

REPUBLIC OF KENYA



THE SENATE

TWELFTH PARLIAMENT
THIRD SESSION

STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE
AND FOREIGN RELATIONS

REPORT ON THE CONSIDERATION OF THE PETITION ON
SETTLEMENT OF AWARDS TO EX-KENYA AIR FORCE OFFICERS
AND SERVICEMEN

*Clerk's Chambers
The Senate
Parliament Buildings
NAIROBI*

November, 2019

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ABBREVIATIONS AND ACRONYMS

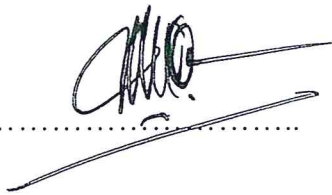
CBS	Chief of the Order of the Burning Spear
EGH	Elder of the Order of the Golden Heart of Kenya
MP	Member of Parliament
MTEF	Medium Term Expenditure Framework
PS	Principles Secretary
Sen	Senator

Committee on National Security, Defence and Foreign Relations held meetings with the Petitioners, the National Treasury, the Attorney-General and the Ministry of Defence and thereafter made observations and recommendations as contained in this report.

Mr. Speaker,

It is now my pleasant duty, pursuant to Standing Order 232(2), to present the Report of the Standing Committee on National Security, Defence and Foreign Relations on the Petition on the settlement of awards to ex-Kenya Air Force Officers and Servicemen.

Signed.....




Date.....

19/6/2019

SEN. YUSUF HAJI MOHAMED, EGH, MP
CHAIRPERSON, STANDING COMMITTEE ON NATIONAL SECURITY,
DEFENCE AND FOREIGN RELATIONS

ADOPTION OF THE REPORT

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

- | | | |
|---|------------------|---|
| 1. Sen. Yusuf Haji Mohamed, EGH, MP | Chairperson |  |
| 2. Sen. Johnson Arthur Sakaja, CBS, MP | Vice-Chairperson | |
| 3. Sen. Fatuma Dullo, CBS, MP | Member |  |
| 4. Sen. Moses Masika Wetangula, EGH, MP | Member |  |
| 5. Sen. Susan Wakarura Kihika, MP | Member | |
| 6. Sen. Judith Pareno, MP | Member |  |
| 7. Sen. Fred Outa, MP | Member |  |
| 8. Sen. Beatrice Kwamboka, MP | Member | |
| 9. Sen. Anwar Loititip, MP | Member | |

CHAPTER ONE

INTRODUCTION

1.0 BACKGROUND

The Petition was submitted to the Senate by Mr. David G. Njau on behalf of ex-Kenya Air Force officers through the Clerk. The Petition was tabled and reported to the House on 19th June, 2018 by the Deputy Speaker, Sen (Prof.) Kithure Kindiki.

The Petition drew the attention of the Senate to the following-

- (i) THAT the petitioners are ex-officers and servicemen of the Kenya Air Force who served until the time of the attempted coup of 1st August, 1982;
- (ii) THAT following the said attempt, they were arrested, tortured, detained and imprisoned for periods spanning from six months to several years and then dismissed unlawfully and unconstitutionally from the Kenya Air Force without compensation;
- (iii) THAT the petitioners filed Petitions at the High Court of Kenya and were awarded different settlements by different judges on diverse dates;
- (iv) THAT after the awards, the ex-officers applied and got certificate of decrees, certificate of taxation and certificate of order against the Government to make payment of the said compensation awards;
- (v) THAT their lawyers have written several demands and reminders to the office of the Attorney General and copied to the Department of Defense which have gone unheeded for several years; and
- (vi) THAT the petitioners have further petitioned the Office of the Ombudsman with no results to date.

The petitioners, prayed that the Senate should investigate the matter with a view of compelling the State to make good the court awards and settle the compensation awarded together with the interest accrued thereof.

The Petition was consequently referred to the Standing Committee on National Security, Defence and Foreign Relations.

1.1. THE RIGHT TO PETITION

The right to petition Parliament is provided for under Article 119 of the Constitution, which provides as follows:-

“Every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation. Parliament shall make provision for the procedure for the exercise of this right.”

Further, the Petition to Parliament (Procedure) Act, 2012 and the Standing Orders of the Senate provide for the procedure to be followed in the submission, processing and consideration of a Petition. Articles 94 as read together with Article 96 of the Constitution further provides for the role and by extension the authority of Parliament in general and the Senate in particular. Generally, the Houses of Parliament exercise the legislative mandate of the people, deliberate on matters of national interest and oversight the exercise of power by other arms of government.

The Standing Committee on National Security, Defence and Foreign Relations is mandated to consider all matters relating to national security and foreign relations, disaster reduction and preparedness, home affairs, defence, immigration, and international relations. The Petition therefore falls under the Committee's mandate under Senate Standing Order 211. Further, Standing Order 226 of the Senate Standing Order outlines the procedure for committal of a petition to a Committee and transmission of its decision to the Petitioner.

The Committee held meetings with the Petitioners, the Attorney-General, the National Treasury and the Ministry of Defence, received submissions and conducted investigations to determine the current position of the pending case. The analysis of

evidence and observations of the Committee informed the recommendations as contained in this report.

CHAPTER TWO

SUBMISSIONS AND EVIDENCE

2.0 COMMITTEE MEETINGS WITH PARTIES TO THE PETITION

Having received the Petition, the Committee commenced its consideration by inviting the Petitioners, the Attorney-General, the National Treasury and the Ministry of Defence. During the meetings, written and oral evidence were adduced as recorded here-under-

2.1. SUBMISSIONS BY THE PETITIONERS

The Committee held a meeting with representatives of the ex-servicemen who reported that they had filled four different cases in courts of law seeking compensation against their 'illegal termination of service' and other inhumane treatment following the abortive 1982 *coup*. These cases that were successfully concluded and awards were issued.

However, the defendant in all the cases who was the Attorney General failed to honour the judgement and different petitioners have sought further redress including petitioning the Senate.

2.1.1. PARTICULARS OF THE FOUR DIFFERENT COURT CASES IN THE PETITION

The petition highlighted four different court cases whose particulars are as follows-

(1) Petition No. 340 of 2012, David Gitau Njau & 9 others Versus the Attorney General

This petition was filed in August 2012, at the High Court, by ten ex-Service Men alleging violation of their fundamental rights and freedoms as enshrined in the Constitution. The petitioners sought exemplary damages in addition to general damages for the violation of their rights by the state.

The Court in a judgement delivered on 1st November, 2013 awarded a global award of Kshs. 5,500,000.00 to each of the ten (10) petitioners in respect of all violations as general damages and the costs of the petition plus interest on damages from the date of judgement until payment in full.

The applicants served the Attorney General with the decree and according to them the party and party costs was taxed in the total sum of Kshs. 1, 235, 951.70 and a certificate of costs were issued on 6th April, 2016. On 4th May, 2016, a Certificate of Order against the Government was issued in line with the provisions of section 21 of the Government Proceedings Act in the total sum of Kshs. 72, 455, 677.70.

On 16th March, 2018 an order of *mandamus* was issued compelling the 1st respondent to pay the applicants the judgement debt in the sum of Kshs. 80, 014,031.70 with interest accrued thereon at the rate of 12% per annum arising from the judgement delivered in petition 340 of 2012.

The Committee established that the Decree of Mandamus was issued in May 2018. The Attorney General wrote to the petitioners advocate asking for copies of the judgement and the decree in order to advise the parent Ministry. Later the P.S Ministry of Defence informed the petitioners that he had budgeted decretal amount which was not approved by Parliament.

On 19th September, 2018, the Attorney-General filed an application (Attorney-General v. David Githua Njau and 9 others, Misc. Civil Application No. 270 of 2018) in the Court of Appeal seeking leave to appeal out of time against the judgement in Petition No. 340 of 2012. By the time the Committee concluded consideration of the Petition, the application was pending before the Court of Appeal.

(2) Petition No. 49 of 2012, ESTATE of Cpt. Kariuki Kingaru Murebu & 8 others versus the Attorney General

The petitioners argued that their services had been terminated from the Ministry of Defence following the 1982 abortive coup. The Court heard their matter and rendered a judgement in 22nd October, 2014 where they were awarded each a global sum of Kshs. 8 Million each totalling Kshs. 72 Million. Pursuant to the same, on 8th July, 2015 the Certificate of Taxation and Certificate of order against the government were issued by the court.

Following the judgement, the Office of the Attorney General filed an application in the Court of Appeal seeking leave to file appeal out of time. This application was dismissed on 25th November, 2016.

The petitioners commenced judicial review proceedings seeking orders to compel the Principal Secretary, Ministry of Defence to settle the decretal amount. The Court heard the application and rendered its ruling on 13th October, 2016 granting the order of mandamus directing the respondents to pay ex-parte applicants Kshs. 82,820,868.00.

On 9th March, 2017, the Principle Secretary, Defence and the Attorney General were cited for contempt of court and personally liable to pay decretal amount following a successful application by the petitioners.

The Committee noted that the Attorney General applied to appeal against the contempt of Court. Whereas orders were granted to appeal against the contempt of Court, the appeal was not filled in court.

(3) Petition No. 587 of 2012, Gerald Juma Gichohi & 9 others versus the Attorney General

The petitioners filed a case in 2012 arguing that cruel, inhuman and degrading treatment was inflicted on them upon being taken into custody after the 1982 abortive *coup*.

On 29th May, 2015, the Court decreed that the respondent in the petition pay the petitioners Kshs. 20,200,000 plus costs and interest from the date of judgement at the rate of 12% per annum. On 30th March, 2017, the Court issued a certificate of order and a certificate of taxation, certifying that the amount payable to the petitioners by the respondent in respect of the decree to be Kshs. 25, 484, 947.

The Committee noted that the petitioners in this case are in the process of filing for Order of Mandamus.

On 11th September, 2018, the Attorney-General filed an application (Attorney-General v. Gerald Juma Gichohi & 9 others, Misc. Civil Application No. 259 of 2018) in the Court of Appeal seeking leave to appeal out of time against the judgement in Petition No. 257 of 2012. By the time the Committee concluded consideration of the Petition, the application was pending before the Court of Appeal.

(4) Miscellaneous Civil Suit 1656 of 2005, James Mwangi Wanyoike & 9 others versus the Attorney General

The applicants argued that the circumstances under which they were arrested, tried, convicted, imprisoned and treated after conviction following the coup attempt of August 1st 1982, constituted a breach of their rights and freedoms of liberty, security of the person and the protection of the law as provided for in section 70 (a) of the repealed Constitution of Kenya.

On 15th April, 2012, the Constitution and Human Rights Court at Milimani ordered that holding of the applicants in detention before they were charged for periods ranging between 2-7 months was a violation of their rights. Further the conditions to

which the applicants were subjected in the various prisons in which they were held following their arrest were cruel and inhuman.

The Court awarded general damages to each of the 10 applicants totalling to Kshs. 23,500,000 and further ordered that interest be granted on the monetary awards at the rate of 12% per annum from the date of judgement until payment in full.

In November, 2012 the Certificate of Taxation and Certificate of Order against the Government were issued by the court. However, the awards were not honoured and the applicants have been making numerous correspondences with the concerned government offices for settlement. As at 24th November, 2017, the total judgement debt was Kshs. 41,242,473 comprising of the principal decretal sum of Kshs. 23,500,000, Kshs. 1,479,185 in party and party costs and interest of Kshs. 16,263 288.

On 12th March, 2019, the Attorney-General filed an application (Attorney-General v. James Mwangi Wanyoike & 9 others, Misc. Civil Application No. 80 of 2019) in the Court of Appeal seeking leave to appeal out of time against the judgement in Miscellaneous Civil Suit 1656 of 2005. By the time the Committee concluded consideration of the Petition, the application was pending before the Court of Appeal.

The Committee noted that the Solicitor General advised the Ministry of Defence to pay as decided by the court but by the early 2019, the applicants had not been paid yet.

2.2. MEETING WITH THE NATIONAL TREASURY

The Committee was informed by the Chief Administrative Secretary, the National Treasury that the National Treasury was approached about the settlements of the court awards. However, the National Treasury could not pay what is not budgeted for. He advised that the Ministry of Defence should prioritise settlements of these awards in

their MTEF during budget making and lobby the Parliament to appropriate sufficient resource.

2.3. MEETING WITH THE CABINET SECRETARY, MINISTRY OF DEFENCE

The Committee met the Cabinet Secretary for Defence, Ambassador Raychelle Omamo on 15th August, 2018 who informed the Committee that the matters which are the subject of the petition are subject to appeals in different courts of law, and therefore, the Ministry would not comment on them before they are determined in the courts.

A second meeting was held on 24th April, 2019 when the Cabinet Secretary for Defence together with the Attorney-General appeared before the Committee. During this meeting, the Cabinet Secretary and the Attorney-General argued that the cases which are the subject of the Petition are active in court, hence *sub judice*. The Committee was urged to allow the Ministry to pursue the cases in its exercise of the right of appeal to their logical conclusion.

The Committee held a third meeting with the Cabinet Secretary for Defence on 3rd July, 2019. The Cabinet Secretary informed the Committee that the position of the Ministry was that the government still has the right to pursue legal redress in the courts until the matters are determined conclusively. The Cabinet Secretary observed that it is the right of every party to exercise the right to appeal, including to appeal out of time, and should be allowed to pursue the matter to its logical conclusion. The Cabinet Secretary further stated that as a state officer, she has a duty to protect the Constitution and ensure that taxpayer money is applied prudently.

With regard to Petition No. 49 of 2012, Estate of Cpt. Kariuki Kingaru Murebu & 8 others versus the Attorney General, the Cabinet Secretary informed the Committee that it has been forwarded to the Pending Bills Committee for action.

The Committee was further informed that although the Ministry has faced challenges in dealing with the cases, in 2016, the Ministry decided to engage special legal counsel to have greater control over the cases.

CHAPTER THREE

ANALYSIS OF THE SUBMISSIONS BASED ON THE PETITIONERS PRAYERS

Taking into consideration the issues the petitioners were drawing the attention of the Senate to the following analysis of submissions was made-

- (1) THAT the cases have been pending settlement of the awards for over seven (7) years for Miscellaneous Civil Suit 1656 of 2005 and Petition No. 340 of 2012 and for over four (4) years for, Petition No. 49 of 2012 and Petition No. 587 of 2012;
- (2)
- (3) THAT the principle of *sub judice* does not apply as pleaded because of the following –
 - (i) in Petition No. 49 of 2012, Estate of Cpt. Kariuki Kingaru Murebu & 8 others versus the Attorney General, the application to appeal was dismissed by the Court of Appeal on 25th November, 2016 on the ground that the applicant did not give an explanation for the late filing of the notice of appeal having been aware of the case including participating in taxation;
 - (ii) application to appeal out of time against the decisions in Miscellaneous Civil Suit 1656 of 2005, Petition No. 340 of 2012 and Petition No. 587 of 2012 were filed on 12th March, 2019, 19th September, 2018 and 11th September, 2018 respectively. This was soon after submission of the Petition to the Senate; and
 - (iii) the judgments the Ministry seeks to appeal against are between four and seven years old and the government was aware of these cases including having participated in taxation. Additionally, the cause of action arose more than thirty five (35) years ago.

(4) THAT due to the protraction of the cases, some of the Petitioners are deceased and their Estates are pursuing justice for the families of the ex-soldiers and servicemen;

(5) THAT in all the cases, judgement had been rendered and certificates of taxation and certificates of order issued. The petitioners have exhausted court remedies as summarised below-

Petition	Award	Status
Petition No. 340 of 2012, David Gitau Njau & 9 others Versus the Attorney General-	<ul style="list-style-type: none"> ▪ Judgement rendered on 1st November, 2013 ▪ Global award of Kshs. 5,500,000.00 to each of the ten (10) petitioners ▪ Certificate of costs issued on 6th April, 2016. ▪ Certificate of Order against the Government was issued 4th May, 2016 in line with the provisions of section 21 of the Government Proceedings Act in the total sum of Kshs. 72, 455, 677.70. 	<ul style="list-style-type: none"> ▪ Order of <i>mandamus</i> issued on 16th March, 2018. ▪ Ministry compelled to pay the applicants Kshs. 80,014,031.70 with interest accrued at thereon at the rate of 12% per annum arising from the judgement. ▪ Permanent Secretary Ministry of Defence informed the petitioners that he had budgeted decretal amount which was not approved by Parliament. ▪ On 19th September, 2018 the Attorney-General applied to Court of Appeal seeking leave to file appeal out of time.
Petition No. 49 of 2012, ESTATE of Cpt. Kariuki Kingaru Murebu & 8 others versus the Attorney General	<ul style="list-style-type: none"> ▪ Judgement rendered on 22nd October, 2014 ▪ Petitioners awarded each a global sum of Kshs. 8 Million totalling to Kshs. 72 Million. ▪ Certificate of Taxation and Certificate of order against the government were issued by the court on 8th July, 2015 	<ul style="list-style-type: none"> ▪ Order of <i>mandamus</i> issued on 13th October, 2016 ▪ Respondents directed to pay ex-parte applicants Kshs. 82,820,868.00 ▪ Office of the Attorney General filed an application seeking leave to file appeal out of time which application the Court of Appeal dismissed on 25th November, 2016. ▪ 9th March, 2017, the Principle Secretary, Defence and the Attorney General were cited for contempt of court and personally liable to pay decretal amount following a successful application by the petitioners. ▪ Attorney General applied to appeal against the contempt of Court but an actual appeal was not filed in court.
Petition No. 587 of 2012,	<ul style="list-style-type: none"> ▪ On 29th May, 2015, the Court 	<ul style="list-style-type: none"> ▪ The petitioners have not been paid

<p>Gerald Juma Gichohi & 9 others versus the Attorney General</p>	<p>decreed that the respondent in the petition pay the petitioners Kshs. 20,200,000 plus costs and interest from the date of judgement at the rate of 12% per annum.</p> <ul style="list-style-type: none"> ▪ 30th March, 2017, the Court issued a certificate of order and a certificate of taxation, certifying that the amount payable to the petitioners by the respondent in pursuance of the decree to be Kshs. 25, 484, 947. 	<p>to date</p> <ul style="list-style-type: none"> ▪ The petitioners in this case intend to file an Order of Mandamus. ▪ On 11th September, 2018 the Attorney-General applied to Court of Appeal seeking leave to file appeal out of time.
<p>Miscellaneous Civil Suit 1656 of 2005, James Mwangi Wanyoike & 9 others versus the Attorney General</p>	<ul style="list-style-type: none"> ▪ The Court awarded general damages to each of the 10 Applicants totalling to Kshs. 23,500,000 and further ordered that interest be granted on the monetary awards at the rate of 12% per annum from the date of judgement until payment in full. ▪ November, 2012 the Certificate of Taxation and Certificate of Order against the Government were issued by the court. 	<ul style="list-style-type: none"> ▪ As at 24th November, 2017, the total judgement debt was Kshs. 41,242,473 comprising of the principal decretal sum of Kshs. 23,500,000, Kshs. 1,479,185 in party and party costs and interest of Kshs. 16,263 288. ▪ The Solicitor General advised the Ministry of Defence to pay as decided by the court but by the early 2019, the petitioners had not been paid yet. ▪ On 12th March, 2019 the Attorney-General applied to Court of Appeal seeking leave to file appeal out of time.

(6) THAT specifically for Petition No. 49 of 2012, the application seeking leave to file appeal out of time was dismissed on 25th November, 2016 by the Court of Appeal. Additionally, the Cabinet Secretary for Defence, Principle Secretary, Defence, Mr. Njee Muturi (Solicitor-General) and the Attorney General were found guilty of contempt of court.;

(7) THAT according to the National Treasury, the Ministry of Defence should prioritise settlements of these awards in their Medium Term Expenditure Framework (MTEF) during budget making and lobby the Parliament to appropriate sufficient resource. The Ministry stated that the matter had been referred to the Pending Bills Committee.

(8) THAT the Ministry of Defence was adamant that it was within its rights to pursue the appeal, including to appeal out of time, and have the matter addressed to its logical conclusion through the court process. Additionally, in 2016 within the law and that it has engaged Special Legal Counsel to deal with the matter under the direction of the Attorney General.

CHAPTER FOUR

COMMITTEE OBSERVATIONS

The Senate Standing Committee on National Security, Defence and Foreign Relations made the following observations from evidence adduced in meetings-

- (1) **Sub judice rule** - The Committee observed that the *sub judice* rule cited by the Ministry, claiming that the cases which are the subject of the Petition are active in court was not available to the Ministry because the cases are not currently active in court and the petitioners had exhausted all court remedies. The Petitioners were seeking fulfilment of the court awards which the government has failed to fulfil.
- (2) **Justice delayed is justice denied**- The Committee observed that the cause of action in these cases arose more than thirty five (35) years ago. , While all parties have a right to have their day in court, the decision by the Ministry to appeal out of time (four (4) to seven (7)) after the cases were concluded and after the Petition had been submitted to the Senate is an afterthought calculated to cause further delay resulting to injustice to the petitioners and their families;
- (3) **Wastage of public resources** – Pursuant to Article 232 of the Constitution, one of the values and principles of public service is efficient, effective and economic use of public resources. When the courts gave judgments in the cases which are the subject of the Petition, the courts ordered that the amount awarded will attract interest at the rate of 12% per annum. The interest in these cases has run into tens of millions of shillings and continue to grow. This is waste of public resources.
- (4) **Expedite payments to the Petitioners**- The Committee observed that as indicated by the Ministry, Petition No. 49 of 2012 is currently before the Pending Bills Committee. However, it was indicated that by the National Treasury that the amounts had not been included by the Ministry in their budgets. The Committee observed that the Ministry had the option to make a special request to the National Treasury to settle the awards and the amounts be included in a supplementary budget.

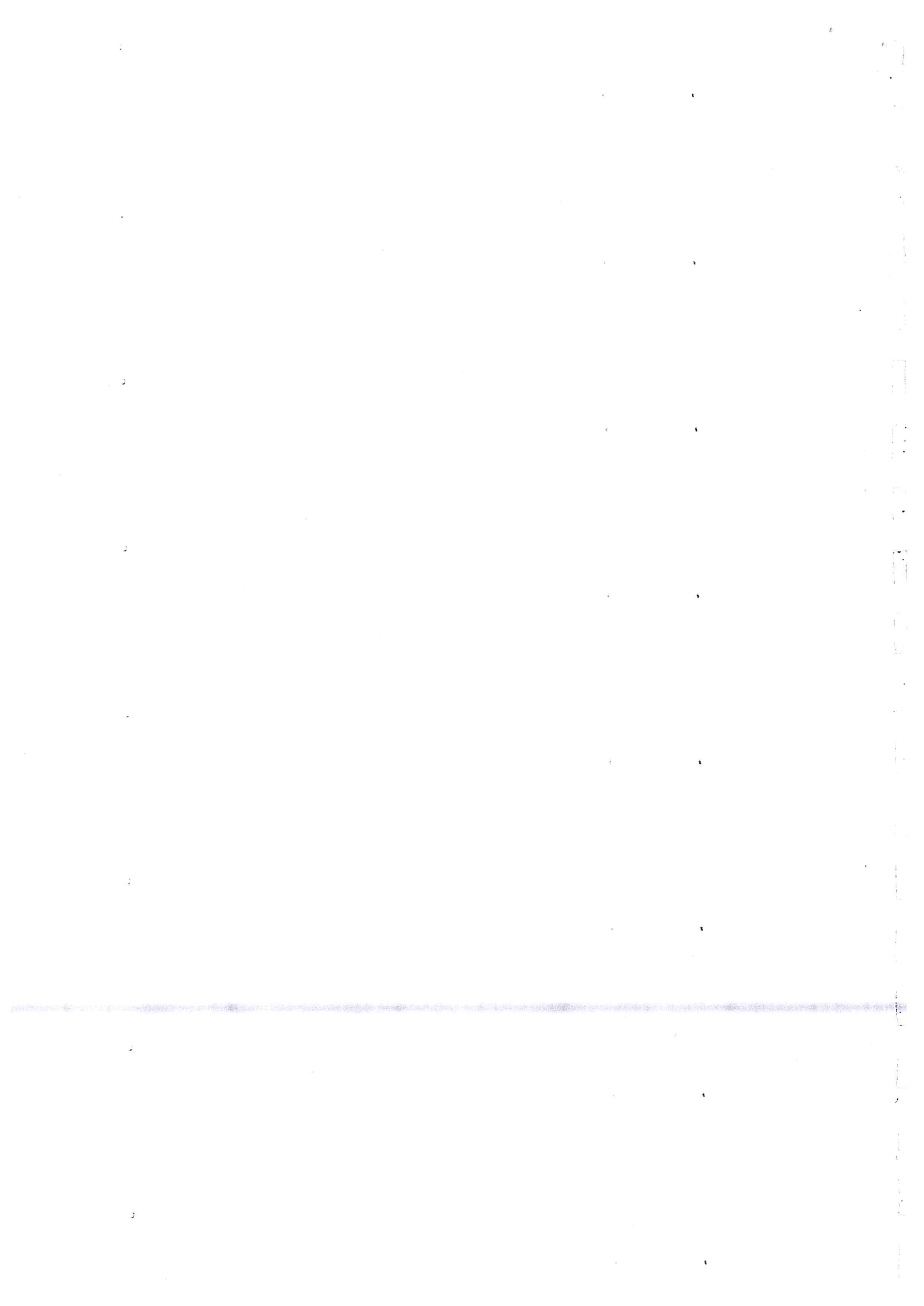
CHAPTER FIVE

COMMITTEE RECOMMENDATIONS

The Committee makes the following recommendations-

1. THAT the Government of Kenya through the Ministry of Defence honours the court orders and immediately settles the awards due to the petitioners plus costs and interest accrued from the date of judgement as provided within two months upon adoption of this Report.
2. THAT the Ministry of Defence do submit to the Senate a detailed report on settlement of the awards due to the petitioners within three months from the date of adoption of this Report.

ANNEX 1: MINUTES



MINUTES OF THE 2ND SITTING OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE & FOREIGN RELATIONS ON THURSDAY 28TH FEBRUARY, 2019 HELD IN THE BOARDROOM ON GROUND FLOOR, COUNTY HALL, AT 9.00 AM

PRESENT

- 1) Sen. Sakaja Johnson, CBS, MP. –Vice Chairman
- 2) Sen. Fatuma Dullo, CBS, MP
- 3) Sen. Judith Pareno, MP
- 4) Sen. Susan W. Kihika, MP
- 5) Sen. Beatrice Kwamboka, MP

APOLOGIES

- 1) Sen. Mohammed Yusuf Haji, EGH, MP - **Chairperson**
- 2) Sen. Moses Wetangula, EGH, MP
- 3) Sen. Fred Outa , MP
- 4) Sen. Anuar'Loititip, MP

IN ATTENDANCE

SECRETARIAT

- | | | | |
|---|-------------|---|-----------------------|
| 1 | Rose Mudibo | - | First Clerk Assistant |
| 2 | Selina Sidi | - | Intern |

MINUTE NO./SEN/NSDFR/006/2019:

PRELIMINARIES

The meeting commenced at 9:30 a.m. with a word of prayer and introductions.

MINUTE NO./SEN/NSDFR/007/2019:

AGENDA

The Agenda of the meeting was proposed and seconded by Sen. Fred Outa, MP and Sen. Johnson Sakaja, MP respectively.

MINUTE NO./SEN/NSDFR/008/2019: PETITON ON THE SETTLEMENT OF AWARDS TO EX-KENYA AIRFORCE OFFICERS AND SERVICEMENT

The Committee resolved to invite the Cabinet Secretary Ministry of Defence and the Attorney General.

MINUTE NO./SEN/NSDFR/009/2019: PETITON ON INSECURITY CAUSED BY ILLEGAL CAMEL HERDERS IN TAITA TAVETA COUNTY

The secretariat briefed on the petition on the insecurity caused by illegal camel herders in Teri B Ranch in Taita Taveta County, and informed them that the petition had been committed to the Committee by the Speaker of the Senate on 18th November, 2018.

Sen. Johnes Mwaruma who presented the petition before the Senate on behalf of Taita Taveta people, briefed the Committee on the situation on the ground.

Following deliberations by the Members, the Committee resolved to visit Taita Taveta County on 5th April, 2019.

MINUTE NO./SEN/NSDFR/010/2019: REPORT ON BILLS BEFORE THE COMMITTEE

The two Reports on Prevention of Terrorism (Amendment) Bill and the County Law Compliance and Enforcement Bill were differed to another date and tasked the secretariat to develop a matrix for both Bills

MINUTE NO./SEN/NSDFR/011/2019: ANY OTHER BUSINESS

The Committee discussed the insecurity situation on the dispute between Garissa and Isiolo Counties and resolved to visit the two counties on 29th March, 2019.

MINUTE NO./SEN/NSDFR/012/2019: ADJOURNMENT

There being no other business, the meeting was adjourned at 10.30 a.m.

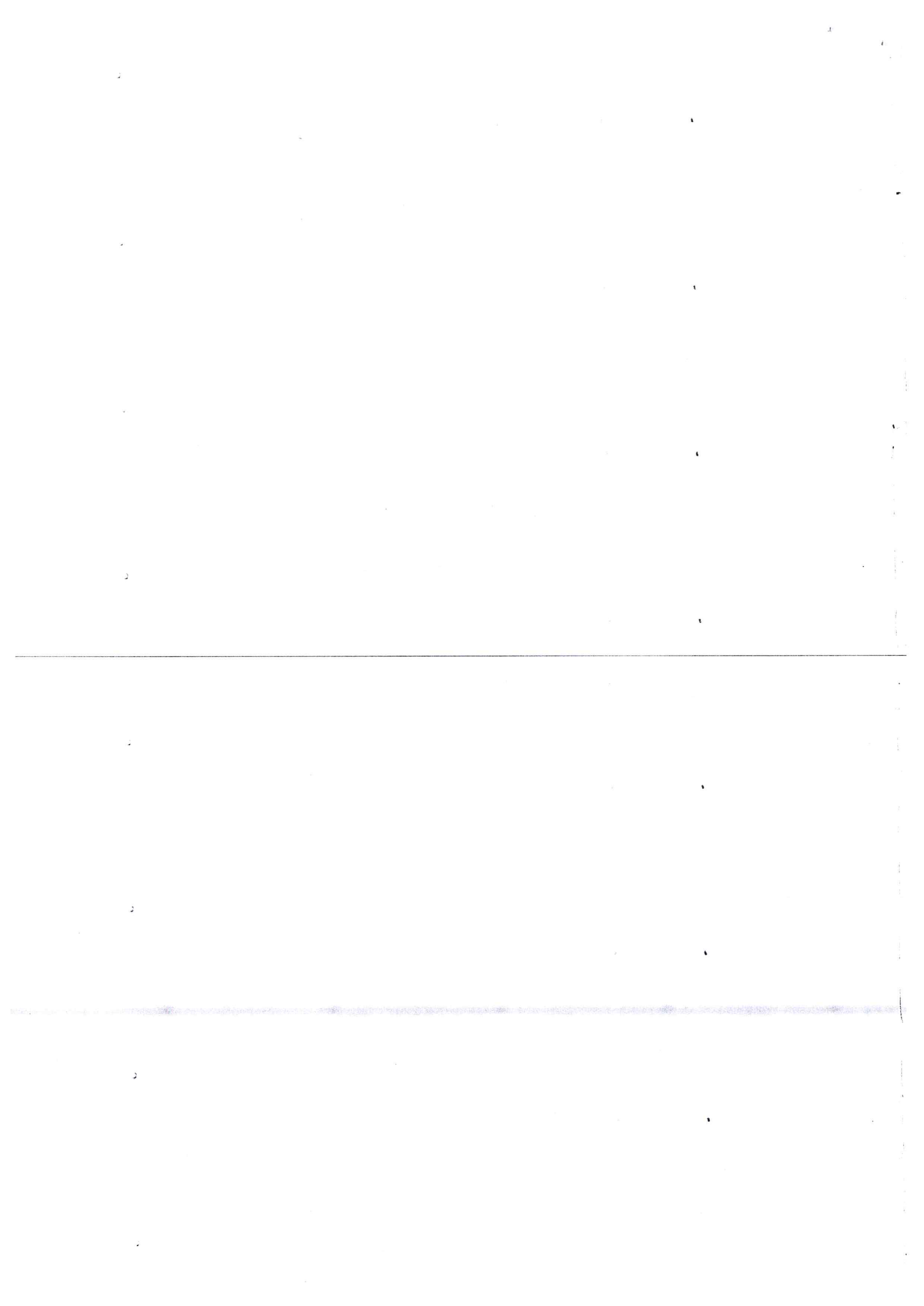
SIGNED.....



(Chairperson)

DATE.....

19/11/2019



MINUTES OF THE 7TH SITTING OF THE NATIONAL SECURITY, DEFENCE & FOREIGN RELATIONS HELD ON 16TH MAY, 2019, IN THE BOARDROOM ON GROUND FLOOR, COUNTY HALL BUILDING, AT 10.00 AM

PRESENT

- 1) Sen. Judith Pareno, MP (Chairing)
- 2) Sen. Moses' Wetangula, EGH, MP
- 3) Sen. Fatuma Dullo, CBS, MP
- 4) Sen. Fred Outa, MP
- 5) Sen. Susan W. Kihika, MP

APOLOGIES

- 1) Sen. Mohammed Yusuf Haji, EGH, MP – Chairperson
- 2) Sen. Sakaja Johnson, CBS, MP – Vice Chairman
- 3) Sen. Beatrice Kwamboka, MP
- 4) Sen. Anuar Loititip, MP.

SECRETARIAT

- | | | | |
|---|------------------|---|-------------------------|
| 1 | Rose Mudibo | - | Committee Clerk |
| 2 | Moses Kenyanchui | - | Legal Counsel |
| 3 | Leah Kidombo | - | Research Officer |
| 4 | Lucianne Limo | - | Media Relations Officer |

MIN/SEN/NSDFR/033/2019: PRELIMINARIES

The meeting commenced at 9.15 a.m. with a word of prayer.

MIN/SEN/NSDFR/034/2019: AGENDA

The Agenda of the meeting was proposed and seconded by Sen. Susan Kihika, MP and Sen. Fatuma Dullo, MP respectively as follows;

1. Prayer
2. Adoption of the Agenda
3. Brief by the Legal Counsel on the Petition on the Settlement of Awards to Ex-Kenya Air Force Officers and Servicemen
4. Draft Report on;
 - (i) The County Law Compliance and Enforcement Bill (Senate Bills No.23 of 2018)
 - (ii) The Prevention of Terrorism (amendment) Bill, Senate bill No.20 of 2018

5. Draft Report on the Petition on Insecurity caused by Illegal Camel Herders in Teri B Ranch, Taita Taveta County
6. Proposed County Visits
7. Any Other Business
8. Adjournment

MIN/SEN/NSDFR/035/2019: PETITION ON THE SETTLEMENT OF AWARDS TO EX-KENYA AIR FORCE OFFICERS AND SERVICEMEN

The Chairperson briefed the Members that following a meeting with the Cabinet Secretary, Ministry of Defence and the Attorney General on 24th April, 2019, it was resolved that the Committee is provided with documents to ascertain the claims that the cases mentioned in the petition were matters alive in court.

The Committee Legal Counsel briefed the Committee that after interrogation of the documentation from the Ministry of Defence and the Office of the Attorney General, there was an application to appear out of court, but noted that this is happening after a period of 7 years.

The Committee further noted that no matter was active in court as briefed by the Cabinet Secretary, Ministry of Defence.

The Committee tasked the Legal Counsel to look at the 'court files' and advise the Committee at the next meeting.

MIN/SEN/NSDFR/036/2019: CONSIDERATION OF REPORTS ON BILLS

- (i) The Committee considered and adopted the proposed Report on the Prevention of Terrorism (Amendment Bill), and adopted it.
- (ii) The Committee considered and adopted the proposed report on the County Compliance and Enforcement Bill (Senate Bills No.23 of 2018).

MIN/SEN/NSDFR/037/2019:

**DRAFT REPORT ON THE PETITION ON
INSECURITY CAUSED BY ILLEGAL
CAMEL HERDERS IN TERI B RANCH,
TAITA TAVETA COUNTY**

The Chairperson informed the Committee that before the Committee was a draft report for consideration following a visit to Taita Taveta County on 4th April, 2019.

The Committee considered the draft report and adopted with amendments for tabling in the Senate.

MIN/SEN/NSDFR/038/2019:

PROPOSED COUNTY VISITS

The secretariat presented a schedule of activities to be undertaken by the Committee during the months of May and June 2019.

The Committee confirmed to undertake visit to Nyanza and Kakamega Counties jointly with the Standing Committee on Justice, Legal Affairs and Human Rights between 23rd and 26th May, 2019.

MIN/SEN/NSDFR/039/2019:

ANY OTHER BUSINESS

Sen. Susan Kihika, MP brought to the attention of the Committee of the withdrawal of her security by the Police Department. The Chairperson noted that since the Cabinet Secretary, Ministry of Interior and Coordination of National Government was scheduled to appear before the Committee, that the matter will form part of the agenda.

The Committee was informed of a pending Statement requested by Sen. Cleophas Malala of the insecurity in Matungu Constituency. The Committee resolved that the Chairperson gives an interim statement awaiting the response from the relevant Ministry.

MIN/SEN/NSDFR/040/2019:

ANY OTHER BUSINESS

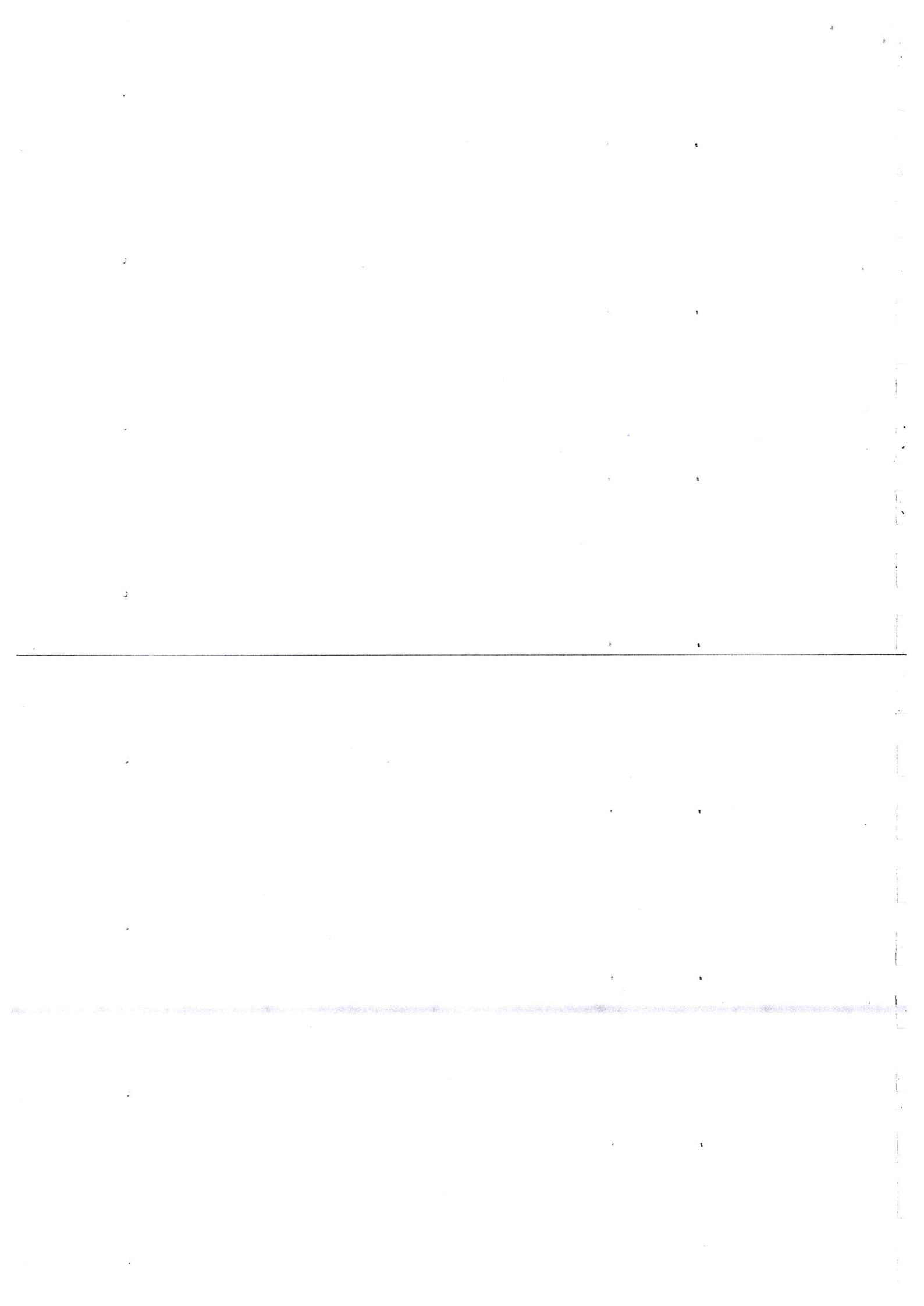
The meeting was adjourned at 10.30 a.m.

SIGNED.....


.....
(Chairperson)

DATE.....

19 - 11 - 2019



MINUTES OF THE 8TH SITTING OF THE NATIONAL SECURITY, DEFENCE & FOREIGN RELATIONS HELD ON 19TH JUNE, 2019, IN THE BOARDROOM ON GROUND FLOOR, COUNTY HALL BUILDING, AT 09.00 AM

PRESENT

- 1) Sen. Judith Pareno, MP (Chairing)
- 2) Sen. Moses Wetangula, EGH, MP
- 3) Sen. Fred Outa, MP

APOLOGIES

- 1) Sen. Mohammed Yusuf Haji, EGH, MP – Chairperson
- 2) Sen. Sakaja Johnson, CBS, MP – Vice Chairman
- 3) Sen. Fatuma Dullo, CBS, MP
- 4) Sen. Susan W. Kihika, MP
- 5) Sen. Beatrice Kwamboka, MP
- 6) Sen. Anuar Loititip, MP.

SECRETARIAT

- | | | | |
|---|------------------|---|-------------------------|
| 1 | Rose Mudibo | - | Committee Clerk |
| 2 | Moses Kenyanchui | - | Legal Counsel |
| 3 | Lucianne Limo | - | Media Relations Officer |

MIN/SEN/NSDFR/041/2019: PRELIMINARIES

The meeting commenced at 9.28 a.m. with a word of prayer.

MIN/SEN/NSDFR/042/2019: AGENDA

The Agenda of the meeting was proposed and seconded by Sen. Moses Wetangu'ula, EGH, MP and Sen. Fred Outa, MP respectively as follows;

1. Prayer
2. Adoption of the Agenda
3. Confirmation of Minutes
4. Petition on compensation of ex-Kenya Air Force Servicemen following the 1982 Coup
5. Consideration of statements before the Committee
6. Any Other Business
7. Adjournment

MIN/SEN/NSDFR/043/2019: CONFIRMATION OF MINUTES

Minutes of the 7th Sitting held on 16th May, 2019 were confirmed as a true record of proceedings having been proposed by Sen. Fred Outa, MP and Seconded by Sen. Moses Wetang'ula, EGH, MP.

Matters Arising

Min/Sen/NSDFR/038/2019:

The Committee noted concern on the numerous postponing of planned county visits. The Secretariat was tasked to propose dates for the Committee to undertake the pending visits for the financial year 2019/2020 and present in the next meeting.

MIN/SEN/NSDFR/044/2019: PETITION ON THE SETTLEMENT OF AWARDS TO EX-KENYA AIR FORCE OFFICERS AND SERVICEMEN

The Committee's Legal Counsel briefed the Members that after cross checking with the court files, there was no active matter in court that touches on the cases presented in the petition.

The Committee resolved to invite the Cabinet Secretary, Ministry of Defence within a period of two weeks.

MIN/SEN/NSDFR/045/2019: STATEMENTS BEFORE THE COMMITTEE

The Committee noted that it was in receipt of several responses from the Ministry of Interior and Coordination of National Government and resolved to invite the Senators who requested for the Statements for further interrogation of the responses.

MIN/SEN/NSDFR/046/2019: ANY OTHER BUSINESS

The Committee noted with concern the busy schedule of the leadership of the Committee and resolved to consult and discuss the matter in the next meeting.

MIN/SEN/NSDFR/047/2019: ADJOURNMENT

The meeting was adjourned at 10.30 a.m.

SIGNED.....
(Chairperson)

DATE..... 19 - 11 - 2019

MINUTES OF THE 9TH SITTING OF THE NATIONAL SECURITY, DEFENCE & FOREIGN RELATIONS HELD ON WEDNESDAY 3RD JULY, 2019, IN THE BOARDROOM ON THE GROUND FLOOR OF COUNTY HALL BUILDING AT 9.30 A.M.

PRESENT

- 1) Sen. Mohammed Yusuf Haji, EGH, MP – **Chairperson**
- 2) Sen. Sakaja Johnson, CBS, MP – **Vice Chairman**
- 3) Sen. Moses Wetangula, EGH, MP
- 4) Sen. Fatuma Dullo, CBS, MP
- 5) Sen. Susan W. Kihika, MP
- 6) Sen. Judith Pareno, MP
- 7) Sen. Fred Outa, MP

APOLOGIES

- 1) Sen. Beatrice Kwamboka, MP
- 2) Sen. Anuar Loititip, MP

INATTENDANCE

MINISTRY OF DEFENCE

1. Amb. Raychelle Omamo, EGH - Cabinet Secretary, Ministry of Defence
2. Col. Y. Kirui - Legal, Ministry of Defence
3. G. F. Sakwa - Parliamentary Liaison Officer
4. Irene Kanoko - Personal Assistant to the Cabinet Secretary

SECRETARIAT

- 1 Rose Mudibo - Committee Clerk
- 2 Moses Kenyanchui - Legal Counsel
- 3 Lucianne Limo - Media Relations Officer

MIN/SEN/NSDFR/048/2019: PRELIMINARIES

The meeting commenced at 9.15 a.m. with a word of prayer.

MIN/SEN/NSDFR/049/2019: AGENDA

The Agenda of the meeting was proposed and seconded by Sen. Susan Kihika, MP and Sen. Judith Pareno, MP respectively as follows;

1. Prayer
2. Adoption of the Agenda

3. Meeting with the Cabinet Secretary, Ministry of Defence – Petition on Compensation of Ex-Kenya Air Force Servicemen
4. County Visits
5. Any Other Business
6. Adjournment

MIN/SEN/NSDFR/050/2019: MEETING WITH THE CABINET SECRETARY, MINISTRY OF DEFENCE

The Committee Chairperson welcomed the Cabinet Secretary, Ministry of Defence and briefed the meeting on the Petition on Compensation of Ex-Kenya Air Force Servicemen following the 1982 Coup. The Chairperson explained that the Petition had been handled by the Committee for a while, and invited the Cabinet Secretary to expound on issues raised by the Committee.

In her remarks the Cabinet Secretary briefed the Committee that;

- i. Three cases out of four in the Petition were alive before a court of law.
- ii. Case number 45/2012 – the appeal was rejected and hence referred to the Office of the Attorney General.
- iii. In 2016, the Ministry decided to get its own lawyers to have control of all cases against the Ministry, following a huge case load regarding the number of cases at the Office of the Attorney General.
- iv. The Committee considers giving the Ministry and the Courts time to reach the logical conclusion of the cases.

Committees Intervention

The Committee unanimously noted that the Cabinet Secretary's reasons for the non-compensation were not convincing and directed as follows;

- i. That the Ministry makes a special request for a budget to support the compensation.
- ii. That the Ministry pays the petitioners in the four cases without further delay.

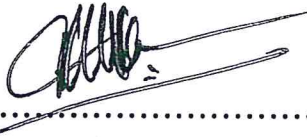
MIN/SEN/NSDFR/051/2019: ANY OTHER BUSINESS

The secretariat brought to the attention of the Committee of a Petition received on the Ethiopia Air Crash. The Committee resolved to invite the Cabinet Secretary, Ministry of Foreign Affairs, the Solicitor General and the Cabinet Secretary, Ministry of Interior and Coordination of National Government. The Committee further resolved to have the Chairperson to issue an interim statement on the same to the House.

MIN/SEN/NSDFR/052/2019:

ADJOURNMENT

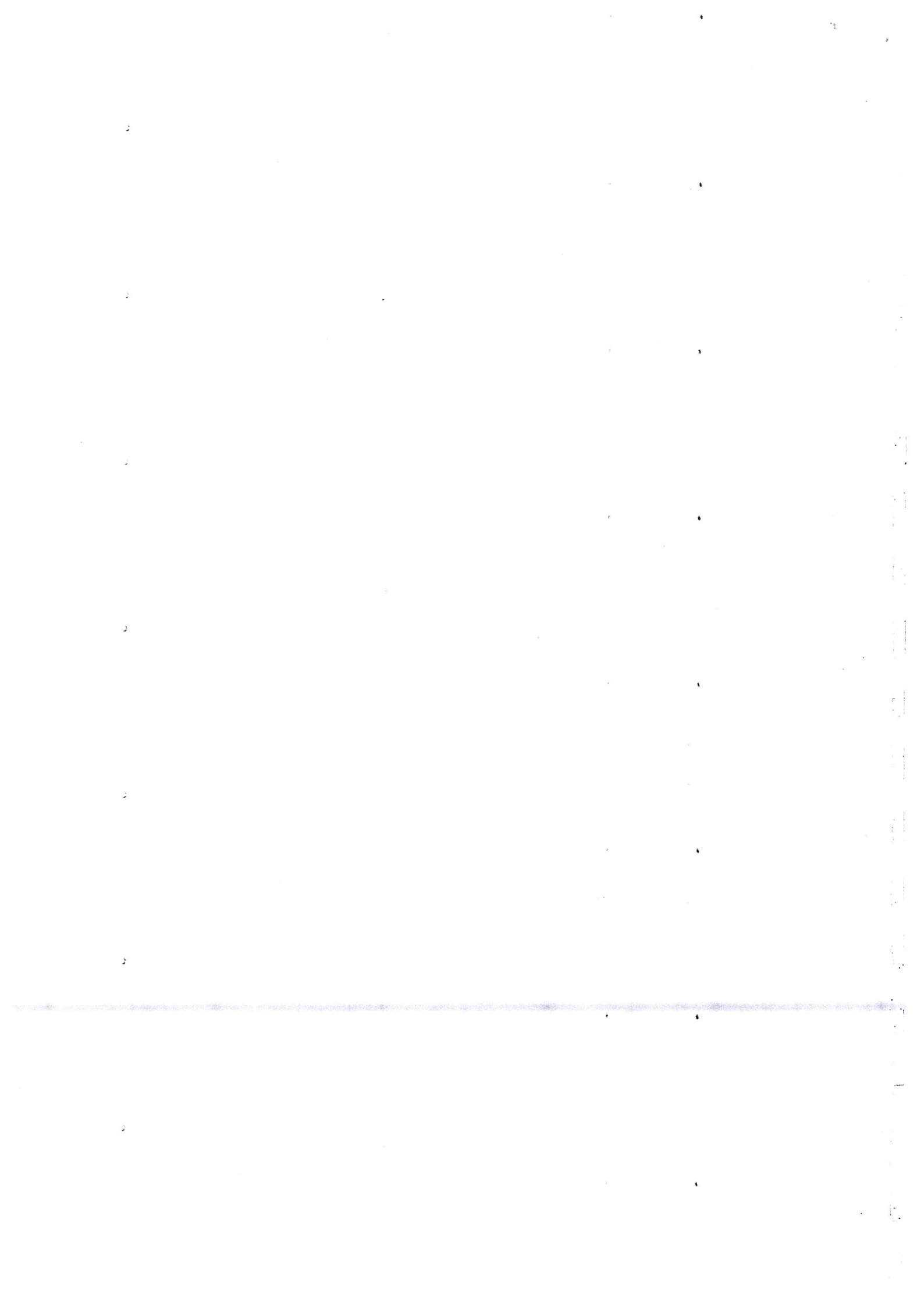
The meeting was adjourned at 11.00 a.m.



SIGNED.....

(Chairperson)

DATE..... 19/11/2019



MINUTES OF THE 10TH SITTING OF THE NATIONAL SECURITY, DEFENCE & FOREIGN RELATIONS HELD ON THURSDAY 4TH JULY, 2019, IN SHIMBA HILLS, FIRST FLOOR, KICC BUILDING AT 10.00 A.M.

PRESENT

- 1) Sen. Mohammed Yusuf Haji, EGH, MP – **Chairperson**
- 2) Sen. Sakaja Johnson, CBS, MP – **Vice Chairman**
- 3) Sen. Moses Wetangula, EGH, MP
- 4) Sen. Fatuma Dullo, CBS, MP
- 5) Sen. Susan W. Kihika, MP
- 6) Sen. Judith Pareno, MP
- 7) Sen. Fred Outa, MP

APOLOGIES

- 1) Sen. Beatrice Kwamboka, MP
- 2) Sen. Anuar Loititip, MP

INATTENDANCE

MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

1. Amb. Raychelle Omamo, EGH - Cabinet Secretary, Ministry of Defence

MIN/SEN/NSDFR/053/2019: PRELIMINARIES

The meeting commenced at 10.25 a.m. with a word of prayer.

MIN/SEN/NSDFR/054/2019: AGENDA

The Agenda of the meeting was proposed and seconded by Sen. Fred Outa, MP and Sen. Judith Pareno, MP respectively as follows;

1. Prayer
2. Adoption of the Agenda
3. Confirmation of Minutes of the 9th Sitting
4. **Meeting with the Cabinet Secretary, Ministry of Interior and Coordination of National Government**
5. Any Other Business
6. Adjournment

MIN/SEN/NSDFR/055/2019

**CONFIRMATION OF MINUTES OF
THE 7TH, 8TH AND 9TH SITTING**

Minutes of the 7th Sitting were confirmed as a true record of proceedings having been proposed and seconded by Sen. Fred Outa, MP and seconded by Sen. Susan Kihika, MP, respectively.

Minutes of the 8th Sitting were confirmed having been proposed and seconded by Sen. Moses Wetangula, EGH, MP and Sen. Judith Pareno, MP, respectively.

Minutes of the 9th Sitting were confirmed having been proposed and seconded by Sen. Judith Pareno, MP and Sen. Fred Outa, MP respectively.

**MIN/SEN/NSDFR/056/2019: MEETING WITH THE CABINET
SECRETARY, MINISTRY INTERIOR
AND COORDINATION OF NATIONAL
GOVERNMENT**

The Committee Chairperson welcomed the Cabinet Secretary, Ministry of Defence and briefed the meeting on the Petition on Compensation of Ex-Kenya Air Force Servicemen following the 1982 Coup. The Chairperson explained that the Petition had been handled by the Committee for a while, and invited the Cabinet Secretary to expound on issues raised by the Committee.

MIN/SEN/NSDFR/057/2019: ANY OTHER BUSINESS

The secretariat brought to the attention of the Committee of a Petition received on the Ethiopia Air Crash. The Committee resolved to invite the Cabinet Secretary, Ministry of Foreign Affairs, the Solicitor General and the Cabinet Secretary, Ministry of Interior and Coordination of National Government. The Committee further resolved to have the Chairperson to issue an interim statement on the same to the House.

MIN/SEN/NSDFR/058/2019: ADJOURNMENT

The meeting was adjourned at 11.30 a.m.

SIGNED.....


(Chairperson)

DATE. 19-11-2019.....

MINUTES OF THE 17TH SITTING OF THE NATIONAL SECURITY, DEFENCE & FOREIGN RELATIONS HELD ON WEDNESDAY 13TH NOVEMBER, 2019, IN THE COMMITTEE ROOM ON GROUND FLOOR OF COUNTY HALL BUILDING AT 10.00 A.M.

PRESENT

- 1) Sen. Mohammed Yusuf Haji, EGH, MP – **Chairperson**
- 2) Sen. Sakaja Johnson, CBS, MP – **Vice Chairman**
- 3) Sen. Moses Wetangula, EGH, MP
- 4) Sen. Fred Outa, MP

APOLOGIES

- 1) Sen. Susan Kihika, MP
- 2) Sen. Fatuma Dullo, CBS, MP
- 3) Sen. Anuar Loititip, MP
- 4) Sen. Judith Pareno, MP
- 5) Sen. Beatrice Kwamboka, MP

MIN/SEN/NSDFR/092/2019: PRELIMINARIES

The meeting commenced at 9.20 a.m. with a word of prayer.

MIN/SEN/NSDFR/093/2019: AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of Minutes of the 14th, 15th and 16th Sitzings
4. **Meeting with the Cabinet Secretary, Ministry of Interior and Coordination of National Government**
5. Any Other Business
6. Adjournment

MIN/SEN/NSDFR/094/2019 CONFIRMATION OF MINUTES

Minutes of the 14th Sitting held on 16th October, 2019, were confirmed having been proposed and seconded by Sen. Fatuma Dullo, CBS and Sen. Judith Pareno, MP, respectively.

Minutes of the 15th Sitting were confirmed having been proposed and seconded by Sen. Fred Outa, MP and Sen. Moses Wetangula, EGH, MP, respectively.

Minutes of the 16th Sitting were confirmed as a true record having been proposed and seconded by Sen. Johnson Sakaja, CBS, MP and Sen. Moses Wetangula, EGH, MP, respectively.

MIN/SEN/NSDFR/095/2019

MEETING WITH CABINET
SECRETARY, MINISTRY OF
INTERIOR AND
COORDINATION OF NATIONAL
GOVERNMENT

The Vice Chairperson briefed the meeting that the Committee was in receipt of responses from the Ministry of Interior and Coordination of National Government, which has been shared with the respective Senators who had requested. The Members noted that in its invitation, the Committee had invited the Cabinet Secretary and the Inspector General of Police to clarify on a number of issues before the Committee.

The CAS gave apologies of the Cabinet Secretary who was on other official engagements and requested to clarify on the issues before the Committee.

After consultations the Committee resolved to adjourn the meeting and have the Cabinet Secretary, the Inspector General of Police, the Registrar of Persons, Immigration and Prisons Department to appear on Wednesday 20th November, 2019.

MIN/SEN/NSDFR/097/2019: ADJOURNMENT

The meeting was adjourned at 10.56 a.m.

SIGNED.....

(Chairperson)

DATE.....19/11/2019.....

MINUTES OF THE 12TH SITTING OF THE NATIONAL SECURITY, DEFENCE & FOREIGN RELATIONS HELD ON TUESDAY 6TH AUGUST, 2019, IN THE COMMITTEE ROOM ON GROUND FLOOR OF COUNTY HALL BUILDING AT 9.00 A.M.

PRESENT

- 1) Sen. Sakaja Johnson, CBS, MP –Vice Chairman
- 2) Sen. Moses Wetangula, EGH, MP
- 3) Sen. Fatuma Dullo, CBS, MP
- 4) Sen. Judith Pareno, MP
- 5) Sen. Fred Outa , MP

APOLOGIES

- 1) Sen. Mohammed Yusuf Haji, EGH, MP – Chairperson
- 2) Sen. Susan Kihika, MP
- 3) Sen. Beatrice Kwamboka, MP
- 4) Sen. Anuar Loititip, MP

MIN/SEN/NSDFR/065/2019: PRELIMINARIES

The meeting commenced at 9.15 a.m. with a word of prayer.

MIN/SEN/NSDFR/066/2019: AGENDA

The Agenda of the meeting was proposed and seconded by Sen. Fred Outa, MP and Sen. Moses Wetang'ula, MP respectively as follows;

1. Prayer
2. Adoption of the Agenda
3. Confirmation of Minutes of the 11th Sitting
4. Adoption of Report (**Petition on Settlement of awards to Ex-Kenya Airforce Officers and Servicemen**)
5. Any Other Business
6. Adjournment

MIN/SEN/NSDFR/067/2019 CONFIRMATION OF MINUTES OF THE 11TH SITTING

Minutes of the 10th Sitting were confirmed having been proposed and seconded by Sen. Judith Pareno, MP and Sen. Moses Wetang'ula, MP respectively.

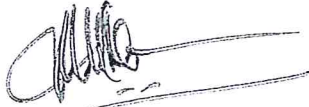
MIN/SEN/NSDFR/068/2019: ADOPTION OF REPORT

The secretariat took the Members through the draft report which was adopted with the following amendments;

- i) That recommendation number one as presented in the draft is deleted.
- ii) That timelines are indicated in the report as to when the Ministry should report back to the Senate on progress.

MIN/SEN/NSDFR/069/2019: ADJOURNMENT

The meeting was adjourned at 10.30 a.m.



SIGNED.....

(Chairperson)

DATE..... 19/11/2019

Minutes of the 7th Sitting held on 16th May, 2019 were confirmed as a true record of proceedings having been proposed by Sen. Fred Outa, MP and Seconded by Sen. Moses Wetang'ula, EGH, MP.

Matters Arising

Min/Sen/NSDFR/038/2019:

The Committee noted concern on the numerous postponing of planned county visits. The Secretariat was tasked to propose dates for the Committee to undertake the pending visits for the financial year 2019/2020 and present in the next meeting.

MIN/SEN/NSDFR/044/2019: PETITION ON THE SETTLEMENT OF AWARDS TO EX-KENYA AIR FORCE OFFICERS AND SERVICEMEN

The Committee's Legal Counsel briefed the Members that after cross checking with the court files, there was no active matter in court that touches on the cases presented in the petition.

The Committee resolved to invite the Cabinet Secretary, Ministry of Defence within a period of two weeks.

MIN/SEN/NSDFR/045/2019: STATEMENTS BEFORE THE COMMITTEE

The Committee noted that it was in receipt of several responses from the Ministry of Interior and Coordination of National Government and resolved to invite the Senators who requested for the Statements for further interrogation of the responses.

MIN/SEN/NSDFR/046/2019: ANY OTHER BUSINESS

The Committee noted with concern the busy schedule of the leadership of the Committee and resolved to consult and discuss the matter in the next meeting.

MIN/SEN/NSDFR/047/2019: ADJOURNMENT

The meeting was adjourned at 10.30 a.m.

SIGNED.....

(Chairperson)

DATE..... 19/11/2019

MINUTES OF THE 8TH SITTING OF THE NATIONAL SECURITY, DEFENCE & FOREIGN RELATIONS HELD ON 19TH JUNE, 2019, IN THE BOARDROOM ON GROUND FLOOR, COUNTY HALL BUILDING, AT 09.00 AM

PRES ENT

- 1) Sen. Judith Pareno, MP (Chairing)
- 2) Sen. Moses Wetangula, EGH, MP
- 3) Sen. Fred Outa , MP

APOLOGIES

- 1) Sen. Mohammed Yusuf Haji, EGH, MP – Chairperson
- 2) Sen. Sakaja Johnson, CBS, MP –Vice Chairman
- 3) Sen. Fatuma Dullo, CBS, MP
- 4) Sen. Susan W. Kihika, MP
- 5) Sen. Beatrice Kwamboka, MP
- 6) Sen. Anuar Loititip, MP.

SECRETARIAT

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|---|------------------|---|-------------------------|
| 1 | Rose Mudibo | - | Committee Clerk |
| 2 | Moses Kenyanchui | - | Legal Counsel |
| 3 | Lucianne Limo | - | Media Relations Officer |

MIN/SENNSDFR/041/2019: PRELIMINARIES

The meeting commenced at 9.28 a.m. with a word of prayer.

MIN/SENNSDFR/042/2019: AGENDA

The Agenda of the meeting was proposed and seconded by Sen. Moses Wetangu'ula, EGH, MP and Sen. Fred Outa, MP respectively as follows;

1. Prayer
2. Adoption of the Agenda
3. Confirmation of Minutes
4. Petition on compensation of ex-Kenya Air Force Servicemen following the 1982 Coup
5. Consideration of statements before the Committee
6. Any Other Business
7. Adjournment

MIN/SENNSDFR/043/2019: CONFIRMATION OF MINUTES

MINUTES OF THE 16TH SITTING OF THE NATIONAL SECURITY, DEFENCE & FOREIGN RELATIONS HELD ON TUESDAY 12TH NOVEMBER, 2019, IN THE COMMITTEE ROOM ON GROUND FLOOR OF COUNTY HALL BUILDING AT 9.00 A.M.

PRESENT

- 1) Sen. Mohammed Yusuf Haji, EGH, MP – **Chairperson**
- 2) Sen. Sakaja Johnson, CBS, MP – **Vice Chairman**
- 3) Sen. Moses Wetangula, EGH, MP
- 4) Sen. Judith Pareno, MP
- 5) Sen. Fred Outa, MP

APOLOGIES

- 1) Sen. Susan Kihika, MP
- 2) Sen. Fatuma Dullo, CBS, MP
- 3) Sen. Anuar Loititip, MP
- 4) Sen. Beatrice Kwamboka, MP

MIN/SEN/NSDFR/087/2019: PRELIMINARIES

The meeting commenced at 9.20 a.m. with a word of prayer.

MIN/SEN/NSDFR/088/2019: AGENDA

The Agenda of the meeting was proposed and seconded by Sen. Moses Wetangula, MP and Sen. Johnson Sakaja, MP respectively as follows;

1. Prayer
2. Adoption of the Agenda
3. **Consideration of Report (Public Hearing Report on Registration of Persons Bill)**
4. **Adoption of Report (Petition on Settlement of awards to Ex-Kenya Airforce Officers and Servicemen)**
5. Any Other Business
6. Adjournment

MIN/SEN/NSDFR/089/2019 CONSIDERATION OF REPORT

The secretariat took the Members through a draft report on the public hearing on the Registration of Persons (amendment) Bill, held on 16th October, 2019.

The Committee clarified that the report should be clear about the difference between transgender and intersex. The Committee further tasked the secretariat to ensure that the identity of the victims should be protected.

The Report was adopted with a majority of Members present with the five Senators present.

MIN/SEN/NSDFR/090/2019:

**ADOPTION OF THE REPORT ON THE
PETITION ON SETTLEMENT OF
AWARDS TO EX-KENYA AIRFORCE
OFFICERS AND SERVICEMEN**

The secretariat took the Members through the draft report which was adopted with the following amendments;

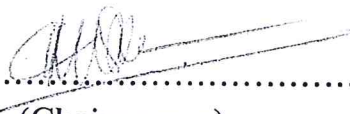
- i) That recommendation number one as presented in the draft is deleted.
- ii) That timelines are indicated in the report as to when the Ministry should report back to the Senate on progress.

MIN/SEN/NSDFR/091/2019:

ADJOURNMENT

The meeting was adjourned at 10.23 a.m.

SIGNED.....


(Chairperson)

DATE.....

19 - 11 - 2019

MINUTES OF THE 17TH SITTING OF THE NATIONAL SECURITY,
DEFENCE & FOREIGN RELATIONS HELD ON WEDNESDAY 13TH
NOVEMBER, 2019, IN THE COMMITTEE ROOM ON GROUND FLOOR
OF COUNTY HALL BUILDING AT 10.00 A.M.

PRESENT

- 1) Sen. Mohammed Yusuf Haji, EGH, MP – Chairperson
- 2) Sen. Sakaja Johnson, CBS, MP – Vice Chairman
- 3) Sen. Moses Wetangula, EGH, MP
- 4) Sen. Fred Outa, MP

APOLOGIES

- 1) Sen. Susan Kihika, MP
- 2) Sen. Fatuma Dullo, CBS, MP
- 3) Sen. Anuar Loititip, MP
- 4) Sen. Judith Pareno, MP
- 5) Sen. Beatrice Kwamboka, MP

MIN/SEN/NSDFR/092/2019: PRELIMINARIES

The meeting commenced at 9.20 a.m. with a word of prayer.

MIN/SEN/NSDFR/093/2019: AGENDA

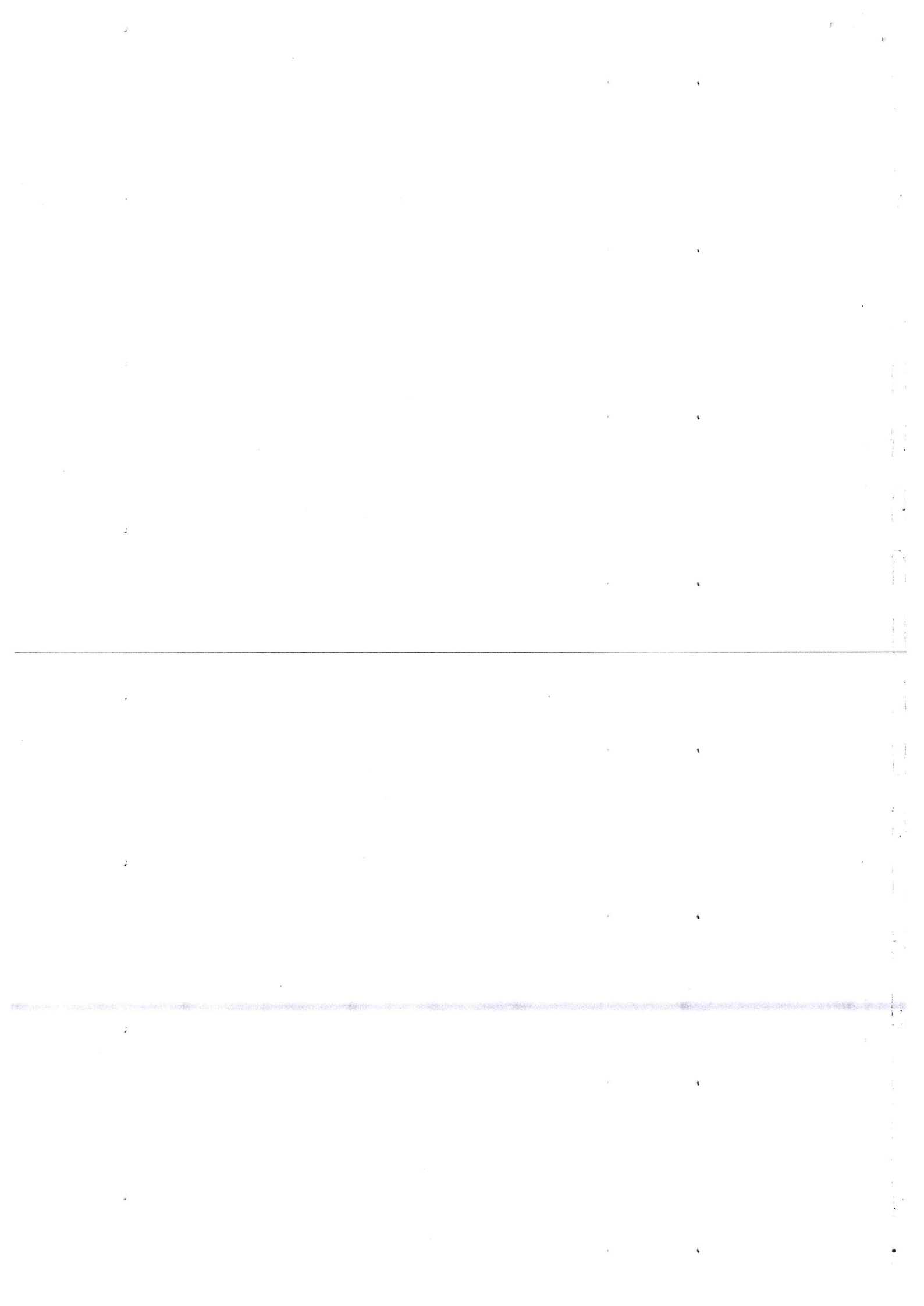
1. Prayer
2. Adoption of the Agenda
3. Confirmation of Minutes of the 14th, 15th and 16th Sittings
4. Meeting with the Cabinet Secretary, Ministry of Interior and Coordination of National Government
5. Any Other Business
6. Adjournment

MIN/SEN/NSDFR/094/2019 CONFIRMATION OF MINUTES

Minutes of the 14th Sitting held on 16th October, 2019, were confirmed having been proposed and seconded by Sen. Fatuma Dullo, CBS and Sen. Judith Pareno, MP, respectively.

Minutes of the 15th Sitting were confirmed having been proposed and seconded by Sen. Fred Outa, MP and Sen. Moses Wetangula, EGH, MP, respectively.

Minutes of the 16th Sitting were confirmed as a true record having been proposed and seconded by Sen. Johnson Sakaja, CBS, MP and Sen. Moses Wetangula, EGH, MP, respectively.



MIN/SEN/NSDFR/095/2019

MEETING WITH CABINET
SECRETARY, MINISTRY OF
INTERIOR AND
COORDINATION OF NATIONAL
GOVERNMENT

The Vice Chairperson briefed the meeting that the Committee was in receipt of responses from the Ministry of Interior and Coordination of National Government, which has been shared with the respective Senators who had requested. The Members noted that in its invitation, the Committee had invited the Cabinet Secretary and the Inspector General of Police to clarify on a number of issues before the Committee.

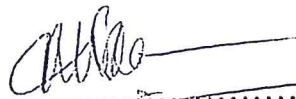
The CAS gave apologies of the Cabinet Secretary who was on other official engagements and requested to clarify on the issues before the Committee.

After consultations the Committee resolved to adjourn the meeting and have the Cabinet Secretary, the Inspector General of Police, the Registrar of Persons, Immigration and Prisons Department to appear on Wednesday 20th November, 2019.

MIN/SEN/NSDFR/097/2019: ADJOURNMENT

The meeting was adjourned at 10.56 a.m.

SIGNED.....



(Chairperson)

DATE.....

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PETITION TO THE SENATE CONCERNING THE SETTLEMENT OF AWARDS TO
EX-KENYA AIRFORCE OFFICERS AND SERVICEMEN BY THE COURTS

Honourable Senators,

1. I hereby report to the Senate that a petition has been submitted, through the Clerk, by Mr. David G. Njau on behalf of Ex- Kenya Airforce Officers.
2. As you are aware, under Article 119(1) of the Constitution, and I quote:-
"Every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation."
3. Honourable Senators, the salient issues raised in the said Petition are:-
 - i) That the petitioners are ex-officers and servicemen of the Kenya Air Force, who served until the time the of attempted coup of 1st August 1982.
 - ii) That following the said attempt, they were arrested, tortured, detained and imprisoned for periods spanning from 6 months to several years and then dismissed unlawfully and unconstitutionally from the Kenya Air Force without compensation.
 - iii) That the petitioners filed petitions at the High Court of Kenya and were awarded different settlements by different judges on diverse dates.
 - iv) That after the awards the ex-officers applied and got certificate of Decree, Certificate of Taxation and Certificate of Order against the Government to make payment of the said compensation awards.
 - v) That their lawyers have written several demands and reminders to the Office of the Attorney General and copied to the Department of Defence which have gone unheeded for several years.
 - vi) That, the petitioners have further petitioned the Office of Ombudsman with no results to date.
4. The Petitioners therefore pray that the Senate urgently investigates this matter, with a view of compelling the State to make good the Court awards and settle the compensation awarded, together with the interest accrued thereon.

-
5. Honourable Senators, pursuant to standing order 225, I shall now allow comments, observations or clarifications in relation to the petition for not more than thirty minutes.

[after comments by Senators]

6. Honourable Senators, pursuant to standing order 226(1), the Petition should be committed to the relevant standing committee for its consideration. In this case, I direct that the Petition be committed to the Standing Committee on National Security, Defence and Foreign Relations.
 7. In terms of standing order 226(2), the Committee is required, in not more than sixty days from the time of reading the Prayer, to respond to the Petitioner by way of a Report addressed to the Petitioner, and laid on the Table of the Senate.
 8. I thank you.
-

REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI

(CORAM: OKWENGU, JA (IN CHAMBERS))

CIVIL APPLICATION NO. 270 OF 2018

BETWEEN

ATTORNEY GENERALAPPLICANT/INTENDED APPELLANT

AND

DAVID GITAU NJAU & 9 OTHERS. RESPONDENTS/INTENDED RESPONDENTS

(An application for extension of time for service of notice of appeal against the Judgment of the High Court of Kenya at Nairobi (Lenaola, J.) dated 1st November, 2013

in

Petition No. 340 of 2012)

ORDER

Before me is a notice of motion dated 19th September, 2018 for leave to file a notice of appeal out of time in regard to a judgment which was delivered on 1st November, 2013.

Although served with a hearing notice neither the applicant nor a representative is present in Court. In the circumstances and taking into account the prejudice likely to be suffered by the respondent due to the continued delay of this matter, I dismiss the notice of motion dated 19th September, 2018 under **Rule 56(1)** of the Court of Appeal Rules. Costs to the respondent.

Made at Nairobi this 24th day of July, 2019.

HANNAH OKWENGU

.....
JUDGE OF APPEAL



I certify that this is a true copy of the original.

DEPUTY REGISTRAR

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REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
MISC. CIVIL APPLICATION NO. 270 OF 2018
IN THE MATTER OF AN INTENDED APPEAL

25/01/2019

BETWEEN

ATTORNEY GENERALAPPLICANT/INTENDED APPELLANT

AND

1. DAVID GITAU NJAU
2. SHABAN DOSHO MWADOSHO
3. JOHANA KIPTARUS KISORIO
4. HASSAN MOHAMED HASSAN
5. DANIEL WILLIAM KOI
6. KHAMISI ALI MWAMGUTE
7. PETER MUTUNE MUNGAI
8. JACOB MWALIKO WANGAI
9. ALFRED KAHINDHI MWATHETHE
10. GRAHAM WAMBAA NJAU..... RESPONDENTS

REPLYING AFFIDAVIT

(Rule 50, The Court of Appeal Rules, 2010)

In response to the applicant's Notice of Motion lodged in Court on 19th
September 2018 seeking leave to file notice of appeal out of time

DRAWN & FILED BY:-

MBUGUA MUREITHI & CO. ADVOCATES
4TH FLOOR
JOSEM TRUST HOUSE (housing Barclays Bank)
NEXT TO NIC BANK
MASABA ROAD, OFF BUNYALA ROAD
LOWERHILL
P.O. BOX 52969 (00200)
NAIROBI.

(Tel: 0722-527229;

Email: mbugua.mureithi@yahoo.com)

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DATED AT NAIROBI THIS *25th* DAY OF *January* 2019

[Signature]
MBUGUA MUREITHI & CO.
(ADVOCATES FOR THE RESPONDENTS)

DRAWN & FILED BY:-

MBUGUA MUREITHI & CO. ADVOCATES
4TH FLOOR
JOSEM TRUST HOUSE (housing Barclays Bank)
NEXT TO NIC BANK
MASABA ROAD, OFF BUNYALA ROAD
LOWERHILL
P.O. BOX 52969 (00200)
NAIROBI.

TO BE SERVED UPON:-

THE HON. ATTORNEY GENERAL
ATTORNEY GENERAL’S CHAMBERS
STATE LAW OFFICE
SHERIA HOUSE
NAIROBI.

REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
MISC. CIVIL APPLICATION NO. 270 OF 2018
IN THE MATTER OF AN INTENDED APPEAL

BETWEEN

ATTORNEY GENERALAPPLICANT/INTENDED APPELLANT

AND

- 1. DAVID GITAU NJAU
- 2. SHABAN DOSHO MWADOSHO
- 3. JOHANA KIPTARUS KISORIO
- 4. HASSAN MOHAMED HASSAN
- 5. DANIEL WILLIAM KOI
- 6. KHAMISI ALI MWAMGUTE
- 7. PETER MUTUNE MUNGAI
- 8. JACOB MWALIKO WANGAI
- 9. ALFRED KAIHINDHI MWATHETIIE
- 10. GRAHAM WAMBAA NJAU..... RESPONDENTS

_____ 10

REPLYING AFFIDAVIT
(Rule 50, The Court of Appeal Rules, 2010)

I, DAVID GITAU NJAU a resident of Nairobi whose address of service for purposes of this application is C/o M/S MBUGUA MUREITHI & CO. ADVOCATES, P.O. BOX 52969 – 00200 Nairobi, do hereby make oath and state as follows:-

_____ 20

- 1. THAT I am the 1st respondent herein hence competent to swear this affidavit on my behalf and on behalf of my co-respondents.
- 2. THAT I have read the Notice of Motion application herein for leave to file notice of appeal out of time and the supporting affidavit of HENRY MURITHI MUGIIRA sworn on 19.09.2018 and wish to respond as follows:-
 - i) The named respondent in the said affidavit as “KENNETH KIPLAGAT” is not one of my co-respondents and I do not know him.

_____ 30

- ii) It is true as deposed at paragraph 2 that the judgment of Lenaola J, (as he then was) in High Court Petition No. 340 of 2012 intended to be appealed against was read and delivered on 01.11.2013.
- iii) It is true as deposed at paragraph 2 that the Applicant Attorney General, as expected of his legal duty under the Constitution, fully defended the said High Court Petition No. 340 of 2012.
- iv) It is not true as implied at paragraph 2 that the Applicant Attorney General did not take any post-judgment steps after delivery of the judgment on 01.11.2013 by Lenaola J, (as he then was) in the said High Court Petition No. 340 of 2012. _____ 10
- v) Further to subparagraph (iv) above I wish to state that after judgment was delivered on 01.11.2013 the Applicant Attorney General promptly filed a Notice of Appeal dated 05.11.2013 signed by Mr. Moimbo Momanyi, Litigation Counsel and on the same date he filed a request for certified proceedings and judgment dated 05.11.2013 signed by the same Mr. Moimbo Momanyi, Litigation Counsel and served both documents on my advocates on record. I annex herewith marked "DGN1" and "DGN2" true copies of the Notice of Appeal and request for certified proceedings and judgment, respectively.
- vi) In deference to the Applicant Attorney General's expressed intention to exercise the right of appeal to this Honourable Court, on advice of our advocates on record my co-respondents and I did not take out any post-judgment steps awaiting the Applicant Attorney General to actualize the intention to appeal. _____ 20
- vii) After waiting for seven (7) months since the filing of the Notice of Appeal by the Applicant, on 10.06.2014 our advocates on record wrote to the Deputy Registrar inquiring on the status of typing and certification of the proceedings and judgment as requested by the Applicant Attorney General on 05.11. 2013 and our advocates copied and served the letter on the Applicant Attorney General. I annex herewith marked "DGN3" a true copy of the said letter. _____ 30
- viii) Not having received a response to the letter at subparagraph (vii) above from the Deputy Registrar on 07.10.2014 our advocates wrote a

reminder to the Deputy Registrar. Unfortunately the said letter has since been misplaced and cannot be found.

- ix) The Deputy Registrar responded to our advocates' letter at subparagraph (viii) above vide a letter dated 06.11.2014 confirming that proceedings and judgment had been typed and certified on 15.01.2014 but were still in the Court file despite notification to the Applicant Attorney General to collect the same. The Deputy Registrar also confirmed having received our advocates' letter at subparagraph (vi) above and attached a response to the same together with a notice for collection of the certified proceedings and judgment issued to the Applicant Attorney General on 16.01.2014. I annex herewith marked "DGN4," "DGN5," "DGN6" and "DGN7" true copies of the letters of the Deputy Registrar of 16.01.2014, 24.06.2014, 06.11.2014 and duly certified typed proceedings, respectively. 10
- x) After receipt of the letters of the Deputy Registrar at subparagraph (ix) above with the confirmation that the proceedings had been typed almost one year ago our advocates advised my co-respondents and I which advice we verily believe to be true that by failing to collect the typed proceedings and judgment almost one year after notification by the Deputy Registrar the Applicant Attorney General must be taken to have abandoned the intention to appeal and deemed to have withdrawn the notice of appeal under Rule 83 of this Court's Rules. 20
- xi) Further to subparagraph (x) above our advocates on record advised my co-respondents and I and we verily believe to be sound that there being no stay of execution we were at liberty to take out the necessary post-judgment proceedings to progress the judgment to enforcement and we proceeded to extract the decree and to take out taxation of costs in which the Applicant Attorney General participated by filing submissions. Annexed hereto marked "DGN8" is a true copy of the submissions of the Applicant Attorney General on the Bill of Costs. 30
- xii) After taxation of costs my co-respondents and I through our advocates on record extracted the final Order Against Government and upon service on the Applicant Attorney General and failure to settle the sums in the Order Against Government we took out judicial review proceedings for the order of Mandamus to enforce settlement in High

Court Misc Application No. 303 of 2017 which our advocates on record duly served as deposed to at paragraph 5 of the said affidavit.

- xiii) The Applicant Attorney General duly defended the said judicial review proceedings vide a replying affidavit of the Principal Secretary (PS) Ministry of Defence one SAITOTI TOROME sworn on 08.12.2017 in which the PS did not dispute the Ministry's indebtedness in the judgment debt arising from the subject judgment of Lenaola J (as he then was) or indicate any intention to appeal against the subject judgment or seek a stay of the judicial review proceedings pending appeal against the subject judgment. I annex herewith marked "DGN9" a true copy of the said affidavit. 10
- xiv) Further to subparagraph (xiii) above the said PS SAITOTI TOROME expressly deposed that in fact the Ministry intended to settle the judgment thus; '3. *THAT to the best of my knowledge, the Ministry of Defence has not ignored, refused or neglected to obey and comply with the judgment issued on 01 November 2013.....6. THAT the decretal amount payable to the Ex-parte applicants was in the budgetary proposal of the Ministry of Defense but the same was not approved by the National Assembly...*' and further pleaded that '8. *THAT the delay in payment of the decretal amount is not intentional and not an act of disobedience or contempt to the court orders...*'. 20
- xv) Submissions of the Applicant Attorney General in the said judicial review proceedings were drawn on 06.03.2018 by the deponent of the subject affidavit HENRY MURITHI MUGIIRA who expressly submitted that, save for delay in parliamentary approval, the Ministry of Defence was willing and in the process of settling the judgment debt arising from the judgment now sought to be appealed against. I annex herewith marked "DGN10" a true copy of the said submission.
- xvi) As the judgment in the judicial review proceedings annexed to the said affidavit as annexure "HM-01" exhibits the order of mandamus compelling the PS, Ministry of Defence to settle the judgment debt in Petition No. 340 of 2012 was given on 16.03.2018 and there is no appeal or stay of execution against the said order of mandamus. 30

xvii) On 30.08.2018, exactly 20 days before the filing of the instant application, the Applicant Attorney General through one Irari Faith Mercy, Senior Litigation Counsel, wrote to our advocates on record indicating that the Applicant Attorney General was in the process of advising the Ministry of Defence to settle the judgment debt arising from the judgment now sought to be appealed. I annex herewith marked "DGN11" a true copy of the said letter.

xviii) I have read and understood the grounds of appeal contained in the applicant's annexed draft Memorandum of Appeal (HM-04) and the same are utterly pretended the learned trial judge having determined each of the issues raised on the basis of affidavits and oral evidence led by the respondents and I and in accordance with the law and the applicant having failed to lead any contrary evidence or at all.

3. THAT I verily believe that in all its circumstances the instant application is devoid of any merits, is prejudicial and a *mala fides* scheme to delay the fruits of the judgment in our favour belatedly sought to be appealed against, a case of *the left hand not knowing what the right hand is doing*, an uncanny scheme to evade accountability to Parliament for the delayed settlement and thus a clear and present abuse of the process of this Honourable Court.

4. THAT save for the information given to me the sources whereof are fully disclosed hereinabove the facts deposed to herein are true and within my own knowledge and belief.

SWORN at Nairobi by the said
DAVID GITAU NJAU

this 25th day of January 2019

BEFORE ME:-

A COMMISSIONER FOR OATHS



10

20

DRAWN& FILED BY:-

MBUGUA MUREITHI & CO. ADVOCATES

4TH FLOOR

JOSEM TRUST HOUSE (housing Barclays Bank)

NEXT TO NIC BANK

MASABA ROAD, OFF BUNYALA ROAD

LOWERHILL

P.O. BOX 52969 (00200)

NAIROBI.

(Tel: 0722-527229;

Email: mbugua.mureithi@yahoo.com)**TO BE SERVED UPON:-**

THE HON. ATTORNEY GENERAL

ATTORNEY GENERAL'S CHAMBERS

STATE LAW OFFICE

SHERIA HOUSE

NAIROBI.

This is the exhibit marked PCN
Annexed to in the Affidavit/Declaration
of David Gitau Njau
Sworn / Declared Before me this 25th
Day of January 2013 at Nairobi
in the Republic of Kenya

7

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL & HUMAN RIGHTS DIVISION
PETITION NO. 340 OF 2013



IN THE MATTER OF: ARTICLES 19, 20, 21(1), 22(1), 23(1) & (3) & 163(3)(a), (b), (d)-(f)
& (ii) OF THE CONSTITUTION OF THE REPUBLIC OF KENYA 2010

AND

IN THE MATTER OF: ARTICLES 27(1), (2), 28, 29(a), (d), (f), 49(1) (f) & 50(2) OF THE
CONSTITUTION OF THE REPUBLIC OF KENYA, 2010 (EQUIVALENT SECTIONS 70(a),
72(3), 74(1) & 77 OF THE FORMER CONSTITUTION)

AND

IN THE MATTER OF: THE ARMED FORCES ACT (CAP. 199, LAWS OF KENYA)

BETWEEN

- DAVID GITAU NJAU.....1ST PETITIONER
- SHABAN DOSHO MWADOSHO.....2ND PETITIONER
- JOHANA KIPTARUS KISORIO.....3RD PETITIONER
- HASSAN MOHAMMED HASSAN.....4TH PETITIONER
- DANIEL WILLIAM KOI.....5TH PETITIONER
- KHAMISI ALI MWAMGUTE.....6TH PETITIONER
- PETER MUTUNE MUNGAI.....7TH PETITIONER
- JACOB MWALIKO WANGAI.....8TH PETITIONER
- ALFRED KAHINDHI MWATHETHE.....9TH PETITIONER
- GRAHAM WAMBAA NJAU.....10TH PETITIONER

VERSUS

THE HON. ATTORNEY GENERAL.....RESPONDENT

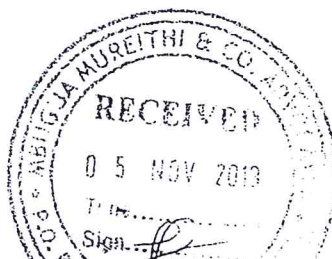
NOTICE OF APPEAL

(Under Rule 75 of the Court of Appeal Rules)

TAKE NOTICE that the Respondent, being dissatisfied with the judgment of the
Honourable Mr. Isaac Lenaola, given at Nairobi on the 1st day of November 2013,
intends to appeal to the Court of Appeal against the whole of the said judgment.

The address for service of the Appellant is care of Attorney General, Attorney
General's Chambers, State Law Office, Sheria House, and P.O. Box 40112-00100
NAIROBI.

It is intended to serve copies of this Notice on:-



10

20

30

TO BE SERVED UPON:

Mbugua Mureithi & Co. Advocates
Josem Trust House (Housing Barclays Bank of Kenya),
4th Floor,
P.O Box 52969-00200,
NAIROBI.

DATED at Nairobi this ^{7th} day of November 2013.

MOIMBO MOMANYI'
LITIGATION COUNSEL,
FOR: THE ATTORNEY GENERAL

_____ 10

TO: - The Deputy Registrar,
High Court of Kenya,
Nairobi.

LODGED in the High Court of Kenya at Nairobi, this _____ day of _____ 2013

.....
DEPUTY REGISTRAR

DRAWN AND FILED BY:-
The Attorney General
Attorney General's Chambers
Sheria House
P.O. Box 40112-00100
NAIROBI.

_____ 20

This is the exhibit marked DOD 2
Annexed to in the Affidavit/Declaration
of Daniel Gitau Njau
Sworn & Declared Before me this 25th
Day of January 2012 at Nairobi
in the Republic of Kenya

Commissioner for Oaths
REPUBLIC OF KENYA



9

**OFFICE OF THE ATTORNEY-GENERAL
AND
DEPARTMENT OF JUSTICE**

TBA

5TH NOV. 2013

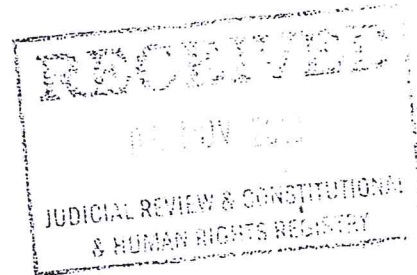
Your Ref:

AG/CPT/DOD/263/12

Date:

Our Ref:

TO: - The Registrar,
High Court of Kenya,
Nairobi.



Dear Sir / Madam,

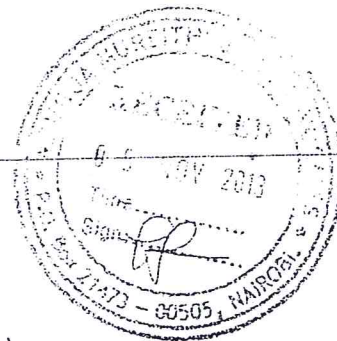
RE: DAVID GITAU NJAU & 9 OTHERS vs. THE HON. ATTORNEY GENERAL
NAIROBI HIGH COURT PETITION NO. 340 OF 2012

We make reference to the above captioned matter.

Kindly supply us with certified copies of the judgment delivered on the 1st day of November 2013 by Hon. Justice Isaac Lenaola and certified copies of the Proceedings, to enable us pursue an appeal.

Yours faithfully

Moimbo Momanyi,
Litigation Counsel,
FOR: THE ATTORNEY GENERAL



Cc: Mbugua Mureithi & Co. Advocates
Josem Trust House (Housing Barclays Bank of Kenya),
4th Floor,
P.O Box 52969-00200,
NAIROBI.

This letter is served to you in accordance with rule 82(1) and (2) of the Court of Appeal Rules, 2010.

ADVOCATES

Commissioners for Oaths & Notaries Public

Mbugua Mureithi

Joseph Trust House, 4th Floor
(Housing Barclays-Bank)
Next to NIC Bank
Masaba Road, Off Bunyala Road
Lower Hill
P.O. Box 52969-00200, Nairobi.

Tel: 020-2724998; 0722527229
Telefax 020-2724998
mnmureithi@yahoo.com
mmwanyambura@gmail.com
volewe2000@yahoo.com

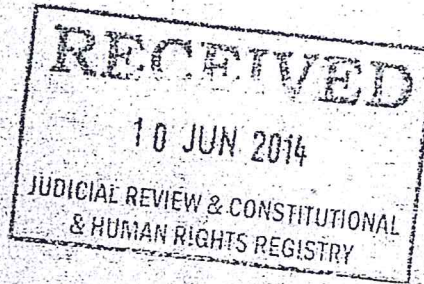
Victor Olewe

Our Ref: MM/DGN-10/1/12

Your Ref:

Date: 10th June 2014

The Deputy Registrar
High Court of Kenya
Constitutional &
Human Rights Division
Mibajau Law Courts
Nairobi.



RE: PETITION NO. 340 OF 2012

(DAVID GITAU NJAU & 9 OTHERS vs THE ATTORNEY GENERAL)

We refer to the above matter and the Respondent Attorney General's letter dated 5th November 2013 requesting for a certified typed record of the proceedings herein to enable him file an appeal against the judgment.

Kindly let us know if the typed proceedings are ready and whether the Hon. Attorney General has collected the same from you, as this will determine the petitioners' next cause of action in the matter.

Yours faithfully,
(Mbugua Mureithi & Co.)

[Signature]
Mbugua Mureithi
Advocate.

cc

The Hon. Attorney General
Attorney General's Chambers
State Law Office
Sheria House
Nairobi.

(Your Ref: AG/CPT/DOE/263/12)



This is the exhibit marked *DGNB*
Annexed to in the Affidavit/Declaration
of *David Gitau Njau*
Sworn/Declared Before me this *25th*
Day of *January*, 20*14* at *Nairobi*
In the Republic of Kenya

MILIMANI LAW COURTS, NAIROBI
Telephone 2716472/2716418/2716441/2716503
When replying please quote our Ref. No.



HIGH COURT OF KENYA,
P.O. BOX 30041-00100,
NAIROBI

REPUBLIC OF KENYA
JUDICIARY

Ref. A.G./C.P./D.C./263/12

Date 16/1/14

M/s. OFFICE OF THE ATTORNEY
GENERAL AND DEPARTMENT OF JUSTICE

PERSON
H.C. CASE NO. 340 OF 12

DAVID GITAU NJAU & 9 OTHERS vs THE 10
HON. A.G.

VERSUS

THE HON. ATTORNEY GENERAL

I refer to your letter Ref. No. A.G./C.P./D.C./263/12 dated 5/1/13

Please be informed that copies of proceedings/Ruling/Judgment are ready for collection from the Public Counter in 1st Floor, Room 103 on payment of Kshs. 3760/- being the requisite court charges.

NB The said copies will be certified soon after payment of the said amount.

[Signature]
FOR: DEPUTY REGISTRAR

HIGH COURT OF KENYA AT NAIROBI

20

Copy to:

- M.B.U.G.U.D. MURITHI
- Secy. Adv. Justice
- J.N.S.T. HSE, 4th Floor
- P.O. Box 59969
- N.B.

This is the exhibit marked DEN 4
Annexed to in the Affidavit/Declaration
of David Gitau Njau
Sworn / Declared Before me this 16th
Day of January 2014 at Nairobi
in the Republic of Kenya

[Signature]
Commissioner for Oaths

This is the exhibit marked DGN 5
Annexed to in the Affidavit/Declaration
Of David Njau Njau
Sworn / Declared Before me this 25th
Day of June 2014 at Nairobi
In the Republic of Kenya

12

Telegrams: "Court" Nairobi
When replying please quote
Tel. 2716414/86, 2716414/56



Commissioner for Oaths
**HIGH COURT OF KENYA
CONSTITUTIONAL & HUMAN
RIGHTS DIVISION
MILIMANI LAW COURTS
P. O BOX 30041-00100
NAIROBI.**

REPUBLIC OF KENYA
JUDICIARY

REF: PET No. 340/2012

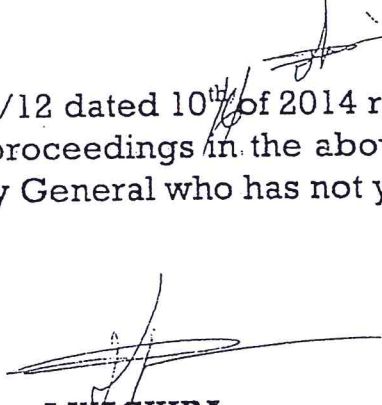
Mbugua Mureithi & co. Advocates
Josem Trust House
P.O box 52969-00200
NAIROBI.

25th/June/2014

RE; PETITION NO.340 OF 2012
DAVID NJAU & 9 OTHERS
VERSES

THE HON. ATTORNEY GENERAL.

Your letter Ref; MM/DGN-10/1/12 dated 10th of 2014 refers.
This is to kindly confirm that proceedings in the above matter are ready for
collection by the Hon. Attorney General who has not yet done so.

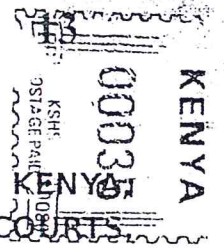

J. WACHIRA
FOR - DEPUTY REGISTRAR
CONSTITUTION AND HUMAN RIGHTS DIVISION
MILIMANI.

cc.

The Hon. Attorney General
Attorney Generals Chambers
State law office
Sheria House
NAIROBI.



This is the exhibit marked... Page 6
Annexed to in the Affidavit/Declaration
Of David Gitau Njau
Sworn / Declared Before me this... 5th
Day of January, 2014 at Nairobi



Telegrams: "Court" Nairobi the Republic of Kenya

When replying please quote



HIGH COURT OF KENYA
MILIMANI LAW COURTS

P. O BOX 30041-00100,
NAIROBI.

Ref: PET 340/2012

JUDICIARY

Date: 6th November 2014.

M/s Mbugua Murithi & Co. Advocates
Josem Trust House, 4th Floor
(Housing Barclays Bank)
Nest to NIC Bank
Masaba Road, Off Bunyala Road Lower Hill
P. O. Box 52969 - 00200
NAIROBI

10

RE: NAIROBI/HC PETITION NO. 340 OF 2012

DAVID GITAU NJAU & 9 OTHERS VS. THE ATTORNEY GENERAL

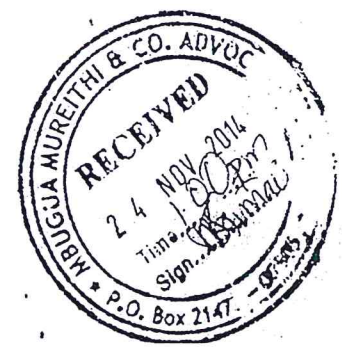
We refer to your letter Ref MM/DGN-10/1/12 dated 7th October 2014.

Your letter dated 10th June 2014 was received in our office on 10th June 2014 and a response was made vide our letter dated 25th June 2014 a copy of which is herein annexed together with a copy of the notice to the office of the Attorney General issued on the 16th January 2014 and copied to your office.

20

A copy of the proceedings and Judgment certified on 15th January 2014 by Hon. Wanjala Deputy Registrar are still in the Court file awaiting collection.

A. N. ONGERI (MRS.)
CM/DEPUTY REGISTRAR
CONSTITUTIONAL & HUMAN RIGHTS DIVISION



~~REPUBLIC OF KENYA~~

IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL & HUMAN RIGHTS DIVISION

PETITION NO. 340 OF 2012

BETWEEN

- DAVID GITAU NJAU.....1ST PETITIONER
- SHABAN DOSHO MWADOSHO.....2ND PETITIONER
- JOHANA KIPTARUS KISORIO.....3RD PETITIONER
- HASSAN MOHAMED HASSAN.....4TH PETITIONER
- DANIEL WILLIAM KOI.....5TH PETITIONER
- KHAMISI ALI MWAMGUTE.....6TH PETITIONER
- PETR MUTUNE MUNGAI.....7TH PETITIONER
- JACOB MWALIKO WANGAI.....8TH PETITIONER
- ALFRED KAHINDHI MWATHETHE.....9TH PETITIONER
- GRAHAM WAMBAA NJAU.....10TH PETITIONER

AND

THE HON. ATTORNEY GENERAL.....RESPONDENT

PROCEEDINGS

Mr. Evans for Mbugua Mureithi & Co. Advocates for the Plaintiff

advocate for the other party called,

This is the exhibit marked DEN 7
 Annexed to in the Affidavit/Declaration
 of David Gitau Njau
 Sworn / Declared Before me this 25th
 Day of January, 2019 at Nairobi
 In the Republic of Kenya

.....
Commissioner for Oaths

~~Defendant but not present ex parte hearing/mention date fixed for~~

5th October, 2012.

SIGNED

DEPUTY REGISTRAR

5.10.2012

Before Hon. M. Njugi J

Court clerk: Kazungu

Ms. Gikonyo holding brief for Mr. Mbugua Mureithi for the
Petitioners

No appearance for the Respondent

Court: Let the mention notice be served upon the Attorney General
on the 5th November, 2012.

M. NGUGI

JUDGE

5.11.2012

Coram: Lenaola J

Court clerk: Irene

Miss Gikonyo holding brief for Mr. Mbugua Mureithi for Petitioners

No appearance for Respondent