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THIRTEENTH PARLIAMENT | THIRD SESSION

THE SENATE

STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS

REPORT ON THE PETITION ON PERSISTENT INSECURITY, CATTLE RUSTLING, LOSS OF LIVES AND PROPERTY IN LORROKI AND MALASO DIVISIONS OF SAMBURU CENTRAL SUB COUNTY

APPROVED
RT. HON. SEN
AMASON J. KINGI
Rt. Hon. Speaker
You may approve for tabling
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Clerk of the senate/secretary, PSC
Date: 09/05/2024

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

19/05/2024

May, 2024

PAPERS LAID	
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TABLED BY	Majority Whip
COMMITTEE	National Security
CLERK AT THE TABLE	Angela

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LIST OF ABBREVIATIONS AND ACRONYMS

COK	- Constitution of Kenya
CS	- Cabinet Secretary
IDP	- Internally Displaced Person
IG	- Inspector General
MCA	- Member of County Assembly
NPR	- National Police Reservist
NPS	- National Police Service

PRELIMINARIES

Establishment and Mandate of the Committee

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

Membership of the Committee

The Committee is comprised of –

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

The Minutes of the Committee in considering the Petition on persistent insecurity, cattle rustling, loss of lives and property in Lorroki and Malaso Divisions of Samburu Central Sub County are attached to this Report as *Annex 1*.

FOREWORD BY THE CHAIRPERSON

Hon. Speaker,

The Petition was presented in the Senate on Tuesday, 28th November, 2023, by Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP, Senator for Samburu County on behalf of residents of Samburu, following which it was committed to the Standing Committee on National Security, Defence and Foreign Relations for consideration.

The salient issue in the Petition relates to persistent insecurity and cattle rustling in Lorroki and Malaso Divisions of Samburu Central Sub County. This has led to loss of lives and property, as well as the disruption of economic activities in the affected areas, with over fifty nine (59) lives lost, twenty-two (22) people injured, two thousand eight hundred and thirty six (2,836) cows stolen and three thousand six hundred and sixty three (3,663) goats stolen. The insecurity has also resulted in the disruption of learning and closure of schools and displacement of people in Amaya and Nasur Sub Locations.

The Petition by the Samburu residents was thus for the enforcement of property rights, improved connectivity including development of security roads in the affected areas, implementation of community policing initiatives through enhancement of National Police Reservists, programmes to cushion students affected by cattle rustling from dropping out of school and the creation of a new sub county to be known as Suguta Marmar Sub County for enhance coordination of national government operations and security provision in the area.

Hon. Speaker,

In considering the Petition, the Committee first met with the Petitioners. This was to enable the Committee to better understand the issues raised in the Petition, the interventions that the community has sought so far and whether the same have been successful and the remedies that they sought from the Committee and the Senate.

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

Hon. Speaker,

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

- a) The Committee observed that the displacement of households in the Lorroki and Malaso Divisions is partly attributed to the banditry attacks and also a directive by the Ministry of Interior and National Administration to pave way for operations aimed at flushing out bandits. Unfortunately, the operations have had no significant impact as the bandits continue to move closer to the people.
- b) The Committee observed that there is need for the establishment of a new sub county in the area to be named Suguta-Marmar Sub County in order to bring government services closer to the people and to enhance seamless coordination of Government operations.

The Committee further observed that –

1. The displaced households living in IDP camps are in dire need of humanitarian assistance of items such as food, shelter and clothing. There is need for the Government to intervene in line with the Prevention and Protection of Internally Displaced Persons Act, CAP 134 A of the Laws of Kenya.
2. There is need to settle the boundary dispute between Samburu County and West Pokot County. The County Boundaries Bill, 2023 (Senate Bills No. 6 of 2023) sponsored by Sen. Moses Kajwang’, MP seeks to bring into effect Article 188 of the Constitution and will pave way for the clear delineation of county boundaries. The Bill was passed in the Senate on Thursday, 25th April, 2024 and was referred to the National Assembly for consideration.
3. Currently, the offence of stock theft is provided for under section 278 of the Penal Code which provides for a punishment upon conviction of not more than fourteen (14) years, which term does not serve as a deterrent to criminals.
4. The Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) sponsored by Sen. Samson Cherarkey, MP and Hon. Rahim Dawood, MP proposes to repeal section 278 of the Penal Code, among other pieces of legislation proposes the enhancement of the penalty to imprisonment of not less than twenty (20) years for the perpetrators of cattle theft and life imprisonment where violence or threats of violence is used. The Bill was passed by the Senate on 21st February, 2024 and was referred to the National Assembly for consideration. Subsequently the Bill was read a First Time in the National Assembly on 16th April, 2024.

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

Hon. Speaker,

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

- 1) That the Senate leadership prevails upon the leadership of the National Assembly to fast track the consideration of the Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) and the County Boundaries Bill, 2023, (Senate Bills No. 6 of 2023) in accordance with the National Assembly Standing Orders.
- 2) That the Ministry of Interior and National Administration clears bandits from the affected areas and resettles the local community in their homes within **one month** of tabling of this Report.
- 3) That the Directorate of Criminal Investigations investigates allegations of land grabbing in the affected areas and provides a status report to the Senate within **six months** of tabling this Report in the Senate.
- 4) That the Ministry of Interior and National Administration and the County Government of Samburu develops road infrastructure for ease of access by security agencies to banditry affected areas and provides a status report to the Senate within **six months** of the tabling of this Report.
- 5) That the Ministry of Information, Communication, Technology and Digital Economy and the Communications Authority of Kenya installs network and communication systems including cellular boosters in the affected regions and provides a status report to the Senate within **six months** of the tabling of this Report.
- 6) That the Ministry of Interior and National Administration in conjunction with the Ministry of Education develop initiatives for the re-construction and renovation of schools vandalized by bandits and provide a status report to the Senate within **six months** of the tabling of this Report.
- 7) That the Ministry of Interior and National Administration provides adequate security to the schools in Malaso and Lorroki Divisions of Samburu Central Sub County to ensure the resumption of learning in the affected institutions and provides a status report to the Senate within **six months** of the tabling of this Report.
- 8) That the Ministry of Interior and National Administration establishes a new sub county to be named Suguta-Marmar Sub County to enhance presence and coordination of National Government operations and provide a status report to the Senate within **six months** of the tabling of this Report.
- 9) That the Inspector General, National Police Service deploys additional National Police Reservists in the Lorroki and Malaso Divisions of Samburu Central Sub County ensuring timely payment of their remuneration and develops proper accountability mechanisms for the NPRs with regard to the use of firearms and command structure. Further,

the Ministry of Interior and National Administration should liaise with the Office of the Inspector General of the National Police Service to come up with proper measures and incentives to ensure that NPRs do not misuse their firearms and provide a status report to the Senate within **six months** of the tabling of this Report.

- 10) That the Ministry of Labour and Social Protection provides social services in terms of food, clothing and shelter to the affected displaced households in Lorroki and Malaso Divisions of Samburu Central Sub County and provides a status report to the Senate within **six months** of the tabling of this Report.
- 11) That the Ministry of Interior and National Administration fully operationalizes community policing initiatives in order to ensure community participation in security matters in the affected regions.
- 12) That the Ministry of Interior and National administration ensures that the internally displaced persons within Samburu County as a result of the insecurity, are well protected and provided with support in line with the Prevention, Protection and Assistance of Internally Displaced Persons Act.
- 13) While there is no avenue of compensation for the lost cattle as a result of the insecurity, we recommend that the Directorate of Criminal Investigations carries out thorough investigations into the alleged theft for the purpose of prosecution of the perpetrators by the Office of the Director of Public Prosecutions and provide a status report to the Senate within **six months** of tabling of this Report.

Hon. Speaker,

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

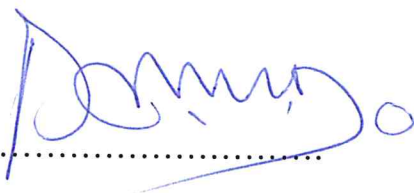
Lastly, I wish to thank the Offices of the Speaker and the Clerk of the Senate for the support accorded to the Committee during the consideration of this Petition.

Hon. Speaker,

It is now my pleasant duty, pursuant to Standing Order 238(2), to present the Report of the Standing Committee on National Security, Defence and Foreign Relations on

the Petition on persistent insecurity, cattle rustling, loss of lives and property in Lorroki and Malaso Divisions of Samburu Central Sub County.

Signed.....




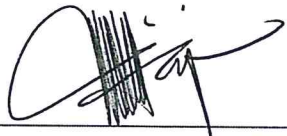
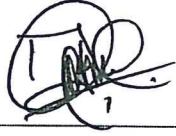
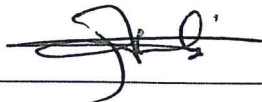
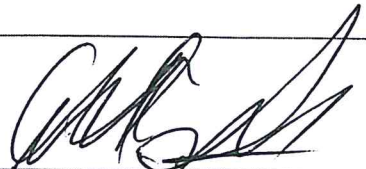
Date.....

08.05.24

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

ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS ON THE PETITION ON PERSISTENT INSECURITY, CATTLE RUSTLING, LOSS OF LIVES AND PROPERTY IN LORROKI AND MALASO DIVISIONS OF SAMBURU CENTRAL SUB COUNTY

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

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

CHAPTER ONE: INTRODUCTION

1.1 Summary of the Petition

1. The right to present petitions to public authorities is provided for under Article 37 of the Constitution. Article 119(1) further provides that ‘Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.’
2. Parliament enacted the Petition to Parliament (Procedure) Act, No. 12 of 2012, to make provision for the procedure for the exercise of this right. Further, Part XXVII of the Senate Standing Orders also makes provision on how this right may be exercised.
3. Pursuant to the said provisions, at the sitting of the Senate held on Tuesday, 28th November, 2023, Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP, Senator for Samburu County presented to the Senate a Petition on persistent insecurity, cattle rustling, loss of lives and property in Lorroki and Malaso Divisions of Samburu Central Sub County. A copy of the Petition is attached to this Report as *Annex 2*, while an extract of the Hansard for the Senate sitting of Tuesday, 28th November, 2023, 2023 is attached as *Annex 3*.
4. The salient issues raised in the Petition were that –
 - i) there has been persistent insecurity and cattle rustling in Lorroki and Malaso Divisions of Samburu Central Sub County;
 - ii) this has led to loss of lives and property, as well as the disruption of economic activities in the affected areas, with over fifty nine (59) lives lost, twenty-two (22) people injured, two thousand eight hundred and thirty six (2,836) cows stolen and three thousand six hundred and sixty three (3,663) goats stolen.
 - iii) the insecurity has also resulted in the disruption of learning and closure of schools leading to an increase in school dropouts and poor performance of the learners;
 - iv) despite the constitutional protection of the rights of all Kenyans including the right to life, right to property and security of person, residents of Lorroki and Malaso Divisions have endured a sustained security crisis for approximately two (2) years; and
 - v) despite the presence of multi-agency security forces deployed in the said Divisions, their efforts to contain the security situation have yielded little to

no success and have been proven to be insufficient in providing adequate protection for the residents and their property.

5. The Petitioners therefore prayed that the Senate –
 - a) inquires into the circumstances of the matter by engaging various relevant government agencies with a view to establishing the root causes of the insecurity challenges plaguing Lorroki and Malaso Divisions and make appropriate recommendations;
 - b) investigates the magnitude of losses incurred by the area residents and make recommendations for appropriate compensation to the affected individuals and families;
 - c) makes appropriate recommendations to the government with a view to prioritizing the enforcement of property rights in order to protect the citizens and their belongings;
 - d) makes appropriate recommendations to the relevant government agencies for improved connectivity including development of security roads in the said divisions with a view to enhance rapid response and accessibility by security forces;
 - e) makes appropriate recommendations for implementation of community policing initiatives through enhanced National Police Reservists to empower the residents of the affected area to actively participate in their own protection to foster a sense of ownership and collective responsibility for security matters;
 - f) recommends that the government implements a programme to cushion students of victims of cattle rustling from dropping out of school through payment of fees or scholarships or offering food for learning services;
 - g) makes recommendations for the proposed creation of a new sub county to be known as Suguta Mar Mar Sub County so as to enhance coordination of national government operations and security provision in the affected region; and
 - h) makes any other recommendation or action it deems fit in addressing the plight of the Petitioners to foster peace, stability and development in the region.

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

1.2 Analysis of Legal Issues

1.2.1 The Concept of National Security in Kenya

7. Article 238 of the Constitution of Kenya sets out the legal framework for understanding and responding to any security threats in Kenya through a myriad of principles. The article defines national security as the protection against both internal and external threats to various aspects of the nation, including its territorial integrity, sovereignty, people, their rights and freedoms, property, peace, stability, prosperity, and other national interests.
8. The above definition of national security takes into account a wide range of potential threats that could undermine the economic, political and social well-being of the nation and its citizens. The Article also divides security threats in Kenya into two broad categories namely; external and internal threats. External threats may include foreign aggression, cross-border conflicts, or international terrorism. On the other hand, internal threats could arise from civil unrest, crime, corruption, or political instability.
9. When defining the concept of national security, the Constitution of Kenya places a great emphasis on the protection of people's rights, freedoms, and property. It recognizes that national security is not just about defending the state itself, but also about safeguarding the fundamental liberties and well-being of its citizens. This holistic approach to national security prioritizes human security alongside traditional state security concerns.
10. Further, the inclusion of the concepts of "peace, stability, and prosperity" in the definition of national security highlights the importance of maintaining a stable and harmonious society as a key component of national security. This suggests that addressing social, economic, and political grievances that could lead to unrest or conflict is crucial for ensuring the nation's overall security.
11. Moreover, the reference to "other national interests" provides flexibility for the government to identify and respond to emerging or unforeseen threats that may jeopardize not only the territorial integrity of Kenya but individual rights as well.
12. In terms of implementation, Article 238 of the Constitution provides a foundation for developing comprehensive national security policies, strategies, and frameworks that address the full spectrum of potential threats. It also underscores the need for collaboration and coordination among various

government agencies, including the military, intelligence services, and the National Police Service, to effectively protect Kenya and her citizens.

13. Article 238 of the Constitution of Kenya, therefore, provides a people-centred approach to national security, insisting on the protection of territorial integrity, sovereignty, individual rights and freedoms, property, peace, stability, and prosperity.

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

14. One of the prayers by the petitioners is for compensation of lost properties by the government of Kenya. It must be noted that the role of the Senate is clearly stipulated under Article 96 of the Constitution, which role does not extend to the compensation of victims of cattle rustling. However, in the course of conducting an inquiry, a Senate committee may make recommendations to the relevant state agencies for compensation of victims where it is established that the loss of the private properties was occasioned by the actions of the state agency. In instances where private property is however lost as a result of theft by private individuals, the law only provides for a recourse in criminal law through prosecution of the offenders as opposed to compensation of the affected communities, families or individuals.
15. One of the instances in which the government of Kenya is obligated to compensate for lost private property is when the government exercises compulsory acquisition. Article 40(3) of the Kenyan Constitution, protects individuals from deprivation of their property by the state. The state can only acquire land or interest in land for public purposes or in the public interest, and such acquisition must be carried out in accordance with the Constitution. The state is obligated to promptly pay full and just compensation to the person from whom the land is acquired. Furthermore, any person with an interest or right over the acquired property has the right to access a court of law.
16. Further, under principles 7 (3)(b) and 29 (2) on the United Nations Guiding Principles on Internal Displacement, the government of Kenya has an obligation to compensate for lost private property as a result of internal displacements. Kenya has domesticated these principles under the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act (Cap 134A) of the Laws of Kenya. Further, the UN principles are applicable to Kenya under Article 2 (5) and (6) of the Constitution which provides that the general rules of international law shall form part of the Laws of Kenya under the

Constitution and that any treaty or convention ratified by Kenya, shall form part of the Laws of Kenya under the Constitution. It therefore follows that families which have lost properties as a result of internal displacement arising from insecurity can claim compensation from the government under the Protection and Assistance to Internally Displaced Persons and Affected Communities Act (Cap 134A) of the Laws of Kenya.

17. Despite the existence of legal provisions, the implementation of compensation mechanisms in Kenya has sometimes been hindered by factors such as limited resources, bureaucratic challenges, corruption, and political considerations. Further, while there have been some efforts to compensate and resettle affected internally displaced persons in the past, the process has often been slow, controversial, and not always comprehensive.
18. In Kenya, when private property, such as livestock, is lost due to theft, the primary legal recourse has traditionally been through criminal law. Specifically, the offense of stealing stock, as outlined in Section 278 of the Penal Code (Cap 63), has been the main provision used to prosecute such cases. Under this section, anyone who steals any cattle, horse, ass, mule, sheep, or goat, or knowingly receives such stolen animals, is guilty of a felony and is liable to imprisonment for a term of 14 years. This approach has been the standard way of addressing livestock theft in Kenya, with the focus being on punishing the perpetrators through criminal proceedings. The Constitution of Kenya however encourages out of court settlements and therefore the accused person and the complainant may agree to have the matter withdrawn from court upon compensation. The government of Kenya however does not compensate in such instances.

1.2.3 Community Policing Initiatives in Kenya

19. Article 244(e) of the Constitution of Kenya lays the groundwork for community policing by requiring the National Police Service to foster relationships with the broader society. Section 2 of the National Police Service Act (No. 11A of 2011) further defines community policing as a collaborative approach involving voluntary participation of local communities in maintaining peace, identifying and solving problems, and preventing crime.
20. On the basis of Section 10 (1) (k) of the Act, the Inspector-General of the National Police Service has issued guidelines on Community Policing to ensure co-operation between the Service and the communities it serves in combating crime.

21. Under section 97 of the National Police Service Act, the County Policing Authorities are responsible for the implementation of community policing policies and guidelines, facilitation of training members of community policing within the county, receiving reports from local community policing structures and preparing county community policing reports for submission to the Cabinet Secretary. However, this provision is yet to be operationalised. Under section 126 of the Act, the Cabinet Secretary for Interior and National Administration is empowered to issue policy guidelines to the Service with regard to the functioning of the County Policing Authorities, receiving regular reports from the County Policing Authorities and facilitating the involvement of the public in the activities of the Service.
22. In line with section 98 of the Act, the government has established Community Policing Committees (CPCs) at the local level to facilitate communication and cooperation between the police and the community. These committees have been set up in many parts of the country, but their effectiveness varies depending on factors such as local leadership, resources, and community participation.
23. In the year 2023, the government launched the Nyumba Kumi (Ten Houses) Initiative, which aims to enhance community policing by encouraging residents to know their neighbours and report suspicious activities. The initiative has been implemented in some areas, particularly in urban settings, but its uptake and effectiveness have been mixed.

1.2.4 Deployment of National Police Reservists

24. Section 110C (b) of the National Police Service Act, bestows the responsibility for the deployment of National Police Reservists (“NPR’s”) to the Inspector General of the National Police Service in consultation with the National Security Council. Under section 113 of the Act however, the County Police Commanders may in writing request any National Police Reservist residing within their county to undertake the duties of a police officer.
25. The recruitment of the NPR’s is however, vested upon the National Police Service Commission in consultation with the Inspector General of the National Police Service in accordance with section 110 C(a) of the National Police Service Act. The National Security Council also plays a significant role in determining the maximum number of National Police Reservists in the country.

26. Section 110 (3) of the National Police Service Act, provide for the duties and responsibilities of the National Police Reservists. The section provides that the Reserve officers can be deployed to assist the Kenya Police Service and the Administration Police Service in various tasks, including maintaining law and order, preserving peace, protecting life and property, preventing and detecting crime, apprehending offenders, and enforcing laws and regulations.
27. Before deployment, NPR officers must undergo vetting and training. They are provided with proper uniforms, service identity cards, and weapons. While serving, NPR officers are bound by the same requirements as regular police officers and are supervised by the National Police Service.
28. It is noteworthy that despite the provisions of the National Police Service Act, the former Cabinet Secretary for Interior and National Administration, Hon. Fred Matiangi commenced a disarmament programme of all the NPR's as part of the accountability for all weapons issued by the government to the NPR's. Further, the former Cabinet Secretary indicated that all the NPRs were to be registered biometrically. This was to further avert misuse of the firearms by the National Police Reservists. Community leaders in the affected regions however have insisted that the disarmament of NPR's only empowers the bandits in the affected regions to perpetrate their heinous acts.

1.2.5 Delimitation of Boundaries

29. Under Article 188 of the Constitution, the alteration of County Boundaries can only be effected upon a recommendation of the Independent Commission set up for that purpose by parliament and upon passage of a resolution by at least two thirds of members of the National Assembly and the Senate. Currently the independent commission for review of the county boundaries is yet to be set up and therefore hindering the delineation of the county boundaries.
30. The County Boundaries Bill, 2023 (Senate Bills No. 6 of 2023) sponsored by Senator Moses Kajwang' seeks to establish the Commission to give effect to Article 188 of the Constitution. The Bill was passed in the Senate on Thursday, 25th April, 2024 and was referred to the National Assembly for consideration.

CHAPTER TWO: CONSIDERATION OF THE PETITION

2.1 Introduction

31. The Petition on persistent insecurity, cattle rustling, loss of lives and property in Lorroki and Malaso Division of Samburu Central Sub County was presented in the Senate on Tuesday, 28th November, 2023, following which it was committed to the Standing Committee on National Security, Defence and Foreign Relations.
32. In considering the Petition, the Committee received both written and oral evidence from the Senator, Samburu County, the Petitioners and the Cabinet Secretary, Ministry of Interior and National Administration.

2.2 Submissions by the Petitioners

33. At its 77th sitting held on Thursday, 7th March, 2024, the Committee met with the Senator, Samburu County and the Petitioners to deliberate on the Petition.
34. Upon invitation by the Committee the Petitioners submitted that-
 - a) the banditry attacks had caused loss of many lives, livestock, land, livelihood and disruption of education and the people are residing in IDP camps. The petitioners stated that as at 25th, February, 2024, the number of goats stolen were three thousand eight hundred and ninety six (3896) and three thousand two hundred and seventy six (3276) cows. The petitioners provided affidavits and burial permits for people who had been injured or killed;
 - b) the piece of land the community had given for conservancy for the conservation of wildlife has been infested by bandits;
 - c) the cases of banditry attacks are almost on daily basis and there is no satisfactory response by the security agencies;
 - d) the issue of insecurity began many years ago between 2004 and 2006 between the Samburu and Pokot, which was initially taken to be a case of cattle rustling, but it has now evolved in to a different situation where residents are attacked and killed in the houses without stealing of property;
 - e) the area near the conservancy has been deserted and the conservancy occupied by bandits who have also killed the wild animals in the conservancy. The petitioners stated that the locations affected are Malaso, Pura, Tinga, Loosuk, Moriyo, Lolmolok and Longewan. They stated that the displaced persons are housed in four camps which are Laibor Ngare (457 households and 2742 people), Lolkunono (350 households and 2100 people), Loosuk (470 households and 2350 people) and Lolmolok-lororos (380 households

and 2280 people) as at 23rd, March, 2023. They provided a map showing the area affected by the insecurity;

- f) there are very many camps, lodges and schools (five primary schools and eleven Early Childhood Development Education Centres) which are inaccessible;
- g) residents left their homes following a directive by the Ministry of Interior and National Administration to flush out bandits from the area, but no operation was conducted and the bandits have continued moving closer to the communities;
- h) the persistent insecurity is not an issue of cattle rustling but fuelled by the intention for land grabbing;
- i) Samburu county did not get a new sub-county in the newly gazetted administrative units;
- j) there is a stretch of about 50km from where the people are to the border of Baringo County and about 100km stretch in the conservancy;
- k) only one community was disarmed by the government and showed a picture of the fire-arms surrendered to the Ministry of Interior and National Administration;
- l) they had a report from the Kenya National Human Rights Commission which indicated a dire security situation in Samburu and made various recommendations including deployment of adequate security personnel; heightening intelligence and surveillance; expeditious investigation and prosecution; and investigation on land ownership and attacks.

35. The Petitioner therefore prayed that the Senate-

- a) recommends that the government protects the wildlife in the conservancy, provides the community with titles for their land and ensure sustainable security so that the residents can undertake development activities;
- b) makes appropriate recommendation to look in to the plight of women who adversely impacted by the insecurity through loss of children, husbands, hardships in taking care of orphaned children, loss of their livestock and lack of food;
- c) recommends for the development of road infrastructure to open-up inaccessible areas
- d) recommends that the government takes the people back to their land and homes;
- e) makes recommendation for the repair and re-opening of vandalized schools;
- f) makes recommendation for the provision of security in the highways;
- g) recommends that the government creates a new sub-county to be named Suguta-Marmar.

36. A copy of the submissions by the Petitioners is attached to this Report as *Annex 4*.

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

37. The Committee received written submissions from the Cabinet Secretary, Ministry of Interior and National Administration on the Petition. The Cabinet Secretary submitted as summarized below.

a) the root causes of the insecurity in Lorroki and Malaso Divisions included-

- i. Infiltration of small arms
- ii. Negative moranism
- iii. Illiteracy.
- iv. Lack of security roads and poor terrain (inaccessible).
- v. Poor network/cellular network.
- vi. Boundary dispute between Baringo and Samburu Counties.
- vii. Limited social amenities/Government infrastructure.
- viii. Tribal animosity between the Pokots and Samburus
- ix. Conflict over pasture and water.

b) On the magnitude of the losses incurred to the area residents considering the significant loss of property and make recommendations for appropriate compensation to the affected individuals and families, the Cabinet Secretary submitted as follows-

- i. 50 families were displaced which led to five Loloras (make shift security camps/homes) including Lorukoli, Rangau, Simiti, Tadwarai and Kao
- ii. Number of livestock stolen and un-recovered -1975
- iii. Number of livestock stolen and reported -3765
- iv. Number of livestock recovered - 1790
- v. Number of people injured - 16
- vi. Number of people killed - 36
- vii. Number of officers killed - 4
- viii. Number of officers injured - 9
- ix. Bandits killed - 13
- x. Suspect arrested -19
- xi. Number of firearms recovered - 103

- c) On making appropriate recommendations to the Government with a view to prioritizing the enforcement of property rights in order to protect the citizens and their belongings, the Cabinet Secretary pointed out that as per the Constitution of Kenya, the State was entitled to promote the intellectual property rights of the people of Kenya. He cited Article 40 (1) providing that, “every person has a right, either individually or in association with, to acquire and own property (a) of any description and (b) in any part of Kenya”. The Cabinet Secretary reiterated that the Government, through the various agencies was committed to ensure protection of property rights in the Country.
- d) On making appropriate recommendations to the relevant government agencies for improved connectivity including development of security roads in the said divisions with a view to enhance rapid response and accessibility by security forces, the Cabinet Secretary submitted that the Government had plans to rehabilitate the following security roads in the region-
- i. Longewan-Leparachao-Lera Road
 - ii. Longewan- Nasur-Amaiya
 - iii. Pura-Kurkur-Namitiyon-Nakule-Akuchatis-Lomolo-Malaso-Poro - Lporokumai - Naipoki-Malaso
 - iv. Loosuk-Nonkera-Leoroni-Kurkur
 - v. Longewan-Loiting Road
 - vi. Longewan-Lentarakwai-Leparachao
 - vii. Longewan-Amaiya
 - viii. Longewan-Mparingon
 - ix. Ntarakwa-Leparachao
 - x. Leparachao-Nkisero-Logorate
 - xi. Ndonyo Empuya-Ndonyo Esirai-Lolmolog
 - xii. Lowamara-Lolmolog
 - xiii. Leparachao-Loiting
 - xiv. Longewan-Lentarakwai-Loiting
- e) The Cabinet Secretary also pointed out that the Communication Authority of Kenya should be urged to provide cellular booster to improve network.
- f) On making appropriate recommendations for implementation of community policing initiatives through National Police Reservists, the Cabinet Secretary noted that a total of five hundred and fifty two (552) NPR’s were recruited in Samburu County and deployed after elaborate and intensive training.
- g) On recommending that the Government implements a programme to cushion students of the victims to cattle rustling from dropping out of

school, the Cabinet Secretary proposed that the Ministry of Education ought to consider the following-

- i. expanding school feeding programs to primary schools in affected areas;
 - ii. enhancing recruitment of more local teachers;
 - iii. providing bursary/scholarship
 - iv. enhancing improving of school infrastructure and possibly making them boarding
- h) On the recommendation for the proposed creation of a new sub county to be known as Suguta-Marmar Sub- County as a way of enhancing coordination of National Government operations in the affected region, hnoted that the residents had proposed the creation of Samburu West Sub County with three divisions namely-
1. Nasur Division (to be hived from Lorroki Division)
 2. Longewan Division (to be hived from Lorroki Division)
 3. Malaso
- i) On making any recommendation or action deemed fit to address the plight of the Petitioners to foster peace, stability and development in the region, the Cabinet Secretary recommended the following-
- i. provision of more social amenities e.g boreholes, dispensaries and schools
 - ii. facilitating the NGAO's and Police with suitable vehicles, motorcycles for chiefs and assistant chiefs
 - iii. sensitizing the locals on the importance of embracing formal education
38. A copy of the submissions from the Cabinet Secretary is attached to this Report as *Annex 5*.

CHAPTER THREE: COMMITTEE OBSERVATIONS

39. Having considered the Petition and the responses and submissions received thereon, the Committee made observations as set out below-
- a) There has been persistent insecurity in Samburu County particularly Lorroki and Malaso Divisions of Samburu Central Sub County. This has adversely affected communities living in the affected areas leading to loss of lives, livestock, land, livelihood and disruption of education. The number of internally displaced persons as a result of the insecurity has also been rising on a daily basis necessitating families to seek refuge in IDP camps near town centres.
 - b) Cattle rustling and banditry are complex practices caused by a myriad of factors including territorial expansion, proliferation of firearms, competition and conflict over scarce resources, political incitement and interference, mistrust among communities and clans, poverty, illiteracy, marginalization among others.
 - c) The heightened insecurity in the area traces its roots back to the 2004 and 2006 Samburu and Pokot cattle rustling incidents but later evolved into organized crime where residents are attacked and killed in their houses with no intention of stealing of any property by the perpetrators.
 - d) Currently, the offence of stock theft is provided for under section 278 of the Penal Code which provides for a punishment upon conviction of not more than fourteen (14) years, which term does not serve as a deterrent to criminals.
 - e) The Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) sponsored by Sen. Samson Cherarkey, MP and Hon. Rahim Dawood, MP proposes to repeal section 278 of the Penal Code, the Branding of Stock Act and the Stock and Produce theft Act. In addition, the Bill proposes the enhancement of the penalty to imprisonment of not less than twenty (20) years for the perpetrators of cattle theft.
 - f) The Bill further proposes that where for the purpose of stealing livestock or in the course of stealing livestock violence or the threat of violence is used, such person is liable upon conviction to a life term of imprisonment. The Bill further provides that any person who procures, incites, hires, directs, instigates or colludes with another person to steal livestock will be liable

upon conviction to a term of imprisonment of not less than fifteen (15) years. The Bill was passed by the Senate on 21st February, 2024 and was referred to the National Assembly for consideration. Subsequently the Bill was read a First Time in the National Assembly on 16th April, 2024. A copy of the Bill is attached to this Report as **Annex 6**.

- g) The displacement of households in the area is partly attributed to the banditry attacks and also a directive by the Ministry of Interior and National Administration to pave way for operations aimed at flushing out bandits. Unfortunately, the operations have had no significant impact as the bandits continue to move closer to the people.
- h) The affected areas are part of the wider community land donated by the residents for wildlife conservation.
- i) The persistent insecurity and banditry may also be part of a wider scheme to grab land belonging to the local community and may not be connected to the issue of cattle rustling.
- j) There is inadequate transport and communication infrastructure that has made banditry affected areas inaccessible both in terms of incident reporting and movement of the security personnel.
- k) There is need for the establishment of a new sub county in the area to be named Suguta-Marmar Sub County in order to bring government services closer to the people and to enhance seamless coordination of Government operations.
- l) The displaced households living in IDP camps are in dire need of humanitarian assistance of items such as food, shelter and clothing. There is need for the Government to intervene in line with the Prevention and Protection of Internally Displaced Persons Act, CAP 134 A of the Laws of Kenya.
- m) There is need to settle the boundary dispute between Samburu County and West Pokot County. Under Article 188 of the Constitution, the alteration of county boundaries can only be effected upon a recommendation of the independent commission set up for that purpose by Parliament and upon passage of a resolution by at least two thirds of members of the National Assembly and the Senate. Currently the independent commission for review

of the county boundaries is yet to be set up therefore hindering the delineation of the county boundaries.

- n) The County Boundaries Bill, 2023, (Senate Bills No. 6 of 2023) sponsored by Sen. Moses Kajwang', MP seeks to bring into effect Article 188 of the Constitution and will pave way for the clear delineation of county boundaries. The Bill was passed in the Senate on Thursday, 25th April, 2024 and was referred to the National Assembly for consideration. A copy of the Bill is attached to this Report as **Annex 7**.
- o) The Constitution of Kenya and the National Police Service Act provide a strong framework for community policing in Kenya, emphasizing the need for collaboration between the police and local communities. On the basis of these laws the Inspector-General has issued guidelines on community policing to ensure cooperation between the police and the people. It is however noted that while County Policing Authorities play a key role in community policing through implementing policies, facilitating training, and preparing reports, the same is yet to be fully operationalized. The effectiveness of Community Policing Committees also varies depending on local factors.
- p) The Government has also taken steps to enhance community policing through initiatives such as the *Nyumba Kumi* (Ten Houses) Initiative, which encourages residents to know their neighbours and report suspicious activities. While this initiative has been implemented in some areas, particularly in urban settings, its uptake and effectiveness has been mixed. The success of community policing efforts depends on factors such as local leadership, resources, and community participation.
- q) Section 110C (b) of the National Police Service Act, bestows the responsibility for the deployment of National Police Reservists ("NPR's") to the Inspector General of the National Police Service in consultation with the National Security Council. Under section 113 of the Act however, the County Police Commanders may in writing request any National Police Reservist residing within their county to undertake the duties of a police officer.
- r) The former Cabinet Secretary for Interior and National Administration, Hon. Fred Matiangi, initiated a disarmament and biometric registration program for National Police Reservists (NPRs) to ensure accountability and prevent misuse of firearms. However, community leaders in affected regions argue that disarming NPRs only emboldens bandits to continue their heinous acts.

There is therefore a need for the Ministry of interior and National Administration to ensure that proper measures are put in place to enhance NPRs accountability to make the program effective.

- s) With regard to the issue of compensation, since the theft is carried out by individuals, there is no obligation on the Government for compensation, however, there is need for thorough investigations and prosecution of the perpetrators.

CHAPTER FOUR: RECOMMENDATIONS

40. Arising from its observations as set out in the preceding Chapter, the Standing Committee on National Security, Defence and Foreign Relations recommends the following-
- 1) That the Senate leadership prevails upon the leadership of the National Assembly to fast track the consideration of the Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) and the County Boundaries Bill, 2023, (Senate Bills No. 6 of 2023) in accordance with the National Assembly Standing Orders.
 - 2) That the Ministry of Interior and National Administration clears bandits from the affected areas and resettles the local community in their homes within **one month** of tabling of this Report.
 - 3) That the Directorate of Criminal Investigations investigates allegations of land grabbing in the affected areas and provides a status report to the Senate within **six months** of tabling this Report in the Senate.
 - 4) That the Ministry of Interior and National Administration and the County Government of Samburu develops road infrastructure for ease of access by security agencies to banditry affected areas and provides a status report to the Senate within **six months** of the tabling of this Report.
 - 5) That the Ministry of Information, Communication, Technology and Digital Economy and the Communications Authority of Kenya installs network and communication systems including cellular boosters in the affected regions and provides a status report to the Senate within **six months** of the tabling of this Report.
 - 6) That the Ministry of Interior and National Administration in conjunction with the Ministry of Education develop initiatives for the re-construction and renovation of schools vandalized by bandits and provide a status report to the Senate within **six months** of the tabling of this Report.
 - 7) That the Ministry of Interior and National Administration provides adequate security to the schools in Malaso and Lorroki Divisions of Samburu Central Sub County to ensure the resumption of learning in the affected institutions and provides a status report to the Senate within **six months** of the tabling of this Report.
 - 8) That the Ministry of Interior and National Administration establishes a new sub county to be named **Suguta-Marmar Sub County** to enhance presence and coordination of National Government operations and provide a status report to the Senate within **six months** of the tabling of this Report.

- 9) That the Inspector General, National Police Service deploys additional National Police Reservists in the Lorroki and Malaso Divisions of Samburu Central Sub County ensuring timely payment of their remuneration and develops proper accountability mechanisms for the NPRs with regard to the use of firearms and command structure. Further, the Ministry of Interior and National Administration should liaise with the Office of the Inspector General of the National Police Service to come up with proper measures and incentives to ensure that NPRs do not misuse their firearms and provide a status report to the Senate within **six months** of the tabling of this Report.
- 10) That the Ministry of Labour and Social Protection provides social services in terms of food, clothing and shelter to the affected displaced households in Lorroki and Malaso Divisions of Samburu Central Sub County and provides a status report to the Senate within **six months** of the tabling of this Report.
- 11) That the Ministry of Interior and National Administration fully operationalizes community policing initiatives in order to ensure community participation in security matters in the affected regions.
- 12) That the Ministry of Interior and National administration ensures that the internally displaced persons within Samburu County as a result of the insecurity, are well protected and provided with support in line with the Prevention, Protection and Assistance of Internally Displaced Persons Act.
- 13) While there is no avenue of compensation for the lost cattle as a result of the insecurity, we recommend that the Directorate of Criminal Investigations carries out thorough investigations into the alleged theft for the purpose of prosecution of the perpetrators by the Office of the Director of Public Prosecutions and provide a status report to the Senate within **six months** of tabling of this Report.