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KENYA HUMAN RIGHTS
COMMISSION

Redress for Historical Land Injustices in Kenya

A Brief on Proposed Legislation for Historical Land Injustices



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ACCRONYMS AND ABBREVIATIONS

ACHPR	African Commission on Human and Peoples Rights
KANU	Kenya African National Union
KNDR	Kenya's National Dialogue and Reconciliation
MRC	Mombasa Republican Council
NLC	National Land Commission
OCHA	Office of Coordination for Humanitarian Affairs
RLRC	Restitution of Land Rights Commission
TJRC	Truth, Justice and Reconciliation Commission

1. Background

Land has been and remains a politically sensitive and culturally complex issue for Kenya. Kenya's history with regard to the land question is characterized by indications of a breakdown in land administration, disparities in land ownership, tenure insecurity and conflict.

It was therefore against this backdrop that land reform was identified as an essential component of Kenya's National Dialogue and Reconciliation (KNDR) process and in particular, agenda item 4 on addressing long standing issues. Under Agenda 4, the following processes have been undertaken and proved essential towards resolving Kenya's historical land injustices:

- i. The establishment of the Truth, Justice and Reconciliation Commission (TJRC) which among other things investigated historical land injustices. It concluded with a report that contains a comprehensive chapter on Land and Conflict in Kenya.
- ii. The adoption of the National Land Policy as Sessional Paper No. 3 of 2009.
- iii. The promulgation of the Constitution of Kenya in 2010; which has re-conceptualized our approach to land use and management on the basis of equity, efficiency, productivity and sustainability.
- iv. The review and harmonization of Kenya's land statutory regime through the enactment of the Land Act (2012), Land Registration Act (2012), and the National Land Commission Act (2012). Legislation on Community Land is also contemplated within the Constitution but is yet to be enacted.
- v. The establishment of the National Land Commission (NLC); as the manager of public land, articulator of the National Land Policy and investigator of historical land injustices among other responsibilities.

What are the guiding principles for Kenya's land policy today?

The Constitution at Article 60 identifies the following as key principles informing Kenya's land policy:

- i. Equitable access to land;
- ii. Security of land rights;
- iii. Sustainable and productive management of land resources;
- iv. Transparent and cost effective administration of land;
- v. Sound conservation and protection of ecologically sensitive areas;
- vi. Elimination of gender discrimination in law, customs and practices related to land and property in land; and
- vii. Encouragement of communities to settle land dispute through recognized local community initiatives consistent with this Constitution.

On the right to property, it should be noted that constitutional safeguards on property rights do not extend to any property that has been found to have been unlawfully acquired. [Article 40(6)]

It is through the prism of these principles that we should review and analyze the prevailing legal framework and the land chapter of the TJRC report, with a view to developing redress options for historical land injustices in Kenya.

2. A Summary of the TJRC Report in regard to Historical Land Injustices and Forcible Transfer of Populations

The Land and Conflict chapter of the TJRC report offers a detailed explanation of historical land injustices in Kenya, and is divided into two phases: the colonial era and post-independence era.ⁱ

Colonial era

The TJRC report identified that the colonial administration used irregular and/or illegal methods to obtain land from local communities such as: the establishment of native reserves; forced evictions of the Talai, Pokot, Turkana, and Sabaot communities; land alienation by multinational corporations and; coercive measures such as forced African labour, forced taxation and forced military service. These colonial policies, laws and practices had both immediate and long-term effects on African communities, including permanent displacement. The colonial system created ethno-specific boundaries, which gave the impression that land rights within particular boundaries could only be enjoyed by certain communities, in certain areas. These ethnic ties to land continue to affect Kenya to date.

Post-independence era

The TJRC report notes that in the post-independence era, officials of the newly-formed independent government in Kenya turned the foreign-funded settlement schemes into cartels for their own benefit, and bought land in the Rift Valley, among other parts of the white highlands. Through this process, government officials swindled communities that were supposed to benefit from the settlement schemes, after being displaced by the British. This was further exacerbated by the policy of ‘willing buyer, willing seller’ which the government adopted in respect of land transfers. Coupled with a skewed empowerment of communities through formation of land buying companies, the policy saw large scale land acquisition in favor of communities identified as close to the centre of power. Three main categories of land emerged—government (including local authority) land, trust lands and private land. However, the laws on land were not respected, and this resulted in illegal and/or irregular allocation of land, such as the Karura and Ngong Forests, amongst numerous other instances. State officials such as the provincial administration continued historical injustices related to land including forceful evictions of individuals and communities, and land grabbing for personal gain.

Case Study: The Endorois and Lake Bogoria

In 2003, CEMIRIDE and Minority Rights Group International (on behalf of the Endorois Welfare Council) lodged a case at the African Commission on Human and Peoples' Rights against the Government of Kenya regarding the displacement of the Endorois community from their ancestral lands in order to establish the Lake Hannington Game Reserve in 1973 which was subsequently re-gazetted to the present day Lake Bogoria Game Reserve in 1978. This was after several unsuccessful attempts to seek redress from the domestic courts. At its 45th Ordinary Session the Commission delivered its decision, which became official upon being adopted by the African Union Summit in February 2010. The Commission agreed with the Complainants (Endorois) and found the Government of Kenya to be in violation of Articles 1, 8, 14, 17, 21 and 22 of the African Charter.

By way of remedy, the Commission ruled that the Respondent Government should take the following steps: (1) Recognise rights of ownership to the Endorois and restitute Endorois ancestral land; (2) Ensure that the Endorois community has unrestricted access to Lake Bogoria and surrounding sites for religious and cultural rites and for grazing their cattle; (3) Pay adequate compensation to the community for all the loss suffered; (4) Pay royalties to the Endorois from existing economic activities and ensure that they benefit from employment possibilities within the Reserve; (5) Grant registration to the Endorois Welfare Committee; (6) Engage in dialogue with the Complainants for the effective implementation of these recommendations; and (7) Report on the implementation of these recommendations within three months from the date of notification.

Land Issues at the Heart of Internal Displacement Occasioned by Election Related Violence

Unresolved land disputes and escalating ethnic tensions would soon manifest themselves in the context of competition for political power. After three decades of uninterrupted dominance of the political scene, the Kenya African National Union (KANU) faced its first credible challenge in the multi-party general elections of 1992; the first since the repeal of Section 2A of the then Constitution that declared Kenya a one-party state. The re-introduction of multi-party politics however coincided with mass violence and displacement as parties formed largely along ethnic lines revived age-old tensions and perceived injustices. KANU was accused of inciting and financing landless youth from the Kalenjin and Maasai communities, to force out those perceived to support the opposition from their homes and constituencies in the Rift Valley. It is estimated that about 300,000 people had fled their homes by 1993 and a further 1,500 lost their livesⁱⁱ.

This trend continued into the 1997 general elections with further violence registered in the Rift Valley and Coast provinces. The estimated outcome in this case was up to 120,000 people displaced and 100 fatalities registered. The victims were largely identified to be from communities perceived as supporters of opposition parties. All in all, the Office of Coordination for Humanitarian Affairs (OCHA) approximated that election-related violence prior to the 2007 general elections was responsible for the displacement of 350,000 personsⁱⁱⁱ. The aftermath of the highly contested 2007 general elections and its disputed Presidential results however, saw the escalation of such conflict to unprecedented levels, resulting in the displacement of 663,921 people. Of this total, 350,000 sought refuge in 118 camps while 313,921 were integrated in

communities countrywide and 640 households took refuge in Uganda. 1,300 fatalities and the destruction of 78,254 houses were further outcomes of this conflict^{iv}.

The Findings

In relation to land and conflict, the TJRC found that^v:

- i. There is a close link between land injustices and ethnic violence in Kenya.
- ii. Land related injustices took many forms such as illegal takeover of individual and community land by public and private institutions; illegally hiving off public land and trust lands; preferring members of a specific ethnic group to benefit from settlement schemes, at the expense of others who were more deserving; forcefully settling a community outside its homeland; forceful eviction; and land grabbing by government officials.
- iii. Land injustices started during the colonization of the Coast by Arabs and were followed by the British. All post-independence government regimes failed to honestly and adequately address these injustices.
- iv. The failure of colonial and post-independent governments to address landlessness has caused individuals and communities to turn to violence.
- v. Some have taken advantage of existing land-related injustices, when addressing other social problems, such as political differences.
- vi. Land-related injustices have affected the whole country, but communities at the Coast, especially the Mijikenda, Taita and Pokomo, have suffered the longest and most severe injustices.
- vii. Land-related injustices at the Coast are one of the key reasons for under-development in the area, and have caused the emergence of the Mombasa Republican Council (MRC).
- viii. The provincial administration has committed land-related injustices, including forced evictions, and should participate in efforts to redress land related problems.
- ix. The current Constitution and its institutions provide an opportunity to fully address land related injustices, but only if there is political will to do so.

The findings of the TJRC report generally illuminate the importance of legal and institutional reforms within the land sector. The completion of legislative reform is essential and in particular, the enactment of legislation on historical land injustices needs to be undertaken as a matter of urgency in order to facilitate viable remedies for the same.

Institutionally, the National Land Commission (NLC) is identified in the implementation matrix of the TJRC report as a focal player in: furthering investigations of alleged illegal or irregular acquisition of land; the survey, demarcation and registration of public land adjudication and registration of land at the Coast and other areas where this has not been done; development and maintenance of a computerized inventory of all land in conjunction with the Ministry of Lands

and facilitating reparation for historical injustices in conjunction with an implementation mechanism for the TJRC report.

3. Implementation of Recommendations on Historical Land Injustices: Where are we now?

The TJRC report was published in May 2013 and tabled in the National Assembly in July 2013. Since then no substantive progress has been made by way of creating an implementation mechanism for the recommendations in the report. In a bid to re-energize the process, President Uhuru Kenyatta in his State of the Nation Address of March 2015 urged the National Assembly to process the report without further delay and issued a directive for the establishment of a Kenya Shillings 10 Billion Restorative Justice Fund to be utilized over 3 years to provide relief to victims of past human rights violations. While an operational mechanism for the fund is yet to be put in place, the National Assembly through its Leader of Majority finally committed to prioritize debate of the TJRC report during the fourth session of the assembly; this after a public petition was filed before it in December 2015^{vi}.

 <p>REPUBLIC OF KENYA</p> <p>THE NATIONAL ASSEMBLY</p> <p>ELEVENTH PARLIAMENT (THIRD SESSION)</p> <p>PUBLIC PETITION BY THE NATIONAL VICTIMS AND SURVIVORS NETWORK APPEALING TO THE NATIONAL ASSEMBLY OF KENYA TO DEBATE AND ADOPT THE REPORT OF THE TRUTH, JUSTICE AND RECONCILIATION COMMISSION</p> <p>I, the UNDERSIGNED on behalf of Citizens of Kenya, referring themselves as the National Victims and Survivors Network;</p> <p>DRAW the attention of the House to the following:</p> <p>(i) THAT, following the tragic political violence that engulfed Kenya in the aftermath of the disputed 2007 elections, the people of Kenya embarked upon comprehensive reforms aimed at ensuring Kenya transitioned into a peaceful, prosperous, stable, inclusive and democratic country where such violence did not reoccur;</p> <p>(ii) THAT, one of the measures adopted to address long-term issues that had contributed to the violence was the setting up of the Truth, Justice and Reconciliation Commission with a mandate to promote peace, justice, national unity, healing, and reconciliation among the people of Kenya by <i>inter alia</i> inquiring into gross violations of human and historical injustices that occurred in Kenya from 12 December 1963 and 28 February 2008;</p> <p>(iii) THAT, the TJRC recorded over 40,000 statements and memoranda and held public hearing across the country, concluded its work and handed over the Report to H.E the President, Hon. Uhuru Kenyatta, EGH on 21st May 2013;</p> <p>(iv) THAT, according to the Truth, Justice and Reconciliation Commission Act, the Minister was to table the TJRC Report in Parliament and operationalize the implementation mechanism in accordance with the recommendations of the Commission under section 48 (2) (f) of the Act to monitor the implementation of the recommendations of the Commission and to facilitate their implementation;</p> <p>(v) THAT, according to Section 49(3) of the TJRC Act, the implementation of the report of the Commission should have commenced within six months upon its publication;</p>	<p>PUBLIC PETITION BY THE NATIONAL VICTIMS AND SURVIVORS NETWORK APPEALING TO THE NATIONAL ASSEMBLY OF KENYA TO DEBATE AND ADOPT THE REPORT OF THE TRUTH, JUSTICE AND RECONCILIATION COMMISSION</p> <p>(vi) THAT, in December 2013, the National Assembly passed the Truth, Justice and Reconciliation (Amendment) Act amending the TJRC Act so as to provide <i>inter alia</i> that the TJRC Report would be tabled before the National Assembly 'for consideration' and that implementation of the report of the Commission shall commence immediately after consideration of the report by the National Assembly;</p> <p>(vii) THAT, to-date National Assembly has not considered the report of the TJRC, while the victims and survivors of gross human rights violations continue to suffer;</p> <p>(viii) THAT, National Assembly's inability to prioritize, debate and act on the TJRC report is a source of great frustration for thousands of Kenyans still nursing injuries: physical, emotional and psychological from the dark years of our history;</p> <p>(ix) THAT the issues in respect of which this petition is made are not pending before any court of law, or constitutional or legal body;</p> <p>HEREFORE, your humble petitioners Pray that the National Assembly –</p> <ol style="list-style-type: none">1. That the National Assembly consider prioritizing for debate the Report of the Truth, Justice and Reconciliation Commission that has been pending before the House since 24th July 2013 without further delay;2. That in addition to adopting the TJRC report, the National Assembly enacts necessary legislation requisite to anchor the implementation process in law;3. That the National Assembly allocates sufficient budget for the immediate and effective implementation of the recommendations contained in report, in particular reparation of victims; and4. That the National Assembly mandates the relevant Committee of the House to monitor the comprehensive and effective implementation of the TJRC Report. <p>And your PETITIONERS will ever PRAY.</p> <p>PRESENTED BY: </p> <p>HON. ABDULLAHI MOHAMED DIRYE, MP, MEMBER FOR WAJIR SOUTH CONSTITUENCY</p> <p>Date: 19/11/2015</p>
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Public Petition on the Adoption of the TJRC Report to the National Assembly by the National Victims and Survivors Network

The stalled debate on the TJRC report notwithstanding, there has been movement with regard to developing legislation on the resolution of historical land injustices. Driven by a constitutional and legislative mandate, the NLC in 2014 instituted a Taskforce on the Formulation of Legislation on Investigation and Adjudication of Complaints Arising out of Historical Land Injustices.^{vii} The processes entailed public consultations that yielded a draft piece of legislation which was forwarded to the Ministry of Lands for publication and consideration by the National Assembly. Rather than subject this draft to parliamentary debate, the Ministry instead elected to synthesize it further and this resulted in the Taskforce draft being reduced to a singular clause in the now proposed Land Laws (Amendments) Bill, 2015.

4. The Legislative Obligation on Historical Land Injustices: A Consideration of Constitutional Mandate as Against Clause 44 of the Land Laws (Amendments) Bill, 2015

What does the legislative obligation entail?

The Constitutional Mandate for the NLC with regard to historical injustices is 2-pronged: (1) Initiate Investigations, on its own initiative or on a complaint, into present or historical land injustices, and (2) Recommend appropriate redress. This is further elaborated in Section 15 of the National Land Commission Act, 2012 (NLC Act) which requires the NLC to recommend to Parliament, appropriate legislation on investigation and adjudication of historical land injustices. This mandate ought to translate into legislation with provisions on the following:

- a) An institutional framework: It should outline an institutional framework that clearly articulates the investigation process and the issuance of remedies which include land redistribution, restitution, and/or compensation. Examples of such frameworks include:
Hungary: A Compensation Office was instituted to examine and assess the claims and recommend how much money should be paid. Land Allocation Committees were also established to allocate collective farms being sold in auctions through privatization to those who were compensated and wished to purchase the land.
South Africa: A Constitutional provision read together with the Restitution of Land Rights Act (RLRA) as enabling legislation saw the establishment of 2 bodies: (1) Restitution of Land Rights Commission (RLRC) - Primary body to process claims, develop negotiation positions and provide post-settlement support; and (2) the Land Claims Court- a Special Court to hear claims emanating from RLRC process and other aspects of the land reforms process.
- b) Local mechanisms being involved in the decision making processes: This is especially critical for the cases where communities demand either compensation or restitution. The *Endorois case*^{viii} decision by the African Commission on Human and Peoples Rights (ACHPR) was instructive in this regard with the Kenyan government required to, “.....Engage in dialogue with the Complainants for the effective implementation of these recommendations”. From the perspective of marginalized communities, this must entail

embracing the model of free, prior and informed consent. This is not casual participation but effective participation that includes: Informing the process, deliberating on options, inputting into outcomes and above all, transparency and accountability in the operations of the institutional mechanisms involved.

- c) Conditions, under which land can be restituted, redistributed or compensation assessed: Balancing between the following considerations: (1) Strength of individual property rights against the state prior to the regime that conducted the expropriations; (2) Degree of injustice present in land expropriation; (3) Willingness of society to recognize a collective moral obligation; (4) Internal constraints on new government; and (5) External constraints on new government.^{ix}
- d) Procedures for submission of claims: How are the claims to be raised and canvassed? What's the standard of proof? The procedures must be in line with an ease of access for claimants and in light of the fact that the harm and claim for reparations are separated by generations; the ordinary standard of proof would in all likelihood be insurmountable.
- e) Financing for implementation: There is need to provide for the establishment of a clearly defined fund to cater for the outlined redress options as well as how that fund will be managed and resourced. South Africa for example, at end of a 10-year period (March 31, 2008) had spent 3.3. Billion rand (around US\$440 million) in delivering more than 606,000 hectares with more than 123,000 households (750,000 people) as beneficiaries.
- f) Appeals mechanism for decisions: Due to the contentious nature of claims in this process, it is essential to provide for an appeals process for decisions made in the first instance. In South Africa for example, the decisions made by the RLRC could be appealed before the Lands Claim Court.
- g) Timelines: The process for the investigation and adjudication of claims cannot be open-ended. In South Africa's case, the law provided for a 5-year window for lodging of claims and a completion timeline of 10 years to process these claims. The law can provide for instances that could justify a limited extension of the stipulated timelines.

The Current Content of Clause 44 of the Land Laws (Amendments) Bill, 2015

Clause 44 of the Land Laws (Amendments) Bill seeks to do away with the current section 15 of the NLC Act which requires the NLC to develop a stand-alone law on the investigation and adjudication of historical land injustices. Instead, the amendment seeks to have a singular, all-encompassing clause that addresses historical land injustices. The provisions of this proposed clause are as follows:

- It re-iterates the NLC's constitutional mandate to investigate all historical injustice complaints and recommend appropriate redress.
- It empowers the NLC to request any person (including Government Departments) for any documents and information that may aid their investigations

- It empowers the NLC to summon any person that may aid its investigations and require them to produce documents or materials relevant to their investigations. Such persons however, shall not be compelled to produce any documents or objects that could be used against them in a criminal trial.
- In a bid to enhance efficiency, it allows the NLC to consolidate all claims emanating from a given area and issue a notice informing potential complainants of their decision and inviting them to lodge claims within a specific period of time. No claim will be entertained outside the specified time period.

The proposed amendment cannot be considered as sufficient in fulfilling the legislative obligations with regard to historical land injustices. It lacks an elaborate description of the specialized institutional framework that would undertake this momentous task. It is devoid of sufficient mechanisms for effective participation of local mechanisms in the investigation and adjudication processes. Instead, it outlines a rudimentary procedure on the processing of claims that seemingly only contemplates NLC investigating claims on its own initiative (by way of notice); this omits critical considerations such as the procedure for submission of complaints to trigger an investigation, the standard of proof required and an appeals mechanism in the event a complainant is dissatisfied with the initial outcome. Disappointingly, there are no guidelines as to the remedies available and how they would be arrived at in addition to lacking guidance on both the financing component and concrete timelines for the resolution of complaints.

Legislative Obligations vs Provisions in Clause 44 of the Land Laws (Amendments) Bill and the Historical Land Injustices Bill by the NLC Taskforce		
Legislative Obligation	Clause 44 of the Land Laws (Amendments) Bill	Historical Land Injustices Bill by the NLC Taskforce
An institutional framework	<ul style="list-style-type: none"> • It re-iterates the NLC’s constitutional mandate to investigate all historical injustice complaints and recommend appropriate redress. Does not go into detail of how the NLC will organize itself with regard to investigation and adjudication tasks. 	<ul style="list-style-type: none"> • Establishes a Historical Land Claims Adjudication Board for the administrative investigation and adjudication of historical land claims. • Provides for a Historical Land Claims Division of the Environment and Land Court which would: (1) Deal with claims referred by the Board as involving a substantive matter of law and (2) Serve as the point of appeal for persons aggrieved by a decision of the

		Board.
Local mechanisms being involved in the decision making processes	<ul style="list-style-type: none"> Provides for individuals to file complaints upon the issuance of a notice by the NLC. 	<ul style="list-style-type: none"> If consented to by the parties involved, it allows for the use of alternative dispute resolution mechanisms and traditional knowledge in the adjudication and determination of an historical land claim.
Conditions, under which land can be restituted, redistributed or compensation assessed	<ul style="list-style-type: none"> No provision on this aspect. 	<ul style="list-style-type: none"> Recognizes the right to: access and enforce land restitution claims; to restitution and compensation; to protection from displacement and; other remedies such as resettlement and declaratory and preservation orders but to name a few. Empowers the Board and the Court to determine the conditions under which the remedies may be applied.
Procedures for submission of claims	<ul style="list-style-type: none"> Provides for individuals to file complaints upon the issuance of a notice by the NLC but is silent on the standard of proof to be applied. 	<ul style="list-style-type: none"> Stipulates the conditions under which one is or is not entitled to lodge a claim either individually or on behalf of a community. Provides guidelines for determining the legitimacy of any person representing a community. Provides a prescribed form with which to lodge a claim.
Financing for implementation	<ul style="list-style-type: none"> No provision on this aspect. 	<ul style="list-style-type: none"> Establishes the Historical Injustices Compensation Fund with a recommended initial capital of Kenya Shillings 3 Billion. Establishes the Historical Injustices Land Bank as a repository for land earmarked to meet the law's

		objective of redress.
Appeals mechanism for decisions	<ul style="list-style-type: none"> No provision on this aspect. 	<ul style="list-style-type: none"> Provides for a Historical Land Claims Division of the Environment and Land Court as an appeals mechanism for decisions by the Historical Land Claims Adjudication Board.
Timelines	<ul style="list-style-type: none"> No provision on this aspect. 	<ul style="list-style-type: none"> Establishes a claims window period of 5 years from the date of commencement for the law. Requires the Board to follow on implementation of its decisions for at least 2 years and into include progress made by the State in its annual reports.

5. Conclusion: Legislative Options on the Way Forward

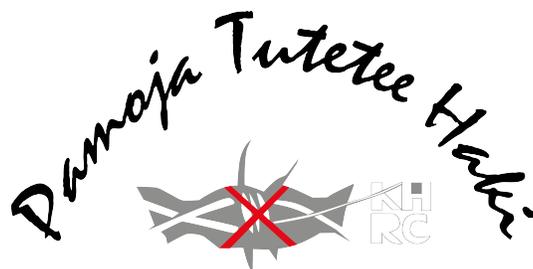
There is need for an independent and comprehensive legal framework that responds to the obligations of procedures and remedies for the resolution of historical land injustices. To this end, the National Assembly has two broad options to consider:

- It may introduce further amendments during the legislative process that address the prevailing gaps in the proposed framework of Clause 44 of the Land Laws (Amendments) Bill, 2015.
- It could reject the proposed Clause 44 of the Land Laws (Amendments) Bill, 2015 and instead table for debate, the Investigation and Adjudication of Historical Land Injustices Bill, which was submitted by the NLC- constituted Taskforce of 2014.

In light of the significant gaps currently present in the proposed amendment and the compelling need for a comprehensive and inclusive framework, it would be in the public interest to adopt the option of debating the Investigation and Adjudication of Historical Land Injustices Bill (Taskforce Bill). The Taskforce Bill not only presents the chance to institute a comprehensive process but also carries with it a higher level of public scrutiny and participation given the process that informed its development.

ⁱ See Volume IIB of TJRC Report, at pp. 165-341

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- ⁱⁱ Global IDP Database (as of 30 November, 2004) Profile of Internal Displacement: Kenya pg. 19. Accessible on [http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/A7C2D6322766F7B1802570BA00529A80/\\$file/Kenya%20-November%202004.pdf](http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/A7C2D6322766F7B1802570BA00529A80/$file/Kenya%20-November%202004.pdf) as accessed on April 30, 2012. Also see FIDH and KHRC (2007) Massive Internal Displacements in Kenya due to Politically Instigated Ethnic Clashes: Absence of Political and Humanitarian Responses at pg. 8. Accessible on http://www.fidh.org/IMG/pdf/Kenya_engNB.pdf as accessed on April 30, 2012.
- ⁱⁱⁱ "OCHA KENYA: Frequently Asked Questions on IDPs"- Fact Sheet on Kenya's IDPs prepared by the United Nations for the Coordination of Humanitarian Affairs on July 16, 2009. Data on displacement prior to 2007 is derived from this source.
- ^{iv} Ministry of State for Special Programmes: Progress on Resettlement of Internally Displaced Persons as at 6th January, 2012
- ^v See Volume IV of the TJRC Report at pp. 54-55
- ^{vi} See National Assembly Hansard for Thursday, December 3, 2015 at 2:30 pm.
- ^{vii} The Kenya Gazette Notice No. 3139. Accessible on http://kenyalaw.org/kenya_gazette/gazette/volume/MTAyMw--/Vol.%20CXVI-No.%2060 as accessed on February 16, 2016
- ^{viii} Communication 276/03: Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) v Kenya. Accessible on: <http://caselaw.ihrda.org/doc/276.03/> as accessed on February 16, 2016.
- ^{ix} J. Tucker-Mohl, Property Rights and Transitional Justice: Restitution In Hungary and East Germany, <http://ocw.mit.edu/courses/urban-studies-and-planning/11-467j-property-rights-intransition-spring-2005/projects/jtuckermohlfinal.pdf>, s. 16.



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