

**REPUBLIC OF KENYA**



**KENYA NATIONAL ASSEMBLY**

**TENTH PARLIAMENT – FOURTH SESSION - 2012**

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**REPORT OF THE JOINT  
COMMITTEE INVESTIGATING THE MATTER OF THE ADVERSE SECURITY  
SITUATION, LOSS OF PROPERTY, LOSS OF LIVES OF SECURITY PERSONNEL AND  
CIVILIANS  
IN GARISSA AND EASTLEIGH TOWNS, AND THE BARAGOI ENVIRONS**

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**CLERK'S CHAMBERS  
PARLIAMENT BUILDINGS  
NAIROBI**

**DECEMBER, 2012**

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## **LIST OF ACRONYMS**

AP	-	Administration Police
ASAL	-	Arid and Semi-Arid Lands
ASTU	-	Anti-Stock Theft Unit
CEO	-	Chief Executive Officer
CPL	-	Corporal
DAPC	-	District Administration Police Commandant
DCIO	-	District Criminal Investigations Officer
DSIC	-	District Security Intelligence Committee
DO	-	District Officer
GSU	-	General Service Unit
G.P.G.H	-	Garissa Provincial General Hospital
IDP	-	Internally Displaced Persons
IED	-	Improvised Explosive Device
KDF	-	Kenya Defence Forces
KNCHR	-	Kenya National Commission on Human Rights
KPR	-	Kenya Police Reserve
KRA	-	Kenya Revenue Authority
KRCS	-	Kenya Red Cross Society
LASDAP	-	Local Authorities Service Delivery Action Plan
MOA	-	Media Owners Association
NCIC	-	National Cohesion and Integration Commission
NFD	-	Northern Forum for Democracy
NPS	-	National Police Service
NPSC	-	National Police Service Commission
OCPD	-	Officer Commanding Police Division
OCS	-	Officer-in-Charge of Station
ODM	-	Orange Democratic Movement
PC	-	Police Constable
PPO	-	Provincial Police Officer
PSV	-	Public Service Vehicle
PSIC	-	Provincial Security Intelligence Committee
RDU	-	Rapid Deployment Unit
SALWs	-	Small Arms and Light Weapons
SUPKEM	-	Supreme Council of Kenya Muslims
RDU	-	Rapid Deployment Unit
TFG	-	Transitional Federal Government
UNHCR	-	United Nations High Commissioner for Refugees

## PREFACE

**Mr. Speaker, Sir,**

The Departmental Committees on Administration and National Security, Defence and Foreign Relations and Justice and Legal Affairs; are constituted under Standing Order 198 of the National Assembly and mandated to, inter-alia, ***“investigate and inquire into all matters ... as [they] may deem necessary and as may be referred to [them] by the House...”*** Likewise, pursuant to Standing Order 192 (b), the Select Committee on Equal Opportunity is mandated, among others, to ***“investigate, inquire into and report on all matters relating to discrimination, or marginalization of groups...”***

**Mr. Speaker,**

The following are the Members of the Joint Committee:

The Hon. Fred Kapondi, MP **(Joint Chairman)**  
The Hon. Adan Keynan, MP **(Joint Chairman)**  
The Hon. Mohammed Affey, MP **(Chairman)**  
The Hon. Benedict Gunda MP **(Vice-Chairman)**  
The Hon. Peter Kiilu, MP **(Vice Chairman)**  
The Hon. Njoroge Baiya, MP **(Vice-Chairman)**  
The Hon. Joseph Lekuton, MP **(Vice-Chairman)**  
The Hon. Maison Leshoomo, MP  
The Hon. Millie Odhiambo – Mabona, MP  
The Hon. Pollyins Ochieng, MP  
The Hon. Joseph Kiuna, MP  
The Hon. Raphael Letimalo, MP  
The Hon. Cyprian Omollo, MP  
The Hon. Danson Mungatana, MP  
The Hon. Mohamed Hussein Ali, MP  
The Hon. Chachu Ganya, MP  
The Hon. Luka Kipkorir Kigen, MP  
The Hon. Nkoidila Ole Lankas, MP  
The Hon. Ephraim Maina, MP  
The Hon. Abdikadir Mohammed, MP  
The Hon. Isaac Ruto, EGH, MP  
The Hon. Wilson Litole, MP  
The Hon. George Nyamweya, MBS, MP  
The Hon. Charles Kilonzo, MP  
The Hon. Mutava Musyimi, MP  
The Hon. Peter Omondi Anyanga, MP  
The Hon. Olago Aluoch, MP  
The Hon. Martin Ogindo, MP

The Hon. Amina Abdalla, MP  
The Hon. Jeremiah Kioni, MP  
The Hon. Sophia Abdi Noor, MP  
The Hon. Yusuf Hassan, MP  
The Hon. Kiema Kilonzo, MP  
The Hon. Augustino Neto, MP

**Mr. Speaker, Sir,**

On Wednesday 21<sup>st</sup> November 2012, the Deputy Speaker of the National Assembly directed that the matter of the inquiry into the violence that rocked Baragoi, Garissa and Eastleigh be referred to the Departmental Committees on Administration and National Security; Defence and Foreign Relations, Justice and Legal Affairs; and the Select Committee on Equal Opportunity, to jointly investigate the matter and report to the House within seven days.

The matter came before the House through a point of order by the Hon. Fred Kapondi, MP, who sought the direction of the Chair on whether the Departmental Committees on Defence and Foreign Relations, and Administration and National Security, could jointly investigate the violence in Baragoi, Garissa and Eastleigh in order to expedite the process, as the House awaited the investigations being carried out by the Government.

After a lengthy debate in the House, it was finally agreed that Members of the Departmental Committee on Justice and Legal Affairs, and the Select Committee on Equal Opportunity, be co-opted into the inquiry.

The Joint Committee was tasked to investigate the circumstances surrounding the killing of the more than 40 Police officers in Baragoi as they pursued bandits who had stolen livestock from Samburu. The Committee was also to inquire into the deaths of seven passengers inside a public service vehicle as a result of a hand grenade attack. The Committee would finally investigate the involvement of the Kenya Defence Forces in the violence and destruction that erupted in Garissa after three of their colleagues were killed by suspected militiamen.

**Mr. Speaker,**

The Committee held its first meeting to draw a working programme on 22<sup>nd</sup> November, 2012. The Committee travelled to Garissa on 23<sup>rd</sup> November, 2012, where it toured the affected areas and held meetings with the District and Provincial Security Intelligence Committees; and the local leaders from the County.

On 26<sup>th</sup> November, 2012, the Committee also visited Baragoi area in Samburu and held meetings with the District Security team and the local leaders. The Committee also met the Samburu County Council officials in order to verify allegations that the Council had

sidelined members of the Turkana Community from gainful employment within the County Council, and that there was general bias against the Turkana during annual recruitment into the police and armed forces.

The Committee further visited Eastleigh and met with the District Security team and local leaders from Kamukunji Constituency on 28<sup>th</sup> November, 2012. The Committee also visited the scene of the blast where passengers in a minibus were attacked, resulting to seven deaths and scores of others injured.

On 29<sup>th</sup> November, 2012, the Joint Committee held sessions with the Ministers of State for Provincial Administration and Internal Security, Defence and the National Security Intelligence Service. The Committee also met with the National Cohesion and Integration Commission, the Kenya Red Cross Society on Friday 30<sup>th</sup> November 2012. The Committee also met Members of Parliament from the affected areas on 3<sup>rd</sup> December, 2012.

The Committee also met with the Minister of State for Immigration and Registration of Persons on Tuesday 11<sup>th</sup> December, 2012, on why so many aliens from Somalia had been issued with registration documents, thus compromising the security of the country.

On Thursday December 13, 2012, the Committee also held a session with Media Council of Kenya and the Media Owners Association over allegations that the media was not been factual and objective while reporting matters touching on the national security of the country.

**Mr. Speaker, Sir,**

During the meeting with the Minister of State for Provincial Administration and Internal Security, the Committee was informed that the Ministry had acted with speed to restore peace in Baragoi, Eastleigh and Garissa immediately after the attacks. The Minister said that the Ministry was committed to ensuring security prevailed in the country. However the Ministry faced serious challenges in terms of inadequate funding from the Government which rendered it ineffective in combating criminal activities. It was necessary to allocate adequate funds to enhance the Ministry's capacity to address security issues.

The Minister of State for Defence informed the Committee that it was a Cabinet decision to deploy the army to Baragoi to pursue the bandits. He further alluded to the fact that the National Security Council erred by deploying KDF in Baragoi without first seeking the approval of the National Assembly, which was in contravention of Article 241(3)(c) of the Constitution (as clearly demonstrated by the Speaker's memorandum – Annex ...). The Committee noted with concern that KDF took orders from the National Security Council irrespective of their constitutionality or otherwise.

The Minister also said that the chaos that occurred in Garissa was out of a spontaneous response by KDF soldiers after learning that three of their colleagues had been killed in cold

blood. The army was never deployed in Garissa to quell the violence. The soldiers acted from anger and vengeance. Their actions were being investigated.

The Chairman of the National Cohesion and Integration Commission informed the Committee that NCIC visited Eastleigh after the attack on the minibus. The Commission had witnessed the violence unleashed on suspects of Somali origin who were thought to have perpetrated the grenade attack on the passenger van.

The Chairman of the Kenya Red Cross Society gave an account of the situation as was witnessed by the rescue teams in Baragoi, Garissa and Eastleigh. The Committee was informed that Red Cross witnessed loss of lives, countless injuries and wanton destruction of property in the violence hit areas.

The Committee also met with the Minister of State for Immigration and Registration of Persons on Tuesday 11<sup>th</sup> December, 2012. The Committee wished to know why there were so many aliens from Somalia who had been registered as Kenyan nationals. The Immigration Department was blamed for the influx of Somali refugees in towns such as Eastleigh where many of them were provided with illegal registration documents.

During a session with Media Council of Kenya and the Media Owners Association, the Committee raised concerns that the media was not reporting accurately and objectively on security issues. The Members were of the view that misrepresentation and sensationalization of stories published in the newspapers on the attacks could easily plunge the country into more chaos. The Committee Members emphasized the need for responsible journalism which lead to enhanced peace and stability in the country.

The Media Owners Association agreed that there was need for responsible journalism. It was agreed that the National Assembly and the media would hold more consultative forums in a bid to formulate ways of promoting peace in times of crisis.

**Mr. Speaker,**

**The Committee made the following key recommendations.**

**(1) Expedition of Police reforms**

- (i) There is need for the Government to fast-track police reforms including the appointment of the Inspector-General and his deputies in addition to senior officials of other security agencies.
- (ii) The government should adequately fund the National Police Service Commission and the Independent Police Oversight Authority to ensure that the two bodies optimally perform their mandate in order to address and prioritize among others the following issues:



- The introduction of Risk Allowance for police officers
- The establishment of a Compensation Fund either through a non-contributory or contributory insurance scheme for all police officers in the National Police Service who are injured or die in the line of duty.
- The establishment of a Specialized Hospital for the police, similar to the Armed Forces Memorial Hospital.

**(2) Introduce Supplementary budget**

The Minister for Finance should immediately invoke the provisions of Article 223 (1) (a) of the Constitution of Kenya 2010 to provide funds to address the escalating / adverse security situation in the country. This is particularly urgent as we have less than three months to the general elections and should be done before dissolution of the Tenth Parliament.

**(3) Compensation for destroyed property**

The Government should compensate for the losses incurred by Kenyans in Garissa during the un-called for destruction by KDF soldiers.

**(4) Enactment of The National Government Co-ordination Bill, 2012**

The government should fast track the enactment of the National Government Co-ordination Bill, 2012 before the dissolution of the 10<sup>th</sup> Parliament to allay the fears and uncertainty over the future of the Provincial Administration.

**(5) Responsible Media Coverage**

As we approach the next general elections, the local media should report objectively, factually and impartially, and be cautious not to inflame tensions between communities through sensational reporting..

**(6) Deployment of the KDF**

The Government should only consider deploying the KDF in aid to civil authority when necessary and in line with Article 241 (1) (c) the Constitution.

**(6) Undertake Comprehensive Disarmament**

The Government should develop a wholistic strategy of countrywide disarmament of illegal arms including voluntary disarmament through local elders. This should be accompanied by the establishment of an inventory for all firearms and ammunitions in the country. Consequently, security should be enhanced to prevent the communities from rearming themselves.

**(7) Repatriation of Illegal Immigrants**

The Government should commence gradual repatriation of refugees to their home countries especially where such areas have been pacified in consultation with the UNHCR

**(8) National Reconciliation**

The National Cohesion and Integration Commission in conjunction with the local leadership should initiate dialogue and reconciliation programmes to bring harmony among communities in conflict.

**(9) Border Control**

The Kenya Revenue Authority (KRA) with the assistance of the National Police Service should take measures to eradicate the trade in contraband goods.

**(10) Socio-economic Marshall Plan**

The government should make a deliberate effort to develop a comprehensive and structured programme to develop areas prone to recurring cattle rustling.

**(11) Full implementation of the Parliamentary Select Committee Report on Cattle Rustling**

The recommendations in the report of the Parliamentary Select Committee investigating the root causes of cattle rustling should be fully implemented.

**(12) Relief Assistance**

Immediate relief assistance should be provided to families that were affected by the incidences of insecurity.

**(13) Terms and Conditions of Service for Police Officers**

The Committee noted serious salaries disparities between various security organs, with the KDF and the National Intelligence Service enjoying better pay while the police officers getting meagre pay. The Government should put in place a deliberate mechanism to rationalize salaries in the security sector and to improve the terms and conditions of service of police officers.

**(14) Consideration for Retired Police Officers**

The government should set up a professional body to recognize and consider retired police officers which could serve as a reserve force when need arises.

**(15) Relocation of injured TFG Soldiers at Garissa Provincial General Hospital**

The presence of injured TFG soldiers in Garissa Provincial General Hospital poses a serious security threat in the area. The Government should relocate them as a matter of urgency.

**(16)** The Government should establish a Commission of inquiry to investigate the killing of security officers in Baragoi and those responsible should be arrested and charged in court.

**(17)** An inquiry should be established to investigate the wanton destruction of property in Garissa and those responsible should be arrested and charged in court.

**(ii) Acknowledgements**

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical support which enabled it to conduct the inquiry into the violent attacks in Baragoi, Eastleigh and Garissa smoothly. The Committee is also grateful to the National Cohesion and Integration Commission for sharing information during its visit to Eastleigh.

The Committee further appreciates the assistance by the Ministry of State for Provincial Administration and Internal Security for ensuring that the meetings with the Provincial and District Security Intelligence teams as well as local leaders in the three counties went on smoothly.

**Mr. Speaker,**

On behalf of the Committee, and pursuant to Standing Order 181 (3), it is my pleasant duty to table the joint report of the Departmental Committees on Defence and Foreign Relations, Administration and National Security; Justice and Legal Affairs and the Select Committee on Equal Opportunity; on the matter of the inquiry into the violent attacks in Baragoi, Eastleigh and Garissa, for due deliberation and adoption.

**Signed: .....Hon. Fred Kapondi, MP.....  
(Co-Chairperson)**

**Signed.....Hon. Adan Keynan, MP.....  
(Co-Chairperson)**

## EXECUTIVE SUMMARY

Over the last six months, there has been an unprecedented rise in cases of insecurity in various parts of the country from the Tana Delta, the capital city Nairobi, the Coastal region, Kisumu, parts of Rift Valley and parts of Upper Eastern and North Eastern Province. This report seeks to document the findings from fact finding field evidence and consultative meetings by the Joint Committee composed of members drawn from four (4) Parliamentary Committees on the recent spate of violent attacks that took place in Garissa, Baragoi and Eastleigh towns that resulted in deaths of civilians and military personnel, massive property losses, displacements of families, a situation that has heightened uncertainty and fear across many communities in the country, and some of the underlying causes.

While some of the cases of violence are attributed to retaliatory attacks, what is particularly worrying is the new dimension that insecurity is acquiring in terms of 'tribal'/ sectional clashes and targeting of security agents. This is an ugly trend that has to be expeditiously and creatively confronted and reversed, given its far reaching implications not only to ordinary civilians, but also to the entire country as a preferred investment and business destination in the Eastern Africa region. On the face of it, it appears that the management of security in Kenya is receiving inadequate attention and/or untimely responses from the Government's concerned national security organs.

This is a situation that has the potential to degenerate into a vicious spiral and web of counter violence, fatalities and massive destruction of property if concrete and urgent interventions to address its relevant issues are not effected. The greater challenge, however, lies in how best to craft and forge an effective, unified front between the civilian and security organs that would help stem the escalation of insecurity in a timely, wholistic, harmonious and sustainable manner.

The unfortunate Garissa, Kisumu, Baragoi, and Eastleigh incidents are happening at a time when Kenya is headed to a sensitive countrywide electioneering period and going by past instances which were characterized by violence, it is imperative that all areas be secured; since the geographical areas in which these cases of insecurity thrive are fundamentally strategic and vital to the economic, geo-political stability and prosperity of Kenya. The effort to secure and restore the overall positive image of any area of Kenya has to be given primary consideration. Each area is in effect a vital element in the well-being of the body called Kenya.

The *Kenya Vision 2030* has its economic, social and political pillars grounded on the presumption of the existence and sustainability of security, peace and tranquility. The critical role of security is equally aptly captured under the principles of national security which are stipulated in Article 238; Chapter 14 of the Constitution of Kenya, 2010 on National Security.

**Article 238 (1) states that :- National Security is the protection against internal and external threats to Kenya's territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability and prosperity, and other national interests.**

**Further, Article 238 (2) states that; the National security of Kenya shall be promoted and guaranteed in accordance with the following principles:-**

- (a) National security is subject to the authority of this Constitution and Parliament;
- (b) National security shall be pursued in compliance with the law and with the utmost respect for the rule of law, democracy, human rights and fundamental freedoms;
- (c) In performing their functions and exercising their powers, national security organs shall respect the diverse culture of communities within Kenya; and,
- (d) Recruitment by the national security organs shall reflect the diversity of the Kenyan people in equitable proportions.

The targets for 2009/2010 Medium Term Plan for the security, peace-building and conflict management sector include the establishment and equipping of a master forensic laboratory; installation of surveillance cameras in Nairobi, Mombasa, Nakuru and Kisumu; improvement of police and security personnel staff housing; and security and policing reforms.

On-going and outstanding reforms to be implemented target the Kenya Prison Service, encompassing improved training, housing and working conditions for the prison staff; and the re-orientation of the Kenya Prisons Service to focus on correctional activities.

Key recommendations have been made and adopted but the Government is yet to fully implement the proposals of the task force on Police reforms. The sector indeed continues to face numerous challenges.

Kenya is currently faced with multiple and complex human safety and national security questions as well as conflict prevention challenges which include:-

- (i) The emerging culture of militancy by the youth and the resurgence of violent attacks by proscribed militia groups;
- (ii) Widespread availability and ease of access to illicit Small Arms and Light Weapons (SALWs) in informal markets largely owing to Kenya's porous borders;
- (iii) Competition for and access to; control and ownership of limited natural and national resources;

- (iv) Lack of an integrated and comprehensive policy to address peace, security and conflict; in the context of high levels of unemployment and multiple social adversities in the country;
- (v) Inadequate technical and human resource capacity in containing and reversing insecurity in the country and eliminating its root causes;
- (vi) High rates of unemployment among the youth;
- (vii) Spiraling number of unregistered immigrants in the country;
- (viii) Failure of community policing initiatives;
- (ix) Prevalent drug and substance abuse; and,
- (x) Human trafficking.

This report contains a summary of the field evidence on the obtaining state of insecurity, that was adduced by the Ministry of State for Provincial Administration and Internal Security, National Cohesion and Integration Commission (NCIC), Members of Parliament from the North-Eastern Province, lead security & intelligence teams and local leaders at the provincial and district levels in Garissa County in the North Eastern Province, Baragoi in Samburu, and Eastleigh town in Nairobi.

Key among the matters that the Joint Committee sought to investigate and ascertain were:-

- (i) The underlying factors that have led to the unprecedented rise in insecurity and deaths of civilians, security and military personnel in Garissa, Baragoi and Eastleigh towns;
- (ii) The constitutionality of the deployment of the Kenya Defence Forces in the affected areas;
- (iii) The general and specific effects of massive security operations sanctioned by the government;
- (iv) The possible implications of declaring curfews in affected areas;
- (v) The potential risks and challenges that are faced in addressing the spiralling insecurity; and,
- (vi) The interventions and strategies that the Government can put in place to address and resolve the emergent insecurity and fatal incidents to avert future recurrence;
- (vii) The mass destruction of property and indiscriminate looting in Garissa and Eastleigh towns.

This report is a summary of the evidence and findings of the Joint Committee investigating the matter of insecurity and loss of security personnel and civilians in the 3 worst hits areas, namely:-

- (i) The Departmental Committee on Administration and National Security;

- (ii) The Departmental Committee on Defence and Foreign Relations;
- (iii) The Departmental Committee on Justice and Legal Affairs, and;
- (iv) The Select Committee on Equal Opportunity.

The Joint Committee co-chaired by the Hon. Fred Kapondi, MP and the Hon. Adan Keynan, MP, embarked on fact-finding field visits to the affected scenes to establish the underlying root causes through participatory and consultative processes and held discussions with the political leaderships, the public, and state and security organs in Garissa, Baragoi and Eastleigh environs.

The report covers the background and context of the escalating insecurity and killings of security personnel and civilians.

A summary of findings of the Joint Committee and their recommendations are set from page 29 of the report. Attached at the end of the report are appendices which contain records of the various meetings.

## 1.0 CHAPTER ONE: BACKGROUND AND CONTEXT

### 1.1 FRAMING THE PROBLEM OF INSECURITY IN KENYA

The availability and presence of security, peace, the rule of law and legality, and legitimate conflict management systems; stand as critically necessary conditions to achieve faster and sustainable socio-economic growth, political stability and development in Kenya and indeed the East African region.

And Kenya according to the most recent Foreign Direct Investment Intelligence report currently stands as the 3<sup>rd</sup> most favoured investment destination after South Africa and Morocco, and indeed stands ahead of Nigeria and Egypt in Africa.

But Kenya is not just a village or mere collection or clusters of villages. In the current set of things in the world and Africa, Kenya constitutes a strategic and contested geo-political space that is replete with both great developmental possibilities for itself and the entire East Africa region; and also holds factors that exist to negate these possibilities.

It is a country that exists within a new world dynamic of change and transformative pressures, interests and events; that cause significant social dislocation. It is like an old world entering the new world of things, and multiple forces in contestation.

All these factors, are making their indelible mark on the country, its peoples and communities; rural, peri-urban and urban population.

The country's leadership stands duty bound to face up to the challenge of asserting Kenya's higher interests in this emerging world dynamic – which buffets the country on a continuous basis. Unfortunately, this is the context of God for us all, and, the devil takes the hindmost.

Kenya now exists within a zone of increased social, political turbulence and spiraling insecurity – that cuts across the region of its geographical placing, in the Indian Ocean environs, stretching from Yemen, Somalia, through Kenya's coastal region, down to Zanzibar etc and that touches Inland, covering a zone on its northern territorial borders with Southern Ethiopia, S.E South Sudan and N. Eastern Uganda.

This is a zone of the balance of terror and armed power groups – in which viscous and destructive contestations for resources takes place. The zone is an arena of human carnage and death whose effects rebound on Northern Kenya and coastal communities, and indeed the whole country. This zone continues to be animated as well by a complex web of emergent armed insurgencies. The intermittent flash points in Kenya occur within the context of these environs at various levels.



Kenya, however, also incubates and stands entrapped within a most adverse and implosive social human condition which is historical in origin and has yet to be wholistically addressed in its set modernization and developmental processes.

These include the evident challenges and problems of extreme social and economic polarization and inequity; of widespread deep poverty and social marginalization; of the intensified struggles to share natural, public and productive resources etc – all which are rooted within an economy whose labour power absorptive capacities remain stunted.

The unresolved land question in Kenya and indeed the overall natural resources issue constitute core factors in the unfolding violent social contestations. The increasing awareness of the magnitude of these yet-to-be addressed challenges of inequities and the myriad of obtaining social realities, constitute readymade implosive and inflammable conditions that are susceptible to be set ablaze.

The stimulants of ethnicity, religion, area or regional origins and other sectionalist phenomena etc present themselves as the most convenient mobilization tools that agents of terror utilize to cloud the vision of lead terror footmen in the country's local and contending groups. Consequently, Kenya holds as a country that is at pains with and within itself; and often stands hinged or precariously balanced at the edge of precipices of possible self-destruction.

It is evident that it is these adverse structural conditions within which many vicious and destructive contestations have been occurring and may in future take place if they remain unresolved.

The country has to face up to these adverse structural realities in rising to meet the challenge now faced of ***“physician heal thyself”***. For Indeed, it is Kenya alone that can truly free itself from the implosive social entrapment which malign internal and external forces may take advantage of to the detriment of the country and its people. Although perhaps no individual can be held wholly responsible for the country's entrapment in this implosive and adverse condition, still each stands responsible for her or his involvement in, or reaction to, and, or obligation incumbent on him or her in the country's implosive condition.

There is need to wholistically examine this emerging situation a new and have a re-think on as to how it can be comprehensively addressed in – the short term, medium term and long term. Kenya faces the challenge to galvanise all necessary human and natural, financial and leadership talents towards meeting this national call.

The basis of doing so successfully is to get to grips and appreciate the overall social, economic, political and cultural context and reality within which destructive violence continues to take centre stage and compounds itself in Kenya.

It is imperative that the Kenyan economic systems be re-engineered to absorb the unemployed, under-employed and marginally employed that constitutes a large component of the floating population in rural and urban areas which are susceptible to manipulation into violence by nationally negative interests and forces.

Vision 2030 is only a sketch indicative beginning which stands to be built as an all absorptive socio-economic system.

More significantly and critical, is the fact that already, the worsening security situation has forced businesses in these areas to close down and has rendered many small scale entrepreneurs jobless – a situation that has plunged them into instant deprivation and destitution.

Given the country's experiences, hitherto; it is obvious that in this matter, time is of the essence.

## **2.0 CHAPTER TWO: COMMITTEE VISIT TO GARISSA**

### **2.1 THE SCENES OF VIOLENCE IN GARISSA**

The Joint Committee visited the following places in Garissa Town:

- (i) Maua Millers
- (ii) Suq – Mugdi ( the Black Market)
- (iii) Al – Waqf building
- (iv) The Garage (Crime scene)

### **2.2 MAUA MILLERS**

Maua Millers was started in 1992 and worked as a factory for the last twenty years with a work force of 85 employees and was the only maize mill factory serving the entire North Eastern Province.

The Director of the of the factory informed the joint Committee that;

The entire factory was looted and burnt down. The workers of the factory were beaten and harassed. The empty bags fuelled the fire that started from the warehouse. The total loss was estimated to be 323 million shillings. The Director further requested for justice from the government in compensating his lost property and the perpetrators of the wanton destruction in Garissa town to face justice.

### **2.3 SUQ – MUGDI: THE BLACK MARKET**

Suq – Mugdi meaning black market is the biggest market in Garissa town mainly known for wholesale and retail market for fruit and vegetables. The market is also known for its several businesses including hotels, textile shops and several other ventures.

The Chairman of the market informed the Committee that:

Property worth millions of shillings was burnt and looted. The market was a major economic hub for not only Garissa but also served the entire North Eastern Province. The Chairman further called on the Government to compensate all the people whose properties were destroyed.

### **2.4 AL –WAQF BUILDING**

Al Waqf Building is a four storey building along Kismayu Road that houses the Gulf African Bank, Garissa Branch and Halgan Hotel.

Al Waqf is a charitable storey building that was purposely built to act as an asset for the orphans in the larger Garissa County. The money generated as a rent from the storey building is used to educate the orphans and the needy in Garissa County.

The Committee detoured the building and witnessed the extent of the damage. The top floor of the building which housed a hotel had been razed into ashes.

## **2.5 KDF SCENE OF CRIME**

The Committee also visited the scene of crime where the three KDF soldiers were killed. The area was littered with old unused vehicle tyres. The area was also not secure and therefore the armed soldiers had unnecessarily exposed themselves.

The Members sought to know why the KDF soldiers were changing a tyre in a place not designated as a garage. The Committee Members were of the view that the KDF soldiers had unwittingly exposed themselves to danger.

## **2.6 TOUR OF THE GARISSA PROVINCIAL GENERAL HOSPITAL**

The Committee visited the Garissa Provincial General Hospital where some victims of the violence were recovering. The Committee found a victim who had been shot and fatally wounded. Other patients included some of the wounded Transitional Federal Government (TFG) soldiers who had been admitted in the hospital for treatment. Their presence had not only overstretched the hospital facilities but also posed a security risk to other patients admitted in the hospital, as they were easy targets for Al Shabaab militias. The Committee noted that there was need to relocate the TFG forces to the Forces Memorial hospital in Nairobi.

The Committee further held a meeting with the hospital's Medical Superintendent, Dr. Musa Muhamed who informed the Committee that the hospital receives a quarterly allocation of Kshs. 2.23 million. Out of this small budget the hospital has waived medical bills for patients worth 1.39 million.

The Committee was further informed that between 2011 and 2012, the total number of nurses had drastically reduced from 122 to 82 as a result of transfers caused by the insecurity in the area leading to an acute shortage of nurses in the hospital.

## **2.7 MEETING WITH THE GARISSA DISTRICT SECURITY INTELLIGENCE (DSIC) COMMITTEE**

The County Commissioner informed the Joint Committee that:

On Monday 19<sup>th</sup> November, 2012 at about 12.30 pm, three KDF soldiers were shot dead by unknown people along Kismayo Road in Garissa Town opposite the gate of Garissa High School. The Three KDF soldiers were shot dead while changing a tyre for their vehicle.

Eye witness accounts indicate that the officers were shot dead by three assailants who hurriedly disappeared on foot towards the Sunnah Village in Ngamia Road Estate.

The shooting incident took place as the DSIC was holding a brief with the District Recruitment Committee organized by the National Police Service Commission (NPSC) ahead of the impending recruitment of Police constables scheduled for Thursday 22<sup>nd</sup> November 2012 at the Government Guest House in Garissa.

The Garissa DSIC learnt of the shooting incident and immediately released the District Criminal Investigations Officer (DCIO), the Officer Commanding Police Division (OCPD) and the District Administration Police Commandant (DAPC) to the scene for prompt investigation and action. The registration details of a motor vehicle suspected to have been used by the assailants was obtained for further investigation.

Thereafter, Garissa town experienced massive destruction of property. Several buildings were set on fire. These included shanties and makeshift kiosks along the roadside, the Al-Waqf building, the Maua Millers Factory, the Ainul-Qamar Hotel, and the main Suq Mugdi open air market. It is believed that merchandise worth millions of shillings was lost. There was an unprecedented looting of people's property. The value of the destroyed property is yet to be quantified.

The incident was marked by unwarranted gunfire, brutal beatings, torture, manhandling and harassment of the members of the public allegedly by the security personnel. This led to several physical injuries to the people. Forty four patients were treated at the Garissa Provincial General Hospital with one victim being referred to Nairobi for further specialized treatment. The number of victims treated in private health facilities are yet to be established. Among the casualties of the brutality was the Chief of Bula-Argi township location who was caught up in the mayhem.

The frenzy incident virtually paralyzed all the activities in Garissa town and caused a lot of fear and panic among the residents. The DSIC did not sanction the operation and it took the County Commissioner the whole afternoon quelling the irate security personnel who defied pleas to stop the wanton destruction of property. The incident finally subsided in the evening at around 7.15 pm

The killing of the KDF soldiers and other security personnel was the work of the militants whose aim was to create bad blood between the public and the Government.

On the 20<sup>th</sup> November, 2012 at around 7.40 am the KDF soldiers who were on transit to Somalia were provoked by Members of the public who threw stones at them. Consequently, the security personnel intervened to restrain possible confrontation between the KDF and the irate members of the public. In the ensuing melee, 30 people were injured. Out of the injured people, 8 of them were as a result of gunshots. Out the 8 injured one was a Chief for

Modika location, 2 students of County High School among others. Two of the injuries i.e. the Chief for Modika and 1 lady succumbed to the injuries.

## **2.8 OBSERVATIONS BY THE DISTRICT SECURITY INTELLIGENCE COMMITTEE**

The DSIC observed that the reaction by the security personnel was excessive, causing a lot of mayhem in Garissa Town:

The DSIC observed that there was violation of human rights by the security personnel during the mayhem. The members of the public were roughed up including the Honorable Member of Parliament for Dujis and the Chiefs of Township and Bula – Argi locations despite identifying themselves to the officers.

The DSIC further observed that the destruction of properties has caused hostility between the members of the public and security officers in Garissa town.

### **2.8.1 Garissa County Commissioner peace stakeholders meetings and Resolutions:**

The Garissa County commissioner met with all the Managers of hotels and lodges to thoroughly register and scrutinize all the customer details including national identity cards, purpose of visit and period of stay.

The Garissa County Commissioner also met with the all in the leaders in Garissa District to strengthen Community Policing by zoning the Garissa Town, chiefs to register all visitors in their respective locations and sub- locations while aliens to register with the Department of Refugee affairs UNHCR Dadaab.

The meeting further declared that all PSV vehicles be inspected including; Taxis, Matatus Buses and the Boda Boda passing through the Tana Bridge.

Take appropriate Disciplinary action against the Security Officers who were on duty when the Zafex Bus passed through the Tana Bridge from Liboi and was arrested in Matuu with 8 aliens and explosives gadgets.

Involve the Garissa youth in different forms of employment or engagement to avoid idleness. Security agents were asked to impound any vehicle without number plate or with foreign number plate.

The Deployment of local administration police Officers of Somali origin community to Garissa County to help penetrate the closed Somali culture and break the criminal network that has been established.

Carry out a major swoop at all the refugee camps in Dadaab and Fafi District to impound illegal firearms and contraband goods.

Provide amnesty to persons who voluntarily surrender any illegal firearm in their possession. Embrace the spirit of a working nation as per the government policy and provide opportunity to operate business freely and without harassment by the Police Officers.

The Joint Committees sought the following clarifications from the Garissa DSIC:

- The Measures put in place by the Garissa DSIC in curbing and containing the insecurity menace in Garissa town.
- Whether the three KDF soldiers were armed.
- Clarity on the allegations that KDF soldiers could not shoot back their attackers to avoid collateral damage.

## **2.8.2 RESPONSE BY THE GARISSA DSIC**

In his response the County Commissioner informed the Committee that he had organized sectoral meeting with hotel and lodges managers and owners, religious leaders and youth in curbing the menace. On whether the KDF soldiers were armed, the Garissa DSIC affirmed; but objected to the allegations by KDF that a civilian authority had requested the operation. It was unconfirmed that the KDF soldiers could not shoot back their attackers in avoiding collateral damage.

## **2.9 MEETING WITH THE PROVINCIAL SECURITY INTELLIGENCE COMMITTEE (PSIC) ON SATURDAY 24<sup>TH</sup> NOVEMBER, 2012**

The Sub- Committee held a meeting with the PSIC in a bid to discuss the escalating insecurity in Garissa town. The Committee met the Provincial Commissioner, Mr. Ernest Munyi together with the other members of the PSIC including the Deputy Provincial Intelligence Officer, Mr. B. Ngatia Iregi among others.

The Sub- Committee heard the following:-

- i) That following the incursion of the Kenya Defence Forces into Somalia, North Eastern Province has witnessed a series of incidences that have compromised the erstwhile peaceful region;
- ii) The insecurity incidences characterized by attack on individuals, security personnel and churches;
- iii) The Al shabaab have been targeting key Government installations, police, military camps, Government officers and foreign workers in North Eastern;

- iv) The security situation in North eastern has deteriorated due to the influx of refugees from Somalia into Dadaab Refugee camp who have in turn sneaked to integrate with people living in Garrisa, engaging in all sorts of illegal activities;
- v) There is fear that the refugees have been able to obtain Kenya's identification documents;
- vi) Garissa Town is an expansive area with a population of approximately 250,000 people but served by only one police station which cannot adequately cater for the population's security and other services;
- vii) The Committee heard that the residents of Garrisa have in many occasions, cheered whenever the Security personnel are being attacked;
- viii) The insurgents attacks are strategized in a way to look like the Muslims are against Christians and the local residents against the security personnel;
- ix) Between 21<sup>st</sup> September 2012 and 19<sup>th</sup> November 2012, North Eastern has experienced Twelve (12) attacks by Al-shabaab suspects resulting in the death of eleven persons and fifteen others injured;

### **2.9.1 Chronology of Al-shabaab attacks and fatal incidents:-**

<b><u>Date:</u></b>	<b><u>Incident</u></b>
12/8/12	A tailor by the name Morris Ouma Omolo was shot dead in Mandera town by Suspected Al-shabaab elements.
21/9/12	A GSU lorry was hit by an IED near Garissa Provincial General Hospital damaging the lorry and injuring two GSU officers, a secondary explosion nearly injured the PPO and a team of security personnel who had visited the scene.
30/9/12	Administration Police officers Julius Ngati Kivula and Fredrick Mayaka Mabeya were shot dead near Garissa high school while on their way to night duty. Their guns were later recovered hidden in a nearby bush.
1/10/12	A hand grenade was hurled by three (3) young men into Iftin Police Patrol base. No one was injured.
5/10/12	A Mr. Ngui Kathanzu Mwanzia was shot dead near G.P.G.H.
19/10/12	An AP by the name Idris Hussein was shot thrice and injured within the AP Camp.



19/10/12	A CID officer PC Mohamed Yerro was shot dead at Halgadera.
30/10/12	A Kenya Police officer by the name Joseph Kimutai and APC Erick Mutuka were ambushed in town. The policemen shot dead while the AP escaped with injuries. One firearm was stolen.
11/11/12	An AP Chaplain by the name CPL Julius Mukangi died during a grenade attack on a church within the AP Camp. He was the chaplain and preaching at the time of death. Thirteen (13) people were injured.
6/11/12	A Mr. Adan Gabbo was shot dead in town near First Community Bank.
7/11/12	A Mr. Yusuf Jamaa was shot and critically injured.
16/11/12	Two Kenya Police officers Joseph Mamwacha and Anthony Sirengo were shot dead at the market and one Ceska Pistol stolen.
19/11/12	Three KDF personnel CPL John Wachira Wang'ombe, Private David Ereman Ekala and Private Anthony Mucheka were shot dead near Co-operative bank along Kismayu road.

### **2.9.2 Garissa Incident: Killing of Three (3) KDF Soldiers**

The PSIC through the PC informed the Committee as follows:-

The incidence occurred on Monday 19<sup>th</sup> November 2012 at around 1200hrs resulting in the killing of Three (3) KDF Soldiers and ensuing operation. The five (5) Kenya Defence Force (KDF) officers were repairing a puncture next to Co-operative bank in Garissa town.

A taxi vehicle pulled by and the occupants (believed to be of Somali Origin) who were civilians came out of the vehicle and pretended to attend to a mechanical problem next to the military vehicle. These people suddenly drew out guns and shot three (3) of the Kenya Defence Force (KDF) officers at point blank range on the head and they died instantly. Two (2) of their colleagues i.e Private Karanja and Sergeant Mosigisi who were standing nearby escaped unhurt.

The officers who died were identified as;

1. 57746 Lance CPL John Wachira Wang'ombe of 5KR
2. 72326 S/Private David Ereman Ekala

3. 768117 S/Private Anthony Mucheka

Their bodies were airlifted to Nairobi for preservation.

On that day when the incidence occurred, the Committee was informed that a group of 15 military officers came from the camp to secure the vehicle and to also take care of three of their own who had been shot dead. A further twenty (25) military officers was called to pursue the assailants who escaped to unknown location. Seven spent cartridges of 9 mm ammo were recovered at the scene.

When the alarm was raised security officers came out from wherever they had been deployed for duty on that day including those who were off duty came out and spontaneously responded to the distress call. According to the PSIC, the attack was uncoordinated since there was shooting from various places some hence it was difficult to know who was shooting from where.

Further, youths believed to be al Shabaab gangs engaged the security personnel in an exchange of fire from the rooftops of a four (4) storeyed building. Illegal kiosks along Kismayu road that have been used by criminals to hide after committing crime were torched by unknown people. The area bordering KDF camp, Garissa Primary up to the Garissa Provincial Hospital were also burnt. The market next to the 4 storey building also caught fire and was razed down. The fire then spread to the four storey building which got partially burnt. A posho mill nearby also caught fire and got completely burnt. Several casualties were rushed to Garissa Provincial General Hospital (GPGH). A total of 75 people were reportedly admitted.

The shooting of the three (3) KDF personnel who were on transit from Nairobi through Garissa is seen as a major score by the Al-shabaab who have successfully targeted and eliminated other security officers and civilians have now managed to kill three KDF personnel on our soil. The aforementioned incidences that occurred after the shooting appear to have been spontaneous response to a crisis by the combined security personnel who rushed out of their camps, residences and offices in an attempt to track down the assailants. In the ensuing commotion and confusion, property was destroyed and several people got injured.

On the following day Tuesday 20<sup>th</sup> November 2012 at around 10.00am a group of rowdy people barricaded the Kismayu Road and burnt tyres. It was also alleged that they were stoning any vehicle that was passing by. Security officers who were in the area fired in the air to disperse the crowd and in the process seventeen individuals sustained injuries six of which were gunshot wounds. Those injured were rushed to GPGH but unfortunately two died later.

Whenever there have been attacks of this nature a section of members of the public come out to cheer and jeer at the security personnel. It is suspect that those who do this are the settled immigrants from Somalia who are sympathetic to the Al-shabaab cause. It is normal also for the assailants to quickly disappear and mingle with the people and thereby giving an impression that the larger community condones these brutal attacks.

It was also reported that a *probox* vehicle (Reg. No. unknown) positioned at the South East end of the airstrip located within the KDF Camp had occupants who opened fire to KDF soldiers who immediately responded. However, the probox vehicle managed to drive away and escaped.

### **2.9.3 Strategies adopted by PSIC to counter the vices of Al-Shabaab**

The Committee was informed by the PC that the PSIC has adopted the following strategies to counter the vices of Alshabaab

- i) Holding stakeholders' meetings to enlist the support of the community along community policing approach.
- ii) Conducting occasional security operations intended to confiscate illegal aliens and firearms. So far several arms have been recovered and many aliens arrested and taken to court (details are available).
- iii) Sensitizing the public through local FM radio stations the need to volunteer information.

The PSIC recommended that:-

- i) A proper investigation be conducted to interrogate the root cause of the violence that erupted in Garissa on Monday 19<sup>th</sup> November, 2012 and also investigate all other previous incidences.
- ii) Provide relief/humanitarian assistance to those affected by the fire disaster.
- iii) Provide post disaster trauma therapy to all those affected.
- iv) Hold a baraza to reconcile the community.

Further the PC, informed the Sub Committee that he had written to the District Disaster Committee to compensate people who lost their property.

### **2.9.4 Principal causes of insecurity in Garissa**

- i) Presence of contraband goods;

- ii) Local clan politics; and
- iii) Presence of illegal immigrants from neighboring war torn Somalia.

## **2.10 MEETING WITH LOCAL LEADERS IN GARRISA ON SATURDAY 24<sup>TH</sup> NOVEMBER, 2012**

The meeting was held at the Nomad Palace hotel with representatives from various groups including the leaders of Supreme Council of Kenya Muslims (SUPKEM), church leaders, Youth leaders and Maendeleo ya Wanawake leaders. The leaders narrated the incident that occurred on Monday 19<sup>th</sup> November, 2012 where the KDF soldiers descended on the residents of Garrisa, beating them aimlessly while injuring scores of people.

The subcommittee was informed as follows:-

- i) There had been a series of attacks in Garissa including an incident where four church leaders were killed in February, 2012;
- ii) Despite the increasing insecurity where insurgents have been attacking churches, the leaders have taken their initiative to preach peace to avert a situation whereby the attacks would be seen to divide people on religious lines. The leaders have also been pleading to the residents to tolerate each other regardless of religious background;
- iii) The rising insecurity in the area has seen some people flee for fear of attacks;
- iv) As a result of the events of Monday 19<sup>th</sup> November, 2012 of there was need to conduct public barazas in the affected areas to restore confidence in the Garissa residents with the security personnel;
- v) There is an urgent need for relief assistance to help families that have been affected after the operation;
- vi) There was bad blood between the Provincial Commissioner and the County Commissioner; and
- vii) The residents do not feel as part of Kenya due to brutality meted on people of North Eastern on suspicion that they could be al Shabaab or sympathizers of al Shabaab. They have even formed a group by the name the Northern Forum for Democracy (NFD) calling for the breaking away of North Eastern from Kenya. The memorandum is herein annexed;

Finally, the sub- committee received memoranda as herein annexed.

### **3.0 CHAPTER 3: BARAGOI - SAMBURU AND TURKANA INVESTIGATIONS**

#### **3.1 MEETING IN THE DISTRICT COMMISSIONER'S OFFICE, MARALAL ON MONDAY 26 NOVEMBER 2012**

The County Commissioner and the District Security and Intelligence Committee (DSIC) gave a historical perspective of cattle rustling in the area, highlighting the major cattle rustling incidences from 1964 to present. It was explained that Government's intervention in combating cattle rustling in the area included recruiting Kenya Police Reservists (KPRs) from both Turkana and Samburu communities to supplement security officers, establishment of an army camp in Baragoi in 1997 (was later closed), and deployment of the Rapid Deployment Unit (RDU) of the Administration Police (AP).

#### **3.2 CHRONOLOGY OF EVENTS - OCTOBER 20 AND NOVEMBER 10, 2012**

On 20 October 2012 at around 1.00am, unknown number of Turkana raiders attacked a Samburu Manyatta in Ndoto location where they made away with 501 cows from Letipila family. The family, together with the Kenya Police Reservists (KPRs) from that location followed the animals, and they were later joined by police officers. The animals were driven towards Nachola location.

On 21 October 2012, the police officers and the Kenya Police chopper tracing the animals sighted them near Lomirock Manyatta at Nachola location, which is about 20km from Baragoi Town. An exchange of fire ensued during which the police officers were overpowered and withdrew.

On 22 October 2012, the DSIC held a meeting and it was decided that the Turkana leaders should be engaged so that they could convince their people to surrender back the animals to the owners in a peaceful way, through dialogue. The County Commissioner, Samburu County, accompanied by DSIC members and Turkana leaders addressed a public baraza at Nachola location. At the meeting, the Turkana community leaders requested the Government to give them three days to return the stolen cattle to the rightful owners.

Due to the heightening tension, the DSIC, chaired by the DO I summoned the Turkana leaders, and after lengthy discussions, it was agreed that the stolen animals must be returned to the owners immediately for continued peaceful co-existence of the communities. Due to pressure from the Samburu Community, it was decided that the stolen livestock must be returned by latest Friday 25 October 2012.

Between 25 and 30 October, the Turkana returned 36 cattle (there were 8 which were rejected as not belonging to the Letipila family). Tension remained high, with possibility of retaliatory attacks by the Samburu since the number of animals surrendered was too small.

Despite Government assurance of its commitment to recover the remaining animals, Samburu morans raided Lomirock Manyatta on 30 October 2012 and stole 205 camels; 3 Turkanas were seriously injured, and 12 Samburu morans were killed in the incident.

The County Commissioner, PPO, PCIO, PAPC and other government officials from the province visited the district and met with both community leaders on 30 October 2012.

Despite various discussions, no animals were returned at a scheduled meeting of 4 November 2012. On 5 November 2012, the PSIC decided to recover the animals forcefully, and began planning an operation. The security operation team was formed between 6<sup>th</sup> and 9<sup>th</sup> November 2012. On 10<sup>th</sup> November 2012, the ASTU, GSU and Regular Police left Baragoi District Headquarters for a joint operation in Nachola location with an aim to recovering the animals. During the operation, the officers were ambushed by heavily armed Turkana raiders where an exchange of fire ensued and police officers were overpowered. They withdrew, leaving 28 police officers dead, one missing, and 8 KPRs killed.

### **3.3 OBSERVATIONS BY THE COMMITTEE**

The Committee made the following general observations in its discussions with the County Commissioner and security team:

Cattle rustling has been prevalent in the area. It has been a persistent problem over the years, and needs a political solution. However, the area has been relatively calm in the past, with the communities living together peacefully, despite incidents of cattle rustling back and forth, until this incident.

Generally, there is a lack of adequate physical infrastructure and a poor communication network. The area has rough terrain and non-motorable roads, hence the need to send young, able-bodied officers on foot to the Baragoi area.

The security forces had noted a proliferation of illegal small arms in the area in recent times. The police stations, and intelligence office in this area are severely understaffed. For instance, the Marti Police Station in Baragoi Town, with the highest incidences of violence, has only 3 police officers in addition to the OCS. This severe lack of sufficient police officers in the area makes it difficult to deal with the heavily armed, numerous bandits. In addition, at the time of the operation, there was no intelligence officer in the entire district.

The security officers are also underfunded, ill-equipped and unsatisfactorily facilitated. For instance, there is only one old land cruiser in the Marti Police Station, used by the OCS, and no housing for officers in all the police stations currently. The intelligence officers are also understaffed;

Regarding the 10 November 2012 incident, the Committee noted the following:

The Turkana who stole the cattle on October 20, 2012 are actually area residents; they were not from the Turkana area. At the time of the operation, all the animals were still with the raiders; had not been distributed in the community. According to Government reports, the number of cows taken by the Turkana raiders was 438.

There were 49 police reservists and 108 policemen involved in the operation. All the firearms belonging to the slain police officers (28) and reservists (6) are currently missing; they were stolen by the Turkana raiders who ambushed them. The stolen cattle have also not been recovered to date.

There were lapses in security during the planning stages of the operation; as such, there appeared to have been a leakage of information about the operation to the raiders. The plan was compromised from the start. The source of the leak was yet to be established.

Due to lack of communications network in the area, help was slow in coming, maybe an hour or two. It was quicker for those able to get to areas with phone network availability.

The presence of Government in this area, especially in Baragoi, appeared to be cosmetic, with no impact, and very thin on the ground. According to the County Commissioner, tension in the area was still high, and the Samburu community was currently moving away from the area due to the insecurity experienced. There might possibly be retaliatory attacks.

There was a perception that the theft of the cattle could have been designed to raise tensions in the area as a cover for other hidden motives. It also appeared that some of the chiefs and councilors in the area were assisting the Turkana raiders.

The Government informed the Committee that it is currently engaging the local leaders of both communities to assist in fostering peace in the area. However, the Committee observed that these efforts by Government at dialogue are useless as the raiders have been emboldened by their recent actions of overpowering policemen and capturing guns without facing much resistance.

The Government, through the PSIC has deployed more police officers to the area to reinforce the existing personnel in recovery of stolen animals, firearms and ammunitions. The combined force is now 472 officers. Some Turkana councilors, chiefs and KPRs have been arrested and charged regarding their involvement in this latest incident. The Ministry of Special Programmes has also started distribution of relief food to affected families.

### **3.4 Suggested Recommendations**

The DSIC recommends the following short-term and long-term strategies for a more holistic approach on addressing this issue of cattle rustling:



### **3.5 Short term strategies**

- a) The Government should urgently establish specialized units in the hot spot areas of the District, e.g. the Rapid Deployment Unit (RDU) of the Administration Police.
- b) Urgently improve on resource allocation e.g. communication gadgets, vehicles, fuel and improved budgetary allocation to the security agencies.
- c) Ensure optimum staffing of all security departments e.g. Regular Police, Administration Police, NIS etc.
- d) Urgent disarmament to be done within the Turkana Community.
- e) Urgent financing of peace and reconciliation activities before the General Elections.

### **3.6 Long term Strategies**

- a) Reconciliation/Peace Forum to reconcile Samburu and Turkana Communities.
- b) The locals to be encouraged to engage in small micro-economic activities to fight poverty.
- c) Opening up of security roads which are currently not accessible within the District.
- d) Introduce vibrant market for their livestock.
- e) Establishment of an army camp within the District to supplement security personnel in their fight against cattle rustling.

In addition, the Committee recommends the following:

- a) That the Government should consider encouraging registration of small arms instead of forceful disarmament in the area, just like was done in Karamoja in Uganda.
- b) The County Commissioner and Police need to review their ranks to deal with issue of confidential information being leaked.
- c) The educated people of both Turkana and Samburu communities need to promote peacebuilding efforts at the grassroots instead of inciting violence from a distance.



### 3.7 MEETING WITH THE TURKANA LEADERS, SAMBURU NORTH DISTRICT

The Committee held its meeting with the Turkana leaders in the District Commissioner's office. The Turkana leaders however requested Hon. Leshoomo not to sit in the meeting during their session with the Committee. In addition to the earlier mentioned District Security & Intelligence Committee, the following were in attendance:

- |        |                         |   |
|--------|-------------------------|---|
| (i)    | James A. Ngofia         | Baragoi Opinion Leader                        |
| (ii)   | Cllr. Edapal Namugelem  | County Council Of Samburu, Councillor         |
| (iii)  | Cllr. Jecinta Lochuch   | County Council Of Samburu, Councillor         |
| (iv)   | Peter Tebanyang         | Maralal Resident                              |
| (v)    | Pius Baraza Kone        | APC Member                                    |
| (vi)   | Rev. Jackson L. Muya    | B. Church, Samburu                            |
| (vii)  | Jane Lokalei            | Maralal Community Representative              |
| (viii) | Paulo Namoru            | Baragoi Community                             |
| (ix)   | Emanman Juma            | Nachola Community                             |
| (x)    | Robert N. Ekadeli       | Baragoi District Peace Committee              |
| (xi)   | Joseph Lokope           | Baragoi Community Elder                       |
| (xii)  | Cllr. Joseph Loupala    | County Council Of Samburu, Cllr. Baragoi Ward |
| (xiii) | Cllr. Stephen Paringino | County Council Of Samburu, Cllr. Miro Ward    |

The local leaders stated that the Turkana community in the district is marginalized and faces tribalism and discrimination evidenced by poor infrastructure, a lack of social amenities, poverty, constant insecurity and hostilities with Pokot and Samburu neighbours, human rights violations, poor leadership, and a lack of political representation at the national level.

In addition, Turkana leaders alleged that LATF projects and bursaries are not fairly distributed by the County Council of Samburu; for instance, Nashola ward has never received any project from LATF funds.

As a result of the above, the Turkana have felt like aliens and intruders in this area, despite having already been residing in the area when the British colonial administration established the boundaries. The main observation by the Turkana leaders was that the main cause of conflict between the communities was bad politics.

The leaders also gave a history of the root causes of conflict in Baragoi, Samburu North District, an outline of major cattle rustling incidents that have taken place in Baragoi and surrounding areas between them and the Samburu and Pokot communities from 1995 to present, and a listing of livestock confiscated by security forces in Kawap Location on 28 July 2008. See attached documents **(Annex.....)**

The Turkana leaders claimed that the Government, including the area Members of Parliament, neglects them and displays favouritism by siding with the majority community, the Samburu, in protecting their rights and property.

This extends to delays in processing of identification cards for the Turkana, and destruction of voters' cards by Samburu raiders. In addition, the leaders claimed that Hon. Maison Leshoomo, MP, was behind a lot of their troubles, influencing the arrests of Turkana people when conflicts broke out in the area, and equipping Samburu residents (including dressing them in uniform) to attack the Turkana.

Regarding the incident of 20 October 2012, the Turkana said the conflict was sparked by two raids conducted by Samburu morans. The first one was on 24 July 2012, where 668 goats were stolen from a Turkana village; only 75 of these had been returned to date.

The second raid by the same Samburu morans was on 14 August 2012 but they were unable to get any livestock. On 20 October 2012, a group of Turkana youth raided a Samburu Manyatta in Lesirkan area belonging to Letipila's family as revenge for the 593 goats that were not returned. However, the Samburu morans and KPRs, assisted by GSU police, APs, plus a police chopper followed the animals and recovered a good number of cattle.

The District Security Team met with the local Turkana leaders the following day, that is, the chiefs, councilors and elders in Nachola and Kawap locations, to negotiate for the return of the cattle. So far, 37 cattle have been successfully returned; the Turkana disputed the figure of 400 cattle originally stolen.

They believe the figure was less than 100. On 30 October 2012, Samburu KPRs and morans staged another raid and managed to capture 205 camels and 2 donkeys, but lost 13 of their people.

The Government did not work towards recovery of these latter Turkana animals but resorted to use of force to recover the 400 Samburu cattle. On 10 November 2012, there was a fierce gun battle and bombing between the Turkana and Samburu warriors, KPRs and Police at Kekoridoony village. This left 42 security officers and Samburu warriors dead.

### **3.8 Further Recommendations**

To resolve the conflicts between the two communities in the area, the Turkana leaders recommended the following:-

There should be a committee formed to assist the Turkana, Samburu and Pokot in resolving their problems and help them co-exist peacefully, especially as they have intermarried a lot.

There should be equitable distribution of resources or leadership positions among both communities. For instance, the Samburu and Turkana Kenya Police Reserves should be involved in recovery of the stolen cattle.

The boundary issue in the area needs to be resolved; the communities should be separated if necessary.

The Government should address the lack of a road network and incidence of IDPs in the area.

The national leaders from this area need to lead the way in enhancing peace efforts on the ground. In addition, a baraza should be held in Baragoi Town to encourage the residents to return there and encourage peace-building fora.

Implementation of the recommendations of the Kenya National Commission on Human Rights (KNHCR) report on the disarmament operation of July 2008 should be considered.

That investigation of human rights abuse against the Turkana should be conducted and reparations/compensation made, especially to those affected most recently.

### **3.9 MEETING WITH THE SAMBURU COMMUNITY**

The meeting between the Committee and the leaders of the Samburu Community took place at the Samburu County Commissioner's office in Maralal from 4.30pm to 8pm (immediately after meeting the Turkana Community leaders).

Those present in the meeting were Hon. Fred Kapondi, MP (Chairman), Hon. Francis Chachu Ganya, MP, Hon. Maison Leshoomo, MP, Hon. Raphael Letimalo, MP, Samburu County Commissioner Mr. Wilfred Nyagwanga, Samburu North District Commissioner Mr. Tim Njoka, Samburu County OCPD, Mr. Chrispinus Makhanu, together with 42 leaders from the Samburu Community.

The Samburu leaders presented a written memorandum (**Annex ....**) containing their side of story regarding the state of insecurity in Samburu North District, including the history of cattle rustling in the area, its root causes, results and incidences of major attacks by the Turkana bandits. A total of 33 incidences recorded by the Samburu, dating back from 1964 were listed. Interestingly, they did not provide the incidences or cases where they (Samburu) attacked the Turkana.

The Samburu leaders said that Turkana bandits and cattle rustlers are well recruited, trained, armed and carried out brutal attacks on civilians from the Samburu Community, in pursuit

of political and ethnic agenda. They believed that the politicians organized such attacks especially during the electioneering period in order to woo votes.

The leaders said that despite the attacks and the several killings reported, the Government was blamed for not taking adequate and appropriate action to deal with the menace and protect further attacks and loss of lives. The Samburu believe that cattle rustling as a practice has transformed from being cultural to being commercial in nature. They also believe that the Turkana bandits undertake their training in a place called Kaamuge in Kapedo division.

They also alleged that the sponsors of Kaamuge market are the 3 (three) MPs from Turkana County, namely; Hon. Josphat Nanok (Turkana South), Hon. John Munyes (Turkana North) and Hon. Ekwee Ethuro (Turkana Central). Further, the Samburu leaders also alleged that the GSU Camp at Nachola has been providing ammunition, cleaning and repair of firearms together with communication to the Turkana bandits at Suguta valley. It was claimed that the camp was influenced by a former Turkana GSU officer at GSU headquarters to protect the Turkana against attacks from Pokot.

The said that the presence of a favourable bandit zone at Suguta valley has been giving an upper hand for bandits to hide out in case of attacks by other bandits or by Government. The bandits know that security officers are always reluctant to penetrate to the valley owing to its harsh climatical conditions and unfriendly terrain.

The leaders also provided the following information: -

- (i) The conflict between the Turkana and the Samburu has been happening in Samburu North District of Samburu West Constituency and not the entire Samburu County. The Constituency has 5 wards dominated by the Samburu Community and one ward dominated by the Turkana in the current County Government structure. Regarding the recent killing of police officers, the Samburu leaders informed the meeting that the incident took place at Lomirok village (just 15 kilometres from Baragoi town) and not in Suguta Valley as reported by the media. Suguta valley was said to be 25 kilometres away from Lomirok.
- (ii) The Samburu community believes that the main reason why the Turkana attack them is territorial and land expansion. They therefore claim that the Turkana want to push the Samburu away from their land.
- (iii) The Turkana community living in Samburu County does not recognize the local leadership within the Samburu County but seem to have greater allegiance and recognition to the leaders in Turkana County. This was backed by the recent comments by the leaders from Turkana County regarding the Baragoi killing of police officers. They also claimed that Hon. Josphat Nanok may have incited the Turkana at Baragoi town during an ODM rally on 6<sup>th</sup> October, 2012 when he spoke in vernacular language for almost one hour.

- (iv) The Samburu community, despite representing over 80% of the population in the Samburu North district does not get its equitable share of resources, especially in public service recruitment. They claimed that the Turkana were always favored despite being a minority population.

A case in point is recruitment to the armed forces and to the police, where in 2011, out of the 9 recruited police officers, 7 were Turkana and 2 were Samburu. The only 2 slots for ladies during KDF recruitment were given to Turkana and none was given to Samburu. In 2012, during police recruitment, 7 slots went to Samburu and 6 slots went to Turkana; during armed forces recruitment, one slot went to Samburu and 4 slots to Turkana and was alleged that the recruiting officer was a Turkana.

It was also claimed that due to interference from headquarters, the Samburu community have suffered marginalization and have been victims of inequitable recruitment. The Samburu leaders therefore demanded for equity and fairness in future recruitments.

- (v) The Samburu County Council chairman refuted the claims made by the Turkana community that the council does not distribute resources, especially LASDAP projects equitably. He provided documents of LASDAP projects for the County Council.

The Samburu leaders presented the following recommendations:

- a) The government to pursue the known bandits and recover the raided animals;
- b) Disarmament of all pastoral communities in possession of illegal firearms;
- c) Deployment of permanent security officers in affected areas;
- d) Empowering the district security committee;
- e) Stern measures to be taken against inciters from Turkana and Isiolo Counties;
- f) Taking action against possible sponsoring elements working in agencies such as USAID, for example Mr. Samuel Kona;
- g) Closing down or relocating the GSU camp at Nachola since it is not serving the interest of all;
- h) The government should investigate the presence of a community militia and their training camp at Kaamuge in Kapedo;
- i) The government should investigate claims that some Turkana professional Associations (among others) contribute funds for ammunition and firearms;
- j) Politicians should not take advantage of the situation in order to woo votes.

## 4.0 CHAPTER 4: COMMITTEE VISIT TO EASTLEIGH

### 4.1 THE EASTLEIGH EXPLOSION AND SUBSEQUENT EVENTS

On Wednesday, 28<sup>th</sup> November 2012 at 1.30pm, the Hon. Fred Kapondi, MP, accompanied by the Hon. Yusuf Hassan, MP, the Hon. Raphael Letimalo, MP, the Hon. Agostino Neto, MP and the Hon. Maison Leshoomo, MP, visited Eastleigh, where an explosion had occurred resulting into deaths after which violence ensued. The first meeting was held at the DC's office in Kamukunji where the District Security Intelligence Committee (DSIC) gave a detailed description of the events of Sunday, November 18<sup>th</sup> 2012 and the days that followed. They stated that;

- i. At around 4:00 pm on Sunday 18<sup>th</sup> November, 2012, there was an explosion in a Matatu minibus registration number KAY 713F plying route 28 with 25 passengers on board. The explosion happened on 2<sup>nd</sup> Avenue opposite Al-badir station.
- ii. The explosion ripped off the vehicle's roof and destroyed the Passengers cabin. Some of the passengers were thrown out of the vehicle and five of them lost their lives on the spot.
- iii. The explosion affected forty six(46) other people including bystanders who were at the site of the blast. The injured were taken to Kenyatta with varying degrees of injuries. Twenty three(23) were admitted while nineteen (19) were treated and discharged. Out of those admitted ,four(4) died bringing the number of dead to nine(9).
- iv. Following the explosion, three suspects of Somali origin were arrested.
- v. An operation was undertaken in Muratina and Jam streets and one hundred and twenty three(123) people were arrested out of which ninety six(96) were arraigned at the Kibera Law Courts and charged with the offence of being members of organized criminal gangs and creating disturbance likely to cause a breach of peace.
- vi. On Monday 19<sup>th</sup> November, 2012, youth from the Mathare, Dandora, Majengo and surrounding areas then took advantage of the situation and within a short time descended on the Eastleigh area, perpetrated acts of violence and looted indiscriminately.
- vii. The violence went on the following day with groups from the Mathare, Kariobangi, and Dandora area carrying out attacks that seemed to target members of the Somali Community. They looted from businesses and from passengers in matatus plying the Eastleigh route.
- viii. The regular police and the GSU worked to quell the violence. Local leaders and Members of Parliament from the affected areas held meetings and organized peace building initiatives and normalcy returned to the Eastleigh area by Wednesday.
- ix. The police had not received any official reported cases of rape but they had information that about 12 women from the Somali community had fallen victim, but that the women were afraid to come out in public due to the stigma associated with rape.

The DSIC implied that the violence that ensued after the bombing was not a result of a general hatred for a particular community or religious group since the different groups in the area had co-existed peacefully for a long time. According to them the violence erupted because;

- i. Organized gangs from the Mathare area, who had been planning to attack Eastleigh, took advantage of the situation and within a short time after the bombing, descended on the area, perpetrated acts of violence and looted from businesses indiscriminately.
- ii. Some members of the public were frustrated as a result of the apparent lack of justice, since this was the seventh bombing attack in the area, and the perpetrators of these attacks had not been brought to book.
- iii. Since many of the suspects arrested in connection with the previous attacks were members of the Somali community, some members of the public concluded that members of the Somali community were responsible for these attacks or were protecting or harboring the criminals.
- iv. Casual workers from the Mathare area employed by members of the Somali community in Eastleigh, knowing the location and value of their employer's assets, were suspected to have been behind cases of systematic looting of property.

Generally, the high level of insecurity in the Eastleigh area was attributed to the following;

- i. Illegal aliens: There is a high population of illegal aliens in the area.
- ii. Organized criminal gangs: There are about seven (7) different criminal gangs operating in the area mainly comprising of unemployed youth. The residents informed the joint committee that members of the 'Nigeria' Gang from Mathare were the main group that marched to Eastleigh to loot after the November 18<sup>th</sup> blast in Eastleigh. Residents also spoke of a gang named 'Superpower' based in Eastleigh that is composed of deported Somali refugees. The group engages in criminal activities and are bailed out soon after arrest by their affluent parents hence they keep repeating their criminal activities. The two gangs together with others like 'Sikujui' are creating a lot of insecurity in the area according to the security officials.
- iii. Inadequate Legislation: The DSIC complained that despite having information on the criminal gangs and other suspected criminals and making numerous arrests, certain requirements of the law and the leniency of the Prevention of Organized Crimes Act 2010, have prevented the prosecution of these cases to completion.
- iv. Cultural Barriers: The cultural practice of Maslah that encourages resolution of disputes among members of communities without resorting to the police or to the courts, has defeated the ends of justice in certain cases where suspects are let off by victims, for crimes that ought to be prosecuted by the state.
- v. Police Complicity: It is said that some members of the police are bribed to turn a blind eye to perpetrators of crime.
- vi. Lack of Resources: Despite Eastleigh being both highly and densely populated, there is no Police station in the area. Further, Pangani police station, that serves Eastleigh,



- is understaffed and has limited resources to adequately respond to the security needs of the area.
- vii. Ethnic segregation by members of the Somali Community-There are some hotels, lodgings and residential areas where other Kenyans are not allowed. This has caused a lot of suspicion and hatred.

## **4.2 Suggested Recommendations and Way Forward**

The DCIS recommends the following measures on improving security situation in Eastleigh;

1. Restriction of refugees to the refugee camps managed by the UNHCR.
2. A systematic and serious audit of all aliens in Eastleigh and close monitoring of other legal immigrants.
3. Enhancement of access to information by the security agents regarding registered immigrants from the Ministry for immigrations.
4. Identification and deportation of illegal immigrants.
5. Security agencies should be adequately facilitated in terms of manpower and equipment.

## **4.3 MEETING WITH MEMBERS OF THE EASTLEIGH BUSINESS COMMUNITY**

### **4.3.1 Presentation by the Deputy CEO, Eastleigh Business Community**

The Deputy CEO of the Business Community gave a brief overview of their concerns following the bomb attack that took place on 18<sup>th</sup> November, 2012 and the chaos and looting that ensued. He wondered how quickly the looters mobilized following the bombing and attacked Eastleigh residents and businesses. He emphasized that there was no ethnic or religious angle to the reprisal attacks that took place following the blast, and that the whole situation was just a case of looters taking advantage of the breakdown in law and order.

The Deputy CEO informed the joint committee of an organized gang by the name of 'Nigeria' that operates from Mathare who crossed over to Eastleigh to loot. He mentioned how justice is not served as the members of organized gang are released soon after arrest and most cases aren't reported to the police due to the threat to personal safety. The Deputy CEO wanted the government to guarantee their security as they conducted their business.

### **4.3.2 Presentation by the Chairman of the Eastleigh Business Community**

The Chair of the Eastleigh Business Community thanked the members of the Joint Committee for the visit, which was a source of reassurance to them. He condemned the bus attack and equally condemned the chaos and looting that followed the attack. The Chair



described the damage inflicted on their business premises as extensive although he couldn't put a figure to it. He also mentioned that there were reported cases of rapes and death.

The Chair stated that Eastleigh is a business hub serving not only Kenya but regional countries like Uganda and Tanzania. He mentioned how Eastleigh generates a lot of taxes for the country while creating employment opportunities for many hence the need to ensure security for the businesses. The Chair stated that Eastleigh had been neglected by the authorities and that it had poor infrastructure.

Despite all this, the Chairman of the Eastleigh Business Community was very grateful to the security agencies for their efforts in protecting them from the looting mobs. He mentioned that the damage would have been far worse were it not for the intervention of the police. The Chair expressed fear that in the event of another bomb attack in Eastleigh, the gangs would attack with more ferocity. The situation will be even worse during the election season when a large part of the police force will be deployed all over the country.

The Chair emphasized the need for people to come together to fight crime in all its forms. He informed the Joint Committee that the community was willing to work with the security agencies to eliminate all the criminal gangs operating in the area but that confidentiality of the identity of informants would need to be maintained for personal safety.

The community could help identify the members of the gangs as they are known to them. As for Al-Shabaab, the Chair informed the Committee that terror cells work in secrecy and it would not be possible for ordinary citizens to know them. He suggested that a panel be formed comprising of business leaders, religious leaders, law enforcement agencies and the area M.P to deal with the unique security issues of Eastleigh.

#### **4.3.3 Meeting with rape victims**

The Joint Committee met the rape victims who through a translator narrated their ordeal. Through the help of a Women Self Help group, the victims were given medical attention and they were also undergoing counseling to help them cope with the trauma. They informed the Joint Committee that they wouldn't be able to identify their attackers as they beat them up during the ordeal.

#### **4.4 Suggested Way Forward**

The meeting discussed and agreed on ways of improving the general security in Eastleigh. These included:

- i. There should be closer cooperation between the residents of Eastleigh and the security agencies in ensuring security for the area. It was suggested by the business

- leaders that a panel be formed comprising of business and religious leaders, law enforcement agencies and the area M.P for closer cooperation on matters of security.
- ii. There should be a police station in the Eastleigh area to serve the residents. At present, Eastleigh is served by Pangani police station which is too far away.

#### **4.5 Meeting With Local Leaders At The St. Teresa Catholic Church**

The Joint Committee met with local leaders who attributed the chaos in Eastleigh to insecurity

among many other reasons. The local leaders representing various groups presented their proposals on how security in the area could be improved. These recommendations included the following;

- i. Cracking down on criminal gangs operating in the area.
- ii. Enhancement of security at major bus stops.
- iii. Establishment of an Eastleigh police station and police booths.
- iv. Increase number of police officers and police patrols in the area.
- v. Building capacity and provision of adequate resources to the police including vehicles to enhance response to incidents of crime.
- vi. Elimination of corruption among security agents.
- vii. Confidentiality and protection of the identity of members of the public who give information to the police.
- viii. Establishment of a system of identifying inhabitants and visitors residing in the area especially in the flats.
- ix. Regulation and monitoring of legal immigrants residing in the area and the identification and removal of those who are in Kenya illegally.
- x. Monitoring of former members of the armed forces who reside in the area who allegedly train criminal gangs on how to handle ammunition.
- xi. The Police be given space to do their work without fear of being victimized for using necessary force against criminals.
- xii. Improving relations between the security agents and residents to help fight crime.
- xiii. Improvement of Infrastructure in the area including roads and street lighting.
- xiv. Establishment of Community Surveillance programs and Community Policing.
- xv. Collaboration between Eastleigh peace committees and the peace committees of neighboring areas like Mathare.
- xvi. Improvement of housing and living conditions for police officers.
- xvii. Facilitation of inter faith dialogue, joint social activities and Peace Building initiatives
- xviii. Alleviation of poverty and reduction in the level of unemployment through establishment and promotion of income generating activities especially for the youth.
- xix. Provisional of recreational facilities for the youth and the protection and maintenance of public utilities including the Eastleigh Social Hall.

- xx. Dealing with the problem of drug abuse among the youth especially in the Mathare area.
- xxi. Promotion of relations between Eastleigh community and the Mathare community.

The local leaders further pleaded with the government to provide support to those who lost their loved ones, to those who were injured and to those who had lost their property in the November 18<sup>th</sup> blast and in the violence that ensued.

## 5.0 CHAPTER 5: COMMITTEE OBSERVATIONS, FINDINGS AND CONCLUSIONS

### 5.1 THE CASE OF GARISSA

The Committee made the following observations and findings;

1. There was loss of lives and massive destruction of property (i.e. the public market and private property) in the town by the Kenya Defence Forces who unleashed terror on the local business community and general public after three of their colleagues were killed by suspected al Shabaab militants. Two persons were confirmed dead, a chief and an unidentified lady with several others injured. Property worth millions of shillings was lost during the rampage and looting. This included the Maua Millers, the Al Waqf Building and other nearby properties.
2. Many people who depended on small scale businesses especially owners of the road side kiosks and the business Community in the Suq – Mugdi open market had been reduced to abject poverty. Women and men whose livelihood depended on the small businesses were turned to paupers overnight.
3. The Officers from the Ministry of Special Programmes were on the ground to quantify the losses.
4. The scene of crime where the three KDF soldiers were ambushed and murdered could not pass as a garage or safe area where one could stop and change tyres, bearing in mind that the town has been a target of terrorist attacks. Why the soldiers decided to stop at such a spot begs answers.
5. The Garissa Provincial Hospital's facilities were overstretched due to the fact that beds meant for ordinary citizens were occupied by remnants of the Transitional Federal Government of Somalia soldiers who had been injured during the war with militants. The presence of the injured TFG soldiers in the hospital posed a security threat as the facility was susceptible to attacks by the al Shabaab militias. The facility was also attacked several times previously by suspected militants.
6. There have been a significant number of health workers seeking transfers from Garissa Provincial General Hospital owing to escalating insecurity and alleged sexual harassment from the admitted TFG soldiers. The number of nurses in the hospital has reduced significantly with no forthcoming replacements.

7. The DSIC and the PSIC had contradicting reports on the events that followed the killing of the three KDF soldiers. For instance, PSIC reported that the operation was sanctioned by the Security Committee, while the DSIC said that there were no such orders issued by them. This contradiction was also evidenced by the divergent Ministerial Statements issued by the Minister of State for Provincial Administration and Internal Security and that of the Minister of State for Defence.
8. In recent times, insecurity in Garissa County has been escalating with definite trend of targeting security personnel, civilians and has the potential of causing panic and factional and interreligious clashes.
9. The decision to send KDF troops to Somalia without corresponding enhancement of homeland security has exposed the country to retaliatory terrorist attacks.
10. Garissa town, which was in recent years rated as one of the safest and fastest growing towns in East and Central Africa, has witnessed a significant rise in incidences of insecurity which has negatively affected the economy of the town.
11. There was no formal deployment of the KDF in Garissa County on 19 and 20 November 2012 as KDF is permanently stationed in Garissa since independence.
12. The implementation of community policing in Garissa County is weak and in some instances lacking.
13. Insecurity in Garissa is attributed to among other things proximity to Somalia border, proximity to three of the World's largest refugee camps namely, Dadaab, Ifo and Hagardere, the trade in contrabands, local clan politics and presence of illegal immigrants including refugees from neighbouring countries.
14. There is high proliferation of Small Arms and Light Weapons (SALW's) in Garissa and other towns close to our international borders. There was a lack of coordination among the security organs, including the Provincial and District Security teams. This led to some operational mishaps, for instance, the KDF were performing tasks which are ordinarily meant for the Kenya Police Service.
15. The slow response and limited visibility of top government officials pointed out to laxity on the part of the Executive. It showed inadequate prioritization of security matters by the Government.
16. There were allegations that the actions of the KDF played into the hands of the militants in sabotaging the economy of Garissa.

17. It is also alleged that the Al-Shabaab militants is bent on creating acrimony between the natives and Kenyan security personnel, and the different religious groups.
18. There were allegations that the youths recruited to fight alongside TFG forces in Somalia and had come back to the country were susceptible to recruitment or engagement by Al-Shabaab or other militants.
19. The security personnel in Garissa lack the requisite equipment and infrastructure to carry out their duties efficiently and effectively.

## 5.2 Suggested Recommendations

1. An inquiry should be established to investigate the wanton destruction of property in Garissa and those responsible should be arrested and charged in court.
2. The Government should reconstruct the public market.
3. The Government should compensate for the losses incurred by Kenyans in Garissa during the un-called for destruction by KDF soldiers.
4. The Government needs to fast track the implementation of community policing strategy to involve the local residents on security matters.
5. The Ministry of Internal Security and Provincial Administration should investigate the apparent lack of harmonious working relationship between the Provincial Security Intelligence Committee (PSIC) and the District Security Intelligence Committee (DSIC) in Garissa and take appropriate remedial measures.
6. The Government should commence gradual repatriation of refugees to their home countries especially where such areas have been pacified in consultation with the UNHCR and other international agencies.
7. The National Cohesion and Integration Commission in conjunction with the local leadership should initiate dialogue and reconciliation programmes to bring harmony among the affected communities.
8. The Kenya Revenue Authority (KRA) with the assistance of the National Police Service should take measures to eradicate the trade in contraband.
9. The Government should tighten security along the borders, towns/cities and the highways.

## 5.3 THE CASE FOR BARAGOI

### 5.4 Observations and Findings

1. Cattle rustling has been prevalent in the area for decades. The problem has ceased to be a traditional cultural practice and has taken a commercial dimension. The government needs a wholistic and concrete intervention to tackle the problem.
2. There is inadequate physical infrastructure and poor communication network. The area has rough terrain and non-motorable roads. This compels the security forces to pursue bandits on foot, exposing them to grave danger.
3. The security forces had noted a proliferation of illegal Small Arms and Light Weapons (SALWs) in the area in recent times.
4. The security personnel in Baragoi lack the requisite equipment and infrastructure to carry out their duties. For instance, the Marti Police Station in Baragoi Town, with the highest incidences of violence, has only 3 police officers in addition to the OCS. Further, there was no NSIS officer in the entire district at the time of the incident.
5. The Committee noted that the Turkana who stole the cattle on October 20, 2012 are actually residents of Samburu County and not from Turkana County as earlier perceived. At the time of the operation, all the animals were still with the raiders. According to Government reports, the number of cattle stolen by the Turkana raiders was 438. No recoveries have been made up to date. (see Annex....)
6. There were 49 police reservists and 108 policemen involved in the fateful operation. All the firearms belonging to the slain police officers (28) and reservists (6) are still missing.
7. Tension in Baragoi was still high, and the residents were moving away from the area in fear of the anticipated security operation.
8. Political competition in the area was contributing to the state of insecurity. The current leadership in the area were at odds with each other hence frustrating peace and security efforts.
9. The DSIC informed the Committee that it is currently engaging the local leaders of both communities to assist in fostering peace in the area. However, the Committee observed that these efforts by Government at dialogue were fruitless as the raiders have been emboldened by their recent actions of overpowering policemen and taking away their guns without facing much resistance.

10. The Government, through the PSIC has deployed more police officers to the area to reinforce the existing personnel in recovery of stolen animals, firearms and ammunitions. The combined force is now 472 officers.
11. The Ministry of Special Programmes has initiated a programme for distributing relief food to affected families.
12. The insecurity in Baragoi is also occasioned by competition for minimal natural resources such as water and pasture.
13. There was no evidence of actual direct deployment of the KDF in Baragoi in support of the National Police Service. KDF was responsible for providing logistical support.

### 5.5 Suggested Recommendations

1. An inquiry should be established to investigate the killing of security officers in Baragoi and those responsible should be arrested and charged in court.
2. The Government should initiate and support alternative economic undertakings among the Samburu and Turkana, and pastoralist communities across the country in order to avoid sole reliance on cattle as a source of livelihood.
3. The Government should only consider deploying the KDF in aid to civil authority in accordance with the Constitution.
4. The National Cohesion and Integration Commission in conjunction with the local leadership should initiate dialogue and reconciliation programmes to bring harmony among the affected communities.
5. The recommendations in the report of the Parliamentary Select Committee investigating the root causes of cattle rustling should be fully implemented **(Annex...)**.
6. Anti-personnel munitions lost during the Baragoi attack should be recovered immediately. These are highly dangerous weapons that can cause great damage if they fall into the hands of criminal elements.
7. The Government should urgently establish specialized units in the hot spot areas of the District, e.g. the Rapid Deployment Unit (RDU) and the General Service Unit (GSU).



8. Establishment of a military camp within the District to bolster the capacity of security personnel in their fight against cattle rustling.
9. The government should establish infrastructure facilities that will open up the area and enhance security.
10. That the Government should consider encouraging registration of small arms in the long-run as an alternative to forceful disarmament in the area, just like was done in Karamoja in Uganda.
11. Open up more educational facilities in the area to increase literacy rates that will help the area to advance and also reduce incidents of cattle rustling.

## **5.6 THE CASE OF EASTLEIGH**

### **5.7 Observations and Findings**

1. Tension, fear and confusion was still rife among the residents and the business community following the chaotic events that followed the blast. There was suspicion between the business community in Eastleigh and youth from the neighbouring Mathare slums and other adjoining areas as the latter had made attempts to break and loot shops within the town.
2. Eastleigh is surrounded by informal settlements in all directions, making it an island of affluence in a sea of poverty. Any breakdown of law and order is therefore used by these residents as an opportunity to loot and enrich themselves.
3. The Eastleigh neighbourhood was vulnerable to terror attacks since it was perceived that there were security loopholes that criminal elements could easily take advantage of to execute their heinous acts.
4. There were several illegal aliens who had registered as Kenyan nationals. The Immigration Department should be called upon to explain how aliens had acquired legitimate identification documents.
5. There is non-availability of security facilities in Eastleigh. In particular, no police station/post exists within the entire Eastleigh area. The residents have to rely on Pangani Police station for general police services as well as response whenever there are security incidences.
6. There is the existence of organized criminal gangs in both Eastleigh and across Juja road in Mathare who greatly contribute to the insecurity witnessed in the area.

7. There were cases of rape reported in the chaos that followed the Eastleigh blast. The joint committee met some of the rape victims who recounted their ordeal. The area MP spoke of 15 rape cases though some of the victims didn't come forward to report to the police due to the stigma associated with rape.
8. The residents made it clear that the chaos and violence that took place after the blast had no ethnic or religious dimension as was widely reported by the local media. The chaos appeared to be a case of thugs taking advantage of the situation to 'enrich' themselves by looting. Many non-Somali residents also suffered from the looting that took place.
9. The residents decried indiscriminate harassment of people whenever there is a security incident or swoop in Eastleigh. This creates mistrust and suspicion hence affecting cooperation between the citizens and police in enhancing security.

## **5.8 Suggested Recommendations**

1. There is the need to establish a police station in Eastleigh with several police posts straddled across the environs.
2. In the short term, there should be rapid deployment of police officers along Juja road and within Eastleigh to prevent looting and attacks on Eastleigh residents whenever a blast occurs.
3. The government should expedite the improvement of infrastructural facilities in Eastleigh including access roads, street lighting and installation of CCTV cameras.
4. Amendment of the requisite legislation, particularly the Prevention of Organized Crimes Act (2010), to create more punitive sanctions to deter criminals and facilitate prosecution of crimes.
5. All organized criminal gangs in Eastleigh including 'Super Power', 'Sikujui', 'Siafu', 'Al Shabaab', 'KDF' among others should be dealt with firmly without any interference.

## 6.0 GENERAL COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

### (3) Expedition of Police reforms

- (iii) There is need for the Government to fast-track police reforms including the appointment of the Inspector-General and his deputies in addition to senior officials of other security agencies.
- (iv) The government should adequately fund the National Police Service Commission and the Independent Police Oversight Authority to ensure that the two bodies optimally perform their mandate in order to address and prioritize among others the following issues:
  - The introduction of Risk Allowance for police officers
  - The establishment of a Compensation Fund either through a non-contributory or contributory insurance scheme for all police officers in the National Police Service who are injured or die in the line of duty.
  - The establishment of a Specialized Hospital for the police, similar to the Armed Forces Memorial Hospital.

### (4) Introduce Supplementary budget

The Minister for Finance should immediately invoke the provisions of Article 223 (1) (a) of the Constitution of Kenya 2010 to provide funds to address the escalating / adverse security situation in the country. This is particularly urgent as we have less than three months to the general elections and should be done before dissolution of the Tenth Parliament.

### (7) Compensation for destroyed property

The Government should compensate for the losses incurred by Kenyans in Garissa during the un-called for destruction by KDF soldiers.

### (8) Enactment of The National Government Co-ordination Bill, 2012

The government should fast track the enactment of the National Government Co-ordination Bill, 2012 before the dissolution of the 10<sup>th</sup> Parliament to allay the fears and uncertainty over the future of the Provincial Administration.

### (9) Responsible Media Coverage

As we the approach the next general elections, the local media should report objectively, factually and impartially, and be cautious not to inflame tensions between communities through sensational reporting..

### (10) Deployment of the KDF

The Government should only consider deploying the KDF in aid to civil authority when necessary and in line with Article 241 (1) (c) the Constitution.

### (6) Undertake Comprehensive Disarmament

The Government should develop a wholistic strategy of countrywide disarmament of illegal arms including voluntary disarmament through local elders. This should be accompanied by the establishment of an inventory for all firearms and ammunitions in the country. Consequently, security should be enhanced to prevent the communities from rearming themselves.

**(12) Repatriation of Illegal Immigrants**

The Government should commence gradual repatriation of refugees to their home countries especially where such areas have been pacified in consultation with the UNHCR

**(13) National Reconciliation**

The National Cohesion and Integration Commission in conjunction with the local leadership should initiate dialogue and reconciliation programmes to bring harmony among communities in conflict.

**(14) Border Control**

The Kenya Revenue Authority (KRA) with the assistance of the National Police Service should take measures to eradicate the trade in contraband goods.

**(15) Socio-economic Marshall Plan**

The government should make a deliberate effort to develop a comprehensive and structured programme to develop areas prone to recurring cattle rustling.

**(16) Full implementation of the Parliamentary Select Committee Report on Cattle Rustling**

The recommendations in the report of the Parliamentary Select Committee investigating the root causes of cattle rustling should be fully implemented.

**(18) Relief Assistance**

Immediate relief assistance should be provided to families that were affected by the incidences of insecurity.

**(19) Terms and Conditions of Service for Police Officers**

The Committee noted serious salaries disparities between various security organs, with the KDF and the National Intelligence Service enjoying better pay while the police officers getting meagre pay. The Government should put in place a deliberate mechanism to rationalize salaries in the security sector and to improve the terms and conditions of service of police officers.

**(20) Consideration for Retired Police Officers**

The government should set up a professional body to recognize and consider retired police officers which could serve as a reserve force when need arises.

**(21) Relocation of injured TFG Soldiers at Garissa Provincial General Hospital**

The presence of injured TFG soldiers in Garissa Provincial General Hospital poses a serious security threat in the area. The Government should relocate them as a matter of urgency.