

Approved for tabling in the house.




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REPUBLIC OF KENYA  
NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT – FIFTH SESSION  
DIRECTORATE OF DEPARTMENTAL COMMITTEES



DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

REPORT ON FACT-FINDING VISIT TO MAKIMA WARD MBEERE SOUTH SUB-COUNTY REGARDING FORCEFUL EVICTIONS OF RESIDENTS OF NDUNGUINI IN MAKIMA WARD OF MBEERE SOUTH CONSTITUENCY

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE:</b> 23 NOV 2021	
<b>DAY:</b> Tuesday	
<b>TABLED BY:</b>	Vio-cheru Hon. Fatuma Gedo
<b>CLERK-AT THE-TABLE:</b>	Gen. Wade Chebet

CLERK'S CHAMBERS  
DIRECTORATE OF DEPARTMENTAL COMMITTEES  
PARLIAMENT BUILDINGS  
NAIROBI

NOVEMBER, 2021

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## **CHAIRPERSON'S FOREWORD**

The Request for Statement dated 4<sup>th</sup> May 2021 regarding recent evictions of residents of Ndunguni Centre in Makima Ward Mbeere South Constituency was presented by Hon. (Col) (Rtd) Geoffrey King'ang'i MP. The Request for Statement was subsequently committed to the Departmental Committee on Administration and National Security for consideration and report to the House pursuant to the provisions of Standing Order 227(1).

The Honorable member averred that there were inhuman and extremely brutal evictions of the residents, that there was need for the Government to have intervention measures in addressing the humanitarian crisis at Ndunguni Primary School exemplified by massive congestions and devoid of sanitation, water, masks, food and other basic needs, and compensation of the residents and the timelines for resettlement by the Government in the light of the fact that the resident who were evicted are the rightful owners of the disputed land.

The Hon. (Col) (Rtd) Geoffrey King'ang'i MP requested to know the basis on which the journalists, residents and area MP were harassed. Beaten and arrested, and whether the government intends to pursue the false/trumped-up charges against them.

On Tuesday, July 06, 2021, during the afternoon Sitting, I responded to a Statement sought by the Member for Mbeere South Constituency (Hon. (Col) (Rtd) Geoffrey King'ang'i, MP regarding evictions of residents of Makima Ward in Mbeere South Constituency on land ostensibly owned by the Tana and Athi River Development Authority (TARDA).

Due to the weighty issues raised by Members and on the request of the Member, the Speaker pursuant to the provisions of Standing Order 218(2), directed that the Departmental Committee on Administration and National Security undertakes a fact-finding visit to Makima Ward in Mbeere South Constituency to ascertain the exact situation in the area ostensibly owned by TARDA, by engaging Makima Ward residents and TARDA officials, and thereafter propose practical solutions to the matter.

On Monday, 23<sup>rd</sup> August, 2021 the Committee undertook a fact-finding visit to Makima Ward in Mbeere South Constituency to ascertain the exact situation in the area on the ownership of the land ostensibly owned by TARDA, and engaged Makima Ward residents as well as TARDA officials.

Those who made submissions before the Committee regarding this matter were CS Dr. Fred Matiang'i, Hon. (Col) (Rtd) Geoffrey King'ang'i MP, Hon Cecily Mbarire, Hon.

Philip Kanyutu, MCA Makima Ward, Tana and Athi-River Development Authority (TARDA), NGAO from the area, Mr. Raphael Mutinda, Mr. Paul Kamau, Ms. Elizabeth NdungeMwanzia, Mr. George Kilei and Mr. Solomon Mwaniki as members of the community. Their submissions were key in the determination of the Committee's recommendations.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during the consideration of the Petition. Finally, I wish to express my appreciation to the Honorable Members of the Committee, the Committee secretariat and all the stakeholders who made submissions towards the preparation and production of this report.

On behalf of the Departmental Committee on Administration and National Security pursuant to provision of Standing Order 227(2) it is my pleasant privilege and honor to present to this House the report of the Committee on its consideration of the request for statement regarding recent evictions of residents of Ndunguni Centre in Makima Ward Mbeere South Constituency.

**HON. PETER MWATHI, M.P.**  
**CHAIRPERSON,**  
**DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL**  
**SECURITY**

## PART 1

### 1.0 PREFACE

#### 1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Departmental Committee on Administration and National Security is established in accordance with the provisions of Standing Order 216 of the National Assembly. Its mandate as provided for in S.O. 216(5) is –
  - 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 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 their 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. *to vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
  - g. *examine treaties, agreements and conventions;*
  - h. *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*

- i. consider reports of Commissions and Independent Offices submitted to the House, pursuant to the provisions of Article 254 of the Constitution; and*
- j. Examine any questions raised by Members on matters within its mandate.*

2. The subjects under the Committee's jurisdiction are; national security, police services, home affairs, public administration, public service, prisons, immigration, the management of natural disasters and community service orders.

## **1.2 Composition of the Committee**

3. The Committee was constituted on 14<sup>th</sup> December, 2017 and comprise the following Honorable Members

### *Chairperson*

**Hon. Peter Mwathi, M.P.**

Limuru Constituency

**Jubilee Party**

### *Vice-Chairperson*

**Hon. Fatuma Gedi, MP**

Wajir County

**Jubilee Party**

**Hon. Jeremiah Lomurukai, MP**

Loima Constituency

**ODM Party**

**Hon. Ngunjiri Wambugu, MP**

Nyeri Town Constituency

**Jubilee Party**

**Hon. (Dr.) Tecla Tum, MP**

Nandi County

**Jubilee Party**

**Hon. Peter Masara, MP**

Suna West Constituency

**Independent Party**

**Hon. Kaluma Peter, MP**

Homa Bay Town Constituency

**ODM Party**

**Hon. Abdi Shurie, MP**

Balambala Constituency

**Jubilee Party**

**Hon. Wmbugu Munene, MP**

Kirinyaga Central Constituency

**Jubilee Party**

**Hon. Aduma Owour, MP**

Nyakach Constituency

**ODM Party**

**Hon. (Dr.) Makali Mulu, MP**

Kitui East Constituency

**Jubilee Party**

**Hon. Halima Mucheke, MP**

Nominated Member

**Jubilee Party**

**Hon. Nimrod Mbai, MP**

Kitui East Constituency

**Jubilee Party**

**Hon. Col. (Rtd) Geoffrey**

**King'ang'i, MP**

Mbeere South Constituency



**Jubilee Party**

**Hon. Oku Kaunya, MP**  
Teso North Constituency  
**ANC Party**

**Hon. Dr. Mishra Swarup,**  
**MP**  
Kesses Constituency  
**Jubilee Party**

**Hon. William Chepkut, M.P.**  
Ainabkoi Constituency  
**Independent Party**

**Hon. Marselimo Arbelle,**  
**MP**  
Laisamis Constituency  
**Jubilee Party**

**Hon. Rozaah Buyu, MP**  
Kisumu County  
**ODM Party**

### **1.3 Committee Secretariat**

4. The Committee Secretariat comprises the following officers-

**Mr. Adan Sora Gindicha**  
Senior Clerk Assistant  
**Head of Secretariat**

Mr. Joshua Ondari  
**Clerk Assistant**

Delvin Onyancha  
**Research Officer/ Policy Analyst**

Ms. Brigitta Mati  
**Legal Counsel**

Mr. Josphat Bundotich  
**Serjeant-at-Arms**

Mr. Edison Odhiambo  
**Fiscal Analyst**

Ms. Eva Kaare  
**Serjeant-at-Arms**

Mr. Joseph Okongo  
**Media Officer**

Rodgers Kilungya  
**Audio Recording Officer**

## PART 2:

### 2.0 INTRODUCTION

#### **2.1 Request for Statement on Brutal Evictions of Residents of Ndunguni in Makima Ward of Mbeere South Constituency**

3. On 4<sup>th</sup> May 2021 the Honorable member of Mbeere South, Hon. Col (Rtd) Geoffrey King'ang'i requested for a statement pursuant to Standing Order 44(2)(c) from the Chairperson of the Departmental Committee on Administration and National Security regarding recent evictions of residents of Ndunguni Centre in Makima Ward Mbeere South Constituency. In his request, the Member sought information regarding:

- i. The circumstances that led to the inhumane and brutal evictions of residents.
- ii. The intervention measures that the Government is undertaking in addressing the ongoing humanitarian crisis at Ndunguni Primary School exemplified by massive congestions devoid of sanitation, water, COVID-19 masks, food and other basic needs particularly considering schools are scheduled to re-open on 10<sup>th</sup> May 2021;
- iii. In the light of the fact that the residents are the rightful owners of the land near Masinga and Kiambere Dams where they live and farm despite claims to the contrary by Tana and Athi River Development Authority (TARDA), timelines for the resettlement of the residents by the Government, resolution of the land ownership issue and compensation of the residents for their colossal losses, and
- iv. The basis on which journalists, residents and the Area MP were harassed, beaten and arrested, and whether the government intends to pursue the false/trumped-up charges against them;

## Part 3

### 3.0 PUBLIC PARTICIPATION

4. The Committee undertook public participation in compliance with the provisions of Art. 118 of the Constitution and Standing Order 127(3).
5. In this regard, the Committee carried out the following activities-
  - a) Invited the Hon. Col (Rtd) Geoffrey Kingangi, MP and the Cabinet Secretary Dr. Fred Matiang'i before the committee on 2<sup>nd</sup> June 2021; and
  - b) The Committee undertook a fact-finding visit on Monday 23rd August, 2021. During the visit, the Committee met with affected residents, local political and administrative leaders, together with TARDA officials.

### 3.2 SUBMISSION BY THE CABINET SECRETARY, MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

6. The Cabinet Secretary Dr. Fred Matiang'i appeared before the committee on 2<sup>nd</sup> June 2021 and made submissions as follows:
  - i. That the eviction exercise in Masinga and Kiambere was a legal exercise following a court order. That the court matter was a result of TARDAs effort to evict illegal squatters from its property amicably without success. Consequently, TARDA filed a case in the Environment and Land Court in Embu, ELC Case No 148 of 2017- TARDA Vs Joseph Muli and others. Ruling was delivered on 12<sup>th</sup> March 2020 in favor of TARDA where the court ordered for the restoration of the beacons to safeguard the buffer zone of the two dams. He also tabled a copy of the court order, which is annexed to this report.
  - ii. The court further issued execution Orders dated 3<sup>rd</sup> September, 2020 directing the Regional Police Commander Eastern to provide security during the eviction exercise. The Cabinet Secretary also tabled a copy of the execution order.

- iii. The Cabinet Secretary clarified that there were no internally displaced persons accommodated at Ndunguni Primary School and therefore no humanitarian crisis.
- iv. He added that TARDA owned the land in Masinga and Kiambere and possesses title deeds as follows: LR Nos. 28670, 28671 and 12621. That the Court determined the ownership of the land and issued court orders accordingly.
- v. On the matter of arrests and illegal detention, The CS stated that the Member of Parliament Honorable Col (Rtd). Geoffrey King'ang'i MP for Mbeere South Constituency and eleven (11) other suspects were arrested and charged with various offences related to:
  - a) Taking part in unlawful assembly contrary to section 79 of the penal code;
  - b) Incitement to violence contrary to Section 96 of the penal code;
  - c) Obstructing police officers while executing lawful duty contrary to section 103(a) of the National Police Service Act of 2011;
  - d) Arson contrary to section 332(a) of the penal code;
  - e) Malicious damage to property contrary to section 339(1) as read with section 339(2) of the penal code; and
  - f) Contravening provisions of prevention, control or suppression of Covid-19 directive issued by the Cabinet Secretary of Health pursuant to section 36 as read with section 164 of the Public Health Act CAP 242 Laws of Kenya.

### **3.3 FACT –FINDING VISIT& SUBMISSION FROM STAKEHOLDERS**

7. As directed by the Speaker, the Committee undertook the fact-finding visit on Monday 23<sup>rd</sup> August, 2021. During the visit, the Committee met affected

residents, local political and administrative leaders, together with TARDA officials.

### **Submission by the Tana & Athi River Development Authority (TARDA)**

8. Mr. Emilio Mugo, the acting Managing Director appeared before the Committee and reported that, in 1981 and 1988 the Authority commissioned the Masinga Hydro Electric Power (HEP) and Kiambere HEP with capacities of 1.5 billion and 600 million cubic meters and generation capacity of 40MW and 168MW respectively. The reservoirs have a surface area of 125 and 25 square kilometers respectively.
9. That the boundary of Masinga dam starts at Sagana (Tana Bridge) and stretches all the way to Embu and Machakos Counties. The boundary moves along the contour line of 1060.5m and totaling an area of 16,985 Ha. The land is divided into two portions i.e. (Embu County-LR NO. 28670- 6,768 Ha and Machakos County-LR 28671-10,217 Ha) Kiambere farm is 13,241 Ha in Kitui and Embu Counties (LR NO. 12621).
10. The buffer zones are provided as safety belts to protect human beings in case of accidental breaching of the dams which could be catastrophic considering the huge volumes of stored water. They also act as a conservation area to protect these Critical National Assets from uncontrolled human activity which would shorten the infrastructures life span and power generation efficiency owing to high rate of siltation.
11. He said that the survey of the Masinga land was done between 1973 and 1979 through acquisition of land by the Government for dam construction and agricultural activities. The land was acquired through Compulsory acquisition. This was done through community compensation program for those affected.
12. This could be supported by various records of gazette notices showing into details persons who were affected and compensated.
13. Subsequently, they moved with no issues. Some community members however, mistook the naturally conserved buffer zones to be idle land and started resettling back into the land.
14. The removal of illegal settlers/settlements that happened in Masinga and Kiambere was a legal exercise in bid to safeguard the buffer zone of the two dams. Following the end of the Court matter vide ELC No. 148 of 2017- TARDA verses Joseph

Muli Mukuluta and twenty-six (26) others, the court decided the matter in favor of the Authority on the 12<sup>th</sup> March 2021.

15. The Authority was tasked with ensuring that the property was properly demarcated and beacons. The demarcation process was however hindered mid-way by the local community who became hostile to the Authority thus stopping the exercise. Due to this incidence, the Authority has not been able to fully execute this task since the time of the verdict.
16. The defendants then applied for a stay of execution of the Orders. The Court noted that the defendants had not filed an appeal in the matter. It was also noted that the Defendants had hindered the beaconing and demarcation process that the Petitioner was conducting. Based on the above grounds, the Court dismissed the stay of execution on 18<sup>th</sup> June 2020. The Authority amicably engaged the illegal occupants to move but this was not successful.
17. The Court granted the execution orders dated 3<sup>rd</sup> September 2020 also directing that the Regional Police Commander Eastern Region to provide security during the eviction
18. On 16th February 2021, the authority issued a public eviction notice to the illegal settlers and engaged the local authorities to assist in eviction following the court verdict that the exercise be headed by the Regional Police Commandant. The following areas were affected:
  - i. Ndunguni Market- This was a makeshift shopping center and the illegal structures were successfully removed on the first day of the operation. It consisted of an estimated 25 buildings.
  - ii. Ndunguni interior settlement- This consists of semi-permanent structures. The illegal structures removal exercise was successfully executed. It consisted of an estimated 50 households.
  - iii. Ndunguni hills- This has semi-permanent structures with illegal structure /occupants.
  - iv. Gichuki Settlement-This has established big and permanent buildings with illegal structure/occupants.
  - v. Muthithi Market-This has semi-permanent structures with illegal structure/occupants.

vi. Cutline & saddle dam settlement- This has semi-permanent structures with illegal structure/occupants.

19. The illegal settlers'/ settlements removal exercise commenced on 24<sup>th</sup> April 2021 and thereafter unknown people from the neighborhood invaded TARDA project and stole, vandalized and burnt property.

20. The acting Managing Director gave the following chronology of the happenings;

- i. On 25<sup>th</sup> April 2021-A store belonging to the Authority was burnt and part of the office vandalized. Eight goats were stolen. This was reported in Mbondoni police post;
- ii. 28<sup>th</sup> April 2021-A steel gate to the project was stolen. This was reported in Mbondoni police post;
- iii. 12<sup>th</sup> May 2021-The project office was burnt and the livestock shed vandalized. The shed timber and iron sheets were stolen. This was reported in Masinga Dam police post;
- iv. 18<sup>th</sup> May 2021-Some local people were arrested in connection to the theft of the shed timber and iron sheets and fencing chain-link as the items were found in their custody. The same were aligned in Siakago court. This was reported in Mbondoni police post;

21. The Kiambere land also had illegal settlers/settlements but they were not resistant to move out when they were issued with vacation notice. With the assistance of the Regional Security Officers, Kiambere farm was freed from illegal settlers/settlements. Areas initially illegally occupied were; *Gatithi market, Borrow pit, Kiromboko, Kithumuoni, Maratani, Katooni, Isako, Gatuko, Kawathi, Cairia, Kambiti, Kiogora and Korogocho.*

22. The Kiambere community under their leadership had a discussion with TARDA Managing Director in 2016 for allocation of land as follows;

- i) Ngiiri market – 81.3 acres
- ii) Ngiiri primary -20 acres
- iii) Kiambere school complex-55 acres
- iv) Kiambere health facility -6 acres
- v) Police station – 20 acres



23. The matter was discussed by TARDA board and by National Assembly Committee of Land. The committee recommended that Ministry of land and physical planning in conjunction with National land commission and Embu County to initiate the process of annexation of the said parcels of land. However, this was not followed and the process has never been formalized to date.

24. In 2015, the Masinga community through the then area MP Mutava Musyimi requested the allocation of TARDA land to several communities as follows, Kiromboko 10 acres, Issaco 20 acres, Muthithu 50 acres, Riakanau 15 acres, Kasioni 40 acres, however, the request was not progressed to board of directors for policy guidance. Therefore, no land has been allocated to that effect.

### **Submission by Deputy County Commissioner –Mr. Charles Isiha**

The Deputy County Commissioner appeared before the Committee and stated as follows:

25. That there was a court case between TARDA and Joseph Muli and twenty-six (26) others. A court order was issued in favor of TARDA, by Embu Environment and Land Court, on 19<sup>th</sup> August 2020.

26. That some of the people who allege to be affected are not bonafide party to the land issue. TARDA requested for support from police to effect the court order through the Regional Police Commander, who wrote a letter to the High Court seeking authenticity of the Court order.

27. On 1<sup>st</sup> December 2020, the Regional Police Commander received a letter from the High Court to authenticate the eviction orders issued on 19<sup>th</sup> August 2020. The letter indicated the particulars of the land, indicating further that TARDA was to restore beacons within 30 days, and the twenty-seven (27) defendants had 30 days to remove any property, and the order was restraining the defendants from the property owned by TARDA.

28. He further stated that: There were meetings with the local residents with minutes captured on-

- i) 23<sup>rd</sup> February 2021, at Unguni Village, Mbondoni Sub-location
- ii) 12<sup>th</sup> March 2021, at Mbondoni Market
- iii) 18<sup>th</sup> March 2021, at Mbondoni Sub-location
- iv) 22<sup>nd</sup> March 2021, at Mwanyani Market

- v) 6<sup>th</sup> April 2021, at Mwanyani Village Mbondoni Sub-location
- vi) 9<sup>th</sup> April 2021, and Ndunguni Village
- vii) 13<sup>th</sup> April 2021 at Maasai Cross

29. During all these meetings the Deputy County Commissioner (DCC) and Assistant County Commissioner (ACC) ensured that they sensitized the residents about the court ruling in favor of TARDA.

### **Submission by the MCA for Makima Ward Hon. Philip Kinyutu**

In his submission, the area MCA stated as follows:

- 30. That the Makima ward people who were affected by the evictions did not benefit from the said compensations of the late 70's. The Ndunguni people had lived on the land long before the dam was constructed. Some people were born on the said land as early as 1960's.
- 31. There were five government schools in the area which have served the community for many years from as early as 1985. These are Ndunguni primary school, Muthithu primary school, Kituneni primary school, Mwanyani primary school and Mwanyani secondary school. That the evictions if continued would have affected more than four thousand (4000) people approximately eight hundred (800) households along the dam in Makima ward only, and
- 32. that many other people in Mwea Ward would also have been victims raising the number to more than six thousand (6000) people or there about.
- 33. He insisted that the removal of the community from their land was not procedural and that TARDA took twenty people (27) to court many of whom were from Machakos County yet no evictions were carried out in Machakos County.
- 34. No single government office/officer engaged the community to prepare them for the evictions. Attempts to reach out to TARDA did not bear fruits, and that TARDA deliberately never engaged the community and the local leadership at any one time.

35. That there was a clear conspiracy between TARDA and the Administration to defraud the people of their land. The appeal and application by residents that was dismissed by the court on 18<sup>th</sup> June 2020.
36. All the government vehicles used in the eviction particularly police and military vehicles had their number plates and other identity writings smeared with mud for unknown reasons. The neighboring community of Katulye in Masinga was hired to demolish people's property in Mbondoni-Makima ward. This has created disquiet between the two neighbors.
37. During demolition exercise, a group of people that had met for a fundraiser for a sick woman were beaten and property destroyed at Mbondoni market.
38. That TARDA had planned to lease out the land to other people. The title deed was not procedurally processed because the community living on the said land was not involved at any stage.
39. The community has formerly gone to court to seek legal redress on the said matter and a hearing for directions is scheduled on 28<sup>th</sup> October 2021 at Environment and Land Court EMBU. CASE NO. 1B OF 2021.
40. TARDA as an organization has had a myriad of longstanding conflicts with Makima ward community. Since its inception the organization has always been involved in conflict with the Mbondoni sub location populace in various aspects. Some of them are:
- i) Harassing and molesting the community members; and
  - ii) Failure to pay casuals documents from one Johnson Ngiri this old man worked for TARDA for a long time and was never paid.

**Submission by the Hon. (Col) (Rtd) Geoffrey King'ang'i Muturi, MP.**

41. On Friday 23<sup>rd</sup> April, 2021 and Saturday the 24<sup>th</sup> April, 2021 residents of Makima Ward, Mbeere South Constituency were evicted, where over eight hundred (800) household were displaced. The evictees were forced to seek refuge as Internally Displaced Persons (IDPs) in Ndunguni Primary School, amid

the ravaging effects of COVID-19 pandemic and rains amongst lack of very basic needs to sustain life.

42. That on 29<sup>th</sup> April 2021 he sought Parliament's intervention on the floor of the house over the matter seeking a comprehensive Statement from the Chairperson of the Departmental Committee on Administration and National Security.

43. That on 6<sup>th</sup> July 2021, the Chair, Departmental Committee on Administration and National Security presented a statement from the Ministry of Interior and National Coordination on the matter in Parliament prompting responses from members. The Speaker of the National Assembly directed the Committee to visit the subject area, investigate on the matter and table its report in Parliament.

44. The residents of Ndunguni spread over 8 villages namely-

- i. Mangethe
- ii. Maasai Cross
- iii. Uthunthuni
- iv. NungaMboo
- v. Muthithu
- vi. Twanyoni
- vii. Ndunguni
- viii. Mwanyani

45. The villages consist of over 800 households, twenty (20) primary schools, four (4) secondary schools, eighteen (18) churches and 20 market centers. That TARDA carved out the land and obtained the Certificate of the land on November, 2012 which was originally part of the vast Mwea Ranching Scheme. TARDA in the past ten years attempted to evict the residents of Ndunguni area, on several instances which attempts have been unsuccessful.

46. In the recent instance, several people were evicted, most houses and market centers were demolished and power lines were disconnected in the process, and farmlands left unattended.

47. The people of Ndunguni had established homes, built semi-permanent and permanent houses, businesses, schools, and churches connected with electricity and had productive farmland where they had channeled water from Tana River to irrigate their farm produce. The Member of Parliament prayed that the people of Ndunguni be given land with titles, be supplied with water, the electricity be

restored, schools be rebuilt, markets, police station and health centers be restored.

### **Submission by Hon. Cecily Mbarire, MP**

48. She reported to have accompanied the area Member of Parliament when the evictions were taking place. She pleaded with the committee to castigate the police brutality, and insisted that the brutality was violation of human rights.
49. She demanded for a list of the people so far compensated by TARDA during the 1970s land survey
50. She noted that three quarters of Embu County is Mbeere South and that it is the most impoverished part of the county. She challenged TARDA to state how it has benefited the locals, and how the sand harvesting has impacted on the local residents, and who the main beneficiaries of the sand business were.
51. She alleged that TARDA wanted to allocate the said land to foreign investors and tabled a request for proposal for lease of Arable Land at Masinga Irrigation Project Meant to Promote Domestic Production, Forex Exchange Earnings and Import Substitution, Enhanced Food Security, Employment and Income Generation, Tender No. TARDA/RFP/022/2019-2020. *See annex 4*

### **Submission by the Residents of Ndunguni**

#### *52. Submission by Mr. Raphael Mutinda*

- i) He moved to from Mwea in 1970. His wife and children have known this place as home;
- ii) Around 1979 they were informed that a dam would be built;
- iii) As a professional teacher, he was a Headmaster at Twaiya Primary School and later moved to Mbondoni Primary school after the dam was built;
- iv) Ever since he moved to Mbunguni he has no other place to call home; and
- v) He confirmed that they had no titles for the land and pleaded with the government to give them certificates of Ownership for the land.

#### *53. Submission by Mr. Paul Kamau*

- i) A resident of Makima born in 1972 in Kwa Nyoni Primary School and later moved to Mbondoni Primary School; and
- ii) In 2017, TARDA, through a local Chief informed the community of the impending eviction and the then ongoing Court case.

*54. Submission by Ms. Elizabeth NdungeMwanzia*

- i) A resident since 1974;
- ii) She says she never knew about TARDA until this year;
- iii) On 25<sup>th</sup> April 2021 houses were demolished and they had to flee to schools where they stayed up to twenty-five (25) people per class. She stated that the living conditions at the temporary camps were unfavorable especially for women and children; and
- iv) She requested the government to issue them with title deeds.

*55. Submission by Mr. David Pemba*

- i) A pastor by profession;
- ii) He was born in 1973, his parents have been there since 1966;
- iii) On 23<sup>rd</sup> April, the local market was demolished, followed by the eviction of residents the next day; and
- iv) He prayed that the people whose properties and business were destroyed be compensated.

*56. Submission by Mr. George Kilei*

- i) He stated that he has been there since 1970.
- ii) He notes that they were not given any notices and were evicted forcefully.

*57. Submission by Mr. Solomon Mwaniki*

- i) Works with the Standard Media group as a journalist;
- ii) They covered the evictions against the wishes of the police officers on the ground;

iii) They were beaten and locked up, and their phones and cameras confiscated; and

iv) They were directed to delete all photos on the incident.

## PART 4

### ISSUES FOR DETERMINATION BY THE COMMITTEE

#### **i. The circumstances that led to the inhumane and brutal evictions of residents of Makima Ward, Mbeere South.**

- a) Evidence on record show that the removal of illegal settlers/settlements that happened in Masinga and Kiambere was a legal exercise in bid to safeguard the buffer zone of the two dams. Following the end of the Court matter vide ELC No. 148 of 2017- TARDA verses Joseph Muli Mukuluta and twenty-six (26) others, the court decided the matter in favor of the Authority on the 12<sup>th</sup> March 2021.
- b) The defendants then applied for a stay of execution of the Orders. The Court noted that the defendants had not filed an appeal in the matter. It was also noted that the Defendants had hindered the beaconing and demarcation process that the Petitioner was conducting. Based on the above grounds, the Court dismissed the stay of execution on 18<sup>th</sup> June 2020. The Authority amicably engaged the illegal occupants to move but this was not successful.
- c) Further evidence adduced by the Committee revealed that on 1<sup>st</sup> December 2020, the Regional Police Commander received a letter from the High Court to authenticate the eviction orders issued on 19<sup>th</sup> August 2020. The letter indicated the particulars of the land, indicating further that TARDA was to restore beacons within 30 days, and the twenty-seven (27) defendants had 30 days to remove any property, and the order was restraining the defendants from the property owned by TARDA.
- d) Evidence on record show that the Authority conducted a number of sensitization meetings aimed to preparing the affected residents of the implication of the Court Order and the impending eviction. The meetings were held between 23<sup>rd</sup> February, 2021 and 13<sup>th</sup> April, 2021 as indicated hereunder:
  - i) 23<sup>rd</sup> February 2021, at Unguni Village, Mbondoni Sub-location
  - ii) 12<sup>th</sup> March 2021, at Mbondoni Market
  - iii) 18<sup>th</sup> March 2021, at Mbondoni Sub-location
  - iv) 22<sup>nd</sup> March 2021, at Mwanyani Market
  - v) 6<sup>th</sup> April 2021, at Mwanyani Village Mbondoni Sub-location



- vi) 9<sup>th</sup> April 2021, and Ndunguini Village
- vii) 13<sup>th</sup> April 2021 at Maasai Cross

e) Based on the evidence on record, it is the view of the Committee that the evictions that were carried out within Makima area, in Mbeere South were legally conducted pursuant to a court Order. It was further established that the Authority went to great length to sensitize and prepare the residents for the eviction.

**ii. The intervention measures that the Government is undertaking in addressing the ongoing humanitarian crisis at Ndunguini Primary School exemplified by massive congestions devoid of sanitation, water, COVID-19 masks, food and other basic needs particularly Considering schools are scheduled to re-open on 10<sup>th</sup> May 2021**

- a) By the time the Committee visited Makima Ward on its fact finding on Monday 23rd August, 2021, there were no residents camping at Ndunguini Primary School or any other location within the Ward;
- b) The Committee however observed that there were a number of homesteads within the Ward that had been brought down; and
- c) Based on this evidence, it is the view of the Committee that as at the time of the visit, there was no humanitarian crisis within the Ward

**iii. In the light of the fact that the residents are the rightful owners of the land near Masinga and Kiambere Dams where they live and farm despite claims to the contrary by Tana and Athi River Development Authority (TARDA), timelines for the resettlement of the residents by the Government, resolution of the land ownership issue and compensation of the residents for their colossal losses**

- a) Evidence on record show that on two different occasions, through ELC No.148/2017 and Civil Appeal No. 253 of 2011, the Courts made a determination that the land in dispute LR. Nos. 28670, 28671 and 12621 belonged to the Authority.

- b) The Authority further tabled evidence of names of persons who were compensated for the acquisition of the land for the Masinga and Kiambere Dam projects
- c) Consequently, the Committee was convinced that the land in dispute is legally owned by TARDA.

**iv. The basis on which journalists, residents and the Area MP were harassed, beaten and arrested, and whether the government intends to pursue the false/trumped-up charges against them;**

**Evidence on record produced before the Committee show that the following illegal activities were undertaken by a section of the residents under the guise of resisting eviction:**

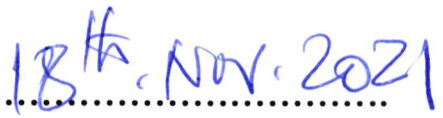
- a) On 25<sup>th</sup> April 2021-A store belonging to the Authority was burnt and part of the office vandalized. Eight goats were stolen. This was reported at Mbondoni police post;
- b) 28<sup>th</sup> April 2021-A steel gate to the project was stolen. This was reported in Mbondoni police post;
- c) 12<sup>th</sup> May 2021-The project office was burnt and the livestock shed vandalized. The shed timber and iron sheets were stolen. This was reported in Masinga Dam police post; and
- d) Based on the above evidence on record, the police were justified in securing the Authority's property to avert further damage

**PART 5**

**5.0 COMMITTEE RECOMMENDATION**

21. Based on the above submissions and the observations, the Committee made the following recommendations, that:

- i) **THAT, the Court having made a determination on the matter in ELC.No.148 of 2017(TARDA vs. Joseph Muli Mukuluta) and Civil Appeal No. 253 of 2011, aggrieved parties should pursue the available appellate mechanisms.**
  
- ii) **THAT, to forestall any future conflicts, the Board of TARDA, the National Land Commission, the Ministry of land, the County Governments of Embu, Machakos and Kitui carry out due diligence on the compensation process for the original owners of land parcels LR. Nos.28670, 28671 and 12621, with a view to identifying residents, if any, who were left out of the process. A status report on this should be submitted to the National Assembly within three (3) months of the adoption of this Report.**

Signed..........Date..........

**HON. PETER MWATHI, M.P.**  
**CHAIRPERSON,**  
**DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL**  
**SECURITY**

**MINUTES OF THE 31<sup>ST</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON FRIDAY, 24<sup>TH</sup> SEPTEMBER, 2021 AT 2.00 P.M. AT SERENA BEACH HOTEL, MOMBASA**

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**PRESENT-**

1. Hon. Peter Mwathi, MP *Chairperson*
2. Hon. Dr. Makali Mulu, MP
3. Hon. Aduma Owuor, MP
4. Hon. Peter George Kaluma, MP
5. Hon. Dr. Tecla Chebet Tum, MP
6. Hon. Peter Masara, MP
7. Hon. Oku Kaunya, MP
8. Hon. Marselino Arbelle, MP
9. Hon. Col (Rtd) Geoffrey King'ang'i, MP
10. Hon. Jeremiah Ekamais Lomurukai, MP

**ABSENT WITH APOLOGIES**

1. Hon. Fatuma Gedi, CBS, MP *Vice chairperson*
2. Hon. Halima Mucheke, MP
3. Hon. Nimrod Mbithuka Mbai, MP
4. Hon. Ngunjiri Wambugu, MP
5. Hon. Abdi Omar Shurie, MP
6. Hon. William Kamuren Chirchir Chepkut, MP
7. Hon. Swarup Mishra, MP
8. Hon. Rozaah Buyu, MP

**IN ATTENDANCE-**

**COMMITTEE SECRETARIAT-**

1. Mr. John Mutega - Deputy Director
2. Mr. Adan Gindicha - Senior Clerk Assistant
3. Mr. Joshua Ondari - Clerk Assistant
4. Ms. Delvin Onyancha - Research Assistant Officer
5. Ms. Brigitta Mati - Legal Counsel

6. Mr. Josphat Bundotich

- Serjeant-At-Arms

**MIN No. 125 /2021:-**

**PRELIMINARIES AND COMMUNICATION  
FROM THE CHAIRPERSON**

The Chairperson officially welcomed Members to the meeting at 9.30 am with a word of prayer.

**MIN No. 126 /2021:-**

**ADOPTION OF THE REPORT ON THE  
FACT-FINDING VISIT TO MAKIMA WARD  
MBEERE SOUTH SUB-COUNTY  
REGARDING FORCEFUL EVICTIONS OF  
RESIDENTS OF NDUNGUINI IN MAKIMA  
WARD OF MBEERE SOUTH  
CONSTITUENCY**

The Committee considered the report and came up with the following observations and recommendations:-

**Observations**

**i. The circumstances that led to the inhumane and brutal evictions of residents of Makima Ward, Mbeere South.**

- a) Evidence on record show that the removal of illegal settlers/settlements that happened in Masinga and Kiambere was a legal exercise in bid to safeguard the buffer zone of the two dams. Following the end of the Court matter vide ELC No. 148 of 2017- TARDA verses Joseph Muli Mukuluta and twenty-six (26) others, the court decided the matter in favor of the Authority on the 12<sup>th</sup> March 2021.
- a) The defendants then applied for a stay of execution of the Orders. The Court noted that the defendants had not filed an appeal in the matter. It was also noted that the Defendants had hindered the beaconing and demarcation process that the Petitioner was conducting. Based on the above grounds, the Court dismissed the stay of execution on 18<sup>th</sup> June 2020. The Authority amicably engaged the illegal occupants to move but this was not successful.
- b) Further evidence adduced by the Committee revealed that on 1<sup>st</sup> December 2020, the Regional Police Commander received a letter from the High Court to authenticate the eviction orders issued on 19<sup>th</sup> August 2020. The letter

indicated the particulars of the land, indicating further that TARDA was to restore beacons within 30 days, and the twenty-seven (27) defendants had 30 days to remove any property, and the order was restraining the defendants from the property owned by TARDA.

c) Evidence on record show that the Authority conducted a number of sensitization meetings aimed to preparing the affected residents of the implication of the Court Order and the impending eviction. The meetings were held between 23rd February, 2021 and 13th April, 2021 as indicated hereunder:

- i) 23<sup>rd</sup> February 2021, at Unguni Village, Mbondoni Sub-location
- ii) 12<sup>th</sup> March 2021, at Mbondoni Market
- iii) 18<sup>th</sup> March 2021, at Mbondoni Sub-location
- iv) 22<sup>nd</sup> March 2021, at Mwanyani Market
- v) 6<sup>th</sup> April 2021, at Mwanyani Village Mbondoni Sub-location
- vi) 9<sup>th</sup> April 2021, and Ndunguini Village
- vii) 13<sup>th</sup> April 2021 at Maasai Cross

d) Based on the evidence on record, it is the view of the Committee that the evictions that were carried out within Makima area, in Mbeere South were legally conducted pursuant to a court Order. It was further established that the Authority went to great length to sensitize and prepare the residents for the eviction.

**ii. The intervention measures that the Government is undertaking in addressing the ongoing humanitarian crisis at Ndunguini Primary School exemplified by massive congestions devoid of sanitation, water, COVID-19 masks, food and other basic needs particularly Considering schools are scheduled to re-open on 10<sup>th</sup> May 2021**

- a) By the time the Committee visited Makima Ward on its fact finding on Monday 23rd August, 2021, there were no residents camping at Ndunguini Primary School or any other location within the Ward;
- b) The Committee however observed that there were a number of homesteads within the Ward that had been brought down; and

- c) Based on this evidence, it is the view of the Committee that as at the time of the visit, there was no humanitarian crisis within the Ward

**iii. In the light of the fact that the residents are the rightful owners of the land near Masinga and Kiambere Dams where they live and farm despite claims to the contrary by Tana and Athi River Development Authority (TARDA), timelines for the resettlement of the residents by the Government, resolution of the land ownership issue and compensation of the residents for their colossal losses**

- a) Evidence on record show that on two different occasions, through ELC No.148/2017 and Civil Appeal No. 253 of 2011, the Courts made a determination that the land in dispute LR. Nos. 28670, 28671 and 12621 belonged to the Authority.
- b) The Authority further tabled evidence of names of persons who were compensated for the acquisition of the land for the Masinga and Kiambere Dam projects
- c) Consequently, the Committee was convinced that the land in dispute is legally owned by TARDA.

**iv. The basis on which journalists, residents and the Area MP were harassed, beaten and arrested, and whether the government intends to pursue the false/trumped-up charges against them;**

**Evidence on record produced before the Committee show that the following illegal activities were undertaken by a section of the residents under the guise of resisting eviction:**

- a) On 25<sup>th</sup> April 2021- a store belonging to the Authority was burnt and part of the office vandalized. Eight goats were stolen. This was reported at Mbondoni police post;
- b) 28<sup>th</sup> April 2021-a steel gate to the project was stolen. This was reported in Mbondoni police post;
- c) 12<sup>th</sup> May 2021-The project office was burnt and the livestock shed vandalized. The shed timber and iron sheets were stolen. This was reported in Masinga Dam police post; and
- d) Based on the above evidence on record, the police were justified in securing the Authority's property to avert further damage

## **Recommendation**

- i) THAT, the Court having made a determination on the matter in ELC.No.148 of 2017(TARDA vs. Joseph Muli Mukuluta) and Civil Appeal No. 253 of 2011, aggrieved parties should pursue the available appellate mechanisms.
  
- ii) THAT, to forestall any future conflicts, the Board of TARDA, the National Land Commission, the Ministry of land, the County Governments of Embu, Machakos and Kitui carry out due diligence on the compensation process for the original owners of land parcels LR. Nos.28670, 28671 and 12621, with a view to identifying residents, if any, who were left out of the process. A status report on this should be submitted to the National Assembly within three (3) months of the adoption of this Report.

The report was adopted after being proposed by Hon. Jeremiah Ekamais Lomurukai, MP and seconded by Hon. Marselino Arbelle, MP.

### **MIN No. 127 /2021:-**

### **REPORT ON THE CONSIDERATION OF THE PRESIDENT'S MEMORANDUM ON THE REFUGEE BILL (NATIONAL ASSEMBLY BILLS NO. 62 OF 2019)**

The Committee considered the report and came up with the following observations and recommendations:-

#### **Observations-**

##### **A. CLAUSE 2**

Clause 2 of the Bill proposes to insert the definition of “transit centre”. In his view, the proposed definition does not take into account that a transit centre may also include a prison, immigration detention centre, police station, remand home or any other similar place that may be designated as a transit centre. The effect of the omission is that the proposed definition is in conflict with sections 4 and 12 (3) (g) of the Persons Deprived of Liberty Act, 2014, which provides that detention



facilities may be used as holding centres for refugees and asylum seekers where there is need for humanitarian assistance.

If the proposed definition is enacted in its current form, this may lead to a situation where the Government may be compelled to build parallel facilities for the housing of refugees rather than investing in the improvement of the capacity of existing centres which can serve the same purpose.

### **President's reservation**

That clause 2 of the Bill be amended, in the definition of "transit centre", by adding the words "and includes a prison, immigration detention centre, police station, remand home or any other similar place that may be designated as a transit centre" after the words "security screening".

### **Implication of the proposed reservation**

The proposed reservation seeks to state explicitly such designated areas. They may include prisons, immigration detention centres, police stations, remand homes among others.

### **Committee Observations**

The Committee observed as follows—

- (a) The reservation seeks to explicitly provide what may constitute a designated area;
- (b) Section 4 of the Persons Deprived of Liberty Act, 2014 which provides that “the right to privacy set out in Article 31 of the Constitution, may be limited in respect of a person deprived of liberty where there is need for humanitarian assistance of migrants, refugees, asylum or refugees status seekers, stateless and undocumented persons buttresses the definition of areas that may be designated as transit centres. This can be inferred from the words “means areas designated by the Cabinet Secretary for the purposes”. This in effect means that the Cabinet Secretary can designate any area to be a transit centre for the purposes of temporarily accommodating persons under the Act;

(c) Section 12(3) (g) (Right to reasonable accommodation) states that “Every Competent Authority shall ensure that refugees, asylum seekers or refugee status seekers are held separately from persons charged with or convicted of criminal offences” is not in conflict with clause 2 of the Bill.

The provision enhances the definition of transit centre to mean that in such designated areas, there is need to hold refugees separately from persons who are charged or convicted criminals;

(d) There is need to dispel any ambiguity as to what a transit centre is. Therefore, by explicitly providing examples of such transit centre does dismiss the notion that the government is or may be compelled to build parallel facilities for housing of refugees

### **Committee Recommendation**

The Committee agreed with the reservation to clause 2.

### **Justification**

To dispel any ambiguity on what constitutes a transit centre.

### **B. CLAUSE 8**

Clause 8 of the Bill fails to include a provision empowering the Commissioner to promote, in as far as is possible and where applicable, the procurement or purchase of local products and services in support of refugee intervention and support programmes. He further noted that the effect of the failure is that it leaves room for the importation of goods that would otherwise be locally available thereby failing to benefit the local economy.

### **Presidents Reservation**

That clause 8 of the Bill be amended in subclause (2) by adding the following new paragraph immediately after paragraph (w)—

“(x) promote, insofar as is practicable, the procurement or purchase of local products and services in support of refugee intervention and support programmes.”

### **Implication of the Proposed Reservation**

The reservation seeks to task the Commissioner for Refugee Affairs to encourage through guidelines procurement or purchase of local products and services in support of refugee programmes. This means that refugee agencies will source goods and services from local contractors and this may boost the economy.

### **Committee Observations**

The Committee observed that the reservation—

- (a) seeks to promote positive and sustainable partnerships between the host communities and refugees;
- (b) seeks to facilitate growth and development in areas designated as refugee camps and their environs

### **Committee Recommendation**

The Committee agreed with the reservation to clause 8.

### **Justification**

To task the Commissioner for Refugee Affairs to promote procurement or purchase of local products and services in support of refugee programmes. This will enhance growth and development in designated areas and the country at large.

### **C. CLAUSE 18**

Clause 18 of the Bill provides that the Commissioner for Refugee Affairs may revoke the status of a refugee at any time after recognition as a refugee if the refugee has committed a war crime or a crime against humanity. The clause, when read together with clause 17 of the Bill, causes confusion as the revocation of refugee status is materially the same as the cancellation of refugee status. Furthermore, the manner in which the clause is drafted suggests that the revocation is only in relation to facts that emerge after recognition which is in contravention of the provisions of Article 1(F) of the 1951 United Nations Convention Relating to the Status of Refugees.

### **Presidents Reservation**

That clause 18 of the Bill be amended by inserting the following new subclause immediately after subclause (4)—

(4A) The provisions of section 17 (2), (3), (4) and (5) shall, with the necessary modifications, apply to the revocation of refugee status by the Commissioner.

### **Implication of the Proposed Reservation**

The proposed reservation seeks to explicitly provide for the procedure to be adopted by the Commissioner for refugees before revoking a refugee status.

### **Committee Observations**

The Committee observed that —

- (a) the proposed reservation seeks to explicitly provide for the procedure to be adopted by the Commissioner before he or she revokes the refugee status of a person;
- (b) Cancellation of a refugee status is solely for persons who have misrepresented themselves or omitted material facts which if known could have changed the decision on recognition while revocation relates to when a refugee has committed a war crime or a crime against humanity;
- (c) Revocation of refugee status in this case is for persons who have been recognized as refugees. In the case of asylum seekers, clause 4 of the Bill provides for exclusion and disqualification from refugee status, where persons are believed to have committed a crime against peace, a war crime or a crime against humanity;
- (d) Decisions of the Commissioner may be appealed to the Refugee Status Appeals Committee.

### **Committee Recommendation**

The Committee agreed with the reservation to clause 18.

### **Justification**

To provide for the procedure to be adopted by the Commissioner for refugees before revoking a refugee status.

#### **D. CLAUSE 28**

Clause 28 of the Bill, which provides for the rights and obligations of refugees, does not take into account the Government's policy in which refugees from Partner States of the East African Community can benefit from an alternative immigration status which may allow them to obtain work permits. The new policy is intended to facilitate the full implementation of the 2010 East African Community Common Market Protocol and substantially reduce the refugee population in Kenya while simultaneously operating as a durable and more practical solution to protracted refugee situations.

#### **Presidents Reservation**

That clause 28 of the Bill be amended by adding the following new subclause immediately after subclause (7)—

(8) A person from a Partner State of the East African Community who has been recognised as a refugee under this Act may opt to voluntarily give up his or her refugee status for the purposes of enjoying any of the benefits due to him or her under the Treaty for the Establishment of the East African Community, the Protocol for the Establishment of the East African Community Common Market, and any other relevant written law.

#### **Implication of the Proposed Reservation**

The proposed reservation seeks to enhance the rights of refugees in Kenya by affording better avenues such as work permits in enjoying and exercising the right to work among others

#### **Committee Observations**

The Committee observed that—

- (a) The reservation seeks to afford more rights to refugees;
- (b) Article 124(5)(h) of the EAC Treaty, Partner States agreed to establish common mechanisms for management of refugees;

(c) Article 5 of the Protocol for Establishment of the East African Community Common Market provides for the scope of the protocol in the implementation of the Common Market and strategies for realisation of the rights and freedoms of citizens; ease of cross border movement of persons and adaption of integrated border management; removal of restrictions on movement of labor; services and the right of establishment and residence;

### **Committee Recommendation**

The Committee agreed with the reservation to clause 28.

### **Justification**

To enhance the rights of refugees in Kenya by affording better avenues such as work permits in enjoying and exercising the right to work among others.

### **E. CLAUSE 31**

Clause 31 of the Bill, which provides that refugees shall reside in designated areas, authorises the Commissioner for Refugee Affairs to require any refugee in one designated area to move to another designated area. The clause fails to make any reference to refugees who may be residing outside designated areas and does not make any provisions regarding the Commissioner's control over them.

### **Presidents Reservation**

That clauses 31 of the Bill be amended by adding the following new sub clause immediately after sub clause (4)—

(5) Any refugee or asylum seeker residing outside a designated area at the commencement of this Act shall, as soon as is practicable after the commencement, notify the Commissioner in the prescribed manner of his or her situation and the Commissioner shall make such orders as may be necessary in the circumstances.

### **Implication of the Proposed Reservation**

The proposed reservation seeks to provide for a transition mechanism for persons who are refugees and are residing in an area that is not a designated area.

**Committee Observations**

The Committee observed that—

- (a) There is need to provide for persons who are refugees and are not residing in a designated area;
- (b) The reservation will enhance transparency and reporting of the situation of refugees in the country;

**Committee Recommendation**

The Committee agreed with the reservation to clause 31.

**Justification**

To provide for a transition mechanism for persons who are refugees and are residing in an area that is not a designated area to another area.

**Recommendations-**

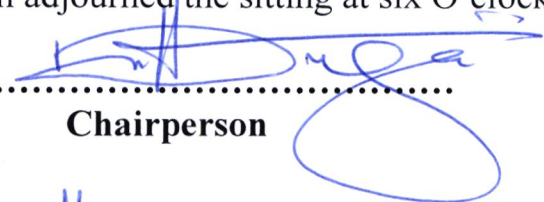
The Committee having considered the President’s reservations to the Refugees Bill, 2019 and pursuant to the provisions of Article 115 of the Constitution, recommends that the House AGREES WITH the President’s recommendation on Clause 2, Clause 8, Clause 18, Clause 28 and Clause 31 of the Refugees Bill (No. 62 of 2019).

The report was adopted after being proposed by Hon. Peter George Kaluma, MP and seconded by Hon. Oku Kaunya, MP.

**MIN No. 128 /2021:-**

**ADJOURNMENT**

The Chairperson adjourned the sitting at six O’clock.

Signed.....  
  
 Chairperson

Date.....  
 18<sup>th</sup> Nov. 2021

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

ATTENDANCE SCHEDULE

DATE: 24/09/2021

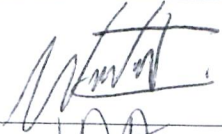

TIME: 2:00 pm

VENUE: Serena Beach Hotel Mombasa

AGENDA: Adoption of the Report of the fact finding visit to Makima Ward, Embu County

NO.	NAME	SIGNATURE
1.	Hon. Peter Mwathi, MP - Chairperson	
2.	Hon. Fatuma Gedi, CBS, MP - Vice Chairperson	
3.	Hon. George Peter Kaluma, MP	
4.	Hon. Dr. Makali Mulu, MP	
5.	Hon. Aduma Owuor, MP	
6.	Hon. Dr. Tecla Chebet Tum, MP	
7.	Hon. Halima Mucheke, MP	
8.	Hon. Marselino Malimo Arbelle, MP	
9.	Hon. Nimrod Mbithuka Mbai, MP	



10.	Hon. Ngunjiri Wambugu, MP	
11.	Hon. Abdi Omar Shurie, MP	
12.	Hon. Col (Rtd) Geoffrey Kingangi, MP	
13.	Hon. Peter Masara, MP	
14.	Hon. Oku Kaunya, MP	
15.	Hon. Rozaah Buyu, MP	
16.	Hon. Jeremiah Lomurukai, MP	9 10 11
17.	Hon. William Chepkut, MP	
18.	Hon. Swarup Mishra, MP	

Signed.....Date.....

Adan Gindicha,  
Senior Clerk Assistant,  
Departmental Committee on Administration and National Security.

Signed.....Date.....

Peter Chemweno,  
Director, Directorate of Departmental Committee Services

MEMO

TO : DIRECTOR, DEPARTMENTAL COMMITTEES  
SERVICES

FROM : HEAD, TABLE OFFICE DEPARTMENT

DATE : JULY 6, 2021

SUBJECT : SPEAKER'S AUTHORITY FOR A FACT FINDING  
VISIT TO MAKIMA WARD IN MBEERE SOUTH  
CONSTITUENCY

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The above-mentioned subject matter refers.

On **Tuesday, July 06, 2021**, during the Afternoon Sitting, the Chairperson of the Departmental Committee on Administration and National Security responded to a Statement sought by the Member for Mbeere South Constituency (Hon. (Col.) (Rtd) Geoffrey King'ang'i, MP) regarding evictions of residents of Makima Ward in Mbeere South Constituency on land ostensibly owned by the Tana and Athi River Development Authority (TARDA).

Due to the weighty issues raised by Members and on the request of the Member, the Speaker pursuant to the provisions of Standing Order 218(2), directed that the Departmental Committee on Administration and National Security undertakes a fact-finding visit to Makima Ward in Mbeere South Constituency to ascertain the exact situation in the area on the ownership of the land ostensibly owned by the TARDA, by engagement of Makima Ward residents as well as TARDA officials, and thereafter propose practical solutions to the matter.

Please find attached herewith a copy of the Statement for your necessary action.

  
R. K. TIAMPATI

Copy: Clerk of the National Assembly  
Deputy Clerks  
Director, Legislative and Procedural Services

George Garenba  
To facilitate when funds  
become available.  
7/7/21

//Encl.



Hon. Speaker  
This may appear  
before  
4/5/21.



Approved  
SNA  
4/5/2021

REPUBLIC OF KENYA  
TWELFTH PARLIAMENT – FIFTH SESSION

REQUEST FOR STATEMENT ON BRUTAL EVICTIONS OF RESIDENTS OF  
NDUNGUNI IN MAKEMA WARD OF MBEERE SOUTH CONSTITUENCY

**Honourable Speaker**, pursuant to the provisions of Standing Order 44(2)(c), I seek to request a statement from the Chairperson of the Departmental Committee on Administration and National Security regarding recent evictions of residents of Ndunguni Centre in Makema Ward of Mbeere South Constituency.

**Honourable Speaker**, on 23<sup>rd</sup> and 24<sup>th</sup> April 2021, a contingent of police officers brutally evicted and displaced over 800 households in Ndunguni and demolished their residencies, forcing them to camp as Internally Displaced Persons (IDPs) at Ndunguni Primary School. Further, nine journalists covering the evictions as well as 13 residents and the Area Member of Parliament were brutally beaten, arrested and detained in police cells under trumped-up charges that also led to the confiscation of the journalists' phones and media equipment.

**Honourable Speaker**, it is on account of these urgent concerns that I seek for a Statement from the Chairperson of the Departmental Committee on Administration and National Security on:

- (i) What circumstances led to the inhumane and extremely brutal evictions of residents and demolitions of houses at Ndunguni Centre?
- (ii) What urgent intervention measures is the Government undertaking in addressing the ongoing humanitarian crisis at Ndunguni Primary School exemplified by massive congestions devoid of sanitation, water, Covid-19 masks, food and other basic needs particularly in consideration that schools are scheduled to re-open on 10<sup>th</sup> May 2021?
- (iii) In light of the fact that these residents are the rightful owners of the land near Masinga and Kiambere Dams where they live and farm despite claims to the contrary by Tana and Athi River Development Authority (TARDA), within what timelines shall the Government resettle the IDPs, resolve the land ownership issue and duly compensate the residents for their colossal losses?
- (iv) On what basis were the journalists, residents and the Area MP harassed, beaten and arrested, and does the Government intend to pursue the false/ trumped-up charges against them?

HON. (COL.) (RTD.) GEOFFREY KING'ANG'I MUTURI, MP  
MBEERE SOUTH CONSTITUENCY

Dated . 4 . May . 2021

STATEMENT ON BRUTAL EVICTIONS OF RESIDENTS OF  
NDUNGUNI IN MAKEMA WARD OF MBEERE SOUTH  
CONSTITUENCY

**Mr. Speaker Sir**, the member for Mbeere South Honourable (COL.) (RTD.) Geoffrey King'angi sought a statement from the Cabinet Secretary, Interior and Coordination of National Government on the brutal evictions of residents of Ndunguni in Makema Ward of Mbeere South Constituency. Particularly the member sought to be informed on:

1. The circumstances that led to the inhumane and extremely brutal evictions of residents and demolitions of houses at Ndunguni Centre.
2. What urgent interventions measures is the Government undertaking in addressing the ongoing humanitarian crisis at Ndunguni Primary School exemplified by massive congestions devoid of sanitation, water, Covid-19 masks, food and other basic needs particularly in consideration that schools are scheduled to re-open on 10<sup>th</sup> May 2021?
3. In light of the fact that this residents are the rightful owners of the land near Masinga and Kiambere Dams where they live and farm despite claims to the contrary by Tana and Athi River Development Authority (TARDA), within what timelines shall the Government resettle the IDPs, resolve the land ownership issue and duly compensate the residents for their colossal losses.
4. On what basis were the journalists, residents and the area MP harassed, beaten and arrested, and does the Government intend to pursue the false/trumped-up charges against them.

**Mr. Speaker Sir**, The eviction exercise in Masinga and Kiambere was a legal exercise following a court order. The court matter was as a result of TARDA's effort to evict the illegal squatters from its property amicably without success. Consequently, TARDA filed a case in the Environment and Land Court in Embu, ELC Case No 148 Of 2017-

TARDA Vs Joseph Muli and others. The ruling was delivered on 12<sup>th</sup> March 2020 in favor of TARDA where the court ordered for the restoration of beacons to safeguard the buffer zone of the two dams. I wish to table a copy of the court order.

The court further issued execution Orders dated 3<sup>rd</sup> September, 2020 directing the Regional Police Commander Eastern to provide security during the eviction exercise. I wish to table a copy of the execution order.

**Mr. Speaker Sir,** Currently there are no internally displaced persons accommodated at Ndunguni Primary School and therefore there is no humanitarian crisis.


**Mr. Speaker Sir,** TARDA owns the land in Masinga and Kiambere and possesses the following title deeds L.R NO 28670, 28671 and 12621. The court determined the true ownership of the land and issued court orders accordingly.

**Mr. Speaker Sir,** The area member of parliament Honourable (COL.) (RTD.) Geoffrey Kingangi MP for Mbeere South constituency and 11 other suspects were arrested and charged with various offences related to:

- a) Taking part in an unlawful assembly contrary to section 79 of the penal code.
- b) Incitement to violence contrary to section 96 of the penal code.
- c) Obstructing police officers while executing lawful duty contrary to section 103(a) of the National Police Service Act of 2011.
- d) Arson contrary to section 332(a) of the penal code.

- e) Malicious damage to property contrary to section 339(1) as read with section 339(2)(a) of the penal code and
- f) Contravening provisions of prevention, control or suppression of Covid 19 directive issued by the Cabinet Secretary of Health pursuant to section 36 as read with section 164 of the Public Health Act CAP 242 Laws of Kenya.

Thank you, **Mr. Speaker Sir.**



FRED MATIANG'I PhD, EGH  
CABINET SECRETARY,  
MINISTRY OF INTERIOR AND  
COORDINATION OF NATIONAL GOVERNMENT

2<sup>nd</sup> June, 2021

**PRESENTATION TO THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY REGARDING EVICTION OF RESIDENTS OF NDUNGUNI, MAKIMA WARD, MBEERE SOUTH CONSTITUENCY**

**Overview**

On Friday the 23<sup>rd</sup>, April, 2021 and Saturday the 24<sup>th</sup> April, 2021, residents of Makema Ward, Mbeere South Constituency were evicted, wherein in over 800 households were displaced.

The evictees were forced to seek refuge as Internally Displaced Persons (IDPs) in Ndunguni Primary School, amid the ravaging effects of COVID-19 pandemic and rains amongst lack of very basic needs to sustain life.

That on 29<sup>th</sup> April 2019 I sought Parliament's intervention on the floor of the house over the matter seeking a comprehensive Statement from the Chairperson of the Departmental Committee on Administration and National Security.

That on 6<sup>th</sup>, July, 2021, the Chair, Departmental Committee on Administration and National Security presented a statement from the Ministry of Interior and National Coordination on the matter in Parliament prompting responses from members.

The Speaker of the National Assembly directed the Committee to visit the subject area, investigate on the matter and table its report in Parliament.

**Status of the Residents of Ndunguni Area occupying TARDA Land.**

The residents of Ndunguni spread over 8 villages enumerated below;

1. Mangethe;
2. Masai Cross;
3. Uthunthuni;
4. Nunga Mboo;
5. Muthithu;

### **Proposed Solutions.**

1. The Residents of Ndunguni be allocated land with at least three(3) to five(5) acres per household complete with Title Deeds;
2. The residents of Ndunguni depend on tomato farming to eke a living therefore, the allocated land should be close to the water sources to enable the population access water to irrigate their farmlands and water their animals;
3. The Government should provide the surrounding communities access roads to the water sources;
4. The Government should build new schools and other social amenities such as health centres, market places and administrative officers connected with electricity;
5. The residents of Ndunguni area be given adequate time continue settling in the subject land pending pursuit of lasting solutions thereof.

### **Conclusion.**

The residents of Ndunguni area, Makima Ward, Mbeere South Constituency desire that their right to a dignified life, right to own land, access to clean and adequate water, freedom from harassment and unfair treatment be protected as entrenched in the Constitution.

Contrary to the popular believes, people of Mbeere South Constituency are peace loving, calm and collected free from drama and unnecessary contestation.



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT EMBU**  
**CIVIL SUIT NO. 108 OF 2001**

**JOSEPH MBINDYO & 4 OTHERS ..... PLAINTIFFS**

**VERSUS**

**TANA AND ATHI RIVERS DEVELOPMENT AUTHORITY .....DEFENDANT**

**R U L I N G**

The Judgment in this matter was rendered by Lady Justice Joyce Khaminwa on 1<sup>st</sup> day of October 2009. She found in favour of the plaintiffs and awarded them KShs.96,800,000/= plus interest at the rate of 14% from the date of filing suit until payment in full. As would be expected where such amounts of money is concerned, the defendant immediately moved to the Court of Appeal on appeal vide the Notice of Appeal dated 12<sup>th</sup> October, 2009.

Counsel for the defendant also moved to this court seeking orders of stay of execution pending the hearing and determination of the Appeal. I granted the said orders on condition that the defendant deposited KShs.10,000,000/= as security for the due performance of the decree as may ultimately be binding on it within twenty one (21) days of the date of the Ruling. The money was deposited late but the court with the consent of both counsel herein regularized the position by extending the twenty one (21) days period granted earlier on. Those stay orders are still in force to-date.

The plaintiffs were nonetheless not happy with the speed at which the defendant was pursuing the Appeal and so their counsel filed the Application dated 29<sup>th</sup> October 2010 under certificate of urgency. The Application was served on the Respondents and the same was heard *inter-partes* before me on 1<sup>st</sup> November, 2010. This now is the ruling in respect of the said application. The Ruling was scheduled for delivery on 16<sup>th</sup> February, 2010 but due to unforeseen circumstances, the same could not be delivered then.

Part of the delay was occasioned by the fact that I was assigned other duties outside this court's jurisdiction and to-date I have not gone back to my station. I do therefore, tender my apologies to the parties herein for the delay in preparing this Ruling.

The applicant is asking the court to lift the stay orders mentioned earlier; that the decree holder be allowed to proceed with the execution of the decree; and that the KShs.10,000,000/= deposited in court as security be released to the Decree Holder forthwith.

According to counsel for the Applicants, the "purported Notice of Appeal" which was served on him was incurably defective and failed to comply with the format provided for in Form D of the first schedule of Rule 74 of the Court of Appeal Rules. He has highlighted the "defects" in the said Notice of Appeal in paragraph 7 of his supporting affidavit.

He has also deposed that counsel for the Respondent had not facilitated the court to process the Appeal as he had not paid the requisite deposit for the typing of the superior court's proceedings. He maintained that there was

inordinate delay in prosecuting the Appeal on the part of counsel for the Respondent and the said delay had hindered the Decree Holders from enjoying the fruits of their judgment.

On its part, the Respondent through its Corporation Secretary denies any inordinate delay in the matter saying that they were waiting for the court proceedings to be typed before they could prosecute the intended Appeal. He also deposed that the averment that the Notice of Appeal was incurably defective could only be taken up before the Court of Appeal where the Appeal lies. He therefore, urged the court to dismiss the application.

Both counsel reiterated these averments in their oral submissions in court. Indeed counsel for the Respondents informed the court that he did not know that a deposit was necessary before the typing of the proceedings could commence. I must say that I am not sure what to make of this submission given that it is a standard and long standing practice in our courts that any party who applies for proceedings must pay a deposit before the typing of the proceedings can start. This in my view is meant to dissuade or discourage parties from requesting for proceedings and thereafter abandoning their quest leaving the court stuck with copies of proceedings that nobody will use or pay for. It is meant to gauge the seriousness of the party requesting for the same and also to avoid waste. It fosters expediency and good resource management of the limited resources in our registries and typing pools. It is not law but it is a good custom and practice. I do not understand how Mr. Okeyo could be unaware of such a settled practice. Be that as it may however, upon hearing Mr. Okeyo on that issue, I am satisfied that the non-payment of the said deposit was not meant to delay the processing of the Appeal. He appears to have acted in good faith albeit in ignorance. The depositing of the 10 million shillings in court did in my view show some

seriousness on their part. I have also noted and appreciated the contents of Annexure to the replying affidavit marked "J00/2" which is a reminder to the Deputy Registrar asking for proceedings and which has made reference to three (3) other reminders sent to the Deputy Registrar between 12<sup>th</sup> October, 2009 and 6<sup>th</sup> October, 2010. Maybe the Deputy Registrar should have responded to the first letter promptly and enlightened counsel on the fact that the typing of the proceedings could not commence without the requisite deposit. Had she done so, this issue of "inordinate delay" could not have arisen. The delay in processing the appeal has in my considered view been sufficiently explained and the same cannot singularly justify the lifting of the orders of stay in question.


Having said so, has this court been given any other convincing reasons as to why the said orders of stay should be vacated?

The only other reason advanced for the said prayers is that there is no competent Appeal before the Court of Appeal.

The format of the Notice of Appeal has been challenged. Do I have jurisdiction to make a determination as to whether the Notice of Appeal before the Court of Appeal is competent or not? I am convinced that I do not have such jurisdiction. Holding otherwise would mean that I have jurisdiction to strike out an Appeal that is before the Court of Appeal. The form and substance or lack of it in respect of a Notice of Appeal can only be challenged before the court that is seised of jurisdiction to hear and determine the substantive Appeal. I therefore find myself in agreement with counsel for the Respondent when he says that this court has no jurisdiction to determine issues of conformity with Rule 74 of the Court of Appeal Rules. The Applicant is definitely at liberty to challenge the said Notice of Appeal before the Court of Appeal.

As stated in my Ruling when granting the orders of stay herein, if execution is carried out and the money paid to the 484 applicants, it would be extremely difficult for the Respondent to reclaim that money in the event the Appeal succeeds. The Appeal would doubtlessly be rendered nugatory and this would amount to a travesty of justice for the Respondent. In sum, the scales of justice tilt in favour of the Defendant/Respondent herein. I decline to grant orders that seek the lifting the orders of stay granted earlier. I nonetheless entreat counsel for the Plaintiffs/Applicants to proceed with dispatch to process the Appeal in order to avoid any further unwarranted delay in this matter.

This Application is therefore dismissed with orders that costs herein do abide the outcome of the Appeal.

  
**W. KARANJA**  
**JUDGE**

**SIGNED** by the above but delivered and dated by the undersigned at Embu  
this .... 13th day of .... April .....2011

  
.....  
**JUDGE**

LIST OF TITLE AND OWNERSHIP DOCUMENTS

TR 1-16



TRI

LAWS OF KENYA

The Tana and Athi Rivers Development  
Authority Act

CHAPTER 443

KSh. 14/-

Revised Edition 1991 (1982)  
Printed and Published by the Government Printer  
Nairobi



## CHAPTER 443

THE TANA AND ATHI RIVERS DEVELOPMENT  
AUTHORITY ACT

## ARRANGEMENT OF SECTIONS

*Section*

- 1—Short title.
- 2—Interpretation.
- 3—Establishment of Authority.
- 4—Membership of Authority.
- 5—Procedure.
- 6—Seal and execution of documents.
- 7—Committees.
- 8—Functions of Authority.
- 9—Appointment and remuneration of staff.
- 10—Managing director.
- 11—Finance.
- 12—Accounts and audit.
- 13—Annual report.
- 14—Protection of members and officers.

## SCHEDULE

CHAPTER 443

THE TANA AND ATHI RIVERS DEVELOPMENT  
AUTHORITY ACT

Commencement: 7th June, 1974

7 of 1974,  
L.N. 200/1974,  
8 of 1975,  
8 of 1981,  
12 of 1985.

An Act of Parliament to provide for the establishment of an authority to advise on the institution and co-ordination of development projects in the area of the Tana River and Athi River Basins; and for matters connected therewith and incidental thereto

1. This Act may be cited as the Tana and Athi Rivers Development Authority Act.

Short title.  
8 of 1981, s. 3.

2. In this Act, unless the context otherwise requires—  
“Area” means the area drained by, and bounded by, the watersheds of the Tana and Athi Rivers and their tributaries;

Interpretation.  
8 of 1975, Sch.,  
8 of 1981, s. 4.

“Authority” means the Tana and Athi Rivers Development Authority established by section 3;

“chairman” means the person appointed as chairman of the Authority under paragraph (a) of subsection (1) of section 4;

“managing director” means the managing director of the Authority appointed under section 10;

“non-official member” means the chairman and the members of the Authority appointed under paragraph (f) of subsection (1) of section 4.

3. There is hereby established an authority which shall be a body corporate by the name of the Tana and Athi Rivers Development Authority, with perpetual succession and a common seal, and which shall, subject to this Act, be capable in its corporate name of—

Establishment  
of Authority.  
8 of 1981, s. 5.

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of property, movable or immovable;
- (c) borrowing and lending money;
- (d) doing or performing all such other things or acts for the proper performance of its functions under this

1.66

Act which may lawfully be done or performed by a body corporate.

Membership of  
Authority,  
L.N. 200/1974,  
8 of 1975, Sch.,  
8 of 1981, s. 6.

Cap. 347.

4. (1) The Authority shall consist of the following members—

- (a) a chairman who shall be appointed by the President;
- (b) seven members who shall be the Permanent Secretaries of the Ministries set out in the Schedule;
- (c) the general manager of the National Irrigation Board appointed pursuant to section 11 of the Irrigation Act;
- (d) the chairman of the East African Power and Lighting Company Limited;
- (e) the Director of the Water Department;
- (f) five other members, who shall not be members of the Government service, and who shall be appointed by the Minister in consultation with the President;
- ~~(g) the managing director.~~

(2) Subject to this section, a non-official member shall hold office for a period of three years from the date of his appointment; and a retiring member shall be eligible for reappointment.

(3) If the Minister is satisfied that a non-official member—

- (a) has been guilty of any improper conduct; or
- (b) is incapacitated by prolonged physical or mental illness; or
- (c) is unable or unfit, for any other reason, to discharge the duties of his office,

and that it would be in the interests of the Authority so to do, he may terminate the appointment of that member.

(4) The office of a non-official member shall become vacant—

- (a) upon the expiry of his term of appointment;
- (b) upon the termination of his appointment under subsection (3);
- (c) upon the expiry of one month, or such shorter period as may be agreed, after the date upon which the Minister receives a written notice, signed by the member, of his intention to resign;
- (d) if he is absent without the permission of the Authority from three consecutive meetings of the Authority of which he has had reasonable notice.

(5) The non-official members shall be paid by the Authority such remuneration and allowances as the Minister may from time to time determine.

5. (1) The Authority shall elect a vice-chairman from among its members other than the chairman.

Procedure.

(2) The Authority shall meet at least once in every three months and the chairman may convene a special meeting at any time by giving at least fourteen days notice thereof to the members.

(3) The quorum necessary for the transaction of any business by the Authority shall be eight members inclusive of the person presiding.

(4) The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority:

Provided that in the case of the absence of both the chairman and the vice-chairman from any meeting the members present shall elect one of their number to preside at that meeting.

(5) Subject to this Act the Authority shall regulate its own procedure.

6. (1) The common seal of the Authority shall be authenticated by the signature of such persons, not being less than two, as may be generally or specially authorized thereto by the Authority.

Seal and  
execution of  
documents.

(2) All documents, other than those required by law to be under seal, and all decisions of the Authority, may be signified under the hand of the chairman or, in the case of a decision taken at a meeting at which the chairman was not present, under the hand of the person presiding at such meeting.

7. The Authority may appoint such committees, whether of its own members or otherwise, as it may think necessary but no decision of any such committee shall be effective unless it has been confirmed by the Authority.

Committees.

8. The functions of the Authority shall be—

(a) to advise the Government generally and the Ministries set out in the Schedule in particular on all matters affecting the development of the Area including the apportionment of water resources;

(b) to draw up, and keep up to date, a long-range development plan for the Area;

Functions of  
Authority,  
8 of 1981, s. 7.

- (c) to initiate such studies, and to carry out such surveys, of the Area as it may consider necessary, and to assess alternative demands within the Area on the resources thereof, including electric power generation, irrigation, wildlife, land and other resources, and to recommend economic priorities;
- (d) to co-ordinate the various studies of, and schemes within, the Area so that human, water, animal, land and other resources are utilized to the best advantage, and to monitor the design and execution of planned projects within the Area;
- (e) to effect a programme of monitoring of the performance of projects within the Area so as to improve that performance and establish responsibility therefor, and to improve future planning;
- (f) to ensure close co-operation between all agencies concerned with the abstraction and use of water within the Area in the setting up of effective monitoring of that abstraction and use;
- (g) to collect, assemble and correlate all such data related to the use of water and other resources within the Area as may be necessary for the efficient forward planning of the Area;
- (h) to maintain a liaison between the Government, the private sector and foreign agencies in the matter of the development of the Area with a view to limiting the duplication of effort and to assuring the best use of technical resources;
- (i) to render assistance to operating agencies in their applications for loan funds if required; and
- (j) to cause the construction of any works necessary for the protection and utilization of the water and soils of the Area.

9. (1) The Authority may appoint, upon such terms and conditions as it thinks proper, such other officers and servants as it considers necessary or desirable for the efficient conduct and operation of its affairs.

(2) The officers and servants appointed under subsection (1) shall—

- (a) subject to this Act, exercise the powers and functions and perform the duties assigned to them from time to time by the managing director; and

(b) be paid out of the funds of the Authority such salaries as the managing director, with the approval of the Authority, may from time to time determine and other expenses as they may incur in the performance of their duties.

10. (1) There shall be an officer of the Authority to be known as the managing director who shall be appointed by the Minister and who shall be responsible for the execution of the policy of the Authority and for the control and management of its day-to-day business.

Managing  
director.  
8 of 1981, s. 9.

(2) The Authority shall delegate to the managing director such of its functions under this Act as are necessary for the day-to-day business of the Authority and in particular the Authority shall delegate to the managing director the power, subject to any instructions of a general nature as may be given by the Authority—

(a) to control and supervise the acts of all officers and servants of the Authority in matters of executive administration and in all matters concerning the accounts and records of the Authority; and

(b) to dispose of all questions relating to the service of the officers and servants of the Authority and their pay, privileges and allowances.

11. The funds of the Authority shall consist of—

(a) such moneys as may from time to time be provided by Parliament for the purposes of the Authority;

(b) moneys borrowed by the Authority on such terms and for such purposes as may be approved by the Minister; and

(c) any moneys accruing to the Authority from any other source.

Finance.

12. (1) The Authority shall cause to be kept all proper books and records of account of income, expenditure, assets and liabilities of the Authority.

(2) At the end of each financial year the accounts of the Authority shall be audited by the Auditor-General (Corporations).

(3) At the completion of an audit under this section the auditor shall make a report thereon to the Authority and shall at the same time furnish a copy of the report to the Minister.

Accounts and  
audit.  
L.N. 200/1974.  
12 of 1985, Sch.

Annual  
report.  
8 of 1981 (s. 10.)

13. (1) The Authority shall, within a period of six months after the end of each financial year or within such longer period as the Minister may approve, submit to the Minister a report of its operations and activities during that year, together with the yearly balance sheet and such other statements of accounts as the Minister shall require; and the Authority shall publish the annual report and the yearly balance sheet in such manner as the Minister may specify.

(2) The Minister shall lay the Authority's report, together with the yearly balance sheet and such other statements of account as the Minister may deem appropriate, before the National Assembly as soon as reasonably practicable.

14. No act or thing done by any member of the Authority, or by any officer or servant of the Authority, shall, if the act or thing was done bona fide for the purposes of carrying this Act into effect, subject him personally to any liability, action, claim or demand whatsoever.

Protection of  
members and  
officers.

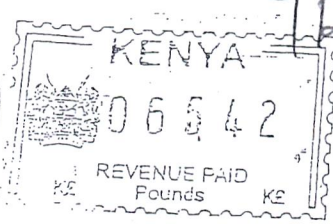
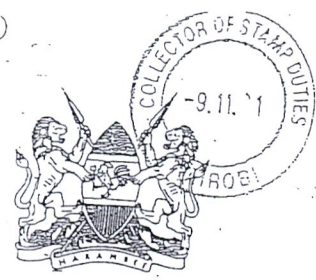
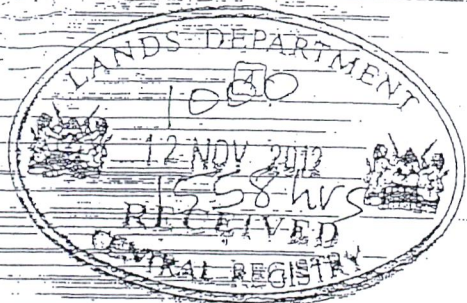
8 of 1975, Sec.,  
8 of 1981, s. 11.

#### SCHEDULE

(ss. 4, 8)

The Office of the President and the Ministries under the direction of the Ministers for the time being responsible for matters relating to—

- agriculture;
- economic planning;
- finance;
- natural resources;
- power;
- wildlife;
- water development.



IR 2

REPUBLIC OF KENYA

# REGISTRATION OF TITLES ACT

(Chapter 281)

GRANT: No. I.R.N. 6420

SO E 6542

ANNUAL RENT: Sh. 3,271,925/- (REVISABLE)

F. N. 9/10

TERM: 99 years w.e.f. 1.11.2010

27

**K** NOW ALL MEN BY THESE PRESENTS that in consideration of the sum of Shillings

~~by way of Stand Premium paid on or before the execution hereof~~ the COUNTY COUNCIL OF EMBU (hereinafter called "the Council")

hereby GRANTS unto TANA AND ATHI RIVER DEVELOPMENT AUTHORITY, a body corporate duly established under the TANA AND ATHI RIVERS DEVELOPMENT AUTHORITY Act (Cap 443) of the Laws of Kenya of NAIROBI (Post Office Box Number 47309 - 00100)

(hereinafter called "the Grantee") ALL that piece of land situate East of Embu Municipality in MACHAKOS

District containing by measurement one three two four one decimal three (13241.3)

hectares or thereabouts that is to say Land Reference Number 12621 which said piece of land with the dimensions abuttals and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 313156 deposited in the Survey Records Office at Nairobi TO HOLD

for the term of ninety nine (99) years from the first day of November Two Thousand ten

SUBJECT TO

- (a) the payment in advance on the first day of January in each year of the annual rent of Shillings three million two hundred seventy one thousand nine hundred and twenty five (Ksh. 3,271,925/-) (Revisable) w.e.f. 1.11.2010
- (b) the provisions of the Trust Land Act (Cap. 288) (c) the provisions of the Town Planning Act (Chapter 284) and (d) the following Special Conditions (namely):



## SPECIAL CONDITIONS

1. No buildings shall be erected on the land nor shall additions or external alterations be made to any buildings otherwise than in conformity with plans and specifications previously approved in writing by the local authority. The local authority shall not give approval unless satisfied that the proposals are such as to develop the land adequately and satisfactorily.

2. The grantee shall within six months of the commencement of the term submit in triplicate to the local authority plans (including block plans showing the positions of the buildings and a system of drainage for the disposal of sewage surface and sullage water) drawings elevations and specifications of the buildings the grantee proposes to erect on the land and shall within 24 months of the commencement of the term complete the erection of such buildings and the construction of the drainage system in conformity with such plans drawings elevations and specifications as amended (if such be the case) by the local authority.

Provided that notwithstanding anything to the contrary contained or implied by the Trust Land Act if default shall be made in the performance or observance of any of the requirements of this condition it shall be lawful for the county council or any person authorized by the county council to re-enter into and upon the land or any part thereof in the name of the whole and thereupon the term hereby created shall cease but without prejudice to any right of action or remedy of the county council in respect of any antecedent breach of any condition herein contained.

2. ~~xx~~ The grantee shall maintain in good and substantial repair and condition all buildings at any time erected on the land.

4. Should the grantee give notice in writing to the local authority that unable to complete the buildings within the period aforesaid the local authority shall (at the grantee expense) accept a surrender of the land comprised herein:—

- (i) Provided further that if such notice as aforesaid shall be given within 12 months of the commencement of the term the local authority shall refund to the grantee fifty per centum of the stand premium paid in respect of the land or
- (ii) at any subsequent time prior to the expiration of the said building period the local authority shall refund to the grantee twenty-five per centum of the said stand premium in the event of notice being given after the expiration of the said building period no refund shall be made.

3. ~~xx~~ The land and the buildings shall only be used for purposes of constructing, commissioning, operating and maintaining a power generating plant generating and transmitting electricity there from and any other purposes ancillary or related thereto.

4. ~~xx~~ The buildings shall not cover ~~more~~ a greater area of the land than that prescribed by the Local Authority in its by-laws.


5. ~~xx~~ The Grantee shall comply with the provisions of the Energy Act (2006) and any amendment thereto or re-enactment thereof for the time being in force and the rules made from time to time thereunder.

6. ~~xx~~ The land shall not be used for the purpose of any trade or business which the local authority considers to be dangerous or offensive.

12. Should there be any default in the performance or observance of any of the special conditions herein contained then notwithstanding the provisions of section 39 of the Trust Lands Act or anything contrary therein contained in or implied the council shall not commence any proceedings for forfeiture or otherwise until the expiry of not less than (30) thirty days following the date of service upon all parties having a registered interest in the aforesaid piece of land, including sub-lease thereof having a registered interest and any chargee having a registered interest in the sub-lease of a notice specifying particulars of the non performance or non-observance of any special condition and requiring the making good thereof within not less than 30 days of the date of service such notice and in the event that the Council shall commence any proceedings for forfeiture or otherwise notice of the commencement of such proceedings shall forthwith be served upon all parties as aforesaid. Every such notice shall be served on every interested party at the address and in the manner specified in each registered instrument.

SIGNED BY: ZABLON AGWATA MABEA  
The Commissioner of Lands thereto lawfully  
authorized on behalf of MASAKU COUNTY COUNCIL  
this 6<sup>th</sup> day of November two thousand  
and twelve in the presence of: -



  
REGISTRAR OF TITLES

F. N. Oware 217

DRAWN BY: -

M.M. OSANO  
REGISTERAR OF TITLES  
P.O. BOX 30089  
NAIROBI

LAND TITLES REGISTRY - NAIROBI REGISTRY

REGISTRATION OF TITLE ACT

REGISTERED AS No. LRN 6418/1

PRESENTED 12<sup>th</sup> November 2012

TIME 1558 Hrs.

  
C. K. Ngetich 212

McL... [R3]



REPUBLIC OF KENYA

REGISTRATION OF TITLES ACT

(Chapter 281)

GRANT: No. I.R.N. 6418

So €3246

ANNUAL RENT: Sh. 1,672,500/- (REVISABLE)

TERM: 99 years w.e.f. 1.11.2010

KNOW ALL MEN BY THESE PRESENTS that in consideration of the sum of Shillings ~~by way of Stand Premium paid on or before the execution hereof~~ the COUNTY COUNCIL OF MASAKU (hereinafter called "the Council")

hereby GRANTS unto TANA AND ATHI RIVER DEVELOPMENT AUTHORITY, a body corporate duly established under the TANA AND ATHI RIVERS DEVELOPMENT AUTHORITY Act (Cap 443) of the Laws of Kenya of NAIROBI (Post Office Box Number 47309 - 00100)

(hereinafter called "the Grantee ") ALL that piece of land situate N.E. of Thika Municipality in MACHAKOS

District containing by measurement six seven six eight decimal five (6768.5)

hectares or thereabouts that is to say Land Reference Number 28670 which said piece of land with the dimensions abuttals and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 313158 deposited in the Survey Records Office at Nairobi TO HOLD

for the term of ninety nine (99) years from the first day of November

Two Thousand ten

SUBJECT to

- (a) the payment in advance on the first day of January in each year of the annual rent of Shillings one million six hundred and seventy two thousand five hundred (Ksh.1,672,500/-) (Revisable) w.e.f. 1.11.2010
- (b) the provisions of the Trust Land Act (Cap. 288) (c) ~~the provisions of the Town Planning~~

and (d) the following Special Conditions (namely):-

## SPECIAL CONDITIONS

1. No buildings shall be erected on the land nor shall additions or external alterations be made to any buildings otherwise than in conformity with plans and specifications previously approved in writing by the local authority. The local authority shall not give approval unless satisfied that the proposals are such as to develop the land adequately and satisfactorily.

2. The grantee shall within six months of the commencement of the term submit in triplicate to the local authority plans (including block plans showing the positions of the buildings and a system of drainage for the disposal of sewage surface and sullage water) drawings elevations and specifications of the buildings the grantee proposes to erect on the land and shall within 24 months of the commencement of the term complete the erection of such buildings and the construction of the drainage system in conformity with such plans drawings elevations and specifications as amended (if such be the case) by the local authority.

Provided that notwithstanding anything to the contrary contained or implied by the Trust Land Act if default shall be made in the performance or observance of any of the requirements of this condition it shall be lawful for the county council or any person authorized by the county council to re-enter into and upon the land or any part thereof in the name of the whole and thereupon the term hereby created shall cease but without prejudice to any right of action or remedy of the county council in respect of any antecedent breach of any condition herein contained.

2. ~~2.~~ The grantee shall maintain in good and substantial repair and condition all buildings at any time erected on the land.

4. Should the grantee give notice in writing to the local authority that unable to complete the buildings within the period aforesaid the local authority shall (at the grantee expense) accept a surrender of the land comprised herein:—

(i) Provided further that if such notice as aforesaid shall be given within 12 months of the commencement of the term the local authority shall refund to the grantee fifty per centum of the stand premium paid in respect of the land or

(ii) at any subsequent time prior to the expiration of the said building period the local authority shall refund to the grantee twenty-five per centum of the said stand premium. In the event of notice being given after the expiration of the said building period no refund shall be made.

3. ~~3.~~ The land and the buildings shall only be used for purposes of constructing, commissioning, operating and maintaining a power generating plant generating and transmitting electricity there from and any other purposes ancillary or related thereto.

4. ~~4.~~ The buildings shall not cover ~~more~~ a greater area of the land than that prescribed by the Local Authority in its by-laws.

5. ~~5.~~ The Grantee shall comply with the provisions of the Energy Act (2006) and any amendment thereto or re-enactment thereof for the time being in force and the rules made from time to time thereunder.

6. ~~6.~~ The land shall not be used for the purpose of any trade or business which the local authority considers to be dangerous or offensive.

7. ~~8.~~ The grantee shall not subdivide the land without prior consent in writing of the local authority and the Commissioner of Lands.

8. ~~9.~~ The grantee shall not sell transfer sublet charge or part with the possession of the land or any part thereof or any buildings thereon except with the prior consent in writing of the local authority. ~~No application for such consent except in respect of a bona fide acquired building ~~will be considered as a special condition. No ~~has been performed~~~~~~

10. The grantee shall pay to the local authority on demand such sum as the local authority may estimate to be the proportionate cost of constructing all roads and drains and sewers serving or adjoining the land and shall on completion of such construction and the ascertainment of the actual proportionate cost either pay (within seven days of demand) or be refunded the amount by which the actual proportionate cost exceeds or falls short of the amount paid as aforesaid.

11. The grantee shall from time to time pay the local authority on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the local authority may assess.

12. Should the local authority at any time require the said roads to be constructed to a higher standard the grantee shall pay to the local authority on demand such proportion of the cost of such construction as the local authority may assess.

~~13.~~ The grantee shall pay such rates taxes charges duties assessments or outgoings of whatever description as may be imposed charged or assessed by any Government or local authority upon the land or the buildings erected thereon including any contribution or other sum paid by the local authority or county council in lieu thereof.

~~14.~~ The county council or such person or authority as may be appointed for the purpose shall have right to enter upon the land and lay and have access to water mains service pipes and drains telephone telegraph wires and electric mains of all descriptions whether overhead or underground and the grantee shall not erect any buildings in such a way as to cover or interfere with any existing alignments of main or service pipes or telephone or telegraph wires and electric mains.

1. ~~15.~~ The county council reserves the right to revise the annual ground rental payable hereunder after the expiration of the 33rd and 66th year of the term hereby granted. Such rental shall be at a rate of 4 per cent of the unimproved freehold value of the land as assessed by the Commissioner of Lands.

12. Should there be any default in the performance or observance of any of the special conditions herein contained then notwithstanding the provisions of section 39 of the Trust Lands Act or anything contrary therein contained in or implied the council shall not commence any proceedings for forfeiture or otherwise until the expiry of not less than (30) thirty days following the date of service upon all parties having a registered interest in the aforesaid piece of land, including sub-lease thereof having a registered interest and any chargee having a registered interest in the sub-lease of a notice specifying particulars of the non performance or non-observance of any special condition and requiring the making good thereof within not less than 30 days of the date of service such notice and in the event that the Council shall commence any proceedings for forfeiture or otherwise notice of the commencement of such proceedings shall forthwith be served upon all parties as aforesaid. Every such notice shall be served on every interested party at the address and in the manner specified in each registered instrument.

SIGNED BY: ZABLON AGWATA MABEA  
The Commissioner of Lands thereto lawfully  
authorized on behalf of MASAKU COUNTY COUNCIL  
this 6<sup>th</sup> day of November two thousand  
and twelve in the presence of: -



  
REGISTRAR OF TITLES

F. N. Oware \*217

DRAWN BY: -

M.M. OSANO  
REGISTRAR OF TITLES  
P.O. BOX 30089  
NAIROBI

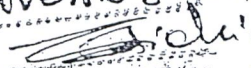
LAND TITLES REGISTRY - NAIROBI REGISTRY

REGISTRATION OF TITLE ACT

REGISTERED AS No. LR. N 6419/11

PRESENTED 12th November 2012

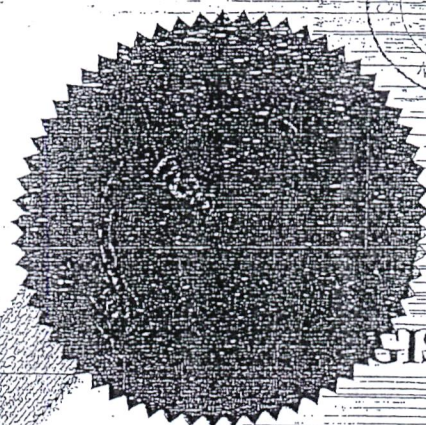
TIME 1558hrs

  
C. K. Ngetich \*212

28) RTA

05048

TRA: 99



REVENUE PAID



REPUBLIC OF KENYA

# REGISTRATION OF TITLES ACT

(Chapter 281)

GRANT NO. I.R.N. 6419

ANNUAL RENT: Sh. 2,524,620/- (REVISABLE)

TERM: 99 years w.e.f. 1.11.2010

SOt 5048  
F. N. 9/11  
O. 27

**K** NOW ALL MEN BY THESE PRESENTS that ~~in consideration of the sum of Shillings~~

~~by way of Stand Premium paid on or before the execution hereof~~ the COUNTY COUNCIL OF MASAKU  
(hereinafter called "the Council")

hereby GRANTS unto TANA AND ATHI RIVER DEVELOPMENT AUTHORITY, a body corporate duly established under the TANA AND ATHI RIVERS DEVELOPMENT AUTHORITY Act (Cap 443) of the Laws of Kenya of NAIROBI (Post Office Box Number 47309 - 00100)

(hereinafter called "the Grantee") ALL that piece of land situate N.E. of Thika Municipality in MACHAKOS

District containing by measurement one nought two one seven (10217)

hectares or thereabouts that is to say Land Reference Number 28671 which said piece of land with the dimensions abuttals and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 313157 deposited in the Survey Records Office at Nairobi TO HOLD

for the term of ninety nine (99) years from the first day of November Two Thousand ten SUBJECT to

(a) the payment in advance on the first day of January in each year of the annual rent of Shillings two million five hundred and twenty four thousand six hundred and twenty (Sh. 2,524,620/-) (Revisable) w.e.f. 1.11.2010

## SPECIAL CONDITIONS

1. No buildings shall be erected on the land nor shall additions or external alterations be made to any buildings otherwise than in conformity with plans and specifications previously approved in writing by the local authority. The local authority shall not give approval unless satisfied that the proposals are such as to develop the land adequately and satisfactorily.

2. The grantee shall within six months of the commencement of the term submit in triplicate to the local authority plans (including block plans showing the positions of the buildings and a system of drainage for the disposal of sewage surface and sullage water) drawings elevations and specifications of the buildings the grantee proposes to erect on the land and shall within 24 months of the commencement of the term complete the erection of such buildings and the construction of the drainage system in conformity with such plans drawings elevations and specifications as amended (if such be the case) by the local authority.

Provided that notwithstanding anything to the contrary contained or implied by the Trust Land Act if default shall be made in the performance or observance of any of the requirements of this condition it shall be lawful for the county council or any person authorized by the county council to enter into and upon the land or any part thereof in the name of the whole and thereupon the term hereby created shall cease but without prejudice to any right of action or remedy of the county council in respect of any antecedent breach of any condition herein contained.

2. ~~2~~ The grantee shall maintain in good and substantial repair and condition all buildings at any time erected on the land.

4. Should the grantee give notice in writing to the local authority that unable to complete the buildings within the period aforesaid the local authority shall (at the grantee expense) accept a surrender of the land comprised herein.

(i) Provided further that if such notice as aforesaid shall be given within 12 months of the commencement of the term the local authority shall refund to the grantee fifty per centum of the stand premium paid in respect of the land or

(ii) at any subsequent time prior to the expiration of the said building period the local authority shall refund to the grantee twenty-five per centum of the said stand premium in the event of notice being given after the expiration of the said building period no refund shall be made.

3. ~~3~~ The land and the buildings shall only be used for purposes of constructing, commissioning, operating and maintaining a power generating plant generating and transmitting electricity there from and any other purposes ancillary or related thereto.

4. ~~4~~ The buildings shall not cover ~~more~~ a greater area of the land than that prescribed by the Local Authority in its by-laws.

5. ~~5~~ The Grantee shall comply with the provisions of the Energy Act (2006) and any amendment thereto or re-enactment thereof for the time being in force and the rules made from time to time thereunder.

6. ~~6~~ The land shall not be used for the purpose of any trade or business which the local



7. ~~8.~~ The grantee shall not subdivide the land without prior consent in writing of the local authority and the Commissioner of Lands.

8. ~~9.~~ The grantee shall not sell transfer sublet charge or part with the possession of the land or any part thereof or any buildings thereon except with the prior consent in writing of the local authority. ~~No application for such consent except in respect of a lease required for building purposes will be considered until special condition No. 2 has been performed.~~

10. The grantee shall pay to the local authority on demand such sums as the local authority may estimate to be the proportionate cost of constructing all roads and drains and sewers serving or adjoining the land and shall on completion of such construction and the ascertainment of the actual proportionate cost either pay (within seven days of demand) or be refunded the amount by which the actual proportionate cost exceeds or falls short of the amount paid as aforesaid.

11. The grantee shall from time to time pay the local authority on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the local authority may assess.

12. Should the local authority at any time require the said roads to be constructed to a higher standard the grantee shall pay to the local authority on demand such proportion of the cost of such construction as the local authority may assess.

9. ~~13.~~ The grantee shall pay such rates taxes charges duties assessments or outgoings of whatever description as may be imposed charged or assessed by any Government or local authority upon the land or the buildings erected thereon including any contribution or other sum paid by the local authority or county council in lieu thereof.

10. ~~14.~~ The county council or such person or authority as may be appointed for the purpose shall have right to enter upon the land and lay and have access to water mains service pipes and drains telephone telegraph wires and electric mains of all descriptions whether overhead or underground and the grantee shall not erect any buildings in such a way as to cover or interfere with any existing alignments of main or service pipes or telephone or telegraph wires and electric mains.

11. ~~15.~~ The county council reserves the right to revise the annual ground rental payable here under after the expiration of the 33rd and 66th-year of the term hereby granted. Such rental will be at a rate of 4 per cent of the unimproved freehold value of the land as assessed by the Commissioner of Lands.

12. Should there be any default in the performance or observance of any of the special conditions herein contained then notwithstanding the provisions of section 39 of the Trust Lands Act or anything contrary therein contained in or implied the council shall not commence any proceedings for forfeiture or otherwise until the expiry of not less than (30) thirty days following the date of service upon all parties having a registered interest in the aforesaid piece of land, including sub-lease thereof having a registered interest and any chargee having a registered interest in the sub-lease of a notice specifying particulars of the non performance or non observance of any special condition and requiring the making good thereof within not less than 30 days of the date of service such notice and in the event that the Council shall commence any proceedings for forfeiture or otherwise notice of the commencement of such proceedings shall forthwith be served upon all parties as aforesaid. Every such notice shall be served on every interested party at the address and in the manner specified in each registered instrument.

SIGNED BY: ZABLON AGWATA MABEA )  
The Commissioner of Lands thereto lawfully )  
authorized on behalf of EMBU COUNTY COUNCIL )  
this 6th day of November two thousand )  
and Twelve in the presence of: - )

*[Handwritten signature]*

*[Handwritten signature]*  
REGISTRAR OF TITLES

F. N. Omondi 217

DRAWN BY: -

M.M. OSANO  
REGISTERAR OF TITLES  
P.O. BOX 30089  
NAIROBI

LAND TITLES REGISTRY, NAIROBI REGISTERED  
REGISTRATION OF TITLE ACT  
REGISTERED AS No. LRN. 6420/1  
PRESENTED 12th November 2012  
TIME 1558hrs  
C. K. Ngetich 212

11

TR5

96,800,000/= plus interest at the rate of 14% from the date of filing the suit until payment in full. It is against the said judgment that the appellant has filed this appeal based on the following grounds:-

- i. *The learned Judge erred in fact and in law in her judgment in awarding the plaintiffs' (respondent's herein) the amount of Kshs. 96,800,000/= when it was clear that the said amount was not supported by evidence.*
- ii. *The learned Judge misapprehended the law and erred in failing to consider the defendant's (appellant herein) arguments that the plaintiffs' special damages were not specifically pleaded nor were they strictly proved by evidence.*
- iii. *The learned Judge misdirected herself in holding that the plaintiffs' ex-parte application to file suit out of time was allowed and could not therefore be challenged at the trial despite the defendant having pleaded the defence of limitation of action and amply submitted on the same.*
- iv. *The learned Judge erred in law in failing to consider the defendant's submissions and authorities cited therein on the issue of whether the plaintiffs' suit was time barred as pleaded in the defence and other proceedings on the court record and as such came to a wrong conclusion in the judgment.*
- v. *The learned Judge erred in fact and in law, by totally disregarding and shutting out the defendant's evidence and as such occasioned injustice to the defendant.*
- vi. *The learned Judge erred in fact and misapprehended the law in holding that the defendant had a duty of producing documents in support of the plaintiffs' case and hence shifting the burden of proof.*

7. Mr. Okeyo, learned counsel for the appellant, submitted that the appellant pleaded in its defence that the respondents' suit which was filed in 2001 was time barred because the cause of action arose in 1976. In relying on this Court's decision in Divecon Limited -vs- Shirinkhanu Sadrudin Samnani - Civil Appeal No. 142 of 1997, he argued that notwithstanding the fact that the respondents were granted *ex parte* leave to file the suit out of time, the trial court had an obligation to consider if such leave was valid taking into account the provisions of the **Limitation of Actions Act**, Chapter 22, Laws of Kenya. He submitted that the reason given by the respondents for the delay in filing the suit as the ongoing negotiations with successive governments which did not fall under the ambit of granting leave to file suit out of time.

8. Mr. Okeyo argued that the figure pleaded in the Complaint of Kshs. 200,000/= being the alleged amount of loss suffered by each of the 484 inhabitants was not supported by any evidence. He submitted that respondents' evidence in respect of the value of the assessed developments in respect of PW1, Eliud Nthiwa, PW2, Musau Kambo, and PW3, David Munyao, was Kshs. 57,000/=, Kshs. 90,000/= and Kshs. 77,000/= respectively. He further argued that the total amount being claimed was in the nature of special damages which had not been strictly proved by the respondents. He also argued that the value of developments carried out by the inhabitants of the suit property could not have been uniform to justify the claim of Kshs.

200,000/= for each of them. He submitted the assessment report that the respondents' wished to rely on was rejected by the trial court because the same was not signed.

9. Mr. Okeyo submitted that not all the inhabitants of the suit land authorized the respondents to file the representative suit, arguing that nearly 70 people had not signed the authority filed in the High Court.

10. Mr. Mukunya, who appeared with Mr. Mutunga and Mr. Mutiso for the respondents, submitted that the appellant ignored all the procedures of compensation. He conceded that the figures tabled before the High Court as the assessed value of developments were estimates. In respect of the issue of the suit being time barred, Mr. Mukunya argued that the appellant's witness, Shenum Haran Njoroge, testified that the appellant made further compensation to the inhabitants and sent the report thereof to the District Commissioner in 1989. He argued negotiations in respect of compensation continued until 2000 and therefore the cause of action arose in the year 2000. He urged us to dismiss the appeal.

11. Being a first appeal, this Court has the duty of re-evaluating the evidence, assessing it and making its own conclusions without overlooking the conclusions of the trial court and also bearing in mind that unlike the trial court we neither saw nor heard the witnesses. See Selle -vs- Associated Motor Boat Company Ltd. [1968] EA 123. We have considered the record, the grounds of appeal, submissions by counsel and the law.

12. On the issue of whether the *ex parte* leave granted to the respondents to file the suit out of time, the learned Judge (Khaminwa, J.) held that since the said order was not challenged on appeal that the suit should proceed for hearing. By virtue of Section 4(1) of the Limitation of Actions Act the period within which the respondents' claim for compensation of the developments they had done on the suit land could be filed/commenced in court was limited to six years from the date that the cause of action arose. Therefore, based on the above set of circumstances when did the respondents' cause of action arise? We are of the considered view that the cause of action arose in 1976 when the inhabitants of the suit land were evicted to pave way for the construction of the dam. Therefore, we disagree with Mr. Mukunya's submissions that the cause of action arose when the negotiations failed in 2000.

13. The respondents' were granted leave to file the suit out of time under Section 28(2) of the Limitation of Actions Act which provides as follows:-

*'28(2) where such an application is made before the commencement of a relevant action, the court shall grant leave in respect of any cause of action to which the application relates if, but only if, on evidence adduced by or on behalf of the plaintiff, it appears to the court that, if such an action were brought forthwith and the like evidence were adduced in that action, that evidence would be in the absence of any evidence to the contrary, be sufficient-*

- (a) To establish that cause of action, apart from any defence under section 4(2); and*
- (b) To fulfill the requirements of section 27(2) in relation to that cause of action.'*

Section 27(2) of the Limitation of Actions Act provides,

*' 27(2) The requirements of this subsection are fulfilled in relation to a cause of action if it is proved that material facts relating to that cause of action were or included facts of a decisive character which were at all times outside the knowledge (actual or constructive) of the plaintiff...' (Emphasis added).'*

From the foregoing provisions it is clear that before the court granted the *ex parte* leave to the respondents to file the suit out of time it had to be satisfied that the material facts relating to the cause of action were not within their knowledge until after time limited for filing the suit had expired. In the instant case, the respondents' argued that the reason for the delay was due to the ongoing negotiations' between the parties. We agree with Mr. Okeyo that the aforesaid reason does not constitute material facts which were not within the knowledge of the respondents as envisaged under Section 27(2) of the **Limitation of Actions Act**.

14. Having expressed ourselves as above the next issue that falls for our consideration is whether the trial Judge had an obligation to consider whether the leave granted was valid and if so what was the extent of her jurisdiction over the same. In Divecon Limited -vs- Shirinkhanu Sadrudin Samnani (supra), this Court held,

*' ..it would be convenient to now deal with the issue which had seemed settled, that a Judge can in a trial consider and accept or reject the *ex parte* order granted by any other Judge for extension of time under the Act. This Court in the case of Yunes Oruta & another -vs-*



Samuel Nyamato Civil Appeal No. 96 of 1984 unanimously followed the English Court of Appeal decision in Cozens -vs- North Devon Hospital Management Committee & another (1966) 2 ALL E.R 799 where it was held by the majority, Lord Denning, M.R. and Dankwerts, L.J (Salmon, L.J dissenting) that:

"Although it was a general principle in regard to *ex parte* orders that the party affected by the order could apply for it to be discharged, yet it would be contrary to the intention of the Limitation Act of 1963 to allow a defendant to apply, before the trial of the action, to set aside an *ex parte* order obtained under section 2(1) giving leave for the purpose of section 1(1)(a).."

In Oruta, it was held that the issue of challenge to the granting of leave to file suit out of time, can only arise at the trial. Gachuhi, J.A in the leading judgment of this Court in Oruta, stated as follows:

"It will be up to the Judge presiding at the trial to decide the issue of limitation as one of the issues but not as a preliminary point. The raising of the preliminary issue that would cause the suit for the plaintiff to be struck out is not encouraged by the Limitation of Actions Act particularly where leave to file an action against the defendant has been granted *ex parte*"

We find that the learned Judge should have considered at the trial whether the *ex parte* order granting extension of time was valid or not.

15. We cannot help but note that the respondents' claim was in the nature of special damages which are required under the law to be specifically pleaded and strictly proved. In Siree Limited -vs- Lake Turkana El Molo Lodges

(2002) 2E.A. 521 this Court stated that:-

"As regards the special damages awarded, this Court has said time and again that when damages can be calculated to a cent, then they cease to be general damages and must be claimed as special damages".

See also the cases of Hahn-vs- Singh (1985) KLR 716 & James Mwangi -vs-Alex Njunguna & 2 Others- Civil Appeal No. 41 of 2007. In this case the respondents pleaded in the Plaint that all the 484 inhabitants were entitled to Kshs 200,000/= being compensation for the developments they did on the suit land. The respondents also particularized the losses suffered. However, there is no documentary evidence to support the respondents' claim that each inhabitant was entitled to Kshs. 200,000/=. The assessment reports that the respondents mentioned were also not produced in court. Furthermore, the four respondents only gave viva voce evidence as to what each was entitled to in terms of compensation and no documents in support of their claim were tendered. They also did not tender any evidence or documents as to what the rest of the inhabitants were entitled to. Therefore, we find that there was no evidence upon which the learned Judge could have arrived at Kshs. 96,800,000/= as being the amount of compensation the respondents were entitled to. We also find that the learned Judge misdirected herself in faulting the appellant for not producing the assessment reports which would have shed light to the actual entitlement of each inhabitant. In doing so the learned Judge shifted the burden of proof from the respondents who were the plaintiffs in the trial court to the appellant who was the defendant. In Central Bank of Kenya -vs-Martin King'ori-Civil Appeal No. 334 of 2002, this Court held,

*'Surprisingly, the learned Judge then shifted the burden of proof on that claim to the bank which offered no evidence at the trial. With respect the bank had no onus of proof of the respondent's claim and the finding was therefore misdirection.'*

16. The upshot of the foregoing is that we find that the respondents failed to prove their claim of Kshs. 100,000,000/= as being the compensation they were entitled to; and that the leave granted to the respondents' to file the suit out of time was not in accordance with Section 27(2) of the **Limitation of Actions Act**. Accordingly, we find that the appeal herein has merit and it is hereby allowed with costs to the appellant. The judgment of the High Court is hereby set aside.

Dated and delivered at Nyeri this 3<sup>rd</sup> day of October 2013.

ALNASHIR VISRAM

.....  
JUDGE OF APPEAL

MARTHA KOOME

.....  
JUDGE OF APPEAL

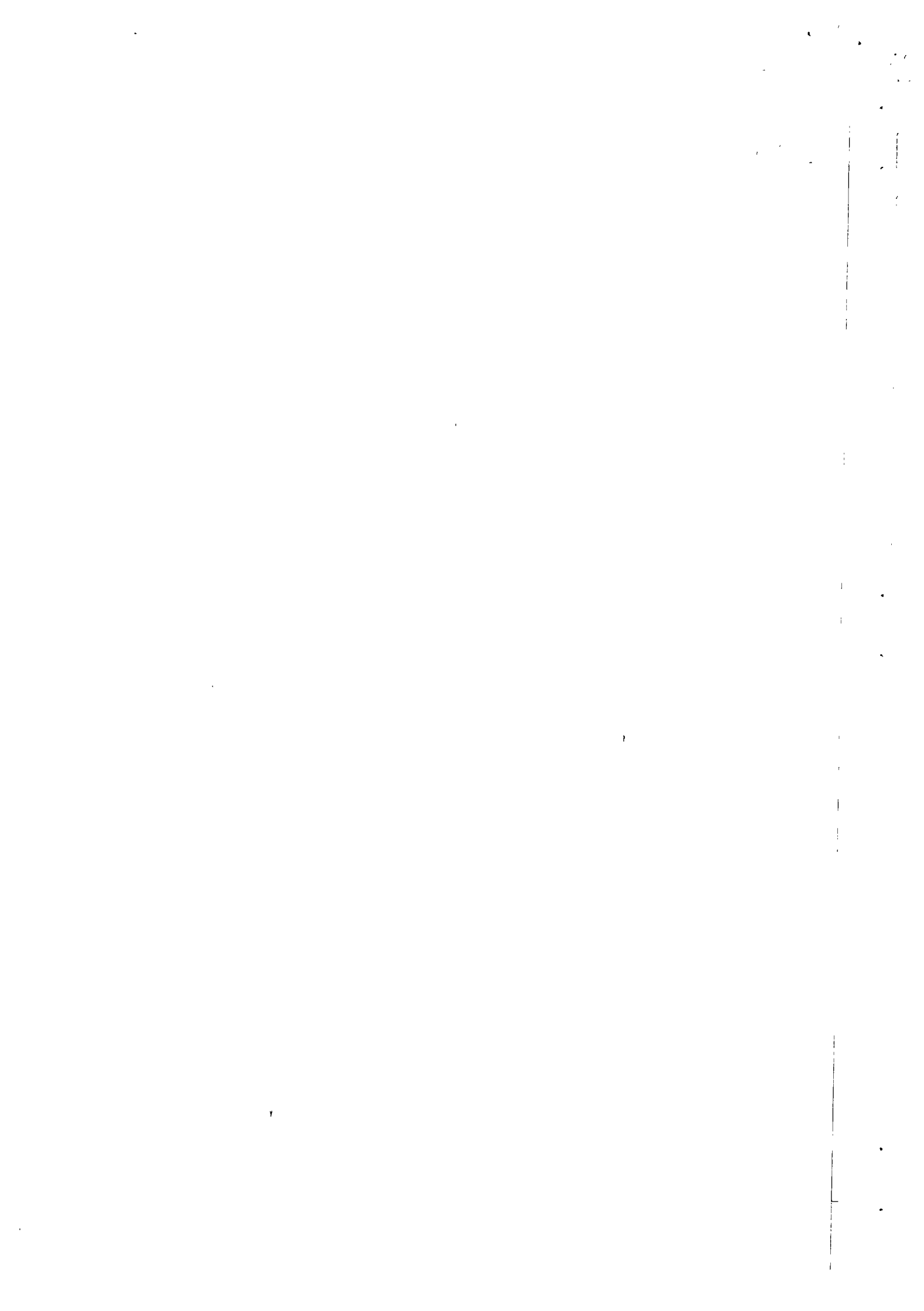
J. OTIENO-ODEK

.....  
JUDGE OF APPEAL

I certify that this is a  
true copy of the original.



**DEPUTY REGISTRAR**



## KEY TARDA ACHIEVEMENTS & CORPORATE SOCIAL RESPONSIBILITY PROJECTS WITHIN THE REGION

### (i) Construction of Integrated & Multi Purpose Reservoirs

- Masinga Reservoir (1982)
- Kiambere Reservoir (1988)

The two water reservoirs positively affected the socio-economic development of this country and the region in production of hydro electric power for national grid, irrigated agriculture, 152 kms tarmac roads network and water supplies across counties in the region.

The reservoirs had fundamental positive impact especially in enhancing irrigated agriculture, food security, eco-tourism, fisheries, drought mitigation, river regulations and substantial flood controls along the Tana River system.

### (ii) Other Related achieved projects by TARDA within Masinga and Kiambere Reservoirs (Embu, Machakos & Kitui Regions)

(a) Masinga Tourist Lodge

(b) Kiambere - Mwingi Water Supply

(c) Masinga - Kitui Water Supply;

(d) Infrastructure Development

- 80km of tarmac road from Kanyonyo to Embu.
- 60km road from Kamburu to Kiambere market,
- 12km road from Kaewa to Masinga Dam Resort (MDR).
- Two (2) air strips at Masinga and Kiambere.
- Two (2) Police station and Staff quarters at MDR.
- Kiambere school complex (Primary and Secondary)

### (e) Drought Mitigation Programme

The Authority rehabilitated seven boreholes under the programme in 2017 at a cost of ksh 7 million. The names of the boreholes are; Kambiri, Mukuyuri, Thura-Itira,, Ntharagwe, Gitaraka, Makima market, Evorore (Mutuovale) all in Mbeere. Two more boreholes are planned for drilling, equipping and development in Rwika Technical and Rianjeru areas in 2021.

### g) Climate Change and Adaptation programme

TARDA constructed a small earthdam in Machanga area, Mbeere South in 2017 under the programme at a cost of Kshs 6 million and currently beneficial to the local community.

#### **h) Masinga and Kiambere irrigation projects**

TARDA in 1990 established the two irrigation projects (214 ha) with irrigation infrastructure in the Embu County with the objective of food security enhancement, jobs creation and technology transfer to the community

### **Proposed Solutions.**

1. The Residents of Ndunguni be allocated land with at least three(3) to five(5) acres per household complete with Title Deeds;
2. The residents of Ndunguni depend on tomato farming to eke a living therefore, the allocated land should be close to the water sources to enable the population access water to irrigate their farmlands and water their animals;
3. The Government should provide the surrounding communities access roads to the water sources;
4. The Government should build new schools and other social amenities such as health centres, market places and administrative offices connected with electricity;
5. The residents of Ndunguni area be given adequate time continue settling in the subject land pending pursuit of lasting solutions thereof.

### **Conclusion.**

The residents of Ndunguni area, Makima Ward, Mbeere South Constituency desire that their right to a dignified life, right to own land, access to clean and adequate water, freedom from harassment and unfair treatment be protected as entrenched in the Constitution.

Contrary to the popular believes, people of Mbeere South Constituency are peace loving, calm and collected free from drama and unnecessary contestation.

They desire that this issue at hand be addressed expeditiously and that they be consulted in the process.

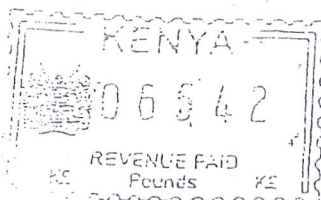
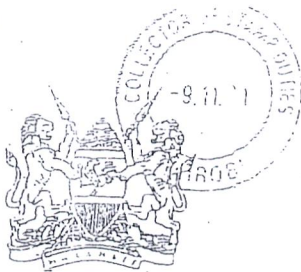
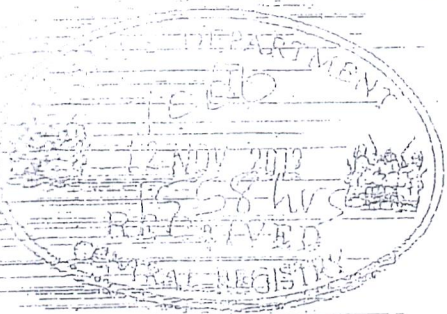
I have annexed the documents relied upon and referred to in this statement collectively referred to as **TARDA Bundle 1-** for ease of reference.

<b>Item</b>	<b>Document</b>	<b>Page</b>
1.	Certificate of Title and Survey Map	1-5
2.	List of Villages, Residents, schools, Churches and Markets	6-32
3	Images of demolished property and humanitarian support	33-46
4	Request for Statement by the M.P Mbeere South and the National Assembly Hansard of 6 <sup>th</sup> July, 2021 Containing Statement on demolition.	47-54.

Thank you.

**Honourable(Col) (Rtd) Geoffrey King'ang'i Muturi, MP, Member of Parliament for Mbeere South Constituency.**





9

REPUBLIC OF KENYA

REGISTRATION OF TITLES ACT

(Chapter 281)

GRANT: No. I.R.N. 6420

ANNUAL RENT: Sh. 3,271,925/- (REVISABLE)

TERM: 99 years w.e.f. 1.11.2010

SO 6 6542

11/11/10

more

NOW ALL MEN BY THESE PRESENTS that in compliance of the provisions of the said Act

by way of Special Provision made or before the execution hereof the COUNTY COUNCIL OF EMBU (hereinafter called "the Council")

hereby GRANTS unto TANA AND ATHI RIVER DEVELOPMENT AUTHORITY, a body corporate duly established under the TANA AND ATHI RIVERS DEVELOPMENT AUTHORITY Act (Cap 443) of the Laws of Kenya of NAIROBI (Post Office Box Number 47309 - 00100)

(hereinafter called "the Grantee") ALL that piece of land situate East of Embu Municipality in MACHAROS

District containing by measurement one three two four one decimal three (13241.3)

hectares or thereabouts that is to say Land Reference Number 12621

which said piece of land with the dimensions abutments and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 313156 deposited in the Survey Records Office at Nairobi TO HOLD

for the term of ninety nine (99) years from the first day of November

Two Thousand ten

SUBJECT to

(a) the payment in advance on the first day of January in each year of the annual rent of Shillings three million two hundred seventy one thousand nine hundred and twenty five (Sh. 3,271,925/-) (Revisable) w.e.f. 1.11.2010

(b) the provisions of the Trust Land Act (Cap. 289) (c) the provisions of the Land Registration Act (Cap. 282)

and (d) the following Special Conditions (namely) —

SPECIAL CONDITIONS

2

No buildings shall be erected on the land nor shall additions or external alterations be made to any buildings otherwise than in conformity with plans and specifications previously approved in writing by the local authority. The local authority shall not give approval unless satisfied that the proposals are such as to develop the land adequately and satisfactorily.

The grantee shall within six months of the commencement of the term submit in triplicate to the local authority plans (including block-plans showing the positions of the buildings and a system of drainage for the disposal of sewage surface and sullage water) drawings elevations and specifications of the buildings the grantee proposes to erect on the land and shall within 24 months of the commencement of the term complete the erection of such buildings and the construction of the drainage system in conformity with such plans drawings elevations and specifications as amended (if such be the case) by the local authority.

Provided that notwithstanding anything to the contrary contained or implied by the Trust Land Act a default shall be made in the performance or observance of any of the requirements of this condition it shall be lawful for the county council or any person authorized by the county council to re-enter into and upon the land or any part thereof in the name of the whole and thereupon the term hereby created shall cease but without prejudice to any right of action or remedy of the county council in respect of any antecedent breach of any condition herein contained.

The grantee shall maintain in good and substantial repair and condition all buildings at any time erected on the land.

Should the grantee give notice in writing to the local authority that unable to complete the buildings within the period aforesaid the local authority shall (at the grantee's expense) accept a surrender of the land comprised herein:—

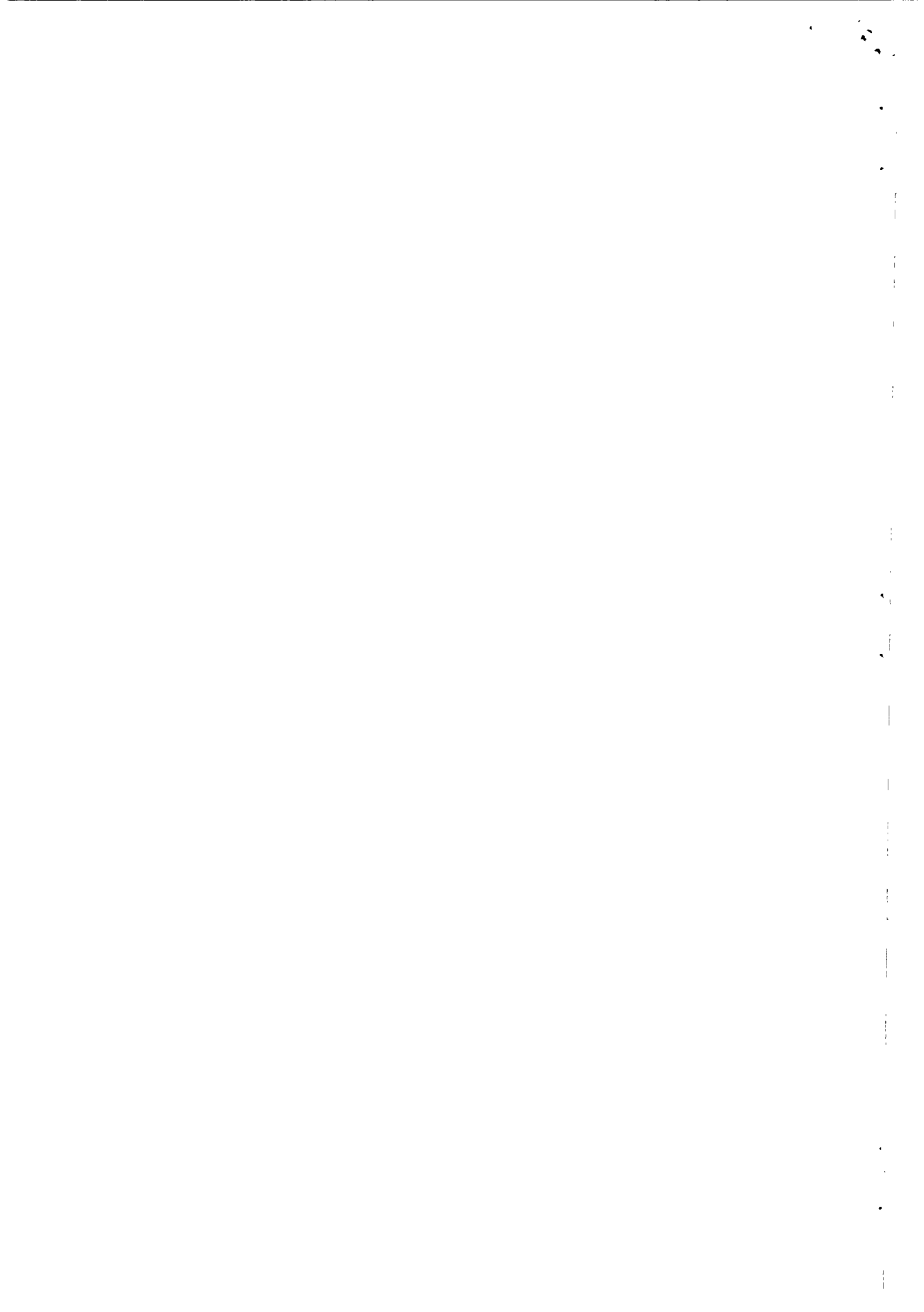
- (i) Provided further that if such notice as aforesaid shall be given within 12 months of the commencement of the term the local authority shall refund to the grantee fifty per centum of the stand premium paid in respect of the land or
- (ii) at any subsequent time prior to the expiration of the said building period the local authority shall refund to the grantee twenty-five per centum of the said stand premium. In the event of notice being given after the expiration of the said building period no refund shall be made.

The land and the buildings shall only be used for purposes of constructing, commissioning, operating and maintaining a power generating plant generating and transmitting electricity there from and any other purposes ancillary or related thereto.

The buildings shall not cover over a greater area of the land than that prescribed by the Local Authority in its by-laws.

The Grantee shall comply with the provisions of the Energy Act (2006) and any amendment thereto or re-enactment thereof for the time being in force and the rules made from time to time thereunder.

The land shall not be used for the purpose of any trade or business which the local authority considers to be dangerous or offensive.



7. The grantee shall not subdivide the land without prior consent in writing of the local authority and the Commissioner of Lands.

8. The grantee shall not sell transfer sublet charge or part with the possession of the land or any part thereof or any buildings thereon except with the prior consent in writing of the local authority.

10. The grantee shall pay to the local authority on demand such sum as the local authority may estimate to be the proportionate cost of constructing all roads and drains and sewers serving or adjoining the land and shall on completion of such construction and the ascertainment of the actual proportionate cost thereof pay (within seven days of demand) or be refunded the amount by which the actual proportionate cost exceeds or falls short of the amount paid as aforesaid.

11. The grantee shall from time to time pay the local authority on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the local authority may assess.

12. Should the local authority at any time require the said roads to be constructed to a higher standard the grantee shall pay to the local authority on demand such proportion of the cost of such construction as the local authority may assess.

13. The grantee shall pay such rates taxes charges duties assessments or outgoings of whatever description as may be imposed charged or assessed by any Government or local authority upon the land or the buildings erected thereon including any contribution or other sum paid by the local authority or county council in lieu thereof.

14. The county council or such person or authority as may be appointed for the purpose shall have right to enter upon the land and lay and have access to water mains service pipes and drains telephone telegraph wires and electric mains of all descriptions whether overhead or underground and the grantee shall not erect any buildings in such a way as to cover or interfere with any existing alignments of main or service pipes or telephone or telegraph wires and electric mains.

15. The county council reserves the right to revise the annual ground rental payable hereunder after the expiration of the 33rd and 66th year of the term hereby granted. Such rental shall be at a rate of 4 per cent of the unimproved freehold value of the land as assessed by the Commissioner of Lands.

44

... shall be any default in the performance or observance of  
 ... special conditions herein contained then notwithstanding  
 ... of section 39 of the Trust Lands Act or anything  
 ... therein contained in or implied the Council shall not  
 ... any proceedings for forfeiture or otherwise until the  
 ... of not less than (30) thirty days following the date of  
 ... all parties having a registered interest in the  
 ... land, including sub-lease thereof having a  
 ... interest and any charges having a registered interest  
 ... of a notice specifying particulars of the non-  
 ... of any special condition and  
 ... within not less than 30 days  
 ... such notice and in the event that the  
 ... any proceedings for forfeiture or otherwise  
 ... of such proceedings shall forthwith be  
 ... as aforesaid. Every such notice shall be  
 ... at the address and in the manner  
 ... in each registered instrument.

SIGNED BY: WILSON AGWATA MABEA  
 The Commissioner of Lands thereto lawfully  
 authorized on behalf of MASAKU COUNTY COUNCIL  
 this 12th day of November two thousand  
 and twelve in the presence of: -

REGISTRAR OF TITLES

DRAWN BY:

M.M. OSARO  
 REGISTRAR OF TITLES  
 P.O. BOX 30000  
 NAIROBI

LAND TITLES REGISTRY - NAIROBI REGISTRY  
 REGISTRATION OF TITLE ACT

REGISTERED AS No. LR. N 6419/11  
 PRESENTED 12th November 2012  
15581K3

W. K. Ngetich 212



## RESIDENTS WHO LIVE ALONG MASINGA DAM

13

	NAME	ID NUMBER	CONTACTS
1	DAVID MUOKI NZOMO	5082056	
2	AGNES NDUNGWA	8995001	
3	MONICA MWIKALI	6034796	
4	AGNES SYOMBUA	5082901	
5	PHILIP KINGOO MUSAU	2978244	
6	BENARD NZIOKA MUNYAO	29139973	714690273
7	TAEITHA SYOWIA MOLONZA	5082887	
8	MULI KITAVI	5082887	
9	PETER NZUKI ISIKA	6124205	723327179
10	MARGRATE KOKI NZIOKA	9522924	712063098
11	KIMOTE KILONZO MUSAVI	7049008	
12	MUTINDA KILITU	5068498	
13	ROSA MBITHE MUTUA	5082679	
14	DAVID KINZILO MULI	9413365	
15	PIUS NZOMO MAKAU	21836928	
16	EDWARD NZOMO MUTUA	21609782	
17	PAUL KINYAO MUOKI	20988657	
18	JOSEPH KAMUNZU	23373008	
19	BONFACE NTHONGOI MULI	21831279	
20	DANIEL NTHAMA MAKAU	228337292	
21	ELIZABETH NDUNGWA	5754729	
22	RAPHAEL MUTUA MUKITI	31500997	
23	SILA NZIOKA	10581026	729467098
24	BENSON NZIOKA SILA	37553113	798618001
25	SIMON MAINGI KILUNGYA	26925489	
26	PATRICK MATIVO KILONZI	24809002	725280206
27	ANTHONY VOI NTHENGE	11556240	714586938
28	NICHOLAS KIMOTE KYAA	31559944	701313976
29	MARTIN NZOKA KILUNGYA	28020708	793673356
30	KILUNGYA MWILU	7048201	
31	DAVID KYALO WAMBUA	8528257	
32	DAVID KIMBU MWOLOLO	9679641	
33	PAUL MUTUA NYOLO	26667743	
34	PAUL MUNYAO MAKAU	22513042	
35	MARY KOKI MATIMBII	29569075	
36	MUTINDA MULWA	8951254	
37	EMMNUEL MBATHA MULLU	14622581	737668066
38	JOSEPH MUKEKU	2033294	710588485
39	MICHAEL MUTUA KINGOO	29564760	
40	VICTORIA MBITHE KIOKO	31608276	

RESIDENTS WHO LIVE ALONG MASINGA DAM

14

41	JAMES MUINDI MUANGE	21572485	
42	SIMON KAMANGA NZUKI	29610372	
43	PETER MULE MUTINDA	22111312	
44	JUSTUS KIVUVO MUTUA	23417970	
45	JOTHAN MWANTHI KATUA	21570838	
46	PENINA MWIKALI MUTUA	12630929	
47	NHUSA KALINDA NGOMA	31376661	
48	MULWA MUOKI	211219692	
49	JOHN MUSEMBI MUINDUKO	23022156	700887947
50	PAULINA NZISA KALIMA	21831508	
51	JOHN MUTHINI MUENDO	26120847	
52	ESTHER NDANU JAMES	29610372	707476741
53	DAVID MBITHI MAINGI	23615800	
54	BONFACE MUSAU KINGOO	26822372	
55	CHRISTINE KANINI MBUVA	7803477	
56	PAUL MASIKA WAMBUA	32413249	
57	JAMES WAMBUA MUTUKU	13338828	
58	MUTHUI NDUNGO	3596471	
59	CHARLES MBUVI MUSEMBI	11624782	
60	PETER KILANGO MALONZA	23028930	
61	MULI NDUNDA	6127718	707967054
62	JAMES MUTUA MULI	23019948	
63	MICHAEL KILANGO MUTHUI	10640503	7284718461
64	STEPHEN MUTISYA MUTHIANI	36150480	
65	AGNES ITUMBI KALELI	32084057	
66	LAZARUS KIMONGO VILITA	236736325	
67	COSMAS MUTUNGA MAINGI	11552122	
68	MOSES KALOKI NGUNDI	26151038	
69	BENEDETTA MUTIO MUTHOKA	23245100	
70	SAMMY MATOLA MUIA	1472944	
71	MERCY WANJIKU	8539228	
72	COSMAS MUNYASYA NGII	29610372	
73	HANSEC SILA MUTETI	31655339	
74	PIUS MUSYOKI MUENDO		
75	BONFACE KASUKI MUINDUKO	11556973	
76	ANTHONY KISILU JOHN	13336900	
77	PETER MUSYOKA MUSAU	25518499	
78	JUSTUS MUTHANGU NDUNDA	12962326	723898805
79	JOSEPH WAMBUA NZALU	6131514	



RESIDENTS WHO LIVE ALONG MASINGA DAM

15

80	KALEKYE MUENDO NDUTO	5047094	
81	PAULINE NYAMBURA WAHITO	31101331	
82	STEPHEN MUSYIMI	27154013	
83	MARGRATE NDUKU NZENGA	26929412	
84	PETER MUTUKU MUTAVI	25455755	
85	RICHARD MUTUKU KYENGO	10925059	
86	COSMAS MBATHA MUTINDA	37453434	
87	ZIPHORA KANINI		
88	ISAAC MULI MUTUA	309896492	
89	TELEX MBITHI MUSAU		
90	ANN KAMENE MALONZA	32122267	7122066677
91	MONICA MUTINDI		
92	MUTUKU JOHN		
93	BONFACE KAVEKE MULI	35642234	
94	ALICE NDUKU MATIMBEI	7828219	
95	KAVITA NGATHE	5915759	
96	FRANCIS KAMAU KARIUKI	1859723	724656022
97	DAVID MUNYAO NZIOKA	34862601	711496832
98	RUTH SYOMBUA MUNGUTI	582597	
99	RICHARD NGAU MUSAU		
100	JACINTA MUSYAWA MUTINDA	310004246	728310102
101	JACKSON MUTISO MUSAU	25470640	702791291
102	ANGELINA MWONGELI MUTHEKE	1677307	

TWANYUNI VILLAGE

	NAME	ID NUMBER	CONTACTS
1	MONICA KASIVU NGOTHO	7048646	701783098
2	PAUL MUTUA MAINGI	23916607	
3	TERESIA NDUKU KASOKA	37453332	
4	MONICA MUTIO MULI	5082068	
5	EUNICE MUMBUA NGOTHO	29686397	713979472
6	ELIJAH NZAU MULI	23502058	710944432
7	HARRISON NDETO MUTUKU	25598828	721760332
8	THOMAS MUTUA MAINGI	11361258	745025093
9	PETER KILONZO MATHEKA	26804335	710734730
10	DANIEL MULI MATHEKA	31521459	799130525
11	CHRISTINE NZISA MATHEKA	11254480	710982812
12	ROSE MBEKE MATHEKA	21497384	703201479



## RESIDENTS WHO LIVE ALONG MASINGA DAM

16

51	MARK MUSAU NZIOKI	23012485	705205220
52	KALONDU MUTUA	5082100	
53	JOSEPH KITONGA MUTUA	33037461	799982153
54	ISAAC MUSEMBI MAINGI	7166230	703120963
55	JACOB MUENDO MUSEMBI		745812128
56	AGNES NDINDA MATHEKA	31213128	797128168
57	NDOLO WAMBUA	9679642	710920566
58	JOSPHAT MUTUKU MUIA	2693965	
59	TRIZZA SYOMITI WAMBUA	31220798	725914258
60	FIDELIS WAMBUA KIOKO	26925684	717068670
61	JOSPHAT KIVUVI NZIMBI	32768380	792846982
62	FRANCIS NZIMBI KIVUVA	13338834	758798883
63	CYRUS MUSYOKA CHARLES	14418503	718573866
64	CHARLES NZIOKI	917217	718259843
65	ROSE MWIKALI KIMITI	27655206	795050816
66	PETER NGOLU MATHEKA	23033741	72046560
67	MARGRATE KITHEI MUSYOKA	30063915	
68	MARY WAVINYA MUSEMBI	37453367	
69	VERONICA MUKUI MUTUA	21839073	797132971
70	JANUA MWELU MUNYWOKI	36049781	708052351
71	PHILIP MUNYAO MUTUA	36150433	
72	SCHOLASTICA MBULA MUTUA	11405330	
73	ALEX KIMINZA MUTUA	36190983	
74	ELIZABETH NTHAMBA MULI	25818512	706247530
75	JEREMIAH MUTUA WAMBUA	9062101	705354205
76	AGNES KOKI MUTUNGA	36191197	712026347
77	BENSON MUTHAMA MUOKI	31258184	712377984
78	JOSEPH MUTISYA MUTUKU	32831548	
79	TITUS MUTUKU NDETO	8066709	732415132
80	MARGRATE MWIKALI MUTUKU	9412874	711564486
81	AGNES ITUMBI KALELI	32084057	
82	ANNAH NZULA KATUA		
83	MARGRATE WAYUA SOO	26594626	702697184
84	FRANCIS MUTHIKE KIOKO	26417717	702620304
85	COSMAS MBATHA MUTINDA	37453434	
86	PETER MULE MUTINDA	21111312	
87	PATRICK NZOMO KIKEMU	21761065	
88	MARY NDUNGE NZOMO		
89	ROSAITA MWIKALI MUSAU	27437042	720537375

## RESIDENTS WHO LIVE ALONG MASINGA DAM

17

13	NICHOLAS MULEI MATHEKA	23033731	-722598023
14	MARY WAYUA MUMINA	12868117	70483925
15	RUTH MATHEI KICKO	28840307	745944355
16	TIMOTHY NDETO MULI	207552722	
17	RICHARD WAMBUA MUTETI	4893310	798839952
18	MARGRATE MUTIO MAINGI	7946950	799767807
19	VICTOR MAINGI WAMBUA	36739511	717868216
20	CHRISTINE MUTETHYA WAMBUA	28957943	796891323
21	JOSEPH MUNYAO MUTUKU	21573635	704528874
22	PHILES SYOMBUA MUTUKU	6127242	768927671
23	MUASYA KINYEZE	26786569	700341471
24	ROSE NDUKU KINYEZE	12865602	702362113
25	MUOKI KINYEZI	35273404	759544346
26	FIDELIS NGASI KINYEZI	38460000	
27	BEATRICE KATULU MWOLOLO	23012477	
28	VINCENT MUSEMBI MUTISO	34877486	
29	BENJAMIN KIOKO IVULU	4940927	
30	ROSE MARY WANJIRU KAMAU	11373696	796911791
31	MUTHOKI KIOKO	5082123	725914251
32	MBISU IVULU	5082149	
33	NICHOLAS NZIOKA NDOLO	34787616	
34	JOSEPH MUIA NDOLO	20988563	
35	PETER MWOSE MUTUA	36191427	
36	BENEDICT YUMBYA WAMBUA	9848167	796884868
37	PAULINE NTHAMBI YUMBYA	31220705	700708764
38	ALEX KITWA YUMBYA	38357810	745115181
39	KAVESU MWOSE	5082538	
40	MUSYOKI LOKI KYOKO	23689115	
41	JOSEPH MWANZIA WAMBUA	7829943	727696574
42	JAMES NDISYA MULI	31170844	715299892
43	MONICA KASIVU MULI	35410055	702171407
44	PETER MUTUA NZIOKI	25250793	711923004
45	BONFACE MUKOSI NZIOKI	6063163	
46	FELISTA MBULA MUKOSI	33419039	
47	VERONICA NDUKU WAMBUA	34840082	743512591
48	WAMBUA NDONYE	10639531	
49	BENEDETTA LOKO WAMBUA	12853742	
50	JOHN NDONYE WAMBUA	31153601	

## RESIDENTS WHO LIVE ALONG MASINGA DAM

18

90	PETER MUSAU SOO	12856240	791836332
91	ESTHER WA YUA PAUL	30063453	738249631
92	HANNA MBITHE NGEI	32394091	719325051
93	PAUL NTHIWA NDETO	13336896	700669595
94	ROSE MWIKALI NTHIWA	39070738	719173599
95	JOSEPH KIMANI	5090245	
96	ANNASTACIA MUTINDI MUSEMBI	32988884	
97	FRANCIS IRUNGU MURIITHI	5082842	
98	TERESIA MUTINDI KILEMA	24865739	728106071
99	MARGRATE NZIOKI MUTUA	32988740	797805249
100	JAMES WAMBUA MUTUA	31176993	704653453
101	PETONILA NDINDA MUTUA	36066113	711229752
102	AGNES KALEKYE NZIOKI	1084550	728412426
103	DOMINIC IVULU MULI	36032952	
104	PETER MULI NDETO	3052126	
105	JANCITA NGONDU NGUMBI		714805699
106	DAMARIS MWELU MUSYOKA	35014219	708605991
107	ANNAH MBETI MUSYOKA	26599769	
108	PAUL NTHIWA KIOKO		769581421
109	ANTHONY KATUTO KIOKO	23298577	723853253
110	LUCY KATUTO KIOKO	31219765	742696366
111	JOSEPH KINGOO MUSAU	3032742	
112	NDINDA MUSAU	8792475	
113	ELIZABETH MWIKALI	24519989	724437261
114	JOYCE MUSYAWA MUSAU	25540078	701668487
115	GRACE SYOMBUA MUSAU	25018888	729634022
116	CHRISTOPHER MAINGI KASOKA	38805011	748932201
117	MUKONYO NDETO	5083311	
118	SALOME NTHENYA WAMBUA	29823047	
119	WAMBUA CHARLES		
120	JOHN MUTUKU NDOLO	13722058	728544666
121	PETRONILA MWELU MUTUKU	29857350	748734706
122	STEPHEN MUTUKU NGOTHO	23464199	720554724
123	BEATRICE NDUNGE DOLO	893794	
124	ANICETA NDUKE KIOKO	28840316	717528292
125	CAROLINE NDUNGE MUTUKU	29214471	718081985
126	LEONARD ITUMO MBATHA	22181677	718444890
127	EMMANUEL MUSYOKI MATHEKA		769183720
128	JOSEPH KYALO MULI	23373016	

## RESIDENTS WHO LIVE ALONG MASINGA DAM

19

129	TERESIA NDUKU KATOLA	31549150	757177572
130	NZOMO MUTUA	7791960	70812190
131	PAUL NTHIWA MUTUKU	36032685	
132	JOHN MUTISYA MWANZIA	37453414	
133	LOKI KYOKO	5082940	
134	MARY NYAMBURA NJENGA	5082666	
135	ANICIA MWIKALI NZIOKI	13338844	
136	RAPHAEL MUTUA MATHENDU	13826232	727209811
137	COSMAS MUNYASYA NGII	9264901	713615954
138	ANNASTACIA MWIKALI WAMBUA	36150700	
139	SAMSON MWANGI MAILU	22259112	
140	PAUL MUSYOKI NZYILI	22373956	
141	JOHN MUANGE MATIVO	27767820	
142	MARTIN NTHIWA WAMBUA	13336899	
143	KIMONDIO NGUMU	4850584	
144	TITUS MASAKU MAINGI	5082092	70792950808
145	TABITHA NDULULU MAINGI	7367742	
146	MARGRET NDUKU NZENGA	26929412	799996950
147	BENARD MWANZIA MATHENDU	28341912	718374847
148	IRENE MUTHEU MUIA	28342267	701079663
149	MARY KAMENE MUKOSI	33419141	
150	WILSON NDETO MUTUKU	25495114	741590968
151	DORCUS MUTHINA NYAMAI	31302927	
152	STEPHEN MUTUA MUIA	33813829	
153	MUTHYA MBATHA	12446387	727265472
154	SIMON WAMBUA MATIA	27922123	711101624
155	GIDEON WAMBUA KITONYI	2379927	
156	ANNASTACIA MBENYA MASAKU	31139763	
157	FRED NGUMA MBATHA	20350770	
158	COSMAS MAKAU MASAKU	3385920	
159	JOHN MUSYOKA LEONARD	28642436	
160	BENEDICT MUUO BABU	21078849	
161	NYIVA KIMANI	9413878	
162	LOISE NTHAMBA	5083013	
163	ANNAH MBISU KIMANI	35936906	
164	BONFACE NTHONGOI MUTISYA	24646649	
165	MARY NDUKU NDAVI	38459988	

## RESIDENTS WHO LIVE ALONG MASINGA DAM

20

166	ANNAH MUTUNGWA MUSAU	35273539	
167	RAPHAEL NZIOKI MICHAEL	24751787	

## NDUNGUI VILLAGE

	NAME	ID NUMBER	CONTACTS
1	PETER MUNYAO MUYA	368902	708569222
2	ANN NDUNGE KALOKI	21261379	
3	STEPHEN MUTISO		
4	ALEXANDER MUIA		
5	JACINTA KANINI		
6	ANGELINE MUTELE		
7	MAGDALINE MUMBUA	35273361	
8	JULIJA KATIKU WAMBUA	11733030	
9	PAUL MUTISYA MUIA	1671441	
10	RUTH KANINI MANGEE		
11	MICHAEL MUTINDA MATHEKA	13336904	
12	JERUBHA NTHENYA MUASYA	20988601	703159780
13	ALEX MUASYA MUTINDA		
14	MOSES NZIOKA MUTINDA		
15	VERONICA MWELU MUTINDA		
16	DICKSON MATHEKA MUTINDA		
17	SIMON MUTUNGA KIOKO	4684476	
18	JACLINE NGINA KATHANGU	31002838	
19	ELIZABETH NDUNGE MUTUNGA		
20	DANIEL NYAISA MUTUNGA		
21	STEPHEN KIOKO MUTUNGA		
22	RABECCA KAVESU		
23	SAMUEL MWANZA		
24	BONIFACE MAUNDU		
25	ALFONCE NDULU MUTINDA	34529221	
26	MARTHA NZISA MWANZA	23091134	
27	MARTHA MUMBUA MUNYAO		
28	ANGELINE MWENDE KIOKO		
29	MICHAEL MUTINDA NDULU		
30	FRANCIS MUIA NDETI	13422026	
31	AGNES KATINDI		

## RESIDENTS WHO LIVE ALONG MASINGA DAM

21

32	TESSY KASIVU MUIA		
33	CALEB KIETI MUIA		
34	ANGELA KALONDU MUIA		
35	STANSLAUS MUTINDA VANDA	37133609	792357665
36	JUDITH MBAIKA MUTIE	31856967	
37	ANTHONY MUTIE MUTINDA	3917570	791737497
38	MOSES KISULU MUTINDA		704937497
39	BEATRICE LOKO MUTINDA		
40	PHILOMENA MUTINDI MUTINDA		
41	JENNIFER NDUKU MUTINDA		
42	DAVID MUMO MUTINDA		
43	DAMEL MUSYOKI MUTINDA		
44	KANINI MUTULA	9778506	795832105
45	MUMBUA NTHENGE	9428375	
46	PETER MULI		722481614
47	VERONICA WANJIRU ZAKIAL		718519408
48	LITA MULI		
49	LINUS MULI		
50	MERCY MULI		
51	JOHN MUTUA MUTISO	10641314	718432835
52	VERONICA NGINA MUTUA	13338835	717317899
53	PHIDELIS MUTUKU MUTUA		
54	AUGUSTINE MUTINDA MUTUA		
55	BEN MUA KISENGI		736824064
56	PRISCA MINOO BEN		735655010
57	REGINA MUTHEU BEN		
58	RETE MUMBUA BEN		
59	VICTORIA WAVINYA BEN		
60	REGINA MUA		
61	STEPHEN MUOKI KIOKO		
62	DAMARIS MUTHINI MUTUA		
63	FELISTA BAHATI KIOKO		
64	KELYS NDUKU KIOKO		
65	LENNOX MUTUA KIOKO		
66	DENNIS KIMITI MUENI		
67	SHARLEEN KATINDI		
68	RAYNA KIMITI		
69	MUTISYA MAINGI NGOTHO	24676539	
70	ESTHER MBINYA NDOLO		
71	ROBERT MUTISYA NYAMAI	23091211	



## RESIDENTS WHO LIVE ALONG MASINGA DAM

22

72	THOMAS NDUNDA NYAMAI	30241425	
73	MUSYOKA NYAMAI	31153666	
74	RICHARD MUTUA		
75	MULI NYAMAI		
76	MWAKA JOHN		
77	JOSEPH MUTISYA MUTUA	30487898	
78	NANCY KAMENE WAMBUA	33115114	
79	CATHERINE MUTHEU MUTISYA		
80	MARY NGINA MUTISYA		
81	JOHN MUTUA NZIOKI		
82	SYOMBUA KALOKI		
83	STEPEN KIOKO KALOKI		
84	JOSEPH MULI KALOKI		
85	ELIZABETH WAYUA MUSAU	21482297	716114277
86	ANTHONY MUTUA MUSAU	32831529	707228507
87	PAUL NDAMBUKI MUSYOKI	1414216	
88	PETER KIOKO NDAMBUKI		
89	NICHOLAS MUTUA NDAMBUKI		
90	IUSTUS NDAMBUKI		
91	BEATRICE MWIKALI MUSAU		
92	AGNES KATINI KIOKO	6134689	
93	DANIEL KYALO KAWIRA	248709135	701975675
94	BENEDETTA NGENEKE KYALO		
95	ANN MWIKALI KYALO		
96	FAITH KYALO		
97	SYOMBUA KYALO		
98	ELIZABETH MUNINI MWILU	35389576	
99	JOSEPH KIOKO MUIA	20172529	
100	CATHERINE NZEMBI MUIA	2849945	
101	DAMARIS NDUKU KIOKO		
102	VICTORIA NGAMI KIOKO		
103	THERESIA KAWIRA MAITHYA	6808042	
104	ROSE NDUKU MUEMA	13713112	
105	PETER KIILU MUTISYA	4825616	
106	JOHN MBITHI KIILU		
107	VERONICA WANZA KIILU		
108	CATHERINE MBITHE KIILU		
109	ANTHONY MUTISYA KIILU		
110	BEATRICE NZULA KIILU		

## RESIDENTS WHO LIVE ALONG MASINGA DAM

112	FIDELIS WANJIKU		
113	DANIEL KYALO KAWIRA	24879735	
114	BENEDETTA NGENEKE		
115	GIDEON WAMBUA NZAU	5082787	
116	VETRONILA MUTHEU WAMBUA	32930251	
117	RAPHAEL MUTISYA WAMBUA	35936416	
118	ANGELA MUKII THOMAS	38726494	
119	PETER NZAU WAMBUA		
120	FAITH MWENDE		
121	DAMARIS NDUKU KIOKO		
122	JANCINTA MWATHA NZAU		
123	MAGDALINE NDUNGE	30639810	
124	RAPHAEL NGULI	1675788	
125	JAMES KITONYI		
126	PIUS MUTETI MUTUNGA	12861725	
127	BELITA NZISA WAMBUA	35642399	
128	MARY MBESA MUTETI		
129	PATRICIA NTHENYA		
130	JOSPHAT WAMBUA MUTETI	36191381	
131	MARIA MWIKALI BENARD		
132	AGNES NDUNGE		
133	PETER BENARD		
134	THOMAS BENARD		
135	DAVID BENARD		
136	JAMES NZIOKA MUNYAO		
137	EMANUEL MWENDE NZIOKA		
138	ANN NDUNGE NZIOKA		
139	BEDINEGO MUUO NZIOKA		
140	EDWARD MUNYAO KALOKI		
141	BEATRICE MUTHUE NGOVU		
142	ANN WAVINYA		
143	MONICA MUMO		
144	JOHATHAN NDETO MUNYAO		
145	PATRICK WAMBUA		
146	MUSYOKI WAMBUA		
147	KAKUI WAMBUA		
148	RABECA WAMBUA		
149	MUVITI MUSAU		720775486
150	PAUL NYAGA		748982752
151	MOSES NYAGA		

## RESIDENTS WHO LIVE ALONG MASINGA DAM

24

152	NJERU NYAGA		
153	MURIMI NYAGA		
154	ELIZABETH NDUNGE MUASYA	5083208	713807408
155	NICHOLAS MUASYA	31153527	
156	BONIFACE MUETE MUASYA	255267069	
157	KYALO MUASYA	36538429	
158	NICHOLAS NGEI	9413826	710392629
159	COSMAS KIOKO NGEI		
160	BENSON KILONZO NGEI		
161	SIMON MAILU NGEI		
162	PAUL MSYOKA NGEI		
163	MARY MUTHOKI NGEI		
164	STEPHEN KILUNGU KATHUKYA	29844415	754728057
165	VERONICA NDINDA KALOKI	26384082	707912443
166	PETER MUSYOKA MUTEMBEI		
167	MONICA MUTINDI KILUNGU		
168	EMMA PHILES KILUNGU		
169	CELESTIN KAVILI MWALUSA	305007766	704121956
170	KATHUKYA MBEVI	883135	798407536
171	PHILES MASWILI	5280300	
172	MUSAU MUMBA	21707492	
173	MARY NDUNGE MATETA	32922513	713478877
174	CHRISTINE MUSAU	38459140	
175	JUNIOR MUMBA		
176	MUMBA MWATU	741035	
177	JACKSON MBATHA MUSAU	28385750	71969578
178	MILKA MUENI	34528942	704237971
179	EDNA MUTANU MBATHA		
180	ERIC MUSAU MBATHA		
181	VINCENT MBITHI MUSAU		742259321
182	MERCY MBITHI		
183	SIMON MUSYOKI KALOKI	21171184	705023807
184	PETER MUNYAO MUNYWIKI		
185	DENNIS KALOKI MUNYWOKI		
186	TERESIA MUNINI MUNYWOKI		
187	BONFACE MUTIE KALOKI	24190770	724011236
188	PATRIC KALOKI MUTIE		
189	PAUL KYALO MUTIE		
190	TERESIA MUNINI MUTIE		
191	KANINI PETER KALOKI	6126539	

## RESIDENTS WHO LIVE ALONG MASINGA DAM

25

192	DAVID MWILU KALOKI	26313596	745675984
193	MESHACK MWENDWA MWILU		
194	JAMES KIITI KALOKI	25522497	793091747
195	TABITHA WAMBUI KIITI		
196	TERESIA NDUKU MUETE	34515475	702576197
197	DOMINIC MUSYOKI MANGELI		
198	DOMITILLA MUMBUA MUTUA	32837624	
199	ESTON MUASYA		
200	SAMUEL MUTUNGA KILEI	22560854	
201	WINFRED KAMENE MUTUNGA		
202	STANLEY KILEI MUTUNGA		
203	CHRISTINE MBITHE MUTUNGA		
204	SILAS MUTUA MUTUNGA		
205	MAGREAT MUENI MUTUNGA	26528774	
206	PETER MUTUA KITISYA	6067058	
207	MAGDALINE KAMENE MUTUNGA	9412858	
208	SABASTIAN SILA MUTUA		
209	AUGUSTINE MUTUA		
210	PAUL MUTUA	24731400	
211	NATHAN MWONGA KITISYA	2515729	
212	SAMUEL MWONGA		711247863
213	RUTH MWONGA		784292656
214	ONESMUS NTHAMA MATIVO	24624202	
215	PETER MBATHA KILEI	20212825	
216	JACKBED MATENDE	27451526	
217	BRITON MUMO MBATHA		
218	BRA VIA KILEI MBATHA		
219	PETER N MAKAU		723481617
220	MAGDALINE NTHAMBA MUTUA	13640370	712823609
221	MAGRET MUMBUA	2217215	
222	KITHEKA MUTUA		
223	NDUNGE NTHAMBA		
224	RICHARDMUTINDA MUKWATE	23717158	715368374
225	ANGELA NDUKU MUSAU		
226	ERIC MUSAU MUTINDI		
227	BENJAMIN MUSYOKA MUTINDA		

RESIDENTS WHO LIVE ALONG MASINGA DAM

26

228	FAITH MUENI	36029033	741087529
229	ALEX MATIVO NTHAMA		
230	CECILIA WAYUA		
231	CAROLINE MWENDE		717120008
232	JOSEPH MUTHINI MUTHOKA	21008815	701961774
233	MAGDALINE NGINA	29075290	
234	ROSE MWIKALI		
235	PETER MUTUKU		
236	FELISTER NZILANI		711322020
237	DOMINIC NDONYE KALOKI	24923288	
238	HILDA KATHINI	27031811	
239	CHRISTOPHER NDUMA KALOKI	11860551	
240	JOSEPH MBAI KALOKI	893768	
241	NICHOLAS KIKUMU KAMBA	36704736	
242	BENSON KULI		
243	TELESIA MUNINI		
244	CATHERINE WAIRIMU		
245	KIOKO KAMBA		
246	PETER MUSYOKA MUTEMBEI		
247	MARY KYEE		
248	CONERIUS MUSYIMI		
249	MAIKO MWENDWA		
250	MERCY NDINDA		
251	CHRISTINE MUENI		
252	LEONARD WAMBUA		
253	JAMES MAKAU		
254	ELIZABETH MUOKI		
255	PAUL MBATHA		
256	FREDRICK KOLO		
257	MARGRATE MUENI		
258	JOSPHAT WAMBUA KALOKI		
259	ONESMUS NGAVO MUTINDA		
260	SELA MUMBUA KALOKI		
261	JOHN KAVOI WAMBUA		
262	SAMUEL KATIKU WAMBUA		
263	FAITH NDUKU WAMBUA		
264	MUSUNGU MUTISYA		
265	FRANSISCA NDINDA		
266	MARY NDUNGE MUSUNGU		
267	NICHOLAS MUTISYA		

## RESIDENTS WHO LIVE ALONG MASINGA DAM

27

268	PETER MUTUA		
269	JACKSON MUSUNGU KIIYA		
270	ANGELA MUUSI		
271	PENINA MAWIA		
272	DORACAS MWIKALI WAMBUA		
273	MUSYOKA MWANGANGI		
274	JOHN MBITH NZUNGA		
275	JOYCE NDULU MBUVI		
276	LEWIS MBUVI MBITHI		
277	ERIC NZUNGA MBITHI		
278	DAVID MUNYAO NZIOKI		
279	JACKLINE MUSYAWA		
280	RAEL KAVIVI		
281	EVALINE MUNINI MUNYAO		
282	WAMBUA NZIOKI		
283	ELIZABETH NTHAMBI MULWA		
284	JOSHUA MUENDO WAMBUA		
285	JOSEPH MUSYOKI WAMBAU		
286	BONIFACE MUSYOKI WAMBUA		
287	JOSEPH NDOLO NZIOKI		
288	DOROCAS NDUNGE LOKI		
289	JOHN SOMBA NGILA		
290	FAITH NDANU LOKO		
291	ANNAH MWIKALI SOMBA		
292	IMMANUEL MUTUKU SOMBA		
293	SIMON KILONZO MBALUKA		
294	JOSEPH MUTINDA NZIOKI		
295	JANET MWENDE PAUL		
296	FREDRICK MUSAU MUTINDA		
297	CHARITY KANINI MUTINDA		
298	HELLEN NDUNGE MUTINDA		
299	BRITON NZIOKI MUTINDA		
300	SABINA MBATHA UTINDA		
301	NICHOLAS MUNYAO MUTUA		
302	SAPHINA NDILO KALOKI		
303	PIUS MUTUA MUNYAO		
304	JOHN KALELI MUNYAO		
305	DANIEL MULI MUNYAO		
306	ELIZABETH WANZA MUNYAO		



## RESIDENTS WHO LIVE ALONG MASINGA DAM

28

307	RAPHAEL THOMAS		
308	JOHN MUTUNE MULI		
309	BEATRICE KATUU		
310	ALEXANDER MULI MUTINDA		
311	MICHAEL MUTUA KASAU		
312	VICTORIA SYOMBUA MUTUA		
313	CHARLES MUTISYA MUTUA		
314	PETER KASAU MUTUA		
315	ALBUNUS MUSYOKA MUTUA		
316	MONICA NGAYU MUTUA		
317	MARY NDUKU MUTUA		
318	TELESIA MBINYA MUTUA		
319	CHRISTOPHER MUTHAMA MUTUA		
320	ELIZABETH MBINYA MUTUA		
321	JOSEPH NDETI	38151980	
322	AUGUSTINE NGILA MUANGE	8528679	
323	BENEDETTA MWIKALI MUTUKU	20831663	
324	PATRICK MUANGE NGILA		
325	PETER MUTUKU NGILA		
326	AGNES NDUKU NGILA		
327	VERONICA MUINDU MUANGE	6124676	
328	PATRICK WAMBUA	25767078	
329	JACINTA MUTULI NZOMO	36191073	
330	JAMES MUTATA MUTINDA	13339955	
331	LEAH WANJIKU	22770048	
332	NIMROD MWINI MUTATA		
333	JOAN MUTANU		
334	BRYTON ITUMO		
335	DANIEL MATIVO		
336	CECILIA NDANU		
337	CHARLES MUTUNGA MUTUKU		
338	PRISCILA MUNINI MASEKI		
339	RAPHAEL MUTINDA MUTUNGA		
340	MERCY KANINI MUTUNGA		
341	BONIFACE KIOKO MUSYOKI		
342	VIRGINIA NTHIKE KINOTI		
343	STEPHEN KIVATI KIOKO		
344	DAVID MUSYOKI KIOKO		
345	CAROLINE MUNEE KIOKO		



## RESIDENTS WHO LIVE ALONG MASINGA DAM

29

346	BENSON NGINGA MUIA		
347	VERONICA NDUKU		
348	PATRICK WAMBUA		
349	MULUKI MUNGUTI		
350	MUSYOKA MUNGUTI		
351	JOHN MAKAU		
352	ROSE MUENI MUNGUTI		
353	EUNICE NDINDA MUNGUTI		
354	JOHN MAKAU MUNYUNDO		
355	ESTHER MANYUNDO		
356	BENSON MAINGI		
357	MORIS MUNGUTI		
358	GEORGE WAMBUA MAINGI		
359	JOHN MWILU MUTUA		
360	PAULINE WAYUA MBUNGI		
361	SAMMY MUTUA		
362	ANNASTACIA MBULA MWILU		
363	GEORGE NDUNGI MWILU		
364	SHALON KAVUU		
365	PETER MUNGUTI MUTISYA		
366	ANGELINE NDUKU MUSYIMI		
367	DENIS MUTISYA MUNGUTI		
368	JOHN MUIA MUNGUTI		
369	BONIFACE MUSYIMI MUNGUTI		
370	PETRONILA KALEKYE KITONYI		
371	MIRIAM NTHAMBI		
372	ANN NZISA		
373	JOSEPH NZOMO		
374	DICKSON MUTUA MWANZIA		
375	DENNIS KITONYI MWANZIA		
376	VINCENT WAMBUA MUIA		
377	IRENE NDUUME KALEKYE		
378	DAVID MUIA WAMBUA		
379	NDUKU MUTUA		
380	NDAMBUKI MUTUA		
381	DAVID MUNYAO NZIOKI		
382	JEREMIAH MUTISO		
383	NELSON MULI		
384	MOSES MUTUA		
385	JOHN MUIA KIVINDU		

RESIDENTS WHO LIVE ALONG MASINGA DAM

30

386	ANTHONY KITHEKA KALOKI		
387	KELVIN KITHEKA		
388	LILIAN MUNINI KITHEKA		
389	ANN MUTAVE KITHEKA		
390	DORIN NDUNGE KITHEKA		
391	RICHARD MUTUNGA MUTETI		
392	MAGDALINE SYOMITI		
393	TERESIA NDUKU MUTETI		
394	JOSEPH WAMBUA MUSAU		
395	STEPHEN MUSAU MUTUNE		
396	SHADRACK MUTUNE WAMBUA		
397	PETRONILA MWELU WAMBUA		
398	FIDELIS NDOLO WAMBUA		
399	DAMARIS NJERI		
400	SIMON MUNYAO KOKI		
401	JOSPHINE MULUKI NDIMU		
402	ISAAC MATUKU WAMBUA		
403	MUEMA MUNINI MUTUNGA		
404	JOHN MAKAU MUTUNGA		
405	ERASTUS MUTUA MUTUNGA		
406	JACINTA MUENI MUTUNGA		
407	CAROLINE MAVALI MUTUNGA		
408	JOSPHINE WAENI		
409	JOSEPH MUTISO KATUU		
410	AGNES KALEKYE KATUU		
411	MICHAEL MWANGANGI KATUU		
412	PHILIP MUTUNGA MUSEMBI		
413	WILLIAM NYUMU	23607256	0781783494

MWANYANI VILLAGE

1	CHRISTOPHER MBATHA MAINGI	20734842	
2	DAVID KILAVITU MUSAU	9412919	720039119
3	BONIFACE KIILU KYENGO	8528619	728672487
4	JOSEPH MAIMBA	25512960	707591188
5	PETER KIVUVA NZUKI	29609738	
6	BENARD KIOKO MULI	32926450	713131549
7	DANIEL MUTHUSI MUTISO	21882398	711795030

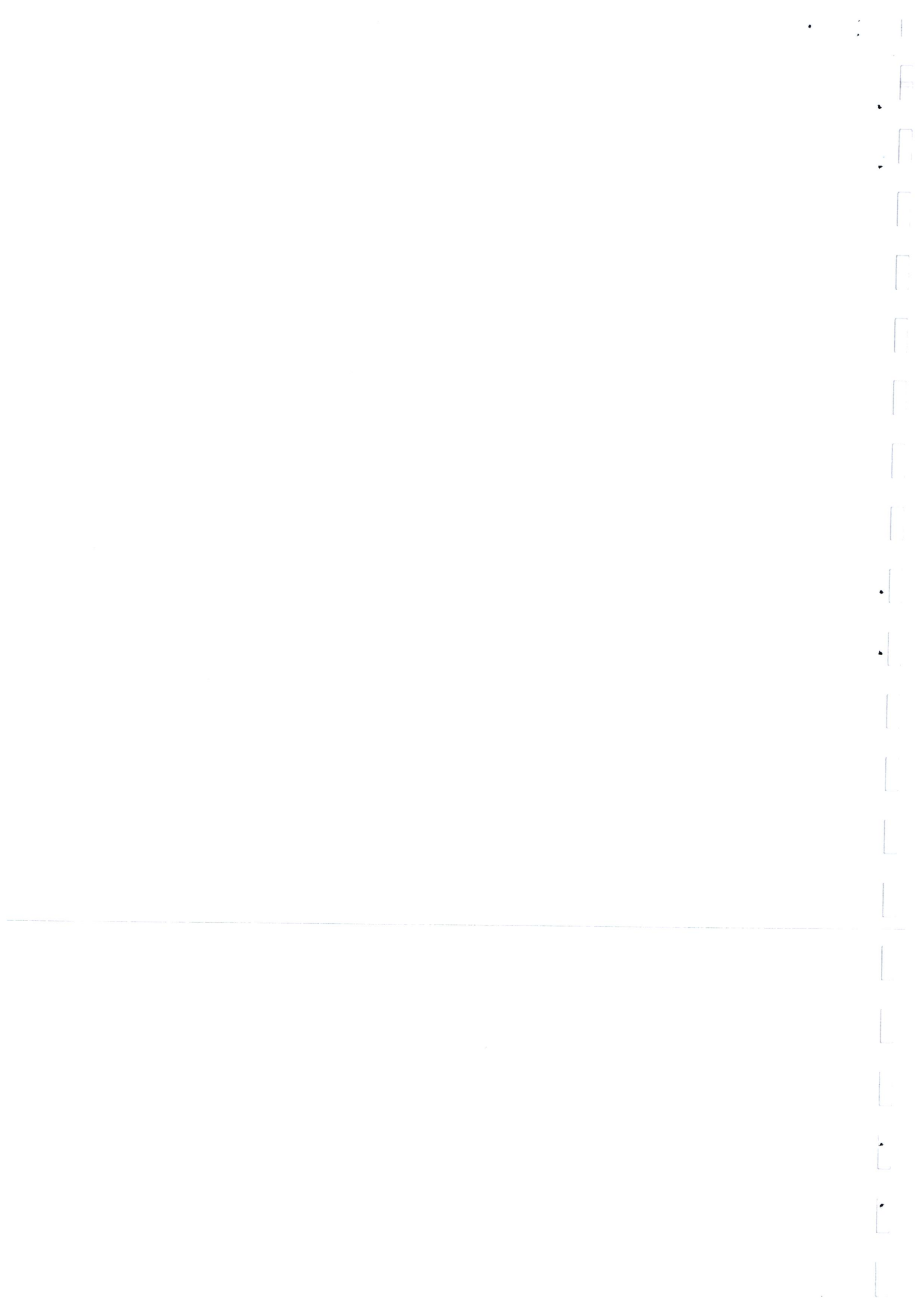
## RESIDENTS WHO LIVE ALONG MASINGA DAM

31

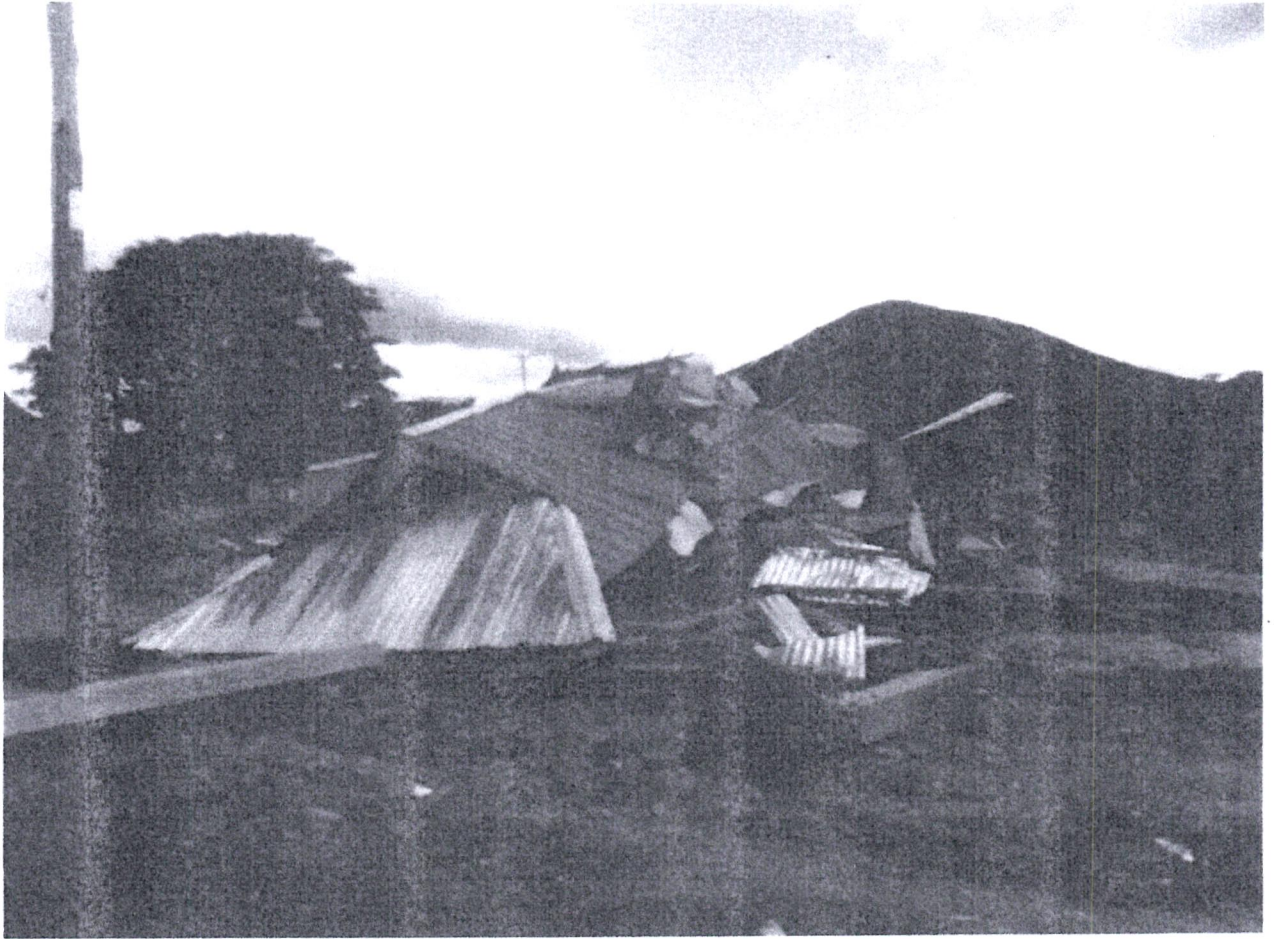
8	JOHN MWALIMU MATHEKA	3665700	
9	MUTHUSI MUTHEKE KALIYI	31219726	
10	MUTUKU WAMBUA	6127656	
11	BONIFACE MUTINDA MAINGI	11405836	708936486
12	PHILIP MULWA MUASYA	25791814	
13	PAUL MUSYOKA KATUA	20956373	
14	JOHN MAINGI KOMU		
15	SIMON KILONZO KOMU		
16	PETER KALIMA MULI	23661936	
17	PAUL NGOTHIO MUSYOKI	22113394	
18	JAMES KIMEU KISILU		
19	MUTISO KITOMBO	5082020	
20	PHILIP MUNZO NZUKI		
21	PATRICK MUTINDA MULE	3341071	
22	MARY KONGU	1822326	723808297
23	MULI NDUNDA		
24	ISAACK NDONYE KALELI	23868946	740372164
25	ESTHER KA VENYE	3765768	790334332
26	ANNASTACIA ITUMBI	31584290	795042560
27	MWANZIA MUTINDA MULE	24944010	
28	SIMON KILONZO KOMU	31370248	746328789
29	SYOMBUA MWILU KOMU	9821297	725010271
30	BERNARD MULWA KIIO	31370160	
31	NYILE MUNYAO		
32	MUTUNE NDALI		
33	BERNARD MUTUA MUTUNE		
34	PETER MAINGI MUNYAO	5082138	703509353
35	MULWA MWANTHI		
36	KILONZO MUTISYA	4685466	
37	JAMES KIMEU KISILU	31219884	
38	THOMAS NGULI WAMBUA	5755550	
39	MUTIKU MULE		
40	MONICA KISILU	10641355	792428338

SCHOOLS, CHURCHES AND MARKETS

S/N	PRIMARY SCHOOLS	SECONDARY SCHOOLS	MARKETS	CHURCHES
1.	Kakawa		Kakawa	Kakawa Catholic
2.	Kakindu		Makindu	Makindu
3.	Gikuru		Gikuru Market	Gikuru
4.	Muthiru		Muthiru Market	Muthiru
5.	Mashamba	Mashamba Secondary	Mashamba	Mashamba
6.	Mwea		Kamwea	
7.	Katanyaga		Katanyaga	Katanyaga
8.	AIC Ndune	AIC Ndune Secondary	Muanjo	Muanjo
9.	AIC/Kikulani		Kikulani	Kikulani
10.	CCM Ndune		Ndune	Ndune
11.	Ndunguni		Ndunguni (Already Demolished)	Ndunguni
12.	Mwanyani	Mwanyani Secondary School	Mwanyani	Mwanyani
13.	Muthithu		Muthithu	Muthithu
14.	ACK Manyati			Manyati
15.	Mfulukusi	Mfulukusi Secondary	Kiangeni Market	Mfulukusi
16.	Kimani		Kimani	
17.	Kaseve		Masimba market	Kaseve Catholic
18.	Kalisa		Kalisa market	Kalisa AIC and Catholic
19.	Kathiani		Kathiani	Kathiani
20.	Musingini		Musingini	Musingini
<b>TOTAL</b>	<b>20 Primary schools</b>	<b>4 secondary schools</b>	<b>20 Market centers</b>	<b>18 Churches</b>



IMAGES OF THE LATEST EVICTIONS APRIL 2021



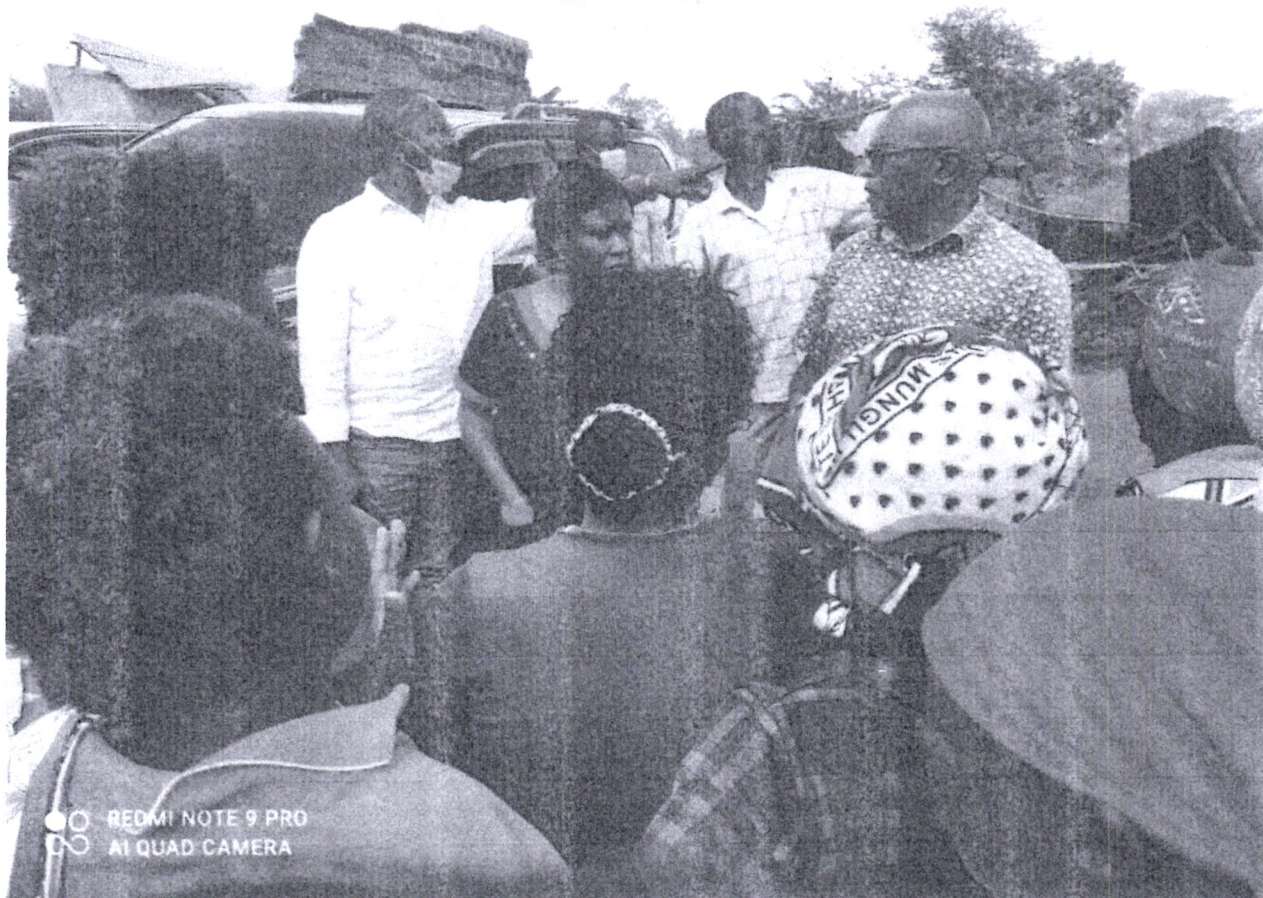












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AI QUAD CAMERA



● ○ REDMI NOTE 9 PRO  
∞ AI QUAD CAMERA

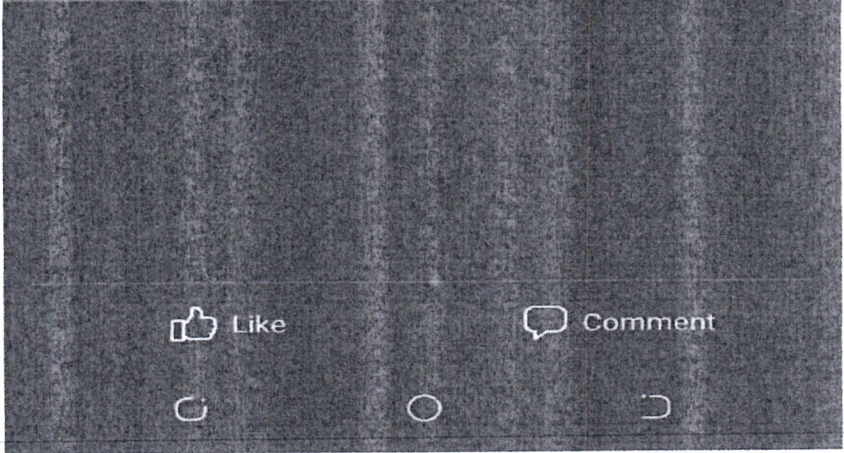
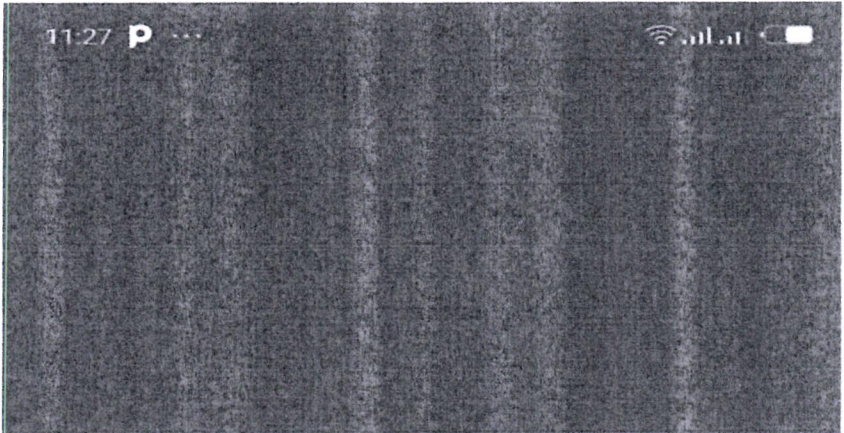


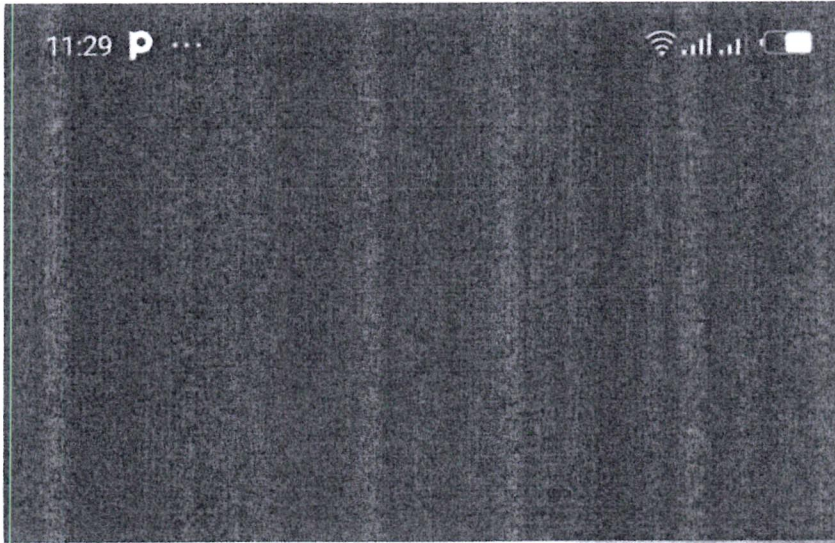
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IDP CAMP AT NDUNGUNI PRIMARY SCHOOL AFTER EVICTIONS



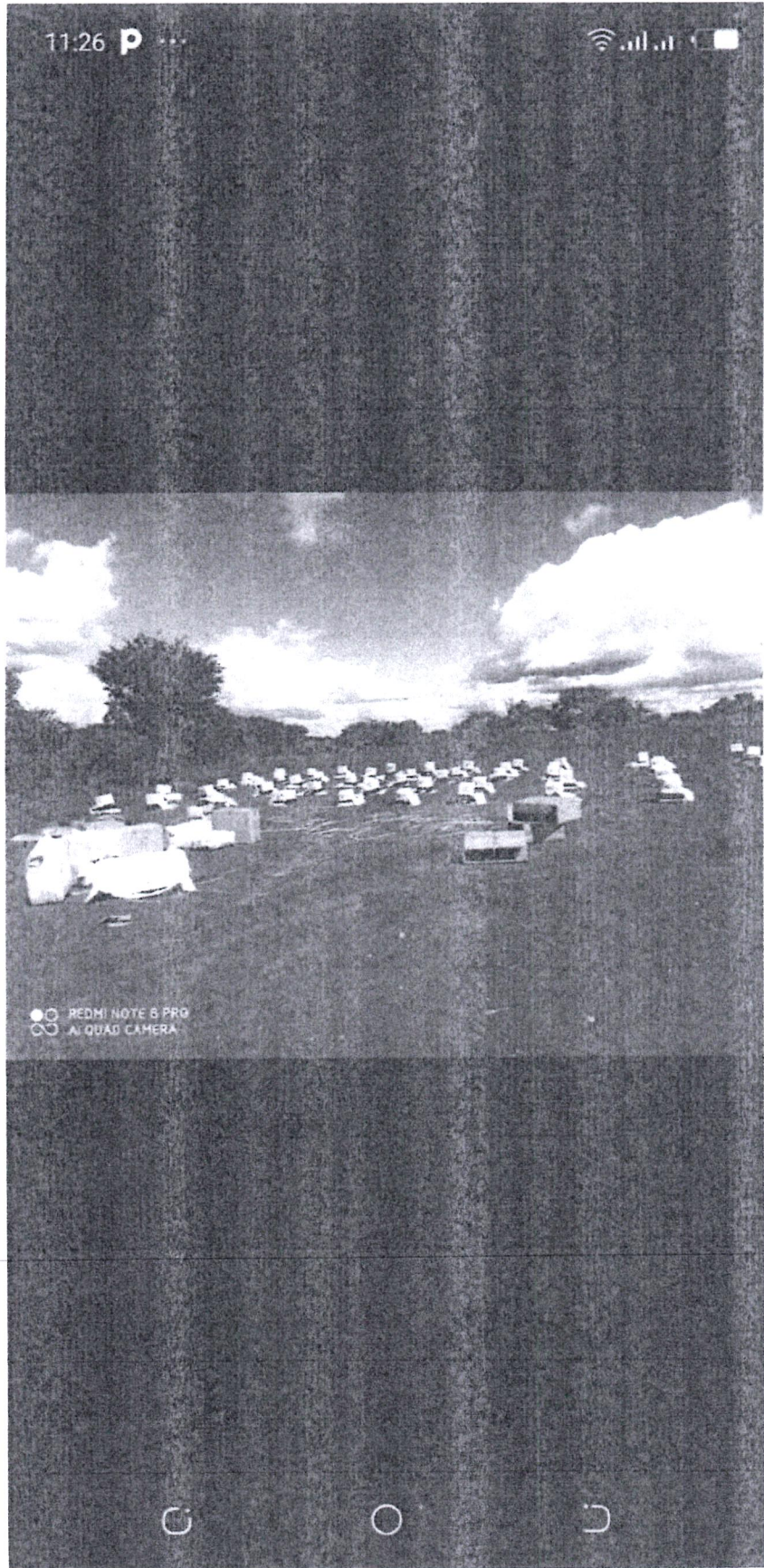








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REPUBLIC OF KENYA  
TWELFTH PARLIAMENT – (FIFTH SESSION)

REQUEST FOR STATEMENT ON BRUTAL EVICTIONS OF THE  
RESIDENTS OF *NDUNGUNI IN MAKEMA WARD*, MBEREE SOUTH  
CONSTITUENCY.

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**Honourable Speaker**, pursuant to Standing Orders 44 (2) (c), I seek to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding brutal evictions of the residents of *Ndunguni in Makema Ward*, Mberree South Constituency.

**Honourable Speaker**, it is of great concerned that brutal eviction of the residents of *Ndunguni in Makema Ward Mberree South Constituency* was carried out on Friday and Saturday 23<sup>rd</sup> and 24<sup>th</sup> of April, 2021, that led to the displacement of over 800 households who are now camped as IDP's in *Ndunguni Primary School*. Further, nine (9) Journalists, thirteen (13) Constituents and the area representative, MP were brutally beaten by the contingent police officers and even led to arrest of the leader and constituents.

**Honourable Speaker**, it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

- (i) Could he further explain the circumstances that led to the inhumane and extremely brutal eviction of persons and demolition of homes and *Ndunguni market* and surrounding areas?
- (ii) Could the Cabinet Secretary he further the circumstances that led to the brutal beating and subsequent arrest of 9 journalists who were covering the unfolding events and confiscation of their phones and media equipment?
- (iii) Could the Chairperson explain circumstances that led to arrest and brutal beating of the area representative, Member of Parliament by the contingent police officers and currently facing possible prosecutions on trumped charges alongside 13 other constituents?
- (iv) Could the Chairperson explain what urgent intervention measures is the Government undertaking to address the ongoing humanitarian crisis occasioned by the said brutal and inhumane demolitions and evictions carried out by police on land that authorities claim to belong to Tana and Athi River Development Authority (TARDA)?

- (v) In view of the fact that over 800 households composed of thousands of Internally Displaced Persons (IDPs) are currently camping at Ndunguni Primary School in massive congestions devoid of sanitation, water, Covid-19 protocol measures, food and other basic needs, what urgent interventions are in place to address their welfare?
- (vi) In light of the fact that these residents are the rightful owners of the land near Masinga and Kiambere Dams where they live and farm, within what timelines shall the government resettle them, resolve the land ownership issue and duly compensate the residents for their colossal losses?
- (vii) How fast will the above measures take place considering that the IDP's are currently camping in Ndunguni Primary School where children are expected to open on 10<sup>th</sup> May, 2021

Thank you Honourable Speaker.

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**HON. (COL.) (RTD.) GEOFFREY KINGANG'I MUTURI, MP,  
MEMBER FOR MBEERE SOUTH CONSTITUENCY.**

Dated ..... 29/4/2021 .....

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## PARLIAMENT OF KENYA

## THE NATIONAL ASSEMBLY

## THE HANSARD

Tuesday, 6<sup>th</sup> July 2021

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]*

## PRAYERS

Hon. Speaker: There is no quorum. Ring the Quorum Bell.

*(The Quorum Bell was rung)*

Very well. We can commence.

## PETITION

## RENAMING OF KARURA FOREST AFTER PROF. WANGARI MAATHAI

Hon. Speaker: Member for Kamukunji, I thought I saw him. Proceed.

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Speaker. I would like to take this opportunity to present Public Petition No.015/2021 regarding the Renaming of Karura Forest after Prof. Wangari Maathai.

I, the undersigned, on behalf of various environmental conservationists across the country draw the attention of the House to the following:

THAT, it is an established historical fact that the late Hon. (Prof.) Wangari Maathai was instrumental in salvaging Karura Forest from the existential threat of land grabbers, thereby safeguarding its preservation and conservation for current and future generations;

THAT, on account of Prof. Wangari's tireless efforts and dedication, Karura Forest is today a thriving natural endowment that not only serves as a home to many animal and plant varieties, but also provides Appropriations-in-Aid revenue for the Government through fees obtained for its therapeutic benefits that attract thousands of runners, walkers, cyclist, campers and tourists every year;

THAT, Prof. Wangari's unmatched sacrifices, selflessness and courage led to the preservation, conservation and proper management of other forests, wetlands, public parks and natural resources in the country, and are a key driver behind the Government's environmental agenda of attaining a minimum of 10 per cent forest cover in the country;

THAT, Prof. Wangari's emphatic passion, commitment and resilience in promoting community forest management and improving the quality of life for many Kenyan communities

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Parliament is now called upon to defend citizens from their own Government; people who are being paid through taxes. People did not move into TARDA land. TARDA moved into people's land, 34 years after the construction of the dam and after TARDA was legally in place. Those title deeds were obtained only in 2012 and yet people have been living there since 1978 when the dam was constructed.

I do not understand why out of 60,000 acres, it is difficult to settle around 300 families to the extent that the Government resorts to violence. I would like to condemn the brutal violence that the Government has resorted to. There was no need for violence. People were scattered all over the place without shelter. As a matter of fact, there is a young couple that lost a child in the night after they had been evicted by the Government. The Government owes the people of Makima an apology. The Government owes the people of Makima retribution—payment for the houses that were demolished. The Government must provide the people of Makima with alternative land so that they can move out of the land they claim. We have a case where the Government abdicates its responsibility, so that the people have to defend themselves against their own Government. There is negligence on the part of public servants and public institutions. This is an area where, before I was elected, half the constituency had no titles. As we speak now, Karaba adjudication section has no title; Riakanau adjudication has no titles; Makima adjudication section has no titles and yet the adjudication was completed 40 years ago. What is the Government doing sitting around there, and yet titles are in the Nairobi offices, but cannot be issued to the owners?

**Hon. Speaker:** You know this is the kind of discourse that becomes like a monologue. If it was a play, we would call it soliloquy. You are speaking on behalf of your constituents, but I am wondering as much as Hon. Mwathi can hear you and get entertained, he is unlikely to give you an answer to that. I gave you the opportunity to make your point, but it amounts to some form of lamentation. I wonder whether you were present when the Cabinet Secretary appeared before the Committee.

**Hon. Geoffrey Muturi (Mbeere South, JP):** I was present.

**Hon. Speaker:** Did you ask him those questions?

**Hon. Geoffrey Muturi (Mbeere South, JP):** I asked those questions, Hon. Speaker.

**Hon. Speaker:** And he did not respond to them?

**Hon. Geoffrey Muturi (Mbeere South, JP):** He did not respond to them, Hon. Speaker. That is why I am forced to...

**Hon. Speaker:** So, you are lamenting now?

**Hon. Geoffrey Muturi (Mbeere South, JP):** This is lamentation, Hon. Speaker.

**Hon. Speaker:** Then you must make it short because there is going to be no answer.

**Hon. Geoffrey Muturi (Mbeere South, JP):** Thank you, Hon. Speaker. I will make it short. I will finish by saying that, as far as we are concerned, the seven schools and seven villages that are in Makima in the so-called TARDA land will remain there. That is because nobody has talked to the people of Makima. As a matter of fact, there is even a settlement scheme whose occupation the Government stopped four years ago. What is so difficult about talking to people to find out what the problem is and solve it?

Thank you, Hon. Speaker, for indulging me in my so-called lamentations. But you can understand our frustration when we have an irresponsible Government. It is really a shame!

**Hon. Speaker:** You can see Hon. Mbarire wants to join you in the lamentations.

**Hon. (Ms.) Cecily Mbarire (Nominated, JP):** Thank you, Hon. Speaker. Let me first begin by thanking Hon. Mwathi, the Chair of the Security Committee, for bringing the response

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time, I urge the Member to submit documents, if there are any, indicating that those people have been there for 34 years, as alleged. We need to make a case for those residents who are quite deserving. Otherwise, it went the wrong way that they were not able to sort it out amicably and had to resort to going to court.

When I hear that there are four schools that are going to be left without students, then, it should worry every Kenyan. We should have schools where public funds have been spent. The schools are going to be left empty because the entire crowd has been pushed out! I will seek your direction on whether we are going to undertake this exercise jointly with the Committee on Lands.

**Hon. Speaker:** It may not be necessary to have a joint sitting because either Committee belongs to the House. If we are to go with Hon. King'ang'i and arrange a meeting just for you to get a feel of what is on the ground, whether it is the other Committee or yourself, you will still be able to get a report. You have a secretariat which will be able to take notes.

Hon. Mwathi, I think you and your Committee can do it. You can even have a sub-committee in your Committee but, ideally, I suggest that you be there because then, any follow up between you and either the Cabinet Secretaries of both Lands and Interior and Coordination of National Government would be better off if you are the one leading the discussions with Hon. King'ang'i.

Hon. King'ang'i, I can see you are still not satisfied. Do you want to continue lamenting?

**Hon. Geoffrey Muturi (Mbeere South, JP):** Hon. Speaker, I am most obliged. I appreciate the Chairman's undertaking to visit. I think that is settled for now. If he comes, I am sure he will hear from the residents. I trust that the Chairman and the Committee will come up with some recommendations.

I am most obliged.

**Hon. Speaker:** Hon. Mwathi, do you still want to speak to it?

**Hon. Peter Mwathi (Limuru, JP):** Yes, just to mention that I am accordingly guided by your pronouncement and that I will sit with the Hon. Member together with officials from the Ministry of Interior and Coordination of National Government. We should be able to get a date when we will visit safely.

Thank you.

**Hon. Speaker:** Did you pick any of the officials from the Ministry of Interior and Coordination of National Government? It is about human beings being evicted. In the process, Hon. King'ang'i ended up being locked up. I do not know whether he has since been charged or he is treated differently from the rest of his constituents. However, Hon. Mwathi will deal with that bit later.

That concludes that aspect of Order No.7. Is that the Majority Whip or the Member for Ndhwa? You are intensely engaged by the Member for Homa Bay Town.

## COMMUNICATION FROM THE CHAIR

### CONSIDERATION OF AMENDMENTS TO THE KENYA NATIONAL LIBRARY SERVICE BILL

Before we move to the next Order, I wish to make this Communication by way of guidance on consideration of the proposed amendments to the Kenya National Library Service Bill, National Assembly Bill No.5 of 2020. This being consideration in Committee of the whole House of the Kenya National Library Service Bill, National Assembly Bill No. 5 of 2020.

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**PRESENTATION TO THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY REGARDING EVICTION OF RESIDENTS OF NDUNGUNI, MAKIMA WARD, MBEERE SOUTH CONSTITUENCY**

**Overview**

On Friday the 23<sup>rd</sup>, April, 2021 and Saturday the 24<sup>th</sup> April, 2021, residents of Makima Ward, Mbeere South Constituency were evicted, wherein in over 800 households were displaced.

The evictees were forced to seek refuge as Internally Displaced Persons (IDPs) in Ndunguni Primary School, amid the ravaging effects of COVID-19 pandemic and rains amongst lack of very basic needs to sustain life.

That on 29<sup>th</sup> April 2019 I sought Parliament's intervention on the floor of the house over the matter seeking a comprehensive Statement from the Chairperson of the Departmental Committee on Administration and National Security.

That on 6<sup>th</sup>, July, 2021, the Chair, Departmental Committee on Administration and National Security presented a statement from the Ministry of Interior and National Coordination on the matter in Parliament prompting responses from members.

The Speaker of the National Assembly directed the Committee to visit the subject area, investigate on the matter and table its report in Parliament.

**Status of the Residents of Ndunguni Area occupying TARDA Land.**

The residents of Ndunguni spread over 8 villages enumerated below;

1. Mangethe;
2. Masai Cross;
3. Uthunthuni;
4. Nunga Mboo;
5. Muthithu;

6. Twanyoni
7. Ndunguni;
8. Mwanyani.

The villages consist of over 800 households, twenty (20) primary schools, four (4) secondary Schools, Eighteen (18) churches and Twenty (20) market Centres.

TARDA curved out the land and obtained the Certificate of Title in November, 2012 which was originally part of the vast Mwea Ranching Scheme.

TARDA has in the past ten years attempted to evict the residents of Ndunguni area, on several instances which attempts have been unsuccessful.

In the recent instance, several people were evicted, most houses and market centres were demolished and power lines were disconnected in the process, and the farmlands left unattended

The people of Ndunguni had established homes, built semi-permanent and permanent houses, businesses, schools, and churches connected with electricity and had productive farmland where they had channeled water from Tana River to irrigate their farm produce.

**Our position is;**

1. That the residents of Ndunguni area have had advanced possession of the land long before the establishment of TARDA in 1978 and the construction of Masinga Dam in 1981. They therefore deserve either;
  - a. Resettlement;
  - b. Compensation.
2. There are overlapping interests that ought to be cured; the residents who are tomato farmers depend on water from River Tana for irrigate their farm produce and water their animals on one hand and TARDA who seek to preserve the Dams on the other hand.