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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION – 2019

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE CONSIDERATION OF A PETITION BY MR. STEPHEN
NGARI NJUKI, REGARDING DELAY IN ALLOCATION OF LAND IN MWEA
SETTLEMENT SCHEME TO THE LEGITIMATE BENEFICIARIES

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI


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|  THE NATIONAL ASSEMBLY PAPERS LAID | |
| DATE: 05 DEC 2019 | |
| Tabled BY: | DAY: TUESDAY DECEMBER 2019 |
| Clerk-at the table: | Hon. R. Nyamathi Chairperson. Lemuna Moses |

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CHAIRPERSON'S FOREWORD

The Petition by Mr. Stephen Ngari Njuki, regarding delay in the allocation of land in Mwea Settlement Scheme to the legitimate beneficiaries was conveyed in the House on 20th June 2019 by the Honorable Speaker.

In considering the Petition, the Committee held a meeting with the Mr. Stephen Ngari Njuki, the petitioner on 22nd August 2019 and the Chief Administrative Secretary Ministry of Lands and Physical Planning on 10th September 2019. The Committee also received written submissions from the. Cabinet Secretary, Ministry of Interior and Coordination of National Government.

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 Petitioner, and the Chief Administrative, Ministry of Lands and Physical Planning 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 Mr. Stephen Ngari Njuki, regarding delay in the allocation of land in Mwea Settlement Scheme to legitimate beneficiaries.

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

EXECUTIVE SUMMARY

The purpose of this report is to respond to prayers made in a Petition by Mr. Stephen Ngari Njuki, regarding delay in the allocation of land in Mwea Settlement Scheme to legitimate beneficiaries. The petitioner's prayer is that the National Assembly through the relevant Departmental Committee investigate and inquire into all matters raised in the petition

The Committee noted that the land in question LR No. 26461 FR No. 317/30 measuring approximately 17,830.6 Ha. is in Makima Location, Makima Division, Mbeere South Sub - County in Embu County.

The Committee observed that conflict regarding the administration of the scheme dates back to the 1970 and the relevant agencies have not been able to address the issue of resettlement of the beneficiaries despite the establishment of various Commissions and Taskforces including the Akello Taskforce of 1990, J. Chesoni Commission of 1995 and Twang'a Verification Task Force of 2001. Further, the National Assembly Departmental Committee on Lands and Natural Resources on 9th January 2013 considered the issues relating to the scheme and recommended that the disputing parties resolve the matter out of court.

The Committee also observed that there has been efforts to have the issues relating to the resettlement of the beneficiaries at the scheme led by the National Land Commission, the County Government of Embu, and local leaders through Alternative Dispute Resolution Mechanisms leading to an agreement that the land in question be shared as follows:

- (a) Mbeere – 40 %
- (b) Embu – 20 %
- (c) Mwea(Kamba) – 30%
- (d) Kirinyaga (Kikuyu) – 10%

The Committee further observed that although the beneficiaries of the scheme have been issued with title deeds, they have not been able to access the land.

The Cabinet Secretary, Ministry of Interior and Coordination of National Government in his submission to the Committee committed to resume the resettlement process within ninety (90) days during which the underlying issues will be addressed by the Ministry of Interior and Coordination of National Government.

In response to the prayers by the Petitioners, the Committee recommends that a multi-agency Committee led by the Ministry of Interior and Coordination of National Government, County Government of Embu, Ministry of Lands and Physical Planning does ensure that the beneficiaries of the Mwea Settlement Scheme L.R 26461 FR 317/30 access the land in question within ninety (90) days.

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 with their stated objectives;
 - (v) 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.
 - (vi) 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: -

Hon. Dr. Rachael Nyamai, MP – **Chairperson**

MP for Kitui South Constituency

Jubilee Party

Hon. Khatib Mwashetani, MP – **V/Chairperson**

MP for Lunga Lunga Constituency

Jubilee Party

Hon. Jayne Wanjiru Kihara, MP

Member for Naivasha
Constituency

Jubilee Party

Hon Joshua Kutuny Serem, MP

Member for Cherangany
Constituency

Jubilee Party

Hon. Kimani Ngunjiri, MP

Member for Bahati Constituency

Jubilee Party

Hon. Mishi Mboko, MP

Member for Likoni Constituency

**Orange Democratic Movement
(ODM)**

Hon. Omar Mwinyi, MP

Member for Changamwe
Constituency

**Orange Democratic Movement
(ODM)**

Hon. Ali Mbogo, MP

Member for Kisauni
Constituency

**Wiper Democratic Movement
(WDM)**

Hon. Babu Owino, MP

Member for Embakasi East
Constituency

**Orange Democratic Movement
(ODM)**

Hon. Caleb Kipkemei Kositany,
MP

Member for Soy Constituency

Jubilee Party

Hon. Catherine Waruguru, MP

Member for Laikipia County

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. Jane Wanjuki Njiru, MP

Member for Embu County

Jubilee Party

Hon. Josphat Gichunge
Kabeabea, MP

Member for Tigania East
Constituency

Party of National Unity (PNU)

Hon. Owen Yaa Baya, MP

Member for Kilifi North
Constituency

**Orange Democratic Movement
(ODM)**

Hon. Samuel Kinuthia Gachobe,
MP

Member for Subukia
Constituency

Jubilee Party

Hon. Simon Nganga Kingara,
MP

Member for Ruiru 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
Clerk Assistant I

Mr. Ahmad Guliye
Clerk Assistant III

Mr. Adan Abdi
Fiscal Analyst III

Mr. Joseph Tiyan
Researcher III

Ms. Winnie Kizia
Media Relations Officer III

Ms. Jemimah Waigwa
Legal Counsel I

Mr. Nimrod Ochieng
Audio Officer

Ms. Peris Kaburi
Serjeant-At-Arms

2.0 INTRODUCTION

6. The Petition by Mr. Stephen Ngari Njuki, regarding delay in the allocation of land in Mwea Settlement Scheme to the legitimate beneficiaries was conveyed in the House on 20th June 2019 by the Honourable Speaker.
7. The Petitioner wished to draw the attention of the House to the following, that:
 - i. The petitioner represented the beneficiaries of Mwea Settlement Scheme LR. No. 26461 FR No.317/30;
 - ii. The Member of Parliament for Mbeere South Constituency requested for a statement, on among other things, the allocation of land in Mwea Settlement Scheme in Mbeere South Constituency in Embu County to legitimate beneficiaries;
 - iii. In a reply to the request for a statement dated 17th September 2018 the Cabinet Secretary, Ministry of Interior and Coordination of National Government undertook to fast track and resume the resettlement process within ninety (90) days.
 - iv. All pending cases opposing the resettlement of persons in the scheme had been disposed;
 - v. To date the beneficiaries of the scheme are yet to be resettled despite the undertaking by the relevant Cabinet Secretaries;
 - vi. Efforts to have the matters raised in the petition addressed by the relevant bodies have been futile; and
 - vii. The matters raised in the petition were not pending in any court of law in Kenya.
8. Therefore, the petitioners pray that the National Assembly through the relevant Departmental Committee;
 - i. Investigate and inquire into all matters raised in the petition

3.0 Submissions

3.1 Submissions by the Petitioner

9. The Committee held a meeting with Mr. Stephen Ngari Njuki, the petitioner on 22nd August 2019. During the meeting the petitioner, accompanied by three beneficiaries of Mwea Settlement Scheme, informed the Committee, that;
10. The petitioner owns land parcel No. Embu/Mwea Scheme /2809, which is part of the Mwea Settlement Scheme;
11. The National Land Commission, County Government of Embu and local leaders through Alternative Dispute Resolution Mechanisms agreed that the land in the Scheme be shared among the communities involved as follows:
 - i. Mbeere – 40 %
 - ii. Embu – 20 %
 - iii. Mwea (Kamba) – 30%
 - iv. Krinyaga (Kikuyu) – 10%
12. Although the beneficiaries of the scheme have been issued with title deeds they are not been able to access the land due to opposition by persons occupying and benefitting from the land , who use hired youth to cause violence and deny the petitioner and other beneficiaries access to the said land
13. The beneficiaries, through Hon. Geoffrey King'ang'i, MP sought a statement on 26th July 2018 from the Cabinet Secretaries, Ministry of Interior & Coordination of National Government and Lands & Physical -Planning on the status of the allocation. The Cabinet Secretary, Ministry of Interior and Coordination of National Government in his response, committed to resume the resettlement process within ninety (90) days during which the underlying issues would be addressed.
14. The Cabinet Secretary, Ministry of Interior & Coordination of National Government promised to resume the settlement programme within 90 days. However, the exercise had not resumed to date.
15. All court cases on the land in question had been long settled and there was no pending appeal relating to the matter. The petitioner highlighted the said cases as follows:
 - i. **Petition ELC No 2 of 2016:** The petitioner stated the petition was dismissed and that the court had declared the demarcation, alienation and allocation of land in the scheme was regular, legal and constitutional; and
 - ii. **Petition ELC No 3 of 2016:** The petitioner stated that the court ruled on the matter of those who were violently opposed to the process and determined that the Constitution protects those with vested interest and not those with anticipatory interest whether genuine or otherwise.

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

16. The Committee held a meeting with the Chief Administrative Secretary, Ministry of Lands and Physical Planning on 10th September 2019. During the meeting the Chief Administrative Secretary informed the Committee that the Mwea Settlement Scheme was established on LR. No. 26461(F. R . No. 317 /30) and it measures approximately 17, 830.6 Hectares.
17. **Resettlement programme:** The resettlement programme had been suspended since 2011 due to the issues raised by the Embu/Mbeere Welfare Association in High Court petition No.7 of 2011.
18. However, following the intervention of National Assembly Departmental Committee on Lands and Natural Resources on 9th January 2013, which recommended that the disputing parties resolve the matter out of court. The parties involved agreed to share the land as follows:
 - i. Mbeere Community – 40 %
 - ii. Kamba – 30%
 - iii. Embu Community – 20 %
 - iv. Kirinyaga Community – 10%
19. Planning and survey were undertaken in 2016 by the County Government of Embu in conjunction with the National Land Commission. The survey realized 7,232 plots. Subsequently 6292 title deeds have been issued to the beneficiaries. The remaining 940 title deeds are at the Siakago Land Registry.
20. Each community was also required to identify beneficiaries and submit a list on the same to the National Land Commission. The Commission and the County Government of Embu then proceeded to plan and survey the land in 2014.
21. The Kirinyaga County Government obtained Conservatory Orders restraining the Ministry of Lands and Physical Planning from the issuing title deeds. The said orders were vacated by the High Court on 26th August 2016 paving way for the issuance of title deeds.

22. **Disputes resulting from showing of plots:** Several disputes arose during the showing of plots in 2018 leading to the disruption of security and halting of the resettlement programme. By then 3,641 beneficiaries had already been shown their plots. The said disputes mainly arose due to the following issues;

- i. Some people or groups claimed that they were not consulted during the allocation;
- ii. Others claimed that they were left out during the allocation, yet they had already settled on the land at the time;
- iii. Claims that nonlocals were allocated land; and
- iv. Allegations that some beneficiaries were allocated large parcels of land and multiple parcels.

23. The Ministry recommended that a multi-agency committee comprising the County Governments of Embu, Kirinyaga, Ministry of Lands and Physical planning, the National Land Commission, Ministry of Interior and Coordination of National Government, local leadership and representatives of various squatter communities should be established to chart a way forward on the outstanding issues.

3.3 Submissions by the Cabinet Secretary, Ministry of Interior and Coordination of National Government

24. The Cabinet Secretary, Ministry of Interior and Coordination of National Government through written submissions dated 17th September 2019 and 18th September 2019 informed the Committee that:

25. The land in question LR No. 26461 FR No. 317/30 measuring approximately 17,830.6 Ha is in Makima Location, Makima Division, Mbeere South Sub - County in Embu County. The administration of the scheme had met opposition, including court cases from interested communities dating back to the 1970s.

26. Consequently, the government established various task forces and commission to address the matter. These included;

- a) Akello Taskforce of 1990
- b) J. Chesoni Commission of 1995
- c) Twang'a Verification Task Force of 2001

27. In addition, the National Assembly Departmental Committee on Lands and Natural Resources resolved on 9th January 2013 that adjudication of the Scheme be undertaken, and all court case be expedited.

28. **Alternative Dispute Resolution Mechanisms:** The National Land Commission, County Government of Embu, local leaders also initiated Alternative Dispute Resolution Mechanisms. During the said exercise each community nominated 30 elders who participated in negotiation that agreed that the land be shared as follows:
- a) Mbeere – 40 %
 - b) Embu – 20 %
 - c) Mwea (Kamba) – 30%
 - d) Kirinyaga (Kikuyu) – 10%
29. Each group also agreed to submit a list of beneficiaries, the acreages per beneficiary and identified plots for public utilities to the National Land Commission. The Commission formed a committee to harmonize the said list in consultation with the respective communities. The Ministry of Interior also supported the exercise through the identification of households in the Scheme.
30. A notice of intention to plan was issued on 8th April 2014 and a survey plan was prepared by the National Land Commission and the County Government of Embu as per the agreement with the elders. Consent orders were also entered to by the parties as per the agreement of the elders and subsequently orders were issued to withdraw cases.
31. **Court cases:** However, the Kirinyaga County Government obtained Conservatory Orders on the issuance of title deeds. The said orders were vacated by the High Court on 26th August 2016 paving way for the issuance of title deeds. 90% of the said titles have been issued to the beneficiaries.
32. The Kirinyaga County Government filed another suit halting the process of issuing the title deeds. The County Government was granted Conservatory Orders which were shortly vacated on 6th December 2016. Allowing the County Government to establish all boundaries (beacons) for each parcel and embarked on the resettlement program.
33. The County Government of Kirinyaga had since filed an appeal at the Nyeri Court of Appeal No. 56 of 2019 against the County Government of Embu, which is yet to be determined.
34. On 18th March 2018 a group of youths stoned and shot police officers providing security during the resettlement exercise and injured one police officer while five youths also sustained injuries as a result the Ministry of Interior directed that the resettlement be halted to avert further loss of lives and property.

35. The Cabinet Secretary recommended that the resettlement may only resume if the concerns that led to the conflict are amicably resolved by the relevant bodies being the Ministry of Lands and Physical Planning, the County Government of Embu and National Land Commission.

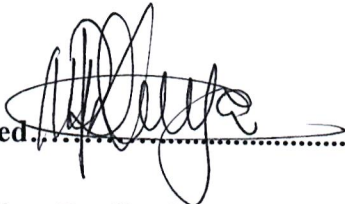
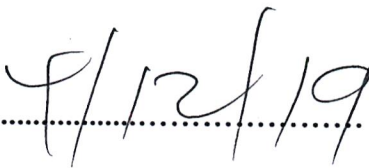
4.0 OBSERVATIONS

The Committee made the following observations:

1. The land in question LR No. 26461 FR No. 317/30 measuring approximately 17,830.6 Ha. is in Makima Location, Makima Division, Mbeere South Sub - County in Embu County.
2. The conflict regarding the administration of the scheme dates back to the 1970 and the relevant agencies have not been able to address the issue of resettlement of the beneficiaries, despite the establishment of various Commissions and Taskforces including the Akello Taskforce of 1990, J. Chesoni Commission of 1995 and Twang'a Verification Task Force of 2001. Further, the National Assembly Departmental Committee on Lands and Natural Resources on 9th January 2013 considered the issues relating to the scheme and recommended that the disputing parties resolve the matter out of court.
3. There has been efforts to have the issues relating to the resettlement of the beneficiaries at the scheme led by the National Land Commission, the County Government of Embu, and local leaders through Alternative Dispute Resolution Mechanisms leading to an agreement that the land in question be shared as follows:
 - (e) Mbeere – 40 %
 - (f) Embu – 20 %
 - (g) Mwea(Kamba) – 30%
 - (h) Kirinyaga (Kikuyu) – 10%
4. The submissions made to the Committee by the Ministry of Lands and Physical Planning indicated that 6292 title deeds have been issued to the beneficiaries out of the 7,232 titles for the Scheme. The remaining 940 title deeds are at the Siakago Land Registry.
5. Although the beneficiaries of the scheme have been issued with title deeds, they have not been able to access the land.
6. The issues relating to allocation of land to beneficiaries at the Mwea Scheme have been subject to several court cases including Petition ELC No. 2 of 2016 in which the court declared that the demarcation, alienation and allocation of land in the scheme was legal.
7. Although the Cabinet Secretary, Ministry of Interior and Coordination of National Government in his submission to the Committee committed to resume the resettlement process within ninety (90) days during which the underlying issues will be addressed by the Ministry of Interior and Coordination of National Government. The resettlement of legitimate beneficiaries in Mwea Settlement Scheme had not resumed to date.

5.0 COMMITTEE RECOMMENDATIONS

In response to the prayers by the Petitioners, the Committee recommends that a multi-agency Committee led by the Ministry of Interior and Coordination of National Government, County Government of Embu, Ministry of Lands and Physical Planning does ensure that the beneficiaries of the Mwea Settlement Scheme L.R 26461 FR 317/30 access the land in question within ninety (90) days.

Signed  Date 

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



NATIONAL ASSEMBLY

CLERK'S CHAMBERS

DEPARTMENTAL COMMITTEE ON LANDS

MEMBERS ADOPTION LIST

Report on the Consideration of a Petition by Mr. Stephen Ngari Nyuki regarding delay in allocation of land in Murera Settlement Scheme to the legitimate beneficiaries

DATE: 03/12/2014

| NO | NAME | SIGNATURE |
|-----|---|-----------|
| 1. | Hon. Dr. Rachael Nyamai, MP - Chairperson | |
| 2. | Hon. Khatib Mwashetani, MP - Vice Chairperson | |
| 3. | Hon. Jayne Wanjiru Kihara, MP | |
| 4. | Hon. Joshua Kutuny Serem, MP | |
| 5. | Hon. Kimani Ngunjiri, MP | |
| 6. | Hon. Mishi Mboko, MP | |
| 7. | Hon. Omar Mwinyi Shimbwa, MP | |
| 8. | Hon. Ali Mbogo, MP | |
| 9. | Hon. Babu Owino, MP | |
| 10. | Hon. Caleb Kipkemei Kositany, MP | |
| 11. | Hon. Catherine Waruguru, MP | |
| 12. | Hon. George Aladwa, MP | |
| 13. | Hon. George Risa Sunkuyia, MP | |
| 14. | Hon. Jane Wanjuki Njiru, MP | |
| 15. | Hon. Josphat Gichunge Kabeabea, MP | |
| 16. | Hon. Owen Yaa Baya, MP | |
| 17. | Hon. Samuel Kinuthia Gachobe, MP | |
| 18. | Hon. Simon Nganga Kingara, MP | |
| 19. | Hon. Teddy Mwambire, MP | |

**MINUTES OF THE 92ND SITTING OF THE DEPARTMENTAL COMMITTEE ON
LANDS HELD ON FIRIDAY, 29TH NOVEMBER, 2019 AT ENGLISHPOINT – MARINA,
MOMBASA AT 9.30 AM**

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, MP - **Vice Chairperson**
3. Hon. Omar Mwinyi Shimbwa, M.P
4. Hon. Mishi Mboko, M.P
5. Hon. Ali Mbogo, M.P
6. Hon. Babu Owino, M.P
7. Hon. Owen Baya, M.P
8. Hon. Simon Nganga Kingara, M.P
9. Hon. Teddy Mwambire, M.P
10. Hon. George Risa Sunkuyia, M.P

APOLOGIES

1. Hon. Jayne Kihara, M.P
2. Hon. Joshua Kutuny, M.P
3. Hon. Kimani Ngunjiri, M.P
4. Hon. Caleb Kositany, M.P
5. Hon. Catherine Waruguru, M.P
6. Hon. George Aladwa, M.P
7. Hon. Jane Wanjuki Njiru, M.P
8. Hon. Josphat Gichunge Kabeabea, M.P
9. Hon. Samuel Kinuthia Gachobe, M.P

IN ATTENDANCE

THE NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Florence Abonyo - Director, Committee Services
2. Mr. Leonard Machira - Clerk Assistant I
3. Mr. Ahmad Guliye - Clerk Assistant III
4. Ms. Jemimah Waigwa - Legal Counsel
5. Mr. Nimrod Ochieng - Audio Recording Officer
6. Ms. Peris Kaburi - Serjeant At Arms
7. Mr. Allan Nandasaba - Intern

MIN. NO. NA/DCS/LANDS/2019/362: PRELIMINARIES

The meeting was called to order at twenty – one minutes to ten o'clock and prayers were said.

MIN. NO. NA/DCS/LANDS/2019/363: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as outlined in the notice of agenda after it was proposed and seconded by Hon. Simon Kingara, MP and Hon. Ali Mbogo, MP

MIN. NO. NA/DCS/LANDS/2019/364: CONSIDERATION OF THE DRAFT REPORT ON THE PETITION BY MR. STEPHEN NGARI NJUKI, REGARDING DELAY IN ALLOCATION OF LAND IN MWEA SETTLEMENT SCHEME TO THE LEGITIMATE BENEFICIARIES

The Committee considered the draft report on the Petition by Mr. Stephen Ngari Njuki, regarding delay in allocation of land in Mwea Settlement Scheme to the legitimate beneficiaries and adopted it with the following observations and recommendations after it was proposed and seconded by Hon. Ali Mbogo, MP and Hon. Simon Kingara, MP respectively;

a. Observations

- i. The land in question LR No. 26461 FR No. 317/30 measuring approximately 17,830.6 Ha. is in Makima Location, Makima Division, Mbeere South Sub - County in Embu County.
- ii. The conflict regarding the administration of the scheme dates back to the 1970 and the relevant agencies have not been able to address the issue of resettlement of the beneficiaries, despite the establishment of various Commissions and Taskforces including the Akello Taskforce of 1990, J. Chesoni Commission of 1995 and Twang'a Verification Task Force of 2001. Further, the National Assembly Departmental Committee on Lands and Natural Resources on 9th January 2013 considered the issues relating to the scheme and recommended that the disputing parties resolve the matter out of court.
- iii. There have been efforts to have the issues relating to the resettlement of the beneficiaries at the scheme led by the National Land Commission, the County Government of Embu, and local leaders through Alternative Dispute Resolution Mechanisms leading to an agreement that the land in question be shared as follows:

(a) Mbeere – 40 %

- (b) Embu – 20 %
- (c) Mwea(Kamba) – 30%
- (d) Kirinyaga (Kikuyu) – 10%

- iv. The submissions made to the Committee by the Ministry of Lands and Physical Planning indicated that 6292 title deeds have been issued to the beneficiaries out of the 7,232 titles for the Scheme. The remaining 940 title deeds are at the Siakago Land Registry.
- v. Although the beneficiaries of the scheme have been issued with title deeds, they have not been able to access the land.
- vi. The issues relating to allocation of land to beneficiaries at the Mwea Scheme have been subject to several court cases including Petition ELC No. 2 of 2016 in which the court declared that the demarcation, alienation and allocation of land in the scheme was legal.
- vii. Although the Cabinet Secretary, Ministry of Interior and Coordination of National Government in his submission to the Committee committed to resume the resettlement process within ninety (90) days during which the underlying issues will be addressed by the Ministry of Interior and Coordination of National Government. The resettlement of legitimate beneficiaries in Mwea Settlement Scheme had not resumed to date.

b. Recommendation

The Committee recommended that a multi-agency Committee led by the Ministry of Interior and Coordination of National Government, County Government of Embu, Ministry of Lands and Physical Planning does ensure that the beneficiaries of the Mwea Settlement Scheme L.R 26461 FR 317/30 access the land in question within ninety (90) days.

**MIN. NO. NA/DCS/LANDS/2019/365: CONSIDERATION OF THE DRAFT REPORT
ON THE PETITION BY RESIDENTS OF
TIGANIA EAST CONSTITUENCY
REGARDING ALLEGED UNLAWFUL
OCCUPATION OF ANCESTRAL LAND BY
THE KENYA DEFENCE FORCES SCHOOL
OF ARTILLERY (78 TANK BATTALION)**

The Committee considered the draft report on the Petition by residents of Tigania East Constituency regarding alleged unlawful occupation of ancestral land by the Kenya Defence Forces school of artillery (78 tank battalion) and adopted it with the following observations and

recommendations after it was proposed and seconded by Hon. Owen Baya, MP and Hon. AKhatib Mwashetani, MP respectively;

a. Observations

- i. The 78 Tank Battalion land which lies within Ngare Mara Gambella was allocated to the Kenya Defence Forces pursuant to Gazette Notice No. 3210 of 1977.
- ii. The 78 Tank Battalion land was declared an adjudication section on March 11th, 2016 and thereafter an amendment on the sectional boundaries was done on 29th June, 2018 and an allotment letter subsequently issued on 12th July, 2018 to the Kenya Defence Forces, being two years later after the adjudication.
- iii. The Ministry of Lands and Physical Planning had erred in the demarcation of boundaries for the adjudication of Ngare Mara Adjudication Section and inadvertently adjudication of the KDF land.
- iv. The error by the Ministry of Lands and Physical Planning in the adjudication of the Ngara Mara section had led to encroachment of land belonging to the KDF.
- v. There were no further efforts made to compensate the public beyond the Gazette Notice No. 3210 issued on 1977 inviting persons who had claim on the land in question to make application for compensation.
- vi. The failure by the Kenya Defence Forces to secure and demarcate their land had contributed to the residents settling on the land.
- vii. Although there a gazette notice No. 3210 issued on 1977 inviting persons who had claim on the land in question to make application for compensation, the members of the public may not have had access to the Gazette Notice.
- viii. There was no evidence presented to the Committee indicating whether any person ever lodged a claim on the land in question.
- ix. There existed governments institutions on the 78 Tank Battalion land which were demolished, and people were also rendered homeless. In this regard, the Committee noted that the Petitioners were requesting for compensation for loss of their property on the 78 Tank Battalion land.

b. Recommendations

The Committee recommended the following;

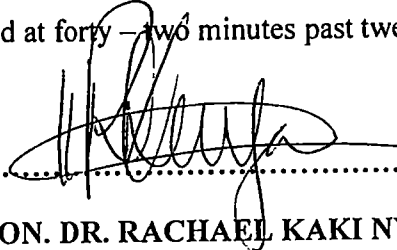
- i. The National Land Commission does determine the persons who had claim on the 78 Tank Battalion land as of the date of issuance of the Gazette Notice Number 3210 of 1977 and compensate the affected persons for loss of property within three months of tabling of this Report.
- ii. The Ministry of Defence does secure all land allocated to the military to prevent encroachment and ownership disputes.

- iii. The Ministry of Lands and Physical Planning does survey the 78 Tank Battalion Land to clearly demarcate the land belong to the Kenya Defence Forces and the residents.

MIN. NO. NA/DCS/LANDS/2019/366: ADJOURNMENT

The meeting was adjourned at forty – two minutes past twelve noon.

Signature



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

(Chairperson)

Date.....

4/12/2019

MINUTES OF THE 60TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON THURSDAY, 22ND AUGUST 2019 IN THE BOARDROOM, 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 A.M

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Mishi Mboko, M.P
3. Hon. Omar Mwinyi Shimbwa, M.P
4. Hon. Caleb Kositany, M.P
5. Hon. Catherine Waruguru, M.P
6. Hon. George Risa Sunkuyia, M.P
7. Hon. Jane Wanjuki Njiru, M.P
8. Hon. Josphat Gichunge Kabeabea, M.P
9. Hon. Samuel Kinuthia Gachobe, M.P
10. Hon. Simon Nganga Kingara, M.P
11. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
2. Hon. Kimani Ngunjiri, M.P
3. Hon. Jayne Kihara, M.P
4. Hon. Joshua Kutuny, M.P
5. Hon. Ali Mbogo, M.P
6. Hon. Babu Owino, M.P
7. Hon. George Aladwa, M.P
8. Hon. Owen Baya, M.P

PETITIONERS ON THE PETITION REGARDING DELAY IN ALLOCATION OF MWEA SETTLEMENT SCHEME TO LEGITIMATE BENEFICIARIES

1. Hon. Sylvester Mate
2. Hon. Joseph Mwaniki Nyaga
3. Mr. Stephen Ngari Njuki
4. Mr. James Mubothi

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Clerk Assistant I
2. Mr. Ahmad Guliye - Clerk Assistant III

- | | | |
|------------------------|---|------------------|
| 3. Ms. Jemimah Waigwa | - | Legal Counsel I |
| 4. Ms. Rahab Chepkilim | - | Audio Officer |
| 5. Ms. Peris Kaburi | - | Serjeant At Arms |

MIN. NO. NA/DCS/LANDS/2019/234: PRELIMINARIES

The meeting was called to order at twenty six minutes past ten o'clock, prayers said and thereafter, introductions were made.

MIN. NO. NA/DCS/LANDS/2019/252: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as outlined in the notice of the meeting and was proposed and seconded by Hon. Mishu Mboko, M.P and Hon. George Sunkuyia, M.P respectively.

MIN. NO. NA/DCS/LANDS/2019/253: MEETING WITH THE PETITIONER ON THE PETITION REGARDING DELAY IN ALLOCATION OF MWEA SETTLEMENT SCHEME TO LEGITIMATE BENEFICIARIES

Mr. Stephen Ngari Njuki, the petitioner, accompanied by three beneficiaries of Mwea Settlement Scheme submitted the following regarding the petition, that;

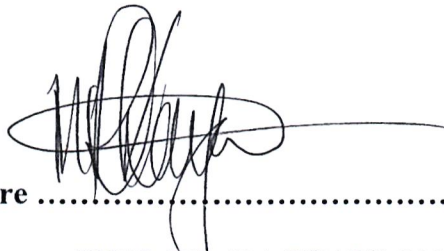
- i. They were legitimate beneficiaries of Mwea Settlement Scheme having been allocated the land by the Government through the National Land Commission;
- ii. The National Land Commission alienated the land and allocated it to the beneficiaries in April, 2018. The Beneficiaries were then issued with title deeds;
- iii. The petitioner claimed that the beneficiaries were prevented from access their parcels of land by organized criminals led by who used violence to erupt the process, leading to the halting of the process by the Ministries of Interior & Coordination of National Government and the Lands & Physical Planning;
- iv. The Petitioner alleged that violence was sponsored by aggrieved persons, who missed out on the allocation,
- v. Several cases challenging the legality of the allocation were filed in court and had since been dispensed with. The plaintiffs lost all the cases and no appeals had been launched in court regarding the matter;
- vi. The beneficiaries, through Hon. Geoffrey King'ang'i, MP sought a statement on 26th July 2018 on the status of the allocation. The Cabinet Secretary, Ministry of Interior and Coordination of National Government in his response, committed to resume the resettlement process within ninety (90) days during which the underlying issues would be addressed.
- vii. A year had since passed with no resumption of resettlement of the legitimate beneficiaries being undertaken.
- viii. The Petitioners prayed that the Committee intervenes in enabling that the legitimate beneficiaries are resettled in their allocated parcels of land.

Committee Observation

The Committee noted the concerns of the Petitioners and resolved to invite the Cabinet Secretaries for Interior and Coordination of the National Government and that of Lands and Physical Planning for a joint meeting on Thursday, 12th September, 2019 at 9.30 a.m. to address the matters raised in the Petition.

MIN. NO. NA/DCS/LANDS/2019/254: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at two minutes to twelve o'clock.



Signature

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

(Chairperson)

Date.....

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY (THIRD SESSION)

CONVEYANCE OF PUBLIC PETITION

(No. 58 of 2019)

REGARDING DELAY IN ALLOCATION OF MWEA SETTLEMENT SCHEME TO LEGITIMATE BENEFICIARIES

Honourable Members, Standing Order 225(2) (b) requires the Speaker to report to the House any Petition, other than those presented by a Member. I therefore wish to report to the House that my office has received a Petition, submitted by Mr. Stephen Ngari Njuki on behalf of the beneficiaries of the former **Mwea Settlement Scheme LR NO. 26461 FF NO. 317/30.**

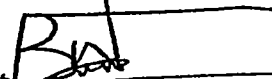
Honourable Members, the petitioner claims that the member for Mbeere South Constituency requested for a statement on the allocation of Mwea Settlement Scheme in Mbeere South Constituency in Embu County to the legitimate beneficiaries and in a reply to the statement dated 17th September 2018, the Cabinet Secretary for Interior and Coordination of National Government and Cabinet Secretary for Lands and Physical Planning undertook to

resume the settlement of legitimate beneficiaries within 90 days. To date the beneficiaries of the Mwea Scheme are yet to be resettled despite the undertaking by the relevant Cabinet Secretaries.

Honourable Members, the petitioner is concerned that matters raised in this petition have been brought before the relevant legal and constitutional bodies but remain unresolved.

Honourable Members, pursuant to the provisions of Standing Order 227, this Petition therefore stands committed to the Departmental Committee on Lands. The Committee is requested to consider the Petition and report its findings to the House and the petitioner in accordance with Standing Order 227(2).

I thank you!


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

20th June 2019

**PETITION PURSUANT TO ARTICLE 119 OF THE CONSTITUTION,
PETITION TO PARLIAMENT (PROCEDURE) ACT NO. 22 OF 2012
AND THE NATIONAL ASSEMBLY STANDING ORDERS**

TO THE SPEAKER OF THE NATIONAL ASSEMBLY,

P.O BOX 41842-00100,

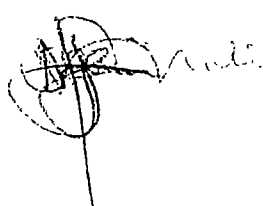
NAIROBI.

1. **THAT** I am a citizen of Kenya, and the Petitioner herein and represents this on my own behalf and on behalf of the beneficiaries of the former Mwea Settlement Scheme LR NO. 26461 FR NO. 317/30.
2. **THAT** the member for Mbeere South Constituency requested for a statement on among other things the allocation of Mwea Settlement Scheme in Mbeere South Constituency in Embu County to the legitimate beneficiaries.
3. **THAT** on a reply to the statement dated 17th September 2018, the Cabinet Secretaries for Interior and Coordination of National Government and Cabinet Secretary for Lands and Physical Planning undertook to fast-track and resume the settlement of legitimate beneficiaries within 90 days.
4. **THAT** all the pending cases opposing the resettlement of persons at the Scheme were disposed of.
5. **THAT** to date the beneficiaries to the Mwea Scheme are yet to be resettled despite the undertaking by the relevant Cabinet Secretaries.
6. **THAT** despite efforts to have matters raised in this Petition addressed by the relevant bodies and offices, our efforts have been futile.
7. **THAT** the matters raised in this Petition are not also pending in any court of law in Kenya.
8. **THAT** the Petitioners therefore prays for-
 - (a) pursuant to National Assembly Standing Order 216, the Standing Committee on Lands does consider, investigate and inquire into all the matters raised in this Petition;

PETITION PURSUANT TO ARTICLE 119 OF THE CONSTITUTION,
PETITION TO PARLIAMENT (PROCEDURE) ACT NO. 22 OF 2012
AND THE NATIONAL ASSEMBLY STANDING ORDERS

- (b) pursuant to the National Assembly Standing Order 216, the Standing Committee on Lands does make the relevant recommendations thereof.

Petition presented by:

| Name | Address | Identification Number | Signature |
|---------------------|--------------------|-----------------------|---|
| Stephen Ngari Njuki | P.O Box 67 Ishiara | 22808594 |  |
| 0721 | 788629 | | |

I am Stephen Ngari Njuki ID No: 22808594

I am a Mbeere. Which is in Mbeere, Embu County. Mbeere is organized into 39 clans. Which has an apex leadership of elders called **NGOME**

I am the Owner of parcel number/Title deed No **EMBU/MWEA SCHEME/2809**

Which is part of the former Mwea settlement scheme.

I am here today on my own behalf and on behalf of all other beneficiaries who have not been shown parcels as subdivided and surveyed.

In April 2018 the government through the National Land Commission (NLC) and Embu county government organized a day which the legitimate beneficiaries of the former mwea settlement scheme were to be showed their parcels. I personally was present.

However after several people had been showed a group of people emerged and there was violence that led to the directive by the Cabinet Secretary Ministry of Interior and coordination of National Government Dr. Fred Matiang'i to stop the settlement exercise until further administrative arrangements are in place.

After the halting of the process it took a long time before government resumed so together with the elders we persuaded the area MP Hon. Col Geoffrey King'ang'i to follow it up with the National Assembly. Which he did and got a response as recorded in the hansard.

On 17th September 2018 the Cabinet Secretary Ministry of Interior and coordination of National Government Dr. Fred Matiang'i and Cabinet Secretary in charge of Lands and Physical Planning Madam Farida Karoney promised to resume the settlement programme in 90 days. Nothing has been forth coming

since. I found it necessary to personally petition National Assembly so as to seek redress.

Beneficiaries who were allocated land and shown their parcels have since settled and are developing their parcels while mine is in an unknown status.

It is now over a year since the government promised to facilitate legitimate beneficiaries to move in their lands.

THE COURT PROCESS

In my petition I noted that there is no court process barring me or the government from facilitating me access my parcel. Parties that were not contented with the process moved to court and the matters were long settled. There is no appeal or any matter that relates to my parcel of land that is pending in any court.

1. PETITION E.L.C PETITION NUMBER 02 OF 2016

This was a petition by people within the community who allegedly missed out in the allocation and sought to challenge the process, (The alienation, the demarcation and allocation).

They challenged three things; -

- a) The constitutionality
- b) The legality
- c) The transparency/ regularity

Page number 9 paragraph 1 (Read the prayers by the petitioners)

The ruling was made and is recorded in the copies of documents as presented and seen in **page 34 paragraph 66 (c,e,f,g)**

The court declared that the demarcation, alienation and allocation was regular, legal and constitutional and the entire petition was dismissed as seen on **page 35 paragraph 67**.

PETITION E.L.C NUMBER 3 OF 2016

Another petition was filed by Kirinyaga County. **Page 37** (read the prayers by the petitioner)

This petition was largely on an alleged violation of the constitution. Several Articles were quoted. Challenging the demarcation, alienation and allocation of the former mwea settlement scheme **LR NO: 26461 FR NO:317/30** and by extension my parcel of land No. **EMBU/MWEA SCHEME/2809**

A ruling was made by high court in Embu.

Refer to **page 52, paragraph 39 – 42** that answered the question on public participation

Pages 54 – 55 paragraph 43 – 47 it was ruled that there was no discrimination. Proving the legitimacy of my parcel.

Page 57 paragraph 48 – 49 this ruling settled the question of those who were violently opposing the process. Since the constitution is clear as it protects those with vested interests not those with anticipations whether genuine legitimate or otherwise.

On **page 58 paragraph 49** the court rules that there was no violation of the constitution.

Article 64 of the constitution defines what constitutes private land. **Article 40** of the constitution clearly states that I should be protected to access my parcel of land.

My prayer Hon chair is that you pass a decision on this committee and parliament that the government facilitates me and other legitimate beneficiaries access our parcels of land as demarcated, alienated and allocated.



TWELFTH PARLIAMENT

THE NATIONAL ASSEMBLY – SECOND SESSION

Approved
26/7/18

Mw...
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STATEMENT ON ALLOCATION OF LAND IN THE MWEA SETTLEMENT SCHEME IN MBEERE SOUTH CONSTITUENCY IN EMBU COUNTY

Honourable Speaker,

Pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Lands regarding allocation of land in the Mwea Settlement Scheme.

Honourable Speaker,

Allow me to lay a brief historical background on the issue as follows:

- (i) Mwea Settlement Scheme LR No. 26461 FR No. 317/30 of approximately 17,830.60 Hectares as per Kenya Gazette Notice No. 577 under Cap 288 of 30th January 2004 is located in Makima location, Mbeere South Sub County, Embu County, Kenya. It is part of the larger Mwea Trust land which comprises of Mwea Game Reserve, Mwea Settlement Scheme, and Karaba, Wachoro, Makima and Riakanau adjudication sections.
- (ii) The challenges facing administration of Mwea land date back to the 1970s. Multiple court cases and orders from Mbeere, Kamba, Embu, and Kikuyu communities served to the Ministry of Lands, National Land Commission (NLC), the County Government and their officers had hindered issuance of title deeds in the area.
- (iii) Various Taskforces and Commissions have been formed over the years to resolve the problem without success, including:
 - (a) Akello Taskforce of 1990;
 - (b) J. Chesoni Commission of 1995; and
 - (c) Tuang'a Verification Taskforce of 2001.
- (iv) The National Assembly Departmental Committee on Lands also made attempts to address the matter in 2013, and eventually resolved that adjudication of Mwea Settlement Scheme should be done and all pending court cases expedited.
- (v) The NLC, County Government of Embu, local leaders and elders representing each community group in the area embarked on an Alternative Dispute Resolution mechanism from 2013 to 2016, in which they resolved to share the land as follows: Mbeere 40%, Embu 20%, Kamba 20%, Kikuyu 20%.

Kikuyu – 10%. Each community was to submit a list of their beneficiaries to NLC.

- (vi) Following successful negotiations, the then pending court cases were withdrawn and a consent was recorded in court, paving the way for planning, surveying, allocation, registration, issuance of titles, beaconing (which was completed), and finally, resettlement.

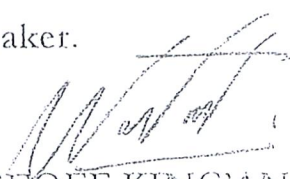
Honourable Speaker,

During the resettlement exercise, there was a major disruption from a hostile group of young people which tried to block the title holders from accessing their parcels. This led to a violent confrontation between these youth and security forces, which led to the loss of one life and several injuries and a suspension of the resettlement exercise by the Ministries of Lands & Physical Planning and Interior and Coordination of National Government. At present, there has been displacement of beneficiaries and unidentified persons from outside the county are now forcefully taking over the parcels of land in unclear circumstances.

Hon. Speaker, in her statement, the Chairperson should inform on the following:-

- a) When are the Ministries of Lands & Physical Planning and Interior & Coordination of National Government going to resume the resettlement exercise and how soon will the legitimate beneficiaries be resettled?
- b) Whether the Ministries of Lands & Physical Planning and Interior & Coordination of National Government are aware that illegitimate groups have hijacked the resettlement exercise with the hope of being included as beneficiaries and have illegally started taking occupation of portions of land by moving in and constructing makeshift structures at the expense of the legitimate owners who will soon be displaced?
- c) Whether the two Ministries are aware that the legitimate land owners are mobilizing themselves to defend their land from infiltration and may forcefully enter the land to resettle themselves to avoid impending displacement by infiltrators?
- d) What measures are being put in place by the Government to forestall any potential violence among the various groups mobilizing to either take over or defend the land.

I thank you, Hon. Speaker.


HON. COL (RTD.) GEOFF KING'ANG'ARI, MP
MEMBER FOR MBEERE SOUTH CONSTITUENCY

Date... 25 July 2013

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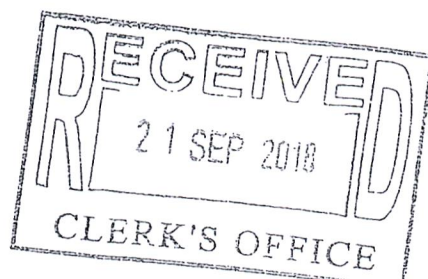
STATEMENT ON ALLOCATION OF LAND IN THE MWEA SETTLEMENT SCHEME IN MBEERE SOUTH CONSTITUENCY

Hon. Chair, the Member for Mbeere South Constituency, Hon.Col(Rtd) Geoff King'ang'i has requested for a statement on the allocation of land in the Mwea Settlement Scheme in Mbeere South Constituency in Embu County. The Honourable Member specifically sought to be informed on;

- i. When will the Ministries of Lands and Physical Planning and Interior and Coordination of National Government resume the resettlement exercise and how soon will the legitimate beneficiaries be resettled?
- ii. Whether the two ministries are aware that illegitimate groups have hijacked the resettlement exercise with the hope of being included as beneficiaries and have illegally started taking occupation of portions of land?
- iii. Whether the two ministries are aware that the legitimate land owners are mobilizing themselves to defend their land from infiltration and may forcefully resettle on the land to avoid impending displacement by infiltrators?
- iv. What measures are being taken to forestall any potential violence among the various groups mobilizing to either take over or defend the land?

I wish to state as follows;

Hon. Chair, Mwea Settlement Scheme, LR No. 26461 FR No.317/30 of approximately 17,830.6 Ha is in Makima location, Makima Division, Mbeere South County of Embu County. Attempts to administer the Scheme have always been met with opposition, including multiple court



cases from interested communities that dates back to the 1970's, with the Government being the respondent.

Consequently, the Government, in its endeavour to resolve the issue has established various Task Forces and Commissions as follows: -

1. Akello Taskforce of 1990
2. J. Chesoni Commission of 1995
3. Twang'a Verification Task Force of 2001

In addition, on 9th January 2013, the National Assembly's Departmental Committee on Lands and Natural Resources resolved that adjudication of the Scheme should be done and that all pending court cases be expedited. Consequently, NLC, County Government of Embu, local leaders and Community members embarked on an Alternative Dispute Resolution mechanism. Each community (Mbeere, Embu, Mwea, Kirinyaga) nominated 30 elders who participated in the dialogue and negotiations. The team unanimously agreed that the land be shared as follows: -

- i. Mbeere – 40%
- ii. Embu – 20%
- iii. Mwea (Kamba) – 30%
- iv. Kirinyaga(Kikuyu) – 10%

Those whose lands in the Adjudication Section were occupied and others who were resident in the scheme would be considered for allocation. They were later identified as 1200 and 441 residents respectively.

It was further agreed that each group to submit a list of their beneficiaries to the NLC, which appointed a committee to harmonize the lists in consultation with the communities, as per Land Act Section 134.

In addition, the numbers of identified people to be settled, the acreages and plots for public utilities were also unanimously agreed upon. The Ministry of Interior supported identification of households resident in the Scheme.

A notice of intention to plan was issued in the newspaper on 8th April 2014 as per the law. Planners and surveyors from the National and County Governments in Embu went to the ground and prepared a survey plan as per the agreement with Elders. Later, consents were drafted by the parties in court to withdraw cases and consent orders were issued by the high court of Kenya at Embu ordering that the land be administered as per the plan and the agreed list of beneficiaries. The orders directed the NLC, Cabinet Secretary, Lands and Chief Land Registrar to administer the land as per the survey plan and list of beneficiaries and issue titles.

However, **Hon. Chair** the then area Member of Parliament, Hon. Mutava Musyimi raised complaints on the scheme with the Ministry of Interior and the State Law Office in June, 2016. Consultative meetings were then held and it was established that the process was legal and constitutional.

The Kirinyaga County Government obtained Conservatory Orders (Ex Parte) as injunction on the issuance of the deeds after the Cabinet Secretary Lands set 26th August 2016 as the day for public issuance of Titles at Umuu Grounds in Mbeere South Sub County. However, the High Court of Kenya vacated the orders on 16th August 2016 paving way for issuance of titles. The Ministry of Lands released the titles to the Mbeere District Land Registry for issuance on 1st November 2016 until 11th November 2016 when the Kirinyaga County Government filed another application seeking for orders in the same court, halting the process of

issuing titles. They were granted Conservatory Orders (Ex Parte), which were shortly vacated on 6th December 2016. So far, about 90% of the titles have been issued despite the interludes. Thereafter the County Government established all the boundaries (beacons) for each parcel and had embarked on a resettlement program.

Hon. Chair, the officers then embarked on a programme on how the beneficiaries would be shown their land. However, on 18th March 2018, a group of youth stoned and shot at security personnel with bows and poisoned arrows. One police officer was injured while 5 youth sustained bullet injuries. Again, on 13th April 2018, hired goons attacked four people who had gone to see their land and burnt down their vehicle. As a result, the Ministry of Interior directed that the resettlement be halted to avert further loss of loss of lives and property.

The interested group against the resettlement filed a case in court requesting for an order to bar the Ministry of Lands, County Government of Embu and NLC from further showing the beneficiaries their land.

A previous matter in Court by the former Member of Parliament and others praying for the nullification of the title deeds citing that due procedure was not adhered to, was recently ruled. The Court upheld that the County Government, NLC and Ministry of Lands followed due procedure leading to issuance of title deeds for the scheme. This informs the current action/reaction by various parties.

Hon. Chair, my recommendation is that the exercise may only resume if the concerns that lead to conflict are amicably resolved by the relevant bodies being the Ministry of Lands, County Government of Embu and

NLC, to pave way for peaceful settlement. It should be noted that there are some matters in court.

We have been monitoring the activities of all the interested parties and gathering intelligence with a view to hinder forceful entry by the persons holding title deeds or incitement to forceful entry. We have also engaged them to be calm as they await the resolution of the issue while emphasizing that the rule of law must be upheld.

Hon. Chair, to forestall any potential violence, the Government has employed the following measures;

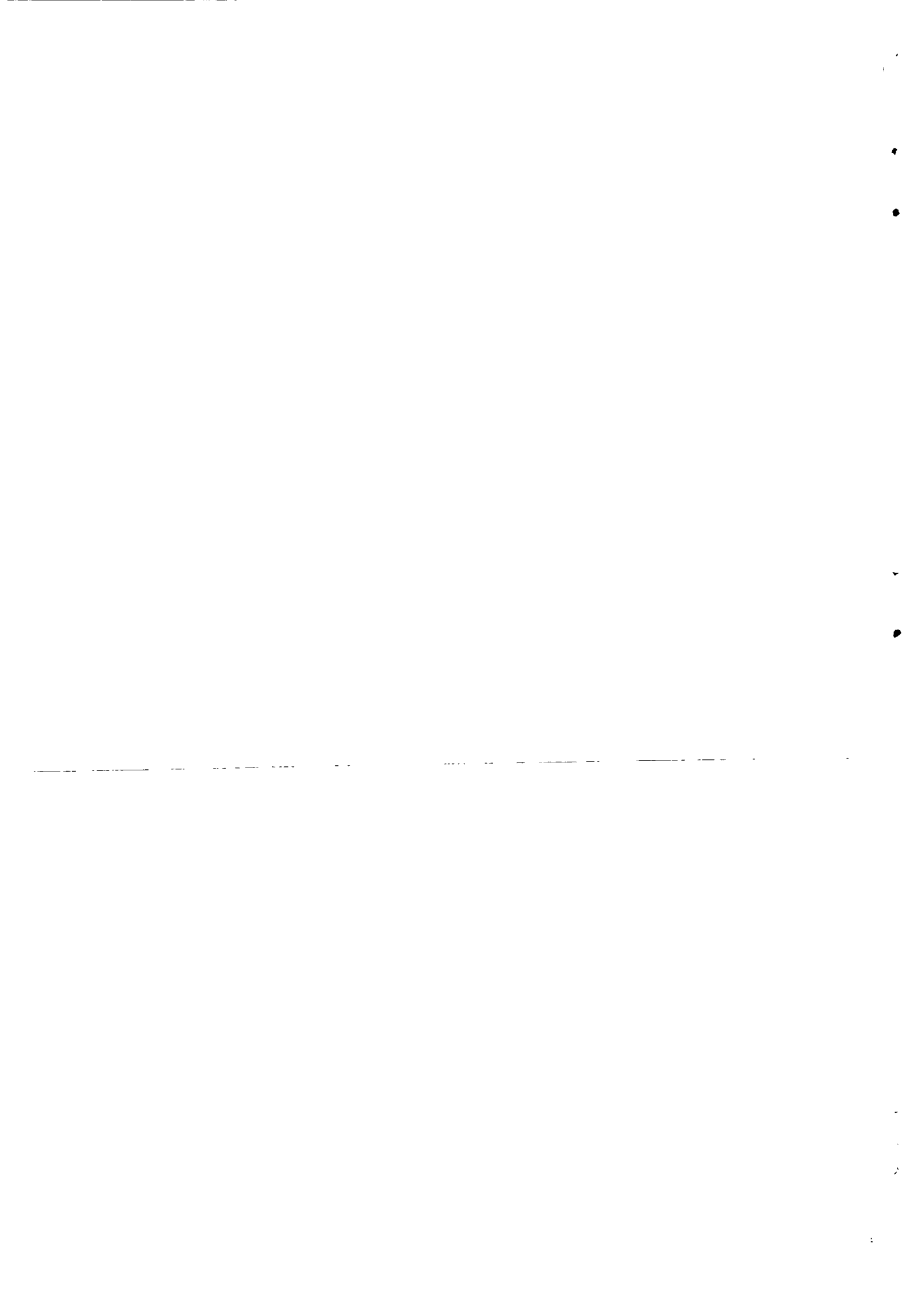
- i. Enhanced intelligence gathering in the area to address any emerging moves to create violence.
- ii. Intensified patrols to ensure law and order is maintained.
- iii. Investigations are undertaken to apprehend perpetrators of violence and incitement.
- iv. Joint peace meetings held with Community Elders and relevant stakeholders to appeal for peace and calm.

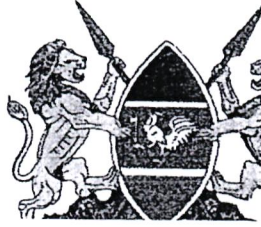
Thank you **Hon. Chair**.



FRED MATIANG'I, PhD, EGH
CABINET SECRETARY
MINISTRY OF INTERIOR AND
COORDINATION OF NATIONAL GOVERNMENT

17th September, 2018





MINISTRY OF LANDS AND PHYSICAL PLANNING

RESPONSES TO THE NATIONAL ASSEMBLY COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

1. PUBLIC PETITION NO. 35 OF 2019 BY MACKINON ROAD LANDOWNERS ASSOCIATION REGARDING IRREGULAR ALLOCATION OF LAND IN MACKINON ROAD SETTLEMENT SCHEME

The Petitioner alleges that Mackinnon Settlement Scheme was established in 2011 and was to be rolled out in three phases with a purpose to resettle the local community that had lived there for years. That a Committee was created to oversee the project. The committee was headed by the then District Commissioner for Kinango.

The Petitioner further alleges that survey works continued despite the fact that no committee meetings were convened. The Committee Members were informed that they would be updated when every phase of the Settlement Scheme was completed. This included updates on validation and verification of the plots. According to the petitioner there was no communication, instead Administration Police Officers were used to frighten the public who wished to witness the process for allegedly interfering with the survey works.

The Petitioner further alleges that residents held peaceful demonstrations seeking respect for their right to information and participation in the process. However, they have not been assisted despite seeking justice from various government agencies. The Petitioner cites the following malpractices in the entire exercise:

- That majority of the rightful beneficiaries were not allocated land
- That some beneficiaries were lumped in small parcels, and
- That outsiders benefited from the land and are now selling it.

The following are the petitioner's prayers to the National Assembly through the Departmental Committee on Lands:

- That the Committee intervenes to cause the relevant government agencies to nullify the exercise of survey and validate and verify plots in Mackinnon Land Settlement Scheme
- That the Committee recommends that a fresh and transparent exercise be undertaken to ensure that only genuine beneficiaries allocated plots in the said settlement scheme and that the people's inalienable right to participate in the exercise guaranteed; and
- That the Committee makes any other recommendations it deems fit in the circumstances of this matter

Response

Honourable Chair, I wish to respond as follows;

Background

Mackinnon Road Squatter Settlement Scheme is located in Kinango Constituency in Kwale County. It was established in 1997 and allocated in January, 1998. Letters of offer were issued to one thousand six hundred and thirty nine (1,639) beneficiaries who included people from outside Kwale.

The local leadership requested the then Minister for Lands to nullify the allocations. They claimed that some squatters were left out and parcels were allocated to persons who were not locals. In 2007, the Minister for Lands nullified the allocations and the District Land Adjudication and Settlement Officer was instructed to restart demarcation and survey so that the genuine squatters could be settled.

The Scheme was divided into three phases. Phase one (1) was allocated in February, 2011 and covered approximately 1,012 Hectares (2500 Acres) with plot sizes ranging from 0.5 Hectares (1.2 Acres) to 2.4 Hectares (6 Acres). The scheme has 788 agricultural plots and 4 public utility plots. (See annexure 1 on minutes and the list of beneficiaries)

In Phase 2, plot demarcation and survey was started in July, 2010 and completed in August, 2011. The survey in Phase 2 realized one thousand three hundred and twenty one (1,321) agricultural plots and twelve (12) public utility plots. (See annexure 2 on minutes and the list of beneficiaries)

Phase 3 traverses Kinango and Taita constituencies and will be implemented in the current financial year.

As regards the transparency of the exercise, this is a squatter settlement scheme and the lists of beneficiaries was generated on the basis of those found on the ground. The lists were presented before the District Settlement Selection Committee and were procedurally approved.

The District Settlement Selection Committee was properly and procedurally constituted and titles issued to beneficiaries. The beneficiaries were represented by their local leaders until the end of the exercise.

Individuals with grievances are requested to present them to the County Land Registrar for redress.

2. PUBLIC PETITION NO. 58 OF 2019 BY BENEFICIARIES OF MWEA SETTLEMENT SCHEME REGARDING DELAY IN ALLOCATION OF MWEA SETTLEMENT SCHEME L.R. No. 26461 TO LEGITIMATE BENEFICIARIES

The Petitioner claims that the Member of Parliament for Mbeere South Constituency requested for a statement on the allocation of Mwea Settlement Scheme in Mbeere South Constituency in Embu County to the legitimate beneficiaries. By a response to the statement dated September 17, 2018, the Cabinet Secretary for Interior and Coordination of National Government and the Cabinet Secretary for Lands and Physical Planning undertook to resume the resettlement of legitimate beneficiaries within 90 days.

The Petitioner further alleges that to date the beneficiaries of Mwea Settlement Scheme are yet to be resettled despite the undertaking by the relevant Cabinet Secretaries.

Response

Honourable Chair, I wish to respond as follows;

Background

Mwea Settlement Scheme is located in Makima location, Mbeere South Sub-county in Embu County. It was part of the larger Mwea Trust Land which comprised of Mwea Game Reserve and Karaba, Wachoro, Makima and Riakanau adjudication sections.

The Scheme was established on L.R. No. 26461 (F.R. No. 317/30) and measures approximately 17,830.6 Hectares. Planning and survey work was undertaken in 2016 by the County Government of Embu in conjunction with the National Land Commission. The survey realized 7,232 plots.

To-date, out of the resultant 7,232 title deeds, 6,292 have been issued to the beneficiaries. The balance of 940 title deeds are at the Siakago Land Registry.

It is important to note that the Ministry of Lands and Physical Planning was only involved in producing title deeds for this scheme.

Resettlement Programme

The resettlement programme had been suspended since 2011 due to High Court Petition No.7 of 2011 raised by the Embu/Mbeere Welfare Association. The National Assembly intervened on January 9, 2013 and recommended that the disputing parties resolve the matter out of court.

Following the recommendations of the National Assembly Committee on Lands, the disputing communities agreed on an out of court settlement and resolved to share the land as follows;

- Mbeere Community – 40%
- Kamba Community – 30%
- Embu Community – 20%
- Kirinyaga Community – 10%

Each community was required to identify and submit a list of beneficiaries for allocation of land.

The County Government of Embu and the National Land Commission proceeded to plan and survey the land in 2014. However, issuance of title deeds could not proceed since the County Government of Kirinyaga went to Court and obtained conservatory orders (ex-parte) restraining the Ministry of Lands and Physical Planning from issuing the title deeds.

The case was later heard inter- parties at the High Court of Kenya in Kerugoya and the conservatory orders issued on August 16, 2016 were vacated paving way for issuance of title deeds.

The title deeds were released to the Siakago Land Registrar for issuance on November 1, 2016.

Disputes resulting from showing of plots

Several disputes arose during the showing of plots in 2018. This led to disruption of security and the resettlement programme had to be suspended by the Government. By this time 3,641 beneficiaries had already been shown their plots.

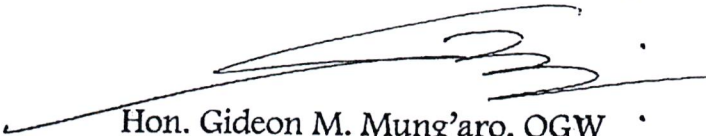
The following are some of the issues that have been encountered;

- Some people or groups claim that they were not consulted during the allocation
- Others claim that they were left out during the allocation yet they had already settled on the land at the time

- Claims that non locals were allocated land
- Allegations that some beneficiaries were allocated large parcels of land and multiple parcels in some instances.

Recommendation

A Multi Agency Committee comprising of the County Governments of Embu and Kirinyaga, Ministry of Lands and Physical Planning, National Land Commission, Ministry of Interior and Coordination of National Government, Local Leadership and representatives of the various squatter communities should be established to chart a way forward on the outstanding issues.



Hon. Gideon M. Mung'aro, OGW
FOR: CABINET SECRETARY

September 9, 2019

① Dicomms
Please deal
19/09/19

② MACHAKOS
please deal
FA
19/9/19



③ Chemungu
please note
FA
19/9/19

OFFICE OF THE PRESIDENT

Ministry of Interior and Co-ordination of National Government

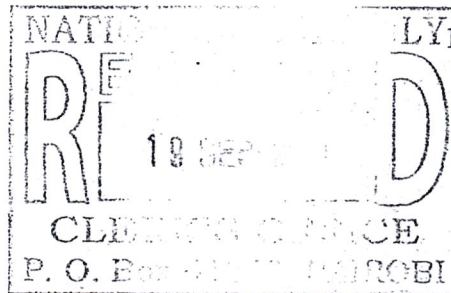
Telephone: +254-20-2227411
Fax: +254-20-341938
When replying please quote

HARAMBEE HOUSE
P.O. Box 30510-00100
NAIROBI, KENYA

Ref. No. OP/PA 1/29
and date

18th September 2019

Clerk of the National Assembly
Clerk's Chambers
Parliament Buildings
P.O Box 41842 - 00100
NAIROBI



RE: PETITION ON BENEFICIARIES OF MWEA SETTLEMENT SCHEME REGARDING DELAY IN ALLOCATION OF MWEA SETTLEMENT SCHEME LR NO.26461 TO LIGITIMATE BENEFICIARIES

Reference is made to your letter Ref.NA/DC/LANDS/2019/(078) dated 29th August 2019 on the above subject matter.

As we had earlier stated through our statement dated 17th September 2019, its recommended that the resumption of allocation of land in Mwea Irrigation Scheme should only resume after the disputes are addressed by the relevant agencies; the County Government, Ministry of Lands and National Lands Commission.

Further, the County Government of Kirinyaga has since filed an appeal at the Nyeri Court of Appeal No.56 of 2019 against the County Government of Embu and 7 others, which is yet to be determined.

Consequently, it is the humble opinion of this Office that the above agencies should be invited to the House and provide the process of allocation of the land. This Ministry is committed to provide the necessary security during the process.

Hon. Patrick K. Ole Ntutu