

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

Paper Laid
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Member, DC-Envt & Natural
Resources on Wed. 19.8.15
(pm) M/MW



ELEVENTH PARLIAMENT- THIRD SESSION

DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

REPORT ON REGIONAL SUMMIT TO STOP WILDLIFE CRIME AND ADVANCE
WILDLIFE CONSERVATION NOVEMBER 7TH – 8TH, 2014 IN ARUSHA, TANZANIA

CLERK'S CHAMBERS
PARLIAMENT BUILDINGS,
NAIROBI

AUGUST, 2015

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ABBREVIATIONS

EAC – East Africa Community

SADAC – Southern African Development Community

LATF – Lusaka Agreement Task Force

CITES – Convention on International Trade in Endangered Species

1.0 PREFACE

It is my pleasure to present the report of the Departmental Committee on Environment and Natural Resources to the Summit on wildlife crime and advance wildlife conservation. The summit was held on 7th – 8th November, 2014 Arusha, Tanzania.

1.1 Committee Mandate

The Departmental Committee on Environment and Natural Resources is established under the Standing Order No. 216(1). The functions and mandate of the Committee are also contained under Standing Order, No. 216(5) as follows:-

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b) Study the program and policy objectives of the Ministries and departments and the effectiveness of the implementation;
- c) Study and review all legislation referred to it;
- d) Study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with its stated objectives;
- e) Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- f) Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and
- g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The subject matter of the Departmental Committee on Environment and Natural Resources are stated in the Second Schedule of the National Assembly Standing Orders as follows: climate change, environment management and conservation, forestry, water resource management, wildlife, mining and natural resources, pollution and waste management.

1.2 Committee Membership

1. Hon. Amina Abdalla, M.P., - **Chairperson**
2. Hon. Alexander. K. Kosgey, M.P., - **Vice Chairperson**
3. Hon. Alice Ng'ang'a, M.P.
4. Hon. Samuel Ndiritu, M.P.
5. Hon. Aisha Jumwa Karisa, M.P.
6. Hon. Ejidius Njogu Barua, M.P.
7. Hon. Jude Njomo, M.P.
8. Hon. Richard Moitalel Ole Kenta, M.P.
9. Hon. Kathuri Murungi, M.P.
10. Hon. Sunjeev Kaur Birdi, M.P.
11. Hon. Jackson K. Rop, M.P.
12. Hon. Abdi Noor Ali, M.P.
13. Hon. Joyce Emanikor, M.P.
14. Hon. Abdulaziz Farah, M.P.
15. Hon. Ronald Tonui, M.P.
16. Hon. (Dr.) Reginalda Wanyonyi, M.P.
17. Hon. Gideon Mwiti, M.P.
18. Hon. Hassan Dukicha, M.P.
19. Hon. Francis Chachu Ganya, M.P.
20. Hon. James Opiyo Wandayi, M.P.
21. Hon. Charles Mongare Geni, M.P.
22. Hon. (Dr.) Wilber K. Ottichilo, M.P.
23. Hon. Khatib Mwashetani, M.P.

- 24.Hon. George Ogalo, M.P.
- 25.Hon. (Major) MuluviMutua, M.P.
- 26.Hon. Mohamed, Diriye M.P.
- 27.Hon, Peter Kinyua, MP.
- 28.Hon. Shukra Hussein Gure, M.P
- 29.Hon. ZainabChidzuga, M.P.

1.3 Delegation to the Summit:

The following members were nominated by the Committee to attend the Summit:-

1. Hon. Joyce Emanikor Akai, MP– **Leader of Delegation**
2. Hon. Francis GanyaChachu, MP
3. Hon. ZainabChidzuga, MP
4. Hon. James OpiyoWandayi, MP
5. Ms. Angeline NaserianLotuai
6. Mr. Joshua Ondari – Delegation Secretary

The Summit on wildlife crime and advance wildlife conservation was held on 7th – 8th November, 2014 Arusha, Tanzania.

1.4 Summit's Resolutions

The Committee observed that in recent years, elephant poaching and illegal ivory trafficking across Africa has rapidly increased. This poses a threat not only to the survival of elephant populations but also to economic, political and ecological systems. The Continued destruction of elephants within and outside protected areas, if unabated, will seriously compromise the tourism industry not only in Kenya but also in the region and beyond.

The Committee further observed that organized and intricate elephant poaching networks in and outside the country sustain illegal trafficking thus making it difficult for Kenya alone to make meaningful interventions.

It is on the basis of the foregoing that the Committee adopted the following Summit Resolutions:-

- a) Collaborate on combating the illegal trafficking of wildlife, timber, fish, and other natural resources across the region;
- b) Share, develop and improve databases and protocols for intelligence sharing and joint investigations, making use of existing resources, such as the forensics laboratory;
- c) Develop protocols for joint training and patrolling for wildlife and environmental law enforcement where appropriate;
- d) Work towards the strengthening of the Lusaka agreement and other regional protocols already in place;
- e) Coordinate the harmonization of wildlife and environmental crime enforcement and penalties, with particular reference to elevating appropriate wildlife and environmental crimes to the level of serious crimes; and to work with extradition and mutual legal assistance protocols;
- f) Request that transit and/or destination countries for illegal wildlife and other natural resource products work with the regional states in developing the legal assistance protocols, which include intelligence sharing, joint investigations, and application of existing technologies and resources;
- g) Harmonize and integrate, where appropriate, the forest, fish, and wildlife laws and policies for the convenience of enforcement;
- h) Recommend the formation of inter-ministerial task forces to coordinate efforts to combat wildlife and environmental crime and advance natural resource conservation within countries, and appoint liaisons to communicate and collaborate with the task forces in the other countries that are party to the declaration;
- i) Coordinate national, regional, and international public awareness campaigns on poaching and illegal trafficking of wildlife and other natural resources;
- j) Work together toward joint policy development and law enforcement to curb illegal and unsustainable fishing along the regions, oceans and lakes;
- k) Request that the international partners, such as Interpol, the United Nations, Lusaka Agreement Task Force (LATF), World Customs Organization,

CITES, and others harmonize and coordinate their initiatives and continued support to the above stated and other efforts to combat wildlife/environmental crime;

- l) Collaborate on developing sustainable tourism on a local, national, sub-regional and regional scale;
- m) Explore mechanisms for local community engagement, land-use and wildlife and natural resource management plans, as well as local community benefit sharing;
- n) Collaborate on the design and management of national and trans-frontier conservation areas for ecosystem management for migratory wildlife and fish species, and for the enhancement of the cultural values of the people;
- o) Coordinate censuses and surveys, research, and management of diseases for migratory wildlife;
- p) Collaborate on the management of shared ecosystems to conserve shared resources and maximize their mutual benefits;
- q) Collaborate in developing and managing natural resources for the integrity of the ecosystems, and for the benefit of the national citizens and the international community;
- r) Engage the regional and global development partners, including multilateral institutions, non-governmental organizations, and leaders and innovators from the business community, to utilize all existing and potential resources allocated and committed toward the conservation of the regions' natural resources; and
- s) Negotiate and finalize proposed bilateral agreements on the conservation and management of shared ecosystems and cross-border wildlife.

1.6 ACKNOWLEDGEMENT

Mr. Speaker Sir,

The Committee wishes to register its appreciation to the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to the Committee and the staff, in the execution of its mandate.

Let me take this opportunity to thank all Members for their patience, endurance and dedication to committee business, despite their other commitments and tight schedules, which enabled the Committee to complete this Report.

On behalf of the Departmental Committee on Environment and Natural Resources, and pursuant to Standing Orders No.199 of the National Assembly, I now have the honor to present the Report thereto for adoption pursuant to the provisions of standing orders of the National Assembly.

Thank You,

SIGNED



**LEADER OF DELEGATION
(HON. JOYCE EMANIKOR AKAI,MP)**

DATE

4/8/2015

2.0 BACKGROUND

The Regional Summit to stop wildlife crime and advance wildlife conservation took place in Arusha, Tanzania from 7th – 8th November, 2014. The regional African countries of the EAC (East African Community) and SADC (Southern African Development Community) attended the summit.

High-level delegates from the region and around the world included Ministers and senior officials from Burundi, Democratic Republic of Congo, Kenya, Malawi, Mozambique, Rwanda, South Sudan, Tanzania, Uganda, Zambia, and Zimbabwe, as well as development partner nations such as Belgium, China, the European Union, France, Germany, Spain, Sweden, the United Kingdom, and the United States. The Prime Minister of Tanzania, Hon. Mizengo Pinda, and the United States Under-Secretary of State for Economic Growth, Energy, and the Environment, Hon. Catherine Novelli, delivered keynote remarks pledging strong support for the Summit resolutions.

Major multilateral institutions that participated include United Nations Resident Coordinators for Tanzania, Mozambique, and Burundi, as well as senior representatives from the Global Environment Facility, the World Bank, and the African Development Bank and senior representatives from global non-governmental organizations, such as the African Wildlife.

Tanzania announced the Arusha Challenge, which encouraged countries around the region to establish wildlife population goals and periodically report on progress. Tanzania did set a target of 100,000 elephants, 500 rhinoceros, and 10,000 lions by 2025 and called on other nations to set goals by March 2015.

3.0 KEY ISSUES DISCUSSED

3.1 Strengths and opportunities in the region

The participants identified the following strengths in the region with regard to the diversity of wild life and opportunities for conservation:-

- a) The region shared by Burundi, Kenya, Malawi, Mozambique, South Sudan, Tanzania, Uganda, and Zambia holds an incredible diversity of flora and fauna and boasts of unparalleled natural wonders, such as the Rift Valley, Mount Kilimanjaro, and Victoria Falls, as well as cross-border protected areas, such as the Selous-Niassa, Serengeti-Mara, Amboseli-Kilimanjaro, Tsavo-Mkomazi, the Virunga-Volcano-Mgahinga-Queen Elizabeth-Rwenzori-Semuliki, and Kidepo transboundary ecosystems, and other vast conservation areas such as the Gorongosa National Park, Limpopo National Park – part of the Great Limpopo Trans frontier Park (an initiative involving Mozambique, South Africa, and Zimbabwe), Quirimbas, Kafue, North and South Luangwa, Bwindi, Elgon, Ruaha, Kibira, Ruvubu, and others;
- b) The region also contains profound waterways and productive aquatic ecosystems, such as the Zambezi River, the Great Lakes of Nyassa/Malawi, Victoria, Tanganyika, and Turkana, the Nile-Semliki and the Rufiji water systems, and the Indian Ocean coastline that connects the great ports of Mombasa, Dar-es Salaam, Zanzibar and Maputo, comprising the most economically active section of the continental east coast; and
- c) The region is home to some of the biggest populations of mega fauna – including the elephant, lion, chimpanzee, and Mountain Gorilla – in the world.

3.2 Threats to wildlife conservation

The participants identified the following threats facing wildlife conservation in the region:

- a) The ecosystems in the region are under threat due to the increasing rates of poaching and illegal trafficking of certain species of fauna and flora, among them elephants, rhinoceros, cheetahs, East African sandalwood, as

- well as Miombo, Prunus, African Blackwood, and other high-value tree species, which not only devastates and robs the people of their natural heritage, but also handicaps economies, and undermines the rule of law and regional security;
- b) The current levels of illegal off-take and trafficking of natural resources and other threats to shared ecosystems, are unsustainable.
 - c) People and States are the best protectors of their own wildlife and ecosystems, through efforts that both combat the illegal off-take and trade of natural resources within regional borders, and collectively call upon transit and consumer nations to cooperate with such efforts;
 - d) Natural resources, wildlife, and ecosystems follow natural boundaries that do not necessarily reflect political borders, and are not man-made;
 - e) Some States are Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and some are party to the Lusaka Agreement on Cooperative Enforcement Operations directed at Illegal Trade in Wild Fauna and Flora, among other multilateral environmental agreements; international instruments whose objects are the sustainable environmental management and regulation of trade in Wildlife and other natural resources;
 - f) To combat the threat of wildlife and environmental crime effectively, each State should be committed to collaborating with the another across borders; and
 - g) That the region is blessed with abundant biodiversity and natural wealth, it is good to be stewards of these lands and natural resources provided, so that the future generations can enjoy them as much as the past and present.

4.0 The Summit noted that:-

- a) Ecosystems are under threat, facing increasing rates of poaching and illegal trafficking of certain species of fauna and flora;
- b) Natural resources, wildlife, and ecosystems follow natural boundaries that do not necessarily reflect political borders, and are not man-made;

- c) The current levels of illegal off-take and trafficking of natural resources and other threats to shared ecosystems are unsustainable;
- d) People and States are the best protectors of their own wildlife and ecosystems;
- e) The biggest populations of charismatic mega fauna –including the elephant, lion, chimpanzee, and Mountain Gorilla – in the world are found in this region.

5.0 SUMMIT RESOLUTIONS

Convinced of the urgency of the situation and the need to take appropriate measures towards combating illegal off-take and trafficking of natural resources and conserving shared ecosystems, the Summit recommends that there is need for each Country to:-

- a) collaborate on combating the illegal trafficking of wildlife, timber, fish, and other natural resources across the region;
- b) Share, develop and improve databases and protocols for intelligence sharing and joint investigations, making use of existing resources, such as the forensics laboratory;
- c) Develop protocols for joint training and patrolling for wildlife and environmental law enforcement where appropriate;
- d) Work towards the strengthening of the Lusaka agreement and other regional protocols already in place;
- e) Coordinate the harmonization of wildlife and environmental crime enforcement and penalties, with particular reference to elevating appropriate wildlife and environmental crimes to the level of serious crimes; and to work with extradition and mutual legal assistance protocols;
- f) Request that transit and/or destination countries for illegal wildlife and other natural resource products work with the regional states in developing the legal assistance protocols, which include intelligence sharing, joint investigations, and application of existing technologies and resources;

- g) Harmonize and integrate, where appropriate, the forest, fish, and wildlife laws and policies for the convenience of enforcement;
- h) Recommend the formation of inter-ministerial task forces to coordinate efforts to combat wildlife and environmental crime and advance natural resource conservation within countries, and appoint liaisons to communicate and collaborate with the task forces in the other countries that are party to the declaration;
- i) Coordinate national, regional, and international public awareness campaigns on poaching and illegal trafficking of wildlife and other natural resources;
- j) Work together toward joint policy development and law enforcement to curb illegal and unsustainable fishing along the regions, oceans and lakes;
- k) Request that the international partners, such as Interpol, the United Nations, Lusaka Agreement Task Force (LATF), World Customs Organization, CITES, and others harmonize and coordinate their initiatives and continued support to the above stated and other efforts to combat wildlife/environmental crime;
- l) Collaborate on developing sustainable tourism on a local, national, sub-regional and regional scale;
- m) Explore mechanisms for local community engagement, land-use and wildlife and natural resource management plans, as well as local community benefit sharing;
- n) Collaborate on the design and management of national and trans-frontier conservation areas for ecosystem management for migratory wildlife and fish species, and for the enhancement of the cultural values of the people;
- o) Coordinate censuses and surveys, research, and management of diseases for migratory wildlife;
- p) Collaborate on the management of shared ecosystems to conserve shared resources and maximize their mutual benefits;
- q) Collaborate in developing and managing natural resources for the integrity of the ecosystems, and for the benefit of the national citizens and the international community;

- r) Engage the regional and global development partners, including multilateral institutions, non-governmental organizations, and leaders and innovators from the business community, to utilize all existing and potential resources allocated and committed toward the conservation of the regions' natural resources; and
- s) Negotiate and finalize proposed bilateral agreements on the conservation and management of shared ecosystems and cross-border wildlife.



Approved for tabling.

PARLIAMENT OF KENYA



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*Paper laid
By Hon. Katurogi Mwangi MP
on 21.04.2015.
Mmw*

ELEVENTH PARLIAMENT - THIRD SESSION

DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL
RESOURCES

REPORT ON THE PETITION BY THE RESIDENTS OF BURA
CONSTITUENCY ON THE DEGAZZETMENT OF LEGAL NOTICES
NO.39 & 40 OF 2013 ON THE DECLARATION OF BANGALI AND
MBALAMBALA AS FOREST AREAS

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

APRIL, 2015

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- A. Various minutes for the committee
- B. Submission from the Ministry of Environment and Natural Resources

1.0 PREFACE

The Departmental Committee on Environment and Natural Resources is established under Standing Order No. 216(1).

1.1 Mandate of the Committee

The functions and mandate of the Committee are:-

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b) Study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;
- c) Study and review all legislation referred to it;
- d) Study, access and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with its stated objectives;
- e) Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- f) Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and
- g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The subject matter of the Departmental Committee on Environment and Natural Resources are stated in the Second Schedule of the National Assembly Standing Order as: climate change, environment management and conservation, forestry,

water resource management, wildlife, mining and natural resources, pollution and waste management.

1.2 Committee Membership

The Committee comprises of the following Members:

Hon.Amina Abdallah, M.P., Chairperson	Hon. Kathuri Murungi, M.P.
Hon. A. Kosgey, M.P., Vice Chairperson	Hon. Sunjeev Birdi, M.P.
Hon. Alice Ng'ang'a, M.P.	Hon. Jackson K. Rop, M.P.
Hon. Samuel Ndiritu, M.P.	Hon. Abdi Noor Ali, M.P.
Hon. Aisha Jumwa Karisa, M.P.	Hon. Joyce Emanikor, M.P.
Hon. Ejidius Njogu Barua, M.P.	Hon. Abdulaziz Farah, M.P.
Hon. Jude Njomo, M.P.	Hon. Ronald Tonui, M.P.
Hon. Moitalel Ole Kenta, M.P.	Hon. (Dr.) Reginalda Wanyonyi, M.P.
Hon. Chachu Ganya, M.P.	Hon. Gideon Mwiti, M.P.
Hon. Opiyo Wandayi, M.P	Hon. (Major) Muluvi Mutua, M.P.
Hon. Charles G. Mongare, M.P.	Hon. Mohamed, Diriye M.P.
Hon. (Dr.) Wilber K. Ottichilo, M.P.	Hon, Peter Kinyua, MP.
Hon. Khatib Mwashetani, M.P.	Hon. Shukra Hussein Gure, M.P
Hon. George Ogalo, M.P.	
Hon. Chachu Ganya, M.P.	

1.3 Consideration of the Petition

1.3.1 On July 22nd 2014, the Member of Parliament for Bura Constituency,

Hon. Ali Wario, M.P. presented a petition to Parliament for the degazetment of Legal Notices No.39 & 40 of 2013 on the declaration of Bangali and Mbalambala as forest areas under the Forest Act (No.7 of 2005);

1.3.2 Hon. Ali Wario, M.P., appeared before the Committee on 24th July 2014 and informed it that:-

- (i) Legal Notices No. 39 & 40 of 2013 carved out more than 123,000 Hectares of land to create Bangali and Mbalambala Forest reserves

without local community participation.

- (ii) The area declared as a forest area encloses local villages including Tula, Bangali, Bulto - Banta, Madogo, Bisan Hargessa, Mbalambala and Areri thereby infringing on the movement of the residents given that Bura is largely a pastoralist region and the residents have no other income generating activities;
- (iii) Efforts to have the matter addressed have borne no fruits yet competition for limited grazing area and farming land continues to heighten tension among families

1.3.3 The Member of Parliament for Bura Constituency prayed on behalf of the residents that the National Assembly through the Departmental Committee on Environment and Natural Resources intervenes to have Bangali and Mbalambala areas degazetted and the land reverted back to the Community, and the Cabinet Secretary barred from further gazetting any forest area in Bura Constituency without due participation of the public as required by the Constitution;

1.3.4 The Committee held various sessions in Parliament and received submissions from the Cabinet Secretary for Environment and Natural Resources regarding the petition;

1.3.5 The Committee also undertook an inspection visit of Bangali and Mbalambala to appraise itself with the matters on the ground. The Committee visited Bura Constituency between August 6th-7th 2014 and received evidence from the residents;

1.3.6 The following Members undertook the inspection visit;

1. The Hon. Samuel Mathenge Ndiritu, M.P. - **Leader of delegation**
2. The Hon. Sunjeev Kour Birdi, M.P.
3. The Hon. Hassan Abdi Dukicha, M.P.
4. The Hon. Ali Wario, M.P.

1.4 Committee General Observations and Recommendations

1.4.1 Observations

- (i) The gazettelement of the land as a forest area was done in 2013 after the

Forest Act, 2005 had come into operation; the Committee noted that the procedure for gazettelement requires public participation as stipulated in the Third Schedule of the Act.

- (ii) It was insufficient to use the District Development Committee, Forest Conservation Committee and full Council of the then Tana River County Council to inform the gazettelement, instead more local community participation should have been done.
- (iii) 70% of the land that has been gazetted is very rich in minerals such as gypsum. The gazettelement of these areas has denied the community access to the resources in the forest.
- (iv) Section 28 of the Forest Act, 2005 stipulates that variation of boundaries or revocation of a local or state authority forest shall only be published following a proposal recommended by the Kenya Forest Service in accordance with subsection (2) and is subsequently approved by resolution of Parliament. The proposal should have been subjected to an independent Environmental Impact Assessment and public consultation in accordance with the Third Schedule.

1.4.2 Response to the petitioners prayers

In response to the prayers of the petitioner, the Committee recommends that:-

- (i) Noting that Settlement in the area preceded the gazettelement of the forest, and taking into account the needs of the people settled in the area vis a vi the need for conservation of the forest, the Kenya Forest Service should consider initiating a proposal to Parliament for approval to vary the boundaries of the forest in line with section 28 of the Forest Act, 2005.
- (ii) The Kenya Forest Service needs to create awareness on the rights of people living around the forests and what resources they are allowed to access s well as the need to conserve the forest.

1.5 Acknowledgement

Mr. Speaker Sir,

The Committee wishes to register its appreciation to the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to the Committee in the execution of its mandate.

I take this opportunity to thank all Members of the Committee for their patience, endurance and dedication to Committee business, despite their other commitments and tight schedules, which enabled the Committee to complete this Report.

On behalf of the Departmental Committee on Environment and Natural Resources, and pursuant to Standing Order No.227 (2) of the National Assembly, I now have the honor to present the Committee Report on the Petition for the degazetment of legal notices No.39 & 40 of 2013 on the declaration of Bangali and Mbalambala as forest areas under the Forest Act (No.7 of 2005);

Thank You,

SIGNED 

CHAIRPERSON

(HON. AMINA ABDALLA, M.P)

**DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL
RESOURCES**

DATE..... *9th April 2015*

2.0 FINDINGS

2.1 Evidence and Submissions by Residents of Bura Constituency

The Committee held a public Hearing at Bura Constituency and was informed as follows; that:-

- 2.1.1 123,000 ha of land was gazzeted as forest without involvement of the residents. Under the current law, the land is community land. The community was never compensated for lost land that was gazzeted as forest reserve. The residents who are pastoralists are affected for lack of access to water points and grazing land since declaration of the land into forest ;
- 2.1.2 The gazzetment of Bangali and Mbalambala was done during the campaigns in 2012. It did not consider the community inputs or the public amenities such as hospitals, schools and worship places and buildings. Recent Government trials to make survey and issue titles (in Galana, Bura, Mucherer, Bura Irrigation Scheme) almost brought conflict since most land has been taken away by the Government;
- 2.1.3 The residents are largely pastoralists and without land they are unable to have a normal livelihood;
- 2.1.4 The residents were not aware of the criteria used nor the law used in declaring part of Tana River as a forest nor are they aware of the leaders (from grassroots to top) who sat and agreed that Tana River be gazzeted as forest land ;
- 2.1.5 The residents are concerned that the criterion that was used in gazzetment of forest land was un procedural since public consultation was never done;
- 2.1.6 The gazzeted forests encompasses schools, mosques and other institutions including permanent houses and residences of the residents;
- 2.1.7 Residents have further been evicted from the area by Oil Exploration companies from China and KPLC on the basis that it is gazzeted forest;
- 2.1.8 KETRACO has equally failed to compensate the community when they did developments on the site citing residents cannot claim since it is gazzeted land;
- 2.1.9 Since 1978, there was no forest as such on the land and the residents do conserve the environment;
- 2.1.10 The gazzetment has marginalized the pastoralists community by pushing them

further away from the agricultural community ;

2.1.11 At the moment, investors are not willing to invest in the area due to the Gazzetment;

2.1.12 Gazzetment of a big portion of their land as government forest land deprives them of access to pasture and is a threat to their livelihood. Lack of enough grazing pastures for the livestock is likely to lead to conflicts and clan clashes;

2.1.13 Over 70% of the land that has been gazzeted is very rich in minerals e.g. gypsum. The gazzetment of these areas has denied the community the right to mine in their ancestral land which could otherwise improve the living standards of the community;

2.1.14 The residents feel marginalized by the Government since independence in that not only has their land been gazzeted but it has equally been taken by the government for irrigation schemes, game reserves, gazzeted forests and national parks. These are;

- a. Galana ranch / galana/Kulalu irrigation scheme.
- b. Baomo primate reserve (Columbus monkeys)
- c. Hola irrigation scheme
- d. Bura irrigation scheme
- e. Kora national park – 1,788 km square (1973)
- f. Bangali and Mbalambala government forests

2.1.15 The gazette notice giving effect to the degazzetment is dated 2012 after the promulgation of the new Constitution. According to the law, community land is under the County Government and the community is concerned that the National Government and the Ministry gazzeted their land as forest without the consent of the County Government;

2.1.16 The residents want the area degazzetted as forest and the land returned to the Community

2.2 Submissions from The Ministry of Environment, Water and Natural Resources

The Committee received written submissions from the Ministry of Environment, Water and Natural Resources as follows:-

- 2.2.1 Bura Constituency covers an area of 13,191.5 Km² with a total population of 200,000 and 82,545 persons (2009 census) with a density of 6 persons per Km². The Sub County predominantly comprises of fragile forests, woodlands and grasslands ecosystem found predominant within the riparian, floodplains and water catchment areas;
- 2.2.2 The population is 90 % pastoral community that practices nomadic type of rangeland husbandry thus lending the community credence to the integral conservational value of the area's natural resources as an integral livelihood resource. Flood receding sedentary agriculture is also practiced, but in small scale, mainly along the river banks;
- 2.2.3 Legal notices No 39 & 40 of 2013 carved out more than 123,000 hectares of land in Bura Constituency to create Bangali and Mbalambala forest reserves. This was necessitated by the severe degradation of the areas ecosystem that was characterized by timber poaching, charcoal burning, gypsum prospecting and mining among others;
- 2.2.4 The Government intervened with a desire to reverse this trend through local forums including District Focus for Rural Development and the full council meetings of the then Tana River County Council;
- 2.2.5 Due process was followed when the Kenya Forest Service gazzeted the areas in accordance with the criteria provided for under the Forest Act ,2005 and involvement of the local community through various structures and forums that included the District Development Committee, Forest Conservation Committee and full Council of the then Tana River County Council ;
- 2.2.6 The Ministry is aware that 90% of the population in Bura Constituency are pastoralists and the activity is largely dependent on the conservation of forests, woodlands and grasslands to provide livestock feed and refuge for grazing animals;
- 2.2.7 The sustained management of the natural resources in the area which includes initial traditional governance has ensured constant provision of pasture and other valuable products for the local community;

- 2.2.8 The Cabinet Secretary is not aware that the declared forest areas enclose local villages including Tula, Bangali, Bulto - Banta, Madogo, Bisan Hargessa, Mbalambala and Areri. The stated villages are considered as forest communities whose customary and cultural rights have been safeguarded pursuant to section 22 of the Forest Act, 2005;
- 2.2.8 The gazetment of Bangali and Mbalambala targeted these villages as forest neighbors who largely benefit under the principals of participatory forest management;
- 2.2.9 The Ministry through the Kenya Forest Service would continue to partner with registered Conservation Forest Associations and the local leadership including the Tana River County Government in resolving disputes relating to the conservation activities in the entire ecosystem as and when they arise.

3.0 COMMITTEE OBSERVATIONS

The Committee makes the following observations:-

- (i) The gazetment of the land as a forest area was done in 2013 after the Forest Act, 2005 had come into operation; the Committee noted that the procedure for gazetment requires Public participation as stipulated in the Third Schedule of the Act.
- (ii) It was insufficient to use the District Development Committee, Forest Conservation Committee and full Council of the then Tana River County Council to inform the gazetment, instead more local community participation should have been done.
- (iii) 70% of the land that has been gazetted is very rich in minerals e.g. gypsum. The gazetment of these areas has denied the community access to the resources in the forest.
- (iv) Section 28 of the Forest Act, 2005 stipulates that Variation of boundaries or revocation of local or state authority forest shall only be published following a proposal recommended by the Kenya Forest Service. The proposal should have been subjected to an independent Environmental Impact Assessment and public consultation in accordance with the Third Schedule.

4.0 REPOSNE TO THE PETITIONERS PRAYERS

In response to the prayers by the petitioners, the Committee recommends that:-

- (i) Noting that Settlement in the area preceded the gazettelement of the area as a forest, and taking into account the needs of the people settled in the area verses the need for conservation of the forest, the Kenya Forest Service should consider initiating a proposal to Parliament for approval to vary the boundaries of the forest in line with section 28 of the Forest Act, 2005.
- (ii) The Kenya Forest Service needs to create awareness on the rights of people living around the forests and the resources they are allowed to access as well as the need to conserve the forest.



DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL
RESOURCES

ATTENDANCE / PAYMENT SCHEDULE

AGENDA: ADOPTION OF THE REPORT ON THE PETITION ON THE
DEGAZETTEMET OF BANGALI & MBALAMBALA AS FOREST AREA

DATE: 21/03/2015 TIME: 10:00 AM VENUE: C.P.A ROOM



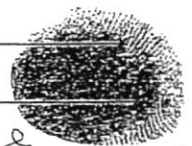

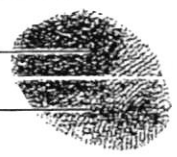




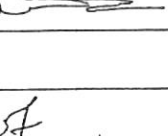

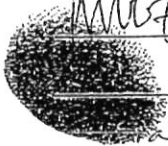
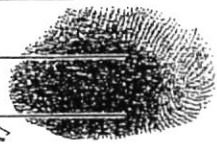
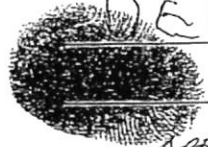



1	NAME	SIGNATURE
	Abdalla, Amina CHAIRPERSON	
2	Alexander Kosgey Vice Chairperson	
3	Dukicha, Hassan Abdi	
4	Emanikor, Joyce Akai	
5	Ganya, Francis Chachu	
6	Geni, Charles Mongare	
7	Gure, Shukra Hussein	
8	Ole Kenta, Richard Moitalel	
9	Mohamed, Diriye Abdullahi	
10	Murungi, Kathuri	
11	Ogalo, George Oner	
12	Sunjeev Kour Birdi	
13	Tonui, Ronald Kiprotich	
14	Dr. Wanyonyi, Reginalda N	
15	Farah, Abdulaziz Ali	
16	Barua, Ejidius Njogu	
17	Irea, Gideon Mwiti	
18	Muluvi, Marcus Mutua	
19	Mwashetani, Khatib	

20	Ndiritu, Samuel Mathenge	Signature
21	Ottichilo, Wilber Khasilwa	Signature
22	Rop, Jackson Kipkorir	Signature
23	Abdinoor, Mohammed Ali	
24	Ng'ang'a, Alice Wambui	
25	Peter Kinyua	Signature
26	Wandayi, James Opiyo	Signature
27	Katana, Aisha Jumwa	Signature
28	Jude Njomo	Signature



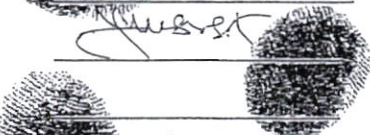
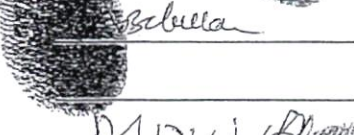
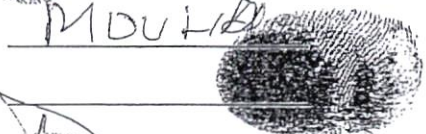

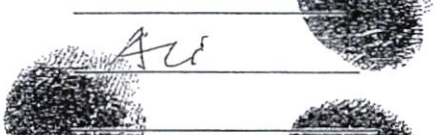





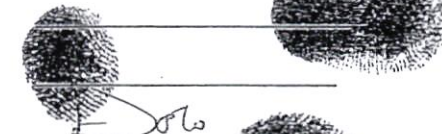
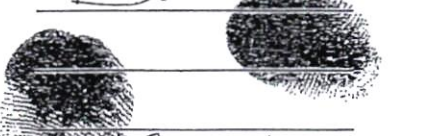
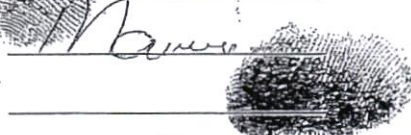
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 NICHOLAS EMEJEN

FOR -CLERK OF THE NATIONAL ASSEMBLY

27. HALIMA FATUMA SALAH	5366099
28. MOHAMED HARO BANTO	11888771
29. FATUMA ABDI SULEIMAN	82967874
30. MAKA DURI OMARI	6132343
31. JIBRIL OMAR JALA	4405353
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33. OSMAN DARA WAYAMO	4402512
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38. ADHAN HASSAN GARSE	5366909
39. UMAR LEKAB SANTUR	54439343
40. ALI GUTU DAME	5444422
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42. FATUMA GALGALO ELEMA	3923863
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47. MOHAMED LOHOS FARAH	44030053
48. IBRAHIM NAGHEY DIDO	5443868
49. DUALE IBRAHIM MOGO	4404704
50. DUBAT DAKANE	5444572
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52. IBRAHIM HARET	4482010
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54. HASSAN DAKANE ADE	0046458
55. ABDI MOHAMUD FARAH	223398251
56. ABDI HAJI OYO	4403906
57. MOHAMED FARAH BALALI	24053308

<i>Manso</i>	
<i>Maka</i>	
<i>M Kasim</i>	
<i>M Wayamo</i>	
<i>M Bab Wario</i>	
<i>H Manso</i>	
<i>H Guracho</i>	
<i>A Dado</i>	
<i>A Adhan</i>	
<i>U Umar</i>	
<i>A Gure</i>	
<i>M Lohos</i>	
<i>D Duale</i>	
<i>K DAKANE</i>	
<i>A Ade</i>	
<i>A Farah</i>	
<i>F Balali</i>	

58. ALI IDLE YAROW	9768456
59. ABDULAHI DUBOW ELEMA	5444993
60. HASSAN ABDI ORE	26026654
61. YUSSUF DAKANE BARISA	5367160
62. YUSSUF BURE ABAS	621599023
63. YUSSUF GOROT ISHAKO	5443874
64. ABDULLAHI M. DULAL	5367160
65. SAID S. DIRIE	11893190
66. MOULID DOLAL DIAD	536461
67. HASSAN ADHAN ISSACK	8296571
68. OSMAN KASIM DAKANE	23745184
69. ABDULLAHI ISSACK ABDULLAHI	0048005
70. ABUBAKAR M. ABDI	8267635
71. ALI MURSAL	5366788
72. ABDULLAHI HUSSEIN BORU	8266123
73. MOHAMED SHALE KUNO	23133943
74. ABDULLAHI JIMALE MOHAMED	5954434
75. SHALE YUSUF OMAR	228707086
76. MOHAMED HASSAN SANTUR	10311557
77. SAID A. SHEIK	22376490
78. ABDI BUDHUL BUJUK	5368052
79. HUSSEIN ABDIKARIM SANTUR	23477865
80. ALI MOGO BADISI	5443741
81. HAJIR HUSSEIN RHAGO	27165874
82. FATUMA IBRAHIM YARE	5367609
83. ABDIRAHMAN OMAR	23344065
84. ALI ABDULLAHI ABDI	5367609
85. ABDI KHALIF RAGHO	10311661
86. DOLO GABO DAGHANI	4407970
87. MOHAMED IDLE HUSSEIN	297431
88. ADHAN BASHANE YARE	23495674
89. MARIAM LULI NASIR	8267707
90. FATUMA SHABOY ADHAN	3922018
91. ALI ABDULAHY ABDI	5367609

LEGAL NOTICE NO. 40

THE FORESTS ACT

(No. 7 of 2005)

~~Forest of the Manager Mbita District Forest Officer~~

IN EXERCISE of the powers conferred by section 23 of the Forests Act, the Minister for Forestry and Wildlife declares that the area described in the Schedule hereto shall be a forest area.

SCHEDULE

An area of land approximately 4,253.5 hectares, known as balambala Forest, situated approximately 60 kilometres north west of Mvissa Township, Tana River District/County, Coast Province, the boundaries of which are more particularly delineated, edged green, on Boundary Plan No. 175/427, which is signed and sealed with the seal of Survey of Kenya, and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and copy of which may be inspected at the office of the Zonal Forest Manager, Kenya Forest Service, Tana River.

Dated the 16th December, 2012.

NOAH M. WEKESA,
Minister for Forestry and Wildlife

LEGAL NOTICE NO. 41

THE FORESTS ACT

(No. 7 of 2005)

DECLARATION OF RAMOGI FOREST

IN EXERCISE of the powers conferred by section 23 of the Forests Act, the Minister for Forestry and Wildlife declares that the area described in the Schedule hereto shall be a forest area.

SCHEDULE

An area of land approximately 399.50 hectares, known as Imbo/Usigu/2743, situated approximately 24 kilometres north west of Bondo Township, Siaya District/County, Nyanza Province, the boundaries of which are more particularly delineated, edged green, on Boundary Plan No. 175/423, which is signed and sealed with the seal of Survey of Kenya, and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and copy of which may be inspected at the office of the District Forest Officer, Kenya Forest Service, Bondo.

Dated the 16th December, 2012.

NOAH M. WEKESA,
Minister for Forestry and Wildlife

LEGAL NOTICE NO. 26

THE FORESTS ACT

(No. 7 of 2005)

DECLARATION OF MAATI FOREST

IN EXERCISE of the powers conferred by section 23 of the Forests Act, the Minister for Forestry and Wildlife declares that the area described in the Schedule hereto shall be a forest area.

SCHEDULE

An area of land approximately 515.00 hectares, situated approximately 80 kilometres north-east of Kitui Town in Kitui District/County, Eastern Province, the boundaries of which are more particularly delineated, edged green, on Boundary Plan No. 175/319, which is signed and sealed with the seal of Survey of Kenya, and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and copy of which may be inspected at the office of the District Forest Officer, Kenya Forest Service, Kitui.

Dated the 16th December, 2012.

NOAH M. WEKESA,
Minister for Forestry and Wildlife

LEGAL NOTICE NO. 27

THE FORESTS ACT

(No. 7 of 2005)

DECLARATION OF NTHOANI FOREST

IN EXERCISE of the powers conferred by section 23 of the Forests Act, the Minister for Forestry and Wildlife declares that the area described in the Schedule hereto shall be a forest area.

SCHEDULE

An area of land approximately 1387.00 hectares, situated approximately 68 kilometres south-east of Kitui Town in Kitui District/County, Eastern Province, the boundaries of which are more particularly delineated, edged green, on Boundary Plan No. 175/320, which is signed and sealed with the seal of Survey of Kenya, and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and copy of which may be inspected at the office of the District Forest Officer, Kenya Forest Service, Kitui.

Dated the 16th December, 2012.

NOAH M. WEKESA,
Minister for Forestry and Wildlife

LEGAL NOTICE NO. 28

THE FORESTS ACT
(No. 7 of 2005)

DECLARATION OF MISANGO HILLS FOREST

IN EXERCISE of the powers conferred by section 23 of the Forests Act, the Minister for Forestry and Wildlife declares that the area described in the Schedule hereto shall be a forest area.

SCHEDULE

An area of land approximately 103.7 hectares, known as Kisa/Mwikalikha/1690A, situated approximately 16 kilometres south-west of Kakamega Municipality, in Butere/Mumias District/County, Eastern Province, the boundaries of which are more particularly delineated, edged green, on Boundary Plan No. 175/409, which is signed and sealed with the seal of Survey of Kenya, and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and copy of which may be inspected at the office of the District Forest Officer, Kenya Forest Service, Butere.

Dated the 16th December, 2012.

NOAH M. WEKESA,
Minister for Forestry and Wildlife.

LEGAL NOTICE NO. 29

THE FORESTS ACT
(No. 7 of 2005)

DECLARATION OF WAYU FOREST

IN EXERCISE of the powers conferred by section 23 of the Forests Act, the Minister for Forestry and Wildlife declares that the area described in the Schedule hereto shall be a forest area.

SCHEDULE

An area of land approximately 42,512.20 hectares, depicted on an extract of 1:50,000 sheet No. 179/J, situated approximately 22 kilometres west of Lamu Township, in Tana River District/County, Coast Province, the boundaries of which are more particularly delineated, edged green, on Boundary Plan No. 175/416, which is signed and sealed with the seal of Survey of Kenya, and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and copy of which may be inspected at the office of the District Forest Officer, Kenya Forest Service, Tana River.

Dated the 16th December, 2012.

NOAH M. WEKESA,
Minister for Forestry and Wildlife.

LEGAL NOTICE NO. 38

THE FORESTS ACT
(No. 7 of 2005)

DECLARATION OF KUJA BULL CAMP FOREST

IN EXERCISE of the powers conferred by section 23 of the Forests Act, the Minister for Forestry and Wildlife declares that the area described in the Schedule hereto shall be a forest area.

SCHEDULE

An area of land approximately 17.50 hectares, known as Kamasonga/Parcel No. 447, situated approximately 11 kilometres north east of Awendo Trading Centre, in the south Nyanza District/County, Nyanza Province, the boundaries of which are more particularly delineated, edged green, on Boundary Plan No. 175/234, which is signed and sealed with the seal of Survey of Kenya, and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and copy of which may be inspected at the office of the District Forest Officer, Kenya Forest Service, Homa Bay.

Dated the 16th December, 2012.

NOAH M. WEKESA,
Minister for Forestry and Wildlife.

LEGAL NOTICE NO. 39

THE FORESTS ACT
(No. 7 of 2005)

~~DECLARATION OF BANGALI FOREST~~

IN EXERCISE of the powers conferred by section 23 of the Forests Act, the Minister for Forestry and Wildlife declares that the area described in the Schedule hereto shall be a forest area.

SCHEDULE

An area of land approximately 119,373.0 hectares, known as Bangali Forest, situated approximately 4 kilometres west of Garissa Township, Tana River District, Coast Province, the boundaries of which are more particularly delineated, edged green, on Boundary Plan No. 175/426, which is signed and sealed with the seal of Survey of Kenya, and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and copy of which may be inspected at the office of the Zonal Forest Manager, Kenya Forest Service, Tana River.

Dated the 16th December, 2012.

NOAH M. WEKESA,
Minister for Forestry and Wildlife.

