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KENYA NATIONAL ASSEMBLY



ELEVENTH PARLIAMENT – SECOND SESSION - 2014

REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS

ON

BANITA SETTLEMENT SCHEME

*Paper laid by
Chair Lands
Committee on
3/12/2014
@Lumbi*

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

DECEMBER, 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 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 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 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.199 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 

1 INTRODUCTION

During its various Sittings the Committee noted a pending report on Banita Settlement Scheme which had been done by the select Committee chaired by Hon Bonny Khalwale due to public outcry.

It was further appreciated that the report was concluded although it was noted that it was never adopted by the 10th Parliament.

It was therefore resolved that the Committee is seized of the Matter and resolved to tour the settlement scheme and appreciate the circumstances in the farm and recommend a way forward.

The Committee on Invitation by the Hon. Kipruto Moi, Member for Rongai Constituency visited Banita Settlement Scheme to investigate claims of Corruption in the allocation of the Scheme to beneficiaries. The Committee received the following information;

2.0 FINDINGS

2.1 Historical Background

The Committee visited Banita Settlement and interacted with residents who informed the Committee as follows, THAT:

1. The land was initially owned by a Greek farmer a Mr. Horn who employed labourers to work in his sisal farms.
2. The workers lived in villages and no one was allowed to live on the plantation. The villages included;
 - a) Banita Gichagi which is the largest village;
 - b) Kimomora – where houses were constructed by Mr. Horn for workers;
 - c) Machine - this is where the factory was located before it was moved to Majani Mingi in the early 1980's;
 - d) Other villages which were used by the Kalenjin community on the hill slopes were Kwa Bruce & Centre, Kapisaga, Chamesa, Magarama, Mlima Kenyatta, Kwa Ngethe, Sengenge and Kwa Wairia.
3. The Settlement Scheme is approximately 14,000 hectares and comprises of ;
 - a) 11,000 ha –formerly Banita Sisal estate
 - b) 2,000 ha from Majani Mingi estate and
 - c) 1,000 ha from the Lomolo estate
4. After the 1992 general elections, the employer started delaying workers' wages and salaries leading to strikes by workers demanding for their pay. The employer

decided to sell 6,000 hectares of the estate to pay the wage arrears, a move which was initially rejected by the workers but later agreed to.

5. Local leaders led a delegation to the owner and proposed to buy the 6,000 Ha of land and it was agreed that an acre would be sold at Kshs. 20,000.00 and the money was to be paid to the bank. The owner of the estate was represented by his son Mr. Horn Junior. The residents were categorized into four groups for purposes of the sale; business men, pastoralists and other squatters. The area residents however found the price exorbitant and offered Kshs. 7,000 per acre, an offer which was rejected by the owner.
6. The first allotment letters were issued soon after the 2002 general elections and since the issue had been politicized prior to the election, most people rejected the offer.
7. The then Minister of Lands, Hon. Amos Kimunya visited the area and announced a re-allotment exercise where each village was to elect its committee and in conjunction with the elders, a new list of allottees prepared.

The project manager accompanied by the Committee moved from house to house in order to take a roll call and enrol heads of families. The exercise also took into consideration orphans and single family households.

8. Each homestead was to be issued with 2.02 ha agricultural land and 0.10 ha residential plot.
9. The locals were to get 60% of the land and 40% was to be allocated to farm workers. The beneficiaries were required to pay Kshs. 13, 863 per hectare and a down payment but Ksh.2000 was to be paid in advance.
10. The Kenyan Government later agreed to purchase the whole farm and redistribute to locals and labourers through the aid of the Settlement Fund Trustee office.
11. On commencement of the survey process, Issues surrounding the land begun during the tenure of Hon. Bomett, Hon. Eric Morogo, Hon. Alicen Chelaite and Hon Lucas Kigen as members of Parliament.

2.3 SUBMISSIONS FROM THE RESIDENTS

Mr Simon Kiprop Mlot, area Member of the County Assembly, Mr. Kimuna Ole Kimaiywa, Mr. Joseph Korir Barmasat (Retired Chief), Ms. Christine Chepchirchir Magarama, Mr. Stephen Maina Kamau, Mr. Joseph Kamau Wainaina, Ms. Sophia Raja, Mr. Francis Owino Opondo, Mr. Wilfred Wanjala (former manager at the farm and Elected Councillor for 20 years) were chosen to brief the Committee on behalf of the residents.

The Committee was informed as follows by the aforementioned; THAT:

12. Banita Sisal Estate was initially part of Kalenjini ancestral land up to the point of settlement by Mr. Horn, a white settler, who cultivated sisal on the plantation until 1998.
13. Kalenjins together with other communities such as Kikuyus, Luos, Luhyas, Kamba's among others worked on the sisal estate as labourers.
14. In 1998 Mr. Horn decided to sell the land to the people who were working on the estate but he quoted a price which was too expensive for the people to afford.
15. The communities living in the land persuaded the Government to buy it on their behalf and in 1999 the land was later turned into a settlement scheme which was subdivided and allotment letters issued to different individuals by the then Member of Parliament for Rongai, Hon. Eric Morogo. Survey and erection of beacons was undertaken after which allotment letters were issued.
16. The issuance of allotment letters was conducted approximately two weeks before the general election of 2002 and was therefore politicized especially after Hon. Eric Morogo lost the election. Those who had settled in the area were to be given first priority (allocation of 60% of the land) while other Kenyans were to have 40%.
17. Member of Parliament Hon. Alicen Chelaite and the Minister for Lands Hon. Amos Kimunya dismissed the initial allotment letters and ordered a new survey and fresh issuance of allotment letters.
18. The second allotment disenfranchised the initial beneficiaries and introduced outsiders who hitherto were not considered for allocation leading to displacement of residents.
19. Balloting was not conducted while some residents were allocated land in swampy areas and others in hilly areas.
20. Some of the people involved in the recording of those to be issued with allotment included Councillor Nyandieka and Mr. Peter Nyambane among others. The criterion used to record those to be issued with letters was not transparent and was riddled with fraud.
21. The original beneficiaries who had worked for Mr. Horn had contributed towards the building of the cattle dip, school and hospital and were displaced in the second allotment and could no longer access those utilities.
22. Since the area is semi-arid, residents had agreed during Hon. Eric Morogo's to receive at least 10 hectares, however, during the allotment by Hon. Alicen Chelaite, it was agreed that each person would receive 5 hectares.

23. Some plots fell in the swampy areas, covered even railway .

The Committee was further informed that:

24. The government bought the land formerly known as Banita Sisal estate in 1995 and 1996 and enrolled the beneficiaries through the settlement scheme in the year 2003 April and May through village Committees and village elders. Allotment letters were issued to the beneficiaries in March 2009.
25. When Hon. Amos Kimunya reissued the allotment letters, he directed that balloting be undertaken to no avail.
26. The Committee that was formed to register residents afresh for re-issuance of allotment letters was composed of non-residents of Banita and was led by Councillor Nyandieka and Macharia (Nominated Councillor) who registered people selectively.
27. It was reported that Councillor Nyandieka had been formerly employed by Mr. Horn as a personnel officer and when he fired someone or learnt of an employee who had died, he would follow up and collect their allotment letters.
28. The squatters were to get land first but the prime land was taken by the rich led by Councillor Nyandieka. Some people were allocated more than 10 acres of land despite the agreement reached that each would be allocated 5 acres.
29. There was some resistance from the community (Kalenjin) and the resistance was evident later in the year when surveyors came to the project to show the beneficiaries their respective plots. The government reinforced security in the area and the resistance reduced, however the majority of the beneficiaries were shown their plots.
30. Area residents (from the Kalenjin Community) resisted the identification of plots to beneficiaries. Those who moved to their plots were resisted by the community leading to destruction of property e.g. a vehicle was set a blaze near Kwokwoi centre and property constructed by GOAL in aid of people affected by the Post-election violence was destroyed.
31. Members of the Kikuyu community could not bury their dead in their own land.

3.0 COMMITTEE OBSERVATIONS

The Committee observed THAT:

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 12/02/1999 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.

4.0 COMMITTEE RECOMMENDATIONS

The Committee makes the following recommendations, THAT

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 establishing 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 Administration 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. 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.

5.0 MINORITY RECOMMENDATION

While declaring his interest under Standing Order 90 on the matter, the Hon. Raymond Kipruto. Moi, M.P, who is also the Member of Parliament for Rongai Constituency proposed a further recommendation that in the allocation exercise the ration should be that 60% of the land be allocated to pastoralists and 40% to former workers of the farm.

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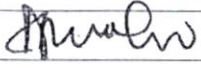
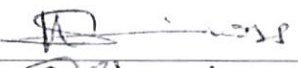
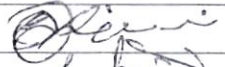






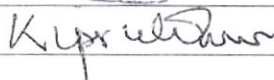
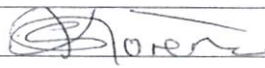
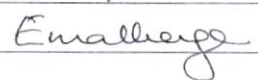
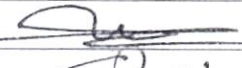


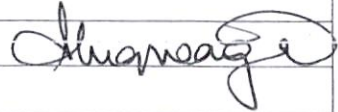
ATTENDANCE LIST

DEPARTMENTAL COMMITTEE ON LANDS

DATE: 23/10/2014

VENUE: SMALL BOARDROOM
HARAMBEE HSE, 9TH FLOOR

AGENDA: ADOPTION OF THE REPORT ON BANITA SETTLEMENT SCHEME

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 Enosupukia IDPs have been suffering for the last 20 years since they were evicted from there 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 Enosupukia 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 Enosupukia 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.

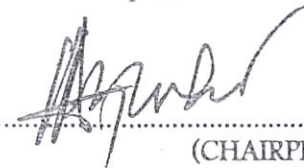
Members noted that the bill is crucial and very critical to the management of Community land in the Counties.

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


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(CHAIRPERSON)

DATE

4/11/2014
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