Background to Mombasa County

Mombasa County is the smallest among the 47 in Kenya, covering an area of 229.7 km² excluding 65 km² of water mass. It borders Kilifi to the north, Kwale to the south west and the Indian Ocean to the east. The county and the city are divided into four divisions namely: Mombasa Island, Changamwe, Likoni and Kisauni.

The Governor is Hassan Ali Joho (ODM).

The elected Senator is Hassan Omar Sarai (Wiper) while Emma Ray is the nominated Senator on a TNA ticket.

Mishi Juma (ODM) is the Women’s Representative.

The county is composed of six Parliamentary constituencies: Omar Mwinyi Shimbwa represents Changamwe; Abdulswamaad Nassir is in Mvita; Badi Twalib is member for Jomvu constituency; Nyali has Hezron Awiti Bollo; Juma Rashid Beziamba serves the people of Kisauni while Jomvu is represented in the National Assembly by Badi Twalib Bady. With the exception of Hezron Awiti (Wiper) all the MNAs from Mombasa were elected on an ODM ticket.

Mombasa County has 30 ward namely: Port Reitz, Kipevu, Airport, Changamwe, Chaani, Jomvu Kuu, Miritini, Mikindani, Junda, Bamburi, Mwikirunge, Mtopanga, Magogoni, Shanzu, Frere Town, Ziwa la Ng’ombe, Mkomani, Kongowea, Kadzandani, Mtongwe, Shika Adabu, Bofu, Likoni, Timbwnani, Mji wa Kale/Makadara, Tudor, Tononoka, Shimanzi/Ganjoni and Majengo.

Virtually ALL the county ward representatives were elected on an ODM ticket. Like areas of the Coast region, land and historical injustices and conflicts around land dominate the public and political discourse in Mombasa County.

As we will see in this special issue of Operation Firimbi Bulletin, the issues which gave rise to the agitation by the Mombasa Republican Council and its allies are squarely tied to land.

Many of the human rights, social justice and the broader civil society formations in Mombasa County like Ujamaa Center, MUHURI, Haki Yetu, KECOSCE, HURIA, Haki Africa, the Landless Social Forum and others have land rights as their central cross cutting focus.
S

ince most of Mombasa County comprises
the urbanized City which is Kenya’s second
largest (as well as second oldest town) the
land based issues, apart from the blatant cases of
grabbing of public land highlighted elsewhere in
this Firimbi Bulletin, tend to involve tenants and
their rights around housing.

The land ownership system found in Mombasa
especially hampers planning and urban management
efforts since the majority of land in Mombasa
district is held under a freehold form of ownership.
Privately owned land is let to “tenants-at-will,”
many of whom have for generations rented the
land upon which their temporary houses are built.
Since the 1920s, this system has been recognized,
facilitated and, in theory, regulated by the local
authority through a system of village layouts.

This system of ownership complicates planning
efforts since spatial planning, infrastructure
development and provision of public facilities are
only possible with the consent of the landowners,
many of whom are “absentee landlords” living
elsewhere in the country and even overseas.
Moreover, the lack of a current physical
development plan makes it difficult for municipal
authorities to devise strategies for managing
slum areas as many of the owners are absent
and construction increasingly utilizes permanent
materials, although prohibited by regulations.

Instead of a comprehensive, in depth survey and
exposition of all the housing estates and informal
settlements in Mombasa we will provide a snapshot
of four areas- Tudor, Mzizima, Bangladesh and
Kibarani.

Our information is drawn from two sources: the
study Defining Rights from the Roots: Insights from
Council Tenants’ Struggles in Mombasa, Kenya by
Samuel Musyoki and Celestine Nyamu-Musembi
and the mapping and enumeration exercise carried
out in Bangladesh, Kibarani and KwaPunda by
Pamoja Trust, Haki Yetu and members of the
Muungano wa Wanavijiji.

Let us kick off with an extended extract from the
Musyoki&Musembi study where they provide
some historical background to the emergence of
the older housing estates like Tudor and Mzizima:

Good quality housing for low- and middle-income inhabitants of the city is in
short supply. Most people in this income group have only two options to choose from: either
the Swahili type houses (built out of mud and
mangrove poles), occupied by several families
with no sanitation services as they are located
in unplanned semi-permanent settlements; or
council-owned estates.

constructed in the colonial era, which have not
seen much maintenance since the mid-1980s.

Among these estates are Tudor, Changamwe and
Mzizima, which are the focus of this article.

The Tudor estate occupies an area of roughly
40 acres, with a population of 15,000 to 20,000
living in 930 housing units. The population
estimate includes the slum settlements that have
mushroomed on the fringe of the estate since
the late 1980s. Tudor started off as a tented
camp in 1948 for African soldiers returning
from Burma. Construction of the housing estate
began in 1952–3 and the houses were intended
for government workers. Changamwe occupies
an area of 28 acres, with 1102 housing units
occupied by approximately 43,000 residents.

Construction of the section referred to as
the “old estate” was completed in 1956, and
it was occupied by workers employed by, e.g.
the council. Cargo Handling Ltd. and other
companies. Construction of the “new flats”
started in 1969 and was completed in 1971.

Mzizima is a 7-acre plot of prime beach-front
land housing around 2000 people in 114 units.
Mzizima started off as an army base during
World War II, for the Kenya African Rifles
(KAR). Some of the housing units were actually
the stables for the horses. The base was
subsequently made into a residence for people
suffering from leprosy and then a quarantine
area for people suffering from communicable
diseases. The estate now houses low-wage
employees of the council. Residents from the
three estates recall that through the immediate
post-independence period and into the early
1980s, the council used to carry out regular
maintenance. Sometime in the mid-1980s, they
remember receiving letters stating that they
would henceforth be required to share the cost
of maintenance. Since then, the council has
done nothing by way of routine maintenance.

An elderly resident of Mzizima remembers
that the last time the houses got a new coat of
paint was 1983. The houses are dilapidated.
Some have already been condemned as unfit
for human habitation, but still continue to be
occupied. The council’s mantra is that it has
no money, that the rent collected from the estates
is not enough to pay for basic services, let alone
finance major repairs. The tenure agreements
require tenants to seek permission from the
council before they undertake any repairs.
The council always denies permission, putting the tenants in a no-win situation: tenants have no choice but to undertake the repairs anyway in order to make the houses habitable. Then the council is under no obligation to reimburse the tenants for the cost of the repairs, since it did not authorise the repairs. When a tenant leaves they are not allowed to remove any fittings they may have added or replaced in the house, such as new windows, doors, toilet seats or sinks. There has been total breakdown of water and sewerage services.

The established practice is that the tenants pay for water and sewerage services as part of their rent, so that the council can remit the water charge to the Ministry of Water who supply the service. However, the council has consistently failed to remit the water charge and therefore the Ministry of Water undertook a massive disconnection campaign, leaving the estates with no running water, even though the tenants continue to pay water levy as part of their rent. In Tudor, residents have resorted to boreholes sunk by women’s self-help groups and the purchase of water from mobile water vendors.

Piles of uncollected rubbish have become part of the landscape and there has been a physical collapse of facilities such as public toilets and markets. As in other urban centres in Kenya, the 1990s were marked by corrupt “grabbing” of every bit of open space and community amenities, such as social halls and playgrounds. These have been converted into shops and other businesses by people with connections in the council, leaving residents with no amenities.

In the mid-1990s a new threat emerged. Without consulting or even informing the tenants, the council entered into various deals to sell off the Tudor and Mzimba housing estates to private developers, with massive evictions planned. This, along with the grabbing of public utilities and open spaces, was the issue that triggered the formation of Tenants’ Associations in each of the estates. Initially the agenda was a reactive one to resist eviction and undertake direct action to demolish walls constructed by private developers to fence off illegally acquired plots. Now the goals have become proactive: in the short term, to get the council to carry out urgent repairs such as roofing and in the long term, to secure the right to purchase the houses.

The Tenants’ Associations in the three estates would like council tenants to have the right to purchase the houses and maintain them at their own expense. All housing developments initiated by the council in the 1950s were initially intended as Tenant Purchase Schemes, where the tenants would acquire ownership of the houses after 25 years. The tenants claim that this plan was contained in the minutes of the Municipal Board of Mombasa, the unelected body that managed the town prior to independence in 1963.

That resolution was apparently reversed when the postindependence council took over. It was decided that the council would own the houses and manage them as rental units in order to generate revenue for the council. From the mapping and enumeration exercise this we glean about the Bangladesh informal settlement:

Bangladesh informal settlement is arguably the biggest informal settlement in Mombasa. It approximately measures 20 acres and densely populated. It is situated in Mikindani ward within Changamwe constituency; administratively it falls within Birikani Sub-location, Mikindani Location within Changamwe district.

The name Bangladesh originated from the destination that the first Asian who had originally occupied the settlement had gone to never to return again. After he left, Bangladesh was a free area and many people started streaming into the settlement and settling. One common question they would ask was whose land it was? Since the owner went to Bangladesh the settlement was named Bangladesh. It is estimated that the first people to settle in the settlement came in the 1950s-1960s.

The settlement has seven clusters namely Mkipe, Central, Nairobi area, Majengo, Giriamani, Kachimbeni and Majengo Mapya. The clusters history is as follows:

a) Roads and transport

The road leading to Bangladesh from the city of Mombasa is the Nairobi Mombasa highway. Bangladesh settlement is off the main road. There is also one earth access road cutting across the settlement. There are no other access roads except small foot path in between the array of the houses. The access road cutting across the settlement forms an economic hub where most of the economic activities within the settlement are carried out. The road is choked with activities to an extent of being impassable by vehicles.

b) Electricity and energy sources

Bangladesh settlement is connected to power although not all households have access to power. This is determined by the financial capacity of structure owners to connect power. All the social facilities (schools) within the settlement have power connections. The first households to get connection to power in the area were connected in 1997. During the FGDs the residents said that while many have electricity, majority of them have illegal connections, that they commonly call “sambaza”. They agreed that the underground “sambaza” connections are dangerous and sometimes when it rains people get electrocuted. The formal connections are expensive and owner gives conditions as to when to use power and the gadgets which one can use.

c) Water

Mombasa city is one of the cities in Kenya facing high challenges of water supply. The water supply company in Mombasa manages to supply only 33% supply out of the total demand from the population. The population growth in the city has overgrown the current water supply within the city. In formal estates landlords dig boreholes and water is pumped for the tenants who pay for this cost. However the informal settlements of Mombasa face the blunt part of this situation. The primary water source in Bangladesh is from piped water usually bought from water kiosks. Water is bought at Ksh 4 per 20 liters jerry can. There are around 40 water points/kiosk from where residents buy water within the settlement. Only 2% of the respondents have individual water connection within the household. Most (78%) households are within a range of 0-50m to the water kiosks where they draw water from. Although the residents are this close to the water source a challenge in the regularity of the water flow was raised both during the survey and during the focused group discussions. To counter this, residents have developed different coping mechanisms to cope with the shortage such as using big storage containers, reducing the usage of water and also depending on water vendors during prolonged shortage periods.

d) Sanitation

Most residents (92%) use pit latrine facilities. only 3% have flush toilets connecting to either sewage system or septic tanks. Toilets are mostly shared at plot level with all the households within a plot sharing a common toilet. Most respondents said they share the toilet with between 10-25 people. The quality of the toilets in terms of both privacy and cleanliness was termed as fair. A small percentage almost 1% is not able to access toilet facilities and they said they use other means like containers. Although flying toilets were not mentioned by any of the respondents during the enumerations, the focused group discussions raised them as one option that some residents (especially in Giriamani cluster) also use although it is not very rampant. Shared bathroom facilities are the most common bathing facility (77%). Only 5% of the residents have private bathrooms. Some households use shed for bathrooms. The sheds are locally referred to as “passport size” bathroom because they cover the lower part of the body while the upper part is exposed when one is showering.

e) Drainage

Drainage within the settlement is a challenge. Open dains informally dug by residents are used to drain grey water. This is associated with stagnation of dirty water along access channels which also compromises the cleanliness as well as the health status of the settlements.

f) Garbage collection

Littering is a very common practice in Bangladesh. 53% of the respondents dispose garbage anywhere outside the houses while only 24% pay for organized disposal of garbage. Youth groups have organized themselves and carryout garbage collection as a way of raising incomes charging each household 10 shillings every time they pick the solid waste.

g) Security services

Mombasa city has been associated with a number of insecurity and crime levels since the 1990 which was either linked to political conflicts and the level of drug abuse . Informal settlements remain hubs for these crimes. 48% of the respondents say that they are satisfied with the level of security within the settlement while 47% said that they were not satisfied with the security level in the settlement. Being an informal settlement the government has not paid much effort in providing security services in the settlement. Only 25% of the respondent said that they can credit the security levels to the government while 60% said they can credit the high level of security to the community itself.
3.1.8 Community services

a) Health facilities

There is one public health facility (Bamako dispensary) within the area and one church run dispensary within the settlement. 64% of the respondents said that they are not aware of any maternal health services within this settlement. This questions the level at which the government of Kenya is working toward reducing the levels of maternal death as stated in the millennium development goals. 46% of women go to hospitals outside the settlement and 54% have home delivery. Of these, 22% rely on traditional birth attendants (not trained midwives) for delivery services. Respiratory diseases were cited as the most prevalent disease from the focused group discussion, followed by diarrhea and malaria third.

b) Schools

There is one public school in Bangladesh (St Mary’s primary) and no secondary school within the area. However, there are two private schools where the children attend school. These are St Angeline academy and St Peters and Paul academy. The Catholic Church has established a private school within the settlement where children attend nursery school at a subsidized cost.

c) Open space and public spaces

There are two open spaces within the settlement which the community can access for children to play and for other uses. The Catholic Church also owns a hall that is usually hired out to the community to use for social events. There has also been a public social hall (Bamako) which is currently not in use because of its status and awaiting improvement from the CDF support. There are around 9 churches in the settlement and although Mombasa is predominately a Muslim community there is no mosque in Bangladesh.²

Here is a profile of Kibarani:

Kibarani settlement is in Changamwe constituency, Mikindani ward in Birikani sub location. It takes an approximately 15 min drive from Mombasa city to get there, off Nairobi-Mombasa highway. The settlement sits on approximately 23 hectares. It was established in early 1930s. Later in the 1970s the residents of the area were moved out by the colonial government and the site was used as a shooting area. After Independence and after departure of the colonialists, residents started coming back to their land and slowly settled back. The name Kibarani relates to the use that the settlement was used for as a shooting point. The settlement has three clusters namely Railway, Bogobogo and Tulieni.

3.2.2 Kibarani social setup

The settlement is relatively organized. This is due to the fact that part of the settlement has faced evictions and this has caused the residents to unite in order to fight against forceful evictions in future. Although the settlement is divided into three different clusters there are no divisions in the way they coexist with each other. The only development projects that have been implemented in the settlement are within Tulieni cluster and residents from the other clusters access these services too. This was cited as an example of good coexistence during the focused group discussions.

Although there are more tenants than structure owners in Kibarani, tenant owner relationship don’t seem to be a very big problem although it was evident during sessions that structure owners dominate the others.

Like in most informal settlements in Mombasa, drug abuse is a major challenge to the youths in the area. Also raised during the focused group discussion was the insecurity posed by the same youths to the area and Mombasa at large.

3.2.3 Population and demographic characteristics

The enumeration covered a total of 1291 households which were numbered and enumerated. The average household number is 3 persons per household with a household size range of 1-14 persons.

Most families are male headed (74%) while female headed households sum up to 20%.

Most of the respondents are immigrants from the rural areas who came into the settlement due to the economic opportunities within the city of Mombasa (tourism and the hotel industry). Other pull factors to the settlement include cheap cost of housing, availability of land for construction and availability of land for settling.³
The following is a verbatim extract from Volume II B of the Final Report of the Truth, Justice and Reconciliation Commission. Please note findings 251 and 252 which touch on the Coast.

245. The Commission finds that there is a very close linkage between land injustices and ethnic violence in Kenya. More specifically, land related injustices are prominent factors that precipitate violence between and within ethnic tribes in Kenya.

246. The Commission finds that land-related injustices take many forms, including: illegal alienation and acquisition of individual and community land by public and private entities, illegal alienation of public land and trust lands, preferential treatment of members of specific ethnic groups in settlement schemes at the expense of the most deserving landless, forceful settlement of members of a community outside of their homelands, forceful evictions and the phenomenon of land grabbing, especially by government officials.

247. The Commission finds that land-related injustices started recognizably during the period of colonization at the coast by Arabs and, later, by the British both at the coast and in mainland Kenya. However, indigenous Kenyans expected the injustices to be fully addressed soon after independence but the first independence government failed to fully and genuinely address the problems.

248. The Commission finds that all post independence governments have failed to honestly and adequately address land-related injustices that started with colonialism.

249. The Commission finds that failure of both colonial and post-independence governments to address the problem of landlessness is the reason individuals and communities often resort to self-help measures, including violence.

250. The Commission finds that existing land-related injustices are sometimes taken advantage of or used to address other societal problems, especially political differences.

251. The Commission finds that although land-related injustices have affected virtually every part of Kenya, communities at the coast, especially the Mijikenda, the Taita and Pokomo have suffered the most and the longest.

252. The Commission finds that land-related injustices at the coast constitute one of the key reasons for underdevelopment in the area. Land-related injustices at the coast lie at the root of the emergence of the Mombasa Republican Council (MRC).
Outrage over land grabbing in Mombasa County has provided a powerful impetus for citizen action. For example, on Monday, August 19, 2013, residents of Kizingo led by Muslims for Human Rights (MUHURI) officials demolished a perimeter wall erected by a private developer to secure land grabbed from Mbaraki Girls High School in Mombasa.

The protestors said a campaign to reclaim all public land allocated to private developers had started. MUHURI acting executive director Rahma Gullam Abass said the land was public property that used to house Mbaraki Girls School officials.

“Mbaraki Girls Secondary School is one of the public institutions where land was grabbed by private developers. According to the Ndung’u report on page 668, the land was reserved for educational purposes but the land has since been subdivided into two plots that have reverted to private developers,” she said.

Ms. Rahma Gullam said that MUHURI was committed to ensuring that all grabbed public land reverts back to the public. Other educational facilities that have been affected, according to the Ndung’u report, include Kambe Secondary School in Kilifi County, Star of the Sea School, Changamwe Secondary in Mombasa County and Kipini Secondary School in Tana River County.

Shirlene Njoroge, the Programme Manager for MUHURI, said the human rights body was following up on more than 100 cases of illegally acquired property in the coast region, adding that MUHURI was on a mission to drive out land grabbers who had acquired land from coastal residents.

MOI FIGHTS SAJJAD ON BEACH PLOT

BY MAUREEN MUDI

From the star Newspaper

FORMER President Moi is wrangling with two Mombasa businessmen over a beach plot in Diani on the South Coast. Moi wanted them arrested and prosecuted but they claim they bought the plot from him in 1993 for Sh7.5 million. Rashid Sajjad and Mohammed Swaleh Bawazir were formerly Moi’s political pointmen at the Coast but have now gone to court to stop their arrest and prosecution over the disputed plot. They claim they have been harassed by Moi, the State Law Office and the police.

Give it all back-message to Rashid Sajjad and other land grabbers

The decision by controversial Moi era and KANU linked Coast tycoon Rashid Sajjad to return some of the land he grabbed to the Mombasa Municipal Council has sparked demands that he should fully declare all his properties to ascertain if there was anything he was holding back.

At a function in 2013 presided over by Ethics and Anti-Corruption Commission Chairman Mumo Matemu and Mombasa governor Hassan Joho, Mr. Sajjad handed in title deeds to 18 plots worth a combined Sh1.6 billion.

According to news reports, Father Gabriel Dolan of the Haki Yetu lands rights advocacy group insisted that Sajjad returns more parcels of land he grabbed from the Kibaran area.

“We welcome his gesture, but what is he thinking about plot number 723 and 1024 at Kibaran?” Father Dolan asked.

The return of the grabbed land by Rashid Sajjad turned the spotlight on more than 400 other properties stolen from the public including government houses, road reserves, cemeteries, former Mombasa Municipal Council houses, public beach plots, land reserved for schools, fire stations, water pipelines, markets, parking, social halls and public parks.

When the extent of land grabbing at the Coast and elsewhere in the country was first revealed by the Ndung’u Land Commission, it generated outrage and demands that those who had acquired such property return them to government.

The beneficiaries were mainly tycoons, KANU politicians and their supporters from the Moi regime, lawyers, senior civil servants and people with access to power at the time.

In the meantime, the family of another Mombasa billionaire mentioned in the Ndung’u Report as being implicated in land grabbing is embroiled in a ferocious court battle to determine how to share the spoils of the late Swaleh Nguru’s ill gotten fortune. Many observers and social justice campaigners in Mombasa find this phenomenon almost obscene, a grievous insult to the public who were basically defrauded from the illicit transfer of land to private hands.

Omar Saleh Sherman has sued his first cousin Awadh Said Sherman who is the administrator of Swaleh Nguru’s estate accusing him of failing to act on the letters of administration which would entail sharing out land and real estate among the Swaleh Nguru’s beneficiaries. Swaleh Nguru died at the Aga Khan hospital in Mombasa on April 1, 1972. He left a valid will dated October 5th 1966, which is in the custody of Awadh. However, the estate has not been shared out as laid out in the will and has allegedly been ‘wasted’ by the executor, Awadh, who has denied Omar’s allegations that he had enriched himself with Swaleh Nguru’s property and claims he has made his own money. There are seven succession cases in court for the children, grandchildren and other relatives of the late Swaleh Nguru wrangling over property estimated to be worth Sh2.5 billion.

Outrage over land grabbing in Mombasa County has provided a powerful impetus for citizen action. For
253. The Commission finds that the Provincial administration has perversely and significantly perpetrated land-related injustices including forceful evictions of individuals and communities and land grabbing for personal gain, and should not at all participate in any efforts to redress land related problems in the new constitutional dispensation because of their lack of moral authority and support.

254. The Commission finds that the current constitutional dispensation, including the new constitutional body on land and related laws, provide a sound basis to fully address land-related injustices, including historical ones, but only if there is political will to so use these laws and institutions.

Recommendations

The Commission recommends that the Ministry of Lands or other appropriate government authority immediately begins a process of surveying, demarcating and registering all remaining government lands, including those that were formerly owned or managed by local authorities, all protected wildlife areas and river banks, among other public lands.

The Commission recommends that the National Land Commission commences work with the Ministry of Lands and settlement to undertake adjudication and registration exercises at the coast and all other areas where the same has not been conducted. Measures shall be designed to revoke illegally obtained titles to and re-open all public beaches, beach access routes and fish landing beaches, especially at the coast.

The Commission recommends that the National Land Commission in furtherance of its mandate expedites the process of addressing and/or recovering all irregularly/illegal acquired land. Measures should be designed by the Ministry of Lands and settlement to encourage individuals and entities to surrender illegally acquired land.

The Commission recommends that the Ministry of Land in conjunction with the National Land Commission design and implement measures to revoke illegally obtained titles and restore public easements.

The Commission recommends that the National Land Commission develops, maintains and regularly updates a computerized inventory of all public beaches, beach access routes and fish landing beaches, especially at the coast.

The Commission recommends that the National Land Commission formulates and implement strict guidelines in terms of maximum acreage an individual or company can buy hold in respect of private land.

KLA fosters alternative dispute resolution in Likoni land conflict

The Kenya Land Alliance, in the executive summary to their 2013 booklet, *Engagement with Local Communities’ Approach to an Alternative Dispute Resolution Perspective in Burnt Forest Area & Likoni* state as follows:

The Constitution of Kenya 2010 in Chapter 5 provides detailed mechanisms for dealing with the land question. Parliament, though belatedly, put into place various instruments among them The National Land Policy, 2009; The Land Act, 2012; The Land Registration Act, 2012; and National Land Commission Act, 2012 to address some of the root causes of land conflicts. However, other mechanisms need to be explored to deal or reduce the land conflicts. Article 159 (2) (c) of the Constitution requires that ‘in exercising judicial authority, the courts and tribunals shall be guided by the principle that alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms, or Alternative Dispute Resolution shall be promoted. ADR may not provide a full solution to the problem. It can however be used in tandem with other existing dispute resolution mechanisms and with certain reform measures in place, the nightmare of ugly land conflicts in Kenya may be avoided. Further, ADR which is expeditious, cost effective, participatory and all inclusive can be used to manage land conflicts and ensure that Kenyans achieve sustainable development.

Likoni is one of the areas where KLA brought stakeholders to explore alternate ways of resolving conflicts and disputes around land. Here is an account of the process documented in the KLA booklet:

1. **Likoni**

Participants in the workshop expressed the need to revive their traditional dispute resolution mechanisms. In cases where disputes occur, parties seek to address them from family level before seeking external intervention. If such efforts failed then the dispute is taken to the community elders who listen to both parties and make binding decisions. This approach ensures just reparation on the aggrieved party and endeavours to restore relationships. It was felt that this mechanism is more responsive to the local population since it takes into account local knowledge such as correct land boundaries. It was also pointed out that communities have formed groups that among other things address local disputes.

The fishermen receive support from government institutions through the Beach Management Unity (BMU). This is a body that incorporates local community members in addressing issues related to access and use of beaches. Although BMU mobilizes all relevant stakeholders, the impacts of this institution are minimal since some of the stakeholders are not committed. Fishermen sort out their disputes through their fishing groups- which have leaders. They are represented in BMU which has government participation.

2. Ibid.
Volcano of land-based conflicts finally erupt in Mombasa

Mombasa’s land based conflicts are intricately tied up with its history-dating back to decades of Portuguese occupation; Arab feudal rule; the pre-colonial dominance of the Arab-Swahili mwiniw/bwenyeye elites such as the Mazrui family among others; the British Protectorate and Kenya Colony period; the rapacious grabbing of prime plots by the Swaheh Ngurus, and later the neo-colonial bureaucratic petit bourgeoisie first under Jomo Kenyatta, followed by the Moi and Kibaki power brokers with the ensuing simmering conflicts bursting out in the 1990s and first couple of decades of the 21st Century.

The emergence of the Mombasa Republican Council and its infamous “Pwani Si Kenya” over the last few years is a manifestation of the historical chickens coming home to roost with all the attendant racial, ethnic, religious, regional and factional overtones.

Mombasa is unique in several respects.

Apart from being the smallest county in the country, it is also home to one of the busiest ports and harbours on the Eastern African coastline, giving rise to intrigues by local and overseas tycoons who want a slice of the lucrative import/export and freight clearing and forwarding business. The second largest urban area in Kenya it is a hotbed of the often frequentation national, regional and local jostling among Kenya’s political combatants. Lately, long ignored socio-economic grievances lack youth unemployment, perceived discrimination and marginalized areas of the Coast by up country-based central government brokers and a resurgence of Wahabbi inflicted militant political Islam has seen a dangerous escalation of terrorist attacks with the increasingly frustrated Muslim youth gravitating towards the Jihadist preachers like the slain Rogos and Makaburis.

Yet the substructure propping up all these ideological, religious, ethnic and regional agitation remains a stubborn refusal to confront the long simmering historical injustices that have been ignored for far too long.

In a seminal 56-page November 2011 study by Dr. Paul Goldsmith commissioned by USAID, PACT and ACT titled The Mombasa Republican Council Conflict Assessment: Threats and Opportunities for Engagement the author makes the following recommendations to CSOs, the Kenya Government and other stakeholders on how to grapple with the phenomenon of the Mombasa Republican Council:

• Consider appointing a “neutral” person or a small committee acceptable to the MRC as interim strategic advisor(s) during the engagement process: among other functions, they will provide the MRC a bridge to CSOs and government actors that is currently lacking.
• Sponsor selected MRC (and other CSO) leaders for training in strategic nonviolent action based on the Albert Einstein Institute curriculum, or develop a similar training course for them adapted to Kenyan and regional conditions.
• Sponsor selected MRC leaders to visit other Kenyan minority communities where local advocacy, awareness, and implementation strategies are more advanced. This should be extremely helpful as an educational exercise broadening the leaders’ horizons. The tour should include members of the MRC Youth and Women wings. The itinerary can feature meetings with CSOs and CBOs in Isiolo and Marsabit, West Pokot and Turkana, Wajir, Marsaailand, and a stopover in Nairobi to meet with organizations based in the capital.
• It appears the majority of PACT partners are clustered around a Mombasa-Kwale-Malindi axis. There is a need to assist other advocacy organizations in more remote areas of the coast such as Lamu and Tana River to boost interactivity and coordinate strategies. Legalization is critical for attracting the support of CSOs and other interested parties. This leads to a final recommendation.
• Encourage the Government of Kenya to review its hard stance towards the MRC. Quiet diplomacy is an area where PACT and other organizations may be able to use their contacts with governmental and international organizations to brief diplomats on the MRC issue and exert influence on the Government of Kenya. An incremental approach to engagement should begin with these or similar preliminary measures designed to prevent the movement veering towards some of the less desirable outcomes listed in the graphic above. It goes without saying that we should continue to closely monitor developments on the MRC-public interface; as a contingency it is advisable that PACT prepare an exit strategy should future shifts in methods necessitate disengagement.

Recommendations for Civil Society Organizations
• Advocate lifting the MRC ban so the MRC can operate freely and continue to pursue objectives through non-violent methods.
• Engage the MRC to support its peace and justice agent and to prevent it from being captured or hijacked by other actors.
• Guard against the MRC being used as scapegoat for other state and non-state opportunistic actions and violent strategems by linking MRC grievances to the larger Kenya civil society agenda and foster meetings with the national CSO leadership.

• Brief government security agents on these findings; educate national political leaders on the facts of the situation.

Recommendations for the Kenya Government
Most of the advice in this domain is explicit in the body of the report, but there are several specific measures that can be offered by way of concluding the assessment.
• President Kibaki commissioned a “Special Action Committee” to look into Muslim grievances, but Mwikirikiko reports it has remained dormant since its establishment several years ago. The government needs to activate the committee (Muslim CSOs can exert pressure on this front); this may also provide an entry point for legalizing the MRC.
• The government should list measures for privatizing Kilindini harbor and constructing the Magogoni port to planning and to broadening the process of stakeholder participation and the collection of other inputs for the time being.
• The brutal and quasi-legal eviction of squatters is fueling antagonism on the ground. Community leaders and CSOs are trying to defuse this by insisting the government follow the procedures mandated in the new constitution; it is imperative that the police and other state agencies comply. Failure to do so risks sparking a major confrontation that could easily ignite a cascade of violent reprisals across the coast.

With the coming to office of the Jubilee Administration in March 2013 and its aggressive embrace of a strident Law and Order agenda driving its Bush like “War Against Terror” policy marshaled by the likes of Internal Security Minister Joseph Ole Lenku, Inspector General of Police David Kimayo and Mombasa County Commissioner Nelson Marwa, it remains unclear if the well meaning sober reflections and recommendations of Dr. Goldsmith will ever see the light of day.

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