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1st December

ELEVENTH PARLIAMENT - FOURTH SESSION - 2016

THE NATIONAL ASSEMBLY

2016^(P.M.) by Hon.
Joseph Kiurua
on behalf of the
Chairperson, Departmental

THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS

Committee on Defence
& Foreign Relations

REPORT ON THE PROTOCOL TO THE CONSTITUTIVE ACT OF THE AFRICAN
UNION RELATING TO THE PAN-AFRICAN PARLIAMENT

Directorate of Committee Services,
Clerk's Chambers,
Parliament Buildings,
NAIROBI.

JULY, 2016

ABBREVIATIONS

AU	AFRICAN UNION
ASF	AFRICAN STANDBY FORCE
APSA	AFRICAN PEACE AND SECURITY ARCHITECTURE
EAC	EAST AFRICA COMMUNITY
MOU	MEMORANDUM OF UNDERSTANDING
PAP	PAN AFRICAN PARLIAMENT
TMRA	TREATY MAKING AND RATIFICATION ACT
UN	UNITED NATIONS
NA	NATIONAL ASSEMBLY

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CHAIR'S FOREWORD

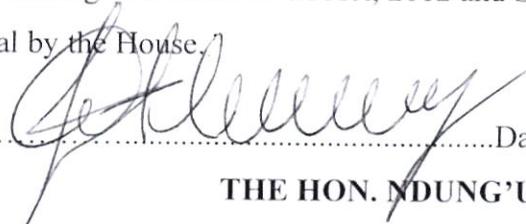
The Protocol to the Constitutive Act of the African Union regarding Pan African Parliament was adopted in Malabo on 27th June, 2014. The protocol will come to force after ratification by a simple majority by Member States (28).

On 16th April 2015 the Protocol to the constitutive Act of the African Union relating to the Pan-African Parliament was tabled in the National Assembly, pursuant to section 8 of the Treaty Making and Ratification Act, 2012.

The Protocol to the constitutive Act of the African Union relating to the Pan-African Parliament was subsequently committed to the Departmental Committee on Defence and Foreign Relations for consideration and report to the House. Once ratified, the Agreement shall become part of the Kenyan laws as provided for in Article 2(6) of the Constitution, which provides that *“any treaty or convention ratified by Kenya shall form part of the Law of Kenya under this Constitution”*.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the protocol.

On behalf of the Committee, it is therefore my pleasant duty and privilege, to lay this report on the Committee's consideration of the Protocol to the constitutive Act of the African Union relating to the Pan-African Parliament pursuant to provisions of the Treaty Making and Ratification Act, 2012 and Standing Order 199 and recommend it for approval by the House.

Signed..........Date.....30/11/2016.....

THE HON. NDUNG'U GETHENJI, M.P.

**CHAIRPERSON, DEPARTMENTAL COMMITTEE ON DEFENCE AND
FOREIGN RELATIONS.**

EXECUTIVE SUMMARY

The purpose of this report was to consider for ratification, the Protocol to the constitutive Act of the African Union relating to the Pan-African Parliament.

In considering the Protocol to the Constitutive Act of the African Union relating to the Pan-African Parliament, the Committee held several Sittings during which it received presentations from stakeholders and briefs from experts including a comprehensive brief from the Legal counsel of the National Assembly.

Pursuant to Article 118 (1)(b) of the Constitution on Public Participation and section 8(3) of the Treaty Making and Ratification Act of 2012, the Committee placed advertisements in two local dailies, requesting for submissions of memoranda on the subject matter. The Committee further engaged the Members of the Pan-African Parliament and the Ministry of Foreign Affairs for their input during the consideration of the protocol for ratification.

The report concludes that the National Assembly approves the ratification of the Agreement as it is in the interest of the people of Kenya.

Establishment and Mandate of the Committee

The Departmental Committee on Defence and Foreign Relations is established under Standing Order No. 216. Its mandate pursuant to SO 216 (5) with the following terms of reference: -

- i) *investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and Departments;*
- ii) *study the programme and policy objectives of the Ministries and Departments and the effectiveness of the implementation;*
- iii) *study and review all legislation after First Reading subject to the exemptions under Standing Order 101 A (4);*
- iv) *study and review all legislation referred to it;*
- v) *study, assess and analyse the relative success of the Ministries and Departments as measured by the results obtained as compared with its stated objectives;*
- vi) *investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as may be referred to them by the House or a Minister; and*
- vii) *make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.*

The Committee is mandated to consider the following subjects:-

- i. Defence
- ii. intelligence,
- iii. foreign relations
- iv. diplomatic and consular services,
- v. international boundaries,
- vi. international relations,
- vii. agreements,
- viii. treaties and
- ix. conventions.

Oversight

In executing its mandate, the Committee oversees the following government Ministries, departments and or agencies, namely:

- i. Ministry of Defence
- ii. Ministry of Foreign Affairs
- iii. The National Intelligence Service
- iv. The State Department for East African Community Integration.

COMMITTEE MEMBERS

8

Chairperson **The Hon. NdunguGethenji, M.P.**

Vice Chairperson **The Hon. Elias Bare Shill, M.P.**

The Hon. Adan Keynan, CBS, M.P.

The Hon. Jakoyo Midiwo, MGH, M.P.

The Hon. Katoo Ole Metito, EGH, MGH, M.P.

The Hon. Christantus Wamalwa, CBS, M.P.

The Hon. Nyiva Mwendwa, EGH, M.P.

The Hon. Gonzi Rai, MGH M.P.

The Hon. Joel Onyancha, MGH, M.P.

The Hon. Richard Onyonka, M.P.

The Hon. Wafula Wamunyinyi, M.P.

The Hon. Lekuton Joseph, OGW, M.P.

The Hon. Joseph Kiuna, M.P.

The Hon. Joseph Gitari, M.P.

The Hon. David Pkosing, M.P.

The Hon. Col (Rtd.) Ali DidoRasso, MBS, M.P.

The Hon. Beatrice Nyaga, HSC, M.P.

The Hon. John Lodepe Nakara, M.P.

The Hon. Roselinda Soipan, M.P.

The Hon. Annah N. Gathecha, M.P.

The Hon. David Wafula, M.P.

The Hon. Elisha Busienei, M.P.

The Hon. Abass S. Mohammed, M.P.

The Hon. Ibrahim Sane, M.P.

The Hon. Joyce Wanjaloh Lay, M.P.

The Hon. Dennitah Ghati, M.P.

The Hon. Elijah Memusi, M.P.

The Hon. Suleiman Murunga, MP

The Hon. Jacob Macharia, MP

COMMITTEE SECRETARIAT

Senior Clerk Assistant	Mr. Oscar Namulanda Wesonga
Clerk Assistant	Mr. Douglas Katho
Clerk Assistant	Ms. Hellen Kina
Legal Counsel	Ms. Colleta Sigilai
Research & Policy Analyst	Mr. Eugene Apaa
Fiscal Analyst	Mr. Edison Odhiambo

RECOMMENDATIONS

The Committee having considered the protocol recommends that the National Assembly approves the ratification of the Protocol to the Constitutive Act of the African Union relating to the Pan African Parliament.

1.0 INTRODUCTION

1.1 The Protocol to the constitutive Act of the African Union relating to the Pan-African Parliament

The Pan African Parliament was established pursuant to the Protocol of the Treaty establishing the African Economic Community relating to the Pan African Parliament (PAP) in order to ensure the full participation of African people in the development and economic integration of the continent. The first Parliament was inaugurated on 18 March 2004 in Addis Ababa, Ethiopia and its headquarters is in Midland, South Africa. Article 25 of the Protocol provided a review of the Protocol would take place after five years. The Protocol was reviewed and the draft Protocol was adopted by the 23rd session of the Assembly held in Malabo Guinea on 27th June 2014. The Protocol contains twenty-seven articles.

Preamble: It sets out the reasons and aspirations for which the Protocol is made which includes promotion of democratic principles and protection of human and people's rights in accordance with the African Charter on Human and Peoples Rights.

Article 1: Defines key terms as used in the Protocol.

Article 2: Provides that the Pan African Parliament established by the Protocol to the Treaty establishing the African Economic Community Relating to the Establishment of the Pan African Parliament is continued in existence and shall have the functions and powers provided for in the present Protocol. The organs of the Pan African Parliament shall be the Plenary, the Bureau, the Secretariat, Committees and regional groups.

Article 3: The objectives of the Protocol are:

- (a) give a voice to the African peoples and the Diaspora;
- (b) facilitate the effective implementation of the policies and objectives of the AU;
- (c) promote the principles of human and peoples' rights and democracy in Africa;

(d) encourage good governance, respect for the rule of law, transparency and accountability in Member States among others.

Article 4: Provides that each State Party shall be represented in the Pan African Parliament by an equal number of parliamentarians. The membership of the Pan African Parliament shall be from outside National Parliaments and shall comprise five (5) members elected by each State Party.

Article 5: Provides that the National Parliament or other deliberative body shall elect from outside its membership, five (5) members of the Pan African Parliament. Further, the representation of each State Party must reflect the diversity of political opinions in each National Parliament or other deliberative body taking into account the number of members from each political party represented in the national Parliament.

Article 6: Stipulates the tenure of office of a Member shall be five (5) years. He or she shall be eligible for re-election for one (1) further term only.

Article 7: Provides the manner of voting in PAP.

Article 8: Outlines the functions of PAP.

Article 9: Provides for the privileges and immunities of Pan African Parliamentarians.

Article 10: Provides that their respective State Parties shall pay the Pan-African Parliamentarians allowances.

Article 11: Provides that the Parliament may adopt and amend its own Rules of Procedure including the procedures for giving effect to its mandate, by a two-thirds majority of all its members.

Article 12: Establishes the Bureau shall, in line with the relevant AU rules and regulations, be responsible for the development of policies for the management and administration of the affairs and property of the Pan African Parliament, which shall be submitted to the Plenary for approval.

Article 13: Establishes the office of the Secretary General

Article 14: Provides that at its sitting following the election and before transacting any other business, the Parliamentarians shall take an Oath or make a Solemn Declaration.

Article 15: Provides that the Pan African Parliament shall meet in ordinary session at least twice a year, within a period to be determined in the Rules of Procedure.

Article 16: The annual budget of the Pan African Parliament shall constitute an integral part of the regular budget of the AU.

Article 16: The annual budget of the Pan African Parliament shall constitute an integral part of the regular budget of the AU

Article 17: Provides that the seat of PAP shall be South Africa.

Article 18: Provides that the official and working languages of the Pan African Parliament shall be those of the AU.

Articles 19-20: Outlines the relationship between PAP and other deliberative bodies.

Article 21: Deals with settlement of disputes between Member States.

Articles 22: Makes provision for signing and ratification by Member States.

Article 23: Stipulates that the Protocol shall enter into force thirty days upon deposit of instruments of ratification by a simple majority of Member States.

Article 24: Makes provision for the accession of the Protocol.

Article 25: Makes provision for the amendment of the Protocol.

Article 26: Makes provision for review of the Protocol.

Article 27: Is the transitional provision and provides that the present Protocol shall upon entry into force replace the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan African Parliament.

2.0 SUBMISSIONS FROM THE MINISTRY OF FOREIGN AFFAIRS

The Cabinet Secretary for the Ministry of Foreign Affairs and International Trade while appearing before the Departmental Committee on Defence and Foreign Relations made the following presentation, that:-

The Protocol to the Constitutive Act of the African Union regarding Pan African Parliament was adopted in Malabo on 27th June 2014. The protocol will come to force after ratification by a simple majority by Member States (28). The issues contained in the Malabo protocol are: -

- a) Reviewing functions of membership and settlement of disputes for PAP
- b) Bestowed legislative powers to PAP
- c) Each Member State to be represented to PAP by 5 members of whom 2 are women
- d) Persons who are members of National Assembly or other deliberative body of a Member State can be elected, through an electoral college of National Parliament, as members to PAP but shall resign from National Parliament
- e) National Parliament shall determine the procedure for election to PAP
- f) Dispute arising from election of a member shall be determined by the national institution responsible for determining electoral disputes
- g) Allowances and remunerations shall be paid by respective Member State
- h) The National Assembly adopted a report of the 5th Ordinary Session of the Pan-African Parliament held in South Africa in October 2014.
- i) The Clerk of the National Assembly (NA) issued a Certificate approving the report and the Protocol on 22nd April 2015.
- j) The Ministry, in conjunction with Attorney General's office has prepared a Memorandum seeking Cabinet approval to ratify the Protocol and is awaiting Attorney General's (AG) signature.
- k) In ratifying the Protocol, it will not be necessary to amend any of our laws, as the Protocol captures the spirit of the reforms being undertaken, e.g. the two-third gender rule
- l) To-date, no Member State has ratified the Protocol.

3.0 SUBMISSIONS FROM THE PAN-AFRICAN MEMBERS OF PARLIAMENT

The Committee met with members of Pan African members of Parliament and made the following presentation: -

- That the protocol provides that each State Party shall be represented in the Pan African Parliament by an equal number of parliamentarians. The membership of the Pan African Parliament shall be from outside National Parliaments and shall comprise five (5) members elected by each State Party.
- That the protocol Provides that the National Parliament or other deliberative body shall elect from outside its membership, five (5) members of the Pan African Parliament. Further, the representation of each State Party must reflect the diversity of political opinions in each National Parliament or other deliberative body taking into account the number of members from each political party represented in the national Parliament.
- That Sitting members of Parliament shall not be members of the Pan African parliament.
- Members were in agreement that the protocol is necessary for the country and that the country needs to ratify it with speed.
- Members further suggested that the members of the National Assembly led by the Hon. Rachael Shebesh, MP should make further presentation if need be together with members of the Pan African Parliament.

4.0 COMMITTEE OBSERVATIONS

The Committee made the following observations during its consideration of the protocol: -

- a) Each Member State to be represented at the Pan-African Parliament by five (5) members, two (2) of whom are women;
- b) Persons who are members of National Assembly or other deliberative body of a Member State can be elected, through an electoral college of National Parliament, as members to PAP but shall resign from National Parliament;
- c) National Parliament shall determine the procedure for election to PAP;
- d) Dispute arising from election of a member shall be determined by the national institution responsible for determining electoral disputes;
- e) Allowances and remunerations shall be paid by respective Member State;
- f) The National Assembly adopted a report of the 5th Ordinary Session of the Pan-African Parliament held in South Africa in October 2014.
- g) The Clerk of the NA issued a Certificate approving the report and the Protocol on 22nd April 2015.
- h) The Ministry of Foreign Affairs, in conjunction with Attorney General's office has prepared a Memorandum seeking Cabinet approval to ratify the Protocol and is awaiting AG's signature.
- i) In ratifying the Protocol, it will not be necessary to amend any of our laws, as the Protocol captures the spirit of the reforms being undertaken, e.g. the two-third gender rule.

5.0 RECOMMENDATIONS OF THE COMMITTEE

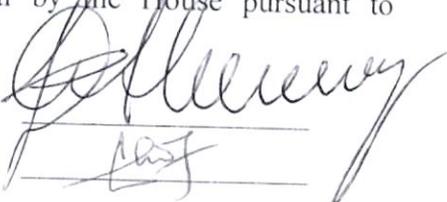
The Committee having considered the protocol recommends that the National Assembly approves to approve the ratification of the Protocol to the Constitutive Act of the African Union relating to the Pan African Parliament.

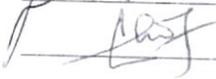
Adoption of the Report

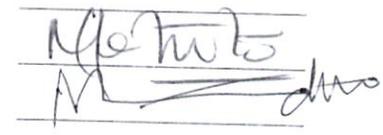
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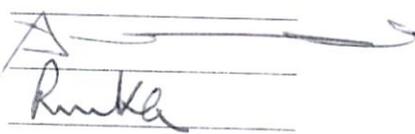
The members of the Departmental Committee on Defence and Foreign Relations have today 16/08/2016 (Day and date) adopted this Report on the Ratification of the ratification of the protocol to the constitutive act of the African Union relating to the pan-African parliament for consideration and approval by the House pursuant to Standing Order 199.

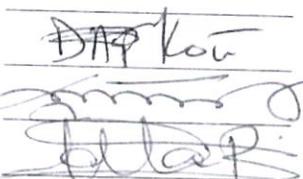
1. The Hon. Ndung'u Gethengi, M.P. – **Chairperson**
2. The Hon. Elias Bare Shill, M.P. – **Vice Chairperson**
3. The Hon. Adan Keynan, CBS, M.P.
4. The Hon. Katoo Ole Metito, EGH, MGH, M.P
5. The Hon. Jakoyo Midiwo, MGH, M.P.
6. The Hon. Christantus Wamalwa, CBS, M.P
7. The Hon. Nyiva Mwendwa, EGH, M.P.
8. The Hon. Gonzi Rai, MGH M.P.
9. The Hon. Wafula Wamunyinyi, M.P
10. The Hon. Lekuton Joseph, M.P.
11. The Hon. Joel Onyancha, MGH, M.P.
12. The Hon. Richard Onyonka, M.P.
13. The Hon. Joseph Kiuna, M.P.
14. The Hon. Joseph Gitari, M.P.
15. The Hon. David Pkosing, M.P.
16. The Hon. Col (Rtd.) Ali Dido Rasso, MBS, M.P.
17. The Hon. Beatrice Nyaga, HSC, M.P.
18. The Hon. John Lodepe Nakara, M.P.
19. The Hon. Roselinda Soipan, M.P.
20. The Hon. Annah N. Gathecha, M.P.
21. The Hon. David Wafula, M.P.
22. The Hon. Elisha Busienei, M.P.
23. The Hon. Abass S. Mohammed, M.P.
24. The Hon. Ibrahim Sane, M.P.



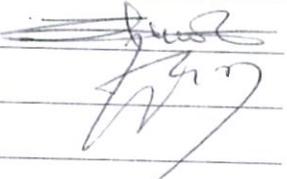






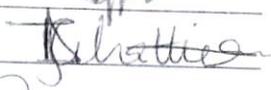






25. The Hon. Joyce Wanjalah Lay, M.P.
26. The Hon. Dennitah Ghati, M.P.
27. The Hon. Memusi Kanchory, MP
28. The Hon. Suleiman Murunga, M.P.
29. The Hon. Jacob W. Macharia







MINUTES OF THE 40TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS HELD ON THURSDAY 28TH JULY 2016 MEDIA CENTER MAIN PARLIAMENT BUILDINGS AT 10.30AM.

- PRESENT

1. Hon. Ndungu Gethenji, M.P- Chairperson
2. Hon. Katoo Ole Metito, EGH, MDH, M.P
3. Hon. Jakoyo Midiwo, MGH, M.P
4. Hon. Christantus Wamalwa, CBS, M.P
5. Hon. Wafula Wamunyinyi, M.P
6. Hon. Lekuton Joseph, M.P
7. Hon. Joseph Kiuna, M.P
8. Hon. Col (Rtd.) Ali Dido Rasso, MBS, M.P
9. Hon. John Lodepe Nakara, M.P
10. Hon. David Wafula, M.P
11. Hon. Abbas S. Mohammed, M.P
12. Hon. Joyce Wanjalah Lay, M.P
13. Hon. Memusi Kanchory, M.P
14. Hon. Jacob Macharia, M.P
15. Hon. Richard Onyonka, M.P
16. Hon. Roselinda Soipan, M.P
17. Hon. Ibrahim Sane, M.P
18. Hon. Dennitah Ghati, M.P
19. Hon. Suleiman Murunga, M.P

ABSENT

1. Hon. Elias Bare Shill, M.P- Vice Chairperson
2. Hon. Adan Keynan, CBS M.P
3. Hon. Beatrice Nyaga, HSC, M.P.
4. Hon. Annah N. Gathecha, M.P
5. Hon. Elisha Busienei, M.P
6. Hon. Jacob Macharia, M.P
7. Hon. Joseph Gitari, M.P
8. Hon. Nyiva Mwendwa, EGH, M.P
9. Hon. Joel Onyanacha, MGH, M.P
10. Hon. David Pkosing, M.P

IN ATTENDANCE

1. Mr. Douglas Katho
2. Ms. Hellen Kina
3. Mr. Eugene Apaa
4. Ms. Atuza David

NATIONAL ASSEMBLY

- | | |
|---|----------------------|
| - | Clerk Assistant III |
| - | Clerk Assistant II |
| - | Research Officer |
| - | Parliamentary Intern |

MIN NO. 691/2016: PRELIMINARIES

The Chairperson Hon. Ndungu Gethenji, MP called the meeting to order at ten thirty o'clock in the morning and thereafter the Hon Lekuton Joseph said the prayers.

The agenda items were proposed by Hon. Christantus Wamalwa and seconded by Hon. Jakoyo Midiwo.

The agenda items:

- I. Prayers
- II. Petitions and Pan African Protocol bill
 1. Petition regarding designation of a recruitment center in Navakholo Sub County by the ministry of defence.
 2. Petition presented by Hon. Lati Lelelit, MP on behalf of Murramur residents on alleged compulsory acquisition of land by the Ministry of Defence.
 3. Pan African Protocol Bill
- III. AOB

MIN NO 692/2016: PETITION REGARDING DESIGNATION OF A RECRUITMENT CENTRE IN NAVAKHOLO SUB COUNTY BY THE MINISTRY OF DEFENCE

The petition was presented to the committee by Hon. Emmanuel Wangwe M.P for Navakholo Constituency.

The contexts of the petition were as follows:

- i. **THAT**, Navakholo Sub County became into existence as a district vide Kenya Gazette Notice No. 1779 dated 17th February, 2011. The said Sub-County is headed by a Deputy County Commissioner, with a police Division, Education Office, fully fledged Agricultural Office among all other national administrations offices;
- ii. **THAT**, the said Sub County has three Divisions, namely Bunyala West Division, Navakholo Division and Butso North and six locations, yet regrettably the Sub County does not host a recruitment center for the Kenya Defence Forces;
- iii. **THAT**, the current center recruitment center at Bukhungu stadium in Lurambi Sub-County hence forcing recruits to travel long distance to participate in any recruitment exercise;
- iv. **THAT**, the sub county is made up of two major sub tribes and if the recruitment by the Kenya Defence Forces continues to take place at the current location, the community will be disenfranchised and hence causing disunity among the community;
- v. **THAT**, the sub county with a population of 137092 people as per the 2009 population census did not produce any recruit to the Kenya Defence Forces In two consecutive recruitment exercise in 2014 and 2015;
- vi. **THAT**, efforts to have recruitment Centre set up in Navakholo Sub County by the Ministry of Defence has not borne fruit yet;
- vii. **THAT**, the issue in respect of which this petition is made are not pending before any Court of Law, Constitutional or statutory body.

THEREFORE the petitioner recommends that the Cabinet Secretary for Defence sets up a recruitment center in Navakholo Sub County for the purpose of recruiting officers to the Kenya Defence Forces to ensure that youth from the Sub County gets a chance to serve in the Kenya Defence Forces.

The petitioner further explained that he had started pushing for a recruitment center in Navakholo. He further stated that the DCC had written a letter in 2013 requesting for the same but nothing has been done.

MIN NO 694/2016: HONOURABLE MEMBERS OPINIONS ON DESIGNATION OF A RECRUITMENT CENTRE IN NAVAKHOLO SUB COUNTY BY THE MINISTRY OF DEFENCE

The honorable members fully supported the petition as it is in order. They acknowledge that petition is not only about representation but also touched on equity and employment of the people of Navakholo.

The members were also in agreement that the major challenge facing KDF recruitment is profiling of communities especially in cosmopolitan areas.

Members also wanted a clarification from the KDF, as to whether every constituency is a recruitment center as per regulation of KDF. This is because the Honorable member representing the constituency is coming from the assumption that every sub county must be recruitment center.

Members also said that it will be essential to streamline the KDF bill with the National Government and Coordination Act.

Looking at the prayers of the petitioner, the committee members opted to invite the Ministry of Defence to come and engage the committee over the matter affecting Navakholo constituency. The meeting is scheduled for Thursday 4TH of August.

Hon. Emmanuel Wangwe M.P is invited to for the meeting as a friend of the committee.

MIN NO 695/2016: PETITION PRESENTED BY HON. LATI LELELIT, MP ON BEHALF OF MURRAMUR RESIDENTS ON ALLEGED COMPULSARY ACQUISITION OF LAND BY THE MINISTRY OF DEFENCE

The petition was presented to the committee by Hon. Leti Lelelit M.P for Samburu West constituency. The contents of the petition were as follows:

- i. **THAT**, two parcels of land measuring 2,345 and 1,956 acres respectively in the Murramur area were set apart for army use in 1976 by Commissioner of Lands;
- ii. **THAT**, the said parcels were allocated to the Ministry of Defence through a Gazette Notice No. 3210 of 11 November 1977;
- iii. **THAT**, For over thirty years, more than one hundred thousand people permanently reside in Murramur community land, even having three secondary and several primary schools existing;
- iv. **THAT**, on 19th March, 2016 at a meeting between the President and Maa Parliamentary group, the Cabinet Secretary for Interior and Coordination of National Government informed the meeting that he headed the Army Unit that occupied Murramur land was only for temporary training;
- v. **THAT**, out of goodwill, the Samburu County Council allocated 400 hectares in Baragoi, Samburu in 2012 for use by the army, in place of the Murramur land which was already occupied;
- vi. **THAT**, the Murramur Community was never consulted when their land was given to the Ministry of

Defence as a training ground for the Army;

vii. **THAT**, despite efforts to resolve the tussle between the Murrumur community and the Ministry of Defence, no solution has been found;

viii. **THAT**, the issues I respect of which this petition is made are not pending before any Court of Law, or before any Constitutional or statutory body

THEREFORE the petitioner prays that the National Assembly through the Departmental Committees on Lands and Defence and Foreign Relations respectively:

- I. Investigate the issue and recommend that the Cabinet Secretary for Defence reverts ownership of Murrumur land back to the local community; and
- II. Makes any other order and/ or direction that it deems fit in the circumstances of the matter for the welfare of the residents of Murrumur.

The petitioner explained further that people were settled there even before that army acquired the land.

The land was given to the military in good faith, but now the community has seen the value of the land. The community seeks reversion of their land because the military no longer uses it and the community is developing.

The Ministry of defence has been reluctant to de gazette the land citing that encroachment and trespass cannot be enough reason.

MIN NO 696/2016: CONSIDERATION OF THE PETITION PRESENTED BY HON. LATI LELELIT, MP ON BEHALF OF MURRAMUR RESIDENTS ON ALLEGED COMPULSORY ACQUISITION OF LAND BY THE MINISTRY OF DEFENCE

Members advised the petitioner to make their presentations to both the Ministry of Lands as land is also a key aspect of the petition presented.

The members also agreed that petition is properly put in the committee of Defence and Foreign Relation because it is grabbed land that is being used by the KDF. Therefore the committee needs clarity from the military to address the issue.

1. If the military is making good use of the land,
2. If because of increasing population and development the military is not able to go on with training,

The members were in agreement that if KDF does not need the land then it should be reverted to the community

Looking at the prayers of the petitioner the committee members opted to invite the Ministry of Defence to come and engage the committee over the matter affecting Murrumur constituency. The meeting is scheduled for Thursday 4TH of August.

Hon. Lati Lelelit M.P is invited for the meeting as a friend of the committee.

MIN NO 697/2016: REPORT ON THE PROTOCOL TO THE CONSTITUTIVE ACT OF THE AFRICAN UNION RELATING TO THE PAN AFRICAN PARLIAMENT

The Hon. Rachael Shebesh, MP who is also a member of the Pan African Parliament appeared before the committee and made the following submissions regarding the Constitutive act of the Pan African Parliament protocol:

- That the protocol provides that each State Party shall be represented in the Pan African Parliament by an equal number of parliamentarians. The membership of the Pan African Parliament shall be drawn from outside National Parliaments and shall comprise five (5) members elected by each State Party.
- That the protocol Provides that the National Parliament or other deliberative body shall elect from outside its membership, five (5) members of the Pan African Parliament. Further, the representation of each State Party must reflect the diversity of political opinions in each National Parliament or other deliberative body taking into account the number of members from each political party represented in the national Parliament.
- That Sitting members of Parliament shall not be members of the Pan African parliament.
- Members were in agreement that the protocol is necessary for the country and that the country needs to ratify it with speed.
- Members also suggested that the members of the National Assembly led by the Hon. Rachael Shebesh should make further presentation if need be together with members of the Pan African Parliament.

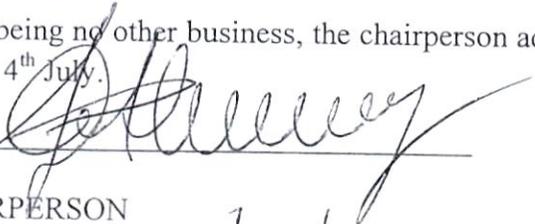
MIN NO 698/2016: ADJOURNMENT

There being no other business, the chairperson adjourned the sitting at 1.00 pm. The next meeting will be on Thursday 4th July.

SIGN

CHAIRPERSON

DATE


30/11/2016

**MINUTES OF THE 47TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
DEFENCE AND FOREIGN RELATIONS HELD ON TUESDAY, 16TH AUGUST 2016
COMMITTEE ROOM 12 MAIN PARLIAMENT BUILDINGS AT 10.30AM.**

PRESENT

1. Hon. Elias Bare Shill, M.P - Vice Chairperson
2. Hon. Katoo Ole Metito, EGH, MGH, M.P
3. Hon. Christantus Wamalwa, CBS, M.P
4. Hon. Nyiva Mwendwa, EGH, M.P
5. Hon. Col (Rtd.) Ali Dido Rasso, MBS, M.P
6. Hon. Beatrice Nyaga, HSC, M.P.
7. Hon. Joseph Kiuna, M.P
8. Hon. David Wafula, M.P
9. Hon. Abbas S. Mohammed, M.P
10. Hon. Joyce Wanjalah Lay, M.P
11. Hon. Memusi Kanchory, M.P
12. Hon. Suleiman Murunga, M.P
13. Hon. Lekuton Joseph, M.P
14. Hon. Joseph Gitari, M.P
15. Hon. David Pkosing, M.P
16. Hon. John Lodepe Nakara, M.P
17. Hon. Annah N. Gathecha, M.P

ABSENT

1. Hon. Ndungu Gethenji, M.P - Chairperson
2. Hon. Jakoyo Midiwo, MGH, M.P
3. Hon. Adan Keynan, CBS M.P
4. Hon. Joel Onyancha, MGH, M.P
5. Hon. Wafula Wamunyinyi, M.P
6. Hon. Richard Onyonka, M.P
7. Hon. Ibrahim Sane, M.P
8. Hon. Gonzi Rai, MGH .M.P
9. Hon. Elisha Busienei, M.P
10. Hon. Jacob Macharia, M.P
11. Hon. Roselinda Soipan, M.P
12. Hon. Dennitah Ghati, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Douglas Katho - Clerk Assistant III
2. Ms. Colleta Silagai - Legal Counsel

3. Ms. Atuza David - Parliamentary Intern
4. Ms. Shillah Amina - Parliamentary Intern

MIN NO. 717/2016: PRELIMINARIES

The Vice Chairperson Hon. Bare Shill, MP called the meeting to order at Eleven o'clock and thereafter the Hon. Ali Dido Rasso, M.P said the prayers.

The agenda items were proposed and adopted as listed on the notice after being proposed and seconded by Hon. Dido Rasso, MP and Hon Nyiva Mwendwa, MP respectively.

MIN NO 718/2016: THE INTERNATIONAL CRIMES (REPEAL) BILL, 2016

The Hon. Dido Rasso, MP informed the meeting that the Committee had held a workshop to consider the International Crimes(Repeal) Bill, 2015 with key facilitators from the academia, the Law Society of Kenya - LSK, the State Law Office - SLO, the Kenya Law Reform Commission - KLRC, the Ministry of Interior and the Ministry of Foreign Affairs.

The Committee observed that the intent of repealing the International Crimes Act of 2008 was not in order since Kenya had no capacity to try serious crimes against humanity. That Parliament should make a decision to develop mechanism to try such cases locally and to strengthen institutions that will result in a self-cleansing system.

The meeting was in agreement that it would not be possible to repeal the law since that would not automatically withdraw Kenya from the Rome Statutes. That withdrawal from the Rome statues is the responsibility of the executive and that Kenya is much safe by being a signatory to the treaty that created the Rome statutes.

The Committee resolved to meet with the mover of the Bill before considering its report for tabling.

MIN NO 719/2016: DELIBERATIONS REGARDING THE FOLLOWING PETITIONS BEFORE THE COMMITTEE:-

- a. Petition regarding designation of a recruitment Centre in Navakholo Sub County by the Ministry of Defence.
- b. Petition presented by Hon. Lati Lelelit, MP on behalf of Murramur residents on alleged compulsory acquisition of land by the Ministry of Defence.

The Committee was concerned by the absence of the Cabinet Secretaries for Defence and the Cabinet Secretary for Lands to appear before the Committee to respond to the petitions referred to the Committee.

Remember that paragraph suggests that the both CSes had been invited and failed to turn up which is not the case. This would mean we are fixing ourselves before the Committee.

The Committee resolved to have both the C.S. attend the Committee Sittings on the 23rd Tuesday to respond to the Petitions.

The committee further resolved to visit the land of Murramur on the 26th August, 2016.

MIN NO 720 /2016: CONSIDERATION OF PENDING BUSINESS BEFORE THE COMMITTEE:

a. the report on Somalia and international Boundaries.

The Committee considered the report on Somalia and International Boundaries and noted that most of the recommendations are already being implemented by the executive. The Committee therefore resolved to have the report prepared for tabling.

b. the report on the ratification of the protocol on the Pan African Parliament.

The Committee resolved that since other Members of the Pan African Parliament were unable to appear to reaffirm the submissions made by the Hon. Rachael Shebesh on Thursday, 28th July 2016, the report on the ratification of the protocol to the Constitutive Act of the African Union relating to the Pan African Parliament be unanimously adopted.

c. Treaty: Marrakesh treaty to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled.

The Hon Dido Rasso, MP briefed the Committee on the outcome of the workshop consideration of the report on the ratification of the Marrakesh treaty to facilitate access to published works by the visually impaired.

The Committee was informed that the workshop sought views from the academia, the Law Society of Kenya, the State Law Office and the Copyright Board of Kenya. Arising from the views gathered the Committee considered and unanimously adopted the report on the ratification of the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled.

MIN NO 721 /2016: ANY OTHER BUSINESS

The Vice Chairman informed the Committee that Ministry of Defence and the Ministry of Foreign Affairs would be sponsoring four Members and five Members respectively to the United Nations General Assembly - UNGA at different stages of the Assembly. He further informed the meeting that the Committee would make a request to the Clerk of the National Assembly to sponsor six other Members to attend the UNGA, 2016.

The Members resolved that priority be accorded to those who have not attended any UNGA meeting and also taking into consideration attendance and commitment to Committee activities.

The Following Members were nominated for consideration for the UNGA, 2016: -

1. Hon. Elias Bare Shill, M.P- Vice Chairperson
2. Hon. Ndungu Gethenji, M.P- Chairperson
3. Hon. Christantus Wamalwa, CBS, M.P
4. Hon. Nyiva Mwendwa, EGH, M.P

5. Hon. Joel Onyancha, MGH, M.P
6. Hon. Gonzi Rai, MGH .M.P
7. Hon. Beatrice Nyaga, HSC, M.P.
8. Hon. David Wafula, M.P
9. Hon. Abbas S. Mohammed, M.P
10. Hon. Joyce Wanjalah Lay, M.P
11. Hon. Memusi Kanchory, M.P
12. Hon. Suleiman Murunga, M.P
13. Hon. Lekuton Joseph, M.P
14. Hon. David Pkosing, M.P
15. Hon. Annah N. Gathecha, M.P
16. Hon. Richard Onyonka, M.P
17. Hon. Roselinda Soipan, M.P

MIN NO 722/2016: ADJOURNMENT / DATE OF THE NEXT SITTING

There being no other business, the Vice Chairperson adjourned the sitting at 1.00 pm. The next meeting would be held on Thursday 18th August, 2016

SIGN _____

CHAIRPERSON

DATE _____

30/11/2016