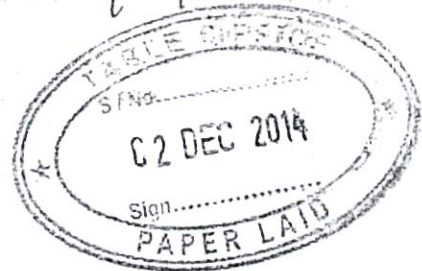


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KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – SECOND SESSION - 2014

REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS

ON

THE DEGAZZETTEMET OF GOVERNMENT LAND BELONGING TO
CHORLIM COOPERATIVE SOCIETY

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

NOVEMBER, 2014

TABLE OF CONTENTS

Introduction.....Pg 4
Submissions from Residents of Exoserens Farm (Kiboroa).....Pg 4
Submissions from Trans Nzoia Land Officials.....Pg 5
Submissions from Trans Nzoia Forest OfficersPg 6
Committee Observations.....Pg 6
Committee Recommendations.....Pg 7

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	

ATTENDANCE LIST

DEPARTMENTAL COMMITTEE ON LANDS

DATE: 11/11/14

VENUE: Protection House, 4th floor

AGENDA: ADOPTION OF THE REPORT ON DEGAZZETMENT OF LAND BELONGING TO CHORLIM COOPERATIVE SOCIETY

NO.	NAME	TITLE	SIGNATURE
1.	The Hon. Alex Mwiru, M.P. (Chairperson)	Chair	
2.	The Hon. Moses Ole Sakuda, M.P. (Vice Chairperson)	Chairman	
3.	The Hon. Onesmas Ngunjiri, M.P.	M.	
4.	The Hon. Mutava Musyimi, M.P.		
5.	The Hon. John Kihagi, M.P.	member	
6.	The Hon. Francis W. Nderitu, M.P.	member	
7.	The Hon. Francis Njenga, M.P.		
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.	Member	
14.	The Hon. Sarah Korere, M.P.		
15.	The Hon. Julius Ndegwa, M.P.	Member	
16.	The Hon. Benson Mbai, M.P.	Member	
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.		
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.	M	
26.	The Hon. Thomas Mwadeghu, M.P.	member	
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.		

ACKNOWLEDGEMENT

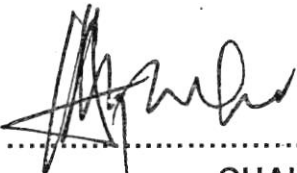
Mr. Speaker Sir,

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

1.0 INTRODUCTION

1. On 18th March 2014, the Hon. Robert Pukose, MP requested for a Ministerial Statement regarding the situation surrounding the degazettement of government land already occupied by members of Chorlim Cooperative Society and sought to know whether the government would compensate the farmers for those forceful evictions.
2. While the response was being presented to the House, the Hon. Pukose expressed dissatisfaction with the response and requested that the Departmental Committee looks into the Matter and reports to the House as a report.
3. The Speaker directed that the Committee visits the affected area with a view of getting views from members of the Chorlim Cooperative Society.
4. The Committee therefore resolved to visit Trans-Nzoia County between 31st August to 3rd September 2014 so as to interact with the evictee, experience the situation first hand and collect evidence on the ground.
5. The following Members undertook the visit;
 1. The Hon. Moses Ole Sakuda, M.P. - **Vice Chairperson**
 2. The Hon. Kipruto Moi, M.P.
 3. The Hon. Bernard Bett, M.P.
 4. The Hon. Hellen Chepkwony, M.P.
 5. The Hon. Eusilah Ngeny, M.P.
 6. The Hon. Esther Murugi, M.P.
 7. The Hon. Joseph Oyugi Magwanga, M.P.

2.0 SUBMISSIONS FROM RESIDENTS OF EX-OSEREN FARM (KIBOROA)

6. Chorlim Group Chairman Mr. John Ngeiwa representing the Members informed the Committee, THAT:
 7. In 1987, the farm was owned by a white settler, the residents were then living in the forest as settlers. The squatters created Chorlim Cooperative society through which they bought the land after the white settler left. The society was allotted the land in 1999 and the the farm borders Kibanda and Sikimo SFT.
8. The Land has a title deed, LR. No.6992/2 from the time it was owned by the white settler, its total acreage is 620 acres and was subdivided among 200

members of the Society.

9. The members were vetted by the District Commissioner and the Provincial Commissioners office who established that they did not have land and were living in the area as workers before the white man left.
10. They approached the Ministry of land and they were given the land between 2002 and 2010, and have paid a total of Kshs.2.9 million to the Commissioner of lands and they started living in the land in 2002.
11. A quit notice was given by the Kenya forest service through Mr. Simon Wahome in 2006 after which the group went to court and got a stay order.
12. The land was gazetted prior to the 2007 elections as Mukunga forest. The land is in Saboti Forest.
13. In 2007, the group went for the elections while still in the farm. The Saboti land Defense Forces evicted them during the clashes and when they wanted to return, the forest officer evicted them again. During the Post election violence, Mr. Wahome sent police to evict the residents;
14. In April 2008, the court issued another stay order and members re - entered the land whereby the son to the Chairman was shot dead by police on the directive by the forest officer Mr. Simon Wahome;
15. Hon. Kapondi presented the case in parliament but it was never resolved.

3.0 SUBMISSIONS FROM THE TRANS NZOIA COUNTY LAND OFFICER

16. A status report from the Ministry of Lands, Housing and Urban Development, signed by J.N. Osoro, Chief Land Administration Officer, Trans Nzoia, West Pokot and Turkana Counties dated 12th April 2012 shows, THAT:
17. The subject property is duly registered under the registration of titles Ordinance as LR no 3799 at the central registry in Nairobi and that both the Correspondence file and deed file are in the records office and central registry respectively.
18. The last registered owner is Keld Lund Sorenson, the property having being transferred to him by previous owners on 17th February 1964.

19. Mr. Sorenson charged the property to Agricultural Finance Corporation immediately upon transfer until the same was discharged on 13th April 1967.
20. According to Chorlim Multi-Purpose Society, Mr. Sorenson left the farm in the late 1960's and his workers continued to farm the land as the owners had left without any instructions to anyone.
21. It could not be established if Mr. Sorenson formally surrendered the land to the government.
22. After staying on the land for more than 20 years, the workers and their dependants formed a cooperative society and applied for allocation of the subject land. This application was supported by the Provincial Commissioner, Rift Valley province and the District Commissioner, Trans Nzoia (**Annex I**).
23. The land was allocated to the said cooperative vide an allotment letter Ref no.23558/85 dated February 1999 at a stand premium of Kshs. 3,300,000 and annual rent of Kshs. 82,000 (**Annex I**).
24. The cooperative society accepted the offer and made part payment and have continued to pay the requisite fees with the total payments currently standing at Ksh. 2,900,000 (**Annex I**).
25. Members of the Cooperative engaged a private surveyor to subdivide the land in 2.5 acre parcels for distribution among the membership, survey receipts and evidence of occupation upon the land marked as (**Annex II**).
26. The District officer issued a vacation notice on 4th May 2006. Members went to court and obtained stay orders dated 24th May 2006.
27. The District Forest Officer ignored the Stay orders and forcefully evicted the Members of the cooperative society from the land **3.1 Current Status**
28. The disputed land is indeed as indicated in the various documents including the title. It borders Mount Elgon forest to the west and North, Sikinwa Settlement Schemen (Formally LR. No.6991) to the east and Gituamba farm (Formally LR no.6439 to the south)

29. The land is currently vacant save for a small part approximating 7 acres that has mature pine trees currently being harvested, reportedly through the District forest office.
30. There still exists clear evidence of previous settlement by members of Chorlim Cooperative society as is evidenced by existing boundaries and ruins of structures, including a Church that is still standing and is in use;
31. The Zonal forest manager has failed to provide the Lands office with documentary evidence confirming that the said plot was indeed acquired by the Ministry of Environment in 1975 as claimed by his office. The only documents available has been a letter stating that the land belongs to the Ministry of environment and Natural resources and a boundary plan titled 'addition to Mt. Elgon forest' prepared by the chief Conservator of forests. (Annex III)
32. From the foregoing, and unless the forest department has other documents not available to the Ministry of Lands confirming ownership, the plot which was registered in the names of Keld Lund Sorenson, has since been allocated to Chorlim Cooperative Society who have formally paid for it.
33. The government should formalize the allocation of the said land to the shareholders of the Cooperative and a directive issued to the forest department to forthwith cease harassing the people to vacate the land.

4.0 SUBMISSIONS FROM THE TRANS NZOIA COUNTY FOREST OFFICER

34. The Committee was informed that the land in question is forest land.
35. That the government bought the land in 1972 when Pan Paper was established. The forest department has records and receipts showing that the government bought the land.
36. The Committee directed that the forest department submit the records showing the same to the Committee through the Hon. Robert Pukose

5 OBSERVATIONS

The Committee makes the following observations THAT:

1. No documentation showing ownership of the Land can be produced by the Government Forest Department.
2. The coordinates of the land as observed from the Global Positioning System equipment shows that the area in question is outside the Forest Land.
3. The Officers in the Forest department in Trans Nzoia County are acting on impunity and harassing the people in the area.
4. The gazettement of the area as a forest land was influenced by political reasons.
5. The inhabitants of the area paid the Government money and are issued with allotment letters.

6 RECOMMENDATIONS

The Committee makes the following recommendations. THAT:

1. The government through the Ministry of Lands, Housing and Urban Development formalizes with immediate effect the allocation of land to the shareholders of the Cooperative Society to avoid further harassment by the forest department in Trans Nzoia County.
2. The government through the Ministry of Lands, Housing and Urban Development with the relevant government agencies institute investigations with a view to establishing the status and ownership and subsequently resettling and/or compensating the people evicted from the land.

Policy and Planning and General Administration Planning and Support Services. The sub-programmes to be affected are the following;

1. Land Policy and Planning

Kshs. 743 million for the National Bulk Tilting Centre under the Land Survey sub programme will be reallocated to the NLC for the following functions: Kshs. 260 M for County Land Management Boards, Kshs. 365 million for setting up alternative dispute resolution Mechanism and Kshs. 118 million for adjudication of Land, Ksh 27 million for Land Policy Formulation under the development planning and land reforms sub programme be reallocated to the NLC for land policy, Ksh 424 million for National Land Information System under the Land Information Management be reallocated to the NLC for NLIMS because it is a shared function

2. Administration Planning and Support Services

Ksh 52 million be reallocated to the NLC for administration

Upon the Committee agreeing to the above mentioned Observations and Recommendations the Report was adopted by the Members present.

MINUTE NO. DCL/LN/2014/62

ANY OTHER BUSINESS

The Following Matters arose;

1. Retreat by the Committee

The Meeting confirmed that there shall be a retreat between 27th to 31st May 2014 in Leisure Lodge Mombasa to among others to:

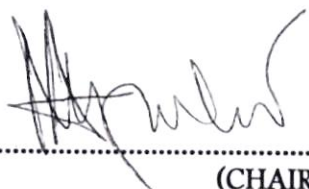
1. The Need for Land Policy Review
2. Impediments to the preparation of The Land Acts Regulations
3. The Outstanding historical Land Injustices in the Country.
4. An Overview on the Mandate of the National Land Commission visa vis the Ministry of Lands, Housing and Urban Development.

MINUTE NO. DCL/LN/2014/63

ADJOURNMENT

There being no other Business, the Chairperson adjourned the Sitting at Ten Minutes past Seven O'clock.

SIGNED



(CHAIRPERSON)

DATE

22/5/2014

