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REPUBLIC OF KENYA

THE SENATE

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TWELFTH PARLIAMENT

THE REPORT OF THE SENATE STANDING COMMITTEE ON LANDS, ENVIRONMENT AND NATURAL RESOURCES

ON

THE PETITION REGARDING THE ACQUISITION OF KARARE LAND IN MARSABIT COUNTY BY THE KENYA DEFENCE FORCES

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List of Abbreviations/ Synonyms

CS	- Cabinet Secretary
EACC	- Ethics and Anti-Corruption Commission
EIA	- Environmental Impact Assessment
ESIA	- Environmental and Social Impact Assessment
KDF	- Kenya Defence Forces
KWS	- Kenya Wildlife Service
MoLPP	- Ministry of Lands and Physical Planning
NLC	- National Land Commission

PREFACE

Mr. Speaker sir,

The Standing Committee on Lands, Environment and Natural Resources is established pursuant to Standing Order 218(3) of the Standing Orders of the Senate. As set out in the Second Schedule, the Committee is mandated to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resource management and development.

Committee Membership

The Committee comprises of the following Members.

1. Sen. Paul Mwangi Githiomi, MP - **Chairperson**
2. Sen. Philip Mpaayei, MP - **Vice-Chairperson**
3. Sen. George Khaniri, MGH, MP
4. Sen. Gideon Moi, CBS, MP
5. Sen. Njeru Ndwiga, EGH, MP
6. Sen. (Dr.) Lelegwe Ltumbesi, MP
7. Sen. Issa Juma Boy, MP
8. Sen. (Arch.) Sylvia Kasanga, MP
9. Sen. Johnes Mwaruma, MP

At the Sitting of the Senate held on 23rd June, 2020 the Honourable Speaker of the Senate reported to the Senate that a Petition has been submitted through the Clerk, by Rendille and Samburu Community Representatives regarding the acquisition of Karare land in Marsabit County, by the Kenya Defence Forces (KDF).

The salient issues raised in the said Petition are as follows -

(a) THAT, in the year 2019, the KDF expressed interest in acquiring land in Saku Sub-County of Marsabit County totaling to 2,500 hectares;

(b) THAT, following meetings between community leaders, the County Commissioner and KDF representatives the community objected to the acquisition of Karare Land and suggested alternative land at Kubikalo for acquisition by KDF;

(c) THAT while the community is aware of the legal basis for compulsory acquisition of land by the Government, they took issue on the acquisition of Karare Land by the KDF on the basis that it poses existential threat to the livelihoods of the predominantly pastoral Samburu and Rendille communities as the land is a dry season water catchment area for Marsabit County, including communities living in Karare, Songa, Loblorgo, Kaboyolwe, Laisamis, Kaigi and Kor;

(d) THAT the community has on several occasions been coerced into accepting the acquisition of Karare Land by the KDF. However, they have not obliged citing the centrality of the land for sustainability of their environment and livelihoods with over 150 camels, 215,000 sheep and goats and 85,000 cattle dependent on Karare ecosystem during droughts;

(e) FURTHER, that a total of 98,000 people who depend on the livestock would lose their livelihoods if Karare Land is compulsorily acquired;

(f) THAT considering that in the past the community has lost over 150 hectares to the Lake Turkana Wind Power Project, their dry season grazing pasture has been significantly diminished and, therefore, the acquisition of Karare land would exacerbate their plight; and

(g) THAT owing to their minority status and weak representation in Government, the Rendille and Samburu communities of Marsabit County fear that they could lose the land despite their objections and having failed in petitions to the County Commissioner, County Governor, Cabinet Secretary for Interior and Coordination of National Government and the National Land Commission for redress all of whom have never responded.

The petitioner prays that the Senate investigates the matter with a view to halting the process of compulsory acquisition of Karare land for the benefit of the Rendille and Samburu communities residing in the area and make appropriate recommendations on the matter.

Pursuant to Standing Order 232(1) and the Second Schedule to the Standing Orders of the Senate, the Petition was committed to the Standing Committee Lands, Environment and Natural Resources Committee.

Pursuant to Articles 37 and 119(1) of the Constitution, section 5(2) the Petition to Parliament (Procedure) Act and Standing Order 232 of the Senate Standing Orders, the Committee is mandated to consider the Petition and respond to the Petitioner within the prescribed period.

To enable a judicious disposal of the Petition, the Committee resolved to conduct an inquiry on the issues raised in the Petition. In this regard the Committee invited the Petitioner to a meeting of the Committee for the Petitioner to elaborate further on the issues raised in the Petition and to supply supporting evidence on the same.

The Committee proceeded to invite the Cabinet Secretary, Ministry of Land and Physical Planning (MoLPP), the Chairperson, National Land Commission (NLC) and the Governor, County Government of Marsabit via zoom online meetings for them to give their submissions. The Committee also admitted written responses from the Ministry of Tourism and Wildlife on the aforementioned Petition.

ACKNOWLEDGEMENT

The Committee thanks the Offices of the Speaker of the Senate and the Clerk of the Senate for the support extended to the Committee in the execution of its mandate. The Committee extends its appreciation to the Petitioners Hon. Stephen Leado, Hon. Bernard Bata, Hon. Assunta G. Tele, Lemalesian Paul Leaduma, Lenchododo Lalbalanga and Longideny Neepee. Further, the Committee wishes to also thank the Stakeholders; the Cabinet Secretary, MoLPP, Ms. Farida Karoney, EGH, the Cabinet Secretary, Ministry of Defense, Dr. Monica K. Juma (OXON), CBS, the Cabinet Secretary, Ministry of Tourism and Wildlife, Hon. Najib Balala, EGH, the Chairperson, NLC, Mr. Gerishom Otachi and the Governor Marsabit County, Hon. Mohamud M. Ali, for their submissions and contribution to the resolution of this matter.

Mr. Speaker Sir,

It is now my pleasant duty and privilege, on behalf of the Committee, to present the Report of the Standing Committee on Lands, Environment and Natural Resources on the Petition regarding the acquisition of Karare land in Marsabit County by the Kenya Defence Forces (KDF).

Signed: ..... **Date:** 10/06/2021

SEN. MWANGI GITHIOMI, M.P.
CHAIRPERSON, SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

CHAPTER I

INTRODUCTION

1. At the Sitting of the Senate held on 23rd June, 2020 the Honourable Speaker of the Senate, reported to the Senate that a Petition had been submitted through the Clerk, on the acquisition of Karare land in Marsabit County by the Kenya Defence Forces.
2. The salient issues raised in the Petition are as follows-
   a) THAT in the year 2019, the KDF expressed interest in acquiring land in Saku Sub-County of Marsabit County totaling to 2,500 hectares;
   b) THAT following meetings between community leaders, the County Commissioner and KDF representatives the community objected to the acquisition of Karare Land and suggested alternative land at Kubikalo for acquisition by KDF;
   c) THAT while the community is aware of the legal basis for compulsory acquisition of land by the Government, they take issue on the acquisition of Karare land by the KDF on the basis that it poses an existential threat to the livelihoods of the predominantly pastoral Samburu and Rendille communities as the land is a dry season water catchment area for Marsabit County, including communities living in Karare, Songa, Loblorgo, Kaboyolwe, Laisamis, Kaigi and Kor;
   d) THAT the community has on several occasions been coerced into accepting the acquisition of Karare Land by the KDF. However, they have not obliged citing the centrality of the land for sustainability of their environment and livelihoods with over 150 camels, 215,000 sheep and goats and 85,000 cattle dependent on Karare ecosystem during droughts;
   e) FURTHER, that a total of 98,000 people who depend on the livestock would lose their livelihoods if Karare Land is compulsorily acquired;
   f) THAT considering that in the past the community has lost over 150 hectares to the Lake Turkana Wind Power Project, their dry season grazing pasture has been

significantly diminished and, therefore, the acquisition of Karare land would exacerbate their plight; and

g) THAT owing to their minority status and weak representation in Government, the Rendille and Samburu communities of Marsabit County fear that they could lose the land despite their objections and having failed in petitions to the County Commissioner, County Governor, Cabinet Secretary for Interior and Coordination of National Government and the National Land Commission for redress all of whom have never responded.

3. The Petitioner, therefore, prays that –

(a) The Committee visits Karare Community in Marsabit County to establish facts;

(b) To make appropriate recommendations to the CS, Ministry of Defense; and

(c) Give an opportunity to the Rendille Professional Association to further present their memorandum orally to the Senate.

4. Pursuant to Standing Order 232(1) of the Standing Orders of the Senate, the Petition was committed to the Lands, Environment and Natural Resources Committee.

LEGAL BASIS FOR PETITIONS

5. Petitions to the Senate are governed by the Constitution, the Petition to Parliament (Procedure) Act, No. 22 of 2012 and the Senate Standing Orders.

6. Article 37 of the Constitution provides that *every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities* while Article 119(1) of the Constitution provides that *"every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation."*

7. Section 5(2) of the Petition to Parliament (Procedure) Act, provides that *a petition that is tabled in Parliament under this Act shall be considered in accordance with the Standing Orders of the relevant House*. In this regard, standing order 232 of the Senate Standing Orders provides as follows-

   232. Committal of Petitions

   (1) Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Standing Committee.

   (2) Whenever a Petition is committed to a Standing Committee, the Committee shall, in not more than sixty (60) calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the Senate and no debate on or in relation to the report shall be allowed, but the Speaker may, allow comments or observations in relation to the Petition for not more than thirty Minutes.

8. Standing Order 233 requires the Clerk to, within fifteen (15) days of tabling of the report on a petition under Standing Order 232 (Committal of Petitions), submit a copy of the report to the petitioner or petitioners.

CHAPTER 2

CONSIDERATION OF THE PETITION

Petition Concerns

1. Background

1.1 THAT, the petitioners are citizens of Kenya from the Rendille and Samburu Community living in Marsabit County specifically in Karare Ward.

1.2 THAT, the Rendille and Samburu community in Marsabit County respectfully objected to compulsory acquisition of our ONLY fertile land to KDF for reasons provided below.

1.3 THAT in 2019, the Kenya Defense Forces showed interest in land in Saku Sub County. The total land requested by the KDF was 12,300 acres.

1.4 THAT the land in question is the only agro-pastoral, viable grazing area and has sensitive cultural value for Rendille and Samburu community of Marsabit County;

1.5 THAT the community appreciative of the role of KDF has provided alternative land to the KDF in Kubi Kalo and Matalama which they earlier accepted but now backtracked.

1.6 THAT, the KDF is determined to proceed with compulsory acquisition despite the fact that the land is an economic pillar and culturally sensitive and, therefore, acquisition being objected to by the community and the process has contravened the law (Wildlife Conservation and Management Act, 2013 and Community Land Act).

1.7 THAT, the community has already lost 150,000 acres to the Lake Turkana Wind Power project which was compulsorily acquired despite the community objection and an active court case

1.8 THAT, the KDF, the Marsabit County Government and the County Commissioner of Marsabit, have on several occasions attempted to coerce the community to accept to

give out its land but the community refused citing the centrality of the land in question for sustainability of their environment and livelihoods.

1.9 THAT, the now established pattern of forcefully taking away Rendille and Samburu communities land is understood to be as result of their minority and vulnerability status.

1.10 THAT, the pastoral community livelihoods are dependent on the mobility of their livestock. The communities plan grazing of their land into dry and wet season grazing areas, in order to allow for rejuvenation of rangelands and minimize environmental degradation considering that the soils in these areas are very fragile.

1.11 THAT, the Governor of Marsabit, in his letter dated 2nd July, 2020 unilaterally and without due regard for the law allocated 12,300 acres which is the pillar of Rendille economy and culture. The Law requires that any excision of National reserve requires the following

a) The Cabinet Secretary responsible for Wildlife to gazette the intention
b) Approval by County Assembly
c) Approval by National Assembly
d) An environmental impact assessment and proof that such excision will not have impact on any endangered flora and fauna

Reasons for the petition

2.1 THAT, the KDF has moved in with bulldozers to the contested land on 29th May, 2020 despite the objection and protest by the community at a time when the community is reeling under the impact of COVID -19.

2.2 THAT, the Karare Ward, being a water catchment and dry season area for the pastoral communities of Karare, Songa, Loglogo, Kamboye, Laisamis, Kargi and Korr communites plays a central role in the viability of pastoralism in Laisamis Sub-County and Karare Ward.

2.3 THAT, the affected people will lose about 35% of their livestock to malnutrition and malnutrition related complications. As a result, an estimated 25,000 households will drop from pastoral production people and become destitute in towns to be supported

through food hand-outs if the proposed compulsory allocation of Karare land by Government is not stopped.

2.4 THAT, the annual cost of food hand-outs is estimated conservatively at current value of Ksh. 144,000,000 annually. This is in addition to lack of dignity due to dependency on hand outs.

2.5 THAT, the compulsory acquisition without community endorsement contravenes Article 63 of the Constitution of Kenya, which provides for the recognition and protection of communal land rights while Community Land Act 2016 and Community Land Regulations, 2017 affirms rights of communities in the administration of communal land.

2.6 THAT, the unprocedural allocation of community land also contravenes, the Land Act (No. 6 of 2012) and Community Land Act 2016 and the United Nations (UN) declaration on the Rights of Indigenous Peoples which provides for free, prior and informed consent in legislative and administrative measures affecting indigenous people.

2.7 THAT, under the 2010 Constitution, the indigenous communities to have secure access and rights to land, and the challenges of land availability, a situation exacerbated by climate change, population growth and the related expansion of settlements in grazing lands, and further recognizing the need for securing access to these vital resources for poverty reduction;

3.0 Efforts made by the Community to present their case to relevant Government Agencies

3.1 THAT, the Community suggested alternative land to the KDF and taking into account various factors including environmental sustainability, cultural value, equity, impact on food and risk of extreme poverty, the community agreed to give land at Kubi Kalo and Mata lama in good faith.

3.2 THAT, the community having felt helpless, petitioned the County Commissioner of Marsabit, the County Governor of Marsabit, the Cabinet Secretary for Interior and Coordination of National Government and the National Land Commission for redress and reversion of the process.

3.3 THAT, the community did not receive response from the above stated State Agencies, except the Senate.

4. The matter in respect to this petition is not pending in any court of law or other constitutional legal body.

Approach taken by the Committee

1. In considering the Petition, the Committee observed that it would be important to verify the facts alleged by the Petition. The Committee therefore resolved to conduct an inquiry on the issues raised in the Petition.
2. In this regard, the Committee received the Petition from the Petitioner through the House and further invited the Cabinet Secretary, Ministry of Land and Physical Planning (MoLPP), the Chairperson, National Land Commission (NLC) and the Governor, County Government of Marsabit via zoom online meetings for them to give their submissions.
3. Further, the Committee admitted written responses from the Ministry of Tourism and Wildlife on the aforementioned Petition that was delivered during the Committee's sitting held on 13th May, 2021.

A. Further information provided by the Petitioners during meetings with Stakeholders

During a meeting of the Committee held on 25th March, 2021 with the Governor Marsabit County, the Petitioners informed the Committee as follows;

1. That an Environmental Impact Assessment should have been done at the end, not in July, 2019;
2. No adequate public participation was done;
3. The Law was not followed;
4. Only 50 elders were picked on behalf of 200,000 people;
5. Requesting that the Committee visits Karare, before conclusion of its report;
6. A similar petition has also been taken to the National Assembly by the Member of Parliament for Laisamis Constituency.
7. The takeover by KDF affects the migratory corridor of Elephants;
8. Cultural practises are done at this particular area that has been selected for takeover by KDF;
9. It acts as a fall-back grazing area for domestic animals for the Community since the area is humid with enough foliage; and
10. Concern on why the matter was not brought before the County Assembly of Marsabit.

B. Response by the Cabinet Secretary, MoLPP

The Ministry provided the responses indicated below:

1. The petition dated April 29, 2020 concerning acquisition of Karare land by the Kenya Defence Forces has been presented by the Rendille Professional Association on behalf of residents of Rendille and Samburu communities residing in Kaware Ward, Marsabit County.
2. The petitioners claim that the Rendille and Samburu communities in Marsabit County object to the compulsory acquisition of 2,500 hectares of land in Karare by the Kenya Defence Forces (KDF).
3. Further, they claim that the KDF expressed interest on the land in 2019 and the petitioners' objection to the compulsory acquisition is based on the following-
   i) The land is the communities' only fertile land and the only viable grazing area
   ii) Karare ward being a water catchment area for the pastoral communities of Karare, Songa, Loglogo, Kamboye, Laisamis, Kargi and Korre communities plays a central role in the viability of pastoralism. A total of 98,000 people and approximately 450,000 livestock depend on the ecosystem for their livelihoods
   iii) The land is a sacred place for most cultural and religious ceremonies such as circumcision;
   iv) It is a major and only source of red ochre Nalkaria Hills which is sacred to the community;
   v) The land is a pathway for collection of Silaley gum used in circumcision and religious ceremonies;
   vi) It is also a source of Ibaa/sticks for use in Rendille/Samburu circumcision ceremonies;
   vii) It is a source of Acacia pods (Sagaram) to feed livestock in a highly pastoral community
   viii) The excision of the 2,500 hectares of land some of which is protected forests and which is the only dependable dry season grazing area will lead to

overuse of rangelands, environmental degradation, human-wildlife conflict and human- human conflict.

4. The petitioners claim that several meetings have been held between the communities' elders, County Commissioner and the KDF in which the communities proposed alternative land in Kubi Kalo for acquisition but the same was declined by the KDF. They are aggrieved that the process of compulsory acquisition is ongoing despite their protests.
5. The communities are apprehensive that they could lose their land and their rights under the Constitution due to their minority status and weak representation in government. They aver that they have already lost 150,000 hectares to the Lake Turkana Wind Power project, which was also compulsorily acquired despite their objection.
6. The petitioners therefore filed the petition to request the Senate to-
   a) Visit Karare community of Marsabit County to establish the facts of the case as soon as possible;
   b) Make appropriate recommendations to the Cabinet Secretary Ministry of Interior and Co-ordination of National Government based on the findings; and
   c) Give opportunity for the petitioners to further present the memorandum orally to the Senate

Further the Ministry stated as follows-

1. The KDF Strategic Defence Plan of 2018-2027 projected the expansion of the Kenya Army and redeployment of Formations to various parts of the country with a sizeable force earmarked for deployment in Marsabit County. In pursuance to that Strategic Defence Plan, the Ministry of Defence started the process of acquisition of land in Marsabit County with an intention to have military footprint in the Northern Region to deter/prevent constant incursion by the Ethiopian National Defence Forces and also support the Strategic Defence Plan in order to facilitate KDF achieve its mandate as provided for in Article 241(3) of the

Constitution of Kenya.

2. In early 2012, the Ministry of Defence began formal engagements with the County Council of Marsabit for allocation of land in the County. This resulted in the allocation of 2,500 hectares of land in Kubi Kalo to Ministry of Defence on January 8, 2013. However, with the establishment of the County Government of Marsabit under the new constitutional dispensation, the allocation was rescinded and the Ministry of Defence was advised to restart the process of acquisition.
3. On January 10, 2019, the process was re-started with consultative meetings between Ministry of Defence and County Government of Marsabit led by the Chairman, Committee on Military Land & H.E Governor of Marsabit with all elected leaders including MPs, MCAs and CECMS. The leaders from Marsabit County agreed to allocate 5,000 hectares in Karare for the construction of Ministry of Defence camp and 10,000 hectares in Haiya for training.
4. The meeting further directed that a joint technical committee be formed to identify the suitable locations for deployment and training area. The joint technical committee met and worked as per the mandate given during the meeting. A detailed joint reconnaissance conducted between January 2 - 4, 2019 and May 29 to June 1, 2019 identified the actual locations. Following the engagements, the Ministry of Defence was formally allocated 5,000 hectares & 10,000 hectares of land in Karare and Haiya areas of the County respectively.
5. On January 16, 2020, the Ministry of Defence and County Government of Marsabit resolved to subject the land allocations to a public participation process as advised by the National Land Commission. Subsequently, the public participation and validation exercise for the land allocations was conducted from January 21 - 31, 2020 in Marsabit County. The exercise considered critical factors such as human settlements, grazing areas, water catchment areas and conservation of biodiversity and among others in choosing the ideal location for the KDF Camp.

6. The public participation exercise was carried out successfully by the Joint team comprising Ministry of Defence, Kenya Wildlife Service, County Government of Marsabit, county leadership including Members of Parliament, Members of the County Assembly and members of the local community across the areas expected to host the Ministry of Defence facilities. The local community participated in the exercise and assisted representatives from the Ministry of Defence to identify the suitable locations.
7. During the process of public participation, the locals requested the allocation of Karare land to Ministry of Defence be reviewed downwards from 5,000 hectares to 2,500 hectares. The land is currently in the process of being planned, surveyed and titled in favor of Ministry of Defence. The Ministry is already in occupation of the two parcels of land allocated to them by the County Government of Marsabit.
8. There is a Court case filed by the Rendille Professionals Association and local elders on behalf of the Community regarding the allocations of the land parcels by the County Government of Marsabit.

C. Response by the Cabinet Secretary, Ministry of Defence

The Ministry provided the following responses as indicated:

1. The Ministry of Defence states that the matter in dispute was before the Environmental and Land Court in Meru in Constitutional Petition No. 4 of 2020 between elders, members and Professionals of the Rendille Community versus the County Government of Marsabit, the Kenya Defence Forces, CS Ministry of Defence and the Attorney General.

2. As such, it would be *sub-judice* to deal with the subject matter and the Ministry of Defence raises a preliminary objection as to discussions over a matter already seized of by a court of competent authority and jurisdiction.

3. Notwithstanding the previous submissions, the Ministry states that the land in question was not acquired by compulsory acquisition as alleged but was allocated

through an elaborate process that involved the County Government of Marsabit, the National Land Commission, the Kenya Wildlife Service and members of the host community.

4. That the land in dispute is part of the Marsabit National Reserve as gazetted in Gazette Notice Number 936 of 1948 vide Kenya Gazette Supplement Number 48 of 1948 and therefore only subject to the Wildlife Conservation and Management Act, No. 47 of 2013. The necessary steps to comply with this Statute are in progress.

5. The Nation and the host community stand to benefit from the presence of the KDF in Karare Ward of Marsabit County.

D. Response by the Cabinet Secretary, Ministry of Tourism and Wildlife

The Ministry provided their responses as follows-

1. Kenya Wildlife Service (KWS) received a letter Ref: MOD 06/4A dated 4th September, 2020 from Ministry of Defense (MoD) seeking technical support in ecological assessments as part of the Environmental Impact Assessment (EIA) process for the proposed Military Barracks (MB) within Marsabit National Reserve.
2. The proposed Barrack is located in Karare Ward within Saku Sub-County, Saku Constituency at GPS location 2°14'44.10'' N 37° 50'55.00" E in Marsabit County. The general project area has no visible human settlement around it and the area is mainly used as grazing area by the locals who are pastoralists. The site at Karare measures 2,500 hectares and is located approximately 20km to the South of Marsabit town.
3. KWS provided the technical assistance for the wildlife ecological assessment which was undertaken between 25th September, 2020 and 5th October, 2020.
4. Kenya Defense Forces (KDF) further convened a follow up consultation meeting between KWS and the KDF EIA expert which was held on 16th October, 2020 at Department of Defense (DoD) headquarters to review the ecological assessment report and discuss potential impacts of the proposed Barracks on wildlife and advice on appropriate mitigation measures. After the meeting KWS prepared and compiled a technical report and shared with the KDF technical team for incorporation in the EIA report. Some of the potential negative impacts of the project on wildlife and proposed interventions are outlined in the table 3 below.

Potential project impacts on wildlife and proposed mitigation measures

Item	Environmental Impact	Mitigation Measures
1	Vegetation and habitat loss/ degradation	Limit vegetation clearance to the core area for infrastructure development and access roads Restore lost vegetation on the disturbed area and right of way through planting of trees, shrubs and grasses that are palatable to the common herbivores based on the baseline plant inventory New roads to follow existing tracts as much as possible Unnecessary grading to be avoided in natural motorable tracks with firm foundation Allow re-growth of grass cover on working area after construction Redesign the camp to move at least 4km from the Karare – Songa road to minimize habitat loss on important wildlife habitat Collaborate with KWS and communities and implement rangeland improvement initiatives including reseeding, replanting, establishment of water pans as offsets for the lost wildlife habitat.
2	Disturbance to wildlife and wildlife movement including road kills	Limit fencing of the Barracks to the core infrastructure area and allow free movement of animals within the buffer area Install road signs to warn the motorists on the presence of animals and speed limits Collaborate with KWS on conservation and education programs for the military staff Avoid interference with water pans and watering points designated for wildlife.
3	Increased soil erosion	Integrate soil erosion control in the construction work plan plant sediment binding grasses, shrubs and trees on any exposed slopes and other surfaces.
4	Increased poaching for bush meat	Partner with KWS and sensitize construction workers and military staff at the Barracks Partner to enhance wildlife security in the project area of

Item	Environmental Impact	Mitigation Measures
		influence
5	Visual intrusion	Rehabilitate all degraded areas through landscaping and subsequent planting of suitable grasses, shrubs and trees to blend with the environment. Blend the military infrastructure with the environment as much as possible.
6	Increase in Human Wildlife conflicts in	Partner with KWS and develop a wildlife conservation action plan for the project area of influence to mitigate human wildlife conflicts where the camp may divert wildlife closer to communities Redesign fencing of military camp to avoid wildlife crossing areas Manipulate habitat to control wildlife movement in such a way that conflict areas are avoided by creating watering points suitable micro habitats.
7	Cultural dilution	Raise awareness among the local community on potential negative impacts of interacting with the visitors.
8	Cumulative impacts from unplanned community settlements near the barracks	Sensitize the local community and the relevant Government agencies and the county government on the negative impacts of unplanned settlements near the barracks Empower community on grazing management system.
9	Loss of aesthetic value of the landscape	Limit heavy machinery use and instead use of manual clearance as much as possible to allow selective clearance. Use the minimum road width applicable for the sensitive habitat areas Plant grass along the road after construction.

In its technical report and in light of the above, KWS recommended that:

1. KDF will need to minimize land under infrastructure to the extent possible and open green areas maintained for biodiversity and ecosystem services.
2. KWS may enter into lease agreement with KDF for the 2,500 hectares of land for proposed Military Barrack establishment. The area may remain as a National Reserve where the buffer area of the Barrack is managed jointly to minimize potential negative impacts on wildlife and enhance biodiversity conservation within the project area of influence
3. A close working partnership between KDF and KWS is established during construction and operations of the Barrack to ensure most of the wildlife impacts are avoided and or minimized.
4. Joint collaboration conservation programs initiatives that will enhance biodiversity conservation be developed in the project area of influence.
5. Some components of the Military Barracks such as fencing can be redesigned to minimize disruption of wildlife movement and access of important wet season elephant dispersal area.

Environmental and Social Impact Assessment (ESIA) Report

With the above input from KWS, KDF submitted the ESIA report to National Environmental Management Authority (NEMA) for approval. NEMA convened an Inter-Agency site visit on 13th January, 2021 as part of EIA review process after which the report was approved on 1st of February, 2021.

Upon review of the license KWS concurs with the concerns raised by the mother Ministry- Ministry of Tourism and Wildlife (MoTW) that the license did not address the project location as a National Reserve and therefore missed out on important conditions necessary for requisite follow up on the implementation of the mitigation measures recommended in KWS technical report and even the ESIA report.

It is not clear to KWS whether the omission of wildlife concerns on the license conditions was based on a KDF confidential report or deliberate.

This creates a gap for formal engagement on the project and enforcement of mitigation measures between the Ministry of Defense and Ministry of Tourism and Wildlife/KWS.

Due to confidentiality nature of KDF projects, KWS did not address community issues surrounding the proposed Barracks project but left KDF to engage the community directly on the issues.

E. Supplementary information on Karare land petition

In 1948, the Kenya National Parks Trustees, with the approval of the Competent Authority accepted certain specific rights within Marsabit National Reserve as conferred to them by Section 6, 13(2) and 18 of the National Parks Ordinance vide Government Notice No. 936 of 24th September, 1948 and Boundary Plan No. 216/1 covering an area of 10,265 sq. miles (26,597 sq. Km). In 1958, the Trustees of the Royal National Parks of Kenya with the approval of the Minister for Forest Department Development, Game and Fisheries published the Marsabit National Reserve Regulations, 1958 vide Legal Notice No. 170 of 1st April, 1958.

At the end of 1960, the Trustees of the Royal National Parks of Kenya surrendered their control over two sections known as Marsabit Sector and the Ewaso Nyiro Sector. The surrendered area was gazetted vide Legal Notice No. 16th of 1961 and Boundary Plan No.216/13 leaving an area of approximately 1,122 sq.km as shown in Boundary Plan No. 216/49 and in 1962, the Trustees surrendered the Ewaso Nyiro vide Legal Notice No. 366 of 1962. In 1983, under the repealed Wildlife Conservation and Management Act Cap 376, land measuring approx. 524 sq. Km including Marsabit town was excised from the National Reserve vide Gazette Notice No. 3962 of 21st October, 1983 and Boundary Plan No. 216/48 which was later adjusted to 534 sq. Km vide Gazette Notice No. 1982 of 5th April, 1991 and boundaries were depicted by Boundary Plan No. 216/56 to include 9.6 sq. Km of the Karare area and gazetted vide Gazette Notice No. 216/59.

The excised areas currently occupied include Balassa, Jaldessa, Songa, Kituruni, Sagante, Jirime, Hulahula and the Mountain Section.

The proposed location of the Military Barracks falls within the Marsabit National Reserve next to Marsabit National Park. Under the Wildlife Conservation and Management Act No.47 (Sec.37) of 2013 it indicates that any land within the conservation area to be used for any other use should adhere to provisions of the Wildlife Act and National Land Commission Act Article 62(1) of 2012 on Public Land.

F. Responses by the County Government of Marsabit

Vide a letter Ref: SEN/DCS/LENR/2/2021/(14) dated 17th March, 2021, the Committee invited the Governor, Marsabit County Hon. Mohamud M. Ali, for a meeting on Thursday, 25th March, 2021 at 11.00 a.m. on the Zoom online meeting platform in which he attended and informed the Committee as follows:

- Public consultations and hearings were adequately carried out spearheaded by the County Commissioner and KDF, County Government and the Locals were involved. Everyone was in agreement at the time.
- The County Government (CG) did everything possible to ensure everyone was consulted and further various recordings and evidences can be facilitated and sent to the Committee to demonstrate the level of Public Participation that was carried out.
- It is not the CG that selected the area and coordinates for the settlement of KDF in the particular area, various proposals were considered and the final location was decided by KDF and not what the CG had earmarked for them.
- The CG facilitated a meeting between the County Commissioner and the locals so as to ensure adequate public participation. On conclusion of the exercise an all parties were happy and elders gave a node to the takeover, he gave the go ahead.
- All documentation will be availed by 1st April, 2021.
- The leadership of the County was adequately consulted and that the concern by the Petitioners that the MP for Laisamis has a similar Petition in the NA is because he wanted the KDF to be relocated to his constituency and not Saku Constituency.

Responses by the National Land Commission

The National Land Commission submitted as follows:

Background

The Commission wishes to bring to the attention of this esteemed Committee that there is an active Court matter at the Meru Environment and Land Court - Constitutional Petition No 4 of 2020, filed by the Rendille Professionals Association and local elders on behalf of the Community regarding the allocations of the land parcels by the County Government of Marsabit challenging the constitutionality of the process applied by the Department of Defense with regard to their interest in the subject land.

However, the Commission wishes to briefly outline the process the Ministry of Defence followed to acquire the land -

1. The Ministry of Defence made a decision to establish a military barracks in Marsabit for security reasons and on 16th March, 2012 made a formal request to be allocated land in Karare, Marsabit County. On 8th June, 2015, the County Council of Marsabit formally allocated 2,500 hectares in Kubi Kalo. The processing of ownership of the land was overtaken by events following the coming in place of devolved governments in 2013.
2. On 18th June, 2019, Ministry of Defence made a formal request to the County Government for allocation for land in Marsabit.
3. On 22nd July, 2019, the County Government of Marsabit formally allocated land in Karare (5,000 Ha); Haiya (10,000 Ha) and Odda military camp (242 Ha). On 22nd August, 2019 the Department of Defense requested the National Land Commission for allotment letters for the parcels of land. The Commission informed the Department of Defence in a letter dated 4th November, 2019, that it could not issue allotment letters because the land was community land. It turns out that this may not have been the correct position.

4. On January 16th, 2020, MOD & amp; CGM resolved to subject the land allocations to a Public Participation process as advised by the National Land Commission. Subsequently, Public Participation and Validation exercise for the land allocations was conducted from 21st to 31st January, 2020 in Marsabit County. The exercise considered critical factors such as human settlements, grazing areas, water catchment areas and conservation of biodiversity and among others in choosing the ideal location for the KDF Camp.
5. The public participation exercise was carried out successfully by the Joint MOD, KWS, CGM team (Comprising of all stakeholders), County Leadership, MPs, MCAs and members of the local community across the areas expected to host MOD facilities. The local community participated in the exercise and assisted representatives from the MOD to identify the suitable locations.
6. The petitioners are contesting the process followed in the allocation of community land at Karare ward.
7. The coordinates of the 5,000 Ha parcel of land allocated in Karare by the County Government of Marsabit is:-

STN	**Eastings**	**Northings**
A	376583	248844
B	374070	248821
C	370311	251031
D	366218	250703
E	366957	244713
F	373812	244527
G	373800	245810
H	376328	245840

When the above coordinates were plotted on the map it fell within the Marsabit National Reserve.

8. **Conclusion:** The contested parcel of land in question is part of the Marsabit National Reserve sitting next to the Marsabit National Park and not Community Land as alleged by the petitioners.

CHAPTER 5

COMMITTEE OBSERVATIONS

In accordance with the Prayers of the Petitioner the Committee observes as follows:

(a) The Committee visits Karare Community in Marsabit County to establish facts;

Committee's Observation

The Committee observes that, given the timing the Committee received the Petition, conducting of physical site visits was not encouraged owing to the COVID-19 pandemic but will endeavor to visit the Karare Community as and when it becomes possible.

(b) Give an opportunity to the Rendille Professional Association to further present their memorandum orally to the Senate.

Committee's Observation

The Committee observed that that this was made possible by the Committee vide an invitation letter REF: SEN/DCS/LENR/2/2020/(62) dated 21st October, 2020 and consequently a virtual meeting held on Wednesday, 28th October, 2020.

Overall Observations

1. **The Committee observed that the Ministry of Defence and National Land Commission submitted that there was a court case on the same filed by others (not the petitioners). This was not disclosed by the petitioners as required.**
2. **The Committee notes that KDF avers that the land in dispute is part of the Marsabit National Reserve as gazetted in Gazette Notice Number 936 of 1948 vide Kenya Gazette Supplement Number 48 of 1948 and NOT community land as alleged by petitioners that calls for compulsory acquisition. This was confirmed by the National Land Commission and further indicated that the idea of compulsory acquisition could not arise.**
3. **The Committee observes that the petitioners and other parties are actively pursuing this matter in court.**

4. **The Committee, from the information adduced before it by various stakeholders, notes that KDF has extensively engaged the County Government of Marsabit, the Ministry of Tourism and Wildlife through KWS and members of the local community. In fact, it is through the engagements that led to the downsizing of the land allocated to KDF from 5,000 hectares to 2,500 hectares.**
5. **The Committee observes that the planned occupation and the infrastructural development on part of Marsabit National Reserve by KDF will lead to loss of key dry season grazing ground for wild animals.**
6. **The Committee notes that already numerous government infrastructural developments and change of land use has affected wildlife protected areas across the country leading to reduction of wildlife space, blockage of wildlife corridors, decline in number and displacement of wildlife, habitat destruction, increased human-wildlife conflicts and land degradation.**

CHAPTER 6

COMMITTEE RECOMMENDATIONS

In accordance with the Prayers of the Petitioner, the Committee recommends as follows:

The Specific prayer by the Petitioner is that the Committee recommends halting the process of compulsory acquisition of Karare land for the benefit of the Rendille and Samburu communities residing in the area and make appropriate recommendations on the matter.

The Committee therefore recommends as follows:

1. **That, in the interest of conserving and protecting the ecosystem of the parcel of land under question, the Ministry of Tourism and Wildlife OBJECTS to the acquisition of the part of Marsabit National Reserve by KDF to safeguard wildlife protected areas and that the Ministry of Defence halts all activities on the said parcel of land;**

2. **That the County Government of Marsabit allocates an alternative land to KDF and both the County and KDF ensures there is adequate and effective public participation carried out; and**

3. **The Ministry of Defence and the County Government to identify an alternative land for KDF in other areas where the locals are not opposed to KDF presence with proper public participation.**

APPENDICES

ANNEX I: MINUTES OF THE MEETINGS

ANNEX II: SUBMISSIONS BY KEY STAKEHOLDERS

(Attached separately)

MINUTES OF THE 32ND SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 10TH JUNE, 2021 AT SAROVA WHITESANDS HOTEL, MOMBASA AT 9.00 AM.

MEMBERS	PRESENT
1. Sen. Mwangi Paul Githiomi, MP	- **Chairperson**
2. Sen. Philip Mpaayei, MP	- **Vice Chairperson**
3. Sen. Mwaruma Johnes, MP	- Member
4. Sen. Ndwiga Peter Njeru, EGH, MP	- Member
5. Sen. Boy Issa Juma, MP	- Member
	ABSENT WITH APOLOGY
1. Sen. George Khaniri, MGH, MP	- Member
2. Sen. Gideon Moi, CBS, MP	- Member
3. Sen. (Dr.) Lelegwe Ltumbesi, MP	- Member
4. Sen. Sylvia Kasanga, MP	- Member

IN ATTENDANCE	SECRETARIAT
1. Ms. Veronicah Kibati	- Principal Clerk Assistant
2. Mr. Victor Bett	- Clerk Assistant
3. Mr. Crispus Njogu	- Clerk Assistant
4. Mr. Yussuf Shimoy	- Clerk Assistant
5. Ms. Mitchell Otoro	- Legal Counsel
6. Ms. Lucianne Limo	- Media Relations Officer
7. Ms. Sakina Halako	- Personal Secretary
8. Mr. John Pere	- Sergeant-At-Arms
9. Mr. James Kimiti	- Audio Recording
10. Mr. Naftali Ondiba	- Finance Officer
11. Mr. Benard Oteyo	- Office Assistant

MINUTE SEN/SCLENR/180/2021: PRELIMINARIES

The meeting was called to order at 2.30 pm by the Vice Chairperson followed by a word of prayer.

MINUTE SEN/SCLENR/181/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. **Adoption of the following Petition Reports;**
   a) Draft Report of the Committee on the Petition regarding the Unlawful encroachment and forceful occupation of Barwaqo plots within Bulla Mpya

Ward, Mandera East Constituency- Mandera County (Residents of Barwaqo Area)

b) Draft Report of the Committee on the Petition regarding Acquisition of Karare land in Marsabit County, by the Kenya Defence Forces

c) Draft Report of the Committee on the Petition regarding Mwakitau land ownership dispute between Mwakitau Residents and IsangaIwishi Group Ranch (Residents of Taita Taveta County, Mwatate Sub County, Mwakitau Location)

5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLENR/182/2021: <u>CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS</u>

The Committee differed the confirmation of Minutes.

MINUTE SEN/SCLENR/183/2021: <u>ADOPTION OF THE FOLLOWING PETITION REPORTS;</u>

(a) <u>Draft Report of the Committee on the Petition regarding the Unlawful encroachment and forceful occupation of Barwaqo plots within Bulla Mpya Ward, Mandera East Constituency- Mandera County (Residents of Barwaqo Area)</u>

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby **adopted its report** with the following recommendations in accordance with the Prayers of the Petitioner—

Investigates the matter with a view of ensuring that the property rights of the petitioners are upheld and the due process of the law is followed in the event of compulsory acquisition by the Government, the Committee recommends as follows:

Should the National Police Service want to continue with the use of the Camp Sites, the Ministry of Interior and Coordination of National Government should immediately commence compensation of the petitioners in line with the laid down legal processes pertaining to compulsory acquisition of land by a government entity or vacate the land altogether.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Philip Mpaayei, MP respectively.

(b) <u>Draft Report of the Committee on the Petition regarding Acquisition of Karare land in Marsabit County, by the Kenya Defence Forces</u>

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby **adopted its report** with the following recommendations in accordance with the Prayers of the Petitioner—

The Specific prayer by the Petitioner is that the Committee recommends halting the process of compulsory acquisition of Karare land for the benefit of the Rendille and Samburu communities residing in the area and make appropriate recommendations on the matter.

The Committee therefore recommends as follows:

1. **That the Ministry of Tourism and Wildlife objects to the acquisition of the part of Marsabit National Reserve by KDF to safeguard wildlife protected areas and that the Ministry of Defence halts all activities on the said parcel of land.**
2. **That the County Government of Marsabit allocates an alternative land to KDF and both the County and KDF ensure there is adequate and effective public participation carried out.**

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Philip Mpaayei, MP respectively.

(c) <u>Draft Report of the Committee on the Petition regarding Mwakitau land ownership dispute between Mwakitau Residents and IsangaIwishi Group Ranch (Residents of Taita Taveta County, Mwatate Sub County, Mwakitau Location)</u>

The Committee was unable to conclude on the Report after noting that it would be important to invite the Isangaiwishi Group Ranch members to give their side of the matter.

The Committee therefore resolved to have them invited for a meeting on 17th June, 2021 at 11.00 am.

MINUTE SEN/SCLENR/184/2021: ANY OTHER BUSINESS;
There was no other business discussed.

MINUTE SEN/SCLENR/185/2021: DATE OF NEXT MEETING;
The meeting was adjourned at 1.00 pm and the next meeting was to follow in the afternoon.

Signed:..... Date: **23/6 /2021**

SEN. MWANGI PAUL GITHIOMI, MP
<u>CHAIRPERSON</u>
<u>STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES</u>

MINUTES OF THE 6TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 24TH FEBRUARY, 2021 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS	**PRESENT**
1. Sen. Mwangi Paul Githiomi, MP	- **Chairperson**
2. Sen. Philip Mpaayei, MP	- **Vice Chairperson**
3. Sen. Ndwiga Peter Njeru, EGH, MP	- Member
4. Sen. (Dr.) Lelegwe Ltumbesi, MP	- Member
5. Sen. Sylvia Kasanga, MP	- Member
6. Sen. Mwaruma Johnes, MP	- Member
7. Sen. Boy Issa Juma, MP	- Member
	ABSENT WITH APOLOGY
1. Sen. Gideon Moi, CBS, MP	- Member
2. Sen. George Khaniri, MGH, MP	- Member

IN ATTENDANCE

A. SENATORS

1. Sen. Mohamed Faki, MP	- Senator, Mombasa County

B. STAKEHOLDERS

a) NATIONAL LAND COMMISSION (NLC)

1. Mr. Gerishom Otachi	- Chairperson, NLC
2. Prof. James Tuitoek	- Commissioner, NLC
3. Mr. Reginald Okumu	- Commissioner, NLC
4. Ms. Esther Murugi	- Commissioner, NLC

b) MINISTRY OF LANDS AND PHYSICAL PLANNING (MoLPP)

1. Dr. Nicholas Muraguri, CBS	- PS, MoLPP
2. Mr. Chacha Maroa	- Lands Registrar
3. Mr. Kamau Joram	- Lands Administrator
4. Mr. James Kamoni	- Lands Administrator
5. Ms. Rael Chesang	- Lands Administrator
6. Ms. Caroline Menin	- Legal Officer
7. Mr. Sego Manyarkiy	- Land Registrar, Taita Taveta

C. PETITIONERS

1. Mr. Nyange	- Advocate, Msambweni Petitioners
2. Mr. Brian Njumwa	- Petitioner

D. SECRETARIAT

1. Mr. Victor Bett	- Clerk Assistant
2. Ms. Clare Kidombo	- Research Officer
3. Mr. Mitchell Otoro	- Legal Counsel
4. Mr. James Kimiti	- Audio Officer

MINUTE SEN/SCLENR/28/2021: PRELIMINARIES

The meeting was called to order at 11.11 am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLENR/29/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Philip Mpaayei, MP and seconded by Sen. Ndwiga Peter Njeru, EGH, MP as follows –

1. Preliminaries - *Prayer*
2. Confirmation of Minutes of Previous Sittings;
3. Matters Arising;
4. **Meeting with the CS Ministry of Lands and Physical Planning and the Chairperson National Land Commission on Petitions and Statements as follows:**
   i. Petition concerning the alleged exchange and final transfer of Titles for parcels of land known as Lari Nyakinyua Solai Farm(located in Solai, Nakuru County) and Riyobei Farm Limited(located in Gilgil, Nakuru County;
   ii. Petition submitted by the Rendille and Samburu Community Representatives concerning the alleged acquisition of Karare land in Marsabit County, by the Kenya Defence Forces;
   iii. Petition submitted by the Wajomvu Community, Mombasa County, concerning the alleged historical land injustices involving Plot No. 162/V/M.N.CR 1070, in Mombasa County;
   iv. Petition submitted by the Residents of Mkamenyi Village in Voi sub-county of Taita Taveta County, The alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County;
   v. Petition submitted by the Residents of Msambweni Village in Voi sub-county of Taita Taveta County, concerning the alleged impending evictions of Msambweni residents by a private company;
   vi. Statement requested by Sen. Anuar Loitiptip, MP, on 24th September, 2020, regarding the alleged displacement of squatters from Hidabwo area in Lamu County; and
   vii. Statement requested by Sen. Anuar Loitiptip, MP, on 24th September, 2020, regarding the alleged encroachment of Lake Kenyatta riparian land in Lamu County.
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLENR/30/2021: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The confirmation of Minutes was differed to the next housekeeping meeting.

MINUTE SEN/SCLENR/31/2021: MEETING WITH THE CS MINISTRY OF LANDS AND PHYSICAL PLANNING AND THE CHAIRPERSON NATIONAL LAND COMMISSION ON PETITIONS AND STATEMENTS

i. **Petition concerning the alleged exchange and final transfer of Titles for parcels of land known as Lari Nyakinyua Solai Farm(located in Solai, Nakuru County) and Riyobei Farm Limited(located in Gilgil, Nakuru County;**

Response by the Ministry of Lands and Physical Planning

Fredrick Kahia Thugi, Joseph Kamau Ngugi, Veronica Wanjiru Chege, Peter Muchume Gachii and James Ngugi being members of Nyakinyua Solai Farm Limited have presented the petition dated February 2019. The petitioners claim that their group purchased 8000 hectares of land in Solai, Nakuru County in 1980 that is now known as Lari Nyakinyua Solai Farm. A second group by the name Ruyobei Farm Limited also purchased 8000 hectares of land in Gilgil, Nakuru.

The petitioners claim that the two groups entered into a deed of exchange agreement signed on April 24, 2003 in a process spearheaded by the late retired president Daniel arap Moi. A second agreement on the same was signed on the same date before the then Gilgil District officer. According to the petitioners, the parties signed a third agreement on August 11, 2003 to authorize the groups to enter and subdivide their respective new parcels. Despite the agreements signed by the parties, transfer of title over the properties has not been effected to date.

The petitioners state that a meeting between the two groups and the National Land Commission was convened on October 26, 2016 at the Solai Farm. The purpose of the meeting was for the Commission to obtain confirmation of members of Nyakinyua Solai Farm Limited that they had authorised Ruyobei Farm Limited to proceed to subdivide the Lari Nyakinyua Solai Farm. This was confirmed at the meeting paving way for the subdivision. The Commission promised to convene a similar meeting at the Gilgil Ruyobei Farm. The meeting is yet to be set up.

The petitioners claim that their members have been prevented from accessing Ruyobei Farm by illegal occupants who have settled on the land. They claim that efforts to have the matter addressed by the National Land Commission have been futile. They have therefore presented the petition to request Senate to intervene and resolve the matter.

Response

Honourable Chair, I wish to respond as follows-

The subject parcels of land are –

a) Ruyobei Farm (Approximately 8019 Acres)

i) Land Reference No. 20229/1 measuring approximately 8019 Acres is situated in Gilgil, Nakuru County and is registered in the name of Solai Ruyobei Farm Limited. The parcel was until December 8, 1995 owned by Lands Limited who transferred it to Solai Ruyobei Farm Limited for Kshs. 24,000,000. (**Annexure1**)

b) Nyakinyua Farm (Approximately 7978 Acres)

ii) Land Reference No. 8435 measuring approximately 2211 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 2680

and 7364 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000. (**Annexure 2**)

iii) Land Reference No. 2680 measuring approximately 4910 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 8435 and 7364 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000. (**Annexure 3**)

iv) Land Reference No.7364 measuring approximately 857 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 2680 and 8435 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000. (**Annexure 4**)

The parcels have been subject of litigation in various court cases as shown in **Annexure 5**.

We are aware that the National Land Commission has been involved in resolution of the dispute. We therefore invite the Committee to engage the Commission to provide more information on the case.

Response by the National Land Commission

The dispute between the two land buying companies dates back to the mid-seventies when Lari Nyakinyua first bought 8000 acres of land in Solai.

The following is the profile of the two land buying companies:

LARI NYAKINYUA FARMERS COMPANY LTD

This was women land buying company from Lari, Kiambu County popularly known as NYAKINYUA. The company bought 8000 acres of land in (Solai) Rongai Sub – County in the early seventies.

The women group Lari Nyakinyua while organizing to settle their members at the 8000 acre farm, members of the local community moved in and occupied the land forcefully to date denying the buyers an opportunity to settle.

At the advent of multi – politics in Kenya it was agreed by the leaders to compensate the Lari NYAKINYUA women with an alternative parcel equal to their original land but in a different Sub – County, now Gilgil **OLJORAI ADC FARM**.

RUYOBEI FARMERS COMPANY LIMITED

This is a registered land buying company formed by a community from Solai in Rongai Sub – County Nakuru County with the intention to buy land for its members.

A majority of their members moved into the land bought by LARI NYAKINYUA in Solai in 1992 when a decision was made to compensate members of LARI NYAKINYUA,following a series of meetings held by leaders from Nakuru and Lari, Kiambu.This led to the signing of the titles exchange agreement between the two land buying companies to bring to an end several years of long standing conflict between the two.

AGREEMENT

On 24th April 2003, the directors of the two companies signed an agreement to exchange Title deeds to end the many years of conflict. This was not possible due to internal conflicts between the directors of the two land buying companies among themselves fighting for leadership and other interests.Lari Nyakinyua Land buying company had two factions and Solai Ruyobei too had the same and both dispute ended in court.

The directors who signed were;

Lari nyakinyua

a. John Nganga
b. Samuel Macharia
c. Hannah Muturi

Ruyobei

a. Morogo Chebet
b. Olari Chebet
c. Richard Bunditich
d. Musa Toroitich
e. Daniel ario

The Governor Nakuru County in a letter REF: NO. NCG/S/LND/VOL. II/09 dated 25th November, 2014 requested National Land Commission to expedite the matter of the two farms since it was becoming a security threat. On 9th December 2014, National Land Commission wrote a letter to the Governor from the perspective of the Commission, the exchange never materialized at that time due to the following reasons;

- Lari Nyakinyua still holds the title for Solai Farm which was invaded by Ruyobei members.
- Ruyobei Farmers Limited still holds a Title for Oljorai and are in court with Oljorai squatters and a faction of directors.
- Oljorai farm is in court being sued by Solai farmers Co. LTD.

Subsequently, the High Court in Nakuru ELC COURT Civil Case No. 87 of 2007, whose parties are **Nduguia Ole Osano** Vs two others (a) **Lands Limited** (b) **Solai Ruyobei Farm Limited** ruled in favor of SOLAI RUYOBEI FARMERS CO. LTD towards the end of 2019.

The 8000 acres of OLJORAI FARM is currently occupied by over 10,000 squatters for close to 30 years now. This is the same farm the High court ruled in favor of SOLAI RUYOBEI FARMERS CO. LTD which was supposed to be exchanged to LARI NYAKINYUA.

In early 2020 the parties reported back to the Commission that following the Court decision, they were willing to proceed with the exchange with the assistance of the provincial administration. They were to report back on the progress and the Commission awaits the report.

ii. **Petition submitted by the Rendille and Samburu Community Representatives concerning the alleged acquisition of Karare land in Marsabit County, by the Kenya Defence Forces;**

Response by the Ministry of Lands and Physical Planning

The petition dated April 29, 2020 concerning acquisition of Karare land by the Kenya Defence Forces has been presented by the Rendille Professional Association on behalf of residents of Rendille and Samburu communities residing in Kaware Ward, Marsabit County. The petitioners claim that the Rendille and Samburu communities in Marsabit County object to the compulsory acquisition of 2,500 acres of land in Kaware by the Kenya Defence Forces (KDF). They claim that the KDF expressed interest on the land in 2019. The petitioners' objection to the compulsory acquisition is based on the following-

i) The land is the communities' only fertile land and the only viable grazing area
ii) Karare ward being a water catchment area for the pastoral communities of Karare, Songa, Loglogo, Kamboye, Laisamis, Kargi and Korre communities plays a central role in the viability of pastoralism. A total of 98, 000 people and approximately 450,000 livestock depend on the ecosystem for their livelihoods
iii) The land is a sacred place for most cultural and religious ceremonies such as circumcision
iv) It is a major and only source of red ochre nalkaria hills which is sacred to the community
v) The land is a pathway for collection of Silaley gum used in circumcision and religious ceremonies
vi) It is also a source of Ibaa/sticks for use in Rendille/Samburu circumcision ceremonies
vii) It is a source of sagaram to feed livestock in a highly pastoral community
viii) The excision of the 2,500 acres of land some of which is protected forests and which is the only dependable dry season grazing area will lead to overuse of rangelands, environmental degradation, human-wildlife conflict and human- human conflict.

The petitioners claim that several meetings have been held between the communities' elders, County Commissioner and the KDF in which the communities proposed alternative land in Kubi Kalo for acquisition but the same was declined by the KDF. They are aggrieved that the process of compulsory acquisition is ongoing despite their protests.

The communities are apprehensive that that they could lose their land and their rights under the Constitution due to their minority status and weak representation in government. They aver that they have already lost 150,000 acres to the Lake Turkana Wind Power project, which was also compulsorily acquired despite their objection.

The petitioners therefore filed the petition to request the Senate to-

a) visit Karare community of Marsabit County to establish the facts of the case as soon as possible

b) make appropriate recommendations to the Cabinet Secretary Ministry of Interior and Co-ordination of National Government based on the findings
c) give opportunity for the petitioners to further present the memorandum orally to the Senate

Response

Honourable Chair, I wish to respond as follows-

The KDF Strategic Defence Plan of 2018-2027 projected the expansion of the Kenya Army and redeployment of Formations to various parts of the Country with a sizeable force earmarked for deployment in Marsabit County. In pursuance to that strategic defence plan, the Ministry of Defence started the process of acquisition of land in Marsabit County with an intention to have military footprint in the northern region to deter/prevent constant incursion by the Ethiopian National Defence Forces and also support the Strategic Defence Plan in order to facilitate KDF achieve its mandate as provided for in Article 241(3) of the Constitution of Kenya.

In early 2012, the Ministry of Defence began formal engagements with the County Council of Marsabit for allocation of land in the County. This resulted in the allocation of 2,500 hectares of land in Kubi Kalo to Ministry of Defence on January 8, 2013. However, with the establishment of the County Government of Marsabit under the new constitutional dispensation, the allocation was rescinded and the Ministry of Defence was advised to restart the process of acquisition.

On January 10, 2019, the process was re- started with consultative meetings between Ministry of Defence and County Government of Marsabit led by the Chairman, Committee on Military Land & H.E Governor of Marsabit with all elected leaders including MPs, MCAs and CECMS. The leaders from Marsabit County agreed to allocate 5,000 hectares in Karare for the construction of Ministry of Defence camp and 10,000 hectares in Haiya for training.

The meeting further directed that a joint technical committee be formed to identify the suitable locations for deployment and training area. The joint technical committee met and worked as per the mandate given during the meeting. A detailed joint reconnaissance conducted between January 2-4, 2019 and May 29 to June 1, 2019 identified the actual locations. Following the engagements, the Ministry of Defence was formally allocated 5,000 hectares & 10,000 hectares of land in Karare and Haiya areas of the County respectively.

On January 16, 2020, the Ministry of Defence and County Government of Marsabit resolved to subject the land allocations to a public participation process as advised by the National Land Commission. Subsequently, the public participation and validation exercise for the land allocations was conducted from January 21-31, 2020 in Marsabit County. The exercise considered critical factors such as human settlements, grazing areas, water catchment areas and conservation of biodiversity and among others in choosing the ideal location for the KDF Camp.

The public participation exercise was carried out successfully by the Joint team comprising Ministry of Defence, Kenya Wildlife Service, County Government of Marsabit, county leadership including Members of Parliament, Members of the County Assembly and members of the local community across the areas expected to host the Ministry of Defence facilities. The local community participated in the exercise and assisted representatives from the Ministry of Defence to identify the suitable locations.

During the process of public participation the locals requested the allocation of Karare land to Ministry of Defence be reviewed downwards from 5,000 hectares to 2,500 hectares. The land is currently in the process of being planned, surveyed and titled in favor of Ministry of Defence. The Ministry is already in occupation of the two parcels of land allocated to them by the County Government of Marsabit.
There is a Court case filed by the Rendille Professionals Association and local elders on behalf of the Community regarding the allocations of the land parcels by the County Government of Marsabit.
Honourable Chair,
We invite the Committee to engage Ministry of Defence and the County Government of Marsabit for more information on the matter.

Response by the National Land Commission

The National Land Commission submitted as follows:

Background
The Commission wishes to bring to the attention of this esteemed Committee that there is an active Court matter at the Meru Environment and Land Court - Constitutional Petition No 4 of 2020, filed **by the Rendille Professionals Association and local elders on behalf of the Community regarding the allocations of the land parcels by the County Government of Marsabit** challenging the constitutionality of the process applied by the Department of Defense with regard to their interest in the subject land.

However the Commission wishes to briefly outline process the Ministry of Defence followed to acquire the land

1. The Ministry of Defence made a decision to establish a military barracks in Marsabit for security reasons and on 16th March 2012 made a formal request to be allocated land in Karare, Marsabit County. On 8th June 2015, the County Council of Marsabit formally allocated 2,500 Ha in Kubi Kalo. The processing of ownership of the land was overtaken by events following the coming in place of devolved governments in 2013.
2. On 18th June 2019, Ministry of Defence made a formal request to the County Government for allocation for land in Marsabit.
3. On 22nd July 2019, the County Government of Marsabit formally allocated land in Karare (5,000 Ha); Haiya (10,000 Ha) and Odda military camp (242 Ha). On 22nd August 2019 the department of defense requested the National Land Commission for allotment letters for the parcels of land. The Commission informed Department of Defence in a letter dated 4th November 2019, that it could not issue allotment letters because the land was community land. **It turns out that this may not have been the correct position.**

On January 16 th. , 2020, MOD & CGM resolved to subject the land allocations to a Public Participation process as advised by the National Land Commission. Subsequently Public Participation and Validation exercise for the land allocations was conducted from 21 to31 January 2020 in Marsabit County. The exercise considered critical factors such as human settlements, grazing areas, water catchment areas and

conservation of biodiversity and among others in choosing the ideal location for the KDF Camp.

The Public Participation exercise was carried out successfully by the Joint MOD,KWS,CGM team(Comprising of all stakeholders),County Leadership,MPs, MCAs and members of the local community across the areas expected to host MOD facilities. The local community participated in the exercise and assisted representatives from the MOD to identify the suitable locations.

The petitioners are contesting the process followed in the allocation of Community Land at Karare ward.

The coordinates of the 5,000 Ha parcel of land allocated in Karare by the County Government of Marsabit is:-

STN	Eastings	Northings
A	376583	248844
B	374070	248821
C	370311	251031
D	366218	250703
E	366957	244713
F	373812	244527
G	373800	245810
H	376328	245840

When the above coordinates were plotted on the map it fell within the Marsabit National Reserve (Annex 1).

Conclusion

The contested parcel of land in question is part of the Marsabit National Reserve sitting next to the Marsabit National Park and not Community Land as alleged by the petitioners.

iii. **Petition submitted by the Wajomvu Community, Mombasa County, concerning the alleged historical land injustices involving Plot No. 162/V/M.N.CR 1070, in Mombasa County;**

Response by the Ministry of Lands and Physical Planning

Honourable Chair,

Salim Mwidadi, Mohamed Kombo, Kassim Mwikaa and Mwinyiusi Mwidadi petitioned the Senate on behalf of Wajomvu Community from Jomvu Kuu Village, Jomvu Kuu Ward in Jomvu Sub County presented the petition dated July 2, 2020 regarding ownership of Plot No. 162/V/M.N. CR. 1070 situated in Jomvu Kuu.

The petitioners claim that they are among the 12 Swahili tribes to settle in Mombasa approximately 800 years ago. They claim that on or about 1846, Dr. Kraph arrived on the East African Coast and settled in Rabai. That in 1877 through the benevolence of a jomvu elder by the name Mwidani, Dr. Kraph was given land to establish a church in the predominantly muslim community. According to the petitioners, the community donated a small area where the Methodist church was built. However, when land adjudication was undertaken in 1923, the church was allocated 150 acres of their land.

The petitioners claim that the community has occupied the land as their ancestral land over the years and has been utilising the same for farming, fishing and residential purposes. They complain that the Methodist church embarked on a subdivision and sale of the land to third parties. They are apprehensive that they will be displaced and have no alternative land. According to the petitioners, their case is an historical injustice that the colonial government committed on the community. They submitted a memorandum to the National Land Commission on the issue three (3) years ago but there has been no response from the Commission. The petitioners therefore request the Senate to intervene with a view to undertake an inquiry into the historical injustice claim.

Response

Honourable Chair, I wish to respond as follows-

According to records held by the Ministry, Plot No.162/V/M. N. CR 1070 was registered on October 27, 1923 in the name of the United Methodist Church Mission. The certificate of ownership No. 7540 was registered under title No. CR.6348 for the area measuring 151 acres. The registered proprietor later changed their name to Methodist Church Missions Kenya trustees registered in 1958 and later to Methodist Church in Kenya Trustees Registered.

On June 14, 1973, the Methodist Church in Kenya Trustees Registered transferred a portion of land to Municipal Council of Mombasa. The said subdivision MN/V/505 measuring 15.28 acres was registered on July 11, 1973 and assigned title No. CR 14323. The remainder thereof measuring 135.72 acres is held by the Methodist Church in Kenya Trustees Registered. A copy of the official search is marked **Annexure 6.**

Honourable Chair, the case presented by the petition is an historical injustice claim The National Land Commission is seized of the matter recorded as Historical Case No. NLC/HLI/565/2019. We invite the Committee to engage the Commission for appropriate redress.

Response by the National Land Commission

Hon Chair,The Commission respond as follows:

This matter is listed as a historical no.NLC/HLI/565/2019 that has been prioritized for investigations, hearing and determination.

The Chairman of NLC together with the County Co-ordinator joined the Senate team on Friday 19th February 24, 2021 on a visit to the ground and obtained first – hand information on the matter.

(The Committee noted the response but resolved that the matter be canvassed when the Petitioners are present)

iv. **Petition submitted by the Residents of Mkamenyi Village in Voi sub-county of Taita Taveta County, The alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County;**

Response by the Ministry of Lands and Physical Planning

Honourable Chair,

The petition is dated August 7, 2020 and has been presented by Joseph M. Njuguna, Francis Mwasho, Juma Mwamburi, Saumu K. Mwamburi, Hassan Kiboko, Glady Juma and Julius Mwasenzi on behalf of residents of Mkamenyi village, Voi sub-county in Taita Taveta County.

From the petition, Mkamenyi village borders Voi Sisal Estate, which was initially *'gifted'* to a retired British soldier by the name Lezen in 1920 by the colonial government, for a period of 99 years. The petition states that the land was surrendered to the government in 1980 and was reallocated to Voi Sisal Estate Limited in 2012. It was transferred to Voi Point Limited in 2019.

The petitioners claim that between 1900 and 1930, the management of the sisal estate requested Mkamenyi elders to allow them to use part of their land located close to the river to install a water pump, farm food for their farmworkers and conduct agricultural research. By 1960s, the residents needed their land back to accommodate the growing population. However, according to the petitioners, the sisal estate refused to hand over the land and instead colluded with the police to extend the boundaries into the residents' homes and put the land under sisal plantation.

The petitioners state that they have engaged this Committee together with the Ministry of Lands and Physical Planning and the county leadership with a view to get back the land. On October 29, 2019, the management of Voi Point Limited invited their representatives to a meeting where they were informed that the company would surrender 35 acres to settle their 28 families. The proposal was however not amenable to the residents since they occupied 150 acres.

The residents are aggrieved that Voi Point Limited proceeded to survey the land without their involvement or the county government and processed a group title for the residents. The company invited the residents to a meeting on August 26, 2020 to issue the title document but they declined. It is claimed that the group title had names of persons who do not live in Mkamenyi. That, only six families residents of Mkamenyi are listed on the title. The petitioners state that efforts to resolve the issues with relevant authorities have been futile. They therefore request the Senate to-

i) investigate the case
ii) recommend that the Ministry of Lands and Physical Planning initiate an all inclusive, open and transparent process of giving the residents of Mkamenyi adequate land.

Response

Honourable Chair, I wish to respond as follows-

According to our records, the land in question measures approximately 1953 hectares and is situated within Voi town in Taita Taveta County. A chronology of ownership of the parcel is as follows-

i. The subject land was originally LR No. 4637 registered as Grant No. C.R. 8814. It was granted to the British East Africa Corporation Limited in 1923 for a term of 99 years from January 1, 1923 to January 1, 2022. The grant was initially issued for agricultural purpose only but the user was later extended to include a petroleum service station.
ii. The Grant was transferred to Voi Sisal Estates Limited on August 6, 1947 and on March 25, 2011 it was surrendered to the Government to pave way for its extension of the term. (A copy of the surrendered Grant C.R. 8814 is annexed herewith marked **Annexure 7**).

iii. The Grant was extended for a further term of 99 years commencing January 1, 1993 at an annual rent of Kshs.353.795 (revisable). The parcel was registered as Grant No. C.R. 51725, LR No. 28683 measuring approximately 1953 Hectares. The land was granted to be utilized for agricultural purposes and residence for the grantee. (A copy of the Grant No. C.R. 51725 is annexed marked **Annexure 8**).

iv. On February 23, 2012 the land was transferred to Voi Plantations Limited for USD.1,855,670 and charged to Diamond Trust Bank of Kenya Limited for Kshs.300,000,000 and USD.5,000,000. On December 29, 2017 a further charge to Diamond Trust Bank of Kenya Limited for Kshs.150,000,000 was registered.

v. On December 29, 2017 a second further charge for Kshs.1,079,737,000 and a third further charge for Kshs.1,189,511,500 was registered in favour of Diamond Trust Bank of Kenya Limited. A fourth further charge for Kshs.4,218,875,000 was registered on December 29, 2017.

vi. On October 1, 2014 the National Land Commission awarded Voi Plantations Limited Kshs.359,531,100 in respect of the land acquired for the development of the Mombasa-Nairobi Standard Gauge Railway. The area of land acquired measured approximately 14.9621 Hectares. (A copy of the Award is marked **Annexure 9**).

vii. On February 13, 2019, all the charges were discharged and the land transferred to Voi Point Limited for Kshs.4,000,000,000. A charge to Diamond Trust Bank of Kenya Limited for Kshs.4,000,000,000 and a further charge to the same bank for Kshs.800,000,000 were registered on the same date. A copy of the official search is marked **Annexure 10**.

Honourable Chair,

viii. On February 6, 2020, the County Government of Taita Taveta approved the subdivision of the land into 28 portions of various sizes for agricultural use. A copy of the notification of approval (**Annexure 11**) and certificate of subdivision (**Annexure 12**) are annexed herewith. The subdivision was approved on the condition that the company was to surrender Plot No. 25 (L.R. No. 28683/27) measuring approximately 13.68 Hectares for Mkamenyi Squatter Settlement as per the copy of the provisional approval marked **Annexure 13**. Voi Point Limited accepted the conditions of the provisional approval as shown in the copy of the acceptance letter marked **Annexure 14**.

ix. On February 27, 2020 new Certificates of Title were issued for L.R. Nos. 28683/4 to 28683/31 the resultant subdivisions of L.R. No. 28683.

x. The Charge in favour of Diamond Trust Bank of Kenya Limited was registered against all the resultant subplots of L.R. No. 28683 apart from L.R. No. 28683/27 that the bank issued a discharge.

xi. On June 25, 2020, the County Government of Taita Taveta approved the subdivision and change of user of L.R. No. 28683/9 into 52 subplots (A copy of the notification of approval (**Annexure 15**). The subdivision was conditional upon surrender of 10% of the total acreage for public utility and use. The

subdivision was also approved by the Voi Land Control Board as shown in **Annexure 16**.

Honourable Chair,
L.R. No. 28683/27 measuring approximately 35 acres is the portion that Voi Point Limited reserved for the settlement of the squatters. According to our records the plot is still r
egistered under Voi Point Limited. Given that this land is private land, we advise that the squatters to engage Voi Point Limited on their grievances

Response by the National Land Commission

The above mentioned parcel measuring approximately 1953 hectares is situated within Voi town in the county of TAITA TAVETA. This parcel was allocate to VOI SISAL ESTATES through a grant No C.R 51725 registered at the Mombasa land registry. For a term of 99 years, effective 1.1.1993. This allocation was as a result of surrender registered in the Governments Land Titles Registry at Mombasa as C.R No. 8814/37.
The land mentioned above is Land registered under **(CAP 281) Registration of Titles Act (repealed)**. And is therefore under the custody of **Mombasa Lands Registry**. The parcel was later transferred to VOI PLANTATIONS LIMITED, who charged the parcel to Diamond Trust Bank Kenya Limited For KSH. 3,000,000,000/= and USA $ 5,000,000/=. Voi sisal estate later transferred the above parcel to Voi point limited at a consideration of Kenya shillings 1,002,0000,000/= (one billion and two million shillings)., and charged to DIAMOND TRUST BANK KENYA LIMITED for Ksh. 4,800,000,000/=
The county Government of Taita Taveta, has objected to the Transfer and Subdivision of the parcel, on allegations that they are aware that the lease earlier granted had expired, and that certain individuals had managed to renew the lease without seeking their approval. Allegations which have since been proved as untrue by the Land Registrar Mombasa.
Voi point limited has subdivided part of the parcel into various portions, **LR NO. 28683/27** measuring approximately 20.23 Hectares which was transferred to Mkamenyi society of Voi point with the intention to settle squatters residing within the parcel in an area known as Mkamenyi. All the above mentioned transactions were lodged at the Mombasa Land Registry.
It seems Mkamenyi squatters are claiming a larger share of land (i.e 35 acres given against 150 acres claimed) hence the dispute.
The company engaged the services of a private surveyor since this is a private matter .
The Commission's mandate in this matter is limited as the property in issue is private land. The Commission is , however, ready to assist or lead in an ADR mechanism that may be considered with a view to resolving the dispute.

v. **Petition submitted by the Residents of Msambweni Village in Voi sub-county of Taita Taveta County, concerning the alleged impending evictions of Msambweni residents by a private company;**

Response by the Ministry of Lands and Physical Planning

Honourable Chair,
The petition dated September 10, 2020 was presented by residents of Msambweni village, Voi sub-county in Taita Taveta County. They claim to be living in fear of eviction by a private developer (Sparkle Properties Limited) from a parcel of land registered as No.1956/506, C.R No. 23979 measuring 54.26 hectares where they claim to have resided since1938.
According to the petitioners, their elders accepted a request by Bata Shoe Company to put up a factory on the subject land in 1978 on the premise that the factory would create employment for the community. A 99-year lease running from January 1, 1979 was granted on conditions, inter alia, that the land was to be used for a factory and that the company would not subdivide, sell, transfer or sublet the land.
Bata Shoe Company did not develop the land as agreed and in 2013 transferred the land to Sparkle Properties Limited for construction of a shopping mall in disregard of the conditions of the lease. The petitioners claim to have resisted the development, which prompted Sparkle Properties Limited to file a case court (ELC No. 265 of 2013) seeking to evict them. The court rendered its judgement on the case on February 24, 2020 allowing the eviction order sought by Sparkle Properties Limited. The court also ordered the residents of Msambweni to pay damages for trespass amounting to Kshs.1,050,000.
The petitioners are apprehensive that 3,500 people will be rendered homeless if the court orders are executed. They claim that efforts to resolve the matter with relevant authorities have not been successful and have thus engaged the Senate to intervene.
Response
Honourable Chair, I wish to respond as follows-
The subject parcel of land is situated within Voi Township and borders Ndara A adjudication section and Kaloleni Majengo Squatter Upgrading Scheme. The parcel is registered at the Mombasa Land Registry under the Registered Titles Act, Cap. 281 *(repealed)* as L.R No. 1956/506 C.R. No 23979 on Survey plan No. 107124 measuring approximately 54.26 hectares.

This parcel was allocated to Bata Shoe Company Limited who intended to establish a shoe factory on the land, and was issued with title deed on April 30, 1993. Bata Shoe Company later sold the parcel to Sparkle Properties Limited at a consideration of Kshs.12,000,000. The transfer was lodged on March 21, 2011 and a new title issued to sparkle properties limited as the proprietor (**Annexure 17**).
The proprietor upon receiving title to the land discovered that squatters had moved in and constructed residential houses, they also prevented the owner from taking possession or accessing the property. This prompted the company to move to the Environment and Land Court at Mombasa, Civil Case No.265 of 2013 (Sparkle properties Limited -vs- Johana Ngai & 8 Others)
On January 27, 2020 the court rendered Judgment on the case as follows-

a) Permanent injunction restraining the defendants whether acting by themselves; their employees, agents and/or servants and/or through any other manner whatsoever interfering with the suit property to unit L.R 1956/506.
b) Mandatory injunction compelling the defendants to demolish and or pull down structures erected on the suit property and to give vacant possession to the plaintiff.

c) That there be a permanent injunction restraining the defendants and/or their agents to allow them to occupy or construct the unoccupied space and proceed with construction forthwith
d) General damages for trespass awarded at Ksh.150,000 payable by each defendant to the plaintiff giving a total sum of Kshs.1,050,000 with interest from the date of filing suit until payment is made in full.
e) Costs of the suit awarded to the plaintiff.

The issues raised in the instant petition were adequately canvassed in the suit. **(Annexure 18)**

Response by the National Land Commission

Hon Chair,The Commission wishes to respond as follows:

The disputed parcel is situated within Voi Township and borders Ndara A Adjudication Section and Kaloleni Majengo Squatter Upgrading Scheme. The parcel is registered at the Mombasa Land Registry Under Cap 281(Registered Titles Act) now repealed as L.R No. 1956/506 C.R. No 23979 on Survey plan No. 107124 measuring approximately 54.26 Ha.

This parcel was allocated to BATA SHOE COMPANY LIMITED who intended to construct a shoe factory, and was issued with title deed on 30th April 1993. BATA SHOE COMPANY later sold the parcel to SPARKLE PROPERTIES LIMITED at a consideration of Kshs.12,000,000. The transfer was lodged on 21st March 2011 and a new title issued to sparkle properties limited as the proprietor.

The proprietor upon receiving title to the land discovered that squatters had moved in and constructed residential houses, they also prevented the owner from taking possession or accessing the property. This prompted her to move to the Environment and Land Court at Mombasa through Civil Case No.265 of 2013.

Sparkle properties Limited
VS
1. Johana Ngai
2. Fatuma Mwamburi
3. Suleiman Kiboi Mwanyambo
4. Hamisi Kalela
5. Alois Mwambi
6. Asha Mwake
7. Fatuma Kodi
8. Bata Shoe Co.Limited
9. The Attorney General

On 27th January, 2020 the Hon Judge A.Omollo delivered his ruling by entering Judgment for the plaintiff against the 1-7th defendants jointly and severally for:
a) Permanent injunction restraining the defendants whether acting by themselves; their employees, agents and/or servants and/or through any other manner whatsoever interfering with the suit property to unit L.R 1956/506.

b) Mandatory injunction compelling the defendants to demolish and or pull down structures erected on the suit property and to give vacant possession to the plaintiff.
c) That there be a permanent injunction restraining the defendants and/or their agents to allow them to occupy or construct the unoccupied space and proceed with construction forthwith.
d) General damages for trespass awarded at Ksh.150,000 payable by each defendant to the plaintiff giving a total sum of Kshs 1,050,000 with interest from the date of filing suit until payment is made in full.
e) Costs of the suit awarded to the plaintiff.

OPINION

It is the opinion of the Commission that, the issues raised by the petitioners are matters which were fully ventilated Civil Case No.265 of 2013.

The possible action the residents can take is to file an appeal against the judgment and seek further redress on the matter.

Any possible redress must be considered against the Court Decision.

vi. <u>Statement requested by Sen. Anuar Loitiptip, MP, on 24th September, 2020, regarding the alleged displacement of squatters from Hidabwo area in Lamu County; and</u>

<u>Response by the Ministry of Lands and Physical Planning</u>

Honourable Chair, I wish to respond as follows-

The Hon. Sen. Anwar Loitiptip, MP has requested the Cabinet Secretary to-

i. Explain the circumstances surrounding the ownership of the parcel of land in Hidabu Area, Lamu County, and state the genuine owners of the said parcel of land
ii. State who is behind the demarcation of the said piece of land and evicting persons who have occupied and settled on the said piece of land since 1998
iii. State whether Lamu County Government authorized the allegedly illegal demarcation of the piece of land
iv. Explain measures the Ministry of Lands and the National Land Commission have put in place to protect persons who have enjoyed quiet possession of the said piece of land for a period exceeding 12 years and ensure they are not going to be rendered squatters by rogue land grabbers allowed to own the land through adverse possession.

Response

Honourable Chair, I wish to respond as follows-

In response to questions (i), (ii), (iii) and (iv), I wish to respond as follows:

Hidabu area is an informal squatter settlement within Lamu Island specifically within registration section Lamu/Block II. The area comprises of several Government reserved land and registered private land parcels. Some of the squatters in the settlement have permanent buildings and others semi-permanent structures built over

time. The attached plan marked **annexure 19** give an impression of the status and layout of the area.

The County Government of Lamu engaged a private survey firm, Spatial Milestone (K) Ltd, to survey the squatted area The project is ongoing and at planning stage, so far capturing over 300 squatters.

Ownership

	Plot No.	Size (Ha)	Ownership	Ground Occupant
1	Lamu/Block II/126	2.97	Government of Kenya (**Annexure 20**)	• County Commissioner's residence • LAWASCO, KPLC sub-station, KBC mast, Radio Rahma mast. • Lower part settled by over 30 squatters.
2	Lamu/Block II/127	4.86	Government of Kenya (**Annexure 21**)	• Public Works and Housing offices • Probation office • Churches (5 No) • Lower part settled by over 120 squatters
3	Lamu/Block II/128	5.06	Government of Kenya (**Annexure 22**)	• King Fahad Hospital (Public). • Lower part has over 60 squatters.
4	Lamu/Block II/129	6.14	Government of Kenya (**Annexure 23**)	• King Fahad Hospital; Mosque (1 No) • Lower part settled by 50 families (squatters)
5	Lamu/Block II/345 Lamu Block II/348 Lamu/Block II/350	0.10 0.10 0.10	Miliki Ltd (**Annexure 24**)	Have on-going investigation by DCI Lamu between the owner and squatters. • Parcel 345 has a well dug by area MCA. • Plot 348 has 2 permanent houses by squatters, while 350 has some recently erected posts.

The government agencies such as the hospital, housing and Interior occupying the reserved plots assert that they require the land for future public purposes.

Response by the National Land Commission

The area in question is the riparian land along Lake Kenyatta within Lake Kenyatta I Settlement Scheme established in1974. Lake Kenyatta Beach Management Unit (LKBMU) was registered in 2008 to manage fishing operations in the area and has been operating since then. The lake is a vital source of water and fish, biodiversity habitat and eco-tourism attraction. The fisheries department was one of the functions

whose governance was devolved from the National government and placed to the county government by the Constitution, 2010. LKBMU is therefore currently under the County Government of Lamu.

There have been disputes between the LKBMU and the local community regarding encroachment of the riparian land falling in the zone covering Plots Nos.1609, 1610, 2570, 2568, 5722 and the high-water mark. The zone in contention is swampy and partly covered with thick natural vegetation.

The dispute is mainly attributed to the fact that the entire external boundary of the riparian is not physically marked nor surveyed. The Lake Kenyatta catchment area is not registered or gazetted.

Honourable Chair, we propose-

i. Mapping out the catchment/lake boundaries by the relevant ministries
ii. Gazettement of this ecologically sensitive area
iii. Multi sectoral Protection and management of the catchment area by the relevant MDAs and County government of Lamu

vii. <u>Statement requested by Sen. Anuar Loitiptip, MP, on 24th September, 2020, regarding the alleged encroachment of Lake Kenyatta riparian land in Lamu County.</u>

<u>Response by the Ministry of Lands and Physical Planning</u>

Honourable Chair,

The Hon. Sen. Anwar Loitiptip, MP has requested the Cabinet Secretary to-

i) State whether Lamu County followed due process in licensing Lake Kenyatta Beach Management Unit which has been given the responsibility of managing areas of the beach reserved for hippopotamus to graze as well as recreational areas for fishermen and public
ii) Explain whether Lamu County authorized demarcation of the aid area and subsequently allocated the beach area to Lake Kenyatta Beach Management Unit
iii) State whether the title deeds for the land in question which are in the hands of Lake Kenyatta Beach Management Unit are genuine, and if so, did NLC conduct due diligence before issuance of the same
iv) Explain what measures the Ministry of Lands is putting in place to ensure that areas around water bodies used as grazing area for wildlife are protected

Honourable Chair, I wish to respond as follows:

A response to the Statement requested by the Hon. Senator was forwarded vide a report dated January 5, 2021. A copy of the report is marked **Annexure 25.**

Honourable Chair, I submit.

Response by the National Land Commission

Hidabu is an informal squatter settlement within Lamu Island specifically within registration section Lamu/Block II. The area comprises of several government reserved land and registered private parcels.
The County government of Lamu engaged a private survey firm, Spatial Milestone (K) Ltd, to survey the squatted area. The project is ongoing and at planning stage, so far capturing over 300 squatters. Some of the squatters in the settlement have permanent buildings and others semi-permanent structures built over diverse dates.
The table below, give an impression of the current status of the affected plots.

	Plot No.	**Size (Ha)**	**Ownership**	**Ground Occupant**
1	Lamu/Block II/126	2.97	Government of Kenya	• County Commissioner's residence • LAWASCO, KPLC sub-station, KBC mast, Radio Rahma mast. • Lower part settled by over 30 squatters.
2	Lamu/Block II/127	4.86	Government of Kenya	• Public Works and Housing offices • Probation office • Churches (5 No) • Lower part settled by over 120 squatters
3	Lamu/Block II/128	5.06	Government of Kenya	• King Fa had Hospital (Public). • Lower part has over 60 squatters.
4	Lamu/Block II/129	6.14	Government of Kenya	• King Fa had Hospital; Mosque (1 No) • Lower part settled by 50 families(squatters)
5	Lamu/Block II/345 Lamu Block II/348 Lamu/Block II/350	0.10 0.10 0.10	Kilim Ltd	Have on-going investigation by DCI Lamu between the owner and squatters. • Parcel 345 has a well dug by area MCA. • Plot 348 has 2 permanent houses by squatters, while 350 has some recently erected posts.

The government agencies such as the hospital, housing and Interior occupying the reserved plots assert that they require the land for future public purposes.

Proposal

i. Stakeholder consultative meeting involving area leadership, county government and relevant national government departments to review and provide solution.
ii. Those on private land to negotiate with the land owners.

Honourable Chair; the above are the answers to the various issues raised, which we respectfully submit.

MINUTE SEN/SCLENR/32/2021: ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/SCLENR/33/2021: DATE OF NEXT MEETING

The meeting was adjourned at 1.11 pm and the date of the next meeting was to be called on notice.

Signed:..... Date: **31/3/2021**

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

MINUTES OF THE 13TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 25TH MARCH, 2021 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS	**PRESENT**
1. Sen. Mwangi Paul Githiomi, MP	- **Chairperson**
2. Sen. George Khaniri, MGH, MP	- Member
3. Sen. Ndwiga Peter Njeru, EGH, MP	- Member
4. Sen. Boy Issa Juma, MP	- Member
5. Sen. Mwaruma Johnes, MP	- Member

	ABSENT WITH APOLOGY
1. Sen. Philip Mpaayei, MP	- **Vice Chairperson**
2. Sen. Gideon Moi, CBS, MP	- Member
3. Sen. Sylvia Kasanga, MP	- Member
4. Sen. (Dr.) Lelegwe Ltumbesi, MP	- Member

IN ATTENDANCE

A. COUNTY GOVERNMENT OF MARSABIT

1. Gov. Mohamud M. Ali - Governor, Marsabit County

B. PETITIONERS

1. Mr. Sunya Ore - Chair, Rendille and Samburu Community Representatives
2. Mr. Stephen Gambare - Rendille and Samburu Community Representatives
3. Mr. Osman Mohamed
4. Mr. Guto Kimogol
5. Mr. Achiba Gargule
6. Ms. Hawo Shanko
7. Dr. Achiba Gargule
8. Mr. Katwa Kigen

C. SECRETARIAT

1. Ms. Veronica Kibati - Clerk Assistant
2. Mr. Victor Bett - Clerk Assistant
3. Mr. Mitchell Otoro - Legal Counsel
4. Mr. James Kimiti - Audio Recording

MINUTE SEN/SCLENR/64/2021: PRELIMINARIES

The meeting was called to order at 11.30 am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLENR/65/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Mwaruma Johnes, MP and seconded by Sen. Ndwiga Peter Njeru, EGH, MP as follows –

1. Preliminaries – *Prayer*
2. Confirmation of Minutes of Previous Sittings;
3. Matters Arising;
4. Meeting with the **Governor, Marsabit County on the Petition submitted by the Rendille and Samburu Community Representatives concerning the alleged acquisition of Karare land in Marsabit County by the Kenya Defence Forces**.
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLENR/66/2021: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The confirmation of Minutes was differed to the next housekeeping meeting.

MINUTE SEN/SCLENR/67/2021: PETITION CONCERNING THE ALLEGED ACQUISITION OF KARARE LAND IN MARSABIT COUNTY BY THE KENYA DEFENCE FORCES;

Presentation by the Governor, Marsabit County

The Governor informed the Committee that;

- Public consultations and hearing were adequately carried out spearheaded by the County Commissioner and KDF, County Government and the Locals were involved. Everyone was in agreement at the time.
- The County Government (CG) did everything possible to ensure everyone was consulted and further various recordings and evidences can be facilitated and sent to the Committee to demonstrate the level of Public Participation that was carried out.
- It is not the CG that selected the area and coordinates for the settlement of KDF in the particular area, various proposals were considered and the final location was decided by KDF and not what the CG had earmarked for them.
- The CG facilitated a meeting between the County Commissioner and the locals so as to ensure adequate public participation. On conclusion of the exercise an all parties were happy and elders gave a node to the takeover, he gave the go ahead.
- All documentation will be availed by 1st April, 2021.
- The leadership of the County was adequately consulted and that the concern by the Petitioners that the MP for Laisamis has a similar Petition in the NA is because he wanted the KDF to be relocated to his constituency and not Saku Constituency;

Remarks by Petitioners present

- They informed the Committee that an Environmental Impact Assessment should have been done at the end, not in July, 2019;
- Not adequate P/P was done;
- Inadequate Public Participation(PP) was done;
- The Law was not followed;
- Only 50 elders were picked on behalf of 200,000 people;
- Requesting that the Committee visits Karare, before conclusion of its report;
- A similar petition has also been taken to the National Assembly by Member of Parliament for Laisamis Constituency.
- The takeover by KDF affects the migratory corridor of Elephants;
- Cultural Practises are done at this particular area that has been selected for takeover by KDF;
- It acts as a fall back grazing area for domestic animals for the Community since the area is humid with enough foliage;
- Concern on why the matter was not brought before the County Assembly;

MINUTE SEN/SCLENR/68/2021: ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/SCLENR/69/2021: DATE OF NEXT MEETING

The meeting was adjourned at 12.03 pm and the date of the next meeting was to be held on 26th March, 2021 during the site visit to Taita Taveta County.

Signed:..... Date: **29/6 /2021**

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

MINUTES OF THE 25TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 13TH MAY, 2021 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS	**PRESENT**
1. Sen. Mwangi Paul Githiomi, MP	- **Chairperson**
2. Sen. Philip Mpaayei, MP	- **Vice Chairperson**
3. Sen. George Khaniri, MGH, MP	- Member
4. Sen. (Dr.) Lelegwe Ltumbesi, MP	- Member
5. Sen. Mwaruma Johnes, MP	- Member

	ABSENT WITH APOLOGY
1. Sen. Gideon Moi, CBS, MP	- Member
2. Sen. Boy Issa Juma, MP	- Member
3. Sen. Sylvia Kasanga, MP	- Member
4. Sen. Ndwiga Peter Njeru, EGH, MP	- Member

IN ATTENDANCE

A. SENATORS

1. Sen. Judith Pareno, MP	- Nominated Senator, Kajiado County

B. MINISTRY OF TOURISM AND WILDLIFE

1. Mr. Joseph K. Boinnet	- CAS, Tourism and Wildlife
2. Prof. Fred Segor	- PS, Ministry of Tourism & Wildlife
3. Dr. Erastus Kanga	- Ag. Wildlife Secretary
4. Mr. Geoffrey Boronjo	- Principal Officer, Wildlife
5. Mr. Eric Mwema	- Principal Officer, Wildlife
6. Ms. Monica Njogu	- Ministry of Tourism & Wildlife
7. Mr. Simon Agunja	- Ministry of Tourism & Wildlife
8. Ms. Lucy Njagi	- Ministry of Tourism & Wildlife
9. Mr. Jonathan Kirui	- KWS
10. Prof. Charles Musyoki	- Director, National Parks

C. PETITIONERS

1. Mr. Sunya Ore	- Chair, Rendille and Samburu Community Representatives
2. Mr. Stephen Gambare	- Rendille and Samburu Community Representatives

D. SECRETARIAT

1. Mr. Victor Bett	- Clerk Assistant
2. Mr. Mitchell Otoro	- Legal Counsel
3. Mr. James Kimiti	- Audio Recording

MINUTE SEN/SCLENR/138/2021: PRELIMINARIES

The meeting was called to order at 11.17 am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLENR/139/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. (Dr.) Lelegwe Ltumbesi, MP and seconded by Sen. Mwaruma Johnes, MP as follows –

1. Preliminaries – *Prayer and Introductions*
2. Adoption of the Agenda
3. **Submissions by the Cabinet Secretary, Ministry of Tourism and Wildlife on the following Statements and Petitions**

a) Petition by residents of Lamu County, concerning the compensation for victims of human-wildlife conflict;
b) Petition submitted by the Rendille and Samburu Community Representatives concerning the alleged acquisition of Karare land in Marsabit County, by the Kenya Defence Forces;
c) Statement requested on 2nd March, 2021, by Sen. Judith Pareno, MP regarding the arrest of herders by the Kenya Wildlife Services (KWS) rangers at Tsavo West in Taita-Taveta County;
d) Statement requested on 2nd March, 2021, by Sen. Judith Pareno, MP regarding Human-Wildlife conflict in Kajiado County; and
e) Statement requested on 30th March, 2021, by Sen. Mercy Chebeni, MP regarding the forest blaze allegedly triggered by the British Army Troops at their training base at Nyati Barracks, Laikipia County that occurred on Thursday, 25th March, 2021.

4. Any other Business;
5. Date of the next meeting;
6. Adjournment.

MINUTE SEN/SCLENR/140/2021: <u>SUBMISSIONS BY THE CABINET SECRETARY, MINISTRY OF TOURISM AND WILDLIFE ON THE FOLLOWING STATEMENTS AND PETITIONS</u>

a) **<u>Statement requested on 2nd March, 2021, by Sen. Judith Pareno, MP regarding the arrest of herders by the Kenya Wildlife Services (KWS) rangers at Tsavo West in Taita-Taveta County;</u>**

Livestock incursions in the Tsavo West National Park have led to overgrazing and therefore habitat degradation. This brings competition of the available forage with wildlife, devastating the habitat which consequently forces the displacement of wildlife to community lands leading to human wildlife conflict. Incidences of some herder's carrying out other illegal activities while in the Park such as killing of wildlife have been documented.

a. **<u>Question-</u> Report on why KWS has ignored the collaboration it enjoys with communities neighboring the National Park.**

Response: Kenya Wildlife Service is guided by the three key pillars namely Conservation, Collaboration and Enterprise. The neighboring Maasai community are treated with a lot of respect and are even allowed access through the National Park to Mtito Andei whenever they want to go to the market or attend any urgent matter in Voi. The local leaders including the Member of the County Assembly have the contact of the Senior Warden which enables him to raise any matter within the park in real time. KWS officers quickly address any issue raised by the neighboring communities.

b. Question: State why KWS rangers at the park demand hefty bribes from the same herders.

Response: Kenya Wildlife Service is committed to the elimination of all forms of corruption within its sphere of operation. Through the guidance of the corruption prevention policy the KWS deploys and effectively uses every means at its disposal to prevent and fight corruption. KWS has taken the initiative to establish ethical and moral obligation through policies, procedures and processes in order to curb the threat of corruption and dishonest practices. KWS is vigilant and is alive to the fact that corruption can manifest itself in many ways and can threaten the success and reputation of the organization.
All suspects whether livestock or any other crime are processed in court and our records are clear. Attached is Table 4 a copy of extract from the livestock related cases. It outlines cases of livestock impounded, police station booked, court taken, court outcome and date released.

c. Question: Why KWS put confiscated livestock belonging to herders in mobile fabricated enclosure for a long period of time without food or water.

Response: When livestock is impounded, they are kept in a Boma for the night only if the owner has not cleared with the court. The Boma comprised of a fabricated mobile enclosure is a temporary holding ground often used to reduce movement of livestock in the Park. During the day they are taken out to graze and to a watering point until the owner shows up. Livestock are only released once the owner has a certificate from the court. No livestock have been mistreated in the hands of KWS since the herders usually confirm their condition before driving them back.

d. Question: Why KWS continuously harasses these herders.

Response: KWS staff has never harassed any member of the public including herders. As a law enforcement agency KWS is guided by code of conduct that outlines the standard that employees must meet and provide clear guidance to their responsibilities. All KWS employees are required to promote dignity and respect to all. Concerning compensation, all reported cases are undergoing due process.

Table: Cases of livestock impounded, police station booked, court taken, court outcome and date released.

DATE OF IMPOUNDMENT	AREA WHERE LIVESTOCK WERE FOUND GRAZING/GPS COORDINATES	WHERE LIVESTOCK IMPOUNDED	POLICE STATION BOOKED/ OB NO.	COURT TAKEN/CASE FILE	IMPOUNDED	COURT OUTCOME/FINES	DATE LIVESTOCK RELEASED
19.2.21	MURKA-37M038476 UTM 9828201	ZIWANI	TAVETA 45/18/02/21	MCCR/E/196/21-VOI	250	COURT FINE 50,000 KWS COMPENSATION 30,000	20.2.21
24.2.21	MANDA – 37M0393307 UTM9629092	BZ	VOI-09/23/02/21	MCCL/E/214/21-VOI	200	COURT FINE 40,000	25.2.21
1.3.21	LOSOITO-37M0382460 UTM9657433	MANDA	VOI-10/01/3/21	MCCR/E/214/21-VOI	300	COURT FINE KSHS 50,000 KWS COMPENSATION KSHS 40,000	2.3.21
7.1.21	SALAITA CIRCUIT-37M0376079 UTM 9615285	SALAITA	TAVETA-42/06/01/21	TAVETA	160	COURT FINE KSHS 15,000 KWS COMPENSATION KSHS 10,000	7.1.21
9.1.21	SALAITA DAM-37M030367998 UTM 9628616	SALAITA	TAVETA 35/09/1/21	TAVETA	50	COURT FINE KSHS 15,000 KWS COMPENSATION KSHS 10,000	11.1.21
11.1.21	MARWA DAM-37M0403392 UTM 9584090	MARWA DAM	TAVETA 37/11/1/21	TAVETA	110	COURT FINE KSHS 15,000 KWS COMPENSATION KSHS 10,000	11.1.21
15.1.21	LAKE JIPE SHOW LINE - 37M0369683 UTM9594017	JIPE	TAVETA 25/15/01/21	TAVETA	100	COURT FINE KSHS 15,000 KWS COMPENSATION KSHS 10,000	18.1.21
17.1.21	MANOLO - 37M0388987 UTM 9594252	MANOLO	TAVETA	TAVETA	200	COURT FINE KSHS 15,000 KWS COMPENSATION KSHS 10,000	18.1.21
19.1.21	MANOLO-37M 0390118 UTM 9601936	MANOLO	TAVETA 38/19/01/2021	TAVETA	200	COURT FINE KSHS 15,000 KWS COMPENSATION KSHS 10,000	20.1.21

21.1.21	MUSOMA-37M0374868 UTM9600491	JIPE	MWATATE 36/20/01/21	WUNDANYI	205	COURT FINE KSHS 30,000 KWS COMPENSATION KSHS 30,000	25.1.21
21.1.21	MANOLO-37M0389964 UTM9600417	MANOLO	TAVETA 30/21/01/21	WUNDANYI	100	COURT FINE KSHS 30,000 KWS COMPENSATION KSHS 300,000	25.1.21
25.1.21	KAMSHARI-37M0397306 UTM9591456	KAMSHARI	MWATATE 18/25/01/21	MWATATE	100	COURT FINE KSHS 30,000 KWS COMPENSATION KSHS 30,000	28.1.21
25.1.21	MANOLO-37M0391921 UTM9595301	KAMSHARI	MWATATE 19/25/01/21	MWATATE	200	COURT FINE KSHS 30,000 KWSCOMPENSATION KSHS 30,000	28.1.21
26.1.21	MARWA-37M0437795 UTM 9573325	MARWA	MWATAE 34/26/1/21	WUNDANYI	130	COURT FINE KSHS 30,000 KWS COMPENSATION KSHS 30,000	28.1.21
26.1.21	SHEIKH-37M0380970 UTM9605074	SHEIKH DAM	MWATAE 35/26/1/21	WUNDANYI	300	COURT FINE KSHS 30,000 KWS COMPENSATION KSHS 30,000	28.1.21
29.1.21	MUSOMA-37M0379379 UTM9603661	SHEIKH DAM	MWATATE 28/29/1/21	WUNDANYI	250	COURT FINE KSHS 30,000 KWS COMPENSATION KSHS 30,000	1.2.21
04.2.21	LOLOKONYA-37M0422738 UTM9561479	KATAMBOI	MWATATE 10/04/2/21	WUNDANYI	130	COURT FINE KSHS 20,000 KWS COMPENSATION KSHS 20,000	4.2.21
06.2.21	MAJI NYEKUNDU-37M0420523 UTM9565607	KATAMBOI	MWATATE 18/06/2/21	WUNDANYI	80	COURT FINE KSHS 15,000 KWS COMPENSATION KSHS 20,000	8.2.21
7..2.21	MARWA-37M0437775 UTM9573249	MARWA	MWATATE 16/07/2/21	WUNDANYI	170	COURT FINE KSHS 20,000 KWS COMPENSATION	8.2.21

						KSHS 20,000	
12.2.21	SHEIKH DAM-37M0372781 UTM9604578	JIPE	MWATATE 13/12/2/21	WUNDANYI	300	COURT FINE KSHS 50,000 KWS COMPENSATION KSHS 30,000	15.2.21
13.2.21	KATAMBOI-37M0421208 UTM9567190	KATAMBOI	MWATATE 25/13/2/21	VOI	120	COURT FINE KSHS 100,000 KWS COMPENSATION KSHS 75,000	15.2.21
18.2.21	SHEIKH DAM-37M0376592 UTM9609790	SHEIKH DAM	VOI-48/18/02/21	VOI	300	COURT FINE KSHS 50,000 KWS COMPENSATION KSHS 30,000	19.2.21
19.2.21	SALAITA DAM 37M0370674 UTM9622573	SALAITA DAM	VOI-79/19/2/21	VOI	80	COURT FINE KSHS 30,000 KWS COMPENSATION KSHS 30,000	22.2.21
20.02.21	NJORO AREA-37M0366755 UTM 9610886	NJORO	VOI-35/2/2/21	VOI	100	COURT FINE KSHS 40,000 KWS COMPENSATION KSHS 30,000	22.2.21
22.2.21	SALAITA AREA-37M0370654 UTM9622551	SALAITA	VOI-12/22/2/21	VOI	50	COURT FINE KSHS 30,000 KWS COMPENSATION KSHS 30,000	24.2.21
23.2.21	LIBILE AREA-37M0421678 UTM9570263	KATAMBOI	VOI-54/23/2/21	VOI	100	COURT FINE KSHS 40,000 KWS COMPENSATION KSHS 30,000	24.2.21
25.2.21	MARWA DAM-37M0435181 UTM9568966	MARWA DAM	VOI 57/25/2/21	VOI	70	COURT FINE KSHS 40,000 KWS COMPENSATION KSHS 30,000	26.2.21
25.2.21	SALAITA DAM-0371182 UTM9622439	SALAITA DAM	VOI 58/25/2/21	VOI	11	COURT FINE KSHS 40,000 KWS COMPENSATION KSHS 30,000	26.2.21

b) **Statement requested on 2nd March, 2021, by Sen. Judith Pareno, MP regarding Human-Wildlife conflict in Kajiado County;**

Response
Introduction

Conflicts between human and wildlife currently rank amongst the main threats to conservation in Africa. In Kenya, for instance, with much of the wildlife living outside protected areas, one of the real challenges to conservation is how to enhance and sustain coexistence between people and wild animals. Human-Wildlife Conflict (HWC) refers to the interaction between wild animals and human and the resultant negative impact on human or their resources, or wild animals or their habitat.
HWC occurs when wildlife requirements overlap with those of human populations, creating costs both to residents and wild animals.
Conflict between people and wildlife has been recognized as serious issue that confronts the communities around the Country and huge investments have been made by the Government in implementing measures to combat the problem.
KWS has been implementing a comprehensive set of activities aimed at mitigating the negative impacts of the increasingly interconnected relationships between the parks and the communities that live around them. KWS seeks to capitalize on opportunities where both conservation goals and community livelihood needs, and aspirations can be reconciled. KWS also seeks to support the development of conservation compatible community land uses and activities such as community conservancies in Kajiado County.

Causes of conflicts and mitigation measures
Kajiado County borders Nairobi National Park and extends to the Tanzania border further south. The County is recognized as one of seven identified HWC hotspot areas in the Country with the following areas reporting high HWC conflicts over the years; Njukini, Emotoroki, Kiteden, Kongoswa, Torosoi, Kisajuni, Sairashe and Mbirikani.
Historically, Njukini has had large populations of wildlife due to availability of browse and water for wildlife from Njukini springs. The local communities in this area are traditional pastoralists, but over time have changed to cultivation of crops hence blocking the previously established wildlife routes that enabled wildlife to access the water points resulting in escalating human wildlife conflicts.

At Najile in Ewaso Ward, Sultan Hamud and Njukini areas, wildlife stray looking for pasture, breeding areas and water especially during the drought seasons. Najile area is traditionally known as a migratory route between Longonot, Mai Mahiu and Magadi areas. The area between Amboseli and Tsavo west is a major wildlife corridor. The area is also heavily settled by the local community practicing both pastoralism and irrigation cultivation as well which is not compatible with wildlife conservation resulting in HWC.

Studies carried out by KWS over a long period inform of wildlife being outside the park during wet seasons and in Group Ranches during dry seasons and as a result

there is straying Wildlife causing predation of community livestock and crop destruction. This is compounded by surrounding community farming in areas close to wildlife corridors and the protected areas.

As concerns compensation to local communities in Kajiado county for the impact of the negative interactions with wildlife, the Wildlife Conservation and Management Act, 2013 provides for Compensation for human death, human injury, livestock predation, crop destruction and property damage cases caused by wildlife specified in the third schedule. Section 25 of the Wildlife Conservation and Management Act, 2013 guides on the amounts, process and procedures for compensation on personal injury or death or damage to property or crops or predation caused by wildlife. The Ministry of Tourism and Wildlife through KWS facilitates payment of all compensable claims. A total of 31 death claims and 59 Injury claims amounting to Ksh. **105,610,000.00** have been compensated in Kajiado County as from 2014 up to date as summarized in the table 5 below: -

Kajiado County Compensation status 2014-2020.

	PAID	**APPROVED**	**DEFERRED**	**REJECTED**	**Grand Total**
DEATH					
NO OF CLAIMS	31	25	1	15	72
Amount	97,400,000.00	125,000,000.00	-	-	222,400,000.00
INJURY					
NO OF CLAIMS	59	205	39	49	352
Amount	8,210,000.00	85,540,000.00	-	-	93,750,000.00
PREDATION					
NO OF CLAIMS		21	12	18	51
Amount		766,500.00	-	-	766,500.00
CROP DESTRUCTION					
No. Of claims		541	5	14	560
		59,348,135			
Total NO OF CLAIMS	**90**	**792**	**57**	**96**	**1035**
Total Amount	**105,610,000.00**	**270,654,535.00**	-	-	**316,916,500.00**

A total of 792 compensation claims amounting to Kshs.**270,654,535.00 has been** approved and are awaiting payment allocation of funds from the National Treasury.
The Ministry of Tourism and Wildlife through Kenya Wildlife Service has put in place diverse measures to minimize the Human Wildlife Conflicts in Kajiado County as follows;

1. In Njukini area, a 120 km solar powered fence has since been erected and is functional stretching from Salaita to Chala through Kedong and Njukini along the Tsavo West Park Boundary as a deterrent measure.
2. To ensure more swift responses to wildlife issues in Kajiado, KWS has a fully-fledged and equipped station at Kajiado that is supported by outposts at Mashuru, Namanga, Loitoktok, Rombo, Njukini, Nguruman and Ngong Stations for fast and effective management of all wildlife issues arising in the County.
3. Ground and aerial Problem Animal Control (PAC) drives are undertaken on a routine basis to manage HWC depending on the situation on the ground. Large animal drives are undertaken by helicopter as witnessed in January 9th 2021 when an elephant drive was done from Ewaso Kedong and Mosiro areas and recently in March 2021 in Enasopurpur, both in Kajiado County.
4. KWS has also deployed a rapid response team; Problem Animal Management Unit (PAMU) in Ewaso Kedong since September 2020 to support the Problem Animal Control team at Ngong station.
5. KWS in January 2021 under the Government Economic Stimulus Program engaged Community Scouts country wide to assist in wildlife conservation matters. In Kajiado County a total of one hundred and forty-two (142) Community Scouts were engaged and part of their duty is to serve as early warning systems for human wildlife conflicts.
6. Continuous awareness creation to the public on wildlife co-existence is undertaken by KWS in collaboration with stakeholders, Chiefs and Village administrators. Engagement with the local communities through Local FM stations in the County is being done to keep the public informed on animal behavior and the best ways to co-exist with wildlife. KWS recently collaborated with Radio Nosin and Radio Mayian on public sensitization on wildlife matters in Kajiado.
7. KWS has in addition collaborated with its partners to establish twenty-one (21) Conservancies with a capacity of over three hundred and sixty (360) permanently engaged conservancy scouts/rangers that assist KWS to manage the wildlife outside the designated protected areas.

The conservancies are vital for current and future management of wildlife as they provide dispersal/corridors (critical habitat) areas for food, water, security, migration routes and breeding ground. In Kajiado, Conservancies particularly host diverse wildlife species including listed species in schedule 6 of the WCMA, 2013 like the Elephants, Wild dogs, and other unique species like Gerenuk and Stripped Hyena.

8. Community livelihoods in Kajiado are being transformed through social projects like the ongoing sun flower farming venture initiated by collaboration between Bidco Africa and KWS; the Consolation program undertaken in collaboration with

Big life foundation and the KWS annual bursary in support education at 20 million every year. Other projects have been anchored on water, health and education.

Nationally, the Ministry of Tourism and Wildlife, through KWS has taken the following short and long-term measures to specifically address increasing conflicts touching on the County: -

i) Problem Animal Control

The Ministry will continue to enhance the capacity of KWS in the management of human wildlife conflicts. Additional resources and requisite equipment will be provided as a way of enhancing efficiency and effectiveness.

ii) Capture and translocation of problem animals

Capture and translocation of problem animals from community areas is a strategy that the Ministry has greatly invested in. The KWS Veterinary and capture team has adequate capacity to translocate problematic animals in part of the Country.

iii) Technology

The Service has embraced technology and deployed the latest satellite-linked GPRS collars to monitor movement and activities of large mammals like Elephants and Carnivores to reduce incidences of crop destruction and livestock predation respectively. KWS uses the Earth Ranger system to monitor the movement of the collared wildlife species for decision making.

iv) Wildlife-proof fences

Electric fencing is one of the intervention methods of managing Human Wildlife Conflict that provides long term solution to problematic wildlife species such as elephants and other large mammalian species from invading agricultural areas and destroying crops. Electric fences have been successfully used in Kenya to minimize interactions between the communities and wildlife. The over 130kms fence from Kitenden to Elerai to Kimana is one such fences.

v) Compensation

Section 18 to 21 of Wildlife Conservation and Management Act (WCMA), 2013 and the Miscellaneous amendments to the WCMA,2013 of January 2019 establishes the Community Wildlife Conservation Committee (CWCC) in the 47 Counties and provides for their roles; while Section 19 gives the responsibility on CWCC which includes reviewing and recommending compensation for wildlife damage claims. The Kajiado Committee is already in place and has been considering and recommending award of compensation funds to benefit those affected negatively by wildlife listed in the 3rd schedule of the WCMA, 2013.

vi) Awareness creation

It is the responsibility of KWS as the Government authority charged with Wildlife Conservation and Management in the Country to sensitize the communities who live adjacent to National Parks on the dangers caused by wildlife and how to coexist with wildlife. This is done by the Community Wardens at Kajiado, Ngong stations and at Amboseli National Park. KWS responsibility includes creating awareness to the community on how to co-exist with wildlife and the process of compensation among others.

Conclusion

The Ministry of Tourism and Wildlife is aware of the myriad of challenges affecting wildlife conservation in Kajiado County and works together with stakeholders to ensure that they are mitigated for the good of the people of Kajiado and for wildlife posterity.

The Committee thereafter received written responses on the remainder of Petitions and Statements as follows:

c) **Petition by residents of Lamu County, concerning the compensation for victims of human-wildlife conflict;**

Introduction

Lamu is one of seven identified Human Wildlife Conflict (HWC) hotspot areas in the Country with the following areas reporting high HWC conflicts over the years Mpeketoni, Ziwani, Kiunga, Witu, Boko, Toroko, Lake Kenyatta, Madagoni and Mokowe. These conflicts are mainly caused by Buffalo, Hippo, Elephants, Hyena, Lions and Primates.

According to Kenya Wildlife Service (KWS) total count done using aerial census for large mammal undertaken in the County in 2015, it was established that Lamu had the highest density of Buffalo population in the Country with over 13,700 individuals counted. Other wildlife species also occur abundantly like Topi (7,728), Giraffe (1,325) and Zebra (669) among others. KWS Lamu station now headed by a Senior Warden was created to manage the diverse wildlife species and address the resultant conflicts. The Service has presence with outposts at Mokowe, Witu, Kipini, and Mpeketoni.

Death and injury claims status in Lamu County

The Cabinet Secretary Ministry of Tourism and Wildlife facilitated the appointment of members of the Community Wildlife Conservation Committees (CWCC) in all the 47 Counties.

The current 47 CWCC's were gazetted on 16th August 2019 and are comprised of a Chairperson appointed by the Cabinet Secretary, four persons not being public servants nominated by Community Wildlife Associations and other relevant technical officers at the County Government level. KWS County Wardens are the Secretaries to the CWCC. The Ministry facilitated the committees' latest meetings across the Country held in July-August 2020 to deliberate on the pending compensation claims.

The legal mandate of the CWCC includes;

1. Review and recommend payment of compensation on claims resulting from loss of damage caused by wildlife.
2. Develop and implement in collaboration with the Service and Community Wildlife Associations, mechanisms for mitigating HWC.
3. Bringing together relevant stakeholders to harness participation in conservation and management programs of wildlife.
4. Perform any other duties that the Service may require or delegate to it.

The Ministry continues to support the CWCCs in the discharge of their mandate.

KWS is committed to significantly reduce the cases of HWC throughout the Country and especially at the mapped conflict hotspots like in Lamu County and works together with other stakeholders including the County Government in those areas. So far, the following have been undertaken to minimize conflicts in Lamu Country:
The whole region of Lamu County was mapped to indentify problem areas for targeted response as follows:

A) Mpeketoni Settlement Scheme.

The main problem animals are Hippos, Elephants, Baboons, Zebras and Lions.
In this area the Service has an operational permanent Camp at Mpeketoni to mitigate the arising conflicts and undertakes the following measures to address the problem animals:

1. Operations of the camp include day and night surveillance of affected areas of the scheme (Ziwani, Tewe, Kibaoni, Mkunumbi, Mapenya and Lake Amu)
2. KWS has stationed a Land cruiser vehicle at Mpeketoni to undertake fast response to distress calls at night and day time.
3. KWS has been working closely with the local communities that have formed conflict resolution groups to mitigate problem animals like Baboons to drive them away from the farms with the help of KWS rangers.
4. KWS has been working closely with wildlife stakeholders in the County like the Kipini conservancy forest rangers, Community rangers in Bajaber ranch and Nairobi ranch to address issues of Lions and Elephant conflicts. Recently two lion traps were placed at Mpeketoni to capture any Lion causing danger to the community.
5. KWS has been conducting awareness meetings to educate farmers on matters related to HWC and compensation in the settlement scheme.

B) Hindi -Magogoni Settlement Scheme and Bargoni village area

The problem animals here have been identified as Baboons, Hyenas and Lions.
Measures being undertaken are as follows:

1. KWS has positioned a serviceable vehicle at Mokowe KWS Camp to ensure fast response to distress calls within the area.
2. Three Lion traps have been placed at Mokowe KWS Camp to capture any Lions and Hyenas causing danger in Hindi-Magogoni Settlement Scheme, Baragoni, Hamu Island and Manda Island.
3. KWS has been conducting awareness creation meetings to educate the Hindi-Magogoni Settlement farmers on matters related to human wildlife conflict in the scheme.

C) Witu-Kipini Settlement Scheme

Hippos and Buffaloes are the main problem animals with the rangers managing them through awareness creation to the public on the animal behavior and the dos and don'ts concerning them.
KWS has stationed three rangers at Witu who team up with Conservancy rangers to address conflicts within the area.

The public have the ranger's numbers for swift reporting and response to any animal causing threats to the public.

D) Manda and Lamu Island

The main problem animals have been identified as Buffaloes and Hyenas.

KWS has a problem animal control team stationed at Mokowe who respond to conflicts in the area. This is facilitated by a boat stationed at Lamu to ensure swift response.

In addition to the area specific measures listed above, KWS recently recruited 100 community scouts to work with KWS and farmers on issues related to wildlife conservation in the County under the economic stimulus program. Table 1 and Table 2 below summarizes compensation claims for death and injury respectively and their status to date:

Table 1: Claims for death.

NO.	VICTIMS NAME	DEATH	DAY OF INCIDENT	NEXT OF KIN	ANIMAL RESPONSIBLE	COMPENSATION STATUS
1	BAKARI ATHMAN BEJA	DEATH	18/1/2015	ATHMAN BEJA	HIPPO	Compensation funds released to the family of the victim.
2	OSMAIL NOOR ABDULLAH	DEATH	01/02/2016	MAHADITH OSMAIL NOOR	BUFFALO	Compensation funds released to the family of the victim.
3	ESTHER RESILA	DEATH	02/02/2016	CHRISTINE MSANZU	CROCODILE	Compensation funds released to the family of the victim.
4	SAMSON KATANA CHARO	DEATH	12/09/2015	KADZO KAZUNGU BAYA	HIPPO	Compensation funds released to the family of the victim.
5	MUSA AHMED SHIDOW	DEATH	24/8/2016	AHMED SHIDOW DAMA	HIPPO	Compensation funds released to the family of the victim.
6	OMAR MOHAMED MAALIM	DEATH	23/11/2016	MOHAMED MWALIMU LIONGO	HIPPO	Compensation funds released to the family of the victim.
7	PETER MBURU KARANJA	DEATH	30/01/2017	HENRY KENGETHE MBURU	BUFFALO	Compensation funds released to the family of the

						victim.
8	JAMES MUTUNGA MUNYAZUI	DEATH	31/01/17	GRACE WANJIRU MBUNGU	BUFFALLO	Rejected by CWCC.
9	OMESHAK OWIGO OLENGE	DEATH	03/02/17	BENTA AKINYI OWIGO	BUFFALLO	Awaiting payment
10	CHARLES NGUMO KANYARI	DEATH	12/02/17	JOSEPH WANDETO KANYARI	BUFFALLO	REJECTED BY CWCC
11	HASAN MZAMIL ALI	DEATH	14/02/17	MZAMIL ALI KHALIFA	BUFFALLO	DEFFERED BY CWCC
12	ABUBAKAR OMAR DARA	DEATH	14/02/17	HUSSEIN TORI BORU	BUFFALO	DEFFERRED BY CWCC
13	JOSPHAT GITHUNDI MUNIA	DEATH	07/03/2017	SIMON MUNIA GITHUNDI	BUFFALLO	Rejected by MWCC
14	PETER MUHIA MWANGI	DEATH	14/04/2020	PATRICK MWANGI KAMAU	SNAKE	Rejected by MWCC

Table 2: Compensation claims/ injury cases and their status to date.

NO.	**VICTIMS NAME**	**INJURY**	**DATE OF INCIDENCE**	**NEXT OF KIN**	**ANIMAL RESPONSIBLE**	**COMPENSATION STATUS**
1	TERESIA WAKONYO	INJURY	01/09/2013	JOSEPH K. MWAGIRU	SNAKE	Compensation funds released to victim.
2	JAMES WAINAINA GITARI	INJURY	02/04/2013	JAMES MBUCHI	SNAKE	Compensation funds released to victim.
3	MICHAEL MUIA	INJURY	21/3/2013	ROSEMARY GITHINJI	BUFFALO	Compensation funds released to

	NGULUVAI					victim.
4	JOSEPH KINYUA KIRUI	INJURY	15/4/2013	ANNA WANJIRU KINYUA	BUFFALO	Compensation funds released to victim.
5	GABRIEL MALINGO OKELO	INJURY	05/05/2013	KHUMWE ABWOGA MICHAEL	CROCODILE	Compensation funds released to victim.
6	JACKSON MWENDWA KAVUKU	INJURY	07/03/2013	KAVUKU MWENDWA	BUFFALO	Compensation funds released to victim.
7	ESTHER SIDI KENGA	INJURY	22/4/2020	TIMOTHY KEA	SNAKE	Rejected By MWCC
8	JULIUS MBEVO	INJURY	04/05/2020	CAROLINE NZEU	SNAKE	Rejected By MWCC
9	IJAB MINHAJI SIGALE	INJURY	23/06/2020	ABDIRAHMAN ABDILLAHI	SNAKE	Rejected By MWCC
10	JOSEPH WAINAINA MUKUNDI	INJURY	07/07/2020	WILSON M MBURU	SNAKE	Recommended for payment by CWCC.
11	WILSON NJOROGE WAWERU	INJURY	14/07/2020	FUNDI KTHAKA	SNAKE	Rejected By MWCC
12	SAMUEL NDUNGU	INJURY	27/3/2019	LOISE WANGARI	SNAKE	Rejected By MWCC.
13	DANIEL CHEGE THINGA	INJURY	22/10/2019	MARY W. THINGA	HIPPO	Approved awaiting Payment
14	DISHON KAMAU MWAURA	INJURY	29/11/2019	NEWTON KIMANI	SNAKE	Rejected By MWCC

CONCLUSION

Anthropogenic factors including farming near water sources (Lake Kenyatta & Lake Amu), establishment of settlement schemes on wildlife migratory routes and infrastructure development has contributed to the displacement of wildlife in areas

that formed their habitats leading to increased conflict. To mitigate against these KWS strategically deploys personnel and vehicles to respond promptly wherever the reports of conflict arise and whenever the reports are made, verification of incident is done by personnel and claim documentation prepared to await the deliberations by CWCC and payment by the State via the Service.

d) **Petition submitted by the Rendille and Samburu Community Representatives concerning the alleged acquisition of Karare land in Marsabit County, by the Kenya Defence Forces;**

Introduction

Kenya Wildlife Service (KWS) received a letter Ref: MOD 06/4A dated 4th September 2020 from Ministry of Defense (MoD) seeking technical support in ecological assessments as part of the Environmental Impact Assessment (EIA) process for the proposed Military Barracks (MB) within Marsabit National Reserve.

The proposed Barrack is located in Karare Ward within Saku Sub-County, Saku Constituency at GPS location 2°14'44.10'' N 37° 50'55.00" E in Marsabit County. The general project area has no visible human settlement around it and the area is mainly used as grazing area by the locals who are pastoralists. The site at Karare measures 2,500 hectares and is located approximately 20km to the South of Marsabit town.

KWS provided the technical assistance for the wildlife ecological assessment which was undertaken between 25th September 2020 and 5th October 2020.

Kenya Defense Forces (KDF) further convened a follow up consultation meeting between KWS and the KDF EIA expert which was held on 16th October 2020 at Department of Defense (DoD) headquarters to review the ecological assessment report and discuss potential impacts of the proposed Barracks on wildlife and advice on appropriate mitigation measures. After the meeting KWS prepared and compiled a technical report and shared with the KDF technical team for incorporation in the EIA report. Some of the potential negative impacts of the project on wildlife and proposed interventions are outlined in the table 3 below.

Table 3: Potential project impacts on wildlife and proposed mitigation measures

Item	Environmental Impact	Mitigation Measures
1	Vegetation and habitat loss/ degradation	Limit vegetation clearance to the core area for infrastructure development and access roads Restore lost vegetation on the disturbed area and right of way through planting of trees, shrubs and grasses that are palatable to the common herbivores based on the baseline plant

Item	Environmental Impact	Mitigation Measures
		inventory New roads to follow existing tracts as much as possible Unnecessary grading to be avoided in natural motorable tracks with firm foundation Allow re-growth of grass cover on working area after construction Redesign the camp to move at least 4km from the Karare – Songa road to minimize habitat loss on important wildlife habitat Collaborate with KWS and communities and implement rangeland improvement initiatives including reseeding , replanting, establishment of water pans as offsets for the lost wildlife habitat
2	Disturbance to wildlife and wildlife movement including road kills	Limit fencing of the Barracks to the core infrastructure area and allow free movement of animals within the buffer area Install road signs to warn the motorists on the presence of animals and speed limits Collaborate with KWS on conservation and education programs for the military staff Avoid interference with water pans and watering points designated for wildlife
3	Increased soil erosion	Integrate soil erosion control in the construction work plan Plant sediment binding grasses, shrubs and trees on any exposed slopes and other surfaces.
4	Increased poaching for bush meat	Partner with KWS and sensitize construction workers and military staff at the Barracks Partner to enhance wildlife security in the project area of influence
5	Visual intrusion	Rehabilitate all degraded areas through landscaping and subsequent planting of suitable grasses, shrubs and trees to blend with the environment. Blend the military infrastructure with the environment as much as possible
6	Increase in Human Wildlife conflicts in	Partner with KWS and develop a wildlife conservation action plan for the project area of influence to mitigate human wildlife conflicts where the camp may divert wildlife closer to communities Redesign fencing of military camp to avoid wildlife crossing areas Manipulate habitat to control wildlife movement in such a way that conflict areas are avoided by creating watering points

Item	Environmental Impact	Mitigation Measures
		suitable micro habitats
7	Cultural dilution	Raise awareness among the local community on potential negative impacts of interacting with the visitors
8	Cumulative impacts from unplanned community settlements near the barracks	Sensitize the local community and the relevant Government agencies and the county government on the negative impacts of unplanned settlements near the barracks Empower community on grazing management system.
9	Loss of aesthetic value of the landscape	Limit heavy machinery use and instead use of manual clearance as much as possible to allow selective clearance. Use the minimum road width applicable for the sensitive habitat areas Plant grass along the road after construction

In its technical report and in light of the above KWS recommended that:

1. KDF will need to minimize land under infrastructure to the extent possible and open green areas maintained for biodiversity and ecosystem services.

2. KWS may enter into lease agreement with KDF for the 2,500 hectares of land for proposed Military Barrack establishment. The area may remain as a National Reserve where the buffer area of the Barrack is managed jointly to minimize potential negative impacts on wildlife and enhance biodiversity conservation within the project area of influence
3. A close working partnership between KDF and KWS is established during construction and operations of the Barrack to ensure most of the wildlife impacts are avoided and or minimized.
4. Joint collaboration conservation programs initiatives that will enhance biodiversity conservation be developed in the project area of influence.
5. Some components of the Military Barracks such as fencing can be redesigned to minimize disruption of wildlife movement and access of important wet season elephant dispersal area.

Environmental and Social Impact Assessment (ESIA) report

With the above input from KWS, KDF submitted the ESIA report to National Environmental Management Authority (NEMA) for approval. NEMA convened an Inter-Agency site visit on 13th January 2021 as part of EIA review process after which the report was approved on 1st of February 2021.

Upon review of the license KWS concurs with the concerns raised by the mother Ministry- Ministry of Tourism and Wildlife(MoTW) that the license did not address the project location as a National Reserve and therefore missed out on important conditions necessary for requisite follow up on the implementation of the mitigation measures recommended in KWS technical report and even the ESIA report.

It is not clear to KWS whether the omission of wildlife concerns on the license conditions was based on a KDF confidential report or deliberate.
This creates a gap for formal engagement on the project and enforcement of mitigation measures between the Ministry of Defense and Ministry of Tourism and Wildlife/KWS.

Due to confidentiality nature of KDF projects, KWS did not address community issues surrounding the proposed Barracks project but left KDF to engage the community directly on the issues.

Supplementary information: Karare land petition

In 1948, the Kenya National Parks Trustees, with the approval of the Competent Authority accepted certain specific rights within Marsabit National Reserve as conferred to them by Section 6, 13(2) and 18 of the National Parks Ordinance vide Government Notice No. 936 of 24th September, 1948 and Boundary Plan No. 216/1 covering an area of 10,265 sq. miles (26,597 sq. Km). In 1958, the Trustees of the Royal National Parks of Kenya with the approval of the Minister for Forest Department Development, Game and Fisheries published the Marsabit National Reserve Regulations, 1958 vide Legal Notice No. 170 of 1st April 1958.

At the end of 1960, the Trustees of the Royal National Parks of Kenya surrendered their control over two sections known as Marsabit Sector and the Ewaso Nyiro Sector. The surrendered area was gazetted vide Legal Notice No. 16th of 1961 and Boundary Plan No.216/13 leaving an area of approximately 1,122 sq.km as shown in Boundary Plan No. 216/49 and in 1962, the Trustees surrendered the Ewaso Nyiro vide Legal Notice No. 366 of 1962. In 1983, under the repealed Wildlife Conservation and Management Act Cap 376, land measuring approx. 524 sq. Km including Marsabit town was excised from the National Reserve vide Gazette Notice No. 3962 of 21st October 1983 and Boundary Plan No. 216/48 which was later adjusted to 534 sq. Km vide Gazette Notice No. 1982 of 5th April 1991 and boundaries were depicted by Boundary Plan No. 216/56 to include 9.6 sq. Km of the Karare area and gazetted vide Gazette Notice No. 216/59.

This excised area and currently occupied include Balassa, Jaldessa, Songa, Kituruni, Sagante, Jirime, Hulahula and the Mountain Section.

The proposed location of the Military Barracks falls within the Marsabit National Reserve next to Marsabit National Park. Under the Wildlife Conservation and Management Act No.47 (Sec.37) of 2013 it indicates that any land within the conservation area to be used for any other use should adhere to provisions of the Wildlife Act and National Land Commission Act Article 62(1) of 2012 on Public land.

e) **Statement requested on 30th March, 2021, by Sen. Mercy Chebeni, MP regarding the forest blaze allegedly triggered by the British Army Troops at their training base at Nyati Barracks, Laikipia County that occurred on Thursday, 25th March, 2021.**

Response

A fire at Loldaiga Ranch, Laikipia County was started by British Army Training Unit Kenya (BATUK) teams while on training on Wednesday 24th March 2021 at around 1300 HRS. A team comprising of KWS, Staff of Loldaiga ranch and others commenced fighting the fire immediately. The prevailing dry weather conditions and thick vegetation cover made the fire very fierce. A ground assessment was conducted on Thursday 25th March 2021 by a KWS team. The fire was contained on Friday 26th March 2021.

A further aerial and ground assessment was conducted by a multiagency team on Friday 26th March 2021 to assess the extent of the fire, the effect of firefighting efforts and to look into allegations about the death of five (5) elephant as reported by a UK based media outlet.

Observations

(i) Biodiversity Destruction

- The ranch is about 49,000 acres of land out of which approximately 12,000 acres of land mainly comprising of the natural Olive and Cedar forest was consumed by the fire
- No elephants were killed by the fire.
- Plans are at an advanced stage to conduct an Environmental Impact Assessment (EIA) of the fire.

(ii) Property Damage

- No human life was lost as a direct result of the fire, but one member of the Loldaiga Staff died in a vehicle accident while on the firefighting mission.
- Housing structures in one residential camp within the natural forest were extensively damaged by the fire.

(iii) Impact on wildlife movement and dispersal

Though the fire was contained within Loldaiga Ranch, the effects of the fire as a result of wildlife (mainly elephant) displacement have been felt within the adjacent community. Wildlife that was initially resident on Loldaiga Ranch movement into the adjacent and surrounding community land.

Preventing future fire outbreaks
The Loldaiga Ranch was directed to develop and enforce fire management guidelines for the BATUK to prevent a recurrence of a forest fire

The Loldaiga Ranch was directed to construct fire breaks around the BATUK site Government expediting a comprehensive assessment of the burnt area the results of which will guide restoration of the habitat that was destroyed.

The Committee made the following resolutions:

- *The Secretariat to review all the responses received and advice on the necessity for another sitting;*

MINUTE SEN/SCLENR/141/2021: ANY OTHER BUSINESS
There was no other business discussed.

MINUTE SEN/SCLENR/142/2021: DATE OF NEXT MEETING
The meeting was adjourned at 1.00 pm and the date of the next meeting was to be held on thereafter.

Signed:..... Date: **29/6 /2021**

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

MINUTES OF THE 47TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 28TH OCTOBER, 2020 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS	**PRESENT**
1. Sen. Mwangi Paul Githiomi, MP	- **Chairperson**
2. Sen. George Khaniri, MGH, MP	- Member
3. Sen. (Dr.) Lelegwe Ltumbesi, MP	- Member
4. Sen. Sylvia Kasanga, MP	- Member
5. Sen. Mwaruma Johnes, MP	- Member
6. Sen. Boy Issa Juma, MP	- Member
	ABSENT WITH APOLOGY
1. Sen. Philip Mpaayei, MP	- **Vice Chairperson**
2. Sen. Ndwiga Peter Njeru, EGH, MP	- Member
3. Sen. Gideon Moi, CBS, MP	- Member

IN ATTENDANCE

A. SENATORS

Sen. (Dr.) Isaac Mwaura, CBS, MP - Nominated Senator

B. PETITIONERS - PETITION ON THE ACQUISITION OF KARARE LAND IN MARSABIT COUNTY BY THE KENYA DEFENCE FORCES

1. Mr. Sunya Ore - Chair, Rendille and Samburu Community Representatives
2. Mr. Stephen Gambare - Rendille and Samburu Community Representatives
3. Hon. Bernard Leakono - MCA – Logo Logo Ward

C. PETITIONERS - PETITION CONCERNING THE GAZETTEMENT OF ONDIRI WETLAND, KIAMBU COUNTY

1. Prof. David Ngugi - Chair, ONKARU (Ondiri, Nyongara, Kabuthi and Rungiri)
2. Mr. David Wakoga - Coordinator, Friends of Ondiri Wetland
3. Mr. Robert Gacheru - Petitioner
4. Ms. Hildah Wangui - Petitioner

D. SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Ms. Clare Kidombo - Researcher
3. Mr. John Ngang'a - Audio Recording

MINUTE SEN/SCLENR/253/2020: PRELIMINARIES

The meeting was called to order at 11.30 am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLENR/254/2020: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Mwaruma Johnes, MP and seconded by Sen. (Dr.) Lelegwe Ltumbesi, MP as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. Meeting with Petitioners on the **Petition regarding the acquisition of Karare land in Marsabit County, by the Kenya Defence Forces**;
5. Meeting with Petitioners on the **Petition concerning the gazettement of Ondiri Wetland, Kiambu County**;
6. Any other Business;
7. Date of the next meeting;
8. Adjournment.

MINUTE SEN/SCLENR/255/2020: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Committee differed the confirmation of Minutes to the next meeting.

MINUTE SEN/SCLENR/256/2020: MEETING WITH PETITIONERS ON THE PETITION REGARDING THE ACQUISITION OF KARARE LAND IN MARSABIT COUNTY, BY THE KENYA DEFENCE FORCES;

The Petitioners presented as follows:

The **Part 1: Background**

1. The Rendille and Samburu communities of Marsabit are indigenous peoples of Kenya whose livelihoods and culture are dependent on livestock production. The community occupies Laisamis Sub County and Karare Ward of Saku sub County.

2. The habitat of the Rendille and Samburu Communities of Marsabit is arid and semi arid and therefore highly dependent on mobility of their livestock to track water and pasture.

3. The ecosystems of such arid environment are interlinked and interdependent and for that reason any new development must take into account the environmental and socio-economic impact of such proposals.

4. The rangeland rainfall is known to be low in amounts and patchy. It is for this reason that mobility and free movement of livestock in search of pasture is essential.

5. The Colonial Government and the early Kenya Governments understood very well functionality of rangelands and the culture and livelihoods of the pastoral communities.

6. In order to manage the rangelands the early Kenya Governments established reserves where people, livestock and wildlife coexisted. These reserves were established through a 60 day gazette notice by the Director of wildlife. Such reserves cover the entirety of all areas that receive at annual rainfall of least 300 mm and which therefore can support perennial vegetation and where therefore wildlife and livestock can survive on during the dry season.

7. The flexibility of movements of pastoralists have allowed for sustainable production of livestock and therefore the survival of the people in such harsh environment. The ecosystem according, according 2018 livestock production report currently support 160,000 cattle, 97,000 camels, 675,000 sheep, 684,00 goats and 49,000 donkeys. This wouldn't have been possible if the upper rangelands which are also national reserves did not exist.

8. Such reserves are therefore on community land but the use is for both livestock/people and the wildlife. It is for that reason that the Wildlife Conservation and Management Act, 2016 and the Community Land Act provide for clear procedures for change of use of any part of such land.

Part2: The Karare Land issue

1. ***The Rendille Community being good citizens appreciate the role of security forces and has in 2012 given land at Mata Lama to KDF in Good faith.*** Mata Lama borders borana and Gabra community land which could explain why KDF was pushed to the land where community which lacks polital and economic power. Please see attached petition by the Saku MP where the jinx of the petition is settlement of 50 people from North Horr sub county in Saku Sub county and the resultant insecurity associated with handling of land matters in the county. The impact of **12,300 acres** excised from the only Rendille pristine and economic pillar could have a million-fold impact on the Rendille community. The land in question is over **270 kilometers** away from the international borders. Must KDF get this particular land even if that means causing harm to a community in Kenya?

2. The Community has just recently lost another **150,000 acres** to Lake Turkana Wind power project despite objection by the people.

3. In a public participation report another 24,600 acres of land which was a Rendille traditional grazing land has also been allocated to KDF. However, the community's main concern is Karare land due to its centrality in its survival and cultural value.

4. The land currently in dispute is culturally sensitive and is the pillar of Rendille pastoralism. The land is owned communally (control and Access) by entire Rendille and Samburu communities of Marsabit and Samburu North Sub County because of its grazing and cultural value, at minimum all the six wards of Marsabit should have been engaged which was ignored despite the fact the county Government has this knowledge.

5. The Governor of Marsabit, notwithstanding the fact that he doesn't have powers to allocate a National Reserve on 2nd July, 2019 allocated 5,000 ha of land to the second respondent.

6. Six (6) months later, in January, 2020, the KDF claims to have done a public participation exercise to perhaps regularize an illegality.

7. The fourth schedule of Wildlife Management and Conservation Act, 2013 has spelt out elaborate procedures for excising a national reserve some of such procedures include;

(a) the responsible authority shall publish a notice in relation to the proposal – (a) in the Gazette; (b) in at least three national newspapers; (c) in at least one newspaper circulating in the locality to which the proposal relates; and (d) in at least one Kenyan radio station broadcasting in the locality.

(b) The notice shall in each case – (a) set out a summary of the proposal; (b) state the premises at which the details of the proposal may be inspected; (c) invite written and or oral presentations and comments on the proposal; (d) specify the person or body to which any such presentations and comments are to be submitted; and (e) specify a date and place by which any such comments are required to be received, not being a date earlier than sixty days after publication of the notice.

(c) The responsible authority shall make arrangements for the public to obtain copies, at reasonable cost, of documents relating to the proposal which are in the possession of the responsible authority.

(d) The responsible authority shall consider – (b) any written comments or objections received on or before the date specified under paragraph 1(2) (e); and (c) any comments whether in writing or not, received at any Wildlife Conservation and Management 2013.

(e) That any such proposal shall not endangers any rare ,threatened or endangered species or interferes with the migration and critical habitat of the wildlife or adversely affects its value in the provision of environmental goods and services ,or prejudices biodiversity conservation ,cultural site protection or its use for educational ,ecotourism ,recreational ,health and research purposes ,then the national lands commission will not recommend such a proposal and the same cannot be published.

(f) The purported public participation exercise carried out on the 21st day of January 2020 is a sham and does not meet the criteria set out in the fourth schedule of the wildlife conservation and management act 2013

8. Considering that no environmental and socio-economic impact assessment was done as required by Environment Management and Coordination Act and Wildlife Conservation and Management Act, 2013, how did KDF and county Government make such a decision? Was KWS involved in this matter

9. **There was no National Assembly resolution that has approved the excision of the land as required by Wildlife Conservation and Management Act.**

10. The public participation as enshrined in the Constitution is not mere formality. **No,** it is not a formality the KDF and County Government are fully aware that the land in dispute is community land is demonstrated by para 17 of the purported public participation report which states that 'Land in Marsabit is communally owned and held in trust by the County Government' and that declaration of community land as a national reserve does not extinguish community ownership of their land.

11. The KDF and the County Government the resolutions passed by the community declining to give away any land within Karare ward. However, the purported public participation report indicates unanimity by the community in welcoming

allocation of the Land to KDF. The purported public participation report, rightly reported that these communities depend on grazing areas, livestock corridors and water points that are well within the designated areas – it is very unfortunate that resource mapping was not considered in the process of ascertaining range for military settlement. These rangelands are not open spaces, they are not unoccupied, pastoralist structures their livelihoods through mobility and opportunistic exploitation of continuous unfragmented landscape; so without a thorough understanding of community livelihoods it's unreasonable to propose and urge non-productive developments.

12. Considering that all Rendilles and Samburu people of Marsabit have right of access and control of the land in question which of great cultural and economic significance and that they have not been consulted on any proposed change of use. Please see attachment.

13. The declaration of community land as a national reserve does not convert it into public land. The County Government has the mandate of managing areas declared as national reserves as trustees of the community and cannot make unilateral decisions with respect to that land as is the case herein.

14. That the respondent has not provide any prove of environmental and socio-economic impact assessment which is a requirement under the National Environment and Management Act, 1999 and Wildlife Management and Conservation Act, 2013

15. That the KDF did not provide any evidence of the intention to excise through Gazette Notice by the Cabinet Secretary responsible for Wildlife, the National Assembly approval and documentation of public participation process except a report purported 'public participation' report which has been rejected by the community.

16. THAT the respondent cannot ignore the fact that over 110,00 people of 75% live below poverty line and over 90% illiterate whose culture and livelihoods will be permanently and irreparably affected are indeed Kenyans are part of the **public** and enjoy protection of law.

17. The public participation exercise purportedly carried out by the respondents was a sham and cannot by any standards qualify as a public consultation, as consultations are carried out before any action is taken and not the other way around as was the case herein.

18. THAT, in para 43 of purported public participation report, the County Government of Marsabit was asked to fast track formal allocation of land to MoD" despite already possessing an allocation later. One wonders is this a fresh allocation? If not, how why did the Ministry of Defense set camps in Karare post ante during times of Corona. Could the Ministry of Defense be holding an irregularly acquired Title Deed already?

19. The KDF mobilized during the duration (from 29th May 2020 to date) of the COVID-19 and set a camp at KWS camp at Karare despite resistance by the community. This was done without sufficient precautions; servicemen were seen

to walk without masks and had encouraged the sale of cheap canteen liquor to youths and old men who are now hooked to the habit.

20. **The opening up of access road and disturbance of the wildlife migratory corridor and dispersal area has already contributed to increased human-wildlife conflict although no human deaths were reported yet. This situation would worsen once the land is fenced and developed.**

21. The petitioners despite being marginalized, minorities and vulnerable enjoy protection of the Constitution under the Bill of Rights, Wildlife management and Conservation Act, 2013 and the Community Land Act, 2016

22. If the actions of KDF and County Government of Marsabit are not stopped by the intervention of this court then the Petitioners' livelihoods which is dependent on migration of livestock to rangelands of equilibrium of at foot of Mt. Marsabit will be irreparably damage to the extent that it would be impossible to compensate the in monetary terms.

23. All the existing laws and the constitution were ignored as well articulated perhaps due to the fact that the Rendilles do not wield economic and political power. What is the use the laws if they only protect the mighty?

24. **KDF being our agents of security ought to be the first persons to respect and follow the rule of law in this country notwithstanding the fact that the minority status of the Rendille community**.

Part 3 Effort by the community get the matter resolved administratively.

25. We to National Land Commission, KDF, KWS, Cabinet Secretary responsible for Wildlife matters, County Governor Marsabit and the County Commissioner. None of these public entities responded to the request to give the community a hearing contrary to public expectation.

26. The Community gave an alternative land

27. Protest by the community and Laisamis sub county MCAs and Karare MCA

Part 4: Prayers

28. We pray to the Senate to summon KWS, the County Government, the KDF, the National Land Commission to explain their role in the illegality.

29. We pray the Honorable Senate to protect the land of the vulnerable people of Kenya with little political or economic power.

30. The Senate to demand cessation of any physical development of the land in dispute.

31. The petitioners insisted that the KDF utilize the land given to them in good faith in 2012 instead of forcefully, unlawfully and in collision with the 1st respondent forcefully taking away the pillar of Rendille pastoralism and their culture.

32. **The Constitution of Kenya and Acts of Parliament are not passed in vain but should apply to the mighty and the weak equally.**

33. The Senate to declare that public entities must comply with the Constitution and applicable laws in the compulsory acquisition on community lands

The Committee sought clarifications on the actual acreages in question and whether title deeds existed and were informed by the Petitioners that the County government had surrendered 12,300acres instead of the agreed 2,500acres and that their lands were community land and therefore didn't have title deeds.

The Committee proceeded to thank the Petitioners for having their confidence the Senate, and that the Committee shall ensure justice is served.

The Committee resolved to invite the:

- **County Government of Marsabit;**
- **National Land Commission;**
- **Ministry of Lands and Physical Planning;**
- **Ministry of Defence**
- **Kenya Wildlife Service**

MINUTE SEN/SCLENR/257/2020: MEETING WITH PETITIONERS ON THE PETITION CONCERNING THE GAZETTEMENT OF ONDIRI WETLAND, KIAMBU COUNTY;

The Petitioners presented as follows:

Background:

Ondiri Wetland is the only Highland bog in the Republic of Kenya and is part of ONKARU (Ondiri, Nyongara, Kabuthi and Rungiri) Sub-Catchment Management plan which covers an area of 118 square kilometers. The main direction of outflow of the Wetland is to the South and East where several small streams join downstream to form larger streams that make the headwaters of Nairobi and Athi Rivers. The Wetland is also linked to Kikuyu Springs which are a major source of water to Kikuyu and Nairobi throughout the year. Kikuyu Springs is the oldest source of piped water for the city of Nairobi which was connected in 1906.

The Petioners prayed that the Senate intervenes to ensure that they achieve official gazettement of Ondiri Wetland to protect it from further encroachment.

The Committee proceeded to thank the Petitioners for having their confidence the Senate, and that the Committee shall ensure justice is served.

The Committee resolved to invite the:

- **Ministry of Environment and Forestry**
- **Ministry of Water**

MINUTE SEN/SCLENR/258/2020: ANY OTHER BUSINESS;
There was no other business discussed.

MINUTE SEN/SCLENR/259/2020: DATE OF NEXT MEETING;
The meeting was adjourned at 1.35 pm and the date of the next meeting was scheduled for Thursday, 28th October, 2020 at 11.00 am via zoom online platform.

Signed: **For:** Date: **19/11/2020**

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

PETITIONERS SUBMISSIONS

9

This is the Exhibit Marked "JM3"
Annexed to the Affidavit / Declaration
of J. MESS Sworn at NRI on
This 30 day of July 20 20
Commissioner for Oaths

MINISTRY OF DEFENCE
CHIEF OF THE DEFENCE FORCES

REPUBLIC OF KENYA
COUNTY GOVERNMENT OF MARSABIT
OFFICE OF THE GOVERNOR

P.O BOX 384 – 60500 MARSABIT - KENYA; Tel: +254 (0) 202 102 136; Email: info@marsabit.go.ke

Ref: MCG/NGM-MoD/VOL.1/19/1

02 July 2019

Mr Torome Saitoti, CBS
The Principal Secretary
Ministry of Defence
Ulinzi House
P. O. BOX 40668 - 00100
Nairobi

PRINCIPAL SECRETARY
480
08 JUL 2019
RECEIVED
MINISTRY OF DEFENCE

This is the Exhibit Marked "JM3"
Annexed to the Affidavit / Declaration
of J. MESS Sworn at NRI on
This 10TH day of JULY 20 20
Commissioner for Oaths

Dear PS,

RE: ALLOCATION OF LAND FOR MILITARY BARRACKS AND MILITARY TRAINING AREAS IN MARSABIT COUNTY

Reference is made to the above subject matter and to your request for the allocation of land for construction of Military Camps and Military Training Areas.

The County Government of Marsabit is pleased to allocate to the Ministry of Defence 5,000 Ha of land at Karare; 10,000 Ha at Haiya (*Orondele*) and 242.8 Ha at Moyale (*Odda Military Camp*) to be used for the requested purposes - *construction of Military Camps and Military Training Areas*.

The coordinates defining the boundaries of the allocated Military Lands are as indicated below:

MARSABIT KARARE SITE (UTM)

STN	EASTING	NORTHING
A	376583	248844
B	374070	248821
C	370311	251031
D	366218	250703
E	366957	244713
F	373812	244527
G	373800	245810
H	376328	245840

7

HAIYA- ORONDELE SITE (UTM)

STN	EASTING	NORTHING
HY1	386178	267607
HY2	398178	267607
HY3	398178	278607
HY4	386178	278607

The copies of extracts of topographical maps showing the allocated parcels of land at Karare and Haiya (Orondele) are hereto attached. A copy of Part Development Plan (PDP) for Moyale, Odda Military Camp is also hereto attached.

The Ministry of Defence is henceforward granted the approval to proceed with the processing of ownership documents from the relevant departments and Ministries.

Sincerely,

H.E. Hon. Mohamud Mohamed Ali
GOVERNOR
MARSABIT COUNTY

This is the Exhibit Marked ZM4
Annexed to the Affidavit / Declaration
of J. MESSO Sworn at NAIROBI on
This 10TH day of July 2020
Commissioner for Oaths

REPUBLIC OF KENYA

MINISTRY OF DEFENCE (MOD)

AND

COUNTY GOVERNMENT OF MARSABIT (CGM)

REPORT ON PUBLIC PARTICPATION EXERCISE ON MOD ALLOCATED LAND IN MARSABIT COUNTY

28th JANUARY 2020

COUNTY SECRETARY
COUNTY GOVERNMENT OF MARSABIT
P. O. Box 384-60500,
MARSABIT

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P. O. Box 384-60500,
MARSABIT

EXECUTIVE SUMMARY

Ministry of Defence (MOD) has been in the process of implementing its Strategic Defence Plan (SDP). The intent is to protect and secure the Nation in line with contemporaryand future threats. In order to achieve this, MOD is keen to have formal land allocation within strategic locations in the Country with Marsabit County being considered. The Military deployment in Base Camps and Training areas will deter both internal and external hostilities; enhance peace and stability to allow for economic growth in the County and the Country at large.

MOD began formal engagements with the County Council of Marsabit early in 2012 for allocation of military land; this resulted in allocation of land in Kubi Kalo on 8th January 2013. However, with the establishment of the County Government of Marsabit (CGM), the allocation was rescinded and MOD was requested to begin fresh engagements. This was followed by several joint consultative engagements between the MOD and CGM.

Pursuant to the findings of a detailed joint reconnaissance conducted between 2nd to 4th January 2019 and 29th May to 1st June 2019 formally allocated land to MOD on 2nd July 2019. The land included 5,000 Ha in Karare, 10,000 Ha in Haiya (Orondele) and 242.8 Ha in Moyale (Odda Military Camp). The lands at Karare and Odda are to be used for construction of permanent camps while the land at Haiya (Orondele) is to be used for training.

The Constitution of Kenya, 2010 and the Community Land Act advocate for public engagement and participation in the land acquisition process. This, subsequently, necessitated the need for a joint public participation exercise to all MOD allocated land in Marsabit County as required by Law.

The findings included: the need for immediate deployment of KDF; approval of the allocated land by the leadership and communities; the entire Marsabit Town and its environs are within National Reserve which will require that excision of any part of this land for military use will be subjected to degazettement process; as a temporary measure, MOD could pursue the request for Special Use Lease License from Kenya Wildlife Service (KWS);

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land acquisition is a devolved function and therefore it is required to be addressed through the County Government and National Land Commission (NLC);MOD has already facilitated Ministry of Lands and Physical Planning (MOLPP) - Department of Physical Planning (DPP) for preparation of Part Development Plan (PDP) for the allocated land; CGM had already allocated MOD 5,000 Ha of land at Karare, 10,000 Ha at Haiya (Orondele) and 242.8 Ha at Moyale (Odda Military Camp) to be used for the requested purpose – construction of military camps and training area; the need to consider grazing areas, livestock corridors and water points during deployment and development of allocated land.

The joint public participation team recommended that: CGM alienates and fast tracks fresh formal allocation of land for MOD; MOD facilitates acquisition of land ownership; since the allocated land is for military use, National Land Commission (NLC) will be engaged as mandated by the law; Environmental and Social Impact Assessment to be conducted to mitigate any future negative impacts on the environment; MOD set aside in Financial Year (FY) 20/21 budget for construction of Formation HQ/Barracks/Bases; joint use of KDF training areas through proper liaison and coordination through relevant administrative structures; the need to consider erecting high level reference beacons to demarcate the extents of the lands to host military facilities; HCA projects to be factored in the next FY 20/21 and MOLPP to deploy immediately to initiate preparation of PDP to fast track issuance of ownership documents.

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ABBREVIATIONS AND ACRONYMS

Bde	Brigade
Bn	Battalion
Capt	Captain
CC	County Commissioner
CECM	Chief Executive Committee Member
CGM	County Government of Marsabit
Col	Colonel
Comd	Commander
CS	County Secretary
CSR	Corporate Social Responsibility
DCC	Deputy County Commissioner
DHQ	Defence Headquarters
DPP	Department of Physical Planning
FY	Financial Year
HCA	Humanitarian Civil Action
KDF	Kenya Defence Forces
KWS	Kenya Wildlife Services
LAPSSET	Lamu Port - South Sudan – Ethiopia Transport Corridor Project
Lt Col	Lieutenant Colonel
Maj	Major
Maj Gen	Major General
MCA	Member of County Assemble
MOD	Ministry of Defence
MOLPP	Ministry of Lands and Physical Planning
MP	Member of Parliament
NLC	National Land Commission
PS	Principal Secretary
PDP	Part Development Plan
Recce	Reconnaissance
SDP	Strategic Defence Plan
SOK	Survey of Kenya
VCDF	Vice Chief of Defence Forces

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INTRODUCTION

1. MOD began formal engagements with the County Council of Marsabit early in 2012 for allocation of Military Land; this resulted in allocation of land in Kubi Kalo on 8th January 2013. However, with the establishment of the County Government of Marsabit (CGM), the allocation was rescinded and MOD was requested to begin fresh engagements. This was followed by several joint consultative engagements between the MOD and CGM.

2. Pursuant to the findings of a detailed reconnaissance conducted between 2nd to 4th January 2019 and 29th May to 1st June 2019 the County Government of Marsabit formally allocated land to MOD on 2nd July 2019. The land included 5,000 Ha in Karare, 10,000 Ha in Haiya (Orondele) and 242.8 Ha in Moyale (Odda Military Camp). The lands at Karare and Odda are to be used for construction of permanent camps while the land at Haiya (Orondele) is to be used for training.

3. MOD subsequently wrote to National Land Commission (NLC) requesting for letters of allotment for the above mentioned allocations. However, NLC advised MOD to undertake a public participation exercise in line with the Constitution of Kenya and Community Land Act.

4. During a consultative meeting between Vice Chief of Defence Forces (VCDF) of Kenya and H.E Governor of Marsabit at MOD Headquarters, Nairobi on 16th January 2020 attended by the Chairman and members of Ad Hoc Committee on Military Lands, it was resolved that a joint public participation exercise be conducted. It was further agreed that the exercise commences immediately from 21st January 2020.

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Image 1: VCDF, H.E Governor of Marsabit County and Chairman MOD Ad Hoc Committee on Military Lands during a Consultative Meeting at DHQ.

5. The purpose of the public participation and validation exercise is to bring on board all stakeholders particularly would-be host communities in immediate vicinity of allocated land as required by Community Land Act.

AIM

6. The aim of this report is to highlight the outcome of the public participation exercise for the Land allocated to MOD in Marsabit County.

SCOPE

7. The report will cover the following:

a. Introduction.

b. Background Information.

c. Planning and Coordinating Meeting.

d. Public Participation Exercise.

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e. Findings.

f. Conclusion.

g. Recommendations.

BACKGROUND INFORMATION

8. Marsabit County is situated in the Northern part of Kenya. It is the largest County in Kenya covering 12% of Kenya's land mass. It has an international boundary with Ethiopia to the North (approximately 700 Km), borders Turkana County to the West, Samburu County to the South, Wajir and Isiolo Counties to the East. Administratively, the County is divided into four sub-counties, namely; Saku, Laisamis, North Horr and Moyale. The County also has 20 assembly wards. The nearest KDF Bases to Marsabit Town are located in Moyale (250 Kms) and Isiolo (258 Kms). The security situation in Marsabit County is generally fluid posing an array of security challenges ranging from cattle rustling, proliferation of small arms, terror related activities and inter-ethnic/clan rivalry. The strategic deployment of KDF will create a strong foothold in the Northern Frontier which is prone to conflicts.

9. MOD has been in the process of implementing its Strategic Defence Plan (SDP). The intent is to protect and secure the Nation in line with contemporary and future threats. In order to achieve this, MOD is keen to have formal land allocation within strategic locations in the Country including Marsabit County.

10. Additionally, the presence of KDF in Marsabit is of significance due to its strategic location and flag ship projects being implemented within the County by the National Government including Wind Power Project at Loiyangalani, Lamu Port Southern Sudan-Ethiopia Transport Corridor (LAPSSET) and Oil exploration among others. Further the posturing of KDF will enhance security of the Northern part of the Country.

11. Formal engagements by MOD for allocation of land in Marsabit County began in 2012; this resulted in allocation of land in Kubi Kalo on 8th January 2013. However, with the establishment of the County Government of

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Marsabit (CGM), the allocation was rescinded and MOD was requested to begin fresh engagements in 2018. This was followed by several joint consultative engagements between MOD and CGM.

12. Following detailed joint reconnaissance conducted between 2nd to 4th January 2019 and 29th May to 1st June 2019 the County Government of Marsabit formally allocated land to MOD on 2nd July 2019. The land included 5,000 Ha in Karare, 10,000 Ha in Haiya (Orondele) and 242.8 Ha in Moyale (Odda Military Camp). The lands at Karare and Odda are to be used for construction of permanent camps while the land at Haiya (Orondele) is to be used for training. **See Annex A to this Report – Previously Allocated Military Land.**

13. The Constitution of Kenya and Community Land Act advocate for public engagement and participation in the land acquisition process. This subsequently necessitated the need for a joint public participation exercise which was conducted between 21st to 31st January 2020 for the Land allocated to MOD in in Marsabit County.

PLANNING AND COORDINATING MEETING

14. The public participation exercise was preceded by a planning meeting between MOD and CGM on 21st January 2020 at the Marsabit County Commissioner's (CC) Headquarter. The meeting was chaired by the CC and attended by members of the team drawn from MOD and Marsabit County.



Image 2: CC chairing the planning and coordinating meeting.

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15. During the meeting, it was agreed that the field visits to start on 21st January 2020 in Karare and end in Moyale, Odda Military Camp. Thereafter, the exercise will culminate with report writing, review and signing with the Marsabit County Government before 31st January 2020. **See Annex B to this report - Exercise Programme.**

PUBLIC PARTICIPATION EXERCISE

16. Marsabit County's Geostrategic location and economic resources require to be safeguarded, hence the need for KDF to be readily available on the ground. KDF is also keen to expand and increase its presence in the Northern frontier which is prone to conflicts. The aforesaid were adequately articulated to the County officials and community at large who were appreciative of the same.

17. Land in Marsabit County is communally owned and held in trust by the County Government. During the public participation exercise the joint team visited the land allocated to the Military in Marsabit County. The team interacted with various political, administrative, local leaders and elders among others.The theme of the message highlighted the benefits of KDF deployment to the people of Marsabit County.

18. In presenting their request, the MOD team made it known that the presence of KDF in the County will bring along with it several benefits as in other Counties hosting KDF camps; Isiolo, Wajir, Mandera, Garrissa, Mombasa, Laikipia (Nanyuki), Uasin Gishui among others. Such benefits include:

a. Enhancement of security through deterrence of and quick response to aggression of any form. This brings sustainable peace, security, cohesion and enhances economic development.

b. Creation of employment opportunities to the locals both directly and indirectly.

c. Attraction of local and foreign investments.

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d. Improved local infrastructure.

e. Improvement of socio-economic status of the local communities through Civil Military Cooperation (CIMIC) projects.

19. The detailed public participation exercise is discussed below.

Karare Ward, Saku Constituency

20. The Public Participation Exercise was held on Tuesday 21st January 2020 in Karare Ward at OkolaLeruk. The exercise was hosted by the CC, Deputy Governor and area MP in the presence of the MOD representatives, local administration, elders, opinion leaders, women and youth of the area.



Image 3: The Karare public participation exercise

21. The meeting began with prayers from one of the local elders followed by welcoming remarks from the Deputy County Commissioner (DCC) who explained the agenda of the meeting. He then welcomed the Principal Chief who made his brief remarks. Principal Chief introduced the Land Committee

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members for Karare and later invited the Member of County Assembly (MCA) for Karare Ward.

22. The MCA Karare Ward welcomed the MOD representatives stating that the Rendile Community considers KDF as their guest. The MCA explained to the local community the chronology of events since 2019 where he attended a meeting at the County Headquarters in Marsabit on MOD request for land allocation for Military Use in Karare and other areas in Marsabit. He reminded the community of the barazas they had held with their local leaders including the MP, Senator, Speaker of the County Assembly and himself in light of this request by the Military. He ended by complimenting the CC and the KDF team for organizing to meet the local community and making the request formally to the people during the public participation exercise. Thereafter, the area MP began by appreciating the people for showing up despite the local grazing activities. Also, He thanked the KDF for honoring the Constitution that places power on the people. He recognized the presence of the locals amongst them retired KDF soldiers at the Baraza. He emphasized on the need for KDF to be stationed in Karare and Marsabit in general due to the proximity of an international border with Ethiopia.

23. He further mentioned that during the official opening of the Modika Barracks in Garrissa in December 2019, H.E the President of the Republic of Kenya reiterated the need for the next barracks to be opened in Marsabit County. He emphasized on the benefits that the local community stand to gain due to Military presence which included improvement of access roads, schools, hospitals and water points among others.

24. The Deputy Governor, on his part, stated that consultations on MOD request for land allocation in Marsabit County has been ongoing for a long time. He urged the local community to embrace development. He also stated that it was the wish of the Governor to welcome the Military to Marsabit County.

25. The Chairman MOD Ad Hoc Committee summarized the chronology of MOD request for land allocation in Marsabit County which began in 2012. He began by expounding the posture of the KDF from the colonial days to the

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current situation in seeking to achieve its mandate. He stated that Karare offered a suitable location for KDF deployment.

26. The CC concluded the meeting by emphasizing the importance of the local community to support the government's intent to deploy KDF in Marsabit County. Thereafter, the local community representatives were invited to make their remarks.

27. The local elders, women and youth were given an opportunity to make their remarks. During this forum, it emerged that some of the leaders were concerned about the exact location and large extents of the Military Land. They asked the Military to consider other areas such as Matalama around Songa area. They also expressed the disappointment of the people of Kararefor being left out during the recent KDF recruitments. However, it was agreed that there would be further consultations between MOD, Office of CC and the local community to address some of the concerns raised by the community

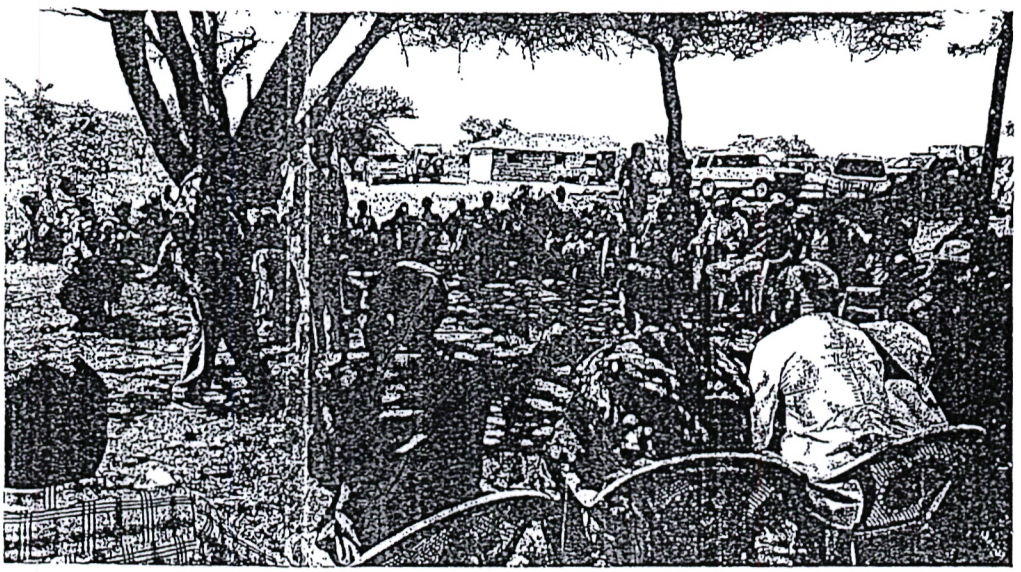

Image 4: Village elders and opinion leaders of Karare following the proceeding

28. Further consultative meetings and engagements were held between H.E the Governor of Marsabit, MOD reps, CC, local leaders and the community between 21st and 22nd January 2020. Consequently, it was

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resolved that MOD considers reducing the size of land requested through a further joint recce.

29. The joint recce exercise led by the local elders and chiefs was conducted on the 23rd January 2020 in Karare Ward. It was attended by the DCC, local chief and assistant chief, MOD reps, community elders and youth reps. The objective of the recce was to identify a suitable location and extents that will take into account the concerns of the community and MOD.



Image 5: MOD reps and the local chiefs and elders being shown the extents of Karare Land

30. The joint recce settled for an area approximately 5 Km to the West of Isiolo – Moyale Road along Karare - Lakartinya Primary School Road. The local chiefs and elders showed MOD reps the extents of the land. The area is locally referred to as Nalkaria with prominent dominating features such as Gar Hanjale and Darfi Arba. It was therefore resolved that MOD occupies land in that general area measuring approximately 2,500 Ha. **See Annex C to this Report – Revised Allocated Karare Land.**

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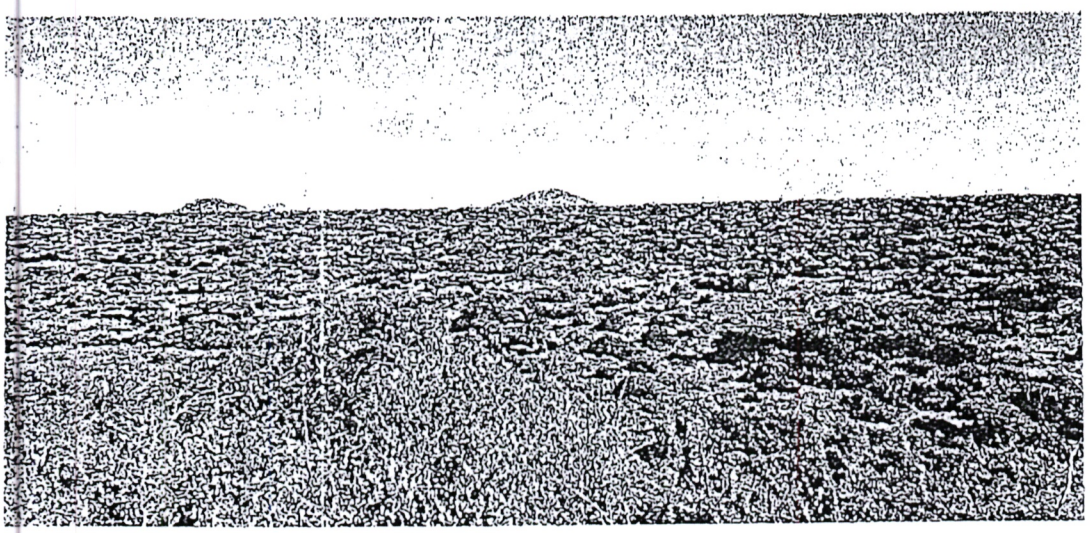

Image 6: Section of the Karare land reconnoitered for MOD allocation in Nalkaria

31. The joint recce findings in Nalkaria area were presented in a meeting with the MOD, CC, area MP, MCA, NPS reps, KWS, local administration reps, and the community on 23rd January 2020 at about 1100 hrs at a Baraza in Karare Ward. During this meeting, the area MP and MCA requested that MOD prioritizes the need for water in the county, inclusion of the people of Karare in subsequent KDF recruitments, need for roads and schools. Also, the MP emphasized the KDF to seek a good working relationship with the local community through appropriate liaison.

32. The Chairman, Ad Hoc Committee on Military Lands, thanked the leaders and the community for allocating land to MOD. Thereafter, the CC concluded the meeting with brief remarks and a word of prayer. **See Annex D to this Report – Karare List of participants.**

Segante Ward, Saku Constituency

33. The Public Participation Exercise was conducted on 21st January 2020 in Haiya (Orondele). The exercise was led by the CC and other local leaders including local chiefs, elders and opinion leaders.

34. The members present began by appreciating the extents of the land that had been previously reconnoitered and identified for the proposed

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training area for MOD. The exercise was led by an elder who showed the proposed extents.

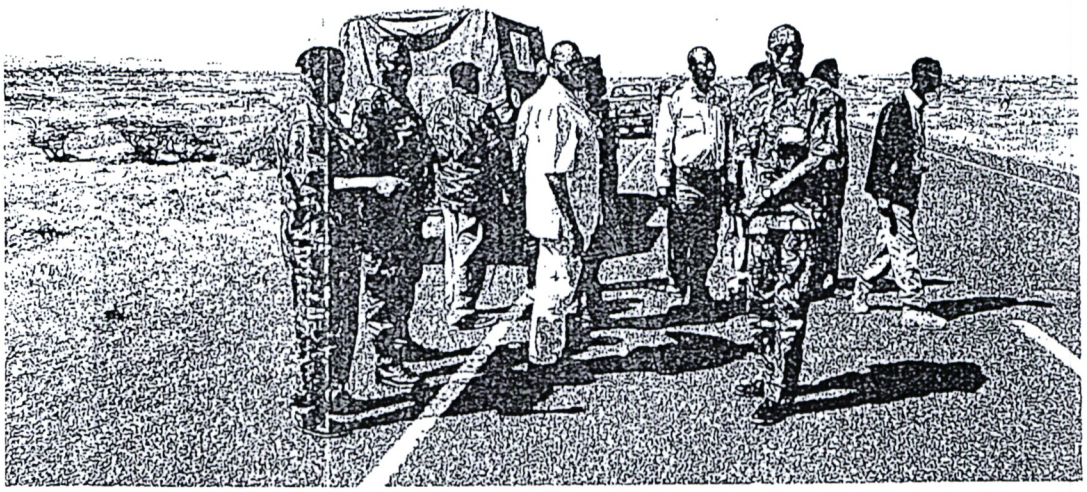

Image 7: MOD reps, Local Admin and opinion leaders during the public participation exercise in Haiya

35. It was unanimously agreed that the KDF training area will begin from shoulders of Orondele feature (from Moyale direction) and cover 10 km towards Marsabit town and 10 Km in width towards Muge settlement. **See Annex E to this Report - Revised Hiaya Allocated Land and List of Participants.**

Township Ward, Moyale Constituency

36. The MOD team visited Moyale Sub County offices where they held a meeting with the Deputy County Commissioner (DCC) and DCIO. The DCC invited all members present to the meeting and led a brief introductory session. The DCC explained the current geo-political situation in the general area. He gave an analysis of the security situation which was basically based on ethnic rivalry and attacks by militia from across the border.

37. The DCC also acknowledged the presence of KDF in Odda Military Camp which had been established in 1980s. He mentioned that he was aware that the Military Land extends beyond the current fenced area and that some of the portions may have been encroached on.

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38. MOD team leader explained the nature of the task in Moyale which was to appreciate the extents and surroundings of the Odda Military Camp as a precursor to the MOLPP physical planning and survey exercises.

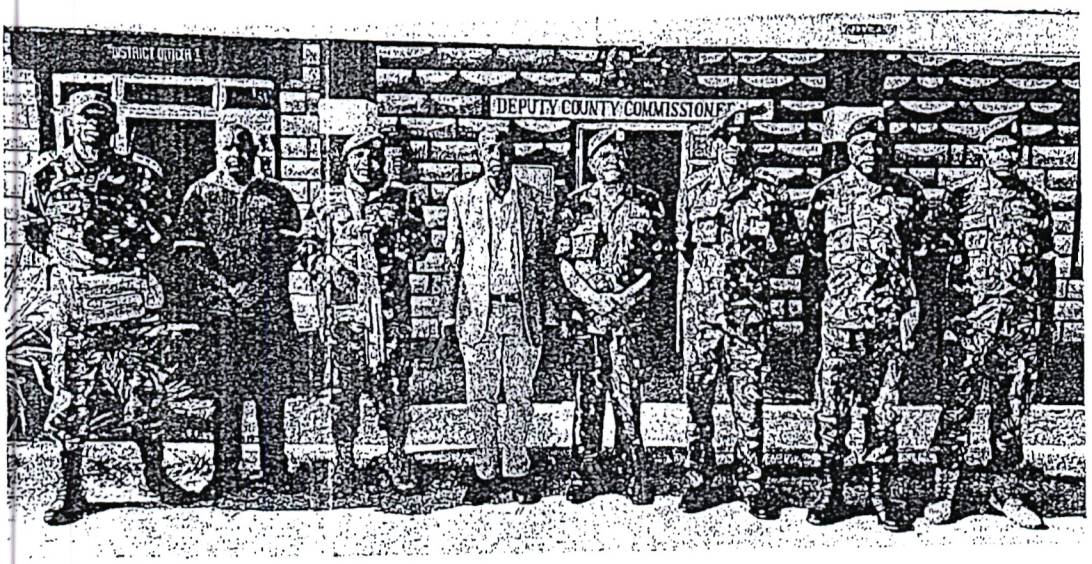

Image 8: MOD reps courtesy call on the DCC Moyale

39. Thereafter, the MOD team and OC Odda detachment embarked on a recce exercise on Odda Military Camp. There is possible limited encroachment based on the extents shown on the unapproved PDP of 2004. **See Annex F to this Report – Moyale Odda Camp Land.**

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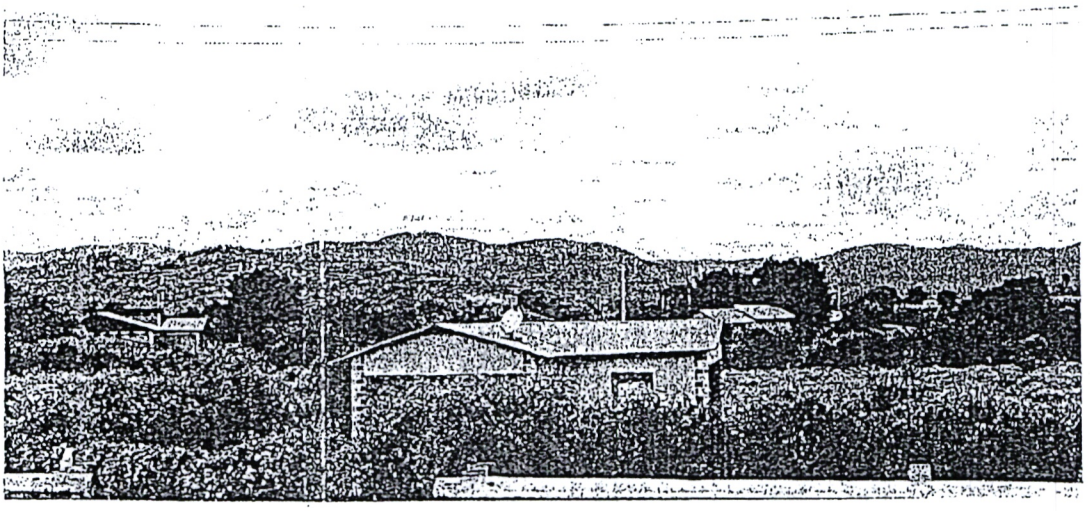

Image 9: Some of the settlements and developments on Odda Military Land

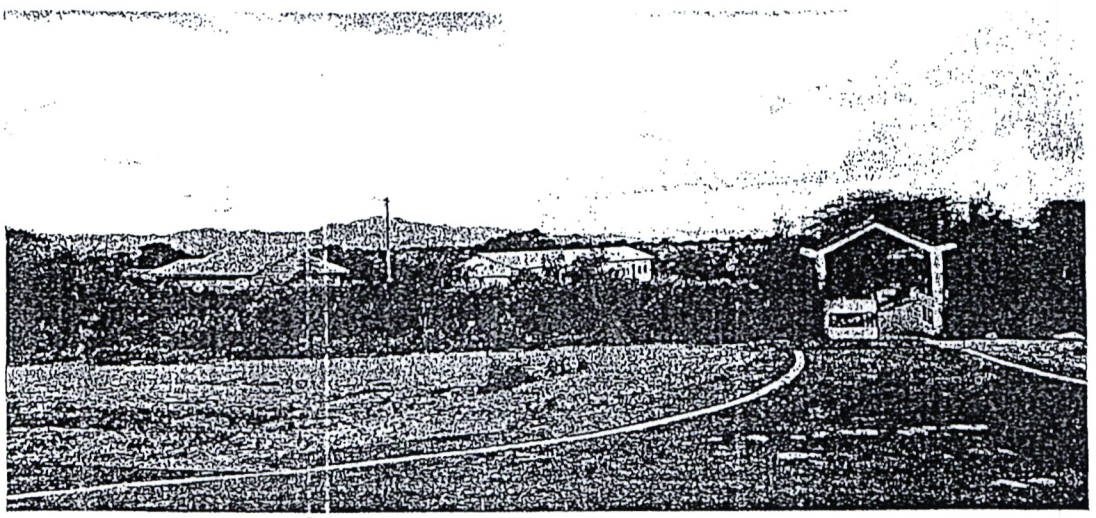

Image 10: Some of the settlements and developments on Odda Military Land

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Image 11: MOD signage along the Marsabit - Moyale –highway demarcating Odda Military Land

FINDINGS

40. The findings of the Public Participation Exercise were as follows:

a. Local communities in Marsabit are supportive of immediate military deployment to the allocated land as catalyst for peace and security for economic development.

b. The community in Marsabit largely depends on livestock keeping and therefore is keen to protect grazing areas, livestock corridors and water points as fundamental to their mainstay pastoral livelihood.

c. Overally, the local leaders and community members unanimously agreed with the allocated Military Land in their respective areas.

d. The entire Marsabit Town and its environs are within a National Reserve which will require that excision on any part of this land for military use will be subjected to degazettement process. As a temporary measure, MOD could pursue the request for Special Use Lease License from Kenya Wildlife Service (KWS).

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e. Land acquisition is a devolved function and therefore it is required to be addressed through the County Government and National Land Commission (NLC).

f. MOD has already facilitated MOLPP for preparation of Part Development Plan (PDP) for the allocated Military Land.

g. The County Government of Marsabit had already allocated MOD with 5,000 Ha of land at Karare: 10,000 Ha at Haiya (Orondele) and 242.8 Ha at Moyale (Odda Military Camp) to be used for the requested purpose – construction of military Camps and training areas.

h. Following the conduct of the public participation, it was agreed that the allocation at Karare be reviewed to approx. 2,500 Ha.

j. The training area at Haiya is an identified grazing area for the local community and has a water point; therefore there is need for coordination and liaison with the local administrative authorities for joint use of land during training.

k. Some sections of Moyale Odda military Camp land may have been encroached by somepublic and private entities based on the extents shown on the unapproved PDP of 2004.

l. There seems to be a discrepancy between the acreage shown on the unapproved PDP of 2004 and the actual area on ground.

m. The local community is in need for construction of boreholes, water pans/points and improvement of public facilities (road, hospitals, schools etc) in the areas allocated to military.

CONCLUSION

41. The public participation exercise was carried out successfully by the joint MOD and CGM teams. The County leadership, MPs and MCAs played a critical role of coordinating the local communities across the areas expected to host MOD facilities.

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42. Generally, the CGM, judging by the Government official's reaction and the local community, is very keen and positive in hosting the Military in the County. This being a significant Government establishment will boost security and development in Marsabit County.

RECOMMENDATIONS

43. The following is recommended:

a. CGM to fast track formal allocation of land to MOD for military use by issuing fresh allocation letters.

b. MOD to facilitate timely acquisition of land ownership documents for the land allocated by CGM.

c. MOD to set aside funds in the FY 20/21 budget for the construction of the proposed Formations Headquarters/Barracks/Bases in Marsabit County.

d. MOD to consider immediate deployment of KDF troops in the proposed sites once formal allocation has been granted by CGM.

e. MOD to consider fencing of the lands allocated by CGM where possible orerect high level reference beacons to demarcate the extents of the lands.

f. Training areas to be used jointly by MOD and the local communities subject to proper liaison.

g. MOD in consultation with CGM to consider grazing areas, livestock corridors, water pans/points and cultural sites in the establishment of KDF camps.

h. Since the allocated land is for military use, National Land Commission (NLC) be engaged as mandated by the law.

j. MOD to pursue degazettement of the allocated land from National Reserve. Meanwhile as a temporary measure, engage KWS for Special Use Lease License.

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k. The MOLPP to determine the extents of Moyale Odda military Camp and CGM to address the encroachment by both public and private entities.

l. Environmental and Social Impact Assessment to be conducted to mitigate any future negative impacts on the environment.

m. HCA projects to be factored in the next FY 20/21.

n. DPP to deploy immediately to initiate preparation of PDPs to fast track issuance of ownership documents.

E D MBOYA
Lieutenant Colonel
Secretary

24th January 2020

Authentication:

.....

M S MWACHARO
Colonel
Team Leader

.....

Engr JOSEPH GUYO
County Secretary
County Government of Marsabit

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COUNTY GOVERNMENT OF MARSABIT
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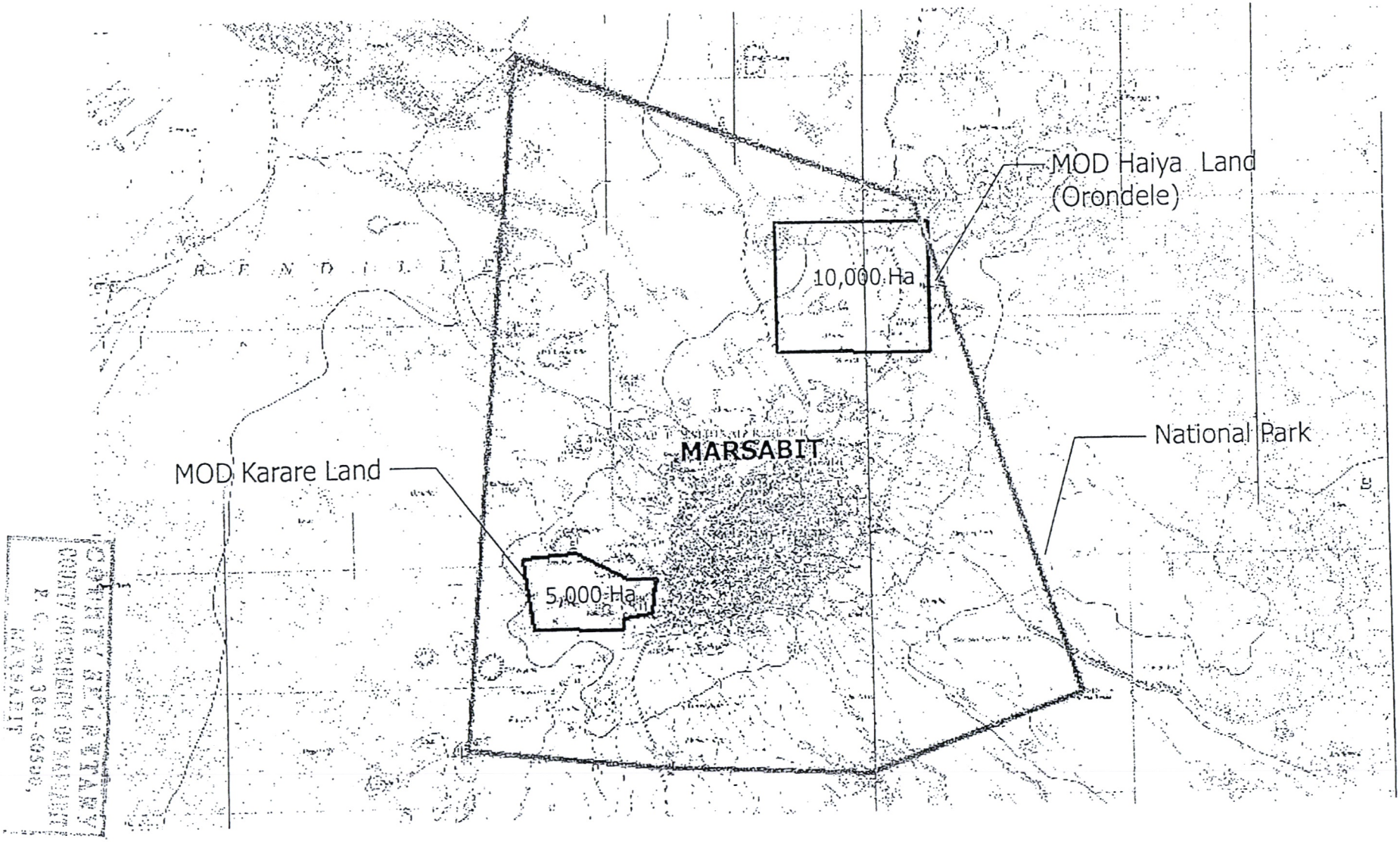
ANNEXES:

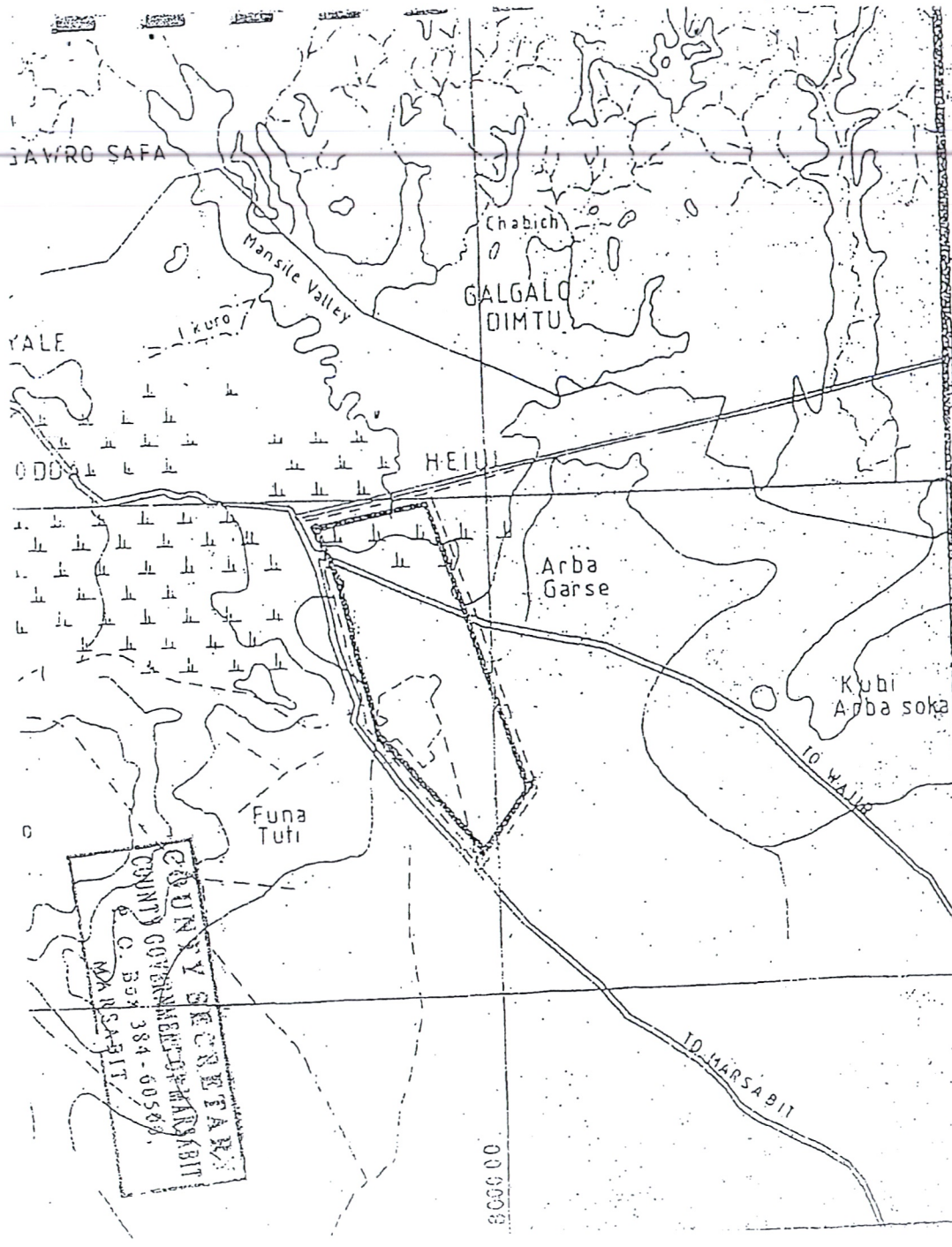
A. Map of Previously Allocated Land.
B. Exercise Programme.
C. Revised Allocated Karare Land.
D. List of Participants in Karare.
E. Revised Allocated Haiya Land & List of Participants in Haiya.
F. Map of Odda Military Camp.



ANNEX 'A' TO
PUBLIC PARTICPATION REPORT
DTD 28 JAN 20

PREVIOUSLY ALLOCATED LANDS





AF 242.8 HA

CERTIFICATE

I Certify that this plan has been prepared and published as per the physical planning act 1996

NAME OF PHYSICAL PLANNER _____

SIGNATURE _____ DATE _____

AMMENDMENT

MINISTRY OF LANDS & SETTLEMENT

PHYSICAL PLANNING DEPARTMENT

MOYALE

PART DEVELOPMENT PLAN

SCALE 1:100,000

DATE 10/06/04

PREPARED BY J. M. MUTINDA

DRAWN BY J. M. MUTINDA

DEPARTMENTAL REFFERENCE NO MY/194/04/06

CERTIFIED

DIRECTOR _____ DATE _____

Physical planning department

APPROVED

DATE _____

MINISTER FOR LANDS & SETTLEMENT

APPROVED DEVELOPMENT PLAN NO

EXERCISE PROGRAMME

SER	ACTION	TIME FRAME											
		JANUARY											
		20 M	21 T	22 W	23 T	24 F	25 S	26 S	27 M	28 T	29 W	30 T	31 F
1.	MOD Team Movement to Marsabit												
2.	Coord Meeting MOD & TCG												
3.	Karare Public Participation Ex												
4.	Haiya Public Participation Ex												
5.	MOD & MCG Team Movt to Moyale												
6.	Coordinating Meeting with local leaders in Moyale												
7.	Odda Camp Public Participation Ex												
7.	MOD & MCG Team Movement back to Marsabit												
8.	Report Writing & Compilation												
9.	Presentation of the Report & Signing												
10.	Travel Back to Nairobi												

Legend

Ex-Day

Travel/Admin

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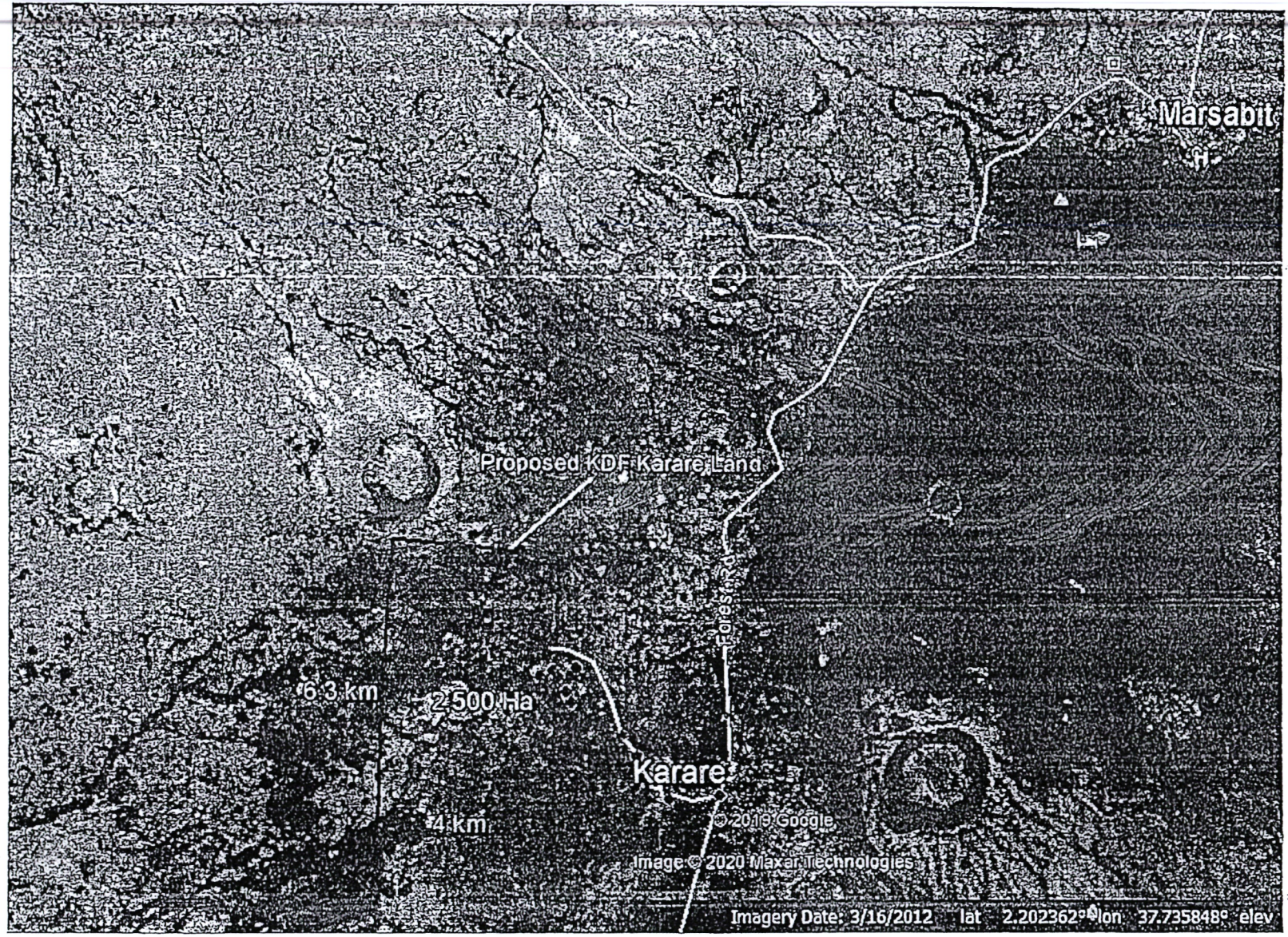
ANNEX 'C' TO
PUBLIC PARTICPATION REPORT
DTD 28 JAN 20

REVISED ALLOCATED KARARE LAND



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ANNEX 'D' TO
PUBLIC PARTICIPATION REPORT
DTD 28 JAN 20

LIST OF PARTICIPANTS IN KARARE WARD, SAKU CONSTITUENCY

See next page

COUNTY GOVERNMENT OF MARSABIT
COUNTY COORDINATOR
P. O. Box 384-60500,
MARSABIT

MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: (OKOLA LERUK) KARARE WARD

DATE: 21 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
1	Solomon G. Rine	DG	0721305321	[signature]
2.	Dido Ali Rasso	MP Saku	0722934348	[signature]
3	EVANS. M. ACHOKI	CC Interior	0720881157	[signature]
4.	[illegible] A. STEVE	CPC	0720449284	[signature]
5	HARON CHABALI	CWIO	0722464572	[signature]
6.	FREDRICK WACHIRA	CIY GIPU Comm	0720868877	[signature]
7	Mark. Arigelle	Form M.C.A	0724456752	[signature]
8.	COL MOHAMED MWACHARO	MOD	0722755830	[signature]
9	H COL MBOYA	MOD	0703186642	[signature]
10	MUSEMBI ERNEST	Ministry of Roads MARSABIT	0722628179	[signature]
11.	Major George Moses Otieno	MOD	0725674676	[signature]
12.	Captain Ombino Bonface	MOD	0723569741	[signature]
13	CAPTAIN J MESO	MOD	0721 530 371	[signature]
14	Bonaya Doti Ibrahim	NG-CDF Saku	0725 824 219	[signature]

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MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: KARARE WARD (OKOLA LERUK)

DATE: 21 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
15	ARKAULE GALJARACHO	SNR. PRINCIPAL CARR	07438802	[signature]
16	MAGDALENE N. ILIMO	ASS/CHIEF KARARE	0728362248	[signature]
17	KARAMA LENGOILEI	ASS/CHIEF OGICHO	0796458664	[signature]
18	Hon Leado Stephen	MCA KARAREWARD	0727549003	[signature]

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MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: KARARE

DATE: 21 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
01	Afkaule Galgarache	Sub/P/chief	~~0743~~ 0743880233	[signature]
02	KARAMA LENGOLEY	ASS/Chief OGICH	0796458664	[signature]
03	RAPHAELA K. MATHACHO	CHIEF - HULAHULI	0710189085	[signature]
04	JONATHAN K. ILIMO	ASS - CHIEF	0728808761	[signature]
05	MAGDALINE N. ILIMO	ASS. CHIEF KARARE		
06	MALMALO M. JAFAN	County Government of Marsabit	0727933367	[signature]
07	ANTONELA LOBURA	MCA	0728397729	[signature]
08	JEREMIAH NAKWANG	Peace Chairman	0727915273	[signature]
09	ELINA LEKIDAYO	WOMEN	0707909994	[signature]
10	NYISIYAN GALORO	WOMEN		
11	Beranard Leitoro	Leader	0701949274	[signature]
	ARSIMEYA GALORO	WOMEN	—	
	PETER NEEPE	ELDER	0710316798	[signature]
	NAIMALMALO RAPHAELA	WOMEN	—	

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MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: ICHARE DATE: 21 JANUARY 2026

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
	CHARLES DADACHA	ELDER	0727649664	
	PETER LEKASULA	ELDER	0714749396	
	SAMUEL LESURUMAT	ELDER	—	
	LOSON LEPARPARORI	ELDER	—	
	LABANU LEKOROKE	ELDER	0798253951	
	LEAYON NEEPE	ELDER	—	
	LERENGEN ILPUSUKE	ELDER	—	
	LEREN LEDHORO	ELDER	0715498750	
	LETUNTE LEPAKIYO	ELDER	0711887987	
	MORONTANTI NAIDA	ELDER	0742020934	
	KOINANGE LEBULION	ELDER	0790100221	
	LMAKAKA LEKUTON	ELDER	0704787991	
	MALAON LEADO	ELDER	—	
	LELUKON LEADO	ELDER	—	

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MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: KALAILE

DATE: 21 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
	STEPHEN GUDERE	YOUTH	0746531591	
	GODANA ADANO	SCI	0720949602	
	PENGRAN NGEPE	ELDER	0740501641	
	MATUNGAN LETELE	ELDER	0711546626	
	NTUCHUKWA LEKOYAN	ELDER	—	
	SABUKI LEPARPORORI	YOUTH	0791641841	
	LARAU LEADUMA	YOUTH	0726636187	
	WILLIAM MOPING	ELDER	0700 610294	
	JUMA GALMAGAL	YOUTH	0745632111	
	PETER LEPEDO	YOUTH	0717367094	
	LEKIDENYE SHADRACK	YOUTH	0746531641	
	Ranius Rasimboocle	Youth	0703251407	
	GEOFREY LEDELEA	youth	0700024356	
	LEADO SHADDY	YOUTH	0746886122	

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MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: KAMARE

DATE: 21 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
	LOITOLOK NEEPE	YOUTH	N/A	[signature]
	Stephen R. Letikinich	Elder	0726589111	[signature]
	SAALE LEKANGO	YOUTH	0721848293	[signature]
	ILKISAYON LEGUSA	ELDER	—	
	James Laisia	Youth	0791248201	[signature]
	Abdi Jimmu	Youth	0726588721	[signature]
	LEKORA LEKOROLE	ELDER	—	
	LEADUMA LENGINOI	ELDER	—	
	LKINGILAN LESIA	ELDER	0718387438	[signature]
	ILMORJEI LENGOLEI	ELDER	—	
	JAMES MARLENI	YOUTH	0707987601	[signature]
	MOHAMED LERUIC	ELDER	0721358624	[signature]
	LPereiyan LRKoiyan	Elder	—	
	JARSU JATTAN	CBL	0725438766	[signature]

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MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: ICHARE DATE: 21 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
	LOPURUKOI LERAT	ELDER	—	
	WILLIAM LOSANY	PASTOR	0706176657	
	KALBETH LERUBORA	YOUTH	—	
	LOWA NEEPE	YOUTH	0745995820	
	LTAGUS LERAPO	YOUTH	—	
	SALENA LEKUTON	YOUTH	—	
	LENGELI LASIA	YOUTH	—	
	SANTILEI LEADO	YOUTH	—	
	JAMES LENATUWAKI	YOUTH	—	
	LAWARES NEEPE	ELDER	0729467689	
	LMOFETAN NURE	YOUTH	0710805675	
	MOSES NEEDE	YOUTH	0792677003	
	STEVE LEDELEA	YOUTH	0796034040	
	LMURUSI LERUK	YOUTH	0703445422	

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ATTENDANCE SHEET

VENUE: ICHARE DATE: 21 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
	Patrick Nayaba	Elder	0745183200	
	OKOLA LERUK	ELDER	—	
	REFOI KALDALE	ELDER	—	
	PERET GALGITELE	ELDER	0724058518	
	Lomusu LEPARBORORI	-/OUTH	0704771235	
	TANTO LEPAKITO	-/OUTH	—	
	GELGELIMO HORKOLAM	ELDER	—	
	KITAO LEARAPO	ELDER	—	
	LEDIMAN LEADUMA	ELDER	0714807101	
	GIODANA LEARAPO	ELDER	—	
	LOWAL LERUK	ELDER	—	
	ALI LEARAPO	ELDER	0742440427	
	LEMASIN LEADUMA	ELDER	0790126214	
	BARTEKES LEKURLETO	ELDER	—	

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P. O. Box 384-60
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MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: ICHARE

DATE: 21 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
	PAUL GALMAGIAR	ELDER	0725960797	
	DADI-IO LENGURAMO	ELDER	—	
	LKOTOI BAGAJO	ELDER	—	
	NARIO BAGAJO	ELDER	0703816140	
	LEMARIA LASIA	ELDER	—	
	JACOB H. EKALO	"	0716552374	
	LELEKON LEADO	ELDER	—	
	DANIEL LENEEDE	ELDER	0713220197	
	JAMES LEKUTON	ELDER	0727735313	
	ALI LEMERIAN LERUK	ELDER	0726564573	
	KILLIAM MOI LEKUTWA	ELDER	0728062311	
	LPALASIN BALENGIA	ELDER	—	
	MOHAMET KITACHO	ELDER	—	
	LEITI LETOPUKWA	ELDER	—	

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MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: KARARE

DATE: 21 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
	JM LEKISIT	EIDER	—	
	LEREN LEITORO	YOUTH	0715498750	
	LOJINGO LEKALE	EIDER	—	
	MAHEDO LEKALDALE	EIDER	—	
	Tiamaron Longorich	EIDER	0702787032	
	EBOLAGIN LEKOROLE	EIDER	—	
	MARI LENGOLEY	EIDER	0778987722	
	LMETEI LEKOROLE	EIDER		
	NAKUCHAR LEROROLE	EIDER	0707571103	
	LEKIYAN LONGORUCHO	EIDER	0713353781	
	MANGIRI LENGENE	EIDER	—	
	ROSEMARY ELSIMALELE	"	0705843616	
	CHEPAYON LERAPO	"	—	
	KIPENI LEMARLENI	"	—	

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MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: ICARARE

DATE: 21 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
	NGOLIASA LENEPE	ELDER	0714568754	
	MPURSI LEKAMUGULA	"		
	Joshua LECHARNET	ELDER	0718912225	
	SABDIO JALLE	ELDER	—	
	SARA ILCHAGI	ELDER	—	
	CHRISTINE LEREO	WOMEN	—	
	LERAI LOLTEPES	WOMEN	—	
	FATUMA LEARAPO	WOMEN	—	
	JACKLINE LESAI	WOMEN	—	
	ELIZABETH KUKUTON	WOMEN	—	
	MARTA LEITENYA	WOMEN	—	
	NASAS NDELI	WOMEN	—	
	NCHAI LEKASULA	WOMEN	—	
	RAMBASA LEOGOM	WOMEN	—	

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MARSABIT

MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: ICHLADE

DATE: 21 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
	ELIZABETH LESOIPA	WOMEN	0714572393	
	LESESIAN LEATUK	WOMEN	–	
	NKURISAN IDHORO	WOMEN	–	
	FARA LEADUMA	WOMEN	–	
	NTACHATON LEADO	WOMEN	–	
	MARY HARAWO	WOMEN	0715588509	
	GUMATHO LESAN	WOMEN	–	
	LAWEN LAROKUTUK	ELDER	–	
	TITUS LEKOROLE	ELDER	0705275382	
	IMOJEMI LESUDA	ELDER	0713080670	
	DAVID LERUK	ELDER	–	
	PARIO LEPARKERI	ELDER	–	
	NTAMALON LEARAPO	ELDER	–	
	GETHERE LERUK	ELDER	–	

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MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: ICHARE

DATE: 21 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
	THOMAS GALIMOGGE	ELDER	0796880841	
	LEGOIPA KANISA	ELDER	—	
	LEMIGIS LEARAPO	YOUTH	—	
	LEKUTUKAI BIRANTO	ELDER	—	
	ILTIGAMOI CHAKWET	ELDER	0704348652	
	SINGIR ESIMGALALE	ELDER	0719777838	
	BEREMAH LEKOYAYA	ELDER	0707196455	
	PAULINE NAWANNURO	WOMEN	0725561484	
	NAITIN LEGUDERE	ELDER	—	
	JAMES NAYABA	ELDER	—	
	SIRIPEN ISTOR	ELDER	—	
	SUJO LTIHANI	ELDER	—	
	LARAKWAN LORONYOKWE	ELDER	—	
	LTIMBIAN LENTARE	ELDER	—	

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P. O. BOX 384-60500,
MARSABIT

MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: KARARE

DATE: 23 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
1:	Hon Leado Stephen	MCA KARARE	0727549003	[illegible]
2:	Maj Gen (Rtd) Maurice O Oyuga	Chairman Military Land Committee	0728033864	[illegible]
3	EVANS ACHOKI	CC Marsabit	0720 881157	[illegible]
4.	Col MOHAMED MWACHARO	MEMBER, MOD LANDS CTEE	0722755830	[illegible]
5.	FREDRICK WACHIRA	CTY CiPU (Unmanned)	0720868877	[illegible]
6	Patrick Munitra	Dec Mbt Comm	0725824221	[illegible]
7	Elema Hapicha KWS	Senior warden	0721546490	[illegible]
8	[illegible] ED MBOYA	MOD	0703186642	[illegible]
9	Maj George Moses Otieno	MOD	0725674676	[illegible]
10	SAMUEL MUTURI	SCPC MARSABIT	0720367033	[illegible]
11.	ATKAULE GALGARACHO	Snr. P/Chief	0743880233	[illegible]
12.	CAPT JULIUS MESO	MOD	0721 530 371	[illegible]
13.	CAPT BONFACE OMBIRO	MOD	0723569741	[illegible]
14	MUSEMBI.N ERNEST	M.O. LAND, MARSABIT	0722 628179	[illegible]

COUNTY SECRETA
COUNTY GOVERNMENT OF MARS
P. O. Box 384-60500
MARSABIT

MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: KARARE

DATE: 23 JANUARY 2024

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
15	JAFAN . M MALMALO	County Governet Marsabit	0727933367	
16	KARAMA LEHGOLEI	PARKICHON SUB-LOCATION chief	0796458664	
17	ALI LERUK	ELDER	0726564513	
18	KUREWA GALDORO	ELDER		
19	LMETE KOROLE	ELDER		
20	JAMES LEMARLENI	ELDER		
21	LEPISIKISHAI	ELDER		
22	THAIR ESIMIRIE	YOUTH		
23	GURASHA NAWARUNGU	YOUTH		
24	KIMANI LEKOYAN	YOUTH		
25	LTAPIRAN LERUK	YOUTH		
26	LANYU NAWARUNGU	YOUTH		
27	STEN NAWARUNGU	ELDER		
28	MURUSI LERUK	YOUTH		

MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: KARARE

DATE: 23 JANUARY 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
29	LOKOSOWA Lesuper	YOUTH		
30	SAPUKI Leporporil	YOUTH		
31	WANGWAN Leaduma	YOUTH		
32	NGOIPA EJERET	EIDER		
33	KOSOTE Lemerekesh	EIDER	0728068080	[illegible]
34	Ilimiran Kochale	YOUTH		
35	SORAR GAIDORO	EIDER		
36	DADASHA GAIDORO	EIDER		
37	NAIKARIE Lechipan	YOUTH		
38	SITORIN LERUK	YOUTH		
39	KIRIMA Lechon	YOUTH		
40	LCHUTAYON MIRGISHAN	YOUTH		
41	SARUKORI LEKASULA	YOUTH		
42	Steve Kililara	YOUTH		

COUNTY SECRETARY
COUNTY GOVERNMENT OF MARSABIT
P. O. Box 384-60500,
MARSABIT

MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR
MILITARY DEPLOYMENT
ATTENDANCE SHEET

VENUE: KARARE

DATE: 23 JANUARY 2020

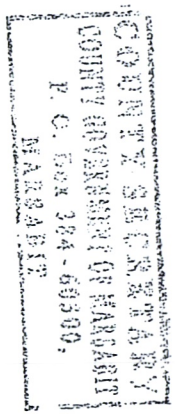
SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
43	Deco			
44	Machinoi Idhoro	EIDER		
45	Loseiku Korleyo	EIDER		
46	Peria Leruk	YOUTH		
47	Losowan Neepe	YOUTH		
48	Jonathan Lengalen	EIDER		
49	EMMANUEL E. BALTOR	YOUTH	0702637008	[signature]
50	Peter Lemoloi	EIDER		
51	ILMASO Logol	EIDER		
52	NGATET Leruk	EIDER		
53	Pisii Doke	EIDER		
54	Hon Dido Rasso	MP Saku	0722 934348	[signature]

COUNTY SECRETARY
COUNTY GOVERNMENT OF MARSABIT
P. O. Box 384-60500,
MARSABIT

ANNEX 'E' TO
PUBLIC PARTICIPATION REPORT
DTD 28 JAN 20

LIST OF PARTICIPANTS IN SEGANTE WARD, SAKU CONSTITUENCY

See next page



MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: HAIYA

DATE: 21 JAN 20

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
1.	EVANS ACHOIG	CC Marsabit	0720887157	[signature]
2.	FREDRICK ZUACHIRA	CTY Cifu Comm	0720868877	[signature]
3.	[illegible] A. STEVE	NPS-CPC	0720449284	[signature]
4.	Patrick Muniira	Dec Mbt Central	0725814221	[signature]
5.	Brixton Hiang	Nis	0759242477	[signature]
6.	Andrew Abdulla Hablile	Asst/Chief Gar Qeusa	0743363119	[signature]
7.	ALEX GORESA ALI	ASST CHIEF QILTA	0725004571	[signature]
8.	BORU JARSO GALGALLO	ELDER	0741606809	[signature]
9.	JAMES KARANJA	APC	0700313315	[signature]
10.	DAVID ORUKO	DRIVER	0722601759	[signature]
11.	Sora Halake	Driver	0726976461	[signature]
12.	GIDEON SAIBULU	CC Boardguard	0717808717	[signature]
13.	Maj Gen (Rtd) Maurice Ouyu	Chairman Land Committee	0728033864	[signature]
14.	Hon Dido Ali Rasso	MP Saku	0722934348	[signature]

COUNTY SECRETARY
COUNTY GOVERNMENT OF MARSABIT
P. O. Box 384 - 60500,
MARSABIT

MARSABIT COUNTY PUBLIC PARTICIPATION FOR LAND ALLOCATION FOR MILITARY DEPLOYMENT

ATTENDANCE SHEET

VENUE: HAIYA

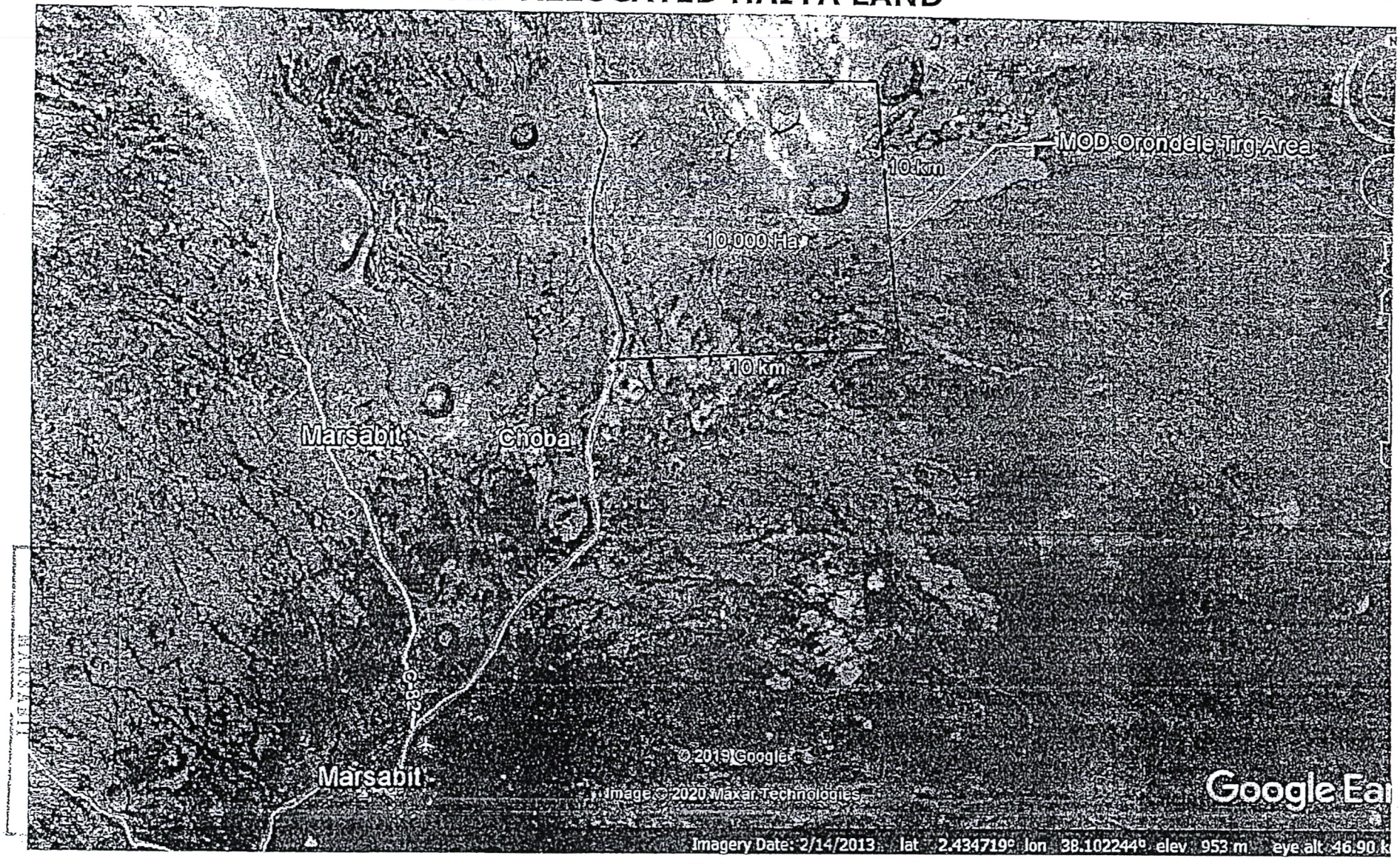
DATE: 21 JAN 2020

SER	NAME	DESIGNATION	MOBILE NO	SIGNATURE
15.	COL MOHAMED MUTACHAR	MEMBER Y COMMITTEE	0722755830	
16.	LT COL ED MBYA	MOD	0703186642	
17.	Major George Mbeg Otaio	MOD	0728674676	
18.	Captain Bonface ombiro	MOD	0723569741	
19.	CAPTAIN (J) NESO	MOD	0721 630 871	

COUNTY SECRETARY
COUNTY GOVERNMENT OF MARSABIT
P. O. BOX 384-60500,
MARSABIT

ANNEX 'E' TO
PUBLIC PARTICPATION REPORT
DTD 23 JAN 20

REVISED ALLOCATED HAIYA LAND



ANNEX 'F' TO
PUBLIC PARTICPATION REPORT
DTD JAN 20

ODDA CAMP MILITARY LAND



COUNTY GOVERNMENT OF KAJIADO
P. O. Box 384-00306,
MAGADI.

Concerns that that parts of Karare considered sacred and cornerstone of its livestock production at Karare Ward is in the verge of being allocated to KDF by Marsabit Governor

REBUTTAL OF A PURPORTED PUBLIC PARTICIPATION REPORT ON KARARE LAND CALIMED TO HAVE BEEN ALLOCATED TO KDF

We the Rendille community of Korr/Ngurunit Ward of Laisamis sub county, Marsabit County do hereby state that we are perturbed by claims that our holy sites and the citadel of our livestock production system is in the verge of being forcefully acquired by KDF. The land in question is of religious and economic value not only the Karare but Laisamis sub county and parts of Samburu North Sub County.

While the Rendille/Samburu communities have high regard for government and has in deed agreed to give out land located in Mata Lama, we cannot give out our holy land and the cornerstone of our livestock production without which our production system will collapse.

We therefore state categorically that we were not consulted on the above matter.

Signed

Ser. No.	Name	Id. No	Tel No	Signature
1	Raphael Kutukay	23142404	0711804944	[signature]
2	LMonboy ALEX	35319937	0703624194	[signature]
3	JUDY N. OGOM	0633167	0704761651	[signature]
4	SAMUEL N ADHIYA	32707024	0708633401	[signature]
5	LAWRENCE Gurawahle	32531544	0720942312	[signature]
6	Kimogol simon	35893958	0714346341	[signature]
7	Gumalhi Ali Kilanga	30504991	0714274342	[signature]
8	Lpaaron Mago	37098943	0729691198	[signature]
9	Lucy Naida	8205441	0728 886490	[signature]
10	Samuel Dogo	32306516	0718614847	[signature]
11	Loytef K Toha	27283533	0712317182	[signature]
12	Henry Sales Wambile	12752225	0717323194	[signature]

Concerns that that parts of Karare considered sacred and cornerstone of its livestock production at Karare Ward is in the verge of being allocated to KDF by Marsabit Governor

Ser. No.	Name	Id. No	Tel No	Signature
13	IBRAHIM H. NOLASO	32279314	0713634066	
14	JOSEPH BON LEIKAGO	28998844	0728440953	
15	LMERIWAN KOCHALE	9559808	0721738420	
16	Mohamed G Ibandap	20873766	0727666624	
17	Galboran Hussein	27142398	0719109385	
18	Bulewa Ewt	8735267	0707629513	
19	SAMUEL SIRAYON	11386218	0725012708	
20.	LOKUTI ORPO	1855849	0721306663	
21	Ltinga Buroya	20557357	0700796500	
22.	AMOS HAMBULLE	30020446	0711573450	
23	HENRY NGOLEY	27046908	0714038729	
24	BENEDICTO LEISORO	33610008	0758822843	
25.	Yunis Arakhole	35352722	0710591657	
26	Bernaba S. Orgaba	8151167	0713522037	
27	Zulekha Harua	23141443	0720133181	
28	ANDREW CHANA	20876560	0728013232	
29.	IRENE AULE	37079651	0727869575	
30	MONICA NTINYUKA	30089377	0700466341	
31	NALO ILmongoy	23144066	0707452093	

Concerns that that parts of Karare considered sacred and cornerstone of its livestock production at Karare Ward is in the verge of being allocated to KDF by Marsabit Governor

Ser. No.	Name	Id. No	Tel No	Signature

Concerns that that the parts of Karare considered holy Land and cornerstone of its livestock production at Karare Ward is in the verge of being allocated to KDF by Marsabit Gvoernor

REBUTTAL OF A PURPORTED PUBLIC PARTICIPATION REPORT ON KARARE LAND CALIMED TO HAVE BEEN ALLOCATED TO KDF

We the Rendille community of Laisamis/Merille Ward of Laisamis sub county, Marsabit County do hereby state that we are perturbed by claims that our holy sites and the citadel of our livestock production system is in the verge of being forcefully acquired by KDF. The land in question is of religious and economic value not only the Karare but Laisamis sub county and parts of Samburu North Sub County.

While the Rendille/Samburu communities have high regard for government and has in deed agreed to give out land located in Mata Lama, we cannot give out our holy land and the cornerstone of our livestock production without which our production system will collapse.

We therefore state We therefore state categorically that we were not consulted on the above matter.

Signed

Ser. No.	Name	Id. No	Tel No	Signature
1	Jonas Lgarpanan	9847276	0720685129	[signature]
2.	JOSEPH LEBUPER	20878980	0790370348	[signature]
3.	Bosco R. HAJUFLE	12752638	0727516872	[signature]
4.	Joseph Galmidoli	20100143	0725-145486	[signature]
5.	Gitonga M. Julius	11274394	0727458525	[signature]
6	Ehele Haile	8151268	0723673258	[signature]
7	GABRIEL GABANA	13047536	0725871389	[signature]
8	James Galmagar	0596675.	0796927947	[signature]
9	PETER KANAPAL	27046887	0710373541	[signature]
10	JAMAL BALANGA	27576920	0746908589	[signature]
11	Samuel Kidenye	22826263	0724836515	[signature]
12	LEKIDENYE WILSON	23785120	0701473576	[signature]

Concerns that that the parts of Karare considered holy Land and cornerstone of its livestock production at Karare Ward is in the verge of being allocated to KDF by Marsabit Gvoernor

Ser. No.	Name	Id. No	Tel No	Signature
13	Lawrence Lerabo	1081066	0726020778	
14	LMOLOI ORKhobesile	21418055	0790828181	
15	EDWARD CHAPALEY	0022867	0724418783	
16	George GAlimole	0974333	0727173892	
17	THOMAS L. LEDUDE	13046148	0723384162	
18	Ekalo Edward	9559802	0706273636	
19	John B. Khumlahar	21491494		
20	Daniel Lemara	22468092	0718381935	
21	Ltakanoi Lesee	81720	0720902069	Lesee.
22	Peter Mutegi	24032120	0712236390	
23	MoHaMMed	28137970	0702887174	
24	ANDREW ~~ANREA~~ LeDuDE	28249521	0706571123	
25	PINO LENGUYO	38020532	0726314493	
26	Saku Sanchir	27116292	0710523130	
27	Jonathan L. Osse	24289470	0724676352	
28	Sapayan Kanapal	26328264	0713841106	
29	BURJUNA PETER	06291[illegible]8	0717691104	
30	JOSEPH L. LESENGOI	11386086	0721585005	
31	Mohamed Ariyo	20110958	0704665901	
32	James Basele	11386074	0705702062	

Concerns that that the parts of Karare considered holy Land and cornerstone of its livestock production at Karare Ward is in the verge of being allocated to KDF by Marsabit Gvoernor

Ser. No.	Name	Id. No	Tel No	Signature
33	MEITEIKONI SANGE	83387407	0700605392	
34	MOHAMED SAMATA	21418077	0722-298266	
35	Marko Salaban Sendi	22826908	0723871909	
36	GALGITHELE PAUL	23143617	0707904473	
37	DIPOYA EISMBASELE	26081870	0741297263	
38	Moses Lualanga	29563695	0711251120	
39	Stephen Natudaki	27113577	0701028017	
40	Michael ogom	12576625	0721861120	
41	AUGUSTINE . B AMIYO	23347863	0741183588	
42	REGAN SANCHIR	22897754	0703342774	
43	HIRKENA HARAO	21504[illegible]	0702030291	
44	SINTEREN AMIYO	24660084	0704426147	
45	Bosco Kidenje	12752767	0719251664	
46	LEKABANA EDWARD	11386083	0726559997	
47	KARGIYO LESAFON	12752651	0718609839	
48	LTARNOI LEMASEYO	21418025	0728226194	
49	SANTOS A. BARITO	9558394	0727669497	
50	BERNARD NDURUPA	29055770	0711226198	
51	KERPES GALHAILE		0714727865	
52	NAMAREI TRABOLIA	21406044	0748353754	

Concerns that that the parts of Karare considered holy Land and cornerstone of its livestock production at Karare Ward is in the verge of being allocated to KDF by Marsabit Gvoernor

Ser. No.	Name	Id. No	Tel No	Signature
53	LERNOI LOLPURUSHO		0724037112	
54	EDWARD LEDUDE	8735139	0716969323	
55	LOILEKU LOLKIEMBO	23254416	0727869796	
56.	HENRY. L. SURMAT.	23397690.	—	
57.	JOSEPH LPANGISI PARKERI	28250066	0791243345	
58	JOSEPH MPUKAYO GALGORILLEH	31083390	0797593105	
59	Michael Lengima	26233416	0720-742172	
60.	Xslelle Afsed	20318211	0722-923132	
61	Dorcus Ottoya	27505372	0723768678	
62	A. L. MAISO	7146567	0725756767	
63.	ABDI KEINAN	26034981	0706557477	
64	Isaak Milung	21740418	0745183044	
65	KELESWA DABALEN	0288501	0717295713	
66	GALGASHO KORIMA	0628740	—	
67.	JAMAL ABDI	23446130	0704756302	
68	Kiyano Letaleyo		0769191477	

P.O BOX 384 – 60500 MARSABIT - KENYA; Tel: +254 (0) 202 102 136; Email: info@marsabit.go.ke

Ref: MCG/NGM-MoD/VOL.1/19/1

02 July 2019

Mr Torome Saitoti, CBS
The Principal Secretary
Ministry of Defence
Ulinzi House
P. O. BOX 40668 - 00100
Nairobi

PRINCIPAL SECRETARY
480
08 JUL 2019
RECEIVED
MINISTRY OF DEFENCE

This is the Exhibit Marked "JMS"
Annexed to the Affidavit / Declaration
of J. MESS Sworn at NRI on
This 10TH day of JULY 2020
Commissioner for Oaths

Dear PS,

RE: ALLOCATION OF LAND FOR MILITARY BARRACKS AND MILITARY TRAINING AREAS IN MARSABIT COUNTY

Reference is made to the above subject matter and to your request for the allocation of land for construction of Military Camps and Military Training Areas.

The County Government of Marsabit is pleased to allocate to the Ministry of Defence 5,000 Ha of land at Karare; 10,000 Ha at Haiya (*Orondele*) and 242.8 Ha at Moyale (*Odda Military Camp*) to be used for the requested purposes - *construction of Military Camps and Military Training Areas*.

The coordinates defining the boundaries of the allocated Military Lands are as indicated below:

MARSABIT KARARE SITE (UTM)

STN	EASTING	NORTHING
A	376583	248844
B	374070	248821
C	370311	251031
D	366218	250703
E	366957	244713
F	373812	244527
G	373800	245810
H	376328	245840

HAIYA- ORONDELE SITE (UTM)

STN	EASTING	NORTHING
HY1	386178	267607
HY2	398178	267607
HY3	398178	278607
HY4		

STAKEHOLDER'S SUBMISSIONS

MINISTRY OF TOURISM AND WILDLIFE
STATE DEPARTMENT FOR WILDLIFE
Office of The Principal Secretary

Telephone: 254-20-2724646
Email: pswildlife@tourism.go.ke
When replying please quote

NSSF BUILDING, BLOCK 'A'
P.O. Box 41394-00100
NAIROBI, KENYA

Ref: SDW/4/15

13th May, 2021

J. M. Nyegenye, CBS,
Clerk of the Senate
Parliament Buildings
P. O. Box 41842 – 00100
NAIROBI

Dear Mr Nyegenye

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES TO RESPOND TO A STATEMENT AND A QUESTION

Reference is made to your letter Ref. No.SEN/DCS/LENR/2/2021/(25) dated 30th April, 2021 on the above subject.

The purpose of this letter is to respond to the petitions and statements as attached herein.

Yours Sincerely

Prof. Fred H. K. Segor, CBS
PRINCIPAL SECRETARY

Copy to: Hon. Najib Balala, EGH
Cabinet Secretary
Ministry of Tourism and Wildlife

Encl.

2. Petition submitted by the Rendille and Samburu Community Representatives concerning the alleged acquisition of Karare land in Marsabit County by the Kenya Defense Forces:

Introduction

Kenya Wildlife Service (KWS) received a letter Ref: MOD 06/4A dated 4th September 2020 from Ministry of Defense (MoD) seeking technical support in ecological assessments as part of the Environmental Impact Assessment (EIA) process for the proposed Military Barracks (MB) within Marsabit National Reserve.

The proposed Barrack is located in Karare Ward within Saku Sub-County, Saku Constituency at GPS location 2°14'44.10" N 37° 50'55.00" E in Marsabit County. The general project area has no visible human settlement around it and the area is mainly used as grazing area by the locals who are pastoralists. The site at Karare measures 2,500 hectares and is located approximately 20km to the South of Marsabit town.

KWS provided the technical assistance for the wildlife ecological assessment which was undertaken between 25th September 2020 and 5th October 2020.

Kenya Defense Forces (KDF) further convened a follow up consultation meeting between KWS and the KDF EIA expert which was held on 16th October 2020 at Department of Defense (DoD) headquarters to review the ecological assessment report and discuss potential impacts of the proposed Barracks on wildlife and advice on appropriate mitigation measures. After the meeting KWS prepared and compiled a technical report and shared with the KDF technical team for incorporation in the EIA report. Some of the potential negative impacts of the project on wildlife and proposed interventions are outlined in the table 3 below.

Table 3: Potential project impacts on wildlife and proposed mitigation measures

Item	Environmental Impact	Mitigation Measures
1	Vegetation and habitat loss/ degradation	Limit vegetation clearance to the core area for infrastructure development and access roads Restore lost vegetation on the disturbed area and right of way through planting of trees, shrubs and grasses that are palatable to the common herbivores based on the baseline plant inventory New roads to follow existing tracts as much as possible Unnecessary grading to be avoided in natural motorable tracks with firm foundation Allow re-growth of grass cover on working area after construction Redesign the camp to move at least 4km from the Karare – Songa road to minimize habitat loss on important wildlife habitat Collaborate with KWS and communities and implement rangeland improvement initiatives including reseeding , replanting, establishment of water pans as offsets for the lost wildlife habitat
2	Disturbance to wildlife and wildlife movement including road kills	Limit fencing of the Barracks to the core infrastructure area and allow free movement of animals within the buffer area Install road signs to warn the motorists on the presence of animals and speed limits Collaborate with KWS on conservation and education programs for the military staff Avoid interference with water pans and watering points designated for wildlife
3	Increased soil	Integrate soil erosion control in the construction work

Item	Environmental Impact	Mitigation Measures
	erosion	plan Plant sediment binding grasses, shrubs and trees on any exposed slopes and other surfaces.
4	Increased poaching for bush meat	Partner with KWS and sensitize construction workers and military staff at the Barracks Partner to enhance wildlife security in the project area of influence
5	Visual intrusion	Rehabilitate all degraded areas through landscaping and subsequent planting of suitable grasses, shrubs and trees to blend with the environment. Blend the military infrastructure with the environment as much as possible
6	Increase in Human Wildlife conflicts in	Partner with KWS and develop a wildlife conservation action plan for the project area of influence to mitigate human wildlife conflicts where the camp may divert wildlife closer to communities Redesign fencing of military camp to avoid wildlife crossing areas Manipulate habitat to control wildlife movement in such a way that conflict areas are avoided by creating watering points suitable micro habitats
7	Cultural dilution	Raise awareness among the local community on potential negative impacts of interacting with the visitors
8	Cumulative impacts from unplanned community settlements near the barracks	Sensitize the local community and the relevant Government agencies and the county government on the negative impacts of unplanned settlements near the barracks Empower community on grazing management system.

Item	Environmental Impact	Mitigation Measures
9	Loss of aesthetic value of the landscape	Limit heavy machinery use and instead use of manual clearance as much as possible to allow selective clearance. Use the minimum road width applicable for the sensitive habitat areas Plant grass along the road after construction

In its technical report and in light of the above KWS recommended that:

1. KDF will need to minimize land under infrastructure to the extent possible and open green areas maintained for biodiversity and ecosystem services.

2. KWS may enter into lease agreement with KDF for the 2,500 hectares of land for proposed Military Barrack establishment. The area may remain as a National Reserve where the buffer area of the Barrack is managed jointly to minimize potential negative impacts on wildlife and enhance biodiversity conservation within the project area of influence
3. A close working partnership between KDF and KWS is established during construction and operations of the Barrack to ensure most of the wildlife impacts are avoided and or minimized.
4. Joint collaboration conservation programs initiatives that will enhance biodiversity conservation be developed in the project area of influence.
5. Some components of the Military Barracks such as fencing can be redesigned to minimize disruption of wildlife movement and access of important wet season elephant dispersal area.

Environmental and Social Impact Assessment (ESIA) report

With the above input from KWS, KDF submitted the ESIA report to National Environmental Management Authority (NEMA) for approval. NEMA convened an Inter-Agency site visit on 13th January 2021 as part of EIA review process after which the report was approved on 1st of February 2021.

Upon review of the license KWS concurs with the concerns raised by the mother Ministry- Ministry of Tourism and Wildlife(MoTW) that the license did not address the project location as a National Reserve and therefore missed out on important conditions necessary for requisite follow up on the implementation of the mitigation measures recommended in KWS technical report and even the ESIA report.

It is not clear to KWS whether the omission of wildlife concerns on the license conditions was based on a KDF confidential report or deliberate.
This creates a gap for formal engagement on the project and enforcement of mitigation measures between the Ministry of Defense and Ministry of Tourism and Wildlife/KWS.

Due to confidentiality nature of KDF projects, KWS did not address community issues surrounding the proposed Barracks project but left KDF to engage the community directly on the issues.

Supplementary information: Karare land petition

In 1948, the Kenya National Parks Trustees, with the approval of the Competent Authority accepted certain specific rights within Marsabit National Reserve as conferred to them by Section 6, 13(2) and 18 of the National Parks Ordinance vide Government Notice No. 936 of 24th September, 1948 and Boundary Plan No. 216/1 covering an area of 10,265 sq. miles (26,597 sq. Km). In 1958, the Trustees of the Royal National Parks of Kenya with the approval of the Minister for Forest Department Development, Game and Fisheries published the Marsabit National Reserve Regulations, 1958 vide Legal Notice No. 170 of 1st April 1958.

At the end of 1960, the Trustees of the Royal National Parks of Kenya surrendered their control over two sections known as Marsabit Sector and the Ewaso Nyiro Sector. The surrendered area was gazetted vide Legal Notice No. 16th of 1961 and Boundary Plan No.216/13 leaving an area of approximately 1,122 sq.km as shown in Boundary Plan No. 216/49 and in 1962, the Trustees surrendered the Ewaso Nyiro vide Legal Notice No. 366 of 1962. In 1983, under the repealed Wildlife Conservation and Management Act Cap 376, land measuring approx. 524 sq. Km including Marsabit town was excised from the National Reserve vide Gazette Notice No. 3962 of 21st October 1983 and Boundary Plan No. 216/48 which was later adjusted to 534 sq. Km vide Gazette Notice No. 1982 of 5th April 1991 and boundaries were depicted by Boundary Plan No. 216/56 to include 9.6 sq. Km of the Karare area and gazetted vide Gazette Notice No. 216/59.

This excised area and currently occupied include Balassa, Jaldessa, Songa, Kituruni, Sagante, Jirime, Hulahula and the Mountain Section.

The proposed location of the Military Barracks falls within the Marsabit National Reserve next to Marsabit National Park. Under the Wildlife Conservation and Management Act No.47 (Sec.37) of 2013 it indicates that any land within the conservation area to be used for any other use should adhere to provisions of the Wildlife Act and National Land Commission Act Article 62(1) of 2012 on Public land.

REPUBLIC OF KENYA
MINISTRY OF LANDS AND PHYSICAL PLANNING

RESPONSES TO THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

Honourable Chair,

Pursuant to a letter Ref. SEN/DCS/LENR/2/2021/(2) dated February 11, 2021, the Senate Standing Committee on Land, Environment and Natural Resources invited the Cabinet Secretary Ministry of Lands and Physical Planning to respond to -

1. Petition concerning the alleged exchange and final transfer of titles for parcels of land known as Lari Nyakinywa Solai Farm (located in Solai, Nakuru County) and Riyobei Farm Limited (located in Gilgil, Nakuru County.
2. Petition submitted by the Rendile and Samburu Communities representatives concerning the alleged acquisition of Karare land in Marsabit County, by the Kenya Defence Forces.
3. Petition submitted by the Wajomvu Community, Mombasa County, concerning the alleged historical injustices involving Plot No. 162/V/ M.N. CR 1070, in Mombasa County.
4. Petition submitted by the residents of Mkamenyi Village in Voi sub-county of Taita Taveta County on the alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County.
5. Petition submitted the residents of Msambweni Village in Voi sub-county of Taita Taveta County, concerning the alleged impending evictions of Msambweni residents by a private company.
6. Statement requested by Sen. Anwar Loitiptip, MP on September 24, 2020, regarding alleged displacement of squatters from Hidabwo area in Lamu County.
7. Statement requested by Sen. Anwar Loitiptip, MP (Lamu County) on alleged encroachment of Lake Kenyatta Riparian Land.

Response

Honourable Chair, I wish to respond as follows-

i) **Petition concerning the alleged exchange and final transfer of titles for parcels of land known as Lari Nyakinywa Solai Farm (located in Solai, Nakuru County) and Riyobei Farm Limited (located in Gilgil, Nakuru County**

Honourable Chair,

Fredrick Kahia Thugi, Joseph Kamau Ngugi, Veronica Wanjiru Chege, Peter Muchume Gachii and James Ngugi being members of Nyakinyua Solai Farm Limited have presented the petition dated February 2019. The petitioners claim that their group purchased 8000 hectares of land in Solai, Nakuru County in 1980 that is now known as Lari Nyakinyua Solai Farm. A second group by the name Ruyobei Farm Limited also purchased 8000 hectares of land in Gilgil, Nakuru.

The petitioners claim that the two groups entered into a deed of exchange agreement signed on April 24, 2003 in a process spearheaded by the late retired president Daniel arap Moi. A second agreement on the same was signed on the same date before the then Gilgil District officer. According to the petitioners, the parties signed a third agreement on August 11, 2003 to authorize the groups to enter and subdivide their respective new parcels. Despite the agreements signed by the parties, transfer of title over the properties has not been effected to date.

The petitioners state that a meeting between the two groups and the National Land Commission was convened on October 26, 2016 at the Solai Farm. The purpose of the meeting was for the Commission to obtain confirmation of members of Nyakinyua Solai Farm Limited that they had authorised Ruyobei Farm Limited to proceed to subdivide the Lari Nyakinyua Solai Farm. This was confirmed at the meeting paving way for the subdivision. The Commission promised to convene a similar meeting at the Gilgil Ruyobei Farm. The meeting is yet to be set up.

The petitioners claim that their members have been prevented from accessing Ruyobei Farm by illegal occupants who have settled on the land. They claim that efforts to have the matter addressed by the National Land Commission have been futile. They have therefore presented the petition to request Senate to intervene and resolve the matter.

Response

Honourable Chair, I wish to respond as follows-

The subject parcels of land are –

a) **Ruyobei Farm (Approximately 8019 Acres)**

i) Land Reference No. 20229/1 measuring approximately 8019 Acres is situated in Gilgil, Nakuru County and is registered in the name of Solai Ruyobei Farm Limited. The parcel was until December 8, 1995 owned by Lands Limited who transferred it to Solai Ruyobei Farm Limited for Kshs. 24,000,000. **(Annexure1)**

b) **Nyakinyua Farm (Approximately 7978 Acres)**

ii) Land Reference No. 8435 measuring approximately 2211 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 2680 and 7364 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000. **(Annexure 2)**

iii) Land Reference No. 2680 measuring approximately 4910 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 8435 and 7364 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000. **(Annexure 3)**

iv) Land Reference No.7364 measuring approximately 857 Acres is situated in Solai, Nakuru County and registered in the name of Lari Nyakinyua (Solai Farm) Limited. The parcel was until February 15, 1980 owned by Kenya Motor Holdings Limited who transferred it together with Land Reference No. 2680 and 8435 to Lari Nyakinyua (Solai Farm) Limited for Kshs.6,000,000. **(Annexure 4)**

The parcels have been subject of litigation in various court cases as shown in **Annexure 5.**

We are aware that the National Land Commission has been involved in resolution of the dispute. We therefore invite the Committee to engage the Commission to provide more information on the case.

ii) **Petition submitted by the Rendile and Samburu Commuities representatives concerning the alleged acquisition of Karare land in Marsabit County, by the Kenya Defence Forces**

Honourable Chair,

The petition dated April 29, 2020 concerning acquisition of Karare land by the Kenya Defence Forces has been presented by the Rendille Professional Association on behalf of residents of Rendille and Samburu communities residing in Kaware Ward, Marsabit County. The petitioners claim that the Rendille and Samburu communities in Marsabit County object to the compulsory acquisition of 2,500 acres of land in Kaware by the Kenya Defence Forces (KDF). They claim that the KDF expressed interest on the land in 2019. The petitioners' objection to the compulsory acquisition is based on the following-

i) The land is the communities' only fertile land and the only viable grazing area
ii) Karare ward being a water catchment area for the pastoral communities of Karare, Songa, Loglogo, Kamboye, Laisamis, Kargi and Korre communities plays a central role in the viability of pastoralism. A total of 98, 000 people and approximately 450,000 livestock depend on the ecosystem for their livelihoods
iii) The land is a sacred place for most cultural and religious ceremonies such as circumcision
iv) It is a major and only source of red ochre nalkaria hills which is sacred to the community
v) The land is a pathway for collection of Silaley gum used in circumcision and religious ceremonies
vi) It is also a source of Ibaa/sticks for use in Rendille/Samburu circumcision ceremonies
vii) It is a source of sagaram to feed livestock in a highly pastoral community
viii) The excision of the 2,500 acres of land some of which is protected forests and which is the only dependable dry season grazing area will lead to overuse of rangelands, environmental degradation, human-wildlife conflict and human- human conflict.

The petitioners claim that several meetings have been held between the communities' elders, County Commissioner and the KDF in which the communities proposed alternative land in Kubi Kalo for acquisition but the same was declined by the KDF. They are aggrieved that the process of compulsory acquisition is ongoing despite their protests.

The communities are apprehensive that that they could lose their land and their rights under the Constitution due to their minority status and weak representation in government. They aver that they have already lost 150,000 acres to the Lake Turkana Wind Power project, which was also compulsorily acquired despite their objection.

The petitioners therefore filed the petition to request the Senate to-

a) visit Karare community of Marsabit County to establish the facts of the case as soon as possible
b) make appropriate recommendations to the Cabinet Secretary Ministry of Interior and Co-ordination of National Government based on the findings
c) give opportunity for the petitioners to further present the memorandum orally to the Senate

Response

Honourable Chair, I wish to respond as follows-

The KDF Strategic Defence Plan of 2018-2027 projected the expansion of the Kenya Army and redeployment of Formations to various parts of the Country with a sizeable force earmarked for deployment in Marsabit County. In pursuance to that strategic defence plan, the Ministry of Defence started the process of acquisition of land in Marsabit County with an intention to have military footprint in the northern region to deter/prevent constant incursion by the Ethiopian National Defence Forces and also support the Strategic Defence Plan in order to facilitate KDF achieve its mandate as provided for in Article 241(3) of the Constitution of Kenya.

In early 2012, the Ministry of Defence began formal engagements with the County Council of Marsabit for allocation of land in the County. This resulted in the allocation of 2,500 hectares of land in Kubi Kalo to Ministry of Defence on January 8, 2013. However, with the establishment of the County Government of Marsabit under the new constitutional dispensation, the allocation was rescinded and the Ministry of Defence was advised to restart the process of acquisition.

On January 10, 2019, the process was re- started with consultative meetings between Ministry of Defence and County Government of Marsabit led by the Chairman, Committee on Military Land & H.E Governor of Marsabit with all elected leaders including MPs, MCAs and CECMS. The leaders from Marsabit County agreed to allocate 5,000 hectares in Karare for the construction of Ministry of Defence camp and 10,000 hectares in Haiya for training.

The meeting further directed that a joint technical committee be formed to identify the suitable locations for deployment and training area. The joint technical committee met and worked as per the mandate given during the meeting. A detailed joint reconnaissance conducted between January 2-4, 2019 and May 29 to June 1, 2019 identified the actual locations. Following the engagements, the Ministry of Defence was formally allocated 5,000 hectares & 10,000 hectares of land in Karare and Haiya areas of the County respectively.

On January 16, 2020, the Ministry of Defence and County Government of Marsabit resolved to subject the land allocations to a public participation process as advised by the National Land Commission. Subsequently, the public participation and validation exercise for the land allocations was conducted from January 21-31, 2020 in Marsabit County. The exercise considered critical factors such as human settlements, grazing areas, water catchment areas and conservation of biodiversity and among others in choosing the ideal location for the KDF Camp.

The public participation exercise was carried out successfully by the Joint team comprising Ministry of Defence, Kenya Wildlife Service, County Government of Marsabit, county leadership including Members of Parliament, Members of the County Assembly and members of the local community across the areas expected to host the Ministry of Defence facilities. The local community participated in the exercise and assisted representatives from the Ministry of Defence to identify the suitable locations.

During the process of public participation the locals requested the allocation of Karare land to Ministry of Defence be reviewed downwards from 5,000 hectares to 2,500 hectares. The land is currently in the process of being planned, surveyed and titled in favor of Ministry of Defence. The Ministry is already in occupation of the two parcels of land allocated to them by the County Government of Marsabit.

There is a Court case filed by the Rendille Professionals Association and local elders on behalf of the Community regarding the allocations of the land parcels by the County Government of Marsabit.

Honourable Chair,

We invite the Committee to engage Ministry of Defence and the County Government of Marsabit for more information on the matter.

iii) **Petition submitted by the Wajomvu Community, Mombasa County, concerning the alleged historical injustices involving Plot No. 162/V/ M.N. CR 1070, in Mombasa County**

Honourable Chair,

Salim Mwidadi, Mohamed Kombo, Kassim Mwikaa and Mwinyiusi Mwidadi petitioned the Senate on behalf of Wajomvu Community from Jomvu Kuu Village, Jomvu Kuu Ward in Jomvu Sub County presented the petition dated July 2, 2020 regarding ownership of Plot No. 162/V/M.N. CR. 1070 situated in Jomvu Kuu.

The petitioners claim that they are among the 12 Swahili tribes to settle in Mombasa approximately 800 years ago. They claim that on or about 1846, Dr. Kraph arrived on the East African Coast and settled in Rabai. That in 1877 through the benevolence of a jomvu elder by the name Mwidani, Dr. Kraph was given land to establish a church in the predominantly muslim community. According to the petitioners, the community donated a small area where the Methodist church was built. However, when land adjudication was undertaken in 1923, the church was allocated 150 acres of their land.

The petitioners claim that the community has occupied the land as their ancestral land over the years and has been utilising the same for farming, fishing and residential purposes. They complain that the Methodist church embarked on a subdivision and sale of the land to third parties. They are apprehensive that they will be displaced and have no alternative land. According to the petitioners, their case is an historical injustice that the colonial government committed on the community. They submitted a memorandum to the National Land Commission on the issue three (3) years ago but there has been no response from the Commission. The petitioners therefore request the Senate to intervene with a view to undertake an inquiry into the historical injustice claim.

Response

Honourable Chair, I wish to respond as follows-

According to records held by the Ministry, Plot No.162/V/M. N. CR 1070 was registered on October 27, 1923 in the name of the United Methodist Church Mission. The certificate of ownership No. 7540 was registered under title No. CR.6348 for the area measuring 151 acres. The registered proprietor later changed their name to Methodist Church Missions Kenya trustees registered in 1958 and later to Methodist Church in Kenya Trustees Registered.

On June 14, 1973, the Methodist Church in Kenya Trustees Registered transferred a portion of land to Municipal Council of Mombasa. The said subdivision MN/V/505 measuring 15.28 acres was registered on July 11, 1973 and assigned title No. CR 14323. The remainder thereof measuring 135.72 acres is held by the Methodist Church in Kenya Trustees Registered. A copy of the official search is marked **Annexure 6.**

Honourable Chair, the case presented by the petition is an historical injustice claim The National Land Commission is seized of the matter recorded as Historical Case No. NLC/HLI/565/2019. We invite the Committee to engage the Commission for appropriate redress.

iv) **Petition submitted by the residents of Mkamenyi Village in Voi sub-county of Taita Taveta County on the alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County**

Honourable Chair,

The petition is dated August 7, 2020 and has been presented by Joseph M. Njuguna, Francis Mwasho, Juma Mwamburi, Saumu K. Mwamburi, Hassan Kiboko, Glady Juma and Julius Mwasenzi on behalf of residents of Mkamenyi village, Voi sub-county in Taita Taveta County.

From the petition, Mkamenyi village borders Voi Sisal Estate, which was initially *'gifted'* to a retired British soldier by the name Lezen in 1920 by the colonial government, for a period of 99 years. The petition states that the land was surrendered to the government in 1980 and was reallocated to Voi Sisal Estate Limited in 2012. It was transferred to Voi Point Limited in 2019.

The petitioners claim that between 1900 and 1930, the management of the sisal estate requested Mkamenyi elders to allow them to use part of their land located close to the river to install a water pump, farm food for their farmworkers and conduct agricultural research. By 1960s, the residents needed their land back to accommodate the growing population. However, according to the petitioners, the sisal estate refused to hand over the land and instead colluded with the police to extend the boundaries into the residents' homes and put the land under sisal plantation.

The petitioners state that they have engaged this Committee together with the Ministry of Lands and Physical Planning and the county leadership with a view to get back the land. On October 29, 2019, the management of Voi Point Limited invited their representatives to a meeting where they were informed that the company would surrender 35 acres to settle their 28 families. The proposal was however not amenable to the residents since they occupied 150 acres.

The residents are aggrieved that Voi Point Limited proceeded to survey the land without their involvement or the county government and processed a group title for the residents. The company invited the residents to a meeting on August 26, 2020 to issue the title document but they declined. It is claimed that the group title had names of persons who do not live in Mkamenyi. That, only six families residents of Mkamenyi are listed on the title. The petitioners state that efforts to resolve the issues with relevant authorities have been futile. They therefore request the Senate to-

i) investigate the case
ii) recommend that the Ministry of Lands and Physical Planning initiate an all inclusive, open and transparent process of giving the residents of Mkamenyi adequate land.

Response

Honourable Chair, I wish to respond as follows-

According to our records, the land in question measures approximately 1953 hectares and is situated within Voi town in Taita Taveta County. A chronology of ownership of the parcel is as follows-

i. The subject land was originally LR No. 4637 registered as Grant No. C.R. 8814. It was granted to the British East Africa Corporation Limited in 1923 for a term of 99 years from January 1, 1923 to January 1, 2022. The grant was initially issued for agricultural purpose only but the user was later extended to include a petroleum service station.
ii. The Grant was transferred to Voi Sisal Estates Limited on August 6, 1947 and on March 25, 2011 it was surrendered to the Government to pave way for its extension of the term. (A copy of the surrendered Grant C.R. 8814 is annexed herewith marked **Annexure 7**).
iii. The Grant was extended for a further term of 99 years commencing January 1, 1993 at an annual rent of Kshs.353.795 (revisable). The parcel was registered as Grant No. C.R. 51725, LR No. 28683 measuring approximately 1953 Hectares. The land was granted to be utilized for agricultural purposes and residence for the grantee. (A copy of the Grant No. C.R. 51725 is annexed marked **Annexure 8**).
iv. On February 23, 2012 the land was transferred to Voi Plantations Limited for USD.1,855,670 and charged to Diamond Trust Bank of Kenya Limited for Kshs.300,000,000 and USD.5,000,000. On December 29, 2017 a further charge to Diamond Trust Bank of Kenya Limited for Kshs.150,000,000 was registered.

v. On December 29, 2017 a second further charge for Kshs.1,079,737,000 and a third further charge for Kshs.1,189,511,500 was registered in favour of Diamond Trust Bank of Kenya Limited. A fourth further charge for Kshs.4,218,875,000 was registered on December 29, 2017.

vi. On October 1, 2014 the National Land Commission awarded Voi Plantations Limited Kshs.359,531,100 in respect of the land acquired for the development of the Mombasa-Nairobi Standard Gauge Railway. The area of land acquired measured approximately 14.9621 Hectares. (A copy of the Award is marked **Annexure 9**).

vii. On February 13, 2019, all the charges were discharged and the land transferred to Voi Point Limited for Kshs.4,000,000,000. A charge to Diamond Trust Bank of Kenya Limited for Kshs.4,000,000,000 and a further charge to the same bank for Kshs.800,000,000 were registered on the same date. A copy of the official search is marked **Annexure 10**.

Honourable Chair,

viii. On February 6, 2020, the County Government of Taita Taveta approved the subdivision of the land into 28 portions of various sizes for agricultural use. A copy of the notification of approval (**Annexure 11**) and certificate of subdivision (**Annexure 12**) are annexed herewith. The subdivision was approved on the condition that the company was to surrender Plot No. 25 (L.R. No. 28683/27) measuring approximately 13.68 Hectares for Mkamenyi Squatter Settlement as per the copy of the provisional approval marked **Annexure 13**. Voi Point Limited accepted the conditions of the provisional approval as shown in the copy of the acceptance letter marked **Annexure 14**.

ix. On February 27, 2020 new Certificates of Title were issued for L.R. Nos. 28683/4 to 28683/31 the resultant subdivisions of L.R. No. 28683.

x. The Charge in favour of Diamond Trust Bank of Kenya Limited was registered against all the resultant subplots of L.R. No. 28683 apart from L.R. No. 28683/27 that the bank issued a discharge.

xi. On June 25, 2020, the County Government of Taita Taveta approved the subdivision and change of user of L.R. No. 28683/9 into 52 subplots (A copy of the notification of approval (**Annexure 15**). The subdivision was conditional upon surrender of 10% of the total acreage for public utility and use. The subdivision was also approved by the Voi Land Control Board as shown in **Annexure 16**.

Honourable Chair,

L.R. No. 28683/27 measuring approximately 35 acres is the portion that Voi Point Limited reserved for the settlement of the squatters. According to our records the plot is still registered under Voi Point Limited. Given that this land is private land, we advise that the squatters to engage Voi Point Limited on their grievances

v) Petition submitted the residents of Msambweni Village in Voi sub-county of Taita Taveta County, concerning the alleged impending evictions of Msambweni residents by a private company

Honourable Chair,

The petition dated September 10, 2020 was presented by residents of Msambweni village, Voi sub-county in Taita Taveta County. They claim to be living in fear of eviction by a private developer (Sparkle Properties Limited) from a parcel of land registered as No.1956/506, C.R No. 23979 measuring 54.26 hectares where they claim to have resided since1938.

According to the petitioners, their elders accepted a request by Bata Shoe Company to put up a factory on the subject land in 1978 on the premise that the factory would create employment for the community. A 99-year lease running from January 1, 1979 was granted on conditions, inter alia, that the land was to be used for a factory and that the company would not subdivide, sell, transfer or sublet the land.

Bata Shoe Company did not develop the land as agreed and in 2013 transferred the land to Sparkle Properties Limited for construction of a shopping mall in disregard of the conditions of the lease. The petitioners claim to have resisted the development, which prompted Sparkle Properties Limited to file a case court (ELC No. 265 of 2013) seeking to evict them. The court rendered its judgement on the case on February 24, 2020 allowing the eviction order sought by Sparkle Properties Limited. The court also ordered the residents of Msambweni to pay damages for trespass amounting to Kshs.1,050,000.

The petitioners are apprehensive that 3,500 people will be rendered homeless if the court orders are executed. They claim that efforts to resolve the matter with relevant authorities have not been successful and have thus engaged the Senate to intervene.

Response

Honourable Chair, I wish to respond as follows-

The subject parcel of land is situated within Voi Township and borders Ndara A adjudication section and Kaloleni Majengo Squatter Upgrading Scheme. The parcel is registered at the Mombasa Land Registry under the Registered Titles Act, Cap. 281 *(repealed)* as L.R No. 1956/506 C.R. No 23979 on Survey plan No. 107124 measuring approximately 54.26 hectares.

This parcel was allocated to Bata Shoe Company Limited who intended to establish a shoe factory on the land, and was issued with title deed on April 30, 1993. Bata Shoe Company later sold the parcel to Sparkle Properties Limited at a consideration of Kshs.12,000,000. The transfer was lodged on March 21, 2011 and a new title issued to sparkle properties limited as the proprietor **(Annexure 17)**.

The proprietor upon receiving title to the land discovered that squatters had moved in and constructed residential houses, they also prevented the owner from taking possession or accessing the property. This prompted the company to move to the Environment and Land Court at Mombasa, Civil Case No.265 of 2013 (Sparkle properties Limited -vs- Johana Ngai & 8 Others)

On January 27, 2020 the court rendered Judgment on the case as follows-

a) Permanent injunction restraining the defendants whether acting by themselves; their employees, agents and/or servants and/or through any other manner whatsoever interfering with the suit property to unit L.R 1956/506.
b) Mandatory injunction compelling the defendants to demolish and or pull down structures erected on the suit property and to give vacant possession to the plaintiff.
c) That there be a permanent injunction restraining the defendants and/or their agents to allow them to occupy or construct the unoccupied space and proceed with construction forthwith
d) General damages for trespass awarded at Ksh.150,000 payable by each defendant to the plaintiff giving a total sum of Kshs.1,050,000 with interest from the date of filing suit until payment is made in full.
e) Costs of the suit awarded to the plaintiff.

The issues raised in the instant petition were adequately canvassed in the suit. **(Annexure 18)**

vi) Statement requested by Sen. Anwar Loitiptip, MP on September 24, 2020, regarding alleged displacement of squatters from Hidabwo area in Lamu County

Honourable Chair, I wish to respond as follows-

The Hon. Sen. Anwar Loitiptip, MP has requested the Cabinet Secretary to-

i. Explain the circumstances surrounding the ownership of the parcel of land in Hidabu Area, Lamu County, and state the genuine owners of the said parcel of land
ii. State who is behind the demarcation of the said piece of land and evicting persons who have occupied and settled on the said piece of land since 1998
iii. State whether Lamu County Government authorized the allegedly illegal demarcation of the piece of land
iv. Explain measures the Ministry of Lands and the National Land Commission have put in place to protect persons who have enjoyed quiet possession of the said piece of land for a period exceeding 12 years and ensure they are not going to be rendered squatters by rogue land grabbers allowed to own the land through adverse possession.

Response

Honourable Chair, I wish to respond as follows-

In response to questions (i), (ii), (iii) and (iv), I wish to respond as follows:

Hidabu area is an informal squatter settlement within Lamu Island specifically within registration section Lamu/Block II. The area comprises of several Government reserved land and registered private land parcels. Some of the squatters in the settlement have permanent buildings and others semi-permanent structures built over time. The attached plan marked **annexure 19** give an impression of the status and layout of the area.

The County Government of Lamu engaged a private survey firm, Spatial Milestone (K) Ltd, to survey the squatted area The project is ongoing and at planning stage, so far capturing over 300 squatters.

Ownership

	Plot No.	Size (Ha)	Ownership	Ground Occupant
1	Lamu/Block II/126	2.97	Government of Kenya **(Annexure 20)**	• County Commissioner's residence • LAWASCO, KPLC sub-station, KBC mast, Radio Rahma mast. • Lower part settled by over 30 squatters.
2	Lamu/Block	4.86	Government of	• Public Works and Housing offices

	II/127		Kenya **(Annexure 21)**	• Probation office • Churches (5 No) • Lower part settled by over 120 squatters
3	Lamu/Block II/128	5.06	Government of Kenya **(Annexure 22)**	• King Fahad Hospital (Public). • Lower part has over 60 squatters.
4	Lamu/Block II/129	6.14	Government of Kenya **(Annexure 23)**	• King Fahad Hospital; Mosque (1 No) • Lower part settled by 50 families (squatters)
5	Lamu/Block II/345 Lamu Block II/348 Lamu/Block II/350	0.10 0.10 0.10	Miliki Ltd **(Annexure 24)**	Have on-going investigation by DCI Lamu between the owner and squatters. • Parcel 345 has a well dug by area MCA. • Plot 348 has 2 permanent houses by squatters, while 350 has some recently erected posts.

The government agencies such as the hospital, housing and Interior occupying the reserved plots assert that they require the land for future public purposes.

vii) Statement requested by Sen. Anwar Loitiptip, MP (Lamu County) on alleged encroachment of Lake Kenyatta Riparian Land

Honourable Chair,

The Hon. Sen. Anwar Loitiptip, MP has requested the Cabinet Secretary to-

i) State whether Lamu County followed due process in licensing Lake Kenyatta Beach Management Unit which has been given the responsibility of managing areas of the beach reserved for hippopotamus to graze as well as recreational areas for fishermen and public

ii) Explain whether Lamu County authorized demarcation of the aid area and subsequently allocated the beach area to Lake Kenyatta Beach Management Unit

iii) State whether the title deeds for the land in question which are in the hands of Lake Kenyatta Beach Management Unit are genuine, and if so, did NLC conduct due diligence before issuance of the same

iv) Explain what measures the Ministry of Lands is putting in place to ensure that areas around water bodies used as grazing area for wildlife are protected

Honourable Chair, I wish to respond as follows:

A response to the Statement requested by the Hon. Senator was forwarded vide a report dated January 5, 2021. A copy of the report is marked **Annexure 25.**

Honourable Chair, I submit.

Dr. Nicholas Muraguri
PRINCIPAL SECRETARY

February 24, 2020