

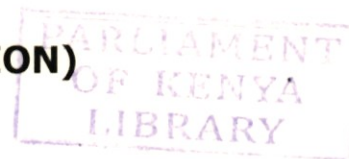


**REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (FOURTH SESSION)**

THE NATIONAL ASSEMBLY

CONVEYANCE OF PUBLIC PETITION

_____ (No. 028 of 2020) _____



**REGARDING HISTORICAL LAND INJUSTICES IN NANDI
COUNTY**

Honourable Members, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition, other than those presented by a Member. I therefore wish to report to the House that my Office has received a Petition from the Governor of Nandi County, H. E. Stephen Kipyego arap Sang', praying that the House looks into historical land injustices in Nandi County.

In the Petition, the Governor states that at the advent of colonial rule in Kenya, the colonial government disinherited the Nandi people of their ancestral land, leased it to settler farmers and multinational corporations to undertake large scale tea growing in the highlands, and sugarcane and sisal farming in the lowlands. As a result, the Nandi people were resettled on peripheral and unproductive land, rugged and rocky hills, and along escarpments that are prone to perennial landslides.

Honourable Members, the Petitioner avers that residents of *Tinderet, Nandi Hills, Aldai* and *Mosop* sub-counties are the most affected, with thousands of households, livestock and land under coffee bushes, maize, beans and other crops being destroyed by the perennial landslides.

The Petitioner asserts that, in an attempt to mitigate the suffering and improve the situation of the affected people, the County Government of Nandi has continuously been providing humanitarian and psychosocial support to the afflicted families with the hope that they would be resettled on their land upon expiration of existing leases for parcels of land under occupation. The Petitioner observes that despite attempts to have the land revert back to the community upon expiry of the leases, the recommendations of the National Land Commission on the matter were ignored, as some leases have allegedly been extended or renewed, therefore leaving residents in the affected areas in a constant state of despair.

Honourable Members, it is on this premise that the Petitioner prays that this House intervenes on the matter with a view to putting in place a sound and credible legal framework for facilitating the expeditious, efficient, impartial investigations into the said historical land injustices, and just resolution of claims arising out of the injustices.

Honourable Members, this Petition therefore stands committed to the Departmental Committee on Lands. The Committee is requested to consider the Petition and report its findings to the House and to the petitioners in accordance with Standing Order 227(2). The Committee is also at liberty to introduce legislative measures aimed at addressing the plight of the Petitioner, should it deem fit.

I thank you!



THE HON. JUSTIN B. N. MUTURI, E.G.H., MP
SPEAKER OF THE NATIONAL ASSEMBLY

Tuesday, September 15, 2020



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THE HON. JUSTIN B. N. MUTURI, E.G.H., MP
SPEAKER OF THE NATIONAL ASSEMBLY

Tuesday, September 15, 2020

CMA ①
Kindly advise.
BNA
17/6/2020

URGENT

REPUBLIC OF KENYA



Petition by

Mr. Stephen Kipyego Sang

Governor County Government of Nandi

To the National Assembly, Republic of Kenya.

② DLS
to advise
urgently.
CMA
18/6/20

Mr. Speaker Sir,

I the undersigned, being a citizen of the Republic of Kenya and the Governor of Nandi County, hereby present this petition on behalf of the victims of perennial landslides and mudslides, being residents of sections of Nandi County. The Petition is about landslides and mudslides that occur year in, year out due to heavy rains, but primarily attributable historical injustices suffered by the local communities through displacements and forcible transfer of population by the colonial settlers and subsequent perpetration of land injustices by successive regimes and leadership.

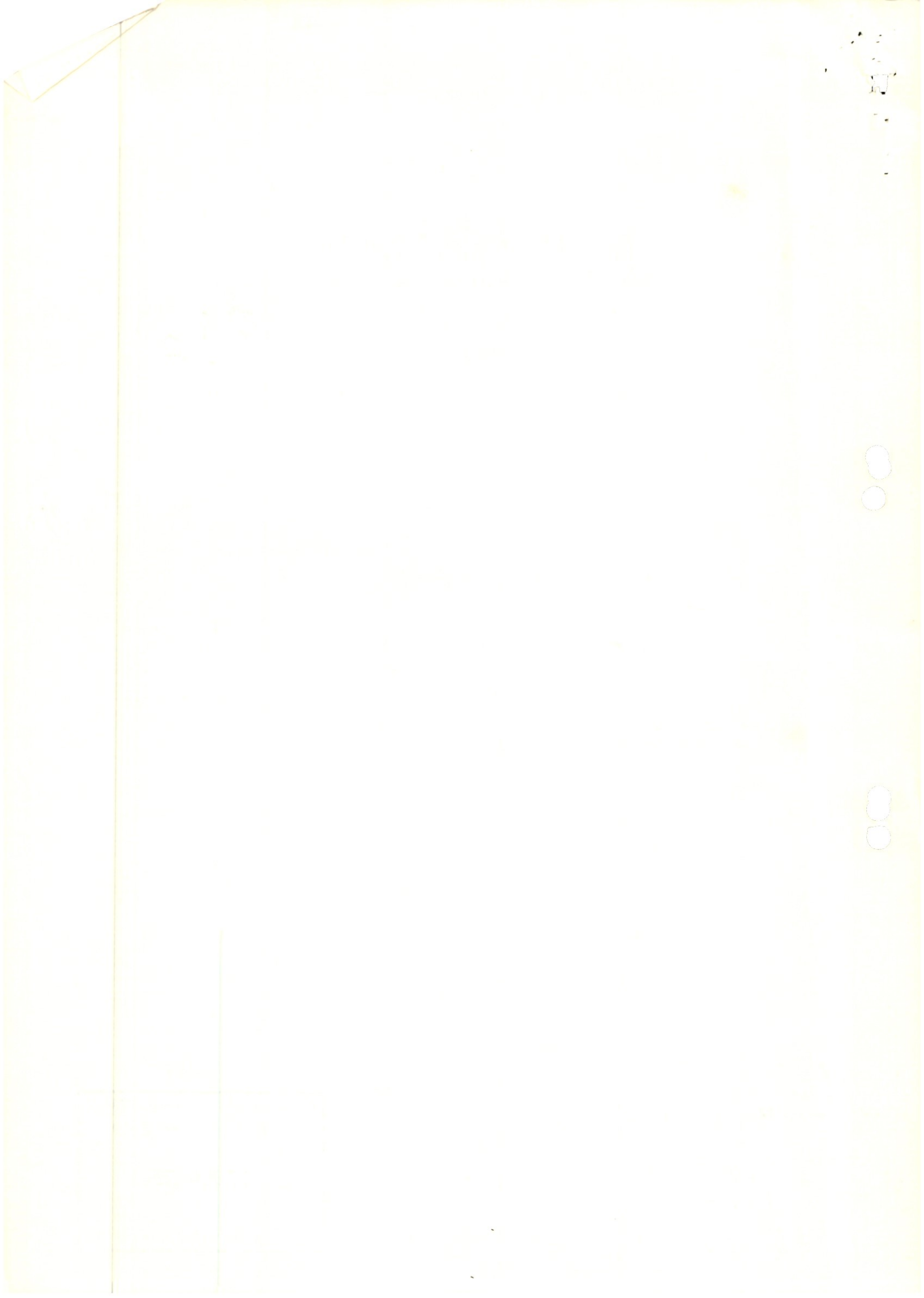
Draw the attention of the National Assembly to the following:

1. **THAT** the geography of Nandi is laden with many rugged hills and sharply rising escapements which unfortunately due to present and historical land injustices forced the local communities to settle on, and occupy them.
2. **THAT** the particulars of the said present and historical land injustices include:
 - i) The Colonial Government forcibly transferring the communities from their fertile lands to settle them on the so-called 'Native Reserves' which are characterized with rugged and rocky hills that are prone to perennial landslides and mudslides.

Ms Lynette Otieno
please advise
the CMA.
18/6/2020

NATIONAL ASSEMBLY
RECEIVED
17 JUN 2020
CLERK'S OFFICE
P. O. Box 41842, NAIROBI

NATIONAL ASSEMBLY
RECEIVED
17 JUN 2020
SPEAKER'S OFFICE
P. O. Box 41842, NAIROBI.



- ii) Irregular and illegal attempted awarding, extension and renewal of expired and expiring leases belonging to individuals and multinational corporations in both the Tea Growing Highlands and the Sisal and Sugarcane growing lowlands.
 - iii) Irregular and illegal awarding of large swathes of fertile land belonging to the Agricultural Development Corporation (ADC), initially earmarked to resettle "squatters", to government operatives, politicians and politically connected individuals leaving out the needy deserving and vulnerable communities in the region.
3. **THAT** year upon year cases of landslides, mudslides and rock falls are reported in these areas within the county resulting in the unfortunate loss of lives and property; displacement of people; and the ensuing humanitarian crisis.
4. **THAT** this cycle of events is attributable to the constant annual heavy rainfall that is being experienced in the County and its environs.
5. **THAT** underpinning the current situation where families have to reside in pathetic and uninhabitable portions of land is attributable to the unresolved present and historical land injustices within the County that can be traced to pre-colonial, colonial and post-independence Kenya government land programs and processes.
6. **THAT** to offer context the most prone and affected areas within the County are mainly parts of; **Tindiret, Nandi Hills, Aldai and Mosop Sub-Counties.**
7. **THAT** the number of people affected this year alone are as follows:-
- (A) Tindiret Ward - about 300 households.
 - (B) Songor Soba Ward – about 250 households.
 - (C) Kemeloi/Maraba Ward – about 20 households among many others/
8. **THAT** the landslides and mudslides this year alone as a case in point have destroyed about:
- i. 20,000 bushes of coffee,
 - ii. 120 acres of maize and 90 acres of beans

- iii. 20 houses have been completely destroyed
- iv. 12 houses have water sipping from the floor
- v. 70 houses are at risk of being destroyed

9. **THAT** the resolution of this underlying land question would as well mean the resolution of this perennial landslides and mudslides crisis once and for all.

REASONS WHEREFORE the County Government of Nandi has since taken the following steps to address the situation:

- i) Addressed the ensuing humanitarian needs including;
 - Provision of temporary shelter on higher ground for affected families.
 - Availing of relief food and non-food items for affected families.
 - Provision of psychosocial support for the directly affected households.
 - Provision of seeds and seedlings for the affected households to salvage what is left of the planting season.

- ii) Attempted to address the underlying present and historical land injustices that forced the affected communities to settle on such landslide prone areas. Notably, we invited the National Land Commission (NLC), which Commission held sittings in Nandi County for a cumulative three weeks to hold hearings and investigate the matters brought before it. The NLC has since made far reaching determinations and recommendations regarding the petitions presented by various petitioners, as supported by the Nandi County Government, including the referred landslide victims. Among the determinations and recommendations are that;
 - A resurvey be done on the lands being held by the multinational tea estates to determine if there are any residue to be used to resettle most of these affected communities and also be held by the County Government for public utilities.
 - The renewal of the leases to the lands presently owned by be Tea Estates be held in abeyance until an agreement is reached with the county government.
 - That all 999 year leases be converted to the constitutional requirement of 99 years and that resettlement of squatters should be given priority before other considerations are made upon expiry of the said leases.

WHEREFORE your humble petitioner prays that the National Assembly:

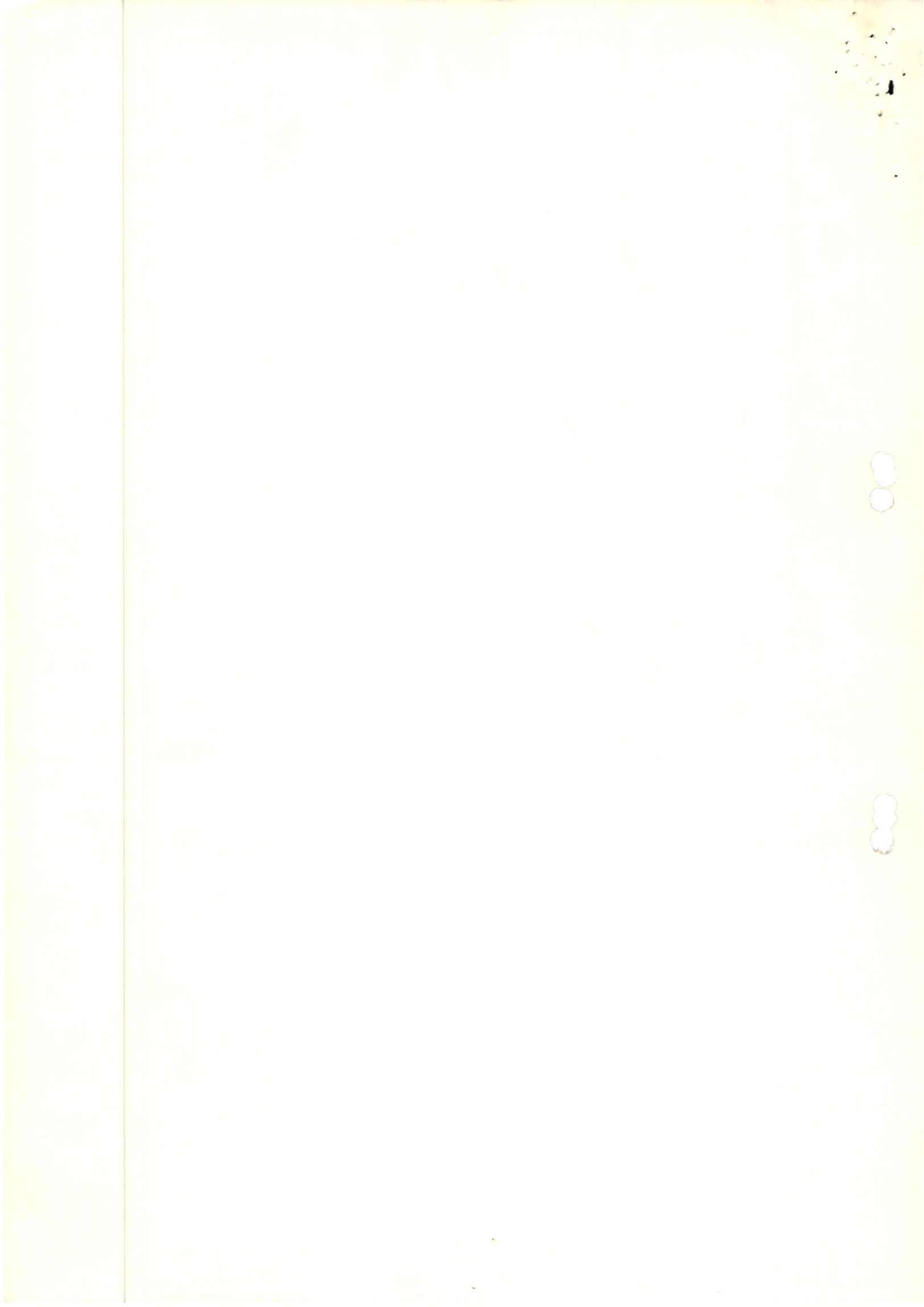
- a. Declares the perennial landslides and mudslides situation in Nandi County and other parts of Kenya as a recurrent National Disaster and shall be responded to as such by all relevant Government Departments and Agencies;
- b. Directs that the recommendations of the National Land Commission relating to this subject matter be fully implemented by the relevant Government Departments and Agencies as a means to permanently addressing the prevailing situation;
- c. Directs that the irregular and illegal awarding, extension and renewal of expired and expiring leases belonging to individuals and multinational corporations in both the Tea Growing Highlands and the Sisal and Sugarcane growing lowlands be acted upon and in compliance with the need to address these historical land issues henceforth; and
- d. Directs that government avails land from the various options discussed above to be used to resettle the vulnerable families outside the current landslides prone rugged and rocky environment. The government can then take of the escarpment and undertake serious afforestation programs in the area.

I thank you Mr. Speaker Sir.

Sign:


Mr. STEPHEN Kipyego Araap SANG
GOVERNOR, NANDI COUNTY

Dated 17th June 2020



INTERNAL MEMORANDUM

TO: THE DEPUTY CLERK, NATIONAL ASSEMBLY

*DL SP
This is ok. Advice
for tableting
8/17/07*

THRO': THE DIRECTOR, LEGAL SERVICES- NA

*Forwarded, the petition
may be tabled for
consideration*

THRO': PRINCIPAL LEGAL COUNSEL

15/7/2020

*Forwarded, the petition may be
forwarded to the Speaker for
tableting.*

FROM: LEGAL COUNSEL I

*Ms. A. Shubullo
Prepare a petition
in line with the
advice of the DLS.*

DATE: 8TH JULY, 2020

**RE: PETITION BY H.E. STEPHEN KIPYEGO SANG, GOVERNOR COUNTY
GOVERNMENT OF NANDI**

*Ms. A. Shubullo
6/27/2020*

The above matter and your instruction to the Directorate of Legal Services to peruse and establish whether the petition dated 17th June, 2020 by H.E. Stephen Kipyego Sang, Governor County Government of Nandi complies with the National Assembly Standing Orders refers.

We have perused the Constitution, the Petitions to Parliament (Procedure) Act, 2012 and the National Assembly Standing Orders and advise that the petition complies with the same and may therefore be forwarded to the Speaker for tableting in the House.

LYNETTE A. OTIENO.

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 221291
Fax: 243694
E-mail: clerk@parliament.go.ke



Clerk's Chambers
National Assembly
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

30th June, 2020

When replying please quote

Our Ref: DLS/PETITIONS/2020

Your Ref: TBA

H.E. Stephen Kipyego Sang,
Governor, Nandi County
NANDI.

DLS
TO relook at
this matter. Under
Article 95(2)
N/A

Dear

**RE: PETITION BY H.E. STEPHEN KIPYEGO SANG, GOVERNOR COUNTY
GOVERNMENT OF NANDI**

resolution
is sus
of
which
to
the
people
and
can
congress
with
ALC
to
address
matters
resol.
CMA
2/7/20

The above subject on your Petition dated 17th June, 2020 refers.

Kindly note that all petitions to the National Assembly are governed by the Constitution, the Petitions to Parliament (Procedure) Act, 2012 (the Act) and the National Assembly Standing Orders.

We have perused the Constitution, the Act and the National Assembly Standing Orders and advice as hereunder:

1. Contrary to the provisions of Article 119 of the Constitution and Standing Order 219 of the National Assembly Standing Orders—
 - (i) prayer (a) of the Petition requiring the House to declare the perennial landslides and mudslides in Nandi and other parts of Kenya as a National Disaster does not fall under the ambit of matters which the House has authority to consider as contemplated in Articles 94 and 95 of the Constitution. In accordance with

Ms Lynette Otieno -hc
Please note CMA's
remarks
6/7/2020

Article 95(5) the role of the National Assembly with regards to government bodies is limited to oversight. Consequently, the Assembly may not issue such a declaration but may inquire into the action taken by the relevant agencies with regards to the subject matter of the petition.

- (ii) prayer (b), (c) and (d) of the Petition requiring the House to issue directions on the implementation of the recommendations of the National Land Commission as regards the present and historical land injustices does not fall under the ambit of matters which the House has authority to consider as contemplated in Articles 94 and 95 of the Constitution. Article 249(2) (b) of the Constitution provides that Commissions are independent and not subject to direction or control by any person or authority. In this regard, the National Land Commission discharged its mandate and issued recommendations over the subject matter of the Petition pursuant to Article 67(2) of the Constitution.

The National Assembly may therefore not issue further directives beyond those issued by the Commission including directives on resettlement of persons but may inquire on the status of implementation by the relevant government agencies of the said recommendations.

2. Contrary to section 3(e) of the Act and Standing Order No. 223(e), the Petition does not indicate its subject matter on every sheet.
3. Contrary to section 3(g) of the Act and Standing Order No. 223(g), the Petition does not indicate whether the issues in respect of which the petition is made are pending before any court of law or other constitutional or legal body.

In the circumstances, we find that the Petition as presented does not fully satisfy the said requirements of the Constitution, the Petitions to Parliament (Procedure) Act, 2012 and the National Assembly Standing Orders and is inadmissible unless amended to comply with the said requirements.

The the Petitions to Parliament (Procedure) Act, 2012 can be accessed from the Kenya Law website at www.kenyalaw.org.

We look forward to receiving your revised Petition.

Yours faithfully,

MICHAEL SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY

INTERNAL MEMORANDUM

TO: THE DEPUTY CLERK, NATIONAL ASSEMBLY

CNA to sign,



THRO': THE DIRECTOR, LEGAL SERVICES- NA

Forwarded, the petition does not satisfy the requirements of the Act and standing orders and may not be tabled.

THRO': PRINCIPAL LEGAL COUNSEL

24/6/2020

FROM: LEGAL COUNSEL I

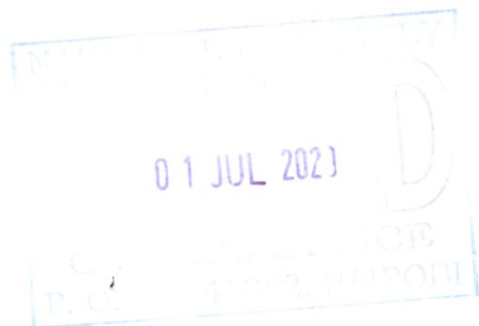
DATE: 24TH JUNE, 2020

RE: PETITION BY H.E. STEPHEN KIPYEGO SANG, GOVERNOR COUNTY GOVERNMENT OF NANDI

The above matter and your instruction to the Directorate of Legal Services to peruse and establish whether the petition dated 17th June, 2020 by H.E. Stephen Kipyego Sang, Governor County Government of Nandi complies with the National Assembly Standing Orders refers.

We have perused the Constitution, the Petitions to Parliament (Procedure) Act, 2012 (the Act) and the National Assembly Standing Orders and advise as hereunder:

1. Contrary to the provisions of Article 119 of the Constitution and Standing Order 219 of the National Assembly Standing Orders—



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In the circumstances, we find that the Petition as presented does not fully satisfy the requirements of the Constitution, the Act and the National Assembly Standing Orders and should therefore not be forwarded to the Speaker for tabling in the House.

Attached herewith please find a letter addressed to the Petitioner for your signature, if you approve.

Submitted for your consideration and further directions.



LYNETTE A. OTIENO