

Approved for tabling.

Bat  
SNA  
22/10/15

Paper laid by  
Hon. David Crikaria, MP  
(on behalf of the  
Chairperson) under  
Order No. 05 at  
1500 hrs on 22-10-15  
IBM



REPUBLIC OF KENYA



NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION – 2015

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DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

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REPORT ON THE PETITION BY HON. DR. SUSAN MUSYOKA, MP ON BEHALF OF MR. RAPHAEL M. KITIVI, A FORMER POLICE OFFICER ON REINSTATEMENT AND PAYMENT OF HIS DUES

DIRECTORATE OF COMMITTEE SERVICES,  
CLERK'S CHAMBERS,  
PARLIAMENT BUILDINGS,  
NAIROBI

OCTOBER, 2015

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## 1.0 PREFACE

On behalf of the Departmental Committee on Administration and National Security and pursuant to the provisions of Standing Order No. 227(2), it is my pleasant privilege and honour to present to the House the Report of the Committee on the Petition by Hon. Dr. Susan Musyoka, MP, on behalf of Mr. Raphael M. Kitivi, a former Administration Police officer seeking reinstatement and payment of his dues.

The petition was tabled before the House pursuant to Standing Order No. 225(2) (a) by the Hon. Dr. Susan Musyoka, MP, on behalf of Mr. Raphael M. Kitivi Tuesday 17<sup>th</sup> March, 2015.

### 1.1 Mandate of the Committee

The Committee is established pursuant to the provisions of Standing Order No. 216 with the following terms of reference:-

- (i) study and review all legislation referred to it;*
- (ii) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- (iii) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- (iv) to study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
- (v) to study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- (vi) to 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;*

The Committee under Standing Order No. 227 is mandated to consider petitions committed to it by the House.

### 1.2 Committee Membership

The Committee comprise of the following Members:-

1. The Hon. Asman Kamama, MGH, OGW, MP - **Chairperson**
2. The Hon. Alois M. Lentoimaga, MP - **Vice Chairperson**
3. The Hon. Ababu Namwamba, EGH, MP

4. The Hon. Joseph Lekuton, MP
5. The Hon. Alice Wahome, MP
6. The Hon. Zakayo K. Cheruiyot, MP
7. The Hon. Timothy W. Wetangula, MP
8. The Hon. Patrick Ole Ntutu, MP
9. The Hon. Ali IsaackShaaban, MP
10. The Hon. Samuel Moroto, MP
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23. The Hon. Joseph M. Kahangara, MP
24. The Hon. Ahmed Abdikadir Ore, MP
25. The Hon. Grace Kiptui, MP
26. The Hon. George Theuri, MP
27. The Hon. James Bett, MP
28. The Hon. BenardShinali, MP

### **1.3 Committal and Consideration of the Petition**

Pursuant to Standing Order 227(1), the petition was referred to the Departmental Committee on Administration and National Security for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227 (1) and (2).

The Committee proceeded with the consideration of the petition by holding meetings to set up the terms of reference and scheduling of meetings.

In considering the petition, the Committee held one meeting and wrote to the Ministry of Interior and Coordination of National Government to obtain a response to the issues raised by the petitioner.

## 1.4 Committee Observations

Having held meetings and considered the submissions presented on the petition, the Committee observed that:-

1. The petitioner was charged on account of deserting duties for a period of 16 days (6th- 21st January 1985) and was fined Kshs. 300 and was served with a warning letter. The correspondence attached to the petition further indicates that a letter (Ref. No. SGB/022/VOL.1/37) dated 23rd February 1985 to trace the whereabouts of the Petitioner was written to his home district but the officer did not show up.
2. Under section 20 of the Administration Police Act (Cap. 85), which is now repealed, the petitioner, if found liable, would have been punished in several of ways listed, including a fine not exceeding the equivalent of fourteen days pay or dismissal from the Force (as it was referred to back then), or by combination of such punishments. It should be noted too, that any sentence of dismissal from the Force awarded by a District Commissioner should have been subject to confirmation by a Provincial Commissioner.
3. It would appear from the correspondence of S.M. Arachi, Commandant in the Security of Government Buildings Unit, that the officer was punished for desertion but was not issued with dismissal letter. Also, the correspondence reveals that the officer did not report to duty after being fined and served with a warning letter more than 30 years ago. The Petition discloses that the officer pursued the matter on 7th July, 2008 vide a letter written by the Public Complaints Standing Committee, 23 years after the alleged termination of employment.
4. The petitioner failed to clearly demonstrate his suitability for permanent appointment during his temporary service, in accordance to the Civil Service Code of Regulation, and thus he was not confirmed in appointment thereto. He lodged an appeal for his reinstatement twenty four years later, alleging that he was suffering from acute depression and seeking traditional treatment hence no medical record for the same.
5. The Petitioner had delayed in asserting his right for close to twenty four years. Similarly, he deserted duties for 16 days and did not show up at his work station ever since. The question therefore is whether he is coming to Parliament with clean hands.

## 1.5 Response to the prayers in the petition

The petitioner had prayed that the National Assembly through the Departmental Committee on Administration and National Security:-

- (i) Ensures that the petitioner's plight is addressed; and
- (ii) Makes any other order and/or direction that it deems fit in the circumstances of the case.

**In response to the prayers by the petitioner, the Committee recommends that; -**

Since the Petitioner had not lodged an appeal for his reinstatement within 6 years of the alleged dismissal. The prayer sought was time barred. Also the petitioner does not qualify for payment of any dues from the service as he was never confirmed in his appointment.

## 1.6 Adoption of the Report

We Members of the Departmental Committee on Administration and National Security have pursuant to Standing Order 199 adopted this report on the Petition by Hon. Dr. Susan Musyoka, MP, on behalf of Mr. Raphael M. Kitivi, a former Administration Police officer seeking reinstatement and payment of his dues and affix our signatures to confirm our approval and confirm its accuracy, validity and authenticity today 15 October, 2015 as per the attached adoption list (Appendix I).

1. The Hon. Alois M. Lentoimaga, MP- **Vice Chairperson**
2. The Hon. Ababu Namwamba, EGH, MP
3. The Hon. Alice Wahome, MP
4. The Hon. Samuel Moroto, MP
5. The Hon. Humphrey Njuguna, MP
6. The Hon. Francis K. Mwangangi, MP
7. The Hon. Rashid J. Bedzimba, MP
8. The Hon. Mohamed Shidiye, MP
9. The Hon. Joseph O. Ndiege, MP
10. The Hon. (Maj. Rtd.) John K. Waluke, MP
11. The Hon. Wanjiku Muhia, MP
12. The Hon. Ahmed Abdikadir Ore, MP
13. The Hon. Grace Kiptui, MP
14. The Hon. George Theuri, MP
15. The Hon. James Bett, MP

## 1.7 Acknowledgement

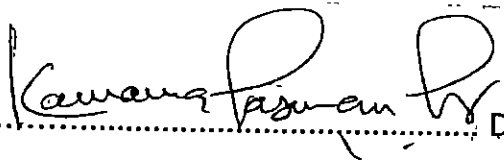
The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

The Committee wishes to record its appreciation for the services rendered by the officers attached to this Committee. Their efforts made the work of the Committee and the production of this Report possible.

I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work, which enabled the Committee to complete the tasks within the stipulated period.

The Committee is also grateful to all the witnesses/ general public who made submissions and presentations before the Committee during the meetings. Their contributions gave the Committee the much needed insights into the issues raised in the petition and possible solutions.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Administration and National Security to present this report to the House pursuant to the provisions of Standing Order 227(2).

Signed,  Date 21/10/2015

**Hon. Asman Kamama, MGH, OGW, MP**  
**Chairman, Departmental Committee on Administration and National Security**

## 2.0 BACKGROUND INFORMATION

2.1 Article 37 and 119 of the Constitution provide that any person has the right to petition Parliament to consider any matter within its authority as contemplated in Articles 94 and 95 of the Constitution, including enactment, amending or repealing any legislation. Standing Order 227(2) provides that, *“whenever a petition is committed to the a Departmental Committee, the Committee shall, in not more than sixty calendar days from the time of reading of the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the House...”*

2.2 The Petition by Hon. Dr. Susan Musyoka, MP, on behalf of Mr. Raphael M. Kitivi, a former Administration Police officer seeking reinstatement and payment of his dues was tabled before the House on Tuesday 17<sup>th</sup> March, 2015 pursuant to Standing Order No. 225 (2) (a).

2.3 Pursuant to House rules, the petition was referred to the Committee on Tuesday 17<sup>th</sup> March, 2015 for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227.

2.4 The petitioner wished to draw the attention of the House to the following, that:-

- (i) Raphael M. Kitivi was employed by the Government as an Administration Police Officer in 1983 and stationed at the Uhuru Camp, Nairobi;
- (ii) In 1984, while based at the Uhuru Camp, he was sent away by the then Chief Inspector, and since then, the Ministry of Interior and Coordination of National Government has not communicated to him with regards to his status of employment,
- (iii) An appeal was lodged with the Public Complaints Standing Committee and acknowledged through a letter dated 7<sup>th</sup> July, 2008 addressed to the then Administration Police Commandant, for his intervention regarding the matter;
- (iv) The Ministry of Provincial Administration and Internal Security, in a letter dated 27<sup>th</sup> August, 2009 indicated that on 29<sup>th</sup> January, 1985, the officer was charged on account of deserting duties and fined Kshs. 300, but the officer was issued with a dismissal letter, and it was not clear how his name was removed from the payroll from January 1985;
- (v) Multiple follow-ups by the officer have not received any redress to date;

- (vi) Efforts to resolve the matter have borne no fruit and the family of the petitioner continues to live in abject poverty;
- (vii) The matter in respect of which this petition is made is not pending before any court of law or tribunal.

The Petition disclosed that Mr. Kitivi was employed as an Administration Police Officer in 1983 and stationed at the Uhuru Camp, Nairobi and that on 22nd January 1985, he was charged on account of deserting duties and fined Kshs. 300 but was not issued with a dismissal letter and it was not clear how his name was removed from the payroll from January, 1985.

Enclosed in the Petition was a letter dated 7th July 2008 by the Public Complaints Standing Committee to Mr. K. Mbugua, Administration Police Commandant seeking his reinstatement. There was a follow up letter dated 10th March, 2010.

Finally, enclosed was a letter dated 15th September, 2009 by Mr. S.M. Arachi, Commandant, Security of Government Buildings Unit, Uhuru Camp. The letter was written to the Permanent Secretary/ Provincial Administration and Internal Security.

This letter revealed that:-

- (i) On 22<sup>nd</sup> January 1985, the officer was charged on account of deserting duties for a period of 16 days (6<sup>th</sup> - 21<sup>st</sup> January 1985), fined Kshs. 300 and served with a warning letter;
- (ii) A letter (Ref. No. SGB/022/VOL.1/37) dated 23<sup>rd</sup> February, 1985 to trace his whereabouts was written to his home district but the officer did not show up;
- (iii) The officer was not issued with dismissal letter;
- (iv) It was not clear how the officer's name was removed from the payroll;and
- (v) From the records, it would appear that the officer has not pursued the matter.

### **3.0 SUBMISSIONS AND EVIDENCE**

Having been seized of the Petition, the Committee commenced its consideration by holding meetings to consider the petition.

#### **3.1 Meeting with the Petitioner**

Hon. Dr. Susan Musyoka, MP, appeared before the Committee and informed the Committee that Mr. Raphael Kitavi served as an Administrative Police Officer based at SGB Uhuru Camp and was allegedly dismissed unprocedurally in 1983. The petitioner sought compensation and reinstatement to service.

The petitioner, through his elected representative, further explained that he had tried to have the matter addressed by the National Police Service without much success.

#### **3.2 Submission from the Ministry of Interior and Coordination of National Government**

The Ministry of Interior acknowledged that Mr. Raphael Kitavi was appointed on probation terms with effect from February 4<sup>th</sup>, 1983. The probation period was two years of which could be extended, or the appointment terminated before completion that period, depending on the conduct of the officer. However, before completing his probation, Mr. Kitavi deserted duty for sixteen days. Consequently, an administrative action was taken against him and he was penalized Kshs. 300 and a warning letter issued against him.

On 14<sup>th</sup> February, 1985, he again deserted duties. On 27<sup>th</sup> February, 1985, a trace letter was sent to his Home County (then Machakos District) and he was untraceable even through his area chief.

The petitioner failed to clearly demonstrate his suitability for permanent appointment during his temporary service, in accordance to the Civil Service Code of Regulation, and he was therefore not confirmed in appointment thereto. He lodged an appeal for his reinstatement twenty four years later, alleging that he was suffering from acute depression and seeking traditional treatment and no medical records were produced. It was also not clear why nobody informed the authority of the alleged sickness for that period of time.

The petitioner does not qualify for payment of any dues from the service as he was never confirmed in his appointment, due to his desertion of duties before he completed the probation period.

### 3.3 Legal Analysis

#### *a) Applicable Law*

1. Section 19 of the Administration Police Act (Cap. 85) provides—

*19. Every officer shall be deemed to be an officer in the public service of Kenya and, save as otherwise provided in this Act or in any rules or standing orders made under this Act, shall be subject to the law and regulations from time to time in force relating to the public service.*

2. Section 20 of the Administration Police Act (Cap. 85) provides--

*20. (1) Any officer who wilfully disobeys any lawful order or warrant or who is guilty of any act or conduct to the prejudice of good order or discipline shall be liable to be punished by a District Commissioner or a District Officer, or by any public officer duly authorized in writing by a Provincial Commissioner, by—*

*(a) reprimand; or*

*(b) confinement to barracks for a period not exceeding fourteen days, with or without punishment drills, extra guard fatigues or other duties; or*

*(c) fine not exceeding the equivalent of fourteen days pay; or*

*(d) stoppage of salary increments; or*

*(e) reduction in rank; or*

*(f) dismissal from the Force,*

*or by any combination of such punishments:*

*Provided that—*

*(i) any sentence by a District Officer or public officer authorized as aforesaid shall be subject to confirmation by a District Commissioner;*

*(ii) any sentence of dismissal from the Force awarded by a District Commissioner shall be subject to confirmation by a Provincial Commissioner;*

*(iii) no District Officer or public officer authorized as aforesaid shall impose the sentence of dismissal.*

*(2) The officer awarding, or, as the case may be, confirming, any punishment inflicted upon an administration police officer under this section shall enter a record of such punishment, the date thereof and the offence for which it was inflicted on the record sheet of such administration police officer.*

However, the Administration Police Act (Cap. 85) (with a commencement date of 1958) was repealed by the National Police Service Act (Cap. 84) (2011).

3. Section 94 of the National Police Service Act provides as follows—

*94. Desertion*

*(1) A police officer who absents himself from duty without leave or just cause for a period exceeding twenty-one days shall, unless the contrary is proved, be considered to have deserted from the Service.*

*(2) Upon reasonable suspicion that any police officer has deserted the Service, any police officer may arrest that officer without a warrant, and shall thereupon take him before a magistrate having jurisdiction in the area in which such person deserted or was arrested.*

*(3) Any police officer who deserts from the Service commits an offence and is liable on conviction to summary dismissal or imprisonment for a term not exceeding two years or to a fine not exceeding one hundred thousand shillings.*

***b) Does the Petitioner have remedy in law?***

***The Limitation of Actions Act***

4. Section 4 of the Limitation of Actions Act (21 of 1968) provides as follows—

***4. Actions of contract and tort and certain other actions***

*(1) The following actions may not be brought after the end of six years from the date on which the cause of action accrued—*

*(a) actions founded on contract;*

*(b) actions to enforce a recognizance;*

*(c) actions to enforce an award;*

*(d) actions to recover a sum recoverable by virtue of a written law, other than a penalty or forfeiture or sum by way of penalty or forfeiture;*

*(e) actions, including actions claiming equitable relief, for which no other period of limitation is provided by this Act or by any other written law.*

5. The Limitation of Actions Act provides for the timeframes within which a person can seek remedy in law. It is based on the principle of law that one should not sleep on his/her rights.

Simply put, section 4 of the Limitation of Actions Act provides that if a contract (in this case, the contract of employment between the Petitioner and the Government of Kenya) is breached ( in this case, termination of employment as alleged by the Petitioner), then the Petitioner was required to go to court within 6 years after.

#### **4.0 COMMITTEE OBSERVATIONS**

The Committee made the following observations from evidence adduced that:-

1. The petitioner was charged on account of deserting duties for a period of 16 days (6th- 21st January 1985) and was fined Kshs. 300 and served with a warning letter. The correspondence attached to the petition further indicates that a letter (Ref. No. SGB/022/VOL.1/37) dated 23rd February 1985 to trace the whereabouts of the Petitioner was written to his home district but the officer did not show up.
2. Under section 20 of the Administration Police Act (Cap. 85), which is now repealed, the petitioner, if found liable, would have been punished in several of ways listed, including a fine not exceeding the equivalent of fourteen days pay or dismissal from the Force (as it was referred to back then), or by combination of such punishments. It should be noted too, that any sentence of dismissal from the Force awarded by a District Commissioner should have been subject to confirmation by a Provincial Commissioner.
3. It would appear from the correspondence of S.M. Arachi, Commandant in the Security of Government Buildings Unit that the officer was punished for desertion but was not issued with dismissal letter. Also, the correspondence reveals that the officer did not report to duty after being fined and served with a warning letter more than 30 years ago. The Petition discloses that the officer pursued the matter on 7<sup>th</sup> July, 2008 vide a letter written by the Public Complaints Standing Committee, 23 years after the alleged termination of employment.
4. The petitioner failed to clearly demonstrate his suitability for permanent appointment during his temporary service, in accordance to the Civil Service Code of Regulation, and thus he was not confirmed in appointment thereto. He lodged an appeal for his reinstatement twenty four years later, alleging that he was suffering from acute depression and seeking traditional treatment hence no medical record for the same.



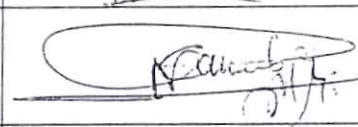
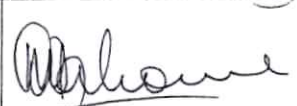
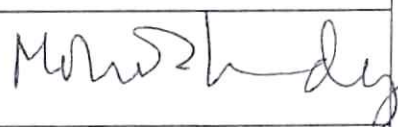


5. The Petitioner had delayed in asserting his right for close to twenty four years. Similarly, he deserted duties for 16 days and did not show up at his work station ever since. It appears that the officer therefore has not appealed to Parliament with clean hands.

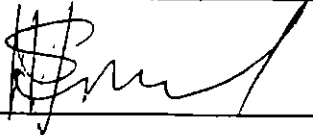

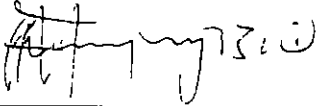
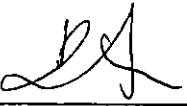
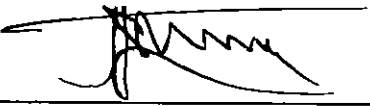



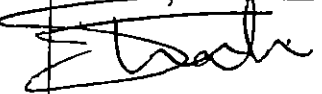
## **5.0 COMMITTEE RECOMMENDATION**

In response to the prayers by the petitioner, the Committee recommends that; - since the Petitioner had not lodged an appeal for his reinstatement within 6 years of the alleged dismissal, the prayer sought was time barred. The petitioner does not qualify for payment of any dues from the service as he was never confirmed in his appointment.

We Members of the Departmental Committee on Administration and National Security have pursuant to Standing Order 199 adopted this report on Petition by Hon. Dr. Susan Musyoka, MP, on behalf of Mr. Raphael M. Kitivi, a former Administration Police officer seeking reinstatement and payment of his dues and affix our signatures to confirm our approval and confirm its accuracy, validity and authenticity

DATE: 15/10/15 TIME: 12:00 VENUE: Continental 2<sup>nd</sup> Floor

S/NO.	NAME	SIGNATURE
1.	The Hon. Kamama Asman, MGH,OGW,MP – <b>Chairperson</b>	
2.	The Hon. Alois M. Lentoimaga, MP – <b>Vice-Chairperson</b>	
3.	The Hon. Ababu Namwamba, EGH, MP	
4.	The Hon. Alice Wahome, MP	
5.	The Hon. Joseph Lekuton, MP	
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14.	The Hon. Samuel Moroto, MP	
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16.	The Hon. Humphrey Njuguna, MP	<del></del>
17.	The Hon. Francis K. Mwangangi, MP	
18.	The Hon. Rashid J. Bedzimba, MP	
19.	The Hon. Ibrahim Abdi Saney, MP	
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25.	The Hon. David Gikaria, MP	
26.	The Hon. Timothy W. Wetangula, MP	
27.	The Hon. Wanjiku Muhia, MP	
28.	The Hon. George Theuri, MP	

**MINUTES OF THE 32<sup>ND</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
ADMINISTRATION AND NATIONAL SECURITY HELD ON 18<sup>TH</sup> JUNE, 2015 IN THE  
BOARD ROOM, 2<sup>ND</sup> FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT  
11.00 AM.**

**PRESENT**

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Alois Lentoimaga, MP - Vice Chairperson
3. The Hon. Wanjiku Muhia, MP
4. The Hon. Grace Kiptui, MP
5. The Hon. Samuel Moroto, MP
6. The Hon. Alice Wahome, MP
7. The Hon. Joseph Ndiege, MP
8. The Hon. George Theuri, MP
9. The Hon. Mohamed Shidiye, MP
10. The Hon. Protus Akuja Ewesit, MP
11. The Hon. Jane Machira, MP
12. The Hon. David Gikaria, MP
13. The Hon. James Bett, MP
14. The Hon. Ahmed Abdikadir Ore, MP
15. The Hon. Joseph Kahangara, MP
16. The Hon. Zakayo Cheruiyot, MP
17. The Hon. Humphrey Njuguna, MP
18. The Hon. Francis Mwangangi, MP
19. The Hon. Ibrahim Abd iSaney, MP
20. The Hon. Rashid Bedzimba, MP
21. The Hon. Shaaban Ali Isaack, MP
22. The Hon. Benard Shinali, MP

**ABSENT WITH APOLOGY**

1. The Hon. Ababu Namwamba, MP
2. The Hon. Joseph Lekuton, MP
3. The Hon. Patrick Ole Ntutu, MP
4. The Hon. Regina Nthambi Muia, MP
5. The Hon. (Maj. Rtd.) J. K. Waluke, MP
6. The Hon. Timothy Wetangula, MP

**IN ATTENDANCE**

- 1. The Hon. Dr. Susan Musyoka, MP

**IN ATTENDANCE – NATIONAL ASSEMBLY**

- 1. Mr. Leonard Machira - First Clerk Assistant
- 2. Ms. Hellen Lókwang - Third Clerk Assistant
- 3. Mr. Mohamed N. Boru - Third Clerk Assistant
- 4. Mr. Salem Lorot - Legal Counsel
- 5. Mr. Eugene Apaa - Research and Policy Analyst III

**MIN.NO. 113/ANS/2015 - PRELIMINARIES**

The Chairperson called the meeting to order at 11.05am. A prayer was said.

**MIN.NO.114 /ANS/2015– CONSIDERATION OF THE PETITON BY RAPHAEL KITAVI SEEKING REINSTATEMNT TO THE NATIONAL POLICE SERVICE AND PAYMENT OF DUES**

The Hon. Dr. Susan Musyoka who appeared before the Committee on behalf of the petitioner explained that Mr. Raphael Kitavi served as an Administrative Police Officer based at SGB Uhuru Camp and was dismissed unprocedurally in 1983. She stated the petitioner sought compensation and reinstatement to service.

The Member further explained that the petitioner had tried to have the matter addressed by the National Police Service without much success.

The Committee wondered why it took the petitioner 32 years to have the matter addressed and whether he'd be fit for service if he was reinstated.

The Committee tasked the secretariat with getting a copy of the letter addressed to the petitioner by the National Police Service (REF SGB/022/VOL.1/37) dated 23<sup>rd</sup> February, 1985 that sought to establish the where about of the petitioner. The secretariat was also asked to seek information on the file of the petitioner from the National Police Service Commission.

The Committee resolved to meet the petitioner once they had received the details of his employment records from his file.

**MIN.NO.115/ANS/2015 - ADJOURNMENT**

There being no other business the meeting was adjourned at 11.50am. The next meeting will be held on Tuesday 23<sup>rd</sup> June, 2015 at 10.00 a.m.

Signed.....

(Chairperson)

Date..... 23<sup>rd</sup> June 2015 .....

REPUBLIC OF KENYA



Approved  
Bat  
SNA  
13/3/15

THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT  
(THIRD SESSION)

PUBLIC PETITION

BY MR RAPHAEL M. KITIVI FORCE NO P/N 209190, A FORMER ADMINISTRATION  
POLICE OFFICER ON REINSTATEMENT AND PAYMENT OF HIS DUES.

---

I THE UNDERSIGNED, on behalf of Raphael M. Kitivi, a resident of Machakos County,

DRAW the attention of the House to the following;

- i. THAT, Raphael M. Kitivi was employed by the Government as an Administration Police Officer in 1983 and stationed at the Uhuru Camp, Nairobi;
- ii. THAT, in 1984, while in this officer was based at the Uhuru Camp, he was sent away by the then Chief Inspector, and since then, the Ministry of Interior Coordination has not communicated to him with regards to his status of employment;
- iii. THAT, an appeal was lodged with the Public Complaints Standing Committee and acknowledged through a letter dated 7<sup>th</sup> July, 2008 addressed to then Administration Police Commandant, for his intervention regarding the matter;
- iv. THAT, the Ministry of Provincial Administration and Internal Security, in a letter dated 27<sup>th</sup> August, 2009, indicated that on 22<sup>nd</sup> of January 1985, the officer was charged on account of deserting duties and fined Ksh 300, but the officer was not issued with a dismissal letter, and it was not clear how his name was removed from the payroll, from January 1985;

**PUBLIC PETITION**  
BY MR RAPHAEL M. KITIVI FORCE NO P/N 209190, A FORMER  
ADMINISTRATION POLICE ON REINSTATEMENT AND PAYMENT OF HIS  
DUES.

---

- v. THAT, multiple follow-ups by the officer have not received any redress to date;
- vi. THAT, efforts to resolve the matter have borne no fruit, and the family of the petitioner continues to live in abject poverty;
- vii. THAT, the matter presented in this petition is not pending before any tribunal or court of law;

THEREFORE, your humble Petitioner PRAYS that the National Assembly:

- (i) Ensure that the petitioner's plight is addressed; and
- (ii) Makes any other order and /or direction that it deems fit in the circumstances of the case.

And your PETITIONER will ever pray.

PRESENTED BY,




HON. (DR.) SUSAN M. MUSYOKA  
MEMBER FOR MACHAKOS COUNTY

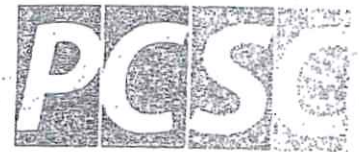
DATE .....

PUBLIC PETITION

BY MR RAPHAEL M KITIVI Force No P/N 209190 FOR HIS  
REINSTATEMENT AND PAYMENT OF HIS DUES.

Name	ID No	Address	Telephone	Sign
Raphael .m Kitivi	3543931	Po Box 35290-100 Machakos	6727726624	

Chairman: Ambassador James Simani  
Vice Chairman: Grace Madoka  
Members: Peter Karing'u & Nafisa Abass  
Executive Director: Kenneth Mwigie



THE  
**PUBLIC COMPLAINTS**  
STANDING COMMITTEE

Ref: PCSC/POL/2008/008/GBM

7<sup>th</sup> July 2008

The Permanent Secretary  
Office of the President  
Harambee House  
Nairobi

Attention: Mr. K. Mbugua, CBS, OGW  
Administration Police Commandant

Dear Sir,

Ref: Appeal for reinstatement of Raphael M. Kitivi Force No. P/N 209190

We have received a complaint from Mr. Kiviti who was employed by the Administration Police in 1984. A copy of his Certificate of Appointment is attached for your attention. The complainant alleges that in 1984, whilst at Uhuru Camp, his duty station, he was 'chased away' by one Chief Inspector Wahome. Since that time the Ministry has not communicated to him as regards his status of employment.

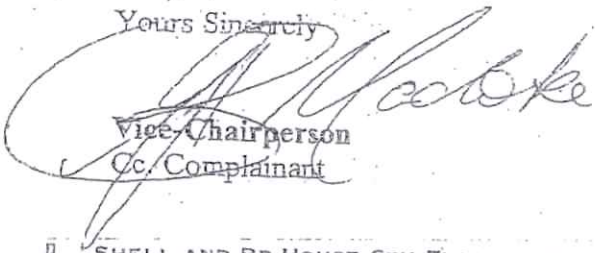
He has written various letters to the relevant authorities and has made a number of enquiries from different offices, but he has received no assistance. His last letter to your office dated 14<sup>th</sup> May 2005 (attached) remains un answered.

The PCSC is mandated, amongst other things, to enquire into allegations of maladministration, delay, inattention, inefficiency and injustice. This complaint appears to fall within these descriptions, if what the complainant alleges is true. Mr. Kiyiti is requesting that he be reinstated since he believes he has done nothing wrong to warrant this treatment.

We seek your intervention in resolving this complainant.

Thank you

Yours Sincerely

  
Vice-Chairperson  
Cc. Complainant

SHELL AND BP HOUSE 6TH FLOOR, HARAMBEE AVENUE  
P.O. BOX 20414 - 00200 NAIROBI  
TEL: +254 020 2303000  
FAX: +254 020 2302666  
Email: info@pcsc.go.ke  
WEB: WWW.PCSC.GO.KE



A COMMITTEE OF THE  
GOVERNMENT OF KENYA

CHAIRMAN: AMBASSADOR JAMES SIMANI  
VICE CHAIRMAN: GRACE MADOKA  
MEMBERS: PETER KARING'U & NAFISA ABASS  
EXECUTIVE DIRECTOR: KENNETH MWIGI  
Our Ref: PCSC/POL/015/8/08/GBM-RE

Your Ref: 209190/18



THE  
**PUBLIC COMPLAINTS**  
STANDING COMMITTEE

March 10, 2010

Mr. Francis Kimemia  
Permanent Secretary  
Ministry of State for Provincial Administration &  
Internal Security  
**NAIROBI**

Dear Sir,

RE: APPEAL FOR REINSTATEMENT OF  
RAPHAEL M. KITIVI P/NO. 209190

We write further to your letter Ref. No. 209190/18 of February 11, 2009 regarding the above matter.

Your letter indicated that you are in the process of calling for more information from the District Commissioner and the Provincial Commissioner to facilitate a response in the matter.

Kindly let us know the current position in the matter.

Yours sincerely,

Grace Madoka  
**VICE-CHAIRPERSON**

cc: Mr. Raphael M. Kitivi  
P.O. Box 352  
**KATELEMBO**



OFFICE OF THE PRESIDENT  
PROVINCIAL ADMINISTRATION AND INTERNAL SECURITY

COMMANDANT  
SECURITY OF GOVERNMENT  
BUILDINGS UNIT  
UHURU CAMP  
P.O Box 20895-00202  
NAIROBI  
15<sup>th</sup> September, 2009



Telegraphic Address "RAIS", Nairobi  
Telephone Nairobi 604250/604030  
E-mail: sgb@vananchi.com  
When replying please quote

Ref No **SGB/CON/033/VOL.V/124**  
and date

Permanent Secretary/Provincial Administration &  
~~Internal Security,~~

Office of the President,  
P.O Box 30510,  
**NAIROBI** (Attn: Mr. I. O. Orangi)

**RE: APPEAL FOR REINSTATEMENT  
EX-APC RAPHAEL KITIVI P/NO. 209190**

Please refer to the letter Ref. NO. 209190/19 dated 27<sup>th</sup> August 2009 touching on  
above subject.

Records in this office indicate that on 22<sup>nd</sup> January 1985 the officer was charged on  
account of deserting duties for a period of sixteen days (6<sup>th</sup> - 21<sup>st</sup> January 1985). He  
was fined Ksh. 300 and served with a warning letter.

A letter (Ref. NO. SGB/022/VOL.1/37 dated 23<sup>rd</sup> February 1985) to trace his  
whereabouts was written to his home district but the officer did not show up.

After further perusal of his personal file, we have noted the following:-

- There is no Orderly Room Proceedings showing that the officer was charged and  
recommended for dismissal.
- The officer was not issued with dismissal letter.
- It is not clear how his name was removed from the payroll.

It could appear that the officer kept away up to now.

Please advise.

*Approved*  
**S. M. ARACHI, MBS, OGW.**  
**COMMANDANT**  
**SECURITY OF GOVERNMENT BUILDINGS UNIT**

CC  
PERSONAL FILE

Chairman: Ambassador James Sumani  
Vice Chairman: Grace Madoka  
Members: Peter Karing'u & Nafisa Abass  
Executive Director: Kenneth Mwangi

Ref: PCSC/POL/2008/008/GBM

7<sup>th</sup> July 2008

The Permanent Secretary  
Office of the President  
Harambee House  
Nairobi

Attention: Mr. K. Mbugua, CBS, OGW  
Administration Police Commandant

Dear Sir,

**Ref: Appeal for reinstatement of Raphael M. Kiviti Force No. P/N 209190**

We have received a complaint from Mr Kiviti who was employed by the Administration Police in 1984. A copy of his Certificate of Appointment is attached for your attention. The complainant alleges that in 1984, whilst at Uhuru Camp, his duty station, he was 'chased away' by one Chief Inspector Wahome. Since that time the Ministry has not communicated to him as regards his status of employment.

He has written various letters to the relevant authorities and has made a number of enquiries from different offices, but he has received no assistance. His last letter to your office dated 14<sup>th</sup> May 2005 (attached) remains un answered

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We seek your intervention in resolving this complainant.

Thank you

Yours Sincerely

Vice-Chairperson  
Cc Complainant

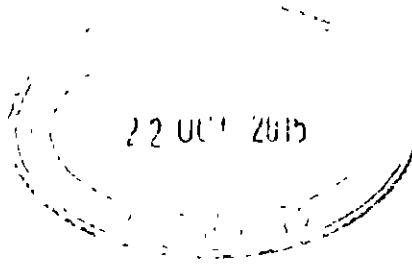
Approved for tabling -

~~By~~ SNA

22/10/15.

Paper Label

By Hon. David Cukania  
(on behalf of the  
Chairperson) under  
Order No. 05 of  
1500 Hrs on 22.10.15  
13m



REPUBLIC OF KENYA



NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION – 2015

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DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

---

REPORT ON THE PETITION BY THE HON. ALOIS LENTOIMAGA, MP ON BEHALF OF  
RESIDENTS OF SAMBURU NORTH CONSTITUENCY REGARDING ACTION TOWARDS  
RECOVERY OF ILLEGAL FIREARMS WITHIN THE NORTH RIFT REGION.

DIRECTORATE OF COMMITTEE SERVICES  
CLERK'S CHAMBERS,  
PARLIAMENT BUILDINGS,  
NAIROBI

OCTOBER, 2015

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## **1.0 PREFACE**

On behalf of the Departmental Committee on Administration and National Security and pursuant to provisions of Standing Order No.227 (2), it is my pleasant privilege and honour to present to this House the Report of the Committee on the Petition by the Hon. Alois Lentoimaga, MP on behalf of residents of Samburu North Constituency regarding action towards recovery of illegal firearms within the North Rift region.

The petition was tabled before the House pursuant to Standing Order No. 225 (2) (a) by the Hon. Alois Lentoimaga, MP, on behalf of the residents of Samburu North Constituency on Wednesday 29<sup>th</sup> April, 2015.

## **1.1 Mandate of the Committee**

The Committee is established pursuant to the provisions of Standing Order No. 216 with the following terms of reference:-

- (i) study and review all legislation referred to it;*
- (ii) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- (iii) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- (iv) to study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
- (v) to study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- (vi) to 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;*

The Committee under Standing Order No. 227 is mandated to consider petitions committed to it.

## **1.2 Committee Membership**

The Committee comprise of the following Members:-

1. The Hon. Asman Kamama, MGH, OGW, MP - **Chairperson**
2. The Hon. Alois M. Lentoimaga, MP- **Vice Chairperson**
3. The Hon. Ababu Namwamba, EGH, MP
4. The Hon. Joseph Lekuton, MP

5. The Hon. Alice Wahome, MP
6. The Hon. Zakayo K. Cheruiyot, MP
7. The Hon. Timothy W. Wetangula, MP
8. The Hon. Patrick Ole Ntutu, MP
9. The Hon. Ali Isaack Shaaban, MP
10. The Hon. Samuel Moroto, MP
11. The Hon. Humphrey Njuguna, MP
12. The Hon. Francis K. Mwangangi, MP
13. The Hon. Rashid J. Bedzimba, MP
14. The Hon. David Gikaria, MP
15. The Hon. Mohamed Shidiye, MP
16. The Hon. Jane Machira, MP
17. The Hon. Regina Nthambi Muia, MP
18. The Hon. Ibrahim Abdi Saney, MP
19. The Hon. Joseph O. Ndiege, MP
20. The Hon. (Maj. Rtd.) John K. Waluke, MP
21. The Hon. Wanjiku Muhia, MP
22. The Hon. Akuja Protus Ewesit, MP
23. The Hon. Joseph M. Kahangara, MP
24. The Hon. Ahmed Abdikadir Ore, MP
25. The Hon. Grace Kiptui, MP
26. The Hon. George Theuri, MP
27. The Hon. James Bett, MP
28. The Hon. Benard Shinali, MP

### **1.3 Committal and Consideration of the Petition**

Pursuant to Standing Order 227(1), the petition was referred to the Departmental Committee on Administration and National Security for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227 (1) and (2).

The Committee proceeded with the consideration of the petition by holding meetings to set up the terms of reference and scheduling of meetings. In considering the petition, the Committee invited and held a meeting with the petitioners and received submissions from the Ministry of Interior and Coordination of National Government. The meeting was aimed at getting a response from the Ministry to the issues raised by the petitioners.

#### **1.4 Committee Observations**

Having held meetings and considered the submissions presented on the petition, the Committee observed that:-

The prayer made by the petitioners during the meeting was specific and sought the disarmament of bandits in Lamirok village. Meanwhile, the prayers contained in the petition presented to the House and referred to the Committee sought to have the National Assembly intervene to have the National Government conduct continuous disarmament in the North Rift region in a bid to recover the Government's and other illegal firearms currently in the hands of bandits, and set up measures towards recovery of all stolen livestock in Samburu North.

#### **1.5 Response to the prayers in the petition**

The petitioners had **prayed that the National Assembly through the Departmental Committee on Administration and National Security:-**

- (i) Intervenes to have the National Government conduct continuous, forceful disarmament in the North Rift Region in a bid to recover the Government's and other illegal firearms currently in the hands of bandits, and sets up measures toward recovery of all stolen livestock in Samburu North; and
- (ii) Compels the Government to put mechanisms that ensure that these disarmaments are conducted in adherence to the Bill of Rights as provided for in the Constitution.

**In response to the above prayers, the Committee recommends that:-**

- 1. The Government should continue with the disarmament and registration of illegal firearms exercise in the North Rift region.**
- 2. The Government should conduct a joint security operation, comprising of specialised police units and the Kenya Defence Force in Lamirok village, Samburu North Constituency within the next three (3) months to disarm bandits who massacred 42 police officers in Baragoi in 2012 and were allegedly hiding in the village.**
- 3. The Government should implement the recommendations of the National Assembly report *on a fact finding visit to Samburu East and Isiolo North***

*Districts; 21<sup>st</sup> to 23<sup>rd</sup> September, 2009 to establish the causes of inter-clan conflict and banditry in the region.*

## 1.6 Adoption of the Report

We Members of the Departmental Committee on Administration and National Security have, pursuant to Standing Order 199 adopted this report on the Petition by the Hon. Alois Lentoimaga, MP on behalf of residents of Samburu North Constituency regarding recovery of illegal firearms within the North Rift region and affix our signatures to confirm our approval and confirm its accuracy, validity and authenticity today 28<sup>th</sup> August, 2015 as per the attached adoption list (Appendix I).

1. The Hon. Asman Kamama, MGH, OGW, MP - **Chairperson**
2. The Hon. Jane Machira, MP
3. The Hon. Zakayo K. Cheruiyot, MP
4. The Hon. James Bett, MP
5. The Hon. Benard Shinali, MP
6. The Hon. Grace Kiptui, MP
7. The Hon. George Theuri, MP
8. The Hon. Samuel Moroto, MP
9. The Hon. Humphrey Njuguna, MP
10. The Hon. Francis K. Mwangangi, MP
11. The Hon. Rashid J. Bedzimba, MP
12. The Hon. David Gikaria, MP
13. The Hon. (Maj. Rtd.) John K. Waluke, MP
14. The Hon. Wanjiku Muhia, MP
15. The Hon. Ahmed Abdikadir Ore, MP

## 1.7 Acknowledgement

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.


I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work which enabled the Committee to complete the tasks within the stipulated period.

The Committee is also grateful to all the witnesses who made submissions and presentations before the Committee during the meetings. Their contributions

gave the Committee the much needed insights into the issues raised in the petition and possible solutions.

The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to this Committee. Their efforts made the work of the Committee and the production of this Report possible.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Administration and National Security to present this report to the House pursuant to the provisions of Standing Order 227(2).

Signed.......... Date...21/10/2015.....

**Hon. Asman Kamama, MGH, OGW, MP**  
**Chairman, Departmental Committee on Administration and National Security**

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## 2.0 BACKGROUND INFORMATION

2.1 Article 37 and 119 of the Constitution provide that any person has the right to petition Parliament to consider any matter within its authority as contemplated in Articles 94 and 95 of the Constitution, including enactment, amending or repealing any legislation. Standing Order 227(2) provides that, "*whenever a petition is committed to the a Departmental Committee, the Committee shall, in not more than sixty calendar days from the time of reading of the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the House...*"

2.2 The Petition by residents of Samburu North Constituency regarding action towards recovery of illegal firearms within the North Rift region was presented to the House by the Hon. Alois Lentoimaga MP on 29<sup>th</sup> April, 2015 pursuant to Standing Order No. 225 (2) (a).

2.3 Pursuant to House rules, the petition was referred to the Committee on 29<sup>th</sup> April 2015 for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227.

2.4 The petitioners wished to draw the attention of the House to the following, that:-

- (i) Security is a key component for growth and development;
- (ii) Insecurity incidences have risen in the recent past in the North Rift region and specifically Samburu County leading to loss of lives and livestock, and forcing large number of residents to relocate;
- (iii) In the past twenty four (24) months, there have been numerous attacks including an attack in Suguta Valley where more than forty (40) security personnel were slain and their firearms stolen;
- (iv) The situation has been made worse by the large number of illegal arms in the hands of the civilians, and that the firearms stolen from the police may be among those being used by bandits to terrorize residents;
- (v) The presence of sophisticated government firearms in the hands of the bandits has led to fear and heightened tension among residents leading to despondency;
- (vi) Efforts to have insecurity in Samburu North Constituency addressed, which include the formation of peace committees and

- government-led negotiations have borne no fruits;
- (vii) The matter in respect of which this petition is made is not pending before any court of law or tribunal.

### **3.0 SUBMISSIONS AND EVIDENCE**

Having been seized of the Petition, the Committee commenced its consideration by inviting the Hon. Alois Lentoimaga, MP on behalf of the residents of Samburu North Constituency and the Cabinet Secretary responsible for Interior and Coordination of National Government for meetings on diverse dates. During the meetings, written and oral evidence was adduced as recorded hereunder.

#### **3.1 Meeting with the Petitioners**

Hon. Alois Lentoimaga, MP accompanied by petitioners appeared before the Committee and gave evidence on the said petition, on Thursday, 16th July, 2015. During the meeting with the petitioners, the Committee heard that conflict in Samburu North Constituency escalated in November 2012 when bandits raided Keleswa village and stole 501 livestock. Subsequently the Government mobilized police officers to pursue the bandits leading to the ambush and massacre of 42 officers.

Efforts by the National Government to disarm bandits in Samburu North Constituency had failed. They cited the ultimatum issued by the Government for the surrender of guns confiscated from slain police officers by bandits in November, 2012 following the massacre of 42 police officers in Baragoi. Similar efforts by the Government to disarm bandits in other areas of the North Rift region had also been futile.

The bandits, who are believed to have ambushed and killed 42 police officers in Baragoi in November, 2012 continued to terrorize the residents of Samburu North Constituency using firearms confiscated from the slain police officers.

Approximately 150 armed bandits were hiding in Lamirok village within Samburu North Constituency. The village was a fortress where illegal guns and stolen livestock were hidden. The Government had not made any attempt to disarm and arrest the bandits, in spite of the existence of the hide out being in the knowledge of security agents in the County.

Two Chiefs and a member of Samburu County Assembly were arrested and arraigned in court on alleged involvement in the Baragoi massacre. The case was pending in court.

The proliferation of illegal firearms in the region due to proximity to neighbouring Countries experiencing internal conflicts had contributed to insecurity in Samburu North Constituency that was characterized by cattle rustling.

The Committee also established that 85 persons had been killed and 4988 livestock stolen in Samburu North Constituency between 2012 and 2015.

### **3.2 Submission by the Cabinet Secretary, Ministry of Interior and Coordination of National Government**

The Cabinet Secretary, Ministry of Interior and Coordination of National Government through a response tabled before the Committee, observed that the recurrent violent conflict experienced in North Rift Region was caused by cattle rustling. The problem was further compounded by the proliferation of small arms and light weapons. The drought situation had also precipitated resource-based conflict among the communities living in the region.

This state of affairs had seriously undermined the peace, safety and security of the affected communities, resulting to conflicts, death, and destruction of property and retarding the socio-economic and political development in the region. The pastoral communities have been involved in a long-standing and complex pattern of raids and counter raids.

Traditionally, cattle rustling, among pastoral communities was considered a cultural practice and was sanctioned by elders. Currently, the phenomenon of cattle rustling is causing great concern owing to emergent new trends and tendencies leading to commercialization and internationalization within communities in practice.

The commercialization of the practice has given cattle rustling a complete redefinition. Livestock are sold as quickly as possible and those which are driven away end up in remote places or across District and Country borders. This has led to inter-communal conflicts that have tended to persist due to illiteracy, high level of mistrust between neighboring communities and lack of alternative means of livelihood in these areas.

The Government has continued to raise public awareness on the issues surrounding illicit Small Arms and Light Weapons. This has resulted in cases of

voluntary surrender of arms. The government had also carried out disarmament operations.

Further, the Government has been facilitating leaders to enable them undertake peace building and conflict resolution activities dubbed 'peace caravans'. This is in addition to opening police posts in the identified hot spot areas across the region to address issues of insecurity.

In a meeting held on 7<sup>th</sup> January, 2015 at Boma Hotel between leaders from North Rift and Upper Eastern region, it was resolved, among others that Parliament should fast track enactment of legislation to make cattle rustling a capital offence. It was also resolved that there is a need to register all illegal firearms as a starting point towards disarmament, an exercise which has commenced. Immediately registration is concluded, community members possessing illegal firearms will be disarmed. Voluntary disarmament will be prioritized but if it fails, the Government will embark on forceful disarmament.

The Government was however facing challenges that hamper efforts to tackle cattle rustling and proliferation of small arms in Samburu County. The members of both Turkana and Samburu communities conduct raids and counter raids. There is also the availability of cheap firearms from neighboring countries. The rugged terrain and poor infrastructure hampers effective patrols in the area. There is also a lack of political goodwill to complement the government's efforts in addressing the problem.

The Ministry committed itself to sustaining the ongoing security exercise to ensure peace was maintained.

#### **4.0 COMMITTEE OBSERVATIONS**

The Committee made the following observation from evidence adduced in meetings that:-

The prayer made by the petitioners during the meeting was specific and sought the disarmament of bandits in Lamirok village. Meanwhile, the prayers contained in the petition presented to the House and referred to the Committee sought to have the National Assembly intervene to have the National Government conduct continuous disarmament in the North Rift region in a bid to recover the Government's and other illegal firearms currently in the hands of bandits, and set up measures towards recovery of all stolen livestock in Samburu North.

## **5.0 COMMITTEE RECOMMENDATIONS**

In response to the prayers by the petitioners, the Committee recommends that:-

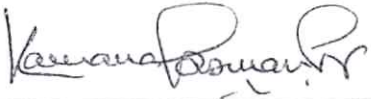



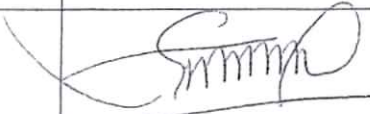
- 1. The Government should continue with the disarmament and registration of illegal firearms in the North Rift region.**
- 2. The Government should conduct a joint security operation, comprising of specialised police units and the Kenya Defence Force in Lamirok village, Samburu North Constituency within the next three (3) months to disarm bandits who massacred 42 police officers in Baragoi in 2012 and were allegedly hiding in the village.**
- 3. The Government should implement the recommendations of the National Assembly report *on a fact finding visit to Samburu East and Isiolo North Districts; 21<sup>st</sup> to 23<sup>rd</sup> September, 2009* to establish the causes of inter-clan conflict and banditry in the region.**


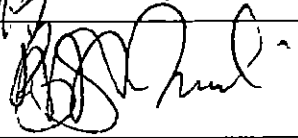
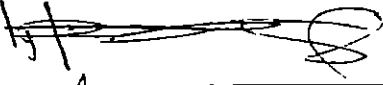
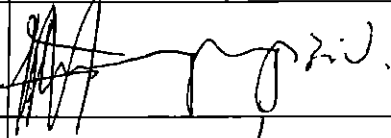
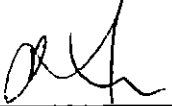
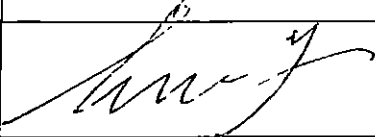
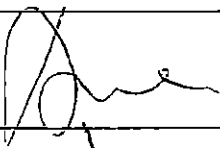



# APPENDIX I

## ADOPTION LIST

We Members of the Departmental Committee on Administration and National Security have pursuant to Standing Order 199 adopted this report on the Petition by the Hon. Alois Lentoimaga on behalf of Samburu North Constituency Regarding Action towards recovery of illegal firearms within the North Rift Region

DATE: 28<sup>th</sup> August 2015 TIME: 2: pm VENUE: Flamango Hotel

S/NO.	NAME	SIGNATURE
1.	The Hon. Kamama Asman, MGH,OGW,MP - <b>Chairperson</b>	
2.	The Hon. Alois M. Lentoimaga, MP - <b>Vice-Chairperson</b>	
3.	The Hon. Ababu Namwamba, EGH, MP	
4.	The Hon. Alice Wahome, MP	
5.	The Hon. Joseph Lekuton, MP	
6.	The Hon. Mohamed Shidiye, MP	
7.	The Hon. Jane Machira, MP	
8.	The Hon. Joseph Kahangara, MP	
9.	The Hon. Zakayo K. Cheruiyot, MP	
10.	The Hon. James Bett, MP	
11.	The Hon. Patrick Ole Ntutu, MP	
12.	The Hon. Shaaban Ali Isaack, MP	
13.	The Hon. Grace Kiptui, MP	

14.	The Hon. Samuel Moroto, MP	
15.	The Hon. Benard Shinali, MP	
16.	The Hon. Humphrey Njuguna, MP	
17.	The Hon. Francis K. Mwangangi, MP	
18.	The Hon. Rashid J. Bedzimba, MP	
19.	The Hon. Ibrahim Abdi Saney, MP	
20.	The Hon. Joseph O. Ndiege, MP	
21.	The Hon. Regina Nthambi Muia, MP	
22.	The Hon. (Maj. Rtd.) John K. Waluke, MP	
23.	The Hon. Akuja Protus Ewesit, MP	
24.	The Hon. Ahmed Abdikadir Ore, MP	
25.	The Hon. David Gikaria, MP	
26.	The Hon. Timothy W. Wetangula, MP	
27.	The Hon. Wanjiku Muhia, MP	
28.	The Hon. George Theuri, MP	

PUBLIC PETITION

*Mr. Speaker  
Please approve  
29/11*

BY THE RESIDENTS OF SAMBURU NORTH CONSTITUENCY  
FOR ACTION TOWARDS RECOVERY OF ILLEGAL FIREARMS WITHIN THE NORTH  
RIFT REGION

I, THE UNDERSIGNED, on behalf of the residents of Samburu North Constituency,

DRAW the attention of the House to the following;

- i) THAT, aware that security is a key component for growth and development;
- ii) NOTING, that insecurity incidences have risen in the recent past in the North Rift region and specifically Samburu County leading to loss of lives and livestock, and forcing a large number of residents to relocate;
- iii) THAT, in the past twenty-four (24) months, there have been numerous attacks including an attack in Suguta Valley where more than forty (40) security personnel were slain and their firearms stolen;
- iv) THAT, aware that the situation has been made worse by the large number of illegal arms in the hands of the civilians, and that the firearms stolen from the police may be among those being used by bandits to terrorize residents;
- v) THAT, the presence of sophisticated government firearms in the hands of the bandits has led to fear and heightened tension among residents leading to despondency;
- vi) THAT, efforts to have the matter addressed including the formation of peace committees and government-led negotiations have borne no fruits;
- vii) THAT, the matter in respect of which this Petition is made is not pending before any court of law or tribunal.

Approved *[Signature]* S.N.A.

## PUBLIC PETITION

BY THE RESIDENTS OF SAMBURU NORTH CONSTITUENCY  
FOR ACTION TOWARDS RECOVERY OF ILLEGAL FIREARMS WITHIN THE NORTH  
RIFT REGION

THEREFORE your humble petitioners PRAY that the National Assembly,  
through the Departmental Committee on Administration and National  
Security:-

- (I) Intervenes to have the National Government conduct continuous, forceful disarmament in the North Rift Region in a bid to recover the Government's and other illegal firearms currently in the hands of bandits, and sets up measures toward recovery of all stolen livestock in Samburu North; and
- (II) Compels the Government to put mechanisms that ensure that these disarmaments are conducted in adherence to the Bills of Rights as provided for in the Constitution.

And your PETITIONERS will ever pray.

PRESENTED BY,



HON. ALOIS LENTOIMANGA, MP  
MEMBER FOR SAMBURU NORTH CONSTITUENCY

DATE: 28/4/2015.....

SIGNATURE

CONSTITUENCY

ID#  
MIDBULENO

NAME:

1	Mary-mae Rogan	Letice	22696060	Samburu North	MAP
2	Lhairi	Lengumet	01107132+276400	"	Formi
3	Demis	Letiwa	01031796830+6200	"	Dung
4	Parisa	Letiwa	7964021	"	Wugon
5	Lojingu	Letiwa	72055122428119577	Samburu North	WTR
6	Adison	Letiwa	28136203	Samburu North	AD
7	Philip	LeKadaa	12451680	Samburu North	PH
8	Lafemu	Lemampfi	80480363	"	FA
9	Lentor Jackson	Samuel	25071431	"	BL
10	Litari	Letiwa	4201435	"	WTR
11	Ntiriankon	Lemampfi	0129619789845277	"	DM
12	Julius	LotiPTP	Lenganyan	"	FA
13	Joseph	Saipimae	Lengokwani	Samburu North	FA
14	Rius	Lentomaga	011035015	Samburu North	FA
15	Edward	KolakiPiani	23315132	Samburu North	FA
16	Richard	Lengusvanga	31625723	Samburu North	FA
17	Peter	Lengeshan	31594692	"	PH
18	Simon	LePakiyo	30269488	"	FA
19	Shadack	Lekisat	26425824	"	FA
20	Solomon	Lemunen	0124823421432581	"	FA
21	Gabriel	Lengwesi	20245318	"	FA
22	Charles	LechimPio	0126914443584473	"	FA
23	Lino	Letura	24895988	"	FA

**ORDER OF SAMBURU NORTH ATTACKS AS FROM OCTOBER 2012 TO DATE**

DATES	ATTACKS/INCIDENTS	DEATHS/INJURIES	NO. OF ANIMALS STOLEN	ACTION TAKEN/COMMENTS
0/10/2012	Ndoto attack. Bandits from Turkana community attacked Letipila family in Lesirikan, Ndoto Ward.	-No deaths/Injuries	501 cows	Attempt to recover by the local KPR was overpowered by the bandits.
0/10/2012	Retaliation in Lomirok Village on follow-up of the stolen Letipila herd of cattle.	█ Kpr killed, █ Turkana killed	-	The government deployed Regular & Administration Police, Anti-Stock theft Police to recover the stolen animals.
0/11/2012	Lamirok-Suguta valley Operation to recover the stolen animals	█ police officers and █ Kpr killed	-	<p>The government sent the Anti-stock theft and other police Units to Suguta Valley where the bandits with the stolen animals migrated to.</p> <p>KDF was deployed in the area immediately following the order by President Mwai Kibaki.</p> <p>They camped at Kampi Nyoka &amp; Baragoi Girls for 6 months. No animals recovered, no stolen weapons recovered. No arrests of the bandits made.</p>

2/11/2012	Donkeys stolen by Turkana bandits at Masikita, El-barta Ward.	-No deaths/Injuries	20 donkeys	No action taken to recover the stolen animals despite the heavy presence of the security personnel in the area.
30/11/2012	Donkeys stolen by Turkana bandits at Masikita, El-barta Ward.	- No deaths/Injuries	15 donkeys	No action taken to recover the stolen animals despite the heavy presence of the security personnel in the area.
2/12/2012	Attack by Turkana bandits to Lenturkan and Lesirite families in Masikita, El-barta ward	- No deaths/Injuries	247 cows	No action taken to recover the stolen animals despite the heavy presence of the security personnel in the area.
26/12/2012	Cows belonging to Laltangwas family stolen by Turkana bandits at Ngilai Village, El-barta Ward.	- No deaths/Injuries	3 cows	No action taken to recover the stolen animals despite the heavy presence of the security personnel in the area.
7/1/2012	Attempted raid at Lesoloyia family Ngilai	- No deaths/Injuries	-	No animals stolen. The bandits were repulsed.
7/1/2012	A Taxi-driver (Pastor) killed at Ngoriche on his way to Baragoi from South-Horr.			No action taken to apprehend the killers.
5/1/2013	Lekupe's cow stolen by Turkana bandits at Mnanda, Baragoi town.	- No deaths/Injuries	1 cow	The stolen cow was never returned.
0/1/2013	Attempted raid by Turkana bandits on Bendera cattle at Lboi	- No deaths/Injuries	1 cow killed	Samburu herders defended their animals. No action taken by

	Oibor next to Baragoi High School.			security agents to follow up and flush the bandits from their hide-outs.
3/04/2013	Calves stolen by Turkana bandits at Bendera	- No deaths/Injuries	14 calves	The stolen calves were never returned.
7/4/2013	A school pupil killed by Turkana bandits at Masikita	1 dead	300 goats taken away	No arrests made on the killers of the school child.
13/4/2013	Kalenjin fundi killed next to Soito e Lkokoyo on his way to Baragoi	1 dead	-	No arrests made. No action taken to prevent road users from further attacks.
17/08/2013	Munanda village attack, Baragoi town.	1 dead 1. Lomeera Lelesiit	-	The killers were never brought to book.
18/08/2013	Attempted attack by Turkana bandits on Lemaron family camels	1 Injured. 14-year old girl	-	The bandits were repulsed.
18/08/2013	Attempted raid on Ngilai/Bendera cattle by Turkana bandits on El-barta plains next to Nkonyio e Lkuroto.	2 Injured 1. Lesarau 2. Lengirau Leleruk	-	The bandits were repulsed.
19/09/2013	A raid on Loonjorin village, Ngiro Ward	2 critically injured (Injured are from Lesingiran family)	56 cows	Animals stolen never recovered.
19/09/2013	2 boys shot at Nkorishe, 3Km from	2 Injured. 1. Sabaya	-	The killers were never arrested.

	Baragoi town	lentoimaga 2. Lesepe		
28/09/2013	A standard 7 pupil was shot dead herding goats near Lboo Oibor, 2 Kms from Baragoi town	1 dead	52 goats	The killers were never arrested.
2/10/2013	Attack in a manyatta in Suyan, El barta Ward	1 dead. (16 yr old from Lewarani family and 47 yr old man from Lentiro family. 3 other herders Injured	307 cows 642 goats 80 camels 32 donkeys	No attempt to recover the stolen animals was made despite the heavy security personnel in Baragoi. The administration police in Marti sub-location didn't react to it either.
8/10/2013	Wuaso Rongai Attack	1 dead. 2 Injured	341 cows	The stolen animals were never returned. No compensation or arrests made on behalf of the affected families.
2/12/2013	Goats belonging to Kitalamu Lekisaat family stolen	No deaths	44 goats stolen	The stolen animals never recovered.
7/12/2013	Attempted raid by bandits in Bendera	1 death reported 1. Leparie	-	The killers were never arrested.
3/12/2014	A 2 <sup>nd</sup> raid on Lekisaat goats in Bendera village.	-	48 goats stolen, 17 recovered	17 goats recovered by owners
5/12/2014	CCF workers attacked on their way to town at Paramount Lenaitorono's Farm	2 Injured. 1. Lekiiito 2. Alex Leleina	-	The killers were never brought to book.

1/01/2015	Attempted attack by Turkana bandits on Ngilai Cattle at El barta plains	<ul style="list-style-type: none"> <li>■ bandits killed.</li> <li>2 herders injured. <ul style="list-style-type: none"> <li>1. Lenadokie Leleruk</li> <li>2. Lebaati lechoe</li> </ul> </li> </ul>	-	The local KPR managed to prevent the attack and repulse the bandits.
9/03/2015	Attack by Turkana bandits on Suyan Village, El barta ward	<ul style="list-style-type: none"> <li>■ dead</li> <li>2 Injured</li> </ul>	<ul style="list-style-type: none"> <li>193 cows</li> <li>47 camels</li> <li>343 goats</li> <li>21 Donkeys</li> </ul>	No follow up made to recover the stolen animals.
10/03/2015	Bendera cattle raided near Nkorishe by Turkana bandits.	<ul style="list-style-type: none"> <li>1 Injured. <ul style="list-style-type: none"> <li>1. Lesuruan</li> </ul> </li> </ul>	93 cows	The animals were never returned.
10/03/2015	Attack by Turkana bandits on Bendera cattle next to Nkorishe hill, 3Kms from Baragoi town.	<ul style="list-style-type: none"> <li>■ killed</li> <li>6 Injured</li> </ul>	1310 cows	No attempt by the government to return the stolen animals and apprehend the culprits. Chiefs from Nachola and Logetei tasked to follow up the stolen animals were futile.
10/03/2015	Attack by Turkana bandits on Lewarani family, Suyan, El barta Ward	<ul style="list-style-type: none"> <li>■ dead ( Lewarani family)</li> </ul>	62 cows	72 cows recovered by the owners. No attempt by the government to recover the rest.
10/03/2015	A high school student killed, 700m from Baragoi town	<ul style="list-style-type: none"> <li>■ dead. <ul style="list-style-type: none"> <li>1. Lealmusia</li> </ul> </li> </ul>	-	No arrest made on the killers.
10/04/2015	Unsuccessful raid at Leakono family in Bendera village, El-	-No deaths/Injuries	6 camels, but all recovered.	Recovered successfully by owners.

	barta ward.			
23/04/2015	Murder at loonjorin, Ngiro Ward. A mother looking at her goats attacked and slaughtered before animals are driven away by the bandits.	1 dead	232 goats	No arrests made. Goats never returned.
24/04/2015	Attack on a vehicle near Sarima, on its way to Loyangalani for a wedding.	5 Injured	-	No arrests made on the bandits.

TOTAL NUMBER OF DEATHS SINCE OCT, 2012 = 2

TOTAL NUMBER OF DEATHS AFTRE POLICE MASSACRE= 2

TOTAL NUMBER OF INJURIES=30

Total number of livestock tolen;

Cattle=3129

Camels=127

Goats/Sheep=1644

Donkeys=88

**APPENDIX II**  
**PETITION**

# PUBLIC PETITION

BY THE RESIDENTS OF SAMBURU NORTH CONSTITUENCY  
FOR ACTION TOWARDS RECOVERY OF ILLEGAL FIREARMS WITHIN THE NORTH  
RIFT REGION

*M. S. SPEAR*  
*016022* *29/11/11*

I, THE UNDERSIGNED, on behalf of the residents of Samburu North Constituency,

DRAW the attention of the House to the following;

- i) THAT, aware that security is a key component for growth and development;
- ii) NOTING, that insecurity incidences have risen in the recent past in the North Rift region and specifically Samburu County leading to loss of lives and livestock, and forcing a large number of residents to relocate;
- iii) THAT, in the past twenty-four (24) months, there have been numerous attacks including an attack in Suguta Valley where more than forty (40) security personnel were slain and their firearms stolen;
- iv) THAT, aware that the situation has been made worse by the large number of illegal arms in the hands of the civilians, and that the firearms stolen from the police may be among those being used by bandits to terrorize residents;
- v) THAT, the presence of sophisticated government firearms in the hands of the bandits has led to fear and heightened tension among residents leading to despondency;
- vi) THAT, efforts to have the matter addressed including the formation of peace committees and government-led negotiations have borne no fruits;
- vii) THAT, the matter in respect of which this Petition is made is not pending before any court of law or tribunal.

Approved *[Signature]* S.N.A.

## PUBLIC PETITION

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FOR ACTION TOWARDS RECOVERY OF ILLEGAL FIREARMS WITHIN THE NORTH  
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THEREFORE your humble petitioners PRAY that the National Assembly,  
through the Departmental Committee on Administration and National  
Security:-

- (I) Intervenes to have the National Government conduct continuous, forceful disarmament in the North Rift Region in a bid to recover the Government's and other illegal firearms currently in the hands of bandits, and sets up measures toward recovery of all stolen livestock in Samburu North; and
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And your PETITIONERS will ever pray.

PRESENTED BY,



HON. ALOIS LENTOIMANGA, MP  
MEMBER FOR SAMBURU NORTH CONSTITUENCY

DATE: 28/4/2015 .....

NAME:	Mobileno	ID#	CONSTITUENCY	SIGNATURE
1. Mary-nne Rogian Lechoe		22696060	Samburu North	<del>MA</del>
2. Ltaipi Lengumet	0710317	24276400	" "	taripi
3. Dams Letiwa	0710317	3046200	" "	Dams
4. Parisa Letiwa		7964021	" "	Parisa
5. Lojingu Letiwa	072055	1224 28119577	Samburu North	Lojingu
6. Adison Letiwa		28136203	Samburu North	Adison
7. Philip Lekadaa		12451680	Samburu North	Philip
8. Latemu Lenaropi		30480363	" "	Latemu
9. Lenton Jackson Samuel		25071431	" "	Lenton
10. Lkitari Letiwa		4201435	" "	Lkitari
11. Ntiriankon Lenaropi	0729617	9845277	" "	Ntiriankon
12. Julius Lotiptip Lenaseyan		26629350	" "	Julius
13. Joseph Saipimae Lengokvani		22774643	Samburu North	Joseph
14. Pius Lentoimaga	0710356	015 27882039	Samburu North	Pius
15. Edward Lalaki Piani		23315132	Samburu North	Edward
16. Richard Lengusuranga		31625423	Samburu North	Richard
17. Peter Lenaseyan		31594692	" "	Peter
18. Simon Lepakiyo		30269488	" "	Simon
19. Shadrack Lekisaat		26425824	" "	Shadrack
20. Solomon Lemonen	0724823	121432581	" "	Solomon
21. Gabriel (072176086) Lenengwesi		20245318	" "	Gabriel
22. Charles Leshimpiso	0726114	22584473	" "	Charles
23. Lino Letura		24895988	" "	Lino

**ORDER OF SAMBURU NORTH ATTACKS AS FROM OCTOBER 2012 TO DATE**

DATES	ATTACKS/INCIDENTS	DEATHS/INJURIES	NO. OF ANIMALS STOLEN	ACTION TAKEN/COMMENTS
20/10/2012	Ndoto attack. Bandits from Turkana community attacked Letipila family in Lesirikan, Ndoto Ward.	-No deaths/Injuries	501 cows	Attempt to recover by the local KPR was overpowered by the bandits.
0/10/2012	Retaliation in Lomirok Village on follow-up of the stolen Letipila herd of cattle.	Kpr killed, Turkana killed	-	The government deployed Regular & Administration Police, Anti-Stock theft Police to recover the stolen animals.
0/11/2012	Lamirok-Suguta valley Operation to recover the stolen animals	police officers and Kpr killed	-	<p>The government sent the Anti-stock theft and other police Units to Suguta Valley where the bandits with the stolen animals migrated to.</p> <p>KDF was deployed in the area immediately following the order by President Mwai Kibaki.</p> <p>They camped at Kampi Nyoka &amp; Baragoi Girls for 6 months. No animals recovered, no stolen weapons recovered. No arrests of the bandits made.</p>

2/11/2012	Donkeys stolen by Turkana bandits at Masikita, El-barta Ward.	-No deaths/Injuries	20 donkeys	No action taken to recover the stolen animals despite the heavy presence of the security personnel in the area.
30/11/2012	Donkeys stolen by Turkana bandits at Masikita, El-barta Ward.	- No deaths/Injuries	15 donkeys	No action taken to recover the stolen animals despite the heavy presence of the security personnel in the area.
22/12/2012	Attack by Turkana bandits to Lenturkan and Lesirite families in Masikita, El-barta ward	- No deaths/Injuries	247 cows	No action taken to recover the stolen animals despite the heavy presence of the security personnel in the area.
26/12/2012	Cows belonging to Laltangwas family stolen by Turkana bandits at Ngilai Village, El-barta Ward.	- No deaths/Injuries	3 cows	No action taken to recover the stolen animals despite the heavy presence of the security personnel in the area.
17/12/2012	Attempted raid at Lesoloyia family Ngilai	- No deaths/Injuries	-	No animals stolen. The bandits were repulsed.
1/1/2013	A Taxi-driver (Pastor) killed at Ngoriche on his way to Baragoi from South-Horr.			No action taken to apprehend the killers.
5/1/2013	Lekupe's cow stolen by Turkana bandits at Mnanda, Baragoi town.	- No deaths/Injuries	1 cow	The stolen cow was never returned.
10/1/2013	Attempted raid by Turkana bandits on Bendera cattle at Lboi	- No deaths/Injuries	1 cow killed	Samburu herders defended their animals. No action taken by

	Oibor next to Baragoi High School.			security agents to follow up and flush the bandits from their hide-outs.
13/04/2013	Calves stolen by Turkana bandits at Bendera	- No deaths/Injuries	14 calves	The stolen calves were never returned.
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8/4/2013	Kalenjin fundi killed next to Soito e Lkokoyo on his way to Baragoi	1 dead	-	No arrests made. No action taken to prevent road users from further attacks.
4/08/2013	Munanda village attack, Baragoi town.	1 dead 1. Lomeera Lelesiit	-	The killers were never brought to book.
5/08/2013	Attempted attack by Turkana bandits on Lemaron family camels	1 Injured. 14-year old girl	-	The bandits were repulsed.
5/08/2013	Attempted raid on Ngilai/Bendera cattle by Turkana bandits on El-barta plains next to Ndonyio e Lkuroto.	2 Injured 1. Lesarau 2. Lengirau Leleruk	-	The bandits were repulsed.
10/09/2013	A raid on Loonjorin village, Ngiro Ward	2 critically injured (Injured are from Lesingiran family)	56 cows	Animals stolen never recovered.
10/09/2013	2 boys shot at Nkorishe, 3Km from	2 Injured. 1. Sabaya	-	The killers were never arrested.

	Baragoi town	lentoimaga 2. Lesepe		
26/09/2013	A standard 7 pupil was shot dead herding goats near Lboo Oibor, 2 Kms from Baragoi town	1 dead	52 goats	The killers were never arrested.
27/10/2013	Attack in a manyatta in Suyan, El barta Ward	1 dead. (16 yr old from Lewarani family and 47 yr old man from Lentiro family. 3 other herders Injured	307 cows 642 goats 80 camels 32 donkeys	No attempt to recover the stolen animals was made despite the heavy security personnel in Baragoi. The administration police in Marti sub-location didn't react to it either.
28/10/2013	Wuaso Rongai Attack	1 dead. 2 Injured	341 cows	The stolen animals were never returned. No compensation or arrests made on behalf of the affected families.
2/12/2013	Goats belonging to Kitalamu Lekisaat family stolen	No deaths	44 goats stolen	The stolen animals never recovered.
7/12/2013	Attempted raid by bandits in Bendera	1 death reported 1. Leparie	-	The killers were never arrested.
3/12/2014	A 2 <sup>nd</sup> raid on Lekisaat goats in Bendera village.	-	48 goats stolen, 17 recovered	17 goats recovered by owners
5/12/2014	CCF workers attacked on their way to town at Paramount Lenaitorono's Farm	2 Injured. 1. Lekiito 2. Alex Leleina	-	The killers were never brought to book.

01/01/2015	Attempted attack by Turkana bandits on Ngilai Cattle at El barta plains	<ul style="list-style-type: none"> <li>■ bandits killed.</li> <li>2 herders injured.</li> <li>1. Lenadokie Leleruk</li> <li>2. Lebaati lechoe</li> </ul>	-	The local KPR managed to prevent the attack and repulse the bandits.
09/03/2015	Attack by Turkana bandits on Suyan Village, El barta ward	<ul style="list-style-type: none"> <li>■ dead</li> <li>2 Injured</li> </ul>	193 cows 47 camels 343 goats 21 Donkeys	No follow up made to recover the stolen animals.
14/03/2015	Bendera cattle raided near Nkorishe by Turkana bandits.	<ul style="list-style-type: none"> <li>1 Injured.</li> <li>1. Lesuruan</li> </ul>	93 cows	The animals were never returned.
05/03/2015	Attack by Turkana bandits on Bendera cattle next to Nkorishe hill, 3Kms from Baragoi town.	<ul style="list-style-type: none"> <li>■ killed</li> <li>6 Injured</li> </ul>	1310 cows	No attempt by the government to return the stolen animals and apprehend the culprits. Chiefs from Nachola and Logetei tasked to follow up the stolen animals were futile.
07/03/2015	Attack by Turkana bandits on Lewarani family, Suyan, El barta Ward	<ul style="list-style-type: none"> <li>■ dead ( Lewarani family)</li> </ul>	62 cows	72 cows recovered by the owners. No attempt by the government to recover the rest.
07/03/2015	A high school student killed, 700m from Baragoi town	<ul style="list-style-type: none"> <li>■ dead.</li> <li>1. Lealmusia</li> </ul>	-	No arrest made on the killers.
07/04/2015	Unsuccessful raid at Leakono family in Bendera village, El-	-No deaths/Injuries	6 camels, but all recovered.	Recovered successfully by owners.

	barta ward.			
23/04/2015	Murder at loonjorin, Ngiro Ward. A mother looking at her goats attacked and slaughtered before animals are driven away by the bandits.	1 dead	232 goats	No arrests made. Goats never returned.
24/04/2015	Attack on a vehicle near Sarima, on its way to Loyangalani for a wedding.	5 Injured	-	No arrests made on the bandits.

TOTAL NUMBER OF DEATHS SINCE OCT, 2012 = 5

TOTAL NUMBER OF DEATHS AFTRE POLICE MASSACRE = 19

TOTAL NUMBER OF INJURIES = 30

Total number of livestock tolen;

Cattle=3129

Camels=127

Goats/Sheep=1644

Donkeys=88

# APPENDIX I

Cabinet Secretary Ministry of Interior  
and Coordination of National  
Government Submissions

**APPENDIX III  
SUBMISSIONS BY THE CABINET  
SECRETARY MINISTRY OF INTERIOR  
AND COORDINATION OF NATIONAL  
GOVERNMENT**

# **PETITION BY THE RESIDENTS OF SAMBURU NORTH CONSTITUENCY**

---

## **Introduction**

The residents of Samburu North Constituency, has petitioned the Government, through the National Assembly, to;

- i. conduct continuous , forceful disarmament in the North Rift Region in a bid to recover the Government's and other illegal firearms currently in the hands of bandits, and sets up measures toward recovery of all stolen livestock in Samburu North;and
- ii. Compels the Government to put mechanisms that ensure that these disarmaments are conducted in adherence to the Bills of Rights as provided for in the Constitution.

## **Background**

The recurrent violent conflicts that are experienced in North Rift Region are caused by cattle rustling compounded by the proliferation of small arms and light weapons. The drought situation has also precipitated resource based conflicts among the communities living in the region. This state of affairs has seriously undermined peace, safety and security of the affected communities, resulting to conflicts, deaths, destruction of properties and retarding the socio-economic and political development in the region.

The pastoral communities have been involved in a long-standing and complex pattern of raids and counter raids. Traditionally, cattle rustling among the pastoral communities was considered as a cultural practice and was sanctioned and controlled by elders. Currently, the phenomenon of cattle rustling is causing a great concern owing to emergent new trends, tendencies and dynamics leading to commercialization and internationalization within

communities in practice. This commercialization of cattle has given cattle rustling a complete redefinition.

The stolen livestock are disposed off as quickly as possible and those which are driven away end up in remote places or across District or Country borders. This has led to inter-communal conflicts that have tended to persist due to illiteracy, high level of mistrust between neighbouring communities and lack of alternative means of livelihood in these areas.

### **Measures employed**

The Government has continued to raise public awareness on the issues surrounding the illicit Small Arms and Light Weapons. This has resulted into cases of voluntary surrender of arms. The Government has also carried various disarmament operations.

Further, the Government has been facilitating leaders to enable them undertake peace building and conflict resolution activities(peace caravans) as well as opening police posts in the identified hot spot areas across the region to address issues of insecurity.

In a meeting held on 7<sup>th</sup> January, 2015 at Boma Hotel between leaders from North Rift and Upper Eastern regions, it was resolved, among others, that Parliament should fast tract enactment of legislation to make cattle rustling a capital offence. It was also resolved that there is need to register all illegal firearms as a starting point towards disarmament, an exercise which has commenced. Immediately the registration is concluded, Community members possessing illegal firearms will be disarmed. Voluntary disarmament will be prioritized but if it fails, the Government will embark on forceful disarmament.

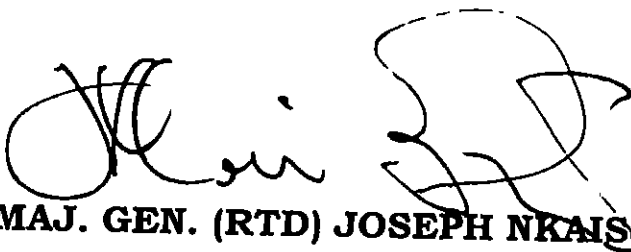
## **Challenges**

However, the following challenges have been hampering the efforts to tackle the cattle rustling and proliferation of small arms menace in Samburu County.

- The members of both Turkana and Samburu community conduct raids and counter raids.
- Availability of cheap firearms from the neighbouring countries exacerbates cattle rustling.
- The rugged terrain compounded by poor infrastructure hampers the effective performance of our security services.
- Lack of political goodwill to complement Government's efforts in addressing cattle rustling

## **Way forward**

- The Government will sustain the ongoing security arrangements to ensure the peaceful coexistence of the communities residing in the North Rift Region.
- Community leaders, particularly political leadership from both communities should directly take charge and spearhead dialogue for peaceful co-existence amongst all residents of Samburu County.



**HON. MAJ. GEN. (RTD) JOSEPH NKAISSERRY, MGH, CBS**  
**CABINET SECRETARY**  
**MINISTRY OF INTERIOR AND**  
**COORDINATION OF NATIONAL GOVERNMENT**

14<sup>th</sup> August, 2015

Approved for tabling.

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION – 2015



*By*  
*SNA*  
*22/10/15*  
Paper laid  
By Hon. David Cikiria, MP  
(on behalf of the Chairperson)  
under Order No. 05 of  
1500 Hrs on 22.10.2015  
18M

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

REPORT ON THE PETITION BY HON. SAMMY MWAITA, MP ON BEHALF OF MR. R. O. ABEDNEGO ETYANGA ON ALLEGED INTIMIDATION AND VICTIMIZATION THROUGH IRREGULAR TRANSFER/POSTING BY THE PRINCIPAL SECRETARY FOR INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT, DR. (AMB.) MONICA K. JUMA

DIRECTORATE OF COMMITTEE SERVICES,  
CLERK'S CHAMBERS,  
PARLIAMENT BUILDINGS,  
NAIROBI

OCTOBER, 2015



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## 1.0 PREFACE

On behalf of the Departmental Committee on Administration and National Security and pursuant to the provisions of Standing Order No. 227(2), it is my pleasant privilege and honour to present to the House the Report of the Committee on the Petition by Hon. Sammy Mwaita, MP on behalf of MR. R. O. Abednego Etyanga on alleged intimidation and victimization through irregular transfer/posting by the Principal Secretary For Interior And Coordination Of National Government, Dr.(Amb.) Monica K. Juma.

The petition was tabled before the House pursuant to Standing Order No. 225(2) (a) by the Hon. Sammy Mwaita, MP on behalf of MR. R. O. Abednego Etyanga on Wednesday 2<sup>nd</sup> July, 2015.

## 1.1 Mandate of the Committee

The Committee is established pursuant to the provisions of Standing Order No. 216 with the following terms of reference:-

- (i) study and review all legislation referred to it;*
- (ii) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- (iii) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- (iv) to study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
- (v) to study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- (vi) to 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;*

The Committee under Standing Order No. 227 is mandated to consider petitions committed to it by the House.

## 1.2 Committee Membership

The Committee comprise of the following Members:-

1. The Hon. Asman Kamama, MGH, OGW, MP - **Chairperson**
2. The Hon. Alois M. Lentoimaga, MP- **Vice Chairperson**
3. The Hon. Ababu Namwamba, EGH, MP
4. The Hon. Joseph Lekuton, MP

5. The Hon. Alice Wahome, MP
6. The Hon. Zakayo K. Cheruiyot, MP
7. The Hon. Timothy W. Wetangula, MP
8. The Hon. Patrick Ole Ntutu, MP
9. The Hon. Ali IsaackShaaban, MP
10. The Hon. Samuel Moroto, MP
11. The Hon. Humphrey Njuguna, MP
12. The Hon. Francis K. Mwangangi, MP
13. The Hon. Rashid J. Bedzimba, MP
14. The Hon. David Gikaria, MP
15. The Hon. Mohamed Shidiye, MP
16. The Hon. Jane Machira, MP
17. The Hon. Regina NthambiMuia, MP
18. The Hon. Ibrahim AbdiSaney, MP
19. The Hon. Joseph O. Ndiege, MP
20. The Hon. (Maj. Rtd.) John K. Waluke, MP
21. The Hon. WanjikuMuhia, MP
22. The Hon. AkujaProtusEwesit, MP
23. The Hon. Joseph M. Kahangara, MP
24. The Hon. Ahmed Abdikadir Ore, MP
25. The Hon. Grace Kiptui, MP
26. The Hon. George Theuri, MP
27. The Hon. James Bett, MP
28. The Hon. BenardShinali, MP

### **1.3 Committal and Consideration of the Petition**

Pursuant to Standing Order 227(1), the petition was referred to the Departmental Committee on Administration and National Security for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227 (1) and (2).

The Committee proceeded with the consideration of the petition by holding meetings to set up the terms of reference and scheduling of meetings.

In considering the petition, the Committee held one meeting and wrote to the Ministry of Interior and Coordination of National Government to obtain a response to the issues raised by the petitioner.

## 1.4 Committee Observations

THE Committee held one meeting to considered the submissions presented on the petition, the Committee observed that:-

The matter was pending in the High Court in Milimani) J.R Misc.Civil Application No.202 of 2015- Republic-vs- Cabinet Secretary, Ministry of Interior and Coordination of National Government, the Secretary, Public Service Commission and the Chief of Staff and Head of Public Service, on 1<sup>st</sup> July,2015.

The matter was transferred to the Employment and Labour Relations Court in Nairobi on 27<sup>th</sup> July, 2015 and registered as JR No. 7 of 2015. The matter was still pending before this Court and the hearing date for a Notice of Motion was fixed for August 13<sup>th</sup> August, 2015.

Therefore since the matter was pending in Court, it falls under the sub judice rule in accordance with Standing Order 89. Further according to Standing Order 223(g), the petitioner was required to state in the petition whether the matter was pending in a court of law or other constitutional or legal body. The Petitioner stated that the matter was not pending before a court of law; however this was not the case. Hence the Committee could not proceed with the consideration of the petition

## 1.5 Response to the prayers in the petition

The petitioner had prayed that the National Assembly through the Departmental Committee on Administration and National Security:-

- (i) Ensures that the petitioner's plight is addressed;
- (ii) Establishes whether due process was followed in the transfer of the petitioner;
- (iii) Intervenes and ensures that the irregular transfer is revoked;and
- (iv) Makes any other order or direction that it deems fit in the circumstances of the case.

In response to the above prayers, the Committee recommends that: - The Committee recommends that since the matter was pending before court, and was therefore *sub judice*. The petitioner should exhaust the judicial process in addressing the prayers.

## 1.6 Adoption of the Report

We Members of the Departmental Committee on Administration and National Security have pursuant to Standing Order 199 adopted this report on the Petition by Hon. Sammy Mwaita, MP on behalf of Mr. R. O. Abednego Etyanga on alleged intimidation and victimization through irregular transfer/posting by the Principal Secretary for Interior and Coordination of National Government, Dr. (Amb.) Monica K. Jumaand affix our signatures to confirm our approval and confirm its accuracy, validity and authenticity today 28<sup>th</sup> August, 2015 as per the attached list(Appendix I).

1. The Hon. AsmanKamama, MGH, OGW, MP - **Chairperson**
2. The Hon. Jane Machira, MP
3. The Hon. Zakayo K. Cheruiyot, MP
4. The Hon. James Bett, MP
5. The Hon. BenardShinali, MP
6. The Hon. Grace Kiptui, MP
7. The Hon. George Theuri, MP
8. The Hon. Samuel Moroto, MP
9. The Hon. Humphrey Njuguna, MP
10. The Hon. Francis K. Mwangangi, MP
11. The Hon. Rashid J. Bedzimba, MP
12. The Hon. David Gikaria, MP
13. The Hon. (Maj. Rtd.) John K. Waluke, MP
14. The Hon. WanjikuMuhia, MP
15. The Hon. Ahmed Abdikadir Ore, MP

## 1.7 Acknowledgement

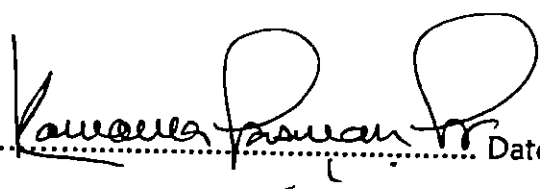
The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to this Committee. Their efforts made the work of the Committee and the production of this Report possible.

I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work, which enabled the Committee to complete the tasks within the stipulated period.

The Committee is also grateful to all the witnesses/ general public who made submissions and presentations before the Committee during the meetings. Their contributions gave the Committee the much needed insights into the issues raised in the petition and possible solutions.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Administration and National Security to present this report to the House pursuant to the provisions of Standing Order 227(2).

Signed.......... Date.....21/10/2015.....

**Hon. Asman Kamama, MGH, OGW, MP**  
**Chairman, Departmental Committee on Administration and National Security**

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## 2.0 BACKGROUND INFORMATION

2.1 Article 37 and 119 of the Constitution provides that any person has the right to petition Parliament to consider any matter within its authority as contemplated in Articles 94 and 95 of the Constitution, including enactment, amending or repealing any legislation. Standing Order 227(2) provides that, *“whenever a petition is committed to the a Departmental Committee, the Committee shall, in not more than sixty calendar days from the time of reading of the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the House...”*

2.2 The Petition by Hon. Sammy Mwaita, MP on behalf of Mr. R. O. Abednego Etyanga on alleged intimidation and victimization through irregular/transfer/posting by the Principal Secretary for Interior and Coordination of National Government, Dr. (Amb.) Monica K. Jumawas tabled before the House on Wednesday 2<sup>nd</sup> July, 2015 pursuant to Standing Order No. 225 (2) (a).

2.3 Pursuant to House rules, the petition was referred to the Committee on 2<sup>nd</sup> July, 2015 for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227.

2.4 The petitioners wished to draw the attention of the House to the following, that:-

- (i) Mr. Abednego Etyanga, the petitioner, was a senior Deputy Secretary in the Directorate of Immigration and Registration of Persons, Ministry of Interior and Coordination of National Government;
- (ii) Article 236 of the Constitution provides for the protection of public officers from victimization, discrimination and removal from office subject to disciplinary action without due process of law;
- (iii) The Principal Secretary for Interior victimized the petitioner by transferring him from the Ministry of Interior and Coordination of National Government to the Ministry of Agriculture, Livestock and

Fisheries;

- (iv) The Public Service Commission delegates human resource function to Cabinet Secretaries of respective Ministries in line with the Constitution and the policy on decentralization of human resource management in the Civil Service;
- (v) The Public Service Commission had placed a caveat on inter-ministerial transfers unless in situation where a vacancy has been advertised;
- (vi) Due process was not followed in the transfer of the petitioner and that the transfer was not recommended by the Central Human Resource Committee;
- (vii) The transfer of the petitioner was as a result of a proposal on virtual border management made to the Ministry of Interior with regard to the management of the porous Kenya- Somali border ;
- (viii) The posting /transfer and subsequent directive by the Principal Secretary to the petitioner to proceed on leave pending re-deployment amounts to intimidation and harassment of a public officer and contravened the Constitution, labour laws and Public Service regulations;
- (ix) The petitioner lodged several appeals with the Ministry regarding the matter but efforts to resolve the matter had been futile; and
- (x) The matters presented in the petition were not pending before any Court of law or tribunal

### 3.0 SUBMISSIONS AND EVIDENCE

Having been seized of the Petition, the Committee commenced its consideration by holding a meeting to consider the petition.

#### 3.1 Meeting to consider the petition

The Committee held one meeting to consider the petition, during the meeting; the Committee was made aware, through a letter from the Principal Secretary for Interior, of an ongoing case in the High Court regarding the same matter. The Committee established that the matter was pending in the High Court in (Milimani) J.R Misc. Civil Application No.202 of 2015- Republic -vs- Cabinet Secretary, Ministry of Interior and Coordination of National Government, the Secretary, Public Service Commission and the Chief Staff and Head of Public Service, on 1<sup>st</sup> July, 2015.

The matter was transferred to the Employment and Labour Relations Court in Nairobi on 27<sup>th</sup> July, 2015 and registered as JR No. 7 of 2015. The matter was still pending before the Court and the hearing date for a Notice of Motion was fixed for 13<sup>th</sup> August, 2015.

### 4.0 COMMITTEE OBSERVATIONS

The Committee noted that:-

The matter was pending in the High Court in (Milimani) J.R Misc. Civil Application No.202 of 2015- Republic -vs- Cabinet Secretary, Ministry of Interior and Coordination of National Government, the Secretary, Public Service Commission and the Chief Staff and Head of Public Service, on 1<sup>st</sup> July, 2015.

The matter was transferred to the Employment and Labour Relations Court in Nairobi on 27<sup>th</sup> July, 2015 and registered as JR No. 7 of 2015. The matter was still pending before this Court and the hearing date for a Notice of Motion was fixed for August 13<sup>th</sup> August, 2015.

The Committee therefore observed that the matter was *sub judice rule* as it was pending in Court in accordance to Standing Order 89. Furthermore in accordance with ~~to~~ Standing Order 223(g), the petitioner was required to state in the petition whether the matter was pending in a court of law or other constitutional or legal body. The Petitioner failed to disclose the factors in the petition.

## 5.0 COMMITTEE RECOMMENDATION

In response to the prayers by the petitioner, the Committee recommends that since the matter was pending before Court, and was therefore *sub judice*, the petitioner should exhaust the judicial process in addressing the prayers.

# MINUTES

**MINUTES OF THE 45<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
ADMINISTRATION AND NATIONAL SECURITY HELD ON 28<sup>TH</sup> AUGUST, 2015 AT  
FLAMINGO HOTEL, MOMBASA AT 3.00 P.M.**

**PRESENT**

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Alois Lentoimaga, MP - Vice Chairperson
3. The Hon. Wanjiku Muhia, MP
4. The Hon. Grace Kiptui, MP
5. The Hon. George Theuri, MP
6. The Hon. Ahmed Abdikadir Ore, MP
7. The Hon. Zakayo Cheruiyot, MP
8. The Hon. Humphrey Njuguna, MP
9. The Hon. Francis Mwangangi, MP
10. The Hon. (Maj. Rtd) J. K. Waluke, MP
11. The Hon. Patrick Ole Ntutu, MP
12. The Hon. Benard Shinali, MP
13. The Hon. Joseph Lekuton, MP
14. The Hon. James Bett, MP
15. The Hon. Ababu Namwamba, MP
16. The Hon. Rashid Bedzimba, MP
17. The Hon. Shaaban Ali Isaack, MP
18. The Hon. Jane Machira, MP
19. The Hon. Samuel Moroto, MP

**ABSENT WITH APOLOGY**

1. The Hon. Alice Wahome, MP
2. The Hon. Joseph Ndiege, MP
3. The Hon. Mohamed Shidiye, MP
4. The Hon. Protus Akuja Ewesit, MP
5. The Hon. Regina Nthambi Muia, MP
6. The Hon. David Gikaria, MP
7. The Hon. Joseph Kahangara, MP
8. The Hon. Ibrahim Saney, MP
9. The Hon. Timothy Wetangula, MP

## IN ATTENDANCE - NATIONAL ASSEMBLY

- |                        |   |                                 |
|------------------------|---|---------------------------------|
| 1. Mr. Leonard Machira | - | First Clerk Assistant           |
| 2. Ms. Hellen Lokwang  | - | Third Clerk Assistant           |
| 3. Mr. Mohamed Boru    | - | Third Clerk Assistant           |
| 4. Mr. Eugene Apaa     | - | Research and Policy Analyst III |
| 5. Mr. Salem Lorot     | - | Legal Counsel                   |
| 6. Mr. Abdi Salat      | - | Sergeant At Arms                |

## MIN.NO. 163 /ANS/2015 - PRELIMINARIES

The Chairperson called the meeting to order at 3.15 p.m. with a prayer by Hon. James Bett MP

## MIN.NO. 164 /ANS/2015 - ADOPTION OF REPORTS

The Committee adopted the following reports:-

- (i) **The Report on the petition by the Hon. Alois Lentolmaga MP on behalf of residents of Samburu North Constituency regarding action towards recovery of illegal firearms within the North Rift region.**

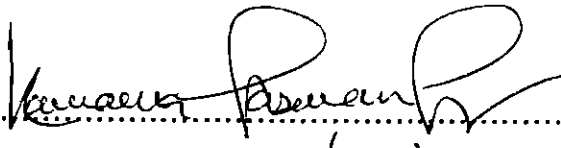
In response to the above prayers, the Committee recommended that:-

1. The Government continues with the disarmament and registration of illegal firearms in the North Rift region.
  2. The Government conducts a joint security operation, comprising of specialised police units and the Kenya Defence Force in Lamirok village, Samburu North Constituency within the next three (3) months to disarm bandits who killed 42 police officers in Baragoi in 2012 and were allegedly hiding in the village.
  3. The Government should implement the recommendation on the National Assembly report *on a fact finding visit to Samburu East and Isiolo North Districts; 21<sup>st</sup> to 23<sup>rd</sup> September, 2009* to establish the causes of inter-clan conflict and banditry in the region.
- (ii) **The Report on the petition by Mr. Abednego Etyang'a on alleged intimidation and victimization through irregular transfer/posting by Principal Secretary of Interior, Ms. Monica K. Juma.**

The Committee recommended that since matter was pending before court, the petition falls within the sub judice rule hence no further discussion would be held on the on the matter

MIN.NO.165/ANS/2015 - ADJOURNMENT OF THE MEETING

There being no other business the meeting was adjourned at 5.00 p.m. The next meeting will be held on 10<sup>th</sup> September, 2015.

Signed..........

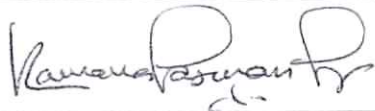




(Chairperson)

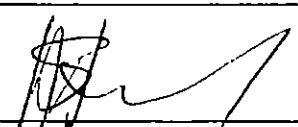
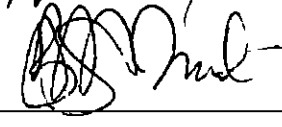

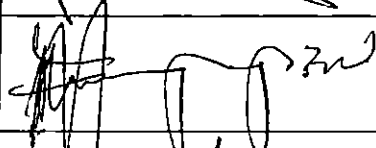
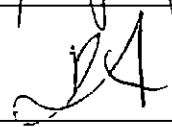
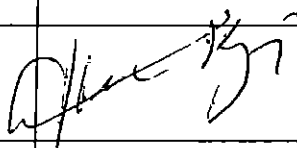
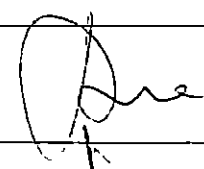
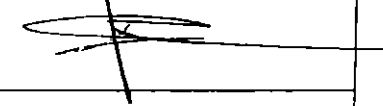
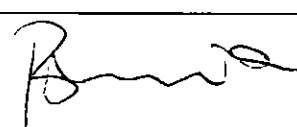
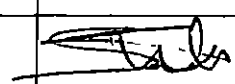
Date.....21/10/2015.....

**APPENDIX I**  
**ADOPTION LIST**

We Members of the Departmental Committee on Administration and National Security have pursuant to Standing Order 199 adopted this report on the Petition Mr. R.O. Abednego Etyang'a on alleged intimidation and victimization through irregular transfer/posting by the Principal Secretary of Interior, Ms. Monica K. Juma

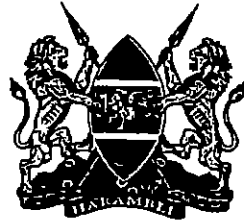
DATE: 28<sup>th</sup> August 2015 TIME: 3:00pm VENUE: FLAMENGO HOTEL

S/NO.	NAME	SIGNATURE
1.	The Hon. Kamama Asman, MGH,OGW,MP – <b>Chairperson</b>	
2.	The Hon. Alois M. Lentoimaga, MP – <b>Vice-Chairperson</b>	
3.	The Hon. Ababu Namwamba, EGH, MP	
4.	The Hon. Alice Wahome, MP	
5.	The Hon. Joseph Lekuton, MP	
6.	The Hon. Mohamed Shidiye, MP	
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23.	The Hon. Akuja Protus Ewesit, MP	
24.	The Hon. Ahmed Abdikadir Ore, MP	
25.	The Hon. David Gikaria, MP	
26.	The Hon. Timothy W. Wetangula, MP	
27.	The Hon. Wanjiku Muhia, MP	
28.	The Hon. George Theuri, MP	

**APPENDIX II**  
**PETITION**

REPUBLIC OF KENYA



Approved  
SNA  
27/15

THE NATIONAL ASSEMBLY  
ELEVENTH PARLIAMENT  
(THIRD SESSION)

PUBLIC PETITION  
BY MR. R.O. ABEDNEGO ETYANG'A ON ALLEGED INTIMIDATION AND  
VICTIMIZATION THROUGH IRREGULAR TRANSFER/POSTING BY THE PRINCIPAL  
SECRETARY OF INTERIOR, MS. MONICA K. JUMA

---

I, the UNDERSIGNED, on behalf of Mr. Abednego Etyang'a, a citizen of Kenya,  
DRAW the attention of the House to the following;

- i. THAT, Mr. Abednego Etyang'a is a Senior Deputy Secretary in the Directorate of Immigration and Registrar of Persons, Ministry of Interior and Coordination of National Government;
- ii. THAT, Article 236 of the Constitution provides for protection of public officers from victimization, discrimination and removal from office or subjection to disciplinary action without due process of law;
- iii. THAT, the Principal Secretary for Interior victimized the Petitioner by transferring him from the Ministry of Interior and National Coordination to the Ministry of Agriculture, Livestock and Fisheries (State Department of Agriculture);
- iv. THAT, the Public Service Commission delegates human resource function to Cabinet Secretaries of respective Ministries in line with the Constitution and policy on decentralization of human resource management in the Civil Service;
- v. THAT, the Public Service has in place a caveat on inter-ministerial transfers unless in situations where a vacant position has been advertised;
- vi. THAT, due process was not followed in the transfer of the Petitioner and that the transfer was not recommended by Central Human Resource Committee;

A handwritten signature in black ink, appearing to be 'R. O. Abednego Etyang'a'.

**PUBLIC PETITION**  
**BY MR. R.O. ABEDNEGO ETYANG'A ON ALLEGED INTIMIDATION AND**  
**VICTIMIZATION THROUGH IRREGULAR TRANSFER/POSTING BY THE**  
**PRINCIPAL SECRETARY OF INTERIOR, MS. MONICA K. JUMA**

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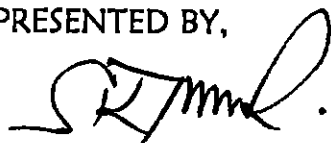
- vii. THAT, the transfer of the Petitioner was as a result of a proposal on virtual border management made to the Ministry of Interior and Nationals Coordination with regard to the security management of the porous Kenya Somali Border;
- viii. THAT, the posting/transfer and subsequent directive by the Principal Secretary to Petitioner to proceed on leave pending re-deployment amounts to intimidation and harassment of a public officer and is in contravention of the Constitution, Labour Laws and the Public Service regulations.
- ix. THAT, the Petitioner lodged several appeals with Ministry officials regarding the matter but efforts to resolve the matter have been futile;
- x. THAT, the matter presented in this petition is not pending before any tribunal or court of law;

THEREFORE, your humble Petitioner PRAYS that the National Assembly through the Departmental Committee on Administration and National Security:

- (i) Ensures that the Petitioner's plight is addressed;
- (ii) Establishes whether due process was followed in the transfer of the Petitioner;
- (iii) Intervenes and ensures that this irregular transfer is revoked; and
- (iv) Makes any other order or direction that it deems fit in the circumstances of the case.

And your PETITIONER will ever pray.

PRESENTED BY,



HON. SAMMY MWAITA, MP

MEMBER FOR BARINGO CENTRAL CONSTITUENCY

DATE ... 27/7/2015 .....

# PUBLIC PETITION

BY MR. ABEDNEGO R.O ETYANG'A

ON

## THE INTIMIDATION AND VICTIMIZATION OF MR. R.O. ABEDNEGO ETYANG'A THROUGH IRREGULAR TRANSFER/POSTING BY THE PRINCIPAL SECRETARY - INTERIOR, MS. MONICA K. JUMA

I the undersigned, on behalf of Mr. Abednego R. O. Etyang'a, Senior Deputy Secretary, Directorate of Immigration and Registration of Persons, Ministry of Interior and Coordination of National Government;

Draw the attention of the House to the following,

1. **THAT**, while Article 236 provides for the protection of public officers from victimization, discrimination and removal from office or subjection to disciplinary action without due process of law, the Principal Secretary victimized the petitioner through irregular transfer/posting from the Ministry of Interior and Coordination of National Government (Directorate of Immigration and Registration of Persons) to the Ministry of Agriculture, Livestock and Fisheries (State Department of Agriculture);
2. **THAT**, the Public Service Commission has delegated human resource functions to Cabinet Secretaries of respective ministries pursuant to Article 234 (5) of the Constitution and in line with the policy on decentralization of human resource management in the Civil Service;
3. **THAT**, such delegation shall be exercised in accordance with the provisions of the Constitution, relevant labour laws and any regulations and or guidelines issued by the Public Service Commission;



4. **THAT**, the Public Service Commission had put a caveat on inter-ministerial transfers unless in situations where a vacant position has been advertised;
5. **THAT**, the Central Human Resource Management Posting Committee (CHRMPC) is tasked with the mandate of recommending transfer of officers on Job Group Q and above for approval of the Public Service Commission;
6. **THAT**, the re-designation of staff in Job Group Q and above shall remain the responsibility of the Public Service Commission while the Cabinet Secretary shall have the power to re-designate officers from job group A to P upon recommendation of the Ministerial Human Resource and Development Advisory Committee (MHRMAC);
7. **THAT**, the posting of Mr. Abednego R. O. Etyang'a to the Ministry of Agriculture, Livestock and Fisheries (State Department of Agriculture) was not discussed and recommended by the Central Human Resource Committee or approved by the Public Service Commission as required;
8. **THAT**, the posting of Mr. Abednego R.O Etyang'a, Senior Deputy Secretary, Immigration and Registration of Persons, was as a result of a proposal on virtual border management made to the Ministry with regard to the security management of the porous Kenya Somali Border; and
9. **THAT**, the said posting and subsequent directive by the Principal Secretary to the said officer (Mr. Abednego R.O Etyang'a, Senior Deputy Secretary) to proceed on leave pending re-deployment amounts to intimidation and harassment of a



senior public officer and is in contravention of the Constitution, labour laws and the public service regulations.

**That, the issues raised in this petition are not pending in any court of law or constitutional body.**

**THEREFORE** your humble petitioner prays that the National Assembly, through the Departmental Committee on Administration and National Security:-

1. Investigates the conduct of the Principal Secretary Interior in the transfer of the petitioner and whether due process was followed in the transfer;
2. Intervenes with the relevant authorities to ensure the payment of the June, 2015 salary and May 2015 salary arrears for Mr. Abednego R. O. Etyang'a;
3. Intervenes with the relevant authorities to ensure that the irregular transfer is revoked and the petitioner reinstated and protected at his work station; and
4. Intervenes with the relevant authorities to ensure protection of career civil servants in the execution of their duties without fear of intimidation.

And your humble **PETITIONER** will ever pray.

**Presented by**

**Hon. Sammy Mwaita, MP**

**Member for Baringo Central Constituency**

Sign:  .....

Date:  .....

# PUBLIC PETITION

BY MR. ABEDNEGO R. O. ETYANG'A

ON

THE INTIMIDATION AND VICTIMIZATION OF MR. ABEDNEGO  
R.O. ETYANG THROUGH IRREGULAR TRANSFER/POSTING BY  
THE PRINCIPAL SECRETARY - INTERIOR, MS. MONICA K.  
JUMA

## The Petitioner

Name

ID. No.

SIGNATURE

ABEDNEGO R. O. ETYANG'A

7421670

*Abund*

25/06/2015

P.O. Box 36985-D0100

Nairobi

TEL. 0723207347

**APPENDIX III  
SUBMISSIONS BY THE PRINCIPAL  
SECRETARY STATE DEPARTMENT OF  
INTERIOR**

①

D/Committees

1219

URGENT



② MACHIA

pls deep  
FA 13/18

**OFFICE OF THE PRESIDENT**

Telegraphic address "Rais"  
Telephone Nairobi 2227411  
When replying, please quote

MINISTRY OF INTERIOR  
AND CO-ORDINATION  
OF  
NATIONAL GOVERNMENT

P.O. Box 30510-00100  
Nairobi

Ref No **OP/209/015/NB/778**  
and date

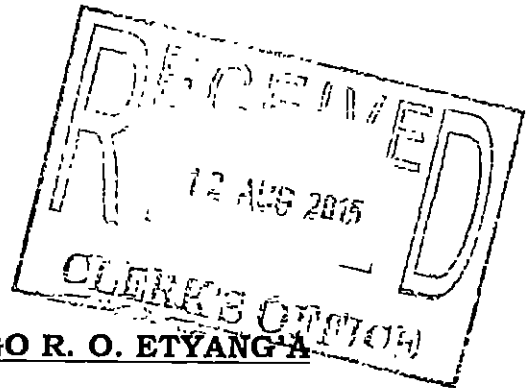
**11<sup>th</sup> August, 2015**

20.....

**Mr. Justin Bundi, CBS**  
Clerk of the National Assembly  
Parliament Buildings  
**NAIROBI**

Dear

*Mr. Bundi,*



**RE: PUBLIC PETITION BY MR. ABEDNEGO R. O. ETYANG'A**

This is to acknowledge your Summons dated 6<sup>th</sup> August, 2015 for the Cabinet Secretary to appear before the Departmental Committee on Administration and National Security on Tuesday, 18<sup>th</sup> August, 2015 to answer to Notice of Motion dated 2/7/2015 filed with the House regarding the transfer of one Mr. Abednego R. O. Etyang'a through Hon. Sammy Mwaita, Member of Parliament for Baringo Central Constituency.

The Motion among other things seeks to have the House investigate the transfer of Mr. Etyang'a from the Ministry of Interior and Coordination of National Government to the Ministry of agriculture, Livestock and Fisheries.

The Petition states that the transfer of Mr. Abednego Etyang'a is in violation of the Constitution, Labour Laws and the Public Service regulations. The Petitioner further states at paragraph x that, "the matter presented in this petition is not pending before any tribunal or court of law".

We wish to draw your attention to the fact that this matter was filed in the High Court in Nairobi (Milimani) J. R. Misc. Civil Application No. 202 of 2015 - Republic - vs - Cabinet Secretary Ministry of Interior & Coordination of National Government, The Secretary Public Service Commission, The Chief of Staff & Head of Public Service on 1 July, 2015.

The High Court Miscellaneous Civil Application 202 of 2015 was transferred to the Employment & Labour Relations Court at Nairobi on 27<sup>th</sup> July, 2015 and registered as JR No.7 of 2015. The Matter is still pending before the Employment and Labour Relations Court and the Hearing date for a Notice of Motion is fixed for Thursday, 13<sup>th</sup> August, 2015. Attached hereto is the photocopy of the communication from the Attorney-General on notice for the Hearing of the matter.

Submitted for guidance.

Yours



**AMB. MONICA JUMA, DPhil., MBS**  
**PRINCIPAL SECRETARY - INTERIOR**

**CC:**

**Hon. Maj. Gen. (Rtd.) Joesph Nkaisserry, MGH**  
Cabinet secretary  
Ministry of Interior & Coordination of  
National Government  
**NAIROBI**

} for information.



11/5  
REPUBLIC OF KENYA  
OFFICE OF THE ATTORNEY-GENERAL  
is  
DEPARTMENT OF JUSTICE

AG/LIC/OP/80/15

7<sup>th</sup> August, 2015

Principal Secretary  
Ministry of Interior & Coordination of  
National Government  
P.O. Box 30510 – 00100  
NAIROBI

NAIROBI HCC JR 7/2015  
ABEDNEGO REUBEN OKARIKODI ETYANG VS.  
THE ATTORNEY GENERAL  
CABINET SECRETARY MINISTRY OF INTERIOR &  
CO-ORDINATION OF NATIONAL GOVERNMENT,  
PRINCIPAL SECRETARY MINISTRY OF INTERIOR &  
CO-ORDINATION OF NATIONAL GOVERNMENT  
THE SECRETARY PUBLIC SERVICE COMMISSION,  
CHIEF OF STAFF AND HEAD OF PUBLIC SERVICE

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We refer to the above matter and advise that the case is scheduled for hearing on 13-8-2015

We further inform that we have fully appraised the issues and intend to prepare Replying Affidavits in response to the claim.

The affidavits will in essence set out the facts and further amplify and clarify the respective mandates of 2<sup>nd</sup> -4<sup>th</sup> respondents. This is very critical to enable the Court appreciate the rationale of the guidelines in the National Executive Public Service (Civil Service).

To this end, please note that we are preparing three (3) affidavits to be sworn by:-

1. Principal Secretary, Ministry of Interior & Coordination of National Government.
2. Secretary, Public Service Commission.
3. Director, Human Resource Manager, Ministry of Interior & National Government.

We have attached a bound copy of the claimant's Memorandum of Claim together with the Amended Notice of Motion and Supporting Affidavit for record.



Ms. Wanjiku A. Mbiyu (OGW)

Chief State Counsel

**FOR: HON ATTORNEY GENERAL**

C.C.

Office of the Chief of Staff &

Head of Public Service

**HARAMBEE HOUSE**