1961-1965</td>
<td>Bruce Hay</td>
</tr>
</tbody>
</table>

Source: DMSN/vol.9 of 1964)

Table 2: **List of British administrators in Kakamega between 1920 and 1963**

To understand the psychology underlying European forceful acquisition of African property, analysis of legal development and practice in England is undertaken in the following section.
3.2 Historical Context of Property Rights

Ternan Mennen and Cynthia Movel, (2012), argued that British and European legal definitions of property were first adapted and applied to colonial legal frameworks starting in the 18th century. John Locke, Emerich de Vattel and Hugo Grottius were particularly influential. Much of the early ideologies from Europe reflected the sentiments of industrial Europe, a dense, urban society with limited natural resources. The legal doctrines from these civilizations in England in particular, were taken and applied to colonies and imposed out of context on lands and peoples with different concerns and ideologies of property. Often the doctrines were misapplied to rationalize the greed with which native title land was appropriated. To understand early jurisprudence in common law native title and societal effects that have resulted, it is necessary to review the theories that influenced early jurists in their decision making.

a) Property Theories

Common law property theories first developed in England shortly before the 13th century. Court rulings as early as 1290 considered the development of property. But up through the fifteenth century in England property was only used to refer to goods and animals, not land. In the beginning of the seventieth century land was incorporated into theories of property. The principle of possession as the indicator of property in land has roots in Roman law, but was not fully embraced in English common law until Blackstone’s Commentaries in 1769 when he said ‘occupance is taking possession of those things, which before belonged to nobody. This is the true ground and foundation of all property, or of holding those things in severalty, which by the law of nature, unqualified by that
society, were common to all mankind. But, when once it was agreed that everything capable of ownership should have an owner, natural reason suggested, that he who first declare his intention of appropriating anything to his own use, and, in consequence of such intention, actually took it into possession, should thereby gain the absolute property of it; according to that rule of the law of nature, recognized by the laws of Rome. The commentaries were the first modern methodical treatise on the common law, (James, 1979)

Much of the common property theory developed in the seventieth century largely in response to territorial issues created by colonization. Land use patterns observed in the societies of European colonies stimulated further discussion on the definition of personal or communal property and the vestment of title. The writings of John Locke attempted to define universal doctrine of property-one that could be applied to the new lands over which the Crown claimed sovereignty. They contributed to the development of English common law and philosophy that generally viewed property as a unitary, abstract, more or less absolute right and a bedrock element of the conceptual structure of law. John Locke’s Second Treatise of Civil Government is most often cited for the mixed labour theory that property is created when the resources of nature are removed and mixed with a person’s labour or combined with something that is his own. A person’s labour is a product of their body, which is their own property, and when combined is sufficient to remove the something from the common in which it exist and to exclude the common access of others. Locke’s theory has most famously been used by courts to support the idea that indigenous hunter gatherer groups do not have effective title to their land,
because they have not invested the labour required to create a property interest, (Mennen and Movel, 2012)

In the Law of Nations on the principle of natural Law first published in 1785, Emerich de Vattel espoused that all men have a natural right to inhabit the earth and draw from it what is necessary for their support. But when the human race is greatly multiplied, such that the inhabitants cannot survive without cultivating the soil, then land must be secured for its undisturbed cultivation and hence the rights of property and ownership evolve. This concept is extended to grant sovereignty and ownership to nations that take possession of a country that belongs to no one. Given this theory Vattel also postulates that the territories occupied by wandering tribes in small numbers cannot be held as a real and lawful taking of possession and thus the confined at home nations of Europe may come upon and lawfully take possession of the land inhabited by the non-British peoples

Vattels reasoning is grounded in beliefs that the indigenous form of communal property use was a result of cultural inferiority and that Europeans were justified in imposing a civilized society and notion of property.

Neither Vattel nor Locke considered the validity of ownership and non-use for conservation of land- a paramount belief in native cultures. Both taught that the right to own land was dependent on ability of the owner to develop the land (natural law only confers upon individual nations the right to appropriate territory so far as they can make use of it in speaking of the obligation of cultivating the earth, that these tribes cannot take to themselves more land than they need of or can inhabit and cultivate. Their uncertain occupancy of these vast regions cannot be held as a real and lawful taking of possession.
But if each Nation had desired from the beginning to appropriate to itself an extent of territory great enough for it to live merely by hunting, fishing and gathering wild fruits, the earth would not suffice for a tenth part of the people who now inhabit it. Locke stated that ‘’even amongst us land that is left wholly to nature that has no improvement of pasturage, tillage or planting is called, as indeed it is Waste’’ ad we shall find the benefit of it amount to little more than nothing’’ this is because God gave man the right to as much property as anyone can make use of to any advantage of life before it spoils. Whatever is beyond this is more than his share.

Hugo Grottius was influential in Locke’s and Vattel’s theories through his 1625 work. He supported the state’s ability, with popular consent, to alienate sovereignty over a part of its territory that is uninhabited or deserted. But the state cannot alienate a people without their consent or, sovereignty and held by inheritance, without violating the voluntary compact.

These theories however, did not seem to extend to European and feudal based ownership over hunting or others undisturbed, unimproved land. These lands were not seen as waste but paradoxically as valuable pieces of property. The value placed on unused land is not universal, but subjective, dependent on the person placing the value and the culture that valuates.

The above theory did apply to the Abashitasho to justify why Europeans should discriminate against the community land rights. For the Abashitaho land was used for many activities including crop growing and livestock keeping that required vast land since they practiced subsistence farming that involved farming on part of the land as the
other is left fallow to regain fertility. Other activities were hunting and gathering of wild plants and animals to enrich their diet, Burial sites that were not cultivated and recreational areas. Such areas that remained uncultivated were misconstrued to be vacant and taken away from Abashitaho.

b) Crown Title

Of great importance to early native title issues in British colonies is the engrained principle of Crown title to land in England, the traditional view is that the Crown ultimately holds title in all land of its subjects, because the Crown is the paramount ruler of the land. When applied to colonies of the Crown, native title took the form, not of a fee simple, but of a grant from the Crown of possessory control. Native title in this context was inalienable and subject to Crown control, including sale of land to subjects or displacement for sovereign use.

Feudal law was established in England after the Norman Conquest and essentially turned land owners into tenants of the feudal lord and ultimately, the King. Generally the rationale that the land originally belonged to the King and was grant out to the tenants was not supported by prior Anglo Saxon history of land possession before the Norman Conquest. Nor could William I have acquired possession of all land by conquest. The feudal land laws from the Norman period have thus been viewed as a mere justification of the feudal system and not as proper legal precedent. Common law developed to further support the principle that all land was held either mediately or immediately by the Crown. This principle forms the basis of and is commonly referred to as the Doctrine of Tenures. It is now legal fiction in England.
English legislation and common law developments in the 1700s changed the traditional power of the Crown over private property in England. Under Modern British constitutional law the Crown cannot cede territory without assent of local inhabitants or parliament’s approval. The 1939 Act and other have limited the control of the Crown individual property. However, the original feudal principle continued to be applied in colonies and for the acquisition of foreign land. The principle was used to get land from Abashitaho to create the government station from 1920 to 1948 when various British institutions were created. These included Coffee research at the current approved school, golf course and early airstrip. Laws extinct in Britain were applied to limit Abashitaho land rights. The subsequent cases from colonies further entrenched this common law principle in the colonies and with particular force regarding native title, (Mennen and Movel, 2012)

c) Colonial Land Principles

The ideology of property and land use law in Britain was applied to the Crown’s colonization manifesto with unwavering conviction, but inconsistent rationale. Applicable doctrines of land title were routinely interpreted in a false manner to reach an end result that ultimately granted property rights to the Crown or its subjects. An underlying notion that indigenous populations did not have the social systems or sophistication to possess a title right to land was used as a justification for these varying and faulty interpretations.

British common law on land title had developed to a large extent by the time European colonization began in earnest in the sixteenth century. However, the new role of the
Crown and her subjects as colonizers stimulated a renewed examination of property definitions, but now in a foreign context. The main schools of property philosophy that developed from this period were focused more on justifying colonization rather than objectively examining property and did not incorporate comprehensive, cross cultural approaches. Philosophers such as Locke, Grottius and Vattel developed their theories amidst massive European colonization and in response to questions of the morality of colonization. The theories that developed were not all a blind endorsement of colonization, but, nevertheless, were commonly used to justify native land expropriation.

Vattel in the Law of Nations states that nations are not given an unabashed license to claim all unoccupied territory in its sight, but instead will only recognize the ownership and sovereignty of a nation over unoccupied lands when the nation is in actual occupation of them, when it forms a settlement upon them, or makes some actual use of them. Vattel also supported the sovereignty philosophy that lawful governance is based on consent of the people governed and involved an original contract between subject and ruler. However, double standards were applied in the case of Abashitaho when the British ignored trusteeship and applied a revised Crown lands Amendment ordinance of 1937 (Wa Githumo, 1981).

In his International Law Treatise Oppenheim further interprets the Law of Nations by arguing for the international and domestic requirements of consent before property can be transferred to state (Crown) or cession of territory validated.

These popular theories on property rights and implications on native title as well as other jurisprudence led to the creation of general principles in colonial land dealings. During
the period of British and European colonization, four basic methods of acquiring colonial land were recognized:

1) Conquest.

2) Persuading indigenous populations to submit to the colonizer’s rule.

3) Purchasing some or all of the land from indigenous populations.

4) Discovering and possessing unoccupied land first- use of the doctrine of terra nullius and discovery.

British colonization was generally given one of two constitutional status-uninhabited territories occupied by British subjects under authority of the Crown, or territories acquired by conquest, war or treaty. However, many colonial territories including India, and North America fit neither category. Purchase was rarely recognized. Sovereignty was applied to native land, meaning it could not be sold to a private individual but only transferred from sovereign to sovereign. In the case of Abashitaho conquest was used to take away their land and their rights to access and used land. Their land was occupied and under use but conservation and culture was different as their level of technology was lower compared to that of the British.

As exploration and colonization continued, Europeans began to settling in lands already occupied, and use of the terra nullius and discovery doctrine became more common. European powers eventually expanded the doctrines to include lands occupied by indigenous populations considered too primitive to have an organized society. This occurred despite early commentators’ inability to justify such expansion.
The Royal Proclamation of 1763 was a key doctrine to the British approach to colonization and native title. The proclamation prohibited private purchase of native land and the full alienability of native title in the British colonies. The proclamation was grounded in a largely paternalistic attitude to indigenous populations to protect them from unfair transactions with European settlers. While there were numerous instances of fraud by settlers against natives in purchasing their land, it is difficult to say that the proclamation was created solely as a means to combat unfair transactions. Historic responsibility on the part of the Crown to protect indigenous populations in land transfers does exist, but is tempered by a refusal to allow complete, inalienable native land control. The proclamation also served to advance other principles of Crown title, including the discovery and conquest doctrines. It furthered British common law that granted exclusive title to the Crown by essentially eliminating all private interests to land and establishing the exclusive purchase and control of land by the Crown itself. Native people were viewed as having a Crown grant to possess and use land, subject to future expropriation, but not inalienable title.

Common law supported the principle that the Crown held all land and that only explicit recognition vested legal title. This principle was commonly referred to as the Doctrine of Tenures and Recognition Doctrine. Numerous court and legislators cited this doctrine as the rationale for denying indigenous claims to land, despite occupation of land prior to Crown acquisition of territory. Analysis of the doctrine of tenure’s role in post-feudal England, however, reveals that it did not have preclusive effect in its own country, let alone in colonies.
The Doctrine of Continuity was a much more progressive but extremely limited principle applied in a few British colonies in Africa. Continuity meant that existing private property rights continued after a change in sovereignty. These decisions were the initial seeds of a legal foundation that would be laid much later.

3.3 Early judicial treatment of native title

Judicial decisions on native title from both newly independent, former colonies and current colonies or commonwealth states set an early precedent that denied fundamental property rights to indigenous groups. Many of these early cases were based on property theories espoused by the early European philosophers and often with the purpose of legitimizing colonial land grabs. The precedent from the earliest cases had profound reverberations on the development of native title in other common law countries as a result native title in all common law countries experienced parallel evolutions. Early Privy Council decisions legitimated the extinguishment of native title in the commonwealth. These Privy Council decisions then provided some support for major native title decisions in the fledging United States court system, which served to reinforce decisions in Canada, New Zealand and additional Privy Council decisions. All of which were consequently used as support to extinguish native title claims in Australia, India, and Malaysia

The precedent established over this period has guided treatment of indigenous groups in common law countries for the past two centuries, but over the past two decades has quickly eroded. At current, all native title claims demand a comprehensive examination
that emphasizes contemporary common law native title precedent over the voluminous jurisprudence from centuries back, (Mennen and Movel, 2012).

According to Okoth-Ogendo (1990) colonialisit penetrated in Africa using a number of fallacies perpetrated in Africa by colonial era courts. The fallacies are based on the same common law doctrines applied throughout colonies to justify the expropriation of land. The fallacies include:

1. Denial of proprietary character. The assertion that the way indigenous people occupied and used land did not constitute a system of property worthy of recognition. Under state law- similar to terra nullius and discovery doctrines. Indeed it was often asserted that indigenous people themselves acknowledged that land was not held as property but as an asset exclusive to identifiable individuals or groups. The basis of this assertion was the notion that property rights are constituted only when individuals or other jural persons exercise jurisdiction, coupled with exclusive control over corporeal or incorporeal phenomena. In this view property exists only if exclusive rights of use, abuse and disposition are vested in individuals. Since communities used and controlled land in common, indigenous land relations therefore did not confer property rights, but mere privileges, (Mennen and Movel, 2012).

Ogendo (1990), pointed to this as the reasoning used to justify indiscriminate declaration of land as vacant and ownerless not only by British colonial authorities, but also by their French, German, Belgian and Dutch counterparts. It also supports the drive for the imposition of foreign property law as a measure to fill the perceived gap in this vital legal
regime. In Kenya, that reasoning led to the importation of a regime of property law designed primarily for the acquisition and administration of private rights to land.

2. Radical (ultimate) title to land-whether occupied or unoccupied- could only vest in the colonial sovereign. Before 1939, colonial authorities had promulgated laws declaring all land in Kenya the property of the British sovereign- a combination of the terra nullius and doctrine and Royal Proclamation used with the effect in other British colonies. New colonial laws were promulgated in 1939 that created two separate domains. The first known as the Crown land with a radical title vested in the Crown or colonial sovereign. Native areas or reserves on the other hand, constituted the radical title that was now vested in a native lands trust boards sitting in London. The board in question was in charge of administering occupation, use, control, inheritance, succession and disposal of any land situated in the native land Rights. The board affected Abashitaho land rights but always ruled in favour of Europeans and took long due to bureaucracy before listening to grievances. The decisions were also arrived at after a lot of lobbying and behind the scene corruption. Most often than not the most corrupt carried the day in matters relating to land rights and access. The tribunal members were selected by local chiefs who by their nature ad their own biases (Wasike, O.I, 2016).

Murphy (1986) contended that colonialism adopted racial discrimination which they used to separate Africans from Europeans. Throuh racial discrimination Europeans were made to be superior as Africans were inferior. Through discrimination Africans were confined to unproductive crowded areas as Europeans were given large productive lands for almost free. Denial of Africans right to access land was meant to force them to accept paid
employment on European farms and be controlled. The Abashitaho had some people accepting to go ad work as houseboys and servants in European homes and on farms majority of which were around Kakamega Town for fear of getting lost. The community mastered Golf skills and dominated the sports club (Wasike, O.I., 2016).

Both Sorrenson (1967) and Owen (1995) asserted that the British employed trusteeship to lock out Africans in land ownership and in agricultural production. This led to increased poverty among Africans as Europeans accumulated wealth. For Abashitaho, the right to accumulate wealth was variously denied when their right to access land was taken away and Kakamega became an administrative centre for North Kavirondo in Kenya colony in 1920.

Shilaro (1997) argued that racial discrimination employed by the British government in London and in Kenya failed to practice trusteeship over African interests and land when gold was discovered in Kakamega in the 1930s. The colonial government accepted the version of the settlers at the displeasure of the local who had presented the true version of grievances of local people during the Carter land commission in 1932. Locals in Kakamega where the Gold mines were opened were evicted without compensation nor consultation. As a result of the Gold mining that was set up at Roster mines people were imported from Gem in current Siaya County and settled in Abashitaho land near present day market of Murhanda. This not only increased their suffering but denied them right to access their land as it showed discrimination. Colonialists moved coffee research from the current area of Kakamega high school to approved school then finally to its present site within Abashitaho land. The land adjoining the research was secured by moving
away many families to create a buffer zone between the research and Abashitaho (Wasike, O.I, 2016).

3.4 Land Reform and African agriculture.

Colonialists feared that land reform would occasion unprecedented violent rebellion against them throughout the period up to 1950. Mau Mau uprising forced colonial government in Kenya to provide land reform in 954 called the Swynnerton plan to Intensify the Development of African Agriculture in Kenya. The plan diagnosed the problem of agriculture in the reserves as rooted in the system of land tenure. Swynnerton argued that the tenure system which was characterized by diffuse rights and some form of collective control over land in in the reserves, needed reform. This reform needed to provide African farmers with security of tenure through indefeasible title to encourage them to invest their labour and profits into the development of their farms. The plan envisaged that farmers wit registered land would be able to use their titles to mortgage land and gain loans from government and other approved agencies for farm improvement and that would lay a foundation for economic development in the reserves (Swynnerton Plan,1954). The plan concluded that the reserves could only have an agrarian revolution in which they would experience significant economic growth ,if the customary tenure constraints were removed and replaced with an alternative system based on private landownership in the form of individualized holdings ,such as obtained in settler sector(Kiamba,1994).

The Swynnerton Plan had the objective of introducing private property rights in land by first consolidating individual holdings and then registering them as freeholds. The Plan
meant that some individuals could be moved away from the area they had occupied for many years to new areas, in spite of their individual investment in the holdings. This form of displacement became the source of many disputes, some of which held up the reform Programme (Kanyinga, 2000). Due to the Swynnerton Plan more peasants farmers began to grow cash crops. This made land distribution very unequal (Shipton, 1988). The chiefs and loyalists accumulated more land than the poor decreasing people’s tenure security.

This reform did not resolve the various land problems. The Swynnerton Plan did not address the issues of land alienation, the need for redistribution, inequalities in ownership between the settlers and Africans and inequalities between and within the various African communities.

Apart from the reform of land tenure in the reserves, the colonial government introduced in the early 1960s a programme for re-Africanisation in the white highlands. This programme aimed at changing the racial structure of land ownership in the highlands as a way of addressing ethnic problems to the land question. The government established several settlement schemes for the landless who had been displaced by reform of land tenure in the reserves and for the squatters in the highlands. All land reforms encouraged continued disputes over land rights (Kanyinga, 2000).

### 3.5 Theoretical context

General systems and dependency system were applied to the study to discuss how the traditional African modes of production interacted with capitalist modes.
Zwanenberg (1972) asserted that colonialism changed traditional agriculture that used to adequately supply food for subsistence and introduced new agrarian systems of agriculture that mainly relied on the production of cash crops and raw materials for export.

Both Ochieng (1990) and Shilaro (1997) asserted that colonialism imposed superior capitalist mode on the traditional mode penetrating, modifying, marginalizing and subordinating it such that the traditional modes stagnated as the capitalist continued to develop due superior technology. These changes brought by colonialism limited the local Africans ability of producing food crops and made many communities in Africa to face increased frequencies of famine. Abashitaho had practiced traditional agriculture involving both shifting cultivation and crop rotation as they had enough land. Between the farming circle some land would be left fallow for a period of time to allow it to regenerate fertility naturally. The fallow land then would be used for grazing livestock and hunting. Colonialism introduced monocropping using higher scientific technology that led to land degradation through soil erosion. This led to reduced fertility and declined yields leading to increased frequencies of food shortages and famine. The worst of these famine was experienced in 1944 when relief food was rationed in a cup. Colonialism introduced value for local crops like simsim, beans and bananas grown in the community that would be sold as raw materials for manufacture of cooking oils that would be sold back to the community a high cost compared to the cost of selling them out as cash crops (Wasike, O.I.2016). Later in the 1950s, Coffee and tea growing were introduced as cash crops. The lure to get money with which to pay taxes and obtain other manufactured goods made Abashitaho to concentrate more on cash crop growing reducing their right to
produce food on their small portions of land increasing their chances of famine. Iron working, pottery, Basketry and other skills disappeared making Abashitaho dependent on goods manufactured in Europe.

Ayot (1972) argued that colonialism created an African peasantry as international money economy interacted with traditional subsistence in Africa, Kenya and Abashitaho in particular. Due to colonialism African communities became poorer the more they became exposed to colonialism. The exposure was done using men skilled in technology i.e. medicine, education, religion and commerce, made the community accept new factory produced goods in Europe and slowly abandoned traditionally produced goods. The introduction of money as a means of exchange in Abashitaho community led to creation of Shikulu market and Kakamega town as important areas where they sold and bought their goods at low and high prices respectively to their own disadvantage. This development made Abashitaho crops like simsim and beans raw materials for manufacturing industries in Europe. The goods were collected by Indian and Arab agents who established residence in Kakamega Town. Due to the low level technology the Abashitaho had they could not perfectly benefit in the profit making circle making them stagnate and become peasants at the lowest level of production. The community became dependent on foreign goods abandoning their traditional industries and technology. Money economy led to individualization in the community where collective rights of means of agricultural production became owned by individuals. This increased conflicts over land ownership, use and access.
Leys (1984) argued that colonialism led to the creation of a business elite among Kenyans who are compradors to foreign capital and who are nothing but lumpen bourgeoisie promoting lumpen development. This was a class of its own that was alienated from majority of the population and who lived off land for its reproduction. Various agents emerged that came to buy agricultural produce at low prices from Abashitaho and sold manufactured items to Abashitaho at high prices thereby making profit as middlemen. Such people included Indians, Arabs and Africans from all over Kenya. The existence of such people owning what used to be their land as they suffer left Abashitaho crying of their lost land rights as other people profiteer.

The exposure of Abashitaho to the international money economy made benefits to move from their land to those of agents and finally Britain.

At independence in 1963, Native area boundaries were detailed across Kenya and entrenched in Chapter ix of the independence constitution which is now repealed. County Councils replaced the native lands trust board. Section 115/1 of the constitution (repealed in 2010) of Kenya provides that all trust land shall vest in the county Council within whose area of jurisdiction it is situated. Section 115/2 also provides that each county Council shall hold the trust land vested in it for the benefit of the persons ordinarily resident on that land and shall give effect to such rights, interests or other benefits in respect of the land as may, under the African customary law for the time being in force and applicable thereto, be vested in any tribe, group, family or individual. Section 114-116 of the constitution (again repealed 2010) was regulated by the trust land Act, Cap 288 of 1963. In other words, at independence, radical title to the domain of native areas
otherwise called Trust lands upon independence was shifted to the relevant county councils in whose areas of jurisdiction each unit was situated. County councils and/or the president were given power under section 117 and 118 of the constitution read together with section 7-13 of the trust land Act (Cap 288) to set apart such land for the purposes not always in the interest of the communities occupying it. Under the new constitution, land lawfully held as Trust land –with exception of game reserves, parks or sanctuaries is classified hereafter as community land.

Although the vesting of radical title in the county councils and the Native Lands Trust Board before them was supposed to protect this domain it was always understood that the state or its agencies could raid land within it without recourse to the stringent procedures of compulsory acquisition applicable to private land. Section 75 of the constitution of Kenya (repealed) provided protection from compulsory possession or acquisition unless such possession or acquisition complied with the several conditions, including that of public purpose and proportionality of that purpose vis-à-vis private hardship ensuing from the expropriation. These provisions alongside those the Land Acquisition Act(cap 295),which prescribe a comprehensive procedure for compulsory acquisition ,sharply contrast with the Trust land Act’s far weaker protections-particularly with regard to communities. In the Endoroi’s legal case and its impacts on state and corporate conduct in Africa(2012),Korir Singoei draws particular attention to section 7(1) of the Trust Land Act, which establishes the procedure for setting aside of trust land in the following terms:

Where written notice is given to a council, under subsection (1) of section118 of the constitution, that an area of Trust land is required to be set apart for use and occupation
for any purposes specified in sub section(2) of that section, the council shall give notice of the requirement and cause the notice to be published in the Gazette.(2) before publishing a notice under subsection(1) of this section, the council may require the government, within a specified reasonable time-(a) to demarcate the boundaries of the land, and for this purpose to erect or plant, or remove, such boundary marks as the council may direct; and(b) to clear any boundary or other line which it may be necessary to clear for the purpose of demarcating the land; and, if the land is not demarcated within the time fixed by the council, or if the person or body on whose application the land is to be set apart so request, the council may carry out all the works necessary for the demarcation of the land and require the applicant to pay the cost of the demarcation.(3)A notice under sub section(1) of this section shall specify the boundaries of the land required to be set apart and the purpose for which the land is required to be set apart, and shall specify a date before which applications for compensation are to be made to the district commissioner.(4)Where the whole of the compensation awarded under section 9 of this Act, to persons who have applied before the date specified in the notice given under subsection(1) of this section has been deposited in accordance with section 9 of this Act, the council shall make and publish in the Gazette a notice setting the land apart,(Korir Singoei, 2012).

Ogendo (1990) explained that the effect of setting apart land, under the constitutional provisions in force until 2010 was to extinguish any rights, interests or other benefits in respect of land that(are) previously vested in a tribe, group, family or individual under African customary law.
A further fallacy, according to Ogendo (1990) laid in the assumption that indigenous social governance institutions were incapable of or unsuitable as agents for the allocation and management of and resolution of disputes relating to land. Consequently, institutions were not only suppressed, but were often by-passed or replaced in the ordinary process of land administration. Instead, new and parallel state institutions exercising a wide range of powers over indigenous land and associated resources were promulgated without consultation with communities or their presumed trustees. The result was that the indigenous land governance institutions very quickly atrophied making it even easier for the state to raid indigenous land and associated resources.

The historical context underpinning the early treatment of native title by colonial authorities is one rooted in racist and paternalistic statutes, which culminated in the suppression of indigenous land governance institutions. Both the assertion that the way of life in which indigenous peoples occupied and used their land did not constitute a system of property worthy of recognition under the state law, as well as the related denial of their juridical personality, served to reinforce a legal framework that subjected native title to the Crown’ goodwill and discretion. The abuse of this discretion, coupled with the lack of viable remedies in response to extinguishment of native title during the colonial era, left a legacy of dispossession that remains difficult to supersede in modern times.

3.6 Modern native title development
Common law native title has evolved dramatically over the past decades across the separate judicial systems of many former colonies. National judicial systems have largely forged their own precedent, often rejecting doctrines established by the Privy Council
that had, for decades shaped the treatment of indigenous groups by sovereign governments. While acting independently, each court has looked to other common law jurisdictions for direction on the issue of contemporary native title rights. Courts have analyzed and denounced the fallacies of past decisions that led to acquisition of Crown title in former British colonies.

International legal systems such as the Inter-American Court of Human Rights (IACHR) and African Commission on Human and Peoples Rights (ACHPR) have also taken up the issue of native title through progressive interpretation of regional human rights frameworks that provide, interalia the right to property, the right to development and the right to free, prior, informed consent. The recent adoption of the UN Declaration of the rights of indigenous peoples has pushed states to reconsider old unjust laws further including new legislation that protects or redefines state relations with indigenous peoples. The result has been a cross cultural, international discussion and consensus on the property rights that should be naturally accorded to the indigenous people.

Much of the advancement in common law native title has been furthered by writing of native title scholars that have questioned the interpretations of past courts and reanalyzed the application of property and eminent domain doctrines to colonization. Schools of native title theory now reject the past imposition of British and European property ideologies on radically different societies.

The International human rights jurisprudence through the international human rights framework has proven to be instrumental to the advancement of indigenous rights when it adapted UN declaration the rights of indigenous people’s article 27. Article 27 declares
that the states shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process giving due recognition to indigenous peoples’ laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous people have the right to participate in this process. Article 42 of the UN Declaration on the rights of Indigenous peoples requires that UN, its bodies, including the permanent forum on indigenous issues, and specialized agencies, including at the country level, and the states shall promote, respect for and full application of this declaration.

The African Commission on Human and Peoples Rights has been complicated by several factors. Chief among these was the failure to recognize the existence of indigenous peoples in the Africa context. Alongside this was lack of legal capacity for indigenous peoples to exercise rights over title at the domestic level or beyond. But in historic turn of events the African Union adopted the ruling of centre for minority rights development and Minority rights group international on behalf of the Endoori’s welfare council versus Kenya.

The ruling marked the culmination of long years of struggle led by the Endoori’s community which in 1973 was dispossessed of their ancestral land it had occupied since time immemorial. Lake Bogoria, located in the heart of Kenya had become demarcated for the purposes of a wildlife reserve. The failure to compensate the Endoori’s with adequate grazing land to sustain their livestock, or to subsequently involve them in the
management and benefit sharing of the reserve proved to have a devastating economic impact on the community. In addition, to the economic hardships endured as a result of the forced eviction, the Endorois, severed ties with their ancestral land posed serious threat to their socio-cultural and spiritual survival as a people. The decision has thus proven instrumental in highlighting the interdependence of title with the wide spectrum of economic, social and cultural rights that are equally vital for the effective protection of indigenous people’s survival as viable communities, (Mennen and Movel, 2012). Another ruling by the same is about the Ogiek of the Mau forest in 2017, (Star, 10-11, 2017).

Both the Endorois and the Ogiek case ruling increased the Abashitaho’s hopes of getting compensated and restitution for their land rights taken when the British setup Kakamega town as an administration centre for their colony in 1920.

3.7 Emergence of Kakamega Town

Kakamega town was set up first in 1903 as a fort for defending British interests in the surrounding areas (Huddleston, 1952). It later became a government station for North Kavirondo district in 1920 (Shilaro, 1997). Before a government station was set at Kakamega, Mumias was the government station. Sickness and death due to black water by early British administrators forced the colonial government to move its offices to high grounds in Kakamega.

For the colonial government to obtain land for construction of her offices and settlement she forced the local communities including Abashitaho to move away and give room. New ways of land ownership were introduced where a certificate of title was given as evidence of owning land. Land grabbed from Abashitaho and other locals was also given out to Indians and other new comers based on price. Indians and other new comers
constructed shops and residential premises. For example Mohamed Salim and Shah Lalji in Amalemba settlement. Arabs and Somali reared livestock that competed for pasture and water with those of Abashitaho and other locals in their former lands. Kakamega became cosmopolitan. Such conditions occurred after the creation of local land boards in 1948 that was concerned with arbitrating matters on land in urban centres including Kakamega. The first land boards were created for land in central Kenya in 1919 (Sorrenson, 1967). Land which had been owned by Abashitaho, Abakhulunya and Abatsotso was surveyed and sub divided into blocks. Each block of land was given specific use. Block one was devoted for construction of administrative offices and residential homes for churches, schools, hospital and African residential area. Block three was set aside for developing business premises. This developed into Kakamega town. Block four land was left for development of an airstrip, leprosy camp, European burial site, and agricultural research station, (L/N/D/vol/2 of 1964). Due to this creation there emerged a population that lived entirely on crowded build up areas. This marked the starting of Kakamega town with people from different ethnic groups and races. Among the new races that settled here were Arabs, Indians and Europeans. Somali, a Muslim community, also settled in town. Most of these new immigrants came in when Gold was discovered by Einstein a geologist working in the area in early 1930. Arabs and Swahili had been known in the area since the 19th century during the long distance trade. This composition necessitated the use of Kiswahili as opposed to local dialects to communicate.
3.8 Trade

The emergence of Kakamega settlement into a town encouraged the development of trading activities which with time spread from Kakamega town outwards to involve not only Abashitaho but also other communities within Kakamega County. The main agents of this trade were Indians who set up first retail businesses in Kakamega town from where they sold items like sugar, sweets, cooking oil, clothes, hoes, machetes and rice, (Shinali, 1979). With time their retail businesses grew and became large wholesale companies that not only sold goods locally but exported and imported agricultural commodities to and from Kakamega. The main families that dominated trade included Shah Lalji Manek, Bachulal Raghul, Shelji Shilji, Ramesh Kotecha, Mogul Thakrar, and Singh Sehmbi. Singh, Sehmbi was mainly a transport magnate as the rest of the Indians dealt in all types of goods. The traders set up trading companies like Midland Emporium, Bunyala traders, Asembo traders and Sehmbi Motors which did forwarding and clearing of agricultural products all over the county through provision of transport. The firms bought commodities cheaply on Kakamega market including the one at Shikulu market then transported them to Butere or Webuye railway station for onward trans-shipment to Mombasa for export. These individual firms were also engaged in both whole sale and retail businesses in Kakamega County that supplied manufactured goods.

Abashitaho commodities became important not only within the surrounding areas of Kakamega town but also internationally. They produced beans, cassava, maize, millet and potatoes that they sold to Indians traders and their agents at low prices fixed by Europeans and their Indian agents, (Shinali, 1979). They also bought goods like soap, cooking oil, sugar and clothing at high prices.
3.9 Christianity

This section examined how Christianity led to Europeans settlement around Kakamega and within Abashitaho land.

**Historical context of rise of Christianity and its spread**

Colonialism came with Christianity into the region occupied by Abashitaho and other communities. Christianity is a religion that was founded by Jesus Christ in the 1st century AD in the province of Judea within the Roman Empire. The followers of the teaching of Jesus Christ are called Christians. After the death of Jesus Christ his teachings spread through the Roman Empire through the working of his disciples and other convert, (http://catholictheology.org). Why did Christianity spread easily within the Roman Empire?

The Roman Empire had well defined and developed network of roads and waterways that allowed easier travel hence easy movement of new ideas. Secondly, the Pax Romana made it safe for travel from one region to another. The government also encouraged her people particularly those in urban centres to learn Greek language which was the common language that allowed ideas to be expressed and understood. Christianity got support from rulers like Emperor Constantine and Emperor Theodious I who even made Christian religion state religion from about 313 AD which made many people to become Christians. More over early Christianity was widespread among slaves, people of low status in society and women of Aristocratic class. Due to the fore said factors Christianity spread to all areas of Roman Empire including Western Europe. From Europe it spread to other parts of the world including Africa, East Africa and Kenya during the time of
Exploration and colonialism in the 19th century (http://quakertheology.org). How was the early Christianity organized?

At first, Christians worshipped alongside Jewish believers but within 20 years of Jesus's death Sunday was regarded as the day for worship and later by 132 AD became separated from Jews to become a separate religion. The early Christian Church was very loosely organized resulting in many interpretations of Christian beliefs. To ensure a greater consistency in their teachings, from 2nd century Christian communities evolved a structured hierarchy with a central bishop having authority over the clergy in his city. This led to the development of Metropolitan bishop. The organization of the Church began to mimic that of the Empire. Bishop in politically important cities exerted greater authority over bishops in nearby cities. Beginning 2nd century AD, Bishops congregated regularly in regional synods to resolve doctrinal and policy issues. By the 3rd century the bishop of Rome began to act as a court of appeal for problems that other bishops could not resolve. Doctrine was further refined by a series of influential theologians and teachers collectively called Church Fathers. After a few centuries of its existence the Church formed its teachings and traditions into a systematic whole (http://catholictheology.org). What challenges were faced by the early Christian Church?

Early Christians faced a number of problems. First, was persecution from the state. Christianity required its adherents to renounce all other gods-idol worship and worship God. Christian refusal to join pagan celebrations meant they were unable to participate in much of public life, which caused non-Christians including government officials to fear that the Christians were angering the gods and thereby threatening the peace and
prosperity of the Empire. Secondly, the intimacy of Christian society and its secrecy about its religious practice spawned rumours that Christians were guilty of incest and cannibalism leading to persecutions. Differences and suspicions led to the division of the Church into Roman Catholic in Western Europe and Orthodox Church in Eastern Europe. Lastly, the church was faced with corruption, personal pride and false doctrine (http://quakertheology.org). This led to rise of many new Christian denominations. Who then introduced Christianity in western Kenya and Abashitaho area?

Many Christian denominations came to Kenya in the late 19th century and early 20th century. During the time colonialism established, Western Kenya experienced the same wave like other parts of Kenya when many Christian groups competed to set up mission stations (Wafula, 2001).

The first Christian denomination to establish within the Abashitaho area was the Quaker church (Mukoolo, 2008). The Quaker Church is also called the Religious Society of Friends. The Quaker Church is a Christian ministry founded by George Fox in 1647 in England, (http://quakertheology.org). Due to their persecution, William Penn founded the Pennsylvania colony to provide a safe haven for the Quakers. This made Quaker ministry to spread to the America. The Quaker doctrine and practice emphases reliance on the direct guidance of the Holy Spirit, Love for one another, Love for enemies and the sufficiency of truth speaking without taking any oath. With their emphasis on the inner light and the movement of the Spirit, Quakers shun systematic theology and doctrinal creeds. They hold on evangelical doctrines. One of the distinctive of Quakerism is the practice of group spiritual discernment, whereby the Friends wait on God to lead them in
whatever business is at hand. This sensitivity to the spirit's moving is very valuable and lacks in other Christian Churches. The Quakers always try to emphasize the social aspects of the gospel. Due to this they were involved in the ending of slavery and increasing the rights of women and minorities and were one of the founders and supporters of Amnesty International.

From America the Quakers set up their first station at Kaimosi in 1902. The Kaimosi station was set up by three American missionaries - Arthur Chilson, Willis Hotchkiss and Edgar Hole on 17th August, 1902. See Figure seven below.
From Kaimosi it spread north-westwards to Lirhanda by 1905. From 1910 it spread across to reach Lwanda in 1917. The closeness of Lwanda station made a few Abashitaho to become converted to Christianity. The earliest included Philip Andanyi, Joel Ashikhoya David Manga and Sylvester Mamadi Achebi. Through their initiative a Quaker church
was built for them in Kakamega town called Murhembe Church when the Europeans put up an administration post in 1920. Refer to figure 8 below.

![Murhembe Church](image)

**Figure 5: Quaker church at Murhembe (Wasike, O.I. 2016)**

This church has since spread to have many parts of western Kenya and has many followers. From Kaimosi station the Church has spread throughout Kenya, East Africa and Africa.

Besides the Quaker church was the setting up of the Catholic mission at Mukumu called the Sisters of Mary Mission in 1904. The Catholic Church is a continuation of the early
Christian Community established by Jesus Christ. After the death of Jesus Christ, his teachings were continued by apostles and bishops. The bishop of Rome also called the pope became the sole successor to saint Peter who was appointed by Jesus to in the New Testament as head of the Church and ministered in Rome. By the end of the 2nd century, bishops began congregating in regional synods to resolve doctrinal and policy issues. By the 3rd century AD the bishop of Rome began to act as a court of appeals for problems that other bishops could not resolve. This marked the start of Catholic Church. From this humble time within the Roman Empire, the Catholic Church spread to all areas of Europe, Asia and Africa where the Roman Empire stretched to. At the onset of colonization, the Church send out Bishop Lavigerie from the White fathers of France to open missionary works in Upper Nile. These missionaries were called the Mill Hill fathers. In 1879 the first Mill Hill fathers arrived in Uganda under the leadership of Bishop Henry Hanlon, (Burgan, 1977). The Catholic Church then spread eastwards to reach Mumias in 1904 by father Lombard Van der Kallen. Regular death due to Black Water made the Church move to higher grounds and opened a station at Mukumu in 1906. This was done by father Brandsma Gorgonius that had replaced father Lombard Van der Kallen of Mumias. Mukumu had a more pleasant environment, Fresh water and very rich fertile soils suitable for development of agriculture. The Catholic Church entered Abashitaho from Mukumu when Abashitaho married Converted wives from Mwilone and Wimalia. Through intermarriage Catholic Christian religion became common among Abashitaho. Recently more Catholic stations have been established in Kakamega town thereby increasing Catholic faithful. But the earlier faithful congregated at Mukumu south of the region where they had first encountered the Catholic Church. Other Christian
sectors included the Church of God and Pentecostal ministry churches in Matende and at Shikulu later respectively.

The various Christian Churches that were set around Abashitaho area set up schools through which western education was offered. Others offered vocational training in skills like carpentry, Masonry and metal work (http://quakertheology.org). The Christian Churches set up hospitals the offered western medicine against tropical diseases both at Kaimosi and Mukumu are hospitals as well as outreach and other services.

The coming of the various Christian churches within area occupied by Abashitaho is associated with the coming of British administrators who eventually colonized them. This is especially for the Catholic Church which was first situated at Mumias which was the first centre for British administration in western Kenya before relocating to Kakamega. The more the Christian churches got followers the more Abashitaho got exposed to colonialism and the more they became poor

3.10 Other Social Amenities

The colonialists also set up other social amenities like a hospital in 1940 in the name of Kakamega general. The general hospital began as a small medical facility meant to serve the few European officials that started the British administrative post at Kakamega 1920. They needed a medical facility to prevent them from attack from tropical diseases like black water that had killed many of them at their first station in Mumias. From such small facility it expanded to provide medical care for people from the whole of North Nyanza which included present day counties of Kakamega, Bungoma, Busia and parts of Nandi and Uasin Gishu. The hospital grew to house research for tropical diseases and as a
camp for leprosy patients from all over Kenya during colonial period. The presence of the hospital helped to improve health care and reduced deaths due to diseases that could be prevented leading to high increase of population. The introduction of European medical care improved the health of Abashitaho but also made them forget tradition medicines they had possessed from time back.

Apart from medical care there was introduction of piped water. This was constructed on river Isiukhu to the north east of Kakamega Town within Abashitaho land 1942. The contradiction is that it was not only constructed in Abashitaho land but pipes conveying water to European areas and town passed through the same without making provisions where the members of the community would benefit from the same water.

Europeans introduced various games and sports within the area around Kakamega County. Chief among these was football. Football was organized as a sport for the various regions within North Nyanza. Most of the people who participated in were males’ only. It was popular even among Abashitaho. With time it became known as Gossage games. A stadium called Bukhungu was put up in 1961 to cater for both games and sports. New games were introduced to the Abashitaho in the form of Golf. The community members who became associated with it carry the golf clubs as they provide advice to the players. Golf is a predominantly for the well to do but Abashitaho supply labourers.

From 1930 Europeans set up cemetery for their dead in what was Abashitaho land. This was new and unacceptable as they feared that the spirits of the dead Europeans would disturb them. Many families close to these cemetery migrated southwards to increase in land congestion. Others migrated to other areas and have never returned since 1930s.
Means of transport and communication opened an air strip and improved roads leading to Kakamega town from 1940. The airstrip was fenced to restrict animals from the community grazing their cattle close to the air strip. Murram roads were constructed to connect Ebwichina and Kakamega town about 1950s. Labour needed came from Africans who were forced to work for free many days a month. This increased interaction between the community and other Abesukha communities. These amenities that were meant to serve them but were extended to serve Africans including Abashitaho

3.11 Taxation

Systems of government required an infrastructure of services that was to be provided by government. In Kenya, the produce of the estates had to reach the port of Mombasa for export, the property of the estates had to be protected from the local people and the many exigencies of estate farming had to be controlled such as the migrant labour. These and other necessary services required by the estates could only be provided by the colonial government, since no other agency had the available enterprise, potential capital or political authority. In the circumstances of colonial rule, these services could only be paid for out of taxation, raised and distributed by the colonial government.

African people of Kenya were responsible for between 75 and 85 percent of the cash raised in direct and indirect taxes. The direct taxes were raised in the main from the Hut and Poll taxes from the African peoples of Kenya. The indirect taxes came from duty charged on goods imported into Kenya. In brief it was Kenya’s African population that provided the bulk of the direct taxes. The colonial government in Kenya concealed the information since the numbers of Europeans were few (15,000) compared to about
3 million Africans who could pay taxes, yet it was the Europeans sector of the economy that was the dynamic and it was expected to provide the export development. It was rational to expect any government to spend the bulk of its resources on this sector.

Secondly, transport development costs could in part be assessed and transport was vital for any developments of agricultural production. The railway transport systems provided a service mainly in the estates and only to a limited extent for Africans, so that costs on this item largely benefited Europeans. The railway was paid for from that national Debt which by 1933 stood at a third of the national expenditure. This meant that most of the taxes paid by Africans went into paying debts incurred by Europeans not for their own development but for the development of the whole colony shared by both Africans and European and other races that lived in the colony.

The development of the road system was also biased towards Europeans. Payments for roads in the European areas was met by the central exchequer, while roads built in African areas were paid for from locally raised taxes and from free labour forcibly supplied from the local people (Zwanenberg, 1972).

The system of taxation was regressive. Taxes were collected from the poorer section of the peoples and redistributed to the richer section. Infrastructures required by the estates farmers in terms of transport facilities, agricultural officers, and research and police protection, required a regressive system of taxation. There were congruence of interests between colonial government and imperial and settlers. The policy statements did not help in understanding the situation either as the administration was more concerned to allay the suspicion of liberal critics in Britain than to lay down principles for action. For
example where, Policy statements like the well-known declaration which asserted that if the interests of Europeans and Africans conflicted, the interest of Africans would be paramount. It was Europeans who decided what was meant by Africans interests the policy was to all intents and purposes meaningless as a guide to action. On the whole the three groups, the imperial and colonial governments and the settlers, behaved towards each other according to the manner by which they conceived their own interests, and up to 1939 the main officials of the colonial government conceived their interest to tie with settler development. This was because the interests of the settlers were that they needed an infrastructure of transport and protection which only the administration could provide. Similarly, the colonial government conceived of its interests as those of the settlers since it was thought that it was the settlers who provided the exports upon which the whole colony’s finances circumstances was based. The exports provided the cash for the internal development of the society and in particular to balance the annual payments of imports and exports. So long as the balance of payments was positive, the colonial government remained economically free of economic interference from the imperial authority. The major economic requirement of the imperial authority in London was that colonies should be self-sufficient. In Kenya, the settlers were the only group who appeared likely in the eyes of most colonial officials to provide a self-sufficient base, (Zwanenberg, 1972)

3.12 Paid employment and wage labour

Due to the costs of raising finance, the question of obtaining a sufficient supply of labourers at suitable wages became a critical one to the plantation owners. The importance of labour became serious as the settlers found access to credit difficult and
expensive. Most of the Europeans were unable to fully develop their plantations as they were mainly concerned with maintaining a European standard of living. Capital for the development of their farming enterprises had to be generated within the system, which involved extracting a surplus from the production of African labour. In order to extract such a surplus, wages had to be maintained at the lowest possible level. This could only be achieved if employers were able to combine in some way, while at the same time making it illegal for employees to form unions with aim of pressing for higher wages. Such discriminatory legal developments were possible in a colonized territory where political and economic domination favoured the Europeans. Wages could be kept low by artificial means, but wage rates thereby lost their attractiveness as an incentive for bringing men to work on the plantations. Employers in most years faced the problem of obtaining and maintaining a work force which was paid too little for cash to act as a major stimulus for migratory labour.

Wages varied throughout the period’s indifferent districts and according to the work done. Many African workers were paid either in kind ranging from no wages but paid in stock, to money wages where varying between two or three shillings per month. The higher wages were paid during periods when commodity export prices were rising and lower wages when they were falling. African workers were forced to be short term migrant worker. As they were limited in bargaining for their wages by a combination of agreements made between employers and the colonial government. The Africans moved to from native reserves in attempt to force improvement of wages. However, colonial authorities introduced Kipande so that each employer could record employee’s wage on it which severely limited the African workers bargaining power.
The consequence of the poor bargaining power of the African labour made the employers and administrators to convince themselves that Africans were not like other men and did not respond to wage incentives. The racial stereotype to which vast majority of Europeans subscribed gave rise to two justifications over the wages. The first suggested that the financial reward of working on an estate or for a European employer was not as significant as the moral benefit to be gained from living in a better atmosphere than offered in the primitive reserve; while they second argument maintained that as Africans were not used to cash and required it only for paying taxes, they would not be able to respond to cash incentives were these to be offered. The reality was quite different. The wage levels were kept down in order to increase profits.

The demand for wage labourers increased annually while the supply also increased it did not keep pace with the requirements of the plantations. The labour shortage was not regulated by raising wages and so other means had to be instituted in order to close the gap between supply and demand. The other measures that were used were the Kipande, forced labour, taxation and squatting (Zwanenberg, 1972).

The Kipande was an important means of economic control to enforce contract of labour service. Employees unable to bargain over their conditions of employment had a tendency to run away, or to desert, as employers termed this action. The initial problem was one of culture and custom. Estate farming required a practice of regular work of so many hours a day, and so many days a week or month. Most men were used to working according to the season of the year or the immediate needs of their shamba and would not happily undertake a regular ten hour day. The other problem for the employer was that
his men did not want to stay for long periods working for an alien employer under the poor conditions which were widespread. Migrant workers were dependent upon the living conditions provided for wage earners on the estates and these were often very poor indeed. Conditions of housing, food and recreation were therefore important factors influencing a man’s attitude to wage labour. Few employers provided more than the bare minimum necessary for existence.

Kipande introduced the force of criminal law into the contractual relationship of employer and employee. It was so designed that the workman could be imprisoned for simple breach of contract. Under the Native Registration Ordinance of 1920 the act of withholding one’s labour became a criminal offence. If a man abandoned his work or refused to work he was automatically considered a criminal unless he could prove his innocence. The employer did not have to establish guilt. Thus the Kipande was designed to force the labourer to work for the wages he had been paid at the outset.

A similar legal status had been imposed on labourers in England between the fourteenth and Eighteenth centuries and the situation had only changed in 1871 when the right of labourers to form unions became protected by law. The lack of bargaining right for wage earners would appear to occur when employers are economically insecure and where collective bargaining by employees might reduce the profitability of the enterprise—a situation which existed in Kenya before 1939.

In strict terms, the Kipande enactment was altered in 1925 and desertion became a civil rather than a criminal offence, while the burden of proof shifted from the employee to employer. Yet every labourer had to continue to carry the Kipande and the colonial
authorities at district level were still able to put pressure on a man through his headman to get him to return to work. In practice, the relaxation of the law does not seem to have materially affected the situation for the majority of the labouring population. The Kipande provided the mechanism through which Europeans could control the contractual relationship of employer and employees. The fact that Europeans regarded its use as of vital importance to themselves goes a long way to explain the energy with which its use was pursued, and its widespread success as a means of control, (Zwanenberg, 1972).

Colonialism used forced labour. Due to the presence of poor working conditions and poor wages, men and women were brought out by force and use of heavy taxation. Forced labour was advocated by most employers in both private and public sectors of the economy right up to 1939. Despite making coercion illegal legislation did not however, alter the attitude of most employers who continued to demand forced labour. Most employers fell back on the expedient of forced labour because of their lack of finance and their inability to pay competitive wages.

Another method of raising labour was to tax the people. The theory behind the heavy direct taxes was that if a man had to obtain money in order to pay tax they would be forced to work as wage labourers to raise the necessary money. Each able bodied unmarried man over the age of 16 had to pay a poll tax, and each married man a hut which was a tax on each hut for which he was responsible. To avoid paying extra taxes women began to live two to a hut and so the administration ordered that the tax was payable on each able-bodied woman and not on each hut. In practice therefore the hut and
poll taxes were payable by the men on the head of each able bodied adult over the age of sixteen.

Any man with two or three wives, or who was responsible for the welfare of his mother or other female kin had to find tax money for all his dependent kinfolk. For some men this meant that they had to find up to five or so taxes, which meant working for longer periods of each year to raise taxes required for by the authorities. Moreover, if a man did not have the money with which to pay off his tax he was liable to have his cattle taken and forcibly sold in order to raise money. Other people had other means of raising money by selling crops or cattle. Only wealthier people had the means of growing cash crops that they could sell to pay taxes but poor members and young unmarried people migrated to seek wage labour to pay taxes. Taxation applied to Abashitaho

Employer also got labourers from Africans by encouraging some to squat on their farms. A bargain would be arranged that Africans would bring an agreed number of cattle and be able to cultivate a patch of land. In return he and his family would tend the estate of the European for a small wage, usually about two thirds of the normal unskilled labourer’s wage. The relationship was unregulated by law and varied between farms. Sometimes the labourer would be paid a small wage; while at other times the labourer would pay some money to the land owner for the right to graze his animals and cultivate his land. Such rents would be paid in cattle, milk dung or crops. Or the African labourer would not be paid at all.

The squatter system was a system of unequal exploitation. It was exploitation because both parties to the contract wanted to use the others resources for their own benefit. The
squatter wanted land which the settler could provide because he was unable to farm all his own land himself, while the settler wanted labour which the squatter could provide both by himself and the exertions of his family. The relationship was unequal one because squatter lacked any security of land use and could be turned off the land if the land owner required land for other purposes. To the European the beauty of the system was that it provided him with immediate labour at a remarkably cheap price, while the cost of partly paying for the use of the man’s labour through the offer of land was nil. After 1930s more and more of the farmers decided that they needed the squatter used land for cattle. Hence when the law was altered, it limited rights of tenure squatters had been taken away and squatters were taken back to the reserves. Most of the people who squatted came from the poorer communities where land was difficult to access by the poorest people. Such people could easily be pushed off land by the stronger elements who wanted to expand their own land under commercial cultivation in order to produce cash crops for the market. Many families left Abashitaho community to seek employment and became squatters on European farms .Such members have never come back nor made their other relatives know which farms they went to live on today (Wasike,O.I.2016).

3.13 Cash crop farming

The relationship between land and labour was one aspect between Europeans and Africans. Another was relationship was the question of African market production and land.

The creation of white and black reserves in Kenya in 1939 had rigidified the traditional relations of agricultural production within the reserve and had led to land shortage in
some areas. In the areas of land shortage, different groups of people reacted differently. Some expended their land holdings and began commercial farming. Some unable to extend their lands, wage laboured and a third group, derived of even subsistence land became squatters.

Contrary to widespread opinion Africans quickly responded, positively and creatively to the opportunities to produce saleable goods for the domestic market. Yet, because of the political dominance of the plantation sector, it appears that the African reserves received very little positive help in the shape of extension officers and infrastructural assistance, such as roads and railways. On the contrary they were hindered over the development of coffee and pyrethrum both within the competence of small holders, and discriminated against over maize exports, since it was the Europeans who were the main recipients of special railway rates and grading facilities. Both of which were prerequisites for exporting. Additional barriers were placed in their way over the development of cattle sales. Every African pastoral reserve was put in quarantine throughout the period to stop sales of African cattle in order to control disease. There was discrimination in one form or another in every major area in which Africans might have developed produce for the export and domestic markets. Yet despite these obstructions to African commodity development, there was wide scale production for both the domestic and export markets. It was the African maize which met the main domestic demand from the urban areas and from the estates for food for their labour forces. People most concerned with the development of commodity production came from the same areas as those people who supplied migratory wage labour.
In general terms African producers reacted rapidly to the opportunities to sell crops to traders in areas where such services

Most cash crops were produced with little government aid, as extension services were minimal and what assistance there was, was only available through district officers.

External to government support for peasant producers were a number of basic problems which limited African production. The first was the size of market. Up to 1914 African produce had provided the main export crops, but after 1918 there was little development of African exports due to the stimulus given to European producers, and hindrances placed in the way of African producers. After 1918 the African market was limited mainly to domestic demand. The colonial sector offered a market for African in which to sell chickens, vegetables and other foods demanded by Europeans, as well as stock and food for more local needs. The most important commodity sold in the internal market was maize which was the staple diet given to the labourers on estates.

Of equal importance to the market available, in determining whether cash crops were grown, was the factor of distance from market. Where transport was prohibitive growing was discouraged. One response by the African population to the problem of transport was development of multitude of small traders using pack animals like donkeys to which were slower and cheaper in transporting produce as they did not require modern roads. This was an indication that cash crop growing was complimented by the expansion of many small traders. Such traders only came to be noticed when it was exploited for export in 1930s. Colonial opinion was against the apparent disorder of a multitude of petty traders, but it was also against peasant production, except within narrowly defined limits.
As a result the distance of a producer from the main national markets was able to act as a major handicap in the development of small scale production right up to 1939.

The final limitation upon African producers was that of land availability. In order to produce cash crops, a man required enough land to grow subsistence crops, plus extra land for the cash crop. In the main areas where cash crops were grown by small scale farmers there was land shortage. For these were the same areas which produced migrant workers and squatters. Infact in some cases some people sold their land to local chiefs by force in order to escape from paying taxes through paying bribes of land. The chiefs became richer at the expense of their local subjects. The poor members of the community become much poorer as those who accumulated land became richer. This led to acute land shortage. This was the essence of the economy which reflected the growing local differences of wealth between areas and within areas which was a characteristic of colonial settler capitalism.

3.14: Summary

Most of Abashitaho land was lost and so to their rights to live, cultivate and keep animals, hunting and gathering and burial and religious rights. Their mode of subsistence agriculture changed to modern agriculture. They accepted to live in urban setting. They accepted Christianity add Islam and that has remained till 1963 when Kenya got independence. The next chapter will deal with response to interference in their land rights.
CHAPTER FOUR
Response to European interference of Land Rights

4.0 Introduction.
This section will examine the Abashitaho response to imposition of colonialism.

4.1 Early contact with foreigners
Abashitaho had come into contact with foreigners during the long distance trade time about 1840. During this period, Arab and Swahili traders passed through their land on the way to Mumias and from Mumias to Buganda Kingdom. The main trade routes came from Kabras and Nandi country to the north of Abashitaho country. One route came through Ingolomosio on the Nandi escarpment and cascaded south westwards through present day Ivakale and Lubao following the northern boundary between Abatsotso and Abashitaho to head westwards through Mutsembi's area- the headman of Abatsotso before going westwards to Mumias (Were, 1967)

The routes gained prominence when colonization arrived in the later part of 19th century and early twentieth century respectively. Along the route was setup defensive fort from which surrounding areas were pacified and brought under the British rule within British East African protectorate. Such circumstance saw Kakamega made a British Fort in 1903 (Huddleston, 1952). Apart from the long distance traders Abashitaho began to have White men when Kenya received explorers most of whom passed the same routes followed by the long distance traders in the latter half of the 19th century. This was followed by the early administrators of western Kenya like Hobley. Missionaries were the other Europeans that came and explored the surrounding area with the intention of setting up
their stations. Key among them was the French White fathers and Sisters who set up their station at Mukumu in 1906. This was called the St Mary sisters Hostel. All the above activities by foreigners were outside the Abashitaho Community land.

In early 1920, however, Abashitaho were surprised when a colonial team put up tents that marked their settlement within Abashitaho community land near the current gate of Kalro station. This site was close to their meeting place and close to their main worship shrines to the east and their main grazing lands to the south and west. The main water sources were rivers Iyanira, Isiukhu and Shirongo to the south and east respectively. The area was also close to the homes of their leaders Lwoba and Bitinyu. They camped next to the enclosure that marked boundary between the commoners and their rulers. At first they thought this would only last for a short time before the White men would move on and leave them alone. But time passed and more secure living quarters were put up marking the station be given the name Maxsted. It had an administration offices and police station for pacifying the surrounding areas. Later a church was put up next to big fig tree for worship. With passage of time, a boundary was made to separate the station with local people’s homes. This alarmed the community making them to revenge. Revenge took several forms that included armed fight and passive resistance or cooperation.

a) Cooperation

Some families and their members cooperated with European when colonization was established. They wanted to get time to prepare before taking arms to fight. They also hoped to under study the White men before they would stage resistance from a known position. Most of those that cooperated were members of Abashitaho that had been
exposed to Christian missionary activities either at Mukumu Catholic Station or Lwanda Quakers church in Murhanda. Most of these people were attracted to the new ways exhibited by missionaries in treating the sick, teaching people how to read the Bible and write as well as how to grow crops using manure.

The Christian faithful were persuaded by teachings missionaries and of the bible to shun opposing the administration. The Quaker doctrines of Loving a neighbour and enemy and the brotherly fellowship made the Quakers live in secluded areas away from those who had not been converted called ‘lines’. By living together Quakers and other Christian converts slowly were made to abandon worship in the shrines and rights attachment to land and those of the community until later in 1957 when land adjudication came (Wasike, O.I.2016). Attachment to the church led some Abashitaho to abstain from resisting imposition of colonization.

b) Migration

Some families retraced their way to other areas where they had relatives in areas like Wimalia, *Ilesi and some went back to Tirikiland*. Others members were forced to move out to the north, east and south of their previous homelands to such places as Lukongo, Inzakula, Shikulu, Lusiola, Lukaala and Busia highway areas which became congested with people. Their movement was slow and involved individual families only.

Some members of Abashitaho sold off their small plots ran away to seek paid employment on European farms as others went to town to live and work as domestic workers. Abashitaho had many people who left the farms and left for Trans Nzoia, Uasin
Gishu, Nandi, Kericho, Nakuru, Nairobi, Nyandarua and Mombasa. Some came home regularly to check on their families as others left completely.

c) Resistance.

For African people land is life. Taking away land for settlement is the same as killing an African. This was because life depended on land. Land supplied food, water, residence as homes are constructed on land. Land was therefore revered by all African societies including Abashitaho of Kakamega County. Land among the Abashitaho had no price. It was redeemable if given out to an outsider by giving back the value it was taken for. Generally, land was given out to Africans from other communities in return for cattle and other property for a specific period but never sold (Wa Githumo, 1981).

Invasion of Abashitaho land by Europeans made the members of the community to take up spears, bows and arrows and other traditional weapons and fought to defend their land (Mwayuuli, 1973). Pitched fighting occurred at Shirongo river valley. This valley was close to the remaining sacrificial shrines after those in the north had been taken over by Europeans for Settlement. Shirongo River had many iron working smiths that prepared spears and arrows. Shirongo had riverine thickets and an undulating land surface that concealed the warriors.

Whereas the Abashitaho fought heroically they were easily defeated by the combined European forces made up of Maasai and Europeans that had superior uns and ammunition supported trained military skills. After their defeat some resorted to stealing property from White men residence at night until in 1963. One such person and his family was Mwanje Mushukhani who moved away from European occupied territory during day break but
came back to occupy it during night fall until about 1957. He was forced a way when his residence within Kalro land was discovered and destroyed in 1957.

4.2 Summary.

The community did not welcome Europeans into their land and were prepared to defend themselves and their property. Whatever way members of the community acted they wanted their land back. Surrender was not known in the Abashitaho community on matters of land. The reaction of Abashitaho Community did little to change colonial activities around them. British activities continued. What legacy did this portend for the community’s land rights? Legacy of colonialism on Abashitaho follows in the next chapter.
CHAPTER FIVE
The legacy of colonialism on Abashitaho land Rights by 1963

5.0 Introduction

This section will examine the legacies of colonialism on Abashitaho land rights at independence in 1963. By 1963 Kenya attained independence and colonialism was on its way out of Kenya, Western Kenya and among Abashitaho. Its influence was felt making it the legacy of colonialism.

A legacy is a historical activity that liner on long after an event. For Abashitaho colonialism left a legacy that can be categorized into political, economic, and social.

5.1 Political

Kenya attained her independence in 1963 and became a state with its own government and a written constitution called the Independence constitution. Matters dealing with land were detailed in Chapter nine as those concerned with rights were in chapter six of the independence constitution. The head of government was the Prime Minister and the head of state was the queen of England. Leadership was centralized. Whereas the head government was elected the head of state was ceremonial. This changed in 1964 when Kenya became a republic and the head of both government and state became the president with executive powers. The independence government in office was federal based on a written constitution that provided for three arms of national assembly, executive and judiciary. For effective control the country was sub divided into 8 regions, many districts, divisions, locations and sub locations. The president was the head government that aimed at uniting all communities in the country. Likewise, provinces,
districts, divisions and locations had different communities administered together (Ochieng, 1992). Abashitaho became part of Kenyan nation which was a new phenomenon. Policies about how the community owned and used resources in their area were formulated and implemented from a centralized base in Nairobi. They were also administratively heaped together with other communities in Kakamega County, municipality division and Bukhungu location and Shirere sub lob location. Political leadership was changed and they now had elected Councilors at local level and members of parliament to articulate their views on their behalf at county and National level respectively.

Abashitaho lost their former leadership structures and new ones had emerged. Originally, they had been ruled by council of elders at each ridge elected due to respect for their wisdom and age. The choice was rotation between lineages, (Osogo, 1967). This had been done away with and replaced with leaders selected by government agents for their loyalty to government, regardless of their leadership skills at managing people. The new leaders of the community were picked by district commissioner depending on their relationship with the government and depending on how they performed during recruitment interviews. Rotation of leadership among Abashitaho lineage became abolished. This made the council of elders lose importance and leadership became unpopular.

Besides, new administrative divisions were created that brought together many clans under one authority. Instead of a clan leader was the post of Chief that presided over many different clans within the whole of Isukha. For instance, between 1962 and 1973,
the Chief of all Isukha clans was Mr. Jeremiah Segero. Under him were several assistant chiefs that ruled over individual clans. The chief presided over all Isukha clan rituals like sacrifices and ceremonies like circumcision as he was the only one allowed by the government to give written authority before they took place (L/DXO, 1964). The chiefs and assistant chiefs had enormous powers and were autocratic. Some used their powers for self-gain by a massing property during collection of taxes. This was the case when sons of chiefs succeeded their fathers in appointments and in getting priority in getting government favours including getting education. This distorted the society organization and history of clan making the Abashitaho to be bound together with other Isukha clans as if they had common origin. The above arrangement created a spirit of competition among different clans’ for leadership and favour before administrators and political leaders. At family level there developed individualism as members of the community felt that leadership and security were matters done by a higher authority called government which was far and unreachable (Wasike.O.I.2016).

Colonialism created racial discrimination for Abashitaho in the surrounding environment. At 1963, the community which borders Kakamega town had its people discriminated against in Town and were given limited time during the day. Their freedom of movement was limited. Those found in town beyond four in the afternoon would be prosecuted for vagrancy (Wasike, O.I.2016).

Besides discrimination, colonialism imposed new property ownership laws which conferred the government central role in land ownership. Abashitaho land became individually owned instead of communally owned (Kanyinga, 2000). Land ownership
identified three categorizes of ownership of land in Kenya; i.e. private, Communal and public. Each one with a registered title that is governed by the registered land Act of 1963.

5.2 Economic

By 1963, the economy of Kenya depended on many activities but agriculture was the main economic activity. Agriculture involved production of food crops and cash crops on small scale. Plantation Agriculture was mainly practiced in areas where there were large tracts of land partly belonging to African farmers as well as European farmers and the government e.g. Kalro. The emphasis was on cash crops that were mainly for export (Zwanenberg, 1972). Agriculture also supplied raw materials for export. Besides agriculture was a small manufacturing industry that mainly processed agricultural goods to preserve them. Many people were involved in production of agricultural goods for sale. This created a money system (Ayot, 1972). Furthermore, due to export commodities from agriculture Kenya was brought into the international trade and had her terms of trade determine by consumers in Metropolitan nations. Trade was operated by large international companies who had agents in Kenya. The agents grew richer to form a class of their own (Leys, 1984).

Abashitaho were exposed to new modes of production in agriculture that put emphasis on cash crop farming. Small scale farming for maize, simsim beans and later coffee and tea were introduced into the land of Abashitaho. The products were sold on Kakamega market to agents like Midland Emporium, Bunyala traders and Shah Lalji traders who set the prices of the commodities but who exploited the farmers. This happened to all
African communities. New methods of farming involving planting crops in rows at specific times of year were introduced. Agents for promoting growth of crops for export moved from one section of the community to another, emphasizing export agricultural production.

New roads were constructed that linked the community with neighboring communities through the construction of Isiukhu Bridge. A market centre was set up at Shikulu to make collection of agriculture produce for further sale easier. Subsistence farming involving growing local crops and raising livestock that had made Abashitaho be self-sufficient in food was made secondary. Food shortage became perennial as the community cleared all bushy and marshy areas for growing cash crops. Traditional saltlicks dried up as the natural pastures were cleared through increased stocking of livestock. Soil Erosion became frequent as the soil fertility decreased (LND/6/13/12/74 of 16/6/1964).

People in the community had learnt to go out and work in the homes of Europeans, Asians, and public offices and in institutions as laborers. Some people went away with their families as some left them behind but maintained them. This robbed the community of labour. It also impoverished the community as for some the employment provided the needed income for both up keep and for paying for obligations like school fees for their children. Through paid labour the community lost some families permanently since the 1930s when their members went out to look for employment of settler farms. Since the wages they earned were low some stayed there permanently severing links with their families.
Trade in cash crops and paid employment helped extend cash economy among Abashitaho as it tied them to world capitalistic system. Prices of agricultural produce and the wages paid to Abashitaho workers in employment were decided by Europeans or their Indian agents. The Abashitaho did not have a say, (Zwanenberg, 1972). Trade and employment made Abashitaho dependent on other people living in Kakamega town for livelihood. This made Abashitaho to be part of world trade.

By 1963, independent government introduced Registered Title under the Kenya Land Act. Title to land ownership had come along way starting with the 1908 Land Titles Act through Registration of Title Act of 1919, and 1927 and the Swynnerton plans operational legislation for individualization of land rights to Native Ordinance of 1959 to reach the Registered Land Act of 1963 (Wa Githumo, 1981). Abashitaho hopes to recover land that they had lost during colonial period evaporated. This was not possible as the independence government opted to maintain the status quo for fear of communities in Kenya rebelling against it in demand for restitution of their lost Land Rights (Kanyinga, 2000). County councils were given powers to oversee lands taken away in urban centres. Such lands became as trust lands. That included Abashitaho land and those other g whose groups of people whose lands had been classified as trust lands, (LND16/13/12/74 of 16/6/1964). As Kakamega town grew the area occupied by the community reduced in size and so did land degradation result. In 1972 Kakamega town became a municipal council. Land that had belonged to Kakamega Council became municipal land without consulting Abashitaho. Urban communities including Abashitaho lost hope of regaining their land. Land scarcity increased conflicts between families over land, (Wasike, O.I.2016).
There was Introduction of private, communal and public ownership which limited access to land and rights to use land by some members in the community. With private tenure system, came expenses that were to be incurred to procure land. This made land and property ownership a preserve of the privileged few as it created classes among Abashitaho (Wasike, O.I.2016). Whereas many remained in their crowded pieces of land robbed of productivity and destined to die of poverty, some escaped and begun living in the fast emerging town. The whole community became bitter about their lost lands nearby which they live next to, but which they cannot re-possess, (Wasike, O.I.2016). Some devised the habit of grazing livestock in Kakamega town at night. Land made Abashitaho become hostile to Kakamega town residents.

The introduction of taxes with which to fund government services made the community poor. This continued when Kenya attained independence. The only thing that changed was the types of taxes. Hut tax was abolished Indirect taxes increased when excise and corporate taxes and income taxes were introduced. The community was required to pay cess on agricultural produce in addition to local rates for the little land they own. They also pay service charge for collection of waste and having property like livestock. The community still has many heavy taxes yet they do not receive the necessary services.

Taxation was continued after independence to fund services of government like health care, education, markets, roads and administration. While it was mature people that paid the taxes Abashitaho were already sceptical about its continued payment. Taxation implied continued oppression as it had been during colonial period. Later the taxes imposed included excise duty and Development levy until in 1970s.
Land which was base of wealth accumulation and survival became commercialized and would be sold and bought like other moveable property. Buying and selling land led to rise of conflicts in the Abashitaho community, for example the case of Murhembe Quaker church versus Iloka in 1963 (Wasike, O.I.016).

At independence, most of the local industries for manufacture like iron implements, Baskets and kitchenware had stagnated. In their place, goods were bought from Kakamega market imported from Britain and distributed by Indian agents like Shah Lalji and midland Emporium. This created dependency on foreign goods.

Abashitaho had become divided into various classes based on amount of land they owned. Those with large size land were rich as the landless were poor and had to work for the rich for survival.
5.3 Social.
By 1963, many religious groups had established themselves in Kenya, Kakamega and among Abashitaho. They include Christianity, Islam Hinduism and Buddhism. Christianity came with many different denominations, each with its own doctrines but all based on the teaching of Jesus Christ. The Christian denominations include the Quakers, Catholic Church which has majority following within Abashitaho, Pentecostal Church and African Inland church. Islam had come with the Arab traders even before the onset of colonialism but became more pronounced with the settlement of Somali community in the 1930s. Hinduism and Buddhist came as immigrants into came they came with their religion. Each of these religions had gained many followers about 1963. Western Medicine was introduced in the country alongside religion. What effect did religion have on Abashitaho?

Abashitaho were introduced to western religion with many Christian churches set up in their land. Due to colonialism British administration was introduced to Abashitaho. The flag followed the cross. The Christian churches include the Catholics, Quakers, and many evangelical denominations. The Catholic Church has the highest number of followers among Abashitaho compared to other Christian churches established in Kakamega town and among Abashitaho. Three quarters of Abashitaho Christians are Catholic faithful (Republic of Kenya, 2009). The churches became sponsors of many education institutions in the community. For example Shitaho Community and Nyayo Tea Zone primary schools belong to Quaker Church, as St. Gerald Shitaho primary and polytechnic belong to Catholic Church. Through these schools western education was introduced in the community. However, few people have benefited from the education to become
professionals due high level poverty in the community. Most people go through education to primary school level only. Besides, Christianity, there is Islam with a small following that is only made up of few families.

5.3.1 Western culture

Western type of education that is formal education was introduced into the community when whites came to Kakamega Town. Before the colonialists came learning and education was rote learning in that an individual learnt through observing what the instructors did. Colonialism brought formal learning. The first school was brought about by Quaker church in the community when they opened Murhembe Friends Church. Part of the church activities involved teaching the congregation numbers and how to read and write. The school picked up slowly to become a formal school with students from class one to four.

New dressing made up of cotton clothes were introduced which replaced the traditional one that was made out of animal skins. Whereas the traditional dress was a wrap round the west the new dress covered the whole body.

New medicines were introduced into Abashitaho land. Traditional medicines had a big role before the coming of colonialism. This was prepared and administered by traditional medicine men. This was replaced by medicine that was administered by trained practitioners and factory prepared drugs. This reduced mortality drastically as population of Abashitaho increased.
European Games were introduced. These included Golf, football, Bicycle racing, wrestling and athletics. For the community golf and football had profound impact as their young men became couriers of Golf tools and equipment for players which provide income for them. Most of the people employed on the golf course are Abashitaho even today. The introduction of these games killed traditional games like arching and wrestling.

The colonial language English has taken over from local language. Many words spoken by Abashitaho have become enriched with English words or a confusion of English and local words. For example the name Magomere is a confusion of Montgomery. Colonialism left a new language English. Apart from that it left mannerism of eating and serving food.

Introduced western Christian religions into the community. There are many religious denominations in the community. They include Catholic Church, Quaker, various Pentecostal churches and a variety of evangelical churches. There are however non-believers in any of these churches. Most of the community members are Catholics because the church has simple procedures of worship and allows taking of alcohol which is a popular drink.

5.3.2 Urbanization

Colonialism led to setting up of Kakamega Town. The town has become a market where local products are sold for members of the community to obtain money for their daily survival. They learnt to sell their agricultural products like bananas, Chicken, maize and
vegetables. They also buy Sugar, soap, cooking oil, clothing and agricultural machines from Kakamega Town.

Due to the growth of Kakamega town the members have intermarried with peoples from all over the world as the town provided access to different communities. The use of Kiswahili language is widely employed to facilitate communication between Abashitaho and other peoples living around Kakamega own.

The community members became discriminated against and were limited in their movement in town. The independent government continued applying the vagrancy Acts against them for long since independence. They would be raided for trivial reasons as they always became suspects in any crime in Kakamega Town.

5.3.3 Loss of land

Many of Abashitaho families lost their land and became landless. This led to loss of various rights like right to own and access land and cultural shrines, right of grazing livestock, right to saltlicks by their livestock and recreational sites. Part of what was their land was used to build government offices, the hospital, Research station and other infrastructures. Due landlessness some families disappeared and had not been traced at the time of independence. Some migrated and became absorbed among other Isukha clans. The community has become very hostile to the occupants of residential houses that stand on their lands. Their unemployed children occasionally raid such homes at night for survival.
The community made attempts to seek compensation from the government in vain. In 1963 they formed the Abashitaho welfare Association with the intention of trying to reclaim their lost land and accompanying rights. This did not go far as they found it difficult to lodge their grievances to the independent government. Asked as to why many members did not register to be considered for the One million resettlement scheme, many had varied responses.

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<td>2</td>
<td>12</td>
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Table 3: Abashitaho reaction during One Million acre Scheme. Source (Wasike, O.I. 2016)

34 percent said that the community members were poor to afford buying new land, 23 percent had fear of losing money, 12 percent feared for the loss of life with strangers in the settlement and 31 percent did not get information on resettlement.

New forms of land ownership were introduced. One was Trust land in the areas that were formerly called Crown land and the other was Native land which became registered as private land after independence. Whereas the private land started having a price it was expensive acquiring land for agriculture. The procedure of Land boards vested in the
corrupt district commissioners made them get discouraged from buying their own individual lands. But as the need for land was biting they could witness people in authority grabbing what were their former farms. The community though united could not repossess their former lands as their collective responsibility had atrophied away and was replaced by individualism and tendency for acting for personal gain (Wasike, O.I.2016).

5.3.4 Taxation.

At independence, Hut taxes was abolished but poll tax and excise duty was increased on common user goods and services bought and used by Abashitaho. Taxes were paid by male individuals living in the community. Taxes were collected by the County Council of Kakamega on produce taken to the market for sale. Money was also paid to the government to allow services in education like activity levy, equipment levy and development fees for schools.

Colonialism led to introduction of separation between Abashitaho and other communities living in the vicinity of Kakamega town. By 1963, the separation made them to be discriminated against and be called various derogatory names like “Abacheri”, “Abaloochi”, “Ababira” and “Abakolerwa” “Abadinyu”. Yet every community has its own cultural practices including Abashitaho of Kakamega. Their livestock have no grazing areas yet African wealth is based on the number of livestock one possesses. This forces the community to graze their livestock at night. Some livestock belonging to the community was confiscated by local authorities whenever they cross the boundary
between the Trust Land and reserve area. They have been labeled thieves and people with witchcraft for being aggressively against sale of their land (Wasike, O.I. 2016).

The emergence of Kakamega town brought with it and new life style the meant Abashitaho were to look for alternative survival by selling their commodities like vegetables, Bananas maize, beans and livestock at the town. They needed to seek for paid employment in town among others. Their war like nature however forced the authorities in Kakamega to apply Vagrants Acts which prevented them from moving freely in town despite living next to town. The community faced arrests whenever they were found in Kakamega town.

There was the introduction of modern medicine in the community through the construction of Kakamega Hospital with modern facilities which offers services to the community as well as to the public. Abashitaho also access medical care from Mukumu mission hospital which is a private Catholic Institution.

The growth of Kakamega town where the community lives offers security, slaughter services, cleansing services licensing services health services and construction of roads. It also provides facilities for marketing goods and entertainment Bukhungu stadium. The town came up with its own challenges that affect Abashitaho. It increased level of poverty as well as use of drug abuse among members of the community that had low income. Brewing of traditional liquor became rampant among Abashitaho. This was in addition to Chang’aa that Abashitaho copied from Abatsotso, their neighbours to the west of Kakamega town. Drugs continue to exert its toll on Abashitaho,
Apart from drugs there is high level unemployment and underemployment due to low level education and training, (Republic of Kenya, 2009).

The environment the community lives in is crowded and polluted with waste from town. This is due to poor drainage and disposal of waste which direct town's waste in their water sources. In addition surface run off water erodes their fertile soils uncontrollably. This reduces their soil ability to produce crops and fodder for their cattle. Few people in the community have piped water and electricity. Clean water is limited for both human and livestock use.

At 1963, Abashitaho had changed from practicing subsistence agriculture into carrying out both modern small scale farming and subsistence agriculture. They grew food crops and kept livestock on their small farms. Communal land ownership had been done away and in its stead was the registration and consolidation of farms to have individual land tenure with titles. The small size farms made them grow poor as their population grew. The crops and animals they had were no longer for their own use but for sale to the nearby Kakamega town at prices decided by buyers. Trade had become an activity to get livelihood using money. Using money they would acquire manufactured goods at Kakamega market that were better than those that were made in their homes. The community leadership was broken up and they were amalgamated to other Isukha clans and ruled by an appointed chief by the Local district commissioner of Kakamega County. The traditional decentralized leadership had gone. It had been replaced by a centralized system. New roads were made to cross their area into Ebwichina and beyond to Nandi country. This made travel convenient and movement of administrators
efficiently to quell any form of resistance. Abashitaho accepted independence of the country with the hope of regaining back their land. They had also been accustomed to the new changes introduced by colonialism (Wasike, O.I. 2016).

Abashitaho were exposed to Christianity and other new religions and had become converted to some. The community members became literate and embraced western education which made people to seek paid employment outside the community. Besides, religion was the community’s exposure to medicine which reduced deaths drastically in the community. This made the population of the community to increase. The exposure lessened reliance on traditional medical cure but did not eliminate it.

Colonialism therefore, left a legacy that Abashitaho held up to 1963 on land ownership, trade, agriculture, education, medicine, religion and even sports. To obtain land money is required since colonial days land had acquired value and is a commodity for selling and buying. How did this affect Abashitaho as a community land rights? The next section will examine how these affected Abashitaho at the time Kenya attained independence in 1963

5.3.5 Effects of independence on Abashitaho land rights.

Independence of Kenya raised the Abashitaho hopes of regaining their lost land if not being identified as having been affected by colonial injustices including loss of right to own and access land. Besides loss of land, the community hoped to regain their dignity after many years of colonial discrimination and confinement next to Kakamega town. At independence in 1963 Kenya retained a virtually unaltered colonial legal framework and ordinances for land administration for the protection of the private land rights and regulation of access to land. This strengthened the position of the government over the
control of land by making it the main landlord. It also served to entrench private
ownership of land and in the process ratified the titles of the owners of land as absolute
owners of expropriated land. This sealed the fate of the landless and squatters thereby
intensifying the tenure insecurity of the poor, (Kanyinga, 2000).

The community set up Abashitaho Welfare Association in preparation of identifying
ways of engaging with new African government in Kenya in solving their issues on land
and welfare in general (Wasike, O.I.2016).

The surveying and land adjudication and its registration that followed with targeted lands
in the former reserves that they occupied not the trust land. Quarrels over land ownership
and use that resulted over ownership were not only referred to local community elders but
to the land tribunal and law courts at Kakamega town. Settlement of land cases was done
sometimes against the wishes of community members.

The introduction of one million acre settlement scheme in former white settlement areas
did not attract many Abashitaho since they fell insecure to move out of their original
lands and only a few were sure to raise money to buy land. Many feared to move away to
new areas due to myths of ancestral spirits.

In the 1970s Festus Muhanda was from Abashitaho community was made Chief of
Kakamega town. He was joined by Dickson Konzolo who was elected councilor when
Kakamega was given municipal status and therefore power to plan and allocate the trust
land within town. Abashitaho had high hopes of regaining their lost land if only the two
would consider furthering the community’s problem. That however materialized as they
pursued their own problems to the exclusion of community’s issue on land. The
community later elected Joshua Andanyi, Mathias Shichere and Maurice Otunga as councilors with Joshua Andanyi serving in the docket of town planning finance and social services but still the status quo remained. Joshua Andanyi and Mathias Shichere even served as Mayors of Kakamega as Maurice Otunga became deputy Mayor (Wasike.OL.2016). The leaders were in good positions to influence county government of Kakamega to solve land problems in their community but did nothing until when they left their positions.

Those people that stand for elective positions from Abashitaho community have always moved away from the community to other areas away from the community where they offer themselves to be voted for so that they cannot carry the community’s burden. The community becomes useful when the leaders have a problem like that of being elected. Once through with elections the leaders concentrate on personal issues since they realize that they cannot change the system.
5.4 Summary.

Colonialism left a legacy that includes loss of land and rights to access and use land, introduction of money economy, poverty, education, religion, and dependency and underdevelopment on the Abashitaho community. Conclusion is dealt with in the next section.
CHAPTER SIX

Conclusion and Recommendations

6.0 Introduction

This chapter summarizes the findings of the study, discusses the extent to which the premises have been proven and outlines some key recommendations with regard to solving land rights among Abashitaho community in Kakamega County.

6.1. Summary

Chapter one provided the background to the study, research objectives and questions, literature review, theoretical framework, methodology and scope and limitations to the study. Chapter Two examined the pre-colonial history of Abashitaho community. It also examined the first objective of study on traditional land ownership procedures and access to land and rights of use of land among Abashitaho before colonisation. Such rights made the community stable and peaceful. Land was the base for wealth accumulation and all activities of human life.

Chapter three analyzed the second objective of study by examining the effects of colonization on Abashitaho land rights between 1920 when an administrative station was set up within Abashitaho land and 1963 when Kenya attained independence and undertook her own ways to administer her people including Abashitaho and their activities and rights. It was found out that Abashitaho lost land and many became landless. Besides land, they lost the right to graze their livestock and cultivate using rotation and shifting methods, Hunting and gathering and fishing became limited, lost saltlicks for their livestock and clean environment when their land became degraded due
to population increase of both livestock and people and experienced frequent food shortages due to preference of growing cash crops. The community became introduced to money economy which they supplied agricultural produce like tea and coffee grown on small scale. Trade made them exposed to international activities in which foreigners benefited more leading to transfer of capital from the periphery to Britain that became more developed than Abashitaho. Through trade more modern forms of infrastructure like roads, Kakamega hospital, Bukhungu stadium for Goss age games and Kakamega town market that benefited Abashitaho. Traditional leisure activities like arching became extinct. Burial sites for Europeans were set in the community land. Many different groups of people settled around Kakamega leading to emergence of Kakamega Town. Through trade Abashitaho traditional technology stagnated and they became depended on European manufactured goods.

Chapter four examined the third objective of the study that analyzed the Abashitaho response to European colonization. It was found out that the Abashitaho community reacted in many different ways to European colonization. Some members of the community who had been converted to Christianity were persuaded to cooperate with colonialists by both the Catholic and Quaker missionaries who were earliest to open mission stations and got converts among Abashitaho respectively. Others were persuaded by their Chiefs to shun opposition.

Some members of the community took up arms and resisted by fighting the colonialists but were quickly defeated due to the advanced weapons like the gun and advanced military skill of the British. The community continued with sporadic attacks and theft of
property of Europeans and other occupants of Kakamega town that the later kept referring to them as thieves and bad people.

Chapter five examined the fourth objective that sought to analyze the legacy of colonialism on Abashitaho land rights between 1920 and 1963. It found out that it was true that colonialism introduced new laws on land ownership, access and use that not only made some members of Abashitaho landless but also took away their various rights of land ownership and use when it categorized people in Kenya during colonial era as citizens if they were white settlers and natives if they were African. This created racial discrimination on land acquisition and use rights. Discrimination based on land that was a base for wealth creation produced classes of people in Kenya. Colonialism introduced price on land that led to different types of land ownership in Kenya. Land was categorized as Public, communal or private and gave the government powers to be the main landlord with powers to adjudicate, consolidate and register land with a title in Kenya. These categories of land remained unaltered at independence in 1963. The colonial ownership, access and use of land remained at independence. This was despite the creation of Kenya land Act Chapter nine of Independence constitution. The Land formerly taken away during colonial period was reverted to Kakamega County Council and the president of the Republic of Kenya. The two institutions had powers to hive off part of the land grab for personal use as the community watched and cried of their lost land rights.

This study was limited to the period between 1920 and 1963. This was the period when colonialists were active within Abashitaho community land. Respondents from the
community, civil society and academia requested anonymity and therefore the study maintained that confidentiality.

**6.2 Conclusion**

Marginalization of Abashitaho land rights begun in 1920 when British colonialists set up their fort called Fox Maxsted in 1920. Europeans appropriated their land that was basis of wealth accumulation making them to become progressively poor the longer the period of colonization lasted. By 1963, when Kenya attained independence, the independence constitution gave powers of land administration to the president and Kakamega County council to manage what was trust land. This made the community to lose their land completely and become marginalized.

The introduction of both Christianity and money economy did not help improve their plight but helped to stagnate the community further.

**6.3 Recommendations.**

Based on the findings of this study, the following recommendations are made:

I. The government should tackle land issues impartially.

II. Inequality in land ownership should be righted by creating policies that allow all Kenyans fair right to access, use and own land.

III. Annexation of public land should be done with compensation of the owners. The procedure for annexing such public land should be open and transparent enough to guarantee safeguard of public land.
IV. Corrupt land transactions should be minimized with the view to eliminating them and therefore providing fair transactions of land matters. This will create confidence in transaction of land matters.

V. Strong political will and moral principles should be developed in the country that can be used to deal with difficult land matters clearly.

VI. Where communal land existed civic education be provided to the members of the community on modern agrarian reforms before the members subdivide land among themselves.

VII. Past injustices on land matters should be solved impartially without delay.
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INTERNET
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Htt/quakertheology.org.
APPENDICES

APPENDIX I

RESEARCH QUESTIONS

Pre-colonial

1. Who are Abashitaho and where did the Abashitaho come from?
2. What events happened in their migration and which important places did they pass through?
3. Who did they encounter in the way before they settled in their current land?
4. Whom did they find where they first settled?
5. How were leaders chosen among the Abashitaho?
6. What were the duties and functions of their leaders?
7. How did they perform the duties and functions?
8. What relationship did the Abashitaho have with their neighbors?
9. How did the Abashitaho encounter with Arabs and Swahili pre-colonial era?
10. Where did the Abashitaho first make contact with the Europeans?
11. How did they respond to the occupation of their land?
12. How were the clan affiliations?
13. What new activities did the Europeans introduce into Abashitaho community?
14. Did the community regard women and children?
15. What economic and social activities were carried out before coming of the Europeans?
16. What factors’ favored these activities?
17. Howland was owned among the Abashitaho in pre-colonial period and how was land passed on to succeeding generation?

18. How did land tenure system change with coming of the Europeans?

19. What was the position of the women, men, children in Abashitaho land ownership system?

20. How was land use organized?

21. What were the major crops and what was their importance to the community?

22. What problems were faced in farming in pre-colonial Abashitaho?

23. Apart from agriculture were there any other economic activities?

24. How did people regard forest and rivers in pre-colonial Abashitaho?

25. What knowledge custodian existed among Abashitaho and how was it preserved?

26. How did the Abashitaho punish wrong doers among their community during pre-colonial, colonial and at independence?

**Colonial Period**

27. Identify the main economic activities of Abashitaho and their benefits during colonial period?

28. Which economic activities continued up to colonial period? And why?

29. Identify the economic activities that disappeared at independence.

30. What changes occurred in agriculture among Abashitaho during colonial period and at independence?
APPENDIX II

Questions for Academia

1. What were the traditional land rights of Abashitaho in pre-colonial period?

2. How did colonialism affect their land rights?

3. What were the response of Abashitaho to interference of their land rights by colonialism?

4. What is the effect of colonialism on Abashitaho land rights by 1963?

5. What legacy did colonialism have on Abashitaho?
APPENDIX III

Questions for civil society

1. Why are the Abashitaho famous in Kakamega Town?

2. How did colonialism affect Abashitaho life between 1920 and 1963?

3. What injustices did colonialism have on Abashitaho between 1920 and 1963?

4. How has independent government between 1963 and now attempted to solve injustices committed by colonialism on Abashitaho community.
APPENDIX IV

KENYATTA UNIVERSITY
GRADUATE SCHOOL

E-mail: dean-graduate@ku.ac.ke
Website: www.ku.ac.ke

Internal Memo

FROM: Dean, Graduate School
TO: Wasihe Elijah
C/o History, Archaeology & Political Studies Dept.

DATE: 18th January, 2014

REF: C50/CE/15718/2005

SUBJECT: APPROVAL OF RESEARCH PROPOSAL

This is to inform you that Graduate School Board, at its meeting of 15th January, 2014, approved your Research Proposal for the M.A Degree Entitled, “Alienation of Abashitaho’s Land Rights, 1920-1963.”

Thank you.

[Signature]
DAVID NJOROGE
FOR: DEAN, GRADUATE SCHOOL

c.c. Chairman, Department of History, Archaeology and Political Studies

Supervisors:

1. Dr. Kakai Pius Wanyonyi
   C/o Department of History, Archaeology and Political Studies
   Kenyatta University

2. Dr. Washington Ndiiri
   C/o Department of History, Archaeology and Political Studies
   Kenyatta University
APPENDIX V

NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION

NACOSTI/P/15/30920/8899

Elijah Wasike
Kenyatta University
P.O. Box 43844-00100
NAIROBI.

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on “Abashitaho Land Rights(1920-1963),” I am pleased to inform you that you have been authorized to undertake research in Kakamega County for a period ending 17th December, 2016.

You are advised to report to the County Commissioner and the County Director of Education, Kakamega County before embarking on the research project.

On completion of the research, you are expected to submit two hard copies and one soft copy in pdf of the research report/thesis to our office.

DR. M. K. RUGUT, PhD, MSc.
DIRECTOR-GENERAL/CEO

Copy to:
The County Commissioner
Kakamega County.
The County Director of Education
Kakamega County.
APPENDIX VI

6.1

REPUBLIC OF KENYA

THE PRESIDENCY

MINISTRY OF INTERIOR & CO-ORDINATION OF NATIONAL GOVERNMENT

COUNTY COMMISSIONER
KAKAMEGA COUNTY
P.O BOX 43-50100
KAKAMUGEA

RE: RESEARCH AUTHORIZATION


I am pleased to inform you that you have been authorized to carry out the research on the same.

W. OMOLLO
FOR: COUNTY COMMISSIONER
KAKAMEGGA COUNTY

COUNTY COMMISSIONER – KAKAMEGGA
APPENDIX VII

MINISTRY OF EDUCATION SCIENCE & TECHNOLOGY

Telephone: 956 - 34411
FAX : 956 - 31507
E-mail : wesprode@yahoo.com
When replying please quote.

STATE DEPARTMENT OF EDUCATION


Elijah Wasike
Kenyatta University
P. O. Box 43844 – 00100
NAIROBI

RE: RESEARCH AUTHORIZATION

The above has been granted permission By National Commission for Science, Technology and Innovation vide their letter Ref: NACOSTI/P//15/3092/8899 dated 17th December, 2015 to carry out research on “Abashitafo Land Rights (1963) in Kakamega County”, for a period ending 17th December, 2016

Please accord him any necessary assistance he may require.

MURERWA S. K.
COUNTY DIRECTOR OF EDUCATION
KAKAMEGA COUNTY
# APPENDIX VIII

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b) Academicians.

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c) Administrators

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d) Member of civil society

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Source: (Wasike O.I. 2016)
APPENDIX IX

List of families that lost land and were moved

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*Source. (Wasike.O.I.2016)*