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Paper laid by Hon. Ahe
Mwinyi, Chairperson, Depar
Committee on Lands or
Thursday 20/11/2014
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REPUBLIC OF KENYA



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ELEVENTH PARLIAMENT – SECOND SESSION - 2014

REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS

ON

PETITION FOR THE RESETTLEMENT OF ENOOSUPUKIA EVICTEES

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

NOVEMBER, 2014

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DEPARTMENTAL COMMITTEE ON LANDS

The Departmental Committee on Lands was constituted on 16th May 2013, pursuant to the provisions of Standing Order no. 216 (1) and (5) of the National Assembly. The functions and mandate are outlined in the SO and House Rules.

The Committee oversees the operations of the Ministry of Lands, Housing and Urban Development on the following matters: Land Policy and Physical Planning, Land Transactions, Survey and Mapping, Land Adjudication, Settlement, Land registration, Land Valuation, Administration of community and Public Land, and Land Information and Management System.

COMMITTEE MEMBERSHIP

The Committee comprises of the following Members:

The Hon. Alex Mwiru, M.P - Chairman	The Hon. George Oner
The Hon. Moses Ole Sakuda, M.P. -Vice Chairman	The Hon. Mathew L. Lempurkel
The Hon. Rev. Mutava Musyimi	The Hon. Shakila Abdallah
The Hon. John Kihagi	The Hon. Dr. Paul Otuoma
The Hon. Francis W. Nderitu	The Hon. Thomas Mwadeghu
The Hon. Eusilah J. Ngeny	The Hon. Ali A. Shariff
The Hon. Raymond K. Moi	The Hon. Francis Njenga
The Hon. Hellen Chepkwony	The Hon. Hezron Awiti Bollo
The Hon. Sarah Korere	The Hon. Benard Bett
The Hon. Benson Mbai	The Hon. Esther Murugi
The Hon. Kanini Kega	The Hon. Oscar Sudi
The Hon. Gideon Mung'aro	The Hon. Onesmus Ngunjiri
The Hon. Suleiman Dori	The Hon. Julius Ndegwa
The Hon. Lawrence Mpuru Aburi	The Hon. Joseph Magwanga
The Hon. Patrick King'ola	

ACKNOWLEDGEMENT

Mr. Speaker Sir,

The Committee held four sittings in Parliament Buildings on 22nd July, 12th August, 14th August and 23rd October 2014 to consider the petition and received evidence from the petitioners, Ministry of Devolution and Planning and the Ministry of Lands, Housing and Urban Development .

Mr. Speaker Sir,

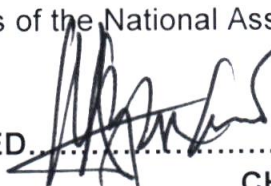
The Committee wishes to register its appreciation to the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to the Committee and the staff, in the execution of its mandate.

Let me take this opportunity to thank all Members of the Committee Members of the Committee for their patience, endurance and dedication to committee business, despite their other commitments and tight schedules, which enabled the Committee to complete this Report.

On behalf of the Departmental Committee on Lands, and pursuant to Standing Orders No.227 of the National Assembly, I now have the honor to present the Report and Recommendations thereto for adoption pursuant to the provisions of standing orders of the National Assembly.

Thank You,

SIGNED.....



**CHAIRPERSON
(HON. ALEX M. MWIRU, MP)
DEPARTMENTAL COMMITTEE ON LANDS**

DATE.....

12/11/2014

1 INTRODUCTION

1. On 2nd April 2014, the Deputy Speaker of the National Assembly, Hon. Dr. Joyce Laboso, M.P conveyed a petition pursuant to SO 225 (2) by the Enoosupukia evictees who were evicted from their farms in Narok County between 1992 and 1993 and successful governments have not resettled them.
2. The House was informed that the petitioners were displaced from places like Kirigiti, Ndaragwa and Ol Kalou among others and other people given their pieces of land after eviction;
3. The petitioners prayed that the Parliament investigate the matter and intervenes with a view to helping them in getting suitable land for resettlement and secure compensation for the suffering endured in the last 20 years;
4. The Committee held various sessions in parliament and met with the Cabinet Secretary for Devolution and the petitioners with a view to interacting with them and receiving information regarding the petition.

2 SUBMISSIONS FROM THE PETITIONERS

5. During its 72nd Sitting held on Tuesday 22nd July 2014, in Parliament Buildings, the Committee met with the petitioners, represented by Mr. Karanja Kamau. The Committee was informed as follows, THAT:
 5. The Petitioners settled in Enoosupukia after buying land from Maasai's and Dorobo's in 1960/1965, Sale agreements for the transactions were signed.
 6. The Identification cards presented show that the petitioners are from Enoosupukia and they had already settled in the area and even constructed public facilities i.e schools and Churches before being evicted.
 7. Violence initially erupted in the early 80's and 90's and they sought assistance from the former area Member of Parliament Hon. William Ole Ntimama but the matter was not addressed.
 8. There were approximately 7000 registered Enoosupukia evictees. However only 4,287 were registered and after the eviction from

Enoosupukia, they moved to Maela Camp from where they formed the Enoosupukia Evictees Group.

9. Enoosupukia Evictees Group sought the assistance of Provincial Commissioner Chelanga and were assured of resettlement and later there was the resettlement of approximately 200 persons in Moi Ndabi; The 200 were not among the initial group from Enoosupukia but include Kikuyus, Dorobo's and Kalenjins.
10. The Dorobo's did not register when registration was being undertaken in Maela as most had already gone back to Enoosupukia but the majority of those who registered were Kikuyus who were unable to go back to Enoosupukia due to harsh political and ethnic tension in the area.
11. Maela Camp was later destroyed and people moved to Kirigiti and Ndaragwa among other areas. Currently the Petitioners are scattered in various parts of the Country.
12. The petitioners have previously sought assistance from the government but have not been resettled and there has been no land identified for their resettlement neither do they have a preferred area they would like to be resettled.

3 SUBMISSIONS FROM THE MINISTRY OF DEVOLUTION AND PLANNING

During its 77th Sitting held on Thursday 14th August 2014, in Parliament Buildings, the Committee met with the Cabinet Secretary for Devolution Ms. Anne Waiguru who was accompanied by Dr. John Konchella, Permanent Secretary, Mr. Simon Munyiri, Ms. Betty Maina, Senior advisor and Mr. Joseph Macharia who informed the Committee as follows, THAT:

13. The Internal displacement of people in the country has been linked to the political electoral cycles of 1992, 1997 2002 and 2007/2008. However, until 2012, there was no legal framework to deal with internal displacement in Kenya, and internal displacement issues were often handled in the context of humanitarian assistance. Similarly, there was no designated institutional framework to deal with internal displacement until the establishment of the National Humanitarian Fund and the attendant structures in 2007/2008. Consequently, comprehensive data and information on how victims of internal displacement have been handled over the years have therefore proved hard to find.

14. Following the Post-Election Violence of 2007/8, the Government of Kenya established the National Humanitarian Fund through a legal notice no.11 of 2008, this was followed by the establishment of the advisory board through legal notice no 1038 of 15th February 2008 whose mandate was to:
 - a. Determine the persons who were adversely affected by the violence
 - b. Resettle the persons displaced by the Post Election Violence (PEV)
 - c. Replace basic household effects destroyed during the PEV
 - d. Enable the victims to restart their basic livelihood
 - e. Reconstruct basic housing
 - f. Rehabilitate community utilities and institutions destroyed during the violence
15. The Mandate of the Ministry of Devolution and Planning is limited to resettlement of the people profiled. After the 2007/2008 Post Election Violence after the establishment of a legal framework the Ministry was however directed to resettle specific groups of forest evictees from Mau, Kieni, Embombut, Teldet and Kipkurere.
16. The Cabinet Secretary noted that the Ministry was unable to deal with Enosupukia IDPs/Forest evictees numbering 3,612 would best be addressed by the Ministry of Land, Housing and Urban Development.
17. The Evictees have been able to demonstrate that between 1993 and 2013, the Ministry of Lands was addressing their matter under the resettlement programme and that the matter was therefore wrongly shifted to the Ministry of Devolution.
18. The Ministry is yet to determine how far back in time the country can go in considering IDPs resettlement especially in terms of their identification and cost. This requires a major policy decision after all factors are considered including costs. As a result, the ministry has focused on the 2007/08 Post election violence IDPs who are almost all resettled.
19. At present, the Ministry has therefore neither profiled nor programmed the Enosupukia IDPs for resettlement as it has concentrated on the Post-Election Violence IDPs for now and the position has been communicated to the Enosupukia group representatives.

4 SUBMISSIONS FROM THE MINISTRY OF LANDS HOUSING AND URBAN DEVELOPMENT

During its 75th Sitting held on Tuesday 12th August 2014, in Parliament Buildings, the Committee met with the Permanent Secretary, Ministry of Lands, Housing and Urban Development, Ms. Mariam El Maawy, accompanied by Ms. Sarah N. Mwendwa, Deputy Commissioner of Lands and Ms Esther N.Ogega, Director of Land adjudication and Settlement who informed the Committee as follows, THAT:

20. The Ministry has never been funded to resettle the 1992/1993 and 1997 tribal clashes victims and has therefore not resettled victims of the 1992/1993 tribal clashes.
21. The victims have never been profiled nor registered and operate as individual groups and only the Internally Displaced Persons of the Post-Election Violence of 2007/2008 were profiled and are being resettled.
22. The role of the Ministry of Lands, Housing and Urban Development was to purchase, plan, survey and allocate land to the IDPs already profiled while the profiling exercise was the mandate of the then Ministry of State for special programmes now the Ministry of Devolution and Planning, (Directorate of State for Special Programmes).

5 COMMITTEE OBSERVATIONS

The petitioners prayed that Parliament investigates the matter and intervenes with a view to helping the petitioners in getting suitable land for resettlement and compensation for the suffering endured in the last 20 years;

The Committee observed as follows: THAT

1. The Enosupukia IDPs have been suffering for the last 20 years since they were evicted from their Land in 1992 and 1993..
2. The Enosupukia Evictees victims have not been properly profiled nor registered and operate as individual groups and only the Internally Displaced Persons of the Post-Election Violence of 2007/2008 were profiled and are being resettled.

3. The Enoosupukia Evictees have previously sought assistance from the government but have not been resettled and there has been no land identified for their resettlement .

6. COMMITTEE RECOMMENDATIONS

The Committee noted the Prayer by the petitioners that Parliament investigates the matter and intervenes with a view to helping the petitioners in getting suitable land for resettlement and compensation for the suffering endured in the last 20 years;

The Committee recommends as follows:

1. The Ministry for Devolution and Planning should within 100 Days operationalize the National Humanitarian Fund Advisory Board for it to implement its Mandate.
2. The National Land Commission through the Task force on Historical Injustices expedites the process of formulating the Bill on Historical Injustices for consideration by Parliament as it would help address Historical Land injustices.
3. Ministry for Devolution and Planning should profile and register the Enoosupukia Evictees with a view to support them in rebuilding their lives.

ATTENDANCE LIST

DEPARTMENTAL COMMITTEE ON LANDS

DATE: 23/10/14

VENUE: SMALL BOARD ROOM
HARAMBEE THE 9TH FLR

AGENDA: ADOPTION OF THE REPORT ON THE PETITION FOR THE RESETTLEMENT OF
ENOOSUPUKIA EVICTED PERSONS

NO.	NAME	TITLE	SIGNATURE
1.	The Hon. Alex Mwiru, M.P. (Chairperson)	Chairman	
2.	The Hon. Moses Ole Sakuda, M.P (Vice Chairperson)	Vice Chairman	
3.	The Hon. Onesmas Ngunjiri, M.P.	Member	
4.	The Hon. Mutava Musyimi, M.P.	Member	
5.	The Hon. John Kihagi, M.P.	Member	
6.	The Hon. Francis W. Nderitu, M.P.	Member	
7.	The Hon. Francis Njenga, M.P.	Member	
8.	The Hon. A. Shariff, M.P.	Member	
9.	The Hon. Eusilah Jepkosgei, M.P.		
10.	The Hon. Benard Bett, M.P.	Member	
11.	The Hon. Kipruto Moi, M.P.	Member	
12.	The Hon. Oscar Sudi, M.P.		
13.	The Hon. Hellen Chepkwony, M.P.		
14.	The Hon. Sarah Korere, M.P.	Member	
15.	The Hon. Julius Ndegwa, M.P.		
16.	The Hon. Benson Mbai, M.P.		
17.	The Hon. Kanini Kega, M.P.		
18.	The Hon. Esther Murugi, M.P.	Member	
19.	The Hon. Gideon M. Mung'aro, M.P.		
20.	The Hon. Hezron Awiti Bollo, M.P.	Member	
21.	The Hon. Suleiman Dori Ramadhani, M.P.	"	
22.	The Hon. George Oner Ogalo, M.P.		
23.	The Hon. Lekidime Lempurkel Mathew, M.P.		
24.	The Hon. Shakila Abdallah, M.P.		
25.	The Hon. Paul Otuoma, M.P.	"	
26.	The Hon. Thomas Mwadeghu, M.P.		
27.	The Hon. Magwanga Joseph Oyugi, M.P.	Member	
28.	The Hon. Aburi Lawrence Mpuru, M.P.		
29.	The Hon. King'ola Patrick Makau, M.P.		

MINUTES OF THE NINETY THIRD SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY 23RD OCTOBER 2014, IN THE SMALL BOARD ROOM, HARAMMBEE HOUSE, 9TH FLOOR AT 11.30 A.M

PRESENT:

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Moses Ole Sakuda, M.P. - Vice Chairperson
3. The Hon. Francis W. Nderitu, M.P.
4. The Hon. Onesmus Ngunjiri, M.P.
5. The Hon. Dr. Paul Otuoma, M.P.
6. The Hon. Mutava Musyimi, M.P.
7. The Hon. Francis Njenga Kigo, M.P.
8. The Hon. A. Shariff, M.P.
9. The Hon. Hezron Awiti Bollo, M.P.
10. The Hon. Eusilah Ngeny, M.P.
11. The Hon. Esther Murugi, M.P.
12. The Hon. Sarah Korere, M.P.
13. The Hon. Joseph Oyugi Magwanga, M.P.
14. The Hon. Suleiman Dori, M.P.
15. The Hon. Bernard Bett, M.P.
16. The Hon. John Kihagi, M.P.
17. The Hon. Kipruto Moi, M.P.

APOLOGIES

1. The Hon. Thomas Mwadeghu, M.P.
2. The Hon. Hellen Chepkwony, M.P.
3. The Hon. Benson Mbai, M.P.
4. The Hon. Shakila Abdallah, M.P.
5. The Hon. Kanini Kega, M.P.
6. The Hon. George Oner, M.P.
7. The Hon. Mathew L. Lempurkel, M.P.
8. The Hon. Gideon Mung'aro, M.P.
9. The Hon. Mpuru Aburi, M.P.
10. The Hon. Patrick Makau, M.P.
11. The Hon. Julius Ndegwa, M.P.

ABSENT

1. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

1. Mr. James Ginono Clerk Assistant I
2. Ms. Ruth Mwihaki Clerk Assistant III

MINUTE NO. DCK/LN/2014/215

PRELIMINARIES

The Chairman called the meeting to order at 12.00 p. m with a word of prayer. The Chairman thereafter informed the Members that the Committee would visit Karen on Monday 27th October at 2.00pm. The Committee would then meet the Cabinet Secretary for Lands and the Chairman National Land Commission on Tuesday 28th October at 10.00 a.m. over the Karen and Lamu Land Issue and the statement requested by the Hon. Jakoyo Midiwo.

MINUTE NO. DCK/LN/2014/216

ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by the Hon. Mutava Musyimi, M.P and seconded by the Hon. Francis Waweru, M.P.

MINUTE NO. DCK/LN/2014/217

CONFIRMATION OF MINUTES

The minutes of the 92nd sitting held on 16th October 2014 were proposed by Hon. Njenga Kigo, M.P and seconded by the Hon. Francis Waweru, M.P as a true record of the proceedings and signed by the Chairman.

MINUTE NO. DCK/LN/2014/218

MATTERS ARISING

a. Vide Minute No. DCL/LN/2014/213(a) Ministerial Statement Requested By Hon. Waihenya and Hon Phillip Rotino

The Chairman brought to the attention of members the Speakers ruling in regard to the General Oversight Committee. Members were further informed that, three Committee's would meet at different times on Tuesday Mornings in the Chambers to interrogate respective Cabinet Secretaries but under the Chairmanship of respective Committee chairs. Three Cabinet Secretaries would appear before the Committee at a time and each would be allocated a maximum of 50 minutes. Meetings will be scheduled in the order paper.

MINUTE NO. DCK/LN/2014/219

CONSIDERATION OF A PETITION BY TWIGA FARM EVICTEES

Members considered the petition by Twiga Farm Evictees who have been residing in the land known as LR No. 9312,9313 and 3760.The petitioners claim that the land has never been part of Mboi Kamiti Land Buying Company and that they were evicted by government officers from the land in 2012.The petitioners are praying that parliament intervenes to have a thorough audit carried out to determine the Bonafide owners of the land; have the petitioners immediately and adequately compensated by the state for forceful eviction, loss of life and property and recommends investigations by the CID on the criminal culpability of all state officers involved.

As provided for in Standing Order 90 on declaration of interest, the Hon. John Kihagi, MP declared his interest in the matter and informed the members that he is involved as a consultant in planning for Mboi Kamiti.

Members noted with concern that the Mboi Kamiti land buying company has been having internal wrangles and it's not clear who the directors are.

Members also observed that the conflict over the land has drawn in individuals in the Kiambu County Government who have vested interest in the matter.

The Committee Resolved to conduct an enquiry into the ownership of the Land and in that regard, THAT:

1. The Cabinet Secretary for Lands Housing and Urban Development and the Chairman, National Land Commission should appear before the Committee to shed more light on the matter;
2. That the Registrar of Companies should provide to the Committee a list of the Bonafide Directors of Mboi Kamiti land buying Company;
3. Once the List of Directors is availed, the Directors should be invited to appear before the Committee to give evidence;
4. That the County Executive Committee Member for Lands in Kiambu County be invited to appear before the Committee and give evidence on the petition ;
5. That the Committee undertakes a field visit to Twiga Farm in Juja to interact with the petitioners.

MINUTE NO. DCK/LN/2014/220

CONSIDERATION OF A PETITION BY HON SHIMBWA OMAR MWINYI ON LEASED LAND MEANT FOR EXPANSION OF MOI INTERNATIONAL AIRPORT IN CHANGAMWE CONSTITUENCY

Members considered the petition by Changamwe residents who are praying that Parliament intervenes to have the government discontinue any further leasing of land Plot No 12223/VI/MN belonging to natives of Bokole in Airport Ward, and Plot No.1066 sec.VI/MN in Port Reitz Ward in Changamwe Constituency.

The Committee Resolved:

To undertake an inspection visit of the area jointly with the visit scheduled for Nyali Constituency on 31st October 2014.

MINUTE NO. DCK/LN/2014/221

ADOPTION OF THE REPORT ON THE PETITION FOR THE RESETTLEMENT OF ENOOSUPUKIA EVICTED PERSONS

The Report was adopted after being proposed by the Hon.Sarah Korere, M.P and Seconded by the Hon. Joseph Magwanga, M.P with the following amendments:

That the Committee made the following observations:

1. The Enoosupukia IDPs have been suffering for the last 20 years since they were evicted from there Land in 1992 and 1993.
2. The Enoosupukia Evictees victims have not been properly profiled nor registered and operate as individual groups and only the Internally Displaced Persons of the Post-Election Violence of 2007/2008 were profiled and are being resettled.
3. The Enoosupukia Evictees have previously sought assistance from the government but have not been resettled and there has been no land identified for their resettlement .

That the Committee recommended as follows:

1. The Ministry for Devolution and Planning should within 100 Days operationalize the National Humanitarian Fund Advisory Board for it to implement its Mandate.
2. The National Land Commission through the Task force on Historical Injustices expedites the process of formulating the Bill on Historical Injustices for consideration by Parliament as it would help address Historical Land injustices.
3. Ministry for Devolution and Planning should profile and register the Enoosupukia Evictees with a view to support them in rebuilding their lives.

MINUTE NO. DCK/LN/2014/222

ADOPTION OF THE REPORT ON THE PETITION FOR THE RESETTLEMENT OF INTERNALLY DISPLACED PERSONS IN NAIROBI

The Report was adopted after being proposed by the Hon. Dr. Paul Otuoma, M.P and Seconded by the Hon. Bernard Bett, M.P with the following amendments:

That the Committee made the following observations:

- a) The group has met various government officials in its attempt to get assistance and in 2012, they received food aid which was withdrawn at the beginning of 2013 and since then they

have sought assistance from the County Government but were referred back to the Ministry of Devolution and Planning.

- b) The group comprises of people who were affected during the 2007-2008 post-election violence and at that time they were working and living in Nairobi. Most of the group members were born and were living in Mathare, Kibira, Kamukunji and Njiru before being displaced in the Post-election violence of 2007/8, and did not own any land and the members consist of mostly small businessmen/women and that the group was registered as a community Based Organization on 21st June 2013.
- c) Delay in the operationalization of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act of 2012 (IDP Act) and its National Consultative Committee is hampering efforts to determine policy issues concerning IDPs in the country.
- d) Most IDPs in Nairobi were either tenants or small businessmen mostly in slum areas and their displacement was different in that most moved to other estates or within the estates after the clashes. Although some lost personal properties to looters, none lost land and a few were displaced from their houses. In view of this, the National Humanitarian fund Board therefore considered most of these IDPs as integrated and decided to pay each of them Kshs.10, 000.00 as startup capital.

That the Committee recommended as follows:

- a) Resources for the implementation of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act of 2012 (IDP Act) and IDP policy be provided for in the Budget for the 2015/2016 Financial year so that the Ministry can operationalize the Act.
- b) The Ministry for Devolution and Planning should within 100 Days operationalize the National Humanitarian Fund Advisory Board for it to implement its Mandate.

MINUTE NO. DCK/LN/2014/223

ADOPTION OF THE REPORT ON THE PETITION FOR
THE RESETTLEMENT OF THE 1992 MOLO CLASH
VICTIMS

The Report was adopted after being proposed by the Hon. Francis Waweru, M.P and Seconded by the Hon. John Kihagi, M.P with the following amendments:

That the Committee made the following observations:

1. There are various cases of squatters and grabbing of land meant for resettlement of evictees of the Molo clashes.
2. The issue of Internally Displaced Persons (IDPs) in Molo is yet to be fully addressed.
3. The Ministry of Devolution, Planning and Special Programmes faces difficulties on policy regarding how far back in time to go in resettling past displacement.
4. The **“Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012”** and its National Consultative Coordination has not been operationalized.
5. There are no finances in the current financial year to operationalize **“Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012”** and to resettle molo land evictees.

6. The actual number of the 1992 Molo clash victims is not known because the group has not been properly profiled nor programmed for settlement. The IDPs under consideration currently are the 2007/08 Post Election Victims.
7. Some of the Molo IDPs have title deeds to the land they previously occupied prior to the clashes and currently know of the existence of these pieces of land.
8. There are some members of the 1992 Molo clashes victims living in Kasarani in Elburgon who were profiled and their numbers are known.

That the Committee recommended as follows:

1. The Criminal Investigation Department (CID) of the police investigates how the Kambala, Kivulini, Katikati, Mariashoni and Highlands farms purchased by government to settle IDPs and squatters, were allocated with a view of compensating genuine squatters/IDPs who were left out in the allocation.
2. The IDPs with proof of ownership of the land they previously occupied before the clashes should be facilitated to resettle on their land, by being offered security to do so.
3. The Ministry for Devolution, Planning and Special Programmes should conduct identification and profiling of IDPs in order to comprehensively deal with IDP issues in the Country.
4. The Ministry of Devolution and Planning should fast track the appointment of members to the National Consultative Coordination Committee under the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012 so as to help to determine and sort issues surrounding IDPs in the country;
5. The National Assembly sets aside Kshs. 1 Billion for allocation to the Ministry of Devolution and Planning to operationalize and implement the "Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012" and resettle the Molo 1992 clashes.

MINUTE NO. DCK/LN/2014/224

ADOPTION OF THE REPORT ON BANITA SETTLEMENT SCHEME

As per the provisions of Standing order 90 on Declaration of interest, the Hon. Kipruto Moi declared his interest in the matter as the Member for Rongai Constituency. He further proposed that the following recommendation be included,

That in the allocation exercise, 60 % of the land be allocated to pastoralists and 40 % to former workers of the farm'

The Report was adopted after being proposed by the Hon. Francis Waweru, M.P and Seconded by the Hon. John Kihagi, M.P with the following amendments:

That the Committee made the following observations:

1. Banita settlement scheme was formerly a sisal estate and is located in Makongeni location, Rongai Division, Nakuru County (former Nakuru District).
2. The land was bought by the Government through the settlement fund Trustee (SFT) from Maji Mingi group of companies to settle squatters within the Makongeni area of Rongai Division in Nakuru County.
3. The Government purchased a total of 14,115 acres at a price of Kshs. 292,078,280/- as hereunder:
 - a) Two agreements were made in Purchase of the Banita Land. Agreement dated

12102/1999 for Banita estate for parcels L.R 10774, 8933/2, 9977, 8932/2 (partly) and 10939 (partly) with a total of 11,115 acres at Kshs. 230 million and;
b) L.R 8932/2 (IR 12748) comprising 200 acres at Kshs. 41, 385,520.

4. The settlement process i.e. planning, survey and demarcation began in May 2002 and was completed in July 2007.
5. Beneficiaries were identified between October and November 2002 followed by letters of offer dated 18/12/2002.
6. There was political interference in the allotment process.
7. The Banita Settlement Scheme was planned surveyed and allocation done but the residents of the scheme are not in agreement with the way it was implemented.
8. Many People continue to transact and sell the land despite the fact that it is in dispute.
9. The allotment exercise was covered in fraud and malpractice which was perpetrated by land officials, former provincial administration, and other civil servants.

That the Committee recommended as follows

1. The Ministry of Land, Housing and Urban Development and the National Lands Commission commences with immediate effect a land audit in the area with a view to establish genuine allottees and identifying outsiders who were allotted land in the scheme illegally and demarcate sites for building Public Utilities like Schools, Hospitals, Police Station and public Markets.
2. The Ministry of Lands, Housing and Urban Development and the National Land Commission in collaboration with stakeholders commences a fresh allotment exercise in the settlement scheme.
3. The Ethics and Anti- Corruption Commission conducts investigations into the conduct of government officers who fraudulently issued allotment letters and probes the conduct of officers who were in the former provincial on their role in land matters and security in Banita scheme.
4. The initial report declaring the area as semi-arid be followed/used and the basis of allotment of land be a minimum of 10 acres per person based on the classification of Banita as a semi-arid area.
5. That in the allocation exercise, the ratio to be used be as follows: 60 % of the land be allocated to pastoralists, and 40 % be allocated to former workers of the farm.
6. The Ministry of Land, Housing and Urban Development puts caveats in the Land so as to stop any transactions on the land and any activity be declared illegal until the dispute is resolved.

MINUTE NO. DCK/LN/2014/225 ANY OTHER BUSINESS

The following matters arose:

1. Auction of Land in Kajiado West Constituency

The Hon. Moses Ole Sakuda, M.P informed the committee that two group ranches in Kajiado West Constituency had been put on auction in the Daily Nation of 23rd October 2012. The Land in question covers the whole of Magadi Division in Kajiado West Constituency including the Schools and other public facilities within the land.

It was resolved that a letter be written to the Attorney general through the Committee Chairman to request that the Attorney General Intervenes in the matter and the sale be put in abeyance in order to reduce tensions in the area and to allow the Committee to investigate the matter.

2. Naivasha Report-(Munengi/Isakhakia report)

It was resolved that the report be scheduled for discussion by members in the coming week.

3. Community Land Bill

The Committee was informed that the bill had not been submitted.


Members noted that the bill is crucial and very critical to the management of Community land in the Counties.

It was resolved that a letter be written to the Ministry and NLC to enquire on the progress of drafting the bill.

MINUTE NO. DCK/LN/2014/225 ADJOURNMENT & DATE OF THE NEXT SITTING

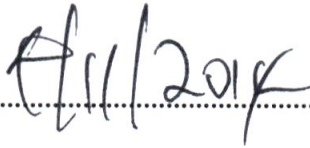
And the time being fifty four Minutes past one O'clock, the Chairperson adjourned the Sitting Monday 27th October at 2.00 p. m

SIGNED



.....
(CHAIRPERSON)

DATE



MINUTES OF THE SEVENTY SEVENTH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY 14TH AUGUST 2014, AT THE SECOND FLOOR BOARD ROOM, MAIN PARLIAMENT BUILDINGS AT 9.30 A.M.

PRESENT:

- | | | |
|--|---|------------------|
| 1. The Hon. Alex Mwiru, M.P. | - | Chairperson |
| 2. The Hon. Moses Ole Sakuda, M.P. | - | Vice Chairperson |
| 3. The Hon. Onesmus Ngunjiri, M.P. | | |
| 4. The Hon. John Kihagi, M.P. | | |
| 5. The Hon. Francis W. Nderitu, M.P. | | |
| 6. The Hon. Benson Mbai, M.P. | | |
| 7. The Hon. A. Shariff, M.P. | | |
| 8. The Hon. Bernard Bett, M.P. | | |
| 9. The Hon. Kipruto Moi, M.P. | | |
| 10. The Hon. Sarah Korere, M.P. | | |
| 11. The Hon. Hellen Chepkwony, M.P. | | |
| 12. The Hon. Kanini Kega, M.P. | | |
| 13. The Hon. Esther Murugi, M.P. | | |
| 14. The Hon. Suleiman Dori, M.P. | | |
| 15. The Hon. Mathew L. Lempurkel, M.P. | | |
| 16. The Hon. Joseph Oyugi Magwanga, M.P. | | |
| 17. The Hon. Mpuru Aburi, M.P. | | |
| 18. The Hon. Patrick Makau, M.P. | | |

ABSENT WITH APOLOGY

1. The Hon. Mutava Musyimi, M.P.
2. The Hon. Eusilah Ngeny, M.P.
3. The Hon. Gideon Mung'aro, M.P.
4. The Hon. Francis Kigo Njenga, M.P.
5. The Hon. George Oner, M.P.
6. The Hon. Hezron Awiti Bollo, M.P.
7. The Hon. Julius Ndegwa, M.P.
8. The Hon. Thomas Mwadeghu, M.P.
9. The Hon. Shakila Abdallah, M.P.

ABSENT WITHOUT APOLOGY

1. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE

- | | | |
|-----------------------|---|-------------------------------|
| 1. Mr. James Ginono | - | Clerk Assistant I |
| 2. Ms. Ruth Mwhaki | - | Clerk Assistant III |
| 3. Mr. Noah Arap Too | - | Research and Policy Analyst I |
| 4. Ms. Lynette Otieno | - | Legal Counsel II |

MINUTE NO. DCL/LN/2014/150

PRELIMINARIES

The Chairman called the meeting to order at 10.00 a.m with a word of prayer.

MINUTE NO. DCL/LN/2014/151

EVIDENCE: RESPONSE TO PETITIONS BEFORE THE COMMITTEE

The Cabinet Secretary for Devolution and Planning, Ms. Anne Waiguru, accompanied by Dr. John Konchella, Permanent Secretary, Mr. Simon Munyiri, Ms. Betty Maina, Senior advisor and Mr. Joseph Macharia appeared before the Committee and gave evidence on the following petitions:

1. Petition for the resettlement of victims of the 1992 Molo clashes

2. Petition regarding the provision of funds for resettlement of Internally displaced persons
3. Petition regarding resettlement of Enosupukia evictees

The Committee was informed THAT:

1. Until 2012, there was no legal framework to deal with internal displacement in Kenya, and internal displacement issues were often handled in the context of humanitarian assistance. Similarly, there was no designated institutional framework to deal with internal displacement until the establishment of the National Humanitarian fund and the attendant structures in 2007/2008. Comprehensive data and information on how victims of internal displacement have been handled over the years have therefore proved hard to find.
2. Following the Post-Election Violence of 2007/8, the government established the National Humanitarian Fund through a legal notice no.11 of 2008. This was followed by the establishment of the advisory board through legal notice no 1038 of 15th February 2008 to:
 - a) Determine the persons who were adversely affected by the violence
 - b) Resettle the persons displaced by the PEV
 - c) Replace basic household effects destroyed during the PEV
 - d) Enable the victims to restart their basic livelihood
 - e) Reconstruct basic housing
 - f) Rehabilitate community utilities and institutions destroyed during the violence
3. The Mandate of the ministry is limited to resettlement of the people profiled after the 2007/2008 Post Election Violence after establishment of a legal framework. The Ministry was however directed to resettle specific groups of forest evictees from Mau, Kieni, Embombut, Teldet and Kipkurere.

The Committee was further informed as follows:

Regarding the Petition for the resettlement of victims of the 1992 Molo clashes

THAT:-

1. In view of the legal framework in place, the ministry has not been able to extend its work to other groups such as the 1992 Molo Clashes victims.
2. The actual number of the 1992 Molo clashes is not known because the group has neither been profiled nor programmed for settlement as they fall outside the scope of the IDPs being considered.
3. The Ministry faces the difficult policy question of how far back in time to go in resettling past displacement. The operationalization of the "Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012" and its National consultative Coordination will however help to determine and sort these issues.
4. Resources for implementation of the Act were not allocated in this financial year hence the Act is yet to be operationalized.

Regarding the Petition regarding the provision of funds for resettlement of internally displaced persons.

THAT:-

1. The government is aware of the existence of IDPs in Nairobi and the ministry has profiled some 19, 146 individuals IDP and the records have 3,439 households.
2. The government is aware of some IDPS who were not profiled as it was difficult to establish when and where they were displaced. e.g Njiru group;

3. Most IDPs in Nairobi were either tenants or small businessmen mostly in slum areas and their displacement was different in that most moved to other estates or within the estates after the clashes.
4. Most IDPs lost nothing, a number lost personal properties to looters and none lost land. The National Humanitarian fund Board therefore considered most of these IDPs as integrated and decided to pay each of them Ksh.10,000 startup capital. They were therefore not considered for any other additional resettlement package.
5. During the 2007 Post Election violence, 663, 921 people (composed of 245,416 households) were displaced within the Country; 80,000 houses destroyed countrywide, 1300 lives lost while 640 IDP households fled to Uganda.
6. At the height of the violence, 350,000 IDPs sought refuge in 118 camps while 313,921 IDPs were integrated
7. Given that IDPs were faced with different situations and needs, they were categorized into four main categories
 - a. The 70,000 households (or 350,000 individuals) IDPs who agreed to voluntarily return to their farms through the Rudi Nyumbani operation.
 - b. The 8,754 families (including 2,574 Turkana IDPs) who formed self-help groups that were profiled by the ministry before the set deadline of 30th September 2008. These IDPs were resettled in government procured land with the exception of Ksh.400,000 each in lieu of land settlement
 - c. All the other IDPs numbering 165,846 households were categorized as integrated IDPs living among the various communities in the country. The integrated IDPs were paid Ksh.10,000 as startup capital
 - d. The 8910 forest evictee households who were also resettled through cash payment programme.
8. The Ministry was allocated Ksh.705 million for resettlement of IDPs in the current financial year which has been earmarked for the following activities:
 - a. Construction of IDP 2,400 houses in various government procured farms
 - b. Complete survey work, balloting and showing of plots in a number of farms where IDPs are settled in government procured lands.
 - c. Resettlement of 243 Kenya IDPs still in Uganda.
9. In the last four years, the ministry has received kshs.2, 856, 009, 000 for IDPs which has been utilized totally in IDP related activities.
10. Since the Commencement of the resettlement of IDPs in 2008, the government has spent Kshs. 15 billion in resettlement as follows
 - a) Procurement of Land (entirely from the Ministry of Lands for purchase of Land) Ksh.3,279,100,360
 - b) Government Support to the Ministry of Special Programmes Kshs. 4,776,351,167
 - c) Food –Kshs. 966,766,245
 - d) Non Food items –Kshs 117,615,000
 - e) Turkana Houses-1,000,000,000
 - f) Payments mobilized from the Ministry of Lands, Interior and Treasury –Kshs. 3,319,600,000
 - g) ADB project is Kshs. 1,700,000,000

The Committee was further informed THAT:-

1. The Ministry opted for cash payments as opposed to buying land for victims due to price escalations, locals wanting compromises for the land and victims refusing to move to other areas where land was bought;
2. Rose farm (2000 acres) was purchased at a cost of Kshs.560 million but no IDPs were settled. The Farm now belongs to the Agricultural Development Corporation;
3. The Lease for Muhu farm expired before the transaction could be completed;
4. Donga farm has a case in court after a dispute arose from the family members who sold the land;

5. Majority of forest evictees moved out of the forest areas after resettlement but a few still remain. The Ministries of Environment and Interior are looking into the matter with a view to establishing who moved and who remained;
6. The Ministry is in the process of establishing a Board under the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012, and is awaiting submission of member's names from various institutions. The Chairman of the Board has already been appointed.

Regarding the Petition for the resettlement of Enoosupukia evictees

THAT:-

1. The Ministry has received the case of Enoosupukia IDPs,/Forest evictees numbering 3,612 for consideration;
2. Ministry is unable to deal with the matter because issues surrounding their claims could best be addressed by the ministry of Land, Housing and Urban Development.
3. The Evictees have been able to demonstrate that between 1993 and 2013, the Ministry of Lands was addressing their matter under their resettlement program. The matter was therefore wrongly shifted to the Ministry of Devolution.
4. The Ministry has therefore neither profiled nor programmed the Enoosupukia IDPs for resettlement as it has concentrated on the Post-Election Violence IDPs for now and the position has been communicated to the Enoosupukia group representatives.

The Committee Resolved;

That the Cabinet Secretary submits the following information to the Committee in two weeks:

1. A breakdown of where the Land procured for resettlement of IDPs was bought
2. The beneficiaries of the Ksh. 3,319,600,000 cash payment
3. Breakdown of the Item of Government support to the Ministry of Special Programmes worth Ksh.4,776,351,167

MINUTE NO. DCL/LN/2014/152 ANY OTHER BUSINESS

The Committee noted that the Cabinet Secretary for Lands Housing and Urban Development had failed to honor the invitation to appear before the Committee. The Committee also observed that the Cabinet Secretary is quick to honor invitations when the agenda before the Committee is favorable to the Ministry.


The Committee Resolved;

That another invitation letter be made to the Cabinet Secretary for Lands, Housing and Urban Development to appear before the Committee on Tuesday 19th August 2014.

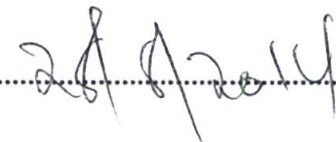
MINUTE NO. DCL/LN/2014/153 ADJOURNMENT & DATE OF THE NEXT SITTING

And the time being Twenty Minutes past one O'clock, the Chairperson adjourned the Sitting until Tuesday 19th August 2014 at 9.00 am at the Small Dining, Main Parliament Buildings.

SIGNED


.....
(CHAIRPERSON)

DATE


.....

MINUTES OF THE 75th SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON TUESDAY 12THAUGUST 2014, IN THE SMALL DINING, MAIN PARLIAMENT BUILDINGS AT 9.30 A.M.

PRESENT:

- | | | |
|--|---|------------------|
| 1. The Hon. Alex Mwiru, M.P. | - | Chairperson |
| 2. The Hon. Moses Ole Sakuda, M.P. | - | Vice Chairperson |
| 3. The Hon. Onesmus Ngunjiri, M.P. | | |
| 4. The Hon. Francis W. Nderitu, M.P. | | |
| 5. The Hon. A. Shariff, M.P. | | |
| 6. The Hon. Benson Mbai, M.P. | | |
| 7. The Hon. Bernard Bett, M.P. | | |
| 8. The Hon. Kipruto Moi, M.P. | | |
| 9. The Hon. Hellen Chepkwony, M.P. | | |
| 10. The Hon. Shakila Abdallah, M.P. | | |
| 11. The Hon. Kanini Kega, M.P. | | |
| 12. The Hon. Gideon Mung'aro, M.P. | | |
| 13. The Hon. Suleiman Dori, M.P. | | |
| 14. The Hon. Thomas Mwadeghu, M.P. | | |
| 15. The Hon. Joseph Oyugi Magwanga, M.P. | | |
| 16. The Hon. Mpuru Aburi, M.P. | | |
| 17. The Hon. Patrick Makau, M.P. | | |

ABSENT WITH APOLOGY

1. The Hon. John Kihagi, M.P.
2. The Hon. Francis Kigo Njenga, M.P.
3. The Hon. Mutava Musyimi, M.P.
4. The Hon. Esther Murugi, M.P.
5. The Hon. Hezron Awiti Bollo, M.P.
6. The Hon. Mathew L. Lempurkel, M.P.
7. The Hon. Julius Ndegwa, M.P.
8. The Hon. Eusilah Ngeny, M.P.
9. The Hon. Sarah Korere, M.P.
10. The Hon. George Oner, M.P.
11. The Hon. Dr. Paul Otuoma, M.P.

ABSENT WITHOUT APOLOGY

1. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

- | | |
|-----------------------|-------------------------------|
| 1. Mr. James Ginono | Clerk Assistant I |
| 2. Ms. Ruth Mwhaki | Clerk Assistant III |
| 3. Mr. Noah Too | Research and Policy Analyst I |
| 4. Ms. Lynette Otieno | Legal Counsel II |

MINUTE NO. DCL/LN/2014/136

PRELIMINARIES

The Chairman called the meeting to order at 9.50 a.m with a word of prayer.

MINUTE NO. DCL/LN/2014/137

ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by the Hon. Kanini Kega, M.P and seconded by the Hon. Benson Mbai, M.P.

MINUTE NO. DCL/LN/2014/138

CONFIRMATION OF MINUTES

The minutes of the sitting held on 15th July 2014 were proposed by Hon. Hellen Chepkwony, M.P and seconded by the Hon. Kipruto Moi, M.P as a true record of the proceedings and signed by the Chairman.

MINUTE NO. DCL/LN/2014/139

MATTERS ARISING

a) Vide Minute NO DCL/LN/2014/114 FOREIGN VISITS TO BE UNDERTAKEN BY THE COMMITTEE IN THE CURRENT FY

The Committee was informed that size of delegations for foreign trips has been capped at 7 members as per a directive from the House leadership.

The Committee resolved that;

- a) Members who were to travel in the last financial year but were inconvenienced due to lack of documents should be given priority while deciding on delegations.
- b) The other criteria to use while deciding on delegations should be Members commitment to the Committee in terms of attendance during Committee sitting and domestic visits.

b) Vide Minute No DCL/LN/2014/115 EVIDENCE FROM MWASIMA MBUA WELFARE ASSOCIATION OFFICIALS

The Committee proposed that a recommendation for a survey to establish the boundaries of Teita Sisal Estate should be made in the report.

c. Vide Minute No DCL/LN/2014/117 INSPECTION VISIT TO NAROK

The Committee was informed by the Delegation to Narok that:

- i. That the petitioners have title deeds and sale agreements to the land and were evicted from the lands in 2005;
- ii. There are caveats currently on the titles Land;
- iii. The forest cover is completely destroyed in Narok South especially in the said Ranches where Caveats were put;
- iv. Government Schools and hospitals exist in the area;
- v. That Bomet Governor Isaac Ruto visited the area after the Committee left and asked residents to stay put in their land;
- vi. Compensation and resettlement of the petitioners would be expensive while eviction is not an option;
- vii. The committee should include in its recommendations that environmental friendly methods of farming and environment conservation through planting trees be adopted to recover the forest cover.

MINUTE NO. DCL/LN/2014/140

CONSIDERATION OF THE STATUTE MISCELLANEOUS (AMMENDMENT) BILL 2014

THE Committee was informed that there were two proposed amendments on the Statute Miscellaneous Amendment Bill touching on the Committee's Mandate;

1. Amendment to the schedule of Land Registration Act, 2012) aimed at repealing the Land Control Act (Cap 302);
2. Amendment to Section 24 of the National Land Commission Act 2012 by inserting a new subsection 1A-That the Common seal of the Commission shall be Authenticated by the Signatures of the Chairperson and one other Member of the Committee; aimed at providing for the authentication of the Common seal of the Commission.

The Committee Resolved that:

1. The Amendment to the schedule of Land Registration Act, 2012) aimed at repealing the Land Control Act (Cap 302) be amended as proposed.
2. The 'other member of the Commission' in the proposed amendment to Section 24 of the National Land Commission Act 2012 to be replaced with 'Secretary to the Commission' in the amendment.

MINUTE NO. DCL/LN/2014/141

EVIDENCE

The Principal Secretary, Ministry of Lands, Housing and Urban Development, Ms. Mariam El Maawy, accompanied by Ms. Sarah N. Mwendwa, Deputy Commissioner of Lands and Ms. Esther N. Ogega, Director of Land Adjudication and Settlement, appeared before the Committee gave evidence on the Petition for the recognition of title deeds and removal of caveats on titles on selected properties in Narok, petition for the resettlement of Enoosupukia evictees and the recent revocation of title deeds for 500,000 acres in Lamu.

1. PETITION FOR THE RECOGNITION OF TITLE DEEDS AND REMOVAL OF CAVEATS ON TITLES ON SELECTED PROPERTIES IN NAROK

The Committee found the submissions by the Principal Secretary unsatisfactory. The Committee resolved that Cabinet Secretary should appear before the Committee on Thursday 14th August at 9.00 am to present a more comprehensive report the matter.

2. PETITION FOR THE RESETTLEMENT OF ENOOSUPUKIA EVICTEES

The Committee was informed that:

1. No allocation was made for the same through the Ministry of Lands , Housing and Urban Development
2. The matter falls under the Ministry of Devolution and Planning and the Ministry is therefore in a better position to respond to issues raised.

3. REVOCATION OF TITLES IN LAMU

The Committee was informed THAT:

1. No titles have been revoked as yet but instructions have been given to start the process of looking into the titles with a view of establishing whether they were allocated regularly or not;
2. The Ministry is working together with the National Land Commission(NLC) on the matter and the NLC has already announced a schedule of looking into the titles on a case to case basis;
3. During the issuing of titles in Kilifi, Taita and Kwale in 2013, only a few titles were issued in Lamu. The surveyors on the ground are therefore there on the basis of the Ministry's ongoing titling exercise and are working with the local area leaders who have suggested other areas on the ground that need to be surveyed;
4. Reforms in the registries and digitization of records will allow the Ministry to ascertain irregularly allocated land in other parts of the Country. The process is however ongoing and will take a few more months;
5. The details of owners of the land in Lamu are still under investigation and will be availed.

The Committee Resolved: THAT

The Cabinet Secretary should appear before the Committee on 14th August 2014 at 9.00 a.m. in addition provides the following information;

1. Provide details on the irregularly allocated land in Lamu, when and how the Land was acquired
2. The people behind the companies owning the land in question in Lamu.
3. Map of the affected area;
4. Provide information on Public Land in Tenevi, Mandatoto and Kui that was irregularly acquired in 1992/1993;
5. The Committee undertake an inspection visit to the affected areas in Lamu from 21st to 23rd August 2014

MINUTE NO. DCL/LN/2014/142 A.O.B

The following matter arose:

1. Trans-Nzoia Visit

Following a directive by the speaker that the Committee investigates and reports on the Ministerial request by Hon. Pukose on the circumstances surrounding the degazetment of the land being occupied by members of Chorlim Society in Endeless Constituency, the Committee resolved to undertake a field visit to Trans-Nzoia from 28th -30th August 2014. Further, that the Committee tours Banita during the visit.

2. Comments by the Constitutional Implementation Commission (CIC) on Proposed amendments to the land Statutes

The Committee resolved that the CIC should submit their Comments on the Land laws in 14 days to allow the Committee to proceed with the amendments to the three land laws.

MINUTE NO. DCL/LN/2014/143 ADJOURNMENT & DATE OF THE NEXT SITTING

And the time being twenty Minutes past one O'clock, the Chairperson adjourned the Sitting until Wednesday 13th August 2014 at 9.00am in the Fourth Floor Board Room, Protection House.

SIGNED

.....
(CHAIRPERSON)

DATE

.....
27/8/2014

MINUTES OF THE SEVENTY SECONDSITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON TUESDAY 22ND JULY 2014, IN THE BOARD ROOM OF 4TH FLOOR PROTECTION HOUSE AT 10.30 A.M.

PRESENT:

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Moses Ole Sakuda, M.P. - Vice Chairperson
3. The Hon. A. Shariff, M.P.
4. The Hon. Bernard Bett, M.P.
5. The Hon. Kipruto Moi, M.P.
6. The Hon. Hellen Chepkwony, M.P.
7. The Hon. Eusilah Ngeny, M.P.
8. The Hon. Julius Ndegwa, M.P.
9. The Hon. Benson Mbai, M.P.
10. The Hon. Suleiman Dori, M.P.
11. The Hon. Paul Otuoma, M.P.
12. The Hon. Sarah Korere, M.P.
13. The Hon. George Oner, M.P.
14. The Hon. Kanini Kega, M.P.
15. The Hon. Mathew L. Lempurkel, M.P.
16. The Hon. Patrick Makau, M.P.

ABSENT WITH APOLOGY

1. The Hon. Onesmus Ngunjiri, M.P.
2. The Hon. John Kihagi, M.P.
3. The Hon. Francis W. Nderitu, M.P.
4. The Hon. Francis Kigo Njenga, M.P.
5. The Hon. Shakila Abdallah, M.P.
6. The Hon. Esther Murugi, M.P.
7. The Hon. Thomas Mwadeghu, M.P.
8. The Hon. Gideon Mung'aro, M.P.
9. The Hon. Hezron Awiti Bollo, M.P.
10. The Hon. Joseph Oyugi Magwanga, M.P.
11. The Hon. Mpuru Aburi, M.P.

ABSENT WITHOUT APOLOGY

1. The Hon. Mutava Musyimi, M.P.
2. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

- | | |
|------------------------|-----------------------------|
| 1. Ms. Phyllis Mirungu | Principal Clerk Assistant 1 |
| 2. Mr. James Ginono | Clerk Assistant I |
| 3. Ms. Ruth Mwhiki | Clerk Assistant III |
| 4. Ms. Lynette Otieno | Legal Counsel II |

MINUTE NO. DCL/LN/2014/119

PRELIMINARIES

The Chairman called the meeting to order at 10.30a.m with a word of prayer.

MINUTE NO. DCL/LN/2014/120

BRIEFING FOR THE CABINET SECRETARY FOR LANDS,
HOUSING AND URBAN DEVELOPMENT, HON.
CHARITY K. NGILU ON THE OPERATIONS OF THE
MINISTRY

The Cabinet Secretary informed the Committee that the purpose of seeking audience with the Committee was to;

1. Appraise the Committee on the operations of ministry especially after re-opening of the registries at the headquarters
2. To seek concurrence from the Committee on the need to unlock the signing of the Grants and leases that were left behind by the former commissioner of lands

The Committee was informed that:

1. The Ministry undertook a major exercise of reorganizing the 3 registries at the Headquarters in the month of May 2014. This involved the closing of the Central Record Registries for 10 working days (May 05 to 19, 2014). During this period the Ministry staff with the support of 300 university students from Kenyatta University and Jomo Kenyatta University were able to retrieve, record and re-shelf over 1.3 million files in the 3 registries. The following results have been achieved so far:
2. Revenue collections has increased following the clean up to over Kshs. 1 billion per month, as follows:
 - i. April - Kshs. 765,557,349.66
 - ii. May - Kshs. 862,557,078.89 (in two weeks)
 - iii. June - Kshs. 1,175,421,847.72
 - iv. There is a notable increase of Kshs. 409,864,498 collected between April and June 2014
3. Annual revenue in the FY 2013/2014 increased to Kshs. 11,350,832,736.99 up from Ksh. 9,901,330,970.41 in FY 2012/2013, an increase of Kshs. 1,449,501,776.58
4. The turn-around time in registration of property has reduced from 73 to 16 days for example:
 - i. To apply and get a search - 1 day down from 3 days
 - ii. To apply and get a land rent clearance certificate - 1 day down from 19 days
 - iii. To get consent to transfer property - 2 days down from 9 days
 - iv. To get a valuation report for stamp duty - 3 days down from 20 days
 - v. To endorse documents for stamp duty - 1 day down from 4 days
 - vi. To lodge and register transfer documents - 4 days down from 12 days
5. The Ministry has been unable to process Grants and Leases with over 1700 grants and leases currently awaiting registration. These were grants and leases that were left behind by the former Commissioner of lands and have already been processed, while many more requests are being received since February this year. On Average the Ministry is receiving 130 people per day seeking registration.
6. No new allocations are being done. Registration is for land that was previously allocated.

7. That National Land Commission on the basis of the old special conditions on grants and leases seeks to sign grants and leases thus encroaching on registration matters which is a mandate of the Ministry. This has therefore caused the delays in processing of grants and leases.
8. The Ministry is proposing to alter the lease forms as provided by section 108 of the Land Registration Act (2012) and Sections 160 & 161 of the Land Act (2012) to enable the Ministry to finalize on the pending grants and leases.
9. The changes anticipated in the new forms involve replacing the name "Commissioner of lands" with "Registrar of Lands".
10. The ministry wants the Land Committee to allow the Ministry to gazette the proposed forms in order to unlock the processing of leases and new grants
11. Most of the cases in Court concerning the Ministry are self- inflicted in that they are due to actions of corrupt ministry staff. The Ministry is also not in a position to tell which grants were acquired fraudulently and which ones are genuine.
12. To fast track the amendments to the land laws to harmonize the operations in the Land sector

The Committee was further informed that:

1. The has installed CCTV Cameras and bio metric doors in the registries. This has helped in boosting security within the premises and helped in tracking the movement of files from the registry. Files are returned to the registry immediately after use. The basement entrance to the building has also been closed leaving only one main entrance to the building.
2. Cartels formerly operating in the Ministry have greatly reduced and only Ministry Staff and visitors who have business to transact are allowed within the compound.
3. The National Titling Centre is complete and staff is currently undergoing training to build their capacity. The Centre operates on an open office plan system. Surveyors, land registration officers and other staff are all under one roof.
4. The Ministry is in the process of digitizing and procurement for an organization to undertake the digitization has already begun. The Ministry has further acquired extra bandwidth to increase it from 10 to 30. The Ministry is also in collaboration with Safaricom planning to develop an interactive online search platform to be ready in a few weeks.
5. The Ministry intends to continue operating from the tents in the meantime until such a time when processes are streamlined and public confidence fully restored.
6. The National Land Commission is mandated by the Constitution to advise the National government on a comprehensive programme for registration of title in Land through-out the country. The Land laws (land Registration act, National Land Commission Act and the Land act however stretch this mandate by giving the NLC certain functions and roles in registration which are unconstitutional and are creating confusion in the land sector.

The Committee Observed:

1. That the forms must be prescribed in law (regulations) yet the regulations are not in place yet.
2. That the minister has not submitted draft regulations to operationalize the land laws as previously agreed

The Committee Resolved: that

1. The Ministry should involve the Committee in its activities; For example the scheduled issuance of title deeds in Meru and Coast regions and the commissioning of the National Titling Centre.
2. The Committee will undertake a visit to the Ministry of Lands and the National Titling Centre.
3. That while appearing to give a brief to the Committee on the Petition for removal of caveats and recognition of titles in Narok County on 29th July 2014, the Minister should present responses to the pending ministerial statement requests
4. That a Sitting be held on Wednesday 23rd July 2014 to deliberate on the matter so as to come up with a response for the Cabinet Secretary

MINUTE NO. DCL/LN/2014/121

**BRIEFING FROM MR. KARANJA KAMAU (PETITIONER)
ON THE PETITION TO RESETTLE THE ENOOSUPUKIA
EVICTED PERSONS.**

The Committee noted the absence of two petitioners who had signed the petition, Mr. Joel Kiragu and Mr. Samson Ngonori. The Committee was informed that the two had ceased to be members of the Committee representing the petitioners.

The Committee was also informed that:

1. The Petitioners settled in Enosupukia after buying land from Maasai's and Dorobo's in 1960/1965. Sale agreements are available for transactions. Their Identification cards also show that they are from Enosupukia
2. They had already settled in the area and even constructed public facilities i.e. schools and Churches before being evicted.
3. Violence initially erupted in the early 80s and they sought assistance from Ole Ntimama but the matter was not addressed.
4. There were initially around 7000 registered persons who were affected by the evictions but currently there are 4287 registered persons.
5. After eviction from Enosupukia, they moved to Maela Camp and that is when the group Enosupukia Evictees was born. They sought the assistance of Provincial Commissioner Chelanga and were assured of getting land for resettlement
6. After eviction from Maela Camp, about 200 persons were resettled in Moi Ndabi. The 200 are not among the initial group and were not from Enosupukia but include Kikuyus, Dorobo's and Kalenjins
7. The Dorobo's did not register while registration was being undertaken in Maela as most had already gone back to Enosupukia but the majority of those who registered were Kikuyus who were unable to go back to Enosupukia due to the politics of the day.
8. Maela Camp was later destroyed and people moved to Kirigiti and Ndaragwa among other areas.

9. Currently the Petitioners are not living in the same place and are scattered in various parts of the Country
10. The petitioners have previously sought assistance from the government but have not been resettled.
11. There has been no land identified for their resettlement neither do they have a preferred area they would like to be resettled.

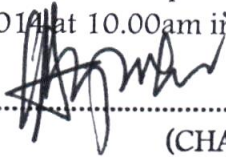
The Committee Resolved:

1. To seek more information on the Narok County Government during the Committee Visit to Narok on 7-10th August 2014.
2. To invite the Devolution Secretary to give more information on the efforts previously made by the government to resettle the evictees.

MINUTE NO. DCL/LN/2014/122 ADJOURNMENT & DATE OF THE NEXT SITTING

And the time being Ten Minutes pastone O'clock, the Chairperson adjourned the Sitting until Wednesday 23rd July 2014 at 10.00am in the Fourth Floor Board Room, Protection House.

SIGNED



(CHAIRPERSON)

DATE

27/8/2014

