

# Extension of Timeline for Recovery of Grabbed Public Land Awaits 13th Parliament

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## Time bound Review of Grants of Public Land

We must thank the Member of Parliament for Kilifi North, Hon Owen Yaa Baya for intervening on a matter that remains outstanding. This column highlighted that the National Land Commission Act provides for the review of grants and dispositions of public land to establish their propriety and legality but only within the first five years of commencement of the Act. The NLC Act commenced in April 2012. Therefore, this timeline expired from May 2017. Indeed, any further attempts by the NLC to address related matters have met with legal challenges. So while the country beats up the Commission for not doing more to recover irregularly allocated public land, its hands remain tied by this lacuna in the law. For this reason, any repossession efforts by the NLC will suffer adverse consequences until this matter of timeline is addressed.

## Historical Land Injustice Claims time bound

In addition, the National Land Commission Act of 2012 was amended through the Land Laws (Amendment) Act of 2016 to provide that claims for historical land injustices would only be admissible for hearing by the Land Commission if presented within a timeline of five years from the commencement of the Act. This law took effect in September 2016. This timeline therefore expired in September 2021. In practical terms, this therefore means that the Commission cannot receive any further claims on historical land injustices, regardless of their legitimacy, or the reasons they may have been debarred. On this too, the law limits the Land Commission.

## Legal Amendments needed

In response to the two gaps, Hon Baya tabled the National Land Commission (Amendment) Bill No 10 of 2022, dated 15<sup>th</sup> March, 2022 during the sixth session of the National Assembly of the 12<sup>th</sup> parliament. Unfortunately, Kenya's 12<sup>th</sup> National Assembly adjourned *sine die* on 9<sup>th</sup> of June, 2022 before this bill could be debated and enacted into law. Given parliamentary protocols, the bill is therefore dead, and the two timelines above remain applicable. This fundamentally obstructs public institutions that would wish to pursue cases of their previously grabbed public land through the Commission. Similarly, those with pending historical land injustice claims, or those that were filed out of time, must feel quite desperate.

### 13th Parliament to move

It will therefore be incumbent upon members of the 13<sup>th</sup> parliament to consider moving a similar motion, or even two different motions given the uniqueness of each issue, once in session. Government too, through the Ministry of Lands of the Commission, could originate them. From the cases running in courts and the annual reports by state agencies, the matter of review of previous grants of public land is far from concluded. I also recall that some communities made frantic efforts to beat the September 2021 deadline without success. Such concerns will only find reprieve if the two timelines are revisited through parliament. Those aggrieved must therefore continue to lobby the Lands Minister, or their incoming members of parliament, in hope that the 13<sup>th</sup> parliament will enact the amendments.

***Dated: 21st July, 2022***

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