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REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION

THE DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON AN INQUIRY INTO A COMPLAINT BY KAMITI ANMER FOREST
SQUATTERS ASSOCIATION REGARDING ALLOCATION OF LAND LR.NO. 8390 IN
KAMITI ANMER FOREST

DIRECTORATE OF COMMITTEE SERVICES
CLERKS CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

JUNE, 2019



 THE NATIONAL ASSEMBLY PAPERS LAID	
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CLERK-AT THE-TABLE:	

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CHAIRPERSON'S FOREWORD

The complaint regarding allocation of land LR. No. 8390 Kamiti/ Anmer Forest was forwarded to the Committee by Kamiti Forest Squatters Association through a letter dated 23rd January 2018. The group indicated that it comprised former labourers, who worked in coffee plantations within Kamiti area and persons who were internally displaced from the then Rift Valley Province due to the post 1992 general elections clashes. The displaced persons were first settled in Kirigiti Stadium in Kiambu. They then requested the government to resettle them by allocating them land in Kamiti forest. They further stated that on 5th December 1994 the then Provincial Commissioner conveyed the decision of H. E the President to excise 300 acres of Kamiti Forest for their resettlement. They further claimed that the contested land still belonged to the Kenya Forest Service as it was not officially degazetted.

However, they alleged that other persons obtained leases to the same land and in the process the squatters were abandoned. Their efforts to establish shelters on the contested land had been thwarted by persons, who claim to possess title deeds for the contested land. Therefore, the complainants requested the Committee to intervene in the matter to ensure that their plight was addressed.

In considering the complaint the Committee held meetings with the representatives of Kamiti Forest Squatters Association (the complainants) on 12th June 2018, the Cabinet Secretary, Ministry of Lands and Physical Planning, the Chief Administrative Secretary, Ministry of Environment & Forestry and the Ag. Chief Executive Officer, National Land Commission on 23rd April 2019. The Committee also undertook a visit to Kiambu County on Friday 16th November 2018. During the visit the Committee held meetings with representatives of government agencies based in the County, namely the Ministry of Lands and Physical Planning, the Kenya Forest Service, the National Land Commission and the Ministry of Interior and Coordination of National Government. The Committee also received oral and written submissions from several groups contesting the ownership of the land. The groups included: Kamiti Forest Squatters Association, Kamiti Anmer Development Association, Muungano wa Kamiti Group and Kamiti Anmer Development Welfare Group.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee is also thankful to the Ag. Chief Executive Officer, National Land Commission, the Cabinet Secretary, Ministry of Lands and Physical Planning, the Chief Administrative Secretary, Ministry of Environment & Forestry and the representatives of various groups that made submissions to the Committee.

On behalf of the Committee, and pursuant to Standing Order, 199 it is my pleasant duty to table the Report of the Departmental Committee on Land on its consideration of an inquiry into a

complaint by Kamiti Forest Squatters Association regarding allocation of land LR.No. 8390
Kamiti/ Anmer.



Hon. Dr. Rachael Kaki Nyamai, MP
Chairperson, Departmental Committee on Lands

EXECUTIVE SUMMARY

The purpose of this report is to respond to a complaint regarding allocation of land LR.No. 8390 Kamiti/ Anmer that was forwarded to the Committee by Kamiti Forest Squatters Association. The group indicated it requested the government to resettle them by allocating them land in Kamiti forest. They further stated that on 5th December 1994 the then Provincial Commissioner conveyed the decision of H. E the President to excise 300 acres of Kamiti Forest for their resettlement. They also stated that although the land LR. No. 8390 Kamiti /Anmer was allocated to the group, other persons colluded with the Commissioner of Lands, who issued them leasehold title documents at the expense of the squatters. They further claimed that the contested land still belonged to the Kenya Forest Service as it was not officially degazetted.

The Committee observed that the basis of the complaint was the allocation of the LR. No. 8390 Kamiti/ Anmer forest to internally displaced persons following a public pronouncement by the former President H.E Daniel Moi that land from Kamiti Forest would be excised for the resettlement of squatters. Which was communicated by then Provincial Commissioner Mr. Victor Musoga to the Kiambu County Council.

The LR. No. 8390 Kamiti/ Anmer forest land was subsequently allocated to squatters in 1995. Additionally, individual owners also obtained 149 title deeds at the Kiambu Land Registry for LR. No. 8390 Kamiti/ Anmer forest land.

Based on the field visit conducted by the Committee, the Committee also observed that the land was nearly fully occupied as evidenced by presence of residential houses, public primary school constructed using public funds, provision of water and electricity services, churches and a cemetery among other public facilities.

The Committee noted that the National Land Commission had admitted the complaint on the contested land as a historical land injustice and confirmed that the letters of allotment issued to Kamiti Anmer Development Association in respect to the land were valid.

The Committee also observed that although there were several groups laying claim to the land in question these being the Kamiti Forest Squatters Association, Kamiti Anmer Development Association, Muungano Kamiti Group and Kamiti Anmer Development Welfare Group, following alternative dispute resolution mechanisms, three of the groups namely the Kamiti Forest Squatters Association, Kamiti Anmer Development Welfare Group and Muungano Kamiti Group had since agreed that the land be distributed among the members of the groups and had developed a reconciled list of allottees for consideration of issuance of titles.

Based on the submissions made to the Committee, the Committee observed that there existed

serious security concerns due to disputes between various groups concerning ownership of LR. No. 8390 Kamiti/ Anmer forest land which calls for urgent settlement of the dispute through regularization of the de-gazettement process and subsequent allocation of land to the members of the four groups.

The Committee recommends that pursuant to section 34 of the Forest Conservation and Management Act, 2016 the LR. No. 8390 Kamiti/ Anmer forest be de-gazetted and excised from the Kamiti forest for purposes of settlement of the members of the Kamiti Forest Squatters Association, Kamiti Development Association, Muungano Kamiti Group and Kamiti Anmer Development Welfare Group.

The Committee also recommends that the Cabinet Secretary, Ministry of Lands & Physical Planning in consultation with the Cabinet Secretaries Ministry of Interior and Coordination of National Government, Ministry of Environment and Forestry and the National Land Commission do ensure through alternative dispute resolution mechanisms that the allocation of LR. No. 8390 Kamiti/ Anmer is regularized taking into consideration the membership of the four groups, physical developments undertaken on the land and the public utilities existing on the land within sixty days of adoption of this report by the House.

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Lands is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference: -

- (i) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- (ii) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- (iii) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- (iv) study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- (v) 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.
- (vi) study and review all legislation referred to it

1.2 Committee subjects

2. The Committee is mandated to consider the following subjects:

- a) Lands
- b) Settlement

1.3 Oversight

3. The Committee oversights:

- i. The Ministry of Lands and Physical Planning; and
- ii. The National Land Commission

1.4 Committee Membership

4. The Committee membership comprises: -

Member	Constituency	Party
Hon. Dr. Rachael Nyamai, MP - Chairperson	Kitui South	Jubilee Party
Hon. Khatib Mwashetani, MP - V/Chairperson	Lunga Lunga	Jubilee Party
Hon. Jayne Wanjiru Kihara, MP	Naivaisha	Jubilee Party
Hon Joshua Kutuny Serem, MP	Cherangany	Jubilee Party
Hon. Kimani Ngunjiri, MP	Bahati	Jubilee Party
Hon. Mishi Mboko, MP	Likoni	Orange Democratic Movement (ODM)
Hon. Omar Mwinyi, MP	Changamwe	Orange Democratic Movement (ODM)
Hon. Ali Mbogo, MP	Kisauni	Wiper Democratic Party
Hon. Babu Owino, MP	Embakasi East	Orange Democratic Movement (ODM)
Hon. Caleb Kipkemei Kositany, MP	Soy	Jubilee Party
Hon. Catherine Waruguru, MP	Laikipia County	Jubilee Party
Hon George Aladwa, MP	Makadara	Orange Democratic Movement (ODM)
Hon George Risa Sunkuyia, MP	Kajiado West	Jubilee Party
Hon. Jane Wanjuki Njiru, MP	Embu County	Jubilee Party
Hon. Josphat Gichunge Kabeabea, MP	Tigania East	Party of National Unity
Hon. Owen Yaa Baya, MP	Kilifi North	Orange Democratic Movement (ODM)
Hon. Samuel Kinuthia Gachobe, MP	Subukia	Jubilee Party
Hon. Simon Nganga Kingara, MP	Ruiru	Jubilee Party
Hon. Teddy Mwambire, MP	Ganze	Orange Democratic Movement (ODM)

1.5 Committee Secretariat

5. The Committee secretariat comprises: -

Clerk Assistant I	Mr. Leonard Machira
Clerk Assistant III	Mr. Ahmad Guliye
Legal Counsel I	Ms. Jemimah Waigwa
Researcher III	Mr. Joseph Tiyen
Fiscal Analyst III	Mr. Adan Abdi
Media Relations Officer III	Ms. Winnie Kizia

Audio Officer
Serjeant-At-Arms

Mr. Nimrod Ochieng
Ms. Peris Kaburi

2.6 INTRODUCTION

6. The complaint regarding allocation of land LR.No. 8390 Kamiti/ Anmer was forwarded to the Committee by Kamiti Forest Squatters Association through a letter dated 23rd January 2018. The group indicated that it comprised former labourers, who worked in coffee plantations within Kamiti area and persons who were internally displaced from the then Rift Valley province due to the post 1992 general elections clashes. The displaced persons were first settled in Kirigiti Stadium in Kiambu. They requested the government to resettle them by allocating them land in Kamiti forest. They further stated that on 5th December 1994 the then Provincial Commissioner conveyed the decision of H. E the President to excise 300 acres of Kamiti Forest for their resettlement. They further claimed that the contested land still belonged to the Kenya Forest Service as it was not officially degazetted hence no one could claim exclusive ownership of the said land.
7. However, they alleged that influential persons obtained leases to the same land and in the process the squatters were abandoned. The complainants further indicated that the contested land still belonged to the Kenya Forest Service as it was not officially degazetted.
8. They also argued that the issuance of the titles to 149 individuals by the Commissioner of Lands was done without first degazetting the land that was by then a forest reserve. Further the complainants stated that beneficiaries of the alleged illicit titles had never settled on the land until 5th October 2015 when the National Land Commission reinstated the leasehold title documents that had had been annulled.
9. The complainants also stated that their efforts to establish shelters on the contested land had been thwarted by persons, who claim to possess title deeds for the said land. Therefore, the complainants requested the Committee to intervene in the matter to ensure that their plight was addressed.
10. In undertaking the inquiry, the Committee sought to establish the following:
 - i. Whether the government decided to excise 300 acres of Kamiti Forest for the resettlement of squatters;
 - ii. The validity of the 149 title deeds in respite to the disputed land, issued by the Ministry; and
 - iii. Whether Kamiti Forest LR. No. 8390 Kamiti was degazetted.

3.0 SUBMISSIONS

3.1 Submissions by the complainants (Kamiti Forest Squatters Association)

- 3 The Committee held a meeting with the representatives of Kamiti Forest Squatters Association on 12th June 2018. The representatives of the group led by Mr. John Wakaba informed the Committee of the following:
- 4 The group comprised 1200 Internally Displaced Persons, mainly for the former Riff Valley province, who were displaced due to the 1992 post-election violence. They indicated that they had occupied the disputed land, LR. No. 8390 Kamiti /Anmer, within Kamiti Forest in Kiambu County for the past two decades.
- 5 They also alleged that the land was allocated to them by H.E. President Daniel Moi in 1994 following a request they had made to the President through the then area Member of Parliament, Hon Arthur Magugu.
- 6 The Kamiti Forest Squatters Association representatives further alleged that although the land LR. No. 8390 Kamiti /Anmer was allocated to the group, other persons colluded with the Commissioner of Lands, who issued them leasehold title documents at the expense of the squatters. The squatters complained and requested the government to stop the issuance of said titles.
- 7 The contested land still belonged to the Kenya Forest Service as it was not officially degazetted hence no one could claim exclusive ownership of the said land.
- 8 The issuance of the titles by the Commissioner of Lands was done without first degazetting the land that was by then a forest reserve.
- 9 The titles issued before the degazettement remain invalid because they were issued over property that is a government forest.
- 10 Their efforts to establish shelters on the contested land had been thwarted by members Kamiti Development Association, who claim to possess title deeds for the contested land
- 11 The Association applied for the degazettement of the contested land through Gazette Notice No. 966 of 3rd February 2017.
- 12 In letter, dated 20th June 2018, the Association also requested Parliament through the Committee to recommend that the process of degazetting the 300 acres of land from Kamiti Forest for the squatters to be issued with valid title deeds. The Association also appealed to the Government to allocate them a portion of the land should the forest be officially degazetted.

3.2 Submissions from stakeholders during a field visit to Kiambu County

15. The Committee undertook a field visit to Kiambu County on Friday 16th November 2018 and received oral and written submissions from several group contesting ownership of LR. No. 8390 and from government officers based in Kiambu County. The Committee was informed as follows:

a. Kamiti Forest Squatters Association

16. The representative of the group alleged that the contested land was allocated to them by H.E. President Daniel Moi in 1994 following a request they had made to the President through the then area Member of Parliament, Hon Arthur Magugu.

17. He also alleged that although the land LR. No. 8390 Kamiti /Anmer was allocated to the group, other persons colluded with the Commissioner of Lands and obtained leasehold title documents at the expense of the squatters.

18. The contested land still belonged to the Kenya Forest Service as it was not officially degazetted.

19. The issuance of the titles by the Commissioner of Lands was done without first degazetting the land that was by then a forest reserve. Further the beneficiaries of the alleged illicit titles had never settled on the land until 5th October 2015 when the National Land Commission reinstated the leasehold title documents that had had been annulled.

b. Kamiti Anmer Development Association

20. The representative of Kamiti Anmer Development Association (KADA) also claimed that members of the group were allocated the contested land following a directive by H. E. President Moi through the Kiambu County Council. The Commissioner of Lands then transferred the land to 1500 members of KADA.

21. He also claimed the contested land ceased being a forest following:

- The approval of planning by Director of Planning
- A survey undertaken by Survey of Kenya
- The production of IRMS and issuance of title deeds

22. The group also claimed that they were the only party that submitted ownership documents to the National Land Commission during a public hearing conducted by the commission

regarding the disputed land in 2015. The documents included letters of allotment and title deeds.

23. The group stated that the National Land Commission intervened in the matter under its Constitutional powers provided for in Article 67 of the Constitution and section 5 (5f) the National Land Commission Act 2012 and invited the groups involved in the dispute for a meeting but none of the said groups apart from KADA produced ownership documents. The Commission determined that the land belonged to KADA and instructed the Director of Forestry to degazette it to enable the completion of the ownership process to be realized.
24. The representatives also stated that the contested land, L.R No. 8390 (approximately 169.7 Ha.) formerly Kamiti Forest Reserve was degazetted and converted to the provisions of the Registered Land Act (Cap 300) vide Legal Notice No. 32 of 12th May 1995 and;
 - A part Development Plan was prepared for the same (Ref KBU/266/95/2).
 - Survey was done and authenticated by the Director of Survey in 1996 as Kamiti/Anmer Block II and letters of allotments issued for all parcels except for public utility plots.
 - The area had fully developed plots, a primary school, churches, a temporary chief's office and several residential houses
25. The Committee was also informed that the persons who were allotted plots and issued with 149 title deeds for the contested land had been identified by the District Plot Allocation Committee (DPAC). Therefore, the group argued that currently there was no parcel of land known as L.R No. 8390 since the land had been adjudicated and allotted. The remaining pieces of land were either public utility plots or parcels of land owned by absentee landlords.

c. Muungano wa Kamiti Group

26. Two representatives, each claiming, to represent Muungano wa Kamiti informed the Committee that the group had a membership of about 500 members who used to farm in the forest before the presidential declaration to allocate the land to squatters.
27. The group also claimed to be the legitimate representatives of landless persons who worked in the coffee plantations in the Kamiti Anmer area, who had requested the government to allocate them the contested land that was within the said coffee plantations. They were allocated the land, L.R. No. 8390 Kamiti /Anmer, within Kamiti Forest in Kiambu County in 1995.
27. The group applied for the degazettement of the forest land in 1995 for the settlement of its members and the said degazettement was done vide legal notice No. 179 of 12th May 1995.

28. The Members of the group had occupied the contested land for the past two decades and had lived peacefully on the land save for minor disruptions by individuals seeking to intimidate them to vacate the land.
29. In 2012 the District Administration in Kiambu through a ground status assessment established that members of the group were in occupation of the contested land.

d. Kamiti Anmer Development Welfare Group

30. The group led by Mr. James Kinuthia Mwangi, a former councilor for the then Anmer Ward., informed the Committee that the group was a splinter group from Kamiti Development Association (KADA). It also requested that the government allocates the group part of the contested land once the degazettement process was completed

Submissions by representatives of Government Agencies in Kiambu County

e. The Ministry of Lands and Physical Planning

31. The County Lands Officer, Kiambu County informed the Committee that L.R No. 8390 (approximately 169.7 Ha.) formerly Kamiti Forest Reserve was degazetted vide Legal Notice No. 32 of 12th May 1995.
32. A part Development Plan was prepared for the same (Ref KBU/266/95/2). Survey was done and authenticated by the Director of Survey in 1996 as Kamiti/Anmer Block II and letters of allotments issued for all parcels except for public utility plots.
33. About 149 title deeds were processed and registered at the Kiambu Land Registry.
34. The area had fully developed plots, a primary school, churches, a temporary chief's office and several residential houses.

f. The Kenya Forest Service

35. The Officers representing the Kenya Forest Service informed the Committee that the L.R No. 8390 measuring 169.8 Ha was originally declared a forest area vide proclamation no. 14 of 1933 and subsequently declared a central forest vide Legal Notice No. 174 of 20th May 1964.
36. There were attempts to hive off 300 acres of the forest and convert it into a settlement area but the degazettement process was not done. Therefore, the contested land is still a government forest.
37. The Kenya Forest Service placed a "Caveat Emptor" in 2009 warning the public not to be duped into buying land of the forest which is still in force.

38. The Chief Conservator of Forests requested Kiambu County Security and Intelligence Committee under the County Commissioner to coordinate the process of securing the forest from squatters.

g. The County Commissioner Kiambu County

39. The Deputy County Commissioner, Kiambu Sub – County on behalf of the County Commissioner informed the Committee that the government decided to hive off 300 acres of the forest and convert it into a settlement area following a public Presidential pronouncement made by H.E. Retired President Daniel T. Arap Moi in 1994 to the effect that internally displaced persons who had fled the then Rift Valley Province due the 1992 post-election violence be settled in Kamiti Forest.
40. The forest was also a security treat at the time as many victims of carjacking and murder cases in Kiambu and Nairobi Counties were dumped there. Therefore, the government sought to settle the squatters in the land as a solution to curb the rising insecurity
41. The former Provincial Commissioner of Central Province, Mr. Victor Musoga vide a letter Ref. No. D74/1/173 of 5th December 1999 to the Clerk of Kiambu County Council allowed the County Council to settle the squatters on 300 acres of Kamiti Forest.
42. The Kenya Forest Service cut all the trees in the forest and later moved itsb officers from the area . This allowed the squatters occupied the said land. However, conflict ensued among the squatters who had been allocated the land and currently four groups were contesting ownership of the land.
43. 149 title deeds for the contested land were processed and registered at the Kiambu Land Registry.
44. The area had fully developed plots, a primary school, churches, a temporary chief's office and several residential houses.
45. The County Commissioner Kiambu County in a letter dated 12th March 2019 also stated that three groups Kamiti Forest Squatters Association, Kamiti Anmer Development Association and Muungano wa Kamiti Association had through Alternative Dispute Resolution agreed that the land would be distributed to the members of the three groups. The said groups had also developed a reconciled list of allottees for consideration for issuance of titles against respective allotment numbers.

46. The County commissioner also recommended that it was more viable to de-gazette the land and have it allocated to needy cases rather than reverting it to Kenya Forest Services.

3.3 Submissions by the Cabinet Secretary, Ministry of Lands and Physical Planning

47. The Committee held a meeting with the Cabinet Secretary, Ministry of Lands and Physical Planning on 23rd April 2019. The Cabinet Secretary informed the Committee of the following.
48. **Whether the land was surveyed, and a Part Development Plan issued:** The Cabinet Secretary informed the Committee that the forest was surveyed in 1954 vide survey plan FR 69/29 and declared a central forest on 20th May 1964 vide Legal Notice No. 174.
49. **Whether the land was first degazetted before the issuance of title deeds:** The Cabinet Secretary stated that Legal Notice No. 179 of May, 1995 issued by then Minister for Lands J.K. Mulinge was intended to facilitate the conversion of the contested land from the provisions of the Registration of Titles Act, CAP 281(repealed) to the Registered Land Act Cap 300 (repealed). The notice was therefore for the purposes of conversion of the land from one titling regime to another and not to de-gazette the forest. This only made it possible for the allottees to process their title deeds at Kiambu rather than in Nairobi. However, this was irregular as it was done without the involvement of the Ministry of Environment & Forestry in reference to the then Forest Act Cap 385(repealed).
50. The Cabinet Secretary added that the allocation and subsequent issuance of titles was un-procedural since the process of de-gazettement was not completed as the then Minister for Environment did not issue a gazette notice altering the boundaries of the forest. However, the titles can be regularized once the forest was degazetted.

3.4 Submissions by the Chief Administrative Secretary, Ministry of Environment and Forestry

51. The Committee held a meeting with the Chief Administrative Secretary, Ministry of Environment and Forestry on 23rd April 2019. During the meeting the Committee was informed as follows:
52. **Whether the land in question is still a State Forest;** The Chief Administrative Secretary informed the Committee that Kamiti Forest is a gazetted forest reserve registered as L.R .No. 8390 measuring 169.8 Ha. It was declared a forest area vide proclamation no. 14 of 1933 and subsequently declared a central forest vide Legal Notice No. 174 of 20th May 1964. The forest was therefore public land and its ownership was vested in the state.

53. **The circumstances under which the Kenya Forest Services vacated the land:** The attempt to hive off 300 acres of the forest and convert it into a settlement area was made by the former Provincial Commissioner of Central Province, Mr. Victor Musoga vide a letter Ref. No. D74/1/173 of 5th December 1995 to the Clerk of Kiambu County Council. This was to implement a Public Presidential pronouncement made by H.E. Retired President Daniel T. Arap Moi. In 1994 to the effect that internally displaced persons who had fled the then Rift Valley Province due the 1992 post-election violence be settled in Kamiti Forest.
54. In the said letter the Provincial Commissioner allowed the County Council to settle the squatters on 300 acres of Kamiti Forest. However, there is no record indicating any process that was undertaken in accordance with the provisions of the Forest Act Cap 385 to have the Minister issue a legal notice to degazette any part of the said forest.
55. The claimants then invaded the land and due to poor law enforcement capacity of the Forest Department managed to construct houses on approximately 10% of the said land. The Chief Conservator of Forests requested the Kiambu County Security and Intelligence Committee under the County Commissioner to coordinate the process of securing the forest from squatters, but the efforts were futile. Arising from the pressure for conversion of the forest into a settlement area, Kenya Forest Service placed a “Caveat Emptor” in 2009 warning the public not to be duped into buying land on any part of the forest. The said notice is still in force.
56. **Whether any degazettement process regarding the disputed land was undertake prior to the enactment of the Forest Conservation and Management Act 2016:** The Chief Administrative Secretary maintained that no degazettement process regarding the disputed land was undertaken under the repealed Forest Act Cap 385, the Forest Act 2005 and the Forest Conservation and Management Act 2016. Therefore, the land was still a State Forest.

3.4 Submissions by the Acting Chief Executive Officer, National Land Commission

57. The Committee held a meeting with the Acting Chief Executive Officer, National Land Commission on 23rd April 2019. She informed the Committee that a Historical Injustice Claim No. NLC/HLI/070/2017 regarding the contested land was launched with the Commission by Kamiti Forest Squatters Association.

58. The National Land Commission commenced investigations into the matter and had since issued a gazette notice dated 1st March 2019 in which it resolved that the letters of allotment issued to Kamiti Anmer Development Association valid. The commission also directed the group and the other squatters to adopt Alternative Dispute Resolution with a view that the land held by the allottees be partly distributed to the squatters. Further the Kenya Forest Service was directed to degazette the forest.
59. The Commission reached a verdict that the title deeds held by Kamiti/Anmer Development Association were valid based on the following reasons;
- a. The land was allocated by the Government under the District Plot Allocation Committee under the supervision of the Commissioner of Lands on 25th August 1995;
 - b. Letters of allotments were issued by the then Kiambu County Council upon payment of requisite fees;
 - c. The leases issued by the Commissioner of Lands were registered by the Chief Land Registrar;
 - d. The High Court Misc Case No. 1446 of 1994 Justice Moiwo Ole Keuwa held that the land was legally alienated by the Defunct County Council of Kiambu; and
 - e. Public utilities such as a Primary School, provision of water services and rural electrification were available in the scheme meaning that the government didn't consider it as a forest hence provision of basic government services.

4.0 COMMITTEE OBSERVATIONS

The Committee made the following observations:

1. The Committee observed that the basis of the complaint was the allocation of the LR. No. 8390 Kamiti/ Anmer forest to internally displaced persons following a public pronouncement by the former President H.E Daniel Moi that land in Kamiti Forest would be excised for their resettlement.
2. The Committee also observed that the then Provincial Commissioner Mr. Victor Musoga conveyed the decision of the former President to the Kiambu County Council vide letter Ref. No. D74/1/173 seeking to implement the pronouncement.
3. The LR. No. 8390 Kamiti/ Anmer forest land was subsequently allocated to squatters in 1995. Additionally, individual owners also obtained 149 title deeds at the Kiambu Land Registry for LR. No. 8390 Kamiti/ Anmer forest land.
4. Based on the field visit conducted by the Committee, the Committee also observed that the land was nearly fully occupied as evidenced by presence of residential houses, public primary school constructed using public funds, provision of water and electricity services, churches and a cemetery among other public facilities.
5. In view of paragraph 4 above, individual owners have invested in building residential houses and national government constituency development funds have also been utilized in putting up public facilities in particular the primary school and hence failure to degazette the forest would lead to loss of livelihood for many innocent members of the public and loss of public funds.
6. During the field visit, the Committee was also informed by the Land Officer at Kiambu that indeed there existed 149 title deeds held by individual owners as proof of ownership of land in LR. No. 8390 Kamiti/ Anmer forest land.
7. The National Land Commission had also admitted the complaint on the contested land as a historical land injustice and confirmed that the letters of allotment issued to Kamiti Anmer Development Association in respect to the land were valid.
8. The Committee also observed that in the High Court Miscellaneous Case No. 1446 of 1994, the court held that the land was legally alienated by the Defunct County Council of Kiambu to the allottees.
9. The Committee also observed that although there were several groups laying claim to the land in question these being the Kamiti Forest Squatters Association, Kamiti Anmer Development Association, Muungano Kamiti Group and Kamiti Anmer Development Welfare Group,

following alternative dispute resolution mechanisms, three of the groups namely the Kamiti Forest Squatters Association, Kamiti Anmer Development Welfare Group and Muungano Kamiti Group had since agreed that the land be distributed among the members of the groups and had developed a reconciled list of allottees for consideration of issuance of titles.

10. In accordance with the submissions received by the Committee in respect of LR. No. 8390 Kamiti/ Anmer forest land from the Ministry of Land, the Committee observed that the land was surveyed in 1954 vide FR69/29 as Kamiti Forest Reserve measuring 419 acres and 149 title deeds have since been issued at the Kiambu Land Registry to individual owners in respect of for LR. No. 8390 Kamiti/ Anmer forest land.
11. Based on the submissions made to the Committee, the Committee observed there existed serious security concerns due to disputes between various groups concerning ownership of LR. No. 8390 Kamiti/ Anmer forest land which calls for urgent settlement of the dispute through regularization of the de-gazettement process and subsequent allocation of land to the members of the four groups.
12. The Committee further observed that although the de-gazettement process was not concluded, based on -
 - (a) the letter by the then Provincial Commissioner Mr. Victor Musoga conveying the decision of the former President to the Kiambu County Council vide letter Ref. No. D74/1/173 seeking to implement the pronouncement for settlement of squatters in LR. No. 8390 Kamiti/ Anmer forest;
 - (b) the Legal Notice No. 179 of May, 1995 issued by the then Minister J.K Mulinge on the 419 acres converting the titling regime;
 - (c) issuance of letters of allotments to individuals by the then Kiambu County Council upon payment of requisite fees;
 - (d) issuance of 149 title deeds to individual owners in respect of LR. No. 8390 Kamiti/ Anmer forest;
 - (e) occupation and development of the contested land evidenced by presence of residential homes and public facilities including a primary school;
 - (f) presence of public utilities such as provision of water services and electrification provided through use of public funds by the government;
 - (g) confirmation by the National Land Commission on the validity of the allotment letters in respect of the land; and
 - (h) the High Court Miscellaneous Case No. 1446 of 1994, that held that the land was legally alienated by the Defunct County Council of Kiambu to the allottees;

there indeed existed sufficient evidence to disclose that there was an intention to degazette the LR. No. 8390 Kamiti/ Anmer forest for purposes of settling the members

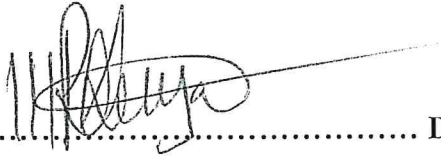
of the four groups.

13. The Ministry of Lands submitted that the titles can be regularized once the forest was degazetted. In this regard, the Committee also observed that the de-gazettement of the forest excising the 419 acres can be completed under section 34 of the Forest Conservation and Management Act, 2016 and the allotments and titles issued to members of the four groups regularized.

5.0 COMMITTEE RECOMMENDATIONS

The Committee recommends that:

1. Pursuant to section 34 of the Forest Conservation and Management Act, 2016 the LR. No. 8390 Kamiti/ Anmer forest be de-gazetted and excised from the Kamiti forest for purposes of settlement of the members of the Kamiti Forest Squatters Association, Kamiti Anmer Development Association, Muungano Kamiti Group and Kamiti Anmer Development Welfare Group.
2. The Cabinet Secretary, Ministry of Lands & Physical Planning in consultation with the Cabinet Secretaries, Ministry of Interior and Coordination of National Government, Ministry of Environment and Forestry and the National Land Commission do ensure through alternative dispute resolution mechanisms that the allocation of LR. No. 8390 Kamiti/ Anmer is regularized taking into consideration the membership of the four groups, physical developments undertaken on the land and the public utilities existing on the land within sixty days of adoption of this report by the House.

Signature:  Date: 13/6/2019

THE HON. DR. RACHAEL NYAMAI, M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON LANDS

