

Ray of hope for Ndung'u land report proposals

By Maseme Machuka

Grabbed public land could be repossessed if Parliament passes a Bill by the Ministry of Lands. The anticipated law is expected to pave way for the repossession of huge chunks of land illegally acquired by prominent personalities and powerful politicians who were named in the report by a task force chaired by Nairobi lawyer Paul Ndung'u in 2005.

Lands Minister James Orengo said this at a forum where he was confronted with the question: Is implementation of the Ndung'u land report a mission impossible?

The minister was put to task on the 2005 report that stipulated various measures that needed to be

taken to correct some of the past ills on land acquisition and allocation.

President Kibaki and Prime Minister Raila Odinga also came in for a rapping for not doing much to address the issues that stem out of the report.

Speaking at the **launch of a critique report dubbed Mission Impossible? Implementing the Ndung'u Report, Africa Centre for Open Governance (AfriCog)** and the International Commission of Jurists, Kenya Chapter (ICJ-Kenya), said the slow pace at which Government was moving was tantamount to "subversion of Justice."

AfriCog Executive Director Gladwell Otieno and ICJ Executive Director George Kegoro called on the Government in its quest to implement Agenda Four Item of the Serena Team to take the report seriously.

Just days into assuming office Orengo had given an assurance the report would be implemented in full and "will not need the blessing of the President or the PM".

And in August, last year, the minister said: "I am going to implement the report and I will hit hard. Kenyans should expect action in a week's time."

Circumventing justice

Yesterday Orengo's assurances that key legislations from Government were ready to tackle the report, Civil Society Organisation argued that the Government was "postponing the truth by circumventing justice".

Otieno said political support of top-level leaders was minimal.

"There is also insufficient acknowledgement of the report by successive Lands ministers. The President and premier should be resilient in their promise to implement the report," she added.

One of the key issues in the report is the setting up of a Land Disputes Tribunal that would address cases of stolen and grabbed public land.

Orengo said because of lack of trust in local courts to handle the matter, the ministry had drafted a Bill seeking to establish a land tribunal that would soon be in Parliament for debate once the Cabinet approves it.

"I'm afraid we are not making any progress in our courts. The (Kenya) Anti-Corruption Commission has taken cases to courts which are making no progress," he said.

Freeze allocation

The minister's move goes against a 2006 decision of the High Court declaring establishment of a lands tribunal unconstitutional. In the landmark ruling by the Head of Constitutional and Judicial Review Division of the High Court Justice John Nyamu, now a Court of Appeal judge, ruled the proposal to establish a tribunal to implement the commission's recommendations was contrary to the Constitution.

The minister said Parliament could debate the Bill in the next two months.

"Land grabbing starts with the allocation of land. We seek to strip the powers of the President, ministers and Lands Commissioner to unilaterally allocate public land. We want to subject allocation of public land to a Lands Commission," added Orengo.

The minister added that the Government has been compelled to freeze all public land allocation, except for foreign investment to check land grabbing.

"Parts of Coast Province are the most affected leading to numerous cases of the landless. We will give them (Coast residents) a special consideration in the implementation of policies," he added.

The Kenya Land Alliance's Odenda Lumumba said little allocation of money in the Budget this year to the ministry was a clear indication of the Government's lack of seriousness on the issues.

Political class

The Government is now torn on how it can implement the report that has far-reaching recommendations. To act on the adverse proposals of the National Land Policy, an estimated Sh9.6 billion is required over six years.

Kegoro said it was upon the political class to implement the report, saying the ministries of Justice, Forestry, Lands, and East African Community were key in implementing the Report.

"The President and the Prime Minister should tell Kenya the progress so far in terms of implementing the report. Let them tell us where we are and if challenges are being experienced what is being done on the same," added Kegoro.

Ms Otieno said implementing the Ndung'u report would address misuse of public land.

pave way

Mr Ibrahim Mwathane, the former chairman of Quantity Surveyors of Kenya, said there was need to prioritise and expedite the approval of the national land policy by Parliament to pave way for land reform.