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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - FOURTH SESSION - 2024

PUBLIC PETITIONS COMMITTEE

REPORT ON-

CONSIDERATION OF PUBLIC PETITION NO. 53 OF 2023 REGARDING ACCESS TO
NATIONAL PARKS BY LIVESTOCK GRAZERS DURING DROUGHT

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 30 APR 2025	
APRIL 2025 DAY. <i>30.4.25</i>	
TABLED BY:	<i>Chair, Public Petition Hon. Kivai Kagosi, MP</i>
CLERK-AT THE-TABLE:	<i>M. Mado</i>

NATIONAL ASSEMBLY
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CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present this House the Report of the Public Petitions Committee regarding Public Petition No. 53 of 2023 regarding Access to National Parks by Livestock Grazers During Drought. The Petition was presented to the House pursuant to Standing Order No. 225 (2) (a) by the Hon. John Bwire, MP. on behalf the residents of Taveta Constituency.


The Petitioner prayed that the Committee recommends the making of guidelines pursuant to section 102(4) of the Wildlife Conservation and Management Act by the Cabinet Secretary to allow the grazers to access the parks during drought. In consideration of the Petition, the Committee collected the views from the Petitioners, Ministry of Wildlife and Tourism and the Kenya Wildlife Service. The Committee also conducted a site visit inquiry in Salaita village in Taveta Constituency and collected views from the community on the various issues raised in the petition.

The Committee observed that the Cabinet Secretary for the Ministry of Tourism and Wildlife, in collaboration with KWS, was yet to develop regulations and guidelines for access to national parks during drought, as stipulated in section 102(4) of the Wildlife Conservation Management Act. This has led to perennial access to the park without a proper mechanism to ensure wildlife protection, preserve national heritage, and address the emerging needs of local communities.

The Committee recommends that the Cabinet Secretary should submit the guidelines for access of national parks for purposes of grazing and watering livestock during drought and other national disasters, in line with the provisions section 102(4) of the Wildlife Conservation and Management Act, to the House within three (3) months upon tabling of this report. In the interim, the herders may make use of the provision in section 102(2A) of the Wildlife Conservation and Management Act which allows the herders to enter national parks to graze provided that they have a permit or written permission from the authority responsible.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support offered during the consideration of the Petition. The Chairperson expresses gratitude to the Members of the Committee and the Secretariat for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to table the report before the House.


HON. KAGESI ERNEST OGESI KIVAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

Date.....29th April 2025.....

PART ONE

1. PREFACE

1.1 Establishment and Mandate of the Committee

The Public Petitions Committee was established under the provisions of Standing Order 208A with the following terms of reference:

- a) considering all public petitions tabled in the House;
- b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- c) recommending whether the findings arising from consideration of a petition should be debated; and
- d) advising the House and reporting on all public petitions committed to it.

1.2 Committee Membership

The Public Petitions Committee was first constituted in October 2022 and reconstituted in March 2025 and comprises the following Members:

Chairperson

Hon. Ernest Kivai Ogesi Kagesi, M.P.
Vihiga Constituency
Amani National Congress (ANC)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.
Turbo Constituency
United Democratic Alliance (UDA)

Hon. Patrick Makau King'ola, M.P.
Mavoko Constituency
Wiper Democratic Movement-Kenya
(WDM-K)

Hon. Nimrod Mbithuka Mbai, M.P.
Kitui East Constituency
United Democratic Alliance (UDA)

Hon. Joshua Chepyegon Kandie, M.P.
Baringo Central Constituency
United Democratic Alliance (UDA)

Hon. Beatrice Kadeveresia Elachi, CBS,
M.P.
Dagoretti North Constituency
Orange Democratic Movement (ODM)

Hon. Maisori Marwa Kitayama, M.P.
Kuria East Constituency
United Democratic Alliance (UDA)

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency
Wiper Democratic Movement-Kenya
(WDM-K)

Hon. Bidu Mohamed Tubi, M.P.
Isiolo South
Jubilee Party (JP)

Hon. Bernard Muriuki Nebart, M.P.
Mbeere South Constituency
Independent

Hon. John Bwire Okano, M.P.
Taveta Constituency
Wiper Democratic Movement-Kenya
(WDM-K)

Hon. Peter Mbogho Shake, M.P.
Mwatate Constituency
Jubilee Party (JP)

Hon. Suzanne Ndunge Kiamba, M.P.
Makueni Constituency
Wiper Democratic Movement-Kenya
(WDM-K)

Hon. Peter Irungu Kihungi, M.P.
Kangema Constituency
United Democratic Alliance (UDA)

Hon. Sloya Clement Logova, M.P.
Sabatia Constituency
United Democratic Alliance (UDA)

1.3 Committee Secretariat

The Public Petitions Committee was facilitated members of the secretariat:

Lead Clerk
Mr. Ahmed Kadhi
Principal Clerk Assistant II

Ms. Anne Shibuko
First Clerk Assistant

Ms. Miriam Modo
First Clerk Assistant

Mr. Willis Obiero
Clerk Assistant III

Ms. Isaac Nabiswa
Legal Counsel II

Ms. Patricia Gichane
Legal Counsel II

Mr. Martin Sigei
Research Officer III

Ms. Nancy Ouma
Research Officer III

Ms. Roselyne Njuki
Senior Serjeant-at-Arms

Mr. Calvin Karungo
Media Relations Officer III

Mr. Paul Shana
Serjeant-at-Arms

Mr. Peter Mutethia
Audio Officer

PART TWO

2. BACKGROUND INFORMATION ON THE PETITION

2.1 Introduction

1. Public Petition No. 53 of 2023 regarding Access to National Parks by Livestock Grazers During Drought was presented by the Hon. John Bwire, MP, Member for Taveta Constituency on Wednesday, 4th October 2023 on behalf of the pastoral community from Lata and Challa Wards in Taveta Constituency.
2. The Petitioners stated that pastoral community from Mata and Challa Wards bordering the Tsavo West National Park depended entirely on livestock keeping as their source of livelihoods and as such have been forced to graze and water their animals in the park during drought.
3. The Petitioners averred that in 2021 and 2022, the President declared drought a national disaster and proceeded to issue a directive to the National Treasury and the then Ministry of Interior and Coordination of National Government to spearhead efforts to assist affected households including to provide water, relief ford and livestock uptake.
4. The grazers through their local leadership engaged the Kenya Wildlife Service (KWS) over the devastating effects of the drought seeking for permission to graze and water their animals in the park. The request was declined on grounds that the KWS was yet to make guidelines for accessing the park. As a result, the KWS officers in Taveta Constituency were arresting the grazers who accessed the park, detaining their animals and arraigning them in courts sometimes without the knowledge of their relatives.
5. That the KWS officers were also remanding the grazers in custody for offences under Section 102(2A) of the Wildlife Conservation and Management Act notwithstanding the provisions of Article 49(2) of the Constitution that a person shall not be remanded in custody for an offence if the offence was punishable by a fine only or by imprisonment for not more than six months.
6. The aforementioned actions by the KWS officers violated the grazers right to fair administrative action, right to access of justice and right to fair trial;

2.2 Petitioners' Prayers

7. The Petitioners prayed that the Committee—
 - (i) Recommends the making of guidelines pursuant to section 102(4) of the Wildlife Conservation and Management Act by the Cabinet Secretary to allow the grazers to access the parks during drought.
 - (ii) Investigates the actions of the KWS officers and recommends the necessary action including stopping the detaining of the livestock without the express orders of the courts.

- (iii) Recommends that the KWS be barred from further actions of detaining the grazers until the Cabinet Secretary develops the requisite guidelines.
- (iv) Makes any other recommendation or action it deems fit in addressing the plight of the Petitioners.

PART THREE

3. STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1 Submission by Petitioners

On Thursday, 2nd November 2023, the Petitioner the Hon. John Bwire, MP, Member for Taveta Constituency accompanied by the representatives of the grazers appeared before the Committee and submitted as follows—

Background

8. Taveta Constituency borders the Tsavo West and Tsavo East National Parks which were gazetted in 1948 when the population of Taveta was about 2,000 people. However, the population has since grown to about 100,000 people yet the National Parks cover about 70 percent of the entire Constituency which is about five million acres.
9. Section 102 of the Wildlife Conservation and Management Act mandates the Cabinet Secretary for the Ministry of Wildlife and Tourism to develop guidelines to allow grazers to access national parks, especially during drought.
10. In 2021 and 2022, the President declared the drought a national disaster hence the residents had expectations of being allowed to access the parks as mitigation during the drought.

Issues of concern

11. **Double charges on compensation fees and fines:** In various instances, the grazers had been arrested for accessing the grazing fields in the parks and taken to court by the KWS officers. However, the suspects were charged both the fines for accessing the parks and a compensation fee of between Kshs.50,000 to Kshs.100,000 yet there was no law on compensation fees. Ironically, whenever, KWS animals destroyed residents' farmlands and animals the compensation took over 10 years, but cattle confiscated by KWS were never released without the compensation from the grazers. The KWS officers were obsessed with compensation to the extent of dividing the cattle into groups to benefit from more compensation charges from each group.
12. **Unfair benefit sharing of national park resources and community social responsibility:** The Maasai Community in question was conscious of the wildlife and had harmoniously coexisted with wildlife for years and contributed to conservation efforts. However, the community did not benefit from any community social responsibility such as issuance of bursaries for school fees.
13. **Cattle holding grounds leading to the loss and emaciation of cattle:** Cattle-holding grounds were introduced by a magistrate where the KWS officers detain the cattle in the holding grounds and took the owners to court. The cattle are never released until fines and compensation fees are paid leading to the death of a lot of cattle in the holding grounds as they do not have enough space and

pasture. There was no compensation given to the grazers whenever the cattle died in the holding grounds and KWS officers took away some cattle without the consent of the owners whenever they detained them.

14. **Unfair treatment and assault of Taveta grazers:** The grazers were occasionally physically assaulted, and they were often mistreated compared to their counterparts from other pastoralist regions such as the North Eastern region who are not detained as much. Further, the grazers were accused of trespassing whenever they were running away from the KWS officers for fear of assault in addition to the grazers' intrusion.

Prayers

15. The Petitioner prayed that that–

- (i) The Committee establishes whether there are laws for compensating KWS for intrusion and if there are none, then KWS be directed to stop extorting money from grazers under the guise of compensation fees;
- (ii) As the grazers await the proper guidelines on access to national parks, the cattle be released from the holding grounds and only the grazers be detained as the court process takes effect since continued detention of the cattle leads to their deaths. Further, compensation charges and the holding grounds be eliminated; and
- (iii) The grazers be allowed to access the parks through permits in the by-laws, especially during the drought seasons.

3.2 Submission by the Ministry of Wildlife and Tourism and the Kenya Wildlife Service

On Thursday, 30th November 2023, the Cabinet Secretary for the Ministry of Wildlife and Tourism, Hon. (Dr.) Alfred Mutua accompanied by the Director General, Kenya Wildlife Service (KWS), Dr. Erastus Kanga, appeared before the Committee and submitted that—

16. Allowing livestock into the parks without proper guidelines would amount to risks including transmission of zoonotic diseases. However, a team was working on the regulations on access to the national parks to allow for coexistence and the proposals would be brought to the National Assembly for ratification once finalized.
17. Regarding the safety of the livestock in the holding grounds, the DG, KWS allowed the cattle to graze while in detention, and the animals were only held as evidence as the herders often escaped and deserted the animals upon encounter with KWS officers. The long-term solution would be the provision of services to the communities living around the parks, for example, water pans to enable livestock to access pasture and water outside the park.
18. Regarding the delay in KWS compensation for the destruction meted out by wildlife, the Ministry has in the recent past been making efforts to ensure timely compensation to the victims.

Vide a letter Ref: SDW/8/17/1 and dated 24th April 2024, the Principal Secretary, State Department for Wildlife, Ms. Silvia Museiya, submitted an additional response regarding the petition as follows—

Charges on herders caught with grazing livestock in the park and commercialisation of the compensation fees

19. Section 102A of the Wildlife Conservation and Management Act (Cap. 376) prohibits access to any protected area with livestock without written permission from KWS. Further, a person who contravened the provisions is liable upon conviction to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding six months or both.
20. The courts are empowered to order that wildlife trophy, motor vehicle, equipment and livestock or other thing where the offence has taken place be forfeited to the KWS and be disposed as the court may direct.
21. In making the order of forfeiture under section 105 of the Act, courts may also order that the cost of disposing of the substance, motor vehicle, equipment, appliance, livestock or any other thing be borne by the person convicted of the offence.
22. Despite the challenges on influx of livestock into national parks, KWS had endeavoured to maintain a good working relationship with the communities. That KWS had not commercialized the livestock issue due to high negative impact on

the environment caused by the activity, compensation amount was surcharged by the courts.

23. The KWS had opted for this alternative way of resolving or controlling the menace of livestock incursion into national parks hence Criminal Procedure Code (CPC) on plea bargain was arrived at in order to maintain community/herders and KWS relationship.
24. Article 159 (c) of the Constitution also provides for alternative forms of dispute resolution. The law provides that the court processes and orders for fines of Kshs.200,000 and or six months imprisonment and forfeiture of livestock, which is considered stringent. The option for compensation was considered by KWS as it was relatively lower and friendlier than what was prescribed in law.
25. The amount collected as compensation was accounted for as it was directly deposited by the livestock owners to KWS accounts. The funds are utilised for restoration of degraded areas, repair of damaged fences, replacement of vandalised signages and costs of aerial livestock drives.
26. Regarding the status of the regulations and guidelines to access the national parks, section 102 (4) of the Wildlife Conservation and Management Act provides that the Cabinet Secretary shall make guidelines in consultation with the KWS with respect to accessing national parks for purposes of grazing and watering of livestock in times of drought and other natural disasters.
27. The Ministry of Tourism and Wildlife would initiate the process of developing the access guidelines in a consultative and participatory approach that would ensure wildlife protection and integrity of the national heritage including parks and reserves.

Arrest of herders and seizures of livestock

28. In most cases herders escaped legal arrest and deserts their livestock which were impounded and driven to the holding *bomas* until the owners claim the cattle. This was to ensure due diligence on ownership before releasing of the cattle.
29. The *bomas* are predator proof to protect the livestock from predators. If the livestock are left without being kept in *bomas* they would be predated upon.
30. In the event the herders are arrested, photos of the livestock are taken, they are driven out of the park safely and the suspect(s) are then booked at the nearby police station and presented to court before the lapse of 24 hours. Most of the time the herders engage minors to herd cattle inside national parks to avoid arrest. In such cases, livestock is held to allow a responsible person mostly the owner to show up and take responsibility.
31. The KWS holds livestock until such a time when a court issues orders to release them to the rightful owner. The holding of cattle is allowed by section 110 of the Wildlife Conservation and Management Act.

Utilization of the compensation charges by KWS

32. The funds are deposited directly to a central KWS account and official receipt issued accordingly. The receipt is presented in court as evidence that the fine has been paid. The funds are ploughed back to restoring the vandalized fences, information signage displays, degraded areas inside the park and support aerial livestock drives from the park.

Safety of seized livestock

33. The safety and security of the impounded livestock were always ensured by a 24-hour security watch. In addition, the livestock are allowed to graze and drink water until they are released to owners.
34. The *bomas* are predator proof and the KWS has never experienced loss or death of the impounded livestock out of either theft, predation or perceived negligence by officers while in custody.

3.3 Site Visit

On Friday, 27th April 2024 the Committee conducted a site visit inquiry in Salaita Village, Taita Taveta Constituency. The Committee toured the holding grounds (*bomas*) and engaged the KWS officers and the herders.

The herders submitted on the following issues—

Background

35. The communities in need of access to the national park included Salaita, Orkungu, Njoro, Jipe, and Lumi, which border Tsavo West National Park. Despite occasional concerns, the communities and KWS maintained a cordial relationship when addressing issues of human-wildlife conflict.

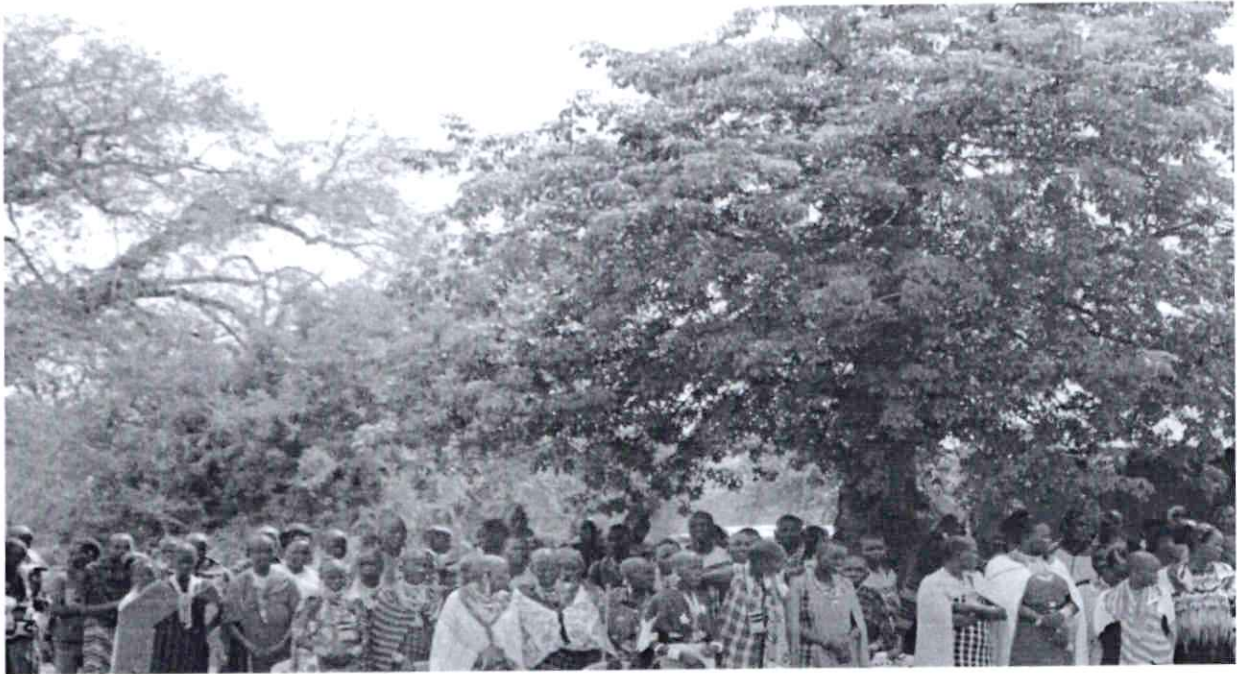


Figure 1. The herder community of Salaita Village during a Committee site visit inquiry

Regulations and guidelines for access of the national parks

36. There were no regulations or guidelines from the Ministry of Tourism and Wildlife and KWS to enable access to the national parks during dry seasons, despite the Cabinet Secretary's commitment to implement such measures. The absence of these regulations often led to community grazers being arrested, detained and fined when they accessed the protected areas of the national parks.
37. The Petitioners proposed that such regulations and guidelines would be beneficial, as they could propose a revenue stream for KWS by remitting a specified amount per cow for grazing access to the national park.
38. The petitioners requested that the Cabinet Secretary, in consultation with KWS, formulate regulations and guidelines to allow access to the national parks, especially during dry seasons, to help them sustain their livestock.

Double charges on fines and compensation fee after arrest

39. The arrested herders were sometimes arrested and charged in courts in Wundanyi and Voi, outside the jurisdiction of Taveta and far from the area of arrest. This was infringing on their rights against section 110 of the Wildlife Conservation and Management Act. The petitioners requested that this practice be changed.
40. KWS officers often arrested the herders and detained their cattle to be presented in court as evidence. The petitioners requested that KWS officers should not arrest the herders or detain the cattle, but instead release the cattle and only use photographic evidence in court.

41. In cases of cattle detainment, KWS sometimes held the cattle for an entire week. Therefore, the petitioners emphasized the need for KWS not to detain cattle over weekends, as the cattle would suffer immensely before the owners were taken to court.
42. The herders, once arrested and detained, were required by KWS to pay a fine for accessing the protected area and a compensation fee for the impounded livestock, ranging from Kshs 50,000 to Kshs 100,000, unless the court ordered otherwise. These fines and compensation fees are punitive and not provided for by law. The petitioners requested that herders be given the discretion to pay the fines without being required to pay compensation for the impounded livestock. Additionally, they asked for the timelines for paying the fines to be extended, rather than requiring immediate payment.
43. The herders were desperate to access the national parks for pasture due to the lack of a sustainable alternative, despite the punitive fines and charges.
44. The petitioners requested that KWS secure the release of the cattle in their custody and the arrested herders, and that those taken to Voi and Wundanyi courts be tried in Taveta court instead.

Compensation by KWS in cases of damages caused by wildlife

45. Compensation to the community for destruction caused by wildlife from the national parks was delayed for up to five years. Meanwhile, the fines and compensation charged for trespassing were punitive.
46. During their patrols, KWS officers caused suffering to cattle including creation of stampede when conducting aerial surveys and operations. These injuries arising from the stampede were not compensated.

Holding grounds (*bomas*)

47. The holding grounds were problematic, causing suffering and even death of cattle as officers held more livestock than the grounds could accommodate, thereby sabotaging the herders' primary source of livelihood. This situation led to increased poverty, making it difficult for residents to educate their children despite their commitment to improving their lives through education.
48. Despite the claim by KWS that they took care of the cattle in custody, they lacked mechanisms to provide adequate water, fodder, and medicine.

The role of the community in conservation

49. The community contributed to wildlife conservation efforts by cooperating with KWS to expose and even arrest poachers.

50. Although the land in the area could support crop farming as an alternative to cattle rearing, wildlife often destroyed their crops, hindering harvests and making crop farming difficult.

51. The Petitioners requested support in adopting modern agricultural techniques, allowing them to move away from the nomadic culture of cattle herding. This would provide alternative income generation methods without interfering with wildlife by seeking to graze in the parks.

The CSR activities by KWS

52. The community had not benefited from CSR activities by KWS, as these were carried out without public participation, preventing the community from choosing projects and activities that suited their needs.

53. The community requested that KWS ensure CSR activities, including the employment of local youths as rangers to assist in wildlife protection and conservation, are conducted through public participation. This would allow community members to prioritize and determine the projects and activities that best meet their needs.

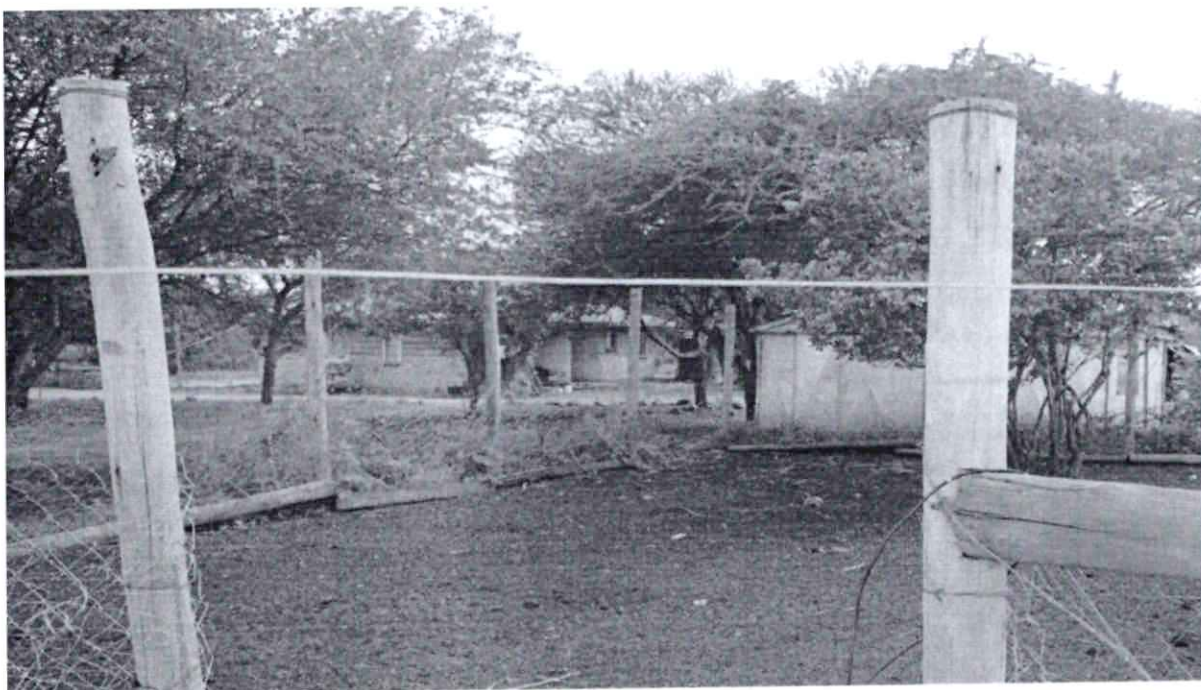


Figure 2. A holding ground (boma) in Salaita Village

Capt. Keneth Ochieng' on behalf of the KWS submitted as follows—

54. KWS acknowledged the need for continued cooperation with the community and had managed human-wildlife conflict in a harmonious and magnanimous manner. However, existing laws discouraged unstructured access to national park resources, necessitating efforts to keep herders and their cattle outside the protected park areas.

55. The communities living around the parks were primarily peasant herders with manageable number of cattle. Most of the prevalent problems and concerns arose from the increase in number of cattle that came from outside the community, including those from private ranches owned by commercial herders.
56. KWS conducted a survey to profile and identify the owners of cattle in the area to distinguish the local peasant herders, who deserve assistance, from those belonging to commercial farmers with private ranches. This was due to the overwhelming number of cattle attempting to access the protected national park areas.
57. KWS carried out CSR activities to ensure the community benefited from the national park and were protected against human-wildlife conflict. However, sometimes the community vandalized the fences to access the park, allowing wild animals to enter community areas.
58. The benefits generated from the national parks needed to be reinvested in CSR initiatives, such as providing water and schools for the community, installation of new fencing and repair of vandalized fences in the national parks. Despite efforts to create awareness within the community, the prevalence of human-wildlife conflict persisted in the area.
59. Regarding the holding grounds, KWS had established four strategically located grounds in Salaita, Njoro, Lake Jipe, and Maktau, each with a capacity of 50 to 100 cows. These grounds were designed to detain cattle whenever herders, often small-scale individuals, deserted their cattle for fear of arrest. Additionally, the allegation that KWS held more cattle than the grounds could accommodate was unfounded.
60. KWS officers were responsible for the livestock in their custody, as herders often fled. However, no cattle lost their lives while under custody in the holding grounds due to wildlife attacks or lack of fodder and water. KWS officers ensured the cattle were fed until their owners paid the required fines as directed by the court, after which they were released.
61. Regarding the holding of cattle over weekends, KWS proposed a practical and agreeable solution be discussed with community representatives despite no legal provision. However, during the rainy season, cattle were not allowed in the park at all.
62. Regarding the arrest of herders and their appearance in courts in Voi and Wundanyi, sometimes herders, when given free bond or released to appear again, failed to show up. Therefore, utilizing the privilege given to KWS, suspects within their jurisdiction were taken to any court within Taita Taveta County, depending on where the arrest occurred. While KWS preferred bringing suspects to Taveta, sometimes the high costs necessitated taking them to the nearest courts. However, KWS was open to engaging community leaders to find a viable solution.

63. Regarding compensation delays for destruction caused by wildlife, KWS acknowledged the delay but emphasized that fast-tracking compensation was beyond its mandate. Processing claims fell under KWS, while compensation was under the Ministry's jurisdiction.

64. Regarding compensation payable by herders for the period their cattle are held in holding grounds, KWS clarified that this was determined by the court under the Criminal Procedure Code, allowing parties to negotiate. Compensation fees were paid directly to the KWS national office.



Figure 3. The Vice Chairperson, Hon. Janet Sitienei, MP (second left), Capt. Ochieng' from KWS (left), Hon. John Bwire, MP, the Petitioner (second right) and Hon. Suzzanne Kiamba, MP during the public engagement in Salaita village.

65. Regarding CSR activities in the area, KWS has undertaken various initiatives, including constructing a 32 km fence along the park from Lake Jipe to Ziwani to mitigate human-wildlife conflict, although it has been occasionally vandalized. Additionally, KWS addressed the community's need for a borehole in the Challa area, prioritized due to water challenges. KWS commits to ongoing engagement with the community to identify and prioritize future CSR activities.

66. Regarding the establishment of a community committee of herders to address issues between KWS and the community, KWS stated that they were cooperating with community leadership to resolve issues and expressed openness to establishing such a committee if deemed necessary.

67. Regarding the use of photographic evidence instead of holding cattle for over three days, KWS explained that in many cases, livestock were impounded without a herder present. Therefore, officers are compelled to hold them until the owners appear and pay fines. However, KWS was willing to release the cattle within one day upon the owner's appearance.

PART FOUR

4. COMMITTEE OBSERVATIONS

Arising from the engagement with the various stakeholders including the Petitioner, Kenya Wildlife Service (KWS) and the Ministry of Tourism and Wildlife and a site visit inquiry in Taveta Constituency, the Committee made observations on various concerns raised by the petitioner as follows—

68. The Cabinet Secretary for the Ministry of Tourism and Wildlife is yet to develop guidelines to facilitate access to national parks for purposes of grazing and watering livestock in times of drought and other natural disasters as stipulated in section 102(4) of the Wildlife Conservation Management Act. This has led to perennial access to the park without a proper mechanism to ensure wildlife protection, preserve national heritage, and address the emerging needs of local communities.
69. The community living around Tsavo West National Park primarily consist of herders who rely on cattle rearing as their main income-generating activity. They refrain from alternative activities such as crop farming due to fear of wildlife destruction.
70. Herders who enter a protected area including national parks are arrested and charged pursuant to the provisions of section 102(1) of the Wildlife Conservation and Management Act. They are required to pay fines and compensation fees for the period their cattle are held in KWS custody.
71. KWS has established four holding grounds (*bomas*) with a capacity of 50 to 100 livestock each to impound cattle for presentation as evidence in court after incursion. However, during a site visit inquiry, the Committee observed that KWS does not provide adequate fodder, water, and medicine for the cattle.
72. Herders often engage minors to look after livestock inside the national park to avoid arrest. Consequently, KWS holds the cattle in holding grounds until a responsible person takes responsibility. The cattle remain in custody until the court issues orders for their release to the rightful owners.
73. KWS detains suspected herders and occasionally present them to courts in Voi and Wundanyi, which are far from Taveta or outside the area of arrest.
74. The relationship and cooperation between KWS and the local community is harmonious. However, the herder community is not sufficiently involved in public participation exercises for corporate social responsibility proposals and in managing human-wildlife conflict.
75. Despite the presence of local peasant herders requiring access to the park, commercial herders take advantage of and use local communities to access the park for commercial reasons, straining park resources. This could potentially lead to wildlife migration due to inadequate pasture and water.

76. KWS is not directly involved in compensating victims of human-wildlife conflict, as it solely processes claims and forwards them to the Ministry of Wildlife and Tourism for verification and payment. However, compensation by the Ministry is slow, resulting in delays in payment to victims.
77. Despite, the lack of guidelines to facilitate access to national parks for purposes of grazing and watering of livestock in times of drought and other natural disasters, section 102(2A) of the Wildlife Conservation and Management Act allows a person including herders to enter national parks to graze provided that they have a permit or written permission from the authority responsible.

PART FIVE

5. ANALYSIS OF ISSUES FOR DETERMINATION

The Committee makes determination on the issues arising from the Petition as follows—

Issue 1 - Guidelines for access the parks during drought and natural disasters

78. Section 102(4) of the Wildlife Conservation and Management Act provides that the Cabinet Secretary in the Ministry responsible for wildlife shall make guidelines in consultation with KWS with respect of accessing national parks for purposes of grazing and watering livestock during drought and other natural disasters.

79. The Statutory Instruments Act (Cap. 2A) regulates the making, scrutiny, publication and operation of statutory instruments which includes the regulations made in the execution of a power conferred by the Wildlife Conservation and Management Act.

80. The Cabinet Secretary submitted that a team is working on the regulations to give communities around national parks access to pasture and water during drought and other national disasters.

Issues 2 - Detaining of the livestock by KWS

81. Section 102(1)(a) of the Wildlife Conservation and Management Act provides that a person who, without a licence or a permit from KWS in respect of a national park, national reserve, wildlife sanctuary or marine reserve or without authority from the authority responsible for any other protected area, enters or resides in a protected area otherwise than in the course of his or her duty as an authorised officer or a person lawfully employed in the protected area; commits an offence and is liable on conviction to a fine of not less than Kshs.200,000/- or imprisonment of a term of not less than two years or both.

82. Additionally, section 102(2A) of the Act prohibits a person from entering a protected area without a permit or written permission from the authority responsible.

83. Section 110 of the Act gives certain powers to authorized officers including KWS officers to enforce the provisions of the Act and ensure compliance. They include the powers to search, arrest, detain a person who is suspected to have committed an offence and seize anything used in the commission of the offence. Also, section 110(3)(c) provides that an authorised officer may take reasonable steps to prevent the commission of an offence under the Act.

84. Section 102(4) of the Act provides that the Cabinet Secretary in the Ministry responsible for wildlife shall make guidelines in consultation with KWS with

respect of accessing national parks for purposes of grazing and watering livestock during drought and other natural disasters.

85. The conditions of the holding grounds are inadequate for accommodating a large herd of livestock.

Issue 4- Double charges on fines and compensation fees

86. KWS requires offenders to pay a fine for accessing the protected area and a compensation fee for the impounded livestock.

87. Section 102(1) of the Wildlife Conservation and Management Act provides for the offence of breaching the regulations of a protected area and the penalty of a fine of not less than Kshs200,000 or imprisonment of a term of not less than two years or both upon conviction.

88. However, the Act does not provide for the payment of compensation to KWS officers. Payment of compensation may only be done through an order of the court pursuant to section 175 of the Criminal Procedure Code.


PART SIX

6. COMMITTEE RECOMMENDATIONS

89. Pursuant to the provisions of Standing Order 227, the Committee responds to the Petition as follows—

- (i) On the prayer that the Committee recommends for the provision of guidelines pursuant to section 102(4) of the Wildlife Conservation and Management Act, CAP 376 by the Ministry to allow the grazers to access the parks during drought, the Committee recommends that the Cabinet Secretary should submit the guidelines for access of national parks for purposes of grazing and watering livestock during drought and other natural disasters, in line with the provisions section 102(4) of the Wildlife Conservation and Management Act, to the House within three (3) months upon tabling of this report. In the interim, the herders may make use of the provision in section 102(2A) of the Wildlife Conservation and Management Act which allows the herders to enter national parks to graze provided that they have a permit or written permission from the authority responsible;
- (ii) On the prayer that the Committee investigates the actions of the KWS officers and recommends the necessary action including stopping the detaining of the livestock without the express orders of the courts, the Committee notes that the inquiry during the consideration of this petition sufficiently addresses the first part of the prayer that it investigates the actions of the KWS officers. In response to the second part of the prayer, the Committee recommends that KWS adheres to the enforcement powers as provided for in section 110 (1)(d) of the Wildlife Conservation and Management Act by presenting any seized livestock before court within 24 hours;
- (iii) On the prayer that the Committee recommends that the KWS be barred from further actions of detaining the grazers until the Cabinet Secretary develops the requisite guidelines, the Committee recommends that the Cabinet Secretary should submit the guidelines for access of national parks for purposes of grazing and watering livestock during drought and other national disasters, in line with the provisions section 102(4) of the Wildlife Conservation and Management Act, to the House within three (3) months upon tabling of this report.
- (iv) The Committee further recommends that—
 - (a) KWS officers stop ordering offenders to pay compensation since they are not legally empowered to do so;
 - (b) In case of arrest, the KWS to ensure the suspects are presented to nearby courts or within the area of arrest;
 - (c) The Cabinet Secretary promptly settles compensation claims for death, bodily harm and damage to property caused by wildlife; and

(d) The Wildlife and Conservation Management Act be amended to provide for a mechanism for investigating KWS officers.

Signed:  Date: 29th April 2025.

HON. ERNEST KIVAI OGESI KAGESI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 30 APR 2025	
DAY: WED	
TABLED BY:	HON ERNEST KAGESI (CHAIRPERSON)
CLERK-AT THE-TABLE:	M - MODO

ANNEXURES

- Annex 1: Adoption List
- Annex 2: Public Petition No. 53 of 2023 Regarding Access to National Parks by Livestock Grazers During Drought
- Annex 3: Minutes of the 76th Sitting held on Thursday, 2nd November 2023
- Annex 4: Minutes of the 87th Sitting held on Thursday, 30th November 2023
- Annex 5: Letter Ref: SDW/8/17/1 dated 24th April 2024 by Ministry of Tourism and Wildlife
- Annex 6: Sample charge sheets



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025
PUBLIC PETITIONS COMMITTEE

ADOPTION SCHEDULE

OF THE REPORT ON CONSIDERATION OF PUBLIC PETITION NO. 53 OF 2023
REGARDING ACCESS TO NATIONAL PARKS BY LIVESTOCK GRAZERS DURING DROUGHT

DATE...24-04-2025.....

We, the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the consideration of regarding Public Petition No. 53 of 2023 Regarding Access to National Parks by Livestock Grazers During Drought to confirm our approval and confirm its accuracy, validity and authenticity:

NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Ernest Ogesi Kivai Kagesi, M.P.	Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, CBS, M.P.	Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	Member	
4.	Hon. Nimrod Mbithuka Mbai, M.P.	Member	
5.	Hon. Joshua Chepyegon Kandie, M.P.	Member	
6.	Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	Member	
7.	Hon. Maisori Marwa Kitayama, M.P.	Member	
8.	Hon. Edith Vethi Nyenze, M.P.	Member	
9.	Hon. Bidu Mohamed Tubi, M.P.	Member	
10.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	Member	
11.	Hon. Peter Mbogho Shake, M.P.	Member	
12.	Hon. Suzanne Ndunge Kiamba, M.P.	Member	
13.	Hon. John Bwire Okano, M.P.	Member	
14.	Hon. Peter Irungu Kihungi, M.P.	Member	
15.	Hon. Sloya Clement Logova, M.P.	Member	



THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT (SECOND SESSION)

PUBLIC PETITION

(No. 53 of 2023)

ACCESS TO NATIONAL PARKS BY LIVESTOCK GRAZERS DURING DROUGHT

I, the **UNDERSIGNED**, on behalf of the pastoral community from Mata and Challa Wards in Taveta Constituency;

DRAW the attention of the House to the following:

- 1. THAT** the pastoral community from Mata and Challa Wards bordering the Tsavo West National Park depend entirely on livestock keeping as their source of livelihoods and as such have been forced to graze and water their animals in the park during drought;
- 2. THAT** the Petitioners aver that in 2021 and 2022, the President declared drought a national disaster and proceeded to issue a directive to the National Treasury and the then Ministry of Interior and Coordination of National Government to spearhead efforts to assist affected households including to provide water, relief food and livestock uptake;
- 3. THAT** the grazers through their local leadership engaged the Kenya Wildlife Service (KWS) over the devastating effects of the drought seeking for permission to graze and water their animals in the park. The request was declined on grounds that the KWS was yet to make guidelines for accessing the park;
- 4. THAT** as a result, the KWS officers in Taveta Constituency have been arresting the grazers who access the park detaining their animals and arraigning them in courts sometimes without the knowledge of their relatives;
- 5. THAT** the officers have also been remanding the grazers in custody for offences under Section 102(2A) of the Kenya Wildlife Service Act notwithstanding the provisions of Article 49(2) of the Constitution that

Approved
D/SNA
3/10/2023

DL 50
8
3/10/23

Hon. Speaker,
for my response
proprietor
3/10/23

ACCESS TO NATIONAL PARKS BY LIVESTOCK GRAZERS DURING DROUGHT

a person shall not be remanded in custody for an offence if the offence is punishable by a fine only or by imprisonment for not more than six months;

6. THAT the aforementioned actions by the KWS officers violates the grazers' right to fair administrative action, right to access of justice and right to fair trial;

7. THAT efforts to resolve this matter through the KWS and the relevant authorities have not resulted in a satisfactory response or action;

8. THAT the issues in respect of which this Petition is raised are not pending before any court of law, or any constitutional or legal body;

9. THEREFORE, your humble petitioners pray that the National Assembly through the Public Petitions Committee—

- i. Recommends for the provision of guidelines pursuant to section 102(4) of the Kenya Wildlife Service Act by the Ministry to allow the grazers to access the parks during drought;
- ii. Investigates the actions of the KWS officers and recommends the necessary action including stopping the detaining of the livestock without the express orders of the courts;
- iii. Recommends that the KWS be barred from further actions of detaining the grazers until the Cabinet Secretary develops the requisite guidelines; and
- iv. Makes any other recommendation or action it deems fit in addressing the plight of the Petitioners.

And your **PETITIONER** will ever pray.

PRESENTED BY:



THE HON. JOHN BWIRE, MP
MEMBER FOR TAVETA CONSTITUENCY

DATE: 24.08.2023

**PETITION AGAINST KENYA WILDLIFE SERVICE AND THE CABINET
SECRETARY MINISTRY OF TOURISM, WILDLIFE AND HERITAGE**

30th January, 2023

To the Clerk of National Assembly
Parliament of Kenya
Parliament Building
Nairobi

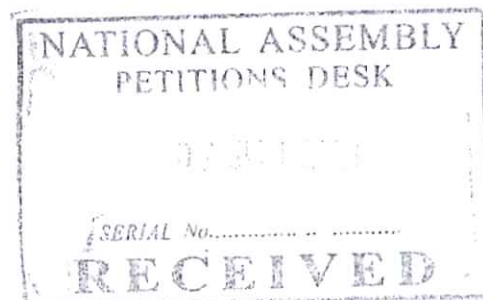
Dear Sir,

**RE: PUBLIC PETITION AGAINST KENYA WILDLIFE SERVICE AND THE
CABINET SECRETARY MINISTRY OF TOURISM AND WILDLIFE**

Petition by Hon, John Bwire, Member of Parliament Taveta Constituency on behalf of grazers from Taveta Constituency (hereinafter “**the Petitioners** ”), present a Petition against the illegal and unconstitutional acts of officers from the Kenya Wildlife Service and the Cabinet Secretary Ministry of Tourism and Wildlife.

(a) Factual Background

1. The Petitioners are from Pastoral Community living in Taveta Sub-County, and who depend entirely on livestock keeping as the only source of livelihood.
2. The Petitioners live in Mata Ward and Challa Ward which borders the Tsavo West National Park (hereinafter “**the Park**”) and have, during drought, been forced to graze and water their animals in the Park.
3. On diverse dates in 2021 and 2022, the President declared drought a national disaster, and proceeded to issue a directive to the National Treasury and Ministry of Interior and Coordination of National Government to spearhead government efforts to assist affected households including water and relief food distribution as well as livestock uptake.
4. The Petitioners and other grazers have, through the local leadership, approached the Kenya Wildlife Service and informed them of the devastating effects of the drought and sought permission to be allowed to graze and water their animals in the Park.



PETITION AGAINST KENYA WILDLIFE SERVICE AND THE CABINET SECRETARY MINISTRY OF TOURISM, WILDLIFE AND HERITAGE

5. The Kenya Wildlife Service officers declined to allow the Petitioners permits to graze in the Park on ground that it is yet to make guidelines for accessing the parks during drought and national disasters.
6. The Kenya Wildlife Service officers at Taveta Sub-County, as result of the Petitioners and other grazers' animals entering the Park, have been arresting the Petitioners and other grazers, and arraigned, charged and prosecuted them at Taveta Principal Magistrate's Court which is the nearest magistrates court with jurisdiction to hear the offence.
7. In a complete twist of events, the KWS officers have changed tact and have been arresting the Petitioners and other grazers, incarcerate them, detain their animals, and charge them in either Wundanyi Principal Magistrate's Court or Voi Chief Magistrates' Court which are miles away from the places of arrest.
8. On 10th March, 2021, the KWS officers arrested Neisai Ole Ledarpoi a resident of Salaita in Taveta Sub-County, detained him and, without knowledge of his relatives, arraigned him in Wundanyi on 11th March, 2021 where he was charged.
9. On 18th March, 2021 the KWS officers arrested Mr. Lengosu Ole Lotepes and Mr. David Juma of Orkungu and Mkwajuni village of Taveta Sub-County, detained them at Mwatate Police Station without the knowledge of their families and on 19th March, 2021 arraigned and charged them at Wundanyi Law Courts.
10. On 23rd March, 2021, the 1st Respondent arrested Mr. Lenapir Ole Lempere a resident of Salaita village in Taveta Sub-County, detained him at Mwatate Police Station without the knowledge of his family, and on 24th March, 2021 arraigned and charged him at Wundanyi Law Courts.
11. In furtherance of their illegal actions, the KWS officers have been remanding in custody the Petitioners and grazers for an offence under section 102(2A) of the Act notwithstanding that article 49(2) of the Constitution prohibits remanding of a person charged with an offence whose punishment is below six (6) months.
12. The KWS officers have also been illegally detaining livestock in illegal holding grounds and in express violations of the provisions of the Act.
13. The aforesaid actions by officers of KWS are also a violation to the Petitioners' and other grazers' right to fair administration action, right to access to justice, rights of an arrested person, and the Petitioners' right to a fair trial.

PETITION AGAINST KENYA WILDLIFE SERVICE AND THE CABINET SECRETARY MINISTRY OF TOURISM, WILDLIFE AND HERITAGE

(b) Constitutional and Statutory Violations

14. On 24th December, 2013, the President assented to law the Wildlife Conservation and Management Act, 2013 (hereinafter "the Act").
 15. Section 102(2A) and 102(3) of the Act creates an offence of entering into a national park with any livestock for any purpose without authorization, and imposes a fine of not exceeding Kshs. 100,000.00 or imprisonment not exceeding six months.
 16. Section 102(4) of the Act provides that the Cabinet Secretary shall make guidelines in consultation with the Service with respect to accessing national parks for purposes of grazing and watering of livestock in times of drought and other natural disasters.
 17. Article 49(2) of the Constitution provides that a person shall not be remanded in custody for an offence if the offence is punishable by a fine only or by imprisonment for not more than six months.
- (i) Violation of the Petitioners' right under article 49 of the Constitution**
18. A reading of section 102(3) of the Act as read together with article 49(2) of the Constitution confirms that the Petitioner and any other grazer allegedly to have committed an offence under section 102(2A) of the Act cannot, and shall not, be remanded in custody.
 19. The actions of the Respondents to remand grazers or detain their animals for an alleged offence under section 102(2A) of the Act is unconstitutional for violating article 49(2) of the Constitution.
- (ii) Violation of the Petitioners' Socio-economic rights**
20. As already indicated, section 102(4) of the Act provides that the Cabinet Secretary shall make guidelines in consultation with the Service with respect to accessing national parks for purposes of grazing and watering of livestock in times of drought and other natural disasters.
 21. The purpose of section 102(4) of the Act was to cushion the Petitioners and other livestock keepers from drought, and to ensure that their animals are protected from drought.

**PETITION AGAINST KENYA WILDLIFE SERVICE AND THE CABINET
SECRETARY MINISTRY OF TOURISM, WILDLIFE AND HERITAGE**

22. Article 43 of the Constitution provides that every person has the right to be free from hunger, to have adequate food of acceptable quality, and to clean and safe water.
 23. The Petitioners depend entirely on livestock for their livelihood. In view of the prevailing drought which has resulted in scarcity of water and pasture, they should be protected as provided under section 102(4) of the Act.
 24. Failure by the Respondents to put guidelines as required by the Act, violates the Petitioners socio-economic rights under article 43 of the Constitution.
- (iii) Violation of Petitioners' Fair Administrative Action**
25. Article 47(1) of the Constitution provides that every person is entitled to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.
 26. Article 47(2) of the Constitution provides that if a right or a fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.
 27. Despite section 102(4) of the Act clearly providing the Cabinet Secretary to provide guidelines to allow grazing and access to water in national parks during drought, such guidelines are yet to be established.
 28. The actions of the Cabinet Secretary of failing to prepare the guidelines under section 102(4) of the Act amounts to unfair administrative action and an express violation of article 47 of the Constitution.
- (iv) Equality and Freedom from Discrimination**
29. Article 27 of the Constitution provides that every person has is equal before the law and has the right to equal protection and equal benefit of the law.
 30. Failure by the Cabinet Secretary to pass guidelines that will allow the Petitioners to cushion themselves from effects of the prevailing drought amounts to violation of article 27 of the Constitution.
 31. There is no cause of action between the Petitioners and KWS before any court of law.

PETITION AGAINST KENYA WILDLIFE SERVICE AND THE CABINET SECRETARY MINISTRY OF TOURISM, WILDLIFE AND HERITAGE

(c) **Reliefs**

32. The Petitioner therefore prays that;

- (a) The National Assembly directs the Cabinet Secretary and the Kenya Wildlife Service to forthwith present the guidelines pursuant to section 102(4) of the Act allowing access to parks during drought.
- (b) The National Assembly holds and finds that the actions of KWS holding livestock without an express order of the Court is illegal and should forthwith stop.
- (c) The Kenya Wildlife Service officers barred from further detaining grazers pursuant to the offence under section 102(2A) of the Act until such a time the Service and the Cabinet Secretary will present the guidelines.

Presented by;

Hon. John Bwire, MP Taveta Constituency

On behalf of the following Petitioners

	Name	ID number	Signature
1	KIPAMBI PARIT	27096218	
2	KURITO OLE NGAPE	1313795	
3	NKIDELIDEL OLE MASARIE	1346906	
4	JOSEPH MOPIA OLE LEUNGA	1347608	
5	METEI ENE LOORIMRIM	5372440	
6	TANKONO OLE KIPETUAN	1346978	
7	JAMES NG'DUT	11586694	
8	RAYIANI OLE LENKAYIAH	9743155	
9	PAPAYIO OLE LEMARON	1274099	
10	SEVERIAN OLE MELIYIO	11385556	
11	NKOJA ENE KURITO	1313855	
12	NAMEITA ENE LEKUNDAYO	1274099	
13	NGASHIDAI ENE LEMOMO	1346500	
14	SETOON ENE LEKUNDAYO	1346843	
15	LASOI ENE NKIDELIDEL	9367112	
16	NKANENEE ENE LEKIMANGUSI	1346813	
17	JOSEPH OLE NGAPE	9209587	
18	RODAH ENE MOPIA	6265985	
19	MUSHERE OLE LEMOMO	32879058	
20	MEOLI OLE KURITU	25861068	
21	MUSA PARTETIE PAPAYIO	30983747	

**PETITION AGAINST KENYA WILDLIFE SERVICE AND THE CABINET
SECRETARY MINISTRY OF TOURISM, WILDLIFE AND HERITAGE**

	Name	ID Number	Signature
22	LANGEN OLE NTAGUSA	1346556	LON
23	SEPEKO ENE OKWARI	13611510	STC
24	RITEI ENE DOKOLO	26183273	RLED
25	NASERIAN MEOLI KURITO	32434391	MOK
26	PAULINA SABINA BACKSON	30073028	PSSB
27	MUNGESIA OLE NTAGUSA	12741127	MCMT
28	DANIEL METVI SAKIMBA	26168262	YAS
29	MEISHOURUYU OLE TANGONO	27489760	MEROJ
30	MUTEYIAN ENE SONKOI	20744086	MES
31	IRENE NEEMA LENKAI	30976437	LEH
32	EMANUEL SARUNE LEKUNDAYO	3105430	LEH
33	SAMUEL LOREKU PAPAYIO	32920969	SLP
34	JACOB LEYIO	3284818	JLW
35	SAINKO ENE KATOPI	34901314	SEK
36	MATUMI ENE KIRAITEI	1347796	NRK
37	PENINAH ENE LEKIMANCUSI	290305295	PPH
38	SIMAYO MEDUKENYA	31013466	SM
39	NGADAYO ENE MEDUKENYA	29688530	MELM
40	MELETON ENE MEDUKENYA	29677362	MELM
41	LAMBI ENE MEDUKENYA	26173405	LEMM
42	NESEYO TITES KIKON	26246273	NRK
43	TENKES OLE SUYIANGA	20359640	NRK
44	KADUKO KIKON	29499696	KK
45	LUCY NKOOYIO JAMES	32730798	LNTJ
46	SEMPENYET ENE TUMAKA	29688596	SET
47	SUYIAH ENE KIKON	25870248	SEK
48	NANYOKIE ENE KIKON	35638653	NEM
49	NTORIAN ENE MOKOMET	29677251	MEI
50	NTIINI ENE TUMAKA	12741034	NRK
51	SEKENDU ENE TUMAKA	30924965	SET
52	SEETAN ENE LONGOI	29695796	SEP
53	SIYIPEI ENE LENGETE	20000520	SR
54	SULAYBAT ENE LENGETE	1346983	RLH
55	NESEYO LOKERV	26167724	MRRB
56	MARIAMU NKONYA SENDEU	32438445	Meh
57	MARGARET ENE LENGETE	24961244	MRP
58	ANNA KATOPI	32418486	AKI
59	NABORISHO WANDET	32489804	NAN

**PETITION AGAINST KENYA WILDLIFE SERVICE AND THE CABINET
SECRETARY MINISTRY OF TOURISM, WILDLIFE AND HERITAGE**

Name	ID Number	Signature
60 TEND TONTELET MOLINGE	29292490	TMLM
61 LEAH KARARIET	32422741	LK
62 NAMBAKU LEMUNA	26032582	NALU
62 NAPEZEL LEYIAN	29731764	NLU
64 NENGURIS LEYIAN	12567765	NLU
65 NABITIR ENE MWONYAI	31055151	NLU
66 MWAMPI ENE LKIMANGUSI	20694946	MEL
67 REGINA TUMAKA	32730814	RJ
68 NAKURUNYA ENE LEYIAN	29657038	NLU
69 NKINWA OLE SOLONKA	34870831	NLU
70 ADIUD MSYOKA	21028630	AM
71 SAMUEL MERITA	26051541	SM
72 KAMPA OLE KIPAMPI	23371868	KJK
73 SHUAKA OLE KIPAMPI	11385529	SLK
74 JONAH KIPAMPI	23378640	JJK
75 NTIATI SENDEU	29319992	NLU
76 SHAPASHINA MEDVIKENYA	26021062	SM
77 SIMINDO KAPAITO	34870956	SKIPIT
78 NTELE LELUAN	34961196	NLU
79 KAPAM SARUNI SHANGWA	31012392	SS
80 LANGOI SHEMA	29433486	LSSH
81 LOORIMRIM SHANGWA	26022243	LSSH
82 KAPAITO PENETI	9743041	KP
83 DOKOLU PENETI	26173544	DP
84 SOMIRE PENETI	26178484	SP
85 SIKEMPEI PENETI	26173514	SP
86 SAINO PENETI	32216370	SOP
87 PENETI NGAPE	13466868	PN
88 ANKAIWE KIPAMPI	23371909	ANKW
89 TIRIKA SHANGWA	26022199	TSH
90 LEEPA SENDEU	26160215	LNU
91 LAYILI OLE KAMUSERE	29129876	LK
92 GOIPEI OLE KAMUSERE	20231088	SKAMUSERE
93 ISAAC LEIYIO SHUAKA	32418445	LNU
94 MOSES LOKKINE SHUAKA	32216391	NLU
95 JOSEPH LEKINA TAIKO	29120713	JLEKINA
96 SOLONGA OLE PARKEPU	20193257	SSP
97 LULUNGEN OLE LETATA	29305264	LNU

**PETITION AGAINST KENYA WILDLIFE SERVICE AND THE CABINET
SECRETARY MINISTRY OF TOURISM, WILDLIFE AND HERITAGE**

	Name	ID Number	Signature
98	LOISE LEYIAN	29702204	L L
99	STANUEL LOKA	32577123	S L
100	LEYIAN REUBEN	22422648	LEYIAN R
101	SAMBERU TAIKO	20936761	S T
102	NKOIPIYA OLE KELEYON	25604668	NKOIPIYA
103	LEAH SOILA RUREN	26185138	W.S.R
104	WAMBVA MUTUNGA	20157942	W.M.
105	LILIAN SAYIANET	31951314	W.SAYIANET
106	MTATUYA KIPAMBI TIGES	0499442	K.T
107	PETER NZIOKA MUNA	23190096	P.M.
108	JOSEPH JAMES	5471878	J J
109	LOGUMU OLELOOTOL	2651746	W.O.
110	WAMULAPA OKUMU	26381045	W. OKUMU
111	KARARIET OLE NANGONI	133851	K.N.G
112	HELEN KHAHASIBO	5661088	H.KHASIBO
113	KASUKU LEYIAN	29690038	K L
114	SUNDE OLE LEYIAN	26159562	S L
115	KAINI OLE MEDUKENYA	29305276	KAINI M
116	LILY KENNEDY	30924930	L.K
117	DAVID MEBUKORI	22663092	D.M.
118	LOYIU SENDU	31052391	L.S.
119	REUBEN TIGES	13085670	R.T
120	SOMONA NTIAI	29688547	S.N.T
121	NENGELI MWIMO	29695817	N.M.W
122	NARUKUNYA KIKON	29677195	N.K
123	NCHAMBI KATUPI	29688585	NCHAMBI
124	NASIATO KIPAMPI	21232003	N.A.K
125	YIAMAT TIGES	29690056	YIAMAT TIGES
126	SINYIYO ENE LOSHOKOP	1346620	S.L
127	NASERIAN KAMBA	26159527	N.K
128	NOOROMBOI LOGUMOK	2651746	N.L
129	SELEYIAN SHUAKA	21281942	S L
130	MORITET KIPAMPI	1313324	M.R.
131	NAKAI ANKAIWE KIPAMPI	29334813	A.N.K
132	NADAI KIPAMPI	31381949	NADAI K
133	NKOSHWA KENNEDY	30924930	M.S
134	MARY SOMIRE	29305249	M.S
135	YEMANANGA PENETI	1346737	N.P.

**PETITION AGAINST KENYA WILDLIFE SERVICE AND THE CABINET
SECRETARY MINISTRY OF TOURISM, WILDLIFE AND HERITAGE**

	Name	ID Number	Signature
136	RIANTU SIKEMBEI	20631792	
137	KINA SUMPCHKA	29305283	
138	NDUDDUKA KERIKA	29305316	
139	RIANSO SHANGWA	1346039	
140	NAIPIMA KAPAITO	23478224	NAIPIMA
141	YIASI KAPAITO	30413272	
142	NALSANDI NDUNG'ANI	29308550	NL
143	RAPANE LODRIMRIM	26067344	
144	NANG'UTUT LODRIMRIM	33216489	NIL
145	OTIITO TAJIRI	29694085	



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
MINUTES OF THE 76TH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD
ON THURSDAY, NOVEMBER 2, 2023, IN MAGADAI HALL ON THE FIRST FLOOR,
VICTORIA PLAZA, HOLIDAY INN HOTEL AT 10.00 A.M

PRESENT

- | | | |
|---|---|------------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P. | - | Chairperson |
| 2. Hon. Janet Jepkemboi Sitienei, M.P. | - | Vice Chairperson |
| 3. Hon. Joshua Chepyegon Kandie, M.P. | | |
| 4. Hon. John Walter Owino, M.P. | | |
| 5. Hon. Bidu Mohamed Tubi, M.P. | | |
| 6. Hon. Maisori Marwa Kitayama, M.P. | | |
| 7. Hon. Edith Vethi Nyenze, M.P. | | |
| 8. Hon. (Eng.) Bernard Muriuki Nebart, M.P. | | |
| 9. Hon. Caleb Mutiso Mule, M.P. | | |
| 10. Hon. Peter Mbogho Shake, M.P. | | |
| 11. Hon. John Bwire Okano, M.P. | - | Petitioner |
| 12. Hon. Sloya Clement Logova, M.P. | | |

APOLOGIES

1. Hon. Patrick Makau King'ola, M.P.
2. Hon. Ernest Ogesi Kivai, M.P.
3. Hon. Suzanne Ndunge Kiamba, M.P.

SECRETARIAT

- | | | |
|------------------------|---|---------------------|
| 1. Ms. Miriam Modo | - | Clerk Assistant I |
| 2. Ms. Willis Obiero | - | Clerk Assistant III |
| 3. Mr. Shadrack Omondi | - | Legal Counsel II |
| 4. Ms. Felistus Muia | - | Protocol Officer |
| 5. Ms. Rehema Koech | - | Audio Officer |
| 6. Ms. Winnie Nyaga | - | Secretariat |
| 7. Mr. Yiezel Jilo | - | Sergeant at Arms |
| 8. Ms. Diana Satia | - | Office Assistant |

IN ATTENDANCE**MINISTRY OF EAC, ASALs, AND REGIONAL DEVELOPMENT**

- | | | |
|----------------------|---|--|
| 1. Mr. Abdi Dubat | - | Principal Secretary, State Department of EAC |
| 2. Dr. Alice Yalla | - | Integration Secretary |
| 3. Ms. Wakhungu Juma | - | Director |
| 4. Mr. Chege Kamau | - | Director |
| 5. Mr. Sammy Sunkuli | - | Regional Integration Officer |

PETITIONERS FROM TAVETA CONSTITUENCY

1. Mr. Japheth Mbote	-	Civil Society representative
2. Mr. Samingo Leramatisho	-	Farmer
3. Mr. Geoffrey Mepukali	-	Farmer
4. Mr. Lekimangushi Ole Mamai	-	Farmer
5. Mr. Kurito Ole Ngare	-	Farmer
6. Mr. Lekuntayo Olerimo	-	Farmer
7. Mr. Kapande Sapaiya	-	Farmer
8. Mr. Mushere Lemomo	-	Farmer
9. Mr. Elijah Saruni	-	Farmer
10. Mr. Joshua Sarumi	-	Farmer
11. Hon. Rueben Tiges	-	Farmer

MIN./PPETC/2023/474: PRELIMINARIES

The Chairperson called the meeting to order at 11:00 a.m. and Hon. (Eng.) Bernard Muriuki Nebart, M.P. said the prayers.

MIN./PPETC/2023/475: ADOPTION OF AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. **Consideration of Public Petition regarding 41 Kenyans Court Martialled and convicted for Eight Years Imprisonment in Uganda**
- Meeting with the CS Ministry of EAC, ASALs and Regional Development
6. **Consideration of Public Petition regarding Access to National Parks by Livestock Grazers During Drought**
- Meeting with the Petitioner (Hon. John Bwire, M.P)
7. Any Other Business
8. Adjournment

Thereafter, the proposed Agenda of the Meeting was adopted to constitute business having been proposed by Hon. Janet Jepkemboi Sitienei, M.P. and seconded by Hon. John Walter Owino, M.P.

MIN./PPETC/2023/476: CONFIRMATION OF MINUTES OF PREVIOUS SITTING

The Agenda was deferred.

MIN./PPETC/2023/477: CONSIDERATION OF PUBLIC PETITION REGARDING 41 KENYANS COURT-MARTIALLED AND CONVICTED FOR EIGHT YEARS IMPRISONMENT IN UGANDA

The PS, State Department of East African Community appeared before the Committee and submitted as follows—

Background

- i. Over the years cases have been reported of Kenyans from either side of the EAC Partner States borders being arrested for various reasons including fishing and grazing. Efforts have been made through diplomatic channels to ensure harmony and peaceful coexistence.
- ii. Prior to the unfortunate incident that happened in April 2023, already nine (9) Kenyans from Turkana County were in prison in Uganda serving sentences related to security. The nine (9) Kenyans were arrested in March 2022 for allegedly killing three geologists. Of the 9 Kenyans, 8 were in Kitalia Prison while one was in Kasese Prison.
- iii. In April 2023, 32 Kenyan herders from Turkana County, Loima Sub-County, Lokiriama/Lorengikipi Ward in Orum Location were arrested in Uganda. The reason for their arrest was allegedly possession of weapons. In this regard, the UPDF went ahead and court-martialled them in line with Section 119 of the UPDF Act which stipulates that if one is found in possession of a weapon, ammunition, or equipment then he or she is considered a combatant and tried in a military court.

Intervention by the Government to Resolve the Issue

- i. The Ministry was aware of the diplomatic challenge and had been working to resolve it. In both cases, the Ministry of Foreign and Diaspora Affairs and the High Commission in Kampala had shared with the Ministry of EAC, ASAL, and Regional Development, the briefs in the spirit of the whole-government approach.
- ii. The CS also met with the leadership of Turkana County on several occasions to resolve the matter. Similarly, the Governor of Turkana County H.E Jeremiah Ekamais had a conversation with the PS State Department for the EAC on 7th August 2023 where it was agreed that a durable solution on the matter should be found together with a plan of action by the County Government of Turkana to mainstream developmental measures that would improve livelihood that would eventually lead to a sedentary lifestyle by the residents of the County. That deliberate action should be taken to promote cross-border cohesion and peaceful coexistence.
- iii. His Excellency the President of the Republic of Kenya consulted his counterpart President Yoweri Museveni of Uganda and the two Heads of State agreed that a joint high-level team should visit Moroto, Uganda to address the plight of 9 citizens of Turkana County who were jailed in Uganda.
- iv. The Kenyan delegation led by the CS, Ministry of EAC, ASALs, and Regional Development comprised the PS State Department for Interior and National Administration, the former Army Commander, and Hon. Josphat Nanok the then Governor of Turkana County visited Moroto on 20th February 2023. During the mission, it was resolved that an appeal be made to H.E. the President of Uganda to graciously exercise his prerogative power of mercy and grant pardon to the nine (9) Turkana herders in Uganda prisons at that time.
- v. An appeal was made by Kenya and the Republic of Uganda's response was through Executive Order No. 3 of 2023, which demanded payment of reparation to the families of

iii.) **The Committee inquired about the proposals by the Petitioners in addressing the challenges of accessing grazing fields without interfering with the wildlife.** The Portioners indicated that the existing law provided for the CS to make the by-laws and to regulate access to national parks for usage such as grazing especially during drought. Further, there were other animals inside the parks belonging to other people, but the Maasai Community was denied access. The Petitioners stated that there is a need for coexisting with KWS even if it means paying some fee for access or even during certain dry seasons of the year. The Petitioners clarified that even as the grazers adjusted to accommodate the changing times, there was a need for justice to prevail.

iv.) **The Committee inquired whether there were any matters pending in court regarding the Petition and whether there was any precedent regarding the regulation on holding ground.** The Petitioners, indicate that there were no existing court cases on the subject matter as all the cases were closed after the suspects were made to pay compensation and the fines. Therefore, there is a need to eradicate the compensation fee, which is not provided for in any law, unlike the fines in Section 102(2(a) of the KWS Act. Further, there was no precedent for the cattle holding grounds rather it was just an *obiter dictum*. There was no express judgment by any court on the matter thus no one can even seek appeal.

Committee Way forward

After the deliberations, the Committee resolved to conduct a site visit to Taveta Constituency as well as engage the KWS on the concerns raised by the Petitioners.

MIN./PPETC/2023/479: ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the Chairperson adjourned the meeting at 2:00 p.m. The next meeting will be held on Thursday, 7th November, 2023 at 11.00 a.m.

Sign: 
(CHAIRPERSON)

Date..... 29/11/2023



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 87TH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON THURSDAY, NOVEMBER 30, 2023, IN THE LOUNGE AT THE RESTAURANT IN THE NEW WING, MAIN PARLIAMENT BUILDINGS, AT 10.00 A.M

PRESENT

- | | | |
|---------------------------------------|---|----------|
| 1. Hon. Ernest Ogesi Kivai, M.P. | - | Chairing |
| 2. Hon. Joshua Chepyegon Kandie, M.P. | | |
| 3. Hon. John Walter Owino, M.P. | | |
| 4. Hon. Peter Mbogho Shake, M.P. | | |
| 5. Hon. Sloya Clement Logova, M.P. | | |

APOLOGIES

- | | | |
|---|---|------------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P. | - | Chairperson |
| 2. Hon. Janet Jepkemboi Sitienei, M.P. | - | Vice Chairperson |
| 3. Hon. Patrick Makau King'ola, M.P. | | |
| 4. Hon. Maisori Marwa Kitayama, M.P. | | |
| 5. Hon. Bidu Mohamed Tubi, M.P. | | |
| 6. Hon. Edith Vethi Nyenze, M.P. | | |
| 7. Hon. (Eng.) Bernard Muriuki Nebart, M.P. | | |
| 8. Hon. Suzanne Ndunge Kiamba, M.P. | | |
| 9. Hon. Caleb Mutiso Mule, M.P. | | |
| 10. Hon. John Bwire Okano, M.P. | | |

SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Ms. Ahmed Kadhi | - | Senior Clerk Assistant |
| 2. Mr. Willis Obiero | - | Clerk Assistant III |
| 3. Mr. Martin Sigei | - | Research Officer III |
| 4. Mr. Kelvin Lengasi | - | Audio Officer |

IN ATTENDANCE

MINISTRY OF TOURISM AND WILDLIFE

- | | | |
|----------------------------|---|--------------------------------------|
| 1. Hon. (Dr.) Alfred Mutua | - | Cabinet Secretary |
| 2. Ms. Sylvia Museiya | - | PS, State Department for Wildlife |
| 3. Dr. Erastus Kanga | - | DG, KWS |
| 4. Prof. Fredrick Irava | - | Adviser to the CS |
| 5. Prof. Charles Musyoki | - | Director, KWS |
| 6. Dr. Richard Chepkwony | - | Director, PHWC |
| 7. Mr. Johanna Tonui | - | Director, Wildlife Services |
| 8. Mr. Samuel Tokome | - | Deputy Director, Community Relations |
| 9. Ms. Grace Nzale | - | Assistant Director |
| 10. Mr. Hashim Rashid | - | Senior Warden |

NATIONAL HOSPITAL INSURANCE FUND

- | | | |
|-----------------------|---|---|
| 1. Mr. Elijah Wachira | - | Chief Executive Officer |
| 2. Mr. Hazel Koitaba | - | Director of Beneficiary and Provider Management |
| 3. Mr. Benard Njenga | - | Manager, Finance |
| 4. Ms. Anne Kibor | - | Senior Assistant Manager, Enhanced Schemes |
| 5. Mr. Andrew Kutto | - | Ag. Manager Enhanced Schemes |
| 6. Mr. Pariken Sankei | - | Director, Internal Audit |

COMMUNICATION AUTHORITY OF KENYA

- | | | |
|---------------------------|---|--|
| 1. Mr. Christopher Wambua | - | Ag. Director General/CEO |
| 2. Mr. Alfred Ambani | - | Deputy Director, Multimedia Services |
| 3. Mr. George Nyamwitha | - | Ag. Deputy Director, Corporation Secretary and
Legal Services |
| 4. Mr. Gufu Bonchale | - | Principal Officer, Cyber Security |
| 5. Ms. Caroline Murianki | - | PA to the DG |

MIN./PPETC/2023/541:

PRELIMINARIES

The Chairperson called the meeting to order at 10:00 a.m. and proceedings began with prayers by Hon. John Walter Owino, M.P.

MIN./PPETC/2023/542:

ADOPTION OF AGENDA

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. **Consideration of Public Petition Regarding Access to National Parks by Livestock Grazers During Drought**
 - *Meeting with CS, Ministry of Tourism and Wildlife*
6. **Consideration of Public Petition Regarding Poor Implementation of Edu-Afya Medical Scheme in Public Secondary School**
 - *Meeting with the CEO of NHIF*
7. **Consideration of Public Petition Regarding Banning of TikTok in Kenya**
 - *Meeting with the Data Protection Commissioner*
 - *Meeting with the Communication Authority of Kenya*
8. Any Other Business
9. Adjournment

The Agenda of the Meeting was adopted to constitute business having been proposed by Hon. John Bwire Okano, M.P. and seconded by Hon. Sloya Clement Logova, M.P.

MIN./PPETC/2023/543:

CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Agenda was deferred.

Meeting with CS, Ministry of Tourism and Wildlife

- i.) The CS, Ministry of Wildlife and Tourism Hon. (Dr.) Alfred Mutua and the Director General of Kenya Wildlife Service, Dr. Erastus Kanga appeared before the committee and submitted that allowing livestock into the parks without proper guidelines would amount to risks including transmission of zoonotic diseases.
- ii.) The Committee sought further clarification from the Ministry on the following issues: -
 - a) The illegal charges by KWS on herders caught with cattle in the park and commercialization of the issue.
 - b) The lack of regulations and guidelines to access the national parks.
 - c) Detainment of both the herders and their livestock.
 - d) The utilization of the compensation charges collected by KWS.
 - e) How the compensation charges were arrived at.
 - f) Safety of the livestock held in the holding grounds under the custody of KWS.
- iii.) The CS requested the Committee to allow the Ministry one week to caucus and respond to the issues raised comprehensively. Further, a team was already working on the regulations on access to the national parks to allow for coexistence and the proposals would be brought to the National Assembly for ratification once finalized.
- iv.) Regarding the safety of the livestock in the holding grounds, the DG, KWS stated that they allowed the cattle to graze while in detention, and the animals were only held as evidence as the herders often flew once they encountered KWS officers. The Ministry stated that the long-term solution would be the provision of services to the communities living around the parks, for example, the provision of water pans to enable livestock to access pasture and water outside the park.
- v.) Regarding the delay in KWS compensation for the destruction meted out by wildlife on the people, the CS stated that the Ministry was working on ways of ensuring that such compensation was done in good time.

Committee Way forward

The Committee resolved that the Ministry submit within a week a comprehensive response on the following issues sought: -

- i.) The illegal charges by KWS on herders caught with cattle in the park and commercialization of the issue.
- ii.) The lack of regulations and guidelines to access the national parks.
- iii.) Detainment of both the herders and their livestock.
- iv.) The utilization of the compensation charges collected by KWS.
- v.) How the compensation charges were arrived at.
- vi.) Safety of the livestock held in the holding grounds under the custody of KWS.

MIN./PPETC/2023/546:

CONSIDERATION OF PUBLIC PETITION
REGARDING POOR IMPLEMENTATION OF EDU-
AFYA MEDICAL SCHEME IN PUBLIC SECONDARY
SCHOOL

Meeting with the CEO of NHIF

The CEO of NHIF Mr. Elijah Wachira appeared before the Committee and submitted as follows:

- i.) NHIF had enrolled 3,955,953 students with Kakamega County leading by 220,289 students and Isiolo County had the least number of enrolled students at 9,219.
- ii.) The analysis of premium payment per county for the Edu Afya since inception (2018-2023) indicated that Homa Bay County was leading with a total of Kshs. 1,161,318,174 and Lamu County claimed Kshs. 20,931,344. The total payment of claims was Kshs. 15,077,151,314 from 2018 to 2023.
- iii.) NHIF had implemented fraud containment measures which included investigation of suspected cases, recovery of the amounts lost, and making recommendations including suspension of an implicated health facility. According to the audit done by NHIF, twenty-seven (27) health facilities were investigated for fraud, and appropriate action was taken based on the findings.
- iv.) The NHIF provided a list of all contracted service providers accredited under the Edu Afya scheme across the country.
- v.) That the total number of students (visits) treated per year per county since inception was 7,550,365 visits.
- vi.) NHIF had put in place fraud containment mechanisms including investigations, internal and external audits, and recovery of money lost through fraud.
- vii.) NHIF had undertaken various efforts to address the issue of awareness of the Scheme among stakeholders including parents and school heads. Sensitization exercises included structured meetings, mainstream media, newspapers, informational materials, and social media.
- viii.) That the design for monitoring and evaluation developed by NHIF was available to ensure the effectiveness of the scheme.
- ix.) Regarding tender advertisement, evaluation, reports, and minutes, the Edu Afya cover was procured by the government through the Ministry of Education on a Government-to-Government basis.
- x.) The NHIF provided a breakdown of the total amount of money paid to the Scheme and claims successfully paid.
- xi.) The Edu Afya Scheme had been seamlessly integrated into the NHIF organizational structure with a clear delineation of roles and responsibilities across different directorates and departments. The integration ensured that all functions aligned with the broader mission and were executed efficiently.

Committee Concerns

- i.) Regarding the justification for high premiums paid to certain counties, the CEO indicated that the registration of students in the system was done by the Ministry of Education. The trends had triggered NHIF to conduct audits, especially in the Western region where about 60 hospitals were investigated. The audit established that inadequate documentation that supports student visits was common as well as induced demands by certain hospitals. Further, preliminary findings revealed a possibility of disease incidents such as the prevalence of Malaria in the Western region occasioning more visits by students.
- ii.) Regarding the fate of Edu Afya under the transition of NHIF to the Social Health Authority, the CEO clarified that the Social Health Insurance Act of 2023 had provided that all enhanced schemes would no longer be the mandate of the new Authority. Therefore, NHIF would run down the contract with the Ministry of Education under Edu Afya and the Ministry would find another provider. The new authority would only offer social health insurance schemes, primary health insurance funds, and critical emergency funds as provided for in the Act.
- iii.) As to whether there could be instances of undetected fraud in the Scheme, the CEO stated that the Fund was always reviewing its monitoring and evaluation framework. However, it was not possible to rule out fraud in totality as some fraudsters were constantly coming up with new ways hence the commitment by NHIF to constantly review and innovate ways of recovering funds lost and blocking the loopholes. Since there was inadequate quality assurance, the Fund was using technology to address the challenges leading to fraud. For instance, using electronic data management systems instead of shipping data manually to the head office.
- iv.) Regarding the discrepancies in the payment of premiums to private, public, and mission hospitals, the CEO stated that the payment of premiums to service providers was based on first come first served. The payments were made in real-time, and all payments had been done up to the first week of October 2023.
- v.) Regarding parents paying additional costs above the amount paid by NHIF, the CEO indicated that that was an irregularity and ought not to have happened.
- vi.) The Committee inquired about how the NHIF dealt with outbursts in claims or underwhelming claims and the sustainability of the Scheme. The CEO stated that the program depended on pulling resources together. However, surplus funds were put in short-term investments for reuse since diseases were unpredictable. Surplus funds were also used in other NHIF products.
- vii.) Regarding the last expense cover, the CEO indicated that the Fund had endeavoured to pay the last expense as quickly as possible to help with the funeral expenses. Any delays in payment of the last expense were erroneous and not acceptable.

The Ag. The Director General/CEO of the Communication Authority of Kenya appeared before the Committee and submitted as follows:

The impact of banning TikTok in Kenya

The emergence of a "splinternet"

That the ban on TikTok would contribute to the emergence of a 'splinternet,' a scenario where the global internet becomes more fragmented which would limit access to global social media platforms and set a precedent for increased government control over the internet within national borders. Further, it could hinder the free flow of information and ideas across borders, potentially isolating Kenyan internet users from the global digital landscape.

Inhibiting competition and innovation

The banning of TikTok would curtail the innovative space for local content creators, limiting the emergence of fresh and engaging content hence inhibiting competition and stifling innovation within the country's digital realm. The ban's impact on the digital economy in Kenya is another consideration, potentially affecting entrepreneurs, content creators, and digital marketers who rely on platforms like TikTok for their livelihoods. Users who appreciate TikTok's unique features may shift to alternative platforms, impacting the strategies and business models of local hustles in Kenya.

Violating freedom of expression.

Banning TikTok in Kenya would encroach upon the constitutional right to freedom of expression as outlined in Article 33 which guarantees every Kenyan citizen the right to freely seek, receive, and impart information or ideas. Banning TikTok would limit citizens' access to a popular digital space and be seen as restricting their right to freely share thoughts, opinions, and artistic creations.

Regulation of TikTok

That the regulation of TikTok as opposed to a complete ban would be beneficial to the sector as well as the citizens of Kenya. Regulation would maintain access to global social media platforms, which would enhance the free flow of information and ideas across borders, enabling Kenyan internet users to be competitive in the global digital landscape. The CAK made the following proposals: -

- i.) Strengthening the role of the Communications Authority of Kenya in regulating new and emerging technologies. There was a Kenya Information and Communications (Amendment) Bill, 2023 which was before the Ministry of Information, Communications, and the Digital Economy.
- ii.) The Kenya Film Classification Board (KFCB) could contribute towards ensuring that the TikTok content conforms to Kenya's culture, moral values, and national aspirations and more importantly, to protect minors from exposure to inappropriate content, since the TikTok

service could be considered a film distribution service, hence within KFCB mandate of regulating distribution of audio-visual content in Kenya.

- iii.) The Office of the Data Protection Commissioner had a critical role to play in ensuring the personal data of Kenyans is well protected. This could include adopting an approach akin to Turkey where they require social media platforms to appoint a local representative in the country, to store the user data of Turkish citizens within the country, and to obey local court orders to remove offensive content within 48 hours; otherwise, they would face a heavy fine and a de facto ban.
- iv.) Encouraging data localization measures would ensure that certain categories of sensitive data were stored within the country. That added an extra layer of protection and control over the data, reducing the risk of unauthorized access from external entities.
- v.) Compelling TikTok to establish a local presence in Kenya and preferably operate a subsidiary with local ownership in line with the approach attempted by the United States. That would better serve data privacy and national security interests and enforcement. However, it would be challenging to execute given that it would require TikTok to alter its legal personality.
- vi.) Strict enforcement of fines on TikTok where its operations are non-compliant with the Data Protection Act 2019 and other relevant laws akin to what was being done by the European Data Protection Board.
- vii.) Public awareness campaigns to educate individuals about their rights regarding data privacy and security. Empower users to make informed decisions about sharing personal information online and raise awareness about potential risks.
- viii.) Use of bilateral and international diplomatic channels to adopt resolutions on the access and management of user data by foreign governments and national companies.

Conclusion

Adopting a holistic approach that combines legal, technical, and educational measures, Kenya can create a robust social media regulation framework that addresses addiction, mental health, data privacy misinformation, child online safety, and data security concerns. This approach not only protects the rights of individuals but also fosters trust in the digital ecosystem, promoting innovation and economic growth. Social media platforms have evolved into primary channels for global connectivity, civic engagement, and individual expression, it is imperative to enhance the regulation of these influential entities.

Committee Concerns

- i.) Regarding the role of CAK in regulating TikTok and whether the Authority was late in coming up with proposals for social media regulations, the Ag. CEO stated that the current provisions had given the Authority a limited mandate on regulating TikTok since the regulation of social media was not within its mandate. The issues raised by the Petitioner touched on cultural and moral concerns that would be regulated by KFCB. The CEO further stated that technology was fast-paced hence regulations always tended to play catch-up because it was often difficult to anticipate the emerging technological trends.

ii.) Regarding how content creators benefited from the platform, the CEO stated that through monetization of content, many youths were making income through TikTok advertising and share agreements. Further, Kenyans were peculiarly aggressive in the adoption of ICT hence the more interest by big tech companies in Kenya.

MIN./PPETC/2023/548:

CONSIDERATION OF PUBLIC PETITION
REGARDING BANNING OF TIKTOK IN KENYA

The Agenda was deferred.

MIN./PPETC/2023/548:

ADJOURNMENT AND DATE OF THE NEXT SITTING

There being no other business, the Chairperson adjourned the meeting at 2:00 p.m. The next meeting will be held on Tuesday, 5th December 2023 at 11.00 a.m.

Sign: 
(CHAIRPERSON)

Date... 06-12-2023



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 33RD SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON WEDNESDAY, MAY 22, 2024, IN GARDEN SUITE 1, HILTON GARDEN INN HOTEL, MACHAKOS AT 02.00. P.M

PRESENT

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Janet Jepkemboi Sitienei, M.P. - Vice Chairperson
3. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
4. Hon. Maisori Marwa Kitayama, MP
5. Hon. Ernest Ogesi Kivai, M.P.
6. Hon. Joshua Chepyegon Kandie, M.P
7. Hon. Bidu Mohamed Tubi, M.P.
8. Hon. Suzanne Ndunge Kiamba, M.P.
9. Hon. Edith Vethi Nyenze, M.P.
10. Hon. Caleb Mutiso Mule, M.P.
11. Hon. John Bwire Okano, M.P.
12. Hon. Peter Mbogho Shake, M.P.

APOLOGIES

1. Hon. Patrick Makau King'ola, M.P.
2. Hon. John Walter Owino, M.P.
3. Hon. Sloya Clement Logova, M.P.

SECRETARIAT

- | | |
|-------------------------|-----------------------------|
| 1. Mr. Samuel Kalama | Principal Clerk Assistant 1 |
| 2. Ms. Roselyne Ndegi | Senior Serjeant-at-Arms 1 |
| 3. Ms. Miriam Modo | Clerk Assistant I |
| 4. Ms. Anne Shibuko | Clerk Assistant I |
| 5. Ms. Patricia Gichane | Legal Counsel II |
| 6. Mr. Isaac Nabiswa | Legal Counsel II |
| 7. Ms. Abdinasir Moge | Fiscal Analyst II |
| 8. Mr. Willis Obiero | Clerk Assistant III |
| 9. Mr. Martin Sigei | Research Officer III |
| 10. Ms. Nancy Akinyi | Research Officer III |
| 11. Mr. Calvin Karungo | Media Relations Officer III |
| 12. Ms. Felistus Muiya | Protocol Officer |
| 13. Mr. Cosmas Akhonya | Audio Officer |

MIN./PPETC/2024/ 210: PRELIMINARIES

The Chairperson called the meeting to order at 02:00 p.m. and proceedings began with prayers by Hon. Ernest Ogesi Kivai, M.P.

MIN./PPETC/2024/211: ADOPTION OF AGENDA

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Consideration of Report on Public Petition No. 3 of 2023 on Management of SGR Services
4. Consideration of Report on Public Petition No. 53 of 2023 on Access to National Parks by Livestock Grazers During Drought
5. Confirmation of minutes of previous sittings
6. Matters Arising
7. Any Other Business
8. Adjournment

The Agenda was adopted to constitute business having been proposed by Hon. Bidu Mohamed, M.P. and seconded by Hon. Peter Mbogho Shake, M.P.

MIN./PPETC/2024/212: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Agenda was deferred.

MIN./PPETC/2024/213: CONSIDERATION OF REPORT ON PUBLIC PETITION NO. 3 OF 2023 REGARDING MANAGEMENT OF SGR SERVICES

The Committee reviewed the draft Report and resolved to invite:

- a) The Kenya Railway Corporation and the Ministry of Roads and Transport to clarify on the following issues arising from the general operations of the SGR:
 - i. Terms of engagement of KRC and Afristar Railway Company Limited (provide copies of the Contract Agreements)
 - ii. Sustainability and viability of the project
 - iii. Financial statements of the joint account (Kenya & Exim Bank of China)
 - iv. Status of the uptake of the functions by KRC from Afristar
 - v. Operational Costs and revenue projections for FY2023/24
 - vi. Monitoring and Evaluation Framework in place
 - vii. Challenges faced by KRC in the operations of SGR
 - viii. Amount of money paid to Afristar as management fees

- ix. Compliance with occupational health and safety, green energy and environment

- b) The National Treasury to provide information on the status on loan repayment in terms of what has been paid, outstanding including:
 - i. Details of funds from the Railway Development Levy to the operations of SGR
 - ii. Detailed status of loan repayment to Exim Bank of China
 - iii. Restrictions if any in the use of revenue
 - iv. Any other matters related to the project

- c) Afristar Railway Company Limited to provide information on:
 - i. Directors and organogram of Afristar
 - ii. No of employees and their regional balance
 - iii. Breakdown of how they utilize funds on the functions they are undertaking on behalf of KRC
 - iv. Compliance with occupational health and safety, green energy and environment

The Committee observed that it would be necessary for a Special Audit to be carried out on KRC functions.

MIN./PPETC/2024/214:

CONSIDERATION OF REPORT ON PUBLIC
PETITION NO. 53 OF 2023 REGARDING ACCESS
TO NATIONAL PARKS BY LIVESTOCK GRAZERS
DURING DROUGHT

The Committee reviewed the draft Report and made the following observations:

- i. The Cabinet Secretary for the Ministry of Tourism and Wildlife is yet to develop regulations and guidelines for access to national parks during drought, as stipulated in section 102(4) of the Wildlife Conservation Management Act. This has led to perennial access to the park without a proper mechanism to ensure wildlife protection, preserve national heritage, and address the emerging needs of local communities.

- ii. The community living around Tsavo West National Park primarily consist of herders who rely on cattle rearing as their main income-generating activity. They refrain from alternative activities such as crop farming due to fear of wildlife destruction.

- iii. Herders, once arrested, are charged with the offense of entering a protected area with livestock, as per the provisions of the Wildlife Conservation and

Management Act. They are required to pay fines and compensation fees for the period their cattle are held in KWS custody.

- iv. KWS has established four holding grounds (*bomas*) with a capacity of 50 to 100 livestock each to impound cattle for presentation as evidence in court after incursion. However, during a site visit inquiry, the Committee observed that KWS does not provide adequate fodder, water, and medicine for the cattle.
- v. Herders often engage minors to look after livestock inside the national park to avoid arrest. Consequently, KWS holds the cattle in holding grounds until a responsible person takes responsibility. The cattle remain in custody until the court issues orders for their release to the rightful owners.
- vi. KWS detains suspected herders and occasionally present them to courts in Voi and Wundanyi, which are far from Taveta or outside the area of arrest.
- vii. The relationship and cooperation between KWS and the local community is harmonious. However, the herder community is not sufficiently involved in public participation exercises for corporate social responsibility proposals and in managing human-wildlife conflict.
- viii. Despite the presence of local peasant herders requiring access to the park, commercial herders take advantage of and use local communities to access the park for commercial reasons, straining park resources. This could potentially lead to wildlife migration due to inadequate pasture and water.
- ix. KWS is not directly involved in compensating victims of human-wildlife conflict, as it solely processes claims and forwards them to the Ministry of Wildlife and Tourism for verification and payment. However, compensation by the Ministry is slow, resulting in delays in payment to victims.

The Committee made the following recommendations:

In response to Prayer No. 1 that the Committee recommends for the provision of guidelines pursuant to section 102(4) of the Wildlife Conservation and Management Act, CAP 376 by the Ministry to allow the grazers to access the parks during drought, the Committee recommends that—

- i. The Cabinet Secretary should submit the guidelines for access of national parks for purposes of grazing and watering livestock during drought and other national disasters, in line with the provisions section 102(4) of the Wildlife Conservation and Management Act, to the House within three (3) months upon tabling of this report. Upon expiry of the three months, Section 102(4) of the

Wildlife Conservation and Management Act be amended to make a provision for the Cabinet Secretary for the Ministry of Wildlife and Tourism to allow grazers to access the park during drought and other natural disasters.

In response to Prayer No. 2 that the Committee investigates the actions of the KWS officers and recommends the necessary action including stopping the detaining of the livestock without the express orders of the courts—

ii. The Committee notes that the inquiry during the consideration of this petition sufficiently addresses the first part of the prayer that it investigates the actions of the KWS officers.

iii. In response to the second part of the prayer, the Committee recommends that KWS adheres to the enforcement powers as provided for in section 110 (1)(d) of the Wildlife Conservation and Management Act by presenting any seized livestock before court within 24 hours.

In response to Prayer No. 3 that the Committee recommends that the KWS be barred from further actions of detaining the grazers until the Cabinet Secretary develops the requisite guidelines, the Committee recommends that—

iv. The Cabinet Secretary should submit the guidelines for access of national parks for purposes of grazing and watering livestock during drought and other national disasters, in line with the provisions section 102(4) of the Wildlife Conservation and Management Act, to the House within three (3) months upon tabling of this report. Upon expiry of the three months, Section 102(4) of the Wildlife Conservation and Management Act be amended to make a provision for the Cabinet Secretary for the Ministry of Wildlife and Tourism to allow grazers to access the park during drought and other natural disasters.

In response to Prayer No. 4 that the Committee makes any other recommendation or action it deems fit in addressing the plight of the Petitioners, the Committee recommends that—

v. KWS officers stops ordering offenders to pay compensation since they are not legally empowered to order for compensation.


vi. The Cabinet Secretary promptly pays compensation to a person who suffers death or bodily harm as well as damage to property caused by wildlife.

vii. The Wildlife and Conservation Management Act be amended to provide for a mechanism for making and investigation against KWS officers.

MIN./PPETC/2024/215:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 06:00 p.m. The next meeting will be held on Thursday, 23rd May 2024 at 10:00 a.m.

Sign: 

(CHAIRPERSON)

Date..... 05-06-2024



MINISTRY OF TOURISM AND WILDLIFE
STATE DEPARTMENT FOR WILDLIFE
Office of the Principal Secretary

Telephone: +254-20-3926000
email: pswildlife@tourism.go.ke
www.tourism.go.ke
When replying please quote:

NSSF Building Bishop Rd., Block 'A'
21st Floor, Eastern Wing
P. O. Box 41394 00100
NAIROBI

Ref: SDW/8/17/1

24th April, 2024

Mr. Samuel Njoroge
Clerk of the National Assembly
National Assembly
P.O BOX 41842-00100
NAIROBI

*Head, PRJ
please process
SP
24.04.24*

Dear

**CONSIDERATION OF PUBLIC PETITION REGARDING ACCESS TO
NATIONAL PARKS BY LIVESTOCK GRAZERS DURING DROUGHT**

Reference is made to your letter, Ref. No. KNA/DLPS/PPETC/CORR/2023/293 dated 18th April, 2024 on the above subject.

The purpose of this letter is to forward the attached response regarding access to National Parks by livestock grazers during drought as discussed during the Committee meeting on Thursday, 30th November, 2023.

Yours

Silvia Museiya, CBS
PRINCIPAL SECRETARY





KENYA POLICE SERVICE



CHARGE SHEET

POLICE CASE NO: 1451 / 2023
DATE TO COURT 01/11/23
COURT FILE NO /2023

O.B. NO: 27/1/23

MCCP/E871/2023

Christian Names in full LEAPA	Surname or Fathers name ROINE		Identity card Certificate No. 20924505	Sex MALE	Nationality or tribe KENYAN	Apparent Age ADULT	ADDRESS (include district and Location where Applicable)
CHARGE	ENTERING INTO A PROTECTED AREA WITH LIVESTOCK CONTRARY TO SECTION 102(2A) AS READ WITH SECTION 102(3) OF THE WILDLIFE CONSERVATION AND MANAGEMENT ACT 2013 (REVISED 2018)						
PARTICULARS OF OFFENCE (See Second Schedule of C.P.C.)	LEAPA ROINE; On the 31 st day of October 2023 at around 1505 hours at Mbuyuni area within Tsavo West National Park in Taita Taveta County Gps coordinates 37M 0370104 UTM 9631340 entered into the said protected area with about 300 heads of cattle without authorization.						
If Accused Arrested	Date of Arrest	Without or with warrant	Date Apprehension Report to Court	Bond or Bail and Amount	Is Application made for Summons to Issue		
YES	01/11/23	W/O	01/11/23	IN CUSTODY	////////////////////		
Remanded or Adjourned to							
Complainant And Address	REPUBLIC THROUGH KWS						
Witnesses.	KWS/8747 FRANCIS KIPAINOI KWS/11172 ERIC WANJALA						
Sentence If fine paid.....						



OCS TAVETA POLICE STATION

S. Haller
PROSECUTION COUNSEL - TAVETA

PROSECUTION COUNSEL - TAVETA

Exh. 2

REPUBLIC OF KENYA
IN THE PRINCIPAL MAGISTRATE COURT
AT TAVETA
CRIMINAL CASE NUMBER OF 2023

KENYA WILDLIFE SERVICE.....APPLICANTS

AFFIDAVIT SEEKING COMPENSATION

KWS/8056 SSGT JARVIS GALOLE OF P.O BOX 227 Taveta within the republic of Kenya being an adult person of sound mind do hereby make oath and solemnly state as follows;

1. THAT I am a senior sergeant, based at Kenya wildlife service Taveta office and the investigating officer in this matter, well conversant with the facts in issue and therefore competent to swear this affidavit.
2. THAT on the 31st day of October 2023, the Kenya wildlife service rangers, while in the course of their duties came across three hundred (300) heads of cattle illegally grazing inside the park. The rangers took possession of the cattle since they were not accompanied by any herder.
3. THAT the accused person showed up on 1st day of November 2023 claiming ownership of the cattle and was charged with the offence of entering into a protected area with livestock in the principal magistrate court at Taveta which is the case here in and the livestock were detained by rangers from Kenya wildlife service as they could not be left to roam in the national park.
4. THAT the cattle have since then been in the custody of Kenya wildlife service who have undertaken the duty of feeding and providing water to the animals on a daily basis and guarding the livestock from attack by wild animals as they are being withheld inside the protected area.

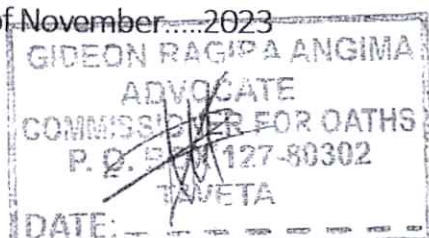
5. THAT at the time of plea taking the owners of the livestock had not made any claim on the livestock from our offices thus it was only prudent that the livestock be guarded by KWS to prevent from theft and loss.
6. THAT Kenya wildlife service has to redeploy rangers from platoon and reassign them duties of grazing and guarding livestock with the assistance of casual labourers which has caused shortage of manpower within the platoons where the rangers had been deployed and the offices have also incurred service fees for the rangers who are performing extra duties.
7. THAT it must also be factored that the livestock that were impounded diminished the grazing land that is solely meant for wildlife animals thus resulting in migration of wildlife which serve as a loss for Kenya wildlife service which depends on tourism as a source of revenue.
8. THAT it has been one (1) day since the livestock were impounded and the service has incurred costs totalling to Kenya shillings 153,841/= as per attached form. Annexed here to and marked as KWS 1 is the tabulation form showing the incurred costs.
9. THAT what is deponed herein above is true to the best of my knowledge and beliefs save for sources whereof disclosed and as otherwise stated.

Sworn by the said

NO. 8056 SSGT JARVIS GALOLE

This1st.....Day of November.....2023

BEFORE ME



James

COMMISSIONER FOR OATHS/MAGISTRATE]

DRAWN & FILED BY:

THE DIRECTOR OF PUBLIC PROSECUTIONS,
P.O BOX
TAVETA.

IMPOUNDED LIVESTOCK COMPENSATION

NO	ITEM	COMPUTATION			SUB TOTAL
		Cost per cow per day	No. of days	No. cattle	
1	Amount of food and water consumed per (cost)	Kshs.270/=	1	300	Kshs 81,000/=
2	a)Event security per section (charged during initial rounding up of livestock into the boma)	Security per section		NO. of section	Kshs 37,500/=
		Kshs 75000		Half a section	
	b)security per ranger(charged per day for the ranger guarding the livestock)	Security per ranger		No. of days	Kshs 15,075/=
		Kshs.3015		1	
	c) herding per casual(charged per day for casual herding the livestock)	Cost of casual per day	No of days	No. of casuals	Nil
		Kshs.622		Nil	
3	Cost of aircraft fuel	Cost per drum per day	No of days	No of drums	Nil
		NIL	NIL	NIL	
4	Cost of fuels for vehicles(one vehicle deployed for the security rangers)	No of litres per day(diesel)	No. of days	Cost per litre	Kshs 2,000/=
		10litres	1	Kshs 200	
Sub Total					Kshs 133,775/=
5	Restoration fee(due to habitat destruction)	15% of the sub total charges(15% of kshs)			Kshs 20,066/=
Grant total					Kshs. 153,841/=



OFFICIAL RECEIPT

P.O. Box 40241 NAIROBI, KENYA
TEL: 60800, FAX: 604593

Email: kws@kws.org Website: www.kws.org

KWS
NO. OR
AR

1142967

STATION TSavo WEST N: PARIL DATE 01/11/23

RECEIVED FROM LEAPA DOINE

KENYA SHILLINGS FIFTEEN THOUSAND SHILLINGS

ONLY

ACCOUNT OF KWS EXPENSE

SHS. 15,000 CTS. 00

A/C NO. _____

HP
Signature of Officer Receiving Remittance

CASH/CHEQUE No. _____



REPUBLIC OF KENYA
THE JUDICIARY
Fines Receipt
FNEG-0002418
Taveta Magistrate Court



Issued On: 2023-11-01 14:28:50

Received from

Name	Amount Fined
1. Leapa Roine	15000.00
Total: KES. 15,000.00	

On account of fine(s) imposed in Case No. : MCCR/E871/2023 and paid for as below

Payment Mode	Transaction No.	Transaction Date	Amount Paid
1. Bank Transfer	RK104MF8OM	2023-11-01	15000.00

Total Payment : KES 15,000.00 (Fifteen Thousand Only)

CTS Invoice REF : E2MAZKUV

Justice be our **Shield and Defender**

This is a system-generated document and therefore not signed. It is a valid document issued under the authority of the Judiciary of Kenya.