

REPUBLIC OF KENYA



TWELFTH PARLIAMENT – FIFTH SESSION

THE NATIONAL ASSEMBLY

SELECT COMMITTEE ON IMPLEMENTATION

**REPORT ON
IMPLEMENTATION STATUS OF THE REPORT OF THE DEPARTMENTAL
COMMITTEE ON LANDS REGARDING LAND ISSUES IN TAITA TAVETA
COUNTY**

**Directorate of Audit, Appropriations and other Select Committees
Clerk's Chambers
Parliament Buildings
NAIROBI**

SEPTEMBER, 2021

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CHAIRPERSON'S FOREWORD

The Select Committee on Implementation is mandated to scrutinize the resolutions of the House, including adopted Committee reports, petitions and the undertakings given by the National Executive and examine whether or not such decisions and undertakings have been implemented and where implemented the extent to which they have been implemented, and whether such implementation has taken place within the minimum time necessary and satisfactory explanation for the delay in full implementation provided.

The Committee pursuant to its mandate resolved to be appraised on the implementation status of the recommendations contained in the Report of the Departmental Committee on Lands regarding land issues in Taita Taveta County.

In considering the implementation status of the Report mentioned above, the Select Committee on Implementation held various meetings with relevant stakeholders, including officials of the Ministry of Lands and Physical Planning, the National Land Commission and the management of Teita Sisal Estate. The Committee also conducted an inspection visit in Taita Taveta County from 5th to April 8, 2018.

The Report entails a compilation of the responses received and their implementation status at the time of adoption of the Report.

The Committee registers its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitating it towards achieving its mandate and producing this Report.

Pursuant to Standing Order 199 (6), it is, therefore, my pleasant duty and privilege, on behalf of the Select Committee on Implementation, to lay this Report on the Table of the House.

Hon. Moitalel Ole Kenta, MP

EXECUTIVE SUMMARY

In line with its mandate, the Select Committee on Implementation wrote to various Ministries seeking the status of implementation of various House resolutions. This is pursuant to Standing Order 209 (2) that provides that the Committee shall scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary.

The Select Committee on Implementation pursuant to its mandate resolved to apprise itself on the implementation status of the recommendations in the Departmental Committee on Land report regarding land issues in Taita Taveta County. During its Committee meetings, the Departmental Committee on Lands of the Eleventh Parliament noted the public outcry in Taita Taveta County and the rising tension in the area due to the land conflict between the owner of Teita Sisal Estate and the local community. The Committee, therefore, resolved to conduct an inquiry and tabled its Report on June 25, 2015:

In considering the implementation status of the aforementioned Report, the Select Committee on Implementation held various meetings with relevant stakeholders, including officials of the Ministry of Lands and Physical Planning, the National Land Commission and the management of Teita Sisal Estate and the squatters. The Committee also conducted an inspection visit in Taita Taveta County from 5th to April 8, 2018.

The Committee, during its various sittings, scrutinized the written submissions received from the stakeholders. The records of evidence submitted to the Committee form the basis of the Committee's Report on the implementation status as outlined in the Report.

In its deliberations, the Committee observed that Teita Sisal Estate owns 30,284 acres of land legally evident by the survey report conducted by the Ministry of Lands and Physical Planning. The Estate had not encroached into a public land as alleged. Further, Teita Sisal Estate had given up 555 acres (539 acres to the Land Settlement Fund Board of Trustees, 15.6 acres for Mwandisha Primary School). The Estate has also ensured that there is access to public utilities and roads.

The Committee also observed that, there are various land disputes between the local communities and large private land users/companies as evidenced by petitions coming to Parliament (National Assembly and the Senate).

Therefore after deliberations, the Committee recommends that: -

- (1) The Ministry of Lands and Physical Planning should complete the adjudication process of 6,000 acres excised from the Teita Sisal Estate to the squatters in Taita Taveta County within six months of the adoption of this Report;

- (2) The Ministry of Lands and Physical Planning should, within six (6) months of the adoption of this Report, submit a list of all beneficiaries of the land surrendered by the Estate;
- (3) The Ministry of Lands and Physical Planning, the National Land Commission and the County Government of Taita Taveta should engage the local community for concurrence in extension and renewal of leases for Teita Sisal Estate when they expire; and
- (4) The Directorate of Criminal Investigations to investigate the activities of Mwasima Mbuwa Welfare Association for fraudulent activities targeting the squatters and members of the public and if found culpable, be subjected to due legal process within six (6) months of the adoption of this report.

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Committee on Implementation is a Select Committee of the House established pursuant to the provisions of Standing Order 209 of the National Assembly Standing Orders.
2. The Committee is charged with scrutinizing the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and whether or not legislation passed by the House has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary. The Committee may also propose to the House, sanctions against any Cabinet Secretary who fails to report to the relevant select Committee on implementation status without justifiable reasons.
3. Standing Order 201 further provides that within sixty days of a resolution of the House or adoption of a report of a select committee, the relevant Cabinet Secretary under whose portfolio the implementation of the resolution falls shall provide a report to the relevant Committee of the House. The mandate of the Committee is further enhanced by the provisions of Article 153 (4) (b) of the Constitution, which requires Cabinet Secretaries to provide Parliament with complete and regular reports concerning matters under their control.

1.2 Committee Membership

4. The Committee comprise the following Members-

Chairperson

Hon. Moitalel Ole Kenta, MP
Narok North Constituency
Orange Democratic Movement

Vice-Chairperson

Hon. Godfrey Osotsi, MP
Nominated
Amani National Congress

Members

Hon. Moses Kuria, MP
Gatundu South Constituency
Jubilee Party

Hon. Alois Lentoimaga, MP
Samburu North Constituency
Jubilee Party

Hon. (Dr.) James Murgor, MP
Keiyo North Constituency
Jubilee Party

Hon. Joash Nyamache Nyamoko, MP
North Mugirang'o Constituency
Jubilee Party

Hon. John Njuguna Wanjiku, MP
Kiamba Constituency
United Democratic Alliance

Hon. Paul Odalo Abuor, MP
Rongo Constituency
Orange Democratic Movement

Hon. Hassan Oda Hulufu, MP
Isiolo North Constituency
Kenya Patriots Party

Hon. Paul Simba Arati, MP
Dagoretti North Constituency
Orange Democratic Movement

Hon. Feisal Bader, MP
Msambweni Constituency
Independent

Hon. Johnson Many Naicca, MP
Mumias West Constituency
Orange Democratic Movement

Hon. John Muchiri Nyagah, MP
Manyatta Constituency
Jubilee Party

Hon. Richard Onyonka, MP
Kitutu Chache South Constituency
Ford Kenya

Hon. Benjamin Dalu Tayari, MP
Kinango Constituency
Orange Democratic Movement

Hon. Michael Thoya Kingi, MP
Magarini Constituency
Orange Democratic Movement

Hon. Nelson Koech, MP
Belgut Constituency

Jubilee Party

Hon. Joshua Mbithi Mwalyo, MP
Masinga Constituency

Wiper Democratic Movement-Kenya

Hon. Peter Kimari, MP
Mathioya Constituency

Jubilee Party

Hon. Silvanus Osoro, MP
South Mugirang'o Constituency

Kenya National Congress

Hon. Gabriel Kago Mukuha, MP
Githunguri Constituency

Jubilee Party

Hon. Charles Ngusya Nguna, MP
Mwingi West Constituency

Wiper Democratic Movement-Kenya

Hon. Jared Okello, MP
Nyando Constituency

Orange Democratic Movement

1.4 Committee Secretariat

4. The Secretariat facilitating the Committee comprise -

Ms Tracy Chebet Koskei
Clerk Assistant I/Team Leader

Mr Abdirahman Hassan
Clerk Assistant II

Mr Salem Lorot
Legal Counsel II

Mr Donald Manyala
Research Officer II

Ms Jane Serem
Audio Officer I

Ms Winnie Kizia
Media Relations Officer

Mr Moses Kariuki
Sergeant-at-Arms

2.0 BACKGROUND

2.1 Introduction

5. The Select Committee on Implementation commenced to apprise itself on the implementation status of House resolutions pursuant to Standing Order 209 (2) that requires the Committee to scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive.
6. During its Committee meetings, the Departmental Committee on Lands of the 11th Parliament noted the public outcry in Taita Taveta County and the rising tension in the area due to the land conflict between the owner of Teita Sisal Estate and the local community.
7. The Committee resolved to inquire on the matter by undertaking an inspection visit to get views on the ground. The Committee held various meetings with the Governor Taita Taveta County, Deputy County Commissioner for Taita Taveta, Members of Mwasima Mbuwa Welfare Association, elders in Mwatate and the County District Surveyor, Taita Taveta County.
8. The Committee identified three parties involved in the land tussle with Teita Sisal Estate; squatters who live mainly in the Singila Majengo area and Mwasima Mbuwa Welfare Association who do not reside in the County. The parties did not agree on the boundary of the community land.
9. The Committee also established that the main issue under contention was the availability of title documents and boundaries issues between the Sisal Estate and the alleged community land and the struggle to access public utilities inside the estate, including schools, dams, and roads. The Government offered to purchase 440 acres of Land from the management of the Teita Estate near Singila Majengo to resettle the squatters. However, local politics have proved an obstacle.
10. The community informed the Departmental Committee on Lands that the Land on which the railway station, Mwatate airfield and public roads are built is Government land. Further, Teita Sisal Estate security officers inspect cars on public roads; the public has been denied access to Mwatate dam and that Land on which Teita Sisal Estate allegedly occupies government institutions located in Sembe sub-location.
11. The community requested for the review of the boundaries to separate the 33,000 acres belonging to Teita Sisal Estate and the rest of the Land, which is then registered as community land and given back to the community. The petitioners also requested the recovery of the alleged grabbed Land from the estate and compensated for damage to food crops occasioned by the estate's actions.

12. The Departmental Committee on Lands made the following observations from the submissions presented:-

- a) That the boundaries had been tampered with;
- b) The damage had been caused by the management of Teita Sisal Estate in 1991 at Majengo when food crops were ploughed down without notice when no Court Order was providing for the action and therefore obstructing the community development and grabbing of Land by the Estate;
- c) The Sisal Estate management uses sisal Police Patrol as a private security institution to intimidate innocent people of Singila Majengo;
- d) There are alleged illegal activities perpetrated by land offices in Taita Taveta County and the scheme's beneficiaries. These activities need to be stopped immediately to pave the way for a thorough investigation and audit by the National Land Commission and other relevant bodies.

Recommendations of the Departmental Committee on Lands

13. The Departmental Committee on Lands investigated the matter and made the following recommendations in its Report: -

- a) The Ministry of Lands, Housing and Urban Development and the National Land Commission should bring a proposal for legislation to ensure that investments in property benefit local communities and their economy as provided for in Article 66(2) of the Constitution;
- b) The National Cohesion and Integration Commission should intervene to avert possible Land-based ethnic clashes in the County;
- c) The National Commission on Human Rights should intervene to ascertain any breach of the Bill of Rights (Chapter four of the Constitution);
- d) The Constitutional Implementation Commission intervenes to ensure that the entire process is constitutional and that all respective Government Institutions and State agencies undertake their responsibilities accordingly;
- e) The National Land Commission should initiate an inquiry into the historical land injustices in Taita/Taveta County and seek redress as provided for by law;
- f) Title deeds should be reviewed in the entire County and Land leases examined to establish whether their terms have expired and if they were renewed without legal procedures, then the land be surrendered to the Local Community;
- g) Ministry of Interior should remove all roadblocks on public roads to allow members of the public access without conditions in Teita Sisal Estate and its neighbourhood;
- h) Through the Director of Survey, the Ministry of Lands, Housing and Urban Development should survey the land in question to ascertain the boundaries as per the records of 1992 from the Survey of Kenya to ensure that Sisal Estate only occupies 30,000 acres as per the titles it holds and to release all extra Land to the Government;
- i) The Ministry of Environment should restore Tasha Hill Forest to its original state; and
- j) The National Land Commission to initiate an audit for the list of beneficiaries and the entire process leading to land allocation in the Taveta Settlement Scheme.

3.0 SUBMISSION BY STAKEHOLDERS

14. This section contains evidence submitted orally and in writing by key witnesses invited to adduce evidence before the Committee.

3.1 Meeting with the Ministry of Land and Physical Planning

Appearing before the Committee on diverse dates, the Cabinet Secretary for Lands & Physical Planning, Ms Farida Karoney, OGW, the Principal Secretary for Lands Dr Nicholas Muraguri, among other Ministry officials submitted that:-.

15. The Report had emanated from allegations that Teita Sisal Estate had encroached into contiguous community land. The Departmental Committee on Lands recommended that the Ministry ascertain the boundaries. The Ministry carried out a boundary confirmation survey on the Land and discovered that the community had encroached into the Sisal Estate.
16. A group of squatters claiming ownership of the Singila Majengo area differed from the Mwasima Mbuwa Welfare Association. The survey report conducted by the Ministry confirmed that Teita Sisal Estate was occupying a total of 30,284 acres as supported by L/R No. 8880/5(16,875 acres); L/R No. 11378(3,344 acres); L/R No. 6924(10,010 acres) and L/R No. 9487(55 acres).
17. The survey maps of 1929 indicated that the dam was constructed within the Teita estate land. Further, the three of the titles indicated leases for 999 years while the fourth was for 99 years. However, all land title leases were reverted to 99 years as per the Constitution.
18. The survey carried out in 1954 indicated that an airstrip was at that time located outside the Teita Sisal Estate boundary. However, once the boundary was extended, the airstrip became part of the sisal estate located in L/R 3880/5 and is accessible to private planes, Kenya Wildlife Services and the Government.
19. Teita Sisal Estate had surrendered to the Government LR No. 3880/3 in lieu of L/R No. 3880/5 measuring approximately 12,000 acres at Muda bogo. Six thousand (6,000) acres had already been adjudicated while the remaining 6,000 acres had not been officially allocated to anyone. The un-adjudicated Land had not been settled but was being claimed as part of the Mugeno reserve. Titles to the 6,000 acres that were part of L/R No. 3880/3 would be allocated to squatters in the area once a database of legitimate squatters was established.

20. The Ministry reiterated that although the Report of Departmental Committee on Lands recommended surveying to clear the actual acreage owned by Teita Sisal Estate, to discourage encroachment by both the sisal estate and the community, it did not pronounce itself on what happens to the Land on which public utilities and installations are located.
21. The Ministry carried out a boundary confirmation survey on the Land to ascertain the boundaries and discovered that the community had encroached into the Sisal Estate. The survey report recommended deducting a wayleave from the estate land in favour of the public roads, railway station & Mwandisha Primary School and the same allocated titles.
22. The re-survey of the land parcels was carried out in July 2016 led by a team from the Ministry of Lands & Physical Planning whose outputs were as follows:
- (i) Most of the boundary beacons for the four parcels of land in question were intact and the few not found in place were re-established as per the Survey Regulations. The total acreage of the land parcels is 30,284 acres as indicated on the survey maps for the four parcels. A re-computation of the acreage after the fieldwork yielded the same, which was in agreement with the records held by the Ministry.
 - (ii) Teita Sisal Estate Limited was operating within the four parcels and had not encroached onto the neighbouring community land, road and trust land around Tasha Hill and railway reserve. The sanctuary is an establishment of the Sisal Estate and was within the four plots owned by the estate. The airstrip is within the four parcels owned by the Sisal Estate and the estate has an aerodromes clearance certificate to operate it.
 - (iii) The community has encroached onto parts of the Sisal Estate including Singila Majengo, sections along the Voi – Mwatate road and the corridor leading to & part of LR No. 3880/5, near Voi River.
 - (iv) Three classified roads run through the Estate and are open for public use. There are also several private roads traversing the Land.
 - (v) There is a manned barrier at the entrance of the Estate on a road that may have been leading to the now non-operational railway station. Another manned barrier is on an unclassified road leading to Mwandisha Primary School.
 - (vi) The Voi-Taveta railway line passes through LR. No. 3880/5. The acreage of the railway reserve has been deducted from the head title of the parcel of Land. A non-operational railway station also falls within the same land parcel. Its reservation has not been deducted from the head title although Kenya Railway claims a gazetted reservation of 4.8 acres.
23. During a field visit held between 5th and 8th April 2018, conducted by the Committee and officers from the Ministry, the registered proprietor of the Estate agreed to donate 250 acres to the local community on his own volition. The CS reported that the 250 acres ceded were without costs and conditions to the Government.

24. The Ministry excised the said 250 acres and the public utilities within the Estate. The Ministry was preparing titles for the 250 acres to be handed to the Land Settlement Fund Board of Trustees.
25. Further, Cabinet Secretary reported that the owner had intimated that he was willing to surrender a further 200 acres to the local community. The Ministry advised Teita Sisal Estate to put in writing their ceding of the additional 200 acres for the Ministry to begin the process of excising and registering it.
26. The public utilities including the dam, schools, roads and railway, have been issued with individual titles. Some squatters had encroached on Teita Sisal Estate land and the proprietor of the Estate offered to surrender a portion of the land they occupied, which occasioned the excision of some part of the Land. The estate has also ceded Land, which has been deemed riparian.
27. The Ministry also reported that it had requested excise and fencing of the public utilities and installations in the Land owned by Teita Sisal Estate. The excision of Singilla Majengo village, Mwandisha primary school, public utilities like roads and railway reserves have since been carried out vide F/R 467/85 and submitted to the survey department for approval. However, the approval process has not been finalized as the County Government of Taita Taveta was yet to issue an approval in respect of the subdivision scheme plan. The matter would be resolved once the County Government grants approval and the title surrendered.
28. A local land committee comprises thirteen (13) members elected in a public baraza on February 24, 2020 to spearhead the planning, squatter verification and survey. The Ministry of Lands, in collaboration with the Taita Taveta County Government, undertook the verification. In that regard, ground verification of squatters and survey was ongoing with 1,350 squatters profiled so far.

The Ministry submitted that it had requested the owner to surrender the existing title vide a letter Ref. No. MOLPP/30533/VI/145 dated February 4, 2020. Approximately 45% of the 250 acres of land had already been beaconed and the work would be completed in due course. A total of 1368 out of the 1500 parcels have been demarcated and the ground occupants verified. Forty-five (45) ownership disputes have been resolved.

29. During a meeting held between the Committee and the Ministry on Wednesday, June 17, 2020, the Ministry provided a letter from the Ministry of Lands addressed to the advocates of Teita Sisal Estate Limited, requesting the Estate to surrender the original titles for the parcels of land that need to be surrendered. The Ministry also surveyed documents detailing the excision of Singilla Majengo village, Mwandisha primary school and public utilities like roads & railway reserves that were within the Estate.

30. The Ministry further submitted that during a meeting held on July 19, 2020, between the County Government of Taita Taveta and the Ministry of Lands & Physical Planning, the County Government agreed to facilitate preparation and approval of the subdivision scheme plan based on the survey data collected by the survey team. However, the County Government was yet to approve the same. The Ministry would engage the County Government with a view to finalizing the process as soon as possible.
31. The Chief Administrative Secretary appearing before the Committee on March 3, 2021 submitted that the excision of Singila Majengo village, Mwandisha primary school and public utilities including roads & railway reserves was undertaken vide Survey Plan No. F/R 467/87. The County Government of Taita Taveta approved the application for subdivision and change of user vide PPA 2 form dated November 14, 2019.
32. The excision resulted in the creation of Mwatate /Mwatate Block 1/ (11-13). Parcels 11 and 12 must be surrendered to the National Government while parcel 13 must be registered in the original owner's name. The owner proposed to subdivide parcel 13 further.
33. The Committee was also informed that the Director Land Administration issued subdivision scheme approval letters on January 4, 2021 as follows:

Parcel No.	Size (Ha).	Beneficiary
Mwatate/ Mwatate Block 1/ 11 (Shingila Majengo)	85.81	Land Settlement Fund Board of Trustees
Mwatate/ Mwatate Block 1/ 12 (Mwandisha Primary School)	6.34	Cabinet Secretary to the National Treasury
Mwatate/ Mwatate Block 1/ 14	1191.19	Teita Estates Limited
Mwatate/ Mwatate Block 1/ 15	4936.57	Teita Estates Limited
Mwatate/ Mwatate Block 1/ 16	406.26	Teita Estates Limited
Mwatate/ Mwatate Block 1/ 17 (Langatani)	132.54	Land Settlement Fund Board of Trustees

34. In the aforementioned meeting, the Ministry further reported that it was waiting for the mother title to facilitate registration of the scheme and issuance of titles.
35. While appearing before the Committee on Wednesday, July 29, 2021. The Cabinet Secretary for Lands and Physical Planning reported that the title had been surrendered. There were charges registered against the title in favour of Standard Chartered Bank Limited which were discharged on May 5, 2021 to facilitate registration of the subdivisions.

3.2 Meeting with the Managing Director, Teita Sisal Estate

36. **Mr Philip Kriazi, Managing Director (MD), Teita Sisal Estate, accompanied by Mr Emmanuel Mromno, Assistant General Manager** of the estate, met the Committee during a field visit on Friday April 6, 2018 and appeared before the Committee on Thursday April 12, 2018 and June 17 2020, to deliberate on the implementation status of the Report on land issues in Taita Taveta County.
37. The Managing Director informed the Committee that a survey of the sisal estate boundaries had been carried out by the Ministry of Lands & Physical Planning with representatives from relevant stakeholders. The survey confirmed that Teita Sisal Estate owned 30,284 acres (L/R No. 3880/5(16,875 acres); L/R No. 11378(3,344 acres); L/R No. 6924(10,010 acres) and L/R No. 9487(55 acres) and that the land occupied by the estate was less than what was indicated in the mother titles.
38. The allegation of encroachment by the estate on public or community land was not valid. The farm's perimeter had been moved several times during the last 50 years, which may have brought about the confusion on title documents and the Land that the sisal farm currently occupies. However, the Managing director confirmed that although the title documents may read 30, 284 acres, 2284 acres, which were Land excised from road and railway reserves had been subtracted from the mother titles.
39. The Managing director submitted that the Estate had closed no public roads. The road off the Kasigao-Kamtonga Road that leads to Mwandisha Primary School though open to the public is a private road with a roadblock manned by the estate's security personnel.
40. The Managing director reported that there is a school built by the farm to provide education for children of its employees but over time and as part of its corporate social responsibility opened to the neighbouring community. Children are allowed to access the school through a private road. Further, motorists use the road which cuts across the farm to join the Mwatate-Voi Road after passing through a security check at the entrance.

41. The Estate borders had been moved away from the road reserve and therefore, the Estate did not in any way inhibit access to public property.
42. A police post is located within the Estate, but it had never been used to harass the public as alleged in the Departmental Committee on Lands report. He clarified that the police post was built within the estate because, at the time, the workers who lived within the estate constituted the largest population size compared to the surrounding area. This was the case before Mwatate town grew to what it is today.
43. The Managing director further informed the meeting that a dam was constructed within the estate land but due to the exchange of parcel L/R 3880/3 with L/R 3880/5 by the Ministry of Lands & Physical Planning, the dam ended up half in the estate and half accessible to the public on the Mwatate side. However, due to negligence and siltation, the dam gradually divided into two with the side open to the public having shrunk so much that the dam does not hold adequate water.
44. He also pointed out that the public is also building houses and farming around the dam, leading to reducing the amount of water getting into the dam. To maintain water in the dam, the residents and the County Government of Taita Taveta agreed to prevent further encroachment on the catchment area.
45. The Committee heard that the dam needed desilting which needed to be undertaken jointly by the Sisal Estate, the National Government Constituencies Development Fund and the County Government. The residents need to be sensitized on the conservation of the catchment area and degradation of the surrounding Land from farming which has led to siltation.
46. There is also a private airstrip located within the estate land, although open for use by the Kenya Wildlife Service, private planes and the Government. The railway line wayleave was maintained through a fence and the railway station could be accessed via a gate manned by the estate security personnel.
47. The Managing director submitted that the Estate signed Memorandum of Understanding (MoU) with the Ministry of Lands & Physical Planning and the County Government of Taita Taveta to cede Land on which Mwandisha Primary School was located and the roads leading to the school. He reiterated that the road that leads to Matunga that cuts across the farm would remain private.
48. The Managing Director also informed the Committee that the squatters at Singilia Majengo could be settled in the Land they were currently occupying because it did not form part of the estate land. The Majengo area was never in contention because it is on the other side of the Kasigao –Kamtonga public road.

49. The number of squatters had grown exponentially since the court case suspended the MOU signed in 2014, making it challenging to identify the genuine squatters.
50. There were delays in implementing the MoU as it had to be endorsed by the National Government before being effected through the County Government as land matters were devolved.
51. In compensation for the loss of crops, which were ploughed in 1992, the estate had never illegally occupied the land and therefore cannot compensate the farmers for the loss of their crops.
52. The Managing director with the approval of the Ministry of Land, agreed to excise 250 acres of land and donate it to the Government of Kenya to settle Singila/Majengo squatters.
53. The Managing director further submitted that all roads passing through the Estate had been opened to the public and barriers put at a place that will not interfere with the movement of people.
54. He added that the Estate mounted a roadblock and manned the gate to the railway station to prevent vandalism of Kenya Railway property until such a time when the station was re-opened.
55. Registration of squatters is ongoing and the Ministry of Lands and Physical Planning will allocate plots once the survey and registrations are completed. The Ministry of Lands and Physical Planning handled the process; hence, the Managing director couldn't give a timeframe for its finalization.
56. During the field visit held on March 6, 2018, the Managing Director, Teita Sisal Estate, agreed to cede the Land on which Mwandisha Primary School stands to the Ministry of Education and adequately fenced.
57. In a meeting held between the Committee and the Management of Teita Sisal Estate on Wednesday June 17, 2020, the Managing director provided certified copies of title deeds and correspondences between the estate and various entities.

3.3 Meeting with Mwasima Mbuwa Welfare Association

Mr Mnjala Mwaluma, Secretary of Mwasimu Mbuwa Welfare Association; Mr James Mwanjaza, Vice-Chairperson and Mr Thomas Nduku, a Private Investigator, appeared before the Committee during its visit to Mwatate on Friday April 6, 2018.

58. The Association submitted that in 1991, a grader allegedly from Teita Sisal Estate was used to demolish gravesites and crops on Land whose ownership was in dispute which they were occupying as squatters and without any notice of demolition.
59. The Secretary of the Association informed the Committee that they were offered Land at Magaga. However, they refused because there were persons who were already occupying the said Land. They further alleged that the sisal farm had planted sisal crops up to their doorsteps which brought attacks from snakes, scorpions and spiders.
60. The public road through Singila Majengo needed repairs but the Estate had refused graders access to fix the road. The association claimed that the sisal farm had encroached on Land for which they did not have ownership title.
61. The Association submitted that the Sisal Estate through its security personnel denied the public access to public roads and footpaths. For example, the footpath through the Estate Director's residential area to the primary school, the veterinary road to Mwatate – Kasigau road and the road that cuts across the farm. The public was also denied access to the railway station.
62. The Association further alleged that police officers stationed at a police post within the farm were used by the estate management, as a private security firm, to harass and arrest the public who access the roads within the estate. They noted the need to remove all roadblocks to public roads and footpaths manned by Teita Sisal Estate security personnel removed immediately and the public allowed free access. The Association proposed that the police post be moved out of the farm.
63. The Association submitted that it were not a party to or in agreement with the contents of the MoU that was signed between the Teital Sisal Estate and the County Government of Taita Taveta.
64. The Association, in conclusion, requested that Teita Sisal Estate cedes LR 3880/5 and all Land on which public and government facilities are located to the Ministry of Lands & Physical Planning and be converted to community/public trust land. The squatters occupying the Land in Singila should be provided with title documents.

3.4 Meeting with Taita Taveta County Security Intelligence Committee

The Committee held a meeting with Ms Rhoda Onyancha, County Commissioner, Taita Taveta County, during a field visit on Friday April 6, 2018.

65. The County Commissioner submitted that the survey report by the Ministry of Lands in compliance with recommendation No. 2 on Teita Sisal Estate by the Departmental Committee on Lands dated September 6, 2017, had not been communicated to the County Commissioner's office for implementation.
66. The County Commissioner also informed the Committee that there had not convened any forums to communicate the recommendations in the Departmental Committee on Lands Report to the general public in Taita Taveta County. It was alleged that a draft survey report earlier been forwarded by the Ministry of Lands was a forgery, which unfortunately contained recommendations that the County Commissioner was being pressured to implement.
67. She assured the Committee that all roadblocks to public roads would be removed and access by the public to private roads within the sisal estate would be negotiated. The office of the County Commissioner would also ensure that the public has access to schools, railways, dams and any other public utility within the estate.

4.0 IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

68. The following is the status of implementation of the House resolutions:-

- I. The Ministry of Lands, Housing and Urban Development and the National Land Commission should bring proposals for legislation to ensure that property investments benefit local communities and their economy as provided for in Article 66(2) of the Constitution.*

Implementation Status:

69. The Physical and Land Use Planning Act, 2019 was operationalized in 2019. Further, the House has approved various regulations on the same.

Committee Observation

70. Implementation has been done.

- II. The National Cohesion and Integration Commission Should intervene to avert possible Land-based ethnic clashes in the County.*

Implementation Status:

71. Currently, there are no tensions or clashes in the area.

- III. The National Commission on Human Rights should intervene to ascertain any breach of the Bill of Rights (Chapter four of the Constitution).*

Implementation Status:

72. The National Commission on Human rights has not forwarded a report on the matter.

- IV. The Constitutional Implementation Commission intervenes to ensure that the entire process is constitutional and that all respective Government Institutions and State agencies undertake their respective responsibilities accordingly.*

Implementation Status:

73. The Constitutional Implementation Commission ceased to exist when its term expired.

- V. Title deeds should be reviewed in the entire County and land lease examined to establish whether their terms have expired or were renewed without legal procedures. Then, the Land is surrendered to the local community.*

Implementation Status:

74. The Committee is yet to receive any submission from the relevant stakeholders.

Committee Recommendation:

75. In consultation with the Ministry of Lands and Physical Planning, the National Land Commission should carry out the review and submit a report to Parliament.

VI. The Ministry of Interior and Coordination of National Government should immediately ensure that all roads to the primary school, dam, railway and airstrip are opened to allow members of the local community access.

Implementation Status:

76. The Ministry of Lands and Physical Planning surveyed the Land and excised Mwandisha primary school and public utilities like roads & railway reserves.

Committee observation

77. Implementation has been done.

VII. Through the Director of Survey, the Ministry of Lands should survey the land in question to ascertain the boundaries as per the records of 1992 from the Survey of Kenya and to ensure that Teita Sisal Estate only occupies 30,000 acres as per the titles it holds and to release all extra land to the Government.

Implementation Status:

78. A survey was done jointly with the stakeholders and a copy of the report was tabled to Parliament in September 2017. However, the survey report did confirm that Teita Sisal Estate has ownership documents of Estate LR3380/5 (3880/4/R), LR 11378, LR6924 and LR 9487 (dam) from the total acreage of 33,284 acres and that they have not encroached on public or community land.

Committee Observation

79. Implementation has been done.

VIII. The National land Commission initiates an audit of the list of beneficiaries and the entire process leading to land allocation in the Taveta Settlement Scheme.

Implementation Status:

80. The Committee is yet to receive a report on the audit and its findings

Committee Recommendation:

81. In consultation with the Ministry of Lands and Physical Planning, the National Land Commission should carry out the review and submit a report to Parliament.

5.0 COMMITTEE OBSERVATIONS

82. The Committee made the following observations, that: -

- (1) Teita Sisal Estate owns 30,284 acres legally as per the survey report conducted by the Ministry of Lands and Physical Planning. The Estate had not encroached into a public land as alleged;
- (2) Teita Sisal Estate had given up 555 acres (539 acres to the Land Settlement Fund Board of Trustees, 15.6 acres for Mwandisha Primary School);
- (3) Teital Sisal Limited has ensured that there is access to public utilities and roads;
- (4) Teita Sisal Estate had surrendered to the Government LR 3880/3 in lieu of L/R 3880/5 measuring approximately 12,000 acres at Muda bogo. The land reference 3880/3 had been triangulated and excised from the title of the sisal estate. Six thousand (6,000) acres had already been adjudicated, while the remaining 6,000 acres had not been officially allocated to anyone. However, plans were underway by the Ministry of Lands to adjudicate the remaining 6,000 acres to squatters in the area;
- (5) Some of the associations that were purporting to be representatives of the squatters seemed to be involved in fraudulent land activities; and
- (6) There are various land disputes between the local communities and large private land users/companies as evidenced by petitions coming to Parliament (National Assembly and the Senate).

6.0 COMMITTEE RECOMMENDATIONS

83. The Committee, during its Sitting of August 28, 2021 made the following recommendations :-

- (1) The Ministry of Lands and Physical Planning should complete the adjudication process of 6,000 acres excised from the Teita Sisal Estate to the squatters in Taita Taveta County within six months of the adoption of this Report;
- (2) The Ministry of Lands and Physical Planning should, within six (6) months of the adoption of this Report, submit a list of all beneficiaries of the land surrendered by the Estate;
- (3) The Ministry of Lands and Physical Planning, the National Land Commission and the County Government of Taita Taveta should engage the local community for concurrence in extension and renewal of leases for Teita Sisal Estate when they expire; and
- (4) The Directorate of Criminal Investigations to investigate the activities of Mwasima Mbuwa Welfare Association for fraudulent activities targeting the squatters and members of the public and if found culpable, be subjected to due legal process within six months of the adoption of this report.

Signed  Date 29/09/2021

Hon. Moitalel Ole Kenta, MP
Chairperson, Committee on Implementation

MINUTES OF THE 35TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON SATURDAY, 28TH AUGUST, 2021, IN THE BARAZA CONFERENCE HALL, WHITE SANDS HOTEL, MOMBASA, AT 9.30 A.M.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. Alois Musa Lentoimaga, MP
4. The Hon. Richard Onyonka, MP
5. The Hon. (Dr.) James Kipkosgei Murgor, MP
6. The Hon. Mukuha Gabriel Kago, MP
7. The Hon. John Muchiri Nyagah, M.P
8. The Hon. Joash Nyamache Nyamoko, MP
9. The Hon. Joshua Mbithi Mwalyo, MP
10. The Hon. Benjamin Dalu Tayari, MP
11. The Hon. Hassan Oda Hulufu, MP
12. The Hon. Peter Kihara, MP
13. The Hon. Silvanus Osoro, MP
14. The Hon. John Wanjiku, MP

APOLOGIES

1. The Hon. Johnson Many Naicca, MP
2. The Hon. Moses Kuria, MP
3. The Hon. Paul Simba Arati, MP
4. The Hon. Charles Ngusya Nguna, MP
5. The Hon. Feisal Bader, MP
6. The Hon. Jared Okello, MP
7. The Hon. Michael Kingi, MP
8. The Hon. Nelson Koech, MP
9. The Hon. Paul Odalo Abuor, MP

IN-ATTENDANCE

SECRETARIAT

1. Ms. Tracy Chebet Koskei - First Clerk Assistant
2. Mr. Abdirahman G. Hassan - Second Clerk Assistant
3. Mr. Donald Manyala - Research Officer II
4. Ms. Jane Serem - Audio Officer I
5. Mr. Moses Kariuki - Sergeant-at-arms

MIN. NO.NA/COI/2021/162:

PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past nine o'clock and said the Prayer. The Agenda for the meeting was adopted, as proposed and seconded by the Hon. Richard Onyonka, MP and the Hon. John Nyagah, MP, respectively.

MIN. NO.NA/COI/2021/163:

CONFIRMATION OF MINUTES

Confirmations of the Minutes of the previous sitting were deferred to the next sitting.

MIN. NO.NA/COI/2021/164:

**ADOPTION OF THE REPORT ON
IMPLEMENTATION STATUS OF THE
REPORT ON LAND ISSUES IN TAITA
TAVETA COUNTY**

The Committee having scrutinized the Report on implementation status of the report of the Departmental Committee on Lands regarding land issues in Taita Taveta County, unanimously adopted the report, after it was proposed and seconded by the Hon. Godfrey Osotsi, MP, Vice Chairperson, and the Hon. Gabriel Kago, MP, respectively. The committee made the following observations and recommendations: -

Committee Observations

- (1) Teita Sisal Estate owns total of 30,284 acres legally as per the survey report conducted by the Ministry of Lands and Physical Planning. The Estate had not encroached into a public land as alleged.
- (2) Teita Sisal Estate had given up 555 acres (539 acres to the Land Settlement Fund Board of Trustees, 15.6 acres for Mwandisha Primary School).
- (3) Teital Sisal Limited has ensured that there is access to public utilities and roads.
- (4) Teita Sisal Estate had surrendered to the Government LR 3880/3 in lieu of L/R 3880/5 measuring approximately 12,000 acres at Muda bogo. The land reference 3880/3 had been triangulated and excised from the title of the sisal estate. 6000 acres had already been adjudicated, while the remaining 6,000 acres had not been officially allocated to anyone. However, plans were underway by the Ministry of Lands to adjudicate the remaining 6,000 acres to squatters in the area.
- (5) Some of the associations that were purporting to be representatives of the squatters seemed to be involved in fraudulent land activities.

- (6) There continues to be various land disputes between the local communities and large private land users/companies as evidenced by petitions coming to Parliament (National Assembly and the Senate).

Committee Recommendations


The Committee made the following recommendations:-

- (1) The Ministry of Lands and Physical Planning should complete the adjudication process of 6,000 acres excised from the Teita Sisal Estate to the squatters in Taita Taveta County within six months of adoption of this report.
- (2) The Ministry of Lands and Physical Planning should within six (6) months of adoption of this report, submit a list of all beneficiaries of the land surrendered by the Estate.
- (3) The Ministry of Lands and Physical Planning, the National Land Commission and the County Government of Taita Taveta should engage the local community for concurrence in extension and renewal of leases for Teita Sisal Estate when they expire.
- (4) Directorate of Criminal Investigations to investigate the activities of Mwasima Mbuwa Welfare Association for fraudulent activities targeting the squatters and members of the public and if found culpable be subjected to due process.

MIN. NO.NA/COI/2021/165:

ADJOURNMENT

There being no other business, the meeting was adjourned at twenty minutes past one (1.20 pm).

Sign.......... Date 29/09/2021
(Chairperson)

The National Assembly



12th Parliament-5th Session-2021



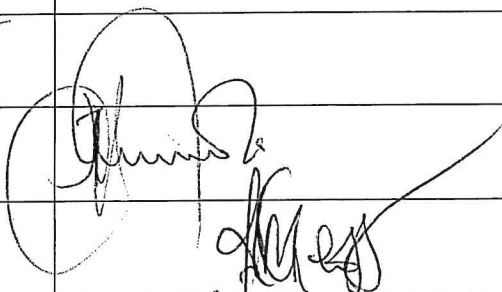
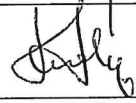
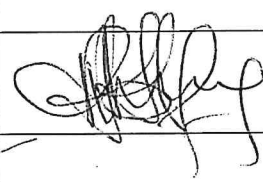
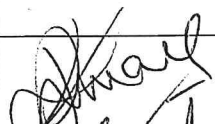
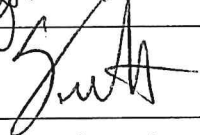
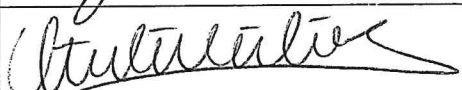
Committee on Implementation

Agenda: *Adoption of the report on implementation status of the Report regarding Land issues in Taita Taveta County*

Venue: Sarova Whitesands Hotel, Mombasa

Date:

S/NO.	NAME	SIGNATURE
1.	The Hon. Moitalel Ole Kenta, MP – Chairperson	
2.	The Hon. Godfrey Osotsi, MP - Vice Chairperson	
3.	The Hon. Richard Onyonka, MP	
4.	The Hon. Alois Musa Lentoimaga, MP	
5.	The Hon. (Dr.) James Kipkosgei Murgor, MP	
6.	The Hon. Johnson Many Naicca, MP	
7.	The Hon. Moses Kiarie Kuria, MP	
8.	The Hon. Paul Simba Arati, MP	

9.	The Hon. Charles Ngusya Nguna, MP	
10.	The Hon. Feisal Abdalla Bader, MP	
11.	The Hon. Gabriel Kago Mukuha, MP	
12.	The Hon. Hassan Oda Hulufu, MP	
13.	The Hon. Jared Okello, MP	
14.	The Hon. Joash Nyamache Nyamoko, MP	
15.	The Hon. John Muchiri Nyagah, MP	
16.	The Hon. Joshua Mwalyo Mbithi, MP	
17.	The Hon. Michael Thoya Kingi, MP	
18.	The Hon. Nelson Koech, MP	
19.	The Hon. Benjamin Dalu Tayari, MP	
20.	The Hon. Paul Abuor, MP	
21.	The Hon. Peter Kimari Kihara, MP	
22.	The Hon. Silvanus Osoro, MP	
23.	The Hon. John Njuguna Wanjiku, MP	

Committee Clerk

Name.....

.....

Date.....

(Signature)