

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY  
(TENTH PARLIAMENT – FOURTH SESSION)

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REPORT  
OF THE  
DEPARTMENTAL COMMITTEE ON LANDS AND NATURAL  
RESOURCES.

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On  
Ordinary Question No. 1044 by Hon. Shakilla  
Abdalla, MP (Nominated) on the Issuance of Title  
Deeds by the Ministry of lands in Lamu

National Assembly  
Parliament Buildings  
Nairobi

November 2012

## INTRODUCTION – THE QUESTION

1. On Wednesday, August 3, 2011, Nominated Member, Hon. Shakilla Abdalla, MP through an Ordinary Question No. 1044, asked the Minister for Lands the status and measures in place to ensure issuance of title deeds to the indigenous residents of Lamu County.
2. the Hon.(Ms.) Shakila Abdalla sought from the Minister for Lands:-
  - 2.1 When the indigenous land owners in Lamu County will be issued with title deeds;
  - 2.2 Whether he is aware that there is only one surveyor and two assistant surveyors in the whole county; and,
  - 2.3 What plans the Ministry has to increase the number of staff in order to cope with the volume of work.
3. In his response, the Minister for Lands answered as follows, that:-
  - 3.1 The indigenous land owners in parts of Lamu County have not been issued with title deeds. However, there is an ongoing exercise in Swahili villages of Pate, Mtangawanda, Siyu, Tchundwa and Ras Kitau of registering local interests on land, which will be followed by planning, survey and issuance of allocation letters the financial year, 2011/2012.
  - 3.2 There is only one surveyor and two assistant surveyors in Lamu County;
  - 3.3 The Ministry, in liaison with the Public Service Commission, recruited more surveyors and survey assistants, who are currently undergoing an induction course. Immediately after the induction exercise, two surveyors will be deployed to Lamu County in September, 2011.
  - 3.4 The Ministry is commitment to the process of issuing title deeds in the financial year (2011/2012). And following the new constitutional dispensation, government land, will be transferred and /or converted back to the county government, to hold in trust for the resident. When the National Land Commission is set up, the county government can decide what to do with the land.
4. Following the Minister's answer, the House raised a number of supplementary questions, which include that:-
  - 4.1 The answer from the Ministry was very inadequate as it appears there is no commitment from the Ministry.
  - 4.2 The coming up of the Lamu Port may lead to the indigenous people of Lamu losing their land to foreigners.

- 4.3 The proposed issuance of title deeds in some Swahili villages, where they are planning , do not touch some big divisions in Lamu which have not been mentioned in this particular answer;
  - 4.4 There is no commitment from the Ministry as to when the exercise of issuance of title deeds will be completed.
  - 4.5 The residents do not wish to have settlement schemes but their ancestral land to be properly adjudicated.
  - 4.6 The ancestral land in Lamu is classified as trust land. In effect, the Lamu residents who are living on that trust land are treated as squatters of the Government;
  - 4.7 Steps put in place by the Ministry to ensure that ancestral owners in Lamu will not lose their interest;
  - 4.8 The land question in Lamu represents one of the most serious historical injustices in this country regarding land. There is a new settlement scheme which is being established in Lamu. As Government policy that when you establish a settlement scheme in any area, you give a certain percentage to the local people;
  - 4.9 Measures the Ministry has taken to ensure that another settlement scheme comprising of “tractors” is not established at the expense of the landless in Lamu who are indigenous;
  - 4.10 Establishment of settlement schemes is creating another set of historical injustices by not addressing the past ones and creating new ones; and
  - 4.11 The Ministry of Lands has commissioned an in-depth investigation into the land issues in Lamu County and that the report be submitted to the House.
5. Therefore, as the answer given by the Minister was insufficient, the Chair directed that:-
- 5.1 Question be referred to the Departmental Committee on Lands and Natural Resources ; and
  - 5.2 Question needs to be comprehensively answered within two weeks by the Minister for Lands, taking into consideration all the issues in the House.

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

6. The Departmental Committee No. J on Lands and Natural Resources is established pursuant to provisions of Standing Order No. 198 (2) and (3) with the following terms of reference: -

- 6.1 to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
  - 6.2 to study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
  - 6.3 to study and review all legislation referred to it;
  - 6.4 to study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
  - 6.5 to investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister; and
  - 6.6 to make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.
7. The Committee is mandated to consider the following subjects:-
- 7.1 Lands and settlement,
  - 7.2 Forestry, water resource management and development,
  - 7.3 Irrigation;
  - 7.4 Environment,
  - 7.5 Wildlife,
  - 7.6 Mining and Natural Resources.

#### OVERSIGHT

8. The Committee oversees the following Government Ministries; namely: -
- 8.1 Ministry of Water and Irrigation;
  - 8.2 Ministry of Environment and Minerals Resources;
  - 8.3 Ministry of Lands; and
  - 8.4 Ministry of Forestry and Wildlife.

#### COMMITTEE COMPOSITION

9. The Parliamentary Committee on Lands and Natural Resources was constituted on June 17<sup>th</sup> 2009 and its membership is as follows:-
- 9.1 Hon. Mutava Musyimi, M.P. – **Chairperson**;
  - 9.2 Hon. Peris Chepchumba Simam, M.P. - **Vice Chairperson**
  - 9.3 Hon. Benjamin Jomo Washiali, M.P.
  - 9.4 Hon. Silas Ruteere Muriuki, M.P.
  - 9.5 Hon. Benedict Fondo Gunda, M.P.

- 9.6 Hon. Justus M. Kizito, M.P.
- 9.7 Hon. Njuguna Peter Gitau, M.P.
- 9.8 Hon. Mohammed Abdi Affey, M.P.
- 9.9 Hon. Omar Mbwana Zonga, M.P.
- 9.10 Hon. Kiema Julius Kilonzo, M.P.
- 9.11 Hon. Dr. Erastus Kihara Mureithi, MBS, HSC, MP

## TERMS OF REFERENCE

10. During its sitting, on Friday, November 4, 2011, the Parliamentary Committee on Lands and Natural Resources undertook the following, to:-
  - 10.1 Considered the Question by Hon. Shakila Abdalla and the Answer provided by the Minister for Lands, the Committee noted that:-
    - (a) There is need to establish the status of land allocation in Lamu County ;
    - (b) The established settlement schemes in Lamu County;
    - (c) The various allocations undertaken since 2000;and
    - (d) Any-other relevant information;
  - 10.2 Considered the comments, observations and supplementary questions raised in the House on the Company activities and licensing and the Minister's answer and or response;
11. From the above, the Committee resolved that:-
  - 11.1 The Member of Parliament briefs the Committee on issues raised and in particular his question to the Minister for Lands;
  - 11.2 The Provincial Administration, Lamu County to provide a brief on the status of settlement in Lamu County;
  - 11.3 The Committee meets the Petitioners in the area of operation, inspect their activities;
  - 11.4 The Committee holds a public hearing in Lamu County; and
  - 11.5 The Committee invites the Minister for Lands to submit a report and for a meeting on the Status of land allocation in Lamu County;

## FINDINGS AND RECOMMENDATIONS

### 12. FINDINGS

- 12.1 All land in Lamu is Government land, there is no community or private land;

- 12.2 The gazettement of the Dodori national reserve in 1975 forced communities to retreat to the less fertile grounds marking the serious downturn in productivity;
- 12.3 The coming of the port of Lamu presents more harm than good to the communities with intensified land scramble, outright neglect and total disregard of the rights and privileges Of the communities;
- 12.4 Environmental Impact Assessment undertaken didn't only overlook the massive disruption of the Lamu archipelago in terms of its strategic rich and diversified ecosystem but also the well-being of the fisher folks industry in the region;
- 12.5 Mainland community suffer from the threat of food insecurity, farming activities and future investment on industrial diversification and expansion a notable example is the Kililana and Mshundwani is up for grab due to its proximity to then expected port;
- 12.6 Pate community were driven from their ancestral land without compensation and now housing the Kenya navy base in Manda bay and other tracts converted into ranches and sold off.
- 12.7 Magogoni is the mainland area subject to the 1999 court injunction, obtained by Shungwaya Welfare Society which halted land allotment in Lamu district that was latter followed by presidential declaration in 2007 campaign that " there is no trust land in Lamu" ;
- 12.8 Politically connected individuals have managed to frustrate the shungwaya court injunction thru forged letters backdating their allotments. A September 2<sup>nd</sup>, 2009 court hearing on the matter was postponed to October the same year.
- 12.9 Several established facts account to the uniqueness of the of the Lamu phenomenon. These are:-
  - Communal land classified as trust land in other regions remain under state control in Lamu
  - Development of indigenous economic sector has suffered from chronic insecurity ,poor infrastructure, and other constraints imposed from above

- Prejudicial attitudes within the Provincial Administration and civic leaders has acted to deny local communities their basic rights as Kenyan citizens
- State settlement schemes have acted as mechanism encouraging upcountry in-migration at the same time the factor listed above sustains a high rate of local out-migration.

12.10 the Provincial Administration through the District Commissioners are alleged to be the masterminds of land allocation deals either with District Development Committee or private arrangement in collaborations with Ministry of Lands officials.

12.11 Lamu county council and leaders are sidelined and silent on this matter though the council is a major stakeholder over all land issues;

12.12 Countless meetings have been held with both high level government delegations ranging from former to the present minister for lands, prime-minister, presidential commissions of inquiry e.g. .TJRC etc. the plight of Lamu people has seen no relief and agony received no remedy.

### **13. RECOMMENDATIONS – The Government should:-**

13.1 Ensure environmental impact assessment is carried out on the proposed port area and on widespread invasion of the mainland forest areas.

13.2 Through the Ministry of Transport should ensure public awareness on the benefit of the Lamu port, both socially and economically;

13.3 Identify, revoke and restore back all land acquired illegally or grabbed and landing sites e.g. Teweni Island;

13.4 Apprehend all those implicated in abuse of office in illegal land allocation in Lamu County;

13.5 Make details of beneficiaries of Land in Lamu, with respect to names, acreage and year of allocation be made public ;

- 13.6 Stop invasion of Lamu county forest land by people from other regions. Establish mechanisms to urgently curb the wanton destruction of forest cover and environment;
- 13.7 Development of the Dodori National Reserve and the Kiunga Marine Reserve must be urgently initiated to improve trade, livelihood and incomes of the communities.
- 13.8 The National Land Commission as matter of urgency, should investigate historical land injustices in Lamu;
- 13.9 Local communities who were moved and or evicted following the Somalia shifta incursion from the areas now targeted for the Port development, should be compensated.
- 13.10 The Ministry of Lands should speed up the adjudication in Lamu. Subsequently issue title deeds;
- 13.11 In view of the port development project being undertaken, the government should not compensate persons who acquired the land illegally;
- 13.12 The government should acquire land for the development of the port and compensate only the bonafide owners.

#### **14. ACKNOWLEDGMENT**

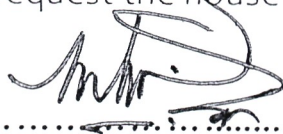
- 14.1 The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate.
- 14.2 Being the Chairperson of the Committee, I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks within the stipulated period.



14.3 The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.

14.4 Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Lands and Natural Resources, to present and recommend this report to the House pursuant to the provisions of Standing Orders of the National Assembly.

14.5 On behalf of the Committee, I request the house to adopt the report.



SIGNED:.....

HON. MUTAVA MUSYIMI, MP

CHAIRMAN

DEPARTMENTAL COMMITTEE ON LANDS AND NATURAL RESOURCES

DATE:... TUESDAY, DECEMBER 18, 2012.....

## PART I: BACKGROUND

### THE QUESTION NO. 1044

15. Pursuant to Ordinary Question No. 1044 on measures put in place by the Ministry of lands on the issuance title deeds in Lamu County, the **Hon.(Ms.) Shakila Abdalla asked the Minister for Lands:-**

- (a) When the indigenous land owners in Lamu County will be issued with title deeds;
- (b) Whether he is aware that there is only one surveyor and two assistant surveyors in the whole county; and,
- (c) What plans the Ministry has to increase the number of staff in order to cope with the volume of work.

16. In his response, the Minister for Lands answered as follows, that:-

- (a) Yes, I am aware that the indigenous land owners in parts of Lamu County have not been issued with title deeds. However, there is an ongoing exercise in Swahili villages of Pate, Mtangwanda, Siyu, Tchundwa and Ras Kitau of registering local interests on land, which will be followed by planning, survey and issuance of allocation letters this financial year, 2011/2012.
- (b) I am aware that there is only one surveyor and two assistant surveyors in Lamu County.
- (c) The Ministry, in liaison with the Public Service Commission, recruited more surveyors and survey assistants, who are currently undergoing an induction course. Immediately after this exercise, two surveyors will be deployed to Lamu Country in September, 2011.
- (d.) That the ministry is commitment in the process of issuing title deeds this financial year (2011/2012).
- (e) Government land, under the new Constitution, can be transferred back to the county government. When the National Land Commission is set up, then the county government can decide what to do with the land. It is now a leeway for the people of Kenya to decide what to do with their land.

17. Following the ministers answer, the House raised a number of supplementary questions, which include that:-

- i) The answer from the Ministry is very inadequate. There is no commitment from the Ministry.

- ii) There is a port which is coming up in Lamu and the indigenous people of Lamu are losing their land to foreigners.
- iii) Even the areas which are mentioned here, where they are planning to prepare title deeds do not touch some big divisions in Lamu which have not been mentioned in this particular answer.
- iv) I there is no commitment from the Ministry as to when the exercise of issuance of title deeds will be completed.
- v) We do not wish to have settlement schemes. We would want land adjudication to be done on our ancestral land.
- vi) The ancestral land in Lamu is classified as trust land. In effect, the Lamu residents who are living on that trust land are treated as squatters of the Government.
- vii) What steps is the Ministry taking to ensure that ancestral owners in Lamu will not lose their interest?
- viii) The land question in Lamu represents one of the most serious historical injustices in this country regarding land. Currently, there is a new settlement scheme which is being established in Lamu. It is my understanding that it is Government policy that when you establish a settlement scheme in any area, you give a certain percentage to the local people. What measures has the Ministry taken to ensure that another settlement scheme comprising of "tractors" is not established at the expense of the landless in Lamu who are indigenous?
- ix) Establishment of settlement schemes is because we will be creating another set of historical injustices by not addressing the past ones and creating new ones.
- x) The public domain that the Ministry of Lands has commissioned an in-depth investigation into the land issues in Lamu County.

18. Therefore, as the answer given by the Minister was insufficient, the Chair directed that:-

- i) Question be referred to the Departmental Committee on Lands and Natural Resources ;
- ii) Question needs to be comprehensively answered, taking into consideration all the issues in the House within two weeks by the Minister for Lands.

## 19. Background Information

- 19.1 Lamu County land problems started after independence when the county land was transferred to be governed by the Government Land Act, Cap 280, Laws of Kenya, where the President appointed the Commissioner of Lands as the administrator of all government/public lands;
- 19.2 Despite safe guards, government land has routinely been allocated irregularly and failed to recognize the customary lands tenure of communities of these region rendering them squatters;
- 19.3 The shifta bandit forced abandonment on the thriving mainland settlement from Mkokoni to Kiunga and the chronic behavior by the state security forces only aggravated the dilemma;
- 19.4 Lamu is one of the six counties in coast province. Has a land surface area of 6471.7sq km. it includes the mainland and over 65 islands which forms the Lamu archipelago; and
- 19.5 In 2009 population census, Lamu has a total population of 101539 people with the county divided into 7 divisions, 23 locations and 38 sub-locations.

## 20. Settlement

- 20.1 Lamu County is divided into 2 livelihood zones i.e. rich agricultural and livestock zones in the mainland, and the fishing & marine zones in the island both varying with biodiversity;
- 20.2 Most of the land is un-alienated government land i.e. land which is not for the time being leased to any other person or commissioner has not issued any letter of allotment. They are vested in the government hands. Such parcels do not belong to individual or bodies corporate in the private capacities;
- 20.3 Land in Lamu is categorized as government land both alienated (forests and national reserves) and alienated ;freehold/leasehold land (township and settlement schemes);
- 20.4 Only 24% of the leasehold/freehold is occupied and the rest is government land;
- 20.5 Most of the areas with unregistered land are in kiunga (Mainland, Faza & Kizingitini);

21. **The Communities of Lamu County-** The Lamu County is classified into 4 indigenous groups:-
- 21.1 **Ormas** the livestock rearing will soon be wiped out through the ongoing well-crafted uncontrolled systematic physical invasion by communities from outside;
  - 21.2 **Boni mainland forest dwellers** that are hunters and gathers hails from Lungi, Boni, and Dodori forests are marginalised and threatened by extinction because of the uncontrolled logging and squatter invasion which fast depleting the forests cover. More so the unlawful allocation of forest land to influential personalities exposes the Boni to confusion and fear.
  - 21.3 **Mainland farming Bajun and Sanye communities** been the first independence Internally Displaced Person in Kenya through the Somali shifta and Kenya security forces fighting and subsequent expulsion through killings and rape in 1962. Sanyes were faced with a double tragedy as they were driven forcefully from their homeland Mpuguti to establish the present day Mpeketoni.
  - 21.4 **Island fishing and farming Bajun hail from Manda, Pate, Kiwayu** are scattered in about 20 different villages within the archipelago and have had their share of tribulations, alarmingly the coming of the proposed port has sparked tension and greed amongst the host communities that are threatened by expulsion and end up been taken refuge as the case has being for the last four decades.
22. The threats /challenges facing these groups took a dramatic turn in 1972 upon the establishment of Lake Kenyatta schemes;
23. The Gazettement of the Dodori National Reserve in 1975 came as big blow to the communities as they were forced to retreat to the less fertile grounds marking it a down turn in productivity & cultural diversity thus the current high levels of poverty;
24. The introduction of back dating of land allocation processes and documents resulted to avalanches of the title deeds flooding the county;
25. The coming of the second port of the country in Lamu presents more harm than good to the communities with intensified land scramble, outright neglect and total disregard of the rights and privileges of the communities;

26. Environmental Impact Assessment undertaken didn't only overlook the massive disruption of the Lamu archipelago in terms of its strategic rich and diversified ecosystem but also the well-being of the fisher folks industry in the region that stand the threat of lack of alternative sustainable livelihood that is yet to be put in place;
27. Mainland community suffer from the threat of food insecurity, farming activities and future investment on industrial diversification and expansion;
28. Pate communities were driven from their ancestral land without compensation and now are housing the Kenya Navy Base in Manda Bay and other tracts converted into ranches and sold off to Mombasa tycoon;
29. Magogoni Port Land area is subject to the 1999 court injunction, obtained by Shungwaya Welfare Society which halted land allotment in Lamu district that was latter followed by presidential declaration in 2007 campaign that "there is no trust land in Lamu" the proposed port has sparked a lot of controversy;
30. Politically connected individuals have managed to frustrate the shungwaya court injunction through forged letters backdating their allotments. A September 2<sup>nd</sup>, 2009 court hearing on the matter was postponed to October the same year;
31. Several established facts account to the uniqueness of the of the Lamu phenomenon. These are:-
  - Communal land classified as trust land in other regions remains under state control in Lamu County;
  - Development of indigenous economic sector has suffered from chronic insecurity, poor infrastructure, and other constraints imposed from above;
  - Prejudicial attitudes within the Provincial Administration and civic leaders has acted to deny local communities their basic rights as Kenyan citizens; and
  - State settlement schemes have acted as mechanism encouraging upcountry immigration.
32. Effort to seek assistance and interventions of the Ministry of Land for reservation of those community lands have hit a snag and instead tracts of lands are been curved to grabbers supported by back-dated documents;
33. The Provincial Administration through District Commissioners are the masterminds of most of the mega land allocation deals either with District

Development Committee or private arrangement in collaborations with Ministry of Lands officials;

34. Involvement of well-to-do people from Lamu County has exposed the civic leaders' to manipulations leading to gross neglect, mismanagement and abuse of office.
35. The coming of proposed port gives this syndicate an opportune time to grab land as mega allocations are on rise on private and public lands as witnessed in Pate and Siyu villages thus communities been driven away;
36. Lamu County Council and local leaders are sidelined and silent on this matter though the council is a major stakeholder on all land issues;
37. The irony is that despite the scramble, the council has not benefited from these mega land allocations for future investment and development or that of its own expansion;
38. The establishments of Swahili schemes have in actual fact formed part of the scam to divert attention to serious land matter; and
39. Through the years countless meetings have been held with both high level government delegations ranging from former to the present Minister for Lands, Prime Minister, and Presidential Commissions of Inquiry, among others trying to seek their intervention on the land problems in Lamu County.

#### **MEETING WITH THE HON. SHAKILLA ABDALLA, MP, FRIDAY, NOVEMBER 4, 2011**

The Committee was informed that: -

40. Thanked the committee for the timely and historic visit to the county of Lamu on July 21 and September 14 and 15, 2011. The visit was historic as the Committee managed to reach out to the remotest parts of Mtanga Wanda, Pate, Siyu on Pate Island, Ras Kitau on Manda Island and Magogoni of the Mainland. And Hoped that the visit provided a opportunity of an in-depth understanding of the seriousness of land issues/crisis and the magnitude of and grabbing syndicate in Lamu;
41. Land misery in Lamu begun immediately after independence when all our county land was under the British crown Land Ordinance was transferred to and governed by the 1963 Government Land Act, Cap 280, Laws of Kenya. The act

vested all the powers regarding leasing, granting and disposition of these lands to the President whose jurisdiction is to appoint the Commissioner of Lands as the administrator of all public land;

42. Despite the safeguards in Cap 280, the so called government land were routinely allocated through non transparent and illegal means in total disregard and failing to recognize customary land tenure, land rights and ultimately rendering the communities squatters on government land;
43. The local leadership has long failed to recognize the malpractices and address the realization of land ownership and resource rights. Some of the local leadership is in the forefront of land grabbing syndicates;
44. The county indigenous communities are categorized as livestock rearing (Ormas), mainland forest dwellers (Boni), mainland farming (Bajun/Sanye) and island fishing/farming (Bajun);
45. Following the establishment of lake Kenyatta Settlement scheme in 1972, an uncontrolled expansion of the scheme, high profile land grabbing in collaboration with the provincial administration and respective government ministries have led to the injustice against the indigenous local communities;
46. There has been concerted efforts to invade the most resourceful areas of Lamu county by other communities either by force or due to natural calamities forcing them to seek refuge and livelihoods in Lamu especially the pastoralist of northern Kenya and Tana basin;
47. Establishment of the Dodori forest reserve and later Dodori National Reserve in 1975, deprived the Boni tribe of their dwellings hence forced to leave for less fertile areas;
48. The mainland Bajun/Sanye were the first internally displaced person in independent Kenya this followed the devastating invasion and subsequent eviction by the Kenya Forces in 1962 during the shifta war and later following the establishment of the homeland Mpunguti later Mpeketoni.



49. During the country transition to multiparty era, a new set of ugly turn of events on land grabbing became the order of the day and prompted the establishment of shungwaya Welfare Association and later filed a court case halting further disposal of land in Lamu County by the Ministry of Lands. Unfortunately this led to backdating of land allocations process and documentation procedures leading to an avalanche of letters of offer, allotments and title deeds flooding the county;
50. The coming of the second port at Lamu appear to bring more harm than good and the scramble for land closer to the port has heightened and with disregard of the local people;
51. The lack of a comprehensive Environmental Impact Assessment being considered before the port is established may be overlooked;
52. Ancestral land for Magogoni were forcefully taken away without compensation by a senior military official and now housing the Kenya Navy Base at Manda;
53. Efforts to plead with the Ministry of Lands for reservation of these community lands have not bear fruit and instead large chunks of the so called community land are being curved out to grabbers and supported with false back date documents;
54. The Provincial Administration through successive District Commissioners have been masterminds of the mega land deals in collaboration with the Ministry of lands officials;
55. Though the Lamu County Council is major stakeholder on land issues, however, ongoing developments at the port and other areas are not being involved or they are not in control or under their jurisdiction. Further, the council has not been allocated land through any means for future development and investment;
56. Recently the Minister for Land presided over the issuance of titles to those in the so called Swahili schemes. This is part of the Squatter Regularization Settlement Scheme in Faza, Pate Island which began in 2006; and
57. From the above, she recommend that:-

- a) The land policy and article 63 of the Constitution be implemented in order to vest land to communities especially those in Lamu;
- b) There should be urgent reservation of all mainland community land to safeguard them from physical invasion or grabbing ;
- c) Ensure the EIA on the port is carried out, implemented and on all surrounding areas;
- d) Identify, revoke and restore back to the communities all illegally or irregularly acquired community land and landing sites;
- e) Prosecute all those involved in the abuse of office and /or implicated in illegal land allocations or transactions;
- f) Compensate communities and all victims of grabbed land
- g) Ministry of land to make public details of land ownership in Lamu;
- h) Stop the indiscriminate Lamu County forest invasion by people of other regions;

#### **PUBLIC HEARING – LAND PROBLEMS IN LAMU - MR.MSELLEM SALIM MOHAMED**

58.He informed the Committee that:-

- wrote a letter dated 6<sup>th</sup> of September.2011, to the Commissioner of lands ,Kenya, requesting for application of land ownership documents Manda/Kitau Island Lamu and that he is a resident of Lamu, and is pleading with the Commissioner of Lands to help him acquire a title deed for his land which he confirmed that he has been fully developed i.e. 5 houses;
- The plot has been secured with a perimeter fence to protect his property from wild animals and intruders, he also does animal husbandly on the same plot and further planted different species of trees.
- He is leaving in fear of his plot been grabbed after struggling to secure a title deed for the past decade.

#### **MEMORANDUM BY THE SHANGA ISHAKANI COMMUNITY**

59.The informed the Committee that:-

- Registered society under the Ministry of Gender and Culture and Social Services and Ndaou Pate Island (Faza District –Siyu location) is their basket food since they rely on it for farming since 1940's.

- They wrote letter to the Hon. Minister for lands dated 8<sup>th</sup> of October, 2011 and their major complaint was to have a block title of the above mentioned island under one community to avoid conflicts and interference.

60. Lamu Community Submissions on Resolution of Historical & Existing Land Rights violations in Lamu County dated 20/8/2011 to the Parliamentary Committee on Lands and Natural Resources

- Signed by 20 organizations, social movements and 20 citizens.  
Draw attention to of the House to the New National Land Policy (NLP) 2010 and the Upcoming Lamu port;
- Lamu County categorized as government land (GL) .This nomenclature has been abused both politically and well endowed elites while the indigenous people are considered as squatters on their ancestral land.
- From the onset Lamu people were unaware of the extent of Government Land & were precluded from the land, thereby land had been used to reward individuals and tribes deemed to be loyal to the government and administration of the day.
- This cultivated and nurtured nepotism and ethnicity among the communities ;
- Allocations were done illegally as concerned individuals failed to follow proper procedures.
- People involved in this allocation were surveyors, physical planning officers, Lamu county chairmen, MPs, chiefs, District Commissioners and Commissioner for Lands.
- In 1970, government embarked on a policy of land distribution around Lamu to landless Kenyans through the Lake Kenyatta settlement scheme.
- These settlements were established in a dubious manner as owners were not informed, compensated or given alternative settlement.
- Proportion of indigenous communities settled was lower than that of the immigrants while the new settlers were treated as IDPs; the 12 indigenous communities received little consideration. These include; the Shikani, Sendeni and Mvundeni forcefully evicted in 1960s during the shifta war.

- These first IDPs migrated to other areas of Kenya & Tanzania up to date and no form of redress has been made despite the Indemnity Act repealed by Parliament in 2010.
- Most recent plan of settlement scheme, was initiated and Lamu County Council proposed that the land to be allocated through a ballot system whereby 70% would be locals. However,
- It was discovered that less than 30% of the beneficiaries were locals thus calling for a memo to Ministry of Land for appeal.
- Other violations to Lamu county resource include - plots in the gazetted water towers and catchment areas such as Shella sand dunes where town wells are located have been encroached by individuals and companies claiming to own the land
- Reclaimed land in the Wayne area of Lamu creating for dredging operations and meant for public utility as agreed by the District Development Committee in 2010 have been contravened whereby private investors began developing and squatters encroaching the land with support of provincial administration.
- Contrary to ministry of lands claims to have revoked all titles on the Shella water catchment the process is not completely clear. Still claims to address concerns of Wayne encroachment are valid as the area continues to grow.
- Hotel owners in Kiwayu Island who were fraudulent /irregular granted title deeds have developed resorts on the island whereas locals been prevented from having minor developments by KWS on basis of land being in a National Reserve;
- Fishing land and sites have equally been grabbed thus threatening the biodiversity in the area.
- Recent investigations show that the DC Lamu East is incorporating a back door settlement scheme in Kiwayu that lacks transparency and due process.
- Other acquired land in the name of “ ranches” and owners have succeeded in getting title deeds of these “ranches”
- Lamu lands and pristine beaches in ecologically sensitive areas i.e. lands of Manda, Toto, Ndau-Pate and Tenewi are threatened by foreign investors who follow irregular processes and procure titles from the Ministry of Lands.

- Evidence of protected areas of lands having been sold exorbitantly worldwide without the knowledge of indigenous owners.
- Locals remain disenfranchised with land adjudication process been riddled with bureaucracy and corruption
- Land insecurity is closely related to Natural Resources Management e.g. degradation of Boni and Witu forest areas by immigrant squatters so as to benefit from the existing settlement scheme program( evident in the Research on Kiunga marine and Dodori reserve)
- Demographic estimates place the indigenous title deed ownership between 15%-20%.This has been occasioned by selling of lands to foreigners due to high levels of poverty, expensive land adjudication process.
- Minister for Lands is alleged to have only issued verbal directives thereby officers from the ministry and investors continued to defy this order by illegally backdating their title deeds to date prior to the injunction.
- Development of Lamu port –South Sudan –Ethiopia Transport (LASSET) corridor will cut across significantly on Lamu County. Without their rights to land ownership been recognized ,Lamu people will be excluded from most benefits ,are reduced power in negotiations and fail to be involved in the development plans of the forests and farm areas.
- Land Rights Recognition Model which will recognize and register Community Lands as envisaged in the constitution and NLP, the former Government Land along coastal region to community Land. The piloting will inform the Community Land Act.

### C. MEMORANDUM FROM RAS KITAU INDEGINUOS COMMUNITY - 544 SQUATTERS OF RAS KITAU

61. In their memo, the residents informed the meeting that:-

- ✓ 81 participants and they signatures & accountability list for 544 squatters of Ras Kitau. The memo purpose of enlightening the parliament and the nation at large on then exercise in Swahili village of registering local interests on land, which was to be followed by planning, survey and issuance of allocation letters in financial year 2011/2012,
- ✓ Most members of the community are the most marginalised Kenyan minorities;

- ✓ Settlement scheme is harmonized scheme for the interest of its own indigenous people;
- ✓ The scheme is one year old;
- ✓ Required documents for allocation such letter of offer are still with the Ministry of Lands;
- ✓ Scheme done according the protocol of land jurisdiction and adjudication;
- ✓ Ras Kitau indigenous community has no complain on the modality of the exercise conducted and the long term investment;
- ✓ The project implementation Committee has chosen the right people , worked closely with the concerned department and that the department concerned did not take further steps without consulting and collaborating with the indigenous people;
- ✓ The PDP has been well done taking into consideration vision 2030 and all public utilities and infrastructure into consideration.

62. Therefore, pleads that:-

- ✓ The department concerned – land office Lamu, is delaying in the issuance of letters of allotment or offer then titles;
- ✓ There are grabbers in the area, selling land they do not own or were not allotted;
- ✓ There is a lot of political pressure in the exercise and it appears to be interfering with the exercise; and
- ✓ A few people in Ras Kitau have received titles;

#### D. KILILANA WAKULIMA SELF HELP GROUP

63. In their, Memo, the Self-help group, informed the Committee that:-

- Are located on the Mainland, Hindi Division of Lamu District. Currently the village has about 110 farming families with over 400 people living permanently;
- Mainly agriculturalist thus depend on farming activities with some practicing animal husbandry;
- In the late 1960 and 70.s, the shifta War resulted in their displacement however they have resettled and re-established their farming activities;
- The above mentioned group wrote a letter dated 26<sup>th</sup> Nov, 2008 to then District Commissioner Lamu, requesting for protection of their land which they pointed out as been under the threat of been grabbed by interested individuals;

- Concerned on the possibility of their title deeds been issued to speculators or immigrants who are hoping to benefit illicitly from development of the planned Lamu port;
- Consider allocating it to the families already living and practicing agriculture there.

## DISTRICT COMMISSIONER LAMU WEST SUBMISSIONS; STATUS OF SETTLEMENT, ADJUDICATIONS, AND ALLOCATION OF LAND IN LAMU WEST DISTRICT

64. He informed the Committee that:-

- Lamu west is one of the 22 districts in Coast Province and combined with Lamu East they form the Lamu County. The district has a population of 80,000 persons and is comprised of Amu, Mpeketoni, Hindi and Witu divisions. Over the years the different ethnic communities that live harmoniously have been faced with a major disparity in that the migrants' communities have overtaken them in acquiring and possessing of land tenure document whereas the hosts do not have, an anomaly that the lands ministry is addressing.
- The whole land in Lamu is classified as government land and therefore no adjudication work that can happen as it does in trust lands. Thus the government has allocated land in two ways namely;
  - a. Through the Commissioner of Lands and leased title are issued
  - b. Through Director of Settlement who issues freehold titles.
- Over the last four decades the government has been able to secure land rights to the local residents through established 5 settlement schemes I e. Lake Kenyatta, Lake Kenyatta 11, Hindi Magogoni , Witu-Lamu and Hongwe with 3480,612,764,738 and 987 number of plots respectively. Similarly the government has allocated 14 ranches namely; Abdi Maalim, Bujra, Amu, Majengo Private Co, Mwanati, Tullu Mbingani, Bodhei, Public Co, Witu Nyongoro, Witu North, Enganani, Umoja, Pwani Mgola, Akiro Private and Nairobi.
- Lamu District Development committee has approved a total of 55 Swahili villages/settlement schemes to be formalized and regularized with the government accepting the proposals and it will be completed when the funds are available. The area MP Hon. Fahim Twaha has committed CDF funds to

assist the programs with Ras Kitau been a beneficiary where 544 residents are awaiting their documents. Similarly, Manda has also benefited though it is in the planning stage;

#### 65. SUCCESS

- The government has successfully settled over 7000 households
- Those settled have secured their tenure
- The communities settled have turned the district into a breadbasket and are able to feed the entire population and beyond
- The government has provided roads, schools, electricity to the public through settlement schemes

#### 66. CHALLENGES

- Existing schemes have not accommodated the entire resident
- There are many speculators in anticipation of economic benefit of the proposed port.
- Budgetary constraints to undertake more settlement schemes
- Constant human –wildlife conflicts experienced
- Unemployed youths with families encroaching on vacant land to eke out a living
- Demand from residents to have they settlement formalized against the capacity of the concerned department
- A chronic problem of selling the allocated land and reverting to landlessness/squatter status.

#### 67. WAYFORWARD

- Government to, increase the budgetary allocations to the department carrying out this programs
- Need to increase staffs and tools like vehicles & boats in the district
- Need to plan wisely on the ranches and other idle lands
- Fast track the settlement program in Swahili villages with priority



- The activities of District Plot Allocation Committee were stopped through presidential directive in 1998 and hence they have not had a sitting with the district on the same.
- The original map on Ras Kitau as developed by the locals is been done by the lands ministry
- The final map of Ras Kitau showing all the plots, public utilities and all plot numbers is been finalized by the director of physical planning.

**MINISTRY OF LANDS - INTERVENTIONS IN RESOLVING THE LAND PROBLEMS IN LAMU:**

**68. REVOCATIONS OF ILLEGAL ALLOCATIONS**

- On the 18<sup>th</sup> of Feb, 2005 notified of erroneous allocations and allotment of the Lamu beach and sand dunes plots.
- Ordered the surrender of the said titles for cancellation as the area is a protected National Heritage
- As per Gazette Notice No.5560 under listed parcels of land were reserved for public purposes under the Government Lands Acts(cap 280) and the Trust Lands Act(cap 288) and therefore their title were revoked. They include:-

Numbers	Blocks	Owners
1	Lamu block IV 124	Abdillahi Faraj Hajji
2	Lamu block IV 126	Asya issa, Omar Issa Twaha & Fatima Issa Twahir
3	Lamu block IV 127	Behill Investment
4	Lamu block IV 128	Twahi .A. Issa
5	Lamu block IV 129	Fahim
6	Lamu block IV 189	Fahim
7	Lamu block IV 282	Fahim
8	Lamu block IV 162	
9	Lamu block IV 131	Abdalla Mohamed Abdalla
10	Lamu block IV 132	Jelan abu Mohamed chiabi
12	Lamu block IV 140	Brightsun properties
13	Lamu block IV 202	Frank Ng'anga Gikonyo
14	Lamu block IV 205	Saaban investment
15	Lamu block IV 206	Baraka holdings

16	Lamu block IV 207	Baraka holdings
17	Lamu block IV 211	Forest Recreation Park
18	Lamu block IV 228	Abdalla Mohamed Abdalla
19	Lamu block IV 229	Abdalla Mohamed Abdalla
20	Lamu block IV 230	Abdalla Mohamed Abdalla
21	Lamu block IV 231	Abdalla Mohamed Abdalla
22	Lamu block IV 233	Mohammed Hadim

#### 69. PROPOSED COMMUNITY LAND RIGHTS RECOGNATION MODEL (CLRR)

- The provision of the lands tenure in Kenya is done through the implementation of various statutes which include the then Government Land Act (cap 280), the Land Adjudication Act (Cap284), and the Land (Group Representative) Act (Cap287) all geared to individualization of land with a few or no provisions for recognizing communal rights and interests.
- The National Lands Policy was the first step towards the recognition of community rights and interests to land which was strengthened further by the Constitution.
- The Constitution under article 61(2) has reclassified land in Kenya to public, community and private. This model therefore provides the mechanism for registration of community rights and interests to land.
- The recognition ultimately requires that the mechanism be put in place to secure these rights and interests. This marked the birth of CLRR model.
- The Community Land Rights Recognition (CLRR) model has an assessment tool expected to inform operationalization of the Community Land concept in the Constitution and may be used to convert Government Lands within the coastal strip to community lands as stipulated in the National Lands Policy.
- The model will be undertaken in six stages i.e.
  - ✓ Stage 1. Generate demand for community land rights recognition, creation of public awareness.
  - ✓ Stage 2. Community engagement i.e. through education on the process to secure land and resources rights.

- ✓ Stage 3. Recording of community lands claims and governance rules.
- ✓ Stage 4. Demarcation.
- ✓ Stage 5. Validation and finalization by the concerned government agencies and communities
- ✓ Stage 6. Implementation that culminate in government land declared as Community Land, and Certificate of the Title of Community Land Ownership been conferred.

70. **ESTABLISHMENT OF SETTLEMENT SCHEMES** - The 5 settlement schemes in Lamu are:-

1. Lake Kenyatta settlement scheme phase I
2. Lake Kenyatta settlement scheme phase II
3. Hongwe (Officially known as Lake Kenyatta settlement scheme phase III). Main settlers being Kikuyu community who formed *Witemere* committees “cut for yourself”. They occupied this land and divided it among themselves.
4. Hindi Magogoni
5. Witu phase I

71. **Measures to address both immediate and historical land issues of concern include;**

- i. Court Injunction on freezing land allocations and official documents. Further be publicized to all ministry officials and general public as well as the directive be enforced to freeze settlements, adjudications and land allocations until a committee created to investigate and address all questionable land allocations and land rights abuses both present and past.
- ii. Independent committee comprising of government officials and local representatives selected through a transparent and participative process is in place to investigate irregular land allocations.
- iii. Neither new settlement to be initiated nor any un-alienated land to be privatized or transferred into local authority until community land and

- governance entity is selected thru a transparent and participative process is in place to govern and administer the community lands.
- iv. Un-alienated lands to be registered as blocks belonging to indigenous communities so as to subject them to local Laws on land allocations that will be formalized by community land entity as provided in the NLP.
  - v. Individuals encroaching on the protected and ecologically sensitive areas and those who have committed the fraudulent land transactions on the sensitive areas should be apprehended
  - vi. Title deeds in gazetted and protected areas such as Shella sand dunes, Natural Reserves and forests to be revoked immediately and violators apprehended.
  - vii. A victim of Shifita war i.e. the first IDPs after independence to be resettled and adequately compensated taking into account inflation rates from time of displacement.
  - viii. Owners of land that have been converted into settlement schemes to be adequately compensated taking into account inflation rates from time of appropriation.
  - ix. Community members whose lands were gazetted as reserves have their user rights officially recognized as per National Lands Policy which obligates government to facilitate benefit sharing and co-management process for the sustainable use of natural resources and conflicting reserve boundaries.
  - x. Terms of land ownership should be developed between people of Kiwayu Island and KWS to allow locals own and transact lands within the reserve without threatening biodiversity.
  - xi. Publicly known corrupt ministry and government officers to be transferred out of Lamu County. They include: - Members of Provincial Administration, employees of the office of Lands and settlement, and Lamu County Council.
  - xii. More awareness to be raised and education provided to allow the villagers in Lamu County on new land laws, National Lands Policy and the Constitution including land rights, adjudication process so as to build capacity to enable them make informed decision of land transactions.

## FINDINGS AND RECOMMENDATIONS

### 72 FINDINGS

1. All land in Lamu is Government land, there is no community or private land;
2. The gazettelement of the Dodori national reserve in 1975 forced communities to retreat to the less fertile grounds marking the serious downturn in productivity;
3. The coming of the port of Lamu presents more harm than good to the communities with intensified land scramble, outright neglect and total disregard of the rights and privileges Of the communities;
4. Environmental Impact Assessment undertaken didn't only overlook the massive disruption of the Lamu archipelago in terms of its strategic rich and diversified ecosystem but also the well-being of the fisher folks industry in the region;
5. Mainland community suffer from the threat of food insecurity, farming activities and future investment on industrial diversification and expansion a notable example is the Kililana and Mshundwani is up for grab due to its proximity to then expected port;
6. Pate community were driven from their ancestral land without compensation and now housing the Kenya navy base in Manda bay and other tracts converted into ranches and sold off.
7. Magogoni is the mainland area subject to the 1999 court injunction, obtained by Shungwaya Welfare Society which halted land allotment in Lamu district that was latter followed by presidential declaration in 2007 campaign that " there is no trust land in Lamu" ;
8. Politically connected individuals have managed to frustrate the shungwaya court injunction thru forged letters backdating their allotments. A September 2<sup>nd</sup>, 2009 court hearing on the matter was postponed to October the same year.
9. Several established facts account to the uniqueness of the of the Lamu phenomenon. These are:-
  - a) Communal land classified as trust land in other regions remain under state control in Lamu

- b) Development of indigenous economic sector has suffered from chronic insecurity ,poor infrastructure, and other constraints imposed from above
  - c) Prejudicial attitudes within the Provincial Administration and civic leaders has acted to deny local communities their basic rights as Kenyan citizens
  - d) State settlement schemes have acted as mechanism encouraging upcountry in-migration at the same time the factor listed above sustains a high rate of local out-migration.
- 10.the Provincial Administration through the District Commissioners are alleged to be the masterminds of land allocation deals either with District Development Committee or private arrangement in collaborations with Ministry of Lands officials.
11. Lamu county council and leaders are sidelined and silent on this matter though the council is a major stakeholder over all land issues;
- 12.Countless meetings have been held with both high level government delegations ranging from former to the present minister for lands, prime minister, presidential commissions of inquiry e.g. .TJRC etc. the plight of Lamu people has seen no relief and agony received no remedy.

### 73. RECOMMENDATIONS

- a. Ensure environmental impact assessment is carried out on the proposed port area and on widespread invasion of the mainland forest areas.
- b.Through the Ministry of Transport should ensure public awareness on the benefit of the Lamu port, both socially and economically;
- c. Identify, revoke and restore back all land acquired illegally or grabbed and landing sites e.g. Teweni Island;
- d.Apprehend all those implicated in abuse of office in illegal land allocation in Lamu County;

- e. Make details of beneficiaries of Land in Lamu, with respect to names, acreage and year of allocation be made public ;
- f. Stop invasion of Lamu county forest land by people from other regions. Establish mechanisms to urgently curb the wanton destruction of forest cover and environment;
- g. Development of the Dodori National Reserve and the Kiunga Marine Reserve must be urgently initiated to improve trade, livelihood and incomes of the communities.
- h. The National Land Commission as matter of urgency, should investigate historical land injustices in Lamu;
- i. Local communities who were moved and or evicted following the Somalia shifta incursion from the areas now targeted for the Port development, should be compensated.
- j. The Ministry of Lands should speed up the adjudication in Lamu. Subsequently issue title deeds;
- k. In view of the port development project being undertaken, the government should not compensate persons who acquired the land illegally;
- l. The government should acquire land for the development of the port and compensate only the bonafide owners.

### **3.0 THE PROGRESS AND STATUS OF SETTLEMENT, ADJUDICATION AND ALLOCATION OF LAND IN LAMU**

#### **3.1 Introduction**

All the land in Lamu East and Lamu West is classified as Government land.

The following Swahili Villages and settlement schemes are in Lamu West namely;- Manda, Mashudwani, Kililana, Mkunumbi, Mapenya, Ndambwe, Mokowe, Koreni, Pangani, Kiongwe, Didewaride, Panda Nguo, Moa, Katsakairu, Chalaluma, Roka and Witu Mjini. Scheme Planning, plot demarcation and survey is on-going in Ras-Kitau village.

The rest of the villages will be covered when funds are availed by the Government. The rest of the settlement schemes include Lake Kenyatta 1, Lake Kenyatta II, Hindi Magogoni, Hindi Magogoni extension (proposed), Witu Lamu and Hongwe.

Over 6500 households have been settled on these parcels and freehold title Deeds issued to those who have cleared Settlement fund Trustees (SFT) land charges.

Lamu East covers the following villages, namely:- Pate, Mtangawanda, Kizingiti, Mbwajumali, Myabogi, Ndau, Bargoni, Kiunga, Mkokoni, Mangai, Mkomani, Basuba, Kiangwe, Mararani, Kiwayu, Shanga Simambae, Mvundeni, Rubu, Ishakani and Mambore.



Scheme planning, plot demarcation and survey is ongoing in Pate, Ras Kitau and Mtangawanda; and will be completed by 30<sup>th</sup> June, 2012. Development plan for Ras Kitau has been finalized to facilitate demarcation and survey. Plot demarcation and survey has been completed in Faza Rasini, Tchundwa and Siu villages with over 2,700 beneficiaries.

Some Land allocations have been done in Lamu and Manda Islands, Ras Kitau, Zijutuni, Mokowe and Hindi areas for commercial and residential purposes.

3.2 The following is a schedule showing the status of the settlement programmes:

Schedule II

Name of Scheme	Area (Ha)	Year started	No. of beneficiaries	Remarks
Lake Kenyatta I	14,224	1973	3480	Titles issued upon payment of land loan
Lake Kenyatta II	3000	1996	612	"
Hindi Magogoni	7700	1989	764	"
Witu-Lamu	7000	1995	738	"
Hongwe	2041	2009	987	Awaiting registration
Faza Rasini	660	2007	474	Titles issued
Tchundwa	2115	2009	982	Titles issued
Siu and Shanga villages	2520	2010	1283	Titles issued
Pate and Bore	1651	2011	1300	District settler selection committee (DSSC) to allocate the plots by 30 <sup>th</sup> June, 2012

### 3.3 Land Adjudication

Land Adjudication cannot be undertaken since the whole of Lamu County is Government land. The documentation of the occupants is however undertaken through setter regularization programmes.

### 3.4 Ranches

The Government has allocated land for ranches as shown in schedule III.

**Schedule III.**

No	Name	Size (Ha)	Location	No	Name	Size	Location
1	Abdi Maalim Ranch	5000	Hindi	2	Witu Nyongoro Ranch	32000	Witu
3	Bujra Ranch	4000	Witu	4	Witu North	4000	Witu
5	Amu Ranch	25000	Mpeketoni	6	Enganani Ranch	2104	Hindi
7	Majengo Private Co. Ranch	12000	Hindi	8	Umoja Ranch	5000	Mpeketoni
9	Mwanati Ranch	5000	Hindi	10	Pwani Mgola Ranch	10000	Hindi
11	Tullu Mbungani Ranch	20000	Witu	12	Akiro Pvt Ranch	18000	Mpeketoni
13	Bodhei Public Co. Ranch	21000	Hindi	14	Nairobi Ranch	20316	Witu

5.	Manda	Awaiting picking of structures, planning and survey	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys
6.	Matondoni	Awaiting picking of structures, planning and surveying	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys
7.	Mkokoni/Mvundeni	Surveying of structures ongoing	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys
8.	Kiunga	Awaiting picking of structures, planning and surveying	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys

9.	Mwajumwali/ Kizingitini/Myabogi	Awaiting picking of structures, planning and surveying	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys
10.	Ndau	picking of structures on going	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys
11.	Pate	Survey work finalized	
12.	Kiwayu	Awaiting picking of structures, planning and surveying.  Dispute over land ownership by locals & KWS	Director of Physical Planning Director of Land Adjudication & Settlement Director of Surveys
13.	Kipungani	Awaiting Picking of structures	

### SETTLEMENT SCHEMES

1.	Manda	Awaiting planning and survey	Director of Surveys & Director of Physical Planning
2.	Mokowe	Awaiting picking of	Director of Surveys

		structures and survey	Director of Physical Planning
3.	Pangani/Pandanguo	Awaiting planning & survey	Director of Surveys Director of Physical Planning
4.	Vumbe	Awaiting planning & survey	Director of Surveys Director of Physical Planning
5.	Basuba/Mararani/Mangai/Bargoni	Awaiting planning & survey	Director of Surveys Director of Physical Planning

## Challenges related to land in Lamu

- Invasion of idle land by speculators from outside Lamu in anticipation of economic benefits from the proposed Port hence denying the indigenous people a chance to own land.
- Some Title Deeds are being held by absentee landlords who deny occupants legal ownership of the land.
- There local people are agitating for adjudication process instead of Settlement Schemes.
- The people argue that adjudication process should be adopted as is in the case in other parts of the Country instead of Settlement Schemes.
- They also argue that the settlement process results to exorbitant land charges by S.F.T. before issuance of Titles.
- Delays in Discharge of SFT loans.
- Settlers selling their land and moving to un-alienated Government land.
- Inadequate budgetary allocation, understaffing, lack of vehicles and boats are a hindrance to finalization of Settlement Schemes.
- Widespread human – wildlife conflict is a challenge in agricultural production and plot occupancy.
- Political interferences from politicians advocating for adjudication process which is not possible as the land is not Trust Land but Government land.

## Way Forward

### The Ministry of Lands has formulated the following strategy for Lamu

- To secure Government land and ensure proper planning before alienation.
- To carry out a ground verification exercise to facilitate identification of plots held by absentee landlords for regularization to squatters.
- To discourage the local rd from selling their land or even imposing a moratorium on sale of land acquired through settlement program for a certain period of time.
- To seek for sufficient funds from Treasury to facilitate faster squatter settlement programs.
- Place caveat on suspect Titles pending authentication.
- To work closely with National Environment Management Authority (NEMA) especially on the fragile ecosystems (water catchment & sand dunes).



**MINUTES OF THE ONE HUNDRED & SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON TUESDAY OCTOBER 25, 2011 IN THE SMALL DINING, MAIN PARLIAMENT BUILDINGS AT 10.00 AM.**

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**PRESENT:**

The Hon. Silas Ruteere Muriuki, M.P. – **Acting chairperson**  
The Hon. Benedict Fondo Gunda, MP  
The Hon. Mohammed Affey, M.P.  
The Hon. Mutava Musyimi, MP – **Chairperson**

**ABSENT**

The Hon. Peris C. Simam, M.P. - **Vice chairperson**  
The Hon. Justus M. Kizito, M. P.  
The Hon. Dr. Erastus Mureithi, MBS, HSC, M.P.  
The Hon. Omar Mbwana Zonga, MP  
The Hon. Kiema Kilonzo, M. P.  
The Hon. Peter Njuguna Gitau, MP  
The Hon. Benjamin Jomo Washiali, MP

**IN ATTENDANCE - KENYA NATIONAL ASSEMBLY**

Mr. Rana Tiampati - Second Clerk Assistant

**MIN. NO. 508/2011: INTRODUCTION**

The Chairman called the meeting to order at 10.05a.m after prayers were said. He further called the Members present to consider the proposed agenda and adopt. The agenda included:-

- a) Prayers;
- b) Confirmations of minutes;
- c) Matters arising;
- d) **Meeting with the Minister for Lands**
- e) Any Other Business –
  - **Investigations into Continued destruction of gazetted forest ;**
- f) Date of the next sitting.

The proposed agenda was adopted by the Members present.

**MIN.NO. 509/2011: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS**

Confirmation of the Minutes of the 100<sup>th</sup> and 101<sup>st</sup> sittings was postponed to a later date.

## MIN. NO. 510/2011: MEETING WITH THE MINISTER FOR LANDS

The Committee was informed of the Minister's request to reschedule the meeting to another date vide letter ref. **CON/L/A/26 dated October 18, 2011**. The Committee agreed to the Minister's request and resolved that the meeting be held on **Thursday, November 3, 2011 in Committee room 4, 4<sup>th</sup> floor Continental House at 10.00a.m.** The Minister to brief the Committee on the following: -

- i. Status of L.R. 2890 in Timau Township and the proposed approval of the Physical plan for Timau;
- ii. The progress and status of settlement, adjudications and allocation of land in the Lamu.
- iii. The status of land in Kisumu Municipality including status, ownership, allocation with specific references on KIKAKO Welfare Association;
- iv. Allegations by various stakeholders on the Ministry on the following:-
  - a.) Slow pace in undertaking land reforms as envisaged in the Constitution – preparation of bills, consultation of stakeholders and prolonging the transition period;
  - b.) Allegations by Law Society of Kenya;
  - c.) Service delivery vis-à-vis revenue collection;
  - d.) Computerization of land records and loss of vital documents;
- v. The status of envisaged legislation as per the new constitution; and
- vi. Any other information, documents or reports that the Minister may wish to share with the committee.

The Committee noted that the Timau and Lamu land Report should be distributed to all Members before that meeting.

## MIN. NO. 511/2011: MEETING WITH THE MEMBER FOR PARLIAMENT FOR NYATIKE – HON. EDICK OMONDI ANYANGA.MP

The Committee met with the Member for Nyatike and was informed that: -

- i. The Committee agreed meets with the Member when all Members and specifically the Chair, are present as he has issues to raise.
- ii. The Member agreed to meet the Committee on **Friday, November 4, 2011 in Committee Room 4, 4<sup>th</sup> floor Continental House at 10.00a.m.** However, he informed the Committee that: -
  - a.) The Committee to consider the Red Rock Resources press release dated August 30, 2011;
  - b.) National Environment Management Authority has stopped the exploration of minerals by the Mid Migori Company limited in Nyatike;

- iii. The agenda of the Friday, November 4, 2011 meeting should be: -
- a) any information on your finding following the visit to Nyatike;
  - b) additional information if any and
  - c) Make your observation and proposed recommendations.

**MIN. NO. 512/2011 – A.O.B - MEETINGS**

A.) **Meeting with the Mid Migori Mining Company Limited** should be on **Tuesday, November 1, 2011 in Committee room 4, 4<sup>th</sup> floor Continental House at 10.00a.m.** and the agenda should be: -

- a) any information following the visit to your company with particular reference to your letter dated September 29, 2011 by Mr. Andrew Bell;
- b) acquisition of land by Mid Migori Mining Company Limited;
- c) land dispute pitting Mid Migori Mining Company Limited and a number of resident of Migori County and especially the Alwalo's Family;
- d) environmental impact assessment report certified by National Environment Management Authority and any other authority if any ever granted by the NEMA;
- e) the change in the name of the company since inception ;
- f) Consent from the Municipal council of Migori; and
- g) Additional information if any.

B.) Meeting with Hon. Shakilla Abdalla, MP Nominated Member of Parliament on the Lamu land issue of Title deeds will be on **Friday, November 4, 2011 in Committee Room 4, 4<sup>th</sup> floor Continental House at 10.00a.m.** However, he informed the Committee that: -

- a) The land problems in Lamu and the ongoing land adjudication and settlement;
- b) The anomalies in the Lamu adjudication, allocation and settlement in Lamu;
- c) any information on your finding following the visit to Lamu;
- d) additional information, documents – maps, reports and letters if any and
- e) Your observation and proposed recommendations.

C.) **WORKSHOP ON LAND REFORMS** by the Kenya Private Sector Alliance – the alliance has made three request to the Committee seeking its concurrence on the proposed workshop and have suggested that Tuesday, November 8, 2011. The Committee agreed conclude on the matter on Tuesday November 1, 2011 when a larger number of Members of the Committee are present.

**MIN. NO. 513/ 2011 – ADJOURNMENT**

There being no other business, the meeting was adjourned at twelve o'clock. The next meeting will be called on notice.

**SIGN:.....**  
**(CHAIRMAN)**

**DATE:.....TUESDAY, DECEMBER 18, 2012.....**

MINUTES OF THE ONE HUNDRED & FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON FRIDAY, NOVEMBER 4, 2011 IN COMMITTEE ROOM 4, MAIN 4<sup>TH</sup> FLOOR, CONTINENTAL HOUSE AT 10.00 AM.

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**PRESENT:**

The Hon. Mutava Musyimi, MP – Chairperson  
The Hon. Silas Ruteere Muriuki, MP.  
The Hon. Benedict Fondo Gunda, MP  
The Hon. Dr. Erastus Mureithi, MBS, HSC, MP.  
The Hon. Peter Njuguna Gitau, MP  
The Hon. Benjamin Jomo Washiali, MP  
The Hon. Edick Omondi Anyanga, MP  
The Hon. Shakilla Abdalla, MP

**ABSENT**

The Hon. Peris C. Simam, MP. - Vice chairperson  
The Hon. Mohammed Affey, MP.  
The Hon. Justus M. Kizito, MP.  
The Hon. Omar Mbwana Zonga, MP  
The Hon. Kiema Kilonzo, MP.

**IN ATTENDANCE - KENYA NATIONAL ASSEMBLY**

Mr. Rana Tiampati - Second Clerk Assistant

**MIN. NO. 524/2011: INTRODUCTION**

The Chairman called the meeting to order at 10.07a.m after prayers were said. He further called the Members present to consider the proposed agenda and adopt. The agenda included:-

- a) Prayers;
- b) Confirmations of minutes;
- c) Matters arising;
- d) **Meeting with the Hon. Edick Omondi Anyanga, MP at 10.00a.m and the Hon. Shakilla Abdalla, MP at 11.00a.m.;**
  - a) Any Other Business;
  - b) Date of the next sitting.

The proposed agenda was adopted by the Members present.

**MIN.NO. 525/2011: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS**

Confirmation of the Minutes of the 100<sup>th</sup>, 101<sup>st</sup>, 102<sup>nd</sup>, 103<sup>rd</sup> and 104<sup>th</sup> sittings was postponed to a later date.

**MIN. NO. 526/2011: MEETING WITH THE HON. EDICK O. ANYANGA, MP**

The Committee was informed that: -

- i. Mid Migori Mining Company Limited has been in the area illegally following issuance of prospecting certificate without the councils and individual land owners consent;
- ii. He has never solicited anything from Mid Migori Company though they have approached him severally including sending emissaries in the name of the British high commission personnel in charge of political affairs;
- iii. The company has not undertaken any corporate social responsibility in Nyatike or in the larger Migori;
- iv. It is true that the company is undertaking Mining and prospecting though they are not licensed to mine;
- v. The time taken by the company to undertake prospecting is long overdue and in their press release through one of their subsidiary or major shareholders , Red Rock Resources. they have reported substantial amounts of Gold up to the tuned of 1.6 million oozes;

**MIN. NO. 527/2011: MEETING WITH THE HON. SHAKILLA ABDALLA, MP**

The Committee was informed that: -

- i. Thanked the committee for the timely and historic visit to the county of Lamu on July 21 and September 14 and 15, 2011. The visit was historic as the Committee managed to reach out to the remotest parts of Mtanga Wanda, Pate, Siu on Pate Island, Ras Kitau on Manda Island and Magogoni of the Mainland.
- ii. Hoped that the visit provided a opportunity of an in-depth understanding of the seriousness of land issues/crisis and the magnitude of and grabbing syndicate in Lamu;
- iii. Land misery in Lamu begun immediately after independence when all our county land was under the British crown Land Ordinance was transferred to and governed by the 1963 government Land Act (cap 280). The act vested all the powers regarding leasing, granting and disposition of these lands to the President whose jurisdiction is to appoint the Commissioner of Lands as the administrator of all public land.
- iv. despite the safeguards IN Cap 280, the so called government land were routinely allocated through non transparent and illegal means in total disregard and failing to recognize customary land tenure, land rights and ultimately rendering the communities squatters on government land.
- v. The local leadership has long failed to recognize the malpractices and address the realization of land ownership and resource rights. Some of the local leadership is in the forefront of land grabbing syndicates.
- vi. The county indigenou communities are categorized as livestock rearing (Ormas), mainland forest dwellers (Boni), mainland farming (Bajun/Sanye) and island fishing/farming (Bajun).
- vii. Following the establishment of lake Kenyatta Settlement scheme in 1972, an uncontrolled expansion of the scheme, high profile land grabbing in collaboration with the provincial administration and respective government ministries have led to the injustice against the communities;
- viii. There has been concerted efforts to invade the most resourceful areas of Lamu county by other communities either by force or due to natural calamities forcing them to seek refuge and livelihoods in Lamu especially the pastoralist of northern Kenya and Tana basin;

- ix. Establishment of the Dodori forest reserve and later Dodori National Reserve in 1975. deprived the Boni tribe of their dwellings hence forced to leave for less fertile areas;
- x. The mainland Bajun/Sanye were the first internally displaced person in independent Kenya this followed the devastating invasion and subsequent eviction by the Kenya Forces in 1962 during the shifta war and later following the establishment of the homeland Mpuguti later Mpeketoni.
- xi. During the country transition to multiparty era, a new set of ugly turn of events on land grabbing became the order of the day and prompted the establishment of Shungwaya Welfare Association and later filed a court case halting further disposal of land in Lamu County by the Ministry of Lands. unfortunately it led to backdating of land allocations process and documentation procedures leading to an avalanche of letters of offer, allotments and title deeds flooding the county;
- xii. The coming of the second port at Lamu appear to bring more harm than good and the scramble for land closer to the port has heightened and with disregard of the local people.
- xiii. The lack of a comprehensive Environmental Impact Assessment being considered before the port is established may be overlooked.
- xiv. Ancestral land for Magogoni were forcefully taken away without compensation by a senior military official and now housing the Kenya Navy Base at Manda;
- xv. Efforts to plead with the Ministry of Lands for reservation of these community lands have not bear fruit and instead large chunks of the so called community land are being carved out to grabbers and supported with false back date documents.
- xvi. The provincial Administration through successive District Commissioners have been masterminds of the mega land deals in collaboration with the ministry of lands officials;
- xvii. Though the Lamu County Council is major stakeholder on land issues. however. ongoing developments at the port and other areas are not being involved or they are not in control or under their jurisdiction. Further, the council has not been allocated land through any means for future development and investment.
- xviii. Recently the Minister for land presided over the issuance of titles to those in the so called Swahili schemes. This is part of the Squatter Regularization Settlement Scheme in Faza. Pate Island which began in 2006.
- xix. From the above, wishes to recommend that:-
  - The land policy and article 63 of the Constitution be implemented in order to vest land to communities especially those in Lamu;
  - There should be urgent reservation of all mainland community land to safeguard them from physical invasion or grabbing ;
  - Ensure the EIA on the port is carried out, implemented and on all surrounding areas;
  - Identify, revoke and restore back to the communities all illegally or irregularly acquired community land and landing sites;
  - Prosecute all those involved in the abuse of office and /or implicated in illegal land allocations or transactions;
  - Compensate communities and all victims of grabbed land
  - Ministry of land to make public details of land ownership in Lamu;
  - Stop the indiscriminate Lamu County forest invasion by people of other regions;

MIN NO. 528/2011 – A.O.B -

A ) **WORKSHOP ON LAND REFORMS** by the Kenya Private Sector Alliance – The Committee confirmed to the request by the alliance for the workshop to be held on **Tuesday, November 8, 2011 at the Hilton Hotel at 08.30a.m**

B ) **MEETING WITH MID MIGORI MINING COMPANY LIMITED**

The Committee noted two letters written by two directors –Mr Andrew Bell and Mr James Mathenge, of the Company dated November 1 and 3, 2011 respectively

The Committee agreed therefore to meet the Mid Migori Mining Company Limited of **Friday, November 18, 2011 at 10.00 a.m.** The Committee further noted that the Clerk of the Migori County Council should also appear on **Friday, November 18, 2011 at 11.30 a.m.**

C ) **COLLABORATION WITH STATE UNIVERSITY OF NEW YORK**

The Committee was informed of the proposed collaboration between the Committee and the State University of new York on climate change and that the collaboration will involve -

- a) Technical assistance to the Committee by strengthening, resourcing and institutionalizing the committee in order to contribute more effectively on climate change policy,
- b) Conduct seminars to improve the discourse and consensus regarding climate change policy in Kenya
- c) Forums, website and database to increase information available regarding climate change.

The Committee agreed to the collaboration and requested the Chairperson to meeting the State University Country Director Dr Fred Mwangi

D ) **REPORTS**

The Committee was informed of the following draft reports -

- 1 Timau report.
- 2 Marakwet petition.

And the Committee agreed to finalize the two after the Minister for Lands gives his final submission

MIN. NO. 529/ 2011 – ADJOURNMENT

There being no other business, the Chair adjourned the meeting at forty six minutes past twelve o'clock until Tuesday, November 8, 2011 in Hilton Hotel at 09 30a.m.

SIGN: .....



(CHAIRPERSON)

DATE TUESDAY, DECEMBER 18, 2012. . .



MINUTES OF THE ONE HUNDRED & FORTY SEVENTH (147) SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON TUESDAY, DECEMBER 18, 2012 IN THE SMALL DINING, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

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PRESENT:

The Hon. Mutava Musyimi, MP – Chairperson  
The Hon. Peris C. Simam, MP. - Vice chairperson  
The Hon. Peter Njuguna Gitau, MP  
The Hon. Benjamin Jomo Washiali, MP;  
The Hon. Dr. Erastus Mureithi, MBS, HSC, MP.  
The Hon. Silas Ruteere Muriuki, MP.

ABSENT WITH APOLOGY

The Hon. Justus M. Kizito, MP.  
The Hon. Omar Mbwana Zonga, MP  
The Hon. Benedict Fondo Gunda, MP  
The Hon. Mohammed Affey, MP.  
The Hon. Peter Njuguna Gitau, MP  
The Hon. Kiema Kilonzo, MP.

IN ATTENDANCE - KENYA NATIONAL ASSEMBLY

Mr. Rana Tiampati - Second Clerk Assistant

MIN. NO. 165/2012: INTRODUCTION

The Chairman called the meeting to order at 10.21 a.m after prayers were said. He further called the Members present to consider the proposed agenda and adopt. The agenda included:-

- a) Prayers;
- b) Confirmations of Minutes;
- c) Matters arising;
- d) **Deliberation on the report on Lamu and Siyu;**
- e) Any Other Business;
- f) Date of the next sitting.

The proposed agenda was adopted by the Members present.

MIN.NO.166/2012: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

Minutes of the 138<sup>th</sup>, 139<sup>th</sup>, 140<sup>th</sup>, 141<sup>st</sup>, 142<sup>nd</sup>, 143<sup>rd</sup>, 144<sup>th</sup> and 145<sup>th</sup> Sitting were confirmed as true deliberation of the Committee sittings by members present and signed by the Chair.

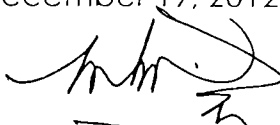
**MIN.NO.167/2012: DELIBERATION ON THE FOLLOWING- LAMU AND PETITION BY SIYU RESIDENTS**

After lengthy deliberations, the meeting resolved that:-

- a.) the Petition by Siyu Residents and Lamu report are ready and that the members agreed on the recommendation, based on the Committee findings;
- b.) approves and adopts the two reports for tabling, and ;
- c.) Mandated the Chairperson to sign and table the reports.

**MIN. NO.168/ 2012: ADJOURNMENT**

There being no other business, the Chair adjourned the meeting at Fifty minutes past Ten O'clock. Until Wednesday, December 19, 2012 in Room 9, Main Parliament Buildings at 11.00a.m.



SIGN:.....

(CHAIRPERSON)

DATE:...TUESDAY, DECEMBER 18, 2012.....