

REPUBLIC OF KENYA



THE SENATE

TWELFTH PARLIAMENT

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COMMITTEE	Lands.
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THE REPORT OF THE SENATE STANDING COMMITTEE ON LANDS,
ENVIRONMENT AND NATURAL RESOURCES

ON

THE PETITION BY RESIDENTS OF NGARE MARA, ISIOLO COUNTY, ON
THE ALLEGED ILLEGAL ENCROACHMENT OF COMMUNITY LAND BY
THE SCHOOL OF ARTILLERY, KENYA DEFENCE FORCES

② Rt. Hon. Speaker
You may approve for tabling -
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List of Abbreviations/ Synonyms

CS	- Cabinet Secretary
EACC	- Ethics and Anti-Corruption Commission
EGH	- Elder of the Order of the Golden Heart
KDF	- Kenya Defence Forces
MoLPP	- Ministry of Lands and Physical Planning
NLC	- National Lands Commission

PREFACE

Mr. Speaker sir,

The Standing Committee on Lands, Environment and Natural Resources is established pursuant to Standing Order 218(3) of the Standing Orders of the Senate. As set out in the Second Schedule, the Committee is mandated to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resource management and development.

Committee Membership

The Committee comprises of the following Members.

- | | | |
|------------------------------------|---|-------------------------|
| 1. Sen. Paul Mwangi Githiomi, MP | - | Chairperson |
| 2. Sen. Philip Mpaayei, MP | - | Vice-Chairperson |
| 3. Sen. George Khaniri, MGH, MP | | |
| 4. Sen. Gideon Moi, CBS, MP | | |
| 5. Sen. Njeru Ndwiga, EGH, MP | | |
| 6. Sen. (Dr.) Lelegwe Ltumbesi, MP | | |
| 7. Sen. Issa Juma Boy, MP | | |
| 8. Sen. (Arch.) Sylvia Kasanga, MP | | |
| 9. Sen. Johnes Mwaruma, MP | | |

At the Sitting of the Senate held on 10th April, 2019, Sen. Fatuma Dullo, CBS, MP, reported to the Senate that a Petition has been submitted through the Clerk, by residents of Ngare Mara, Isiolo County on the alleged illegal encroachment of community land by the School of Artillery, Kenya Defence Forces (KDF).

The salient issues raised in the said Petition are as follows-

1. That in 1977 there was a Gazette Notice No.3210 of 1977 that allocated specified land in Isiolo County which was then trust land and now it is community land, to the Ministry of Defence for military purposes.
2. That further, the Commissioner of Lands vide allotment letter Reference No.189464/11 dated July, 2018, allocated the said land measuring 3.764 hectares to the Ministry of Defence for military purposes – the School of Artillery.

3. That, the said allocation was made in total disregard of the law and without consultation with the community, this being community land.
4. That the Ngare Mara Ngambela Land area now being claimed by the military is situated in Isiolo County and is fully occupied by the pastoral communities and the people of Isiolo County.
5. That, the allotment was done in consultation with Meru County Government and yet the Ngare Mara Ngambela land area which is part of the allotment is in Isiolo County.
6. That, the Ngare Mara Ngambela adjudication section is a community land which was already occupied long before the purported letter of allotment was issued by the said National Land Commission.
7. That, the National Land Commission has no mandate to allocate community land which is already occupied by a military institution.
8. That, on the contrary, the President, H.E Uhuru Kenyatta, has approved the Ngare Mara Ngambela adjudication section and the process of issuance of titles commenced begun in 2016 and is still ongoing.
9. That, we will not allow, as residents of Ngare Mara, anything contrary to our settlement. We would like to make it clear that any purported letter of allotment to the School of Artillery within our community residence is a double titling process because the adjudication has been going on for the last three years as the National Land Commission is giving an allotment outside their mandate on an area already gazetted as an adjudication section.
10. That, the Ngare Mara Ngambela residents are constantly being harassed by the military who have a constitutional mandate of protecting them.
11. That about 40,000 families, are affected by the illegal occupation by the military.
12. Our efforts, as residents of Ngare Mara to have the matter addressed by the relevant authorities, including the NLC, have gone unanswered.
13. The issues in respect of the Petition are not pending before any court of law or any other body mandated to deal with the matter.

The Petitioner prays that the Senate investigates the matter with a view to returning the land back to the community; stopping any further development by KDF in the said area until the matter is resolved; and resolving that the KDF vacates the land in question and compensates the residents for the loss of livelihood and any other losses suffered as a result of the illegal occupation by the KDF.

Pursuant to standing order 232(1) and the Second Schedule to the Standing Orders of the Senate, the Petition was committed to the Standing Committee on Land, Environment and Natural Resources.

Pursuant to Articles 37 and 119(1) of the Constitution, section 5(2) the Petition to Parliament (Procedure) Act and standing order 232 of the Senate Standing Orders, the Committee is mandated to consider the Petition and respond to the Petitioner within the prescribed period.

To enable a judicious disposal of the Petition, the Committee resolved to conduct an inquiry on the issues raised in the Petition. In this regard, the Committee invited the Petitioner to a meeting of the Committee for the Petitioner to elaborate further on the issues raised in the Petition and to supply supporting evidence on the same.

The Committee proceeded to invite the Cabinet Secretary, Ministry of Lands and Physical Planning (MoLPP), the National Land Commission (NLC) and the Ministry of Defense and the Kenya Defence Forces for them to send their written responses on the aforementioned Petition.

ACKNOWLEDGEMENT

The Committee thanks the Offices of the Speaker of the Senate and the Clerk of the Senate for the support extended to the Committee in the execution of its mandate. The Committee extends its appreciation to the Petitioners Further, the Committee wishes to also thank the Stakeholders; the Cabinet Secretary, MoLPP, Ms. Farida Karoney, EGH, the Cabinet Secretary, Ministry of Defense, Dr. Monica K. Juma (OXON), CBS, the Chairperson, NLC, Mr. Gerishom Otachi and the Kenya Defence Forces for their submissions and contribution to the resolution of this matter.

Mr. Speaker Sir,

It is now my pleasant duty and privilege, on behalf of the Committee, to present the Report of the Standing Committee on Lands, Environment and Natural Resources by residents of Ngare Mara, Isiolo County on the alleged illegal encroachment of community land by the school of artillery, Kenya Defence Forces (KDF).

Signed:  Date: 10/06/2021

SEN. MWANGI GITHIOMI, M.P.
CHAIRPERSON, SENATE STANDING COMMITTEE ON LAND,
ENVIRONMENT AND NATURAL RESOURCES

CHAPTER I

INTRODUCTION

1. At the sitting of the Senate held on 23rd June, 2020 the Honourable Speaker of the Senate, reported to the Senate that a Petition has been submitted through the Clerk, by residents of Ngare Mara, Isiolo County on the alleged illegal encroachment of community land by the School of Artillery, Kenya Defence Forces (KDF).
2. The salient issues raised in the Petition are as follows-
That in 1977 there was a Gazette Notice No.3210 of 1977 that allocated specified land in Isiolo County which was then trust land and it is now community land, to the Ministry of Defence for military purposes.
3. That further, the Commissioner of Lands vide allotment letter Reference No.189464/11 dated July, 2018, allocated the said land measuring 3.764 hectares to the Ministry of Defence for military purposes – the School of Artillery.
4. That, the said allocation was made in total disregard of the law and without consultation with the community, this being community land.
5. That the Ngare Mara Ngambela Land area now being claimed by the military is situated in Isiolo County and is fully occupied by the pastoral communities and the people of Isiolo County.
6. That, the allotment was done in consultation with Meru County Government and yet the Ngare Mara Ngambela land area which is part of the allotment is in Isiolo County.
7. That, the Ngare Mara Ngambela Adjudication Section is a community land which was already occupied long before the purported letter of allotment was issued by the said National Land Commission.
8. That, the National Land Commission has no mandate to allocate community land which is already occupied by a military institution.
9. That, on the contrary, the President, H.E Uhuru Kenyatta, has approved the Ngare Mara Ngambela adjudication section and the process of issuance of titles commenced

in 2016 and is still ongoing.

10. That, we will not allow, as residents of Ngare Mara, anything contrary to our settlement. We would like to make it clear that any purported letter of allotment to the School of Artillery within our community residence is a double titling process because the adjudication has been going on for the last three years as the National Land Commission is giving an allotment outside their mandate on an area already gazetted as an adjudication section.
 11. That, the Ngare Mara Ngambela residents are constantly being harassed by the military who have a constitutional mandate of protecting them.
 12. That about 40,000 families, are affected by the illegal occupation by the military.
 13. Our efforts, as residents of Ngare Mara to have the matter addressed by the relevant authorities, including the NLC, have gone unanswered.
 14. The issues in respect of the Petition are not pending before any court of law or any other body mandated to deal with the matter.
3. The Petitioner, therefore, prays that –
- (a) The Senate investigates the matter with a view to returning the land back to the community;
 - (b) Stops any further development by the defence forces in the said area until the matter is resolved; and
 - (c) Resolves that the KDF vacate the land in question and compensate the residents for the loss of livelihood and any other losses suffered as a result of the illegal occupation by the KDF.
4. Pursuant to Standing Order 232(1) of the Standing Orders of the Senate, the Petition was committed to the Land, Environment and Natural Resources Committee.

LEGAL BASIS FOR PETITIONS

5. Petitions to the Senate are governed by the Constitution, the Petition to Parliament (Procedure) Act, No. 22 of 2012 and the Senate Standing Orders.
6. Article 37 of the Constitution provides that *every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities* while Article 119(1) of the Constitution provides that *“every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”*
7. Section 5(2) of the Petition to Parliament (Procedure) Act, provides that *a petition that is tabled in Parliament under this Act shall be considered in accordance with the Standing Orders of the relevant House*. In this regard, standing order 232 of the Senate Standing Orders provides as follows-
 232. *Committal of Petitions*
 - (1) *Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Standing Committee.*
 - (2) *Whenever a Petition is committed to a Standing Committee, the Committee shall, in not more than sixty (60) calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the Senate and no debate on or in relation to the report shall be allowed, but the Speaker may, allow comments or observations in relation to the Petition for not more than thirty Minutes.*
8. Standing order 233 requires the Clerk to, within fifteen (15) days of tabling of the report on a petition under Standing Order 232 (Committal of Petitions), submit a copy of the report to the petitioner or petitioners.

CHAPTER 2

CONSIDERATION OF THE PETITION

Approach taken by the Committee

1. In considering the Petition, the Committee observed that it would be important to verify the facts alleged by the Petition. The Committee therefore resolved to conduct an inquiry on the issues raised in the Petition.
2. The Committee received the Petition from the Petitioner through the House and further sought for written responses from the Ministry of Defense.
3. Thereafter the Committee invited the Cabinet Secretary, Ministry of Defense and the Chairperson, NLC who appeared before the Committee on 6th November 2019. The Cabinet Secretary, MoLPP represented by the CAS, who had failed to appear in the aforementioned meeting then appeared before the Committee in the presence of the NLC on 9th September, 2020 and made their submissions. The Committee was able to discuss broadly on the Petition as well as other Petitions that were before the Committee.

Response by the Cabinet Secretary, Ministry of Lands and Physical Planning

The Ministry provided the responses indicated below:

1. Reservation of the land for Kenya Defence Forces in Isiolo, Samburu and Turkana was done vide Gazette Notice No. 3210 dated October 31, 1977.
2. The Kenya Defence Forces (KDF) School of Infantry in Isiolo currently occupies land registered as L.R. Number 27155 measuring approximately 10,665 Hectares.
3. From the foregoing, it is clear that the reservation was done in 1977 and the question of compensation does not arise.
4. The issue of the eviction notice issued by the Government in September last year is the subject of litigation before a Court of Law.

Response by the Cabinet Secretary, Ministry of Defence

The Ministry provided the following responses as indicated:

1. The above Petition has been presented by persons who allege they are residents of Ngaremara/Gambela in Isiolo County.

2. They allege that the Ministry of Defence has been irregularly allocated land by the National Land Commission for military purposes.
3. The land in question was set aside for Kenya Defence Forces use through Gazette Notice No. 3210 of 1977. The Gazette Notice set aside School of Artillery land, 78 Tank Battalion land and School of Infantry land.
4. The Ministry is in the process of titling the land and a part development plan has been issued on the Ministry of Lands and a letter of allotment has been issued by the National Land Commission. The processing of the title is underway.
5. The Ministry submits that it is lawfully in occupation of the land. The following documents are forwarded herewith for the Committee's perusal:
 - (a) Gazette Notice No. 3210 of 1977.
 - (b) Topographical maps.
 - (c) Part Development Plan for School of Artillery land.
 - (d) Letter of allotment dated 12th July 2018.

Responses by the National Land Commission

The National Land Commission submitted as follows:

The Gazette Notice No. 3210 dated October 31, 1977 reserved land for Kenya Defence Forces in Isiolo, Samburu and Turkana (the Gazette Notice is marked **Annexure 1**).

Vide a Letter of Allotment Ref. 189464/II dated July 12, 2018 , the National Land Commission allocated land measuring 3,764 Hectares to the Cabinet Secretary for National Treasury to hold in trust for Kenya Defence Forces School of Artillery.

Honorable Chair, Ngaremara adjudication section does not overlap with the land reserved for the Kenya Defence Forces and all parcels of land set aside for the Kenya Defence Forces has been surveyed.

1. Explain how community land in the affected areas of Isiolo Central, Ngaremara and Gambela ended up in the hands of the Kenya Defence Forces?

- i. A letter of allotment was issued pursuant to a consultative meeting between the Ministry of Lands and Physical Planning and Ministry of Defence chaired by the Principal Secretary, Ministry of Lands and Physical Planning and co-chaired by the Principal Secretary, Ministry of Defence.

- ii. There is a gazette Notice dated 31st October, 1977 by the then Commissioner of Lands and all persons who were affected by the Notice were to get in touch with the District Commissioner for compensation.
 - iii. A Part Development Plan for the same was prepared and signed by the Cabinet Secretary, Lands on 30th May, 2005.
- 2. State the size of land being claimed by KDF for expansion of the Military School of Infantry in the affected areas**

The size of the land being claimed by Kenya Defence Forces is 3,764 Ha.

3. Explain the steps that have been taken by the government to compensate community land owners in the affected areas in Isiolo.

- i. The land was acquired vide Gazette Notice No. 3210 of 1977 which required all applications for compensation by claimants be submitted to the respective District Commissioners at Isiolo.
- ii. The dates for submission of these claims were between 15th November, 1977 up to and including 15th December, 1977. This, therefore, meant that all applicants who had a claim and submitted the same to the respective District Commissioners were compensated for as long as they submitted their claims within the timeframe on the gazette notice.

4. State measures put in place to prevent the use offeree, abuse of human rights and rise of social conflict during the evictions?

- i. This mandate lies with the body for which the acquisition was done i.e. the Kenya Defence Forces.

Response to specific prayers

- i. The prayers sought are beyond the operational mandate of the secretariat of the Commission: return of the land to the community, stopping further development by KDF and compensation by KDF would require a decision by the Commission. They recommended that the prayers be handled by the incoming Commission.

CHAPTER 5

COMMITTEE OBSERVATIONS

In accordance with the Prayers of the Petitioner the Committee observes as follows:

- 1. The land was acquired vide Gazette Notice No. 3210 of 1977 which required all applications for compensation by claimants be submitted to the respective District Commissioners at Isiolo.**
- 2. In reference to the submissions made by the Stakeholders, the dates for submission of these claims were between 15th November, 1977 up to and including 15th December, 1977.**
- 3. No evidence was submitted to show if any claims were made.**
- 4. The Law of adverse possession does not apply since the land in question is government land.**

CHAPTER 6

COMMITTEE RECOMMENDATIONS

In accordance with the Prayers of the Petitioner the Committee recommends as follows:

The National Lands Commission (NLC) in liaison with the Ministry of Lands and Physical Planning (MoLPP) should confirm the list of all the claims made to the respective District Commissioners at Isiolo between 15th November, 1977 and 15th December, 1977 and if no compensations were done, then the process of Compensating the affected persons should begin.

APPENDICES

ANNEX I: MINUTES OF THE MEETINGS

MINUTES OF THE 33RD SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 10TH JUNE, 2021 AT SAROVA WHITESANDS HOTEL, MOMBASA AT 2.00 PM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. Mwaruma Johnes, MP
4. Sen. Ndwiga Peter Njeru, EGH, MP
5. Sen. Boy Issa Juma, MP

PRESENT

- **Chairperson**
- **Vice Chairperson**
- Member
- Member
- Member

1. Sen. George Khaniri, MGH, MP
2. Sen. Gideon Moi, CBS, MP
3. Sen. (Dr.) Lelegwe Ltumbesi, MP
4. Sen. Sylvia Kasanga, MP

ABSENT WITH APOLOGY

- Member
- Member
- Member
- Member

IN ATTENDANCE

1. Ms. Veronicah Kibati
2. Mr. Victor Bett
3. Mr. Crispus Njogu
4. Mr. Yussuf Shimoy
5. Ms. Mitchell Otoro
6. Ms. Lucianne Limo
7. Ms. Sakina Halako
8. Mr. John Pere
9. Mr. James Kimiti
10. Mr. Naftali Ondiba
11. Mr. Benard Oteyo

SECRETARIAT

- Principal Clerk Assistant
- Clerk Assistant
- Clerk Assistant
- Clerk Assistant
- Legal Counsel
- Media Relations Officer
- Personal Secretary
- Sergeant-At-Arms
- Audio Recording
- Finance Officer
- Office Assistant

MINUTE SEN/SCLN/186/2021: PRELIMINARIES

The meeting was called to order at 2.30 pm by the Vice Chairperson followed by a word of prayer.

MINUTE SEN/SCLN/187/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. **Adoption of the following Petition Reports;**
 - (a) Draft Report of the Committee on the Petition by the Residents of Tinderet Sub-County in Nandi County on the operations of Karebe Gold Mining Limited.

- (b) Draft Report of the Committee on the Petition regarding the Illegal encroachment of community land by the Kenya Army in Ngaremara, Isiolo County.
 - (c) Draft Report of the Committee on the Petition concerning the alleged exchange and final transfer of Titles for parcels of land known as Lari Nyakinyua Solai Farm (located in Solai, Nakuru County) and Riyobei Farm Limited (located in Gilgil, Nakuru County).
5. Any other Business;
 6. Date of the next meeting;
 7. Adjournment.

MINUTE SEN/SCLNENR/188/2021: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Committee differed the confirmation of Minutes.

MINUTE SEN/SCLNENR/189/2021: ADOPTION OF THE FOLLOWING PETITION REPORTS;

- (a) **Draft Report of the Committee on the Petition by the Residents of Tinderet Sub-County in Nandi County on the operations of Karebe Gold Mining Limited.**

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby **adopted its report** with the following recommendations in accordance with the Prayers of the Petitioner—

The Committee therefore recommends as follows:

1. **THAT before renewal of the mining license to Karebe Gold Mining Limited whether on the disputed land or any other land, the Ministry of Petroleum and Mining should ensure that the company has fully addressed previous concerns of its employees and local community including compensations to those whose lives and properties were affected;**
2. **THAT Karebe Gold Mining Limited demonstrates commitment to Corporate Social Responsibility to benefit the local community; and**
3. **THAT the Ministry to promptly finalize the relevant regulations of the Mining Act, 2016 so as to ensure the mining activities by the Firm benefits the local community.**

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Johnes Mwaruma, MP and Sen. Philip Mpaayei, MP respectively.

- (b) **Draft Report of the Committee on the Petition regarding the Illegal encroachment of community land by the Kenya Army in Ngaremara, Isiolo County.**

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby **adopted its report** with the following recommendations in accordance with the Prayers of the Petitioner—

The National Lands Commission (NLC) in liaison with the Ministry of Lands and Physical Planning (MoLPP) should confirm the list of all the claims made to the respective District Commissioners at Isiolo between 15th November, 1977 and 15th December, 1977 and if no compensations were done, then the process of Compensating the affected persons should begin.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Johnes Mwaruma, MP respectively.

(c) Draft Report of the Committee on the Petition regarding the Illegal encroachment of community land by the Kenya Army in Ngaremara, Isiolo County.

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby **adopted its report** with the following recommendations —

1. That the Ole Osono Group living in the Solai Ruyobei Farmers limited having been established not to be the legitimate owner of the land by the Court, vacates the land to allow occupation by Nyakinyua Land Buying Company who are the legitimate owners of the land.
2. That the Ministry of Lands and Physical Planning; the Ministry of Interior Coordination and National coordination; and the National Lands Commission facilitates the Nyakinyua Land Buying Company to occupy the Solai Ruyobei Farmers limited land as they have been found to be the rightful owners of the land.
3. That the Ministry of Lands and the National Lands Commission work with the Ole Osono Group living in the Solai Ruyobei Farmers limited land to find a different land to relocate them.
4. That the Ministry of Lands and Physical Planning facilitates the transfer of Title deeds between the Solai Ruyobei Farmers limited land and the Nyakinyua Land Buying Company.
5. That the Solai Ruyobei Farmers Limited give back the land exchanged with Lari Nyakinyua, should all other interventions fail.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Johnes Mwaruma, MP respectively.

MINUTE SEN/SCLNDR/190/2021: ANY OTHER BUSINESS;
There was no other business discussed.

MINUTE SEN/SCLNDR/191/2021: DATE OF NEXT MEETING;
The meeting was adjourned at 1.00 pm and the next meeting was scheduled for 11th June, 2021.

Signed:..........

Date:.....**23/6/2021**.....

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

ANNEX II: SUBMISSIONS BY KEY STAKEHOLDERS

(Attached separately)

MINUTES OF THE 37TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 9TH SEPTEMBER, 2020 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. George Khaniri, MGH, MP
3. Sen. Boy Issa Juma, MP
4. Sen. Sylvia Kasanga, MP
5. Sen. Mwaruma Johnes, MP

PRESENT

- **Chairperson**
- Member
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Philip Mpaayei, MP - **Vice Chairperson**
2. Sen. Ndwiga Peter Njeru, EGH, MP - Member
3. Sen. Gideon Moi, CBS, MP - Member
4. Sen. (Dr.) Lelegwe Ltumbesi, MP - Member

IN ATTENDANCE

A. MINISTRY OF LANDS AND PHYSICAL PLANNING

1. Mr. Gideon Mungaro - CAS
2. Ms. Caroline Menin - Legal
3. Mr. P.K. Mwangi - Director, Land Adjudication
4. Mr. Robert Nyakeruma - Snr. Asst. Director
5. Mr. Benson Onditi - Dep. Director, Land and Settlement
6. Mr. Michael Kagwe - Dep. Director, Land and Settlement
7. Ms. Pauline Gitition - Ag. Director of Survey

B. NATIONAL LAND COMMISSION

1. Mr. Gershom Otachi - Chairperson
2. Ms. Getrude Nguku - Vice Chairperson
3. Mr. Francis or - Dep. CEO
4. Ms. Rose Kitur

C. SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Ms. Judy Ndegwa - Legal Counsel
3. Ms. Clare Kidombo - Researcher/Policy Analyst
4. Mr. John Ngang'a - Audio Recording

MINUTE SEN/SCLN/206/2020: PRELIMINARIES

The meeting was called to order at 11.25 am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLN/207/2020: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Mwaruma Johnes, MP and seconded by Sen. Sylvia Kasanga, MP as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. Meeting with the **Cabinet Secretary, Ministry of Lands & Physical Planning and the Chairperson, National Land Commission** on the following **Petitions and Statements** as follows:
 - i. Statement requested by Sen. Fatuma Dullo, MP, on 27th November, 2019 regarding the Ministry of Lands and Physical Planning seeking to open up land in Isiolo County for adjudication under Legal Notice No. 150 of 27th August, 2019;
 - ii. Petition by Residents of Taita Taveta County, Mwatate Sub County, Mwakitau Location on the Mwakitau land ownership dispute between Mwakitau Residents and Isanga Iwishi Group Ranch;
 - iii. Statement requested on 21st July by Sen. Johnes Mwaruma, MP on the status of Voi Point Limited, LR No. 28683
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNCR/208/2020: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The confirmation of Minutes of previous sittings was differed to a later date.

MINUTE SEN/SCLNCR/209/2020: MEETING WITH THE CABINET SECRETARY, MINISTRY OF LANDS & PHYSICAL PLANNING AND THE CHAIRPERSON, NATIONAL LAND COMMISSION ON PETITIONS AND STATEMENTS

- i. Statement requested by Sen. Fatuma Dullo, MP, on 27th November, 2019 regarding the Ministry of Lands and Physical Planning seeking to open up land in Isiolo County for adjudication under Legal Notice No. 150 of 27th August, 2019;

Response by the Ministry of Lands and Physical Planning

The statement read that, the Committee should;

- 1) State what informed the Ministry's decision in issuing the gazette notice which in effect will lead to the conversion of communal land into private land despite there being a number of contentious land related disputes in the County yet to be resolved.
- 2) Explain why the Ministry decided to exclude the Kenya Defense Force's School of Infantry and Combat Engineering from the adjudication process knowing very well that there is a court order in place stopping the Kenya

- Defense Force from carrying out any survey in the contentious area until the dispute is settled.
- 3) Explain why the Ministry of Lands and Physical Planning is attempting to convert land lying along the LAPSSET corridor and Isiolo Resort into public land knowing very well that the said land has its rightful owners who are yet to be compensated.
 - 4) Explain whether in issuing the legal notice the Ministry of Lands and Physical Planning sought and received approval from the County Government who are the legal custodians of unregistered community land.
 - 5) Explain why the Ministry of Lands and Physical Planning failed to undertake public participation, engage with all leaders and other stakeholders before issuing the gazette notice knowing clearly that the communities' interests must be protected at all times; and
 - 6) State whether the legal notice issued by the Ministry of Lands and Physical Planning was in accordance with the law and in adherence with the principles of openness, accountability and the confines of public participation.

The Committee was informed that, Land in Isiolo County is community land (trust land) save for settled areas. In order to determine and record the rights of individual land owners, the Land Adjudication Act had to be applied since all land was held under customary law and the Community Land Act was not operational. The publication of the Gazette notice was informed by the need to bring the settled areas of Isiolo County under the Land Adjudication Act, Cap 284. Section 3 of the Act, States that:

- (1) The Minister may by order apply this act to any area of trust land if-
 - a) The County Council in whom the land is vested so requests
 - b) The Minister considers it expedient that the rights and interests of persons in the land should be ascertained and registered
 - c) The land consolidation act (cap. 283) does not apply to the area

The conditions set in Section 3 were fulfilled since;

- a) The Isiolo County Assembly in its sittings had expressed the desire to benefit from the National titling programme as per the Land Housing and Urban Development Committee report of January 15, 2018 and the County Assembly official report of July 4, 2018. **(Annexures 1 and 2)**
- b) The Cabinet Secretary consulted the County Government of Isiolo and acceded to the need to ascertain and register land rights and interests of individual land owners.
- c) The Land Consolidation Act cap 283 does not apply to the area.

In view of the forging and after consultations with the County Government of Isiolo, the Cabinet Secretary Lands and Physical Planning declared parts of Isiolo County as adjudication areas vide Legal Notice No. 150 of September 3,2019. The

habited areas are to be registered under the Land Adjudication Act, Cap 284 while the grazing lands are to be registered under the Community Land Act.

This legal notice was however amended vide Legal Notice No. 1 of January 10, 2020. This was after the County Assembly Housing and Urban Development Committee held consultative meetings held between November 8 and 16, 2019 and proposed the widening of the applicable area.

The amended notice occasioned increases in the items as shown in the table below;

NO	ITEM	LN No. 150 of September 3, 2019	LN No. 1 of January 10, 2020
1.	Adjudication Sections	4	36
2.	Township Blocks	9	16
3.	Certificate of Leases	7,500	17,050
4.	Projected Title Deeds	10,250	25,250

The gazettelement of the County to be an Adjudication area was not in contravention of the Community Land Act since section 46(6) of the Community Land Act does state” For the avoidance of doubt, the Cabinet Secretary shall develop the adjudication programme and ensure that **the new and existing adjudication programme** shall, subject to this act, be governed by the law applicable to it immediately before to the commencement of this Act and shall be concluded within three years of the enactment of this Act.”

The Community Land Act is yet to be operationalized since civic education on implementation and formation of community land has been carried in 23 counties out of 47. Efforts to conduct civic education in Isiolo have not been fruitful. The same has not taken off and wider consultations are needed.

Part IX of the Community Land Act provides that a national public education and awareness programme is to be rolled out within twelve months of the commencement of the Act. Currently the Community Land Act cannot be implemented in Isiolo County since section 27 (I) of the Regulations and part 48(I) (h) of the Community Land Act have not been carried out. Individual land owners however can only get their rights recorded and registered by the application of the Land Adjudication Act.

Leaders from the county expressed their reservations on the application of the Land Adjudication Act to the County and did file a court case at the Environment and Land Court at Nairobi. (**Nairobi ELC Petition No. 61 of 2019 Hon. Fatuma Adan Dullo & Others-Vs- Cabinet Secretary Lands and Attorney General.** The court declined to issue injunction to the adjudication process. The case was transferred to Meru ELC and it is now petition No. 28 of 2020. **All adjudication**

and survey work being undertaken by the Ministry in the County has been suspended pending the outcome of Petition No. 28 of 2020 before the Meru Environment and Land Court challenging the application of land adjudication act cap.284 (Legal Notice Number 150,) to Isiolo County.

The Kenya Defence Forces land in Isiolo was reserved on October 31, 1977 vide Gazette Notice No. 3210. The Commissioner of Lands issued a letter of allotment to the Department of Defence for land parcel measuring 10,209 hectares for School of Infantry Cantonment. Consequently, title was issued to the Permanent Secretary to the Treasury as trustee of the Kenya Defence Forces. The Land Adjudication Act Cap 284 cannot be applied to a titled area.

The residents of the Burat wards did protest the allocation and have since filed a case in court. The case was filed by Joseph Lorunyei Kuwam and six others against the Cabinet Secretaries of Defense, Lands and Interior & Coordination of National Government, the Attorney General and others in Petition No. 25 of 2019 in the Environment and Land Court at Meru.

The LAPSETT corridor land was gazetted on October 21, 2016 vide the Kenya Gazette Notice Vol. CXVIII-No.129. The acquisition of land within the LAPSETT corridor, Isiolo resort city and Isiolo international airport is the mandate of the National Land Commission and the LAPSETT Corridor Development Authority.

Honourable chair, the gazetting of Isiolo as an adjudication area does not extinguish the rights of Isiolo residents to pursue compensation for land that has been gazetted for other uses within the County.

Response by the National Land Commission

The Committee was informed by the Chairperson, National Land Commission that the matter was directed to the Ministry of Lands and Physical Planning and they preferred that the Ministry responds.

Committee Intervention:

The Committee was not satisfied with the response given, especially founded on the allegations raised by the Senator, Isiolo County that leaders from the region have been continuously ignored by the Government agencies.

The CAS, MOLPP asked for clarification on the matter that is pending in court and the Committee informed the CAS that addressing of this matters would eventually even lead to the matters being settled out of court if amicably settled. The Committee therefore ruled that all issues raised must be adequately responded to.

The MOLPP and the NLC were urged not to proceed with further adjudication until the Committee has adequately dealt with the matter exhaustively.

The Committee therefore resolved to have this matter and all other matters touching on Isiolo County up for discussion again in the presence in person of the

- Cabinet Secretary, Ministry of Lands and Physical Planning,
- Cabinet Secretary, Ministry of Defence and
- Chairperson National Land Commission.

- ii. Petition by Residents of Taita Taveta County, Mwatate Sub County, Mwakitau Location on the Mwakitau land ownership dispute between Mwakitau Residents and Isanga Iwishi Group Ranch;

Response by Ministry of Lands and Physical Planning

The petitioners aver that the title deed to a piece of land in Mwakitau sub-location of Taita Taveta County measuring approximately 10,000 acres on which they have lived since 1920 was recently issued to Isanga Iwishi Group Ranch. They also protest the compensation of the group ranch for the construction of Mwatate-Taveta-Holili road, claiming that the residents should have been compensated instead.

They have sought that the Committee;

- a) Deals with this petition immediately in view of the urgency and seriousness of the matters raised herein.
- b) Investigates the circumstances that led to the fraudulent registration of Mwakitau land as a ranch and acquisition of its title deed by Isanga Iwishi Group Ranch.
- c) Recommends that the Isanga Iwishi title deed be revoked forthwith and the residents of Mwakitau be declared the legal owners of the land.
- d) Investigates the fraudulent payment of compensation for land compulsorily acquired to construct Mwatate-Taveta-Holili road to Isanga Iwishi Group Ranch.
- e) Recommends that the residents of Mwakitau whose land was compulsorily acquired to construct Mwatate-Taveta road be compensated adequately.
- f) Take any other appropriate action it deems fit to resolve the matters raised herein.

They responded as follows;

The registration of Isanga Iwishi Group Ranch was as a result of the land adjudication process prescribed by the Land Adjudication Act, Cap 284. The area was declared as an Adjudication Section on June 12, 1975 vide Notice reference LA.31/35 Vol.11/114. A copy of the notice is attached as **Annexure 3(i)**.

The primary stage of demarcation and survey was completed and a notice of inspection of the register issued on March 22, 1978. **Annexure 3(ii)** is a copy of the notice of application.

This stage gave room for inspection of the register and raising of objections. On expiry of the sixty (60) day notice, the final stage of registration followed.

On October 12, 1983 a certificate of incorporation, herewith attached as **Annexure 3(iii)**, was issued to the group in accordance with Land Group Representatives Act (now repealed).

A further certificate was issued in December 4, 2018 after election of another set of Group Representatives. A copy of the certificate is attached as **Annexure 3(iv)**.

Subsequently, a title deed for the land parcel number Bura/Isanga Iwishi Scheme/18 measuring approximately 5992.2 hectares (14,807 acres) was issued to Isanga Iwishi Group Ranch on October 25, 2018.

There was a case MISC. CIVIL APPLICATION NO. 225 OF 2000 at Mombasa High Court seeking to stop the issuance of title to Isanga Iwishi Group Ranch. This application was however dismissed vide a ruling dated March 28, 2008. **Annexure 3(V)** is a copy of the ruling.

Honourable Chair, from the foregoing, Isanga Iwishi Group Ranch lawfully acquired title to the land parcel number Bura/Isangaiwishi Scheme/18.

Response by the National Land Commission

This petition has two aspects. It raises land administration matters that are within the mandate of the Ministry of Lands and matters of compulsory acquisition which are within the mandate of the Commission. How the Title Deed was issued to Isanga Iwishi Group Ranch can be explained by the Ministry of Lands. The Commission will however provide information on compulsory acquisition.

The Petition sought among other things the investigation of fraudulent payment of compensation for mwakitaui citizens 'individuals' parcel of land compulsorily acquired to construct Mwatate-Taveta-Holili road to Isanga Iwishi group ranch.

Land acquisition for the Mwatate-Taveta-Holili (A23) road project was initiated through a request by the Kenya National Highways Authority (KeNHA) General Manager -design & construction) vide letter Ref. KeNHA/D&C/A23/Vol.3 (67) dated 24st August 2013.

The notice of intention to acquire was published in Kenya Gazette notice No. 13942 of 18th October 2013.

Notice of inquiry was published in Kenya Gazette notice No. 13943 of 18th October 2013 for land parcels listed in the notice of intention. However there were subsequent additions including the subject parcel and its inquiry was published in gazette notice no. 1174 of 26th February 2016 (copy attached).

Inquiry for the subject was slated for 16th March 2016 at the Maktau chief's office at 9.30 a.m.

Confirmation is given that inquiry was held as scheduled and that the group ranch represented by its officials (chairman, secretary & treasury) attended the inquiry and presented a claim to compensation.

The group ranch presented a title deed for the land registered in their name.

No other interested party appeared at the inquiry to present claim to compensation and up to conclusion of the inquiry the Commission had not received any other claim on the said land. In line with provisions of Section 112 of the Land Act 2012, the Commission subsequently issued an award for the land to the group ranch who accepted the offer of compensation.

Compensation for the subject parcel was paid out in September 2019; there were no encumbrances registered against the title that could have inhibited payment or any adverse claim against the land that had been received at the Commission by then. The following are the details of the payment.

PARCEL NO.	REGISTERED OWNER	ACQD AREA (HA)	AWARD
Bura/Isangaiwishi/18	Isangaiwishi Group Ranch	33.9938	28,979,545

The Commission did follow the laid out legal process on compulsory acquisition in compensating the group ranch and having received no other interest or claim against the title belonging to the group ranch; the same cannot be termed as fraudulent.

Upon payment of compensation to the group ranch who were then the registered owners, there cannot be any other payment to other individuals as this would amount to double payment and imprudent use of public resources.

However, if it were to be confirmed that the group ranch was fraudulently registered as the owners of land in 1972 and its title revoked as provided for in law, provisions of Section 116 of the land Act on payment in error would kick in – it provides that;

“If a person has received any money by way of compensation awarded for an interest in the land being acquired, either in error or before it has been established that some other person is rightfully entitled to the interest, the Commission may, by notice in writing served on that person, require that person to refund to the Commission the amount received, and the amount shall be a debt due from that person to the Commission”.

Committee Intervention:

The Senator, Taita Taveta County addressed some pertinent matters to the CAS, MOLPP as follows:

The main problem was titling of the Land, there were people who were living at Mwakitau running back to as old as world war II times. The main problem is how was it given out as a Ranch without reference to the Land (Group Representatives) Act. How do you fail to recognize people living there.

The Senator noted that as land was being given to Isanga Iwishi Group Ranch, they ignored the original settlers who were living there, close to over 10,000 persons in Mwakitau Town. They are now facing eviction and were there even before the Land (Group Representatives) Act was enacted.

The MOLPP responded by informing the Committee that all the provisions were adhered to and that any claims that existed at the time of adjudication should have been taken into account. They should have been incorporated as members of the group ranch. The matters arising are now arising after completion of the adjudication process. The process should be now that the adjudication is complete and titles being issued then the next process would be going to court. The Committee was informed that there was a miscellaneous law application No. 225 of 2000 that was challenging the registration of the group ranch by way of preventing the issuance of the title. The case was dismissed and the ministries hands are tied unless the direction of the court rules otherwise.

The Committee wanted evidence that the MOLPP verified by going to the ground to confirm whether there was any settlement, and they responded by informing the Committee that the provisions of the Act only requires them to have a window to receive complaints raised. The Committee asked the Ministry to submit the documents that led to the registration of the Land.

The Committee sought to know from the Petitioner whether they contested the notice issued by the Ministry of Lands on the process of titling of the Land in question.

The Petitioner (Mr. Vitalis) from Mwakitau, informed the Committee that they have never seen the MOLPP coming to the ground. On 31st March, 1980 elders were summoned for land adjudication and they gave their case. Further, they have evidence in form of letters stamped as received by the MOLPP. The Committee asked them to table the documents through the office of the Senator.

The MOLPP informed the Committee that their notice of inspection of the register was on 22nd March, 1978. Claims made 60 days from that date in law is considered to be time bad. On the matter of adverse possession, the MOLPP informed the Committee that the matter has to be determined by the court and not the MOLPP. Since the title has already been issued it can only be issued in court. On resettling the persons in alternative land, the MOLPP informed the Committee that, they wouldn't comment at the moment. Since there is an existing register of the ranch, its upto the leadership of the area to confirm whether the contesting persons are registered and can benefit from the community land under the Community Land Act.

The Committee resolved that the MOLPP should send notices, documents and public participation evidences ascertaining that they went to the ground to confirm whether there was any settlement on the ground as they carried out their due diligence.

The CAS, MOLPP informed the Committee that they have submitted all the information they had in regards to this matter.

The Petitioners were also directed to deposit all documents through the office of the Senator in support of their Petition.

The matter was concluded with a proposal by the CAS, MOLPP that they were going to meet with the Senator, Taita Taveta County and walk through the process of ensuring the persons contesting are listed on the Ranch registers and would therefore stand a chance of benefiting from the Community Land under the Community Land Act.

- iii. Statement requested on 21st July by Sen. Johnes Mwaruma, MP on the status of Voi Point Limited, LR No. 28683

Response by the Ministry of Lands and Physical Planning

The Statement read that, the Committee should;

- 1) Explain the cause for the delay in surveying and titling parcels of land in Mwakingali 'A'.
- 2) State the commencement and completion dates for survey of parcels of land in Mwakingali 'A', and
- 3) State when residents of Mwakingali 'A' will be issued with title deeds.

Mwakingali 'A' informal settlement falls within Voi Municipality, Taita Taveta County and has about 800 parcels as per the Part Development Plan (PDP).

The survey and verification of ground ownership exercise took place in the 2016/2017 financial year for purposes of implementing development plans earlier prepared. This was geared towards regularization of land tenure.

The scheme has not been issued with title deeds because of various issues that need to be addressed by the Ministry of Lands and Physical Planning officials, local administration, National Land Commission, the political leadership and other stakeholders. The challenges are among others; double allocation, possible displacement of some residents, absentee landowners and ownership disputes.

The major challenges which were encountered during the exercise were;

1. Lack of community organization and mobilization to create effective awareness of exercise to facilitate acceptance and voluntary participation by the residents. This affected the pace of work as some ground occupants were not receptive of the survey and verification team.

2. The PDP failed to match the ground due to developments that have taken place without being guided by the PDP. Also, certain areas set aside for roads on the PDP turning out to be waterways and deep gullies on the ground.

The Ministry will embark on the exercise in the 2020/2021 financial year. The work is targeted to be completed by December 2020.

The strategy put in place will involve; sensitization of stakeholders, election of local land committee and ground verification. The PDP will be harmonized with the ground occupation while ensuring provision of adequate public utilities. This will involve a multi-agency team comprising of Ministry of Lands and Physical Planning, Ministry of Interior and Coordination of National Government, National Land Commission, The County Government, political and local leadership.

Response by the National Land Commission

With regard to the statement requested by Senator Jones Mwaruma, our records indicate that the CEO responded to a petition of a similar nature on 4th September 2019.

As indicated by the CEO on 4th September, 2019, Voi Sisal Estate sits on private land which is beyond the scope of our mandate, however the following information was shared by the Commission Secretariat then:

1. This is private land.
2. CR No is. 51725
3. Approximate area- 1,953ha
4. LR.NO-28683
5. Term 99 years W.e.f 1/1/1993- It has 73 years remaining before the lease expires.
6. Annual rent payable-353,795/-
7. User- agricultural (owner grows sisal).
8. The parcel was transferred to Voi Plantations Ltd and later to Voi Point Ltd.
9. It was charged to Diamond Trust Bank for Kshs. 4 Billion on 31/1/2019 and further charged to the same bank for Kshs.800Million on 13/2/2019.
10. Some members of public (Mkamenyi residents) have developments on a section of the parcel – near the staff houses at the new Voi- market along Mombasa Nairobi highway.

Compensation Details:

The Petition sought among others information on the amount of money paid by Kenya Railways as compensation to either Voi Sisal Estate, Voi Plantation or Voi Point Limited (as the case may be), during Phase One (Mombasa-Nairobi) of the construction of Standard Gauge Railway (SGR).

The part acquired from the parcel is sandwiched between the old meter gauge railway and the Nairobi-Mombasa road. The following are the details.

Area of Land acquired	14.9621 Ha or 36.971 Acres
Registered Owner:	Voi Plantations Ltd
Compensation paid	Kshs. 359,530,100/-

Committee Intervention:

The Senator, Taita Taveta County informed the Committee that the responses are not precise. Some the concerns the Senator raised include evidence from the MOLPP showing that the residence of Taita Taveta were involved in form of public participation in extending the aforementioned lease which was to end in the year 2022. The other matter raised was the subdivided pieces of land, there was to be evidence showing that County Government of Taita Taveta had consented to the extension of the lease. Further the Senator sought to know the documents that were relied upon by the MOLPP while renewing the lease. Further, on the matter of Mkamenyi, the 35 acres would it be possible for to add them more.


The CAS, MOLPP responded by requesting the Committee, that they settle the matter with the leadership of that area, and that they do not have evidence of what was done by the Municipality then. On the subdivisions, the application was only allowed for agricultural proposes and for only one user, unless this has been done through the County Government giving approval for the new user and further subdivision. On the matter of Mkamenyi, the CAS informed the Committee that they went to the ground and that they were in agreement with the private entity and didn't want further interference and all they wanted were the titles.

The Senator, Taita Taveta informed the Committee that he will be seeking supplementary questions for a more in-depth answer.

The Committee concluded with a resolution that the Senator, Taita Taveta to request for supplementary questions for the input of the MOLPP.

MINUTE SEN/SCLNDR/209/2020: ANY OTHER BUSINESS;
There was no other business discussed.

MINUTE SEN/SCLNDR/210/2020: DATE OF NEXT MEETING;
The meeting was adjourned at 1.45 PM and the date of the next meeting was to follow thereafter via zoom online platform.

Signed:.....**For:**.......... Date:.....**19/11/2020**.....

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

MINUTES OF THE 7TH MEETING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 11TH MARCH, 2020 IN COMMITTEE ROOM 10 AT 9.30 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, M.P.
2. Sen. Prengei Victor, M.P.
3. Sen. Slyvia Kasanga, M.P.
4. Sen. Mwaruma Johnes, M.P.

PRESENT

- **Chairperson**
- **Vice Chairperson**
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. George Khaniri, MGH, M.P.
2. Sen. Godana Hargura, M.P.
3. Sen. Halake Abshiro, M.P.
4. Sen. Boy Issa Juma, M.P.
5. Sen. Ndwiga Peter Njeru, EGH. M.P.

- Member
- Member
- Member
- Member
- Member

IN ATTENDANCE

A. STAKEHOLDERS

MINISTRY OF DEFENCE

1. Dr. Ibrahim Mohamed - Defence Principal Secretary
2. Maj. Gen. (Rtd.) Oyugi - Chair Ad-hoc Committee on Land
3. Mr. G.F. Sakwa - Principal Liaison Officer

NATIONAL LAND COMMISSION

1. Mr. Gershom Otachi - Chairperson NLC
2. Ms. Kabale Tache - Ag. CEO/ Sec. NLC
3. Mr. Francis Bor - DCS NLC
4. Mr. Wilson Kimiti - PLAO

MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

1. Amb. Hussein Dado - CAS, Ministry of Interior and Coordination of National Government,

B. SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Mr. Tiyan Joseph - Researcher
3. Mr. John Nganga - Audio Recording
4. Mr. Abdalla Mbore - Seargent-at-arms
5. Ms. Faith Wanja - Intern

MINUTE SEN/SCLENR/032/2020: PRELIMINARIES

The meeting was called to order at 11.30 am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLNENR/033/2020: ADOPTION OF AGENDA

The agenda was therefore proposed by Sen. Mwaruma Johnes. M.P. and seconded by Sen. Sylvia Kasanga, M.P. as follows.

1. Preliminaries - *Prayer*
2. Adoption of the agenda;
3. Confirmation of Minutes of the Previous Sittings;
4. **Receipt of submissions on the following Statements and Petitions:**
 - (a) Statement requested by Sen. Halake Abshiro, MP on 24th September, 2019 on an eviction notice served on residents of Isiolo County by the State Department of Defence to pave way for expansion of the Kenya Defence Forces (KDF) Training Camp;
 - *Submissions by the Cabinet Secretary, Lands and Physical Planning*
 - (b) Petition by residents of Ngaremara in Isiolo County on the alleged illegal encroachment of their community land by the School of Artillery (Kenya Defence Forces); and
 - *Submissions by the Cabinet Secretary, Lands and Physical Planning*
 - (c) Statement requested by Sen. George Khaniri, MGH, MP on 15th October, 2019 on the alleged inhumane evictions of families in Chepturo Village, Kiptuyo Ward, Chesumeyi Sub-county in Nandi County;
 - *Submissions by the Cabinet Secretary, Lands and Physical Planning*
 - *Submissions by the Cabinet Secretary, Ministry of Interior and Coordination of National Government; and the Inspector General of the National Police Service;*
 - (d) Statement requested on 16th October, 2019 by Sen. Boniface Kabaka, MP regarding the impending eviction of a section of residents of Mavoko, Machakos County, from their land by the East Africa Portland Cement Company;
 - *Submissions by the Cabinet Secretary, Lands and Physical Planning*
 - (e) Petition on the compensation and resettlement of evictees from Marmanet Forest in Laikipia County.
 - *Submissions by the Cabinet Secretary, Lands and Physical Planning*
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNENR/034/2020: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee differed the Confirmation of Minutes to such a time that the Committee would be able to have the requisite Committee Members present.

MINUTE SEN/SCLNENR/035/2020: RECEIPT OF SUBMISSIONS ON THE FOLLOWING STATEMENTS AND PETITIONS

The Committee acknowledged the appearance before the Committee of the Chairperson National Land Commission, the CAS Internal Security, the PS Defense and other Government officials and however gave apologies from the CS, Lands and Physical Planning who failed to appear before the Committee. The Committee was therefore unable to proceed with its agenda and resolved to differ the meeting for two weeks. The Committee was to give further direction on the matter during the forthcoming meeting.

MINUTE SEN/SCLNR/036/2020: ANY OTHER BUSINESS;

There was no other matter discussed.

MINUTE SEN/SCLNR/037/2020: DATE OF NEXT MEETING;

The meeting was adjourned at 12.05 pm and the next meeting was scheduled for Thursday, 12th March, 2020.

Signed:..........

Date:.....7/05/2020.....

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

**STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

MINUTES OF THE 30TH MEETING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 6TH NOVEMBER, 2019 IN COMMITTEE ROOM 10, MAIN PARLIAMENT BUILDING AT 11.00 AM.

MEMBERS

1. Sen. Prengei Victor, M.P.
2. Sen. Halake Abshiro, M.P.
3. Sen. Mwaruma Johnes, M.P.

PRESENT

- **Vice Chairperson**
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Mwangi Paul Githiomi, M.P. - **Chairperson**
2. Sen. Ndwiga Peter Njeru, EGH. M.P. - Member
3. Sen. Godana Hargura, M.P. - Member
4. Sen. George Khaniri, MGH, M.P. - Member
5. Sen. Slyvia Kasanga, M.P. - Member
6. Sen. Boy Issa Juma, M.P. - Member

IN ATTENDANCE

MINISTRY OF DEFENCE

1. Amb. Raychelle Omamo, SC, EGH - Cabinet Secretary
2. Maj. Gen. (Rtd.) Oyugi - Chair Ad-hoc Committee on Land
3. Brig. D.O. Odeny - Chief of Legal Services
4. Maj. G. P. Mosol - MA to CS
5. Mr. G.F. Sakwa - Principal Liaison Officer
6. Mr. Brian Ikol - Ag. DLA & E
7. Mr. Odima Otieno - Principal Land Admin
8. Mr. S.M. Osodo - PLAO

NATIONAL LAND COMMISSION

1. Ms. Kabale Tache - Ag. CEO/ Sec. NLC
2. Mr. Francis Bor - DCS NLC
3. Mr. Wilson Kimiti - PLAO

SENATE SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Ms. Caroline Cheruiyot - Legal Counsel
3. Mr. Hassan Odhowa - Researcher
4. Mr. Robert Rop - Audio Recording

MINUTE SEN/SCLNDR/178/2019: PRELIMINARIES

The meeting was called to order at 9.30am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLNR/179/2019: ADOPTION OF AGENDA

The agenda was therefore proposed by Sen. Halake Abshiro, M.P. and seconded by Sen. Godana Hargura, M.P as follows.

1. Preliminaries - *Prayer*
2. Adoption of the agenda;
3. Submission of Responses from Stakeholders on,
Petition by residents of Ngaremara in Isiolo County on illegal encroachment of their community land by School of Artillery (Kenya Defence Force) and Statement requested by Sen. Halake Abshiro MP on 24th September, 2019 concerning the intended eviction at the School of Infantry
 - Cabinet Secretary Defence;
 - Cabinet Secretary Lands and Physical Planning;
 - National Land Commission;
4. Any other Business;
5. Date of the next meeting;
6. Adjournment.

MINUTE SEN/SCLNR/180/2019: SUBMISSION OF RESPONSES FROM STAKEHOLDERS

The Committee received apologies from the Cabinet Secretary Lands and Physical Planning.

A. Presentation by Cabinet Secretary Ministry of Defence

The Cabinet Secretary Ministry of Defence submitted as follows:

STATEMENT REQUESTED BY SEN. HALAKE ABSHIRO ON 24TH SEPTEMBER, 2019 CONCERNING THE INTENDED EVICTION AT THE SCHOOL OF INFANTRY

The Ministry observes that the land is currently the subject of litigation before the Environment and Land Court in Meru in Petition No. 25 of 2019. The matter is alive in court with the matter last in Court on 29th October 2019. Persons have sued the Ministry of Interior and Coordination of National Government and the Ministry of Defence seeking to reclaim the land from the Ministry of Defence.

The Court has issued *ex parte* interim conservatory orders against the Ministry and the application for conservatory orders is scheduled for hearing on 13th December 2019.

The Ministry observes that the suit concerning the land is actively in Court and thus subjudice. The Ministry therefore submits that in accordance with Standing Order 92, the Committee ought to withhold further consideration of the matter to allow the petition to proceed to conclusion.

The Ministry enclosed the following documents for the Committees perusal:

- (a) Copy of Petition
- (b) Copy of Application
- (c) Interim Conservatory Orders.

Committee Interventions:

The Committee raised concern on the evictions being carried out since the matter is still being resolved and that status quo should remain avoiding the inhumane evictions.

RESPONSE TO THE PETITION BY RESIDENTS OF NGAREMARA IN ISIOLO COUNTY ON ALLEGED ILLEGAL ENCROACHMENT OF COMMUNITY LAND BY THE SCHOOL OF ARTILLERY LAND

The above petition has been presented by persons who allege they are residents of Ngaremara/ Gambela in Isiolo County. They allege that the Minister of Defence has been irregularly allocated land by the National Land Commission for military purposes.

The land in question was set aside for Kenya Defence Forces use through Gazette Notice No. 3210 of 1977. The Gazette Notice set aside School of Artillery land, 78 Tank Battalion land and School of Infantry land.

The Ministry is in the process of titling the land and a part development plan has been issued on the Ministry of Lands and a letter of allotment has been issued by the National Land Commission. The processing of the title is underway.

The Ministry submits that it is lawfully in occupation of the land. The following documents are forwarded herewith for the Committee's perusal:

- (a) Gazette Notice No. 3210 of 1977.
- (b) Topographical maps.
- (c) Part Development Plan for School of Artillery land.
- (d) Letter of allotment dated 12th July 2018.

Committee Interventions:

- The committee was concerned that at the time of acquiring the land, no compensations were done to the Community at that particular point in time.
- The Ministry of lands should be able to ascertain from their records dating back to 1977, on whether anyone was compensated and if so, who was compensated.

- The Committee also required documentation indicating change of land and a gazette notice if it exists.
- The Committee was also concerned with the level of Public Participation that was carried and whether the County Government has been involved in the entire process, and the fate of public amenities that were earmarked for that particular parcel of land.
- The Committee was also concerned with the use of excessive force on the residents of Burat and Ngaremala in Isiolo County.

B. Presentation by National Land Commission(NLC)

The National Land Commission honored submitted as follows:

PETITION BY RESIDENTS OF NGAREMARA IN ISIOLO COUNTY ON ALLEGED ILLEGAL ENCROACHMENT OF THEIR COMMUNITY LAND BY THE SCHOOL OF ARTILLERY (KENYA DEFENCE FORCES)

1. Explain how community land in the affected areas of Isiolo central, Ngaremara and Gambela ended up in the hands of the Kenya Defense Forces?

A letter of allotment was issued pursuant to a consultative meeting between the Ministry of Lands and Physical Planning and Ministry of Defense chaired by the Principal Secretary Ministry of Lands and Physical Planning and co-chaired by the Principal Secretary Ministry of Defense.

There is a gazette Notice dated 31st October, 1977 by the then Commissioner of Lands and all persons who were affected by the Notice where to get in touch with the District Commissioner for compensation.

A PDP for the same was prepared and signed by the Cabinet Secretary, Lands on 30th May, 2005.

2. State the size of land being claimed by KDF for expansion of the Military School of Infantry in the affected areas?

The size of the land being claimed by Kenya Defense Forces is 3,764 Ha.

3. Explain the steps that have been taken by the government to compensate community land owners in the affected areas in Isiolo.

The land was acquired vide gazette notice No 3210 which required all applications for compensation by claimants be submitted to the respective District Commissioners at Isiolo.

The dates for submission of these claims were between 15th November, 1977 up to and including 15th Day of December, 1977. This therefore meant that all applicants who had a claim and submitted the same to the respective District Commissioners were compensated for as long as they submitted their claims within the timeframe on the gazette notice.

4. State measures put in place to prevent the use offeree, abuse of human rights and rise of social conflict during the evictions?

This mandate lies with the body for which the acquisition was done i.e the Kenya Defence Forces

Response to specific prayers

The prayers sought are beyond the operational mandate of the secretariat of the Commission: return of the land to the community, stopping further development by KDF and compensation by KDF would require a decision by the Commission. They recommended that the prayers be handled by the incoming Commission.

The Committee resolved to invite the Cabinet Secretary, Ministry of Lands and Physical Planning to give a presentation on the matter in the presence of the National Land Commission and the Ministry of Defence.

MINUTE SEN/SCLNDR/181/2019: PREPUBLICATION SCRUTINY OF THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL, 2019;


The Committee resolved to forward the Bill for Publishing.

MINUTE SEN/SCLNDR/182/2019: ANY OTHER BUSINESS;

- The Committee wished the Chairperson a quick recovery and urged members who were available to visit the Chairperson.
- The Committee complained about lack of an effective Media relations officer and resolved that the matter be escalated to the Clerk of the Senate.
- The Committee resolved that the invitation to the Ministry of Lands and Physical planning be lumped together with the other stakeholders and invitations be sent for them to appear after three (3) weeks.
- The Committee resolved to have the other pending Petitions have the Petitioners invited.
- The Committee was informed about the upcoming Climate Change Conference and the Chairman was to give the way forward when he returns.

MINUTE SEN/SCLNDR/183/2019: DATE OF NEXT MEETING;

The meeting was adjourned at 1.45 pm and the next meeting was to be called on notice.

SIGNATURE.......... DATE.....

(CHAIRPERSON: SEN. MWANGI PAUL GITHIOMI, MP.)

STAKEHOLDER'S SUBMISSIONS



MINISTRY OF LANDS AND PHYSICAL PLANNING

**SUBMISSIONS TO SENATE STANDING COMMITTEE
ON LAND, ENVIRONMENT AND NATURAL RESOURCES**

Honorable Chair,

Pursuant to a letter Ref. **SEN/DCS/LENR/3/2020(3)** dated February 21, 2020, the Committee invited the Cabinet Secretary Ministry of Lands and Physical Planning to provide written submissions on the following-

- i) Statement requested by Senator George Khaniri, MGH, MP on October 15, 2019 on the alleged inhumane evictions of families in Chepturo Village, Kiptuyo Ward, Chesumeyi Sub-county in Nandi County
- ii) Statement requested by Senator Halake Abshiro, MP on September 24, 2019 on an eviction notice served on residents of Isiolo County by the State Department of Defence to pave way for expansion of the Kenya Defence Forces (KDF) Training Camp
- iii) Statement requested on October 16, 2019 by Senator Boniface Kabaka, MP regarding the impending eviction of a section of residents of Mavoko, Machakos County from their land by the East African Portland Cement Company
- iv) Petition by residents of Ngaremara in Isiolo County on the alleged illegal encroachment of their community land by the School of Artillery (Kenya Defence Forces
- v) Petition on the compensation and resettlement of evictees from Marmanet Forest in Laikipia County.

Honourable Chair we wish to respond as follows: -

1. Statement requested by Senator George Khaniri, MGH, MP on October 15, 2019 on alleged inhumane evictions of families in Chepturo village, Kiptuyo Ward, Chesumeyi Sub-County in Nandi County

Honorable Chair,

The Senator George Khaniri, MGH, MP requested a statement on the following: -

- i. Whether requisite notice was given to the victims before evictions were carried out
- ii. Why security force used excessive force in evicting peaceful peasant farmers
- iii. Why the Government has been slow in providing humanitarian support
- iv. The circumstances under which numerous households in Kiptuyia and Kapkangani areas have been issued with eviction orders yet they have occupied the lands for years, and
- v. Whether there are plans by the Government to compensate the affected families or allow the affected families to occupy the land as promised by the Cabinet Secretary and the timeline for the same.

Honorable Chair,

Questions i, ii and iii fall outside the mandate of the Ministry of Lands and Physical Planning. We recommend that the committee invites the relevant government agencies to respond to the issues raised.

On question iv, Honorable Chair; I wish to respond as follows:

Background and Context

The land Nandi /Kapkangani/272 was registered to Kipkosgei Arap Chepturo. This registration was done on April 29, 1983 for the Nandi/Kapkangani registration section.

Hence Kipkosgei Arap Chepturo was the first registered owner of the parcel of land (the first registration). The parcel of land measured approximately eleven decimal two (11.2) hectares. On October 30, 2013 the title was closed on subdivision giving rise to fourteen (14) portions numbering Nos 1371 to 1384 registered in his name.

Honorable chair,

Following a Succession Cause No.221 of 2015 in Kapsabet Law Courts, Sammy Kiprotich Kosgei and Clement Kiprotich Lagat were appointed as the administrators of the Estate of the deceased vide Grant of Letters of Administration dated November 30, 2015. The Confirmation of Grant yielded the titles issued on April 16, 2019. Certified copies of green cards are attached as **Annexure I**.

The matter has been in court for more than three decades with counter appeals. The High Court sitting in Kitale on January 22, 2019 ruled in favour of the title owner. On March 7, 2019, the Court issued execution orders that led to the evictions on the above referenced parcel of land. A copy of the execution order is attached as **annexure 2a** and the ruling on Land Case No.167 of 2017) formerly Eldoret ELC No. 270 of 2017(OS) is attached as **annexure and 2b**.

Honorable Chair,

The Cabinet Secretary, Ministry of Lands and Physical Planning and the then County Commissioner Nandi, visited the area on July 2, 2018. Following the visit, we engaged the administrators of the said parcel on the possibility of the Government acquiring the parcel for purposes of settling the affected persons. However, they were not agreeable to our proposal and they opted for the orders granted by the Court.

This is private land and the Government can only acquire it through compulsory acquisition or purchase if the owner(s) is agreeable. There have been circumstances where Government has negotiated with landowners to allow squatters to remain on a contested parcel of land in exchange for monetary compensation.

Conclusion

The evictions were carried out as a result of a Court Order. These orders can only be varied by a Court of Law in the absence of an agreement to purchase.

- 2. Statement requested by Senator Halake Abshiro, MP on September 24, 2019 on an eviction notice served on residents of Isiolo County by the State Department of Defence to pave way for expansion of the Kenya Defence Forces (KDF) Training Camp**

Honourable Chair, Senator Abshiro sought answers on the following issues:

- i. Explain how community land in the affected areas of Isiolo Cental, Ngaremara and Gambela ended up in the hands of the Kenya Defence Forces.
- ii. State the size of land being claimed by KDF for expansion of the Military School of Infantry in the affected areas;
- iii. Explain the steps that have been taken by the Government to compensate community land owners in the affected areas in Isiolo who are living in anxiety and fear of losing their ancestral land, homes and livelihoods
- iv. State measures put in place to prevent the use of force, abuse of human rights and rise of social conflict during the evictions.

Honorable Chair, we wish to respond as follows: -

Reservation of the land for Kenya Defence Forces in Isiolo, Samburu and Turkana was done vide Gazette Notice No. 3210 dated October 31, 1977 (a copy of the Gazette Notice is marked **Annexure 3**).

The Kenya Defence Forces (KDF) School of Infantry in Isiolo currently occupies land registered as L.R. Number 27155 measuring approximately 10,665 Hectares. Copy of the official search **Annexures 4**.

From the foregoing, it is clear that the reservation was done in 1977 and the question of compensation does not arise.

Honorable Chair, the issue of the eviction notice issued by the Government in September last year is the subject of litigation before a Court of Law.

3. Statement requested on October 16, 2019 by Senator Boniface Kabaka, MP regarding the impending eviction of a section of residents of Mavoko, Machakos County from their land by the East African Portland Cement Company

Honorable Chair, we wish to respond as follows: -

According to our records, the following parcels are registered under the East African Portland Cement Company Limited.

<p>LR No. 8784/4</p> <p>IR No. 19637</p>	<p>1,392.5 Acres.</p>	<p>Originally owned by Ignancy Mann and Erica Mann Parcel was sold to Kitangilu on 4th Sept 1969 EAPC PLC bought parcel from Kitangilu on 14th Nov 1979 for Ksh1,200,000 In 1983 parcel subdivided into 4 portions: 8784/1 – 154.7Ha and 8784/2 – 154.6Ha sold to Kimani Wanyoike, 8784/3 – 72.9Ha sold to Julius Mulandi 8784/4 which is 1329.3 acres remained with EAPC PLC. Has a leasehold of 949 years and an annual rent of Ksh266,700 User: Agricultural</p>
<p>LR No. 7815/1</p> <p>IR No: 18389</p>	<p>2,095 Acres.</p>	<p>The original owner was East Africa Sisal Estates Ltd for a term of 999 years from 1st Aug 1948 and an annual rent of Ksh419 East Africa Sisal Estates Ltd changed to Mitchell Cotts (1968) EAPC PLC bought the land for 2 million shillings from Mitchell Cotts together with LR No. 10424 Land was transferred to EAPC PLC in 9th March 1977 with an annual rent of Ksh377</p>
<p>LR No. 10425</p> <p>IR No. 17839</p>	<p>4,272 Acres.</p>	<p>This land was a direct allocation to EAPC PLC in 1960 for a term of 945 years from April 1, 1960 for an annual rent of Ksh854.40 User: Agricultural</p> <p>Current status: Subdivided into two parcels LR No 10425/25 transferred to Cabinet Secretary the National Treasury. The user for the parcel of land is mixed urban development (residential, commercial and industrial). The acreage is 4260.75 acres.</p> <p>LR No 10425/2 was acquired by Kenya Power for a power sub-station acreage 10 acres.</p>
<p>LR NO. 8786</p> <p>IR</p>	<p>745 Acres</p>	<p>This was a direct allocation to EAPC PLC with a total acreage of 745 Acres Leasehold land for 951 years w.e.f 1st Jan 1955 and an annual rent of Ksh149 User: Agricultural Land The property is charged to Kenya Commercial Bank.</p>

LR No. 10424	4,298 Acres.	Originally owned by Douglas Harcourt Stanley from 1 Nov 1960 for 952 years Land was transferred to East Africa Sisal Estates Ltd in April 10, 1961 East Africa Sisal Estates Ltd changed name to Mitchell Cotts Limited (1968) Mitchell Cotts in 1970 transferred land to EAPC PLC at a consideration of 2 million shillings together with LR No. 7815/1 User is Agricultural
IR 17951		

(copies of official searches are marked **Annexure 5**)

Honorable Chair, the Ministry is not privy to any plans for evictions.

4. Petition by residents of Ngaremara in Isiolo County on the alleged illegal encroachment of their community land by the School of Artillery (Kenya Defence Forces)

Honorable Chair, we wish to respond as follows: -

Background

Gazette Notice No. 3210 dated October 31, 1977 reserved land for Kenya Defence Forces in Isiolo, Samburu and Turkana (the Gazette Notice is marked **Annexure 3**).

Vide a Letter of Allotment Ref. 189464/II dated July 12, 2018 (**marked Annexure 7**), the National Land Commission allocated land measuring 3,764 Hectares to the Cabinet Secretary for National Treasury to hold in trust for Kenya Defence Forces School of Artillery.

Honorable Chair, we wish to respond as follows: -

Ngaremara adjudication section does not overlap with the land reserved for the Kenya Defence Forces.

All parcels of land set aside for the Kenya Defence Forces has been surveyed.

With regard to compensation, the land is owned by Kenya Defence forces and as such no compensation is due to the community.

5. Petition on the compensation and resettlement of evictees from Marmanet Forest in Laikipia County

Honorable Chair, we wish to respond as follows: -

Background

In 1988 inhabitants within Marmanet forest in Laikipia County were evicted by the Ministry of Environment and Natural Resources but were not resettled. A petition by the representatives of the evictees was presented to Senate seeking compensation and resettlement by the Government. It is claimed that the forest was excised and allocated to other people. According to the petition, a similar petition had been filed with the National Land Commission.

The Ministry appeared before the Committee over this issue last year and submitted that the matter falls within the jurisdiction of the National Land Commission and therefore recommended that it be referred to the Commission for resolution.

Honorable Chair, the Ministry has not identified a parcel of land to resettle the persons evicted from Marmanet Forest in Laikipia.

Honorable Chair, I submit.



Farida Karoney, EGH
CABINET SECRETARY

March 11, 2020

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**MINISTRY OF DEFENCE
OFFICE OF THE PRINCIPAL SECRETARY**

Telegrams: "DEFENCE", Nairobi
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DEFENCE HEADQUARTERS
ULINZI HOUSE
P. O. Box 40668, NAIROBI, KENYA

MOD 17/08

24th November, 2020

Mr. Jeremiah M. Nyegenye, CBS
Clerk to the Senate
Parliament Buildings
NAIROBI

Dear

Mr Nyegenye,

RE: REQUEST FOR RESPONSE TO PETITIONS AND STATEMENTS

I refer to your letter Ref. No. SEN/DCS/LENR/2/2020/(72) dated 17th November, 2020 on the above subject matter.

The Cabinet Secretary appeared before the Senate Standing Committee on Land, Environment and Natural Resources on 6th November, 2019 and submitted her written response to the petitions and request for statements as enumerated in your above referenced letter.

The Ministry's position has not changed and we kindly request that the Standing Committee states what is unsatisfactory in the CS's signed statement to enable us respond accordingly.

Yours

Sincerely,

Ibrahim M. Mohamed

Dr. Ibrahim M. Mohamed, CBS
PRINCIPAL SECRETARY



NATIONAL LAND COMMISSION

**RESPONSE TO PETITIONS AND STATEMENTS REFERRED TO THE SENATE STANDING
COMMITTEE ON LAND ENVIRONMENT AND NATURAL RESOURCES**

REPORT BY:

**GERSHOM OTACHI BW'OMANWA
CHAIRMAN**

12th FEBRUARY, 2021

DRAFT REPORT

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- II. Statement requested by Senator Halake Abshiro,MP on 24th September,2019 on the eviction notice served on residents of Isiolo County by the State Department of Defence to pave way for the expansion of the Kenya Defence Forces (KDF)Training Camp.
- III. Statement requested by Senator Fatuma Dullo,MP on 27th November ,2019 concerning the notice by the Ministry of Lands and Physical Planning seeking to open up land in Isiolo County For Adjudication under Legal Notice No.150 of August,2019
- IV. Petition submitted by the Rendille and Samburu community Representatives concerning the alleged acquisition of Karare and Marsabit County by the Kenya Defence Forces.
- V. Petition concerning the alleged exchange and final transfer of titles for parcels of land known as Lari Nyakinyua Solai Farm(located in Solai,Nakuru County)and Riyobei Farm Limited(located in Gilgil,Nakuru County)
- VI. Petition submitted by the Wajomvu Community,Mombasa County ,concerning the alleged historical land injustices involving plot no.162/V/M.NCR 1070 IN Mombasa County
- VII. Petition submitted by residents of Mkamenyi village in Voi sub County of the Taita Taveta County.The alleged encroachment of land belonging to Mkamenyi residents by voi point Limited in Taita Taveta.
- VIII. Petition by residents of Msambweni village in Voi Sub county of Taita Taveta County on the impending eviction by a private company.
- IX. Statement by Sen.Anuar Loitiptip,MP,on 24TH September 2020 regarding the alleged displacement of squatters from Hidabwo area in Lamu County
- X. Statement by Sen.Anuar Loitiptip,MP,on 24TH September 2020 regarding the alleged encroachment of Lake Kenyatta riparian land in Lamu County.

1.PETITION BY RESIDENTS OF NGAREMARA IN ISIOLO COUNTY ON THE ALLEGED ILLEGAL ENCROACHMENT OF THEIR COMMUNITY LAND BY THE SCHOOL OF ARTILLEY(KENYA DEFENCE FORCES)

Honourable Chair,The Commission wishes to respond as follows:

The Gazette Notice No. 3210 dated October 31, 1977 reserved land for Kenya Defence Forces in Isiolo, Samburu and Turkana (the Gazette Notice is marked **Annexure 1**).

Vide a Letter of Allotment Ref. 189464/II dated July 12, 2018 , the National Land Commission allocated land measuring 3,764 Hectares to the Cabinet Secretary for National Treasury to hold in trust for Kenya Defence Forces School of Artillery.

Honorable Chair, Ngaremara adjudication section does not overlap with the land reserved for the Kenya Defence Forces and all parcels of land set aside for the Kenya Defence Forces has been surveyed.

2.STATEMENT REQUESTED BY SENATOR HALAKE ABSHIRO,MP ON 24TH SEPTEMBER,2019 ON THE EVICTION NOTICE SERVED ON RESIDENTS OF ISIOLO COUNTY BY THE STATE DEPARTMENT OF DEFENCE TO PAVE WAY FOR THE EXPANSION OF THE KENYA DEFENCE FORCES (KDF)TRAINING CAMP

Honorable Chair,the Commission responds as follows:

Reservation of the land for Kenya Defence Forces in Isiolo, Samburu and Turkana was done vide Gazette Notice No. 3210 dated October 31, 1977 (a copy of the Gazette Notice is marked **Annexure 1**).

The Kenya Defence Forces (KDF) School of Infantry in Isiolo currently occupies land registered as L.R. Number 27155 measuring approximately 10,665 Hectares.

Colonial government set apart land(Holding area and quarantine) for the department of livestock for the land that was designated as crown land.MoD identified the land in 1979/1980,took possession and established a camp.a letter of allotment was issued in 2000 and the land was surveyed in 2004 and title issued in 2006.

From the foregoing, it is clear that the reservation was done in 1977 and the question of compensation does not arise.

Honorable Chair,

The issue of the eviction notice issued by the Government in September last year is the subject of litigation before a Court of Law at Meru as case ELC 25 of 2019 where the applicant is Joseph Loruyaei and others -vs- CS Defence,CS Interior,CS Lands,County Commissioner Isiolo,County Government of Isiolo and the AG..

The Court issued conservatory Orders in October,2019 restricting the Respondent from evicting the Applicants pending interpartes hearing.

3.STATEMENT REQUESTED BY SENATOR FATUMA DULLO,MP ON 27TH NOVEMBER ,2019 CONCERNING THE NOTICE BY THE MINISTRY OF LANDS AND PHYSICAL PLANNING SEEKING TO OPEN UP LAND IN ISIOLO COUNTY FOR ADJUDICATION UNDER LEGAL NOTICE NO.150 OF AUGUST,2019

The petitioner has requested that in its statement, the Committee should;

- 1) State what informed the Ministry's decision in issuing the gazette notice which in effect will lead to the conversion of communal land into private land despite there being a number of contentious land related disputes in the County yet to be resolved.
- 2) Explain why the Ministry decided to exclude the Kenya Defense Force's School of Infantry and Combat Engineering from the adjudication process knowing very well that there is a court order in place stopping the Kenya Defense Force from carrying out any survey in the contentious area until the dispute is settled.
- 3) Explain why the Ministry of Lands and Physical Planning is attempting to convert land lying along the LAPSSET corridor and Isiolo Resort into public land knowing very well that the said land has its rightful owners who are yet to be compensated.
- 4) Explain whether in issuing the legal notice the Ministry of Lands and Physical Planning sought and received approval from the County Government who are the legal custodians of unregistered community land.
- 5) Explain why the Ministry of Lands and Physical Planning failed to undertake public participation, engage with all leaders and other stakeholders before issuing the gazette notice knowing clearly that the communities' interests must be protected at all times; and
- 6) State whether the legal notice issued by the Ministry of Lands and Physical Planning was in accordance with the law and in adherence with the principles of openness, accountability and the confines of public participation.

Honourable Chair, National Land Commission wishes to respond as follows:

The Cabinet Secretary Ministry of Lands and Physical Planning declared parts of Isiolo County as adjudication areas vide Legal Notice No. 150 of September 3,2019. The areas with concentration of human settlement are to be registered under the Land Adjudication Act cap 284, while the grazing lands are to be registered under the Community Land Act ,2016.

This legal notice was however amended vide Legal Notice No. 1 of January 10, 2020. This was after the County Assembly Housing and Urban Development Committee held consultative meetings between November 8 and 16, 2019 and proposed the widening of the applicable area.

The amended notice occasioned increases in the items as shown in the table below;

NO	ITEM	LN No. 150 of September 3, 2019	LN No. 1 of January 10, 2020
1.	Adjudication Sections	4	36
2.	Township Blocks	9	16
3.	Certificate of Leases	7,500	17,050
4.	Projected Title Deeds	10,250	25,250

Source Ministry of Lands and Physical Planning

The gazettment of the County to be an Adjudication area is an issue that will best be addressed by the Ministry.

The reason for excluding land for Kenya Defence Forces is that the land for Kenya Defence Forces in Isiolo among other places was done vide Kenya Gazette Notice No. 3210 of 31 st October 1977. The Commissioner of Lands issued a letter of allotment to the Department of Defence for land parcel measuring 10,209 hectares for School of Infantry Cantonment. Consequently, title was issued to the Permanent Secretary to the Treasury as trustee of the Kenya Defence Forces. The Land Adjudication Act Cap 284 cannot be applied to a titled area.

The residents of the Burat wards did protest the allocation and have since filed a case in court. The case was filed by Joseph Lorunyei Kuwam and six others against the Cabinet Secretaries of Defense, Lands and Interior & Coordination of National Government, the Attorney General and others in Petition No. 25 of 2019 in the Environment and Land Court at Meru. This case is still live in court.

The LAPSETT corridor land was gazetted on October 21, 2016 vide the Kenya Gazette Notice Vol. CXVIII-No.129. The acquisition of land within the LAPSETT corridor, Isiolo Resort City and Isiolo International Airport is the mandate of the National Land Commission and the LAPSETT Corridor Development Authority. The acquisition of the corridor process will be conducted under the procedures of compulsory land acquisition and those affected will be compensated.

Honourable chair,

The gazettment of Isiolo as an adjudication area does not extinguish the rights of Isiolo residents to pursue compensation for land that has been gazetted for other uses within the County.

4. PETITION SUBMITTED BY THE RENDILLE AND SAMBURU COMMUNITY REPRESENTATIVES CONCERNING THE ALLEGED ACQUISITION OF KARARE AND MARSABIT COUNTY BY THE KENYA DEFENCE FORCES.

Hon chair,

The Commission wishes to respond to the petition as follows:

Background

The Commission wishes to bring to the attention of this esteemed Committee that there is an active Court matter at the Meru Environment and Land Court - Constitutional Petition No 4 of 2020, filed **by the Rendille Professionals Association and local elders on behalf of the Community regarding the allocations of the land parcels by the County Government of Marsabit** challenging the constitutionality of the process applied by the Department of Defense with regard to their interest in the subject land.

However the Commission wishes to briefly outline process the Ministry of Defence followed to acquire the land

1. The Ministry of Defence made a decision to establish a military barracks in Marsabit for security reasons and on 16th March 2012 made a formal request to be allocated land in Karare, Marsabit County. On 8th June 2015, the County Council of Marsabit formally allocated 2,500 Ha in Kubi Kalo. The processing of ownership of the land was overtaken by events following the coming in place of devolved governments in 2013.
2. On 18th June 2019, Ministry of Defence made a formal request to the County Government for allocation for land in Marsabit.
3. On 22nd July 2019, the County Government of Marsabit formally allocated land in Karare (5,000 Ha); Haiya (10,000 Ha) and Odda military camp (242 Ha). On 22nd August 2019 the department of defense requested the National Land Commission for allotment letters for the parcels of land. The Commission informed Department of Defence in a letter dated 4th November 2019, that it could not issue allotment letters because the land was community land. **It turns out that this may not have been the correct position.**

On January 16th, 2020, MOD & CGM resolved to subject the land allocations to a Public Participation process as advised by the National Land Commission. Subsequently Public Participation and Validation exercise for the land allocations was conducted from 21 to 31 January 2020 in Marsabit County. The exercise considered critical factors such as human settlements, grazing areas, water catchment areas and conservation of biodiversity and among others in choosing the ideal location for the KDF Camp.

The Public Participation exercise was carried out successfully by the Joint MOD, KWS, CGM team (Comprising of all stakeholders), County Leadership, MPs, MCAs and members of the local community across the areas expected to host MOD facilities. The local community participated

in the exercise and assisted representatives from the MOD to identify the suitable locations.

The petitioners are contesting the process followed in the allocation of Community Land at Karare ward.

The coordinates of the 5,000 Ha parcel of land allocated in Karare by the County Government of Marsabit is:-

STN	Eastings	Northings
A	376583	248844
B	374070	248821
C	370311	251031
D	366218	250703
E	366957	244713
F	373812	244527
G	373800	245810
H	376328	245840

When the above coordinates were plotted on the map it fell within the Marsabit National Reserve (Annex 1).

Conclusion

The contested parcel of land in question is part of the Marsabit National Reserve sitting next to the Marsabit National Park and not Community Land as alleged by the petitioners.

5.PETITION CONCERNING THE ALLEGED EXCHANGE AND FINAL TRANSFER OF TITLES FOR PARCELS OF LAND KNOWN AS LARI NYAKINYUA SOLAI FARM(LOCATED IN SOLAI,NAKURU COUNTY)AND RIYOBEI FARM LIMITED(LOCATED IN GILGIL,NAKURU COUNTY)

Prayer of the petitioner is

That Senate investigates the matter and comes up with appropriate recommendations to ensure that the exchange of title deeds process is expedited and land ownership and utilization rights and interests restored and safeguarded by eviction of illegal occupants

The commission wishes to respond as follows:

The dispute between the two land buying companies dates back to the mid-seventies when Lari Nyakinyua first bought 8000 acres of land in Solai.

The following is the profile of the two land buying companies:

LARI NYAKINYUA FARMERS COMPANY LTD

This was women land buying company from Lari, Kiambu County popularly known as NYAKINYUA. The company bought 8000 acres of land in (Solai) Rongai Sub – County in the early seventies.

The women group Lari Nyakinyua while organizing to settle their members at the 8000 acre farm, members of the local community moved in and occupied the land forcefully to date denying the buyers an opportunity to settle.

At the advent of multi – politics in Kenya it was agreed by the leaders to compensate the Lari NYAKINYUA women with an alternative parcel equal to their original land but in a different Sub – County, now Gilgil **OLJORAI ADC FARM**.

RUYOBEI FARMERS COMPANY LIMITED

This is a registered land buying company formed by a community from Solai in Rongai Sub – County Nakuru County with the intention to buy land for its members.

A majority of their members moved into the land bought by LARI NYAKINYUA in Solai in 1992 when a decision was made to compensate members of LARI NYAKINYUA, following a series of meetings held by leaders from Nakuru and Lari, Kiambu. This led to the signing of the titles exchange agreement between the two land buying companies to bring to an end several years of long standing conflict between the two.

AGREEMENT

On 24th April 2003, the directors of the two companies signed an agreement to exchange Title deeds to end the many years of conflict. This was not possible due to internal conflicts between the directors of the two land buying companies among themselves fighting for leadership and other interests. Lari Nyakinyua Land buying

company had two factions and Solai Ruyobei too had the same and both dispute ended in court.

The directors who signed were;

Lari nyakinyua

- a. John Nganga
- b. Samuel Macharia
- c. Hannah Muturi

Ruyobei

- a. Morogo Chebet
- b. Olari Chebet
- c. Richard Bunditich
- d. Musa Toroitich
- e. Daniel ario

The Governor Nakuru County in a letter REF: NO. NCG/S/LND/VOL. II/09 dated 25th November, 2014 requested National Land Commission to expedite the matter of the two farms since it was becoming a security threat. On 9th December 2014, National Land Commission wrote a letter to the Governor from the perspective of the Commission, the exchange never materialized at that time due to the following reasons;

- Lari Nyakinyua still holds the title for Solai Farm which was invaded by Ruyobei members.
- Ruyobei Farmers Limited still holds a Title for Oljorai and are in court with Oljorai squatters and a faction of directors.
- Oljorai farm is in court being sued by Solai farmers Co. LTD.

Subsequently, the High Court in Nakuru ELC COURT Civil Case No. 87 of 2007, whose parties are **Nduguia Ole Osano Vs two others (a) Lands Limited (b) Solai Ruyobei Farm Limited** ruled in favor of SOLAI RUYOBEI FARMERS CO. LTD towards the end of 2019.

The 8000 acres of OLJORAI FARM is currently occupied by over 10,000 squatters for close to 30 years now. This is the same farm the High court ruled in favor of SOLAI RUYOBEI FARMERS CO. LTD which was supposed to be exchanged to LARI NYAKINYUA.

In early 2020 the parties reported back to the Commission that following the Court Decision , they were willing to proceed with the exchange with the assistance of the

provincial administration. They were to report back on the progress and the Commission awaits the report.

6.PETITION SUBMITTED BY THE WAJOMVU COMMUNITY ,MOMBASA COUNTY ,CONCERNING THE ALLEGED HISTORICAL LAND INJUSTICES INVOLVING PLOT NO.162/V/M.NCR 1070 IN MOMBASA COUNTY

Hon Chair,The Commission respond as follows:

This matter is listed as a historical no.NLC/HLI/565/2019 that has been prioritized for investigations, hearing and determination.

The Chairman of NLC together with the County Co-ordinator joined the Senate team on Friday 19th February 24, 2021 on a visit to the ground and obtained first – hand information on the matter.

7.PETITION SUBMITTED BY RESIDENTS OF MKAMENYI VILLAGE IN VOI SUB COUNTY OF THE TAITA TAVETA COUNTY.THE ALLEGED ENCROACHMENT OF LAND BELONGING TO MKAMENYI RESIDENTS BY VOI POINT LIMITED IN TAITA TAVETA

The above mentioned parcel measuring approximately 1953 hectares is situated within Voi town in the county of TAITA TAVETA. This parcel was allocate to VOI SISAL ESTATES through a grant No C.R 51725 registered at the Mombasa land registry. For a term of 99 years, effective 1.1.1993. This allocation was as a result of surrender registered in the Governments Land Titles Registry at Mombasa as C.R No. 8814/37.

The land mentioned above is Land registered under **(CAP 281) Registration of Titles Act (repealed)**. And is therefore under the custody of **Mombasa Lands Registry**. The parcel was later transferred to VOI PLANTATIONS LIMITED, who charged the parcel to Diamond Trust Bank Kenya Limited For KSH. 3,000,000,000/= and USA \$ 5,000,000/=. Voi sisal estate later transferred the above parcel to Voi point limited at a consideration of Kenya shillings 1,002,0000,000/= (one billion and two million shillings),, and charged to DIAMOND TRUST BANK KENYA LIMITED for Ksh. 4,800,000,000/=

The county Government of Taita Taveta, has objected to the Transfer and Subdivision of the parcel, on allegations that they are aware that the lease earlier granted had expired, and that certain individuals had managed to renew the lease without seeking their

approval. Allegations which have since been proved as untrue by the Land Registrar Mombasa.

Voi point limited has subdivided part of the parcel into various portions, LR NO. 28683/27 measuring approximately 20.23 Hectares which was transferred to Mkamenyi society of Voi point with the intention to settle squatters residing within the parcel in an area known as Mkamenyi. All the above mentioned transactions were lodged at the Mombasa Land Registry.

It seems Mkamenyi squatters are claiming a larger share of land (i.e 35 acres given against 150 acres claimed) hence the dispute.

The company engaged the services of a private surveyor since this is a private matter .

The Commission's mandate in this matter is limited as the property in issue is private land. The Commission is , however, ready to assist or lead in an ADR mechanism that may be considered with a view to resolving the dispute.

8.PETITION BY RESIDENTS OF MSAMBWENI VILLAGE IN VOI SUB COUNTY OF TAITA TAVETA COUNTY ON THE IMPENDING EVICTION BY A PRIVATE COMPANY.

Prayer of the petitioner is that Senate carries out investigation to establish the following

- a) How it was possible for the Commissioner of Lands to allow Bata Shoe Company to transfer its lease grant to Sparkle Properties Limited in total disregard of the terms and conditions of the grant which opposed the same.
- b) How it was possible for Bata Shoe Company to sell the land to Sparkle Properties Limited at Kshs.12million and yet it had not done any development on it.
- c) Recommend that appropriate action be taken against the Commissioner of Lands for colluding with Bata Shoe Company to transfer Msambweni residents land to Sparkle Properties Limited despite there being terms and conditions against the same.
- d) Recommend that the Ministry of Lands acquires the disputed land and settles the residents on it through compulsory acquisition
- e) Takes any other action it deems fit to ensure that the residents of Msambweni live in peace as before

Hon Chair,The Commission wishes to respond as follows:

The disputed parcel is situated within Voi Township and borders Ndara A Adjudication Section and Kaloleni Majengo Squatter Upgrading Scheme. The parcel is registered at the Mombasa Land Registry Under Cap 281(Registered Titles Act) now repealed as L.R No. 1956/506 C.R. No 23979 on Survey plan No. 107124 measuring approximately 54.26 Ha.

This parcel was allocated to BATA SHOE COMPANY LIMITED who intended to construct a shoe factory, and was issued with title deed on 30th April 1993. BATA SHOE COMPANY later sold the parcel to SPARKLE PROPERTIES LIMITED at a consideration of Kshs.12,000,000. The transfer was lodged on 21st March 2011 and a new title issued to sparkle properties limited as the proprietor.

The proprietor upon receiving title to the land discovered that squatters had moved in and constructed residential houses, they also prevented the owner from taking possession or accessing the property. This prompted her to move to the Environment and Land Court at Mombasa through Civil Case No.265 of 2013.

Sparkle properties Limited
VS

1. Johana Ngai
2. Fatuma Mwamburi
3. Suleiman Kiboi Mwanyambo
4. Hamisi Kalela
5. Alois Mwambi
6. Asha Mwake
7. Fatuma Kodi
8. Bata Shoe Co.Limited
9. The Attorney General

On 27th January, 2020 the Hon Judge A.Omollo delivered his ruling by entering Judgment for the plaintiff against the 1-7th defendants jointly and severally for:

- a) Permanent injunction restraining the defendants whether acting by themselves; their employees, agents and/or servants and/or through any other manner whatsoever interfering with the suit property to unit L.R 1956/506.
- b) Mandatory injunction compelling the defendants to demolish and or pull down structures erected on the suit property and to give vacant possession to the plaintiff.
- c) That there be a permanent injunction restraining the defendants and/or their agents to allow them to occupy or construct the unoccupied space and proceed with construction forthwith.

- d) General damages for trespass awarded at Ksh.150,000 payable by each defendant to the plaintiff giving a total sum of Kshs 1,050,000 with interest from the date of filing suit until payment is made in full.
- e) Costs of the suit awarded to the plaintiff.

OPINION

It is the opinion of the Commission that, the issues raised by the petitioners are matters which were fully ventilated Civil Case No.265 of 2013.

The possible action the residents can take is to file an appeal against the judgment and seek further redress on the matter.

Any possible redress must be considered against the Court Decision.

9.SEN. ANWAR LOITIPTIP, MP, SENATOR, LAMU COUNTY ON ALLEGED ENCROACHMENT OF SEN. ANWAR LOITIPTIP, MP, SENATOR, LAMU COUNTY ON ALLEGED ENCROACHMENT OF LAKE KENYATTA RIPARIAN LAND

- i) State whether Lamu County followed due process in licensing Lake Kenyatta Beach Management Unit which has been given the responsibility of managing areas of the beach reserved for hippopotamus to graze as well as recreational areas for fishermen and public
- ii) Explain whether Lamu County authorized demarcation of the aid area and subsequently allocated the beach area to Lake Kenyatta Beach Management Unit
- iii) State whether the title deeds for the land in question which are in the hands of Lake Kenyatta Beach Management Unit are genuine, and if so, did NLC conduct due diligence before issuance of the same
- iv) Explain what measures the Ministry of Lands is putting in place to ensure that areas around water bodies used as grazing area for wildlife are protected

Honourable Chair, the Commission wish to respond as follows:

The area in question is the riparian land along Lake Kenyatta within Lake Kenyatta I Settlement Scheme established in 1974. Lake Kenyatta Beach Management Unit (LKBMU) was registered in 2008 to manage fishing operations in the area and has been operating since then. The lake is a vital source of water and fish, biodiversity habitat and eco-tourism attraction. The fisheries department was one of the functions whose governance was devolved from the National government and placed to the county

government by the Constitution, 2010. LKBMU is therefore currently under the County Government of Lamu.

There have been disputes between the LKBMU and the local community regarding encroachment of the riparian land falling in the zone covering Plots Nos.1609, 1610, 2570, 2568, 5722 and the high-water mark. The zone in contention is swampy and partly covered with thick natural vegetation.

The dispute is mainly attributed to the fact that the entire external boundary of the riparian is not physically marked nor surveyed. The Lake Kenyatta catchment area is not registered or gazetted.

Honourable Chair, we propose-

- i. Mapping out the catchment/lake boundaries by the relevant ministries
- ii. Gazettement of this ecologically sensitive area
- iii. Multi sectoral Protection and management of the catchment area by the relevant MDAs and County government of Lamu

10.STATEMENT BY SEN.ANUAR LOITIPTIP,MP,ON 24TH SEPTEMBER 2020 REGARDING THE ALLEGED DISPLACEMENT OF SQUATTERS FROM HIDABWO AREA IN LAMU COUNTY

Displacement of squatters in Hidabu Area of Lamu island.

By the Senator for Lamu County, Hon. Anwar Loitiptip.

- i. Explain the circumstances surrounding the ownership of the parcel of land in Hidabu Area, Lamu County, and state the genuine owners of the said parcel of land.
- ii. State who is behind the demarcation of the said piece of land and evicting persons who have occupied and settled on the said piece of land since 1998.
- iii. State whether Lamu County Government authorized the allegedly illegal demarcation of the piece of land.
- iv. Explain measures the Ministry of Lands and the National Land Commission have put in place to protect persons who have enjoyed quiet possession of the said piece of land for a period exceeding 12 years and ensure they are not going to be rendered squatters by rogue land grabbers allowed to own the land through adverse possession.

RESPONSE

Hidabu is an informal squatter settlement within Lamu Island specifically within registration section Lamu/Block II. The area comprises of several government reserved land and registered private parcels.

The County government of Lamu engaged a private survey firm, Spatial Milestone (K) Ltd, to survey the squatted area. The project is ongoing and at planning stage, so far capturing over 300 squatters. Some of the squatters in the settlement have permanent buildings and others semi-permanent structures built over diverse dates.

The table below, give an impression of the current status of the affected plots.

	Plot No.	Size (Ha)	Ownership	Ground Occupant
1	Lamu/Block II/126	2.97	Government of Kenya	<ul style="list-style-type: none">• County Commissioner's residence• LAWASCO, KPLC sub-station, KBC mast, Radio Rahma mast.• Lower part settled by over 30 squatters.
2	Lamu/Block II/127	4.86	Government of Kenya	<ul style="list-style-type: none">• Public Works and Housing offices• Probation office• Churches (5 No)• Lower part settled by over 120 squatters
3	Lamu/Block II/128	5.06	Government of Kenya	<ul style="list-style-type: none">• King Fa had Hospital (Public).• Lower part has over 60 squatters.
4	Lamu/Block II/129	6.14	Government of Kenya	<ul style="list-style-type: none">• King Fa had Hospital; Mosque (1 No)• Lower part settled by 50 families(squatters)
5	Lamu/Block II/345	0.10	Kilim Ltd	Have on-going investigation by DCI Lamu between the owner and squatters. <ul style="list-style-type: none">• Parcel 345 has a well dug by area MCA.• Plot 348 has 2 permanent houses by squatters, while 350 has some recently erected posts.
	Lamu Block II/348	0.10		
	Lamu/Block II/350	0.10		

The government agencies such as the hospital, housing and Interior occupying the reserved plots assert that they require the land for future public purposes.

Proposal

- i. Stakeholder consultative meeting involving area leadership, county government and relevant national government departments to review and provide solution.
- ii. Those on private land to negotiate with the land owners.

Honourable Chair; the above are the answers to the various issues raised, which we respectfully submit.

Dated at Nairobi this 23rd day of February 2021 .



**GERSHOM OTACHI BW'OMANWA
CHAIRMAN**