

Approved
SNA
27/7/23



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT (SECOND SESSION)

PUBLIC PETITIONS COMMITTEE

REPORT ON –

(PUBLIC PETITION NO. 6 OF 2022)

BY HON. (DR.) JAMES NYIKAL REGARDING COMPENSATION FOR NYANZA-
WESTERN KENYA CAUCUS OF INTERNALLY DISPLACED PERSONS

THE NATIONAL ASSEMBLY	
JULY, 2023	
DATE: 27 JUL 2023	DAY: THURSDAY
TABLED BY:	HON. JANET SITIENI, MP VICE-CHAIRPERSON
CLERK AT THE TABLE:	

CLERK'S CHAMBERS
DIRECTORATE OF LEGISLATIVE AND PROCEDURAL SERVICES
PARLIAMENT BUILDINGS
NAIROBI

TABLE OF CONTENTS

TABLE OF CONTENTS	1
LIST OF TABLES	2
LIST OF ACRONYMS.....	3
CHAIRPERSON’S FOREWORD	4
PART ONE	5
1. PREFACE	5
1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE.....	5
1.2 COMMITTEE MEMBERSHIP	6
1.3 COMMITTEE SECRETARIAT	7
PART TWO.....	8
2. PUBLIC PETITION NO. 06 OF 2022 REGARDING COMPENSATION FOR NYANZA- WESTERN KENYA CAUCUS OF INTERNALLY DISPLACED PERSONS	8
2.1 INTRODUCTION.....	8
2.2 PETITIONER’S PRAYERS	9
PART THREE.....	10
3. STAKEHOLDERS’ SUBMISSIONS ON THE PETITION	10
3.1 THE PETITIONERS	10
3.2 MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT	13
3.2.1 Nyanza Region	14
3.2.2 Western Region	20
3.3 THE NATIONAL TREASURY AND ECONOMIC PLANNING	21
PART FOUR.....	22
4. COMMITTEE OBSERVATIONS	22
PART FIVE.....	24
5. ANALYSIS OF ISSUES FOR DETERMINATION AS PER THE PRAYERS IN THE PETITION	24
PART SIX	29
6. COMMITTEE RECOMMENDATIONS.....	29

LIST OF TABLES

Table 1. Compensation schedule for Nyanza Region IDPs.....	14
Table 2. Compensation schedule for Siaya County IDPs.....	15
Table 3. Compensation schedule for Kisumu County IDPs.....	16
Table 4. Compensation schedule for Homa Bay County IDPs.....	17
Table 5. Compensation schedule for Migori County IDPs.....	18
Table 6. Compensation schedule for Kisii County IDPs.....	18
Table 7. Compensation schedule for Nyamira County IDPs.....	19

LIST OF ACRONYMS

IDPs	-	Internally Displaced Persons
PEV	-	Post Election Violence
MoSP	-	Ministry of Special Programs
SLDF	-	Sabaot Land Défense Force
SOPs	-	Standard Operating Procedures

CHAIRPERSON'S FOREWORD

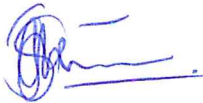
On behalf of the Public Petitions Committee and pursuant to provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on Public Petition Regarding Compensation for the Nyanza-Western Kenya Caucus of Internally Displaced Persons (IDPs) arising from the of 2007/2008 Post Election Violence. The Petition was presented to the House pursuant to Standing Order 225 (2) (a) by the Hon. (Dr.) James Nyikal, M.P, the Member for Seme Constituency, on behalf of the Nyanza-Western Kenya Caucus of Internally Displaced Persons.

The Petitioners prayed that the House uses its authority to ensure that the Nyanza-Western Caucus of IDPs are verified and urgently compensated to enable them to revert to a dignified life like their counterparts who benefitted from Government resettlement or compensation programmes.

In response to the prayers sought in the Petition, the Committee recommends that the Ministry of Interior and National Administration fast tracks the process of addressing the plight of Nyanza-Western Caucus of IDPs with a view of compensating all the genuine and deserving IDPs in the said caucus in the Financial Year 2024/2025.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support offered during the consideration of the Petition. The Committee also thanks Hon. (Dr.) James Nyikal, M.P, for bringing to the attention of the House the matters raised in the Petition. The Chairperson expresses gratitude to the Members of the Committee for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to table the report before the House.



HON. NIMROD MBITHUKA MBAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

Date.....26/7/2023.....

PART ONE

1. PREFACE

1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

The Public Petitions Committee is established pursuant to the provisions of Standing Order 208A and is mandated to:

- a) consider all public petitions tabled in the House;
- b) make such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- c) recommend whether the findings arising from consideration of a petition should be debated; and
- d) advise the House and reporting on all public petitions committed to it.

1.2 COMMITTEE MEMBERSHIP

The Public Petitions Committee was constituted in October 2022 and comprises of the following Members:

Chairperson

Hon. Nimrod Mbithuka Mbai, M.P.
Kitui East Constituency

United Democratic Alliance (UDA)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.
Turbo Constituency

United Democratic Alliance (UDA)

Hon. Bernard Muriuki Nebart, M.P.
Mbeere North Constituency

Independent

Hon. Patrick Makau King'ola, M.P.
Mavoko Constituency

Wiper Democratic Movement-Kenya (WDM-K)

Hon. Bidu Mohamed Tubi, M.P.
Isiolo South

Jubilee Party (JP)

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency

Wiper Democratic Movement-Kenya (WDM-K)

Hon. Caleb Mutiso Mule, M.P.
Machakos Town Constituency

Maendeleo Chap Party (MCCP)

Hon. Ernest Kivai Ogesi Kagesi, M.P.
Vihiga Constituency

Amani National Congress (ANC)

Hon. John Bwire Okano, M.P.
Taveta Constituency

Wiper Democratic Movement-Kenya (WDM-K)

Hon. Maisori Marwa Kitayama, M.P.
Kuria East Constituency

United Democratic Alliance (UDA)

Hon. Peter Mbogho Shake, M.P.
Mwatate Constituency

Jubilee Party (JP)

Hon. Joshua Chepyegon Kandie, M.P.
Baringo Central Constituency

Maendeleo Chap Party (MCCP)

Hon. Sloya Clement Logova, M.P.
Sabatia Constituency

United Democratic Alliance (UDA)

Hon. John Walter Owino, M.P.
Awendo Constituency

Orange Democratic Movement (ODM)

Hon. Suzanne Ndunge Kiamba, M.P.
Makueni Constituency

Wiper Democratic Movement-Kenya (WDM-K)

1.3 COMMITTEE SECRETARIAT

The Public Petitions Committee is facilitated by the following secretariat:

Lead Clerk
Mr. Samuel Kalama
Principal Clerk Assistant

Ms. Anne Shibuko
First Clerk Assistant

Ms. Miriam Modo
First Clerk Assistant

Mr. Willis Obiero
Clerk Assistant III

Mr. Shadrach Omondi
Legal Counsel II

Ms. Patricia Gichane
Legal Counsel II

Mr. Martin Sigei
Research Officer III

Mr. Andrew Shangirai
Principal Sergeant at Arms

Mr. Yezel Jilo
Sergeant at Arms

Ms. Lilian Mburugu
Media Relations Officer

Ms. Rahab Chepkilim
Audio Officer

PART TWO

2. PUBLIC PETITION NO. 06 OF 2022 REGARDING COMPENSATION FOR NYANZA-WESTERN KENYA CAUCUS OF INTERNALLY DISPLACED PERSONS

2.1 INTRODUCTION

1. Public Petition No. 06 of 2022 by the Nyanza-Western Kenya Caucus of IDPs was presented to the House by the Member for Seme Constituency, Hon. (Dr.) James Wambura Nyikal,MP on 16th November, 2022.
2. The Petitioners stated that the Post-Election Violence which occurred after the 2007 General Elections caused massive displacement of persons from their areas of residence into IDP camps. Consequently, the government rolled out a resettlement program dubbed '*Operation Rudi Nyumbani*' which was intended to facilitate IDPs to go back to their original homes but a section of IDPs especially from other regions apart from those from Nyanza and Western remained in camps.
3. The IDPs who remained in designated camps were compensated by the government with monetary amounts of about Kshs. 400,000 while others even received land settlement. However, the IDPs from Nyanza and Western who benefited from the '*Operation Rudi Nyumbani*' only received little amounts of less than Kshs. 50,000 to facilitate them to go back home.
4. The Petitioners from *Naivasha, Eldoret, Kericho, Bahati, Nakuru* and *Nairobi* are disgruntled that fifteen (15) years since the Post-Election Violence, they have not been compensated by the Government following the skirmishes of 2007 General Elections, yet their counterparts who were in IDPs camps in other parts of the country had been compensated.
5. Since the year 2008, the representatives of the Nyanza-Western Kenya Caucus of IDPs have forwarded their concerns to the Ministry of Interior and Coordination of National Government but the Government has not taken any tangible steps to address their plight.
6. To the best of the Petitioners' knowledge, the matter in respect of which this Petition is made is not pending before any Court of Law or Constitutional body.

2.2 PETITIONER'S PRAYERS

7. The Petitioners prayed that the National Assembly through the Public Petitions Committee:
 - a) expeditiously interrogate the issues raised in this Petition with a view to determining the circumstances as to why for close to fifteen years since the occurrence of Post-Election Violence, the Petitioners are yet to receive justice;
 - b) causes the relevant Government agencies to ensure that the deserving IDPs under Nyanza-Western Caucus of IDPs are verified and urgently compensated in order to enable them to revert to a dignified life like their counterparts who benefitted from Government resettlement or compensation programmes; and
 - c) makes any recommendation deemed fit in addressing the plight of the Petitioners and upholding the rule of law.

PART THREE

3. STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1 THE PETITIONERS

Mr. Erick Odhiambo Oyugi, Pastor Joseph Ouko and Ms. Nereah Atieno Otieno appeared before the Committee on Tuesday, 13th December, 2022 and submitted as follows:

8. The Nyanza-Western Kenya Caucus is composed of about 84,597 IDPs from Nyanza and Western Kenya regions who came together to seek compensation from the government like their counterparts from other regions after the 2007 General Election skirmishes.
9. The caucus which started as a committee extended its reach to various counties to find the IDPs with assistance of the local chiefs. The caucus was formed after the collection of the records of the victims from *Kisii* (15,182 persons), *Homa Bay* (7,868 persons), *Kisumu* (15,963 persons), *Siaya* (20,194 persons), *Kakamega* (942 persons), *Trans Nzoia* (10,112 persons) and *Migori* (14,336 persons) counties. Inclusion of IDPs from other parts of Nyanza and Western not mentioned e.g., *Vihiga* and *Kuria*, was challenging due to non-receptiveness of the persons who were to spearhead the process and interference of the process by conmen. The Petitioners presented the list of the IDPs covered by the caucus.
10. The reconciliation of Nyanza and Western IDPs started with a meeting held on 13th January, 2022 at Life Gate Ministries, Kericho which resolved to harmonize all the groups of IDPs in Nyanza and Western to develop one structure of leadership with more than two hundred (200) members representing different parts of the region.
11. Only a handful of the Nyanza-Western Kenya Caucus of IDPs were compensated with negligible sums of Kshs. 10,000, Kshs. 25,000 and Kshs. 50,000. These IDPs opted to leave the camps and go settle with their relatives, while IDPs from other regions remained and got fully compensated.
12. The IDPs victims from Nyanza and Western regions were living in distress as they have never been resettled or adequately compensated.
13. The Petitioners felt discriminated and neglected because other victims were compensated but they were not. Therefore, they requested that the compensation factor in the passage of time and include money, land, and housing.
14. Proper records relating to any settlement given to IDPS were in the custody of the local administration offices and the Government should therefore provide a clear way forward on the matter.

Further, the Committee held a meeting with petitioners from Trans Nzoia, Homa Bay, Migori, Kisii, Kisumu and Siaya counties in Migori County on Wednesday, 31st May, 2023, who submitted as follows—

15. The Nyanza-Western Kenya Caucus were composed of 84,597 IDPs from Nyanza and Western Kenya regions who came together to seek compensation from the government like their counterparts from other regions after the 2007/2008 Post Election Violence.
16. They had in different ways suffered loss of their sources of livelihood through established businesses and employment opportunities, loss of land, homes, and property as well as loss of lives of some of their family members.
17. Some of them had been maimed due to the struggle to escape from the perpetrators of the violence and were permanently injured or had lost their limbs, while others had undergone sexual violence.
18. Most of the IDPs left the camps in Nakuru County and opted to go back home and settle with their relatives, whereas the IDPs from other regions of the country remained in the camps and got higher amounts of compensation that were commensurate to the loss incurred e.g., Kshs. 400,00 and parcels of land for resettlement.
19. Some members of the Nyanza-Western Kenya Caucus of IDPs received meagre sums as compensation such as Kshs. 10,000, Kshs. 25,000 and Kshs. 50,000, while others were not compensated.
20. Most of the victims from Nyanza and Western regions were living in distress as they have never been resettled or adequately compensated. One of the victims who got wide media coverage, Mzee Benard Ndege, lost 11 members of his immediate family when his home in the lakeside town of Naivasha was torched. He was given only Kshs. 10,000 ‘Operation Rudi Nyumbani’ money. He has not been mentally stable ever since.
21. The Petitioners felt discriminated and neglected because other people were compensated but they were not. The structures put in place by the government to compensate and or resettle IDPs of the 2008 Post-Election Violence did not cover all IDPs.



Figure 1: *The Public Petitions Committee listening to a former resident of Naivasha, Mr: George Orinda famously known as Mr. Ndege who lost 11 family Members (9 children and 2 wives) in the 2007/2008 Post Election Violence.*



Figure 2: *The Public Petitions Committee holding a consultative meeting in Migori County in with IDPs from various areas of Nyanza and Western*

3.2 MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

The Cabinet Secretary, Prof. Kithure Kindiki appeared before the Committee on Tuesday, 20th June 2023 and submitted that—

22. The total number of legitimate IDPs profiled in Nyanza and Western Regions due to Post-Election Violence (PEV) 2007, were 52,442 and 14,084 respectively.
23. The standard operating Procedures (SOPs) for identification and verification of the IDPs was developed jointly by Ministry of Special Programs (MoSP) in collaboration with Ministry of Interior and National Administration. The role of the Ministry was to identify the IDPs while that of MoSP was to verify and profile the legitimate IDPs who were thereafter registered and given a serial number. They also had to provide proof of loss, displacement, National ID Card, and bank details to be compensated.
24. That payments were made in three phases as follows—
 - i. **Category 1:** Kshs10, 000 to support households whose loss was identified as manageable. The beneficiaries had relatives who integrated them or had shelters to accommodate their families. This category included those that were accommodated by their relatives.
 - ii. **Category 2:** Kshs25,000 to support households rebuild their burnt shelters.
 - iii. **Category 3:** Kshs50,000 (Total loss) to support households that were immensely affected by the violence, lost their houses and livelihoods. The beneficiaries paid suffered losses that would require immense resources to rebuild. Records indicated that the beneficiaries were majorly in Kisumu, Migori and Siaya.

3.2.1 Nyanza Region

Nyanza region received compensation funds as outlined below—

S/No.	County	Total Number of IDPs Profiled	Total Amount Received (Kshs)	Total Amount Utilized (Kshs)	Total Amount Reverted (Kshs)	Remarks
1.	Siaya	5,908	61,320,000	61,320,000	0	No unused funds reported.
2.	Kisumu	10,013	129,925,000	120,090,000	9,835,000	Unused funds reverted back to MoSP.
3.	Homa Bay	3,930	25,090,000	23,630,000	1,460,000	Unused funds reverted back to MoSP.
4.	Migori	2,916	96,565,000	96,565,000	0	No unused funds reported.
5.	Kisii	23,001	106,905,000	106,905,000	0	No unused funds reported.
6.	Nyamira	6,674	45,740,000	45,700,000	40,000	Money reverted back to MoSP.
TOTAL		52,442	465,545,000	454,210,000	11,335,000	

Table 1. Compensation schedule for Nyanza Region IDPs

a. Siaya County

Sub-County	Total Number of People Profiled	Number Paid			Number not Paid as they Failed to Meet the Requirements		Number who Failed to Appear for Payment		Number not Paid yet Met Requirement		Total Funds Received Per Sub-County (Kshs.)
		10,000	25,000	50,000	10,000	25,000	10,000	25,000	10,000	25,000	
Siaya	3303	1136	21	538	0	0	1608	0	0	0	38,785,000
Bondo	1041	767	1	71	0	0	202	0	0	0	11,245,000
Rarieda	853	0	0	0	853	0	0	0	0	0	0
Ugenya	711	499	0	126	86	0	0	0	0	0	11,290,000

Remarks:

a. Rarieda Sub-County records indicate that none of the 853 IDPs profiled was compensated as they failed to meet requirements.

b. Most IDPs profiled in Ugenya Sub-County were compensated. However, 86 people could not present the required documents within the set timelines.

Table 2. Compensation schedule for Siaya County IDPs

b. Kisumu County

Sub-County	Total Number of IDPs Profiled	Number Paid			Number not Paid as they Failed to Meet the Requirements		Number who Failed to Appear for Payment		Number not Paid yet Met Requirement		Total Funds Received Per Sub-County (Kshs.)
		10,000	25,000	50,000	10,000	25,000	10,000	25,000	10,000	25,000	
Kisumu East	3889	834	986	600	192	925	167	185	0	0	69,285,000
Kisumu West	2028	1028	0	47	953	0	0	0	0	0	12,630,000
Nyando, Nyakach, Muhoroni	4096	2422	0	405	835	80	354	0	0	0	48,010,000

Table 3. Compensation schedule for Kisumu County IDPs

Remarks:

- Funds received by Kisumu East Sub-County, but internally displaced persons failed to appear for payment were reverted to the Ministry of Special Programme vide Cheque no's 0013982-Kshs. 790,000; 014069-Kshs. 880,000; 9543544 dated the 6th July, 2010- Kshs. 4,300,000 and 325,000.
- Kisumu West Sub-County paid out all the funds received to the Internally Displaced Persons.
- Nyando, Nyakach and Muhoroni Sub-Counties were previously under the larger Nyando District. A total of Kshs. 3,540,000 received by the larger Nyando District but Internally Displaced Persons failed to appear for payment or did not meet the criteria set out were reverted to the Ministry of Special Programme.

c. Homa Bay County

Sub-County	Total Number of IDPs Profiled	Number Paid		Number not Paid as they Failed to Meet the Requirements		Number who Failed to Appear for Payment		Number not Paid yet Met Requirement		Total Funds Received Per Sub-County (Kshs.)
		10,000	25,000	10,000	25,000	10,000	25,000	10,000	25,000	
Suba	307	0	0	0	0	0	0	0	0	0
Mbita	0	0	0	0	0	0	0	0	0	0
Rachuonyo South Rachuonyo North Rachuonyo East	2,624	1,499	0	1,114	0	11	0	0	0	15,100,000
Homa Bay Rangwe Ndhwiwa	999	864	0	0	0	135	0	0	0	9,990,000

Remarks:

- Suba Sub-County did not receive any funds for the compensation of IDPs.
- Rachuonyo South, North and East Sub-County were previously under the larger Rachuonyo District. Rachuonyo District reverted funds vide Cheque No. 000308 of Kshs. 110,000.
- Rangwe and Ndhwiwa Sub-Counties were under the greater Homa Bay District. The district reverted funds vide Cheque No. 000023 of Kshs.1,350,000.
- No IDP was paid Kshs. 50,000.

Table 4. Compensation schedule for Homa Bay County IDPs

d. Migori County

Sub-County	Total Number of IDPs Profiled	Number Paid		Number not Paid as they Failed to Meet the Requirements		Number who Failed to Appear for Payment		Number not Paid yet Met Requirement		Total Funds Received Per Sub-County (Kshs.)
		10,000	25,000	50,000	10,000	25,000	10,000	25,000	10,000	
Rongo	665	520	135	654	0	0	0	0	0	41,275,000
Migori	614	614	0	983	0	0	0	0	0	55,290,000
a. All IDPs profile for Kshs. 50,000 compensations were paid.										

Table 5. Compensation schedule for Migori County IDPs

e. Kisii County

Sub-County	Total Number of IDPs Profiled	Number Paid		Number not Paid as they Failed to Meet the Requirements		Number who Failed to Appear for Payment		Number not Paid yet Met Requirement		Total Funds Received Per Sub-County (Kshs.)
		10,000	25,000	10,000	25,000	10,000	25,000	10,000	25,000	
Kisii Central	8827	8282	0	545	0	0	0	0	0	82,820,000
Kisii South	8386	798	107	7481	0	0	0	0	0	10,665,000
Gucha	1779	1342	0	437	0	0	0	0	0	13,420,000
Gucha South	4009	0	0	0	0	0	0	0	0	0
a. No IDP was paid Kshs. 50,000										

Table 6. Compensation schedule for Kisii County IDPs

f. Nyamira County

Sub-County	Total Number of IDPs Profiled	Number Paid		Number not Paid as they Failed to Meet the Requirements		Number who Failed to Appear for Payment		Number not Paid yet Met Requirement		Total Funds Received Per Sub-County (Kshs.)
		10,000	25,000	10,000	25,000	10,000	25,000	10,000	25,000	
Nyamira North	1285	951	0	330	0	4	0	0	0	9,510,000
Borabu	879	605	172	49	53	0	0	0	0	10,350,000
Masaba North	2972	1362	0	1610	0	0	0	0	0	13,620,000
Manga	1538	1222	0	316	0	0	0	0	0	12,220,000
Remarks:										
a. Nyamira County received a total of Kshs. 45,740,000.										
b. No IDP was paid Kshs. 50,000.										

Table 7. Compensation schedule for Nyamira County IDPs

25. The funds reverted to the Ministry were occasioned by failure of the profiled IDPs to meet the criteria of required documents within the set timelines or failure to appear for payment.
26. The Government's commitment to address the plight of 2007 PEV IDPs was reflected in the allocation of Kshs. 465,545,000 to Nyanza Region compensation program. The last tranche of funds Kshs. 134,450,000 was distributed to Kisumu and Migori Counties on 11th December, 2017.
27. All counties in Nyanza Region did not have IDP Camps within their jurisdictions. The government facilitated re-integration of all profiled legitimate IDPs into their communities and those who were displaced from other areas/hotspots and were willing to return to their former homes were reconciled with the "host" communities and assisted to rebuild.

3.2.2 Western Region

28. The Western Region comprised of Vihiga, Kakamega, Bungoma and Busia Counties which received compensation of Kshs. 10,000 or Kshs. 50,000 depending on the severity of the displacement.
29. A total of four hundred and eighty-four (484) households in Vihiga and two hundred and thirty-four (234) households in Hamisi were compensated with Kshs.10,000, while seven hundred and twenty-three (723) IDPs in Emuhaya were yet to be compensated. Further, three hundred and forty-two (342) IDPs in Vihiga were paid Kshs. 50,000.
30. Out of the five thousand six hundred and seventy-two (5,672) IDPs in Kakamega, three thousand nine hundred and thirty-three (3,933) households were paid Kshs. 10,000, one thousand nine hundred and thirty-one (1931) IDPs were paid Kshs. 50,000 and two (2) households paid Kshs. 200,000.
31. Out of the six thousand, seven hundred and thirteen (6,713) IDPs in Bungoma, one thousand, one hundred (1,100) IDPs were not paid for reasons such as lack of proper identification and documentation and failure by the IDPs to appear for payment. However, two thousand, four hundred and forty-seven (2,447) IDPs resulting from the Sabaot Land Defense Force land conflict in 2007/2008 were paid in two phases of Kshs10,000 and Kshs25,000.
32. Two hundred and forty-nine (249) IDPs in Busia were paid Kshs 50,000 while one hundred and forty-nine (149) IDPs were not paid due to inconsistencies in identification.
33. The program "*Operation Rudi Nyumbani*" ensured adequate public sensitization by use of notice boards, barazas, visiting IDP camps and mainstream media. The IDPs were informed on the requirements, date, and venue for compensation. The profiled IDPs were required to provide evidence and documents to support their claims however, some of the claimants either could not provide the required documents or did not appear for payment.

3.3 THE NATIONAL TREASURY AND ECONOMIC PLANNING

Vide a letter Ref. No. TNT/CONF 51/07 E (70) dated 26th April 2023, the Cabinet Secretary submitted that—

34. The petition indicated that Nyanza Western Caucus of IDPs were neither resettled nor compensated like their counterparts in other parts of the country.
35. The representatives of the Nyanza Western Caucus of IDPs have on several occasions, forwarded the petitioners concerns to the Ministry of Interior and coordination of the National Government but no action has taken place.
36. The National Treasury could only facilitate the compensation after getting approval from the Cabinet. Further, the processes of validating IDPs compensation fall under the Ministry of Interior and Coordination of the National Government.

PART FOUR

4. COMMITTEE OBSERVATIONS

After engaging the Petitioners, the Cabinet Secretary for National Treasury and Economic Planning, the Cabinet Secretary, Ministry of Interior and National Administration, and other stakeholders, the Committee observed **THAT**—

37. The Nyanza-Western Kenya Caucus is composed of about 84,597 IDPs from Nyanza and Western Kenya regions who came together to seek compensation from the government like their counterparts from other regions after the 2007/2008 Post Election Violence.
38. The IDPs had in different ways suffered loss of their source of livelihoods-established businesses and employment opportunities, loss of land, homes, and property as well as loss of lives of some of their family members. That some cases such as Mzee Benard Ndege required immediate action by the Ministry. Further, the plight of the people of Seme subcounty and Trans Nzoia County was not addressed by the Ministry.
39. Some of them had been maimed due to the struggle to escape from the perpetrators of the violence and were permanently injured or had lost their limbs, while others had undergone sexual violence.
40. Most of the IDPs left camps in various parts of the country and opted to go back home and settle with their relatives, whereas the IDPs from other regions of the country remained in the camps and got higher amounts of compensation that were commensurate to the loss incurred e.g., Kshs. 400,00 and parcels of land for resettlement.
41. Some members of the Nyanza-Western Kenya Caucus of IDPs received meagre sums as compensation such as Kshs. 10,000, Kshs. 25,000 and Kshs. 50,000, while others were not compensated at all.
42. Most of the victims from Nyanza and Western regions are living in distress as they have never been resettled or adequately compensated. One of the victims who got wide media coverage, Mzee Benard Ndege, lost eleven (11) members of his immediate family when his home in the lakeside town of Naivasha was torched. He was given only Kshs. 10,000 under the *Operation Rudi Nyumbani* programme. He has not been mentally stable ever since and required counselling and rehabilitation.
43. The Petitioners felt discriminated and neglected because other IDPs were compensated but they were not. The structures put in place by the government to compensate and or resettle IDPs of the 2008 PEV did not cover all IDPs.

44. The *Operation Rudi Nyumbani* programme did not adequately address the plight of the Nyanza and Western Region IDPs of the 2007/2008 PEV. As a matter of human right, IDPs compensation and resettlement must be reopened and should be an ongoing exercise. It was further noted that the issues of IDPs is a humanitarian issue hence a human rights issue. The statute of limitation does not limit human rights. Human rights are entrenched and are perpetual. Further, the Committee also observed that the National Consultative Coordination Committee on Internally Displaced Persons was still in place and can address the issue of IDPs in the country.
45. There was an indication that officers in charge of the compensation programme may have mismanaged the process leading to the failure to compensate some IDPs. Further, the administration of the *Operation Rudi Nyumbani* programme was not inclusive.
46. The Petition presented an opportunity for the Ministry of Interior and National Administration to review policies and institutionalization of budget to allow for compensation of IDPs of the 2007/2008 PEV that were not compensated.
47. Any further neglect of the Petitioners' plight amounts to serious violation and derogation of their inalienable right to fair administrative action particularly with respect to expeditious administrative process.

PART FIVE

5. ANALYSIS OF ISSUES FOR DETERMINATION AS PER THE PRAYERS IN THE PETITION

Upon hearing from the Petitioners and other witnesses, the Committee makes determination on prayers sought in the Petition as follows:

Prayer No. 1: *interrogate the issues raised in the Petition with a view to determining the circumstances as to why for close to fifteen years since the occurrence of Post-Election Violence, the Petitioners are yet to receive justice;*

48. The Committee—

- a) Invited the CS who informed the Committee that the total number of legitimate IDPs profiled in Nyanza and Western Regions due to the 2007/2008 PEV were 52,442 (Nyanza) and 14,084 (Western) respectively.
- b) Noted that the Standard Operating Procedures (SOPs) for identification and verification of the IDPs was developed jointly by Ministry of Special Programs (MoSP) and the then Ministry of Internal Security and Provincial Administration. The role of the Ministry was to identify the IDPs while that of MoSP was to verify and profile the legitimate IDPs who were thereafter registered and given a serial number. They also had to provide proof of loss, displacement, National ID Card, and bank details to be compensated.
- c) Was also informed that the payments were made in three phases as follows—
 - (i) Category 1: Kshs.10,000 to support households whose loss was identified as manageable. The beneficiaries had relatives who integrated them or provided shelter to accommodate their families. This category included those that were accommodated by their relatives.
 - (ii) Category 2: Kshs. 25,000 to support households rebuild their burnt shelter.
 - (iii) Category 3: Kshs. 50,000 (Total loss) to support households that were immensely affected by the violence, lost their houses and livelihoods. The beneficiaries paid had suffered losses that would

require immense resources to rebuild. Records indicated that the beneficiaries were majorly from Kisumu, Migori and Siaya counties.

- d) Noted that the funds that were not paid to the IDPs reverted to the Ministry. This was occasioned by failure of the profiled IDPs to meet the criteria of required documents within the set timelines or failure to appear for payment.
- e) Noted the Government's commitment to address the plight of 2007/2008 PEV IDPs was reflected in the allocation of Kshs. 465,545,000 to Nyanza Region compensation program. The last tranche of funds of Kshs. 134,450,000 was distributed to Kisumu and Migori Counties on 11th December, 2017.
- f) Further noted that all counties in Nyanza Region did not have IDP camps within their jurisdictions. The Government only compensated IDPs who were in camps, thereby failing to address the plight of the IDPs who were integrated into their host communities.
- g) Established that the Western Region comprised Vihiga, Kakamega, Bungoma and Busia Counties which received compensation as of Kshs. 10,000 or Kshs. 50,000 depending on the severity of the displacement as illustrated below—
 - (i) A total of 484 households in Vihiga, 234 in Hamisi were compensated with Kshs10,000 and 723 IDPs in Emuhaya were yet to be compensated. Further, 342 IDPs in Vihiga were paid Kshs50,000.
 - (ii) Out of the 5,672 IDPs in Kakamega, 3933 households were paid Kshs10,000, 1931 IDPs were paid Kshs50,000 and two households paid Kshs. 200,000.
 - (iii) Out of the 6,713 IDPs in Bungoma, 1,100 IDPs were not paid for reasons such as lack of proper identification and documentation and failure by the IDPs to appear for payment. However, 2,447 IDPs resulting from the Sabaot Land Defense Force land conflict in 2007/2008 were paid in two phases of Kshs10,000 and Kshs. 25,000.

- (iv) 249 IDPs in Busia were paid Kshs 50,000 while 149 IDPs were not paid due to inconsistencies in identification.
- h) Noted that the programme “*Operation Rudi Nyumbani*” conducted public sensitization by use of notice boards, barazas, visiting IDP camps and mainstream media. The IDPs were informed on the requirements, date, and venue for compensation. The profiled IDPs were required to provide evidence and documents to support their claims however, some of the claimants could neither provide the required documents nor appear for payment.
- i) Finally, established that the issue of IDPs being a humanitarian matter was a human rights issue. The doctrine of limitation of action was thus not actionable as human rights issues are perpetual. The timelines provided for the programme were merely administrative. The issue of compensation could be reopened to identify *bona fide* IDPs, and appropriate action taken to address their plight. **Therefore, the Cabinet Secretary for Interior and National Administration should investigate the circumstances upon which for close to 15 years, some IDPs have not been compensated and provide urgent measures to address the issue of compensation.**

Prayer No. 2: *causes the relevant Government agencies to ensure that the deserving IDPs under Nyanza-Western Caucus of IDPs are verified and urgently compensated in order to enable them to revert to a dignified life like their counterparts who benefitted from Government resettlement or compensation programmes*

49. The Committee—

- a) Invited the CS who informed the Committee that the total number of legitimate IDPs profiled in Nyanza and Western Regions due to PEV 2007/2008 were 52,442 and 14,084 respectively.
- b) Noted that the Standard Operating Procedures (SOPs) for identification and verification of the IDPs was developed jointly by Ministry of Special Programs (MoSP) and the then Ministry of Internal Security and Provincial Administration. The role of the Ministry was to identify the IDPs while that of MoSP was to verify and profile the legitimate IDPs who were thereafter registered and given a serial number. They also had to provide proof of loss, displacement, National ID Card, and bank details to be compensated.

- c) Noted that some IDPs were not compensated for various reasons and that that the funds reverted to the Ministry were occasioned by failure of the profiled IDPs to meet the criteria of required documents within the set timelines or failure to appear for payment. For instance—
- (i) A total of 484 households in Vihiga, 234 in Hamisi were compensated with Kshs. 10,000 and 723 IDPs in Emuhaya were yet to be compensated.
 - (ii) Out of the 6713 IDPs in Bungoma, 1,100 IDPs were not paid for reasons such as lack of proper identification and documentation and failure by the IDPs to appear for payment. However, 2447 IDPs resulting from the Sabaot Land Defense Force land conflict in 2007/2008 were paid either Kshs.10,000 or Kshs. 25,000.
- d) The Petition presented an opportunity for the Ministry of Interior and National Administration to review policies and institutionalization of budget to allow for compensation of IDPs of the 2007/2008 PEV that were not compensated.
- e) Noted that any further neglect of the Petitioners' plight amounts to serious violation and derogation of their inalienable right to fair administrative action particularly with respect to expeditious administrative process.
- f) Noted that the structure put in place by the government to compensate and resettle IDPs of the 2007/2008 PEV did not cover all IDPs.
- g) Noted that the *Operation Rudi Nyumbani* programme did not adequately address the plight of the Nyanza and Western Region IDPs of the 2007/2008 PEV. As a matter of human right, IDPs compensation and resettlement has to be reopened and should be an ongoing exercise. It was further noted that the issues of IDPs is a humanitarian issue hence a human rights issue. The statute of limitation does not limit human rights. Human rights are entrenched and are perpetual. Further, the Committee also observed that the National Consultative Coordination Committee on Internally Displaced Persons was still in place and can address the issue of IDPs in the country.

- h) Noted that there were funds meant to deal with the issues of IDPs. The said funds reverted to the National Treasury because failure of the profiled IDPs to meet the criteria of required documents within the set timelines or failure to appear for payment.
- i) Finally, established that the issue of IDPs being a humanitarian matter was a human rights issue. The doctrine of limitation of action was thus not actionable as human rights issues are perpetual. The timeline provided for the program was merely administrative and the issue could be reopened and *bona fide* IDP identified and appropriate action taken to address their plight. **Therefore, the Cabinet Secretary for the Ministry of Interior and National Administration should ensure that proper structures are put in place to identify the deserving IDPs under Nyanza-Western Caucus of IDPs and urgently compensate them in order to enable them to revert to a dignified life.**

Prayer No. 3: *makes any recommendation deemed fit in addressing the plight of the Petitioners and upholding the rule of law.*

50. The Committee recommends that—

- a) The Ministry of Interior and National Administration fast tracks the process of addressing the plight of Nyanza-Western Caucus of IDPs.

PART SIX

6. COMMITTEE RECOMMENDATIONS

Pursuant to the provisions of Standing Order 227, the Committee recommends that—

- i. The Ministry of Interior and National Administration fast tracks the process of addressing the plight of Nyanza-Western Caucus of IDPs with a view of compensating all the genuine and deserving IDPs in the said caucus in the Financial Year 2024/2025.
- ii. The Cabinet Secretary for the Ministry of Interior and National Administration must fully comply with national values and principle of governance as provided for in Article 10 of the Constitution, in particular Clause (2)(b) on human dignity, equity, social justice, inclusiveness, non-discrimination, and perception of the marginalised.
- iii. The government should recognise all categories of IDPs including reviewing upwards the amount of money paid to the integrated IDPs.

SIGNED: 

DATE: 26/7/2023



THE HON. NIMROD MITHUKA MBAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE



**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – SECOND SESSION – 2023
PUBLIC PETITIONS COMMITTEE**

**ADOPTION SCHEDULE OF THE REPORT ON CONSIDERATION OF PUBLIC
PETITION NO. 6 of 2022 REGARDING COMPENSATION FOR NYANZA-WESTERN
KENYA CAUCUS OF INTERNALLY DISPLACED PERSONS**

DATE.....26/07/2023.....

We the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the Consideration of Public Petition No. 6 Of 2022 **Compensation for Nyanza-Western Kenya Caucus of Internally Displaced Persons** to confirm our approval and confirm its accuracy, validity, and authenticity—

	NAME	DESIGNATION	SIGNATURE
1.	Hon. Nimrod Mbithuka Mbai, M.P.	Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, M.P.	Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	Member	
4.	Hon. Edith Vethi Nyenze, M.P.	Member	
5.	Hon. Ernest Ogesi Kivai, M.P.	Member	
6.	Hon. John Walter Owino, M.P.	Member	
7.	Hon. Joshua Chepyegon Kandie, M.P.	Member	
8.	Hon. Maisori Marwa Kitayama, M.P.	Member	
9.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	Member	
10.	Hon. Bidu Mohamed Tubi, M.P.	Member	
11.	Hon. Caleb Mutiso Mule, M.P.	Member	
12.	Hon. John Bwire Okano, M.P.	Member	
13.	Hon. Peter Mbogho Shake, M.P.	Member	
14.	Hon. Sloya Clement Logova, M.P.	Member	
15.	Hon. Suzanne Ndunge Kiamba, M.P.	Member	

Hon Speaker,
You may approve.
Ang Kinisat 9/11

CNA
Approved
SNA
10/11/22



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT (FIRST SESSION)

CONVEYANCE OF PUBLIC PETITION

(No. 006 of 2022)

SEEKING COMPENSATION FOR NYANZA-WESTERN KENYA
CAUCUS OF INTERNALLY DISPLACED PERSONS

I, the **UNDERSIGNED**, on behalf of the Nyanza-Western Kenya Caucus of Internally Displaced Persons (IDPs);

DRAW the attention of the House to the following:

1. **THAT**, in the aftermath of the contested 2007 General elections, the country witnessed unprecedented Post-Election Violence (PEV), which, among other effects, caused massive displacement of persons from their settlements;
2. **THAT**, prior to setting up IDP Camps by the Government, a number of the Internally Displaced Persons (IDPs) who survived the PEV atrocities, particularly in hotspots like Naivasha, Eldoret, Kericho, Bahati, Nakuru and Nairobi, fled to their home regions, got hosted by their relatives without compensation and have therefore been living under undignified conditions;
3. **THAT**, in order to ensure that IDPs revert to normal lives as soon as practicable, the Government rolled out resettlement programme, including the 'Operation Rudi Nyumbani' programme, which was intended to facilitate IDPs to go back to their original homes under State protection;
4. **THAT**, it is in public knowledge that IDPs, particularly those who were in designated IDP Camps were compensated monetarily with amounts ranging from Kshs. 400,000 and above, in addition to allocation of land for settlement;

NATIONAL ASSEMBLY
RECEIVED
10/11/22
SPEAKER'S OFFICE
P. O. Box 41842, NAIROBI

PUBLIC PETITION

SEEKING COMPENSATION FOR NYANZA-WESTERN KENYA CAUCUS OF INTERNALLY DISPLACED PERSONS

5. **THAT**, the Nyanza-Western Caucus of IDPs comprises of legitimate IDPs who were registered by various humanitarian organizations, including the Kenya Red Cross and the IDP Network;
6. **THAT**, like other IDPs, the Nyanza-Western Caucus of IDPs had legitimate hope that they would also benefit by either being resettled or compensated in order to start their lives all over again;
7. **THAT**, to their astonishment, the Nyanza-Western Caucus of IDPs were neither resettled nor compensated like their counterparts who were in IDPs Camps in other parts of the country, and have inevitably been unable to recover from the psycho-social and economic damages suffered during and after the PEV;
8. **THAT**, the Government's failure to compensate the Nyanza-Western Caucus of IDPs has subjected them to untold pain, suffering and disillusionment that has made them to feel forgotten and discriminated, contrary to Article 27 of the Constitution;
9. **THAT**, since 2008, representatives of the Nyanza-Western Caucus of IDPs have, on several occasions, forwarded the Petitioners' concerns to the Ministry for Interior and Coordination of National Government on varying dates, the most recent attempts being on 16th September 2019 and on 30th March 2021 but the Government has not taken any tangible steps to address their plight;
10. **THAT**, any further neglect of the Petitioner's plight amounts to serious violation and derogation of their inalienable right to fair administrative action, particularly with respect to expeditious administrative process;
11. **THAT**, the issues in respect of which this Petition is raised are not pending before any court of Law, Constitutional or any legal body;

THEREFORE, your humble petitioners pray that the National Assembly through the Public Petitions Committee;


PUBLIC PETITION

**SEEKING COMPENSATION FOR NYANZA-WESTERN KENYA
CAUCUS OF INTERNALLY DISPLACED PERSONS**

- (1) expeditiously interrogate the issues raised in this Petition with a view to determining the circumstances under which for close to fifteen years since the occurrence of Post-Election Violence, the Petitioners are yet to be resettled or compensated;
- (2) cause the relevant Government agencies to ensure that the deserving IDPs under Nyanza-Western Caucus of IDPs are verified and urgently compensated in order to enable them to revert to a dignified life like their counterparts who benefited from Government resettlement or compensation programmes; and
- (3) make any other recommendations deemed fit in addressing the plight of the Petitioners.

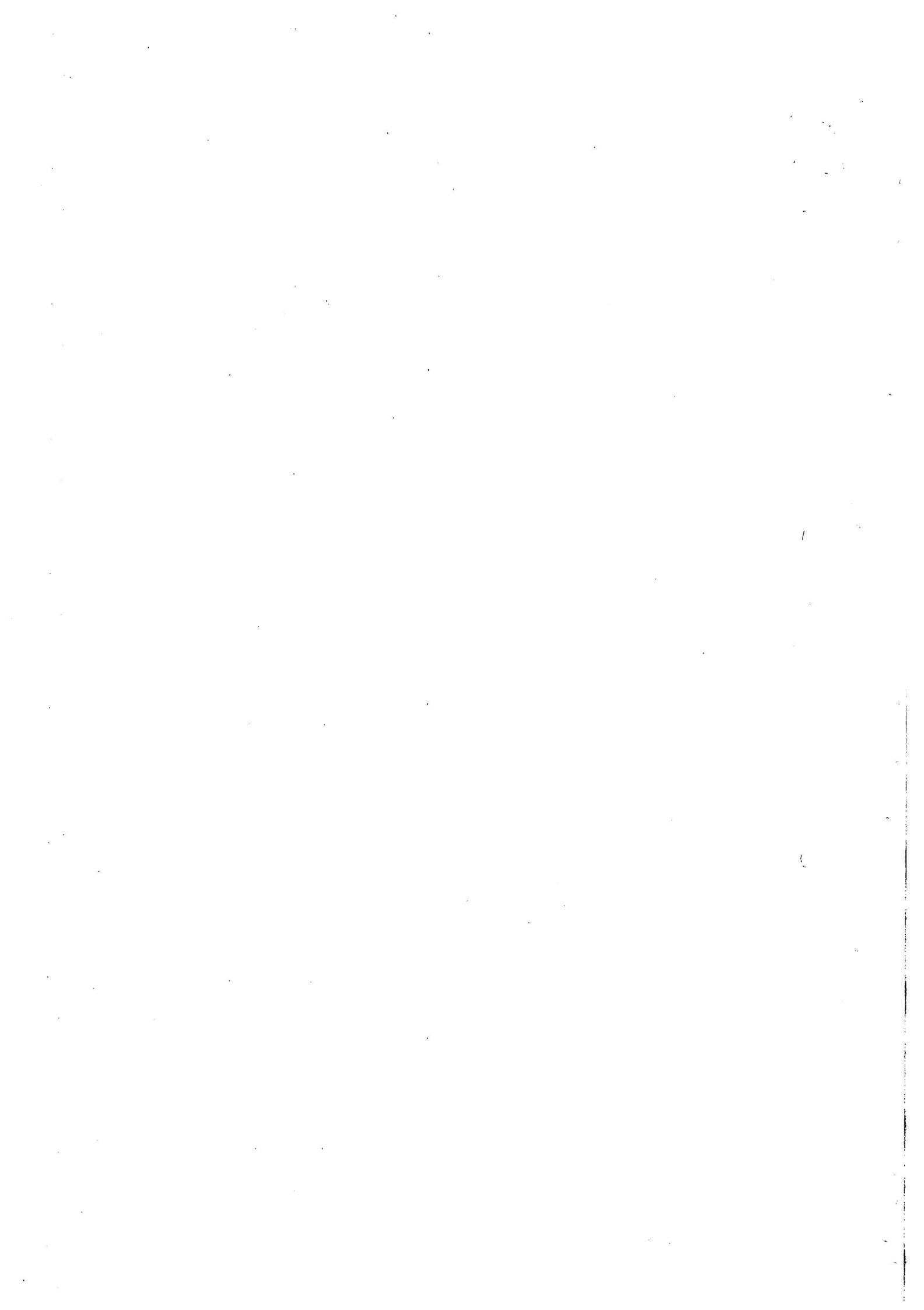
And your **PETITIONER** will ever pray.

PRESENTED BY:


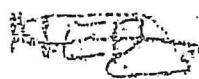



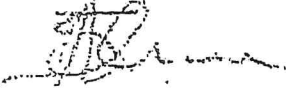


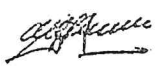


THE HON. (DR.) JAMES NYIKAL, MP
MEMBER FOR SEME CONSTITUENCY

DATE: 10/11/2022 **.....**



PETITIONERS

	NAME	ADDRESS	ID NO.	TELEPHONE	SIGNATURE/THUMB
1.	KENNEDY OKINYI ODIRA	P.O BOX 43, HOMABAY	11284399	0701221985	
2.	NEREA ATIENO OTIENO	P.O BOX 166 KISUMU	16057650	0719352679	
3.	JOYCE NYANCHAMA OGUTU	P.O BOX 148 KISII	13137252	0726246237	
4.	JOHN OTIENO MARIENGA	P.O BOX 419 MIGORI	11700108	0725494806	
5.	PASCAL OUMA OKUDA	P.O BOX 15 SIAYA	29435534	0707334004	
6.	SOPHIA NJICHA MUSHIRA	P.O BOX 123 KAKAMEGA	0436686	0722811761	
7.	JOHN NYONGESA MUSUNGU	P.O BOX 1187 KITALE	40794406	0712214607	
8.	ERICK O. OYUGI	P.O BOX 1890 HOMABAY	21412524	0725279306	
9.	JOSEPH B.A OUKO	P.O BOX 2533 KISUMU	7842227	0721546050	

ABOVE ARE COUNTY REPRESENTATIVE COORDINATORS

COUNTY'S COORDINATORS

1. Migori County
 - John Otieno Maringa ID. 1170108 Phone. 0715906598
 - Zachariah Kerario Chacha ID. 23881024 Phone: 0797938920
2. Kisii County
 - Joyce Nyanchama Ogutu ID. 13137252 Phone. 0726246237
 - Elijah Onsare ID. 1626721 Phone. 0726097503
3. Nyamira County
 - Samuel Osa ID. 13329288 Phone. 0720559801
 - Joseph Onduko ID. Phone. 0727895959
4. Homabay County
 - Kenedy Okinyi Odira ID. 11284399 Phone. 070122198
 - Erick Omondi Otieno ID 21719013 Phone. 0753578230
5. Kisumu County
 - Nerea Atieno Otieno ID. 16057650 Phone. 0719352679
 - Maureen Opondo ID. 11239074 Phone. 0725002883
 - George Otieno Obop ID. 8914669 Phone. 0711806981
6. Siaya County
 - Pascal Ouma Okuda ID. 29435534 Phone. 0707334004
 - Seline Oloo Ojawa ID. 4511515 Phone. 0723954594
7. Kakamega County
 - Raphael L. Munika Id. 5632125 Phone. 0717660829
 - Sofia Mushira ID. 0436686 Phone. 0722811761
8. Transoia County
 - John Nyongesa Msungu ID. 40794406 Phone. 0784123742
 - Lucy Ndegwa ID. 21070541 Phone. 0790687014



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE SEVENTH SITTING OF THE PUBLIC PETITIONS COMMITTEE
HELD ON TUESDAY, DECEMBER 13, 2022, IN THE CONFERENCE ROOM, HILTON
GARDEN INN HOTEL, SIXTH FLOOR AT 2:30 PM

PRESENT

- | | | |
|--|---|------------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P. | - | Chairperson |
| 2. Hon. Janet Jepkemboi Sitienei, M.P. | - | Vice Chairperson |
| 3. Hon. Joshua Chepyegon Kandie, M.P. | | |
| 4. Hon. Ernest Ogesi Kivai, M.P. | | |
| 5. Hon. Maisori Marwa Kitayama, M.P. | | |
| 6. Hon. Edith Vethi Nyenze, M.P. | | |
| 7. Hon. Caleb Mutiso Mule, M.P. | | |
| 8. Hon. Bernard Muriuki Nebart, M.P. | | |
| 9. Hon. Peter Mbogho Shake, M.P. | | |
| 10. Hon. Sloya Clement Logova, M.P. | | |
| 11. Hon. John Bwire Okano, M.P. | | |

APOLOGIES.

1. Hon. Patrick Makau King'ola, M.P.
2. Hon. John Walter Owino, M.P.
3. Hon. Suzanne Ndunge Kiamba, M.P.
4. Hon. Bidu Mohamed Tubi, M.P.

IN-ATTENDANCE

Hon. (Dr.) James Wambura Nyikal, M.P. - MP, Seme Constituency

NYANZA-WESTERN KENYA CAUCUS OF INTERNALLY DISPLACED PERSONS

- | | | |
|---|---|------------------------------|
| 1. Mr. Erick Odhiambo Oyugi
Western Kenya IDPs Caucus | - | Petitioner/Director, Nyanza- |
| 2. Pastor Joseph Ouko
Nyanza-Western Kenya IDPs Caucus | - | Petitioner/Coordinator |
| 3. Ms. Nereah Atieno Otieno | - | Petitioner |

SECRETARIAT

1. Mr. Samuel Kalama	-	Principal Clerk Assistant II
2. Ms. Miriam Modo	-	Clerk Assistant II
3. Ms. Willis Obiero	-	Clerk Assistant III
4. Ms. Patricia Gichane	-	Legal Counsel II
5. Mr. Shadrack Omondi	-	Legal Counsel II
6. Mr. Martin Sigei	-	Research Officer III
7. Ms. Eunice Jalang'o	-	Office Assistant
8. Mr. Yeziel Jilo	-	Serjeant-At-Arms

MIN./PPETC/2022/34: PRELIMINARIES

The Chairperson called the meeting to order at 2.30 p.m. The Members of the Committee introduced themselves after which the Lead Clerk introduced the Secretariat. The Petitioners also introduced themselves.

MIN./PPETC/2022/35: CONSIDERATION OF A PUBLIC PETITION REGARDING COMPENSATION FOR NYANZA-WESTERN KENYA CAUCUS OF INTERNALLY DISPLACED PERSONS

1) Brief from Legal Counsel

The Legal Counsel presented a brief on the Petition (*See attached Brief on the Petition*) as follows:-

(a) The Petition

That Hon. (Dr.) James Wambura Nyikal, M.P., on behalf of the Petitioners draws the attention of the Committee to the plight of Nyanza-Western Kenya Caucus of Internally Displaced Persons who he avers have not been compensated following the 2007 General Elections skirmishes. Since 2008, they have made frantic efforts to have the matter resolved by the Ministry of Interior and Coordination of National Government in vain.

(b) Applicable legal provisions

Article 2(5) and (6) provided that general rules of international law form part of the laws of Kenya. Further, the Constitution guarantees equality and freedom from discrimination. The Constitution obligates the state to take necessary steps to give full effect to equality and freedom from discrimination.

The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act No. 56 of 2012 (the Act) makes provisions for prevention, protection and provision of assistance to internally displaced persons and affected communities and gives effect to the Great Lakes Protocol on the Protection and Assistance to the Internally Displaced Persons,

and the United Nations Guiding Principles on Internally Displacement and for connected purposes.

(c) Analysis of the legal provisions

Section 3 of the Act provides that the Protocol and the Guiding Principles shall apply subject to the Constitution and the Act to all internally displaced persons in Kenya. Section 8 provides for assistance and protection of internally displaced persons especially to those who have special dependency to their land and the protection of women, children, persons with disabilities, the elderly and others with special needs.

This petition seeks to have the intervention of the Committee to ensure that IDPs from Nyanza-Western Caucus are promptly compensated by the relevant government agencies.

Therefore, the Committee should strive to establish the availability of the Fund from the Cabinet Secretary for National Treasury, since the Act stipulates that the balance of the Fund shall not be paid into the Consolidated Fund but shall be retained for the purpose of the Fund in accordance with Article 206(1)(a).

The Committee should: -

- seek more information from the Petitioners especially on the numbers and the state in which they live;
- request the Ministry of Interior and Coordination of National Administration to provide information on the status of IDPs compensation in Kenya, especially the Petitioners and establish the status and reports of the National Consultative Coordination Committee on Internally Displaced Persons on the issue of compensation of the Petitioners; and
- request the Ministry of National Treasury and Economic Planning to provide information on the availability of the Fund.

2) Submissions by the Petitioners

The Petitioners submitted before the Committee as follows:

That:-

(a) Background of the Petition and Composition of the Caucus

- i. The Nyanza-Western Kenya Caucus is composed of about 84,597 IDPs from Nyanza and Western Kenya regions who came together to seek compensation from the government like their counterparts from other regions after the 2007 General Election skirmishes.
- ii. The caucus which started as a committee extended its scope to cover the following counties with a few to collect data and information of all the affected people (IDPs) with the assistance of the chiefs. They include, Kisii (15,182), Homa Bay (7,868), Kisumu

(15,963), Siaya (20,194), Kakamega (942), Trans Nzoia (10,112) and Migori (14,336) Counties. After collating information of the victims, the caucus was formed. The caucus is however open to other counties in the Nyanza and Western regions as they have not yet traversed all the regions.

(b) Compensation status of the Petitioners

- iii. The representatives of the Petitioners stated that some of the Nyanza-Western Kenya Caucus of IDPs received meagre perks as compensation for instance Kshs. 10,000, Kshs. 25,000 and Kshs. 50,000 but most of them were not compensated. These IDPs opted to run back home to settle with their relatives and left the camps, where the IDPs from other regions remained and got compensated fully.

General Concerns

- iv. The IDPs victims from Nyanza and Western regions are living in distress as they have never been resettled or compensated adequately. For example, the widely covered Mzee Bernard Ndege who was a victim, was only given Kshs. 10,000 'Operation Rudi Nyumbani' money and he is not mentally stable ever since.
- v. The Petitioners felt discriminated and neglected because other people were compensated but they were not. The structure put in place by the government to compensate and or resettle IDPs of the 2008 Post-Election Violence did not cover all IDPs.

(c) Prayers Sought by the Petitioners

- vi. The Petitioners be identified and compensated.

3) Committee Concerns

(a) Discrimination and skewed compensation of 2007 Post-Election Violence IDPs

With regards to the discrimination and skewed compensation, the Petitioners sought the intervention of the committee to deal with the element of discrimination during the compensation of the IDPs. The Petitioners stressed the need to give proper attention to every Kenyan or group that brings up such concerns.

(b) The amounts and form of compensation for the IDPs

With regards to the amounts being sought for compensation, the Petitioners stated that it is in the wisdom of the Committee to determine whilst looking at what amounts the other IDPs from other regions were compensated. Further, the form of compensation involves money, land, or housing. Therefore, the Petitioners proposed that the IDPs could be grouped depending on their

needs, but the preferred form of compensation should be monetary as each IDPs can identify whatever they want to do with the money.

(c) Inclusion of other caucus/IDPs from other parts of Western and Nyanza

With regards to the inclusion of IDPs from other parts of Nyanza and Western not mentioned e.g., Vihiga and Kuria, the Petitioners pointed out that sometimes some parts were hostile due to the presence of comen who also took advantage. The Petitioners stated that they sat down to reconcile all the IDPs in Nyanza and Western regions. The reconciliation of Nyanza and Western IDPs started with a meeting held on 13th January, 2022 at Life Gate Ministries, Kericho, which resolved to harmonize all the group of IDPs in Nyanza and Western to develop one structure of leadership represented with more than two hundred (200) members representing different parts.

(d) Documentation of the Nyanza-Western Region IDPs' caucus, for example, with the Lands Settlement Fund

The Petitioners stated that they have not interacted with any land settlement fund, but other caucuses could have interacted with such. The only documentation available was with the chiefs who provided the data to the caucus leadership. The Petitioners presented the list of the IDPs covered by the caucus.

4) Committee resolutions

The Committee resolved to:-

- i. Meet with the Cabinet Secretary, Ministry of Interior and of National Administration to provide information on the verified number of IDPs and status of compensation of IDPs especially from the Nyanza and Western regions. The Ministry also provides the status and Reports of the National Consultative Coordination Committee on Internally Displaced Persons on the compensation status of IDPs.
- ii. Meet with the Cabinet Secretary for the Ministry of National Treasury and Economic Planning to provide information on the availability of funds for compensating the IDPs. The meetings were scheduled between 16th January 2023 and 20th January 2023 when House resumes from the long recess.

MIN./PPETC/2022/36: ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the Chairperson adjourned the meeting at 4.30 p.m. The date of the next meeting would be on Wednesday, 14th December, 2022 at 9.00 a.m.

Sign:

(CHAIRPERSON)

Date..... 23/2/2023



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

MINUTES OF THE 32ND SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON TUESDAY, JUNE 20, 2023, IN COMMITTEE ROOM ON FOURTH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 09:00 AM

PRESENT

- | | | |
|--|---|------------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P. | - | Chairperson |
| 2. Hon. Janet Jepkemboi Sitienei, M.P. | - | Vice Chairperson |
| 3. Hon. Joshua Chepyegon Kandie, M.P. | | |
| 4. Hon. John Walter Owino, M.P. | | |
| 5. Hon. Ernest Ogesi Kivai, M.P. | | |
| 6. Hon. Edith Vethi Nyenze, M.P. | | |
| 7. Hon. Maisori Marwa Kitayama, M.P. | | |
| 8. Hon. Caleb Mutiso Mule, M.P. | | |
| 9. Hon. Peter Mbogho Shake, M.P. | | |

APOLOGIES

1. Hon. Patrick Makau King'ola, M.P.
2. Hon. Bidu Mohamed Tubi, M.P.
3. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
4. Hon. Suzanne Ndunge Kiamba, M.P.
5. Hon. John Bwire Okano, M.P.
6. Hon. Sloya Clement Logova, M.P.

IN ATTENDANCE

PETITIONER

1. Hon. James Nyikal, MP

MINISTRY OF INTERIOR AND NATIONAL ADMINISTRATION

- | | | |
|---------------------------------|---|--|
| 1. Hon. (Prof.) Kithure Kindiki | - | CS, Ministry of Interior and National Administration |
| 2. Mr. Wilson Njenga | - | Principal Administrative Secretary |
| 3. Mr. Francis Gachuri | - | Secretary, Communications |
| 4. Ms. Caroline Andayi | - | Secretary, Internal Security |

TANA AND ATHI RIVERS DEVELOPMENT AUTHORITY (TARDA)

- | | | |
|------------------------|---|---|
| 1. Ms. Irene Ndavi | - | Director, Resource Planning and Development |
| 2. Mr. Leonard Muchiri | - | Manager, Resource Planning |
| 3. Ms. Maureen Nyamai | - | Ag. Manager Legal Services |

SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Ms. Anne Shibuko | - | Clerk Assistant I |
| 2. Mr. Willis Obiero | - | Clerk Assistant III |
| 3. Mr. Shadrack Omondi | - | Legal Counsel II |
| 4. Ms. Patricia Gichane | - | Legal Counsel II |
| 5. Mr. Martin Sigei | - | Research Officer III |
| 6. Ms. Lilian Mburugu | - | Media Relations Officer III |
| 7. Ms. Merciline Kerubo | - | Audio Officer |

MIN./PPETC/2023/205: PRELIMINARIES

The Chairperson called the meeting to order at 09.00 a.m. and Hon. Caleb Mule, M.P. said the prayers.

MIN./PPETC/2023/206: ADOPTION OF AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of Previous Sitings
4. Matters Arising
5. Meeting with the Cabinet Secretary, Ministry of Interior and National Administration (Hon. (Prof.) Kithure Kindiki, EGH) on consideration of Petitions regarding:-
 - a) *Compensation for Nyanza-Western Kenya Caucus of Internally Displaced Persons*
 - b) *Funds spent by National Government contrary to provisions of Article 223 of the Constitution*
6. Meeting with the Chief Executive Officer of the Tana and Athi Rivers Development Authority (TARDA) on consideration of Petition regarding Pollution of River Athi
7. Any other Business
8. Adjournment & Date of Next Meeting

Thereafter, the proposed Agenda of the Meeting was adopted to constitute business having been proposed by Hon. Marwa Kitayama, M.P and seconded by the Hon. Caleb Mule, M.P Hon. Joshua Chepyegon Kandie, M.P.

MIN./PPETC/2023/207: CONFIRMATION OF MINUTES OF PREVIOUS SITTING

Minutes of the 31st Sitting of the Committee held on 15th June, 2023 were confirmed after being proposed by Hon. Ernest Kagesi, MP and seconded by Hon. Joshua Chepyegon Kandie, M.P.

MIN./PPETC/2023/208: MATTERS ARISING

Arising from MIN./PPETC/2023/203 on *Consideration of Public Petition regarding Pollution of Delayed Adjudication and Settlement of Residents of Mnarani Sublocation, Kilifi County Under Absentee Landlord* the Committee agreed to plan a site visit to Kilifi County before engaging other stakeholders in order to understand the matters raised in the Petition.

MIN./PPETC/2023/209: MEETING WITH THE CABINET SECRETARY,
MINISTRY OF INTERIOR AND NATIONAL
ADMINISTRATION (HON. (PROF.) KITHURE KINDIKI,
EGH)

Compensation for Nyanza-Western Kenya Caucus of Internally Displaced Persons

Summary of the Petition

The Hon (Dr.) James Nyikal, MP for Seme Constituency presented a petition to the Cabinet Secretary for Interior and National Administration regarding the compensation for Nyanza-Western Kenya caucus of internally displaced persons. The petitioners requested the National Assembly through the Public Petitions Committee as follows:

The petitioner sought the intervention of the House Committee to:

- a) Expeditiously interrogate the issues raised in this petition with a view to determining the circumstances under which for close to fifteen years since the occurrence of Post-Election Violence, the petitioners are yet to be resettled or compensated;
- b) Cause the relevant agencies to ensure that the deserving IDPS under the Nyanza-Western caucus of IDPS are verified and urgently compensated in order to enable them to revert to a dignified life their counterparts who benefitted from, Government resettlement or compensation; and
- c) Make any other recommendations deemed fit in addressing the plight of the petitioners.

Submissions by the Ministry of Interior and Coordination of National Government

The Cabinet Secretary, Ministry of Interior and Coordination of National Government appeared before the Committee and submitted as follows:

- 1) That the total number of legitimate IDPs profiled in Nyanza and Western Regions due to Post-Election Violence (PEV) 2007, were 52,442 and 14,084 respectively;
- 2) That the standard operating Procedures (SOPs) for identification and verification of the IDPs was developed jointly by Ministry of Special Programs (MoSP) in collaboration with Ministry of Interior and National Administration. The role of the Ministry was to identify the IDPs while that of MoSP was to verify and profile the legitimate IDPs who were thereafter registered and given a serial number. They also had to provide proof of loss, displacement, National ID Card and bank details to be compensated;
- 3) That payments were made in three phases as follows:
 - i. **Category 1:** Kshs10, 000 to support households whose loss was identified as manageable. The beneficiaries had relatives who integrated them or had shelters to accommodate their families. This category included those that were accommodated by their relatives.
 - ii. **Category 2:** Kshs25,000 to support households rebuild their burnt shelters.
 - iii. **Category 3:** Kshs50,000 (Total loss) to support households that were immensely affected by the violence, lost their houses and livelihoods. The beneficiaries paid suffered losses that would require immense resources to rebuild. Records

indicated that the beneficiaries were majorly in Kisumu, Migori and Siaya;

- 4) That the Nyanza Region comprised Siaya, Kisumu, Homa Bay, Migori, Kisii, and Nyamira Counties who received a total of **Kshs454,210,000** (97%) in compensation with unutilized funds of **Kshs11,335,000** (3%) reverting to the Ministry;
- 5) That the funds reverted to the Ministry were occasioned by failure of the profiled IDPs to meet the criteria of required documents within the set timelines or failure to appear for payment;
- 6) That the Government's commitment to address the plight of 2007 PEV IDPs was reflected in the allocation of Kshs. 465,545,000 to Nyanza Region compensation program. The last tranche of funds Kshs. 134,450,000 was distributed to Kisumu and Migori Counties on 11th December, 2017;
- 7) That all counties in Nyanza Region confirm that there are no IDP Camps within their jurisdictions. The government facilitated re-integration of all profiled legitimate IDPs into their communities and those who were displaced from other areas/hotspots and were willing to return to their former homes were reconciled with the "host" communities and assisted to rebuild;
- 8) That the Western Region comprised Vihiga, Kakamega, Bungoma and Busia Counties which received compensation as of Kshs 10,000 or Kshs 50,000 depending on the severity of the displacement;
- 9) That a total of 484 households in Vihiga, 234 in Hamisi were compensated with Kshs10,000 and 723 IDPs in Emuhaya were yet to be compensated. Further, 342 IDPs in Vigiga were paid Kshs50,000;
- 10) That out of the 5672 IDPs in Kakamega, 3933 households were paid Kshs10,000, 1931 IDPs were paid Kshs50,000 and two households paid Kshs200,000;
- 11) That out of the 6713 IDPs in Bungoma, 1,100 IDPs were not paid for reasons such as lack of proper identification and documentation and failure by the IDPs to appear for payment. However, 2447 IDPs resulting from the Sabaot Land Defense Force land conflict in 2007/2008 were paid in two phases of Kshs10,000 and Kshs25,000;
- 12) That 249 IDPs in Busia were paid Kshs50,000 while 149 IDPs were not paid due to inconsistencies in identification; and
- 13) That the program "Operation Rudi Nyumbani" ensured adequate public sensitization by use of notice boards, barazas, visiting IDP camps and mainstream media. The IDPs were informed on the requirements, date and venue for compensation. The profiled IDPs were required to provide evidence and documents to support their claims however, some of the claimants either could not provide the required documents or did not appear for payment.

Committee Concerns

Criteria for identification and compensation of IDPs

- a) The Committee observed that the Nyanza and Western Region IDPs did not settle in camps as their counterparts in other regions hence difficult to identify.
- b) The Committee inquired about the criteria used for identification and how the Ministry intended to identify the IDPs who were not captured in the register.

- c) The Committee further noted that some regions in Nyanza and Western were not captured at all in the IDPs register and inquired about their fate.

In response, the CS indicated that it was difficult to identify and register IDPs who were integrated into the community and settled with relatives. However, the Government was still on the matter to ensure continuous process for identification and compensation where necessary.

- d) The Committee also inquired on the criteria for compensating IDPs different amounts of money and why some had been given land and money (Kshs. 400,000) as per submissions by the IDPs during the meeting with Petitioners in Migori.

The CS stated that notwithstanding the three categories of Kshs10,000, Kshs25,000 and Kshs50,000, other IDPs were compensated with sums up to Kshs400,000 depending on the gravity of their loss but that was on case by case basis.

The Case of Mzee Benard Ndege

- e) The Committee inquired why the case of Mzee Benard Ndege, an IDP and victim of the 2007/2008 Post Election Violence had not been addressed despite the widespread media coverage both locally and internationally.

The CS expressed regret on the matter and undertook to take up the matter to ensure Mzee Benard Ndege was duly compensated as a follow up of the Petition.

Public Sensitization on Compensation

- f) The Committee inquired why some IDPs did not turn up for compensation and whether the public sensitization was meaningful since some IDPs claimed they had never met with any government official over the matter.

The CS stated that public sensitization was carried out, however, some people who claimed to be IDPs failed to appear as they did not have requisite documentation. Further, the process was invaded by various imposters who crafted fake stories to dupe the Government into compensating them.

Unutilized Funds and closure of "Operation Rudi Nyumbani"

- g) The Committee inquired on the status of the *Operation Rudi Nyumbani*, why there were unutilized funds and whether the Ministry was ready to compensate the IDPs who had never showed up.

The CS stated that some of the funds were unutilized because the people failed to show proof of displacement, others presented fake documents and others never showed up. Further, the CS stated that while the *Operation Rudi Nyumbani* was closed administratively, matters of compensating IDPs were human right issue that could not be closed by any statute or law.

Humanitarian Fund

- h) The Committee inquired whether there were resources in the Humanitarian Fund that could be used to compensate the IDPs. The CS stated that Kshs248 million and Kshs242

million were surrendered to National Treasury after being dormant for five years and the Ministry had initiated legislative steps to operationalise expenditure of funds.

Measures by the Ministry to prevent PEVs

- i) The Committee inquired on the measures taken by the National Security Organs to prevent election related violences like the 2007/2008 PEV and ensuring compensation.

The CS acknowledged that whatever happened in 2007/2008 was as a result of a culture of impunity where parties resolve to violent resolution of grievances. The National Security Instruments were being depoliticised to ensure enforcement of the law in both prevention of violence and compensation of victims.

Committee Observations

After engaging the CS, Ministry of Interior and National Administration the Committee made the following observations:

1. That the *Operation Rudi Nyumbani* program could not be sufficient in settling Nyanza and Western Region IDPs of the 2007/2008 PEV. As a matter of human right, IDPs compensation and resettlement to be reopened and should be an ongoing exercise;
2. That there was a possibility of officers in charge of the compensation program politicising the process. The process should therefore be depoliticised and the Ministry to find a way of identifying *bonafide* IDPs and ensure they are duly compensated; and
3. That some cases such as Mzee Benard Ndege's plight required immediate action by the Ministry;
4. The Petition presented an opportunity for review of policies and institutionalization of budget to allow for compensation of IDPs of the 2007/2008 PEV.

Public Petition Regarding Funds Spent by National Government Contrary to Provisions of Article 223 of the Constitution

The Cabinet Secretary apologized for not appearing earlier when invited by the Committee due to engagement in other urgent duties. The Committee observed that since the Ministry had not been adversely mentioned in the matter, he would be allowed to give a written submission by Friday 23rd June, 2023.

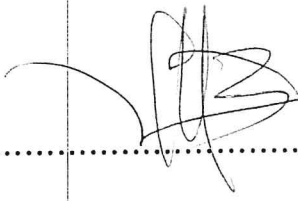
MIN./PPETC/2023/210: MEETING WITH THE CHIEF EXECUTIVE OFFICER OF THE TANA AND ATHI RIVERS DEVELOPMENT AUTHORITY (TARDA) ON CONSIDERATION OF PETITION REGARDING POLLUTION OF RIVER ATHI

The Director, Resource Development accompanied by two other officials informed the meeting that she had been sent by the Managing Director Mr. Liban Roba to appear on his behalf, as he was away attending to other official duties.

The Committee declined the request and stated that the Managing Director should appear personally owing to the gravity of the matter that required persons at the helm of the Authority.

MIN./PPETC/2023/211: ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the Chairperson adjourned the meeting at 1:45 p.m. The next meeting would be held on Thursday, 22nd June 2023.

Sign: 

(CHAIRPERSON)

Date..... 27/06/2023



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 38TH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON FRIDAY, JULY 21, 2023 AT 10.00 A.M IN MADUNGUNI CONFERENCE ROOM, PRIDE INN HOTEL, MOMBASA

PRESENT

- | | | |
|---|---|------------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P. | - | Chairperson |
| 2. Hon. Janet Jepkemboi Sitienei, M.P. | - | Vice Chairperson |
| 3. Hon. Joshua Chepyegon Kandie, M.P. | | |
| 4. Hon. Ernest Ogesi Kivai, M.P. | | |
| 5. Hon. Edith Vethi Nyenze, M.P. | | |
| 6. Hon. Maisori Marwa Kitayama, M.P. | | |
| 7. Hon. (Eng.) Bernard Muriuki Nebart, M.P. | | |
| 8. Hon. Caleb Mutiso Mule, M.P. | | |
| 9. Hon. Sloya Clement Logova, M.P. | | |
| 10. Hon. John Bwire Okano, M.P. | | |

APOLOGIES

1. Hon. Patrick Makau King'ola, M.P.
2. Hon. John Walter Owino, M.P.
3. Hon. Bidu Mohamed Tubi, M.P.
4. Hon. Peter Mbogho Shake, M.P.
5. Hon. Suzanne Ndunge Kiamba, M.P.

SECRETARIAT

- | | | |
|------------------------|---|------------------------------|
| 1. Mr. Samuel Kalama | - | Principal Clerk Assistant II |
| 2. Ms. Miriam Modo | - | Clerk Assistant I |
| 3. Ms. Anne Shibuko | - | Clerk Assistant I |
| 4. Mr. Willis Obiero | - | Clerk Assistant III |
| 5. Mr. Shadrack Omondi | - | Legal Counsel II |
| 6. Ms. Lilian Mburugu | - | Media Relations Officer III |

MIN./PPETC/2023/243: PRELIMINARIES

The Chairperson called the meeting to order at 10.00 a.m and Hon. Ernest Ogesi Kivai, M.P. said the prayers.

MIN./PPETC/2023/244: ADOPTION OF AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of Previous Sittings
4. Matters Arising
5. Consideration of Reports on:
 - i. Public Petition No. 001 of 2022 regarding Safeguarding the Economic and Social Welfare of Communities Living Next to Forests; and
 - ii. Public Petition No. 006 of 2022 Regarding Compensation of the Nyanza Western Caucus of IDPs
6. Any other Business
7. Adjournment & Date of Next Meeting

Thereafter, the proposed Agenda of the Meeting was adopted to constitute business having been proposed by the Hon. Ernest Kagesi, M.P. and seconded by the Hon. Joshua Chepyegon Kandie, M.P.

MIN./PPETC/2023/245: CONFIRMATION OF MINUTES OF PREVIOUS SITTING

The Agenda was deferred.

MIN./PPETC/2023/246: MATTERS ARISING

There were no matters arising.

MIN./PPETC/2023/247: CONSIDERATION OF REPORT ON PETITION REGARDING SAFEGUARDING THE ECONOMIC AND SOCIAL WELFARE OF COMMUNITIES LIVING NEXT TO FORESTS

The Committee considered the Petition regarding Safeguarding the Economic and Social Welfare of Communities Living Next to Forests. The petitioners pray that the National Assembly through the Public Petitions Committee:

- i. intervenes to ensure that the Kenya Forest Service reviews its policy to ensure that local communities are prioritized to purchase at least 30% of forest resources harvested and that the Access to Government Procurement Opportunities (AGPO) program be adhered to; and
- ii. secures the undertaking of Corporate Social Responsibility (CSR) by logging firms in the areas with the resulting revenue used to develop local infrastructure such as roads, schools, water piping and development of water catchment areas.

The Committee made various observations key among them being that:

- i. Through the CFAs, forest communities are granted various user rights and authorisations in accordance with the community forest management plan such authorisations include cultivation permits under PELIS program, where locals are allocated portions of land for tree planting and cultivation at a small fee. The forest communities are also accorded the opportunity to graze their animals at a fee. However, the fees payable to these activities keep on fluctuating as it is discretionary to the KFS officers;
- ii. The large-scale forest resource harvesters such as multinationals or local big corporations do not give back to the forest communities. There are no clear guidelines or regulations compelling the companies to do corporate social responsibility to indicate the extent of CSR activities to be carried out in the communities. Further, most of the companies have not prioritised the employment of local residents in the exploitation of forest resources and there was no evidence of equitable sharing of benefits from the forest resources through CSR; and
- iii. There is a shortage of forest rangers to serve all the forest stations in the country thus there is no effective management of forests.

MIN./PPETC/2023/248: CONSIDERATION OF REPORT ON PETITION REGARDING COMPENSATION OF THE NYANZA WESTERN CAUCUS OF IDPS

The Committee considered the Petition regarding Compensation of the Nyanza Western Caucus of IDPs. The petitioners pray that the National Assembly through the Public Petitions Committee:

- i. intervenes on behalf of the poor farmers and beneficiaries of West Kano Irrigation Scheme funds to seek conclusion to the investigations of EACC and recommends appropriate action against culpable officers; and
- ii. recommends financial audit of the West Kano Irrigation Scheme Revolving Fund Society between 2007 and 2021 to enhance transparency and accountability of the fund; an institutional audit of the scheme since its inception; and forensic audit of all officials involved in the period in question.

The Committee made various observations key among them being that:


- i. the Petitioners felt discriminated and neglected because other people were compensated but they were not. The structures put in place by the government to compensate and or resettle IDPs of the 2008 PEV did not cover all IDPs;
- ii. the *Operation Rudi Nyumbani* programme did not adequately address the plight of the Nyanza and Western Region IDPs of the 2007/2008 PEV. As a matter of human right, IDPs compensation and resettlement must be reopened and should be an ongoing exercise. It was further noted that the issues of IDPs is a humanitarian issue hence a human rights issue. The statute of limitation does not limit human rights. Human rights are entrenched and are perpetual. Further, the Committee also observed that the National

Consultative Coordination Committee on Internally Displaced Persons was still in place and can address the issue of IDPs in the country;

- iii. there was a possibility that officers in charge of the compensation programme politicised the process;
- iv. the Petition presented an opportunity for the Ministry of Interior and National Administration to review policies and institutionalization of budget to allow for compensation of IDPs of the 2007/2008 PEV that were not compensated; and
- v. any further neglect of the Petitioners' plight amounts to serious violation and derogation of their inalienable right to fair administrative action particularly with respect to expeditious administrative process.

MIN./PPETC/2023/249: ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the Chairperson adjourned the meeting at 1:00 p.m. The next meeting would be held on Friday, 20th July 2023 at 2.00 p.m.

Sign: 

For (CHAIRPERSON)

Date... *27/7/2023*



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 42ND SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON WEDNESDAY, JULY 26, 2023 AT 10.00 A.M IN COMMITTEE ROOM 12, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. Janet Jepkemboi Sitienei, M.P. - Vice Chairperson
2. Hon. Joshua Chepyegon Kandie, M.P.
3. Hon. John Walter Owino, M.P.
4. Hon. Ernest Ogesi Kivai, M.P.
5. Hon. Maisori Marwa Kitayama, M.P.
6. Hon. Edith Vethi Nyenze, M.P.
7. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
8. Hon. John Bwire Okano, M.P.
9. Hon. Peter Mbogho Shake, M.P.

APOLOGIES

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Patrick Makau King'ola, M.P.
3. Hon. Bidu Mohamed Tubi, M.P.
4. Hon. Suzanne Ndunge Kiamba, M.P.
5. Hon. Caleb Mutiso Mule, M.P.
6. Hon. Sloya Clement Logova, M.P.

SECRETARIAT

1. Mr. Samuel Kalama - Principal Clerk Assistant II
2. Ms. Miriam Modo - Clerk Assistant I
3. Ms. Anne Shibuko - Clerk Assistant I
4. Mr. Willis Obiero - Clerk Assistant III
5. Mr. Shadrack Omondi - Legal Counsel II
6. Ms. Lilian Mburugu - Media Relations Officer III

MIN./PPETC/2023/266: PRELIMINARIES

The Chairperson called the meeting to order at 10.00 a.m. and Hon. (Eng.) Bernard Muriuki Nebart, M.P.

MIN./PPETC/2023/267: ADOPTION OF AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of Previous Sittings
4. Matters Arising
5. **Adoption of Reports on:**
 - i. *Public Petition No. 12 of 2023 regarding Desiltation of Matinga Dam in Kitui West Constituency; and*
 - ii. *Public Petition No. 6 of 2022 regarding Compensation of the Nyanza Western Caucus of IDPs*
6. Any other Business
7. Adjournment & Date of Next Meeting

Thereafter, the proposed Agenda of the Meeting was adopted to constitute business having been proposed by the Hon. Ernest Ogesi Kivai, M.P. and seconded by the Hon. Joshua Chepyegon Kandie, M.P.

MIN./PPETC/2023/268: CONFIRMATION OF MINUTES OF PREVIOUS SITTING

The Agenda was deferred.

MIN./PPETC/2023/269: MATTERS ARISING

There were no matters arising.

MIN./PPETC/2023/270: ADOPTION OF REPORT ON PETITION REGARDING COMPENSATION OF THE NYANZA WESTERN CAUCUS OF IDPS

Upon review of the submissions in the report, the Committee recommended that:

- a) the Ministry of Interior and National Administration fast tracks the process of addressing the plight of Nyanza-Western Caucus of IDPs with a view of compensating all the genuine and deserving IDPs in the said caucus in the Financial Year 2024/2025;
- b) the Cabinet Secretary for the Ministry of Interior and National Administration must fully comply with national values and principle of governance as provided for in Article 10 of the Constitution, in particular Clause (2)(b) on human dignity, equity, social justice, inclusiveness, non-discrimination, and perception of the marginalized; and
- c) the government should recognize all categories of IDPs including reviewing upwards the amount of money paid to the integrated IDPs;

The Report on Report on Petition Regarding Compensation of the Nyanza Western Caucus of IDPs was adopted by the Committee having been proposed by Hon. Peter Mbogho Shake, M.P. and seconded by Hon. Edith Vethi Nyenze, M.P.

**MIN./PPETC/2023/271: ADPTION OF REPORT ON PETITION REGARDING
DESILTATION OF MATINGA DAM IN KITUI WEST
CONSTITUENCY**

Upon review of the submissions in the report, the Committee recommended that—

- a) the Ministry of Water, Sanitation and Irrigation submit to the National Assembly Departmental Committee on Blue Economy and Irrigation, the budget estimates for the project and any potential donor funding on the project or public private partnerships proposals for consideration within three months;
- b) the Cabinet Secretary, Ministry of Water, Sanitation, and Irrigation initiates audit of all colonial dams across the country and conduct feasibility studies on those that can be rehabilitated and maintained to ensure access to water;
- c) the Tanathi Water Works Development Agency to submit to the Departmental Committee on Blue Economy and Irrigation the feasibility studies such as engineering studies & surveys and detailed technical designs, for the rehabilitation of Matinga Dam within two months; and
- d) the Ministry of Water, Sanitation, and Irrigation to submit a report on the rehabilitation of the Matinga Dam upon completion of the project.

The Report on Petition Regarding Desiltation of Matinga Dam in Kitui West Constituency was adopted by the Committee having been proposed by Hon. (Eng.) Bernard Muriuki Nebart, M.P., and seconded by Hon. Peter Mbogho Shake, M.P.

MIN./PPETC/2023/272: ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the Chairperson adjourned the meeting at 1:00 p.m. The next meeting would be held on Thursday, 27th July 2023 at 10.00 a.m.

Sign: 

 (CHAIRPERSON)

Date: 27/7/2023

