
HIM 1990-2015

2014

Panua Partners in Hope, Naivasha, Kenya: Legal and Domestic Related Challenges

Keisha Holman
University of Central Florida

 Part of the [Legal Studies Commons](#)

Find similar works at: <https://stars.library.ucf.edu/honorstheses1990-2015>

University of Central Florida Libraries <http://library.ucf.edu>

This Open Access is brought to you for free and open access by STARS. It has been accepted for inclusion in HIM 1990-2015 by an authorized administrator of STARS. For more information, please contact STARS@ucf.edu.

Recommended Citation

Holman, Keisha, "Panua Partners in Hope, Naivasha, Kenya: Legal and Domestic Related Challenges" (2014). *HIM 1990-2015*. 1576.

<https://stars.library.ucf.edu/honorstheses1990-2015/1576>

PANUA PARTNERS IN HOPE, NAIVASHA, KENYA:
LEGAL AND DOMESTIC RELATED CHALLENGES

by

KEISHA S. HOLMAN

A thesis submitted in partial fulfillment of the requirements
for the Honors in the Major Program in Legal Studies
in the College of Health and Public Affairs
and The Burnett Honors College
at the University of Central Florida
Orlando, Florida

Spring Term 2014

Thesis Chair: Dr. Gina Naccarato-Fromang

ABSTRACT

The complexities of issues existing in Kenya create a domino effect directly affecting not only the effective management and economic growth of Kenya, but also social and legislative constraints to the lower socioeconomic classes. Land dispossession, proof of ownership to property and nationality are ongoing troubling issues affecting increased orphans and vulnerable children (OVC) in Kenya, most noticeably within predominantly poverty stricken rural enclaves.

This research focuses on the bold move of stakeholders of Trinity United Methodist Church in Naivasha, Kenya partnering with First United Methodist Church of Winter Park, Orlando, United States of America. In 2010, they conceptualized Panua Partners in Hope, a transformational ministerial assisted non-profit organization program. These churches recently established support to orphans and vulnerable children (OVC) in Naivasha, Kenya. Decisively apply all their available resources to stem the varying issues these orphaned and vulnerable children (OVC) are facing. Whereby, the program is designed to teach self-sufficiency, wealth creation through sustainable income generation and entrepreneurship, and religious relationship development. Continued education is a key component of which Panua mandates. Ongoing (learning) education ensures each child remain in school – (basic, primary and secondary school levels). In addition to ensuring orphans and vulnerable children (OVC) are legally aware of their civil, human and property rights.

Conversely, these issues being perpetual worldwide challenges, however, the aim of this research is to specifically address its impactful progression on orphans and vulnerable children (OVC). Thus, outlining their local conditions, the provisions of governmental policies, and assistance, or lack thereof to remedy such current challenges. Additionally, the research will

outline reformed constitutional statutes despite being ratified, have not addressed the major issues currently impinging on the freedom and rights of rural communities in Naivasha, Kenya.

DEDICATION

For all the orphans and vulnerable children (OVC) who are victims to harsh socioeconomic injustices, and deprived of their civil rights, human rights, and dignity,

For my mentors, Dr. Gina Naccarato-Fromang, Dr. Abby Fromang-Milon, and Dr. Olga Molina in assisting me in completing this thesis, and directing me when I experienced several roadblocks,

To my family and friends, with special acknowledge to my mother, Jennifer Touzalin. All the unwavering support and encouragement have elevated me to overcome all obstacles, while remaining focused on completing this thesis,

And finally to Panua Partners in Hope and the First Methodist Church of Winter Park, Florida for exposing me to the challenges Panua is currently experiencing, extending the privilege and opportunity to discuss such fundamental issues.

ACKNOWLEDGEMENTS

The framework of this thesis would not be possible without the dedicated support from supporting institutions in the United States of America and Kenya. It is with esteem acknowledgement I present my gratitude to the supporting organizations and special individuals who have contributed to my Honors in the Major Thesis. A BIG thank you to my chair, Dr. Gina Naccarato-Fromang, Professor of the Department of Legal Studies at the University of Central Florida, USA. Her surmountable support through this process will never be forgotten. The interest in this topic would not have been possible without our discussions. Dr. Naccarato-Fromang initially spearheaded the introduction to tackle and complete my Honors in the Major research on Panua Partners in Hope and their legal challenges. Your irreplaceable support assisted me in conquering my rough patches for which I will remain truly indebted. Kind appreciation to Ms. Kelly Astro, Director of Research and Civic Engagement and Mrs. Denise Crisafi, Program Coordinator at the University of Central Florida Burnett Honors College, who not only arranged and facilitated Honors in the Major training and classes, but also shared their time, knowledge, guidance, and much needed information in completing this process. Additional gratitude to my Honors in the Major committee mentors Dr. Abby Fromang-Milon, Professor of the Department of Legal Studies and Dr. Olga Molina, Professor of the Department of Social Work at the University of Central Florida, for their invaluable input and recommendations for this thesis.

It was an honor meeting Reverend Paul Matheri, Dean of Superintendents of the United Methodist Church, Naivasha, Kenya and Ms. Florence Muthoni, Social Worker at Panua Partners in Hope, Naivasha, Kenya, who shared experiences and challenges Panua Partners in Hope continue to endure, and supply information on the program and its achievements. Additionally, much appreciation to Ms. Jensie Gobel, Global Missions Coordinator at First United Methodist Church, Winter Park, USA, for her direct linkage, coordinating the transition of information from Panua Partners in Hope, Kenya and facilitating further information required for the thesis.

I would also like to thank all my colleagues, family and friends who have provided comments, feedback and words of encouragement. This journey to completing my undergraduate degree has not come short of all your assistance for the past two years.

And finally, I dedicate this thesis to not only the enlisted members of Panua Partners in Hope, but all the orphans and vulnerable children (OVC) in Kenya having loss their parents due to deadly diseases, tribal clashes and abandonment (neglect), and land grabbers dispossessing them of their birthright. With continued work and advocacy from external entities, resolute legal solutions will be ratified for such grave issues.

TABLE OF CONTENTS

ABSTRACT	ii
DEDICATION	iv
ACKNOWLEDGEMENTS	v
TABLE OF CONTENTS	vi
LIST OF FIGURES AND CHARTS	ix
INTRODUCTION	1
BACKGROUND	5
Panua Partners in Hope Mandate’s Sustainability	6
Panua Partners in Hope Program Structure	6
Program Model Diagram	8
Panua Partners in Hope Transforming Lives	9
Food and Housing Security.....	10
Emotional and Spiritual Development.....	11
Education and Vocational Training	12
Stephen 23-year old electrical engineering candidate	13
Entrepreneurship	14
Hellen: mother and hairdresser	15
John: Panua Partners in Hope participant	16
Health and Hygiene Care	17
Legal Support.....	18
Panua Partners’ in Hope Challenges: Legal and Domestic Relation Issues	19

Land rights issues (Land Grabbing) & Family Relations	20
Summary	22
THE IMPACT OF CHRONIC HIV/AIDS ON ORPHANS IN KENYA	24
The Impact of HIV/AIDS in Kenya.....	25
HIV/AIDS Affecting Land Rights	28
Orphan Land Rights Injustices	28
Government of Kenya Actions and Resolution Initiatives	30
Kenya Vision 2030	30
Economic Pillar.....	31
Social Pillar.....	32
Political Pillar	32
Summary	33
KENYA JUDICIAL SYSTEM.....	35
Kenya’s Independence: The Beginning of Transformation.....	37
LAND DISPOSSESSION: THE “LAND GRABBING” PHENOMENON	39
History and the Beginning of Land Policy Reform	40
Customary Law	41
Land Policy Reformation.....	42
The Global Land Rush: 2000’s Land Dispossession	44
Positive vs Negative: Impact of Land Acquisition	45
LEGAL ISSUES AND ANALYSIS.....	47
Kenyan citizens’ civil rights reformed.....	48

Intestacy laws disbanding land dispossession	49
Conclusion	51
METHODOLOGY	52
CONCLUSION AND RECOMMENDATIONS	54
APPENDIX A: PANUA PARTNERS IN HOPE COPYRIGHT LETTER	61
APPENDIX B: IMAGERIES USED SHOWCASING MAP OF KENYA AND NAIVASHA..	64
APPENDIX C: IMAGERY SHOWCASING PANUA PARTNERS IN HOPE PROGRAM STRUCTURE	67
APPENDIX D: IMAGERIES SHOWCASING PANUA PARTNERS IN HOPE PROGRAM PARTICIPANTS	69
APPENDIX E: INTERVIEW QUESTIONS AND RESPONSES FOR PANUA PARTNERS IN HOPE EXECUTIVES AND OVC	74
APPENDIX F: ORGANIZATIONAL CHARTS OF KENYA JUDICIAL SYSTEM	87
APPENDIX G: CHART AND DATA FROM “KENYA AGE GROUPING”	91
APPENDIX H: TABLE USED TO ASSESS LAND DISPOSSESSION DETAILS	94
REFERENCES	96

LIST OF FIGURES AND CHARTS

Figure 1: Map of Kenya contributed by Panua Partners in Hope.	5
Figure 2: Map of Naivasha outlining Panua Partners in Hope’s Six Working Groups.	7
Figure 3: Panua Partners in Hope Program Organizational Model	8
Figure 4: Panua Community Groups Multi-Storey Garden	10
Figure 5: Panua Community Group Member Stephen	13
Figure 6: Panua Community Group Member Hellen.....	15
Figure 7: Panua Community Group Member John.....	16
Figure 8: CIA Age Structure in Kenya (2014 est.).	26
Figure 9: CIA Population Pyramid for Kenya (2014 est.).	26
Figure 10: Kenya Judicial Structure prior 1962: The African Court System.	35
Figure 11: Kenya Judicial Structure prior 1962: The Muslim Court System.	36
Figure 12: Kenya Current Judicial System.	37
Figure 13: Percentage breakdown of Kenya’s approximated 582, 646 km ² area (1999).	39

INTRODUCTION

In a small one room dwelling, resides a family of six in a Kenyan rural settlement. What immediately comes to mind, this family includes a mother, a father, and their four children.

However, most family structures in Kenya lack this traditional expectation. Similar to the family in the one room abode, many family structures are untraditional. These family structures comprise of an external family member, such as, a grandparent (s), an aunt or uncle, as the head of the family or in most cases, the eldest sibling bearing all the responsibility and guidance for the survival and welfare of their siblings. The harsh reality, most of these households experienced the demise of losing parents to illnesses, such as, HIV/AIDS, cancer, tribal clashes, and abandonment (P. Matheri personal communication, February 24, 2014).

Most of these children are heavily dependent on parental involvement for their welfare and survival. Their dependency relies on parental provision of required essentials: a home, clothes, food, covering educational costs, love, protection, and physical, emotional and mental stability. Losing a parent, especially both, creates disruption and hardship within the domicile. The parent being the immediate breadwinner of the family, their death threatens the children's daily routine. Limiting resources and possessions that ensure the children's continued survival, as well as dismantling the family structure, a safe haven they have always known. Becoming an orphan in a poverty stricken community is challenging. It effectively impairs their inalienable fundamental rights to grow, develop and sustain invaluable productivity within their community. At this juncture, this calls for the necessary intervention in ensuring continual stability and normality in their lives as much as possible.

Panua Partners in Hope, Naivasha, Kenya is a protagonist providing intervening assistance. Their forum for restoration, and preaching and teaching sustainability, elevates orphans and vulnerable children (OVC) to develop into productive adults while accomplishing their dreams. Panua Partners in Hope is an ancillary service function advocating transitional growth and learning for orphans and vulnerable children (OVC). Their primary purpose is transforming orphans and vulnerable children (OVC) in becoming and remaining independent, develop spiritually, and living healthy lifestyles. Panua in a sense acts as the parents and directly provide the necessary mentorship striving to emulate and achieve the enlisted human rights creed drafted in the United Nations' Declaration of the Rights of the Child:¹

1. "All children have the right to what follows, no matter what their race, colour sex, language, religion, political or other opinion, or where they were born or who they were born to.
2. You have the special right to grow up and to develop physically and spiritually in a healthy and normal way, free and with dignity.
3. You have a right to a name and to be a member of a country.
4. You have a right to special care and protection and to good food, housing and medical services.
5. You have the right to special care if handicapped in any way.
6. You have the right to love and understanding, preferably from parents and family, but from the government where these cannot help.

7. You have the right to go to school for free, to play, and to have an equal chance to develop yourself and to learn to be responsible and useful.

Your parents have special responsibilities for your education and guidance.

8. You have the right always to be among the first to get help.
9. You have the right to be protected against cruel acts or exploitation, e.g. you shall not be obliged to do work which hinders your development both physically and mentally.

You should not work before a minimum age and never when that would hinder your health, and your moral and physical development.

10. You should be taught peace, understanding, tolerance and friendship among all people.”

Panua Partners in Hope’s initiative embodies these declarative words. Their vision and mission emphasize the rights of children credo. Their purpose actively ensures all orphans and vulnerable children (OVC) enrolled in their program, experience normalcy and the freedom to grow in an ‘unconventional’ family environment. In addition to the loss of parents and homes, orphans and vulnerable children (OVC) experience other challenges Panua is incapable of resolving. There are ongoing issues such as land dispossession and lack of documentation possession: proof of their nationality attributable to not having a birth certificate, passport, and national identification. These causes are generational and a grave plight affecting the daily independence of graduate recipients from Panua’s program.

Orphan pandemic in the multiple stratified classes not only affect the family unit, but also the social, financial and economic power of children which invariably jeopardizes Kenya’s

economy. This is especially true where prevalent limitations evidently exist in the younger demography of the country. Thus, demarcating stigmas and lack of support produce an underdeveloped and unproductive demography. Scholarly and global entities have written comparably on the discourse, citing differing credible sources to support their claims. Most articles comprehensively address the ‘cause and effect’ impacting land dispossession and HIV/AIDS towards orphans and vulnerable children (OVC), and the underlying prejudices and damages they face. Despite reporting on longstanding plights, most articles, fail to discuss claims on direct land grabbing from families and the fear of orphans reporting these incidents.

The purpose of this paper is to showcase the great program implemented and the significant role Panua's six working groups play in the developmental objective and enriching orphans and vulnerable children (OVC) lives. Additionally, it outlines the legal ramification orphans and vulnerable children (OVC) undergo within Panua’s operational structure and offers conclusion and recommendations regarding this predominant issue in Naivasha, Kenya.

BACKGROUND

Panua, a Swahili word “*to expand*,” emerged in the market town of Naivasha, Nakuru County, North West Nairobi, Kenya, hosting a population of 181, 966 (Kenya Open Data, 2009 census).² Panua Partners in Hope a transformational ministry program was conceptualized in August 2010 between the alliance of First United Methodist Church of Winter Park, Orlando, United States of America and the Trinity United Methodist Church in Naivasha, Kenya, Africa. While attending the 2004 General Conference of The United Methodist Church, a coincidental encounter at an eatery in Pittsburg, Pennsylvania, forged an ongoing relationship between Reverend Paul Matheri, Dean of Superintendents of the Trinity United Methodist Church and Reverend Dr. Bob Bushong, Senior Pastor at First United Methodist Church. Both Pastors recognized a mutual affinity in assisting the less fortunate and through many discussions, a collaborative union created Panua Partners in Hope, a sustainable program in Naivasha, Kenya.



Figure 1: Map of Kenya contributed by Panua Partners in Hope.³

Panua Partners in Hope Mandate's Sustainability

The partnership's initiative facilitates an environment of ministrative support, sustainability, and self-sufficiency. Panua caters to a network of orphaned and vulnerable children (OVC) who are between the age of fifteen and twenty-two years old, and are head of household families in Naivasha. In contrast to other conventional orphanage models, Panua's main objective is creating opportunity to empower the most impoverished orphans and youths "... through spiritual formation, entrepreneurship and education..." (Panua, n.d.).⁴ Panua's three year program, acts indirectly as a 'Guardian ad Litem', fosters ongoing relationships and invests their initiative to the benefit of these orphaned and vulnerable children (OVC). Panua provides an avenue for these youth-led families to remain together while affording the youths the opportunity to be self-sufficient and achieve consistent sustainability. Most importantly, Panua's model centers on the 'breadwinner' youths acquiring a skill and becoming independently successful. The intent is safeguarding siblings only union or within their extended families, and the local communities.

Panua Partners in Hope Program Structure

Panua Partners in Hope has formulated an ongoing relationship with Naivasha's village elders and community leaders in identifying and recommending orphans and vulnerable children (OVC) requiring assistance. Once identified, they contact the Panua Board who conducts home visits to authenticate the potential child or family needs assessment, and examines their background prior to program enlisting. Panua does not provide a housing facility component with the program. What the program ensures, however, during the family's pre-enrollment, is

that they have a domiciliary in place and a ‘suitable’ breadwinner – the head of the household: an external family member or an eldest sibling. The eldest sibling who is between the age of fifteen and twenty-two years becomes the sponsored beneficiary in the program. The sponsored beneficiary gains the training and financial assistance required to take care of the household needs and their younger siblings.

At present, the program supports approximately 400 children accommodating 90 households which are disbursed within six Naivasha communities. Also called “working groups,” these six communities are Kabati, Karati, Kayole, Kinamba, Rutere and Viwandani settlements.

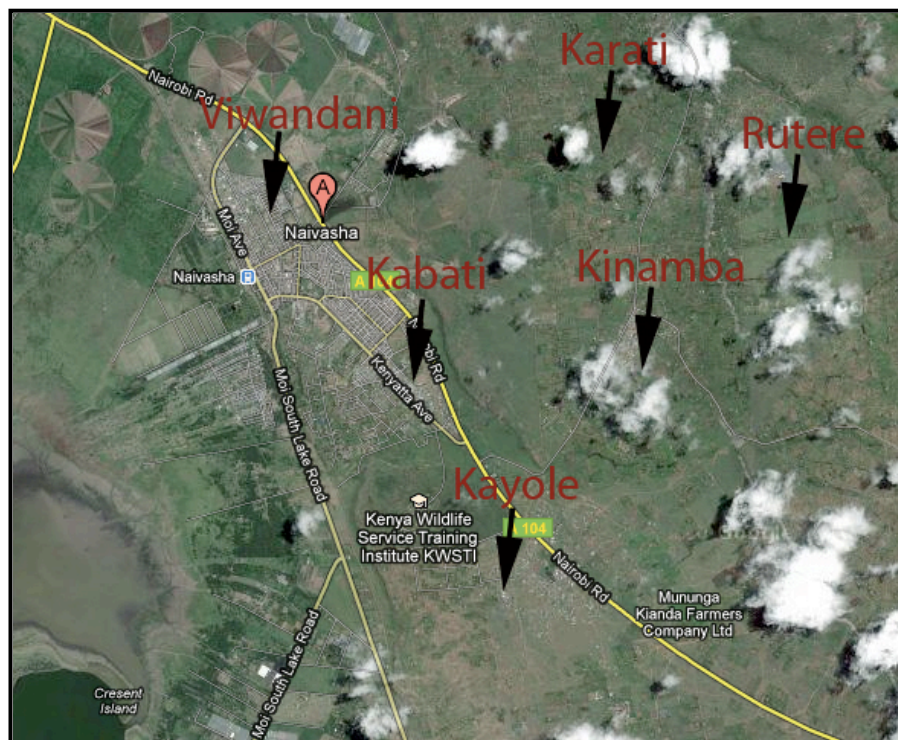


Figure 2: Map of Naivasha outlining Panua Partners in Hope’s Six Working Groups.⁵

These communities jointly forge the Panua Community Groups where each group houses 15 members. Fourteen orphans and vulnerable children (OVC) and an adult mentor (assigned to a household) generate ninety supported households. The spread ensures full assistance coverage in the community to as many orphaned and vulnerable children (OVC) as possible. Panua Partners in Hope's goal is not for enrichment of self-gratification and recognition, but the hope of assisting even one child. This is for the benefit of the child to attain self-sufficiency and the means to remain independent while improving skills and breaking the cycle of dependency.

Program Model Diagram

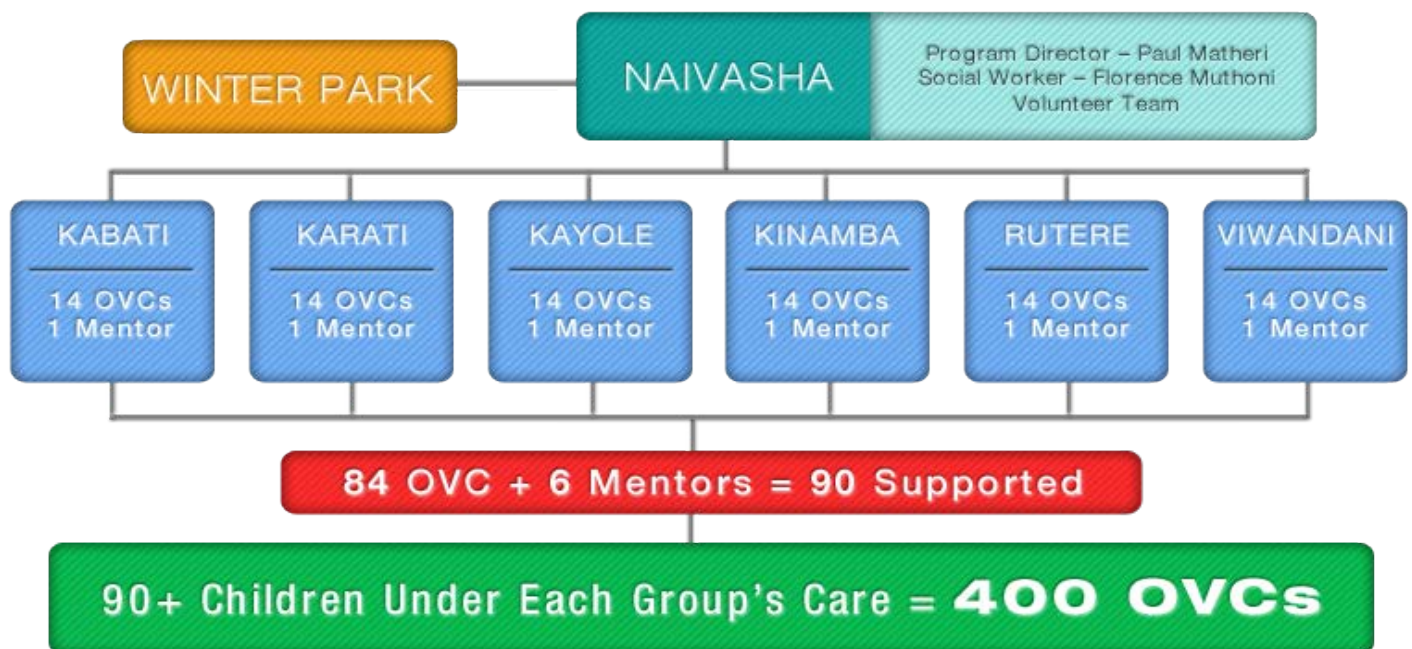


Figure 3: Panua Partners in Hope Program Organizational Model outlining the communities and assigned Panua Community Groups.⁶

Each group elects three group leaders: Chairman, Secretary, Treasurer, as well as the adult mentor who are all assessed by Panua Partners in Hope board members. These executive

leaders are members of the surrounding community and they play a vital role in shaping the orphans and vulnerable children's (OVC) life skills in becoming responsible citizens. Their duties are to ensure the program's operational models are implemented in each community group. They are also held accountable for the Panua Community Group's efficient functionality to guarantee beneficial results for the orphans and vulnerable children (OVC).

The community also serves as a lifeline to individual members, creating a solid impactful foundation in their lives whereby forming an extended family environment. Panua Community Group creates a supportive environment, advocating mutual respect while addressing emotional challenges and spiritual teachings. Panua also provides entrepreneurship advancement and financial backing in providing loans, and formulating income generating initiatives.

Panua Partners in Hope Transforming Lives

Panua Partners in Hope's program efficiently provide vital assistance each orphan and vulnerable child (OVC) requires in order to achieve their goals. The program model is divided into six sub-categories:⁷

- Food and Housing Security
- Emotional and Spiritual Development
- Education and Vocational Training
- Entrepreneurship
- Health and Hygiene Care
- Legal Support

Each model is interlinked and in place for the main purpose of supporting and developing any

specific area while addressing the orphan and vulnerable child's (OVC) needs.

Food and Housing Security

The function of the Food Security model is supplying each household with livestock, seeds, and training in nutritional measure and food management conservation. Each family maintains a healthy diet and adequate food. Panua Partners in Hope's model stresses on the relevance and the critical existence of food security, which is the constant supply of food on a daily basis. This is necessary as most orphans and vulnerable children (OVC) only consume a meal only once or twice per week (Panua, n.d.).⁸ The relevancy of planting one's own food is included in Panua's model. The youths are taught how to cultivate and maintain their own multi-storey garden, providing food security and nutrition for their family. According to J. Gobel, Global Missions Coordinator, these multi-storey gardens serve as "above ground kitchen gardens" that can be used even by those who live in the city, and are functional in small places (personal communication, March 27, 2014). Vegetables, such as, kale, spinach, carrots, etc., are planted to supplement their food supply.



Figure 4: Panua Community Groups Multi-Storey Garden (L picture) being trained the first stage and (R picture) John Ngugi's multi-storey garden.⁹

Whilst Panua Partners in Hope does not facilitate housing accommodation, they ensure orphans and vulnerable children (OVC) remain in their existing household or secure an alternate place to live. A structured living environment creates comfort, security, safety and a healthy stable upbringing. The function of Housing Security model emphasizes the importance of adequately acquiring a fully functional domiciliary, involving ongoing maintenance, home building, and necessary repairs to current livable homes.

Emotional and Spiritual Development

Panua Partners in Hope highlights the fundamental significance of combining ministry and mentorship to their members, both encouraging a relationship with God. The purpose ensures spiritual enrichment and offers a stable refuge to support each other through this life changing emotional trauma of losing a parent. Panua extends training to facilitate sustainable skills for their members' future. The members meet weekly for fellowship and to be spiritually enriched through devotional prayer, and learning about God. There are diverse religious ethnic groups in Kenya. As such, Panua encourages all their members to develop and practice their own faith and not limiting them to one specific religion.

Losing both parents has a devastating crippling effect to a child's mental and emotional state. This is especially so when there is no support available to protect them from pain, impart wisdom, and to talk through the issues. This trauma can easily lead to a child internalizing their emotions that can cause a feeling of hopelessness. Panua supportive team assists in relieving orphans and vulnerable children's (OVC) pain and suffering. Orphans and vulnerable children (OVC) seeking solace are able to minimize and prevent loneliness and hopelessness by attending accessible ongoing individual and group counseling (Panua, n.d.).¹⁰ The counseling sessions are

also an outlet relieving other emotional challenges they experience daily. The sessions also teach them the importance in externalizing emotional trauma derived from any deprivation they may experience within the Naivasha community.

Education and Vocational Training

A strong education results in future marketability and economic freedom. Panua Partners in Hope's goal is to provide an avenue for the children and youths in a family unit to attend primary, secondary school and/or vocational training. This lessens the interruption of enrollment and illiteracy as a result of unexpected changes in their lives. The sponsored beneficiary works long hours, mostly at menial jobs where their wages sufficiently cover the basic needs of their household.¹¹ Panua provides financial support funding each sponsored beneficiary in attending vocational training of their choice. This assistance also allows their siblings to attend school, supply school uniforms and textbooks. Panua supplements their educational model with Kenya's free and compulsory primary attendance, and free day secondary¹² education initiative offered by the Kenyan government since 2003 and 2007 respectively. In 2007, the Kenyan government announced that an educational policy will be implemented to heavily subsidize secondary education with the government being responsible for all tuition fees (UN Common Core Document, 2013).¹³ These initiatives have assisted in the reduction and rehabilitation of vulnerable street children (Convention on the Rights of a Child, 2010).¹⁴

As mentioned, Panua financial assistance helps the sponsored beneficiary in learning a vocational skill. This is important in improving their economic power in advancing the skills of their choice. Orphans and vulnerable children (OVC) having a skill and experience, builds personal gratification, while fostering financial freedom and economic stability. A chance to

acquire a skill enriches the orphan and vulnerable child (OVC) life while securing confidence.

The life story of Stephen below showcases the effectiveness of this very concept:

Stephen 23-year old electrical engineering candidate



Figure 5: Panua Community Group Member Stephen received vocational training in electrical installation.

“Stephen is a 23-year-old electrical engineering candidate in Naivasha. When his father died 5 years ago, he was left to care for his ailing mother and 7 younger siblings in a two-room rented house. Forced to drop out of school to provide basic needs for the family and help pay for his mother’s medications, he became a baggage handler, earning \$2.50 per day.”

“When Stephen entered the Panua program, he had lost any hope for his future and his sadness was apparent. He shared his dream of becoming an electrical engineer and Panua assisted him with a year-long vocational training in electrical installation. Following the training, he worked for a company of registered contractors to earn more income and gain experience. Panua provided Stephen with business counselling and a start-up kit, and the company hired him on a contract basis.”

“Stephen can now support his family with the money he makes installing electricity in peoples’ homes and is saving for his future. He has begun taking more coursework and he plans to continue until he becomes a fully registered contractor. This will enable him to fulfil his life-long dream of opening his own business” (Panua, n.d.).¹⁵

Entrepreneurship

Panua Partners in Hope in encouraging its older members to learn a skill, advances empowerment, and develops their self-reliance for long-term productivity. The program helps to create resilience during challenging times and reduces dependency on charity outlets. In youth lead families, the older sibling works to assist in sustaining the family. Entrepreneurial training and business startup kit which includes basic supplies are provided to the sponsored beneficiaries to start their own selected business. The kits include customized resources the participant may require to start their business and for operational purposes. For instance, a hair salon kit may include equipment and tools for executing hairstyles, and rental coverage for the first few months. An electrician would receive the tools he needs to complete his clientele contracts (J. Gobel, personal communication, March 27, 2014). In assisting in developing their business management skills, the youths’ formal training extends within the Panua Community Group. Forming an entrepreneurial environment where the members engage in ventures, such as, financial lending amongst the households, and revenue generation.

The comprehensive business training model has components of learning basic business concepts in operating a business. Budget, time management and generating a savings and retirement plan for the future are several components included in the training program. Community business leaders facilitate a continuing vocational mentorship program which

provides the orphan and vulnerable child (OVC) with solid practical advice and guidance within their chosen business ventures. Credited testimonials present how the program has enhanced the lives of youths enrolled in the program:

Hellen: mother and hairdresser



Figure 6: Panua Community Group Member Hellen received vocational training in hair dressing.

“Hellen has overcome tragic obstacles in her short life to make a positive impact on her family. Through abusive circumstances, she became a single mother at age 16 and was forced to drop out of school to care for her child and ill father. Panua helped support her as she worked to get her family healthy and keep them together.”

“Once she was ready, Panua helped Hellen enroll [*sic*] in vocational training to become a hairdresser, with her daughter in tow. She completed her training and began working as a hairdresser, saving as much money as possible so that one day, she could open her own salon.”

“Through encouragement, training and mentoring from the Panua program, Hellen has established a hair salon and has even expanded sales in her salon with boutique clothing items,

with the support of her Panua Community Group (excerpt and photograph adopted from Panua, n.d.).”¹⁶

John: Panua Partners in Hope participant



Figure 7: Panua Community Group Member John gained assistance in starting a small business selling rabbits and water vending. He is also contracted to paint business signs.

“John has become an entrepreneur, in every sense of the word. His father died when he was 15 years old, leaving him to care for his 5 younger siblings, ages 2 to 13. He dropped out of school and began collecting plastic and metal from garbage dumps to try to earn enough to buy food, but the young family often went hungry. John became exhausted and hopeless.”

“When John joined Panua at age 16, the program supported him with a multi-storey garden and rabbits. These small projects allowed John to begin feeding his family, and the sale of rabbits provided enough money to send his siblings back to school. His success with his rabbits led Panua to add a donkey and water cart to his business, meanwhile, he realizes that art was his true gift and passion.”

“Through profits from water vending and rabbits, he began a sign painting business which has been popular in his village. Because of networking opportunities in Panua, business is spreading into the city of Naivasha” (Panua, n.d.).¹⁷

Panua Partners in Hope entrepreneurship program has been the redeeming intervention to many orphans and vulnerable children (OVC). Its platform builds life and ensures long-sustainability, self-reliance and the opportunity to create employment while generating revenue. This revolving concept assures a sustainable future for the orphan and vulnerable child (OVC) eventually benefiting their siblings and Naivasha community as a whole.

Health and Hygiene Care

Kenya being listed as one of the countries with the highest HIV/AIDS epidemic in the world,¹⁸ is one of the primary reasons, Panua Partners in Hope undertook the responsibility to include health and hygiene care as a training component. Sadly, children affected by HIV/AIDS experience social stigmatization and are discriminated against especially in accessing education. The Kenyan government has implemented policies to restrict this critical issue. Persisting health issues of such, has rendered the Kenyan government in implementing necessary social services allowing governmental institutions in providing all children five years and under access to complimentary medical care (Convention on the Rights of the Child, 2010).¹⁹

Each household receives health and hygiene care training and is also coached on HIV/AIDS prevention as children are orphaned due to the disease being one of the primary reasons. A medical team from First Methodist Church of Winter Park, Florida, travels to Naivasha on an annual basis. They provide basic healthcare, physical check-up and additional supportive training in liaison with Kenya’s Ministry of Health (J. Gobel, personal

communication, March 24, 2014). Health care training is in place to safeguard against illness, improve sanitation, and proper personal and domestic hygiene. It alleviates the orphans and vulnerable children's (OVC) inadequate knowledge about health care that in turn propels healthy lifestyle, and optimal economic, social and educational advancement.

Legal Support

Panua Partners in Hope educates victimized orphans and vulnerable children (OVC) on their human and civil rights provided under the Kenyan constitution. They also assist in the provision of legal representation that is vital in providing recourse against any civil offense that orphans and vulnerable children (OVC) may have encountered. The prolonged issues orphaned and vulnerable children's (OVC) undergo, such as, lack of naturalized documentation and illegal seizure of property (land grabbing culture), unlawfully affects their civil liberties of which they truly have a right to exercise.

Within the rural communities, the citizens' extremely discount importance of obtaining relevant documents, such as, birth certificates, land deeds and titles and death certificate. It amounts to Kenyan indigenous citizens lacking the knowledge of their legal rights, and the importance of obtaining national documentation. Not owning these documents disenfranchise their inalienable rights in Kenya. It is a generational issue that orphaned and vulnerable children's (OVC) have inherited. Upon enrollment in Panua 's program, undocumented participants are unable to enroll in school, and conduct business, such as, completing taxes, open a saving account or attempting to register for a national identification or land deed or title (P. Matheri personal communication, March 24, 2014). At this juncture, legal representation is retained to advocate through the court system seeking application of procuring a birth certificate.

Twenty-four years old Alex Opatia Wesonga who entered the program on September 1, 2010, is a former sponsored beneficiary and member of Kabati Wema Working Group. He conveyed Panua assisted him in acquiring a birth certificate. It would have been detrimental to his educational development since without one, he would have been unable to register for examinations at the secondary level (A. O. Wesonga, personal communication, March 1, 2014).

Teaching orphaned and vulnerable children's (OVC) their legal rights, erode their experiences of victimization and abuse, and stress the role of the courts in achieving legal recourse. Wesonga stated Panua offered training on the rights of a child, the legal services, policy and legal agencies when requiring assistance. Wesonga, *supra*. In Kenya, the local elders work in cohort with the rural community institutions. They address legal issues at the community level prior to the case being filed through a legal government agency. These 'rural community institutions' are unregistered tribal courts called Kangaroo Court presiding over legal issues without any records or documents. They "... often disregard the child's rights and compromise after the elders' get paid a few goats and local brew..." (P. Matheri, personal communication, February 24, 2014). Providing a case surpasses their level, government authorities who are the local administration, children services department, civil society and government agencies are available to assist in legal issues. The latter avenue proves costly and lengthy to finalize legal recourses (P. Matheri personal communication, March 24, 2014).

Panua Partners' in Hope Challenges: Legal and Domestic Relation Issues

Panua Partners in Hope, like many non-profit organizations, encounters administrative issues that require aligning with external support systems to assist in

offering recommendations and addressing these challenges. The major issues the orphans and vulnerable children (OVC) tackle are:

- not being able to establish and show proof of citizenship status;
- national identity; and
- maintain and produce evidentiary proof of legally owning family assets.

The main challenges to processing these orphan and youths are their incapacity to supply proper information and documentation. Arriving at Panua's facility during the initial processing, most orphans are ill-equipped in providing administrative staff with proper information and documentation, such as, their deceased parents name, marital status, death certificate, and in some cases, any known family members. Mostly the younger orphans are unable to furnish Panua with this information and a few older ones as well.

According to P. Matheri (personal communication, May 6, 2012), approximately 95% of orphaned and vulnerable children (OVC) have no legal documentation proving valid citizenship in Kenya, nationalized identification card and birth certificate. Their inability to locate these documents impedes Panua from confirming the background of the child, especially the initial birth certificate may not have been produced, lost, or misplaced.

Land rights issues (Land Grabbing) & Family Relations

Orphaned and vulnerable children (OVC) having lived with their deceased parents on family owned land, are unable to provide supporting documents to demonstrate proof of rightful ownership of land. It is extremely difficult to safeguard their rights to ownership that subsequently results in land grabbing. 'Land grabbing' is the improper seizure of land and this

practice is common within the rural communities. Upon the death of parents, known family members and friends of the family capture the property from the heir, thus dispossessing the orphaned child (children) and barring them to live or utilize the property. Land grabbing is extremely prevalent in Kenya, and orphans and vulnerable youths are apprehensive of challenging land ownership due to the lack of documentation. In Panua Partners and Hope's experience, it seems customary that any known family member retaliates and ostracizes the 'pending' heir, dispossessing orphans of their property thus disbarring the child's land rights (McPherson, 2006).²⁰ It is possible as there is no evidence of the decedent's valid testate will or land deed and/or title. Human Rights Watch states that double orphans living in Kenya are susceptible to land grabbers (In the Shadow of Death, 2001).²¹ In part, this occurrence is manifested due to orphans and vulnerable children (OVC) alleged 'guardians' taking them into custody. This is done under the guise to commandeer their inheritances, while the orphan and vulnerable children (OVC) suffer inflicted abuse and maltreatment in the process (p. 18).²² Human Rights Watch has investigated a few cases of orphans and vulnerable children (OVC) relatives and guardians struggle to protect their property attributed to the extensive legal complications and financial burdens (p. 19).²³ Their inability to furnish orphans and vulnerable children (OVC) birth certificates and the proliferation of venality and ineffectiveness of executive, legal and customary authorities, bars well-intentioned guardians of undertaking trusteeship over orphans and vulnerable children (OVC) inheritances. This is especially affecting minor orphan's incapability to claim and safeguard their protective rights, thus, offering land grabbers the opportunity to seize their birthrights (pp. 19, 20).²⁴

Summary

In 2012, Panua Partners in Hope received the Naivasha District Development Office award for the “most effective program in changing the lives of orphans and vulnerable children (Panua, n.d.),”²⁵ distinctly validating Panua’s mission to enrich the lives of the less fortunate. Being a relatively young program, Panua has undertaken to address the holistic life of the vulnerable community, and achieving noticeable milestones. During their first cycle of 90 families, fifty percent (50%) of Panua’s children had sustainable activities generating income; however, they are still below international standards. They have empowered many orphans and vulnerable children (OVC) in understanding their legal and civil rights. The six program components assist in the recovery of self-worth amongst the children and the integration of families and their communities.

Restricted by their limitations, Panua is incapable of mobilizing adequate resources in addressing the fate of 2.5 million orphans in Kenya, of which approximately 25,000 lives in Naivasha. Many orphaned and vulnerable children (OVC) do not have valid documentation to support the recovery of their property. Moreover, Panua lacks the personnel to address and follow-up legal issues, as this undertaking is extremely expensive. Thus, highlighting Panua’s incapability to extend the service competently within the program and only assist when their budget allows on a needs basis (P. Matheri personal communication, March 5, 2014).

All the orphaned and vulnerable children’s (OVC) legal concerns pervasively infringe on their civil rights, citizenship and inaccessibility to reside in the home they once lived with their parents. Limiting their mobility to gain the state’s social and health benefits, and conduct business. More importantly, the challenges negatively impact the welfare of the child. Paul

Matheri of Panua stated that this discourages any hope of producing a productive adult who has a sense of pride, and independence to live as a Kenyan citizen (personal communication, May 6, 2012). The new concept of kinship-based support systems is fundamental to securing a balanced family life for the orphans. personal com. *supra*.

Overall studies present disadvantages that negatively impact orphan's support systems once there are no expeditious solutions implemented (Skovdal et al., 2011).²⁶ The article comprehensively addresses the effect aspects orphans' face on a daily basis: exponential prevalent growth of orphans, deficient socio-economic conditions, lack of education, limited food sources and healthcare, and the decline in the family structure. What is highly interesting, however, the articles fail to present legal solutions to address land rights, documentation recovery, citizenship, and family domestic issues directly impacting the socioeconomic factors. These impactful difficulties further compound each marginalized Kenyan citizen; thus they rely on government officials to address and resolve. With continuing reforms, indigenous citizens lack legal restitution, as they are unaware of the constitutional recourse, and the financial capacity to retain legal representation. Consequently, they continue to practice customary defenses within their communities, unjustly rotate from generation to generation.

THE IMPACT OF CHRONIC HIV/AIDS ON ORPHANS IN KENYA

During the past decade, the HIV/AIDS epidemic has been widespread globally. Erick Otieno Nyambedha et al. cited that the prevalence of HIV/AIDS epidemic is a major contributing factor affecting children in Kenya. The authors' sources projected that by the end of the year 2000, 13 million children will lose both parents owing to the disease (p. 301).²⁷ By 2005, authors Hunter and Williamson (2000) estimated 1.5 million Kenyan children will be orphaned (as cited in Nyambedha et al., p. 301).²⁸ Similar to other counties in Kenya, as experienced in Panua Partners in Hope's program, Naivasha encounters a high percentage of citizens' contracting, living with and dying from HIV/AIDS. Subsequently, a great number of children are orphaned as a result of parents dying from the disease (Panua, n.d).²⁹ This is particularly evident during their needs assessment and enrollment of orphaned and vulnerable children (OVC) into the program. In completing an assessment form during enrollment, approximately 70% who are orphaned response to cause of death of their parents due to HIV/AIDS (F. Muthoni, personal communication, March 24, 2014). Primary relatives whom have died leave behind unskilled youths and children at a very young age. Many double orphans – having lost both parents – are left in the care of extended secondary families who themselves become very ill or eventually stop taking care of the orphans. It is then left up the eldest sibling to become responsible for their daily care by either living on the streets or gaining assistance and intervention from external bodies (Nyambedha, et al., 2003).³⁰

HIV/AIDS intertwined with land rights, is a deadly cycle that intensifies vulnerability, inhumane responses, and injustices orphans experience in Kenya. Orphans losing their right to land and property ownership as a direct consequence of HIV/AIDS have propagated throughout

Kenya fuelling poverty and setbacks in socioeconomic development for the youths. With reformed laws in place to safeguard and legally protect citizens for land dispossession, rural communities still fail to report the incidents to the local authorities. This exists because they are unaware of their legal rights, fear retaliation or lack of financial resources to effectively action recourse (P. Matheri, personal communication, March 24, 2014).

HIV/AIDS continues to create long term economic challenges in Kenya. A part of its Vision 2030, the Kenyan government has invested heavily in implementing social awareness programs to restrain the spread of HIV/AIDS. One such program is the provision of antiretroviral drugs government subsidized rates (UN Common Core Document, 2013).³¹ The Kenyan government has mobilized and increased resources, and budgetary policies in tackling HIV/AIDS pandemic. This action is in responses to mandated indicators set by global agencies, such as, UNICEF, UNAIDS, and USAID, to achieve goals and ensure infrastructures, social services and health reforms are implemented to combat the massive increase of HIV/AIDS within Kenya.

The Impact of HIV/AIDS in Kenya

Historically HIV/AIDS have been a prevalent epidemic in Africa especially in Kenya. Globally, Kenya has been rated of having the highest HIV/AIDS epidemic pervasively affecting the 15 to 49 age groups currently living with HIV/AIDS; the largest and most productive segment within its populous. The Central Intelligence Agency (CIA) data states that in 2014 Kenya's population is approximately 45,010,056, explicitly taking into account mortality rate due to HIV/AIDS. This resulting in lower life expectancy, lower population development, higher death and infant mortality rates, and unexpected changes in population distribution targeting age and sex (CIA, n.d.).³² In Kenya, the age structure is heavily 'bottom-top', with the country's

young population demographic widespread at the base estimated two out of five people are below the age group of five years.

Age Group	Population %	Male	Female
0-14 years	42.1	9,494,983	9,435,795
15-24 years	18.7	4,197,382	4,202,399
25-54 years	32.8	7,458,665	7,302,534
55-64 years	2.8	751,296	910,523
65 years and over	2.7	548,431	708,048

Figure 8: CIA Age Structure in Kenya (2014 est.).³³

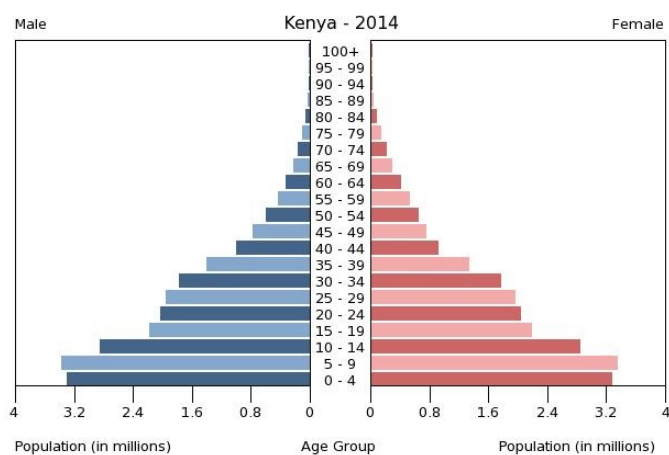


Figure 9: CIA Population Pyramid for Kenya (2014 est.).³⁴

The high rates of HIV/AIDS have impacted approximately all regions in Kenya's society, causing life expectancy to decrease between 5 and 10 years and child mortality increases. The

preceding decades presented catastrophic rise in the spread of HIV/AIDS. By 2010, approximately 14 % of children were expected to be orphaned. There are approximately 2.6 million orphans in Kenya inclusive of over 25,000 living in Naivasha (Panua, n.d.).³⁵ Of these 2.6 million children, 73 % have further expanded the orphan sector attributed to HIV/AIDS. With the accumulating deaths of parents steadily on the rise, majority of cases remain unreported, due to fear of discrimination, many citizens are unaware they have the virus, or traditional and cultural practices are effected to cure the disease. For instance, Maleche and Day stated that “[s]exual cleansing is also alarmingly used to ‘cleanse’ people living with HIV and acquired immunodeficiency syndrome (AIDS). In Isiolo, North-western Kenya, it is believed that sex with a virgin can cure the disease. Nassir, a man living with HIV interviewed by Reuters said, *“I was given a girl of nine years to sleep with for a week ... I took pity on her but if it wasn’t for this disease I wouldn’t have slept with her... I had to do what the elders had said”* (p. 4).³⁶

With these issues remaining at large, the true nature of the problem will be extremely difficult to determine, thus continues to place children at risk in an economic, emotional and physical environment. It further perpetuates indirect effect within orphaned communities, and social and health services provided within these communities are stretched by the magnitude and demise of the epidemic. Children are directly affected in a number of ways:

- they may lose one or both parents to HIV/AIDS;
- they are stigmatized and experience discrimination because they are associated with living within a high risk environment where their sole caregiver may be chronically ill with the virus and eventually die; and;

- they are ousted from their home and barred from returning to the property.

Consequently, the eldest becomes the head of the household, be required to work, place their education on hold, while taking care of the household expenses and their siblings, thus remaining impoverished (McPherson, 2006).³⁷

HIV/AIDS Affecting Land Rights

Since 1897 under British Colonial governance, there have been longstanding challenges regarding land rights and ownership. With the insurgence of HIV/AIDS, it has exacerbated the injustice practices of procuring land illegally that directly affect orphans and their right to property, in particular girls and/or their female relatives (McPherson, 2006).³⁸ The patriarchal culture still exists especially in the rural areas. The patriarchal culture still exists especially in the rural areas. Former laws in Kenyan have mainly catered to the male head of the household. Typically, Kenyan formal or customary laws were non-protective of female rights and excluded legal language for land ownership. Once the patriarchal head of the household died, the property was inherited by the male family members (McPherson, 2006).³⁹ Constitutional reformation action took effect to resolve these issues thus, demarcating the right to own property through means of intestate (Kenya Land Succession Act, 2008)⁴⁰ and/or acquiring title (The Constitution of Kenya, 2010).⁴¹

Orphan Land Rights Injustices

Currently, the Kenya Land Succession Act (2008) and The Constitution of Kenya (2010) reforms have been less impactive in the pastoral regions. Majority of the lands are not legally titled, and land grabbers re disregard the few that are legally titled or deed. According to P.

Matheri (personal communication, March 24, 2014), this scenario is common especially in Naivasha. Orphans and vulnerable children (OVC) parents die leaving land or a home and (may or) may not have gone through the legal channels to procure a title deed. The orphans, generally minors, are left in the care of a family member and over time, family members, friends of the family and eventually strangers illegally capture the property. By the time orphans and vulnerable children (OVC) reach the age of majority, they become dispossessed as their land is stolen. Other factors affecting orphans and vulnerable children land rights are (P. Matheri, personal communication, March 24, 2014):

- they are disbarred from the property because their parents contracted and died from HIV/AIDS;
- they are unaware of their legal rights to property ownership;
- antiquated customary land allocation and laws are still being applied to land disputes – (which have been repealed by the reformed constitution of Kenya);
- households find it expensive to contest land disputes through contemporary legal channels and;
- households find it expensive to officially register the property legalizing ownership.

The relationship between HIV/AIDS and land tenure security continues to negatively impact orphans and vulnerable children (OVC). HIV/AIDS-affected orphan households' prospect of land ownership diminishes irrespective if their mother and father owned the land for years. The goal of immediate family members, friends of the family or stranger is to capture the land. Thus,

not caring for the best interest of the children, and their land tenure vulnerability. Their intent, more so, is to secure and increase investment portfolio, economic and social power.

Government of Kenya Actions and Resolution Initiatives

Over the decades, the Kenyan government failed to quickly address the HIV/AIDS epidemic sweeping the nation. The government's failure to intervene and enact policies to "... protect against practices that increase the risk of HIV violates the right to the highest attainable standard of health..." (Maleche and Day, 2011, p. 2).⁴² In recent years, however, great strides have been evident as much need reform have been executed to address the issues. In the 2006/07 fiscal year, an extensive increase was applied to the Social Services sector budget allocation. This allowed for the roll out of much needed social service initiatives tackling the issues of HIV/AIDS prevention, stigmatization and discrimination, and health and education reform. These changes will assist in modernizing governance and aligning the country's direction for healthy lifestyle changes and economic success.

Kenya Vision 2030

Kenya Vision 2030 is a governmental initiative effecting economic and social deliverables developing the country as a whole. Established in 2000, this plan is geared towards achieving the United Nations Millennium Development Goals (MDGs) within time-bound and qualified indicators (Millennium Project, 2006).⁴³ The mandated declarative policy outlines eight international goals requiring all United Nations' members committed to achieve the following goals by 2015:⁴⁴

- To eradicate extreme poverty and hunger
- To achieve universal primary education

- To promote gender equality and empowering women
- To reduce child mortality rates
- To improve maternal health
- To combat HIV/AIDS, malaria, and other diseases
- To ensure environmental sustainability
- To develop a global partnership for development

In 2008, Kenya launched the Vision 2030 to continue the country's development initiatives to transform Kenya's economy into a "... newly industrializing, middle-income country providing a high quality of life to all its citizens by 2030 in a clean and secure environment..."⁴⁵ The vision is divided into three key pillars: economic, social and political governance."

Economic Pillar

The economic pillar seeks to improve economic revenues. It aims to increase wealth throughout the country. This will be derived by continuing to target the country's priority sectors and providing employment within the following sectors:

- Tourism
- Agriculture
- Wholesale and Retail Trade
- Manufacturing
- IT enabled services (previously known as business process off-shoring)

- Financial Services

Social Pillar

The social pillar is investing in social services allowing Kenyan citizens' to improve their quality of life. The goal is to concentrate on implementing social and human programs, particularly in:

- Education and Training
- Health
- Environment
- Housing and Urbanisation
- Gender, Children and Social development
- Youth and Sports

Political Pillar

The political pillar is to cohesively enjoin the Kenyan nation as one. It is the government's aim in improving the democratic system to involve public accountability, results-oriented and people focused initiatives. This transformation of political governance will strategically target:

- The rule of law – the Kenya Constitution 2010
- Electoral and political processes
- Democracy and public service delivery
- Transparency and accountability
- Security, peace building and conflict management

Currently, Kenya has implemented much needed social policies beneficial to the less fortunate. Policies such as, allowing children under the age of five to gain access to free medical services at government health centers have been instituted. Additionally, the school health policies and adolescent reproductive and development policies were employed to target the 12 to 18 year old age groups (Convention on the Rights of the Child, 2010).⁴⁶

In response to the HIV/AIDS crisis, a national policy was initiated earmarking financial funding for the foster care program, allowing orphans and vulnerable children (OVC) to be cared and entrusted to the responsibility the family and community institutions. This encourages unity and support within the family and communities. Health school programs are in place to assist adolescent age group access to reproductive health information. The program is designed to establish trust and the freedom to confided issues without parents' knowledge. Thus, offering confidentiality to the youths utilizing the counselling facilities. Policies are also in place allowing free education at the primary and secondary levels. Teachers have been trained on tolerance, and measures and procedures in accepting children with HIV/AIDS. Therefore, disallowing discrimination against children living with HIV/AIDS, who are barred from registering in schools (Convention on the Rights of the Child, 2010).⁴⁷

Summary

In Kenya, HIV/AIDS hugely affects basic human rights: property rights, health and wellness, social, environment and its citizen, the most vulnerable of the country. In most rural communities, HIV/AIDS continues to be the cause of displacement, a source of stigmatization and discrimination, and the cause and effect in illegal land dispossession (McPherson, 2006).⁴⁸ There are numerous studies on HIV/AIDS and its impact on Kenya. In contrast, few have

addressed the grave issues particularly facing land rights and tenure security and its affect towards the pastoral class' economic and social statuses. These issues remain evident and are currently affecting Panua Partners in Hope.

The majority of orphaned children in Kenya affected by the HIV/AIDS epidemic have been barred from their homes encountering "... stigma, discrimination, and social dejection" (P. Matheri, personal communication, May, 6, 2012). The children require a safe haven to live, and feel protected. Panua's program model mandates to educate orphans on the importance of HIV/AIDS prevention. The education component includes a collective series of biological and theological concept about human sexuality. This further extends to an outreach community mentorship, enlisting program members who share the message to the local community.

The goal of Vision 2030 is reprograming Kenya's social, political and economic cultures. This in turn empowers the social class milieus, and fosters fairness. Subsequently, reduces inequalities for the less fortunate living in poverty. The emphasis on directing increased attention to marginalized and vulnerable groups ensures this sector accessibility to protective and essential social agencies providing equitable services. The plan increases HIV/AID awareness nationally, while implementing subsidized access to medical treatment. Medical resources support responses to substantially reduce of the number of Kenyans contracting the virus.

KENYA JUDICIAL SYSTEM

The Kenyan legal system began under the East African Order of 1897 and the Crown regulations prior to Kenya's independence in 1963. The judicial system was a segregated tripartite structure divided into subordinate courts: Native tribunals, Muslim, and the British Administrative officers and magistrates. At the time, Kenya was colonized under British regime; as such there was a parallel dual superior court system. The Europeans and colonial authorities were sanctioned and judged under British Protectorate Legislation by expatriate judges and magistrate. While the indigenous Kenyans legal proceedings presided under two court divisions, the African Courts and the Muslim Court. The African Courts governed customary laws with the chain of appeals heard in the following order, the African Appeal Court, the District Officer and then the Court of Review.

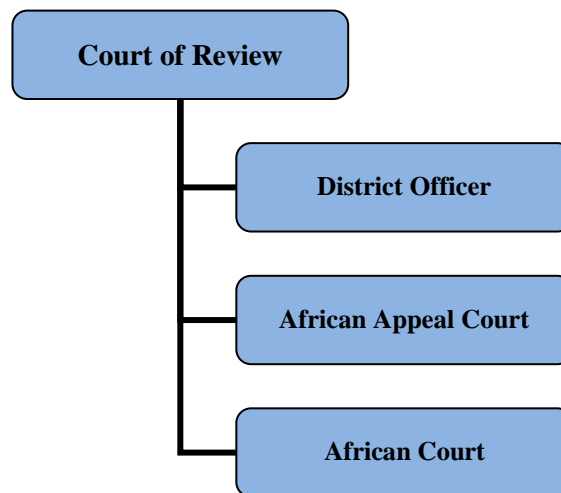


Figure 10: Kenya Judicial Structure prior 1962: The African Court System.¹

The Muslim citizen lived by their religious creed and had their own legal structure. Their

¹ Created by Keisha S. Holman

established Courts of Liwalis, Mudirs and Kadhis applied the Muslim customary laws with appeal proceedings directed to the Supreme Court (Judiciary of Kenya, n.d.).⁴⁹

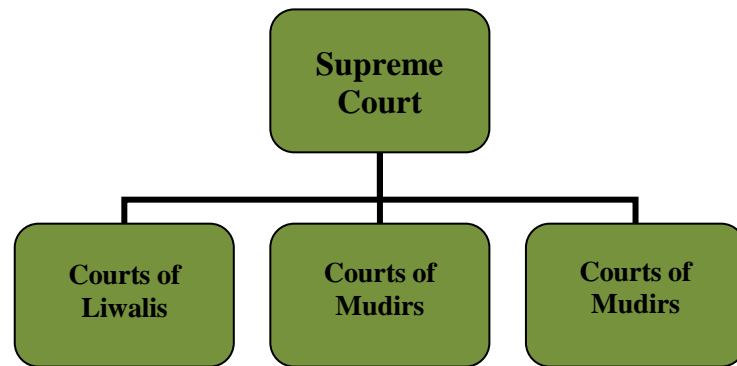


Figure 11: Kenya Judicial Structure prior 1962: The Muslim Court System.²

Ongoing disputes within rural settlements created the need for elected heads to govern dispute resolution. As such, colonial authorities sanctioned the dispute settlement organs empowering village elders, headmen and chiefs to preside these matters which overtime advanced as tribunals (Judiciary of Kenya, n.d.).⁵⁰

The British Protectorate sanctioned segregated court structure was merely designed to create a division of exclusive superiority over indigenous Kenyans while safeguarding continued control of the colonial state. Though its formation legitimized the unrepresentative state, it further marginalized the indigenous Kenyans by exploiting their state of affairs and denying them basic civil and human rights (Judiciary Transformation, 2012, p. 9).⁵¹ The judicial system created distrust amongst indigenous Kenyans. The system was view as prejudicial, lacking justice, undermining humanitarian relief, and seldom resolved their issues. Hence, the indigenous citizens rejected the credibility and recognition of the system.

² Created by Keisha S. Holman

Kenya's Independence: The Beginning of Transformation

In 1963, Kenya gained independence. This embarked the beginning of legal transformation. Consequently, the abrogation of the dual system integrated Kenya's judiciary system. Whereby, centered on the laws of the 1963 constitution, the Judicature Act of 1967, and English common law precedents. The process was further completed with the passing of the Magistrate Court Act 1967 replacing both African Courts and Court of Review. In addition, the two branches of the court structure were implemented: the District Court and Resident Magistrate Courts, and the High Court. The Muslim Court renamed Kadhis' Court under the Kadhis' Courts Act of 1967 applies Muslim personal status laws presiding under six Kadhis' Courts (Emory Law, n.d.)⁵². Over time, other branches were added which makes up the following court structure:

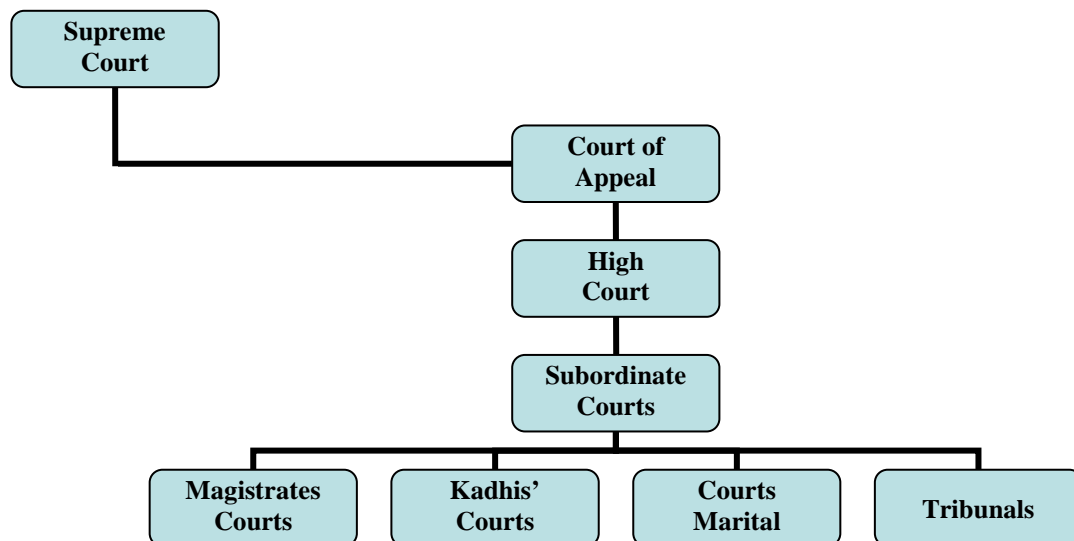


Figure 12: Kenya Current Judicial System.³

³ Created by Keisha S. Holman

The ratified Constitution of Kenya governs criminal and civil laws of Kenya's judicial system with unlimited jurisdiction over all citizens, regardless of racial or ethnic group (Chapter Ten- Judiciary in § 159 (2) (a)).⁵³ Although it sets the precedence over customary laws, these laws remain in effect and are used as a guide in civil matters concerning homogeneous groups. Once customary laws are used to enter into a contract – (marriage, dissolution of marriage, inheritance) – said laws are required to adjudicate legal matters. Additionally, the constitution provides for an independent judiciary, the president has considerable influence over the judiciary. The president appoints the High Court Judges from the Judicial Service Commission's recommendations. The president also has authority to dismiss judges, the attorney general, and other officials upon recommendation of a tribunal appointed by the president. Constitution of Kenya, *supra*.⁵⁴

Over time, the Kenyan constitution has been reformed and ratified. The members of parliament sole purpose were to 'modernize' the laws: revising customary laws some viewed as the cause for the country's social and economic issues. Currently, there is still some recognition to Muslim customary laws. This poses confusion within the legal sector in deciding which law to apply: Muslim versus English common law. The challenge in totally eliminating customary laws within the ethnic groups would be disregarding their guiding principles that drive their philosophy. It is, therefore, crucial to take into consideration the cross-section of ethnic groups in Kenya: Christians, Muslims, Islam, and independents. Each group has their own set of life lessons and, governance of their scriptural principles.

LAND DISPOSSESSION: THE “LAND GRABBING” PHENOMENON

Land ownership in today’s society is one of the most sought after natural resources for wealth creation. This is especially so in business development, asset for family legacy, and economic building within a country. As such, controlled land ownership produces economic power which is the foundation of political and social linkage (Njuguna & Baya, n. d., p. 1).⁵⁵ Njuguna and Baya further argue with land being the central mainstay in human existence, was predominantly the causing factor of Kenya’s independence from British colonial dominance (p. 1).⁵⁶ Kenya’s economy has and will always thrive on the backbone of the land. It is its natural resource and main source of economical fiscal generation. This is especially so where 80% of Kenya’s aggregate population trade and revenue stems from agricultural input. Approximately 80% of Kenya’s land areas are ‘unproductive land’. As cited in Njuguna and Baya, “... over 80% of the population is settled on only about 20% of the land (considered to be of medium to high,

Description	Percentage (%) Statistics
Land area may be classified as arid and semi-arid (very low agricultural potential)	80% land
80% of population settlement on land (considered medium to high agricultural potential)	20% population
Land under customary ownership and utilization	70% land
Land categorized as government land/reserves	10% land
Privatized land under statute	20% land

Figure 13: Percentage breakdown of Kenya’s approximated 582, 646 km² area (1999).⁴

⁴ Credited by Keisha S. Holman

potential). Further about 70% of the land is held under customary systems of ownership and use, while 10% is categorized as Government Land/Reserves, with only 20% being private land under statute....”⁵⁷ Land resources in Kenya presents a notable function in socioeconomic and governmental development. It is therefore, prudent for Kenyans to remain concerned with regards to invested appropriation of landholdings, land tenure, its utilization, allocation and distribution of their precious commodity.

The concept of land dispossession is not a new occurrence. The practice of acquiring land has been a global phenomenon for centuries. Land dispossession dubbed “land grabbing,” has two delineating definitions. It is either procuring property through covert means, forced acquisitions, or changes in governmental policies inequitably dispossessing customary owners with or without their consent, such as, small-scale private ‘undocumented’ landowners (Part 1 - Land in § 62 (1)(c)).⁵⁸ According to per P. Matheri (personal communication, May 6, 2012), orphans and vulnerable children’s (OVC) family, family-friends, or strangers illegally obtain their arable (residential) property. Whereby disbaring the dispossessed without legal or local ordinance intervention or recourse (in most cases). This conceptual phenomenon infringes on the economic, social, and civil liberties of dispossessed orphans. The Constitution of Kenya (2010), Part 1 -Land in § 60 (1)(g)⁵⁹ has sanctioned communities to resolve land disputes through local initiatives. In most cases, however, the rulings are inconsistent within the guidelines of the constitution due to customary laws being applied.

History and the Beginning of Land Policy Reform

In the early 1800’s land policies were commonly governed under traditional system of communal tenurial ownership. This deeply rooted system was informally created, where tribal

communities owned and cultivated their property. The property remained in the family or tribe and was bequeathed from generation to generation. By the end of the nineteenth century, the British regime colonized Kenya and enacted a legislation annexing all land declaring it as Crown Land (Njuguna & Baya, 2001).⁶⁰ In order to govern these areas, the British actioned the East African (Lands) Order in Council of 1901 immediately ratifying the lands under English land laws (p. 10).⁶¹ They coerced indigenous citizens from fertile agricultural land, proclaiming the areas “White Highlands” exclusively for their counterparts. Relocating the Kenyans in densely populated unproductive lands called “Native Reserves” (p. 10).⁶²

Changes in landholding policies caused significant conflict and instability between the British colonial administrators and the Kenyan “native” communities (Higgins, para. 1).⁶³ Currently, this historical factor has entrenched ongoing issues in Kenya, paralyzing unified relationship between state and citizens. More so, the customary and English landholding concepts are concurrently regulated within the ‘governmental politics’ and ‘traditional politics’ throughout the country (Higgins, para. 2).⁶⁴

Customary Law

The British colonial administrators considered customary land tenure in Kenyan communities as ‘available’. Lands appropriated to white colonizers were allocated for ranching and agrarian purposes. As lands were controlled by the colonial regime, this gave them free reign to divide and utilize at any given time. The central plateaus – “... historically home to the Kikuyu (the largest ethnic group in Kenya) and other communities...,” – and the Rift Valley were largely affected while compelling former residents into farm labor in other regions in the country (Higgins, para. 2).⁶⁵ In order to create a structured land policy, colonial administrators

implemented the native land units. These were tribal reserve units where most Kenyans lived, and their land rights were regulated by native laws and customs (Coldham, 1978, p. 91).⁶⁶

This led to the start of customary land tenure culture within the indigenous regions “...a *community-based* system, regulating land and resource ownership, access and use” (Wily, 2011, p. 2).⁶⁷ In contrast to the government’s contemporary system, this system is an engrained custom that is informally devised considerably from generation to generation (hence considered ‘customary’ or ‘traditional’ tenure). With this ‘compromised’ structure, the government was able to sustain their land tenure for so long as the indigenous communities continue its norm. They would periodically update terms in keeping with changing pressures or should any conflict between parties (p. 2).⁶⁸ As the century evolves two key evolutions occurred, land shortage and commoditization, leading both regimes to battle over land dominance. As the boundaries grew disagreement persisted, so did the refinement of the British colony capturing land on the arrival for new settlers. As such, the denial to strengthen customary land interest continued and the defiance in accepting the government’s term in replacing customary land tenure with modern legislature: land tenure controlled by the state. This later resulted in individual landholdings formally registering their land which invariably becomes the only acceptable form of land tenure designed to reinforce land rights.

Land Policy Reformation

This significant disruption to landholding models and implemented land policy caused grievances between Kenyans and colonial settlers leading to a war of resistance. The severe changes to land rights and exploitation fuelled an uproar declaring a state of emergency in 1952 (Coldham, 1978, p. 91).⁶⁹ There was collective division amongst the colonial administrators

regarding native law and custom reformation, and the transformation of traditional agreements. Consequently, centralized efforts were placed advocating further agricultural development and farmers consolidating landholdings (p. 91).⁷⁰ The emergence of large-scale mandated land consolidation initiatives in the mid-fifties within the tribal communities garnered direct attention in establishing land title which the owner would procure. The driving force to the change was most people regarded customary laws as archaic and a deterrent to agricultural progression. Thus, recommending its replacement with registration of individual land titles (p. 91).⁷¹ “...The Swynnerton Plan proposed that "the African farmer ... be provided with such security of tenure through an indefeasible title as will encourage him to invest his labour [*sic*] and profits into the development of his farm and as will enable him to offer it as security against financial credits...” (as cited in Coldham, 1978, p. 91).⁷²

The passing of the Native Land Registration Ordinance in 1959 was as a result of the East Africa Royal Commission Report (1953-1955) offering the recommendation of negotiated registration of land rights. The ordinance specifically addressed arbitration proceedings and land consolidation. Including in part, the adoption of English landownership model applied to registration of land title procedures. Regulated registered land was governed by codified substantive law implemented, abolishing customary law. The repeal prompted a series of reformation transpired over the ensuing years. In 1963 the Registered Land Act repealed and substituted the Ordinance’s registration provisions. The land adjudication and consolidation provisions were upheld as a separate statute in the Land Adjudication Act in 1968: this Act was eventually re-named the Land Consolidation Act. The Land Adjudication Act, 1968, was passed

to provide a simpler procedure in those areas where no formal program of consolidation was being carried out (Coldham, 1978, p. 92).⁷³

The Global Land Rush: 2000's Land Dispossession

In the twenty first century, the proliferation of acquiring expansive masses of fertile arable land in Africa had emerged, especially in Kenya. Global land grabbing targets public sector lands, and the political interjection of local governmental policies appropriating private lands. These actions invariable filtered huge implications on the survival and sustainability of private small scale-farmland owners. Governance of growth and development are effective governing. Consequently, international, regional and domestic investors, and local government formulated viable long-term renewable leasehold agreements, some ranging to 99 years. These agreements establish control of land and land resources via governmental policy changes and land reformation. As a whole, it is imperative to collectively establish a distinction between the benefits and detriments of these agreements. It is critical to note in rural eco-social communities the effects of land grabbing shapes contrasting acceptance levels. The levels are divided among the few citizens who are aware of the constitutional landholding changes and the majority who still apply customary customs (Borras, Hughes, and Scoones, 2011).⁷⁴ Subsequently, establishes varying outcomes and responses thus determining land dispossession's positive and negative dominance.

Investment impositions are critical for agribusiness development and financial gains. Divested public and private properties when entered into, accelerates long-term land lease agreements, severely involve risks, and negatively impacts social and environmental ecologies (Borras, Hughes, and Scoones, 2011).⁷⁵ The composition of global changes and the need to

economize on inexpensive production ventures are the driving forces to immediately acquire lands. Borras, et al. (2011) stated, the land rush is derived due to “food price volatility and unreliable markets; the energy crisis and interest in agro-energy/biofuels; the global financial crisis; and a new market for carbon trading” (para. 4).⁷⁶ Invariably, the government’s interest lies in economically funding fiscal growth through widespread lease agreements. Results in the maximization of inexpensive food production exports for deprived external consumers, and minimizes labor expenditure. These interests are executed without concerns of the top-down effects to the rural communities, and the inequitable dispossession of their property or benefiting from the profit gained.

Positive vs Negative: Impact of Land Acquisition

The global views of the marginalization and deprivation land grabbing effects in the rural communities are divided. Some studies view it as a detriment to rural socio-economies being victimized by large-scale land procurements where others find the process economically beneficial. According to Natalia Mamonova, World Bank Group previews large-scale land accumulation investments advantageous. It is beneficial for the large populace as it provides job creation and the emergence of privatized schemes, such as, contract farming and plantation workers (as cited in Mamonova, 2012).⁷⁷ Though aptly stating land grabbing positive attributes, there is still some trace of “adverse incorporation” with the inclusion of the rural enclaves. The imbalance of both rural populace and large-scale land operators: power relations, scales of economies, capitalized division, and fiscal gains, pervasively “...leads to marginalisation [*sic*] of subordinated groups and their chronic poverty...” (Mamonova, 2012, p. 3).⁷⁸

Rural communities identify beneficial gains despite adverse incorporations of large-scale property acquisition. In a Smalley and Corbera (2012) study of differing Kenyan rural groups, they found that the rural regions perception to large-scale land accumulations varied (as cited in Mamonova, 2012, p. 4).⁷⁹ Through a series of interviews, Smalley and Cobera surmised that Kenyan rural farmers support the initiative on the basis of continued long-term provision of job creations and “agricultural development projects” (p. 4).⁸⁰ In contrast, major pastoralists opposing these lease investments, fear land confiscation and permanent loss of property to the government and large-scale investors. Moreover, these agreements not only affect the ‘generational devised system’, but raise the concerns if the land will be in usable condition when returned to the customary land owners (Wily, 2011).⁸¹

LEGAL ISSUES AND ANALYSIS

In 2010, The Constitution of Kenya was ratified by referendum, replacing the replacing the 1969 constitution. Approximately 67% of Kenyan citizens voted for the referendum, thus approving the proposed reformation changes. The ratified constitution is a considerably progressive article providing an expanded framework with the intent to reconstruct and restructure the national (Sihanya, 2012). In an effort to streamline the inheritance act, the Kenyan government launched extensive changes to the act. In 2008, the Law of Succession Act replacing the 1985 act. Over the decade, the succession act received vast amount of criticism leading up to reformation. Gender and cultural agencies, and the citizens at large, decried the acts Cooper, E. (2011):⁸²

- of gender inequalities: the act's canons being mostly favorable to the patriarchal genre.
- of articles and judicial branches heavily applying customary inheritance practices beneficial males over females.
- in allowing customary laws applied personal law matters, such as, dissolution of marriage, property transactions (land transfers od title/deeds).

These recent changes require Kenyan society's acclimatization to new governmental policies while disbanding traditional principles. The ratified legislations offer limiting laws addressing the fundamental issues affecting naturalization of an 'undocumented' youth who has reached the age of majority and probate (traditional land grabbing) matters. It is with absolute certainty the Kenyan government's immediate attention in redressing the inefficient guidelines repetitively challenging their citizens' rights. There is great need in ensuring equitability and protection of all citizens' civil liberty and rights.

The current Kenyan laws fail to provide absolute and effective legal recourses for Panua Partners in Hope their existing issues. Their inability to legitimately address orphaned and vulnerable children's (OVC) lack of naturalized documentations, and the land grabbing customs, have mostly rendered their efforts ineffective. The imposition of legal limitations impedes their operation in expediting legal recourses. While the Kenyan government has legally ratified the Constitution of Kenya (2010), and Kenya Law of Succession Act (Chapter 160) (2008), they present no provisions on 'undocumented' orphan's legal remedy. Inequitable orphans and vulnerable children (OVC) experience difficulties reclaiming rightful ownership of illegally seized land, and limited alternative of misplaced national documents, such as, birth certificate and national identification.

Kenyan citizens' civil rights reformed

Under the Constitution of Kenya (Kenya), 27 August 2010, Chapter Three Citizenship in § 13 (2),⁸³ citizenship may be acquired by birth and registration. In § 14 (4)⁸⁴ addresses the rights of a child found in Kenya who is, or appears to be, less than eight years of age, and whose nationality and parents are not known, is presumed to be a citizen by birth. This registration of citizenship, however, is revocable once the nationality or parentage history of the person becomes known of being a citizen of another country (§ 17 (2) (b)),⁸⁵ and/or the person was older than eight years old when found in Kenya (§ 17 (2) (c)).⁸⁶ The law provides for and addresses a person regaining their citizenship once they have initially ceased to be a Kenyan citizen (§ 14 (5)),⁸⁷ obtaining citizenship through marriage (§ 15 (1)),⁸⁸ being born out of the country provided that one of parent is or was a Kenyan citizen at the time of birth (§ 14 (1))⁸⁹ and the legality of dual citizenship: Kenyan citizen acquiring citizenship in another country (§

16).⁹⁰ There are other legal ways to be registered as a Kenyan citizen, such as, being a lawful Kenyan resident for a continuous period of seven years and having satisfied the requirements outlined in the Act of Parliament (§ 15 (2)),⁹¹ or through adoption by a Kenyan citizen (§ 15 (3)).⁹² Within each of these legislature, the Kenyan Parliament have the autonomy to enact or adjust any legislation establishing outlined regulation on the condition of citizenship; in general, prescribing and approving a person's application and any provisions outlined in Chapter Three - Citizenship (§ 18 (a) to (g)).⁹³

The Constitution fails to address and outline the procedures on how a citizen or non-citizen (especially over the age of eight years old) obtain their lost, misplaced, or unattained birth certificate, national identification, and passport, although stated that a citizen is entitled to these documents issued by the State (§ 12 (1) (b)).⁹⁴ A person applying or attempting to regain their birth certificate must qualify for citizenship by decent. They will be hindered by encumbrances when completing the application and supplying the required supporting documents: such as national photo identification, hospital or civil authorities (home birth) notification as well as their parents' details – birth certificate / marriage certificate (P. Matheri, personal communication, May 6, 2012).

Intestacy laws disbanding land dispossession

Land Grabbing is a national issue in Kenya and their surrounding African territories. It is the illegal acquisition of land not just private but also public commercial land earmarked for urban development (Land Coalition, n.d.). This existing phenomenon is fuelled by the absence of a valid testate will or title, thus disbaring the child's land rights (McPherson, 2006). The Parliamentary Act has ratified and has implemented The Law Succession Act

(Kenya) (2008) that prescribes and allocates in Part V – Intestacy (§ 38)⁹⁵ where decedent intestate who is without a spouse but left a surviving child (children), that the net estate will be devolve to surviving child or equally divided amongst surviving children. Without proper nationalized documentation, the effective application of said act is impacted. Consequently, the family member or friend who is aware of the death of the decedent takes that opportunity to illegally seize the property and bars the decedent's heir accessibility of said property.

The legal application presented, pervasively infringe on the orphaned and vulnerable children's (OVC) civil liberty, citizenship and inaccessibility to reside in the home where they lived with their parent. This limits their mobility to gain state social and health benefits, and conduct business. More importantly, the challenges negatively impact the welfare of the child. Paul Matheri of Panua (personal communication, May 6, 2012), stated that this discourages any hope of producing a productive adult who has a sense of pride, and independence to live as a Kenyan citizen. The new concept of kinship-based support system is fundamental in securing a balanced family life for the orphans. In Panua's experience, it seems customary that any known family member (s) generally retaliates and ostracizes the 'pending' heir, dispossessing orphans of their property thus disbarring the child's land rights (McPherson, 2006);⁹⁶ this is possible as there is no evidence of the decedent's will or land title.

Whilst the Kenyan Constitution and The Law Succession Act redress the legal courses of a Kenyan citizen who possesses the proper naturalized documents and a landowner possessing a land title if they die with a testate will or intestate, will not create legal ramifications for their heir (s). These findings, however, impede the legal recourse for Panua supporting any orphan's cause of action, thus, failing to present legal solutions to address land

rights, documentation recovery, citizenship, and family domestic issues directly impacting the socioeconomic factors of orphaned and vulnerable children (OVC). The revealed limitation within the constitution and act further solidifies the need for non-profit organizations, policy makers, and legislative lobbyists to place utmost emphasis in advocating further reformation. The call for rectification is pivotal in addressing these social challenges that deprive Kenya's citizens of rightful ownership of property, and civil liberty.

Conclusion

Though challenges and limited governmental support are prevalent, the issues at hand beg to question possible solutions for change. The purpose of my representation is an assessment of Panua's encountering issues and offer lobbying recommendations. The Kenyan's government impactive intervention and effecting additional constitutional reformation will beneficially assist Panua's challenging issues. There are some solutions Panua can implement on their own, as opposed to state regulated issues that will require the Kenyan government's support to pass reformed laws. Without the government's reformation aid, change will be static and the prevailing consequences will continue to affect the next generation of orphaned children and vulnerable children.

METHODOLOGY

Several visits to the UCF library's database resulted in examining the online research that supports the limitations orphans' experience in Kenya. During my research, the first documents I examined were the (recently) reformed Constitution of Kenya (2010): replacing the 1969 constitution, and Kenya Law of Succession Act (Chapter 160) (2008): replacing the 1985 act. They present no provisions on an orphan's recourse of reclaiming rightful ownership of illegally seized land, and recovery of misplaced national documents, such as, birth certificate and national identification. These findings impede the legal recourse for Panua supporting any orphan's cause of action. The revealed limitation within the constitution further solidifies the need for non-profit organizations, policy makers, and legislative lobbyists to place utmost emphasis in advocating further reformation. The call for rectification is pivotal in addressing these social challenges that deprive Kenya's citizens of rightful ownership of property.

A series of interviews have been conducted with varying stakeholders for the purpose to not only gain primary data but also collate empirical data directly from the affected source. With the University of Central Florida IRB Department's guidelines, I arranged a conference with approximately two of Panua's combined past and present orphans and vulnerable children (OVC) over the age of eighteen years old. I have conduct questioner interviews with three target audiences: Panua's orphan and vulnerable children. This contact assisted in seeking direct data to ascertain unequivocal background of their challenges. I further interviewed Panua's stakeholders, Ms. Jensie Gobel, First United Methodist Church of Winter Park, Orlando, United States of America, Reverend Paul Matheri, Dean of Superintends, Trinity United Methodist Church in Naivasha, Kenya, Africa, and Ms. Florence Muthoni, Social Worker at Panua Partners in Hope,

Naivasha, Kenya.

I directed my attention to governmental agencies and/or policy makers in an effort to garner information with regards to any impending reformation of existing Kenyan acts and laws: which are pivotal foundational resources for this delicate ecological issue.

Another methodology assisting the research was the process of observation and imageries. The objective was to enquire about any forms of documented audio or video tapes, and images Panua had in their archive. I enlisted permission from the appropriate authorities to view the materials and confidentially utilized and cited where necessary. This supporting information assisted in outlining the challenges Panua experience on a daily basis. Panua did not have much of these materials available; consequently, I pursued alternative sources by obtaining such materials that showcased similar issues within Kenya.

Lastly, I experienced some research constraints during this process. Firstly, my inability to have travelled to Kenya and investigate Panua's issue first hand and secondly, the vast amount of information was extremely broad, repetitive, limited in information and/or limited in recent studies outlining Kenya's progress in tackling their economic and social plight

CONCLUSION AND RECOMMENDATIONS

Though challenges and limited governmental support seems prevalently far-reaching, the issues at hand beg to question possible solutions for change. The purpose this assessment was to review the issues Panua Partners in Hope have been encountering and offer lobbying recommendations; this impactful intervention will beneficially assist Panua's challenging needs. There are some solutions Panua can implement on their own, as opposed to state regulated issues that will require the Kenyan government's support to pass reformed laws. Without the government's reformation aid, change will be static and the prevailing consequences will continue to be a generational effect for orphaned and vulnerable children (OVC).

During my meeting with P. Matheri in May 2012, it left several questions that required immediate responses:

- What are the potential legal solutions that can assist the orphaned children and vulnerable children (OVC) in reclaiming their right to be citizens, their land rights and becoming self-reliant individuals?
- Are there any recourse, such as, common law or Kenya statute, that offer precedence on all or a particular issue that Panua faces?
- Does Panua have an ongoing assistance program for orphans who have reached the release age?
- Does Panua have any 'best practices' implemented?
- Has Panua partnered with national or global entities, such as, United Nations, UNICEF?

These questions were the spring board in researching this paper. What was discovered, the challenges Panua Partners in Hope face are not exclusive to the entity of even Naivasha. It is a nationalized issue as well as a global one. It will be ideal that Panua align their network sources to include, and forge ongoing relationships with allies of other social services agencies, both private and government. Armed together will create a strong network of non-profit organization who collates all reoccurring issues, collectively compile petitions, and address these issues directly with local government and international agencies.

Land dispossession featured prominently within Naivasha and its surrounding communities is continuous and disputes are evidently resolved through ‘unofficial’ traditional and grassroots tribunals created amongst members and chiefs of the community. Notably, the orphans and vulnerable children (OVC) and community at large, lack awareness of Kenyan laws reformation, since its 2010 submission. Utilize both laws –The Constitution of Kenya (2010) and the Kenya Law of Succession Act (2008) during legal discussions with the sponsored beneficiary. Repetition of the information is key, and this best practice should be encouraged with the network of social services agencies. With constant reports to the government advocating further reforms to safeguard against land grabbing of orphans home by non-owners, at some venture would recognize inadequate judicial capacity covering this important issue.

At present reformed policies though in place, rural communities have limited resources at their disposal, which is further depleted by the injustices orphans encounter. While Land dispossession is deterred by the Kenyan constitution, and judicial-action, realistically, for many orphans, the only form of defense they may have against land grabbing will be a national reformation within the embedded norms of acceptable behavior governing the pastoral enclaves.

The Government and international agencies should focus intently on nationalized education campaigns on shaping these customs to acceptably utilize the nation's primary laws and the importance of how their unmerited actions affect the productivity, developmental systems and social changes as a whole.

¹ United Nations. (2004). *Universal Declaration of Human Rights. Declaration of the Rights of the Child, Adopted by UN General Assembly Resolution 1386 (XIV) of 10 December 1959*. Retrieved February 18, 2014 from <http://www.un.org/cyberschoolbus/humanrights/resources/child.asp>.

² Kenya Open Data Survey (2014). 2009 Census Vol 1 Table 3 Rural and Urban Population. 2009 Census data on male and female populations by core-urban, peri-urban and rural locations. *Kenya Open Data*. January 22, 2014 from <https://www.opendata.go.ke/Population/2009-Census-Vol-1-Table-3-Rural-and-Urban-Population/e7c7-w67t/1>.

³ Map of Kenya adapted from information contributed by Panua Partners in Hope. Retrieved March 26, 2014 from power point presentation prepared by Reverend Paul Matheri.

⁴ Panua. (n.d.). *Quote adopted from information found on Panua Partners in Hope's web site*. Retrieved April 14, 2013 from www.panua.org.

⁵ Map of Naivasha outlining Panua Partners in Hope's Six Working Groups adopted from information contributed by Panua Partners in Hope. Retrieved March 26, 2014 from power point presentation prepared by Reverend Paul Matheri.

⁶ Panua Partners in Hope program model adopted from information found on Panua Partners in Hope's web site. Retrieved April 14, 2013 from www.panua.org.

⁷ Panua. (n.d.). *Information adopted from Panua Partners in Hope's web site*. Retrieved April 14, 2013 from www.panua.org.

⁸ Panua, *supra* note 4.

⁹ Panua Community Group members, being trained in cultivating a multi-storey garden in the first stage and John Ngugi's multi-storey garden contributed by Ms. Jensi Gobel, Global Missions Coordinator First Methodist Church of Winter Park, Orlando, USA. Retrieved March 27, 2014.

¹⁰ Panua, *supra* note 4.

¹¹ Panua. (n.d.). *Panua Partners in Hope Education and Vocational Training adopted from Panua Partners in Hope's web site*. Retrieved March 26, 2014 from <http://panua.org/program/>.

¹² Republic of Kenya National School Health Strategy Implementation Plan 2011-2015. Ministry of Health and Sanitation and Ministry of Education, p. 59. Retrieved February 4, 2014 from <http://washinschoolsmapping.com/projects/pdf/KenyaNationalSchoolHealthStrategy.pdf>.

¹³ United Nations Human Rights. (n.d.). *Common Core Document Forming Part of the Reports of States Parties: International Human Rights Instruments: Kenya. Second periodic report of Kenya on the implementation of the Convention on the Rights of the Child*. UN Office of the High Commissioner of Human Rights, 2013, p. 5. Retrieved January 14, 2014 from http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=HRI%2fCORE%2fKEN%2f2011&Lang=en.

¹⁴ "Convention on the Rights of the Child. Committee of Human Rights of the Child, forty-fourth session. Second periodic report of Kenya on the implementation of the Convention on the Rights of the Child," by United Nation Office of the High Commissioner of Human Rights, 2010, pp. 2-3. Retrieved February 25, 2014 from http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FSR.1202&Lang=en.

¹⁵ Panua. (n.d.). *Panua Community Group member Stephen 23-year old electrical engineering candidate, excerpt and picture adopted from Panua Partners in Hope's web site*. Retrieved March 27, 2014 from <http://panua.org/our-story/stephens-story/>.

¹⁶ Panua. (n.d.). *Panua Community Group member Hellen received vocational training in hair dressing, excerpt and picture adopted from Panua Partners in Hope's web site*. Retrieved March 27, 2014 from <http://panua.org/our-story/stephens-story/>.

¹⁷ Panua. (n.d.). *Panua Community Group member John gained assistance in starting a small business selling rabbits and water vending excerpt and picture adopted from Panua Partners in Hope's web site*. Retrieved March 27, 2014 from <http://panua.org/our-story/stephens-story/>.

¹⁸ Panua, *supra* note 7.

¹⁹ UN Convention on the Rights of the Child, *supra* note 13, at p. 2.

²⁰ "Property Grabbing and Africa's Orphaned Generation: A Legal Analysis of the Implications of the HIV/AIDS Pandemic for Inheritance by Orphaned Children in Uganda, Kenya, Zambia and Malawi," by D. McPherson, 2006,

HIV/AIDS in Africa Project Paper, p. 8. Retrieved March 3, 2013 from the web www.law.utoronto.ca/documents/ihrp/HIV_mcperson.

²¹ Human Rights Watch (2014). *In The Shadow Of Death: HIV/AIDS and Children's Rights in Kenya*. New York: Human Rights Watch, 2001, pp. 17-21. Retrieved February 12, 2014 from www.hrw.org.

²² Human Rights Watch, *supra* note 21, at p. 18.

²³ Human Rights Watch, *supra* note 21, at p. 19.

²⁴ Human Rights Watch, *supra* note 21, at pp. 19, 20.

²⁵ Panua. (n.d.). *Panua Partners in Hope 2012 Award from the Naivasha District Development Office adopted from Panua Partners in Hope's web site*. Retrieved March 26, 2014 from <http://panua.org/our-story/>.

²⁶ "Building orphan competent communities: experiences from a community-based capital cash transfer initiative in Kenya," by M. Skovdal, W. Mwasiagi, A. Webale and A. Tomkins, 2011, *Health Policy and Planning*, 26(3), p. 234. Retrieved February 3, 2013 from University of Central Florida online Library web site, *Business Source Premier*. doi: 10.1093/heapol/czq039.

²⁷ "Changing patterns of orphan care due to the HIV epidemic in western Kenya," by E. O. Nyambedha, S. Wandibba and J. Aagaard-Hansen, 2003, *Social Science & Medicine* (1982), 57(2), p. 301. Retrieved March 31, 2013 from University of Central Florida online Library web site. *MEDLINE*.

²⁸ Nyambedha et al., *supra* note 27, at p. 301.

²⁹ Panua. (n.d.). *Information adopted found on Panua Partners in Hope's web site*. Retrieved April 14, 2013 from www.panua.org.

³⁰ Nyambedha et al., *supra* note 27 at pp. 302, 306.

³¹ UN Common Core Document, *supra* note 13, at p. 7.

³² Central Intelligent Agency (n.d.). *The World Fact Book, Kenya (2014)*. Retrieved February 30, 2014 from <https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html>.

³³ CIA Population Pyramid for Kenya (2014 est.), table created from statistical information adapted from Central Intelligent Agency (n.d.). *The World Fact Book, Kenya (2014)*. Retrieved February 30, 2014 from <https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html>.

³⁴ CIA Population Pyramid for Kenya (2014 est.) information adapted from Central Intelligent Agency (n.d.). *The World Fact Book, Kenya (2014)*. Retrieved February 30, 2014 from <https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html>.

³⁵ Panua, *supra* note 4.

³⁶ "Traditional Cultural Practices and HIV: Reconciling Culture and Human Rights. Working Paper for the Third Meeting of the Technical Advisory Group of the Global Commission on HIV and the Law," by Maleche, A., and Day, E., 2011, p. 4. *Google Scholar*. Retrieved March 4, 2014 from http://scholar.google.com/scholar?hl=en&q=Traditional+Cultural+Practices+and+HIV%3A+Reconciling+Culture+and+Human+Rights.+Working+Paper+for+the+Third&btnG=&as_sdt=1%2C10&as_sdtp=.

³⁷ McPherson, *supra* note 20, at p. 6.

³⁸ McPherson, *supra* note 20, at p. 6.

³⁹ McPherson, *supra* note 20, at pp. 6, 7.

⁴⁰ Kenyaembassy. (n.d.). *Kenya Law Report, National Council for Law Reporting: Kenya Law of Succession Act (2008)*. Part V – Intestacy § 38, p.19. Retrieved November 2, 2012 from <http://www.kenyaembassy.com/>.

⁴¹ Kenyaembassy. (n.d.). *Embassy of the Republic of Kenya: The Constitution of Kenya (2010)*. Bill of Rights § 40 (3)(a), p. 29. Retrieved November 2, 2012 from <http://www.kenyaembassy.com/>.

⁴² Maleche and Day, *supra* note 36, at p. 2.

⁴³ Millennium Project (2006). *Millennium Development Goals (MDGs), 2000*. Retrieved March 5, 2014 from <http://www.unmillenniumproject.org/goals/>.

⁴⁴ United Nations (n.d.). *Millennium Development Goals (MDGs), 2000*. Retrieved March 5, 2014 from <http://www.un.org/millenniumgoals/bkgd.shtml>.

⁴⁵ Vision 2030 (2011). *Kenya Vision 2030*. Retrieved from <http://www.vision2030.go.ke/index.php/vision>.

⁴⁶ UN Convention on the Rights of the Child, *supra* note 14.

⁴⁷ UN Convention on the Rights of the Child, *supra* note 14.

⁴⁸ McPherson, *supra* note 20, at p. 8.

-
- ⁴⁹ Mars Group Kenya, Leadership, Governance, and Accountability (n.d.). *Judiciary of Kenya*. Retrieved January 6, 2014 from the web <http://judiciary.marsgroupkenya.org/>.
- ⁵⁰ Mars Group, *supra* note 49.
- ⁵¹ Judiciary Transformation Framework, 2012 – 2016, (2012). Laying the foundations for the transformation of the Kenyan Judiciary, p. 9. Retrieved November 22, 2013 from the web <http://www.judiciary.go.ke/portal/assets/downloads/reports/Judiciary%27s%20Tranformation%20Framework-fv.pdf>.
- ⁵² Emory Law. (n.d). *Republic of Kenya*. Retrieved November 20, 2013 from <http://www.law.emory.edu/ifl/legal/kenya.htm#text>.
- ⁵³ Kenyaembassy. (n.d.). *Embassy of the Republic of Kenya: The Constitution of Kenya (2010)*. Chapter Ten- Judiciary in § 159 (2)(a), p. 96. Retrieved November 2, 2012 from <http://www.kenyaembassy.com/>.
- ⁵⁴ The Constitution of Kenya (2010), *supra* note 53.
- ⁵⁵ “Land Reforms in Kenya: An Institution of Surveyors of Kenya (ISK) Initiative,” H. Njuguna and M. Baya, (n. d.), *International Conference FIG Working Week (2001)*, pp. 1 and 10. Retrieved January 13, 2014 from the web <https://www.fig.net/pub/proceedings/korea/full-papers/pdf/session7/njuguna-baya.pdf>.
- ⁵⁶ Njuguna and Baya, *supra* note 55, at p. 1.
- ⁵⁷ Njuguna and Baya, *supra* note 55, at p. 2.
- ⁵⁸ Kenyaembassy. (n.d.). *Embassy of the Republic of Kenya: The Constitution of Kenya (2010)*. Chapter Five - Land and Environment, Part 1 - § 62 (1)(c), p. 42. Retrieved November 2, 2012 from <http://www.kenyaembassy.com/>.
- ⁵⁹ The Constitution of Kenya (2010), *supra* note 57, at § 60 (1)(g), p. 42.
- ⁶⁰ Njuguna and Baya, *supra* note 55, at p. 10.
- ⁶¹ Njuguna and Baya, *supra* note 55, at p. 10.
- ⁶² Njuguna and Baya, *supra* note 55, at p. 10.
- ⁶³ “Kenya: Truth, Justice, Reconciliation, and... Land Tenure Reform?” by C. Higgins, 2009, *African Arguments*, para. 1. Retrieved January 23, 2014 from the web <http://africanarguments.org/author/chris-higgins/>.
- ⁶⁴ Higgins, *supra* note 63, at para. 2.
- ⁶⁵ Higgins, *supra* note 63, at para. 2.
- ⁶⁶ “The Effect of Registration of Title upon Customary Land Rights in Kenya,” in B. Fareda, C. Beyani, N. Enonchong, R. Murray, E. Onyema, S. Williams (Eds.), by S. Coldham, (1978), *Journal of African Law*, 22(2), p. 91. JSTOR. Cambridge, England: Cambridge University Press on behalf of the School of Oriental and African Studies. Print.
- ⁶⁷ “Nothing New Under the Sun or a New Battle Joined? The Political Economy of African Dispossession in the Current Global Land Rush,” by Wily, L. A., (2011), p. 2. In *International Conference on Global Land Grabbing*. Google Scholar. Retrieved February 1, 2013 from http://scholar.google.com/scholar?hl=en&q=Nothing+New+Under+the+Sun+or+a+New+Battle+Joined%3F&btnG=&as_sdt=1%2C10&as_sdtp=.
- ⁶⁸ Wily, *supra* note 67, at p. 2.
- ⁶⁹ Coldham, *supra* note 66, at p. 91.
- ⁷⁰ Coldham, *supra* note 66, at p. 91.
- ⁷¹ Coldham, *supra* note 66, at p. 91.
- ⁷² Coldham, *supra* note 66, at p. 91.
- ⁷³ Coldham, *supra* note 66, at p. 92.
- ⁷⁴ Borrás, J., Hughes, D., & Scoones, I. (2011, April 15). Small-scale farmers increasingly at risk from ‘global land grabbing’. *The Guardian*. co. uk: Poverty Matters Blog. Google Scholar. Retrieved from <http://www.theguardian.com/global-development/poverty-matters/2011/apr/15/risks-over-increasing-global-land-deals>.
- ⁷⁵ Borrás et al., *supra* note 74.
- ⁷⁶ Borrás et al., *supra* note 74, at para. 4.
- ⁷⁷ “Challenging the dominant assumptions about peasants’ responses to land grabbing: ‘Politics from below’ in Ukraine,” by Mamónova, N., (2012), p. 3. *International Conference on Global Land Grabbing II. The Land Deal Politics Initiative*. Google Scholar. Retrieved October 1, 2013 from www.iss.nl/ldpi.

⁷⁸ Mamonova, *supra* note 77.

⁷⁹ Mamonova, *supra* note 77, at p. 4.

⁸⁰ Mamonova, *supra* note 77, at p. 4.

⁸¹ Wily, *supra* note 67, at p. 2.

⁸² “Challenges and Opportunities in Inheritance Rights in Kenya,” by Cooper, E., (2011), *Chronic Poverty Research Centre Inheritance Series Policy Note*, p. 3. Retrieved March 31, 2014 from <https://www.google.com/search?q=Challenges+and+opportunities+in+inheritance+rights+in+Kenya+by+Elizabeth+Cooper&hl=en>.

⁸³ Kenyaembassy. (n.d.). *Embassy of the Republic of Kenya: The Constitution of Kenya (2010)*. Chapter Three-Citizenship in § 13 (2), p. 16. Retrieved November 2, 2012 from <http://www.kenyaembassy.com/>.

⁸⁴ The Constitution of Kenya (2010), *supra* note 83, at § 14 (4), p. 17.

⁸⁵ The Constitution of Kenya (2010), *supra* note 83, at § 17 (2)(b), p. 18.

⁸⁶ The Constitution of Kenya (2010), *supra* note 83, at § 17 (2)(c), p. 18.

⁸⁷ The Constitution of Kenya (2010), *supra* note 83, at § 14 (5), p. 17.

⁸⁸ The Constitution of Kenya (2010), *supra* note 83, at § 15 (1), p. 17.

⁸⁹ The Constitution of Kenya (2010), *supra* note 83, at § 14 (1), p. 17

⁹⁰ The Constitution of Kenya (2010), *supra* note 83, at § 16, p. 18.

⁹¹ The Constitution of Kenya (2010), *supra* note 83, at § 15 (2), p. 17.

⁹² The Constitution of Kenya (2010), *supra* note 83, at § 15 (3), p. 17.

⁹³ The Constitution of Kenya (2010), *supra* note 83, at § 18 (a) to (g), pp. 18, 19.

⁹⁴ The Constitution of Kenya (2010), *supra* note 83, at § 12 (1) (b), p. 16.

⁹⁵ Kenya Law of Succession Act (2008), *supra* note 40, at § 38, p.19.

⁹⁶ McPherson, *supra* note 20, at 8.

APPENDIX A: PANUA PARTNERS IN HOPE COPYRIGHT LETTER

**Panua Partners in Hope Signed Copyright Letter
contributed by Faith Methodist Church of Winter Park,
Florida, Orlando, United States of America**

April 1, 2014

Ms. Jense Gobel
First Methodist Church
Winter Park
125 N Interlachen Avenue
Winter Park, FL 32789

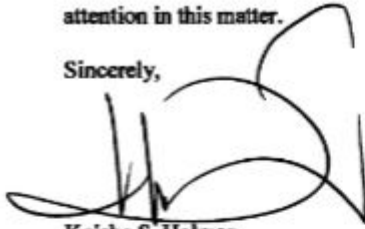
Dear Ms. Gobel:

This letter serves as a follow up to email sent. I am completing my Honors in the Major thesis at the University of Central Florida entitled "Panua Partners in Hope, Naivasha, Kenya: Legal and Domestic Relations Challenges." I would like your permission to reprint in my thesis/dissertation excerpts and use of photographic images from the following sources:

- Use of information all or part thereof on Panua Partners in Hope website,
<http://panua.org/>.
- Photographic images all or part thereof from dropbox files emailed on
- All excerpts and photographic images to be reproduced (once required).
- The requested permission extends to any future revisions and editions of my
thesis/dissertation, including non-exclusive world rights in all languages. These rights
will in no way restrict republication of the material in any other form by you or by others
authorized by you. Your signing of this letter will also confirm that you own or your
company owns the copyright to the above-described materials.

I will collect signed document at First Methodist Church, Winter Park. Thank you for your attention in this matter.

Sincerely,



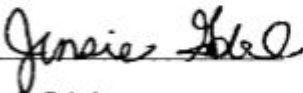
Keisha S. Holman

Undergraduate Student

University of Central Florida

(c) 321-662-2521

PERMISSION GRANTED FOR THE USE REQUESTED ABOVE:

By: 

Ms. Jense Gobel

First Methodist Winter Park, Orlando

c/o Panua Partners in Hope, Naivasha, Kenya

Date: 4/7/11

APPENDIX B: IMAGERIES USED SHOWCASING MAP OF KENYA AND NAIVASHA

**Imagery used to showcase Map of Kenya
contributed by Panua Partners in Hope**

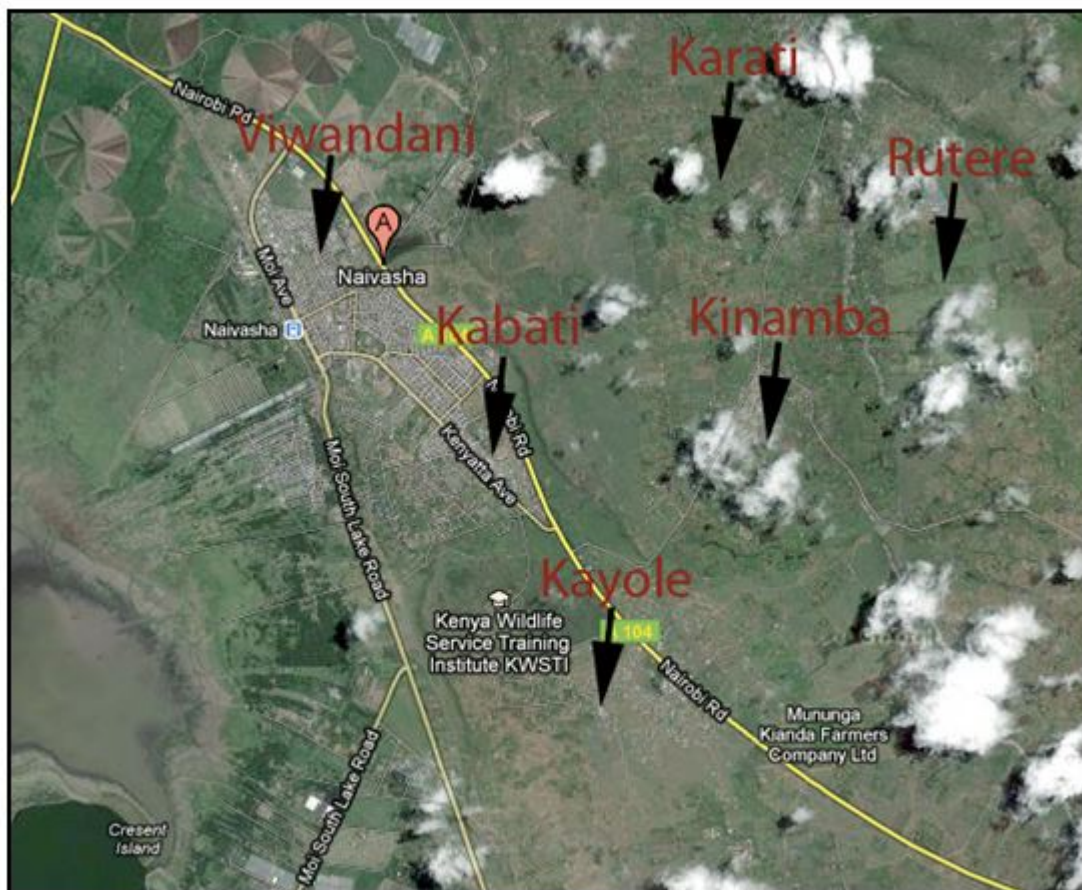
Figure 1: Map of Kenya



Map of Kenya

**Imagery used to showcase Map of Naivasha
contributed by Panua Partners in Hope**

Figure 2: Map of Naivasha outlining Panua Partners in Hope's Six Working Groups

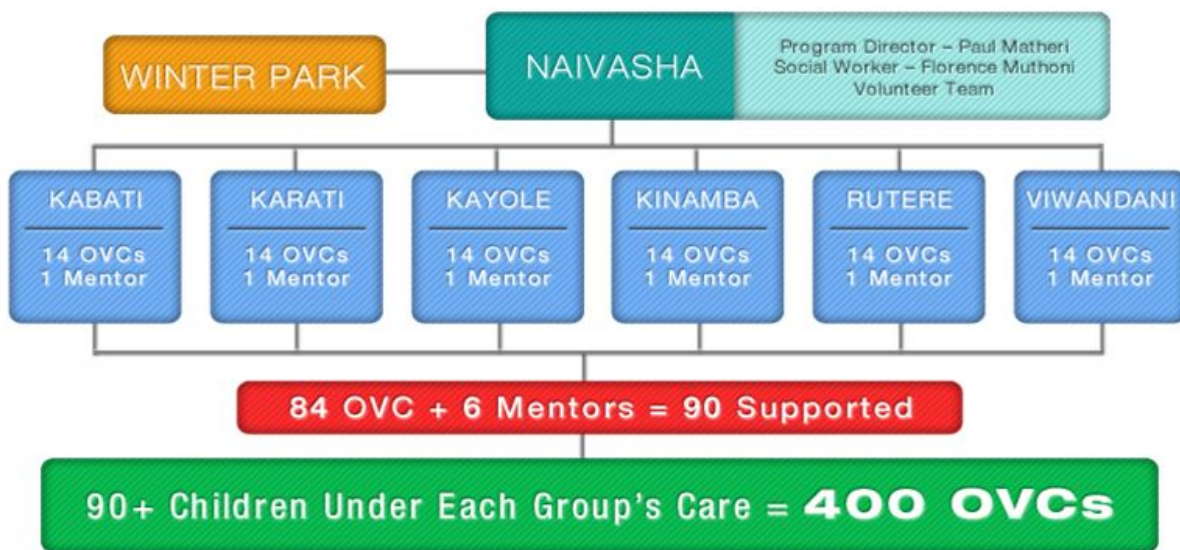


Map of Naivasha of Panua Partners in Hope's Six Working Groups

APPENDIX C: IMAGERY SHOWCASING PANUA PARTNERS IN HOPE PROGRAM STRUCTURE

**Imagery used to showcase Panua Partners
In Hope Program Organizational Model
contributed by Panua Partners in Hope**

Figure 3: Panua Partners in Hope program organizational model outlining the communities and assigned Panua Community Groups



Panua Partners in Hope Program Organizational Model

**APPENDIX D: IMAGERIES SHOWCASING PANUA PARTNERS IN
HOPE PROGRAM PARTICIPANTS**

**Imageries used to showcase Panua Partners
In Hope Program Participants
contributed by Panua Partners in Hope**

Figure 4: Panua Community Groups (L picture) being trained in cultivating a multi-storey garden in the first stage and (R picture) John Ngugi's multi-storey garden.



Panua Community Groups Multi-Story Garden

**Imagery used to showcase Panua Partners
In Hope Program Participant
contributed by Panua Partners in Hope**

Figure 5: Panua Community Group member Stephen received vocational training in electrical installation.



**Panua Community Group Member Stephen
23-year old electrical engineering candidate**

**Imagery used to showcase Panua Partners
In Hope Program Participant
contributed by Panua Partners in Hope**

Figure 6: Panua Community Group member Hellen received vocational training in hair dressing.



**Panua Community Group Member Hellen
Mother and Hairdresser**

**Imagery used to showcase Panua Partners
In Hope Program Participant
contributed by Panua Partners in Hope**

Figure 7: Panua Community Group member John gained assistance in starting a small business selling rabbits and water vending. He is also contracted to paint business signs.



**Panua Community Group Member John
Entrepreneur and Artist**

**APPENDIX E: INTERVIEW QUESTIONS AND RESPONSES FOR PANUA
PARTNERS IN HOPE EXECUTIVES AND OVC**

**Interview Questions and Responses (page 1) for Panua Partners in Hope Executive
`Reverend Paul Matheri, Dean of Superintendents of the
United Methodist Church, Naivasha, Kenya**

INTERVIEW QUESTIONS FOR PANUA EXECUTIVE

NAME: Paul Matheri _____ DATE: February 24, 2014 _____

POSITION: Program Director _____

TENURE (at Panua): Over 3 year _____

AGE: 50 year _____ (for the purpose of University of Central Florida release purposes)

Interview Questions Panua's legal issues: Please elaborate your responses in about two to three sentences.

1) Does Panua have any 'best practices' implemented?

Panua involves the community leaders' opinions in its implementation of its program.

- i) Please describe how an orphan and vulnerable child (OVC) becomes part of the Panua community.

Orphans and vulnerable children are identified by the community leaders. They are recommended to PANUA board and we (PANUA) do home visits to verify the authenticity. This is done through Florence, the social worker.

- ii) What are the procedures in place to initially assess a 'new' orphan and vulnerable child (OVC) – (when they arrive at Panua's registration facility)?

We follow the background of the child as it is narrated by the child as well as from the community leaders. The Social Worker does the needs assessment by following the child's dreams.

**Interview Questions and Responses (page 2) for Panua Partners in Hope Executive:
 `Reverend Paul Matheri, Dean of Superintendents of the
 United Methodist Church, Naivasha, Kenya**

i) With regards to the information of Panua's website, are there any additions to Panua's Program Model:

- Food and Housing Security
- Spiritual Development
- Education and Vocational Training
- Entrepreneurship
- Health Care
- Legal Support (please elaborate: is there an attorney and/or government agency/ international entity assisting with legal issues).

We have categorised thematic areas into four major areas:

- 1) Beneficiary, Organisation & Leaders Development.*
- 2) Economy & Savings (Vocational training and Entrepreneurship).*
- 3) Spiritual nurture and psychological Development.*
- 4) Child's right and special support (which covers Food, Housing, Education, Healthcare and Legal support).*

ii) Does Panua have an on-going assistance program for orphans who have reached the release age?

We have a follow up program which is not included in our current budget. We are in touch and engage them as mentors whenever we can. They are not direct beneficiaries any longer.

2) Describe the current legal challenges Panua (still) faces pertaining to an OVC: especially issues such as, proof of citizenship status, national identity, and property ownership (legally owning family assets – land grabbing)?

**Interview Questions and Responses (page 3) for Panua Partners in Hope Executive:
`Reverend Paul Matheri, Dean of Superintendents of the
United Methodist Church, Naivasha, Kenya**

*Legal proceedings in Kenya are very expensive in terms of finance and manpower.
Corruption level where property is involved hinders a big part of justice for the OVC.
Getting legal documents is a nightmare for any OVC including all of the above. There
is no will written by Almost all of the deceased have no prior documentation (WILL)
before death*

- i) What procedures (if any) are in place to (guide) assist in resolving these issues?

*All matters regarding inheritance are to be reported using legal proceedings.
This will require all legal documents of the deceased which include National
Identity Card, Death Certificate, burial permit, Will from the deceased etc. One
needs to prove that they are beneficiaries of the deceased estate.*

- ii) How does Panua handle undocumented OVCs?

- *We follow up issues using the local chiefs who have power to summon the
subjects in his/her location.*
- *We usually end up with a gentleman's agreement leaving most of that to the
mercy of the chiefs and the relatives.*

- iii) What are the major factors that cause OVC loss of parents (crime, disease, natural
causes, abandonment, etc.)?

*Major factors are death from diseases e.g AIDS, Cancer, Tribal clashes and
Abandonment (Neglect)*

- 3) Are there any 'Tribal Court System' that governs the rural villages in Kenya?

*Only unregistered cultural/tribal courts which will disregard the child's rights and
compromise after elders' get paid a few goats and local brew.*

**Interview Questions and Responses (page 4) for Panua Partners in Hope Executive:
 Reverend Paul Matheri, Dean of Superintendents of the
 United Methodist Church, Naivasha, Kenya**

- i) If so, are there more than one and what are they called?

Each village may have a kangaroo court which may work in cohort with the area chief but without any records or documents.

- 4) Has Panua partnered with a regional or an International program (non-profit, government, entities), such as, Kenyan government agencies, United Nations, UNICEF to assist with their legal issues?

- *We network with Local Government Advisory Council to offer cases that we feel can be assisted. Nothing is ever guaranteed.*
- *We also network with the Local Chiefs, Children's Office and Children's Law Court.*

- 5) What are Panua's achievements that you are most proud of?

- *50% of the children in our 1st cycle of 90 families have sustainable activities for income.*
- *They are however still below the international standards.*
- *We have empowered many OVC with the understanding of their legal rights.*
- *Recovery of self-worth amongst the children.*
- *Integration of families and their communities.*

- 6) Additional comments: please discuss any other legal and social issues that affect Panua's program and undocumented OVCs.

i) PANUA is still a very young program that has undertaken to address the wholistic life of the vulnerable community. PANUA is however not able to mobilise enough resources to address the fate of 2.5 million orphans in Kenya in which 25,000 are in Naivasha

**Interview Questions and Responses (page 5) for Panua Partners in Hope Executive:
`Reverend Paul Matheri, Dean of Superintendents of the
United Methodist Church, Naivasha, Kenya**

ii) Many OVC's do not have valid information that can lead to recovery of their property. There is a poor system or no strong policies in this government system to address the challenge

iii) Panua lacks personnel to address and follow-up legal issues-it is expensive for PANUA to follow up legal issues.

iv) We already have a case in hand where a Panua child is about to lose a piece of land to a grabber

**Interview Questions and Responses (page 1) for Panua Partners in Hope OVC assisted
`Mr. Alex Opatia Wesonga, former member of the Kabati Wema Working Group
Panua Partners in Hope, Naivasha, Kenya**

**INTERVIEW QUESTIONS FOR PANUA ORPHAN AND VULNERABLE
CHILDREN (OVC) ASSISTED**

NAME: Alex Opatia Wesonga DATE: March 1, 2014

POSITION: A member of Kabati Wema Working Group

DATE ENTERED (Panua program): September 1, 2010

AGE: 24 years old (for the purpose of University of Central Florida release purposes)

Interview Questions Panua's OVC assisted: Please elaborate your responses in about two to three sentences.

1) Are you employed own a business or a student?

I am doing music as an artist as my business (Composing and singing)

i) Subject to your response, how has Panua assisted you in this venture?

- *Panua assisted me continue and complete my high school education through payment of school fees and provision of school uniforms that gave me the courage and knowledge to venture into my business.*
- *Panua supported me with seed capital that facilitated and enhanced my music production.*
- *Panua provided trainings and follow-up on business that sharpened my business skills.*
- *Panua assisted me and other group members to access youth fund from the Government that provided funds for my business improvement.*

**Interview Questions and Responses (page 2) for Panua Partners in Hope OVC assisted
`Mr. Alex Opatia Wesonga, former member of the Kabati Wema Working Group
Panua Partners in Hope, Naivasha, Kenya**

2) Please respond which is relevant to you

i) What type of work do you do?

N/A

ii) What type of business do you own?

Composing music and selling my Cds/Album after production.

3) As a student, what is your level of education: high school, tertiary (college, university, technical)?

High school of C+ grade

4) How has Panua assisted you since entering the program?

i) Please describe what you learned and the support received from Panua's Program Model (which ones (if not all) did you benefit from):

a) Food and Housing Security:

When I joined Panua, I was living in the streets and sometimes with good Samaritans. Panua enrolled me into the program and paid for my rent until I completed high school and through my group members, ensured that I had food to eat.

b) Spiritual Development:

Panua always encouraged us to lead devotions and lead us into spiritual development and matters.

**Interview Questions and Responses (page 3) for Panua Partners in Hope OVC assisted
`Mr. Alex Opatia Wesonga, former member of the Kabati Wema Working Group
Panua Partners in Hope, Naivasha, Kenya**

b) Education and Vocational Training:

Panua paid my school and provided school uniforms that enabled me complete my education.

c) Entrepreneurship:

- Panua supported me with Income generating activity seed capital/funds to start my music production.*
- Panua provided me with training in entrepreneurship that provided me with knowledge on how to start and run my business.*

d) Health Care:

- I was provided with trainings on health and hygiene.*
- Panua provided blankets to me.*
- Through Panua I received medical treated from medical team that had come from Florida.*
- Through Panua program, I received trainings on HIV/AIDS for awareness and preventive measures, counselling and testing to know my status.*

e) Legal Support (please elaborate: is there an attorney and/or government agency/ international entity assisting with legal issues).

Through Panua, I received training on the rights of a child, the legal services, policy and framework in place where to go for help when need be. In Kenya we have the local elders as the community institutions that addresses the issues at the community level before you get to the Government. If the case goes beyond their level, we have the government authorities who are the local administration,

**Interview Questions and Responses (page 4) for Panua Partners in Hope OVC assisted
`Mr. Alex Opatia Wesonga, former member of the Kabati Wema Working Group
Panua Partners in Hope, Naivasha, Kenya**

children department, civil society and the government agencies who assist in legal issues/matters.

- i) Are you still involved in Panua's program (gaining assistance and/or a member of the Panua team)?

I am no longer involved in any Panua activities but still continue with the legacy Panua left behind in our working group which is still strong and still has the links that Panua created.

- 5) Did you experience and legal challenges that Panuas (or has) assisted you with: such as, proof of citizenship status/national identity(not owning a birth certificate), and property ownership (legally owning family assets – land grabbing)?

Yes, Panua assisted me acquire a birth certificate that was a great challenge to me since I could not register for examinations in high school without one.

- 6) At what age did you enter Panua's program?

I was 20 years old

- i) What was the cause of you entering the program?

I had been neglected by my mother after the death of my father and I was living in the streets. I was very vulnerable and i had difficult times because I had no one to pay my school fees or meet my basic needs. Therefore, in panua, I had hope to continue with my education, provision of other basic needs and join other group members as my brothers and sisters (Family).

- ii) How did your parent (s) pass away?

**Interview Questions and Responses (page 5) for Panua Partners in Hope OVC assisted
`Mr. Alex Opatia Wesonga, former member of the Kabati Wema Working Group
Panua Partners in Hope, Naivasha, Kenya**

ii) Many OVC's do not have valid information that can lead to recovery of their property. There is a poor system or no strong policies in this government system to address the challenge

iii) Panua lacks personnel to address and follow-up legal issues-it is expensive for PANUA to follow up legal issues.

iv) We already have a case in hand where a Panua child is about to lose a piece of land to a grabber

**Interview Questions and Responses (page 1) for First Methodist Church of Winter Park,
Orlando US Administrator Ms. Jensie Gobel, Global Missions Coordinator**

**INTERVIEW QUESTIONS FIRST METHODIST CHURCH
OF WINTER PARK, ORLANDO**

NAME: Jensie Gobel DATE: March 27, 2014

POSITION: U.S. Administrator – Panua Global Missions Coordinator - FUMCWP

TENURE (at Panua): 3 ½ years (from inception)

AGE: 44 (for the purpose of University of Central Florida release purposes)

Interview Questions First Methodist Church of Winter Park, Orlando's involvement in the Panua
Partners in Hope program: Please elaborate your responses in about two to three sentences.

- 1) In what way has First United Methodist Church assisted Panua since its inception?

We were the founding partner, along with Nairobi Methodist Churches. FUMCWP raised the funds to support the program (through sponsorships and fundraisers), created a web site, and also partnered with the Kenyan staff in program development and strategic planning.

- 2) How many annual missionary visits have First Methodist done?

*6 teams since the program began (including one medical).
3 longer term Summer Internships.*

- 3) What programs have first Methodist assisted Panua in implementing?

We have worked in partnership in all areas of the Panua program. Some specifics include: Creation of life skills training manuals, creation of a program measurement

**Interview Questions and Responses (page 2) for First Methodist Church of Winter Park,
Orlando US Administrator Ms. Jensie Gobel, Global Missions Coordinator**

survey, health and psychological support, emotional support through sponsorship letter writing, food security through multi-story gardens, entrepreneurship training materials.

- 4) With all the legal issues Panua faces, have First Methodist assisted in resolving the issues and what have been done?

We assisted through our funding of the legal rights line-item of the budget – to provide for assisting in legal rights where needed. This could be obtaining birth certificates or hiring a lawyer to help with land issues and cases of abuse.

- 5) Have there been any encounters with Kenyan local government, private entities, non-profit organization or global agencies – USAID, WHO, etc. seeking assistance with Panua's issues?

Yes, on a local (Kenya) level – such as the departments of agriculture, health services, child welfare. Local businesses have also given some support, including mentoring.

- 6) What are First Methodist achievements most proud of?

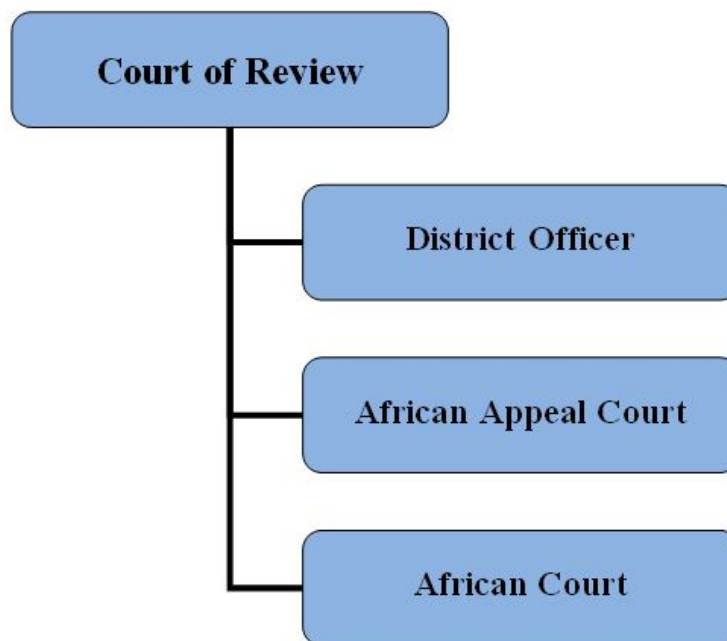
The graduation of the first Panua class (who finished the 3 year cycle in September 2013) proved that the program works. Youth that once led lives of desperation and grief now have productive lives of hope.

- 7) Additional comments: please discuss any other involvement / assistance First Methodist has offered Panua.

APPENDIX F: ORGANIZATIONAL CHARTS OF KENYA JUDICIAL SYSTEM

**Organizational Chart for Kenya Judicial Structure
created Keisha S. Holman**

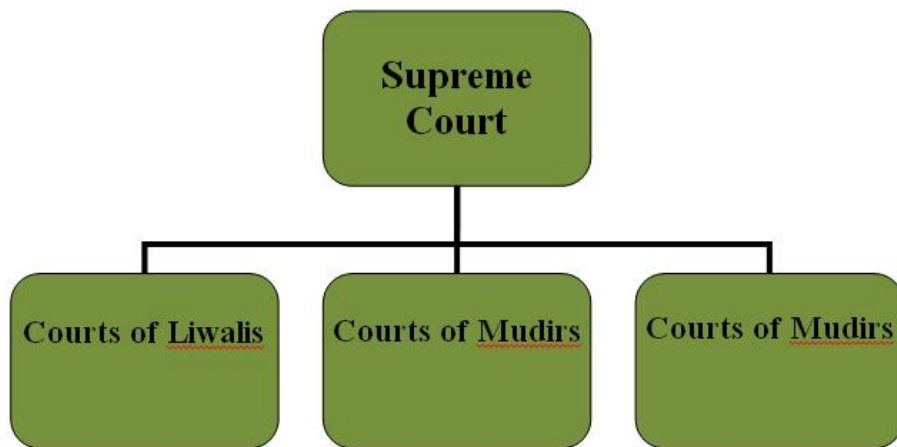
Figure 8: Kenya Judicial Structure prior 1962: The African Court System.



Kenya Judicial Structure prior 1962: The African Court System

**Organizational Chart for Kenya Judicial Structure
created Keisha S. Holman**

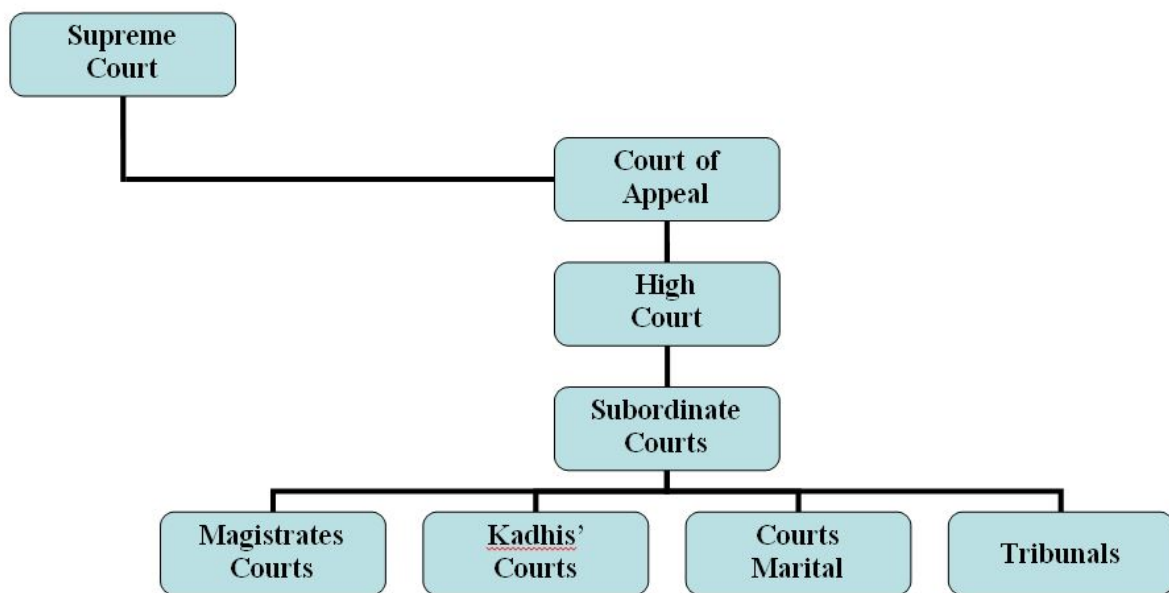
Figure 9: Kenya Judicial Structure prior 1962: The Muslim Court System



Kenya Judicial Structure prior 1962: The Muslim Court System

Organizational Chart for Kenya Judicial Structure
created Keisha S. Holman

Figure 10: Kenya Current Judicial System



Kenya Current Judicial System

APPENDIX G: CHART AND DATA FROM “KENYA AGE GROUPING”

Table used to showcase Kenya's Population Age Grouping
created by Keisha S. Holman
(adopted from Central Intelligence Agency website)

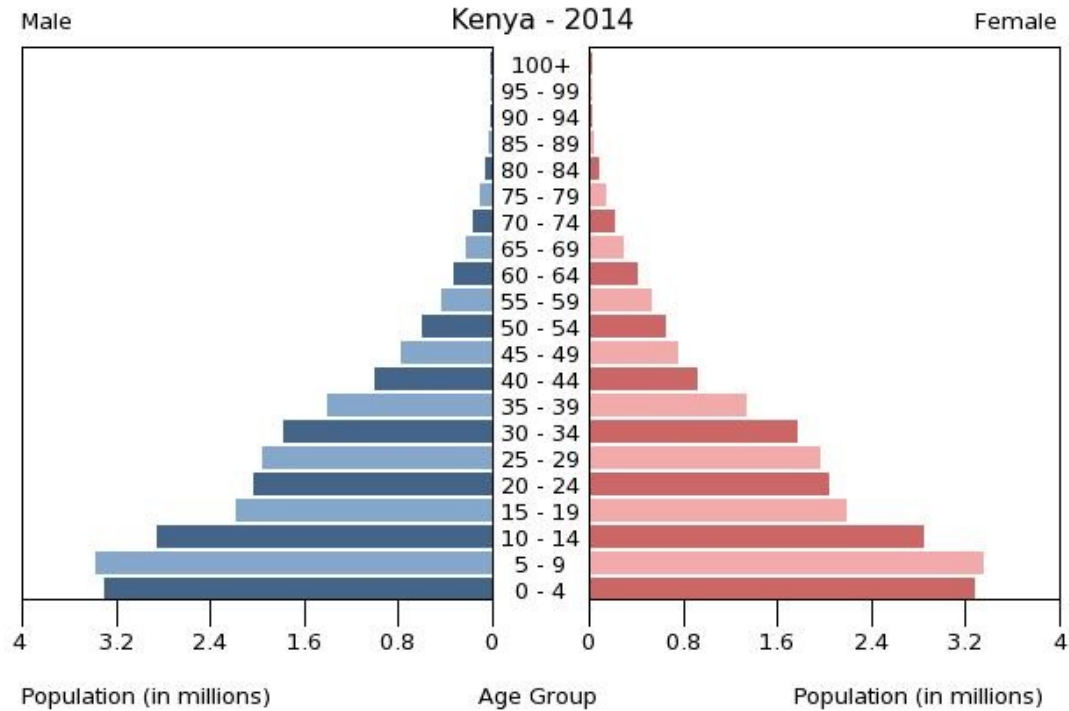
Figure 8: CIA Age Structure in Kenya (2014 est.)

Age Group	Population %	Male	Female
0-14 years	42.1	9,494,983	9,435,795
15-24 years	18.7	4,197,382	4,202,399
25-54 years	32.8	7,458,665	7,302,534
55-64 years	2.8	751,296	910,523
65 years and over	2.7	548,431	708,048

Figure 8: CIA Age Structure in Kenya (2014 est.)

**Chart used to showcase Kenya's Population Age Grouping
adopted from Central Intelligent Agency website**

Figure 9: CIA Population Pyramid of Kenya (2014 est.)



**APPENDIX H: TABLE USED TO ASSESS LAND DISPOSSESSION
DETAILS**

Table Used to Assess Land Dispossession Details
created Keisha S. Holman

Figure 13: Percentage breakdown of Kenya's approximated 582, 646 km² area (1999)

Description	Percentage (%) Statistics
Land area may be classified as arid and semi-arid (very low agricultural potential)	80% land
80% of population settlement on land (considered medium to high agricultural potential)	20% population
Land under customary ownership and utilization	70% land
Land categorized as government land/reserves	10% land
Privatized land under statute	20% land

Percentage Breakdown of Kenya's Approximated 582, 646 km² Area (1999)

REFERENCES

- Borras, J., Hughes, D., & Scoones, I. (2011, April 15). Small-scale farmers increasingly at risk from 'global land grabbing'. *The Guardian. co. uk: Poverty Matters Blog. Google Scholar*. Retrieved from <http://www.theguardian.com/global-development/poverty-matters/2011/apr/15/risks-over-increasing-global-land-deals>.
- Central Intelligent Agency. (n.d.). *The World Fact Book, Kenya (2014)*. Retrieved from <https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html>
- Coldham, S. (1978). The Effect of Registration of Title upon Customary Land Rights in Kenya. In B. Fareda, C. Beyani, N. Enonchong, R. Murray, E. Onyema, S. Williams (Eds.) *Journal of African Law* 22(2), 91-111. *JSTOR*. Cambridge, England: Cambridge University Press on behalf of the School of Oriental and African Studies. Print.
- Cooper, E. (2011). Challenges and Opportunities in Inheritance Rights in Kenya. *Chronic Poverty Research Centre Inheritance Series Policy Note*, 1-8. Retrieved from <https://www.google.com/search?q=Challenges+and+opportunities+in+inheritance+rights+in+Kenya+by+Elizabeth+Cooper&hl=en>
- Emory Law. (n.d). *Republic of Kenya*. Retrieved from <http://www.law.emory.edu/ifl/legal/kenya.htm#text>
- Florida Conference Connection. (n.d). *Florida Conference of The United Methodist Church: A world changing mission starts in a sandwich shop*, 2011. Retrieved from <http://floridaconferenceconnection.info/newsarchives/detail/4389>.
- Higgins, C. (2009). Kenya: Truth, Justice, Reconciliation, and... Land Tenure Reform? African Arguments. *Google Search*. Retrieved from <http://africanarguments.org/author/chris-higgins/>.
- Human Rights Watch. (2014). *In The Shadow of Death: HIV/AIDS and Children's Rights in Kenya*. New York: Human Rights Watch, 2001, 13(4) (A), 2-35. Retrieved from www.hrw.org.
- Judiciary Transformation Framework, 2012 – 2016. (2012). *Laying the foundations for the transformation of the Kenyan Judiciary*. *Google Scholar*. Retrieved from <http://www.judiciary.go.ke/portal/assets/downloads/reports/Judiciary%27s%20Transformation%20Framework-fv.pdf>.
- Kenyaembassy. (n.d.). *Embassy of the Republic of Kenya: The Constitution of Kenya (2010)*. Retrieved from <http://www.kenyaembassy.com/>.

- Kenyaembassy. (n.d). *Kenya Law Report, National Council for Law Reporting: Kenya Law of Succession Act (2008)*, 7-214. Retrieved from <http://www.kenyaembassy.com/>.
- Kenya Open Data Survey. (2011). *2009 Census Vol 1 Table 3 Rural and Urban Population (2014). 2009 Census data on male and female populations by core-urban, peri-urban and rural locations. Kenya Open Data*. Retrieved from <https://www.opendata.go.ke/Population/2009-Census-Vol-1-Table-3-Rural-and-Urban-Population/e7c7-w67t/1>.
- Maleche, A., and Day, E. (2011), Traditional Cultural Practices and HIV: Reconciling Culture and Human Rights. Working Paper for the Third Meeting of the Technical Advisory Group of the Global Commission on HIV and the Law, 1-21. *Google Scholar*. Retrieved from http://scholar.google.com/scholar?hl=en&q=Traditional+Cultural+Practices+and+HIV%3A+Reconciling+Culture+and+Human+Rights.+Working+Paper+for+the+Third&btnG=&as_sdt=1%2C10&as_sctp=
- Mamonova, N. (2012). Challenging the dominant assumptions about peasants' responses to land grabbing: 'Politics from below' in Ukraine. *International Conference on Global Land Grabbing II. The Land Deal Politics Initiative. Google Scholar*, 1-29. Retrieved from www.iss.nl/ldpi.
- Mars Group Kenya, Leadership, Governance, and Accountability. (n.d.). *Judiciary of Kenya. Google Search*. Retrieved from <http://judiciary.marsgroupkenya.org/>.
- McPherson, D. (2006). Property Grabbing and Africa's Orphaned Generation: A Legal Analysis of the Implications of the HIV/AIDS Pandemic for Inheritance by Orphaned Children in Uganda, Kenya, Zambia and Malawi. *HIV/AIDS in Africa Project Paper, University of Toronto*, 1-35. *Google Scholar*. Retrieved from www.law.utoronto.ca/documents/ihrp/HIV_mcpherson.
- Millennium Project. (2006). *Millennium Development Goals (MDGs), 2000*. Retrieved March 5, 2014 from <http://www.unmillenniumproject.org/goals/>
- Njuguna, H., and Baya, M. (n. d.). Land Reforms in Kenya: An Institution of Surveyors of Kenya (ISK) Initiative. *International Conference FIG Working Week (2001). Google Search*, 1-11. Retrieved from <https://www.fig.net/pub/proceedings/korea/full-papers/pdf/session7/njuguna-baya.pdf>.
- Nyambedha, E. O., Wandibba, S., and Aagaard-Hansen, J. (2003). Changing patterns of orphan care due to the HIV epidemic in western Kenya. *Social Science & Medicine*, 57(2), 301–311. *MEDLINE*. Retrieved from University of Central Florida online library. Web.

- O'Brien, E., ILC and KLA (2011). "Irregular and illegal land acquisition by Kenya's elites: Trends, processes, and impacts of Kenya's land-grabbing phenomenon." *landcoalition.org*. International Land Coalition, Kenya, 2011, 13-63. Web. 30 Sept. 2013. Retrieved from <http://www.landcoalition.org/publications/irregular-and-illegal-land-acquisition-kenya%E2%80%99s-elites-trends-processes-and-impacts-keny>
- Panua. (n.d.). *How Panua Works*. Retrieved from <http://panua.org/>.
- Republic of Kenya National School Health Strategy Implementation Plan 2011-2015. *Ministry of Health and Sanitation and Ministry of Education*, 9-66. Retrieved from <http://washinschoolsmapping.com/projects/pdf/KenyaNationalSchoolHealthStrategy.pdf>
- Sihanya, B. (2012). Constitutional Implementation in Kenya, 2010-2015: Challenges and Prospects. *Intellectual Property, Constitutionalism & Education Law University of Nairobi Law School*, Revised 2011 and 2012, 11 – 58. *Google Scholar*. Retrieved from <http://library.fes.de/pdf-files/bueros/kenia/09857.pdf>
- Skovdal, M., Mwasiagi, W., Webale, A., & Tomkins, A. (2011). Building orphan competent communities: experiences from a community-based capital cash transfer initiative in Kenya. *Health Policy and Planning*, 26(3), 233–241. doi: 10.1093/heapol/czq039.
- UNAIDS (n.d.). *The Kenya AIDS epidemic Update 2011. National Aids Control Council (NACC) and National AIDS and STI Control Programme (NASCOP)*, 2012, 3-144. Retrieved from http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_KE_Narrative_Report.pdf.
- United Nations (n.d.). *Millennium Development Goals (MDGs)*, 2000. Retrieved from <http://www.un.org/millenniumgoals/bkgd.shtml>.
- United Nations. (2004). *Universal Declaration of Human Rights. Declaration of the Rights of the Child, Adopted by UN General Assembly Resolution 1386 (XIV) of 10 December 1959*. Retrieved from <http://www.un.org/cyberschoolbus/humanrights/resources/child.asp>
- United Nations Human Rights. (n.d.). *Convention on the Rights of the Child. Committee of Human Rights of the Child, forty-fourth session. Second periodic report of Kenya on the implementation of the Convention on the Rights of the Child. UN Office of the High Commissioner of Human Rights*, 2010, 2-10. Retrieved from http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%20FC%2FSR.1202&Lang=en

United Nations Human Rights. (n.d.). *Common Core Document Forming Part of the Reports of States Parties: International Human Rights Instruments: Kenya. Second periodic report of Kenya on the implementation of the Convention on the Rights of the Child*. UN Office of the High Commissioner of Human Rights, 2013, 4-41. Retrieved from http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=HRI%2fCORE%2fKEN%2f2011&Lang=en

Vision 2030 (2011). *Kenya Vision 2030*. Retrieved from <http://www.vision2030.go.ke/index.php/vision>

Wily, L. A. (2011). Nothing New Under the Sun or a New Battle Joined? The Political Economy of African Dispossession in the Current Global Land Rush. In *International Conference on Global Land Grabbing*, 2-25. *Google Scholar*. Retrieved from http://scholar.google.com/scholar?hl=en&q=Nothing+New+Under+the+Sun+or+a+New+Battle+Joined%3F&btnG=&as_sdt=1%2C10&as_sdtp=