University of Nairobi

Institute of Diplomacy and International Studies (IDIS)

Title:

Colonial Legacy and Land Conflict in Kenya: A Case Study of the Rift Valley Province

Ngugi Josphat Maina

REG. No. R50/71570/2008

Research Project Presented in Partial Fulfilment of the Degree of Master of Arts in International Conflict Management, Institute of Diplomacy and International Studies, University of Nairobi.

November 2011

Declaration

This dissertation is my original work and has not been presented for a degree in other university.

Sign..Date..14th Nov. 2011

Ngugi Josphat Maina

This dissertation has been submitted for examination with my approval as a university supervisor.

Sign..Date......14|\.|.|\.....

Prof. Makumi Mwagiru

Dedication

Special dedication to go to my wife Florence Wanjiku Maina, my children, Ruth Muthoni, Faith Njeri and James Ngugi.

I also dedicate this study to all those who abhor conflict and conflict situations. This is the Kenyan community that has been given the responsibility of making a peaceful and developed Kenya.

Acknowledgements

TABLE OF CONTENTS

Abbreviations

IBEA co-	Imperial British East Africa Company
DC-	District Commissioner
KANU-	Kenya African National Union
NGO-	Non- Governmental Organizations
GDP-	Gross Domestic Product
DRC-	Democratic Republic of Congo
USA-	United States of America
USSR-	Union of Soviet Socialist Republic
PCIJ-	Permanent Court of International Justice
ICJ-	International Court of Justice
KAMATUSA-	Kalenjin, Maasai, Turkana and Samburu
GEMA-	Gikuyu, Embu and Meru Association
UDM-	United Democratic Movement
ODM-	Orange Democratic Movement
PEV-	Post Election Violence
IDP-	Internally Displaced Persons
NCIC-	National Cohesion and Integration Commission

Abstract

This dissertation has tried to unearth the many land conflicts and land disputes that have engulfed our country, Kenya. However, despite the many attempts to resolve them, it has not been possible and is likely to take long before a full solution is sought. The study observed that these land conflicts are numerous ranging from those that emanate from colonial injustices to the African lot, to the most contemporary ones like evictions due to development projects like roads construction, mining and many others. The actors in these land conflicts revealed by the study range from the poor landless and squatters to the wealthy and politically correct lot. While noting that these conflicts have had many shortcomings, this paper seeks to analyze these problems and looking for possible solutions. While understanding the study, descriptive research design was used. Data was collected from primary and secondary sources. Primary data was from the local residents in the so called 'Hot spots' like Kuresoi district. The research used non-probability and in extreme cases sampling techniques. This data was then analyzed to come up with the intended fact finding with regards to the conceptual framework. The study is informed by legal positivism and shows that there have not been good policies to protect the general public against the politically correct as regards to maters of land. Therefore, much of the land has gone to the rich while a big percentage of the Kenyan population remains landless. The paper therefore concludes that passing of proper land policies which are all inclusive will go a long way to reducing, if not doing away with land conflicts and land disputes in Kenya.

Chapter One: Introduction to the Study

1.0 Introduction

Colonialism is generally defined as the occupation and continued control of one nation by another. Colonialism is a form of domination by an individual or group over the territory and or behavior of other individuals or group.[1] Over the last few hundred years, various European nations colonized many areas of the world. European nations colonized Africa from the 19th century until the middle of the 20th century. Although Europeans had had contact with many parts of Africa much longer than this, for example through the Atlantic slave trade, they did not impose a formal rule over Africa until this period.[2]

Kenya was a colony of Britain since the 19th century when the British were rushing to grab the head waters of the Nile in Uganda. They built the railway across modern Kenya, then called the British E A Protectorate to the garrison near L. Victoria. The colony was only developed after the indigenous people were savagely crushed. After they subdued the Africans, the British imposed "indirect rule" a system that used the local chiefs. Many of these chiefs became very rich by appropriating land. The European settlers took the best farmland for their own use in the "white highlands" where no African was allowed to own any land.[3] During the colonial rule, the British land policy favored the white settler agriculture entailing the dispossession of many indigenous communities land, mainly the Kikuyu, Kalenjin and the Maasai across the Rift valley and Central province.

---

[1] R. J. Harvath, 'A definition of colonialism' Anthropological *Research Journal,* Chicago, Chicago University Press, *(1972),* pp. 45-57.
[2] Ibid.
[3] O. W. Oyugi, *Conflict in Kenya: A Periodic Phenomenon* Nairobi, 2002, p.1

This process was legalized with the implementation of an individual freehold title registration system at the expense of customary mechanisms of land tenure. In 1954, the then Deputy Director of agriculture RJM Swynnerton prepared a land plan called the "swynnerton plan" to intensify the African agriculture in Kenya. The plan aimed at privatization of land ownership through the displacement of indigenous land tenure systems in the native reserves and their replacement with a system that entrenched private property rights along the lines of English law. The plan sparked off political crisis as the colonial plan was to alienate all the prime lands for settler agriculture. This was made worse by the spread of Mau Mau peasant resistance. The post-independent governments simply retained these land laws with the same land reforms, objectives and policies.

The land grievances during the colonial dispossessions were aggravated by Jomo Kenyatta's independent government. To compensate the displaced Kenyatta began the settlement schemes based on market systems which were biased towards those with financial means. Meanwhile, corruption and ethnic politics supported patronage networks and favored certain communities particularly the Kikuyu who settled in the fertile areas of the Rift Valley and the coast.[4]

The land problem was exacerbated by President Moi in the 1990s. Being a Kalenjin, and threatened by multiparty politics, Moi sought to portray the opposition as Kikuyu-led. Many Kikuyu were evicted from the areas they settled in the Rift Valley through the clashes that left thousands dead and over 35000 displaced.[5]

---

[4] J. Kamau, 'PC Mahihu's Signature was all One Needed to own Prime Plot on the Beach' *Daily Nation*, Friday, Nov.19th 2009

[5] E. Karrim, Kenya under Kenyatta; Economic and Political Weekly, Vol.13, No.41;(1978) Economic and Political Weekly.pp1729-1730

1.2 Statement of the Research Problem

The colonial land legacy in Kenya has to a large extent played part in the way land distribution has been done in post colonial Kenya. Before colonialism land tenure was communal (communal property ownership). Land rights were secure except that such rights were inherently communal rather than individual.[6] However, loss of ancestral land was unknown. A key consideration in land ownership and use in pre-colonial Kenya was therefore a sense of embeddedness of individuals in their families, clans and communities which revolved around ancestral land holdings. But colonization upset this traditional approach to land. Demarcation, consolidation, displacements and resettlements occasioned land pressure that led to supper-valuation of land by disparate Africans who subsequently began to idolize land.[7]

In the colonial period, the colonial economy placed heavy demands on African land. This led to dislocation of existing access to land arrangements. Settlers acquired considerable suitable land for European settlements. Therefore, the settler demands for best agricultural land dislodged many Africans from their ancestral land, making them squatters and landless especially in central and Rift Valley provinces. Many of them Africans left landless have always felt shortchanged and still are bitter about their lost land. There is therefore some correlation between the historical injustices committed on the Africans by the colonialists and which has continued to today. Many of these injustices have played part in some of the land conflicts in the Rift Valley. The purpose of title registration in the Swynnerton plan of 1954 was to encourage agricultural investment by reducing litigation and removing

---

[6] K. Kanyinga, 'Redistribution from Above: The Politics of Land Rights and Squatting in Coastal Kenya' *Research Report* No.115, Uppsala, Nordska Afrikainstitutet, (2000), pp. 33-34.
[7] Ibid

3

uncertainties regarding claims to land. However, there is growing conflicts over access to land titles dividing the families and straining the resources. Determining who among the family members should have the title to land is growing source of conflicts.[8]

Any negative treatment of Africans by the Whites has continued haunt Africans to date some leading to skirmishes. Much have been written on the matter and the study seeks to identify whether the colonial land legacy is the cause of these recurrent inter communal clashes in the Rift Valley since independence to the most recent clashes of 2007/2008.

1.3 Objectives of the Study

1. To analyze the impact of colonial land legacy to the current land situation in Kenya.

2. To establish the relationship between the colonial land legacy and Kenya's land conflicts and land disputes in the Rift Valley.

3. To establish whether land conflicts in the Rift Valley are caused by ethnicity.

1.4 Literature Review

Johan Galtung the true picture of this world, the tremendous inequality within and between nations in almost all aspects of human living conditions and the resistance of this inequality to change.[9] This is true by the fact that following the Berlin Conference of 1884 Kenya was placed under the Imperial British East Africa (IBEA) not at will but by force.[10] According to Galtung the world consists of centre and periphery nations with each having its own centre and periphery. The centre is the powerful nations with the weak nations taking

[8] A. Haugerud, 'Access, Control and Use of Resources in African Agriculture' *Journal of International African Institute Vol. 59, No. 1,* Edinburgh University Press, (1989), pp. 61-90.
[9] J. Galtung, 'The Structural Theory of Imperialism' *Journal of Peace and Research* Vol. No. 8, (1971), pp. 81-117.
[10] P. M. Mbithi and C. Barnes, *The Spontaneous Settlement Problem in the Context of Rural Development in Kenya.* Toronto, University of Toronto, (1978), pp. 8-9.

the periphery. The British Attorney General advised the government that since then (1885) onwards Kenya was part of the British Empire and therefore could deal with land in the territory anyway he wished. The legal interpretation of the treaty of Berlin assumed that there were no indigenous people in the territory and if any their rights to and access to land were irrelevant.[11]

Kenya was dominated by the British in a special way. Galtung depicts imperialism in Kenya as a kind of special dominance relation between nations in which the centre nation establishes itself in the centre of the periphery nation for the joint benefit of both nations. The E African protectorate expropriated land from the Indians and Europeans who had already speculated for the construction of the railway. The railway was to develop the protectorate by improving transport for both people and agricultural products for the benefit of both the indigenous and the settlers.[12]

1.4.1 Reasons for the British colonization of East Africa

Galtung talks about exploitation where one party takes the advantage of the weakness of the other party for its benefit. Colonization is the establishment and extension of the political sovereignty of one nation over alien peoples and territories with particular reasons. Benjamin Cohen notes that Kenya was colonized for imperialistic considerations. All the imperial powers including Britain shared the capitalist form of economic organization where all had begun to participate in the spreading of the industrial revolution. The fundamental

---

[11] Ibid, pp. 8-9.
[12] K. Kanyinga, 'Redistribution from Above : The Politics of Land Rights and Squatting in Coastal Kenya' *Research Report* No.115, Uppsala, Nordska Afrikainstitutet, (2000), pp. 33-34.

problem was the presumed material need for cheap raw materials to feed their growing industrial complexes.[13]

Fred Mosley notes that the dominant purpose of capitalist production is profit and therefore the explanation of profit should be the main goal of the theory of capitalism.[14] Galtung uses the term 'exploitation' as he explains the British reason for dominating Kenya. Cohen reiterates that Britain simply engaged in looting and taking away raw materials without offering anything in return. With the capitalist notion Britain forced the natives to work for free or at very low rates. According to Galtung theory of profit as noted by Mosley "profit is produced by the surplus labor of workers. The Marx theory concludes that the profit of capitalism is the result of the exploitation of workers because the value produced by the workers is greater than the wages they are paid.[15] However this cannot be slavery according to Galtung as African workers labored for the settlers for seven days a week and thirty days in a month.

Colonies were also needed for additional markets to consume the rising levels of production and for investment outlets to absorb their rapidly accumulating capital. Cohen equates colonization in Marxist type of theory which argued that the imperialist expansion was an inevitable product of capitalism. However the Marxist liberals argued that the new imperialism was not a product of capitalism but rather a response to certain maladjustment of which with time could be corrected.[16] To Cohen, the rush for colonies was supposed to be the

---

[13]B. J. Cohen, *The Question of Imperialism: The Political Economy of Dominance and Dependence* Basic Book Publishers, (1973), p. 34.
[14] F. Mosley, *Marx's Economic Theory of Contemporary Capitalism* USA, Mount Holyoke College, (1995), pp. 3-12.
[15]Ibid
[16]B. J. Cohen, *the Question of Imperialism: The Political Economy of Dominance and Dependence* Basic Book Publishers, (1973), p. 34.

6

response of these capitalist societies to one or another of these material needs. The new imperialism basically was supposed to be an economic phenomenon.

Galtung sees the colonization of E Africa as a kind of cultural imperialism. The missionaries were the predecessors of imperialism having come to spread Christianity, although it was not easy to spread due to African culture and Islam the indigenous got much in return from a humble culture seeking strategy.[17] Ever since the beginning of the mercantile era Europe's political system had been one of the shifting balances of power. Nations kept changing alliances and alignment. The independence of each government was assured by preventing any single state from so increasing its relative power as to threaten all the others.

The British always played the role of 'balancer' with relations in Europe growing increasingly deadlocked; colonies grew more attractive as assets in the struggle for power.[18] Until recently the economic interpretation of the new imperialism tended to dominate the field. Economic theories have certainly been the most influential of all historical explanations and this is where *'this study will enter the debate'*.[19] Economic imperialism in Kenya includes capitalism and commodity production which is the legacy of the brief period Kenya was colonized within a period of less than 60 years. With the laying of the railway white farming now spread changing from monoculture to the age of prosperous mixed farming.

1.4.2 European Encroachment and the Land Question in Kenya

The colonial land policy served political rather than economic ends before 1954. Europeans had been encouraged by the British government to take up lands in Kenya in the

---

[17] J. Galtung, Structural Theory of Imperialism *'Journal of Peace Research'* op. cit.
[18] B. J. Cohen, *The Question of Imperialism: The Political Economy of Dominance and Dependence* Basic Book Publishers, (1973), p. 34.
[19] Ibid, p. 35.

early years of the century.[20] This can be equated with Johan Galtung sentiments that the desire of the Jews to settle in Palestine was irresistible. The land question in Kenya originated in the colonial situation which had three main aspects: the alienation and acquisition of land by the protectorate as a prelude to the establishment of a colonial state. This was followed by the imposition of the British property law and its acclamation of the title and the private property rights.[21]

Africans were pushed out of their native fertile lands into the reserves to pave way for white settlement. The colonial government also put boundaries between tribes and colonial jurisdictions hoping to strengthen their own control.[22] The alienation of land by the Europeans led to the displacement of the entire communities. This led to serious overpopulation and overexploitation of land in the reserves. By the end of the First World War squatting was an established part of the social economic structure of the European farms in Kenya.[23]

1.4.3 Africanizing European Farms

The problem of squatters in European farms was now causing worries to the Europeans. Land problem being a conflict itself was far from being solved but only be managed. Hugh Miall supports conflict management theorists who see violent conflicts as an ineradicable consequence of differences of values and interests within and between communities. Therefore according to them the best that can be done is to manage and

---

[20] J.W. Harbenson, Land Reforms and Politics in Kenya, 1954-1970 *'The Journal of Modern African Studies* Vol. 9, Cambridge University Press (1971), pp. 231-254.
[21] K. Kanyinga, Redistribution from Above: The Politics of Land Rights and Squatting in Coastal Kenya *Research Report* No.115, Uppsala, Nordiska Afrikainstitutet, (2000), pp. 33-34.
[22] S. Berry, 'Debating Land Question in Africa' *Comparative Studies in Society and History* Vol.44, Cambridge University press, (2000),pp. 638-668.
[23] C. Leys, *Underdevelopment In Kenya: The Political Economy of the Neo-Colonialism' 1964-1971*, University of California Press (1975), pp. 52-53.

Contain them and occasionally rich a historic compromise in which violence may be kept aside and normal politics resume.[24]

The million acre plan was not to chase way the settlers instead make them and other races including Africans to coexist. According to Miall conflict transformation theorists argue that contemporary conflicts require more than reframing of positions and identifications of win-win positions. The bulk of conflict theory regards the issues, actors and interests. Here the actors were the white settlers and the Africans. The interest was the land as the issues were how Africans were to get back their land of which the settlers were not willing.[25]

Galtung traces how asymmetric relationships can be transformed through a shift from unbalanced to balanced relationships achieved through the process of conscientisation, confrontation, negotiation and development. In the theory of imperialism Galtung say 'inter-action is symmetric or equal terms if and only if the total intra and inter actor effects that accrue to the parties are equal and therefore in trade he says asymmetry cannot be rectified by stabilizing or increasing the prices for raw materials.[26] Meaning no amount of balancing would have satisfied either side other than compromising their sides. With this knowledge in mind the government carried out various land reforms in trying to terminate the racial land policies which had put distinction between European and African lands. A million acre scheme was started to transfer one million acres from Europeans to Africans. Other reforms introduced included the land and development Board. This was to organize distribution and settlement schemes to give the white highlands 'a dose of African ownership'. Availability of

---

[24]H. Miall, *Conflict Transformation: A Multidimensional Task.* Bergh of Research Centre for Constructive Conflict Management (2004), pp.1-20.
[25] Ibid, pp. 1-20.
[26] J. Galtung, 'The Middle East and the Theory of Conflict' *Journal Of Peace and Research* Vol.8, No. ¾ (1971), pp. 173-206: p. 175.

easy loans for the land purchase at the time of independence and after enabled the few rich Africans to hold large tracts of land in line with the principle of private property introduced by the colonial masters which is perceived as the source of the current land conflicts in Kenya.[27]

1.4.4 Effects of Colonial Legacy in Independent Kenya

The independent governments carried forward the colonial land laws. The 1902 and 1905 land ordinances were renamed 'acts' crown land was renamed 'government land'. The powers to alienate and allocate land were transferred to the president.[28] Between the 1960 and 1970, Kenyatta allocated a lot of land to the Kikuyu in the Rift Valley through the land buying companies. This is in line with the Marxist social conflict theory which argues that "individuals and groups (social classes) within the society have differing amount of material resources and therefore there are poor and rich people. The more powerful group use their financial and political power to exploit the financially and the politically weak.

1.4.4 Specific Cases of Land and Boundary Disputes in the Rift Valley

The problem of land in Kenya can be traced to the pre colonial times when the less advantaged communities were displaced by more powerful ones through conquest. This is where land ownership rights and disputes begun. Other communities lost their land to the colonizers and late settlers particularly in the Rift Valley where most communities are pastoralists. After independence the settler farms left by the colonialists were allocated to

---

[27] G. Wanjohi, *Social Inequalities in Kenya: A Case Study of the Rift Valley,* University of Nairobi PhD Thesis on Land, (1976), pp. 404-408.
[28] P. M. Kamungi, *The Current Situation of the Displaced Persons In Kenya.* Nairobi, Jesuit Refugee Service, (2001), p. 11.

other communities other than the indigenous communities which were displaced[29]. Of late calls by those communities to regain their lost land has been a serious source of tension among the multiethnic groups. Narok is part of the Rift Valley and was once a Maasai Reserve under the colonial rule.

In the 1901 and 1911 Maasai agreement the Maasai lost their land to the Europeans. The Kikuyu who were Maasai neighbours too had lost their lands which forced them to seek refuge in Maasai land, something that the colonial government worked against. At one time a DC attempted to convince the Maasai that the infiltration of the Kikuyu 'aliens' was spoiling their land.[30] In 1991 the then area MP Ntimama became a strong advocate of majimbo targeting the Kikuyu whom he accused of acquiring Maasai land by dubious means. In October 1993 Maasai Morans attacked the Kikuyu in Enoosupukia who voted against KANU.[31]

Miteitei farm of the Rift Valley is one of the former settler farms that were sold off to the landless Kenyans after independence. In 1991 a dispute over who legitimately belonged here.[32] Several people were killed and property destroyed. This targeted the so called "Outsiders" and marked the beginning of a series of massacres called "ethnic clashes" because of land. January-February, 1998, Maasai Morans and Kalenjin warriors simultaneously attacked the Kikuyu farms in Njoro, Nakuru and Laikipia in another spate of post-election punitive violence.

---

[29] P. M. Kamungi, *The Current Situation of the Displaced Persons In Kenya.* Nairobi, Jesuit Refugee Service, (2001), p. 11.
[30] J.M. Klopp, Ethnic Clashes and Winning Elections: The Case of Kenya's Despotism, *Canadian Journal of African Studies* Vol.35. No. 3, (2001), pp. 473-517.
[31] P.M. Karanja, Facing Mount Kenya or Facing Mecca?: *The Mungiki Ethnic Violence and the Politics of Moi Succession in Kenya (1987- 2002)*, Nairobi, Royal African Affairs Society, (2003), pp. 25-49.
[32] J.M. Klopp, Ethnic Clashes and Winning Elections: The Case of Kenya's Despotism, *Canadian Journal of African Studies* Vol.35. No. 3, (2001), pp. 473-517.

1.5 Justification

The problem of land in Kenya can be traced before the colonial times. Less advantaged communities were displaced by the powerful ones through conquest. During the colonial times other communities lost their land to the colonizers who alienated land for their settlement and farming.[33] Africans were moved to pave way for White settlement or relieve overcrowding in the reserves.[34] Marx's so called "Primitive Capitalism" Africans were moved from their areas as a British method of accumulating capital in pre-industrial phase. It was a period of struggle for large scale capitalist farming. The effect of this was African land alienation which was first felt in Central Kenya. This began to trigger large migrations of people to the Rift Valley. This was seen by Kikuyu leaders as a system of private property in land to be able to establish them in the Rift Valley[35] this worsened the loss of land by the indigenous people. Apart from contributing to the knowledge of the study subject, the study will try "to assess and appreciate the wider social, political and economic consequences of the colonial land tenure system to the current land conflicts in Kenya".

1.6 Theoretical Framework

Conflict is 'Tension between two or more social entities, individuals, groups or larger Organizations which arise from incompatibility of goals.[36] Marxist-based social conflict theory argues that individuals and groups (social classes) within the society have differing amount of materials and non-material resources. Hence the two groups in the society-the

---

[33] P. Mbula, *The Current Situation of Internally Displaced Persons in Kenya,* Nairobi, Jesuit Refugee Service, (2001), p. 11.

[34] S. Berry, Debating the Land Question in Africa, *Comparative Studies in Society and History* Vol.44. No.4 (2000), pp. 638-668.

[35] C. Leys, *Underdevelopment in Kenya: The Political Economy of the Neo-Colonialism' 1964-1971*, University of California Press (1975), pp. 7-26

[36] P. Gaski, The Theory of Power and Conflict Channels of Distribution, *The Journal of Marketing* Vol. 8. No. 3 (1994), pp. 9-29.

12

poor and the wealthy. The more powerful group uses the power it has to exploit the less powerful. This is also what Marx called "structural conflict"[37]

Africans were moved to pave way for white settlement or relief overcrowding in the reserves and those who opposed were exiled to far remote islands. Following the independence the government redistributed the lands left by the colonialists among the local population. While some programmes were fair in distribution others extended the colonialists system which favored the elites. The same elites bought out the poor pushing them further to the marginally agricultural areas where they increased pressure on land.[38]

Cohen quotes Paige analysis of social conflict in reference to agrarian revolution which links structures of domination in agricultural export sectors with forms of conflict. Conflict here arises from land where both the cultivators and elites derive their incomes. Due to competitiveness, more land must be acquired by either group for increased incomes. Thus the unequal economy tends to provoke bitter conflict over land which takes the form of agrarian revolt. Where the incomes for both sides come from ownership of land the power of rural elites rests on political control that enables them to maintain a hold over land, Capital and labor. Conflict will then ultimately centre on the control of the political system.[39] This gives the reason why Kenyans violently fight for presidency because this will guarantee access to and ownership of resources that include land.

This demonstrates the fact that Kenya's land disputes can be seen in the context of the theory of materialist interpretation of history. Having political power in Kenya is essentially an expression of economic strength. Successive governments in Kenya have rewarded their

---

[37] W. Kalande, Kenyan Land Disputes in the Context of Social Conflict Theories: *Open Symposium...Nairobi*, pp. 1-13.
[38] A. K. Durraiappah, et. al. *Land Tenure, Land Use and Conflict Resolution'* working paper, No.37 (2000), pp. 1-12.
[39] A. Oberschall, Theories of Social Conflict, *Annual Review of Sociology,* Vol. 4, (1978), pp. 291-296.

cronies or punishing their distracters. Land has been a means of rewarding loyalists and punishing the opponents. This has been evidenced with Kenyatta and Moi governments hence land has been a source of many conflicts in Kenya popularly known as "tribal clashes" particularly in the Rift Valley.[40] Generally Kenya's land conflicts can be seen in the context of Marxist Social Conflict theory where the elites with power sideline the less powerful through structural violence.

1.7 Hypothesis

1. Colonial land legacy contributes to land conflicts in the Rift Valley.

2. Squatter system in the Rift Valley is as a result of colonialism.

3. Land conflicts in the Rift Valley are caused by ethnicity.

1.8 Methodology

The main purpose of this study is to assess and appreciate the wider social, political and economic consequences of the colonial land tenure system to the current land conflict in Kenya. This is a mechanism of addressing the need to resolve the ever recurring post election violence. It would further draw general lessons that can be learned from them by the people of Kenya who are peace loving. The study is based on a descriptive research design in analyzing land conflicts in Kenya especially in the Rift Valley. There will be two sources of data; Primary and Secondary data.

The research will use both interview and written questionnaire. With interview, the researcher will involve oral or vocal questioning technique or even discussion. This is face to

---

[40] W. Kalande, Kenyan Land Disputes in the Context of Social Conflict Theories: *Open Symposium*...Nairobi, op. cit.

face interaction between the researcher and the respondent.[41] In the process the researcher will take notes of the respondents' responses during the interview. This will be done as the respondent talks for the purposes of this research, the researcher will opt to use cluster sampling. This method will be used because it will not be possible to obtain a sampling frame as the population is scattered over a large area that is the whole of Nakuru district. The researcher will randomly select a group and every member in that group will participate as a respondent[42]. The sample size will be as big as possible, 100 people because statistics calculated from a large sample size are more accurate other things being equal, than those from small samples.

The research will also use descriptive survey by way of administering questionnaires to sample of individuals. The questionnaire will be a carefully designed written instrument for collecting data direct from the people. Each item in the questionnaire will be developed to address a specific objective, research question or hypothesis of the study. The items in the questionnaire will include both close and open ended questions. The researcher will not send the questionnaires rather will dish them out personally or his assistants to the respondents[43]. The respondents will be drawn from NGOs, Village elders, church leaders and local administration. This design fits this study because it answers the question 'WHY?' which will require explanations either verbally or in writing.

Secondary data will also be collected mainly from media houses. Also books of history will also be sourced. Other sources will include internet, journal especially from Jstor, seminal papers, reports like the Akiwumi, Ndungu, Kiliku, Kliggler and many others.

---

[41] D. Kasomo, *Research Methods in Humanities and Education*, Eldoret, Kenya, p. 43.
[42] Ibid. p. 33.
[43] O. Mugenda and A, Mugenda, Research Methods: *Quantitative and Qualitative Approaches,* Nairobi, African Centre for Technology Studies (2003), p. 71.

1.8.1 Data Analysis and Interpretation

This is the area that will produce the results of the study. Due to the nature of the data collection which will be interviews and written questionnaires, the researcher will opt to use qualitative or descriptive data analysis which means that the data is not necessarily expressed in numerical terms. Description will be mostly emphasized. The data will be first organized by reading it thoroughly and even to familiarize with it. Field notes will be edited. The data will be categorized and each category be given a code. The code will serve the purpose of identifying specific information in the text to enable location and retrieving the information intended.[44]

The data will evaluating and do the analysis of the data to determine the adequacy of the information. The evaluation of the information reveals its importance in answering the research questions. Finally a report will be written based on the results. This is the part that will give a vivid descriptive account of the situation under study "Colonial legacy and land conflicts in Kenya especially in the Rift Valley[45]. The researchers will then make recommendations for use by Kenyans of good will. Other countries can also be allowed access to assist in solving their current political crisis.

1.10 Chapter Outline

This section provides the layout of the research study. It lays the sequence in which the chapters of the whole research project will be conducted as follows:

---

[44] Ibid, p. 205.
[45] O. Mugenda and A, Mugenda, Research Methods: *Quantitative and Qualitative Approaches*, Nairobi, African Centre for Technology Studies (2003), pp. 203-206

Chapter One: Colonial Legacy and Land Conflicts in Kenya; Introduction

This chapter introduces the topic of the research study by first setting the broad context of the research study, introduction to the research study, the problem statement, objectives of the study, literature review, justification, theoretical framework, Hypothesis and Methodology of the study.

Chapter Two: Land and Conflicts in Kenya

The chapter looks at the land and conflicts in Kenya in relation to land tenure systems in Kenya.

Chapter Three: Causes of Land Conflicts and Land Disputes

The chapter will examine the meaning of land and its dimensions. It will also examine land as a real property and an immovable item. Much more the chapter will also examine the meaning of dispute and conflict and how land has been a cause of disputes and conflicts. It will also examine physical and structural conflicts and their relationship with land disputes and conflicts in the world.

Chapter Four: Land Conflicts; A Case Study of the Rift Valley

The chapter will look at the history of land tenure system in the Rift Valley and the sources of land conflicts.

Chapter Five: Conclusion

The chapter will analyze the data, give recommendation and provide suggestions on the sources of land conflicts.

Chapter Two: Land and Conflicts in Kenya

2.0 Introduction

Britain and Germany put claims on East Africa from the early decades of the 19th century. Rivalry between the two European nations led to the Berlin Conference of 1884 which discussed conflicting claims and established a criterion for exerting future claims. The conference recognized Uganda and most of the present Kenya is put under the British sphere of influence. The Imperial British East Africa Company [1] (IBEA Co) was granted the charter from the British Crown to exploit the interior of the British sphere of influence.

The company mandate was mainly based on its ability to enable trade to flourish which was only possible with better transport. In 1891, the company was already seeking a financial assistance from the British government for the construction of the railway. The government was ready to do that in order to have the control of Uganda as the source of River Nile. Although the interior of the protectorate became annexed as Kenya colony in 1920, the coastal strip remained protectorate under the nominal sovereignty of the Sultan of Zanzibar.[2]

2.1 European Settlement

The railway was completed up to the Lake Victoria in 1901. In order to make the railway pay, the government embarked on the policy of European settlement. European settlers were encouraged by way of pursuant of lenient land policies which provided

---

[1] P. Mbithi and C. Barnes, *Spontaneous Settlement Problem in Kenya,* Nairobi, E. A Literature Bureau (1975), pp. 37-38.
[2] Ibid, pp. 37-38.

19

designated areas for European settlement.[3] The Kenya highlands were 'alienated' by buying at nominal prices from the colonial administration. To justify the alienation of land, the Europeans claimed that the land was empty and that Africans had more land than they really needed. Europeans created large scale mixed farms especially by the carefully fostered myth of the importance of European mixed farms. The farms were situated in areas suitable for both arable and cattle farming. They sought African labor at very low wages that called for the use of force partly by way of taxation and preventing them from having enough land or any profitable crops.[4]

The colonial government ignored African basic indigenous land claims and rights. Any land not occupied by Africans either by way of cultivation, occupation and or grazing was considered waste land thus crown land but to the Africans all land in Kenya had been occupied. The alienation of land by the Europeans led to the displacement of entire African communities' for instance large areas of Maasai land was taken way from them especially in the Uasin Gishu, the Kikuyu were forced into the reserves where overcrowding and erosion of land caused many of them to become labor tenants on European farms.[5]

The best arable land which was over three million hectares was reserved for European agriculture in the so called 'white highlands'. Here Africans were not allowed to own land instead Africans were pushed to the remote areas with poor soils. Such were the areas preserved for the Africans popularly referred to as 'reserves'. The reserves[6] were not a single area but a collection of land units each reserved for the use of a particular ethnic

---

[3] Ibid, p. 39.
[4] C. Leys, *Underdevelopment in Kenya: The Political Economy of the Neo-Colonialism' 1964-1971*, University of California Press (1975), p. 57.
[5] P. Mbithi and C. Barnes, *Spontaneous Settlement Problem in Kenya*, Nairobi, E. A Literature Bureau (1975), pp. 40-42.
[6] C. Leys, *Underdevelopment in Kenya: The Political Economy of the Neo-Colonialism' 1964-1971*, University of California Press (1975), p. 42.

group. The result was ever growing population which put pressure in the little available. Agricultural land became more and more inadequate to the task of supporting an expanding population.[7] Africans were therefore forced to turn to squatter system which assured European farmers of a supply of cheap labour.

In 1918, the basis for a uniform squatter system was laid in the Resident Native (squatter's ordinance) which provided for a government – supervised labor contract. Under this contract the squatter agreed to work a specified number of days per year and in return be allowed him and his family to live on the farm and cultivate a plot of their own. Africans were not allowed to live here in any other capacity other than that of squatter and were liable for eviction at the expiry of that labor contract[8]

2.2 Land Tenure Reforms in Kenya

This began during the colonial period. The colonial government introduced a system of individual land ownership on the assumption that such would spur agricultural growth in the native reserves hence do away with native rebellion like the Mau Mau. The report by the Director of agriculture J. M. Swynnerton called 'the Swynnerton plan of 1954" inspired the reforms-do away with indigenous land tenure system and entrench private property rights provided by the English law. The small fragmented portions were consolidated to form one single unit.[9]

The plan stated "Sound agricultural development is dependent upon a system of land tenure which will make available to the African Farmer a unit of land, a system of

---

[7] C. Leo, *Land and Class in Kenya: The Political Economy of World Poverty*, Toronto, University of Toronto Press (1975), p. 42.
[8] Ibid, pp. 42 -43.
[9] K. Kanyinga, *Land Question in Sub-Saharan Africa: IRD Currents, Current Issues in International Rural Development*, Sweden, Swedish University (1997), pp. 17-21.

farming whose production will support his family at a level, taking into account prerequisites derived from the farm, comparable with other Occupations. He must be provided with other security of tenure through an indefeasible title as will encourage him to invest his labor and profits into the development of his farm and as well as enable him to offer it as security against such financial credits as he may wish to secure from such sources as may be open to him" [10]

2.3 The Post Colonial Governments

The first post-colonial government by the Kenyatta administration did not resolve the ethnic dimension to the land question by addressing ethnic leaders as individuals and not redressing communal or ethnic based interests. Moi after taking over from Kenyatta continued with the infamous land reforms by trying to address the issue of unequal distribution and ownership of land. The reform process has intensified with corrupt mode of land acquisition. This has led to elites accumulating more land at the expense of others thus worsening the land question in Kenya. [11]

2.4 Land Grabbing In Contemporary Kenya

In the 1990's Kenyans were able to utilize the new political spaces to articulate grievances and organize around them shocking instances of land grabbing popular as 'land grabbing mannia'. It was done in such a secretive manner that it was not possible to document the number of grabs over time within the Ministry of Lands. The report by the

---

[10] P. Mbithi and C. Barnes, *Spontaneous Settlement Problem in Kenya,* Nairobi, E. A Literature Bureau (1975), p. 61.

[11] K. Kanyinga, *Land Question in Sub-Saharan Africa: IRD Currents, Current Issues in International Rural Development,* Sweden, Swedish University (1997), pp. 17-21.

Auditor-General of 1995/1996 was not able to attach clear figure to the funds diverted through irregular privatization of public lands.[12]

The report questioned over 576 government plots in Nairobi and other major towns to private individuals and firms. An Operation Firimbi, an Anti-Land Grabbing project of the Kenya National Cuncil of NGOs launched a national awareness campaigns through periodic advertisements in the English Press. Within three months of campaigns it had documented over 250 complains.[13]

2.5 Importance of Land

Land is economically important first as a factor of production in agriculture for subsistence or for commercial production. In rural areas of most developing countries land is not only the primary means for generating a livelihood but also the main vehicle for investing, accumulating wealth and transferring it between generations.[14] Land provides the basic subsistence needs of the family. For pastoralist land is the channel for survival. Even where cash crops are grown farmers still grow food crops to meet the family subsistence needs.[15]

Land is assumed as a basis social resource so that without it one is regarded as poor. Traditionally there is no landless person; however much one is respected without land he is regarded as poor.[16] Access to rural land is often a symbol as well as a consequence of

---

[12] J. M. Klopp, Pilfering the Public: The Problem of Land Grabbing in Contemporary Kenya, *Africa Today* Vol. 47, Indiana University Press (2000), pp. 7-26.
[13] Ibid, p. 11.
[14] B. F. Johnson and J. W. Meller, The Role of Agriculture in Economic Development, *American Review* Vol. 51 American Economic Association (1954), pp. 566-574.
[15] P. Mbithi and C. Barnes, *Spontaneous Settlement Problem in Kenya*, Nairobi, E. A Literature Bureau (1975), p. 78.
[16] Ibid

membership in a descent group or rural polity[17]. Possession of land provides a base of identity and association with one's kin; lineage, clan and tribal members. A person's identity stems from this kinship system. Even if a person lives away from home he frequently returns here to maintain this relationship. For the landless whose land was taken away by the whites, the society looks up on them with pity.[18]

Land creates power in land-based societies. Access to such power arises in association with membership in some unit of production and as Hangerud notes from Okoth-Ogendo who states that 'power is maintained through active participation in the process of production and reproduction at particular levels of social organization'[19] The Swynnerton plan of 1954 aimed at consolidating different small African land parcels into one unit to enhance African agriculture. The unit would then be registered and be given a title. Using the same title as collateral the farmer would access credit facilities for agricultural purposes. World life population can be affected by not only the amount and spatial distribution of habitat but also by structure and composition of the landscape mosaic that is all landscape elements including patches, corridors and matrix. For instance the amount of forest cover within the landscape can predict structure of forest bird communities. Construction of roads for example can affect specie riches and abundance of animals in nearby habitat patches.[20]

[17] A. Hangerud, Land Tenure and Agrarian Change in Kenya, *African Journal of International African Institutes* Vol. 59, Edinburgh University Press (1989), pp. 61-90.
[18] P. Mbithi and C. Barnes, *Spontaneous Settlement Problem in Kenya,* Nairobi, E. A Literature Bureau (1975), p. 78.
[19] A. Hangerud, Land Tenure and Agrarian Change in Kenya, *African Journal of International African Institutes* Vol. 59, Edinburgh University Press (1989), pp. 61-90.
[20] A. D. Rodewald, The Importance of Land Uses within the Landscape Matrx, *Wildlife Society Bulletin* Vol. 31 Allen Press (2003), pp. 586-592.

Land tax is enforced at Municipal level on large-scale land owners which not only provide incentive to them to utilize their land more profitably but also an important contribution to decentralization.[21] The role of wife is strongly tied to her function of providing food for her family and managing at least part of the household's farm.[22] Even among many of the urban elites many of their wives remain in the rural managing the farms.

2.6 Redistributive Land Reforms

Many of the impediments to a smooth functioning of land, labor, product and market began during the colonial era. Long standing barriers maintain a highly unequal distribution of land, where large tracts of land lie idle while peasants have to eke out a living on marginal and often environmentally fragile lands. Such unequal land ownership is linked to social unrests and violence while reducing productivity. These land reforms therefore aim at calming these social unrests and allaying political pressures by peasant organizations. Nick Salat a KANU Secretary-General and a former MP for Bomet once said "It is a matter of record that people, operating individually or as members of organizations acquired tracts of lands initially been owned by communities which due to economic reasons could not reacquire them. Yet these lands for many years, before the arrival of the colonialists had been owned communally. The sense of entitlement to them remains to date.[23]

---

[21] K. Deininger and H. Binswanger, The Evolution of the World Bank's Land Policy: Principles, Experience and Future Challeges, *The World Bank Research Observer* Vol.14 Oxford University Press (1999), pp. 247-276.

[22] P. Mbithi and C. Barnes, *Spontaneous Settlement Problem in Kenya,* Nairobi, E. A Literature Bureau (1975), p. 78.

[23] N. Salat, Ancestral Lands, Injustices are Real Issues, *Daily Nation*, Monday August, 2010, p. 13.

However this has had its own impediments to implement. First these reforms targeted those who were often politically powerful and well connected rather than those who could make productive use of the land or were most deserving on poverty grounds.

2.7 Conflicts

Gaski 'Theory of power and conflict' defines conflict as tension between two or more social entities-group, individual or larger organizations which arises from incompatibility of actual or desired responses.[24] Conflict is also said to arise when two or more parties have incompatible goals about something.[25] In a simple conflict for instance conflict between two people incompatibility may be due to different view, goals or ideas about how such can be achieved. Kenneth W. Thomas 'Conflict and conflict management' also defines conflict as the process that begins when one party perceives that another has frustrated or is about to frustrate some of its concern.[26]

2.7.1 Types of Conflicts

Types of conflicts are as many as the conflicts themselves and even the parties involved. There are simple conflicts for example one between two people who may be having different view or views over an issue or one that may involve a community and another or a country and another.[27]

---

[24] J. F Gaski, The Theory of Power and Conflict in Channels of Distribution, Journal *of Marketing* Vol. 48, American Marketing Association (1984), pp. 9-29.
[25] M. Mwagiru, *Conflict in Africa: Theory, Processes and Institutions of Management*, Nairobi, CCR Publications, (2006), p. 3
[26] K. W. Thomas, Conflict and Conflict Management: Reflections Update, *Journal of Organizational Behavior* (1986-1998), p. 265.
[27] M. Mwagiru, Conflict in Africa: *Theory, Process and Institutions of Management*(Nairobi CCR Publications,2006, pp. 3-4.

2.7.2 Resource Based Conflicts

Conflicts related to natural resources are referred to here as resource conflicts. Conflicts over land, water, minerals, forests and such others are all resource conflicts. Land is increasingly becoming a source of conflicts in sub-Saharan Africa. Evidence has shown that local land conflicts can erupt into large scale civil strife and political movements. Many sources of land conflicts may emanate from population pressure, agricultural commercialization, urbanization and current land tenure systems.[28]

Many densely populated areas of East Africa are facing potentially explosive problems of inadequate access to land. In Kenya for instance mean land-land person's ratio has tremendously decreased. Moreover access to land is highly skewed within the small holder sector. Many rural farm households are virtually landless controlling less than one acre including rented lands. Land is an asset and therefore insufficient to it, livestock and human capital are important causes of chronic poverty among the rural population in Kenya thus bearing conflicts.[29]

Water shortage in Kenya is a time bomb. Take an example of the region surrounding Mount. Kenya. Mount. Kenya is a tourist attraction and a water tower for its foot zone and adjoining low land areas. This function is becoming more and more crucial as the area is experiencing changing land use systems and rapidly growing human population. This development is setting stage for increasing conflict over water resources.[30] Worse still water is becoming ever scarcer especially in the dry areas of the Laikipia

---

[28] B. R. Upreti, Resource and Conflict Resolutions in Nepal, *Mountain Research and Development* Vol. 2 International Mountain Society (2001), pp. 60-66.
[29] J.W. Burke, et al. Factors Associated with Farm Households Movements into and out of Poverty in Kenya: The Rising Importance of Livestock, *Discussion Paper No.6 pp.1-35.*
[30] U. Wiesmann, et al. Mitigating Conflict over Scarce Water Resources in the High Land-Low Land Systems of Mt. Kenya, *Mountain Research Development* Vol. 20, International Mountain Society (2000), pp. 10-15.

plateau and the Samburu plains to the North and North-West of the mountain which intensify during the dry season. Hence this competition is setting stage for conflict between the upstream and downstream users.[31] Fresh water is a fundamental resource but its unevenly and irregularly distributed. Some regions of the world are water-short. As the world population continues to grow, the supply of fresh water could be an objective of military cause in the near future. Many rivers, lakes and ground water aquifers are shared by two or more nations. This is a geographical fact which has led to geopolitical reality of disputes over such shared waters including the Rivers Nile, Jordan, The Euphrates among others. Such a conflict has happened in the Middle East like 500 years ago.[32]

The Nile River is a potential source of water conflict. The river flows from E Africa and the Great lakes region to supply water to the arid countries of Sudan and Egypt. 97% of Egypt water come from the Nile. The 1959 Nile water treaty added the supply of water to the riparian states which meant reduced water supply to Egypt. In 1979 the President of Egypt Anuar Sadat said[33] "the only matter that could take Egypt to war again is water" .Boutros also said "the next war in our region will be over the waters of the Nile and not politics". Both Syria and Iraq depend heavily on the Euphrates river for drinking, irrigation, HEP. In 1974 Iraq threatened to bomb the AL-Thawra dam in Syria alleging that the flow of water to Iraq had been reduced by the dam Mineral.

---

[31] B. P. Kiteme and J. Gikonyo, Preventing and Resolving Water Use Conflicts in the Mt. Kenya Highland-Lowland System through Water Users Association': *Mountain Research and Development* Vol. 22, International Mountain Society, International Mountain Society (2000), pp. 332-337.
[32] P. H. Gleik, Water and conflict: Fresh Water Resource and International Security, *International Security* Vol.18 MIT Press (1993), pp. 79-112.
[33] Ibid

2.7.3 Resources and Armed Conflicts

Resources have not only financed but in some cases have motivated conflicts. They have also shaped the strategies of power based on the commercialization of armed conflicts and the territorialisation of sovereignty around valuable resource areas and trade networks. Conflict arises out of competition over wild games, precious minerals and forest products like timber.[34] Countries with higher gross domestic product (GDP) coming from the export of primary commodities are at a higher risk of civil conflict. Primary commodities are easily and heavily taxable. That is why they attract both the ruling elites and their competitors to compete for the control of these resources.

2.7.4 Ethnic Conflicts

Ethnicity embraces groups differentiated by color, language and religion. It covers tribes, races, nationalities and caste hence ethnic conflicts (war) is one among communities that are in conflict over power relationships that exist between those communities and the state.[35] Ethnicity in Africa is a relatively recent phenomenon whose salience is largely a result of colonial rule and of post-colonial dynamics in which elites have continued to advocate ethnic identity for political mobilization to achieve their own ends.[36]

Imbalances of opportunity between tribal groupings remain a stubborn fact of life in Kenya today. Although they may be attributable to a variety of inherited circumstances these inequalities inevitably cause political tension to rise to the surface. The success of Central Province for example in securing support for social welfare activities and in

---

[34] P. Billon; *The political ecology of wars*: Natural resource and armed conflicts; Political Geography (2001) 562-581

[35] N. Sambanis; *Do ethnic and non ethnic civil wars have the same causes*? A theoretical and empirical enquiry: A journal of conflict resolution vol.45 (2001) p259-282, Sage publications

[36] S. N. Ndegwa; *An examination of two transition Moments in Kenya politics*: The American political science Review Vol. 91.(1997) p600.

consequence building up a pool of trained manpower and an array of commercial enterprises has not been lost upon the less disadvantaged peoples of the country. Regional discrepancies in education and other sectors of the social welfare like health emphasize not only the priorities of the past but the resultant supply of manpower for the future. The less favored indigenous peoples of Kenya are quick to express their dissatisfaction over the disparities.[37] Soon after independence the call for increased tribal minority representation in high level positions in both private and public sectors had been made more often. They needed tribal balancing in each ministry but going by individual merit meant continuing to favor the Kikuyu in the civil service as had the best education[38]

In Africa ethnic problems are only one aspect of political violence- While violent conflicts must be considered a failure of the state to perform some of its fundamental tasks. Tribalism and ethnic division is not only in Africa but also in Europe-Kosovo a case in point.[39] In peaceful African countries a sophisticated system of inclusion of the educated people from different ethnic groups in various organizations like students' unions or single party has evolved whereby the state purchases loyalty from the groups through their educated 'urbanite' delegates.[40] There are social economic political and cultural causes of ethnic conflicts.

2.7.5 Religion

According to Marta Reynal-Querol quoting from Samuel Huntington says that religion has a role to play in the world politics. In contemporary world the primary force

---

[37] D. Rothchild; *Ethnic Inequalities in Kenya*: Journal of Modern African Studies vol. 7(1969)p692-696, Cambridge University Press
[38] Ibid 692-696
[39] J. Azam; *The Redistribution state and conflict in Africa*: Journal of peace and research Vol.38.(2001)p429
[40] Ibid p430

that motivates and moves humans in many situations is religion. Huntington says that among the many future causes of conflicts will be religion. Religion discriminates and differentiates humans in a sharp way, for instance one can be half Kenyan and half Qatar but can not be half Catholic and half Muslim. Religion is the basis of differences among civilizations and makes people understand the world, social relationships and so forth differently[41] resources increasing the chances of 'Greed- driven conflicts'. The resources provide the armed groups with necessary loot to purchase military equipments. This is happening in DRC Congo and in Sierra Leone.[42]

2.7.6 Political Conflicts

After the end of the Cold War political conflicts relocated from inter-state to the local or intra-state. Between 1989 and 1998 of the 108 armed conflicts only seven were inter-state. At present Africa is the major arena of political conflicts and civil wars. Virtually all countries of Africa have either political explosion or a ranging civil war or in the process of negotiating peace or otherwise.

In recent years almost every new African state has experienced more or less successful military or civilian coup, insurrections, mutinies, severe riots and significant political assassinations. Kenya experienced one in 1982.

2.7.7 Effects of Colonialism

Colonial regime fragmented the local people into 'native authorities' with different sets of 'customary' or 'tribal laws' constructed to ferment ethnic identities which were later to plague the state and polity in most African states during the nationalist

---

[41] M. Reynol-Querol; *Ethnicity, political systems and civil wars*: Journal of conflict resolutions vol.46, No.3Understanding civil wars(2001) 29-54, Sage publications
[42] Ibid p562-581

31

struggle and in the post-colonial era. Such produced ethnic-based political identities in the decolonization period and after.[43]   In countries like Uganda or DRC Congo the ownership and control of land is still in the native authorities, no non natives is allowed access to land as they are not indigenous. This means land is accessed by virtual of indegeneity and not citizenry. Even at national level ethnic identity determines who gets what, where, how and how much like in employment, public appointments, education grants and others. Such is subjected to ethnic arithmetic.[44]

The inflation of demand has had an effect also where government employees have had rapid promotions because of Africanizations. With better living standards they felt to have equal status with the Europeans therefore qualified to rule rather than execute policies. Such an opportunity is not forthcoming and when individuals and groups are deprived of the right and opportunity of exercising power to express their demands they resort to force[45] .

2.7.8 Causes of Conflicts

Mwagiru 'Conflicts in Africa' sees that conflicts have different causes at any level where such differences are as diverse as the conflicts themselves.[46]

2.7.9 Causes of Environmental Conflicts

Environmental conflicts are caused by environmental scarcity. This is also resource scarcity. This is due to environmental change that is human induced decline in the

[43] A. Said; *Citizenship rights and the problem of conflict and civil wars in Africa*: Human rights quarterly Vol.23(2001),pp148-170, The John Hopkins University press
[44] Ibid p148-170
[45] A. R. Zolberg;The structure of political conflicts in the new states of Tropical Africa: *American political science* Vol.62(1968) *p70-87, American political Association*
[46] M. Mwagiru; *Conflict in Africa: Theory, processes and Institutions of Management*, (Nairobi: CCR publications, 2006), p.4

quality and or quantity of a renewable resource. For instance population growth reduces resources per capita by dividing it among many people while unequal distribution concentrates on a resource in the hands of a few people subjecting the rest to greater scarcity. The scarce resources remain with the few elites which becomes a fertile ground for ethnic violence. Water shortage in the occupied West Bank sustains conflict between Israel and Palestine.[47] Environmental scarcities are already contributing to violent conflicts in many parts of the developing world. These has proved right the hypothesis that decreasing supplies of physically controllable environmental resources like clean water, good agricultural land would provoke resource conflict wars. Also, large population movements caused by environmental stress would induce group identity conflicts especially ethnic clashes.

Another proven hypothesis is that severe environmental scarcity would simultaneously increase economic deprivation and disrupt key social institutions which in turn would cause deprivation conflicts such as civil strife and insurgency.

2.7.10 Resource Depletion and Degradation

Degradation and depletion of agricultural land, forests, water and fish will contribute a lot to social turmoil. Vast populations in the developing world are already suffering from shortage of good land, water, forests and fish. Coupled with climate change and stratospheric ozone depletion the impact will soon be felt. Mexico for instance people

---

[47] T. F. Homer-Dixon; *Environmental scarcities and violent conflict*: International scarcity vol.19 (1984),pp5-10.

are already leaving the state of Oaxaca due to drought and soil degradation likely to cause internal conflict.[48]

2.7.11 Poverty as a Result of Environmental Scarcity

This is easily caused by environmental scarcities of the arable land and water. This results in loss of livelihood. Many internal wars results from young men being unable to reach positions in life due to loss of livelihood. Especially developing world is being challenged by the social consequences resulting from a scarcity of job opportunities in relation to the number required due to population increase. Failure to meet such challenges creates opportunities for extremely vile political forces. Slobodan Milosevic managed to amass popular support due to poverty, unemployment and environmental degradation.[49]

2.7.12 Political Causes of Conflicts

Politically resource rents provide political leaders with a classic means for staying in power by establishing a regime organized through a system of patronage, rewarding followers and punishing opponents. Just as the wealth and power gap between the ruling and the ruled increases, so does the frustration of the marginalized groups. They see therefore, political change as the only avenue for satisfying their greed and aspirations or expressing their grievances. In the absence of widespread political consensus violence becomes the main route to wealth and power. Hence resource dependent countries thus

---

[48] T. F Homer-Dixon; Environmental scarcities and violent conflict: International scarcity vol.19,(1984),pp5-10, MIT press
[49] Ibid,

tend to have predatory governments serving sectional interests and to face a greater risk of violent conflict.[50]

2.7.13 Bad Governance as a Cause of Conflict

Bad governance characterizes weak or failed state. Countries affected by bad governance are prone to chronic chaotic conflicts. Where Corruption and scarcity of revenue are rampant, people maybe better off when protected by local warlords dealing in narcotics than subjected to a corrupt and oppressive regime dealing legally in petroleum.[51]

2.7.14 Interest of Third Party

Resource wealth may weaken the leverage of external peace initiatives. Access to resources acts as a divisive factor among international players. They accommodate domestic anti-reform interests in order to secure commercial benefits.[52]

2.7.15 Causes of Ethnic Conflicts

Any war can be said to ethnic war if there are more than 1000 war related deaths, challenges an internationally recognized state, occurred within the territory of that state, state being one of the principle combatant and rebels mount an organized military opposition to the state. Such happen when the society is deep-rooted in old sources of enmity and memories of past atrocities that make violence hard to avoid. Irreconcilable differences due to cultural gaps cause fear and conflict that beget violence. The theory of ethnic security dilemma suggests that territorial intermingling and mutual vulnerability

---

[50] P. Billon; The political ecology of war: Natural resource and armed conflicts; Political Geography (2001), pp562-581
[51] Ibid
[52] Ibid

create a fear that call for preventive war by the ethnic minorities who want to secede to increase their security.[53]

2.7.16 Containing Fear

Ethnic conflict is most often caused by collective fears of the future. As groups begin to fear for their safety as dangerous and difficult situations which may be hard to resolve, strategic dilemmas arise that contain within them the potential for tremendous violence. Ethnic activists and political entrepreneurs (elites) take advantage of these fears of insecurity and polarize society.[54] This can be avoided if the two sides accept to share information about one another, but where this is not done the gap between them widens creating a situation of fear and suspicion. One side may decide to attack the other to avoid being attacked instead.[55] So any information which the competing group interest refuses to share can produce actual conflict due to suspicion and fear.

2.7.17 The problem of Credible Commitments

Ethnic conflicts also arise because groups cannot credibly commit themselves to uphold mutually beneficial agreement they might reach. At least one group cannot effectively reassure the other that it will not renege on an agreement and exploit it in future and hence conflict arises.[56]

[53] N. Sambanis; *Do ethnic and non ethnic civil wars have the same cause?* A theoritical and empirical enquiry: The journal of conflict resolution Vol.45 *(2001)p259-282,* Sage publications

[54] D. A Lake and D. Rothchild; *Containing fear: The origins and management of ethnic conflict, International security vol.21(1996)p41-75,* The MIT press

[55] M. I. Lichbach; *An evaluation of "Does economic inequality breed political conflict" studies: World politics vol.4,(1989)p431-470,* Cambridge University press

[56] D. A Lake and D. Rothchild; *Containing fear. The origins and management of ethnic conflict, International security vol.21(1996),pp41-75,* The MIT press

2.8 Conclusion

Threats to security include resources and environmental problems that reduce quality of life. Where the resources are scarce competition for the limited supplies can lead to the nations see it as a matter of national security?[57] Natural resources also weaken the ability of the political institutions to peacefully resolve conflicts. Countries with higher export of primary commodities are at a higher risk of political conflicts. This underpins the resource-scarcity-war literature that people will always compete and fight over scarce resources.[58]

However the two theories are not always correct. Where the resource is scarce with high population people become innovative not necessarily turning to war. Also international trade can counter balance localized scarcities. Elites of such a country develop and harness human capital rather than protect scarce or non-existent resource rents and therefore reduce the likelihood of conflict.[59] Mwagiru, observes that "Conflict in Africa" is endemic in society.[60] Management of these conflicts is just a continuous process with no end point or final resolution and therefore can only be contained but not solved. The management of armed conflicts, the programs of reconstruction and development has been the measures to build peace.[61] But today emphasis is on conflict prevention through confidence building like good governance by democratic involvement.

---

[57] Ibid,

[58] P. Billon; The political ecology of wars: Natural resource and armed conflicts, Political geography(2001)p562-581

[59] Ibid p562-581

[60] M. Mwagiru; *Conflict in Africa: The theory, processes and Institutions of Management, CCR Publications,* Nairobi(2006),p1

[61] Michael Warner and Philippe Jones; Assessing the need to manage conflict in community-based natural resource projects: Overseas Development Institute, London(1998)

Chapter Three: Land Conflicts

3.0 Introduction

Chapter Two discussed land conflicts in Kenya. It showed the entry of British colonial masters into Kenya.[1] It also examined how the British brought the Western land tenure reforms.[2] The system of tenure they introduced is suspected to have brought in many of the land conflicts experienced in Kenya and in Africa at large. The chapter also examines conflicts and the types of conflicts that the human society continues to suffer. The chapter also examined the post-colonial governments and how they continued with the errant colonial land policies and which continued to trigger land conflicts. It has also shown the importance of land to the human society as one that is the basic provider for its livelihood. This chapter examines the meaning of land and the dimensions of land. It will also look at land as an immovable property, the interests and values the society bestows to the land. The chapter will also examine the meaning of real property and also be able to show the relationship of land as a real property. The chapter will also examine the meaning of physical and structural conflicts that emanate from the Land; that which continue to be experienced among families and communities. The chapter will also examine the major causes of physical and structural conflicts.

3.1 Definition of Land

The law defines land as which includes land and benefits that arise out of land or things embedded or rooted in the earth, or attached to what is so embedded for the permanent

---

[1] P. Mbithi And C. Barnes; *spontaneous settlement problems in Kenya*: EA Literature bureau, op cit
[2] K. Kanyinga; *Land question in sub-Saharan Africa: IRD Currents, Current issues in international Rural Development*, op cit

beneficial enjoyment of that to which it is attached, or permanently fastened to anything embedded, rooted or attached, or any estate or interest therein, together with all paths, passages, water, watercourse, liberties, privileges, easements, plantations and garden thereon or there under lying or being, unless specifically exempted.[3]

"Land" includes land covered with water, any estate or interest in land other than a charge, all things growing thereon and buildings and other things permanently affixed thereto.[4] Land includes land of any tenure and mines and minerals, whether or not held apart from the surface, building or part of the building (whether the division is horizontal, vertical or made in other way) and other corporeal hereditaments; also manner advowson and rent and other corporeal hereditaments and an easement, right, privileges or benefits in over or derived from land;.....and mines includes any strata or seam or minerals or substances in or under any land and powers or working and getting the same .....And manner includes a lordship and reputed manner or lordships and hereditaments means any real property which an intestacy occurring before the commencement of this act might have developed upon an heir.[5]

'The law property, defines land as that which includes the surface, buildings or parts of buildings and whatever is attached to land becomes part of the land under another Latin Maxim, *Quicquido plantatur, solo, credit. Quicquido plantatur solo solo credit* states that whatever is attached to the land also becomes part of the land.[6]   Another Latin Maxim states that *cuius est solumeius est usque ad collum et ad infers* that the owner of the land owns everything up to the sky and down to the center of the earth. The right of the owner of the

3 The Registration of Titles Act Cap 281
4 The land consolidation Act Cap 282
5 The law Property Act 1925(LPA 1925), s.205(1), (ix)
6 Austin, J. Jurispudence, 5th edition. Murry, 1885, vol.1p365

land extends to such a height as is reasonably necessary for the ordinary use and enjoyment of the land. Maxim also states that the land owner owns everything down to the centre of the earth.[7] The Ghana Interpretation Act 1960 defines land as that includes land covered by water, any house, buildings or structure whatsoever and any estate, interest or right into or over land or water.[8]

3.1.1 Land as Real Property

Property refers to both tangible and intangible property including land, homes, money, crops and livestock. Real property is that which consists of land and all rights and profits arising from and annexed to land of permanent immovable nature. In order to make ones interest in land, real estate, it must be an interest not less than for the party's life, because a term of years even for a thousand years perpetually renewable is mere personal estate. All land structures, firmly attached and integrated equipments such as light fixtures and well pumps, anything growing on the land and all interests in property which maybe the right to future ownership (reminder) right to occupy a period of time (tenancy or life estate), the right to drill for oil, the right to get the property back (reversion) if its no longer used for its current purposes, such as use for a hospital, school or city hall, use of airspace (condominium) or an assessment across another's property. Real property should thought of as a group of rights like a buddle of sticks which can be divided; it's not a movable item.[9]

Land as a real property is an immovable property and it includes land, benefits that arise out of land and thing attached to the earth or permanently fastened to anything attached

---

[7] J. Austin, *Jurisprudence, 5th edition*, Murry, op cit
[8] B K S Asante, 'Interest in land customary law of Ghana: *The Yale law journal vol.74, no.5(1965)p848-853, The Yale Journal company, Inc.*
[9] Land Title Act Cap 282 op cit

to the earth, but does not include the standing timber (other than coconut trees) growing crops or grass.

3.1.2 Conflict and Dispute

Heidi Burgess and Spangler quotes John Burton who distinguishes the two terms based on time and issues in contention. He argues that disputes are short term disagreements that are relatively easy to solve. Long-term deep rooted problems that that involve seemingly non-negotiable issues and are resistant to resolution are what he calls conflicts. Though in both disagreements can occur independently, they may also be connected. In fact one way to think about the difference is what short term dispute may exist within a larger, longer conflict.

Upon this distinction, disputes involve interests that are negotiable. Meaning it's easy to find solution that at least partially meets the interests and the needs of the parties concerned. The cold war between the USA and USSR is a good example. For instance, each round of strategic arms limitation talks, the Cuban missile crises, the US-Vietnam war, and the Soviet invasion of Afghanistan all constitute disputes within the broader conflict of the cold war.[10]

3.1.3 Definition of Land Dispute

Disputes are disagreements between two people, groups or countries. The permanent court of international justice (PCIJ) and the international court of justice (ICJ) in the Maurommatis Palestinian Concessions case, the permanent court gave the definition of dispute as a disagreement on a point of law or fact, a conflict or legal views or interest

---

[10] Burgess, and B Spangler, Conflict and Disputes, The Conflict Resolution information Source(2003)

42

between persons. In another case, ICJ referred to a situation in which the two sides held clearly opposite views concerning the question of the performance or non-performance of certain treaty obligations. The PCIJ'S definition in Mavrommatis as starting point, it addresses the following issues; under what circumstance does an agreement or a conflict become a dispute? Do the communications between the parties need to reach a certain level of intensity to qualify a dispute? Who determines whether a dispute is on 'a point of law or fact, a conflict of legal views? What if a party describes the dispute as political and therefore non legal, among others?

Disputes over land unlike conflict are about interests in land. These interests are built upon the aspect of the land itself whether it is private or common property or belonging to the state. Also it is built upon the specific objective of the dispute as well as the legitimacy of the actions involved whether they are legitimized to act in that manner.

3.1.4 Interest in Land

People have had a lot of interest in land for as long as the land is able to meet the individual and communal needs. The land lord tenant systems, the individuals who own the land rents it out to the others to farm. This has tended to put much emphasis on the distribution of income between the landlords and tenants.[11] Traditionally, land was very important in the sense that every member had interest in it. Land was in the first place owned communally so that every member of the community had equal rights to wonder over and hunt upon the land which belonged to the group. Later, when people settled down for farming as the main economic activity, they began to have the right to occupy, till or otherwise enjoy. Much more, land was and still is important for food production and

---

[11] G.E.O Johnson, 'Economic Analysis, The Legal Framework and Land Tenure Systems', *Journal of Law and Economics,* Vol.15, no.1 (1972) p 259-272: University of Chicago Press

occupation.[12] Land is only one of the various means of securing rural finance. Idealistic, titling programs often purport to make land usable as collateral for loans by smallholders. However, this is failing because most African rain-fed smallholder agriculture is too risky and markets and prices are too unreliable to allow reliable loan investment and repayment.[13]

3.1.5 Disputes in Land

Inheritance disputes come up where it is not clear who takes over the property from the diseased. An example of a case of Kajiado-Kenya well illustrates this kind of a dispute. The principal recipient of the subdivided group ranchland was the registered group ranch member. In the case of the diseased husband it was wife or the wives in the case of a polygamous husband.[14] This contradicts the Maasai cultural law of inheritance that stipulates that the first born son is supposed to inherit their father's land or property.

Where such a complication arises, the wife is to inherit the husband's land but a senior member of the family or clan elder at large has to consult. Sale of Land Dispute and particularly in Malawi, families are allowed to sell parcels of their lands to other family members. However, there are cases where the sale is done to non-family members. In such cases, local village headpersons are said to have been informed and to have witnessed the transfer. Nevertheless, problems arise. Sometimes, it so happens that the seller was not the proper owner of the field and so had no right to sell. There are other incidences where the owner of the land sells it to more than one buyer.[15]

[12]B.K.S Asante, 'Interest in Land in Customary Law of Ghana, op cit
[13] Ibid
[14]P. Ntiapi, *'Group Ranches Subdivision Study in Loitoktok division of Kajiado district of Kenya'* LUCID Working paper no.7,(2002), pp 1-8
[15]E.P Peters, D. Kambewa, Whose Security? Deepening Social Conflict Over Customary Land in the Shadow of Land Tenure Reforms in Malawi; *Journal of Modern African Studies* (2006),pp1-33, Harvard University

There are boundary disputes which is a very common phenomenon especially among the Mbeere of Kenya. Current tensions over land have caused have caused chronic tensions between corporate land holdings. The tensions derive from the failure of legal dispute Settlement and Conciliations between the different land holding groups. Each disputant and his witness testify about facts concerning ownership of land and state the boundaries of land being claimed. Many clans are engaged in boundary disputes. This has increased with the increase of land value. But, sometimes the boundaries are not ascertainable with any precision because they were never fixed. Mbeere has attributed this to the increasing population, unanticipated land reforms, and cleverness of some people to manipulate the litigations for their own benefits among other reasons.[16] There are successions disputes which arise when the legally registered owner of the land dies before having written a Will for his property. The family members make conflicting land claims about how much each of them is entitled to. There are also cases involving the content of the land sold. Such disputes normally arise when the person who sold the land claims that the buyer did not buy the features on the land such as the trees. Disputes like these are very common especially among the Luo of Kenya.

3.2 Land and Conflict

Why is land so important? Land is a unique, valuable and immovable resource of limited quantity. In Land conflicts a large literature has described causes and impacts of land related conflicts in countries that inherited a highly unequal distribution of land ownership such as Brazil, El-Salvador, Guatemala, Zimbabwe, South Africa and Kenya. More recently,

---

[16]D. Brokensha, and J. Glazier, 'Land Reforms among the Mbeere of Kenya; *Journal of the International African Institute*, Vol.*43 no.3* (1973),pp 1-6: 197-199, Edinburgh University Press

evidence from these settings has been complemented by incidences of political and economic land related conflicts in African countries like Rwanda, Burundi, Ghana and Kenya. This has been due to the failure of the prevailing land tenure systems to respond to the challenges posed by the appropriation of land.[17]

Conflict is said to arise when two or more parties have incompatible goals about something.[18] It can also be said to be a relational dispute between two or more parties in which those involved perceive a threat to the other interest coming from those on the other side of the disagreement. Conflict is all about values. Value conflict comes about when two or more people or groups have dissenting views on morality- that basic understanding of what is naturally right or wrong.[19]

A physical conflict is the struggle between one character and another to force in the physical manner and its subdivisions; it can be man against man or man against nature.[20] There are various factors that cause physical conflicts, for instance the environmental change. This may shift the balance of power between states either regionally or globally, producing instability that could lead into war, for instance, bulging population and land stress may produce waves of environmental refugees that spill across borders with destabilizing effect on the recipient's domestic order and on international instability. Countries may fight over dwindling supply of water and effects of upstream pollution. Environmental degradation will 'ratchet up' the level of stress within national and international society, thus increasing the livelihood of many different kinds of conflicts.

---

[17] K. Deininger,, and R. Castsgnini, *'Incidence and Impact of Land Conflict in Uganda, World Bank Policy Research Paper 3248/3248-* March 2004)p1-6
[18] Mwagiru, M, Conflict I Africa: *Theory, Processes and Institutions of Management* (Nairobi:CCR Publications, 2006), p3
[19] J.F Gaski,, *'The Theory of Power and Conflict in Channels Distribution, Journal Marketing, vol.8, no.3(1994)op cit*
[20] Peace Direct: *Registered Charity, no.11123241-site map(Disclaimer) Privacy*

Loss of property in International disagreements cause forced displacements. Such displacements result in deprivation of land, homes and property. People are forced to leave behind valuable land and property when they flee and seek safety from effects of armed conflicts, human rights abuses and other reasons. Usually, such property is damaged or destroyed by fighting or appropriated by parties to the conflict or those displaced. Ongoing conflict in one area can result into lack of safety and security to vulnerable groups. This is particularly when there are land mines within the land. Such persons are forced to flee to other areas for safety. This is secondary occupation of land and homes by other people causing conflict with the host community. There are political factors of physical conflict especially where the ongoing conflict and tension over land and other resources make the fleeing people to refuse to return the land they occupy to the original owners. Too, privatization or re-allocation of publicly or socially owned land or housing after the conflict in total disregard of the owners.

There are discriminating laws, rules and regulations that target certain ethnic or religious groups and restrict their ability to reclaim their lost property. Cultural beliefs and practices which discriminate gender or age- preventing women from owning, inheriting, controlling or making use of property- including upon divorce or death of husbands, fathers or male relatives. Lack of documentation or lack or destruction of cadastral or other title records is an institutional and administrative cause of physical conflict. Sometimes, people might have never possessed documents attesting to title or tenancy rights or such documents destroyed during displacements.

Increase of land value can give rise to conflict much more running along ethnic lines and spread to other areas completely unrelated to land. This can be particularly where land value increases in an environment where access to land across groups is highly unequal or governed by other factors such as ethnicity. In Rwanda for instance,[21] where extreme Lafarmer city coincided with accumulation of land by individuals with access to non agricultural incomes, this led to land conflict being one of the principal reasons that finally led to the outbreak of civil war in 1994. Competing land claims and uses especially to the ownership or use of the same piece of land are an eminent cause of land conflict. Parties will compete over the same piece of land for the same or different use, for instance pastoral versus the farmers.

Land-holding inequalities have been another cause of land conflicts. This is especially when inequalities characterize land holding patterns particularly when large population has limited livelihood opportunities. Disagreement and return of population cause land conflict. Usually government sponsored resettlement programs have born conflict among the settled and the resettled for instance in Tanzania, Mozambique, Nigeria and Angola. Resettlement schemes and or violent conflict can displace people from their homes and lands. In Kosovo for instance, the larger part of 1999 conflict dynamic involved the forced expulsion and displacement of more than one million Albanians. Upon their return reprisals against the Serbs forced many Serbs to flee Kosovo.[22]

Different land use practices especially in Africa has been a major cause of conflict between settled agriculturalists and mobile populations. In particular in a case that farming was introduced into mobile-hunter gatherer context through farmer's migration, there would

---

[21] K. Deininger, and R. Castagnini, 'Incidence and Impact of Land Conflict in Uganda' op cit
[22] Ibid

48

have been interference and conflict between foragers and farmers. Competition and conflict between groups over the same land are a usual case. For instance the expansion of agriculture into foraging or pastoral contexts seriously affects the indigenous land use strategies leading foragers and pastoralists to land-use conflicts in many parts of the World including Kenya.

Unclear land policies and politicization of land issues in the Rift Valley of Kenya has been an issue for many years. Elites have created poor governance and especially on land matters. Politicians blame and call for violence and expulsion of some particular ethnic groups whom they claim they are aliens. Unclear policies on land matters are the main source of land conflicts. Grazing across the Kerio Valley by the Pokots is seen by the Marakwets as a kind of land grabbing.[23] The Israeli-Palestinian conflict is the ongoing conflict between the Israeli-Palestinian conflict over land. A majority of the Israeli-Palestinian prefer the Two-State's solution over any other solution as a means of resolving the conflict. They believe West Bank and Gaza Strip as an acceptable location of the hypothetical Palestinian state in a two-state solution. However, they disagree over the shape of the final agreement and also the level of credibility each side sees in the other upholding basic commitments. Also they disagree on Jerusalem where each side asserting claims over the city. Also Israeli gets much of its water from the large underground aquifers which continue under the Green Line. The use of this water has been contentious.

3.3 Structural Conflict

The structural basis of conflict is a theory that attempts to explain conflict as a product of the tension that arises when groups must compete for scarce resources. Theorists

---

[23] Wakhungu, J et al '*Land Tenure and Violent Conflict in Kenya*, ACT9, 2008, P2

of Structural Conflict build their theories on observation of societies.[24] They say that conflict occurred among groups and that groups have structures which define the group. Karl Marx sees rigidly structured economies that had to be overthrown forcefully for the sake of fairer, yet different structured societies. Weber believes that structures had to evolve peacefully to retain their legitimacy or conflict would result. The theory provides the stark clear explanation for the conflict between groups which always welcome when trying to sense of chaotic events. It also provides a plausible explanation for a large agglomeration of social economies and political vectors that influence groups that eventually collide in conflict.

3.3.1 Causes of Structural Conflict

Moral Conflicts are the substantive issues which are often a matter of rigidly held moral beliefs based on fundamental assumptions that can not be proven wrong. These fundamental moral, religious and personal values are not easily changed and people who adhere to a particular ideology may well be that unwilling to compromise their World Views. Such conflicts tend to result to clash between differing world views.[25] Issues of justice results from the desire for justice, one that people tend to be unwilling to compromise. Assertion of injustice often leads to intractable conflict. An individual's sense of justice is connected to the norms, rights and entitlement that are thought to underlie descent human treatment.[26] Rights-based grievances likewise contribute to intractable conflict.

A dispute begins when one person or groups make claim on another who rejects it. If both groups advance claim as a 'right' moderate positions becomes less likely and difficult

---

[24] J. Alexander, *Why Multilevel Selection Matters, Jena: Germany: Marx Plank; Institute of Research into Economic Systems* (2004)
[25] R. Cohen,, 'Intractable Conflict': *The Hand book of Conflict Resolution; Theory and Practice eds, Morton Deutsch and Peter Cohen*(2000)p428
[26] Ibid

to compromise or reach consensus. Human Needs Theorists argue that many intractable conflicts are caused by the lack of provision of fundamental human needs. They include basic needs like water, food, shelter as well as complex needs like self-esteem, personal fulfillment and security. All these are crucial to human development and while interest can be negotiated, needs can not. Identity Issues: Such conflicts arise when group members feel that their sense of self is threatened or denied legitimacy and respect.

High-Stake Distributional Issues are conflicts surrounding, who gets what and how much they get also tend to cause conflict. The items to be distributed include tangible resources like money, land or better jobs as well as intangible resources like social status. When there is not enough of the given resource to satisfy everyone's needs a conflict becomes a 'win-lose' situation. The re-distribution of land to stronger parties can fuel and prolong a conflict-as can proceeds from the sale of land or its product.[27] Land use changes and access to land have been significant factors in a number of high-intensity conflicts in Africa, though they are not always the root causes, but as sustaining conflicts. The use of profits or political capital from natural resources extraction or re-distribution for purchase of arms or mobilizations of human and diplomatic resource for war have been the major cause of structural conflict.

In Rwanda for instance, unequal access to land was one of the structural causes of poverty which was exploited by the organizers of genocide. The Belgium's had generally privileged the Tutsi above the Hutu in the administration. They made changes to land tenure regimes which altered the client-patron contracts governing labor relations and access to land causing much resentment. The 1959 social revolution involved violence against the Tutsi who fled and their land were reallocated to other people. Limited access to land exacerbated

---
[27] Ibid.

by its inequitable distribution and by tenure insecurity (brought about by the frequent episodes of population displacement and subsequent redistribution of land by the state), have been key aspects of structural conflicts.

The independent states inherited colonial constitutions which stipulated that the state title for the land was held by the President. This allowed for the expropriation of land. More powers over the land were give the President through the government's lands Act to make grants of the alienated government's land to any person of their choice and most likely to the politically correct.[28] The law of Kenya for instance had a provision called 'The principle of the first registration which was to protect the persons whose name appeared first in the title which was meant to protect the White Settlers. After the departure of these colonial masters, their farms were bought by the government with the aim of redistributing them to the needy landless. But history reveals that the Elites of the time used their political and financial might to benefit from the lands meant for the poor.

Currently, these Elites own large tracts of land while the beneficiaries of these lands remain landless.

Still, corruption has played part in causing the structural conflicts. Corruption has been prevalent in most parts of the World Kenya not being exceptional. In parts of the Rift Valley of Kenya for instance, politically correct people were allocated large tracts of under the resettlement programs at Moi Ndabi leaving the needy cases at the mercy of the church and the general public. This has led to frustration, bitterness, resentment and very strong ethnic hatred in the South Rift.

---

[28] Kenya Land Alliance, 'Land, Environment and Natural Resources' Submission to the Constitution of Kenya Review Commission(July 2002)

Institutional, political and policy issues are also blamed for the structural land conflicts. Most of the African communities have since time immemorial held land communally. Such had begun to be blamed on land degradation. To counter this, the colonial governments began the demarcation of these lands to individuals and group ranches. Among the Maasai of Kenya, this was done, but the problem was that the younger Maasai were left out. Too, it was realized that this redistribution would not result in an equal distribution of resources because the productive potential of the ranches varied from place to place. Those locations with access to water are most valuable. Some have even fenced plots in riparian areas or swamp margins. Many of those benefiting are the powerful persons, NGOs and government institutions and who are involved in activities designed to secure the economic and policy interests. This means that some people are gaining while others will lose.[29] It is apparent therefore that the latent conflict is discernible over access to land where insufficient water is available for the various land users, the herders, farmers, wildlife, and tourists. Such conflicts over water are now overt where the demand has increased for enough quality water.

3.4 Conclusion

The causes of land conflicts and land disputes are many and keep renewing with time. For instance, they were caused by boundaries or so, but today with the increase of population people are now fighting over resources others are because of evacuations due to developments which are very con-temporally causes. This is the more reason why mitigation of such conflicts may not be easy. It therefore requires constant study and research to be able to identify their causes and how to curb them as they come.

---

[29] J. D. Campbell, *'the Response to Drought among Farmers and Herders in Southern Kajiado District, Kenya:* Comparison between 1972-1976 and 1994-1995, Human Ecology. Vol. 27,no.3(September, 1999)p377-392

However, strengthening the civil society's ability to monitor, inform, detect, and provide emergency responses to land conflicts may in one way or another assist in mitigating some of these land conflicts and land disputes. Media coverage can be increased on land issues which would raise public awareness and state and local attention paid to land issues. Also, foster a process of consultative, participatory and inclusive policy dialogue around land issues. This would come up with a natural land policy, drafted and submitted and which should be subject to review process on regular basis depending on the prevailing circumstances of the time. Very importantly, support and improve ongoing civil society's initiatives to mitigate land conflicts.[30]

---

[30] Global Rights: *Partners for Justice;* Managing land conflicts and laying groundwork for future post-conflict restorative justice mechanisms in Burundi, Final Report Oct. 2005- Oct. 2008

Chapter Four: Land Conflict: A case study of Rift Valley Province

4.0 Introduction

Chapter three examined the meaning of land and the dimensions of land. It also examined land as immovable property, the interests and values people have on land. The chapter also examined the meaning of real property and at the same time tried to show land how land is said to be a real property. The chapter also tried to examine the meaning of physical and structural conflicts that emanate from the land; that which continue to be experienced among families and communities. Some of the major causes of physical conflicts to be examined include; the environment change, the budging populations, the spill-over effects of an ongoing conflict and many others. Some of the structural conflicts that were examined here were; moral conflicts, issues of injustice, unmet human needs, identity issues and many others.

The chapter also examined the meaning of dispute and conflict and the difference between the two terms. The chapter identified that disputes is all about interests while conflicts are about values. Some of the interests identified included the landlord tenant relationship, communal ownership of land, securing rural finance and many others. Among the values that people hold on land include; Communal landholding, land market, investment and credit among other values. This chapter will examine the history of land tenure system in the Rift Valley and the sources of land disputes and conflicts in this region with the sample study area being Kuresoi district in Nakuru County within the larger Rift Valley province.

4.1 The General Survey of the Rift Valley

Rift Valley is one of the eight provinces of Kenya. Of all the eight provinces Rift Valley is the largest. In fact it touches Ethiopia and Southern Sudan in the North and Tanzania in the south. The New constitution has divided Rift Valley into 14 Counties namely Turkana, West Pokot, Samburu, Trans-Nzoia, Uasin-Gishu, Elgeyo/Marakwet, Nandi, Baringo,Laikipia, Nakuru, Narok, Kajiado and Bomet.[1] Rift Valley is a cosmopolitan area having a mixture of so many ethnic communities. The largest of them is the Kalenjin. The Kikuyu community is second forming 19%. The Kalenjin are said to be the ancestral owners of Rift Valley. These other communities migrated to this place during the colonial time. Some of the communities are pastoralists and others are small-scale farmers especially the Bantu immigrants.

4.2 Pre-colonial inhabitants of Rift Valley

The Kalenjin peoples initially classified by ethnographers as the Nandi-speaking groups of the southern Nilo-Hamites comprise seven main sections; The Pokot, Marakwet, Elgeyo and the Turgen, who in the early part of this century inhabited the escarpment of the Northern Rift Valley, the Nandi and Kipsigis who occupied the Upland areas to the West of Uasin Gishu plateau and behind the Mau Escarpment respectively. There was also the Sebei group that inhabited the Eastern slopes of Mt. Elgon in Uganda. The areas of forest separating the southern locations of the Tugen and Elgeyo from the Nandi and Kipsigis were periodically utilized by these sections and were permanently occupied by small numbers of Kalenjin-speaking Ogiek, making the Kalenjin-speaking

---

[1] The Constitution of Kenya, pp176-177

area from Pokot in the North to Kipsigis in the south virtually contiguous.[2] Though each of them is treated as a distinct tribe, they all have very close cultural and social ties with one another.

Their 19th century neighbours on the plains of the Uasin Gishu plateau and the Rift Valley were the Maasai and it was only after the British conquest forced their removal from these grazing lands that the Kalenjin area of settlement began to expand significantly. This expansion was restricted by the designation of lands throughout the western highlands for European settlement. This process of expansion, the relationship of the Kalenjin lands to European farms and the extent of the social linkage between the various Kalenjin sections have considerable relevance to the changing pattern of stock theft among the Kalenjin.[3]

4.3 Colonial Kenya

In 1895, Kenya was declared a British Protectorate following the failure of British East Africa (IBEA co.) to administer it effectively. The British paid settlers to come to Kenya to take up what came to be known as the White Highlands. These offered the best lands for cattle ranching, wheat and maize farming, tea and coffee growing. Africans were not allowed to grow these crops or own lands here to avoid competition.[4] The early British colonialists, agriculturalists and animal herd's men favored the cool fertile highlands to the East and West of the Rift Valley, land reminiscent of their native isles. They built up large tea and coffee estates on the highlands and large ranches on the

---

[2] D, Anderson, Stock theft and Moral Economy in Colonial Kenya' *Journal of the International African Institute,* vol.56, Crime and colonization in Africa (1986)p400, Edinburgh University press
[3] Ibid pp400
[4] M, Nyanchama, ' *Kenya: Roots of conflict and hope for the future'* Speech made at Brock University, ON, Canada (2008) pp1-18

lower escarpments and adjacent lands in the Rift Valley. The tribal groups which traditionally used these lands either migrated out of these areas or were isolated to the reserves.[5]

4.3.1 Early African Resistance to Colonialism in the Rift valley

On a near moonless night in June 1934, a group of eight Africans entered the compound of a European-Owned farm in Kinangop area of Naivasha District, Kenya colony. The farm was the home of Alex and Stella Seminni, a settler couple who had only been farming in the district for the past year. The intention of these African intruders was burglary: the theft of money, firearms and ammunition. Alex Seminni was speared and then beaten while lay injured, and Stella Seminni assaulted.[6] The news of Kinangop outrage caused an immediate furor among the settlers in Naivasha and quickly became a matter of concern and debate throughout the Kenya's White Highlands.

The responsibility for this lawlessness was attributed to the activities of the male members of the Talai clan of the Kalenjin community. The colonial authorities came to realize that some of these incidents had a political significance that went beyond simple accumulation: Crimes against colonial laws, protest against colonial authorities and ultimately the aim of the general armed resistance were seen to be linked in a serious challenge to colonial rule in the Western Highlands.[7] By the late 1890s Koitalel arap Samoie had come to prominence among the Nandi as Orkoiyot. He is a hero of African resistance to colonialism in Kenya. Under his leadership, the Nandi resistance against the British colonialism became stubborn and protracted lasting from 1896 to 1905. He

---

[5] B.B, Whiting, '*Changing lifestyles in Kenya*' Daedalus vol.106, The family spring(1977)p213; MIT press
[6] D. M Anderson, , '*Black Mischief: Crime, Protest and Resistance in Colonial Kenya*' op cit.
[7] Ibid

marshaled the Nandi and successfully held the colonial power at bay for more than a decade over which the Nandi endured several punitive raids and two major military campaigns against them by the British. Koitale's glorious struggle was brought to an end by treachery.

With the Nandi and the British locked in a war of attrition in 1905, Koitalel met with a British officer Captain Meinertzerghen in a forest clearing under a flag of truce. Meinertzerghen drew his revolver and shot Koitalel. This crumbled the Nandi resistance.[8] More Nandi challenges to colonialism were made by the youngest son of Koitalel who had sworn vengeance on the colonial government for his father's death. But this second resistance was made weak by outbreak of influenza that killed many people; diseases swept through the cattle herds while the colonial government increased demand for taxes compelling more Nandi to take employment on the European-owned farms on the Uasin Gishu plateau. Most serous of all in1920 the government alienated a further 100 square miles of the Nandi reserve in the Kipkaren valley to provide farms for Europeans under the post-war settlement scheme and permitted further land grants to Europeans in the Kaimosi area. The Nandi had fully been subdued.

4.4 The Study Analysis

This study used interviews and focused mainly residents of Rift Valley to explore their perception on the land ownership in their area. Care was taken when conducting the interviews in this area so as to make it comprehensive and descriptive of the area as possible. The initial interviews were structured and conducted with various age groups. The purpose of these interviews was to determine the kind of land disputes and land

---

[8] Ibid

60

conflicts suffered by the people of Rift Valley, the variables that make the people of the Rift Valley vulnerable to these disputes and conflicts and the path they generally follow in seeking resolutions. Land disputes and land conflicts are a widespread phenomenon in the region of study. Factors contributing to these situations range from political, social, and economic factors.

In order to specifically address this situation in the Rift Valley of Kenya, it was important to identify factors that contribute to increased land disputes and land conflicts and the impacts they have upon the communities and the country at large. This was achieved after focusing on the attitude, perception and the experiences of the general public in the area regarding these land disputes and conflicts. The study also examines the link these disputes and conflicts have on the socio-economic, political, cultural and environmental spheres. This could be crucial in identifying measures needed to reduce this problem. This chapter also provides a critical analysis of the survey findings.

4.5 Factors identified as causing conflicts and disputes on land

4.5.1 Negative Ethnicity

History reveals that there is some natural hatred for the Bantus and especially the Kikuyu. However, the hatred has again seen to be between the Kalenjins and the Kikuyu. The Kikuyu historically has low opinion for other communities and have been somehow proud. This had made them to begin to call the Kalenjins 'Rumbwa'. 'Rubwa', to the Kalenjins is interpreted to mean dog. So they say that Kikuyu call them dogs which are an abuse the Kalenjin community. This has always elicited anger and hatred for the

Kikuyu in particular. In return, the Kalenjins see the Kikuyu as enemies and so they describe the Kikuyu as 'vunyot' meaning, enemy[9].

However, the research has found that Rift Valley being a cosmopolitan society with diverse ethnicity, neighbors relate well all the time irrespective of their ethnicity except when there is a little bit of misunderstanding between any of these communities and the Kalenjins. They work together especially the youth when they go to look for daily pieces of work. Children in the village play together and non shouts the other that you are this or that ethnic group. In school, the same children sit, learn and play together. Meet any other non Kalenjin person and would tell you how good, generous, polite and well spoken people the Kalenjins are. Adult Kikuyu and Kisii men and women were interviewed about how they got to the Rift Valley.

They said that their fore parents were laborers in the former settler farms though many others have migrated recently to join their relatives there. Just before independence, all the ethnic communities who were there approached the White Settlers to sell these farms to them which they did. They formed Cooperative Societies. One of the Societies was called Murinduko Farmers Cooperative Society while there are many others scattered all over the province. Majority of the members are Kikuyu in these societies, followed by the Kisii. The rest of the communities are negligible. So they said they did not know anywhere else they could call home except Murinduko.

"I came here in 1970. By then I was a young man who had just completed primary school. My father was working here. So, when I arrived I learnt from my father

---

[9] Majority of Kikuyu, Kalenjin and Kisii respondents.

that people were registering to buy that land. With the little money that I got I registered my name. That is how I bought this land".[10]

However some Kalenjin interviewees were open enough to speak out their hearts. One of them asked in Kiswahili "Hamjui hapa kuna wenyewe?" (You do not know that this place has owners?) He explained that Rift Valley was the ancestral home of the Kalenjin and other groups that form the KAMATUSA. Anybody else outside that was an alien and should not be in Rift Valley. He complained that Kikuyu were brought by Kenyatta to Rift Valley and acquired large lands illegally. He was open enough to say that the Dorobo were the aborigines of Rift Valley when the White Settlers came.

The settlers took over the Kalenjin land and when leaving they did not return the land to them instead they left it to other people outside Rift Valley. So the Kalenjins claim that Rift Valley is purely Kalenjin and anybody else settled here must leave and go back to his/her ancestral land. More importantly, the research revealed an aspect of natural hatred of one community for the other. Naturally, communities do not like one another as a matter of stereotype notion. But in the Rift Valley case, it has been made worse by the British colonial policy of divide and rule. The colonial masters kept the Nilotes and the Bantus away from one another by spreading the rumor to each one of them that the other community was bad so as to be able to govern them as a separate lot. This notion remains real even to date and has continued to cause conflict here. Speaking in Kiswahili "This land belonged to the Dorobo. Why did the whites not leave it to the Dorobo instead left it to other people?"[11]

---

[10] An interview with an Embu elder from Murinduko farm on 8th Aug. 2011
[11] An interview with a Kipsigis young man named only as Challie on 8th Aug.2011

63

4.5.2 Poor Settler Attitude towards the Kalenjins

The research revealed that since the time of colonialism, the white settlers had very low attitude towards the Kalenjins. The white settlers were seen most of the times sidelining the Kalenjins against other communities and especially the Kikuyu. This was probably why during the sale of the farms the white settlers did not consider the Kalenjins since they somehow found them so much uncivilized or inconsequential. In these farms, the Kalenjins were working as unskilled laborers doing such jobs as watchmen, milkmen and herders[12]. During the sale of the farms, the Kalenjins had very little knowledge of what was going on. Whenever other communities came to buy these lands, it is said that the Kalenjins would ask what was going on, but the whites would lie or trick them that there was nothing going on.

4.5.2 Politics

Asked whether they vote alike during the General Elections the research found that each ethnic community votes for one of their own. The Kalenjin in particular vote one of their own so that he can enable them *'reach the national cake'*-National resources the way Kikuyu did during Kenyatta era which made them rich. This enabled them to buy large lands in Rift Valley.

They argued that these GEMA have their own ancestral land in Central province as they said, and which they do not share with anybody. Some would say that if anybody from another tribe dared having some property in Central he would be sent 'Mungiki' and be terrorized till he left. They therefore wondered why they settled here while they had their own place. To them they wished that GEMA left for Central and leave Rift Valley

---

[12] A kikuyu Elder Respondent

64

to the owners described as KAMATUSA. Most of the clashes occur during electioneering period as voting is used as a scapegoat to evacuate the aliens. During this time, the politicians incite the Kalenjins against other communities is such communities are against the party of their choice[13]. These communities ran away from their lands which make the Kalenjins feel they have achieved their goal. Also noted was the fact that, voting is according to ethnicity.

This is done in order to safeguard the interests of individual community. Specifically, the Kikuyu are targeted because it is alleged that at no one time they will ever accept any other community to lead. More importantly was the fact that Kikuyu are said to own the terrorist group called the Mungiki. So it is said that wherever the Kikuyu is there must be that group. This therefore becomes a reason to fight them in order to do away with that terrorist group. At the same time, Rift Valley was said to be a KANU zone. The Kalenjins had been full supporters of KANU as their political party until recently when they began to support other parties like ODM and UDM. To the Kalenjins, the Kikuyu are supposed to toe the line and support the Kalenjin party, KANU which they (Kikuyu) do not, and therefore the conflict begins, purely on political differences. " This is Rift Valley. Everybody has been a KANU. Kikuyu had their parties in Central province. We did not like them because they did not want to vote KANU"[14]

4.5.3 Land

The Kalenjins claim that all the other communities in Rift Valley are sitting on their ancestral land. They claim the Dorobo were the people who were here when the white settlers came. The settlers took all the Dorobo land by chasing them away. When

---

[13] An interview with a young Kalenjin man with form four education background on 9th Aug.2011
[14] An interview with a young Kalenjin man with form four education background on 9th Aug.2011

the settlers left, they did not return this land to the Dorobo, instead they left the land to other people outside Rift Valley. So they claim Rift Valley is the ancestral land of the Kalenjins and any other person here is an alien and must leave to their ancestral lands. Asked why the Kalenjins did not buy these lands instead of the white settlers selling them to the outsiders they said their leaders advised them not to. This was because since the beginning the Kalenjin leaders felt that the settlers would one day go and leave behind everything to them for free[15]. These leaders therefore saw no need of buying these lands. They claimed they could not buy what actually belonged to them. That is why they did not buy when the rest of the communities were buying.

4.5.4 Suspicion and Uncertainty

The relationship between the Kalenjins and the other communities is that of suspicion and uncertainty. The Kalenjins and the other communities living in the Rift Valley keep suspecting one another. The Kalenjins they, were shortchanged during the Kenyatta government. This makes them not like other communities especially the Kikuyu. On the other hand, the Kikuyu feel insecure before the Kalenjins. So, each one of them suspects one another in terms of security. Each of the community feels that the other wants to eliminate it especially the Kalenjin. So many times, clashes have occurred between the Kalenjins and the other communities and especially the Kikuyu when a Kalenjin man dies within the Kikuyu dominated area. So the clashes occur as a revenge mission.

---

[15] An interview with a Kikuyu elder respondent on 9th August 2011.

66

4.5.5 Resources like Water and Pasture

Generally Rift Valley is well endowed with enough pasture for animals and water for both people and animals. However, People of Murinduko Society in Kuresoi district confessed that conflict begin when the Kalenjin herders want to allow their animals to graze on the cultivator's lands. Sometimes, the portion to be grazed is so small that the herder is forced to stand in the cultivated area so that his animals are able to eat the grass growing on the boundary. Since there is no empty space, he tramples on the crops. Conflict begins when this herder is asked why he is stepping on the crops. The herder sometimes makes the issue so big to involve his community and that of the farmer.

A Kikuyu did say that prior to 2007/2008 Post Election Violence (PEV); some Kalenjin children were heard saying that other communities were draining water for the Kalenjin[16]. To the interviewer it was clear that Kalenjin parents might have been saying something ill about Kikuyu before their children and so the children were only echoing their parents. It was therefore evident that there are times when conflicts occur over resources such as pasture and water.

4.5.6 Inappropriate Government Policies

Rift Valley is predominantly occupied by pastoralists. Poor government policies have caused more suffering to pastoralists than to crop farmers. In the last few decades there are land tenure changes that have occurred characterized by subdivision and fragmentation of communal grazing lands into individual lands especially Kuresoi. From the research agricultural communities have invaded the high potential areas of the Rift Valley for crop farming. Land subdivision has blocked grazing lands and migratory

---

[16] A Kikuyu elder who was already an incorporated IDP

corridors which have increased conflict between pastoral and farming communities and animals. Land subdivision and individualization of communal resources such as water, salt links and dry season grazing areas denies the local pastoralists access to grazing on the expansive plane putting pressure on the grazing lands enhancing clan and inter-community conflicts over those land resources.

4.5.7 Corruption

Corruption is a cause of Land conflict in Rift Valley as the research found out. It was realized that corruption denied many locals a chance to have lands in some settlement schemes in the area. Those who missed lands in those settlement schemes are currently very bitter about it. No wonder these are the people who are easily lured into the burning and killing when the clashes begin. They look for every single chance to destroy the properties of those people whom they blame for the loss of the chance. Corruption at Central settlement scheme in the Kuresoi district benefited only the politically correct individuals who were allocated large tracts of land here leaving the deserving cases at the mercy of the church or the community[17].

This led to frustration, bitterness and strong ethnic hatred in this settlement. Favoritism and Nepotism has made matters worse as people from a particular community have benefited more at the expense of others. The resettlement programs after independence, uneven resource distribution and structural line quality that brings about structural violence due to relative deprivation has been identified. The relative deprivation is argued by Prof. Mwagiru to result when some people feel they are deprived

---

[17] A young Kipsigis girl who was in P1 college

off their needs.[18] The frustration of the local communities leads to aggression creating tension based on power and socio-cultural structures sustaining conflicts in the entire region.

4.5.8 Traditional Cultural Practices

The same elders were blaming the Kalenjin Culture of being a war-like tribe. These uneducated elders still have that mentality and therefore convince their youth to fight hard to show their might telling them that even their son Koitalel arap Samoei never feared the White man when he defended the Kalenjin land from white settlement and they should not therefore fear to fight fellow Blacks to regain their 'stolen soil'. More so is the fact that the Kalenjins are not sorcerers traditionally. So in the clashes, the Kisii are targeted by the Kalenjins because they are said to be sited on Kalenjin land and at the same time they are said to be sorcerers. They are also blamed for being Kikuyu sympathizers.

4.5.9 Cattle Rustling

The traditional practices such as the traditionally practiced cattle raiding are also highlighted as another factor contributing to land disputes and land conflicts. Today, cattle raiding activities have been commercialized into violent cattle rustling and ornamental arms such as spears and arrows have been replaced by illicit firearms transforming the activity into a more severe raiding. The rite of passage activities that include payment of dowries, circumcision and initiation rites have encouraged cattle raiding[19]. This enhances violent cattle raids especially among the sedentary communities.

---

[18] M. Mwagiru, Conflict: *Theory, Processes and Institutions of Management*, op cit, p21
[19] An interview with the area chief who was a Kisii by the name Makori on 10th Aug.2011

Frequent cattle raids have influenced self-arming to guard the livestock. After the raids, the victim community may decide to follow their animals. This alone causes one community to raid the other and especially the 'alien community' is raided. Their property is destroyed and sometimes many lives both human and animal are lost. The Kalenjin attackers use fire to destroy property because they were advised that for a bird to run away, one needs to destroy its nest. So, houses are burnt so that the enemy can go. Obviously, they run away leaving their lands and property behind.

4.5.10 Allocation of Resources

The allocation of resources in post-colonial governments has followed an ethnic pattern in which important political and administrative individuals have favored the home region, own tribe or clan. During the President Kenyatta's regime (1963-1978) certain part of Kikuyu community gained considerably While President Moi (1978-2002) granted similar advantages to his tribe-the Kalenjin. These practices have resulted in seriously unbalanced modern development and inequalities in the country. This has contributed to ethnicity becoming an important site of identification and conflict. It is through this ethnic identification that competition for influence in the state and allocation of resources takes place. So, clashes are aimed at eliminating any community that is seen to stand in the way to achieving this aim.

4.5.11 Low Level of Education

The minimal and poor social infrastructures such as schools, hospitals, roads have been cited as a major cause of low education in the Rift Valley. This has been blamed on the rising poverty in the area. Studies have revealed that where poverty is prevalent the

rebels get easy time in recruiting soldiers. Similarly the few educated youths interviewed reiterated that the high level of illiteracy has contributed to the rising poverty. Poverty is heavily blamed on the land conflicts in Rift Valley. The unemployed poor youth are easily convinced and especially when they are promised a little pay, in fact as little as 200 hundred shillings, some beer and a big promise that all the landless youth would be resettled on the lands that would be left behind by the Kikuyu. The majority of those interviewed, 45 were the youth between the ages of 18-30 years of age. However even those in the bracket 31-50 and who formed 35 of those interviewed the majority of them were below 50 years of age. Normally these are the groups of people that politicians would want to use to achieve their ends. They form the largest group of the unemployed and therefore easily lured into these criminal activities since most of the times they are idle.

4.5.12 Economic Differences

The Kalenins are not enterprising which has made virtually all the businesses to be owned by Bantus especially the Kikuyu. The Kalenjins claim that the Kikuyu have secret to business which they don't like to share with anybody else. This has made the Kikuyu to be politically and economically stable, something that has disadvantaged the Kalenjins against them. This has been causing anger and frustration amongst the Kalenjin lot whenever they compare themselves with the Kikuyu. This makes them feel they do not like the Kikuyu[20]. In fact they claim that the Kikuyu are a proud lot because their dominance in the political and economic aspects of the country. So to the Kalenjins,

---

[20] An elderly Kikuyu mother who was very bitter about her plot that had been burnt.

chasing away the Kikuyu would give them a chance to fully participate in business without that stiff competition from the Kikuyu.

4.5.13 Poor Social Infrastructure

It was realized that the interior of the Kalenjin land has very poor and inadequate social infrastructure. The roads are poor and impassable. So these people are forced to trek long distances to catch any means of transport. This has somehow affected their farming as they are not able take their products to the market easily. They are forced to carry milk and potatoes on their backs to the road. On the other had most of the Kikuyu settlement schemes are found along the roads and therefore are able to take their products to the market with all the ease[21].

There are also poor educational and health facilities in the interior as compared to those found away from the interior, areas which are incidentally predominantly occupied by the Kikuyu and the Kisii. This has caused frustration which makes them feel that the Kikuyu and the Kisii were favored in the sense that their shambas were placed along the roads and are therefore able to thrive economically. So, they want to fight hard so as to get to these areas that are along the roads. Therefore the need to displace the Kikuyu and the Kisii from along the roads has been one of the causes of these conflicts.

4.5.14 Landlessness and Squatter System

Many parts of the Rift Valley are not densely populated. It was noted that there are few people owning very large farms. The farms are utilized by way of either keeping

---

[21] A young Kikuyu mother respondent.

large herds of cattle which are left loose to graze anywhere within the farm or growing wheat of which to the Kalenjins, these lands are underutilized. . Incidentally, there are quite a number of people who own either very small plots of land or literally landless. In fact, there are villages for squatters who do not have any land they call their own like the Set Kobol village and others living in the Kapsita forest in Kuresoi district.

These people keep complaining that they do not have land while others have more than they would need. In fact, these are the people that are easily lured by the politicians to cause chaos. Even, a little reason like a drunkard Kalenjin man fighting with another from a different community can spark off violence because they claim "our community is being fought" They are told that if they are able to chase away these people then they would be able to get all these lands which were originally theirs.

4.5.15 Poverty

With the lack enough social infrastructure in place like schools, health facilities, road networks in the interior coupled with the Kalenjin culture many of the people have little or no education. This is because the Kalenjin culture gives more weight to herding than education. Without formal education, it remains obvious that many of these youths are unemployed, a situation that spells poverty as the only option is herding and a little bit of peasantry. This kind of situation has left many of these youths uncivilized. Civilization is the art of living together, happily in societies. So, without this art of coexisting with other communities, they have that natural hatred for other communities because they go by what they here about other communities that such and such communities are bad because of these reason or the other and therefore are easily lured into these clashes in order to eliminate those "bad communities"

73

4.6 Conclusion

In a nut shell, the research objectives were to analyze the impact of colonial land legacy to the current land situation in Kenya. To this effect, the research did learn that Africans owned land communally before the coming of the Europeans. Any community member had the right to use the land in any way he wanted say building, grazing, hunting or gathering. None was allowed to sell and if it was a must for any reason was supposed to sell to a clan member and not to an outsider. In case he sold and the deal be rejected by the clan, the elders had the right to recall the land by refunding the proceedings.

But this state of affair was totally reverted with the coming and settlement of the Europeans. The Europeans took for themselves much of the land which was not literally occupied; little did they know that, that was communal land. The white settlers introduced large plantations and dairy farms here. African farming was seen to be hampered by communal land ownership. To improve African agriculture the settlers began land subdivision and consolidation which was aimed at changing the communal ownership to individual or private ownership according to the English law. The private owner would then be issued with a title deed.

This idea was aimed at encouraging the African farmers to work hard in their lands as the piece was now owned individually. The title would encourage him to acquire bank loans to improve his farming activities. So, the research did realize that the current land situation where individual land ownership is so pronounced came about with the Europeans. The research did prove that there is strong relationship between the colonial land legacy and the current Kenya's land conflicts and land disputes in the Rift Valley.

The individual land ownership was done away with by the European's capitalist ideology.

This one meant that communal ownership of property including land was no longer viable. So, after independence people began to acquire more and more land for themselves so that those who were wealthy by then used that opportunity to buy the small lands of the poor. So, currently the poor have little or no land at all while the rich have more land than they really need and use.

This has now created a scenario where the wealthy currently have a lot of land of which much of it lies idle according the way they seem. Land conflicts occur when those short of land try now to work out how they would access these lands. At the same time, there are land disputes and land conflicts between neighbours and or family members as they compete for the little land or resources in their small lands.

Furthermore, the research did reveal that ethnicity is to a large extent being blamed on the land conflicts and land disputes here in the Rift Valley. Natural hatred of one community to another is a clear phenomenon here. Particularly, the Highland Nilotes (Kalenjins), hate the Bantus. This is because the Kalenjins are naturally pastoralists while the Bantus are cultivators. The conflict therefore arise when the Kalenjin want to graze while the Bantus want to cultivate and grow crops. After all, the Kalenjins claim that these other communities are just aliens and must leave for their place and leave Rift Valley to the owner and who are the Kalenjins. In all, this research did adhere to the statement of the research problem. The research problem was about how the African land tenure system was before the coming of the Europeans and how that system was violated

by the Europeans, something that is now the source of conflicts and disputes on land. Land ownership and use in the pre-colonial Kenya was communal rather than individual.

It was therefore a sense of embeddedness of individuals in their families, clans and communities. But these arrangements were upset by colonization which began demarcation, consolidation, displacements and resettlement of the Africans. All these were done with the aim of acquiring suitable land for European settlement and their large-scale farming. It was therefore that much of the best African arable land was taken way dislodging many of them making them landless and squatters. The effects of these kinds of arrangements are very much explicit today. The research has revealed that the current land conflicts and land disputes emanate from this.

The research had two hypotheses. That colonial land legacy contributes to land conflicts and land disputes in the Rift Valley and colonialism contributed to the current squatter system in the Rift Valley. The research demonstrates these hypotheses by the fact that the indigenous land claims by the Africans was such that all the land was the property of the concerned community. The Europeans ignored these claims and rights and went ahead to occupy any land that was not literally occupied by the Africans by way of cultivation, occupation or grazing.

To the Europeans, this was waste land and thus became crown land. This state of affair led to displacement of the entire African communities in the Rift Valley. Most affected of these communities were the Maasai in the Uasin Gishu who were pushed to the remote areas with poor soils. [22]Africans were therefore forced to turn to squatter system which assured European farmers of supply of cheap labour.

---

[22] P. Mbithi And C. Barnes, *Spontaneous Settlement Problems In Kenya: E.A. Literature Bureau, Nairobi, Op Cit*

African situation was made worse by the fact that the Europeans levied heavy taxes on the Africans which were one source their revenue to run the colony. So to be able to pay their taxes, Africans had no option other than to work on these European farms. At or before independence, these settlers sold these lands to other communities other than those who had been displaced from here. The Kalenjins who claim Rift Valley belongs to them insists that those who were sold these farms are aliens and therefore must leave to their ancestral lands and so this today is the source of the land conflicts here. So the European activities and attitude towards the Africans are blamed for these land problems.

The research used a theoretical framework on the Marxist-based social conflict-theory which argues that individuals and groups (social classes) within the society have differing amount of materials and non-material resources. Hence, the two groups in the society-that of the wealthy and the poor come into being. The more powerful group uses the power it has to exploit the less powerful one. This is also what Marx called "structural conflict". Africans were a weak lot before the Europeans. They had to pave way to European farming and settlement.

At the same time, agrarian revolution links structures of domination in the agricultural export with some forms of conflict. Cultivators and elites both derive their income from land and therefore, conflict centre on the control of the political systems which have higher chances of access to land. The idea that political power in Kenya is an expression of economic strength attracts more conflicts over resources including land. So, Marxist social theory here fits well because it clearly demonstrates how the elites with power sideline the less powerful through structural violence.

Chapter Five: Conclusions

5.0 Introduction

This research was geared towards looking in depth why there is recurrence of land conflicts in Kenya and particularly in the Rift Valley. More importantly the research study was aimed at assessing and appreciating the wider social-political and economic consequences of the land tenure system.

This chapter gives the summary of the research and the reflections based on the findings. Also, it is the summary that covering the details of the issues tackled in all the chapters with an aim of highlighting critical areas of the research. There are also reflections to give the views, challenges and the opinions of the researcher which can form a basis of policy decisions. The same can be used for further research.

For the success of the study, the so called 'hot spots' for the perceived land conflicts and disputes were covered by the study. Such are Kuresoi and Uasin Gishu districts in the Rift Valley provinces in Kenya. Chapter one of the study has; statement of the problem, research objectives, literature review, theoretical framework, hypotheses, methodology and justification of the study. The second chapter deals with the various land conflicts and disputes in Kenya. Chapter three defines land and goes further to give the dimensions of land. It also defines conflict and disputes in relation to land. The chapter details analysis focused on proximate, structural and trigger causes of conflicts and disputes on land.

The chapter uses both primary and secondary data to analyze the relationship between colonial legacy and land conflicts and land disputes. The analysis is both qualitative and quantitative. In all, it emerged from the findings that there is real relationship between colonial legacy and land conflicts in Kenya.

5.1 Reflections

Although the initial stages of the research covered the whole country Kenya, much of it concentrated on the regions most affected by land conflicts and disputes. This was because it was realized that those from other parts of the country have a totally different perspective of such conflicts. They have the notion that these conflicts are caused by ethnicity, little do they know that there is multiplicity of causes among them the legacy left behind by the colonial masters.

There is therefore great need to put in place proper mechanisms that will look into every means to curb this menace which has devastating effects in terms of human casualties and destruction of property. The colonial system of land tenure made Africans to lose their access to and ownership of land. Kenyan society is agrarian and this shows how important land is to it. The livelihood of an agrarian society is pegged on land therefore anything that may block the society from accessing this resource is met with all manner of resistance including violence. Some communities in the Rift Valley today feel that Europeans denied them their rights to access the land they claim they owned since the beginning of times. This has been the source of complain that consequently develop into violence.

The systematic trend of the violence where they normally occur almost in every election year tells clearly that politics have been used to trigger them. It is therefore very important to put up efficient electoral institutions that will to a certain extent achieve positive peace. More importantly, the structural problem and ethnicity are factors dividing the Kenyan society which manifest itself during the election year.

In an attempt to address the factors of land conflicts in Kenya and particularly in the Rift Valley, some measures have been suggested. As regards to the politics, bad governance, interests of the third party or even big power gap established through patronage rewarding play part in occurrence of these violence. This is because in the only way out is by political changes and thus conflict arises. So for such structural conflict redistributive justice is' necessary in order to avoid that perception of marginalization which leads to frustrations and therefore aggression. Resources have to be devolved and even the political institutions must appease the periphery. However, care must be taken to avoid the question of owning regions which may lead to cessation. The natural resources must be shared equally to avoid marginalization. For instance, those in the North most part of the Rift Valley complain that they are not part of Kenyan as according to them very little resources are able to reach them.

For whatever reason if conflict occurs, there has to be mechanisms for peace building. This one calls for retributive and restorative justice. Politicians and other people are heard uttering hate speeches just before the elections. These are the people that incite one community against the other causing violence. Such people must be given punishment that is enough to stop even others who may be having a similar intention. This is one way of curbing impunity and violence.

However, before the punishment, the Kenyan society must be educated on the real need to keep and maintain peace. This therefore calls for the formulation of strong institutions that can carry out this mandate effectively. The Kenya Truth, Justice and Reconciliation Commission (TJRC) are a positive step towards this direction. The National Cohesion and Integration Commission (NCIC) on ethics is also another good step. However, such commissions can only be effective if they are given the full support of the government and the general public which may include enough finances and the power to prosecute.

TJRC here is very important because its work is not to prosecute but to give a chance to the perpetrators of the violence to declare openly their parts in violence and ask for forgiveness. This is a chance to change the attitude of the perpetrators and at the same time give a chance to the victims to enjoy peace. This could be by assuring the victims of a peaceful future by resettling them. The resettlement of the displaced persons should be done fairly. Fairness here means that first; all those displaced must be resettled within the Rift Valley from where they had been displaced. This is important because they may not have the peace they need after all as they may not be accepted anywhere else. Again, this is their will to be resettled where they had been displaced. Fairness also means that resettlement must be devoid of bias. Not one section of the displaced persons should be resettled leaving any other behind. All those displaced be it by the violence or by the government rehabilitation of the forests must be resettled. No Kalenjin should be resettled anywhere else except within the Rift Valley.

As was evidenced in the 2007 general elections, the election results were disputed. This was seen as the trigger of the post election violence of the 2007/2008. The

81

loser refused to seek justice from our courts claiming that no one had confidence in them. This therefore means that strong institutions for conflict resolutions before it is manifested must be instituted. Such institutions must be of the type that Kenyans would have faith in due to their capacity to manage conflicts. These are the institutions which are independent and devoid of political interference. Our courts therefore must be independent and free of political interference.

Security systems must also be looked because this is an institution which assures Kenyans of the security they need. This must have a national outlook not like the current situation which depicts otherwise. Sometimes people try to imitate the kind Kiswahili spoken by the police and which tries to lean towards a certain community. This one clearly shows that the police force has a majority from a certain community. This makes the public to lose confidence in the police making them to have a feeling of insecurity even when they are assured of one.

There should be a well defined early warning systems and effective structures capable of responding in time to any signs of violence. This would a long way in avoiding a repeat of crises of political nature that occur in almost every electioneering years. A well constituted police force is capable of doing this as where one community would want to be violent on another those of the target community are able to keep an eye and be able to detect the problem before it arises. A t the same time, the system must be all inclusive in the sense that every person is part of the system. All communities must be involved in security decision making matters as this security is theirs.

The violence and conflicts in the Rift Valley are a fall out of unresolved issues, among them is land. This is why Kalenjin leaders in the here are able to easily mobilize

ethnic support. Since land issues have not been resolved, these leaders are able to convince the youth into violence with the simple reason that they will get back the land they lost to the aliens.

Corruption is a vise that has also played part in causing violence on land. As the resettlement program was being done in the post independence period, very little transparency was exercised such that very many undeserving cases benefited from the lands that were left behind by the settlers. This left many deserving cases landless and these are the people keep asking for their rights. Since nobody is ready to listen to them as those who should do so are the once who benefited result to violence. It is therefore very noble for the government to compensate those holding large farms and share it among the landless as one way of curbing violence on land.

The empowerment of the youth by creating wealth would make them not vulnerable to ethnic inciters and political chauvinists who may want to entice the into land related violence. More often than not the youths have been lured into militia gangs with the promise of getting back their 'lost land' and of course some money and employment. So the government must create a conducive environment for foreign and local investors to able to reach this end. This can be done through assurance of security and government support through a fair tax regime. The Kazi kwa vijana initiative is a right step towards this direction. Education must now be set in a way that it is enhancing self employment as 'white color jobs' are now a bridge too far. To conclude, land issues are very sensitive and needs to be handled with great care.

References

Anderson, D, 'Stock theft and Moral Economy in Colonial Kenya' *Journal of the International African Institute,* Vol.56, *Crime and colonization in Africa* (1986), Edinburgh University press

Angelique, H, 'Land tenure and agrarian change in Kenya' *African Journal of International African Institute* Vol. 59, (1989), Edinburgh University Press.

Aristide, R. Z, 'The structure of political conflicts in the new states of Tropical Africa' American *Political Science* Vol.62,(1968), American Political Association

Asante, B. K. S, 'Interest in land customary law of Ghana' *The Yale Law Journal* Vol.74, No.5, (1965), The Yale Journal Company, Inc.

Azam, J. P, 'The Redistribution state and conflict in Africa' *Journal of Peace and Research* V.ol. 38, (2001)

Berry,S. Debating the land question in Africa: '*Comparative studies in society and history vol.44* no.4(2000)

Berry, S, Debating land question in Africa, '*Comparative studies in society and history vol.44(*2000), Cambridge University press

Billon,P; *The political ecology of wars: Natural resource and armed conflicts*; Political Geography (2001)

Brokensha, D. and Glazier J', '*Land Reforms among the Mbeere of Kenya; Journal of the International African Institute, vol.43 no.3* (1973),197-199, Edinburgh University Press.

Bruce F. Johnson and John W Meller; The role of agriculture in economic development: *American Review* vol.51 (1954), American Economic Association.

Burgess, H. and Spangler, B, 'Conflict and Dispute': *The Conflict Resolution Information Source* (2003)

Burke, J. W. et al ' Factors associated with farm households' movements into and out of poverty in Kenya' *The rising importance of livestock, Discussion paper no.6*

Campbell, J, D, 'The Response to Drought among Farmers and Herders in Southern.

Christopher Leo; Land and class in Kenya: *The political economy of world poverty*: University of Toronto press.

Cohen B. J. ,The question of imperialism '*The political Economy of Dominance and Dependence*',

Cohen, R, 'Intractable Conflict': *The Hand book of Conflict Resolution; Theory and Practice eds, Morton Deutsch and Peter Cohen* (2000)

Cohen,BJ '*The question of imperialism, Basic book publishers*(1973)

Cohen,B. J., ' The question of imperialism, Basic book publishers.

Deininger, K and Binswanger H; The evolution of the World Bank's land policy: Principles, Experience and Future Challeges, *The World Bank Research Observer* vol.14(1999)p247-276, Oxford University Press.

Deininger, *K, and Castsgrini,R 'Incidence and Impact of Land Conflict in Uganda, World Bank Policy Research Paper 3248*(3248- March 2004)

Durraiappah,A K et. Al, *'land tenure, land use and conflict resolution'* (Aug.2000)

Gacheru Wanjohi, N A, Social inequalities in Kenya: *'A case study of the Rift Valley, University of Nairobi(1976)* ·

Galtung, J ' *The structural theory of Imperialism: Journal of peace and research'* vol.8(1971)

Gaski, J F ' The theory of power and conflict in channels of distribution' *Journal of Marketing vol48, American Marketing Association*(1984)

Gaski,J, F, '*The Theory of Power and Conflict in Channels Distribution, Journal Marketing, vol.8, no.3(1994,* American Marketing Association

Gaski,P, The theory of power and conflict channels of distribution, ' *The Journal of Marketing(1984) American Marketing Association.*

Gleik,PH; Water and. conflict: Fresh water resource and international security; International security vol.18(1993), MIT press

Global Rights: Partners for Justice; Managing land conflicts and laying groundwork for future post-conflict restorative justice mechanisms in Burundi, Final Report Oct. 2005- Oct. 2008

Harbenson,JW, Land reforms and politics in Kenya,1954-1970 '*The journal of modern African studies* vol.9(1971)', Cambridge University press

Harvath, R J ' A definition of colonialism' *Anthropological research journal(1972),* Chicago University press

Haugerud, A ' *Journal of international African institute vol.59 no.1, Access, control and use of resources in African agriculture* ', Edinburgh University press(1989)

Haungerud A; Land tenure and agrarian change in Kenya: African *Journal of international African Institute* vol.59 (1989). Edinburgh University press.

Homer-Dixon,TF; Environmental scarcities and violent conflict: International scarcity vol.19 (1984), MIT press Leif Olson; Livelihood conflicts: Linking poverty and environment as causes of conflict.

Hpg (Humanitarian policy group), *Crisis in Kenya, 'land, displacement and the search for solutions*

Johnson, G E O *'Economic Analysis, The Legal Framework and Land Tenure Systems'*, *Journal of Law and Economics,* vol.15, no.1 (1972), University of Chicago Press

Kajiado District, Kenya: Comparison between 1972-1976 and 1994-1995, Human Ecology. Vol. 27, no.3 (September, 1999)

Kalande,W, *Kenyan land disputes in the context of social conflict theories: Open symposium...Nairobi*

Kamau,J, *'PC Mahihu's signature was all one needed to own prime plot on the beach'* Daily Nation, Friday, Nov.19th 2009

Kamungi PM, ' *The current situation of the displaced persons in Kenya: Jesuit refugee service, Nairobi (*2001)

Kanyinga K ; Land question in sub-Saharan Africa: IRD Currents, Current issues in international Rural Development, Swedish University (1997).

Kanyinga,K, Redistribution from above, *'The politics of land rights and squatting in coastal Kenya'* Research report no.115, Nordiska Afrikainstitutet Uppsala(2000)

Karanja, PM, Facing Mt. Kenya or facing Mecca? *'The Mungiki ethnic violence and the politics of Moi succession in Kenya(1987- 2002)*;Royal African Affairs society(2003)

Kasomo D, *'Research Methods in Humanities and Education*: Eldoret Kenya

Kenya Land Alliance, '*Land, Environment and Natural Resources*' *Submission to the Constitution of Kenya Review Commission* (July 2002)

Kiteme, BP and Gikonyo, J; Preventing and resolving water use conflicts in the Mt. Kenya highland-lowland system through 'Water Users Association': *Mountain Research and Development vol.22 (2000), International Mountain Society*

Klopp JM ; Pilfering the public, The problem of land grabbing in contemporary Kenya: Africa today vol.47(2000), Indiana University press.

Klopp,JM 'Ethnic clashes' and Winning Elections 'The case of Kenya's despotism, *Canadian journal of African studies vol.3(2001)*

Leys, C, Underdevelopment in Kenya 'The *political economy of Neo-Colonialism (1964-1971) University of California press (1975)*

Leys,C: Underdevelopment in Kenya '*The political economy of the neo-colonialism',1964-1971*, University of California press

M. Mwagiru; Conflict in Africa: *Theory, processes and Institutions of Management, Nairobi CCR Publications, (2006)*

Mark Irving Lichbach; *An evaluation of "Does economic inequality breed political conflict" studies: World politics vol.4 (1989)*, Cambridge University press

Marta Reynol-Querol,M; Ethnicity, political systems and civil wars: Journal of conflict resolutions vol.46, Understanding civil wars(2001) , Sage publications

Mbithi P. and Barnes C.; Spontaneous Settlement Problem in Kenya: E A Literature Bureau (Nairobi) 1975.

Mbula,P, ' *The current situation of internally displaced persons in Kenya: Jesuit Refugee Service,* Nairobi(March2001)

Miall, H Conflict transformation: '*A multidimensional task; Bergh of Research centre for constructive conflict management (2004)*

Mosley, F *'Marx's Economic Theory of Contemporary Capitalism'* Mount Holyoke College, USA (1995)

Mugenda, O, and Mugenda, A, Research Methods *"Quantitative and Qualitative Approaches*: Nairobi, Kenya

Ndegwa,SN; An examination of two transition Moments in Kenya politics: *The American political science Review vol. 91(1997,, American political Science Association.*

Nick Salat; Ancestral lands, injustices are real issues, Daily Nation, Monday August, 2010 .

Ntiapi, P *'Group Ranches Subdivision Study in Loitoktok division of Kajiado district of Kenya'* LUCID Working paper no.79 (2002).

Oberschall A, *'Theories of social conflict: Annual Review of sociology,vol.4(1978)*

Odi-OTS, *National Resource Perspectives no.96,* March 2005

Olende,K, *'The brutal legacy of Britain's colonial rule in Kenya'* , Nairobi, Jan.2008

Peace Direct: *Registered Charity, no.11123241-site map (Disclaimer) Privacy*

Peters, E.P and Kambewa, D, *'Whose Security? Deepening Social Conflict Over Customary Land in the Shadow of Land Tenure Reforms in Malawi; Journal of Modern African Studies* (2006), Harvard University

Rodewald AD; The importance of land uses within the landscape matrx: Wildlife society bulletin vol. 31 (2003), Allen press.

Rothchild, D; Ethnic inequalities in Kenya: Journal of Modern African Studies vol. 7(1969), Cambridge University Press

Said, A; Citizenship rights and the problem of conflict and civil wars in Africa: Human rights quarterly vol.23(2001), The John Hopkins University press

Sambanis, N; Do ethnic and non ethnic civil wars have the same causes? A theoretical and empirical enquiry: A journal of conflict resolution vol.45 (2001), Sage publications

Thomas KW; Conflict and conflict management: Reflections Update: Journal of organizational behavior (1986-1998)

Upreti, B R 'Resource and conflict resolutions in Nepal' *Mountain Research and Development vol.2 (2001), International Mountain Society.*

USAID-From the American People, '*Land and Conflict'*

Warner, M. and Jones, P; assessing the need to manage conflict in community-based natural resource projects: Overseas Development Institute, London (1998)

Wiesmann, U, et al 'Mitigating conflict over scarce water resources in the high land-low land systems of Mt. Kenya' *Mountain Research Development vol.20 (2000) P10-15, International Mountain Society.*

Appendix II

Questionnaire

TICK, WRITE OR DELETE AS REQUESTED

1. Ethnicity

2. Age

18-25	26-35	36-45	Others

3. Sex.......

4. District........

5. Constituency.....................

6. Profession........................

7. Education Level

Primary	Secondary	College	University

8. Do you own any plot here?

Yes	No

9. What is the approximate size of your land?..............acres

10. Inherited or Bought? ....

11. If inherited or Bought, from who? Parents, Society, Settlement scheme

12. Name of the settlement scheme or Society..........,...............................

13. Were you born here or migrated? ....

14. For how long have you lived here? ....years.

15. What Development have you done on your farm? E.g. build house

etc..

16. Are your neighbors of your ethnicity or are varieties?

(Specify)...

17. How do you relate with your neighbors?

Well	Fairly	Poorly

18. What do you think could be the cause of this kind of relationship e.g. Ethnicity,

Religion, Economic status, Education level etc

(specify)...

19. During General Elections, Do you vote alike?

Yes	No

20.In your own opinion, what could be the reason why you vote that

way?..

....

....

21. Are there usually Inter-Ethnic conflicts in this area?

Yes	No

22. When Do they usually occur e.g. During Elections, Drought

(specify)..

....

23.According to your own observation, what usually triggers violence? E.g. water points,

Land, Boundaries, pasture (specify)..

24.Did you experience the Post-Election-Violence of 2007/2008?

Yes	No

25.If Yes, how did it begin?(3 sentences)...

....

....

26. Were there indicators that P.E.V 2007/2008 would spread to your area?

Yes	No

27. What kind of indicators eg A certain community has been complaining of some

injustices...

....

28. Did you here the complaints yourself?

Yes	No

29. If any, what were the complaints about?

a)..

b)..

c)..

d)..

30. War is usually in two sides. Which were these two combatant

sides?..

....

31. Which community, religion or party was being targeted?

....

32. In your own opinion why do you think this party, religion or community was being

targeted?..

....

33. Were you or your community or party or religion attacked?

Yes	NO

34. How did you respond to the attack?

        a) Fought back

        b) Ran away from the settlement

        c) Ran to hide in the neighbors

35. In your own opinion, was this kind of response appropriate?

Yes	No

36. Why do you think this kind of response was or not

appropriate?..

....

37. Has there been a similar violence in your area before?

Yes	No

38. Which years in

particular?..

....

39. Were the reasons for the outbreak similar to those or different from those of

2007/2008 PEV?

Yes	No

40. Which reasons were similar to those of 2007/2008 PEV?

a)..

b)..

c)..

d)..

41. Was land among the reasons cited?

Yes	No

42. What were people saying about land? ....

....

....

43. According to you, how do you think we can solve this land problem in order to avoid these land problems in the future? ....

....

....

....

Thanks and may God Bless you for your Cooperation.

Ngugi Josphat Maina

ICM student, Institute of Diplomacy and International Studies,

University of Nairobi,

Registration number. R50/71570/2008,

Email:mainajos64@yahoo.com.

List of Interviewees

Mr. Makori (Area Chief

M/s Irene Chepkemoi

Mr. Kamau (Baba Njeri)

A group of IDP

Mr. Challie

Assistant Chief – Self Kob Village

Mr. James Kangara

VIC Church Members

Area Police Officer

Mr. Cherop- Primary School Teacher

James Mwangi – Businessman (Murinduko Market).