



ELEVENTH PARLIAMENT - FOURTH SESSION - 2016

THE NATIONAL ASSEMBLY

REPORT OF

THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS

ON

THE PETITION REGARDING CONTINUED OCCUPATION OF MIGINGO AND
UGINGO ISLANDS IN LAKE VICTORIA.

Directorate of Committee Services,
Clerk's Chambers,
Parliament Buildings,
NAIROBI.

MARCH, 2016

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1.0 Preface

Mr. Speaker Sir,

On behalf of the Departmental Committee on Defence and Foreign Relations and pursuant to provisions of Standing Order 216(1) it is my pleasant privilege and honour to present to this House the Report of the Committee the Petition regarding the continued occupation of Migingo and Ugingo Islands in Lake Victoria. The petition was tabled before this House pursuant to Standing Order No. 225 (2)(b) through the Clerk, on behalf of Dr. Dan Alila, Director of Africa Human Rights Bureau, on Thursday, 6th March, 2014.

1.1 Mandate of the Committee

The Committee is established pursuant to the provisions of Standing Order No. 216, and is mandated to, among others;

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- c) study and review all legislation referred to it;
- d) study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- e) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister;
- f) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204

- (Committee on Appointments); and
- g) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

Standing Order 227 provides that: *(1) Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Departmental Committee.(2) Whenever a Petition is committed to a Departmental Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the table of the House and no debate on or in relation to the report shall be allowed, but the Speaker may, in exceptional circumstances, allow comments or observations in relation to the Petitions for not more than twenty Minutes.(3) The Clerk shall, within fifteen days of the decision of the House, in writing, notify the petitioner of the decision of the House on the petition.*

1.3 Committee Membership

The Committee comprises the following Members:-

1. The Hon. Ndung'u Gethenji, M.P. – **(Chairperson)**
2. The Hon. Elias Bare Shill, M.P. – **(Vice Chairperson)**
3. The Hon. Jakoyo Midiwo, EGH, M.P.
4. The Hon. Katoo Ole Metito, M.P.
5. The Hon. Christantus Wamalwa, M.P.
6. The Hon. Ali Dido Rasso, M.P.
7. The Hon. David Pkosing, M.P.
8. The Hon. Adan Keynan, M.P.
9. The Hon. Wafula Wamunyinyi, M.P.
10. The Hon. Nyiva Mwendwa, M.P.
11. The Hon. Beatrice Nyaga, M.P.
12. The Hon. Gonzi Rai, M.P.
13. The Hon. Joel Onyancha, M.P.

14. The Hon. Joseph Kiuna, M.P.
15. The Hon. Yusuf Hassan, M.P.
16. The Hon. Abass Mohammed, M.P.
17. The Hon. Richard Onyonka, M.P.
18. The Hon. Lekuton Joseph, M.P.
19. The Hon. John Lodepe Nakara, M.P.
20. The Hon. Annah Nyokabi Gathecha, M.P.
21. The Hon. David Wafula, M.P.
22. The Hon. Elisha Busienei, M.P.
23. The Hon. Ibrahim Sane, M.P.
24. The Hon. Dennitah Ghati, M.P.
25. The Hon. Elijah Memusi, M.P.
26. The Hon. Roselinda Soipan, M.P.
27. The Hon. Joyce Wanjalah Lay, M.P.
28. The Hon. Joseph Gitari, M.P.

1.4 Committal and Consideration of the Petition

Pursuant to Standing Order 227 (1), the petition was referred to the Departmental Committee on Thursday, 6th March, 2014 for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227 (1) and (2).

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

In considering the petition, the Committee invited and held meetings with the petitioner, Dr. Dan Alila, Director, Africa Human Rights Bureau. The meetings were aimed at responding to issues raised by the petitioner.

1.5 Committee Observation

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

1. Uganda's actions – hoisting its flag, collecting rent, deploying military police and taxing the inhabitants' amounts to acts of aggression in international law, is a challenge to the East African Community therefore there is need to mediate and resolve the conflict peacefully since international law cherishes peaceful means of conflict resolution.
2. The two countries benefit from Migingo fishing activities, thus the two countries cannot afford to engage in a military conflict since Uganda is Kenya's major trading partner in the World. What remains now is for the joint border survey to be completed so as to resolve the matter conclusively.
3. During the Kenya-Uganda ministerial meeting held in Nairobi in 2011, it was resolved that the survey team would produce a report and come up with practical modalities to conclude the survey and demarcation of the boundary.
4. Resolutions have been made such as joint policing of Migingo Island, joint regular meetings between administrators of Nyatike Sub-county and Bugiri District in Uganda they have not been fully realized.
5. There was need for the two countries to engage in a disarmament initiative to curb terrorism and perennial cattle rustling across the border.
6. There should be joint intelligence gathering systems between the two countries as the delegations had pressed for.

1.6 Response to the prayers in the petition

The petitioner had prayed that the National Assembly through the Committee,

- i) Investigates the issue raised in the petition and affirms that the contested Migingo and Ugingo Islands and the surrounding waters are part of the Kenyan territory;
- ii) Approves the establishment of a permanent Naval Base at Ugingo to protect Kenyan citizens living and working on the two islands; and,
- iii) Considers compensating the victims affected by the alleged occupation.
- iv) In view of Article 238 (1) as read with article 238 2 (a) of the Constitution parliament Approves military actions against Uganda security forces occupying Migingo and Ugingo Island in Lake Victoria, Migori County.

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

1. Diplomacy is the best option that Kenya can take because it benefits a lot from Uganda in terms of trade and commerce, transportation, education opportunities and employment among others. Kenya and Uganda also collaborate on both regional security and global political issues. The two countries therefore need each other and issues that strain relations between them can be resolved diplomatically.
2. The real ownership of Migingo Island to be determined by a joint survey based on the colonial maps since all African states respect colonial borders which the Organization of African Unity had embedded in its charter and which the African Union has provided for in Article 4(b) of its Constitutive Act.
3. Migingo Island is an inland boundary area that does not require the presence and the Navy. Naval bases are established to guard the international where big international businesses are done within the oceans and therefore Migingo is better handled in a diplomatic way as mentioned in 1 above.
4. The Committee does not agree with the Petitioner to invoke Article 238 (1) as read with article 238 (2) (a) of the Constitution of Kenya for Parliament to approve military actions against Uganda security forces occupying Migingo and Ugingo Island in Lake Victoria, Migori County.

1.7 Adoption of the Report

We the members of the Departmental Committee on Defence and Foreign Relations have, pursuant to Standing Order 199, adopted this Report on the Petition Regarding the Continued Occupation of Migingo and Ugingo Islands in Lake Victoria and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today(day and date) :-

1. The Hon. Ndung'u Gethenji, M.P. – **(Chairperson)** 
2. The Hon. Elias Bare Shill, M.P. – **(Vice Chairperson)** 
3. The Hon. Jakoyo Midiwo, EGH, M.P. 
4. The Hon. Katoo Ole Metito, M.P. 
5. The Hon. Christantus Wamalwa, M.P. 
6. The Hon. Ali Dido Rasso, M.P. 
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19. The Hon. John Lodepe Nakara, M.P. 
20. The Hon. Annah Nyokabi Gathecha, M.P. 
21. The Hon. David Wafula, M.P. 
22. The Hon. Elisha Busienei, M.P. 
23. The Hon. Ibrahim Sane, M.P. 

- 24. The Hon. Dennitah Ghati, M.P.
- 25. The Hon. Elijah Memusi, M.P.
- 26. The Hon. Roselinda Soipan, M.P.
- 27. The Hon. Joyce Wanjalah Lay, M.P.
- 28. The Hon. Joseph Gitari, M.P.

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1.8 Acknowledgment

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

I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks within the stipulated period.

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

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

SIGNED:  DATE: 19/10/2015
 THE HON. NDUNG'U GETHENJI, M.P.
 CHAIRPERSON

DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS

2.0 BACKGROUND INFORMATION

The Constitution of Kenya (2010) under Article 37 provides that: Every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities. Further, Article 119 provides that;

(1) 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 shall make provision for the procedure for the exercise of this right and thus

2.1 The Petition by Dr. Dan Alila was presented to the House by the Speaker of the National Assembly, on 6th March 2014 pursuant to Standing Order No. 220 (1) (a).

2.2 Pursuant to House rules, the Petition was referred to the Departmental Committee on Defence and Foreign Relations on March 6th, 2014 for consideration and preparation of a report within 60 days. The Committee considered the Petition pursuant to the provisions of Standing Order 227.

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

- i) The Uganda Security Forces occupying Migingo and Ugingo Islands in Lake Victoria have since 2008, hoisted the Uganda National Flag on the two islands and established a military base equipped with weapons and speed boats on the islands and fishing in Kenya's territorial waters around the islands;
- ii) The occupying Uganda Security Forces have persistently and callously subjected Kenyan fishermen in Migingo and Ugingo islands to untold suffering though illegal and arbitrary arrests and confinements in the Lake, Kangaroo style trials, illegal and punitive taxations, persecutions, torture and inhumane treatments in Uganda especially at Bugiri Police Station, which is 150km from the two islands;
- iii) The occupying Uganda Security Forces have acted against Kenyan fishermen in Migingo and Ugingo islands with impunity as if the islands are part of Ugandan

- territory in Lake Victoria and also as if Kenyans there are trespassers or illegal immigrants;
- iv) The occupying Uganda Security Forces have routinely appropriated fish, motorboats, engines and fishing gears belonging to Kenyan fishermen thereby rendering hundreds of thousands of fishermen jobless, destitute and helpless;
 - v) The occupying Uganda Security Forces in Migingo and Ugingo Islands have acted with superiority, arrogance and without due regard, respect or recognition to Kenyan officials including police and administrators in the two islands;
 - vi) The occupying Uganda Security Forces operate in the two islands without regard to laws of Kenya thereby implying that Kenyans living in the islands and their properties are subject to Ugandan Laws, and further implying that the islands are considered by Ugandan forces as part of Ugandan territory; and
 - vii) To date over 300,000 Kenyan fishermen have been subjected to serious abuses (including rape, torture and degrading treatment), considerable human suffering and massive financial loss (estimated a US Dollars 30 billion);
 - viii) Previous efforts at addressing the aggressive activities of Uganda Security Forces on the Kenyan part of Lake Victoria especially with regard to control of Migingo and Ugingo islands have not been honored by Ugandan Authorities. Such efforts have included diplomacy, joint security operations, and the commissioning of a joint Kenya/ Uganda Boundary Survey Team;
 - ix) The issues raised in the present petition are not pending before any Court of Law, constitutional or legal body in Kenya.

3.0 SUBMISSIONS AND EVIDENCE

Having been seized of the Petition, the Committee commenced its consideration by inviting the petitioner Dr, Dan Alila, the Cabinet Secretary for Defence, the Cabinet Secretary for foreign Affairs, and Ms. Juster Nkoroi Head of Kenya International Boundaries Office, for meetings on diverse dates. During the meetings, written and oral evidence was adduced as recorded hereunder:-

3.1 SUBMISSION BY THE MINISTRY OF DEFENCE

The Cabinet Secretary for the Ministry of Defence made a written submission on several issues raised in the petition as follows:

1. **Whether Migingo and Ugingo Islands including surrounding waters are part of the territory of Kenya**

A joint technical team of Surveyors from Kenya and Uganda held several technical meetings that culminated into commencement of the joint survey of the common boundary in Lake Victoria on 3rd July 2009. The survey activities included planning, reconnaissance, documentation and extension of controls to the border islands.

The scope of work was to survey the common boundary from the mouth of River Sio as at 1926 Order in Council southwards to the tri-junction with Tanzania. The survey involved establishment of main boundary pillars at locations described in the 1926 Order in Council. Intermediate boundary markers were to be placed where appropriate. However, the exercise could not be completed due to divergent views on technical issues relating to boundary demarcation. The Survey report was therefore not signed by both parties and is still in abeyance pending further consultations.

Currently, the Government has established the Kenya International Boundaries Office (KIBO) to review and establish a Border Management Strategy that will provide a way forward in addressing outstanding border issues which we are hopeful will sort out the Migingo and Ugingo matters once and for all.

2. **Whether Parliament has abdicated its constitutional mandate to ensure protection of the sovereignty and territorial integrity of Kenya**

Parliament has not abdicated its responsibilities as alleged or at all. It is noteworthy that the issue of Migingo and Ugingo is not a military problem but a diplomatic issue that should be addressed by the Ministry of Foreign Affairs and International Trade together with the Ministry of East African Affairs and Tourism. The issue of military action therefore does not arise.

3. **Whether a permanent Naval Base should be established at Ugingo Island**

The issue of Migingo and Ugingo as stated above is a diplomatic issue that is to be sorted out diplomatically. It is not a military issue hence there is no need to establish a Naval base. In the spirit of East Africa Community (EAC) integration, resolution of conflicts is to be undertaken through peaceful means and not through the use of force. Kenya and Uganda are engaged in discussions and peaceful actions to resolve the issue.

It is worth noting that a joint Ministerial consultative meeting on the status of Migingo and Ugingo Islands agreed on the establishment of a Joint Policing of Migingo Island as directed by the Police Chiefs of Kenya and Uganda to meet and operationalize the directive on 26 July 2011. The policing of Lake Victoria waters is best left to Maritime Police.

4. **Whether Parliament should approve compensation for victims of exploitation in Migingo**

It is noteworthy that the Migingo and Ugingo border issues are about resource rather than the actual position of the border. Kenya and Uganda are consulting to find a lasting solution to the issue of Migingo Island. Once the issue is amicably sorted out, the issue of utility of fish resources in Lake Victoria will also be sorted out. It is urged that the both the Kenya and

Uganda Governments be given ample time to come up with a way forward in addressing the sharing of the fish resources in Lake Victoria. The issue of compensation therefore does not arise.

5. Whether Parliament should authorize military action against Uganda Security Forces in Migingo and Ugingo Islands

As stated above, there is no need for military action against Uganda Security Forces. Kenya and Uganda enjoys cordial diplomatic ties. The issue at hand can best be handled diplomatically and peacefully in line with EAC dispute resolution policy guidelines.

The EAC countries were gearing towards integration and it would be against the spirit of EAC to resolve militarily issues that could otherwise be solved diplomatically and peacefully.

3.2 SUBMISSION FROM MS. JUSTER NKOROI HEAD OF KENYA INTERNATIONAL BOUNDARIES OFFICE

The Head of the Kenya International Boundaries Office made an oral submission and subsequently submitted a written statement on issues raised in the Petition as follows:

1. Whether Migingo and Ugingo and the surrounding waters are part of the Kenya territory:

According to the 1926 Order in Council, Migingo and Ugingo Islands are in the territory of Kenya.

The Kenya International Boundaries Office had been established within the Executive Office to handle all matters relating to reaffirmation of the international boundaries. The Office was in the process of reviewing and mapping all border reaffirmation activities undertaken in the

previous years with a view to determine status of each international boundary, identify contentious and non-contentious section of all the international boundaries. This would assist in developing a holistic strategy for demarcation and delimitation of Kenya's international boundaries. The process would include identifying trans-boundary issues as well as shared resources and recommend strategies for their joint management.

The conflict around Migingo and Ugingo may not be necessarily about the location of the Islands but most probably, it is conflict over resources. Any strategy and or intervention must therefore ensure that access to resources, especially fisheries, by the Kenyan citizens is not jeopardized.

2. Whether a permanent naval base should be established at Migingo and Ugingo to protect Kenya citizens living and working in the two islands:

The Ministries of Interior and Coordination of National Government, and that of Defence were more suited to respond to this issue. However, the issue for the Committee to consider was the appropriateness of deploying defense forces over internal matters while there were sufficient laws that the police could use to apprehend any person causing disturbance in the island.

3.3 SUBMISSION FROM THE MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE.

Kenya- Uganda share 933 KM of boundary. Generally speaking, any feature in the vicinity or crossing international boundary is an element of Foreign Policy and thus Migingo Island, is a rock measuring 2,000 sq meters and in the vicinity of Kenya-Uganda boundary , and hence the foreign policy dimension.

The Ugandan authorities has disputed the Island since 2004. There have been several inter-ministerial meetings were held in both Kampala and Nairobi from 2009-2014 since the dispute. These meetings recommended a Joint Technical Survey of the boundary in which the Ugandan team later pulled out

The Kenya team found that the Island was 510 Meters inside Kenya. The Joint Technical Survey, at the invitation of Uganda, resumed in March 2014 and consultations are still ongoing

4.0 COMMITTEE OBSERVATIONS

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

1. Uganda's actions – hoisting its flag, collecting rent, deploying military police and taxing the inhabitants' amounts to acts of aggression in international law, is a challenge to the East African Community therefore there is need to mediate and resolve the conflict peacefully since international law cherishes peaceful means of conflict resolution.
2. The two countries benefit from Migingo fishing activities, thus they cannot afford to engage in a military conflict since Uganda is Kenya's major trading partner in the World. What remains now is for the joint border survey to be completed so as to resolve the matter conclusively.
3. During the Kenya-Uganda ministerial meeting held in Nairobi in 2011, it was resolved that the survey team would produce a report and come up with practical modalities to conclude the survey and demarcation of the boundary.
4. Resolutions have been made such as joint policing of Migingo Island, joint regular meetings between administrators of Nyatike Sub-county and Bugiri District in Uganda they have not been fully realized.
5. There was need for the two countries to engage in a disarmament initiative to curb terrorism and perennial cattle rustling across the border.

There should be joint intelligence gathering systems between the two countries as the delegations had pressed for.

5.0 COMMITTEE RECOMMENDATIONS

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

- 1. Diplomacy is the best option that Kenya can take because it benefits a lot from Uganda in terms of trade and commerce, transportation, education opportunities and employment among others. Kenya and Uganda also collaborate on both regional security and global political issues. The two countries therefore need each other and issues that strain relations between them can be resolved diplomatically.
- 2. The real ownership of Migingo Island should be determined by a joint survey based on the colonial maps since all African states respect colonial borders which the Organization of African Unity had embedded in its charter and which the African Union has provided for in Article 4(b) of its Constitutive Act.
- 3. Migingo Island is an inland boundary area that does not require the presence and the Navy. Naval bases are established to guard the international where big international businesses are done within the oceans and therefore Migingo is better handled in a diplomatic way.
- 4. The Committee does not agree with the Petitioner to invoke Article 238 (1) as read with article 238 (2) (a) of the Constitution of Kenya for Parliament to approve military actions against Uganda security forces occupying Migingo and Ugingo Island in Lake Victoria, Migori County.

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MINUTES OF THE 134TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
DEFENCE AND FOREIGN RELATIONS HELD ON THURSDAY 10TH DECEMBER,
2015 IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10:30 A.M.

PRESENT

1. Hon. Ndung'u Gethenji, M.P. – Chairperson
2. Hon. Elias Bare Shill, M.P. - Vice Chairperson
3. Hon. Katoo Ole Metito, EGH, MGH, M.P.
4. Hon. Christantus Wamalwa, CBS, M.P
5. Hon. Gonzi Rai, MGH, M.P.
6. Hon. Joel Onyancha, MGH, M.P.
7. Hon. Joseph Kiuna, M.P
8. Hon. Richard Onyonka, M.P.
9. Hon. Col. (Rtd) Ali Dido Rasso, MBS, M.P.
10. Hon. David Pkosing, M.P
11. Hon. Abass S. Mohammed, M.P
12. Hon. David Wafula, M.P.

APOLOGY

1. Hon. Adan Keynan, CBS, M.P
2. Hon. Jakoyo Midiwo, MGH, M.P.
3. Hon. Nyiva Mwendwa, EGH, M.P.
4. Hon. Lekuton Joseph, M.P.
5. Hon. Wafula Wamunyinyi, M.P.
6. Hon. Yusuf Hassan, M.P.
7. Hon. Joseph Gitari, M.P
8. Hon. Joyce Wanjalalah Lay, M.P.
9. Hon. Elijah Memusi, M.P.
10. Hon. Beatrice Nyagah, M.P.
11. Hon. Dennitah Ghati, M.P
12. Hon. Annah N. Gathecha, M.P
13. Hon. Elisha Busienei, M.P.
14. Hon. John Lodepe Nakara, M.P

15. Hon. Ibrahim Sane, M.P.

16. Hon. Roselinda Soipan, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

- | | |
|-----------------------|--------------------------|
| 1. Oscar Namulanda | - Senior Clerk Assistant |
| 2. Douglas Katho | - Clerk Assistant |
| 3. Christine Nderitu | - Clerk Assistant |
| 4. Christine Odhiambo | - Legal Officer |
| 5. Edison Odhiambo | - Budget Officer |

MIN.NO. 526/2015

PRELIMINARIES

The meeting commenced with a word of prayer from the vice-chairperson.

MIN.NO. 527 /2015 PENDING COMMITTEE REPORTS

During the meeting the members agree to table the following reports as soon as they obtain the requisite signatures:

1. Kenya defence forces Amendment Bill, 2015.
2. Kenya regiment territorial repeal bill, 2015.
3. Report on Asia African Parliamentary conference in Jakarta Indonesia, March, 2015
4. Report on Petition regarding Migingo and Ugingo Islands.
5. Report on committee visit to Mogadishu, Somalia August, 2015
6. Report on Committee visit to Kampala, June, 2015

During the meeting the following reports were agreed to be availed for adoption and onward tabling on or before 15th December, 2015:

1. Committee foreign visit to Sendai, Japan – April, 2015
2. Committee visit to Malabo in Equatorial Guinea for the Africa-Turkey conference, November, 2014
3. Committee participation in the UNCLOS in New York, June, 2015.
4. Committee visit to New York during UNGA, in September, 2015.
5. Report on committee inspection visit to various Kenyan mission in the USA, November, 2015
6. Report on Pan Africa protocol.

7. Report on Committee visit to the Arab republic of Egypt.
8. Report on Committee observation of elections in Tanzania.
9. Report on Inspection of KDF Installations in Lamu, Mtongwe, Karen, Embakasi and Lanet.

The chairperson directed that all reports whether or not the executive was involved is required to be tabled by the committee to the house as soon as practically possible.

MIN.NO. 528 /2015 VETTING OF NOMINEES FOR THE POSITION OF THE PRINCIPAL SECRETARY FOR DEFENCE AND THE PRINCIPAL SECRETARY FOR EAST AFRICA COMMUNITY INTEGRATION.

The committee went through various documents with regard to the vetting exercise and directed that the secretariat prepare a brief background from each nominee's curriculum vitae and possible topical questions that the committee can be able to ask with regard to the positions of which they have been nominated for.

The committee adopted the draft programme for the vetting exercise which included consideration of memorandum received and scrutiny of each of the candidates' curriculum vitae before the sitting on Friday to conduct the approval hearing and thereafter consideration and adoption of the report on the vetting.

MIN.NO. 529 /2015 ANY OTHER BUSINESS

I. Motion regarding Somaliland

During the meeting the committee's preliminary findings regarding the motion on Somaliland was communicated to Speaker of the National Assembly vide a response letter amended as directed by the committee for the chairperson's signature.

II. Foreign Visits

During the meeting the members sought to know what befell their planned foreign visits to various Kenyan Missions abroad. The members were informed that the clerk advised that the committee prioritizes the visits. The following visits were placed on the priority list.

1. New York, Washington DC and Los Angeles which has already been executed.
2. Berlin, Ankara and Moscow that could not take place as Turkish parliament was going to recess and an alternative date was to be sought.

The chair directed that the dates of the next visits to be confirmed with the relevant missions together with delegations lists and thereafter a request to be made to the clerk to approve the visit for early next year.

III. Domestic travel:

During the meeting members sought to know if there is a policy of not going to Mombasa for retreat. The meeting was informed that there is no such policy and members are able to resolve to participate in committee activities as and where they propose subject to clerk's approval.

The chairperson directed that the secretariat to furnish the committee with the current budget available for domestic committee activities for the rest of the 2015/2016 financial year for onward planning.

IV. Extra judicial Killings and Sale of Sugar/Charcoal

During the meeting, It was alleged that KDF camps are being used as torture Chambers and that the KDF officers are allegedly carrying out heinous acts of extrajudicial killings as reported by Kenya national Commission on Human rights. The committee resolves to investigate these incidences including the disappearance of Kenyans living in Mandera.

During the meeting it was reported that there are accusations on the KDF regarding the selling of Sugar and Charcoal as report by the journalists for justice.

In view of the above allegations regarding extrajudicial Killings and sale of Charcoal/ Sugar. The committee recommended that evidences adducing to these allegations to be tabled before the committee so as to allow the committee to invite the following to the committee Sittings to inquire on these matter: -

1. D.G. National Intelligence service
2. C.S. The Ministry of Interior (Director for Immigration)
3. C.S. The Ministry of foreign Affairs
4. C.S. Defence with Kenya Defence Forces to shed light on the matter.
5. C. S. Interior to shed light on the Matter.

6. Executive Director, Journalists for Justice.

The committee further resolved to visit Kismayu and the affected areas.

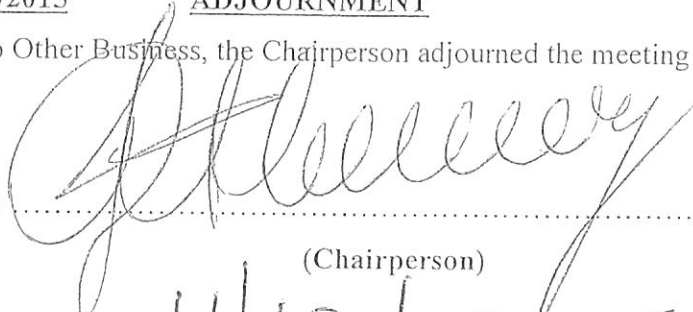
MIN.NO. 530 /2015 ANY OTHER BUSINESS

The next meeting was scheduled to be on the 11th December, 2015 at 2PM in committee room 7 to conduct the vetting of the nominees for appointment as Principal Secretary for Defence and EAC Integration.

MIN.NO. 531/2015 ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 12.30pm

Signed:



(Chairperson)

Date:

11/12/2015

MINUTES OF THE 133RD SITTING OF THE DEPARTMENTAL COMMITTEE ON
DEFENCE AND FOREIGN RELATIONS HELD ON MONDAY 19TH OCTOBER, 2015 AT
BOMA HOTEL, NAIROBI, AT 2:00 P.M.

PRESENT

1. Hon. Ndung'u Gethenji, M.P. – Chairperson
2. Hon. Elias Bare Shill, M.P. - Vice Chairperson
3. Hon. Gonzi Rai, MGH, M.P.
4. Hon. Joseph Kiuna, M.P.
5. Hon. Elisha Busienei, M.P.
6. Hon. Col. (Rtd) Ali Dido Rasso, MBS, M.P.
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11. Hon. Yusuf Hassan, M.P.
12. Hon. Beatrice Nyagah, M.P.
13. Hon. Wafula Wamunyinyi, M.P.
14. Hon. Joyce Wanjalay Lay, M.P.
15. Hon. Elijah Memusi, M.P.

APOLOGY

1. Hon. Adan Keynan, CBS, M.P.
2. Hon. Katoo Ole Metito, EGH, MGH, M.P.
3. Hon. Nyiva Mwendwa, EGH, M.P.
4. Hon. Richard Onyonka, M.P.
5. Hon. Lekuton Joseph, M.P.
6. Hon. Christantus Wamalwa, CBS, M.P.
7. Hon. John Lodepe Nakara, M.P.
8. Hon. Abass S. Mohammed, M.P.
9. Hon. Ibrahim Sane, M.P.
10. Hon. Roselinda Soipan, M.P.
11. Hon. Joël Onyancha, MGH, M.P.

12. Hon. David Pkosing, M.P

13. Hon. Joseph Gitari, M.P

IN ATTENDANCE:

NATIONAL ASSEMBLY

- | | |
|--------------------|--------------------------|
| 1. Oscar Namulanda | - Senior Clerk Assistant |
| 2. Jemimah Waigwa | - Legal Officer |
| 3. Fiona Musili | - Research Officer |
| 4. Rehema Koech | - Audio Officer |

MIN.NO. 521/2015

PRELIMINARIES

The Chairman called the sitting to order at 2: 30 p.m.

MIN.NO. 522 /2015

ADOPTION OF THE REPORT ON THE KENYA
REGIMENT TERRITORIAL (REPEAL) BILL 2015

Members considered the Report on the Kenya Regiment Territorial (Repeal) Bill, 2015.
The report was unanimously adopted by the Committee members.

MIN.NO. 523/2015

CONSIDERATION OF COMMITTEE REPORTS

Members considered the following Reports:

1. Report on the Petition regarding continued occupation of Migingo and Ugingo islands in Lake Victoria.
Members agreed that the consideration of this Report be postponed to a later date to allow for further consultations.
2. Report on the Asia Africa Parliamentary conference to commemorate 60 years of the Asian African Conference
Members adopted the Report as proposed by Hon. Elijah Memusi and seconded by Hon. Beatrice Nyagah.
3. Report of foreign oversight visit regarding the purchase of chancery building in Kampala, Uganda.
Members adopted the Report, with amendments, as proposed by Hon. Wafula and seconded by Hon. Elijah Memusi.

4. Report of the foreign oversight visit to the Kenyan embassy in Mogadishu, Federal Republic of Somalia

Members adopted the Report, with amendments, as proposed by Hon. Col (Rtd) Dido Rasso and seconded by Hon. Elisha Busienei.

MIN.NO. 524/2015

ANY OTHER BUSINESS

1. Members requested that changes to the venue of meetings be communicated in good time and concrete explanations be provided.
2. The Chair asked members to only use the committee WhatsApp group to communicate regarding committee meetings.

MIN.NO. 525/2015

ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 4 O' clock.

Signed:

(Chairperson)

Date:

19/10/2015

MINUTES OF THE 36TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS HELD IN THE COMMITTEE ROOM ON 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON TUESDAY, 25TH MARCH 2014 AT 11.00A.M.

MEMBERS PRESENT

1. Hon. Ndungu Gethenji, M.P. – Chairperson
2. Hon. Elias Bare Shill, M.P. - Vice Chairperson
3. Hon. Jakoyo Midiwo, M.P.
4. Hon. Katoo Ole Metito, M.P.
5. Hon. Christantus Wamalwa, M.P.
6. Hon. Nyiva Mwendwa, M.P.
7. Hon. Yusuf Hassan, M.P.
8. Hon. Lekuton Joseph, M.P.
9. Hon. John Lodepe Nakara, M.P.
10. Hon. Gonzi Rai, M.P.
11. Hon. Joseph Kiuna, M.P.
12. Hon. Beatrice Nyaga, M.P.
13. Hon. Ali Dido Rasso, M.P.
14. Hon. Abass S. Mohammed, M.P.
15. Hon. David Wafula, M.P.
16. Hon. Wamunyinyi Athanas Wafula, M.P.
17. Hon. Joyce Wanjaloh Lay, M.P.
18. Hon. David Pkosing, M.P.
19. Hon. Elisha Busienei, M.P.
20. Hon. Ibrahim Sane, M.P.

ABSENT WITH APOLOGIES

1. Hon. Adan Keynan, M.P.
2. Hon. Maj-General (Rtd) Joseph Nkaisserry, M.P.
3. Hon. Joseph Gitari, M.P.
4. Hon. Roselinda Soipan, M.P.
5. Hon. Dennitah Ghati, M.P.

ABSENT

1. Hon. Joel Onyancha, M.P.
2. Hon. Richard Onyonka, M.P.
3. Hon. Annah Nyokabi Gathecha, M.P.
4. Hon. Ken Obura, M.P.

IN ATTENDANCE

Ms. Rachel Kairu

NATIONAL ASSEMBLY

- Senior Clerk Assistant

IN ATTENDANCE

Dr. Dan Alila -

PETITIONER

The petitioner, Director, Africa Human Rights Bureau

The sitting commenced with a word of prayer. Thereafter, the sitting's agenda was adopted.

PETITION REGARDING CONTINUED OCCUPATION OF MIGINGO AND UGINGO ISLANDS BY THE UGANDA SECURITY FORCES (USF): MEETING WITH THE PETITIONER DR. DAN ALILA

The petitioner, Dr. Dan Alila – Director, Africa Human Rights Bureau briefed the Committee as follows:-

- He is a citizen and a resident of Kenya currently working as a Director of Africa Human Rights Bureau;
- The Uganda Security Forces (USF) occupying Migingo and Ugingo Islands in Lake Victoria have since 2008, hoisted the Uganda National Flag on the two islands and established a military base equipped with weapons and speed boats on the islands for the control and oppression of Kenyans living on the islands and fishing in Kenya's territorial waters around the islands;
- The occupying USF have persistently and callously subjected Kenyan fishermen in the two islands to untold suffering through illegal and arbitrary arrests and confinements in the Lake, Kangaroo style trials, illegal and punitive taxations, persecutions, torture and inhumane treatments in Uganda especially at Bugiri Police Station, which is 150 km from the two islands;
- The USF have acted against Kenyan fishermen in Migingo and Ugingo islands with impunity as if the islands are part of Uganda territory in Lake Victoria and therefore Kenyans are trespassers or illegal immigrants;
- The Forces have routinely confiscated fish, motorboats, engines and fishing gears belonging to Kenyan fishermen thereby rendering hundreds of thousands of fishermen jobless, destitute and helpless;
- The Forces have acted with superiority, arrogance and without due regard, respect or recognition to Kenyan officials including police and administrators in the two islands;
- The Forces operate in the two islands without regard to laws of Kenya thereby implying that Kenyans living in the islands and their properties are subject to Uganda Laws, and further implying that the islands are considered by Ugandan forces as part of Ugandan territory;
- To date, over 300,000 Kenyan fishermen have been subjected to serious abuses (including rape, torture and degrading treatment), considerable human suffering and massive financial loss (estimated at US Dollars 30 billion); and
- Previous diplomatic efforts at addressing the aggressive activities of USF on the Kenyan part of Lake Victoria especially with regard to control of Migingo and Ugingo Islands have not been honored by Ugandan Authorities. Such efforts have included diplomacy, joint security operations, and the commissioning of a joint Kenya/Uganda Boundary Survey Team;
- The issues raised in the petition are not pending before any Court of Law, constitutional or legal body in Kenya.

Therefore, the petitioner prayed that Parliament:-

- Urgently considers the issues raised in the petition and by resolution makes a firm declaration that Migingo and Ugingo Islands including their surrounding waters are part and parcel of the Republic of Kenya;
- Refrains from abdicating its constitutional mandate to exercise delegated sovereign powers as stipulated in Article 1 (3) of the Constitution of Kenya to ensure protection of the people of Kenya and that the sovereignty and territorial integrity of the Republic;
- Urgently considers the issues raised in the petition vis-à-vis the relevant provisions of the Constitution of Kenya and the KDF Act and thereby approve the necessary and appropriate measures to be undertaken forthwith by KDF in order to protect the citizens, defend Kenya's territorial integrity and sovereignty as well as private property;
- Urgently considers the issues raised in the petition and by resolution approve the establishment of a permanent Naval Base at Ugingo to protect Kenyan citizens living and working in the Kenyan islands in Lake Victoria from external aggression;
- Urgently considers the issues raised in the petition and by resolution approve compensation to the victims of exploitation by USF in Migingo and Ugingo Islands and their environs by directing the relevant departments of Kenya Government to act accordingly; and
- Urgently acts decisively in view of Article 238(1) as read with Article 238(2)(a) of the Constitution by approving military action against Uganda security forces occupying Migingo and Ugingo Islands in Lake Victoria, Migori.

MIN. NO. 067/2014

DELIBERATIONS

- The Committee made the following observations:-
 - The concerns raised by the petitioner including the continued harassment of Kenyans were of great concern and had been ignored by the executive for far too long. Thus, the Committee has the obligation to ensure that the matter was dealt with.
 - Some of the issues raised by the petitioner regarding harassment of Kenyans were abuses of human rights.
 - The Kenya executive appeared passive in the matter.
 - There was need to ensure that Kenya seeks diplomatic means of dealing with the issues surrounding the two islands.
 - If the report of a joint Kenya/Uganda Boundary Survey Team commissioned was concluded then boundaries should no longer be an issue.
 - It was unnecessary to have naval presence at the two Islands rather, the islands should be an open place where citizens of the two countries can freely occupy, trade etc.

The Committee thanked the petitioner for following the right channel in presenting the petition and resolved to:

- Take up the petition with the with the relevant government Ministries and Departments with a view to having the matter addressed and also give a response to the petition in form of a report in accordance with the Standing Orders.

- i. Visit to Morocco – The Vice Chair informed the Committee that the visit was yet to materialize as the host; the Government of Morocco was participating in the just ended Arab League Summit. He would thus be able to get a definite answer by Thursday, 27th March 2014.
- ii. The Committee was further informed that the Ministry of Foreign Affairs and International Trade had written to inform the Committee that a delegation of MPs for the German Bundestag were scheduled to visit Kenya in mid-April and had requested to meet with the Committee on Tuesday, 15th April 2014 at 11am. Members resolved to meet the delegation as per their request.
- iii. The Hon. David Pkosing, M.P. informed Members that during the recently ended IPU Assembly held in Geneva, Switzerland, between 16th and 20th March 2014, he was fortunate to be elected into the Inter-Parliamentary Union's Standing Committee on Democracy and Human Rights Bureau to represent Kenya. Also elected was a Senator, into the Committee on United Nations Affairs.

The Committee congratulated him on his election to this very important position.

There being no Other Business, the Chairperson adjourned the meeting at Ten Minutes to One O'clock until Tuesday, 27th March 2014 at 10.30am.

SIGNED.....

(CHAIRPERSON)

DATE.....



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT- (SECOND SESSION)

THE NATIONAL ASSEMBLY

PETITIONS

(No.05 of 2014)

CONVEYANCING OF A PETITION REGARDING CONTINUED
OCCUPATION OF MIGINGO & UGINGO ISLANDS IN LAKE VICTORIA

Honourable Members,

Standing Order 225(2)(b) requires that the Speaker reports to the House, any Petition other than those presented through a Member.

I therefore wish to convey to the House that my office has received a Petition regarding alleged continued occupation of Migingo and Ugingo Islands by Uganda Security Forces (USF). The Petitioner contends that the USF has subjected Kenyan fishermen to untold suffering through illegal and arbitrary arrests.

The Petition, signed by one Dr. Dan Alila, Director, Africa Human Rights Bureau, is praying that the Government of Kenya, including Parliament:-

- (i) Investigates the issues raised in the petition and affirms that the contested Migingo and Ugingo Islands and the surrounding waters are part of Kenyan territory;
- (ii) Approves the establishment of a permanent Naval Base at Ugingo to protect Kenyan citizens living and working in the two islands; and,
- (iii) Considers compensating the victims affected by the alleged occupation.

Honourable Members,

This Petition therefore shall stand committed to the Departmental Committee on Defence and Foreign Relations for consideration. The Committee is requested to consider the Petition and report its findings in accordance with Standing Order 227(2) for consideration.

Thank you!



THE HON. JUSTIN B.N. MUTURI, E.G.H, MP
SPEAKER OF THE NATIONAL ASSEMBLY

March 6th, 2014

Mrs. Wangari
Ms. Tina
275
27/12
remember to forward bill
to the committee

REPUBLIC OF KENYA

Parliament

(THE NATIONAL ASSEMBLY & THE SENATE)

Attn: CLERK OF THE NATIONAL ASSEMBLY

RE: PETITION ASKING PARLIAMENT TO APPROVE MILITARY ACTION AGAINST UGANDA SECURITY FORCES OCCUPYING MIGINGO & UGINGO ISLANDS IN LAKE VICTORIA, MIGORI COUNTY

Attached herewith, please find the full text of the above petition **based on** Articles 1(3)(a); 5; 94(2),(4)&(5); 95(2), (5)(b) & (6); 96(1) & (2); 153(3)&(4); 238(1), 2(a), (b) & (c); 239(3) & (6); 132(4)(e) & 241(3)(a) of the Constitution of Kenya, **drawn pursuant to** Article 119 of the Constitution and **filed in accordance with** The Petitions to Parliament (Procedure) Act.

Petitioner:

Dr. Dan Alila

P.O. Box 19022-00100

Nairobi

Tel: 0734783656/0717137268

email: daconsult@gmail.com



PETITION ASKING PARLIAMENT TO APPROVE MILITARY ACTION AGAINST UGANDA SECURITY FORCES OCCUPYING MIGINGO & UGINGO ISLANDS IN LAKE VICTORIA, MIGORI COUNTY

PETITION

TO THE NATIONAL ASSEMBLY

I, the undersigned citizen and resident of Kenya currently working as a Director at Africa Human Rights Bureau, do hereby:

Draw the attention of the House to the following:-

- **That** the Uganda Security Forces occupying Migingo and Ugingo Islands in Lake Victoria have since 2008, hoisted the Uganda National Flag on the two islands and established a military base equipped with weapons and speed boats on the islands for the control and oppression of Kenyans living on the islands and fishing in Kenya's territorial waters around the islands;
- **That** the occupying Uganda Security Forces have persistently and callously subjected Kenyan fishermen in Migingo and Ugingo islands to untold suffering through illegal and arbitrary arrests and confinements in the Lake, Kangaroo style trials, illegal and punitive taxations, persecutions, torture and inhumane treatments in Uganda especially at Bugiri Police Station, which is 150km from the two islands;
- **That** the occupying Uganda Security Forces have acted against Kenyan fishermen in Migingo and Ugingo islands with impunity as if the islands are part of Ugandan territory in Lake Victoria and also as if Kenyans there are trespassers or illegal immigrants;



PETITION ASKING PARLIAMENT TO APPROVE MILITARY ACTION AGAINST UGANDA SECURITY FORCES OCCUPYING MIGINGO & UGINGO ISLANDS IN LAKE VICTORIA, MIGORI COUNTY

- **That** the occupying Uganda Security Forces have routinely appropriated fish, motorboats, engines and fishing gears belonging to Kenyan fishermen thereby rendering hundreds of thousands of fishermen jobless, destitute and helpless;
- **That** the occupying Uganda Security Forces in Migingo and Ugingo islands have acted with superiority, arrogance and without due regard, respect or recognition to Kenyan officials including police and administrators in the two islands;
- **That** the occupying Uganda Security Forces operate in the two islands without regard to laws of Kenya thereby implying that Kenyans living in the islands and their properties are subject to Ugandan Laws, and further implying that the islands are considered by Ugandan forces as part of Ugandan territory; and
- **That** to date over 300,000 Kenyan fishermen have been subjected to serious abuses (including rape, torture and degrading treatment), considerable human suffering and massive financial loss (estimated at US Dollars 30 billion);

And Further

- **That** previous efforts at addressing the aggressive activities of Uganda Security Forces on the Kenyan part of Lake Victoria especially with regard to control of Migingo and Ugingo islands have not been honored by Ugandan Authorities. Such efforts have included diplomacy, joint security operations, and the

A handwritten signature in black ink, appearing to be 'SAG', is written over a diagonal line that crosses the page from the bottom left towards the top right.

PETITION ASKING PARLIAMENT TO APPROVE MILITARY ACTION AGAINST UGANDA SECURITY FORCES OCCUPYING MIGINGO & UGINGO ISLANDS IN LAKE VICTORIA, MIGORI COUNTY

commissioning of a joint Kenya/Uganda Boundary Survey Team;

And Also

- **That** the issues raised in the present petition are not pending before any Court of Law, constitutional or legal body in Kenya.

HEREFORE your humble petitioner Prays that Parliament:-

- Urgently considers the issues raised herein and by resolution make **a firm declaration that Migingo & Ugingo Islands including their surrounding waters are part of the territory of Kenya** and hence are part and parcel of the Republic of Kenya;
- Refrains from abdicating its constitutional mandate to exercise delegated sovereign powers as stipulated in Article 1(3) of the Constitution of Kenya to ensure protection of the people of Kenya and that of sovereignty and territorial integrity of the Republic;
- Urgently considers the issues raised herein vis-à-vis the relevant provisions of the Constitution of Kenya and the KDF Act and thereby approve the necessary and appropriate measures to be undertaken forthwith by Kenya Defence Forces **in order to protect the citizens, defend Kenya's territorial integrity and sovereignty as well as private property;**



PETITION ASKING PARLIAMENT TO APPROVE MILITARY ACTION AGAINST UGANDA SECURITY FORCES OCCUPYING MIGINGO & UGINGO ISLANDS IN LAKE VICTORIA, MIGORI COUNTY

- Urgently considers the issues raised herein and by resolution approve the establishment of a permanent Naval Base at Ugingo to protect Kenya citizens living and working in the Kenyan islands in Lake Victoria from external aggression;
- Urgently considers the issues raised herein and by resolution approve compensation to the victims of exploitation and plunder by Uganda Security Forces in Migingo and Ugingo Islands and their environs by directing the relevant departments of Kenya Government to act accordingly; and
- Urgently acts decisively in view of Article 238(1) as read with Article 238(2)(a) of the Constitution of Kenya by approving military action against Uganda security forces occupying Migingo & Ugingo islands in lake Victoria, Migori County.

And your PETITIONER will ever pray.

Name of Petitioner	Address	National ID	Sign
1. Dr. Dan Alila	P.O. Box 19022 GPO Nairobi	1502448	

Dated this 24th day of February 2014 at Nairobi.

