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Chair, DC-Admin &
Nat. Security on
30.4.15 (PM)
plm*

KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION - 2015

THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION
AND NATIONAL SECURITY REPORT ON THE CONSIDERATION
OF A PETITION BY RESIDENTS OF MUKUTANI DIVISION,
BARINGO COUNTY ON CATTLE RUSTLING

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

APRIL, 2015

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1.0 PREFACE

1.1 Committee Mandate

The Departmental Committee on Administration and National Security was constituted pursuant to the provisions of Standing Order No. 216(1) of the National Assembly and has executed its mandate, in accordance with the provisions of the said Standing Order 216(5), which mandates the Committees to, inter alia;

- (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; and,*
- (b) investigate and inquire into all matters relating to the assigned Ministries and departments as it may deem necessary, and as may be referred to it by the House...*

1.2 Committee Membership

The following are the Members of the Committee:-

1. Hon. Asman Kamama, MGH, OGW, MP - **Chairperson**
2. Hon. Alois M. Lentoimaga, MP – **Vice Chairperson**
3. Hon. Ababu Namwamba, EGH, MP
4. Hon. Joseph Lekuton, MP
5. Hon. Alice Wahome, MP
6. Hon. Zakayo K. Cheruiyot, MP
7. Hon. Timothy W. Wetangula, MP
8. Hon. Patrick Ole Ntutu, MP
9. Hon. Ali Isaack Shaaban, MP
10. Hon. Samuel Moroto, MP
11. Hon. Humphrey Njuguna, MP
12. Hon. Francis K. Mwangangi, MP
13. Hon. Rashid J. Bedzimba, MP
14. Hon. David Gikaria, MP
15. Hon. Mohamed Shidiye, MP
16. Hon. Jane Machira, MP
17. Hon. Ibrahim Abdi Saney, MP
18. Hon. Joseph O. Ndiege, MP
19. Hon. (Maj. Rtd.) John K. Waluke, MP
20. Hon. Wanjiku Muhia, MP
21. Hon. Akuja Protus Ewesit, MP
22. Hon. Joseph M. Kahangara, MP

23. Hon. Ahmed Abdikadir Ore, MP
24. Hon. Grace Kiptui, MP
25. Hon. George Theuri, MP
26. Hon. Regina Nthambi Muia, MP
27. Hon. James Bett, MP
28. Hon. Benard Shinali, MP

1.3 The Petition

Mr. Speaker,

The petition by residents of Mukutani Division, Baringo County on cattle rustling was presented to the National Assembly in February, 2014, pursuant to Article 119 of the Constitution, which provides that every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.

The petitioners prayed that:-

- (i) Parliament enacts a Law on pastoralism and livestock farming;
- (ii) Parliament amends the Firearms Act (CAP 114) to include a procedure for disarmament and devise other effective ways of addressing the issue of illicit firearms;
- (iii) Parliament initiates measures to resettle internally displaced persons, where displacement had been occasioned by cattle –rustling;
- (iv) The National Land Commission urgently addresses the issue of unclear demarcation of land in pastoral communities;
- (v) The protocol on the prevention, combating and eradication of cattle-rustling in East Africa be fast tracked; and
- (vi) The Nairobi Protocol on the prevention, control and reduction of small arms and light weapons in the Great Lakes region and the Horn of Africa be fast tracked.

The petition by residents of Mukutani Division Baringo County on cattle rustling was referred to the Committee on Administration and National Security on 25th February, 2014. Pursuant to Standing Order 227(2)

1.4 Consideration of the Petition

The Committee held a meeting with the petitioners on 19th August 2014. The purpose of the meeting was to give audience to the petitioners and establish ways on how best their prayers could be answered and articulated. The Committee also undertook a field visit of Baringo County from 13th to 16th November, 2014 to further establish the facts regarding

the issues raised in the petition. During the visit the Committee held three public meetings at Kiserian, Mukutani and Arabal centres.

The Committee also held a meeting with the Baringo County Security Intelligence Committee and paid a courtesy call on the Governor of Baringo County.

During the meetings the Committee established that uncertainty over the exact boundary between Tiaty and Baringo South Constituencies was one of the main sources of conflict between the Illchamus and Pokot Community in Mukutani Division. The Independent Electoral and boundaries Commission needs to urgently address the issue of unclear Constituency boundaries in the Country, particularly the boundary between Baringo South and Tiaty Constituencies.

National Government administrative units' boundaries in Mukutani were also in dispute, with the pokot claiming that Mukutani location was in Tangulbel Division in East Pokot District while the Illchamus insisted that the location was in Mukutani Division within Marigat District. The Ministry of Interior and Coordination of National Government should rationalize and align the boundaries of administrative units with those of the Constituencies in Baringo County and the rest of the County.

Currently cases of cattle rustling are merely treated as stock theft and Government efforts are usually focused at recovery of stolen animals rather than ensuring that the perpetrators of the crime are brought to book. Cattle rustling should be considered as robbery with violence given that many innocent Kenyans have been killed due to the vice. Parliament should enact a Law to make cattle rustling a serious criminal offence and provide for stiffer penalties for those involved in the crime.

The protocol on the prevention, combating and eradication of cattle-rustling in East Africa provides for initiatives to improve the operational capacity of State agencies and the establishment of appropriate mechanisms for cooperation in combating cattle rustling among member states. However the Government is yet to fully implement the protocol.

The proliferation of small arms and light weapons in the northern part of Kenya has further exacerbated the problem of cattle rustling leading to the killing of many innocent Kenyans. The Nairobi Protocol on the prevention, control and reduction of small arms and light weapons in the Great Lakes region and the Horn of Africa has not been fully implemented to control the proliferation of illicit arms in the region. The Committee urges the Government to fast track the implementation of the protocol.

The inability to settle the internally displaced persons in Mukutani Division, Baringo County would have prompted the petitioners to file the petition with the National Assembly. There is need for the Government to initiate measures to provide for the resettlement and compensation of persons who have been internally displaced due the effects of cattle rustling.

1.6 Acknowledgement

Mr. Speaker, Sir,

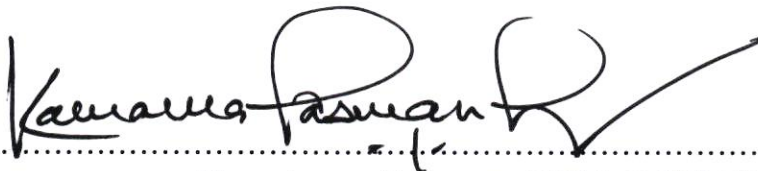
The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for facilitating the Committee to achieve its mandate.

After consideration of the petition, the Committee recommended that the Cabinet Secretary, Ministry of Interior and Coordination of National Government, spearheads the process of fully implementing the prayers contained in this report.

Mr. Speaker,

On behalf of the Members of the Departmental Committee on Administration and National Security, I beg to table the report of the Committee on the consideration of a petition by residents of Mukutani Division, Baringo County on cattle rustling. Pursuant to Standing Order 227(2)

Signed.....



Hon. Asman Kamama, MGH, OGW MP

Chairperson, Committee on Administration and National Security

Date.....

22 / 04 / 2015

2.0 BACKGROUND

Historically, among the Kenyan pastoralists communities, cattle-rustling was considered as a cultural practice and was sanctioned and controlled by the elders. It took place on a seasonal basis and was mainly associated with rites of passage into adulthood. After the rite of passage which happened every year, the newly initiated men took part in cattle raids to demonstrate their prowess. Such raids were also organized to raise the dowry paid as pride price to a bride's parents. Currently the practice of cattle rustling is causing a great concern owing to emergent new trends, tendencies and dynamics, leading to commercialization and internationalization of the practice

Cattle-rustling is the act of stealing of livestock which is mostly prevalent in northern parts of Kenya. The Protocol to combat Cattle Rustling defines it as "the stealing or planning, organizing, attempting, aiding or abetting the stealing of livestock by any person where theft is accompanied by dangerous weapons and/or violence." This definition emphasizes the human dimensions of forceful separation of property and livestock from one person to another.

The main causes of cattle rustling are cultural and traditional practices, proliferation of small arms and light weapons, the politics of cattle warlordism, porous and unprotected international borders, underdeveloped of pastoral areas, low levels of literacy, high level of mistrust between neighboring communities, joblessness and poverty among the youth, community boundary disputes, livestock being seen as a symbol of wealth and status in society, lack of adequate and state of the art resources at the disposal of law enforcement officers, perennial draught which leads to scarcity of water and pasture among others.

The old practices of using arrows and spears has mutated into a criminal practice where proliferation of small arms into the hands of civilians has given rise to violent criminal gangs who kill and rob with violence replacing the old time cattle rustling that was meant to replenish diminishing stock due to drought and other factors.

In this new setting, there is a strong link between cattle rustling, patronage and business deals. Perpetrators encourage cattle rustling for their business interests, as they make money through the practice. Nowadays stolen livestock end up being taken to urban centers where they are slaughtered and sold as beef making it a very profitable business, leading to its commercialization. The perpetrators are neither apprehended nor are they charged in courts of law for these crimes.

Rampant culture of impunity in Kenya and the government's failure to stamp out the practice or deal firmly with the persons behind it has compounded this practice. The police rarely recover livestock stolen from these well planned raids nor even arrest the raiders despite loss of lives and destruction and loss of property.

3.0 SUBMISSIONS

3.1 Meeting with the Petitioners

During the meeting the Committee established that:-

- (i) Cases of cattle-rustling increased from 2005 and were concentrated in Mukutani Division and parts of Kiserian Location. 7 people had be reportedly killed, 5298 cattle stolen from the Ilchamus community and 8000 people displaced. It was also reported that 940 cattle were stolen from the Pokot community in one incident.
- (ii) A boundary dispute between the Ilchamus and Pokot communities in Mukutani Division was cited as major cause of conflict, including cattle-rustling. The Pokot community contended that a river near Mukutani trading centre marked the boundary, the Ilchamus on the other hand believed that their community land included Mukutani trading centre. The two parties accused each other of encroachment and expansionism through cattle-rustling intended to force movement of targeted community out of the area.
- (iii) Local peace initiatives that involved the Baringo County Government and other elected leaders had been initiated, leading to reduced tension and resolution of pasture related conflict through the formation of grassing committees.
- (iv) There was urgent need for the Independent Electoral and boundaries Commission to establish the exact boundary between Tiaty and Baringo South Constituencies.

- (v) That no National Government Administration officer had been posited to serve in Mukutani Division since the establishment of the administrative unit. The Committee was informed that the Pokot community were against the location of a Divisional Headquarters near disputed boundary area and alleged that it was part of an attempt to occupy their land.

3.2 Meeting with the Baringo County Security Intelligence Committee

During the meeting the Committee established the following issues:-

- (i) Mukutani is located at the boundary between the Pokot and Illchamus communities. The Pokot were a majority in the area and following persistent cases of cattle rustling had displaced a number of Illchamus community members out of the area. The Illchamus argued that the area was in Baringo South Constituency. The Pokot on the other hand insisted that it was in Tiaty Constituency. Each group had separate maps to support the claims. The Pokot community contended that a river near Mukutani trading centre marked the boundary, the Ilchamus on the other hand believed that their community land included Mukutani trading centre. The two parties accused each other of encroachment and expansionism through cattle-rustling intended to force movement of targeted community out of the area.
- (ii) The Pokot community were mainly pastoralists with many livestock but due to lack of pasture and water they had moved to areas inhabited by the Illchamus and Tugen Communities such as Kiserian and Ngelecha. This had led to the displacement residents of the areas.
- (iii) The education sector had been severely affected by the increased cases of cattle rustling and nine schools were vandalised and closed in 2005. However six had since reopened but three, namely Embassos secondary school, Ngelecha primary and Loromoru primary remained closed. It was further established that some invaders were residing within Ngelecha primary School.
- (iv) The Illchamus and Tugen communities had 30 and 76 Kenya police reservists, respectively, the Pokot had none.

Challenges facing security agencies in the County

- (i) Inadequate security equipments such as vehicles, communication and night vision gadgets. Currently the police officers were unable to respond to security situations at night.
- (ii) Inadequate funds to facilitate security operations and peace initiatives.
- (iii) Inadequate intelligence gathering capacity

- (iv) Negative ethnicity among the communities in the County.
- (v) Disunity and political rivalry among leaders, particularly between KANU and URP political parties
- (vi) High illiteracy levels and negative cultural practises such as female genital mutilation.
- (vii) Rough terrain and vast geographical area.

Suggested Solutions

- (i) Disarmament of all residents with illicit arms from communities in the region.
- (ii) Deployment of Kenya Police Reservists(KPR)
- (iii) Establishment of special police response units comprising the police and military personnel and deployment of army helicopter gunships in the region to enhance the capacity to respond to emergencies.
- (iv) Survey and determination of boundaries in the region.
- (v) Establishment of more police posts and elevation of Mukutani police post to a station.
- (vi) Branding of livestock to facilitate their identification and serve as deterrence to cattle rustling.
- (vii) Increase funding to National Government officers and the police deployed in the area.
- (viii) Introduction of stiffer penalties for cattle rustling.
- (ix) Holding leaders accountable for their utterances and action.

3.4 Meeting with the Governor Baringo County

During the meeting the following issues emerged:

- (i) The Pokot community were mainly pastoralists with many livestock but due to insufficient pasture and water they had moved to areas inhabited by the Illchamus and Tugen Communities such as Kiserian and Ngelecha.
- (ii) The deployment of Kenya Police Reservists had not been equitably implemented. The Illchamus and Tugen communities had 30 and 76 Kenya police reservists, respectively. The Pokot community in Tiaty Constituency on the other hand had none and insisted on being allocated Kenya Police Reservists (KPRs).
- (iii) The County Government had initiated irrigation projects in Mukutani Division to diversify economic activities.
- (iv) The police establishment within Tiaty Constituency was very thin. The area had only two police posts with approximately 40 officers.

3.5 Public Hearing at Kiserian

During the meeting the following issues emerged:

- (i) Some members of the Illchamus community had been displaced from Mukutani and settled in Kiserian due to conflict between the Pokot and Illchamus. Rugus location was reported to have been the worst affected.
- (ii) The Illchamus were said to have settled in Mukutani area in 1870 and claimed that the name Mukutani had Illchamus origin. The pokot community was said to have migrated to the location in 1970. Two Pokot elders namely Lominingole and Terengole were reported to have been the first to move to the area at the time.
- (iii) Members of the Illchamus community still residing in Mukutani centre feared rearing livestock due to frequent raids. The community was dependant on the pokot for milk and beef .Therefore they had been economically impoverished.
- (iv) Mukutani Division was established in 1992. The Illchamus supported its establishment but the Pokot were against the plan on account that the area was administratively under Tangulbel Division.
- (v) The Illchamus community believed that the boundary between Tiaty and Baringo South Constituency was located 9 km north of river Mukutani.
- (vi) Eight schools were reported to have been vandalised due to the conflict. The schools included Rugus , Noosukuru , Akule and Lorrok.

3.6 Public Hearing at Mukutani

During the meeting the following issues emerged:

- (i) The pokot community claimed that Mukutani location, which they had renamed Makutano Location was in Tangulbel Division in East Pokot District while the Illchamus insisted that the location was in Mukutani Division within Marigat District.
- (ii) The Ministry of Interior and Coordination of National Government had appointed two chiefs from each community to serve in the same jurisdiction (Mukutani Location). Mr. Benjamin Lechire for the Illchamus and Mr. Daudi Lokor for the Pokot Community.
- (iii) The Pokot community were mainly pastoralists with many livestock but due to insufficient pasture and water they had moved to areas inhabited by the Illchamus and Tugen Communities such as Kiserian and Ngelecha.
- (iv) The Pokot community claimed that Mukutani primary used to be administratively in Tangubel zone and was unprocedurally moved to Marigat zone to favour the Illchamus claim that the area was in Baringo East Constituency.

3.7 Public Hearing held at Arabel

During the meeting the following issues emerged:

- (i) Seventeen (17) persons had been killed, twelve (12) others were injured, 631 cattle and 5267 goats had been stolen as a result of cattle rustling related conflict in the area.
- (ii) Three schools namely Embossos, Ngelecha and Loromon had been vandalised and closed due to invasion by some pastoralists from the pokot community. Enrolment levels in other schools had dropped with enrolment in Kapindasum Primary School reported to have dropped from 600 to 124 Pupils.
- (iii) 1074 persons had been reportedly displaced, with Ngelecha Sub Location being the worst affected. Several houses and Public utilities were burnt and vandalised. The Public utilities vandalised included Ramasha, Katilomwo and Kapindasum boreholes and Ramasha honey refinery.
- (iv) Intimidation and threat of further eviction of the Tugen and Ilchamus communities were reported to have been issued by the Pokot.
- (v) Arabel Location does not share boundary with Tiaty Constituency. Hence there was no boundary dispute between the Tugen and Pokot communities.

4.0 OBSERVATIONS, FINDINGS AND CONCLUSIONS OF THE COMMITTEE

1. A boundary dispute between the Ilchamus and Pokot communities was the major cause of conflict in Mukutani Division, Baringo County.
2. The Ministry of Interior and Coordination of National Government had inadvertently appointed two chiefs from each of the two communities to serve in Mukutani Location.
3. The Committee agreed with the petitioners' prayer that the Independent Electoral and Boundaries Commission should address the issue of unclear Constituency boundaries between Baringo South and Tiaty Constituencies. The Ministry of Interior and Coordination of National Government also had not rationalised and aligned the boundaries of administrative units with those of the Constituencies in Baringo County and the rest of the Country.
4. The Committee noted that the Pokot community were mainly pastoralists with many livestock but due to insufficient pasture and water they had moved to areas inhabited by the Ilchamus and Tugen Communities such as Kiserian and Ngelecha.
5. Many residents had been displaced as result of cattle rustling related conflict. A

number of houses and public utilities had also been torched and vandalised. The facilities included Ramasha, Katilomwo and Kapindasum boreholes and Ramasha honey refinery. The Committee concurred with the petitioners' plea that the Government initiates measures to provide for the resettlement and compensation of persons internally displaced due the effects of cattle rustling.

6. The Committee was in concurrence with the petitioners' plea that Parliament enacts a Law to make cattle rustling a serious criminal offence and provide for stiffer penalties. The Committee also agreed with the prayers that the protocol on the prevention, combating and eradication of cattle-rustling in East Africa and the Nairobi Protocol on the prevention, control and reduction of small arms and light weapons in the Great Lakes region and the Horn of Africa be fast tracked to address cattle rustling and proliferation of illicit arms in the region.
7. The education sector had been severely affected by cattle rustling related conflict. Nine schools were reported to have been vandalised and closed in 2005. However six of the closed schools had since reopened but three, namely Embossos, Ngelecha and Loromon remained closed. Several early Childhood Learning centres had also been closed. The Committee also established that some invaders were residing within Ngelecha primary School compound.
8. The protocol on the prevention, combating and eradication of cattle rustling in East Africa and the Nairobi Protocol on the prevention, control and reduction of small arms and light weapons in the Great Lakes region and the Horn of Africa have not been fully implemented to combat cattle rustling and control the proliferation of illicit arms in the region.
9. The deployment of Kenya Police Reservists had not been equitably implemented. The Ilchamus and Tugen communities had 30 and 76 Kenya police reservists; respectively. However no Police reservists had been deployed to serve the Pokot community in Tiaty Constituency.
10. The Security agencies had failed to protect citizens in areas prone to cattle rustling, particularly in the North Rift, where the cattle rustling had persisted since 1968.
11. Disunity and political rivalry among leaders contributed to inability to achieve peaceful conflict resolution in the region.
12. High illiteracy levels in the region contributed to increased cases of cattle rustling.

5.0 RECOMMENDATIONS

Having met the petitioners, undertaken a field visit in Baringo County and after considering the petition, the Committee made the following recommendations:



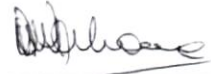

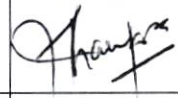
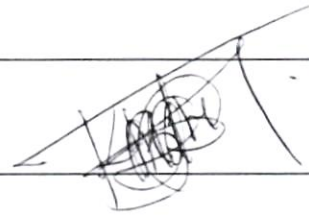
THAT:-


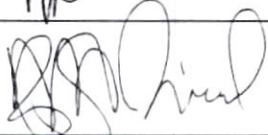



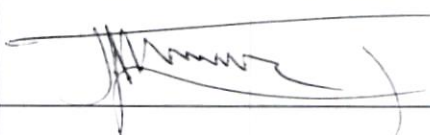

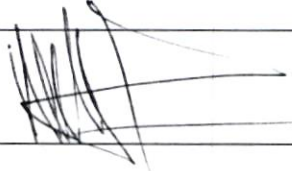
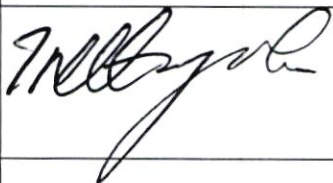
1. The Independent Electoral and Boundaries Commission should urgently address the issue of unclear boundary between Baringo South and Tiaty Constituencies.
2. The Ministry of Interior and Coordination of National Government should rationalize and align the boundaries of administrative units with those of the Constituencies in Baringo County and the rest of the County.
3. Parliament enacts a Law to make cattle rustling a serious criminal offence and provide for stiffer penalties for perpetrators and sponsors of the crime.
4. The Government fast tracks the implementation of the protocol on the prevention, combating and eradication of cattle-rustling in East Africa is fast tracked to address the cattle rustling problem.
5. The Government fully implements the Nairobi Protocol on the prevention, control and reduction of small arms and light weapons in the Great Lakes region and the Horn of Africa to control the proliferation of illicit arms in the region.
6. The Government fully implements the House resolutions as contained in the recommendations of the Report of the Parliamentary Select Committee on *the Root Causes of Cattle Rustling in Kenya – December 2010*.
7. The Government initiates measures to resettle persons who have been internally displaced due cattle rustling related conflict.
8. The National Government should strengthen and revitalize peace committees and the *Nyumba Kumi* Initiative and provide adequate funding to facilitate peace initiatives in the Country.
9. The Government implements a comprehensive and simultaneous disarmament exercise involving all communities in the region.
10. The Cabinet Secretary for Interior and Coordination of National Government ensures that the number of Kenya Police Reservists (KPRs) in the region is increased and the deployed of the police reservists is equitable. A budgetary allocation should also be set aside to cater for provision of allowances to the reservists to motivate and deter them from involvement in illegal activities.
11. The Government should establish Special police response units and deploy them in the region to enhance the capacity of security agencies in emergency response.

12. The Government should intensify civic education programme in the region to change negative culture that promote the perpetration of cattle rustling.
13. Cattle rustling should be declared a national disaster.
14. The respective County Governments should initiate a programme to brand all livestock in the region, to facilitate their identification and serve as deterrence to cattle rustling.
15. The National and County Governments should open up inaccessible areas and improve the existing road infrastructure in the County and the rest of the region. Some of the roads that require urgent rehabilitation include Mukutani – Kiserian Road, Mukatani – Ngelecha Road and Kiserian – Rugus Road.
16. The County Government should develop home grown solutions including legislation to control livestock movement, pasture management and the role of local elders in peace initiatives.
17. The Government establishes more irrigation schemes to diversify economic activities in the area.
18. Vandalised public schools should be reconstructed and secured.
19. Political leaders should be held responsible and accountable for their utterances and action that incite the communities to propagate cattle rustling.

**THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY**

**ADOPTION OF REPORT ON THE CONSIDERATION OF A
PETITION BY RESIDENTS OF MUKUTANI DIVISION, BARINGO
COUNTY ON CATTLE RUSTLING**

S/NO.	NAME	SIGNATURE
1.	The Hon. Kamama Asman, MGH,OGW,MP - Chairperson	
2.	The Hon. Alois M. Lentoimaga, MP - Vice-Chairperson	
3.	The Hon. Ababu Namwamba, EGH, MP	
4.	The Hon. Alice Wahome, MP	
5.	The Hon. Joseph Lekuton, MP	
6.	The Hon. Mohamed Shidiye, MP	
7.	The Hon. Jane Machira, MP	
8.	The Hon. Joseph Kahangara, MP	
9.	The Hon. Zakayo K. Cheruiyot, MP	
10.	The Hon. James Bett, MP	
11.	The Hon. Patrick Ole Ntutu, MP	
12.	The Hon. Shaaban Ali Isaack, MP	
13.	The Hon. Grace Kiptui, MP	

14.	The Hon. Samuel Moroto, MP	
15.	The Hon. Benard Shinali, MP	
16.	The Hon. Humphrey juguna, MP	
17.	The Hon. Francis K. Mwangangi, MP	
18.	The Hon. Rashid J. Bedzimba, MP	
19.	The Hon. Ibrahim Abdi Saney, MP	
20.	The Hon. Joseph O. Ndiege, MP	
21.	The Hon. Regina Nthambi Muia, MP	
22.	The Hon. (Maj. Rtd.) John K. Waluke, MP	
23.	The Hon. Akuja Protus wesit, MP	
24.	The Hon. Ahmed Abdikadir Ore, MP	
25.	The Hon. David Gikaria, MP	
26.	The Hon. Timothy W. Wetangula, MP	
27.	The Hon. Wanjiku Muhia, MP	
28.	The Hon. George Theuri, MP	