

Mediating Energy Project Implementation Conflicts, a Learning Curve, the Case of Olkaria IV Geothermal, Kenya

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Abstract

Energy developmental projects in Kenya have elicited conflicts with local communities over their impacts, including relocation and compensation. Most conflicts remain unsolved and grievances unattended to. Mediation use is becoming increasingly popular in dealing with such conflicts. However, this initiative remains inadequately assessed and published. The Olkaria IV geothermal project conflicts were mediated, creating an opportunity to appraise mediation for enhancing its application in Kenya. Quantitative and qualitative data were collected from the project affected persons (PAPs) household heads, using questionnaires, focus group discussions (FGDs), key informant interviews (KIIs), and desk literature studies. Descriptive statistics were calculated from quantitative data, while NVIVO software was used to assess qualitative narrative information. Results suggested inadequate PAPs' knowledge, attitude, contribution, and practice in the mediation, protraction, and trust issues. The delegates lacked a clear pathway for information dissemination among community members. Mediation lessens suspicion within the PAPs and increases the community's exposure to different conflict resolution

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opportunities. An awareness campaign preceding mediation as an effective preparation tool and appropriate engagement of the aggrieved parties, would improve the mediation process' efficacy.

Keywords: conflicts, geothermal project implementation, lessons, mediation, PAPs

Introduction

The growing petition to increase the availability and reliance of green energy for sustainability and addressing global concerns over climate change¹, has contributed to massive investment in the exploration of clean energy globally.² Demand for electricity in East Africa is projected to quadruple by 2033.³ Geothermal energy in Kenya is preferred to wind, solar, and hydropower due to its insusceptibility to climate conditions.⁴ The country intends to generate 50 percent of its

¹ Karytsas Spyridon and others, 'Towards Social Acceptance of Geothermal Energy Power Plants' 7

<https://www.researchgate.net/publication/333974365_Towards_social_acceptance_of_geothermal_energy_power_plants>.

² Chavot Philippe and others, 'Social Shaping of Deep Geothermal Projects in Alsace: Politics, Stakeholder Attitudes and Local Democracy' (2018) 6 *Geothermal Energy* 26 <<https://geothermal-energy-journal.springeropen.com/articles/10.1186/s40517-018-0111-6>> accessed 8 December 2019; Emmanuel Yeri Kombe and Joseph Muguthu, 'Geothermal Energy Development in East Africa: Barriers and Strategies' [2018] *Journal of Energy Research and Reviews* 1 <<http://www.journaljenrr.com/index.php/JENRR/article/view/29722>> accessed 26 February 2020; Sofía Vargas Payera, 'Understanding Social Acceptance of Geothermal Energy: Case Study for Araucanía Region, Chile' (2018) 72 *Geothermics* 138 <<https://linkinghub.elsevier.com/retrieve/pii/S0375650517300913>> accessed 18 February 2020.

³ Hughes Lotte and Rogei Daniel, 'Feeling the Heat: Responses to Geothermal Development in Kenya's Rift Valley' [2020] *Journal of Eastern African Studies* 1 <<https://www.tandfonline.com/doi/full/10.1080/17531055.2020.1716292>> accessed 10 April 2020.

⁴ Kubota Hiromi and others, 'Determining Barriers to Developing Geothermal Power Generation in Japan: Societal Acceptance by Stakeholders Involved in Hot Springs' (2013) 61 *Energy Policy* 1079

energy demand from geothermal sources by 2025.⁵ However, the growth of such projects often expands into occupied land resulting in conflicts with the residents. Conflicts can be destructive and violent, especially in fragile countries like Kenya⁶ where the system of governance is weak, with a high prevalence of political and ethnic tensions exacerbated by corruption. Conflicts constitute a vital part of development especially when resolved peacefully⁷ through effective management approaches like mediation.

Mediation is considered an effective process for resolving conflicts including natural resource ones.⁸ It is deemed helpful in cases where parties fail to resolve conflicts because of a lack of mutual trust and inequities among the negotiating parties.⁹ While mediation has been

<<https://linkinghub.elsevier.com/retrieve/pii/S0301421513004394>> accessed 8 December 2019.

⁵ Hughes Lotte and Rogei Daniel (n 3).

⁶ Fund for Peace, 'Fragile States Index Annual Report 2019' (2019) <<file:///C:/Users/ACER/AppData/Roaming/Microsoft/Windows/Network%20Shortcuts/9511904-fragilestatesindex.pdf>>.

⁷ Oli Brown and Michael Keating, 'Addressing Natural Resource Conflicts' [2015] Chatham House for the Royal Institute of International Affairs 34.

⁸ Bercovitch Jacob and Lee Su-Mi, 'Mediating International Conflicts: Examining the Effectiveness of Directive Strategies' (2003) 8 International Journal of Peace Studies 1 <<http://www.jstor.org/stable/41852891>>; Dhiaulhaq Ahmad, De Bruyn Toon and Gritten David, 'The Use and Effectiveness of Mediation in Forest and Land Conflict Transformation in Southeast Asia: Case Studies from Cambodia, Indonesia and Thailand' (2015) 45 Environmental Science & Policy 132 <<https://linkinghub.elsevier.com/retrieve/pii/S1462901114002019>> accessed 15 November 2019; Muigua Kariuki, 'Managing Natural Resource Conflicts in Kenya through Negotiation and Mediation' 43 <https://profiles.uonbi.ac.ke/kariuki_muigua/publications/managing-natural-resource-conflicts-kenya-through-negotiation-and-mediati> accessed 15 November 2016; Yurdi Yasmi, Lisa Kelley and Thomas Enters, *Conflict over Forests and Land in Asia* (RECOFTC 2010) <https://www.researchgate.net/publication/287508511_Conflict_over_forests_and_land_in_Asia> accessed 15 November 2019.

⁹ Jacob Bercovitch and Richard Jackson, 'Negotiation or Mediation?: An Exploration of Factors Affecting the Choice of Conflict Management in International Conflict' (2001) 17 Negotiation Journal 59 <<http://doi.wiley.com/10.1111/j.1571->

applied successfully to resolve conflicts, the process has not been immune to challenges.¹⁰ In Jambi province, Sumatra, Indonesia, mediation over the forest resources had to adapt to the conditions on the ground, with successive mediators and over several years resulting in high financial and time costs.¹¹ In the Senyerang case, the government's excessive power over the forest areas¹² limited inhabitants' compensation for the land in kind. Thus, the community was directed by the Ministry of Environmental and Forestry (MoEF) to accept the offered benefit-sharing arrangement with the plantation.

Translation of agreements into action was a cross-cutting challenge in most mediation cases in South Asia.¹³ Such was the case in Samba mediation, where instead of what was bargained for, the smallholder oil

9979.2001.tb00227.x> accessed 15 November 2019; Yurdi Yasmi, Lisa Kelley and Thomas Enters (n 8).

¹⁰ Ahmad Dhiaulhaq, David Gritten and Toon De Bruyn, 'Mediating Forest Conflicts in Southeast Asia' [2014] The Center for People and Forests, Bangkok, Thailand. 32; Kressel, K., 'Mediation Revisited', *The handbook of conflict resolution: Theory and practice* (2006).

¹¹ Samsudin, Y.B. and Pirard, R., 'Conflict Mediation in Industrial Tree Plantations in Indonesia: Status and Prospects' (Center for International Forestry Research (CIFOR) 2014) <<http://www.cifor.org/library/5443/conflict-mediation-in-industrial-tree-plantations-in-indonesia-status-and-prospects>> accessed 15 November 2019.

¹² Nancy Lee Peluso and Peter Vandergeest, 'Genealogies of the Political Forest and Customary Rights in Indonesia, Malaysia, and Thailand' (2001) 60 *The Journal of Asian Studies* 761 <https://www.cambridge.org/core/product/identifier/S0021911800009487/type/journal_article> accessed 16 August 2020; Muhammad Alif K Sahide and Lukas Giessen, 'The Fragmented Land Use Administration in Indonesia – Analysing Bureaucratic Responsibilities Influencing Tropical Rainforest Transformation Systems' (2015) 43 *Land Use Policy* 96 <<https://linkinghub.elsevier.com/retrieve/pii/S0264837714002464>> accessed 16 August 2020.

¹³ Ahmad Dhiaulhaq, John F McCarthy and Yurdi Yasmi, 'Resolving Industrial Plantation Conflicts in Indonesia: Can Mediation Deliver?' (2018) 91 *Forest Policy and Economics* 64 <<https://linkinghub.elsevier.com/retrieve/pii/S1389934117302162>> accessed 14 April 2020.

palm estate erected substandard quality roads. This is despite that the residents had to repay the loans used for their construction. Also, discontent was widespread in Kuantain Singigi and Tanjung Jabung Barat mediation cases in Indonesia,¹⁴ although the community accepted the mediation agreement. These challenges could lead to unsustainable mediation results if the mediation is not properly conducted.¹⁵

In Africa, mediation is often donor-driven as most of the governments are unable or unwilling to appreciate it.¹⁶ It is also, a potential threat to the income for lawyers, who benefit from conflict litigation.¹⁷ The majority of the public is poorly informed of mediation as a legitimate method for resolving developmental conflicts. Also, resolutions can be forced on warring parties because of a lack of legal framework thus non-binding nature of a mediation agreement.¹⁸ The process can be endless and time consuming with the unfair outcome due to power imbalances.¹⁹

¹⁴ Afrizal, 'Third-Party Intervention in Terminating Oil Palm Plantation Conflicts in Indonesia: A Structural Analysis' (2015) 30 *Journal of Social Issues in Southeast Asia* 141

<https://www.jstor.org/stable/24779832?casa_token=PL3JmEgSjQUAAAAA%3AqVLZFIsnTyO_iFabCz8sKuem9OQcqidzgjE7UYhuJC_kps-ZHPq2o2_wzeSIy_afkTggnR9ToqlaGRjKF3LT1m3ue-wE9gqcRcUQg_2KxtGVqXszdw&seq=1#metadata_info_tab_contents>.

¹⁵ Samsudin, Y.B. and Pirard, R. (n 11).

¹⁶ Ernest E Uwazie, 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability' 6 <<https://www.semanticscholar.org/paper/Alternative-Dispute-Resolution-in-Africa-%3A-Conflict-ERNEST-E./72d38368660023a5091ca820ceac5f311c662c7>> accessed 15 November 2019.

¹⁷ *ibid*.

¹⁸ Kariuki Muigua, 'Natural Resources and Conflict Management in East Africa' (2014).

¹⁹ Muigua Kariuki (n 8); Owen M Fiss, 'Against Settlement' (1984) 93 *The Yale Law Journal* 1073 <<https://www.jstor.org/stable/796205?origin=crossref>> accessed 16 August 2020.

However, a researcher²⁰ saw an opportunity for mediation because of its ability to offer participatory and transparent resolutions for the involved parties. It also has the potential to reduce caseload in the overcrowded courts, hasten access to justice, and helps bridge the gap between the traditional conflict resolution strategies and formal legal methods. Mediation also reduces the post-conflict hatred as everyone comes out a winner.

While the use of mediation is demonstrated to have increased across the globe,²¹ its utility in addressing natural resources conflicts in developing countries including Kenya, remains low.²² The available information incomprehensively documents the procedural issues of mediation in the resolution of conflicts related to developmental projects as also observed by Nathan,²³ on the challenges of mediation in Africa.

This study evaluated the issues from the mediation that was applied successfully in resolving conflicts that were linked to the Olkaria IV geothermal project implementation in Kenya between 2015-2016. The outcome is intended to help upscale the application of mediation in conflicts associated with larger projects with complex conflicts.

²⁰ Samsudin, Y.B. and Pirard, R. (n 11).

²¹ Amanda Kron and Jensen David, 'From Curse to Opportunity: Mediation of Natural Resource Conflicts' (*Voelkerrechtsblog, International Law and International Legal Thought*, 2016) <<https://voelkerrechtsblog.org/from-curse-to-opportunity-mediation-of-natural-resource-conflicts/>> accessed 15 November 2019; Cheung Sai On, 'Mediation for Improved Conflict Resolution' (2010) 2 *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction* 135 <<http://ascelibrary.org/doi/10.1061/%28ASCE%29LA.1943-4170.0000035>> accessed 15 November 2019; James A Wall, John B Stark and Rhett L Standifer, 'Mediation: A Current Review and Theory Development' (2001) 45 *Journal of Conflict Resolution* 370 <<http://journals.sagepub.com/doi/10.1177/0022002701045003006>> accessed 15 November 2019.

²² Muigua Kariuki (n 8).

²³ Laurie Nathan, 'The Challenges Facing Mediation in Africa' (2009) *AFRICA Mediators' Retreat 2009*.

Theoretical framework

The theory of the rule of law and the place of mediation in solving conflicts created by the law

The theory of the rule of law²⁴ fails when one of the parties feels aggrieved despite legal adjudication. In using the law, a competent authority decides in favor of one person at the expense of the other, resulting in a win-lose situation. A strong sense of the rightness of the law is required to accept such a decision on the part of the loser. In consequence, legal decisions do not accommodate reconciliation, and persons who result to the law can never live together harmoniously. Thus, a sense of injustice persists. This is bad as law, being rigid, does not brook negotiation although it may be subject to interpretation.

Progressively, parties may choose to negotiate despite the law. The more common form of such negotiation is arbitration (usually in regards to the distribution of specified benefits or penalties). The position reached is a compromise of what the law would award, reducing its bite. There are still winners and losers, but a balm is applied to the feeling of loss being a negotiated one. In both the first and this case, the authority, based on the law reigns supreme.

However, mediation is a more progressive approach that enables satisfaction and builds relationships. A simple mediation is facilitated by disinterested parties.²⁵ But, the parties negotiate themselves and

²⁴ Jean R Sternlight, 'Is Alternative Dispute Resolution Consistent with the Rule of Law? Lessons from Abroad' (2007) 56 *DePaul Law Review* 25 <https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/deplr56&id=581&men_tab=srchresults>; Robert S Summers, 'A Formal Theory of the Rule of Law*' (1993) 6 *Ratio Juris* 127 <<http://doi.wiley.com/10.1111/j.1467-9337.1993.tb00142.x>> accessed 24 July 2020.

²⁵ Christopher W Moore, *The Mediation Process: Practical Strategies for Resolving Conflict* (4th Edition, Jossey-Bass, A Wiley Brand 2014); Nwazi Joseph, 'Assessing the Efficacy of Alternative Dispute Resolution (ADR) in the Settlement of

agree on the solution to their differences. The negotiating persons take responsibility for the decision to bring harmony from divergent views, interests, and values by permitting flexibility in their claims. At the core of mediation is the desire to maintain a healthy relationship with one another. This value is set above the interests being negotiated. Thus, each mediation agreement is unique and dependent on the value attached to the relationship. There are self-evaluation and discovery during the process and development of a will to lose to retain the relationship. The result is a win-win situation. Where the relationship has no value, then mediation is not possible, and the highest authority becomes the letter of the law.

In the case of Olkaria IV, both Kenya Electricity Generating Company (KenGen) and the PAPs sought resolution of the conflicts that were jeopardizing their co-existence and smooth implementation of the geothermal project through mediation. Conflicts ensued because of the different interests and positions the parties had over the geothermal well site at Olkaria IV. The government through KenGen, needed the land to expand geothermal production to attain its commitment to increase electricity supply and mitigate climate change via the production of green energy. The Kenyan government has the responsibility to protect the community from the potential negative impacts of projects, hence the need to relocate the community from the Olkaria IV site to alternative land of their choice. Compensation of community resources including livelihood support was contested. The community, on the other hand, was keen on keeping the traditional land, which it found hard to disassociate from since it had invested in cultural inputs and villages, whose value was difficult to calculate and hard to compensate in monetary terms.

Environmental Disputes in the Niger Delta Region of Nigeria' [2017] Journal of Law and Conflict Resolution; Vibeke Vindeløv, *Reflexive Mediation: With a Sustainable Perspective* (DJØF 2012).

They felt they had ancestral rights to the land and also livelihood interests attached to it. They had invested in the development of income-generating cultural activities, including performing traditional dances and trade in traditional curios and other items to tourists. These activities were not easily transferable from the Olkaria IV site, which is located inside a wildlife park, to the new site, far from the park. The resettlement area is outside this park, cutting the community from the hub of tourism activities exacerbated with additional transport costs for the community to the park.

Each part could have considered that they stood on the high ground and could win a legal battle. Instead, in the spirit of mediation, the government and the community agreed to negotiate relocation to allow KenGen to establish Olkaria IV geothermal plant. Whereas mediation helped mend the relationship, reduce conflicts, improve PAPs livelihoods, and smooth project operations, the process was not immune to procedural challenges. The study sought to understand the issues that arose from the Olkaria IV mediation.

Materials and methods

Study Area

The study was conducted among about 1,209 PAPs in 155 households in the relocated area at the Resettlement Action Plan (RAPland) village,²⁶ in the development area of Olkaria IV. RAPland is situated in the Olkaria geothermal block, in Naivasha, Nakuru County (Figure 1). Gazetted as a Geothermal Resource Area

²⁶ GIBB Africa, 'Olkaria IV (Domes) Geothermal Project in Naivasha District: Resettlement Action Plan for Olkaria IV Power Station' (2012) Resettlement Action Plan; Schade Jeanette, 'Kenya "Olkaria IV" Case Study Report: Human Rights Analysis of the Resettlement Process' 199 <<https://nbn-resolving.org/urn:nbn:de:0168-ssoar-51409-6>> accessed 29 November 2019.

in 1971,²⁷ the geothermal field is located in and around the Hell's Gate National Park on KenGen's land covering approximately 80 sq. km. The park lies at 0°54'57"S, 36°18'48"E, to the south of Lake Naivasha which is about 120 km north-west of Nairobi. Olkaria IV power plant has an installed capacity of 140 Megawatt (MWe) owned and is managed by Kenya Electricity Generating Company Ltd, (KenGen). Its establishment was financed by the European Investment Bank (EIB), World Bank (WB), and other international institutions.²⁸

The development of Olkaria IV necessitated the relocation of four villages, namely, Cultural Centre, OlooNongot and OlooSinyat, and OlooMayana Ndogo²⁹. GIBB Africa, a consultant firm was contracted by KenGen to develop a RAP to facilitate the resettlement process. The four villages were inhabited by the Maasai Community. PAPs were resettled on 1,700 acres, upon which they were to get title deeds, modern infrastructure, social services and grazing land. PAPs depended mainly on pastoralism and livestock trading while those from Cultural Centre relied majorly on ecotourism (selling of curios and tour guiding).³⁰

²⁷ Sena Kanyinke, *Renewable Energy Projects and the Rights of Marginalised* (IWGIA 2015).

²⁸ Schade Jeanette (n 26).

²⁹ GIBB Africa, 'KenGen Olkaria IV (Domes) Geothermal Project in Naivasha District: Resettlement Action Plan for Olkaria IV Power Station' (2009).

³⁰ Schade Jeanette (n 26).

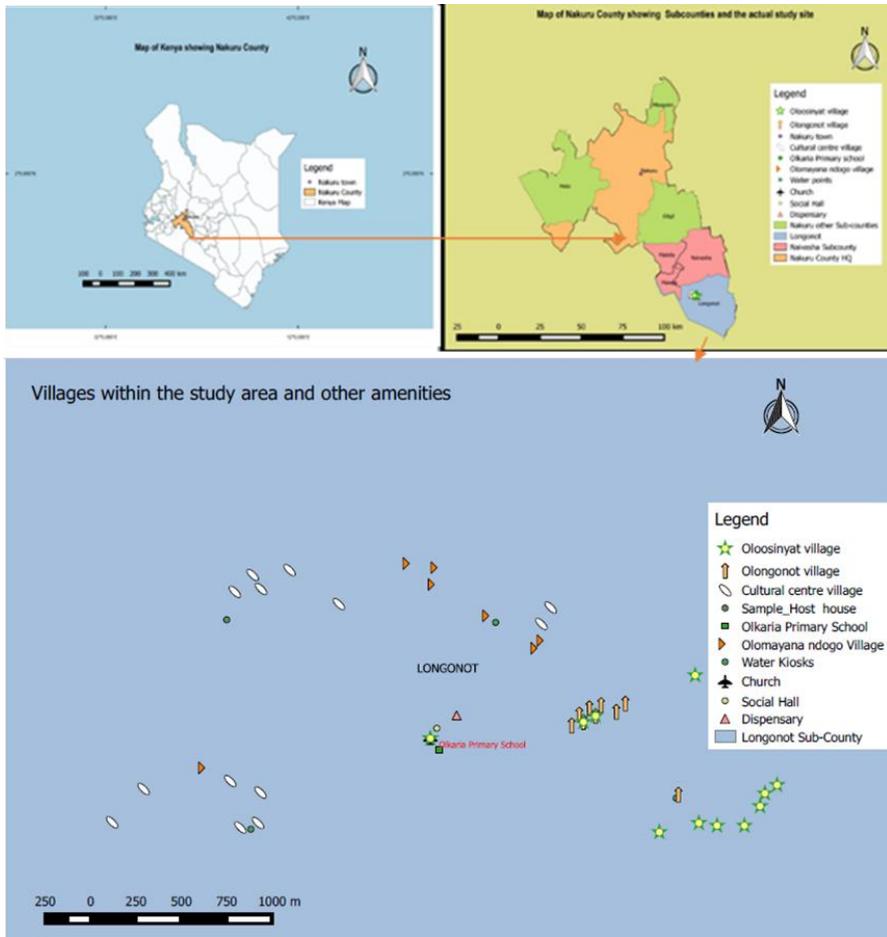


Figure 1: Map of Study site; RAPland at Olkaria IV, in Lolongot.
 Source, Author, 2019

Methodology

Reconnaissance

A reconnaissance study was conducted in May 2019, during which four research assistants comprising of one female and three males were recruited from the RAPland. Two of the research assistants had attained O level education or equivalent, one Bachelor’s degree, and the other a

Master's degree. They were trained on the varied questionnaire's features and interview procedures and etiquette. The research assistants were facilitated with notebooks, pens, flip charts, and strings. A sketched map of RAPland showing OlooNongot, OlooSinyat, OlooMayana Ndogo, and the Cultural Centre villages (Figure 1) was drawn with the help of these research assistants and with the input of a RAPland Chief Elder. The sketch map also portrayed significant landmarks on RAPland including, the two churches, the primary and secondary schools, community dispensary as well as the road infrastructure. The training was done at the RAPland Gospel Church with the subsequent pretesting of the semi-structured questionnaire for further adjustment.

Study Design, Sampling and Data Collection

The study sought to capture the PAPs' input on the issues of mediation that were applied in the resolution of conflicts that were connected with the implementation of the Olkaria IV geothermal project. Data was collected between May 2019 and March 2020. The blended methodology was used to gather quantitative and qualitative data. Quantitative data included the respondents' age and the number of people per household and mediation participants. Qualitative data included the respondents' reflection on the mediation challenges and lessons.

Sampling

The study targeted all the 155 households in the four villages including, Cultural Centre, OlooNongot and OlooSinyat, and OlooMayana Ndogo at RAPland, to facilitate incorporation of the individual households' experiences mediation issues. However, only 117 households were surveyed, as 24 households were not occupied by the time of the study. The occupants of these households had temporarily moved out of RAPland in search of

greener pastures. The remaining representatives of 14 households were inaccessible because of work-related engagements outside RAPland.

Data Sources

Secondary data were obtained from reviews of published and unpublished literature from varied local, national, and international sources related to issues and lessons of mediating natural resource conflicts. The results from the reviews have been used to complement primary data collected through the household survey, FGDs, KIIs, and participant observations.

Data Collection

Household Survey

The semi-structured questionnaire was administered systematically on households at RAPland, starting from the furthest village, OloNongot, to collect quantitative and qualitative data. The questionnaire was administered to household heads and where absent on offspring above 18 years old to elicit their experiences on the subject matter. This data was supplemented by information gathered from the three FGDs, the eight key informant interviews, field observations, and literature review.

Focus Group Discussions

A checklist guide was prepared based on the results of the questionnaire survey and used to collect qualitative data via three (elders, women, and youth) FGDs. The groups consisted of eight participants, each drawn from the four villages. The youth group consisted of four female and four male participants who actively participated in the discussions. The female elders were separated from males to facilitate free participation and discussion, especially among women, whose culture forbids women

from speaking openly among men.³¹ The FGDs participants were purposively selected based on their ability to inform deep insight into the challenges and lessons of mediation. Consent was sought and granted to record the FGDs.

Key Informant Interviews

Further qualitative data was collected via interviews conducted with eight key informants. These informants were also selected from those judged to have deeper insight and understanding of the mediation issues and lessons. The informants participated in the mediation process that was conducted successfully to resolve conflicts that persisted after the community's relocation. They included one mediator, two informants from the complaints group, two from the resettlement action plan implementation committee (RAPIC), two village elders, and one from Kenya Electricity Generating Company (KenGen). A standard interview guide for these key informants was prepared ahead of the interviews. Consent was not given to voice record the interviews in the eight cases, but meticulous notes were taken.

Field Observations

Field observation of the topography and infrastructure at RAPland was made. This displayed deprived land occasioned with gullies and valleys. The standard two bed-roomed houses, social facilities including, dispensary, schools, churches, and water collection points were evident. Photographs of the RAPland and the facilities were also taken. Informal talks with random villagers encountered and, the research assistants were also held to supplement the observations made.

³¹ Hodgson Dorothy L., 'Women as Children: Culture, Political Economy, and Gender Inequality among Kisongo Maasai' (1999) 3 *Nomadic Peoples* 115 <<http://www.ingentaconnect.com/content/10.3167/082279499782409451>> accessed 8 December 2019.

Data analysis

The completed questionnaires were checked for adequacy and clarifications and coded. Quantitative data on the respondents' age, number of people per household, and participants of mediation were organized into MS. excel. This data was imported into the R programme³² and analyzed using a combination of descriptive statistics including, percentages and frequencies. Qualitative data on respondents' reflection on mediation's issues and lessons gathered from the household survey open-ended questions, FGDs and KIIs notes were typed, and the interview recordings transcribed. The transcripts were imported into qualitative research software, NVIVO³³ for coding and analysis. The summaries of the narrations are used in the discussion in the subsequent section.

Results

Mediation was successfully applied in reducing conflicts between KenGen and the PAPs, improving their relationships and the PAPs livelihoods in Olkaria IV geothermal project. However, the majority (45%) of the respondents acknowledged that the process was faced with myriad challenges. Respondents (34%) held a contrary opinion, while the rest were not aware of any challenges. The issues are presented as follows:

PAPs' involvement

The non-resettled PAPs (NRPAPs) were hardly included in the EIB's mobilization for the acceptance of a mediation process. Since the community's expectations and opinions of mediation were gathered at this time, the views/concerns/grievances of the NRPAPs were not recorded. The mobilization meeting was apparently conducted at

³² Gentleman, Robert, *Computer Science and Data Analysis Series. R Programming for Bioinformatics*. (CRC Press 2008).

³³ Bazeley, Patricia and Kristi Jackson Eds., *Qualitative Data Analysis with NVivo*. (2nd edn, SAGE publications limited 2013).

RAPland in the community's social hall, which was far from the area in which the NRPAPs were squatting. Also, as aptly stated by an informant, *'the complainants' minimal involvement was caused by the sour relationship between them and the RAPIC members for being excluded from the relocation benefits.'*

The larger community's contribution was also negligible during the induction meeting. Further, the latter held little say in the selection of representatives, as stated by an FGDs participant, *'During the election, we were not involved fully, I remember I was working and the election was held.'* This resulted in some level of dissatisfaction (35%) in the process, and claims of nepotism and corruption as several members of the same family were nominated to the mediation committee. In other words, there were claims of inadequate representation in the negotiation committee.

It was assumed that the representatives consulted and gave feedback to the larger community at meetings at RAPland's social hall. However, the feedback was reported to be minimal. The process design failed to allow for sufficient and exhaustive consultation and feedback on prickly issues. Further, this was complicated by the limited unpacking of issues, less understood by the illiterate representatives. Also, each delegate was required to report and receive input from their designated villages, yet some irresponsibly did not. They only responded to queries put to them by community members during unexpected or random encounters.

The delegates' feedback was discouraged by the mediators, to fast track the process. Therefore, some reactions from the larger community were not incorporated on the resumption of the subsequent mediation sessions. Mediation resolutions validation exercise happened ten days after agreement signing, yet the community would have appreciated giving input before the signing. This was against the mediation

protocols signed at the Elsa Mere Conservation center. The protocols required the endorsement of the resolutions before signing. Some families felt not represented, while those who believed that they had better ideas were excluded from the meetings.

The process

Mediation began officially in August 2015, long after the inception meeting that took place in March 2015. It took time to have the community agree to mediation and an agreement to mediate drafted by the mediators. This was because *'mediation is not a commonly known process although it happens in the communities, where people conduct conflict resolution in the same manner in which mediation work but they do not call it mediation,'* as stated by an informant. The agreement provided a framework for mediation. However, it took some time to reach an agreement because of the back and forth as observed by a mediator:

Mediation is a tedious process; it involved lots of back and forth since communities had to agree on each aspect. This called for consultation with other community members, particularly via barazas. It sometimes meant going back to the drawing board when an item was not agreed upon. We started the process in August 2015 and concluded on May 31, 2016.

Meditation was conducted in three sessions. The mediation team agreed that whatever had been discussed could not go to the community to avoid delaying the completion of the process. Issues were discussed and agreed upon before they were presented to the community. No consultation could provide input to the agreed-on items. However, it was still difficult for some of the aggrieved PAPs to agree on certain issues, resulting in a further feeling of a sense of super entitlement and compensation by the PAPs, prolonging the process. They felt that the

process was rushed and with the subsequent dropping of some of the contentious issues.

There were numerous disagreements between KenGen and the PAPs and among the PAPs representatives themselves, who frequently threatened to quit, further delaying the process. The majority of the representatives (76%) were illiterate and did not speak English, the language that was used for the mediation. They reportedly missed a considerable number of facts as they often sought to understand from the literate delegates during each break and caucus negotiations. Much time was also spent in consultations outside the sessions.

Knowledge, Attitude and Practice

Knowledge

The respondents (59%) claimed not to have heard of mediation before the one in which they got involved. This was also confirmed during FGDs with claims that their involvement in the mediation process was neglected as specified, *'I can't really tell what mediation is since I'm a charcoal burner, I'm neglected because I am a Samburu and I don't have a husband.'* The community claimed that there was insufficient publicity and consultation at the initial stage and inadequate capacity building for the mediation process. Lack of the latter among the representatives resulted in improper sharing of information by some of them. They did not understand a few mediation issues and questions.

Attitude

The community felt that mediation had been used to rubber-stamp KenGen's activities. Whereas, RAPIC was also being used to advance KenGen's agenda, following their collaboration in the implementation of RAP. RAPIC was deemed to have been made more powerful, overshadowing the Council of Elders (CAC) against the Maasai

customs that recognize CAC as the reigning authority. Also, the RAPIC chairmen were accused of impartiality and favoritism in determining the claimants leading to the possible exclusion of the genuine ones. Some leaders were apparently secretly bribed to compromise the process. The PAPs had a lot of expectations for mediation. They anticipated that mediation would have resolved all issues including, compensation of an estimated USD 5,000 as disturbance allowance, complete stabilization of the gullies as well as provision of additional grazing land. But they regretted that these items were never put on the table, never discussed, and the agreement forced exacerbated challenges in adapting to the new lifestyle at RAPland.

Practice

A few delegates were irresponsible. They provided feedback and consulted with the community when asked by the members during accidental interactions. This was aggravated by divisions among them, resulting in their failure to behave in the manner prescribed by their discussions and the joint agreement on issues. One noted respondent stated, *'The team used to agree to do something but did not do as agreed. There were betrayals among themselves.'* There were divisions also between KenGen and the PAPs. These divisions were sometimes heightened by KenGen's refusal to talk and attempted oppression on the PAPs. The developer was reported to have quarreled and manipulated decision-making while the mediators were accused of dictatorship in some incidents. Since only married PAPs were compensated, some PAPs rushed into marriage. Still, some of the community leaders incorporated ineligible members of their families to the beneficiary list.

Trust issues in the process

Whereas KenGen gladly accepted mediation, the PAPs were hesitant and distrusted the process' fairness because of the commercial association between KenGen and the financiers. Distrust was also

exhibited when the complainants felt that RAPIC had worked with KenGen on RAP's implementation. Their working relationship was perceived to have pecuniary benefits for the RAPIC members. Those not members were excluded from this gain. Thus, a section of the community believed that RAPIC would be opposed to their demands as it could jeopardize their personal interests. Therefore, 35% of the respondents were dissatisfied with the selection of representatives due to a lack of trust. Their input was not captured in the selection of the committee.

Addressing the issues:

Mediation clinics were held to review grievances from the NRPAPs. These clinics facilitated the construction of five more houses for PAPs erroneously omitted. These houses were meant for calming the PAPs that had lamented relentlessly besides writing letters to project financiers. Numerous meetings were also held with the community where issues were discussed and elaborated resulting in resolution of the exiting divisions in the community.

To bridge the language barrier, a Maasai lady translator was engaged from a distant locality to translate English to Maa and vice-versa. However, the representatives noted that there were many issues that could have been inappropriately translated from English to Maa because Maa is loaded with diverse nuances.

The PAPs felt that no one was bothered about their complaints and some remained unaddressed including the resolution of complaints from those who were yet to be compensated. The community claimed that the District Commissioner was at some point asked to sweet talk them whereas some challenges were not addressed per se, but the team moved with the majority's opinion. Some representatives resigned from the committee, because they held contrary view.

Nonetheless, the community suggested that mediation could have been improved as follows:

1. Be inclusive with verifiable community feedback arrangements;
2. Negotiate and agree on doable things, not utopist constructs like leveling or stabilization of gulleys;
3. Livelihood issues should have been more comprehensively negotiated based on existing activities such as pastoral lifestyle and access to grazing lands, and;
4. Make arrangements for population growth.

As part of the learning curve, mediation was deemed good because it exposed the community to the outside world, increasing its network. Also, it helped to reduce conflicts between KenGen and the PAPs within a period of about 13 months. The vulnerability assessment resulted in the identification of eligible PAPs using agreed criteria that enabled the implementation of appropriate intervention measures. The PAPs were empowered by KenGen in March 2017 to form trading groups and cooperatives. Women traders were trained on the sustainable production of curios, advertising, and marketing of such wares. The PAPs were capacity built on alternative income beyond livestock and ecotourism and sensitized on available microfinance opportunities. The Community's Ewang'an Sinyati Welfare Society trustees were empowered on accountability and governance. Also, KenGen facilitated the hiring of community bus at commercial rates through the special conditions of the contract for Olkaria I AU 6.

Discussion

The study aimed to develop an understanding of procedural issues of the mediation that was successfully applied in resolution of conflicts connected to Olkaria IV geothermal project. Like any other conflict

management approaches, results demonstrated that mediation also faced challenges,³⁴ including inadequate involvement of the PAPs, protraction, misinformation, negativity and trust issues. While effort was made to address the issues, probably to enhance sustainability of the resolutions, they present practical learning lessons for application elsewhere in the country.

Public involvement is one of the central values of democracy enshrined in the Constitution of Kenya, 2010.³⁵ Article 10, provides for a right for all citizens to have a say in decisions affecting their lives. In Olkaria IV, the community's relocation was necessitated by the results of the Environmental Social Impact Assessment that envisaged disruption of the PAPs livelihoods, with potential negative impacts on their health. Having undergone similar experiences, the input from all PAPs in mediation was paramount to tolerable results. Whereas, it is impractical to directly engage the entire community in mediation process, adequate representation should suffice. However, the results demonstrated failure in sufficient representation which resulted in in-exhaustive consultations with all the PAPs that might have threatened reaching agreement. Perhaps, pre-mediation should have ensured objective and representative selection of the delegates and their satisfactory empowerment to negotiate on community behalf. It is also possible that inadequate contribution was caused by power imbalance between the parties that enable the stronger party to subjugate the voice of the weaker. This is a challenge to the mediators' ability. It is also likely to result in rapid results, yet counter-productive as observed in Darfur peace talks.³⁶ The acceptance and compliance with resolutions by claimants is often increased when the disputants' positions are seriously

³⁴ Dhiaulhaq, McCarthy and Yasmi (n 13); Kressel, K. (n 10).

³⁵ 'The Constitution of Kenya, 2010' National Council for Law Reporting with the Authority of the Attorney General 194.

³⁶ Nathan (n 23).

considered,³⁷ and subsequent contentment with the resolutions is dependent on the buy-in to the process. Maybe, the well-trained delegates would have facilitated better community feedback and input, and more sustainable outcome.

Mediation exercises, in South Asia,³⁸ were often characterized by the need to have community consensus and this caused prolonged periods before decision could be reached.³⁹ While the community took long to agree to mediation, the indecision was likely prompted by the initial anxiety over lack of partiality on the part of mediators because of perceived pecuniary connection between KenGen, and the project financiers, who were driving the mediation process. Therefore, perception is important in determining acceptance of the process by the conflicting parties. This also demonstrates the need for an awareness campaign preceding mediation as an effective preparation tool, and appropriate engagement of the aggrieved parties. On the other hand, skillful mediators could greatly shorten the negotiation period and reach an earlier agreement.⁴⁰

The community's limited awareness of the process is an indication of the little application of mediation in resolution of conflicts in the country. Moreover, the instigation and support of Olkaria IV mediation by EIB and WB, confirms unease over the likely little budgetary allocation for mediation and inadequate political goodwill in Kenya and across the continent.⁴¹ Whereas, mediation has been used by the communities to resolve conflicts since time immemorial, the study agrees⁴² that the concept was alien to majority of the public as a legal

³⁷ Uwazie (n 16).

³⁸ Dhiaulhaq, McCarthy and Yasmi (n 13).

³⁹ Muigua Kariuki (n 8).

⁴⁰ Uwazie (n 16).

⁴¹ *ibid.*

⁴² *ibid.*

method. To them, it was inconceivable that methods used to solve domestic conflicts would work in solving of developmental community and social conflicts, as the one in Olkaria, or elsewhere in marginalized areas.

Trust building in mediation improves the fairness of the process.⁴³ It addresses the negativity and enhance acceptability of the outcome. However, irrespective of the dreaded impartiality, the acceptability of mediators suggested by the financiers, could have been embraced mainly because of the parties' desire to resolve conflicts. Perhaps, the conflict had ripened, like in the successful negotiations in Mozambique and South Africa.⁴⁴ However, the assurance of long-term benefits of the mediation could have aided build the parties' trust and improve their attitude which saw it conducted to conclusion. In Indonesian mediations, it's clear that the acceptability of mediators was enabled by community's belief in their experience and ability to negotiate with the company's decision makers, besides their wish for solutions to end conflicts.⁴⁵ However, mediation trainings would perhaps help parties appreciate the process, build trust and improve attitude towards it, promoting compliance to resolutions.

The PAPs in Olkaria IV accepted the mediation results, regardless of claims of the process' failure to meet other expectations including compensation of about USD 5,000 as disturbance allowance. The PAPs high expectations for the mediation reveal the inadequacy of the process to predict ability to meet agreed upon demands and to manage

⁴³ Afrizal, A., & Anderson, P., 'Industrial Plantations and Community Rights: Conflicts and Solutions. In J. McCarthy & K. Robinson (Eds.)', *Land and Development in Indonesia: Searching for the People's Sovereignty* (ISEAS–Yusof Ishak Institute 2016) <<https://www.cambridge.org/core/books/land-and-development-in-indonesia/industrial-plantations-and-community-rights-conflicts-and-solutions/9E903D8C2F3B8097B0F65EDB10CC7BAE>>.

⁴⁴ Nathan (n 23).

⁴⁵ Samsudin, Y.B. and Pirard, R. (n 11).

community's hopes. Although mediation involves forfeiting some claims, the acceptability of outcome was primarily driven by desire for peace. The forest resource conflicts mediation in South Asia,⁴⁶ where the agreement was much less than community's original demands and terrestrial entitlements, shows ability of that community to manage expectations. The residents were also tired of the protracted conflicts. The claimed PAPs' oppression in Olkaria and some incidents of manipulation by the developer and mediator's dictatorship could have instilled panic among the delegates, weakening their will to continue negotiating. However, the disagreements and betrayals among the representatives may have hampered their bargaining authority failing to agree on disturbance allowance, for instance. Elsewhere, the power of continued collective-action and effective campaigns changed the power relations between parties and improved the parties negotiating power;⁴⁷ an enabling condition for resolution of conflict.⁴⁸ In contrast, some plantation conflicts in Indonesia remained unresolved occasioned by significant power asymmetries⁴⁹ demonstrating the importance of improving procedural fairness in mediation.

The Olkaria IV mediation provided a host of insights. The government or any company intending to carry out a project in a community, should conduct comprehensive assessment of property ownership and rights to communal resources such as pasture during baseline studies to enable

⁴⁶ Dhiaulhaq, McCarthy and Yasmi (n 13).

⁴⁷ Ahmad Maryudi and others, 'The Emerging Power of Peasant Farmers in the Tenurial Conflicts over the Uses of State Forestland in Central Java, Indonesia' (2016) 67 Forest Policy and Economics 70 <<https://linkinghub.elsevier.com/retrieve/pii/S1389934115300484>> accessed 16 August 2020.

⁴⁸ Anna Zachrisson and Karin Beland Lindahl, 'Conflict Resolution through Collaboration: Preconditions and Limitations in Forest and Nature Conservation Controversies' (2013) 33 Forest Policy and Economics 39 <<https://linkinghub.elsevier.com/retrieve/pii/S1389934113000762>> accessed 16 August 2020.

⁴⁹ Afrizal, A., & Anderson, P. (n 43).

manage potential conflicts and avoid such a process. Adequate contribution of the residents in the decision-making process is critical. The agreement thereafter, would leave the parties content, reducing possibility of recurrence of conflicts. The mediation process needs to ensure that community apprehensions are addressed well for sustainability of the outcome. But, no matter how well the community mediation process is undertaken, some members who may be unhappy with the process and the results. However, such is democracy, where majority have their way and minority have their say.

Mediation was effectively demonstrated by the reduced conflicts, improved relationships between KenGen and the PAPs and their livelihoods. Yet, the absolute translation of the agreement to action would determine the results' sustainability. Proper negotiation of practical items for implementation is therefore, important in determining the extent to which the agreement would be implemented. Although KenGen would have had its way in the conflict, given the power imbalances in its favour, its willingness to enter into mediation demonstrated the desire to establish the project in a peaceful community.

Mediation should perhaps be applied during RAP negotiations, to possibly help save the projects from conflicts and related costs. The successful use of mediation in Olkaria presents an opportunity for its upscaling in resolution of the unavoidable developmental conflicts. Its relevance of resolving conflicts is enshrined and recognized in the Constitution of Kenya, 2010.⁵⁰ Article 159, directs the Courts to promote alternate mechanisms of alternative dispute resolution including mediation. This would help decongest overcrowded courts and accelerate access to justice while contributing to security and

⁵⁰ Muigua Kariuki (n 8).

economic growth in the country.⁵¹ Also, mediation could profit from the existing community structures including among the Maasai community⁵² which could be strengthened through capacity building to facilitate peaceful resolution of conflicts.

Conclusion

Developmental projects continue to be undertaken in the country, with unavoidable conflicts arising from community displacement. While numerous studies elsewhere have confirmed the application and effectiveness of mediation in managing conflicts over natural resources, its use remains low in Kenya. Also, there is a little review of mediation processes with incomprehensive documentation of their procedural issues. This study presents issues from a mediation that was applied successfully in resolving conflicts that arose from the implementation of the Olkaria IV geothermal project. They included the inadequate contribution of the PAPs in the process, its protraction, misinformation, negativity, and trust issues. The delegates' lacked a clear pathway for information dissemination among the PAPs. Expectations were unsatisfactorily met because of the variations with the knowledge, attitude, and practice. Mediation lessens suspicion among the PAPs and increases the community's exposure to different conflict resolution opportunities. An awareness campaign before mediation as an effective preparation tool and suitable engagement of the aggrieved parties, would improve the efficacy of the mediation exercise.

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⁵¹ Uwazie (n 16).

⁵² Sena Kanyinke (n 27).

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Mediating Energy Project Implementation Conflicts, (2020) Journal of cmsd Volume 5(2)
a Learning Curve, the Case of Olkaria IV Geothermal,
Kenya: Lilian Namuma S. Kong'an , Raphael G. Wahome
& Thuita Thenya

References

Afrizal, 'Third-Party Intervention in Terminating Oil Palm Plantation Conflicts in Indonesia: A Structural Analysis' (2015) 30 *Journal of Social Issues in Southeast Asia* 141

<https://www.jstor.org/stable/24779832?casa_token=PL3JmEgSjQUAAAAA%3AqVLZFIsnTyO_iFabCz8sKuem9OQcqidzgkJE7UYhuJC_kps-ZHPq2o2_wzeSIy_afkTggnR9ToqlaGRjKF3LT1m3ue-wE9gqcRcUQg_2KxtGVqXszdw&seq=1#metadata_info_tab_contents>

Afrizal, A., & Anderson, P., 'Industrial Plantations and Community Rights: Conflicts and Solutions. In J. McCarthy & K. Robinson (Eds.)', *Land and Development in Indonesia: Searching for the People's Sovereignty* (ISEAS–Yusof Ishak Institute 2016) <<https://www.cambridge.org/core/books/land-and-development-in-indonesia/industrial-plantations-and-community-rights-conflicts-and-solutions/9E903D8C2F3B8097B0F65EDB10CC7BAE>>

Amanda Kron and Jensen David, 'From Curse to Opportunity: Mediation of Natural Resource Conflicts' (*Voelkerrechtsblog, International Law and International Legal Thought*, 2016) <<https://voelkerrechtsblog.org/from-curse-to-opportunity-mediation-of-natural-resource-conflicts/>> accessed 15 November 2019

Bazeley, Patricia and Kristi Jackson Eds., *Qualitative Data Analysis with NVivo*. (2nd edn, SAGE publications limited 2013)

Bercovitch J and Jackson R, 'Negotiation or Mediation?: An Exploration of Factors Affecting the Choice of Conflict Management in International Conflict' (2001) 17 *Negotiation Journal* 59 <<http://doi.wiley.com/10.1111/j.1571-9979.2001.tb00227.x>> accessed 15 November 2019

Bercovitch Jacob and Lee Su-Mi, 'Mediating International Conflicts: Examining the Effectiveness of Directive Strategies' (2003) 8 *International Journal of Peace Studies* 1 <<http://www.jstor.org/stable/41852891>>

Brown O and Keating M, 'Addressing Natural Resource Conflicts' [2015] *Chatham House for the Royal Institute of International Affairs* 34

Chavot Philippe and others, 'Social Shaping of Deep Geothermal Projects in Alsace: Politics, Stakeholder Attitudes and Local Democracy' (2018) 6 *Geothermal Energy* 26 <<https://geothermal-energy-journal.springeropen.com/articles/10.1186/s40517-018-0111-6>> accessed 8 December 2019

Cheung Sai On, 'Mediation for Improved Conflict Resolution' (2010) 2 *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction* 135

Mediating Energy Project Implementation Conflicts, (2020) Journal of cmsd Volume 5(2)
a Learning Curve, the Case of Olkaria IV Geothermal,
Kenya: Lilian Namuma S. Kong'an , Raphael G. Wahome
& Thuita Thenya

<<http://ascelibrary.org/doi/10.1061/%28ASCE%29LA.1943-4170.0000035>>
accessed 15 November 2019

Dhiaulhaq A, Gritten D and Bruyn TD, 'Mediating Forest Conflicts in Southeast Asia' [2014] The Center for People and Forests, Bangkok, Thailand. 32

Dhiaulhaq A, McCarthy JF and Yasmi Y, 'Resolving Industrial Plantation Conflicts in Indonesia: Can Mediation Deliver?' (2018) 91 Forest Policy and Economics 64
<<https://linkinghub.elsevier.com/retrieve/pii/S1389934117302162>> accessed 14 April 2020

Dhiaulhaq Ahmad, De Bruyn Toon and Gritten David, 'The Use and Effectiveness of Mediation in Forest and Land Conflict Transformation in Southeast Asia: Case Studies from Cambodia, Indonesia and Thailand' (2015) 45 Environmental Science & Policy 132 <<https://linkinghub.elsevier.com/retrieve/pii/S1462901114002019>> accessed 15 November 2019

Fiss OM, 'Against Settlement' (1984) 93 The Yale Law Journal 1073
<<https://www.jstor.org/stable/796205?origin=crossref>> accessed 16 August 2020

Fund for Peace, 'Fragile States Index Annual Report 2019' (2019)
<<file:///C:/Users/ACER/AppData/Roaming/Microsoft/Windows/Network%20Shortcuts/9511904-fragilestatesindex.pdf>>

Gentleman, Robert, *Computer Science and Data Analysis Series. R Programming for Bioinformatics*. (CRC Press 2008)

GIBB Africa, 'KenGen Olkaria IV (Domes) Geothermal Project in Naivasha District: Resettlement Action Plan for Olkaria IV Power Station' (2009)

—, 'Olkaria IV (Domes) Geothermal Project in Naivasha District: Resettlement Action Plan for Olkaria IV Power Station' (2012) Resettlement Action Plan

Hodgson Dorothy L., 'Women as Children: Culture, Political Economy, and Gender Inequality among Kisongo Maasai' (1999) 3 Nomadic Peoples 115
<<http://www.ingentaconnect.com/content/10.3167/082279499782409451>> accessed 8 December 2019

Hughes Lotte and Rogei Daniel, 'Feeling the Heat: Responses to Geothermal Development in Kenya's Rift Valley' [2020] Journal of Eastern African Studies 1
<<https://www.tandfonline.com/doi/full/10.1080/17531055.2020.1716292>> accessed 10 April 2020

Kariuki Muigua, 'Natural Resources and Conflict Management in East Africa' (2014)

Mediating Energy Project Implementation Conflicts, (2020) Journal of cmsd Volume 5(2)
a Learning Curve, the Case of Olkaria IV Geothermal,
Kenya: Lilian Namuma S. Kong'an , Raphael G. Wahome
& Thuita Thenya

Karytsas Spyridon and others, 'Towards Social Acceptance of Geothermal Energy Power Plants' 7
<https://www.researchgate.net/publication/333974365_Towards_social_acceptance_of_geothermal_energy_power_plants>

Kombe EY and Muguthu J, 'Geothermal Energy Development in East Africa: Barriers and Strategies' [2018] Journal of Energy Research and Reviews 1
<<http://www.journaljenrr.com/index.php/JENRR/article/view/29722>> accessed 26 February 2020

Kressel, K., 'Mediation Revisited', *The handbook of conflict resolution: Theory and practice* (2006)

Kubota Hiromi and others, 'Determining Barriers to Developing Geothermal Power Generation in Japan: Societal Acceptance by Stakeholders Involved in Hot Springs' (2013) 61 Energy Policy 1079
<<https://linkinghub.elsevier.com/retrieve/pii/S0301421513004394>> accessed 8 December 2019

Maryudi A and others, 'The Emerging Power of Peasant Farmers in the Tenurial Conflicts over the Uses of State Forestland in Central Java, Indonesia' (2016) 67 Forest Policy and Economics 70
<<https://linkinghub.elsevier.com/retrieve/pii/S1389934115300484>> accessed 16 August 2020

Moore CW, *The Mediation Process: Practical Strategies for Resolving Conflict* (4th Edition, Jossey-Bass, A Wiley Brand 2014)

Muigua Kariuki, 'Managing Natural Resource Conflicts in Kenya through Negotiation and Mediation' 43
<https://profiles.uonbi.ac.ke/kariuki_muigua/publications/managing-natural-resource-conflicts-kenya-through-negotiation-and-mediat> accessed 15 November 2016

Nathan L, 'The Challenges Facing Mediation in Africa' (2009) AFRICA Mediators' Retreat 2009

Nwazi Joseph, 'Assessing the Efficacy of Alternative Dispute Resolution (ADR) in the Settlement of Environmental Disputes in the Niger Delta Region of Nigeria' [2017] Journal of Law and Conflict Resolution

Peluso NL and Vandergeest P, 'Genealogies of the Political Forest and Customary Rights in Indonesia, Malaysia, and Thailand' (2001) 60 The Journal of Asian Studies

Mediating Energy Project Implementation Conflicts, (2020) Journal of cmsd Volume 5(2))
a Learning Curve, the Case of Olkaria IV Geothermal,
Kenya: Lilian Namuma S. Kong'an , Raphael G. Wahome
& Thuita Thenya

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<https://www.cambridge.org/core/product/identifier/S0021911800009487/type/journal_article> accessed 16 August 2020

Sahide MAK and Giessen L, 'The Fragmented Land Use Administration in Indonesia – Analysing Bureaucratic Responsibilities Influencing Tropical Rainforest Transformation Systems' (2015) 43 Land Use Policy 96
<<https://linkinghub.elsevier.com/retrieve/pii/S0264837714002464>> accessed 16 August 2020

Samsudin, Y.B. and Pirard, R., 'Conflict Mediation in Industrial Tree Plantations in Indonesia: Status and Prospects' (Center for International Forestry Research (CIFOR) 2014) <<http://www.cifor.org/library/5443/conflict-mediation-in-industrial-tree-plantations-in-indonesia-status-and-prospects>> accessed 15 November 2019

Schade Jeanette, 'Kenya "Olkaria IV" Case Study Report: Human Rights Analysis of the Resettlement Process' 199 <<https://nbn-resolving.org/urn:nbn:de:0168-ssoar-51409-6>> accessed 29 November 2019

Sena Kanyinke, *Renewable Energy Projects and the Rights of Marginalised* (IWGIA 2015)

Sternlight JR, 'Is Alternative Dispute Resolution Consistent with the Rule of Law? Lessons from Abroad' (2007) 56 Depaul Law Review 25
<https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/deplr56&id=581&men_tab=srchresults>

Summers RS, 'A Formal Theory of the Rule of Law*' (1993) 6 Ratio Juris 127
<<http://doi.wiley.com/10.1111/j.1467-9337.1993.tb00142.x>> accessed 24 July 2020

'The Constitution of Kenya, 2010' National Council for Law Reporting with the Authority of the Attorney General 194

Uwazie EE, 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability' 6 <<https://www.semanticscholar.org/paper/Alternative-Dispute-Resolution-in-Africa-%3A-Conflict-ERNEST-E./72d38368660023a5091ca820ceac5f311c662c7>> accessed 15 November 2019

Vargas Payera S, 'Understanding Social Acceptance of Geothermal Energy: Case Study for Araucanía Region, Chile' (2018) 72 Geothermics 138
<<https://linkinghub.elsevier.com/retrieve/pii/S0375650517300913>> accessed 18 February 2020

Vindeløv V, *Reflexive Mediation: With a Sustainable Perspective* (DJØF 2012)

Mediating Energy Project Implementation Conflicts, (2020) Journal of cmsd Volume 5(2)
a Learning Curve, the Case of Olkaria IV Geothermal,
Kenya: Lilian Namuma S. Kong'an , Raphael G. Wahome
& Thuita Thenya

Wall JA, Stark JB and Standifer RL, 'Mediation: A Current Review and Theory Development' (2001) 45 Journal of Conflict Resolution 370
<<http://journals.sagepub.com/doi/10.1177/0022002701045003006>> accessed 15 November 2019

Yurdi Yasmi, Lisa Kelley and Thomas Enters, *Conflict over Forests and Land in Asia* (RECOFTC 2010)
<https://www.researchgate.net/publication/287508511_Conflict_over_forests_and_land_in_Asia> accessed 15 November 2019

Zachrisson A and Beland Lindahl K, 'Conflict Resolution through Collaboration: Preconditions and Limitations in Forest and Nature Conservation Controversies' (2013) 33 Forest Policy and Economics 39
<<https://linkinghub.elsevier.com/retrieve/pii/S1389934113000762>> accessed 16 August 2020