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THE SENATE
TWELFTH PARLIAMENT
FOURTH SESSION

Approved
[Signature]
11/2/2020

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

THE REPORT OF THE SENATE PETITION BY MR. JOHN NJOGU
NJOROGE ON THE RESETTLEMENT OF EAST MAU FOREST EVICTEES

PAPERS LAID	
DATE	Dec 1 2020
TABLED BY	Sen Khaniri
COMMITTEE	Land
CLERK AT THE TABLE	M. Adiguna

Clerk's Chambers,
Parliament Buildings,
P. O. Box 41842-00100,
NAIROBI.

NOVEMBER, 2020

TABLE OF CONTENTS

TABLE OF CONTENTS	ii
LIST OF ABBREVIATIONS/ SYNONYMS	iii
PREFACE.....	iv
Committee Membership.....	iv
CHAPTER 1	6
INTRODUCTION.....	6
1.0 The Right to Petition.....	6
1.1. Background of the Petition	6
CHAPTER 2	8
CONSIDERATION OF THE PETITION.....	8
2.0 Approach taken by the Committee	8
2.1. Responses by the Ministry of Environment and Forestry	8
2.2. Responses by the National Land Commission	9
CHAPTER 5	10
COMMITTEE OBSERVATIONS	10
CHAPTER 6	11
COMMITTEE RECOMMENDATIONS.....	11
APPENDICES	12
ANNEX I: MINUTES OF THE MEETINGS	12
ANNEX II: SUBMISSIONS BY KEY STAKEHOLDERS.....	34

LIST OF ABBREVIATIONS/ SYNONYMS

- CS - Cabinet Secretary
- EACC - Ethics and Anti-Corruption Commission
- KFS - Kenya Forest Service
- MOLPP - Ministry of Land & Physical Planning
- NLC - National Land Commission
- ODPP - Office of the Director of Public Prosecution

PREFACE

Honourable Speaker,

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

Committee Membership

The Committee comprises of the following Members.

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

Chairperson

Vice-Chairperson

Honourable Speaker,

At a sitting of the Senate held on 26th September, 2019 the Hon. Speaker, reported to the Senate that a Petition has been submitted through the Clerk, by a Petition by Mr. John Njogu Njoroge on the resettlement of East Mau forest evictees. The Petitioner is the Chairperson of East Mau Forest Evictees with 4,350 members. The Petitioners stated that they have lived as squatters since 1988 and have never been allocated land. The Petitioners prayed that the Senate intervenes on their behalf to have the matter expeditiously addressed so as to ensure the resettlement of the East Mau Evictees.

Pursuant to the above provisions of the Constitution, the Petition to Parliament (Procedure) Act and the Standing Orders, the Committee is mandated to consider the Petition and respond to the Petitioner.

To enable a judicious disposal of the Petition, the Committee resolved to conduct an inquiry on the issues raised in the Petition. In this regard the Committee invited the Petitioner to a meeting of the Committee for the Petitioner to elaborate further on the issues raised in the Petition and to supply supporting evidence on the issues raised. The Committee proceeded to invite the Chairperson of the National Land Commission and the Cabinet Secretary, Ministry of Environment and Forestry accompanied with the Kenya Forest Service Management.

ACKNOWLEDGEMENT

The Committee thanks the Offices of the Speaker of the Senate and the Clerk of the Senate for the support extended to the Committee in the execution of its mandate. The Committee further extends its appreciation to the Petitioners Mr. Joseph Gitau, Ms. Grace Migwi, Ms. Salome Njoroge, Mr. Wallace Macharia, Mr. Elvis Kamunu, Mr. Philip Githinji and Mr. Bernard Guchu for bringing the Petition to the Senate. Further, the Committee extends its gratitude to the Cabinet Secretary, Ministry of Environment and Forestry, Mr. Keriako Tobiko, CBS, SC, for providing their submissions and contribution to the resolution of this matter.

Mr. Speaker Sir,

It is now my pleasant duty and privilege, on behalf of the Committee, to present this Report of the Standing Committee on Lands, Environment and Natural Resources on the alleged forceful eviction from Dundori Forest and compensation of land for the excised area from the forest for resettlement.

Signed:  Date: 13/11/2020

SEN. PHILIP MPAAYEI, M.P.
VICE CHAIRPERSON, SENATE STANDING COMMITTEE ON LAND,
ENVIRONMENT AND NATURAL RESOURCES

CHAPTER 1

INTRODUCTION

1.0 The Right to Petition

1. Petitions to the Senate are governed by the Constitution, the Petition to Parliament (Procedure) Act, No. 22 of 2012 and the Senate Standing Orders. Article 37 of the Constitution provides that *every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities* while Article 119(1) of the Constitution provides that *“every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”*
2. Section 5(2) of the Petition to Parliament (Procedure) Act, provides that a petition that is tabled in Parliament under this Act shall be considered in accordance with the Standing Orders of the relevant House. In this regard, standing order 232 of the Senate Standing Orders provides for the Committal of Petitions to the relevant Standing Committee. Standing order 233 further requires the Clerk to, within fifteen days of tabling of the report on a petition under Standing Order 232 (Committal of Petitions), submit a copy of the report to the petitioner or petitioners.

1.1. Background of the Petition

3. At a sitting of the Senate held on 26th September, 2019 the Hon. Speaker, reported to the Senate that a Petition has been submitted through the Clerk, by a Petition by Mr. John Njogu Njoroge on the resettlement of East Mau forest evictees.
4. The Petition reads as follows-
 - 1) That the Petitioner is the Chairperson of East Mau Forest Evictees with 4,350 members;
 - 2) That East Mau Forest Evictees are composed of ten (10) forests which are in the larger Nakuru District (now Nakuru County);
 - 3) That the members of the East Mau Forest Evictees lived inside the said forests for 70 years legally as caretakers to our forests during the colonial period in Kenya under the Crown of the Queen of England, President Jomo Kenyatta’s

Government and during President Moi's Government who later evicted us from the forests in the year 1988;

- 4) That other persons from other counties e.g. Bomet, Kericho, Baringo etc. were resettled in the same forest areas we were in;
 - 5) That East Mau Forest Evictees wrote to the TJRC on 21st September 2011 and the National Land Commission on 7th June 2018 but have never responded; and
 - 6) That members are currently landless and have lived as squatters since 1988 and have never been allocated land;
5. Pursuant to standing order 232(1) of the Standing Orders of the Senate, the Petition was committed to the Land, Environment and Natural Resources Committee.

CHAPTER 2

CONSIDERATION OF THE PETITION

2.0 Approach taken by the Committee

6. In considering the Petition, the Committee observed that it would be important to verify the facts alleged by the Petitioner. The Committee therefore resolved to conduct an inquiry on the issues raised in the Petition.
7. In this regard the Committee invited the Petitioner to a meeting of the Committee for the Petitioner to elaborate further on the issues raised in the Petition and to supply supporting evidence on the issues raised.
8. The Petitioner appeared before the Committee on 20th November, 2019 and the Cabinet, Secretary Ministry of Environment and Forestry on 13th August, 2020.

2.1. Responses by the Ministry of Environment and Forestry

9. Pursuant to a letter Ref: SEN/DCS/LENR/2/2020/(20a) dated 20th May, 2020, the Committee invited the Cabinet Secretary, Ministry of Environment and Forestry and consequently received the following submissions-
 - 1) On the claim that the members of the East Mau Forest Evictees lived inside the said forests for 70 years legally as caretakers to our forests during the colonial period in Kenya under the Crown of the Queen of England, President Jomo Kenyatta's Government and during President Moi's Government who later evicted us from the forests in the year 1988, the Committee was informed that-
 - (i) Since inception of the forestry practice in Kenya in 1907, the formal arrangement was to have labourers (employed to tend trees) residing in forest houses provided by the Government;
 - (ii) This arrangement changed in 1988 when the forest laborers were required to work from outside the public forests; and
 - (iii) This therefore meant that the laborers had to vacate the forest houses and this should not be interpreted to mean evictions.
 - 2) On the claim that other persons from other counties e.g. Bomet, Kericho, Baringo etc. were resettled in the same forest areas they were in, the Committee was informed as follows-

- (i) Eastern Mau Forest Reserve was gazetted vide Legal Notice No. 174 of 1964 (**Annex II**);
 - (ii) The said forest has never been degazetted for settlement or any other purpose; and
 - (iii) Matters of settling Kenyans lies within the jurisdiction of the Ministry of Lands and Physical Planning and not the Ministry of Environment and Forestry.
- 3) On the matter that East Mau Forest Evictees wrote to the Truth, Justice and Reconciliation Commission (TJRC) on 21st September, 2011 and the National Land Commission on 7th June 2018 but have never responded. The Ministry responded that the matter lies with TJRC and the National Land Commission.
- 4) On the matter that members are currently landless and have lived as squatters since 1988 and have never been allocated land. The Ministry submitted that matters of settling Kenyans lies within the jurisdiction of the Ministry of Lands and Physical Planning and not the Ministry of Environment and Forestry.

2.2. Responses by the National Land Commission

10. Pursuant to a letter Ref: SEN/DCS/LENR/2/2020/(19) dated 26th May, 2020, the Committee invited the National Land Commission and consequently submitted that the Petition has been referred to the Commission's Committee on Historical Land Injustices for investigation. The Committee will therefore make a decision on whether to admit the claim as a historical land injustice.

CHAPTER 5

COMMITTEE OBSERVATIONS

11. In accordance with the Prayers of the Petitioner the Committee observes as follows-

The Committee observed that the issue has been forwarded to National Land Commission and submitted to the Commission's Committee on Historical Land Injustices for investigation and that the decision by the National Land Commission should be expedited.

CHAPTER 6

COMMITTEE RECOMMENDATIONS

12. The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders recommends as follows-

The Committee recommends that National Land Commission expedites its investigation into the claim by East Mau evictees as a historical injustice and submits a report to the Committee and Ministry of Lands and Physical Planning within three (3) months of adoption of this Report by the Senate.

APPENDICES

ANNEX I: MINUTES OF THE MEETINGS

MINUTES OF THE 32ND MEETING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 20TH NOVEMBER, 2019 IN COMMITTEE ROOM 10, MAIN PARLIAMENT BUILDING AT 11.30 AM.

MEMBERS

	PRESENT
1. Sen. Mwangi Paul Githiomi, M.P.	- Chairperson
2. Sen. Prengei Victor, M.P.	- Vice Chairperson
3. Sen. Halake Abshiro, M.P.	- Member
4. Sen. Mwaruma Johnes, M.P.	- Member
5. Sen. Boy Issa Juma, M.P.	- Member
6. Sen. Godana Hargura, M.P.	- Member

ABSENT WITH APOLOGY

1. Sen. Ndwiga Peter Njeru, EGH. M.P.	- Member
2. Sen. George Khaniri, MGH, M.P.	- Member
3. Sen. Slyvia Kasanga, M.P.	- Member

IN ATTENDANCE

PETITIONERS- POKA GROUP RANCH

PETITIONERS- RESIDENTS OF KAJIADO COUNTY

PETITIONERS- MR. JOHN NJOGU NJOROGE

SENATE SECRETARIAT

1. Ms. Gloria Wawira	- Clerk Assistant
2. Ms. Caroline Cheruiyot	- Legal Counsel
3. Mr. Robert Rop	- Audio Recording

MINUTE SEN/SCLN/189/2019: PRELIMINARIES

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

MINUTE SEN/SCLN/190/2019: ADOPTION OF AGENDA

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

AGENDA

1. Preliminaries - *Prayer*
2. Adoption of the agenda;
3. **Receiving submissions from Petitioners as per the attached schedule:**
 - a) Alleged unlawful acquisition and disposition of the Poka Group Ranch Land
 - b) Siltation of Lake Magadi.
 - c) Resettlement of East Mau Forest Evictees.
4. Any other Business;
5. Date of the next meeting;
6. Adjournment.

MINUTE SEN/SCLNR/191/2019: **RECEIPT OF SUBMISSIONS FROM PETITIONERS**

Alleged unlawful acquisition and disposition of the Poka Group Ranch Land

The Petitioners informed the Committee that they were members and descendants of the Poka Group Ranch established in 1968 under the Group Ranching Act as a 2148 Ha ranch. In 1995 the ranch was subdivide into two parcels and part of it was submitted to the Tana and Athi River Development Authority (TARDA) for purposes of livestock framing and the members of the ranch each contributed 5 cows for demonstrations.

At some point the ranch was divided into two parcel and part of it allocated to private owners who then acquired titled and disposed of it thereby permanently dispossessing the members of the group.

The Committee sought the intervention of the Committee in order to rectify the fraudulent acquisition of title and transfer of parcels of the Poka ranch and the restoration of the Ranch to its original size.

Committee Observations

The Committee observes that the matter was under that Trust Lands Act and that the relevant procedure thereunder had been flouted. That the Petition canvassed the issues of ownership of the lad, land use and compensation

Committee Resolutions

The Committee resolved to conduct a visit to the ranch. It also resolved to invite the other relevant stakeholders including TARDA, NLC and the Ministry of Lands

Siltation of Lake Magadi.

The presented their Petition on the siltation of Lake Magadi. They illustrated the loss of soda ash yielding parts of the lake as a result of the siltation. Since the siltation started the lake had lost 30% of its mass as a result of soil rushing into the Lake. The petitioner stated that the siltation had increased since the construction of the Mai Mahiu road and the standard gauge railway. The petitioners had sought the intervention of the Ministry of Environment, however, the initiative that had been started had not been implemented to finality.

It was explained that the consequences of the siltation were on multiple levels affecting the natural features, the business interest and the community. Most notably, the lake was no longer producing soda ash at a high rate that may result in the existing of Tata Magadi one of Kenya's largest tax payers and as a result a loss of revenues to the country at large.

Committee resolutions

The Committee resolved to visit Lake Magadi. It also resolved to invite the cabinet Secretaries for Environment, Transport, KENHA and Kenya Railways to discuss the matter.

Resettlement of East Mau Forest Evictees.

The petitioners informed the Committee that they had come together in 2011 during the Truth Justice and Reconciliation Commission (TJRC) process. They informed the committee that in 1988 the Government of Kenya had evicted people living in forests who had settled there on 1918 for the purposes of tending and protecting forests. At the time of the eviction, they were given only 3 days after which the government forcefully evicted them causing them to lose their homes, lands and livelihoods.

The petitioners had sought intervention from the National assembly and the TJRC without any reprieve. They petitioned the Committee to correct the injustices. They committed to providing the list of the 1350 affected persons.

Committee Resolution

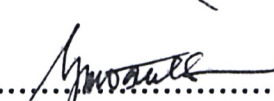
The Committee resolved to visit the Community and to invite the Ministry of land and the NLC to further investigate the matter.

MINUTE SEN/SCLNDR/192/2019: ANY OTHER BUSINESS;

There was no other business.

MINUTE SEN/SCLNDR/193/2019: DATE OF NEXT MEETING;

The meeting was adjourned at 11.00 am and the next meeting was to on 20th November, 2019 at 11.30am.

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

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

MINUTES OF THE 31ST SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 13TH AUGUST, 2020 VIA ZOOM ONLINE PLATFORM AT 1.00 PM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. George Khaniri, MGH, MP
3. Sen. Gideon Moi, CBS, MP
4. Sen. Sylvia Kasanga, MP
5. Sen. Mwaruma Johnes, MP

PRESENT

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

ABSENT WITH APOLOGY

1. Sen. Philip Mpaayei, MP
2. Sen. Boy Issa Juma, MP
3. Sen. (Dr.) Lelegwe Ltumbesi, MP
4. Sen. Ndwiga Peter Njeru, EGH, MP

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

IN ATTENDANCE

1. Sen. (Dr.) Alice Milgo, MP

SENATORS

- Nominated Senator, Bomet County

MINISTRY OF ENVIRONEMNT AND NATURAL RESOURCES

1. Mr. Keriako Tobiko, CBS, SC,
2. Mr. Patrick Kariuki
3. Mr. Alex Lemarkoko
4. Mr. Mamo Boru Mamo

- CS, Ministry of Environment and Forestry
- Deputy, Chief Conservator of Forests, KFS
- Deputy, Chief Conservator of Forests, KFS
- Ag. DG, NEMA

SECRETARIAT

1. Mr. Victor Bett
2. Ms. Judy Ndegwa
3. Ms. Clare Kidombo
4. Mr. John Ngang'a

- Clerk Assistant
- Legal Counsel
- Researcher/Policy Analyst
- Audio Recording

MINUTE SEN/SCLNENR/171/2020: PRELIMINARIES

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

MINUTE SEN/SCLNENR/172/2020: ADOPTION OF AGENDA

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

1. Preliminaries
2. Adoption of the agenda;
3. **Meeting with the Cabinet Secretary, Ministry of Environment & Forestry on the following Petitions and Statements –**
 - Petition by residents of Ganjoni, Mombasa County on the loading and unloading of iron-ore in Ganjoni, Mombasa County;
 - Petition by Mr. John Njogu Njoroge on the resettlement of East Mau Forest evictees;
 - Petition by Dundori Forest Evictees on the forceful eviction from Dundori Forest and compensation of land for the excised area from the forest for resettlement;
 - Statement requested by Sen. (Dr.) Alice Milgo, MP, on 19th May, 2020 concerning waste management in Bomet County Government.
 - Petition by Mr. Joel Kenduiywa on the resettlement of the minority Ngerek Community following their proposed eviction from South Nandi Forest, in Nandi County;
4. Any other Business;
5. Date of the next meeting;
6. Adjournment.

MINUTE SEN/SCLNR/173/2020: MEETING WITH THE CABINET SECRETARY, MINISTRY OF ENVIRONMENT & FORESTRY ON THE FOLLOWING PETITIONS AND STATEMENTS –

- **Petition by residents of Ganjoni, Mombasa County on the loading and unloading of iron-ore in Ganjoni, Mombasa County;**

The Committee was informed by the CS that they sent inspectors to the facility and it has since been closed and would be giving periodic updates to the Committee.

- **Petition by Mr. John Njogu Njoroge on the resettlement of East Mau Forest evictees;**

The CS informed the Committee that this was brought to effect by the presidential decree of 1985 and that in dealing with this matter requires adequate research on the history of the matter.

The CS requested for additional time to furnish the Committee with more adequate and concrete responses on the matter.

- **Petition by Dundori Forest Evictees on the forceful eviction from Dundori Forest and compensation of land for the excised area from the forest for resettlement;**

The CS requested for additional time to furnish the Committee with more adequate and concrete responses on the matter since it follows the same background as the previous Petition regarding the East Mau Forest evictees.

- **Statement requested by Sen. (Dr.) Alice Milgo, MP, on 19th May, 2020 concerning waste management in Bomet County Government.**

The Committee requested the Senator who requested the Statement to give a background of her concern to the CS and the CS responded by informing the Committee that the matter is similar across all the counties and that matters involving the waste management cannot be carried out without involving the County Government.

The Committee therefore resolved to invite the Governor Bomet County to respond to the aforementioned statement in the presence of the CS.

- **Petition by Mr. Joel Kenduiywa on the resettlement of the minority Ngerek Community following their proposed eviction from South Nandi Forest, in Nandi County;**

The Committee was informed by the CS that he needed more time to carefully go through the concerns raised in the Petition since the Petitioner has clearly highlighted the presence of “powerful” forces and he wanted to know who this alleged powerful forces are.

Further, this would require a site visit by the Ministry to the indicated hill and that they were talking caution to prevent a political backlash.

MINUTE SEN/SCLNR/174/2020: ANY OTHER BUSINESS;

The was no other business discussed.

MINUTE SEN/SCLNR/175/2020: DATE OF NEXT MEETING;

The meeting was adjourned at 2.30 pm and the date of the next meeting was scheduled for Wednesday, 19th August, 2020 at 11.00 am via zoom online platform.

Signed: For: 

Date: **19/11/2020**

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

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

MINUTES OF THE 46TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 14TH OCTOBER, 2020 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP	- Chairperson
2. Sen. George Khaniri, MGH, MP	- Member
3. Sen. (Dr.) Lelegwe Ltumbesi, MP	- Member
4. Sen. Sylvia Kasanga, MP	- Member
5. Sen. Mwaruma Johnes, MP	- Member

PRESENT

ABSENT WITH APOLOGY

1. Sen. Philip Mpaayei, MP	- Vice Chairperson
2. Sen. Ndwiga Peter Njeru, EGH, MP	- Member
3. Sen. Gideon Moi, CBS, MP	- Member
4. Sen. Boy Issa Juma, MP	- Member

IN ATTENDANCE

MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES

1. Mr. Keriako Tobiko, CBS, SC,	- CS, Ministry of Environment and Forestry
2. Mr. Mamo Boru Mamo	- DG, NEMA
3. Mr. Patrick Kariuki	- Deputy, Chief Conservator of Forests, KFS
4. Mr. Alfred Gichu	-KFS
5. Mr. Joel Gichu	- Ministry Head Quarters
6. Mr. Rodney Omari	- Ministry Head Quarters
7. Mr. Sammy Wahome	- KFS
8. Mr. Lawrence Thugge	- KFS
9. Mr. Edwin Kihoro	- KFS

SECRETARIAT

1. Mr. Victor Bett	- Clerk Assistant
2. Mr. John Ngang'a	- Audio Recording

MINUTE SEN/SCLNLR/247/2020: PRELIMINARIES

The meeting was called to order at 11.26 am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLNLR/248/2020: ADOPTION OF AGENDA

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

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. Meeting with the **Cabinet Secretary, Ministry of Environment and Forestry on the following Petitions and Statements;**
 - Petition by Mr. Joel Kenduiywa on the resettlement of the minority Ngerek Community following their proposed eviction from South Nandi Forest, in Nandi County;
 - Petition by Mr. John Njogu Njoroge on the resettlement of East Mau Forest evictees;
 - Petition by Dundori Forest Evictees on the forceful eviction from Dundori Forest and compensation of land for the excised area from the forest for resettlement;
 - Petition presented by Sen. Paul Mwangi Githiomi, MP, concerning the resettlement of Internally Displaced Persons in Nyandarua County.
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNENR/249/2020: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Committee differed the confirmation of Minutes to the next meeting.

MINUTE SEN/SCLNENR/250/2020: Meeting with the Cabinet Secretary, Ministry of Environment and Forestry on the following Petitions and Statements;

- a) **Petition by Mr. Joel Kenduiywa on the resettlement of the minority Ngerek Community following their proposed eviction from South Nandi Forest, in Nandi County;**

The Cabinet Secretary presented as follows:

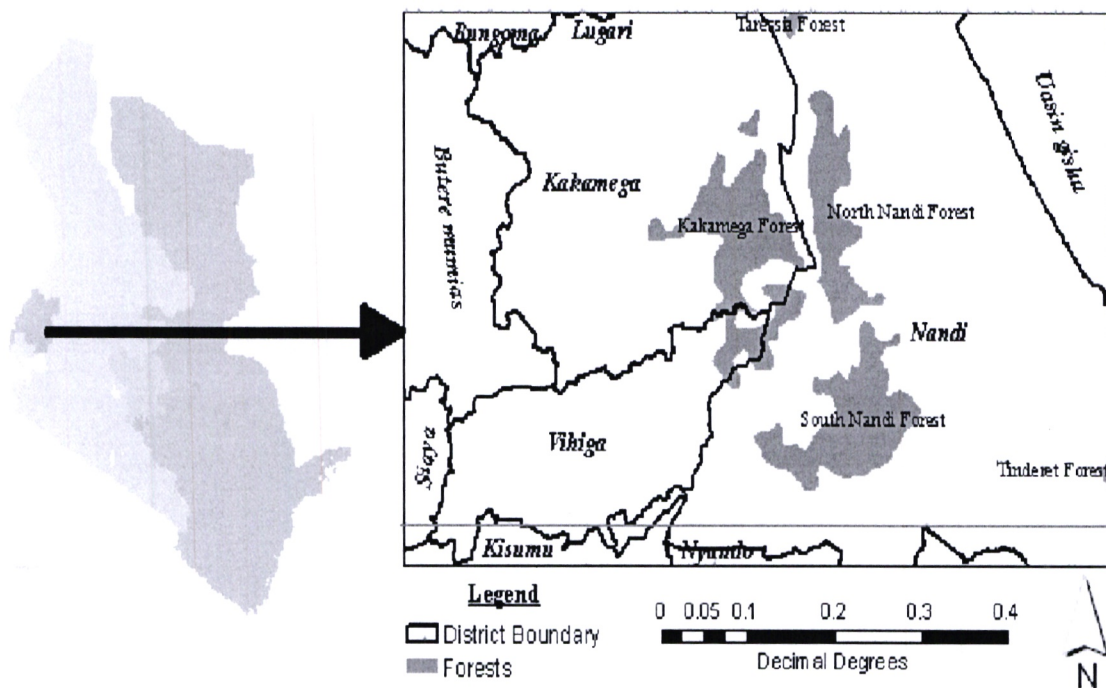
A. GAZETTED FORESTS IN NANDI COUNTY

1. The protected forest reserves in Nandi County are **South Nandi Forest** which is managed through **Kobujoi, Kapchorua, Tinderet, and Cerengoni Forest Stations**, and **North Nandi Forest** managed through **North Nandi and Kimondi Forest Stations**. The details of these forest reserves which are managed by Kenya Forest

Service (KFS) is tabulated below;

S/N	Forest Station	Forest type / Category (Ha)					Encroachment and excisions	TOTAL (Ha)
		Natural	Plantation	Grasslands	Wetlands	Nyayo Tea Zone		
1.	Kobujoi	16,626.00	300.00	2,464.00	0	300.00	360.00	20,050.00
2.	Tinderet	7,328.90	40.00	0	0	100.00	0	7,468.90
3.	Kapchorua	3,851.00	9.20	138.80	0	1.00	0	4,000.00
4.	Cerengoni	11,378.00	1,194.00	0	0	6.00	0	12,578.00
5.	Kimondi	4,095.55	1,285.35	61.80	196.90	307.10	796.40	6,743.10
6.	North Nandi	8,000.00	850.56	40.20	149.00	410.00	1,050.05	10,499.81
	TOTAL	51,279.45	3,679.11	2,704.80	345.90	1124.10	2,206.45	61,339.81

2. The map below shows the distribution of these forests in Nandi County;-



B. THE CHEPKUMIA LAND EXCHANGE PROGRAMME

3. In 1996, there was a government intention of resettling of the minority Ngerek Community from the Ngerek Hill in South Nandi to a portion of the South Nandi Forest. This was to be done under the Chepkumia Land Exchange Programme on an acre for acre basis. This was driven by the desire of removing the Ngerek Community from the ecologically sensitive Ngerek Hill for conversion of this Hill into a conservation area;
4. The resettlement, however, did not materialise because of vested interests among the administrators and politicians in Nandi County. As such, the minority Ngerek Community were not resettled as initially planned;
5. Noteworthy is that the portion of the forest where the Ngerek Community would have been resettled under the Chepkumia Land Exchange Programme was occupied by illegal occupants who were largely backed by the local administrators and politicians;

C. ALLEGED PROPOSED EVICTION OF THE MINORITY NGEREK COMMUNITY FROM SOUTH NANDI FOREST

6. While the Petitioner alleges that there is a proposed eviction from South Nandi Forest of the minority Ngerek Community, I wish to state that this is not true;
7. I am aware that the then Forest Department issued an eviction order to the illegal occupants of the Chepkumia Land Exchange as they had no basis to be settled on the land. This group of persons did not have land to exchange with the Government and are therefore settled on Government land illegally;
8. These illegal occupants challenged this eviction order by filing suit against the District Forest Officer Nandi and the Permanent Secretary of the Ministry of Environment and Natural Resources in 2003 (**HC Civil Suit No. 67 of 2003 - Abdi Keter and 551 others versus District Forest Officer Nandi, PS MENR and the Attorney-General**). The illegal occupants' case was dismissed in 2007 but they nevertheless continue to reside in South Nandi Forest. They therefore have no legal basis for their continued occupation of the forest;
9. This eviction order of 2003 issued by the District Forest Officer Nandi was directed at the illegal occupants of South Nandi Forest, and **NOT** the minority Ngerek Community. This is premised on the fact that the minority Ngerek Community are owners of privately titled land where my Ministry has no jurisdiction. There have never been any eviction orders directed towards the minority Ngerek Community from the Ministry of Environment and Forestry.

The Committee observed that the resettlement under the Chepkumia Land Exchange Programme did not materialise due to various reasons as submitted and as such the Ngerek Community did not hand over their current Title Deeds in exchange for the land they were allegedly allocated. The Ngerek Community were not resettled as initially planned and have no rights to the land in question.

It was therefore agreed that the Petitioners submit the letter to the Ministry of Environment and Forestry for the Cabinet Secretary to revoke and that the Ministry should assert the current position in writing, that the Ngerek Community rightfully occupy the land they are currently settled on.

b) **Petition by Mr. John Njogu Njoroge on the resettlement of East Mau Forest evictees;**

Cabinet Secretary presented as follows:

1. **THAT East Mau Forest Evictees are composed of ten (10) forests which are in the larger Nakuru District (now Nakuru County);**
2. **THAT the members of the East Mau Forest Evictees lived inside the said forests for 70 years legally as caretakers to our forests during the colonial period in Kenya under the Crown of the Queen of England, President Jomo Kenyatta's Government and during President Moi's Government who later evicted us from the forests in the year 1988;**

Ministry's Response

- (a) Since inception of the forestry practice in Kenya in 1907, the formal arrangement was to have laborers (employed to tend trees) residing in forest houses provided by the Government;
 - (b) This arrangement changed in 1988 when the forest laborers were required to work from outside the public forests;
 - (c) This therefore meant that the laborers had to vacate the forest houses and this should not be interpreted to mean evictions.
3. **THAT other persons from other counties e.g. Bomet, Kericho, Baringo etc. were resettled in the same forest areas we were in;**

Ministry's Response

- (a) Eastern Mau Forest Reserve was gazetted vide Legal Notice No. 174 of 1964 (**Annex II**);
 - (b) The said forest has never been degazetted for settlement or any other purpose;
 - (c) Matters of settling Kenyans lies within the jurisdiction of the Ministry of Lands and Physical Planning and not the Ministry of Environment and Forestry.
4. **THAT East Mau Forest Evictees wrote to the TJRC on 21st September 2011 and the National Land Commission on 7th June 2018 but have never responded;**

Ministry's Response

The response to this matter lies with TJRC and the National Land Commission.

5. **THAT members are currently landless and have lived as squatters since 1988 and have never been allocated land;**

Ministry's Response

Matters of settling Kenyans lies within the jurisdiction of the Ministry of Lands and Physical Planning and not the Ministry of Environment and Forestry.

c) **Petition by Dundori Forest Evictees on the forceful eviction from Dundori Forest and compensation of land for the excised area from the forest for resettlement;**

The Cabinet Secretary presented as follows:

1.0 FORMER RESIDENCY PETITIONER

That they lived in the former Dundori Forest Villages since the early 1930 up to June 1988 when they were forcefully evicted by the Kenya Forest Department (KFS). The names of the villages were Kieni, Kinari and C. Bonza Forest Villages;

Ministry's Response

- (a) Since inception of the forestry practice in Kenya in 1907, the formal arrangement was to have laborers (employed to tend trees) residing in forest houses provided by the Government;
- (b) This arrangement changed in 1988 when the forest laborers were required to work from outside the public forests;
- (c) This therefore meant that the laborers had to vacate the forest houses and this should not be interpreted to mean evictions.

- 1. **That presently we are residing in the adjacent centre of Dundori Wanyororo, Kabatini, private farms and others are scattered all over Nakuru County.**

Ministry's Response

The Committee was informed by the Cabinet Secretary in charge of Environment and Forestry, that he is not in a position to confirm the assertion by the Petitioners.

- 2. **We rely on Dundori forest land for cultivation, grazing and fuel wood collection under plantations establishment and livelihood improvement scheme (PELIS). Currently all forest where we used to cultivate has been fully planted with trees by government hence no space for shamba system as used to be. We are left with no option except casual labourers (daily).**

Ministry's Response

- (a) The Committee was informed that, it is the Government policy to replant all available spaces in all gazetted forests earmarked for development of plantations;
- (b) In the course of establishing the forest plantations, it is Government policy to use PELIS which brings on board communities living adjacent to forests to provide casual labor.

2 EFFORTS MADE BY PETITIONERS

- 3 THAT in the year 1994, the government through former county council of Nakuru excised 84.49 Ha (200 acres) from Dundori forest land to settle squatters. The land is L.R. No. 19060 Plan No. 175/340 and was gazetted for settlement on 6th July 1994. Unfortunately, none of us benefitted from the programme but outsiders who later sold their plots in December 1997 after realizing what was done to us we peacefully demonstrated to the then Provincial Commissioner's office Rift Valley Province and we told him our grievances. He then referred us to the then District Commissioner Nakuru District who promised us that he will write a report of our grievances and forward it to the government for consideration. Since then there has not been any action taken to address our grievances.**

Ministry's Response

- (a) Bahati Forest was gazetted vide Legal Notice No. 174 of 1964 (**Annex III**);
 - (b) Dundori is a block within Bahati Forest;
 - (c) No degazettement has been made to excise the referred area (L.R. No. 19060) from Bahati Forest Block;
 - (d) As the Cabinet Secretary in charge of Environment and Forestry, I am not in a position to confirm the rest of the assertions by the Petitioners.
- 4 That in the year 2014 we registered an organization (C.B.O) with Gender and Social Development Office Bahati sub-county.**

Ministry's Response

The Committee was informed by the Cabinet Secretary in charge of Environment and Forestry, that he isn't in a position to confirm this assertion by the Petitioners.

- 5 That on 8th April 2016 we wrote a letter to his Excellency President Republic of Kenya Honorable Uhuru Muigai Kenyatta requesting him to intervene on our behalf. We also forwarded copies of our letter to then former governor Nakuru County. His Excellency Kinuthia Mbugua, County Commissioner Nakuru County and Deputy County Commissioner Bahati sub-county. Lastly we have**

written to the Taskforce implementation of Arusha case on Ogiek and other communities under the Ministry of Environment and Forestry.

Ministry's Response

The Committee was informed by the Cabinet Secretary in charge of Environment and Forestry that the matters raised in this section of the petition can only be confirmed by the referenced Government institutions and offices.

d) Petition presented by Sen. Paul Mwangi Githiomi, MP, concerning the resettlement of Internally Displaced Persons in Nyandarua County.

The Cabinet Secretary informed the Committee that the information he has is that its only one family residing in the aforementioned region and that they have refused to vacate houses belonging to KFS Staff.


The Committee informed the Cabinet Secretary to embark on further scrutiny of the matters cited in the Petition and respond back to the Committee within 14 days.

MINUTE SEN/SCLNR/251/2020: ANY OTHER BUSINESS;

There was no other business discussed.

MINUTE SEN/SCLNR/252/2020: DATE OF NEXT MEETING;

The meeting was adjourned at 1.25 pm and the date of the next meeting was scheduled for Wednesday, 21st October, 2020 at 10.00 am via zoom online platform.

Signed:..... **For:** .....

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

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL

RESOURCES

MINUTES OF THE 51ST SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON FRIDAY, 13TH NOVEMBER, 2020 AT SAROVA WHITESANDS HOTEL, MOMBASA AT 9.00 AM.

MEMBERS

1. Sen. Philip Mpaayei, MP
2. Sen. Sylvia Kasanga, MP
3. Sen. Gideon Moi, CBS, MP
4. Sen. Ndwiga Peter Njeru, EGH, MP
5. Sen. Boy Issa Juma, MP

PRESENT

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

ABSENT WITH APOLOGY

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. George Khaniri, MGH, MP
3. Sen. Mwaruma Johnes, MP
4. Sen. (Dr.) Lelegwe Ltumbesi, MP

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

IN ATTENDANCE

1. Mr. Victor Bett
2. Mr. Crispus Njogu
3. Ms. Clare Kidombo
4. Ms. Mitchell Otoro
5. Mr. Abdalla Mbore
6. Mr. John Nganga
7. Mr. Naftali Ondiba

SECRETARIAT

- Clerk Assistant II
- Clerk Assistant II
- Researcher
- Legal Counsel
- Sergeant-At-Arms
- Audio Recording
- Finance Officer

MINUTE SEN/SCLENR/280/2020: PRELIMINARIES

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

MINUTE SEN/SCLENR/281/2020: ADOPTION OF AGENDA

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

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. **Adoption of the following Petition Reports;**

1. Report of the Committee on the Petition regarding the Resettlement of East Mau Forest Evictees;
2. Report of the Committee on the Petition regarding forceful eviction from Dundori Forest and compensation of land for the excised area from the forest for resettlement;
3. Report of the Committee on the Petition regarding the alleged grabbing of public utility and private land at Leleshwa, Gilgil Township (Residents of Gilgil Township, Nakuru County)
4. Report of the Committee on the Petition regarding the resettlement of the minority Ngerok Community following their proposed eviction from South Nandi Forest, in Nandi County
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNR/282/2020: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Committee deferred the confirmation of Minutes to the next housekeeping meeting.

MINUTE SEN/SCLNR/283/2020: ADOPTION OF THE FOLLOWING PETITION REPORTS;

(a) Report of the Committee on the Petition regarding the Resettlement of East Mau Forest Evictees;

The Committee adopted its report with the following recommendations;

1. That the matter be referred to National Land Commission to be investigated as a historical land injustice
2. That the Petitioners be resettled by Government. The land the Petitioners are to be resettled should be land arable land to enhance farming.
3. That the Petitioners should be compensated for any property that was lost during the eviction.
4. That the Petitioners should be considered for relief accorded to Internally Displaced persons in Kenya through the Ministry of Devolution and Arid and Semi-Arid Lands special programmes department.
5. That the Ministry of Education should facilitate and consider the issuance of certified duplicated education certificates to the aggrieved residents from East Mau who were affected.

The Report was adopted after having been proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP

(b) Report of the Committee on the Petition regarding forceful eviction from Dundori Forest and compensation of land for the excised area from the forest for resettlement;

The Committee adopted its report with the following recommendations;

1. That the National Land Commission confirms the true ownership of L.R. No. 19060;
2. That the National Land Commission investigates the case as a historical land injustice matter and provide a report to the Committee and to the Ministry of Lands and Physical Planning within 3 months of tabling this report.
3. That, should their case after investigation by the National Land Commission is found to have been sincere, the Petitioners be resettled by the National Government on Land Similar to what they had before.

The Report was adopted after having been proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP

(c) Report of the Committee on the Petition regarding the alleged grabbing of public utility and private land at Leleshwa, Gilgil Township (Residents of Gilgil Township, Nakuru County)

The Committee adopted its report with the following recommendations;

1. That the Ministry of Lands and Physical Planning, in consultation with the County Government of Nakuru conducts an investigation into the conflicting lists of beneficiaries of the land in Leleshwa area submitted to the County Government of Nakuru.
2. That the lists of beneficiaries from previous and current allocations should be vetted and harmonized to ensure transparency and accountability in the process. The Ministry of Lands and Physical Planning is directed to report back to the Committee in three (3) months following the tabling of this report in the Senate.
3. That the County Government of Nakuru expedites the implementation of the Gilgil Development Plan No. 91 of 2008.
4. The County Government of Nakuru ensures that the proposed Part Development Plan is approved after adequate public participation by all stakeholders to pave the way for its implementation.

The Report was adopted after having been proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP

(d) Report of the Committee on the Petition regarding the resettlement of the minority Ngerek Community following their proposed eviction from South Nandi Forest, in Nandi County

The Committee adopted its report with the following recommendations;

1. That, the persons unlawfully occupying the land set aside for resettlement of the minority Ngerek Community are relocated from the said land and that any titles issued thereon are revoked as they have no legal basis to continue occupying the land;
2. That the Kenya Forest Service in consultation with the County Government of Nandi and the Ministry of Devolution and Semi-Arid Lands Special Programmes Department should resettle the Kaptuiya Community;
3. That the Kenya Forest Service (KFS) expedites the degazettement of excised area from Nandi South Forest to enable issuance of title deeds for the 465.45 hectares allocated for the Ngerek community; and
4. That the Petitioners as well as the Kaptuiya Community once relocated should receive any relief accorded to Internally Displaced Persons in Kenya through the Ministry of Devolution and Semi-Arid Lands Special Programmes Department.

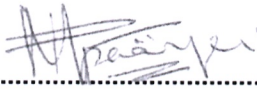
The Report was adopted after having been proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP

MINUTE SEN/SCLNDR/284/2020: ANY OTHER BUSINESS;

There was no other business discussed.

MINUTE SEN/SCLNDR/285/2020: DATE OF NEXT MEETING;

The meeting was adjourned at 1.00 pm and the next meeting was to follow thereafter at 3.00 pm.

Signed: 

Date: 19 /11/2020

SEN. PHILIP MPAAYEI, MP
VICE CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

ANNEX II: SUBMISSIONS BY KEY STAKEHOLDERS

(Attached separately)