

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT OF KENYA AT MERU**  
**CONSTITUTIONAL PETITION NO                      OF 2021**

**IN THE MATTER OF ALLEGED CONTRAVENTION OF NATIONAL ARTICLES AND PRINCIPLES OF GOVERNANCE ENSHRINED IN ARTICLES 1(1); 2(1), (2) & (3); 3(1); 10(2); 60; 73(1)(b); 185(2); AND 258(1) & 3 OF THE CONSTITUTION AND PART 2 OF THE FOURTH SCHEDULE TO THE CONTITUTION;**

**IN THE MATTER OF ALLEGED VIOLATION OF RIGHTS AND FUNDAMENTAL FREEDOMS UNDER ARTICLES 19, 20, 21,22, 23, 24, 27, 28, 29, 35, 39, 40, 42, 43, 44, 48, 53(2), 56, 60, 63 & 69**

**IN THE MATTER OF KENYA (PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013**

**IN THE MATTER OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS**

**IN THE MATTER OF THE UNITED NATIONS DECLARATION OF THE RIGHTS OF INDIGENOUS PEOPLE (UNDRIP), 2007**

**IN THE MATTER OF THE CONVENTION ON BIODIVERSITY, 1992**

**IN THE MATTER OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1966**

**IN THE MATTER OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1966**

**IN THE MATTER OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (ACHPR)**

**IN THE MATTER OF THE UNECE CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS, 1999**

**IN THE MATTER OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, 1979**

IN THE MATTER OF THE COUNTY GOVERNMENTS ACT, NO. 17 OF 2012

IN THE MATTER OF THE COMMUNITY LAND ACT, NO. 27 OF 2016

IN THE MATTER OF THE COMMUNITY LAND REGULATIONS OF 2016 (LEGAL NOTICE NO. 279)

IN THE MATTER OF THE WILDLIFE (CONSERVATION AND MANAGEMENT) ACT, NO. 47 OF 2013

IN THE MATTER OF THE INFRINGEMENT OF FUNDAMENTAL RIGHTS OF THE PEOPLE OF CHARI WARD & CHERAB WARD, MERTI SUB COUNTY, ISIOLO COUNTY WITH REGARD TO PUBLIC PARTICIPATION, RECOGNITION AND REGISTARTION OF COMMUNITY LAND AS REQUIRED UNDER ARTICLE 63 OF THE CONSTITUTION OF KENYA, 2010 AND SECTIONS 6, 29, 48 OF THE COMMUNITY LAND ACT, 2016.

**BETWEEN**

ABDIRAHMAN OSMAN.....1<sup>ST</sup> PETITIONER  
HASSAN BIDHU.....2<sup>ND</sup> PETITIONER  
HUSSEIN SULEIMAN.....3<sup>RD</sup> PETITIONER  
MUSA HUKA.....4<sup>TH</sup> PETITIONER  
YUSSUF BORU.....5<sup>TH</sup> PETITIONER  
MOHAMED GALGALO.....6<sup>TH</sup> PETITIONER  
ALI ABKULA .....7<sup>TH</sup> PETITIONER  
OSMAN YAROLE.....8<sup>TH</sup> PETITIONER  
HASSAN GUYO.....9<sup>TH</sup> PETITIONER  
AISHA ALI.....10<sup>TH</sup> PETITIONER  
RUKIA SALADO.....11<sup>TH</sup> PETITIONER  
MOHAMEDNUR ADAN.....12<sup>TH</sup> PETITIONER

ALI ADAN DIBA.....	13 <sup>TH</sup> PETITIONER
ZEITUNA MUSA HUKA.....	14 <sup>TH</sup> PETITIONER
RUFO GOLLO.....	15 <sup>TH</sup> PETITIONER
HAWAI GOLLO.....	16 <sup>TH</sup> PETITIONER
HASHIM BORU.....	17 <sup>TH</sup> PETITIONER
ABDI ADHAN SELE.....	18 <sup>TH</sup> PETITIONER
ABDIRAHMAN HASSAN.....	19 <sup>TH</sup> PETITIONER
ABDAKALT KANUTO.....	20 <sup>TH</sup> PETITIONER
IBRAHIM GUTU.....	21 <sup>ST</sup> PETITIONER
OSMAN GURA.....	22 <sup>ND</sup> PETITIONER
ABDUBA JIRMA.....	23 <sup>RD</sup> PETITIONER
AHAMED A FAYO.....	24 <sup>TH</sup> PETITIONER
MOHAMED BUKE.....	25 <sup>TH</sup> PETITIONER
JATTANI ALI GUYO.....	26 <sup>TH</sup> PETITIONER
NURIA JARSO.....	27 <sup>TH</sup> PETITIONER
RASHIA ALI.....	28 <sup>TH</sup> PETITIONER
ADAN GUYOALI.....	29 <sup>TH</sup> PETITIONER
DABASO ADAN.....	30 <sup>TH</sup> PETITIONER
ABDI RACHA.....	31 <sup>ST</sup> PETITIONER
ADAN DIBA.....	32 <sup>ND</sup> PETITIONER
TULLU WAKO.....	33 <sup>RD</sup> PETITIONER
ORGE KANATO.....	34 <sup>TH</sup> PETITIONER
SALAD ALI RIBA.....	35 <sup>TH</sup> PETITIONER
MADINA SALAD ALI.....	36 <sup>TH</sup> PETITIONER

MUSA BUKE.....	37 <sup>TH</sup> PETITIONER
MOLU CLODANA.....	38 <sup>TH</sup> PETITIONER
MOHAMED ELEMA.....	39 <sup>TH</sup> PETITIONER
BRAHIM HUSSEIN.....	40 <sup>TH</sup> PETITIONER
ALNOOR DIBA DUBA.....	41 <sup>ST</sup> PETITIONER
NURA GALGALO.....	42 <sup>ND</sup> PETITIONER
ALI DIBA.....	43 <sup>RD</sup> PETITIONER
IBRAHIM DABASO.....	44 <sup>TH</sup> PETITIONER
RASHID GOLLO.....	45 <sup>TH</sup> PETITIONER
AMINA DIBA.....	46 <sup>TH</sup> PETITIONER
MOHAMEDNOOR URCHO.....	47 <sup>TH</sup> PETITIONER
HALKANO SURA .....	48 <sup>TH</sup> PETITIONER
JAMALE ALI.....	49 <sup>TH</sup> PETITIONER
SADIA GUYO.....	50 <sup>TH</sup> PETITIONER
ASHA DUBA.....	51 <sup>ST</sup> PETITIONER
HASSAN GALGALLO.....	52 <sup>ND</sup> PETITIONER
ALI DABASO.....	53 <sup>RD</sup> PETITIONER
RASHID WARIO.....	54 <sup>TH</sup> PETITIONER
SHUKRI GOLLO.....	56 <sup>TH</sup> PETITIONER
DAUD HUSSEIN.....	57 <sup>TH</sup> PETITIONER
HABIBA DIBA.....	58 <sup>TH</sup> PETITIONER
MUKTAR BILA.....	59 <sup>TH</sup> PETITIONER
NURIA DABASO.....	60 <sup>TH</sup> PETITIONER
ABDI MOHAMED .....	61 <sup>ST</sup> PETITIONER



ALI MOHAMED .....	62 <sup>ND</sup> PETITIONER
MOHAMED GUYO.....	63 <sup>RD</sup> PETITIONER
FATUMA MOHAMED.....	64 <sup>TH</sup> PETITIONER
MUMINA ALI.....	65 <sup>TH</sup> PETITIONER
HASSAN OSMAN.....	66 <sup>TH</sup> PETITIONER
IBRAHIM BIDU.....	67 <sup>TH</sup> PETITIONER
MOHAMUD GUYO BUKICHA.....	68 <sup>TH</sup> PETITIONER
HALIMA KANCHORI FUGICHA.....	69 <sup>TH</sup> PETITIONER
HALIMA ADAN BIDU.....	70 <sup>TH</sup> PETITIONER
ADAN JATTANI HAPANA.....	71 <sup>ST</sup> PETITIONER
SAKU DIBA BOKICHA.....	72 <sup>ND</sup> PETITIONER
LANA MOHAMED GODANA.....	73 <sup>RD</sup> PETITIONER
TIYA DIDA ADI.....	74 <sup>TH</sup> PETITIONER
BOSONA BIDU DIBA.....	75 <sup>TH</sup> PETITIONER
RALIA GOLICHA KAMPICHA.....	76 <sup>TH</sup> PETITIONER
BATULA GUYO BUKICHA.....	77 <sup>TH</sup> PETITIONER
SAFIA GUYO BUKICHA.....	78 <sup>TH</sup> PETITIONER
SIRIKE GALGALO.....	79 <sup>TH</sup> PETITIONER
IDRIS ABDULLAHI.....	80 <sup>TH</sup> PETITIONER
RUKIA GOLLO BADO.....	81 <sup>ST</sup> PETITIONER
SADIA ADAN JARSO.....	82 <sup>ND</sup> PETITIONER
ADAN WAKO QURE.....	83 <sup>RD</sup> PETITIONER
RAHMA ROBA OLLO.....	84 <sup>TH</sup> PETITIONER
BASHIR WAKO QURE.....	85 <sup>TH</sup> PETITIONER

KARIM WAKO QURE.....	86 <sup>TH</sup> PETITIONER
RALIA MOHAMED.....	87 <sup>TH</sup> PETITIONER
HASSAN RABO BAKASA.....	88 <sup>TH</sup> PETITIONER
BARWAQO ABDI.....	89 <sup>TH</sup> PETITIONER
SALAD TADICHA.....	90 <sup>TH</sup> PETITIONER
SAID ROBA OLLO.....	91 <sup>ST</sup> PETITIONER
SIRAJ DIBA GODANA.....	92 <sup>ND</sup> PETITIONER
ABDI DIBA GURACHA.....	93 <sup>RD</sup> PETITIONER
GALGALO AFATU SARU.....	94 <sup>TH</sup> PETITIONER
MOHAMED GUYO.....	95 <sup>TH</sup> PETITIONER
ABDI JIRMA.....	96 <sup>TH</sup> PETITIONER
ZEINAB HASSAN.....	97 <sup>TH</sup> PETITIONER
TADICHA MALICHA.....	98 <sup>TH</sup> PETITIONER
HAWO YUSSUF.....	99 <sup>TH</sup> PETITIONER
MUSLIMA ABDI.....	100 <sup>TH</sup> PETITIONER
LOKO GUYO JALDESA.....	101 <sup>ST</sup> PETITIONER
FATUMA JIRMA.....	102 <sup>ND</sup> PETITIONER
DAUD JIRMA.....	103 <sup>RD</sup> PETITIONER
BARWAQO HUKA.....	104 <sup>TH</sup> PETITIONER
MOHAMED A JIRMA.....	105 <sup>TH</sup> PETITIONER
IBRAHIM A JIRMA.....	106 <sup>TH</sup> PETITIONER
ALI HASSAN.....	107 <sup>TH</sup> PETITIONER
MOHAMEDNOOR JIRMA.....	108 <sup>TH</sup> PETITIONER
IBRAHIM KUNO.....	109 <sup>TH</sup> PETITIONER

HALKANO GUYO.....	110 <sup>TH</sup> PETITIONER
ALI HALKANO.....	111 <sup>TH</sup> PETITIONER
MOHAMUD DOME.....	112 <sup>TH</sup> PETITIONER
JIBRIL ABDI.....	113 <sup>TH</sup> PETITIONER
IDDI ABDI .....	114 <sup>TH</sup> PETITIONER
SALAD KERO.....	115 <sup>TH</sup> PETITIONER
ALI OMAR.....	116 <sup>TH</sup> PETITIONER
ABDUBA DIKA.....	117 <sup>TH</sup> PETITIONER
IBRAHIM WAKO.....	118 <sup>TH</sup> PETITIONER
FAYO MOHAMED.....	119 <sup>TH</sup> PETITIONER
ABDULHAKIM GOLICHA.....	120 <sup>TH</sup> PETITIONER
MUSA MOHAMMED.....	121 <sup>ST</sup> PETITIONER
FRANKLEIGN MURETHI.....	122 <sup>ND</sup> PETITIONER
SHEDO GOLLO.....	123 <sup>RD</sup> PETITIONER
ABDI SALAD.....	124 <sup>TH</sup> PETITIONER
RASHID AHMED ABDULLAHI.....	125 <sup>TH</sup> PETITIONER
SALAD MOHAMED.....	126 <sup>TH</sup> PETITIONER
HASSAN DIBA SHEDO.....	127 <sup>TH</sup> PETITIONER
HAMDI MOHAMED.....	128 <sup>TH</sup> PETITIONER
GUYO GEDO GODANA.....	129 <sup>TH</sup> PETITIONER
MOHAMED JARSO SORA.....	120 <sup>TH</sup> PETITIONER
JUMA OMAR JILLO.....	121 <sup>ST</sup> PETITIONER
IBRAHIM GUFU.....	122 <sup>ND</sup> PETITIONER
MUKTAR WAKO QURE.....	123 <sup>RD</sup> PETITIONER

AMINA GUYO BUKICHA .....	124 <sup>TH</sup> PETITIONER
DAVID HUKA GALGALO.....	125 <sup>TH</sup> PETITIONER
YUNIS DABASO GUTOLE.....	126 <sup>TH</sup> PETITIONER
HAWAI HUSSEIN KUNO.....	127 <sup>TH</sup> PETITIONER
NASIBO JIRMA DUBA.....	128 <sup>TH</sup> PETITIONER
DAVID ALI.....	129 <sup>TH</sup> PETITIONER
AMINA GUYO.....	130 <sup>TH</sup> PETITIONER
RUFO BULLE .....	131 <sup>ST</sup> PETITIONER
HAWO ADAN.....	132 <sup>ND</sup> PETITIONER
AMINA DIBA.....	133 <sup>RD</sup> PETITIONER
HUSEIN GUYO.....	134 <sup>TH</sup> PETITIONER
RUKIA SALADO.....	135 <sup>TH</sup> PETITIONER
IBRAHM GUTU.....	136 <sup>TH</sup> PETITIONER
MARIAM BILLA.....	137 <sup>TH</sup> PETITIONER
HALIMA OLLO.....	138 <sup>TH</sup> PETITIONER
ABDI WARIO.....	139 <sup>TH</sup> PETITIONER
AMINA BORU.....	140 <sup>TH</sup> PETITIONER
KATUMA KINI.....	141 <sup>ST</sup> PETITIONER
QUYU DEMO.....	142 <sup>TH</sup> PETITIONER
FATUMA SORA.....	143 <sup>RD</sup> PETITIONER
RAMADHAN ALI.....	144 <sup>TH</sup> PETITIONER
MOHAMED GUYO.....	145 <sup>TH</sup> PETITIONER
ABDI DIBA.....	146 <sup>TH</sup> PETITIONER
SADIA HUSSEIN.....	147 <sup>TH</sup> PETITIONER

SHAFI BULE.....	148 <sup>TH</sup> PETITIONER
SALISA HUSSAN.....	149 <sup>TH</sup> PETITIONER
BILA OSMAN.....	150 <sup>TH</sup> PETITIONER
ZAINAB WATO.....	151 <sup>ST</sup> PETITIONER
BORA BALAMBLI.....	152 <sup>ND</sup> PETITIONER
HALIMA MAMUD.....	153 <sup>RD</sup> PETITIONER
RUFO ABDI ELEMA.....	154 <sup>TH</sup> PETITIONER
IDRIS HASSAN.....	155 <sup>TH</sup> PETITIONER
HALIMA ABDI.....	156 <sup>TH</sup> PETITIONER
YAKUB WAKO ADAN.....	157 <sup>TH</sup> PETITIONER
HUSSEIN KALICHA.....	158 <sup>TH</sup> PETITIONER
ASILI ADAN JARSO.....	159 <sup>TH</sup> PETITIONER
ABDIMALI MOHAMED.....	160 <sup>TH</sup> PETITIONER
RUKIA DABASO JARSO.....	161 <sup>ST</sup> PETITIONER
GALGALO HUSEIN BIDA.....	162 <sup>ND</sup> PETITIONER
RASHID ABDI WAKO.....	163 <sup>RD</sup> PETITIONER
FADIA GUYO JALDESA.....	164 <sup>TH</sup> PETITIONER
DIBO HUSSEIN.....	165 <sup>TH</sup> PETITIONER

*(suing on their own behalf and on behalf of residents of Merti sub county,  
Chari ward and Cherab ward in Isiolo county)*

**AND**

NORTHERN RANGELANDS TRUST.....	1 <sup>ST</sup> RESPONDENT
THE COUNTY GOVERNMENT OF ISIOLO.....	2 <sup>ND</sup> RESPONDENT

ABDI JARSO.....	3 <sup>RD</sup> RESPONDENT
GOLICHA JARSO.....	4 <sup>th</sup> RESPONDENT
HALKANO GOLLO.....	5 <sup>TH</sup> RESPONDENT
GOLLO FUGICHA.....	6 <sup>TH</sup> RESPONDENT
KENYA WILDLIFE SERVICE.....	7 <sup>th</sup> RESPONDENT
MINISTRY OF LANDS AND PHYSICAL PLANNING.....	8 <sup>TH</sup> RESPONDENT
COUNTY COMMISSIONER ISIOLO.....	9 <sup>TH</sup> RESPONDENT

### CERTIFICATE OF URGENCY

I, **INNOCENT MAKAKA**, of P.O Box 38878-00100, Nairobi, an Advocate of this Honourable Court practising as such with the Firm of **Makaka & Kiramana Advocates** and having conduct of this matter on behalf of the Petitioners herein, do hereby certify that the Petition and the Application herewith is of extreme urgency and should be heard on a priority basis for the reason that:

1. The Applicants herein are members of the indigenous pastoralist community, residing in **Chari ward** and **Cherab ward, Merti sub County of Isiolo County** living and conducting their daily activities on the community land which is jointly and severally owned by them.
2. The 1<sup>st</sup> Respondent, working with umbrella groups and without any opposition from the authorities purports to establish conservancies in the said regions without involving the Petitioners and the community at large. The Applicants' efforts to register the community and the community land have been met with untold frustration occasioned by the authorities and therefore, in so far as the registration is pending then any attempt to establish a conservancy in the region is premature and ought to be stopped.
3. The 2<sup>nd</sup> Respondent is mandated by the Constitution of Kenya, 2010 and the Community Land Act, 2016 to be the Trustee for all unregistered Community Land and to hold in trust and help manage the land on behalf of the community, until such land is registered. Further Section 6(8) of the Community Land Act bars the 2<sup>nd</sup>

Respondent (County Government of Isiolo) from disposing in any way of unregistered Community Land, which is held in trust. In utter and flagrant disregard of this mandate and in sheer negligence, it has allowed the 1<sup>st</sup> Respondent and its umbrella bodies to establish and run conservancies in unregistered community land, without participation or involvement of the Community.

4. The 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents, under the patronage of the 1<sup>st</sup> Respondent herein have gone ahead to advertise for vacancies to be filled in a purported conservancy that they intend to establish. The 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents chair and run Community Based Organisations purporting to represent the Community, which is an actual misrepresentation of facts, and entirely untrue as the Applicants/Petitioners decry lack of public participation in any dealings in the community land.
5. Currently the 1<sup>st</sup> Respondent has already established conservancies in other neighbouring regions and have hired armed Rangers whose presence in the county elicits tension which in several instances has resulted in violence and loss of life and forced disappearances as was the case during the establishment of the Biliqo-Bulesa Conservancy. Further, the armed Rangers operate as a private army for the 1<sup>st</sup> Respondent and are used to quell any opposition by the Community which in effect has led to a rise in the proliferation of small arms in the region as the community tries to defend themselves.
6. The 7<sup>th</sup> Respondent, Kenya Wildlife Service (KWS) is the uniformed and disciplined Service established under the Kenya Wildlife (Conservation and Management) Act, 2012 which is mandated to provide security and offer advisory relating to conservation of wildlife as well as establishment of wildlife conservancies and sanctuaries. The 7<sup>th</sup> Respondent has abdicated its statutory mandate relating to conservation and without any structure or proper regulation has let the 1<sup>st</sup> Respondent take up the same.
7. The 1<sup>st</sup> Respondent, despite protests and objections from the Community, continues to make plans in preparation for the establishment of conservancies;
8. The 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents, continue with these operations devoid of any kind of public participation;

9. The establishment of the conservancy, which is in its advanced stages, will disenfranchise the community as the same will render them homeless and with no grazing land and will extinguish their important sites including cultural sites such as Kuro Bisan Owwo, graveyards in Ires Roba Senthoo, Ires Kira, Ires Saku, Ires wadha, Ires Ture and Ires Buuna, being graves named after deceased prominent community members;
10. The 1<sup>st</sup> Respondent's actions, the complacency of the 2<sup>nd</sup> and 7<sup>th</sup> Respondents, the involvement of the 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents purporting to represent the community, is creating the risk of wildlife-human conflict thereby threatening the right to life, right to property ownership, human dignity, economic social and cultural rights, right to a clean and healthy environment and land use as there are clear plans on the establishment of the conservancy and no clarity on the compensation and/or relocation of the Community;
11. The 2<sup>nd</sup> Respondent's inaction is in violation of its constitutional responsibility to hold in trust all unregistered community land in the county.
12. The 1<sup>st</sup> Respondent, with the help of the Rangers and the local administration, continue to use intimidation and coercion as well as threats upon the community leaders where the community leaders attempt to oppose any of their plans. This is an outright violation of the community's right to security and human dignity;
13. There has been no disclosure of any approvals from the relevant bodies, for the 1<sup>st</sup> Respondent to establish a conservancy. There is no Environmental Impact Assessment, Socio-economic Impact Assessment, Environmental Social Impact Assessment or any feasibility study done on the establishment of the said conservancy. This is despite the fact that the establishment will interfere with the community's ability to continue with the socio-economic life as they are pastoralists. This is a violation of their social, economic and cultural rights granted under the Constitution and in various International Conventions;
14. There has been direct and calculated discrimination against and disenfranchisement of the youth, women and persons with disability



- in all the activities by the 1<sup>st</sup> Respondent. The Community, being an indigenous Community, does not allow for joint forums for men and women during public participation. As such, it behoves the 1<sup>st</sup> Respondent herein, ought to have set up separate public participation fora for the men, women and youth, and in each instance, the persons with disability ought to be involved, since the purported establishment of a conservancy will have different effects of each group of people that ought to be taken into consideration;
15. There has been a lack of involvement of the community elders and the duly elected members of the community in the decisions taken by the 1<sup>st</sup> to 6<sup>th</sup> Respondents. The Community herein has elders to whom they go to get guidance on various issues affecting the Community, failure to involve them is an affront to the cultural ways of the community and a violation of their cultural rights, herein;
16. The 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents Chair and run the Community Based Organisations being Cherab Community Conservancy and Bulesa Biliqo Conservancy, they are not in any way the representatives of the Community herein and therefore have no authority to act for the community. There is no Memorandum of Understanding or any agreements between 1<sup>st</sup> Respondent, Bulesa Biliqo conservancy and the community for instance and despite lack of such agreements and other legal documents, the conservancy continues its operations in Chari ward. The 5<sup>th</sup> Respondent is also one of the 1<sup>st</sup> Respondent's Directors.
17. The Actions of the Respondents, if unchecked and unstopped, will lead to dispossession of indigenous community's ancestral land, destruction of the community land and the eco-system within the area. This will be a violation of environmental rights under Article 42 of the Constitution of Kenya, 2010 which requires the protection of the environment for the benefit of present and future generations.
18. It is in the interests of justice that this Honourable Court be pleased to certify this matter as extremely urgent and admit it for hearing immediately, and orders sought herein be granted.

Dated at **NAIROBI** this 27<sup>th</sup> day of September 2021

makaka

**MAKAKA & KIRAMANA ADVOCATES**  
**ADVOCATE FOR THE PETITIONER/APPLICANT**

**DRAWN AND FILED BY:**

**MAKAKA & KIRAMANA ADVOCATES**

**STANDARD STREET, BRUCE HOUSE**

**SOUTH WING, SUITE 1101**

**P.O. BOX 38878-00100**

**NAIROBI**

**EMAIL:[mkadvocates@workmail.com](mailto:mkadvocates@workmail.com) phone: 0733 208 337**

**P105/13753/17 Practice No: LSK/2021/07554**

**TO BE SERVED UPON:**

**NORTHERN RANGELANDS TRUST**

**PRIVATE BAG**

**ISIOLO**

**THE COUNTY GOVERNMENT OF ISIOLO**

**ISIOLO**

**ABDI JARSO**

**ISIOLO**

**GOLICHA JARSO**

**ISIOLO**

**HALKANO GOLLO**

**ISIOLO**

**GOLLO FUGICHA**

**ISIOLO**

**KENYA WILDLIFE SERVICE**

**ISIOLO**

**MINISTRY OF LANDS AND PHYSICAL PLANNING**

**ISIOLO COUNTY**

**COUNTY COMMISSIONER**

**ISIOLO COUNTY**

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT OF KENYA AT MERU**  
**CONSTITUTIONAL PETITION NO \_\_\_\_\_ OF 2021**

IN THE MATTER OF ALLEGED CONTRAVENTION OF NATIONAL ARTICLES AND PRINCIPLES OF GOVERNANCE ENSHRINED IN ARTICLES 1(1); 2(1), (2) & (3); 3(1); 10(2); 60; 73(1)(b); 185(2); AND 258(1) & 3 OF THE CONSTITUTION AND PART 2 OF THE FOURTH SCHEDULE TO THE CONTITUTION;

IN THE MATTER OF ALLEGED VIOLATION OF RIGHTS AND FUNDAMENTAL FREEDOMS UNDER ARTICLES 19, 20, 21,22, 23, 24, 27, 28, 29, 35, 39, 40, 42, 43, 44, 48, 53(2), 56, 60, 63 & 69

IN THE MATTER OF KENYA (PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013

IN THE MATTER OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

IN THE MATTER OF THE UNITED NATIONS DECLARATION OF THE RIGHTS OF INDIGENOUS PEOPLE (UNDRIP), 2007

IN THE MATTER OF THE CONVENTION ON BIODIVERSITY, 1992

IN THE MATTER OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1966

IN THE MATTER OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1966

IN THE MATTER OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (ACHPR)

IN THE MATTER OF THE UNECE CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS, 1999

IN THE MATTER OF THE CONVENTION ON THE ELIMINATION OF ALL  
FORMS OF DISCRIMINATION AGAINST WOMEN, 1979

IN THE MATTER OF THE COUNTY GOVERNMENTS ACT, NO. 17 OF 2012

IN THE MATTER OF THE COMMUNITY LAND ACT, NO. 27 OF 2016

IN THE MATTER OF THE COMMUNITY LAND REGULATIONS OF 2016 (LEGAL  
NOTICE NO. 279)

IN THE MATTER OF THE WILDLIFE (CONSERVATION AND MANAGEMENT)  
ACT, NO. 47 OF 2013

IN THE MATTER OF THE INFRINGEMENT OF FUNDAMENTAL RIGHTS OF  
THE PEOPLE OF CHARI WARD & CHERAB WARD, MERTI SUB COUNTY,  
ISIOLO COUNTY WITH REGARD TO PUBLIC PARTICIPATION, RECOGNITION  
AND REGISTARTION OF COMMUNITY LAND AS REQUIRED UNDER ARTICLE  
63 OF THE CONSTITUTION OF KENYA, 2010 AND SECTIONS 6, 29, 48 OF  
THE COMMUNITY LAND ACT, 2016.

**BETWEEN**

ABDIRAHMAN OSMAN.....1<sup>ST</sup> PETITIONER  
HASSAN BIDHU.....2<sup>ND</sup> PETITIONER  
HUSSEIN SULEIMAN.....3<sup>RD</sup> PETITIONER  
MUSA HUKA.....4<sup>TH</sup> PETITIONER  
YUSSUF BORU.....5<sup>TH</sup> PETITIONER  
MOHAMED GALGALO.....6<sup>TH</sup> PETITIONER  
ALI ABKULA .....7<sup>TH</sup> PETITIONER  
OSMAN YAROLE.....8<sup>TH</sup> PETITIONER  
HASSAN GUYO.....9<sup>TH</sup> PETITIONER

AISHA ALI.....	10 <sup>TH</sup> PETITIONER
RUKIA SALADO.....	11 <sup>TH</sup> PETITIONER
MOHAMEDNUR ADAN.....	12 <sup>TH</sup> PETITIONER
ALI ADAN DIBA.....	13 <sup>TH</sup> PETITIONER
ZEITUNA MUSA HUKA.....	14 <sup>TH</sup> PETITIONER
RUFO GOLLO.....	15 <sup>TH</sup> PETITIONER
HAWAI GOLLO.....	16 <sup>TH</sup> PETITIONER
HASHIM BORU.....	17 <sup>TH</sup> PETITIONER
ABDI ADHAN SELE.....	18 <sup>TH</sup> PETITIONER
ABDIRAHMAN HASSAN.....	19 <sup>TH</sup> PETITIONER
ABDAKALT KANUTO.....	20 <sup>TH</sup> PETITIONER
IBRAHIM GUTU.....	21 <sup>ST</sup> PETITIONER
OSMAN GURA.....	22 <sup>ND</sup> PETITIONER
ABDUBA JIRMA.....	23 <sup>RD</sup> PETITIONER
AHAMED A FAYO.....	24 <sup>TH</sup> PETITIONER
MOHAMED BUKE.....	25 <sup>TH</sup> PETITIONER
JATTANI ALI GUYO.....	26 <sup>TH</sup> PETITIONER
NURIA JARSO.....	27 <sup>TH</sup> PETITIONER
RASHIA ALI.....	28 <sup>TH</sup> PETITIONER
ADAN GUYOALI.....	29 <sup>TH</sup> PETITIONER
DABASO ADAN.....	30 <sup>TH</sup> PETITIONER
ABDI RACHA.....	31 <sup>ST</sup> PETITIONER
ADAN DIBA.....	32 <sup>ND</sup> PETITIONER
TULLU WAKO.....	33 <sup>RD</sup> PETITIONER

ORGE KANATO.....	34 <sup>TH</sup> PETITIONER
SALAD ALI RIBA.....	35 <sup>TH</sup> PETITIONER
MADINA SALAD ALI.....	36 <sup>TH</sup> PETITIONER
MUSA BUKE.....	37 <sup>TH</sup> PETITIONER
MOLU CLODANA.....	38 <sup>TH</sup> PETITIONER
MOHAMED ELEMA.....	39 <sup>TH</sup> PETITIONER
BRAHIM HUSSEIN.....	40 <sup>TH</sup> PETITIONER
ALNOOR DIBA DUBA.....	41 <sup>ST</sup> PETITIONER
NURA GALGALO.....	42 <sup>ND</sup> PETITIONER
ALI DIBA.....	43 <sup>RD</sup> PETITIONER
IBRAHIM DABASO.....	44 <sup>TH</sup> PETITIONER
RASHID GOLLO.....	45 <sup>TH</sup> PETITIONER
AMINA DIBA.....	46 <sup>TH</sup> PETITIONER
MOHAMEDNOOR URCHO.....	47 <sup>TH</sup> PETITIONER
HALKANO SURA .....	48 <sup>TH</sup> PETITIONER
JAMALE ALI.....	49 <sup>TH</sup> PETITIONER
SADIA GUYO.....	50 <sup>TH</sup> PETITIONER
ASHA DUBA.....	51 <sup>ST</sup> PETITIONER
HASSAN GALGALLO.....	52 <sup>ND</sup> PETITIONER
ALI DABASO.....	53 <sup>RD</sup> PETITIONER
RASHID WARIO.....	54 <sup>TH</sup> PETITIONER
SHUKRI GOLLO.....	56 <sup>TH</sup> PETITIONER
DAUD HUSSEIN.....	57 <sup>TH</sup> PETITIONER
HABIBA DIBA.....	58 <sup>TH</sup> PETITIONER

MUKTAR BILA.....	59 <sup>TH</sup> PETITIONER
NURIA DABASO.....	60 <sup>TH</sup> PETITIONER
ABDI MOHAMED .....	61 <sup>ST</sup> PETITIONER
ALI MOHAMED .....	62 <sup>ND</sup> PETITIONER
MOHAMED GUYO.....	63 <sup>RD</sup> PETITIONER
FATUMA MOHAMED.....	64 <sup>TH</sup> PETITIONER
MUMINA ALI.....	65 <sup>TH</sup> PETITIONER
HASSAN OSMAN.....	66 <sup>TH</sup> PETITIONER
IBRAHIM BIDU.....	67 <sup>TH</sup> PETITIONER
MOHAMUD GUYO BUKICHA.....	68 <sup>TH</sup> PETITIONER
HALIMA KANCHORI FUGICHA.....	69 <sup>TH</sup> PETITIONER
HALIMA ADAN BIDU.....	70 <sup>TH</sup> PETITIONER
ADAN JATTANI HAPANA.....	71 <sup>ST</sup> PETITIONER
SAKU DIBA BOKICHA.....	72 <sup>ND</sup> PETITIONER
LANA MOHAMED GODANA.....	73 <sup>RD</sup> PETITIONER
TIYA DIDA ADI.....	74 <sup>TH</sup> PETITIONER
BOSONA BIDU DIBA.....	75 <sup>TH</sup> PETITIONER
RALIA GOLICHA KAMPICHA.....	76 <sup>TH</sup> PETITIONER
BATULA GUYO BUKICHA.....	77 <sup>TH</sup> PETITIONER
SAFIA GUYO BUKICHA.....	78 <sup>TH</sup> PETITIONER
SIRIKE GALGALO.....	79 <sup>TH</sup> PETITIONER
IDRIS ABDULLAHI.....	80 <sup>TH</sup> PETITIONER
RUKIA GOLLO BADO.....	81 <sup>ST</sup> PETITIONER
SADIA ADAN JARSO.....	82 <sup>ND</sup> PETITIONER



ADAN WAKO QURE.....	83 <sup>RD</sup> PETITIONER
RAHMA ROBA OLLO.....	84 <sup>TH</sup> PETITIONER
BASHIR WAKO QURE.....	85 <sup>TH</sup> PETITIONER
KARIM WAKO QURE.....	86 <sup>TH</sup> PETITIONER
RALIA MOHAMED.....	87 <sup>TH</sup> PETITIONER
HASSAN RABO BAKASA.....	88 <sup>TH</sup> PETITIONER
BARWAQO ABDI.....	89 <sup>TH</sup> PETITIONER
SALAD TADICHA.....	90 <sup>TH</sup> PETITIONER
SAID ROBA OLLO.....	91 <sup>ST</sup> PETITIONER
SIRAJ DIBA GODANA.....	92 <sup>ND</sup> PETITIONER
ABDI DIBA GURACHA.....	93 <sup>RD</sup> PETITIONER
GALGALO AFATU SARU.....	94 <sup>TH</sup> PETITIONER
MOHAMED GUYO.....	95 <sup>TH</sup> PETITIONER
ABDI JIRMA.....	96 <sup>TH</sup> PETITIONER
ZEINAB HASSAN.....	97 <sup>TH</sup> PETITIONER
TADICHA MALICHA.....	98 <sup>TH</sup> PETITIONER
HAWO YUSSUF.....	99 <sup>TH</sup> PETITIONER
MUSLIMA ABDI.....	100 <sup>TH</sup> PETITIONER
LOKO GUYO JALDESA.....	101 <sup>ST</sup> PETITIONER
FATUMA JIRMA.....	102 <sup>ND</sup> PETITIONER
DAUD JIRMA.....	103 <sup>RD</sup> PETITIONER
BARWAQO HUKA.....	104 <sup>TH</sup> PETITIONER
MOHAMED A JIRMA.....	105 <sup>TH</sup> PETITIONER
IBRAHIM A JIRMA.....	106 <sup>TH</sup> PETITIONER

ALI HASSAN.....	107 <sup>TH</sup> PETITIONER
MOHAMEDNOOR JIRMA.....	108 <sup>TH</sup> PETITIONER
IBRAHIM KUNO.....	109 <sup>TH</sup> PETITIONER
HALKANO GUYO.....	110 <sup>TH</sup> PETITIONER
ALI HALKANO.....	111 <sup>TH</sup> PETITIONER
MOHAMUD DOME.....	112 <sup>TH</sup> PETITIONER
JIBRIL ABDI.....	113 <sup>TH</sup> PETITIONER
IDDI ABDI .....	114 <sup>TH</sup> PETITIONER
SALAD KERO.....	115 <sup>TH</sup> PETITIONER
ALI OMAR.....	116 <sup>TH</sup> PETITIONER
ABDUBA DIKA.....	117 <sup>TH</sup> PETITIONER
IBRAHIM WAKO.....	118 <sup>TH</sup> PETITIONER
FAYO MOHAMED.....	119 <sup>TH</sup> PETITIONER
ABDULHAKIM GOLICHA.....	120 <sup>TH</sup> PETITIONER
MUSA MOHAMMED.....	121 <sup>ST</sup> PETITIONER
FRANKLEIGN MURETHI.....	122 <sup>ND</sup> PETITIONER
SHEDO GOLLO.....	123 <sup>RD</sup> PETITIONER
ABDI SALAD.....	124 <sup>TH</sup> PETITIONER
RASHID AHMED ABDULLAHI.....	125 <sup>TH</sup> PETITIONER
SALAD MOHAMED.....	126 <sup>TH</sup> PETITIONER
HASSAN DIBA SHEDO.....	127 <sup>TH</sup> PETITIONER
HAMDI MOHAMED.....	128 <sup>TH</sup> PETITIONER
GUYO GEDO GODANA.....	129 <sup>TH</sup> PETITIONER
MOHAMED JARSO SORA.....	120 <sup>TH</sup> PETITIONER

JUMA OMAR JILLO.....	121 <sup>ST</sup> PETITIONER
IBRAHIM GUFU.....	122 <sup>ND</sup> PETITIONER
MUKTAR WAKO QURE.....	123 <sup>RD</sup> PETITIONER
AMINA GUYO BUKICHA .....	124 <sup>TH</sup> PETITIONER
DAVID HUKA GALGALO.....	125 <sup>TH</sup> PETITIONER
YUNIS DABASO GUTOLE.....	126 <sup>TH</sup> PETITIONER
HAWAI HUSSEIN KUNO.....	127 <sup>TH</sup> PETITIONER
NASIBO JIRMA DUBA.....	128 <sup>TH</sup> PETITIONER
DAVID ALI.....	129 <sup>TH</sup> PETITIONER
AMINA GUYO.....	130 <sup>TH</sup> PETITIONER
RUFO BULLE .....	131 <sup>ST</sup> PETITIONER
HAWO ADAN.....	132 <sup>ND</sup> PETITIONER
AMINA DIBA.....	133 <sup>RD</sup> PETITIONER
HUSEIN GUYO.....	134 <sup>TH</sup> PETITIONER
RUKIA SALADO.....	135 <sup>TH</sup> PETITIONER
IBRAHM GUTU.....	136 <sup>TH</sup> PETITIONER
MARIAM BILLA.....	137 <sup>TH</sup> PETITIONER
HALIMA OLLO.....	138 <sup>TH</sup> PETITIONER
ABDI WARIO.....	139 <sup>TH</sup> PETITIONER
AMINA BORU.....	140 <sup>TH</sup> PETITIONER
KATUMA KINI.....	141 <sup>ST</sup> PETITIONER
QUYU DEMO.....	142 <sup>TH</sup> PETITIONER
FATUMA SORA.....	143 <sup>RD</sup> PETITIONER
RAMADHAN ALI.....	144 <sup>TH</sup> PETITIONER

MOHAMED GUYO.....	145 <sup>TH</sup> PETITIONER
ABDI DIBA.....	146 <sup>TH</sup> PETITIONER
SADIA HUSSEIN.....	147 <sup>TH</sup> PETITIONER
SHAFI BULE.....	148 <sup>TH</sup> PETITIONER
SALISA HUSSAN.....	149 <sup>TH</sup> PETITIONER
BILA OSMAN.....	150 <sup>TH</sup> PETITIONER
ZAINAB WATO.....	151 <sup>ST</sup> PETITIONER
BORA BALAMBLI.....	152 <sup>ND</sup> PETITIONER
HALIMA MAMUD.....	153 <sup>RD</sup> PETITIONER
RUFO ABDI ELEMA.....	154 <sup>TH</sup> PETITIONER
IDRIS HASSAN.....	155 <sup>TH</sup> PETITIONER
HALIMA ABDI.....	156 <sup>TH</sup> PETITIONER
YAKUB WAKO ADAN.....	157 <sup>TH</sup> PETITIONER
HUSSEIN KALICHA.....	158 <sup>TH</sup> PETITIONER
ASILI ADAN JARSO.....	159 <sup>TH</sup> PETITIONER
ABDIMALI MOHAMED.....	160 <sup>TH</sup> PETITIONER
RUKIA DABASO JARSO.....	161 <sup>ST</sup> PETITIONER
GALGALO HUSEIN BIDA.....	162 <sup>ND</sup> PETITIONER
RASHID ABDI WAKO.....	163 <sup>RD</sup> PETITIONER
FADIA GUYO JALDESA.....	164 <sup>TH</sup> PETITIONER
DIBO HUSSEIN.....	165 <sup>TH</sup> PETITIONER

*(suing on their own behalf and on behalf of residents of Merti sub county, Chari ward and Cherab ward in Isiolo county)*

**AND**

NORTHERN RANGELANDS TRUST.....	1 <sup>ST</sup> RESPONDENT
THE COUNTY GOVERNMENT OF ISIOLO.....	2 <sup>ND</sup> RESPONDENT
ABDI JARSO.....	3 <sup>RD</sup> RESPONDENT
GOLICHA JARSO.....	4 <sup>TH</sup> RESPONDENT
HALKANO GOLLO.....	5 <sup>TH</sup> RESPONDENT
GOLLO FUGICHA.....	6 <sup>TH</sup> RESPONDENT
KENYA WILDLIFE SERVICE.....	7 <sup>TH</sup> RESPONDENT
MINISTRY OF LANDS AND PHYSICAL PLANNING.....	8 <sup>TH</sup> RESPONDENT
COUNTY COMMISSIONER ISIOLO.....	9 <sup>TH</sup> RESPONDENT

**NOTICE OF MOTION**

*(Under Articles 20,21, 22, 23, 60 and 63 of the Constitution of Kenya, Section 3A of the Civil Procedure Act Cap 21 Laws of Kenya, Rules 4 and 23 of the Constitution of Kenya (protection of rights and fundamental freedoms) practice and procedure rules, 2013, Order 51 Rules 1 and 3 of the Civil Procedure Rules, 2010 and all enabling provisions of the Law)*

**TAKE NOTICE** that this Honorable court shall be moved on the ..... day of ....., 2021, at 9.00 o'clock in the forenoon or so soon thereafter as Counsel for the Applicant/Petitioners may be heard on an application for orders: -

1. **THAT** this **APPLICATION** and the annexed **PETITION** be certified as extremely urgent, service of the same be dispensed with in the first instance and the same be heard on priority basis;
2. **THAT** pending the hearing and determination of this Petition, this Honourable Court be pleased to grant an *ex parte* interim injunction stopping, prohibiting and forbidding all the activities including establishing and management of conservancies on unregistered community land, whether by themselves, their agents, servants, assignees licensees, umbrella bodies or any other person working under their authority or contract of the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents, within Cherab ward and Chari ward of Merti sub-county, and within the rest of Isiolo County;
3. **THAT** pending the hearing and determination of this Petition, this Honourable Court be pleased to grant an *ex parte* interim injunction

stopping, prohibiting and forbidding all the activities of the employed personnel engaged by the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents, including Rangers, drivers and other staff, without a valid license from the relevant authorities.

4. **THAT** pending the hearing and determination of this Petition, this Honourable Court be pleased to issue an interim order compelling the 7<sup>th</sup> Respondent, to take up all the activities relating to establishment and management of community conservancies within Cherab and Chari wards, and the rest of Isiolo County, to wit that all licenses or authority granted to the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents or any of its affiliates and/or umbrella bodies or their Community Based Organisations be revoked immediately;
5. **THAT** pending the hearing and determination of this Petition, this Honourable Court be pleased to grant an *ex parte* interim injunction stopping, prohibiting and forbidding the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents, whether by themselves, their agents, servants, assignees, licensees, umbrella bodies or any other person working under their authority, instructions or contract, from entering, mapping, surveying, delineating or in any way disposing the unregistered community land, carrying out conservancy operations, evicting and intimidating community members, within Cherab ward and Chari Ward of Merti sub-county and within the rest of Isiolo County;
6. **THAT** pending the hearing and determination of this Petition, this Honourable Court be pleased to grant interim orders compelling the 2<sup>nd</sup> Respondent to execute its trust mandate relating to the management of the unregistered community land in Cherab and Chari wards, as well as the rest of Isiolo County, to wit all licenses or authority granted to the 1<sup>st</sup> Respondent or any of its affiliates and umbrella bodies be revoked immediately;
7. **THAT** pending the hearing and determination of this Petition, this Honourable Court be pleased to grant an interim injunction against the advertisement, hiring, recruitment, employment or any other form of contractual engagement for or of services of Rangers, Drivers or other Conservancy personnel by the Community Based Organizations run by the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents or any other Conservancy or Community Based Organizations under the management or patronage of the 1<sup>st</sup> Respondent either by themselves or through anyone acting under their authority or contract;
8. **THAT** pending the hearing and determination of this Petition, this Honorable Court be pleased to grant an interim injunction against the 1<sup>ST</sup> Respondent either by themselves or through anyone acting under their

authority or contract stopping, prohibiting them from erecting any structures on the unregistered community land.

9. **THAT** pending the hearing and determination of this Petition, the County Commissioner Isiolo and the Isiolo County Police Commandant do oversee the implementation of the orders sought herein and to ensure that peace and order is maintained.
10. **THAT** the Honourable Court be pleased to certify the matter to be placed before the Honourable Chief Justice or such other person duly authorized to act in such capacity for the Appointment of a Three-Judge bench as it raises substantial questions of law.
11. The costs of this Application be provided for;

**WHICH APPLICATION** is based on the grounds set out hereunder:

1. Article 3 of the Constitution of Kenya, 2010 gives an obligation for every person to respect, uphold and defend the Constitution.
2. The Applicants herein are members of the indigenous pastoralist community, residing in **Chari ward and Cherab Ward, Merti sub county of Isiolo County** living and conducting their daily activities on the community land which is jointly and severally owned by them.
3. The 1<sup>st</sup> Respondent, working with umbrella groups and without any opposition from the authorities purports to establish conservancies in the said regions without involving the Petitioners and the community at large. The Applicants' efforts to register the community and the community land have been met with untold frustration occasioned by the authorities and therefore, in so far as the registration is pending then any attempt to establish a conservancy in the region is premature and ought to be stopped.
4. The 2<sup>nd</sup> Respondent is mandated by the Constitution and the Community Land Act to be the Trustee for all unregistered Community land and to hold in trust and help manage the land until the community and such land is registered. Further Section 6(8) of the Community Land Act bars the County Government from disposing in any way of unregistered Community Land, which is held in trust. In utter and flagrant disregard of this mandate and in sheer negligence, it has allowed the 1<sup>st</sup> Respondent and its umbrella bodies to establish and run conservancies in unregistered community land, without participation or involvement of the Community.
5. The 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents Chair and run Community Based Organisations, the 3<sup>rd</sup> Respondent Chairs Cherab Community

conservancy. The 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents are co-founders of Bulesa Biliqo conservancy and under the patronage of the 1<sup>st</sup> Respondent herein have gone ahead to advertise for vacancies to be filled in a purported conservancy that they intend to establish. The 3<sup>rd</sup> and 4<sup>th</sup> Respondents Chair and run Community Based Organisations that is purporting to represent the Community, which is an actual misrepresentation of facts, and entirely untrue as the Applicants/Petitioners decry lack of public participation in any dealings in the community land.

6. In the operation of the Conservancies, the 1<sup>st</sup> Respondent has armed Rangers whose presence in the county elicits tension which in several instances has resulted in violence and loss of life and forced disappearances as was the case during the establishment of the Biliqo-Bulesa Conservancy. Further, the armed rangers are a private army for the 1<sup>st</sup> Respondent and are used to quell any opposition by the Community which in effect has led to a rise in the proliferation of small arms in the region as the community tries to defend themselves.
7. The 7<sup>th</sup> Respondent is the uniformed and disciplined Service established under the Kenya Wildlife Conservation and Management Act, 2012 which is mandated to provide security and offer advisory relating to conservation of wildlife as well as establishment of wildlife conservancies and sanctuaries. The 7<sup>th</sup> Respondent has abdicated its statutory mandate relating to conservation and without any structure or proper regulation has let the 1<sup>st</sup> Respondent herein take up the same.
8. The 1<sup>st</sup> Respondent, despite protests and objections from the Community, continues to make plans in preparation for the establishment of conservancies;
9. The 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents, continue with these operations devoid of any kind of public participation;
10. The establishment of the conservancy, which is in its advanced stages, will disenfranchise the community as the same will render them homeless and with no grazing land and will extinguish their important sites including graveyards in Ires Roba Senthoo, Ires Kira, Ires Saku, Ires wadha, Ires Ture and Ires Buuna, being graves named after deceased prominent community members;
11. The 1<sup>st</sup> Respondent's actions, the complacency of the 2<sup>nd</sup> and 7<sup>th</sup> Respondents, the involvement of the 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> Respondents purporting to represent the community is creating a risk of wildlife-human conflict thereby threatening the right to life, right to property ownership, human dignity, economic social and cultural rights, right to a clean and healthy environment and land use as there are clear plans on



the establishment of the conservancy and no clarity on the relocation of the Community.

12. The 2<sup>nd</sup> Respondent's inaction is in violation of its constitutional responsibility to hold in trust all unregistered community land in the county.
13. The 1<sup>st</sup> Respondent, well-muscled with Rangers and with the backing of the local administration, continues to use intimidation and coercion as well as threats upon the community leaders, where the community leaders attempt to oppose any of their plans. This is an outright violation of the Community's right to security and human dignity;
14. There has been no disclosure of any approvals from the relevant bodies, for the 1<sup>st</sup> Respondent to establish a conservancy. There is no Environmental Impact Assessment, Socio-economic Impact Assessment, Environmental Social Impact Assessment or any feasibility study done on the establishment of the said conservancy. This is despite the fact that the establishment will interfere with the community's ability to continue with the socio-economic life as they are pastoralists. This is a violation of their social, economic and cultural rights granted under the Constitution and in various International Conventions;
15. There has been direct and calculated discrimination against and disenfranchisement of the youth, women and persons with disability in all the activities by the 1<sup>st</sup> Respondent. The Community, being an indigenous Community, does not allow for joint forums for men and women during public participation. As such, it behoves the 1<sup>st</sup> Respondent herein, ought to have set up separate public participation fora for the men, women and youth, and in each instance, the persons with disability ought to be involved, since the purported establishment of a conservancy, will have different effects of each group of people that ought to be taken into consideration;
16. There has been a lack of involvement of the community elders and the duly elected members of the community in the decisions taken by the Respondents. The Community herein has elders to whom they go to get guidance on various issues affecting the Community. Failure to involve them is an affront to the cultural ways of the community and a violation of their cultural rights, herein;
17. The 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents chair and run Community Based Organisations they are not in any way the representatives of the Community herein and therefore have no authority to act for the community;

18. That the Petitioners have engaged various authorities seeking information on the legality of the 1<sup>st</sup> Respondent's operations in Chari ward and Cherab ward of Merti sub county and the entire Isiolo county, such information has been insufficient to address the community concerns.
19. The Applicants registered its complaints with various authorities including the Commission on the Administrative of Justice (***office of the Ombudsman***), where the community presented its complaint which office referred the Applicants to the County coordinator, National Land Commission (NLC) to address the complaint.
20. To this end, the NLC explained to the office of the ombudsman that the process of setting up the purported conservancy was suspended. The Applicants plead that this however did not solve the impasse as the Respondents are actively proceedings with plans to establish conservancies.
21. The Petitioners/Applicants also reported their complaints to the office of the County Commissioner, the deputy County Commissioner, Merti sub county Responded to the 1<sup>st</sup> Respondent herein explaining the complaints of the community in the proposed conservancy and invited parties for negotiations. The Applicants plead that the negotiations bore no fruit and were a sham as it did not in any way address the dispute. In the same letter the deputy County Commissioner lauds the 1<sup>st</sup> Respondent for their support in security and promised to continue with the partnership, this indicated that the said office cannot be taken as a genuine neutral arbiter to the dispute. The Applicant seeks orders directed to the 9<sup>th</sup> Respondent to bar authorities under his/her instruction from interfering with community land.
22. The said office of the County Commissioner directed all Assistant County Commissioners and Chiefs to fully support officers from the 1<sup>st</sup> Respondents' office in their operations.
23. Hitherto, the authorities have not offered any solutions to the dispute between the Applicants/Petitioners and the 1<sup>st</sup> Respondent.
24. That albeit under frustration, the community is working towards registering the property, and as such purporting to establish a conservancy is putting the cart before the horse, the land ought to be held in trust by the 2<sup>nd</sup> Respondent and should not be interfered with in any way.

25. The Applicants plead that the 1<sup>st</sup> Respondent is a stranger as far as the community land in the area is concerned and since the land is still unregistered should be held by the county government of Isiolo in trust.
26. The Kenya National Commission on Human Rights (KNCHR) penned an advisory opinion presented to Isiolo county Assembly dated 21<sup>st</sup> April, 2021 on an impugned bill, seeking to enhance establishment and recognition of community conservancies in Isiolo county, to wit the **Isiolo County Community Conservancy Bill, 2021**. The advisory highlights fundamental violations of the Constitution and relevant statutory provisions by the impugned Bill.
27. Through the proposed enactment of Isiolo County Community Conservancy Bill, 2021, the County Government intended to pass a law to legalize the illegally existing conservancies in the County while also creating a pathway for NRT to unilaterally create more conservancies on the community land without following due processes of the law. The actions of the County Government being the trustee of the community land in allowing third parties such as NRT and its conservancies to operate in community land contravenes the relevant provisions of the Constitution and the Community Land Act.
28. The Applicants, through their Petition dated 14<sup>th</sup> May, 2021, petitioned the National Land Commission (NLC), Nairobi requesting the said office to address the stalemate. The NLC has not responded to the Petition to date.
29. It is an established fact that the 1<sup>st</sup> Respondent is actively working and marshaling support from authorities, they launched two land cruiser vehicles that are currently used within Merti area to intimidate and harass those opposed to its project. Additionally, it is believed that the vehicles are used to appease the government administration and the security apparatus to fully accept its activities.
30. The Applicant thus pleads that this Honourable Court be pleased to grant the orders prayed for in the annexed Petition owing to the fact that if the aforementioned violations go unaddressed and un-remedied the Petitioners will have their fundamental rights and freedoms infringed upon without redress and the Respondents will be setting an unconstitutional precedent and be acting without the law and in contravention of the constitution.

31. The Actions of the Respondents, if unchecked and unstopped, will lead to dispossession of indigenous community's ancestral land, destruction of the community land and the eco-system within the area. This will be a violation of environmental rights under Article 42 of the Constitution, which requires the protection of the environment for the benefit of present and future generations.
32. It is in the interests of justice that this Honourable Court be pleased to certify this matter as extremely urgent and admit it for hearing immediately, and orders sought herein be granted.
33. The Applicants plead that the Honourable Court be pleased to certify this matter as extremely urgent and admit it for hearing immediately.
34. This Honorable Court has the jurisdiction, power and duty to grant the Orders sought herein as vested under Article 23 of the Constitution.
35. The Applicants/Petitioners plead that they will abide by orders issued by this Honorable court.

**WHICH APPLICATION** is further supported by the annexed Affidavit in support of this Application and Petition sworn by **ABDIRAHMAN OSMAN** and such further grounds as may be adduced at the hearing hereof;

Dated at Nairobi this 27<sup>th</sup> day of September, 2021

*makaka*  
.....

**MAKAKA & KIRAMANA ADVOCATES**

**ADVOCATE FOR THE PETITIONERS/APPLICANTS**

**DRAWN AND FILED BY:**

**MAKAKA & KIRAMANA ADVOCATES**

**STANDARD STREET, BRUCE HOUSE**

**SOUTH WING, SUITE 1101**

**P.O. BOX 38878-00100**

**NAIROBI**

**EMAIL: [mkadvocates@workmail.com](mailto:mkadvocates@workmail.com) phone: 0733 208 337**

**P105/13753/17 Practice No: LSK/2021/07554**

**TO BE SERVED UPON:**

**NORTHERN RANGELANDS TRUST**

**PRIVATE BAG**

**ISIOLO**

**THE COUNTY GOVERNMENT OF ISIOLO**

**ISIOLO**

**ABDI JARSO**

**ISIOLO**

**GOLICHA JARSO**

**ISIOLO**

**HALKANO GOLLO**

**ISIOLO**

**GOLLO FUGICHA**

**ISIOLO**

**KENYA WILDLIFE SERVICE**

**ISIOLO**

**MINISTRY OF LANDS AND PHYSICAL PLANNING**

**ISIOLO COUNTY**

COUNTY COMMISSIONER

ISIOLO

*NB "If any party served does not appear at the time and place above mentioned such order will be made and proceedings taken as the court may think just and expedient".*

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT OF KENYA AT MERU**  
**CONSTITUTIONAL PETITION NO \_\_\_\_\_ OF 2021**

IN THE MATTER OF ALLEGED CONTRAVENTION OF NATIONAL ARTICLES AND PRINCIPLES OF GOVERNANCE ENSHRINED IN ARTICLES 1(1); 2(1), (2) & (3); 3(1); 10(2); 60; 73(1)(b); 185(2); AND 258(1) & 3 OF THE CONSTITUTION AND PART 2 OF THE FOURTH SCHEDULE TO THE CONTITUTION;

IN THE MATTER OF ALLEGED VIOLATION OF RIGHTS AND FUNDAMENTAL FREEDOMS UNDER ARTICLES 19, 20, 21,22, 23, 24, 27, 28, 29, 35, 39, 40, 42, 43, 44, 48, 53(2), 56, 60, 63 & 69

IN THE MATTER OF KENYA (PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013

IN THE MATTER OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

IN THE MATTER OF THE UNITED NATIONS DECLARATION OF THE RIGHTS OF INDIGENOUS PEOPLE (UNDRIP), 2007

IN THE MATTER OF THE CONVENTION ON BIODIVERSITY, 1992

IN THE MATTER OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1966

IN THE MATTER OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1966

IN THE MATTER OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (ACHPR)

IN THE MATTER OF THE UNECE CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS, 1999

IN THE MATTER OF THE CONVENTION ON THE ELIMINATION OF ALL  
FORMS OF DISCRIMINATION AGAINST WOMEN, 1979

IN THE MATTER OF THE COUNTY GOVERNMENTS ACT, NO. 17 OF 2012

IN THE MATTER OF THE COMMUNITY LAND ACT, NO. 27 OF 2016

IN THE MATTER OF THE COMMUNITY LAND REGULATIONS OF 2016 (LEGAL  
NOTICE NO. 279)

IN THE MATTER OF THE WILDLIFE (CONSERVATION AND MANAGEMENT)  
ACT, NO. 47 OF 2013

IN THE MATTER OF THE INFRINGEMENT OF FUNDAMENTAL RIGHTS OF  
THE PEOPLE OF CHARI WARD & CHERAB WARD, MERTI SUB COUNTY,  
ISIOLO COUNTY WITH REGARD TO PUBLIC PARTICIPATION, RECOGNITION  
AND REGISTARTION OF COMMUNITY LAND AS REQUIRED UNDER ARTICLE  
63 OF THE CONSTITUTION OF KENYA, 2010 AND SECTIONS 6, 29, 48 OF  
THE COMMUNITY LAND ACT, 2016.

**BETWEEN**

ABDIRAHMAN OSMAN.....1<sup>ST</sup> PETITIONER  
HASSAN BIDHU.....2<sup>ND</sup> PETITIONER  
HUSSEIN SULEIMAN.....3<sup>RD</sup> PETITIONER  
MUSA HUKA.....4<sup>TH</sup> PETITIONER  
YUSSUF BORU.....5<sup>TH</sup> PETITIONER  
MOHAMED GALGALO.....6<sup>TH</sup> PETITIONER  
ALI ABKULA .....7<sup>TH</sup> PETITIONER  
OSMAN YAROLE.....8<sup>TH</sup> PETITIONER  
HASSAN GUYO.....9<sup>TH</sup> PETITIONER  
AISHA ALI.....10<sup>TH</sup> PETITIONER



RUKIA SALADO.....	11 <sup>TH</sup> PETITIONER
MOHAMEDNUR ADAN.....	12 <sup>TH</sup> PETITIONER
ALI ADAN DIBA.....	13 <sup>TH</sup> PETITIONER
ZEITUNA MUSA HUKA.....	14 <sup>TH</sup> PETITIONER
RUFO GOLLO.....	15 <sup>TH</sup> PETITIONER
HAWAI GOLLO.....	16 <sup>TH</sup> PETITIONER
HASHIM BORU.....	17 <sup>TH</sup> PETITIONER
ABDI ADHAN SELE.....	18 <sup>TH</sup> PETITIONER
ABDIRAHMAN HASSAN.....	19 <sup>TH</sup> PETITIONER
ABDAKALT KANUTO.....	20 <sup>TH</sup> PETITIONER
IBRAHIM GUTU.....	21 <sup>ST</sup> PETITIONER
OSMAN GURA.....	22 <sup>ND</sup> PETITIONER
ABDUBA JIRMA.....	23 <sup>RD</sup> PETITIONER
AHAMED A FAYO.....	24 <sup>TH</sup> PETITIONER
MOHAMED BUKE.....	25 <sup>TH</sup> PETITIONER
JATTANI ALI GUYO.....	26 <sup>TH</sup> PETITIONER
NURIA JARSO.....	27 <sup>TH</sup> PETITIONER
RASHIA ALI.....	28 <sup>TH</sup> PETITIONER
ADAN GUYOALI.....	29 <sup>TH</sup> PETITIONER
DABASO ADAN.....	30 <sup>TH</sup> PETITIONER
ABDI RACHA.....	31 <sup>ST</sup> PETITIONER
ADAN DIBA.....	32 <sup>ND</sup> PETITIONER
TULLU WAKO.....	33 <sup>RD</sup> PETITIONER
ORGE KANATO.....	34 <sup>TH</sup> PETITIONER

SALAD ALI RIBA.....	35 <sup>TH</sup> PETITIONER
MADINA SALAD ALI.....	36 <sup>TH</sup> PETITIONER
MUSA BUKE.....	37 <sup>TH</sup> PETITIONER
MOLU CLODANA.....	38 <sup>TH</sup> PETITIONER
MOHAMED ELEMA.....	39 <sup>TH</sup> PETITIONER
BRAHIM HUSSEIN.....	40 <sup>TH</sup> PETITIONER
ALNOOR DIBA DUBA.....	41 <sup>ST</sup> PETITIONER
NURA GALGALO.....	42 <sup>ND</sup> PETITIONER
ALI DIBA.....	43 <sup>RD</sup> PETITIONER
IBRAHIM DABASO.....	44 <sup>TH</sup> PETITIONER
RASHID GOLLO.....	45 <sup>TH</sup> PETITIONER
AMINA DIBA.....	46 <sup>TH</sup> PETITIONER
MOHAMEDNOOR URCHO.....	47 <sup>TH</sup> PETITIONER
HALKANO SURA .....	48 <sup>TH</sup> PETITIONER
JAMALE ALI.....	49 <sup>TH</sup> PETITIONER
SADIA GUYO.....	50 <sup>TH</sup> PETITIONER
ASHA DUBA.....	51 <sup>ST</sup> PETITIONER
HASSAN GALGALLO.....	52 <sup>ND</sup> PETITIONER
ALI DABASO.....	53 <sup>RD</sup> PETITIONER
RASHID WARIO.....	54 <sup>TH</sup> PETITIONER
SHUKRI GOLLO.....	56 <sup>TH</sup> PETITIONER
DAUD HUSSEIN.....	57 <sup>TH</sup> PETITIONER
HABIBA DIBA.....	58 <sup>TH</sup> PETITIONER
MUKTAR BILA.....	59 <sup>TH</sup> PETITIONER

NURIA DABASO.....	60 <sup>TH</sup> PETITIONER
ABDI MOHAMED .....	61 <sup>ST</sup> PETITIONER
ALI MOHAMED .....	62 <sup>ND</sup> PETITIONER
MOHAMED GUYO.....	63 <sup>RD</sup> PETITIONER
FATUMA MOHAMED.....	64 <sup>TH</sup> PETITIONER
MUMINA ALI.....	65 <sup>TH</sup> PETITIONER
HASSAN OSMAN.....	66 <sup>TH</sup> PETITIONER
IBRAHIM BIDU.....	67 <sup>TH</sup> PETITIONER
MOHAMUD GUYO BUKICHA.....	68 <sup>TH</sup> PETITIONER
HALIMA KANCHORI FUGICHA.....	69 <sup>TH</sup> PETITIONER
HALIMA ADAN BIDU.....	70 <sup>TH</sup> PETITIONER
ADAN JATTANI HAPANA.....	71 <sup>ST</sup> PETITIONER
SAKU DIBA BOKICHA.....	72 <sup>ND</sup> PETITIONER
LANA MOHAMED GODANA.....	73 <sup>RD</sup> PETITIONER
TIYA DIDA ADI.....	74 <sup>TH</sup> PETITIONER
BOSONA BIDU DIBA.....	75 <sup>TH</sup> PETITIONER
RALIA GOLICHA KAMPICHA.....	76 <sup>TH</sup> PETITIONER
BATULA GUYO BUKICHA.....	77 <sup>TH</sup> PETITIONER
SAFIA GUYO BUKICHA.....	78 <sup>TH</sup> PETITIONER
SIRIKE GALGALO.....	79 <sup>TH</sup> PETITIONER
IDRIS ABDULLAHI.....	80 <sup>TH</sup> PETITIONER
RUKIA GOLLO BADO.....	81 <sup>ST</sup> PETITIONER
SADIA ADAN JARSO.....	82 <sup>ND</sup> PETITIONER
ADAN WAKO QURE.....	83 <sup>RD</sup> PETITIONER

RAHMA ROBA OLLO.....	84 <sup>TH</sup> PETITIONER
BASHIR WAKO QURE.....	85 <sup>TH</sup> PETITIONER
KARIM WAKO QURE.....	86 <sup>TH</sup> PETITIONER
RALIA MOHAMED.....	87 <sup>TH</sup> PETITIONER
HASSAN RABO BAKASA.....	88 <sup>TH</sup> PETITIONER
BARWAQO ABDI.....	89 <sup>TH</sup> PETITIONER
SALAD TADICHA.....	90 <sup>TH</sup> PETITIONER
SAID ROBA OLLO.....	91 <sup>ST</sup> PETITIONER
SIRAJ DIBA GODANA.....	92 <sup>ND</sup> PETITIONER
ABDI DIBA GURACHA.....	93 <sup>RD</sup> PETITIONER
GALGALO AFATU SARU.....	94 <sup>TH</sup> PETITIONER
MOHAMED GUYO.....	95 <sup>TH</sup> PETITIONER
ABDI JIRMA.....	96 <sup>TH</sup> PETITIONER
ZEINAB HASSAN.....	97 <sup>TH</sup> PETITIONER
TADICHA MALICHA.....	98 <sup>TH</sup> PETITIONER
HAWO YUSSUF.....	99 <sup>TH</sup> PETITIONER
MUSLIMA ABDI.....	100 <sup>TH</sup> PETITIONER
LOKO GUYO JALDESA.....	101 <sup>ST</sup> PETITIONER
FATUMA JIRMA.....	102 <sup>ND</sup> PETITIONER
DAUD JIRMA.....	103 <sup>RD</sup> PETITIONER
BARWAQO HUKA.....	104 <sup>TH</sup> PETITIONER
MOHAMED A JIRMA.....	105 <sup>TH</sup> PETITIONER
IBRAHIM A JIRMA.....	106 <sup>TH</sup> PETITIONER
ALI HASSAN.....	107 <sup>TH</sup> PETITIONER

MOHAMEDNOOR JIRMA.....	108 <sup>TH</sup> PETITIONER
IBRAHIM KUNO.....	109 <sup>TH</sup> PETITIONER
HALKANO GUYO.....	110 <sup>TH</sup> PETITIONER
ALI HALKANO.....	111 <sup>TH</sup> PETITIONER
MOHAMUD DOME.....	112 <sup>TH</sup> PETITIONER
JIBRIL ABDI.....	113 <sup>TH</sup> PETITIONER
IDDI ABDI .....	114 <sup>TH</sup> PETITIONER
SALAD KERO.....	115 <sup>TH</sup> PETITIONER
ALI OMAR.....	116 <sup>TH</sup> PETITIONER
ABDUBA DIKA.....	117 <sup>TH</sup> PETITIONER
IBRAHIM WAKO.....	118 <sup>TH</sup> PETITIONER
FAYO MOHAMED.....	119 <sup>TH</sup> PETITIONER
ABDULHAKIM GOLICHA.....	120 <sup>TH</sup> PETITIONER
MUSA MOHAMMED.....	121 <sup>ST</sup> PETITIONER
FRANKLEIGN MURETHI.....	122 <sup>ND</sup> PETITIONER
SHEDO GOLLO.....	123 <sup>RD</sup> PETITIONER
ABDI SALAD.....	124 <sup>TH</sup> PETITIONER
RASHID AHMED ABDULLAHI.....	125 <sup>TH</sup> PETITIONER
SALAD MOHAMED.....	126 <sup>TH</sup> PETITIONER
HASSAN DIBA SHEDO.....	127 <sup>TH</sup> PETITIONER
HAMDI MOHAMED.....	128 <sup>TH</sup> PETITIONER
GUYO GEDO GODANA.....	129 <sup>TH</sup> PETITIONER
MOHAMED JARSO SORA.....	120 <sup>TH</sup> PETITIONER
JUMA OMAR JILLO.....	121 <sup>ST</sup> PETITIONER

IBRAHIM GUFU.....	122 <sup>ND</sup> PETITIONER
MUKTAR WAKO QURE.....	123 <sup>RD</sup> PETITIONER
AMINA GUYO BUKICHA .....	124 <sup>TH</sup> PETITIONER
DAVID HUKA GALGALO.....	125 <sup>TH</sup> PETITIONER
YUNIS DABASO GUTOLE.....	126 <sup>TH</sup> PETITIONER
HAWAI HUSSEIN KUNO.....	127 <sup>TH</sup> PETITIONER
NASIBO JIRMA DUBA.....	128 <sup>TH</sup> PETITIONER
DAVID ALI.....	129 <sup>TH</sup> PETITIONER
AMINA GUYO.....	130 <sup>TH</sup> PETITIONER
RUFO BULLE .....	131 <sup>ST</sup> PETITIONER
HAWO ADAN.....	132 <sup>ND</sup> PETITIONER
AMINA DIBA.....	133 <sup>RD</sup> PETITIONER
HUSEIN GUYO.....	134 <sup>TH</sup> PETITIONER
RUKIA SALADO.....	135 <sup>TH</sup> PETITIONER
IBRAHM GUTU.....	136 <sup>TH</sup> PETITIONER
MARIAM BILLA.....	137 <sup>TH</sup> PETITIONER
HALIMA OLLO.....	138 <sup>TH</sup> PETITIONER
ABDI WARIO.....	139 <sup>TH</sup> PETITIONER
AMINA BORU.....	140 <sup>TH</sup> PETITIONER
KATUMA KINI.....	141 <sup>ST</sup> PETITIONER
QUYU DEMO.....	142 <sup>TH</sup> PETITIONER
FATUMA SORA.....	143 <sup>RD</sup> PETITIONER
RAMADHAN ALI.....	144 <sup>TH</sup> PETITIONER
MOHAMED GUYO.....	145 <sup>TH</sup> PETITIONER

ABDI DIBA.....	146 <sup>TH</sup> PETITIONER
SADIA HUSSEIN.....	147 <sup>TH</sup> PETITIONER
SHAFI BULE.....	148 <sup>TH</sup> PETITIONER
SALISA HUSSAN.....	149 <sup>TH</sup> PETITIONER
BILA OSMAN.....	150 <sup>TH</sup> PETITIONER
ZAINAB WATO.....	151 <sup>ST</sup> PETITIONER
BORA BALAMBLI.....	152 <sup>ND</sup> PETITIONER
HALIMA MAMUD.....	153 <sup>RD</sup> PETITIONER
RUFO ABDI ELEMA.....	154 <sup>TH</sup> PETITIONER
IDRIS HASSAN.....	155 <sup>TH</sup> PETITIONER
HALIMA ABDI.....	156 <sup>TH</sup> PETITIONER
YAKUB WAKO ADAN.....	157 <sup>TH</sup> PETITIONER
HUSSEIN KALICHA.....	158 <sup>TH</sup> PETITIONER
ASILI ADAN JARSO.....	159 <sup>TH</sup> PETITIONER
ABDIMALI MOHAMED.....	160 <sup>TH</sup> PETITIONER
RUKIA DABASO JARSO.....	161 <sup>ST</sup> PETITIONER
GALGALO HUSEIN BIDA.....	162 <sup>ND</sup> PETITIONER
RASHID ABDI WAKO.....	163 <sup>RD</sup> PETITIONER
FADIA GUYO JALDESA.....	164 <sup>TH</sup> PETITIONER
DIBO HUSSEIN.....	165 <sup>TH</sup> PETITIONER

*(suing on their own behalf and on behalf of residents of Merti sub county,  
Chari ward and Cherab ward in Isiolo county)*

AND

NORTHERN RANGELANDS TRUST.....	1 <sup>ST</sup> RESPONDENT
THE COUNTY GOVERNMENT OF ISIOLO.....	2 <sup>ND</sup> RESPONDENT
ABDI JARSO.....	3 <sup>RD</sup> RESPONDENT
GOLICHA JARSO.....	4 <sup>TH</sup> RESPONDENT
HALKANO GOLLO.....	5 <sup>TH</sup> RESPONDENT
GOLLO FUGICHA.....	6 <sup>TH</sup> RESPONDENT
KENYA WILDLIFE SERVICE.....	7 <sup>TH</sup> RESPONDENT
MINISTRY OF LANDS AND PHYSICAL PLANNING.....	8 <sup>TH</sup> RESPONDENT
COUNTY COMMISSIONER ISIOLO.....	9 <sup>TH</sup> RESPONDENT

PETITION

TO;

THE HONOURABLE JUDGE,

THE ENVIRONMENT & LAND COURT OF KENYA,

MERU LAW COURTS,

MERU.

The Humble Petition of **ABDIRAHMAN OSMAN** residing for gain in **Isiolo County, MERTI SUB COUNTY** sheweth,

A) THE PARTIES

1. The Petitioner **ABDIRAHMAN OSMAN** brings this Petition on his own behalf and on behalf of residents and members residing on the community land in Chari and Cherab Ward Merti sub county, Isiolo county. The Petitioners' address of service for purpose of this Petition shall be through the firm of **MAKAKA & KIRAMANA ADVOCATES, STANDARD STREET, BRUCE HOUSE, 11<sup>TH</sup> FLOOR, SOUTH WING, SUITE 1101, EMAIL: [mkadvocates@workmail.com](mailto:mkadvocates@workmail.com)**



2. The 1<sup>st</sup> Respondent is a private organization carrying out various operations including running conservancies in several counties within the republic of Kenya. ***(Service of the Petition and summons shall be effected through the Petitioners' Advocates aforementioned)***
3. The 2<sup>nd</sup> Respondent is the **County Government of Isiolo** and is responsible for holding all unregistered community land in trust on behalf of the Petitioners. ***(Service of the Petition and summons shall be effected through the Petitioners' Advocates aforementioned)***
4. The 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents chair and run Community Based Organisations (CBO), the 3<sup>rd</sup> Respondent Chairs Cherab Community conservancy while the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents are co-founders of Bulesa Biliqo conservancy. The CBOs operate under the Patronage and are umbrella bodies of the 1<sup>st</sup> Respondent. ***(Service of the Petition and summons shall be effected through the Petitioners' Advocates aforementioned)***
5. The 7<sup>th</sup> Respondent herein is the uniformed and disciplined Service established under the Kenya Wildlife (Conservation and Management) Act, 2012 which is mandated to provide security and offer advisory relating to conservation of wildlife as well as establishment of wildlife conservancies and sanctuaries. ***(Service of the Petition and summons shall be effected through the Petitioners' Advocates aforementioned)***
6. The 8<sup>th</sup> Respondent herein is mandated to register all community land, through its community lands Registrar ***(Service of the Petition and summons shall be effected through the Petitioners' Advocates aforementioned)***
7. The 9<sup>th</sup> Respondent represents the local authority that instructs all the Deputy county commissioners and other Officers ***(Service of the Petition and summons shall be effected through the Petitioners' Advocates aforementioned)***

## **B) PETITIONERS' LOCUS STANDI AND JURISDICTION**

8. **YOUR** Petitioners present this Petition pursuant to article 3 (1) of the Constitution of Kenya, 2010 as read together with Articles 22(1) and 258(1) of the Constitution of Kenya 2010 which enables your Petitioners to defend the constitution and enforce the Petitioners rights as well as other persons' rights violated or under the threat of being violated.
9. **YOUR** Petitioners aver that this Honourable court bears the requisite jurisdiction under Articles 162(2) and 159 of the Constitution of Kenya, 2010 as read together with Section 13 of the Environment and Land Court

Act (No. 19 of 2011) to hear and determine any violation of rights, determine constitutionality of any act or omission as well as interpret the constitution in respect to the violation of the right to public participation, land rights, environmental protection, socio economic and cultural rights among others.

10. **THAT** this honourable court is charged with the fundamental duty to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the bill of rights in line with Article 21(1) of the Constitution of Kenya, 2010.
11. **YOUR** Petitioners aver that this Honourable court is empowered by Articles 23(1) and 162 (2) (b) as read together with 165(3) (b) of the Constitution, 2010 to determine the question whether a fundamental freedom or right in the Bill of Rights has been denied, violated, infringed or threatened. This Honourable court is further empowered under Article 23(3) of the Constitution to grant appropriate reliefs for violations or breach of fundamental rights;

### **C) FACTUAL BACKGROUND AND ISSUE IN DISPUTE**

12. This humble petition is founded on the violation and/or threatened violation of the Petitioners' fundamental constitutional rights and specifically to public participation and to socio economic and cultural rights and from the arbitrary deprivation thereof trampled upon jointly and severally by the Respondents as pleaded herein.
13. Article 3 of the constitution of Kenya gives an obligation for every person to respect, uphold and defend the constitution.
14. The Applicants herein are members of the indigenous pastoralist community, residing in **Chari ward** and **Cherab Ward, Merti sub county** of **Isiolo County** living and conducting their daily activities on the community land which is jointly and severally owned by them.
15. The 1<sup>st</sup> Respondent, working with umbrella groups and without any opposition from the authorities purports to establish conservancies in the said regions without involving the Petitioners and the community at large. The Applicants' efforts to register the community and the community land have been met with untold frustration occasioned by the authorities and therefore, in so far as the registration is pending then any attempt to establish a conservancy in the region is premature and ought to be stopped.

16. The 2<sup>nd</sup> Respondent is mandated by the Constitution and the Community Land Act to be the Trustee for all unregistered Community land and to hold in trust and help manage the land until the community and such land is registered. Further Section 6(8) of the Community Land Act bars the County Government from disposing in any way of unregistered Community Land, which is held in trust. In utter and flagrant disregard of this mandate and in sheer negligence, it has allowed the 1<sup>st</sup> Respondent and its umbrella bodies to establish and run conservancies in unregistered community land, without participation or involvement of the Community.
17. The 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents Chair and run Community Based Organisations, the 3<sup>rd</sup> Respondent Chairs Cherab Community conservancy. The 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents are co-founders of Bulesa Biliqo conservancy and under the patronage of the 1<sup>st</sup> Respondent herein have gone ahead to advertise for vacancies to be filled in a purported conservancy that they intend to establish. The 3<sup>rd</sup> and 4<sup>th</sup> Respondents Chair and run Community Based Organisations that is purporting to represent the Community, which is an actual misrepresentation of facts, and entirely untrue as the Applicants/Petitioners decry lack of public participation in any dealings in the community land.
18. The 1<sup>st</sup> Respondent have undertaken measures including arming Rangers whose presence in the county elicits tension which in several instances has resulted in violence and loss of life and forced disappearances as was the case during the establishment of the Biliqo-Bulesa Conservancy. Further, the armed rangers are a private army for the 1<sup>st</sup> Respondent and are used to quell any opposition by the Community which in effect has led to a rise in the proliferation of small arms in the region as the community tries to defend themselves.
19. The 7<sup>th</sup> Respondent is the uniformed and disciplined Service established under the Kenya Wildlife (Conservation and Management) Act, 2012 which is mandated to provide security and offer advisory relating to conservation of wildlife as well as establishment of wildlife conservancies and sanctuaries. The 7<sup>th</sup> Respondent has abdicated its statutory mandate relating to conservation and without any structure or proper regulation has let the 1<sup>st</sup> Respondent herein take up the same.
20. The 1<sup>st</sup> Respondent, despite protests and objections from the Community, continues to make plans in preparation for the establishment of conservancies;
21. The Respondents, continue with these operations devoid of any kind of public participation;

22. The establishment of the conservancy, which is in its advanced stages, will disenfranchise the community as the same will render them homeless and with no grazing land and will extinguish their important sites including cultural sites such as Kuro Bisan Owwo, graveyards in Ires Roba Sentho, Ires Kira, Ires Saku, Ires wadha, Ires Ture and Ires Buuna, being graves named after deceased prominent community members;
23. The 1<sup>st</sup> Respondent's actions, the complacency of the 2<sup>nd</sup> and 7<sup>th</sup> Respondents, the involvement of the 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> Respondents purporting to represent the community is creating a risk of wildlife-human conflict thereby threatening the right to life, right to property ownership, human dignity, economic social and cultural rights, right to a clean and healthy environment and land use as there are clear plans on the establishment of the conservancy and no clarity on the relocation of the Community.
24. The 2<sup>nd</sup> Respondent's inaction is in violation of its constitutional responsibility to hold in trust all unregistered community land in the county.
25. The 1<sup>st</sup> Respondent, with the muscle of its Rangers and the local administration, continues to use intimidation and coercion as well as threats upon the community leaders, where the community leaders attempt to oppose any of their plans. This is an outright violation of the Community's right to security and human dignity;
26. There has been no disclosure of any approvals from the relevant bodies, for the 1<sup>st</sup> Respondent to establish a conservancy. There is no Environmental Impact Assessment, Socio-economic Impact Assessment, Environmental Social Impact Assessment or any feasibility study done on the establishment of the said conservancy. This is despite the fact that the establishment will interfere with the community's ability to continue with the socio-economic life as they are pastoralists. This is a violation of their social, economic and cultural rights granted under the Constitution and in various International Conventions;
27. There has been direct and calculated discrimination against and disenfranchisement of the youth, women and persons with disability in all the activities by the 1<sup>st</sup> Respondent. The Community, being an indigenous Community, does not allow for joint forums for men and women during public participation. As such, it behoves the 1<sup>st</sup> Respondent herein, ought to have set up separate public participation fora for the men, women and youth, and in each instance, the persons with disability ought to be involved, since the purported establishment of a conservancy, will have different effects of each group of people that ought to be taken into consideration;

28. There has been a lack of involvement of the community elders and the duly elected members of the community in the decisions taken by the Respondents. The Community herein has elders to whom they go to get guidance on various issues affecting the Community, failure to involve them is an affront to the cultural ways of the community and a violation of their cultural rights;
29. The 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents chair and run Community Based Organisations they are not in any way the representatives of the Community herein and therefore have no authority to act for the community;
30. That the Petitioners have engaged various authorities seeking information on the legality of the 1<sup>st</sup> Respondent's operations in Chari ward and Cherab ward of Merti sub county and the entire Isiolo county, such information has been insufficient to address the community concerns.
31. The Petitioners registered its complaints with various authorities including the Commission on the Administrative of Justice (***office of the Ombudsman***), where the community presented its complaint which office referred the Applicants to the County coordinator, National Land Commission (NLC) to address the complaint.
32. To this end, the NLC explained to the office of the ombudsman that the process of setting up the purported conservancy was suspended. The Applicants plead that this however did not solve the impasse as the Respondents are actively proceedings with plans to establish conservancies.
33. The Petitioners also reported their complaints to the office of the County Commissioner, the deputy County Commissioner, Merti sub county Responded to the 1<sup>st</sup> Respondent herein explaining the complaints of the community in the proposed conservancy and invited parties for negotiations. The Applicants plead that the negotiations bore no fruit and were a sham as it did not in any way address the dispute. In the same letter the deputy County Commissioner lauds the 1<sup>st</sup> Respondent for their support in security and promised to continue with the partnership, this indicated that the said office cannot be taken as a genuine neutral arbiter to the dispute.
34. The said office of the County Commissioner directed all Assistant County Commissioners and Chiefs to fully support officers from the 1<sup>st</sup> Respondents' office in their operations.

35. Hitherto, the authorities have not offered any solutions to the dispute between the Applicants/Petitioners and the 1<sup>st</sup> Respondent.
36. That albeit under frustration, the community is working towards registering the property, and as such purporting to establish a conservancy is putting the cart before the horse, the land ought to be held in trust by the 2<sup>nd</sup> Respondent and should not be interfered with in any way.
37. The Petitioners plead that the 1<sup>st</sup> Respondent is a stranger as far as the community land in the area is concerned and since the land is still unregistered should be held by the county government of Isiolo in trust.
38. The Kenya National Commission on Human Rights (KNCHR) penned an advisory opinion presented to Isiolo county Assembly dated 21<sup>st</sup> April, 2021 on an impugned bill, seeking to enhance establishment and recognition of community conservancies in Isiolo county, to wit the **Isiolo County Community Conservancy Bill, 2021**. The advisory highlights fundamental violations of the Constitution and relevant statutory provisions by the impugned Bill.
39. Through the proposed enactment of Isiolo County Community Conservancy Bill, 2021, the County Government intended to pass a law to legalize the illegally existing conservancies in the County while also creating a pathway for NRT to unilaterally create more conservancies on the community land without following due processes of the law. The actions of the County Government being the trustee of the community land in allowing third parties such as NRT and its conservancies to operate in community land contravenes the relevant provisions of the Constitution and the Community Land Act
40. The Applicants, through their Petition dated 14<sup>th</sup> May, 2021, petitioned the National Land Commission (NLC), Nairobi requesting the said office to address the stalemate. The NLC has not responded to the Petition to date.
41. It is an established fact that the 1<sup>st</sup> Respondent is actively working and marshaling support from authorities. The 1<sup>st</sup> Respondent launched two land cruiser vehicles that are currently used within Merti area to intimidate and harass those opposed to its project. Additionally, it is believed that the vehicles are used to appease the government administration and the security apparatus to fully accept its activities.
42. The Petitioners thus plead that this Honourable Court be pleased to grant the orders prayed for in the annexed Petition owing to the fact that if the

aforementioned violations go unaddressed and un-remedied the Petitioners will have their fundamental rights and freedoms infringed upon without redress and the Respondents will be setting an unconstitutional precedent and be acting without the law and in contravention of the constitution.

43.The Actions of the Respondents, if unchecked and unstopped, will lead to dispossession of indigenous community's ancestral land, destruction of the community land and the eco-system within the area. This will be a violation of environmental rights under Articles 42 and 69 of the Constitution.

44.The Petitioners plead that they will abide by orders issued by this Honorable court.

45.Your humble Petitioners plead with this Honourable Court to be pleased to grant the orders prayed for in this Petition owing to the fact that if the aforementioned violations go unaddressed and un-remedied the Petitioners will have their fundamental rights and freedoms infringed upon without redress and the Respondents will be setting an unconstitutional precedent and be acting without the law and in contravention of the constitution.

46.The Petitioners aver that his Honorable Court has the jurisdiction, power and duty to grant the Orders sought herein as vested under Articles 23 and 70 of the Constitution.

#### **D) CONSTITUTIONAL FOUNDATION**

47.The Respondents impugned actions/omissions has violated the fundamental rights and freedoms of the Petitioners under the Constitution of Kenya, 2010 as pleaded and enumerated here below;

48.The **Preamble of the Constitution of Kenya, 2010**, recognises the aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law;

49.**Article 1** of the Constitution vests all sovereign power with the people of Kenya the exercise of which power must be in accordance with the constitution and may be exercised either directly or indirectly through democratically elected representatives.

50.**Article 1 (3) of the Constitution** provides that Sovereign power under this Constitution is delegated to the following State organs, which shall perform their functions in accordance with this Constitution—

*(a) Parliament and the legislative assemblies in the county governments;*

*(b) the national executive and the executive structures in the county governments; and*

*(c) the Judiciary and independent tribunals.*

51. **Article 2** of the Constitution declares that the Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.

52. **Article 2(5)** provides that the general rules of international law shall form part of the laws of Kenya;

53. **Article 2(6)** incorporates international treaties to which Kenya is a party to be part of Kenyan law;

54. **Article 3** of the Constitution places an obligation upon every person to respect, uphold and defend the Constitution.

55. **Article 10** of the Constitution of the Republic of Kenya sets out the National Values and Principles of governance that bind all state officers, state organs, public officers and all persons whenever they apply or interpret the constitution, enact, apply or interpret any law, make or implement public policy decisions. The national values and principles of governance include among others the rule of law and human rights;

56. **Article 11** of the Constitution of the Republic of Kenya recognises culture as the foundation of the nation. Sub-article 2 sets out the obligations of the state in upholding and promoting culture.

57. **Article 19 (1) and (2)** of the constitution provides that the Bill of Rights is an integral part of Kenya's democratic state and is the framework for social, economic and cultural policies. The purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and promote social justice and the realization of the potential of all human beings;

58. **Article 19 (3)** of the Constitution provides that the rights and fundamental freedoms in the Bill of Rights belong to each individual and are not granted by the state;

59. **Article 20 (1) and (2)** provides that the Bill of Rights applies to all law and binds all State organs and all persons and that every person shall enjoy the rights and fundamental freedoms in the Bill of Rights to the



greatest extent consistent with the nature of right or fundamental freedom;

60. Further, **Article 20 (4) of the Constitution** provides that in interpreting the Bill of Rights, a court, tribunal or other authority shall promote the values that underlie an open and democratic society based on human dignity, equality, equity and freedom and the spirit, purport and objects of the Bill of Rights;
61. **Article 20 (5) of the Constitution** declares that in applying any right under Article 43, if the State claims that it does not have the resources to implement the right, a court, tribunal or other authority shall be guided by among others, the principle that in allocating resources, the State shall give priority to ensuring the widest possible enjoyment of the right or fundamental freedom having regard to prevailing circumstances, including the vulnerability of particular groups or individuals;
62. **Article 21 (1)** of the Constitution declares that it is the fundamental duty of the state and every state organ to observe, respect, protect, promote and fulfill the rights and fundamental freedoms in the bill of rights;
63. **Article 21 (2) of the Constitution** enjoins the State to take legislative, policy and other measures, including the setting of standards, to achieve the progressive realisation of the rights guaranteed under Article 43.
64. **Article 21 (3) of the Constitution** provides that all state organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.
65. **Article 21 (4)** of the Constitution obligates the State to enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms;
66. **Article 22 (1)** read together with **Article 258 (1)** of the Constitution vests *locus standi* for the enforcement of the Bill of Rights in among others, the Petitioners herein who present this Petition on their own behalf and on behalf of the public;
67. **Article 23** of the Constitution vests authority in this Honourable Court to uphold and enforce the Bill of Rights and highlights some of the remedies that this Honourable Court can grant to uphold and enforce the Bill of Rights;

68. **Article 24** of the Constitution provides that the Bill of rights shall not be limited except by law, only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors.
69. **Article 27 (1)** of the Constitution entitles every person to equality before the law and the right to equal protection and benefit of the law. Further, **Article 27 (4)** frowns upon direct and indirect discrimination against any person including on the basis of social status;
70. **Article 28** of the Constitution entitles every person the right to inherent dignity and the right to have that dignity respected and protected;
71. **Article 29** of the Constitution entitles every person the right freedom and security of the person, which includes the right not to be treated or punished in a cruel, inhuman or degrading manner;
72. **Article 40** of the constitution provides that every person has the right, either individually or in association with others, to acquire and own property.
73. **Article 42** of the Constitution states that every person has a right to clean and healthy environment which includes the right to have the environment protected for the benefit of the present and future generations.
74. **Article 47 (1)** of the constitution states that every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair;
75. **Article 48** of the Constitution of Kenya mandates the state to ensure access to justice for all persons.
76. **Article 69** of the Constitution outlines the obligation of the state in respect of the environment. Under sub-article (2) , the Constitution requires every person to cooperate with state organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.
77. **Article 70** of the Constitution provides for the enforcement of environmental rights. It allows a person to seek redress from court is there is a violation or a threat of violation of environmental rights. Under sub-article 2, the Constitution provides the various orders that a court may make to ensure protection of environmental rights.

78. **Article 73 (1)** of the Constitution codifies the responsibilities of leadership requiring a public trust to be exercised in a manner that is consistent with the purpose and objects of the constitution.

79. **Article 129** of the Constitution provides that executive authority derives from the people of Kenya and must be exercised in accordance with the Constitution. Further, executive authority must also be exercised in a manner compatible with the principle of service to people of Kenya, and for their well-being and benefit;

80. **Article 185** of the constitution provides for the County Assembly to make any laws necessary for the effective performance of its functions and exercise the power of the county government under the Fourth Schedule.

81. **Article 258 (1)** provides that every person has the right to institute court proceedings, claiming that this Constitution has been contravened, or is threatened with contravention. Article 258 (2) further states that in addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by—

- a) a person acting on behalf of another person who cannot act in their own name;
- b) a person acting as a member of, or in the interest of, a group or class of persons;
- c) a person acting in the public interest; or
- d) an association acting in the interest of one or more of its members.

#### **E) RELEVANT INTERNATIONAL AND REGIONAL FRAMEWORK:**

82. **Article 2 (5) and (6)** of the Constitution of Kenya, 2010 provide that general rules of international law and any treaty or convention ratified by Kenya shall form part of the law of Kenya under the Constitution;

#### **The 1966 International Covenant on Civil and Political Rights (ICCPR)**

83. Kenya ratified the International Covenant on Civil and Political Rights (ICCPR) on 1<sup>st</sup> May 1972. The preamble of ICCPR, ICESCR, CEDAW, CAT and CRC recognizes the inherent dignity of the human person.

84. Article 2(1), ICCPR provides that all rights and freedoms in the UDHR, ICCPR and ICESCR are guaranteed, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

85. Article 26, ICCPR: 'All persons are equal before the law and are entitled without any discrimination to the equal protection of the law' and the law is to prohibit any discrimination on the above mentioned grounds.

### **Universal Declaration of Human Rights, 1948**

86. The principles outlined in the Universal Declaration of Human Rights, 1948, are now recognised as part of general rules of international law and are applicable in Kenya together with all the foregoing international instruments by virtue of **Article 2(5)** of the Constitution and general customary international law. In particular, Article 1, of the UDHR provides that all human beings are born free and equal in dignity and rights. '

87. Article 2, UDHR; provides that all rights and freedoms in the UDHR, ICCPR and ICESCR are guaranteed, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

88. Article 7 of the UDHR provides that every person is equal before the law and are entitled without any discrimination to equal protection of the law.

89. Article 17 of the UDHR provides that everyone has the right to own property alone as well as in association with others and shall not be arbitrarily deprived of their property.

### **The African Charter on Human and Peoples' Rights (ACHPR)**

90. Kenya ratified the African Charter on Human & Peoples' Rights on 15<sup>th</sup> July 1983. Article 5 of the ACHPR guarantees every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status.

91. Article 2, ACHPR: 'Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.'

**Convention on the Access to information, public participation in Decision making and access to justice in environmental matters, 1998**

92. Article 1 of the Convention provides that in order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or health and well-being, each party shall guarantee the rights of access to information, public participation in decision making, and access to justice in environmental matters in accordance with the Conventions' provisions.
93. Article 2 of the Convention provides that each party shall take the necessary legislative, regulatory and other measures, including measures to achieve compatibility between the provisions implementing the information, public participation and access to justice provisions.
94. Article 7 of the Convention provides for state parties to make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programs relating to the environment, within a transparent and fair framework, having provided the necessary information to the public.

**F) RELEVANT LEGISLATION AND REGULATORY FRAMEWORK.**

95. **Section 3 (1) (a) of the Fair Administrative Act, 2015** applies the provisions of the Act to all state and non-state agencies, including any person exercising administrative authority;
96. **Section 3 of the County Government Act, 2012** provides for the object and purpose of the Act which is to provide for public participation and Section 115 of the Act further provides that the process of Public participation is mandatory.
97. **Section 4 of the Wildlife (Conservation and Management) Act, 2012** provides that in the implementation of the Act, any conservation and management of wildlife shall entail effective public participation.
98. **Section 3 of the Community Land Act, 2016** binds all persons dealing with community land to be guided by the principles under Article 60 and the National values and Principles set out in Article 10 of the constitution of Kenya, 2010.
99. **Section 4 of the Community Land Act, 2016** provides that Community land vests in the community.
100. **Section 6 of the Community Land Act, 2016** provides for unregistered community land, it stipulates that the County Government holds in trust all land.

101. **Section 29 of the Community Land Act, 2016** provides for a registered community to designate community land for land use rights.
102. **Section 30 of the Community Land Act, 2016** provides for non-discrimination of every member of the community have an equal benefit from community land.
103. **Section 48 of the Community Land Act, 2016** provides for public participation in any initiatives involving the community land.

**G) PARTICULARS OF UNCONSTITUTIONALITY**

104. **WHEREAS** the Petitioners have a constitutional obligation to respect, uphold and defend the Constitution and to institute proceedings to claim when any constitutional right has been violated.
105. **AND WHEREAS** the Respondents are under the obligation to observe, respect, protect, promote and fulfil the rights and freedoms enshrined in the Bill of Rights, Chapter Four of the Constitution.
106. **AND WHEREAS** the Constitution of Kenya provides for fundamental rights and freedoms to be enjoyed by all citizens of the Republic of Kenya, being an integral part of our democracy and social economic and cultural policies and in particular right to on land and public participation.
107. **AND WHEREAS** the bill of rights applies to all and binds all state organs and all persons, any action involving the community land ought to be in tandem with the provisions of the Constitution of Kenya, 2010, Community land Act, 2016, Wildlife (Conservation and Management) Act, 2013 and the County Government Act, 2012.
108. **AND WHEREAS** the Acts of the Respondents jointly and severally violates the rights of the Petitioner who were denied public participation in the dealings of the community land.
109. **AND WHEREAS** the right to equality and freedom from discrimination is guaranteed by **Article 27 of the Constitution of Kenya, 2010**, the impugned actions and/or omissions of the Respondents undertaking dealings on the community land with isolated groups and without involving the community at large inherently deprives the Petitioners of their constitutional right to freedom from discrimination contrary to Articles 27(1), (2) (4) and (5).
110. **THAT** the Petitioners bring this Petition as the most efficient means of redress under **Articles 22, 258, 165 (2) of the Constitution** and

invokes the Constitutional jurisdiction of the court to enforce **Articles 2,3, 10, 19, 22, 42 and 48.**

111. **THAT** due to the conduct of the Respondents outlined above, this case brings forth reason for this honourable court to offer an injunctive award and declaratory orders sought in the Petition.

**REASONS WHEREFORE**, your humble Petitioners jointly and severally pray for orders that: -

- i. A Declaration be and is hereby issued that the Petitioners' constitutional rights have been violated by the actions and omissions of the Respondents herein in relation to establishing conservancies within Chari ward and Cherab ward, Merti sub county, and the entire Isiolo county without public participation of the Petitioners infringed on the Petitioners rights.
- ii. A declaration be and is hereby issued that Cherab community conservancy operated and chaired by the 3<sup>rd</sup> Respondent and Bulesa Biliqo community conservancy operated by the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents are operating illegally in so far as establishing and purporting to establish conservancies in Chari and Cherab Wards, Merti sub county and the rest of Isiolo County is concerned.
- iii. The Honourable Court be and is hereby pleased to issue permanent injunction order stopping, prohibiting and forbidding the Respondents jointly and severally, whether acting by themselves, their agents, servants, representatives assignees and/or umbrella bodies of the 1<sup>st</sup> Respondent and an injunction against any Community Based Organisations acting under the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents' instructions from entering, mapping, surveying and delineating, carrying out conservancy operations, evicting community members, carrying out any activities or in any way disposing the unregistered community land in Chari ward and Cherab Ward, Merti sub county, and the entire Isiolo county.
- iv. The Honourable Court be and is hereby pleased to issue permanent injunction order stopping, prohibiting and forbidding the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents jointly and severally, whether acting by themselves, their agents, servants, representatives or assignees or whosoever acting under their instructions from operating or deploying Rangers to operate in any part of Chari and Cherab Ward, Merti sub County and the rest of Isiolo County.
- v. The Honourable court be pleased to order that 2<sup>nd</sup> Respondent to coordinate with the 8<sup>th</sup> Respondent and the Petitioners and offer necessary facilitation on the registration of the community land in Chari and Cherab Ward, Merti sub county under the Community Land Act, 2016.

- vi. That a Permanent injunction do issue against the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents jointly and severally, whether acting by themselves, their agents, servants, representatives assignees from entering into any agreement on behalf of the Petitioners and the community of Cherab ward and Chari ward, Merti sub county without undertaking documented public participation as mandated by law and without involving the Petitioners.
- vii. The Honourable Court be pleased to issue an order compelling the 7<sup>th</sup> Respondent, to take up all the activities that have been undertaken by the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents relating to establishment and management of community conservancies within Cherab and Chari wards, Merti Sub county and the rest of Isiolo County, to wit that all licenses or authority granted to the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents or any of its affiliates and umbrella bodies be revoked immediately;
- viii. That this Honourable Court be pleased to grant an injunction stopping, prohibiting and forbidding the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents, whether by themselves, their agents, servants, assignees, licensees, umbrella bodies or any other person working under their authority, instructions or contract, from entering, mapping, surveying, delineating or in any way disposing the unregistered community land, carrying out conservancy operations, evicting and intimidating community members, within Cherab ward and Chari Ward of Merti sub-county and within the rest of Isiolo County;
- ix. That this Honourable Court be pleased to grant orders compelling the 2<sup>nd</sup> Respondent to execute its trust mandate relating to the management of the unregistered community land in Cherab and Chari wards, as well as the rest of Isiolo County, to wit all licenses or authority granted to the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents or any of its affiliates and umbrella bodies be revoked immediately;
- x. That this Honourable Court be pleased to grant a permanent injunction against the advertisement, hiring, recruitment, employment or any other form of contractual engagement for or of services of rangers, drivers or other Conservancy personnel by the Conservancy Community based Organizations being run by the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents or any other Conservancy or Community Based Organizations under the management or patronage of the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents either by themselves or through anyone acting under their authority or contract
- xi. That this Honorable Court be pleased to grant an interim injunction against the 1<sup>st</sup> Respondent either by themselves or through anyone acting under their authority or contract stopping, prohibiting them from erecting any structures on the unregistered community land.



- xii. That this Honorable Court be pleased to compel the 7<sup>th</sup> Respondent to oversee all conservancy operations as mandated by law within Chari and Cherab ward in Merti sub county as well as the entire Isiolo county.
- xiii. That an order be and is hereby issued barring the 9<sup>th</sup> Respondent as well as all Officers under his/her instruction including the Deputy County Commissioner-Merti Sub-County, Chiefs, Assistant Chiefs and all other National Government Administration officers from interfering in the community land in Chari and Cherab Wards of Merti sub county, Isiolo County.
- xiv. That this Honourable Court be pleased to issue orders compelling, the 9<sup>th</sup> Respondent and the Isiolo County Police Commandant do oversee the implementation of the orders sought herein and to ensure that peace and order is maintained;
- xv. Any such further and/or other relief that this Honourable Court may deem fit and just to grant in the interests of justice and that may become apparent and necessary in the course of these proceedings;
- xvi. The Petitioners be awarded general damages for losses occurred on alienation of land and loss of land use.
- xvii. The costs of the Petition be borne by the Respondents.

Dated at **Nairobi** this 27<sup>th</sup> day of September, 2021

.....makaka.....

**MAKAKA & KIRAMANA ADVOCATES**

**ADVOCATE FOR THE PETITIONERS/APPLICANTS**

**DRAWN AND FILED BY:**

**MAKAKA & KIRAMANA ADVOCATES**

**STANDARD STREET, BRUCE HOUSE**

**SOUTH WING, SUITE 1101**

**P.O. BOX 38878-00100**

**NAIROBI**

**EMAIL:[mkadvocates@workmail.com](mailto:mkadvocates@workmail.com) phone: 0733 208 337**

**P105/13753/17 Practice No: LSK/2021/07554**

**TO BE SERVED UPON:**

**NORTHERN RANGELANDS TRUST**

**PRIVATE BAG**

**ISIOLO**

**THE COUNTY GOVERNMENT OF ISIOLO**

**ISIOLO**

**ABDI JARSO**

**ISIOLO**

**GOLICHA JARSO**

**ISIOLO**

**HALKANO GOLLO**

**ISIOLO**

**GOLLO FUGICHA**

**ISIOLO**

**KENYA WILDLIFE SERVICE**

**ISIOLO**

**MINISTRY OF LANDS AND PHYSICAL PLANNING**

**ISIOLO COUNTY**

**COUNTY COMMISSIONER**

**ISIOLO**

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT OF KENYA AT MERU**  
**CONSTITUTIONAL PETITION NO \_\_\_\_\_ OF 2021**

**IN THE MATTER OF ALLEGED CONTRAVENTION OF NATIONAL ARTICLES AND PRINCIPLES OF GOVERNANCE ENSHRINED IN ARTICLES 1(1); 2(1), (2) & (3); 3(1); 10(2); 60; 73(1)(b); 185(2); AND 258(1) & 3 OF THE CONSTITUTION AND PART 2 OF THE FOURTH SCHEDULE TO THE CONTITUTION;**

**IN THE MATTER OF ALLEGED VIOLATION OF RIGHTS AND FUNDAMENTAL FREEDOMS UNDER ARTICLES 19, 20, 21,22, 23, 24, 27, 28, 29, 35, 39, 40, 42, 43, 44, 48, 53(2), 56, 60, 63 & 69**

**IN THE MATTER OF KENYA (PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013**

**IN THE MATTER OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS**

**IN THE MATTER OF THE UNITED NATIONS DECLARATION OF THE RIGHTS OF INDIGENOUS PEOPLE (UNDRIP), 2007**

**IN THE MATTER OF THE CONVENTION ON BIODIVERSITY, 1992**

**IN THE MATTER OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1966**

**IN THE MATTER OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1966**

**IN THE MATTER OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (ACHPR)**

**IN THE MATTER OF THE UNECE CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS, 1999**

IN THE MATTER OF THE CONVENTION ON THE ELIMINATION OF ALL  
FORMS OF DISCRIMINATION AGAINST WOMEN, 1979

IN THE MATTER OF THE COUNTY GOVERNMENTS ACT, NO. 17 OF 2012

IN THE MATTER OF THE COMMUNITY LAND ACT, NO. 27 OF 2016

IN THE MATTER OF THE COMMUNITY LAND REGULATIONS OF 2016 (LEGAL  
NOTICE NO. 279)

IN THE MATTER OF THE WILDLIFE (CONSERVATION AND MANAGEMENT)  
ACT, NO. 47 OF 2013

IN THE MATTER OF THE INFRINGEMENT OF FUNDAMENTAL RIGHTS OF  
THE PEOPLE OF CHARI WARD & CHERAB WARD, MERTI SUB COUNTY,  
ISIOLO COUNTY WITH REGARD TO PUBLIC PARTICIPATION, RECOGNITION  
AND REGISTARTION OF COMMUNITY LAND AS REQUIRED UNDER ARTICLE  
63 OF THE CONSTITUTION OF KENYA, 2010 AND SECTIONS 6, 29, 48 OF  
THE COMMUNITY LAND ACT, 2016.

**BETWEEN**

ABDIRAHMAN OSMAN.....1<sup>ST</sup> PETITIONER  
HASSAN BIDHU.....2<sup>ND</sup> PETITIONER  
HUSSEIN SULEIMAN.....3<sup>RD</sup> PETITIONER  
MUSA HUKA.....4<sup>TH</sup> PETITIONER  
YUSSUF BORU.....5<sup>TH</sup> PETITIONER  
MOHAMED GALGALO.....6<sup>TH</sup> PETITIONER  
ALI ABKULA .....7<sup>TH</sup> PETITIONER  
OSMAN YAROLE.....8<sup>TH</sup> PETITIONER  
HASSAN GUYO.....9<sup>TH</sup> PETITIONER

AISHA ALI.....	10 <sup>TH</sup> PETITIONER
RUKIA SALADO.....	11 <sup>TH</sup> PETITIONER
MOHAMEDNUR ADAN.....	12 <sup>TH</sup> PETITIONER
ALI ADAN DIBA.....	13 <sup>TH</sup> PETITIONER
ZEITUNA MUSA HUKA.....	14 <sup>TH</sup> PETITIONER
RUFO GOLLO.....	15 <sup>TH</sup> PETITIONER
HAWAI GOLLO.....	16 <sup>TH</sup> PETITIONER
HASHIM BORU.....	17 <sup>TH</sup> PETITIONER
ABDI ADHAN SELE.....	18 <sup>TH</sup> PETITIONER
ABDIRAHMAN HASSAN.....	19 <sup>TH</sup> PETITIONER
ABDAKALT KANUTO.....	20 <sup>TH</sup> PETITIONER
IBRAHIM GUTU.....	21 <sup>ST</sup> PETITIONER
OSMAN GURA.....	22 <sup>ND</sup> PETITIONER
ABDUBA JIRMA.....	23 <sup>RD</sup> PETITIONER
AHAMED A FAYO.....	24 <sup>TH</sup> PETITIONER
MOHAMED BUKE.....	25 <sup>TH</sup> PETITIONER
JATTANI ALI GUYO.....	26 <sup>TH</sup> PETITIONER
NURIA JARSO.....	27 <sup>TH</sup> PETITIONER
RASHIA ALI.....	28 <sup>TH</sup> PETITIONER
ADAN GUYOALI.....	29 <sup>TH</sup> PETITIONER
DABASO ADAN.....	30 <sup>TH</sup> PETITIONER
ABDI RACHA.....	31 <sup>ST</sup> PETITIONER
ADAN DIBA.....	32 <sup>ND</sup> PETITIONER
TULLU WAKO.....	33 <sup>RD</sup> PETITIONER

ORGE KANATO.....	34 <sup>TH</sup> PETITIONER
SALAD ALI RIBA.....	35 <sup>TH</sup> PETITIONER
MADINA SALAD ALI.....	36 <sup>TH</sup> PETITIONER
MUSA BUKE.....	37 <sup>TH</sup> PETITIONER
MOLU CLODANA.....	38 <sup>TH</sup> PETITIONER
MOHAMED ELEMA.....	39 <sup>TH</sup> PETITIONER
BRAHIM HUSSEIN.....	40 <sup>TH</sup> PETITIONER
ALNOOR DIBA DUBA.....	41 <sup>ST</sup> PETITIONER
NURA GALGALO.....	42 <sup>ND</sup> PETITIONER
ALI DIBA.....	43 <sup>RD</sup> PETITIONER
IBRAHIM DABASO.....	44 <sup>TH</sup> PETITIONER
RASHID GOLLO.....	45 <sup>TH</sup> PETITIONER
AMINA DIBA.....	46 <sup>TH</sup> PETITIONER
MOHAMEDNOOR URCHO.....	47 <sup>TH</sup> PETITIONER
HALKANO SURA .....	48 <sup>TH</sup> PETITIONER
JAMALE ALI.....	49 <sup>TH</sup> PETITIONER
SADIA GUYO.....	50 <sup>TH</sup> PETITIONER
ASHA DUBA.....	51 <sup>ST</sup> PETITIONER
HASSAN GALGALLO.....	52 <sup>ND</sup> PETITIONER
ALI DABASO.....	53 <sup>RD</sup> PETITIONER
RASHID WARIO.....	54 <sup>TH</sup> PETITIONER
SHUKRI GOLLO.....	56 <sup>TH</sup> PETITIONER
DAUD HUSSEIN.....	57 <sup>TH</sup> PETITIONER
HABIBA DIBA.....	58 <sup>TH</sup> PETITIONER

MUKTAR BILA.....	59 <sup>TH</sup> PETITIONER
NURIA DABASO.....	60 <sup>TH</sup> PETITIONER
ABDI MOHAMED .....	61 <sup>ST</sup> PETITIONER
ALI MOHAMED .....	62 <sup>ND</sup> PETITIONER
MOHAMED GUYO.....	63 <sup>RD</sup> PETITIONER
FATUMA MOHAMED.....	64 <sup>TH</sup> PETITIONER
MUMINA ALI.....	65 <sup>TH</sup> PETITIONER
HASSAN OSMAN.....	66 <sup>TH</sup> PETITIONER
IBRAHIM BIDU.....	67 <sup>TH</sup> PETITIONER
MOHAMUD GUYO BUKICHA.....	68 <sup>TH</sup> PETITIONER
HALIMA KANCHORI FUGICHA.....	69 <sup>TH</sup> PETITIONER
HALIMA ADAN BIDU.....	70 <sup>TH</sup> PETITIONER
ADAN JATTANI HAPANA.....	71 <sup>ST</sup> PETITIONER
SAKU DIBA BOKICHA.....	72 <sup>ND</sup> PETITIONER
LANA MOHAMED GODANA.....	73 <sup>RD</sup> PETITIONER
TIYA DIDA ADI.....	74 <sup>TH</sup> PETITIONER
BOSONA BIDU DIBA.....	75 <sup>TH</sup> PETITIONER
RALIA GOLICHA KAMPICHA.....	76 <sup>TH</sup> PETITIONER
BATULA GUYO BUKICHA.....	77 <sup>TH</sup> PETITIONER
SAFIA GUYO BUKICHA.....	78 <sup>TH</sup> PETITIONER
SIRIKE GALGALO.....	79 <sup>TH</sup> PETITIONER
IDRIS ABDULLAHI.....	80 <sup>TH</sup> PETITIONER
RUKIA GOLLO BADO.....	81 <sup>ST</sup> PETITIONER
SADIA ADAN JARSO.....	82 <sup>ND</sup> PETITIONER



ADAN WAKO QURE.....	83 <sup>RD</sup> PETITIONER
RAHMA ROBA OLLO.....	84 <sup>TH</sup> PETITIONER
BASHIR WAKO QURE.....	85 <sup>TH</sup> PETITIONER
KARIM WAKO QURE.....	86 <sup>TH</sup> PETITIONER
RALIA MOHAMED.....	87 <sup>TH</sup> PETITIONER
HASSAN RABO BAKASA.....	88 <sup>TH</sup> PETITIONER
BARWAQO ABDI.....	89 <sup>TH</sup> PETITIONER
SALAD TADICHA.....	90 <sup>TH</sup> PETITIONER
SAID ROBA OLLO.....	91 <sup>ST</sup> PETITIONER
SIRAJ DIBA GODANA.....	92 <sup>ND</sup> PETITIONER
ABDI DIBA GURACHA.....	93 <sup>RD</sup> PETITIONER
GALGALO AFATU SARU.....	94 <sup>TH</sup> PETITIONER
MOHAMED GUYO.....	95 <sup>TH</sup> PETITIONER
ABDI JIRMA.....	96 <sup>TH</sup> PETITIONER
ZEINAB HASSAN.....	97 <sup>TH</sup> PETITIONER
TADICHA MALICHA.....	98 <sup>TH</sup> PETITIONER
HAWO YUSSUF.....	99 <sup>TH</sup> PETITIONER
MUSLIMA ABDI.....	100 <sup>TH</sup> PETITIONER
LOKO GUYO JALDESA.....	101 <sup>ST</sup> PETITIONER
FATUMA JIRMA.....	102 <sup>ND</sup> PETITIONER
DAUD JIRMA.....	103 <sup>RD</sup> PETITIONER
BARWAQO HUKA.....	104 <sup>TH</sup> PETITIONER
MOHAMED A JIRMA.....	105 <sup>TH</sup> PETITIONER
IBRAHIM A JIRMA.....	106 <sup>TH</sup> PETITIONER

ALI HASSAN.....	107 <sup>TH</sup> PETITIONER
MOHAMEDNOOR JIRMA.....	108 <sup>TH</sup> PETITIONER
IBRAHIM KUNO.....	109 <sup>TH</sup> PETITIONER
HALKANO GUYO.....	110 <sup>TH</sup> PETITIONER
ALI HALKANO.....	111 <sup>TH</sup> PETITIONER
MOHAMUD DOME.....	112 <sup>TH</sup> PETITIONER
JIBRIL ABDI.....	113 <sup>TH</sup> PETITIONER
IDDI ABDI .....	114 <sup>TH</sup> PETITIONER
SALAD KERO.....	115 <sup>TH</sup> PETITIONER
ALI OMAR.....	116 <sup>TH</sup> PETITIONER
ABDUBA DIKA.....	117 <sup>TH</sup> PETITIONER
IBRAHIM WAKO.....	118 <sup>TH</sup> PETITIONER
FAYO MOHAMED.....	119 <sup>TH</sup> PETITIONER
ABDULHAKIM GOLICHA.....	120 <sup>TH</sup> PETITIONER
MUSA MOHAMMED.....	121 <sup>ST</sup> PETITIONER
FRANKLEIGN MURETHI.....	122 <sup>ND</sup> PETITIONER
SHEDO GOLLO.....	123 <sup>RD</sup> PETITIONER
ABDI SALAD.....	124 <sup>TH</sup> PETITIONER
RASHID AHMED ABDULLAHI.....	125 <sup>TH</sup> PETITIONER
SALAD MOHAMED.....	126 <sup>TH</sup> PETITIONER
HASSAN DIBA SHEDO.....	127 <sup>TH</sup> PETITIONER
HAMDI MOHAMED.....	128 <sup>TH</sup> PETITIONER
GUYO GEDO GODANA.....	129 <sup>TH</sup> PETITIONER
MOHAMED JARSO SORA.....	120 <sup>TH</sup> PETITIONER

JUMA OMAR JILLO.....	121 <sup>ST</sup> PETITIONER
IBRAHIM GUFU.....	122 <sup>ND</sup> PETITIONER
MUKTAR WAKO QURE.....	123 <sup>RD</sup> PETITIONER
AMINA GUYO BUKICHA .....	124 <sup>TH</sup> PETITIONER
DAVID HUKA GALGALO.....	125 <sup>TH</sup> PETITIONER
YUNIS DABASO GUTOLE.....	126 <sup>TH</sup> PETITIONER
HAWAI HUSSEIN KUNO.....	127 <sup>TH</sup> PETITIONER
NASIBO JIRMA DUBA.....	128 <sup>TH</sup> PETITIONER
DAVID ALI.....	129 <sup>TH</sup> PETITIONER
AMINA GUYO.....	130 <sup>TH</sup> PETITIONER
RUFO BULLE .....	131 <sup>ST</sup> PETITIONER
HAWO ADAN.....	132 <sup>ND</sup> PETITIONER
AMINA DIBA.....	133 <sup>RD</sup> PETITIONER
HUSEIN GUYO.....	134 <sup>TH</sup> PETITIONER
RUKIA SALADO.....	135 <sup>TH</sup> PETITIONER
IBRAHM GUTU.....	136 <sup>TH</sup> PETITIONER
MARIAM BILLA.....	137 <sup>TH</sup> PETITIONER
HALIMA OLLO.....	138 <sup>TH</sup> PETITIONER
ABDI WARIO.....	139 <sup>TH</sup> PETITIONER
AMINA BORU.....	140 <sup>TH</sup> PETITIONER
KATUMA KINI.....	141 <sup>ST</sup> PETITIONER
QUYU DEMO.....	142 <sup>TH</sup> PETITIONER
FATUMA SORA.....	143 <sup>RD</sup> PETITIONER
RAMADHAN ALI.....	144 <sup>TH</sup> PETITIONER

MOHAMED GUYO.....	145 <sup>TH</sup> PETITIONER
ABDI DIBA.....	146 <sup>TH</sup> PETITIONER
SADIA HUSSEIN.....	147 <sup>TH</sup> PETITIONER
SHAFI BULE.....	148 <sup>TH</sup> PETITIONER
SALOSA HUSSAN.....	149 <sup>TH</sup> PETITIONER
BILA OSMAN.....	150 <sup>TH</sup> PETITIONER
ZAINAB WATO.....	151 <sup>ST</sup> PETITIONER
BORA BALAMBLI.....	152 <sup>ND</sup> PETITIONER
HALIMA MAMUD.....	153 <sup>RD</sup> PETITIONER
RUFO ABDI ELEMA.....	154 <sup>TH</sup> PETITIONER
IDRIS HASSAN.....	155 <sup>TH</sup> PETITIONER
HALIMA ABDI.....	156 <sup>TH</sup> PETITIONER
YAKUB WAKO ADAN.....	157 <sup>TH</sup> PETITIONER
HUSSEIN KALICHA.....	158 <sup>TH</sup> PETITIONER
ASILI ADAN JARSO.....	159 <sup>TH</sup> PETITIONER
ABDIMALI MOHAMED.....	160 <sup>TH</sup> PETITIONER
RUKIA DABASO JARSO.....	161 <sup>ST</sup> PETITIONER
GALGALO HUSEIN BIDA.....	162 <sup>ND</sup> PETITIONER
RASHID ABDI WAKO.....	163 <sup>RD</sup> PETITIONER
FADIA GUYO JALDESA.....	164 <sup>TH</sup> PETITIONER
DIBO HUSSEIN.....	165 <sup>TH</sup> PETITIONER

*(suing on their own behalf and on behalf of residents of Merti sub county,  
Chari ward and Cherab ward in Isiolo county)*

AND

NORTHERN RANGELANDS TRUST.....	1 <sup>ST</sup> RESPONDENT
THE COUNTY GOVERNMENT OF ISIOLO.....	2 <sup>ND</sup> RESPONDENT
ABDI JARSO.....	3 <sup>RD</sup> RESPONDENT
GOLICHA JARSO.....	4 <sup>TH</sup> RESPONDENT
HALKANO GOLLO.....	5 <sup>TH</sup> RESPONDENT
GOLLO FUGICHA.....	6 <sup>TH</sup> RESPONDENT
KENYA WILDLIFE SERVICE.....	7 <sup>TH</sup> RESPONDENT
MINISTRY OF LANDS AND PHYSICAL PLANNING.....	8 <sup>TH</sup> RESPONDENT
COUNTY COMMISSIONER ISIOLO.....	9 <sup>TH</sup> RESPONDENT

AFFIDAVIT IN SUPPORT OF APPLICATION AND PETITION

I, **ABDIRAHMAN OSMAN**, a male adult Kenyan citizen of sound mind and disposition residing and working for gain in Isiolo County within the Republic of Kenya do make oath and state as follows:

1. **THAT** I am a community member of Cherab Ward and Chari Ward, Merti sub county, Isiolo County given authority by the members of the said community to swear this affidavit on behalf of all the Petitioners. *(Annexed herein and marked AO 1 is a copy of my National ID)*
2. **THAT** I am competent and duly authorized to swear this affidavit on my behalf and on behalf of the Petitioners herein and the community at large; *(Annexed herein and marked AO 2 is a copy of the authority executed thereof)*
3. **THAT** I am well versed with the facts relating to the instant Petition and the Notice of Motion Application filed herewith and have read and understood the contents of the said Petition and Application;
4. **THAT** I further state and depone on behalf of the Petitioners as hereunder: -
5. **THAT** the Petitioners are advised by their Advocates on record, whose advice they verily believe to be true that under Article 21(1) of the

Constitution, it is a fundamental duty of the State and every State organ to *inter alia* respect, protect and fulfil the rights and fundamental freedoms in the Bill of Rights;

6. **THAT** the Petitioner is further advised by their Advocates on record that under Article 3 of the Constitution of Kenya, every person has an obligation to respect, uphold and defend the constitution.
7. **THAT** the Applicants herein are members of the indigenous pastoralist community, residing in **Chari ward and Cherab Ward, Merti sub county of Isiolo County** living and conducting their daily activities on the community land which is jointly and severally owned by them.
8. **THAT** the 1<sup>st</sup> Respondent, working with umbrella groups and without any opposition from the authorities purports to establish conservancies in the said regions without involving the Petitioners and the community at large. The Applicants' efforts to register the community and the community land have been met with untold frustration occasioned by the authorities and therefore, in so far as the registration is pending then any attempt to establish a conservancy in the region is premature and ought to be stopped.
9. **THAT** the 2<sup>nd</sup> Respondent is mandated by the Constitution and the Community Land Act to be the Trustee for all unregistered Community land and to hold in trust and help manage the land until the community and such land is registered. Further Section 6(8) of the Community Land Act bars the County Government from disposing in any way of unregistered Community Land, which is held in trust. In utter and flagrant disregard of this mandate and in sheer negligence, it has allowed the 1<sup>st</sup> Respondent and its umbrella bodies to establish and run conservancies in unregistered community land, without participation or involvement of the Community.
10. **THAT** the 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents, under the patronage of the 1<sup>st</sup> Respondent herein have gone ahead to advertise for vacancies to be filled in a purported conservancy that they intend to establish. The 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents run Conservancy Community Based Organisations that is purporting to represent the Community, which is an actual misrepresentation of facts, and entirely untrue as the Applicants/Petitioners decry lack of public participation in any dealings in the community land.

- 11.**THAT** in their operation of neighbouring Conservancies, the 1<sup>st</sup> Respondent has armed Rangers whose presence in the county elicits tension which in several instances has resulted in violence and loss of life and forced disappearances as was the case during the establishment of the Biliqo-Bulesa Conservancy. Further, the armed rangers act as a private army for the 1<sup>st</sup> Respondent and are used to quell any opposition by the Community which in effect has led to a rise in the proliferation of small arms in the region as the community tries to defend themselves.
- 12.**THAT** the 7<sup>th</sup> Respondent is the uniformed and disciplined Service established under the Kenya Wildlife Conservation Act, which is mandated to provide security and offer advisory relating to conservation of wildlife as well as establishment of wildlife conservancies and sanctuaries, they have thus abdicated their statutory mandate relating to conservation and without any structure or proper regulation has let the 1<sup>st</sup> Respondent herein take up that role.
- 13.**THAT** the 1<sup>st</sup> Respondent, despite protests and objections from the Community, continues to make plans in preparation for the establishment of conservancies;
- 14.**THAT** the Respondents, continue with these operations devoid of any kind of public participation;
- 15.**THAT** the establishment of the conservancy, which is in its advanced stages, will disenfranchise the community as the same will render them homeless and with no grazing land and will extinguish our important sites including cultural sites such as Kuro Bisan Owwo, graveyards in ires Roba Senthoo, Ires Kira, Ires Saku, Ires wadha, Ires Ture and Ires Buuna, being graves named after deceased prominent community members;
- 16.**THAT** the 1<sup>st</sup> Respondent's actions, the complacency of the 2<sup>nd</sup> and 7<sup>th</sup> Respondents, the involvement of the 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> Respondents purporting to represent the community is creating a risk of wildlife-human conflict thereby threatening the right to life, right to property ownership, human dignity, economic social and cultural rights, right to a clean and healthy environment and land use as there are clear plans on the establishment of the conservancy and no clarity on the relocation of the Community.

- 17.**THAT** the 2<sup>nd</sup> Respondent's inaction is in violation of its constitutional responsibility to hold in trust all unregistered community land in the county.
- 18.**THAT** the 1<sup>st</sup> Respondent, with the muscle of Rangers and the local administration, continues to use intimidation and coercion as well as threats upon the community leaders, where the community leaders attempt to oppose any of their plans. This is an outright violation of the Community's right to security and human dignity;
- 19.**THAT** there has been no disclosure of any approvals from the relevant bodies, for the 1<sup>st</sup> Respondent to establish a conservancy. There is no Environmental Impact Assessment, Socio-economic Impact Assessment, Environmental Social Impact Assessment or any feasibility study done on the establishment of the said conservancy. This is despite the fact that the establishment will interfere with the community's ability to continue with the socio-economic life as they are pastoralists. This is a violation of their social, economic and cultural rights granted under the Constitution and in various International Conventions;
- 20.**THAT** there has been direct and calculated discrimination against and disenfranchisement of the youth, women and persons with disability in all the activities by the 1<sup>st</sup> Respondent. The Community, being an indigenous Community, does not allow for joint forums for men and women during public participation. As such, it behoves the 1<sup>st</sup> Respondent herein, ought to have set up separate public participation fora for the men, women and youth, and in each instance, the persons with disability ought to be involved, since the purported establishment of a conservancy, will have different effects of each group of people that ought to be taken into consideration;
- 21.**THAT** there has been a lack of involvement of the community elders and the duly elected members of the community in the decisions taken by the Respondents. The Community herein has elders to whom they go to get guidance on various issues affecting the Community. Failure to involve them is an affront to the cultural ways of the community and a violation of their cultural rights, herein;
- 22.**THAT** the 3<sup>rd</sup>, 4<sup>th</sup> 5<sup>th</sup> and 6<sup>th</sup> Respondents herein and the Conservancy Community Based Organisation they operate are not the representatives



of the Community herein and therefore have no authority to act for the community;

23. **THAT** the Petitioners have engaged various authorities seeking information on the legality of the 1<sup>st</sup> Respondent's operations in Chari ward and Cherab ward of Merti sub county and the entire Isiolo county, such information has been insufficient to address the community concerns.
24. **THAT** the Applicants registered its complaints with various authorities including the Commission on the Administrative of Justice (***office of the Ombudsman***), where the community presented its complaint which office referred the Applicants to the County coordinator, National Land Commission (NLC) to address the complaint. (***Annexed herein and marked AO3 is a copy of the letter from the office of the ombudsman***)
25. **THAT** the NLC explained to the office of the ombudsman that the process of setting up the purported conservancy was suspended. The Applicants plead that this however did not solve the impasse as the Respondents are actively proceedings with plans to establish conservancies. (***Annexed herein and marked AO4 is a copy of the letter from the office of NLC county coordinator***)
26. **THAT** The Applicants also reported their complaints to the office of the 9<sup>th</sup> Respondent, the deputy County Commissioner, Merti sub county Responded to the 1<sup>st</sup> Respondent herein explaining the complaints of the community in the proposed conservancy and invited parties for negotiations. The Applicants plead that the negotiations bore no fruit and were a sham as it did not in any way address the dispute. In the same letter the deputy County Commissioner lauds the 1<sup>st</sup> Respondent for their support in security and promised to continue with the partnership, this indicated that the said office cannot be taken as a genuine neutral arbiter to the dispute. (***Annexed herein and marked AO5 is a copy of the letter from the office of the Deputy County Commissioner, Merti sub county***)
27. **THAT** the said office of the 9<sup>th</sup> Respondent, through its sub count deputy directed all Assistant County Commissioners and Chiefs to fully support officers from the 1<sup>st</sup> Respondents' office in their operations.
28. **THAT** the authorities have not yet offered any solutions to the dispute between the Applicants/Petitioners and the 1<sup>st</sup> Respondent.

- 29.**THAT** albeit under frustration, the community is still working towards registering the property, and as such purporting to establish a conservancy is putting the cart before the horse, the land ought to be held in trust by the 2<sup>nd</sup> Respondent and should not be interfered with in any way.
- 30.**THAT** the Applicants plead that the 1<sup>st</sup> Respondent is a stranger as far as the community land in the area is concerned and since the land is still unregistered should be held by the county government of Isiolo in trust.
31. **THAT** the Kenya National Commission on Human Rights (KNCHR) penned an advisory opinion presented to Isiolo county Assembly dated 21<sup>st</sup> April, 2021 on an impugned bill, seeking to enhance establishment and recognition of community conservancies in Isiolo county, the **Isiolo County Community Conservancy Bill, 2021**. The advisory highlights fundamental violations of the Constitution and relevant statutory provisions by the impugned Bill. *(Annexed herein and marked AO 6 is copy of the advisory)*
- 32.**THAT** through the proposed enactment of Isiolo County Community Conservancy Bill, 2021, the County Government intended to pass a law to legalize the illegally existing conservancies in the County while also creating a pathway for NRT to unilaterally create more conservancies on the community land without following due processes of the law. The actions of the County Government being the trustee of the community land in allowing third parties such as NRT and its conservancies to operate in community land contravenes the relevant provisions of the Constitution and the Community Land Act.
- 33.**THAT** through the Petition dated 14<sup>th</sup> May, 2021, we petitioned the National Land Commission (NLC), Nairobi requesting the said office to address the stalemate. The NLC has not responded to the Petition to date. *(Annexed herein and marked AO 7 is copy of the petition)*
- 34.**THAT** I am well aware that the 1<sup>st</sup> Respondent is actively working and marshaling support from authorities, they launched two land cruiser vehicles that are currently used within Merti area to intimidate and harass those opposed to its project. Additionally, it is believed that the vehicles are used to appease the government administration and the security apparatus to fully accept its activities.

- 35.**THAT** the 1<sup>st</sup> Respondent, through one of its umbrella organizations, Cherab community conservancy led by the 3<sup>rd</sup> Respondent herein have gone ahead and started plans to establish the conservancy including advertising for vacant positions. (*Annexed herein and marked AO 8 is a copy of the advertisement for the purported conservancy dated 31<sup>st</sup> May, 2021*)`
- 36.**THAT** there was joint Petition against the 1<sup>st</sup> Respondent by the Samburu, Isiolo and Marsabit counties over the issue, the petition was addressed to the donors of the 1<sup>st</sup> Respondent, this Petition has however not been addressed conclusively. (*Annexed herein and marked AO 9 is a copy of the Petition by the counties to the 1<sup>st</sup> Respondent's donors*)`
- 37.**THAT** we plead that this Honourable Court be pleased to grant the orders prayed for in the annexed Petition owing to the fact that if the aforementioned violations go unaddressed and un-remedied the Petitioners will have their fundamental rights and freedoms infringed upon without redress and the Respondents will be setting an unconstitutional precedent and be acting without the law and in contravention of the constitution.
- 38.**THAT** the Actions of the Respondents, if unchecked and unstopped, will lead to dispossession of indigenous community's ancestral land, destruction of the community land and the eco-system within the area. This will be a violation of environmental rights under Article 42 of the Constitution, which requires the protection of the environment for the benefit of present and future generations.
- 39.**THAT** it is in the interests of justice that this Honourable Court be pleased to certify this matter as extremely urgent and admit it for hearing immediately, and orders sought herein be granted.
- 40.**THAT** the Applicants plead that the Honourable Court be pleased to certify this matter as extremely urgent and admit it for hearing immediately.
- 41.**THAT** this Honorable Court has the jurisdiction, power and duty to grant the Orders sought herein as vested under Article 23 of the Constitution.
- 42.**THAT** the Applicants/Petitioners plead that they will abide by orders issued by this Honorable court.

- 43.**THAT** this Honourable Court be pleased to grant the orders prayed for in the Notice of Motion Application and the Petition owing to the fact that if the aforementioned violations go unaddressed and un-remedied the Petitioners will have their fundamental rights and freedoms infringed upon without redress and the Respondents will be setting an unconstitutional precedent and be acting outside the law and in contravention of the constitution.
- 44.**THAT** this Honourable Court be pleased to certify this matter as extremely urgent and admit it for hearing immediately.
- 45.**THAT** we wrote to the Respondents a demand letter inviting them to respond to us and address the issues in dispute but the said demand went unanswered (*Annexed herein and marked AO 10 is a copy of the said demand letter dated 2<sup>nd</sup> July, 2021*)
- 46.**THAT** this Honorable Court has the jurisdiction, power and duty to grant the Orders sought herein as vested under Article 23 of the Constitution.
- 47.**THAT** the Petitioners will abide by orders issued by this Honorable court.
- 48.**THAT** I am further advised by our Advocates which advice I verily believe to be true, that under Article 23 of the Constitution of Kenya, the High Court has jurisdiction to hear and determine applications concerning the Bill of Rights and give appropriate remedies to uphold and enforce the Bill of Rights;
- 49.**THAT** what is deponed to hereinabove is true to the best of my knowledge information and belief save for matters of information, sources and grounds whereof have been disclosed.

SWORN at NAIROBI by the said  
**ABDIRAHMAN OSMAN** on  
 This 27<sup>th</sup> day of September, 2021

]
   
]
   
]
   
]
   
]
   
]

*abdirahman*  
**Deponent**

**BEFORE ME**  
**COMMISSIONER FOR OATHS**

**DRAWN AND FILED BY:**

**MAKAKA & KIRAMANA ADVOCATES**

**STANDARD STREET, BRUCE HOUSE**

**SOUTH WING, SUITE 1101**

**P.O. BOX 38878-00100**

**NAIROBI**

**EMAIL:[mkadvocates@workmail.com](mailto:mkadvocates@workmail.com) phone: 0733 208 337**

**P105/13753/17 Practice No: LSK/2021/07554**

**TO BE SERVED UPON:**

**NORTHERN RANGELANDS TRUST**

**PRIVATE BAG**

**ISIOLO**

**THE COUNTY GOVERNMENT OF ISIOLO**

**ISIOLO**

**ABDI JARSO**

**ISIOLO**

**GOLICHA JARSO**

**ISIOLO**

**HALKANO GOLLO**

**ISIOLO**

**GOLLO FUGICHA**

**ISIOLO**

**KENYA WILDLIFE SERVICE**

**ISIOLO**

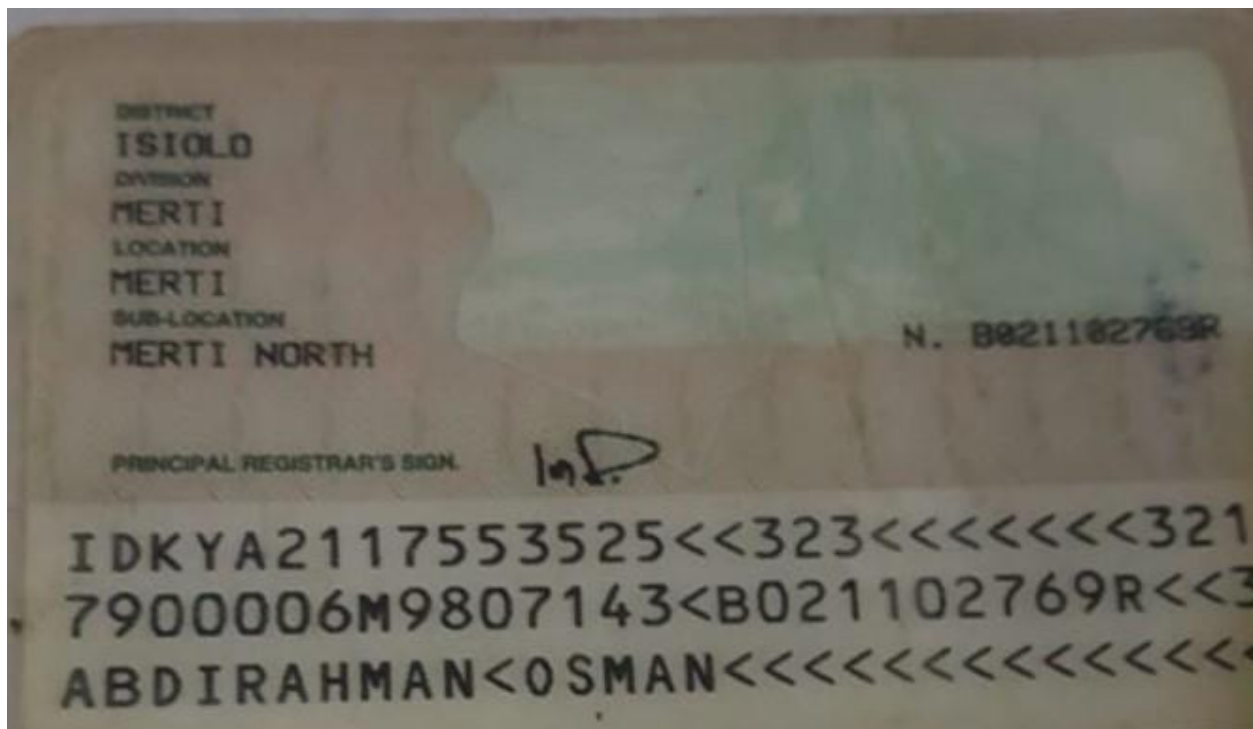
**MINISTRY OF LANDS AND PHYSICAL PLANNING**

**ISIOLO COUNTY**

**COUNTY COMMISSIONER**

**ISIOLO COUNTY**

**Commissioner for Oaths**



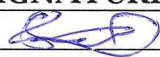

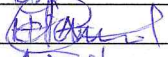
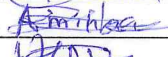


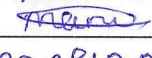

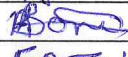




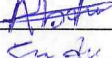
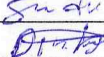
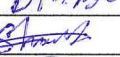


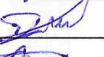




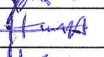









This is the exhibit marked "A02"  
referred to in the annexed Affidavit  
of ABDIRAHMAN OSMAN SWORN  
before me this 27<sup>TH</sup> day of SEP 2021  
[Signature]  
Commissioner for Oaths

### AUTHORITY TO PLEAD

We the undersigned, being the petitioners herein, do hereby grant the authority to Mr. **ABDIRAHMAN OSMAN** of Identity card No **21102769**, to plead, appear and act for all the Petitioners in the petition filed Petition herewith.



**WE THE UNDERSIGNED HAVE GIVEN MR ABDIRAHMAN OSMAN THE  
AUTHORITY TO REPRESENT US IN COURT IN THE CONSTITUTIONAL  
PETITION**

NO.	NAME	CONTACT	ID NO.	SIGNATURE
	DAUD ALI	0726673586	22240453	
	AMINA GUYO	0724482592	12542294	AMINA
	RUFU BULLG	0711071413087	29824298	
	HAWO ADAN	0712910477	0009122	
	AMINA DIBA	0720347508	24372710	
	HUSSEIN GUYO	0723808915	26699536	
	RUKIA Salado	0723809346	9855605	RUKIA
	Ibrahim Gutu	0760187037	25219369	
	Mariam Billa	0793054593	36871275	
	Halima ALLO	0725575821	7872092	MARIAM
	ABDI WARID	0703161979	22866013	
	Amina Bora	0748987755	35019106	
	Fatuma Kiri	0719293036	24462649	FATUMA
	GUYO Demo	0725256338	24374750	
	Fatuma Sora	0726092090	0009146	
	Ramadhan Ali	0741838973	38792834	
	Mohamed Guyo	0714362155	9855860	
	ABDI DIBA	0710472163	9889473	
	Sadiq Hussein	0764568361	24355088	
	Diba HUSSEIN	0741561627	352134372	
	Shara Bull	0768712789	0185854	
	Saleba Hassan	0742526724	0009524	
	Bila Osman	0713053506	12542219	
	Zainab Wato	0700609363	29788162	
	Bora Balambeli	074457794	6454219	
	Halima mamud	0712765828	0080853	
	RUFU ABDI ELEMA	0740085215	36870982	
	IDRIS HASSAN	0728300246	21021833	
	HALIMA ABDI	0716536154	23401012	
	YAKUB WAKO ADAN	0113341256	38231957	
	Hussein Kalicha	0705782612	25906011	
	ASILI ADAN JARSO	0113776717	27864848	
	ABDIMALIK MOHAMED	0792871204	3740710	
	RUKIA DABASO JARSO	0793827709	35740643	
	GALGALO Hussein Bida	0742578730	36201394	
	RASHID ABDI WAKO	0119778919	26693416	
	FAIDA GUYO JALASA	29828993		



**WE THE UNDERSIGNED HAVE GIVEN MR ABDIRAHMAN OSMAN THE  
AUTHORITY TO REPRESENT US IN COURT IN THE CONSTITUTIONAL  
PETITION**

NO.	NAME	CONTACT	ID NO.	SIGNATURE
1	FATUMA JIRMA	0721592218	12876360	
2	DAUD JIRMA	0707785604	28776356	
3	BARWAQO HUKA	0706830020	37176330	
4	MOHAMED A. JIRMA	0721751300	200030706	
5	Ibrahim A. Jirma	0719514272	35488712	
6	Ali Hassan	072646073	2286784	
7	Mohamednur Jirma	0711572916	24334636	
8	Ibrahim Kuno	0704613712	27877099	
9	Hakano Guyo	0743409386	36377305	
10	Ali Hakano	070191457	0367407	
11	Mohamed Jama	0728482100	21514028	
12	Jibril Abdi	0751641278	35702018	
13	Idi Abdi	0714118183	25748386	
14	Salad Kero	0707742116	29831054	
15	Ali Omar	0791519575	22469868	
16	ABDURA DIKA	0706789517	24373237	
17	Ibrahim Wako	074592327	33580215	
18	Fayo Mohamed	0742927277	7873023	
19	ABDULHAKIM Golidha	0769037414	37168058	
20	MUSA Mohammed	0796783955	26833595	
21	Frankleign mukethi	0711587091	23194344	
22	Shedo Gufo	0702807838	30824519	
23	ABDI Sogoma	0704683467	381929888	
24	Rashid Ahmed Abdullahi	0743505203	31297277	
25	Salad Mohamed	0769672624	29824299	
26	Hassan Aba shedo	0768651948	39891089	
27	Hambi Mohamed	0704114984	29105681	
28	Gufo Liedo Liodana	0748774300	39351529	
29	Mohamed Jasso Sora	0791290082	12542465	
30	Gufo Omar Jillo	0714290455	25812790	
31	IBRAHIM GUFU	0797190902	22861705	
32	ABUKAR WAKO GURE	0796157415	36201267	
33	AMINA GUTO BORICHA	0795127483	26848907	
34	DAUD HUKA GALGALO	0705934674	36287474	
35	YUNIS DABASO GUTOLE	0701863680	12541024	
36	Hawaa Hassan Kuno	0711392892	25903407	
37	Nasibo Jirma Duba	0714989956	9855635	



**WE THE UNDERSIGNED HAVE GIVEN MR ABDIRAHMAN OSMAN THE  
AUTHORITY TO REPRESENT US IN COURT IN THE CONSTITUTIONAL  
PETITION**

NO.	NAME	CONTACT	ID NO.	SIGNATURE
1	Hassan Osman	0798941554	26952543	Hok
2	Ibrahim Bida	0713341416	23978095	Ibrahim
3	Mohamed Guyo Buricha	0702136478	25692530	MU
4	Halima Kanciro Buricha	0720947175	38797625	HALIMA
5	Halima Adan Bida	0793520866	23006729	HA
6	Adan Jattan Harana	0797154895	3620031	Adan
	SARU DIBA BOKICHA	0748956012	0009381	SARU
	LANA Mohamed Godana	0742303847	26691901	LANA
	TIYA DIDA ADI	0745760982	0011485	TIYA
	ROSONA BIDA DIBA	0717981418	0011437	ROSONA
	RALIA GOLICHA KAMPICHA	0725624769	20236065	RALIA
	BATULA Guyo BURICHA	0705182769	7872647	BATULA
	SAFIA Guyo BURICHA	0745601684	21357365	SAFIA
	SIRIKE Guyo BURICHA			SIRIKE
	SIRIKE GALGALO	0794718258	0010105	SIRIKE
	IDRIS ABDULLAH	0728151679	27127840	IDRIS
	RUKIA GOLLO BADO	0797129753	28456468	RUKIA
	SADIA ADAN JARSO	074659457	37167832	SADIA
	AMAN WAKO QURE	0718295441	21350813	AMAN
	RAHMA ROBA OLLO	0712958742	24373833	RAHMA
	BASHIR WAKO QURE	0704252118	24413610	BASHIR
	KARIM WAKO QURE	0796913473	26670961	KARIM
	RALIA MOHAMED	0743402119	32196150	RALIA
	HASSAN RABO BARASA	0723974948	24359269	HASSAN
	BARWAQO ABDI	0790483435	38797727	BARWAQO
	SALAD TADICHA	0711398095	27864912	SALAD
	SAID ROBA OLLO	0710569183	27992137	SAID
	SIRAT DIBA Godana	0721269495	12542024	SIRAT
	ABDI DIBA GURACHA	0724160359	28265459	ABDI
	GALGALO AFATUSARU	071356789	26915726	GALGALO
	MOHAMED GUYO	0792304804	12585135	MOHAMED
	ABDI JIRMA	0704508785	12810473	ABDI
	Zeinal Hassan	0717808294	11275270	Zeinal
	TADICHA MALICHA	0702135816	22826666	TADICHA
	HAWO YUSSUF	0710517251	27860523	HAWO
	MUSLIMA ABDI	0114635407	25912621	MUSLIMA
	LOKO Guyo Jalbesa	0710222145	0185685	LOKO



WE THE UNDERSIGNED HAVE GIVEN MR ABDIRAHMAN OSMAN THE  
AUTHORITY TO REPRESENT US IN COURT IN THE CONSTITUTIONAL  
PETITION

NO.	NAME	CONTACT	ID NO.	SIGNATURE
1	SALAD ALI DIBA	0113585475	39351620	
2	MADINA SALAD ALI	0704766076	32948128	
3	MUSA - MOHD Buke	0741259964	36445013	
4	Halkano	0727115823	24299287	
5	Molin Ciodana	0720347507	20453829	
6	Mohamed Eleng	0743163208	0606812	
7	Abraham Hussein	0704613712	27877099	
8	ALnoor Diba Duba	0704584894	25502402	
9	MUBA GARGALO	0700070513	1029224	
10	Ali Diba	0796783988	28461304	
11	Abraham Dabaso	071329445	20797022	
12	Rashid Gollo	0748327268	36056944	
13	Amna Diba	0720347508	24372710	
14	Mohamednour Urcho	0705399353	11274690	
15	Halkano SORAB	0115175660	25778266	
16	Jumale Ae	0728395969	25777075	
	Sadia Guya	0703540360	30715843	
	Asha Duba	0769038304	38165360	
	Hassan Gargallo		25795204	
	Ali Dabaso	0727129765	24473056	
	RASHID WARIO	0718150902	36871004	
	SHUKRI Gollo	076902270	38168053	
	DAUD HUSSEIN	0759066967	39017072	
	Habiba Diba	0714817295	30827228	
	MUKTAR BIKI	0791257230	36445041	
	MURIA DABASO	0741371884	36178615	
	ABDI MOHAMED	0703499844	30730207	
	ALI MOHAMED	0745800944	35359887	
	MOHAMED GUYO	0714302155	9855860	
	FATUMA MOHAMED	0792177399	24464303	
	MUMINA ALI	0723606749	0009988	
	Salad Halkano	072819584	13838342	



**WE THE UNDERSIGNED HAVE GIVEN MR ABDIRAHMAN OSMAN THE  
AUTHORITY TO REPRESENT US IN COURT IN THE CONSTITUTIONAL  
PETITION**

NO.	NAME	CONTACT	ID NO.	SIGNATURE
1.	HASSAN BIDAHI	0791282187	25912738	<del>Hassan P.</del>
2.	MUSSEIN SULEIMAN	0706925861	26859242	<del>Musseini</del>
3.	MUSA GATRO HUKA	0724926400	30729500	Musa
4.	YUSSUF BORU			
5.	MOHAMED GARGARO	0705567485	24390995	<del>Gargaro</del>
6.	ALI ABKOLA			
7.	OSMAN TAROLE			
9.	HASSAN GUTO	0726685433	26055596	<del>Hassan</del>
10.	AISHA ALI	0797920033	8889718	Aisha
11.	RUUKIA SALADO	0723809346	9855605	Ruukia
12.	Mohamednur Adan		39691515	Mohamednur
13.	Ali Adan Diba		30758838	<del>Ali</del>
14.	Zertung Musa Haka	0792177347	<del>30729500</del>	Zertung
15.	RUFU GOLLO	070529500	0009095	Rufu
16.	HAWAN GOLLO	0742270781	29826595	<del>Hawan</del>
17.	HASHIM BORU	0790224801	29831078	<del>Hashim</del>
18.	ABDI ABHAN JELE	0701116912	28690566	<del>Abdi</del>
19.	ABDIRAHMAN HASSAN	0704725828	35359778	<del>Abdi</del>
20.	ABDIRAHMAN KARATO	074895689	36871428	<del>Abdi</del>
21.	IBRAHIM GUTO	0700127037	25219369	<del>Ibrahim</del>
22.	OSMAN GURA	0703439733	21080393	OSMAN 07
23.	ABDUBA JIRMA	0727836463		
24.	AHAMED A FAYO	0720353765	0007971	<del>Ahmed</del>
25.	MOHAMED BURE	0719384564	0009457	<del>Mohamed</del>
26.	JATTANI ALI GUTO		4225265	
27.	NURIA JARSO	0796863652		<del>Nuria</del>
28.	RASHID ALI	0728827372	28460920	<del>Rashid</del>
29.	ADAN GUYO ALI	0703	2829710	<del>Adan</del>
30.	DABASO ADAN	0797920043	26031883	<del>Dabaso</del>
33.	ABDI RACHA			
34.	ADAN DIBA	0723807704	1090519	<del>Adan</del>
35.	TULLU WAKO	0717705039	28458347	<del>Tullu</del>
36.	calthumalcanawo	0793824822	36871954	<del>Calthumal</del>
37.	ORGE KARATO	0743609358		<del>Orge</del>
38.				
39.				





Our Ref: CAJ/ISL/M.IGC/062/042/21 -KWK  
Your Ref: TBA

11<sup>th</sup> June 2021

The County Commissioner  
Isiolo County  
**ISILOLO**

Dear Sir

This is the exhibit marked "A03."  
referred to in the annexed Affidavit  
of ABDI RAHMAN OSMAN SWORN  
before me this 27<sup>th</sup> day of SEP 2021

J  
Commissioner for Oaths

**RE: COMPLAINT BY CHERAB COMMUNITY AGAINST THE OFFICE OF THE  
DEPUTY COUNTY COMMISSIONER, MERTI SUB-COUNTY**

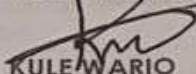
The Commission is in receipt of the above-captioned matter. The Complainant alleges that the above office through the Deputy County Commissioner (DCC) Merti- Sub County, is meddling in the issue of community land even though his office lacks mandate.

Further, the Complainants contend that they are greatly aggrieved by the decision of the said officer to hold a mediation meeting between the Community and officials of Northern Rangelands Trust (NRT). The Community stand which is known to the said DCC is that they are not interested in establishing conservancy until such a time they register their land as per the provisions of the Community Land Act.

We note with concern the myriad of complaints brought to our attention against the administrative officers in Merti -Sub County concerning their involvement in the community land matters. We trust your good office to address the complaint without further delay.

Nonetheless, we have carefully examined the complaint and we are of the considered view that your office is best placed to handle it. In this regard, we hereby refer it to you for your further appropriate action.

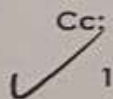
Yours sincerely



KULE WARIO

FOR: THE COMMISSION SECRETARY

Cc;



1. Abdirahman Osman

0728738270





This is the exhibit marked "AD4" referred to in the annexed Affidavit of ABDIRAHMAN OSMAN sworn before me this 27<sup>th</sup> day of SEP 2021  
Commissioner for Oaths

**NATIONAL LAND COMMISSION**

**NLC COUNTY COORDINATION OFFICE - ISIOLO**  
P O Box 204 - 60300, ISIOLO.

**REF: NLC/ISL/CC/CORR.7/VOL 1/052**  
**2021**

**14<sup>th</sup> June**

The Office of Ombudsman,  
Isiolo County

**RE: COMPLAINTS BY ABDIRAHMAN OSMAN AGAINST THE NORTHER**  
**RANGELAND TRUST (NRT)**

Your letter ref; **CAJ/ISL/M.IGC/062/041/21-KWK** dated 26<sup>th</sup> May 2021 refers.

This is to inform you that after consultation with the **office of the county commissioner of Isiolo**, on 27<sup>th</sup> May 2021, I was advised that the process has since been suspended until the community is properly sensitized, and approve of the initiatives.

*With kind regards*

**MR. Paul N. Kasimbu**  
**NLC coordinator- Isiolo**



THE PRESIDENCY  
MINISTRY OF INTERIOR & CO-ORDINATION OF  
NATIONAL GOVERNMENT

Telegrams 'DISTRICTER'  
Merti  
Telephone: Isiolo 064 -52011  
mertidcc@yahoo.com  
Fax :064 - 52160  
*When replying please quote*  
REF:ST/1/35/18



OFFICE OF THE DEPUTY  
COUNTY COMMISSIONER,  
MERTI SUB-COUNTY,  
P.O. BOX 3 - 60300,  
**ISIOLO.**

DATE: 31<sup>ST</sup> MAY, 2021

The Hon. Tom Lalampaa  
Chief Executive Officer  
Northern Rangeland Trust  
Private Bag  
Isiolo  
Email: tom.lalampaa@nrt-kenya.org

This is the exhibit marked \* A05  
referred to in the annexed Affidavit  
of ABDI RAHMAN OMAN SWORN  
before me this 27<sup>TH</sup> day of SEP 2021  
  
Commissioner for Oaths

**RE: PROPOSED CHERAB COMMUNITY CONSERVANCY**

The above captioned subject matter refers.  
Reference is made to our earlier letter Ref. ST-1/35/16 dated 19<sup>th</sup> May, 2021, and ST-1/35/17 dated 29<sup>th</sup> May, 2021.

Following complaints by a section of Merti residents of non-inclusion in the community engagement on the above proposed Conservancy, this office has scheduled a meeting on Friday 4<sup>th</sup> of June, 2021 at the office of the undersigned with a view to bringing both parties to amicably resolve the issue. You are kindly requested to send a team from your office to participate in the same. The meeting is scheduled to start at 9:00 a.m.

I take this opportunity to sincerely thank your organization for the support accorded to this office on matters of security and promise to continue with the partnership for the benefit of the great people of Merti Sub-County. By copy of this letter all Assistant County Commissioners and chiefs Merti Sub-County are advised to fully support officers from your organization.  
Thank you.

**S. M. BAGANA**  
DEPUTY COUNTY COMMISSIONER  
MERTI SUB-COUNTY



**Copy to:**

1. County Commissioner Isiolo
2. All ACC's Merti Sub-County
3. All Chiefs Merti Sub-County

# THE PRESIDENCY

## MINISTRY OF INTERIOR & CO-ORDINATION OF NATIONAL GOVERNMENT

This is the exhibit marked - A-05 D  
referred to in the annexed Affidavit  
of ABDIRAHMAN OSMAN SWORN  
before me this 27<sup>th</sup> day of SEP 2021  
Commissioner for Oaths

Telegrams 'DISTRICTER' Merti  
Telephone: Isiolo 064 -52011  
mertidc@yahoo.com  
Fax :064 - 52160  
*When replying please quote*



OFFICE OF THE DEPUTY  
COUNTY COMMISSIONER,  
MERTI SUB-COUNTY,  
P.O. BOX 3 - 60300,  
**ISIOLO.**

REF:ST 1/35/16

DATE:19<sup>th</sup> may 2021.

CHIEF EXECUTIVE OFFICER,  
NRT.

**RE: COMPLAIN OVER CONSERVANCY ESTABLISHMENT AT MERTI CHERAB  
WARD -MERTI.**

This office would wish to address your office concerning the underlined subject as follows:

- A) On 6<sup>th</sup> day of May 2021 a delegation of people comprising of
1. Abdirahman Osman
  2. Sheik hassan Duba
  3. Guracha Fugicha
  4. Godana Guyo
  5. Ismail huka
  6. Abdi adi
  7. Guyo Godana
  8. Gufu Kampicha
  9. Adan Tanu
  10. Halkano Diba
  11. Galgalo S. Matoye
  12. Mustafa G.Shunu.

Came to the office of the Deputy County Commissioner Merti Sub County to lodge their dissatisfaction about the proposed establishment of Cherab Conservancy citing several reasons including in proper public participation, wider consultation and land grabbing among the other issues.

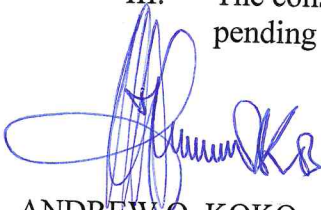
- B) On 17<sup>th</sup> day of May 2020 the same group appeared before OCS Merti Police station requesting for permission for peaceful demonstration as an indication of their rejection to the establishment of Cherab Ward Conservancy. The permission was not granted on the ground that it may interfere with Covid 19 protocol.
- C) On 18<sup>th</sup> day of May 2019, the same people submitted a memorandum signed by more than 120 people (copy attached) to this office entailing reasons why they are not ready to own the proposed project as its presence in the areas will jeopardize their dominant economic activity. (pastoralism).

#### FINDINGS

- The office of the Deputy County Commissioner has established that two parallel groups have emerged i.e. The proposing group and opposing group which has led to high tension in Merti.
- Certain group of youths have been mobilized to attack and burn the NRT vehicles in the area whenever they are seen.
- The Chiefs in Merti are highly blamed for supporting the establishment of the Conservancy. Some have been threatened by the opposing group.

In view of the foregoing factors, and in consideration of unity of Merti people, peace and security of every one in the Sub County, in consultation with various stake holders, this office has resolve as follows:

- I. The NRT to revise their approach and come up with inclusive and participatory approach that can be accommodated by all in Merti.
- II. The Chiefs are hereby requested to withdraw their engagement with matters touching conservancy in order to avoid blames and division among the people.
- III. The conservancy establishment process in Cherab Ward be temporarily halted pending wider consultation between the NRT and the Borana Community.



ANDREW O. KOKO  
FOR/DEPUTY COUNTY COMMISSIONER  
**MERTI SUB-COUNTY**

Cc:

1. COUNTY COMMISSIONER  
ISIOLO.
2. JAMIA MOSQUE.
3. ALL CHIEFS IN MERTI SUB COUNTY.



This is the exhibit marked "A06"  
referred to in the annexed Affidavit  
of ABU DHAMAN DSIYAN SWORN  
before me this 27<sup>th</sup> day of April 2021  
Commissioner for Oaths

---

## KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

---

### ADVISORY ON THE ISIOLO COUNTY COMMUNITY CONSERVANCIES BILL, 2021

PRESENTED TO

THE COUNTY ASSEMBLY OF ISIOLO

---

SUBMISSION DATE: 21<sup>ST</sup> APRIL 2021

Kenya National Commission on Human Rights (KNCHR)  
CVS Plaza 1st Floor, Kasuku Lane, Off Lenana Road,  
P.O. Box: 74359-00200 Nairobi, Kenya  
Landline: +254-020-3969000  
Mobile: 0733 78 00 00 /0726 610 159  
Whats App: 0798 849 871  
General Enquiries: [haki@knchr.org](mailto:haki@knchr.org)  
Complaints: [complaint@knchr.org](mailto:complaint@knchr.org)  
SMS: 22359  
Twitter: @hakiKNCHR

## **A. INTRODUCTION**

1. The Kenya National Commission on Human Rights (KNCHR), is an independent National Human Rights Institution established under Article 59 of the Constitution of the Constitution of Kenya, 2010 and operationalized under the Kenya National Commission on Human Rights Act 2011.<sup>1</sup> It is the successor to the Kenya National Commission on Human Rights established in 2003 under the Kenya National Commission on Human Rights Act 2002.<sup>2</sup> KNCHR has a broad mandate to promote a culture of respect for human rights in Kenya. The operations of the National Human Rights Commission are guided by the United Nations Paris Principles on the establishment and functioning of Independent National Human Rights Institutions commonly referred to as the Paris Principles.
2. The National Commission is mandated under Article 249 to secure observance by all state organs of democratic values and principles and to promote constitutionalism. Article 10 of the Constitution requires all state organs to ensure they uphold constitutionalism and the rule of law whenever they make public policy decisions or interpret the Constitution. One of the strategies pursued by the National Commission to secure observance by all state organs of democratic values and principles is through the issuance of advisories. It is in this regard that the KNCHR issues this advisory on the Isiolo County Conservancies Bill, 2021.

## **B. BACKGROUND**

3. Since the early 2000s, there has been upsurge of conservancies across the pastoral Counties of Baringo, Samburu, Turkana, Pokot, Laikipia, Isiolo, Marsabit and Garissa. This has seen rise in the involvement of communities, and especially those inhabiting wildlife dispersal areas in the national conservation program. This was inspired by the

---

<sup>1</sup> Act No 14 of 2011 available at <http://www.kenyalaw.org/lex//actview.xql?actid=No.%2014%20of%202011>

<sup>2</sup> Act No 9 of 2002 (repealed). The History of the institution however dates further back in 1996 when the then His Excellency President Moi set up a Standing Committee on Human Rights (SCHR) vide a gazette notice of June 1996.

need to preserve ecosystems and wildlife habitats that happen to be on lands owned and held by local communities.

4. The expansion of community based conservancies across Northern Kenya are driven by huge funding from foreign private and governmental agencies. However, a number of challenges have arisen, which are attributed partly by the sheer size of the geographical area under 'community conservation' and the application of a single conservation model across a region that has diverse ethnicity, geographically and ecologically varied terrains.
5. The community-based conservancies have greatly affected pastoralists' access to resources, their security, land rights, representation, their cultures and heritage. It is also important to consider that Northern Kenya is a region characterized by proliferation of small arms as documented by a number of Small arms surveys. It is also characterized by official neglect from the successive governments and occasional inter-community conflicts that are mainly driven by competition for resources and which worsen whenever there are droughts. Recently though the region has seen unprecedented expansion of infrastructure and an upsurge of conservation and tourism activities. This has resulted in loss of grazing land and wildlife habitats. In Isiolo county, the development of a resort city, construction of an airport as part of the Lamu Port South Sudan Ethiopia Transport (LAPPSET) project and 'growth area' have all increased land prices and escalated speculation and subdivision as investors seek to benefit.
6. Community model conservancies were entrenched in law following the enactment of the Wildlife Conservation and Management Act in 2013. Community model conservancies were championed by a group of conservation NGOs and personalities who state that 70% of Kenya's wildlife is found outside national parks and reserves



and that the survival of protected areas largely depended on the preservation of vast habitats and lands held by communities and private land owners.<sup>3</sup>

7. The biggest proponent of this model across these pastoral Counties is the Northern Rangelands Trust (NRT)<sup>4</sup>, an organization founded in 2004 and which is greatly funded by a number of European countries and the United States as well as international NGOs such as The Nature Conservancy (TNC) and private trust. As a result, the NRT has managed to set up a consortium of 39 conservancies across Northern and Coastal regions that cover a whopping 44,000 square kilometers or over 10 million hectares (i.e. about 8% of total land surface in Kenya).
8. These conservancies are mainly in remote places where the government has little or no footprint. The NRT has been trying to fill the void by altering and adding to its initial conservation mandate a number of activities including security, prevention of cattle rustling, meeting the needs of the communities and livestock marketing. However, there have been a lot of complaints from the indigenous communities who accuse NRT of violating their community land rights and fundamental human rights. They fault the organization of inspiring and facilitating inter-community conflicts and increasingly imposing restrictions on how members of communities exploit the natural resources found in their lands.
9. These conservancies are mainly in remote places where the Kenya government has little or no footprint. The NRT has been trying to fill the void by altering and adding to its initial conservation mandate a number of activities including security, prevention of cattle rustling, meeting the needs of the communities and livestock marketing. However, there have been a lot of complaints from the indigenous communities who

---

<sup>3</sup> Wildlife Heritage Ownership and Utilization in Kenya – the past, present and the future accessed at [https://www.jstor.org/stable/j.ctt1gxpc6.15?seq=5#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/j.ctt1gxpc6.15?seq=5#metadata_info_tab_contents)

<sup>4</sup> A private limited company, limited by shares with nominal share capital of 2,000. The company was registered in 2009 under the Companies Act.

accuse NRT of violating their community land rights and fundamental human rights and freedoms. They fault the organization of inspiring and facilitating inter-community conflicts and increasingly imposing restrictions on how members of communities exploit the natural resources found in their lands.

10. Intense conflicts between NRT, its agents and the local communities led to the expulsion of NRT from Turkana County with the County Government taking over the management of community conservancies. A similar conflict between NRT, community conservancies and the indigenous community led to **KTL ELC PET.NO.7/2020 in the case of John Ngimor & 554 others vs Northern Rangelands Trusts & 3 Others** before Environment and Land Court at Kitale.
11. The learned judge found that the petition raises a substantial question of law as set out in the Constitution and thus issued conservatory orders<sup>5</sup> to halt all actions by NRT and its agents as their actions if allowed to continue would cause irreparable loss to the indigenous communities in as far as their management and administration of their land is concerned.
12. There are eight conservancies<sup>6</sup> that are controlled and managed by NRT in Isiolo County. There have been bitter conflicts between NRT and local communities where these conservancies are based. A case in point is Biliqo-Bulesa conservancy where NRT was accused of committing egregious human rights violations against the communities for the refusal to establish a conservancy on their community lands.

---

<sup>5</sup> <http://kenyalaw.org/caselaw/cases/view/210119/>

<sup>6</sup> Nakuprat-Gotu Conservancy, Biliqo Bulesa Conservancy, Nasuulu Community Conservancy, Leparua Community Conservancy, Nannapa Conservancy (Oldonyiro), Nanapisho Conservancy (Oldonyiro), Naapu Conservancy (Oldonyiro) and Narupa Conservancy (Oldonyiro)



13. The indigenous communities have accused NRT of using undue influence within the national security, National Government Administration Organs and establishments of Isiolo County Government to frustrate the desire by the community to hold any meetings to deliberate on whether to continue with the conservancy or not.
14. The NRT has never engaged the indigenous community in the establishment of conservancies in the County. The actions of delineating and annexing off huge tracts of community land for private wildlife conservation without seeking the free prior informed consent of community members through adequate public participation; this is said to have caused tension due to the impending eviction of community members from their ancestral land. It is alleged that some incidents of insecurity have occurred due to massive eviction of people, who have been pushed to the Isiolo-Samburu border by the NRT and its agents activities in community land.
15. The indigenous communities are apprehensive that their constitutional rights and freedoms are breached as areas delineated by NRT and its agents lie on their cultural and religious sites<sup>7</sup>. The communities are also concerned by increased human–wildlife conflicts and continuous loss of their grazing lands.

### **C. GENERAL COMMENTS**

16. The principal object of this Bill is to provide for the operationalization of Wildlife Conservation and Management Act, 2013 in Isiolo County, establishment of Isiolo County Community Wildlife Conservancies Board, conservancies fund, establishment and recognition of community conservancies in the County. This will provide a

---

<sup>7</sup> NRT unilaterally identified and embarked on the construction of five tourist camps on cultural, religious and other significant areas of Charri Rangeland (Balballa Camp, Maddo Gurba Huqqa, Sabarwawa, Nyaacisa, Kuro-Bisaan Owwo).

framework for sustainable community land use by community wildlife conservancies as well as generate revenue for Isiolo County.

17. The Bill in its current state does not conform to the letter and spirit of the Community Land Act, The Wildlife Conservation and Management Act 2013 and the Constitution of Kenya 2010 as discussed hereunder;

**a. Role of the County Government**

18. The Constitution of Kenya 2010 under Article 61 (2) classifies all Land in Kenya into three categories; Public land, Private land and Community Land. The Constitution further provides under **Articles 63 (3)** that **any unregistered community land shall be held in trust by County governments on behalf of the communities for which it is held**. It was with this in mind that Parliament enacted the Community Land Act 2016 and the Community Land Regulations 2017 so as to provide recognition, protection and registration of community land rights as well as enable each community to manage and administer their community land interests.
19. The role of the County Government in so far as it relates to unregistered Community land is clearly elucidated under Section 6 of the Community land Act. Section 6 (1) of the Community Land Act which states that County governments shall hold in trust all unregistered community land on behalf of the communities for which it is held.
20. Article 63 (3) of the Constitution provides that any unregistered community land shall be held in trust by county governments on behalf of the communities for which it is held. Of importance is Section 6 (8) Community Land Act which states that **“A county government shall not sell, dispose, transfer, convert for private purposes or in any other way dispose of any unregistered community land that it is holding in trust on behalf of the communities for which it is held”**. Upon reading this provision and when doing a comparison of what the Bill intends or purports to achieve, then it becomes clear that the Bill contravenes the intent of Community Land Act.
21. The Bill is clearly giving the County Government of Isiolo a right to dispose of by alienation a certain unspecified part of community land without due process. These actions are illegal and unconstitutional since the County Government intends to act

in ultra vires of its powers. It is also important to argue in the same line of reasoning that the County Assembly of Isiolo cannot and does not possess powers to amend the provisions of the Constitution or an Act of parliament.

22. While The Community Land Act, the Community Land Regulations and the Wildlife Conservation and Management Act have given powers to the respective Communities insofar as it relates to the management and administration of their land, the proposed Bill intends to claw back these gains through illegal and unprocedural means which is in contravention of **Sections 6, 15, 17, 19, 20, 28, 29, 30, 31, 35, 36 and 37** of the Community Land Act. It further contravenes **Section 31, 39, 42 and 70** of the Wildlife Conservation and Management Act.

23. Pillar 3.1 of the National Action Plan on Business and Human Rights provides that States have the primary obligation to protect against human rights abuses within their jurisdiction and territory. Pillar 1 of the United Nations Guiding Principles on Business and Human Rights clarifies that this obligation includes protecting against human rights abuses by third parties such as businesses. In this case, the county government has the duty to protect and promote human rights; ensure due diligence and due processes are followed.

#### **b. Establishment of Community Conservancies**

24. The Bill proposes to vest powers to establish community conservancies with the County Government; that the County Government can achieve this through consultation with the County Wildlife Conservation Committee, the Kenya Wildlife Service and other relevant stakeholders. This is notwithstanding the fact that Section 29 of the Community Land Act grants powers to the Community to reserve special purpose areas inter alia

- a) Farming areas,
- b) Settlement areas
- c) Community conservation areas
- d) Access and rights of way

25. While there is no definition of the word ‘conservation’ in the Bill or the Wildlife Conservation and Management Act 2013, the latter makes reference to ‘conservation area and defines the same as **"conservation area" means a tract of land, lake or sea with notable environmental, natural features, biological diversity, cultural heritage, or historical importance that is protected by law against undesirable changes;**

**c. Community engagement**

26. Lack of indigenous community engagements during the establishment of Community conservancies by NRT and the County Government has been challenged in **KTL ELC PET.NO.7/2020 in the case of John Ngimor & 554 others vs Northern Rangelands Trusts & 3 Others** before Environment and Land Court at Kitale.

27. The learned judge found that the petition raises a substantial question of law as set out in the Constitution and thus issued conservatory orders<sup>8</sup> to halt all actions by NRT and its agents as their actions if allowed to continue would cause irreparable loss to the indigenous communities in as far as their management and administration of their land is concerned.

28. In addition to being silent on the process that leads to establishment of community conservancies, this Bill contravenes the principle of “community centrality” in matters Community land. The Bill in its entirety has isolated the Community and seems to donate powers ordinarily meant for the community to the County Government. The essence of the Community Land Act is to confer powers to the Community insofar as community land is concerned.

29. Moreover **Section 4** of the Community Land Act provides recognition, protection and registration of community land rights and these rights are vested with the Community. This section is further corroborated by **Section 13** which states that a registered community may by a resolution of the majority members of that community in a general meeting, reserve a portion of the community land for

---

<sup>8</sup> <http://kenyalaw.org/caselaw/cases/view/210119/>

communal purposes. **Section 21** of the Community Land Act provides for conversion of community land to either private or public land hence places the Community at the heart of the process and as such any conversion of community land cannot be achieved without the ratification of Community Assembly as set out in the Act.

30. The County Government then cannot through the Bill purport to establish community conservancies on behalf of the communities living in Isiolo without involvement of the Community.
31. The role that County Governments play in community is limited to only holding the unregistered land in trust of the community and offer administrative support in areas such as recognition and adjudication of community land, documenting, mapping and developing of the inventory of community land with the consultation of the Cabinet Secretary responsible for land matters. The Act emphasizes that these administrative processes ought to be transparent, cost effective and participatory.
32. Other instances where the Bill grossly undermines **Section 15 of Community Land Act which provides critical role of community** in administration of community land (which includes establishment of conservancies) is depicted in the following Clauses;
  - i. **Clause 12 of the Bill** purports to regulate community conservancies without involvement of the members of the Community;
  - ii. **Clause 13 and 16 of the Bill** demonstrate blatant interference of the County government and immense powers the County have with respect to appointment of members of the Isiolo County Community Conservancies Board and the functions and powers of the Board respectively.
  - iii. **Clause 13** provides that the Chairperson of the Board is an appointee of the Governor. The other members such as representative of the wildlife conservancies associations in the county, a representative of the youth, representative of women and representative of persons with disabilities are to be appointed by the CEC responsible for community conservancies in consultation with the Governor. The appointment of these persons is a craven attempt by the County Government to demonstrate participatory process but the same offends the import of **Section**

**15** of the Community Land which grants the Community Land and Management Committee powers to inter alia manage and administer registered community land on behalf of the respective community.

## D. SPECIFIC COMMENTS

Without prejudice to the final recommendations by the Commission in the subsequent section, the Commission has identified the following additional gaps in the proposed legislation.

No.	Clause and Title	Proposed Amendment	Rationale
1.	Clause 2 – Interpretation	<p>Clause 2 assigns Community the meaning under section 3 (1) of the Wildlife Conservation and Management Act, 2013. This is however not broad enough to take care of community interests and rights in land.</p> <p>The Commission proposes that the definition of community in the bill need to be aligned with the definition under Community Land Act, 2016.</p>	<p>To align it with Section 2 of the Community Land Act, 2016 which has a broad definition of community that takes into account issues of common ancestry; similar culture or unique mode of livelihood; socio-economic or other similar common interest; geographical space; ecological space; or ethnicity. This enhances legislative clarity and applicability.</p>
2.	Clause 2 – Interpretation	<p>Clause 5 (1) provides mentions County Wildlife Conservation Committee although it is not clear where it is anchored/defined.</p> <p>The Commission proposes that County Wildlife Conservation Committee be properly defined under Clause 2 as the Committee established under Section 7 (c) of the Wildlife Conservation and Management Act, 2013.</p>	<p>To properly define terms used and align with existing legislation.</p>
3.	Clause 5 (1)- Establishment of Community Conservancies	<p>The Clause provides that the County Government may in consultation with the County Wildlife Conservation Committee, the Kenya Wildlife Service and other relevant conservation partners facilitate the establishment of</p>	<p>Community participation is not only paramount but also recognized as proprietors with rights under Section 17 of the Community Land Act, 2016.</p>

		<p>Conservancies <u>as a measure of land use for communities</u> within the County.</p> <p>The Commission recommends that such consultation ought to take bottom-up approach, first with the communities within which conservancies are to be created.</p>	
4.	Clause 7- Community Participation	<p>The Clause provides that the County shall ensure community participation in the establishment of community conservancies. However, it does not outline key considerations when undertaking community participation.</p> <p>The Commission is of the view that the Bill need to provide clear guidelines that will govern community participation.</p> <p>Community participation provided under clause 7 is inadequate and it needs to be fleshed out to ensure meaningful participation by communities and adherence to this principle.</p>	To align with the <a href="#">County Public Participation Guidelines</a> , 2016 jointly developed by the Ministry of Devolution and Planning and Council of Governors.
5.	Clause 12-Regulation of community conservancies	<p>Clause 12 (4) provides for matters that the CECM need to make regulations on.</p> <p>The Commission proposes that the prescribed conservancy licence fees referred under clause 12 (2) be also provided in the regulations to be prescribed by the CECM under clause 12 (4) of the Bill.</p>	
6.	Clause 14 (1)- Composition of the Board	<p>The Commission proposes that the composition of the Board be revised to be not more than nine (9) members.</p>	To align with the Mwongozo Guidelines.



		The membership is too heavy on the county government officials. There is need for more representation by communities. This can be done by having more than one member of the highlighted community groups	
7.	Clause 14 (1)	<p>The Clause does not provide for qualifications of a person to be appointed as Board's chair.</p> <p>Commission recommends that the Bill need to provide for the qualifications of the person to be appointed as the Chairperson of the County Community Conservancies Board.</p>	Having clear qualifications based on merit would minimise chances of the appointing authority to reward perceived political proponents.
8.	Clause 14 (2)	<p>The Clause provides that members of the Board representing the youth, women and persons living disability shall to be appointed by the CEC responsible for community conservancies in consultation with the Governor.</p> <p>This would be considered as an express exercise of powers between two people (the Governor and CEC) and prone to abuse.</p> <p>The Commission proposes that in appointing the Board members under Clause 14 (1) (b), (c), (d) and (e), the CEC shall consult with the respective community conservancies and not the Governor.</p>	There is need to ensure that communities have a stake as proprietors of community land and that they could choose to exercise their rights directly as provided in the Community Land Act, 2016.
9.	Schedule 1 (3)	The Clause as currently phrased implies that it is only the Board's chairperson and ex officio member who have no formal removal procedure and that other members of the Board may be removed by the CECM on various grounds.	To provide for uniformity in legislative application.

		The Commission proposes that the clause be amended to provide for circumstances for removal from office of all Board's members and not just selected members.	
10.	Schedule 1 (3) (b) (v)	<p>The Clause provides that the CECM may remove a member of the Board other than the Chairperson and the <i>Ex-officio</i> members on account of one being <u>incapacitated by prolonged physical or mental illness</u>.</p> <p>The Commission proposes deletion of the sub-clause in its entirety.</p>	Mental illness is classified as a disability by the World Health Organization and thus removal from office on account of prolonged physical or mental illness is discriminatory towards persons with disabilities and a violation of Articles 27 (4) and 54 of the Constitution.

## **E. CONCLUSION**

33. The Commission recommends that the Assembly halts any further debate on the Bill until the land is registered under the Community Land Act.
34. The Commission recommends that the Assembly halts further debate on the Bill until wider and more consultations including with the affected communities be carried out.
35. The County Assembly mandate to legislate over this Bill is ousted since they lack jurisdiction to establish community conservancies as that right lies with the community as stipulated under Section 29 of the Community Land Act. Moreover, as it is, the process of registering Community land in the County has not begun in earnest and so it is unfathomable why there is a rush by the County Assembly to enact the instant Bill.
36. The apparent conflict of this Bill with National Legislation principally the Community Land Act in which case by dint of Article 191 of the Constitution, the CLA prevails.

Yours Sincerely

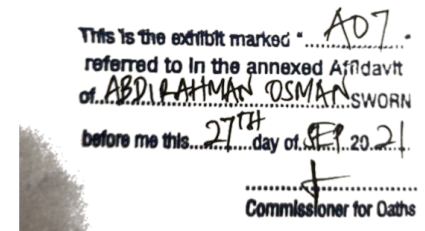
**Kinyanjui Thuo, Regional Coordinator**

**North Eastern Regional office**

**PETITION AGAINST FORCEFUL ESTABLISHMENTS AND OPERATIONS OF CONSERVANCIES BY NORTHERN RANGELAND TRUST LIMITED IN CHERAB WARD, MERTI SUB-COUNTY, ISIOLO COUNTY.**

PETITION TO:

1. THE NATIONAL LAND COMMISSION
2. MINISTRY OF LANDS AND PHYSICAL PLANNING



WE, the undersigned, Citizens of Kenya and the residents of Merti Sub-County, Cherab ward of Isiolo County within the Republic of Kenya

DRAW your attention to the following:

**A. BACKGROUND**

1. Since the early 2000s, there has been upsurge of conservancies across the pastoral Counties of Baringo, Samburu, Turkana, Pokot, Laikipia, Isiolo, Marsabit and Garissa. This has seen rise in the involvement of communities, and especially those inhabiting wildlife dispersal areas in the national conservation program. This was inspired by the need to preserve ecosystems and wildlife habitats that happen to be on lands owned and held by local communities.
2. The expansion of community based conservancies across Northern Kenya are driven by huge funding from foreign private and governmental agencies. However, a number of challenges have arisen, which are attributed partly by the sheer size of the geographical area under 'community conservation' and the application of a single conservation model across a region that has diverse ethnicity, geographically and ecologically varied terrains.
3. The community-based conservations have greatly affected pastoralists' access to resources, their security, land rights, representation, their cultures and heritage. It is also important to consider that Northern Kenya is a region characterized by proliferation of small arms as documented by a number of Small arms surveys. It is also characterized by official neglect from the successive governments and occasional inter-community conflicts that are mainly driven by competition for resources and which worsen whenever there are droughts. Recently though the region has seen unprecedented expansion of infrastructure and an upsurge of conservation and tourism activities. This has resulted in loss of grazing land and wildlife habitats. In Isiolo county, the development of a resort city, construction of an airport as part of the Lamu Port South Sudan Ethiopia Transport (LAPPSET) project and 'growth area' have all increased land prices and escalated speculation and subdivision as investors seek to benefit.

**PETITION AGAINST FORCEFUL ESTABLISHMENTS AND OPERATIONS OF CONSERVANCIES BY NORTHERN RANGELAND TRUST LIMITED IN CHERAB WARD, MERTI SUB-COUNTY, ISIOLO COUNTY.**

4. The biggest proponent of this model across these pastoral Counties is the Northern Rangelands Trust (NRT)<sup>1</sup>, an organization founded in 2004 and which is greatly funded by a number of European countries and the United States as well as international NGOs such as The Nature Conservancy (TNC) and private trust. As a result, the NRT has managed to set up a consortium of 39 conservancies across Northern and Coastal regions that cover a whopping 44,000 square kilometers or over 10 million hectares (i.e. about 8% of total land surface in Kenya).
5. These conservancies are mainly in remote places where the Kenya government has little or no footprint. The NRT has been trying to fill the void by altering and adding to its initial conservation mandate a number of activities including security, prevention of cattle rustling, meeting the needs of the communities and livestock marketing. However, there have been a lot of complaints from the indigenous communities who accuse NRT of violating their community land rights and fundamental human rights and freedoms. They fault the organization of inspiring and facilitating inter-community conflicts and increasingly imposing restrictions on how members of communities exploit the natural resources found in their lands.
6. Intense conflicts between NRT, its agents and the local communities led to the expulsion of NRT from Turkana County with the County Government taking over the management of community conservancies. A similar conflict between NRT, community conservancies and the indigenous community led to **KTL ELC PET.NO.7/2020 in the case of John Ngimor & 554 others vs Northern Rangelands Trusts & 3 Others** before Environment and Land Court at Kitale.
7. The learned judge found that the petition raises a substantial question of law as set out in the Constitution and thus issued conservatory orders<sup>2</sup> to halt all actions by NRT and its agents as their actions if allowed to continue would cause irreparable loss to the indigenous communities in as far as their management and administration of their land is concerned.
8. There are eight conservancies<sup>3</sup> that are controlled and managed by NRT in Isiolo

---

<sup>1</sup> A private limited company, limited by shares with nominal share capital of 2,000. The company was registered in 2009 under the Companies Act.

<sup>2</sup> <http://kenyalaw.org/caselaw/cases/view/210119/>

<sup>3</sup> Nakuprat-Gotu Conservancy, Biliqo Bulesa Conservancy, Nasuulu Community Conservancy, Leparua

## PETITION AGAINST FORCEFUL ESTABLISHMENTS AND OPERATIONS OF CONSERVANCIES BY NORTHERN RANGELAND TRUST LIMITED IN CHERAB WARD, MERTI SUB-COUNTY, ISIOLO COUNTY.

County. There have been bitter conflicts between NRT and local communities where these conservancies are based. A case in point is Biliqo-Bulesa conservancy in Chari ward of Merti Sub-County where NRT was accused of committing egregious human rights violations against the communities for the refusal to establish a conservancy on their community lands.

9. The indigenous communities in areas where NRT has conservancies accuse NRT of using undue influence within the national security, National Government Administration Organs and establishments of Isiolo County Government to frustrate the desire by the community to register their land and further hold meetings to deliberate on NRT issue.

### B. COMMUNITY GRIEVANCES/ISSUES

1. The Constitution of Kenya 2010 under Article 61 (2) classifies all Land in Kenya into three categories; Public land, Private land and Community Land. The Constitution further provides under **Articles 63 (3)** that **any unregistered community land shall be held in trust by County governments on behalf of the communities for which it is held**. It was with this in mind that Parliament enacted the Community Land Act 2016 and the Community Land Regulations 2017 so as to provide recognition, protection and registration of community land rights as well as enable each community to manage and administer their community land interests.
2. In 2021, there has been an ongoing push by NRT for the establishments of conservancies in Cherab ward of Merti Sub-County.
3. The Northern Rangeland Trust's (NRT) desire to grab more parcels of community land have been extended to Cherab ward after its unending community conflicts in neighboring Chari ward of Merti sub County.

---

Community Conservancy, Nannapa Conservancy (Oldonyiro), Nanapisho Conservancy (Oldonyiro), Naapu Conservancy (Oldonyiro) and Narupa Conservancy (Oldonyiro)

**PETITION AGAINST FORCEFUL ESTABLISHMENTS AND OPERATIONS OF CONSERVANCIES BY NORTHERN RANGELAND TRUST LIMITED IN CHERAB WARD, MERTI SUB-COUNTY, ISIOLO COUNTY.**

4. That the community is aware of NRT's plan through the area chiefs and their committees to establish conservancy boards to the exclusion of the entire community. The community is central to matters that touch on community land as provided for under the Community Land Act. This therefore offends the principle of community centrality to any issues with regards to the community land.
5. The NRT's actions in establishing conservancies in Cherab ward without seeking the free prior informed consent of community members through adequate public participation amounts to forceful, illegal delineation and annexation of community land.
6. That as has been the NRT's *modus operandi*, the NRT engaged the community through the national government administrative organs and the security apparatus. This is a carefully and calculated move by NRT who have been using undue influence within the same national security and National Government Administration Organs to harass, threaten and intimidate the indigenous community into submission.
7. That the national government administrative organs have been using its chiefs to zealously push NRT's land agenda within the community. The chiefs have been in turn using the community peace committees to forcefully push the community into submission. There has been cases of threats, harassment and intimidation by chiefs in various locations where NRT's land agenda is being pushed. A case in point is where Malka Galla location chief threatened community members opposed to NRT to move away from his location while threatening others with arrests and prosecutions.
8. The chiefs' role in allocation of community land to private entities such as NRT is *ultra vires* and illegal. Chiefs are not custodian of community land and therefore cannot purport to engage in allocations of community land.

**PETITION AGAINST FORCEFUL ESTABLISHMENTS AND OPERATIONS OF CONSERVANCIES BY NORTHERN RANGELAND TRUST LIMITED IN CHERAB WARD, MERTI SUB-COUNTY, ISIOLO COUNTY.**

9. That the Merti Sub-County community is in the process of registering its community land as provided for under the Constitution of Kenya, Community Land Act 2016 and Community Land Regulations 2017.
10. The current push for the establishments of more conservancies in the ward therefore seeks to defeat the ongoing processes of community land registration by the community. This is because registration of community land will grant the community absolute ownership to its land to the exclusion of external parties such as NRT.
11. The community have every right to free prior and informed consent over NRT's push for conservancies. The actions of NRT in using the national government administrative organs who have in turn been using the local peace committees to push down NRT's land agenda by force violates the right to free prior and informed consent.
12. Further, the community is aware of Isiolo County Community Conservation Bill, 2021 before Isiolo County Assembly sponsored by NRT. The community fully acknowledges and identifies itself with the position taken by the Kenya National Commission on Human Rights on the impugned Bill.
13. That the Merti community in Cherab are peace loving and have been living harmoniously. As in norm, the NRT's entrance into Cherab have begun disrupting this critical community structures setting up the chiefs and their small cliques against the larger community. Further, NRT and its agents have been strategically creating tensions within Merti Sub County residents by forming pro & anti- NRT camps, and thus thriving in conflict to achieve its sole purpose of grabbing community land.
14. While the community appreciates its close and fruitful working relationship with the national government administrative organs and the security apparatus in Merti Sub-County over the years, the entry of NRT in Merti and its use/misuse of the national government administrative organs and the security apparatus against the same community is set to disrupt this relationship.
15. That egregious cases of human rights violations such as extra judicial killings and



**PETITION AGAINST FORCEFUL ESTABLISHMENTS AND OPERATIONS OF CONSERVANCIES BY NORTHERN RANGELAND TRUST LIMITED IN CHERAB WARD, MERTI SUB-COUNTY, ISIOLO COUNTY.**

enforced disappearances have been on the rise in various grazing areas and watering points across Chari and Cherab rangelands. The community suspects that this is a well calculated move by the infamous NRT's Special Forces nine one (9'1) and militias targeting those with dissenting voices against NRT's operations. With the impending community rejections of NRT in Cherab, the community fears that several of its members and elders will be targeted by NRT.

16. The indigenous communities are apprehensive that their constitutional rights and freedoms are breached as areas delineated by NRT and its agents lie on their cultural and religious sites<sup>4</sup>. The communities are also concerned by increased human-wildlife conflicts and continuous loss of their grazing lands.
17. THAT prior to this petition, the community in its meeting on 8<sup>th</sup> May 2021 sent a delegation of over thirty elders to the Merti Deputy County Commissioner and shared their grievances with him.
18. The issues in respect of which the petition is made are not pending before any court of law or other constitutional or legal body;

**C. THEREFORE, your humble Petitioners PRAY that:-**

- a) THAT this Petition be dealt with immediately in view of the urgency of this matter.
- b) THAT any activities, operations by NRT and its agents such as the chiefs and their committees must be stopped immediately within Cherab ward.
- c) THAT the National Land Commission investigates the Northern Rangelands Trust's involvement in community land matters in Merti Sub-County and remedy its illegal delineation of community lands.
- d) THAT the County Commissioner immediately stops the involvement of the

---

<sup>4</sup> NRT unilaterally identified and embarked on the construction of five tourist camps on cultural, religious and other significant areas of Charri Rangeland (Baballa Camp, Maddo Gurba Huqqa, Sabarwawa, Nyaacisa, Kuro-Bisaan Owwo).

**PETITION AGAINST FORCEFUL ESTABLISHMENTS AND OPERATIONS OF CONSERVANCIES BY NORTHERN RANGELAND TRUST LIMITED IN CHERAB WARD, MERTI SUB-COUNTY, ISIOLO COUNTY.**

National Government Administrative Organs and security apparatus in their involvement in the affairs of NRT and community land matters in Cherab ward and Merti Sub-County.

- e) THAT the community's position is that NRT has no iota of right with regards to community land in Cherab ward. Therefore NRT's engagement of area chiefs, their peace committees does not in any way represent the position of the community.
- f) THAT the County Commissioner issues stern warning to all chiefs in Cherab and their respective peace committees against any involvement and/or purported allocations of community land to NRT or any entities.
- g) THAT the County Commissioner should take note that the community does not recognize one Mohamed abduba who purports to be the chair of the peace committee and cannot in any way work with him on any matters. Mohamed Abduba is chief puppet used by the NRT in delineating the community land.
- h) THAT the Senate committee on Lands, Environment and Natural resources urgently investigates the involvement of NRT in grabbing community land and thus depriving off the indigenous community off their ancestral land.
- i) That the National Assembly departmental committee on land investigates the actions of NRT in Merti Sub-County and its involvement in resource conflicts in the area
- j) That the National Assembly departmental committee on Administration and National Security investigates the cases of enforced disappearances and extra judicial executions committed by NRT in Chari ward, Merti Sub-County.
- k) That both Committees (the Senate and the National Assembly) make their report public

**PETITION AGAINST FORCEFUL ESTABLISHMENTS AND OPERATIONS OF  
CONSERVANCIES BY NORTHERN RANGELAND TRUST LIMITED IN CHERAB WARD,  
MERTI SUB-COUNTY, ISIOLO COUNTY.**

And your petitioners will ever pray.

**Petitioned and dated at Nairobi this 14<sup>th</sup> day of May, 2021**

PETITION AGAINST FORCEFUL ESTABLISHMENTS AND OPERATIONS OF  
CONSERVANCIES BY NORTHERN RANGELAND TRUST LIMITED IN CHERAB WARD,  
MERTI SUB-COUNTY, ISIOLO COUNTY.

Names	Municipality	ID.No.	Sign
1 HASSAN ABKULA	Salenge	0185882	
2 Mohamed A. Juma	Shauri Yako	24430746	
3 ABDI ABKULA SOKO	OLA GAINA	25847346	
4 GODANA HASSAN	M.F.	8986386	
5 ISACK KUAKO JILLO	TAPWA	8053662	
6 RASHID OTHMAN	TOWN	24458210	
7 ABDINOR Ibrahim	M/Salenge	—	
8 ABDIRASHID GURI	SHAMBOLE	0364462	
9 ABDI ADAN	Shambole	31297417	
10 NUH JILLO	Shambole	29889475	
11 Mohamed Kanchoro	Shambole	29063474	
12 Hussein Hassan	Kiwayani	31601309	
13 Roba Wario	TOWN	2962423	
14 KOSAR ALI	Kiwayani	26689625	
15 MR SAID WARIO	TAPWA	32934096	
16 Sheikh Hassan Gollo	O. G	3658417	
17 Ibrahim Roba	M/Shambole	2441529	
18 ISACK HASSAN	Town	28482451	
19 Salak Galdesa	Town	25711166	
20 Yussuf bodaya	Shambole	20079483	
21 ABDI Guyo	Shauri Yako	22240483	
22 David Ali	Town	24398390	
23 Idnis Sheikh Rundo	Shauri Yako	070446160	
24 KOSAR Guyo	Basa	00762476	
25 BORU Galgalo	Shauri Yako	0008662	
26 GULISE Huka	Jania	1090059	
27 WARIO Bala	Ganna	12542064	
28 Balaaso Galdesa	M/Salenge	4856374	
29 ADAN Jillo	M/South	3362488	
30 HALKANO DIBA	TAPWA	6160003	
31 DAUD BRAHIM	Shambole	787380	
32 Abdulkali Aokicha	TAPWA	1127057	
33 Farso Dini	KAMBITU		
34 GALGALO S. MARIYE	TAPWA		
35 Juma Kanchoro			

PETITION AGAINST FORCEFUL ESTABLISHMENTS AND OPERATIONS OF  
CONSERVANCIES BY NORTHERN RANGELAND TRUST LIMITED IN CHERAB WARD,  
MERTI SUB-COUNTY, ISIOLO COUNTY.

	NAME'S	MOMATIA	ID NO	
36	Mohamed Godana Tano	Quba	9855560	<del>Sinter</del>
37	Haikano Gelge Lo	<del>Ola Gana</del>	<del>1090185</del>	<del>1105</del>
38	Kura Bima	Shabole	<del>07013201</del>	
39	Abdirahman Mohamed	Shambola	0921093473	
40	Abdi Diba	Ola Gana	8889473	
41	Mohamed Gombore	Shaurigalo	3463577	
42	Abdiaziz Dokata	Shaurigalo		
43	DAWID AGOLE	Al Qusa		
44	Godane Guyo	sekene	11275062	
45	Abdi Golicha	Ola Gana	25004334	
46	Jumale Kanchoro	Taqwa	27864271	
47	Abdulkarim Hassan	Jamia	23739817	
48	ROBA JILLO	Shambola	0009793	
49	Abdi Abdi	Jamia	12502492	
50	Godana Jittani	Ives palda		
51	Wako Duba Kinto	Jamia	0011228	
52	GURATA Fugita	Taqwa		
53	Rashid Tache	Taqwa		
54	Ibrahim Dida	Taqwa		
55	Boru Idotola	Taqwa		
56	Hassan Duba	Jamia	13867480	
57	ABDIRAHMAN Osman	Towfiq	21102769	
58	DOKATA Shuru	Jamia	0008751	
59	Godana Wako	Ola Gana		
60	Guyo Sillo	Ola Gana	0009692	
61	ALI SALESY	Shaurigalo	0507202	
62	Ola Guyo	Shaurigalo		
63	Ahmed Dido Ehere	Taqwa	0923824	
64	Abdi Guyo	Taqwa	2576658	
65	Jamaa Buks Silad	Jamia	A	



PETITION AGAINST FORCEFUL ESTABLISHMENTS AND OPERATIONS OF CONSERVANCIES BY NORTHERN RANGELAND TRUST LIMITED IN CHERAB WARD, MERTI SUB-COUNTY, ISIOLO COUNTY.

June Jillo Roba	0746438164	35359795	22
DAUD JIRMA DUBA	0707785604	25776356	<del>22</del>
	0769282314	36181107	
Ibrahim Abdulahi Jirma	0719514272	35488718	FAJ
Joe Tupo	0769282314	36181107	
Adm Wanko Duba	0712910504	24413834	81
Abdirizack Kulo	0742923806	35331661	<del>22</del>
Mohamed Isack	0769037760	32934012	<del>22</del>
Ali Abdi	0114420838	34893077	ALI
Wako Huka	0705269721		Wako
YUSUF WAKO	0725919249	307157214	Wako
Mohamed WAKHU	0791530350	30741077	<del>22</del>
Abdulkakim KERE	0748149068	36201075	AK
Asha Adan DIDA	0717649730	24391514	<del>22</del>
Liban Bw Gohin	0716753710	31711084	<del>22</del>
GUYO WAKRIO GUYO	0702629781	8735487	<del>22</del>
MOHAMED A. Jirma	0721751300	24030746	<del>22</del>
Abdi JARSO	0702220	5649	<del>22</del>
Halakhe Ibrahim	0745727986	36429761	<del>22</del>
Abdirizack Abdulhadi	070888052	28464217	<del>22</del>
Ali Gohin Dilo	0705269400		ALI
ABDIRIZAK HASSAN JATIAN	0757314817	38849182	<del>22</del>
Ali DABARO Gohin	0744176851		<del>22</del>
SALAD ALI	0113585475	39351620	<del>22</del>
Mohamed Guyo	0711696297	24334583	<del>22</del>
Abas dimg	0728729973	29889330	<del>22</del>
ABDI ABDULLAH	0791088531	26887291	<del>22</del>
HUSSEIN BORU DADACHA	0726019502	29817688	<del>22</del>
ABDULRAHMAN HASSAN JATIAN	0710962913	34297812	<del>22</del>
WAKO IBRAHIM DUBA	0728388359	28774502	<del>22</del>
Molla Gudang	0770347507	20453879	<del>22</del>
Halakhe Jirma DABARO	0702970632	0009535	<del>22</del>
SAID ABDI HUSSEIN	0741174270	36429722	SAID

PETITION AGAINST FORCEFUL ESTABLISHMENTS AND OPERATIONS OF  
CONSERVANCIES BY NORTHERN RANGELAND TRUST LIMITED IN CHERAB WARD,  
MERTI SUB-COUNTY, ISIOLO COUNTY.



P.O Box 38878 – 00100  
Nairobi, Kenya  
Tel: +254721677145  
+254733208337  
Email: makaka@lawyer.com  
jacklinekiramana@gmail.com



Makaka & Kiramana Advocates

Bruce House  
11<sup>th</sup> Floor, South Wing  
Suite 1101  
Standard Street.  
Nairobi

Our Ref: CC/IM/CL<sub>1</sub>

Your Ref: TBA

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

THE CEO  
NATIONAL LAND COMMISSION  
NAIROBI

Sir/Madam

This is the exhibit marked "A076"  
referred to in the annexed Affidavit  
of ABDI RAHMAN OSMAN SWORN  
before me this 27<sup>th</sup> day of June 2021  
Commissioner for Oaths



**Re: PETITION AGAINST FORCEFUL ESTABLISHMENT AND OPERATION OF CONSERVANCIES  
BY THE NOTHERN RANGELAND TRUST LIMITED (NRT) IN CHARI WARD & CHERAB WARD,  
MERTI SUB-COUNTY, ISIOLO COUNTY**

The above matter refers. Further reference is drawn to the Petition presented to you by the community members of Chari ward and Cherab ward dated 14<sup>th</sup> May, 2021, relating to the same matter.

We act for the said Community, petitioning as such, who have instructed us herein to follow up on the said petition lodged with you dated 14<sup>th</sup> May, 2021. *(A copy of the same is herewith attached, for ease of reference.)*

The source of the dispute is the community lands in Chari & Cherab wards, upon which the Northern Rangeland Trust has established a conservancy in Chari, they are continuously utilizing the lands by constructing Rangers' camps in Biliqo Marara, Babala and Kom areas without consulting the community therein. The Community and its leaders have often been intimidated and harassed at the behest of the Northern Rangeland Trust.

The Commission, under Article 67 (e) of the Constitution of Kenya, 2010 is the constitutionally mandated body to initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress. Vide the letter dated 14<sup>th</sup> June, 2021 *(Copy attached herewith for ease of reference)* the National Land Commission Isiolo County Coordinator responded to a complaint letter and petitions by our Clients. His response was however unsatisfactory and does not in any way address the substantive issues raised in the letter and the Petition.

Our instructions are that the community is apprehensive that the county coordinator's response did not answer to the needs of the community, in his response, he states '...after consultation with the office of the county commissioner of Isiolo on 27<sup>th</sup> May, 2021, I was advised that the process has since been suspended until the community is properly sensitized and approve of the initiatives...' *(see copy of the letter attached herewith)*

To this end the community has not been sensitized or involved in any dealings of the community land and reliable information holds that the NRT is still actively advising its agents and/or representatives to register a community based organization (CBO) Cherab Community Conservancy and further advertising for various positions, to this extent, our instructions are that the letter by the National Land Commission



county coordinator Isiolo does not answer to the question presented and does not reflect the position on ground.

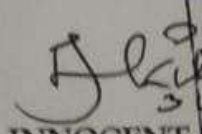
Further it is our client's contention that the issuance of 2 land cruiser vehicles to the CBO by NRT shows their desire to establish a conservancy against the will of the community.

We therefore invite the Commission to look into the petition urgently and give its position on the matter through an advisory; we believe this will offer redress as petitioned for, so as to protect the community from the ongoing injustices and disenfranchisement occasioned by the Northern Rangelands Trust.

Kindly provide us with an advisory opinion on the status of the land and a response to the petition for us to be able to offer adequate advise to our clients on the best way forward.

We would be grateful if you would assist as requested and we remain forever grateful.

Yours Sincerely

  
MAKAKA & KIRAMANA  
ADVOCATES  
P.O. BOX 38878 - 00100  
INNOCENT MAKAKA NAIROBI  
FOR: MAKAKA & KIRAMANA ADVOCATES

CC: Clients

# VACANCY

This is the exhibit marked "A08" referred to in the annexed Affidavit of ABDRAHMAN DUSMAN SWORN before me this 27<sup>TH</sup> day of SEP 2021

CHERAB  
COMMUNITY

Commissioner for Oaths

## CHERAB COMMUNITY DRIVER

Cherab Community is under the membership Northern Rangelands Trust. The Northern Rangelands Trust (NRT) a non-profit umbrella organisation that supports 40 member Community Conservancies across northern and coastal Kenya with fundraising, technical support, governance advice and training, and security. Its mission is to develop resilient community conservancies that transform lives, secure peace and conserve natural resources. It is a non-governmental organization headquartered in Lewa Wildlife Conservancy, Meru County. More information can be found at [www.nrt-kenya.org](http://www.nrt-kenya.org).

### Purpose of the Position

Reporting to the Manager, the driver will have the overall responsibility of offering both administrative and logistical support to the Cherab Community to help in achieving set targets and objectives. Specifically, the driver will be required to:

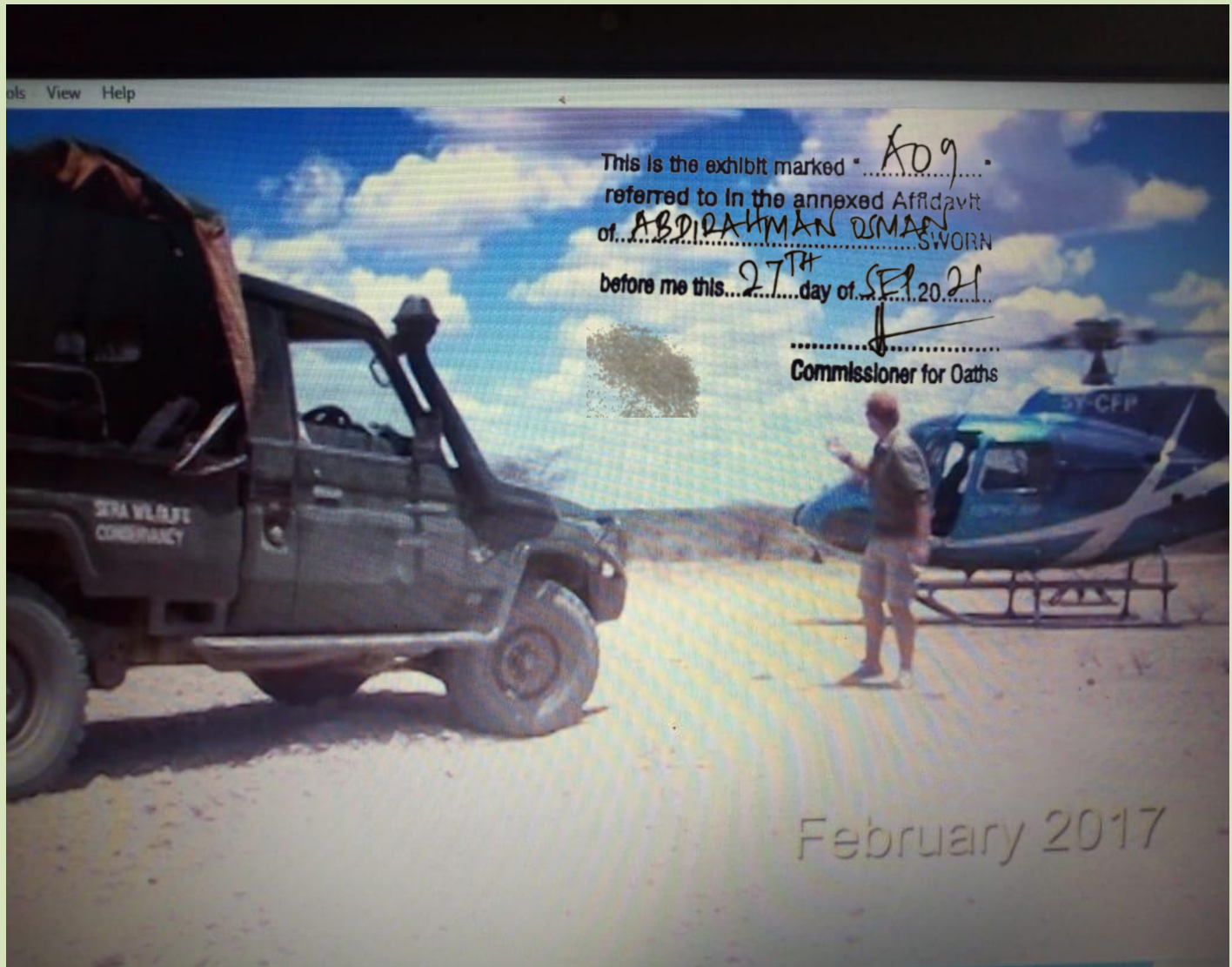
- Provide logistical support to all community activities such as wildlife conservation, livestock programs, security operations and other community development programs.
- Driving team members to and from their activities as assigned.
- Ensuring proper maintenance of vehicles and tools assigned to them.
- Ensuring safety of passengers/property in the vehicle.
- Ensuring that valid road licenses are in place.
- Have thorough understanding of motor vehicle engine functionality
- The driver should be competent at checking the vehicle for problems & performing pre/post journey maintenance tasks
- Ensuring full compliance to the traffic laws, regulations and code.
- Promoting positive corporate image of the Trust.
- Performing any other duties as may be assigned from time to time by the conservancy management.
- Proper recording of mileage booklet.

### The ideal candidate should be:

- Holder of a "BCED" class with PSV certificate.
- Possess over five years post training experience
- Holder of a KCSE D+ or O-Level certificate
- Have excellent communication skills
- Physically fit and emotionally resilient
- Willing to work longer hours and in remote areas of operation
- Honest, team player and one who enjoys community work.
- Mechanics training will be an added advantage.



**PETITION AGAINST CONTINUED DONOR SUPPORT TO THE  
NORTHERN RANGELANDS TRUST OVER SERIOUS VIOLATION OF  
HUMAN RIGHTS IN SAMBURU, ISIOLO & MARSABIT COUNTIES**



Petition Prepared Jointly by Elders and Professionals from Samburu & Borana  
Communities

April 21, 2020

## **To All NRT Donors**

### **PETITION AGAINST CONTINUED DONOR SUPPORT TO THE NORTHERN RANGELANDS TRUST OVER SERIOUS VIOLATION OF HUMAN RIGHTS IN SAMBURU, ISIOLO & MARSABIT COUNTIES**

We, the undersigned, being elders and professionals from Samburu, Isiolo and Marsabit counties, send our compliments to you, your organisation and the government and the people of your countries.

Acting on behalf of the communities who own the vast land that constitute the community wildlife conservancies in the three Counties; in full cognizant of the Constitution and the relevant Laws of Kenya; in recognition of your Governments' and/or organization's continued economic partnership with the people and the government of Kenya, and fully aware of the implications of what we have set out to do, we hereby petition you to formally withdraw the financial support you offer each year to the Northern Rangelands Trust (NRT). Our petition is occasioned by the fact that your financial support has enabled NRT to continually involve itself in serious violation of human rights of the people inhabiting the conservancies and who are, by law, the rightful owners of the land and the other resources there.

As we detail below in the appendices, our petition was precipitated by the fact that NRT operations within the Northern region, and which are financially supported by your organization and/or government, has led to the following:

- Killings of a number of people by the specialized ranger units trained and armed by the NRT. This includes the killing of Mzee Letenewa Lempatu who was killed in Kipsinit area of Isiolo. Before he was killed, Mzee Lempatu was accompanied by his son as the two were taking care of livestock. The son managed to escape and was later interviewed by Jeff Lekupe, a videographer who has produced a documentary detailing the criminal activities NRT has been involved in (*we will supply you with a copy of the documentary*). The young man told Lekupe that the rangers who killed his father were coordinated by NRT's air wing and that shortly before his father was killed, he saw an NRT aeroplane that was hovering over the area. This was confirmed by local women who also said that they saw the helicopter. Lempatu's body was left in the bush where it was partially eaten by hyenas as can be seen in Lekupe's documentary;

- Injuries to people following gun attacks by NRT rangers. This includes the shooting of Lekushula in April 2019. Lekushula is a 19 year-old Samburu man and a Secondary school graduate from Kaaga Boys High School in Meru who was shot in Oldonyiro area. When interviewed by Lekupe, he said that he was initially shot by rangers on the leg and that after he fell, the rangers shot him on the hips and left him to die. But luckily, he was rescued by other herders five hours after he was shot and taken to hospital;
- Incitement and promotion of inter-community tension and animosity which have occasionally degenerated into conflicts and subsequently caused preventable deaths of people. For instance, following the incorporation of the Il-Ngwesi people's lands into the Il-Ngwesi Conservancy, the community has been in conflict with Samburus who have always used part of the land to graze big herds of livestock and particularly during the dry seasons. The NRT, which was instrumental in the formation of the conservancy, has always supported the Il-Ngwesi community's bid to have the land fenced so as to prevent the Samburu from grazing their livestock there. But Samburus have opposed to this and prefer to have the land open so that they can graze their animals as they have always done in the past. The conflict has lingered over a long period but escalated in early March 2020 leading to the killing of homeguards. Although the conflict was precipitated by the formation of the conservancy, NRT has all along managed to keep the goings on under lid;
- Over-militarization of conservation in a region with a significant challenge of proliferation of small arms worsening the security scenario. NRT has continued to adopt a militarized, fortress conservation model that has led to suppression of local people's rights. So far, NRT has managed to suppress complaints by ordinary people by promotion of the interests of a few influential members of the communities such as top elders and politicians. The organisation has also mounted an elaborate public relations exercise which has kept the voices and concerns of the people unheard;
- NRT's operations (which are now in over 44,000 square kilometers or 8% of Kenya's total land area) in our lands are not properly anchored in Law. Although NRT is a registered body, there is no law in Kenya that can guide its operations and how it relates with communities and how the conservancies it has so far caused to be started can be managed. NRT, which acts as a broker body, has therefore continued to use its own discretion which has created a worrisome scenario;

- Although as communities we have their own indigenous resource management systems, the organisation has total disregard of our traditional resource management systems, norms and conservation ethics;
- Unforgivable violation of land rights of the communities, as well as other forms of malpractices the organization has been involved in since it launched conservancies in the three counties. For instance, in the vast Melako, Songa and Jardessa/Sagante conservancies of Marsabit, the NRT has appointed grazing coordinators whose main work is to ensure that pastoralists do not move with their livestock more than nine kilometers from their homes. This is enforced by armed rangers who have been beating up those who do not comply with the regulation. This has greatly disrupted livestock production pattern in the conservancies and annoyed owners who move their vast herds to get pastures and water and to prevent accumulation of pests such as ticks in this otherwise dry region. As professionals and elders, we are greatly perturbed by what NRT has been doing because it not only violates the right of the people to their land and to freedom of movement. NRT does not have powers to do so neither are its actions legal ;
- Usurpation of the cardinal security roles ordinarily played by governments. We wish to inform you that NRT is currently involved in security operations which are conducted by its specialized ranger units. The organization goes to great lengths to hide this from donors. Usually, it allows donor representatives to inspect guards of honour mounted by its unarmed ranger units. The aim has been to hoodwink donors that its rangers are unarmed game scouts. But as the photos in ANNEX 3 and video evidence collected by Lekupe clearly shows, the NRT rangers are highly-trained paramilitary units that carry out operations while fully armed which are coordinated by aircrafts through ground-to-air communication. What we find unsettling about NRT's security arrangements in the conservancies, is that there is evidently a thin line between the roles of conservancy security funded by NRT vis-à-vis state government security personnel because the former are well trained and equipped with sophisticated weapons by the organization and have been handling roles that are legally the preserve of the police, the Kenya Wildlife Service and the county administrations. In most other countries, NGOs, such as the NRT, are not allowed to have weapons or to conduct operations that are violent and coercive in nature;
- In line with its publicized agenda of 'giving back to the community', the organisation formed the NRT Trading (NRTT), a social for-profit enterprise it fully owns. According to reports, NRTT's vision is to 'build sustainable businesses' and resilient commercial



activity across northern Kenya, and thereby improve the economic status of households and communities besides providing commercial revenue to conservancies. But we are unsure how this has been 'building of sustainable businesses and commercial activity' especially when we consider that the prices NRT offers for our livestock are much lower than we can get in the market. At the same time, NRT usually buys off our livestock when we, as pastoralists, are most vulnerable during droughts, fattens the animals in private ranches only to sell them at exorbitant prices later. It has thus been taking advantage of the vulnerability of local communities;

- As representatives of the communities, we are upset and alarmed by NRT's operations in our lands as it has pitted conservation against the pursuit of our livelihoods. We are at a loss on why conservation, as pursued by NRT, is in competition and conflict with our pastoralist way of life and why it has taken the additional mandate of buying and selling our cattle. We are suspicious that NRT wants to eventually reduce livestock numbers so much so that it can prime the vast lands for other uses. At the same time, we are no longer sure whether NRT is a conservation body or is more about venturing into the beef market;
- NRT pursuance of a militarized, fortress conservation model has continued to alienate, rather than embrace community needs and aspirations. On paper, the organisation paints a rosy picture of how its conservation activities cater for the needs of the people and how it addresses itself to the wishes of the pastoralist communities. However, apart from a few token projects that are greatly publicized, a great number of community needs not only remain unmet but communities are increasingly finding that they cannot access part of their land for water, grazing and other needs as happens in Sierra Conservancy following the erection of a perimeter fence to protect rhinos.

**NB**

***The full extent of NRT's criminality, illegalities and malpractices are detailed in the ANNEXES attached herewith.***

We believe that your continued support to NRT operations enhances its ability to violate our rights and continue in its criminal activities. At the same time, this puts your organization and/or government into disrepute as you stand been accused of giving financial support to criminal activities and other forms of illegalities in Kenya. We also believe that your organisation and/or government is not keen to be associated with an NGO that utilizes donor funds to acquire firearms and to usurp the state's fundamental roles of providing peace and security in all parts of the country. It is incumbent on your organisation to totally disassociate itself with NRT.

We also wish to inform you that in 2019, the Borana Council of Elders, Waso Professionals, elected leaders and other community representatives in Isiolo County, unanimously resolved that NRT should halt all its operations in Biliqo-Buleesa and Gotu-Nakurpat Community Conservancies and that it should vacate the County. But rather than abide with this requirement, NRT embarked on compromising government officials and some of our representatives. It also influenced the harassment of some of the people opposed to its operations besides engaging in an elaborate image-mending campaign that included influencing the setting up of a taskforce by the Isiolo Governor and appointing a community liaison officer, Elizabeth Leitoro, ostensibly to repair its relationship with communities. However, we wish to let everyone know that this is a resolution the relevant groups are not willing to go back on.

What we find most annoying is that in its operations, NRT has completely blacked out our indigenous resource management and governance systems. Allow us to mention that most communities in northern Kenya have sustained, for hundreds of years, their own indigenous resource governance mechanisms which are more appropriate and engender sustainability. This includes the Dedha Resource Management System of the Borana community that is highly appropriate and effective in the management of pastures, water and other resources as it caters for the needs of wildlife, livestock and the people.

NRT has not only totally ignored this system but has failed to acknowledge or utilise in its operation in Isiolo and Marsabit Counties. Instead of working through such institutions as the Dedha Elders Council, NRT has appointed conservancy managers, security scouts and members of the conservancy boards who have effectively taken over the decision-making roles that were the preserve of the elders. The latter now wield largely unchecked power in the conservancies and are backed by local political leaders who are mainly at the beck and call of NRT.

In addition, we wish to let you know that although NRT has employed an elaborate public relations campaign aimed at making everyone believe that it is up to some good and that its operations are necessary in the region, we consider its activities as some unpleasant interference in the way we manage our land. We strongly believe that together with the National government and the relevant County governments, local communities have the institutional framework not only for resolving occasional resource-based inter-community disputes but also how to collectively manage and use our land and other resources.

Lastly, we are also willing and ready to make formal presentations of our dispute with the NRT.



Thank you Sir/Madam.

Yours Sincerely,  
Samburu and Borana Elders & Professionals

**cc:**

1. Danish Ambassador –Nairobi
2. USAID-Nairobi
3. European Union Mission
4. British High Commission
5. Canadian High Commission
6. The Royal Netherlands Embassy
7. Belgium Embassy –Nairobi
8. German Embassy –Nairobi
9. European Parliament -Belgium
10. CS Internal Security Ministry ;
11. PA Internal Security Ministry;
12. Isiolo Governor
13. Senator –Isiolo County
14. Women Representative –Isiolo County
15. Nominated
16. Isiolo County Commissioner
17. OCPD Isiolo
18. Member of Parliament (Isiolo North)
19. Member of Parliament (Isiolo South)
20. Speaker, Isiolo County Assembly,
21. Chief Executive, Northern Rangelands Trust

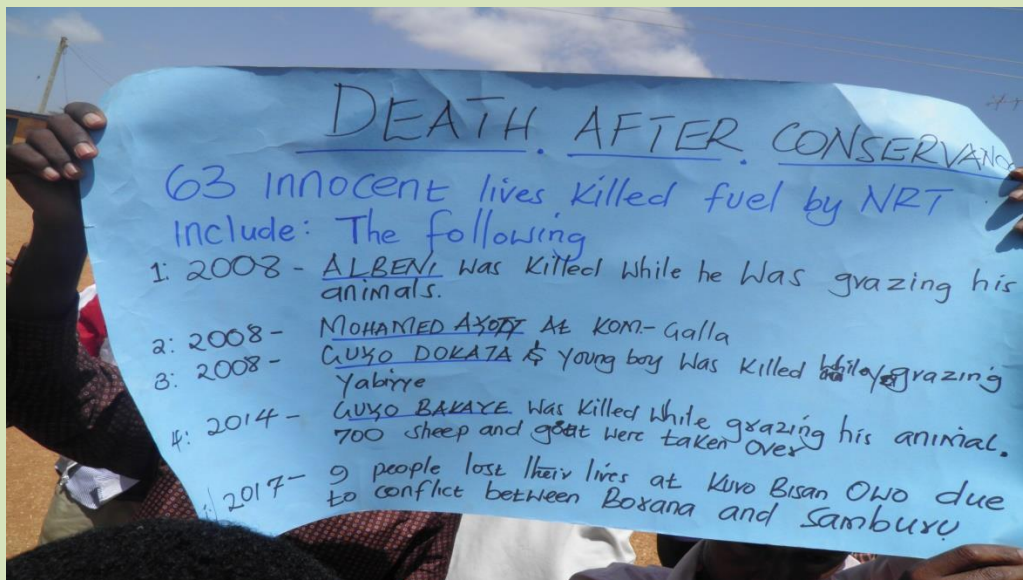
Signed

[illegible]

## Annex 1: Killings by NRT Rangers in Isiolo



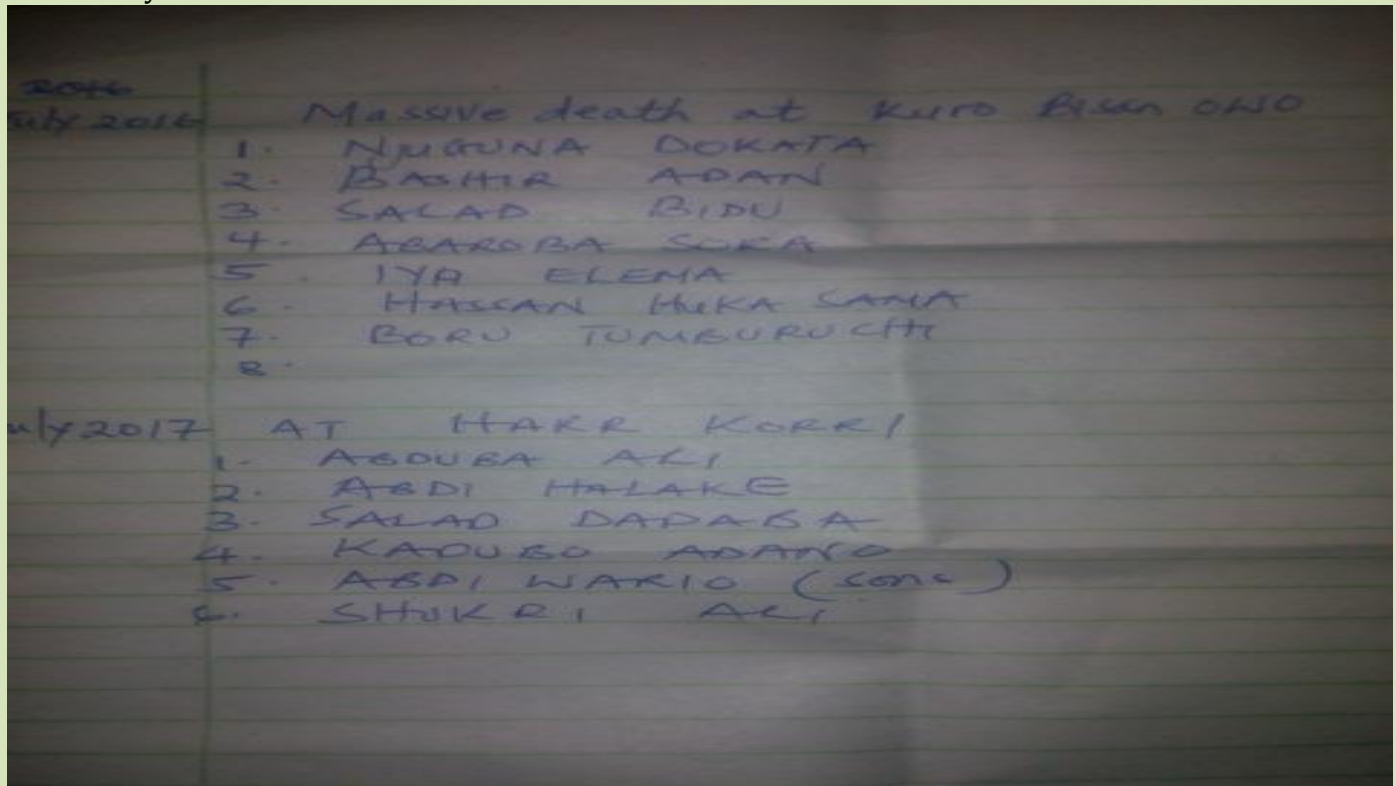
**Asha Happi**, the 45 year-old widow whose husband, Ali Noor Ali, was killed during a raid by Samburu Morans in 2014. This happened at Lososia area in Isiolo North. Together with 21 other herders, Ali had taken his livestock far away from home and was staying at a *manyatta* owned by Chief Abdi Yattani. During the raid, the heavily armed Samburu attackers were allegedly assisted by highly trained rangers from the NRT. They carried out the raid very early in the morning and killed 6 people including Ali. They also stole over 4,800 heads of cattle and a lot of camels. Since her husband was killed, Happi has not received any help from the elected leaders or the government and neither has any government official visited her to inquire what happened. Today, the widow finds it extremely difficult to take care of the couple's 7 children. Some of the children are no longer in school because she does not have any means of earning an income. Today, she relies on members of her clan, relatives and friends who gave her a few heads of cattle, sheep and goats to keep her going. She is hopeful that with time the livestock will increase in number and that she will sell some to pay school fees for her two children who are still in school.



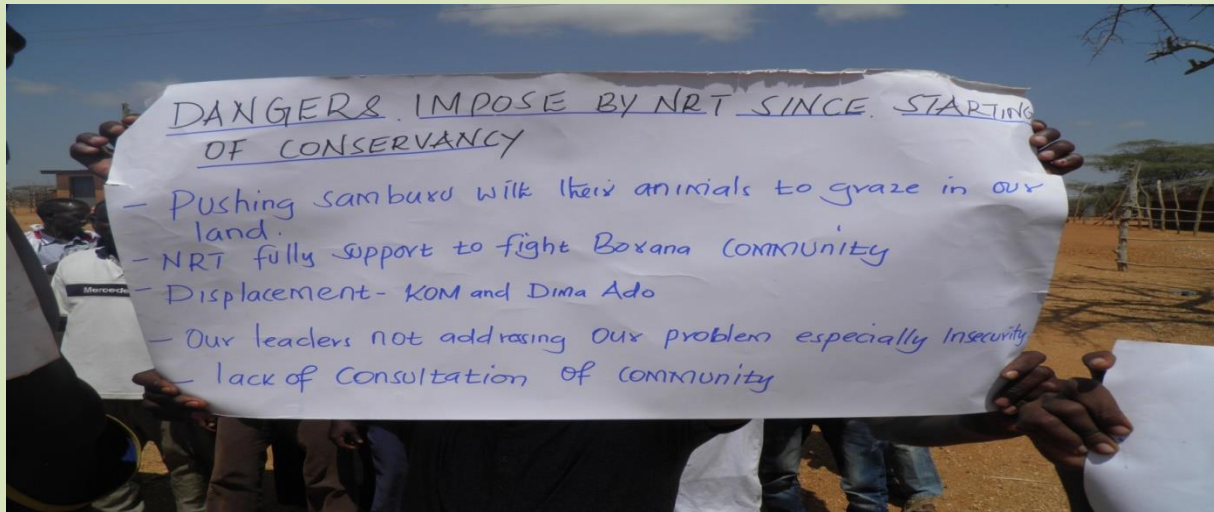
*A man holding a placard during anti-NRT demonstration in Biliqo-Bulesa Conservancy, Isiolo County*

We have evidence to show that the NRT has continued to cause conflict, resentment towards conservation through the killings done by its rangers during security operations that are fully supported by donors. The organisation has continued to pit communities against each other and fuels proxy conflicts which we suspect are aimed at displacing local population from the land it eyes to use to generate huge amounts of cash from the global carbon credit schemes and from donors. For instance, in 2019, the organisation influenced the withdrawal of guns held by homeguards who earlier defended the Borana community in Isiolo. In addition, since the Biliqo-Buleesa Conservancy was formed, NRT has incited nine inter-community raids during which some 70 people were killed and thousands of livestock stolen. Past officials of the conservancy board and other community members have made a list of the people killed and say that the killers were assisted by the specially-trained NRT rangers who travelled there in NRT-branded vehicles (*see list below*).

**List of people killed in Biliqo-Buleesa Conservancy following NRT's Instigation of inter-community conflict**



## ANNEX 2: NRT's Violation of Community's Land Rights



*A community member displays a placard with accusations against the NRT in a demonstration held in Biliqo-Bulesa Conservancy, Isiolo*

In Kenya, communities are defined as consciously distinct and organized groups of land users who are citizens of the country sharing common ancestry, similar culture, language and/or unique mode of livelihood. The administration and management of community lands is provided for by the *Community Land Act*. The Act gives pastoral communities a legal framework to govern their land with full recognition of their ancestral heritage and unique governance and livelihoods systems. It recognizes, protects and provides for the following:

- Registration of community land rights;
- Administration and management of such lands;
- Titling and conversion of community land;
- Management of environment and natural resources on community land. It states that that natural resources found in community land shall be managed “sustainably and productively for the benefit of the whole community including future generations; with transparency and accountability; and on the basis of equitable sharing of accruing benefits”;
- Resolution of disputes over community land rights; and,
- It accommodates the customs and practices of pastoral communities relating to land by providing for their registration as long as they are consistent with the Act and other applicable law. In particular, it says that community land in a pastoral area shall be available for use by members of the community for grazing of their livestock.

Although this piece of legislation became part of Kenyan law in 2016 and was meant to give effect to the provisions of the Constitution on community land, the process of developing Regulations for its implementation have taken a long time. There is a lingering belief that vested



interests, including the NRT, have been working behind the curtains to frustrate the enactment of the regulations and implementation of the Act. At the same time, members of the pastoral communities are not aware neither are they informed on the provisions of the Act.

Further, the National Land Commission and the relevant County Governments are yet to initiate a process that would lead to registration of community lands and implementation of this law. This has given organizations such as the NRT adequate room to manipulate communities for their own ends.

We can report that the NRT has capitalized on the lack of awareness of the land rights of the inhabitants of the Conservancies to violate their rights. However, there were protests by members of the Borana community in 2019 after the NRT unilaterally identified and embarked on the construction of five tourist camps in resource-rich areas of the Charri Rangeland. This included the following:

1. Baballa Camp that is set to be put up along an animal movement route close to the Ewaso Nyiro River;
2. Maddo Gurba Huqqa which is close to a community shallow well;
3. Sabarwawa, an area where the water table is quite shallow;
4. Nyaacisa which was previously used by the community for traditional naming ceremonies; and,
5. Kuro-Bisaan Owwo which is close to a hot spring, which the community has identified as being beneficial to livestock health



*Kuro-Bissan Owwo Hot Spring in Biliqo-Bulesa Conservancy, Isiolo County*

### Annex 3: NRT's Over-militarization of Conservation

- a) As shown in the photo below, whenever donor representatives visit NRT, the organisation allows them to inspect guards of honour mounted by unarmed ranger units



*A Senior USAID Representative Inspects Guard of Honour in Kalama Conservancy, Samburu County*

However, this is a deceptive image of the true state of affairs. As the photos below show, NRT rangers are well-trained and usually carry out operations while fully armed and operate like fully-fledged paramilitary units complete with air cover.



## **Annex 4: Complaints by Communities against the NRT's Management of the Conservancies\***

1. This include claims that the communities, and especially in Biliqo-Buulesa Conservancy, have lost access to much of their grazing areas following a move by the NRT to induce the declaration of core areas and investors to set up camp sites in many of the conservancies. This has affected livestock production which remains the most important livelihood activity for the communities. We believe that any tourism activity or other economic undertaking can only supplement, but not replace livestock husbandry in Northern Kenya;
2. That since the establishment of the Conservancies, there has been an increase in human-wildlife conflict resulting from a large number of wildlife using grazing areas and water resources in the conservancies. In addition, NRT has caused the introduction of wildlife that is causing conflict with people. For instance, there was unexplained introduction of non-resident lions in Biliqo-Buleesa Conservancy of Isiolo which have continued to injure people and kill livestock;
3. Claims that most members of the communities have no say in the decisions pertaining to the formation or management of the Conservancies and that the agreements/MOUs made between NRT and communities have remained secret documents seen by a few people handpicked to sign them by NRT. Indeed, most of the community members have not seen these MOUs many years after the conservancies were formed. As reported by some of the former conservancy committee members, most community members are not fully aware of the implications of setting up the conservancies and do not have adequate understanding of the nature of NRT's operations. They (ex-committee members) too claim although they heard that agreements between NRT and the communities were prepared and signed, they have neither seen them nor are they aware of their provisions; and,
4. That even with all the financial backing by donors, the NRT has reneged on the promises it made before the establishment of the Conservancies and that our communities have consequently realized minimal benefits over the many years since different conservancies were formed. Apart from investing in many of the conservancies token projects (e.g. vehicles, constructing sub-standard classrooms, mud-walled nursery schools and, in some cases, teacher's houses) the NRT has reneged on most of the promises it made to the communities prior to the formation of the conservancies. We hereby report that community members say that finances meant for the Conservancies are either banked in an NRT account or in accounts that NRT has provided some of the signatories. In addition, NRT has not caused the holding of annual general meetings in many of the conservancies for fear that this situation would lead to chaos. Further, it is clear that NRT wields unchecked powers in the conservancies and that conservancy board members have little or powers and do not even know the amount of income



earned each year from the conservancies' money-making ventures. This fact points to the opaque nature of NRT operations.

*\*We do not mind if donor agencies and countries would commission their own independent investigations to verify these claims*

## **Annex 5: NRT activities are not anchored in Law**

While we acknowledge that NRT is a registered body and that the formation of conservancies is provided for in the 2013 Wildlife Act, we are concerned that many of the activities it is involved in, including the sanctions it imposes and which are enforced by its armed ranger units, are not anchored either in national law or the relevant county governments' legislation.

It is important to note that the rapid expansion of community-based conservation across Northern Kenya is largely driven by funding from foreign private and governmental agencies. The NRT, an organization founded in 2004, has managed to set up 35 conservancies across Northern and Coastal regions that cover a whopping 44,000 square kilometers or over 10 million hectares (i.e. about 8% of total land surface in Kenya). These conservancies are mainly in remote places where the Kenya government has little or no footprint. However, a number of challenges have arisen, which are attributed partly by lack of effective legislation; the sheer size of the geographical area under 'community conservation', and the application of a single conservation model across a region that has diverse ethnicity, geographically and ecologically varied terrain. Another challenge emanates from the fact that many of the conservancies have different communities which have traditionally engaged in conflicts (many of which have to do with resource use).

These challenges have, however, been downplayed and the success of the initiatives emphasized. This is not surprising given the sheer scale of donor investment in the initiatives. As a result, there has been limited effort to establish the amount of land under this model of conservation; the impact of on-going conservation effort on the livelihoods of pastoralists and how the conservation activities affect the movement of pastoralists and their livestock, security as well as access to pastures, water and other resources.

More importantly, the continued operation of such a huge concern ought to be anchored and safeguarded by law so that the following issues can be addressed and resolved:

1. How communities ought to be involved in the process of setting up and managing the conservancies including the setting up of an ideal governance structure to run them;
2. How the benefits can be accessed and the inherent challenges in the conservancies addressed;
3. How the prevailing security scenario in the vast conservancies can be handled. This is important considering that Northern Kenya is a region characterised by proliferation of small arms as documented by a number of Small arms surveys. It is also characterised by official neglect and occasional inter-community conflicts that are mainly driven by competition for resources and which worsen whenever there are droughts. Recently though the region has seen unprecedented expansion of infrastructure and an upsurge of conservation and tourism activities. This has resulted in loss of pasture or wildlife habitats; and,
4. The law should also address succession in the conservancies and how they can move from being NRT-operated to being run by communities in partnership with the relevant

county governments and investors. Today, it is not clear how NRT plans to hand over the direct management of, and decision making in the conservancies to the communities. Legal provision for this would be important because some of the conservancies have been in operation for close to 20 years.

## **Our Recommendations**

- **General Recommendation**

The suggested way forward partly comes from the communities; the resolutions made by the Elders, professionals and elected leaders. It should be noted from the outset that members of the community ought to have the primary role of protecting and managing their resources. Outsider agencies, such as the NRT, should not be taking the driver's seat as far as managing the resources in the conservancies is concerned. The capacity of Communities should be raised so that they can have direct and effective partnership with investors and County Governments. In addition, communities should be empowered to set up an outfit that can enable them to conserve and benefit from the biodiversity in their lands and to deal with donors and investors directly without going through a broker body like the NRT.

Most importantly, all the stakeholders will need to enable the communities to jealously guard and protect their lands against the powerful vested interests, to entrench and strengthen inherent traditional resource management systems (e.g. the Dedha System) and to use their land in ways that can be self-sustaining over the long run. It is also important to consider how to address the observed (and rising) pressures on the land emanating from rise in human and livestock numbers, immigration of other communities into Isiolo, development of mega-infrastructure projects, expansion of urban areas as well as climate change will rise with time.

- **Specific Recommendations**

### **1.0 Outlawing of NRT's Activities in affected Counties**

We have arrived at a confluence of perspective between us, and in consultation with a majority of community members, that NRT MUST halt its operations in our lands. This unanimous decision was arrived at during various forums, with stakeholders either passing resolutions or publicly calling for the cessation of NRT's activities in Northern Kenya. However, NRT is yet to do so. Initially, it attempted to divide the communities further by organizing and facilitating protest marches against the attempt to kick it out from the area. Later, it tried to coerce some of

us by influencing our arrests and harassment by the police and government officials. Further, NRT has made it almost impossible for independent media coverage of the issues affecting the conservancies. We are therefore calling on donors to officially cease funding the NRT and for the relevant county governments to ratify the communities' decision by officially writing to the organisation to ask it to move out of Northern Kenya. The letter ought to be copied to the relevant arms of the National Government and to other stakeholders. This ought to be done expeditiously in order to avoid worsening the security scenario in the conservancies and jeopardising the continued existence of wildlife.

## **2.0 Legal action against NRT over the killing of people**

The communities, through the Elders' councils and relevant professional groups, ought to take the NRT to court over the killings of people and loss of thousands of heads of livestock in some of the conservancies. To commence the process, the professionals ought to liaise with human rights organizations to accurately record the details of all the people killed at the hand of NRT rangers, to get medical records and death certificates and to contract committed lawyers to take the matter to court

## **3.0 Adoption of mixed use conservation model**

NRT's fortress conservation model, in which the communities in the North are kept apart from the wildlife that live in their midst, is an artificial, unworkable mode of land use that exacerbates, rather than harmonize, human-wildlife co-existence. It also creates exclusion besides reducing amount of land our people can use as pastures. This model ought to be replaced with mixed use model that will allow humans, livestock and wildlife to use the land concurrently. Already, some of the County governments in the north have expressed interest in encouraging communities to set up their own wildlife conservancies. To see it through, this idea should be taken up by the Elders and the Professionals in all the conservancies who should explore the possibilities of bringing partners on board for purposes of raising the communities' capacity as well as commissioning land use planning and cost-benefit analyses. The elders and professionals should also come out with ways of seeking out potential investors as well as legal and technical advice over how to prepare fair, legally-binding agreements with identified investors.

## **4.0 Formation of an interim committee**

In order to effectively protect the vast lands and the wildlife in our midst, we request donors to facilitate the local professional groups and elders in the communities to organize a series of meetings so that people can agree on how to protect the land. We suggest that all the relevant communities establish interim committees that would be in-charge of mobilising other

community members to attend the meetings besides seeking meetings with other stakeholders, and for the purpose of registering community trusts or associations. The interim committees ought to have trusted members of the community with membership drawn from elders, religious leaders, women and the youth. Once the Trusts or Associations are formed, then the communities ought to elect the office bearers.

### **5.0 Effective protection, planning and Management of the land**

To protect the land, elders in the community conservancies ought to be facilitated for a process of comprehensive identification of boundaries of relevant conservancies jointly with younger community members and plant special trees to mark the boundaries. Once the communities are agreed on the membership of the conservancies, then they should go ahead, with the help of relevant arms of the County Government, to register the land under the Community Land Act and get the relevant ownership documents. It will be important for the communities to continue with communal land ownership model so as to guarantee long-term conservation of wildlife and the extensive livestock production. This would also prevent the sale or leasing of the land to outsiders. With the assistance of the relevant County Governments and financial support from donors, we recommend that relevant conservancies the engages the services of land use planners to effectively plan the settlements in order to guarantee controlled growth of the relevant areas, harmonious use of the land as well, as well as peace, security and restoration of resilience.

### **6.0 Promotion and legal protection of the indigenous resource governance models (e.g. Dedha System)**

Indigenous resource use and management models have worked well in the North for ages. For instance, the Dedha system is a complete cultural way of life which takes into account the environment, wildlife, livestock as well as human welfare. Although the system is largely in place, it has been weakened by the adoption of 'alien' institutions by the NRT, the empowerment of politicians, chiefs and other members of the county administration, continued loss of traditional authority of the elders as well as immigration of other communities into Borana-dominated areas. This needs to be addressed as a matter of urgency to restore the communities' resilience against adverse effects of climate change. In this regard, there is a need to strengthen, legalise and entrench the Dedha resource management system so that it can be officially recognized by the national and county governments. In this regard, Borana Council of Elders ought to pressurise elected leaders to push for the enactment of the Dedha Rules by the Isiolo County Assembly so that they become part and parcel of the county legislation.

## **7.0 How to tap and benefit from the land**

Usually communities in Kenya do not benefit from the resources they own because they are either not well organized or have no clue on how they ought to benefit. As aforementioned, the communities in the North can overcome this by getting themselves organized into registered trusts and associations. Once they do this, it is important to have meetings to discuss and decide on what resources ought to be reserved for use by members of the communities and which ones should be leased to investors. In this regard, it is important for the Elders with the help of professionals, to identify, delineate and map out the key resources the communities need for their livestock-based economy now and into the future. Then together with other members of the communities, these stakeholders ought to discuss and decide which areas they can concession to investors. It is important to also decide whether the communities will be merely getting benefits in terms of cash from annual leases, employment of a few local people and investment in schools, water and health projects or they would wish to jointly co-own the processing of relevant products with the investors in tourism, mining, ranching, agriculture or nature-based ventures. The communities should be encouraged to boost their capacity over time so that they can eventually take over these enterprises.

## **8.0 Promotion of Intra-Community and inter-community peace and cohesion**

It is very important for the Elders in all the communities to be encouraged and facilitated to take up the role of bringing the communities together so as to do away with the current intra-community and inter-community animosity and conflict. There have also been suggestions that to create peace between the Borana, Somali, Turkana, Rendille, Samburu and Pokot communities Borana, there is a need for other stakeholder to organize and facilitate a series of meetings bringing together five elders from each of the communities to discuss how to attain lasting peace, role of communities in conservation and other issues of common concern.

P.O Box 38878 – 00100

Nairobi, Kenya

Tel: +254721 677 145;

+254 713260320;

Email: [makaka@lawyer.com](mailto:makaka@lawyer.com)

[jacklinekiramana@gmail.com](mailto:jacklinekiramana@gmail.com)

[mkadvocates@workmail.com](mailto:mkadvocates@workmail.com)



Makaka & Kiramana Advocates

Bruce House

11<sup>th</sup> Floor, South Wing

Suite 1101

Standard Street.

Nairobi

Our Ref: CC/IM/CL<sub>1</sub>

Your Ref: TBA

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

CHIEF EXECUTIVE OFFICER  
THE NOTHERN RANGELAND TRUST

ISIOLO

Sir/Madam

This is the exhibit marked - A10 -  
referred to in the annexed Affidavit  
of ABDI RAHMAN OMAN SWORN  
before me this 27<sup>th</sup> day of SEP 2021  
J  
Commissioner for Oaths

**Re: DEMAND AGAINST FORCEFUL ESTABLISHMENT AND OPERATION OF  
CONSERVANCIES BY THE NOTHERN RANGELAND TRUST LIMITED IN CHERAB  
WARD, MERTI SUB-COUNTY, ISIOLO COUNTY**

The above matter refers where members of the community in **Chari** and **Cherab Wards, Merti sub-county, Isiolo County** (hereinafter referred to as our Clients) have placed instructions on our desk and upon whose authority we address you as hereunder;

**A. FACTS INFORMING THE DEMAND**

That the community members of Chari and Cherab Wards, Merti sub-county are apprehensive that you are encroaching and trying to establish a conservancy in their community without consulting the community therein.

The Community and its leaders have faced intimidation and harassment at your behest, the information on the ground is that you are working with isolated groups such as **Cherab Community Conservancy** and **Bulesa Biliqo Conservancy**, amongst other unidentified groups who purport to act on behalf of the community without instructions or authorization from the community. You have gone ahead to establish **Bulesa Biliqo Conservancy** against the will of the community, and constructed an office in **Biliqo Marara** and others in **Babala** and **Kom** areas within **Chari** ward. It is well known that there are some plans underway by yourselves and other entities to establish a conservancy in the **Cherab ward**, where you purport to utilize the community land without any authority or right to do so.

That working with some entities, your officers and/or representatives have been seen in the area making suspicious informal surveys on the property. You have also done advertisements for vacant positions in the conservancy you intend to set up, through Cherab Community Conservancy which the few people selected by yourselves registered it as a Community Based Organization under the department of Social Services. The same applies to Bulesa Biliqo Conservancies. This was of course done without involving the community in any way.

**MK  
Advocates**

Makaka. I. LLB (Hons ) KU, DIP KSL (Managing Partner)  
Kiramana. J.M LLB (Cand) LLB (Hons ) KU, DIP KSL (Partner)  
Walumbe. K. LLB CEU – Budapest, LLB (Hons) KU, DIP KSL (Partner)





That preliminary inquiries indicate that you have been working in tandem with Isiolo county government, and indirectly sponsored the Bill known as the Isiolo County Community Conservancies Bill, 2021, a Bill pending at the County Assembly of Isiolo, purporting to establish provisions that create conservancy in the region without involving the community and going against the spirit of the Constitution 2010 and the Community Land Act, 2016. The said Bill is impugned by the community and further vide an advisory by the Kenya National Commission on Human Rights submitted to the county government of Isiolo on **21<sup>st</sup> April, 2021**.

### **Particulars of unfairness/illegality**

Purporting to establish a conservancy without involving the community, and without first giving an opportunity for the community to register its land so as to be adequate enough to protect its rights. The community has experienced untold frustration in trying to register the community land, at this instance any measure undertaken on the land is done prematurely as much as the community's application for registration remains pending. Albeit under frustration, the community is working towards registering the property, and as such purporting to establish a conservancy is putting the cart before the horse, the land ought to be held in trust by Isiolo county government and should not be interfered with in any way.

Lobbying and indirectly sponsoring and supporting the said **Isiolo County Community Conservancy Bill, 2021**, a Bill pending before the Isiolo County Assembly seeking to enhance establishment and recognition of community conservancies. A Bill that we categorically state does not conform with the dictates of the Constitution 2010, the Community Land Act, 2016 the Wildlife Conservation and Management Act, 2013, for want of public participation- amongst other issues.

Supporting and enhancing advertisement of positions by the CBO-Cherab Community Conservancy, in the purported conservancy without involving the community whatsoever.

Launching two land cruiser vehicles that are currently used within Merti area to intimidate and harass those opposed to its project. Additionally, the vehicles are used to appease the government administration and the security apparatus to fully accept your Trust's activities.

Any community conservancy ought to be established by the community as required under Section 29 of the Community Land Act, 2016 no other entity has the right to utilize such land while excluding the members of the community.





The County Government of Isiolo's failure to properly manage the property that they hold in trust on behalf of the community and failure to involve the community in any dealings of the community land, as provided for under Article 63(3) of the constitution of Kenya, 2010 and section 6 of the Community land Act, 2016.

Section 6(8) of the Community Land Act, 2016 specifically bars the county from interfering whatsoever with unregistered community land.

The community pleas and concerns have been expressed to the office of the Isiolo County Commissioner and Merti Sub-County Deputy County Commissioner who has not provided a sustainable solution to solve the impasse and the community is apprehensive that the said office may be working in cahoots with yourselves to frustrate and defeat the rights of the community.

## **B. THE DEMAND**

Consequently, to this end, our instructions are that we **DEMAND** that you cease and desist from alienating, surveying, sponsoring, establishing and/or planning to establish a conservancy, recruiting any personnel in the purported conservancy and express to us in writing within the next **SEVEN (7)** days, that you will cease and desist to interfere whatsoever with the property, failure to which we have peremptory instructions to proceed to court on behalf of the community in a bid to protect the rights of the community. This of course shall be without any further reference to you and at your own costs as to any incidental expenses thereto.

Yours Sincerely

  
INNOCENT MAKAKA

**MAKAKA & KIRAMANA  
ADVOCATES**  
P.O. BOX 38878 - 00100  
NAIROBI

**FOR: MAKAKA & KIRAMANA ADVOCATES**

**CC:**

- 1. Clients**
- 2. CHERAB COMMUNITY CONSERVANCY**
- 3. BULESA BULIYO COMMUNITY CONSERVANCY, ISIOLO**



4. COUNTY GOVERNMENT OF ISIOLO
5. THE COUNTY COMMISSIONER, ISIOLO
6. THE DEPUTY COUNTY COMMISSIONER, MERTI SUB COUNTY.





DISTRICT  
MERTI  
DIVISION  
CHERAB  
LOCATION  
KORBESA  
SUB-LOCATION  
BILIQI



PRINCIPAL REGISTRAR'S SIGN. *[Signature]* T0252254763

IDKYA2398329127<<1132<<<<<1132  
9811267M1703146<B036201479X<<0  
ADANO<DIBA<HASSAN<<<<<<<<<<<<<

DISTRICT	
MERTI	
DIVISION	
CHERAB	
LOCATION	
KORBESA	
SUB-LOCATION	
KORBESA	
	
	
PRINCIPAL REGISTRAR'S SIGN.	T0174201

IDKYA2310416283<<1132<<<<<11  
9510261M1408120<B032849278D<  
HASSAN<DUBA<DIBA<<<<<<<<<<<

DISTRICT  
ISTIOLO  
DIVISION  
MERTI  
LOCATION  
PALKA GALLA  
SUB-LOCATION  
PALKAGALLA

N. B023978095

PRINCIPAL REGISTRARS DESK

IDKYA2237226482<<323<<<<<<<411  
84<<<<8M0708292<B023978095E<<O  
IBRAHIM<BIDU<<<<<<<<<<<<<<<<



