

Forest Conflict Amidst National Controversy in Kenya: Lessons of the Mau Forest Complex

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Abstract

Conflict of Mau forest Management continue amidst confusion and dismay in Kenya. Politics being at the centre stage; Mau forest complex has lost about 107,000 hectares, or 25 percent of its forest covers through: irregular and unplanned settlements, illegal logging and charcoal burning, change of land use from forest to unsustainable agriculture and change in ownership from public to private. This scenario threatens potentials of energy generation; tourism, agriculture and water supplies into Kenyan cities and industry and therefore deteriorate East Africa's biggest economy. The conflict resolution model in this paper describes participatory role of local institutions in conflict management as key, and argue therefore that enhancing communication and developing a framework of negotiation and dialogue among interested parties engaged in conflict will promote meaningful resolution of the Mau conflict. We suggest that Kenya as government need to engage on modern and skilful conflict resolution process that is not guided by politics but rather engage on forward looking process to resolve Mau conflict once and for all. This can be achieved through a conflict resolution management process which mobilizes local capacity through the use of local approaches such as customary laws, local leadership and negotiation skills.

Key words: forest conflict / natural resources / Mau Forest Complex / conflict resolution process/ Kenya

1. Introduction

This paper focuses on forest conflicts and sustainable management challenges in Kenya with special reference to Mau Forest Complex. The 400,000 hectares Mau Forest Complex sits on aquifers that provide water to millions of people in the Rift Valley and western Kenya. The Mau comprises 16 contiguous forest blocks, gazetted as forest reserves or trust-land forest. The forest is divided into seven blocks comprising South-West Mau (Tinet), East Mau, Ol'donyo Purro, Transmara, Maasai Mau, Western Mau and Southern Mau. These seven blocks merge to form the larger Mau Forest complex. Of all the forest blocs, only the Maasai Mau is not gazetted. The Ogiek community, who are

the last remaining forest dwellers, are scattered all over the seven forest blocks.

Over the years, almost a quarter of the Mau forest has been lost to human settlements, illegal logging, farming and a host of other human activities. There are more than 25,000 settlers, mainly farmers, who have totally degraded and destroyed the environment to pave way for their settlement and farming. These combined activities have caused several rivers to dry up permanently. Many research studies have unveiled Mau's immense value. At minimum, twelve rivers spring out from the Mau forest and flow to different corners of the country. The rivers breathe life and vitality into the world famous Maasai Mara National Reserve, and Serengeti and Lake Nakuru National Parks (GOK, 2007)

Currently there is an on-going conflict between the government of Kenya and the farmers/new settlers and Ogiek community who are believed to have lived in harmony with forest biodiversity since immemorial in the Kenyan Forests. The farmers/new settlers living in Mau Forest were allocated land by the previous KANU regime and given land title deeds by the government of Kenya while other group of settlers are believed to have encroached into the forest illegally.

The Government of Kenya has taken stringent measures to evict the communities living in the Mau Forest Complex forcefully and they have become internally displaced people in their own Land. More than 2,000 families are camping along the forest cut-line in Kipkongor, Terta, Chematich and Kapkembu in south western Mau. The eviction of communities living Mau Forest complex was enforced by the contingent of officers from the Kenya Wildlife Service after expiry of a government notice to vacate from the forest. Politics has taken the center stage of this conflict despite the government of Kenya through the cabinet endorsing recommendations of the task force on Mau forest that were adopted by the Kenyan parliament to evict communities living in the forest.

The purpose of this paper is to critically appraise the current Mau Forest conflict as a challenge to sustainable management of natural resources in Kenya. The specific objectives of this paper are to: provide a situational overview of natural forest resources in Kenya; assess the potentials of Mau Forest Complex and; determine a conflict management model for resolving the Mau forest conflict.

2. Conceptual Framework of Mau Forest Complex Conflict

In this section, we define our key concepts and assumptions and discuss some of the issues that have recurred in our work. Conflict is an emotive term that provokes various images or associations amongst people. As with all concepts in social sciences a bewildering variety of definitions co-exist (Wall and Callister, 1995). Daniels and Walker (2001) suggest that all social conflicts are based on differences in things such as interest, perception, power and goals. Furthermore, Glasl (1999) argues that conflict only occurs if an actor feels 'impairment' from the behaviour of another actor. The experience of an actor's behaviour as impairment becomes a prerequisite for conflict, thereby providing a clear criterion to distinguish conflict from non-conflict situations. In the context of common pool resource (CPR) management, impairment can be experienced, for example, in terms of restriction over access to certain forest or fish products, exclusion from resource management, pollution due to resource extraction, etc. (Ostrom, 1990, Yasmi, 2002, 2003, Peluso, 1994, Adams *et al.*, 2003). There are a lot of factors that trigger 'impairing' behaviour such as unclear resource boundaries, scarcity, population growth and legal pluralism. For example, conflicts over access to agricultural land and other productive uses at forest frontiers are mainly attributed to the absence of clear boundaries (Hotte, 2001, Dennis *et al.*, 2001). If boundaries are in place they are often contested or interpreted differently. Access to resources is aggravated by scarcity and demographic pressures (Homer-Dixon, 1999). In addition, CPR management is often defined by different sets of rules (formal and informal). With all these phenomena conflict is unavoidable. In many places, the costs

and consequences of resource conflicts have become unacceptably high (Watch, 1997, Ho, 2006, de Jong et al., 2006, Bogale et al., 2006). Therefore, the call for effective conflict management has increased. Conflict management includes all activities that have the intention to reduce or solve the conflict (Deutsch, 1973). Its 'ideal' goal is to attain desirable positive outcomes (i.e. win-win solutions) and reduce or eliminate escalation to destructive levels (Kriesberg, 1998). Scholars argue that conflict management has to mobilize local capacity through the use of local approaches such as customary laws, local leadership, and negotiation skills (FAO, 2000, Engel and Korf, 2005). Local response to conflict is seen as the first and quickest available conflict management strategy. It is often argued that stakeholders at local level know 'best' their conflict situations. The "ideal" goal in conflict management is to achieve positive changes and avoid unnecessary escalation to destructive levels. While it has been argued that the role of local institutions in conflict management is central, little is known about how these institutions could actually deal with conflict. In our conceptualisation framework, we argue therefore that enhancing communication and developing a mechanism of exchange among settlements engaged in conflict will promote better understanding of the problem and thus allows improvement in the current approaches in managing conflict. We base our argument on the current 2005 forest Act enacted by the government of Kenya. In this Act of 2005 there is a prudent and credible proposal

spelt out of fundamental departure from government ownership and control of vast forest estates of both indigenous forests and exotic plantations to more participatory management of forest resources by communities and the private sector.

Under the new law, communities living around gazetted forest reserves can establish and register forest user associations and apply to the Kenya Forest Service for joint management arrangements of the respective forests. The act also provides for incentives to individuals and communities to establish arboreta and forests on privately owned land. A key departure from the old law is the requirement that before the government de-gazettes an existing forest reserve or section of it; it must consult with the affected communities and seek approval from the parliament. The expected output of this conflict resolution process captured in our conceptual framework is diverse: Mau will be rehabilitated and restored; security of the forest will be ensured; the size of the forest will increase; forest cover will increase; water towers in Kenya will be restored; energy generation problems will be a thing of the past; soil erosion will be controlled; drought incidence in Kenya may be controlled; tourism activities will flourish; Biodiversity will improve; pastoralism will be enhanced; sequester more carbon; timber will be provided to local people. Among other environmental; social and economic benefits the national GDP will increase and therefore Kenya will become a better place to stay (Figure1).

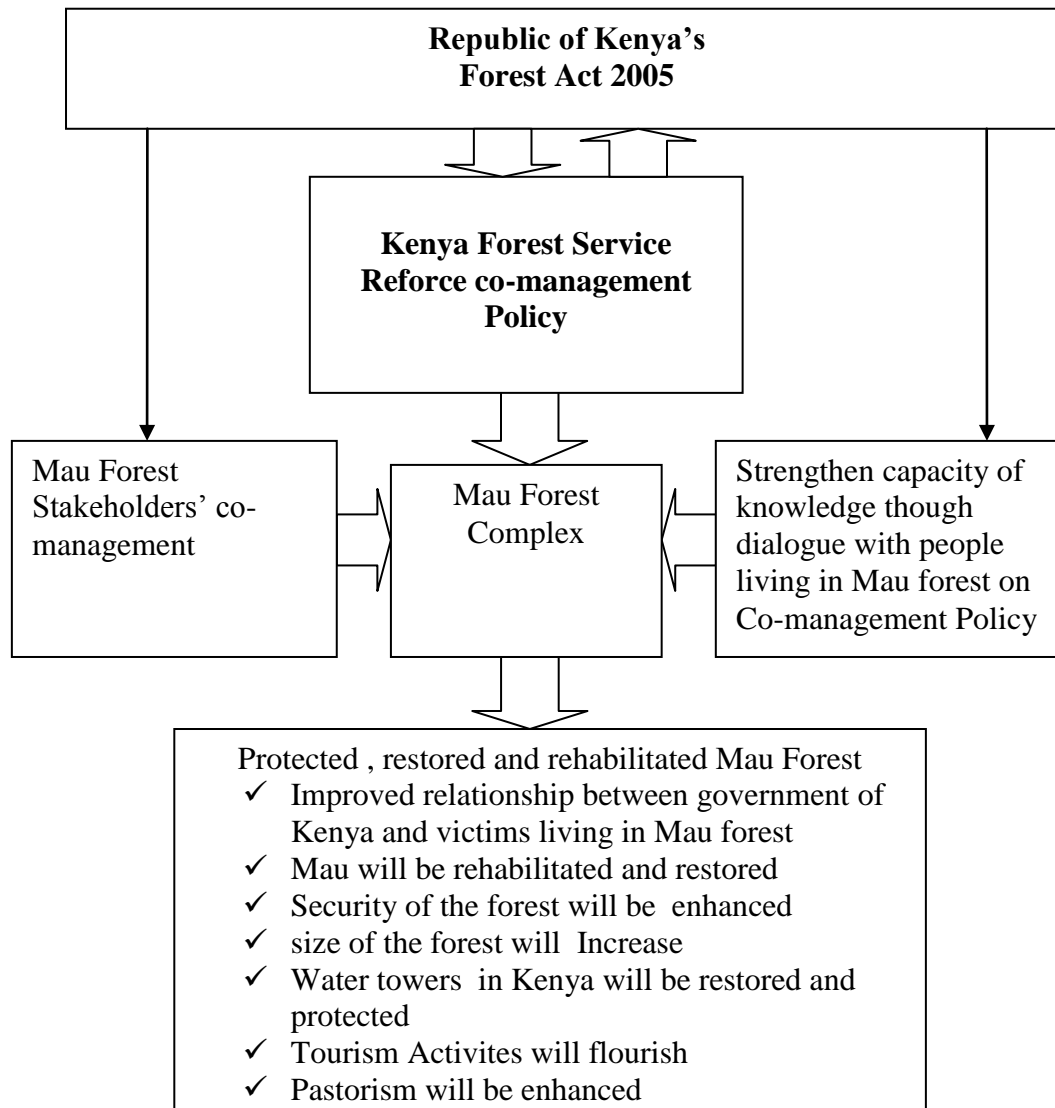


Figure 1 Conceptual Framework of Mau Forest Conflict

3. Research Methodology

This is a case study of the Mau Forest Complex that draws heavily on secondary data collected from diverse sources. The Mau forest Complex has attracted quite a number of research scholars of diverse disciplines and each has put scholarly and professional experience to make a contribution in resolving the current problem. For this purposes the available empirical secondary literature has guided our research. For instance, the Kenyan

government commissioned a task force to probe the Mau Forest in 2008 and it's report was adopted by the Kenyan parliament; the United Nations Environmental programme (UNEP), in conjunction with Uaso Ngiro South Development Authority, Kenya Wildlife Service , the Kenya Forest Working Group conducted an extensive research project and has given situational status of Mau in a report entitled Maasai Mau Forest Status Report (2005); National Assembly Official Report that captures the proceedings of the debate on Mau in

the Kenyan parliament on Tuesday 12th, May 2009; Kenya Vision 2030 (GOK, 2007); Forest Law Enforcement And Governance In Kenya: A study jointly prepared by the Kenya Forest Service (KFS) of the Ministry of Environment and Natural Resources; Kenya Natural Disaster Profile Report (2005) by United Nations Development Program - Enhanced Security Unit; African Regional Expert Working Group On Indicators Of Wellbeing And Indigenous Peoples meeting Report November, 2006; Indigenous Peoples Planning Framework for the Western Kenya Community Driven Development and Flood Mitigation Project and the Natural Resource Management Project Final Report, December 2006, Republic of Kenya. Considering these and many other previous studies we critically analyse the results of this research.

4. Results and Discussion

4.1 Approaches to Resolve Mau Forest Complex Conflict

A model of adaptive conflict management emphasising communication among the parties and a participatory approach that involves monitoring of the conflict resolution outcomes is proposed. The recognition that strong perceptions among stakeholders have the potential to aggravate conflicts is central to the concept of a inclusionary conflict management framework, improved communication between all stakeholders, and better awareness of the context of the conflicts is emphasised in this paper. In the analysis the study reveals the interest parties or stakeholders who are at the center stage in this conflict. They include: the world community; Government of Kenya, the people of Kenya; the Ogiek Community and; the farmers/New settlers. The government of Kenya must take lead in this process. We applaud the

government of Kenya for taking the first step to resolve the conflict even though faced with tough resistance from other parties. Engaging the world community is a prudent step since Kenya is a signatory of many conventional environmental treaties. What everyone anticipates in this process is commitment and honest dialogue/mediation on the part of the government of Kenya. As per the current constitution of Kenya, the president is final in the government decision-making process. However, the truth of the matter is that this conflict originated and was escalated by former presidents of the republic of Kenya taking advantage of the constitution. When Professor Wangari Maathai Nobel Peace Prize winner for 2004, and many other non-government organisations were rebuking the government of Kenya on dishonest decisions of issuing land title deeds to the innocent people of the Republic of Kenya, the government gave a deaf ear. There is no doubt that the settlers must be relocated but considerations regarding the acquisition of title deeds must be kept in mind. While there's no denying that the settlement was done by previous administrations and a political party which is today at the fringes, government actions supersede individual occupants of high office. A government decision does not become illegal just because the person who made the decision is no longer in office. This is where the government faces an acid test to prove to the people of Kenya that the government respects land title deeds issued by the Republic of Kenya's Ministry.

If this process of restoring the Mau Forest Complex has been initiated again in 2009, let the government be serious and committed to resolve this matter once and for all. Current literature on many studies relating to conflicts of this nature elsewhere in the world shows that conflicts relating to forests are carefully resolved when the government mobilises

the local capacity through the use of local approaches such as customary laws, local leadership and negotiation skills. For this reason, we have attempted to develop a model that is workable and which can guide the management of the Mau Forest conflict resolution process to its logical conclusion (Figure 2). However, before the government of Kenya engages in this process, there are critical factors that must keep in view:

- ✓ Respect of human rights as spelt in the Constitution of Kenya
- ✓ Respect of land title deeds issued to the Kenyan citizens by the Government of Kenya in accordance with the law of Kenya
- ✓ Respect for environmental world conventional treaties signed by the Government of Kenya.
- ✓ Respect for the Ogiek community as a people of Kenya who live in the forest for their livelihood. This is in accordance with “Report of the African Commission’s Working Group on Indigenous, Populations / Communities”.
- ✓ Lead an honest and trustworthy negotiation /mediation process freely without prejudice assisted by world community participants duly nominated.
- ✓ Restrain politicians from entering mediation/negotiation process
- ✓ Focus on restoration of Mau Forest only and resist double standards while making critical Mau Forest Complex decisions.
- ✓ Maintain Respect for customary leaders and incorporate them in the mediation process.
- ✓ Let mediation/negotiations be through a stakeholders’ dialogue process and a win-win situation.

Role of the Government in Mau conflict resolution process

- ✓ Formulate a framework to tackle the problem
- ✓ Nominate people of integrity to engage in a dialogue process
- ✓ Finance the negotiation conflict resolution process of Mau Forest.
- ✓ Engage all stakeholders in the negotiation and dialogue process to be part of the solution.
- ✓ As much as possible, let the resolutions of the dialogue process be implemented no matter how painful they may be.
- ✓ Adopt the resolutions and formulate a new policy on Mau.
- ✓ Compensate victims living in Mau Forest.
- ✓ Resettle all victims living in Mau to safer places to re-start their lives.
- ✓ Adopt co-management strategies of all forests in Kenya.
- ✓ Guarantee indigenous peoples’ (Ogiek) and local communities’ (farmers/new settlers) territorial rights.
- ✓ Ensure participation of indigenous peoples and local communities in policy negotiations relating to the Mau Forest Conflict.
- ✓ Strengthen and redefine state functions by promoting regulatory and control systems over forests in Kenya.

Role of the world community in the conflict resolution process of Mau Forest

- ✓ Provide expertise resources to help in the conflict dialogue process
- ✓ Sponsor conflict resolution stakeholders’ workshops.
- ✓ Conduct capacity building on the need of restoration of Mau Forest Complex through evidence-based research.
- ✓ Donate compensation funds to victims living in Mau Forest.

- ✓ Assist the government of Kenya in devising a modern system of resettling victims of Mau Forest comfortably through donations and counselling and capacity building processes.
- ✓ Ensure the conflict resolutions that emerge from the dialogue process are implemented to the letter.
- ✓ Assist to formulate a modern policy on Mau forest that conforms to other world conventional treaties to which Kenya is a signatory.
- ✓ Fund a participatory Mau Forest restoration project for planting trees involving the local people and the Ogiek community as a sustainable co-management strategy.

Role of the political class in the resolution of the Mau Forest conflict

- ✓ Sensitise victims living in Mau on the need to engage in construction

dialogue with the government to end the conflict.

- ✓ Be a watchdog of the victims living in Mau so that their rights are not violated
- ✓ Ensure that the government conducts a just and truthful conflict dialogue to its logical conclusion.
- ✓ As much as possible avoid politicising the Mau conflict but rather be a part of the solution
- ✓ Ensure that a new policy on Mau does not infringe in any way common citizens' human rights.
- ✓ Ensure that victims living in the Mau Forest are compensated
- ✓ Help the government to resettle victims living in Mau Forest.
- ✓ Help the government to formulate a co-management policy strategy on forests in Kenya that conforms to world conventional treaties to which Kenya is a signatory.

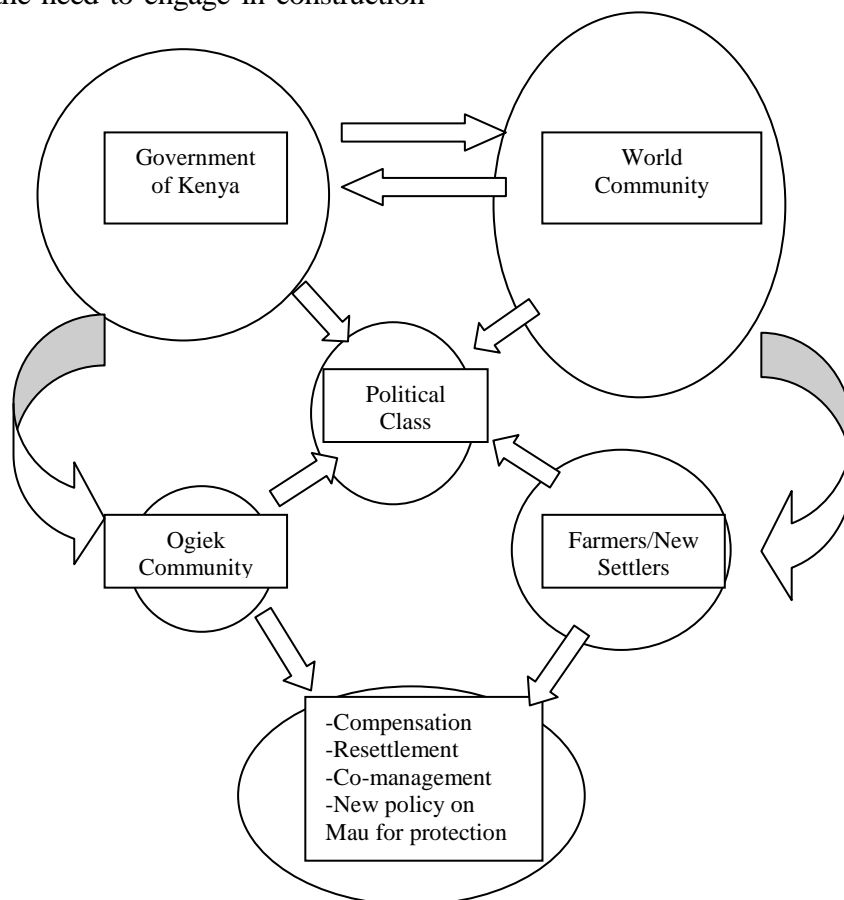


Figure 2 A Workable Approach to Resolve Mau Forest Conflict

Role of the Ogiek in the resolution of Mau Forest conflict

- ✓ Agree to engage the government on new treaty that protects human right violations that conforms to indigenous marginalised community living in forests in Kenya.
- ✓ Participate in the conflict resolution process as stakeholders and be part of the solution on Mau Forest.
- ✓ Be a signatory of new policies on Mau forest that aim to protect and restore its original beauty
- ✓ Agree to co-manage Mau Forest with the government as the only community that depends on forests in Kenya as a home and for livelihood.

Farmers/new settlers' role in Mau Forest conflict resolution

- ✓ Conduct census to establish the number of land title deeds issued by the government of Kenya to farmers living in Mau
- ✓ Produce land title deeds as evidence to establish genuine farmers living in Mau Forest for purposes of compensation.
- ✓ Participate in conflict resolution dialogue and be part of the solution
- ✓ Enter into agreement with the government of Kenya on modalities of compensation and resettlement process.
- ✓ Be willing to be resettled elsewhere by the government and re-start new life.
- ✓ Participate in the planting of trees at Mau Forest as a sustainable management strategy of the Mau restoration project programme.

Although this paper has identified key roles for all stakeholders in the Mau conflict resolution process; it must be emphasised that the process of restoration of the Mau is a strategic priority that requires substantial resources and political will. What the Interim Mau Forest Task-force calls a ten-point strategy can work smoothly when the conflict resolution process incorporates stakeholders in a participatory decision-making process. I find no fault with the key intervention measures but caution strongly that politics must be kept out of this process. The government of Kenya must be applauded for such effort. With the launch of the \$400 million appeal to save the Mau Forest with the U.N. Environment Programme (UNEP), Kenya's ambitious strategy in the year 2009 to bring the Mau conflict to rest may be achieved if the following key interventions are implemented:

- Creation of effective institutional frameworks
- Strategic management plan for the Mau Forest Complex
- Public awareness and community sensitization
- Boundary surveys and issuance of title deeds for forest blocks
- Monitoring and enforcement
- Relocation and resettlement
- Livelihood support and development for poverty alleviation
- Restoration and replanting of degraded Sites
- Private sector investment
- Resource mobilization

As political leaders and elders in Kenya have rightly noted in various forums: political rallies, churches and in parliament, the issue of settlers in the Mau Forest must be handled with extreme

sensitivity and through a just mechanism. Unless justice and compensation are handled to the satisfaction of the settlers, the government could easily be laying the grounds for armed conflict that could have major repercussions on the stability of the Kenyan state.

All over the world, the mishandling of problems similar to what we see in the Mau has led to rebel movements such as the ones we saw at Mt. Elgon recently and possibly the toppling of the government. The Mau crisis of the 1950s was in large part attributed to the manner in which the British colonial authorities mishandled Kikuyu land grievances. We must learn from history so as not to repeat similar mistakes.

5. Conclusion and Recommendations

Mau Forest conflict can be best understood and resolved by looking at the historical background that surrounds the whole episode. The Government of Kenya through its intervention efforts has the mandate to resolve this conflict. What is required now is a prudent approach that ensures participation of indigenous peoples (Ogiek community) and local communities (farmers/new settlers) in policy negotiations. Let the government show commitment in this process and at all cost restrain the political class of people who have taken advantage of Mau conflict to gain mileage in politics. In the conceptual framework, it is argued that enhancing communication and developing a mechanism of exchange among settlements engaged in conflict will promote better understanding of the problem and thus allows improvement in the current approaches in managing conflict. The argument is based on the current 2005 Forest Act enacted by the Government of Kenya. In this act there is a prudent and credible proposal spelt out of fundamental departure from government ownership and control of vast

forest estates of both indigenous forests and exotic plantations to more participatory management of forest resources by communities and the private sector.

At the conflict resolution negotiation level, we have designed a model that defines the role of each interested party in the Mau conflict: the government, the world community, the political class, the Ogiek, and the farmers/new settlers. The formula is simple if the rules of the game are followed. Let each party play its role in the conflict negotiation process and prudent resolutions will be reached. We have suggested that politics must be kept out of Mau conflict negotiations process so that stakeholders can formulate workable policy measures on Mau Forest through participatory decision-making process. A win-win situation in Mau conflict negotiations must be the guiding principle to moot a new policy. We recommend that the new policy on Mau must therefore:

1. Be implemented to the letter whether painful or not through intervention policy measures by the government of Kenya.

2. Increase the range of livelihood alternatives for forest-dwelling communities.

3. Increase the share of benefits to local communities from timber and other forest products.

4. Provide economic incentives for sustainable timber harvesting and logging operations.

5. Strengthen local land rights that combat forest degradation because traditional forest management by local communities often prevents overuse of resources. Institutions that mediate between parties, monitor compliance, and enforce sanctions can help sort out competing land and vegetation rights.

6. Reform the forest sector; establish sustainable Forest Management

(SFM) practices, and build capacity for government services, law enforcement personnel, and civil society.

7. Establish a publicly accessible, nationally centralized forest database.

8. Promote alternative local livelihood initiatives for poverty alleviation.

9. Consider the legitimate interests of all stakeholders when developing forest legislation.

10. Enforce laws and improve forest-related governance, including accountability, transparency, and law enforcement.

11. Strengthen forest conflict resolution institutions and mechanisms at different levels and scales of conflict.

12. Ensure that local communities and key stakeholders are aware of and able to exercise their forest-related rights, entitlements, and responsibilities.

13. Support policy research and forest management, and also capacity building with conflict mediation, mitigation, and resolution. The strategy promotes consensus-based policy for a national forest program through participatory activities, including multi-stakeholder workshops, seminars, and training programs.

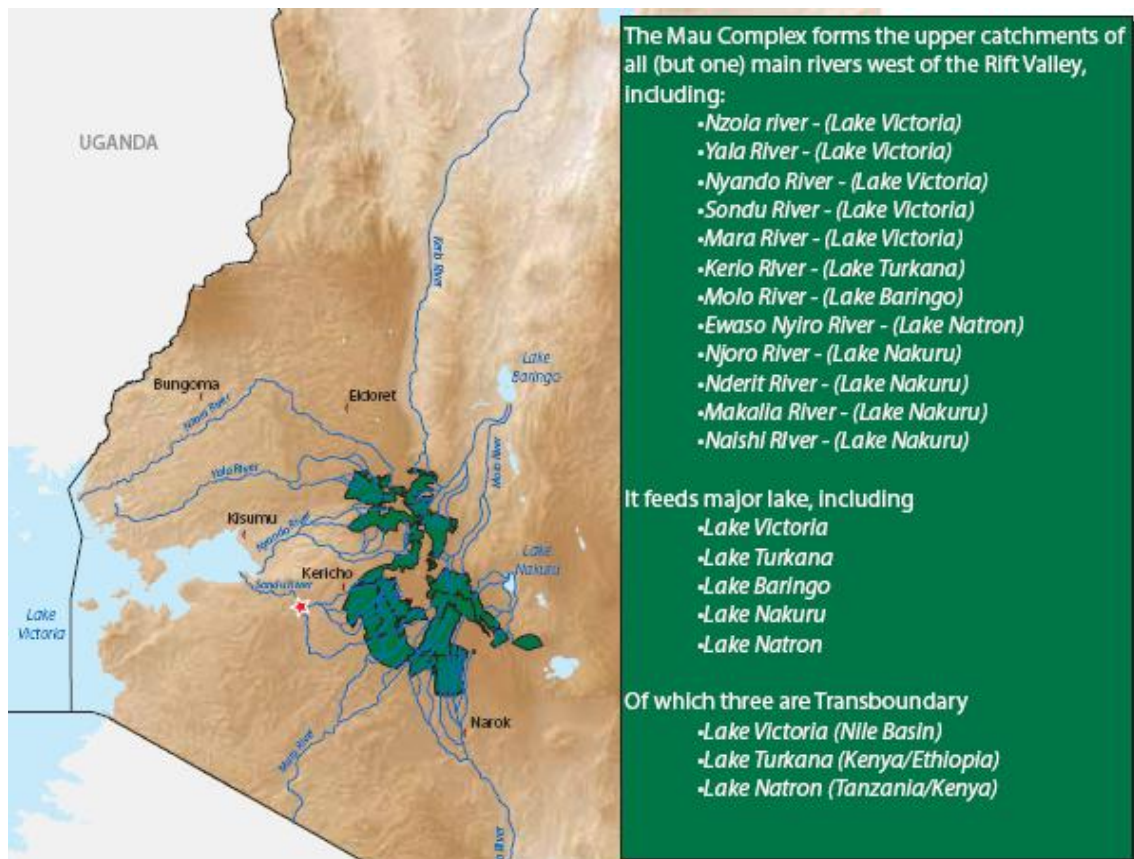
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Appendix 1



Why Mau Forest complex is called a Water Tower

Appendix 2



Extent of Destruction at Mau Forest complex