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*SNA*  
*23/4/25*

REPUBLIC OF KENYA


THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025  
PUBLIC PETITIONS COMMITTEE

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REPORT ON-  
CONSIDERATION OF PUBLIC PETITION NO. 15 OF 2023 REGARDING THE  
DECLARATION OF MUKUTANI FOREST AS A PUBLIC FOREST

APRIL, 2025

 <b>THE NATIONAL ASSEMBLY</b> <b>PAPERS LAID</b>	
<b>DATE:</b> 23 APR 2025	
<b>DAY:</b> WED	
<b>TABLED BY:</b>	Chair, Public Petitions Committee
<b>CLERK-AT THE-TABLE:</b>	P Muiga

Directorate of Legislative & Procedural Services  
Clerk's Chambers  
Main Parliament Buildings  
NAIROBI



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## LIST OF ACRONYMS

CBO	Community-Based Organization
KFS	Kenya Forest Service
NGAOs	National Government Administrative Officers



## CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Public Petitions Committee regarding Public Petition No. 15 of 2023 regarding declaration of Mukutani Forest as a Public Forest. The Petition was presented to the House pursuant to the provisions of Standing Order No. 225 (2) (a) by the Member for Baringo County, Hon. Florence Jematiah Serгон, MP on behalf the residents of Baringo County.

The Petitioner prayed that the National Assembly through the Public Petitions Committee intervenes in among others, rescinding the decision to gazette Mukutani Forest as a Public Forest and orders a fresh all-inclusive exercise to be undertaken by all relevant stakeholders. The Committee finds that the process that led to the gazettment of Mukutani Forest was flawed as it ignored legal requirements, notably comprehensive public engagement and safeguarding of community rights.

The Committee established that there was insufficient public participation and lack of consultation with the National Land Commission and all affected communities, which directly contravened the provisions of the Constitution and the Forest Conservation and Management Act. The Committee recommends that due process outlined in the Section 34 of the Forest Conservation and Management Act, 2016 be followed.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support offered during the consideration of the Petition. The Chairperson expresses gratitude to the Members of the Committee and the Secretariat for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to table the report before the House.



HON. ERNEST KIVAI OGESI KAGESI, M.P.  
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

Date.....22nd April 2025.....



## **PART ONE**

### **1. PREFACE**

#### **1.1. Establishment and Mandate of the Committee**

The Public Petitions Committee was established under the provisions of Standing Order 208A with the following terms of reference -

- (a) considering all public petitions tabled in the House;
- (b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- (c) recommending whether the findings arising from consideration of a petition should be debated; and
- (d) advising the House and reporting on all public petitions committed to it.



## 1.2. Committee Membership

The Public Petitions Committee was constituted in October 2022 and comprises the following Members:

### Chairperson

Hon. Ernest Kivai Ogesi Kagesi, M.P.  
Vihiga Constituency  
Amani National Congress (ANC)

### Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.  
Turbo Constituency  
United Democratic Alliance (UDA)

Hon. Patrick Makau King'ola, M.P.  
Mavoko Constituency  
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Nimrod Mbithuka Mbai, M.P.  
Kitui East Constituency  
United Democratic Alliance (UDA)

Hon. Joshua Chepyegon Kandie, M.P.  
Baringo Central Constituency  
United Democratic Alliance (UDA)

Hon. Beatrice Kadaveresia Elachi, CBS, M.P.  
Dagoretti North Constituency  
Orange Democratic Movement (ODM)

Hon. Maisori Marwa Kitayama, M.P.  
Kuria East Constituency  
United Democratic Alliance (UDA)

Hon. Edith Vethi Nyenze, M.P.  
Kitui West Constituency  
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Bidu Mohamed Tubi, M.P.  
Isiolo South  
Jubilee Party (JP)

Hon. Bernrd Muriuki Nebart, M.P.  
Mbeere South Constituency  
Indeendent

Hon. John Bwire Okano, M.P.  
Taveta Constituency  
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Peter Mbogho Shake, M.P.  
Mwatate Constituency  
Jubilee Party (JP)

Hon. Suzanne Ndunge Kiamba, M.P.  
Makueni Constituency  
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Peter Irungu Kihungi, M.P.  
Kangema Constituency  
United Democratic Alliance (UDA)

Hon. Sloya Clement Logova, M.P.  
Sabatia Constituency  
United Democratic Alliance (UDA)





### **1.3. Committee Secretariat**

The Public Petitions Committee was facilitated members of the secretariat:

**Lead Clerk**  
**Mr. Ahmed Kadhi**  
**Principal Clerk Assistant II**

**Ms. Anne Shibuko**  
**First Clerk Assistant**

**Ms. Miriam Modo**  
**First Clerk Assistant**

**Mr. Willis Obiero**  
**Clerk Assistant III**

**Ms. Isaac Nabiswa**  
**Legal Counsel II**

**Ms. Patricia Gichane**  
**Legal Counsel II**

**Ms. Nancy Akinyi**  
**Research Officer III**

**Ms. Roselyne Njuki**  
**Senior Serjeant-at-Arms**

**Mr. Paul Shana**  
**Serjeant-at-Arms**

**Mr. Calvin Karungo**  
**Media Relations Officer III**

**Mr. Peter Mutethia**  
**Audio Officer**



## **PART TWO**

### **2. BACKGROUND TO THE PETITION**

#### **2.1 Introduction**

1. Public Petition No. 15 of 2023 regarding the declaration of Mukutani Forest as a public forest was presented to the House on Thursday, 6<sup>th</sup> July, 2023, by the Member for Baringo County, Hon. Florence Jematiah Serгон, MP on behalf of the Pokot, Tugen and Ilchamus Communities in Baringo County.
2. The Petitioner stated that Article 63 of the Constitution of Kenya recognizes community land and provides that the land shall vest in and be held by communities identified on the basis of ethnicity, culture or similar community of interest.
3. Section 8 of the Forest Conservation and Management Act, 2016 and the Kenya Forest Service is bestowed with the responsibility of conserving, protecting and managing all public forests in Kenya.
4. Section 31 (2) of the Forest Conservation and Management Act, 2016 states that, before declaring any section as a public forest, the Cabinet Secretary is required to consult the National Land Commission. The Second Schedule of the Act makes provisions for public participation.
5. The Petitioner further stated that, the then Cabinet Secretary, vide a Legal Notice No. 265 dated 27<sup>th</sup> October 2017, decreed that the alleged Mukutani Forest was an area of land approximately 13,185.8 hectares. The Petitioners therefore contended that they were not involved in the decision of the then Cabinet Secretary contained to gazette the said forest as a public forest, and neither were their elected representatives.
6. The alleged designation of the area as a forest poses an existential threat to the communities and required urgent intervention of the House to avert any further conflict.

#### **2.2 Petitioner's Prayers**

7. The Petitioners prayed that the National Assembly through the Public Petitions Committee—
  - a) To declare that the process leading to declaration of Mukutani Forest as a public forest was done in brazen and egregious contravention of the Constitution of Kenya and the Forest Conservation and Management Act, 2016; and
  - b) Recalls the decision of the then Cabinet Secretary of Environment and Natural Resources contained in the Legal Notice No. 265 dated 27/10/2017, interrogate the same and order that fresh exercise towards declaration of the alleged forest named Mukutani Forest be undertaken by the Cabinet Secretary, The Board of Kenya Forest Service, the National Land Commission and all relevant stakeholders.

## **PART THREE**

### **3. STAKEHOLDERS' SUBMISSIONS ON THE PETITION**

#### **3.1 Submission by the Petitioners**

8. The area is occupied by three communities namely Tugen, Pokot and Ilchamus. The alleged designation of the area as a forest poses an existential threat to the communities and requires urgent intervention of the House to avert any further conflict.
9. The land had been gazetted twice, first, during the rule of President Moi where it was adjudicated and resident issued with Title Deeds, and secondly, vide Legal Notice No. 265 dated 27<sup>th</sup> October, 2017.
10. The second gazettelement led to the eviction of communities that had settled in the area including those that were in possession of title deeds that had been issued during President Moi's era.
11. Several attempts to revoke the said gazettelement by the community and its leadership have never borne any fruit.
12. A fresh exercise to declare Mukutani Forest as a Public Forest should be undertaken by all the relevant stakeholders as the former processes were done in seclusion without the involvement of the community and other stakeholders and in contravention of the Constitution and the Forest Conservation and Management Act, 2016.
13. The number of people to be resettled were approximately 20,000 people.

#### **3.2 Submissions by the County Government of Baringo**

On 19<sup>th</sup> October 2023, the County Executive Committee Member in charge of Water, Irrigation, Environment, Natural resources, Mining and Climate Change in the County Government of Baringo, Mr. Richard Tamar, appeared before the Committee and submitted as follows:

14. On 17<sup>th</sup> June 2014, Kenya Forest Service (KFS) vide a letter Ref. No. 10/1/1/140 wrote to Baringo County Government explaining the need to reserve Mukutani Forest as a conservation area and the need to gazette it as a public forest to achieve that purpose as follows—
  - i. Mukutani and Lemaitai hills are conservation areas located within Marigat Sub-County and the extent of forest area covered by both hills totals to 11,831 Ha. The hills are bordered by Laikipia ranching company to the East, Mukutani river to the North, Toope river to the East and Karau hills to the West.
  - ii. The hills are critical forest ecosystems within Baringo County that are ungazetted and under the jurisdiction of the local communities. They

are faced with numerous challenges as a result of inadequate management mechanisms.

- iii. The major threats to sustainable management of the hills included encroachments and new settlements coming up that may lead to squatter problems in future; accelerated degradation of the area due to uncontrolled grazing, charcoal burning which affects vegetation cover, hence compromising conservation efforts within the area; illegal cultivation and clearing of riparian vegetation undermine downstream water flows from the main rivers and tributaries; lack of clear and distinct boundaries of the hills encourages encroachments; and high demand for forest products with increased population and no reforestation activities can lead to waste land in the long run.
- iv. To secure Mukutani and Lemaitai hills from extinction, there was need to have long-term safeguarding measures. The County had an obligation to ensure that any extents of forest areas falling within their jurisdiction were protected for the common good.
- v. Mukutani forest is the source of Mukutani River which is permanent and drains into Lake Baringo amongst other seasonal rivers including Lekirati, Toope, Tikaluk, Keran and other small tributaries to Ol arabel River.
- vi. The indigenous Ilchamus community has developed traditional natural resource management systems that have blended well and contributed to sustainable conservation of the area resources. The disruption of the traditional systems occasioned by displacement as a result of conflicts has created an unoccupied land between Kiserian and Mukutani areas which has become cattle rustling corridor.
- vii. The migrating Pokot herdsmen are gradually settling in the forest area destroying the catchment and beautiful river line vegetation dominated by *doum palm* and *figus sycomora* species.
- viii. The local community had set aside the hills for forest conservation purposes in order to secure its sustainability and halt degradation that negatively resulted in mismanagement and the high demand of forest products.
- ix. The Ilchamus community had already set aside approximately 19,000 hectares of rangeland as a wildlife conservancy namely Ruko Conservancy between Lake Baringo and Karai hills. The remaining portion of land which lies between Karai hills and the Laikipia Nature Conservancy were proposed for gazettelement.
- x. Protection of the Mukutani and Lemaitai forest would ensure there was continuous protective conservation area which stretched from Laikipia ranch to the shores of Lake Baringo.
- xi. The sites were strategic and conducive for a field training unit for paramilitary activities resource centre and other infrastructural

developments.

- xii. There was need to promote other alternatives of livelihood such as tourism, re-creating wildlife migrating corridor from Laikipia to Lake Baringo to boost tourism and open avenues of integrating the local community in the management of their natural resources.
  - xiii. An approval by the County Executive Committee of the County Government of Baringo was sought and the proposal be forwarded to the County Assembly of Baringo.
  - xiv. A resolution of the County Assembly of Baringo is hereby sought to give effect to the commencement of the process of gazettelement of MUKUTANI and LEMAITAI HILLS under the Forest Act 2005. This will set the gazettelement process on and ensure the eventual reservation of the Forest Blocks as state forests is achieved.
15. Despite the gazettelement of Mukutani land as a forest land, documents available in the County offices did not indicate any Cabinet memo ratifying the decision and there was no document referred to the Baringo County Assembly for approval of the said gazettelement. Therefore, the County Government was not involved in the process of gazettelement of the land despite being the custodian of the community land.
16. The land was inhabited by Tugen, Ilchamus, and Endorois who treasured it as a catchment area. However, the government conducted public participation involving the communities living in Mukutani Land and the residents fled from the land as a result of the conflicts and banditry and proffered gazettelement of their land as a forest. However, the public participation did not involve the rest of the communities in Mukutani Location.
17. Vide a letter dated 16<sup>th</sup> January 2015, the Ilchamus Community in Mukutani Ward wrote to the National Land Commission communicating that they had resolved to set aside land for forest conservation as a gazetted forest under the Forest Act 2005, so as to secure water catchment areas along the Mukutani and Lemaitai hills.
18. In November 2015, 274 residents of Arabal location, Marigat sub county in Baringo County petitioned the National Land Commission against the planned establishment of Mukutani Hill Forest Blocks (Lemaitai and Mukutani Blocs) as proposed by Ilchamus Community.
19. Vide Gazette Notice No. 1470 dated 11<sup>th</sup> March 2016, the Cabinet Secretary for Environment, Natural Resources and Regional Development Authorities declared Mukutani Forest a state forest.

Vide a letter Ref. BCMP/OAG/VOL.1/16 dated 24<sup>th</sup> March, 2016 six (6) Members of Parliament from Baringo County wrote to the then Cabinet Secretary, Ministry of Environment, Natural Resources and Regional Development Authority objecting the gazettelement of Mukutani land as a forest. The Members of Parliament stated that

their attention had been drawn to a Gazette Notice No. 1470 dated 11th March 2016 gazetted as a forest, the community (trust) land inhabited by Tugen, Ilchamus, and Endorois communities. The letter also listed twenty-five (25) public facilities in the said land including schools, churches, dam, chief's offices, health facilities, and cattle dips.

20. The Members requested for the revocation of the gazettelement to avoid acrimony and discontent as not all communities were involved in the public participation. The area had suffered serious insecurity due to cattle rustling causing the residents to flee the area.
21. On 30<sup>th</sup> March 2016, the Governor of Baringo County Government wrote to the Cabinet Secretary seeking revocation of Gazette Notice No. 1470- Mukutani Forest, failure to which redress would be sought from the courts. A follow up later was done by a subsequent Governor on 22<sup>nd</sup> July 2020.
22. Following complaints by the leadership of Baringo County on the Gazettelement of Mukutani Forest, the Chairperson of the National Land Commission vide a letter dated 30<sup>th</sup> March 2016, wrote to the Cabinet Secretary seeking suspension of the gazette notice pending round table discussions with all stakeholders.
23. Vide a letter Ref. DENR/EMC/40 Vol. III and dated 7<sup>th</sup> April, 2016, the then Cabinet Secretary for the Ministry of Environment, Water, and Natural Resources, Hon. Judi Wakhungu, EGH wrote to the Governor of Baringo County Government Hon. Benjamin Cheboi, EBS on the gazettelement of Mukutani Forest. In the letter the CS cited that some of the affected communities raised complaints occasioning a consultative meeting on 6th April, 2016. They also cited an advisory by the National Land Commission (NLC) on the matter vide a letter Ref. NLC/Chairman/Vol. XV/20 dated 30<sup>th</sup> March, 2016. In the letter the Chairman of the National Land Commission proposed that the Gazette Notice be suspended to allow for further stakeholders' consultations.
24. The Cabinet Secretary indicated that the Ministry was seeking advice from the Attorney General on how the gazettelement notice could be suspended without parliamentary approval.

Further, on 24<sup>th</sup> June 2024, the County Executive Committee Member in charge of Water, Irrigation, Environment, Natural resources, Mining and Climate Change in the County Government of Baringo, Mr. Richard Tamar appeared before the Committee and provided additional information and submitted as follows—

25. The position of the County Government of Baringo, in line with the aspirations of the adjacent community and all the leaders of Baringo, was that Mukutani Forest need not be a public forest under the management of Kenya Forest Service.
26. The gazettelement was done without proper stakeholder consultations as well as public participation as is required under section 31(2) of the Forest Conservation and Management Act and in contravention of the Constitution of Kenya, 2010.

27. Since the County Government holds in trust all community forests, the degazettement of Mukutani Forest as a public forest should be allowed to allow the county undertake various activities, most of which are already implemented. The county has demonstrated the ability to utilize the forest by:

- a) Formulating a draft Baringo County Sustainable Forest Management and Conservation Policy and Bill which involves actors in the forest sector from both national and county levels as well as the community. The policy and the Bill seek to provide a county-level institutional and legal framework to guide and govern the implementation of sustainable management and conservation of forests;
- b) Signing the transitional devolved forestry functions (TIPS) in 2019 as a commitment to accept to plan, budget and implement the specific sectorial functions between the National Government and the County Government as set out in the Fourth schedule of the Constitution of Kenya, 2010. In the forestry sector, counties have the duty of implementing specific national government policies on natural resources and environmental conservation;
- c) Holding various community meetings to sensitize communities in Baringo on establishment of community forests as well as seek their consent on the proposed project. The sensitization was organized by the department of Environment and involved also the participation of other key stakeholders such as Sub-County administration, Kenya Forest Service (KFS), department of Tourism and Environmental conservation related CBOs' committees, and the idea was well received by the members of the community. The meetings allow communities to understand the potential of these forests as enormous and could contribute to promoting tourism, income generation and community involvement and appreciation of environmental conservation.
- d) Establishing climate change programmes where Mukutani forest conservation has been given priority to financing the activities proposed by the community through the Mukutani Ward Climate Change Committee (WCCPC). The committee proposed an outstanding project, *"Restoration of Mukutani Forest Ecosystem for Climate Change Resilience and Enhanced Livelihoods"*, which the County Government is committed to financing through the FLLOCA programme. The project activities include protection of the catchment area, establishment of a tree nursery and re-vegetation, which are key to restoration of the degraded Mukutani landscape. All these initiatives are to ensure the resilience of communities against the impacts of Climate Change;
- e) Employment of forest rangers and community scouts attached to the forest. This is to improve surveillance, and therefore promote sustainable management of the forest; and
- f) Promoting partnerships with key stakeholders in the forestry sector. The partnerships are important in complimenting government in the implementation of forestry and environmental conservation initiatives, which are in turn, key in enhancing communities' capacity to become



resilient to the impacts of climate change, as well as enhancing food security.

28. With Kenya Forest Service and the Rangers being in charge of the Mukutani Forest, there has been restricted access to the forest thereby limiting community activities within the area.
29. The only activity allowed to take place within Mukutani Forest by the community is bee keeping and this was done in agreement with the Kenya Forest Service.

### **3.3 Submissions by Ministry of Lands, Public Works, Housing and Urban Development**

On 4<sup>th</sup> October 2023, the Principal Secretary, State Department for Lands, Hon. Generali Nixon Korir, appeared before the Committee and submitted as follows—

30. The main contention in the petition is that no public participation was undertaken in the process of gazettement Mukutani Forest. If proper consultation was done and the locations involved, issues regarding its existence would not be in contest and measures of proper protection would have been put in place to allay the fears of the communities.
31. Mukutani Forest was gazetted as a public forest vide Legal Notice No. 265 of 2017 and it covers part of Mukutani Location. The forest measures approximately 13,195.8 hectares and by the time of gazettement, the Ministry had already declared the area as an adjudication section per the notice dated 18<sup>th</sup> February 2016.
32. Due to insecurity in the area, demarcation and recording of rights had not commenced as there have been communal conflicts between residents of Mukutani Location and the neighbouring Arabal Location.
33. Both Arabal and Mukutani Location residents complained that their views were not sought when the forest was gazetted despite the area covering what they consider as their community land. The people from Arabal also view the forest as their hideout for cattle rustlers who continue tormenting them and take refuge in the forest.
34. The Forest Conservation and Management Act No. 34 of 2016 at section 30 classifies categories of forests as follows:
  - a) Forests may be classified as public, community or private forests.
  - b) Public forests include; public forests classified under article 62(1)(g) of the Constitution and the forests on land between high and low water marks classified under article 62 (1)(i) of the Constitution.
35. Section 31 (1) and (2) of the Act prescribed the procedure for the creation and management of public forests.

36. According to the records held by the Ministry of Lands, Mukutani Forest falls on former trust land which transitioned to community land under Constitution of Kenya 2010 and the Community Land Act, 2016.
37. The land was under trust and was reverted to the community but in 2011 it was gazetted as a forest land. The gazettelement did not involve the community and ought to have been reversed and land given to the community.

### **3.4 Submissions by the National Lands Commission**

On 4<sup>th</sup> October 2023, the Chairperson of the National Land Commission, Mr. Gershom Otachi, EBS, appeared before the Committee and submitted as follows -

38. That, they checked their records for any correspondence regarding Legal Notice 265 dated 27/10/2017 from the Ministry in charge of forestry or the Kenya Forest Service as prescribed under section 21(2) of the Forest Conservation and Management Act, 2016 and no such correspondence was found therefore affirming the lack of involvement in the gazettelement process.
39. The matter would be better handled by direct involvement with the Ministry in charge of forestry, the respective county government and the relevant stakeholders or the community.
40. There was a need to notify the Commission before the gazettelement of any community land as a public forest.

### **3.5 Submissions by Ministry of Environment, Climate Change and Forestry**

On Thursday, 5<sup>th</sup> December, 2024, the Cabinet Secretary for the Ministry of Environment, Climate Change and Forestry, Hon. Aden Duale, EGH, appeared before the Committee and submitted as follows -

41. Mukutani Forest comprises of two blocks namely Lemaitai and Mukutani. Mukutani block lies along the Laikipia Escarpments and borders Laikipia Ranching to the East and is mainly hilly with gorges and river valleys.
42. Lemaitai block comprises the Lemaitai hill and borders Lake Baringo to the West.
43. The gazettelement process was a community driven initiative to reserve community land as a forest reserve. The community, in 2013, approached the Forest Station Manager to seek advice on reservation of the area for conservation citing destruction of water catchment areas as the main concern.
44. The need for gazettelement of two hills was informed by environmental, economic, socio-cultural and security challenges experienced by the community.
45. The presentation on need for gazettelement was made at the International Colloquium held at Eldoret in March of 2015 and stated the following specific reasons for gazettelement:

- (a) Degradation of water catchment, grazing areas and riparian vegetation upstream;
  - (b) Increasing poverty due to loss of traditional livelihood sources arising from the displacement of population from their ancestral homes;
  - (c) Human wildlife conflict;
  - (d) Natural resource conflict and displacement of the community from their ancestral land since the year 2005; and
  - (e) Denial of the community to access sacred sites of cultural importance.
46. The community resolved to address the challenges through conservation management and protection of the hills by gazettement Mukutani Forest as a public forest. Their belief was that this would guarantee:
- (a) Improved water flows for domestic and irrigation purposes from the rivers emanating from the hills.
  - (b) Community participation in forest conservation and management.
  - (c) Economic empowerment through ecotourism and other non-consumptive uses of the forest.
  - (d) To open up a wildlife migratory corridor connecting Laikipia and Lake Baringo thus promoting tourism and associated benefits.
  - (e) Peace and security in the region and beyond.
  - (f) Access to cultural heritage, sacred and religious sites.
  - (g) Opportunities for infrastructure, education, health and general development of other facilities.
47. Following the displacement of some of the community members from their ancestral land in 2005, the community through the help of Northern Rangelands Trust set aside some portion of land in Rugus Location in a bid to protect the land from invasion and this initially paid off when a wildlife sanctuary and a jetty in Lake Baringo was established hence the birth of the idea to gazette the community land as a forest reserve.
48. Despite the intervention by the Northern Rangelands Trust, the conflict remained unabated hence the resolve to gazette Lemaitai and Mukutani hills as public forests.
49. Mukutani Forest is a continuation of Laikipia escarpments which include Ol Arabel and Marmanet forest blocks and the forest ecosystem largely contributes to the best forest management practices for a solution on environmental sustainability and livelihood improvement.
50. Gazettement of Mukutani was initiated by the community and undertaken in a public manner as provided for by the Forest Conservation and Management Act and with the approval of the National Land Commission and the Kenya Forest Service. The gazettement has contributed approximately an area of 13,195.8 Ha to the National tally of public forests and hence long-term plans to increase the envisaged tree and forest cover.
51. The forest adjacent communities in Mukutani Forest have formed an active and vibrant Community Forest Association which has participated in forest conservation activities.

52. The following documents confirm that the necessary consultations and procedures were done before gazettement of the forest block. They include;

- (a) Minutes of the community meeting on gazettement dated 27<sup>th</sup> December, 2013, where the agenda was to discuss the hills to be gazetted as forest reserves as well as understanding the meaning of gazettement of hills and the implication to livelihood of the community. The resolution reached was that portions of Mukutani and Lemaitai (Karau) hills be set aside for forestry development under the then, Forest Act 2005.
- (b) Letter Ref. No. 10/1/1/140 dated 17<sup>th</sup> June 2014 from the Ecosystem Conservator (EC), Baringo County to the County Executive Committee; Ministry of Environment and Natural Resources, Energy and Mining informing the County Government of Baringo on the creation and reservation of new forests; Lemaitai and Mukutani Hills.
- (c) Letter from the Ilchamus Community to the National Land Commission dated 16<sup>th</sup> January 2015 where the Community sought assistance in the gazettement of Mukutani Forest for conservation of forest resources.
- (d) Letter Ref. NLC/CHAIRMAN/VOL.IX/145 dated 31<sup>st</sup> March, 2015 from the National Land Commission to Kenya Forest Service where the Commission consents to gazettement of the forest and requests KFS to undertake the gazettement process.
- (e) Copy of Legal Notice No. 265 of 27<sup>th</sup> October, 2017 which declared Mukutani Forest a Public Forest.
- (f) Copy of Boundary Plan No. 175/435 which shows the boundaries of Mukutani Forest.

53. The Gazettement of Mukutani Forest was done in line with the provisions of the Constitution of Kenya 2010 and FCMA 2016. The National Land Commission, the County Government of Baringo, the Mukutani Community, and all relevant stakeholders were consulted during the Gazettement process.

54. The requested reversal would -

- (a) Adversely affect the value of the forest eco-system as a water catchment area and prejudice biodiversity conservation, cultural site protection of the forest and its sustainable use for educational, recreational, health and research purposes;
- (b) Endanger rare and threatened species within Mukutani Gazetted Forest;
- (c) Interfere with the wildlife migratory corridor connecting Laikipia and Lake Baringo thus jeopardize community livelihood opportunities; and
- (d) Negate the Presidential directive on acceleration, achievement and maintaining 30% tree cover by 2032, the 15 Billion Tree Growing; National Landscape and Ecosystem Restoration Programme.
- (e) Mukutani forest is a critical state resource for strategic national interests. The gazettement guaranteed and ensured that the interests of forest dependants are safeguarded through multiagency security teams and the Whole of Government Approach (WGA).

### **3.6 Submissions by the Elected Members of Baringo County**

On Tuesday, 26th November, 2024, elected Members of Baringo County, led by the Petitioner, the Hon. Florence Jematiah, MP, appeared before the Committee and submitted as follows—

#### ***a) Submission by Hon. Florence S. Jematiah, MP (Women Representative, Baringo County)***

55. The Petitioner clarified that Mukutani was not a forest, but a settlement historically inhabited by diverse communities, including the Tugen, Pokot, and Ilchamus. The area was equipped with various amenities, such as schools. However, between 2004 and 2005, conflicts linked to banditry led to widespread insecurity, forcing the residents to abandon the area.
56. After years of peace-building efforts, the communities were encouraged to return to their land in Mukutani, only to discover that it had been gazetted as a forest in 2017. This gazettement occurred during a period of conflict and tension, which limited public participation. Consequently, only the Ilchamus community supported the gazettement, while other communities were excluded from the process.
57. The Petitioner urged the Committee to undertake a site visit to Mukutani to gather the perspectives of the affected communities, including the Tugen in Arabal, the Ilchamus in Kiserian, and the Pokot.

#### ***b) Submissions by Hon. Charles Kamuren, MP (Baringo South Constituency)***

58. Following the gazettement of Mukutani as a forest, the area experienced conflicts, with some parties supporting the decision and others opposing it. The renewed tensions had significant repercussions, including closure of schools despite the willingness of local communities to enrol children in the newly reopened institutions, among others.
59. The National Government had also been unresponsive in supporting the establishment of schools in the area. Instead, National Government Administrative Officers (NGAOs) had exacerbated tensions by declaring schools in the area illegal, citing the gazettement of the land as forest land. Their stance had shown a preference for maintaining the forest designation at the expense of the interests of the local communities.
60. Conflicts around Mukutani had resulted in loss of over 400 lives, leaving many women widowed and children orphaned. Additionally, the disputes had perpetuated poverty in the region, hindering its development and stability.
61. The County Government of Baringo had opposed the gazettement of Mukutani as a forest, citing lack of proper public participation. While the Ilchamus community conducted their public participation and allocated parts of their land to form Mukutani Forest, the gazetted forest area extends beyond Ilchamus land into territories occupied by the Pokot and Tugen communities in Arabal, further fuelling the conflict.

#### ***c) Submissions by Hon. William Kamket, MP (Tiaty Constituency)***

62. The gazettement of Mukutani as a forest was carried out without adequate consultations with all the affected communities through public participation, leaving many dissatisfied and feeling excluded from the decision-making process.
63. Although measures to address insecurity in the region had yielded some positive outcomes, the greatest threat to peace remained the unresolved issues surrounding the forest gazettement and the establishment of a sub-county headquarters in Mukutani. These disputes had created an environment that bandits exploit, underscoring the urgent need for a swift resolution to save lives and stabilize the area.
64. Despite these challenges, there had been some positive developments, such as the continued operation of Matunda Primary School within Mukutani. However, threats from NGAOs who have questioned the legality of the schools in the area, jeopardize such progress. Addressing these issues urgently is critical to ensuring the region's stability and development.



## PART FOUR

### 4. COMMITTEE OBSERVATIONS

Upon hearing from the Petitioner and other stakeholders, the Committee observed that—

65. The process leading to the gazettement of Mukutani Forest as a public forest lacked sufficient consultation with key stakeholders, including local communities and the County Government of Baringo. This failure to engage the affected communities led to significant discontent, especially because the land in question was considered Community Land as specified in Article 63 of the Constitution of Kenya.
66. The gazettement of Mukutani Forest posed an existential threat to the communities living in the area, which was exacerbated by the eviction of approximately 20,000 people, many of whom had previously been issued with title deeds. This situation may intensify conflicts between the Tugen, Pokot, and Ilchamus communities, which had already been sensitive due to historic cattle rustling and insecurity in the region.
67. The Gazettement of Mukutani Forest was inconsistent with the provisions of both the Forest Conservation and Management Act 2016 and the Constitution of Kenya. The Legal Notice gazettement the forest was issued without fulfilling the requirement of public participation and consultation with the National Land Commission, as mandated by law.
68. While the gazettement aimed at forest conservation and the protection of the Mukutani River catchment area, the forest degradation was primarily due to mismanagement and lack of clear boundaries. However, the community's role in conservation, as reflected in the creation of conservancy and tree-planting efforts, highlighted their commitment to sustainable environmental management.
69. There are potential benefits of declaring Mukutani Forest as a public forest, such as promoting tourism, ecotourism and enhancing community livelihoods through wildlife corridors and resource management. However, these benefits were overshadowed by the negative social impact of displacement and lack of proper community involvement.
70. There is need for a fresh, inclusive process that involves all relevant stakeholders, particularly the affected communities, to review the decision regarding Mukutani Forest. The previous process lacked transparency and fairness, and the petitioners were right in requesting a new approach.
71. The history of land adjudication and the issuance of Title Deeds during President Moi's regime indicates that the affected communities have recognized rights to the land in question. The subsequent gazettement actions have created ambiguity and have not respected the historical entitlements of these communities.
72. The Indigenous Ilchamus community's traditional natural resource management practices have historically contributed to sustainable resource use. Disrupting

these systems through the gazettement has resulted in adverse impacts, including increased insecurity and displacement.

73. The Gazettement of Mukutani Forest has led to the displacement of approximately 20,000 people who are to be resettled and continuous attempts by the community to revoke the gazettement have not yielded results, indicating a failure of government responsiveness to community grievances.
74. Objections raised by local Members of Parliament and the County Government and the calls for revocation of the gazettement reflect widespread community dissent and division on the matter.
75. The National Lands Commission's lack of records concerning the gazettement process emphasizes the need for transparency and accountability in land management practices.
76. Section 34 of the Forest Conservation and Management Act, 2016 provides for the revocation of the registration of a public forest through a petition to the National Assembly. It sets out clear steps that must be undertaken in the consideration of such a petition. The steps are summarized below—
  - a) The petition should demonstrate that the revocation of the public forest does not—
    - i. endanger any rare, threatened or endangered species; or
    - ii. adversely affect its value as a water catchment area; and prejudice biodiversity conservation, cultural site protection of the forest or its use for educational, recreational, health or research purposes.
  - b) The petition can only be forwarded to the National Assembly on the recommendation of the Kenya Forest Service.
  - c) Upon committal of the petition to the relevant committee the Cabinet Secretary shall, within thirty days, submit a recommendation on whether the petition should be approved subject to an independent Environmental Impact Assessment and public consultation being undertaken in accordance with the Second Schedule of the Act.
  - d) On the outcome, if in this case the committee finds that the petition does not disclose a ground for the revocation of the registration of a public forest no further proceedings shall be taken.
  - e) However, if the committee finds that the petition does disclose a ground for the revocation the National Assembly shall vote on whether to approve the recommendation.
  - f) If the recommendation is supported by a majority of the members in the National Assembly the Cabinet Secretary shall publish a notice on the revocation in the gazette.




## PART FIVE

### 5. COMMITTEE RECOMMENDATIONS

77. Pursuant to the provisions of Standing Order 227, the Committee responds to the petitions as follows—

- (i) On the prayer that the Committee finds that the process leading to the declaration of Mukutani Forest as a public forest was done in brazen and egregious contravention of the Constitution of Kenya and the Forest Conservation and Management Act, 2016, the Committee finds that the process that led to the gazettment of Mukutani Forest was flawed as it ignored legal requirements, notably comprehensive public engagement and safeguarding of community rights. The Committee established that there was insufficient public participation and lack of consultation with the National Land Commission and all affected communities, which directly contravened the provisions of the Constitution and the Forest Conservation and Management Act.
- (ii) On the prayer that the Committee recalls the decision of the then Cabinet Secretary of Environment and Natural Resources contained in the Legal Notice No. 265 of dated 27<sup>th</sup> October 2017, interrogate the same and order that fresh exercise towards the declaration of the alleged forest named Mukutani Forest be undertaken by the Cabinet Secretary, the Board of Kenya Forest Service, the National Land Commission and all the relevant stakeholders, the Committee recommends that due process outlined in the Section 34 of the Forest Conservation and Management Act, 2016 be followed.

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE:</b> 23 APR 2025	
<b>DAY:</b> WED	
<b>TABLED BY:</b>	CHAIRPERSON, PUBLIC PETITIONS COM
<b>CLERK-AT THE-TABLE:</b>	P MUIRA

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**HON. ERNEST KIVAI OGESI KAGESI, M.P.**  
**CHAIRPERSON, PUBLIC PETITIONS COMMITTEE**





REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025  
PUBLIC PETITIONS COMMITTEE

ADOPTION SCHEDULE  
OF THE REPORT ON CONSIDERATION OF PUBLIC PETITION NO. 15 OF 2023  
REGARDING DECLARATION OF MUKUTANI FOREST AS A PUBLIC FOREST

DATE.....11-04-2025.....

We, the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the consideration of regarding **Declaration of Mukutani Forest as a Public Forest** to confirm our approval and confirm its accuracy, validity and authenticity:

NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Ernest Ogesi Kivai Kagesi, M.P.	Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, CBS, M.P.	Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	Member	
4.	Hon. Nimrod Mbithuka Mbai, M.P.	Member	
5.	Hon. Joshua Chepyegon Kandie, M.P.	Member	
6.	Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	Member	
7.	Hon. Maisori Marwa Kitayama, M.P.	Member	
8.	Hon. Edith Vethi Nyenze, M.P.	Member	
9.	Hon. Bidu Mohamed Tubi, M.P.	Member	
10.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	Member	
11.	Hon. Peter Mbogho Shake, M.P.	Member	
12.	Hon. Suzanne Ndunge Kiamba, M.P.	Member	
13.	Hon. John Bwire Okano, M.P.	Member	
14.	Hon. Peter Irungu Kihungi, M.P.	Member	
15.	Hon. Sloya Clement Logova, M.P.	Member	

