

## Search for mutual co-existence

By Arthur Okwemba

Tales of some communities being reduced to paupers even as they tend to and conserve natural resources that benefit other people evoked strong emotions, during the debate on the Environment and Natural Resources chapter.

Delegates described as a great injustice a situation where their children went hungry, failed to get an education, or missed out on other basic needs, while income from natural resources around them benefited other communities.

A delegate from Pokot said it was painful to see electricity lines from Turkwel power station passing over their houses to benefit people hundreds of kilometres away. "Our women have to walk long distances in search of firewood to light their homes and cook when efficient power at their doorsteps does not benefit them," the delegate said.

Fortunately for Kenya, the situation has not degenerated to the level of Kano State where hundreds of Nigerians have been maimed or killed in their fight for an equal share of income from oil sales. The people of Kwale, who are being paid peanuts to pave way for titanium mining, and residents of the wildlife rich Narok and Samburu, have not taken up arms to demand fair play.

They have suffered silently, bottling-up their anger and restraining themselves. But the time to put this to rest seems to

have come at last.

Delegates say they want to use the constitution to resolve the issue of sharing benefits from such resources. They want to go home reassured that they are going to play a central role in deciding how income from natural resources in their midst are used.

Says Mr Philip ole Sironka: "It is now or never. We want to be compensated for having to suffer the consequences of conserving the natural resources. The constitution has to give us this power, so our generation and generations to come will be proud of us."

The Speaker of the National Assembly, Mr Francis ole Kaparo, decried the fact that although the country makes about Sh20 billion from tourism, those who live with these animals have nothing to show for it.

"Tourists hotels in Samburu and Kajiado do not employ the locals, yet they have contributed immensely by not eating the animals in the parks," he says.

Mr Kaparo wants the constitution to provide that wildlife outside protected areas should belong to the local communities.

Prof Margaret Kamar, a delegate representing women's organisations, suggests that a good percentage of benefits from the exploration and exploitation of natural resources should go to communities.

She says illegal logging in forests is a



Fighting for their resources, Teclah Munkushi & Lona Timonoi

consequence of excluding communities from utilisation and management of natural resources.

"Logging continues because communities think they were displaced from their land. We should encourage them, particularly women, to use them but in more sustainable way."

Ms Grace Githaiga, representing civil society, too emphasises the important role played by women in environmental management and conservation. "Women suffer when degradation of natural resources occurs, hence they need to be at the centre of environmental management. They should be on all committees on the environment, from the village to district level."

Nominated MP Ruth Oniang'o concurs, saying women tend to be

sensitive and softer to natural resources than men. If women are integrated in the management of forests they will do it better than men because they survive on these resources, she adds.

According to Prof Oniang'o, when waterbeds are destroyed as a consequence of destroying forests, it affects water supply. This affects women disproportionately than men, as they are providers and carers of their families.

Mwatate MP Marsden Madoka said his constituency was a case study of communities deprived of their right to enjoy what belongs to them. He said it was unfair that a foreign mining company was making \$250 million a year without benefiting the local community.

Beatrice Nduta, who represents NGOs, says most communities were ignorant of the measures they should take in such circumstances. "The power to ensure environmental protection and how natural resources are used equitably should be given to the communities."

Nduta wonders what will happen to ecological and marine areas and Kayas in Coast Province, which have been given to private individuals

While it is generally agreed that communities from areas where natural resources exist should be given power to decide how these resources are utilised, it remains a catch 22 situation for communities whose land has minerals underneath following suggestions that minerals and water be classified as public property.

Commissioner Abdirizak Nunow, in his introductory remarks on the chapter, said laws relating to mining should be redefined in line with the wishes of

## Call to reclaim grabbed land

By Rosemary Okello

As debate on land rights ended last week, paving way for Environment and Natural Resources, delegates remained hopeful that the issue of corruption and grabbing of public land would be dealt with at the committee stage.

The issue of repossession did not feature much in the plenary discussions although there were suggestions for a commission to determine which land should be returned to the state.

"If a mechanism for revoking ownership of grabbed land and returning it back to the State is put in place, it will mean that Kenyans are ready to address corruption that is slowly killing the

fabric of our society," says Davinder Lamba, a delegate from civil society.

He emphasises the need for transparency in the whole exercise, saying it might open a can of worms as those people who were given public land have title deeds.

Mr Lamba wants the process of taking back public land to look into human rights violations, economic violation and extreme public abuse of office. "We have to establish the truth about these issues because the public has a right to know," he says, warning that the government would have missed the major component of transition if it failed to address truth and justice for the ordinary Kenyans.



Davinder Lamba

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# Guarantee of a good quality of life

As the spotlight turned to the Environment and Natural Resources, **Juliana Omale** spoke with renowned environmentalist and assistant minister, **Prof Wangari Maathai**, on the direction Kenya should take.

**Q. Why is it important to make a commitment to environmental issues in the constitution?**

**A.** Conservation and protection of the environment is a right as well as a responsibility and a need. It is important to make this recognition in the constitution and address it throughout the entire draft. Also there is no boundary to the environment. It permeates our lives and affects us all, irrespective of age, gender, community, tribe, religion and profession. It also affects the future generations. We must also recognise that we share the earth with other members of the community of the living and that we have a special responsibility to them since our very survival depends on their existence.

**Q. Where are we with environment and the constitution at Bomas?**

**A.** This is a guarantee of a good quality of life now and in the future. Without this recognition, we tend to focus on the past in terms of recognising the injustices done to us by others and we are unable to focus on the future.

So far the debate on land and environment is dominated by the historical and social injustices occasioned with acquisition and exploitation by the Arabs and later the British colonialists. In the post independence era, we have revisited how the African elite appropriated national resources at the expense of the majority of poor Africans.

Yet we have lost more land to the desert during this time due to destruction of the environment, deforestation and de-vegetation as we introduced cash crops and commercial agriculture, which exposed the land to the elements. We have moved from 30 per cent forest cover to less than two per cent in the same period. At the same time we have lost rivers and millions of tonnes of fertile topsoil, which would have helped us produce food.



Prof Wangari Maathai

Desertification, soil loss and environmental destruction occur silently, like an enemy invading our land but invisible to the eye.

**Q. What is your comment on the continued loss of community biodiversity in the form of indigenous plant foods and medicines?**

**A.** One of the reasons it happens is the ignorance of the local people. As long as ignorance predominates, it will be difficult to stop these losses. Our communities hold knowledge to sustain management and harvesting for domestic use, but when commercialisation of these activities occurs it brings about huge losses. It is our people who carry out the depletion. We are the ones who give away our resources to outsiders for a pittance. We need to increase our knowledge but we also need a government that protects its people.

Kenya has been an open house for all sorts of foreigners intent on extracting and reaping profits for themselves from our natural resources. I have in mind the example of the “Muiri” (*prunus africanus*) tree, whose bark is exported to the northern hemisphere to be processed into drugs for prostate cancer. Those who are behind this business are well known but no one is paying attention to the fact that the trees are being depleted faster than they can regenerate themselves.

It is frightening to think that we are even considering making provisions for dual citizenship in the constitution. This is a sure way of leaving the door wide open for further exploitation by foreigners. How do we protect our resources from such people? The black race is the only race in the world for which the doors are shut tight wherever they go, even if they tell us we live in a global village.

**Q. How will devolution of government work in favour of the environment?**

**A.** Devolved government may protect us a little better since history has proved that decisions made from the national level and are not necessarily protective. It is also important that information in a devolved government be communicated in the people’s local languages.

**Q. What is the place of technology within the constitution and who are the beneficiaries?**

**A.** The constitution says that all land above and beneath the ground within the boundaries of Kenya belongs to Kenya. All these resources at whichever level are to be utilised for the greatest benefit of Kenyan people. If the government has the will, it will serve us well. You would want to know how the profits from these resources will be repatriated back to the people and how much will be utilised by the investors.

However, even the most advanced countries are unable to utilise resources efficiently and productively because of inappropriate technologies. A government committed to its people looks for the most optimal benefit for them. Because of our history of slavery, colonisation, disempowerment and exploitation, leaders have not been able to stand up to the challenges of dealing with the former colonial powers. At this conference we are making the effort to break the cycle.

**Q. What does the new constitution offer for communities living in areas that are rich in minerals and other resources?**

**A.** A good example is the communities in Kwale and Kenya as a whole. There is optimism that the constitution should work in their favour because devolution gives them power over their resources and the possibility of directly benefiting from the titanium deposits in their ancestral lands.

The issue should not be so much that communities will be evicted although this is inevitable. But the move should be considered as a temporary measure covering a period of years with a provision for their eventual return. The real issue is how they will be compensated for their land. But there is always the possibility of dissatisfaction in the future because it is likely that the returnees will not necessarily be the original people who left these sites.

But in terms of re-writing the constitution this is also a good time for Kwale and Kenya because the process encourages openness and transparency. Their leaders know what is owed to their people, and unlike in the past, they will defend them. A possible loophole is if the contract documents between investors and local communities are drawn up in English, with disregard for the local languages. But I am optimistic that the new generation of leaders are interested in honouring and protecting their people as opposed to using them to enrich themselves.

## Any room for indigenous knowledge?

By Juliana Omale

Notwithstanding the eloquence of the debates over land, environment and natural resources, the indigenous knowledge (IK) lobby is of the opinion that the discussions remain incomplete without specific references to IK.

“This is an opportunity to recreate society rooted in the traditional values of justice, equity, peace and mutual support where the local communities benefit from products and by-products of indigenous knowledge to improve their livelihoods,” says Ms Monica Opole of the Centre for Indigenous Knowledge and by-Products (CIKSAP).

She argues that lifestyles and livelihoods of the rural and urban poor would be greatly enhanced by investing in people as a resource and as equal partners in development and using their knowledge and culture to research and develop products from local materials for domestic

use and commercial purposes.

Opole is concerned that today’s indigenous cultures are challenged and threatened by emerging environmental and technological products and by-products. “We are faced with the total loss of time-tested tools and management methods of IK in the field of agriculture, health and nutrition and other crucial strategies for human survival.”

She cites HIV/AIDS as an example of a contemporary problem with dire consequences for the progress of IK.

“Rural communities are custodians of a vast bank of IK, much of which is untapped and under-utilised. In the fields of health and agriculture, new diseases such as HIV are clearing whole generations leading to massive losses in IK.”

At the same time, an increasing number of people lack food despite the existence of modern inventions in plant and animal breeding.

Ms Florence Machayo, a delegate

from Kakamega District, agrees with Ms Opole that it is crucial for Kenyans to return to their IK systems to find a way out of widespread failure in agriculture and health and food insufficiency.

“Indigenous food is nourishing, practical as well as medicinal. But it is also under threat from environmental degradation and bad land use practices.”

Machayo, whose interest is in consumer issues, adds that there is scope for sustainable commercial processing and distribution of indigenous foods in Kenya. “I am confident that our rural communities have all the knowledge to make this a viable enterprise. Just imagine the possibilities for all those women and men who till the land in this country?”

However, all these possibilities are greatly challenged, considering the central place land occupies in the psyche and politics of Kenya and the complexity of land and environmental issues that affect Kenyans individually and collectively. In a

sense IK is inextricably linked to land.

Environmentalist Wangari Maathai, who is also an assistant minister for Environment and Natural Resources, makes the point that historically Kenya has been an open house for all sorts of foreigners intent on extracting and reaping profits for themselves from the country’s natural resources.

“These are the principles behind the operations of the big ranchers-cum-conservationists that understand wildlife is a diminishing resource and that Africans are detached from national wildlife resources.”

She argues that ranchers and conservationists want the best of these resources and an irresponsible government grants them a free hand to continue the exploitation. “Generally in Kenya, people have been socialised to let foreigners get away with anything.”

This gullibility is the undoing of local communities. One only needs to be a researcher investigating one thing or another, and for a small fee, the local people are more than willing to show him or her their neighbourhoods and share



# Yawezekana!



## How should the new constitution address environmental issues?

### Jackson Anduuru, 22, musician.

“Kenya is known for its beauty and wealth in natural resources, but this fame has been dwindling, thanks to our way of life and negligence. I think this is an opportune moment to rekindle our love and care for our natural resources. What better way to do this than to have them covered by the constitution. Posterity will judge us so harshly if we leave behind a battered environment with deserts, filthy water and polluted air.”



### Mary Muthoni Mutwiri, seedling seller, Ngong Road.

“There was a time when we had a motto urging us to plant two trees whenever we cut down one. This does not happen anymore and I think it should be made mandatory. It is not realistic to say that we should not cut down trees, because we need them for energy and timber. The constitution should outline a sustainable way of using the trees without depleting them.”



### Joseph Kamau, 34, Nairobi

“I consider water the most important natural resource, yet it has been misappropriated to the limit. If you consider the rate of pollution in our water bodies, it is apparent that we may never have water even for our own consumption, much less for future generations. The constitution should take care of this and other key environmental resources like wildlife, forests, soil and air.”



### Daniel Kerich, Kericho

“Where I come from, everybody is trying to acquire more land for cultivation at the expense of forests and wildlife. Most of the time when we cry that there is no rain, we don’t understand that the destruction of the environment is responsible for this. The constitution should embody this kind of protection.”



## Horror tales of dumping

By Arthur Okwemba

One morning in the early 1980’s, residents of the semi-arid northern frontiers woke up to a beehive of activity. Huge lorries and other heavy machinery were driving into the neighbourhood.

Mission: to explore for and mine minerals and oil. Any local who happened to express curiosity at the activities was told the proceeds from the minerals would go towards improving their welfare. And with that promise, huge excavations were made.

Secure in the knowledge that an economic activity had at last come to their area, residents of Garissa and Wajir did not bother to investigate further.

Then one morning, they awoke to find the gaping holes left during the explorations filled. They were told



Women are victims of toxic waste

nothing had been found and the process would be repeated later on. The areas were then marked for future identification.

But two years later, the locals started to experience strange developments. Plants in the area where the purported exploration took place started to wither and people nearby suffered skin irritation.

The people suspect that the excavation was to dump radioactive material and they are now demanding action. “We are in great danger because some people came and deposited nuclear waste in our areas and now we are experiencing the consequences,” Nasra Aweis from Garissa, told the attentive delegates.

Sofia Abdi Noor says some of the material was brought to the surface during the El-Nino rains and had affected the ecology and lives of species.

The North Eastern delegates tell of women suffering miscarriage or getting deformed babies as a result of these chemicals. Skin and throat cancers are also said to be on the rise. Their tales reminded delegates of what happened in Hiroshima and Nagasaki where the effects of nuclear bombs dropped on these two locations are still felt to date.

Apart from seeking justice, the North Eastern residents also want the constitution to come up with provisions requiring that such actions be investigated and culprits punished.

Delegates could not believe that such an activity took place on Kenyan soil. Politician Martin Shikuku stood on a point of order and said: “This issue is very serious, because if over 10 people complain, then it cannot be propaganda. We need the minister for Environment to issue a statement on this.”

Some delegates want nuclear scientists taken to the areas affected to ascertain the claims, the extent of the problem and what can be done. Investigations should be launched to know the people behind the dumping.

Environmentalists at the conference termed the dumping of radioactive materials on Kenyan soil as testimony that the government was doing outrageous things in defiance of existing laws.

National Assembly Speaker Francis ole Kaparo said the problem was not the lack of environmental laws, but the failure to implement them. “The problem we have is the abuse of the laws with impunity over the years. We have to state in this new constitution that we are truly and deeply concerned with abuse of the laws by those concerned.”

Delegates also expressed fear that the National Environment Management Commission did not have powers to protect and enforce laws relating to the environment.

They want the constitution to empower it with regulatory responsibilities and powers to prosecute those who degrade the environment. It should also be mandated to educate and inform the public through schools and community barazas on environment protection and management. It was also felt that such a commission should be decentralised in the spirit of devolution as local communities were better placed to decide how forests and natural resources in their areas should be used.

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Kenians.

What people living in areas with mineral deposits want is recognition of and reward for the role they have played in protecting the resources. They also want to be adequately compensated for any disruption to their lives to allow for mining.

Delegates discussing this chapter also want assurance that those who degrade the environment will face the law. The conference heard how harmful radioactive chemicals were dumped in North Eastern Province. As a result, the residents suffer from ailments and health complications, such as miscarriage, linked to these chemicals.

Ms Nasra Aweis Abubakar, representing women’s organisations, accuses the British and other foreign armies operating in the province of degrading the environment with impunity. “These foreigners are preserving the environment in their homeland and destroy ours without putting in place any corrective measures.”

Nominated MP Franklin Bett is disappointed that factories are discharging effluent into lakes and rivers and getting away with it.

He proposes strong legislation on environmental abuse, which will prohibit air pollution through spitting or noises from cars.

Some delegates fault the chapter on environment and natural resources for not addressing the subject exhaustively. Issues of biotechnology and its consequences, for example, have not been addressed.

They want the Biosafety Protocol – which defines how countries can manage genetically modified organisms – given weight in the constitution to protect consumers and crops.

their IK systems with them. “Where is the wisdom of allowing perfect strangers to draw a ring around an area to enclose wild animals and other resources and then insist that they be left alone to do as they please?” poses Prof Maathai.

She notes that wildlife in Laikipia is no different from Titanium in Kwale in the sense that these are Kenyan natural resources. It is important that all the people of Kenya own these important national resources.

She proposes that that environment clauses in the constitution should recognise the duty of Kenyans to safeguard and enhance the environment for the benefit of present and future generations of humans and other species.

This includes the protection of wildlife, genetic resources, biological biodiversity and the protection of intellectual property, sites and artefacts of cultural significance.

Another proposal for inclusion is that every form of life be entitled to the respect and protection of human as a unique and irreplaceable part of Kenya in addition to an entitlement to a habitat that can sustain it and to play its natural role in the on-going evolution of life.

# Environmental merchants of death

**Caleb Atemi** delves into the conspiracy of the rich and the powerful to kill the majority poor by degrading their natural habitations.

Kenyans are dying dying in great numbers for crimes of omission and commission. Kenyans are dying as their natural habitations are raped or turned into toxic killers.

From Mandera to Isiolo, Garissa to Pokot, Mombasa to Kisumu, Funyula to Malindi - the country is slowly being eaten by fangs of greed, corruption and environmental destruction.

The powerful ruling elite, driven by supernatural greed and at times propelled by the global agendas, conspire to destroy the lives of their own people. They leave in their wake death and nothing but death.

It is this death, stalking the entire nation, that crept into the hearts and minds of the Bomas delegates. It came in the name of the Chapter on Environment and Natural Resources.

Woe unto the Kenyans who live in regions designated as Trust Lands. Woe unto the poor souls who have been classified by the ruling elite as sub-human.

Woe unto those, who John Pilger, in his book *Hidden Agendas*, refers to as non-people. The voiceless, whose land is stolen, heritage destroyed and lives snatched away.

The *Bomas Agender* spoke to members of those communities considered less useful. People, whose habitats have been abused for years. These are men and women treated like children of a lesser god by successive regimes. They gave heart-rending stories on environmental matters. Delegates told tearful tales... and here is the story of the sobbing, the mourning, the dying...

"In Pokot, we had a gold mining centre called Korpu. The residents here were thriving in their trade. Many were even settling down from their pastoralist lifestyles. Then the government came and asked the people to move. They wanted to build the Turkwel Gorge Hydroelectric plant. They wanted a dam constructed. We were pushed to the periphery. Thousands were impoverished. To date the poverty is astonishing," says Councillor William Lopetakou.

The government paid each family Sh400 to Sh700 as compensation per homestead destroyed to pave way for the construction of the dam. Whether one had



Delegates call for Environmental justice

a huge home, with permanent housing and other property, was irrelevant. The maximum pay-out was Sh700.

The community, without an option, lost 41,000 acres of their ancestral land to a white elephant. Today, many of their young people, idle, jobless, frustrated and impoverished, are forced to indulge on cattle rustling for survival.

"The Turkwel Gorge power dam did not ever employ the Pokot. All engineers and other senior people come from other communities. Pokots are employed as mere watchmen," says a disappointed Anglican clergyman and delegate, the Rev Simon Lomeringura Alew.

The Pokot story is reminiscent of the tear-evoking tale of the people of Gandher in India, who the ruling elite conspired with 'private developers' to violently rob off their fertile and holy ancestral land. Catherine Caulfield, in her book, *Masters of Illusion*, the World Bank and the Poverty of Nations, vividly captured their plight.

Just like the Pokot, the people of Gandher were herded away from the land they had known as their own to pave way for a multimillion-dollar World Bank-sponsored project. The government wanted to construct a dam on one of India's holiest rivers. The people's beliefs and cultural rights were ignored.

"Moving day came. The people loaded their belongings onto the government trucks and climbed aboard. After the convoy had travelled for an hour or so, the trucks stopped and the men jumped down eager to show their families their new homes... There were no banana

trees, there was no water, it was a wasteland! They walked around confused, trying to orient themselves. They turned to the officials: This isn't the land you showed us. Oh yes, came the reply. This is your land. Here are the deeds you signed," wrote Caulfield. A whole community had been conned of their triple heritage - ancestry, culture, life. Many committed suicide.

Many among the Pokots and the Maasai, have taken their own lives after realising what their rulers had done to them.

Mr William Salaon ole Yiaile, a delegate from Narok, says many Maasai elders had taken their lives after losing land to greedy persons in power. Many families had been thrown into abject poverty as they watched their environment spewed and polluted with industrial effluent and their animals die.

Mandera West MP Mohammed Abdi Haji had yet another horror tale. He took us back to the El Nino days when an average of 1,500 residents of North Eastern Province were dying daily from what the government described as the Rift Valley fever.

"But we believe that people died and are still dying because our land is being used as a dumping ground for nuclear and other hazardous wastes. Today, our people are dying of strange diseases. Our cows can no longer give milk. Even when it rains, grass fails to grow. Cases of cancer and tuberculosis are on the rise. Our women give birth to children with strange and frightening defects," said a distraught Mr Haji.

The MP told of the times when huge trucks carrying heavy containers went to remote parts of northern Kenya. Residents were hired to clear large fields and gigantic trenches were dug. The people were paid handsomely and asked to leave.

"The following day, the huge trucks and their containers had disappeared and so had the trenches. Covered and flattened. In such areas, even a small land rover cannot move without residents noticing. We believe these containers normally carry dangerous substances and our land is used as a dumping ground," the MP told the Bomas Agender.

Who cries for communities in Mount Kenya and Mount Elgon regions, who are terrorised by wildlife considered more important than them? After all, animal lovers would tell you, wildlife brings into Kenya the much needed dollar.

What about the millions of Nairobi residents who die every day from diseases of the gut, and other waterborne ailments caused by industrial effluent? Who compensates them for their loss in earnings, medical fees and death?

Langata MP Raila Odinga reminded the Bomas conference that Nairobi was among the world's most polluted cities.

Our successive governments are in fact guilty of crimes against Kenyans. For how long will the government turn a blind eye to the cries of the residents of Webuye, when a smelly and corrosive stench perpetually fills their respiratory systems from the Pan Paper Mills? What about the stench from the tannery in Athi River? When will we get a government which for once truly cares about the environment and its people?

The Bomas delegates, as they negotiate the last chapters of the draft constitution, are calling for stringent environmental laws and their enforcement.

The war against environmental degradation, warns Prof Christine Mango, MP for Butula, is not to be fought by Prof Wangari Maathai alone. It must be fought by all.

In anger and frustration, many delegates told the Bomas Agender that one test the NARC government must pass, in order for it to remain in power, is the environmental one.

The people are crying and only the government can wipe their tears, and only the government have the power to stop this environmental genocide. May Kenyans die no more.

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