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KENYA NATIONAL ASSEMBLY  
TENTH PARLIAMENT –FOURTH SESSION

# REPORT

ON THE

## DEPARTMENTAL COMMITTEE ON LANDS AND NATURAL RESOURCES

ON

### STATUS OF OWNERSHIP OF L. R.2890 IN TIMAU TOWNSHIP OF BUURI DISTRICTS, MERU COUNTY

CLERK'S CHAMBERS  
NATIONAL ASSEMBLY  
NAIROBI

AUGUST 2012

5. Based on the above allegations /complaints the Committee on April 18, 2010 and May 6, 2011 resolved to undertake to investigate the matter. the investigation and inquiry covered the following:-
- a) the history of the land ;
  - b) Status of ownership and any transaction if any on L.R No. 2890;
  - c) occupancy and status of the Development Plan for the land; and
  - d) Make a report based on its findings and make recommendations.

#### **MANDATE OF THE COMMITTEE**

6. The Departmental Committee No. J on Lands and Natural Resources is established pursuant to provisions of Standing Order No. 198 (2) and (3) with the following terms of reference: -
- i. to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
  - ii. to study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
  - iii. to study and review all legislation referred to it;
  - iv. to study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
  - v. to investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister; and
  - vi. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.
7. The Committee is mandated to consider the following **subjects**:-
- i. Lands and settlement;
  - ii. Forestry, water resource management and development;
  - iii. Irrigation;
  - iv. environment and wildlife; and
  - v. Mining and natural resources.
9. **Oversight** In executing its mandate, The Committee oversees the following Government Ministries; namely: -
- 9.1 Ministry of Water and Irrigation;
  - 9.2 Ministry of Environment and Minerals Resources;
  - 9.3 Ministry of Lands; and
  - 9.4 Ministry of Forestry and Wildlife.

- 12.3 L.R. 2890 was planned in 1998 including the portion under Temporary Operating License and the whole land was earmarked for residential, Commercial, Industrial, Slaughter Houses and Piecemeal plots. Allocation of plots was done through the recommendation of the District Plot Allocation Committee; The portion of land held under Temporary Operating License is part of L.R. 2890 and was earmarked under development plan for public utilities;
- 12.4 The holder of Temporary Operating License has applied to the Commissioner of Lands for granting of title deed for the portion of L.R. 2890 however, the Commissioner has rejected their plea through letter ref. No 25/27/140 dated June 14, 2011;
- 12.5 About 23 households have been displaced following construction of a new road by Kenya Urban Roads Authority, against the existing plans. And these families are squatters within Timau Township;
- 12.6 The evicted/displaced households lost their properties and therefore sought to be compensated by the Kenya Rural Roads Authority;
- 12.7 The squatters problem in Timau is genuine and dates back to colonial times;
- 12.8 There have been concerted efforts to frustrate the approved Development Plan of Timau Township by individuals who want to grab part of L.R. 2890;
- 12.9 Cases have been filed in court since the planning process started. In the first case filed in January 4<sup>th</sup> 2001 a ruling was delivered on 2<sup>nd</sup> June 2011 and the court injunction was lifted. A petition case No. 3 of May 2011 was filed and is still pending;
- 12.10 Allocations done in Timau did not consider the squatters on the ground but new allocations were made in areas already settled by squatters; and
- 12.11 The planning process was overshadowed by piecemeal plot allocations. Thus after the Second stakeholders meeting the council surveyor moved in to identify individual plots for the squatters who had settled on the land since 1993 and a new group of squatters who invaded the site in 2007. It was not clear who were the genuine squatters.

## **RECOMMENDATIONS**

### **13. Based on evidence received and adduced, the committee recommends that;-**

- 13.1 the Temporary Operating License should be terminated and the land reverts back to the township for planning purposes including a public cemetery, sewage and treatment plant;
- 13.2 the Ministry of Lands should fast-track the approval of the Development Plan for Timau Township by stakeholders within 90 days on adoption of this report;



## **INTRODUCTION - THE LAND L. R. 2890 – BACKGROUND**

19. L. R. No 2890 is located in Timau Township in Buuri District, Meru County in the former Eastern Province and is approximately 279.23 Hectares. The land was initially used as a holding ground by white settlers for cattle moving from Isiolo to Kenya Meat Commission or other slaughter houses. It ceased to be a holding ground and converted to other purposes such commercial, residential, industrial, slaughter houses;
20. In 1998, piecemeal allocations were done with the recommendations of the District Plot Allocation Committee and Individual applications to the Commissioner of Lands. Some allottees have been issued with titles while others have allotment letters only. In addition, a comprehensive development plan covering the whole piece of land was prepared; however it has not been approved. The plan will be approved after subjecting it to all stakeholder scrutiny;
21. The Development Plans has delayed before approval, as a result of officers in the Ministry of Lands not being involved in some instances leading to so many illegalities under the law. For instance, in 2010, a road was made against the plan displacing a number of allottees;
22. A portion of L. R. No. 2890, measuring approximately 50 acres is held by the late Mr. David Gitumbi on Temporary Occupation License (TOL) who claims to have acquired the land from the previous owner of the adjoining L. R. No. 7452 in Laikipia, Rift Valley Province, when he bought it. However, he has not been issued with a title deed for the land held on Temporary Occupation License;
23. The 50 acres land allegedly in possession and/or claimed by Mr. Gitumbi is available for public purposes and that the Commissioner of Land issued a letter to the Gitumbi's to that effect. Various appeals have been made to the Ministry by the Gitumbi's that they be allocated the land, following their submission of an application to the Ministry.

## **THE COMPLAINTS**

24. The residents of Timau Township led by Councilor Geoffrey Kimathi of Kirimara Ward, former Senior Chief and also Chairman Timau Plot Owners Self Help Group made various complaints and requests to the Committee they are as follows, that:
  - a) A number of Timau Plot owners were displaced following the opening of a new road that serves a Mr. Gitumbi's Farm in Laikipia District resulting in the displacement of 23 plots owners. In addition to violating the approved Development plan of Timau Township;
  - b) The displaced plot owners now squatters' were removed in inhumane manner resulting in damage and loss of property. The displaced should be compensated and given decent settlement;

28. Hon. Ruteere informed the Committee that:-

- a) Visit should be informed by the challenges and development programmes of Timau.
- b) There are a lot of clashes between communities due to lack of water.

29. The District Commissioner outlined the issues that affect the local community that:-

- a) The local dam dries up completely leading to clashes between horticultural farmers and farmers in the highlands and can be solved through construction of several mega water dams on Upper Mount Kenya region.
- b) the lack of a food storage facility and requested the Committee to help solve the problem by setting up a National Cereals and Produce Board (NCPB) office or store in the area;
- c) requested for the setting up of horticultural cold rooms to cater for the horticultural and flower produce in the area;
- d) the elevated status of Timau to a District, has come with challenges of implementation due to land grabbing of a plot meant for use in terms of a sewerage treatment plant, garbage disposal for township, public cemetery for both Muslims and Christians and for setting up an industrial area where NCPB and cold storage rooms are supposed to be constructed.

e) The Committee to assist Timau by setting up a sewer system.

f) noted that the local water company has a low capacity to supply water to the township;

g) The Lands Officer, Meru, Mrs. Peninah Muriuki, informed the Committee that:-

- a.) The land which has been grabbed is 50 acres but on the ground it is about 70 acres.
- b.) The owner of the land LR 7542 was granted a Temporary Occupation License (TOL) for 50 acres.
- c.) the same piece of land with the TOL was sold and the piece of land under question was in two districts, Meru and Laikipia districts;
- d.) Could not verify whether the land under TOL was cancelled
- e.) The land is not registered in anybody's name. The Deputy Surveyor informed the Committee that the land in dispute has beacons erected on it and that the Meru side is surveyed.
- f.) The Physical Planner, Mr. Kivuva informed the Committee that the land in question, LR No.2890 covers the whole of Timau Township, which is the area, is within Timau Township. However, the surveyor said that not the whole of that piece of land was in Timau Township.

30. The chairman of squatters, Mr. Maore, informed the Committee that:-

- a.) He wrote a letter to the Commissioner of Lands. The "owners" were summoned by the Commissioner of Lands. A Mr. Kaburu was the officer



as soon as possible. He further said that Mr. Gitumbi and other stakeholders will be summoned to appear before the Committee to shed more light on its ownership.

#### **VISIT ON MAY 6, 2011**

39. On May 6, 2011, the Parliamentary Committee on Lands and Natural Resources established a subcommittee and set out its mandate and resolved the subcommittee makes an inspection visit of Timau Township. The following Members of the Committee constituted themselves into a Sub Committee and they were:

- 1 Hon. Mutava Musyimi, MP, - Chair
- 2 Hon. Silas M. Ruteere, MP - Member
- 3 Hon. Benedict F. Gunda, MP - Member
- 4 Hon Erastus Mureithi, MP - Member

40. Accompanied by:-

- 1 Rana Tiampati - Clerk Assistant
- 2 Oscar Wesonga - Clerk Assistant.

41. The Committee met with the District Commissioner, Buuri District, District Surveyor, Kenya Rural Roads Authority representative and physical planner among others. They informed the Committee that:-

- a) The Land L.R. 2890, part of it was set aside by the Meru County Council for settlement of squatters in 1997;
- b) The preparation of the Development Plan was started way back in 1998 and was to end in 2011 however; issues have arisen leading to heighten tensions amongst the residents.
- c) Since 1963, the land was set aside as a holding ground by the Council of Meru.
- d) The settlement of squatters was undertaken, first by conducting a census of the squatters, followed by formation of District Plot Allocation Committee which approved allocation of plots to squatters. However, the squatters were settled on part of the land L.R. 2890 which was already planned and surveyed to include road routes that was agreed upon.
- e) In March, 2011, following a visit by the Head of State to the Gitumbi Family who reside in the neighboring County - Laikipia a new road was developed by Kenya Rural Roads Authority disregarding the existing graded road as per plan hence displacing 23 household. The new road was meant to be used by the Head of State to access the Gitumbi's Family from which is part of L.R. 2890.
- f) The new road done using public funds was undertaken by Kenya Rural Roads Authority and disregarded advice by the physical planners and surveyors. The old existing road was later opened by a directive given by then Provincial Commissioners of Rift Valley and Eastern Province respectively.

- f) Proper documentation on L.R.2890 will be availed to the Committee in order to resolve the dispute on L.R. 2890 and also arrive at the dispute on L.R. 2890 and also arrive at desired conclusion.

## **MEMORANDA**

43. During the public hearing, the Committee received a number of Memoranda on L.R 2890. The summary of the Memoranda are here below:-

44. **TIMAU SAVING SCHEME – In the Memorandum, the Committee was informed that:-**

- a) Timau Squatters were from Kwa Joshua, Riverside, Mukuri A, B, C, and Kieni.
- b) The resettlement process was well managed by the Provincial Administration and the Physical Planning Officer, Ministry of Lands and all stakeholders which included the squatters. The planning process was endorsed by all.
- c) During the planning process, a piece of land measuring approximately 50 acres was fenced off by a family of Mr. David Gitumbi claiming it was in Laikipia County.
- d) The 50 acre piece of land is part of L.R. 2890 and was earmarked for public utility during the planning process and included – industrial plots, dumping sites, cemetery, and sewage disposals.
- e) They have made several attempts to repossess the piece of land with no success.
- f) Requested that the Committee intervenes in the repossess of the land so that they attain their vision of having fully fledged town.

45. **CHAIRMAN – TIMAU PLOT OWNERS SELF HELP GROUP MR. ONESMUS K. M'RINGEERA - In the Memorandum, the plot owners informed the Committee that:-**

- a) In 1967, Chief Joshua (Rtd) allowed former employees of white settlers to settle at Timau Townships. This led to mushrooming of two villages known as Mathare and Gichagi (Kwa Joshua).
- b) In 1970, more squatters were settled along Timau River, the land belong to Livestock Marketing Department (LMD) However it was swept by flood waters and settlers were moved to the present day Kongoni.
- c) In 1987, a boundary team was established from Timau Township, Kisima in Timau and Daiga division of Laikipia District. They were instructed to establish the properly the boundary between Laikipia and Meru starting from River Likii to Ngare Ndare.
- d) In 1987, the then District Commissioner, Meru, ordered for a census of all squatters settled in the three location, Kirimara, Kisima and Daiga.

**47. MEMORANDUM BY PETER RUTEERE** - He informed the Committee that:-

- a) He was born in 1944 in a settler's farm in Timau and there was a neighboring settler called Good Hide.
- b) Mr. Good Hide did lease land of about 50 acres from Timau Township
- c) After Buuri District was established, and planning was carried out, the squatters were settled and shown plots.
- d) The family of the late Gitumbi objected the planning of the town and instead wanted to be allocated to use the old non existing road.
- e) Request that the Committee to: -
  - (i) Assist in the enforcement of the Physical Development Town Plan.
  - (ii) The 50 acres land occupied under TOL reverts to Timau;
  - (iii) The existing bordering before be respected.

**48. MEMO BY MR. JOHN WACHIRA, SECRETARY, TIMAU PLOTS S.H.G.**

- a) The plot owners Association was formed on 20<sup>th</sup> March, 2010 with about 3,200 Members However, about 1500 are active members.
- b) The objectives of the Association is to represent, raise complaints and suggestion on behalf of members, identify any public utility plot in Timau and cause it to be developed for public good.
- c) Concerned by the interference of Town planning of Timau that was approved in 1998;
- d) Concerned about the endorsement of land identified in the plan is public utility land for purposes of public faculties.
- e) Request that:-
  - (i) The first road previously established as per the approved plan be maintained; and the new one be disregarded;
  - (ii) The plot owners who suffer loss & damage to their plots by the establishment of a new road be compensated fully;
  - (iii) The public road been the boundary between Eastern and Rift Valley Provinces be reinstated and a bridge that was used by the public be reinstated.

**49. MEETING WITH THE MINISTER FOR LANDS** - The Minister informed the Committee that **L. R. NO. 2890:-**

- a) is located in Timau Township in Buuri District and is approximately 279.23 Hectares;
- b) was initially used as a holding ground by white settlers for cattle moving from Isiolo to Kenya Meat Commission or other slaughter houses;



## 50. MINISTER FINAL RESPONSE ON L. R. 2890

**36.1 Status of Proposed Physical Development Plan for Timau Township** - The plan was initiated by the Director of Physical Planning in collaboration with the county council of Meru and other stakeholders in the Year 2009. The objectives of the plan were:

- a) To provide a framework for future growth of Timau Township
- b) To provide a basis for settling squatters
- c) To provide a framework for public participation in development of Timau Township.

### 36.2 Planning Process

- a) The plan preparation process started with a stakeholders meeting held on 1-9-2009. It was through the meeting that the public were informed about the planning procedure and plan purpose. A Planning Committee was constituted. The identification of the squatters was to be undertaken by the Provincial Administration, Pamoja Trust and the local political leaders;
- b) The planning stages of stakeholders meetings, data collection, data analysis and base map preparation progressed well. However, it was after the 2<sup>nd</sup> stakeholders meeting held on 13-4-2010 that differences and conflicts arose among the stakeholders. This slowed down the process.

### Challenges

51. The planning process was overshadowed by piecemeal plot allocations. Thus after the 2<sup>nd</sup> stakeholders meeting the council surveyor moved in to identify individual plots for the squatters who had settled on the land since 1993 and a new group of squatters who invaded the site in 2007. It was not clear who were the genuine squatters.
52. Allocations done in Timau did not consider the squatters on the ground. New allocations were made in areas already settled by squatters;
53. The allottees did not immediately take possession of the plots nor did they develop them. This makes a large part of Timau appear vacant yet it is committed. This provides an avenue for more squatters to invade the land;
54. Two cases have been filed in court since the planning process started. In the first case filed in January 4<sup>th</sup> 2001 a ruling was delivered on 2<sup>nd</sup> June 2011 and the court injunction was lifted. A petition case No. 3 of May 2011 was filed and is still pending. Though these cases did not stop planning directly. They involved the stakeholders who were key towards the second stage in planning process. Hence the prevailing acrimony could not allow for the planning process to continue.

- 57.9 There have been concerted efforts to frustrate the approved physical development plan of Timau Township by individuals who want to grab part of L.R. 2890;
- 57.10 Cases have been filed in court since the planning process started. In the first case filed in January 4<sup>th</sup> 2001 a ruling was delivered on 2<sup>nd</sup> June 2011 and the court injunction was lifted. A petition case No. 3 of May 2011 was filed and is still pending;
- 57.11 Allocations done in Timau did not consider the squatters on the ground but new allocations were made in areas already settled by squatters; and
- 57.12 The planning process was overshadowed by piecemeal plot allocations. Thus after the 2<sup>nd</sup> stakeholders meeting the council surveyor moved in to identify individual plots for the squatters who had settled on the land since 1993 and a new group of squatters who invaded the site in 2007. It was not clear who were the genuine squatters.

## **RECOMMENDATIONS**

### **58. Based on evidence received and adduced, the committee recommends that:-**

- 58.1 the Temporary Operating License should be terminated and the land reverts back to the township for planning purposes including a public cemetery, sewage and treatment plant;
- 58.2 the Ministry of Lands should fast-track the approval of the Development Plan for Timau Township by stakeholders within 90 days on adoption of this report;
- 58.3 Allocation/identification of plot to squatters should be stopped to allow the identification of genuine squatters and finalization of the Development Plan for Timau;
- 58.4 All pending court case be expedited;

			F. TP44/II	
215323	Jeremiah Kiriinya	171/98/10	PAC OF 9.1.1997	Untitled
233079	B.A. Blackbeard	171/98/10	File 72804/7/G	Untitled
91919	Geoffrey N'Rimberia	LR. 2890/73	54795/II/168 of 13.3.1997	Titled
161013	William Mburugu	NRB/171/92/IE	54795/IV of 15.11.1994	Titled
1539484	Jebbufer Angaine	No. Number	54795/III/99 PAC of 11.9.92	Titled
157353	Tabitha Ntibuka	No. Number	PAC of 54795/III/99 PAC of 11.9.92	Untitled
154954	Joseph Mutua Mbuva	No. Number	54795/III/ PAC of 11.9.92	Titled
169504	Michal M'rinyira	No. Number	57696/XV/32 PAC of 11.9.92	Untitled
169505	Miberi M' M'twamwari	No. Number	7696/XV/42 PAC of 11.9.92	Untitled
169465	Eutyclus Muthui	No. Number	54795/III/ PAC of 11.9.92	Titled
169625	Geoffrey Bariu	No. Number	54795/III/ 162 Government	Untitled
169835	David N. Muchane	No. Number	54795/III PAC of 11/9/92	Untitled
174414	Obadiah M'Bwiria	No. Number	54795/IV 102749/9/11/50	Untitled
183359	Esther Kamau	171/96/15	T.P.44/11	Untitled
183356	Henry Nyaranga & Stephen Kaberia	171/96/15	T.P.44/11 Government	Untitled
183356	Christine Kanyiri	171/96/15	T.P.44/11 Government	Untitled
183361	James B. Mwika	171/96/15	T.P. 44/11	Untitled
183990	Jane Surgita	171/96/14	54795/V Government	Untitled
183989	Irene Kagure	171/96/14	54795/V Government	Untitled
183358	Catherine Kinoti	171/96/15	T.P. 44/11 of 19.06.96	Untitled
183360	Jereny E. kinoti	171/96/15	T.P. 44/11 of 19.06.96	Untitled
183357	Francis Kimondo	171/96/15	T.P. 44/11 of 19.06.96	Untitled
183993	J.M. Kariuki	171/96/14	54795/V of 12.07.96	Untitled
183991	Eric Mwangi	171/96/14	54795/V of 12.07.96	Untitled
183988	Hellen N. Mwiraria	171/96/14	54795/V of 12.07.96	Untitled
183995	Belia Makena	171/96/14	54795/V of 12.07.96	Untitled



91	0.0460	M'rinkanya Kithingo	Untitled
93	0.0465	Moses kirmi Kirera	Titled
95	0.0465	Peter mutisya Muema	Titled
96	0.0460	G.K. Ikua	Untitled
97	0.0460	Lawi Muchai & M'ikiugu Iguabi	Untitled
99	0.0465	Gathongo Mwaniki	Titled
100	0.0465	Mboroki Mwangantia	Untitled
102	0.0465	Hezron Kiremi & J. M'itwamuori	Untitled
103	0.0465	Gideon Mbumgu	Untitled
104	0.0465	Crispus Mugambi	Untitled
105	0.0465	Julius githinji & M'njogu Kithania	Untitled
108	0.0372	Wacheke Mugachia	Untitled
110	0.0920	Elijah Kamiti Kabati	Titled
111	0.0375	Joyce Kanario & another	Untitled
112	0.0372	John Miriti	Untitled
113	0.0372	Mugachia Kamanga	Titled
115	0.0372	Wilfred Kigotho	Titled
116	0.0372	Michael M. Kahugu	Untitled
118	0.0418	E. Phares Rutere & Others	Untitled
119	0.0418	Lawrence Kairangu	Titled
125	0.1895	Thamba Ngombe Ltd	Titled
128	0.7316	Jennifer Kamwitu Angaine	Untitled
129	0.7432	Tabitha Karimi	Untitled
130	0.743	Solomon G.Wangombe	Untitled
131	0.7432	Benson g. Gate	Titled
132	0.7432	Kinoti Nkanatha Rware	Titled
133	0.7432	John Kithinji Marete & Others	Titled
135	0.1523	Postal Corporation of Kenya	Titled