

PETITION MADE TO THE SENATE PURSUANT TO ARTICLE 119 OF THE
CONSTITUTION OF KENYA AND PART XXIV OF THE
SENATE STANDING ORDERS

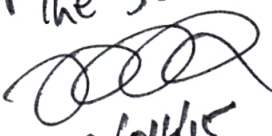
BY

HON. SEN. DANIEL KARABA
SENATOR, KIRINYAGA COUNTY

ON BEHALF OF THE COUNCIL OF ELDERS OF THE KIRINYAGA
MIHIRIGA KENDA ('NINE CLANS') TO REVERT THE AREA KNOWN AS
'MWEA TRUST LANDS' TO KIRINYAGA COUNTY FROM EMBU COUNTY

Approved

5/5/15

Hon. Speaker
You may approve
for presentation in
the Senate.

22/04/15

April, 2015

Petition to the Senate by the Council of Elders of the Kirinyaga Mhiriga Kenda ('Nine Clans') to revert the area known as 'Mwea Trust Lands' to Kirinyaga County from Embu County

We, the undersigned,

Citizens of the Republic of Kenya, members of the Kirinyaga Mhiriga Kenda ('Nine Clans'), and residents of Kirinyaga County and of parts of Embu County -

DRAW the attention of the Senate to the following:

1. **THAT**, the people of Kirinyaga County have a historical and ancestral claim to the 54,000 acres piece of land known as the Mwea Trust Land situated in Mbeere South Sub-County of Embu County. A summary background to the claim is as detailed below;
2. **THAT**, the land known as Mwea historically belonged to and was occupied by the people of Kirinyaga since time immemorial. When Embu Station (which later became Embu District) was created in 1906, Mwea area which was in Ndia Division, remained within the jurisdiction of Fort Hall (which later became Murang'a District). Later in 1912 when Ndia Division was moved from Fort Hall to South Nyeri District, the common boundary between South Nyeri and Embu was defined as below, which confirmed the Mwea area, as part of Ndia Division to be in South Nyeri District:
 - i) The River Mukengeria from its source to its junction with River Rutui;
 - ii) The River Rutui to its junction with River Thiba; and
 - iii) The River Thiba to its junction with River Tana.
3. **THAT**, in subsequent reports of the colonial government between 1908 and 1923, the boundaries between the South Nyeri District and Embu District were affirmed as stretching from the River Mukengeria to its junction with River Thiba to its junction with River Tana, which also marked the southern boundary of the District with the then Ukambani;
4. **THAT**, in 1923, the Kerugoya Sub District was carved from the larger South Nyeri District, with Mwea area of Ndia Division being part of the new District;
5. **THAT**, colonial records also indicate that as at 1933, Embu District was recognized to comprise four divisions, being Embu Division, Mbeere Division, Gichugu Division, and Ndia Division. At the time, Ndia Division comprised Inoi, Mutira, Kiini and Mwirua locations and Mwea was not part of it, remaining in the Kerugoya Sub District;

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6. **THAT**, there also exists a written agreement dated 22nd November, 1933 between Senior Chiefs Njega Gioko of the then Ndia and Gichugu Divisions and Kombo Munyiri of the then Embu and Mbeere Divisions confirming that the boundaries between the Kirinyaga and Embu/Mbeere people extended to the rivers Rupingazi up to the confluence of Thiba and Tana Rivers, with the area known as Mwea belonging to the people of Kirinyaga;
7. **THAT**, during the Mau Mau uprising from 1952, the colonial government initiated a plan to encourage herders from Ukambani to invade and occupy the Mwea area in return for supporting the fight against the Mau Mau. Subsequently, between 1957 and 1962, the boundaries of the then Kerugoya Sub District were interfered with, culminating in the southern boundary being moved upward from River Tana to the Makutano-Embu road from Makutano junction to Karaba and Gategi to River Thiba;
8. **THAT**, this revision of the boundary, which was concluded in the 1960s at the behest of the then powerful Minister for Lands and Settlement who was from Mbeere, resulted in the 54,000 acres piece of land known as the Mwea Trust Land being excised from the then Kerugoya Sub District (now Kirinyaga County) to what is now Mbeere Sub-County of Embu District;
9. **THAT**, following the said annexation of the Mwea Trust Land, a decision was made to demarcate and adjudicate the land for settlement, with an officer from Embu being appointed to undertake the process. During the allocation process however, over 600 names of landless Mihiriga Kenda members which had been submitted for allocation of land, were removed and their respective allocations given to people from outside Kirinyaga;
10. **THAT**, this led the Mihiriga Kenda to file a suit at the High Court in Nairobi in *Misc. Civil Application 268 of 1981, Republic v Land Adjudication Officer, Embu District Ex Parte Kirinyaga Mihiriga Kenda*. In the suit, the Mihiriga Kenda sought and obtained an injunction prohibiting the Embu District Land Adjudication Officer from proceeding with adjudication in respect of Wachoro, Karaba, Riakanau and Makima Adjudication Sections, on the basis of the historical and ancestral claim of the Kirinyaga people to the said land. This injunction remained in place until recently in 2012 when the injunction was lifted;
11. **THAT**, in the intervening period, a number of initiatives were undertaken to try and resolve the issue of the boundary dispute between Kirinyaga and Embu Districts, among them-

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- i) The Task Force chaired by District Commissioner Akello, in 1990;
- ii) The Mwea Trust Land Commission (1995) chaired by the late Hon. Chief Justice Zacchaeus Chesoni, whose report was never made public;
- iii) A Verification Team which comprised the two respective DCs of Kirinyaga and Embu Districts and two PCs of Central and Eastern Provinces and officials from the Ministry of Lands (2000), which concluded that the Mwea Trust Land should have been in Kirinyaga District; and
- iv) The Charles Njonjo commission (2000), which similarly confirmed that the land belongs to the Mihiriga Kenda.

12. **THAT**, following the lifting of the injunction that had stopped the adjudication of Mwea Trust Lands, in 2012, the County Government of Embu has commenced the process of allegedly adjudicating and demarcating the said 54,000 acres piece of land comprised in the Wachoro, Karaba, Riakanau and Makima Adjudication Sections for allotment. As a result, tensions in the area have been rising by the day as a result of rival claims to the land by the Mihiriga Kenda people of Kirinyaga on the one hand, and the Mbeere and Kamba people of South Mbeere Sub-County on the other hand;
13. **THAT**, it is therefore imperative that this matter is dealt with urgently and decisively, by returning the 54,000 acres piece of land known as the Mwea Trust Land from Mbeere Sub-County of Embu County to Kirinyaga County;
14. **THAT**, we have made the best efforts to have this matter resolved/ addressed by the relevant bodies, including by the National Land Commission, but have not received a satisfactory response from them. Further, we believe that pursuant to Article 94 (3) of the Constitution giving power to Parliament to alter county boundaries, and Article 188 of the Constitution, which sets out the procedure and grounds on which county boundaries may be altered, the Senate is the right forum to bring this matter;
15. **THAT**, save as stated in the preceding paragraph, none of the issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body.

WHEREFORE, your humble petitioners pray that the Senate-

- a) Expeditiously takes measures to form an independent commission envisaged in Article 188 of the Constitution for the purpose of investigating the boundary dispute between Kirinyaga and Embu Counties with a view to reinstating the original boundary to the pre-1960 boundary to rightfully place the Mwea Trust Land in Kirinyaga County; and

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- b) Pending conclusion of the same, intervenes to have the process of adjudication and demarcation of the Mwea Trust Land by the Embu County Government immediately halted, or to be jointly undertaken by the Kirinyaga and Embu County Governments.

Dated this.....day of.....2015.

Counter signed by Senator Daniel Karaba, Senator for Kirinyaga County.

Sen. Daniel Karaba,
Senator for Kirinyaga County

[Names and signatures of the 6029 petitioners attached]

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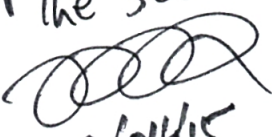
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