

**Natural Resource Conflicts: Addressing Inter-Ethnic Strife
through Environmental Justice in Kenya**

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Abstract

Inter-ethnic conflicts in Kenya have become so common in some parts of the country that they are considered a perennial problem. While these conflicts have been attributed to many factors, environmental and natural resources are considered to be the main cause. The successive governments of Kenya over the years have responded in various ways to the security situation, including by way of deploying security forces in the affected regions. This paper discusses the connection between the availability of natural and environmental resources and the emergence of inter-ethnic conflicts in Kenya. The author argues that one of the most effective ways of tackling this perennial problem of inter-ethnic conflicts is enhancing environmental justice in these regions.

1. Introduction

This paper discusses the connection between the availability of natural and environmental resources and the emergence of inter-ethnic conflicts in Kenya. The paper specifically looks at the role of natural resources availability or scarcity in fueling inter-ethnic conflicts in Kenya. The paper discusses this in the context of environmental justice and offers suggestions on how the perennial challenge of inter-ethnic conflicts among the mostly pastoralist communities can be addressed through enhancing their right to environmental justice.

It is however worth pointing out that while this paper focuses on inter-ethnic conflicts in Kenya, it has rightly been pointed out that within-country conflicts account for an enormous share of deaths and hardship in the world today.¹ Notably, internal conflicts often appear to be ethnic in nature.² Conflicts have been defined differently by various scholars. Conflict is viewed as a process of adjustment, which itself can be subject to procedures to contain and regularize conflict

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¹ Esteban, J., Mayoral, L., & Ray, D., "Ethnicity and conflict: Theory and facts," *science* 336, no. 6083 (2012): 858-865, at p.858.

² Ibid, p. 858.

behaviour and assure a fair outcome.³ Conflict can be defined as an existing state of disagreement or hostility between two or more people.⁴ Conflict has also been defined as a struggle over values or claims to status and resources, in which the aim of the conflicting parties is not only the desired values but also neutralize, injure or eliminate their rivals.⁵ Conflict is seen as an inevitable phenomenon in human society's sphere of life since the entire life of humankind is manipulated by the prevalence of conflict within the society when people set opinion against opinion, run interest against interests.⁶ It has been observed that almost all societies, regardless of their location in time and space, have laws and mechanisms for handling disputes/conflicts and achieving resolution of differences.⁷

Arguably, most of these internal conflicts are related to resources. It has rightly been observed that in the majority of cases of resource conflicts, one or more of the following drivers are usually at play: conflict over resource ownership; conflict over resource access; conflict over decision making associated with resource management; and conflict over distribution of resource revenues as well as other benefits and burdens.⁸

Natural resource conflicts are defined as social conflicts (violent or non-violent) that primarily revolve around how individuals, households, communities and states control or gain access to resources within specific economic and political frameworks.⁹ They are the contests that exist as a result of the various competing interests over access to and use of natural resources such as land, water, minerals and forests. Natural resource conflicts mainly have to do with the interaction between the use of and access to natural resources and factors of human development factors such as population growth and socio-economic advancement.¹⁰

³ Rummel, R.J., 'Principles of Conflict Resolution,' Chapter 10, *Understanding Conflict and war: Vol. 5: The Just Peace*.

⁴ Libiszewski, S., "What is an environmental conflict?" *Journal of peace research* 28, no. 4 (1991): 407-422.

⁵ Mengesha, A.D., et al., "Indigenous Conflict Resolution Mechanisms among the Kembata Society." *American Journal of Educational Research*, 2015, Vol. 3, No. 2, pp. 225-242 at pp.225-226.

⁶ Ibid, p.226.

⁷ Ibid, p. 226.

⁸ The United Nations Department of Political Affairs and United Nations Environment Programme, *Natural Resources and Conflict: A Guide for Mediation Practitioners*, (2015, UN DPA and UNEP), p. 11.

⁹ Funder, M., et al, 'Addressing Climate Change and Conflict in Development Cooperation Experiences from Natural Resource Management,' p. 17, (Danish Institute for International Studies, DIIS, 2012), available at <https://www.ciaonet.org/attachments/20068/uploads> [Accessed on 6/09/2016].

¹⁰ Toepfer, K., "Forward", in Schwartz, D. & Singh, A., *Environmental conditions, resources and conflicts: An introductory overview and data collection* (UNEP, New York, 1999). p.4

Competition for scarce resources may lead to a ‘survival of the fittest’ situation.¹¹ In such circumstances, environmental degradation poses a higher potential for conflict, as every group fights for their survival.¹² Even where resources are abundant, conflicts can arise when one group controls a disproportionate portion of the same (“Resource capture”). Resource capture occurs when the supply of a resource decreases due to either depletion or degradation and/or demand increases (due to population and/or economic growth).¹³ This encourages the more powerful groups in a society to exercise more control and even ownership of the scarce resource, thereby enhancing their wealth and power.¹⁴ For instance, land has been an emotive issue in Kenya as it is in the hands of a few people in the country, and this has often led to tribal clashes.¹⁵ These situations arise due to the resultant environmental insecurity suffered by some of the aggrieved groups.

While these natural resource conflicts may take many forms or shapes, this paper mainly restricts itself to those that take ethnic lines within a country, and in this case, Kenya. The next section looks at the nature and causes of these inter-ethnic conflicts.

2. Inter-Ethnic Conflicts in Kenya: Meaning and Causes

Ethnic conflict can be defined as a form of conflict in which the objectives of at least one party are defined in ethnic terms, and the conflict, its antecedents, and possible solutions are perceived along ethnic lines.¹⁶ Notably, the conflict is usually not about ethnic differences themselves but over political, economic, social, cultural, or territorial matters.¹⁷

¹¹ See generally, “Chapter 5: Survival at Stake: Violent Land Conflict in Africa,” *Small Arms Survey 2013*, available at <http://www.smallarmssurvey.org/fileadmin/docs/A-Yearbook/2013/en/Small-Arms-Survey-2013-Chapter-5-EN.pdf> [Accessed on 6/9/2019].

¹² See Bowman, K., *et al*, “Chapter 1: Environment for Development,” (United Nations), available at http://www.unep.org/geo/geo4/report/01_Environment_for_Development.pdf [Accessed on 6/9/2019].

¹³ Khagram, S., *et al*, “From the Environment and Human Security to Sustainable Security and Development,” *Journal of Human Development*, Vol. 4, No. 2, July 2003, pp. 289-313, p. 295.

¹⁴ *Ibid.*

¹⁵ See the *Report of the Judicial Commission Appointed to Inquire into Tribal Clashes in Kenya*, (the 'Akiwumi Commission'), (Government Printer, Nairobi, 1999).

¹⁶ “Ethnic conflict”, *Encyclopedia Britannica*, available at <https://www.britannica.com/topic/ethnic-conflict> [Accessed on 6/9/2019].

¹⁷ *Ibid.*

Inter-ethnic conflicts amongst Kenyan communities especially those practising pastoralism have a long history.¹⁸ These conflicts are mostly armed, with competing groups using either crude weapons or illegally acquired arms. Armed conflict is defined as a mechanism of social transformation that may originate either in competing claims over resources, power, or in conflicting cultural or social values, and is often aggravated by low levels of human security.¹⁹

Several factors such as competition over scarce resources, the age-set system as a quasi-military interest group and the ideals of warrior-hood have been cited as some of the causes of warfare amongst East African herders.²⁰ These inter-ethnic tensions have often been experienced in several parts of Kenya, attributable to different factors, but mainly the struggle for access to the scarce environmental resources.²¹

2.1 Causes of Inter-Ethnic Conflicts in Kenya

It has rightly been argued that while armed conflicts have been prevalent throughout history, in some cases having very great consequences, to win, one needs to understand the characteristics of an armed conflict and be prepared with resources and capabilities for responding to its specific challenges.²² Armed conflicts have been attributed to disagreements on controlling territory, economic interests (such as natural resources), religion, culture, and ideology.²³ Ethnic conflicts within a state have also been referred as those that belong to identity conflicts that are a type of

¹⁸ See generally, Bollig, M., "Ethnic conflict in North-West Kenya: Pokot-Turkana Raiding 1969-1984," *Zeitschrift für Ethnologie*, 115 (1990), pp.73-90.

¹⁹ Wangeci, N. L., Njoroge, M. N. and Manyasa, E., "Causes of armed ethnic conflict and the implication for peace education in Nakuru county, Kenya," *Journal of Special Needs and Disabilities Studies*, 2014. Available at <https://ir-library.ku.ac.ke/handle/123456789/13574> [Accessed on 2/9/2019].

²⁰ Bollig, M., "Ethnic conflict in North-West Kenya: Pokot-Turkana Raiding 1969-1984," *Zeitschrift für Ethnologie* 115 (1990), pp. 73-90, at p.76.

²¹ Rohwerder, B., "Conflict analysis of Kenya," *Birmingham: GSDRC University of Birmingham* (2015). Available at <http://www.gsdrc.org/wp-content/uploads/2015/12/KenyaConflictAnalysis.pdf> [Accessed on 6/9/2019]; Makoloo, M. O., Ghai, Y. P., & Ghai, Y. P., *Kenya: Minorities, indigenous peoples and ethnic diversity*, London: Minority Rights Group International, 2005. Available at <https://minorityrights.org/wp-content/uploads/old-site-downloads/download-147-Kenya-Minorities-Indigenous-Peoples-and-Ethnic-Diversity.pdf> [Accessed on 6/9/2019]; International Crisis Group, "Kenya's Rift Valley: Old Wounds, Devolution's New Anxieties," Report No. 248 / Africa 30 May 2017. Available at <https://d2071andvip0wj.cloudfront.net/248-kenya-s-rift-valley-old-wounds-devolution-s-new-anxieties.pdf> [Accessed on 6/9/2019]; Murunga, G.R., *Spontaneous or Premeditated?: Post-election Violence in Kenya*. Nordiska Afrikainstitutet, 2011. Available at <http://www.diva-portal.org/smash/get/diva2:451262/FULLTEXT01.pdf> [Accessed on 6/9/2019].

²² Esteban, J., Mayoral, L., & Ray, D., "Ethnicity and conflict: Theory and facts," *science* 336, no. 6083 (2012): 858-865, at p.865.

²³ *Ibid*, p. 865.

internal conflicts.²⁴ Besides identity conflicts there are other types of internal conflicts such as ideological conflicts, governance conflicts, racial conflicts and environmental conflicts.²⁵ Some authors have even proposed that there was a connection between ethnic divisions and colonialism in Africa.²⁶ Some theories on ethnic conflict, argue that ethnic conflict is the response to a perceived threat to one's identity.²⁷ The ethnic tensions in Kenya may arguably fall within this classification, as they are often fueled by some kind of dissatisfaction by one group in matters relating to environmental, social, economic or political spheres.²⁸

This section discusses some of these causative factors of inter-ethnic conflicts in the context of Kenya. The paper however generally has a bias towards environmentally fueled ethnic conflicts in Kenya. In addition, while there may be many factors that fuel inter-ethnic conflicts, this paper looks at three main reasons which may be considered to be the major ones.

a. Climate Change and Environmental Resources Scarcity

Some scholars have persuasively argued that not all environmental problems lead to conflict, and not all conflicts stem from environmental problems, and that indeed it is rare for linkages to be directly and exclusively causative.²⁹ They argue that while environmental phenomena contribute to conflicts, they can rarely be described as sole causes: there are too many other variables mixed in such as inefficient economies, unjust social systems and repressive governments, any of which can predispose a nation to instability-and thus, in turn, make it especially susceptible to environmental problems.³⁰ While this may be true, it is noteworthy that the link between the two

²⁴ Ismayilov, G., "Ethnic Conflicts and Their Causes," (2008). Available at https://scholar.google.com/scholar?cluster=11638631732520705425&hl=en&as_sdt=0.5&scioq=Causes+of+Inter-Ethnic+Conflicts+ [Accessed on 2/9/2019].

²⁵ Ibid.

²⁶ See generally, Tembo, N.M., "Ethnic Conflict and the Politics of Greed Rethinking Chimamanda Adichie's," *Matatu*, 40, no. 1 (2012): 173-189.

²⁷ Azuimah, F., "Perception as a Social infrastructure for sustaining the escalation of ethnic conflicts in divided societies in Ghana," *Journal of Alternative Perspectives in the Social Sciences*, vol.3, no. 1 (2011): 260-278, p. 265.

²⁸ Mghanga, M., "Usipoziba Ufa Utajenga Ukuta: Land," *Elections, and Conflict in Kenya's Coast Province, Heinrich Böll Stiftung* (2010). Available at https://ke.boell.org/sites/default/files/usipoziba_ufa_utajenga_ukuta_book_index.pdf [Accessed on 6/9/2019]; Kenya Human Rights Commission, "Ethnicity and Politicization in Kenya", May 2018, ISBN: 978-9966-100-39-9. Available at <https://www.khrc.or.ke/publications/183-ethnicity-and-politicization-in-kenya/file.html> [Accessed on 6/9/2019].

²⁹ Myers, N., "Environmental Security: What's New and Different?" Available at <http://www.envirosecurity.org/conference/working/newanddifferent.pdf> [Accessed on 11/10/2015], p.3.

³⁰ Ibid, p.3; See also generally, N.R. Biswas, "Is the Environment a Security Threat? Environmental Security beyond Securitization," *International Affairs Review*, Vol. XX, No. 1, Winter 2011.

is more pronounced in developing countries, like Kenya, where most people derive their livelihoods from the environment.³¹

Thus, while some argued that there is no direct and linear relationship between climate change and violent conflict, under certain circumstances climate-related change can influence factors that lead to or exacerbate conflict. Reduced access to water and extreme weather events may e.g. negatively affect food security and undermine the livelihoods of vulnerable households and communities.³² This is especially relevant in understanding the conflicts that often emerge in Kenya's drier regions such as Northern Kenya and Coastal areas, among others.³³

It has rightly been observed that social conflict is not always a bad thing: mass mobilization and civil strife can produce opportunities for beneficial change in the distribution of land and wealth and in processes of governance.³⁴ However, fast-moving, unpredictable, and complex environmental problems can overwhelm efforts at constructive social reform.³⁵

Natural resources are important for meeting the basic needs of most communities in Kenya and the world over. However, these resources are under threat due to various factors which include poverty, climate change, desertification, unsustainable exploitation and environmental degradation, among others. Climate change and biodiversity conservation have thus been said to be the common concern of humanity as all States derive benefits from protective action taken either unilaterally or collectively.³⁶ Indeed, the impacts of climate change are increasingly

³¹ See S. Bocchi, et al, 'Environmental Security: A Geographic Information System Analysis Approach—The Case of Kenya,' *Environmental Management* Vol. 37, No. 2, 2005, pp. 186–199, pp. 191-195.

³² SIDA, "The relationship between climate change and violent conflict," 2018, p.4. Available at <https://www.sida.se/contentassets/c571800e01e448ac9dce2d097ba125a1/working-paper---climate-change-and-conflict.pdf> [Accessed on 2/09/2019].

³³ Human Rights Watch, "There is No Time Left", *Climate Change, Environmental Threats, and Human Rights in Turkana County, Kenya*, October 15, 2015. Available at <https://www.hrw.org/report/2015/10/15/there-no-time-left/climate-change-environmental-threats-and-human-rights-turkana> [Accessed on 6/09/2019]; Osamba, J., "Political Economy: A Social Cubism Perspective," *ILSA Journal of International & Comparative Law* 8, no. 3 (2002): 941-961; Constitution And Reform Education Consortium, "Building A Culture Of Peace In Kenya: Baseline Report On Conflict-Mapping And Profiles Of 47 Counties In Kenya," April, 2012. ISBN: 978-9966-21-158-3. Available at https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/CRECO_2012.pdf [Accessed on 6/09/2019]; Menkhaus, K., "Conflict Assessment: Northern Kenya and Somaliland." *Available at SSRN 2589109* (2015).

³⁴ Homer-Dixon, T.F., "Environmental scarcities and violent conflict: evidence from cases." *International security* 19, no. 1 (1994): 5-40.

³⁵ *Ibid.*

³⁶ Cullet, P., *Differential Treatment in International Environmental Law and its Contribution to the Evolution of International Law*, (Aldershot: Ashgate, 2003), p. 3-5.

viewed as global security risks, which will have far-reaching implications for both human and renewable natural systems.³⁷

The Bali Principles of Climate Justice of 2002 (Bali Principles)³⁸ acknowledge that if consumption of fossil fuels, deforestation and other ecological devastation continues at current rates, it is certain that climate change will result in increased temperatures, sea level rise, changes in agricultural patterns, increased frequency and magnitude of "natural" disasters such as floods, droughts, loss of biodiversity, intense storms and epidemics. Further, deforestation contributes to climate change, while having a negative impact on a broad array of local communities. Notably, deforestation has been one of the major problems contributing to climate change in Kenya.³⁹ This problem was even acknowledged in the Climate Change Policy and there have been attempts to address the same through the enactment of the *Climate Change Act, 2016*⁴⁰ which is meant to provide for the legal and institutional framework for the mitigation and adaption to the effects of climate change; to facilitate and enhance response to climate change; to provide for the guidance and measures to achieve low carbon climate resilient development and for connected purposes,⁴¹ amongst other efforts by the stakeholders such as the eviction of communities living

³⁷ World Economic Forum, "We need to do more to understand how climate change and conflict are linked. Here's why," 2018. Available at <https://www.weforum.org/agenda/2018/09/we-need-to-do-more-to-understand-how-climate-change-and-conflict-are-linked-heres-why/> [Accessed on 2/09/2019].

³⁸ Available at <http://www.ejnet.org/ej/bali.pdf> [Accessed on 2/09/2019].

³⁹ United Nations Environment Programme, "Deforestation Costing Kenyan Economy Millions of Dollars Each Year and Increasing Water Shortage Risk," 5 November 2012. Available at <https://www.unenvironment.org/news-and-stories/press-release/deforestation-costing-kenyan-economy-millions-dollars-each-year-and> [Accessed on 6/09/2019]; VOA, Kenya Experiencing the Effects of Deforestation, Climate Change, November 1, 2009. Available at <https://www.voanews.com/archive/kenya-experiencing-effects-deforestation-climate-change-0> [Accessed on 6/09/2019]; Republic of Kenya, *A report on Forest Resources Management and Logging Activities in Kenya: Findings and Recommendations*, April, 2018. Available at <http://www.environment.go.ke/wp-content/uploads/2018/05/Task-Force-Report.pdf> [Accessed on 6/09/2019].

⁴⁰ No. 11 of 2016, Laws of Kenya.

The Act defines "climate change" to mean a change in the climate system which is caused by significant changes in the concentration of greenhouse gases as a consequence of human activities and which is in addition to natural climate change that has been observed during a considerable period (s.2).

⁴¹ Ibid, preamble. The Act, *inter alia*, provides: a framework for mitigating and adapting to the effects of climate change on all sectors of the economy and levels of governance; a mechanism for coordination and governance of matters relating to climate change; coordination mechanism for formulation of programmes and plans to enhance the resilience of human and ecological systems against the impacts of climate change; for mainstreaming of the principle of sustainable development in the planning for and on climate change response strategies and actions; for promotion of social and economic measures in climate change responses to support sustainable human development; and a mechanism for coordination of measuring, verification and reporting of climate interventions (S.3 (1)).

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in Kenya's five water towers - Mau Forest Complex, Mount Kenya, the Aberdares, Mount Elgon and Cherangani.⁴²

The Bali Principles also affirm the fact that the impacts of climate change are disproportionately felt by small island states, women, youth, coastal peoples, local communities, indigenous peoples, fisherfolk, poor people and the elderly. Also noteworthy is the assertion that the local communities, affected people and indigenous peoples have been kept out of the global processes to address climate change.

There are three types of environmental scarcity: supply-induced scarcity is caused by the degradation and depletion of an environmental resource; demand-induced scarcity results from population growth within a region or increased per capita consumption of a resource, either of which heightens the demand for the resource; and structural scarcity arises from an unequal social distribution of a resource that concentrates it in the hands of relatively few people while the remaining population suffers from serious shortages.⁴³

Environmental deficiencies supply conditions which render conflict all the more likely. They can serve to determine the source of conflict, they can act as multipliers that aggravate core causes of conflict, and they can help to shape the nature of conflict. Moreover they can not only contribute to conflict, they can stimulate the growing use of force to repress disaffection among those who suffer the consequences of environmental decline.⁴⁴ This has been the case in Kenya's arid and semi-arid areas where pastoralists' tribal clashes over resources have recurred over the years with no successful intervention by the Government.⁴⁵ The limited water and pasture resources creates competition and tension amongst these communities, often leading to conflicts.

⁴² Amnesty International, et al, "Nowhere to go Forced Evictions in Mau Forest, Kenya," Briefing Paper, April 2007. Available at

<http://www.knchr.org/Portals/0/GroupRightsReports/Mau%20Forest%20Evictions%20Report.pdf> [Accessed on 6/09/2019]; Rita, D., "Mau eviction will be humane, settlers to get 60 grace period," *The Star*, 28 August, 2019.

⁴³ Percival, V., & Homer-Dixon, T., "Environmental scarcity and violent conflict: the case of South Africa," *Journal of Peace Research* 35, no. 3 (1998): 279-298, at p.280.

⁴⁴ Myers, N., "Environmental Security: What's New and Different?"

Available at <http://www.envirosecurity.org/conference/working/newanddifferent.pdf> [Accessed on 11/10/2015], p.4.

⁴⁵ Oba, G., "The Importance Of Pastoralists 'indigenous Coping Strategies For Planning Drought Management In The Arid Zone Of Kenya," *Nomadic Peoples* (2001): 89-119; Oba, G., & Lusigi, W. J., *An overview of drought strategies and land use in African pastoral systems*, Agricultural Administration Unit, Overseas Development Institute, 1987; Oba, G., *Ecological factors in land use conflicts, land administration and food insecurity in Turkana, Kenya*. London: ODI, 1992; Kenya National Commission on Human Rights, "Public Inquiry on Insecurity in the Baringo and the North Rift of Kenya: Literature Review," October 2015, available at

The *Bali Principles* also acknowledge that unsustainable production and consumption practices are at the root of this and other global environmental problems. The impacts of climate change also threaten food sovereignty and the security of livelihoods of natural resource-based local economies. They can also threaten the health of communities around the world-especially those who are vulnerable and marginalized, in particular children and elderly people. These principles envisage a situation where countries will put in place measures geared towards addressing and eliminating any unsustainable production and consumption practices in their territories in a bid to curb environmental degradation.

Indeed, scientists have warned that climate change will hit many African countries more severely than previously thought.⁴⁶ The scientists, from Britain's Meteorological Office and Leeds University, have argued that people in Africa will likely be among the hardest hit by climate change over the coming decades – with less capacity to deal with the impact.⁴⁷ The adverse effects of these climatic changes especially in the Sub-Saharan region, including Kenya have been affirmed and documented by various authors.⁴⁸

The UNESCO has observed that the effects of global warming and climate change impacts are already contributing to increased state fragility and security problems in key regions around the world – conflict in the Middle East and Africa, tensions over fisheries in the South China Sea, and a new political and economic battleground in a melting Arctic Ocean.⁴⁹ UNESCO goes on to state that climate change stresses on natural resources – combined with demographic, economic and political pressures on those resources – can degrade a nation's capacity to govern itself.⁵⁰

<http://www.knchr.org/Portals/0/CivilAndPoliticalReports/Literature%20Review.pdf?ver=2016-06-20-122534-937>

[Accessed on 6/9/2019].

⁴⁶ VOA For Citizen Digital, "Climate change to cause chaos in Africa, warn scientists," Published on: August 6, 2019 07:15 (EAT). Available at <https://citizentv.co.ke/news/climate-change-cause-chaos-africa-warn-scientists-267811/> [Accessed on 2/09/2016].

⁴⁷ Ibid.

⁴⁸ Serdeczny, O., Adams, S., Baarsch, F., Coumou, D., Robinson, A., Hare, W. & Reinhardt, J., "Climate change impacts in Sub-Saharan Africa: from physical changes to their social repercussions," *Regional Environmental Change* 17, no. 6 (2017): 1585-1600.

⁴⁹ UNESCO, "Climate change raises conflict concerns," *the UNESCO Courier*, 2018-2, available at <https://en.unesco.org/courier/2018-2/climate-change-raises-conflict-concerns> [Accessed on 2/09/2016].

⁵⁰ Ibid; United Nations, "Renewable Resources and Conflict," *Toolkit and Guidance for Preventing and Managing Land and Natural Resources Conflicts*, 2012. Available at https://www.un.org/en/events/environmentconflictday/pdf/GN_Renewable_Consultation.pdf [Accessed on 6/9/2019]; Sherbinin, A. D., Carr, D., Cassels, S., & Jiang, L., "Population and environment," *Annu. Rev. Environ. Resour.* 32 (2007): 345-373; Evans, A., "Resource scarcity, climate change and the risk of violent conflict." *World Development Report 2011: Background Paper*. Available at

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This includes its ability to meet its citizens' demands for basic resources – like food, water, energy and employment – also known as its output legitimacy. The threat to output legitimacy can contribute to state fragility, internal conflict, and even state collapse. Seen through this lens, climate change may present a serious challenge to state stability and legitimacy in the Horn of Africa – a region already grappling with numerous challenges before climate change became a factor.⁵¹

The Horn of Africa which includes some of the most vulnerable states in the world – Somalia, Ethiopia, Eritrea, Kenya, Sudan and South Sudan has been reported as a region that exhibits some of the clearest indications of a connection between climate change and conflict – namely, conflicts between agricultural and pastoral communities precipitated by climate-exacerbated droughts and water variability.⁵²

Climate-related environmental change influences violent conflicts when: (a) it negatively affects people's livelihoods; (b) it influences the tactical considerations of armed groups in ongoing conflicts; (c) elites exploit social vulnerabilities and resources; and (d) it displaces people and increases migration in vulnerable and highly vulnerable natural resource dependent contexts.⁵³

http://web.worldbank.org/archive/website01306/web/pdf/wdr%20background%20paper_evans_0.pdf [Accessed on 6/9/2019]; Yohe, G., Lasco, R., Ahmad, Q. K., UK, N. A., Cohen, S., Janetos, T. & Malone, T., "Perspectives on Climate Change and Sustainability 3." *change* 25, no. 48 (2007): 49; Black, R., Kniveton, D., Skeldon, R., Coppard, D., Murata, A., & Schmidt-Verkerk, K., "Demographics and climate change: future trends and their policy implications for migration," *Development Research Centre on Migration, Globalisation and Poverty, Brighton: University of Sussex* (2008).

⁵¹ Ibid; See also Vallings, C., & Moreno-Torres, M., *Drivers of fragility: What makes states fragile?* No. 668-2016-45529. 2005; Rotberg, R.I., "Failed states, collapsed states, weak states: Causes and indicators," *State failure and state weakness in a time of terror* 1 (2003): 25; DiJohn, J., *Conceptualising the causes and consequences of failed states: a critical review of the literature*. London: Crisis States Research Centre, 2008. Available at <http://www.lse.ac.uk/international-development/Assets/Documents/PDFs/csrc-working-papers-phase-two/wp25.2-conceptualising-the-causes-and-consequences.pdf>.

⁵² Ibid; See also Reliefweb, "Greater Horn of Africa Climate Risk and Food Security Atlas," *Report from Government of Sweden, Intergovernmental Authority on Development, World Food Programme*, Published on 27 Sep 2018 Available at <https://reliefweb.int/report/world/greater-horn-africa-climate-risk-and-food-security-atlas> [Accessed on 6/9/2019]; Reliefweb, "Climate Change Profile: Greater Horn of Africa," Report from Government of the Netherlands, Published on 05 Feb 2019. Available at <https://reliefweb.int/report/world/climate-change-profile-greater-horn-africa> [Accessed on 6/9/2019]; Mengisteab, K., *Critical factors in the Horn of Africa's raging conflicts*. Nordiska Afrikainstitutet, 2011; United Nations Economic Commission for Africa, "Human and Economic Cost of Conflict in the Horn of Africa: Implications for a Transformative and Inclusive Post-Conflict Development," 2016. Available at <https://repository.uneca.org/bitstream/handle/10855/23726/b11836143.pdf?sequence=1> [Accessed on 6/9/2019].

⁵³ World Economic Forum, "We need to do more to understand how climate change and conflict are linked. Here's why," 2018. Available at <https://www.weforum.org/agenda/2018/09/we-need-to-do-more-to-understand-how-climate-change-and-conflict-are-linked-heres-why/> [Accessed on 2/09/2019].

Studies have shown that the risk of violence increases, particularly among farmers and pastoralists who depend directly on agro-ecosystems for their livelihoods, when drought, floods or land overuse and degradation lead to decreasing production and economic loss.⁵⁴ This is usually explained as reduced opportunity costs of using violence to seize control over resources compared to traditional livelihoods. As already pointed out above, these are the risks that persistently face the arid and semi-arid areas in Kenya and the horn of Africa in general.

b. The Impact of Politics and Government Policies on Ethnic Conflicts

It has been argued that environmental scarcity emerges within a political, social, economic, and ecological context and interacts with many of these contextual factors to contribute to violence.⁵⁵ Arguably, contextual factors include the quantity and vulnerability of environmental resources, the balance of political power, the nature of the state, patterns of social interaction, and the structure of economic relations among social groups.⁵⁶ These factors, it has been observed, affect how resources will be used, the social impact of environmental scarcities, the grievances arising from these scarcities, and whether grievances will contribute to violence.⁵⁷

Notably, when some groups of people fight across ethnic lines it is nearly always the case that they fight over some fundamental issues concerning the distribution and exercise of power, whether economic, political, or both.⁵⁸ Notably, groups engaged in internal conflict are often united by a common ethnic or religious identity.⁵⁹ The tribal conflicts in Kenya over the past decades have often taken this shape, with some informed by political influences while others are based on resource scarcity but ultimately, they may all be connected as political power cannot be divorced from resource control.⁶⁰

⁵⁴ SIDA, "The relationship between climate change and violent conflict," 2018, p.10. Available at <https://www.sida.se/contentassets/c571800e01e448ac9dce2d097ba125a1/working-paper---climate-change-and-conflict.pdf> [Accessed on 2/09/2019].

⁵⁵ Percival, V., & Homer-Dixon, T., "Environmental scarcity and violent conflict: the case of South Africa," *Journal of Peace Research* 35, no. 3 (1998): 279-298, at p.279.

⁵⁶ Ibid, p.279.

⁵⁷ Ibid, p. 279; see also Gleditsch, N.P., "Armed conflict and the environment: A critique of the literature," *Journal of peace research* 35, no. 3 (1998): 381-400.

⁵⁸ Brown, G. K., & Stewart, F., "Economic and political causes of conflict: An overview and some policy implications," *Managing Conflict in a World Adrift* (2015): 199-227, at p. 204.

⁵⁹ Ibid.

⁶⁰ Wangeci, N. L., Njoroge, M. N. and Manyasa, E., "Causes of armed ethnic conflict and the implication for peace education in Nakuru county, Kenya," *Journal of Special Needs and Disabilities Studies*, 2014. Available at <https://ir-library.ku.ac.ke/handle/123456789/13574> [Accessed on 2/9/2019]; Kagwanja, P.M., "Facing Mount Kenya or facing

Arguably, government policies sometimes also play a role in causing or worsening ethnic or internal conflict situations. For instance, the *Endorois case*,⁶¹ where the Endorois community was fighting against violations resulting from their displacement from their ancestral lands without proper prior consultations, adequate and effective compensation for the loss of their property, the disruption of the community's pastoral enterprise and violations of the right to practise their religion and culture, as well as the overall process of their development as a people demonstrates how the Government's policies that exclude communities from decision-making policies can adversely affect the livelihoods of such group of people resulting in conflicts. The African Commission on Human and Peoples' Rights (ACHPR) found Kenya to be in violation of the African Charter,⁶² and urged Kenya to, *inter alia*, recognise the rights of ownership of the Endorois; restitute their ancestral land; ensure the Endorois have unrestricted access to Lake Bogoria and surrounding sites for religious and cultural rites and for grazing their cattle. There is no evidence so far that this decision was acted upon by the Government.⁶³

Such scenarios as the one of Endorois community can fuel internal conflicts where, if and when such a group of people is displaced, they have to look for new settlement areas. More often than not, they will seek to settle among other communities. The resultant friction and tension can result in ethnic conflicts. While the governments' capacity to repress rebellions may quell the open conflict, it has been argued that they often fail to address the underlying economic, social, or political causes.⁶⁴ Political refugees have often suffered under the hands of locals who consider them foreign, either in their country or other countries.⁶⁵

Mecca? The Mungiki, ethnic violence and the politics of the Moi succession in Kenya, 1987–2002," *African Affairs* 102, no. 406 (2003): 25-49; Kanyinga, K., "The legacy of the white highlands: Land rights, ethnicity and the post-2007 election violence in Kenya." *Journal of Contemporary African Studies* 27, no. 3 (2009): 325-344; Mueller, S.D., "Dying to win: Elections, political violence, and institutional decay in Kenya," *Journal of Contemporary African Studies* 29, no. 1 (2011): 99-117.

⁶¹ *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya*, No. 276 / 2003.

⁶² Arts.1, 8, 14, 17, 21 and 22. The Kenyan government had violated their right to religious practice (Art. 8), right to property (Art. 14), right to freely take part in the cultural life of his/her community (Art. 17), right of all peoples to freely dispose of their wealth and natural resources (Art. 21), and right to development (Art. 22).

⁶³ Koech, G., "Agency wants proof that Ogieks can protect water towers," *The Star*, 10 June, 2019. Available at <https://www.the-star.co.ke/news/2019-06-10-agency-wants-proof-that-ogieks-can-protect-water-towers/> [6/9/2019].

⁶⁴ Brown, G. K., & Stewart, F., "Economic and political causes of conflict: An overview and some policy implications," *Managing Conflict in a World Adrift* (2015): 199-227, at p. 199.

⁶⁵ Human Rights Watch, *Forced to Flee: Violence against the Tutsis in Zaire*, 1 July 1996, A802, available at: <https://www.refworld.org/docid/3ae6a8200.html> [accessed 5/9/ 2019].

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There is scholarly evidence to suggest that economic and social horizontal inequalities⁶⁶ provide the conditions that lead to dissatisfaction among the general population and, consequently, give rise to the possibilities of political mobilization, but political exclusion is likely to trigger conflict by giving group leaders a powerful motive to organize in order to gain support.⁶⁷ There is also often a provocative cultural dimension in group mobilization.⁶⁸ The 2007/2008 post-election violence in Kenya may be explained this way.⁶⁹

Political tensions such as those witnessed in post-election violence of 2007-2008 in Kenya also caused ethnic conflicts resulting in deaths.⁷⁰ This mainly involved a class of political leaders using certain ethnic groups to either capture power or remain in power.⁷¹ Another example of political influence coupled with natural resource scarcity on eruption of inter-ethnic conflicts is the Rwanda genocide of 1994.⁷² It has been documented that the discontentment of the poor peasantry driven by environmental and population pressures, in conjunction with drought and famine, made leaders of the Tutsi rebellion based in Uganda believe that there was an opening for war against the regime. When the country became deeply entangled in the war, radical leaders were able to re-center the political dialectic, from rich versus poor, to Tutsi against Hutu, inciting ethnic hatred and the spiral of political violence which led to genocide in 1994.⁷³

⁶⁶ Horizontal inequalities are multidimensional, involving access to a variety of resources along economic, social, and political vectors or dimensions.

⁶⁷ Brown, G. K., & Stewart, F., "Economic and political causes of conflict: An overview and some policy implications," *Managing Conflict in a World Adrift* (2015): 199-227, at p. 206.

⁶⁸ *Ibid.*, p. 206.

⁶⁹ Stewart, F., "Horizontal inequalities in Kenya and the political disturbances of 2008: some implications for aid policy," *Conflict, Security & Development* 10, no. 1 (2010): 133-159.

⁷⁰ Maupeu, H., "Revisiting Post-Election Violence," *The East African Review*, No. 38, 2008, p. 193-230. Available at <https://journals.openedition.org/eastafrica/719> [Accessed on 5/9/2019].

⁷¹ Lafargue, J., & Katumanga, M., "Kenya in turmoil: Post-election violence and precarious pacification," *Les Cahiers d'Afrique de l'Est/The East African Review* 38 (2008): 11-32; Centre for Strategic and International Studies, "Background on the Post-Election Crisis in Kenya," August 6, 2009. Available at <https://www.csis.org/blogs/smart-global-health/background-post-election-crisis-kenya> [Accessed on 5/9/2019]; Human Rights Watch, "Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance," March 16, 2008. Available at <https://www.hrw.org/report/2008/03/16/ballots-bullets/organized-political-violence-and-kenyas-crisis-governance> [Accessed on 5/9/2019].

⁷² Moodley, V., Gahima, A., & Munien, S., "Environmental causes and impacts of the genocide in Rwanda: Case studies of the towns of Butare and Cyangugu," *African Journal on Conflict Resolution* 10, no. 2 (2010); Human Rights Watch, *Forced to Flee: Violence Against the Tutsis in Zaire*, 1 July 1996, A802, available at: <https://www.refworld.org/docid/3ae6a8200.html> [accessed 5 September 2019]; Gasana, J.K., *Natural resource scarcity and violence in Rwanda*, 1999. Available at https://www.iisd.org/pdf/2002/envsec_conserving_4.pdf [Accessed on 5/9/2019].

⁷³ Gasana, J.K., *Natural resource scarcity and violence in Rwanda*, 1999, at p.207. Available at https://www.iisd.org/pdf/2002/envsec_conserving_4.pdf [Accessed on 5/9/2019]; Uvin, P., "Prejudice, crisis, and

It has been observed that with scarcity, distributional conflicts over access to natural resources will become much more pressing, both within and between countries.⁷⁴ As a result, it has been argued that while seeking to address the all the above mentioned three factors of environmental degradation, population growth and inequalities, deemed as ‘sources’ of environmental scarcity and conflict, they must be understood as resulting from political decisions.⁷⁵ They must therefore not be depoliticized wholly as government policies may affect the direction that such a conflict takes.⁷⁶ This is because inequalities in access to and control over resources cannot be detached from the political economic conflicts already existent in society.⁷⁷

c. Extreme Levels of Poverty

Eradicating extreme poverty, promoting sustainable consumption and production, and managing the planet’s natural resource base for the benefit of all are considered as the overarching challenges of sustainable development.⁷⁸ Notably, most Kenyan communities either rely on agriculture or pastoralism or both and any adverse climatic conditions may subject them to extreme levels of poverty due to the lost livelihoods.⁷⁹

It has been argued that environmental degradation interacted with population growth and inequalities cause a loss of livelihoods and subsequently render a large part of the population as ready perpetrators of violence such as was the case in the Rwanda genocide.⁸⁰ In such a scenario, it has been observed, poverty is integrated in the concept in that the loss of livelihood is presented as a “rapid transition from a previous stable condition of relative welfare into a

genocide in Rwanda," *African Studies Review* 40, no. 2 (1997): 91-115; Batware, B., "Rwandan Ethnic Conflicts: A historical look at Root Causes," *Unpublished master's thesis*. *Peace and Conflicts Studies, European Peace University, Austria* (2012).

⁷⁴ Department of Economic and Social Affairs of the United Nations Secretariat, "World Economic and Social Survey 2013: Sustainable Development Challenges," E/2013/50/Rev. 1S T/ESA /34 4, p.20. Available at <https://sustainabledevelopment.un.org/content/documents/2843WESS2013.pdf> [Accessed on 5/9/2019].

⁷⁵ MacDermott, J., "The livelihood conflicts approach on trial in Rwanda: towards a political critique," *Development Studies Institute Working Paper No. 01 21* (2001), p.4. Available at <http://www.lse.ac.uk/internationalDevelopment/pdf/WP/WP21.pdf> [Accessed on 5/9/2019].

⁷⁶ Ibid, p.4.

⁷⁷ Ibid, p.4.

⁷⁸ Department of Economic and Social Affairs of the United Nations Secretariat, "World Economic and Social Survey 2013: Sustainable Development Challenges," E/2013/50/Rev. 1S T/ESA /34 4, p.3. Available at <https://sustainabledevelopment.un.org/content/documents/2843WESS2013.pdf> [Accessed on 5/9/2019].

⁷⁹ FAO, "FAO in Kenya: Kenya at a Glance," available at <http://www.fao.org/kenya/fao-in-kenya/kenya-at-a-glance/en/> [Accessed on 6/9/2019].

⁸⁰ MacDermott, J., "The livelihood conflicts approach on trial in Rwanda: towards a political critique," *Development Studies Institute Working Paper No. 01 21* (2001), p.1. Available at <http://www.lse.ac.uk/internationalDevelopment/pdf/WP/WP21.pdf> [Accessed on 5/9/2019].

condition of poverty or destitution”.⁸¹ This, it is contended paves the way for mobilisation of popular support for violent conflict at a rate that would not otherwise be possible to achieve.⁸² Thus, livelihood losses are conceived of as a result of the three factors: environmental degradation; population growth; and/or inequalities.⁸³

Thus, environmental insecurity coupled with extreme levels of poverty often give rise to conflicts as the affected group of people seek to meet their basic needs.⁸⁴ Environmental security is defined as environmental viability for life support, with three sub-elements; preventing or repairing military damage to the environment, preventing or responding to environmentally caused conflicts, and protecting the environment due to its inherent moral value.⁸⁵ It has also been defined as the process of peacefully reducing human vulnerability to human-induced environmental degradation by addressing the root causes of environmental degradation and human insecurity.⁸⁶

A broader conception of environmental security, it has been argued, is crucial because, at least in the long term, security, even in the traditional sense, can be ensured only if security in the environmental sense is emphasized. Only where ecological balance is maintained, resources are protected, and supplies ensured, will the potential for conflict be significantly reduced.⁸⁷ While arguing for the connection between environmental security and human security as envisaged in the sustainable development agenda, it has been argued that *few threats to peace and survival of the human community are greater than those posed by the prospects of cumulative and irreversible degradation of the biosphere on which human life depends. True security cannot be*

⁸¹ Ibid, p. 1.

⁸² Ibid, p.1.

⁸³ Ibid, p.1; see also Meierding, E., "Climate change and conflict: avoiding small talk about the weather." *International Studies Review* 15, no. 2 (2013): 185-203; Upreti, B. R., & Sharma, S. R., *Nepal: Transition to Transformation*, Edited by Kailash Nath Pyakuryal, Human and Natural Resources Studies Center, Kathmandu Univ., 2008.

⁸⁴ Voices of Youth, "The relationship between poverty and the environment," November 5, 2016. Available at <https://www.voicesofyouth.org/blog/relationship-between-poverty-and-environment> [Accessed on 5/9/2019]; Department of Economic and Social Affairs of the United Nations Secretariat, "World Economic and Social Survey 2013: Sustainable Development Challenges," E/2013/50/Rev. 1S T/ESA /34 4, available at <https://sustainabledevelopment.un.org/content/documents/2843WESS2013.pdf> [Accessed on 5/9/2019].

⁸⁵ Ayeni, A.O. & Olorunfemi, F.B., 'Reflections on Environmental Security, Indigenous Knowledge and the Implications for Sustainable Development in Nigeria,' *Jorind*, Vol. 12, No. 1, June, 2014, pp. 46-57 at p. 51.

⁸⁶ Rita, F., "The Environmental Security Debate and Its Significance for Climate Change," *The International Spectator: Italian Journal of International Affairs*, Vol. 43, Issue 3, 2008, pp.51-65 at p. 56.

⁸⁷ See Muigua, K., *Nurturing Our Environment for Sustainable Development*, Glenwood Publishers, Nairobi, 2016, p.164.

*achieved by mounting buildup of weapons (defence in a narrow sense), but only by providing basic conditions for solving non-military problems which threaten them. Our survival depends not only on military balance, but on global cooperation to ensure a sustainable environment (emphasis added).*⁸⁸

The persistence of inequalities, whether in incomes, or in access to services, decent jobs, land or technology, it has been observed, hints at their entrenched structural causes. Discrimination and exclusion, based on gender, age, disability or ethnicity, have to be tackled directly in order that greater inclusiveness and transformative change may be achieved.⁸⁹

Arguably, as long as the communities living in arid and semi-arid areas in Kenya suffer disproportionate levels of environmental injustice and continue living in abject poverty coupled with feelings of discrimination and exclusion, it may not be possible for the Government of Kenya to guarantee security in these regions. Peace initiatives must look deeper than the symptoms of conflicts: they must address the environmental injustice in these regions and the associated political issues.

3. Environmental Justice in Context

Notably, the concept of environmental justice was first developed in the early 1980s during the social movement in the United States on the fair distribution of environmental benefits and burdens.⁹⁰ It has been defined as “the fair treatment and meaningful involvement of all people regardless of race, color, sex, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations, and policies”.⁹¹ It has also been opined that environmental justice entails the right to have access to natural resources; not to

⁸⁸ World Commission on Environment and Development, *Our Common Future: Report of the World Commission on Environment and Development*, 1987, A/42/427.

⁸⁹ Department of Economic and Social Affairs of the United Nations Secretariat, “World Economic and Social Survey 2013: Sustainable Development Challenges,” E/2013/50/Rev. 1S T/ESA /34 4, p.21. Available at <https://sustainabledevelopment.un.org/content/documents/2843WESS2013.pdf> [Accessed on 5/9/2019].

⁹⁰ Liu, L., Liu, J., & Zhang, Z., "Environmental justice and sustainability impact assessment: In search of solutions to ethnic conflicts caused by coal mining in Inner Mongolia, China," *Sustainability*, vol.6, no. 12 (2014): 8756-8774, at p.8760.

⁹¹ *Ibid*, p. 8760.

suffer disproportionately from environmental policies, laws and regulations; and the right to environmental information, participation and involvement in decision-making.⁹²

Recognition of the relationship between abuse of human rights of various vulnerable communities and related damage to their environment is found in the concept of environmental justice. Environmental justice theory recognizes how discrimination and marginalization involves expropriating resources from vulnerable groups and exposing these communities to the ecological harms that result from use of those resources. Environmental justice is based on the human right to a healthy and safe environment, a fair share to natural resources, the right not to suffer disproportionately from environmental policies, regulations or laws, and reasonable access to environmental information, alongside fair opportunities to participate in environmental decision-making.⁹³

In Africa, environmental justice mostly entails the right to have access to, use and control over natural resources by communities.⁹⁴ The lack of framework to ensure this thus often results in conflicts. Most of Kenyan communities also heavily rely on environmental resources to sustain their livelihoods and any climatic conditions that affect these resources may easily strain relations among communities sharing the common resources such as water and land resources.

It is in recognition of these environmental rights and hazards that the 2010 Constitution of Kenya obligates the State to, inter alia: ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits; work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya; protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities; encourage public participation in the management, protection and conservation of the environment; protect genetic resources and biological diversity; establish systems of environmental impact assessment, environmental audit and monitoring of the environment; eliminate processes and activities that are likely to endanger

⁹² Ako, R., 'Resource Exploitation and Environmental Justice: the Nigerian Experience,' in Botchway, F.N. (ed), *Natural Resource Investment and Africa's Development*, (Cheltenham, UK: Edward Elgar Publishing, 2011), pp. 74-76.

⁹³ Scottish Executive Social Research, *Sustainable Development: A Review of International Literature*, (Scottish Executive Social Research, 2006), p.8. Available at <http://www.gov.scot/resource/doc/123822/0029776.pdf> [Accessed on 3/09/2019].

⁹⁴ Obiora, L., "Symbolic Episodes in the Quest for Environmental Justice," *Human Rights Quarterly*, Vol.21, No. 2, 1991, p. 477.

the environment; and utilise the environment and natural resources for the benefit of the people of Kenya.⁹⁵ Further, every person has a constitutional duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.⁹⁶

These obligations are therefore meant to inform all the laws, policies, plans and programmes that the state puts in place in discharging their constitutional mandate on environmental protection and natural resources conservation.

While there have been efforts at ensuring that the constitutional principles on sound environmental governance are incorporated into the post-constitution laws and policies, their implementation remain slow.

Communities living in arid and semi-arid areas continue to suffer disproportionate levels of environmental injustice, especially in the face of climate change. The *Climate Change Act 2016* establishes the National Climate Change Council⁹⁷ whose functions include to, *inter alia*: advise the national and county governments on legislative and other measures necessary for mitigating and adapting to the effects of climate change; provide coordination between and amongst various governmental and non-governmental stakeholders dealing with matters related to climate change; advise the national and county governments on regional and international conventions, treaties and agreements on climate change to which Kenya is a party or should be a party to and follow up the implementation of the conventions, treaties and agreements to which Kenya is a party; and coordinate negotiations on climate change related issues at the local, regional and international levels.⁹⁸

However, there is no evidence yet of what county governments, especially in the most affected regions have done in line with the provisions of the Act to shield the communities from the adverse climatic changes. Most of the county governments in the arid and semi-arid regions still

⁹⁵ Constitution of Kenya 2010, Art. 69(1).

⁹⁶ Ibid, Art. 69(2).

⁹⁷ S. 4(1).

⁹⁸ s. 5, No. 11 of 2016, Laws of Kenya.

heavily rely on the national government when disaster strikes to supply relief food and water and other basic needs, despite annual allocation of funds.⁹⁹

Incidences of hunger and famine especially from Northern Kenya region are still rampant. These situations also come with conflicts among communities over grazing land and water.¹⁰⁰ In 2017, the Kenyan government declared a drought that affected 23 counties a national disaster. Nearly 2.7 million people were estimated to be in need of food aid, representing approximately 20 percent of the population in pastoral areas and 18 percent in marginal agricultural areas. The government also appealed for foreign aid back then.¹⁰¹ In 2019, there were still reports of hunger related deaths and conflicts among the same communities.¹⁰²

These incidences have become too common, with the hunger reports being aired every year, and no tangible evidence of long-term plans in place. The affected communities are never empowered to tackle these harsh climatic conditions but instead, they are left at the mercies of relief food donors and governments every year. This is despite the constitutional and statutory legal and institutional frameworks that are meant to address these situations.

4. Addressing Inter-Ethnic Conflicts Through Enhanced Environmental Justice in Kenya for Sustainable development

It has rightly been pointed out that widespread insecurity causes large-scale migration of citizens away from the war-torn homelands resulting in economic stagnation and decline.¹⁰³ There is a suggestion that conflicts are not the result of just one single factor, such as the perceived difference between peoples of different ethnic affiliations. As already pointed out elsewhere in

⁹⁹ Gulleid, M., “Nearly one million drought-hit Kenyans at risk of starvation,” *TRTWorld News Africa*, 19 March, 2019. Available at <https://www.trtworld.com/africa/nearly-one-million-drought-hit-kenyans-at-risk-of-starvation-25088> [Accessed on 7/9/2019].

¹⁰⁰ Mutanu, B., “Thousands of Kenyans facing starvation after harsh weather: report,” *Daily Nation*, Saturday January 19 2019. Available at <https://www.nation.co.ke/news/New-report-shows-thousands-of-Kenyans-are-faced-with-starvation/1056-4941392-18ma79/index.html> [Accessed on 7/9/2019]; see also Gulleid, M., “Nearly one million drought-hit Kenyans at risk of starvation,” *TRTWorld News Africa*, 19 March, 2019. Available at <https://www.trtworld.com/africa/nearly-one-million-drought-hit-kenyans-at-risk-of-starvation-25088> [Accessed on 7/9/2019];

¹⁰¹ Gulleid, M., “Nearly one million drought-hit Kenyans at risk of starvation,” *TRTWorld News Africa*, 19 March, 2019. Available at <https://www.trtworld.com/africa/nearly-one-million-drought-hit-kenyans-at-risk-of-starvation-25088> [Accessed on 7/9/2019].

¹⁰² Ibid; Mutanu, B., “Thousands of Kenyans facing starvation after harsh weather: report,” *Daily Nation*, Saturday January 19 2019. Available at <https://www.nation.co.ke/news/New-report-shows-thousands-of-Kenyans-are-faced-with-starvation/1056-4941392-18ma79/index.html> [Accessed on 7/9/2019].

¹⁰³

this paper, conflicts occur when people (or parties) perceive that, as a consequence of a disagreement, there is a threat to their needs, prospects, interests or concerns.¹⁰⁴

The process of managing natural resource conflicts is an off-shoot of the right to access to environmental justice and by extension, environmental democracy.¹⁰⁵ Environmental justice ensures equitable treatment of people in ensuring access to and sharing of environmental resources and justice in environmental matters.¹⁰⁶

Environmental justice is touted as the minimum ethical stance of environmental ethics, with two dimensions: distributive environmental justice and procedural/participatory environmental justice.¹⁰⁷ Distributive environmental justice concerns the equal distribution of environmental benefits and burdens, whereas participatory environmental justice focuses on opportunities to participate in decision-making.¹⁰⁸

Environmental justice has also been defined and articulated in two parts. The first part is justice as a right: environmental justice refers to “the right to a safe, healthy, productive, and sustainable environment for all, where ‘environment’ is considered in its totality to include the ecological (biological), physical (natural and built), social, political, aesthetic, and economic environments.”¹⁰⁹ Second, environmental justice is a set of conditions that support the fulfillment of that right, “whereby individual and group identities, needs, and dignities are preserved, fulfilled, and respected in a way that provides for self-actualization and personal and community empowerment.”¹¹⁰ Such a comprehensive definition extends beyond a traditional view of environmental justice as a matter of distribution of benefits and risks.

In order to achieve environmental justice, there are four broad areas where changes in policy and practice are needed: **Rights and responsibilities**: ensuring a right to a healthy environment is an

¹⁰⁴ Azuimah, F., "Perception as a Social infrastructure for sustaining the escalation of ethnic conflicts in divided societies in Ghana," *Journal of Alternative Perspectives in the Social Sciences*, vol.3, no. 1 (2011): 260-278, p. 268.

¹⁰⁵ Muigua, K., *Nurturing Our Environment for Sustainable Development*, Glenwood Publishers, Nairobi – 2016), p. 332.

¹⁰⁶ United States Environmental Protection Agency, ‘Environmental Justice Analysis’, available at <http://www.epa.gov/sustainability/analytics/environmental-justice.htm> [Accessed on 5/09/2019].

¹⁰⁷ Yang, T., ‘Towards an Egalitarian Global Environmental Ethics,’ *Environmental Ethics and International Policy*, op cit., p. 32.

¹⁰⁸ Ibid, p. 32.

¹⁰⁹ Braun, A., "Governance Challenges in Promoting Environmental Justice," *Beyond Intractability* (2011). Available at <https://www.beyondintractability.org/essay/environmental-justice-challenges> [Accessed on 5/09/2019].

¹¹⁰ Ibid.

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overarching aim of policy, which must be supported by placing responsibilities on individuals and organisations to ensure this right is achieved; **Assessment**: projects and policies need to be assessed for their distributional impacts; **Participation and capacity**: decision-making should involve those affected, and those groups or individuals enduring environmental injustices need support in order to increase their control over decisions which affect them; and **Integration**: of social and environmental policy aims (emphasis added).¹¹¹

One of the crucial components of environmental justice is that it seeks to tackle social injustices and environmental problems through an integrated framework of policies.¹¹² Ideally, having in place the necessary policy, legal and institutional framework is crucial in ensuring environmental justice at the global, regional and national levels. However, even with these, it may not be possible to achieve environmental justice if the people are not meaningfully empowered to utilize these frameworks. People should be able to participate meaningfully and to take advantage of the existing policy, legal and institutional framework. This is not possible where people do not fully appreciate the implications of environmental sustainability on their lives. Environmental education comes in handy in empowering people to participate in finding viable solutions for environmental protection and conservation.¹¹³

The World Economic Forum has rightly observed that the climate–conflict linkage primarily plays out in contexts that are already vulnerable to climate change, and where income is highly dependent on agriculture and fishing.¹¹⁴ Therefore, it is important to support the development of

¹¹¹ ESRC Global Environmental Change Programme, 'Environmental Justice: Rights and Means to a Healthy Environment for All,' Special Briefing No.7, University of Sussex., November 2001. Available at https://www.foe.co.uk/sites/default/files/downloads/environmental_justice.pdf [Accessed on 5/9/2019], p. 11.

¹¹² ESRC Global Environmental Change Programme, 'Environmental Justice: Rights and Means to a Healthy Environment for All,' *op cit.*; See also Mbote, P.K. & Cullet, P., 'Environmental Justice and Sustainable Development: Integrating Local Communities in Environmental Management,' *op cit.*

¹¹³ Burer, S., "Influence of environmental education on conserving environment in Kenya: Case study Moiben Constituency, Uasin Gishu County (Unpublished Master's Thesis, University of Nairobi)," *Research Project, University of Nairobi* (2014). Available at http://erepository.uonbi.ac.ke/bitstream/handle/11295/74208/Burer_Influence%20Of%20Environmental%20Education%20On%20Conserving%20Environment%20In%20Kenya%2C%20Case%20Study%20Moiben%20Constituency%2C%20Uasin%20Gishu%20County.pdf?sequence=3&isAllowed=y [Accessed on 6/9/2019]; Le Grange, L., "Think piece: sustainability education and (curriculum) improvisation," *Southern African Journal of Environmental Education* 32, no. 1 (2016): 26-36; Sauv , L., "Environmental education and sustainable development: A further appraisal," *Canadian Journal of Environmental Education* 1 (1996): 7-34.

¹¹⁴ World Economic Forum, "We need to do more to understand how climate change and conflict are linked. Here's why," 2018. Available at <https://www.weforum.org/agenda/2018/09/we-need-to-do-more-to-understand-how-climate-change-and-conflict-are-linked-heres-why/> [Accessed on 2/09/2019].

alternative sources of income, to increase the coping capacity of communities to manage temporary losses of income and to strengthen communities' resilience in order to mitigate conflict risks.¹¹⁵ Some of the suggestions that have been made in reference to this include insurance schemes that smooth out the annual income of vulnerable populations, a reduction in income sensitivity to climate conditions, legal reform and improved land rights, drought preparedness programmes and agricultural assistance.¹¹⁶ This is because previous programmes, such as food assistance programmes, have been followed by either a decrease or an increase in violence at different periods of implementation, as they are likely to alter the power relations in a community.¹¹⁷

Food assistance programmes are temporary measures that cannot be expected to deal with this perennial problem of hunger and famine. The affected communities will continue to compete for the scarce resources and conflicts may thus be inevitable.

Empowerment may be the only way that these inter-ethnic conflicts may be fully addressed. Such empowerment may be social, economic or political. However, as already pointed out, environmental and natural resources form the basis of the livelihoods of most communities whether pastoralists or farmers. As a result, the conservation of these environmental and natural resources needs to be enhanced as a way of promoting environmental justice.

The disproportionate burden of environmental pollution and degradation borne by some communities especially in the arid and semi-arid regions ought to be addressed by the county and national governments appropriately.

There is need for the governments, both national and county, to use inclusive and collaborative efforts with communities to study and address environmental challenges that lead to inter-ethnic conflicts. The Constitution requires that the national values and principles of governance must bind all State organs, State officers, public officers and all persons whenever any of them: applies or interprets the Constitution; enacts, applies or interprets any law; or makes or implements public policy decisions.¹¹⁸ These national values and principles of governance

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ See Articles 10 (1) and 69, Constitution of Kenya.

include, inter alia: patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised; good governance, integrity, transparency and accountability; and sustainable development.¹¹⁹ These values and principles require that the government stakeholders should not make decisions, including those on environmental and natural resources governance, without including the communities who may be affected by the said decisions.

Inclusion may be achieved in different ways including through participatory conflict management mechanisms such as Alternative Dispute Resolution (ADR) mechanisms which include negotiation and mediation, as envisaged under the Constitution of Kenya¹²⁰ and other statutory provisions¹²¹. Conflict management is defined as the practice of identifying and handling conflicts in a sensible, fair and efficient manner that prevents them from escalating out of control and becoming violent.¹²² Conflict management is seen as a multidisciplinary field of research and action that addresses how people can make better decisions collaboratively.¹²³ Thus, the roots of conflict are addressed by building upon shared interests and finding points of agreement.¹²⁴ Communities' involvement and inclusion is thus important. They may participate directly or through traditional dispute resolution mechanisms, peace committees, Non-Governmental organisations, religious bodies, among other bodies within the communities. These processes should include the different stakeholders or players in order to come up with lasting peace outcomes.

¹¹⁹ Article 10 (2), Constitution of Kenya.

¹²⁰ Article 60, 67, 159, Constitution of Kenya 2010.

¹²¹ See Community Land Act, No. 27 of 2016, Laws of Kenya (Government Printer, Nairobi, 2016); Land Act, No. 6 of 2012, Laws of Kenya; Environment and Land Act, No. 19 of 2011, Laws of Kenya.

¹²² Engel, A. & Korf, B., 'Negotiation and mediation techniques for natural resource management,' Prepared in the framework of the Livelihood Support Programme (LSP), An interdepartmental programme for improving support for enhancing livelihoods of the rural poor, (Food And Agriculture Organization of The United Nations, Rome, 2005), available at

http://peacemaker.un.org/sites/peacemaker.un.org/files/NegotiationandMediationTechniquesforNaturalResourceManagement_FAO2005.pdf [Accessed on 5/9/2019].

¹²³ Anderson, J., et al, 'Addressing Natural Resource Conflicts through Community Forestry: Setting the Stage,' available at <http://www.fao.org/docrep/005/ac697e/ac697e13.htm#TopOfPage> [Accessed on 5/9/2019].

¹²⁴ Ibid.

Courts should also be actively involved in ensuring that where communities fail to be included¹²⁵, such government decisions should not be upheld until the constitutional provisions are reflected in such processes. This is because courts also have a critical role to play in environmental conservation and protection.¹²⁶

Apart from inclusion in decision-making and governance matters, these communities should be empowered economically and socially in a way that ensures that they have a diversified source of livelihood in order to insulate them against climate change and other adverse environmental factors. This is also a way of ensuring that pressure on available environmental resources is minimised and subsequently reduce or prevent emergence of inter-ethnic conflicts.

5. Conclusion

Inter-ethnic conflicts in Kenya may be attributed to different factors. However, some of the major ones revolve around environmental resources. This paper argues that addressing inter-ethnic conflicts in Kenya requires first dealing with the environmental challenges that prevent achievement of environmental justice in Kenya. This minimizes the predisposing factors that may aggravate the conflict situation. Ensuring that communities living in ethnic conflict prone areas enjoy environmental justice can go a long way in effectively addressing inter-ethnic conflicts in Kenya.

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¹²⁵ Article 10, 21, Constitution of Kenya 2010.

¹²⁶ Article 10, 21, 42, 70, Constitution of Kenya 2010; *Peter K. Waweru v Republic* [2006] eKLR, Misc. Civil Application No. 118 of 2004.

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