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Clerk of the senate/secretary
Date: 01/12/20

REPUBLIC OF KENYA



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FOURTH SESSION
TWELFTH PARLIAMENT

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1/12/2020

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

REPORT ON THE PETITION ON THE ALLEGED UNLAWFUL
ACQUISITION AND DISPOSITION OF POKA GROUP RANCH LAND

PAPERS LAID	
DATE	Dec 1. 2020
TABLED BY	Sen Khairin
COMMITTEE	lands
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NOVEMBER, 2020

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LIST OF ABBREVIATIONS/ SYNONYMS

1. CS - Cabinet Secretary
2. EACC - Ethics and Anti-Corruption Commission
3. MOLPP - Ministry of Land & Physical Planning
4. NLC - National Land Commission
5. ODPP - Office of the Director of Public Prosecution

PREFACE

Mr. Speaker Sir,

The Standing Committee on Lands, Environment and Natural Resources is established pursuant to standing order 218(3) of the Standing Orders of the Senate. As set out in the Second 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. Paul Mwangi Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. George Khaniri, MGH, MP
4. Sen. Gideon Moi, CBS, MP
5. Sen. Njeru Ndwiga, EGH, MP
6. Sen. (Dr.) Lelegwe Ltumbesi, MP
7. Sen. Issa Juma Boy, MP
8. Sen. (Arch.) Sylvia Kasanga, MP
9. Sen. Johnes Mwaruma, MP

Chairperson

Vice-Chairperson

At the sitting of the Senate held on 6th August, 2019 the Honourable Deputy Speaker of the Senate, reported to the Senate that a Petition has been submitted through the Clerk, by Mr. Jeremiah Lemako, a citizen of the Republic of Kenya and the Chairperson of the Poka Group Ranch in Kajiado County on the on the alleged unlawful acquisition and disposition of Poka Group Ranch land.

The Petitioners submitted their prayers in line with Articles 37 and 119 of the Constitution and guided by the provisions of the *Petition to Parliament (Procedure) Act* and the *Senate Standing Orders*.

The Petitioners prayed that the Senate urgently investigates the matter and recommends appropriate actions thereon.

The Petition

Pursuant to the standing orders 230 (2) (b) of the Standing Orders of the Senate, the Speaker of the Senate reported to the House a Petition submitted through the Clerk of Senate by Mr. Jeremiah Lemako, a citizen of the Republic of Kenya and the Chairperson of the Poka Group Ranch in Kajiado County. The Petition relates to the

alleged unlawful transfer of land to various individuals that claimed by the Poka Group Ranch. Pursuant to standing order 232(1) of the Standing Orders of the Senate, the petition stood committed to the Land, Environment and Natural Resources Committee.

The Committee undertook to investigate and determine the prayer of the petitioners pursuant to standing order 232(2) of the Standing Orders of the Senate. It also received submissions from the Petitioners and various key stakeholders including the Ministry of Lands and Physical Planning and the National Land Commission (NLC).

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. Further the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for facilitating the work of the Committee in undertaking its constitutional mandate. The Committee further extends its appreciation to the Petitioner Mr. Jeremiah Lemako, Chairperson, POKA Group Ranch, Ms. Farida Karoney, EGH, Cabinet Secretary, Ministry of Lands and Physical Planning and Mr. Gershom Otachi, Chairperson, National Land Commission, 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 Lands, Environment and Natural Resources on the Petition regarding the alleged unlawful acquisition and disposition of Poka Group Ranch land.

Signed:  Date: 14/11/2020

SEN. PHILIP MPAAYEI, M.P.
VICE CHAIRPERSON
SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND
NATURAL RESOURCES

CHAPTER 1

INTRODUCTION

1.0 The Right to Petition

The right of Kenyan citizens to petition public authorities and Parliament is a right conferred by the Constitution under Articles 37 and Article 119 of the Constitution and by the *petition to Parliament (Procedure) Act* as well as the *Standing Orders* of the Senate.

The right to petition is an essential citizen participatory tool, as it provides an avenue for the Members of Parliament and citizens to interact with the issues that concern citizens, and also demonstrates that Parliament is prepared to directly intervene on the issues of concern in order to promote and protect the rights of the citizens.

Standing order 233 requires the Clerk to, within fifteen days of tabling of the report on a petition under Standing Order 232 (Committal of Petitions), submit a copy of the report to the petitioner or petitioners.

1.1. Background to the Petition

Pursuant to Senate standing order 226 (1), the petition was submitted, through the Clerk, by on laPoka Group Ranch who are residents of Kajiado County. The petition relates to the alleged grabbing of public utility and private land. It was then committed to the Standing Committee on Land, Environment and Natural resources for consideration and determination.

The petitioners raised the following salient issues in their Petition:

1. THAT, the Poka Group Ranch is made up of several Maasai Community families with an estimated 9,000 hectares of grazing land.
2. THAT, pursuant to the Land Group Representative Act which allows for the subdivision and individualization of the Group Ranch, the members of the Poka Group Ranch subdivided the property amongst themselves setting aside 2,148 hectares as a holding ground, commonly known as Emali Holding Ground for the purposes of trade.

3. THAT, in 1980 the Olkejuado County Council privately and without consultations leased the property to Tana and Athi River Development Authority (TARDA) and in around June 2018, a group of people unknown to the Group Ranch members invaded a section of the land and fenced it.
4. THAT, this prompted officials of the Poka Ranch Group to conduct a search of the land and learnt that unlawful transaction and dealings had taken place. The results of the land indicated that the original LR. Kajiado/ Kaputei South/23 had been subdivided into two different parcels in 1995 as follows: -
 - (a) Parcel LR. Kajiado/Kaputei South/46
 - (b) Parcel LR. Kajiado/Kaputei South/47
5. THAT the parcel LR. Kajiado/Kaputei South/47 was further subdivided into three parcels. These are:
 - (a) Parcel LR. Kajiado/Kaputei South/887
 - (b) Parcel LR. Kajiado/Kaputei South/888
 - (c) Parcel LR. Kajiado/Kaputei South/889
6. THAT, the Parcel LR. Kajiado/Kaputei South/889 now measuring approximately 69.36 hectares was unlawfully transferred and is currently solely owned illegally owned by Hon. David Ole Sakori, former MP, Kajiado Central.
7. THAT, Parcel LR. Kajiado/Kaputei South/888 measuring 32.38 hectares was unlawfully transferred and currently jointly owned by Hon. David Ole Sankori, and Mr. Walter Bernard Makundi Mukuria.
8. THAT, the search of Parcel LR Kajiado/Kaputei South/887 has been unsuccessful hence the ownership is unclear.
9. THAT, the Kajiado County Government has gone ahead to equally subdivide Parcel LR. Kajiado/Kaputei South/46 and set aside 200 hectares for the construction of a market centre without participation of members of the Poka Group Ranch.
10. THAT, the Standard Gauge Railway passed through sections of the land in dispute and the community has since learnt of the compensation of Kshs 40 million which has not been availed to the Poka Group Ranch Community.

The Petitioner's prayers were that the Senate-

- (a) Investigates the matter and intervenes with a view to ensuring that the land in its entirety measuring 2,148 hectares is transferred back to the Poka Group Ranch and that all the private land illegally issued be repossessed; and

- (b) Make appropriate recommendations on persons who may have unlawfully participated in the illegal transactions of the land and the misappropriation of the compensation for prosecution.

Pursuant to standing order 232(1) of the Standing Orders of the Senate, the Petition was committed to the Land, Environment and Natural Resources Committee.

CHAPTER 2

CONSIDERATION OF THE PETITION

2.0 Approach taken by the Committee

In considering the Petition, the Committee observed that it would be important to verify the facts alleged by the Petition. The Committee therefore resolved to conduct an inquiry on the issues raised in the Petition. In this regard the Committee received the Petition from the Petitioner through the House and further sought for written responses from the Ministry of Lands and Physical Planning and the National Land Commission.

Thereafter the Committee wrote to the Cabinet Secretary, Ministry of Lands and Physical Planning and the Chairperson, National Land Commission to respond to the issues raised in the Petition. The Committee received written submissions as follows-

2.1. Responses by the Cabinet Secretary, Ministry of Lands and Physical Planning

Pursuant to a letter Ref: SEN/DCS/LENR/2/2020/(19) dated 26th May, 2020, the Committee invited the Cabinet Secretary, Ministry of Lands and Physical Planning to respond to the Petition. The Ministry responded as follows-

1. A land parcel number Kajiado/ Kaputiei-South/23 measuring approximately 859 Hectares was registered on April 4, 1970 under the then Olkejuado County Council as Emali Holding Ground.
2. It was closed upon subdivision on November 8, 1993 into new plot numbers Kajiado/ Kaputiei-South/46 measuring approximately 734.5 Hectares, and Kajiado/ Kaputiei-South/47 measuring approximately 124.4 Hectares.
3. Plot number Kajiado/ Kaputiei-South/46 is still registered under Olkejuado County Council (now Kajiado County Government).
4. Plot number Kajiado/ Kaputiei-South/47 was transferred from Olkejuado County Council to David Sankori Lenante on November 8, 1993.
5. It was further subdivided on August 28, 1995 into new plot numbers Kajiado/ Kaputiei-South/887 measuring approximately 12.14 Hectares, 888 measuring approximately 32.38 Hectares and 889 measuring approximately 69.36 Hectares.
6. Plot number Kajiado/ Kaputiei-South/887 was further subdivided on July 20, 2016 into new plot numbers Kajiado/ Kaputiei-South/6234, 6235, 6236 and 6237.
7. Plot number Kajiado/ Kaputiei-South/888 has had several transfers registered. The current registered owner is Cikewa Investments Limited.

8. Plot number Kajiado/ Kaputiei-South/889 is still registered under David Ole Sankori.
9. All land held under the repealed Local Governments Act were wholly managed and administered by the various County Councils and Municipalities. Consequently, all relevant records showing how and why the land in question was allocated to private entities are held by the County Government of Kajiado. Copies of green cards and official searches are attached as **Annexure 4**.

2.2. Responses by the National Land Commission

Pursuant to a letter Ref: SEN/DCS/LENR/2/2020/ (19) dated 26th May, 2020, the Committee requested for written information regarding the Petition from the National Land Commission. The Committee was informed as follows-

1. The Poka group ranch in Kajiado County was established in 1968 and is summarized on the table below-

Date of incorporation(under Cap 287 now repealed)	Number of members	Size (Ha)	Date of Dissolution	Area of Emali Holding ground (acres)
3.4.1970	30	8,926	2.3.1979	2,148

2. The Swynnerton Plan of 1954 and ALDEV plan had recommended an approach that would address communities sharing common interests. Thus the group ranches were established through the adjudication of trust lands and registered under the Land Group Representatives Act, Cap 287 (*now repealed by the Community Lands Act, 2016*).
3. Poka Group land was owned and shared communally by 30 families, however in the 1980s the members resolved to subdivide into individual ownership and each of the family got their Titles.

The Emali Holding Ground- L.R Kajiado/Kaputiei South/23

4. The Livestock Holding Grounds were established across Kenya under the Livestock Management Division under the Ministry of Agriculture and Livestock.

5. The Emali holding ground was excised from the Poka community land in 1964 which was Trust land measuring about 2,148 acres, the Ministry of Livestock under the Land Marketing Division.
6. The purpose of the holding grounds is for promotion of livestock productivity activities to enhance livestock production systems in the country and this will ensure food security as one of the 'Big Four' agendas.
7. The County Councils had set aside land as holding grounds for Livestock production purposes.
8. The Emali holding ground was registered and held by the then County Councils on behalf of the communities and managed by the Livestock Management Division.
9. The Emali holding ground is one of the designated lands among others in the Country.

(i) Sub-Divisions of L.R Kajiado/Kaputiei South/23

10. The Emali holding ground was registered as LR Kajiado/Kaputiei South/23 under the County council, who sub-divided into two parcels and transferred as follows-
 - (a) LR Kajiado/Kaputiei south /46- registered under County Council measuring 759 Ha (1,874 acres) and leased to TARDA;
 - (b) LR Kajiado./Kaputiei south / 47- registered under individuals who further subdivided into 3;
 - L.R kaj./ Kaputiei South /887
 - L.R kaj./ Kaputiei South/ 888 for 32.28 Ha
 - L.R kaj./ Kaputiei South/ 889 for 69.36 Ha
11. The holding ground was underutilized owing to lack of funds, and it was therefore leased by the Ministry of Livestock Development to TARDA for 30 years with effect from 1.9.1987, the lease has since expired in 2017. The total area leased is 759 Ha.

(ii) Current Status of Emali Holding Ground LR Kajiado/Kaputiei South /46

12. The community is utilizing about 1,400 acres of the ground for grazing, there is a school and church on the parcel and a cattle sale yard managed by the County Government.
13. The County Government has developed a plan covering about 250 acres of the said land and has created 727 market plots, with schools and other infrastructural

facilities. The letters of allotment for the market have already been issued to individuals. TARDA is utilizing about 200 acres for farming.

(iii) The National Land Commission recommendations -

1. The petitioners are requesting that the entire land of LR Kajiado/Kaputiei South/23 measuring 2,148 Ha be reverted back to the community and serve its intended purpose of livestock management.
2. The Commission under Sect.12 (12) of the Land Act shall make regulations prescribing for allocation of public land to individuals and communities to own and access land. The law also provides for the manner of conversion of land across categories.
3. The holding ground which is now in the hands of the County Government should not be alienated, subdivided or leased out without consulting the immediate local communities.
4. The Commission and this esteemed Committee may need to have further discussions with the County Government of Kajiado on the best way to address the challenges raised in the petition.

(iv) Compensation Details

5. From land acquisition records, part of the land belonging to the group ranch was acquired for the SGR phase I; however as noted in the petition, the Original LR. Kajiado/Kaputiei South/23 had been subdivided some times in 1995 and two different parcels created out of the original parcel as follows:
 - (a) Parcel LR. Kajiado/Kaputiei South/46
 - (b) Parcel LR. Kajiado/Kaputiei South/47
6. The Parcel LR. Kajiado/Kaputiei South/47 was further subdivided into three parcels:
 - (a) Parcel LR. Kajiado/Kaputiei South/887
 - (b) Parcel LR. Kajiado/Kaputiei South/888
 - (c) Parcel LR. Kajiado / Kaputiei South/ 889

The Committee established from the National Land Commission that payment for the above was done by the Kenya Railways Corporation on behalf of the Commission under delegated authority in the initial payment in schedule 3. Copies of land ownership documents and payees details for the compensations were forwarded to KRC. This compensation were paid to the registered owners in payment as shown below-

L.R. No.	Area Acquired (Ha)	Payee	Amount
Kajiado/Kaputiei South/887	3.4862	David Ole Sankori	8,912,500.00
Kajiado/Kaputiei South/888	1.483	David Ole Sankori	3,582,250.00
Kajiado/Kaputiei South/889	4.6305	David Ole Sankori	10,528,250.00
Kajiado/Kaputiei South/46	Improvements	Tana and Athi Rivers Development Authority (Tarda)	712,540.00

7. That due process as provided for by the Land Act for compulsory acquisition was followed although the community members did not participate in the process as at the time of acquisition, the subject parcels were no longer community land having being registered in favour of individuals and titles issued.
8. It is also not clear if the group ranch had submitted any adverse information on the above parcels or if they had submitted any counter claim to compensation in the course of acquisition of the land.

CHAPTER 3

COMMITTEE FINDINGS

The Committee made the following findings-

1. Historical background of the land in question

The Committee found that according to the National Land Commission the Poka group ranch in Kajiado County was established in 1968. It was incorporated on 3rd April 1970 and had thirty members (30) consisting of families. The Poka Group Ranch was however dissolved on 2nd March 1979 when the Members resolved to subdivide into individual ownership and each of the family got their Titles.

The National Land Commission submitted that the Emali Holding Ground- L.R Kajiado/Kaputei South/23 was excised from the Poka community land which was Trust land measuring about 2,148 acres. The land was registered on 4th April, 1970. The purpose of the holding grounds is for promotion of livestock productivity activities to enhance livestock production systems in the country. The Emali holding ground was registered and held by the then County Councils on behalf of the communities and managed by the Livestock Management Division

2. Allegation that Olkejuado Council privately and without consultations leased the property to Tana and Athi River Development Authority (TARDA)

The Petitioner alleged that in 1980 the Olkejuado County Council privately and without consultations leased the property to Tana and Athi River Development Authority (TARDA) and in around June 2018, a group of people unknown to the Group Ranch members invaded a section of the land and fenced it.

The Committee found that indeed 759 Ha was leased by the Ministry of Livestock Development to TARDA for 30 years with effect from 1st September 1987, the lease has since expired in 2017. The County Government has since developed a plan covering about 250 acres of the said land and has created 727 market plots, with schools and other infrastructural facilities. The letters of allotment for the market have already been issued to individuals. TARDA is utilizing about 200 acres for farming.

3. Sub-division of Emali Holding Grounds (original LR. Kajiado/Kaputei South/23)

The Petitioner alleged that following a search by officials of the Poka Ranch Group on

the original LR. Kajiado/ Kaputei South/23, it was determined that unlawful transaction and dealings had taken place and that the land had been subdivided into two different parcels in 1995. The parcels of land were LR. Kajiado/Kaputei South/46; and LR. Kajiado/Kaputei South/47.

(a) Subdivision and illegal transfer of LR. Kajiado/Kaputei South/47

The Petitioners submitted that LR. Kajiado/Kaputei South/47 was further subdivided into LR. Kajiado/Kaputei South/887; LR. Kajiado/Kaputei South/888; and LR. Kajiado/Kaputei South/889. The ownership of LR. Kajiado/Kaputei South/887 could not be established, however LR. Kajiado/Kaputei South/888 was allegedly illegally transferred to and Hon. David Ole Sankori, LR. Kajiado/Kaputei South/889 to on. David Ole Sankori and Mr. Walter Bernard Makundi Mukuria.

The Committee found that, as submitted by the Ministry of Lands and Physical Planning, Plot number Kajiado/ Kaputei-South/47 was transferred from Olkejuado County Council to David Sankori Lenante on November 8, 1993. It was further subdivided on August 28, 1995 into new plot numbers Kajiado/ Kaputei-South/887 measuring approximately 12.14 Hectares, 888 measuring approximately 32.38 Hectares and 889 measuring approximately 69.36 Hectares.

(b) Ownership of LR. Kajiado/Kaputei South/887

The Committee found that Plot number Kajiado/ Kaputei-South/887 was further subdivided on July 20, 2016 into new plot numbers Kajiado/ Kaputei-South/6234, 6235, 6236 and 6237.

(c) Ownership of LR. Kajiado/Kaputei South/888

The Committee found that Plot number Kajiado/ Kaputei-South/888 has had several transfers registered. The current registered owner is Cikewa Investments Limited.

(d) Ownership of LR. Kajiado/Kaputei South/889

The Committee found that Plot number Kajiado/ Kaputei-South/889 is still registered under David Ole Sankori.

The Ministry of Lands and Physical Planning submitted that all land held under the repealed Local Governments Act were wholly managed and administered by the various County Councils and Municipalities. Consequently, all relevant records showing how and why the land in question was allocated to private entities are held by the County Government of Kajiado.

4. Lack of consultation in the Sub-division of LR. Kajiado/Kaputei South/46

The Petitioners submitted that Kajiado County Government had gone ahead to equally subdivide Parcel LR. Kajiado/Kaputei South/46 and set aside 200 hectares for the construction of a market centre without participation of members of the Poka Group Ranch.

The Committee found that, according to the Ministry of Lands and Physical Planning, Kajiado/ Kaputei-South/46 is still registered under Olkejuado County Council (now Kajiado County Government).

The National Land Commission holding ground was underutilized owing to lack of funds, and it was therefore leased by the Ministry of Livestock Development to TARDA for 30 years with effect from 1.9.1987, the lease has since expired in 2017. The total area leased is 759 Ha. However, the community is utilizing about 1,400 acres of the ground for grazing, there is a school and church on the parcel and a cattle sale yard managed by the County Government.

The Committee found that with regard to the current status of Emali Holding Ground- LR Kajiado/Kaputei South /46, the community is utilizing about 1,400 acres of the grounds for grazing, there is a school and church on the parcel and a cattle sale yard managed by the County Government.

The County Government has developed a plan covering about 250 acres of the said land and has created 727 market plots, with schools and other infrastructural facilities. The letters of allotment for the market have already been issued to individuals.

5. Compensation for land used for the Standard Gauge Railway

The Petitioners submitted to the Committee that Standard Gauge Railway passed through sections of the land in dispute and the community has since learnt of the compensation of Kshs 40 million which has not been availed to the Poka Group Ranch Community.

The Committee found that from the land acquisition records, part of the land belonging to the group ranch was acquired for the SGR phase I. The Committee established from the National Land Commission that payment for the above was done by the Kenya Railways Corporation on behalf of the Commission under

delegated authority in the initial payment as provided to the Committee. The community members did not participate in the process as at the time of acquisition, the subject parcels were no longer community land having being registered in favour of individuals and titles issued

Copies of land ownership documents and payees details for the compensations were forwarded to KRC. This compensation was paid to the registered owners in payment as shown below-

L.R. No.	Area Acquired (Ha)	Payee	Amount
Kajiado/Kaputiei South/887	3.4862	David Ole Sankori	8,912,500.00
Kajiado/Kaputiei South/888	1.483	David Ole Sankori	3,582,250.00
Kajiado/Kaputiei South/889	4.6305	David Ole Sankori	10,528,250.00
Kajiado/Kaputiei South/46	Improvements	Tana and Athirivers Development Authority (Tarda)	712,540.00

CHAPTER 5

COMMITTEE OBSERVATIONS

In accordance with the Prayers of the Petitioner the Committee observes as follows-

- 1. Investigates the matter and intervenes with a view to ensuring that the land in its entirety measuring 2,148 hectares is transferred back to the Poka Group Ranch and that all the private land illegally issued be repossessed.**

The Committee observed that the Emali Holding Grounds was for promotion of livestock productivity activities to enhance livestock production systems set aside by County Councils had set aside land as holding grounds for Livestock production purposes. Further, the holding ground was registered and held by the then County Councils on behalf of the community and managed by the Livestock Management Division. It is therefore curious that the land was allocated to private individuals without consultation of the community and that subsequent benefit from compensation from the acquisition of land for the Standard Gauge Railway was not enjoyed by the community.

The Community further observed that the Ministry of Lands and Physical planning claimed it did not have any records on the change in land use of Emali Holding Grounds to allow for subdivision and acquisition by individuals to the exclusion of the community. However, the Committee observed that the information should be provided by the County Government of Kajiado (in succession to Olkejuado County Council).

- 2. Make appropriate recommendations on persons who may have unlawfully participated in the illegal transactions of the land and the misappropriation of the compensation for prosecution.**

The Committee observed that the compensation of the land acquired for the Standard Gauge Railway was done by the Kenya Railways Corporation to the exclusion of the immediate community because the land ownership had changed. Further, it was not clear if the group ranch had submitted any adverse information on the above parcels or if they had submitted any counter claim to compensation in the course of acquisition of the land.

The matter of compensation is linked to the ownership of the land and should therefore be investigated to ensure that the community was not disenfranchised.

CHAPTER 6

COMMITTEE RECOMMENDATIONS

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders recommends as follows-

1. The County Government of Kajiado submits to the Senate all relevant records pertaining to Emali Holding Grounds- L.R Kajiado/Kaputiei South/23 reasons for the change in land use and how it was allocated to private entities without the consultation of the immediate community within one (1) month of the tabling of this Report;
2. That the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) investigates with speed how Emali Holding Grounds, set aside for livestock production purposes was alienated, subdivided, transferred and leased out without the consultation of local communities with a view to prosecuting those who may have fraudulently transferred the land; and
3. That the National Land Commission expedites and submits to the Senate regulations under section 12 (12) of the Land Act, 2012 prescribing for allocation of public land to individuals and communities as well as the manner of conversion of land across categories.

APPENDICES

A. ANNEX I: MINUTES OF THE MEETINGS

MINUTES OF THE 32ND MEETING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 20TH NOVEMBER, 2019 IN COMMITTEE ROOM 10, MAIN PARLIAMENT BUILDING AT 11.30 AM.

MEMBERS

PRESENT

- | | |
|------------------------------------|--------------------|
| 1. Sen. Mwangi Paul Githiomi, M.P. | - Chairperson |
| 2. Sen. Prengei Victor, M.P. | - Vice Chairperson |
| 3. Sen. Halake Abshiro, M.P. | - Member |
| 4. Sen. Mwaruma Johnes, M.P. | - Member |
| 5. Sen. Boy Issa Juma, M.P. | - Member |
| 6. Sen. Godana Hargura, M.P. | - Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------------|----------|
| 1. Sen. Ndwiga Peter Njeru, EGH. M.P. | - Member |
| 2. Sen. George Khaniri, MGH, M.P. | - Member |
| 3. Sen. Slyvia Kasanga, M.P. | - Member |

IN ATTENDANCE

PETITIONERS- POKA GROUP RANCH

PETITIONERS- RESIDENTS OF KAJIADO COUNTY

PETITIONERS- MR. JOHN NJOGU NJOROGE

SENATE SECRETARIAT

- | | |
|---------------------------|-------------------|
| 1. Ms. Gloria Wawira | - Clerk Assistant |
| 2. Ms. Caroline Cheruiyot | - Legal Counsel |
| 3. Mr. Robert Rop | - Audio Recording |

MINUTE SEN/SCLN/189/2019: PRELIMINARIES

The meeting was called to order at 11.30am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLN/190/2019: ADOPTION OF AGENDA

The agenda was therefore proposed by Sen. Godana Hargura, M.P. and seconded by Sen. Halake Abshiro, M.P. as follows.

AGENDA

1. Preliminaries - *Prayer*
2. Adoption of the agenda;
3. **Receiving submissions from Petitioners as per the attached schedule:**
 - a) Alleged unlawful acquisition and disposition of the Poka Group Ranch Land
 - b) Siltation of Lake Magadi.
 - c) Resettlement of East Mau Forest Evictees.
4. Any other Business;
5. Date of the next meeting;
6. Adjournment.

MINUTE SEN/SCLNR/191/2019: RECEIPT OF SUBMISSIONS FROM PETITIONERS

Alleged unlawful acquisition and disposition of the Poka Group Ranch Land

The Petitioners informed the Committee that they were members and descendants of the Poka Group Ranch established in 1968 under the Group Ranching Act as a 2148 Ha ranch. In 1995 the ranch was subdivide into two parcels and part of it was submitted to the Tana and Athi River Development Authority (TARDA) for purposes of livestock framing and the members of the ranch each contributed 5 cows for demonstrations.

At some point the ranch was divided into two parcel and part of it allocated to private owners who then acquired titled and disposed of it thereby permanently dispossessing the members of the group.

The Committee sought the intervention of the Committee in order to rectify the fraudulent acquisition of title and transfer of parcels of the Poka ranch and the restoration of the Ranch to its original size.

Committee Observations

The Committee observes that the matter was under that Trust Lands Act and that the relevant procedure thereunder had been flouted. That the Petition canvased the issues of ownership of the lad, land use and compensation

Committee Resolutions

The Committee resolved to conduct a visit to the ranch. It also resolved to invite the other relevant stakeholders including TARDA, NLC and the Ministry of Lands

Siltation of Lake Magadi.

The presented their Petition on the siltation of Lake Magadi. They illustrated the loss of soda ash yielding parts of the lake as a result of the siltation. Since the siltation started the lake had lost 30% of its mass as a result of soil rushing into the Lake. The petitioner stated that the siltation had increased since the construction of the mai mahiu road and the standard gauge railway. The petitioners had sought the intervention of the Ministry of Environment, however, the initiative that had been started had not been implemented to finality.

It was explained that the consequences of the siltation were on multiple levels affecting the natural features, the business interest and the community. Most notably, the lake was no longer producing soda ash at high rate that may result in the existing of Tata Magadi one of Kenya largest tax payers and as result and loss of revenues to the country at large.

Committee resolutions

The Committee resolved to visit Lake Magadi. It also resolved to invite the cabinet Secretaries for Environment, Transport, KENHA and Kenya Railways to discuss the matter.

Resettlement of East Mau Forest Evictees.

The petitioners informed the Committee that they had come together in 2011 during the Truth Justice and Reconciliation Commission (TJRC) process. They informed the committee that in 1988 the Government of Kenya had evicted people living in forests who had settled there on 1918 for the purposes of tending and protecting forests. At the time of the eviction, they were given only 3 days after which the government forcefully evicted them causing them to lose their homes, lands and livelihoods.

The petitioners had sought intervention from the National assembly and the TJRC without any reprieve. They petitioned the Committee to correct the injustices. They committed to providing the list of the 1350 affected persons.

Committee Resolution

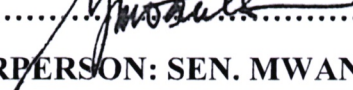
The Committee resolved to visit the Community and to invite the Ministry of land and the NLC to further investigate the matter.

MINUTE SEN/SCLNENR/192/2019: ANY OTHER BUSINESS;

There was no other business.

MINUTE SEN/SCLNENR/193/2019: DATE OF NEXT MEETING;

The meeting was adjourned at 11.00 am and the next meeting was to on 20th November, 2019 at 11.30am.

SIGNATURE.......... DATE.....
(CHAIRPERSON: SEN. MWANGI PAUL GITHIOMI, MP.)

MINUTES OF THE 53RD SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON SATURDAY, 14TH NOVEMBER, 2020 AT SAROVA WHITESANDS HOTEL, MOMBASA AT 9.00 AM.

MEMBERS

1. Sen. Philip Mpaayei, MP
2. Sen. Mwaruma Johnes, MP
3. Sen. Sylvia Kasanga, MP
4. Sen. Gideon Moi, CBS, MP
5. Sen. Ndwiga Peter Njeru, EGH, MP
6. Sen. Boy Issa Juma, MP

PRESENT

- **Vice Chairperson**
- Member
- Member
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. George Khaniri, MGH, MP
3. Sen. (Dr.) Lelegwe Ltumbesi, MP

- **Chairperson**
- Member
- Member

IN ATTENDANCE

1. Mr. Victor Bett
2. Mr. Crispus Njogu
3. Ms. Clare Kidombo
4. Ms. Mitchell Otoro
5. Mr. Abdalla Mbore
6. Mr. John Nganga
7. Mr. Naftali Ondiba

SECRETARIAT

- Clerk Assistant II
- Clerk Assistant II
- Researcher
- Legal Counsel
- Sergeant-At-Arms
- Audio Recording
- Finance Officer

MINUTE SEN/SCLENR/291/2020: PRELIMINARIES

The meeting was called to order at 9.30 am by the Vice Chairperson followed by a word of prayer.

MINUTE SEN/SCLENR/292/2020: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes;
4. **Adoption of the following Petition Reports;**

1. Report of the Committee on the Petition regarding the alleged grabbing of the part of the land allocated for settlement of the Petitioners at Kiang'ombe Squatters Settlement Scheme in Thika sub-County, Kiambu County (Residents of Kiang'ombe Squatters Settlement Scheme in Thika)
2. Report of the Committee on the Petition regarding the compensation and resettlement of evictees from Marmanet Forest in Laikipia County (Evictees of Marmanet Forest in Laikipia County)
3. Report of the Committee on the Petition regarding the Wajir waste disposal site and the disgraceful abuse of the right to enjoy environmental rights under Article 42 of the Constitution (Noor Abdirashid)
4. Report of the Committee on the Petition regarding the alleged unlawful acquisition and disposition of the Poka Group Ranch Land
5. Report of the Committee on the Petition regarding the compensation to land owners affected by construction of the Kibwezi - Kitui-Kabati - Migwani (B7) road
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNDR/293/2020: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Committee deferred the confirmation of Minutes to the next housekeeping meeting.

MINUTE SEN/SCLNDR/294/2020: ADOPTION OF THE FOLLOWING PETITION REPORTS;

- (a) **Report of the Committee on the Petition regarding the alleged grabbing of the part of the land allocated for settlement of the Petitioners at Kiang'ombe Squatters Settlement Scheme in Thika sub-County, Kiambu County (Residents of Kiang'ombe Squatters Settlement Scheme in Thika);**

The Committee adopted its report with the following recommendations;

1. That the Ministry of Lands and Physical Planning fast tracks the verification exercise on the ownership of the land and issues titles to the beneficiaries at zero cost allocated to members of the Kiang'ombe Squatters Settlement Scheme;
2. That the DCI and EACC investigates the allegations with regard to any parcels of land issued irregularly and responsible officers and grabbers if found brought to book in accordance with the law.

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The Report was adopted after having been proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP

(b) Report of the Committee on the Petition regarding the compensation and resettlement of evictees from Marmanet Forest in Laikipia County (Evictees of Marmanet Forest in Laikipia County);

The Committee adopted its report with the following recommendations;

The Committee adopted its report with the following recommendations;

1. The National Land Commission needs to coordinate a multi-agency team comprising of the Ministry of Lands and Physical Planning, Ministry of Interior and Coordination of National Government, Ministry of Environment and Forestry and the County Government of Laikipia to expedite the investigation into the claim by Petitioners from Marmanet Forest. Since the matter falls under the category of a historical injustice, the Committee recommends that a status report on the matter is submitted to the Committee within three (3) months of tabling this Report by the Senate.
2. That the Ministry of Lands and Physical Planning in consultation with the County Government of Laikipia identifies agriculturally viable land that could be used to resettle Petitioners from Marmanet Forest.
3. That the Petitioners should receive any relief accorded to Internally Displaced persons in Kenya through the Ministry of Devolution and Arid and Semi-Arid Lands, Special Programmes Department.
4. That the Ministry of Education should facilitate the issuance of certified duplicated education certificates to the Petitioners who lost their academic documents.

The Report was adopted after having been proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP

(c) Report of the Committee on the Petition regarding the Wajir waste disposal site and the disgraceful abuse of the right to enjoy environmental rights under Article 42 of the Constitution (Noor Abdirashid)

The Committee adopted its report with the following recommendations;

In accordance with the Prayers of the Petitioner the Committee recommends as follows:

- (1) **Ensuring that the lives and livelihoods of the residents of Ali Mao Village in Wajir County are safeguarded against the harmful effects of mismanagement of waste disposal site;**
 - (a) Ensure that an Environmental Inspector is appointed by the National Environment Management Authority (NEMA) pursuant to Section 117 of the Environment

Management and Coordination Act (EMCA), 1999, to ensure that the County Government of Wajir restores the settlement areas affected by the disposal site and that it is relocated and the area cleaned-up;

- (b) Ensure compensation of persons in Ali Mao Village whose health has been negatively affected as a direct result of the devastating impact of the dump site;

Committee Recommendation

1. The Committee recommends that the County Government of Wajir restores the settlement areas affected by the disposal site.
 2. Health services being devolved function, the County Government of Wajir should identify persons leaving in Ali Mao Village and ensure they get treatment for health issues arising from the impact of the dumpsite.
- (2) **Ensuring that funds through the National and County budgeting process are availed to the Wajir County Government for rehabilitation of the dump site;**

Committee Recommendation

The Committee recommends that the County Government of Wajir sets aside funds for the rehabilitation of the dumpsite the County Budget Estimates 2021/2022.

- (3) **Ensuring that the Wajir County Government enhances the policy, legal and regulatory framework for disposal of waste in the county;**

Committee Recommendation

The County Government of Wajir should ensure that it has a waste disposal policy which is subjected to public participation and approved by the County Assembly.

- (4) **Ensuring that medical institutions in Wajir County adhere to proper waste disposal practices;**

Committee Recommendation

The Committee recommends that the County Government of Wajir continuously monitors waste disposal practices in Wajir County.

- (5) **Make appropriate recommendations to NEMA and other bodies charged with safeguarding the environment;**

Committee Recommendation

The Committee recommends that NEMA continuously keeps in check the happenings in counties on matters waste management.

(6) Review national legislation to address the challenges of waste management in the country.

Committee Recommendation

The Committee recommends that NEMA works with the Committee in coordinating a High Level Workshop, bringing together all stakeholders in the waste management sector and all the 47 counties to come up with solutions that uniformly handle waste management in the counties.

The Report was adopted after having been proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP

(d) Report of the Committee on the Petition regarding the alleged unlawful acquisition and disposition of the Poka Group Ranch Land

The Committee adopted its report with the following recommendations;

1. The County Government of Kajiado submits to the Senate all relevant records pertaining to Emali Holding Grounds- L.R Kajiado/Kaputiei South/23 reasons for the change in land use and how it was allocated to private entities without the consultation of the immediate community within one (1) month of the tabling of this Report;
2. That the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) investigates with speed how Emali Holding Grounds, set aside for livestock production purposes was alienated, subdivided, transferred and leased out without the consultation of local communities with a view to prosecuting those who may have fraudulently transferred the land; and
3. That the National Land Commission expedites and submits to the Senate regulations under section 12 (12) of the Land Act, 2012 prescribing for allocation of public land to individuals and communities as well as the manner of conversion of land across categories.

The Report was adopted after having been proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP

(e) Report of the Committee on the Petition regarding the compensation to land owners affected by construction of the Kibwezi - Kitui-Kabati - Migwani (B7) road

The Committee adopted its report with the following recommendations;

- i. The National Land Commission to avail a list of all persons who have been issued with award letters in respect of the project, including valuation for the acquired pieces of land and any variations made on the original award letters;

The Committee recommends that the National Land Commission submits to the Committee an updated list of all project affected persons and the status of their compensation within two months of the tabling of this Report, and in any case not later than 1st February, 2020.

- ii. The National Land Commission to compensate the affected land owners promptly, justly and in full.

The Committee recommends that the Kenya National Highways Authority and the National Land Commission forthwith compensates all the Project Affected Persons in full and both submit to the Committee a status update on the compensation within three months of the tabling of this Report, and in any case not later than 28th February, 2021.

The Report was adopted after having been proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Boy Issa Juma, MP

MINUTE SEN/SCLN/295/2020: ANY OTHER BUSINESS;

There was no other business discussed.

MINUTE SEN/SCLN/296/2020: DATE OF NEXT MEETING;

The meeting was adjourned at 1.00 pm and the next meeting was to follow thereafter at 3.00 pm.

Signed:.......... Date:..... 19 /11/2020.....

**SEN. PHILIP MPAAYEI, MP
VICE CHAIRPERSON**

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

ANNEX II: SUBMISSIONS BY KEY STAKEHOLDERS

(Attached separately)