REPUBLIC OF KENYA

Approved
MW
06/07/2021

THE SENATE

TWELFTH PARLIAMENT

THE REPORT OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

ON

THE PETITION CONCERNING THE RESETTLEMENT OF INTERNALLY DISPLACED PERSONS IN NYANDARUA COUNTY

PAPERS LAID	
DATE	07/07/2021.
TABLED BY	Chairman.
COMMITTEE	Land &
CLERK AT THE TABLE	

JUNE, 2021

(2) Rt. Hon Speaker
You may approve for tabling.
05/07/21

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List of Abbreviations/ Synonyms

CS	- Cabinet Secretary
EACC	- Ethics and Anti-Corruption Commission
IDP's	- Internally Displaced Persons
KFS	- Kenya Forest Service

PREFACE

Mr. Speaker sir,

The Standing Committee on Land, Environment and Natural Resources is established pursuant to standing order 218(3) of the Standing Orders of the Senate. As set out in the Second Schedule, the Committee is mandated to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resource management and development.

Committee Membership

The Committee comprises of the following Members.

1. Sen. Paul Mwangi Githiomi, MP — **Chairperson**
2. Sen. Philip Mpaayei, MP — **Vice-Chairperson**
3. Sen. George Khaniri, MGH, MP
4. Sen. Gideon Moi, CBS, MP
5. Sen. Njeru Ndwiga, EGH, MP
6. Sen. (Dr.) Lelegwe Ltumbesi, MP
7. Sen. Issa Juma Boy, MP
8. Sen. (Arch.) Sylvia Kasanga, MP
9. Sen. Johnes Mwaruma, MP

At the sitting of the Senate held on 21st July, 2020, Sen. Paul Mwangi Githiomi, MP, presented to the Senate a Petition concerning the resettlement of Internally Displaced Persons in Nyandarua County.

The salient issues raised in the said Petition are as follows-

Petition

1. **We are a group of IDPs by the name Mchanganyiko based in Olkalou, Nyandarua County**
   1.1 **THAT**, we were people of means before the post-election violence of 2007-2008.
   1.2 **THAT**, we lost our dignity, livelihoods, homes and properties
   1.3 **THAT**, we are currently wallowing in poverty and living in deplorable conditions.

2. **Despite the government having a resettlement program**
   2.1 **THAT** we understand that the government bought land to resettle Idp's.
   2.2 **THAT**, we were not considered for resettlement and compensation when other Idp groups were being resettled.
   2.3 **THAT**, we have continuously engaged the relevant authorities, but none has a lasting solution to our problems
3. **We are facing eviction from the park that we have currently camped**
   3.1 **THAT,** the Kenya Forest Service has issued us with an eviction notice to vacate the park voluntarily or face forceful eviction.
   3.2 **THAT**, in the event the evictions happen soon, we will be rendered homeless as we don't have anywhere else to go.
4. **THAT**, I/we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.

Therefore, the petitioners humbly pray that the Senate investigates this matter and –

i. Urgently prevails upon the concerned line ministries that are involved with this matter;
ii. To compel the relevant authorities to quickly look into their plight; and
iii. Find a place to resettle them so that they can have a place to call home thus find a closure;

Pursuant to standing order 232(1) and the Second Schedule to the Standing Orders of the Senate, the Petition was committed to the Standing Committee on Land, Environment and Natural Resources.

Pursuant to Articles 37 and 119(1) of the Constitution, section 5(2) the Petition to Parliament (Procedure) Act and standing order 232 of the Senate Standing Orders, the Committee is mandated to consider the Petition and respond to the Petitioner within the prescribed period.

To enable a judicious disposal of the Petition, the Committee resolved to conduct an inquiry on the issues raised in the Petition. In this regard, the Committee invited the Petitioner to a meeting of the Committee for the Petitioner to elaborate further on the issues raised in the Petition and to supply supporting evidence on the same.

The Committee proceeded to invite the Cabinet Secretary, Ministry Environment and Natural Resources for and online meeting on the matter since the subject falls within the mandate of the Ministry of Environment and Forestry where the IDPs are settled in.

ACKNOWLEDGEMENT

The Committee thanks the Offices of the Speaker of the Senate and the Clerk of the Senate for the support extended to the Committee in the execution of its mandate. The Committee extends its appreciation to the Petitioners, Stakeholders; the Cabinet Secretary, Ministry of Environment and Forestry, Mr. Keriako Tobiko, CBS, SC, for their submissions and contribution to the resolution of this matter.

Mr. Speaker Sir,

It is now my pleasant duty and privilege, on behalf of the Committee, to present the Report of the Standing Committee on Land, Environment and Natural Resources on the Petition concerning the resettlement of Internally Displaced Persons in Nyandarua County.

Signed: ..... **Date:** 12/06/2021

SEN. MWANGI GITHIOMI, M.P.
CHAIRPERSON, SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

CHAPTER I

INTRODUCTION

1. At the sitting of the Senate held on 21st July, 2020, Sen. Paul Mwangi Githiomi, MP, presented to the Senate a Petition concerning the resettlement of Internally Displaced Persons in Nyandarua County.
2. The salient issues raised in the Petition are as follows-

1. **We are a group of IDPs by the name Mchanganyiko based in Olkalou, Nyandarua County**

1.1 **THAT**, we were people of means before the post-election violence of 2007-2008.

1.2 **THAT**, we lost our dignity, livelihoods, homes and properties

1.3 **THAT**, we are currently wallowing in poverty and living in deplorable conditions.

2. **Despite the government having a resettlement program**

2.1 **THAT** we understand that the government bought land to resettle IDP's.

2.2 **THAT**, we were not considered for resettlement and compensation when other IDP groups were being resettled.

2.3 **THAT**, we have continuously engaged the relevant authorities, but none has a lasting solution to our problems

3. **We are facing eviction from the park that we have currently camped**

3.1 **THAT,** the Kenya Forest Service has issued us with an eviction notice to vacate the park voluntarily or face forceful eviction.

3.2 **THAT**, in the event the evictions happen soon, we will be rendered homeless as we don't have anywhere else to go.

4. **THAT**, I/we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.

Therefore, the petitioners humbly pray that the Senate investigates this matter and –

i. Urgently prevails upon the concerned line ministries that are involved with this matter;

ii. To compel the relevant authorities to quickly look into their plight; and

iii. Find a place to resettle them so that they can have a place to call home thus find a closure;

3. Pursuant to standing order 232(1) of the Standing Orders of the Senate, the Petition was committed to the Land, Environment and Natural Resources Committee.

LEGAL BASIS FOR PETITIONS

4. Petitions to the Senate are governed by the Constitution, the Petition to Parliament (Procedure) Act, No. 22 of 2012 and the Senate Standing Orders.

5. Article 37 of the Constitution provides that *every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities* while Article 119(1) of the Constitution provides that *"every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation."*

6. Section 5(2) of the Petition to Parliament (Procedure) Act, provides that *a petition that is tabled in Parliament under this Act shall be considered in accordance with the Standing Orders of the relevant House*. In this regard, standing order 232 of the Senate Standing Orders provides as follows-

   232. Committal of Petitions

   (1) Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Standing Committee.

   (2) Whenever a Petition is committed to a Standing Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the Senate and no debate on or in relation to the report shall be allowed, but the Speaker may, allow comments or observations in relation to the Petition for not more than thirty Minutes.

7. Standing order 233 requires the Clerk to, within fifteen days of tabling of the report on a petition under Standing Order 232 (Committal of Petitions), submit a copy of the report to the petitioner or petitioners.

CHAPTER 2

CONSIDERATION OF THE PETITION

Approach taken by the Committee

1. In considering the Petition, the Committee observed that it would be important to verify the facts alleged by the Petition. The Committee therefore resolved to conduct an inquiry on the issues raised in the Petition.

2. In this regard the Committee received the Petition from the Petitioner through the House and further invited the Cabinet Secretary, Ministry of Environment and Forestry, together with his team from Kenya Forest Service who virtually appeared before the Committee on 14th October, 2020 and on 2nd December, 2021 where he committed to further send written submissions.

Petitioners Submissions

The Committee relied on the Petition as submitted and the Chairperson of the Committee, being the Senator representing the residents from Nyandarua County was able to represent them by explaining the Petition as presented.

Response by the Cabinet Secretary, Ministry of Environment and Forestry

The Ministry vide a letter Ref. No. SEN/DCS/LENR/2/2020/(70) dated 17th November, 2020 was invited to make submissions on the Petition and appeared before the committee on 2nd December, 2020 and presented as follows;

1. The parties in the Petition refer to themselves by the name Mchanganyiko IDPs.
2. These purported IDPs are not known to Kenya Forest Service (KFS).
3. KFS has also cross-checked with the office of the County Commissioner, Nyandarua County on the existence of such a group within Nyandarua County and the response has been that the office of the County Commissioner is not aware of such a group; *(Annex 1, letter reference No. CTY/NYA/ADM.16/1/Vol. 2/82 dated 14th October 2020 by the County Commissioner to the Ecosystem Conservator, Nyandarua County on the alleged IDPs).*
4. The Department of Social has confirmed the existence of the group registered as Mchanganyiko wa I.D.Ps which was registered on 5th November 2008. According to

their certificate, NYA/CD/11/08/7994, *(Annex 2),* the group was registered to undertake the following activities;

a) Money contribution; and

b) To buy land subject to; regular inspection of the group records and submission of annual reports to Social Services Department, operate a bank account and renewal of registration after one year.

5. The certificate expired as it was valid for a period of one year, ending 5th November 2009.

6. The petitioner alleges that there exists IDPs in Presidential Park in OlKalou, Nyandarua County. During the Senate Committee sitting on Wednesday 14th October, 2020 it was agreed that allegations of IDPs in the following additional sites be investigated;

a) "Huhirio forest";

b) Kaimbaga forest; and

c) Mawingo forest.

A. The "park" being referred to by the petitioners

7. There are two (2) Presidential Parks within Ol-Kalou town, the headquarters of Nyandarua County. The parks have no parcel numbers and they are captured as Presidential Planted Parks in the Part Development Plan (PDP) for the area.

8. These parks are green spaces in Ol-Kalou town, (County Headquarters for Nyandarua County) and were set aside for forestry and for recreation purposes by the residents of this fast-growing town. The two parks are jointly managed by Kenya Forest Service and the County Government of Nyandarua.

B. Presidential green park (near Ol Kalou stadium)

9. The Park measures about 120 Acres and is fully stocked with exotic and mixed indigenous species that were planted from 21st April 1980;

a) The Park hosts KFS facilities including two prefabricated houses for forestry personnel. These houses were build using public funds allocated to Forest Department under the Miti Mingi Mashabani Project;

b) The Park is jointly managed by the County Government of Nyandarua and Kenya Forest Service;

c) The Park was reserved and made available for afforestation by the Nyandarua District Council and given to Forest Department for tree planting and management;

d) The Park is largely used for recreational purposes;

e) There are plans to improve this Park through County Integrated Development Plans to create an arboretum and site for additional recreational activities, which will be achieved by improving the perimeter fence and planting additional trees in the Park, ***Annex 3***;

f) On 28th October, 2011, Kenya Forest Service, several stakeholders and other general members of the public planted seventy-one indigenous tree seedlings to commemorate the passing on of Professor Wangari Maathai. There were also plans to rename one corner of the Park to Wangari Maathai Corner;

C. Presidential green park (opposite County Government offices)

10. The Park measures about 70 Acres;

(i) The Park was launched by His Excellency the President in April 1990.

(ii) The park is planted with trees and is a good recreational site for the growing urban population of Ol-Kalou town.

D. Entry and continued stay in the park by the purported IDPs

11. According to investigations carried out by Kenya Forest Service, one family of the purported IDPs, consisting of Esther Muthoni Njuguna (ID No. 2945760 Tel 0724900934), and her children Geoffrey Gitonga (ID No. 29155441) and Mary Wanjiru (ID No. 23513663) are living in the Park;

12. Muthoni was initially in the District Officer's IDP camp in Olkalou town;

13. It has been established that the husband to Esther Muthoni resides in their property in Kuresoi, Nakuru County;

14. The Muthoni family have been occupying one house constructed by Forest Department in the Park. These persons are yet to vacate these houses;

E. Order to vacate KFS premises for the purported IDPs

15. On 30th December, 2019, a vacation notice was issued by the Kenya Forest Service to the family. They were specifically requested to vacate the Kenya Forest Service houses within Presidential Park to pave way for further development. The notice gave them fourteen (14) days to vacate ***(Annex 4).***

16. The County Commissioner of Nyandarua, the Governor, County Government of Nyandarua, the Officer Commanding Station, Ol-Kalou Police Station and the County Executive Committee Member (CEC) for the Ministry of Environment, Water, Tourism and Natural Resources, Nyandarua County were copied the vacation notice.

17. This eviction order has not been enforced.

F. Recommendations of the one family residing in the park

18. It is recommended that the family vacates the Presidential Park to free it for the purpose for which it was set aside.

G. Kirima and Muruai Forest Reserves

19. During the Senate Committee sitting on 14th October, 2020, the Petitioner, Senator Mwangi Githiomi made reference to IDPs who are settled on Huhirio area of the Aberdares Forest Reserve at the boundary of Ndaragwa and Geta Forest Stations. The correct name for the area that the Senator was referring to is Kirima and Muruai Forest Reserves;

20. These forest reserves are gazetted forest reserves;

    a) Kirima Forest Reserve, Legal Notice No. 178 of 2017, measuring 527.5 hectares and

    b) Muruai Forest Reserve, Legal Notice No. 177 of 2017, measuring about 733.1 hectares, **Annex 5**;

21. There are no IDPs residing in either of the two forest reserves;

22. The only known dispute is a court case filed by Leonard Wachira Gikaru against Kenya Forest Service, challenging the Legal Notice that gazetted Muruai Forest Reserve, ***Annex 6***. There are currently interim orders in the matter preventing any interference or development on the suit property until the matter is heard and determined.

23. There have been encroachments on the two forest reserves by some members of the community. In order to maintain the integrity of the forests so that they continue to provide environmental services, Kenya Forest Service issued a fourteen-day vacation notice dated 28th July, 2020 to all persons illegally/irregularly occupying Kirima/Muruai Forest Reserves, ***Annex 7***;

24. On 12th August, 2020 the illegal/irregular encroachers of the two forest reserves, through Ngayu Kioni & Associates Advocates wrote to the Ecosystem Conservator Nyandarua stating that they were aware that two forest reserves were lawfully gazetted and were willing to move out of these forest areas if only they were given two years to organize themselves.

H. RECOMMENDATIONS ON KIRIMA AND MURUAI FOREST RESERVES

25. Kenya Forest Service and other arms of government are currently deliberating on this matter;

26. The court action by Mr. Wachira Gikaru, who is a public servant is being addressed by Kenya Forest Service as the Service is the Respondent; and

27. Kenya Forest Service is working closely with the Ndaragwa Forest Station Community Forest Association (CFA) in restoring the degraded forest areas of Kirima and Muruai.

I. Kaimbaga and Mawingo Forest Reserves

28. The two forest reserves are within Nyandarua Central sub-county and their details are as follows;

    a) Kaimbaga, Plot No. 515 (measuring 517.5 Ha); and,

    b) Mawingo Salient Plot No. 892 (measuring 69.5 Ha).

29. They were set aside for forest development as they were not suitable for settlement. They were allocated to the then Forest Department during the demarcation of the of settlement schemes in Nyandarua District in 1982;

30. There are no IDPs in these two forest reserves.

CHAPTER 5

COMMITTEE OBSERVATIONS

In accordance with the Prayers of the Petitioner the Committee observes that:

1. **Mchanganyiko IDPs group exists and was registered on 5th November, 2008 at about the same time as the post-election violence. The registration was valid for a period of one year.**
2. **According to investigations carried out by the Kenya Forest Service, one family of the purported IDPs, consisting of Esther Muthoni Njuguna (ID No. 2945760), and her children Geoffrey Gitonga (ID No. 29155441) and Mary Wanjiru (ID No. 23513663) are living in the Presidential Park; and**
3. **There are IDP's residing in the park and the forests and there is a need to ascertain their true identity.**

CHAPTER 6

COMMITTEE RECOMMENDATIONS

In accordance with the Prayers of the Petitioner the Committee recommends as follows:

1. **That the Ministry of Environment and Forestry interviews all the IDPs and ascertain the origin of the IDPs and the length of stay.**
2. **That a stay on the eviction of Esther Muthoni Njuguna and her family be made until land is availed for resettlement.**
3. **That the Mchanganyiko IDPs should renew their registration as it expired in November, 2009.**
4. **That the Ministry of Lands and Physical Planning investigates Huhiro forest and Murai forest to ascertain why Kenya Forest Services want to take over the land yet it belongs to an individual**
5. **That the Ministry of Lands and Physical Planning avails land for resettlement of the IDPs.**

APPENDICES

ANNEX I: MINUTES OF THE MEETINGS

ANNEX II: SUBMISSIONS BY KEY STAKEHOLDERS

MINUTES OF THE 36TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON SATURDAY, 12TH JUNE, 2021 AT SAROVA WHITESANDS HOTEL, MOMBASA AT 9.00 AM.

MEMBERS	PRESENT
1. Sen. Mwangi Paul Githiomi, MP	- **Chairperson**
2. Sen. Philip Mpaayei, MP	- **Vice Chairperson**
3. Sen. Mwaruma Johnes, MP	- Member
4. Sen. Ndwiga Peter Njeru, EGH, MP	- Member
5. Sen. Boy Issa Juma, MP	- Member

	ABSENT WITH APOLOGY
1. Sen. George Khaniri, MGH, MP	- Member
2. Sen. Gideon Moi, CBS, MP	- Member
3. Sen. (Dr.) Lelegwe Ltumbesi, MP	- Member
4. Sen. Sylvia Kasanga, MP	- Member

IN ATTENDANCE	SECRETARIAT
1. Ms. Veronicah Kibati	- Principal Clerk Assistant
2. Mr. Victor Bett	- Clerk Assistant
3. Mr. Crispus Njogu	- Clerk Assistant
4. Mr. Yussuf Shimoy	- Clerk Assistant
5. Ms. Mitchell Otoro	- Legal Counsel
6. Ms. Lucianne Limo	- Media Relations Officer
7. Ms. Sakina Halako	- Personal Secretary
8. Mr. John Pere	- Sergeant-At-Arms
9. Mr. James Kimiti	- Audio Recording
10. Mr. Naftali Ondiba	- Finance Officer
11. Mr. Benard Oteyo	- Office Assistant

MINUTE SEN/SCLENR/204/2021: PRELIMINARIES

The meeting was called to order at 2.30 pm by the Vice Chairperson followed by a word of prayer.

MINUTE SEN/SCLENR/205/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. **Adoption of the following Petition Reports;**
   (a) Draft Report of the Committee on the Petition regarding the resettlement of Internally Displaced Persons in Nyandarua County

(b) Draft Report of the Committee on the Petition by Fredrick Kahia Thugi & 4 others over the Exchange and final transfer of two parcels of land in Nakuru County

(c) Report of the Committee on the Petition regarding the Delayed adjudication and the settlement of squatters on Machungwani land in Taita Taveta County after expiry of lease.

5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLENR/206/2021: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Committee differed the confirmation of Minutes.

MINUTE SEN/SCLENR/207/2021: ADOPTION OF THE FOLLOWING PETITION REPORTS;

(a) Draft Report of the Committee on the Petition regarding the resettlement of Internally Displaced Persons in Nyandarua County

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby **adopted its report** with the following recommendations in accordance with the Prayers of the Petitioner—

1. That the Ministry of Environment and Forestry interviews all the IDPs and ascertain the origin of the IDPs and the length of stay.

2. That a stay on the eviction of Esther Muthoni Njuguna and her family be made until land is availed for resettlement.

3. That the Mchanganyiko IDPs should renew their registration as it expired in November, 2009.

4. That the Ministry of Lands and Physical Planning investigates Huhiro forest and Murai forest to ascertain why Kenya Forest Services want to take over the land yet it belongs to an individual

5. That the Ministry of Lands and Physical Planning avails land for resettlement of the IDPs.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Johnes Mwaruma, MP and Sen. Issa Boy Juma, MP respectively.

(b) Draft Report of the Committee on the Petition by Fredrick Kahia Thugi & 4 others over the Exchange and final transfer of two parcels of land in Nakuru County

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby **adopted its report** with the following recommendations in accordance with the Prayers of the Petitioner—

1. That the Ole Osono Group living in the Solai Ruyobei Farmers limited having been established not to be the legitimate owner of the land by the Court, vacates the land to allow occupation by Nyakinyua Land Buying Company who are the legitimate owners of the land.
2. That the Ministry of Lands and Physical Planning; the Ministry of Interior Coordination and National coordination; and the National Lands Commission facilitates the Nyakinyua Land Buying Company to occupy the Solai Ruyobei Farmers limited land as they have been found to be the rightful owners of the land.
3. That the Ministry of Lands and the National Lands Commission work with the Ole Osono Group living in the Solai Ruyobei Farmers limited land to find a different land to relocate them.
4. That the Ministry of Lands and Physical Planning facilitates the transfer of Title deeds between the Solai Ruyobei Farmers limited land and the Nyakinyua Land Buying Company.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Issa Boy Juma, MP and Sen. Ndwiga Peter Njeru, EGH, MP respectively.

(c) Report of the Committee on the Petition regarding the delayed adjudication and the settlement of squatters on Machungwani land in Taita Taveta County after expiry of lease.

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby **adopted its report** with the following recommendations in accordance with the Prayers of the Petitioner—

1. That, the National Land Commission, in conjunction with the other concerned government agencies take immediate steps to ensure the lease for the parcel of land LR No. 5827 measuring 2970 acres is renewed in favour of the Machungwani residents and NLC provides status report within sixty (60) days;

2. That, the part of the parcel of land LR No. 5827 occupied by Kenya Prisons be registered in their favour;

3. That, the EACC and DCI investigate the authenticity and the circumstances surrounding the letter, Ref. TTCG/LENAR/CECCOR/VOL1/21 dated 17th April, 2018, of approval by the then County Executive Member for Lands, Environment and Natural Resources of Taita Taveta County, Ms. Clarice G Mnyambo, which indicated that the County had no objection to the renewal of the lease in favour of Basil Criticos; and

4. That, on such weighty matters, the County Government of Taita Taveta should call for a County Executive Committee meeting to sanction the decision before implementation by the respective County Executive Committee Members.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Philip Mpaayei, MP respectively.

MINUTE SEN/SCLENR/208/2021: ANY OTHER BUSINESS;
There was no other business discussed.

MINUTE SEN/SCLENR/209/2021: DATE OF NEXT MEETING;
The meeting was adjourned at 1.00 pm and the next meeting was scheduled to follow thereafter.

Signed:..... Date: 23/6 /2021

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

MINUTES OF THE 58TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 2ND DECEMBER, 2020 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS	PRESENT
1. Sen. Ndwiga Peter Njeru, EGH, MP	- Member **(Ag. Chairperson)**
2. Sen. Gideon Moi, CBS, MP	- Member
3. Sen. Sylvia Kasanga, MP	- Member
4. Sen. Mwaruma Johnes, MP	- Member
5. Sen. (Dr.) Lelegwe Ltumbesi, MP	- Member

	ABSENT WITH APOLOGY
1. Sen. Mwangi Paul Githiomi, MP	**- Chairperson**
2. Sen. Philip Mpaayei, MP	**- Vice Chairperson**
3. Sen. George Khaniri, MGH, MP	- Member
4. Sen. Boy Issa Juma, MP	- Member

IN ATTENDANCE

A. SENATORS

1. Sen. Mutula Kilonzo Jnr. - Senator, Makueni County

B. SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Mr. Moses Kenyanchui - Legal Counsel
3. Ms. Joyce Chelang'at - Audio Recording

C. MINISTRY OF ENVIRONEMNT AND FORESTRY

1. Mr. Keriako Tobiko, CBS, SC, - CS, Ministry of Environment and Forestry
2. Mr. Mamo Boru Mamo - Ag. DG, NEMA
3. Mr. Julius W. Kamau, - Chief Conservator of Forests
4. Mr. Patrick Kariuki - Deputy, Chief Conservator of Forests, KFS
5. Dr. Pacifica Achieng - Director Climate Change
6. Mr. Joel Kitili - Ministry HQ
7. Mr. Rodney Omari - Ministry HQ
8. Dr. John Chumo - CEO, NECC

MINUTE SEN/SCLENR/321/2020: PRELIMINARIES

The meeting was called to order at 11.30 am by the Acting Chairperson followed by a word of prayer.

MINUTE SEN/SCLENR/322/2020: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Mwaruma Johnes, MP and seconded by Sen. Gideon Moi, CBS, MP as follows –

1. Preliminaries - *Prayer*
2. Adoption of the agenda;

3. Confirmation of Minutes of Previous Sittings;
4. Matters Arising;
5. Meeting with the Cabinet Secretary, Ministry of Environment and Forestry on Petitions & Statements as follows:
   a) Statement requested by Sen. Beatrice Kwamboka, MP, regarding Pollution of the environment by industrial emissions.
   b) Petition presented by Sen. Paul Mwangi Githiomi, MP, concerning the resettlement of Internally Displaced Persons in Nyandarua County;
   c) Petition concerning the gazettement of Ondiri Wetland, Kiambu County; and
   d) Petition concerning the adverse effects of rock blasting for the construction of Thwake Dam, Makueni County.
6. Any other Business;
7. Date of the next meeting;
8. Adjournment.

MINUTE SEN/SCLENR/323/2020: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The confirmation of Minutes of the previous sittings was differed to the next housekeeping meeting.

MINUTE SEN/SCLENR/324/2020: MEETING WITH THE CABINET SECRETARY, MINISTRY OF ENVIRONMENT AND FORESTRY ON PETITIONS & STATEMENTS

a) **Petition concerning the adverse effects of rock blasting for the construction of Thwake Dam, Makueni County.**

The Committee requested the CS to make his presentation and he requested the National Environment Management Authority (NEMA) to make submissions and presented as follows:

1. The Ministry through the National Environment Management Authority (NEMA) is aware of the issues raised. NEMA has coordinated other relevant stakeholders to address the issues and is continually doing so since the project is still ongoing.
2. **THAT** the issues raised by the petitioner were brought to the knowledge of the County Environment Committee (CEC) and deliberated accordingly.
3. **THAT** in a County Environment Committee meeting held on 3rd September, 2020 deliberated on the issues surrounding Thwake Dam, among them, complaints on blasting of rocks (**Minutes attached, Annex I MIN 2: 3/9/2019**) and established a technical committee to visit the site and investigate on the issues raised
4. **THAT** the Technical Committee visited the site on 5th September, 2020 and prepared a report on that course (**Technical Committee Report Attached Annex II**).
5. **THAT** the technical committee which visited the site on 5th September found that the contractor has acquired all the relevant documentation and also addressed issues of sanitation and safety.

6. **THAT** the committee **did not** also establish the cracks in buildings as claimed to have been caused by the blast and vibrations.
7. **THAT** another Environment Committee chaired by the County Commissioner was held on 18th September, 2020 and issues affecting workers and the community around the project area were discussed and addressed in the meeting (**Minutes Attached, Annex III**).
8. **THAT** on 1st November, 2019 a County Environment Committee meeting was held at Thwake Dam and the Hon. Members of the County Assembly Committee on Environment and Climate Change were invited and participated in the meeting **(Minutes Attached, Annex IV).**
9. **THAT** on 13th March, NEMA conducted a site inspection on the project site and issued an improvement notice to the proponent to undertake Environmental Audit which will provide more clarity on compliance level to the licensing condition. **(Copy attached Annex V).**
10. **THAT** the recommendations made by the Technical Committee on its report **(Annex II)** and the joint meetings held on **1/11/2019 (Annex IV)** were not fully implemented due to COVID-19 Public Health Guidelines and Government directive on measures to control the spread of the pandemic and there were no other physical meetings held from December 2019 until 10 November, 2020 when the first CEC meeting for 2020/2021 was held.
11. **THAT**, the County Environment Committee, in a meeting held on 10th November, 2020 resolved to make a joint site inspection to monitor the compliance level on the issues jointly agreed with the proponent during the Technical Committee site visit on 5th September, 2019 **(Annex II).**
12. **THAT** the Ministry through NEMA will continue to closely monitor the implementation of the Environmental Management Plan and compliance to Environmental Impact Assessment license conditions.
13. The Ministry will involve relevant lead agencies to ensure the ongoing project is implemented while ensuring sustainable environmental management.

The Committee made the following interventions and deliberations:

That the Ministry should approach such matters with a human face noting that innocent Kenyans are affected by such cases of pollution.

Both the Cabinet Secretary and the Committee were in agreement that, since the matter is a devolved function, going forward it would be important to bring on board and build the Capacity of County Governments to handle such matters.

The Cabinet Secretary prevailed upon the National Environmental Complaints Committee (NECC) to file a report within 7 days before the Committee embarks on a site visit.

The Committee resolved to organize a site visit to the residents of Makueni County within the next 14 days together with a team from the Ministry of Environment and Forestry.

b) **Statement requested by Sen. Beatrice Kwamboka, MP, regarding Pollution of the environment by industrial emissions.**

c) **Petition presented by Sen. Paul Mwangi Githiomi, MP, concerning the resettlement of Internally Displaced Persons in Nyandarua County;**

d) **Petition concerning the gazettement of Ondiri Wetland, Kiambu County;**

The Committee resolved to have the Cabinet Secretary submit written responses on the pending Statement and Petitions and should there be any matters that require the attention of the Cabinet Secretary in person then the Committee can re invite the Ministry of Environment and Forestry.

MINUTE SEN/SCLENR/325/2020: ANY OTHER BUSINESS

The Cabinet Secretary, Ministry of Environment and Forestry requested the Committee to have a meeting with the Ministry to discuss Climate Change NDC UPDATE UNDER UNFCCC (PARIS AGREEMENT). The Committee acceded to this request and resolved to have the meeting on 3rd December, 2020 at 11.00am virtually.

MINUTE SEN/SCLENR/326/2020: DATE OF NEXT MEETING

The meeting was adjourned at 12.30 pm and the date of the next meeting was scheduled for Thursday, 3rd December, 2020 at 11.00 am on the Zoom Online Platform.

Signed:..... Date: 10 /2 /2021

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

MINUTES OF THE 46TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 14TH OCTOBER, 2020 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS	PRESENT
1. Sen. Mwangi Paul Githiomi, MP	- **Chairperson**
2. Sen. George Khaniri, MGH, MP	- Member
3. Sen. (Dr.) Lelegwe Ltumbesi, MP	- Member
4. Sen. Sylvia Kasanga, MP	- Member
5. Sen. Mwaruma Johnes, MP	- Member

	ABSENT WITH APOLOGY
1. Sen. Philip Mpaayei, MP	- **Vice Chairperson**
2. Sen. Ndwiga Peter Njeru, EGH, MP	- Member
3. Sen. Gideon Moi, CBS, MP	- Member
4. Sen. Boy Issa Juma, MP	- Member

IN ATTENDANCE	MINISTRY OF ENVIRONEMNT AND NATURAL RESOURCES
1. Mr. Keriako Tobiko, CBS, SC,	- CS, Ministry of Environment and Forestry
2. Mr. Mamo Boru Mamo	- DG, NEMA
3. Mr. Patrick Kariuki	- Deputy, Chief Conservator of Forests, KFS
4. Mr. Alfred Gichu	-KFS
5. Mr. Joel Gichu	- Ministry Head Quarters
6. Mr. Rodney Omari	- Ministry Head Quarters
7. Mr. Sammy Wahome	- KFS
8. Mr. Lawrence Thugge	- KFS
9. Mr. Edwin Kihoro	- KFS

	SECRETARIAT
1. Mr. Victor Bett	- Clerk Assistant
2. Mr. John Ngang'a	- Audio Recording

MINUTE SEN/SCLENR/247/2020: PRELIMINARIES

The meeting was called to order at 11.26 am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLENR/248/2020: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. George Khaniri, MGH, MP and seconded by Sen. Sylvia Kasanga, MP as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes;

4. Meeting with the **Cabinet Secretary, Ministry of Environment and Forestry on the following Petitions and Statements;**
   (a) Petition by Mr. Joel Kenduiywa on the resettlement of the minority Ngerek Community following their proposed eviction from South Nandi Forest, in Nandi County;
   (b) Petition by Mr. John Njogu Njoroge on the resettlement of East Mau Forest evictees;
   (c) Petition by Dundori Forest Evictees on the forceful eviction from Dundori Forest and compensation of land for the excised area from the forest for resettlement;
   (d) Petition presented by Sen. Paul Mwangi Githiomi, MP, concerning the resettlement of Internally Displaced Persons in Nyandarua County.
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLENR/249/2020: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Committee differed the confirmation of Minutes to the next meeting.

MINUTE SEN/SCLENR/250/2020: Meeting with the Cabinet Secretary, Ministry of Environment and Forestry on the following Petitions and Statements;

a) Petition by Mr. Joel Kenduiywa on the resettlement of the minority Ngerek Community following their proposed eviction from South Nandi Forest, in Nandi County;

The Cabinet Secretary presented as follows:

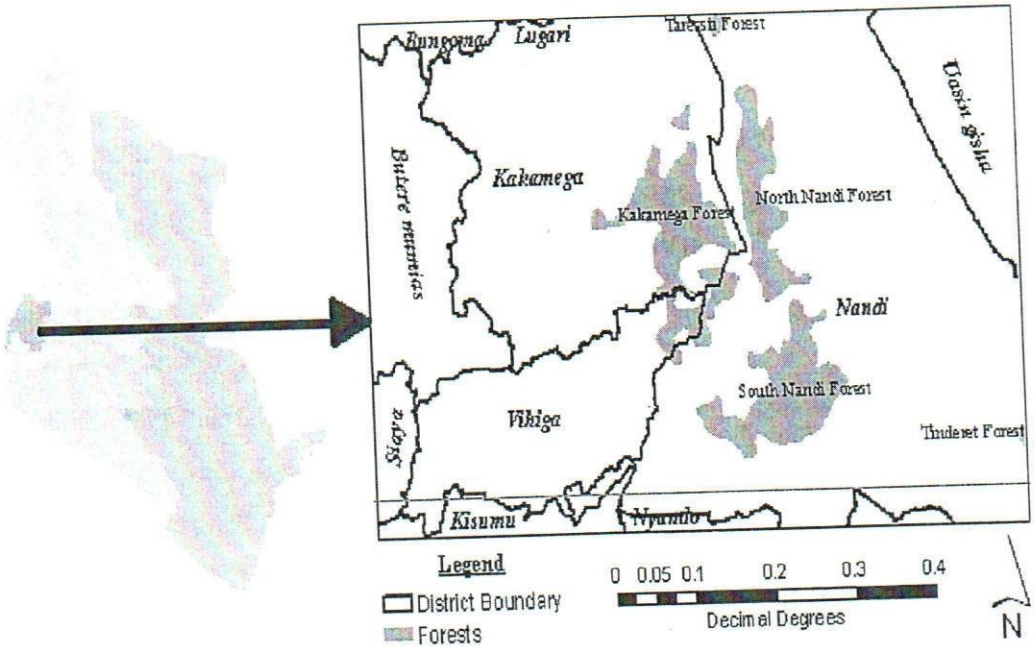
A. GAZETTED FORESTS IN NANDI COUNTY

1. The protected forest reserves in Nandi County are **South Nandi Forest** which is managed through **Kobujoi, Kapchorua, Tinderet,** and **Cerengoni Forest Stations,** and **North Nandi Forest** managed through **North Nandi and Kimondi Forest Stations**. The details of these forest reserves which are managed by Kenya Forest Service (KFS) is tabulated below;

S/No	Forest Station	Forest type / Category (Ha)					Encroachment and excisions	TOTAL (Ha)
		Natural	Plantation	Grassland	Wetlands	Nyayo Tea Zone		
1.	Kobujoi	16,626.00	300.00	2,464.00	0	300.00	360.00	20,050.00

2.	Tinderet	7,328.90	40.00	0	0	100.00	0	7,468.90
3.	Kapchorua	3,851.00	9.20	138.80	0	1.00	0	4,000.00
4.	Cerengoni	11,378.00	1,194.00	0	0	6.00	0	12,578.00
5.	Kimondi	4,095.55	1,285.35	61.80	196.90	307.10	796.40	6,743.10
6.	North Nandi	8,000.00	850.56	40.20	149.00	410.00	1,050.05	10,499.81
	TOTAL	51,279.45	3,679.11	2,704.80	345.90	1124.10	2,206.45	61,339.81

2. The map below shows the distribution of these forests in Nandi County;-



B. THE CHEPKUMIA LAND EXCHANGE PROGRAMME

3. In 1996, there was a government intention of resettling of the minority Ngerek Community from the Ngerek Hill in South Nandi to a portion of the South Nandi Forest. This was to be done under the Chepkumia Land Exchange Programme on an acre for acre basis. This was driven by the desire of removing the Ngerek Community from the ecologically sensitive Ngerek Hill for conversion of this Hill into a conservation area;

4. The resettlement, however, did not materialise because of vested interests among the administrators and politicians in Nandi County. As such, the minority Ngerek Community were not resettled as initially planned;
5. Noteworthy is that the portion of the forest where the Ngerek Community would have been resettled under the Chepkumia Land Exchange Programme was occupied by illegal occupants who were largely backed by the local administrators and politicians;

C. ALLEGED PROPOSED EVICTION OF THE MINORITY NGEREK COMMUNITY FROM SOUTH NANDI FOREST

6. While the Petitioner alleges that there is a proposed eviction from South Nandi Forest of the minority Ngerek Community, I wish to state that this is not true;
7. I am aware that the then Forest Department issued an eviction order to the illegal occupants of the Chepkumia Land Exchange as they had no basis to be settled on the land. This group of persons did not have land to exchange with the Government and are therefore settled on Government land illegally;
8. These illegal occupants challenged this eviction order by filing suit against the District Forest Officer Nandi and the Permanent Secretary of the Ministry of Environment and Natural Resources in 2003 **(HC Civil Suit No. 67 of 2003 - Abdi Keter and 551 others versus District Forest Officer Nandi, PS MENR and the Attorney-General).** The illegal occupants' case was dismissed in 2007 but they nevertheless continue to reside in South Nandi Forest. They therefore have no legal basis for their continued occupation of the forest;
9. This eviction order of 2003 issued by the District Forest Officer Nandi was directed at the illegal occupants of South Nandi Forest, and **NOT** the minority Ngerek Community. This is premised on the fact that the minority Ngerek Community are owners of privately titled land where my Ministry has no jurisdiction. There have never been any eviction orders directed towards the minority Ngerek Community from the Ministry of Environment and Forestry.

It was therefore agreed that the Petioners should take the letter to the Ministry of Environment and Forestry for the Cabinet Secretary to revoke the letter that said they should move such that status quo remains as is.

b) **Petition by Mr. John Njogu Njoroge on the resettlement of East Mau Forest evictees;**

Cabinet Secretary presented as follows:

1. **THAT East Mau Forest Evictees are composed of ten (10) forests which are in the larger Nakuru District (now Nakuru County);**

2. **THAT the members of the East Mau Forest Evictees lived inside the said forests for 70 years legally as caretakers to our forests during the colonial period in Kenya under the Crown of the Queen of England, President Jomo Kenyatta's Government and during President Moi's Government who later evicted us from the forests in the year 1988;**

Ministry's Response

(a) Since inception of the forestry practice in Kenya in 1907, the formal arrangement was to have laborers (employed to tend trees) residing in forest houses provided by the Government;

(b) This arrangement changed in 1988 when the forest laborers were required to work from outside the public forests;

(c) This therefore meant that the laborers had to vacate the forest houses and this should not be interpreted to mean evictions.

3. **THAT other persons from other counties e.g. Bomet, Kericho, Baringo etc. were resettled in the same forest areas we were in;**

Ministry's Response

(a) Eastern Mau Forest Reserve was gazetted vide Legal Notice No. 174 of 1964 **(Annex II)**;

(b) The said forest has never been degazetted for settlement or any other purpose;

(c) Matters of settling Kenyans lies within the jurisdiction of the Ministry of Lands and Physical Planning and not the Ministry of Environment and Forestry.

4. **THAT East Mau Forest Evictees wrote to the TJRC on 21st September 2011 and the National Land Commission on 7th June 2018 but have never responded;**

Ministry's Response

The response to this matter lies with TJRC and the National Land Commission.

5. **THAT members are currently landless and have lived as squatters since 1988 and have never been allocated land;**

Ministry's Response

Matters of settling Kenyans lies within the jurisdiction of the Ministry of Lands and Physical Planning and not the Ministry of Environment and Forestry.

c) **Petition by Dundori Forest Evictees on the forceful eviction from Dundori Forest and compensation of land for the excised area from the forest for resettlement;**

The Cabinet Secretary presented as follows:

1.0 FORMER RESIDENCY PETITIONER

That they lived in the former Dundori Forest Villages since the early 1930 up to June 1988 when they were forcefully evicted by the Kenya Forest Department (KFS). The names of the villages were Kieni, Kinari and C. Bonza Forest Villages;

Ministry's Response

(a) Since inception of the forestry practice in Kenya in 1907, the formal arrangement was to have laborers (employed to tend trees) residing in forest houses provided by the Government;

(b) This arrangement changed in 1988 when the forest laborers were required to work from outside the public forests;

(c) This therefore meant that the laborers had to vacate the forest houses and this should not be interpreted to mean evictions.

1. **That presently we are residing in the adjacent centre of Dundori Wanyororo, Kabatini, private farms and others are scattered all over Nakuru County.**

Ministry's Response

The Committee was informed by the Cabinet Secretary in charge of Environment and Forestry, that he is not in a position to confirm the assertion by the Petitioners.

2. **We rely on Dundori forest land for cultivation, grazing and fuel wood collection under plantations establishment and livelihood improvement scheme (PELIS). Currently all forest where we used to cultivate has been fully planted with trees by government hence no space for shamba system as used to be. We are left with no option except casual labourers (daily).**

Ministry's Response

(a) The Committee was informed that, it is the Government policy to replant all available spaces in all gazetted forests earmarked for development of plantations;

(b) In the course of establishing the forest plantations, it is Government policy to use PELIS which brings on board communities living adjacent to forests to provide casual labor.

2 EFFORTS MADE BY PETITIONERS

3 **THAT in the year 1994, the government through former county council of Nakuru excised 84.49 Ha (200 acres) from Dundori forest land to settle squatters. The land is L.R. No. 19060 Plan No. 175/340 and was gazetted for settlement on 6th July 1994. Unfortunately, none of us benefitted from the programme but outsiders who later sold their plots in December 1997 after realizing what was done to us we peacefully demonstrated to the then Provincial Commissioner's office Rift Valley Province and we told him our grievances. He then referred us to the then District Commissioner Nakuru District who promised us that he will write a report of our grievances and forward it to the government for consideration. Since then there has not been any action taken to address our grievances.**

Ministry's Response

(a) Bahati Forest was gazetted vide Legal Notice No. 174 of 1964 **(Annex III)**;

(b) Dundori is a block within Bahati Forest;

(c) No degazettement has been made to excise the referred area (L.R. No. 19060) from Bahati Forest Block;

(d) As the Cabinet Secretary in charge of Environment and Forestry, I am not in a position to confirm the rest of the assertions by the Petitioners.

4 **That in the year 2014 we registered an organization (C.B.O) with Gender and Social Development Office Bahati sub-county.**

Ministry's Response

The Committee was informed by the Cabinet Secretary in charge of Environment and Forestry, that he isn't in a position to confirm this assertion by the Petitioners.

5 **That on 8th April 2016 we wrote a letter to his Excellency President Republic of Kenya Honorable Uhuru Muigai Kenyatta requesting him to intervene on our behalf. We also forwarded copies of our letter to then former governor Nakuru County. His Excellency Kinuthia Mbugua, County Commissioner Nakuru County and Deputy County Commissioner Bahati sub-county. Lastly we have written to the Taskforce implementation of Arusha case on Ogiek and other communities under the Ministry of Environment and Forestry.**

Ministry's Response

The Committee was informed by the Cabinet Secretary in charge of Environment and Forestry that the matters raised in this section of the petition can only be confirmed by the referenced Government institutions and offices.

d) <u>Petition presented by Sen. Paul Mwangi Githiomi, MP, concerning the resettlement of Internally Displaced Persons in Nyandarua County.</u>

The Cabinet Secretary informed the Committee that the information he has is that its only one family residing in the aforementioned region and that they have refused to vacate houses belonging to KFS Staff.

The Committee informed the Cabinet Secretary to embark on further scrutiny of the matters cited in the Petition and respond back to the Committee within 14 days.

MINUTE SEN/SCLENR/251/2020: ANY OTHER BUSINESS;

There was no other business discussed.

MINUTE SEN/SCLENR/252/2020: DATE OF NEXT MEETING;

The meeting was adjourned at 1.25 pm and the date of the next meeting was scheduled for Wednesday, 21st October, 2020 at 10.00 am via zoom online platform.

Signed: **For:**..... Date: **19/11/2020**

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

STAKEHOLDER'S SUBMISSIONS

he Senate Standing Committee on Land, Environment and Natural Resources through letter Ref. No. SEN/DCS/LENR/2/2020/(70) dated 17th November, 2020 by the Clerk of the Senate invited the Cabinet Secretary, Ministry of Environment and Forestry to a meeting to respond to a petition by Sen. Paul Githiomi Mwangi , MP concerning resettlement of IDPs as follows:-

Petition

1. We are a group of IDPs by the name Mchanganyiko based in Olkalou, Nyandarua County

1.1 **THAT**, we were people of means before the post-election violence of 2007-2008.

1.2 **THAT**, we lost our dignity, livelihoods, homes and properties

1.3 **THAT**, we are currently wallowing in poverty and living in deplorable conditions.

2. **Despite the government having a resettlement program**

2.1 **THAT** we understand that the government bought land to resettle IDPs.

2.2 **THAT**, we were not considered for resettlement and compensation when other Idp groups were being resettled.

CS 02/12

3.1 **THAT,** the Kenya Forest Service has issued us with an eviction notice to vacate the park voluntarily or face forceful eviction.

3.2 **THAT**, in the event the evictions happen soon, we will be rendered homeless as we don't have anywhere else to go.

4. **THAT**, I/we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to given a satisfactory response.

A. Petitioners RESPONCE TO THE PETITION.

1. The parties in the Petition refer to themselves by the name Mchanganyiko IDPs.

2. These purported IDPs are not known to Kenya Forest Service (KFS);

3. KFS has also cross-checked with the office of the County Commissioner, Nyandarua County on the existence of such a group within Nyandarua County and the response has been that the office of the County Commissioner is not aware of such a group; **(Annex 1, letter reference No. CTY/NYA/ADM.16/1/Vol. 2/82 dated 14th October 2020 by the County Commissioner to the Ecosystem Conservator, Nyandarua County on the alleged IDPs).**

4. The Department of Social has confirmed the existence of the group registered as Mchanganyikowa I.D.Ps which was registered on 5th November 2008. According to their certificate, NYA/CD/11/08/7994 **(Annex 2)**, the group was registered to undertake the following activities;

OlKalou, Nyandarua County. During the Senate Committee sitting on Wednesday 14th October, 2020 it was agreed that allegations of IDPs in the following additional sites be investigated;

a) "Huhirio forest";

b) Kaimbaga forest;

c) Mawingo forest

B. The "park" being referred to by the petitioners

7. There are two (2) Presidential Parks within Ol-Kalou town, the headquarters of Nyandarua County. The parks have no parcel numbers and they are captured as Presidential Planted Parks in the Part Development Plan (PDP) for the area;

8. These parks are green spaces in Ol-Kalou town, (County Headquarters for Nyandarua County),**and were set aside for forestry and for recreation purposes** by the residents of this fast-growing town. The two parks are jointly managed by Kenya Forest Service and the County Government of Nyandarua;

a) The Park hosts Kenya Forest Service facilities including the prefabricated houses for forestry personnel. These houses were build using public funds allocated to Forest Department under the MitiMingiMashabaniProject;

b) The Park is jointly managed by the County Government of Nyandarua and Kenya Forest Service;

c) The Park was reserved and made available for afforestation by the Nyandarua District Council and given to Forest Department for tree planting and management;

d) The Park is largely used for recreational purposes;

e) There are plans to improve this Park through County Integrated Development Plans to create an arboretum and site for additional recreational activities, which will be achieved by improving the perimeter fence and planting additional trees in the Park, **Annex 3**;

f) On 28th October, 2011, Kenya Forest Service, several stakeholders and other general members of the public planted seventy-one indigenous tree seedlings to commemorate the passing on of Professor Wangari Maathai. There were also plans to rename one corner of the Park to Wangari Maathai Corner;

D. Presidential green park (opposite County Government offices)

10. The Park measures about **70 Acres;**

No. 29155441) and Mary Wanjiru **(ID No. 23513663)**are living in the Park;

12. Muthoni was initially in the District Officer's IDP camp in Olkalou town;

13. It has been established thatthe husband to Esther Muthoniresides in their property in Kuresoi, Nakuru County;

14. The Muthonifamily have been occupying one house constructed by Forest Department in the Park. These persons are yet to vacate these houses;

F. Order to vacate kFS premises for the purported IDPs

15. On 30th December, 2019, a vacation notice was issued by the Kenya Forest Service to the family. They were specifically requested to vacate the Kenya Forest Service houses within Presidential Park to pave way for further development. The notice gave them fourteen (14) days to vacate, **(Annex 4).**

16. The County Commissioner of Nyandarua, the Governor, County Government of Nyandarua, the Officer Commanding Station, Ol-Kalou Police Station and the County Executive Committee Member (CEC) for the Ministry of Environment, Water, Tourism and Natural Resources, NyandaruaCounty were copied the vacation notice;

18. It is recommended that the family vacates the Presidential Park to free it for the purpose for which it was set aside for.

H. Kirima and Muruai Forest Reserves

19. During the Senate Committee sitting on 14th October, 2020, the Petitioner, Senator MwangiGithiomimade reference to **IDPs who are settled on Huhirio area of the Aberdares Forest Reserve** at the boundary of Ndaragwa and Geta Forest Stations. The correct name for the area that the Senator was referring to is **Kirima and Muruai Forest Reserves;**

20. These forest reserves are gazetted forest reserves;

    a) Kirima Forest Reserve, Legal Notice No. 178 of 2017, measuring 527.5 hectares and

    b) Muruai Forest Reserve, Legal Notice No. 177 of 2017, measuring about 733.1 hectares, **Annex 5;**

21. There are no IDPs residing in either of the two forest reserves;

22. The only known dispute is a court case filed by Leonard Wachira Gikaru against Kenya Forest Service, challenging the Legal Notice that gazette Muruai Forest Reserve, **Annex 6**. There are currently interim orders in the matter preventing any interference or development on the suit property until the matter is heard and determined;

23. There have been encroachments on the two forest reserves by some members of the community. In order to maintain the integrity of the forests so that they continue to provide environmental services, Kenya

themselves;

I. RECOMMENDATIONS ON KIRIMA AND MURUAI FOREST RESERVES

25. Kenya Forest Service and other arms of government are currently deliberating on this matter;

26. The court action by Mr. Wachira Gikaru, who is a public servant,is being addressed by Kenya Forest Service as the Service is the Respondent;

27. Kenya Forest Service is working closely with the Ndaragwa Forest Station Community Forest Association (CFA) in restoring the degraded forest areas ofKirima and Muruai.

J. Kaimbaga and Mawingo Forest Reserves

28. The two forest reserves are within Nyandarua Central sub-county and their details are as follows;

    a) Kaimbaga, Plot No. 515 (measuring 517.5 Ha) and,

    b) Mawingo Salient Plot No. 892 (measuring 69.5 Ha);

29. They were set aside for forest development as they were not suitable for settlement. They were allocated to the then Forest Department

Thank you, Chair.

Keriako Tobiko, SC, CBS, ...
Cabinet Secretary
Ministry of Environment and Forestry

02/12/202

RE: PETITION TO THE SENATE CONCERNING THE RESETTLEMENT OF IDPS

Reference is made to your office letter Ref.CON/SUR/NYA/29 dated 22nd September, 2020 in regard to the above subject matter.

Reports from the ground indicate that one Ms.Esther Muthoni Njuguna ID/No.294560 together with her family have been occupying a government house within a Presidential Park (Nyayo Park) in Ol'Kalou town.

The occupants alleges that they came to Ol'Kalou during the 2007/2008 post-election violence and settled at the Presidential Park.

Their status as IDPs can't be confirmed from the available records. Additionally, records available can't confirm their membership or association with Mchanganyiko IDP group.

G.N. Oyagi
For County Commissioner
Nyandarua County

Ref No. [illegible]/CD/11/08/7994 Date of Registration 5TH NOVEMBER 2008

This Certificate is valid upto date 5TH NOVEMBER 2009

Certificate Of Registration

This is to certify that your application for registration of

MOHANGANYIRO WA I.D.Ps DECEMBER 2007 GROUP

of P.O. Box 5280 KALOL has been approved

and allocated Department Registration No. 7994

To undertake the following activities:

1. MONEY CONTRIBUTION
2. TO BUY LAND

Subject to:

- Regular Inspection of your records and submission of annual reports to this department
- Operate a bank Account
- Renewal of registration as stipulated above

NAOMI W KABACHO

DISTRICT GENDER & SOCIAL DEVELOPMENT OFFICER

NYANDARUA NORTH DISTRICT

THE SOCIO-ECONOMIC TRANSFORMATIVE AGENDA FOR NYANDARUA COUNTY

NYANDARUA COUNTY INTEGRATED DEVELOPMENT PLAN (CIDP2)

2018-2022

k a	To boost the number of tourists in the county	100.000 visitors per annum	Fencing of the Ol'kalou forest park. Developing a water pan. Installation of support facilities i.e. toilets, electricity, trails sitting benches and water points. Importing herbivorous animals i.e. zebras, gazelles, warthog in the park. Partnering with the community/ private sector to run the facility. Incorporating the facility in the tourism circuit and marketing. Drawing of monumental designs. Development of the support facilities a toilet, curio shops and a water point. Gwa kungu and Kinangop areas monuments installation. Partnering with the community/ private sector to run the facility. Incorporating the facility in the tourism circuit and marketing the facility Installation of support facilities i.e. toilet, water point and curio stalls and marketing the facilities.	Preserved cultural heritage. Improved foreign currency reserves	225	CGN	2018-2022	Tourism Department
eting ICE	Increased number of tourism	Promotional materials and events	Tourism mapping(profiling) and documentationNumber of Marketing events done .Tourism Marketing exhibitions	Improved terms of trade and competitiveness.	81	CGN	2018-2022	Department of Water, Environment, Tourism and Natural Resources

COUNTY GOVERNMENT OF NYANDARUA

RE: VACATION NOTICE.

You are hereby given fourteen days (14) notice from the date of service of this letter to vacate Kenya Forest Service houses within Presidential Park to pave way for further development.

You are asked to do it voluntarily without necessary force to be applied to the effect.

JOSEPH MBAABU
HEAD-ENCOM
NYANDARUA.

Cc.

County Commissioner-**Nyandarua County.**

Governor –**Nyandarua County.**

County Executive Officer, Ministry of Environment-**Nyandarua County.**

OCS-**Olkalou Police Station.**

Chief –**Kaimbaga location.**

An area of land of approximately 733.1 hectares known as Nyandarua/M[illegible]ai/96 situated on the western shores of Lake Ol Bolossat and [illegible]proximately 12 kilometres East of Ol Kalou Township, Nyandarua County, Central Province. The boundaries of which are more particularly delineated edged green on the Boundary Plan No.175/322, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi and a copy of which may be inspected at the office of the Ecosystem Conservator Ol Kalou, and Kenya Forest Service Headquarters, Nairobi.

Dated the 14th August, 2017.

JUDI W. WAKHUNGU
Cabinet Secretary for
Environment and Natural Resources.

LEGAL NOTICE NO. 178

THE FOREST CONSERVATION AND MANAGEMENT ACT

(No. 34 of 2016)

DECLARATION OF FOREST AREA

KIRIMA FOREST

IN EXERCISE of the powers conferred by section 31 (2) of the Forest Conservation and Management Act, the Cabinet Secretary for Environment and Natural Resources declares that the area described in the Schedule hereto be a forest area.

SCHEDULE

An area of land of approximately 527.5 hectares known as Nyandarua/Kirima/298 situated approximately 12 kilometres east of Ol Kalou Township, between boundary of Aberdare Forest and the south-western boundary of Muruai Forest in Nyandarua County, Central Province. The boundaries of which are more particularly delineated edged green on the Boundary Plan No.175/323, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi and a copy of which may be

(No. 34 of 2016)

DECLARATION OF FOREST AREA

MURUAI FOREST

IN EXERCISE of the powers conferred by section 31(2) of the Forest Conservation and Management Act, the Cabinet Secretary for Environment and Natural Resources declares that the area described in the Schedule hereto be a forest area.

SCHEDULE

An area of land of approximately 733.1 hectares known as Nyandarua/Muruai/96 situated on the western shores of Lake Ol Bolossat and approximately 12 kilometres East of Ol Kalou Township, Nyandarua County, Central Province. The boundaries of which are more particularly delineated edged green on the Boundary Plan No.175/322, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi and a copy of which may be inspected at the office of the Ecosystem Conservator Ol Kalou, and Kenya Forest Service Headquarters, Nairobi.

Dated the 14th August, 2017.

Cabinet Secretary for
Environment and Natural Resources.

LEGAL NOTICE NO. 178

THE FOREST CONSERVATION AND MANAGEMENT ACT

(No. 34 of 2016)

DECLARATION OF FOREST AREA

KIRIMA FOREST

IN EXERCISE of the powers conferred by section 31 (2) of the Forest Conservation and Management Act, the Cabinet Secretary for Environment and Natural Resources declares that the area described in the Schedule hereto be a forest area.

SCHEDULE

An area of land of approximately 527.5 hectares known as Nyandarua/Kirima/298 situated approximately 12 kilometres east of Ol Kalou Township, between boundary of Aberdare Forest and the south-western boundary of Muruai Forest in Nyandarua County, Central Province. The boundaries of which are more particularly delineated edged green on the Boundary Plan No.175/323, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi and a copy of which may be

CONSERVATION AND ...
THE FAIR ADMINISTRATIVE ACT, 2015 & THE ENVIRONMENT AND LAND COURT ACT, 2011

AND

IN THE MATTER OF:- CONTRAVENTION OF THE PETITIONER'S RIGHT TO PROPERTY OVER TITLES NO. NYANDARUA/MURUAI/1575 &1576 BEING SUBDIVISIONS OF ORIGINAL TITLE NO. NYANDARUA/MURUAI/1152

BETWEEN

LEONARD GIKARU WACHIRA.....PETITIONER

=versus=

KENYA FOREST SERVICE..... 1ST RESPONDENT

CABINET SECRETARY FOR ENVIRONMENT AND NATURAL RESOURCES.....2ND RESPONDENT

HONOURABLE ATTORNEY GENERAL.....3RD RESPONDENT

ORDER

THIS CAUSE COMING UP before **Hon. M.C OUNDO Judge** on **3rd August 2020** for hearing of an application dated **30th July 2020.**

RECEIVED 07 AUG 2020

AND UPON PERUSAL of the application;

IT IS HEREBY ORDERED AS FOLLOWS:-

1. That the application be served upon the Respondents within seven (7) days hereof.

2. That the Respondents shall file their response within fourteen (14) days upon service.

5. **That** the parties shall maintain the status quo obtaining as at 3rd August 2020 when this application was filed.

6. **That** the matter be mentioned on 21st September 2020 to confirm compliance and take a ruling date.

GIVEN AT NYAHURURU under my hand and the seal of the honourable court this .....3rd.....day of..... .....August.....2020

HON. M.C. OUNDO
JUDGE OF ENVIRONMENT & LAND COURT

ISSUED AT NYAHURURU under my hand and the seal of the honourable court this.....5th...day of.....August.....2020

DEPUTY REGISTRAR
ENVIRONMENT & LAND COURT

PENAL NOTICE

Any party served with this order and does not comply with the same may be cited for contempt of court and may be liable to imprisonment for a term not exceeding six (6) months or to sequestration of property or both.

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17 under the Forest Conservation and ...

e two forests are the heart of lake Ol-bolossat and Ewaso Nyiro rive which serve millions o
ople livelihood in counties of Laikipia, Isiolo,Samburu and Wajir.

ıe Muruai forest covers an area of 733.1 Hac as delineated on boundary plan No.175/322
rima forest covers an area of 527.5 Hac as delineated on the boundary plan 175/323.

ıe current invasion,illegal settlement and continued occupation of a big portion of this fores
ontrary to the Forest Conservation and Management Act No.34 of 2016 has resulted to
estruction of the water catchment for Lake Ol-bolossat and Ewaso Nyiro river .This contin
ıegal occupation of the forest is expected to drastically affect livelihood of millions relying o
:waso Nyiro river.

would like to inform all person who are illegally /irregularly occupying the above forest to v
within fourteen (14) days from the date of this notice. If you will not have moved out at the
he period the Kenya Forest Service will reclaim the land without further reference to you.

Issued by: Ecosystem Conservator
Kenya Forest Service
NYANDARUA COUNTY

Signed:.....

te:28th July 2020