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Challenges Facing the Management of Cooperative Land Conflicts in Kiambu County, Kenya

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Abstract:

The issues of land conflict have been common in Kenya and around the world, in this premise cooperative societies have been formed to help in dealing with issues relating to these conflicts. This study sought to discuss the challenges that were facing the management of cooperative land conflicts in Kiambu county. The study was underpinned by the Human Needs Theory. This study adopted a descriptive research design. The study was conducted in Kiambu County which has 12 sub-counties in which the study was conducted. The study employed both probability and non-probability sampling techniques. The study had a sample population of 384. Data was collected using questionnaires, key informant interviews and Focus Group Discussions. The study found that subverting of strategies through intimidation and kidnapping, bribery of officials and witnesses, disappearance of land documents, power conflict and the influence of politics were some of the challenges faced by cooperatives that led to conflicts, facilitated by Professional vanity and lack of participation by people. The study established that there existed a possibility of these challenges being eliminated through cooperation. The study concluded that there were challenges in the implementation of strategies meant to manage conflicts

Keywords: Cooperatives, conflict management, land conflicts

1. Introduction

The demographic consequences of conflicts in the developing world are receiving increased attention (Brunborg and Urdal, 2005) and so is cooperative land conflict in Kenya. Changes that occur in the land cooperative sector therefore affect the development of the country and the general welfare of the members and buyers who buy land and other allied assets from these cooperatives. The re-curing leadership disputes and management crisis within cooperatives have made it difficult for members to obtain relevant documentation such as land title deeds and share certificates (ASDSP, 2015). These leadership disputes, corruption and mismanagement have adversely affected financial and organizational stability, to the extent of some members ending up losing land and houses they bought through these land cooperatives.

Corruption within land cooperatives - bribery, fraud, nepotism, favoritism and clientelism in land administration and land cooperative management is a widespread problem, and leads to a high number of land conflicts all over the world. All land conflicts, no matter how violent they are, produce negative consequences for individual people as well as for the entire society (Barton *et al.*, 2011). Many families across the world have seen their home being bulldozed out of existence. And in Africa, many daily experience the selling of their property by someone else who also claims to be the owner after buyers have purchased land from cooperatives. In many parts of Latin America, small farmers feared losing their farms to big farmers, agricultural cooperatives and land cooperatives. Whenever there is a land conflict, someone suffers economic consequences (Brunborg & Urdal, 2005). The study thus sought to establish the existence of challenges, the specific challenges, those responsible for creating or promoting the existence of these challenges, whether the challenges can be eliminated and the possible ways of eliminating the challenges.

2. Theoretical Framework

The study was underpinned by the Human Needs Theory. According to Fisher (2000), Human Needs Theory is a theory that assumes that deep rooted conflict is caused by un-met or frustrated basic needs, physical, psychological and social needs. This theory is based on hypothesis that humans have basic needs that have to be met in order to maintain stability within self and the larger society. Burton (1991) also postulates that human participation in conflict situation is compulsively in struggle of their respective institutional environment at all social levels to satisfy primordial and universal needs such as security, identity, recognition and development. The frustration of not satisfying these needs leads to aggression.

The goals of applying this theory in addressing conflict is to assist the conflicting parties identify and share their unmet needs, as they generate options for meeting those needs. It also aims at helping the parties reach agreements that meet the basic human needs to all the involved parties. Burton (1990) has argued that if an actor cannot fulfil her or his basic human needs, the tendency is to attempt to do so in other ways. If they cannot do so within the existing, "status-quo" system, they may create parallel, revolutionary systems for doing so. From a theoretical point of view, the proposition is that if certain human needs are not satisfied there will be conflict which no amount of suppression will contain. Burtons (1990) in his writings "Contribution to Conflict Resolution", who among other things was a psychiatrist, noticed in his work with those who experience violence on both the delivery and receiving ends, including those who tortured as well those who were tortured that constraining actors in negative ways may turn out to be a catastrophic disaster for all concerned in the long run

3. Methodology

This study adopted a descriptive research design. The study was conducted in Kiambu County which has 12 sub-counties in which the study was conducted. The study population included Kiambu county, non-residents who have in the past purchased or leased land from land cooperatives or sold land to cooperatives, County Executive Committee Member in charge of Lands, Physical Planning and Housing, department of Lands, Physical Planning and Housing, magistrate/judge in charge of land cases and the sub-county administrators. Specifically, the study sought information from magistrate/judges since they are in many ways involved directly in cooperative land conflict management where they are based or operate. The study further sought responses from the County Executive Committee Member and the Department of Lands, Physical Planning and Housing since they are directly involved in handling land matters in the whole County and information from them will be of importance in understanding management strategies affecting cooperative land conflicts. Sub-county administrators provided information with regard to administration, conflict management and resolution, security, law and order as well informal conflict management strategies employed in dealing with cooperative land conflicts. Officials from land cooperatives that operate within Kiambu County provided vital information regarding cooperative land conflicts, the strategies employed in handling these conflicts as well as the various challenges that these strategies face. The study employed both probability and non-probability sampling techniques. The study had a sample population of 384. Data was collected using questionnaires, key informant interviews and Focus Group Discussions. Quantitative data analysis was done using SPSS version 20 and was then presented in form graphs, charts and tables. Qualitative was analysed thematically and presented in form of narrative reports and verbatim quotations.

4. Findings

4.1. Presence of Challenges That Limit the Management of Cooperative Land Conflicts

The study begun by enquiring whether there existed challenges in the whole process of management of cooperative land conflicts. The study also sought to identify the most challenging factors in this process and presented the results in Table 6.1 below.

No	29		
Yes	165	Most challenging factors	
		Professional vanity	32
		Negative indicators of strategies employed	13
		Lack of participation	39
		Inadequate land legislation	24
		Lack of understanding of strategies	15
		Traditional way of doing things	21
		Power conflict	21

Table 1: Presence of Challenges and the Most Challenges Factors in Managing Cooperative Land Conflicts

Source: Researcher, 2018

The study established that there were challenges in the implementation of strategies meant to manage conflicts. This was as mentioned by 165 respondents with 29 noting that there were no challenges. Of those who cited the presence of challenges, 32 noted that professional vanity was the main challenging factor, 13 cited negative indicators of strategies employed, 39 cited lack of participation, 24 cited inadequate land legislation, 15 cited lack of understanding of strategies, 21 cited traditional way of doing things while 21 cited power conflicts as the most challenging factor.

On their part, participants in the focus group discussion noted that professional vanity of the part of officials from land cooperatives as well as those from the ministry of lands were the most common challenging factors, with others mentioning bribery and other forms of corruption, power conflict and the influence of politics and the traditional way of doing things which hampered the management of modern land conflicts.

The issue of lack of participation came in to play as noted by one of the sub-county administrators;

There is less involvement of all parties that handle such conflicts. Only a few people, mostly the parties in conflict are involved. This makes it difficult to manage such a conflict due to the

limited scope and information. There should be participation of even the community and local leaders like us who are on ground.

Indeed, professional vanity was cited as one of the most common challenging factor by officials from land cooperatives as well as members of the lands, planning and housing department at the county. One of the officials note;

Some of the officials in the lands registry, even the land surveyors are corrupt, they are cons and they are compromised. They are used by some people to cause conflicts even on land that is legally owned. They have in many cases hampered efforts to solve conflicts by intimidation and not providing documents for instance during court proceedings.

Other challenges that came out of the interviews included subverting of strategies through intimidation and kidnapping, bribery of officials and witnesses, disappearance of land documents, power conflict and the influence of politics as well as lack of trust in some strategies due to their outcomes in previous cases. The traditional method of doing things was also cited as a challenge since with the changing nature of cooperative land conflicts, it was noted that traditional strategies and procedures in land dealings were outdated and when applied to current conflicts, produced counter-results.

4.1.1. Professional Vanity

Some professionals are insecure about the ability of others to make good decisions and to hold power. Some even resist settlement for fear that there might be some unknown benefit of the decision to the opposition. Malice and conflict of interest as well as lack of integrity on the part of some land managers and officers charged with land management and conflict resolution have led to many conflict resolution processes stalling while some being ruled in the favor of the perpetrators of these conflicts.

4.1.2. Non Participation

Historical experiences and perceptions influence the willingness of participants to trust others in cooperative land conflict management processes. Consequently, solutions to problems are often dismissed without being adequately considered when presented by an opposing side. For example, Kasanga (1997) noted that in Uganda, despite many attempts to convince the members of the Mutale community to participate, and the passing of many months, they declined. Their non-participation prevented the conclusion of an agreement that took 18 months to negotiate. Non-participation in the processes meant to manage and resolve conflicts by either of the parties involved in cooperative land conflicts was noted as one of the major challenges facing the management of cooperative land conflicts.

4.1.3. Negative Indicators of Strategies Employed

This challenge is associated with the potential for violence between the parties, a party or parties not willing to honor basic guidelines of mediation, where a party lacks the capacity to make informed decisions because of either an information or a power imbalance between the parties, instances of a party trying to abuse the process for example prior gathering information for a later court hearing and where the parties may reach an illegal agreement or an agreement that severely disadvantages an unsuspecting third party. All these scenarios become a stumbling block for most conflict management strategies and processes.

4.1.4. Inadequate Land Legislation

Presence of land legislation that is inadequate or outdated inhibits the management of cooperative land conflicts in the current world. With the ever changing dynamics in land systems, outdated land legislation faces a lot of challenges in finding just and sustainable solutions to cooperative land conflicts.

4.1.5. Lack of Understanding of Strategies

There have been cases of lack of understanding about alternative dispute resolution strategies for example. Pendzich (1994) observed that many people do not have an understanding of alternative dispute resolution or its application. Fear of the unknown can impede the application of alternative dispute resolution. In addition, poorly applied efforts of alternative dispute resolution can result in turning many people off to valuable problem and dispute resolution processes.

4.1.6. Traditional Way of Doing Things

Tradition and agency culture which favors the usual way of doing business have been a constant challenge in managing cooperative land conflicts in this current age. There have been resistance to new procedures and rules since public land managers and interested parties may have a mindset which prefers the known processes of litigation rather than the unknown risks of alternative dispute resolution. Perceptions that alternative dispute resolution is a soft or "giving in" approach to conflict may prevail among some individuals. Some may feel threatened by a giving of power to others in the decision-making process. This scenario therefore was found to be a hindrance to the management of cooperative land conflicts.

4.1.7. Power Conflicts

The most difficult type of land conflict to resolve involves a powerful person against one or more poor people. In many countries or situations, the poor hesitate and often do not dare to resist the powerful, not least in court. If they do, or if the powerful sue them instead, the chances are very low that the poor will win the case. As noted by Torell (1993),

resolution in these cases tends to favor the powerful while in some cases, decisions are swayed by the political currents existing in a state. In this regard, such instances are posed great challenges to conflict management and limits the fair and just determination and resolution of cooperative land conflicts.

4.2. Respondents' Opinion on Those who are Responsible for the Challenges

Having identified that there existed challenges in the implementation of strategies aimed at managing cooperative land conflicts, the study sought to understand the opinions of the respondents on who were to be held responsible for these challenges. The results are presented in Table 6.2 below.

Land Buyers/Tenants	Land Cooperatives	Government Officials	The Community	Legal Institutions
56	49	36	12	12

Table 2: Those Responsible for the Challenges

Source: Researcher, 2018

The study established that land buyers and tenants were the ones to be held responsible most, with regard to the challenges that exist in the management of cooperative land conflicts. This was noted in 56 respondents. Those who mentioned land cooperatives were 49, those who mentioned government officials were 36, and the community was mentioned by 12 respondents while legal institutions were mentioned by 12 respondents. Land cooperatives and government officials were mentioned with regard to professional vanity while buyers and tenants were mentioned with regard to lack of participation and the traditional way of doing things.

Consequently, the study established that respondents were concerned that land sellers (land cooperatives) sold land without following due process since they knew that some buyers lack knowledge and clear understanding of the land laws. Additionally, it was noted that there was lack of participation as meetings to solve conflicts were only attended by few parties, cases of conflicts note being heard without third parties, leading to one sided decision making concerning the conflicts. This was coupled up with sidelining of key stakeholders in the whole process. This was regarded as lack of participation in the process of conflict management and it was noted as one of the main challenging factors.

The study also noted that there were cases where some people, mostly those who caused conflicts, were bribing their way out in government offices. This also included complacency and laxity in officials where complaints concerning cooperative land conflicts were lodged. Respondents also noted that in some cases, they had no specific place to lodge complains as they were referred from one office to another.

There was also lack of understanding of strategies due to illiteracy as well as cases of some of the strategies being poor in the sense that they could not lead to the proper management of these conflicts. It was also noted that some of these strategies were outdated, for example, charging land buyers a standard fee for different land topographies led to rebellion from land cooperatives. Furthermore, respondents noted that land laws which allowed the land registrar more powers including the cancellation of tittle deeds affected the process of managing conflicts as some of the officers were biased and compromised, hence, acted in malice to end conflict by cancelling tittle deeds in bad faith. This hampered the process of solving conflicts using the available strategies.

4.3. Possibility of the Challenges Being Eliminated

After the identification of the challenges, the study sought to understand whether there was the possibility of these challenges being eliminated. The study also sought to understand the ways in which these challenges could be eliminated as part of the recommendations the study would make. The results are presented in Figure 1.

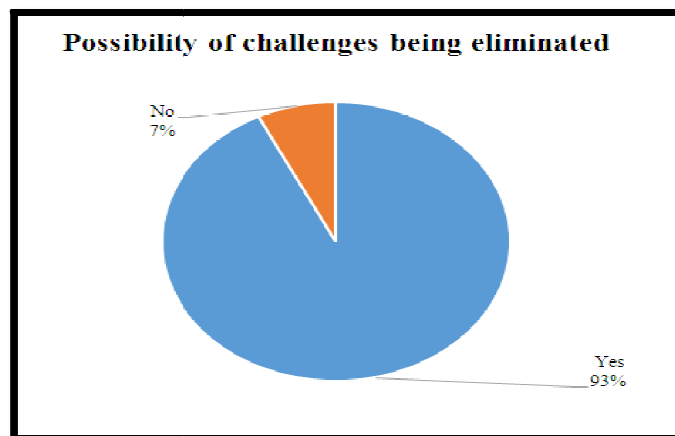


Figure 1: Possibility of Challenges Being Eliminated

Source: Researcher, 2018

It was established that there were possibilities of the challenges being eliminated. This was according to 93% of the responses. Only 7% noted that there was no possibility of eliminating the challenges. The study further sought to understand the possible ways through which the challenges could be eliminated. Among the possible ways of eliminating the challenges was the implementation of strict laws that governed land. These laws would touch on elimination of brokers in land transfer, strict code of conduct for government officials and those in land cooperatives with regard to land dealings as well as strict observance of land registration and transfer. It was also suggested that a tribunal, with strict instructions and integrity, be in place to replace the mediators and negotiators during the process of managing conflicts. Respondents also noted that there was need to make use of the services of competent, qualified and trustworthy personnel in the ministry of lands, so as to avoid cases of such officials being compromised to derail the management of cooperative land conflicts. This should also be coupled up with improving the trustworthiness of the lands registry, ensuring transparency, integrity, accountability and public participation.

It was also in the view of some respondents that there was a need to change the people's mindsets concerning cooperative land conflicts. This would go a long way in ensuring that traditional ways of handling conflicts do not find their way in to modern conflicts and that conflicts would be solved in an all-encompassing manner. Additionally, challenges would be eliminated if all stakeholders played their roles respectively. This would edge out power conflicts and one-sided decision making.

4.4. Institutions Taking Initiatives to Address the Challenges Facing Management of Cooperative Land Conflicts

The study sought to find out whether there have been any institutions making initiatives to address these challenges. The study also sought to know these relevant institutions and presented the results in Figure 2 below.

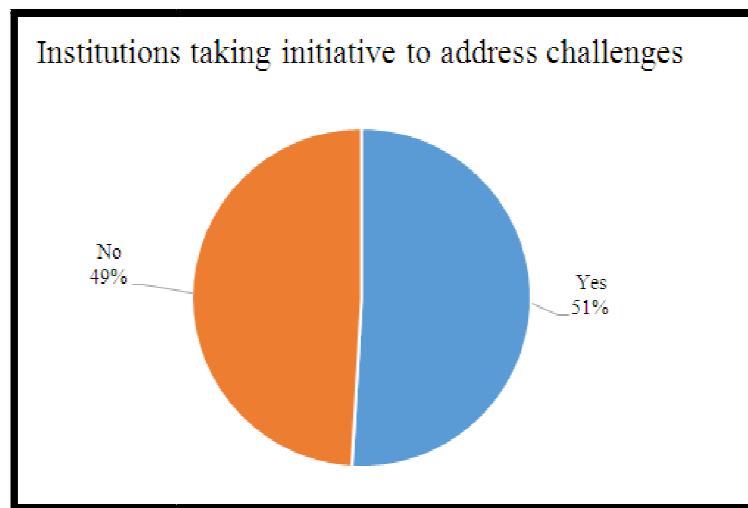


Figure 2: Institutions Taking Initiative to Address Challenges
Source: Researcher, 2018

From the data collected, it is evident that there were mixed opinions on institutions taking initiatives to address challenges in the management of cooperative land conflicts. As evidenced in Figure 2 above, 51% of the respondents noted that institutions were gearing up to address these challenges while 49% were in disagreement. Similar sentiments were shared by participants in the focus group discussions, most of whom noted that many of the concerned institutions were doing too little to be noticed in terms of addressing these challenges. In the same vein, one of the sub-county administrators noted that;

We are trying our best to address these challenges, but as you now, there are some stakeholders who are literally doing nothing about these challenges, maybe because they benefit from these conflicts.

However, members of the lands, planning and housing department at the county noted that most of the government institutions involved were doing a lot in terms of eliminating these challenges. One of those mentioned that;

You can see for yourself, right now we have land offices even up to county and sub-county level. This is so as to ensure participation of even our officers in managing these conflicts. The national government also has improved implementation of policies to do with lands, and this will not only eliminate challenges but also eliminate conflicts all together.

It is therefore true to note that the participants in this study expressed mixed opinions on the participation of different institutions in handling and eliminating challenges associated with the management of cooperative land conflicts. However, it was noted that there was participation of some institutions. Some of the respondents mentioned grassroots leaders such as chiefs and village elders, council of elders, lands board and the nyumba kumi initiative.

The study finally sought to understand how the elimination of these challenges would ensure efficiency in managing of cooperative land conflicts. From the data collected, it was evident that honesty and integrity in all land dealing

would be achieved, and this would eliminate any chances of conflicts emanating thereafter. This is because land would be allocated in the prescribed manner and cases of double land sale and double land allocation would be a thing of the past. Additionally, elimination of challenges would ensure that cooperatives and their officials would operate in a professional manner when dealing with conflicts, without taking sides and ensuring the best is achieved in terms of justice. This would also ensure that land buyers and tenants have all their needs met in terms of fair hearing and determination with regard to conflicts. Their participation in conflict management would provide clear and reliable details that would in the end, give information on rightful land owners.

Elimination of challenges would also ensure there is no power conflict both within cooperatives and in the community. This would ensure cooperation in terms of fact finding and management of conflict. Respondents noted that working together between the community and the cooperatives would ensure that those with ill intentions of causing conflicts would be kept at bay, while providing evidence and witness accounts that corroborates in ties of managing conflicts.

It was also found out that elimination of challenges would ensure that conflicts are solved amicably in the shortest time possible without enduring the course of bloodshed, violence, attacks and tension associated with cooperative land conflicts. The study therefore found out that the possibilities of eliminating the challenges were high and that the elimination of these challenges would be the first step to eliminating cooperative land conflicts in the long run, besides ensuring that the process of managing conflicts is smooth and fruits-bearing.

5. Conclusion

The study concluded that there were challenges in the implementation of strategies meant to manage conflicts. The most challenging factor was lack of participation followed by professional vanity on among land officials and officials from land cooperatives. Other challenges included intimidation and kidnapping, bribery of officials and witnesses, disappearance of land documents, power conflict and the influence of politics as well as lack of trust in some strategies due to their outcomes in previous cases. It was also concluded that land buyers and tenants were the ones to be responsible for these challenges followed by land cooperatives. However, it was concluded that there was the possibility of eliminating these challenges

6. Recommendation

The study recommended that the government should form committees at the local level- preferably at the sub-county level, to monitor, fact find, mediate and resolve cooperative land conflicts. This is in view of the much confidence and hope in government institutions and government led efforts in managing cooperative land conflicts. Such committees should also prepare reports and submit proposals for policy formulation on how cooperative land conflicts can be eliminated, basing on experience of the occurring conflicts.

7. References

- i. ASDSP (2015) Nairobi County. Retrieved from <http://www.asdsp.co.ke/index.php/nairobi-county> Accessed on 5th May, 2017
- ii. Barton D., et al. (2011) Current Challenges in Financial Agricultural Cooperatives. *Magazine of Food, Farm and Resource Issues*. 3rd Quarter, 26(3)
- iii. Brunborg B. and Urdal H. (2006) *The demography of armed conflict*. Dordrecht: Springer.
- iv. Burton J. (1990) (ed.), *Conflict: Human Needs Theory*, Macmillan: Basingstoke.
- v. Burton J. (1991) *Conflict Resolution*. Scarecrow Press, Lanham.
- vi. Fisher S., Abdi, D. I., Ludin, J. Smith, R., Williams, S., Williams, S. (2000) *Working with Conflict. Skills and Strategies for Action*. London
- vii. Kasanga K. (1997a) *Rapid urbanization, land markets and gender insecurity in peri-urban Kumasi, Ghana*. Final draft report, GUE Research Programme, Mazingira Institute, Nairobi
- viii. Pendzich C. (1994) *The Role of Alternative Conflict Management in Community Forestry*. Food and Agriculture Organization, Rome.
- ix. Torell D.J. (1993) *Viewpoint: Alternative Dispute Resolution In Public Land Management*. *J. Range Manage.* University of Nevada, Reno