

# NOWHERE TO LAND

The Case of Grabbed, Inaccessible and Neglected Fish Landing Sites in Mombasa County

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February, 2015



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A Report by Haki Yetu Organization  
February, 2015

‘The chief who bullies the landowner starts by breaking his sugarcane’  
*(Ugandan Proverb)*



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### **Disclaimer**

The author's views expressed in this publication do not necessarily reflect the views of Misesan Cara.

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## FOREWORD

Recently, I went to a butcher's in Mombasa city and requested some frozen fillet fish. I paid Kshs 500 for the kilo and brought it home. Upon further examination of the plastic wrapper, however, I discovered that the fish had been packed in Mombasa but had originated from Vietnam. Yes, you read that correctly.

The fish that I purchased had travelled 8,000 km before reaching my dinner table. This story alone is a shocking indictment of what has happened to the fishing industry in the Coastal city. This report shows that the coastal region only produces 5% of the 174,000 metric ton of fish produced in Kenya each year.

The report shows that at the heart of unproductivity is corruption. Fishermen have seen their landing sites disappear one by one to hotels, industries, churches, beach plots and foreigners. The fishermen as a result have **NOWHERE TO LAND**, nowhere to clean their boats, nowhere to rest after a day's work nor even a place to store their fish. Fishermen are among the poorest folk in the Coast and the county and national government is doing nothing to assist them. Improvement of their equipment and skills is budgeted for but is just a paper pledge. Nothing is forthcoming and so we end up importing fish from Vietnam.

Fishing is a noble profession. Jesus himself was a fisherman and chose fishing folk as his first disciples. They left their nets and followed him. Thousands more are leaving their nets each year in Mombasa out of desperation, frustration and the greed of land grabbers. Their noble calling is attacked from every side.

We dedicate this research to them and hope that we challenge the consciences of the local government and the National Land Commission to have mercy on these hardworking but impoverished folk.

Fr. Gabriel Dolan



## ACKNOWLEDGMENT

This report is the result of concerted efforts and commitment of many individuals, communities and institutions. We are deeply indebted to all those who facilitated the successful compilation of this report and wish to acknowledge them all. However, it is not possible to list by name every person and institution whose contribution went into the production of this publication.

A special mention goes to the fisher community who willingly shared their experiences and painful plight through their respective Beach Management Units (BMUs). In particular we recognise the Tudor, Old Town, Kitanga Juu, Likoni, Mtongwe, Kidongo, Bamburi units and the fisher folk who reside outside these BMUs. We hope and pray that this publication will finally give you what you have all longed for: site title deeds, security of tenure, better fishing gear and economic empowerment.

The Fisheries Department, despite working in a harsh environment and with limited powers and resources, was very supportive with information whenever requested. We also appreciate the officers that tirelessly took us around the sites as they too want better security and more rights for the fishermen.

We are grateful for the continued support we receive from members of the Coast Land Non-State Actors (CLNSA). Our resolve to see the poor access their land without prejudice should never be shaken.

Finally, to Haki Yetu Organization, led by the evergreen Fr. Gabriel Dolan together with the efforts of John Paul Obonyo, Triza Gacheru, Julius Wanyama, Julie Akinyi and Munira Abubakar. Also we remember Peter Kazungu, Michael Mugo and Mercy Akoth, who were part of this great team when we started the project.

To all, we thank you very much. Aluta Continua.

Sebastian Juma Menza





# EXECUTIVE SUMMARY

## Introduction

The Fisheries Act Cap 378 defines a Fish Landing Site “as a place prescribed by the minister within which fish may be landed or disposed of”.

It further states that the Director of Fisheries shall, in consultation with the relevant agencies, prior to the establishment of a beach management unit, cause the relevant land area of a fish landing station to be surveyed and its boundaries clearly delineated and marked.

## Findings

There are 50 landing sites in Mombasa County, 14 of which are gazetted and the rest are awaiting formal recognition. Sadly, none of the sites, gazetted or otherwise, has a title deed or any form of documentation. As such, rogue land officials, employees of the defunct Mombasa Municipal Council and other wheeler-dealers took advantage of this vacuum and took illegal possession of the sites. Majority of the sites are now under private ownership, while those in use are barely accessible.

Many factors have contributed to fish landing sites being grabbed by opportunistic grabbers: indifferent and unenthusiastic county government and fisheries department, poor documentation at the lands offices and the absence of any progressive or corrective mechanisms to provide for alternative sites when fishermen had to concede landing sites for mega projects.

The defunct Mombasa Municipal Council in collaboration with some Commissioners of Lands has been rightly accused of blindly allocating both the sites and their access routes to private developers. Buildings were extended all the way into the ocean: the 30m rule from the high watermark, although not formalized, did not apply. Even though the current crop of county leaders feel let down by their predecessors for doing nothing to secure the sites, some fishermen apportion them the blame too . When the National Land Commission listed some of the sites in Mombasa during recent Hearings on Review of Grants and Disposition of Public Land, between 26<sup>th</sup> and 30<sup>th</sup> January, 2015 at the Government Training Institute (GTI) for example, no one from the Fisheries Department appeared to defend them.

Construction at the sites is still in progress despite furnishing the county government and NEMA with all the relevant information. Institutions such as Kenya Power would have fought tooth and nail to secure land that hosts their power lines. The lack of records, other than just the listed sites, has made it easier for land grabbers to prey on these lucrative sites. The plot numbers and sizes of the 14 gazetted sites do not exist at either the fisheries or lands regional offices. Quite often, one will be referred to the Nairobi land registry department, which clearly demonstrates that regional officers are no longer in charge of the sites they are meant to protect. This only compounds the problem.

The information on the table on the next page summarizes the state of fish landing areas in Mombasa.

Our findings confirmed the fishermen's fears. Bamburi Landing Site for example was subdivided into various plots that changed hands from Shamsuddin and Ameerali Kassamali (1968), Thiomi Investment LTD (1978), Pyarali and Zakiyakhaton Sultanali (1983), City Pharmacy (1985) and then transferred to Oceanic Fruits Limited in 2011 for Kshs. 50,000,000. Yet extraordinarily this is the same block whose title was surrendered by Mr. Rashid Sajjad to the Mombasa County Government in March 2014. The fishermen know that the title is in safe custody at the National Museum of Kenya, but it seems this is just a part of the whole pie.

S/No.	DISTRICT	LANDING SITE	GAZETTED	STATUS
1.	Changamwe	Kwa Kanji	No	Grabbed – KPA
2.		Kwa Skembo	No	Grabbed – KPA
3.		Kitanga Juu	Yes	In use
4.		Mkupe	Yes	In use
5.		Maweni	No	Grabbed – KPA
6.		Jomvu	Yes	In use
7.		Jomvu Kuu	No	In use
8.		Allidina	No	In use
9.		Gomora	No	In use
10.		Mikindani	Yes	In use
11.		Kibarani	No	In use
12.		Kwa Hussein Mnyika	No	In use
13.	Mombasa	M'buyuni	No	Grabbed – Private
14.		Madobini	No	In use
15.		Mabandani	No	In use
16.		Madubaah/ Allidina	No	In use
17.		Old Port Market	Yes	In use
18.		Tudor	Yes	Grabbed – Private
19.		Shimanzi	No	In use
20.	Kisauni	Madzombani/Maunguja	No	In use
21.		Kijiweni	No	In use
22.		Mishomoroni	Yes	Grabbed – KPA
23.		Mkomani	Yes	Grabbed – Private
24.		Nyali Mkunguni	No	In use
25.		Nyali Msanakani	Yes	Grabbed – Private
26.		Bamburi	Yes	In use
27.		Marina	No	Grabbed – Private
28.		Utange/Ferry ya Zamani	Yes	Blocked by Shimo la Tewa Prisons
29.		Kidongo	No	In use
30.		Mwakusea	No	In use
31.		Kashani	No	In use
32.		Gung'ombe	No	In use
33.		Chitumbo	No	In use
34.	Likoni	Dongo Kundu	No	Grabbed – KPA
35.		Mwangala	No	Grabbed – KPA
36.		Mwakuzimu	No	Grabbed – KPA
37.		Magoda	No	Grabbed – KPA
38.		Mkunguni	No	In use
39.		Mtongwe/Hawaii	Yes	In use
40.		Mtimbwani	No	In use
41.		Shaza	No	In use
42.		Mweza	No	In use
43.		Mdong'ole	No	In use
44.		Mvumo	No	In use
45.		Vikadini	No	In use
46.		Maphophoni	No	Grabbed – Private
47.		Timbwani	Yes	Grabbed – Private
48.		Shelly Beach	No	Grabbed – Private
49.		Kibuyuni	No	Grabbed – Private
50.		Ferry ya Zamani	No	Grabbed – Tiomin
51.		Likoni	Yes	In use

**Table 1:** The state of fish landing areas in Mombasa, courtesy of the Fisheries Department.



Kibarani Landing Site sits on a plot leased to Kenya Railways Corporation for 99 years from 1<sup>st</sup> January 1966. However, it could disappear if Ware Transport LTD, who acquired it for Kshs. 30,000,000 on 1<sup>st</sup> May, 2012 decides to evict them. The landing sites have landed in the wrong hands but that is not the only disaster fishermen contend with. The lack of freezers or cold storage facilities means fishermen have to daily dispose off their perishable catch at throw-away prices. Old Town Fish Market seems to be the only source of reliable storage facilities in the county but they are constantly breaking down and needing repair.

Sadly, the county government, whose fisheries docket now falls under its jurisdiction, has been bereft of policies that would uplift the standards of the impoverished fisher community. Budgets after budgets have proposed allocations of millions to the purchase of boats, but what has been delivered to the fishermen are proposals to tax their worn-out canoes.

A decade after the release of the Ndung'u Report, the National Land Commission has let it gather dust as the grabbed plots in this report are transferred to another generation of zealous grabbers. This report calls on the National Land Commission to pursue those who manipulated the land records to deprive the fishermen access to their landing sites. The grabbers have left footprints for all to see.

This report also provides important information on what has been missing at the Fisheries and Land Departments: the plot numbers, the file registration numbers, coordinates and some selected google maps. Officers from this department and the county government should get off the fence and play a more proactive role in ensuring fishermen get their landing sites documented, and their access routes reopened.

We further recommend robust policies to improve the standards of the impoverished fishermen. This includes training on modern fishing techniques, equipping them with modern fishing gears, boats and cold storage facilities and ensuring access to cheap loans through savings cooperatives. In this case, the fishing industry will sustain the older generation and attract the many unemployed youths.



Chapter One:  
INTRODUCTION TO THE STUDY

1.0.0 Background

The decade-old Ndung'u Report did not have an in-depth account of illegal allocations of the landing sites in Mombasa County. It invariably focused on road reserves and council residential estates dished out by the former Municipal Council and the Commissioner of Lands.

Two fish landing sites featured prominently though: block 1149/XV111/109 Mombasa, reserved for a fisheries station was allocated to Bawazir Glass Works<sup>1</sup>, and block 26/972 at Jomo Kenyatta Public Beach, allocated to Samu Limited, again by the council for the construction of a hotel.

'Landing Sites' is not a new phenomenon. Other than being used by the fishermen to assemble their gears before fishing expeditions, and offloading their catch afterwards, the sites have also been used to collect marine fish data by the Fisheries Department and other stakeholders.

The lack of records, such as the plot numbers and sizes of the sites, at the respective departments however is worrying. The Lands Department and the Kenya Marine and Fisheries Research Institute (KMFRI) do not have any records of the sites and hence referred Haki Yetu to the Fisheries Department. On their part, the fisheries officials referred the organization back to the Lands Department, either in Mombasa or Nairobi. Clearly, there is a lack of coordination among the departments that are meant to recognize and protect these sites.

1.1. Approach

Qualitative research methods were adopted in conducting this study. Focus was given to consultations with key stakeholders, focus group discussions, interviews, observation and land searches. The Ndung'u Report (2007), the Fisheries Act (Cap 372), and the BMU Regulations (2007) were also studied to explain why and how grabbing of sites set aside for the fisher folk have become so commonplace.

Quantitative methods applied tools such as the Global Positioning System to capture site coordinates. The research was conducted in the following key stages:

1.1.1. Consultations with Stakeholders

The first of a many consultation forums was held on 24<sup>th</sup> July, 2013 at the Pride Inn Hotel, Mombasa. It brought together officers from the fisheries department, BMU officials and members of the Coast Land Non-State Actors (CLNSA).

The objectives of the forum were to define the study, understand the status of the sites and their regulatory framework. Among the raft of measures suggested was to develop a strong network bringing together all the stakeholders to fight for documentation of the sites and resuscitate the fishing sector.

<sup>1</sup> Ndung'u Report, 2004: Annex 47 (pp 683)



1.1.2. Focus Group Discussions/Interviews

Focus Group Discussions (FGDs) and Interviews were conducted at the sites in different forums from August 2013 to November 2014. This was the first step in highlighting the troubles the fishermen go through from their sites to the deep waters.

FGDs and interviews were followed by capturing of coordinates using the Global Positioning System (GPS) in the company of a land surveyor. This was done after it was discovered that the County Government, Fisheries Department, Lands Department and the Kenya Marine and Fisheries Research Institute (KMFRI) did not have the sites' plot numbers or their sizes.

Land searches followed the identification of the plots.

BMU/Sites Visited	FGD/Interviews Dates	Venue	GPS/Coordinates capture dates
Mtongwe	15/08/2013	Hawaii site/Mwangala	23/07/2014 (6 sites)
Kitanga Juu	2/10/2013	Kwa Skembo site	9/07/2014 ( 5 sites)
Kidongo	7/11/2013	Kidongo site	25/07/2014 (6 sites)
Likoni	4/09/2013	Ferry Market	23/07/2014 (7 sites)
Tudor	5/09/2013	Tudor/Shimanzi	22/07/2014 (2 sites)
Old Town	16/10/2013	Mbuyuni/Madubaah	22/07/2014 (5 sites)
Bamburi	08/11/2013	Bamburi/Nyali Mkunguni	31/07/2014 (5 sites)
Unregistered BMUs/other sites	February 2014	Respective sites	Aug-Sept,2014 (14 sites)

1.1.3. Validation of Report

Upon completion of the collection and analysis of the data, several meetings were held at the sites to validate the information gathered before the publication of the final report.

1.1.4. Challenges

Numerous challenges were encountered hence the delay in publishing this report. It was expected that the plot numbers and their sizes, other than their names, were readily available at the fisheries or lands offices. The absence of such data meant acquiring the services of a private surveyor as time dragged on. Other challenges can be summarized as follows:

- Conducting searches at the lands offices was a very slow process. Again, the 2-week closure of the offices by the Lands Cabinet (the infamous clean-up exercise) compounded by power breakdowns left us stranded and frustrated.
- Files at the lands office are still missing. Over 30 searches were applied for but only 10 could be traced.
- Continued grabbing, and construction at these sites despite submitting evidence to the relevant public offices has left fishermen hopeless. The absence of any single, united forum for poor fishermen leaves them without a voice and vulnerable to exploitation. Fishermen are also being evicted without being settled on alternative sites to pave way for either the Standard Gauge Railway (SGR) or the expansion of the port.



The Current State of Fish Landing Sites

2.1.0. Tudor Beach Management Unit

Landing Site	Plot number	CR. Number	Coordinates	Registered owner
Tudor	IX/128, 129	-----	572605,9554386	-
Shimanzi	IX/129, VMN/1905	-----	572350,9554198	-

Tudor BMU has suffered the wrath of a growing populace. On the left of the Makupa Causeway, en route Nairobi is Shimanzi Fish Landing Site. The site is now choking under the smoke that bellows from the Kibarani dumpsite, and a new bridge that connects Gapco Terminus and a private yard. The new bridge has hampered the tidal flow due to the narrow tunnels left beneath, and the huge walls that shields it from the waves. As such, water flows at an astounding speed that makes it impossible for the fishermen to maneuver their boats out of and into the site without crashing them, sustaining injuries and even losing life.



Figure : This poorly constructed bridge linking Gapco Terminus and Kibarani has been the cause of injuries and death to the fishermen at Shimanzi Site.

Complaints with photographic evidence at county land and fisheries offices, as well as the National Environment and Management Authority (NEMA) landed on deaf ears. NEMA states that an Environmental Impact Assessment was conducted, but they will reconsider their decision to let the bridge stand if they find their feet to survey the site again. And, if the death of Mohammed Fumbwe, on 31<sup>st</sup> December, 2014, will not prompt the County Government and NEMA to take action, then nothing will. Mohammed died a few hours past midnight while fishing with Juma Munga

Bidii, who is lucky to be alive today. Their boat was hurled onto the walls by the raging water under the bridge and overturned. Previously, four fishermen sustained serious injuries after their boat went through the same ordeal. No one is opposed to mega projects if they are in harmony with the aspirations and benefits of the disadvantaged. But if they suffocate poor fishermen in dark tunnels then there is an urgent need to reconstruct or demolish this bridge. At the opposite end is Tudor Landing Site, also being pushed further into the ocean as unplanned buildings encroach on its space. The mangrove forest is also facing extinction as it provides cheap building materials to the ballooning informal settlements.



Figure : A low tide at Shimanzi Site before the bridge was constructed. Today the site is filthy with contaminated water: the marine ecosystem has been affected as fish stocks dwindle.

**Challenges at Tudor BMU**

- The lack of title deeds and an increasing demand for prime land has exposed the sites to grabbers.
- Fishermen cannot cast their nets wide as their movement is curtailed by the bridges.
- Dwindling fish stock as fishermen specialize in traditional fishing methods. When push comes to shove, mosquito nets (*madzunya*) are used as well.
- Fishermen feel sidelined by the fisheries department and the county government as they do not have access to motorboats. Storage facilities, as well as a fish market, are not within their reach.



**2.2.0. Old-Town Beach Management Unit**  
 Five landing sites namely Old Port Market, Mbuyuni, Mabandani, Madobini and Madubaah operate under Old Town BMU.

Landing Site	Plot numbers	CR. Number	Coordinates	Registered owner
Old Port Market	XXXIII/102	-----	575310,9551627	-----
Mbuyuni (Banda la Papa)	XLVI/94,133,134	-----	574872,9552038	Shekhasomo Bowa, Abdallah Mohammed Ali
Mabandani (Banda la Nguru)	XLIII/73	-----	575119,9551815	..... ...
Madobini	XLVI/97,84,117,87,118	-----	574844,9552127	G.L, Farouk Omar, Omar Khamisi Saidi
Madubaah (Allidinah)	XLVI/6AR &7 XLVI/192	-----	575124,9553039	

The presence of the Old Port Market and an access to motorboats, albeit a few, are the only positives to landing areas that have otherwise been turned into construction sites. Access roads have been replaced by high-rise buildings that stretch all the way to the ocean.

According to NEMA, the 30 meters rule does not apply since this is a gazetted old port and cultural site. Unrestricted construction, despite objections raised by the fishermen to the respective County Executives, is still continuning. The Fisheries Department watches helplessly as it claims its hands are tied but they don't tell us by whom.



**Figure 3: Madobini Site being levelled after a private developer claimed ownership. Even the Director of Fisheries could not change the situation after visiting the site in August 2014.**

Madubaah (Allidinah) Landing Site has also been sucked into the ownership wrangles pitying the fishermen and a 'friendly' investor who started by building a Mosque for all but later ended up fencing a larger part of the site. The fishermen had to take matters into their own hands and brought the fence down. But with the lack of title deeds they remain vulnerable to grabbers.



Figure 4: No-way-through. Old Town BMU is home to five sites but can only be accessed through a narrow alley as owners of the pictured buildings have blocked all other routes.

Challenges at Old Town BMU

- None of the registered sites has a title deed. Land grabbers have taken advantage of this vacuum by encroaching on the sites.
- Construction on the sites is still ongoing despite alerting the County Government and the Fisheries Department
- Drainage pipes discharge all manner of effluents into the ocean. Occupants of the adjacent buildings have also turned the landing sites into dumping areas.
- Operation of the Old Town Market has not been smooth: it takes months to repair broken freezers.

2.3.0. Kitanga Juu Beach Management Unit

Landing Site	Plot number	CR. Number	Coordinates	Registered owner
Kwa Skembo	VIMN/3529, 3535	-----	567256,9553290	KPA
Kitanga Juu	VIMN/722	2132/2	564771,9553353	Alexander Joaquim da Costa Fernandes
Kwa Kanji	Under KPA			KPA
Mkupe	VIMN/3416		563687,9555314	-----

Two sites are now under the Kenya Ports Authority (KPA) -with no alternative landing area provided. A compensation

Annex 3  
Gazetted Landing Sites and Beach Management Units

Gazetted Landing Sites

1. Kitanga Juu
2. Mkupe
3. Jomvu
4. Mikindani
5. Old Port Market
6. Tudor
7. Mishomoroni
8. Mkomani
9. Nyali
10. Bamburi
11. Utange
12. Mtongwe
13. Timbwani
14. Likoni

Beach Management Units

1. Mtongwe
2. Old Town
3. Likoni
4. Bamburi
5. Kidongo
6. Tudor
7. Kitanga Juu



- (4) The Authority shall, in consultation with the relevant lead agencies, issue guidelines for the management of the environment of lakes and rivers.
- (5) Any person who contravenes or fails to comply with any orders, regulations or standards issued under this section shall be guilty of an offence.
- 43.** The Minister may, by notice in the Gazette, declare the traditional interests of local communities customarily resident within or around a lake shore, wetland, coastal zone or river bank or forest to be protected interests.

plan agreed in 2010 is yet to be implemented and the scramble for the remaining site, Kitanga Juu, summarize the sad stories emanating from the troubled Kitanga Juu BMU. Moreover, the registered fishermen, even with their membership identification cards, risk being arrested by the KPA police whenever they are toiling in the rough waters. Fishermen at Kitanga Juu BMU, among others, were to be compensated since they would be directly affected by the proposed Capital Dredging Works by Kenya Ports Authority. An Implementation Committee chaired by Francis Kombe, the KPA Health Safety and Environmental Expert and five others, would ensure compensation would be implemented as agreed to its logical conclusion.

As stated in the agreement, the loss of trading opportunity was estimated to include relocation of business or purchase location, and calculated as a function of the average fish bought daily and the value at the particular market. Other than monetary compensation, the following was also agreed to:

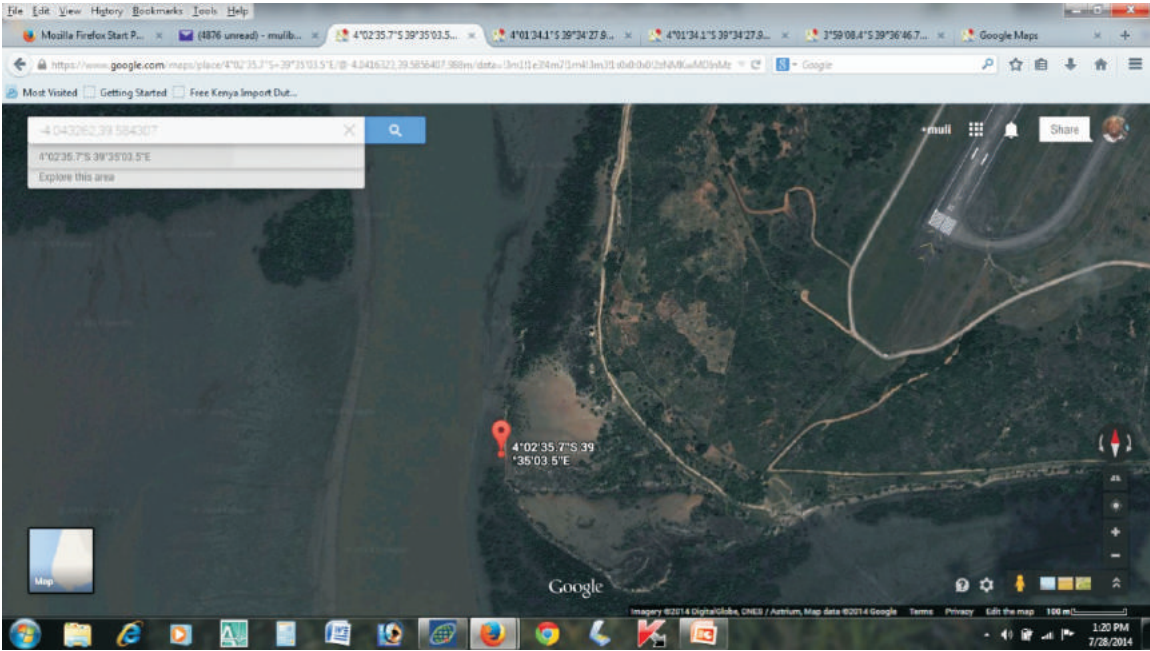
Landing Site	No. of affected fishers	Fishing opportunity loss (Kshs) during dredging period	Other Compensation measures
Kwa Kanji	13	926,640/-	1.Provision of a motorboat with fishing gear (equipment) 2.Training program 3.Prawn farming (mariculture)
Kwa Skembo	44	3,421,440/-	1.Provision of a motorboat with fishing gear (equipment) 2.Training program 3.Prawn farming (mariculture)
Kitanga Juu	36	2,459,160/-	1.Provision of a motorboat with fishing gear (equipment) 2.Training program 3.Prawn farming (mariculture)

Other BMUs such as Likoni, Mtongwe and Old Town per the agreement were to receive a total of 4 motorboats among other fishing equipment.

It is not clear whether all these motorboats (with a capacity of 4-5 tons of fish as per the agreement) will be delivered or not, but fishermen got tired of waiting. The matter will now be decided at the courts of law. What irks the BMU officials is the peripheral role played by the Fisheries Department as the compensation saga played out. They feel the Director of Fisheries and his officers should be playing a leading role instead of, as they put it, submitting controversial data that is relied upon for their compensation. They receive peanuts instead of life-changing monetary compensation.

The fishermen however are not without blemish. They fight for higher monetary compensation but overlook what should come first on their menu: an alternative site. The focus now shifts to the undeveloped Kitanga Juu Landing Site, which might also not be ideal for fish buyers since it is too isolated and distant. Moreover, fishermen who had been using this site before do not want to see those evicted from Kwa Kanji and Kwa Skembo on their

Figure 5: Kitanga Juu site with Moi International Airport on view. Afrigas Oil Company has blocked its access routes, while the expansion of the airport could also spell trouble for the fishermen. (Google Maps)



Challenges at Kitanga Juu BMU

- The lack of titles of ownership means alternative sites are left out of any compensation agreements with fishermen despite falling in the Project Affected Persons (PAPs) category.
- Kitanga Juu site remains underdeveloped and inaccessible yet all fishermen are dragged herein after KPA acquired Kwa Kanji and Kwa Skembo sites.
- Fishermen here have never had storage facilities, stores, changing rooms or toilets; they have contended with makeshift huts- another reason why sites are easily grabbed.
- Miritini and Jomvu areas have never had a fish market- fishermen dispose of their catch to middlemen at throw away prices.
- Operations at the Kitanga Juu site might be interrupted by the rising conflict among the old and the new relocated fishermen.

2.4.0. Likoni Beach Management Unit

Landing Site	Plot number	CR. Number	Coordinates	Registered owner
Ferry ya Zamani	IMS/1759 & 163	8873	573177,9549157	Base Titanium
Kibuyuni	VMS/1677		574618,9547407	
Likoni Ferry	IMS/454		573374,9549031	
Likoni Ferry Market	IMS/454		573374,9549031	
Maphophoni	VMS/106,105,104,102		573955,9546191	Village Auto Bazaar, Asha Hussein Mohammed
Timbwani	IIMS/18 &19	LT.311, 282	571475,9550123	
Shelly Beach	VMS/49,50	8783/1, 2154/7	573966,9546202	

Annex 2

Environmental Management and Co-ordination Act (Act No. 8 of 1999)

Sections 42 and 43

42. (1) No person shall, prior written approval of the Director-General given after an environmental impact assessment, in relation to a river, lake or wetland in Kenya, carry out any of the following activities—
- (a) Erect, reconstruct, place, alter, extend, remove or demolish any structure or part of any structure in, or under the river, lake or wetland;
  - (b) Excavate, drill, tunnel or disturb the river, lake or wetland;
  - (c) Introduce any animal whether alien or indigenous, dead or alive, in any river, lake or wetland
  - (d) Introduce or plant any part of a plant specimen, whether alien or indigenous, dead or alive, in any river, lake or wetland;
  - (e) Deposit any substance in a lake, river or wetland or in, on, or under its bed, if that substance would or is likely to have adverse environmental effects on the river, lake or wetland;
  - (f) Direct or block any river, lake or wetland from its natural and normal course; or
  - (g) Drain any lake, river or wetland.
- (2) The Minister may, by notice in the Gazette, declare a lake shore, wetland, coastal zone or river bank to be a protected area and impose such restrictions as he considers necessary, to protect the lake shore, wetland, coastal zone and river bank from environmental degradation. In declaring a lake shore, wetland, coastal zone or river bank a protected area, the Minister shall take into consideration the following factors—
- (a) The geographical size of the lake shore, wetland, coastal zone or river bank; and
  - (b) The interests of the communities, resident around the lake shore, wetland, coastal zone or river bank concerned.
- (3) The Minister may, by notice in the Gazette, issue general and specific orders, regulations or standards for the management of river bank, lake shores, wetlands or coastal zones and such orders, regulations or standards may include management, protection, or conservation measures in respect of any area at risk of environmental degradation and shall provide for—
- (a) The development of an overall environmental management plan for a lake, river, wetland or coastal area, taking into account the relevant sectoral interest;
  - (b) Measures for the prevention or control of coastal erosion;
  - (c) The conservation of mangrove and coral reef ecosystems;
  - (d) Plans for the harvesting of minerals within the coastal zone, including strategies for the restoration of mineral sites;
  - (e) Contingency plans for the prevention and control of all deliberate and accidental discharge of pollutions into the sea, lakes or rivers;
  - (f) Plans for the protection of wetlands;
  - (g) The regulation of harvesting of aquatic living and non-living resources to ensure optimum sustainable yield;
  - (h) Special guidelines for access to and exploitation of living and non-living resources in the continental shelf, territorial sea and the Exclusive Economic Zone;
  - (i) Promotion of environmentally friendly tourism; and
  - (j) The management of biological resources;



Annexes

Annex 1- Landing Sites, Plot Numbers and Coordinates

Annex 2- Environmental Management and Coordination Act (No.8 of 1999) Sections 42 and 43

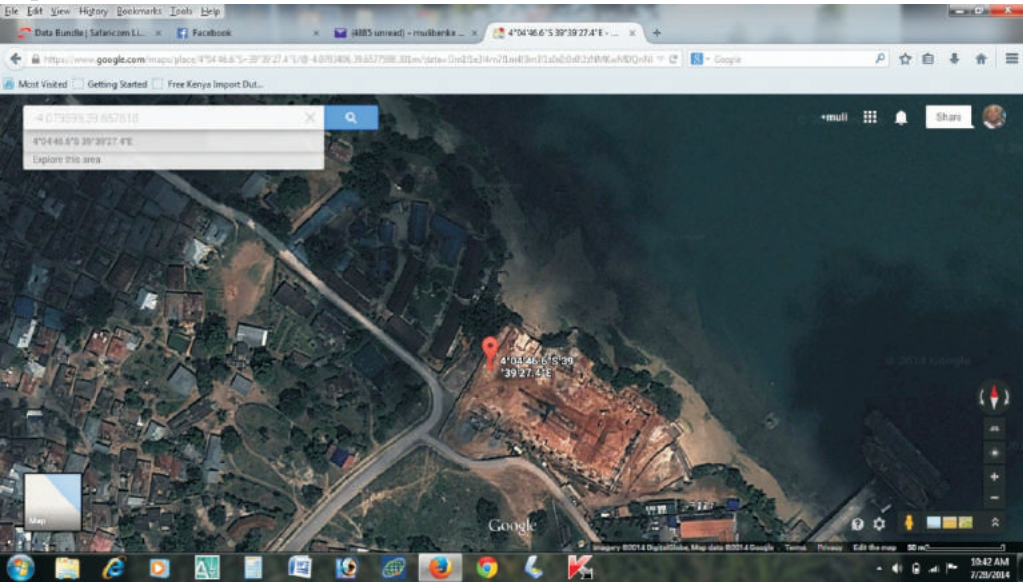
Annex 3- Gazetted Landing Sites and Registered Beach Management Units.

A cold storage facility funded by the Community Development Trust Fund (CDTF) will at least bring smiles on the fishermen's faces when completed but it is the notorious grabbing of their sites that will forever give them sleepless nights.

Almost all their sites are now privately owned: Maphophoni is registered under two names- Village Auto Bazaar and Asha Hussein- while Timbwani and Shelly Beach are also not their property anymore.

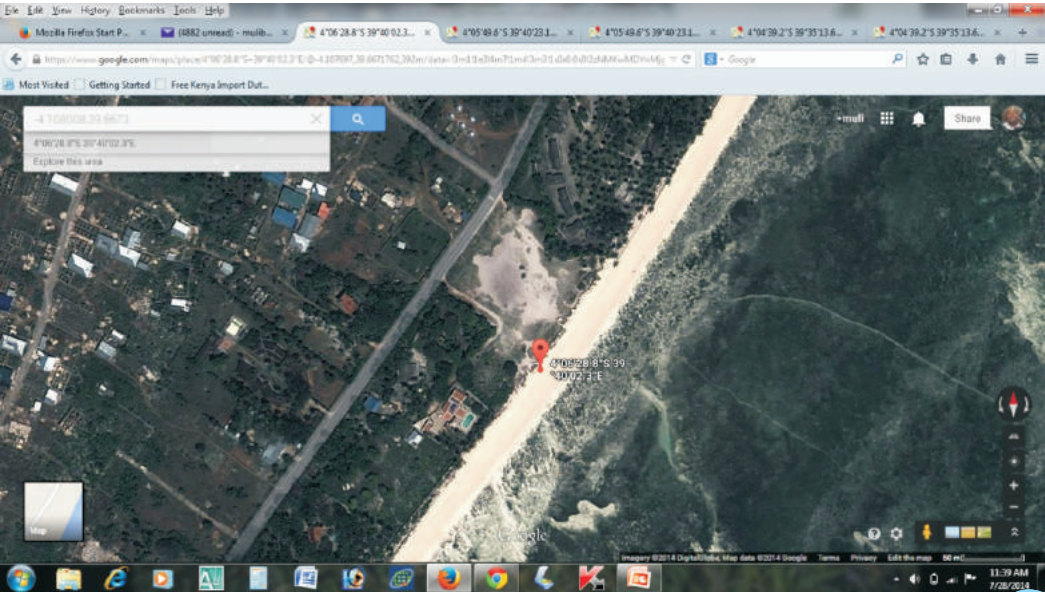
Ferry ya Zamani Site is also out of the picture after Base Titanium acquired it. A shipping bay stands in its stead. The company has allegedly supplied a fishing motorboat as part of the terms of agreement, but is yet to develop the new site, sandwiched by the Kenya Ferry and Association for the Physically Disabled of Kenya (APDK) offices, due to ownership tussles pitying APDK, a private developer and the Survey of Kenya.

Figure : Base Titanium yard on formerly Ferry ya Zamani Site. The alternative site, also seen on this map cannot be developed due to ownership wrangles



Grabbing in Likoni is usually simplified and follows a pattern: kiosks are erected on the sites, ostensibly to gauge the reaction of the fishermen before mansions stand tall- if no one speaks.

Figure : Maphophoni and Shelly Beach Sites. Even though grabbed, a few open spaces remain but should be secured urgently.



The Likoni Ferry Fish Market has also been of little help to the fishermen due to unending disagreements with the Kenya Ferry Services administration. They feel their prospective customers are purposely denied access to the market by being forced to use the opposite side. This, they say, is a calculated move to ultimately kick them out of the market. There is also an undercurrent of dissatisfaction towards the BMU leadership which some fishermen feel has not been working for their interests. In the February 2015 BMU elections, they failed to choose a chairman of their choice allegedly due to interferences from the outgoing leadership.



**Figure 8: Likoni Fish Market.** With no customers in sight, fishermen have resorted to hawking their perishable catch to avoid making losses

**Challenges at Likoni BMU**

- Lack of title deeds means fishermen have no control over the landing sites hence investors cannot support them with their project proposals.
- They fear that sites such as Timbwani, Maphophoni and Shelly Beach are already under private ownership- it is a just matter of time before huge perimeter walls are erected around them.
- Conflicts surrounding the ownership of Ferry ya Zamani, the new site after Base Titanium came calling, have taken too long to resolve. Their immediate neighbours, APDK, Survey of Kenya and private developers have all laid claim to the site.
- Even with a fish market at Likoni Ferry, there is fear that KFS is gradually kicking them out to pave way for the expansion of the ramp.
- Landing sites lack shades, storage rooms, toilets, which should be standard in every site.

**2.5.0. Mtongwe Beach Management Unit**

Landing Site	Plot number	CR. Number	Coordinates	Registered owner
Hawaii	IIMS/127,IIMS/139	-----	571165,9550558	Joseph Bentley
Shaza	IIMS/22 &21	LT 284	571592,9549998	-----
Mweza	IIMS/51	172	571948,9549568	-----
Mtibwani	IIMS/18 &19	LT 311	571475,9550123	-----
Mwangala	IVMS251,250	-----	565183,9549559	-----

POI035	573374	9549031	LIKONI FERRY MARKET	573374,9549031	IMS/454	
POI024	575119	9551815	MABANDANI	575119,9551815	XLIII/73	
POI025	575110	9551812	MABANDANI	575110,9551812	XLIII/73	
POI026	575310	9551627	MABANDANI	575310,9551627	XLIII/73	
POI022	574844	9552127	MADOBINI	574844,9552127	XLVI/97,84,117,87,118	
POI023	574839	9552151	MADOBINI	574839,9552151	XLVI/97,84,117,87,118	
POI037	573955	9546191	MAPHOPHONI	573955,9546191	VMS/106,105,104,102	
POI049	583847	9562538	MARINA	583847,9562538	IMN/1626,1627,1628	
POI012	559693	9556272	MAWENI	559693,9556272	IN KWALE	
POI013	559722	9556313	MAWENI	559722,9556313	IN KWALE	
POI021	574872	9552038	M'BUYUNI	574872,9552038	XLVI/94,133,134	
POI008	563687	9555314	MKUPE	563687,9555314	VIMN/3416	
POI009	563700	9555328	MKUPE	563700,9555328	VIMN/3416	
POI050	574530	9554935	MSHOMORONI	574530,9554935	IIMN/232	
POI033	571475	9550123	MTIMBWANI	571475,9550123	IIMS/18 &19	
POI031	571165	9550558	MTONGWE / HAWAII	571165,9550558	IIMS/127	IIMS/139
POI047	579701	9563061	MWAKUSEA	579701,9563061	IIMN/4406	
POI041	565183	9549559	MWANGALA	565183,9549559	IVMS251,250	
POI042	565077	9549559	MWANGALA	565077,9549559	IVMS251,250	
POI034	571948	9549568	MWEZA	571948,9549568	IIMS/51	
POI051	574528	9554935	NYALI MKUNGUNI	574528,9554935	IMN/962,1134,1135	
POI052	578271	9552332	NYALI MKUNGUNI	578271,9552332	IMN/962,1134,1135	
POI027	575310	9551627	OLD PORT	575310,9551627	XXXIII/102	
POI032	571592	9549998	SHAZA	571592,9549998	IIMS/22 &21	
POI038	573966	9546202	SHELLY BEACH	573966,9546202	VMS/49,50	
POI017	572350	9554198	SHIMANZI	572350,9554198	IX/129	
POI018	572350	9554198	SHIMANZI	572350,9554198	VMN/1905	
POI001	567274	9553295	SKEMBO	567274,9553295	VIMN/3529-3535	
POI003	567256	9553290	SKEMBO	567256,9553290	VIMN/3529-3535	
POI004	567237	9553288	SKEMBO	567237,9553288	VIMN/3529-3535	
POI019	572605	9554386	TUDOR /KAA CHONJO	572605,9554386	IX/129 &128	

MAUNGUJA	IIMN/381
KIJIWENI	NOT KNOWN
MKOMANI	IMN/6950
KASHANI	IIMN/829
GUNG'OMBE	IIMN/502



- fishermen have control of their sites and will not face threats of eviction.
- Mechanisms for alternative sites must be developed by NLC if fishermen have to give up their sites for a public project.
  - The fisheries sector can employ thousands of youths with modernized fishing gears, cold storage facilities and making it possible for fishermen to access cheap loans through cooperatives. The County Government simply has to expand the fish market.
  - Regular training opportunities for modern fish farming techniques. Donors have funded fishponds but fishermen cannot sustain these projects due to little support from the parent ministry. The Kenya Marine and Fisheries Research Institute should be more pro-fishermen and less academic.
  - Unregistered Beach Management Units should be formalized.
  - The Fisheries Department and the County Government should work together with the Kenya Ports Authority security to stop unwarranted arrests of fishermen.
  - Free and fair elections should be conducted regularly to elect BMU officials.

The ocean provides the biggest opportunity to diversify the regional economic activities. Elected leaders can choose to fill the coastline with hotels and private villas that employ only a section of the community on a seasonal basis, or pump more money into the ailing fishing sector and let the youths reap the benefits of modern deep-sea fishing. What we urgently need is *Jumuiya ya Wavuvi wa Pwani*.

POINT	EASTINGS	NORTHINGS		LOCALITY	CONCATENATE	PLOT NO	NEWLY CREATED PARCELS
POI014	568766	9558982		ALLIDINA	568766,9558982	VMN/121	
POI028	575124	9553039		ALLIDINA/ MADUBAH	575124,9553039	XLVI/6AR &7	XLVI/192
POI029	575059	9553057		ALLIDINA/ MADUBAH	575059,9553057	XLVI/6AR &7	XLVI/192
POI030	574997	9553024		ALLIDINA/ MADUBAH	574997,9553024	XLVI/6AR &7	XLVI/192
POI044	580608	9557480		BAMBURI	580608,9557480	IMN/2534/1	IMN/1548
POI043	573177	9549157		FERRY ZAMANI LIKONI	573177,9549157	IMS/1759 & 163	
POI048	581644	9563483		FERRY ZAMANI SHIMO LA TEWA	581644,9563483	IMN/12657,12656	
POI010	567992	9555963		JOMVU KUU	567992,9555963	VMN/162R	
POI011	567993	9559765		JOMVU KUU	567993,9559765	VMN/162R	
POI020	571283	9555120		KIBARANI	571283,9555120	VMN/508	
POI039	574618	9547407		KIBUYUNI	574618,9547407	VMS/1677	
POI040	574706	9548260		KIBUYUNI	574706,9548260	VMS/1677	
POI045	578876	9563423		KIDONGO	578876,9563423	IIMN/6165	
POI046	578865	9563486		KIDONGO	578865,9563486	IIMN/6165	
POI005	564771	9553353		KITANGA JUU	564771,9553353	VIMN/722	
POI006	564769	9553365		KITANGA JUU	564769,9553365	VIMN/722	
POI007	564771	9553369		KITANGA JUU	564771,9553369	VIMN/722	
POI015	569695	9559033		KWA HUSSEIN MYIKA	569695,9559033	VMN/161	
POI016	569695	9559033		KWA HUSSEIN MYIKA	569695,9559033	VMN/161	

It is generally believed that Mtongwe sites sit on KPA or government land. But as per searches conducted, Hawaii is owned by Joseph Bentley while the rest could not be traced. The possibility therefore that Government Owned Entities could have illegally transferred land into private hands cannot be ruled out. Structures have also been erected on their sites without consulting or informing the fishermen. One such structure was at the Hawaii Landing Site, at first said to be a fish market, and later a waiting bay for Mtongwe Ferry pedestrians. The building, funded by the Constituency Development Fund, remains incomplete and idle, three years later. Mtongwe fishermen need stability and security of tenure- that they will not be evicted from their sites. They are caught between the navy and the port, and at times, their fishing activities are restricted to specific areas for 'security' reasons. BMU officials have held several meetings with all the key stakeholders but unwarranted arrests and harassment are yet to stop.



**Figure 9 :**  
Fishermen taking  
a break at Shaza  
Landing Area.  
Patrol boats  
always restrict  
their movement.

Like many other BMUs, Mtongwe does not have a recognized market; neither does it have any cold storage facilities. Consequently, fishermen dispose of their catch, even when the bidding from the middlemen is at its lowest. It is no surprise that fishermen live in abject poverty while fish prices in the region remain high.

Mwangala Landing Site meanwhile, independent from Mtongwe BMU, appears isolated from the others. The fishermen are determined to survive, once in a while relying on other projects such as fish ponds and bee keeping even with little support from the Fisheries Department or County Government. The fishermen are also not sure what the Dongokundu by-pass will bring to them. There are fears of imminent evictions as stakeholders do not give them clear directions on whether or not the proposed routes will affect the site.

**Figure :** A makeshift structure used as a house and a store at Mweza Landing Site



**Challenges at Mtongwe BMU**

- Like all the other BMUs, they lack documentation for their sites
- Fishermen intimidated by both the navy and port police for allegedly perpetrating insecurity in the waters.
- They do not have a fish market, neither do they have storage facilities

**2.6.0. Bamburi Beach Management Unit**

Landing Site	Plot number	CR. Number	Coordinates	Registered owner
Bamburi	IMN/2534/1 IMN/1548	9634/12	580608,9557480	Shamsuddin& Ameerali Kassamali Soji then to Oceanic Fruits LTD (Paid Kshs. 50,000,000 in 2011)
Nyali Msanakani	-----	-----	-----	Nyali Luxury Resort
Nyali Mkunguni	IMN/962,1134,1135	10288 10263, 9517/1	574528,9554935	Engineering Investments LTD
Marina	IMN/1626,1627,1628	7238/9, 7238/10	583847,9562538	
Mkomani	IMN/6950	20574/1		English point

**CHAPTER THREE**

**Conclusion**

**3.1.0. Budgetary Allocations: Mombasa County Government can do better.**

The county's first budget (2013-2014 financial year) had so much in store for the fishermen. Kshs. 300 million, among other goodies, had been set aside for the purchase of 10 motorboats. Whether the fishermen were the first victims of budget cuts or the money disappeared, the fishermen did not receive a single boat. What is in store for them this 2014-2015 financial year? Purchase of boats has again featured prominently with Kshs. 180 million under its vote heads. Not long ago, the Agriculture and Fisheries Executive Anthony Jaramba said that the county government plans to purchase a boat for each of the 15 BMUs to increase their catch. It can only be hoped that this, among other promises such as fishermen's savings cooperatives, will be delivered this time round. But as of now, we have reason to be suspicious. The traditional fishing gears used by the fishermen have also stagnated the fishing industry. It is impossible to practice commercial fishing with traps, small-holed seine nets and, when push comes to shove, mosquito nets. Fish stocks decline as a result of poor fishing methods as the market for the small fish remains local. It is not surprising that the whole Coast region, with its vast marine resources only contributes 5% of the 174, 000 metric tonnes of fish produced in the country. When talking about fish farming in Kenya, it is tilapia, a freshwater fish, that rightly makes all the headlines. The Kenya Marine and Fisheries Research Institute (KMFRI) must also engage the fishing community more. Their research and findings should be geared towards impacting the life of the local fishermen. Why for example, is Tilapia from Lake Victoria, much larger in size and relatively cheaper than what is fished from the ocean? Why do counties in Central Kenya produce more fish than Mombasa which has a larger water body at its disposal? But above all the national and county governments have failed the fishing community and industry in Mombasa. By facilitating the grabbing of their landing sites they have drowned the lives and livelihoods of thousands of poor fishermen and their families. By failing to find alternative sites when they were forced to surrender their traditional ones for national projects, they have enlisted more into the statistics of poverty. By failing to allocate funds for boats, equipment, storage and freezing facilities they have left the fisherfolk less productive and confined them to methods of fishing and marketing that have not changed in a hundred years; a hand to mouth existence. This research is a wake up call for all and we make the following recommendations.

**3.2.0. Recommendations**

1. The National Land Commission in consultation with the Mombasa County Government should urgently survey and ensure all landing sites have title deeds- all registered under their respective BMUs.
2. Titles of grabbed sites should be revoked immediately.
3. Over 30 sites have not been gazetted. There is urgent need to gazette them and declare all non-fishing-related activities on the sites illegal.
4. speedy enactment of the Community Land Bill, which recognises fisherfolk as a community, will ensure the

The Standard, Monday January 19, 2015  
Daily Nation Tuesday 28 January, 2014



Hearings on Review of Grants and Disposition at GTI-Mombasa in January 2015. Haki Yetu made its submissions to the commission that priority should be given to the fishermen even with a number of people claiming ownership of the plot. Mishomoroni Landing Site is accessible, at least for now. The mushrooming estates however will make it difficult for the fishermen to access their cherished site. The adjacent land remains undeveloped due to ownership wrangles surrounding it. The fishermen are worried that their site could have been grabbed many years back. Kibarani Landing Site was Kenya Railways land under a 99 year lease with effect from 1<sup>st</sup> January, 1966. Under the original number VMN/508, it was subdivided and given the number VMN/2407. On 1<sup>st</sup> May, 2012 however, the land was transferred to Ware Transport Limited for Kshs. 30,000,000/-. Other sites such as Kwa Hussein Mnyika, Kibarani and Jomvu Kuu are isolated from the major sites and are yet to form a BMU.

**Figure 14 :** Fishermen believe this space at Mishomoroni Site could have been grabbed and will eventually have to change their routes



Bamburi Landing Site (beside Jomo Kenyatta Public Beach) has been subdivided into various blocks that have been changing hands when it was thought that its title deed was in safe custody at the National Museum of Kenya. One block has seen its ownership change from Shamsuddin and Ameer Ali Kassamali (1968), Thiomi Investment LTD (1978), Pyarali and Zakiahaton Sultanali (1983), City Pharmacy (1985) and finally to Oceanic Fruits Limited in 2011 for Kshs. 50,000,000. The title deed for the second block was colourfully surrendered by Mr. Rashid Sajjad to the Mombasa County Government in March 2014. A perimeter wall now stands on the third block. This particular piece is said to have been grabbed by a former Provincial Commissioner who transferred it to a church in 2007. The fishermen are worried that the construction of a PCEA church is imminent. It is one of the most troubled sites despite being close to the Kenya Wildlife Services offices. Previously, activists brought down a perimeter wall after it was discovered that it had been grabbed. Mkomani Landing Site, despite assurances from politicians that it would never be grabbed, hosts the English point today. Nyali Mkunguni, Nyali Msanakani, Mkomani and Dimbwi Rose (a new landing area) Landing Sites fall under the unregistered Nyali BMU. Fishermen propose to have their own BMU that would highlight their plight since Bamburi is far away from them.

**Figure 11:** The life of fishermen at Nyali Mkunguni. Ironically, multi-billion resorts stand on two of their landing sites while they have been left with such makeshift structures. Hotel owners have refused to set aside fishing areas.



**Challenges at Bamburi BMU**

- Bamburi Landing Site has multiple title-deeds. The fishermen just want to have their land secured and a genuine title deed within their reach.
- Hotels are sprouting up all over Nyali threatening the few remaining landing sites. Documentation is needed urgently.
- The fish market at Bamburi site, initially constructed with funding from USAID, recently acquired two freezers from the Tuna Fisheries Alliance of Kenya (TuFAK). The National and the County Governments have been of little support.



2.7.0. Kidongo Beach Management Unit

Landing Site	Plot number	CR. Number	Coordinates	Registered owner
Kidongo	IIMN/6165		578876,9563423	
Ferry ya Zamani (Shimo la Tewa)	IMN/1265,12657		581644,9563483	Shimo la Tewa Prison
Marina	IMN/1626,1627, 1628	46158, 46159	583847,9562538	
Mwakusea	IIMN/4406		579701,9563061	
Kashani	IIMN/829		-----	
Gung’ombe	IIMN/502		-----	

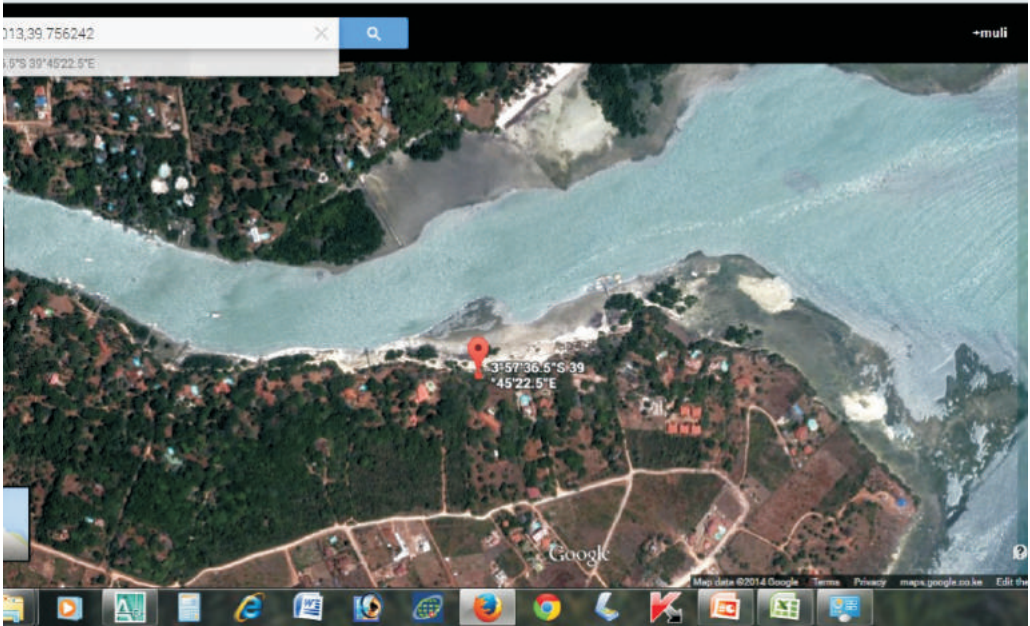
Kidongo BMU is located in an area that has suffered incessant conflicts over land. Some landing sites were hived off as part of the yet to be completed Majaoni Settlement Scheme. The immediate concern therefore is documentation as unplanned buildings are taking over the remaining land. Fishermen are also stuck with traditional methods that are eating away the dwindling fish stock. Once in a while, non-governmental organizations such as DANIDA have funded the building of fishponds, but lack of support from the parent ministry or the County Government results in discontinuity after harvesting or once the donors pull out.

Figure 12: A fishpond project seen through a fenced plot at Kidongo Site. Such projects are now running out of steam due to insignificant support from the County Government.



One landing site that is completely out of reach at the moment is Ferry ya Zamani (Shimo la Tewa). The site is now under armed guard thanks to Shimo la Tewa Prisons. Marina Landing Site, a home to over 100 fishermen is also lost to the same culture of land grabbing. Access roads have been replaced by mansions as wanton destruction of mangrove forests continues.

Figure 13: Marina Landing Site at Shanzu. The settlement patterns spell trouble for the fishermen as access routes appear to have been privatized. (Google Maps)



Challenges at Kidongo BMU

- Fishermen will soon run out of landing areas unless the sites are secured with title deeds.
- Unrestricted construction of houses threatens the access routes as well. Private developers appear to have a free hand in erecting mansions as county and national governments stand idly by.
- Little government support so fishermen have no designated markets or storage facilities.

2.8.0. Other Landing Sites

Landing Site	Plot number	CR. Number	Coordinates	Registered owner
Allidina	VMN/121	2124/1	568766,9558982	Allidina Visram-Msa
Mishomoroni	IIMN/232		574530,9554935	
Chitumbo	IIMN/360		-----	
Maunguja	IIMN/381		-----	
Jomvu Kuu	VMN/162R		567992,9555963	
Kwa Hussein Mnyika	VMN/161	6347/1	569695,9559033	United Methodist Church Mission (216 acres)
Kibarani	VMN/508, subdivided to VMN/2407	13596/2	571283,9555120	Kenya Railways, then to Ware Transport LTD for Kshs. 30,000,000 (2012)
Maweni	Kwale County		559722,9556313	
Kijiweni	Unknown		-----	.....

Block VMN/121 at Allidina was among the plots listed for review by the National Land Commission in the past