



REPUBLIC OF KENYA



NATIONAL ASSEMBLY

TENTH PARLIAMENT – FOURTH SESSION - 2010

REPORT OF THE DEPARTMENTAL COMMITTEE
ON ADMINISTRATION AND NATIONAL SECURITY
ON ITS FACT FINDING VISIT TO LARI,
KOIBATEK, DAGORETTI, KISAUNI AND NYAKACH
OVER ALLEGED EXTRA JUDICIAL KILLINGS IN
THE DISTRICTS; FROM OCTOBER 11 TO
NOVEMBER 27, 2010

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

DECEMBER, 2010

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Report of the Administration and National Security Committee on its fact finding mission to Lari, Koibatek, Dagoretti, Nyakach and Kisauni districts in the recent past: October 11 - November 27, 2010

PREFACE

Mr. Speaker, Sir,

The Departmental Committee on Administration and National Security is constituted under Standing Order 198 of the Kenya National Assembly and mandated to, inter-alia, "*investigate and inquire into all matters ... as they may deem necessary and as may be referred to it by the House...*"

On Thursday 30th September 2010, the Deputy Speaker directed that the matter of mysterious killings of persons in Eldama Ravine and Lari Constituencies of Baringo and Kiambu Counties respectively; be referred to the Committee on Administration and National Security for further investigation. The matter came to the floor of the House through Questions by Private Notice by the Hon. Moses Lesoonet, MP (Eldama Ravine), and the Hon. David Njuguna, MP (Lari). The Members sought to know from the Minister of State for Provincial Administration and Internal Security the circumstances surrounding the mysterious deaths of youths in their constituencies in the recent past.

Mr. Speaker,

The Hon. Moses Lesoonet, sought to know from the Minister of State for Provincial Administration and Internal Security;

- (a) If the Minister could explain the circumstances under which Messrs Evans Kipchumba Keitany and Brian Kiptanui Birir died while in the custody of Police Officers at Katarakwa Police Post in Koibatek District;
- (b) Could the Minister provide the post mortem reports and state what action has been taken against the Police Officers responsible; and
- (c) What action will the Government take to ensure that such deaths, now occurring at high frequency at the Police Post, do not recur?

Likewise, the Member for Lari, Hon. David Njuguna, MP, wished to know from the Minister;

- (a) If he could confirm that 4 male youths were found brutally murdered, 2 at Kariko, Kinale Forest and 2 others at Ngubi Forest, Lari District, on 15th September, 2010;
- (b) To furnish the House with clear details of how the four youths met their deaths and who were the perpetrators of the heinous crime; and
- (c) What urgent security measures has the Government put in place to guarantee maximum security to people currently living in the crime-prone area?

From the Minister's responses and the ensuing supplementary questions raised by other Members, the Deputy Speaker ruled that the Minister brings a more comprehensive answer to the House after three weeks. In the meantime, he directed that the

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Report of the Administration and National Security Committee on its fact finding mission to Lari, Koibatek, Dagoretti, Nyakach and Kisauni districts in the recent past. October 11 - November 27, 2010

Committee on Administration and National Security investigate the matter and file a report within two weeks.

In this regard, the Committee undertook a fact finding mission to Eldama Ravine and Lari as directed by the House. The Committee consequently visited Lari on Monday 11th October and proceeded to Eldama Ravine on Tuesday 12th October, 2010.

Mr. Speaker, Sir,

The Committee held meetings with the District Security Intelligence Committees (DSIC's) in Lari and Koibatek districts respectively. The Committee met local leaders from the two districts who shared very vital information with the Committee. The Committee also received oral and written evidence from family members of the deceased persons as well as other witnesses who had interacted with the victims in one way or the other before their demise.

The Committee also visited the scenes in Kinale and Ngubi forests in Lari District where bodies of youths had been dumped after they were killed. The Committee also visited Kiptoim where a family had lost their son, who was allegedly killed by Administration Policemen on 17th December, 2009.

Mr. Speaker,

Having visited the two districts, the Committee agreed that in order to come up with a more comprehensive and inclusive report, the Committee needed to visit other areas where cases of killings had been reported. The Committee therefore sought fresh mandate from the House to extend its sittings to Dagoretti, Nyakach and Kisauni districts with a view to coming up with comprehensive recommendations. The request was granted and hence the Committee proceeded to visit the said districts between 21-27 October, 2010.

Mr. Speaker, Sir,

Based on the findings, observations and conclusions, the Committee came up with numerous recommendations that the Members urge the House to adopt. The submissions by the Security Committees and the local leaders and relatives of the deceased persons provided the Committee with facts from which they drew the conclusions and recommendations contained in this report.

Mr. Speaker,

The following are the Members of the Committee:

The Hon. Fred Kapondi Chesebe, MP **(Chairman)**

The Hon. Peter Kiilu, MP **(Vice Chairman)**

The Hon. Cyprian Omollo, MP

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The Hon. Danson Mungatana, MP
The Hon. Raphael Letimalo, MP
The Hon. Pollyins Ochieng', MP
The Hon. Mohammed Hussein Ali, MP
The Hon. Maison Leshoomo, MP
The Hon. Nkoidila ole Lankas, MP
* The Hon. Clement Kung'u Waibara, MP

*(The Member whose name is marked with an asterix * has never participated in any Committee deliberations and so he is not part of the observations, findings, conclusions and recommendations in this report).*

Mr. Speaker, Sir,

The following are the Members of the Committee who undertook the fact finding tour to Lari, Koibatek, Dagoretti, Kisauni and Nyakach districts:

The Hon. Fred Kapondi, MP (**Chairman**)
The Hon. Cyprian Omollo, MP
The Hon. Maison Leshoomo, MP
The Hon. Mohammed Hussein Ali, MP
The Hon. Raphael Letimalo, MP

Mr. Speaker,

The Committee takes this opportunity to thank the National Assembly and to pay tribute to the Speaker and Clerk for the logistical support which enabled the Members to conduct the fact finding mission successfully. The Committee is also grateful to the Ministry of State for Provincial Administration and Internal Security for facilitating the various meetings with the Ministry's personnel on the ground as well as the District Security Intelligence Committees of the five districts.

Mr. Speaker, Sir,

On behalf of the Committee, and pursuant to Standing Order 181 (3), it is my pleasant duty to present to the House the Report of the Committee on Administration and National Security on its visit to Lari, Koibatek, Dagoretti, Kisauni and Nyakach districts for deliberation and adoption.

Signed.....Hon. Fred Kapondi, MP.....

Date.....16th December, 2010.....

Chairman, Departmental Committee on Administration and National Security

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Report of the Administration and National Security Committee on its fact finding mission to Lari, Koibatek, Dagoretti, Nyakach and Kisauni districts in the recent past October 11 - November 27, 2010

1.0 Meeting with the District Security Intelligence Committee (DSIC), Lari Constituency Boardroom, Lari

The meeting was attended by the District Commissioner, Lari and his counterparts from Kiambu and Limuru and area District Intelligence Committee. During the meeting with the Lari District Security Intelligence Committee (DSIC);

The Committee was informed that Kinale and Ngubi forests were presumably the desirable dumping sites of bodies by criminals due to the fact that the areas are secluded and surrounded by thick forest cover. Killers would therefore find it easy to dispose bodies without necessarily being afraid of intrusion and detection.

Members were told that on several occasions, bodies have been collected from Kinale and Ngubi forests. Such incidents were reported to have happened in April, August and September 2010. Police investigations reveal that the victims were killed elsewhere and bodies dumped in Kinale and Ngubi spots.

The Committee heard that on 15th September, 2010, two bodies were discovered at the Kinale forest along the Nakuru Nairobi Highway by wananchi. The two persons, who were hawkers, had been reported missing from their homes. The two were identified as Joseph Wanderi and Rodrick Muhoro. Their bodies had visible gunshot wounds.

The Committee further heard that on the same day, that is, 15th September 2010, two more bodies were found lying at Ngubi forest along the Mai Mahiu Naivasha road. The two, identified as Vincent Opiyo and Kamau Ndung'u who were also hawkers, had died of multiple gunshot wounds and their bodies were apparently dumped alongside the road.

Members were further informed that on 18th September 2010, other two bodies were found lying along the Mai Mahiu-Kijabe road. One body was identified as that of Samuel Waiguru Macharia from Wangige while the other has not been identified to date.

The Committee was informed that no arrests so far had been made of the criminal gangs killing and dumping bodies in the district. There were reports of a lone gunman, nicknamed 'one-man guitar', who had been terrorizing people for a long time. The lone gunman had killed several people in the district and had managed to evade several police dragnets set to trap him.

1.1 Issues raised by the Committee Members

Members of the Committee sought to know;

- i) If claims of extra judicial killings by police were indeed true given that there were allegations that some of the victims were in police custody before meeting their deaths;
- ii) Whether the Security agents have the capacity to trace and pursue killers outside the district now that it was apparent that killings were done outside the district;
- iii) If the lone gunman who had been terrorizing residents along the highway had been arrested;
- iv) What other previous killings/dumping have been reported in Kinale and Ngubi areas;
- v) What action the DSIC has taken to address the matter of killings and dumping in Lari;
- vi) Whether bodies have been identified by kinsmen and whether the kinsmen have recorded statements with the police;
- vii) Whether from the police profiles, the deceased/murdered persons had ever been in police custody or if they were known criminals;
- viii) What explanation do the police have of the numerous killings?

1.2 Responses by the DSIC

In response to issues raised by the Committee Members;

The Committee heard that none of the cases of killings or dumping was by the police and that allegations about extra judicial killings by the police were unfounded. Furthermore, the deceased persons whose bodies had been found there have never been in police custody before they met their deaths.

The Committee was further informed that Lari district lacked adequate capacity to deal with criminal activity outside the district. However, a security team from CID headquarters had been sent to assist with investigations. They recorded statements which they directly relayed to the CID Director in Nairobi.

Members further heard that the lone gunman had relocated to Dandora in Nairobi when the search for him intensified. He was reportedly killed recently and his body positively identified.

On whether there have been other previous cases of dumping of bodies at the forests, the Committee was told that seven to ten bodies have been retrieved from the sites in 2010.

The Committee was further told that the DSIC had taken a number of actions in addressing the insecurity in the district. These included;

- i) Increased patrols along the Nairobi – Naivasha Highway
 - ii) Setting up of roadblocks around Kinale area
 - iii) Escort of public vehicles by police in the crime prone spots
 - iv) Use of the few forest guards to aid the police in patrolling the forest hotspots
 - v) Setting up police posts in the crime prone zones proposed
-

The Committee also heard that most of the bodies had been identified by the relatives of the deceased who also recorded statements with the police. However, a few cases have not been identified and bodies are still lying in the mortuaries pending identification.

The profiles of the deceased persons so far have not revealed on whether the deceased persons have ever been in police custody. However, investigations were still on-going and findings would be released once they were complete.

The Committee was further told that the police viewed the killings as mysterious since no information about the motive behind the crimes had been found. The killers were still at large. The police were yet to unravel why the killings especially of common people like hawkers were being perpetrated. The origin of the killings was also yet to be determined.

2.0 Meeting with the Lari district local leaders and the area MP

During a meeting with the district local leaders and the area MP, the Committee Members received submissions as follows:

1st Speaker

He informed the Committee that;

Two bodies were found in Kinale and two others in Ngubi forests. The four bodies had gunshot wounds. Cartridges were found at the Kinale scene where bodies were discovered. A police station is situated about a kilometer from the scene. A lot of murders had been perpetrated here. No arrests have been made by the police who are either incapacitated to deal with the crime or were just negligent.

The earth dam has also become a dumping site for killers. Kimende town has become a crime prone zone with arsonists setting on fire the Kenya Commercial Bank building recently. Schools have not been spared. A principal of Kaburu High School and his wife were recently killed. Property has been stolen from schools and performance in most schools has plummeted due to the increased insecurity.

He further said that there is a general insecurity in Lari which the government needs to address as a matter of urgency.

2nd Speaker

He informed the Committee that;

Insecurity in Lari had increased in recent times. Cartridges were found at the Kinale scene. A man in Soko Mjinga centre had been bludgeoned to death a couple of months ago. A club was found beside body.

Leaflets had been circulated warning people of dire consequences if they did not do as demanded by the authors of the letters. Daylight robberies had become the order of the day in the area. The Community around Kinale was petitioning the Government to clear the forest where the dumping had been prevalent and the land subdivided and be distributed to the area residents.

He commended the police for erecting the roadblock which had drastically reduced incidents of crime especially carjacking in the area. A police post should be built at Kariko which is the epicenter of criminal activity, considering that the nearby police station is at Uplands which is quite far from Kinale.

3rd Speaker

He informed the Committee Members that;

Killings have gone on unabated in Lari for a period of 8 years. There is obvious laxity from the Government to protect the citizens. The security agents take very long to respond to crime. This is occasioned by lack of adequate patrol cars in the district. Also the available road going down the escarpment winds for about 30 kilometres when actually a road through the forest could only take 5 minutes to reach the bottom of the escarpment.

The government should take advantage of available informers to gather intelligence information.

4th Speaker

He made submissions as follows;

There is dire need to provide another vehicle to increase patrols by police. The Uplands station is old and far away. There is need to establish a fully fledged police station at Kijabe and Kamwaye. The problem was that there was no land to put up the police stations. The forest land should be de-gazetted to create space for new stations.

Unemployment has also contributed to crime escalation. Forest guards, who could be used to patrol the forests, are few and unreliable and cannot manage the over 4,500 hectares of forest.

5th Speaker

He informed the Committee that;

The forest around Kinale ought to be cleared. The roadblocks have not been really effective if bodies could still be smuggled through the checkpoints undetected. Corruption at the roadblocks is rife since criminals bribe their way through the checkpoints. An administration police post should be set up in the area and more patrol cars should be provided. More roadblocks should be set up and stringent security checks be introduced.

6th Speaker

He made submissions as follows;

Some persons had been killed on the spot in Kinale forest where their bodies were found dumped because there were cartridges found on the scene. Others were brought to the forest having been killed elsewhere.

The administration police at Soko Mjinga Centre did not have residential houses and stayed in rented houses.

7th speaker

He made submissions as follows;

Crime in the districts surrounding Nairobi had increased when security was beefed up in the main towns especially Nairobi. Criminals usually commit crimes in other towns in the districts and return to Nairobi for refuge.

He said that the Kenya Police Reservists should be introduced in the area to curb high incidents of crime. The 50 metre stretch of forest cover at Kinale be cleared to reduce criminal activities. Community policing should be beefed up. The police should treat information they receive from informers with confidentiality.

8th Speaker

She informed the Committee that;

A lot of women had been raped in Kinale forest as they went to collect firewood or walk through the forest. This could be attributed to the idleness among the unemployed youth and drunkenness.

9th Speaker

He told the Committee that;

The road checks should be increased and stringent measures observed to make sure that criminals did not use the highway for criminal activities. The dam site should be secured to avoid criminals dumping bodies into the dam.

3.0 Visit to sites where bodies had been dumped

3.1 Bathi Earth dam

The Committee was informed that several bodies had been retrieved from the dam in recent times. There were no facts to corroborate this information. The security team alleged that most of the bodies recovered from the dam were suicide cases.

3.2 Kinale forest

The Committee noted that;

The two bodies had been dumped about ten metres from the highway, and not in the forest. The place has a long history of insecurity. It was apparent that the dumping of the bodies had nothing to do with the forest.

3.3 Ngubi forest

The Committee noted that;

The two bodies had been dumped about ten metres from the Mai Mahiu - Naivasha highway, just like in Kinale. The spot where the bodies lay was not inside the forest. The site is usually manned by mobile police patrols. The Committee was informed that the bodies had multiple gunshot wounds. The scene overlooks the Escarpment and is surrounded by thick forest cover and undergrowth.

3.4 Mai Mahiu – Kijabe road

The Committee visited this site and was informed that;

Two more bodies were discovered on this spot on 18th October, 2010. The spot is about 300 metres off the Mai Mahiu road along Kijabe road. The victims could have been killed from elsewhere and dumped at the site.

4.0 Meeting with the District Security Intelligence Committee (DSIC) at the District Commissioner's Office, Koibatek District Headquarters

During a meeting with the Committee Members at the Koibatek District Commissioner's office, the DSIC informed the Committee that:

On 14th December 2009, Evans Kipkoech, deceased, was going home from Equator shopping centre when he was knocked down by an unknown motor vehicle which managed to escape. The Police arrived at the scene, took photographs and measurements as well as statements from witnesses.

Some witnesses claimed that the deceased was arrested prior to his death. The police carried out preliminary investigations and forwarded the file to the State counsel but no response on the way forward was given.

The Committee Members sought to know:

- i) Whether bar owner had actually called the police to arrest the deceased and why the family suspected foul play.
- ii) If the deceased had been arrested at any time and whether he had a criminal record.
- iii) Whether anyone had been arrested in connection with the death.

The Committee heard that;

The deceased had never been previously arrested. The bar owner ordered the deceased to leave on grounds of being drunk and disorderly and instructed the watchman to eject the deceased but he did not call the police.

No suspect had been arrested in connection with the death. Members expressed concern that no meaningful progress on the case had been made despite the long time lapse; The Committee further observed that they had heard numerous cases where persons are detained in police cells without any formal charges or without being booked.

On the second matter of Brian Kiptanui Birir, the Committee heard from the DSIC that it was recorded in the Occurrence Book (O/B) of Sunday 15th August 2010 at 1150 hours that the deceased was arrested for obtaining money through false pretence. However, the charges were dropped by the complainant on the 17th August at 0810 hours after the family gave an undertaking to compensate the complainant with the potatoes as promised. The deceased was consequently released.

The body of Brian Kiptanui Birir was found at Londiani hanging from a tree with a rope around his neck. There was protest after the public got wind of his death with the community suspecting foul play.

Members sought clarification on the following issues;

- i) Whether any members of the public had seen the deceased after he was released from the police custody.
- ii) If it was standard procedure that a complaint of obtaining money by false pretence could be revoked by an informal agreement.
- iii) Whether the police suspected foul play by the complainant.
- iv) Whether the same officers accused of ejecting Evans Kipchumba Keitany from the bar prior to his death, were the same ones who arrested Brian Kiptanui Birir.

The Committee was informed that the two officers, Corporal Musa Omar Hamisi – who is the Police driver and Police Constable Abdi Ahmed Sora had arrested the deceased.

The Members were further informed that there were witnesses who had seen Brian Kiptanui Birir after his release but were unwilling to give testimony. The police agreed it was not procedural to withdraw a written complaint via oral communication. Further, there was no reason to suspect foul play against the person to whom the deceased owed money.

5.0 Meeting with the local leaders at Mumberes division, Equator trading Centre, Eldama Ravine

During a meeting with the local leaders at Mumberes division, Equator trading centre, Eldama Ravine, the Committee received oral and written submissions as follows:

5.1 Evidence adduced before the Committee regarding the death of Evans Kipkoech Keitany

1st speaker:

He read submissions of various witnesses on behalf of Equator community regarding the death of Evans Kipkoech Keitany.

He informed the Committee that the late Evans K. Keitany was arrested by police officers from Gatarakwa Police post after an argument with the owner of Kongasis bar as witnessed by Abraham Kiberet and Daudi Mmaitisi (brother to the Assistant Chief).

He said that the body of the deceased was later discovered by Alex Kuya a few metres from the Chief's Camp lying along Nakuru-Eldoret highway. Police from Gatarakwa went to collect the body and a standoff with the members of the public ensued. The Mumberes District Commissioner managed to calm down the crowd.

On 15th December, 2009, Micah Rotich, Abraham Kiberet, Alex Kuya, Mike Kangogo and Daudi M'maitisi recorded statements with the police.

2nd speaker

He informed the Committee that he noticed two men idling at the bar. He recognized one of them as Evans Kipkoech Keitany. He asked them to leave as they were drunk and disorderly. On their refusal to exit from the bar, he asked the watchman to eject them.

He further said he did not call the police and only learnt later that a police vehicle had come to collect Kipkoech. That the deceased and his family were friends with him and they had not had any grudges or fighting prior to that material day. The police usually patrol the area to look for illegal loggers and may have confronted the deceased after he had been removed from the bar.

3rd Speaker

He told the Committee that he was a shopkeeper at the centre and has seen the police harass members of the public on several occasions. The deceased was on his way home when he was confronted by police and pushed into the Land Rover police vehicle.

He said that from the injuries he observed on seeing the body at the roadside, it appeared that the deceased, had a head injury and his leg had been crushed by the police land rover or another vehicle.

4th Speaker

He made submissions as follows;

He was awakened from his sleep to go confirm whether the body alongside the road was that of the deceased. Once at the scene, he identified the body as that of the deceased.

The police who had come to pick the body were confronted by the angry crowd that had gathered at the scene by the roadside. They later returned in the company of the area D.O. who calmed the crowd down. The police were eventually allowed to ferry the body to the Eldoret referral hospital mortuary.

5.2 Evidence received by the Committee on the circumstances surrounding Brian Kiptanui Birir's death

The Committee received written and oral submissions from witnesses as follows;

1st Speaker

He informed the Committee that;

The deceased was an unmarried young male and was found dead at Makutano forest (Londiani) without his trousers on. He had been arrested following a domestic dispute with his relative, after he failed to deliver potatoes for which he had been paid for.

He further said that the deceased had injury marks on the head and feet. His body was later taken away by the police to Londiani hospital mortuary. The community hearing about the death of the boy converged at the police station only to be dispersed away when the police shot in the air.

2nd Speaker

He made submissions as follows;

He reported to the police that the deceased had received money and did not deliver the potatoes. However after indication from the father of the deceased that he shall get back his potatoes, he called the police and informed them that he wanted to withdraw the case.

He further informed the Committee that he had never had any previous quarrels or grudges with the deceased. Later he went to claim his money from the father who informed him that his son had not been released. On inquiring from the police station he was told that the accused had been released, only for them to learn later that his dead body had been discovered in the forest.

3rd Speaker

He informed the Committee Members that the body of the deceased was first discovered by a child who called his mother to the scene. He was informed about the incident after which he went to call the Chief; who in turn informed the OCS Londiani and later the Gatarakwa police. He further told the Committee that the deceased's body was tied from the neck to a short tree branch, less than a metre from the ground. The body looked like it had been there for a few days. Furthermore there were vehicle tracks around the area which is not normal, and the deceased's feet did not have any mud on them unlike the surrounding area.

4th Speaker

He made submissions to the Committee as follows;

He led the youth to the OCS to demand the release of the deceased after he was arrested. He was told that the deceased could not be released at night and would be released on Monday morning. He complained that the Gatarakwa Police Post was not a solution to the community as the police was constantly harassing the youth.

6.0 Visit to the family of Felix Kiptum Kibon, Kiptoim area, Mogotio District

The Committee was then taken to a homestead where one Felix Kiptum Kibon had been shot dead by Administration Police on 17th December 2009. The Committee Members met with the relatives of the deceased and the local Chief.

During the meeting with the Committee and the chief, Members heard that;

The deceased had heard screams from his mother's room and went to check on her. The police who were within the precincts of the family homestead went to respond to the distress call. These police were from another district and were carrying out an operation in the area without the knowledge of the area chief.

As the deceased entered his mother's compound, he was confronted by the Administration Policemen who allegedly shot in the air to scare him. A bullet went through the deceased body. He died instantly. The policemen were arrested and charged with manslaughter. Later they were released on account of lack of sufficient evidence. The late Kiptum Kibon had just completed his primary school course and was awaiting his examination results.

7.0 Meeting with the District Security Intelligence Committee (DSIC) at the Dagoretti District Commissioner's Boardroom

During a meeting with the District Commissioner and his Security Intelligence team, the Committee Members were informed that:

The district was constantly facing new challenges due to the rapidly growing population of the area that was coupled with numerous cases of crimes, as the area was large.

There was no police station at Dagoretti and when cases are reported, the Provincial Administration have to call in officers from neighbouring areas in Riruta, Muthangari, Gigiria and Kilimani. There is no OCPD in-charge of the district per se.

The Committee sought clarification whether the bodies found dumped at Lari had gunshot wounds and whether they were indeed hawkers from Dagoretti.

There were three individuals who were reportedly buried in Dagoretti. Their activities had been reported as mysterious and some locals suspected them to be criminals. They were:

1. John Kamau Ndungu
2. Collins Kori
3. Rodrick Muhoro

Following the news of their death, the relatives had organised demonstrations suspecting that the police had played a role in their death. However the Administration quickly moved in to quell the looming unrest.

7.1 Issues raised by the Committee Members

Members sought to know the outcome of the post mortem examination of the deceased persons who were alleged killed in Dagoretti and bodies dumped in Kinale, Lari.

The Committee was concerned that even after the cases had generated a lot of interest and anxiety in the public, the Police at Dagoretti had not taken any serious initiative to find out how the persons had met their deaths or dig for any other information on the cases.

The Committee Members further sought to know whether during the time of the alleged killings, there had been any reports of gunshots within the area.

The Members also wished to know the challenges experienced by the Administration in the area while discharging daily routines.

7.2 Responses by the District Security Intelligence Committee

Members were informed that post mortem records are processed and kept by the police from the scenes where the bodies were discovered. In this case, the Lari Police moved the bodies to the mortuary, supervised the post mortem and also recorded statements from the next of kin.

The Dagoretti police said that they did not know about the killings until the matter came up in Parliament and the local media.

The Committee was further informed that it was standard procedure that when officers from another area discover a body, they would carry out the post mortems which are witnessed by a relative of the deceased. In this case the files were later transferred to a task force from the Criminal Investigations Department (CID) Headquarters. The police in Dagoretti could not carry out a parallel investigation. Furthermore, whenever a case involves two provinces or more, CID headquarters is tasked with the investigation.

The Committee further heard that no reports had been made of any gunshots during the time of the killings. The OCS who serves Dagoretti is based at Riruta.

Members also heard that the administration faced challenges in terms of vehicles and funds. It was also reported that there was general low morale of the police due to the public's hostility over accusations of extra judicial killings. However, of late, there has been cordial relations with the public and working conditions have improved hence the police morale is going up.

8.0 Meeting with the District Security Intelligence Committee at the Kisauni District Commissioner's Boardroom

In his presentation, the District Commissioner informed the Committee that;

Kisauni had experienced some unrest in the recent times which revolved around land issues. The recent demonstrations had been occasioned by beacons erected by land surveyors in a piece of private land that the locals claimed belonged to them. When the District Surveyor visited the area for beacon identification, there was a stand-off between him, the security officers and the public.

An administration policeman was shot at. The police had to shoot in the air to disperse the crowd. Four civilians and two policemen were seriously injured. The land under dispute had been purchased by an Ethiopian and a search from the Commissioner of lands confirmed that indeed the land belonged to the Ethiopian. The Administration was assisting in identifying who were the genuine land owners and who were the illegal squatters.

The District Commissioner further informed the Committee that the District faced other challenges which include;

Drugs: This is a major problem affecting the young district. The vice was so entrenched that it had proved to be an uphill task to stamp it out. The drug barons had infiltrated Kisauni and were operating in cahoots with street gangs to sell drugs.

Unemployment: Many youths in Kisauni were unemployed. The jobless youth were engaged in vices such as drug and substance abuse, robbery with violence, rape, etc. The 'Kazi Kwa Vijana' initiative had tried to address the issue of unemployment but it had little impact on the youth.

Landlessness: Many people did not own land and had resorted to being squatters as a way of life. The landless had started clamouring for ownership of land and were thus invading private properties in a bid to reclaim it, alleging that it belonged to their ancestors. The invasion of private property was causing a lot of tension in the district.

Uncontrolled development: Houses were being put up haphazardly. This has led to many structures coming up especially in the slum areas. Movement within these structures was difficult as the paths were too narrow. Crime also thrived in the areas. There was rampant brewing and sale of illegal alcoholic drinks and drug dealing.

Inadequate housing: Police officers did not have houses in Kisauni and had to commute from Tononoka where they resided. This was negatively affecting their capacity to discharge duties effectively.

Inadequate vehicles: The district lacked adequate patrol cars. The security agents were curtailed in their duties especially in the fight against crime as they could not mount effective swoops to net criminals.

Poor infrastructure: The roads are inaccessible due to their poor conditions. The uncontrolled construction of buildings has led to these areas being inaccessible. This situation has made it hard to patrol the narrow passages.

8.1 Issues raised by the Committee Members

The Committee Members sought to know;

- i) Whether there had been any claims of extra judicial killings in the past.
- ii) Why the locals were taking law into their hands through mob justice.
- iii) If any arrests had been made of the people bent on violently occupying private land.
- iv) Whether the CID had information regarding the planned demonstrations before they occurred.
- v) Why the sudden interest by the local people in the quest to occupy private land.
- vi) How a loan of Kshs. 1.6 billion was granted with a 300 hectares of land being given as collateral.
- vii) Whether the original land owners were compensated before the land in question was sold to private developers.
- viii) If there are empty tracks of land where the squatters could be settled.
- ix) What role is the local leadership playing in this land saga.
- x) Why the Government has failed to implement the report by the task force on land matters in Kisauni.
- xi) Whether there are any drug related crimes.
- xii) Whether the administration could identify real and perceived squatters.

8.2 Responses by the District Security Intelligence Committee

In response to the issues raised by the Committee, the DSIC informed the Members that;

Crime has gone down in the recent past in Kisauni. There have been no reports of killings by the police. Killings are mob-related and criminal in nature. The police recently killed three robbers while two escaped. The mobs have lynched five persons in the last three weeks. The victims were criminals killed during the night after being identified by the mobs.

The locals have taken it upon themselves to deal with the criminals without handing them over to the police. The mobs execute their plans long before the police get to know of it. Some demonstrators were arrested and charged with assault and incitement. They were however released on bond. Police were monitoring the planned demonstrations on that fateful day until things got out of control.

The Committee heard that the Kshs. 1.6 billion loan was a colossal amount even at the time of purchase. The 300 hectare land cannot fetch that kind of money even at the current market

rates. The Loan had been advanced by Post Bank. When it went under, Central Bank took over to recover the money. The land was therefore sold to an individual. Originally this piece of land was occupied by a white man. It later reverted to the Goa family who ceded it to the Government.

There is a high presence of squatters who are indeed not genuine. These are referred to as 'professional' squatters as their interest is to join in the fray to clamour for land belonging to other people. Most of the land being invaded is owned by people from outside the district. Some of it is owned by Ethiopians.

Members were further informed that the district has other prime areas with large tracks of land which are also being invaded by squatters. These areas are in Mwakiruge and Majaone. The administration is encouraging owners to get proper documentation and have the land developed.

The incumbent Member of Parliament is at the forefront at asking the locals not to invade private land. However, other politicians are inciting the community to raid private property and reclaim the land. Most of the inciters have been arrested.

The task force that was set up to look into land issues in Kisauni as a major cause of clashes there and animosity between the locals and the inhabitants came up with a report which proposes solutions to the land problem. However the Government has not implemented this report.

9.0 Meeting with local leaders of Kisauni at the Mombasa Agricultural Showground hall

During a meeting with the local leaders at Kisauni, the Committee received oral and written submissions as follows:

1st Speaker

He lamented at the perpetual causes of insecurity caused by drug abuse and unemployment coupled with inadequate police presence in Kisauni, and informed the Committee that peace loving youth had volunteered their time to the Community policing project but are not facilitated in any way. Those who are involved are hampered by poor communication equipment and are immobile to respond to distress calls.

There have been about 60 people killed between the years 2008-2010 mainly due to armed robberies. The records of all those killed can be found at the Kisauni OCS and at the Coast General Hospital.

Members sought to know whether there was an organized criminal gang operating in the area or whether the killings were from external elements, and what the locals perceived to be a solution to the problems of insecurity in Kisauni.

The Members were informed that the area DC had worked tirelessly with the locals. The police required better terms of service to be highly motivated.

The locals believed the criminals to be operating from within Kisauni which is a large, expansive area with different crime patterns.

2nd Speaker

He told the Committee that those who volunteered information to the authorities risk their lives and lived in fear of reprisals from the culprits. In addition to that, witnesses of crime have reported several cases against suspects and feel short-changed when accused persons are released back into the society without charges being proffered against them.

It is believed that many criminals are colluding with girls at lodges who lure unsuspecting victims to their deaths in the hands of criminals at those said lodges. The area residents were disturbed by operation of lodges and bars within residential areas which sell unregulated traditional brews.

3rd Speaker

A private security firm operating in the area is said to have its security guards unlawfully detaining civilians instead of surrendering them to the police. They forcefully tortured a suspect and even took mobile phone.

The report of the incident was forwarded to the police by the public but no action was forthcoming. Further the police stations are not strategically located within the district and they are far from the masses.

4th Speaker

He lauded the police in the area headed by the DC and OCPD for their efforts in patrolling the area and responding to the calls of the distressed. However the OCPD did not have enough officers under his command. For that reason the police were incapacitated in the efforts to fight crime, leading to frustrations by the locals who resort to mob justice.

He further informed the Committee that crime and killings in Kisauni were by armed robbers who use crude weapons such as metal bars to attack the victims. He said that a place called Magondoroni was notorious for drug use and trafficking. Hard drugs were actually being sold in the open air market at this place.

5th Speaker

In his presentation to the Committee, he observed that the police did not have proper equipment and training to conduct thorough investigations. He recounted an incident where the officers came to a crime scene; they did not even take pictures, fingerprints or marking of the bodies found. Further, victims who had survived attacks were not even called in for questioning. The Police did not even interview witnesses at the scene of the crime.

The witness proposed to the committee that the Dog Patrol Unit that had for many years served the people of the area well should be reinstated. Also, the licensing of firearms to responsible officers who have retired from the disciplined services may assist in the Community Policing initiative aimed at curbing insecurity.

The larger Mombasa County had several officers from various departments. The officers seemed to be protecting business interests and few wealthy people. The masses were left at the mercy of a few officers who had low capacity to discharge their duties.

6th Speaker

He informed the committee that the Dog section was still in place but the dogs were only deployed at VIP functions hosted in the area. Dog patrols should also be used to protect the lives of the many people who lived in very insecure surroundings.

Furthermore he felt that the Police need to be highly motivated and well equipped to face the emerging challenges while resisting bribery.

It was observed by the committee that the Kisauni DC was relentless in the fight against drugs and insecurity but he needed more facilitation to continue with engaging the public in the ongoing challenges faced in the area.

10.0 Courtesy call to the Coast Provincial Commissioner

During a courtesy call to the Provincial Commissioner, Coast Province, the Committee heard that;

Security situation had improved in recent times. However, some areas of concern still needed to be addressed. These concerns were as follows;

- i) Piracy – this remained a thorny issue at the Coast. It was noted that the pirates had become bolder and were venturing into the Kenyan coastal territorial waters. Coalition naval forces had been unable to deal with the piracy issue conclusively.
- ii) Land – issues on land have remained a major concern at the coast. The matter has been politicized. Court processes have complicated issues. Communities are now claiming ownership of ancestral land that already is in private hands.

- iii) Aliens – foreigners have found Msambweni a lucrative route through which they board ships to other countries such as Tanzania and South Africa. Aliens pay as high as \$ 1000 to be smuggled out into the sea. Drug traffickers were also using the Vanga route to smuggle drugs out of the country. The number of aliens and traffickers was growing by each day.
- iv) Cross border immigrants – a lot of Ethiopians were finding their way into the country through Moyale. A number of arrests had been made while others had been jailed. Somali refugees also had sneaked into the country in large numbers.
- v) Drugs – this still remained a major problem at the coast. Hard drugs were being peddled in major towns. The security teams needed to be facilitated with enough vehicles and sniffer dogs to flush the dealers. Also many drug addicts need rehabilitation but there are only a few centres at the coast. Structures around schools such as kiosks should be removed because they were used as conduits to sell drugs to school children.
- vi) Crime – incidents reported at the coast were normal thuggery. Crime was being fuelled by drug usage by the idle, unemployed youth.

10.1 Concerns by the Committee Members

Members sought to know;

- i) Why South Africa is a favourite destination for aliens
- ii) Whether influx of aliens was a reflection of borders not being manned well
- iii) If the aliens had any travel documents on them
- iv) Why the Ethiopians were relocating from their region despite the calm
- v) Whether it was not a major security risk for aliens to come through Moyale all the way to Coast without being detected along the way
- vi) If the Kisauni land problem had a political dimension and why the people of Kisauni were not willing to pass information to the security agents on criminals in the area.

10.2 Response by the Provincial Commissioner

The Provincial Commissioner informed the Committee that;

South Africa was a favourite destination for aliens because most of their relatives living there. Also, those holding South African passports and visas did not require any visas to enter Europe.

Aliens had no travel documents and the fact that they could travel from Moyale all the way to Mombasa was a manifestation of security lapses and a clear sign that the Kenyan borders were no being manned properly.

The Ethiopians were moving out of their homeland due to discrimination in employment opportunities of some communities and fear of conscription into the army. Also, the Oromo's were suppressed and were therefore moving out to other areas.

The law should be amended so that stiffer punishment can be meted out on illegal immigrants into the country. Tanzania has stiff penalties which have discouraged immigrants going through the country.

The Kisauni land issues have taken political dimensions where politicians are inciting the people to take up arms and invade private lands which they claim are ancestral. Only a small clique of inciters is agitating for land and is being backed by influential people including politicians. The cartels are bent on grabbing land forcefully with a view to selling it to other willing buyers. The administration believes that a Rapid Response Initiative by the Ministry of Lands over a two year period can solve the land issues at the coast.

The residents of Kisauni were unwilling to provide information to the security agents for fear of repercussions from the criminals. There was little trust between the authorities and the local people hence the fear that there was little the police could do to protect them from the criminal gangs.

11.0 Courtesy call to the Provincial Commissioner, Rift Valley Province

In a meeting held between the Deputy Provincial Commissioner and the Committee, Members were informed that;

Crime incidents were the normal incidents of thuggery. No incidents of extra judicial killings had been reported in the province. However, cattle theft was the main challenge in the Rift Valley Province. Cattle theft was rampant in the districts borders of Rongo-Transmara, Nyakach-Marakwet, Borabu-Kuria, etc.

There is need to remove administrators who belong to Communities engaging in cattle rustling since the same people were allegedly compromising the war against the crime. There is also need for cooperation between the security agents and the people in order to be able to effectively fight and control cattle theft. There is also need to increase security personnel to be able to deal with the cattle rustling vice.

One method that has helped in reducing incidents of cattle rustling in some areas include imposition of curfews which makes it illegal to move cattle between 6 pm and 6am. Cattle thieves are armed with arrows and pangas and not any other sophisticated weapons.

The Committee however expressed concern that the administration had not dealt with cattle rustling in some areas as expected. While efforts had been made to stamp out the vice in some districts, the crime still continued unabated in other districts such as Nyakach. The security agents had failed to arrest the cattle thieves and their sponsors. The Committee implored the Provincial Security Intelligence Committee to take up the matter of cattle theft in Nyakach and deal with it conclusively.

12.0 Meeting with the District Security Intelligence Committee (DSIC) at the District Commissioner's Boardroom, Pap-Onditi

During a meeting with the Committee, the District Commissioner informed the Members that;

The main challenge in Nyakach district was cattle left. Cattle belonging to the people of Nyakach are stolen by neighbouring communities from Kericho West and Marakwet. Cattle rustling has a historical background where the Kalenjin stole from the Luo to meet their traditional obligations. However, in recent times, livestock theft had taken a new dimension and had turned into robbery with violence.

The district lacks enough vehicles to effectively deal with insecurity in the area. The district has only one patrol car stationed at Pap-Onditi Police station. The Police station itself does not have cells. Police officers on duty, the armoury, report office and communication equipment are all in one room hence raising security risks.

The Committee further heard that crime had generally dropped in recent times. This has been occasioned by:

- i) Presence of a vibrant DSIC
- ii) Creation of District Peace Committees (DPC's)
- iii) Establishment of an Anti-Stock Theft Unit (ASTU)
- iv) Strengthening of Community policing
- v) Enhancing regular patrols, vigilance and night ambushes
- vi) Holding regular barazas and peace meetings by the administration
- vii) Exchange of intelligence information with the neighbouring districts
- viii) Establishment of more administration police posts and patrol bases
- ix) Limitation of operational hours for clubs and bars in the district
- x) Collaboration between security agents, political leaders and the public.

Other challenges facing the district include;

- i) Inadequate vehicles
- ii) Political interference
- iii) Withholding of information by the public

- iv) Lack of adequate office space and cells in Pap-Onditi
- v) Inadequate personnel
- vi) The requirement to produce suspects within 24 hours has led to many being released as the police do not have time to collect enough evidence.
- vii) Negative ethnicity
- viii) Poor infrastructure hence patrols are curtailed
- ix) Except for the DC, DSIC covers vast areas outside Nyakach
- x) Idle/unemployed youth
- xi) Inadequate operational funds.

The DSIC proposed the following;

- i) More security personnel to be increased at Ongoro patrol base and also upgrade it, elevate Kodonga AP camp into a police post and create another police post at Nyamaroka.
- ii) Provide vehicles at Kondoga and Ongoro patrol bases
- iii) Equip and send more personnel to Holo ASTU base
- iv) Provide vehicles to District Officers in Upper, West and North Nyakach divisions
- v) Post a OCPD, DCIO and SRIC and their assistants to Nyakach, Nyando and Muhoroni
- vi) Establish a police post at the Kapsorok border and Store Pamba
- vii) Establish a border patrol unit in the district.
- viii) Political goodwill is necessary for peace to prevail. The MPs from the affected areas should get together in search of peace. Councillors also ought to be at the forefront in preaching peace.
- ix) The local community should expose the bad elements among them. They should also improve on personal security.
- x) The community should have faith in the administration and provide information without fear of repercussions.
- xi) Community policing should be embraced by the locals.
- xii) Chiefs, their assistants and elders should be able to identify and report strange characters in the area.
- xiii) Stern action should be taken against the cattle thieves.
- xiv) The administration should always respond promptly whenever a theft is reported.

12.1 Concerns raised by the Committee Members

Members sought to know;

- i) Why the CID has not managed to make any arrests yet their intelligence network is wide and they are privy to a lot of information; and why has the problem persisted when the suspects must be known to the police.
- ii) Why the police have not acted on the information provided to them by the community.

- iii) Whether the rustling was being conducted by an organized criminal group.
- iv) If the DSIC could inform the Committee the wayward politicians who were fanning the crime.
- v) If Community policing and District Peace Committees were bearing any fruits in the fight against stock theft.

12.2 Responses by the DSIC

In response to concerns raised by the Members, the DSIC informed the Committee that;

Every time arrests are made, witnesses refuse to testify in court thus the suspects are released for lack of evidence. The people are afraid of reprisals from the suspects hence they shun adducing evidence in court. The CID has profiled names of suspects but enough evidence of criminal activity has to be gathered for prosecution to be able to put up a good case.

A well known councilor in Kitale was bailing suspects out as soon as they were presented in court. A counterpart councilor in Nyakach was working in cahoots with his counterpart in Kitale to trade in stolen livestock.

Community policing had not yielded much. The people were afraid to volunteer information to the police because they were afraid of reprisals from the suspected cattle thieves. In this case, the police could not do much to prosecute suspects due to lack of sustainable evidence. So the suspects end up being released without charges being proffered against them.

The Committee also heard that the DSIC does not have enough evidence to prosecute the councilors who are perceived to be abetting the crime of cattle theft. There was an organized cartel that engaged in the trade of stolen stock. Also, other politicians who were fuelling cattle rustling are known and should be prevailed upon to preach peace.

13.0 Meeting with local leaders and area MP at the Pap-Onditi town hall

During a meeting with the local leaders and the area MP, the Committee received oral and written submissions from the public as follows:-

1st Speaker

He informed the Committee that;

Cattle theft is no longer the traditional/cultural practice that it used to be. The practice had turned into crime with violence. The raids are planned and executed with precision. He said that the borders with the neighbouring Kalenjin Communities should be secured and security

be enhanced through creation of an ASTU and police posts manned by enough security personnel.

People should change their attitude about cattle rustling as a means to attaining the traditional rites of passage. The practice is outdated. The people of Nyakach were the main victims of cattle theft. They have lost a lot of livestock to the Kalenjin in Marakwet. Suspects are arrested and released soon. Community policing should be strengthened. All the leaders in Nyakach should work together to develop the area.

2nd Speaker

He informed the Committee that poisoned arrows are arbitrary being sold in the market. The same arrows are used to commit crime. The sale of arrows should be restricted. Also, idlers in the urban areas are engaged in planning illegal activities including cattle theft. During the post election period, many people from outside the district migrated to Nyakach. Some of these people started engaging in crime.

He further told the Committee that the occupation of the buffer zone separating the Luo and the Kalenjin communities contributed to the perpetuation and fuelling of cattle thefts. There was need to restore the buffer zone to its original boundaries.

3rd Speaker

She told the Committee that cattle rustling thrived because there was collusion between the thieves from a neighbouring district and some local collaborators.

4th Speaker

He said that cattle theft has degenerated into robbery with violence. The border control between Nyakach and Kericho west are not managed properly.

5th Speaker

He informed the Committee that the Kalenjin Community cannot be wholly blamed for the cattle thefts. They commit the crime in conjunction with some Luo collaborators. Criminals are well known by the security agents. People are afraid to give information to the police for fear of repercussions from the culprits.

6th Speaker

He made his submissions as follow;

Cattle theft is rampant within the Luo Community. Young men disguise themselves as cattle buyers but they are actually thieves. Cross border movements especially of persons with livestock should be restricted.

He also blamed the police of laxity into responding to emergency calls. ASTU is not responsive. The security officers should be transferred regularly. The Kenya Power and Lighting should ensure the crime prone areas are supplied with electricity in order to discourage criminals from stealing. The police should be ready to protect the law abiding citizens.

7th Speaker

He informed the Committee that the local community had become complacent towards cattle thieves. He would not be surprised if some of the people in the crowd were informers. The responsibility of nominating village elders should be vested on the local community not the chiefs who usually appointed their cronies. Some of the elders were abetting crime. Also Community policing had been hijacked by crooks who were also abetting crime. The area MP and the District Commissioner had really worked hard to bring to an end cattle theft.

8th Speaker

She said that women and were the biggest victims of criminal activity in the district. Scores of women had been raped. The women fraternity was contemplating on taking the criminals and their sponsors head on.

9th Speaker

He made his submission as follows;

He was a victim of shooting by cattle thieves. The Government had done very little to reduce the vice. Names of suspects have been provided to Chiefs and security agents but no arrests or prosecutions have been done. People ought to secure their homes to prevent thieves from easy access.

10th Speaker

He informed the Committee that Police could not perform duties effectively because they lacked patrol cars. The owners of two butcheries in Katito and Sondu respectively were known to be handling meat from stolen cattle yet they were still in business.

11th Speaker

The courts are compromised. They release suspects without proffering charges. Proceeds from stolen livestock are shared between the thieves, the police and the magistrates. Also the same funds are used to bail out the thieves once they are arraigned in court.

12th Speaker

There was no coordination between the security agents, administrators and the general public to contain crime in Nyakach. Some of the administrators were allegedly abetting livestock thefts. Community policing was also composed of persons of questionable character. A well

known chief was collaborating with an elder to engage in cattle theft. ASTU should have more personnel, be upgraded and KPLC provide power to the camp to make it more effective.

13th Speaker

He informed the Committee that a well known councillor was engaged in cattle theft. The Councillor would move around in funeral gatherings and tell people where cattle had been stolen and where they had been taken.

14th Speaker

He said that cattle thieves were well known and names were given to the administration agencies. A well known influential person from the Kericho was paying livestock thieves for the animals stolen. The same person was known to bail out suspects arrested. The police were lax and had not acted on information forwarded to it by the leaders. He gave out names of cattle thieves from Kericho but refused to say who their collaborators were from Nyakach. He read a letter which he claimed had been written by petitioners from Kericho over insecurity in the area. The letter was purported to have been sent to the Permanent Secretary for Provincial Administration and Internal security.

14.0 Meeting with local leaders at Dagoretti at the Dagoretti Constituency Development Fund hall

The Committee held a public hearing with the local leaders at the Dagoretti Constituency Development Fund Hall. During the meeting, the Committee received oral and written submissions as follows:

1st speaker

He informed the committee that he was a local youth leader and that Rodrick Muhoro was known to him as a local mechanic. The deceased was allegedly arrested by plain-clothed policemen from Satellite Police Station on the 14th of September but was not booked into the occurrence book.

Thereafter text messages were sent to the mobile telephones of the relatives demanding ransom in terms of money and a goat to perform some ethnic rituals. An informer later told family members that Rodrick was seen in Kinoo Police Post, where they rushed to, and searched the Occurrence Book for details, but with no success.

On 15th September, it emerged that the deceased's car was discovered in Tigon area. His body was found in the mortuary. Word went round that the deceased had been confronted by police at a local dispensary where he had gone to repair a doctor's car, and bundled into a white

Toyota station wagon, according to two patients who had witnessed the incident at the dispensary.

The anonymous person who was believed to be informing the family of the whereabouts of the deceased was found dead with six gunshot wounds. He was later identified as a clerk in the Chief's office.

Members sought to know from the witness whether he believed the Police had a role in the suspicious death and how old the deceased was.

They were informed that the Police were believed to be involved as several persons had told the family that they had seen the deceased in Police custody immediately before his death. He was about 30 years old. Furthermore the Committee heard that there was a particular officer from the Satellite Police Station who had gone round warning some youth in the area of dire consequences if they did not quit their wayward behaviour.

The witness also brought it to the attention of the Committee a similar scenario where a lady from the area had been kidnapped by assailants who send word to her family that she would only be released when her husband surrendered himself to them.

The Committee observed that most of the victims that were alleged to have met their deaths in the hands of the Police were between the ages of 24-30 years old.

2nd Speaker

The Committee heard that the witness was related to one John Kamau (deceased) and had received a telephone call on 14th September informing him that his brother was under Police custody at Kinoo. He and his mother who had similarly received the same telephone call proceeded to Kinoo.

On arrival they were told that John was not there. They proceeded to Kabete and Kikuyu stations where they were referred back to Kinoo. The following day they tried in vain to contact the number that they had received calls from but could not get through and thereafter word went round that John Kamau was dead.

Members sought clarifications on:

- the occupation of the deceased
- where the body was discovered
- what results the post mortem examinations yielded
- what the witness thought may have led to the arrest of the deceased.

The Committee was informed that the deceased was a trader selling mobile telephones in Waithaka area and that his body was found dumped at Lari area and was later taken to the mortuary, with the examination showing he died of seven gunshot wounds, as per the post mortem report. Furthermore, the witness was not aware as to why the deceased would be arrested by the police as he had not had any criminal past.

3rd Speaker

He told the members that he was a local leader in the area. The young men who had been killed were well known to him. He believed that many young people in the area had died under suspicious circumstances with the area administration not taking any interest in resolving the matters.

The Committee inquired into the character of the four persons killed in the recent past and whether they had a criminal past. They were informed that they had not been involved in criminal activity as they were just ordinary youth going about their legitimate businesses in the area. In that respect the Committee noted that if indeed they were criminals then due process of the law should have been followed to deal with them.

The Committee noted with concern the general lethargic attitude of the authorities to conclude these investigations and the apparent lack of interest or apathy to the loss of lives. Furthermore the emerging trend in the country was alarming to the Members, that people would go missing and after that there was little hope of ever finding them alive. It would emerge later that bodies had been dumped somewhere with bullet wounds.

The Committee Members noted with concern that there was lack of coordination and cooperation within the police which leads to the lack of confidence by members of the public. It was the strong feeling of the Committee that this mistrust should be bridged by the Police concluding thorough and conclusive investigations to bring those responsible to book. This would, albeit slowly, restore the confidence of the public in our police force.

15.0 Meeting with the Assistant Minister of State for Provincial Administration and Internal security, the Deputy Police Commissioner and the CID Director

During a meeting held between the Assistant Minister, the Permanent Secretary, the Deputy Police Commissioner and the CID Director and other Ministry officials, the Committee was briefed as follows;

That the CID headquarters took over investigations into the circumstances surrounding the six bodies found in Kinale and Ngubi forests, and Mai Mahiu in Lari district. The team was headed

by Mr. J. Sunkuli, SSP. The team started investigations in Kinale on 25th September 2010 and moved on to Eldama Ravine for further investigations of three more death cases. The investigations have so far revealed the following:

15.1 Report on Evans Kipchumba Keitany (deceased)

That on 14th September 2010, the deceased who was in the company of a relative, was drinking at Kongasis bar belonging to an Assistant Chief. The owner ordered his watchman to remove the deceased from the bar since he had become drunk and disorderly.

It was reported that later, the deceased was found lying along the Eldoret - Nakuru road by one Alex Kuya who informed the relatives. Police believed it was a case of hit and run. When Police went to retrieve the body, they were confronted by an angry mob. The story was that the deceased had been beaten by the chief while others alleged that he had been arrested by police from the Gatarakwa Police station. Only the intervention of the DO saved the situation and the body was taken to Moi referral hospital.

A post mortem revealed that the deceased had died of head and leg injuries associated with a motor vehicle accident. The DCIO Koibatek took over the case and opened an inquest file which was later forwarded to the Attorney General on 30th March 2010 for perusal and further advice.

15.2 Report on Brian Kiptanui Birir (deceased)

The deceased was said to have received Kshs. 3,500 by false pretences from one Danson Kipchirchir Mahungia and Gilbert Kiprop Birir. The report was made at the Gatarakwa Police Post on 15.8.2010. The complaint was that the deceased purported to have potatoes for sale.

The father of the complainant wished to settle the matter out of court. The message was conveyed to the police station. On 17.8.2010, the suspect was released. However, the deceased was later found hanging in Kipsait forest. The body was removed by the Londiani Police and taken to the Londiani District Mortuary hospital. The Post mortem results indicated the cause of death as hanging.

15.3 Report on Felix Kiptum Kibon (Deceased)

The Police indicate that he was killed by a stray bullet as two police officers on patrol in Kiptoim area tried to defend themselves from a rowdy mob. The police were on patrol in Kiptoim when they accosted some brewers of illicit drinks. One of those arrested raised an alarm which attracted youths armed with bows and arrows who allegedly attacked the officers. They shot seven rounds of ammunition into the air but one stray bullet hit the young man who died on the spot.

An inquest file was opened and two suspects charged with murder at the Eldama Ravine Law courts. However, the court found them not guilty as charged and acquitted them.

15.4 Reports on the six bodies dumped at Kinale, Ngubi and Nairobi highway – Mai Mahiu and Kijabe junction

Two bodies were discovered dumped along the Nairobi – Naivasha highway on 15.9.2010. The bodies were removed to the City Mortuary. They were identified as Joseph Kori Wanderi and Rodrick Muhoro. The former was 28 years old and hailed from Dagoretti where he was selling mobile phones before he met his death.

The post mortems conducted showed that the cause of death was due to multiple gunshot wounds.

Along the Nairobi – Mai Mahiu highway two more bodies were discovered on the same day of 15.9.2010. They were Vincent Opiyo and John Kamau Ndung'u. Their bodies were removed to the City mortuary. The post mortem results show that the two died out of multiple gunshot wounds.

Two more bodies were recovered at the Kijabe junction off the Nairobi – Mai Mahiu road. They belonged to Samuel Waguru Macharia while the other one was unidentified. The bodies were removed and taken to City mortuary. Post mortem results showed that they had died out of gunshot wounds.

Fingerprints of the six persons were taken and forwarded to the criminal records department. The results indicated that these persons did not have a previous criminal record.

15.5 Issues raised by the Committee Members

Members sought to know the following:

- i) How far investigations into Eldama Ravine deaths had gone since September 2010.
- ii) Whether Evans Kipchumba Keitany, deceased, was arrested by police prior to his death.
- iii) If the Assistant Chief indeed called the police to go and arrest the deceased Kipchumba.
- iv) Whether the deceased was bundled into a police land rover.
- v) If the CID ever contact independent investigations apart from relying on the officers on the ground.
- vi) What a police inquest file entails.

15.6 Responses by the Assistant Minister, the Deputy Police Commissioner and the CID Director

The Committee was informed that;

The Eldama Ravine cases had been processed to near conclusion. The three files of inquest had been forwarded to the Attorney General for directions. There was no record of the Assistant Chief having called the police to go and arrest the deceased Evans Keitany. The deceased was again never in police custody nor was he bundled into a land rover after he was ejected from the bar.

The Committee further heard that the CID could not conduct independent investigations since they relied on their officers on the ground who were competent enough to deal with such investigations. Inquest files had been opened for the unresolved cases in Eldama Ravine. Inquest files are usually opened when the circumstances surrounding loss of life are not clear. The file is opened on such a matter pending investigations to establish cause of death. The court decides which way an inquest goes. The court can initiate a murder trial if investigations implicate an individual or close an inquest if there is no evidence of foul play resulting to death.

16.0 Committee's observations and findings and conclusions

The Committee made the followings findings, observations and conclusions:

- (i) That there was no sufficient evidence to declare the deceased persons found dumped in Lari as having been killed extra-judiciously. Evidence adduced before the Committee pointed to Lari as having become a dumping ground for persons killed elsewhere. Other murders reported were as a result of normal thuggery.
- (ii) Kinale and Ngubi forests are favourite dumping spots for bodies by criminals due to the presence of thick forests, poor weather conditions and rough terrain (steep escarpment) which the criminals have taken advantage of.
- (iii) Adverse weather conditions around Kinale area made it difficult for police to mount effective road checks and patrols. The area is always foggy and wet and sometimes extremely cold. This has led to increased crime rate around the area.
- (iv) There was apparent reluctance by the locals to provide adequate information to the Police in the spirit of community policing. For instance, the lone gunman had terrorized the locals for long yet he was able to evade police traps, meaning he had many contacts who failed to inform the police but kept him informed of possible arrest.
- (v) It was baffling why no arrests had been made in Lari yet the security agents had received information of the suspects who had authored the leaflets warning the locals of dire consequences if they did not part with some certain amounts of cash.

- (vi) The relationship between the local residents and the Police at Gatarakwa Police post in Eldama Ravine is very frosty. The locals wish the post to be removed and two police officers who have allegedly committed various misdemeanors, be sacked and prosecuted.
- (vii) The Police at Gatarakwa post are to blame for the death of Evans Kipchumba Keitany whom they arrested outside a bar and bundled into the back of a police land rover and left him unattended as they drove off towards the police station. The young man apparently jumped off the moving land rover and sustained serious injuries which led to his death.
- (viii) The circumstances leading to Brian Kiptanui Birir's death are unclear. The young man disappeared immediately he was released from police custody, and was found dead three days later. It is not clear why he hanged himself after being released from police cells.
- (ix) That several youths have been locked up in police cells in Gatarakwa Police post without formal charges being levelled against them.
- (x) That there was a general mistrust from both sides of the divide, the police and members of the public in the areas visited by the Committee.
- (xi) There was apparent low Police morale and apathy of police officers serving in the Dagoretti district towards the cases under investigations. The police here have not played any active role in the quest to find the cause of the killings that have occurred in Dagoretti.
- (xii) The matter of drug and substance abuse in Kisauni is a very serious issue. Killing of innocent people has been going on unabated. These killings are perpetuated by organized gangs that also engage in drug trafficking and dealing.
- (xiii) Killings in Nyakach district were being perpetuated by cattle thieves. Insecurity in the district was fuelled by collaborators from the neighbouring Marakwet/Kericho districts who colluded with counterparts in Nyakach to steal cattle. Livestock owners would lose their lives during these thefts.

17.0 RECOMMENDATIONS

Arising from the evidence adduced before the Committee and both oral and written submissions, the Committee makes the following recommendations:

- 1. The Government should move with speed and release the investigations of the mysterious persons who were killed elsewhere and bodies dumped at Lari. The criminals who have perpetrated the killings should be arrested and prosecuted.**
- 2. There is no sufficient evidence from the facts gathered from the ground to conclude that the victims whose bodies were dumped in Kinale and Ngubi forests were as a result of extra judicial killings by police. Therefore the CID department should thus fast track their investigations so that those behind the killings, which appear to be normal criminal incidents, can be exposed.**
- 3. The circumstances surrounding the death of Evans Kipchumba Keitany point at Police involvement. Though it may not be termed as extra judicial execution, it is clear that the young man died due to Police negligence. The Police officers who were involved in the arrest of Kipchumba Keitany should be held accountable for negligent of duty and his subsequent death.**
- 4. The police cannot be held responsible for the death of Brian Kiptanui Birir as the circumstances leading to his death are unclear. The young man disappeared immediately he was released from Police custody, and was found dead three days later. It is not clear why he hanged himself after being released from Police cells.**
- 5. The case of Felix Kiptum Kibon was concluded by the Eldama Ravine court and the accused officers acquitted. The Committee therefore does not wish to open an inquiry into a case that the court conclusively dealt with.**
- 6. The officers at Gatarakwa Police post in Muberes, Eldama Ravine should be investigated for alleged malpractices against the local people. These allegations range from arbitrary arrests to demand and taking of bribes.**
- 7. The Government should urgently address the issue of organized crime in Kisauni where criminal gangs have taken control of the district and are killing and maiming innocent wananchi. The issue of drug and substance**

abuse in Kisauni should also be tackled alongside the one on criminal gangs. The Police should investigate the source of the drugs and arrest and charge the drug barons. The Police should mount a swoop into Magondoroni area and arrest drug dealers. It is alleged by Kisauni residents that hard drugs are sold at the Magondoroni open air market.

8. The matter of the killing of the seven taxi drivers allegedly by the Police is before the court. The judicial process should thus be expedited and the case be concluded so that those behind the killings can be brought to book and be prosecuted.
9. The Government should also move with speed and arrest the criminal gangs that are engaged in killing and terrorizing people in Nyakach as they steal their livestock. Such gangs and their masterminds are known as names have been forwarded to the security agencies in the district but no action against these criminals has been taken.

MINUTES OF THE 48TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, NOVEMBER 16TH 2010 IN THE MAIN CONFERENCE ROOM, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

The Hon. Fred Kapondi Chesebe, MP – **(Chairperson)**
The Hon. Peter Kiilu, MP – **(Vice - Chairperson)**
The Hon. Danson Mungatana, MP
The Hon. Cyprian Omollo, MP
The Hon. Maison Leshoomo, MP
The Hon. Raphael Letimalo, MP
The Hon. Mohammed Hussein Ali, MP

ABSENT

The Hon. Pollyins Ochieng', MP
The Hon. Nkoidila Ole Lankas, MP

IN ATTENDANCE – **KENYA NATIONAL ASSEMBLY**

Mr. Daniel Mutunga – Second Clerk Assistant

IN ATTENDANCE – **MINISTRY OF STATE FOR PROVINCIAL ADMINISTRATION AND INTERNAL SECURITY**

Hon. Joshua Orwa Ojode – Assistant Minister
Mr. Francis Kimemia – Permanent Secretary
Mr. Mutea Iringo – Administrative Secretary
Mr. Francis Okonya – S/DCPI Police HQs
Mr. Francis Muhoro – S/DCPI – DCI
Mr. J.K. ole Sunkuli – SSP – CID HQs
Mr. Wilberforce Kilonzo – PA to the Minister, Provincial Admin. & Internal Security

PRELIMINARY

The Chairman called the meeting to order. Prayers were said. The Chairman welcomed the Assistant Minister and the Ministry officials to the meeting. He underscored the importance of the meeting, given that the matter under reference had been referred to the Committee for further investigation. He gave a brief account of the Committee's findings after visiting Lari, Koibatek, Dagoretti, Kisauni and Nyakach districts over mysterious killings reported in each of the districts.

MIN. NO. 163/2010: MEETING WITH THE MINISTRY OF STATE FOR PROVINCIAL ADMINISTRATION AND INTERNAL SECURITY, THE DEPUTY POLICE COMMISSIONER AND THE CID DIRECTOR

During a meeting held between the Assistant Minister, the Permanent Secretary, the Deputy Police Commissioner and the CID Director and other Ministry officials, the Committee was briefed as follows;

That the CID headquarters took over investigations into the circumstances surrounding the six bodies found in Kinale Ngubi forests and Mai Mahiu in Lari district. The team was headed by Mr. J. Sunkuli, SSP. The team started investigations in Kinale on 25th September 2010 and moved on to Eldama Ravine for further investigations of three more death cases. The investigations have so far revealed the following:

Report on Evans Kipchumba Keitany (deceased)

That on 14th September 2010, the deceased who was in the company of a relative, was drinking at Kongasis bar belonging to an Assistant Chief. The owner ordered his watchman to remove the deceased from the bar since he had become drunk and disorderly.

It was reported that later, the deceased was found lying along the Eldoret - Nakuru road by one Alex Kuya who informed the relatives. Police believed it was a case of hit and run. When Police went to retrieve the body, they were confronted by an angry mob. The story was that the deceased had been beaten by the chief while others alleged that he had been arrested by police from the Gatarakwa Police station. Only the intervention of the DO saved the situation and the body was taken to Moi referral hospital.

A post mortem revealed that the deceased had died of head and leg injuries associated with a motor vehicle accident. The DCIO Koibatek took over the case and opened an inquest file which was later forwarded to the Attorney General on 30th March 2010 for perusal and further advice.

Report on Brian Kiptanui Birir (deceased)

The deceased was said to have received Kshs. 3,500 by false pretences from one Danson Kipchirchir Mahungia and Gilbert Kiprop Birir. The report was made at the Gatarakwa Police Post on 15.8.2010. The complaint was that the deceased purported to have potatoes for sale.

The father of the complainant wished to settle the matter out of court. The message was conveyed to the police station. On 17.8.2010, the suspect was released. However, the deceased was later found hanging in Kipsait forest. The body was removed by the Londiani Police and taken to the Londiani District Mortuary hospital. The Post mortem results indicated the cause of death as hanging.

Report on Felix Kiptum Kibon (deceased)

The Police indicate that he was killed by a stray bullet as two police officers on patrol in Kiptoim area tried to defend themselves from a rowdy mob. The police were on patrol in Kiptoim when they accosted some brewers of illicit drinks. One of those arrested raised an alarm which attracted youths armed with bows and arrows who allegedly attacked the officers. They shot seven rounds of ammunition into the air but one stray bullet hit the young man who died on the spot.

An inquest file was opened and two suspects charged with murder at the Eldama Ravine Law courts. However, the court found them not guilty as charged and acquitted them.

Reports on the six bodies dumped at Kinale, Ngubi and Nairobi highway – Mai Mahiu and Kijabe junction

Two bodies were discovered dumped along the Nairobi – Naivasha highway on 15.9.2010. The bodies were removed to the City Mortuary. They were identified as Joseph Kori Wanderi and Rodrick Muhoro. The former was 28 years old and hailed from Dagoretti where he was selling mobile phones before he met his death. The post mortems conducted showed that the cause of death was due to multiple gunshot wounds.

Along the Nairobi – Mai Mahiu highway two more bodies were discovered on the same day of 15.9.2010. They were Vincent Opiyo and John Kamau Ndung'u. Their bodies were removed to the City mortuary. The post mortem results show that the two died out of multiple gunshot wounds.

Two more bodies were recovered at the Kijabe junction off the Nairobi – Mai Mahiu road. They belonged to Samuel Waguru Macharia while the other one was unidentified. The bodies were removed and taken to City mortuary. Post mortem results showed that they had died out of gunshot wounds.

Fingerprints of the six persons were taken and forwarded to the criminal records department. The results indicated that these persons did not have a previous criminal record.

MIN. NO. 164/2010: ISSUES RAISED BY THE COMMITTEE MEMBERS

Members sought to know the following:

- i) How far investigations into Eldama Ravine had gone since they were started in September 2010.
- ii) Whether Evans Kipchumba Keitany, deceased, was arrested by police prior to his death.
- iii) If the Assistant Chief indeed called the police to go and arrest the deceased Kipchumba.
- iv) Whether the deceased was bundled into a police land rover.
- v) If the CID ever contact independent investigations apart from relying on the officers on the ground.
- vi) What a police inquest file entails.

**MIN. NO. 165/2010: RESPONSE BY THE ASSISTANT MINISTER, THE DEPUTY
POLICE COMMISSIONER AND THE CID DIRECTOR**

The Committee was informed that;

The Eldama Ravine cases had been processed to near conclusion. The three files of inquest had been forwarded to the Attorney General for directions. There was no record of the Assistant Chief having called the police to go and arrest the deceased Evans Keitany. The deceased was again never in police custody nor was he bundled into a land rover after he was ejected from the bar.

The Committee further heard that the CID could not conduct independent investigations since they relied on their officers on the ground who were competent enough to deal with such investigations. Inquest files had been opened for the unresolved cases in Eldama Ravine. Inquest files are usually opened when the circumstances surrounding loss of life are not clear. The file is opened on such a matter pending investigations to establish cause of death. The court decides which way an inquest goes. The court can initiate a murder trial if investigations implicate an individual or close an inquest if there is no evidence of foul play resulting to death.

MIN. NO. 166/2010 : ANY OTHER BUSINESS

There was no other business before the Committee.

MIN. NO. 167/2010 : ADJOURNEMENT

The meeting was adjourned at thirty minutes past twelve o'clock, to Wednesday 24th November, 2010 at 10 am, to consider and adopt Committee reports on visits to Lari, Koibatek, Dagoretti, Nyakach and Kisauni; JKIA, Moi International Airport, Kilindini seaport and Malindi Airport.



Signed:
Chairman..... Hon Fred Kapondi, MP..... Date..... 01/12/10.....

MINUTES OF THE 50TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY 25TH NOVEMBER, 2010 HELD IN THE RESTAURANT, 7TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

The Hon. Fred Kapondi, MP – (CHAIRPERSON)

The Hon. Cyprian Omollo, MP

The Hon. Maison Leshoomo, MP

The Hon. Danson Mungatana, MP

The Hon. Pollyins Ochieng', MP

The Hon. Mohammed Hussein Ali, MP

ABSENT WITH APOLOGIES

The Hon. Peter Kiilu, MP – (VICE - CHAIRPERSON)

ABSENT

The Hon. Nkoidila Ole Lankas, MP

The Hon. Raphael Letimalo, MP

IN ATTENDANCE

- KENYA NATIONAL ASSEMBLY

Mr. Daniel Mutunga

- Second Clerk Assistant

Mr. Ahmad Kadhi

- Third Clerk Assistant

PRELIMINARY

The Chairman called the meeting to order. After prayers, the Chairman read through the agenda of the day which was then adopted. The Chair thanked the Members for their commitment towards meetings of the Committee and encouraged them to keep up the good work.

MIN. NO. 171/2010: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

Minutes of the 46th Sitting of the Committee were proposed and seconded by the Hon. Pollyins Ochieng', MP and the Hon. Fred Kapondi, MP, respectively and thereafter confirmed as true proceedings of that Sitting.

Minutes of the 47th Sitting were proposed by the Hon. Pollyins Ochieng', MP and seconded by the Hon. Fred Kapondi, MP and signed by the Chairman.

Minutes of the 48th Sitting of the Committee were proposed by Hon. Cyprian Omollo, MP and seconded the Hon. Fred Kapondi, MP, and were confirmed as true proceedings of that meeting.

MIN. NO. 173/2010: MEETING TO CONSIDER AND ADOPT THE REPORTS ON THE FACT FINDING VISITS TO LARI, KOIBATEK, DAGORETTI, KISAUNI AND NYAKACH ; AND JKIA, MOI INT'L AIRPORT, KILINDINI SEAPORT AND MALINDI AIRPORT

Members read through the reports and resolved to submit their input in writing. The reports were thus adopted pending the submission of those changes if any.

MIN. NO. 174/2010: ANY OTHER BUSINESS

The Chairman brought to the attention of the Committee that the Ministry for East African Community had written to the Parliamentary Committees inviting at least one Member from each Committee to attend the EAC Protocol on Good Governance and the Bill of Rights from 9 – 11 December 2010 in Nairobi.

The Committee resolved to have the Hon. Pollyins Ochieng', MP to attend together with another Member to be confirmed later.

MIN. NO. 175/2010: ADJOURNMENT

The Committee adjourned its sitting to Tuesday November 30th 2010 at 10 am.

Signed:

Chairman.....Hon. Fred Kapondi, MP..... Date.....16th December, 2010.