

Approved for tabling in the House.



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11/5/2022

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY


TWELFTH PARLIAMENT – SIXTH SESSION – 2022

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON-

(PUBLIC PETITION NO 080 OF 2021)

BY RESIDENTS OF HARAKA SETTLEMENT SCHEME IN YATTA AND MASINGA
CONSTITUENCIES REGARDING FORCEFUL EVICTION OF SQUATTERS FROM
THE SCHEME

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|  THE NATIONAL ASSEMBLY PARLIAMENT BUILDINGS NAIROBI | |
| DATE: | 11 MAY 2022 |
| | DAY: Wednesday |
| TABLED BY: | CHAIR, DC - LANDS HON. RACHEL NYAMAI, MP |
| CLERK-AT THE TABLE: | AHMED KHADI |

DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

MAY, 2022

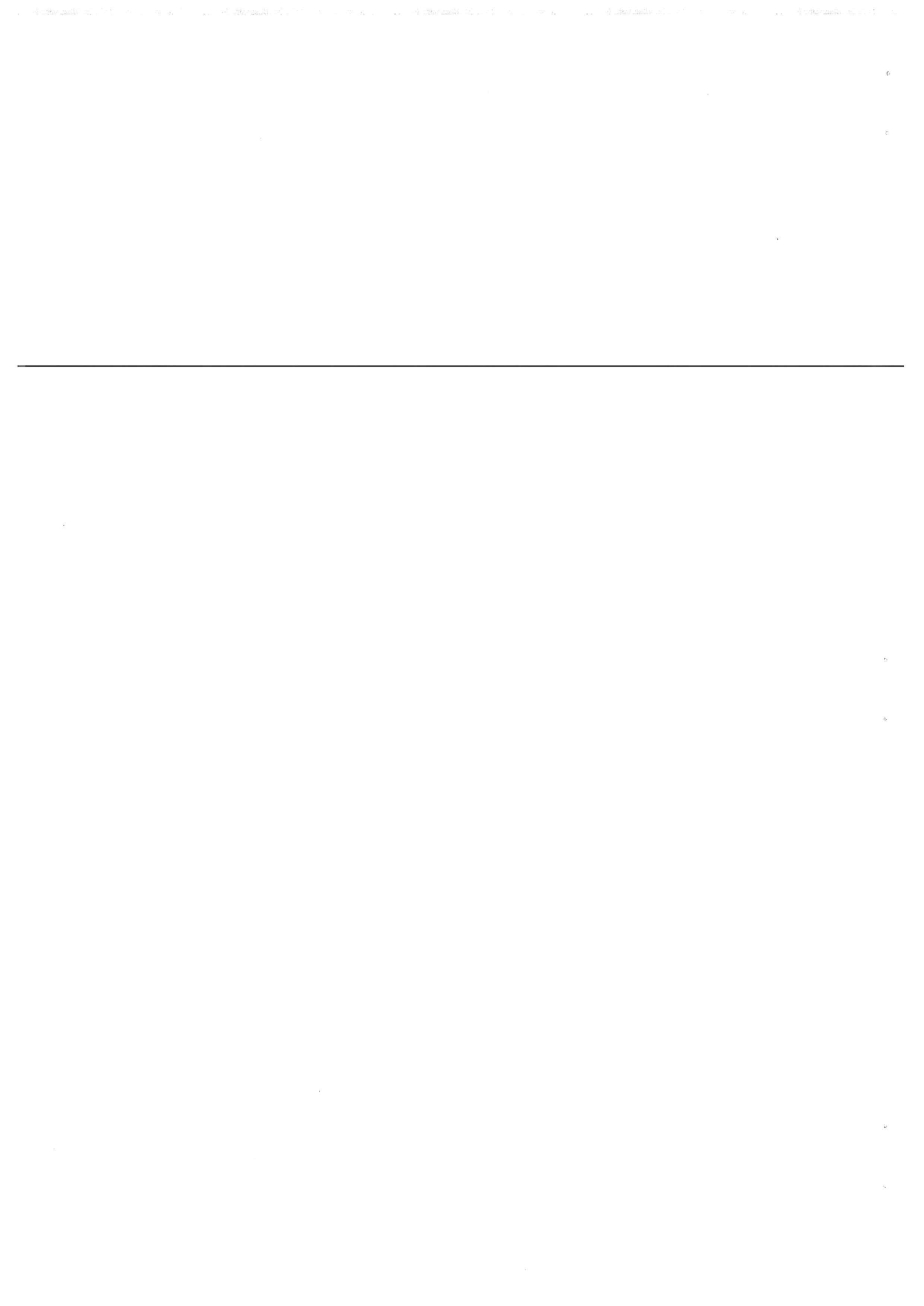


Table of Contents

| | |
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| Table of Contents | ii |
| CHAIRPERSON’S FOREWORD | iii |
| EXECUTIVE SUMMARY | iv |
| 1.0 PREFACE | vi |
| 1.2 Mandate of the Committee | vi |
| 1.2 Committee subjects | vi |
| 1.3 Oversight | vi |
| 1.4 Committee Membership | vii |
| 1.5 Committee Secretariat | viii |
| 2.0 INTRODUCTION | 1 |
| 3.0 SUBMISSIONS | 3 |
| 3.1 Submissions by the Petitioners | 3 |
| 3.2 Submissions by the Cabinet Secretary, Ministry of Lands and Physical Planning | 4 |
| 4.0 ISSUES FOR DETERMINATION AS PER THE PRAYERS IN THE PETITION | 7 |
| 5.0 COMMITTEE RECOMMENDATIONS | 9 |

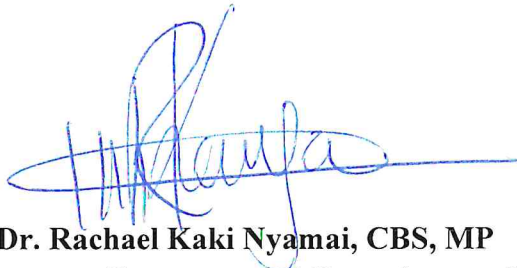
CHAIRPERSON'S FOREWORD

The Hon. Speaker, on 1st December 2021, conveyed to the House Public Petition No 080 of 2021, on behalf of residents of Haraka Settlement Scheme in Yatta and Masinga Constituencies regarding the forceful eviction of squatters from the Scheme.

While considering the Petition, the Committee met the Petitioners on 4th November 2021. ~~and the Cabinet Secretary, Ministry of Lands and Physical Planning on 2nd December 2021~~ and 9th March 2022, in Parliament Buildings, respectively

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to the Petitioners, the Cabinet Secretary, the Ministry of Lands and Physical Planning, and the Chairperson National Land Commission for the submissions they made to the Committee.

Under Standing Order 227, it is my pleasant duty to table the Report of the Departmental Committee on Lands on its consideration of Public Petition No 080 of 2021, on behalf of residents of Haraka Settlement Scheme in Yatta and Masinga Constituencies regarding forceful eviction of squatters from Haraka Settlement Scheme.



Hon. Dr. Rachael Kaki Nyamai, CBS, MP
Chairperson, Departmental Committee on Lands

EXECUTIVE SUMMARY

This report responds to the prayers by Petitioners in Public Petition No 080 of 2021 by residents of Haraka Settlement Scheme in Yatta and Masinga Constituencies regarding the forceful eviction of squatters from the Scheme.

The Petitioners requested the National Assembly, through the Departmental Committee on Lands, intervenes to investigate the circumstances behind the inordinate delay in facilitating the survey, subdivision, and land allocation within the Haraka Settlement Scheme in Yatta and Masinga Constituencies to deserving squatters since 1988 when the Ministerial Plot Committee recommended allotment of plots to verified squatters.

They also sought a recommendation for the immediate cessation of the ongoing evictions from the Haraka Settlement Scheme and allocation of part or the whole of the scheme until genuine squatters are authenticated.

Regarding the first prayer, the Committee observed that despite the government forming several Committees to address the matter, the dispute between the original allottees and the squatters has persisted since 1971 due to several factors, including challenges encountered during the implementation of the recommendations of both the Provincial Commissioner Eastern Province led committee and the Ministerial Plots Committee (MPC) of the settlement scheme.

The Committee concluded that the inordinate delay in facilitating the survey, subdivision, and allocation of the land within the Haraka Settlement Scheme was partly caused by the reluctance of the Ministry to issue title deeds to the allottees of 1819 parcels of land with no disputes, leading to more squatters occupying the land and the Petitioners opposition to the replanning and sharing of the affected parcels of land between the original allottees and the squatters.

The Petitioners' objection to the Ministerial Plots Committee's recommendation of subdividing the plots between legal allottees and squatters, mainly because the proposed replanning could reduce the size of the land has also contributed to the conflict. Consequently, due to the lapse of time and changes in the circumstances on the ground, there is a need for a multi – Agency approach to resolving the dispute.

On the second prayer, the Committee observed cessation of eviction processes could only be effected by a court of law by issuing prohibitory orders. Hence, the matter did not fall within the authority of the Committee.

On the third prayer, the Committee observed that the land had been allocated to the original beneficiaries in 1971. The Petitioners occupied it later and have lived there as squatters for over 45 years. However, the Committee acknowledged that the Petitioners have occupied part of the land in Haraka Settlement Scheme for many years and need to be considered in

any long-lasting solution to the dispute but further observed that the two parties need to accept an amicable solution to the conflict.

The Committee recommends that the Cabinet Secretary, Ministry of Lands and Physical Planning, in consultation with the Cabinet Secretary, Ministry of Interior and Coordination of National Government, the County Government of Machakos, the National Land Commission and the local leadership does set up a multi-agency team to resolve the disputes relating to the 746 parcels within 90 days of tabling of this Report.

The Committee also recommends that the Cabinet Secretary, Ministry of Lands and Physical Planning, facilitate the issuance of title deeds for the 1848 plots with no disputes within six months of tabling of this Report.

1.0 PREFACE

1.2 Mandate of the Committee

1. The Departmental Committee on Lands is established under the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference amongst others:

- (i) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations, and estimates of the assigned Ministries and departments.*
- (ii) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation.*
- (iii) make reports and recommendations to the House as often as possible, including the guidance of proposed legislation.*
- (iv) Study and review all legislation referred to it*
- (v) study, access, and analyse the relative success of the Ministries and departments as measured by the results obtained compared with their stated objectives.*
- (vi) investigate and inquire into all matters relating to the assigned Ministries and departments as they deem necessary and referred to them by the House.*
- (vii) study and review all legislation referred to it.*

1.2 Committee subjects

2. The Committee is mandated to consider the following subjects:
- a. Lands
 - b. Settlement

1.3 Oversight

3. The Committee oversees the Ministry of Lands and Physical Planning and the National Land Commission.

1.4 Committee Membership

4. The Committee membership comprises:

Chairperson

Hon. Dr Rachael Nyamai, CBS, MP
Kitui South Constituency

Jubilee Party

Vice-Chairperson

Hon. Mishi Mboko, MP
Likoni Constituency

Orange Democratic Movement (ODM)

Hon. Benjamin Washiali, CBS, MP
Mumias East Constituency

Jubilee Party

Hon Joshua Kutuny Serem, MP
Cherangany Constituency

Jubilee Party

Hon. Omar Mwinyi, MP
Changamwe Constituency

Orange Democratic Movement (ODM)

Hon. William Kisang, MP
Marakwet West Constituency

Jubilee Party

Hon. Ahmed Kolosh, MP
Wajir West Constituency

Jubilee Party

Hon. Ali Mbogo, MP
Kisauni Constituency

Wiper Democratic Movement (WDM)

Hon. Babu Owino, MP
Embakasi East Constituency

Orange Democratic Movement (ODM)

Hon. Caleb Kipkemei Kositany, MP
Soy Constituency

Jubilee Party

Hon George Aladwa, MP
Makadara Constituency

Orange Democratic Movement (ODM)

Hon George Risa Sunkuyia, MP
Kajiado West Constituency

Jubilee Party

Hon. John Muchiri Nyaga, MP
Manyatta Constituency

Jubilee Party

Hon. Josphat Gichunge Kabeabea, MP
Tigania East Constituency

Party of National Unity (PNU)

Hon. Lilian Tomitom, MP
West Pokot County

Jubilee Party

Hon. Owen Yaa Baya, MP
Kilifi North Constituency

Orange Democratic Movement (ODM)

Hon. Patrick Munene Ntwiga, MP
Chuka/Igambangombe Constituency

Jubilee Party

Hon. Samuel Kinuthia Gachobe, MP
Subukia Constituency

Jubilee Party

Hon. Teddy Mwambire, MP
Ganze Constituency

Orange Democratic Movement (ODM)

1.5 Committee Secretariat

5. The Committee secretariat comprises:

Lead Clerk

Mr. Leonard Machira

Senior Clerk Assistant

Mr. Ahmad Guliye

Clerk Assistant II

Ms. Jemimah Waigwa

Legal Counsel I

Mr. Collins Namulen

Fiscal Analyst III

Ms. Maureen Kweyu

Audio Recording Officer

Dr Kefa Omoti

Principal Researcher Officer

Mr. Joseph Okongo

Media Relations Officer

Ms. Peris Kaburi

Serjeant at Arms

2.0 INTRODUCTION

6. The Hon. Speaker, on 1st December 2021, conveyed to the House Public Petition No 080 of 2021 by residents of Haraka Settlement Scheme in Yatta and Masinga Constituencies regarding the forceful eviction of squatters from the Scheme.

7. The Petitioners, who comprise 14000 families, stated that they reside within the Haraka Settlement Scheme. The scheme consists of the following phases:
 - a. Ndalani Phase
 - b. Ndalani Phase II
 - c. Mamba
 - d. Nzukini Phase I
 - e. Nzukini Phase II
 - f. Nzukini Phase III
 - g. Nzukini Phase IV
 - h. Ngoliba Phase I (B)
 - i. Ngoliba Phase IV (D)
 - j. Ndathini Phase I
 - k. Ndathini Phase I
8. 746 parcels of land in the said schemes have land disputes.
9. The Petitioners claimed that their families have lived on and developed the parcels of land within the above-mentioned Settlement Scheme for over 45 years but have never been issued with title deeds as proof of security of tenure and as a guarantee for them to realize the full economic potential of the land.
10. They stated that the Ministry of Lands, in conjunction with the then Eastern Province Administration formed a Ministerial Plots Committee (MPC) in 1988 to investigate the Matter and recommended an appropriate solution to the squatter issue.
11. The Ministerial Plot Committee completed its probe in 1994 and identified 746 plots as having disputes. The Committee recommended the subdivision of the affected plots to cater to the legal allottees and the squatters.
12. Implementing the recommendation that the affected parcels be subdivided is currently impossible because the squatters' families have grown in numbers since the MPC report.
13. Further, the Ministry of Lands and Physical Planning undertook a ground verification exercise from 2011 to 2012. It established that the numbers of squatters had increased, and an unofficial subdivision of the affected plots had been undertaken. Hostility between the squatters and allottees who attempted to return to the land had increased.

14. The ground verification exercise was completed and endorsed by the then-District Settlers Selection Committee (DSSC) meeting held on 27th February 2017, leading to allotment letters to some squatters.
15. The Ministry of Lands and Physical Planning responded to Question No. 248/2019 by the Hon. Charles Kilonzo MP (Yatta Constituency) recommended a multi-agency approach to resolve the land issues in the Ndalani phases of the Haraka Settlement Scheme.
16. The Petitioners prayed that the National Assembly, through the Departmental Committee on Lands:
 - a. Investigate the circumstances behind the inordinate delay in facilitating the survey, subdivision, and land allocation within the Haraka Settlement Scheme in Yatta and Masinga Constituencies to deserving squatters. Since 1988 the Ministerial Plot Committee recommended the allotment of plots to verified squatters.
 - b. Recommend immediate cessation of the ongoing evictions from the Haraka Settlement Scheme and allocation of part or the whole of the scheme until genuine squatters are authenticated.
 - c. Inquire into the circumstances under which parts of the Haraka Settlement Scheme were allocated to unknown persons other than squatters who have lived on the land for over 45 years and recommend the revocation of any such irregular allotment

3.0 SUBMISSIONS

3.1 Submissions by the Petitioners

17. The Committee met the Petitioners on 17th March 2022. The Petitioners informed the Members that:
18. They represented 1400 families occupying 746 parcels of land in the Haraka Settlement Scheme, in Ndalani phase I, Ndalani phase II, Nzukini Phase I and Nzukini Phase II. They added that the said families had not been allocated the land they occupy, despite living there for more than 45 years. On the contrary, the Ministry of land and Physical Planning issued allotment letters and title deeds to other persons who do not reside on the land leading to the current dispute.
19. The conflict between the title holders and the squatters has persisted over the years despite the Government making several attempts to solve the matter as follows:
 - a. A Ministerial Plots Committee formed in 1988 completed its probe in 1994 and reported that 746 plots had squatter issues. The Committee recommended subdivision of the plots between legal allottees and squatters. The recommendation by the Ministerial Committee on the subdivision of plots was not tenable as the squatters.
 - b. A verification exercise undertaken in 2011/2012 established that the squatters had significantly increased, and unofficial subdivision had taken place.
20. The District Settlers Selection Committee (DSSC) completed and endorsed a ground verification exercise on 27th February 2017. This resulted in the issuance of allotment letters to some squatters.
21. They also stated that although they were not opposed to being allocated alternative land, it would be easier for the persons holding titles but not residing on the land to be allocated. The said alternative land, considering that the Petitioners have invested in the land for more than 45 years.
22. They requested the Committee to intervene to have the Ministry of Lands & Physical Planning stop the ongoing evictions/ subdivisions and facilitate the issuance of allotment letters and title deeds to the squatters.

3.2 Submissions by the Cabinet Secretary, Ministry of Lands and Physical Planning

23. The Committee met the Cabinet Secretary Ministry of Lands and Physical Planning on 22nd March 2022. The Cabinet Secretary responded to the issues raised in the Petition as follows:
24. The Government established Yatta Haraka Settlement Schemes in 1971 to settle displaced labourers and squatters. The government demarcated and allocated the plots to the beneficiaries. However, the land was not surveyed and registered.
25. The Challenges encountered during the implementation of the settlement scheme included:
 - a. Lack of proper documentation.
 - b. Double allocation.
 - c. Infiltration of squatters causing conflict with legal allottees.
 - d. Ownership disputes.
26. The Government formed several committees to solve the disputes since 1091, but none produced adequate solutions.
27. The report of a committee led by the Provincial Commissioner Eastern Province, which began its work in 1989 and ended in 1992, provided a list of plots and proposed allottees per scheme. The said list of allottees indicated that 1848 original allottees retained their plots, but 708 were replaced by other squatters leading to a double allocation of plots.
28. Although the Provincial Commissioner requested the Ministry of Land to issue title deeds to the 1848 original allottees. The Committee did not offer a solution to the 708 displaced allottees.
29. During the same period, the Ministry of Lands and Settlement formed a Ministerial Plots Committee (MPC) to resolve the long-standing disputes between the allottees and squatters. The Committee completed its work in 1994 and identified the following challenges in the documentation and settling process:
 - a. Abandonment of land by allottees due to natural calamities.
 - b. Invasion of abandoned plots by squatters.
 - c. Double allocation of plots.
 - d. Deceased landowners and succession issues.
 - e. Boundary disputes.
 - f. Conflict between allottees and squatters.
30. The Committee recommended the following:
 - a. Issuing title deeds for the 1848 plots with no disputes and dealing with the 708 double allocated plots later.

- b. Sharing of disputed plots between the allottees and squatters.
- c. Documentation (payments and transfers) to the settlers as earlier allocated and deal with the vacant plots separately
- d. Documentation of legal allottees and old nominated squatters as recommended by the Provincial Commissioner.
- e. Alternative settlement for displaced allottees/nominees.
- ~~f. Replanning and reallocating resultant plots to accommodate all old allottees and new selectees by the Provincial Commissioner.~~
- g. The Committee identified the recommendation for replanning as the most suitable option. Still, it was noted that both the allottees and squatters would oppose it because it would reduce the size of the plots and interfere with their developments in the said plots.

31. To implement the recommendations of the Ministerial Plots Committee, the Ministry of Lands embarked on a ground verification exercise in the 2011/2012 Financial Year to establish the ground occupancy covering a total of 2565 plots. 746 disputed plots were identified, as shown in the table below:

| Schem e No. | Scheme Name | Date established | No. of plots at inception | Status | No. of plots with recorded squatter problems |
|------------------------|------------------------|-----------------------------|--------------------------------------|---------------|---|
| 442 | Mamba | 1969 | 326 | Registered | 48 |
| 435 | Ndalani I | 1969 | 512 | Registered | 169 |
| 439 | Ndalani II | 1969 | 502 | Registered | 98 |
| 438 | Nzukini I | 1969 | 155 | Registered | 34 |
| 454 | Nzukini II | 1969 | 543 | Registered | 128 |
| 455 | Nzukini III | 1969 | 263 | Registered | 83 |
| 456 | Nzukini IV 543 | 1969 | 264 | Registered | 186 |
| Total | | | 2565 | | 746 |

32. The local leadership and the squatters resisted the implementation of the report and championed the allocation of the entire land occupied by squatters. They were also against the proposed replanning as it could reduce the size of the land in the circumstances. This made it hard for the ministry to implement the report.
33. Out of the 11 Haraka Settlement schemes, the most affected by squatter issues are situated in Ndalani Ward of Yatta Sub-County. These include Ndalani phase I & II settlement schemes, Nzukini phases I, II, III & IV and Mamba.

34. Given the preceding, the Ministry undertook to engage the Ministry of Interior and Coordination of National Government, the County Government of Machakos, the National Land Commission and the local leadership to set up a multi-agency team within the next 30 days to build consensus for titling of the parcels to proceed.
35. On the issue of eviction of squatters from the settlement scheme, the Cabinet Secretary stated that the Ministry had not sanctioned any eviction and recommended that the Petitioners direct to the Ministry of Interior and Coordination of National Government for investigations.

4.0 ISSUES FOR DETERMINATION AS PER THE PRAYERS IN THE PETITION

- a. That the National Assembly investigates the circumstances behind the inordinate delay in facilitating the survey, subdivision, and allocation of the land within the Haraka Settlement Scheme in Yatta and Masinga Constituencies to deserving squatters since 1988 when the Ministerial Plot Committee recommended allotment of plots to verified squatters**
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36. Regarding this prayer, the Committee observed that despite the government forming several Committees to address the matter, the dispute between the original allottees and the squatters has persisted since 1971 due to several factors, including challenges encountered during the implementation of the recommendations of both the Provincial Commissioner Eastern Province led committee and the Ministerial Plots Committee (MPC) of the settlement scheme. These include:
- i. Lack of proper documentation.
 - ii. Double allocation.
 - iii. Infiltration of squatters causing conflict with legal allottees.
 - iv. Ownership disputes.
37. However, the Committee noted that according to the submissions of the Petitioners and the Cabinet Secretary Ministry of Lands & Physical Planning, the ownership dispute involves 746 plots in Ndalani phase I & II settlement schemes, Nzukini phases I, II, III & IV and Mamba. Further, the Ministry of Lands and Physical Planning ground verification exercise conducted in 2011/2012 established that there were no disputes in 1819 plots in the scheme.
38. Additionally, the Provincial Commissioner Eastern Province committee report indicated that 1848 original allottees retained their plots, but 708 were occupied by squatters leading to a double allocation of plots.
39. The Committee further observed that the inordinate delay was partly caused by the petitioners' objection to the Ministerial Plots Committee's recommendation of subdividing the plots between legal allottees and squatters, mainly because the proposed replanning could reduce the size of the land.
40. The dispute between the original allottees and the Petitioners has been complicated by the significant increase in the number of squatters occupying the land and unofficial subdivision per the verification exercise undertaken by the Ministry of Lands and Physical Planning in 2011/2012.

41. Therefore, the Committee concluded that the inordinate delay in facilitating the survey, subdivision, and allocation of the land within the Haraka Settlement Scheme was partly caused by the reluctance of the Ministry to issue title deeds to the allottees of 1819 parcels of land with no disputes, leading to more squatters occupying the land and the Petitioners opposition to the replanning and sharing of the affected parcels of land between the original allottees and the squatters.

42. Consequently, due to the lapse of time and changes in the circumstances on the ground, there is a need for a multi – Agency approach to resolving the land.

b. Recommend immediate cessation of the ongoing evictions from the Haraka Settlement Scheme and allocation of part or the whole of the scheme until genuine squatters are authenticated.

43. There was no evidence presented to the Committee to indicate that there were ongoing evictions at the Haraka Settlement Scheme. The Committee further observed that cessation of eviction processes could only be effected by a court of law by issuing prohibitory orders. Hence, the matter did not fall within the jurisdiction of the Committee.

c. Inquire into the circumstances under which parts of the Haraka Settlement Scheme were allocated to unknown persons other than squatters who have lived on the land for over 45 years and recommend the revocation of any such irregular allotment

44. On this prayer, the Committee observed that according to the submissions of the Cabinet Secretary, Ministry of Lands& Physical Planning, the Government established Yatta Haraka Settlement Schemes in 1971 to settle displaced labourers and squatters. Much of the land had been demarcated and plots allocated to the beneficiaries. However, the land had not been surveyed and registered.

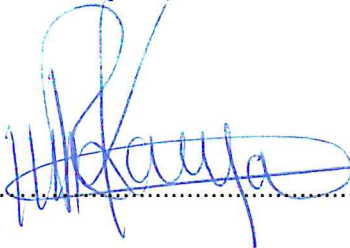
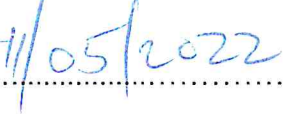
45. This led to squatters occupying 746 plots in the said scheme, with the problem worsened over the years due to delay in concluding the issuance of ownership documents to allottees of the plot with no disputes.

46. The Committee observed that the land had been allocated to the original beneficiaries in 1971. The Petitioners occupied it later and have lived there as squatters for over 45 years. However, the Committee acknowledged that the Petitioners have occupied part of the land in Haraka Settlement Scheme for over 45 years and need to be considered in any long-lasting solution to the dispute but further observed that the two parties need to accept an amicable solution to the conflict.

5.0 COMMITTEE RECOMMENDATIONS


Under Standing Order 227, the Committee recommends that:

1. The Cabinet Secretary, Ministry of Lands and Physical Planning, in consultation with the Cabinet Secretary, Ministry of Interior and Coordination of National Government, the County Government of Machakos, the National Land Commission and the local leadership does set up a multi-agency team to resolve the disputes relating to the 746 parcels within 90 days of tabling of this Report.
2. The Cabinet Secretary, Ministry of Lands and Physical Planning, facilitates the issuance of title deeds for the 1848 plots with no disputes within six months of tabling of this Report.

Signed.......... Date.....

The Hon. Dr. Rachael Kaki Nyamai, CBS, MP.

Chairperson, Departmental Committee on Lands

| | |
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|  THE NATIONAL ASSEMBLY | |
| DATE: 11 MAY 2022 | |
| TABLED BY: | |
| CLERK AT THE TABLE: | |



REPUBLIC OF KENYA
KENYA NATIONAL ASSEMBLY
TWELFTH PARLIAMENT

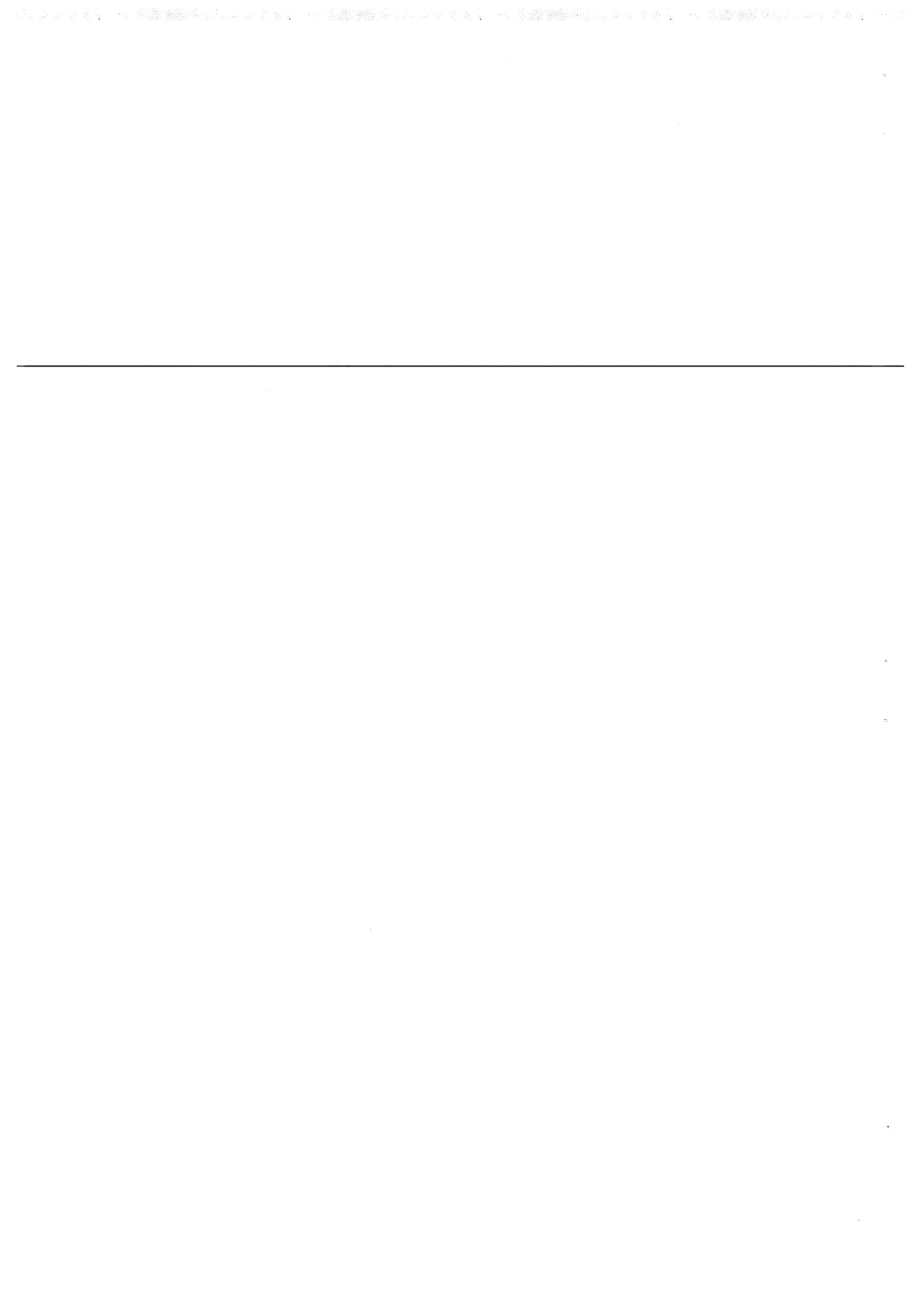
DEPARTMENTAL COMMITTEE ON LANDS

Adoption List

Public Petition No 080 of 2022 by Haraka Settlement Scheme in Yatta & Masinga Constituencies regarding forceful eviction of squatters from Haraka Settlement Scheme

Date: 27/04/2022

| | NAMES | SIGNATURE |
|-----|--|-----------|
| 1. | Hon. Dr. Rachael Nyamai, CBS, MP - Chairperson | |
| 2. | Hon. Mishi Mboko, CBS, MP V/Chairperson | |
| 3. | Hon. Benjamin Washiali, CBS MP | |
| 4. | Hon. Joshua Kutuny Serem, MP | |
| 5. | Hon. Omar Mwinyi Shimbwa, MP | |
| 6. | Hon. William Kisang, MP | |
| 7. | Hon. Ahmed Kolosh, MP | |
| 8. | Hon. Ali Mbogo, MP | |
| 9. | Hon. Babu Owino, MP | |
| 10. | Hon. Caleb Kipkemei Kositany, MP | |
| 11. | Hon. George Aladwa, MP | |
| 12. | Hon. George Risa Sunkuyia, MP | |
| 13. | Hon. John Muchiri Nyaga, MP | |
| 14. | Hon. Josphat Gichunge Kabeabea, MP | |
| 15. | Hon. Lilian Tomitom, MP | |
| 16. | Hon. Owen Yaa Baya, MP | |
| 17. | Hon. Patrick Munene Ntwiga MP | |
| 18. | Hon. Samuel Kinuthia Gachobe, MP | |
| 19. | Hon. Teddy Mwambire, MP | |



**MINUTES OF THE 22ND SITTING OF THE DEPARTMENTAL COMMITTEE ON
LANDS HELD ON WEDNESDAY 27TH APRIL 2022 AT ENGLISH POINT MARINA
HOTEL MOMBASA AT 2:30 PM**

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P - **Chairperson**
2. Hon. Mishi Mboko, CBS, M.P - **Vice-Chairperson**
3. Hon. Omar Mwinyi Shimbwa, M.P
4. Hon. Hon. Caleb Kositany, M.P
5. Hon. George Risa Sunkuyia, M.P
6. Hon. Josphat Gichunge Kabeabea, M.P
7. Hon. Owen Baya, MP
8. Hon. Patrick Munene Ntwiga, MP
9. Hon. Samuel Kinuthia Gachobe, MP
10. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Benjamin Washiali, CBS, M.P
2. Hon. Joshua Kutuny, MP
3. Hon. William Kisang, MP
4. Hon. Ahmed Kolosh, MP
5. Hon. Ali Mbogo, M.P
6. Hon. Babu Owino, MP
7. Hon. George Aladwa, M.P
8. Hon. John Muchiri Nyaga, MP
9. Hon. Lilian Tomitom, MP

IN ATTENDANCE

THE NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|------------------------|---|---|
| 1. Mr. John Mutega | - | Deputy Director Departmental Committees |
| 2. Mr. Leonard Machira | - | Senior Clerk Assistant |
| 3. Mr. Ahmad Guliye | - | Second Clerk Assistant |
| 4. Ms. Jemima Waigwa | - | Legal Counsel |
| 5. Mr. Collins Namulen | - | Fiscal Analyst III |
| 6. Ms. Maureen Kweyu | - | Audio Officer |

MIN. NO. NA/DC/LANDS/2022/097: PRELIMINARIES

The meeting was called to order at twenty- minutes to three o'clock with a word of prayer.

MIN. NO. NA/DC/LANDS/2022/098: CONFIRMATION OF MINUTES

The consideration of the item was deferred.

**MIN. NO. NA/DC/LANDS/2022/099: ADOPTION OF A REPORT ON PUBLIC
PETITION NO 080 OF 2021 BY RESIDENTS
OF HARAKA SETTLEMENT SCHEME IN
YATTA AND MASINGA CONSTITUENCIES
REGARDING THE FORCEFUL EVICTION
OF SQUATTERS FROM THE SCHEME**

The Committee considered the report on the above Petition and adopted it with the following recommendations having being proposed and seconded by Hon. Owen Baya, MP and Hon. Caleb Kositany, MP respectively. That:

- I. The Cabinet Secretary, Ministry of Lands and Physical Planning, in consultation with the Cabinet Secretary, Ministry of Interior and Coordination of National Government, the County Government of Machakos, the National Land Commission and the local leadership does set up a multi-agency team to resolve the disputes relating to the 746 parcels within 90 days of the tabling of this Report.
- II. The Cabinet Secretary, Ministry of Lands and Physical Planning, facilitate the issuance of title deeds for the 1848 plots with no disputes within six months of tabling of this Report.


**MIN. NO. NA/DC/LANDS/2022/100: ADOPTION OF A REPORT ON PUBLIC
PETITION NO 068 OF 2021 VICTOR
MWAGANDA GOGO ON BEHALF OF
RESIDENTS OF KWA KADZENGO VILLAGE
IN MTEPENI WARD OF KILIFI COUNTY
REGARDING THE URGENT RESOLUTION
OF THE KWA KADZENGO LAND DISPUTE**

The Committee considered the report on the above Petition and adopted it with the following recommendations having being proposed and seconded by Hon. Omar Mwinyi, MP and Hon. Samuel Gachobe, MP respectively. That:

The Petitioners do await the final determination of the Environment and Land Court in Malindi on the ELC Petition No. 23 of 2021 relating to the matters raised by the Petitioners in the Petition.

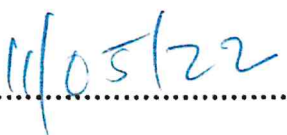
MIN. NO. NA/DC/LANDS/2022/101: ADJOURNMENT

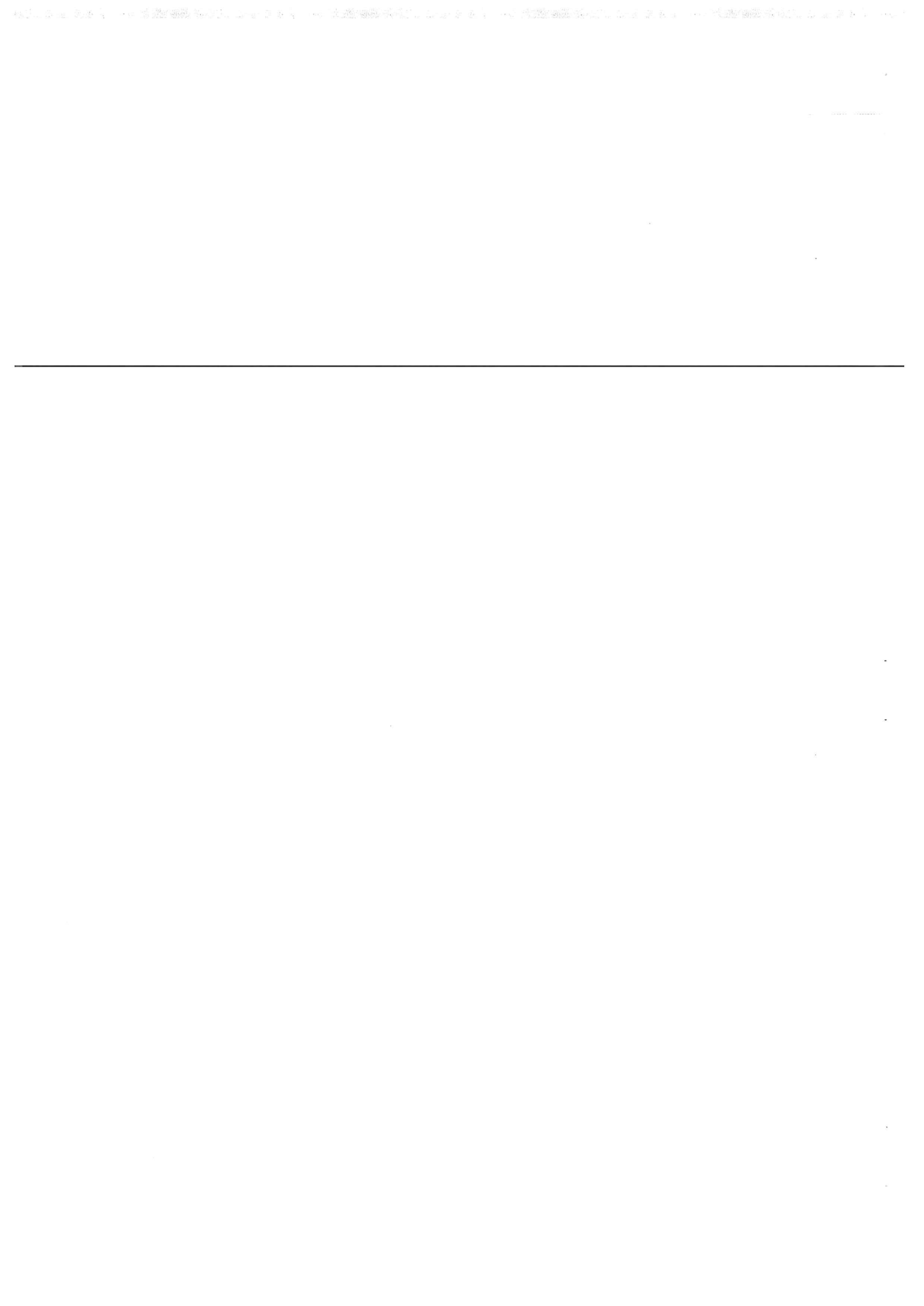
There being no other business to discuss, the meeting was adjourned at ten minutes past four o'clock. The next meeting will be held on Thursday 28th April 2022 at 9:30 a.m.

Signature 

HON. DR. RACHAEL KAKI NYAMAI, CBS, M.P.

(Chairperson)

Date..... 





REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY (FIFTH SESSION)

CONVEYANCE OF A PUBLIC PETITION

(No. 080 of 2021)

**REGARDING FORCEFUL EVICTION OF SQUATTERS FROM
HARAKA SETTLEMENT SCHEME IN YATTA AND MASINGA
CONSTITUENCIES**

Honourable Members, Standing Order 225(2) (b) requires the Speaker to report to the House any petition, other than those presented by a Member. Further, Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation.

In this regard, **Honourable Members,** I wish to report to the House that my office has received a Petition signed by several residents of *Haraka* Settlement Scheme in Yatta and Masinga Constituencies. The Petitioners, who comprise of approximately 1,400 families, claim that they have been residing on 746 parcels of land within the Settlement scheme comprising of the following –

- (1) Ndalani Phase Settlement Scheme;
- (2) Ndalani Phase II Settlement Scheme;
- (3) Mamba Settlement Scheme;
- (4) Nzukuni Phase I Settlement Scheme;
- (5) Nzukuni Phase II Settlement Scheme;

-
- (6) Nzukuni Phase III Settlement Scheme;
 - (7) Nzukuni Phase IV Settlement Scheme;
 - (8) Ngoliba Phase II (B) Settlement Scheme; and
 - (9) Ngoliba Phase IV (D) Settlement Scheme;
 - (10) Ndithini Phase I Settlement Scheme in Masinga sub-County; and
 - (11) Ndithini Phase II Settlement Scheme in Masinga Sub-County.

~~**Honourable Members,** the Petitioners aver that their families have~~ lived on the parcels of land within the above-mentioned Settlement Schemes for over 45 years but have never been issued with title deed as proof of security of tenure and as a guarantee for them to realize full economic potential of their land. They state that in 1988, the Minister of Lands in conjunction with the then Eastern Province Administration formed a *Ministerial Plots Committee* (MPC) to look into the matter and recommend appropriate solution to the long standing squatter issue.

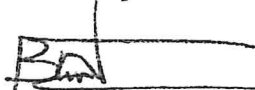
Honourable Members, the Petitioners claim that the *Ministerial Plot Committee* concluded its probe in 1994 in the Settlement Schemes within Ndalani Location, covering a total of 2,565 parcels of land, among them being the 746 plots that were identified as having squatter issues. In order to resolve the matter, the Ministerial Committee recommended sub-division and allocation of the plots to verified allottees and squatters in some cases and alternative plots for some squatters in other cases. In 2011/2012, ground verification of the 746 plots within Ndalani Phase I&II; Mamba and Nzuki Phases I, II, III and IV was undertaken allotment letters were issued to some allottees although some remained as squatters and their recent forceful eviction has caused hostilities between them and the allottees.

Honourable Members, the Petitioners are therefore praying that the National Assembly –

- 1) Investigates the circumstances behind the inordinate delay in the facilitating the survey, sub-division and allocation land within *Haraka* Settlement Scheme in Yatta and Masinga Constituencies to deserving squatters since 1988 when then *Ministerial Plot Committee* recommended allotment of plots to verified squatters;
- 2) Recommends immediate cessation of ongoing evictions from *Haraka* Settlement Scheme and allocation of part or whole of *Haraka* Settlement Scheme until genuine squatters are authenticated;
- 3) Inquires into circumstances under which parts of the *Haraka* Settlement Scheme were allotted to unknown persons other than squatters who have lived on the land for over 45 years and recommend revocation of any such irregular allotment; and,
- 4) Makes any other recommendation(s) deemed necessary in addressing the circumstances of the Petitioners.

Honourable Members, having determined that the matters raised by the Petitioner are well within the authority of this House, I order that, pursuant to the provisions of Standing Order 227(1), this petition be committed to the Departmental Committee on Lands. The Committee is required to consider the petition and report its findings to the House and to the Petitioner in accordance with Standing Order 227(2).

I thank you!


THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Date: 1st December 2021.



5th OCTOBER, 2021

THE CLERK
KENYA NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
P.O. BOX 41842 – 00100
NAIROBI

Dear Sir,

*DLS
TO advise
CNA
25/10/21*

**PUBLIC PETITION TO PARLIAMENT-KENYA NATIONAL ASSEMBLY ON THE
FORCEFUL EVICTION OF SQUATTERS ON HARAKA SETTLEMENT SCHEMES IN
YATTA AND MASINGA CONSTITUENCIES**

We, the undersigned Citizens of Kenya on behalf of squatters of Haraka settlement schemes in Machakos County, lodge this petition concerning forceful eviction of squatters (hereinafter the petitioner)

WE DRAW the attention of the House to the following:

1. **THAT**, we are residents (squatters) of Haraka settlement scheme occupying a total of 746 parcels of land under dispute and comprising over 1400 families.
2. **THAT**, Haraka settlement schemes are listed as follows:-
 - i) Ndalani phase I settlement scheme
 - ii) Ndalani phase II settlement scheme
 - iii) Mamba settlement scheme
 - iv) Nzukuni phase I settlement scheme
 - v) Nzukuni phase II settlement scheme
 - vi) Nzukuni phase III settlement scheme
 - vii) Nzukuni phase IV settlement scheme
 - viii) Ngoliba phase II ('B') settlement scheme
 - ix) Ngoliba phase IV ('D') settlement scheme
 - x) Ndithini phase I settlement scheme in Masinga Sub- County
 - xi) Ndithini phase II settlement scheme in Masinga Sub- County

*No Waigwa, L.S.
kindly deal.
CNA 23/10/2021*

3. THAT, the said families have been in occupation of the said parcels of land for over 45 years
4. THAT, the said families have developed the parcels of land and buried their family members on the land.
5. THAT, the said families have lived as squatters and have never been allocated land elsewhere.
6. THAT, in 1988 a ministerial plots committee (MPC) was formed by the then Ministry of Lands and Settlement in conjunction with the then provincial administration to resolve the Long standing squatters/allottees' disputes in Yatta Haraka settlement schemes.
7. THAT, the ministerial plots committee (MPC) completed its probe in 1994 in the (7) Settlement schemes in Ndalani location, covering a total of 2565 parcels of land. Among these, a total of 746 plots were identified as having squatters issues
8. THAT, this committee recommended sub division between legal allottees and squatters. In some cases, recommended alternative plots for allottees while in other cases, the committee recommended documentation for squatters.
9. THAT, the ministerial Plots Committee (MPC) recommendation that the parcels be sub-divided is not possible as the squatter families have grown in numbers since the MPC Report
10. THAT, a ground status verification on the plots identified as having squatter issue by the Ministerial Plots Committee was carried in 2011/2012 covering the 746 plots in the seven Schemes of the Yatta Haraka settlement schemes namely; Ndalani phases I & II, Mamba, Nzukini phases I, II, III, & IV. The verification exercise was an attempt to implement the MPC report
11. THAT, the verification exercise established that the number of squatters had greatly increased and unofficial subdivision of most of the plots had taken place. There was also increased hostility between the squatters and allottees who were attempting to return to the parcels of land

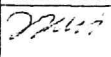




12. **THAT**, the ground verification exercise was completed and endorsed by the then District Settlers' Selection Committee (DSSC) meeting of 27/2/2017 which resulted to some squatter getting allotment letters.
13. **THAT**, the Ministry of Lands and physical planning through an answer to Question NO. 248/2019 in parliament by our member of Parliament Hon. Charles Kilonzo recommended a multi-Agency Approach consisting of the Ministry of Interior and Coordination, Ministry of Lands and Physical Planning, County Government of Machakos and the National Land Commission to resolve these land issues in Ndalani.
14. **THAT**, the matters addressed under the petition are not pending before any court of law or Constitutional body

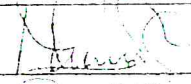
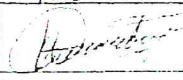
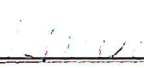



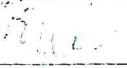


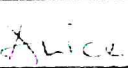



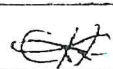
THEREFORE, your humble petitioners pray that the Parliament through the relevant Committee of the National Assembly:-

1. Invite the Petitioners to present their case.
2. Ministry of Lands stop ongoing evictions of squatters or sub -division of squatters land.
3. Investigates the matters raised in this petition with a view to finding a lasting solution.

And your **PETITIONERS** ever pray for your considerations

The following are the names of petitioners:-

| NO. | NAME OF PETITIONERS | FULL ADDRESS | NATIONAL ID | SIGNATURE/THUMB IMPRESSION |
|-----|------------------------------|------------------------------|-------------|---|
| 1. | Gregory Kiswili Mwangangi | P.O Box 22 -90118 Ndalani | 1667552 |  |
| 2. | Leonard Muasa Munyao | P.O Box 22- 90118 Ndalani | 0702503 |  |
| 3. | Monica Mutio Mutie | P.O Box 22-90118 Ndalani | 3689031 |  |
| 4. | Maria Mutisya | P.O Box 22-90118 Ndalani | 7017361 |  |
| 5. | Annastacia Mbole Wambua | P. O Box 22-90118 Ndalani | 1668316 |  |

| NO. | NAME OF PETITIONERS | FULL ADDRESS | NATIONAL ID | SIGNATURE/THUMB IMPRESSION |
|-----|----------------------------|------------------------------|---------------|---|
| 6. | Charles Mulwa | P.O Box 22-90118 Ndalani | 1672495 |  |
| 7. | Pius Wambua Kamuya | P.O. Box 22-90118 Ndalani | 1461093 |  |
| 8. | Joseph Kivuva Mutua | P.O Box 22-90118 Ndalani | 1200000 |  |
| 9. | Richard Mwangangi Kyalo | P.O. Box 22-90118 Ndalani | 3009700 |  |
| 10. | Isaac Nduva | P.O Box 22-90118 Ndalani | 1957438 |  |
| 11. | Monica Wayua Makau | P.O Box 22 -90118 Ndalani | 612547 |  |
| 12. | Dorcus Mwikali Mwaka | P.O Box 22 -90118 Ndalani | 30705453 4 |  |
| 13. | Juliana Mutua | P.O Box 22 -90118 Ndalani | 7048642 |  |
| 14. | Dominic Kaura | P.O Box 22-90118 Ndalani | 2406005 |  |
| 15. | Alice Mwangangi | P.O Box 22 -90118 Ndalani | 294705518 |  |
| 16. | Mumo Mutua | P.O Box 22 -90118 Ndalani | 16731150 |  |
| 17. | Mulwa Mulonzi | P.O Box 22-90118 Ndalani | 5054059 |  |
| 18. | Daniel Mutiso | P.O Box 22-90118 Ndalani | 1124433 |  |
| 19. | Catherine Kanini | P.O Box 22-90118 Ndalani | 12856341 |  |

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 044-21919
When replying please quote

Email: dlasoyatta@yahoo.com

DSO/MKS/9/289/VOL III/65



DISTRICT LAND ADJUDICATION AND
SETTLEMENT OFFICER
P.O. BOX 100 - 90124
KITHIMANI

9/3/2012

WAMBUA MWATU

RE: GROUND STATUS REPORT ON OWNERSHIP NDALANI PHASE II
SETTLEMENT SCHEME NO 439/261

The records held by the district settlers selection committee of 27/2/2012 related to the above plot is that it is recorded in the name of Wambua Mwati ID. NO.6878011

Having fulfilled the preliminary guidelines your name is to be forwarded to the Agricultural settlement fund for issuance of letter of offer. Please check if your details are well recorded as they appear on this letter.

A handwritten signature in black ink, consisting of a circular scribble with several horizontal lines crossing it, and a vertical line extending downwards from the center.

ERIC ONCHANA AORI
DISTRICT LAND ADJUDICATION/SETTLEMENT OFFICER
YATTA/MACHAKOS DISTRICTS

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 044-21919
When replying please quote
Email: dlasovatta@yahoo.com



DISTRICT LAND ADJUDICATION AND
SETTLEMENT OFFICER
P.O. BOX 100 - 90124
KITHIMANI.

08 /03 /2012

Ref; No...LA/ MKS /9 / 289/VOL. III/29

To : Nzambu Moli *Moli*

RE:GROUND STATUS REPORT ON OWNERSHIP, NZUKINI PHASE IV
SETTLEMENT SCHEME NO. 456/117.

The records held by the District Settlers' Selection Committee of 27/2/2012 related to the above plot is that it is recorded in the names of : Nzambu Moli, ID No.1674839.

Having fulfilled the preliminary guidelines, your name is to be forwarded to the Agricultural Settlement Fund for issuance of Letter of Offer. Please check if your details are well recorded as they appear on this letter.

ERIC ONCHANA AORI
DISTRICT LAND ADJUDICATION/SETTLEMENT OFFICER,
YATTA/MACHAKOS DISTRICTS.

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 044-21919
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Email: dlasoyatta@yahoo.com



DISTRICT LAND ADJUDICATION AND
SETTLEMENT OFFICER
P.O. BOX 100 – 90124
KITHIMANI.

08 /03 /2012

Ref; No.LA/ MKS /9 / 289/VOL. III/35

To : Muinde Mbatha

**RE:GROUND STATUS REPORT ON OWNERSHIP, NZUKINI PHASE IV
SETTLEMENT SCHEME NO. 456/112.**

The records held by the District Settlers' Selection Committee of 27/2/2012 related to the above plot is that it is recorded in the names of : Muinde Mbatha, ID No.4418896.

Having fulfilled the preliminary guidelines, your name is to be forwarded to the Agricultural Settlement Fund for issuance of Letter of Offer. Please check if your details are well recorded as they appear on this letter.

ERIC ONCHANA AORI
DISTRICT LAND ADJUDICATION/SETTLEMENT OFFICER,
YATTA/MACHAKOS DISTRICTS.

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 044-21919
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Email:dlasoyatta@yahoo.com



DISTRICT LAND ADJUDICATION AND
SETTLEMENT OFFICER
P.O. BOX 100 - 90124
KITHIMANI.

08 /03 /2012

Ref: No.LA/ MKS /9 / 289/VOL. III/36

To : James Mwathi Mbatha

RE:GROUND STATUS REPORT ON OWNERSHIP, NZUKINI PHASE IV
SETTLEMENT SCHEME NO. 456/II4.

The records held by the District Settlers' Selection Committee of 27/2/2012 related to the above plot is that it is recorded in the names of : James Mwathi Mbatha, ID No.1670557.

Having fulfilled the preliminary guidelines, your name is to be forwarded to the Agricultural Settlement Fund for issuance of Letter of Offer. Please check if your details are well recorded as they appear on this letter.

ERIC ONCHANA AORI
DISTRICT LAND ADJUDICATION/SETTLEMENT OFFICER,
YATTA/MACHAKOS DISTRICTS.

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 044-21919
When replying please quote

Email: dlasoyarta@yahoo.com

DSO/MKS/9/289/VOL III/71

DISTRICT LAND ADJUDICATION AND
SETTLEMENT OFFICER
P.O. BOX 100 - 90124
KITHIMANI


9/3/2012

NYUMU MUTUA WAMBUA

RE: GROUND STATUS REPORT ON OWNERSHIP NDALANI PHASE II
SETTLEMENT SCHEME NO 439/42

The records held by the district settlement committee of 27/2/2012 related to the above plot is that it is recorded in the name of Nyumu Mutua Wambua ID. NO.1673150

Having fulfilled the preliminary guidelines, your name is to be forwarded to the Agricultural settlement fund for its approval to offer. Please check if your details are well recorded as they appear on the form.



ERIC ONCHANA AORI
DISTRICT LAND ADJUDICATION SETTLEMENT OFFICER
YATTA/MACHAKOS DISTRICTS

LAND AND SETTLEMENT

Telephone: 011-21913
When replying please quote

Email: dlasoyatta@yalisa.africa



DISTRICT LAND ADJUDICATION AND
SETTLEMENT OFFICER
P.O. BOX 196 - 90124
KITIMANI

D507/MKS/9/289/VOL 41/6.

9/8/2012

MUASA MUESSAO

RE: GROUND STATUS RE: 11/1/2012/AGRICULTURAL PHASE II
SETTLEMENT SCHEME, 2012

The records held by the District Land Adjudication committee of 27/2/2012 related to the above plot is that it is recorded in the name of Muasa Mueyao ID. NO. 0702507

Having families are preliminary registration to be forwarded to the Agricultural settlement fund in the form of letter of offer. Please check if your details are well recorded as they appear in the records.

ERIC ONCHANA AORI
DISTRICT LAND ADJUDICATION SETTLEMENT OFFICER
YATTA/MACHAKOS DISTRICT

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 044-21919
When replying please quote

Email: diasoyatta@yahoo.com

DSO/MKS/9/289/VOL III/67



DISTRICT LAND ADJUDICATION AND
SETTLEMENT OFFICER
P.O. BOX 100 - 90124
KITHIMANI

9/3/2012

DANIEL KIMUYU NDOLO

RE: GROUND STATUS REPORT ON OWNERSHIP NDALANI PHASE II
SETTLEMENT SCHEME NO 439 318

The records held by the district settlers selection committee of 27/2/2012 related to the above plot is that it is recorded in the name of Daniel Kimuyu Ndolo ID. NO. 3429575

Having fulfilled the preliminary guidelines your name is to be forwarded to the Agricultural settlement fund for issuance of letter of offer. Please check if your details are well recorded as they appear on this letter.

ERIC ONCHANA AORI
DISTRICT LAND ADJUDICATION/SETTLEMENT OFFICER
YATTA MACHAKOS DISTRICTS

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 044-21919
When replying please quote

Email: dlasoyatta@yahoo.com

DSO/MKS/9/289/VOL III/76



DISTRICT LAND ADJUDICATION AND
SETTLEMENT OFFICER
P.O. BOX 100 - 90124
KITHIMANI

9/3/2012

MULWA MULONZI

RE: GROUND STATUS REPORT ON OWNERSHIP NDALANI PHASE II
SETTLEMENT SCHEME NO 439/166

The records held by the district settlers selection committee of 27/2/2012 related to the above plot is that it is recorded in the name of Mulwa Mulonzi
ID. NO. 7054137

Having fulfilled the preliminary guidelines your name is to be forwarded to the Agricultural settlement fund for issuance of letter of offer. Please check if your details are well recorded as they appear on this letter.

ERIC ONCHANA AORI
DISTRICT LAND ADJUDICATION/SETTLEMENT OFFICER
YATTA/MACHAKOS DISTRICTS

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 044-21919
When replying please quote

Email: dlasoyatta@yahoo. Com

DSO/MKS/9/289/VOL III/53



DISTRICT LAND ADJUDICATION AND
SETTLEMENT OFFICER
P.O. BOX 100 - 90124
KITHIMANI

9/3/2012

KIANGI KIOKO

RE: GROUND STATUS REPORT ON OWNERSHIP NDALANI PHASE I
SETTLEMENT SCHEME .NO 435/324

The records held by the district settlers selection committee of 27/2/2012 related to the above plot is that it is recorded in the name of Kaingi Kioko ID. NO. 5054222.

Having fulfilled the preliminary guidelines your name is to be forwarded to the Agricultural settlement fund for issuance of letter of offer. Please check if your details are well recorded as they appear on this letter.

ERIC ONCHANA AORI
DISTRICT LAND ADJUDICATION/SETTLEMENT OFFICER
YATTA/MACHAKOS DISTRICTS

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 044-21919
When replying please quote

Email: dlasoyatta@yahoo.com



DISTRICT LAND ADJUDICATION AND
SETTLEMENT OFFICER
P.O. BOX 100 - 90124
KITHIMANI

DSO/MKS/9/289/VOL III/54

9/3/2012

NDINDA MULWA MAINGI

RE: GROUND STATUS REPORT ON OWNERSHIP NDALANI PHASE I
SETTLEMENT SCHEME NO. 45/382

The records held by the district settlers selection committee of 27/2/2012 related to the above plot is that it is recorded in the name of Ndinda Mulwa Maingi ID. NO. 16054958

Having fulfilled the preliminary guidelines your name is to be forwarded to the Agricultural settlement fund for issuance of letter of offer. Please check if your details are well recorded as they appear on this letter.



ERIC ONCHIANA AORI
DISTRICT LAND ADJUDICATION/SETTLEMENT OFFICER
YATTAMACHAKOS DISTRICTS



MINISTRY OF LANDS AND PHYSICAL PLANNING

Telegraphic Address: "LANDCON"
Telephone: Nairobi 2718050
When replying please quote

LAND ADJUDICATION AND
SETTLEMENT DEPARTMENT
P.O. Box 30297
NAIROBI

Ref No. **DS/15/439/Vol. IV/ (43)**

Date: **23rd November 2020**

MBUVE MUNYAO, ID/NO. 1463237
C/O Sub-County Land Adjudication and Settlement Officer,
P. O. Box 100-90124,
KITHIMANI.

SETTLEMENT PLOT – LETTER OF OFFER


I am pleased to inform you that your application for a Settlement Plot has been successful.

The Government, through the Land Settlement Fund Board Trustees has offered you **Plot No. 1127** of approximately **1.82 Ha** at **NDALANI PHASE II SETTLEMENT SCHEME** in **MACHAKOS COUNTY.**

In pursuant thereto, please note that you are required to report to the Sub-County Land Adjudication and Settlement Office, **KITHIMANI SUB-COUNTY** so that you are shown the plot boundaries and be issued with a letter confirming this before documentation.

This offer is valid for 90 days from the date of this letter. Within this period, you should pay the 100% outright purchase (**Ksh. 11,550**) for the plot and be documented accordingly, failure to which will lead to cancellation of the offer without further notice.

Yours faithfully, -


Paul K. Mwangi
DIRECTOR OF LAND ADJUDICATION AND SETTLEMENT

c.c. Principal Secretary,
Ministry of Lands and Physical Planning,
P. O. Box 30450
NAIROBI.

Deputy-County Commissioner,
KITHIMANI SUB-COUNTY.

Sub-County Land Adjudication and Settlement
Officer,
P. O. Box 100-90124,
KITHIMANI.

4.5 Acres

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 014-21919
When replying please quote

Email: dlasoyatta@yahoo.com

DSO/MKS/9/289/VOL III/69



DISTRICT LAND ADJUDICATION AND
SETTLEMENT OFFICER
P.O. BOX 100 - 90124

KITHIMANI

9/3/2012

MUTUKU MULWA

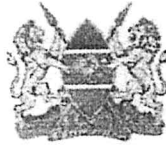
RE: GROUND STATUS REPORT ON OWNERSHIP NDALANI PHASE II
SETTLEMENT SCHEME NO 439/452

The records held by the district settlers selection committee of 27/2/2012 related to the above plot is that it is recorded in the name of Mutuku Mulwa
ID. NO.7055400

Having fulfilled the preliminary guidelines your name is to be forwarded to the Agricultural settlement fund for issuance of letter of offer. Please check if your details are well recorded as they appear on this letter.

ERIC ONCHANA AORI
DISTRICT LAND ADJUDICATION/SETTLEMENT OFFICER
YATTA/MACHAKOS DISTRICTS

LANDS AND SETTLEMENT



Telephone: 044-21919
AND
When replying please quote
E-mail : diasoyatta@ yahoo.com

DISTRICT LAND ADJUDICATION

SETTLEMENT OFFICER
P.O. BOX 100 - 90124
KITITHIRANI

DSO/MKS/9/289/VOL III/46

8/3/2012

GRACE NDAVE NDAMBUKI

RE: GROUND STATUS REPORT ON OWNERSHIP NZUKINI PHASE IV
SETTLEMENT SCHEME .NO 456/67

The records held by the district settlers selection committee of 27/2/2012 related to the above plot is that it is recorded in the name of GRACE NDAVE NDAMBUKI ID No 3036022.

Having fulfilled the preliminary guidelines your name is to be forwarded to the Agricultural settlement fund for issuance of letter of offer. Please check if your details are well recorded as they appear on this letter.

A handwritten signature in black ink, consisting of several overlapping loops and lines, appearing to be the name 'Eric Onchana Aori'.

ERIC ONCHANA AORI
DISTRICT LAND ADJUDICATION/SETTLEMENT OFFICER
YATTA/MACHAKOS DISTRICTS

MINISTRY OF LANDS AND SETTLEMENT

Telephone: 044-21919
When replying please quote

Email: dlasoyatta@yahoo.com



DISTRICT LAND ADJUDICATION AND
SETTLEMENT OFFICER
P.O. BOX 100 - 90124
KITHIMANI

DSO/MKS/9/289/VOL III/64

9/3/2012

DANIEL MUTISO KIILU

RE: GROUND STATUS REPORT ON OWNERSHIP NDALANI PHASE II
SETTLEMENT SCHEME NO 439/55

The records held by the district settlers selection committee of 27/2/2012 related to the above plot is that it is recorded in the name of Daniel Mutiso Kiilu ID. NO. 1124433

Having fulfilled the preliminary guidelines your name is to be forwarded to the Agricultural settlement fund for issuance of letter of offer. Please check if your details are well recorded as they appear on this letter.

ERIC ONCHANA AORI
DISTRICT LAND ADJUDICATION/SETTLEMENT OFFICER
YATTA/MACHAKOS DISTRICTS



REPUBLIC OF KENYA

MINISTRY OF LANDS AND PHYSICAL PLANNING

RESPONSES TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON LANDS

Honourable Chair,

Pursuant to a letter Ref. Ref: NA/DC/LANDS/2022 / (021)) dated March 8, 2022, the Committee invited the Cabinet Secretary Ministry of Lands and Physical Planning to respond to the following:

1. Public Petition No. 080 of 2021 by residents of Haraka Settlement Scheme in Yatta and Masinga Constituency regarding alleged forceful eviction of squatters from Haraka Settlement Scheme
2. Public Petition No. 007 of 2022 by Riverbank Residents Housing Welfare Group regarding land allocation and issuance of title deeds in respect of L.R No. 11150 in Embakasi East Sub - County, Nairobi.

Response

Honourable Chair, I wish to respond as follows:

- 1. PUBLIC PETITION NO. 080 OF 2021 BY RESIDENTS OF HARAKA SETTLEMENT SCHEME**

Honourable Chair, I wish to respond as follows:

Background and Context

Yatta Haraka Settlement Schemes as their name signify were hurriedly established to cater for displaced labourers and squatters. The settlement schemes commenced under the defunct Commissioner of Squatters in 1966 and continued under the Settlement Fund Trustees (SFT) programme in 1971. By this time, much of the land had been demarcated and majority of the plots allocated but not surveyed and registered.

The main challenges encountered during implementation of the settlement programme mainly included:

- i) Lack proper documentation
- ii) Double allocations
- iii) Infiltration of squatters causing conflict with legal allottees
- iv) Ownership disputes

Intervention measures

Honourable Chair,

Various methods were employed to solve the squatter problems in the Yatta Haraka settlement schemes in order to create a conducive environment for orderly settlement. Several committees have attempted to tackle the problems since 1971. However, none of them came up with adequate and comprehensive recommendations for solutions to the problems.

Notable is the report of the Provincial Commissioner, Eastern Province whose work began in 1989 and ended in 1992. The Provincial Commissioner provided a list of the plots and the proposed allottees per scheme. From the list of the proposed allottees, it was found that a total of 1848 original allottees retained their plots but 708 others were replaced by other squatters. In effect, this resulted in double allocation of 708 plots.

The Provincial Commissioner requested the Ministry to issue them with letters of allotment. He did not offer a solution for the 708 allottees who would be displaced. This proposal was therefore not implemented.

During the same period, a Ministerial Plots Committee (MPC) was set up by the then Ministry of Lands and Settlement and the Provincial Administration, Eastern Province to resolve the long-standing disputes between the allottees and squatters.

The Committee completed its work in 1994 and identified the following challenges in the documentation and titling process:

- i. Abandonment of land by allottees due to natural calamities
- ii. Invasion of abandoned plots by squatters
- iii. Double allocation
- iv. Deceased landowners and succession issues
- v. Boundary disputes
- vi. Conflict between allottees and squatters.

The Committee in its report (**annexure 1**) proposed the following approaches to resolve the settlement problems:

- i) To issue title deeds for the 1848 plots which are not disputed thereafter deal with the problems of the 708 double allocated plots
- ii) To have all the disputed plots shared among the disputants i.e allottees and squatters
- iii) Proceed with documentation (payments and transfers) to settlers as earlier allocated and deal with vacant plots separately
- iv) Proceed with documentation of legal allottees and old nominated squatters as recommended by the Provincial Commissioner
- v) Find alternative settlement for displaced allottees /nominees
- vi) Re-plan and reallocate resultant plots to accommodate all old settlers and new selectees by the Provincial Commissioner

In the end, the Committee recommended the re-planning option as the most suitable and viable option. The Committee however noted that the proposal would not be taken kindly by the allottees and squatters especially because it would reduce the size of the plots and interfere with their developments.

Ground verification

Honourable Chair,

To implement the report of the Ministerial Plots Committee (MPC), the Ministry embarked on a ground verification exercise in 2011/2012 FY to establish the ground occupancy covering a total 2565 parcels. 746 disputed plots were identified as shown in the table below-

| Scheme No. | Scheme Name | Date Established | No. of Plots at Inception | Status | No. of Plots with recorded squatters problems |
|-------------------|--------------------|-------------------------|----------------------------------|---------------|--|
| 442 | Mamba | 1969 | 326 | Registered | 48 |
| 435 | Ndalani I | ” | 512 | ” | 169 |
| 439 | Ndalani II | ” | 502 | ” | 98 |
| 438 | Nzukini I | ” | 155 | ” | 34 |
| 454 | Nzukini II | ” | 543 | ” | 128 |

| Scheme No. | Scheme Name | Date Established | No. of Plots at Inception | Status | No. of Plots with recorded squatters problems |
|--------------|---------------|------------------|---------------------------|--------|---|
| 455 | Nzukini III | ” | 263 | ” | 83 |
| 456 | Nzukini IV543 | ” | 264 | ” | 186 |
| TOTAL | | | 2565 | | 746 |

Implementation of the report was however resisted by the local leadership and the squatters who championed allocation of the entire parcels occupied by squatters. They were against the proposed re-planning as it would reduce the size of their land. In the circumstances, the report has not also implemented.

Honourable Chair,

In view of the foregoing, the Ministry undertakes to engage the Ministry of Interior and Coordination of National Government, County Government of Machakos, National Land Commission and the local leadership with a view to set up a multi-agency team within the next 30 days to build consensus for titling of the parcels to proceed.

Honourable Chair,

The Ministry has not sanctioned any eviction of squatters from Haraka Settlement Scheme. We recommend that the specific cases be directed to the Ministry of Interior and Coordination of National Government for investigation.

2. PUBLIC PETITION NO. 007 OF 2022 BY RIVERBANK RESIDENTS HOUSING WELFARE GROUP

Honourable Chair, I wish to respond as follows:

The petition states that the area occupied by the residents was classified as a settlement scheme and surveyed around the years 2014/2015 to comprise the following three phases:

- i) Riverbank Phase I (L.R No. 11150)
- ii) Riverbank Phase II (L.R No. 18111)
- iii) Riverbank Phase III (Block 10)

Honourable Chair,

Contrary to what is stated in the petition, according to our records, land parcel L.R No. 18111 measuring 15.32 Hectares was originally registered as I.R No. 68298 in the name of Sharjah Trading Company Limited on January 31, 1996 for a term of 99 years with effect from December 1, 1993. The parcel was transferred to Altay Investments Limited on January 13, 1997. It was further transferred to Sterling Developers Limited on September 19, 1997. The parcel has since been subdivided and transferred as shown in the copy of the title marked **annexure 2**.

Riverbank Phase III (Block 10) does not exist in our survey records.

L.R No. 11150 measures approximately 7.00 Acres and is registered as I.R No. 19151 in favour of Nairobi Urban District Council (Nairobi City County) on October 17, 1962 for a term of 99 years with effect from May 12, 1958. **Annexure 3** is a copy of the Memorandum of Registration of Transfer of Land (MRT), the Grant and Deed Plan No. 79213. The grant indicates that the user was for sewerage disposal works.

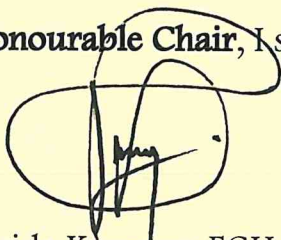
According to our records, in 1985, the then Nairobi City Commission allocated portions of the land to individuals but later withdrew the same. Copies of the letters withdrawing the allocations are marked **annexures 4**.

Our records indicate that the parcel L.R. No. 11150 is still intact and has not been subdivided as per Survey Plan F/R 98/30 (**annexure 5**).

On January 20, 2017, the National Land Commission issued an intention to acquire 0.0315 Hactares of the land on behalf of Kenya Urban Roads Authority for the construction of Kayole Spine Eastern Bypass Link Road. **Annexure 6** is a copy of the Gazette Notice.

From the foregoing the subject land was allocated to the Nairobi Urban District Council (now Nairobi City County) for sewerage disposal works and therefore is not available for allocation.

Honourable Chair, I submit.



Farida Karoney, EGH
CABINET SECRETARY

March 22, 2022

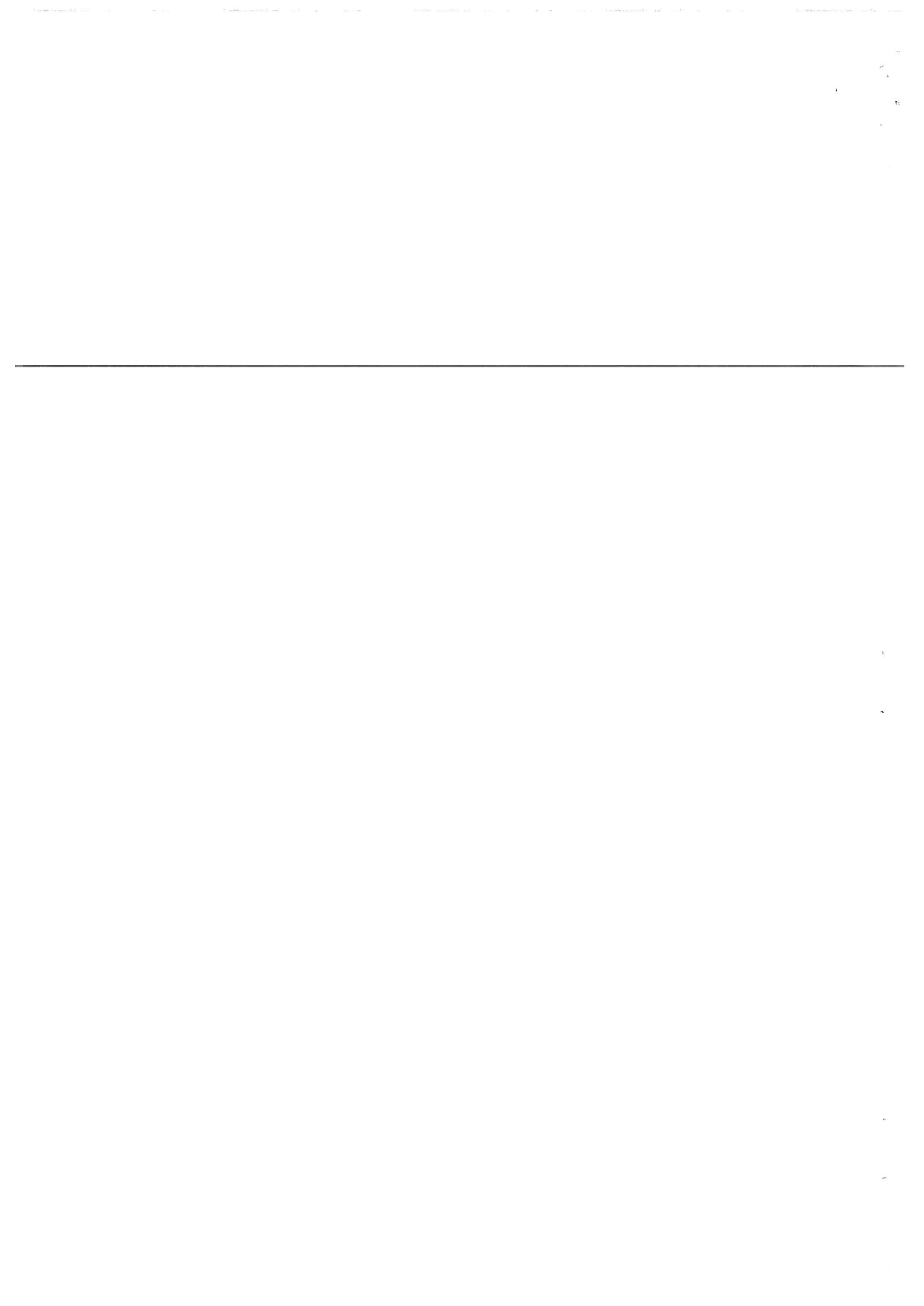


TABLE OF CONTENTS

| | | |
|------|--|------|
| | Executive Summary..... | i+ii |
| 1.0 | Background..... | i |
| 2.0 | Problems Common to Haraka Settlement Schemes..... | 1 |
| 3.0 | Special Problems In Yatta Settlement Schemes..... | 2 |
| 4.0 | Efforts to Solve the Yatta Settlement Problems.... | 3 |
| 5.0 | Report of the F.Cs Committee..... | 3 |
| 6.0 | Options to Solve the Yatta Settlement Problems.... | 5 |
| 7.0 | Recommendations..... | 7 |
| 8.0 | Proposed Land Utility in the Seven Schemes..... | 8 |
| 9.0 | Constraints to the Proposed Approach..... | 9 |
| 10.0 | Advantages of the proposal..... | 9 |
| 11.0 | Appendixes..... | 11 |



YATTA HARAKA SETTLEMENT SCHEMES - MACHAKOS DISTRICT.

EXECUTIVE SUMMARY

Yatta Settlement Schemes were established under the Haraka Settlement Schemes Programme. Haraka Settlement Schemes as their name signifies were hurriedly developed mainly to cater for displaced labour^{and} squatters and hence the inadequate records, scanty supervision, inadequate infrastructure and extension services. This resulted to squatter infiltration, some settler mobility and poor settler occupation and development particularly during the early post settlement periods.

These Settlement Schemes commenced under the defunct Commissioner of Squatters way back in 1966 and continued under the Settlement Fund Trustees Programme in 1971, after the latter took over the management of Haraka Schemes in the country. SFT introduced the new programme, in order to strengthen the records and the rights of ownership.

The drawback in these schemes is the squatter problem. The squatters spread, occupied, developed and claimed plots there. Initially this involved a few vacant and public plots but it spread to allocated plots and developed into forceful threat, prevention of occupation of the legal allottees and even their eviction.

Some local committees have attempted to tackle the problems since 1979 but the most important committee report was that of the Provincial Commissioner Eastern Province whose work began in 1989 and ended in 1992. The PC came up with a list of selectees and requested the Ministry to issue them with letters of allotment. Nevertheless the list replaced 708 legal allottees as documented by the Ministry.

The legal allottees had earlier been issued with settlement plot documents. Hence they were legally recognized as allottees and these documents constituted legal contracts between the allottees and Ministry. Any attempt to dispossess them of plots will lead to protracted and costly legal cases which Ministry is unlikely to win. Furthermore dispossession of legal allottees, without providing for alternative settlement or acceptable compensation would be against settlement Policy.

One of the hallmarks of safeguarding the rights of an allottee is the condition that Settlement Fund Trustees cannot enforce forfeiture by re-entry, suit or otherwise unless a notice has been served on the allottee. The notice must specify the particular breach complained of and require the allottee to remedy the breach within a reasonable time. The other important condition especially for Haraka Schemes, is that once the allottee pays for the land in full, the Settlement Fund Trustees



guarantees to issue title as a matter of course. For these reasons Settlement Fund Trustees is estopped from arbitrarily dispossessing any allottee. As a result the Ministry of Lands and Settlement is bound to honour the legal allottees rights or provide alternative settlement for those displaced.

The Director of Land Adjudication and Settlement has suggested six options to the problem. These are:

- (a) To issue title deeds to all allottees whose plots are not disputed, thereafter deal with the problems of the disputed plots or,
- (b) To have all the disputed plots shared among the disputants - settlers and squatters or,
- (c) To reject report of the Provincial Commissioner Eastern and proceed with documentation (payments and transfers) to settlers as earlier allocated or
- (d) To implement the P.Cs report as recommended and proceed with documentation of old and new allottees as recommended by the Provincial Commissioner or
- (e) Find alternative settlement for displaced allottees/nominees or
- (f) Re-plan and reallocate resultant plots to accommodate all legal settlers and new selectees by the FC ~~as~~

The Department recommends the sixth option since it is the most optimal as compared to the others. Details are to be found in the main report.



1.0 HARAKA SETTLEMENT SCHEMES: YATTA - MACHAKOS DISTRICT

1.1 BACKGROUND

- 1.2 Yatta Settlement Schemes were established under the Haraka Settlement Schemes Programme. Haraka Settlement Schemes as their name signifies were hurriedly developed mainly to cater for displaced labourers and squatters. They were started out of farms placed under mismanagement orders by Ministry of Agriculture. These schemes were different from the Conventional Settlement Fund Trustee schemes in that they did not have development plans, infrastructures, loans and extension services. Instead plots were demarcated with reservation for roads and other amenities. The settlers were placed on the ground and were expected to survive on their own.
- 1.3 The programme commenced under the defunct Commissioner of Squatters way back in 1966 and continued under the Settlement Fund Trustees in 1971, after the latter took over the management of Haraka Schemes in the country.
- 1.4 By the time the commissioner of squatters ceased to function, much of the land had been demarcated, majority of plots allocated and license fees introduced but final registration survey and full payment had not been made.
- 1.5 When Settlement Fund Trustees took-over it continued with the settlement process and introduced new programmes as shown below, in order to strengthen the records and the rights of ownership:-
- (i) Issue of letters of offer to new allottees
 - (ii) Payment of small standard land charge per plot ranging from Ksh. 500 - 2000 per plot.
 - (iii) Issue of letters of outright purchase to allottees who paid land charge in full.
 - (iv) Extension services were introduced but no loans were available to allottees in Haraka Settlement Schemes.
 - (v) Survey for title registration.

These programmes were also aimed at curbing squatters infiltration, settler migration and absenteeism.

2.0 OTHER PROBLEMS COMMON TO HARAKA SETTLEMENT SCHEMES

- 2.1 Most Haraka Settlement Schemes happen to have been



established in the marginal areas where climatic conditions were severe. There was also the problem of scanty supervision, inadequate infrastructure and extension services. This resulted to squatter infiltration, some settler mobility and poor settler occupation and development particularly during the early post settlement periods.

- 2.2. These problems were further compounded by the hurry in which the Haraka Settlement Schemes were established and the resultant inadequate records. The new programmes introduced by the Settlement Fund Trustees were aimed at addressing some of these problems, particularly the settler identity, mobility, occupation and development.

3.0 SPECIAL PROBLEMS IN YATTA SETTLEMENT SCHEMES

- 3.1. In 1982 the Government decided that settlers in Haraka Schemes should pay for their plots so that eventually they can be issued with the title deeds. The exercise went on quite smoothly in most of the Haraka Schemes but progress in Yatta schemes was hampered by squatters hostility. Being there illegally, they prevented legal allottees from finalizing their land ownership procedures. It was therefore decided to leave the existing squatters and allottees until the Government found solution to their problems. As a result payment and documentation was suspended. By this time majority allottees had paid and been documented.
- 3.2 The schemes considered are the seven Haraka Schemes in Yatta, Machakos District ie (Ndalani Phase I and II, Nzukini Phase I, II, III and IV and Mbamba. These schemes suffered from the above problems but squatter infiltration became very critical there. It was much easier for S.F.T. to deal with other settlement problems such as payments, surveys, registration, double allocation, abandoned plots, sales and succession cases but squatter problems proved to be much more difficult, inter alia, for the following reasons:-

- (i) Squatters received sympathy and encouragement from local administration and local politicians which hampered decisive action thereby causing long delays in dealing with the problem. These led squatters to believing that they had rights of occupation of the private land wrongly believing it was Government land to be allocated to them.
- (ii) The squatter problem was manipulated and exaggerated so much that the squatters spread, occupied, developed and claimed plots there. Initially this involved a few vacant and facility plots but it spread to allocated plots and developed into forceful threat, prevention of



occupation of the legal allottees and even eviction of legal allottees.

(iii) Delays and tedious methods of dealing with the squatters, have made SFT to take more than 20 years to solve the problem.

3.3 Squatter problems are critical in Yatta schemes because they negate the development, occupation and orderly settlement of the affected plots and the schemes in general. They also prevent rightful allottees from occupying and developing the plots thereby creating chaotic ownership problems and increasing landlessness which S.F.T. tries to solve. The problems tend to acquire political and security significance which are difficult to deal with.

4.0 EFFORTS TO SOLVE THE YATTA SETTLEMENT PROBLEMS

4.1 Various methods were employed in endeavour to solve squatter problems in Yatta Settlement Schemes in order to create conducive environment for orderly settlement. These endeavours have not yielded desirable results mainly because of local interference and manipulations. These delays have made squatters entrench themselves in settlers' plots, keeping the legal owners out by threats to violence.

4.2 At the least three (3) committees have attempted to tackle the problems since 1971. However, none of them came up with adequate and comprehensive recommendations for solutions to the problems. Instead they created more complicated problems rendering them incapable of implementation.

5.0 REPORT OF P.Cs COMMITTEE

5.1 The last committee was under the Provincial Commissioner, Eastern Province. It began it's work in 1989 and completed in December, 1992. The Committee had the blessings of the Permanent Secretary, Office of the President as indicated in his letter PA 29\7A\VI(II)\64 of 3rd August, 1989 (Appendix 'A'). The terms of reference for the committee was as contained in the letter by the Director of Land Adj\Settlement, reference DSAG\20\Vol.III\36 of 20\6\89 and another by the Provincial Land Adj & Settlement Officer, Eastern Province, reference CON\LA\EP\SETT\1\15 of 15th\8\89. See Appendices 'B' and 'C' respectively.

5.2. The Provincial Commissioner provided lists of plots and the proposed allottees per scheme. From the lists of the proposed allottees it was found that a total of 1848 original allottees retained their plots but 708 others were replaced with illegal squatters and other nominees. In effect this resulted in double allocation of 708 plots



- bringing the total number of plots to 3264 -(See Appendix F7H)
- 5.3 The 7 schemes comprised 2602 plots allocated to 2333 settlers. There is no provision for extra 708 plots required to settle illegal squatters.
 - 5.4. It should be noted that the number of plots does not tally with the number of settlers because some plots have been taken up for public utilities eg, schools, religious places and double allocations.
 - 5.5 The Provincial Commissioner Eastern requested the Ministry of Lands and Settlement to issue the nominees with titles. He did not offer solutions to 708 legal allottees who would be displaced.
 - 5.6. The legal allottees had earlier been issued with settlement plots documents such as letters of offer, payment receipts and in some cases letters of outright purchase. Hence they were legally recognized as legal allottees. These documents constituted legal contracts between the allottees and settlement Fund Trustees. Any attempt to dispossess them of plots will lead to protracted and costly legal cases in which the Settlement Fund Trustees is unlikely to win.
 - 5.7. Furthermore dispossession of legal allottees, without providing for alternative settlement or acceptable compensation would be against settlement Policy and may become a source of other problems, chiefly:
 - (i) Bad public policy on the part of the Ministry.
 - (ii) Creation of more landlessness.
 - (iii) Arbitrary termination of legal rights, contrary to settlement policy of guaranteeing legal allottees rights to the plots allocated to them.
 - 5.8. Way back in 1983 the Government suspended payment, documentation and other transactions in Yatta Settlement Schemes pending solutions to the problems of squatters vis-a-vis the legal allottees. Consequently both squatters and allottees were required to co-exist peacefully.
 - 5.9. The displaced settlers were allocated the plots about 30 years ago. Since they have not been served with any notice of breach of conditions of settlement, dispossession as proposed by the PC is not justified.
 - 5.10 Settlement Fund Trustees cannot enforce forfeiture by re-entry, suit or otherwise unless a notice had been served on the allottee. The notice must specify the particular breach



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complained of and requiring the allottee to remedy the breach within a reasonable time. The other important condition especially for Haraka Schemes, is that once the allottee pays for the land in full, the Settlement Fund Trustees guarantees to issue title as a matter of course.

6.0 OPTIONS TO SOLVE THE YATTA SETTLEMENT PROBLEMS

6.1. From section five (5) of this report it is clear that there are serious repercussions if the Ministry of Lands and Settlement was to agree to the displacement of legal settlers without providing alternative settlement. To avoid costly problems six approaches to the problems were identified:

6.1.1 To issue title deeds for 1848 plots which are not disputed, thereafter deal with the problems of the 708 double allocated plots. This approach is reasonable since the 1848 allottees will not need to wait for solutions to the double allocated plots. The disadvantage of this approach is that it will hamper easy solutions to the problems of the 708 plots.

6.1.2 To have all the disputed plots shared among the disputants i.e. settlers and squatters. This approach is unviable because many plots are small and have many claimants. Furthermore intensive parcelitation is not viable since Yatta is of low Agricultural potential.

6.1.3 To reject the report of the Provincial Commissioner Eastern and proceed with documentation (payments and transfers) to settlers as earlier allocated and deal with vacant plots separately.

The benefits of this approach include the fact that the Ministry is unlikely to incur any costs and there will be no displacements of legal allottees.

The risks in this approach include:

- possible lack of cooperation from the Provincial Administration
- possible incitements and agitation from politicians
- leaving the settlers to deal with squatters on their own.

These will create disorder and frustrate issue of titles.

6.1.4 To implement the P.Cs report as recommended and proceed with documentation of legal allottees and old nominated



squatters as recommended by the Provincial Commissioner.

The advantage of the approach will be full support of the provincial Administration and the politicians.

The risks in this approach include;

- court actions against the Ministry and new allottees by the old dispossessed allottees who were documented.
- High cost to be incurred by the Ministry in settling compensation and claims.
- Creation of bad precedent of arbitrary removing 708 settlers who form about a third of the total allottees, from land which was properly allocated thus;
- creating of more landlessness contrary to the Ministry's policy of settling the landless.

6.1.5 Find alternative settlement for displaced allottees/nominees.

The problem with this approach is that land is not available.

6.1.6 Re-plan and reallocate resultant plots to accommodate all old settlers and new selectees by the FC.

This would involve ;

- deregistering the schemes to facilitate amendments.
- subdivision of all plots for which titles have not been issued to accommodate all old settlers and new selectees by the FC.

This approach may lead to;

- possible court action against the ministry by those adversely affected. This will be ^{misunderstood} because those affected will have somewhere to settle.
- Resurvey will take some time and some costs. Costs could however be offset by increasing the land charge.

The advantages of the approach are:-

- Average reduction per plot will be minimal.
- No displacement will occur, hence no landlessness will be created.



- Court cases will be *minimised*.
- Survey costs can be absorbed by increasing land charge.
- Compensation may not arise.

6.2 In all six alternatives the following pre-requisites should be adhered to:

- All vacant plots allocated after the report should be rejected. These plots should be allocated to old allottees and nominated squatters as per the PCs recommendations.
- No documents should be issued to any settler until after the implementation of the acceptable alternative. This is to obviate speculation and other pressures.

7.0 RECOMMENDATIONS

7.1 Re-planning of the 7 Yatta Schemes

In consideration of the five options, the replanning option is the most suitable and viable solution.

7.2 Present utilization of land

The attached appendix 'D' shows the current settlement plans in the seven settlement schemes.

7.3 The schemes cover 23972 acres of which 2077 acres have been taken by public and infrastructures representing 8.7% of total. 21895 acres have been taken by agricultural plots being 91.4% of total.

7.4 There are 46 public plots and 2556 agricultural plots allocated to 2333 settlers. The lower number of settlers as compared to the number of agricultural plots has been caused by settlers who have been allocated more than one plot as contiguous land. There are several settlers in this category.

7.5 The present average size of agricultural plots in the schemes is 9 ⁴/₁₀ acres, although some plots are larger than the average.

8.0 PROPOSED LAND UTILITY IN THE 7 SCHEMES

8.1 Having considered the current settlement plan for the schemes it is opportune to look into the proposed replanning. Appendix 'E' shows the proposed land utilization and how this is expected to solve the problems



of both the legal settlers and the nominated squatters. The current and the proposed plans are compared at appendix E.

- 8.2 The proposals depicted in appendix 'D' are to increase the total number of agricultural plots from 2356 plots to 3264 plots in order to accommodate the current 2333 settlers and the extra allocations of 708 plots.
- 8.3 To achieve the above, except for the few registered plots which have titles, all 7 schemes should be de-registered by the Chief Land Registrar and de-published by the Director of Surveys. This will facilitate replanning, resurvey and re-registration without the need to draw mutation forms for each of 708.
- 8.4 Once the conditions set out in paragraph 8.3 are effected each scheme will be replanned so as to accommodate its number of legal settlers and the nominated squatters. This will be achieved by reducing the size of the present plots to provide extra land to accommodate additional allocations.
- 8.5 The replanning and survey will take into consideration the current public plots, infrastructures and the plot development to ensure that the main permanent developments are not sub-divided. Where some plots are highly developed, consideration may be given to leave these out of the replanning but compensate on the larger undeveloped plots.
- 8.6 At allocation and placement stage consideration will be given to the settlers already occupying plots and who have carried out permanent development to obviate expensive transfers. Those not on the ground will be settled on the undeveloped plots by ballot.
- 8.7 The allocation should be in line with the proposed number of plots allocated to each settler. That is to say, any settler with more than one plot, will be allowed to retain the number of plots allocated at present albeit on smaller acreage. For example, if one is currently allocated 5 plots of 5 acres each, he will be allocated 5 plots of 4 acres each after the replanning.

9.0 LIKELY CONSTRAINTS TO THE PROPOSED APPROACH

- 9.1 At the outset the proposal will not be taken kindly by the settlers and nominated squatters. Land being a sensitive issue they may object to replanning especially because it reduces the size of the plots and interferes with their developments. Logistics for dealing with this problem dictates that the Ministry support must be decisively firm on implementation of the accepted solutions and the Provincial Administration should give its full support.



9.2 Another problem will be the replanning and re-survey cost as shown in ~~the~~ appendix 6. However, this element should be distributed to all plots on acreage basis through revised charges.

10.0 ADVANTAGES OF THE PROPOSAL

- 10.1 One of the main advantages of this approach is that it will facilitate settlement of both the legal allottees and the nominated squatters simultaneously, thus avoiding painful evictions, displacements, creation of more landlessness, expensive court cases and further delays in the issuance of title deeds.
- 10.2 It will also facilitate settling those concerned in the schemes and where possible on the plots they had been settled or occupied for nearly thirty years. This minimizes the costly movements.
- 10.3 It will satisfy the needs of the Provincial Administration and local politicians thus providing for cooperation in the implementation of the scheme.
- 10.4 The acceptance of the proposal will pave the way for solution of one of the most difficult squatter problems and also enable development of the plots and issue of title deeds.
- 10.5 It will contribute in sustenance of public confidence in dealing with land matters.

