REPORT OF THE AD-HOC COMMITTEE ON BOUNDARY DESPUTE BETWEEN ISIOLO AND MERU COUNTIES

Tabled before the
COUNTY ASSEMBLY, ISIOLO COUNTY

DECEMBER, 2013

AD-HOC COMMITTEE REPORT SUBMISSION LETTER
TABLED BEFORE ISIOLO COUNTY ASSEMBLY

BY CHAIRMAN OF THE TASK FORCE
HON. HASSAN SHANO

ON DECEMBER, 2013
MR. SPEAKER/HON MEMBERS

RE: REPORT OF THE AD-HOC COMMITTEE ON BOUNDARY DISPUTE BETWEEN ISIOLO AND MERU COUNTY.

ON TUESDAY 27TH AUGUST, 2013 AT 1430 HOURS this honorable house passed a motion to set up this Ad-hoc committee to study, investigate, establish make recommendations with regard to the disputed area between Isiolo County and Meru County and report back to the house within 3 weeks.

The Ad-hoc committee set the following terms of reference and activities in order to perform the responsibilities assigned to it by the House.

- To study, investigate, establish make recommendations with regard to the disputed area between Isiolo County and Meru County
- To solve the dispute amicably through following the proper channels hence shade light on confusion regarding the land in question.
- Secure documentary evidence concerning the boundary
- Come up with mechanism to secure the boundary to avoid future invasion by the neighboring Counties.

TASKS/ACTIVITIES

- To peruse all available documents (Map) or records dating back to colonial times to ascertain the actual boundary.
- To collect public views and receive petitions from individuals and organizations to assists in having a comprehensive report.
- To submit a comprehensive report on the findings to the County Assembly for further deliberation and approval.

Mr. Speaker and Hon Members, we have since completed the task and accordingly submit this report and urge the house to adopt the report accordingly.
First County Assembly                                     First Session
(9) Afternoon Sitting                                               (No 1)

REPUBLIC OF KENYA

ISIOLO COUNTY ASSEMBLY

FIRST COUNTY ASSEMBLY- (FIRST SESSION)

ORDERS OF THE DAY

TUESDAY 27TH AUGUST, 2013 AT 1430 HOURS

ORDER OF THE DAY

PRAYERS

1 Administration of Oath
2. Communication from the Chair
NOTICE OF MOTION
(By Hon. Hassan Guyo Shano)
On-going planning of areas between Isiolo Central town and Ngaremara by Meru County Government.

MOTION
That in the opinion of this house, the county boundary is being interfered with by Meru County and this house urges the County Government of Isiolo to immediately act to petition Meru County Governor, his officers and National Government to restrain from any act of planning, allotment or any kind of development thereof within the said areas under dispute. Also, this house calls for the formation of an ad-hoc committee, to study, investigate, establish and make recommendations within 3 weeks.

MEMBERS OF THE AD-HOC COMMITTEE

1. HON.HASSAN SHANO - NOMINATED
2. HON.ADAN ALI WAKO - KINNA WARD
3. HON.ABDI SORA BALLA -GARBATULLA WARD
4. HON.NURA DIBA BILA -SERICHO WARD
5. HON.HASSAN D.KUMPA -CHERAB WARD
6. HON.ALI BORU GALGALO - CHARI WARD
7. HON.DAVID LEMANTILE - OLDONYIRO WARD
8. HON. PETER LOSU - NGAREMARA WARD
9. HON.PAUL MERO - WEST WARD
10. HON.DAHABO WAKO BONAYA - NOMINATED
11. HON.SADIA HAJI ABDI - NOMINATED
12. HON. GLADYS MWATHATHI- NOMINATED

SECRETARIET

1. MR. HASSAN WAKO WARIO
2. MR. YUSSUF HUKA JILLO
3. MR.RASHID WAKO BONAYA
4. MR. HUSSEIN GUYO GONOSA
5. MR. ADAN BONAYA
6. MR. ABDI KADUBA JIRMA

EXECUTIVE SUMMARY
There have been numerous complaints about the Isiolo – Meru boundary since 1932. The present grievances arose as a result of territorial identity which has become prominent beginning with the advent of County Governments. In recent days, the Governor of Meru County has continued to commit acts of aggression against Isiolo County by initiating development projects within the Territory of Isiolo County which was unjustly demarcated as Meru just before independence when NFD was in the secession dilemma.

The livelihoods of the pastoral communities of Isiolo who directly depend on access to communal grazing lands have in the recent past been made worse off by the continued aggression by the Meru, considering that the indigenous pastoral populations including the historical Laikipiak Massai and the Muko Godo remnants of the group similar to the present pastoral groups (Borana, Sakuye, Turkana, Harte and Isak Somalis) had always relied on extensive land for grazing. Thus, any alienation of land from pastoral communities by systems of adjudicated land use system is incompatible with Pastoralism.

It is this larger picture of the potential consequences of land use conflicts that Isiolo County Assembly is trying to avert by establishing this Ad-hoc committee and compiling these historical facts with regard to boundaries between the colonial Districts of Isiolo and Meru.

Given that our grievances are historical we would like to present historical evidence that confirms the ownership by Isiolo County of the allegedly disputed areas. From historical information we have reached the following conclusions:

- The boundary between the Meru and Isiolo Districts have been erroneously marked and to the best of our knowledge has not been surveyed by correcting historical grievances from 1924 to date
- The peoples of Isiolo District did not participate in the boundary discussions during the first Boundary Commission of 1962 due to the secessionists war with Somalia
- We claim that the boundary of Isiolo District has been confused by the unique land use systems that were parcelled out during the colonial period
- We further claim that the Meru community have since independence occupied positions of power including but not limited to the powerful position of the Minister of Land; held by Hon. Jackson Angaine, Minister for states in the office of the president and internal security; held by Hon. Jackson Kalweo, the most influential and highly powerful Chief Secretary and Head of Public service; Mr. Francis Muthaura, Minister Finance; held by Hon. David Mwiraria, Minister for Justice and Constitutional affairs; held by Hon. Kiraitu Murungi, principal secretary office of interior Mr. Mutea Iringo as well as the powerful positions of the Commissioner of police held at different times by Mr. Mathew Iteere and Mr. Shadrack Kiruki and other strategic positions which they have
used to politically marginalise and intimidate our leaders while they continue to manipulate the boundary using the police as beacons to mark the manipulated boundary.

- We claim that the Meru County which has currently alienated large areas of Isiolo County lacks historical basis, rights of occupancy, ancestral rights and rights of judicial administration.

- That access to justice may not be in sight for the people of Isiolo County considering that powerful forces within the present and past Government continue to use their influence to frustrate any attempt to secure historical evidence within their possession and to tilt the dispute in favour of Meru.

- That the rule of Social and Natural Justice demands that where people have occupied a place for a decade and directly extract their livelihood from the environment, it will be inhuman and against natural law to displace them irrespective of their standing in the society.

- We resolve that the Government of Kenya immediately address the dispute through the relevant authorities by conducting survey on the common boundaries between Isiolo and Meru to verify these historical claims.

- That historical maps and historical documents concerning the communications over the disagreements of the borders between the Meru and the pastoral communities of Isiolo, to serve as basis for making boundary corrections.

**ACKNOWLEDGEMENT**

We wish to salute the patriotic first Isiolo County Assembly Members for passing the motion that established this Ad-hoc Committee with the mandate of evaluating the historical boundary dispute between Isiolo and Meru Counties. In the same breadth we would like to thank the County Executive led by H.E Dr. Godana Doyo for making the land issue top priority for Isiolo County Government.

This report is a result of hard work and commitment by many individuals and institutions. We are deeply indebted to all those who facilitated our work and wish to acknowledge them. Most importantly we would wish to acknowledge Prof Goffu Obba of Noragic department of International Environment and Development Studies, Norwegian University of Life Sciences for his authentic and well researched report that was presented to the Boundaries Commission on 4\textsuperscript{th} March, 2010.
In addition, the committee wishes to extend its appreciation to the Hon Speaker of the County Assembly Hon Mohammed Tubi and the interim County Assembly Clerk Mr. Molu Halake for their moral support, guidance and encouragement. Special thanks also go to all the departmental heads that provided vital information and documentary evidence to ascertain both geographical and administrative locations of existing institutions within the allegedly disputed areas.

Specifically we wish to thank the Director National Archive Mr. John Mwerea and his entire staff for preserving historical documents for posterity, making it extremely easy for the committee to access them, Ms Carolyne of the Independent Electoral and Boundaries Commission for providing vital information as well as maps showing the electoral boundary of Isiolo County as well as the Chairman National Land Commission for his hospitality.

Members of the public and especially the Harti and Issaak as well as Boran and Turkana elders who provided verbal historical facts which provided insight into our work hence enriching our report, to all of them we say thank you.

Lastly, we are very grateful to the secretariat that compiled the final report and to all those who contributed to our work in one way or another but have not been specifically mentioned.
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LIST OF ACRONYMS

NFD- NORTHERN FRONTIER DISTRICTS
TOR- TERMS OF REFERENCE
H.E - HIS EXCELLENCY
BACKGROUND

Isiolo County is located in the Upper Eastern part of Kenya. It boarders Marsabit County to the North, Wajir and Garisa to the East and South respectively, Tana River and Meru County to the South and Laikipia and Samburu to the West. The County Covers an area of 25,605km² and is currently divided and comprises of ten electoral wards namely, Wabera, Bulapesa Ward, Burat Ward, Ngaremara Ward, Oldonyiro Ward, Chareb Ward, Chari Ward, Kinna Ward, Garbatulla Ward and Sericho Ward. It is worth noting that Isiolo and Lamu are the only Counties in the republic of Kenya with two parliamentary and ten electoral wards despite the legal requirements of at
least three constituencies and fifteen electoral wards, hence denying the residents adequate representation.

The majority of the population practice nomadic pastoralism where livestock like Cattle, Camel, Shoats and Donkeys are kept. The Livestock economy depends on availability of pasture and water.

A section of Isiolo County especially the central part is multi-ethnic and multi-cultural constituting of the Boran, Sakuye, Somali, samburu, Meru and Turkana. The Boran Community constitutes the majority of the population in the County as shown by the last census of 2010.

The oral historians as well as some antecedent historical records traces back the presence of the Boran and other maa speaking groups covered a huge expanse of land between Lake Turkana and Savannah grasslands in the coastal region. The Boran and other oromo-speakers’ influence in the region is attested to by the names of important geo-physical features such as the three biggest and longest rivers in Kenya, Tana, Adhi and Galana.

Studies have also shown how the pastoral economy has taken roots in the areas that have today increasingly become contested resources zones with neighbours, especially the Ameru people. Professor Gufu Obba’s study clearly demonstrates how marginalization of the pastoralists during and after the colonial period shifted the political interests in favour of the Meru people to the detriment of Boran and other pastoralists. For example at the dawn of Kenya’s independence, the British Government conducted review of boundaries in 1962. The regional boundary Commission made far-reaching recommendations that affected district boundaries and yet the Boran, Somali and other pastoral Communities were not represented at all due to the secessionist movement that had already began causing conflict between the Northern pastoralists and the Southern “Nationalists” that opposed the political demand by the former.

The conspicuous absence of the leading political parties and the leaders of Northern Frontier districts during the boundary review created a serious gap that allowed the neighboring Meru to take full advantage to expand their boundaries, encroaching on the pastoral land. The political situation at the time as evidently illustrated by the heated debate at the Lancaster house constitutional conference pushed the British government to create a separate region for the Somali out of the NFD, this is meant to pacify the Somali when it appeared that ceding the region to Somalia would not serve the British and Kanu interest. The remaining three Bomas (NFD was divided into six Bomas) which constituted the three districts of Isiolo, Marsabit, and Moyale were appended to the dominant Meru, Kamba and Embu Eastern region which are predominantly Bantu farmers, unlike the pastoralists. The three districts had since remained isolated on the fringe of politically powerful Meru, Embu, and Kamba Districts.
Moreover, the Commission referred to the fact that, the decision to enjoin Boran to the Eastern Province was influenced by others than the people of the area. In its own words, the Commission stated that; "We know from the evidence given to us from Meru and Machakos that the Boran would be welcomed into association with the Meru and the Kamba in this region". Ironically the Meru community was at the time demanding separation from the Kikuyu ostensibly because the Kikuyu try to dominate and use the Meru land as an expansion, the association of the Meru with the Kikuyu has been detrimental in every aspect. The same fear of domination which the Commission considered in separating Meru from the Kikuyu dominated region were denied for the Boran and other minorities who were highly disadvantaged by the administrative arrangement.

The impact of that action soon became apparent as the boundaries between Meru and Isiolo were altered indiscriminately in favor of the former. The boundary as at 1962 was clearly recorded by the last colonial commissioner of the Northern Frontier District (NFD), P.E. Walters in the order made under special districts ordinance. It is our contention that the independent Kenyan government has not conducted any review of the boundaries but created new districts, constituencies, and wards on sheer political considerations. It is our contention that the need to secede by the people of Northern Kenya at independence was as a result of perceived fear of domination, intimidation, marginalization, manipulation and dispossession of their land; and the communities are now asking whether this is now being confirmed, their hope lies in the new constitution that provides various avenues for redress of historical injustices.
METHODOLOGY USED

Data for this report was collected through a combination of literature research and field data collection. The committee designed and implemented an innovative work plan shown in table 1, with the aim of obtaining both current and historical information on the Isiolo/Meru boundary dispute. The committee provided various avenues for receiving residents’ testimonies which included; field visit, public hearings, and presentation of related materials and reports by individuals and Organizations such as the Waso Trust Land Project.

The committee used both primary and secondary data. Primary data was collected through interviews and focused group discussions. Secondary data was collected through literature review and desk research. Secondary data sources included the
Colonial records, Government of Kenya records obtained from the Archive, Waso Trust Land project petitions to the Government over the dispute, Petition by the Boran Council of Elders to the Boundaries Commission in 2010 and the report of Professor Guffu Obba presented to the Boundaries Commission in 2010. Additional information was gathered through a participatory community engagement forum. It is important to state that all the Oral testimonies and information’s from Government departments was obtained under oath.

DATA COLLECTION

Data collection involved mobilization and planning, meetings, field visits, public participation through interviews and visit to the National Archive and relevant Government Offices.

MOBILIZATION AND PLANNING

This included getting consensus on the terms of reference; planning of assignment and agreements on the process and deliverables; design and review of the assignment tools for data collection, agreement on the final work plan, interviews and time frame; meetings with stakeholders as well as field visits.

MEETINGS

The committee held several planning meetings as well as meetings with stakeholders. The Speaker of the County Assembly also had the privilege to share our objectives with H.E the Governor who really encouraged and assured the Committee of the Executive support. The members also met every day after the field visits to analyze information collected.

Field Visits

To be able to critically assess the impact of the aggression and acquire first-hand information from the people and institutions within the allegedly disputed areas, field
visits were important. In order to cover the exercise within the set time frame, the committee members sometimes divided themselves in two or more groups.

**INTERVIEWS**

The Committee members conducted interviews with all the relevant Government institutions and various individuals and groups both in the County Assembly chambers and during the field visits most of them under oath.

**DATA ANALYSIS**

Field visit reports, Interviews, individual presentations, memoranda’s, were developed, categorized and analyzed in accordance with the TOR.

**CONSTRAINTS AND CHALLENGES**

The time frame set for performance of the task was extremely short considering the weight of the matter under investigation. The members could not access all the references, maps and other relevant materials from the survey of Kenya as the same could not be provided without the consent of the Office of the President which has not been granted by the time we produced this report despite our request. Nevertheless, the committee was able to gather adequate and pertinent information that has enabled it to sufficiently address its TOR. The secretariat too had difficult time analyzing the data and information which they were not party to its collection especially given the strict deadline where they had no time to verify the information provided.
TERMS OF REFERENCE (TOR) FOR THE AD-HOC COMMITTEE ON LAND DISPUTE BETWEEN ISIOLO AND MERU COUNTIES.

OBJECTIVES

- To study, investigate and make recommendations on the findings with regards to the disputed area.
- To solve the dispute amicably through following the proper channels hence shade light on confusion regarding the land in question.
- Secure documentary evidence concerning the boundary
- Come up with mechanism to secure the boundary to avoid future invasion by the neighboring Counties

TASKS/ACTIVITIES

- To peruse all available documents (Map) or records dating back to colonial times to ascertain the actual boundary.
- To collect public views and receive petitions from individuals and organizations to assists in having a comprehensive report.
- To submit a comprehensive report on the findings to the County Assembly for further deliberation and approval.

SCOPE OF THE WORK- AREAS OF COVERAGE

- Visits to various places and offices to collect views from stakeholders and documents from relevant authority regarding the disputed border lands.

Areas/places and offices to be visit are;

a) Kisima, Chumvi Yare, Gambela, Ngaremara and Malbe Shilmi in Ngaremara Ward.
b) Kinna, GarbaTulla and Madogashe in Isiolo South Constituency.
c) Merti and border grazing area of Arbijaan in Isiolo North Constituency.

WORKPLAN

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<td>Planning meeting</td>
<td>Committee</td>
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<td>members, Secretaria</td>
<td>6th September, 2013</td>
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2. Search for documents from Survey land office and County Commissioner, defunct Isiolo County Council, civil society groups

3. Visits to Kisima, Chumvi Yare, Gambela, SOI, Lewa and Tractor.

3. Visit to Kinna, GarbaTulla, Madogashe, merti and Arbijaan
   AD-HOC Committee 18th – 27th Sept. 2013


5. Compiling of reports

NB:- The visit to other boarder areas such as Isiolo/Garisa, Isiolo/wajir, and Isiolo/Marsabit identified some encroachment by our neighbors but is not part of this report because the same are simply administrative issues that can easily be resolved by the relevant County governments unlike the Isiolo/Meru dispute which requires independent arbitrators.

1.0 FACTORS THAT PRECIPITATED THE MOTION LEADING TO THE FORMATION OF THE AD-HOC COMMITTEE

Visit by the Governor of Meru County H.E Peter Munya to the areas of Kiwanja, Checheles and Ngaremara and the announcement of planned development activities including the construction of livestock market, access road and subsequent order to the residents to hence forth pay land rant rates and other levies to Meru County. The said area had been under Isiolo County since the Colonial time and continues to enjoy services from Isiolo County and have had absolutely no connection with Meru County. Ngaremara has always been a location and electoral ward in Isiolo County. All chiefs and their assistants report to Isiolo and the area member of the County assembly sits in Isiolo County Assembly.

It was noted that the actions of the Governor has the potential to cause conflict hence the appeal to the National government to intervene and restrain the Governor from undertaking the proposed projects. Besides, the actions of Hon Munya have caused
anxiety among Isiolo residents leading to disharmony as a result of the perceived support of some of the residents to the unlawful claim by Governor Munya. Isiolo County Assembly further observes that the actions of the Meru County Governor is not only provocative but is un-procedural, un-lawful and amounts to usurping of the mandate of the National Land Commission and the Independent Electoral and Boundaries Commission. Attempt to address causes of insecurity and redress historical injustice where according to the report of TJRC over 75% of the said injustices occurred in Northern Kenya and 50% of conflict occur because of land. The Assembly derives its powers from the Constitution of Kenya chapter 195, County Government Act 2012 section 17 and the County Assembly Standing Order 172

2.0 Genesis of the Boundary formation and Isiolo Meru Disputes in the Historical Perspectives
This historical perspective is mainly an excerpt from an earlier report on the dispute between Isiolo and Meru by Professor Gufu Obba whom the Ad-hoc Committee once again wishes to acknowledge in a special way. It is however important to state that the Committee managed to use the reference provided herein to access most of the reports quoted in this presentation which copies have been annexed to this report. Below are the analyses:-

During the colonial period there existed the Central Province and the Northern Frontier Province which had a distinct boundary. Meru Native Reserve was curved from Central Province and its boundary gazetted in 1925. There was boundary review on 13th October 1926 and in November 1927 it was finally gazetted as per 1925 boundaries review on 30th March 1928 and that there was no addition or alteration until 1962 during the flowed review in which the people of Northern Frontier Districts were not represented. Historically, Meru was part of the Central Province administered from Nyeri, while Isiolo was administered as part of the six Districts comprising the Northern Frontier of Kenya [NFD]. NFD was administered from Meru until sometime in 1912 and then the District moved to the present location of Isiolo town that served as Headquarters of NFD from about 1914 to 1962, when Kenya got independence. The Isiolo District and its people other than being neighbours with Meru, have no cultural, ethnic or economic relationships in terms of land use. The grazing lands in former districts of NFD remain a Trust land and administered under the Trust land Acts for protection of the rights of the nomadic and pastoral peoples, while Meru is an adjudicated land with agriculture used mainly by farming communities. These differences in land use systems have important implications for the current conflicts over the boundaries of the two districts.

The boundary changes of 1962 were not only made without due applications of equitable legal means but also the changes has not taken into account the land use strategies for Pastoralism. The indigene pastoral populations including the historical Laikipiak Massai and the Muko Godo remnants of the group similar to the present
pastoral groups (Borana, Sakuye, Turkana, Harte and Isak Somalis) had always relied on extensive land for grazing. Thus, any alienation of land from pastoral communities by systems of adjudicated land use system is incompatible with Pastoralism. It is due to this larger picture of the potential consequences of land use conflicts that this historical analysis of disputes over boundaries between the Districts of Isiolo and Meru was necessitated.

Reasons for historical grievances

There have been numerous complaints about the Isiolo-Meru boundary by the Borana and other pastoral communities since 1932. The present grievances over boundary with Meru are from two major events. Firstly, we as the pastoral communities who directly depend on access to communal grazing lands have come worse off due to the encroachment by the neighbouring District on our grazing lands. Secondly, the historical injustices arise from the exclusion of the Borana and other pastoralists from the first Border commission in 1962. Thus, due to historical events of the time their voices have been missing on claims for their rights to land.

The pastoral communities of the Isiolo District do not therefore consider that any further Commission has sat since 1962 to address boundary dispute. In the case of the pastoral communities who are *bona fide* of Isiolo District, our earlier grievances over land still remains and it is for this reason that we have used as our basis, historical documentations over the disputes over the boundaries of the two Districts. Starting with the more recent reports on this subject. In the District Annual Report of 1970, the District Commissioner of Isiolo District makes the following statement and presents the reason why the Borana community did not participate in the Boundary Commission of 1962.

“...The major source of disagreement between Meru and Boran is the long outstanding district boundary between the two tribes. The Boran claim that the Meru had taken a lot of their land for the reason that during the last boundary Commission [1962], they were not represented as their political party, then, the NPPP [Northern Peoples Progressive Party] boycotted the Commission. They now wish the Government to appoint another Commission to review the boundary. A part from the Isiolo strip, the Borana claim all the portion of land between the existing district boundary and West of Isiolo/Garba Tulla road bordering the NGA [Native Grazing Area or MNCA] in Meru."

The letter of the Chairman of the Isiolo Country Council, addressing the complaint to the Permanent Secretary in the Office of the President of Kenya on 16th April 1971 reads:

“During 1962 where there was Boundary Commission, no representation from this District [i.e. Isiolo] was made as the people of this District boycotted the whole thing as a result of claiming to have secession to Somalia [sic]. As a result, [of] no representation from this District... the Meru people took the opportunity of being alone and grabbed the whole land which used to be part of Isiolo District. The people of this District have been using this land for 70 years [this refers to the Special Lease Area only]."
The letter clearly links the grievance to historical use of the land. The Borana have been in occupancy for before the colonial. The first District Officer was posted to the Garfsa District in 1917 that was transferred to and renamed Garba Tula District from 1918. Isiolo District became the amalgamation of the Garba Tula and the Barsaloi District in 1929.iii The time of occupancy can itself be an important legal defence according to the laws of Kenya, where population that have called a place a home for more than 100 years will not be removed because their borders are contested by the neighbouring community, particularly if the encroaching community uses different systems of land use.

Returning to the letter of the Chairman of the Isiolo County Council on the claims presented to the office of the President, the letter continues to add:

`[t[he places we have disputed are as follows`:

1. The so called Meru Concession Area …this used to be a part of Isiolo District leased to people of Isiolo district by the Government. Now that it’s to my understanding that, that part of area is with Meru [sic].

2. The other part is along the road going to Nanyuki, this District boundary used to extend up to 8 miles [Melo Nanne] but present [sic], the boundary only passes two miles to Isiolo…. I hope you will as soon as possible appoint a Commission to review the boundaries and the Meru people should stop interfering.iv

The disputes which we present in more detail in the latter sections, is on the shifting of the Meru District border from the place called Meli Nanne (8 Miles) marked by a boundary Cairn at the point where the Nanyuki-Isiolo road crosses the Isiolo River. Chief Haji Galma Dido while rejecting the Borana participation during the Boundary Commission on 15 November 1962 however made a point by stating “Our boundary is towards the Nanyuki area, 8 miles from the Isiolo Township…“

Presentations on the same subject have been made severally to the Office of the District Commissioners.

2.1 Background to the Grievances

The people of Isiolo argue that one of the confusion about what entails Isiolo District is the different legal and quasi-legal systems of land allocations that were historically given different names and even their geographical extents drawn which then were taken as maps of Isiolo District. There were three land entities that were found in Isiolo District: the first is the larger Uaso River Basin area (URB), the second was the Special leasehold Area (SLA) of Isiolo and the third was the Meru Native Reserve or also called Meru Concession Area (MCA).

The URB part of the District is the larger Waso inhabited by the Borana and the Sakuye. The SLA was part of the Crown land that by legal legislation was heaved from the central Province through Government Legislation. This land was exchanged with pieces of land that were transferred to the central province that in historical documents is referred to as “Crocodile Jaws” which is situated west of Mukogodo in 1952 `as plan [for] the boundary of the Isiolo leasehold`.vi The MNR or MCA was part of the land to the East of the Nanyuki-Isiolo-Garba Tula Road that borders with the Meru District.

The SLA was marked as part of the Crown land to be used by the Harti and Isak Somalis who were settled in the District after the first and the Second World Wars by
the British from other parts of Kenya. Thus, the present neck-strip that characterizes
the Isiolo District map which is interpreted as the borders of Meru and Isiolo is in fact
the map of SLA. This is the first misconception about the authenticity of boundaries
between the two districts. It was within the SLA that the Somali settlers [mainly the
Harte and Isak were the legally acknowledged populations] were allowed to graze
their livestock and including MNR or MCA through grazing fees which were later
revoked by the crown court, in a case involving the Crown Court of East Africa and
one Ali Samatar [see the testimony of Harte and Isaak elders above].

In the handing over report of the Isiolo District in the 1950 on the subject of the
boundary the outgoing District Commissioner informs the incoming as follows:

*The Isiolo District is composed of two distinct areas, the Leasehold Area [LA] and
the Uaso Nyiro Boran country. The boundaries of the Boran country are quite clearly
shown on the map affixed to the wall behind the Desk. ‘A red herring’ regarding the
Meru boundary was being played in 1946 [vide file LND.16/1/4, Letter dated the 11th
November 1946] but I have agreed with Mr. C.M. Johnston [DC Meru] that this is no
longer a live issue.*

The ‘red herring’ referred to is the unsubstantiated claims made by the Meru on the
Isiolo boundaries that lacked historical facts, which as we shall show in this
presentation has been presented to this day. The DC however wanted to make more
explanations on the SLA which is part of the land currently occupied by the Isiolo
town. He presents the legality of SLA under ‘Schedule VI of the Crown Lands
[Amendment Ordinance 1938] defines the leasehold area’.

Regarding the SLA, the
land Unit has its origin in the report of the Kenya Land Commission of 1932.

The DC continues to state ‘it is accepted, although it has never been officially stated
that the Native Leasehold Area, Schedule VI-Crown lands [Amendment] Ordinance
shall be an area reserved for those Somalis to whom Government has certain
obligations’. The report of Isiolo District of 1929 on the amalgamation [of the Garba
Tulla and Barsaloi Districts into Isiolo District] states ‘inevitably incidental to the
consolidation of such a scheme of amalgamation, was further aggravated by the
necessity for accommodating at Isiolo a number of Alien Somalis rich in stock…from
all parts of the country’.

In reality this was the beginning of the establishment of the
SLA. New rules which from then on were cited as ‘the Crown Lands [Isiolo] Rules
and shall apply to the Isiolo Special Leasehold Area [SLA] as defined in the VI
Schedule to the Ordinance [hereafter referred to as the area].

It is quite important and we make it clear that the land over which the Meru District
boundary has encroached is historical and still does, have a special status that gave it
distinct legal definitions. We contend that the crown land has the same functions as
the Trust Land. We use the definitions as explained under the laws for administering
land in the NFD. In the communications to all the District Commissioners in 1945,
the Government clarified the basic principles of land administration in NFD by the
letter from the Provincial Commissioner, which explicitly states

*It is most important that everyone serving in the Northern Frontier Province shall
understand the basic principles of the land. It is Crown land, as understood in
modern times, that means it is land with radical title of which lies with the crown, but
which on behalf of the people occupying it. In doing so, naturally the administration
The Meru District was historically administered under a different land laws covered by the Native Trust Land Ordinances [NTLO]. Thus, the MCA was administered under the NTLO while the Special Leasehold area which became part of the crown land established in 1938, was administered under section 62 of the Ordinance, as crown land, which made it cease to be the land legally claimed by the Meru District and in effect being part of the Isiolo District. The Somali [i.e. Harte and Isak] presented a petition to the governor of Kenya during his visit to the borders of the Leasehold land. In the reply by the Governor, communicated by the Chief Secretary on the status of SLA, he reports:

> With regards to …your petition I am directed to reply as follows. The District Commissioner, Isiolo, has on many occasions in the past defined the leasehold area. New boundary cuts will be made during the next few months along the southern boundary of the area [from Magado-Igembe crater in the east to the southern summit of Shaab mountain and thence to the Isiolo River in the west] and when this has been done there should be no further doubts about the limits of that portion.

The pastoral communities have historical rights of residence in the SLA and the greater URB of the Isiolo District. The following are references to specific areas where the communities feel aggrieved by the loss of the grazing lands which focus on the Special Leasehold Area to highlight the special status of this land unit.

### 2.2 The Nanyuki-Isiolo-Meru Boundary [the Special Leased Area]

The present contests over boundary between the Isiolo and the Meru District originates from the confusions over where the boundary beacons are located vis-à-vis the de facto borders. Refer to the citation made regarding the Chairman of the Isiolo County Council, Mr. Mohamed Ibrahim who had claimed that the Isiolo boundary with Meru along the Nanyuki road starts at 8 miles, locally called Meli Nanne. This Beacon in the historical documents is referred to as KAR WAGGON CAMP. Many reports had referred to the Beacon by this name. But where is it? For several years, the locations of this Beacon that officially marked the borders of Meru and Isiolo Districts were discussed, its bearings provided including approximate Magnetic Bearing.

From the Archival files that we have read, the locations of the Beacon similar to most other Beacons marking the Isiolo-Meru Boundary is either in doubt, un marked or locations were lost. Yet, the Old KAR WAGGON CAMP is of such historical importance that the elders representing the local pastoral communities were able to locate the site without difficulties. This is a clear indication of how problematic fixing the Isiolo-Meru Boundary has been and our disputation that the present de facto boundary might as well be wrong and unrepresentative of the de jure boundary lines. If we take the location of the Old KAR WAGGON CAMP, as an example, the letter from PC NFD copied to PC Central and all the DCs in NFD and DC Meru, of October 1955 [Marked as Appendix 14 in colonial files of Isiolo] states:

> The precise position, at which the old Nyeri-Archer’s Post Road crossed the Isiolo River in the vicinity of KAR Wagon Camp, is not known and I have therefore taken its
position from very old maps. It is interesting to note that among my records is a file [H/20] of correspondence dating from 1923 to 1929 and dealing with this question, and it appears that the position of the road and camp could not be found even in those years. This file ends with the words ‘...in view of the doubts expressed it would seem urgent that the position of the crossing of Isiolo River near the old KAR Camp be determined as soon as possible, and a permanent boundary cairn erected at the point’. Can you please supply any information on this question, and do you know whether a cairn was ever built? xv

There was a further communication from the PC, NFD to the PC, Central, Nyeri on the subject of the Provincial and District Boundaries, regarding the location of the ‘Old KAR Waggon Camp’. The PC’s letter [LND 16/1/108] of 29th October 1955, states

There appears to be no disagreement whatsoever among the local residents [Turkana, Somali and Meru] as to the position where the old Nyeri-Archer’s Post road crossed the Isiolo River. No Cairns exist but if you could ask the District Commissioner, Meru, to send an Officer to visit the locality with the District Commissioner, Isiolo, I am confident that the position for the sitting of a cairn could easily be agreed and we could then erect a cairn.xvi

Despite the correspondences on the subject occurring at different times, we can see from this communication that the actual Beacon locations were uncertain. It was in this regard that the District commissioner of Isiolo through the letter to the Survey of Kenya [CN/5/62] enquired the location of Meli Nanne. The letter states

I cannot find any records in this Department [DC Isiolo] to show that this portion of the boundary [Isiolo-Meru Border] ever was surveyed and consequently, the bearing given [Magnetic Bearing 153° 45’] given to you is liable to considerable error. Would you please inform me whether any marks have been found by you at either end of this line [True Bearing 151°]?xvii

The reply from the survey Department two weeks later gives the exact locations of the Beacon of KAR WAGGON CAMP. The letter by the Director of Surveys [L.G. 5/92] in reply states

A cairn of stone exists at either of the line but they are not inter-visible. The present dispute concerns the point where the main Isiolo-Wajir road cross [sic] this boundary [Bearing 153° 45’] from the northern end [ref. to KAR WAGGON CAMP].xviii

It should be significant to note that the bearing refers to the crossings of the Isiolo-Garbatula-Wajir road and the river crossed is Isiolo River, at the locations with that name. This location has been in dispute for some time as the Beacon could not be traced. Another significant point is that from that point of KAR WAGGON CAMP at Meli Nanne that the bearing of Isiolo and Meru District was taken to another Cairn on Gau Hills. We shall return to this evidence later.

If we take this location of the KAR WAGGON CAMP cairn [or Meli Nanne] as the Beacon, it can be shown that the de facto Meru District Boundary had been moved towards Isiolo by 6 miles, with a loss of land from Isiolo to Meru District. The present boundary located less than 2 km from the town implies that Isiolo Township has no room for expansion in the future. This predation of land has caused such important facilities as the Isiolo International Airport to be partly located in Meru, a
strategy no doubt which the Meru leaders had schemed to deny the economic opportunities to the communities of Isiolo. Furthermore, all the land that stretches from Meli Nanne to Isiolo town is now settled by the Meru people. The land has been parcelled out into plots and farms and therefore not accessible any more to the people of Isiolo for their livestock grazing. Further, the current expansion is posing a threat to the Special Leasehold Land that has been set aside for the use of the residents of Isiolo Districts.

2.3 Special Leasehold Area [Isiolo]
The Special Leasehold area[Isiolo] comprised the second part of the old Isiolo District and had been separately mapped and its map has been erroneously interpreted as the borders of Meru and Isiolo Districts. This may be a surprise even to the local residents but as astonishing as it may be this conclusion is reached from careful evaluation of the official documents (see below). The existing records show this very clearly and our deductions are that the section of the boundary as presently claimed to represent the Isiolo-Meru Boundary is wrong and has been misleading, inaccurate and lacks legality. This would explain the current speculative disagreements and if ignored would be the reason for conflicts over land in the future. This section of the area of Isiolo District is inhabited by legal residents according to the Notice No. 12/63 on special District [Administration] Ordinance: CAP 105, Laws of Kenya. This area is part of the larger Isiolo District. The boundary of the Leasehold Area combining the LND 16/24 and LN 68/61 of 1961 can therefore be summarized as follows:

1. Thence by a straight line through Trigonometrical Beacon Lendili extended to its intersection with the Uaso Nyiro river;
2. Thence downstream by that river to Chanlers falls; thence due south by a straight line to its intersection with the generally north-western boundary
3. Commencing at the north-west corner of L.R. No. 5181
4. Commencing at the Trigonometrical Beacon Mukogodo situated on the northern boundary of Nanyuki District
5. Thence by a straight line north westerly towards the summit of Ol Donyo Lessos to its intersection with the Ngare Ndare River
6. Thence northerly, easterly and south-easterly by the western and generally northern boundaries of the latter portion, and continuing south-easterly by the northern boundary of L.R. 2794 of the Eastern Marania River,
7. Thence downstream by the course of that River, and the Isiolo River, to the southern boundary of Isiolo Township [L.R. No. 7918]
8. Thence easterly by part of the southern boundary of that township, north-easterly and north-westerly by the Eastern boundaries and westerly by part of the northern boundary of that township to its intersection with the Isiolo river a fore mention
9. Thence generally northerly by the centre course of that River for a distance of approximately 5½ miles to the Old KAR WAGGON CAMP [Co-ordinates Approximately 37° 35' E0° 29' N ]
10. Thence northeasterly by a straight line to Trigonometrical Beacon Shaba [SKP 230].
The second Beacon that marks the boundary of Isiolo-Meru District is given by the Trigonometrical Beacon Shaba [SKP 230]. We have shown that the Special Leasehold area represents the internal boundary of the Isiolo District but currently appears as the Isiolo-Meru boundary which gives that part of Isiolo District map its unique finger like shape. This in essence refers to SLA within the larger Isiolo District. There exists two Critical boundary Beacons, hereafter, that mark the Isiolo-Meru District Boundaries: first the Old KAR WAGGON CAMP [meli Nanne] and the Shaba Beacon SKP 230.

Let us now focus on one of the most contentious border areas which is the southern border of Isiolo District and the Northern border of Meru District. Records show that Isiolo County lost 500-600 square kilometres of grazing lands in this part of the border. The disagreement again is on the locations of the border Beacons, confusions over reporting and counter reporting while the local communities are very clear about the location of the boundary. The areas are those called in historical texts as Bisan Guracha [the black waters] by the Borana and Meckenzie River first documented by Chanler in his Book “Through Jungle and Desert” published in 1896 and appears on the Map produced by Ludwig Van Hohnel in 1892-3, giving it the same position as described by Chanler, who was exploring the area of Waso. So we have this historical reference including the communities he met and those he enquired particularly the Borana Galla [Oromo]. The same river that discharges into the Tana River in the Official Gazette of 1938 [special Issue of July 5th 1938] marks this river as the boundary between the two districts. The distinctiveness of this river from records first by Chanler and others is the only perennial stream that discharges its water directly into the Tana River at the intersections of the borders of Garissa and the old Kitui and Kipini [Tana River] Districts. There is only one such candidate of a river, despite the confusions in the records. Without going into the historical debate, it has been demonstrated that Bisan Guracha exists and it’s the boundary mark between the Isiolo and Meru Districts. Yet, as it presently stands the Meru boundary has been moved to few meters of the Kinna town, which represent a distance of more than 20 km from the actual inter-district boundary.

Where is Bissan Guracha or the Meckenzie River?
The names and locations of the Rivers Bisan Adi and Bisan Guracha and which one of them represents the historical Meckenzie River had preoccupied the NFD and the Meru District administrators for a long time and to that effect, the subject of numerous exchanges. What was agreed was that the river that is permanent and flowed into the Tana River was the Meckenzie or Bisan Guracha. In the letter by Richard Turnbull the DC Isiolo to Captain V.M. Mckeag, the DC Meru, on which of the two rivers qualify, was raised. Richard Turnbull in his letter of 1938 states: I agree that the Bisan Adi appears to have been regarded as the Meckenzie in the past but there remains a possibility that it has been confused with Bisan Guracha [the confusion is by the two administrations only]. The Bisan Adi flows into the Tana for a few weeks only viz after the rains and is now dry [1938] as far from its confluence at Malka Magado whereas the Bisan Guracha is even now flowing into the Tana. This latter river appears to be the last permanent water flow into the Tana.
The location of Bisan Guracha is therefore critical in settling the disagreements over the Borana- Isiolo District southern Boundary with Meru. The colonial administrators in their communications on this issue made claims and counterclaims often without a visit being made to locate the River boundary in dispute. Mr. C.F. Atkins, the DC Isiolo in his letter to the DC Meru of 7th November 1944, makes a consistent observation in locating Bisan Guracha and the use of that area by the Borana pastoralists for dry season grazing. We quote:

*The former [Bisan Adi] entering some 14 miles East of Bisan Guracha into Tana… My personal opinion is that the Bisan Guracha is the Mackenzie [see Hunt’s sketch map which shows Mackenzie to be Rojewero] and was selected as the boundary on the grounds that it was the last permanent water to flow into the Tana; Bisan Adi reaches Tana only during the rains…The position of the boundary is of little interest to the Meru who do not occupy this fly and tick-ridden corner of their reserve and although they regard the Bisan Adi valuable, the Borana do not approach save when they are forced to do so by drought. Their right to graze as far west as this latter river has never been disputed by the Meru.*

The importance of the Bisan Guracha area as the communal grazing land during drought years by the Borana was underscored again by the Office of the DC Isiolo, in communication of 1st October 1946 to the DC Meru. The DC had urged his counterpart that the part of the boundary between the two communities be legalized to avoid future conflict. The letter reads:

*The Borana have continued to occupy the country up to Bisan Guracha… and are using it increasingly. It would hardly be practical politics to excise this four or five hundred square miles of country from the Boran now and give it to the Meru who do not require it. Although this amendment will make no practical difference at the moment to any of the parties concerned, it seems wise to legalize the boundary which is actually in use [by the Boran] in order to avoid future difficulties.*

The communication of the DC Isiolo, Mr. Nimmo to the PC NFD on 25th October 1955 put to rest any doubts on where the boundary lies and the importance of the river to the Borana. We would like to cite that letter in full because of its relevance. The letter reads:

*Since 1938, at least, [actually 1917 according to another source], if not earlier this line has been accepted by both Meru and the Boran as the “de facto” boundary. The Borana have come to look on this area as their own, the grazing and permanent waters of the Bisan Guracha are vital to them, and having enjoyed them for so long it would be inequitable to turn them out now. It may be argued that 30 years [1920s] ago the Boran came nowhere near even the Bisan Adi, but then neither did the Meru, and even now the area is not vital to them. The Boran have it by right of occupation. The Meru do not need to occupy it, in fact there are still wide areas on the west of the Bisan Gurach lying vacant, so that Meru’s claim to the area is, at least, not as urgent as the Borana’s.*
The importance of Bisan Guracha to the Borana livestock grazing was confirmed by the chiefs and elders in 1959. The chiefs and elders who signed the petition letter to the PC NFD were Chief Haji Galma Dido, Chief Guyo Jatani, the elders Kosi Fay, Halakhe Fai, Madeera Duba, Boru Diba, Jillo Shande, Wako Wario, Gur Roka, Jolo Anti, Boru Dida, Wako Happi and Huka Sora. The letter in part states [in Kiswahili].


These claims were supported by an earlier communication in 1944 between C.F. Atkins the DC Isiolo to the DC Meru. The communication clearly states:

A part from the question of identifying the Mackenzie river I do not think there can be any argument as to which river more nearly represent the actual dividing line between the Boran and Meru South of Kinna. As far as I know the Meru have never since the coming of British rule used the strip of land lying between the Bisan Adi and Bisan Guracha, while the Boran have for some years had manyattas there, and have used it extensively especially during drought. If the Bisan Guracha is accepted as the border, I do not think the Meru would suffer at all, whereas if it is put at the Bisan Adi, the Boran would lose an area which they use now and which of value to them.

These evidences are in support of the historical losses of land by the Borana in the southern and the Eastern Meru boundary that has been clearly marked by this natural feature. Bearing this in mind, we can now attempt to describe the de facto boundary between Isiolo and the Meru.

2.4 The de facto Isiolo-Meru Boundary

The exact locations of the de facto boundary between Isiolo and the Meru District between 1940s and 1950s have raised torturous disagreements between the administrations in the two districts. Based on this we would be right to claim that any boundary adjustments following the 1962 boundary Commission as it probably appears on official maps now is bound to be highly inaccurate. For this reason, let us analyse the contested facts to evaluate the information. In showing the de facto boundary between the Isiolo and Meru District, we can now link up the dots from our previous fixed points. The border can be drawn in straight line from the Old KAR WAGGON CAMP Beacon 8 miles at the crossing of Isiolo River by the Nanyuki-Isiolo-Wajir road according to the Official district boundary as follows:

Thence northeasterly by a straight line to trigonometrical beacon Shaba [SKP 230 then crossing the Isiolo-Wajir Road] thence continuing north-easterly by a straight
line to trigonometrical beacon [95/Y/1] on the northern spur of Mata Lamana [Mata Laman], about 5 miles north-east of Ngombe [Yombe or Igembe crater]. Thence, south-easterly by a straight line to the Kithima ya Mugoma spring; thence, south-easterly by a straight line to a point Isula Kanini on the Mera [Murera] or Bisan Guracha River. Thence, generally, south-easterly downstream by the centre course of Bisanguracha to its confluence with Rojewero or Makenzie River [that discharges into the Tana River].

According to the last legal boundary (1961) the border point at the meeting of the two rivers is at `Malka Kora on the north bank of Tana River`. This point corresponds with the confluence of the Bisan Guracha and the Tana River. The letter of the DC Meru to DC Isiolo of November 1944 attempts to document the exact boundary positions between the two districts. The letter in part states:

*The Borana country marches with the Meru Reserve from Gwau Hill to the Tana River; this line is defined in the Official Gazette of 1938 [special Issue of July 5th, Page 328].*

The disagreement over the *de facto* boundary had mostly to do with different names for the same place by the Borana and the Meru that have not been verified. The misunderstanding albeit numerous, attempts to reconcile the different place names have not been successful. For example, in the letter [LND 16/1] of 1st October 1946, the DC Isiolo made the following clarifications.

*The spring known locally by the Meru as the “Kathima ya Magomo” is definitely the Kinna, spring south of Kinna Hill. The Bisanadi is named by them as “Kathera” and Bisanguracha “Murera”. The “de facto” boundary accepted by the Boran and Meru runs roughly south from the Hill Yakka Buta to Kinna hill [Ngongo] and then south west to the south of Bisan Guracha which rises under Kitwe hill. From there the accepted boundary follows the Bisanguracha to the Tana River.*

The DC had described the boundary on the basis of information from both the Borana and Meru elders which was confirmed by the survey Team sent by Mr. Richard Turnbull in 1938. Using this information the DC continues:

*…my information comes principally from the natives of both tribes who live in [the] area. Sergeant Tachana of the Dubas states that he was sent out in 1938 with a Kenya policeman and some Meru Tribal policemen to ascertain the boundary…The boundary described above was agreed by both sides [i.e. the Borana and Meru], and evidently when the patrol returned and reported to Mr. Turnbull he is said to have confirmed their findings from his map. The inter-Provincial boundary, printed on the official map of Kenya, conforms very closely to the boundary described.*

Furthermore, in his communication to the DC Meru on the subject of Meru-NFD boundary, Mr. J. Pinney made the following observations.

*At no place is the *de facto* boundary in dispute [in] NFD …crown lands and Meru Native Trust land Ordinances. The border description would be: Thence, in a south-easterly direction by a straight line to the summit of kina Hill, thence in a south
westerly direction by a straight line to the south of the Bisanguracha River, Thence, downstream by that river to its junction with the Tana River. xxxii

The 1938 description of the boundary is substantially the same as that gazetted in 1924 [Official Gazette 1924 p. 202] except in the wording. We shall next describe where the disagreements occurred in the historical texts over the southern boundaries of Isiolo with Meru District.

**Contestations from the Meru District Administration**

Below are the assessments of the contestations by Meru side that can be gauged against the information we have so far adduced. As shall be shown in a short-while, the differences were in details, mainly on the miss locations of some of the mysterious Cairns over which there were disputes as to their authenticity. The other contestations were based on the use of local names which the Meru District (read County) administration used to miss locate the reference point that resulted in the shifting of the boundary towards the area claimed by the Borana. From the communications, it may be deduced that there was an attempt from 1950s to discount the existence of Bisan Guracha and confusing it with Bisan Adi or even Kinna River as the border. Despite the often confused arguments the Kinna River cannot be the candidate for the boundary as it loses its ‘water in swamp [called cha’ppa Happi] a short distance from the source and does not get within 20 miles of the Tana River. This line does also not follow the official designation of the boundary as stated earlier. The only rivers of appreciable size which rise in the neighbourhood are the Bisan Adi and Bisan Guracha, both flow into the Tana`. xxxiii Malka Kora is the locality that could possibly refer to the crossings of the Tana at the convalescing of the two rivers but this need verification. There is no other geographical locality of the same name anywhere else in that part of the country.

In the earlier communications between the DCs’ Meru and Isiolo, the Meru side had shifted the border through use of place names that do not correspond with the described boundary. From the sketch map of Hunt of 1953, there is little doubt that Bisan Guracha is located 15 miles to the south of Bisan Adi before it joins Rejewero, which is often referred to as Mackenzie River. xxxiv In his Communication of 2nd June 1952, to the PC, Central Province, Mr. F.D. Homan, the DC Meru finally agreed to the layout of the Meru-Borana Boundary. We quote this letter in full.

*These reports, I think, establish without a doubt that the Eastern boundary of this District [Meru] with NFP [Northern Frontier Province] runs from the spring Kithima-Ya-Mugomo south East to a Cairn on the Bisan Guracha (Murera] River, thence, by that river downstream in a south-easterly direction to its junction with the Tana River to the point where it is joined by the Bisan Adi or Chero River.xxxv*

The DC Meru, Mr. J.S.S. Rowlands from his field surveys concluded that *Until tribal warfare in 1938 the Bisan Adi was the recognized Boundary….The only Meru seen, until, we saw the Shamba area was honey collector. The area lying west of a line through Kinna Hill is populated at present by fairly numerous Boran and their animals…Should any new defacto boundary be authorized Kinna hill, more obvious than any arbitrary mark and a line south the obvious boundary as far [as] the Bisanguracha. As far as I see it the courses open to the Meru are to surrender a
large area absolutely to the Boran by having the NLTO amended. Isiolo may press for this.

Clearly this was an admission that the Borana by virtual of occupancy owned the areas of Bisan Adi. The Provincial Commissioner Central in his reply to Mr. Homan DC Meru stated `...up to 1938 the Bisan Adi was the recognized tribal boundary, Mr. Turnbull, then DC, Isiolo, admits in his LND 16/1/1325 of 13th October 1938`. This was soon confirmed by Mr. Richard Turnbull that the Meru-Borana Boundary was Bisan Adi and not Bissan Guracha. Yet, careful analysis of this information in subsequent information also put this change in doubt. The reason being, the lack of clear differences between the de jure from the de facto borders and the inter-changeability of the two in the communications.

2.5 Disagreements on locations

Let us again refer to the Safari made by Mr. Rowlands in May 1952 to ascertain the points in the boundary. The DC would suggest that `[t]he Boran, who have been suspicious of the whole Safari, would resent being removed from an area where they have been unmolested for 14 years and where location relations are amicable...The Meru’s would present any loss of territory, and the large grazing area constitutes [loss of the land]...valued for honey...Pressure from either tribe may lead to future trouble...` The second boundary verification safari was that conducted by the DOs from Meru and Isiolo Districts in July 1953. The Safari was joined by the Chiefs from Borana and Meru. Mr. R.G. Hunt reports some of the highlights of the findings. He recalls that the boundary previous agreed between the two DCs was `to follow Ura river upstream from the Tana to Karimba Hill and then by straight line to the Kinna Hill`. He further states `on pointing this out to the Borana elders, the lead... Senior headman Guyo Jattani, made series of extravagant claims to the effect that in 1938 Mr. Tunbull have given them the grazing rights over the whole of the low Meru Country`. From earlier evidence we know that this was not “extravagant claims” but the facts were supported by historical facts. This is confirmed by the boundary locations of the Garissa, Tana and Kitui that made the tri-junction at the confluence of the Tana and Bisan Guracha. A letter from the DC Tana River to the DC Isiolo, 10th September 1955 makes an important clarification on the correct locations of the southern boundary. The letter states:

The District Commissioner Meru suggested, I should let you know that the findings of the Rowlands-Cresswell Safari in 1952 to Kinna and Mackenzie are confirmed by the Tana River Political Records...The old Kipini boundary...ran to a point opposite the Mackenzie and this is described as the first tributary from the sea to have permanent water.

Lack of clarity of the border can be appreciated as different communications shifts the boundary marks. The main disagreement was on the Bisani Adi Cairn. The location of the cairn did not correspond with the geographical reference on the official maps of Kenya. Different views existed. Mr. L.R. Thompson, DC Isiolo in his letter to DC Meru and copied to DC Tana River on 10th September 1955, had doubts as to the accuracy of the “cairn” reported by Messrs Rowlands and Cresswell of 1952, citing evidence of the misreading of the border and promising that he would
open up the case again as a matter of disagreements between the two Districts on
where exactly the boundary “cairn” of Bisan Adi was located. Mr. J.R. Nimmo, DC
Isiolo in his July 1955 report dwells at length on his findings about the location of the
“cairn” and the possible inaccuracies of the bearings presented on the official maps
that in effect resulted in the loss of the grazing lands by Isiolo District in general and
the Borana in particular. He states

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[the bearing of the cairn from the rock is 258° Magnetic. Either, the map of the
area [EAF 1705, 1: 500,000] is most inaccurate...The bearings places it [the Cairn]
south of the Bishanguracha, which is wrong!...I estimate the bearing of the Gwau
Beacon from the Bishandi Cairn as 337½° Magnetic, this means that the boundary
cuts the main Isiolo-Wajir Road ½ a mile East of Yaka Bissadi [Yaka Barsadi].
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Mr. Nimmo, DC thereafter requested for confirmation of the Beacon from Mr. Gerald
Hopkins who was the first DO of Garbatula District in 1918 and who in 1924 made
the border marks. The request was made as follows:

```I would be very interested to know if you collect demarcating Meru’s Eastern
Boundary in the Kinna Area.
```

(2) The description given in the Native land Trust Ordinance Cap. 100 of laws of
Kenya P. 1148 Line 1, Reads: “thence in a south-easterly direction (from the Gwau
Beacon) by a straight line to its intersection with the Kathima ya Wagomo River at a
point where that line produced would intersect a cairn on its left or eastern bank;
then downstream by that river till it becomes the Mackenzie”.

(3) The Meru Wazee say that you marked out the boundary and have shown me a
small cairn about one foot high which they maintain marks the southern end of the
Gwau-Kinna Line, as described.

(4) This Cairn lies in a flat featureless plain about a mile North of the Bisanadi River.
From the description given in the Ordinance it should cross the river before meeting
the Cairn. According to the description the river should be running from East to West
if the line is to cross the river in order to reach the Eastern bank. There is no such
River.

Mr. Nimmo’s inquiries were based on his field surveys and the unverified location of
the Cairn in question. The Cairn description did not match up with the description in
the Ordinance. Based on this doubts, Mr. Nimmo then wrote to Mr. Gerald Hopkins,
who laid the said Cairn in 1924. Hence, the question asked:

What I would like to know is this. Was the description of this boundary, written to
describe the boundary demarcated by you, or was the construction of the Bisanadi
Cairn built by you as your interpretation of what was written in the Ordinance?

In undated letter but most likely soon after this enquiry, Mr. Gerald Hopkins of the
Rahate Estate, Mweiga replies as follows.

I have mislaid your note re: Meru-NFD boundary and I am answering this from
memory of what was in it. Yes, I demarcated the boundary between Meru and Sakuye
of Garba Tulla District but it is a long time ago. The line ran from the top of a little
hill... The source of the Kinna River is near it, I believe. The Meru call it Maimboro
If I remember correctly. From this hill the line ran in a straight line to the Cairn of
stones to which you refer in your letter and I think that from that beacon it followed
dry water to the Kinna and then followed that river downstream to the Tana River.

We already know that the Kinna does not reach 20 km of the Tana River. Due to this inaccuracy, in a Memorandum to the Secretary for the African Affairs, the Ag PC NFD had raised the disagreements on the eastern Boundary between Meru and Isiolo District asking that the case be opened up for further investigations. In reply through the letter dated 8th August 1955, the Secretary had the following to say.

It is clearly a matter of some delicacy, which would take time to negotiate... You promised to go into this matter further, especially with regard to the complications of the eastern boundary of the district where I gather the line is nothing like so clear as originally believed; and further, you agreed to link this matter with the serious loss of Boran land on account of the newly discovered [actually claimed without evidence] course of Mackenzie River, which we must... continue to try get rectified.

The DC Isiolo had at the same time written to the Survey of Kenya asking for verifications of the line and the following was the reply received.

I have to confirm that the information given in my CN/5/62 can only be regarded as very approximate. I regret that it is not possible to supply you with reliable information regarding this line, and I hope Mr. Hopkins will be able to supply the necessary information.

We can deduce from the documents so far that if the survey department did not know that such line exists or if it did exist, where it passed, then it is quite possible that the so called Cairn has erroneously gotten into the government documentations with little possibilities of verification as a boundary. But if such incorrect information is used then it creates further errors and distortions on the correct locations of the boundary. Keeping this in mind, there now appear to have been a further thought on the accuracy of the information, which remains very doubtful, indeed. This is what the Survey department in supplementary correspondence to the DC Isiolo wrote stating.

I have taken into account the information supplied by Mr. Hopkins in showing the Meru District boundary plans now being prepared. This is the first reliable modern evidence to be supplied to this office on the correct native name (Kinna) for the Mackenzie River. The 1: 50,000 Sheet Garissa is therefore incorrect, in that it gives the “Rejewero or Mackenzie River”.

This reversal is not only inaccurate but highly misleading. We recall that Mr. Hurt had earlier visited the rivers and made sketch maps providing accurate locations of the Bisan Guracha or Mackenzie. The information is also misleading because the Kinna River ends in a marsh and does not enter into River Tana at the junction of Malka Kora (According to the 1961 Boundary descriptions by P.E.Walters). MR. J. R. Nimmo, the DC Isiolo also disagrees based on Mr. Hopkins note which he states `To the best of my belief the Kinna, Mackenzie and Bishan Adi are Meru, English and Borana names of the same river.` Mr. Nimmo simply dismissed this by the phrase `I disagree.` As we shall also show, the reasons are simple enough and yet it is this erroneous information that finally was used to describe the eastern boundary of Meru and Isiolo Districts. The debate about the shifting boundary did not correspond with established knowledge of the time.
i Annual Report 1970 Isiolo District [RU P/P/2], P. 3.
ii From Mr. Mohamed Ibrahim, chairm President, on Boundary Dispute with Meru District, 16th April 1971.
iii KNA/PC/NFD1/4/1, Isiolo District Northern Frontier Province Annual Report for 1929
iv From Mr. Mohamed Ibrahim, chairman of the Isiolo County Council to the Permanent Secretary, Office of the President, on Boundary Dispute with Meru District, 16th April 1971.
vi LND. 16/1/3/45, From J.R. Nimmo DC Isiolo to PC NFP, Provincial and District boundaries [Ref. no. LND 16/1/99 of 4th October 1955], Nanyuki/Northern Frontier Distrit Boundary, locality “Crocodile jwas Area West of Mukogodo” of 25th October 1955.


KNA/PC/NFD1/4/1, Isiolo District Northern Frontier Province Annual Report for 1929.


KNA/DC/ISO/4/5/12, Petition to His Excellency the Governor by the Somali Community [AA/9/1A-302] when he visited Isiolo 25th January 1960.

Appendix 14 [un marked letter] Meru/Northern Frontier District Boundary [which is also the Kikuyu Native Land Unit Boundary] From PC NFD with copies to all DCs and the PC central and the DC Meru.

LND 16/1/108 From PC NFD, Isiolo to PC Central, Nyeri, Provincial and District Boundaries, 29th October 1955.

CN/5/62, From the District Commissioner, Isiolo to Mr. P. B. Fiar, the Survey of Kenya, Nairobi, East Africa, 7th January 1955.

L. G. 5/8/92, From the Director of Surveys to DC Isiolo, Concerning Isiolo-Meru Border, 14th January 1955.


KNA/DC/ISO/4/5/12, Leasehold Land Boundary extension [LND 16/24 undated File Folio, Isiolo District 180].

KNA/DC/ISO/4/5/2, From Mr. C.F. Atkins DC’s Office Isiolo to DC Meru, on Borana-Meru boundary, 13th October 1938.

KNA/DC/ISO/4/5/2, From Mr. C.F. Atkins DC’s Office Isiolo to DC Meru, on Borana-Meru Boundary, 7th November 1944.

KNA/DC/ISO/4/5/2, Letter [LND 16/1] From the Office of DC Isiolo to DC Meru on Isiolo-Meru boundary, 1st October 1946.


Garba Tula Letter from Borana chiefs and elders to PC NFD on the disagreements over the boundary contests of Meru, 18th December 1959

xxvii KNA/DC/ISO/4/5/2, From C.F. Atkins DC Isiolo to DC Meru, 7th November 1944.

xxviii KNA/DC/ISO/4/5/2, Isiolo District boundary [not dated]


KNA/DC/ISO/4/5/2, From DC’s office Isiolo [LND 16/1] on Isiolo-Meru Boundary, 1st October 1946.

KNA/DC/ISO/4/5/2, From J. Pinney, DC Isiolo to DC Meru [Ref. No. LND 16/1/4] on Meru-NFD boundary, 11th ?? 1946

KNA/DC/ISO/4/5/2, From DC’s Office Isiolo to DC Meru (Ref. No. LND 16/1/1662, Borana Meru Boundary, 7th November 1944.

KNA/DC/ISO/4/1/125, file Folio 8A, Sketch map of the de facto boundary between the Borana and Meru, July 1953.

LND 16/1/186, From F.D. Homan, DC Meru to PC Central, 2nd June 1952.

Travel Report by Mr. J.S.S. Rowlands, DC Meru, 25 May 1952.
xxxvii LND 16/1/186, from the PC Central Province, Nyeri, to Mr. F.D. Homan, DC Meru, 2nd June 1952.
xxxviii LND/16/1/2/5, From R. G. Turnbull, PC NFD to PC Central, Nyeri, 11th June 1952.
xl LND 16/1/2, From the Office of the DC Tana River to DC Isiolo, on the Meru-Isiolo Border, 10th September 1955. See also letter from DC Isiolo to DC Tana River, Kippini, 10th September 1955.
xli KNA/DC/ISO/4/5/2, LND 16/1/3/40, From L.R. Thomson, DC Isiolo to DC Tana River, Kipini on Meru-Isiolo border.
xlii LND 16/1/3, Mr. J.R. Nimmo, District Commissioner’s Office, NP, 11th July 1955.
xliii LND. 16/1/3/4, From Mr. J.R. Nimmo to Gerald Hopkins, on Meru-Isiolo Boundary 3rd August 1955.
xliv Ibid.
xlv Letter from Mr. Gerald Hopkins to Mr. J.R. Nimmo, DC, Isiolo, undated.
xlvii From Ag. PC NFD to The Secretary for African Affairs on Memorandum of 3/5/55 submitted for the Provincial Commissioner’s meeting, 8th August 1955.
liii Ibid.