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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION – 2020

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE CONSIDERATION OF A PETITION BY RESIDENTS OF
CHEPCHABAS REGARDING HISTORICAL LAND INJUSTICES IN
CHEPCHABAS AREA IN BOMET AND KERICHO COUNTIES

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 01 DEC 2020	DAY: TUE
TABLED BY:	Hon. Rachel Nyamoi Chair Person Lands
THE TABLE:	MIRIAM MASO

DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

DECEMBER, 2020

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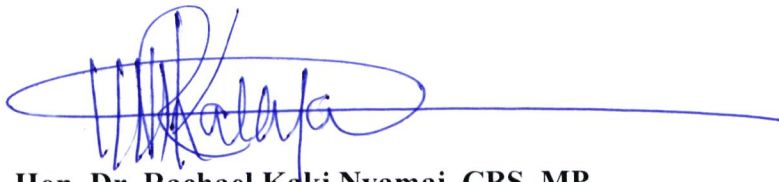
CHAIRPERSON'S FOREWORD

The Petition by residents of Chepchas regarding Historical Land injustices in Chepchas area in Bomet and Kericho Counties was conveyed to the House by the Hon. Brighton Yegon MP on behalf of Petitioners on 9th September, 2020.

In considering the Petition, the Committee held meetings with the Hon Brighton Yegon , MP on behalf of the Petitioners on 10th November, 2020 and the Chairperson, National Land Commission on 24th November, 2020.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to the Petitioners, the Hon Brighton Yegon MP, the Chairperson, National Land Commission, for the submissions they made to the Committee.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my pleasant duty to table the Report of the Departmental Committee on Lands on its consideration of the Petition by residents of.



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

EXECUTIVE SUMMARY

The purpose of this report is to respond to prayers made in a Petition by residents of Chepchas regarding Historical Land injustices in Chepchas area in Bomet and Kericho Counties. The Petitioners prayed that the National Assembly through Departmental Committee on Lands:

- a) Enquires into the irregular take-over of land in *Chepchas* area with the objective of facilitating due compensation for residents of area.
- b) Undertake a satisfactory audit to all matters that surround the sale of land by *James Finlay* to *Chepchas* Farmers' Cooperative Society.
- c) Recommend where possible that James Finlay Kenya Limited grants *Chepchas* squatters pre-emptive rights in any future land dealings.
- d) Recommends that James Finlay Kenya Limited shares mesne profits with *Chepchas* squatters proportionately for the number of years that the firm has utilized the land.
- e) Make any other recommendation it deems fit in addressing the circumstances raised in this Petition.

The Committee observed that the issues raised in the Petition were also contained in three Historical Land Injustice claims lodged with the National Land Commission. The claims were lodged by the County Governments of Kericho and Bomet, Kipsigis Clans, the Talai and Barowo clans and the Kipsigis Self Help groups against the British Government and Kenya Government.

The Committee noted that the Commission determined the said Historical Land Injustice claims and gazetted the same through Gazette Notice No. 1995 of 1st March 2019.

The Committee further observed that the determination was however challenged by the several multinational companies in Miscellaneous Civil Application No.95 of 2019 at the High Court in Nairobi seeking orders of Certiorari and prohibition against the National Land Commission, the Director of Survey, Ministry of Lands & Physical Planning and the County Government of Kericho and Bomet.

The evidence submitted to the Committee by the Chairperson National Land Commission indicated that the matters raised in the Petition were pending before the High Court in Nairobi in Miscellaneous Civil Application No.95 of 2019.

The Committee also observed that Standing Order 89 provides that no Member shall refer to any particular matter which is *sub judice* and a matter is considered to be *sub judice* when it refers to active civil proceedings and the discussion of such matter is likely to prejudice its fair determination.

The Committee further noted that the matters raised in the Petition fall under the *sub judice* rule in accordance to Standing Order 89 as they refer to active civil proceedings and the consideration of the Petition is likely to prejudice the fair determination of the case.

In response to the prayers by the Petitioners, the Committee recommends that pursuant to the submissions tabled before the Committee demonstrating that the matters raised in the Petition are subject to active proceedings before the High Court in Miscellaneous Civil Application No.95 of 2019, the Committee resolves that the matters raised in the Petition are *sub judice*. Therefore, pursuant to Standing Order 89 of the National Assembly Standing Orders, the Committee recommends that any further consideration and determination of the Petition should not be proceeded with.

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Lands is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference: -
 - (i) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - (ii) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
 - (iii) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
 - (iv) study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared
 - (v) with their stated objectives;
 - (vi) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister.
 - (vii) study and review all legislation referred to it.

1.2 Committee subjects

2. The Committee is mandated to consider the following subjects:

- a) Lands
- b) Settlement

1.3 Oversight

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

1.4 Committee Membership

4. The Committee membership comprises:

Chairperson

Hon. Dr. Rachael Nyamai, CBS, MP
MP for Kitui South Constituency
Jubilee Party

Vice Chairperson

Hon. Khatib Mwashetani, MP
MP for Lunga Lunga Constituency

Jubilee Party

Hon. Benjamin Washiali, CBS,
MP
Member for Mumias East
Constituency
Jubilee Party

Hon. Ahmed Kolosh, MP
Member for Wajir West
Constituency
Jubilee Party

Hon Joshua Kutuny Serem, MP
Member for Cherangany
Constituency
Jubilee Party

Hon. Ali Mbogo, MP
Member for Kisauni
Constituency
**Wiper Democratic Movement
(WDM)**

Hon. Mishi Mboko, MP
Member for Likoni Constituency
**Orange Democratic Movement
(ODM)**

Hon. Babu Owino, MP
Member for Embakasi East
Constituency
**Orange Democratic Movement
(ODM)**

Hon. Omar Mwinyi, MP
Member for Changamwe
Constituency
**Orange Democratic Movement
(ODM)**

Hon. Caleb Kipkemei Kositany,
MP
Member for Soy Constituency
Jubilee Party

Hon George Aladwa, MP

Member for Makadara
Constituency

**Orange Democratic Movement
(ODM)**

Hon George Risa Sunkuyia, MP

Member for Kajiado West
Constituency

Jubilee Party

Hon. John Muchiri Nyaga, MP

Member for Manyatta
Constituency

Jubilee Party

Hon. Josphat Gichunge
Kabeabea, MP

Member for Tigania East
Constituency

Party of National Unity (PNU)

Hon. Lilian Tomitom, MP

Member for West Pokot County

Jubilee Party

Hon. Owen Yaa Baya, MP

Member for Kilifi North
Constituency

**Orange Democratic Movement
(ODM)**

Hon. Patrick Munene Ntwiga,
MP

Member for
Chuka/Igambangombe
Constituency

Jubilee Party

Hon. Samuel Kinuthia Gachobe,
MP

Member for Subukia
Constituency

Jubilee Party

Hon. Teddy Mwambire, MP

Member for Ganze Constituency

**Orange Democratic Movement
(ODM)**

1.5 Committee Secretariat

5. The Committee secretariat comprises: -

Lead Clerk

Mr. Leonard Machira

Senior Clerk Assistant

Mr. Ahmad Guliye
Second Clerk Assistant

Ms. Winnie Kizia
Media Relations Officer III

Dr. Kefa Omoti
Principal Researcher Officer

Mr. Dennis Mawira
Audio Officer

Ms. Jemimah Waigwa
Legal Counsel I

Ms. Peris Kaburi
Serjeant-At-Arms

Mr. Adan Abdi
Fiscal Analyst III

2.0 INTRODUCTION

6. The Petition by residents of by residents of Chepchas regarding Historical Land injustices in Chepchas area in Bomet and Kericho Counties was conveyed to the House by the Hon. Brighton Yegon MP on behalf of Petitioners on 9th September, 2020.
7. The Petitioners wished to draw the attention of the House to the following, that:
 - i. Commencing from 1925 the African Highland Produce Company (AHPC) which is a subsidiary of Muir Finlay (now operating as James Finlay Kenya and belongs to the Swire Group , started appropriating land in various stages from the Kipsigis community for expansion of the tea holdings;
 - ii. The said land appropriation led to burning of huts, scattering of livestock and destruction of granaries with the assistance of the Colonial Government in total disregard of the local peoples 's rights of occupancy and ownership;
 - iii. Under the Residents Labourers Ordinance of 1937 , the local Kipsigis people were systematically moved and settled into various estates as squatter labourers whereby every resident aged over 16 years was compelled to sign contracts having restrictive terms in order to remain in the land and provide labour for the estates;
 - iv. Most of the people living in adjacent villages of *Changana, Marinyin, Chemasingi, Chepkoiben, Matuta, Bodet, Cheymen, Timbilil, Ketumbe* and *Chepchas* villages were moved to designated areas at the periphery of their villages in line with the said Ordinance and for fear of losing their ancestral land, most of the squatters put their thumb prints on the contracts that bound them to remain on two acres of land , keep limited livestock and provide labour for at least 300 days per year for as little as Ksh 24 per mensem.
 - v. In 1952 over 888 families and residents of Kimulot were violently evicted from their land totaling 5,183 acres to create more land for Kimulot Tea Company, with many of them getting incorporated as squatters under the same Ordinance;
 - vi. With the outlawing of squatter system , many squatters were expelled from the land after AHPC issued a letter in 1961 to the effect that no licenses

would be renewed upon the demise of original squatters , and further identified 214 squatter families from *Chebitet, Chemasingi , Simotwet, Chepgoiben, Dimbolil, Tiluet, Kaproret . Chemamul, Marinyin, and Masobet* Estates for removal from their land;

- vii. In December 1974 , AHPC hived off 600 acres from Kimulot land LR No. 8804 /1 earmarked for sale to these squatters who had been organized into the Chepchabas Farmers Cooperative Society at Ksh 185 per acre which was technically meant that AHPC was taking back the money it had paid the workers over the years;
 - viii. AHPC further created Chepchabas Cooperative Society comprised of the 88 families and demanded payment of Khs.80 per acre from them in 1975 , thereby assigning most families as little as 1.6 acres which in some cases was on riparian reserve and despite 85 acres being allocated by AHPC for common income generation through tea farming , the said resources have proved too minimal and unsustainable for a population which now exceeds 5,000 residents;
 - ix. Actions by AHPC compelled the residents of Chepchabas into squatter life in their own ancestral land;
 - x. The National Land Commission in its ruling on 7th February 2019, noted that he African Highlands Produce Company (AHPC) (now operating as James inlay Kenya) needed to pay the affected residents mesne profits for utilizing their land over the years;
 - xi. Efforts to address this matter with the other relevant authorities have been futile; and
 - xii. The matter in respect of which this Petition is made is not pending before any court of law or Constitutional body.
8. Therefore, the Petitioners prayed that the National Assembly through the Departmental Committee on Lands:
- i) Inquiries into the irregular take-over of land in Chepchabas area of Bomet and Kericho Counties with the objective of facilitating due compensation for

residents of the area who were compelled into squatter life in their own ancestral land;

- ii) Undertakes a satisfactory audit of the original sale of land to the Chepchas Farmers' Cooperative Society to ascertain whether the entire 600 acres of land were actually granted to the society and whether each squatter got the land that they paid for, and orders that the said land grant be given unconditionally if found not to have been fully granted;
- iii) Recommend where possible that James Finlay Kenya Limited grants Chepchas squatters pre-emptive rights in any future land deals;
- iv) Recommend where possible that James Finlay Kenya Limited shares mesne profits with Chepchas squatters proportionately for the number of years the firm has utilized the land; and
- v) Makes any other appropriate recommendations it deems fit in addressing the circumstances raised in this Petition

3.0 SUBMISSIONS

3.1 Submissions the Hon. Brighton Yegon MP on behalf of the Petitioners

9. The Committee held a meeting with the Hon, Brighton Yegon MP on behalf of the Petitioners on 10th November, 2020. During the meeting, he informed the Committee as follows:
10. Under the Resident Labourers Ordinance of 1937, land belonging to the Kipsigis Community in the present day Bomet & Kericho counties was alienated and the locals rendered squatters and labourers in their own land.
11. In 1952, over 88 families in Kimulot area were evicted from 5,183 acres to pave way for *Kimulot* Tea Company.
12. In December 1974, African Highlands Produce Company (APHC) hived off 600 acres from *Kimulot* land L.R No. 8804/1 and earmarked it for sale to the squatters at Ksh. 185 per acre.
13. The affected families lodged an Historical Land Injustice claim with the National Land Commission and in its ruling on 7th February, 2019 the Commission noted that the APHC (now operating as James Finlay Kenya) needed to pay the affected residents mesne profit for utilizing their land over the years.
14. However, the affected residents have not received the mesne profit as per the determination of the National Land Commission.
15. The Petitioners therefore sought the intervention of the Committee to have the recommendation implemented.

3.2 Submissions by the Chairperson, National Land Commission

16. The Committee held a meeting with the Chairperson National Land Commission on 24th November 2020. During the meeting, the Chairperson informed the Committee that:
17. The issues raised in the Petition were also contained in three Historical Land Injustice claims lodged with the Commission. The claims were lodged by the County Governments of Kericho and Bomet, Kipsigis Clans, the Talai and Barowo clans and the Kipsigis Self Help groups against the British Government and Kenya Government. The said claims were as follows:

- i) NLC/ HLI/546/2018
- ii) NLC/HLI/ /044/2017

iii) NLC/HLI/171/2017

18. The Commission determined the Historical Land Injustice claims and gazetted the same through Gazette Notice No. 1995 of 1st March 2019.
19. The determination was however challenged by the following multinational companies in Miscellaneous Civil Application No.95 of 2019 at the High Court in Nairobi seeking orders of Certiorari and prohibition against the National Land Commission, the Director of Survey, Ministry of Lands & Physical Planning and the County Government of Kericho and Bomet:
 - i. James Finlay Kenya Limited;
 - ii. Sotik Tea Company Limited;
 - iii. Sotik Highlands Tea Company Limited;
 - iv. Changoi/Lelsa Tea Estate Limited;
 - v. Tinderet Tea Estate Limited;
 - vi. Kaimosi Tea Estate Limited;
 - vii. Kapchoroa Tea PLC;
 - viii. Kipkebe Ltd;
 - ix. Nandi Tea Estate Limited;
 - x. Kaisugu Limited
 - xi. Emrok (EPZ) Tea Factory Limited; and
 - xii. Members of the Kenya Tea Growers Association
20. The matter is still pending in court and any further implementation will be determined by the court.
21. The matter was last in court on 3rd November, 2020 for mention and was scheduled for further mention on 1st February 2021.

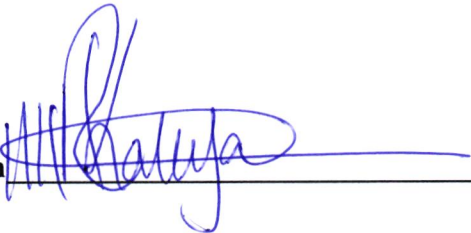
4.0 OBSERVATIONS

The Committee made the following observations:

1. The issues raised in the Petition were also contained in three Historical Land Injustice claims lodged with the Commission. The claims were lodged by the County Governments of Kericho and Bomet, Kipsigis Clans, the Talai and Barowo clans and the Kipsigis Self Help groups against the British Government and Kenya Government.
2. The Commission determined the said Historical Land Injustice claims and gazetted the same through Gazette Notice No. 1995 of 1st March 2019.
3. The determination was however challenged by several multinational companies in Miscellaneous Civil Application No.95 of 2019 at the High Court in Nairobi seeking orders of Certiorari and prohibition against the National Land Commission, the Director of Survey, Ministry of Lands & Physical Planning and the County Government of Kericho and Bomet. The matter is still pending in court
4. The evidence submitted to the Committee by the Chairperson National Land Commission indicated that the matters raised in the Petition were pending before the High Court in Nairobi in miscellaneous civil application No.95 of 2019.
5. The Committee also observed that Standing Order 89 provides that no Member shall refer to any particular matter which is *sub judice* and a matter is considered to be *sub judice* when it refers to active civil proceedings and the discussion of such matter is likely to prejudice its fair determination.
6. The Committee further noted that the matters raised in the Petition fall under the *sub judice rule* in accordance with Standing Order 89 as they refer to active civil proceedings and the consideration of the Petition is likely to prejudice the fair determination of the case.

5.0 COMMITTEE RECOMMENDATION

Pursuant to the submissions tabled before the Committee demonstrating that the matters raised in the Petition are subject to active proceedings before the High Court in Miscellaneous Civil Application No.95 of 2019, the Committee resolves that the matters raised in the Petition are *sub judice*. Therefore, pursuant to Standing Order 89 of the National Assembly Standing Orders, the Committee recommends that any further consideration and determination of the Petition should not be proceeded with.

Sign  Date 01/12/2020

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

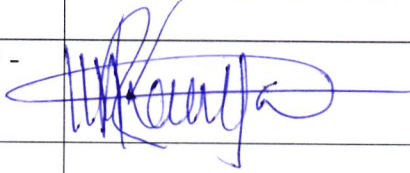



DEPARTMENTAL COMMITTEE ON LANDS

Adoption List

Date: 25th Nov' 2020

**Adoption of report on the Petition by residents of Chepchas regarding
Historical Land Injustices in Chepchas area in Bomet and Kericho Counties**

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

**MINUTES OF THE 50TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
LANDS HELD ON WEDNESDAY, 25TH NOVEMBER, 2020 IN THE COMMITTEE
ROOM 8^H FLOOR, UKULIMA HOUSE, PARLIAMENT BUILDINGS AT 11.00 A.M.**

PRESENT

1. Hon. Dr. Rachael Nyamai, CBS, M.P
 2. Hon. Khatib Mwashetani, M. P
 3. Hon. Joshua Kutuny, MP
 4. Hon. Mishi Mboko, M.P
 5. Hon. Omar Mwinyi Shimbwa, M.P
 6. Hon. Ahmed Kolosh, MP
 7. Hon. Babu Owino, MP
 8. Hon. Caleb Kositany, M.P
 9. Hon. George Risa Sunkuyia, M.P
 10. Hon. John Muchiri Nyaga, MP
 11. Hon. Owen Yaa Baya, M.P
 12. Hon. Patrick Munene Ntwiga, MP
 13. Hon. Samuel Kinuthia Gachobe, MP
 14. Hon. Teddy Mwambire, M.P
- Chairperson
- Vice Chairperson

APOLOGIES

1. Hon. Benjamin Washiali, CBS, MP
2. Hon. Ali Mbogo, M.P
3. Hon. George Aladwa, M.P
4. Hon. Josphat Gichunge Kabeabea, M.P
5. Hon. Lilian Tomitom, MP

IN ATTENDANCE

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Ahmad Guliye - Second Clerk Assistant
3. Dr. Kefa Omoti - Principal Research Officer

MIN. NO. NA/DCS/LANDS/2020/198: PRELIMINARIES

The meeting was called to order at five minutes past eleven o'clock and prayers were said.

MIN. NO. NA/DCS/LANDS/2020/199: CONFIRMATION OF MINUTES

This agenda item was differed to the next sitting.

MIN. NO. NA/DCS/LANDS/2020/200: ADOPTION OF THE REPORT ON THE PETITION BY RESIDENTS OF CHEPCHABAS REGARDING HISTORICAL LAND INJUSTICES IN CHEPCHABAS AREA IN BOMET AND KERICHO COUNTIES

The Committee adopted the report on the Petition by residents of Chepchabas regarding Historical Land Injustices in Chepchabas area in Bomet and Kericho Counties with the following observations and recommendation after it was proposed and seconded by Hon. Teddy Mwambire, M.P and, Caleb Kositany M.P respectively.

Observations

- I. The issues raised in the Petition were also contained in three Historical Land Injustice claims lodged with the Commission. The claims were lodged by the County Governments of Kericho and Bomet, Kipsigis Clans, the Talai and Barowo clans and the Kipsigis Self Help groups against the British Government and Kenya Government.
- II. The Commission determined the said Historical Land Injustice claims and gazetted the same through Gazette Notice No. 1995 of 1st March 2019.
- III. The determination was however challenged by several multinational companies in Miscellaneous Civil Application No.95 of 2019 at the High Court in Nairobi seeking orders of Certiorari and prohibition against the National Land Commission, the Director of Survey, Ministry of Lands & Physical Planning and the County Government of Kericho and Bomet. The matter is still pending in court
- IV. The evidence submitted to the Committee by the Chairperson National Land Commission indicated that the matters raised in the Petition were pending before the High Court in Nairobi in miscellaneous civil application No.95 of 2019.
- V. The Committee also observed that Standing Order 89 provides that no Member shall refer to any particular matter which is *sub judice* and a matter is considered to be *sub judice* when it refers to active civil proceedings and the discussion of such matter is likely to prejudice its fair determination.
- VI. The Committee further noted that the matters raised in the Petition fall under the *sub judice rule* in accordance with Standing Order 89 as they refer to active civil proceedings and the consideration of the Petition is likely to prejudice the fair determination of the case.

Recommendation

Pursuant to the submissions tabled before the Committee demonstrating that the matters raised in the Petition are subject to active proceedings before the High Court in Miscellaneous Civil Application No.95 of 2019, the Committee resolves that the matters raised in the Petition are *sub judice*. Therefore, pursuant to Standing Order 89 of the National Assembly Standing Orders, the Committee recommends that any further consideration and determination of the Petition should not be proceeded with.

MIN. NO. NA/DCS/LANDS/2020/201: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at thirty-nine minutes past eleven o'clock.

Signature


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

(Chairperson)

Date.....

01/12/2020

Hon. Speaker,
You may approve.
19/09/20
10.9.2020

MARHZA
Please deal
FAA
18/9/20



Approved
SNA
10/9/2020

RECEIVED
18 SEP 2020

REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (FOURTH SESSION)
THE NATIONAL ASSEMBLY
PUBLIC PETITION

(No. 27 of 2020)

REGARDING HISTORICAL LAND INJUSTICES IN CHEPCHABAS AREA IN BOMET AND KERICHO COUNTIES

I, the UNDERSIGNED, on behalf of the people of Chepchasbas Area in Bomet and Kericho Counties;

DRAW the attention of the House to the following: -

1. THAT, commencing from 1925, the African Highlands Produce Company (AHPC) which is a subsidiary of Muir Finlay (now operating as James Finlay Kenya) and belonging to the Swire Group, started appropriating land in various stages from the Kipsigis community for expansion of the tea holdings;
2. THAT, the said land appropriation led to burning of huts, scattering of livestock and destruction of granaries with the assistance of the Colonial Government in total disregard of the local people's rights of occupancy, possession and ownership;
3. THAT, under the Resident Labourers Ordinance of 1937, the local Kipsigis people were systematically moved and settled into various estates as squatter labourers whereby every resident aged over 16 years was compelled to sign contracts having restrictive terms in order to remain in the land and provide labour for the estates;
4. THAT, most of the people living in adjacent villages of *Changana, Marinyin, Chemasingi, Chepkoiben, Matuta, Bondet, Cheymen, Timbilil, Ketumbe* and *Chepchabas* villages were moved to designated areas at the periphery of their respective villages in line with the said Ordinance, and for fear of losing their ancestral land, most of the squatters put their thumb prints on contracts that bound them to remain on two acres of land, keep limited livestock and provide labour for at least 300 days per year for as little as Ksh 24 per mensem;
5. THAT, in 1952, over 88 families and residents of *Kimulot* were violently evicted from their land totaling 5,183 acres to create more land for *Kimulot* Tea Company, with majority of them getting incorporated as squatters under the same Ordinance;

PUBLIC PETITION

REGARDING HISTORICAL LAND INJUSTICES IN CHEPCHABAS AREA
IN BOMET AND KERICHO COUNTIES

6. THAT, with the outlawing of squatterism, many squatters were expelled from the land after AHPC issued a letter in 1961 to the effect that no licenses would be renewed upon the demise of original squatters, and further identified 214 squatter families from *Chebitet, Chemasingi, Simotwet, Chepgoiben, Dimbolil, Tiluet, Kaproret, Chemamul, Marinyin* and *Masobet* Estates for removal from their land;
7. THAT, in December 1974, AHPC hived off 600 acres from the *Kimulot* land L.R. No. 8804/1 earmarked for sale to these squatters who had been organized into the *Chepchas* Farmers' Cooperative Society at Kshs. 185 per acre which technically meant that AHPC was taking back the money it had paid the workers over the years;
8. THAT, AHPC further created *Chepchas* Cooperative Society comprised of the 214 families and demanded payment of Ksh 280 per acre from them in 1975, thereby assigning most families as little as 1.6 acres which in some cases was on riparian reserve and despite 85 acres being allocated by AHPC for common income generation through tea farming, the said resources have proved too minimal and unsustainable for a population which now exceeds 5,000 residents;
9. THAT, actions by AHPC compelled the residents of *Chepchas* into squatter life in their own ancestral land;
10. THAT, the National Land Commission in its ruling on 7th February 2019, noted that the African Highlands Produce Company (AHPC) (now operating as James Finlay Kenya Kenya) needed to pay the affected residents mesne profits for utilizing their land over the years;
11. THAT, efforts to address this matter with other relevant authorities have not borne much fruit;
12. AND THAT, the matter in respect of which this Petition is made is not pending before any Court of Law or Constitutional body.

NOW THEREFORE, your humble Petitioners pray that the National Assembly through the Departmental Committee on Lands-

- a) Enquires into the irregular take-over of land in *Chepchas* Area in Bomet and Kericho Counties with the objective of facilitating due compensation for residents of the area who were compelled into squatter life in their own ancestral land;
- b) Undertakes a satisfactory audit of the original sale of land to the *Chepchas* Farmers' Cooperative Society to ascertain whether the entire 600 acres of land were actually granted to the Society and whether each squatter got the land that they paid for, and orders that the said land grant be given unconditionally if found not to have been fully granted;

PUBLIC PETITION

**REGARDING HISTORICAL LAND INJUSTICES IN CHEPCHABAS AREA
IN BOMET AND KERICHO COUNTIES**

- c) Recommends where possible that James Finlay Kenya Limited grants *Chepchas* squatters pre-emptive rights in any future land dealings;
- d) Recommends where possible that James Finlay Kenya Limited shares mesne profits with *Chepchas* squatters proportionately for the number of years the firm has utilized the land; and
- e) Makes any other appropriate recommendations it deems fit in addressing the circumstances raised in this Petition.

And your **PETITIONERS** will ever pray.

PRESENTED BY



**HON. BRIGHTON YEGON, MP
KONOIN CONSTITUENCY**

Date.. 9/09/2020

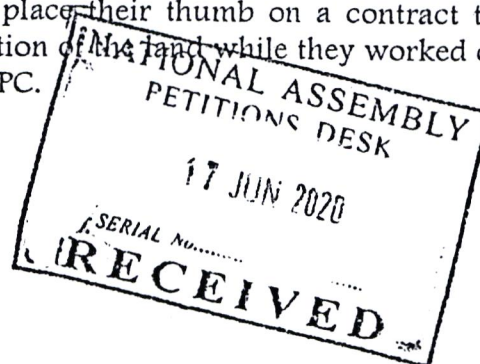
**PUBLIC PETITION TO THE KENYA NATIONAL ASSEMBLY REGARDING
HISTORICAL LAND INJUSTICES IN CHEPCHABAS, BOMET COUNTY**

Pursuant to Articles 37 and 119 of the Constitution of Kenya and the Petition to Parliament (Procedure) Act No. 22 of 2012 as well as Standing Orders 219 and 223 of the National Assembly on Involvement in the Legislative and other Business of Parliament of Parliament and also in accordance with Article 118(b) of the aforesaid Constitution; we, the undersigned, being citizens of the Republic of Kenya and being the representatives of the people of Chepchasbas in Konoin Constituency of Bomet County, wish, in the interest of the public, to lodge this petition concerning certain grave injustices that occurred on various dates between 1925 and 1951 in the then larger Kericho District (now Kericho and Bomet counties) over their land located therein also known as Chepchasbas.

We wish to humbly draw the attention of the House to the following:

THAT:

1. Starting from 1925, the African Highlands Produce Company (AHPC) a subsidiary of the Muir Finlay (now trading as James Finlay of Kenya belonging to the Swire Group, appropriated land in various stages from the Kipsigis to expand their tea holdings.
2. To appropriate the land, huts were burnt, livestock scattered and granaries destroyed in an exercise that took place in full disregard to their rights of occupancy and possession with the assistance of the Colonial government.
3. Under the Resident Labourers Ordinance of 1937, the Kipsigis were systematically moved into sections of various estates and settled there as squatter labour.
4. Every Kipsigis aged 16 and above, was required to sign a contract with restrictive terms in order to remain on the land and to provide labour for the estates (see Annexure 1).
5. Most of these people living in adjacent villages of Changana, Marinyin, Chemasingi, Chepkoiben, Matuta, Bondet, Cheymen, Timbilil and Ketumbe and Chepchasbas villages were encouraged to move to a designated areas at the peripherals of their villages to live there as squatters in accordance to the said ordinance.
6. The squatters had to place their thumb on a contract that would make them remain on a portion of the land while they worked on the remainder to plant tea for the AHPC.



7. Rather than leave, fearing they would permanently lose their ancestral land, most of these squatters signed the contracts that bound them to remain on 2 acres of land, keep 20 sheep, no cattle or goats or donkeys, and to provide labour for a minimum of 300 days of the year and as late as 1954, some of these individuals were paid Sh. 24 per mensem with little else.
8. When the children of the squatters attained the age of 16, they were required to leave home permanently and to sign a contract of their own failure to which, the entire family would be evicted from that land.
9. The squatters continued under these painful conditions, many were evicted anyway, even for the slightest reason and had to leave the precincts of the tea estates.
10. In 1952, the residents of Kimulot were violently evicted from their land to create more land for the Kimulot Tea Company, a subsidiary of the African Highlands Produce Company. Some 88 families evicted from a total of 5,183 acres of land. This land was registered as LR no 7797 with a 999-year lease from August 1, 1951.
11. Nearly half of evictees above, were created as squatters under the conditions aforesaid.
12. The population of these squatters grew, and as Independence approached, squatterism was outlawed leaving a problem in the hands of AHPC on what to do with these men and women.
13. Various squatters were expelled from the land on various dates with little or no reason at all (see annexure ...)
14. On June 29, 1961, the AHPC issued a letter which stated that no licenses would be renewed when the original squatters die. For those remaining, the license continued to limit the land under occupation to two acres but if each squatter 'was too old to work', they would be confined to a half acre of land.
15. In 1971, the AHPC identified 214 squatter families from ten different estates and decided to remove them to a portion of the land which they demarcated and curved out of their original holding.
16. These squatters, names attached herein, were drawn from the following estates
 - a. Chebitet Estate – 56 squatters
 - b. Chemasingi Estate – 20 squatters
 - c. Simotwet Estate – 31 squatters
 - d. Chepgoiben Estate – 24 squatters
 - e. Dimbolil Estate – 3 squatters

- f. Tiluet Estate – 3 squatters
 - g. Kaproret Estate – 33 squatters
 - h. Chemamul Estate – 14 squatters
 - i. Marinyn Estate – 23 squatters
 - j. Masobet Estate – 7 squatters
- Total 214 squatters
17. In December 1974, the AHPC decided to hive off land from the land LR No. 7797 measuring 5,183 acres to create LR No. 8804/1 measuring 600 acres.
 18. This land was earmarked to be sold to the aforementioned squatters who had been organized into the Chepchabas Farmers Cooperative Society.
 19. Starting from 1975, all the squatters were moved to a section on the southern edge of the said land with each of the 214 families receiving 2 acres each with the remainder going to plant tea for common income to all the members.
 20. The deal was concluded with a contract that sold the land for Sh. 111,280 which placed each acre at Sh. 185. Each of the 214 families was required to pay Sh. 517 for that land.
 21. On October 27, 1977, Title Deed for LR No. 8804/1 was issued for 247.9 hectares (612 acres) with the extra being provision for roads, social facilities etc.
 22. The amounts were paid which in effect meant that AHPC was taking back all the money it had paid the workers over the years.
 23. There was the additional 5 acres that each squatter was entitled to and so they expected to have some 7 acres of land for each of the 214 families
 24. The total land expected was 1498 acres (214x7)
 25. The land was carved out of LR No. 7797 to create LR 7797/1 which was sold to the squatters. The land lay between the Chepchabo and Koruma rivers.
 26. The AHPC set up a co-operative society named Chepchabas Cooperative Society with all the 214 families being members.
 27. In 1975, after living on the land for four years, they were asked to pay for the land Sh. 280 per acre for a maximum of Sh. 560 (two acres)
 28. The AHPC then decided that it would have 85 acres of that 428 acres of land to be planted with tea so that it would be an income for the 214 families.
 29. This meant that each family got some 1.6 acres of land on average. However, some of that land was on riparian reserves and some, such as Kibomut araap Chumo (Plot number Number 196), got as little as 0.25

acres of land. Chumo was a former squatter at Ketumbe / Kaproret estate. (See annexure...)

30. The The land turned out to be woefully small given the numbers of squatters over the years so that as of 2009 the official census at Chepchabas placed the residents at 4,095.
31. The income from the Co-operative however, when shared is unsustainably for a group that has since surpassed 5,000 individuals and many of whom live in diaspora.
32. Today, the Chepchabas squatters continue to live in abject poverty. Meanwhile, the bulk of their land continues to be exploited by the AHPC.

PETITION

With that said, we, the people of Chepchabas would like to state as follows:

1. considering the fact that the squatters on the land under which the African Highlands Produce Company now trading as James Finlay Kenya Ltd. was acquired irregularly from the Kipsigis by way of force and without any form of compensation for the affected families
2. considering that the rules of natural justice was breeched in the aforesaid eviction process
3. considering that the said company proceeded and sold tiny portions of the land back to the former evictees who had since been declared squatters
4. considering the fact that the National Land Commission in its ruling of February 7, 2019 Ref. No. NLC/HLI/546/2018, NLC/HLI/044/2017 AND NLC/HLI/173/2017 *County Governments of Kericho and Bomet, Kipsigis Clans, Talai Clan Community and Borowo and Kipsigis Clans Self Help Group vs The British Government, the Government of Kenya of 2019* that, among others, the tea multinational pay the Kipsigis mesne profits for utilizing their land over the years

We would therefore wish to petition the National Assembly that

1. a proper audit of the original sale of land to the Chepchabas Farmers Cooperative Society be done to ascertain whether the full 600 acres was actually granted to the society and that each squatter got the land they paid for.
2. That the aforesaid company make a land grant of 5 (five) acres to each of the original squatters over and above what they bought
3. That the said land grant be given without any conditionality whatsoever
4. That the said company grants the Chepchabas squatters pre-emptive rights in any future land dealings

5. That the said company share mesne profits with the said squatters proportionally for the years they been on that land

Signed: For and on behalf of the people of Chepchas



HON BRIGHTON YEGON
MP – KONOIN CONSTITUENCY
BOMET COUNTY
JUNE 12, 2020

PUBLIC PETITION
(No. 23 of 2020)

**REGARDING HISTORICAL LAND INJUSTICES IN CHEPCHABAS AREA
OF BOMET AND KERICHO COUNTIES**

We, the undersigned, hereby append our signatures in support of this Petition:

	Name	I/D No.	Telephone No.	Signature
1	WILSON KIPANG MATHA	4957172	0715547399	
2	KIPRONG ARAP LANGAT	5221704	0727255728	
3	DAVID ARAP JANG	6007596	0728211325	
4	DAVID KORIR	10770187	0712048991	
5	PAULO K. CHEKWIOTI	1761540	0711548722	
6	DAVID CHEPONY	8603944	0715836146	
7	JOSEPH MATHA	34452483	0795071669	
8	ESTHER CHEKORIR CHEKORIR	1760800	079125542	
9	DAVID NUGUD KIBET	3862625	0729302201	
10	CATHARINE CHERONO	12921368		
11	MATHA KIPLANGAT	8660349		
12	SELY C. KOECH	1760924	0716348027	
13	SAMUEL KIPKORIR TONI	3840123	0710407948	
14	GRACE CHEMUTAI KOECH	1961485		
15	JUSTUS CHEPONY	22110100	0725367682	
16	FLORENCE CHEBET			
17	ESTHER C. MATHA	3851170		
18	JACQUES H.M. CHERUOTI	6006464	0725792352	

PUBLIC PETITION
(No. 23 of 2020)

**REGARDING HISTORICAL LAND INJUSTICES IN CHEPCHABAS AREA
OF BOMET AND KERICHO COUNTIES**

We, the undersigned, hereby append our signatures in support of this Petition:

	Name	I/D No.	Telephone No.	Signature
19	KIPKOECH ARAP KIMETO	9637209	0727531827	
20	SUSANA CHELANGAT KOECH	1760037	0797110525	
21	JOSEPH KIPKUID KORIR	3836095	0727286929	
22	JOSEPH K. SIGEI	14439806	0724428231	
23	RODAH CHEPKUSGEI NYALU	1382097	0796319773	
24	DAVID NGENO	11794273	0715590530	
25	TRIBUTANG CHEPKIRUI MAINA	1761477	0742526871	
26	JOSEPH K. SIGEI	20515230	0719694165	
27	SAMUEL KORIR	11794293	0790465778	
28	JANE CHELANGAT TOMBI	1292222	0711523576	
29	JOSEPH KA CHEKOP	1760268	0724123254	
30	SAMUEL K. MURIEL	1760218	0724846406	
31	ESTHER CHEKENDI OTHMO	7625795	0799301314	
32	SIMLON RUTOT	2889998	0724210168	
33				
34	SAMUEL CHEKURUOT	5236021		
35	E			
36	ALIC KETILE CHELELE	1760814		



**RESPONSE TO PETITIONS REFERRED TO THE DEPARTMENTAL
COMMITTEE ON LANDS**

REPORT

BY:

GERSHOM OTACHI BW'OMANWA

CHAIRMAN

24TH NOVEMBER, 2020

INTRODUCTION

We are in receipt of a letter REF: NA/DC/LANDS/2020(082) from the Clerk of the National Assembly requesting the Commission to provide comprehensive responses to the following Petitions:

1. Petition by Hon. Sabina Wanjiru Maitu Chege,MP on behalf of residents of Kinyona Ward in Murang'a County regarding safeguarding public interest in the use of Gituamba Land in Kin yona Ward of Murang'a County
2. Petition by Hon.Brighton Yegon,MP on behalf of Chepchabas area in Bomet and Kericho Counties regarding Historical Land Injustices in Chepchabas area in Bomet and Kericho Counties.
3. Petition by H.E Stephen Kipyego Sang, Governor,Nandi County, regarding Historical Land Injustices in Nandi County.

Hon,Chair,

We wish to respond to the three petitions is as follows:

1. PETITION BY HON.BRIGHTON YEGON, MP ON BEHALF OF CHEPCHABAS AREA IN BOMET AND KERICHO COUNTIES REGARDING HISTORICAL LAND INJUSTICES IN CHEPCHABAS AREA IN BOMET AND KERICHO COUNTIES

The petitioner prays that the National Assembly through the Departmental Committee on Lands

- a) Enquires into the irregular takeover of the land in Chepchabas Area in Bomet and Kericho Counties with the objective of facilitating due compensation for residents of the area who were compelled into squatter life in their own ancestral land
- b) Undertakes a satisfactory audit of the original sale of land to the Chepchabas.Farmers' Cooperative Society to ascertain whether the fentire 600acres of land were actually granted to the society and whether each squatter got the land they paid for, and orders that the

said land grant be given unconditionally if found not to have been fully bought.

- c) Recommends where possible that James Finlay Kenya Limited grants Chepchabas squatters pre-emptive rights in any future land dealings.
- d) Recommends where possible that James Finlay Kenya Limited share mesne profits with the chepchabas squatters proportionately for the number of years the firm has utilized the land.
- e) Makes other appropriate recommendations it deems fit in addressing the circumstances raised in the petition

We have looked at the prayers sought in the petition and wish to state as follows:

It is true that some of the issues raised in this petition were canvassed through the Historical Land Injustice claims REF.NLC/HLI/546/2018,NLC/HLI/044/2017 AND NLC/HLI/173/2017, between the County Governments of Kericho and Bomet, the Kipsigis clans, the Talai and Barowo clans and the Kipsigis Clans Self Help Group verses the British Government and the Government of Kenya as indicated in the attached copy of Gazette Notice marked as "A".

However, James Finlay Kenya Limited,Sotik Tea Company Limited,Sotik Highlands Tea Company Limited,Changoi/LelsaTea Estate Limited,Tinderet Tea Estate Limited,Kaimosi Tea Estate Limited,Kapchorua Tea PLC,Kipkebe Ltd,Nandi Tea Estates Limited,Kaisugu Limited,Emrok(EPZ) Tea Factory Limited and Members of Kenya Tea Growers Association appealed the Recommendation of the Commission in the High Court at Nairobi as Miscellaneous Civil Application no.95 of 2019 for orders of certiorari and prohibition against the National Land Commission, the Director of Survey under the Ministry of Lands and Physical Planning and the County Governments of Kericho and Bomet.

The Commission made a determination on this matter and gaztteed the same vide gazette notice No. 1995 of 1st March 2019. The determination was however challenged by multinational companies. The matter is therefore still pending in

court and any further implementation will be determined by the court. The matter was last in court on 3rd November 2020, for mention and coming up for further mention on 1st February 2021, to confirm whether all the parties have filed responses to the application for consideration of suits and a request for a three judge bench.

2. PETITION BY H.E STEPHEN KIPYEGO SANG, GOVERNOR, NANDI COUNTY, REGARDING HISTORICAL LAND INJUSTICES IN NANDI COUNTY.

The petitioner prays that National Assembly:

1. Declares the perennial landslides and mudslides situation in Nandi County and other parts of Kenya as a recurrent National Disaster and shall be responded to as such by all relevant Government Departments and Agencies.
2. Directs that the recommendations of the National Land Commission relating to this subject matter be fully implemented by the relevant Government Departments and Agencies as a means to permanently addressing the prevailing situation
3. Directs the irregular and illegal awarding, extension and renewal of expired and expiring leases belonging to individuals and multinational corporations in both the Tea Growing Highlands and the Sisal and Sugarcane Growing lowlands be acted upon and in compliance with the need to address these historical land issues henceforth.
4. Directs the government avails land from the various options discussed above to be used to resettle the vulnerable families outside the current landslides prone rugged and rocky environment. The government can then takes of the escarpment and undertake serious afforestation programs in the area.

Hon.Chair,

We wish to respond to the issues raised as follows:

Issue of declaration of the perennial landslides and mudslides as a National Disaster.

Declaration of a situation as a National Disasters is covered under Article 58 of the Constitution and the responsibility bestowed on government under Article 132(4), (d) and (e).

However, the Commission concurs with the petitioner that parts of Nandi County especially the rugged hill slopes of Tinderet, Nandi Hills, parts of Aldai and Mosop sub- counties are prone to perennial disasters of landslides and mudslides and some residents of Tinderet sub county who were displaced by perennial landslides filed a historical land injustice claim with the Commission as HLI NO.NLC/HLI/016/2017 by Kimondi Forest Squatters who were displaced to Nandi South Forest at a place called Kimondi where they practiced "shamba" system in the forest before they were stopped by Kenya Forest Service.

The Commission considered the claim and admitted it under section 15(4) (h) of the National Land Commission Act 2012 as a situation caused by natural disaster of landslides. The Commission recommended their resettlement by government under section 15(9) (c) of the National Land Commission Act, 2012.

The second issue of the National Assembly directing that the recommendations of the National Land Commission relating to this subject matter be fully implemented by the relevant Government Departments and Agencies as a means to permanently addressing the prevailing situation

We wish to respond as follows:

Some of the claims emanating from the environment prone to perennial landslides in Nandi County that were determined by the commission and recommendations given included Gazette Notice no. 1995 of 1st March ,2019 include:

HLI/NLC/001/2017 by the Titan Squatters

HLI/NLC/020/2018 by Timur Nandi Community

HLI/NLC/106/2018 by Kimondi Forest Squatters

HLI/NLC/320/2018 by Nandi Council of Elders

HLI/NLC/010/2017 Nyando Valley Association

HLI/NLC/255/2018 by Kimasas Farmers' Cooperative Society

Some of the determinations cannot be implemented because they have active cases in court such as HLI/NLC/2555/2018 which is affected by Nairobi JR MISC/100 OF 2019 Between Eastern Produce and Kimasas while HLI/NLC/010/2017 was affected by ELC petition no.4 of 2019 between Nyando Valley and County Government of Kisumu and court directed that claim can be heard afresh with all affected parties taking part in the proceedings.

Third issue that the National Assembly Directs the irregular and illegal awarding, extension and renewal of expired and expiring leases belonging to individuals and multinational corporations in both the Tea Growing Highlands and the Sisal and Sugarcane Growing lowlands be acted upon and in compliance with the need to address these historical land issues henceforth.

The Commission recommended that a resurvey of the land held by the estates be done to determine if there is a residue to be surrendered to the community and renewal of lease be held in abeyance pending agreements with the county governments

The Multi nationals challenged the HLI decision of 01/03/2019 in favor of the Talai of Nandi in **Nairobi JR Application No.56 of 2019 Eastern Produce Kenya Ltd & Others-vs.-NLC \$ Others** in relation to:

NLC/HLI/013/2017

NLC/HLI/033/2017

NLC/HLI/447/2018

NLC/HLI/546/2018

There is an order staying implementation of the recommendations by the Commission. The case is pending before court for determination.

On another note National Land commission was involved in the renewal of leases for three sisal farms in Chemilil area of Tinderet sub-county i.e LR numbers 5483,1467/8 and 1467/9 in concurrence with County Government of Nandi for Chemilil Sisal Estate who relinquished LR NO.7057 to the Land Settlement Fund Trustees(LSF) for settlement of squatters.

The fourth issue that the National Assembly directs that government avails land from the various options discussed above to be used to resettle the vulnerable families outside the current landslides prone rugged and rocky environment. The government can then take the escarpment and undertake serious afforestation programs in the area.

Hon Chair,

This matter relates to the National Government

3. PETITION BY HON SABINA WANJIRU CHEGE ON SAFEGUARDING PUBLIC INTEREST IN THE USE OF GITUAMBA LAND IN KINYONA WARD OF MURANG'A COUNTY (KINYONA/LOC/2/786)

Hon Chair,

The petition is about the safeguarding of public interest in the use of Gituamba Land in Kinyona Ward of Murang'a County.

The parcel of reference is Kinyona/Loc. 2/786 of an acreage of 26.32 Ha (65.04 acres).

The above parcel was registered in the name of Special Crops Development Authority and was on a peppercorn rental for a term of ninety nine (99) years from 1st July, 1962.

In the year 1998 there was a change of name of the Special Crops Development Authority to Kenya Tea Development Authority and a certificate of lease issued in the year of 9th December 1998.

Thereafter, a caution was registered by Dr. Samuel G. Muigai who was the center Director, National Horticultural Research Centre claiming leases interest.

The caution was later removed by the cautioner on 30th April 2014 and the parcel therefore remained as property of the Special Crops Development Authority/KTDA.

The petitioner has made several claims on the use of land which he claims is being used by the organization for planting of eucalyptus trees on the land which has led to reduction in water volume in the Kinyona River affecting the irrigation and the general Ecosystem of the area.

The last complaint is, that KTDA has failed to use the land for the original intended purpose. This has caused the unwarranted distress, anguish and inconvenience to residents of Kinyona Ward.

The prayer of the petitioners:-

The first prayer is to investigate the irregular change of the use of the land from public use to private use by KTDA.

The second prayer is to enquire into the matter with the objective of ascertaining whether Kinyona Loc. 2/786 is public land in conjunction with the National Land Commission.

The third prayer is that KTDA Holdings be directed to revert to the original objective of establishment of a public agricultural research institute and a tea tree Nursery (Gituamba Tea Nursery and Factory), failure to which KTDA;s Land lease be revoked forthwith.


The fourth prayer is to protect the Socio – Economic interests of people of Kinyona Ward as well as resolutions to protect the environment from negative effects occasioned by KTDA wood fuel planting and make any other orders that deem appropriate in light of the circumstances outlined in the petition herein.

In view of the foregoing, it should be known that the land that is the subject of this petition is registered to a private entity - KTDA Holdings. To revoke the same requires a court process. Again, the mandate of the Commission with regard to review of grants lapsed in 2017.

Our ground report reveals that part of land is put for tea farming and the rest is under eucalyptus tree planting. Approximately one acre is being utilized for tea farming and the rest is for eucalyptus trees.

Hon Chair,

It is our view that the KTDA should use of the land as stipulated in the user conditions and failure to utilize the land appropriately should lead to the process of recovery of the same - through the Court by applying forfeiture procedures. KTDA should also find a way of coexisting with their neighbors and should consider removing the eucalyptus trees which are a menace and a source of complaints and discomfort by residents of Kinyona ward



**Gershom Otachi Bw'Omanwa
CHAIRMAN**

Annex 'A'

PROOF
10 JUL 2019
GOVERNMENT PRESS
NAIROBI

CERTIFIED COPY OF THE ORIGINAL
For Government
JW



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S/No.	Case No. and County	Parties	Recommendation
8.	NLC/HLI/245/2018 Nandi County	Nandi Royal Trust Claimant and Colonial Government, Miwani Sugar Company, Chemilil Sugar Company, Muhoroni Sugar Company (Respondent) and County Government of Nandi (Interested Party)	The claim do not meet Historical Land Injustice criteria. The claimants are advised to await the establishment of the Independent County Boundaries Commission as proposed under the County Boundaries Bill, 2015.
9.	NLC/HLI/140/2017 Nakuru County	Moi-Ndabi Settlement Scheme (Claimant) and The Director Land Adjudication and Settlement (Respondent)	The claim is dismissed. The claimants are directed to present their claim to the Director of Land Adjudication and Settlement.
10.	NLC/HLI/430/2018 NLC/HLI/016/2017 Nandi County	Former Kimondi Forest Squatters, Kimondi Forest Squatters (Claimants) and Kenya Forest Service (KFS) (Respondent) County Government of Nandi (Interested Party)	The claim is allowed The County Government in collaboration with the Ministry of Lands (Adjudication and Settlement Department) and other relevant authorities, should proceed with the resettlement of both groups of Claimants
11.	NLC/HLI/159/2017 Bomet County	Tapnyobi A. Torgotit family, Cecilia Chelangat Keiyo family (Claimants) and County Government of Bomet (Respondent)	The claim is allowed. The County Government, should ensure allocation and registration to Tapnyobi Kiruchu Torgotit and Cecilia Chelangat Keiyo of the 3.2 hectares and 2.02 hectares respectively. The County Government of Bomet should compensate the Claimants on the remaining acreage at the current market rate (4.78 ha).
12.	NLC/HLI/326/2018 NLC/HLI/065/2017 NLC/HLI/325/2018 NLC/HLI/198/2018 NLC/HLI/121/2017 NLC/HLI/346/2018 NLC/HLI/106/2017 NLC/HLI/091/2017 NLC/HLI/078/2017 NLC/HLI/362/2018 NLC/HLI/361/2018 Nakuru County Kericho County Nandi County Bomet County Tranzoia County Bungoma County	Ogiek Land Injustices West South Ogiek Mau Forest Ogiek (Litein) Ogiek Welfare Council Dorobo Community Community of Chepkitale and Chepyuk Settlement Scheme Chepkitale Ogiek Council of Elders Nandi South Ogiek Community Ogiek Marginalized Lelpanget and Kipkongor squatters Ogiek of Tanzania Chepkitale Ogiek Community of Mount Elgon (claimants) -v- The Government of Kenya	The claims are allowed. The Historical land injustice claims listed herein be and are hereby forwarded to the Kenyan government Task Force on the implementation of the African Court on Human and Peoples' Rights judgment regarding the case of the indigenous Ogiek people.
13.	NLC/HLI/437/2018 Nandi County	Tinderet Forest Dorobo Squatters-Kosabei Nandi Vs. Kenya Forest Services	The claim is allowed. The Kenya Forest Service to complete the degazettement of the area set aside to settle the communities (Tinderet Forest Dorobo Squatters-Kosabei Nandi).
14.	NLC/HLI/010/2017 Nandi County	Nyando Valley Association vs Richard Ochieng Olwenge LR 3098, 3097, 3092, Chemelil Sugar Co, Gulbing Singh Panjey, Omamo Farm, Utonga Geta firm MV Plantations	The claim is allowed. It is hereby referred to the Privatization Commission for consideration of part of the land from Chemilil Sugar company L/R NO 11840 for the settlement of members of Nyando Valley Association and other communities using a predetermined formula or ratio between the people of Kisumu County and Nandi County
15.	NLC/HLI/255/2018 Nandi County	Kimasas Farmers' Cooperative Society Limited Vs. Eastern Produce Kenya Limited and Chief Land Registrar Claim	The claim is allowed. All resultant subdivisions were done illegally and should be cancelled. Land L/R No. 9285/2 is given to Kimasas Cooperative Society Limited. Chief Land Registrar, Ministry of Lands and Settlement to implement the decision.
16.	NLC/HLI/044/2017 NLC/HLI/546/2018 NLC/HLI/173/2017 Kericho County	County Governments of Kericho and Bomet on behalf of the Kipsigis and Talai Clans, Kipsigis clans and the Borowo and Kipsigis Clans Self Help Group versus The Colonial Government and the Government of Kenya.	The claims are allowed. A resurvey should be done on the lands being held by the tea estates to determine if there is any surplus land or residue to be held in trust for the community by the County Government for public purposes. The County Government and the multi-nationals sign MoU (Memorandum of Understanding) for the multinationals to provide public utilities to the community. Renewal of the leases to these lands be withheld until an agreement is reached with the respective County Governments of Kericho and Bomet. With regard to rate and rent on such lands the Commission recommends that these should be enhanced to benefit national and county governments.

GAZETTE NOTICE NO. 1994

THE LAND ACT

(No. 6 of 2012)

DUALLING OF SOBEA-SALGAA-MAU SUMIT ROAD
PROJECT (A104)

INQUIRY

IN PURSUANCE of sections 162 (2) of Land Act, 2012, the National Land Commission on behalf of Kenya National Highways Authority (KeNHA) gives notice that inquiries for hearing of claims to compensation for interested parties in land to be acquired for Emergency Road Safety Enhancement along Kabaraka Junction to Kibunja (A8) Road Construction of a Lorry Park at Kibunja Area shall be held on the dates and places as shown in the schedule here below:

SCHEDULE

Chiefs Office at 9.30 am, on the 14th March, 2019

Registration Section	Registered Land Owner	Area Acquired (Ha.)
G.L.-Londiani Mountain Forest (L.O. 504)	G.L.-Londiani Moutain Forest (L. O. 504)	10.8062

Every person interested in the affected land is required to deliver to the National Land Commission on or before the day of inquiry a written claim to compensation, copy of identity card (ID), Personal Identification No. (PIN), land ownership documents and bank account details. Commission Offices are in Ardhi House, 3rd Floor Room 305.

Dated the 18th February, 2019.

ABIGAELE MBAGAYA-MEKOLEWE,

MR/5816131

Ag: Chairperson, National Land Commission

GAZETTE NOTICE NO. 1995

NATIONAL LAND COMMISSION

INVESTIGATIVE HEARING FOR COMPLAINTS RELATING TO HISTORICAL LAND INJUSTICES

IN EXERCISE of the powers conferred by Article 67 (2) (e) of the Constitution of Kenya 2010 and sections 6 and 15 of the National Land Commission Act, 2012, the Chairman, National Land Commission, informs the general public that the Commission upon receipt of Historical Land Injustice claims from the National Government, County Governments and members of the public admitted and investigated the complaints to ascertain the appropriate redress. The Commission invited all the complainants, respondents and the interested parties to appear before it, inspect documents and make written representations and submissions after which the Commission undertook further investigations. Consequently, the Commission has made recommendation in respect of the following claims.

The Commission calls upon the mandated authority(s) to effect the recommendations herein.

TABLE 1 KERICHO, NANDI, BOMET AND NAKURU COUNTIES

S/No.	Case No. and County	Parties	Recommendation
1.	NLC/HLI/194/2018 Kericho County	Simon Towett Maritim (Claimant) and Jotham Muiruri Kibaru (Respondent)	The claim is dismissed. The claimant misled the Commission and could not link himself to the claimed land. The decision of the Nakuru Civil Appeal No. 292 of 2005 is affirmed.
2.	NLC/HLI/522/2018 Nakuru County	The Families/Clans of Kipboson arap Selembu And Kipkilach arap Leitich (Claimants) -vs-The Estate of Morrison Waweru Njenga, Njenga Mathu and George Mathu (Waweru Farm) and The Attorney General (Respondents)	The claim is allowed. L.R. No 8652 I.R. 14002 and LR No. 8653 I.R. 13230 to be allocated to Kipkilach Arap Leitich and Kipboson Arap Selembu families/clans for settlement. The Ministry of lands and physical planning (Department of Land Adjudication and Settlement) shall facilitate the settlement of the claimants.
3.	NLC/HLI/518/2018 Kericho County	Kabunech Squatters (Claimants) -Vs- County Government of Kericho (Respondent)	The claimants are referred to the NLC County Coordination office Kericho to fast-track the remaining process of resettling the squatters.
4.	NLC/HLI/481/2018 Kericho County	Mzee Samson Chepkwony (Claimant) and A.I.C Mission Hospital-Litein (Respondents)	The claim is dismissed. The family members actually sold the claimed land to the hospital
5.	NLC/HLI/435/2018 NLC/HLI/256/2018 Nandi County	Ngerek Community, Koibem community (claimants) and Kenya Forest Service (Respondents)	The claim is allowed. The Kenya Forest Service to complete the degazettement of the area promised (Nandi South Forest) to the claimants and settle both communities (Koibem and Ngerek) on land for land basis as initially intended. The Director of Survey together with the Nandi County Government to expedite the process and hand over the land to the Ngerek and Koibem Communities.
6.	NLC/HLI/001/2017/NLC/HLI/020/2017/NLC/HLI/390/2018 Nandi County	Titan Squatters (392 members), Timur Nandi community (claimants) and Nandi Kaburwo council of elders, British Government (Respondent) and County Government of Nandi (Interested party)	The claim is allowed. The claim is referred to the Privatization Commission to consider setting aside land to settle the claimants (Titan Squatters, Timur Nandi community and Nandi Kaburwo council of elders) and other squatters from both Nandi and Kisumu counties including Tanzanian returnees. The Ministry of lands and physical planning to facilitate the process.
7.	NLC/HLI/246/2018 Nandi County	Pemja Community (claimant) -v- Kenya Forest Service (Respondent)	The claim is allowed. Kenya Forest services (KFS) to complete the degazettement and

S/No.	Case No. and County	Parties	Recommendation
17.	NLC/HLI/013/2017- NLC/HLI/033/2017NLC/ HLI/447/2018NLC/HLI/ 546/2018 Nandi County	In the Matter of Talai- Nandi	The claims are allowed. The commission recommends that; A resurvey be done on the lands being held by the tea estates to determine if there is any residue to be held in trust for the community by the County Government for public utilities. A scholarship fund to educate Talai Children be set up by the Multinational companies holding the land. The County Government and the multi-nationals sign a MoU (Memorandum of Understanding) for the multinationals to provide public utilities to the community. The Commission further recommends that the renewal of the leases to these lands be held in abeyance until an agreement is reached with the respective county governments. With regard to rates and rent on such lands, the Commission recommends that these should be enhanced to benefit national and county governments. The Commission maintains that all 999 year old leases be converted to the constitutional requirement of 99 years.

TABLE 2. NAIROBI KIAMBU, NYERI AND MURANG'A COUNTIES

S/No.	Case No. and County	Parties	Recommendation
1.	NLC/HLI/530/2018NLC/ HLI/069/2017NLC/HLI/ 063/2017NLC/HLI/006/2 017NLC/HLI/049/2017N LC/HLI/170/2018NLC/H LI/176/2018 and NLC/HLI/052/2017 Murang'a County	Gachangi Makuyu IDPs, Gaichanjiru Self Help Group, John Rugano Nthuraku, Kakuzi Development Association, Kihinganda Self Help Group, Kinyangi Squatters, Kitito Community IDPs, Makuyu Sisal IDPs (Claimants) -vs- Kakuzi Limited (Respondent) and Kenya Human Rights Commission (Interested Party)	The matter being before the High Court, the Commission will pend hearing of the Historical Injustice claim until the final determination is reached by the Court. However as the manager of public land, the Commission orders that Kakuzi Ltd should surrender all public utilities on their land including schools, markets, police stations, hospitals, public roads of access, wayleaves and easements to the national and county Governments as appropriate. Allotments and titles to be issued for public purpose only. All leases for land held by Kakuzi Limited in Muranga County should not be renewed until the Historical Land Injustice claim is heard and determined. Any 999 year leases to convert to 99 years.
2.	NLC/HLI/055/2017 Nairobi County	Wilson Mitumba Women Group Limited (Claimant) -vs- National Police Service (Respondent)	The claim is allowed. Taking into account the long standing dispute among the parties herein, the Commission directs the parties to explore Alternative Dispute Resolution (A.D.R) to amicably bring a rest the seemingly endless litigation process with a view to the National Police Service (Respondents) giving up/ surrendering a suitable amount of land to the Claimant group. The National Land Commission to lead the A.D.R process for a win-win settlement to be arrived at between the parties herein.
3.	NLC/HLI/184/2018 Nyeri County	John Ndirangu Kiboga and Others (Claimants) and The Hon Attorney General, Ministry of Education Science and Technology, Kagumo Teachers College, County Government of Nyeri (Respondents)	The claim is dismissed. The land title parcel number Aguthi/Gaki/865 be and is hereby vested fully to Kagumo Teachers Training College and the National Treasury. The Chief Land Registrar is directed to effect the changes on land parcel number Aguthi/Gaki/865 and amend the green card and all land records to be titled to the 3rd respondent, Kagumo Teachers Training College and the National Treasury. The Chief Land Registrar is directed to expunge all records relating to Minerva Nominees (E.A) Ltd on land title parcel number Aguthi/Gaki/865 from the green card and all land records;
4.	NLC/HLI/112/2017 Nairobi County	Dagoretti Nyakinyua Co-operative Savings And Credit Society (Claimant) and Dagoretti Nyakinyua Company (Respondent)	The claim is allowed. All titles emanating from the fraudulent transaction undertaken by Dagoretti Nyakinyua Company to be revoked and the same be allocated to the members of Dagoretti Nyakinyua Co-operative Savings and Credit Society Limited who are the bona-fide owners under the supervision of the Commissioner of Cooperatives. The Chief Land Registrar to facilitate and effect the recommendation herein.
5.	NLC/HLI/138/2017 Nairobi County	Taylor Adforce (E.A) Limited (Claimant) and The County Government of Nairobi, Jonathan Preston and Angela Scott, Giraffe View Limited (Respondent)	The claim is dismissed. The parties to proceed with the matter in court JR Elc Application No. 44 of 2018 Giraffe View, Estate vs National Land Commission and 2 Others.
6.	NLC/HLI/068/2017	Makadara Nyakinyua Self Help Group	The claim is dismissed That Makadara Self Help Group was unable to produce...

S/No.	Case No. and County	Parties	Recommendation
	Nairobi County		not available for allocation. The land lies within a riparian reserve and the County Government of Nairobi should clear the land of any human settlement.
8.	NLC/HLI/070/2017 Kiambu County	Kamiti Forest Squatters, Kamiti Anmer Development Association, Muungano wa Kamiti Society (Claimants) and Kenya Forest Services (KFS) (Respondent)	The claim is allowed. The allotment letters issued to the members of the 2nd Claimant (Kamiti Anmer Development Association) are found to be valid and therefore the rightful occupants of the subject land. The allottees and the squatters should adopt Alternative Dispute Resolution (A.D.R) with a view that the land held by the allottees be partly redistributed to the squatters. Kenya Forest Service is hereby directed to degazette the Kamiti Anmer Forest.
9.	NLC/HLI/004/2017 NLC/HLI/064/2017 Kiambu and Muranga County	Kandara Residents Association (Claimant) and Del monte Kenya Limited (Respondent) County Government of Muranga (Interested)	The claim is allowed. A resurvey should be undertaken by the Director of Survey in conjunction with County Governments of Murang'a and Kiambu to establish if there is any variance between land leased and land the company occupies. Any residue should given/surrendered to the Claimants for resettlement and the County Government for public purpose in the ratio of 70:30 respectively. Should it be found that there is no residue, then on expiry of the lease a suitable amount of land should be set aside and held in trust by the County Governments for purposes of resettlement and public utilities. The respondent to surrender all public utility within the land to the relevant National and County Government agencies whether the leases have expired or not.
10.	NLC/HLI/003/2017 Muranga County	Stanley Muigai Kiama and Jeremy Kiama	The claim is allowed. The Commission recommends monetary compensation by the National Government to the claimants over the loss of their ancestral land. The family should get recognition and an apology from the Government for their loss.
11.	HLI/506/507/508/2018 Kiambu County	Kirathimo land, Limuru	The claim is allowed. The commission recommends that the land L.R 25484/2-22, L.R. 13121 and L.R. 15473 revert to County Government of Kiambu, title be issued in the name of the County Government as trustees. The Commission directs that the Land is not available for any allocation now or in future.
12.	NLC/HLI/519/2018 Kiambu County	Uplands - Kiambu	The claim is allowed. The commission recommends that the land L.R. No. 7593/1 and 7593/2 revert to County Government of Kiambu, title be issued in the name of the County Government as a trustees. The Commission directs that the Land is not available for any allocation now or in future.
13.	NLC/HLI/550/2018 Kiambu County	Flourspar Land-(Diatomite)	The claim is allowed. The commission recommends that the land L.R. Nguirubi/Thigio/1882, 1534, 1698 and 1699 reverts to County Government of Kiambu. Title be issued in the name of the County Government as a trustee. The Land is not available for any allocation now or in future. The Commission directs that any titles by private developers on the land be revoked.
14.	NLC/HLI/537/2018 Kiambu County	Mangu Block 19 and 20 Residents CBO	The claim is allowed. The Commission adopts the report by Thika District Land officer on public utilities within Thika Municipality block 19 Mang'u and block 20 Ngoingwa company limited. REF: LND/TKA/ADM/29/VOL.111 dated 12th September, 2018. The following plots are recovered for public utility and reverted to the National and County Government as appropriate. PLOT/Nos.1213,1990,1993, 1995, 1999, 2004, 255, 1992, 2058, 1142, 2260, 1995, 1999,142 and 1998. Similarly the Commission recovers the following plots from Block 20 for public utilities as follows: Plot No/Nos 533, 584, 202, 255, 340, 342, 1035 and 995, 457 and 335, 330, 341, 340, 2368 and 247. The Commission upholds titles to the following plots; Block 19/199, Block 19/2035, Block 20/2159, Block 20/1092, Block 20/2894, Block 20/338 & Block 20/994. If there are any other public lands parcel under ownership of private entities and/or individuals be surrendered and such titles be cancelled.