

REPUBLIC OF KENYA



TWELFTH PARLIAMENT (FOURTH SESSION)

THE NATIONAL ASSEMBLY

PUBLIC PETITION

(No.13 of 2020)

Approved

BNA  
18/6/2020

PARLIAMENT  
OF KENYA  
LIBRARY

**REGARDING MAPPING, DEMARCATION AND DEGAZETTEMET OF LAND  
WITHIN KODERA FOREST IN KASIPUL FOR SETTLEMENT OF THE  
COMMUNITY LIVING ALONG GOD AGULU AND LIDHA BEATS**

I, the **UNDERSIGNED**, on behalf of the residents of residents of God Agulu and Lidha Beats within Koderia Forest Zone in Kasipul Constituency, Homa Bay County;

**DRAW** the attention of the House to the following: -

1. **THAT**, Article 27 of the Constitution provides that every person is equal before the law and has equal protection and benefit of the law;
2. **THAT**, Article 61(1) of the Constitution provides that all land in Kenya belongs to the people of Kenya collectively as a nation as communities and as individuals;
3. **THAT**, in 1950, following an outbreak of a skin disease and river blindness cause by unknown insects living in Koderia Forest affected many people living along Awach River, the then South Nyanza County Council engaged residents and agreed that they vacate the land, allow the trees along River Awach be cut down and the region be sprayed with insecticides so as to kill the deadly insects;
4. **THAT**, prior to vacation of the land, representatives of the affected community and the then South Nyanza County Council agreed on the boundaries of the land to be vacated by the people and in 1956 the Council cut down indigenous trees at God Agulu and Lidha Beats and planted exotic trees believed to contain poison against the deadly insects;
5. **THAT**, in breach of the agreement on the boundaries for forest land and settlement as was agreed upon in 1950, the South Nyanza county Council planted trees well beyond the area vacated for forest cover and stretched into land that had been reserved for settlement of the community;

**PUBLIC PETITION**

**REGARDING MAPPING, DEMARCATION AND DEGAZETEMENT OF LAND  
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6. **THAT**, according to records at the Lands registry, Kodera Forest covers an area of 1,715 acres and the community is claiming 10,100 acres of unplanted zone of land in God Agulu and Lidha Beats within Kodera forest;
7. **THAT**, contrary to Article 40 of the Constitution, the Kenya Forest Services established its offices on the disputed section of the land and proceeded to plant exotic trees thereby denying members of the community the inalienable right to ownership and occupation of ancestral land in God Agulu and Lidha Beats;
8. **THAT**, from 1957 to date, attempts by the community, through its representatives, has attempted to engage the administration, including the then South Nyanza and Homa Bay County Councils, the Kenya Forest Services and the Ministry of Lands through correspondences and visits to the said offices to resolve the dispute have been unsuccessful;
9. **THAT**, the issues presented in this Petition are not pending before any court of law, constitutional or legal body;

**THEREFORE**, your humble Petitioners pray that the National Assembly through the Departmental Committee on Environment and Natural resources:-

- (i) investigates with a view to resolve the issues relating to allocation of land located in God Agulu Beat and Lidha Beat within Kodera Forest;
- (ii) recommends that, pursuant to section 34 of the Forest Conservation and Management Act, 2016, the Cabinet Secretary responsible for Environment initiates the process of de-gazetting 10,100 acres of land in God Agulu Beat and Lidha Beat within Kodera Forest, with a view to allocating that land to the community living along God Agulu Beat and Lidha Beat in Kasipul.

And your **PETITIONERS** will ever pray.

**PRESENTED BY**

**HON. CHARLES ONG'ONDO WERE, MP**  
**MEMBER FOR KASIPUL CONSTITUENCY**

DATE: .....16/06/2020.....

MEMO

③ D/O LSP  
To process for presentation  
1/1/6

TO: THE CLERK OF THE NATIONAL ASSEMBLY

④ Petitioners  
To process for presentation  
arap King  
15/6

② D/O LSP  
to process  
and  
10/6/20

THRO: DIRECTOR, LEGAL SERVICES

①  
FORWARDED the petition meets the requirements  
of the Constitution, the Act and the standing  
orders and may be tabled for consideration  
FROM: LEGAL COUNSEL  
11/6/20

DATE: 9<sup>th</sup> JUNE, 2020

RE: PETITION BY THE COMMUNITY LIVING ALONG GOD AGULU BEAT AND LIDHA BEAT CONCERNING DEMARCATION, MAPPING AND ISSUANCE OF TITLES RELATING TO LAND LOCATED IN GOD AGULU BEAT AND LIDHA BEAT WITHIN KODERA FOREST ZONE

PETITIONS DESK  
15 JUN 2020  
SERIAL No.....  
RECEIVED

Background

The above matter refers.

We are in receipt of a Petition dated 30<sup>th</sup> April, 2020 by Hon. Charles Ong'ondo Were, the Member for Kasipul Constituency on behalf of the residents of God Agulu Beat and Lidha Beat within Kodera Forest Zone. In the Petition, the Petitioner avers that in 1950, there was an outbreak of skin diseases which affected people living along the sides of Awach river. The Petitioner further avers that the South Nyanza County Council (then) agreed with the residents that they do abandon the affected land. However, the Council thereafter replanted trees in God Agulu Beat and Lidha Beat beyond the boundaries agreed on. Subsequently, the Petitioner avers that the Kenya Forest Service established its offices in the disputed land and denied the residents the right to title and occupation of their ancestral land. To this end, the Petitioner prays that—

- (1) The relevant Committee does investigate the matter relating to allocation of land located in God Agulu Beat and Lidha Beat within Kodera Forest Zone; and

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- (2) De-gazettes 10100 acres of land in God Agulu Beat and Lidha Beat within Koderia Forest Zone pursuant to section 34 of the Forest Conservation and Management Act.

### **Analysis of the Petition**

In view of the foregoing, we have examined the Petition against the provisions of the Constitution, the Petitions to Parliament (Procedure) Act, 2012 hereinafter referred to as "the Act" and the National Assembly Standing Orders and we wish to observe as follows-

1. The Petition is in the form prescribed in the Act and Standing Order 223.
2. Standing Order 216(5)(a) provides that the functions of a Departmental Committee shall be to investigate and inquire into all matters falling under its mandate. In this regard, the first prayer of the Petition falls within the authority of the National Assembly in terms of Standing Order 216(5)(a).
3. The last prayer of the Petition also falls within the authority of the National Assembly as section 34 of the Forest Conservation and Management Act, 2016 provides that any person may petition the National Assembly, for the variation of boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest.

### **Recommendations**

In this regard, we observe that the Petition meets the requirements of the Constitution, the Act and the National Assembly Standing Orders and may be forwarded to the Speaker for tabling.



**Jemimah Waigwa**

PETITION BY THE COMMUNITY LIVING ALONG GOD AGULU BEAT AND LIDHA BEAT CONCERNING MAPPING DEMACATION AND ISSUANCE OF TITLE DEEDS RELATNG LAND LOCATED IN GOD AGULU BEAT AND LIDHA BEAT WITHIN KODERA FOREST ZONE

HON.CHARLES ONG'ONDO WERE MP'  
KASIPUL CONSTITUENCY  
PARLIAMENT BUILDINGS  
P. O. BOX 41842-00100

TO: THE CLERK,  
THE NATIONAL ASSEMBLY  
PARLIAMENT BUILDINGS  
P. O. BOX 41842-00100



*DLS*  
*to advise*  
*ANA*

PETITION BY THE COMMUNITY LIVING ALONG GOD AGULU BEAT AND LIDHA BEAT CONCERNING MAPPING DEMACATION AND ISSUANCE OF TITLE DEEDS RELATNG LAND LOCATED IN GOD AGULU BEAT AND LIDHA BEAT WITHIN KODERA FOREST ZONE

*30/4/20*

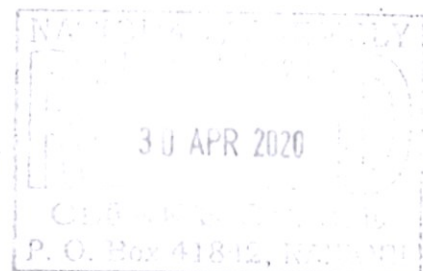
Dear Sir,

I, the UNDERSIGNED, on behalf of the residents of God Agulu Beat and Lidha Beat - Kodera Forest Zone, Kasipul Constituency, Homa Bay County.

DRAW the attention of the house to the following.

1. THAT, Article 27 of the Constitution provides that every person is equal before the law and that the right to equal protection and equal benefit of the law.
2. THAT, Article 61(1) of the Constitution provides that all land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals.
3. THAT, Article 40 of the Constitution provides that the State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation (a) results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or (b) is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that (i) requires prompt payment in full, of just compensation to the person; and (ii) allows any person who has an interest in, or right over, that property a right of access to a court of law.

Ms Jemun Waigwa-he  
Kindly process the  
petition 4/6/2020



PETITION BY THE COMMUNITY LIVING ALONG GOD AGULU BEAT AND LIDHA BEAT CONCERNING MAPPING DEMACATION AND ISSUANCE OF TITLE DEEDS RELATNG LAND LOCATED IN GOD AGULU BEAT AND LIDHA BEAT WITHIN KODERA FOREST ZONE

CLAIM OF GOD AGULU BEAT AND LIDHA BEAT, KODERA FOREST

4. **THAT**, in 1950, there was an outbreak of skin diseases and river blindness caused by unknown insects that affected people that lived along the sides of Awach river. The South Nyanza County Council (then) met with representatives of people living by the sides of the Awach and agreed to cut down the trees along the sides of River Awach and spray insecticides in order to kill the deadly insects and contain the spread of the outbreak of skin diseases and river blindness.
5. **THAT**, the Council and the representatives agreed on the boundaries of the land by the sides of River Awach that was to be abandoned and the people vacated the land as agreed. The South Nyanza County Council proceeded to cut down the trees and thereafter, planted trees which it informed the representatives of the people living along the river that the trees contained poison for deadly insects.
6. **THAT** in 1956, the South Nyanza County Council started planting the trees in God Agulu Beat and Lidha Beat, well beyond the boundaries agreed in 1950 with the representatives of the community living along the sides of River Awach.
7. **THAT** from 1957 to date, the community through its representatives has attempted to engage the local Administration (that is, the South Nyanza County Council, Homa Bay County Council, the Kenya Forest Service, and the Ministry of Lands and Settlement) through written correspondence and visits to the said offices to resolve the boundary dispute unsuccessfully.
8. **THAT** information available to the representatives of the Community indicate that Kodera Forest covers 1715 acres and the community claims 10100 acres of unplanted land located in God Agulu Beat and Lidha Beat within Kodera Forest Zone.
9. **THAT**, contrary to Article 40 of the Constitution, the Kenya Forest Service established its offices in the disputed land, planted exotic trees and denied the members of the community



**PETITION BY THE COMMUNITY LIVING ALONG GOD AGULU BEAT AND LIDHA BEAT CONCERNING MAPPING DEMACATION AND ISSUANCE OF TITLE DEEDS RELATNG LAND LOCATED IN GOD AGULU BEAT AND LIDHA BEAT WITHIN KODERA FOREST ZONE**

the right to title and occupation of their ancestral land located in God Agulu Beat and Lidha Beat within Kodera Forest Zone.

10. THAT, the matter presented in this petition is not pending before any court of law, constitutional or legal body.

THEREFORE, your humble petitioner PRAYS that the Parliament through the relevant Committee of the National Assembly:

1. investigates and resolves the salient issues touching on matters relating to allocation of land located in God Agulu Beat and Lidha Beat within Kodera Forest Zone.
2. de-gazettes 10100 acres of in land located in God Agulu Beat and Lidha Beat within Kodera Forest Zone pursuant to section 34 of the Forest Conservation and Management Act.
3. any other resolutions that may be determined as appropriate.

And your PETITIONERS will ever pray.

PRESENTED BY,

  
HON.CHARLES ONG'ONDO WERE MP'

KASIPUL CONSTITUENCY

DATE 20/04/2020