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REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION

THE SENATE

STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE
AND FOREIGN RELATIONS



Rt. Hon. Speaker
You may approve for tabling
J. M. Nyegenye, C.B.S.,
Clerk of the senate/secretary, PSC
Date: 09/05/24

REPORT ON THE PETITION BY RESIDENTS OF KAJIADO EAST
AND WEST SUB COUNTIES CONCERNING RAMPANT LIVESTOCK
THEFT IN THE REGION AND KAJIADO COUNTY AT LARGE



14/05/24

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DATE	15/5/2024
TABLED BY	Majority Whip.
COMMITTEE	National Security, ---
CLERK AT THE TABLE	Angels

Clerk's Chambers,
The Senate,
Parliament Buildings,
NAIROBI.

May, 2024

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LIST OF ABBREVIATIONS AND ACRONYMS

APSSTPU	- Administration Police Specialized Stock Theft Prevention Unit
ASTU	- Anti-Stock Theft Unit
COK	- Constitution of Kenya
CS	- Cabinet Secretary
DCI	- Directorate of Criminal Investigations
IG	- Inspector General
NGAO	- National Government Administration Officer
NPS	- National Police Service

PRELIMINARIES

Establishment and Mandate of the Committee

The Standing Committee on National Security, Defence and Foreign Relations is established under the Senate Standing Orders and is mandated to “*consider all matters relating to national security and foreign relations, disaster reduction and preparedness, home affairs, defence, immigration and international relations*”.

Membership of the Committee

The Committee is comprised of –

- | | |
|--|--------------------|
| 1) Sen. William Cheptumo Kipkiror, CBS, MP | - Chairperson |
| 2) Sen. Karen Njeri Nyamu, MP | - Vice-Chairperson |
| 3) Sen. Fatuma Adan Dullo, CBS, MP | - Member |
| 4) Sen. Abdul Mohammed Haji, CBS, MP | - Member |
| 5) Sen. Julius Murgor Recha, CBS, MP | - Member |
| 6) Sen. Joseph Githuku Kamau, MP | - Member |
| 7) Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - Member |
| 8) Sen. Lenku Ole Kanar Seki, MP | - Member |
| 9) Sen. George Mungai Mbugua, MP | - Member |

The Minutes of the Committee in considering the Petition by residents of Kajiado East and West Sub Counties concerning rampant livestock theft in the region and Kajiado County at large are attached to this Report as *Annex 1*.

FOREWORD BY THE CHAIRPERSON

Hon. Speaker,

The Petition by residents of Kajiado East and West Sub Counties was presented in the Senate on Thursday, 29th June, 2023, following which it was committed to the Standing Committee on National Security, Defence and Foreign Relations for consideration.

The salient issue in the Petition relates to the persistent theft of livestock in Kajiado East and West Sub Counties and Kajiado County at large. In recent times, the County has witnessed escalating incidences of livestock theft resulting in loss of lives and substantial financial losses to the residents of the County, whose livelihoods and cultural heritage are tied to livestock.

The Petition by the residents of Kajiado East and West Sub Counties was thus for the investigation of livestock theft despite heavy police presence, investigation into arrests and prosecution of perpetrators, compensation to the affected residents and the passage of stringent legislation on livestock theft containing severe penalties for offenders, enhanced law enforcement measures and provisions for the establishment of specialized units to combat livestock theft effectively.

Hon. Speaker,

In considering the Petition, the Committee first met with the Petitioners. This was to enable the Committee to better understand the issues raised in the Petition and the remedies they sought from the Committee and the Senate.

The Committee subsequently held meetings with the Cabinet Secretary, Ministry of Interior and National Administration to deliberate on and receive submissions on the Petition. These are summarized in Chapter Two of this Report.

Hon. Speaker,

Having heard from the Petitioners and the other stakeholders, the Committee made various observations which are set out at Chapter Three of the Report. Notably –

1. The Committee observed that stolen livestock were seemingly transported by road, past police apparatus and through heavily manned security road blocks across the County, casting suspicion on the involvement of security agencies in the theft of livestock.

2. The Committee observed that some of the suspects were either family members, employees or herdsmen or had other relationships with the complainants who were suspected to have aided the criminals. As such, the solution lies in a greater role of the community to support the security infrastructure to tighten preventive measures and refrain from withdrawal of cases.

The Committee further observed that-

1. currently, the offence of stock theft is provided for under section 278 of the Penal Code which provides for a punishment upon conviction of not more than fourteen (14) years, which term does not serve as a deterrent to criminals.
2. The Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) sponsored by Sen. Samson Cherarkey, MP and Hon. Rahim Dawood, MP proposes to repeal section 278 of the Penal Code, among other pieces of legislation proposes the enhancement of the penalty to imprisonment of not less than twenty (20) years for the perpetrators of cattle theft and life imprisonment where violence or threats of violence is used. The Bill was passed by the Senate on 21st February, 2024 and was referred to the National Assembly for consideration. Subsequently the Bill was read a First Time in the National Assembly on 16th April, 2024;
3. the National Police Service Standing Orders 2017, establishes the Anti-Stock Theft Unit of the Kenya Police and the Specialized Stock Theft Prevention Unit (APSSTPU) under the Administration Police to deal with the prevention of livestock theft. There is need for the functions of the two Units to be enhanced in various parts of the country, moreso in areas where livestock theft is rampant;
4. the Constitution of Kenya and the National Police Service Act provide a strong framework for community policing in Kenya, emphasizing the need for collaboration between the police and local communities. However, the effectiveness of Community Policing Committees varies depending on local factors; and
5. With regard to the issue of compensation, since the theft is carried out by individuals, there is no obligation on the Government for compensation, however, there is need for thorough investigations and prosecution of the perpetrators.

The other detailed observations by the Committee are contained in Chapter Three of the Report.

Hon. Speaker,

Arising from its observations on the Petition, the Committee has made the following recommendations –

- a) That the Senate leadership prevails upon the leadership of the National Assembly to fast track the consideration of the Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) in accordance with the National Assembly Standing Orders.
- b) That the Ministry of Interior and National Administration enhances the functions of the Anti-Stock Theft Unit of the Kenya Police and the Administration Police Specialized Stock Theft Prevention Unit (APSSTPU) and provides a status report to the Senate within **six months** of the tabling of this Report.
- c) That the Ministry of Interior and National Administration fully operationalizes community policing initiatives in order to ensure community participation in security matters in the affected regions and provides a status report to the Senate within **six months** of tabling of this Report.
- d) While there is no avenue of compensation for the lost cattle as a result of the insecurity, we recommend that the Directorate of Criminal Investigation carries out thorough investigation into the alleged theft for the purpose of prosecution of the perpetrators by the Office of the Director of Public Prosecutions and provides a status report to the Senate within **six months** of tabling of this Report.


Hon. Speaker,

Allow me to thank the Members of the Committee for their diligence and insights during the consideration of this Petition. I also wish to thank the Petitioners for bringing this matter to the attention of the Senate. I further wish to thank the Cabinet Secretary, Ministry of Interior and National Administration who presented submissions before the Committee.

Lastly, I wish to thank the Offices of the Speaker and the Clerk of the Senate for the support accorded to the Committee during the consideration of this Petition.

Hon. Speaker,

It is now my pleasant duty, pursuant to Standing Order 238(2), to present the Report of the Standing Committee on National Security, Defence and Foreign Relations on the Petition by residents of Kajiado East and West Sub Counties concerning rampant livestock theft in the region and Kajiado County at large.

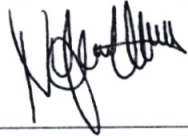
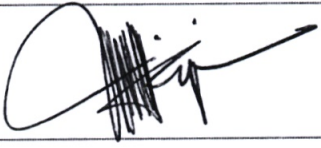


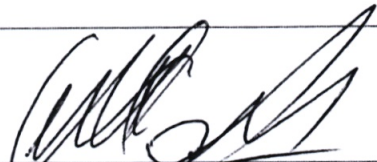
Signed.....

Date.....

**SEN. WILLIAM CHEPTUMO, CBS, MP
CHAIRPERSON, STANDING COMMITTEE ON NATIONAL SECURITY,
DEFENCE AND FOREIGN RELATIONS.**

ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS ON THE PETITION BY RESIDENTS OF KAJIADO EAST AND WEST SUB COUNTIES CONCERNING RAMPANT LIVESTOCK THEFT IN THE REGION AND KAJIADO COUNTY AT LARGE

We, the undersigned Members of the Standing Committee on National Security, Defence and Foreign Relations, do hereby append our signatures to adopt this Report

No	Name	Signature
1.	Sen. William Kipkiror Cheptumo, CBS, MP <i>(Chairperson)</i>	
2.	Sen. Karen Njeri Nyamu, MP <i>(Vice-Chairperson)</i>	
3.	Sen. Fatuma Adan Dullo, CBS, MP	
4.	Sen. Abdul Mohamed Haji, CBS, MP	
5.	Sen. Julius Murgor Recha, CBS, MP	
6.	Sen. Joseph Githuku Kamau, MP	
7.	Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP	
8.	Sen. Lenku Ole Kanar Seki, MP	
9.	Sen. George Mungai Mbugua, MP	

CHAPTER ONE: INTRODUCTION

1.1 Summary of the Petition

3. The right to present petitions to public authorities is provided for under Article 37 of the Constitution. Article 119(1) further provides that ‘Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.’
4. Parliament enacted the Petition to Parliament (Procedure) Act, No. 12 of 2012, to make provision for the procedure for the exercise of this right. Further, Part XXVII of the Senate Standing Orders also makes provision on how this right may be exercised.
5. Pursuant to the said provisions, at the sitting of the Senate held on Thursday, 29th June, 2023, Sen. Lenku Ole Kanar Seki, MP, Senator for Kajiado County, presented to the Senate a Petition by residents of Kajiado East and West Sub Counties concerning rampant livestock theft in the region and Kajiado County at large. A copy of the Petition is attached to this Report as *Annex 2*, while an extract of the Hansard for the Senate sitting of Thursday, 29th June, 2023 is attached as *Annex 3*.
6. The salient issues raised in the Petition were that –
 - a) THAT, the livestock industry holds immense significance in both the economic prosperity and cultural heritage of Kajiado County and the country at large;
 - b) THAT, the livestock keepers in Kajiado County face a crisis in recent times in form of recurrent livestock theft happening within the county;
 - c) THAT, the escalating incidents of livestock theft has inflicted substantial financial losses and loss of lives where the perpetrators have engaged in killing of the homestead owners and stealing livestock;
 - d) THAT the acts of cattle theft have brought about emotional distress and an overwhelming sense of insecurity in the communities living in Kajiado County;
 - e) THAT, the community has lost over five thousand (5,000) livestock comprising of goats and sheep alone over a period of six (6) months;
 - f) THAT, the total number of livestock lost could be higher since more residents do not report the cases to the police anymore as a result of low confidence in the security institutions;

- g) THAT, the cases of livestock theft in the stated sub-counties have been rampant despite the presence of police apparatus and roadblocks across the affected areas within the county;
- h) THAT the strategy used by the livestock thieves or the conspiracy seems to be high-tech and well-executed as the action goes undetected until the livestock are long gone; and
- i) THAT, the Petitioners have forwarded the matter to the relevant authorities for consideration, but the response has been unsatisfactory;

7. The Petitioners therefore prayed that the Senate –

- a) investigates the ferrying of livestock past heavy police apparatus and road blocks within Kajiado County without detection and/or arrest of the perpetrators and whether there could be a conspiracy to defeat justice;
- b) initiates the formulation and passage of stringent legislation on livestock theft making provision for severe penalties for offenders, enhanced law enhancement measures and establishment of specialized units to combat livestock theft effectively;
- c) investigates why there have not been any arrests and prosecution of perpetrators of the livestock theft especially when such huge numbers are involved;
- d) considers the community's request for redress in form of compensation for the losses caused by the cases of livestock theft within Kajiado County; and
- e) takes any other measures or recommendations that the Senate may deem appropriate.

8. Pursuant to standing order 238(1) of the Senate Standing Orders, the Petition was committed to the Standing Committee on National Security, Defence and Foreign Relations for consideration.

1.2 Analysis of legal issues

9. Currently, the law regulating stock theft in Kenya is the Penal Code. Section 278 of the Penal Code, CAP 63 of the Laws of Kenya specifically provides for the offence of stealing stock which is punishable upon conviction to imprisonment for a term not exceeding fourteen (14) years. The section provides-

“If the thing stolen is any of the following things, that is to say, a horse, mare, gelding, ass, mule, camel, ostrich, bull, cow, ox, ram, ewe, wether, goat or pig, or the young thereof the offender is liable to imprisonment for a period not exceeding fourteen years.”

1.2.1 The Prevention of Livestock and Produce Theft Bill, 2023

10. The Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) sponsored by Sen. Samson Cherarkey, MP and Hon. Rahim Dawood, MP proposes to repeal section 278 of the Penal Code, the Branding of Stock Act and the Stock and Produce theft Act. In addition, the Bill proposes the enhancement of the penalty to imprisonment of not less than twenty (20) years for the perpetrators of cattle theft.
11. The Bill further proposes that where for the purpose of stealing livestock or in the course of stealing livestock violence or the threat of violence is used, such person is liable upon conviction to a life term of imprisonment. The Bill further provides that any person who procures, incites, hires, directs, instigates or colludes with another person to steal livestock will be liable upon conviction to a term of imprisonment of not less than fifteen (15) years. The Bill was passed by the Senate on 21st February, 2024 and was referred to the National Assembly for consideration. Subsequently the Bill was read a First Time in the National Assembly on 16th April, 2024;
12. The Bill further proposes the following-
 - a) to compel every livestock owner to brand his or her livestock before any of the livestock attains the age of six (6) months using a brand registered in the name of the owner;
 - b) the manner and procedure of seeking a brand registration by one's livestock;
 - c) obligate livestock owners to seek a permit when transferring cattle from one premise where the livestock is ordinarily kept to another place whether for the purpose of slaughter or sale;
 - d) compel every owner of an abattoir to keep books and records of every livestock slaughtered including the particulars of the owner of the livestock and the brand of the livestock;
 - e) provide for the manner of appointment of livestock inspectors in each ward;
 - f) punish livestock owners who don't register their livestock brands with imprisonment for one (1) year or a fine not exceeding one hundred thousand (100,000) shillings or both; and
 - g) make it an offence for a person to brand another person's livestock using their registered brand or alters any brand on another person's livestock, punishable by a fine not exceeding fourteen (14) years or a fine not exceeding one (1) million shillings or both.

1.2.2 Establishment of the Anti-Stock Theft Unit in the Kenyan Police or Administration Police service under the Service Standing Orders

13. The National Police Service Standing Orders (Legal Notice No. 100 of 2017), establishes the *Anti-stock Theft Unit* as a specialized unit of the Kenya Police Service to deal with cattle theft. Chapter 2, regulation 7 (1) (J) of the National Police Service Standing Orders particularly establishes the unit. Regulation 7 (1) (3) of Chapter 3 of the National Police Service Standing Orders further establishes the *Specialized Stock Theft Prevention Unit (APSSTPU)* as a specialized unit of the Administration Police Service aimed at preventing livestock theft.
14. The National Police Service Standing Orders further establish the Anti-Stock Theft Unit (ASTU) training school to be based in Gilgil, Nakuru County for the purpose of training the members of the Kenya Police Service.
15. Article 245 (4) (a) of the Constitution of Kenya provides that while conducting an investigation into a particular offence or offences, the Inspector General of the National Police Service (NPS) shall not be subject to the direction and control of any person.
16. The power to conduct investigations into criminal offences is therefore vested in the National Police Service under the Command of the Inspector General of the National Police Service. The National Police Service exercises this mandate through the Directorate of Criminal Investigations established by the National Police Service under section 28 of the National Police Service Act, 2011.
17. On the other hand, criminal prosecutions are conducted by the Office of the Director of Public Prosecutions which is an independent office established under Article 157 of the Constitution of Kenya.

1.2.3 Compensation for the loss of private properties as a result of insecurity

18. One of the prayers by the Petitioners is for compensation of lost properties by the Government of Kenya. It must be noted that the role of the Senate is clearly stipulated under Article 96 of the Constitution, which role does not extend to the compensation of victims of cattle rustling. However, in the course of conducting an inquiry, a Senate Committee may make recommendations to the relevant state agencies for compensation of victims where it is established that the loss of the private properties was occasioned by the actions of the state agency. In instances where private property is however lost as a result of theft by private individuals, the law only provides for a recourse in criminal law through prosecution of the

offenders as opposed to compensation of the affected communities, families or individuals.

19. One of the instances in which the Government of Kenya is obligated to compensate for lost private property is when the government exercises compulsory acquisition. Article 40(3) of the Kenyan Constitution protects individuals from deprivation of their property by the state. The state can only acquire land or interest in land for public purposes or in the public interest, and such acquisition must be carried out in accordance with the Constitution. The state is obligated to promptly pay full and just compensation to the person from whom the land is acquired. Furthermore, any person with an interest or right over the acquired property has the right to access a court of law.
20. Further, under principles 7(3)(b) and 29(2) on the United Nations Guiding Principles on Internal Displacement, the Government of Kenya has an obligation to compensate for lost private property as a result of internal displacements. Kenya has domesticated these principles under the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act (Cap 134A) of the Laws of Kenya. Further, the UN principles are applicable to Kenya under Article 2 (5) and (6) of the Constitution which provides that the general rules of international law shall form part of the Laws of Kenya under the Constitution and that any treaty or convention ratified by Kenya, shall form part of the Laws of Kenya under the Constitution. It therefore follows that families which have lost properties as a result of internal displacement arising from insecurity can claim compensation from the Government under the Protection and Assistance to Internally Displaced Persons and Affected Communities Act (Cap 134A) of the Laws of Kenya.
21. Despite the existence of legal provisions, the implementation of compensation mechanisms in Kenya has sometimes been hindered by factors such as limited resources, bureaucratic challenges, corruption, and political considerations. Further, while there have been some efforts to compensate and resettle affected internally displaced persons in the past, the process has often been slow, controversial and not always comprehensive.
22. In Kenya, when private property such as livestock is lost due to theft, the primary legal recourse has traditionally been through criminal law. Specifically, the offense of stealing stock, as outlined in section 278 of the Penal Code (Cap 63), has been the main provision used to prosecute such cases. Under this section, anyone who steals any cattle, horse, ass, mule, sheep, or goat, or knowingly receives such stolen animals, is guilty of a felony and is liable to imprisonment

for a term of 14 years. This approach has been the standard way of addressing livestock theft in Kenya, with the focus being on punishing the perpetrators through criminal proceedings. The Constitution of Kenya however encourages out of court settlements and therefore the accused person and the complainant may agree to have the matter withdrawn from court upon compensation. The Government of Kenya however does not compensate in such instances.

1.2.4 Community Policing Initiatives in Kenya

23. Article 244(e) of the Constitution of Kenya lays the groundwork for community policing by requiring the National Police Service to foster relationships with the broader society. Section 2 of the National Police Service Act (No. 11A of 2011) further defines community policing as a collaborative approach involving voluntary participation of local communities in maintaining peace, identifying and solving problems and preventing crime.
24. On the basis of section 10(1)(k) of the Act, the Inspector-General of the National Police Service has issued guidelines on Community Policing to ensure co-operation between the Service and the communities it serves in combating crime.
25. Under section 97 of the National Police Service Act, the County Policing Authorities are responsible for the implementation of community policing policies and guidelines, facilitation of training members of community policing within the county, receiving reports from local community policing structures and preparing county community policing reports for submission to the Cabinet Secretary. However, this provision is yet to be operationalised. Under section 126 of the Act, the Cabinet Secretary, Ministry of Interior and National Administration is empowered to issue policy guidelines to the Service with regard to the functioning of the County Policing Authorities, receiving regular reports from the County Policing Authorities and facilitating the involvement of the public in the activities of the Service.
26. In line with section 98 of the Act, the Government has established Community Policing Committees (CPCs) at the local level to facilitate communication and cooperation between the police and the community. These committees have been set up in many parts of the country, but their effectiveness varies depending on factors such as local leadership, resources, and community participation.
27. In the year 2023, the Government launched the *Nyumba Kumi* (Ten Houses) Initiative, which aims to enhance community policing by encouraging residents

to know their neighbours and report suspicious activities. The initiative has been implemented in some areas, particularly in urban settings, but its uptake and effectiveness have been mixed.

CHAPTER TWO: CONSIDERATION OF THE PETITION

2.1 Introduction

28. The Petition by residents of Kajiado East and West Sub Counties was presented in the Senate on Thursday, 29th June, 2023, following which it was committed to the Standing Committee on National Security, Defence and Foreign Relations.
29. In considering the Petition, the Committee received both written and oral evidence from the Petitioners and the Cabinet Secretary, Ministry of Interior and National Administration.

2.2 Submissions by the Petitioners

30. At its 49th sitting held on 18th July, 2023, the Committee met with Mr. Stephen Lekuik, one of the Petitioners to deliberate on the Petition.
31. Upon invitation by the Committee the Petitioner submitted that-
- a) there had been an upsurge in livestock theft in Kajiado County causing alarm among pastoralists and residents of the County;
 - b) approximately eighty percent of stolen livestock had been found to be stolen from Kitengela Town and in this day and age of modern technology such as CCTV cameras, it was surprising that the animals could not be traced;
 - c) previously the Maasai herders knew how to track stolen cattle but nowadays it is impossible to track them as they were ferried using trucks, “Probox” vehicles and other vehicles;
 - d) that recently stolen livestock were ferried through Ola Petrol station in Kitengela and the same was reported to the authorities but no action had been taken;
 - e) that the residents of Kajiado have received no assistance or support from the Government in respect of the increase in livestock theft;
 - f) that during the previous week nine (9) heads of cattle were stolen but were tracked and returned to their rightful owner; and
 - g) that a few days before, sixteen (16) heads of cattle had been stolen and two (2) men were seriously injured with machetes.
32. The Petitioners therefore prayed that the Senate-
- a) investigates the ferrying of livestock past heavy police apparatus and road blocks within Kajiado County without detection and/or arrest of the perpetrators and whether there could be a conspiracy to defeat justice;

- b) initiates the formulation and passage of stringent legislation on livestock theft making provision for severe penalties for offenders, enhanced law enhancement measures and establishment of specialized units to combat livestock theft effectively;
- c) investigates why there have not been any arrests and prosecution of perpetrators of the livestock theft especially when such huge numbers are involved;
- d) considers the community's request for redress in form of compensation for the losses caused by the cases of livestock theft within Kajiado County; and
- e) takes any other measures or recommendations that the Senate may deem appropriate.

2.3 Submissions by the Cabinet Secretary, Ministry of Interior and National Administration

33. At its 53rd sitting held on 3rd August, 2023, the Committee met with the Cabinet Secretary, Ministry of Interior and National Administration to deliberate on the Petition. The Cabinet Secretary submitted that -
- a) there had been several cases of livestock theft in Kajiado East and Kajiado West Sub Counties and there had been formal and informal engagements bringing the matters raised in the Petition to the attention of the Office of the Cabinet Secretary;
 - b) there was no upsurge of the cases of theft per se, but there had been numerous cases of livestock theft many of which had not been resolved;
 - c) he disagreed that all livestock had been transported through the roads and thus passed through police checks, though he did not deny the possibility of the same happening. Investigations pointed to the fact that thieves had been avoiding road blocks and official routes and had been driving animals on foot through farms and bushes;
 - d) the Government was unaware of any conspiracy between cattle thieves and security personnel, nevertheless, investigations to ascertain if there was any collusion between officers and criminals which are ongoing; He assured committee that if investigations revealed any collusion the Ministry would take necessary action in accordance with the law;
 - e) all officers serving in the field in these areas have been duly informed that they would be held personally responsible if found culpable and those in command would be equally held responsible;
 - f) the Ministry was experiencing the following challenges in handling the matter-

- i. most accused persons in the investigations and prosecutions are related to the complainants, and complainants withdrew complaints at station or in court;
 - ii. some herdsmen were not locals from the area;
 - iii. most cases were not reported on time and they can conceal evidence and get away with their actions; and
 - iv. animals were not well secured at night making it easy for the criminals to succeed in the theft.
 - g) Measures taken by the Ministry included the following-
 - i. directive given to National Government Administration Officers (NGAO) to sensitize the public on knowing herdsmen, securing animals and reporting incidents in a timely manner;
 - ii. enhanced patrols in the area have been effected; and
 - iii. surveillance in key livestock markets in the area Mashuru, Bisil, Shompole was ongoing.
 - h) in the last seven (7) months thirty two (32) cases had been reported from Kajiado East and Kajiado West Sub counties, out of this seven (7) had been finalized, twelve (12) were pending in court while thirteen (13) were pending investigations;
 - i) the Ministry had established that some of the suspects were either family members, employees or herdsmen or had other relationships with the complainants who are suspected to have aided the criminals. As such, the solution lies in a greater role of the community to support the security infrastructure to tighten preventive measures and refrain from withdrawal of cases;
 - j) he assured the Committee that the matter was a serious security concern. If there was any complicity, laxity or involvement of security agencies, prosecution and disciplinary procedures against those found culpable would commence immediately;
 - k) there was need for the support of communities and leadership to mitigate preventive measures as the authorities pursued criminals.
34. A copy of the submissions from the Cabinet Secretary is attached to this Report as *Annex 4*.

CHAPTER THREE: COMMITTEE OBSERVATIONS

35. Having considered the Petition and the responses and submissions received thereon, the Committee made observations as set out below-
- a) Residents of Kajiado East and West Sub Counties have witnessed escalating incidences of livestock theft resulting in loss of lives and substantial financial losses to the residents of the County, whose livelihoods and cultural heritage are tied to livestock.
 - b) Stolen livestock were seemingly transported by road, past police apparatus and through heavily manned security road blocks across the County, casting suspicion on the involvement of security agencies in the theft of livestock.
 - c) The security authorities have experienced challenges in handling livestock theft as most accused persons in the investigations and prosecutions are related to the complainants, complainants withdrew complaints at station or in court; some herdsmen were not locals from the area; most cases were not reported on time and offenders may conceal evidence and get away with it and animals were not well secured at night making it easy for the criminals to succeed in the theft.
 - d) The Ministry had established that some of the suspects were either family members, employees or herdsmen or had other relationships with the complainants who were suspected to have aided the criminals. As such, the solution lies in a greater role of the community to support the security infrastructure to tighten preventive measures and refrain from withdrawal of cases.
 - e) Currently, the offence of stock theft is provided for under section 278 of the Penal Code which provides for a punishment upon conviction of not more than fourteen (14) years, which term does not serve as a deterrent to criminals.
 - f) The Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) sponsored by Sen. Samson Cherarkey, MP and Hon. Rahim Dawood, MP proposes to repeal section 278 of the Penal Code, the Branding of Stock Act and the Stock and Produce theft Act. In addition, the Bill proposes the enhancement of the penalty to imprisonment of not less than twenty (20) years for the perpetrators of cattle theft.

- g) The Bill further proposes that where for the purpose of stealing livestock or in the course of stealing livestock violence or the threat of violence is used, such person is liable upon conviction to a life term of imprisonment. The Bill further provides that any person who procures, incites, hires, directs, instigates or colludes with another person to steal livestock will be liable upon conviction to a term of imprisonment of not less than fifteen (15) years. The Bill was passed by the Senate on 21st February, 2024 and was referred to the National Assembly for consideration. Subsequently the Bill was read a First Time in the National Assembly on 16th April, 2024. A copy of the Bill is attached to this Report as **Annex 5**.
- h) The National Police Service Standing Orders, 2017, establishes the Anti-Stock Theft Unit of the Kenya Police and the Administration Police Specialized Stock Theft Prevention Unit (APSSTPU) to deal with the prevention of livestock theft. There is need for the functions of the two Units to be enhanced in various parts of the country, more so in areas where livestock theft is rampant.
- i) The Constitution of Kenya and the National Police Service Act provide a strong framework for community policing in Kenya, emphasizing the need for collaboration between the police and local communities. On the basis of these laws the Inspector-General has issued guidelines on community policing to ensure cooperation between the police and the people. It is however noted that while County Policing Authorities play a key role in community policing through implementing policies, facilitating training, and preparing reports, the same is yet to be fully operationalized. The effectiveness of Community Policing Committees also varies depending on local factors.
- j) The Government has also taken steps to enhance community policing through initiatives such as the *Nyumba Kumi* (Ten Houses) Initiative, which encourages residents to know their neighbours and report suspicious activities. While this initiative has been implemented in some areas, particularly in urban settings, its uptake and effectiveness has been mixed. The success of community policing efforts depends on factors such as local leadership, resources, and community participation.
- k) With regard to the issue of compensation, since the theft is carried out by individuals, there is no obligation on the Government for compensation,

however, there is need for thorough investigations and prosecution of the perpetrators.

CHAPTER FOUR: RECOMMENDATIONS

36. Arising from its observations as set out in the preceding Chapter, the Standing Committee on National Security, Defence and Foreign Relations recommends the following-
- e) That the Senate leadership prevails upon the leadership of the National Assembly to fast track the consideration of the Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) in accordance with the National Assembly Standing Orders.
 - f) That the Ministry of Interior and National Administration enhances the functions of the Anti-Stock Theft Unit of the Kenya Police and the Administration Police Specialized Stock Theft Prevention Unit (APSSTPU) and provides a status report to the Senate within **six months** of the tabling of this Report.
 - g) That the Ministry of Interior and National Administration fully operationalizes community policing initiatives in order to ensure community participation in security matters in the affected regions and provides a status report to the Senate within **six months** of tabling of this Report.
 - h) While there is no avenue of compensation for the lost cattle as a result of the insecurity, we recommend that the Directorate of Criminal Investigation carries out thorough investigation into the alleged theft for the purpose of prosecution of the perpetrators by the Office of the Director of Public Prosecutions and provides a status report to the Senate within **six months** of tabling of this Report.

LIST OF ANNEXES

- Annex 1:** Minutes of the Committee in considering the Petition
- Annex 2:** Copy of the Petition
- Annex 3:** Extract of the Hansard for the Senate sitting of Thursday, 29th June, 2023
- Annex 4:** Submissions by the Cabinet Secretary, Ministry of Interior and National Administration
- Annex 5:** The Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023)

ANNEX 1

Minutes of the Committee in Considering the Petition



13TH PARLIAMENT | 2ND SESSION

MINUTES OF THE FORTY NINTH SITTING OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS HELD ON TUESDAY, 18TH JULY, 2023 AT 12.00 P.M. IN IMPALA ROOM, FIRST FLOOR, KICC BUILDING

PRESENT

1. Sen. William Cheptumo Kipkiror, CBS, MP - Chairperson
2. Sen. Karen Nyamu, MP - Vice-Chairperson
3. Sen. Fatuma Adan Dullo, CBS, MP
4. Sen. Lenku Ole Kanar Seki, MP
5. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP

ABSENT

1. Sen. Julius Murgor Recha, MP
2. Sen. Joseph Githuku Kamau, MP
3. Sen. Abdul Haji, MP
4. Sen. George Mungai Mbugua, MP

SECRETARIAT

1. Mr. Nicholas Matiko - Principal Protocol Officer
2. Mr. Alex Mutuku - Senior Serjeant-At-Arms
3. Ms. Carol Kirorei - Clerk Assistant I
4. Mr. Malcolm Ngugi - Legal Counsel I
5. Ms. Janice Lekuton - Research Officer III
6. Mr. Emmanuel Barasa - Media Relations Officer III
7. Mr. Charles Oyosi - Audio Officer
8. Ms. Lynette Chepkui - Protocol Officer
9. Mr. Ian Mugo - Intern, DGAC

PETITIONER

1. Mr. Stephen Lekuik - Petitioner

COUNTY ASSEMBLY OF BUSIA

- | | |
|--------------------------|----------------------|
| 1. Hon. Ronald Ochalo | - Deputy Speaker |
| 2. Hon. Makabwa Johnston | - MCA |
| 3. Hon. Obare Jaka | - MCA |
| 4. Ms. Trufena Okeyo | - Clerk |
| 5. Ms. Akiru Emma | - Clerk |
| 6. Mr. Godfrey Wandera | - Clerk at the Table |
| 7. Mr. Moses Obelechi | - Clerk |

MIN. NO.SEN/NSDFR/203/2023

PRELIMINARIES

The meeting was called to order at 12.20 p.m. followed by a word of prayer by the Chairperson. He then welcomed the Petitioner and the delegation from the County Assembly of Busia to the meeting and led in introduction of attendees.

MIN. NO.SEN/NSDFR/204/2023

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Karen Nyamu, MP and seconded by Sen. Fatuma Dullo, CBS, MP as follows-

1. Prayer
2. Adoption of the Agenda
3. Briefing on the Petition concerning the rampant theft of livestock in Kajiado East and Kajiado West Sub Counties and Kajiado County at large (*Committee Paper No. 51*)
4. Any Other Business
5. Date of the Next Meeting and Adjournment

MIN.NO.SEN/NSDFR/205/2023

MEETING WITH THE PETITIONER ON THE PETITION CONCERNING

The Chairperson welcomed the Petitioner to the meeting and invited him to make his presentation of the Petition. The Petitioner thanked the Committee for the invitation and stated as follows-

1. there had been an upsurge in livestock theft in Kajiado County causing alarm among pastoralists and residents of the County;
2. approximately eighty percent of stolen livestock had been found to be stolen from Kitengela Town and in this day and age of CCTV cameras, it was surprising that animals could not be traced;
3. previously the Maasai herders knew how to track stolen cattle but nowadays it is impossible to track them as they were ferried using trucks, "Probox" vehicles and other vehicles;
4. that recently stolen livestock were ferried through Ola Petrol station in Kitengela, and the same was reported to the authorities but no action had been taken;

5. that the residents of Kajiado have received no assistance or support from the government in respect of the increase in livestock theft;
6. that during the previous week nine heads of cattle were stolen but were tracked and returned to their rightful owner; and
7. that during the current week sixteen heads of cattle had been stolen and two men were seriously injured with machetes.

Remarks by Sen. Lenku Ole Kanar Seki

The Chairperson invited Sen. Seki to make remarks on the Petition, having countersigned the Petition and presented the same in the Senate. He briefed the meeting as follows-

1. livestock theft had been a matter of grave concern in Kajiado East and Kajiado West Sub Counties particularly due to their proximity to Nairobi County;
2. since 2018 there had been rampant theft of livestock, with likely collusion between locals, outsiders and the Police;
3. previously there was no violence associated with theft of livestock, but in recent times violence has been rampant;
4. administrative and security personnel have come and gone without responding to and addressing the rampant theft; As such, it would be necessary to investigate how many officers have served in the area for a long duration of time and possibly have them transferred to break existing networks;
5. entry into Nairobi from Kajiado was through Athi River and Ngong. There was a twenty-four-hour road block both areas, therefore it was a mystery how stolen livestock were able to pass undetected by the authorities;
6. further, in Mashuru, Sultan, Emali there were permanent road blocks indicating there was collusion between police officers making it impossible to bring perpetrators to book;
7. a record of assigned officers manning road blocks would be necessary to obtain so as to investigate any patterns that could explain the theft;
8. requested the Committee to visit Kajiado to speak to the affected persons and obtain first hand accounts of the situation in Kajiado County;
9. it appeared that there were no systems in place and as such the Committee must follow up with the Ministry and raise relevant queries for a conclusive end to the menace; and
10. an effective mode of branding of livestock countrywide was also necessary to curb incidences of theft.

Queries raised by Senators

Senators raised the following queries-

1. whether the rampant theft of livestock /had been reported to authorities;
2. how long had the rampant theft of livestock persisted in Kajiado;
3. whether there had been any recoveries of stolen livestock;
4. whether details of incidences are obtainable;

Policy question invite CS to address the CS for a lasting solution on what policies should be adopted to ensure owners can graze

Response

The Petitioner responded as follows-

1. the residents had informed security personnel from County Commissioner to area chiefs of the theft and had lamented for every long but the authorities have neglected their duty in protecting the public and their property in Kajiado;
2. No queries are raised when livestock is transported through road blocks;
3. Has been going on for very long has been since 2018 increasing just before 2020;
4. Recoveries made have been very minimal; and
5. It would be difficult to obtain details of incidences.

Following deliberations, the Committee noted that-

1. there was a unique situation in Kajiado where stolen livestock were ferried by lorries and "Probox" vehicles;
2. there was need for a long-term policy to address livestock theft and compensation for stolen livestock;
3. county-specific branding or branding with the owner's land parcel number may be considered for tracing stolen livestock; and
4. branding and livestock insurance should be effectively handled by the Ministry of Agriculture, Livestock and Fisheries.

Resolution

The Committee resolved that an invitation be extended to the Cabinet Secretary, Ministry of Interior and National Administration to attend a meeting of the Committee to deliberate on the Petition and provide the following information-

- a) detailed records of reported incidents of livestock theft in Kajiado County and the current status of the investigations;
- b) a list of areas affected by rampant livestock theft in Kajiado County; and
- c) steps and measures taken to address the vice and the progress made so far in implementation of the same.

MIN.NO.SEN/NSDFR/206/2023

ANY OTHER BUSINESS

Visiting delegation from the County Assembly of Busia

The Chairperson welcomed the visiting delegation from Busia County and welcomed the head of delegation, the Deputy Speaker to make remarks. The Deputy Speaker thanked the Committee for allowing the delegation to sit through the proceedings, noting that they had learn a lot about the handling of Petitions, which they would put into practice upon their return to Busia County. He welcomed the Committee to visit Busia County for further engagements and sharing of experiences.

MIN.NO.SEN/NSDFR/207/2023

DATE OF THE NEXT MEETING AND
ADJOURNMENT

The Chairperson adjourned the meeting at 1.44 p.m. The next meeting would be held on Thursday, 20th July, 2023 at 12.00 noon.

SIGNED: 

DATE: 17.10.2023

Invite the Cabinet Secretary, Ministry of Interior to appear before the Committee and to submit the following:

Detailed records of the reports of livestock theft in Kajiado County and their current status;

Detailed records of the locations of livestock theft in Kajiado County

Steps and measures taken to reduce incidences of theft and the progress made so far in this endeavour



13TH PARLIAMENT | 2ND SESSION

**MINUTES OF THE FIFTY THIRD SITTING OF THE STANDING COMMITTEE
ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS HELD ON
THURSDAY, 3RD AUGUST, 2023 AT 12.00 P.M. IN COMMITTEE ROOM 5, FIRST
FLOOR, MAIN PARLIAMENT BUILDING**

PRESENT

1. Sen. William Cheptumo Kipkiror, CBS, MP - Chairperson
2. Sen. Fatuma Adan Dullo, CBS, MP
3. Sen. George Mungai Mbugua, MP
4. Sen. Julius Murgor Recha, MP
5. Sen. Lenku Ole Kanar Seki, MP
6. Sen. Joseph Githuku Kamau, MP
7. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP

ABSENT WITH APOLOGY

1. Sen. Karen Nyamu, MP - Vice-Chairperson
2. Sen. Abdul Haji, MP

PRESENT

1. Sen. Samson Cherarkey, MP
2. Sen Miraj Abdullahi, MP

SECRETARIAT

1. Ms. Carol Kirorei - Clerk Assistant I
2. Mr. Gilbert Juma - Legal Counsel II
3. Ms. Janice Lekuton - Research Officer III
4. Mr. Emmanuel Barasa - Media Relations Officer III
5. Mr. Peter Kaparo - Sergeant-at-Arms
6. Mr. Johnstone Simiyu - Audio Officer
7. Mr. Ian Mugo - Intern, DGAC
8. Ms. Linet Chepkui - Protocol Attaché

IN ATTENDANCE

**MINISTRY OF INTERIOR & NATIONAL
ADMINISTRATION**

1. Hon. (Prof.) Kindiki Kithure, EGH- Cabinet Secretary
2. Mr. Francis Gachuri - Communications
3. Ms. Leah Kosgei - Secretary

MIN. NO.SEN/NSDFR/222/2023

PRELIMINARIES

The meeting was called to order at 12.22 p.m. followed by a word of prayer by the Chairperson. He then welcomed the Cabinet Secretary and his team and led in introductions of attendees.

MIN. NO.SEN/NSDFR/223/2023

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Lenku Ole Kanar Seki, MP and seconded by Sen. Fatuma Dullo, MP as follows-

1. Prayer
2. Adoption of the Agenda
3. Meeting with the Cabinet Secretary, Ministry of Interior and National Administration
(Committee Paper No. 57)
4. Any Other Business
5. Date of the Next Meeting and Adjournment

MIN.NO.SEN/NSDFR/224/2023

**MEETING WITH THE CABINET
SECRETARY, MINISTRY OF INTERIOR
AND NATIONAL ADMINISTRATION**

The Chairperson thanked the CS for honouring the Committee's invitation and making time from his busy schedule to appear before the Committee. He informed the meeting that the purpose of the meeting was to deliberate on two Petitions currently under consideration by the Committee and highlighted the issues raised in the Petitions.

Upon invitation by the Chairperson, the Cabinet Secretary briefed the meeting as follows-

A. Petition concerning rampant livestock theft in Kajiado East and Kajiado West Sub Counties

1. there have been several cases of livestock theft in Kajiado East and Kajiado West Sub Counties and there had been informal and informal engagements bringing the matters raised in the Petition to the attention of the Office of the Cabinet Secretary;
2. there wasn't an upsurge of the cases of theft per se, but there had been numerous cases of livestock theft many of which had not been resolved;
3. he disagreed that all livestock had been transported through the roads and thus passed through police checks, though he did not deny the possibility of the same happening. Investigations pointed; to the fact that thieves had been avoiding road

- blocks and official routes and had been driving animals on foot through farms and bushes;
4. the Government was unaware aware of any conspiracy between cattle thieves and security personnel, nevertheless, investigations to ascertain if there was any collusion between officers and criminals which are ongoing; He assured committee that if investigations revealed any collusion the Ministry would take necessary action in accordance with the law;
 5. all officers serving in the field in these areas have been duly informed that they would be held personally responsible if found culpable and those in command would be equally held responsible;
 6. the Ministry was experiencing the following challenges in handling the matter-
 - a) most accused persons in the investigations and prosecutions are related to the complainants, and complainants withdrew complaints at station or in court;
 - b) some herdsmen were not locals from the area has been a challenge in successful invest and prose;
 - c) most cases were not reported on time and they can conceal evidence and get away with; and
 - d) animals were not well secured at night making it easy for the criminals to succeed in the theft.
 7. Measures taken by the Ministry include the following-
 - a) directive given to National Government Administration Officers (NGAO) to sensitize the public on knowing herdsmen, securing animals and reporting incidents in a timely manner;
 - b) enhanced patrols in the area have been effected; and
 - c) surveillance in key livestock markets in the area Mashuru, Bisil, Shompole was ongoing.
 8. in the last seven (7) months thirty two (32) cases had been reported from Kajiado East and Kajiado West Sub counties, out of this seven (7) had been finalized, twelve (12) were pending in court while thirteen (13) were pending investigations;
 9. the Ministry had established that some of the suspects were either family members, employees or herdsmen or had other relationships with the complainants who are suspected to have aided the criminals. As such, the solution lies in a greater role of the community to support the security infrastructure to tighten preventive measures and refrain from withdrawal of cases;
 10. he assured the Committee that the matter was a serious security concern. If there was any complicity, laxity or involvement of security agencies, prosecution and disciplinary procedures against those found culpable would commence immediately;
 11. there was need for the support of communities and leadership to mitigate preventive measures as the authorities pursued criminals.

Queries raised by Senators

1. whether any sentences were rendered in the cases concluded;

2. more than 5000 livestock have been lost since 2019, lorries, probox, have been used to ferry livestock;
3. what was the Ministry doing to sensitize neighbouring counties on stock theft
4. whether the local administration more so the Chiefs and Assistant Chiefs were being used and being held to account with regard to the rampant theft;
5. what needed to be done for a conclusive end to livestock theft and cattle rustling across the country;
6. whether the Ministry had considered a county specific form of branding to assist in inter-county livestock theft;
7. how did the Ministry plan to cut down on commercialization of livestock theft including abattoirs surveillance in affected and neighbouring regions.

Response from the Cabinet Secretary

The Cabinet Secretary responded to queries raised by the Senators as follows-

1. the issue of destination markets was noted to be Nairobi and the Ministry would take surveillance in the area. He agreed that entries into Nairobi County from Kajiado County were not many and would take up surveillance in the region;
2. the Ministry had registered a lot of recoveries, officers were doing a good job and there were few outstanding matters but the Ministry would up cases and conclude them successfully;
3. the Ministry would verify livestock transportation certificates in the affected region;
4. the Ministry had made progress on livestock theft but a lot was yet to be done. For long term success all national administration and security agencies would be placed on a results based performance contract;
5. 7147 livestock had been recovered in the last few months translating to 65% recovery of stolen livestock. In the past, recovery rate stood at about 10%;
6. the Ministry would employ more specialized units to handle the vice and increase investments in terms of personnel and equipment and elite agencies;
7. the Ministry would take stern action against those supporting this crime for religious or cultural reasons. Key suspects were helping with investigations and the Ministry may enter plea bargains with suspects in custody; and
8. the establishment of County Policing Authorities would greatly assist in curbing the vice.

B. Petition concerning the recognition and remuneration of village elders under the Nyumba Kumi Initiative

1. There is no legal instrument that defines a village. Once the National Government Coordination Act, 2013 is amended as proposed in the Petition, to include a village as the lowest administrative unit after a sub-location, the Ministry would-
 - a) develop a criterion of establishment of a village, considering the population, geographical area and socio-cultural factors. This will include developing a mechanism for major towns and cities;

- b) Develop a policy framework on the recruitment and remuneration of village elders to address among other issues, establishing terms of engagement, functions of village elders, criteria, remuneration scheme, termination of engagement, disciplinary procedures since they are not civil servants, conditions and procedures for exit/vacation of office.
2. The policy framework will enable the Ministry to establish the ensuing budgetary implications, which will be submitted to the National Treasury for allocation of funds.
3. A study had been commissioned to look into the budgetary implications of the remuneration of village elders. A Position Paper on the same would be presented to the Cabinet in the coming few months.
4. volunteers serving as village elders are not entrenched in the law and are not remunerated yet they play a critical role in security; in many instances, vital information on security is provided by village elders;
5. the Ministry was not opposed to remuneration of village elders and had undertaken to bring legislative proposals to amend the law to have units below the sub location that can assist in better management of security;
6. development of a policy to provide for engagement of village elders, terms of engagement, functions as village elders, criteria for establishment of a village, criteria for recruitment, compensation and termination, disciplinary procedures, conditions of exit and vacation from office;
7. a study had been commissioned to look at budgetary implications of the remuneration of village elders and effect on the exchequer so that the country was not financially burdened;
8. the role of village elders is essential and should be recognized and entrenched in law backed by a policy framework on their engagement;
9. any recommendations from the Committee on this matter will be supported by the administration.
10. The Cabinet Secretary responded by stating that the Ministry envisaged the village elders as part of the national government structures and as such would be remunerated by the national government.

Queries raised by Senators

Senators raised the following queries-

1. what was the distinction between village elders and *Nyumba Kumi* officials;
2. whether remuneration of village elders would be facilitated by the national or county government;
3. section 53 of the County Governments Act, 2012 already provides for the Village Councils and the remuneration of village elders. Would the remuneration be provided by the national or the county governments; and
4. further, section 53 of the County Governments Act established the Village Councils, there was need for harmony to avoid conflicting laws.

Response from the Cabinet Secretary

1. the Ministry envisaged elders as part of the National Government administrative structures;
2. Village elders under County Governments Act cannot discharge the functions of the national government as security was not a devolved function;
3. a Bill had been introduced in the National Assembly to recognize and remunerate village elders. There was therefore need for national consensus and collaboration between the Executive, Parliament and the Salaries and Remuneration Commission (SRC) to come up with a suitable conclusion of the matter.
4. Priority of the Ministry is to handle this issue of village elders and have them entrenched in the law and remunerated, as well as recommend a modest way to recognize them;
5. 10 homes constitute a *Nyumba Kumi* cluster and they are not necessarily a village, thus the need for the law and policy for appropriate definitions and harmonization of existing laws.

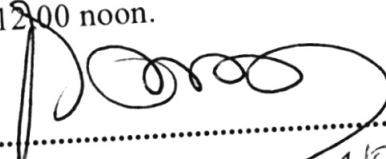
MIN.NO.SEN/NSDFR/225/2023

DATE OF THE NEXT MEETING AND
ADJOURNMENT

The Chairperson adjourned the meeting at 2.02 p.m. The next meeting would be held on Tuesday, 8th August, 2023 at 12:00 noon.

SIGNED:

DATE:


~~31/10/23~~ ~~31/10/23~~



13TH PARLIAMENT | 3RD SESSION

MINUTES OF THE 83RD SITTING OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS HELD ON FRIDAY, 26TH APRIL, 2024 AT 2.00 P.M. IN BARAZA CONFERENCE ROOM 1, SAROVA WHITESANDS BEACH RESORT AND SPA

PRESENT

1. Sen. Karen Nyamu, MP - Vice-Chairperson
2. Sen. Abdul Haji, CBS, MP
3. Sen. Julius Murgor Recha, CBS, MP
4. Sen. Joseph Githuku Kamau, MP
5. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP
6. Sen. George Mungai Mbugua, MP

ABSENT WITH APOLOGY

1. Sen. William Cheptumo Kipkiror, CBS, MP - Chairperson
2. Sen. Fatuma Adan Dullo, CBS, MP
3. Sen. Lenku Ole Kanar Seki, MP

SECRETARIAT

1. Mr. Njenga Njuguna - Director, DGAC
2. Mr. Ahmed Odhwa - Principal Clerk Assistant II
3. Ms. Carol Kirorei - Clerk Assistant I
4. Mr. Khatib Omar - Clerk Assistant III
5. Mr. Alex Mutuku - Senior Serjeant-at-Arms
6. Mr. Gilbert Juma - Legal Counsel II
7. Mr. Matano Kataa - Research Officer
8. Mr. Emmanuel Barasa - Media Relations Officer
9. Mr. Charles Oyosi - Audio Officer

MIN. NO.SEN/NSDFR/395/2024

PRELIMINARIES

The meeting was called to order at 2.10 p.m. followed by a word of prayer.

MIN. NO.SEN/NSDFR/396/2024

ADOPTION OF THE AGENDA

The agenda for the meeting was adopted having been proposed by Sen. Prof. Tom Ojienda, SC, MP and seconded by Sen. Joseph Githuku Kamau, MP as follows-

1. Prayer
2. Adoption of the Agenda
3. Consideration and adoption of the Report on the Petition by residents of Kajiado East and West Sub Counties concerning rampant livestock theft in the region and Kajiado County at large
4. Any Other Business
5. Date of the Next Meeting and Adjournment

MIN.NO.SEN/NSDFR/397/2024

CONSIDERATION AND ADOPTION OF THE REPORT ON THE PETITION BY RESIDENTS OF KAJIADO EAST AND WEST SUB COUNTIES CONCERNING RAMPANT LIVESTOCK THEFT IN THE REGION AND KAJIADO COUNTY AT LARGE

The Committee considered the Report on the Petition by residents of Kajiado East and West Sub Counties concerning rampant livestock theft in the region and Kajiado County at large.

The Committee adopted the Report as presented after being proposed by Sen. George Mungai Mbugua, MP and seconded by Sen. Joseph Githuku Kamau, MP.

MIN.NO.SEN/NSDFR/398/2024

ANY OTHER BUINESS

There was no other business discussed at the meeting.

MIN.NO.SEN/NSDFR/399/2024

DATE OF THE NEXT MEETING AND ADJOURNMENT

The Vice-Chairperson adjourned the meeting at 3.00 p.m. The next meeting would be held on Saturday, 27th April, 2024 at 10.00 a.m.

SIGNED: 

DATE: 7/5/2024

ANNEX 2

Copy of the Petition

PETITION TO THE SENATE BY RESIDENTS OF KAJIADO EAST AND WEST SUB COUNTIES CONCERNING THE RAMPANT LIVESTOCK THEFT IN THE REGION AND KAJIADO COUNTY AT LARGE

The Clerk of the Senate
Parliament Buildings
P.O. Box 41842 – 00100
NAIROBI

Email: cSenate@parliament.go.ke

26th June, 2023

PETITION TO THE SENATE BY RESIDENTS OF KAJIADO EAST AND WEST SUB COUNTIES CONCERNING THE RAMPANT LIVESTOCK THEFT IN THE REGION AND KAJIADO COUNTY AT LARGE

We, the undersigned,

Citizens of the Republic of Kenya, and residents of Kajiado East and West sub counties;

DRAW the attention of the Senate to the following:

1. That, the livestock industry holds immense significance in both the economic prosperity and cultural heritage of Kajiado county and the country at large.
2. That, livestock keepers in Kajiado County face a crisis in recent times.
3. That, this has been in form of recurrent livestock theft happening within the county.
4. That, the escalating incidences of livestock theft have inflicted substantial financial losses, loss of lives as encompassed in a recent case in Kajiado county where perpetrators killed the homestead owner and made away with the livestock. This has brought about emotional distress and an overwhelming sense of insecurity in our community. The community has lost over five thousand goats alone over a period of six months.
 - 4.1 That, the total number of livestock lost could be higher since most residents do not report the cases to the police anymore as a result of low confidence in the security institution.
 - 4.2 That cases of livestock theft in the stated sub counties have been rampant despite the presence of police apparatus and road blocks across the affected areas) within the County. The strategies used by the livestock thieves or the conspiracy thereof seems to be high-tech and well executed as the action goes undetected until when the livestock are long gone.
5. That the petitioners have forwarded the matter to the relevant authorities for consideration but the response has been unsatisfactory.
6. That, none of the issues raised in this petition are pending before any court of law constitutional or any other legal body.

PETITION TO THE SENATE BY RESIDENTS OF KAJIADO EAST AND WEST SUB COUNTIES CONCERNING THE RAMPANT LIVESTOCK THEFT IN THE REGION AND KAJIADO COUNTY AT LARGE

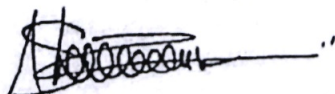
7. WHEREFORE, your humble Petitioners pray that the Senate: -

- i. Hears and considers this Petition;
- ii. Investigates how the livestock are ferried past the heavy presence of police apparatus and road blocks within Kajiado County without any notice and or arrest of the perpetrators and whether there could be a conspiracy to defeat justice.
- iii. Initiate the formulation and passage of stringent legislation specifically targeting livestock theft. These laws should encompass severe penalties for offenders, enhanced law enforcement measures, and provisions for the establishment of specialized units to combat livestock theft effectively.
- iv. Investigate why there have not been any arrests and prosecution of perpetrators of the livestock theft especially when such huge numbers are involved
- v. That Senate considers the community's request for redress in form of compensation for the losses caused by the cases of livestock theft within Kajiado county.
- vi. Takes any other measures or recommendations that the Senate may deem appropriate.

Signed by the Petitioners.

NAME	ID NO	ADDRESS	PHONE NO	SIGNATURE
Stephen Ole Lekuik	6117341	PO BOX 76 KITENGEL A	072469786 7	
Jackson Sinkeet	5373023	PO BOX 76 KITENGEL A	072144381 4	
Jason Parantai	0790852	PO BOX 97 ISINYA	072283939 5	
Christophe r Kango	2037210 2	PO BOX 24 KAJIADO	072179864 7	

Counter signed by:



**SEN. LENKU OLE KANAR SEKI,
SENATOR, KAJIADO COUNTY**

ANNEX 3

Extract of the Hansard for the Senate sitting of Thursday, 29th June, 2023

workload ahead of us, I am going to give two senators from the Government side and two senators from the Opposition side to respond or to make their interventions as regards this Petition.

Before you do that, I am going to allow the next Petition to be read. Once we are done reading the second Petition, we can combine our responses. We will combine the two Petitions and the two Senators from both sides will choose which Petition they will make their intervention on. It is so directed, Sen. Seki, please proceed.

RAMPANT LIVESTOCK THEFT IN KAJIADO COUNTY

Sen. Seki: Thank you, Hon. Speaker, Sir. This is a Petition to the Senate by residents of Kajiado East and Kajiado West Sub-counties concerning the rampant livestock theft in the region and Kajiado County at large.

We, the undersigned citizens of the Republic of Kenya and residents of Kajiado East and West Sub-counties, draw the attention of the Senate to the following:

THAT, the livestock industry holds immense significance in both the economic prosperity and cultural heritage of Kajiado County and the country at large.

THAT, the livestock keepers in Kajiado County faced a crisis in recent times.

THAT, this has been in form of recurrent livestock theft happening within the county.

THAT, the escalating incidents of livestock theft has inflicted substantial financial losses, loss of lives and encompassed in recent cases in Kajiado County, where perpetrators killed the homestead owners and made away with livestock. This has brought about emotional distress and an overwhelming sense of insecurity in our community.

THAT, the community has lost over 5,000 livestock in terms of goats and sheep alone over a period of six months.

THAT, the total number of livestock lost could be higher since more residents do not report the cases to the police anymore as a result of low confidence in the security institutions.

THAT, the cases of livestock theft in the stated sub-counties have been rampant despite the presence of police apparatus and roadblocks across the affected areas within the county.

The strategy used by the livestock thieves or the conspiracy, therefore, seems to be high-tech and well-executed as the action goes undetected until the livestock are long gone.

THAT, the Petitioner has forwarded the matter to the relevant authorities for consideration, but the response has been unsatisfactory.

THAT, none of the issues raised in this Petition is pending before any Court of Law, institutional, or any other legal body.

THEREFORE, your humble petitioners pray that the Senate;

- (1) Hears and consider this Petition

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- (2) Investigates how the livestock is ferried past the heavy presence of police apparatus and roadblocks within Kajiado County without any notice or arrests of the perpetrators and whether there could be a conspiracy to defeat justice.
- (3) Initiates the formulation and passage of stringent legislation specifically targeting livestock thefts. These laws could encompass severe penalties for offenders, and enhance law enforcement measures and provisions for the establishment of specialized units to combat livestock thefts effectively.
- (4) Investigates why there have not been any arrests and prosecutions of perpetrators of livestock thefts, especially when such huge numbers of livestock are involved.
- (5) THAT, Senate considers the community request and redresses it in the form of compensation for the losses caused by the cases of livestock theft within Kajiado County.
- (6) Takes any other measure or recommendations that Senate may deem appropriate.

The Speaker (Hon. Kingi): So, as I have already directed on these two Petitions, we will pick two Senators from both sides to make the interventions. I will start with Sen. Madzayo.

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Spika. Kwanza, nataka kumpa kongole aliyeleta hii *Petition* ndani ya Bunge hili la Seneti, kuomba ya kwamba, Bunge la Seneti litaweza kuingilia kati kuona kuwa wale wakulima wanaolima mahindi katika maeneo ya Bomet na Nandi wanaoongozwa na ndugu yangu Sen. Cherarkey wamepata afueni na misaada inayohitajika ili kuona kwamba mazao ya mahindi kule yamefaidika.

Bw. Spika, Ardhilhali hii sio ya watu wa Kaunti ya Bomet pekee yake bali Kenya nzima, hata Kaunti ya Kilifi. Sote tunategemea kilimo cha mahindi ili tupate faida wakati wa mavuno. Mavuno haya yatatukinga kutokana na njaa, kuwapa wananchi afya na vile vile pesa iwapo watauziwa hayo mahindi.

Itakuwa vizuri iwapo tutazingatia mkulima huyu kutoka Kaunti ya Bomet. Ni lazima kuwe na mikakati mbalimbali. Magonjwa mengine huharibu mimea shambani na mfano ni huu ugonjwa ulio katika Kaunti ya Bomet. Taarifa ni kwamba unaweza sambaa kila mahali nchini. Itakuwa vyema kuichukulia hatua mwafaka Ardhilhali hii kwa sababu pia watu wa Kaunti ya Kilifi wanatatizwa na huu ugonjwa wa mahindi.

Ugonjwa huu unafanya mavuno ya mahindi kupungua. Tunataka nchi hii iwe na chakula cha kutosha ili wananchi wafaidike na wapige njaa teke.

Kwa upande mwingine, ikiwa huo ugonjwa utaharibu mahindi, basi watu watakata taabu na kutakuwa na njaa. Tunapaswa kukabiliana na huu ugonjwa ili wakulima wa mahindi wafaidike.

Asante.

The Speaker (Hon. Kingi): Proceed, Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. This Petition is timely. I congratulate the petitioner, Mr. Kerich Kiprono Hillary, for having faith in the Senate and petitioning on the issue of maize.

As you are aware, majorly, my region of the North Rift which includes Nandi, Bomet among other areas; grows a lot of maize. This maize is eaten all over the country.

This issue is very serious. Chusumei and Mosop sub-counties in Nandi County largely plant maize. However, we have always had challenges. I am surprised because maize crop is highly sought after to be eaten. My good brother and friend, the Senator of Nairobi City County, once said that anything else apart from ugali is not a serious meal.

We must give maize farmers insurance the same way we have given livestock insurance to pastoralists. So, when the maize crop fails, maize farmers should be compensated.

Secondly, we are currently having rains in the North Rift although some parts do not have regular rains. When the rains are inadequate, our crops normally fail because we need herbicides and acaricides. I am happy that I am seated next to the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries. The elephant in the room is that there are some herbicides and acaricides which have been banned in the United States of America (USA) which have been linked to the increasing cancer cases in the country.

I am surprised that the Ministry of Agriculture and Livestock Development, Kenya Plant Health Inspectorate Service (KEPHIS), Kenya Medical Research Institute (KEMRI) and the Agriculture and Food Authority (AFA) have not banned such herbicides. It has been discovered that it has cancerous elements. I challenge the Committee to look at this issue of failing maize crop in Bomet County.

Third and final, we challenge the Kenya Seed Company Limited. They gave us seeds whose quality was poor compared to 6-choge. These seeds do not mature the way we expected them to. In most of our farms, some of the maize seeds have changed color because of the quality.

I request that now that the budget and the Finance Bill, 2023, have passed, we must increase the allocation to the Kenya Seed Company Limited. The allocation will go into purchasing disease resistant maize seeds, among other seeds crops such as mung beans.

As a region that plants a lot of maize, we expect a bumper harvest. The only challenge we had was the subsidized fertilizer. However, we thank the Government. We saw our President in his farm yesterday where the maize was maturing properly. I assure our brothers on the Minority side to give us two to three months and they will leave those sufurias in the kitchen for cooking.

Thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Mumma.

Sen. Mumma: Thank you, Mr. Speaker, Sir, for allowing me an opportunity to speak to both Statements. The challenges raised by both Petitioners in Bomet and Kajiado counties, call to the Senate to emphasize on the need for functional inter-governmental relations between the national and county government.

In the first instance, the Bomet County case, you are talking of the function of research and standards. The national Government is in charge of standards and research. However, since devolution, the national Government, seems to have abandoned its role in setting high standards and doing the relevant research in order to support county governments with the relevant technical support for the country to perform as well.

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I urge the Committee that will look into these issues, to look at how best the national Government can support county governments with the functions of research and standards.

I wish to link this to the recent Bill about extension workers. If extension workers were to be given the basic necessary knowledge, they would be able to help identify the key problems and challenges around a particular seed or crop – whether it is maize or tea – and ensure we are able to deal with whatever problem in infancy.

On the issue of the cattle rustling, I have always been of the view that national Government is the primary function holder for security. However, they cannot deliver this without working in collaboration with county governments. The issues raised by the petitioner on whose behalf Sen. Seki read, is raising an issue that would be best addressed if the national and county government actors were to collaborate in order to properly investigate the issues around rampant cattle stealing and rustling in the pastoralist communities.

I urge that the Senate makes effort to use the inter-governmental relations opportunities to emphasize opportunities that prevail. This should enable us to collaborate better as national and county governments for better service delivery to our people.

I support.

The Speaker (Hon. Kingi): Proceed, Sen. (Dr.) Murango.

Sen. (Dr.) Murango: Asante, Bw. Spika. Kwanza ninaunga mkono Ardihali iliyoletwa na watu wa Kaunti za Kajiado na Bomet. Ingawa tunajitahidi kufanya ukulima wa mahindi na mimea mingine, shida kubwa ambayo tuko nayo ni wadudu, viwavi na ndege wanaoharibu mimea. Ni vizuri tuwashike mkono wakulima haswa wa mahindi, kwa sababu hicho ndicho chakula ambacho kinaliwa sana nchini.

Tunafaa kuwapa dawa na pembejeo zinazofaa ili kuhakikisha kuwa ile mahindi yao inakomaa na wameweza kulisha Kenya nzima.

Bw. Spika, shida kama hizo ni nyingi kwa sababu, hata wakulima wa mchele huko upande za Mwea, Ahero na Bura pia wana shida kama hizo. Wakati wakulima wanapanda mpunga, mwezi wa saba, kuna ndege wanaoitwa Kwelea ambao wanakuja kushambulia yale mashamba. Ndege mmoja anakula kama *gram* tano. Kwa hivyo, katika mwezi wa saba, msimu wa mpunga unapofika wakulima wa Kenya wanapoteza tani tano ya mchele kila siku.

Naunga mkono haya maombi yote na yakija kwa Kamati, tutayashughulikia vilivyo.

The Speaker (Hon. Kingi): Hon. Senators, pursuant to Standing Order No. 238 (1), regarding the Petition as read by Sen. Seki, I do direct that the same be committed to the Standing Committee on National Security, Defence and Foreign Relations. Pursuant to Standing Order No. 238 (2), the committee is required, in not more than 60 calendar days from the time of reading this prayer, to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

*(The Petition was committed to the Committee on
National Security, Defence and Foreign Relations)*

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As regards to the Petition by Mr. Kerich, I direct that the same be committed to the Committee of Agriculture, Livestock and Fisheries for its consideration. In terms of Standing Order No. 238 (2), the Committee is required in not more than 60 calendar days from the date of reading this prayer, which is today, to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate. It is so directed.

Next order.

(The Petition was committed to the Committee on Agriculture, Livestock and Fisheries)

PAPERS LAID

THE CBK SUPERVISION ANNUAL REPORT FOR 2021

The Speaker (Hon. Kingi): The Senate Majority Whip, please proceed.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of this Senate today, 29th June, 2023:

The Central Bank of Kenya Supervision Annual Report for the Year 2021.

(Sen. (Dr.) Khalwale laid the document on the Table)

The Speaker (Hon. Kingi): The Chairperson Standing Committee on Agriculture, Livestock and Fisheries.

REPORT ON THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL (SENATE BILLS NO.12 OF 2023)

Sen. (Dr.) Murang'o: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 29th June, 2023:

Report of the Standing Committee on Agriculture, Livestock and Fisheries on the prevention of livestock and produce theft Bill (Senate Bills No.12 of 2023).

(Sen. (Dr.) Murang'o laid the document on the Table)

The Speaker (Hon. Kingi): Sen. Dullo, please proceed.

REPORT OF THE SENATE DELEGATION TO THE 67TH SESSION OF THE COMMISSION ON THE STATUS OF WOMEN (CSW 67)

Sen. Dullo: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 29th June, 2023: -

Report of the Senate delegation to the 67th session of the Commission on the status of women (CSW 67).

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Annex 4

Submissions by the Cabinet Secretary, Ministry of Interior and National Administration

PETITION BY RESIDENTS OF KAJIADO EAST AND KAJIADO WEST SUB COUNTIES CONCERNING THE RAMPANT LIVESTOCK THEFT IN THE REGION AND KAJIADO COUNTY AT LARGE

Honourable Chair, the residents of Kajiado East and Kajiado West Sub Counties have petitioned this August House regarding rampant livestock theft. The Petitioners pray that, Senate;

- i. Investigates how the stolen animals are ferried past the heavy presence of police apparatus and road blocks within Kajiado County without any notice and or arrest of the perpetrators, and whether there could be a conspiracy to defeat justice.
- ii. Initiate the formulation and passage of stringent legislation specifically targeting livestock theft. These laws should encompass severe penalties for offenders, enhanced law enforcement measures, and provision for the establishment of specialized units to combat livestock theft effectively.
- iii. Investigate why neither arrests nor prosecutions of perpetrators of the livestock theft have been effected.
- iv. Considers compensation for the losses caused by the cases of livestock theft within Kajiado County.

I state as follows;

Honourable Chair, my office is aware that several cases of stock theft have been recorded in Kajiado County, though as compared with the previous years, there is no upsurge. To avoid detection and arrest, the thieves have been avoiding the road blocks/barriers and have been driving the animals on foot through the farms and bushes. However, my office is not aware of conspiracy between security agencies and the cattle thieves in Kajiado County.

Nevertheless, arising from this petition, investigations have commenced to ascertain whether there could be any collusion between the police officers and the criminals. Once investigations are concluded, any officer found culpable will be subjected to the full force of the law. Meanwhile, the security agencies within

the County have enhanced supervision of the junior officers to deter them from engaging in criminal activities.

Honourable Chair, some of the challenges that security agencies encounter while addressing cattle theft include;

- i. Most of the accused persons are related with the complainants. Thus, some cases fail because the complainants withdraw them, either at the station or in court.
- ii. Some of the herdsmen are strangers, not only to the locals but also to the employers.
- iii. Most cases are not reported on time.
- iv. The animals are not well secured during the night and during the day while grazing, they are left unattended.


Honourable Chair, the following measures have been taken to curb the cattle theft;

- i. Community sensitization through chiefs' barazas and Nyumba Kumi leaders.
- ii. Enhancing patrols, especially during the market days e.g at Mashuuru, Sultan Hamud, Emali, Bissil and Shompole markets.
- iii. Erection of multi-agency roadblocks.
- iv. Apprehending suspects and arraigning them in court.

Honourable Chair, in the last seven (7) months, 32 cases have been reported in Kajiado East and Kajiado West Sub Counties, as indicated in the attached matrix. Out of these cases, 7 have been finalised, 12 are pending before court while 13 cases are pending investigation. It is worth noting that the accused persons and the suspects at large are either members of the family, herdsmen's or employees of the complainant or suspects who collaborated with other people to steal the stock.

Honourable Chair, the Ministry of Interior and National Administration has no vote head to compensate the affected families.

Thank you, **Honourable Chair**.

A handwritten signature in black ink, appearing to read 'Kithure Kindiki', written over a horizontal line.

KITHURE KINDIKI
CABINET SECRETARY
MINISTRY OF INTERIOR AND NATIONAL ADMINISTRATION
25th JULY, 2023

STOCK THEFT CASES THAT HAVE BEEN REPORTED IN KAJIADO EAST AND KAJIADO WEST SUB COUNTIES IN THE LAST 7 MONTHS

ISINYA POLICE STATION

S/NO	COMPLAINANT	NUMBER OF STOLEN STOCK	DATE	ACCUSED IF ANY	PLACE STOLEN	POSITION
1	Tone Joseph Memusi	30shoats valued at kshs 300,000/-	7/1/2023	NIL	Oloosidan Loc.	P.U.I
2.	Douglas Sumure	16sheep valued at kshs 60,000/-	19/1/2023	NIL	Korompoi Village	P.U.I
3	Onico Ole Kariuki	9sheep valued at kshs 135,000	24/1/2023	Joseph Parsuya	Ilpolosat Loc.	Withdrawn under Sec 204 Cpc
4.	Benson Mukera	one goat valued at kshs 10,000/-	30/1/2023	Rachael Sianda	Majengo Isinya Loc.	PBC
5.	Edward Mukira	28sheep valued at kshs 280,000/-	15/2/2023	NIL	Kisaju Loc.	P.U.I
6.	Rahab Ng'ang'a	14 pigs valued at kshs 280,000/-	21/3/2023	NIL	Naresho Area In Isinya Loc.	P.U.I
7.	John Demesi Made	8 goats valued at kshs 80,000/-	16/4/2023	Earnest Parantai	Nabosh Village Kajiado West Subcounty	PBC
8.	Dorothy Oloiyende	10 sheep and 3goats valued at kshs 130,000/-	3/5/2023	NIL	Kisaju Loc.	P.U.I
9	Kakiya Jackson	4 goats and 26 sheep valued at kshs.210,000/=	17/5/2023	NIL	Ingoswani Village In Oloosidan Loc.	P.U.I
10.	Jonathan Nasore	13 herds of cattle valued at kshs 590,000/-	26/6/2023	NIL	Lucky Base Korompoi Area	PUI

KITENGELA POLICE STATION.

S/N O	COMPLAINANT	NUMBER OF STOLEN STOCK	DATE	ACCUSED IF ANY	PLACE STOLEN	POSITION
1.	Moses Ndung'u	26 goats valued at 130,000/=	08/1/2023	Nil	Kitengela Farm	P.U.I
2.	Moses Santero	1 cow valued at 60,000/=	28/03/2023	Nil	Kitengela Reserve	P.U.I
3.	Jackson Sinkeet	50 sheep valued at 500,000/=	29/04/2023	Nil	Mlimani	P.U.I
4.	Simion Sakana	21 cows valued at 1,260,000/=	05/05/2023	Isaac Kamunya Mwaura	Oloosirkon Township	PBC

6.	Koin Seeru	44 shee valued at kshs.250,000/=	07/06/2023	Unknown	Enkasiti	P.U.I
7.	Steven Mururu Mutiithi	30 goats valued at kshs-200,000/=	02/7/2023	Nil	Nasieku Estate (Oloosirkon)	PUI

MASHURU POLICE STATION

S/NO	NO OF STOCK STOLEN	PLACE OF THEFT/ DATE/TIME	OB.NO	NAME OF THE ACCUSED	NAME OF THE COMPLAINANT	POSITION OF THE CASE	REMARKS/NUMBER RECOVERED
1.	1 cow	Kalebwani on 05/01/2023 at unknown time	15/05/01/23 Mashuuru Police Station	Juma Kyevu	Henry Mutie	P.U.I	Neither arrest nor recovery Accused being traced.
2.	9 sheep	Kibini on 28/01/2023 at 1800hrs	17/28/01/23 Mashuuru Police Station	George Kipiros	Ntoonki Loorinrim	P.B.C	9 sheep recovered and all returned to the owner.
3	1 cow	Emali on 29/01/2023 at 1300hrs	22/29/01/23 Emali Police Post	Sindule Emmanuel	Julius Kishanto Kasikua	P.B.C	Cow found having been slaughtered and some meat recovered
4	16 sheep	Mashuuru township on 18/03/2023 at unknown time	21/18/03/23 Mashuuru Police Station	Only known by one name Stephen	Pricila Sein	Pending arrest	Neither arrest nor recovery Accused being traced.
5	1 sheep	Mashuuru market on 04/04/2023 at 1700hrs	24/04/04/23 Mashuuru Police Station	Kanyinko Maripet	Ladislause Wambua	Finalised	Sheep recovered case withdrawn by the Complainant.
6	2 sheep	Oloitiko(Mashuuru) on 26/04/2023 at 1400hrs	30/26/04/23 Mashuuru Police Station	Daudi Laiyan Loempu	Jorum Yiaro	Finalised	Fine of 30,000/= or imprisonment for 6 months
					Paul Masari	Finalised	Fine of 30,000/= or imprisonment for 6 months
7	2 sheep	Masimba on 02/05/2023 at 1700hrs	06/02/05/23	Edward Serina	Harrison Tango	p.b.c	1 sheep recovered and

			Masimba Police Post				returned to the owner.
8	8 sheep	Eselenkei on 02/05/2023 at 0300hrs	22/02/05/23 Mashuuru Police Station	Saningo Mainko	Nicholus Selali	Finalized	7 sheep recovered and returned to the owner The case taken to court and withdrawn under section 204 CPC
9	2 sheep	Oldarapoi(Kajiado Central) on 10/05/2023 at 0300hrs	13/10/05/23 Mashuuru Police Station	William Ndorinkanini Kelvin Paikel	Joel Meeli	Finalised	2 sheep recovered case withdrawn by the complainant.
10	4 cows	Kikuro(Kajiado Central) on 10/05/2023 at 0200hrs	14/10/05/23 Mashuuru Police Station	William Ndorinkanini Kelvin Paikel	Yaroo Kanyindu	Finalised	4 cows recovered, case withdrawn by the complainant.
11	1 cow	Kilunyeti on 30/05/2023 at 1800hrs	10/30/05/23 Masimba Police Post	Robison Mutero Julius Mumo John Musyemi	Mutero Kanyira	P.B.C	Cow recovered A motor vehicle used to ferry the stolen cow is currently detained at Masimba P/Post as exhibit.
12	1 sheep	Kima on 09/06/2023 at 0500hrs	13/09/06/23 Mashuuru Police Station	Bonface Mwanzia Usingi	James Parleo	P.B.C	Sheep recovered
13	4 cows	Selenkei on 19/06/2023 at 0100hrs	16/19/06/2023 Mashuuru Police Station	John Mbombo Kaurai David Sininko Mainko (At Large)	Penina Mapena	P.B.C	4 cows recovered and returned to the owner. The other suspect is being traced
14	3 goats and 1 sheep	Selenkei on 16/06/2023 at 1800 hrs	28/19/06/2023 Mashuuru Police Station	Kilakt Saitaga	1. hekeine Parsirkore 2. osphat Kileiya	P.B.C	Three goats and one sheep recovered
15.	1 sheep	Imaroro on 28/06/23 at unknown time	24/28/06/2023 Mashuuru Police Station	JONATHAN KOLOSHE NKEW	Rebecca Simon	p.b.c	skin and head of the slaughtered sheep recovered

ANNEX 5

The Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023)



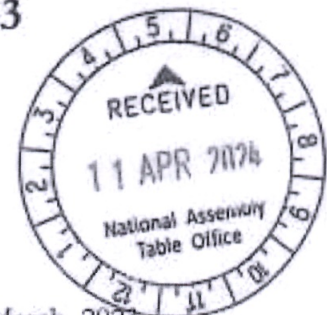
REPUBLIC OF KENYA

PARLIAMENT

SENATE BILLS

(Bill No. 12 of 2023)

**THE PREVENTION OF LIVESTOCK AND
PRODUCE THEFT BILL, 2023**



(A Bill published in the Kenya Gazette Supplement No. 40 of 31st March, 2023 and passed by the Senate, with amendments, on Thursday, 21st March, 2024.)

**THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL,
2023**

ARRANGEMENT OF CLAUSES

Clause

PART I - PRELIMINARY

- 1 — Short title.
- 2—Interpretation.
- 3—Object of the Act.

PART II –BRANDING OF LIVESTOCK

- 4 — Functions of the Cabinet secretary.
- 5 — Functions of the county executive committee member.
- 6 — Application for registration of a brand.
- 7 — Certificate registration of a brand.
- 8 — Transfer of a registered brand.
- 9 — Cancellation of registered a brand.
- 10 —Appeals
- 11 — Obligation to brand livestock.
- 12 — Use of a permanent identification device.

PART III – MOVEMENT OF LIVESTOCK

- 13—Removal of livestock.
- 14—Retention of a removal permit.
- 15— Owner of an abattoir to keep records.
- 16— Appointment of inspectors.

PART IV - OFFENCES

- 17— Use of unregistered brand.
- 18— Branding another person's livestock
- 19— Offence of livestock or produce theft.
- 20— Trespass with intent to steal livestock or produce.
- 21—Conveyance of livestock or produce.
- 22—Tampering with identification brand.
- 23—Prohibition of the delivery or sale of livestock or produce at night.
- 24—Illegal possession of livestock.
- 25—Illegal possession of produce.
- 26—Killing of livestock with intent to steal such livestock.
- 27—Failure to report commission of an offence.
- 28—Issuance of warrant for search, seizure and arrest.
- 29—Forfeiture of assets derived from livestock theft.
- 30—Detention of livestock.

PART V – MISCELLANEOUS PROVISIONS

- 31—Public awareness and sensitization.
- 32—Dispute resolution.
- 33—Trial of offences.
- 34—General Penalty.
- 35— Legislation by county government.
- 36—Regulations.
- 37—Amendment to Cap. 63.
- 38— Repeal of Cap. 357.
- 39—Repeal of Cap. 355.

**THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL,
2023**

A Bill for

AN ACT of Parliament to provide for: a legal framework for the identification of livestock; the movement of livestock; the prevention of livestock theft; the regulation of trade in livestock; the return of illegally acquired livestock and firearms; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I - PRELIMINARY

- Short title 1. This Act may be cited as the Prevention of Livestock and Produce Theft Act, 2023.
- Interpretation 2. In this Act, —
- Cap. 144. “ammunition” has the meaning assigned to it under the Firearms Act;
- “Cabinet Secretary” means the Cabinet Secretary responsible for the matters relating to livestock;
- “county executive committee member” means a county executive committee member responsible for matters relating to livestock;
- “firearm” has the meaning assigned to it under the Firearms Act;
- “identifier” means an official permanent mark, or permanent representation on livestock, which consists of a designated combination of numbers, codes or signed as may

be prescribed under this Act;

“Inspector” means the person designated as an inspector under section 16;

“livestock” means cattle, camel, donkey, pig, sheep, goat poultry and any other animal which the Cabinet secretary may by order declare to be livestock for purpose of this Act;

“livestock keeping community” means a community designated by the Cabinet Secretary as such for the purposes of this Act and whose main occupation involves the keeping of livestock;

“Ministry” means the Ministry responsible for the matters relating to internal security;

“permanent identification device” means a device, which bears a unique code, approved by the director of veterinary services appointed under the Veterinary Surgeons and Veterinary Para-Professionals Act and is intended to remain attached to or inserted in a livestock;

“produce” means the whole or any part of any skin, hide, horn, or carcass of livestock and includes wool, mohair and ostrich feathers; and

“register” means a register of livestock brands established and maintained by the county executive committee member in the respective county.

Object of the Act.

3. The objects of this Act are to —

(a) provide a framework for —

- (i) the prevention, combating and eradication of livestock theft to promote security and stability;
- (ii) the registration and management of livestock

- by livestock owners;
- (iii) the regulation of the activities of livestock owners in relation to their livestock; and
- (iv) the disarmament and the return of illegally acquired firearms and ammunition;
- (b) enhance social and economic development amongst the livestock keeping communities in Kenya;
- (c) provide a framework for the tracking and return of stolen livestock; and
- (d) provide a platform for collaboration amongst the governments, communities and relevant agencies in preventing, combating and eradicating livestock theft.

PART II –BRANDING OF LIVESTOCK

Functions of the
Cabinet Secretary.

4. The Cabinet Secretary shall be responsible for –

- (a) formulating a national policy and national standards on identification and movement livestock;
- (b) developing and co-ordinating intergovernmental relations mechanisms in the delivery of services related to identification and movement of livestock;
- (c) establishing a national data base system for communication, sharing and analysis of information relating to livestock;
- (d) in collaboration with the security and other relevant agencies, establishing mechanisms for the disarmament and confiscation of firearms and

ammunition illegally held by livestock owners; and

- (e) providing capacity building to the county governments on matters touching on identification and movement of livestock.

Functions of the county executive committee member.

5. Every county executive committee in the respective county shall —

- (a) establish and maintain a county register of livestock brands;
- (b) receive application for and register brands;
- (c) design and formulate strategies and mechanisms for the prevention, combating and eradicating livestock theft;
- (d) establish systems for the tracking of stolen livestock;
- (e) promote the abandonment of livestock theft by collaborating with the relevant agencies in sensitizing members of livestock owners on alternative sustainable forms of livelihood;
- (f) facilitate the acquisition of equipment for monitoring and managing the movement of livestock; and
- (g) carry out such duties or functions as may be necessary for the achievement of the objects of this Act.

Application for registration of a brand.

6. (1) Every livestock owner shall apply to the county executive committee member for the registration in their name of a brand of such nature and dimensions as shall be prescribed in county legislation.

(2) An application under this section for the registration of a brand shall —

- (a) be in the prescribed form;
- (b) be accompanied by a design of the brand;
- (c) be accompanied by the prescribed fee; and
- (d) contain such particulars as shall be prescribed in county legislation.

(3) The county executive committee member shall, within thirty days from the date of receipt of the application, register a brand if satisfied that the requirements for registration have been complied with.

(4) The county executive committee member may reject an application for registration of a brand if –

- (a) the application has not complied with the provisions of this section; or
- (b) the design accompanying the application –
 - (i) is the same as the design of a registered brand;
 - (ii) in the opinion of the county executive committee member, so nearly resembles the design of a registered brand as to cause or be likely to cause confusion; or
 - (iii) is, in the opinion of the county executive committee member, unsuitable for any other reason.

(5) Where an application for registration is rejected, the county executive committee member shall, within thirty days from the date of receipt of the application give written notification with reasons for rejection to the applicant.

Certificate of
registration of a

7. (1) On the registration of a brand as provided for under section 5(3), the county executive committee member shall

brand.

issue to the applicant a certificate of registration in the form prescribed in the county legislation.

(2) Where the holder of a certificate claims that the certificate has been lost or destroyed, the holder of a certificate may make an application in accordance with subsection (4) to the county executive committee member for the issue of a duplicate certificate.

(3) On receipt of an application made under subsection (2), the county executive committee member shall, if satisfied that the certificate has been lost or destroyed, issue a duplicate certificate to the applicant in place of the original certificate.

(4) An application under subsection (2) shall –

- (a) be in the form and contain such information as shall be prescribed in the county legislation; and
- (b) be accompanied by the fee prescribed in the county legislation.

(5) Upon the issue of a duplicate certificate under subsection (3), the original certificate shall be deemed to be cancelled and the duplicate certificate has the same effect as the original certificate.

Transfer of a registered brand.

8. (1) A proprietor of a registered brand may apply to the county executive committee to transfer the right to that brand to another person.

(2) An application under subsection (1) shall –

- (a) be in the form and contain such information as shall be prescribed in the county legislation;
- (b) contain the consent of the person to whom the proprietor of the registered brand wishes to transfer the right to that brand; and
- (c) be accompanied by the fee prescribed in the county

legislation.

(3) The county executive committee member shall, within thirty days from the date of receipt of the application under subsection (1), approve the application if satisfied that the application complies with this section or reject the application where the application does not comply with this section.

(4) Where the county executive committee member approves an application under subsection (1), he or she shall issue to that person a certificate of the transfer in the form prescribed in the county legislation.

(5) Where an application for transfer of a brand is rejected, the county executive committee member shall, within thirty days from the date of receipt of the application give written notification with reasons for rejection to the applicant.

Cancellation of a registered brand.

9. (1) The county executive committee member may cancel a registered brand if -

- (a) the proprietor no longer requires the use of that brand and has notified the county executive committee member;
- (b) the proprietor has died; or
- (c) the proprietor is a body corporate and the county executive committee member is satisfied that the body corporate has been wound up or dissolved.

(2) Notwithstanding the provisions of subsection (1)(b), where the proprietor of a registered brand dies, his personal representative may use the brand until -

- (a) the appointment as a personal representative is terminated; or
- (b) the distribution of the estate of the deceased is completed.

Appeals

10. (1) A person who is aggrieved by the decision of the county executive committee member with respect to

registration, transfer or cancelation of a brand, may appeal to the High Court.

(2) An appeal under this section shall be lodged within thirty days from the date on which the appellant first received the notice of the decision

Obligation to brand livestock.

11. (1) Every livestock owner shall, before the livestock attains the age of six months, brand it or cause it to be branded with a registered brand of which the livestock owner is the proprietor.

(2) Every livestock owner shall, in the case of livestock which is older than six months at the commencement of this Act, within three months of the commencement of this Act brand it or cause it to be branded with a registered brand of which the livestock owner is the proprietor.

(3) A person branding livestock with a brand under subsection (1), ensure that such brand –

- (a) is conspicuous;
- (b) is safe to the livestock and a consumer of the final product of the livestock; and
- (c) meets such other criteria as the county executive committee member may, by notice in the *Gazette*, prescribe under subsection (4).

(4) The county executive committee member may prescribe further requirements on branding including branding of livestock which have not attained six months.

Use of a permanent identification device.

12. (1) The Cabinet Secretary, in consultation with the council of county governors, may make regulations on the use of permanent identification devices.

(2) Where a permanent identification device is used instead of a brand, a reference to brand in any of the provisions of this Act shall be construed to mean a permanent identification device.

PART III – MOVEMENT OF LIVESTOCK

Removal of
livestock.

13. (1) A livestock owner who intends to remove livestock of which he is the owner from the premises where they are ordinarily kept to other premises for the purpose of sale and slaughter or any other purpose shall obtain a removal permit from the inspector.

(2) A removal permit issued by the inspector shall be in triplicate and clearly indicate –

- (a) particulars of the livestock owner;
- (b) the date of removal of the livestock;
- (c) the purpose for the removal;
- (d) the number and type of livestock to be moved;
- (e) particulars of the brand of which the owner of the livestock is the proprietor;
- (f) the premises from which the livestock are being moved from;
- (g) the destination of the livestock; and
- (h) in the case of sale –
 - (i) particulars of the purchaser; and
 - (ii) a document evidencing such sale.

(3) The inspector shall not issue a removal permit if –

- (a) the premises the livestock are being moved from or destination of the livestock is within an area declared to be an area infected by a notifiable disease; or
- (b) this Act or any other written law has not been

complied with.

(4) An inspector may at any time inspect livestock being removed from the premises they are ordinarily kept and require the production of a removal permit for inspection.

Retention of a removal permit.

14. (1) The livestock owner shall retain the original removal permit and each of the copies shall be retained by the inspector and the purchaser of the livestock respectively.

(2) The removal permit shall be kept for a period of three months from the date of the removal of the livestock from the premises where they were kept immediately before the removal.

Owner of an abattoir to keep records.

15. (1) Every owner of an abattoir shall keep books and records of every livestock slaughtered, and carcass or produce leaving the abattoir.

(2) The books and records, of every livestock slaughtered, to be kept by an owner of an abattoir shall clearly indicate –

- (a) particulars of the brand on the livestock;
- (b) the type of livestock including a brief description of the livestock;
- (c) particulars of the livestock owner;
- (d) if the person delivering the livestock is not the livestock owner –
 - (i) particulars of the person delivering the livestock; and
 - (ii) capacity of such a person whether agent, carrier or purchaser;
- (e) the date of delivery of the livestock;

- (f) the number and type of livestock to be moved;
- (g) the immediate previous premises where the livestock was ordinarily kept; and
- (h) the date the livestock was slaughtered.

(3) The books and records, of every carcass or produce leaving an abattoir, to be kept by an owner of an abattoir shall clearly indicate –

- (a) particulars of owner of the carcass or produce;
- (b) particulars of the brand the produce, where applicable;
- (c) the nature of the produce;
- (d) if the person conveying, carrying or transporting the carcass or produce is not the owner –
 - (i) particulars of the person conveying, carrying or transporting the carcass or produce; and
 - (ii) capacity of such a person whether agent or carrier;
- (e) the date the carcass or produce is removed from the abattoir; and
- (f) particulars of the premises of destination of the carcass or produce.

(4) The books and records to be kept under subsection (1), shall be kept for a period of three months from the date of receipt of a livestock for slaughter, or the carcass or produce leaves the abattoir.

Appointment of
inspectors.

16. (1) The county executive committee member shall designate such persons to be inspectors for each ward in the respective county for the purpose of enforcement of this Act.

(2) The inspector shall co-ordinate the implementation of this Act at the ward level and in particular –

- (a) be responsible for approving, issuing and inspecting removal permits;
- (b) collaborate with the relevant investigative agencies in the recovery of stolen livestock;
- (c) facilitate the application for and registration of brands;
- (d) co-ordinate and facilitate citizen participation in the development of policies and plans, and delivery of services on matters related to livestock development at the ward level; and
- (e) carry out such duties as may be assigned by the county executive committee member from time to time.

PART IV - OFFENCES

Use of unregistered brand.

17. A person who, being a livestock owner, -

- (a) fails to apply for registration of a brand;
- (b) fails to brand his or her livestock;
- (c) brands his or her livestock with an unregistered brand,

commits an offence and is liable, on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand shillings, or to both such fine and imprisonment.

Branding another person's livestock.

18. A person who wilfully and knowingly –

- (a) brands, or causes to be branded any livestock belonging to another with his or her brand, or any brand which is not the recorded brand of the livestock owner; or

- (b) alters, defaces or obliterates any brand on a livestock belonging to another so as to conceal or disguise the identification of such livestock,

commits an offence of theft and is liable, on conviction to imprisonment for a term not exceeding fourteen years or to a fine not exceeding one million shillings, or to both such fine and imprisonment.

Offence of
livestock or
produce theft.

19. (1) A person who steals livestock or produce, or receives any livestock or produce knowing or having reason to believe it to be a stolen livestock or produce, commits an offence and shall be liable, on conviction, to a term of not less than twenty years.

(2) Where, for the purpose of stealing any livestock or produce, or in the course of stealing any livestock or produce, violence or the threat of violence is used, such person is liable, on conviction, to a life term of imprisonment.

(3) A person charged under subsection (1) may be convicted of the offence of stealing any livestock or produce or of receiving any livestock or produce notwithstanding that the person stated in the charge to be the owner of the livestock or produce is wrongly named as the owner of the livestock or produce.

(4) Any person who procures, incites, hires, directs, instigates, or colludes with, another person to contravene the provisions of subsection (1) commits an offence and is liable, on conviction to a term of imprisonment of not less than fifteen years.

Trespass with intent
to steal livestock or
produce.

20. (1) A person who enters any enclosed land with the intention of stealing livestock or produce on such land commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding seven years or to a fine not exceeding five hundred thousand shillings, or to both such fine and imprisonment.

(2) A person who enters and is found on such land under subsection (1) shall, unless such person—

- (a) satisfies the court that they had reasonable and lawful

excuse for their presence in the land; or

- (b) was proceeding along a road or thoroughfare traversing such land or part of such land,

be presumed to have entered the land with the intention of stealing livestock unless such person proves that they did not enter such land with the intention to steal the livestock or produce therein.

Conveyance of
livestock or
produce.

21. (1) No person shall, without lawful authority, drive, convey or transport any livestock or produce along a public road unless that person is in possession of –

- (a) the document of identification issued by the owner of such stock or produce or the duly authorized agent of such owner; and

- (b) a removal permit issued by the registrar for the conveyance of the livestock or produce, in which is stated-

- (f) the name and address of the person who issued the certificate;

- (ii) the name and address of the owner of such stock or produce;

- (iii) the place from which and the place to which such stock or produce is being driven, conveyed or transported;

- (iv) the name of the driver, conveyor or transporter;

- (v) the date of issue of the permit; and

- (vi) where applicable, the registration number, model and make of the vehicle with which the stock or produce is being conveyed or transported.

(2) No person shall cause or permit any livestock or produce of which he is the owner to be driven, conveyed or transported by any other person without furnishing him with a removal permit which he is required to have in terms of subsection (1).

(3) A registrar or any officer may demand from any person who is required in terms of subsection (1) to have in his or her possession a removal permit, an inspection of such permit, and upon such demand the person having possession of such permit shall produce it for inspection to the person making the demand.

(4) A person who-

(a) contravenes any provision of this section;

(b) wilfully makes any false statement in a removal permit furnished under subsection (1); or

(c) falsely declares that he or she is the owner of stock or produce which is being driven, conveyed or transported by him or her,

commits an offence.

(5) For the purposes of this section "livestock owner" includes any person who obtained livestock or produce by virtue of an agreement of sale in terms of which such person does not become the owner of such stock or produce merely by virtue of the delivery to him of such stock or produce.

Tampering with
identification
brand.

22. A person who tampers with, alters, or assists in tampering with, alteration of any identification brand or ear mark on stock or produce so as to conceal or disguise the identification of such stock or produce commits an offence and shall be liable, on conviction, to imprisonment for a term of three years, to a fine of one million Shillings, or both.

The Prevention of Livestock and Produce Theft Bill, 2023

Prohibition of the delivery or sale of livestock or produce at night.

23. (1) A person shall not deliver or sell or otherwise trade in, or accept the delivery of any livestock between 6:30 p.m. and 6:00 a.m.

(2) A person who contravenes the provision of subsection (1) commits an offence and is liable, on conviction, to imprisonment for a term of not more than twelve months or to a fine not more than eight hundred thousand or to both.

Illegal possession of livestock.

24. A person who has in his or her possession any livestock which may reasonably be suspected of being stolen or unlawfully obtained shall, if that person fails to prove to the satisfaction of the court that he or she came by the livestock lawfully, commits an offence and is liable on conviction to imprisonment for a term of not less than fifteen years.

Illegal possession of produce.

25. (1) A person who has in their possession produce which may reasonably be suspected of being stolen or unlawfully obtained commits an offence and is liable on conviction, to imprisonment for a term of not less than ten years.

(2) For the purposes of this section it shall be sufficient, in order to raise a reasonable suspicion that any produce is stolen or unlawfully obtained, if, when required by the person who arrests him to account for the possession of the produce, the person arrested fails to account therefor or gives an account which the person who arrests him or her reasonably finds insufficient.

Killing of livestock with intent to steal such livestock.

26. A person who kills any livestock with intent to steal the skin or carcass, or any part of the skin or carcass commits an offence and shall be liable on conviction, to imprisonment for a term of not less than ten years.

Failure to report commission of an offence.

27. A person commits an offence if the person, being aware that an offence of stock theft has been, is in the process of being, or intends to be, committed, fails to report

accordingly to a law enforcement officer.

Issuance of warrant
for search, seizure
and arrest.

28. (1) The court, upon being informed on oath that any livestock has been stolen, may by warrant under his or her hand authorise a law enforcement officer to –

- (a) seize or impound or cause to be seized or impounded such livestock;
- (b) to arrest and search any person found, or suspected of being, in possession or charge or control of livestock or produce; and
- (c) may seize the stock and produce and any documents relating to it.

(2) A warrant issued under subsection (1) shall not authorise the retention of livestock for longer than –

- (a) twenty - one days; or
- (b) if, before the expiry of twenty - one days, a person has been charged with the theft of such livestock or with receiving or retaining of such livestock or of being an accessory after the fact to the theft, receiving or retaining, fourteen days after the conclusion of the trial of that person or after the determination of any appeal against any order or sentence made or imposed as a result of the trial or against any order made on appeal, whichever is later.

(2) Any livestock and documents relating to the livestock seized under subsection (1), may, for the safe custody of such livestock and for the period of the seizure, be removed from the place of seizure to the nearest livestock centre.

Forfeiture of assets
derived from
livestock theft.

29. (1) Upon an application made by a law enforcement officer to the court, the court may make an order for the investigation by the law enforcement into the dealings and assets of any person reasonably suspected of being engaged in the business of receiving or stealing livestock or

produce, or dealing in stolen livestock or produce, or any other fraudulent activities in relation to livestock or produce.

(2) If, upon such investigation, it is found that any assets of such person have been derived from or are attributable to any of the activities referred to in subsection (1), the court shall make an order the forfeiture of such assets to the Government.

(3) For the purposes of subsections (1) and (2), the court may make an order-

- (a) authorizing the law enforcement officer to search for and seize any assets of the person concerned, pending the investigation;
- (b) requiring any person to make available to the law enforcement officer any document relevant to the location or identification of any assets of such person;
- (c) prohibiting any dealing in any assets of such person without an order of the court; or
- (d) requiring any bank or other financial institution to produce to the law enforcement officer, any information relevant to any assets of such person.

(4) A person who has any interest in any assets seized or forfeited under this section may apply to the court to have such assets released.

(5) A person who deals with any assets, which are subject to an order of the court under this section, contrary to the terms of such order commits an offence and is liable, on conviction to imprisonment for a term of five years or to a fine of one million shillings or to both.

Detention of
livestock.

30. (1) Any livestock or produce seized in relation to an offence committed under this Act shall be released to the owner within seventy-two hours from the time of seizure.

(2) Notwithstanding the provisions of subsection (1), where livestock or produce seized in relation to an offence committed under this Act and ownership of such livestock or

produce is in dispute, or the owner is not known or cannot be found such livestock or produce shall be dealt with as may be directed by a court of competent jurisdiction.

PART V - MISCELLANEOUS PROVISIONS

Public awareness
and sensitization.

31. The county executive committee member shall, in consultation with the relevant security agencies –

- (a) develop and implement public education and awareness programmes on the prevention and eradication of livestock and produce theft;
- (b) promote the disarmament of members of livestock owners;
- (c) sensitise the members of livestock keeping communities on the negative socio-economic development and security consequences of livestock theft and the need to respect the property and livelihood of other persons;
- (d) develop programmes aimed at affording the concerned communities with additional means of livelihood; and
- (e) facilitate the formation of cross-border committees with a focus on preventing and addressing the consequences of livestock.

Dispute resolution.

32. The county executive committee member shall collaborate with the elders and gate keepers of communities in promoting the use of community dispute resolution mechanisms including mediation in the determination of any disputes regarding livestock theft, the identification of livestock or any other dispute arising under this Act.

Trial of offences.

33. (1) Offences under this Act or under any rules made there under shall be tried by any subordinate court.

(2) A court of law shall have jurisdiction in any case brought before it under this Act against any person being at the time within its jurisdiction, whether the offence is alleged to have been committed within such area or not, or whether the

person accused of the offence is in the accused person's usual place of abode or residence within that area or not.

General penalty.

34. If a person contravenes any provisions of this Act where no penalty is provided for, that person shall, on conviction and notwithstanding the provisions of any other written law, be liable, in the case of a misdemeanour to a fine of not less than five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both, and in the case of a felony to a fine of not less than one million or imprisonment for a term of not less than five years or to both.

Legislation by county government.

35. Each county government shall, with respect to implementation of the provisions of this Act, enact county specific legislation or put in place such administrative measures and policies for better carrying into effect the provision of this Act within the respective county.

Regulations.

36. (1) The Cabinet Secretary, in consultation with the council of governors, may make regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations —

- (a) for the registration and identification of livestock;
- (b) for the removal or conveyance of livestock or produce under this Act;
- (c) for the management of livestock centres under this Act;
- (d) the conduct of sensitization programmes and the publication and dissemination of information under this Act; and

(e) for charges and fees to be paid to the Registrar under this Act.

(3) For the purposes of Article 94(6) of the Constitution –

(a) the authority of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and

Cap. 2.
Cap 2A.

(b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, in relation to subsidiary legislation shall apply to regulations made under this Act.

Amendment to Cap.
63.

37. The Penal Code is amended by repealing section 278.

Repeal of Cap. 357.

38. The Branding of Stock Act is repealed.

Repeal of Cap. 355.

39. The Stock and Produce Theft Act is repealed.

The Prevention of Livestock and Produce Theft Bill, 2023

I certify that this printed impression is a true copy of the Bill as passed by the Senate on Thursday, 21st March, 2024.


Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of standing order 156 of the Senate Standing Orders.


Speaker of the Senate