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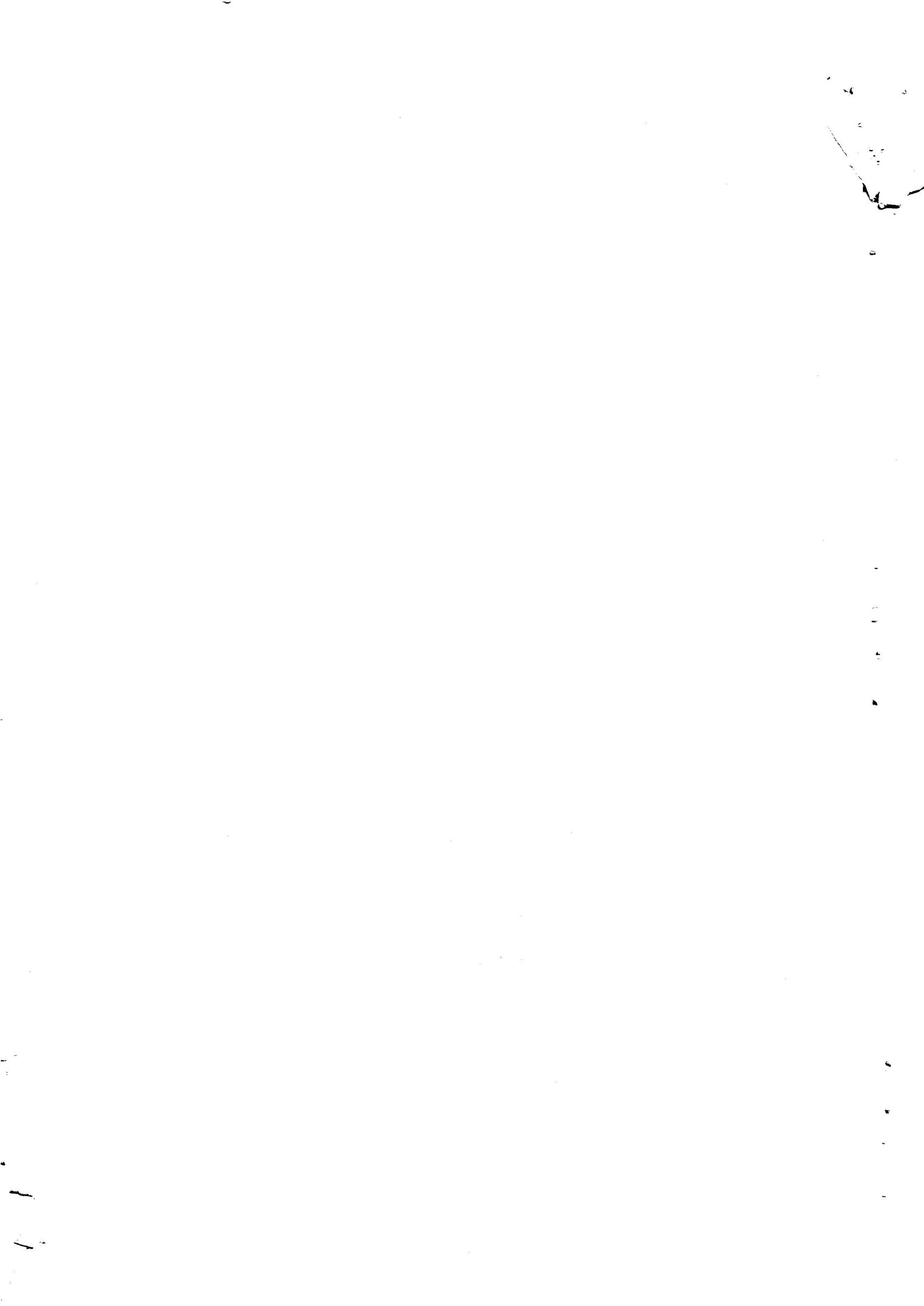
STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND  
FOREIGN RELATIONS

REPORT ON A PETITION CONCERNING THE ALLEGED MURDER OF AN  
ENVIRONMENTALIST AND CONSERVATIONIST MS. JOANNAH STUTCHBURY

PAPERS LAID	
DATE	10/02/2022
TABLED BY	CHARLES OBI
COMMITTEE	NS & FR
CLERK AT THE TABLE	GETOUPA

Clerk's Chambers,  
The Senate,  
Parliament Buildings,  
**NAIROBI**

February 2022



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## PREFACE

**Mr. Speaker, Sir**

1. The Standing Committee on National Security, Defence and Foreign Relations was constituted in December, 2017 during the First Session of the Twelfth (12<sup>th</sup>) Parliament pursuant to the provisions of the Senate Standing Order No. 187.

The Committee is mandated to consider all matters relating to: *national security and foreign relations, disaster reduction and preparedness, home affairs, defence, immigration and international relations.*

2. In executing its mandate, the Committee oversees the Ministries of;

- (i). Interior and Coordination of National Government;
- (ii). Defence; and
- (iii). Foreign Affairs.

3. The Committee comprises of the following Members-

(i).	Sen. Fred Outa, CBS, MP	<b>Ag. Chairperson</b>
(ii).	Sen. Moses Wetang'ula, EGH, MP	Member
(iii).	Sen. Fatuma Dullo, CBS, MP	Member
(iv).	Sen. Gideon Moi, MP	Member
(v).	Sen. Judith Pareno, MP	Member
(vi).	Sen. Beatrice Kwamboka, CBS, MP	Member
(vii).	Sen. Mithika Linturi, MP	Member
(viii).	Sen. (Eng.) Mohamed M. Mohamud, CBS, MP	Member
(ix).	Sen. Wario Golich Juma, MP	Member

**Mr. Speaker Sir,**

The Petition regarding the alleged murder of Environmentalist and Conservationist Ms. Joannah Stutchbury and a protector of environment and natural resources was brought to the Senate by Sen. Halakhe Abshiro, MP on 4<sup>th</sup> August, 2021 and consequently stood committed to the Standing Committee on National Security, Defence and Foreign Relations.

**Mr. Speaker Sir,**



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The Petitioners Prayers to the Senate were to be assisted by the Senate through-

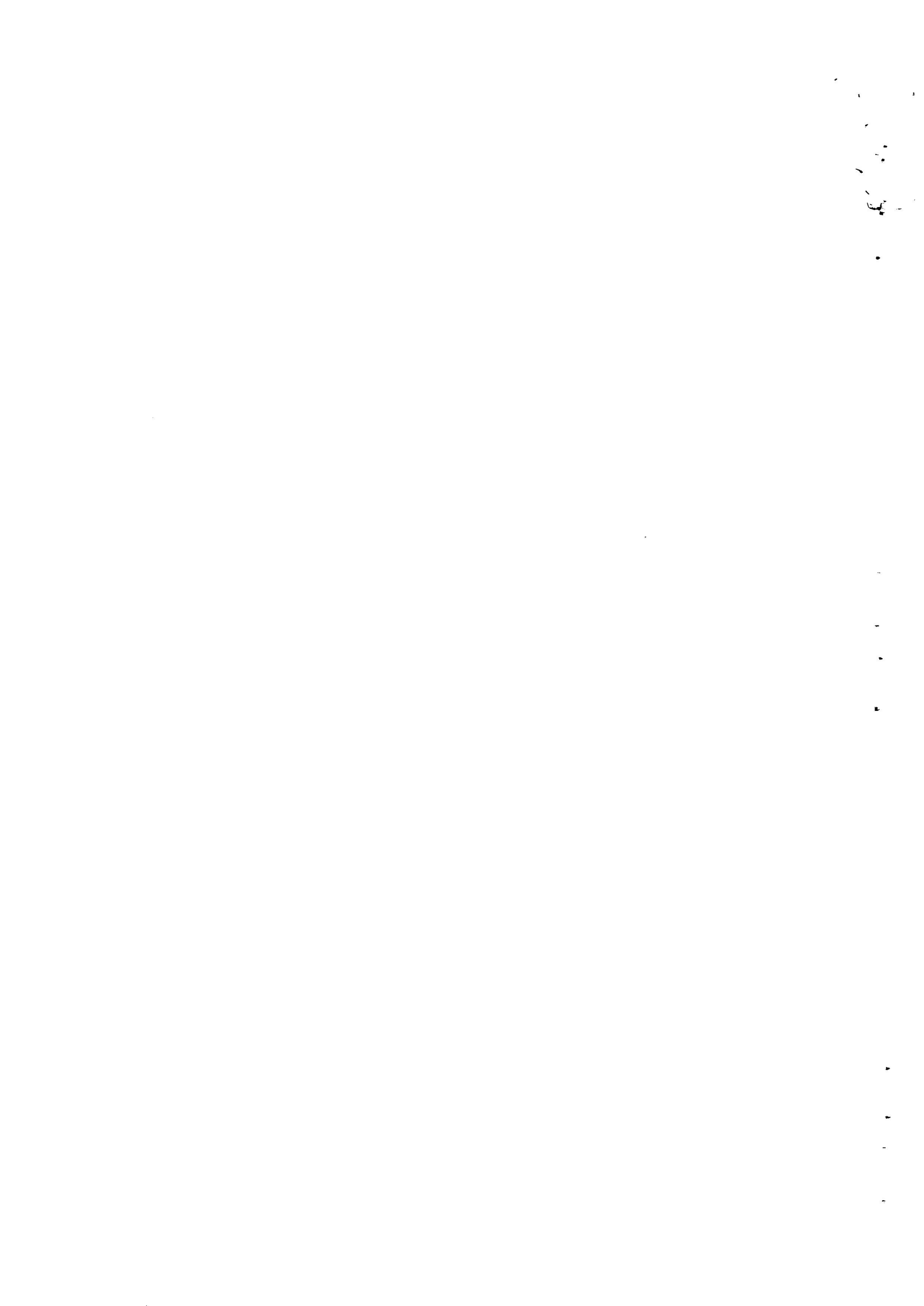
- (i). an investigation on the circumstances leading to the alleged murder of Joannah Stutchbury and other environmentalists and conservationist in the country and make appropriate recommendations on the findings, and on the alleged perpetrators;
- (ii). a call to the Ministry of Environment and Forestry and Kenya Forest Service to revoke grabbed parcels of the Kiambu Forest Reserve;
- (iii). appropriate recommendations for the protection of the lives of environmentalists and conservationists in Kenya; and
- (iv). reviewal relevant policies and existing legislations with a view to enhance the protection of all forest lands and wildlife migratory routes and corridors in Kenya, with a view to shield them from land grabbers.

**Mr. Speaker Sir,**

In order to address the prayers of the Petitioners, the Committee met with various stakeholders in relations to the petition who included the Petitioners (Conservation Alliance of Kenya), Cabinet Secretary for Environment and Forestry, Director of Kenya Forest Service, Kiambu Governor, County Commissioner of Kiambu, Ministry of Land officials, residents residing in the already developed parts of Kiambu Forest Reserve, National Land Commission officials, Inspector General of Police, Director of Criminal Investigation and undertook a fact-finding visit to Kiambu Forest Reserve.

**Mr. Speaker Sir,**

During the Committee investigation into the matter the Committee established that on 15<sup>th</sup> July, 2021, an Environmentatlist and Conservationist Ms. Joannah Stutchbury was shot dead outside her home in what appeared to be outright murder. It is of importance to note that after meeting the Petitioners they were requested to furnish the Committee with a list of other conservationists who had ever been threatened, but, was not forthcoming. That Ms. Joannah Stutchbury lived in a land which borders Kiambu Central Forest Block known as LR No.21179 F/R No.284/108 which was gazetted as a Forest Reserve vide Proclamation No.44 of 1932. That on 5<sup>th</sup> February,



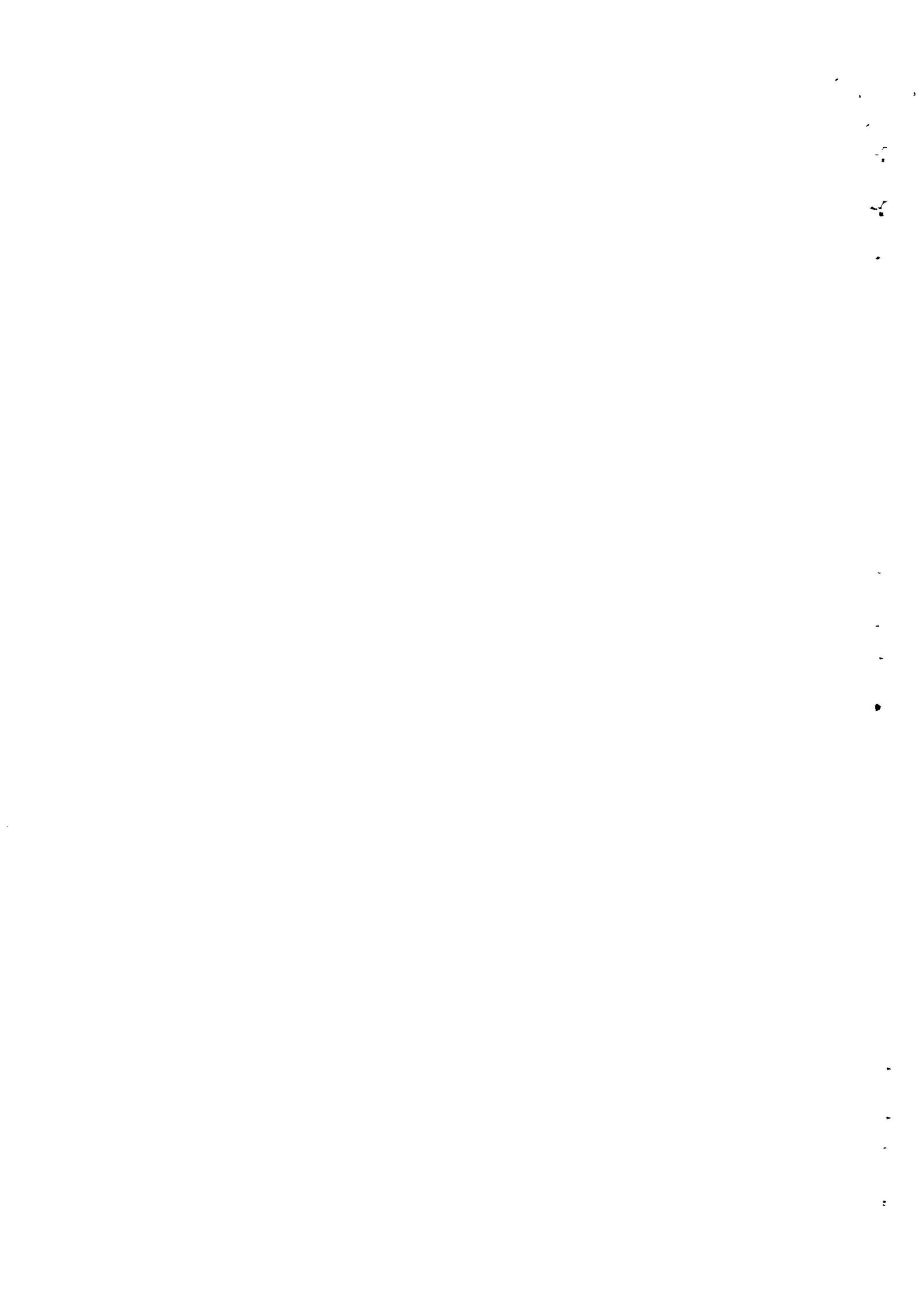
2018, the deceased received information about illegal encroachment by developers on Kiambu Gazetted Forest land which borders wetland and single-handedly confronted the developers who were constructing an illegal road. That preliminary investigations by the Directorate of Criminal Investigation had established that Ms. Joannah Stutchbury might have been murdered due to her strong position and passion for preservation of environment at Kiambu Forest area against the will of illegal developers who wanted to construct a road to gain access to their illegally acquired properties.

**Mr. Speaker Sir,**

Documents from government agencies presented to the Committee indicate that some portions of the formerly Kiambu forest had been allocated to private individuals by former government regimes. Mr. Speaker, some of the residents currently residing in those parcels of land are either 2<sup>nd</sup> or 3<sup>rd</sup> buyers and have documents which indicate they followed the laid down lawful process to acquire ownership of those parcels of land including a letter from Kenya Forest Service indicating the forest had been delianated. The Committee, further, was informed that Marg. Ridge Estate Ltd was the initial owner of L.R. No. 21179, lying within and adjoining the western boundary of Kiambu Township in Kiambu District of an area of approximately 25 Hectares through documents produced before it, contrary to presentations by Cabinet Secretary Ministry of Environment and Forestry to the Committee. The Committee further established that some parcels of the forest has remained forested for instance I,R.84876 L.R. No.25009 measuring 6.795 Ha ostensibly owned by Agropack Limited, I,R.84876 L.R. No.25008 measuring 2.037 Ha, I,R.84876 L.R. No.25007 measuring 2.024 Ha and I,R.84876 L.R. No.25006 measuring 2.024 Ha which is swampy and forested. Arising from findings, the Committee has made several recommendations with far reaching implications for implementation by various government agencies regarding the Petition on the death of Ms. Joannah Stutchbury.

**Mr. Speaker Sir,**

I wish to express my gratitude to the Members of the Committee for their thoughtful inputs and contributions during the Committee's deliberations on the matter. The Committee is further indebted to the Offices of the Speaker and the Clerk of the Senate for facilitating efforts that led



to the production of this report. The Committee also wishes to recognize the commitment and dedication of the Committee secretariat who worked diligently and ensured this report is produced timeously.

**Mr. Speaker Sir,**

It is now my distinguished pleasure and duty, to table the report of the Standing Committee on National Security, Defence and Foreign Relations in regard to the Petition on the alleged murder of Environmentalist and Conservationist Ms. Joannah Stutchbury.

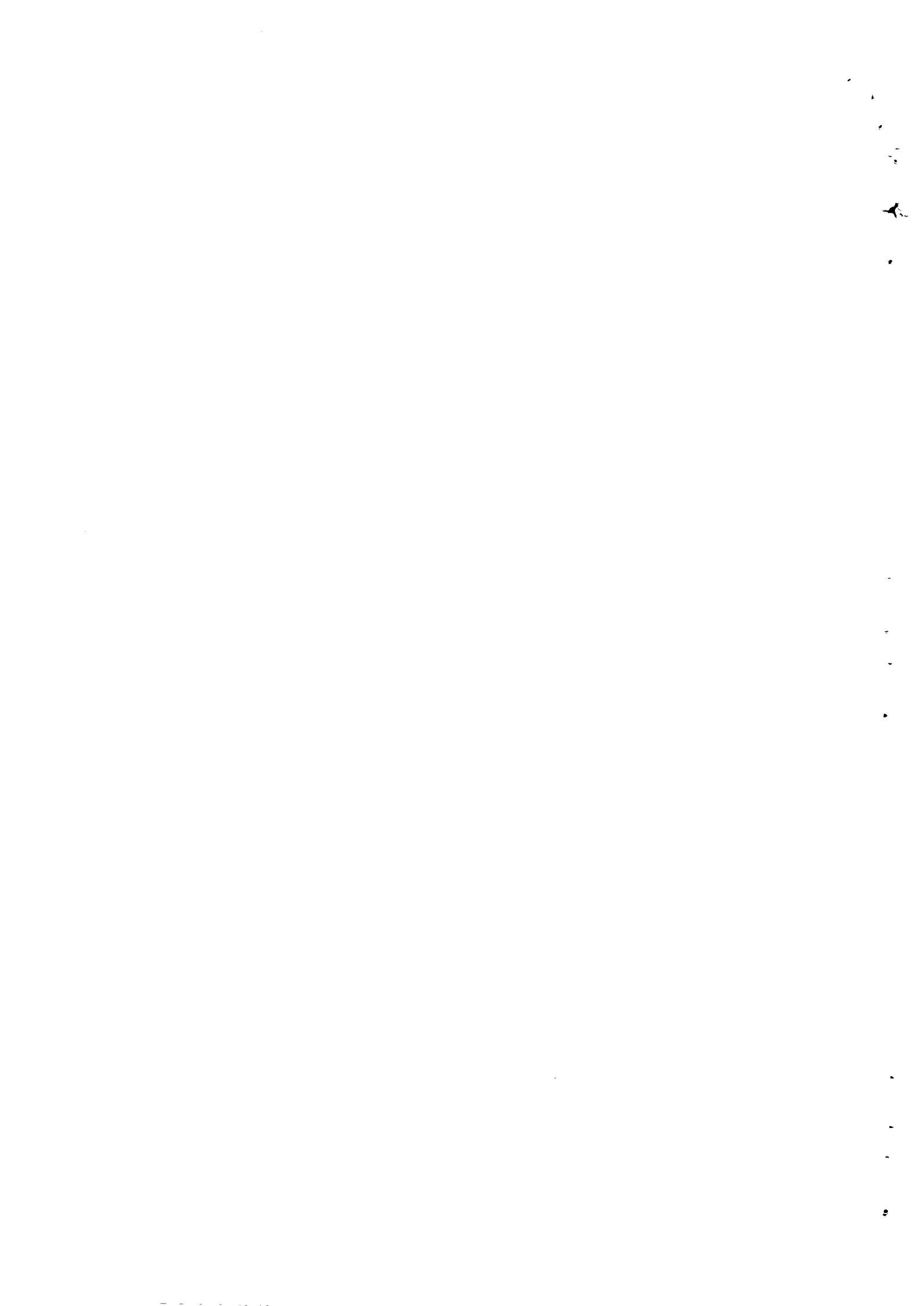


**SIGNATURE.....**

**SEN. FRED OUTA, CBS, MP  
ACTING CHAIRPERSON**

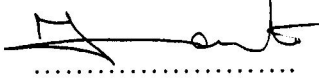
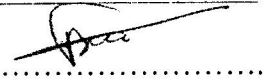
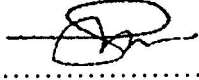
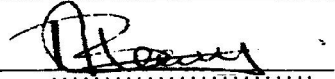



**2<sup>nd</sup> February, 2022**

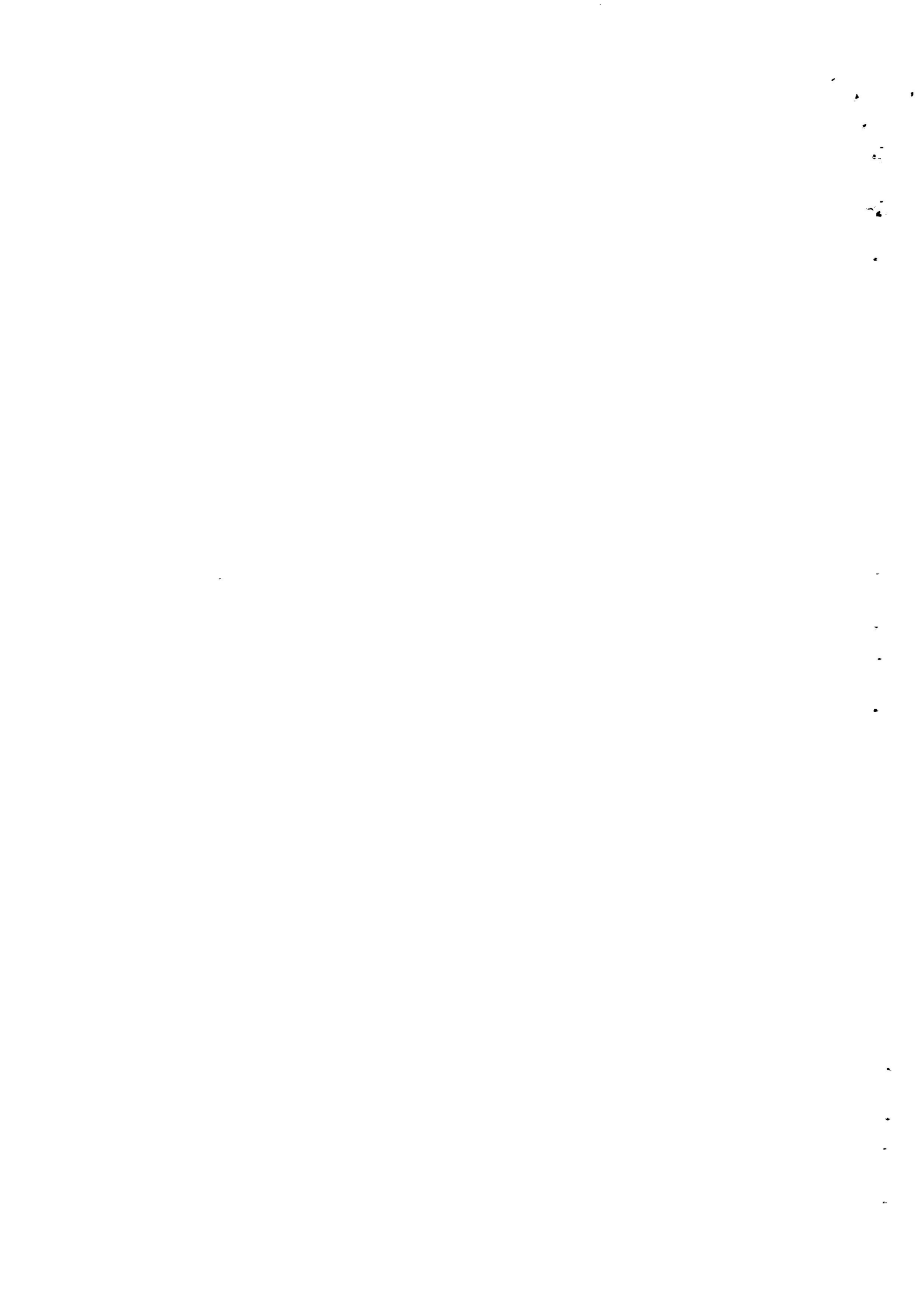
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**ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS.**

We the undersigned Members of the Senate Standing Committee on National Security, Defense and Foreign Relations of the Senate, do hereby append our signatures to adopt the Report-

- 1) Sen. Fred Outa, CBS, MP - **Ag. Chairperson** 
- 2) Sen. Fatuma Dullo, CBS, MP 
- 3) Sen. Judith Pareno, MP 
- 4) Sen. Beatrice Kwamboka, CBS, MP 
- 5) Sen Mithika Linturi, MP 
- 6) Sen. (Eng.) Mohammed M. Mohamud, CBS, MP 
- 7) Sen. Moses Wetang'ula, EGH, MP 
- 8) Sen. Wario Golicha Juma, MP 
- 9) Sen. Gideon Moi, MP 



## CHAPTER ONE

### **SUBMISSIONS BY THE PETITIONERS ON THE PETITION REGARDING THE ALLEGED MURDER OF CONSERVATIONALIST AND ENVIRONMENTALIST MS. JOANNAH STUTCHBURY.**

The petitioners briefed the Committee that on 15<sup>th</sup> July, 2021, environmentalist and conservationist Joanna Stutchbury was shot dead outside her home in what appeared to be outright murder. She was a fierce environmental defender and conservationist who was well known for her efforts to conserve the environment and that she was a resident of Kiambu County, living around the vicinity of Kiambu Forest reserve. That on several occasions, she was successful in protecting Kiambu Forest Reserve from alleged encroachment and land grabbing by private developers. That she was an outspoken person who fearlessly challenged acts of forest degradation and destruction in the country, and instrumental in supporting Kenya Forest Service in combating illegal activities within Kiambu Forest and other forest reserves. That Kenya's forests, animal sanctuaries/reserves, wildlife and marine ecosystems are at risk of being grabbed and encroached by unscrupulous individuals for development which may lead devastating consequences arising from climate change. That other Environmentalists have been threatened with dire consequences if they do not stop their protectionist of forests or ecosystems.

The Petitioners briefed the Committee that their prayers to the Senate were-

- (i). Investigation to the circumstances leading to the alleged murder of Joanna Stutchbury and other environmentalists and conservationists in the country and make appropriate recommendations on the findings, and on the alleged perpetrators;
- (ii). To call upon the Ministry of Environment and Forestry and the Kenya Forest Service to revoke grabbed parcels of Kiambu Forest Reserve. The Kiambu County Government has no function in a gazetted forest hence stop excision and further development in the forest;
- (iii). Make appropriate recommendation for the protection of the lives of environmentalists and conservationist in Kenya; and

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- (iv). Review relevant policies and existing legislation with a view to enhance the protection of all forest lands and wildlife migratory routes and corridors in Kenya, with a view to shield them from land grabbers.

**SUBMISSIONS BY THE DIRECTOR OF CRIMINAL INVESTIGATIONS REGARDING THE PETITION ON THE ALLEGED MURDER OF JOANNAH STUTCHBURY**

Despite several invitations for a meeting, the Inspector of Police was not able to attend a meeting of the Committee, but, through the Director of Criminal Investigation submitted written submissions which stated as follows-

That the deceased was a Kenyan Citizen of British origin aged 64 years. She was a farmer and an Environmentalist who lived in her late parent's residence situated at Mushroom Estate, Kivulini Farm within Kiambu County on L.R.No.12892/4. Kivulini Farm borders Kiambu Central Forest Block LR No.21179 F/R No.284/108, which was gazetted as a Forest Reserve vide Proclamation No.44 of 1932 and legal Notice No.174 of 20<sup>th</sup> May, 1964 for an area of 133.95 Ha. That on 5<sup>th</sup> February, 2018, the deceased received information about illegal encroachment by developers on Kiambu Gazetted Forest land L.R. No.12892/4 which borders wetland. She single-handedly confronted the developers constructing an illegal road, who momentarily stopped the construction and she thereon, reported the matter to Kenya Forest Services Headquarters, Karura. This led to the arrests and arraignment of two persons at Kiambu Law Court vide Criminal Case No.257 of 2018 for the offence of constructing a road in the Forest without authority contrary to Section 64(1)(i) as read with Section 64(2) of the Forest Act No.34 of 2016. The case was heard and the 1<sup>st</sup> accused acquitted under Section 210 of the Criminal Procedure Code while the 2<sup>nd</sup> accused person was discharged unconditionally. On 15<sup>th</sup> July, 2021 at 1655 hrs, one Mr. Ndambu Mutemi a watchman to Joanna Wendy Stutchbury residence vide OB No.03/15/07/2021 reported to Kugeria Police Base that the deceased was attacked and shot dead by unknown gunmen at around 1635 hrs while driving her motor vehicle Reg.No.KBS 710A, a Mitsubishi Mini Pajero on the drive way to her home. The crime scene was examined and analysed by Police forensic experts and the relevant exhibits were collected for further analysis. At the scene the investigators noted that the deceased had several gunshot wounds, while nothing was stolen from her belongings. Personal belongings including her shopping, wallet, phone among others were found intact inside her car, thus, robbery with



violence was ruled out. The Director of Criminal Investigations (DCI) constituted a team of specialist drawn from Crime Research and Intelligence Bureau, Homicide Department, Cyber Forensics Experts, Crime Support Services, Firearm Ballistics Experts and the Local Sub County Criminal Investigation team which was tasked to establish the motive of the criminals behind the murder of Ms. Joannah. The submission outlined that preliminary investigations had revealed that the deceased resistance to the encroachment and illegal construction of a road on LR.211 F/R No.284/108 coupled with her strong position and passion for preservation of environment at Kiambu Forest area against the will of illegal developers might have been the possible cause behind the murder.

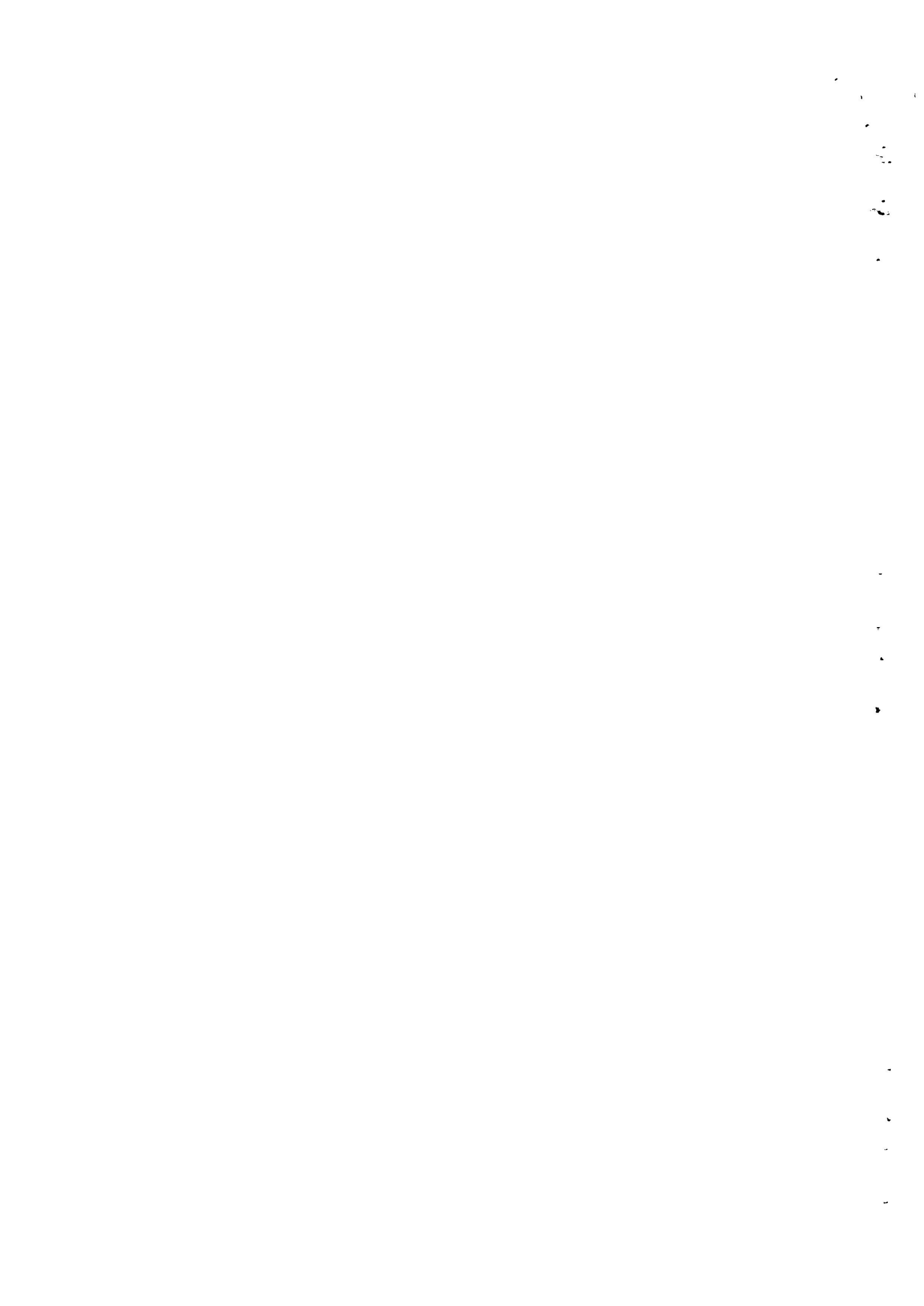
The Committee was informed that DCI detectives have been able establish that Kiambu Central Forest boundaries and beacons are intact, however, a total of 131.38 had been allocated to individuals and companies and that only 2.57 Ha of the forest remain as Kiambu Forest Reserve. That investigations into the murder of Ms. Joannah was ongoing and by that time, several persons of interest had been interviewed and their statements recorded.

#### **SUBMISSIONS BY THE CABINET SECRETARY IN THE MINISTRY OF ENVIRONMENT AND FORESTRY**

The Cabinet Secretary (CS), Ministry of Environment and Forestry appeared before the Committee on Wednesday, 13<sup>th</sup> October 2021, and requested the Committee to grant him additional time to carry out thorough and in-depth investigation into the matter. The Committee granted him two (2) weeks.

On 26<sup>th</sup> October, 2021 the Cabinet Secretary appeared for the Committee and briefed the Committee as follows-

That, Kiambu Forest covers approximately 133.95 Ha and was originally gazetted as a forest reserve *vide* Proclamation No. 44 of 1932 and later declared a Central Forest *vide* Legal Notice No. 174 of 20<sup>th</sup> May, 1964. Kiambu Forest was delineated in Boundary Plan No. 75/7. The area was demarcated into five (5) blocks over time. Kiambu Forest Reserve is a protected public forest therefore was not available for alienation. Any land reserved for public use and protected lands cannot be legally allocated to an individual or company without following the laid down



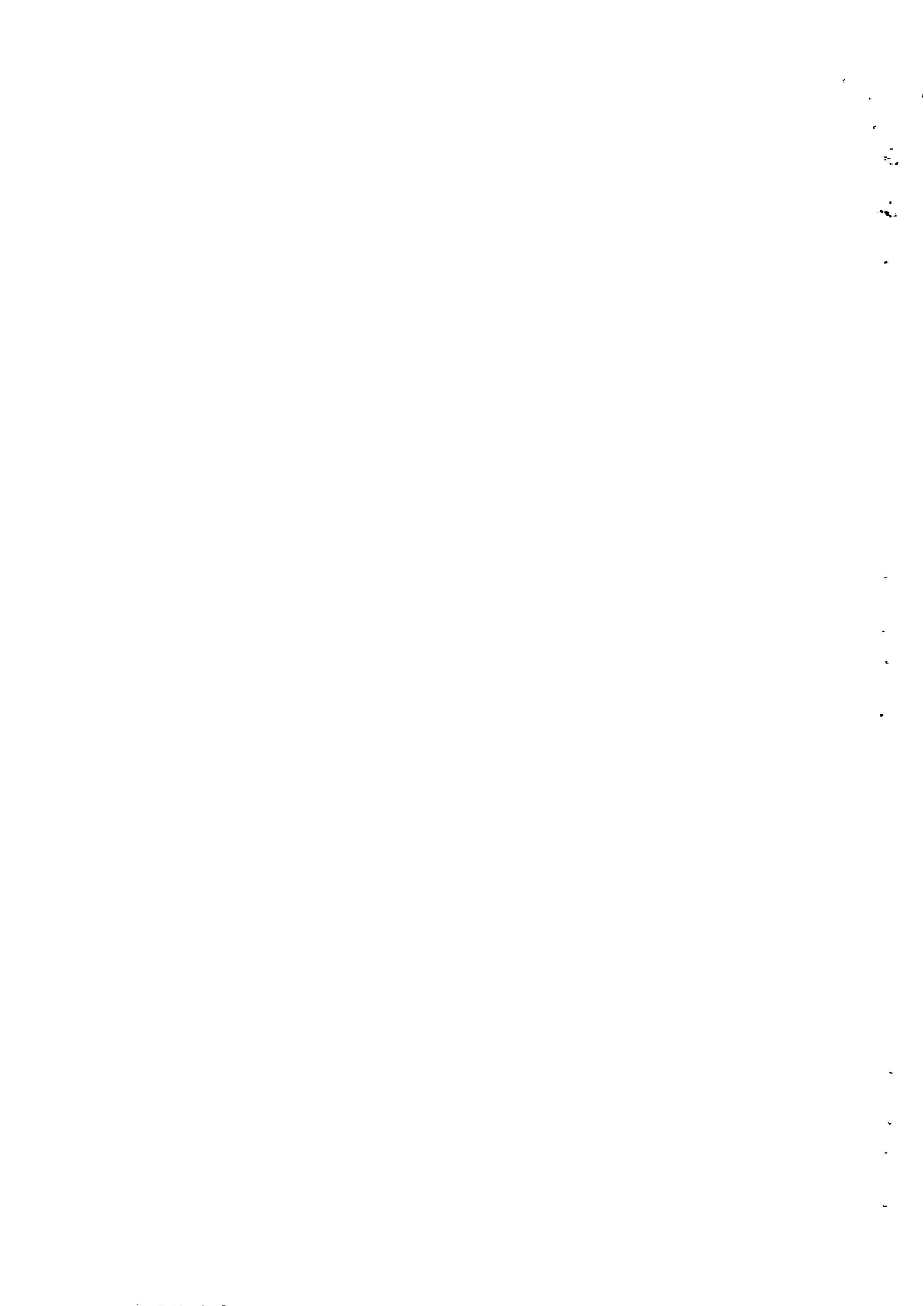
procedure in the Forest Act, Cap 385. Kiambu Forest Reserve among other forest lands is protected under the Forest Conservation and Management Act No. 34 of 2016 and for it to be legally allocated to individuals or companies for other purposes, such land would have to be degazetted before it can be legally allocated for any other use.

This forest is one of the green spaces acting as the lungs of Kiambu Town and its environs. The intention was to conserve the wetlands which act as catchment of two rivers namely **Riara** and **Gatharaini** and a swamp. Its proximity to Kiambu town makes it ideal for recreational activities. Previously it was an indigenous forest whose dominant species was *Brachlyeana huilensis* (Muhugu) and a host of other biodiversity.

The details of the parcels of land illegally allocated within Kiambu Forest Reserve were as follows: -

**Table 1: Current development Status of Kiambu Forest Reserve**

NO	I.R.	L.R. NO.	OWNER	AREA (Ha)	BP NO.	Current Status
1.	74148	13642	Kiambaa(Nyakinyu a) Women Group	39.82	175/291	The area is fully developed.
2.	80630	21350	Hon. Kuria Kanyingi (Tugirane Project)	24.00	none	The area is divided into two portions and partially developed.
3.	52307	15153	Pelican Engineering Company	29.68	175/352	The area is fully developed currently called Riverview estate.
4.	219594	21179	Wibeso Investments (Bedan Mbugua)	25.00	175/371	The area is not developed and is under cultivation.
5.	84876	25009	Agropack Limited	6.795	none	Forested and not developed
6.	84876	25008	No detail	2.037	none	Forested and not developed
7.	84876	25007	No detail	2.024	none	Forested and not developed
8.	84876	25006	No detail	2.024	none	Forest/Swampy area not developed



The illegal excision of the forest began way back in 1988, the first being 39.82 Ha which were irregularly hived off in favour of Kiambaa (Nyakinyua) Women Group with title deeds issued. This was followed by 29.68 Ha being allocated and a title deed issued un-procedurally to Pelican Engineering and Construction Limited; Another portion of the forest was allocated to Bedan Mbugua (C/O Wibeso Investment Limited), 25.0 Ha; in 1999, a further illegal excision of 15.0 Ha. was done and allocated to Mr. Kuria Kanyingi. The copy of the title deed was issued under Kama Agencies Limited; The remaining 14.5 Ha was claimed by Hon. Onesmus Kimani Ngunjiri. However, this area is forested with indigenous trees. This portion was subsequently subdivided into four parcels as shown in the Grant I.R. 84876. The copy of the title deed was issued under Agropack Limited; The current ground situation is that the areas under M/S Pelican Engineering and Construction Limited, Kuria Kanyingi and Kiambaa (Nyakinyua) Women Group are almost fully developed with the accompanying infrastructure. The records available at the Ministry and at KFS did not have information disclosing the names of the Directors of the companies. This prompted the Ministry to conduct an official search at the office of the Registrar of Companies and that of the Registrar of Lands.

KFS, in an effort to protect the Kiambu Forest Reserve issued an Eviction Notice giving notice to all illegal occupants of the forest to vacate the area, failure to which they shall be forcefully evicted. The beneficiaries of the illegal land allocation went to court and filed a suit: High Court at Nairobi Misc. Civil Application No.382 of 2004 between Kama Agencies Limited Vs the Republic of Kenya and Kenya Forest Service challenging the Eviction Notice.

The suit was filed by the Hon. Kuria Kanyingi who swore an Affidavit filed in the matter and averred that he filed the suit in his capacity as a Director of Kama Agencies Limited. Hon. Kuria Kanyingi claimed that he and the 144 others were the rightful owners of parcel No. L.R. NO.21350. He claimed that they purchased the subject matter land in 1999 from Togineres Project Limited. The Company subdivided the land into L.R. NO.21350/1 and L.R. NO.21350/2. The suit was filed following an Eviction Notice issued by KFS over the area wherein the company obtained an Interim Order stopping KFS from interfering with their occupation. The matter however did not proceed to full hearing as the Applicant made an application to withdraw

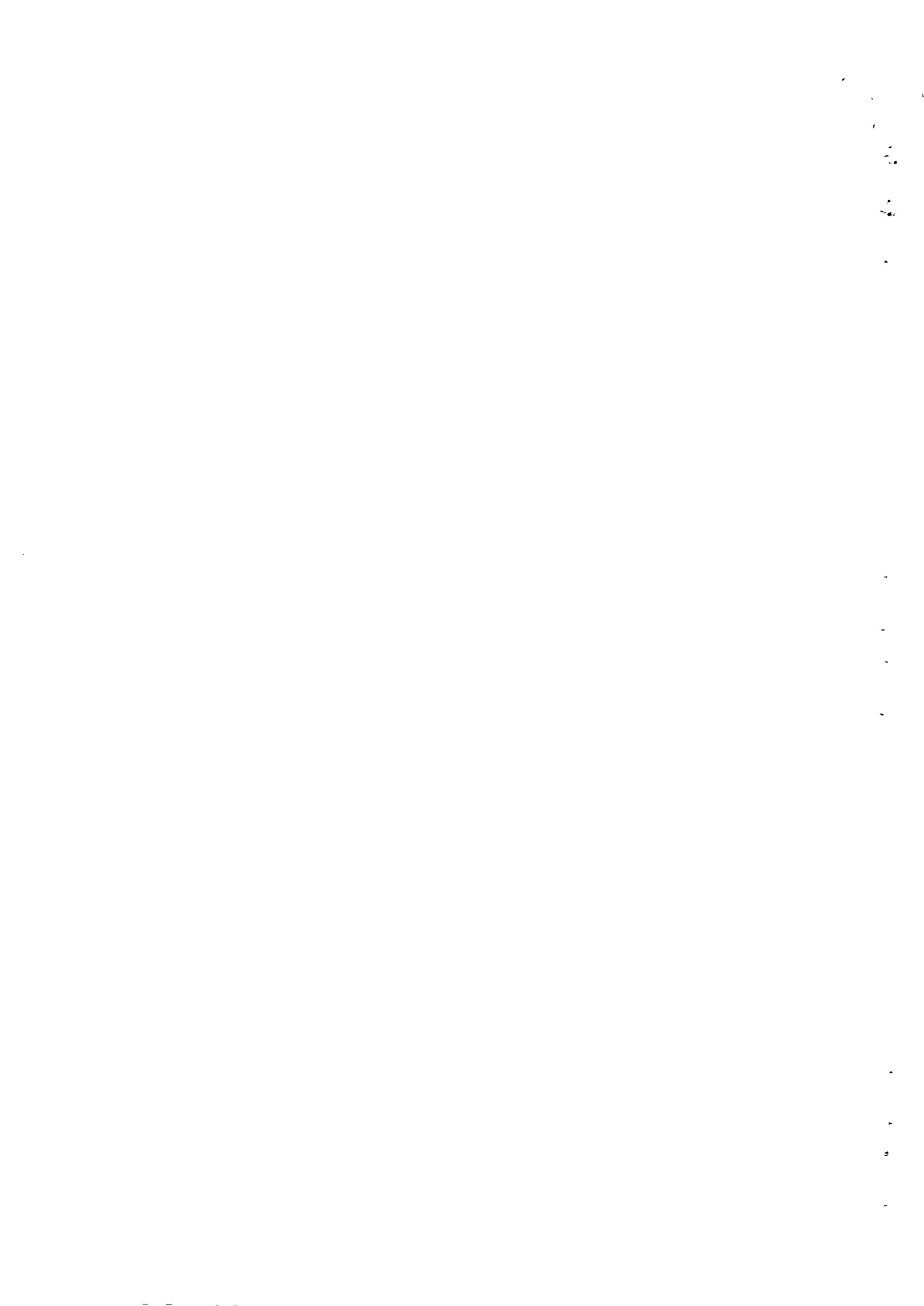
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the suit under Order 25 of the Civil Procedure Rules, which the Court granted. The KFS in an effort to prevent further grabbing and subdivision of the Kiambu Forest, issued a Public Notice (Caveat Emptor) published in the Daily Newspapers on 1<sup>st</sup> August 2008 over LR NO.13642. This led to filing of a suit High Court at Nairobi Misc. Judicial Review Case. No. 21 of 2009: Republic Vs KFS Exparte Wariara Njenga Karume & 144 Others, which was instituted by the Applicant, together with 144 others in response to the Caveat Emptor issued on 1<sup>st</sup> August 2008 over LR.NO.13642 as Trustees of Kiambaa Divisional (141) Women Groups, whom they claim were the registered proprietor of LR.NO.13642 measuring 39.82 Hectares. The list of group names, Trustees of the land and the respective L.R Nos. The Applicants sought the Court to quash the decision contained in the Caveat Emptor Notice declaring LR.NO.13642 a portion of the protected Kiambu Forest Reserve and warning the general public against any purchase thereof. The Applicants also sought an Order of Prohibition to restrain the Respondent from placing caveats against the Applicants' properties or harassing, intimidating or arresting or prosecuting the Applicants over the ownership of their properties derived from LR.NO.13642. In a Ruling delivered by Justice Musinga on 7<sup>th</sup> June 2011, the Court ruled that if Applicants contend that they were the lawful owners and desire to assert their right of proprietorship, they ought to file an appropriate civil suit. The matter was dismissed with costs to the Respondent. The Director of KFS on 4<sup>th</sup> June 2009 wrote to the Commissioner of Lands vide Ref: FOR 68/3/VOL. II/227 requesting that a Government Caveat be placed on L.R.NO.21350/1 which was being subdivided into 54 plots. In addition, The Director of KFS on 8<sup>th</sup> June, 2009 wrote to the Chief Land Registrar vide Ref: KFS/LS/018/09 requesting that a Government Caveat be placed on Grant No. 80630; L.R.NO.21350/1. The Commissioner of Lands through the Director of Surveys replied vide letter Ref No. AC/CAD/8VOL.III/75 dated 30<sup>th</sup> June 2009 to KFS confirming that the survey L.R.NO.21350/1 had been put on hold and deed plan numbers 295780 to 295836 resulting from the subdivision of suit parcel had been cancelled. The Commissioner of Lands through the Chief Land Registrar replied to the KFS letter vide letter Ref. I.R. 80630 dated 16<sup>th</sup> July 2009 confirming that the requested caveat had been placed against the title.

The Ministry wrote a letter to the Commissioner of Lands Ref: MFW/8/2/1 VOL. III/30 dated 14<sup>th</sup> July 2011 to place a Government Caveat on Grant Number IR.84876 in Kiambu Forest and a Public Notice (Caveat Emptor) in the Newspapers in respect of L.R. No. 25009, 25008, 25007 and 25006 prohibiting any form of transactions thereof.



The KFS continued to carry out regular patrols in the area to enforce protection of the forest. This was met with resistance and in the instance of Agropack Limited, which filed a suit in 2011 Nairobi High Court Petition 87 of 2011 (Judicial Review & Constitutional Division) Agropack Limited Vs Republic of Kenya and Kenya Forest Service. In the suit, the Applicant alleged that they were the registered owners of Parcel LR.NO.250009 situated in Kiambu Municipality. A statement sworn by Stephen Kingara Ndung'u, who claimed to be a Director of Agropack Limited on 11<sup>th</sup> October 2011 stated that on 8<sup>th</sup> June 2011, forest rangers on instruction from the Director of Forests entered the said land and claimed ownership. He further stated that his workers were also arrested and locked up in Police cells in Kiambu. KFS in response *vide* a Replying Affidavit sworn by the then Director, David Mbugua stated that the area is a public forest part of Kiambu Forest Reserve, and reiterated that KFS had full possession of the subject matter land and that forest guards are on patrol to ensure no further destruction is occasioned to the forest area. The Applicant failed to show any interest in prosecuting the matter. KFS successfully applied for dismissal of the Petition. An Order was issued on 27<sup>th</sup> June 2012. KFS through a letter Ref No: MAP/2/KFS VOL.VIII dated 8<sup>th</sup> March 2016 requested the NLC to review grants believed to have been irregularly issued in Kiambu Forest. The KFS participated in the public hearing for review of grants over the area. The NLC *vide* letter Ref No. NLC/1/26/12/2/3 dated 30<sup>th</sup> November 2017 to KFS informed that they had received numerous inquiries by land owners whose plots they had determined to be part of Kiambu forest. The NLC further stated that they had resolved to carry out an inquiry under section 6 of the NLC Act to gather information on the allocation within the forest and instructed KFS to forward a list of the plots in the forest to enable them issue the requisite notice and prepare for the inquiry. The Ministry and KFS have separately requested for the findings to be shared in order to inform the next course of action respectively. The NLC, in their letter under Ref No.NLC/1/26/12 and dated 22<sup>nd</sup> October, 2021 responded and confirmed that indeed they had received claims related to various parcels of land falling within Kiambu Forest in 2018 for purposes of determining their propriety or legality as provided under Section 14 of the National Land Commission Act. The NLC informed the Ministry that the claims were however not fully heard and finalized by the inaugural Commission and therefore no determinations were made. The NLC was also not able to conclude due to the fact that there was a time frame for the exercise of jurisdiction under the Review of Grants under Section 14 of the Act. The Act set out a time limit of 5 years.

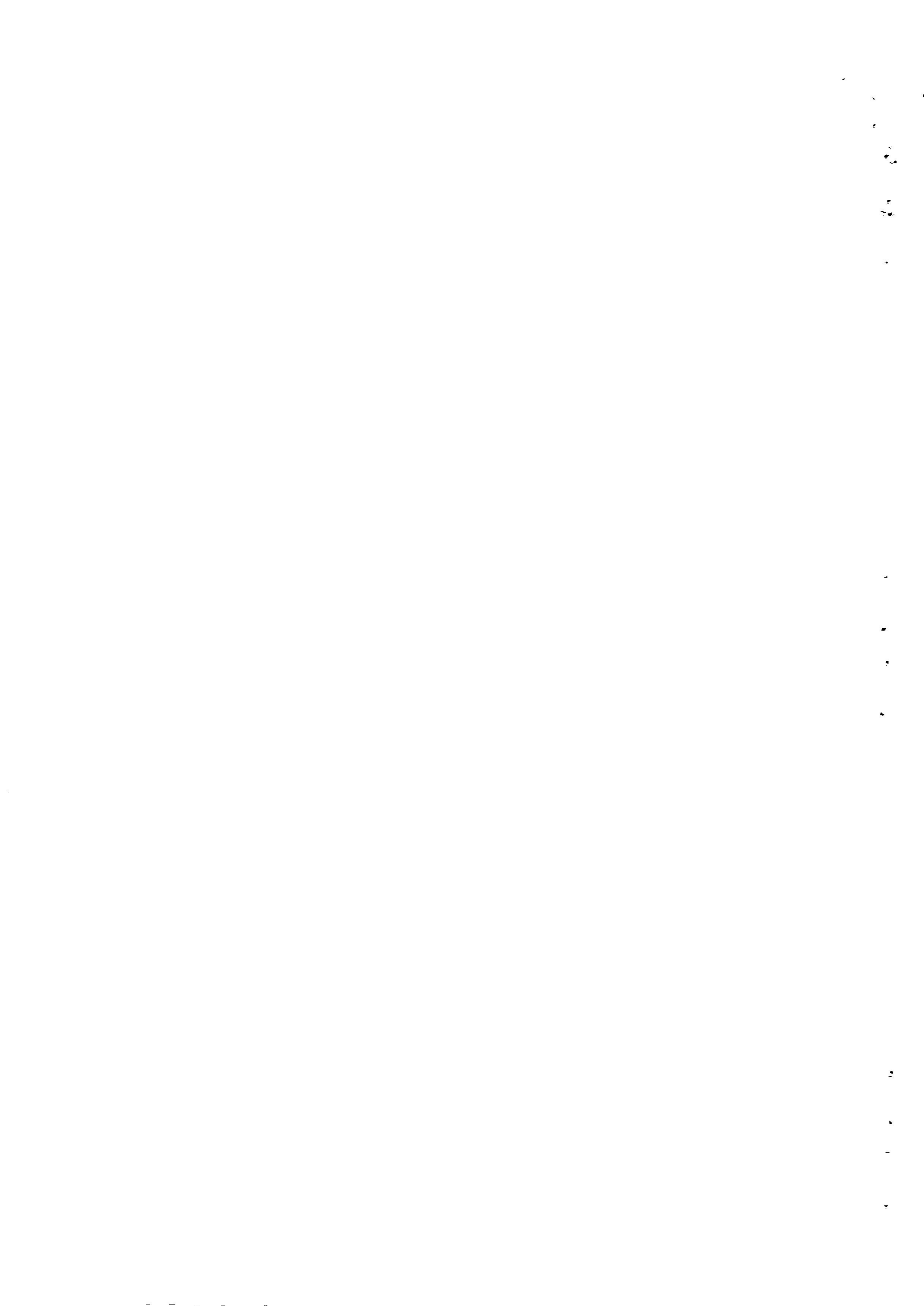


It is true that Joannah Stutchbury was a fierce environmental defender and conservationist and was a resident of an area that borders Kiambu Forest Block. Although most of the land had been grabbed and developed, she earnestly guarded what had been left especially the remaining 14.5 Ha which is still under indigenous tree cover and swamp. Many are times she would alert KFS through telephone calls and social media platforms when she noticed any form of incursion into the forest. A case in point in 2018 is when she saw an excavator attempting to construct an access road towards the indigenous forest area ostensibly working for Hon. Onesmus Kimani Ngunjiri, Director of a company known as Agropack Limited. This activity was halted when KFS intervened and arrested the culprits the said machinery. That as a result of the foregoing, Agropack Limited instituted a case in which Joannah and KFS were co-defendants in the Chief Magistrates Court at Kiambu, Environment and Land Court Case No.9 Of 2018: Agropack Limited Vs Kenya Forest Service And Joan Stutchbury. The Court had issued a temporary injunction ordering stopping, prohibiting and forbidding KFS and Joannah from interfering in any matter with the area known as LR.NO.20009 pending the hearing and determination of the application. Subsequently, KFS Advocate on record advised that the matter was dismissed for want of prosecution by the Plaintiff in the year 2018.

The murder of Joannah was a big blow to KFS given her efforts in the protection of Kiambu forest. It was shocking to KFS fraternity. KFS remains indebted to, and recognise the prolific work of Joannah who has been not only a compatriot, but a hero and a front-liner in the fight to save our forests and green spaces in Kiambu County. KFS is aware that the murder of Joannah is a case under investigation by Directorate of Criminal Investigation and will continue to collaborate with DCI and other arms of Government in the investigations. This includes availing KFS officers for interviews, recording statements and availing relevant requested documents. In conclusion the Cabinet Secretary recommended that the expired mandate of the National Land Commission (NLC) to review grants of the illegally acquired public land be renewed through appropriate legislative amendment by parliament (submissions are attached as Annex 2).

### **PRESENTATION BY THE GOVERNOR FOR KIAMBU**

The Governor for Kiambu made his presentation to the Committee as follows-



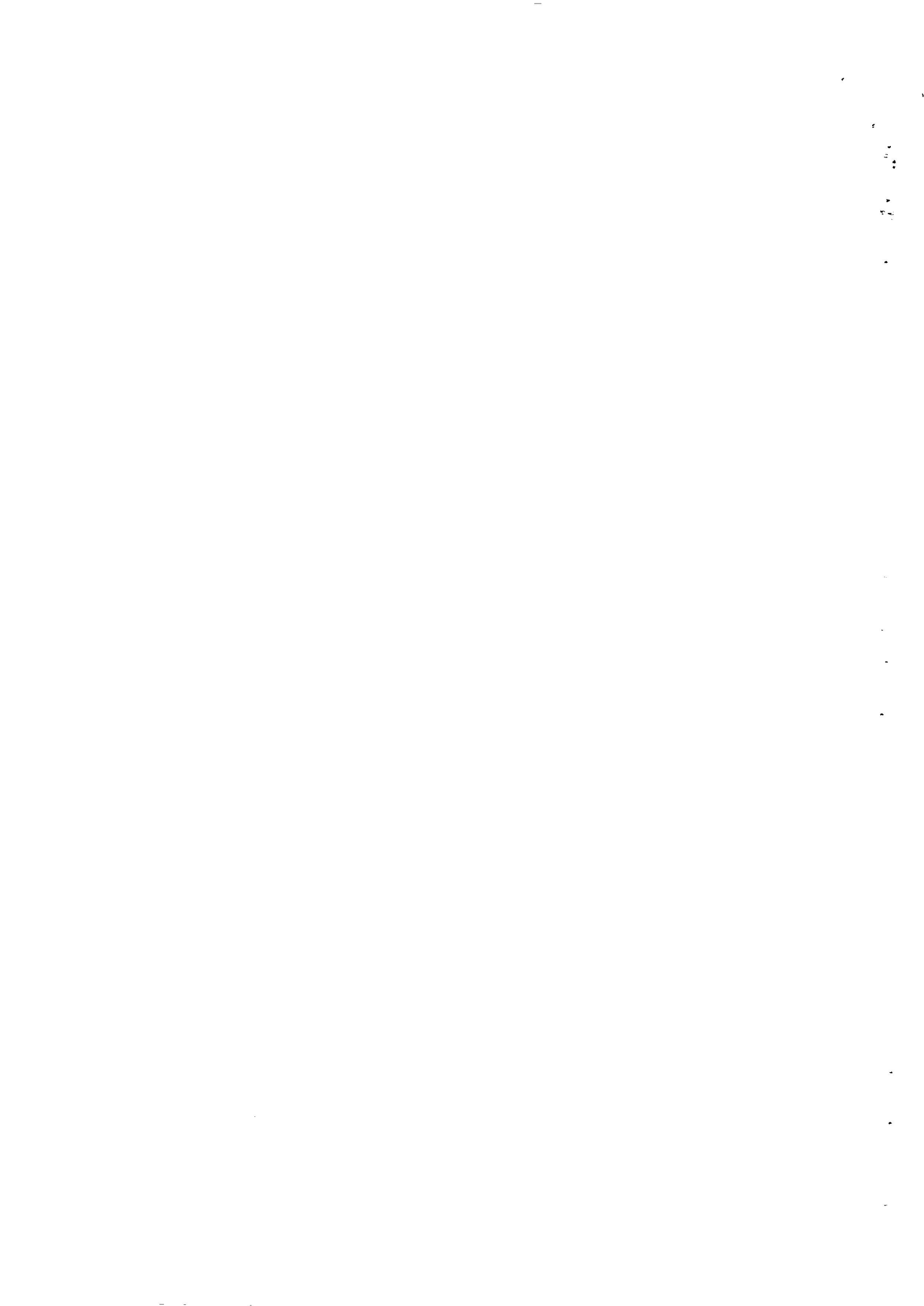
That the brief by the Cabinet Secretary has elaborate enough to cover how the situation is in regard to Kiambu Forest Reserve. That the County Government was taken aback by the murder of Ms. Joannah Stutchbury an ardent environmentalist and protectionist of Kiambu Forest Reserve. That the County Government has no role in the Kiambu Forest Reserve as it was owned and managed by KFS.

That the two (2) pieces of land that is owned by Nyakinyua and Pelican are fully developed. Nyakinyua had subdivided their piece into 962 pieces and the county government had approved their development and Kenya Forest Service lost a court case regarding the parcel of the land. After sub-division the only documents required by County Government for development is a search from the Ministry of Lands to prove ownership, survey of the map and an architectural plan of how the plots were to be developed, all of which they present to the County Government as proof of validity of ownership. That on the remaining pieces of grabbed forests. the County Government was willing to collaborate with KFS to forestall their development including their repossession back into forests. The Governor sought guidance on how titles if any that will be presented to the County Government for approval for development will treated and hence recommended that caveats be put in place on those titles.

### **COMMITTEE'S VISIT TO KIAMBU FOREST RESERVE**

#### **(a). Brief by the County Commissioner of Kiambu County**

The County Commissioner welcomed the Committee to Kiambu County and briefed them that the Kiambu Forest Reserve had not been properly degazetted, however, the forest had been allocated to individuals. That the forest had further been subdivided and sold to 2<sup>nd</sup> or 4<sup>th</sup> owners who may not be privy to the authenticity of ownership documents they possess. He further informed the Committee that a tussle between developing the land by owners and conserving the meagre remaining forest may have been the cause of the death of Ms. Joannah Stutchbury who was a forest conservationist. The Commissioner informed the Committee that Kiambu has many like cases, including at Kinari Settlement Scheme, where forest had been subdivided and



issued to individuals, while their ownership remains with the forest department, which need to be addressed.

**(b). Brief by the Chief Administrative Secretary for Ministry of Environment and Forestry**

He informed the Committee that when the Cabinet Secretary appeared before the Committee, he had requested the Committee to undertake a fact-finding visit to the Forest. He informed the Committee that the Cabinet Secretary could not have been able to accompany the Committee for the visit, as he was attending the Global Climate Summit (COP26) in Glasgow, Scotland. He reiterated the importance of the preserving the Kenya's remaining forests specifically the Kiambu Forest which could be done through placing of caveats.

**(c). Brief by the National Land Commission**

The Committee was briefed that the mandate of the National Land Commission to review land Grants expired in 2017 as was in the Constitution. That by that time, Kiambu Forest Reserve was before the Commission, but, owing to the expiration of its mandate, the Commission was not able to conclude and make appropriate recommendation on time. The Committee was requested to assist through renewal of the mandate legislatively to facilitate in conclusion of the process more so for Kiambu Forest Reserve among others. The Committee was further briefed that Kenya currently has 5% forest cover contrary to Constitutional target of 10% cover as provided under Article 69 (1) (b) hence, the need to gazette more forests and the ones gazetted should not be degazetted.

**(d). Brief by the Deputy Governor of Kiambu**

The Deputy Governor requested the Committee to assist in the process of issuance of caveats to the gazetted areas to facilitate preservation of forests which are very essential for ecosystem. The Committee was informed that the County Government is charged with the responsibility of approving and issuing development plans to everyone holding a valid title, only for the County Government to realize later that the land is gazetted as forests later, hence, caveats could assist in resolving such incidences. That issues of grabbed parcels of forests are many in Kiambu County



including Kinari Settlement Scheme among others, all of which need to be addressed. In conclusion, she welcomed the Committee to Kiambu County for the fact-finding visit to witness the menace which seem to have occurred during former regimes.

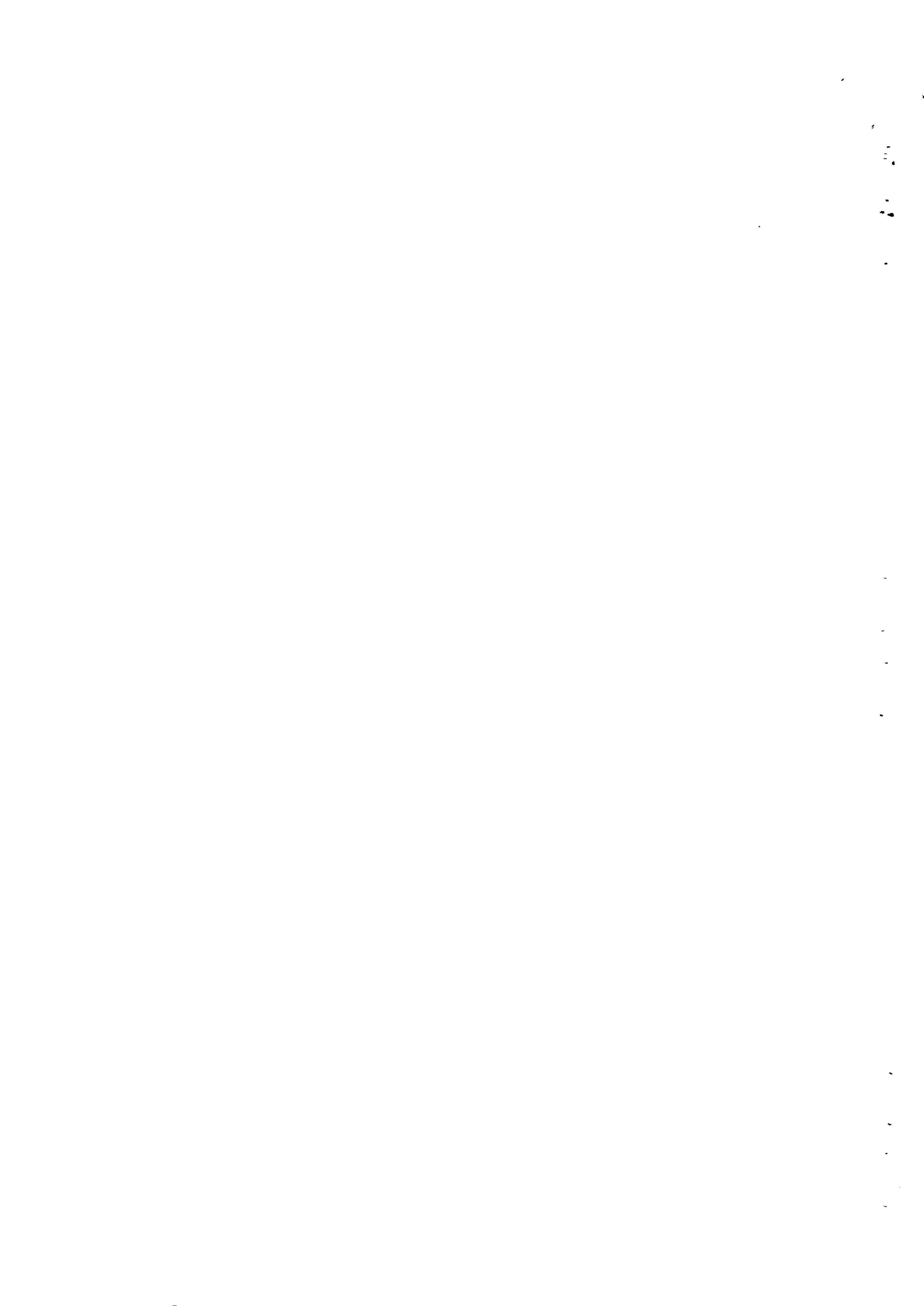
**(e). Tour of Kiambu Forest Reserve**

Thereafter, the Committee undertook a guided tour in the Kiambu Forest Reserve and witnessed on first-hand basis the existing allocations of the Kiambu Forest Reserve where some are parcels are fully developed with existing infrastructure. During the tour the Committee met with some residents residing in the fully developed parcels of land and assured them that the Committee will avail them an opportunity to present their submissions to it during its subsequent meetings in Parliament Buildings.

**SUBMISSION BY MANAGEMENT OF PELICAN ENGINEERING COMPANY ON I.R. 52307, L.R. NO. 15153, , AREA (HA) 29.68, BP NO. 175/352, CURRENT STATUS THE AREA IS FULLY DEVELOPED CURRENTLY CALLED RIVERVIEW ESTATE.**

The management of Pelican Engineering submitted to the Committee that on or about 1991, the company made an application to be allotted a plot in Kiambu. Its application was approved and a letter of allotment dated 9<sup>th</sup> April, 1991 was issued to the Company. Thereon, the company made payment in respect of the stand premium, stamp duty and annual rent totalling to Kshs.2,185,800/= pursuant to Special Condition 2 in the said letter of allotment and a receipt No.C010805 dated 10<sup>th</sup> April, 1991 was issued. That, the Ministry of Lands vide a letter dated 10<sup>th</sup> April, 1991 instructed the Director of surveys to undertake survey of residential plot No. B Kiambu municipality, it was worth noting that the company took possession of the plot 30 years ago. Vide gazette notice No.1091 of 1995, the then Minister of Environment and Natural Resources Hon. J.K. Sambu published a legal notice dated 1<sup>st</sup> February, 1995 expressing the Government's intention to alter the boundaries of Kiambu Forest to exclude 29.68 hectares. This was in exercise of powers conferred to him by Section 4(1) and 4(2) of the Forest Act Cap 385 (now repealed) which provided that-

- 4(1) the Minister may, from time to time, by notice of Gazette-*  
*(a) Declare any unalienated Government land to be a forest area;*

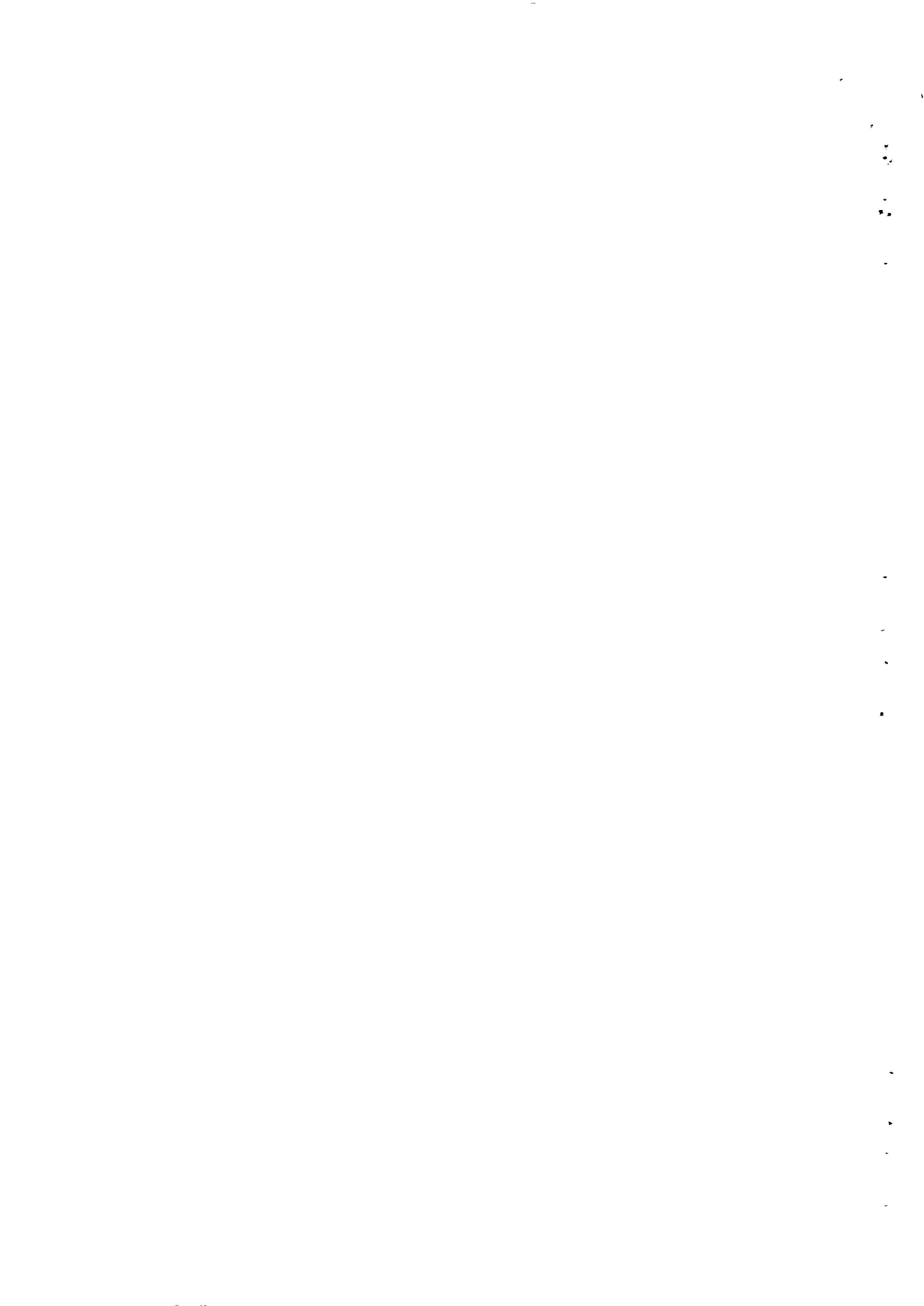


*(b) Declare the boundaries of a forest and from time to time alter those boundaries;*

*(c) Declare that a forest area shall cease to be a forest area*

*(2) Before declaration is made under paragraph (b) or paragraph (c) of subsection (1), twenty-eight days' notice of the intention to make the declaration shall be published by the Minister in the Gazette.*

Thereafter, the property was degatted as forest land through Legal Notice No.260 dated 11<sup>th</sup> July, 1995 by the aforementioned Minister. In 2009/2010 the company embarked on subdividing the property into 116 half acre residential plots for sale, save for 2 plots which were set aside for a nursery school and recreational area, a condition imposed by the then Municipal Council of Kiambu which plots were surrendered to the then Municipal Council of Kiambu. Prior to subdivision the Company sought and obtained approval in all respects from various Government agencies as per the law including from Survey of Kenya, Ministry of Lands, Municipal Council of Kiambu, the District Physical Planning Office Kiambu, District Survey Office, National Environment Management Authority, Ministry of Water and Irrigation, Ministry of Roads and District Land Administration Office, department of Lands. A Survey Plan dated 14<sup>th</sup> December, 2010 approved on 15<sup>th</sup> December, 2010 for the property was drawn and the same was registered under Folio No.367 and register no.67 and 68 thereon deed plans for 116 plots half acre each were booked for registration at the Lands office Nairobi on 11<sup>th</sup> February, 2011. Thereafter, Certificates of Titles were issued by the Registrar of Titles in respect to Land Reference 15153/4 up to 151/119 save for L.R. Numbers 15153/118 and 15153/119 set aside for a nursery school and recreational area respectively. Thereon, on obtaining the Titles for subdivision in 2011, the company marketed the plots for sale through estate agent Tysons Limited through which 106 plots were sold some of which to date have been resold off to 3<sup>rd</sup> parties. Its noteworthy that prior to purchasing the current owners undertook the due diligence to search for authenticity of the plots being purchased. In particular proprietors of 2 plots that is 15153/11 and 151/29 wrote to the National Land Commission through their legal counsel Mamicha and Company Advocates vide several correspondences and sought clarification as to whether the subdivisions were free from encumbrances to which the National Land Commission vide a letter dated 15<sup>th</sup> July, 2014 did confirm that the property was available for allocation to provide individuals (submissions are attached as Annex 3).

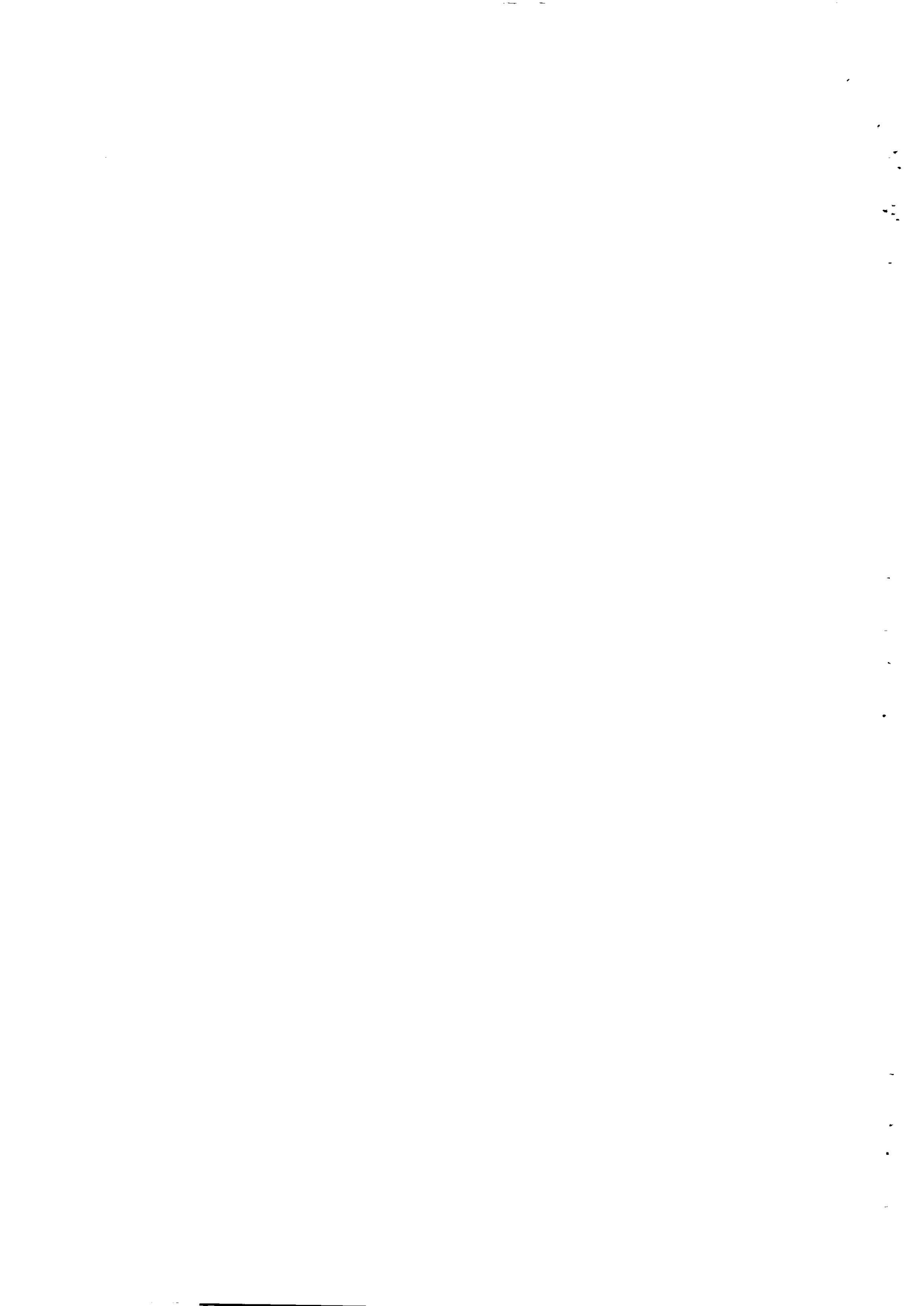


**SUBMISSIONS BY THE CHAIRPERSON OF WATERSIDE RIVERVIEW AND RESIDENTS' ASSOCIATION CURRENT OWNERS AND RESIDENTS OF PELICAN ENGINEERING AND CONSTRUCTION COMPANY PARCEL OF LAND**

The Chairperson of the Residents Association Mr. Anthony Chege informed the Committee that Riverview Estate was developed out of the original consolidated land parcel LR NO.15153 which was previously a flower firm operated as Valentine Growers Co. Ltd. The initial owner, Pelican Engineering and Construction Company Limited, subsequently, subdivided L.R. 15153 into more than 116 plots and appointed Tysons Limited, property management company, to advertise for sale at market value in the mainstream media. The residents wrote to National Land Commission through the firm of Mumicha and Co. Advocates on 23<sup>rd</sup> October, 2013 to clarify whether the property was clear for sale. The National Land Commission wrote to Kenya Forest Service to seek the same clarification and on 15<sup>th</sup> July, 2014 National Land Commission wrote a letter to Mamicha Advocates enclosing a letter from Kenya Forest Service and a copy of Kenya Gazette dated 21<sup>st</sup> July, 1995 which indicated LR.No.15153 was delineated from the forest as required under the Forest Act, Cap 385. In particular the National Land Commission concluded in the letter that according to KFS (NLC letter Ref.No.NLC/ADM.IVOL.II/33 dated 15<sup>th</sup> July, 2014 and KFS letter Ref.No.MAP/2/KFS/VOL.IV dated 8<sup>th</sup> May, 2014) the land was legally degazetted and the land was available for allocation to private individuals. It is on this basis that the residents had unequivocal assurance to proceed and conclude sale purchases and invest heavily in the parcels of land including construction of dwelling houses on owner occupier bases and development of infrastructure at personal costs. (Submissions are attached as Annex 4).

**SUBMISSIONS BY KIAMBAA (NYAKINYUA) WOMEN GROUP IR.74148, L.R. NO. 13642 B.P. NO. 175/291 AREA (HA) 39.82**

Mr. David Muriuki Thiong'o, appointed agent of Kiambaa Divisional (141) Women Groups briefed the Committee that Kiambaa Divisional (141) Women Groups was registered in 1983 comprising various women groups who had come together for the purposes of economic development. The group could sometimes be engaged during official duties of the late President Daniel Arap Moi. In 1983 he gifted them with unsurveyed parcel of land excised from Kiambu Forest. This could be attested by two (2) letters of allotment for unsurveyed plots A and B each



measuring approximately 50.73 Acres. The survey and excision process were initiated in June 1987. The Director of survey approved the Survey Plan on 24<sup>th</sup> June, 1987 as per the survey plan F/R No.170/55 and L.R. number 13642 was issued. Thereon, they applied for change of user from industrial to residential while simultaneously undertaking the subdivision and on 8<sup>th</sup> June, 1984 approvals were acquired for change of user. All the 6000 individuals were each awarded a parcel of plot within plots A and B which approvals were acquired from Government departments within the Ministry of Lands and Housing. The Groups were also issued with Grant I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for a period of 99 years, from 1<sup>st</sup> December, 1984 by the then Commissioner of Lands. The Committee was informed that the Report by Commission of Inquiry for Irregular Allocation of Public Land, commonly referred to as Ndung'u Report in page 231, Annexes of Volume I, outlines that the property was authorized for excision to Kiambaa Women Groups based on a letter by the Conservator of Forest letter Ref.No.FOR.68/7/(62) dated 12<sup>th</sup> July, 1984 (annexed) - the letter authorised the group to go ahead and draw up plans on the parcel of land. Ndung'u report noted that the area, however, had not been degazetted despite being cleared for allocation and subdivision. That National Land Commission (NLC) on 21<sup>st</sup> January, 2019 made recommendation that the gazettelement of the excision be completed. That to date the plots have been sold and resold to second and third parties, who, have always followed laid down processes to ascertain authenticity of documents presented during purchase which have never proved otherwise (submissions are attached as Annex 5).

**SUBMISSION FOR I.R. 80630, L.R. NO. 21350, AREA (HA) 24.00, BP NO. (HAS NONE), THE AREA IS DIVIDED INTO TWO PORTIONS AND PARTIALLY DEVELOPED**

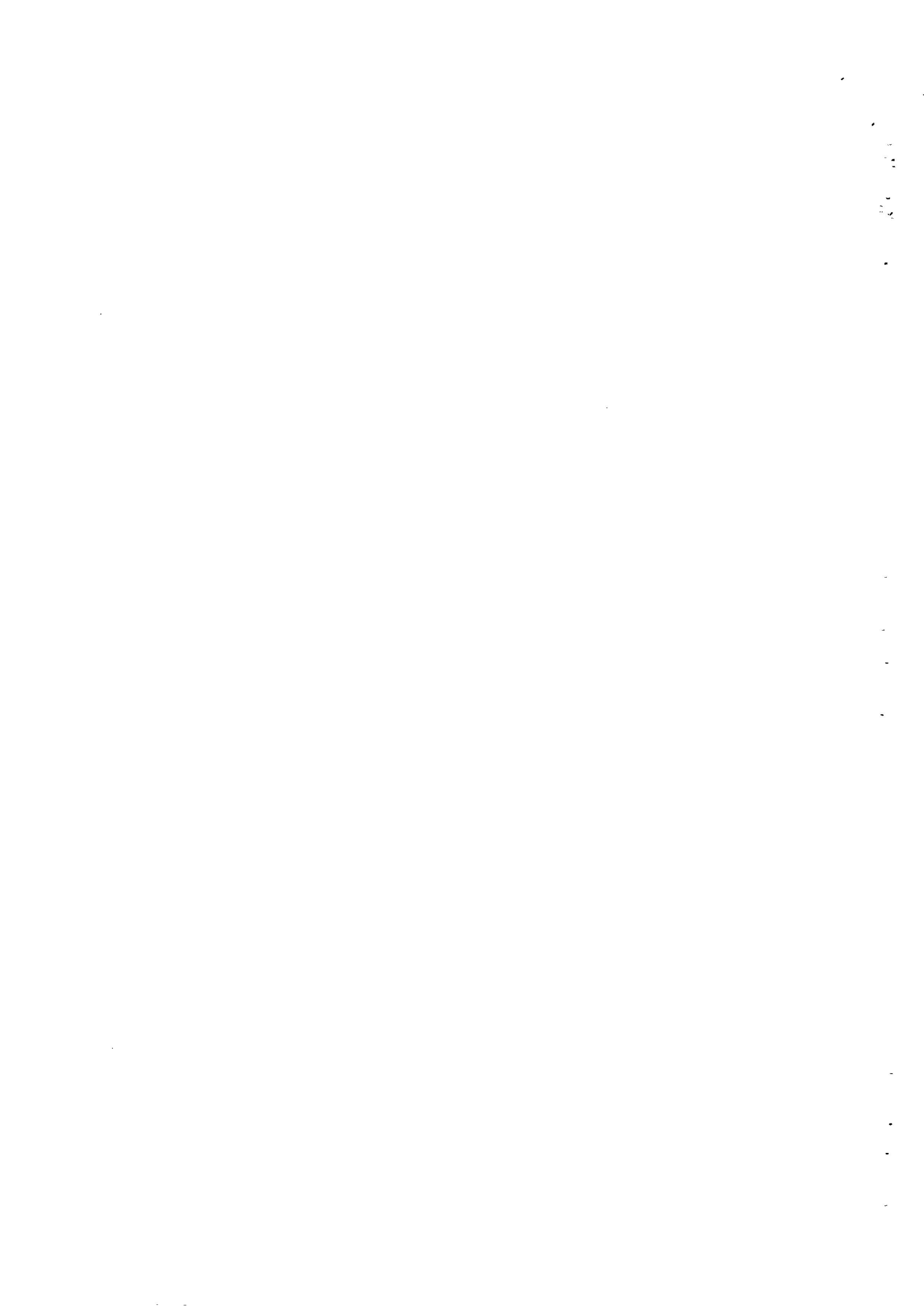
The Chairperson of the Valley View Garden Association Mr. John Mwaura Mbugua informed the Committee that Kama Agencies Company Limited was a real estate business Company that owned L.R. No.21350/1 gifted to the company in 1995 and allotted the parcel of land vide Grant No.IR. 80630 for the land which had been excised from Kiambu Forest for a period of 99 years commencing on 1<sup>st</sup> April, 1995. That on 11<sup>th</sup> July 1995 the then Minister of Environment and Natural Resources Hon. J.K. Sambu declared in the Kenya Gazette that the parcel of land L.R. No.21350 had ceased to be a forest. That, the surveying and excision process for the unsurveyed forest land was initiated with the concurrence of the Kenya Forest Department, the predecessor of Kenya Forest Service, which on 3<sup>rd</sup> July, 1996 confirmed the allotment of the property to



Kama Agencies to develop. Thereon, Kama agencies subdivided the land in reference and transferred part of it to the general public. 59 residents have since acquired the land formerly known as LR No.21350/1. All the approvals for subdivision were acquired from the relevant government agencies. That, the current occupiers of the sub divided L.R. No.21350/1 contend that the allotment of the subject property, the excision thereof, the issuance of the mother title and resultant subdivision was initiated and implemented by relevant government agencies, including the then President, Kenya Forest Department and Physical Planning Office implying that the process followed the relevant laid down procedures as pursuant to the law, including sale and transfer of titles from Kama Agencies to the current occupiers of the parcels of land. In his submission the Chairperson did produce a copy of certificate of Title for L.R. No.21350/1; a copy of Gazette Notice dated 11<sup>th</sup> July, 1995; a copy of letter from the Forest Department dated 3<sup>rd</sup> July, 1996; copies of Certificate of Titles among others (submissions are attached as Annex 6).

**SUBMISSIONS FOR I.R.219594, L.R. NO. 21179, (HA) 25.00, BP NO. 175/371 MRS. MARGARET W. MAGUGU**

The Committee was informed that the afore-mentioned parcel of land, ostensibly owned by Wibeso Investment, is actually owned by M/s Marg Ridge Estate Ltd of P.O. Box 57958 00100, Nairobi with its Director being Mrs. Margaret W. Magugu wife to the Late Hon. A.K. Magugu. Mrs. Magugu produced before the Committee copies of a letter to the former Head of State H.E. Hon. D.T. Arap Moi applying for allocation of a plot adjacent to the 39 Hectares which had been allocated to Kiambaa Women Group, to develop light industries and low cost houses for workers and Kiambu Township residents; a copy of a letter of allotment from Department of Lands dated 5<sup>th</sup> March, 1990 for a plot in Kiambu Town with prescribed area of approximately 22.0 hectares; a copy Certificate of Title for Title No.IR.219594 for a term of 99 years from 1<sup>st</sup> December, 1990 with an annual Rent of Kenya Shillings one hundred forty thousand for a piece of land situated in the South of Kiambu Municipality in Kiambu District with measurement of two five decimal nought Hectares (25.00 Hectares) and that the Land in Reference Number 21179 as delineated on Land Survey Plan Number 198490, is registered against the title transfer to Marg. Ridge Estate Ltd.; a copy of Gazette Notice No.5846 for the intention by the then Minister for Natural Resources Hon. F.P.L Lotodo to alter boundaries of Kiambu Forest for an area of approximately 25 Hectares known as L.R. No. 21179, lying within and adjoining the western boundary of



Kiambu Township in Kiambu District; a copy of Legal Notice No.56 according to the Forests Act (Cap 385) for alteration of boundaries of Kiambu Forest in exercise of powers then conferred by Section 4(1) of the Forest Act by the then Minister for Natural Resources Hon. F.P.L. Lotodo for an area of approximately 25 hectares known as L.R. No.21179 lying within and adjoining the western boundary of Kiambu Forest; a copy of Lease for registered in Nairobi for a parcel L.R. No.21179 for Margaret Wairimu Magugu for an area of measurement approximately 25.00 Hectares or thereabout for the term of 99 years from 1<sup>st</sup> December, 1990; a copy of reference map for land reference No.21179 for a deed plan No.98490 from Director of Surveys; and a copy of a letter from Ministry of Lands and Physical Planning for L.R. No.21179-I.R. 219594 in Kiambu County, to the Survey of Kenya indicating that the alleged grant I.R. 67273 issued to Webeso Investment Limited for a term of 99 years from 1<sup>st</sup> April, 1991 was irregularly obtained as the parcel was still gazetted as government land and was not available for allocation and that the Title held by Marg Ridge Estate Limited was genuine (submissions are attached as Annex 7).

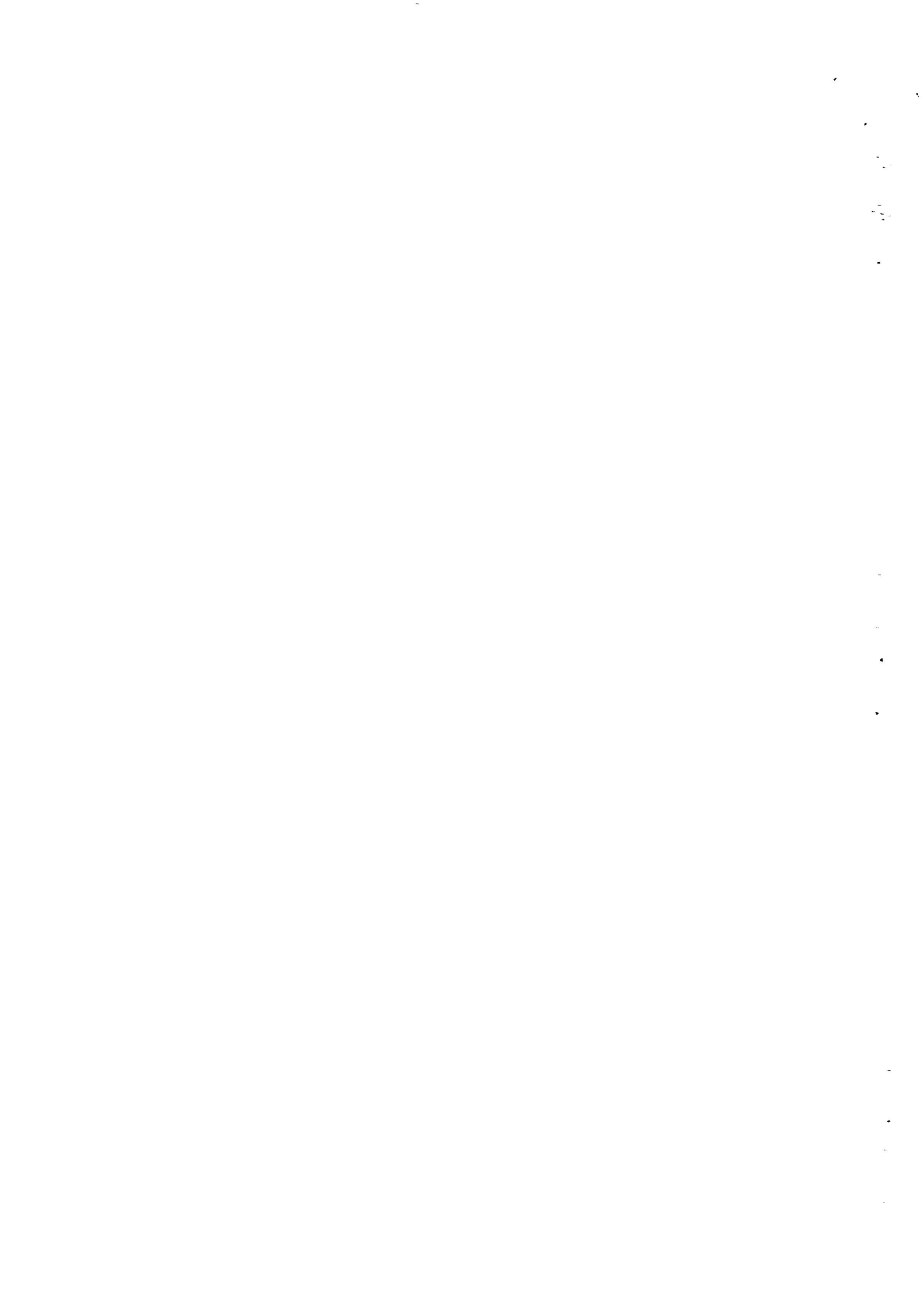


## CHAPTER TWO

### **COMMITTEE FINDINGS AND OBSERVATIONS**

The Committee made the following findings and observation after submissions by various stakeholders on the matter of alleged murder of the Environmentalist and Conservationist Ms. Joannah Stutchbury-

- (a). That on 15<sup>th</sup> July, 2021, the environmentalist and conservationist Ms. Joannah Stutchbury was shot dead outside her home in what appeared to be murder.
- (b). That by the time of writing this report the Petitioners had not furnished the Committee with the names of other conservationists who had ever received death threats;
- (c). That Ms. Joannah Stutchbury lived in a land bordering Kiambu Forest Block LR No.21179 F/R No.284/108, gazetted as a Forest Reserve vide Proclamation No.44 of 1932.
- (d). That on 5<sup>th</sup> February, 2018, the deceased received information about illegal encroachment by developers on Kiambu Gazetted Forest land which borders wetland and she single-handedly confronted the developers constructing an illegal road.
- (e). That preliminary investigations by the Directorate of Criminal Investigation had established that Ms. Joannah Stutchbury might have been murdered due to her strong position on preservation for Kiambu Forest against the will of a private developer who wanted to construct a road in the wetland to gain access to their illegally acquired properties.
- (f). The illegal excision of the forest began way back in 1988, first being 39.82 Ha, which were hived off in favour of Kiambaa (Nyakinyua) Women Group.
- (g). That 29.68 Ha were allocated and a title deed issued to Pelican Engineering and Construction Limited;
- (h). That a portion of the forest was allocated to Bedan Mbugua (C/O Wibeso Investment Limited), 25.0 Ha; in 1999, to which documents were produced indicating it was issued before then to Mrs. Margaret Magugu;
- (i). That 15.0 Ha. Were allocated to Mr. Kuria Kanyingi. The copy of the title deed was issued under Kama Agencies Limited;



- (j). That 14.5 Ha claimed by Hon. Onesmus Kimani Ngunjiri, remains forested with indigenous trees and had subsequently been subdivided into four parcels as in the Grant I.R. 84876. The copy of the title deed was issued under Agropack Limited;
- (k). That currently parcels under M/S Pelican Engineering and Construction Limited, Kuria Kanyingi and Kiambaa (Nyakinyua) Women Group are almost fully developed with the accompanying infrastructure including roads.
- (l). That National Land Commission mandate to review grants of the illegally acquired public land which was 5 years in the Constitution expired in 2017 and that there is need for an appropriate legislative amendment by parliament to renew the mandate.
- (m). That the Kiambu Forest Reserve was before the National Land Commission, but owing to expiration of its mandate to review the Grants, the Commission was not able to conclude and make recommendations on Kiambu Forest Reserve.
- (n). That Kenya currently has 5% forest cover contrary to Constitutional target of 10% tree cover of the national land area as provided under Article 69 (1) (b).
- (o). That through the Kenya Gazette Notice No.1091 dated 10<sup>th</sup> March, 1995 an area of land approximately 29.68 hectares, known as L.R. No.15153, lying and adjoining the eastern boundary of Kiambu Forest, situated approximately 2.5 kilometres southern of Kiambu township, in the Kiambu District, Central Province, the boundaries of which are more particularly delineated, on the boundary plan No.175/352, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi and a copy of which may be inspected at the office of the District Forest Officer, Forest Department, Muguga. That parcels of land under I.R. 52307, L.R. NO. 15153, , measuring 29.68 Hectares was degatted as forest land through Legal Notice No.260 dated 11<sup>th</sup> July, 1995 and that the National Land Commission had written to Kenya Forest Service to seek clarification and on 15<sup>th</sup> July, 2014 National Land Commission wrote a letter to Mamicha Advocates enclosing a letter from Kenya Forest Service and a copy of Kenya Gazette dated 11<sup>th</sup> July, 1995 which indicated LR.No.15153 was delineated from the forest as required under the Forest Act, Cap 385.
- (p). That Kiambaa Women Groups were also issued with Grant for I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for a period of 99 years from 1<sup>st</sup> December, 1984 by the then Commissioner of Lands and further National Land Commission had recommended for the degazetted of the parcel of land be commenced.



- (q). That on 11<sup>th</sup> July 1995 the then Minister of Environment and Natural Resources declared in the Kenya Gazette that the parcel of land L.R. No.21350 had ceased to be a forest.
- (r). That a piece of land Reference Number 21179 was delineated on Land Survey Plan Number 198490 is registered through title transfer of Marg. Ridge Estate Ltd which through a Kenya Gazette Notice No.5846 was issued by the then Minister for Natural Resources who altered boundaries of Kiambu Forest for an area of approximately 25 Hectares to L.R. No. 21179 and the schedule outlined that an area lying within and adjoining the western boundary of Kiambu Forest, situated approximately 2.5 kilometres south-east of Kiambu Township, Kiambu District, Central Province, the boundaries of which are more particularly delineated, edged red, on the boundary Plan No.175/371 which was signed and sealed with the seal of the survey of Kenya and deposited at the Survey Records Office, Survey of Kenya , Nairobi, and a copy of which may be inspected at the Office of the District Forest Officer, Forest Department, Muguga and further through Legal Notice No.56 on alteration of boundaries of Kiambu Forest and that the title being held by Mrs. Margaret Magugu was a genuine one.
- (s). That I.R.84876 L.R. No.25009 measuring 6.795 Ha, ostensibly owned by Agropack Limited, I.R.84876 L.R. No.25008 measuring 2.037 Ha, I.R.84876 L.R. No.25007 measuring 2.024 Ha and I.R.84876 L.R. No.25006 measuring 2.024 Ha which is swampy and forested parcels of land remains as such to date.



## **COMMITTEE RECOMMENDATIONS**

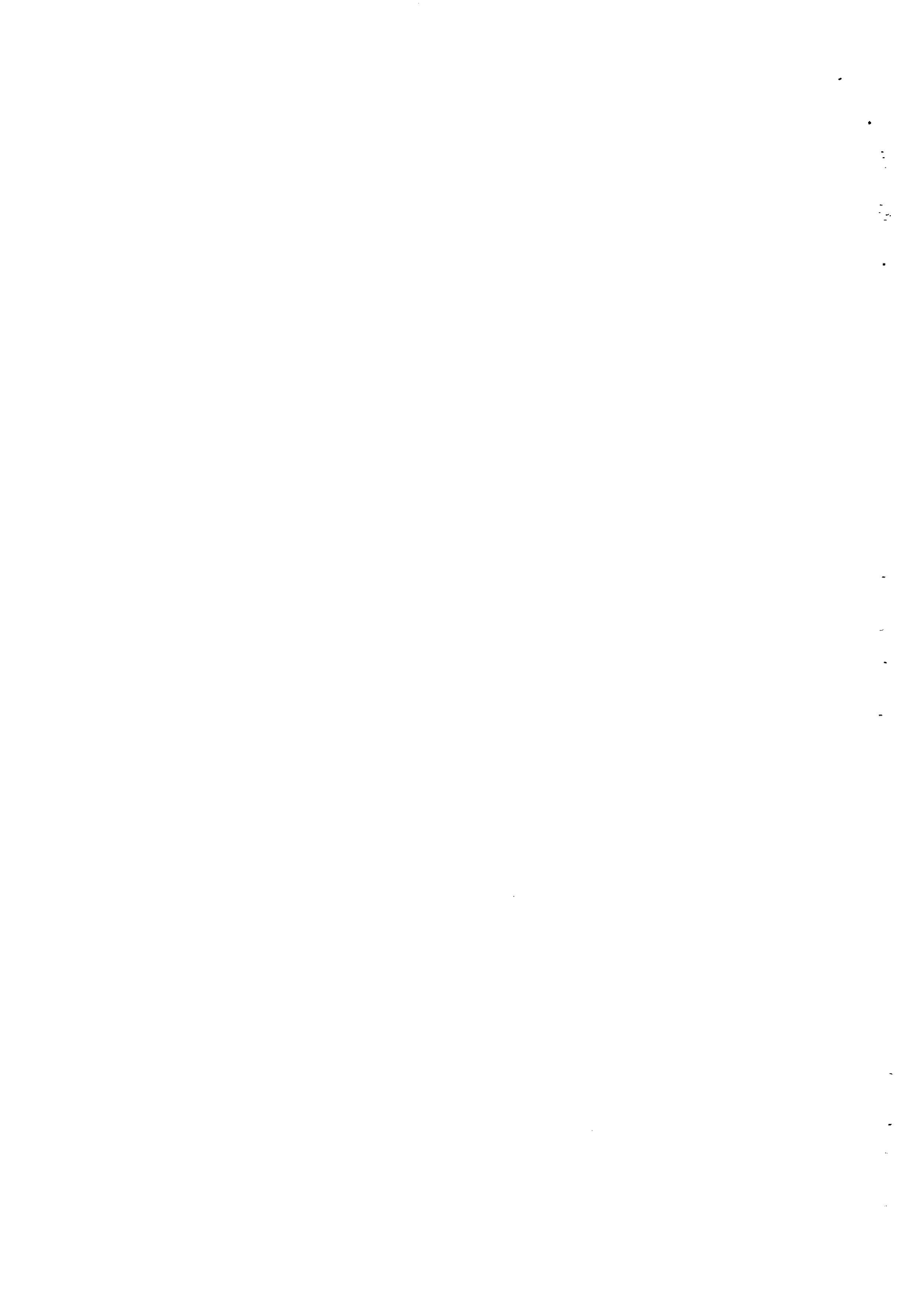
The Committee makes the following recommendations arising from its findings and observations on the matter of the alleged murder of Environmentalist and Conservationist Ms. Joannah Stutchbury-

- (a). Pursuant to the Committee findings, Ms. Joannah Stutchbury death could have been caused as a result of construction of a road through a riparian (swampy) land by an individual who had acquired some portions of Forest illegally to gain access to the property. The Committee recommends that the Inspector General of Police and the Director of Criminal Investigations investigates the said individual with a view of arrest and prosecution for the death of Ms. Joannah Stutchbury and a report be provided to Senate within three (3) months after tabling of this report.
- (b). Pursuant to findings, I.R.84876 for L.R. No.25009 measuring 6.795 Ha ostensibly owned by Agropack Limited; I.R.84876 for L.R. No.25008 measuring 2.037 Ha with no details of ownership; I.R.84876 for L.R. No.25007 measuring 2.024 Ha with no details of ownership and I.R.84876 L.R. No.25006 measuring 2.024 Ha with no details of ownership; have all remained forested with indigenous trees and some swampy to date. The Committee recommends that Kenya Forest Service and Ministry of Environment and Forestry revokes excision if any of these parcels and acquire titles for them to be fenced appropriately to remain as forest and part of Kiambu Forest Reserve and that the Directorate of Criminal Investigations commences investigations with a view of prosecution into how individuals came to own land in swampy forested areas and a report be forwarded to Senate in six (6) months after laying of this report in the Senate.
- (c). Pursuant to Committee findings, current owners of parcels of land under I.R. 52307 for L.R. NO. 15153 measuring 29.68 Hectares issued to Pelican Engineering Company; I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for Kiambaa Women Groups; I.R. No.80630 for L.R. NO.21350 for an area of 24.00 (Ha) for Hon. Kuria Kanyingi (Tugirane Project) and I.R.No.219594 for L.R. No.21179 for an 25 Ha, registered for Marg. Ridge Estate; all of them hold documents from various Government agencies as a proof on how they acquired the parcels of land lawfully. Arising from these documents, the Committee recommends that the Ministry of Environment and Forestry,



and the Kenya Forest Service should desist from issuing eviction threats to the owners of those parcels of land. The Ministry of Lands, National Land Commission, Survey of Kenya, Kiambu County Government, Ministry of Environment and Forestry and Kenya Forest Service should facilitate the afore-mentioned owners to acquire title deeds and the degazettement of I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for Kiambaa Women Groups should be commenced. A report on the same should be forwarded to the Senate within five (5) months after tabling of this report on the Table of the Senate.

- (d). Pursuant to Committee findings, the mandate of the National Land Commission to review land grants expired in 2017 as was in the Constitution during which time the matter of Kiambu Forest Reserve was before it. The Committee recommends that the National Land Commission formulates a legislative proposal and forward it to the Senate, which will facilitate renewing legislatively the Commission's mandate on Grants.



## ANNEXTURES

- 1) Minutes
- 2) Submissions by the Cabinet Secretary Ministry of Environment and Forestry
- 3) Submission by Management of Pelican Engineering Company on I.R. 52307, L.R. No. 15153, Area (Ha) 29.68, Bp No. 175/352, Current Status the Area Is Fully Developed Currently Called Riverview Estate.
- 4) Submissions by the Chairperson of Waterside Riverview and Residents' Association Current Owners and Residents of Pelican Engineering and Construction Company Parcel of Land
- 5) Submissions by Kiambaa (Nyakinyua) Women Group Ir.74148, L.R. No. 13642 B.P. No. 175/291 Area (Ha) 39.82
- 6) Submission for I.R. 80630, L.R. No. 21350, Area (Ha) 24.00, Bp No. (Has None), The Area -Is Divided into Two Portions and Partially Developed
- 7) Submissions by Mrs. Margaret W. Magugu for I.R.219594, L.R. No. 21179, (Ha) 25.00, Bp No. 175/371
- 8) Submissions by the National Police Service through the office of the Director of Criminal Investigations



## ANNEX 1

### MINUTES OF THE 51<sup>st</sup> SITTING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY DEFENCE AND FOREIGN RELATIONS HELD ONLINE ON WEDNESDAY, 1<sup>st</sup> SEPTEMBER, 2021 AT 11.00 A.M.

#### PRESENT

- |  |                  |
|--|------------------|
| 1. Sen. Fred Outa, MP                      | -Ag. Chairperson |
| 2. Sen. Fatuma Dullo, CBS, MP              | - Member         |
| 3. Sen. (Eng.) Mohamed M. Mohamud, CBS, MP | - Member         |
| 4. Sen. Beatrice Kwamboka, MP              | -Member          |
| 5. Sen. Moses Wetang'ula, EGH, MP          | - Member         |
| 6. Sen. Judith Pareno, MP                  | - Member         |

#### ABSENT WITH APOLOGY

- |                               |          |
|-------------------------------|----------|
| 1. Sen. Wario Golich Juma, MP | -Member  |
| 2. Sen Mithika Linturi, MP    | - Member |

#### IN ATTENDANCE

#### CONSERVATION ALLIANCE OF KENYA

- |                        |                    |
|------------------------|--------------------|
| 1. Ms. Lucy Waruingi   | <b>Chairperson</b> |
| 2. Ms. Raabia Hawa     |                    |
| 3. Ms. Paula Kahumbu   |                    |
| 4. Mr. Irungu Houghton |                    |
| 5. Nkamunu Patita      |                    |

#### IN ATTENDANCE

#### COMMITTEE SECRETARIAT

- |                        |                        |
|------------------------|------------------------|
| 1. Mr. Stephen Gikonyo | Senior Clerk Assistant |
| 2. Mr. Jeremy Chabari  | Legal Counsel          |
| 3. Mr. William Omondi  | Audio Services Intern  |

#### MIN NO.276/2020

#### - PRELIMINARIES

The meeting was called to order at 11.07 a.m. and proceedings were opened by a word of prayer led by the Ag. Chairperson followed by introductions of members, committee secretariat and guests present in the meeting.

#### MIN. NO. 277/2020

#### ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP and seconded by Sen. Judith Pareno, MP as follows: -

1. Prayer.
2. Adoption of the Agenda
3. Introductions



4. Confirmation of Previous Meeting Minutes.
5. Matters Arising
6. Deliberations with the Petitioners on the Petition regarding the alleged murder of Conservationist and Environmentalist Ms. Joanna Stutchbury.
7. Any Other Business.
8. Adjournment and Date of the Next Meeting.

**MIN. NO. 278/2020**

**CONFIRMATION OF THE PREVIOUS MEETINGS MINUTES**

The confirmation of the previous meeting minutes was deferred until the next meeting.

**MIN. NO. 279/2020**

**MATTERS ARISING.**

There were no matters arising.

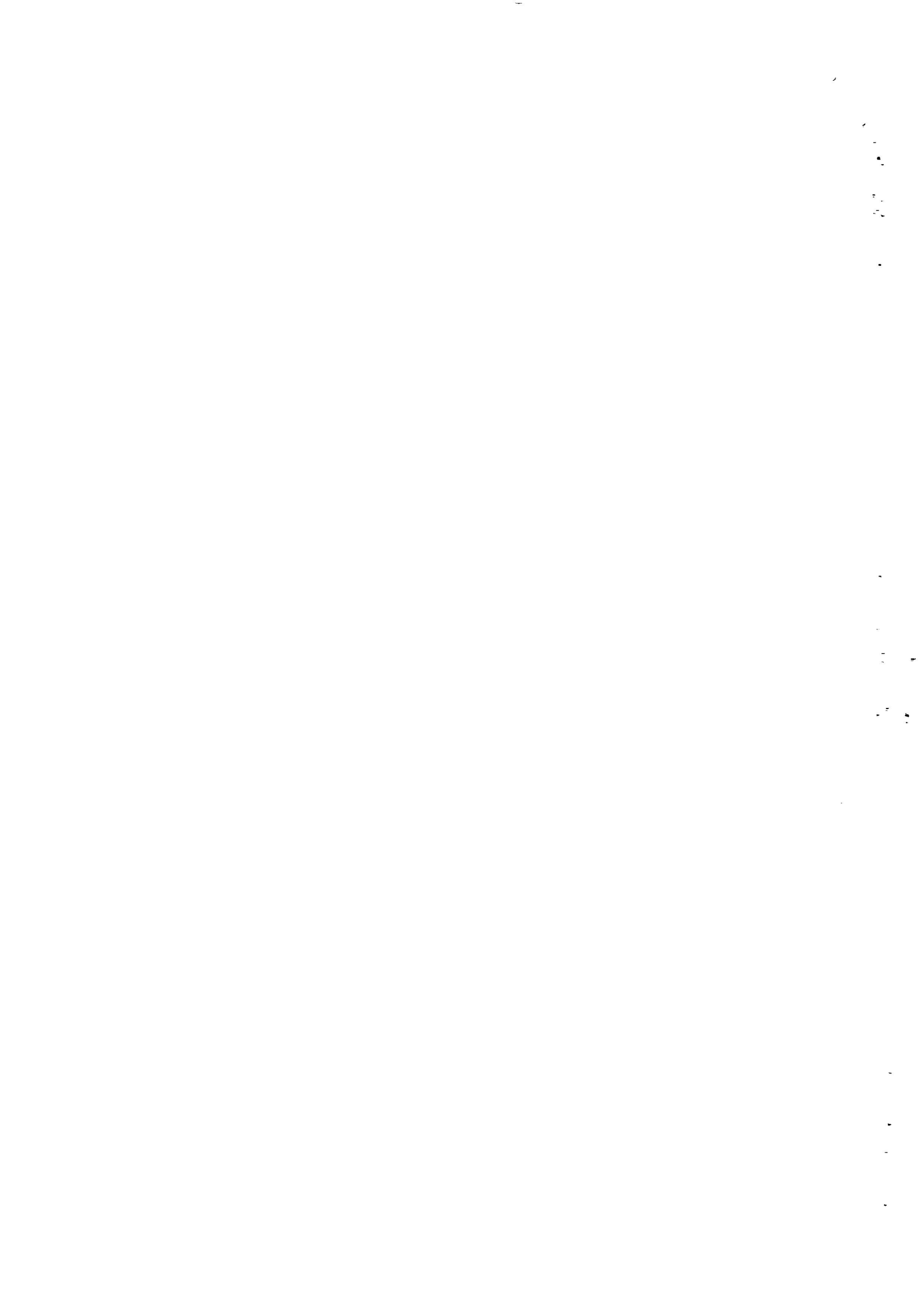
**MIN. NO. 280/2020**

**DELIBERATIONS WITH THE PETITIONERS ON THE PETITION REGARDING THE ALLEGED MURDER OF CONSERVATIONIST AND ENVIRONMENTALIST MS. JOANNAH STUTCHBURY.**

The petitioners informed the Committee as follows-

That on 15<sup>th</sup> July, 2021, environmentalist and conservationist Joanna Stutchbury was shot dead outside her home in what appeared to be outright murder. She was a fierce environmental defender and conservationist who was well known for her efforts to conserve the environment and that she was a resident of Kiambu County, living around the vicinity of Kiambu Forest reserve. That on several occasions, she was successful in protecting Kiambu Forest Reserve from alleged encroachment and land grabbing by private developers. That she was an outspoken person who fearlessly challenged act of forest degradation and destruction in the country, and was instrumental in supporting the role of the Kenya Forest Service in combating illegal activities occurring within Kiambu Forest and other forest reserves. That her efforts and hard work in environment conservation in Kenya ought to be applauded. That Kenya's environmental especially forests, animal sanctuaries/reserves, wildlife and marine ecosystems are at great risk of being grabbed and encroached on by unscrupulous individuals and developers if no steps are taken to stop this.

The Petitioners informed the Committee they had made prayers to the Senate as follows-



- (i). To investigate the circumstances leading to the alleged murder of Joannah Stutchbury and other environmentalists and conservationists in the country and make appropriate recommendations on the findings, and on the alleged perpetrators;
- (ii). To call upon the Ministry of Environment and Forestry and the Kenya Forest Service to revoke grabbed parcels of Kiambu Forest Reserve. The Kiambu County Government has no function in a gazetted forest hence stop excision and further development in the forest;
- (iii). Make appropriate recommendation for the protection of the lives of environmentalists and conservationist in Kenya; and
- (iv). Review relevant policies and existing legislation with a view to enhance the protection of all forest lands and wildlife migratory routes and corridors in Kenya, with a view to shield them from land grabbers.

Deliberations ensued and the committee advised the petitioners to provide a list of all the environmentalist murdered so far while making clarification if its all of them should be considered or the for the Ms. Joannah Stutchbury, hence in the prayers they may need to isolate the issues they need the Committee to deal with. Further the Committee resolved to invite the relevant bodies/stakeholders for them to clarify on various issues, but, initially start with the Inspector of Police, Director of Public Prosecution and Director of Criminal Investigations and then to be following by the Ministry of Environment, Kenya Forest Service and the Governor of Kiambu County.

**MIN. NO. 281/2020**

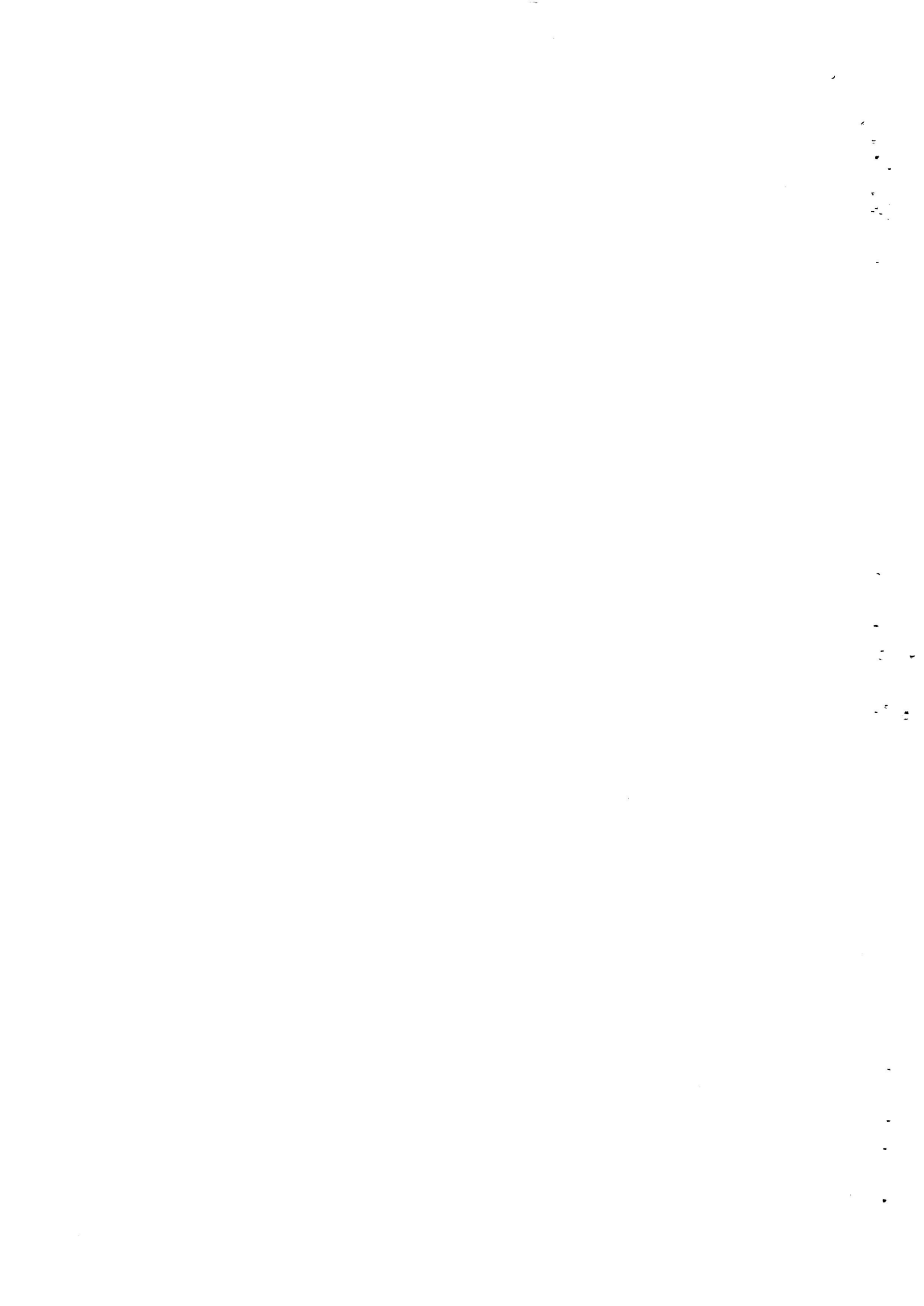
**ANY OTHER BUSINESS.**


There was no other business.

**MIN. NO. 282/2020**

**ADJOURNMENT AND DATE OF THE NEXT MEETING**

There being no other business the meeting was adjourned at 12.25 noon.



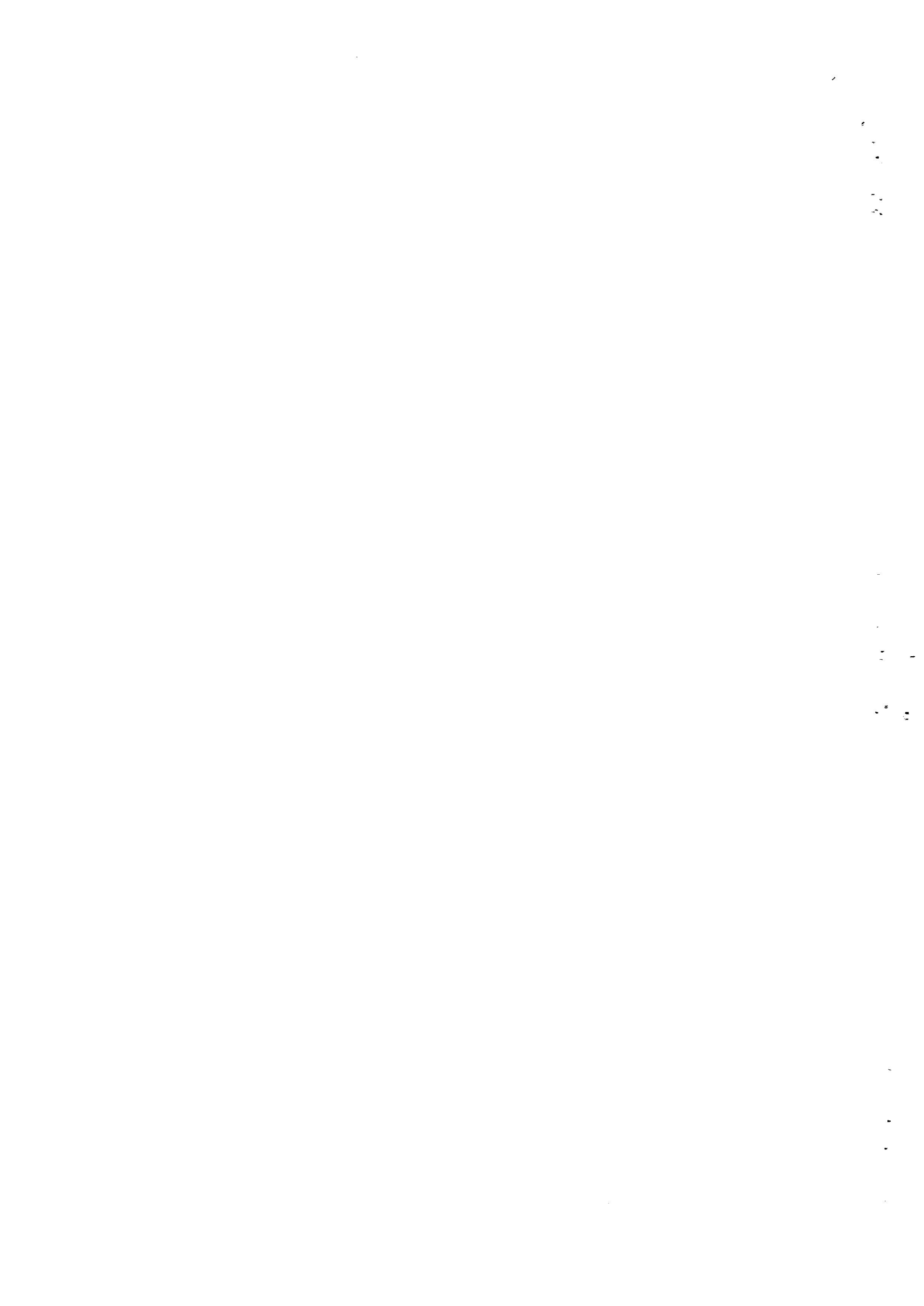
A handwritten signature in black ink, appearing to read "Hart", written over a horizontal dotted line.

SIGNED: .....

(CHAIRPERSON)

22<sup>ND</sup> SEPTEMBER, 2021

DATE: .....



**MINUTES OF THE 54<sup>th</sup> SITTING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY DEFENCE AND FOREIGN RELATIONS HELD ONLINE WEDNESDAY, 13<sup>th</sup> OCTOBER, 2021 AT 11.00 A.M.**

**PRESENT**

- |  |                  |
|--|------------------|
| 1. Sen. Fred Outa, MP                      | -Ag. Chairperson |
| 2. Sen. Fatuma Dullo, CBS, MP              | - Member         |
| 3. Sen. Judith Pareno, MP                  | - Member         |
| 4. Sen. Moses Wetang'ula, EGH, MP          | - Member         |
| 5. Sen Mithika Linturi, MP                 | - Member         |
| 6. Sen. (Eng.) Mohamed M. Mohamud, CBS, MP | - Member         |

**ABSENT WITH APOLOGY**

- |                               |         |
|-------------------------------|---------|
| 1. Sen. Wario Golich Juma, MP | -Member |
| 2. Sen. Beatrice Kwamboka, MP | -Member |

**IN ATTENDANCE**

**MINISTRY OF ENVIRONMENT**

- |                               |                   |
|-------------------------------|-------------------|
| 1. Mr. Keriako Tobiko, C.B.S. | Cabinet Secretary |
|-------------------------------|-------------------|

**IN ATTENDANCE**

**KIAMBU COUNTY GOVERNMENT**

- |                     |          |
|---------------------|----------|
| 1. Gov. James Nyoro | Governor |
|---------------------|----------|

**IN ATTENDANCE**

**COMMITTEE SECRETARIAT**

- |                        |                        |
|------------------------|------------------------|
| 1. Mr. Stephen Gikonyo | Senior Clerk Assistant |
| 2. Mr. Jeremy Chabari  | Legal Counsel          |
| 3. Mr. William Omondi  | Audio Services Intern  |

**MIN NO.292/2020 - PRELIMINARIES**

The meeting was called to order at 11.09 a.m. followed by a word of prayer led by the Ag. Chairperson.

**MIN. NO. 293/2020**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after being proposed by Sen. Fatuma Dullo, CBS, MP and seconded by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP as follows-

1. Prayer.
2. Adoption of the Agenda
3. Introductions
4. Brief from the Cabinet Secretary, Ministry of Environment and Forestry and the Governor for Kiambu on Petition of the alleged murder of Conservationalist and Environmentalist Ms. Joannah Stutchbury.

- 5. Any Other Business.
- 6. Adjournment and Date of the Next Meeting.

**MIN. NO. 294/2020**

**BRIEF FROM THE CABINET SECRETARY,  
MINISTRY OF ENVIRONMENT AND FORESTRY  
AND THE GOVERNOR FOR KIAMBU ON  
PETITION REGARDING THE ALLEGED MURDER  
OF \_\_\_\_\_ CONSERVATIONALIST \_\_\_\_\_ AND  
ENVIRONMENTALIST \_\_\_\_\_ MS. JOANNAH  
STUTCHBURY.**

After the introduction the Cabinet Secretary Ministry of Environment expressed his disappointed in the manner the Environmentalist Ms. Joannah Stutchbury was murdered and urged the security apparatus to speed up investigation to apprehend the culprits of the murder. The Cabinet Secretary assured the committee of his commitment to repossess all forest land which had been grabbed by corrupt individuals which can be manifested by how he handled the Mau issue. He assured the committee that he was closely working with Kenya Forest Service to identify those who had grabbed portions of Kiambu forest and that he was compiling a comprehensive list of those who had grabbed the forest. He requested the Committee to postpone the meeting for a period of two weeks to facilitate him come up with a full dossier to be presented to the Committee which will include his action on the perpetrators.

The Governor for Kiambu requested the Committee for a period of two weeks when he can appear before the Committee to make presentations.

The Committee agreed with the request and postponed the meeting for two weeks.

**MIN. NO. 295/2020**

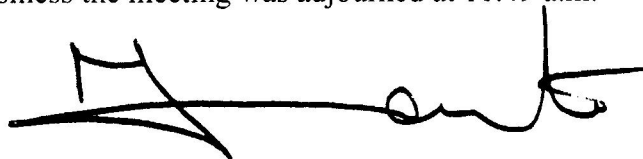
**ANY OTHER BUSINESS.**

There was no any other business.

**MIN. NO. 296/2020**

**ADJOURNMENT AND DATE OF THE NEXT MEETING**

There being no other business the meeting was adjourned at 11.49 a.m.



SIGNED: .....

(CHAIRPERSON)

**21<sup>st</sup> OCTOBER, 2021**

DATE: .....

**MINUTES OF THE 56<sup>th</sup> SITTING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY DEFENCE AND FOREIGN RELATIONS HELD ONLINE TUESDAY, 26<sup>TH</sup> OCTOBER, 2021 AT 10.00 A.M.**

**PRESENT**

- |  |                  |
|--|------------------|
| 1. Sen. Fred Outa, MP                      | -Ag. Chairperson |
| 2. Sen. Beatrice Kwamboka, MP              | -Member          |
| 3. Sen. (Eng.) Mohamed M. Mohamud, CBS, MP | - Member         |
| 4. Sen Mithika Linturi, MP                 | - Member         |
| 5. Sen. Moses Wetang'ula, EGH, MP          | - Member         |

**ABSENT WITH APOLOGY**

- |                               |          |
|-------------------------------|----------|
| 1. Sen. Wario Golich Juma, MP | -Member  |
| 2. Sen. Fatuma Dullo, CBS, MP | - Member |
| 3. Sen. Judith Pareno, MP     | - Member |

**IN ATTENDANCE**

**MINISTRY OF ENVIRONMENT AND FORESTRY**

- |                                |  |
|--------------------------------|--|
| 1. Mr. Keriako Tobiko, CBS, SC | Cabinet Secretary  |
| 2. Mr. Julius Kamau            | Chief Conservator of Forest                                |
| 3. Dr. Chumo Kiprotich         | Environment Obudsman                                       |
| 4. Ms. Dorah Ayego             |  |
| 5. Mr. Rodney Omari            | Senior Assistant Secretary/Head Parliamentary Liaison Unit |

**IN ATTENDANCE**

**KAIMBU COUNTRY GOVERNMENT**

- |  |           |
|--|-----------|
| 1. Gov. James Nyoro                    | Governor, |
| 2. CECM for Land and Physical Planning |           |

**IN ATTENDANCE**

**COMMITTEE SECRETARIAT**

- |                        |                         |
|------------------------|-------------------------|
| 1. Mr. Stephen Gikonyo | Senior Clerk Assistant  |
| 2. Mr. Jeremy Chabari  | Legal Counsel           |
| 3. Ms. Njeri Manga     | Media Relations Officer |
| 4. Mr. William Omondi  | Audio Services Intern   |

**MIN NO.304/2020 - PRELIMINARIES**

The meeting was called to order at 10.15 a.m. followed by a word of prayer led by the Ag. Chairperson.

**MIN. NO. 305/2020**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after being proposed by Sen. Mithika Linturi, MP and seconded by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP as follows-

1. Prayer.
2. Adoption of the Agenda
3. Introductions
4. Brief from the Cabinet Secretary, Ministry of Environment and Forestry and the Governor for Kiambu on Petition of the alleged murder of Conservationalist and Environmentalist Ms. Joanna Stutchbury specifically revoking documentations issued for the grabbed parcels of Kiambu Forest Reserve and that Kiambu has no functions in the gazetted forest hence should stop excision and further development in the Forest.
5. Any Other Business.
6. Adjournment and Date of the Next Meeting.

**MIN. NO. 306/2020**

**BRIEF FROM THE CABINET SECRETARY,  
MINISTRY OF ENVIRONMENT AND FORESTRY  
AND THE GOVERNOR FOR KIAMBU ON  
PETITION OF THE ALLEGED MURDER OF  
CONSERVATIONALIST AND  
ENVIRONMENTALIST MS. JOANNAH  
STUTCHBURY SPECIFICALLY REVOKING  
DOCUMENTATIONS ISSUED FOR THE GRABBED  
PARCELS OF KIAMBU FOREST RESERVE AND  
THAT KIAMBU HAS NO FUNCTIONS IN THE  
GAZETTED FOREST HENCE SHOULD STOP  
EXCISION AND FURTHER DEVELOPMENT IN  
THE FOREST.**

The Cabinet Secretary Ministry for Environment and Forestry was invited by the Chairperson brief the Committee on the afore-mentioned subject, who informed as follows-

That as earlier agreed to during a meeting held on Wednesday, 13<sup>th</sup> October, 2021 for the Ministry would like to undertake an in-depth investigation on the matter and present to the committee after two weeks and that the Cabinet Secretary through should deploy KFS rangers be deployed to ensure 24 hour security within Kiambu Forest and ensure that any construction within the said forest is immediately stopped and no new construction is allowed to be undertaken, which the CS did through a letter Ref.No.MEF/CS/021/2018 dated 13<sup>th</sup> October, 2021.

The Cabinet Secretary informed the Committee that-

1. Kiambu Forest covers approximately 133.95 Ha and was originally gazetted as a forest reserve vide Proclamation No.44 of 1932 and later declared a Central Forest vide Legal Notice No.174 of 20<sup>th</sup> May, 1964;
2. Kiambu was delineated in Boundary Plan No.75/7. The area was demarcated into five (5) blocks over time.

3. Kiambu Forest is a protected public forest, therefore, was not available for alienation. Any land reserved for public use and protected lands cannot be legally allocated to an individual or company without following the laid down procedure in the Forest Act, Cap.385;
4. Kiambu Forest Reserve among other forest lands is protected under the Forest Conservation and Management Act No.34 of 2016 and for it to be legally allocated to individuals or companies for other purposes, such land would have to be degazetted before it can be legally allocated for any other use;
5. The forest is one of the green spaces acting as the lungs of Kiambu Town and its environs. The intention was to conserve the wetlands which act as catchment of two rivers, namely Riara and Gatharaini and a swamp. Its proximity to Kiambu town makes it ideal for recreational activities. Previously it was an indigenous forest whose dominant species was *Brachyeana huilensis* (*Muhugu*) and a host of other biodiversity. That current development status of Kiambu Forest Reserve as follows-

No	I.R	L.R. No.	Owner	Are (Ha)	BP No.	Current Status
1	74148	13642	Kiambaa (Nyakinyua) Women Group	39.82	175/291	The area is fully developed
2	80630	21350	Hon. Kuria Kanyingi (Tugirane Project)	24.00	None	The area is divided into two portions and partially developed
3	52307	15153	Pelican Engineering Company	29.68	175/352	The area is fully developed currently called Riverview Estate
4	219594	21179	Wibeso Investments (Bedan Mbugua)	25.00	175/371	The area is not developed and is under cultivation
5	84876	25009	Agropack Limited	6.795	None	Forest and not developed
6	84876	25008	No detail	2.037	None	Forest and not developed
7	84876	25007	No detail	2.024	None	Forest and not developed
8	84876	25006	No detail	2.024	None	Forest/Swampy and not developed

6. That the illegal excision of the forest began in 1988, the first being 39.82 Ha which were irregularly hived off in favour of Kiambaa (Nyakinyua) Women Group with title deeds issued.
7. It was followed by 29.68 Ha being allocated and a title deed issued unprocedurally to Pelican Engineering and Construction Limited;
8. Another portion of the forest was allocated to Bedan Mbugua (C/O Wibeso Investment Limited), 25.0 Ha;
9. In 1999, a further illegal excision of 15.0 Ha. Was done and allocated to Mr. Kuria Kanyingi and a title issued under Kama Agencies Limited;

10. The remaining 14.5 Ha was claimed by Hon. Onesmus Kimani Ngunjiri. However, this area is forested with indigenous trees. This portion was subsequently subdivided into four parcels under Grant I.R. 84876 and title deed issued under Agropack Limited;
11. The current ground situation is that the areas under M/S Pelican Engineering and Construction limited, Kuria Kanyingi and Kiambaa (Nyakinyua) Women Group are almost fully developed with the accompanying infrastructure;
12. That records available at the Ministry and at KFS did not have information disclosing the names of the Directors of the companies. This prompted the Ministry to conduct an official search at the office of the Registrar of Companies and that of the Registrar of Lands through a letter Ref.No.ME&F/CS/246/2021 dated 13<sup>th</sup> October, 2021 and the Registrar through a letter Ref.No. CR13GENERAL dated 14<sup>th</sup> October, 2021 confirmed that-
  - (a). **Pelican Engineering and Construction Company** was registered as a private Limited Company at the Companies Registry as C.23550 on 13<sup>th</sup> August, 1983 and that its Director is Mike Maina Kamau with one hundred thousand (100,000) shares, and Nguru Muregi Wachira is the security with zero (0) shares;
  - (b). **Wibeso Investments Limited** is registered at the Companies Registry as C.65310 and was incorporated on 9<sup>th</sup> June, 1995. The Directors are listed as Bedan Mbugua Gikebe, Anthony Muchiri Gikebe and Philomena Wangari Gikebe owing 1 share each;
  - (c). **Agropack Limited** was registered as a private limited company on 3<sup>rd</sup> January, 1990 as C.42095. The Directors are Onesmus Kimani Ngunjiri, Samuel Kugega Ndegwa and Ruth Muthoni Kimani each holding one (1) share; and
  - (d). That according to the search, the Registrar of Companies advised that Kama Agencies does not exist in the database of the registered companies/businesss.
13. A request was also made to the Chief Land Registrar concerning the ownership of the parcels of land, but by the time of the meeting details of ownership had not been availed;
14. That the areas developed within Kiambu Forest Reserve remain as public forests since they have never been degazetted and were therefore not available for alienation;
15. That the KFS has made efforts to secure Kiambu Forest Reserve as follow-
  - (a). Issuance of Eviction Notice to all illegal occupants of the forest to vacate the area, failure to which they shall be forcefully evicted;
  - (b). The beneficiaries of the illegal land allocation went to court and filled a suit: HIGH COURT AT NAIROBI MISC. CIVIL APPLICATION NO.382 OF 2004 BETWEEN KAMA AGENCIES LIMITED VS THE REPUBLIC OF KENYA AND KENYA FOREST SERVICE challenging the Eviction Notice.
  - (c). The suit was filed by the Hon. Kuria Kanyingi who swore an affidavit filed in the matter and averred that he filed the suit in his capacity as a Director of Kama Agencies Limited. Hon. Kuria Kanyingi claimed that he and the 144 others were the rightful owners of parcels No.L.R. No.21350. He claimed that they purchased the subject land in 1999 from Togineres Project Limited. The Company subdivided the land into L.R. No.21350/1 and L.R.No.21350/2. The suit was filed following an Eviction Notice issued by KFS over the area wherein the company obtained an Interim Order stopping KFS from interfering with their occupation;
  - (d). The matter however did not proceed to full hearing as the Applicant made an application to withdraw the suit under Order 25 of the Civil Procedure Rules, which the Court granted;

- (e). The KFS in an effort to prevent further grabbing and subdivision of the Kiambu Forest, issued a Public Notice (Caveat Emptor) public in the Daily Newspaper on 1<sup>st</sup> August, 2008 over L.R. No.13642; this led to filing of suit HIGH COURT AT NAIROBI MISC.JUDICIAL REVIEW CASE NO.21 OF 2009; REPUBLIC VS KFS EXPARTE WARIARA NJENGA KARUME AND 144 OTHERS which instituted by the applicant in response to the Caveat Emptor over LR No.13642 as Trustees of Kiambaa Divisional (141) Women Groups. Whom they claimed were the registered proprietor of LR.No.13642 measuring 39.82 Ha.
  - (f). The applicants sought the Court to quash the decision contained in the Caveat Emptor Notice declaring LR.No.13642 a portion of the protected Kiambu Forest Reserve and warning the general public against purchase thereof.
  - (g). The applications also sought an Order of Prohibition to restrain the Respondent from placing caveats against the applicants' properties or harassing, intimidating or arresting or prosecuting the Applicants over the ownership of their properties derived from LR. No.13642;
  - (h). In a ruling delivered by Justice Musinga on 7<sup>th</sup> June, 2011 the court ruled that if applicant contend that they were the lawful owners and desire to assert their right of proprietorship, they ought to file an appropriate civil suit. The matter was dismissed with costs to the respondent
  - (i). The Director of KFS on 4<sup>th</sup> June, 2009 wrote to the Commissioner of Lands vide Ref.FOR 68/3/VOL.II/227 requesting that the Government Caveat be place on LR. No.21350/1 which was being subdivided into 54 plots, further through letter Ref.No.KFS/LS/018 dated 8<sup>th</sup> June, 2009 KFS wrote to the Chief Land Registrar requesting that Government Caveat be placed on Grant No.80630 and L.R.No.21550/1;
  - (j). The Commissioners of Lands through the Director of Surveys replied vide letter Ref.No.AC/CAD/8VOL.III/75 dated 30<sup>th</sup> June, 2009 to KFS confirming that the survey on L.R.No.21350/1 had been put on hold and deed plan numbers 295780 to 295836 resulting from the subdivisions of suit parcel had been cancelled.
  - (k). The Commissioner of Lands through the Chief Land Registrar replied on the issue of LR.No.80630 confirming that the requested caveat had been placed against the title.
  - (l). The Ministry wrote a letter to the Commissioner of Lands Ref.MFW/8/2/1 VOLIII/30 dated 14<sup>th</sup> July, 2011 to place a Government Caveat on Grant Number LR.No.84876 in Kiambu Forest and a Public Notice (Caveat Emptor) in the newspapers in respect of LR.25009, 25007 and 25006 prohibiting any form of transactions thereof;
16. The KFS continued to carryout regular patrols in the area to enforce protection of the forest. This was met with resistance and in the instance of Agropack Limited, which filed a suit in 2011 NAIROBI HIGH COURT PETITION 87 OF 2011 (JUDICIAL REVIEW & CONSTITUTIONAL DIVISION) AGROPACT LIMITED VS REPUBLIC OF KENYA AND KENYA FOREST SERVICE.
  17. In the suit, the applicant alleged that they were the registered owners of Parcels L.R.No.250009 situated in Kiambu Municipality. A statement was sworn in by Stephen Kingara Ndung'u who claimed to be a Director of Agropack Limited on 11<sup>th</sup> October, 2011 stated that on 8<sup>th</sup> June, 2011, forest rangers on instruction from the Director of Forests entered the said land and claimed ownership. He further stated that his workers were also being arrested and locked up in Police cells in Kiambu;
  18. KFS in response vide a replying affidavit sworn by the then Director, David Mbugua stated that the area is a public forest part of Kiambu Forest Reserve, and reiterated that KFS had

full possession of the subject matter land and that forest guards are on patrol to ensure no further destruction is occasioned to the forest area.

19. KFS successfully applied for dismissal of the Petition. An Order was issued on 27<sup>th</sup> June, 2012.
20. KFS through a letter Ref.No.MAP/2/KFS VOL.VIII dated 8<sup>th</sup> March, 2016 requested the NLC to review grants believed to have been irregularly issued in Kiambu Forest, KFS participated in the public hearing for review of grants over the area;
21. The NLC vide letter Ref.No.NLC/1/26/2/3 dated 30<sup>th</sup> November, 2017 to KFS informed that they had received numerous inquiries by land owners whose plots they had determined to be part of Kiambu Forest. The NLC further stated that they had resolved to carryout an inquiry under section 6 of the NLC Act to gather information on the allocation within the forest and instructed KFS to forward a list of the plots in the forest to enable them issue the requisite notice and prepare for the inquiry;
22. The NLC later informed the Ministry that the claims were however not fully heard and finalized by the inaugural Commission and therefore no determinations were made. The NLC was also not able to conclude due to the fact there was a time frame for the exercise of jurisdiction under the Review of Grants under Section 14 of the Act. The Act set out a time limit of 5 years.
23. That it is true that Ms. Joannah Stutchbury was a fierce environmental defender and Conservationist and was a resident of an area that borders Kiambu Forest Block;
24. Although most of the land had been grabbed and developed, she earnestly guarded what had been left especially the remaining 14.5 Ha which is still under indigenous tree cover and swamp. Many are time she would alert KFS through telephone calls and social media platforms when she noticed any form of incursion into the forest. A case in point is 2018 when she saw an escavator attempting to construct an access road towards the indigenous forest area ostensibly working for Hon. Onesmus Kimani Ngunjiri, a Director of the company know as Agropack Limited. This activity was halted when KFS intervened and arrested the culprits and the said machinery;
25. As a result of this Agropack Limited instituted a case in which Joannah and KFS were co-defendants in the CHIEF MAGISTRATES COURT OF KIAMBU, ENVIRONMENT AND LAND COURT CASE NO.9 OF 2018: AGROPACK LIMITED VS KENYA FOREST SERVICE AND JOAN SKUKBERY. The Court had issued a temporary injunction ordering stopping, prohibiting and forbidding KFS and Joannah from interfering in any matter with the area known as LR.No.20009 pending the hearing and determination of the application. Subsequently, KFS advocate on record advised that the matter was dismissed for want of prosecution by the Plaintiff in year 2018.
26. That the murder of Joannah was a big blow to KFS given her efforts in the protection of Kiambu Forest and KFS remains indebted to her and recognize the prolific work of Joannah as a compatriot and a hero and front-liner in the fight to save forests and green spaces in Kiambu County and that the case is under investigation by Directorate of Criminal Investigation and KFS will collaborate with DCI and all other Government investigations agencies including availing KFS officers for interviews, recording statements and availing relevant documents as will be requested.
27. That the Ministry makes the following recommendations and observations-
  - (i). That Kiambu Forest Reserve remains gazetted public forest and KFS is committed to protecting it for prosperity;

- (ii). That Security Committee jointly with Committee on Lands, Environment and Natural Resources should consider making a visit to the area to appreciate the extent of grabbing of the Kiambu Forest Reserve;
- (iii). KFS is continuously working closely with other Government agencies under multi-agency approach to reclaim and restore grabbed and illegally allocated public forests
- (iv). KFS recommends that Parliament considers categorisation of illegal and/or irregular acquisition of public gazetted forests an economic crime;
- (v). KFS recommends that the NLC, Ministry of Lands and the Ethics and Anti-Corruption Commission supports the National efforts of repossessing illegally and irregular acquired portions of Kiambu Forest and other public forests in Kenya;

After the Cabinet Secretary completed his presentation, the Chairperson invited the Governor for Kiambu to make his presentation who briefed the Committee as follows-

That the brief by the Cabinet Secretary has elaborate enough to cover how the situation is at the ground. The County Government was taken aback by the murder of Joannah Stutchbury an ardent environmentalist and protectionist of Kiambu Forest Reserve. That the County Government has no role in the Kiambu Forest Reserve as it was owned by KFS to preserve and manage.

That the two (2) pieces of land that is owned by Nyakinyua and Pelican is fully developed. Nyakinyua has subdivided their piece into 962 pieces and county approved their development and KFS lost the case on them. After sub-division the only documents require for development is a search from the Ministry of Lands of title deeds to prove ownership, survey of the map and an architectural plan of how the plots were to be developed, all of which they presented to the County Government as proof of validity of ownership. All the other pieces of grabbed forests the County Government is prepared to collaborate with KFS to forestall their development including their repossession back into forests. The Governor sought guidance on how titles if any will be presented to the County Government for approval for development will treated and hence recommended that caveats be place on those titles.

Thereon the Committee resolved that the National Land Commission, Ministry of Lands and the EACC be invited for a meeting to shed more light in regard to grabbed pieces of Kiambu Forest Reserve including issuance of Caveat on the pieces of forest which had been issued with title deeds. Further, that the Committee will undertake a fact-finding visit to the alleged grabbed pieces of Kiambu Forest. Further, the security agencies including the DCI, IG, DPP and the Cabinet Secretary, Ministry of Interior and Coordination of National Government be once again invited for a meeting to present their submissions regarding the murder of Ms. Joannah Stutchbury.

**MIN. NO. 307/2020**

**ADJOURNMENT AND DATE OF THE NEXT MEETING**

There being no other business the meeting was adjourned at 11.55 a.m.

A handwritten signature in black ink, appearing to read "Hart", written over a horizontal dotted line.

SIGNED: .....

(CHAIRPERSON)

2<sup>ND</sup> FEBRUARY, 2022

DATE: .....

**MINUTES OF THE 57<sup>th</sup> SITTING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY DEFENCE AND FOREIGN RELATIONS HELD IN KIAMBU COUNTY COMMISSIONER'S BOARDROOM ON TUESDAY, 2<sup>ND</sup> NOVEMBER, 2021 AT 10.45 A.M.**

**PRESENT**

- |  |                  |
|--|------------------|
| 1. Sen. Fred Outa, MP                      | -Ag. Chairperson |
| 2. Sen. (Eng.) Mohamed M. Mohamud, CBS, MP | - Member         |
| 3. Sen Mithika Linturi, MP                 | - Member         |

**ABSENT WITH APOLOGY**

- |                                   |          |
|-----------------------------------|----------|
| 1. Sen. Beatrice Kwamboka, MP     | -Member  |
| 2. Sen. Moses Wetang'ula, EGH, MP | - Member |
| 3. Sen. Wario Golich Juma, MP     | -Member  |
| 4. Sen. Fatuma Dullo, CBS, MP     | - Member |
| 5. Sen. Judith Pareno, MP         | - Member |

**IN ATTENDANCE**

**MINISTRY OF ENVIRONMENT AND FORESTRY**

- |                        |                                |
|------------------------|--------------------------------|
| 1. Hon. Mohamed Eluli  | Chief Administrative Secretary |
| 2. Mr. Rodney Omari    | Senior Assistant Secretary     |
| 3. Ms. Jacinta Nabwile | Assistant Secretary            |
| 4. Mr. Alfred N. Gichu |                                |

**IN ATTENDANCE**

**MINISTRY OF LANDS**

- |                              |  |
|------------------------------|--|
| 1. Mr. Edmund Njihia Njoroge | Chief Officer Lands, Physical Planning |
| 2. Mr. J.H.M. Kamau          |  |

**IN ATTENDANCE**

**NATIONAL LANDS COMMISSION**

- |                       |                            |
|-----------------------|----------------------------|
| 1. Mr. Molu Halake    | County Coordinator         |
| 2. Mr. Edmond Gichuru | Ag. Director Legal Affairs |
| 3. Mr. Reginald Okumu |                            |
| 4. Mr. Ben Opa        |                            |

**IN ATTENDANCE**

**MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT**

- |                               |                            |
|-------------------------------|----------------------------|
| 1. Mr. Wilson O. Wanyanga MBS | County Commissioner        |
| 2. Mr. T.M. Macharia          | Deputy County Commissioner |
| 3. Mr. Doreen G. Gitonga      | CIPU/APS – County          |
| 4. Mr. Samson Kiptum          | CCIO Kiambu County         |
| 5. Mr. Lazarus Wambua         | D/CPC Kiambu County        |

**IN ATTENDANCE**

**KENYA FOREST SERVICE**

- |                        |                       |
|------------------------|-----------------------|
| 1. Mr. Julius Kamau    | Chief Conservator     |
| 2. Mr. Alex Lemarkoko  | Commandant            |
| 3. Mr. Paul N. Karanja | Ecosystem Conservator |
| 4. Mr. Evans K. Aluda  | H. Survey & Mapping   |

**IN ATTENDANCE**

**SURVEY OF KENYA**

- |                         |                |
|-------------------------|----------------|
| 1. Mr. Michael Muikiria | Asst. Director |
|-------------------------|----------------|

**IN ATTENDANCE**

**COUNTY GOVERNMENT OF KIAMBU**

- |                        |                                 |
|------------------------|---------------------------------|
| 1. Dr. Joyce Ngugi     | Deputy Governor                 |
| 2. Mr. David K. Kuria  | CECM                            |
| 3. Ms. Eunice Macharia | CECM (Lands, Physical Planning) |

**IN ATTENDANCE**

**COMMITTEE SECRETARIAT**

- |                        |                         |
|------------------------|-------------------------|
| 1. Mr. Stephen Gikonyo | Senior Clerk Assistant  |
| 2. Mr. Jeremy Chabari  | Legal Counsel           |
| 3. Ms. Njeri Manga     | Media Relations Officer |
| 4. Mr. William Omondi  | Audio Services Intern   |
| 5. Mr. Alex Mutuku     | Serjeant-At-Arms        |
| 6. Mr. Abdalla Mbore   | Serjeant-At-Arms        |

**MIN NO.308/2020 - PRELIMINARIES**

The meeting was called to order at 10.50 a.m. followed by word of prayers by the Chairperson.

**MIN. NO. 309/2020**

**BRIEF BY THE COUNTY COMMISSIONER OF  
KIAMBU COUNTY**

The County Commissioner welcomed the Committee to Kiambu County and briefed them that the Kiambu Forest Reserve has not been degazetted, however, the forest has been allocated to individuals while Forest Department has its ownership. That the forest has further been subdivided and allocated to 2<sup>nd</sup> or 4<sup>th</sup> owners who may not be privy to the authenticity of ownership documents they possess for the land. He further informed the Committee that a tussle between developing the land by owners and conserving the meagre remaining forest may have been the cause of the death of Ms. Joannah Stutchbury who was a forest conservationist. The Commissioner informed the Committee that Kiambu has many like cases, including in Kinari Settlement Scheme, where forest had been subdivided and issued to unaware individuals, while their ownership remains with the forest department, which may need to be addressed.

**MIN. NO. 310/2020**

**BRIEF BY THE CHIEF ADMINISTRATIVE  
SECRETARY FOR MINISTRY OF ENVIRONMENT  
AND FORESTRY**

He informed the Committee that when the Cabinet Secretary appeared before the Committee, he had requested the Committee to undertake a fact-finding visit to the Forest. He informed the Committee that the Cabinet Secretary could not accompany the Committee for the visit, owing to that he was attending the Global Climate Summit (COP26) in Glasgow, Scotland. He reiterated the importance of the preserving the Kenya's remaining forests specifically the Kiambu Forest and this could be done through placing of caveats on the forest.

**MIN. NO. 311/2020**

**BRIEF BY THE NATIONAL LAND COMMISSION**

The Committee was briefed that the power of the National Land Commission to review land grants expired in 2017 as was in the Constitution. That the Kiambu Forest Reserve was before the Commission, but, owing to the expiration of the afore-mentioned power, the Commission was not able to conclude and make appropriate recommendation on time regarding Kiambu Forest Reserve. The Committee was requested to assist in legislatively renewing the Commission's mandate on grants to facilitate in conclusion of the process more so for Kiambu Forest Reserve, and on any other forests which has been encroached by private individuals. The Committee was further briefed that Kenya currently has 5% forest cover contrary to Constitutional target of 10% tree cover of the national land area as provided under Article 69 (1) (b) hence, the need to gazette more forests and the ones gazetted should not be degazetted.

**MIN. NO. 312/2020**

**BRIEF BY THE DEPUTY GOVERNOR OF KIAMBU**

The Deputy Governor requested the Committee to assist in the process of issuance of caveats to the gazetted areas to facilitate preservation of forests which are very essential for ecosystem. The Committee was informed that the County Government is charged with the responsibility of approving and issuing development plans to everyone holding a valid title, only for the County Government to realize later that the land is gazetted as forests hence, caveats could assist in resolving such incidences. That issues of grabbed parcels of forests are many in Kiambu County to name but a few like include Kinari Settlement Scheme among others, all of which need to be

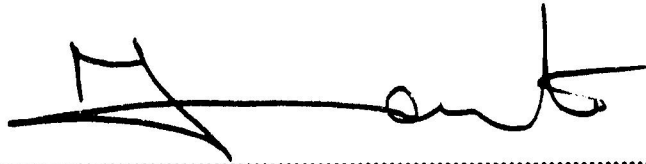
addressed. In conclusion, she welcomed the Committee to Kiambu County for the fact-finding visit in Kiambu Forest Reserve to witness the menace which seemed to have occurred during former regimes.

After deliberations the Committee was concerned that the Kiambu Forest Reserve issue has taken quite some time to resolve which may be causing anxiety to the individuals already developing their alleged pieces of land in the forest. That the whole matter looks like it was fraudulent which need to be addressed fully in a win-win situation as the current land owners in the forest are 2<sup>nd</sup> or 3<sup>rd</sup> owners who may have been conned. Later the Committee was invited to tour the forest reserve to witness the developments made in the forests and probable meet the current land owners.

**MIN. NO. 313/2020**

**ADJOURNMENT AND DATE OF THE NEXT MEETING**

There being no other business the meeting was adjourned at 11.25 a.m.



SIGNED: .....

(CHAIRPERSON)

**2<sup>ND</sup> FEBRUARY, 2022**

DATE: .....

**MINUTES OF THE 59<sup>th</sup> SITTING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY DEFENCE AND FOREIGN RELATIONS HELD IN RED CROSS BUILDINGS IN PARLIAMENT BUILDINGS ON WEDNESDAY, 1<sup>ST</sup> DECEMBER, 2021 AT 9.30 A.M.**

**PRESENT**

- |                                   |                  |
|-----------------------------------|------------------|
| 1. Sen. Fred Outa, MP             | -Ag. Chairperson |
| 2. Sen. Moses Wetang'ula, EGH, MP | - Member         |
| 3. Sen Mithika Linturi, MP        | - Member         |
| 4. Sen. Judith Pareno, MP         | - Member         |

**ABSENT WITH APOLOGY**

- |  |          |
|--|----------|
| 1. Sen. Wario Golich Juma, MP              | -Member  |
| 2. Sen. (Eng.) Mohamed M. Mohamud, CBS, MP | - Member |
| 3. Sen. Beatrice Kwamboka, MP              | -Member  |
| 4. Sen. Fatuma Dullo, CBS, MP              | - Member |
| 5. Sen. Gideon Moi, MP                     | -Member  |

**IN ATTENDANCE**

**PELICAN ENGINEERING**

- |                      |                   |
|----------------------|-------------------|
| 1. Mr. Chumba Ntuli  | Sichale Advocates |
| 2. Mr. Anthony Chege | Riverview Estate  |
| 3. Mr. Maina Njonjo  | Riverview Estate  |
| 4. Manu Ngumbi       | Sichale Advocates |

**IN ATTENDANCE**

**MARG. RIDGE ESTATE LIMITED**

- |                            |                         |
|----------------------------|-------------------------|
| 1. Mrs. Margaret W. Magugu | Director/Wife to Magugu |
| 2. Mr. Faiz Gitau Maina    | Son of the Director     |
| 3. Mr. Abdul S. Bahangu    | Manager                 |
| 4. Ms. Rukia Salim         | Personnal Assistant     |

**IN ATTENDANCE**

**KIAMBAA WOMEN GROUP**

- |                             |                      |
|-----------------------------|----------------------|
| 1. Mr. James Muriuki        | Golden Palm Resident |
| 2. Mr. Paul Kihara Gachukia | Golden Palm Resident |
| 3. Mr. David Muriuki        | Golden Palm Resident |
| 4. Ms. Cosnas Chahenza      | HKM Associates       |

**IN ATTENDANCE**

**KAMA AGENTS COMPANY**

- |                       |            |
|-----------------------|------------|
| 1. Mr. Kimani Wakinaa | Valleyview |
| 2. Mr. John Mbugua    | Valleyview |
| 3. Ms. Caroline Burer | Valleyview |
| 4. Ms. Elizaphan Kibe | Valleyview |

**IN ATTENDANCE**

**COMMITTEE SECRETARIAT**

- |                        |                        |
|------------------------|------------------------|
| 1. Mr. Stephen Gikonyo | Senior Clerk Assistant |
| 2. Mr. Jeremy Chabari  | Legal Counsel          |
| 3. Mr. William Omondi  | Audio Services Intern  |
| 4. Mr. Alex Mutuku     | Serjeant-At-Arms       |
| 5. Mr. Abdalla Mbore   | Serjeant-At-Arms       |

**MIN NO.314/2020** - **PRELIMINARIES**

The meeting was called to order at 9.45 a.m. followed by prayers led by the Chairperson.

**MIN NO.315/2020** - **ADOPTION OF AGENDA**

The agenda of the meeting was proposed by Sen. Moses Wetang'ula, MP and seconded by Sen. Fatuma Dullo, MP as follows-

1. Prayer.
2. Adoption of the Agenda
3. Introductions
4. Brief by the alleged Land Owners in the Kiambu Forest Reserve.
5. Any Other Business.
6. Adjournment and Date of the Next Meeting.

**MIN. NO. 316/2020**

**SUBMISSION BY MANAGEMENT OF PELICAN ENGINEERING COMPANY ON I.R. 52307, L.R. NO. 15153, , AREA (HA) 29.68, BP NO. 175/352, CURRENT STATUS THE AREA IS FULLY DEVELOPED CURRENTLY CALLED RIVERVIEW ESTATE.**

The management of Pelican Engineering submitted to the Committee that on or about 1991, the company made an application to be allotted a plot in Kiambu. Its application was approved and a letter of allotment dated 9<sup>th</sup> April, 1991 was issued to the Company. Thereon, the company made payment in respect of the stand premium, stamp duty and annual rent totalling to Kshs.2,185,800/= pursuant to Special Condition 2 in the said letter of allotment and a receipt No.C010805 dated 10<sup>th</sup> April, 1991 was issued. That, the Ministry of Lands vide a letter dated 10<sup>th</sup> April, 1991 instructed the Director of surveys to undertake survey of residential plot No. B

Kiambu municipality, it was worth noting that the company took possession of the plot 30 years ago. Vide gazette notice No.1091 of 1995, the then Minister of Environment and Natural Resources Hon. J.K. Sambu published a legal notice dated 1<sup>st</sup> February, 1995 expressing the Government's intention to alter the boundaries of Kiambu Forest to exclude 29.68 hectares. This was in excise of powers conferred to him by Section 4(1) and 4(2) of the Forest Act Cap 385 (now repealed) which provided that-

*4(1) the Minister may, from time to time, by notice of Gazette-*

*(d) Declare any unalienated Government land to be a forest area;*

*(e) Declare the boundaries of a forest and from time to time alter those boundaries;*

*(f) Declare that a forest area shall cease to be a forest area*

*(2) Before declaration is made under paragraph (b) or paragraph (c) of subsection (1), twenty-eight days' notice of the intention to make the declaration shall be published by the Minister in the Gazette.*

Thereafter, the property was degatted as forest land through Legal Notice No.260 dated 11<sup>th</sup> July, 1995 by the aforementioned Minister. In 2009/2010 the company embarked on subdividing the property into 116 half acre residential plots for sale save for 2 plots which were set aside for a nursery school and recreational area, which was a condition imposed by the then Municipal Council of Kiambu which plots were surrendered to the then Municipal Council of Kiambu. Prior to subdivision the Company sought and obtained approval in all respects from various Government agencies as per the law including from Survey of Kenya, Ministry of Lands, Municipal Council of Kiambu, the District Physical Planning Office Kiambu, District Survey Office, National Environment Management Authority, Ministry of Water and Irrigation, Ministry of Roads and District Land Administration Office, department of Lands. A Survey Plan dated 14<sup>th</sup> December, 2010 approved on 15<sup>th</sup> December, 2010 for the property was drawn and the same was registered under Folio No.367 and register no.67 and 68 thereon deed plans for 116 plots half acre each were booked for registration at the Lands office Nairobi on 11<sup>th</sup> February, 2011. Thereafter Certificates of Titles were issued by the Registrar of Titles in respect to Land Reference 15153/4 up to 151/119 save for L.R. Numbers 15153/118 and 15153/119 set aside for a nursery school and recreational area respectively. Thereon, on obtaining the Titles for

subdivision in 2011, the company marketed the plots for sale through estate agent Tysons Limited through which 106 plots were sold some of which to date have been resold off to 3<sup>rd</sup> parties. Its noteworthy that prior to purchasing the current owners undertook the due diligence to search for authenticity of the plots being purchased. In particular proprietors of 2 plots that is 15153/11 and 151/29 wrote to the National Land Commission through their legal counsel Mamicha and Company Advocates vide several correspondences and sought clarification as to whether the subdivision was free from encumbrances to which the National Land Commission vide a letter dated 15<sup>th</sup> July, 2014 did confirm that the property was available for allocation to provide individuals.

**MIN. NO. 317/2020**

**SUBMISSIONS BY THE CHAIRPERSON OF  
WATERSIDE RIVERVIEW AND RESIDENTS'  
ASSOCIATION CURRENT OWNERS AND  
RESIDENTS OF PELICAN ENGINEERING AND  
CONSTRUCTION COMPANY PARCEL OF LAND**

The Chairperson of the Residents Association Mr. Anthony Chege informed the Committee that Riverview Estate was developed out of the original consolidated land parcel LR NO.15153 which was previously a flower firm operated as Valentine Growers Co. Ltd. The initial owner, Pelican Engineering and Construction Company Limited, subsequently, subdivided L.R. 15153 into more than 116 plots and appointed Tysons Limited, property management company, to advertise for sale at market value in the mainstream media. The residents wrote to National Land Commission through the firm of Mumicha and Co. Advocates on 23<sup>rd</sup> October, 2013 to clarify whether the property was clear for sale. The National Land Commission wrote to Kenya Forest Service to seek the same clarification and on 15<sup>th</sup> July, 2014 National Land Commission wrote a letter to Mamicha Advocates enclosing a letter from Kenya Forest Service and a copy of Kenya Gazette dated 21<sup>st</sup> July, 1995 which indicated LR.No.15153 was delineated from the forest as required under the Forest Act, Cap 385. In particular the National Land Commission concluded in the letter that according to KFS the land was legally degazetted and the land was available for allocation to private individuals. It is on this basis that the residents had unequivocal assurance to proceed and conclude sale purchases and invest heavily in the parcels of land including construction of dwelling houses on owner occupier bases and development of infrastructure at personal costs.

**MIN. NO. 318/2020**

**SUBMISSIONS BY KIAMBAA (NYAKINYUA)  
WOMEN GROUP IR.74148, L.R. NO. 13642 B.P. NO.  
175/291 AREA (HA) 39.82**

Mr. David Muriuki Thiong'o, appointed agent of Kiambaa Divisional (141) Women Groups briefed the Committee that Kiambaa Divisional (141) Women Groups was registered in 1983 comprising various women groups who had come together for the purposes of economic development. The group could sometimes be engaged during official duties of the late President Daniel Arap Moi. In 1983 he gifted them with unsurveyed parcel of land excised from Kiambu Forest. This could be attested by two (2) letters of allotment for unsurveyed plots A and B each measuring approximately 50.73 Acres. The survey and excision process were initiated in June 1987. The Director of survey approved the Survey Plan on 24<sup>th</sup> June, 1987 as per the survey plan F/R No.170/55 and L.R. number 13642 was issued. Thereon, they applied for change of user from industrial to residential while simultaneously undertaking the subdivision and on 8<sup>th</sup> June, 1984 approvals were acquired for change of user. All the 6000 individuals were each awarded a parcel of plot within plots A and B which approvals were acquired from Government departments within the Ministry of Lands and Housing. The Groups were also issued with Grant I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for a period of 99 years, from 1<sup>st</sup> December, 1984 by the then Commissioner of Lands. The Committee was informed that the Report by Commission of Inquiry for Irregular Allocation of Public Land, commonly referred to as Ndung'u Report in page 231, Annexes of Volume I, outlines that the property was authorized for excision to Kiambaa Women Groups based on a letter by the Conservator of Forest letter Ref.No.FOR.68/7/(62) dated 12<sup>th</sup> July, 1984 (annexed) - the letter authorised the group to go ahead and draw up plans on the parcel of land. Ndung'u report noted that the area, however, had not been degazetted despite being cleared for allocation and subdivision. That National Land Commission (NLC) on 21<sup>st</sup> January, 2019 made recommendation that the gazettelement of the excision be completed. That to date the plots have been sold and resold to second and third parties, who, have always followed laid down processes to ascertain authenticity of documents presented during purchase which have never proved otherwise.

**MIN. NO. 319/2020**

**SUBMISSION FOR I.R. 80630, L.R. NO. 21350, AREA  
(HA) 24.00, BP NO. (HAS NONE), THE AREA IS  
DIVIDED INTO TWO PORTIONS AND PARTIALLY  
DEVELOPED**

The Chairperson of the Valley View Garden Association Mr. John Mwaura Mbugua informed the Committee that Kama Agencies Company Limited was a real estate business Company that owned L.R. No.21350/1 gifted to the company in 1995 and allotted the parcel of land vide Grant No.IR. 80630 for the land which had been excised from Kiambu Forest for a period of 99 years commencing on 1<sup>st</sup> April, 1995. That on 11<sup>th</sup> July 1995 the then Minister of Environment and Natural Resources Hon. J.K. Sambu declared in the Kenya Gazette that the parcel of land L.R. No.21350 had ceased to be a forest. That, the surveying and excision process for the unsurveyed forest land was initiated with the concurrence of the Kenya Forest Department, the predecessor of Kenya Forest Service, which on 3<sup>rd</sup> July, 1996 confirmed the allotment of the property to Kama Agencies to develop. Thereon, Kama agencies subdivided the land in reference and transferred part of it to the general public. 59 residents have since acquired the land formerly known as LR No.21350/1. All the approvals for subdivision were acquired from the relevant government agencies. That, the current occupiers of the sub divided L.R. No.21350/1 contend that the allotment of the subject property, the excision thereof, the issuance of the mother title and resultant subdivision was initiated and implemented by relevant government agencies, including the then President, Kenya Forest Department and Physical Planning Office implying that the process followed the relevant laid down procedures as pursuant to the law, including sale and transfer of titles from Kama Agencies to the current occupiers of the parcels of land. In his submission the Chairperson did produce a copy of certificate of Title for L.R. No.21350/1; a copy of Gazette Notice dated 11<sup>th</sup> July, 1995; a copy of letter from the Forest Department dated 3<sup>rd</sup> July, 1996; copies of Certificate of Titles among others.

**MIN. NO. 320/2020**

**SUBMISSIONS FOR I.R.219594, L.R. NO. 21179,  
(HA) 25.00, BP NO. 175/371 MRS. MARGARET W.  
MAGUGU**

The Committee was informed that the afore-mentioned parcel of land, ostensibly owned by Wibeso Investment, is actually owned by M/s Marg Ridge Estate Ltd of P.O. Box 57958 00100, Nairobi with its Director being Mrs. Margaret W. Magugu wife to the Late Hon. A.K. Magugu. Mrs. Magugu produced before the Committee copies of a letter to the former Head of State H.E. Hon. D.T. Arap Moi applying for allocation of a plot adjacent to the 39 Hectares which had been allocated to Kiambaa Women Group, to develop light industries and low cost houses for workers and Kiambu Township residents; a copy of a letter of allotment from Department of Lands dated

5<sup>th</sup> March, 1990 for a plot in Kiambu Town with prescribed area of approximately 22.0 hectares; a copy Certificate of Title for Title No.IR.219594 for a term of 99 years from 1<sup>st</sup> December, 1990 with an annual Rent of Kenya Shillings one hundred forty thousand for a piece of land situated in the South of Kiambu Municipality in Kiambu District with measurement of two five decimal nought Hectares (25.00 Hectares) and that the Land in Reference Number 21179 as delineated on Land Survey Plan Number 198490, is registered against the title transfer to Marg. Ridge Estate Ltd.; a copy of Gazette Notice No.5846 for the intention by the then Minister for Natural Resources Hon. F.P.L Lotodo to alter boundaries of Kiambu Forest for an area of approximately 25 Hectares known as L.R. No. 21179, lying within and adjoining the western boundary of Kiambu Township in Kiambu District; a copy of Legal Notice No.56 according to the Forests Act (Cap 385) for alteration of boundaries of Kiambu Forest in exercise of powers then conferred by Section 4(1) of the Forest Act by the then Minister for Natural Resources Hon. F.P.L. Lotodo for an area of approximately 25 hectares known as L.R. No.21179 lying within and adjoining the western boundary of Kiambu Forest; a copy of Lease for registered in Nairobi for a parcel L.R. No.21179 for Margaret Wairimu Magugu for an area of measurement approximately 25.00 Hectares or thereabout for the term of 99 years from 1<sup>st</sup> December, 1990; a copy of reference map for land reference No.21179 for a deed plan No.98490 from Director of Surveys; and a copy of a letter from Ministry of Lands and Physical Planning for L.R. No.21179-I.R. 219594 in Kiambu County, to the Survey of Kenya indicating that the alleged grant I.R. 67273 issued to Webeso Investment Limited for a term of 99 years from 1<sup>st</sup> April, 1991 was irregularly obtained as the parcel was still gazetted as government land and was not available for allocation and that the Title held by Marg Ridge Estate Limited was genuine.

After presentations the Committee informed the stakeholders that the Committee will formulate a report and make recommendations based on their submissions to the Committee while thanking them for their attendance to the meeting.

**MIN. NO. 321/2020**

**ADJOURNMENT AND DATE OF THE NEXT MEETING**

There being no other business the meeting was adjourned at 1.25 p.m.

A handwritten signature in black ink, appearing to be 'Margaret Wairimu Magugu', written in a cursive style.

**SIGNED:** .....

**(CHAIRPERSON)**

**2<sup>ND</sup> FEBRUARY, 2022**

**DATE:** .....

**MINUTES OF THE 61<sup>st</sup> SITTING OF THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY DEFENCE AND FOREIGN RELATIONS HELD ONLINE ON WEDNESDAY, 4<sup>th</sup> FEBRUARY 2022 AT 11.00 A.M.**

**PRESENT**

- |  |                  |
|--|------------------|
| 1. Sen. Fred Outa, CBS, MP                 | -Ag. Chairperson |
| 2. Sen. Moses Wetang'ula, EGH, MP          | - Member         |
| 3. Sen. (Eng.) Mohamed M. Mohamud, CBS, MP | - Member         |
| 4. Sen. Beatrice Kwamboka, CBS, MP         | -Member          |
| 5. Sen Mithika Linturi, MP                 | - Member         |
| 6. Sen. Judith Pareno, MP                  | - Member         |
| 7. Sen. Fatuma Dullo, CBS, MP              | - Member         |

**ABSENT WITH APOLOGY**

- |                               |         |
|-------------------------------|---------|
| 1. Sen. Wario Golich Juma, MP | -Member |
| 2. Sen. Gideon Moi, MP        | -Member |

**IN ATTENDANCE**

**COMMITTEE SECRETARIAT**

- |                        |                            |
|------------------------|----------------------------|
| 1. Mr. Stephen Gikonyo | Senior Clerk Assistant     |
| 2. Mr. Peter Adika     | Principal Research Officer |
| 3. Mr. Jeremy Chabari  | Legal Counsel              |

**MIN NO.326/2020 - PRELIMINARIES**

The meeting was called to order at 11.12 a.m. followed by prayers led by the Chairperson.

**MIN NO.327/2020 - ADOPTION OF AGENDA**

The agenda of the meeting was proposed by Sen. Moses Wetang'ula, EGH, MP and seconded by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP as follows-

1. Prayer.
2. Adoption of the Agenda.
3. Consideration of the last meeting minutes.
4. Matters arising.
5. Consideration and approval of the Draft Report on the Petition Concerning circumstances leading to the Death of Conservationist and Environmentalist Ms. Joannah Stutchbury.
6. Any Other Business.
7. Adjournment and Date of the Next Meeting.

**MIN. NO. 328/2020**

**CONSIDERATION OF THE LAST MEETINGS MINUTES**

The Committee confirmed the minutes of the previous meetings as follows-

- (i). The Committee confirmed the Minutes of the 55<sup>th</sup> Sitting held online on Wednesday, 21<sup>st</sup> October, 2021, and were confirmed after being proposed by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP and seconded by Sen. Beatrice Kwamboka, CBS, MP as a true record of the proceedings of the meeting.
- (ii). The Committee confirmed the Minutes of the 56<sup>th</sup> Sitting held online on Tuesday, 26<sup>th</sup> October, 2021, and were confirmed after being proposed by Sen. Moses Wetang'ula, EGH, MP and seconded by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP as a true record of the proceedings of the meeting.
- (iii). The Committee confirmed the Minutes of the 57<sup>th</sup> Sitting held on Tuesday, 2<sup>nd</sup> November, 2021, and were confirmed after being proposed by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP and seconded by Sen. Mithika Linturi, MP as a true record of the proceedings of the meeting.
- (iv). The Committee confirmed the Minutes of the 58<sup>th</sup> Sitting held on Tuesday, 30<sup>th</sup> November, 2021, and were confirmed after being proposed by Sen. Moses Wetang'ula, EGH, MP and seconded by Sen. Fred Outa, CBS, MP as a true record of the proceedings of the meeting.
- (v). The Committee confirmed the Minutes of the 59<sup>th</sup> Sitting held on Wednesday, 1<sup>st</sup> December, 2021, and were confirmed after being proposed by Sen. Mithika Linturi, MP and seconded by Sen. Moses Wetang'ula, EGH, MP as a true record of the proceedings of the meeting.
- (vi). The Committee confirmed the Minutes of the 60<sup>th</sup> Sitting held online on Wednesday, 8<sup>th</sup> December, 2021, and were confirmed after being proposed by Sen. (Eng.) Mohamed M. Mohamud, CBS, MP and seconded by Sen. Mithika Linturi, MP as a true record of the proceedings of the meeting.

**MIN. NO. 329/2020**

**MATTERS ARISING**

There were no matters arising.

**MIN. NO. 330/2020**

**CONSIDERATION AND APPROVAL OF THE  
DRAFT REPORT ON THE PETITION  
CONCERNING CIRCUMSTANCES LEADING TO  
THE DEATH OF CONSERVATIONIST AND  
ENVIRONMENTALIST MS. JOANNAH  
STUTCHBURY.**

The Committee was presented the draft report as follows-

That the Petition regarding the alleged murder of Environmentalist and Conservationist Ms. Joannah Stutchbury and a protector of environment and natural resources was brought to the

- Senate by Sen. Halakhe Abshiro, MP on 4<sup>th</sup> August, 2021 and consequently stood committed to the Standing Committee on National Security, Defence and Foreign Relations.

The Petitioners Prayers to the Senate were to be assisted by the Senate through-

- (i). an investigation on the circumstances leading to the alleged murder of Joannah Stutchbury and other environmentalists and conservationist in the country and make appropriate recommendations on the findings, and on the alleged perpetrators;
- (ii). a call to the Ministry of Environment and Forestry and Kenya Forest Service to revoke grabbed parcels of the Kiambu Forest Reserve;
- (iii). appropriate recommendations for the protection of the lives of environmentalists and conservationists in Kenya; and
- (iv). reviewal relevant policies and existing legislations with a view to enhance the protection of all forest lands and wildlife migratory routes and corridors in Kenya, with a view to shield them from land grabbers.

That in order to address the prayers of the Petitioners, the Committee met with various stakeholders in relations to the petition who included the Petitioners (Conservation Alliance of Kenya), Cabinet Secretary for Environment and Forestry, Director of Kenya Forest Service, Kiambu Governor, County Commissioner of Kiambu, Ministry of Land officials, residents residing in the already developed parts of Kiambu Forest Reserve, National Land Commission officials, Inspector General of Police, Director of Criminal Investigation and undertook a fact-finding visit to Kiambu Forest Reserve.

After meeting the stakeholders, the following could be adduced as the Committee's findings and observations-

- (a). That on 15<sup>th</sup> July, 2021, the environmentalist and conservationist Ms. Joannah Stutchbury was shot dead outside her home in what appeared to be murder.
- (b). That by the time of writing this report the Petitioners had not furnished the Committee with the names of other conservationists who had ever received death threats;

- (c). That Ms. Joanna Stutchbury lived in a land bordering Kiambu Forest Block LR No.21179 F/R No.284/108, gazetted as a Forest Reserve vide Proclamation No.44 of 1932.
- (d). That on 5<sup>th</sup> February, 2018, the deceased received information about illegal encroachment by developers on Kiambu Gazetted Forest land which borders wetland and she single-handedly confronted the developers constructing an illegal road.
- (e). That preliminary investigations by the Directorate of Criminal Investigation had established that Ms. Joanna Stutchbury might have been murdered due to her strong position on preservation for Kiambu Forest against the will of a private developer who wanted to construct a road in the wetland to gain access to their illegally acquired properties.
- (f). The illegal excision of the forest began way back in 1988, first being 39.82 Ha, which were hived off in favour of Kiambaa (Nyakinyua) Women Group.
- (g). That 29.68 Ha were allocated and a title deed issued to Pelican Engineering and Construction Limited;
- (h). That a portion of the forest was allocated to Bedan Mbugua (C/O Wibeso Investment Limited), 25.0 Ha; in 1999, to which documents were produced indicating it was issued before then to Mrs. Margaret Magugu;
- (i). That 15.0 Ha. Were allocated to Mr. Kuria Kanyingi. The copy of the title deed was issued under Kama Agencies Limited;
- (j). That 14.5 Ha claimed by Hon. Onesmus Kimani Ngunjiri, remains forested with indigenous trees and had subsequently been subdivided into four parcels as in the Grant I.R. 84876. The copy of the title deed was issued under Agropack Limited;
- (k). That currently parcels under M/S Pelican Engineering and Construction Limited, Kuria Kanyingi and Kiambaa (Nyakinyua) Women Group are almost fully developed with the accompanying infrastructure including roads.
- (l). That National Land Commission mandate to review grants of the illegally acquired public land which was 5 years in the Constitution expired in 2017 and that there is need for an appropriate legislative amendment by parliament to renew the mandate.
- (m). That the Kiambu Forest Reserve was before the National Land Commission, but owing to expiration of its mandate to review the Grants, the Commission was not able to conclude and make recommendations on Kiambu Forest Reserve.

- (n). That Kenya currently has 5% forest cover contrary to Constitutional target of 10% tree cover of the national land area as provided under Article 69 (1) (b).
- (o). That through the Kenya Gazette Notice No.1091 dated 10<sup>th</sup> March, 1995 an area of land approximately 29.68 hectares, known as L.R. No.15153, lying and adjoining the eastern boundary of Kiambu Forest, situated approximately 2.5 kilometres southern of Kiambu township, in the Kiambu District, Central Province, the boundaries of which are more particularly delineated, on the boundary plan No.175/352, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi and a copy of which may be inspected at the office of the District Forest Officer, Forest Department, Muguga. That parcels of land under I.R. 52307, L.R. NO. 15153, , measuring 29.68 Hectares was degatted as forest land through Legal Notice No.260 dated 11<sup>th</sup> July, 1995 and that the National Land Commission had written to Kenya Forest Service to seek clarification and on 15<sup>th</sup> July, 2014 National Land Commission wrote a letter to Mamicha Advocates enclosing a letter from Kenya Forest Service and a copy of Kenya Gazette dated 11<sup>th</sup> July, 1995 which indicated LR.No.15153 was delineated from the forest as required under the Forest Act, Cap 385.
- (p). That Kiambaa Women Groups were also issued with Grant for I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for a period of 99 years from 1<sup>st</sup> December, 1984 by the then Commissioner of Lands and further National Land Commission had recommended for the degazetted of the parcel of land be commenced.
- (q). That on 11<sup>th</sup> July 1995 the then Minister of Environment and Natural Resources declared in the Kenya Gazette that the parcel of land L.R. No.21350 had ceased to be a forest.
- (r). That a piece of land Reference Number 21179 was delineated on Land Survey Plan Number 198490 is registered through title transfer of Marg. Ridge Estate Ltd which through a Kenya Gazette Notice No.5846 was issued by the then Minister for Natural Resources who altered boundaries of Kiambu Forest for an area of approximately 25 Hectares to L.R. No. 21179 and the schedule outlined that an area lying within and adjoining the western boundary of Kiambu Forest, situated approximately 2.5 kilometres south-east of Kiambu Township, Kiambu District, Central Province, the boundaries of which are more particularly delineated, edged red, on the boundary Plan No.175/371 which was signed and sealed with the seal of the survey of Kenya and deposited at the Survey Records Office, Survey of Kenya , Nairobi, and a copy of which may be inspected

at the Office of the District Forest Officer, Forest Department, Muguga and further through Legal Notice No.56 on alteration of boundaries of Kiambu Forest and that the title being held by Mrs. Margaret Magugu was a genuine one.

- (s). That I.R.84876 L.R. No.25009 measuring 6.795 Ha, ostensibly owned by Agropack Limited, I.R.84876 L.R. No.25008 measuring 2.037 Ha, I.R.84876 L.R. No.25007 measuring 2.024 Ha and I.R.84876 L.R. No.25006 measuring 2.024 Ha which is swampy and forested parcels of land remains as such to date.

And that after the findings the Committee could adopt the following as recommendations on the Petition-

- (a). Pursuant to the Committee findings, Ms. Joannah Stutchbury death could have been caused as a result of construction of a road through a riparian (swampy) land by an individual who had acquired some portions of Forest illegally to gain access to the property. The Committee recommends that the Inspector General of Police and the Director of Criminal Investigations investigate the said individual with a view of arrest and prosecution for the death of Ms. Joannah Stutchbury and a report be provided to Senate within three (3) months after tabling of this report.
- (b). Pursuant to findings, I.R.84876 for L.R. No.25009 measuring 6.795 Ha ostensibly owned by Agropack Limited; I.R.84876 for L.R. No.25008 measuring 2.037 Ha with no details of ownership; I.R.84876 for L.R. No.25007 measuring 2.024 Ha with no details of ownership and I.R.84876 L.R. No.25006 measuring 2.024 Ha with no details of ownership; have all remained forested with indigenous trees and some swampy to date. The Committee recommends that Kenya Forest Service and Ministry of Environment and Forestry revoke excision if any of these parcels and acquire titles for them to be fenced appropriately to remain as forest and part of Kiambu Forest Reserve and that the Directorate of Criminal Investigations commence investigations with a view of prosecution into how individuals came to own land in swampy forested areas and a report be forwarded to Senate in six (6) months after laying of this report in the Senate.
- (c). Pursuant to Committee findings, current owners of parcels of land under I.R. 52307 for L.R. NO. 15153 measuring 29.68 Hectares issued to Pelican Engineering Company; I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for Kiambaa Women



Groups; I.R. No.80630 for L.R. NO.21350 for an area of 24.00 (Ha) for Hon. Kuria Kanyingi (Tugirane Project) and I.R.No.219594 for L.R. No.21179 for an 25 Ha, registered for Marg. Ridge Estate; all of them hold documents from various Government agencies as a proof on how they acquired the parcels of land lawfully. Arising from these documents, the Committee recommends that the Ministry of Environment and Forestry, and the Kenya Forest Service should desist from issuing eviction threats to the owners of those parcels of land. The Ministry of Lands, National Land Commission, Survey of Kenya, Kiambu County Government, Ministry of Environment and Forestry and Kenya Forest Service should facilitate the afore-mentioned owners to acquire title deeds and the degazettement of I.R. No.74148 for L.R.No.13642 measuring approximately 39.82 acres for Kiambaa Women Groups should be commenced. A report on the same should be forwarded to the Senate within five (5) months after tabling of this report on the Table of the Senate.

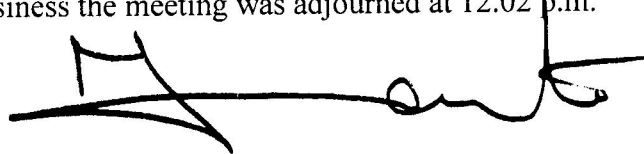
- (d). Pursuant to Committee findings, the mandate of the National Land Commission to review land grants expired in 2017 as was in the Constitution during which time the matter of Kiambu Forest Reserve was before it. The Committee recommends that the National Land Commission formulates a legislative proposal and forward it to the Senate, which will facilitate renewing legislatively the Commission's mandate on Grants.

Deliberations ensued and the draft report was adopted by the Committee as its report on the matter regarding the alleged murder of Conservationist Ms. Joannah Stutchbury for laying on the Table of the Senate.

**MIN. NO. 331/2020**

**ADJOURNMENT OF THE NEXT MEETING**

There being no other business the meeting was adjourned at 12.02 p.m.



SIGNED: .....

(CHAIRPERSON)

**2<sup>ND</sup> FEBRUARY, 2022**

DATE: .....

## ANNEX 2



### MINISTRY OF ENVIROMENT AND FORESTRY

#### MINISTERIAL RESPONSE BY THE CABINET SECRETARY FOR ENVIRONMENT AND FORESTRY TO A PETITION BY MEMBERS OF THE CONSERVATION ALLIANCE OF KENYA ON THE MURDER OF Ms. JOANNAH STUTCHBURY TO THE SENATE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS

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##### PART 1: INTRODUCTION

1. The Senate Standing Committee on National Security, Defence and Foreign Relations (“The Committee”) through letter ref. SEN/DCS/NSFR/CORR/2020/(106) dated 23<sup>rd</sup> September, 2021 by the Clerk of the Senate invited the Cabinet Secretary, Ministry of Environment and Forestry (“The Ministry”) to a virtual meeting to respond to a Petition regarding the murder of environmentalist and conservationist Ms. Joannah Stutchbury and circumstances that led to parcels of Kiambu Forest Reserve being grabbed and the mechanisms being put in place to revoke documentation, if any, issued on the grabbed parts of the Forest Reserve.
2. The Cabinet Secretary (“CS”), Ministry of Environment and Forestry appeared before the Committee on Wednesday, 13<sup>th</sup> October 2021, and requested the Committee to grant him additional time to carry out thorough and in-depth investigation into the matter. The Committee granted him two (2) weeks.
3. The Cabinet Secretary thereafter wrote to the Kenya Forest Service (“KFS”) vide Letter Reference MEF/CS/021/2018 dated 13<sup>th</sup> October 2021 requiring additional details regarding the matters raised in this Petition. Further, the CS directed KFS to deploy Forest Rangers to Kiambu Forest and ensure 24-hour security and surveillance of the forest and ensure that any ongoing construction within the said forest is immediately stopped and no new construction is allowed to be undertaken (Annex 1). [pg. 1 – 2]

4. KFS responded to the letter confirming receipt and implementation of the directives *vide* Ref. No. CONF/PAL/1/KFS/VOL.V.4 dated 19<sup>th</sup> October 2021, (Annex 2) [pg. 3 – 4]

## PART 2: BACKGROUND INFORMATION ON KIAMBU FOREST RESERVE PETITION

5. Kiambu Forest covers approximately 133.95 Ha and was originally gazetted as a forest reserve *vide* Proclamation No. 44 of 1932 (Annex 3a) [pg. 5 – 6] and later declared a Central Forest *vide* Legal Notice No. 174 of 20<sup>th</sup> May, 1964(Annex 3b) [pg. 7 – 8].
6. Kiambu Forest was delineated in Boundary Plan No. 75/7, (Annex 4) [pg. 9]. The area was demarcated into five (5) blocks over time as shown in the map attached (Annex 5) [pg. 10].
7. An aerial map showing the status of the Kiambu Forest and its environs is as shown in (Annex 6) [pg. 11].
8. Kiambu Forest Reserve is a protected public forest therefore was not available for alienation. Any land reserved for public use and protected lands cannot be legally allocated to an individual or company without following the laid down procedure in the Forest Act, Cap 385, (Extract Annex 7) [pg. 12 – 14].
9. Kiambu Forest Reserve among other forest lands is protected under the Forest Conservation and Management Act No. 34 of 2016 (Extract Annex 8) [pg. 15 – 17] and for it to be legally allocated to individuals or companies for other purposes, such land would have to be degazetted before it can be legally allocated for any other use.

## PART 3: ECOLOGICAL IMPORTANCE OF KIAMBU FOREST

10. This forest is one of the green spaces acting as the lungs of Kiambu Town and its environs. The intention was to conserve the wetlands which act as catchment of two rivers namely **Riara** and **Gatharaini** and a swamp. Its proximity to Kiambu town makes it ideal for recreational activities. Previously it was an indigenous forest whose dominant species was *Brachlyeana huilensis* (Muhugu) and a host of other biodiversity.

**PART 4: ILLEGAL ALLOCATIONS OF KIAMBU FOREST RESERVE - OWNERSHIP**

11. The details of the parcels of land illegally allocated within Kiambu Forest Reserve are as follows: -

**Table 1: Current development Status of Kiambu Forest Reserve**

<b>N O.</b>	<b>I.R.</b>	<b>L.R. NO.</b>	<b>OWNER</b>	<b>AREA (Ha)</b>	<b>BP NO.</b>	<b>Current Status</b>
1.	74148	13642	Kiambaa(Nyakinya) Women Group	39.82	175/291	The area is fully developed.
2.	80630	21350	Hon. Kuria Kanyingi (Tugirane Project)	24.00	none	The area is divided into two portions and partially developed.
3.	52307	15153	Pelican Engineering Company	29.68	175/352	The area is fully developed currently called Riverview estate.
4.	219594	21179	Wibeso Investments (Bedan Mbugua)	25.00	175/371	The area is not developed and is under cultivation.
5.	84876	25009	Agropack Limited	6.795	none	Forested and not developed
6.	84876	25008	No detail	2.037	none	Forested and not developed
7.	84876	25007	No detail	2.024	none	Forested and not developed
8.	84876	25006	No detail	2.024	none	Forest/Swampy area not developed

12. The current development status within the Kiambu Forest Reserve is as shown in the aerial map (Annex 6) [pg. 11]:

13. The illegal excision of the forest began way back in 1988, the first being 39.82 Ha which were irregularly hived off in favour of Kiambaa (Nyakinyua) Women Group with title deeds issued. Copies of some title deeds attached, (Annex 9) [pg. 18 – 54];
14. This was followed by 29.68 Ha being allocated and a title deed issued un-procedurally to Pelican Engineering and Construction Limited; (Annex 10) [pg. 55 – 56];
15. Another portion of the forest was allocated to Bedan Mbugua (C/O Wibeso Investment Limited), 25.0 Ha;
16. In 1999, a further illegal excision of 15.0 Ha. was done and allocated to Mr. Kuria Kanyingi. The copy of the title deed was issued under Kama Agencies Limited (Annex 11) [pg. 57 – 64];
17. The remaining 14.5 Ha was claimed by Hon. Onesmus Kimani Ngunjiri. However, this area is forested with indigenous trees. This portion was subsequently subdivided into four parcels as shown in the Grant I.R. 84876. The copy of the title deed was issued under Agropack Limited (Annex 12) [pg. 65 – 67];
18. The current ground situation is that the areas under M/S Pelican Engineering and Construction Limited, Kuria Kanyingi and Kiambaa (Nyakinyua) Women Group are almost fully developed with the accompanying infrastructure, (Annex 6) [pg. 11].
19. The records available at the Ministry and at KFS did not have information disclosing the names of the Directors of the companies. This prompted the Ministry to conduct an official search at the office of the Registrar of Companies and that of the Registrar of Lands.
20. A request was made to the Companies Registry to establish the Directors of the beneficiary Companies vide letter Ref: ME&F/CS/246/2021 dated 13<sup>th</sup> October, 2021 (Annex 13 a) [pg. 68]
21. The Registrar of Companies confirmed vide letter Ref no. CR13GENERAL dated 14<sup>th</sup> October 2021 (Annex 13b) [pg. 69 – 72] the following:
  - i. **Pelican Engineering & Construction Company Limited** was registered as a private limited company at the Companies Registry as C.23550 on 13<sup>th</sup> August 1983. According to the search, the Director is Mike Maina Kamau

with one hundred thousand (100,000) shares, and Nguru Muregi Wachira is the Secretary with zero (0) shares;

- ii. **Wibeso Investments Limited** is registered at the Companies Registry as C.65310 and was incorporated on 9<sup>th</sup> June 1995. The Directors are listed as Bedan Mbugua Gikebe, Antony Muchiri Gikebe and Philomena Wangari Gikebe owning 1 share each;
- iii. **Agropack Limited** was registered as a private limited company on 3<sup>rd</sup> January 1990 as No. C.42095. The Directors are Onesmus Kimani Ngunjiri, Samuel Kugega Ndegwa and Ruth Muthoni Kimani each holding one (1) share;
- iv. According to the search, the Registrar of Companies advised that **Kama Agencies** does not exist in the database of the registered companies/businesses.

22. A request was also made to the Chief Land Registrar concerning the ownership of the parcels of the land, (Annex 14) [pg. 73].

23. However, as at the time of filing this report, the details of the current ownership had not been availed.

24. It should be noted however that, the areas developed within the Kiambu Forest Reserve remain as public forests since they have never been degazetted and were therefore not available for alienation.

## **PART 5: EFFORTS MADE BY KFS TO PROTECT AND SECURE KIAMBU FOREST RESERVE**

25. The Government has put in place efforts to have the land revert back to the intended public forestry land use. These include;

### **a) Issuance of Eviction Notice**

26. KFS, in an effort to protect the Kiambu Forest Reserve issued an Eviction Notice giving notice to all illegal occupants of the forest to vacate the area, failure to which they shall be forcefully evicted, (Annex 15) [pg. 74];

27. The beneficiaries of the illegal land allocation went to court and filed a suit: **HIGH COURT AT NAIROBI MISC.CIVIL APPLICATION NO.382 OF 2004 BETWEEN KAMA AGENCIES LIMITED VS THE REPUBLIC OF KENYA AND KENYA FOREST SERVICE** challenging the Eviction Notice, (the Pleadings of the Case, Annex 16) [pg. 75 – 174];
28. The suit was filed by the Hon. Kuria Kanyingi who swore an Affidavit filed in the matter and averred that he filed the suit in his capacity as a Director of Kama Agencies Limited. Hon. Kuria Kanyingi claimed that he and the 144 others were the rightful owners of parcel No. L.R. NO.21350. He claimed that they purchased the subject matter land in 1999 from Togineres Project Limited. The Company subdivided the land into L.R. NO.21350/1 and L.R. NO.21350/2. The suit was filed following an Eviction Notice issued by KFS over the area wherein the company obtained an Interim Order stopping KFS from interfering with their occupation.
29. The matter however did not proceed to full hearing as the Applicant made an application to withdraw the suit under Order 25 of the Civil Procedure Rules, which the Court granted (Pg.170).

b) Lodging Public Notice in The Newspaper

30. The KFS in an effort to prevent further grabbing and subdivision of the Kiambu Forest, issued a Public Notice (Caveat Emptor) published in the Daily Newspapers on 1<sup>st</sup> August 2008 over LR NO.13642, (Annex 17) [pg. 175].
31. This led to filing of a suit **HIGH COURT AT NAIROBI MISC.JUDICIAL REVIEW CASE. NO. 21 OF 2009: REPUBLIC vs KFS EXPARTE WARIARA NJENGA KARUME & 144 OTHERS**, (Annex 18) [pg. 176 – 400] which was instituted by the Applicant, together with 144 others in response to the Caveat Emptor issued on 1<sup>st</sup> August 2008 over LR.NO.13642 as Trustees of Kiambaa Divisional (141) Women Groups [Pg.267], whom they claim were the registered proprietor of LR.NO.13642 measuring 39.82 Hectares. The list of group names, Trustees of the land and the respective L.R Nos. are enumerated in the pleadings on [pages 257-264].

32. The Applicants sought the Court to quash the decision contained in the Caveat Emptor Notice declaring LR.NO.13642 a portion of the protected Kiambu Forest Reserve and warning the general public against any purchase thereof [Pg.278];
33. The Applicants also sought an Order of Prohibition to restrain the Respondent from placing caveats against the Applicants' properties or harassing, intimidating or arresting or prosecuting the Applicants over the ownership of their properties derived from LR.NO.13642;
34. In a Ruling delivered by Justice Musinga on 7<sup>th</sup> June 2011 [Pg. 216], the Court ruled that if Applicants contend that they were the lawful owners and desire to assert their right of proprietorship, they ought to file an appropriate civil suit. The matter was dismissed with costs to the Respondent, [Pg.176-400].

c) Lodging Government Caveat

35. The Director of KFS on 4<sup>th</sup> June 2009 wrote to the Commissioner of Lands vide Ref: FOR 68/3/VOL. II/227 requesting that a Government Caveat be placed on L.R.NO.21350/1 which was being subdivided into 54 plots (Annex 19a) [Pg.401-402].
36. In addition, The Director of KFS on 8<sup>th</sup> June, 2009 wrote to the Chief Land Registrar vide Ref: KFS/LS/018/09 requesting that a Government Caveat be placed on Grant No. 80630; L.R.NO.21350/1 (Annex 19b) [Pg.403].
37. The Commissioner of Lands through the Director of Surveys replied vide letter Ref No. AC/CAD/8VOL.III/75 dated 30<sup>th</sup> June 2009 to KFS confirming that the survey L.R.NO.21350/1 had been put on hold and deed plan numbers 295780 to 295836 resulting from the subdivision of suit parcel had been cancelled (Annex 20a) [Pg.404].
38. The Commissioner of Lands through the Chief Land Registrar replied to the KFS letter vide letter Ref. I.R. 80630 dated 16<sup>th</sup> July 2009 confirming that the requested caveat had been placed against the title, (Annex 20b) [Pg.405].
39. The Ministry wrote a letter to the Commissioner of Lands Ref: MFW/8/2/1 VOL. III/30 dated 14<sup>th</sup> July 2011 (Annex 21) [Pg.406-407]. to place a Government Caveat on Grant Number IR.84876 in Kiambu Forest and a Public Notice (Caveat Emptor) in the Newspapers in respect of L.R. No. 25009, 25008, 25007 and 25006 prohibiting any form of transactions thereof, (Annex 22) [Pg.408].

**d) Carrying Out Surveillance and Regular Patrols to Secure the Forest**

40. The KFS continued to carry out regular patrols in the area to enforce protection of the forest. This was met with resistance and in the instance of Agropack Limited, which filed a suit in 2011 **NAIROBI HIGH COURT PETITION 87 OF 2011 (JUDICIAL REVIEW & CONSTITUTIONAL DIVISION) AGROPACK LIMITED VS REPUBLIC OF KENYA AND KENYA FOREST SERVICE (Annex 23) [Pg.409-434]**.
41. In the suit, the Applicant alleged that they were the registered owners of Parcel LR.NO.250009 situated in Kiambu Municipality. A statement sworn by Stephen Kingara Ndung'u, who claimed to be a Director of Agropack Limited on 11<sup>th</sup> October 2011 stated that on 8<sup>th</sup> June 2011, forest rangers on instruction from the Director of Forests entered the said land and claimed ownership. He further stated that his workers were also arrested and locked up in Police cells in Kiambu.
42. KFS in response *vide* a Replying Affidavit sworn by the then Director, David Mbugua stated that the area is a public forest part of Kiambu Forest Reserve, and reiterated that KFS had full possession of the subject matter land and that forest guards are on patrol to ensure no further destruction is occasioned to the forest area.
43. The Applicant failed to show any interest in prosecuting the matter. KFS successfully applied for dismissal of the Petition. An Order was issued on 27<sup>th</sup> June 2012, (**Annex 24) [Pg.435-436]**.

**e) Requests to The National Land Commission ("NLC")**

44. KFS through a letter Ref No: MAP/2/KFS VOL.VIII dated 8<sup>th</sup> March 2016 requested the NLC to review grants believed to have been irregularly issued in Kiambu Forest, (**Annex 25)**. [Pg.437]. The KFS participated in the public hearing for review of grants over the area.
45. The NLC *vide* letter Ref No. NLC/1/26/12/2/3 dated 30<sup>th</sup> November 2017 to KFS informed that they had received numerous inquiries by land owners whose plots they had determined to be part of Kiambu forest. The NLC further stated that they had resolved to carry out an inquiry under section 6 of the NLC Act to gather information on the allocation within the forest and instructed KFS to forward a list of the plots in

the forest to enable them issue the requisite notice and prepare for the inquiry. (Annex 26) [Pg.438].

46. The Ministry and KFS have separately requested for the findings to be shared in order to inform the next course of action, (Annex 27a, [Pg.439-440].& 27b,[Pg.441].) respectively.

47. The NLC, in their letter under Ref No.NLC/1/26/12 and dated 22<sup>nd</sup> October, 2021 responded and confirmed that indeed they had received claims related to various parcels of land falling within Kiambu Forest in 2018 for purposes of determining their propriety or legality as provided under Section 14 of the National Land Commission Act. The NLC informed the Ministry that the claims were however not fully heard and finalized by the inaugural Commission and therefore no determinations were made. The NLC was also not able to conclude due to the fact that there was a time frame for the exercise of jurisdiction under the Review of Grants under Section 14 of the Act. The Act set out a time limit of 5 years. (Annex 27c) [Pg.442-445].

#### **PART 6: ISSUES RAISED BY THE SENATE PETITION**

48. It is true that Joannah Stutchbury was a fierce environmental defender and conservationist and was a resident of an area that borders Kiambu Forest Block;

49. Although most of the land had been grabbed and developed, she earnestly guarded what had been left especially the remaining 14.5 Ha which is still under indigenous tree cover and swamp. Many are times she would alert KFS through telephone calls and social media platforms when she noticed any form of incursion into the forest. A case in point in 2018 is when she saw an excavator attempting to construct an access road towards the indigenous forest area ostensibly working for Hon. Onesmus Kimani Ngunjiri, a Director of a company known as Agropack Limited. This activity was halted when KFS intervened and arrested the culprits the said machinery;

50. That as a result of the foregoing, Agropack Limited instituted a case in which Joannah and KFS were co-defendants in the **CHIEF MAGISTRATES COURT AT KIAMBU, ENVIRONMENT AND LAND COURT CASE NO.9 OF 2018: AGROPACK LIMITED VS KENYA FOREST SERVICE AND JOAN SKUKBERRY (sic)**. (Annex 28 a) [Pg.446-

4472]. The Court had issued a temporary injunction ordering stopping, prohibiting and forbidding KFS and Joannah from interfering in any matter with the area known as LR.NO.20009 pending the hearing and determination of the application. Subsequently, KFS Advocate on record advised that the matter was dismissed for want of prosecution by the Plaintiff in the year 2018, (Annex 28 b) [Pg.473].

## **PART 7: MURDER OF THE LATE JOANNAH STUTCHBURY, CONSERVATIONIST AND ENVIRONMENTALIST**

51. The murder of Joannah was a big blow to KFS given her efforts in the protection of Kiambu forest. It was shocking to KFS fraternity. KFS remains indebted to, and recognise the prolific work of Joannah who has been not only a compatriot, but a hero and a front-liner in the fight to save our forests and green spaces in Kiambu County;
52. KFS is aware that the murder of Joannah is a case under investigation by Directorate of Criminal Investigation and will continue to collaborate with DCI and other arms of Government in the investigations. This includes availing KFS officers for interviews, recording statements and availing relevant requested documents, (Annex 29 a, [Pg.474] & 29 b, [Pg.475]).

## **PART 8: RECOMMENDATIONS**

53. Kiambu Forest Reserve remains a gazetted public forest and KFS is committed to protecting it for posterity.
54. This Committee jointly with the senate committee on lands, Environment and Natural Resources should consider making a visit to the area to appreciate the extent of grabbing of the Kiambu Forest Reserve.
55. KFS is continuously working closely with other Government agencies under the multi-agency approach to reclaim and restore grabbed and illegally allocated public forests
56. KFS will continue to monitor and share information within its knowledge on threats to forest conservation, including specific threats to environmentalists and partners.

57.KFS recommends that Parliament considers categorisation of illegal and/or irregular acquisition of public gazetted forests an economic crime.

58.KFS recommends that the NLC, Ministry of Lands and the Ethics and Anti-Corruption Commission supports the National efforts of repossessing illegally and irregularly acquired portions of Kiambu Forest and other public forests in Kenya.

59.To this end, we recommend that the expired mandate of the NLC to review grants of the illegally acquired public land be renewed through appropriate legislative amendment by parliament.

Signed.....

Date.....

**Keriako Tobiko, CBS, SC**  
**Cabinet Secretary**

Annex 1

**REPUBLIC OF KENYA**

**LAND REFERENCE NUMBER 15153, KIAMBU & SUBDIVISIONS (L.R.  
NO.S 15153/4 - 15153/119)**

**WRITTEN REPRESENTATION BEFORE THE SENATE STANDING  
COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN  
RELATIONS.**

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Honourable Members,

**1. Introduction**

1.1.1 I write in reference to your letter dated 23<sup>rd</sup> November 2021 and wish to submit on the circumstances that led to ownership of the then L.R Number 15153 (hereinafter referred to as the "property").

**2. History of the Property.**

- 2.1 On or about 1991, Pelican Engineering & Construction Company Limited (hereinafter the Company) made an application to be allotted a plot in Kiambu. Its application was approved, and a letter of allotment dated 9<sup>th</sup> April 1991 was issued to the Company. Attached herewith and marked **PECCL 1** is a copy of the letter of allotment.
- 2.2 The Company made payments in respect to the stand premium, stamp duty and annual rent totalling K.shs. 2,185,800/= pursuant to Special Condition 2 of the letter of allotment. Attached herewith and marked **PECCL 2** is a receipt no. C010805 dated 10<sup>th</sup> April 1991 evidencing payment.
- 2.3 The Ministry of Lands vide a letter dated 10<sup>th</sup> April 1991 instructed the Director of Surveys to undertake Survey of Uns. Residential Plot No B Kiambu Municipality. Attached herewith and marked **PECCL 3** is a copy of this letter.
- 2.4 The Company took immediate possession upon allotment in 1991, which is over 30 years ago.
- 2.5 Vide gazette notice no 1091 of 1995, the then Minister for Environment and Natural Resources, Hon. J.K Sambu published a legal notice dated 1<sup>st</sup> February 1995 expressing the Government's intention to alter the boundaries of Kiambu

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Forest to exclude 29.68 hectares or thereabouts. This was in exercise of powers conferred to him by Section 4(1) and 4(2) of the Forest Act Cap 385 (now repealed), which provided as follows:

- 4.(1) *The Minister may, from time to time, by notice in the Gazette -*
- (a) declare any unalienated Government land to be a forest area;*
  - (b) declare the boundaries of a forest and from time to time alter those boundaries;*
  - (c) declare that a forest area shall cease to be a forest area.*
- (2) Before a declaration is made under paragraph (b) or paragraph (c) of subsection (1), twenty-eight days' notice of the intention to make the declaration shall be published by the Minister in the Gazette.*

Attached herewith and marked **PECCL 4** is a copy of the intention to alter the boundaries of Kiambu Forest; pursuant to section 4 (2) of the Forest Act Cap 385 (now repealed).

- 2.6 Thereafter the property was subsequently degazetted as forest land through Legal Notice no 260 dated 11<sup>th</sup> July 1995 by the aforementioned Minister. This was pursuant to Section 4 (c) of the Forest Act reproduced above. Attached herewith and marked **PECCL 5** is a copy of the gazette notice. This gazette notice still stands to date.
- 2.7 The Company paid all land rent and rates from the date of allotment in compliance with land ownership laws in Kenya and as demanded by the Ministry of Lands and the then Municipal Council of Kiambu until on or about 2009 when it embarked on subdivision of the property.
- 2.8 In the year 2009/2010, the Company embarked on subdividing the Property into 116 half acre residential plots for sale save for 2 plots that were set aside for a nursery school and a recreational area, which was a condition imposed by the then Municipal Council of Kiambu; which plots were surrendered to the then Municipal Council of Kiambu.

2.9 Prior to carrying out the subdivision, the Company sought and obtained approvals in all respects from various Government agencies as was required under the various land laws in Kenya and in particular from:-

- a) Survey of Kenya vide a letter dated 16<sup>th</sup> December 2010
- b) Ministry of Lands vide their letters dated 7<sup>th</sup> and 13<sup>th</sup> October 2010 and 1<sup>st</sup> November 2010.
- c) Municipal Council of Kiambu vide their letter dated 14<sup>th</sup> September 2010.
- d) The District Physical Planning Office Kiambu vide their letter dated 9<sup>th</sup> September 2010.
- e) District Survey Office vide their letter dated 8<sup>th</sup> September 2010.
- f) National Environment Management Authority vide their letter dated 8<sup>th</sup> September 2010.
- g) Ministry of Water & Irrigation vide their letter dated 2<sup>nd</sup> September 2010.
- h) Ministry of Roads vide a letter dated 3<sup>rd</sup> September 2009.
- i) District Land Administration Office, Department of Lands vide their letter dated 20<sup>th</sup> July 2010.

Attached herewith and marked **EXHIBIT "PECCL 6a to 6l** are copies of Letters approving the subdivisions.

2.10 A survey Plan for the property was drawn and the same was registered under Folio no. 367 and register no. 67 & 68. Attached herewith and marked **PECCL 7a to 7b** are copies of the registered survey plan dated 14<sup>th</sup> December 2010 and approved on 15<sup>th</sup> December 2010.

2.11 Upon obtaining all approvals and making the requisite payments thereof, deed plans for 116 half acre plots were prepared which were subsequently booked for registration at the Lands Office, Nairobi on 11<sup>th</sup> February 2011.

2.12 Thereafter, Certificate of Titles were issued by the Registrar of Titles in respect to Land Reference Number 15153/4 up to 15153/119 save for L.R. Numbers 15153/118 and 15153/119 which were set aside as a nursery school and recreational area respectively.

2.13 Upon obtaining the Certificate of Titles for the subdivisions in 2011, the Company marketed the plots for Sale through a real estate agent Tysons Limited.

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- 2.14 Various individuals/entities expressed interest in the purchase of the plots and as a result of fruitful negotiations and carrying out the necessary due diligence in the respective government departments, 106 plots were sold; some of which have subsequently been sold off to 3<sup>rd</sup> parties. Attached herewith and marked "PECCL 8a to 8d is a list of the properties sold and the registered proprietors as at July 2018.
- 2.15 It is noteworthy to point out that prior to purchasing the subdivisions, the current owners of the plots undertook the necessary due diligence as stated above. In particular, the proprietors of 2 plots that is Land Reference Number 15153/11 and Land Reference Number 15153/29 wrote to the National Land Commission through their legal counsel Mamicha & Company Advocates vide several correspondences dated 23.10.2013, 7.4.2014 and 5.6.2014 and sought clarification as to whether the subdivisions were free from encumbrances. Attached herewith and marked PECCL 9a to 9c are copies of the letters dated 23.10.20213, 7.4.2014, 5.6.2014
- 2.16 On 15<sup>th</sup> July 2014, The National Land Commission vide a letter dated 15<sup>th</sup> July 2014 did confirm that "the Property was available for allocation to private individuals". I reproduce herewith the contents of the said letter which is herewith marked as PECCL 10";

*15<sup>th</sup> July 2014*

*Ref: NLC/ADM.1/VOL.II/33*

*Mr. M.M. Mugi  
Macharia & Co. Advocates  
Pan Africa House, 3<sup>rd</sup> floor  
NAIROBI*

*Dear Mr. Mugi*

*RE: LAND REFERENCE NUMBER 15153*

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*"We refer to your letter Ref. No.75-25-13 dated 7<sup>th</sup> April 2014 and regret the delay in responding to you. We attach a letter dated 8<sup>th</sup> May 2014 from Kenya Forest Service showing the status of the above mentioned parcel of land.*

*Accordingly KFS, the land was legally degazetted. The Commission is thus of the view that it was subsequently available for allocation to private individuals".*

*Yours Faithfully,*

*Emma Njogu  
COMMISSIONER.*

- 2.17 It is on the strength of this clear and unequivocal assurance from the National Land Commission (in addition to all other positive results of the due diligence) that the current plot owners proceeded to purchase their respective plots from the Company.
- 2.18 On 8<sup>th</sup> November 2012, the Company wrote a letter to Kenya Forest Service whose mandate is to conserve, protect and manage forests and whose jurisdiction covers Kiambu Forest, to confirm whether according to their records the then L.R No. 15153 had been degazetted which letter is attached herewith and marked PECCL 11.
- 2.19 It is instructive to note that on 22<sup>nd</sup> November 2012, Kenya Forest Service confirmed through a letter to the Company that the property was degazetted. I reproduce herewith the contents of the said letter, attached herewith and marked PECCL 12.

*Ref.KFS/LS/018/09.*

*Managing Director*

*Pelican Engineering & Construction Co. Limited*

*P.O Box 18755-00500*

*NAIROBI*

*KENYA*

*Dear Sir.*

*RE: DEGAZZETMENT OF L.R NO 15153-KIAMBU FOREST.*

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*"I refer to your letter reference number PEC/KFS/001/2012 dated 8<sup>th</sup> November 2012. I would like to confirm that from our records, Land Reference number 15153 of approximately 29.68 hectares lying within and adjoining the Eastern Boundary of Kiambu forest in Kiambu District more particularly delineated on boundary plan 175/352 which is signed and sealed by Survey of Kenya was altered through Gazette Notice Number 1091 dated 1<sup>st</sup> February 1995. This was subsequently degazetted as forest land through Legal Notice No. 260 of 11<sup>th</sup> July 1995".*

*Yours Sincerely,  
D.K MBUGUA  
DIRECTOR.*

- 2.18. The above was further reiterated vide Kenya Forest Service letter dated 8<sup>th</sup> May 2014 to the Chairman, National Land Commission. I reproduce herewith the contents of the said letter which is attached herewith and marked PECCL 13;

*Ref No. MAP/2/KFS/VOL.IV  
Your Ref: NLC/ADM.I/VOL.II/33  
8<sup>th</sup> May 2014*

*The Chairman  
National Land Commission  
Ardhi House, 12<sup>th</sup> Floor  
P.O. BOX 44417  
NAIROBI*

*Attn: Emma Njogu*

*Dear Madam,*

*RE: LAND REFERENCE NUMBER 15153:  
PELICAN ENGINEERING & CONSTRUCTION  
COMPANY LIMITED*

*We acknowledge receipt of your letter dated 3<sup>rd</sup> April, 2014 and the attached documents from Sichale & Co. Advocates.*

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*As indicated in the letter of dated 22<sup>nd</sup> November, 2012 from the Director, Kenya Forest Service, land reference number 15153 of approximately 29.68 Ha was altered through the Gazette Notice Number 1091 dated 1<sup>st</sup> February, 1995.*

*The parcel of land was subsequently degazetted as forest land through Legal Notice No. 260 of 11<sup>th</sup> July 1995.*

*Yours faithfully,*

***Esther Keige**  
Corporation Secretary/Head of Legal Service*

We submit that Kenya Forest Service has in the past made representations recognizing the gazette notice Legal Notice Number 260 dated 11<sup>th</sup> July 1995, and it being a body corporate with perpetual succession, it is bound by its representations made vide the aforementioned letters.

- 2.19 The purchasers of the various plots have extensively invested in their respective parcels and have developed residential homes where they reside with their children.

### 3. CONCLUSION.

- 3.1 The issuance of title for the then Land Reference Number 15153 and all subsequent subdivisions were obtained legally. Due process was followed in obtaining the titles, as the titles were issued by the relevant Government Officials acting on behalf of the Government of the Republic of Kenya. The degazetment procedure was followed pursuant to the Forest Act (Cap 385) and all the titles were validly issued.

DATED at NAIROBI this.....6<sup>TH</sup>.....day of.....DECEMBER.....2021

**MIKE MAINA**  
**FOR: PELICAN ENGINEERING & CONSTRUCTION CO. LTD**

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PE CCL 1

REPUBLIC OF KENYA

Telegrams: "Lands", Nairobi  
Telephone: Nairobi 728000  
M/S. Pelican Engineering and Construction,  
P.O. Box 18755, Nairobi.

DEPARTMENT OF LANDS  
P.O. BOX 30089  
NAIROBI

9th April, 19 91

Ref. No. .... 41680/VII/56

REGISTERED

SIR(S)/MADAM,

REF: UNS. RESIDENTIAL PLOT NO. 'B' - KIAMBU MUNICIPALITY

LETTER OF ALLOTMENT

I have the honour to inform you that the Government hereby offers you a grant of  
the above plot ..... shown edged red on the attached plan  
No. 41680/VII/54b ..... subject to your formal written acceptance of the following  
conditions and to the payment of the charges as prescribed hereunder:—

AREA: ..... 29 ..... hectares or ..... acres (approximately)  
TERM: ..... 99 ..... years from the ..... 1.4.1991 .....  
STAND PREMIUM: Sh. ..... 1,800,000/= ..... } Subject to adjustment on survey.  
ANNUAL RENT: Sh. ..... 360,000/= ..... }

GENERAL: This Letter of Allotment is subject to, and the grant will be made under the  
provisions of the Government Lands Act, (Cap. 280 of the Revised Edition  
the Laws of Kenya) and title will be issued under the Registration of Titles  
Act, (Cap. 281).

SPECIAL CONDITIONS: See attached.

2. I should be glad to receive your acceptance of the attached conditions together with  
your cheque for the amount as set out below:—

	Sh.
Stand Premium	1,800,000/=
Rent from 1.4.91 to 31.12.91	270,000/=
Conveyancing Fees	500/=
Registration Fees	100/=
Rates, proportion of (provisional) on demand	.....
Stamp Duty	115,200/=
Survey Fees on demand	.....
Road and Road Drains	.....
Sewers on demand	.....
Receipt No. ....	Last Deposit
	TOTAL ... Sh. 2,185,800/=

l.p.t.o.

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If acceptance and payment respectively are not received within 30 days from the date hereof the offer herein contained will be considered to have lapsed.

If the above plot is still unsurveyed at the time you commence building you should exercise the greatest care to ensure that any building or other works are contained within the boundaries of the plot for should you inadvertently overstep the aforesaid boundaries the cost of removal and reconstruction must be borne by you.

The issue of the Government Grant will be undertaken as soon as circumstances permit.

Your full name(s) in BLOCK LETTERS should be given for the purpose of the draft grant which will be submitted later for your acceptance. sent to you after registration.

Authority- Government

File No. 41680/VII/49

I have the honour to be,  
Sir(s)/Madam,  
Your obedient servant.

  
F.M. MARIWAKA  
for Commissioner of Lands

ENCL.

COPY TO: — P/S Ministry of Lands and Housing, Nairobi.

The Director of Surveys, Nairobi.

The Town Clerk, Kiambu.

~~The District Commissioner, Kiambu.~~

The District Commissioner, P.O. Box 32, Kiambu.

~~The Town Planning Officer, Nairobi.~~ The D.L.O P.O. Box 291, Kiambu.

~~The City Engineer, Nairobi.~~ The Director of Physical Planning, Kiambu.

O/C Land Rents. )

Rates Assistant. )

The Accountant. )

O/C Records. ) All to note.

Senior Plan Record Officer. )

Plot File. )

GPK(L)



**CORRIGENDUM**

IN Gazette Notice No. 791 of 1995, in Cause No. 20 of 1995, amend the first name of the petitioner to read **John** instead of John.

3/12/95  
for Government

**GAZETTE NOTICE No. 1095**

**THE OATHS AND STATUTES ACT (Cap. 15)**

**A COMMISSIONER**  
To All To Whom These Presents Shall Come  
**BE IT KNOWN** that on 8th February 1995

**PETER M. M...**  
an advocate of the High Court of Kenya  
be a commissioner for oaths under this Act  
for as long as he continues to hold office  
this commission is not revoked.

Given under my hand and the seal of the Government of Kenya  
February, 1995.

**GAZETTE NOTICE No. 1091**

**THE FORESTS ACT (Cap. 385)**

**INTENTION TO ALTER BOUNDARIES—KIAMBU FOREST**

IN ACCORDANCE with the provisions of section 4 (2) of the Forests Act, the Minister for Environment and Natural Resources, gives twenty-eight (28) days' notice, with effect from the date of the publication of this notice, of his intention to declare that the boundaries of the Kiambu Forest will be altered so as to exclude the area described in the schedule hereto.

**SCHEDULE**

An area of land of approximately 29.68 hectares, known as L.R. No. 15153, lying within and adjoining the eastern boundary of Kiambu Forest, situated approximately 2.5 kilometres south-east of the Kiambu township, in the Kiambu District, Central Province, the boundaries of which are more particularly delineated, edged red, on the boundary plan No. 175/352, which is signed and sealed with the seal of the Survey of Kenya and deposited at the Survey Records Office, Survey of Kenya, Nairobi, and a copy of which may be inspected at the office of the District Forest Officer, Forest Department, Muguga.

Dated the 1st February, 1995.

**J. K. SAMBU,**  
Minister for Environment and Natural Resources.

**GAZETTE NOTICE No. 1092**

**THE LAW OF SUCCESSION ACT (Cap. 160)**

**APPOINTMENTS**

IN EXERCISE of the powers conferred by section 47 of the Law of Succession Act, the Chief Justice appoints—  
**Gilbert Mutembel Chabari**, senior resident magistrate,  
**Margaret Karimú Rintari**, resident magistrate,

to represent the High Court for the purposes of that section.

Dated the 28th February, 1995.

**A. M. COCKAR,**  
Chief Justice.

**GAZETTE NOTICE No. 1093**

**THE MAGISTRATES' COURTS ACT (Cap. 10)**

**INCREASE OF LIMIT OF JURISDICTION**

IN EXERCISE of the powers conferred by section 5 (1) of the Magistrates' Courts Act, the Chief Justice increases the limit of jurisdiction of—

**NORAH OWINO**

senior resident magistrate, to Kenya shillings three hundred thousand (KSh. 300,000), with effect from 1st March, 1995.

**A. M. COCKAR,**  
Chief Justice.

**GAZETTE NOTICE No. 1094**

**THE MAGISTRATES' COURTS ACT (Cap. 10)**

**INCREASE OF LIMIT OF JURISDICTION**

IN EXERCISE of the powers conferred by section 5 (1) of the Magistrates' Courts Act, the Chief Justice increases the limit of jurisdiction of—

**ANTONY KIMANI KANIARU**

resident magistrate, to Kenya shillings three hundred thousand (KSh. 300,000), with effect from 1st March, 1995.

**A. M. COCKAR,**  
Chief Justice.

**GAZETTE NOTICE No. 1096**

**THE OATHS AND STATUTES ACT (Cap. 15)**

**A COMMISSIONER**  
To All To Whom These Presents Shall Come  
**BE IT KNOWN** that on 14th February 1995

**JASON ORINA**  
an advocate of the High Court of Kenya  
be a commissioner for oaths under this Act  
for as long as he continues to hold office  
this commission is not revoked.

Given under my hand and the seal of the Government of Kenya  
February, 1995.

**GAZETTE NOTICE No. 1097**

**THE OATHS AND STATUTES ACT (Cap. 15)**

**A COMMISSIONER**  
To All To Whom These Presents Shall Come  
**BE IT KNOWN** that on 14th February 1995

**JOSEPH R...**  
an advocate of the High Court of Kenya  
be a commissioner for oaths under this Act  
for as long as he continues to hold office  
this commission is not revoked.

Given under my hand and the seal of the Government of Kenya  
February, 1995.

**GAZETTE NOTICE No. 1098**

**THE OATHS AND STATUTES ACT (Cap. 15)**

**A COMMISSIONER**  
To All To Whom These Presents Shall Come  
**BE IT KNOWN** that on 14th February 1995

**RUTH KARIMU**  
an advocate of the High Court of Kenya  
be a commissioner for oaths under this Act  
for as long as she continues to hold office  
this commission is not revoked.

Given under my hand and the seal of the Government of Kenya  
February, 1995.

