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02/11/2023

REPUBLIC OF KENYA

THE SENATE

2ND SESSION

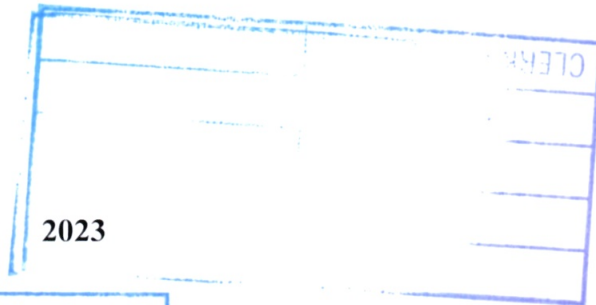
THIRTEENTH PARLIAMENT

Rt. Hon. Speaker
You may approve for tabling
J. M. Nyegenye, C.B.S.,
Clerk of the senate/secretary, PSC
Date: 02/11/23

THE REPORT OF THE SENATE STANDING COMMITTEE ON LAND,
ENVIRONMENT AND NATURAL RESOURCES

ON

THE PETITION BY RESIDENTS OF CHOKAA ON ILLEGAL
DEMOLITION AT MIHANG'O, NJIRU CHOKAA



PAPER IS LAID	
DATE	14/11/2023
TABLED BY	Sen. Kiaroching'a
COMMITTEE	Land
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LIST OF ABBREVIATIONS/ ACRONYMS

COK	-Constitution of Kenya
CS	- Cabinet Secretary
DCC	- Deputy County Commissioner
LR	- Land Reference
NLC	- National Land Commission
M-SACC	- Multi Sectoral Agency Consultative Committee
DCC	- Deputy County Commissioner
KPLC	- Kenya Power and Lighting Company

PREFACE

Mr. Speaker sir,

The Standing Committee on Land, Environment and Natural Resources is established pursuant to standing order 228(3) of the Standing Orders of the Senate. As set out in the Fourth Schedule, the Committee is mandated to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resource management and development.

Committee Membership

The Committee comprises of the following Members.

1. Sen. John Muhia Methu, MP - **Chairperson**
2. Sen. (Dr) Steve Lelegwe Ltumbesi, MP - **Vice-Chairperson**
3. Sen. William Cheptumo Kipkiror CBS, MP
4. Sen. Johnes Mwashushe Mwaruma, MP
5. Sen. Issa Juma Boy, MP
6. Sen. Agnes Kavindu Muthama, MP
7. Sen. Wamatinga Wahome, MP
8. Sen. Mariam Sheikh Omar MP
9. Sen. Beatrice Akinyi Ogola, MP

At a sitting of the Senate, held on 31st May, 2023, the Rt. Hon Speaker reported to the Senate a Petition that was submitted by Senator Mariam Sheikh Omar on behalf of residents of Chokaa Mihang'o, concerning the alleged illegal demolition of houses by KPLC in Embakasi East Constituency.

Pursuant to standing order 238(1) and the Fourth Schedule to the Standing Orders of the Senate, the Petition was committed to the Standing Committee on Land, Environment and Natural Resources.

Pursuant to Articles 37 and 119(1) of the Constitution, section 5(2) of the Petition to Parliament (Procedure) Act and standing order 238(2) of the Senate Standing Orders, the Committee is mandated to consider the Petition and respond to the Petitioners within

within the prescribed period.

To facilitate a judicious disposal of the Petition, the Committee resolved to conduct an inquiry on the issues raised in the Petition. In this regard the Committee invited the Petitioners to a meeting to elaborate further on the issues raised in the Petition and to supply supporting evidence on the same.

The Committee proceeded to seek for responses from the Cabinet Secretary of the Ministry of Energy and Petroleum to address the issues raised in the Petition.

ACKNOWLEDGEMENT

The Committee thanks the Offices of the Speaker of the Senate and the Clerk of the Senate for the support extended to the Committee in the execution of its mandate. The Committee further extends its appreciation to the Petitioners and the Ministry of Energy and Petroleum for their submissions and contribution to the resolution of this matter.

Mr. Speaker Sir,

It is now my pleasant duty and privilege, on behalf of the Committee, to present this Report of the Standing Committee on Land, Environment and Natural Resources on the Petition concerning the illegal demolition at Mihang'o Njiru Chokaa.

Signed:..... Date: 31/10/2023.....

SEN. JOHN MUHIA METHU, M.P.

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

CHAPTER I

1.1 INTRODUCTION

1. At the sitting of the Senate held on **31st May, 2023**, the Rt. Hon Speaker reported to the Senate a Petition that was submitted by Senator Mariam Sheikh Omar on behalf of residents of Chokaa Mihang'o, concerning the alleged illegal demolition of houses by KPLC in Embakasi East constituency.

1.11 Underlying Constitutional and Statutory Provisions

2. **Article 1(1) and (2)** of the Constitution, vests all sovereign power in the people of Kenya and shall be exercised only in accordance with the Constitution.
3. **Article 1(3) (a)** of the Constitution delegates sovereign power of the Constitution to, *inter alia*, Parliament and the legislative assemblies in the county governments.
4. **Article 37** of the Constitution provides that *every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities* while **Article 119(1)** of the Constitution provides that *“every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”*
5. **Article 40 (3)(b)(i)** of the Constitution provides that the state shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation- is for a public purpose or in the public interest and is carried out in accordance with the Constitution and an Act of Parliament that requires prompt payment in full or just compensation to the person.
6. **Article 60(1)(b)** of the Constitution further provides that land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable

and according to the principle of security of land rights.

7. Under **Article 62(1)(g) & (3)** of the Constitution, public land including government forests and shall vest in and be held by the national government in trust for the people of Kenya and shall be administered on their behalf by the National Land Commission.
8. Under **Article 67(2)** of the Constitution, the National Land Commission is mandated to manage public land on behalf of the national and county governments.

The Petition

9. The petition presented to the Senate addresses the purported unauthorized demolition of homes owned by the residents of Chokaa Mihang'o in Nairobi County. The petition indicates that this action was carried out by the Kenya Power and Lighting Company in the Chokaa region of Embakasi West Constituency, ostensibly because the homes were allegedly situated within the power line way-leave corridor.
10. It is stated in the petition that, in conjunction with a multi-sectoral agency consultative committee, the Kenya Power Company demolished homes of residents thus subjecting them to emotional torture, stress, ridicule and embarrassment.
11. The petitioners indicate that their houses were situated in Bidii Court where they resided for more than seven (7) years. The residents of Bidii Court A, B, C of Chokaa Mihango, whose houses were demolished in 2019 by KPLC had bought individual plots of land at different times and had been issued with share certificates and ballot certificates.
12. The residents claim that they were assured by one Mr. Wekesa of KPLC, Ruai Office, upon taking the measurements from the nearby wayleaves that they had not encroached and those who were deemed to have encroached, demolished their houses to comply

with the advised standard measurements.

13. These demolition petitions were tabled both in the Senate and the National Assembly. The Bidii residents also sought further audience with the DCC, Ruai. Residents totaling to 150 got their properties demolished.

Background Facts of the Complaint

14. The petitioners claim that they are the legal owners of the plots at Njiru in Mihango area that is off Kangundo Road in Nairobi County and that at no point did KPLC communicate to the residents to resolve any issues of claimed encroachment on the power line way-leave corridor.
15. Despite an order from the former President H.E Uhuru Kenyatta suspending the notice of demolition planned for 24th December 2018, the KPLC disregarded this and proceeded with the demolitions.
16. As a result of illegal demolitions, hundreds of families were rendered homeless with children forced to close schools earlier because their schools and their houses had been destroyed. Some residents also lost their livelihoods since their businesses were demolished, while others committed suicide as a result of frustration, trauma and shock created by the illegal demolitions.
17. The petitioners allegedly did a search at the Survey of Kenya, and determined that the KPLC did not possess ownership of the disputed land. Therefore, the demolitions were carried out in bad faith and in violation of the residents' fundamental right to housing and in contravention of the Country's Vision 2030 of Affordable Housing;
18. The disputed piece of land has since remained vacant with the possibility of being sold to a third party to the detriment of the petitioners who have undergone emotional losses, torments, worry and disgrace due to their properties being demolished.