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REPUBLIC OF KENYA

THE SENATE

2ND SESSION

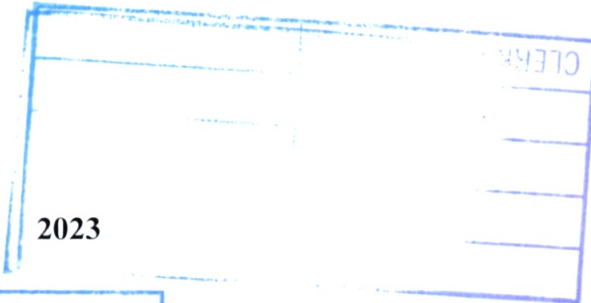
Rt. Hon. Speaker
You may approve for tabling
J. M. Nyegenye, C.B.S.,
Clerk of the senate/secretary, PSC
Date: 02/11/23

THIRTEENTH PARLIAMENT

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

ON

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



PAPER IS LAID	
DATE	14/11/2023
TABLED BY	Sen. Kamukama
COMMITTEE	Land
PLACE AT THE TABLE	Kavala m

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LIST OF ABBREVIATIONS/ ACRONYMS

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

PREFACE

Mr. Speaker sir,

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

Committee Membership

The Committee comprises of the following Members.

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

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

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

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

within the prescribed period.

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

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

ACKNOWLEDGEMENT

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

Mr. Speaker Sir,

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

Signed:  Date: 31/10/2023

SEN. JOHN MUHIA METHU, M.P.

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

CHAPTER I

1.1 INTRODUCTION

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

1.11 Underlying Constitutional and Statutory Provisions

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

and according to the principle of security of land rights.

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

The Petition

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

with the advised standard measurements.

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

Background Facts of the Complaint

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

19. Despite numerous attempts, the petitioners' efforts to seek redress from relevant authorities have been unsuccessful.

The Petitioners prayed that:

20. The Committee investigates the matter with a view to fast track the compensation for the illegally demolished houses at Mihang'o Njiru Chokaa in Embakasi East Constituency.

21. The Committee compels NLC to issue the Residents with title deeds if it is proven that the land does not belong to KPLC.

22. That the Land, Environment and Natural Resources Committee causes the relevant Cabinet Secretary to be invited to give responses to the Committee.

1.2 LEGAL BASIS FOR PETITIONS

23. Petitions to the Senate are governed by the Constitution, the Petition to Parliament (Procedure) Act, No. 22 of 2012 and the Senate Standing Orders.
24. **Article 37** of the Constitution provides that *every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities* while Article 119(1) of the Constitution provides that “*every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.*”
25. **Section 5(2)** of the Petition to Parliament (Procedure) Act, provides that *a petition that is tabled in Parliament under this Act shall be considered in accordance with the Standing Orders of the relevant House.* In this regard, standing order 238 of the Senate Standing Orders provides as follows-
- 238. Committal of Petitions*
- (1) Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Standing Committee.*
- (2) Whenever a Petition is committed to a Standing Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the Senate and no debate on or in relation to the report shall be allowed, but the Speaker may, allow comments or observations in relation to the Petition for not more than thirty Minutes.*
26. Standing order 239 requires the Clerk to, within fifteen days of tabling of the report on a petition under Standing Order 238 (Committal of Petitions), submit a copy of the report to the petitioner or petitioners.

CHAPTER 2

2.1 CONSIDERATION OF THE PETITION

2.1.1 Approach taken by the Committee

27. In considering the Petition, the Committee observed that it would be important to verify the facts alleged in the Petition. The Committee therefore resolved to conduct an inquiry on the issues raised in the Petition.
28. In this regard the Committee received the petition from the Petitioner through the House and further met with the Petitioners on several occasions as it met with the stakeholders.
29. Thereafter the Committee invited the Cabinet Secretaries of the Ministry of Energy and Petroleum (MoEP) and the Chairperson, National Land Commission (NLC) to appear before the Committee to respond to issues raised in the Petition.

2.1.2 Petitioners Submissions

30. Vide letter REF: SEN/DSEC/LENR/3/2023(102) dated 25th July, 2023, the Committee invited the Petitioners to physically appear before the Committee on Wednesday, 2nd August, 2023. The Petitioners appeared before the Committee as invited and defended their Petition.
31. During the meeting with the petitioners, the following was highlighted:
- a. The residents of Chokaa (Bidii Court) had their homes demolished despite residing there for over seven years.
 - b. That this petition was previously presented to both the Senate and the National Assembly. The National Assembly's Departmental Committee on Energy had addressed this issue and conducted an on-site visit.
 - c. The petitioners had not only liaised with DCC Ruai but had also obtained court orders from the Milimani Commercial Courts on 5th April 2019 to halt any demolitions.

32. The petitioners provided the following evidence:

- a. Share and ballot certificates- issued by Unity Self Help Group and Njiru Mihango Farmers housing schemes. These certificates list the petitioner's names, ID numbers, allocated plot numbers, and the signatures of the officials.
- b. Court-orders- Lawrence Ochieng along with four others secured court orders from Milimani Commercial Courts on 5th April, 2019, prohibiting KPLC from proceeding with the the demolitions.
- c. Sale agreements-These agreements outline details such as the names and ID numbers of the purchasers, the plot's dimensions, and the sums paid. Both the buyers' and sellers' witnesses were also provided.
- d. Payment receipts- These receipts were issued by Unity Self Help Group and Njiru Mihango Farmers housing schemes. The receipts bear the names of the petitioners/buyers, their ID numbers and the amounts paid.
- e. Photos of the houses – images documenting the houses both during and after demolition were mentioned but not attached.

2.1 3 Responses by the Cabinet Secretary, Ministry of Energy and Petroleum and the National Land Commission

33. Vide Letters REF: SEN/DSEC/LENR/3/2023(114) and REF: SEN/DSEC/LENR/3/2023(117) both dated 16th August, 2023. The Committee invited the Cabinet Secretary, Ministry of Energy and Petroleum and the Chairperson of the National Land Commission respectively to a physical meeting with the Committee to respond to matters raised in the Petition.

The Ministry of Energy and Petroleum responded as follows:

34. That in 2016, following a series of collapsed buildings in Nairobi and other parts of the country that led to massive loss of lives and property, the President of Kenya directed

the formation of Multi Sectoral Agency Consultative Committee (M-SACC) on unsafe buildings and structures. The mandate of the Committee was to identify unsafe building /structures, evacuate and demolish them to protect lives and property.

35. The respective agencies were required to identify unsafe buildings and structures including encroachments to wayleaves corridors of critical infrastructure and forward to M-SACC for planning and execution of demolitions. That the demolitions at Chokaa in Mihango were carried out along the transmission line wayleaves corridor only.
36. The demolitions were implemented by M-SACC in strict adherence to the laid down procedures. Prior to the demolitions, infringement notices were issued at the affected areas, the encroaching buildings were clearly marked. Sensitization and awareness meetings were held with the affected residents on 15th February, 2019 and 7th March, 2019 at Njiru DCC Office Grounds and Mowlem respectively.
37. M-SACC acted within its mandate of protecting lives and property from unsafe dwellings by demolishing the illegal buildings and structures. This also assisted KPLC to fulfil its obligation to build, operate, maintain and protect electric power supply lines to ensure adequate, economic, reliable, efficient and safe transmission and distribution system as stipulated under section 136(3)(a) and 140 1(a)&(b) of the Energy Act, 2019.
38. The owners of the demolished buildings and structures had contravened Section 185 of the Energy Act ,2019 and section 138 (1)(b) and Section 143(2)(a) of the Land Act.
39. The petitioners did not provide any proof to show that they in any way engaged the Survey of Kenya positions and boundaries of their alleged parcels of land in relation to the power line corridor.
40. The demolished buildings and structures were illegally constructed along power line wayleaves and therefore not eligible for compensation.
41. There is a pending court case that touches on the issues raised by the petition.

Response by the National Land Commission

42. The Chairperson, NLC was invited to the above meeting to respond to issues raised by the petitioners however following the presentation by the Cabinet Secretary MoEP the matter was found to be *sub-judice* as it was still actively in court therefore they could not respond further.

3.1 ISSUES FOR CONSIDERATION

43. The Committee identified the following as the key issue arising from the Petition-

- I). **Whether the Petitioners are justified in their quest for justice following the demolitions.**

The petitioner submitted evidence as follows:

44. The petitioners allege that they had not encroached the power line Wayleave and that the demolitions were unjustified.

45. The petitioners in their evidence submitted included the share and ballot certificates,

court orders, sale agreements and payment certificates as proof that the parcels of land were legally acquired.

The Ministry of Energy and Petroleum responded as follows:

46. Demolitions implemented by M-SACC were implemented in strict adherence to the laid down procedure and that the claim by the petitioners that the demolitions were illegal was false as the Director of Survey (and delegated government surveyors) are the authority on land boundary issues. KPLC obtained maps used in the construction and maintenance of the Way leaves corridor from Survey of Kenya. That the demolitions at Chokaa in Mihango were carried out along the transmission line Way leaves corridor only.

Observations of the Committee

47. The Committee notes that while indeed Chokaa residents suffered great losses as a result of these demolitions they failed to provide any form of written documentation confirming that they had indeed engaged the Survey of Kenya to confirm the positions and boundaries of their alleged parcels of land in relation to the power line corridor.

II). Whether the Petitioners have title deeds of their respective parcels of land.

The petitioner submitted evidence as follows:

48. Despite their occupation, the petitioners did not have title deeds but have shared ballot certificates.

The Ministry of Energy and Petroleum responded as follows:

49. The Ministry indicated that the petitioners had not provided any proof to show that they in any way engaged the Survey of Kenya positions and boundaries of their alleged parcels of land in relation to the power line corridor.

Observations of the Committee

50. The Committee noted that the residents of Chokaa were in possession of share and ballot certificates rather than title deeds.

III). Whether the Chokaa Residents were served with notices before demolitions.

The petitioner submitted evidence as follows:

51. The petitioners claim that they were not duly notified of the demolitions which took place in the month of April 2019.

The Ministry of Energy and Petroleum responded as follows:

52. Prior to the demolitions, infringement notices were issued at the affected areas, the encroaching buildings were clearly marked. Sensitization and awareness meetings were held with the affected residents on 15th February, 2019 and 7th March, 2019 at Njiru DCC Office Grounds and Mowlem respectively.

Observations of the Committee

53. The Committee observed that the infringement notices and evidence of the sensitization awareness meetings were not provided and as such they could not ascertain whether the affected residents were indeed notified of the demolitions.

IV). Whether the Petitioners are justified in their request for compensation

The petitioner submitted evidence as follows:

54. That KPLC compensates them for the demolished houses since no notice was served to them. They also indicated that the Milimani Commercial Court had granted them court orders restraining KPLC from undertaking the demolitions.

The Ministry of Energy and Petroleum responded as follows:

55. The owners of the Demolished buildings and structures had contravened Section 185 of the Energy Act, 2019, section 138 (1)(b) and Section 143(2)(a) of the Land Act.

56. The demolished buildings and structures were illegally constructed along power line wayleaves and therefore not eligible for compensation.

57. There was a pending court case that touches on the issues raised by the petition.

Observations of the Committee

58. The Committee noted the ongoing judicial proceedings related to the matter. In accordance with Standing Order 103 of the Senate Standing Orders, it was determined that the matter is *sub judice*. Consequently, the Committee resolved to defer its deliberation on the Petition until either the petitioners provide formal notification of the withdrawal of all related pending court cases or until the conclusion of said judicial proceedings.

CHAPTER 5

COMMITTEE OBSERVATIONS

Prayer One:

That this Petition be dealt with immediately in view of the urgency of this matter and the seriousness of the issues raised;

The Committee observed that the subject matter of the Petition pertained to matters that were actively in court. As such, and in accordance with standing order (103) (2), the petition was deemed *sub judice*. Consequently, the Committee resolved to suspend its deliberation of the Petition.

Prayer Two:

That the NLC be compelled to issue the Chokaa Residents with title deeds

In accordance with the Supreme Court Advisory Opinion Reference No. 2 Of 2014, the responsibility to issue title deeds lies with the relevant State Department responsible for the registration of titles and not the National Land Commission. Further, there would be need to ascertain whether the houses were constructed along power line wayleaves.

Prayer Three:

That the Speaker of the House and/or relevant committee of the House invoke their mandate and duty to summon the Cabinet Secretary for Energy and Petroleum.

Vide Letters REF: SEN/DSEC/LENR/3/2023(114) and REF: dated 16th August, 2023. The Committee invited the Cabinet Secretary, Ministry of Energy and Petroleum to a physical meeting with the Committee to respond to matters raised in the Petition.

CHAPTER 6

COMMITTEE RECOMMENDATIONS

The Committee having investigated the matter in accordance with its mandate under the standing order 228(4) of the Senate Standing Orders recommends that -

In view of fact of the issues in respect of which the petition is made are before a court of law, the matter is considered *sub judice* pursuant to the Senate Standing Orders 103(2), and as such the consideration of the petition is deferred pending the determination of the court.

APPENDICES

ANNEX I: MINUTES OF THE MEETINGS

Annex I -

- a. Minutes of the 28th sitting held on Wednesday, 2nd August, 2023 – Meeting with the Petitioners;
- b. Minutes of the 38th sitting held on Tuesday, 19th September, 2023 – Meeting with the MEP and NLC
- c. Minutes of the 48th sitting held on Friday, 27th October, 2023 – Consideration of the Committee Report on the Petition.
- d. Minutes of the 50th sitting held on Saturday, 28th October, 2023 – Adoption of the Committee Report on the Petition.

ANNEX II: SUBMISSIONS BY KEY STAKEHOLDERS

Annex II (A) – MECCF Submissions responding to the Petition

Annex II (B) – Report of the Departmental Committee on Environment and Natural Resources of the National Assembly dated 2nd March, 2017 regarding the proposed degazettment of 1,557.36 Ha(s) of Turbo Forest Reserve comprising the Matuma Settlement Scheme in Lugari, Kakamega County.

ANNEX III: SUBMISSIONS BY THE PETITIONER

Annex III (A) – Petition as tabled in the Senate

Annex III (B) – Submissions presented by the Petitioner as evidence backing their Petition

Annex III (C) – Request for recognition by the Second group of petitioners – *Harmonized group*

ANNEX I: MINUTES OF THE MEETINGS



MINUTES OF THE FIFTYITH (50TH) SITTING OF THE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON SATURDAY, 28TH OCTOBER, 2023 IN THE CLUB HOUSE, ENASHIPAI RESORT, NAIVASHA AT 2:00 PM

PRESENT

- | | |
|--------------------------------------|---------------|
| 1. Sen. John Muhia Methu, MP | - Chairperson |
| 2. Sen. Johnes Mwashushe Mwaruma, MP | - Member |
| 3. Sen. Issa Juma Boy, MP | - Member |
| 4. Sen. Mariam Sheikh Omar, MP | - Member |
| 5. Sen. Wamatinga Wahome, MP | - Member |
| 6. Sen. Agnes Kavindu Muthama, MP | - Member |
| 7. Sen. Beatrice Akinyi Ogola, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--|--------------------|
| 1. Sen. (Dr.) Steve Lelegwe Ltumbesi, MP | - Vice Chairperson |
| 2. Sen. William Cheptumo Kipkiror, CBS, MP | - Member |

SECRETARIAT

- | | |
|-----------------------|--------------------------|
| 1. Mr. Victor Bett | - Clerk Assistant II |
| 2. Ms. Ivy Nyambura | - Clerk Assistant III |
| 3. Mr. Peter Adika | - Chief Research Officer |
| 4. Ms. Angela Kagunyi | - Legal Counsel II |
| 5. Ms. Keziah Muthama | - Fiscal Analyst III |
| 6. Ms. Shirley Milimu | - Audio Officer III |
| 7. Mr. Ibrahim Odindo | - Serjeant at arms |

MINUTE SEN/LENR/286/2023

PRELIMINARIES

The Chair called the meeting to order at 2:21 pm. This was followed by a word of prayer.

MINUTE SEN/LENR/287/2023

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after having been proposed by Sen. Agnes Kavindu Muthama, MP and seconded by Sen. Beatrice Akinyi Ogola, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the following sittings;
 - a) *Minutes of the 28th sitting held on 2nd August, 2023*
 - b) *Minutes of the 29th sitting held on 3rd August, 2023*
 - c) *Minutes of the 38th sitting held on 19th September, 2023*
 - d) *Minutes of the 45th sitting held on 26th October, 2023;*
 - e) *Minutes of the 46th sitting held on 26th October, 2023;*
 - f) *Minutes of the 47th sitting held on 27th October, 2023;*
 - g) *Minutes of the 48th Sitting held on 27th October, 2023; and*
 - h) *Minutes of the 49th Sitting held on 28th October, 2023.*
4. Matters arising;
5. **Adoption of the Committee Report on the-**
 - a) **Petition by squatters of the Mautuma Central Settlement Scheme regarding the degazettement of 1577.86 Ha of Lugari/Turbo Forest in Kakamega County;**
 - b) **Petition by residents of Laikipia West Constituency regarding degazettement of Land Reference No. 12493; and**
 - c) **Petition by residents of Chokaa on illegal demolition at Mihang'o, Njiru Chokaa;**
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MINUTE SEN/LENR/288/2023

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETINGS

1. The Committee confirmed the Minutes of the Twenty Eighth (28th) meeting held on Wednesday, 2nd August, 2023 after having been proposed by Sen. Johnes Mwaruma, MP and seconded and Sen. Beatrice Ogola, MP respectively.
2. The Committee confirmed the Minutes of the Twenty Ninth (29th) meeting held on Thursday, 3rd August, 2023 after having been proposed by Sen. Johnes Mwaruma, MP and seconded and Sen. Beatrice Ogola, MP respectively.
3. The Committee confirmed the Minutes of the Thirty Eighth (38th) meeting held on Tuesday, 19th September, 2023 after having been proposed by Sen. Johnes Mwaruma, MP and seconded and Sen. Beatrice Ogola, MP respectively.
4. The Committee confirmed the Minutes of the Forty Fifth (45th) meeting held on 26th October, 2023 after having been proposed by Sen. Johnes Mwaruma, MP and

seconded and Sen. Beatrice Ogola, MP respectively.

5. The Committee confirmed the Minutes of the Forty Sixth (46th) meeting held on 26th October, 2023 after having been proposed and seconded by Sen. Beatrice Ogola, MP and Sen. Johnes Mwaruma, MP respectively.
6. The Committee confirmed the Minutes of the Forty Seventh (47th) meeting held on 27th October, 2023 after having been proposed and seconded by Sen. Johnes Mwashushe Mwaruma, MP and Sen. Issa Juma Boy, MP respectively.
7. The Committee confirmed the Minutes of the Forty Eighth (48th) meeting held on 27th October, 2023 after having been proposed and seconded by Sen. Johnes Mwashushe Mwaruma, MP and Sen. Agnes Kavindu Muthama, MP respectively.
8. The Committee confirmed the Minutes of the Forty Ninth (49th) meeting held on 28th October, 2023 after having been proposed and seconded by Sen. Issa Juma Boy, MP and Sen. Mariam Sheikh Omar, MP respectively.

MINUTE SEN/LENR/289/2023

**ADOPTION OF THE COMMITTEE
REPORTS ON THREE (3)
PETITIONS BEFORE THE
COMMITTEE**

1. The Committee having reviewed the draft report on the *Petition by squatters of the Mautuma Central Settlement Scheme regarding the degazettement of 1577.86 Ha of Lugari/Turbo Forest in Kakamega County* recommended that the report be adopted with a recommendation that –

all the remaining processes that were remaining are fastened and a report on the progress tabled before this Committee within three (3) months of the tabling of this Report.

The Committee adopted the report having been proposed and seconded by Sen. Johnes Mwaruma, MP and Sen. Maria Sheikh, MP respectively.

2. The Committee having reviewed the draft report on the *Petition by residents of Laikipia West Constituency regarding degazettement of Land Reference No. 12493b* recommended that the report be adopted with the following recommendations –
 - a. In accordance with section 36 of the FCMA, KFS should immediately initiate and commence the process of –
 - i. Degazettement of Land Parcel Rumuruti LR No. 12493 being an excision

- of 149.1 Ha(s) from Rumuruti Forest and
- ii. Gazettment of Lariak Forest Block LR No. 2467/1 that is set to now benefit the Kenya Forest Service with 127.3 Ha(s) being an addition to Lariak Forest.
- b. The County Government of Laikipia should embark on ensuring services are offered to the residents residing in LR No. 12493 as Article 43 of the CoK 2010 including aligning of the County Integrated and Annual Development Plans to ensure the area is also developed;
 - c. The Committee recommends that a report on the progress be tabled before the Committee within three (3) months of tabling of this Report.

The Committee adopted the report having been proposed and seconded by Sen. Beatrice Ogola, MP and Sen. Johnes Mwaruma, MP respectively.

1. The Committee having reviewed the draft report on the *Petition by residents of Chokaa on illegal demolition at Mihang'o, Njiru Chokaa* recommended that the report be adopted with the following recommendations –
 - a. That should there be such incidences in future humane ways to evict the persons from the encroached areas should be employed; and
 - b. The petitioners have sought redress in the courts of law and therefore the matter is considered *subjudice* pursuant to the Senate Standing Orders 235(g) and 103(2) on the Form of a Petition that indicates the minimum requirements for admittance of Petitions, a matter pending in court being one of them and matters *subjudice* respectively.

The Committee adopted the report having been proposed and seconded by Sen. Agnes Kavindu, MP and Sen. Issa Juma Boy, MP respectively.

MINUTE SEN/LENR/290/2023

ANY OTHER BUSINESS

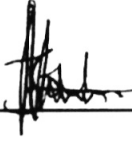
There was no other business discussed.

MINUTE SEN/LENR/291/2023

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 4:57 pm. The date of the next meeting was to be called on notice.

Signed _____



Date 31/10/2023

SEN. JOHN MUHIA METHU, MP

CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES



MINUTES OF THE FORTY EIGHTH (48TH) SITTING OF THE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON FRIDAY, 27TH OCTOBER, 2023 IN THE CLUB HOUSE, ENASHIPAI RESORT, NAIVASHA AT 2:00 PM

PRESENT

- | | |
|--------------------------------------|----------------------|
| 1. Sen. John Muhia Methu, MP | - Chairperson |
| 2. Sen. Johnes Mwashushe Mwaruma, MP | - Member |
| 3. Sen. Issa Juma Boy, MP | - Member |
| 4. Sen. Mariam Sheikh Omar, MP | - Member |
| 5. Sen. Wamatinga Wahome, MP | - Member |
| 6. Sen. Agnes Kavindu Muthama, MP | - Member |
| 7. Sen. Beatrice Akinyi Ogola, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--|---------------------------|
| 1. Sen. (Dr.) Steve Lelegwe Ltumbesi, MP | - Vice Chairperson |
| 2. Sen. William Cheptumo Kipkiror, CBS, MP | - Member |

SECRETARIAT

- | | |
|-----------------------|--------------------------|
| 1. Mr. Victor Bett | - Clerk Assistant II |
| 2. Ms. Ivy Nyambura | - Clerk Assistant III |
| 3. Mr. Peter Adika | - Chief Research Officer |
| 4. Ms. Angela Kagunyi | - Legal Counsel II |
| 5. Ms. Keziah Muthama | - Fiscal Analyst III |
| 6. Ms. Shirley Milimu | - Audio Officer III |
| 7. Mr. Ibrahim Odindo | - Serjeant at arms |

MINUTE SEN/LENR/271/2023

PRELIMINARIES

The Chair called the meeting to order at 2:05 pm. This was followed by a word of prayer.

MINUTE SEN/LENR/272/2023

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after having been proposed by Sen. Issa Juma Boy, MP and seconded by Sen. Beatrice Akinyi Ogola, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. **Consideration of the draft report on the Petition by residents of Chokaa on illegal demolition at Mihang'o, Njiru Chokaa;**
4. Any Other Business; and
5. Date of the Next Meeting and Adjournment.

MINUTE SEN/LENR/273/2023

**CONSIDERATION OF THE DRAFT
REPORT ON THE PETITION BY
RESIDENTS OF CHOKAA ON
ILLEGAL DEMOLITION AT
MIHANG'O, NJIRU CHOKAA**

The Secretariat took the Members through the draft report on the aforementioned Petition highlighting various legal submissions underpinning the Petition, submissions from the Petitioners as well as responses submitted by the Cabinet Secretary of the Ministry of Energy and Petroleum. Further, the Members were taken through the key issues for consideration as follows-

- a) *Whether the Petitioners are justified in their quest for justice following the demolitions.*
- b) *Whether the Petitioners have title deeds of their respective parcels of land.*
- c) *Whether the Petitioners are justified in their request for compensation.*

Having examined the Petitioners submissions and evidences as well as the responses submitted by the Ministry of Energy and Petroleum the Committee made the following observations-

- a) That while indeed Chokaa residents suffered great losses as a result of these demolitions they failed to provide any form of written documentation confirming that they had engaged the Survey of Kenya to confirm the positions and boundaries of their alleged parcels of land in relation to the power line corridor.
- b) The Committee noted that the Chokaa Residents didn't have title deeds but have lived in the area for a long period of time.
- c) M-SACC followed the laid down procedures by ensuring encroaching buildings were clearly marked as well as the conduction of sensitization and awareness meetings with the affected residents.

d) The matter was currently undergoing court proceedings and resolved that the matter is sub judice as per provisions of the Senate Standing orders, (103) and directed that the consideration of the Petition be suspended until the petitioners serve a notice of withdrawal of all cases pending in court to the Committee and the respective stakeholders especially KPLC.

MINUTE SEN/LENR/274/2023

ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/LENR/275/2023

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 4:10 pm. The date of the next meeting was to be called on notice.

Signed _____



Date 28/10/2023

SEN. JOHN MUHIA METHU, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES



MINUTES OF THE THIRTY EIGHTH (38TH) SITTING OF THE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY, 19TH SEPTEMBER, 2023 IN ROOM 23, 5TH FLOOR, BUNGE TOWERS, AT 9:00 AM

PRESENT

- | | |
|--|--------------------|
| 1. Sen. (Dr.) Steve Lelegwe Ltumbesi, MP | - Vice Chairperson |
| 2. Sen. Johnes Mwashushe Mwaruma, MP | - Member |
| 3. Sen. Wamatinga Wahome, MP | - Member |
| 4. Sen. Agnes Kavindu Muthama, MP | - Member |
| 5. Sen. Mariam Sheikh Omar, MP | - Member |
| 6. Sen. Beatrice Akinyi Ogola, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--|---------------|
| 1. Sen. John Muhia Methu, MP | - Chairperson |
| 2. Sen. William Cheptumo Kipkiror, CBS, MP | - Member |
| 3. Sen. Issa Juma Boy, MP | - Member |

SECRETARIAT

- | | |
|-----------------------|---------------------------------|
| 1. Mr. Victor Bett | - Clerk Assistant II |
| 2. Ms. Ivy Nyambura | - Clerk Assistant III |
| 3. Ms. Angela Kagunyi | - Legal Counsel II |
| 4. Mr. John Gichia | - Research Officer III |
| 5. Mr. Jack Lemeteki | - Media Relations Officer III |
| 6. Ms. Shirley Milimu | - Audio Officer III |
| 7. Ms. Lydia Kagumba | - Public Communications Officer |

MINUTE SEN/LENR/209/2023

PRELIMINARIES

The Chair called the meeting to order at 9:19 am. This was followed by a word of prayer.

MINUTE SEN/LENR/210/2023

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after having been proposed Sen. Mariam Sheikh Omar, MP and seconded by Sen. Johnes Mwashushe Mwaruma, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. **Meeting to deliberate on a Petition concerning the illegal demolition of houses by the Kenya Power and Lighting Company in Chokaa, Mihang'o with -**
 - i. Cabinet Secretary, Ministry of Energy and Petroleum accompanied by the Managing Director, Kenya Power & Lighting Co. Ltd; and*
 - ii. Chairperson, National Land Commission*
4. Any other business; and
5. Date of the Next Meeting and Adjournment.

MINUTE SEN/LENR/211/2023: MEETING TO DELIBERATE ON A PETITION CONCERNING THE ILLEGAL DEMOLITION OF HOUSES BY THE KENYA POWER AND LIGHTING COMPANY IN CHOKAA, MIHANG'O

The Committee began with a brief session with the Petitioners to obtain clarifications from the sponsor of the Petition and the Petitioners to give the Committee a brief on the matters raised in the petition and justifications of the specific prayers.

The Committee noted with concern that the Petitioners could not present written documents or any form of communication indicating instances they had met with the key stakeholders to support their case and thus advised them to ensure they had such records on any future engagements on land matters.

Thereafter, the Chairperson, invited the Cabinet Secretary, Ministry of Energy and Petroleum who responded as follows –

- i. That in 2016, following a series of collapsed buildings in Nairobi and other parts of the country that led to massive loss of lives and property, the President of Kenya directed the formation of Multi Sectoral Agency Consultative Committee (M-SACC) on unsafe buildings and structures. The mandate of the Committee was to identify unsafe building /structures, evacuate and demolish them to protect lives and property.
- ii. The respective agencies were required to identify unsafe buildings and structures including encroachments to Wayleaves corridors of critical infrastructure and forward to M-SACC for planning and execution of demolitions. That the demolitions at Chokaa in Mihango were carried out along the transmission line Wayleaves corridor only.
- iii. The demolitions were implemented by M-SACC in strict adherence to the laid down procedures. Prior to the demolitions, infringement notices were issued at the affected areas, the encroaching buildings were clearly marked. Sensitization and awareness meetings were held with the affected residents on 15th February, 2019 and 7th March,2019 at Njiru DCC Office Grounds and Mowlem respectively.

- iv. M-SACC acted within its mandate of protecting lives and property from unsafe dwellings by demolishing the illegal buildings and structures. This also assisted KPLC to fulfil its obligation to build, operate, maintain and protect electric power supply lines to ensure adequate, economic, reliable, efficient and safe transmission and distribution system as stipulated in the Energy Act,2019 Clause 136(3)(a) and 140 1(a &b).
- v. The owners of the Demolished buildings and structures had contravened Section 185 of the Energy Act , 2019, section 138 (1)(b) and Section 143(2)(a) of the Land Act.
- vi. The petitioners did not provide any proof to show that they in any way engaged the Survey of Kenya positions and boundaries of their alleged parcels of land in relations to the power line corridor.
- vii. The demolished buildings and structures were illegally constructed along power line wayleaves and therefore not eligible for compensation.
- viii. There is a pending court case that touches on the issues raised by the petition.

Response by the Chairperson, National Land Commission

- i. The Chairperson, NLC was invited to the above meeting to respond to issues brought up by the Petitioners however following the presentation by the Cabinet Secretary MoEP the matter was seen to be *sub-judice* as it was still actively in court thus he could not respond further.

Committee Observation

The Committee observed that indeed the matter was currently undergoing court proceedings and resolved that the matter is *sub judice* as per provisions of the Senate Standing orders, (103) and directed that the consideration of the Petition be suspended until the petitioners serve a notice of withdrawal of all cases pending in court to the Committee and the respective stakeholders especially KPLC.

MINUTE SEN/LENR/212/2023

ANY OTHER BUSINESS

There was no other business discussed.

MINUTE SEN/LENR/213/2023

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 10:22 am. The date of the next meeting was to be called on notice.

Signed



Date

31/10/2023

SEN. JOHN MUHIA METHU, MP

CHAIRPERSON

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



MINUTES OF THE TWENTY EIGHTH (28TH) SITTING OF THE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 2ND AUGUST, 2023 AT THE COMMITTEE ROOM 4, FIRST FLOOR, MAIN PARLIAMENT BUILDING AT 8:30 AM

PRESENT

- | | |
|--|---------------|
| 1. Sen. John Muhia Methu, MP | - Chairperson |
| 2. Sen. William Cheptumo Kipkiror, CBS, MP | - Member |
| 3. Sen. Johnes Mwashushe Mwaruma, MP | - Member |
| 4. Sen. Wamatinga Wahome, MP | - Member |
| 5. Sen. Beatrice Akinyi Ogola, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--|--------------------|
| 1. Sen. (Dr.) Steve Lelegwe Ltumbesi, MP | - Vice Chairperson |
| 2. Sen. Agnes Kavindu Muthama, MP | - Member |
| 3. Sen. Mariam Sheikh Omar, MP | - Member |
| 4. Sen. Issa Juma Boy, MP | - Member |

PETITIONERS

1. Mr. Vincent Arabai
2. Mr. Abdi Adan Guyo
3. Mr. Nuria Hassan Issack
4. Ms. Zeinab Hassan Ali
5. Ms. Mary Murithi
6. Mr. Duncan Tangara Wanzala
7. Ms. Khadija Hussein

SECRETARIAT

- | | |
|-----------------------|--------------------------|
| 1. Mr. Victor Bett | -Clerk Assistant I |
| 2. Ms. Ivy Nyambura | -Clerk Assistant III |
| 3. Ms. Angela Kagunyi | -Legal Counsel |
| 4. Mr. John Gichia | -Research Officer III |
| 5. Mr. Jack Lemeteki | -Media Relations Officer |
| 6. Mr. Shirley Milimu | -Audio Officer |

7. Ms. Keziah Muthama
8. Ms. Lydia Kagumba
9. Mr. Ibrahim Odindo

- Fiscal Analyst III
- Public Communications Officer
- Sergeant-At-Arms

MINUTE SEN/LENR/167/2023

PRELIMINARIES

The meeting was called to order at 8.50 am followed by a word of prayer.

MINUTE SEN/LENR/168/2023

ADOPTION OF AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Beatrice Akinyi Ogola, MP and seconded by Sen. Johnes Mwashushe Mwaruma, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. **Meeting with Petitioners on the Petition concerning the illegal demolition of houses by the Kenya Power and Lighting Company in Chokaa, Mihang'o (Committee Paper 33);**
4. Any Other Business; and
5. Date of the Next Meeting and Adjournment.

MINUTE SEN/LENR/169/2023

MEETING WITH PETITIONERS ON THE PETITION CONCERNING THE ILLEGAL DEMOLITION OF HOUSES BY THE KENYA POWER AND LIGHTING COMPANY IN CHOKAA, MIHANG'O (COMMITTEE PAPER 33)

The Chairperson welcomed the Petitioners and invited them to present their prayers, after a round of introductions. The Petitioners provided further insight and background to their prayers before the Committee after which they tabled their submissions.

On further deliberations the Committee noted that the matter had been looked at in the previous Parliament by the National Assembly Departmental Committee on Energy thus raising questions on why the matter was not concluded then.

The Petitioners responded that indeed they had previously presented a similar Petition to the said Committee but did not receive any feedback or information.

On hearing their prayers the Committee resolved to;

- i. Invite the Kenya Power and Lighting Company to appear before the Committee to respond to issues brought up in the Petition concerning the illegal demolition of houses by the Kenya Power and Lighting Company in Chokaa, Mihang'o;

- ii. Invite the National Land Commission to respond to matters of compensation raised in the Petition concerning the illegal demolition of houses by the Kenya Power and Lighting Company in Chokaa, Mihang'o; and
- iii. Conduct a site visit to Mihang'o Njiru Chokaa area in Embakasi East Constituency, Nairobi County to get further insight on issues raised by Petitioners.

MINUTE SEN/LENR/170/2023

ANY OTHER BUSINESS


There was no other business discussed.

MINUTE SEN/LENR/171/2023

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 9.20 am. The next meeting was to be communicated on notice.

Signed _____



Date 31/10/2023

SEN. JOHN MUHIA METHU, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

ANNEX II: SUBMISSIONS BY STAKEHOLDERS



REPUBLIC OF KENYA

MINISTRY OF ENERGY AND PETROLEUM

SUBMISSIONS BY THE CABINET SECRETARY

Following the letter dated 16th August 2023, Ref: SEN/DSEC/LENR/3/2023(114), **Residents of Chokaa** through the Senate Standing Committee on Land, Environment, and Natural Resources requested the Cabinet Secretary, Ministry of Energy and Petroleum to make submission on the illegal demolition of houses by Kenya Power and Lighting Company in Chokaa, Mihang'o Nairobi County.

The following are submissions on the petition as requested:

1. That in 2016, following a series of collapsed buildings in Nairobi and other parts of the country that led to massive loss of lives and property, the President of Kenya directed the formation of a Multi-Sectoral Agency Consultative Committee (M-SACC) on unsafe buildings/structures. The committee was domiciled at the State Department of Public Works in the Ministry of Transport, Infrastructure, Public Works, Housing and Urban development.
2. The M-SACC Committee comprised of representatives from government departments and agencies that deal with the built environment, infrastructure, security agencies and disaster

management. They included: The state department for Public Works, National Construction Authority (NCA), National Environment Management Authority (NEMA), Nairobi City County, National Police Service, National Disaster Management Unit (NDMU), National Youth Service (NYS), Kenya Railways, Road authorities (KeNHA & KURA), Kenya Pipeline, Kenya Airport Authority (KAA), Kenya Power & Lighting Company (KPLC), Water Resources Authority (WRA) among others.

The mandate of the committee was to identify unsafe buildings/structures, evacuate and demolish to protect lives and property among other measures.

3. The respective agencies were required to identify unsafe buildings/structures, including encroachments to Wayleaves corridors of critical infrastructure and forward to M-SACC for planning and execution of demolitions. The identified encroachments posed danger to the lives of the occupants, the public and interference with the operations, repair and maintenance of the infrastructure.
4. Contrary to the claims in the petition, the demolitions at Chokaa in Mihangó and indeed other areas were carried out along the transmission lines Wayleaves corridor only.

The larger Embakasi area hosts the National Control Centre and three major transmission substations namely: Juja Road 132kV, Dandora 220kV and Embakasi 220kV substations. These substations receive bulk power from the generation

stations, and act as an interconnection point for power supply to Nairobi and other parts of the country.

5. The situation in paragraph 4 above creates a unique scenario of electricity network, where several transmission lines run close to each other and some share the same corridor expanded to accommodate the many lines, hence the varying parameters of the Wayleaves traces as opposed to stand-alone lines which have a standard width of 30 and 40 metres wide for 132kV and 220 kV transmission lines (i.e. 15 and 20 metres on either side) as mentioned in the petition.
6. The Wayleaves corridors with unique measurements are captured in the Survey of Kenya plans sheet Nos. NE36 and Buruburu Farmers Block 102 clearly marked as a power wayleave with clear boundaries demarcating the power line trace and parcels of land (**Appendix I**). (*This is also confirmed by the attached NLC letter to the National Assembly during discussions of a related matter*) (**Appendix II**). The demarcated Wayleaves trace also has provision for future expansion given the growing demand of power in Nairobi City and the country at large.
7. The Wayleaves trace is a safety corridor which should be left clear and free from any buildings/structures to avoid accidents/incidences that may lead to loss of life and property. The open space within the power line Wayleaves is also meant to provide access and sufficient space for operations, repair and maintenance of the critical electricity infrastructure of national importance.

8. The demolitions were implemented by M-SACC in strict adherence to the laid down procedures. Prior to the demolitions, infringement notices were issued at the affected areas (as confirmed in the petition), the encroaching buildings were clearly marked. Sensitization and awareness meetings were held with the affected residents on 15th February, 2019 and 7th March 2019 at Njiru DCC Office Grounds and Mowlem respectively. The same were also covered by a section of the media. (Please see attached photos as *Appendix III*).

9. Demolition of illegal structures within the power line Wayleaves corridor was carried out by M-SACC on 11th, 12th and 19th March, 2019 covering Kyangombe in Embakasi, Chokaa & Buruburu Farmers Land in Njiru, Matopeni & Kayole junction along Kangundo Road, Mowlem in Dandora and Muiringo in Kasarani. Most of the affected residents removed their buildings and other properties voluntarily away from the power line corridors.

10. M-SACC acted within its mandate of protecting lives and property from unsafe dwellings by demolishing the illegal buildings and structures. This also assisted KPLC to fulfil its obligation to build, operate, maintain and protect electric power supply lines to ensure adequate, economic, reliable, efficient and safe transmission and distribution system as stipulated in the Energy Act, 2019 Clause 136 (3) (a) and 140 (1) (a & b)}.

11. The owners of the demolished buildings and structures had contravened section 185 of the Energy Act, 2019 which states in part *“A person who without any reasonable cause hinders, obstructs, or interferes with the exercise by a licensee with regard to an energy infrastructure, or by the servant or agents duly authorized in writing of any such licensee, of any right of entry upon land conferred by this act for the purpose of laying and connecting, or repairing, inspecting or removing, an energy infrastructure commits an offense....”*

12. The petitioners ignored or willfully disregarded the provisions of the law that relates to easements and Wayleaves rights. Section 138 (1) (b) of the Land Act, 2012 grants the right to restrict what can be done on land that has an easement. Section 143 (2) (a) provides creation of a right of way for the benefit of the national or county government, a local authority, a public authority or any corporate body to enable the institutions or organizations carry out their functions referred to as a Wayleave.

13. The claim by the petitioners that the demolitions were carried out illegally on private parcels of land is not true. The Director of survey (and delegated government surveyors) are the authority on land boundary issues, KPLC obtained maps used in the construction and maintenance of the Wayleaves corridor from Survey of Kenya.

The petitioners have not provided any proof to show that they in any way engaged the Survey of Kenya to confirm the

positions and boundaries of their alleged parcels of land in relations to the power line corridor.

14. We confirm that KPLC and M-SACC were available prior, during and after demolitions to guide residents on the extent of the Wayleaves trace including marking the encroaching buildings contrary to the allegations by the petitioners. KPLC embarked on erecting beacons on the Wayleaves corridor after the demolitions because it was not possible to carry out the exercise due to the encroachments. Installing beacons is a continuous process as indicated in our response to a similar matter raised by Mihang'o residents through the Honorable Senator Mariam Sheikh Omar (please see attached letter to the Cabinet Secretary Ministry of Energy as *Appendix IV*).

15. It is therefore our submission that all the allegations against KPLC in regard to the demolitions are not true. We also state that it is not possible to resettle people on power line Wayleaves corridors as doing so would expose them to danger. This would also compromise operations of the electricity supply lines, and defeat the very reason of creating Wayleaves corridors and easements for critical infrastructure.

16. The demolished buildings and structures were illegally constructed along power line Wayleaves, and therefore are not eligible for compensation.

17. We confirm that to the best of our knowledge the mentioned court cases are still pending in court and that they touch on the issues raised in the petition.

Submitted for your further action.

Signed: 

Davis Chirchir

Cabinet Secretary

Date: 14th September, 2023

ANNEX III: SUBMISSIONS BY THE PETITIONER

09 MAY 2023

DEPUTY CLERK (M.A.)

② DLPs
Please deal with
9/4/23
① DC MA
kindly deal.

PETITION TO SENATE CONCERNING THE ILLEGAL DEMOLITION OF HOUSES BY THE KENYA POWER AND LIGHTING COMPANY IN CHOKAA,

MIHANG'O SENATE RECEIVED
AREA 09 MAY 2023
DIRECTOR LEGISLATIVE AND PUBLIC RELATIONS

THE SENATE RECEIVED
09 MAY 2023

09/05/2023

We, the undersigned, CITIZENS of KENYA and RESIDENTS of CHOKAA within EMBAKASI EAST constituency, living and working for gain in NAIROBI, wish in the interest of the public, to lodge this petition to the Senate concerning Kenya Power and Lighting Company demolition of the Houses in Chokaa Mihang'o area.

We humbly draw the attention of the House following:

1. THAT, Article 2(1) of the Constitution stipulates that the Constitution is the Supreme law of the Republic and binds all persons and all State Organs at both levels of government.
2. THAT, Article 3(1) of the Constitution stipulates that every person has an obligation to respect, uphold and defend the Constitution.
3. THAT, Article 10(2)b of the Constitution stipulates that the national values and principles of governance include- human dignity, social justice, inclusiveness, quality, human rights, non-discrimination and protection of the marginalized.
4. THAT, Article 19(2) of the Constitution stipulates that the purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity

③ Mr. Moger (DLPs)
ps process
ADZ

④ Ms. Chanzia
please process
⑤ Ms. Wabasha
has worked in the
DLPs

24
10.05.23

PETITION TO SENATE CONCERNING THE ILLEGAL DEMOLITION OF HOUSES BY THE KENYA POWER AND LIGHTING COMPANY IN CHOKAA, MIHANG' O AREA

of individuals and communities and to promote social justice and realization of the potential of all human beings.

5. **THAT**, Article 21(1) of the Constitution stipulates that it is a fundamental duty of the state and every state organ to observe, respect, promote and fulfil the right and fundamental freedoms in the Bill of Rights
6. **THAT**, Article 27(1) of the Constitution stipulates that every person is equal before the law and has the right to equal protection and equal benefit of the Law.
7. **THAT**, Article 28 of the Constitution stipulates that every person has inherent dignity and the right to have that dignity respected and protected.
8. **THAT**, Article 40 of the Constitution stipulates that every person has the right to protection of his property.
9. **THAT**, KPLC under their employees and agents failed to execute its duties under the aforementioned constitutional provisions.
10. **THAT**, KPLC under their employees and agents violated the aforementioned constitutional provisions when they raided and demolished the houses of the petitioners.
11. **THAT**, the demolition of the houses in Chokaa was illegal and in pretense that the houses were under the power way-leave.

PETITION TO SENATE CONCERNING THE ILLEGAL DEMOLITION OF HOUSES BY THE KENYA POWER AND LIGHTING COMPANY IN CHOKAA, MIHANG' O AREA

12. **THAT**, the Notice of demolition was due on 24th day of December 2018, which was suspended by His Excellency President Uhuru Kenyatta that there would be no demolitions.
13. **THAT**, the KPLC did not issue the residents of the area any notice for vacating the area apart from a notice that was seen on social media dated **10th December 2018** which did not mention Chokaa **and which KPLC did not honor an Executive order to stop demolition** by Former President, His Excellency Uhuru Kenyatta.
14. **THAT**, the illegal demolitions on privately owned land did not follow the required measurements of 15 meters for 132 kilowatts and 20 meters for 220 kilowatts as provided by the KETRACO Act.
15. **THAT**, close to 500 families were left homeless with school-going children forced to close schools early as their schools were demolished and their homes destroyed in exercise and left in cold as a result of the illegal demolitions.
16. **THAT**, some residents lost their business premises which were their only source of livelihood.
17. **THAT**, there are reports that one resident died by committing suicide due to frustration and embarrassment, and others were hospitalized due to trauma, shock

PETITION TO SENATE CONCERNING THE ILLEGAL DEMOLITION OF HOUSES BY THE KENYA POWER AND LIGHTING COMPANY IN CHOKAA, MIHANG' O AREA

and stress as they watched in disbelief what they had worked so hard to build brought down in a single day.

18. **THAT**, it is clear that the exercise treated the residents inhumanely and in total disregard of the provisions of Article 28 of the Constitution by robbing them of their dignity.

The exercise was in contravention of the goals of the Housing Committee. In respect of the above the petitioner cites the following grounds for the Senate's consideration of the matter:

1. **THAT**, efforts were made by petitioners to have the matter addressed by the KPLC including calling the KPLC personnel on the ground to guide the residents on the required measurements even going to the D.C. C's office in attempt to have the matter addressed but the D.C.C failed to accord the residents audience.
2. **THAT**, KPLC alleged that there were unscrupulous people who had invaded or purported to have the mandate to allocate land within wayleaves corridors which allegations were unfounded.
3. **THAT**, at no point did KPLC consult the residents or leaders of the residents to settle the issues of alleged encroachment if any. The residents were lawful owners

PETITION TO SENATE CONCERNING THE ILLEGAL DEMOLITION OF HOUSES BY THE KENYA POWER AND LIGHTING COMPANY IN CHOKAA, MIHANG' O AREA

of the parcel of land known as Plot No. 178, Reg No. 0207, Plot No.398, Reg No.0204; Plot No 881; Reg No 141; Plot No. 285; Reg No. 053; Plot No.284; Reg No. 055, Plot No. 919; Reg No.081; Plot No. 920; Reg No.082, Plot No.110; Regall situated at Njiru- Mihang'o, off Kangunda Road, Nairobi County. (It *would be prudent to indicate all the plots*)

4. **That**, KPLC through a Multi-Sectorial Agency Consultative Committee comprised of NEMA, KURA, NCA, WRA, NBI, KPLC, Kenya Railways, Nairobi City County Government, National Police Service, KAA, NYS, NDMU amongst other agencies demolished homes for the residents, subjecting to emotional torture, stress, ridicule and embarrassment.
5. **THAT**, the illegal demolitions caused the victims property and financial losses.
6. **THAT**, the residents filed two suits, **CMCC No.2303 of 2019 Laurence Ochieng and 4 others vs KPLC and Milimani CMCC No. 1657 of 2019: Vincent Arabai Erista** and 26 others vs **KPLC** to stop any demolitions or any form of damages to the properties but KPLC blatantly disregarded the said court orders issued on 5th April 2019 and 14th March 2019 respectively.
7. **THAT**, the residents after conducting due diligence searches at the surveyors of Kenya established that KPLC had no ownership of the disputed land. Thus, the demolitions were conducted in bad faith and violation of the resident's

**PETITION TO SENATE CONCERNING THE ILLEGAL DEMOLITION OF HOUSES BY THE KENYA
POWER AND LIGHTING COMPANY IN CHOKAA, MIHANG' O AREA**

fundamental right to housing and against the country's vision 2030 on affordable housing.

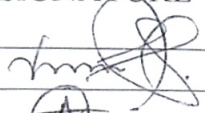
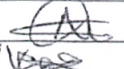

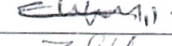
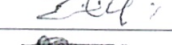
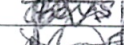
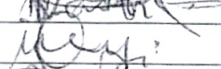
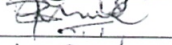


8. **THAT**, KPLC beckoned the area after the demolitions, which was an afterthought and a total violation of the laid down procedures.
9. **THAT**, the disputed land has remained vacant with the possibility of being sold to other third parties at the detriment of the victims of the demolitions.
10. **THAT**, to the best of our knowledge the issues in respect of which this petition is made are not pending before any court of law.

THEREFORE, your humble petitioner(s) Pray that the Senate looks into the matter with a view of ensuring the following:

- I. Resettlement of the victims is done by the KPLC to enable them to return to their normal life.
- II. The affected families are adequately compensated.

PETITION TO SENATE CONCERNING THE ILLEGAL DEMOLITION OF HOUSES BY THE KENYA POWER AND LIGHTING COMPANY IN CHOKAA, MIHANG' O AREA

PETITIONERS

NAME OF PETITIONER(S)	PLOT NO.	IDENTIFICATION NO.	SIGNATURE
VINCENT ARABAI	056	21866547	
ABDI ADAN GUYO	032	28895400	
NURIA HASSAN ISSACK	903	0197580	
SAID ELIAS OSMAN	882	6400890	
ZEINAB HASSAN ALI	35	13788989	
RASHID MUSSUF RUBOW	976	14419212	
DUNCAN WANZALA	178	11597141	
DATRICK MAKABILA	148	9045049	
ABDILATIFF ABEID OSMAN	922	7493842	
ISAAC ABDI GUYO	036	8498924	

Counter signed by Sen. Mariam Sheikh Omar,

Nominated Senator.



Sen. Mariam Sheikh Omar, MP.