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Mechanisms to Address Land Conflicts for Social Cohesion in Nakuru County, Kenya

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Abstract:

Land issue in Kenya is complex and emotive and has led to deaths and displacements. . Based on where people live and their ancestry, form of land acquisition have often fueled land related conflicts. Nakuru County in Rift Valley region of Kenya, which is the area of study, is one of the areas that has been experiencing land conflicts between indigenous and non-indigenous communities over land ownership and this study sought to assess mechanisms to address land conflicts in order to enhance social cohesion. The objective of the study is to assess the effectiveness of mechanisms to land conflicts, assess actors in land resolution and the role of local community in land resolution for social cohesion. The study is grounded on the Social Capital Theory. Mixed method research design was used for the study, with a sample size of 500 people. Sampling methods used were: purposive, snowball and clustered simple sampling. Data collection tools were: questionnaires, interview schedule, Focused Group Discussions and observations. The research established the existing land dispute resolution mechanisms and actors were largely ineffective and there was insufficient involvement of local community in addressing land conflicts. The study recommends for involvement of communities in seeking solution to historical land injustices, sensitizing community members against negative ethnicity towards societal values of trust, respect for diversity and identities, tolerance as well as promoting equality and justice to enhance social cohesion.

Keywords: Land conflicts, land ownership, social cohesion

1. Introduction

Conflicts over natural resources are a prominent global feature, often blended with ethnic, religious and tribal resentments and pose a serious social threat to peace and stability in many parts of the world Klare (2002). Land is one of such natural resources considered the most valuable, with an ever-appreciating monetary value and the foundation of all other economic resources such as minerals and oil, which drives conflicts globally (Sifuna, 2009). This is witnessed in the prevalent, historical conflict between Israel and Palestine, since 1948, where Israel feels entitled to the land occupied by Palestine especially in East Jerusalem, the Gaza Strip, West Bank, among other areas in contention, an issue which has led to incessant violence and death of thousands of people, hence affecting security, peace and social cohesion among Israel and Palestinian communities (Reinhart, 2011). Other international conflicts related to natural resources with the base on land include the conflict between India and Pakistan over the state of Kashmir; Israel and Syria over Western Golan Heights; Korea and North Korea over Korean Peninsula; Russia and Ukraine over Crimean Peninsula which was occupied by Russia in 2014, Ethiopia – Eritrea; Sudan and South Sudan over ownership of several states including Abyei; Ethiopia and Somalia over the Ogaden region; Kenya and Somalia over the boundaries of a maritime region along the Indian Ocean. These conflicts have affected security, peace and social cohesion among the populations of these nations. Though there have been efforts to resolve these conflicts, dispossession of people of their property in some countries persist Huth and Allee (2002), leading to massive deaths and displacement of people among communities, as well as erosion of peace, security, justice and equality in the society (Derman, Odfaard and Sjaastad, 2007). The conflicts have had negative impact on the quality of social relations among communities, (UNDP, 2015) and interferes with respect of individual and people's collective freedoms, their economic well-being, while undermining the value of tolerance and diversity among groups (Delhey et al, 2018).

Kenya is one of the countries most affected by land related conflicts with ethnic bearing, driven by the fact that land is the most valued factor of production in Kenya, with over 80% of the population relying on the only 20% that is arable for the practice of agriculture, leading to increased competition (Okowa, 2015). Additionally, land conflicts have long colonial imprints; they are considered to have started during colonial era and continue to persist in post-colonial Kenya due to colonial land policies and frameworks that led to dispossession, dislocation and displacement of local communities from their lands (Syagga, 2011). Another key triggers of social and land related conflicts in Kenya are ethnicity and politics and as Boone (2002) argues, land issues and politics of ethnicity are intertwined. Nakuru County, which is within the Rift Valley Region of Kenya and one of the most cosmopolitan areas in Kenya, is considered the epicenter of land-based conflicts involving indigenous communities, the Maasai and Kalenjin and non-indigenous communities, mostly the Kikuyu and Kisii. The main reason for conflicts over land is that non-local communities have acquired land which the locals claim to have been their ancestral land, taken away during the British colonial rule between

1895 and 1963 and was not returned to the owners, rather, benefited non-locals after independence, who comprise of more than 35% of the total population in Rift Valley Region (Veit, 2011). This is blamed on unequal and unfair redistribution of land in Post-Independent period since, the beneficiaries were not the natives, but the few advantaged population that came from other regions of Kenya and considered by the natives as invaders of their lands, thereby creating unease from the locals. This assertion is supported by Yamano, Tanaka and Gitau (2010) who explain that conflicts are prevalent in regions where a high percentage of land is owned by immigrants and the indigenous community feels dispossessed of their land.

As the volatile situation in the area depicts, the government has applied intervention mechanisms to address the land disputes in order to reduce tensions among communities as well as promote peaceful coexistence, majorly through enactment of the Constitution of Kenya (2010), which created the National Land Commission (NLC) to resolve land issues that appertain to the public land, the Environment and Land Court (ELC) to adjudicate land disputes, as well as the National Cohesion and Integration Commission (NCIC) to promote co-existence among communities and reduce cases of negative ethnicity and divisive politics, in addition the Truth Justice and Reconciliation Commission (TJRC) to address historical land injustices and promote reconciliation. However, though there have been these structural and systemic efforts to address land issues, land conflicts have persisted (Maina, 2015).

2. Theoretical Framework

The study is underpinned by the Social Capital Theory, which is a tool to assess and understand the relationship between social networks and collective action among people (Claridge, 2018) for a participatory and inclusive society. According to Ferragina, (2010), the usage of social capital as a theory can be attributed to Alexis de Tocqueville in 1890 and John Dewey in 1899, who strongly used the term in their works. The theory explains relational levels in society. Tocqueville noted the critical place of social bonding for social cohesion, while Dewey, in explaining the relevance of the theory, observed the economic and social changes in the society was moving towards a more egocentric society, thereby affecting social relations.

In the contemporary period, Bourdieu (1984), Coleman ((1988), Putnam (2000) and Woolcock (1998), are considered the proponents of the theory as it is understood today. They have given the theory a practical social connotation or implications. According to these thinkers, the theory is pegged on the following tenets:

2.1. Society's Collective Purpose

These are collective relations between individuals, social networks founded on norms of reciprocity and honesty within the community to achieve a society's collective purpose, where everybody is connected to the value systems of that particular society.

2.2. The Bonding and Bridging Of Members in the Society

Bonding is all about the value assigned to social systems that enhance fruitful relations between homogeneous groups (intra-community) while bridging refers to inter-community relations as they reach out to each other in spite of their given diversities that sometimes could be conflicting in heterogeneous groups. Bonding and bridging for social cohesion are mutually complementing elements of the social capital theory as they attempt to enhance relations in the society.

2.3. Community Diversity

Social diversity is not a negative concept; if well channeled, diversity enriches the well – being of the society; it brings people's diverse talents, experiences, and specialties for the benefit of the society. Davis (2014) argues that people's differences in a society are networked, thereby allowing them to co-operate. He gives an example of division of labour where people have different roles in a group, and it is the connection between these roles that enable them to trust one another cooperate and achieve their goals.

Colletta and Cullen (2000) argue that these elements present a comprehensive framework that describes the interrelations within the society for a positive cohesive existence for collective social development. Sanginga, Kamugisha and Andrienne, (2007) state that these tenets of social capital theory facilitate coordination and cooperation among members of society for mutual and collective action, which is a significant asset upon which people rely on to manage their nature-given human resources and resolve social conflicts. In the context of this research, the social capital theory offers the basis under which to conceptualize social cohesion amidst the conflicts associated to land as a resource and other land related resources. The theory is apt in the process for looking for community based solutions to problems that tend to divide communities existing in the area. This is fundamentally because for a meaningful social cohesion, one has to take into account the value of human resource, which is the foundation of social development. The theory is, therefore, critical to other social structures like class stratification on the basis of economic capital, race, tribe, religion that tend to bring antagonisms among coexisting communities.

3. Study Methodology

The study took place in Nakuru County in Kenya which covers an area of about 7,495.1Km², a diverse population of about 2,162,202 people (male –1,077,272, female –1,084,835 and intersex – 95 (KNBS, 2019). Kalenjin and the Kikuyu communities comprise of about 70% of the population and the two communities have been in conflict over land ownership since 1992 climaxing to 2007 Post Elections Violence where 213 people died and thousands displaced (Waki Commission,

2008). Five areas in the County, which were most affected land conflicts were selected with a sample size of 500 comprising of 400 people for structured questionnaire, 25 elders and 25 government/political leaders for interview schedules and 50 in five Focused Group Discussions (FGDs). Mixed Method Design was used and data collection used the following instruments: questionnaires, interview schedules, FGDs and Observations. Sampling techniques used were, purposive simple sampling and snowballing. Data was analyzed using SPSS, and presented in form tables, graphs and charts for quantitative data while qualitative data was presented in form of verbatim and narrative reports

4. Findings and Discussion

The Sample Size for the study was 500 and the response rate was as follows: 369 respondents for questionnaire, 44 for interviews and 37 for FGDs, totaling to 450 respondents, which is a response rate of 90%. Background information on respondents are: 76% male and 24% female; 75.55% were married, 14.04% were single, and 7.02% were widowed while 3.39% were divorced; 38.44% had secondary school education, 27.11% had university education, 24.70% had primary school education and 9.75% had non-formal education; 29.33% resided in Nakuru County for about 30 years; 24.67% had resided in the county for about 20 years; 17.33% resided in the county for time not exceeding 40 years; 15.34% had lived for more than 40 years while only 13.33% had lived in the county for a period not exceeding 10 years. The findings are discussed under the following thematic areas:

4.1. Actors in Land Dispute Resolution

Actors in dispute resolution are agents who are mandated to ensure disputes brought to them by parties are concluded in time. Respondents were asked to indicate institutions that they employ when faced with land disputes, and the findings are in Figure 1

Actor	Frequency	Percentage
Local Administration	90	24.39
Village Elders and Village Committees	83	22.49
Alternative mechanisms (mediation, negotiation.....)	47	12.74
Judiciary/Courts	39	10.57
Land Tribunals	29	7.86
Ministry of Lands	20	5.42
National Lands Commission	4	1.08
None	57	15.45
Total	369	100

Table 1: Actors in Land Resolution Mechanisms
Source: Field Data (2019)

The figure above indicates that most respondents, 24.39%, prefer local administrators to resolve land conflicts; 22.49% prefer village elders and village committees; 12.74% prefer alternative land disputes resolution mechanisms; 10.57% prefer Judiciary; 7.86% use Land Tribunals; 5.42% prefer the Ministry of Lands and a bare 1.08% prefer making use of National Land Commission (NLC) while 15.45% of the participants did not make use any of the actors in land resolution. It is instructive to note that most of the respondents, 50.68% resorted more to government actors such as local administration, judiciary, land tribunals, among others while 33.48% used both traditional and alternative methods and 15.54% did not prefer any actor in dispute resolution. From the findings, the study observed that religious leaders, NGOs, Civil Society groups did not have any role to play in resolving land disputes. The findings conform to the study by Cherutich (2013) who found out that elders and local government administration were critical in mitigating ethnic conflicts in Rongai, Nakuru County. When asked about the preference of many land owners in seeking resolution of land disputes, one of the key informants in an interview stated:

People prefer to take their disputes to chiefs and elders for resolution because they know that Chiefs know them and would offer quick solution to the problem. However, the main reason they do it is because there lacks home grown, local solutions to land issues. The residents are hardly involved in land resolution matters, neither has enough sensitization on the matter done by the government. This leaves them with no option than what is available though they know they would not get justice.

These sentiments were supported by all the five FGDs, who stated that they prefer to use local government administrators since they are readily available and are timely to give a solution.

4.2. Effectiveness of Actors in Resolving Land Disputes

To find out the effectiveness of the above actors, the respondents from the questionnaire category were required to rate their effectiveness in a Likert Scale, between 1 – 5, with 1 indicating least effective actor and 5 showing most effective. Figure 1 presents the results.

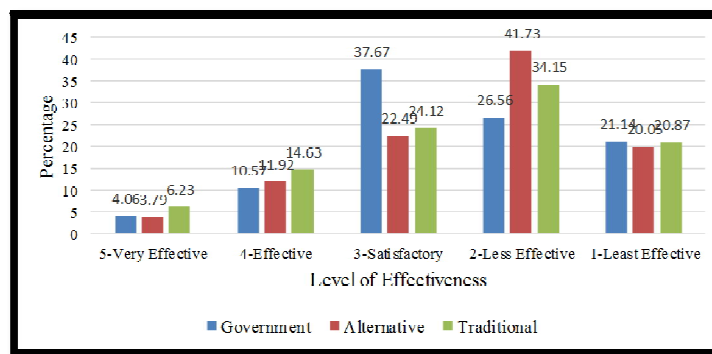


Figure 1: Effectiveness of Actors
Source: Field Data (2019)

Figure 2 indicates that government actors had a score effectiveness (5+4 in Likert Scale) of 14.62%, Alternative land dispute resolution measures such as mediation, negotiation were at 15.71%, and the traditional mechanisms such as that by elders, were at 20.86%. The findings specify that respondents considered traditional mechanisms being more effective compared to the other two. However, from the figure, it is clear that the results on the 'effective' side are at the minimum compared to the 'satisfactory' and the 'less effective' categories. This finding correspond to that by Maigua (2017) who identified the traditional conflict resolution mechanism as the most effective in Africa since it is the system that has been used for epochs successfully to settle disputes, especially those related to land and therefore the need to focus and mainstream it. The results also indicate that government actors were assessed to be more satisfactory at 37.67% while the alternative measures were at 22.49% and the traditional measures were at 24.14%. However, the percentages were lower compared to the 'less effective' category.

When it came to assessing the less effective measures (2+1 in Likert Scale), the government actors had an average of 47.70% assessment level; the alternative measures had a 61.78% level, while the traditional methods were assessed to be at 55.02%. The import of these findings is that existing land conflict resolution mechanisms in Nakuru County are not effective, given the higher percentages in this category. This could explain the persistence land conflicts in the area. The findings resonate with Adan and Ruto (2017) who attributed the failure to lack of Strategic coordination amongst key actors in conflict resolution in Kenya, thereby unfavorably upsetting cohesion and peace in the country. Maigua (2017) blamed the persistent land conflicts on failure to empower traditional mechanisms in resolving the conflicts and over-reliance on government institutions which do not provide amicable solution to the disputes.

4.3. Factors hindering Effective Resolution of Land Disputes

Having established the effectiveness of conflict resolution mechanisms, which were rated to be generally ineffective, the respondents from the questionnaire category were asked to indicate the factors that hinder effective resolution of land disputes in Nakuru County and Figure 4.3 presents the findings.

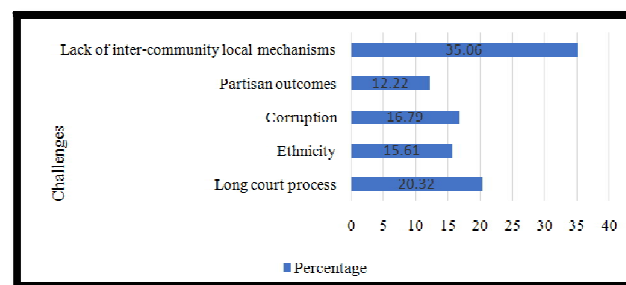


Figure 2: Challenges to Effective Resolution to Land Disputes
Source: Field Data (2019)

From the Figure above, 35.06% of the respondents consider lack of inter-community local land resolution mechanisms as a major challenge in achieving the effectiveness of land resolution mechanisms for social cohesion; 20.32% consider the long court process; 16.79% consider corruption; 15.61% identify ethnicity, while 12.22% of the respondents considered biased court adjudications outcomes as a major challenge.

On the same issue, most of the key informants in the interview schedules, 39 out of 44, identified lack of inter-community local mechanisms as a key impediment to the realization of effective land disputes in the County, arguing that efforts to bring about indigenous and non-indigenous communities to resolve land issues has always been opposed. The findings correspond to Gregory and Brendan (2006) who argued that to achieve effective conflict resolution mechanisms, the process ought to be impartial for justice to prevail, the outcome must be binding and the parties accept the outcome. Additionally, Ayitney (2003) postulates that for court systems to be effective in resolving land disputes through litigation, there must be impartiality, judges and magistrates work be independent and deliver its judgment within a short time and though it leads to a win for one party, the other party must abide by the verdict.

4.4. Community Involvement in Land Resolution for Social Cohesion

The study went further to establish the local communities' involvement in resolving land disputes for social cohesion, the informants were asked to rate responses as shown in Table 2

Rating	Frequency	Percentage
Very good	13	3.52
good	19	5.15
fair	72	19.51
poor	188	50.95
very poor	77	20.87
Total	369	100

Table 2: Rating of Community Involvement
Source: Field Research (2019)

The findings in the figure indicates that majority of the respondents, 50.95% and 20.87% rate the involvement of the community by the government in resolving land matters as 'poor' and 'very poor' respectively; 19.51% rate the involvement as 'fair' while a small percentage of 5.15% and 3.52% rate the involvement as 'good' and 'very good' respectively. The engagement of the community in resolving land matters in the County can therefore be assessed to be poor, which may be an indicator of perpetuation of land conflicts in the County, as indicated by a key informant in an interview who stated:

"What we see from the Government is unacceptable whereby policies from Nairobi are forced unto us. There is very little or no involvement at all of the local community by the Government in land matters. Though the constitution requires public participation in formulation of policies, this is not the case in land matters. For instance, in the case of evictions happening in Mau, the residents have not been involved in the process and we are left to bear the consequences of such policies."

The same issue was raised in all the five FGDs, which were unanimous that the involvement of the local community in land matters by the government is poor. One of the participants in the discussion stated:

"Nobody involves us in land matters yet the solution to the problem lies with us, since we bear the consequences of land conflicts and violence. The policy makers think we cannot contribute solutions on land but prefers to force decisions to us, which usually exacerbate land problem because the decisions conflict with our views. If we are adequately involved in policy making process of the issues of land that are at our hearts, then we would own the decisions, hence contributing to the solutions."

These results are supported by the study of Leeuwen and Haartsen (2005), who specify that insufficient or lack of involvement of locals in land resolution was a sure way to sustain land conflicts. Failure to involve them makes them feel alienated from the processes and are unlikely to co-operate during execution of government policies. This assertion is affirmed by Chepkoiyo (2005) who noted that those communities which embrace community based strategies in resolving conflicts enhance peace and security in their area, leading to high level of co-existence. Lack of involvement of the local communities in addressing land issues could therefore be a contributing factor to land conflicts in Nakuru County. This in essence goes against social capital theory which is guiding this research, intended to empower the communities in finding grass-root solutions to their own land matters.

5. Conclusion and Recommendations

The study found out that the existing measures to resolve land disputes: the formal (government) alternative and traditional were ineffective and the actors who drive the processes such as the government, the courts, elders, religious organizations and civil societies were assessed to be largely unsatisfactory. It was also established that ethnicity, corruption, historical land disputes, long court processes and lack of sufficient local solutions that involve the victims to resolve land disputes were the main factors hindering effective resolution of land disputes.

The study recommends, firstly, for empowerment of local administrators such as Chiefs and their assistants, headmen, since they are the ones who know the social reality on the ground better, to effectively deal with land related disputes. Secondly, it recommends fostering alternative land dispute resolution mechanisms such as negotiation, mediation, reconciliation to enhance trust, cordial relations and tolerance among people of different ethnic, social, political and economic affiliations in the area. Thirdly, the study recommends reforms in government institutions should also be considered to ensure swift and effective adjudication of land cases and fourthly, encourage and enhance local land-based resolution mechanisms by bringing on across board elders, community groups such as women, youth and men associations, Community Based Organizations (CBOs), Religious groups, institutions such as schools, colleges, universities among others, to ensure the effective resolution of land conflicts for social cohesion.

6. References

- i. Adan, M., & Ruto, P. (2017). Towards Policy and Strategy Formulation. In E. Muli (Ed.). *Conflict Resolution in Kenya*. Retrieved from <https://practicalaction.org/conflict-management-in-kenya>
- ii. Ayittey, G. (2003). The Economic Impact of Africa's Conflicts. In E. Uwazie. (Ed.), *Conflict Resolution and Peace Education in Africa*. Lanham, Maryland: Lexington Books.

- iii. Boone, C. (2012). Land Conflict and Distributive Politics in Kenya. In *African Studies Review*. Volume 55, Number 1, April 2012. The University of Texas, Austin, USA.
- iv. Bourdieu, P. (1984). *Distinction: A Social Critique of the Judgment of Taste*. London: Routledge & Kegan Paul.
- v. Coleman, J. (1988). Social Capital in the Creation of Human Capital. In *American Journal of Sociology*. 94 (Supplement): S95-S120.
- vi. Colletta, N. & Michelle, C. (2000). *Violent Conflict and the Transformation of Social Capital: Lessons from Cambodia, Rwanda, Guatemala, and Somalia*. Washington, D.C.: The World Bank.
- vii. Chepkoiywo, J. (2005). *The Impact of Community-Led Strategies on Conflict Resolution and Peace Building among pastoralist Communities in Kenya: A Case Study of Olmorani Division of Laikipia West District*. Nairobi: University of Nairobi.
- viii. Constitution of Kenya. (2010). Nairobi: Government Printer County Government of Nakuru (2013). Retrieved from <http://www.nakuru.go.ke/about/>
- ix. Davis, J. (2014). *Social Capital and Social Identity: Trust and Conflict*. Amsterdam: Marquette University and University of Amsterdam
- x. Deininger, K. (2006). Land Policy Reforms. In *Analyzing the Distributional Impact of Reforms*, Volume. 1. New York: World Bank.
- xi. Delhey, J. et al (2018). Social Cohesion and its Correlates: A Comparison of Western and Asian Societies. *Journal of Comparative Sociology*. Volume 17, Issue 3-4. June 2018. Briele, The Netherlands: BRILL.
- xii. Derman, B., Odgaard R. and Sjaastad E. (2007). *Conflicts over Land and Water in Africa*. Oxford: Michigan University Press.
- xiii. Ferragina, E. (2010). Social Capital and Equality. In *Tocqueville Review*. Vol. 31 (1): 73-98. doi:10.1353/toc.0.0030
- xiv. Gregory, T., & Brendan, F. (2006). *Resolving Conflict: A Practical Approach*. Third Edition. Oxford: Oxford University Press.
- xv. Huth, P., & Allee, T. (2002). *Democratic Peace and Territorial Conflict in the Twentieth Century*. Cambridge: Cambridge University Press.
- xvi. Jenson, J. (1998). Mapping Social Cohesion: The State of Canadian Research. In *Canadian Policy Research Networks*. CPRN Study No. F03. Montreal: CPRN.
- xvii. Kenya National Bureau of Statistics (KNBS) (2019). 2019 Kenya Population and Housing Census: Volume I. November, 2019. Nairobi: Government Printer.
- xxviii. Kimenyi, M., & Njuguna, N. (2006). Sporadic Ethnic Violence: Why Has Kenya Not Experienced
- xix. Klare, T. (2002). *Resource Wars: The New Landscape of Global Conflict*. New York: Henry Holt and Company.
- xx. Leeuwen, M., & Haartsen, L. (2005). Land Disputes and Local Conflict Resolution Mechanisms in Burundi. Bujumbura: CED-CARITAS.
- xxi. Maigua, K. (2014). Towards Meaningful Public Participation in Natural Resource Management in Kenya. Retrieved from <https://www.kmco.co.ke/wp-content/uploads/2018/towards-meaningful-public-participation-in-natural-resource-management-in-kenya.pdf>
- xxii. Maina, M. W. (2015). *Land Disputes Resolution in Kenya: A Comparison of the Environment and Land Court and the Land Disputes' Tribunal*. Nairobi: University of Nairobi.
- xxiii. National Land Commission Act. (2012). (Revised Edition, 2016). Nairobi: National Council for Law Reporting.
- xxiv. Okowa, D. (2015). *Land Reforms in Kenya: Achievements and the Missing Link*. Nairobi: Institute for Law and Environmental Governance
- xxv. Putnam, R. (2000). *Bowling Alone: The Collapse and Revival of the American Community*. New York: Simon & Schuster Paperbacks.
- xxvi. Report of the Commission of Inquiry into Post-Election Violence. (Waki Report, 2008). Nairobi: Government Printer.
- xxvii. Reinhart, T. (2011). *Israel - Palestine: How to end the War of 1948*. New York: Vesco Press.
- xxviii. Sanginga, P, Rick K., & Andrienne M. (2007). The Dynamics of Social Capital and Conflict Management in Multiple Resource Regimes: A Case of the Southwestern Highlands of Uganda. In *Ecology and Society*. Volume 12 Issue 1 Article 6. URL: retrieved from <http://www.ecologyandsociety.org/vol12/iss1/art6/>
- xxix. Syagga, P. (2011). 'Land Tenure in Slum Upgrading Projects' Retrieved from http://halshs.archivesouvertes.fr/docs/00/75/18/66/PDF/_LAND_TENURE_IN_SLUM_UPGRADING.pdf
- xxx. Universal Declaration of Human Rights (UDHR, 1948). New York: United Nations.
- xxxi. UNDP. (2015). *Social Cohesion and Reconciliation (SCORE) Index Project*. Retrieved from <http://www.cy.undp.org/Veit>, P. (2011). *History of Land Conflicts in Kenya*. New York: World Resources institute.
- xxxii. Woolcock, M. (1998). Social Capital and Economic Development: Towards a Theoretical Synthesis and Policy Framework. In *Theory and Society*. Volume 27 Article 2.