



KENYA NATIONAL ASSEMBLY  
TENTH PARLIAMENT – FOURTH SESSION



REPORT  
OF THE  
JOINT COMMITTEE ON ADMINISTRATION & NATIONAL  
SECURITY, LANDS & NATURAL RESOURCES, LOCAL  
AUTHORITIES, AND; TRANSPORT, PUBLIC WORKS & HOUSING  
ON THE  
**FORENSIC INVESTIGATION REPORT**  
OF THE  
AUDITOR GENERAL, KENYA NATIONAL AUDIT OFFICE ON  
THE DEMOLITIONS AND EVICTIONS IN SYOKIMAU,  
KYANGOMBE, KPA, MAASAI & MITUMBA VILLAGES AND  
EASTLEIGH.

Clerks Chambers  
National Assembly  
Nairobi

*Approved for tabling.*  
*[Signature]* 20.12.2012  
December, 2012

## INTRODUCTION

Mr. Speaker Sir,

1.0 On Wednesday, June 28, 2012, The Auditor General, submitted the Forensic Investigation Report on the demolitions of houses and subsequent evictions of the residents of Kyangombe, KPA and Maasai Village, Mitumba, Eastleigh and Syokimau on the outskirts of Nairobi City in 2011 pursuant to the recommendations Joint Committee of its report on the same, tabled on December 7, 2011;

1.1 The Joint Committee report was adopted by the House on Wednesday, December 14, 2011 with its recommendation. The Joint Committee recommended under recommendation No. 4.1.17, inter alia:-

### *4.1.17 Appointment of Independent Forensic Auditors*

*In view of the large volume of documents regarding land ownership that the Committee received from various witnesses and the nature of the land transactions involved, the Committee recommends that an independent forensic auditor be appointed to undertake forensic audit along the Terms of Reference here below:*

- (i) To undertake a thorough forensic audit on the land records, titles, Maps, Deed plans, allotment letters, legal notices, development approvals and others documents obtained by the Joint Committee during its investigation on the demolitions and evictions in Syokimau, Kyangombe, KPA, Maasai and Mitumba Villages and Eastleigh and other documents that are or may be made available to establish their authenticity.*
- (ii) To establish the history of the documents referred to in (i) in order to establish their source initiators, issuers and validity.*
- (iii) To investigate the circumstances surrounding the loss of certain documents of the description set out in (i) and other similar or other relevant documents specifically in the Ministries of Lands and Local Government, Judiciary and the State Law*

*Office(Company Registry), the persons responsible for such loss and the effect of such loss on land matters in Kenya;*

- (iv) To determine the extent, if any, of the involvement of the Ministries of Lands, local Government and other government agencies or individuals in those Ministries and agencies in relation to malpractices in land transactions culminating in the demolitions and evictions in Syokimau, Kyangombe, KPA, Maasai and Mitumba Villages and Eastleigh;*
- (v) To investigate, determine and advise on any other matter related to, relevant, consequential or incidental to the foregoing; and*
- (vi) To submit a Report to the Joint Committee comprising the forensic auditor's findings, observations and recommendations within Sixty (60) of the execution of the contract.*

*The forensic auditor shall undertake the assignment in liaison and with the facilitation of the Auditor General.*

*The life of the Joint Committee will be deemed to expire upon receipt and tabling of the forensic report.*

## RECEIPT OF THE AUDITORS FORESNIC REPORT

- 1.2 On Thursday, June 29, 2012, the Joint Committee held a meeting to formally receive the report from the Auditor General, Kenya National Audit Office;
- 1.3 The Committee thanked the Auditor General for the speedy undertaking of the exercise despite challenges;

## JOINT COMMITTEE RESOLUTIONS

- 1.4 Following the Joint Committee consideration of the Forensic Investigation Report of the Auditor General on the demolitions of houses and subsequent evictions of the residents of Kyangombe, KPA and Maasai Village, Mitumba, Eastleigh and Syokimau on the outskirts of Nairobi City in 2011, The Committee resolved, that:-

- (i) The Forensic Investigation Report of the Auditor General on the demolitions of houses and subsequent evictions of the residents of Kyangombe, KPA and Maasai Village, Mitumba, Eastleigh and Syokimau on the outskirts of Nairobi City in 2011 be adopted by the Joint Committee without amendments;
- (ii) The Forensic Investigation Report of the Auditor General on the demolitions of houses and subsequent evictions of the residents of Kyangombe, KPA and Maasai Village, Mitumba, Eastleigh and Syokimau on the outskirts of Nairobi City in 2011, be tabled before the House for Debate and adoption; and
- (iii) The life of the Joint Committee ceases on adoption of the Auditor General report by the House.

## RECOMMENDATIONS

- 1.5 The Joint Committee recommend that the Report of the Auditor General on the demolitions of houses and subsequent evictions of the residents of Kyangombe, KPA and Maasai Village, Mitumba, Eastleigh and Syokimau on the outskirts of Nairobi City in 2011 be laid before the House for debate and subsequently adoption;

## ACKNOWLEDGMENT


- 1.6 The Joint Committee takes the earliest opportunity to thank all Kenyans, individuals, institutions and international organizations who volunteered information either orally or by writing, that their contributions towards assisting the Committee has not been in vain;
- 1.7 I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks.
- 1.8 The Committee further commends Auditor General, Kenya National Audit Office for the cooperation extended to the Joint Committee while conducting the inquiry.

- 1.9 Further, the Joint Committee wishes to appreciate the support given by your office and the Office of the Clerk for facilitating its work and providing Human Resource as well as the Parliamentary Service Commission for the provision of funds for this noble work in the interest of the people of Kenya.
- 1.10 Finally, it is now my pleasant duty, on behalf of the Joint Committee on Administration & National Security, Lands & Natural Resources, Local Authorities and Transport, Public Works & Housing, to present and commend this report to the Honourable House pursuant to the provisions of Standing Order No. 181.
- 1.11 On behalf of the Joint Committee; I request the house to adopt the report.

SIGNED:   
.....  
HON. MUTAVA MUSYIMI, MP  
JOINT CHAIRPERSON,

SIGNED:   
.....  
HON. FRED KAPONDI, MP  
ASSISTING CHAIRPERSON

SIGNED:   
.....  
HON. DAVID NGUGI, MP  
ASSISTING CHAIRPERSON

SIGNED:   
.....  
HON. DAVID WERE, MP  
ASSISTING CHAIRPERSON

DATE: .....TUESDAY, DECEMBER 18, 2012.....

JOINT COMMITTEE – ON - ADMINISTRATION & NATIONAL SECURITY, LANDS & NATURAL RESOURCES, LOCAL AUTHORITIES AND TRANSPORT, PUBLIC WORKS & HOUSING



PRESENT:

The Hon. Mutava Musyimi, MP – Chairperson  
The Hon. Fred Kapondi, MP – Assistant chairperson  
The Hon. Isaac Muoki, M.P.  
The Hon. Mohamed Sirat, MP  
The Hon. Dr. Erastus Mureithi, MBS, HSC, M.P.  
The Hon. Peter Njuguna Gitau, MP  
The Hon. Benjamin Jomo Washiali, MP  
The Hon. Silas Ruteere Muriuki, M.P.  
The Hon. Edwin O. Yinda, M.P.

ABSENT WITH APOLOGY

The Hon. David Ngugi, MP – Assistant chairperson  
The Hon. David Were, M.P. – Assistant chairperson  
The Hon. Peris C. Simam, M.P.  
The Hon. Benjamin Langat, M.P.  
The Hon. Raphael Letimalo, MP  
The Hon. Maison Leshoomo, MP  
The Hon. Peter Kiilu, MP  
The Hon. Yusuf K. Chanzu, M.P.  
The Hon. Mohamed Hussein Ali, MP  
The Hon. Joseph Kiuna, MP  
The Hon. Benedict Fondo Gunda, MP  
The Hon. Mohammed Affey, M.P.  
The Hon. Justus M. Kizito, M. P.  
The Hon. Omar Mbwana Zonga, MP  
The Hon. Kiema Kilonzo, M. P.  
The Hon. Shakeel Shabbir, MP  
The Hon. Gideon Mungaro, MP  
The Hon. Gideon Konchellah, MP  
The Hon. Fahim Twaha, MP  
The Hon. Mwalimu Mwahima, MP  
The Hon. Joshua Kutuny, MP  
The Hon. Oyugi Magwanga, MP  
The Hon. Hassan Joho, MP  
The Hon. Zakayo Cheruiyot, MP  
The Hon. Danson Mungatana, MP  
The Hon. Cyprian Omollo, MP  
The Hon. Pollyins Ochieng', MP  
The Hon. Nkoidila Ole Lankas, MP  
The Hon. Clement Wambugu, M.P.  
The Hon. (Dr.) Wilbur Ottichilo, M.P.  
The Hon. Boaz Kaino, M.P.  
The Hon. Joseph Kiuna, M.P.

IN ATTENDANCE - KENYA NATIONAL AUDIT OFFICE

Mr. Richard Nyacheo - KENAO

IN ATTENDANCE - KENYA NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi	-	Second Clerk Assistant
Mr. Rana Tiampati	-	Second Clerk Assistant
Mr. Daniel Mutunga	-	Second Clerk Assistant

MIN. NO. 5/2012: INTRODUCTION

The Chairperson, Departmental Committee on Administration and National Security called the meeting to order at 11.07a.m after prayers were said. He welcomes and introduced Members present. He further informed Members present that the agenda for the meeting is to adopt and approve for laying of the report of the Auditor's General report;

The proposed agenda was adopted by the Members present.

MIN. NO. 6/2012: RECEIPT OF THE AUDITORS FORENSIC REPORT

The Joint Committee held formally receives the report from the Auditor General, Kenya National Audit Office and thanked the Auditor General for the speedy undertaking of the exercise despite challenges;

MIN. NO. 7/2012: JOINT COMMITTEE RESOLUTIONS

The Committee resolved, that:-

- (i) The Forensic Investigation Report of the Auditor General on the demolitions of houses and subsequent evictions of the residents of Kyangombe, KPA and Maasai Village, Mitumba, Eastleigh and Syokimau on the outskirts of Nairobi City in 2011 be adopted by the Joint Committee without amendments;
- (ii) The Forensic Investigation Report of the Auditor General on the demolitions of houses and subsequent evictions of the residents of Kyangombe, KPA and Maasai Village, Mitumba, Eastleigh and Syokimau on the outskirts of Nairobi City in 2011, be tabled before the House for Debate and adoption; and
- (iii) The life of the Joint Committee ceases on adoption of the Auditor General report by the House.

MIN. NO. 8/ 2012: ADJOURNMENT

There being no other business, the Joint Chair adjourned *sine dine*.

SIGN:.....  
(JOINT CHAIRPERSON)

DATE:.....Tuesday, December 18, 2012.....

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY  
(TENTH PARLIAMENT – FOURTH SESSION)

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REPORT

OF THE

DEPARTMENTAL COMMITTEE ON LANDS AND NATURAL  
RESOURCES.

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ON THE  
PETITION

BY

DR. NUH NASSIR ON THE SIYU LAND  
ALLOCATION IN LAMU COUNTY

National Assembly  
Parliament Buildings  
Nairobi

November 2012

## PREFACE

1. On the 2012, a petition was tabled before the House pursuant to Standing Order No. 207 by the Member for Bura, Hon. Dr. Nuh Nassir, and M.P on behalf of the residents of Siyu in the Lamu County of Coast Province.
2. Pursuant to House rules, the petition was referred to the Parliamentary Committee on lands and Natural Resources for consideration and preparation of a report within a stipulated period of time.
3. The Committee considered the petition and was satisfied that it is within the threshold of the Standing orders of the House.
4. The Departmental Committee on Lands and Natural resources is established pursuant to the provisions of standing order number 198(2) and (3) with the mandate to perform the following functions:-
  - a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
  - b) To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.
  - c) To study and review all legislation referred to it.
  - d) To study, assess and analyse the relative success of ministries and departments as measured by the results obtained as compared with their stated objectives.
  - e) To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary and as may be referred to them by the House or a Minister and
  - f) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.
5. The following subjects are within the jurisdiction of the Committee:
  - a) Lands & Settlement
  - b) Forestry, Water resources management & development
  - c) Irrigation
  - d) Environment
  - e) Wildlife; and
  - f) Mining & natural resources.
6. The Committee has oversight role over the following Ministries:
  - a) Ministry of Water and Irrigation

- b) Ministry of lands
  - c) Ministry of Environment and Mineral Resources
  - d) Ministry of Forestry and Wildlife
7. The Committee was constituted on June 17, 2009 and its Members are as follows:-
- a) Hon. Mutava Musyimi, M.P. – **Chairperson**;
  - b) Hon. Peris Chepchumba Simam, M.P. - **Vice Chairperson**;
  - c) Hon. Benjamin Jomo Washiali, M.P.
  - d) Hon. Silas Ruteere Muriuki, M.P.
  - e) Hon. Benedict Fondo Gunda, M.P
  - f) Hon. Justus Kizito, MP, M.P.
  - g) Hon. Njuguna Gitau, M.P.
  - h) Hon. Mohammed Affey, M.P.
  - i) Hon. Omar Zonga, M.P.
  - j) Hon. Kiema Kilonzo, M.P,
  - k) Hon. Dr. Erastus K. Mureithi, MBS, HSC, MP

## **CONSIDERATION OF THE PETITION**

8. The Committee proceeded to consider the petition in the following manner.

### **8.1 Terms of reference**

- a) The committee sought information from the Ministry of Lands – the progress of the allocation, list of beneficiaries and the people’s participation in the allocation in the SIYU.
- b) The committee should write to the district allocation Committee that was set aside to allocate the land requesting them for;
  - i) Status of the land allocation in SIYU.
  - ii) Names of the people who were allocated the land in SIYU and the title deed holders
  - iii) The criteria used to allocate land,
  - iv) Level of peoples participation in the allocation of land in SIYU
- c) The committee visited Siyu and undertook the following:-
  - i) Meet the provincial land team i.e. the surveyors, planners, settlement officer and the P.C
  - ii) The committee should hold a public hearing in SIYU.

### **8.2 Briefing**

- i) Briefing by the Member of Parliament who presented the Petition – Hon. Dr. Nuh Nassir, M.P

ii) Briefing by the Ministry of Lands officials.

8.3 **Admissibility of the Petition** - The Committee considered the petition pursuant to provision of Standing Order 201, 202, 203, 204, 205, 206, 207, 208, 209, 210 and 211. And further Third Schedule;

## 9. FINDINGS

1. The residents of Siyu are not satisfied with the adjudication process as more than 300 people were left out of the resettlement process.
2. The adjudication process was not carried out in a transparent manner
3. There is discontent amongst the majority of residents that they were neither consulted nor aware of the adjudication process.
4. The majority of local residents of Siyu have not benefited from the settlement process.
5. Title deeds have been issued to some people to the exclusion of others.
6. People from other areas other than Siyu have benefited at the expense of the locals.
7. The local community was not given priority in the process.
8. The provincial administration has been acting without proper consultation with the community. Committees have been established without adequate or no consultation at all with the locals and stakeholders like the youth and professionals.
9. The role of Lamu East District office has not been sufficient and made the situation more complex due to lack of transparency in Constituting District Land Committees.
10. More than 300 residents of Siyu were completely left out and among them were those who were shown the land or own it but surprisingly left out of allocations.
11. The Lamu East District office has not responded to complaints raised by residents.
12. A list of all the beneficiaries has not been released by Lands Office.

## 10. RECOMMENDATIONS - The Committee recommends that:-

1. A properly constituted District Lands Committee be established after adequate consultation with all the stakeholders. The new committee should be mandated to settle the 300 residents of Siyu as a matter of priority.
2. The Ministry of Lands should disclose the beneficiaries of land in Siyu.
3. Transactions on land in Siyu should be frozen forthwith pending conclusive investigations into the complaints raised by the residence.

4. The Ministry of Lands should make available to the residents of Siyu and other interested parties all maps, reports and documents relating to the adjudication process.

## 11. ACKNOWLEDGMENT

- 11.1 The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate.
- 11.2 Being the Chairperson of the Committee, I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks within the stipulated period.
- 11.3 The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.
- 11.4 Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Lands and Natural Resources, to present and recommend this report to the House pursuant to the provisions of Standing Orders of the National Assembly.
- 11.5 On behalf of the Committee, I request the house to adopt the report.

SIGNED:.....

HON. MUTAVA MUSYIMI, MP

CHAIRMAN

DEPARTMENTAL COMMITTEE ON LANDS AND NATURAL RESOURCES

DATE:..... TUESDAY, DECEMBER 18, 2012.....

## BACKGROUND INFORMATION - PUBLIC HEARING AT SIYU PRIMARY SCHOOL

### THE PETITION

12. Siyu settlement scheme was started in December 2010. The process started with formation of local land committee elected by the residents in a public baraza and presided over by the area District Commissioner.

The survey work was done in phases varying from 14 days to 30 days depending on the funding by the Ministry. The demarcation process, registration and verification of the names continued concurrently.

The exercise was completed in 2011 and titles issued in February 2012 by Hon. Prime Minister accompanied by Lands Minister and his permanent secretary. During the entire process, no major complain was raised and the work was concluded well with our rating of over 98% job well done.

### PUBLIC HEARING

13. The Committee on the 24<sup>th</sup> July, 2012 held a public hearing in response to the petition presented by Hon. Dr. Nuh Nassir, M.P and found out the following:-

- a) Siyu is a village among twelve villages in Patte Island in Lamu County and remains one of the oldest villages in eastern Africa. The village had more than 30,000 people and is currently said to host less than 4,000 people.
- b) Historically sign was ruled by kings and owned huge tracts of land is the entire island.
- c) Siyu people have been generous throughout history as they have been hosting people displaced from other places. A case in point is displacements caused by the shifta war and internal incursions within the Kenyan territory. The British – Italians war caused people to flee to Siyu from Somalia.
- d) Upon realisation of peace in respective territories, the fleeing refugees returned to their homes voluntarily.
- e) The war that broke out in kiunga, on the border between Kenya and Somalia forced people from that area to seek refuge in Siyu.
- f) The people who sought refuge in Siyu from Kiunga were given temporary settlement area with an agreement with locals that they

were not allowed to plant permanent trees in the areas they had been accommodated.

- g) More people continued to migrate to Siyu from other areas and other villages cropped up. For example Shanga Mwambore and Shanga Mafu'ula.
- h) Ownership of land in Siyu is divided into five categories.
  - 1. Land with living permanent trees. These are land where people have planted permanent trees such as coconut, cashew nuts and mangoes. People are busy on those farms and ownership has never been a dispute.
  - 2. Land with cash crops
    - i) Farmers are still living on this land and have planted seasonal crops.
    - ii) There are documented owners living in the villages.
    - iii) There has never been a dispute over ownership of such lands.
  - 3. Land bought or inherited by people and originally planted with permanent trees.
    - i) Owners are well documented within the village.
    - ii) There has never been a dispute over ownership.
  - 4. Land cultivated by different people over time. Currently, there are people doing farming on these land.
    - i) Used to be community land and different people moved on to do farming and upon living, other people always move in and pursue their farming activities.
    - ii) Ownership of this category of farms is often determined by people by establishing the current cultivator of a given piece of land.
    - iii) Historically people have been moving in and out of such land voluntarily.
    - iv) Some of the idle land degenerated into forestland.

#### **14. THE MEMORANDUM BY THE RESIDENTS**

- a) Siyu is a very peaceful place and the residents of Siyu are kind people who like peace.
- b) Most of the times, your right will never come by its own until you claim or fight for it.
- c) History of the whole world has taught us the same; that most, if not all, of the wars fought, most of the enmity and hostility are brought and caused by social injustices and mainly related to land disputes.

- d) Our country has suffered a lot because of insecurity in many regions, which have had land disputes. Many deaths and casualties have been reported in the dailies caused by brothers in a family, neighbours in the same village and villages in the same County/Districts.
- e) We do not like peace to deteriorate in our areas because of land disputes, an issue which can be tackled before things go out of proportion. There is no more time for blame games and finger-pointing. We must all unite as Siyu people, keep aside all our differences and fight for our land rather than fighting ourselves.
- f) Our recommendations are as follows:
  - i) The Siyu land adjudication exercise be null and void.
  - ii) All Siyu title deeds should be suspended until this issue is resolved.
  - iii) Sell of land in Siyu should be suspended and be an offence until this issue is resolved.
  - iv) All Siyu boundaries with Tchundwa, Faza and Pate be properly identified by all parties.
  - v) A new Land Committee should be formed (elected) by Siyu people.
  - vi) Development of disputed land should be stalled until the issues are resolved.
  - vii) All Siyu land should be allocated to Siyu people.
  - viii) Allocation should include public utilities and grazing areas.

**15. The adjudication process generated the following problems according to the presentations made by the group representative.**

- a.) The Siyu land Committee was formed to serve the interests of selected individuals rather than the community.
- b.) Land was surveyed but allocated to different people other than the owners in occupation over time.
- c.) There was no confirmation exercise that was carried out to verify ownership and register complaints and thus residents were denied an opportunity to express their misgivings in the entire process;
- d.) Ndaupate (reserved community land) was distributed to non-locals without conducting survey in the area;
- e.) The administration has not released a full list of the beneficiaries of the adjudication process.
- f.) The Government appointed two Members to the District Land Dispute Tribunal without Consultation.

- g.) More than 300 poor people from Siyu were completely left out of the settlement process.
- h.) The first Siyu Land Committee was formed by a Mr. Hussein who was the District Lands Officer. The Committee was all inclusive and was appointed in a well attended public meeting in Siyu.
- i.) The above Committee was later dissolved by the Lamu East District Commissioner in the pretext that he wanted to include women, disabled and the youth;
- j.) Three women were added to the committee but no youth representative and disabled were appointed to the committee;
- k.) The work conducted by the surveyor was not satisfactory and they lacked professionalism given the way they carried out the exercise in Eastern side of the village (60%) for 7 months and Western side (40%) in 20 days;
- l.) Land belonging to local people were purportedly surveyed and given to outsiders who are even not from the local community.

**For example:-**

- i) Farm no. 783 owned by Mrs. Tibuni Mohammed and was allocated to Muktar Mohamed.
  - ii) Farm No. 784 owned by Mr. Faraj Mumin was allocated to Hashir Harith.
  - iii) Farm No.786 owned by Mr.Abdalla Mohd Ali was allocated to Abdukadir Muhsin.
  - iv) Farm No.916 owned by Masjid Noor was allocated to Nuzla Bakari Bunu.
  - v) Farm No. 1017 owned by Abass Zubeir was allocated to Farhia Fauz.
  - vi) Farm No.1017 owned by Abass Zubeir was allocated to Ann Nkirote.
  - vii) Farm No.984 owned by Jamal Dumila was allocated to Loyce Haro.
- m.) It was also submitted that undeserving non-locals benefited from the controversial allocations of land in Siyu;
- n.) Disputes arose because there was no confirmation process;
- o.) Shanga area was surveyed by unknown people and land distributed to undeserving individuals;
- p.) There is no full list of beneficiaries. The list of beneficiaries is not complete. For example the beneficiaries of plots number 1110 – 1225 are not known because their names are missing from the list. Other missing names include number 34, 80,85,86,97,101,228, etc.

- q.) More than 300 residents of Siyu village were left out in the resettlement process and they remain landless.

#### **16. MINISTRY OF LANDS SUBMISSION**

1. Siyu settlement scheme was started in December 2010. The process started with formation of local land committee elected by the residents in a public baraza and presided over by the area District Commissioner.
2. The survey work was done in phases varying from 14 days to 30 days depending on the funding by the Ministry. The demarcation process, registration and verification of the names continued concurrently.
3. The exercise was completed in 2011 and titles issued in February 2012 by Hon. Prime Minister accompanied by Lands Minister and his permanent secretary.
4. During the entire process, no major complain was raised and the work was concluded well with our rating of over 98% job well done.
5. Confirmation of names was a continuous process during survey and demarcation of farms.
6. LOCALS were required to countercheck the records at their own convenient time while survey work was still ongoing. Even those who were not present their ownership rights were taken care by the committee and neighbours.
7. The whole process was done with public participation of all the stakeholders to the end. The main purpose of the list is to facilitate documentation and any person wishing to get any information on any parcel can get it from the land registry in Lamu.
8. There are no 300 landless - All farms were surveyed and registered to the respective households.

#### **17. PROVINCIAL LANDS TEAM – SUBMISSION**

- i) Appreciated the land problem in Siyu and that it is a pointer to the wider problem in coast province.
- ii) the office is not actively involved in land matters as the same falls within regional commissioners' domain.
- iii) The land officers at the District level are competent officers but lack facilities to discharge their duties.

- iv) Inadequate funding has incapacitated surveyors to move around for adjudication process.
- v) his office has no role to play and that the Ministry of Lands is the central player in Siyu.
- vi) all land in larger Lamu is classified as Government Land, it is important to investigate the genesis of land transition to another regime. This will help establish whether the process was properly initiated and implemented or void from the beginning;
- vii) the squatters at the coast are unique by fact that most of them are indigenous coastal.

## **18. FINDINGS**

- a) The residents of Siyu are not satisfied with the adjudication process as more than 300 people were left out of the resettlement process.
- b) The adjudication process was not carried out in a transparent manner
- c) There is discontent amongst the majority of residents that they were neither consulted nor aware of the adjudication process.
- d) The majority of local residents of Siyu have not benefited from the settlement process.
- e) Title deeds have been issued to some people to the exclusion of others.
- f) People from other areas other than Siyu have benefited at the expense of the locals.
- g) The local community was not given priority in the process.
- h) The provincial administration has been acting without proper consultation with the community. Committees have been established without adequate or no consultation at all with the locals and stakeholders like the youth and professionals.
- i) The role of Lamu East District office has not been sufficient and made the situation more complex due to lack of transparency in Constituting District Land Committees.
- j) More than 300 residents of Siyu were completely left out and among them were those who were shown the land or own it but surprisingly left out of allocations.
- k) The Lamu East District office has not responded to complaints raised by residents.
- l) A list of all the beneficiaries has not been released by Lands Office.

## **19. RECOMMENDATIONS - The Committee recommends that:-**

1. A properly constituted District Lands Committee be established after adequate consultation with all the stakeholders. The new committee should be mandated to settle the 300 residents of Siyu as a matter of priority.
2. The Ministry of Lands should disclose the beneficiaries of land in Siyu.
3. Transactions on land in Siyu should be frozen forthwith pending conclusive investigations into the complaints raised by the residence.
4. The Ministry of Lands should make available to the residents of Siyu and other interested parties all maps, reports and documents relating to the adjudication process.

## APPENDIX ONE

DLASO/LMU/1/1/GEN/VOL.III/47

25<sup>TH</sup> July, 2012

**THE DIRECTOR,  
LAND ADJ & SETTLEMENT,  
PO BOX 30297,  
NAIROBI.**

### **RE: PARLIAMENTARY PETITION ON SIYU SETTLEMENT SCHEME**

#### **INTRODUCTION**

Siyu settlement scheme was started in December 2010. The process started with formation of local land committee elected by the residents in a public baraza and presided over by the area District Commissioner.

The survey work was done in phases varying from 14 days to 30 days depending on the funding by the Ministry. The demarcation process, registration and verification of the names continued concurrently.

The exercise was completed in 2011 and titles issued in February 2012 by Hon. Prime Minister accompanied by Lands Minister and his permanent secretary. During the entire process, no major complain was raised and the work was concluded well with our rating of over 98% job well done.

#### **The complains raised in the petition are as follows:**

- a) Former committee was dissolved and a new one formed to serve individual interests.
- b) Some farms were given to non-owners.
- c) 'Foreigners' allocated land in Siyu.
- d) Confirmation of list of beneficiaries was not done before issuance of titles.
- e) Ndaupate and unoccupied (unclaimed) land was allocated without being surveyed.
- f) Shanga area surveyed by non designated people and allocated to undeserving shanga people.
- g) Full list of beneficiaries not released.
- h) Two members appointed by the government to the district land dispute tribunal not involved in the process.

- i) Village boundaries ignored during survey.
- j) More than 300 residents still landless.

## **RESPONSES TO THE ABOVE LISTED COMPLAINS.**

### **(a) DISSOLUTION AND FORMATION OF SIYU LOCAL LAND COMMITTEE**

The dissolved committee had been formed by the DLASO in the year 2007 with sole purpose of assisting in the taskforce on the ten mile coastal strip to register the residents. The said committee was not permanent. The new local land committee was to assist the surveyors identify individual boundaries, the land owners .The committee was elected by the residents themselves and presided over by the District Commissioner. The members of the former committee were also eligible for re-election.

### **(b) FARMS ALLOCATED TO NON OWNERS**

As mentioned earlier, there has been no complain launched in our office regarding error in allocation, thus we are looking into the matter i.e. ground and records status and will respond accordingly.

### **(c) FARMS GIVEN TO FOREIGNERS**

The term foreigners according to indigenous Siyu people refer to any person from anywhere else including the surrounding villages. Siyu is a location in which ownership of land comprises of people from areas like Faza, Tchundwa, Pate, Shanga and Siyu villages. Siyu people consider these people as foreigners who do not deserve or have no right to land including even Shanga people who migrated in early 1960's.

Some of the settlers from amongst the villages had earlier sold their parcels to non locals who have settled for several years e.g. one Stephen Kangethe who has been integrated to the local community to a extent that he has been elected by resident as a village elder of Ndaud Pate.

### **(D) CONFIRMATION OF NAMES BEFORE ISSUANCE OF TITLES WAS NOT DONE**

Confirmation of names was a continuous process during survey and demarcation of farms. The farm owners were required to show the plot boundaries which was confirmed by the neighbours and the land

committee members, and then they produce their identity cards for registration.

They were also required to countercheck the records at their own convenient time while survey work was still ongoing. Even those who were not present their ownership rights were taken care by the committee and neighbours. There are some instances where some farms were registered with nick names, others without ID numbers because the owners were not present though their interests were respected.

**(E) NDAU PATE AND UN OCCUPIED/UNCLAIMED LAND**

Ndau pate is a small island bordering Shanga village with a few farms owned by people from Shanga. The island was a subject of an ownership dispute from people of Shanga, Siyu and Pate with each giving their claim but it was finally resolved that the allocation would be shared with Shanga residents getting a bigger share since they had developments on the ground.

**(F) SHANGA AREA- ALLOCATED TO UNDESERVING SHANGA PEOPLE.**

All the areas were surveyed under guidance by the committee members but since Siyu people consider Shanga people as foreigners, they refer the committee members from Shanga minority as undesignedated. Hence any work by the committee members from the area is considered as done by foreigners.

In consideration of both the old and the current constitution every member of the society has a right of ownership to land especially if he has resided for more than 12 years, thus there is no way shanga people who have live there for more than fifty years could have been denied their right.

**(H) FULL LIST OF BENEFICIARIES NOT RELEASED TO PUBLIC**

The whole process was done with public participation of all the stakeholders to the end. The main purpose of the list is to facilitate documentation and any person wishing to get any information on any parcel can get it from the land registry or DLASO's office Lamu.

**(I) MEMBERS OF THE DISTRICT LAND DISPUTE TRIBUNAL NOT BEING INVOLVED**

The main purpose of a dispute tribunal is to arbitrate on disputes but in this case no dispute has been raised and in addition their existence was been done away with after the new constitution.

**(J) VILLAGE BOUNDARIES IGNORED**

The survey work was entirely on farms of individuals regardless of their village of residence or administration boundaries. In fact some farms traverse village boundaries and they were surveyed and allocated accordingly.

**(K) OVER 300 STILL LANDLESS**

All farms were surveyed and registered to the respective households. The above people if any are young adults claiming parcels already registered in their respective family heads.

BENJO K.D

**For: DISTRICT LAND ADJ. & SETTLEMENT OFFICER-LAMU**

Cc. PARLIAMENTARY COMMITTEE ON LAND & NATURAL RESOURCES

## APPENDIX TWO

### MINUTES OF THE LANDS AND NATURAL RESOURCES COMMITTEE MEETING HELD ON 28TH JULY 2012 IN THE OFFICE OF THE PROVINCIAL COMMISSIONER, COAST PROVINCE AT 2.30 P.M

#### PRESENT

Hon. Benjamin Jomo Washiali, M.P - Chairing  
Hon. Justus M Kizito, M.P  
Hon. Benedict Fondo Gunda, M.P  
Hon. Peter Njuguna Gitau, M.P

#### IN ATTENDANCE

Mr. Shivogo	-	Deputy Provincial Commissioner
Antony Munyasya	-	Provincial Surveyor
Peter Ngete	-	Chief Land administrative officer
Peter Mbithi	-	Technical officer-physical planning
John Keboso	-	Registrar of Titles- Mombasa
Sammy A Mchombo	-	District Land adjudication and Resettlement officer.
Herbert Were	-	District Land officer

#### IN ATTENDANCE

#### NATIONAL ASSEMBLY

Abenayo Makokha	-	Clerk Assistant
Allan Kariuki	-	Committee Assistant

#### MIN. NO. 1/2012: OPENING PRAYER

The meeting started with a word of prayer.

#### MIN.NO. 2/2012: INTRODUCTORY REMARKS BY DEPUTY P.C

The Deputy Provincial Commissioner:-

- a) Introduced members of his office, made introductory remarks and welcomed members to his office and coast province generally;
- b) Informed members that he was representing the Provincial Commissioner who was engaged in other official duties; and
- c) Noted that it was encouraging for the Lands Committee to visit the region to get first hand information on Land matters at the Coast.

The Chairman remarked that:-

- a) introduced Members of the Committee;
- b) Briefed the deputy P.C on the mandate of the Committee on Lands and Natural Resources.
- c) He appreciated the role of the provincial administration and the need for enhanced collaboration with parliamentary committees.

#### **MIN.NO. 3/2012: the Chairman's Remarks**

The Chairman stated that:-

- a) The purpose of the Committee's courtesy call on the provincial administration was to assist the committee to understand the land problem in Siyu Island.
- b) Concern that the provincial administration at District level has not done enough to address the problem of land ownership in Siyu and other areas within the Province;
- c) Stated that the committee was acting on a petition presented to parliament on behalf of Siyu residents by Hon. Dr. Nuh Nassir, Member of Parliament for Bura constituency.

#### **MIN.NO. 4/2012: MEMBERS CONCERNS ON THE SIYU SETTLEMENT**

Members raised the following issues

- i) The committee has not received vital documents from the regional commissioner despite promises to do so.
- ii) The residents of Siyu are not satisfied with the adjudication process because their land was allocated and titles issued to non-residents.
- iii) Areas already occupied and settled by people should not have been declared a settlement area.
- iv) The local residents declared in the public hearing that they will resist ownership of land in Siyu by non-indigenous residents.

#### **MIN.NO. 5/2012; REMARKS BY THE DEPUTY P.C**

The Deputy P.C noted that:-

- viii) Appreciated the problem in Siyu and stated that it is a pointer to the wider problem in coast province.
- ix) the office is not actively involved in land matters as the same falls within regional commissioners' domain.
- x) The land officers at the District level are competent officers but lack facilities to discharge their duties.

- xi) Inadequate funding has incapacitated surveyors to move around for adjudication process.
- xii) his office has no role to play and that the ministry of Lands is the central player in Siyu.
- xiii) all land in larger Lamu is classified as Government Land, it is important to investigate the genesis of land transition to another regime. This will help establish whether the process was properly initiated and implemented or void from the beginning;
- xiv) the squatters at the coast are unique by fact that most of them are indigenous coastal.

**MIN.NO. 6/2012: COMMITTEES' OBSERVATION**

The committee observed that;

- a) The provincial administration at all levels has not demonstrated seriousness in addressing the problem in Siyu.
- b) The committee believes the provincial administration is withholding vital information on Siyu settlement.
- c) **Therefore the Committee resolved that officials from the ministry of lands and provincial administration will be summoned to appear before the committee for further investigations before compilation of a report on Siyu.**

**MIN.NO. 7/2012: ADJOURNMENT**

There being no other business the meeting was adjourned at 4.00 P.M

Signed.....

Chairman

Date.....



MINUTES OF THE ONE HUNDRED & FORTY SEVENTH (147) SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON TUESDAY, DECEMBER 18, 2012 IN THE SMALL DINING, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

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**PRESENT:**

The Hon. Mutava Musyimi, MP – **Chairperson**  
The Hon. Peris C. Simam, MP. - **Vice chairperson**  
The Hon. Peter Njuguna Gitau, MP  
The Hon. Benjamin Jomo Washiali, MP;  
The Hon. Dr. Erastus Mureithi, MBS, HSC, MP.  
The Hon. Silas Ruteere Muriuki, MP.

**ABSENT WITH APOLOGY**

The Hon. Justus M. Kizito, MP.  
The Hon. Omar Mbwana Zonga, MP  
The Hon. Benedict Fondo Gunda, MP  
The Hon. Mohammed Affey, MP.  
The Hon. Peter Njuguna Gitau, MP  
The Hon. Kiema Kilonzo, MP.

**IN ATTENDANCE - KENYA NATIONAL ASSEMBLY**

Mr. Rana Tiampati - Second Clerk Assistant

**MIN. NO. 165/2012: INTRODUCTION**

The Chairman called the meeting to order at 10.21a.m after prayers were said. He further called the Members present to consider the proposed agenda and adopt. The agenda included:-

- a) Prayers;
- b) Confirmations of Minutes;
- c) Matters arising;
- d) **Deliberation on the report on Lamu and Siyu;**
- e) Any Other Business;
- f) Date of the next sitting.

The proposed agenda was adopted by the Members present.

**MIN.NO.166/2012: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS**

Minutes of the 138<sup>th</sup>, 139<sup>th</sup>, 140<sup>th</sup>, 141<sup>st</sup>, 142<sup>nd</sup>, 143<sup>rd</sup>, 144<sup>th</sup> and 145<sup>th</sup> Sitting were confirmed as true deliberation of the Committee sittings by members present and signed by the Chair.

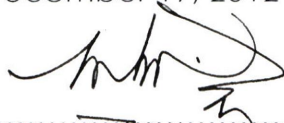
**MIN.NO.167/2012: DELIBERATION ON THE FOLLOWING- LAMU AND PETITION BY SIYU RESIDENTS**

After lengthy deliberations, the meeting resolved that:-

- a.) the Petition by Siyu Residents and Lamu report are ready and that the members agreed on the recommendation, based on the Committee findings;
- b.) approves and adopts the two reports for tabling, and ;
- c.) Mandated the Chairperson to sign and table the reports.

**MIN. NO.168/ 2012: ADJOURNMENT**

There being no other business, the Chair adjourned the meeting at Fifty minutes past Ten O'clock. Until Wednesday, December 19, 2012 in Room 9, Main Parliament Buildings at 11.00a.m.



SIGN:.....  
(CHAIRPERSON)

DATE:...TUESDAY, DECEMBER 18, 2012.....

# APPENDIX II

## 3.0 THE PROGRESS AND STATUS OF SETTLEMENT, ADJUDICATION AND ALLOCATION OF LAND IN LAMU

### 3.1 Introduction

All the land in Lamu East and Lamu West is classified as Government land.

The following Swahili Villages and settlement schemes are in Lamu West namely;- Manda, Mashudwani, Kililana, Mkunumbi, Mapenya, Ndambwe, Mokowe, Koreni, Pangani, Kiongwe, Didewaride, Panda Nguo, Moa, Katsakairu, Chalaluma, Roka and Witu Mjini. Scheme Planning, plot demarcation and survey is on-going in Ras-Kitau village.

The rest of the villages will be covered when funds are availed by the Government. The rest of the settlement schemes include Lake Kenyatta 1, Lake Kenyatta II, Hindi Magogoni, Hindi Magogoni extension (proposed), Witu Lamu and Hongwe.

Over 6500 households have been settled on these parcels and freehold title Deeds issued to those who have cleared Settlement fund Trustees (SFT) land charges.

Lamu East covers the following villages, namely:- Pate, Mtangawanda, Kizingiti, Mbwajumali, Myabogi, Nda, Bargoni, Kiunga, Mkokoni, Mangai, Mkomani, Basuba, Kiangwe, Mararani, Kiwayu, Shanga Simambae, Mvundeni, Rubu, Ishakani and Mambore.

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Scheme planning, plot demarcation and survey is ongoing in Pate, Ras Kitau and Mtangawanda; and will be completed by 30<sup>th</sup> June, 2012. Development plan for Ras Kitau has been finalized to facilitate demarcation and survey. Plot demarcation and survey has been completed in Faza Rasini, Tchundwa and Siu villages with over 2,700 beneficiaries.

Some Land allocations have been done in Lamu and Manda Islands, Ras Kitau, Zijutuni, Mokowe and Hindi areas for commercial and residential purposes.

3.2 The following is a schedule showing the status of the settlement programmes:

**Schedule II**

Name of Scheme	Area (Ha)	Year started	No. of beneficiaries	Remarks
Lake Kenyatta I	14,224	1973	3480	Titles issued upon payment of land loan
Lake Kenyatta II	3000	1996	612	"
Hindi Magogoni	7700	1989	764	"
Witu-Lamu	7000	1995	738	"
Hongwe	2041	2009	987	Awaiting registration
Faza Rasini	660	2007	474	Titles issued
Tchundwa	2115	2009	982	Titles issued
Siu and Shanga villages	2520	2010	1283	Titles issued
Pate and Bore	1651	2011	1300	District settler selection committee (DSSC) to allocate the plots by 30 <sup>th</sup> June, 2012

### 3.3 Land Adjudication

Land Adjudication cannot be undertaken since the whole of Lamu County is Government land. The documentation of the occupants is however undertaken through setter regularization programmes.

### 3.4 Ranches

The Government has allocated land for ranches as shown in schedule III.

**Schedule III.**

No	Name	Size (Ha)	Location	No	Name	Size	Location
1	Abdi Maalim Ranch	5000	Hindi	2	Witu Nyongoro Ranch	32000	Witu
3	Bujra Ranch	4000	Witu	4	Witu North	4000	Witu
5	Amu Ranch	25000	Mpeketoni	6	Enganani Ranch	2104	Hindi
7	Majengo Private Co. Ranch	12000	Hindi	8	Umoja Ranch	5000	Mpeketoni
9	Mwanati Ranch	5000	Hindi	10	Pwani Mgola Ranch	10000	Hindi
11	Tullu Mbungani Ranch	20000	Witu	12	Akiro Pvt Ranch	18000	Mpeketoni
13	Bodhei Public Co. Ranch	21000	Hindi	14	Nairobi Ranch	20316	Witu

5.	Manda	Awaiting picking of structures, planning and survey	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys
6.	Matondoni	Awaiting picking of structures, planning and surveying	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys
7.	Mkokoni/Mvundeni	Surveying of structures ongoing	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys
8.	Kiunga	Awaiting picking of structures, planning and surveying	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys

9.	Mwajumwali/ Kizingitini/Myabogi	Awaiting picking of structures, planning and surveying	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys
10.	Ndau	picking of structures on going	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys
11.	Pate	Survey work finalized	
12.	Kiwayu	Awaiting picking of structures, planning and surveying.  Dispute over land ownership by locals & KWS	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys
13.	Kipungani	Awaiting Picking of structures	
<b>SETTLEMENT SCHEMES</b>			
1.	Manda	Awaiting planning and survey	Director of Surveys & Director of Physical Planning
2.	Mokowe	Awaiting picking of	Director of Surveys

		structures and survey	Director of Physical Planning
3.	Pangani/Pandanguo	Awaiting planning & survey	Director of Surveys Director of Physical Planning
4.	Vumbe	Awaiting planning & survey	Director of Surveys Director of Physical Planning
5.	Basuba/Mararani/Mangai/Bargoni	Awaiting planning & survey	Director of Surveys Director of Physical Planning

## Challenges related to land in Lamu

- Invasion of idle land by speculators from outside Lamu in anticipation of economic benefits from the proposed Port hence denying the indigenious people a chance to own land.
- Some Title Deeds are being held by absentee landlords who deny occupants legal ownership of the land.
- There local people are agitating for adjudication process instead of Settlement Schemes.
- The people argue that adjudication process should be adopted as is in the case in other parts of the Country instead of Settlement Schemes.
- They also argue that the settlement process results to exorbitant land charges by S.F.T. before issuance of Titles.
- Delays in Discharge of SFT loans.
- Settlers selling their land and moving to un-alienated Government land.
- Inadequate budgetary allocation, understaffing, lack of vehicles and boats are a hindrance to finalization of Settlement Schemes.
- Widespread human – wildlife conflict is a challenge in agricultural production and plot occupancy.
- Political interferences from politicians advocating for adjudication process which is not possible as the land is not Trust Land but Government land.

## Way Forward

The Ministry of Lands has formulated the following strategy for Lamu

- To secure Government land and ensure proper planning before alienation.
- To carry out a ground verification exercise to facilitate identification of plots held by absentee landlords for regularization to squatters.
- To discourage the local rd from selling their land or even imposing a moratorium on sale of land acquired through settlement program for a certain period of time.
- To seek for sufficient funds from Treasury to facilitate faster squatter settlement programs.
- Place caveat on suspect Titles pending authentication.
- To work closely with National Environment Management Authority (NEMA) especially on the fragile ecosystems (water catchment & sand dunes).

