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## **Historical Land Injustices in Kenya**

### **A Review in the Context of Guest Christology & the 'Year of Jubilee' Lessons**

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#### **Abstract**

Historical Land Injustices in Kenya have remained a thorn in the flesh. Whenever Kenya goes to a general election after every five years, historical land injustices have acted as a rallying cry for many politicians who use it to woo voters with the promise of 'returning the land' or settling land concerns if one is elected. Yet, several regimes that have ruled since independence (1963) have not been able to tackle this issue, as it is considered to be a very emotive agenda. Besides the disputed presidential election of post December 27, 2007 elections, historical land injustices were at the centre as a catalyst against those who were perceived to have benefited from the said injustice. Many people lost their lives, and others were displaced from their respective lands. Various attempts have been made, especially by non-political and Non-Governmental (NGO) bodies, to resolve the problem of land injustices, to no avail. Churches have preached peace; the government has set up commissions like the Truth and Justice, Reconciliation Commission (TJRC), and administrative policies and NGOs have provided for a discussion between elders of different communities. However, hostility against communities related to people who were thought to have been exploited remains afloat. This research article explores the underlying factors that led to land alienation from original owners and the place of the various regimes in land alienation. It then surveys the governments, the Church, and NGOs to attempt to resolve the problem of hostility and demand for the historical land injustices redress. The guiding questions are: Why have the proposed alternatives failed to realize reconciliation among the affected communities? Can the affected communities draw some lessons from the Guest Christology that comes with Zacchaeus encounters in Luke 19:1-10? Can reverse economy, drawn from Zacchaeus' encounter with Christ in Luke 19:1-10, offer a new paradigm shift in our approach? Are there lessons we can learn from the Jewish Year of Jubilee? The research is basically library based.

**Keywords:** Historical injustices, land alienation, post-election violence, land reforms, Jewish Year of Jubilee, reversal economy, Guest Christology.

#### **Introduction**

During the colonial period, much of Kenya's land was alienated and given to the White settler farmers, especially in Central Kenya and the Rift Valley, with the understanding that when the White settlers returned to Europe, the land ownership would revert to the original owners. But when Kenya attained her independence in 1963, the new African government did not return the land to the rightful owners. Still, it perpetuated the injustice further by passing the big parcels of land to the relatives of senior government officers, friends, and members of the political class. Ironically, Kenya's constitution protected this ill-gotten land, ratified at the Lancaster House in London. The Lancaster

constitution protected private property ownership. This protection did not have regard or reference to the history of its acquisition. Kenya's subsequent governments have continued upholding the right to personal land ownership doctrine.

Every time when Kenya goes to a general election, the land issue re-emerges as a rallying cry for whipping up the emotions of the electorate against targeted groups of people perceived to have benefited from the illegal land acquisition. The Njonjo Commission of Inquiry into Land Law Systems was established by President Daniel arap Moi in 1999; While Ndung'u Land Commission was established in 2003 by President Mwai Kibaki. These two land commissions were set to unveil the historical land injustices, and propose the way forward. Unfortunately, the commission's findings and recommendations had not seen the light of the day by September 2022 (Gathogo 2020a; Gathogo 2017). The failure to act on these critical findings on land matters in Kenya was probably due to the fact that some of the perpetrators of the evils therein were still alive, or maybe their children were in powerful positions, and did not want to lose their riches that had accrued from the loot. This article, therefore, examines the underlying factors that led to land alienation from the original owners and the place of the various regimes in land alienation. It then surveys the role played by governments, the Church, and NGOs in attempting to resolve the problem of hostility and demand for the redress of Historical Land Injustices. The article proposes that lessons can be learned from the Guest Christology constructed using the Zacchaeus account in Luke 19:1-10 and through the principle of 'reverse economy,' the alienated land can be reverted to the original owners when Christ enters the looters' hearts.

### **Traditional African Land Ownership Rights before Colonial Period**

Kivutha Kibwana (1990: 231) noted the difficulty of identifying or generalizing the system that prevailed regarding land ownership and land tenure systems in the pre-colonial era. Reasons range from lack of reliable literature on the subject and the diverse and complex heterogeneity of traditional societies. Despite this difficulty, what is clear is that the concept of individual ownership was unheard of in our indigenous societies (Davison 1987:5). Tabitha Kanogo (1989:18) observes that a category of landless people existed in almost all pre-colonial societies due to the different historical processes. He cites examples of war situations that might displace a whole community, forcing it to seek refuge in neighbouring or distant lands. In the process, a division of the defeated group might be taken captive by the victor and forced to live in a semi-feudal state on a permanent or temporary basis after the war. Pre-colonial famines also dislocated whole societies, forcing them to migrate for sustenance. Such affected communities would seek refuge amongst distant trade partners or settle in remote unaffected areas.

Social misdemeanour, including witchcraft, habitual theft, or incest, sometimes resulted in the culprits being declared an outcast and would be banished. Such an action of banishing would render a person landless and dependent on other people. There were certain conditions under which land was held. Migot-Adholla, (1994:122), for instance, observed that access to land was based on membership in a land-controlling social entity defined by birth, marriage, ritual adoption, or incorporation (Gathogo 2020b; Gathogo 2022). When an individual acquired those land rights, those rights remained inheritable within the family, particularly among the sons. The persons who could not find suitable land ordinarily migrated elsewhere, now as isolated individual families, and were incorporated into other communities of destination.

The access rights to land were also open to each member of the social group. They were equitably distributed, based on the individual needs of members of the social organization that controlled a particular territory. The evolving relations to land also tended to be predicated on functions such that several people could hold different rights to the same land for various purposes. Okoth-Ogendo (1976:153) points out that: "a village could claim grazing rights over a parcel of land subject to the hunting rights of another, transit rights of a third, and the cultivation rights of a fourth." Each one of these categories carried varying degrees of control exercised at different levels of the social organization. For example, while cultivation rights were generally allocated and controlled at the extended family level, grazing rights were a matter of concern for a much broader segment of society. What is significant, however, is that the individual members of the family were allocated definite rights and obligations concerning control, ownership, and use of land.

## Land Alienation in the History of Kenya

In considering land alienation in the history of Kenya, we shall divide it into two: by the colonial governments and by the post-colonial or independent governments. The Njonjo Commission of 1999 observed that the policies of the colonial government helped to establish a dominant settler economy while subjugating the African economy through administrative and legal mechanisms (Syagga 2013:7). In the employment sector, the landless people worked as squatters or casual labourer in the settler's farms. They were paid meagre wages, which were not sufficient for their maintenance. This situation resulted into many people migrating to urban centres in search of jobs. Those who secured jobs were encouraged to leave their wives and children in rural areas. In this way, the colonial government was not obliged to provide social services and amenities for the families of urban workers, and if any assistance was delivered, it was minimal (Kanogo 1989:9).

Land alienation policy to create space for European large-scale farmers resulted into Africans being displaced from their cradle land. According to Syagga (2013), there was the alienation of unoccupied land in the southern parts of Kikuyu land in Kiambu and Muranga. The Maasai were also forced to vacate their lands in Suswa, Ol-Joro-Orok, and Ol-Kalau to the south of Ngong and Laikipia reserves for European settlement (Syagga 2013). In 1911, the Maasai made another agreement which led to their eviction from Laikipia to the southern Ngong reserves. The Nandi in the Rift Valley who resisted the British since 1895, were subdued by 1905 and their land annexed by the colonial government. At the Kenya's Coastal region, the land title ordinance passed in 1908 required all persons with a land claim to present them to the land registration court. Subsequently, all unclaimed land was declared Crown Land. Coast residents within the ten-mile strip were dispossessed of and continue to live as tenants at will, at the mercy of those who made claims without their knowledge. The prominent Kenyans got the prime white settlers' farms under the million-acre settlement scheme (Syagga 2013:18).

The land alienation that took place at the time of the establishment of the colonial era cut off most communities from the frontiers through which they adapted to land shortages. The imposition of new forms of administrative authorities and the subsequent concentration of powers in the institutions of indirect rule particularly that of the chiefs, undermined the traditional and customary structures of land administration, thereby shaking the basis for social and political security and a secure land tenure system itself. The economic organization of the society was similarly disrupted. Alien forms of land tenure resulted in land holdings becoming relatively smaller and overused and, therefore, less able to support household needs. Political unrest developed as land problems intensified. Thus, landlessness escalated during this period as the colonial state was consolidated. The 1915 Crown Lands Ordinance empowered the Governor to reserve crown land, which he designed necessarily for the colony. This provision resulted in all natives becoming tenants at the will of the crown (Ogendo 1976:133; Gathogo 2001, & Gathogo 2020a).

The establishment of the African reserves followed the alienation of land. During the settlement of the British settlers in Kenya, the colonial government alienated approximately seven million acres of the most fertile land in central Kenya, which came to be known as the White Highlands. This land was set aside exclusively for European agricultural purposes (Kanogo 1989:18). The original owners of the alienated land became squatters and worked for the settlers. By 1919 about 1406 squatters were working on 39 European farms in the Naivasha District (Furedi 1989:41). The British settlers took advantage of the massive movement of natives from the reserves into settler farmers for Labour.

Land alienation programme continued into the 1940s. Attempts by the White settlers to settle the displaced natives in alternative lands were resisted by the people arguing that the alternative land belonged to other clans. The colonial regime categorically refused to acknowledge African rights of land ownership. Where settlers preferred actively occupied land to virgin land, meagre compensation was paid in a few cases. However, most people were never compensated for their losses.

As stated at the beginning of this section, land alienation did not end with the colonial period; it extended into the post-colonial period. According to Peter Veit (2011:16), the British made several concessions in response to the Mau Mau revolt, including the agricultural reforms that allowed the Africans to grow coffee, a major cash crop. In 1960, the British convened the first of the several Lancaster House conferences in which Kenyans were party to the

constitutional negotiations as a step toward independence. A proposed bill of rights to the constitution guaranteeing property rights was approved among the most controversial provisions. The African nationalists wanted land reforms and resettlement, but the settlers argued that their land rights should be protected. There was fear that Kenya's landless would reassert the land redistribution aims of the Mau Mau movement. In the subsequent Lancaster meetings, the British pressed Kenyans to accept a willing buyer, willing seller approach to distribute land from the settlers' farms to Africans. The process was opposed by many nationalists, arguing that there was no justification for Kenyans to buy land that had been taken from them (Veit 2011:16).

In the early 1960s, a program of settlement schemes, including a one-million-acre scheme, was established to defuse the tension and ensure that the colonial land-holding structure dominated by large farms could be preserved without radical redistribution. The one-million-acre project was set to accommodate 35,000 land-poor and landless African communities. Many white settlers sold their farms and left Kenya before or shortly after independence (Kanogo 1989:6). In 1964 Kenya became a republic with Jomo Kenyatta elected president and a one-party state establishment. Kenyatta, however, swerved from objectives of nationalism, including widespread land restitution to Kenyans and communities. Therefore, nothing much changed in the land tenure. Much of the colonial-era crown land became Government land. The native reserves became trust land but were still governed by a statutory trustee – the County Council and the Commissioner of Land rather than directly by traditional institutions.

Veit (2011:14) states that ethnic favouritism and political patronage played an important role in land acquisitions, as did corruption during the Kenyatta regime. The system favoured wealthy Kikuyu and their land-buying companies at the expense of other ethnic communities. The Kikuyu gained access to settlement scheme lands in Coast Province, Rift Valley, and other locations across the country. President Kenyatta himself illegally acquired large tracks of settlement land. Other ethnic groups were outraged, a source of long-term ethnic animosity. Patricia Mbote (2009:21) notes that land alienation continued into the president Moi's regime. Moi used public land allocation to reward supporters, gain favours, or ensure political patronage. He offered large parcels of land in Trans Nzoia, Nandi, Uasin Gishu, and other Rift Valley districts to loyalists, particularly his Kalenjin community and army generals as bribes. Much of these lands were in forest-protected areas or the hands of parastatals such as the Agricultural Development Corporation (ADC) and Kenya Agricultural Research Institute (KARI).

### **Effects of Land Alienation**

According to D. Mortensen, (2004:5) there is not much that has been done to address the unequal land distribution. This uneven distribution of land has created tensions between the big landowners and the groundless. Moreover, tensions between indigenous residents of the Rift Valley, where the White Highlands are located, and those who were resettled under the one-million-acre settlement scheme as well as other private purchasers has escalated as land has become scarce commodity. Community land as a natural resource is a possible breeding ground for conflicts due to multiple interests. In Rift Valley, battles have been recurring during election periods, according to James Njuguna (2021:88). Apart from the 2002 elections, all the elections held since 1992 have been marred by land conflicts, violence, and population displacement.

During the Multi-party politics in Kenya in 1990s President Moi seemed to evoke majimboism, which, although not officially defined, was interpreted as getting the land back to recover the stolen land by the Kenyatta government. Land clashes were witnessed throughout the country and especially in the Rift Valley and at the Coastal region, leaving thousands of people dead and over 350,000 displaced. Moreover, ethnically charged land-grabbing further undermined the customary tenure arrangements. The worst effects of land violence occurred during the 2007 elections, which left about 1,300 people dead and about 600,000 displaced from their homes. The historic land grievances were used to stir up ethnic tensions. It is believed that the recurring violence and displacement that have followed Kenya's elections under multipartyism stem from unresolved and politically aggravated land grievances (Viet 2011.29).

Most landless or land-poor people, including many former Mau Mau militants, their descendants, and ethnic group residing in the Coast region, did not get compensation from the colonial era and post-independence land

alienations. Most of these landless farmers moved into arid and semi-arid lands, particularly in the Rift Valley region. This land injustice has led to land conflict, competition over water and water resources, environmental degradation, reduced agricultural productivity and products, and declining living standards (Veit 2011:17).

### **Significance of Land to an African and Effects of Land Alienation**

Pre-colonial and pre-capitalist societies recognize that land is both sacred and profane (Gathogo 2001). In traditional African cultures, land structured relations between groups within the community, people, and the supernatural world. Its soil was used as a material resource in symbolic rituals to express a society's attitude towards sex and gender relations. For example, among the Kikuyu of Central Kenya, the earth symbolized a woman. In a marriage ceremony, the elders linked a woman's family with that of the man by mixing soil brought from the man's home with blood from a goat belonging to the woman's family (Davison 1987:16).

Among the Sabaot people of Mt. Elgon, the land gives one identity. A man belonging to the community is introduced as '*chitaab koret*' (literally translated as the owner of the land or one who belongs to the ground). This identity is not shared with foreigners or settlers in the same land. The same introduction is applied anywhere the Sabaot meets another Sabaot. Therefore, alienating land from the Sabaot is depriving them of their identity. One would wonder why Luo and Luhya people always strive to bury one of their own in their cradle land. An Africa is connected to the land, especially where they buried their ancestors. Alienating their land is alienating them from their divine connection to their ancestors.

In advocating for human wholeness of life, Manas Buthelezi argues that God blesses humanity in their contexts. Any form of displacement from one's rightful place amounts to denying them a state rendezvous with God as he comes to distribute gifts to his children (Buthelezi 1997:95). The African people who were displaced from their land were disconnected from God's blessings. Land alienation renders the victims landless, resulting in poverty, the landless end up being squatters or tenants of those who alienated their land. This landlessness leads to land use conflicts and competition over water resources (Veit 2011:21). The plight of landlessness can be heartrending, causing grief and distress over the loss. Land alienation leads to the victims not only losing land as resource but also their dignity, self-esteem status, and a sense of belonging. Amongst many ethnic groups, land, or soil, is perceived as the source of life in a symbolic way. Most people still maintain an intrinsic and religious relationship with their traditional pieces of land, guarding them jealously (Kanogo 1989:20).

### **Attempted Solutions**

#### **(i) Land Institutional Reforms**

There have been attempts to resolve the problem of landlessness in Kenya since independence. The colonial government initiated various settlement schemes for the desperate landless people (Kanogo, 1989:21). Kanogo cites examples of settlement schemes which attempted to alleviate the landless problem. The one-million-acre plan settled about 35,000 landless people on approximately one and a half million acres of ex-settler farms. In 1965 the squatter's settlement scheme was initiated and by 1971, 31,000 squatters had been settled. Veit (2011:22) states that the Kenyatta government also established the Settlement Fund Trustees (SFT) to facilitate the purchase and distribution of settlers' farms to landless Kenyans. These schemes were based on a market system and particularly benefited Kenyans with the financial means to buy the land. By 1977 about 95 per cent of the former White Highlands had been transferred to Kenyan ownership. However, majority of beneficiaries of these schemes were not the originally displaced communities but communities close to the ruling regime. Corruption, ethnic favouritism, and political patronage played a central role in land acquisitions. The system favoured the powerful politicians in Kenyatta's government and their land-buying companies at the expense of those outside the circle.

The groups that were left out in the scheme were outraged and this precipitated long-term ethnic animosities that have persisted to date. It has also been noted that while an Independent Land Commission has been proposed, none has been set up. Consequently, this weakness in Land Administration and management remained largely unresolved according to the Government of Kenya (GOK, 1994: 107). Syagga (2013:16) has argued that about 2.4



million titles have been issued under the land adjudication and registration program in rural areas. Out of these, 90 per cent of them are for plots in medium to high potential areas, which account for only 20 per cent of the total land area of Kenya. The potential low regions, therefore, remain marginalized. He also notes that in the areas where adjudication had started, particularly in Eastern Province, more than 23,000 land disputes were pending and continued to delay registration, thus hindering economic development in these areas. Thirdly, land boundary disputes are prevalent in areas where registration was completed, and titles were issued, with numbers increasing because of poor handling of the conflicts. Finally, there are many cases of squatters in both rural and urban areas. The cases are more dominant in Coast and Rift Valley Provinces, while urban areas, cities, and large counties are victims of squatters and unplanned settlements.

Mbote (2009:3) in her article "Righting Wrongs," examines the possibility of using restitution to try and resolve some of the historical injustices caused by colonialism. She acknowledges the fact that land ownership is a complex social institution and that varies widely between and among cultures and, therefore, it only makes sense if the people with whom the property rights holder lives recognize the right and vest upon the individual enforceable against all those in the violence of that right. Syagga (2013:20) adds that land restitution involving land transferred to the third party must be treated with caution. He argues that the Africa Centre for Open Governance (Africog) observed that the government is not clean in such transactions since it failed to guarantee the correctness of the title. Land distribution aims to provide the disadvantaged and the poor with access to land for occupation. Redistribution involves taking land from large landholders such as absentee landlords or underutilized land and giving it to landless people. This redistribution can be done by the government buying land on the willing buyer, willing seller basis and allocating the land to the deserving households at the market or concessionary prices (Syagga 2013:22). The land redistribution program requires huge financial resources. It must be publicized to ensure transparency and fairness.

According to Karuti Kanyinga (2000:121), land tenure reform has been accompanied by disputes over the boundaries and actual ownership of holdings. Some of these disputes have brought the members of the Land Adjudication Committee into disrepute because of corruption. He argues that the reform process is gradually eroding popular confidence in traditional institutions for dispute arbitration because the ability to bribe and influence has become essential in arbitration processes. Furthermore, the reform process had intensified with corrupt modes of land acquisition. These have, in turn, resulted in the rich accumulating more land at the expense of the poor.

Lack of clarity about the roles of the old Ministry of Lands and the new National Land Commission (NLC) thus bound the NLC in ambiguous and overlapping relationships with the national executive branch, county executives, and county legislatures. Groups such as the Katiba Institute's Consortium on Land pointed out that the proposed bills would be tough to implement. The laws were structured in ways that created opportunities for diverse actors seeking to block, capture, or prevent elite capture of the new land institutions from exerting veto powers over strategic decision areas and processes (Boone 2019:10).

Whether Kenya's land conflicts based on historical injustices will finally be addressed depends on how these Constitutional provisions are implemented and enforced. In the coming years, the government is expected to review existing laws considering the 2010 Constitution and prepare new legislation to implement the land provisions. The government had already established several task forces to review existing legislation, including one to check Kenya's land laws. Furthermore, the Ministry of Lands had developed a draft Public Land Bill and a national Land Commission Bill, which would soon be available for public comment. These developments are encouraging and bode, ending the prosecution of perpetrators and repatriation of victims (TJRC, 2013). The Provincial Administration had committed land-related injustices, including forced evictions, and should try to redress land-related problems. Historical land grievances were the leading cause of conflicts and ethnic conflict and ethnic tension, as evidenced in 2008 following the post-election violence according to Kenya Human Rights Commission (KHRC, 2016).

The Ndung'u Land Commission, appointed in 2003, showed that Kenya's forestlands were endangered. It also pointed out the "irregular and illegal allocation of lands." The Ndung'u Report framed the problem as being a governance issue: excessive concentration of power, manipulation of redistributive politics, nepotism, and corruption on the part of the elite. The report recommended the establishment of a Land Tribunal to review the title deeds issued

in Mau. The TRJC had recommended the initiation of a national process aimed at redressing historical land injustices. These recommendations were never implemented. In these analyses, the destruction of the Mau Forest was attributed to a systemic failure of governance, understood as "land grabbing."

## **(ii) Truth and Justice Reconciliation Commission**

The Truth Justice and Reconciliation Commission (TJRC) was created by parliament through the (TJRC) Act 2008. Its objective was to promote peace, justice, national unity, healing, and reconciliation among the people of Kenya by investigating and establishing a record of human rights violations by the state, from 1963-2008. It was to explain the causes of the breach and recommend prosecution of perpetrators and repatriation of victims (Wamucii 2018:9). According to Kenya Human Rights Commission (2016:7) the findings concerning the land conflict in the TJRC found that: (i). There is a close link between land injustices and ethnic violence in Kenya. (ii) Land-related injustices took many forms, such as the illegal takeover of individuals and communities, public and private institutions forcefully settling communities outside their homeland, and land grabbing by government officials. (iii) Land injustices started during the colonization of the coast by Arabs and were followed by the British. The post-independent regimes failed to honestly address the injustices. (iv). This failure by the government has led to ethnic violence. (v) The Land Injustices have affected the whole country, with communities on the coast suffering the most prolonged and most severe injustices. Some of the recommendations that the TJRC gave include acknowledgement and apology from the perpetrators of the land-related grievances and negotiation for compensation from the British government for those families whose land was alienated.

Further investigation of illegal acquisition of land, survey, demarcation and registration of public land. Development and maintenance of a computerized inventory of all land. Repatriation for historical land injustices for ethnic tension. The TJRC also recommended a national reconciliation conference day for nationwide community dialogue (TJRC 2013). The TJRC report was established in May 2013 and tabled in the National Assembly in July 2013. Since then, no substantive progress has been made in implementing the recommendations in the report. The 2010 new constitution has embodied the fundamentals of land reforms. It has acknowledged communities as legally entitled to hold land, and the 2008 annual report indicates that about 214 cases have been instituted and several recoveries of irregularly/illegally acquired land have been made (Africog, 2009:32).

## **An Evaluation of Effectiveness of the Attempted Solution**

The questions we pose at the very beginning of our evaluation are: how effective have the attempted solutions been in resolving the problems emanating from land alienation since pre-colonial period to date? It is noted that the low credibility of the commissions due to inadequate political goodwill and interference has slowed the implementation process. This low credibility hinders the effectiveness of their mandates. Contempt and bitterness over the attempted reforms arising from the beneficiaries of the alienated land would likely diminish public support for reforms. Furthermore, the reports' public participation in the debate is hindered by the inherent complexity of the land law and the politically loaded nature of Kenya's land challenges that are then intensified by the post-election crisis. Although the government attempted to resettle the landless, the resettlement programs have diminished drastically due to inadequate land to settle them. The accumulation of land disputes creates daunting challenges for policy and legal reform. According to Boone, (2012: 95) Kenya is one of the African countries embroiled in deep land-related conflicts that have implications not only for political stability but also for state structure, citizenship rights, and the channelling of class tensions. It is therefore not evident that any land policy tenet can solve the land problem. Historical land injustices overlap and double back on themselves in ways that the law itself may not be able to untangle. Similarly, the implementation of the Land Commissions report has been hindered by a lack of political will and support because most of the beneficiaries of the allocation are politically connected.

Regarding the right to restitution in Kenya, Mbote (2009:9) states that it is subject to the right of others. It is subject to the right of third parties, who should not be deprived of their rights. Restitution may not be possible in this case, as fair compensation is needed to consider the social, cultural, political, and economic issues. Therefore, the right

to restitution is not absolute. Mbote further argues that land restitution must contend with new forms of dispossession. For instance, the denial is based on gender and generation. Formulation of land rights excludes women and young men from land, resources, and benefits. This exclusion discriminates against gender and age as it ignores the customary right to the use of land. Women and young men are left to the mercy of the title holders or legal owner and control of the land. It is observable that every five years in Kenya, during electioneering period, land issues come up and violence alongside this fact erupt. This has been the trend despite all the foregoing attempts by the government's attempt to address the issue. This then begs the question of the effectiveness of the existing solutions. Therefore, this leads us to assert that new approaches need to be proposed. This article proposes that using Guest Christology constructed from the Zacchaeus account in Luke 19:1-10, the reversal economy and the Jubilee year could be used in providing a solution to the Historical Land Injustices in Kenya. Our argument is premised on the fact that 80% of Kenyans are Christians according to National Bureau of Statistics Census 2019.

### **Guest Christology Model as the Panacea**

In the story of Zacchaeus, we find a rich tax collector. In the practice of the day, a tax collector could have decided how much he charged and how much he submitted to the authorities. In this case, the latter collected more than was required and corruptly kept a lot for himself. Another phenomenon in this story is that the ordinary taxpayers hated tax collectors and viewed them as sinners. When Jesus spotted Zacchaeus who had climbed a sycamore-fig tree so as to see him (Jesus), he promised him that salvation had come to his house. Zacchaeus invited Jesus to his house. Jesus as guest in Zacchaeus' house was vulnerable but in his divinity, he really wasn't in any danger. On arriving at Zacchaeus' house, Jesus turned into a host who presided over the redistribution of the stolen wealth back to the victims.

Prior to the above encounter, we encounter a young rich ruler in Luke 18:15. The rich ruler was equally attached to his wealth, and upon meeting the host-guest, he was to share it with the poor. On the contrary, Zacchaeus promised to give half of his possession to the poor and make restitution to anyone with whom he might have cheated. Jesus, in this model, teaches his audiences to return whatever is gained through fraud and share it with the poor. Zacchaeus's transformation has spiritual implications, as well as a unique social-economic reflection. This transformation entails the transfer of wealth from the rich to the poor so that the disadvantaged may benefit. In this way, Christ reverses our understanding of economic values, a phenomenon where the impoverished ought to benefit from an inclusive social system. Ivoni Richler Reimer (2005:205), elaborated on a reversal economy that is based on Zacchaeus as the chief tax collector. Reimer (2005) portrays a situation in Palestine where the communities were confronted with impoverishment that originated in debts, wars, and taxes. This situation resonates with Kenya historical land injustices that originated from the colonial times when the British government dominated Kenya (1895-1963).

Similarly, Palestine was in the hands of the Roman Empire. The Jews collected taxes in the service of the Romans. The Jews were overburdened by the great variety of the Roman taxes, and so were Kenyans during the colonial era. This tax system was crude wealth taxation devoid of well-known taxation principles whose motivation was colonization and ill-intended (Warris, 2007). The historical land injustices in Kenya are marred with corruption and domination, which resonates with Palestine of the time of Zacchaeus. Reimer, (2005:205) recovers the story of Zacchaeus in the context of taxation and tolls. Parallel to the story, this study examines the narrative in the context of land injustices to seek lasting remedies. The Zacchaeus model portrays the old reality in Palestine and the new reality in the contemporary social-economic situation in Kenya, inaugurated by Christ to bring transformation. This transformation starts with a break of corruption and domination and sets the captives free (Luke 4:18).

Jesus' proclamation in Luke 4:18 fulfilled the year of the Lord's favour (Year of Jubilee). He declared to those who were suffering, promising them that they would obtain freedom (Luke 4: 18b). The inauguration of Jubilee by Christ mainly refers to forgiveness of sins and release from physical and economic oppression (Bruno, 2010:20). Another theme of Jubilee in Jesus ministry is found in Mary's song (Luke 1:46-55), freedom of the oppressed and reversal of fortunes particularly, the restoration of land to the original owners. Jesus' encounter with Zacchaeus



demonstrates a situation where sins are forgiven, property fraudulently obtained is returned and brought back to its original owners and restoration of justice.

These experiences can illuminate many realities where corruption, deprivation, and poverty are rampant. The story serves as a model to display that it is possible to change awful situations associated with possessions through a personal effort to distinguish oneself as an exemption. The action displays honest solidarity with the poor and readiness to make reparation for every wrongdoing. The salvation that took place in Zacchaeus' life would have consequences in the concrete daily life of the people. The Church should emphasize not only spiritual well-being but also social-economic life and encourage Kenya's land grabbers to return the grabbed land even if not fourfold.

The fourfold return in case of theft of means of production or products is indicated in Exodus 21:37. The purpose of the return refers to the point of the Jewish traditions of the Jubilee, which allowed the impoverished people to be rehabilitated so that they could return to their independence to produce and live free of indebtedness. Thus, the damage could be, if not compensated, at least alleviated. Furthermore, Zacchaeus promised to give half of his possessions to the poor and make fourfold restitution which exceeded the requirement that suggested that the rebate should be one-fifth of the defrauded amount. He announced his intention of fulfilling the ideal of the land governing the return of stolen property. Thus, Zacchaeus practised the forgiveness of debts in a full and profound sense. With that, old Jubilee traditions revived that had been proclaimed and anticipated.

Applying this model in the life of the landless and the poor in Kenya and elsewhere in Africa, calls for the full return of the alienated land by the political class, and the Church. With this, the deprived persons can once again have their land at their disposal, and the property taken from them through corruption. This arrangement would help them re-organize their lives. This move would reflect adequate evidence of salvation and complete experience of forgiveness as a gift that is both received and given by those returning the alienated property.

We have noted that the historical land injustices have not been addressed adequately, and the grievances have persisted to date. In this encounter, Jesus offers us some ideas to help us reflect and use creativity for justice to be done. To act justly is to take actions that restore the relationship of people, justice that has been denied to those deprived of their land and property. This justice can be realized by winning the offenders to have them work justly to repair damages and losses so that the damages are not repeated. In this Christological paradigm, compassion and recognition are essential for restorative justice to become a reality.

Zacchaeus' act of restitution is founded in the Jewish Year of Jubilee. Theologically land was a gift and blessing in the Old Testament and, therefore, essential to life. On entry to the Promised Land, God commanded that the land be divided among the clans (Num. 26: 52-56). This practice ensured that each family had land and a divine right. The Israelites could not permanently sell the land, for it was not theirs. They were only tenants (Anderson 2005:4). According to Wright (1990:124) the return of land to the families was reminiscent of the Year of Jubilee, which intended to function as a picture of redemption to come with the Messiah. This tradition means that small family-plus-land economic units were kept viable. The Jubilee tradition may be seen as an attempt to preserve or periodically restore the economic viability and independence of smaller family-plus-land units. These units served as the basis of Israel's national relationship with God. This tradition amounted to an idealistic measure of social justice and a means of maintaining the integrity of the socioeconomic ground of the nation's theological virtue (Wright, 1990:124).

John Manson, (1987:9) has provided an insightful economic perspective on Jubilee provisions and their contemporary implications. He argues that the modern equivalent to the Jubilee assurance of access to land is the assurance of education and the development of human resources. The method provides a highly idealistic wealth redistribution and a foundation for the right relationship between God's people and land. The model also resonates with Leviticus law, which provides a system preventing a family's complete loss of its economic base, providing economic protection. Families could not be deprived of the ability to care for themselves (Wenham 1979:128). Stephen Smith (2000:8) observes that from a Christian point of view, Jubilee is not simply restoring the relationship between the debtor and creditor but restoring the relationship across the broader economy as the former debtors regain their positions. Redemption comes first as a fuller concept than the mere cleaning of accounts.

The Jubilee Year was a radical means of resetting the lives of the Israelites back to the Lord's original setting. Persistence of violence occasioned by historical land injustices in Kenya justifies a paradigm shift towards the Jewish Year of Jubilee, which Jesus Christ fulfilled in his ministry (Luke 4: 18) and which Zacchaeus provides a model.

### Practical Pastoral Implication

The return of the alienated land to the original owners would reduce social inequalities and provide a new start to those who got impoverished by this alienation. The economic and social aspects of the Jubilee are of great reality regarding restoring a proper relationship between God and his people. This tradition leads to reconciliation between the conflicting parties. The concept of Jubilee also teaches us that when we cannot simply replicate Jubilee, we can seek to be on the side of those who experienced loss of land and seek their justice. The principle of justice should also apply to the environment, particularly land. Any overexploitation of nature will only be to the disadvantage of human beings. Both human beings and nature need a Sabbath of rest.

Christ in Zacchaeus expressed compassion for the poor and surrendered part of his wealth to them. His generosity was reminiscent of the traditional Jewish Year of Jubilee reversal economy. With that, the old Jubilee tradition that the suffering people longed for were revived. Zacchaeus' model illustrates the old reality of forgiveness as a gift that is both received and given. The Zacchaeus model resonates with the Jubilee spirit, which demands freedom from economic oppression and some level of equality. This model applies to the historical injustices whereby the alienated land is given back to the authentic owners. Jesus inaugurated Jubilee in his ministry as demonstrated in the Zacchaeus account. This re-inauguration strove for an economic and social justice that points to the reality of forgiven sin and the reconciliation of God, his people, and the world.

### Conclusion

In this article, we have argued that since majority of Kenyans are religious people, we can use Zacchaeus' model of restitution of justice through property refund to address the land historical injustices in Kenya. There are lessons we can draw from Zacchaeus' action of repentance, refunding those he had robbed and turning away from his evil ways. Jesus as the Guest to Zacchaeus' house indeed is the one who repairs the broken relationship and therefore, we need him in the case of Kenya's situation. If Christ be understood as a guest knocking at our door, then he is the only one who can soften our hearts to be able to return whatever we have stolen from our neighbours.

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