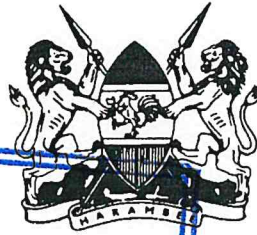



Approved for tabling.



Bmt
SNA
4/8/2021

	
THE NATIONAL ASSEMBLY PAPERS L AID	
DATE: 11 AUG 2021	
REPUBLIC OF KENYA	
wed	
THE NATIONAL ASSEMBLY	
TABLED BY:	Hon. Peter Mwangi
CLERK-AT THE-TABLE:	Chair person Mainah W.

TWELFTH PARLIAMENT – FIFTH SESSION

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY

REPORT ON THE
PUBLIC PETITION NO. 41 OF 2020 REGARDING RECOGNITION OF
THE PEMBA PEOPLE OF KENYA AS CITIZENS OF THE REPUBLIC OF
KENYA

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

AUGUST 2021

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CHAIRPERSON'S FOREWORD

This report contains the Committee's proceedings on the consideration of the Public Petition regarding recognition of the Pemba people of Kenya as Citizens of the republic of Kenya. The Petition dated 19th November, 2020 by Hon. Owen Baya, MP on behalf of the Pemba People of Kenya was presented to the National Assembly on 19th November, 2020 and subsequently committed to the Departmental Committee on Administration and National Security for consideration and report to the House pursuant to the provisions of Standing Order 227(1).

The Committee was required to respond to the Petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the National Assembly not more than sixty (60) calendar days from the time of reading the prayer.

While considering the Petition, Hon. Owen Baya, MP appeared before the Committee and made submissions. The Committee on 12th March, 2021 travelled to Kilifi and Kwale Counties for public hearing.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during the consideration of the Petition. Finally, I wish to express my appreciation to the Honourable Members of the Committee, the Committee secretariat and all the stakeholders who made submissions towards the preparation and production of this report.

On behalf of the Departmental Committee on Administration and National Security and pursuant to provisions of Standing Order 227(2), it is my pleasant privilege and honor to present to this House the report of the Committee on its consideration of the Public Petition No. 41 of 2020 regarding recognition of the Pemba People of Kenya as citizens of the Republic of Kenya.


HON. PETER MWATHI, M.P.
CHAIRPERSON

EXECUTIVE SUMMARY

The Public Petition No. 41 of 2020 dated 19th November, 2020 regarding recognition of the Pemba people of Kenya as Citizens of the republic of Kenya was submitted to the National Assembly on Thursday, 19th November, 2020 by Hon. Owen Baya, MP on behalf of the Pemba People of Kenya. The Petition was subsequently committed to the Departmental Committee on Administration and National Security for consideration and report to the House pursuant to the provisions of Standing Order 227(1).

The petitioners averred that failure by the Government of Kenya to recognize the Pemba People as citizens continue to cause great anguish and inconvenience to the since they were unable to register their children at birth, they miss out on education, health and other social services, were excluded from employment, were unable to register businesses or to open bank accounts or even register a phone sim cards, had unrecognized marriages, were compelled to register assets for failing to carry out identity cards and for allegedly being in Kenya illegally.

The petitioners averred that the continued delay in the recognition of the stateless communities in Kenya such as the Pemba community by the authorities was in clear breach and violation of both the constitution and statutory provisions on citizenship in Kenya.

Those who made submissions before the Committee on the petition were Hon. Owen Baya, MP on behalf of the Pemba People of Kenya Mr. Omar Mohamed Salim, Mr. OMAR Mohamed, Ms. Rehema Abubakar, Mr. Omar Ali Omar, Mr. Abubakar Hasham, Ms. Habiba Salim, Juma Yusuf and Ms. Samira Omar Hamis from the People Community.. Their submissions were key in determination of the Committee's recommendations.

PART 1

PREFACE

1.0 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

Hon. Speaker,

1.1 Mandate of the Committee

1. The Departmental Committee on Administration and National Security is established in accordance with the provisions of Standing Order 216 of the National Assembly. Its mandate as provided for in S.O. 216(5) is –
 - (a) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
 - (b) *study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
 - (c) *study and review all legislation referred to it;*
 - (d) *study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - (e) *investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - (f) *to vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments) ;*
 - (g) *examine treaties, agreements and conventions;*

- (h) *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- (i) *consider reports of Commissions and Independent Offices submitted to the House, pursuant to the provisions of Article 254 of the Constitution; and*
- (j) *examine any questions raised by Members on matters within its mandate.*

2. The subjects under the Committee's jurisdiction are; national security, police services, home affairs, public administration, public service, prisons, management of natural disasters and community service orders.

1.2 Composition of the Committee

3. The Committee was constituted on 14th December, 2017 and as at the time of considering the Petition and compiling this report comprised the following Members-

Chairperson

Hon. Peter Mwathi, MP

Limuru Constituency

Jubilee Party

Vice-Chairperson

Hon. Fatuma Gedi, MP

Wajir County

Jubilee Party

Hon. Jeremiah Ekamais Lomurukai, MP
Loima Constituency

ODM Party

Hon. (Dr.) Tecla Tum, MP
Nandi County

Jubilee Party

Hon. Kaluma, George Peter Joseph, MP
Homa Bay Town Constituency

ODM Party

Hon. Josphat Kabinga, MP
Mwea Constituency

Jubilee Party

Hon. (Dr.) Makali Mulu, MP
Kitui Central Constituency

Wiper Party

Hon. Nimrod Mbai, MP
Kitui East Constituency

Jubilee Party

Hon. Ngunjiri Wambugu, MP
Nyeri Town Constituency

Jubilee Party

Hon. Peter Masara, MP
Suna West Constituency

Independent Party

Hon. Aduma Owuor, MP
Nyakach Constituency

ODM Party

Hon. Abdi Shurie, MP
Balambala Constituency

Jubilee Party

Hon. Swarup Ranjan Mishra, MP
Kesses Constituency
Jubilee Party

Hon. Col. (Rtd) Geoffrey King'ang'i, MP
Mbeere South Constituency
Jubilee Party

Hon. Arbelle, Marselino Malimo, MP
Laisamis Constituency
Jubilee Party

Hon. William Kamuren Chepkut, M.P.
Ainabkoi Constituency
Independent Party

Hon. Halima Mucheke, MP
Nominated Member
Jubilee Party

Hon. Oku Kaunya, MP
Teso North Constituency
ANC Party

Hon. Rozaah Buyu, MP
Kisumu County
ODM Party

1.3 Committee Secretariat

4. The Committee Secretariat comprises the following staff-

Mr. Adan Gindicha,
Senior Clerk Assistant
Lead Clerk

Mr. Joshua Ondari
Clerk Assistant

Ms. Jemimah Waiwa
Legal Counsel

Mr. Edison Odhiambo
Fiscal Analyst

Mr. Josphat Bundotich
Serjeant-at-Arms

Ms. Eva Kaare
Serjeant-at-Arms

Mr. Joseph Okong'o,
Media Officer

Rodgers Kilungya
Audio Recording Officer

PART 2

2.0 INTRODUCTION

2.1 Constitutional and Statutory provisions regarding Petitions

5. Standing Order 227 provides for the committal of public petitions to the House whereby every Petition presented or reported to the House shall be committed to the relevant Departmental Committee for consideration and report to the House and petitioner within sixty (60) days. Further, the Petition to Parliament (Procedure) Act, 2012 provides for the procedure to be followed in the submission, processing and consideration of a Petition.
6. The Public Petition No. 41 of 2020 regarding recognition of the Pemba people of Kenya as Citizens of the republic of Kenya is dated 19th November 2020 and was presented to the National Assembly on Thursday, 19th November 2020 by Hon. Owen Baya, MP on behalf of the Pemba People of Kenya. The Petition was subsequently committed to the Departmental Committee on Administration and National Security for consideration and report to the House and petitioners pursuant to the provisions of Standing Order 227(1);
7. Article 26 of the Constitution of Kenya guarantees every Kenyan the inalienable right to life by providing that a person shall not be deprived of life intentionally while Article 29 of the constitution safeguards every person's right to freedom and security, which includes the right not to be subjected to any form of violence from either public or private sources.
8. Article 12 of the constitution envisages every citizen is entitled to the rights, privileges and benefits of citizenship, subject to the limits provided or permitted by this Constitution; and a Kenyan passport and any document of registration or identification issued by the State to citizens.

9. Article 14 of the Constitution envisages that a person is a citizen by birth if on the day of the person's birth, whether or not the person is born in Kenya, either the mother or father of the person is a citizen.
10. Articles 15 of the Constitution envisages that a person who has been married to a citizen for a period of at least seven years is entitled on application to be registered as a citizen; a person who has been lawfully resident in Kenya for a continuous period of at least seven years, and who satisfies the conditions prescribed by an Act of Parliament, may apply to be registered as a citizen; and child who is not a citizen, but is adopted by a citizen, is entitled on application to be registered as a citizen.
11. The right to Petition Parliament is provided for under Article 119 of the Constitution and states as follows:-

"Every person has a right to Petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation. Parliament shall make provision for the procedure for the exercise of this right."
12. Failure by the Government of Kenya to recognize the Pemba People as citizens continue to cause great anguish and inconvenience to the since they were unable to register their children at birth, they miss out on education, health and other social services, were excluded from employment, were unable to register businesses or to open bank accounts or even register a phone sim cards, had unrecognized marriages, were compelled to register assets for failing to carry out identity cards and for allegedly being in Kenya illegally.
13. The continued delay in the recognition of the stateless communities in Kenya such as the Pemba community by the authorities was in clear breach and violation of both the constitution and statutory provisions on citizenship in Kenya.

PART 3

3.0 HEARING ON THE PETITION

3.1 HON. OWEN BAYA, MP

14. Hon. Owen Baya, MP on behalf of the Pemba People of Kenya appeared before the Committee on Wednesday, 24th February, 2021 and submitted as follows-
- (i) The Pemba Community whose population in Kenya exceeded 5,000 people were part of the 16 Swahili dialects of the traditional Swahili Kenya whose root word Suhailya meaning 'people residing on the shores of the ocean;
 - (ii) The Pemba People of Kenya were originally from the eponymous island in the Zanzibar archipelago and were part of the Swahili states from Sokotra all the way to Mozambique and Madagascar;
 - (iii) The Swahili states as established accorded people not only freedom of movement but also equal citizenship rights to settle, farm, marry and trade freely without restrictions which formed the basis of negotiations between the Sultan of Zanzibar and the British Colonial Government on the administration of the Kenyan Coast Ten-Mile Strip;
 - (iv) The Pemba community settled within the Ten-Mile Strip which was part of the Sultanate of Zanzibar and therefore under the sovereignty of the Sultan of Zanzibar and not under the British, and which was officially recognized as a Protectorate of Kenya;
 - (v) As the British ceded sovereignty over inland Kenya for independence in 1963, so did the Sultanate of Zanzibar cede sovereignty over the Ten-Mile Strip, and subsequently, Kenya became a country comprised of the Ten-Mile Strip where the Pemba community lived as well as the inland protectorate;

- (vi) The Pemba people were therefore no longer in the Sultanate of Zanzibar but in the newly formed country called Kenya but were unfortunately not listed as part of the indigenous communities of Kenya which had presented huge difficulties in accessing or replacing identity cards;
- (vii) Majority of the Pemba community resided in Kilifi and Kwale where they live without identity and were stateless because they were not recognized in Kenya and had no nationality in Tanzania either, and while the Government of Kenya had accorded varying degrees of recognition of the Makonde Community as well as the Malakote Community of Tana River, the Pemba People of Kenya had not been accorded similar citizenship recognition;
- (viii) Failure by the Government of Kenya to recognize the Pemba People as citizens continue to cause great anguish and inconvenience to the since they were unable to register their children at birth, they miss out on education, health and other social services, were excluded from employment, were unable to register businesses or to open bank accounts or even register a phone sim cards, had unrecognized marriages, were compelled to register assets for failing to carry out identity cards and for allegedly being in Kenya illegally;
- (ix) The continued delay in the recognition of the stateless communities in Kenya such as the Pemba community by the authorities was in clear breach and violation of both the constitution and statutory provisions on citizenship in Kenya;
- (x) Efforts to have the matter addressed by the relevant authorities had been futile; and
- (xi) The matter in respect of which the petition was made was not pending before any Court of Law or Constitutional body.

15. The Petition therefore asked the House through the Departmental Committee on Administration and National Security to inquire into all the matter with a view of securing the urgent recognition of the Pemba People of Kenya as citizens of the Republic of Kenya so as to safeguard their constitutional right as well as recognizing their economic and social contribution to the coastal region and the country at large; and secure the submission of a report by the Cabinet Secretary for Ministry of Interior and Co-ordination of National Government on measures, including affirmative action programmes, taken by the State to address the plight of stateless persons and communities living in Kenya.

3.2 PUBLIC HEARING ON THE PETITION

16. The Committee carried out public hearing on Friday, 12th March, 2021 in Kilifi and Kwale Counties. The following people submitted as follows-

Submissions by Hon. Owen Baya, MP

- i) The Petition was to the effect that the Pemba people group were one of the indigenous people groups of Kenyans who were found on the coastal side of Kenya two hundred years ago. He continued to inform the plenary that there is a village in Tanzania called Pemba and the inhabitants of that village are also called “Pemba”, therefore the Kenyan citizens had for a long time been denied citizenship as they were seen to be citizens of Tanzania and therefore deemed to be illegal residents of the coastal town of Kenya;
- ii) Unlike the Makonde and shona people who were accorded citizenship by the President whilst the Pemba people remained stateless and wait in abeyance for their state to change. Though Pemba people had been in Kenya all their lives they were not recognized as citizens and therefore did not have identification documents that confer citizenship rights on them. His main aim was to ensure that these indigenous and stateless people who were not identified as Kenya’s were recognized as such;
- iii) The residents of Kilifi County were the only people in Kenya who were subjected to vetting by the immigration and births and registration officers before they received their identification documents which he deemed to be discrimination;

- iv) The people of Pemba were unable to even register their particulars of basic personal items as phone sim cards as they did not have national Identity Cards and therefore had to transact on mobile services in Kenya through proxies which was not only unsafe but expensive to them as they had to part with facilitation costs;
- v) The Pemba people could not even register businesses; be employed as they did not have national identity cards and their stateless nature subjected them to abject poverty and as aliens they were not protected by the security organs in the country;
- vi) He prayed to the Committee to use its powers under the standing order and the constitution to ensure that the relevant government departments were directed to resolve the blatant unfairness that had been visited on a section of Kenyans in a bid to ensure that they were declared to be Kenyans and facilitated to apply for and receive the requisite national identification documents as other Kenyans.

Submissions from Members of the Public drawn from the Pemba Community residing in Kilifi County

Mr. Omar Mohamed Salim

- i) the community had almost 85, 000 people and stated that Pemba people was represented by those present as not all of them would be able to attend the public hearing;
- ii) He further informed the committee that majority of the Pemba people were born in Kilifi and Kwale and they had integrated with other tribes;
- iii) The Pemba Community were said to be farmers and fishermen owing to the fact that they never managed to go to school as they were stateless and were impeded by the lack of identification documents;
- iv) The Government did not recognize them as Kenyan citizens but it deemed them to be Tanzania's from Pemba so they discriminated against the indigenous Pemba people born and raised in Kenya;

- v) They were not given bursaries as they were not recognized as Kenyans; and
- vi) He enthused that there were attempts to have them registered as Kenyan's during the era of President Kibaki and that provided them a semblance peace and comfort and they were able to get some basic services like securing birth certificates for their children who just like them were born in Kenya.

Mr. Omar Mohamed

He is an old man born in Lamu in 1946, and a Pemba informed the committee that he was not only born in this country, but also, witnessed the Mau Mau unrest period in Kenya. He stated that they moved to Malindi and as a Pemba he had challenges to getting his national identity card and has children but to date had no identification papers.

Ms. Rehema Abubakar

She stated that as the Pemba people, they feared the security agents in the country as they continued to run whenever a search was carried out owing to the fact they had no Identity card. She informed the Committee that on several instances during police swoops they had been taken to the border of Tanzania yet she knew nobody there. She narrated how they would be forced to hide in forests till the swoop was over and they would come back to the only place they knew and considered as home. She narrated how their plight had forced them to purchase through proxies which was a risky venture as there was no certainty of their ownership of the property.

Mr. Omar Ali Omar

- i) He was from tezo in Kilifi and was born in 1980;
- ii) He had no opportunity to go to school due to abject poverty and lack of identification documents;

-
- iii) He attempted to seek a living through a decent way and so he attempted to get his Identity card but was unsuccessful;
 - iv) He opted to take on madras classes and became a teacher but was not allowed to continue teaching. He was arrested for working without an identity card and was incarcerated on suspicion that he was an al-Shabaab adherent who was indoctrinating the learners. He had since been released but investigations were still going on and he had not been able to secure employment because he was lacking identification documents.

Mr. Abubakar Hasham

- i) He was born in Malindi, and his father was born in Kwale;
- ii) He enthused that it was the first time for the Pemba people to ever meet with members of Parliament or even security apparatus in the country. Being stateless the Pemas have been unable to get by in life.
- iii) The Pemba people had children and to secure their identification the birth certificate their children had to lie that they had no fathers and similarly when they died, they could not get death certificates; and
- iv) Without documents they are unable to go to school, work, or secure jobs as they didn't have licenses to go fishing which was their main livelihood.

Ms. Habiba Salim

- i) She was born in Likoni and her entire family was in Likoni; and
 - ii) She had children, but they were unable to integrate with others. They were suffering and even got in trouble with the law enforcement officers as they were incarcerated because they had no identification documents.
-

Ms. Samira Omar Hamis

- i) She was born in Kilifi and she was a member of the Pemba welfare society. She was speaking on behalf of the youth; and
- ii) She had received her Identity Card illegally and had most of her family had not received any despite being a Pemba.

Mr. Juma Yusuf Juma

- i) He was born in Malindi in 1981; and
- ii) They continued to suffer and were unable to thrive in society simply because they were deemed to be stateless and were continuously discriminated upon yet they were born and had only lived in Kenya.

Submissions from Members of the Public drawn from the Pemba Community residing in Kwale County

They submitted as follows-

- i) The Pemba people are a section of the Bantu Community found on the Kenya Coast, the Pemba Islands in Tanzania and scores in Northern Mozambique. The Pemba are not a sub-clan of the Waswahili as perceived by many due to having dialect that is affected by the Waswahili. The Waswahili are however, close neighbouring communities of Pemba people just like the Pemba language is very close to Swahili;
- ii) As of 2020, estimated 7123 of Kenya that took part in recent self-identification process led by the leaders. Several Pemba families had denounced their identity on account of difficulties and violations, and as such, they didn't take part in the self-identification process;
- iii) According to one of the Pemba elders Mzee Omari born in 1943 in Lamu County, they are coastal Bantu community who inhabited the shoreline and who

- would, during the farming season, go to the Pemba Island to farm and return. The original inhabitants were primarily from Digo Community, majorly of Kenya and Tanzania. They were fisheerfolk, boat makers and seasonal farmers. However, after centuries of occupying the Pemba Island, they would be referred to as the norm on the East African Coast;
- iv) Mzee Omari informed the Committee that the Island was previously known as Kambalu and was only renamed Pemba by the Arab explorers and settlers who spotted it and would keep saying Pembea, Pembe, Mbelea. The Pemba Island , to date is a home to the Arab Community, the Washirazi and other communities;
 - v) The Pemba community's problems in Kenya started in 1963 when the Sultan of Zanzibar officially signed agreement between MzeeJomo Kenyatta, the Prime Minister of Zanzibar and Sultan Seyyid Jamshid Bin Abdula stated, "the territories comprised in the Kenya protectorate shall cease to form part of His Highness dominions and shall thereupon form part of Kenya.";
 - vi) The Pemba People were spread along the Coastal strip remained where they were, which explains why the Pemba in Kenya found themselves in the Country. It was that upon the Country's independence in December 1963, notwithstanding the prolonged presence of the Pemba people on the Kenya Coast, or the fact that most had lost their ties in the Island with other Pemba's of Pemba/Zanzibar over time, they were never recognized as Kenyan Citizens;
 - vii) The Pemba people felt that they were victimized by the socio-political and governance gaps that existed during and after Independence. Before independence, they were part of the hard-core members of the Mwambao United Front. The Mwambao United Front's position was against the adoption of the Coastal strip to be absorbed by Kenya Colony. This position was well documented during the Lancaster deliberations over the Kenya Constitutional Conference held in Britain in 1962. During the Lancaster deliberations, the Mwambao United Front grievances were represented by their two delegates, namely Mr. O. S. Basadik and Sheikh Abdullahi Nassir. After Kenya's

Independence, the minority tribes had lived under challenging situations for many years. Whenever they sought recognition, they had been told that they did not belong in the Country but Tanzania;

- viii) The forefathers of the Pemba people held colonial and independent Kenya Identity card known as Kipande. One of the colonial and independent Kenya chiefs in Mombasa was a Pemba by the name of Mohammed Juma. The presence of Pemba Community in Mombasa was very well pronounced, and even they had a cemetery for the community in a place called Kilifi Kona. They had similar areas in Shimoni and Ukunda in Kwale as well as in Lamu;
- ix) When the 1st generation identity cards were introduced, they started facing challenges acquiring the said ID cards;
- x) Nearly all Pemas aged 40 years and above had been arrested for being illegally in Kenya. Whenever they were deported to Tanzania border, they would quickly get back into Kenya as they had no relations or connection in Tanzania;
- xi) They had also been victims of many raids and evictions. Most of their elders had denounced their Pemba identity because it had been the cause of constant torture and mockery. The younger generation, which was keener on retaining their identity and understanding in a better way the value of an ID, had pushed them to seek justice for decades of injustices and lack of identity;
- xii) In 1970s and 80s, elders from the Pemba community visited the District Commissioner in Kwale and Kilifi seeking IDs and were informed that the matter was being looked into. They did not follow up progressively. During Kibaki era, they were subjected to a process of application for identity cards, and government officials took their details up to the point of taking fingerprints;
- xiii) In 2015, they linked with organizations working on the right to citizenship, namely Kenya Human Rights Commission and Haki Center. They joined the Makonde Community in trekking to Statehouse to seek citizenship. Unfortunately, only the Makonde were recognized;

-
- xiv) In 2018, they formed and registered the Pemba Community of Kenya as a community based organization. They printed self-identification cards that they would use to identify themselves whenever they met with law enforcement officers. They had petitioned the Kilifi County Government for cultural and social inclusion. As a result, the county was supporting members of the Pemba Community living with disabilities and had agreed to include them in the various cultural festivals;
 - xv) They had also engaged the county birth and death registrars and as a result, their children were increasingly able to access birth certificates for on-time birth registration. However, because of the discrimination and historical nature, many children still did not have birth certificates;
 - xvi) They faced numerous challenges in their economic activities of fishing, fish mongering, education, access to health and formation of self-help groups; and
 - xvii) They prayed to the Committee to intervene so that their marginalization and denial of the right to citizenship can be addressed.
-

4.0 COMMITTEE OBSERVATIONS

Arising from the submissions by the petitioner and stakeholders, the Committee observed that;

- (a) The Pemba people are one of the indigenous people found in the Coast and a majority of them were born in Kilifi and Kwale and had integrated with other tribes found in the Coast.
- (b) That there also exists Pemba people who are inhabitants of a in Tanzania,
- (c) The Pemba people lack registration and identification documents and this has hindered them from accessing essential government services including education, health, and employment and business opportunities.
- (d) That despite several efforts by the Pemba people to have them recognized as Kenyan citizens with the recent attempt being in 2015, the efforts have been futile as only the Makonde people have since been recognized as Kenyan citizens and have also been issued with identification documents.
- (e) That Article 12 of the Constitution which espouses the entitlement of citizens provide that every Kenya citizen is entitled to the rights, privileges and benefits of citizenship and a Kenyan passport and any document of registration or identification issued by the State to citizens.
- (f) That the Pemba People residing in the Coast are Kenyan citizens by virtue of birth and ought to be recognized as Kenyan citizens and be issued with identification documents in accordance with Article 12 of the Constitution.

5.0 COMMITTEE RECOMMENDATIONS

17. Arising from the observation and key findings, the Committee recommends as follows–

1. **THAT** the Pemba people from the coast of Kenya be recognized as an ethnic group in Kenya.
2. **THAT** the Cabinet Secretary, Ministry of Interior and Co-ordination of National Government should initiate the process of recognizing the Pemba people as citizens of the Republic of Kenya.
3. **THAT** upon recognition of the Pemba people as citizens of the Republic of Kenya, the Cabinet Secretary, Ministry of Interior and Co-ordination of National Government does ensure that the Pemba people are issued with the relevant identification documents in accordance with the constitution and the law.

Sign 

Date 10/8/2021

THE HON. PETER MWATHI, MP

**CHAIRPERSON, DEPARTMENTAL COMMITTEE ON ADMINISTRATION
AND NATIONAL SECURITY**

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

ATTENDANCE SCHEDULE



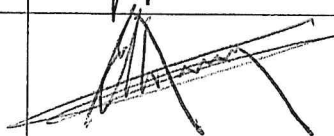
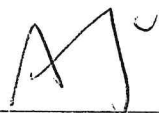

DATE: 05/08/2021

TIME: 10:00 am

VENUE: Committee Room on 1st Floor, Kipkoiba Building

AGENDA: Adoption of the Report on Public Petition No. 41 of 2020
regarding recognition of the Pemba people as Kenya citizens or
to Report of Kenya.

NO.	NAME	SIGNATURE
1.	Hon. Peter Mwathi, MP - Chairperson	
2.	Hon. Fatuma Gedi, CBS, MP - Vice Chairperson	
3.	Hon. George Peter Kaluma, MP	
4.	Hon. Dr. Makali Mulu, MP	
5.	Hon. Aduma Owuor, MP	
6.	Hon. Dr. Tecla Chebet Tum, MP	
7.	Hon. Halima Mucheke, MP	
8.	Hon. Marselino Malimo Arbelle, MP	
9.	Hon. Nimrod Mbithuka Mbai, MP	

10.	Hon. Ngunjiri Wambugu, MP	
11.	Hon. Abdi Omar Shurie, MP	
12.	Hon. Col (Rtd) Geoffrey Kingangi, MP	
13.	Hon. Peter Masara, MP	
14.	Hon. Oku Kaunya, MP	
15.	Hon. Rozaah Buyu, MP	
16.	Hon. Jeremiah Lomurukai, MP	
17.	Hon. William Chepkut, MP	
18.	Hon. Swarup Mishra, MP	

Signed.....Date.....
 Adan Gindicha,
 Senior Clerk Assistant,
 Departmental Committee on Administration and National Security.

Signed.....Date.....
 Peter Chemweno,
 Director, Directorate of Departmental Committee Services

MINUTES OF THE 24TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 5TH AUGUST, 2021 AT 10.00 A.M. IN THE COMMITTEE ROOM ON 1ST FLOOR RED CROSS BUILDING, PARLIAMENT BUILDINGS

PRESENT-

- | | |
|---|--------------------|
| 1. Hon. Peter Mwathi, MP | <i>Chairperson</i> |
| 2. Hon. Aduma Owuor, MP | |
| 3. Hon. Dr. Makali Mulu, MP | |
| 4. Hon. Peter George Kaluma, MP | |
| 5. Hon. Dr. Tecla Chebet Tum, MP | |
| 6. Hon. Halima Mucheke, MP | |
| 7. Hon. Peter Masara, MP | |
| 8. Hon. Oku Kaunya, MP | |
| 9. Hon. Marselino Arbelle, MP | |
| 10. Hon. Ngunjiri Wambugu, MP | |
| 11. Hon. Jeremiah Ekamais Lomurukai, MP | |
| 12. Hon. Nimrod Mbithuka Mbai, MP | |
| 13. Hon. Abdi Omar Shurie, MP | |
| 14. Hon. Rozaah Buyu, MP | |

ABSENT WITH APOLOGIES

- | | |
|--|-------------------------|
| 1. Hon. Fatuma Gedi, CBS, MP | <i>Vice chairperson</i> |
| 2. Hon. Col (Rtd) Geoffrey King'ang'i, MP | |
| 3. Hon. William Kamuren Chirchir Chepkut, MP | |
| 4. Hon. Swarup Mishra, MP | |

IN ATTENDANCE-

COMMITTEE SECRETARIAT-

- | | | |
|------------------------|---|----------------------------|
| 1. Mr. Adan Gindicha | - | Senior Clerk Assistant |
| 2. Mr. Joshua Ondari | - | Clerk Assistant |
| 3. Ms. Jemimah Waiwa | - | Senior Legal Counsel |
| 4. Mr. Edison Odhiambo | - | Fiscal Analyst |
| 5. Ms. Delvin Onyancha | - | Research Assistant Officer |

- | | | |
|-------------------------|---|-------------------------|
| 6. Mr. Rodgers Kilungya | - | Audio Recording Officer |
| 7. Ms. Eva Kaare | - | Serjeant-At-Arms |
| 8. Mr. James Oloo | - | Office Attendant |

MIN No. 88/2021:-

**PRELIMINARIES AND COMMUNICATION
FROM THE CHAIRPERSON**

The Chairperson officially welcomed Members to the meeting at 10.30 am with a word of prayer.

MIN No. 89/2021:-

CONFIRMATION OF MINUTES

Minutes of the 23rd sitting held on Wednesday, 28th July, 20221 at 2.30 pm were confirmed as a true record of deliberations after having been proposed and seconded by Hon. Oku Kaunya, MP and Hon. Aduma Owour, MP respectively.

MIN No. 90/2021:-

MATTERS ARISING

The following matters arose-

Under Min No. 85/2021

The Chairperson informed the meeting that he had a meeting with the Cabinet Secretary, Ministry of Interior and Coordination of National Government and agreed to schedule the meeting with the Committee. In the said meeting the said Cabinet Secretary would be appraising the Committee on the status of security in the Country. He would also address the issues of insecurity in Baringo South Constituency.

MIN No. 91/2021:-

**ADOPTION OF THE REPORTS ON
PETITIONS**

**Report on the Public Petition No. 008 of 2021 regarding lack of Access to
Citizen Registration Services by residents of Garissa and Wajir Counties**

The report was unanimously adopted after having been proposed and seconded by Hon. Dr. Makali Mulu, MP and Hon. Oku Kaunya, MP respectively.

Report on the Public Petition No. 41 of 2020 regarding recognition of the Pemba People of Kenya as Citizens of the Republic of Kenya

The report was unanimously adopted after having been proposed and seconded by Hon. Oku Kaunya, MP and Hon. Aduma Owour, MP respectively.

Report on the Public Petition No. 11 of 2021 regarding Amendment of the Firearms Act, Cap 114

The report was unanimously adopted after having been proposed and seconded by Hon. Oku Kaunya, MP and Hon. Jeremiah Ekamais Lomurukai, MP respectively.

Report on *Public* Petition No. 30 of 2020 regarding insecurity in Saku Constituency and the Larger Marsabit County

The report was unanimously adopted after having been proposed and seconded by Hon. Dr. Makali Mulu, MP and Hon. Aduma Owour, MP respectively. **It is noted that Hon. Marcelino Arballe recused himself from the adoption of the report having been a witness during the fact finding visits to Marsabit County.**

MIN No. 92/2021:-

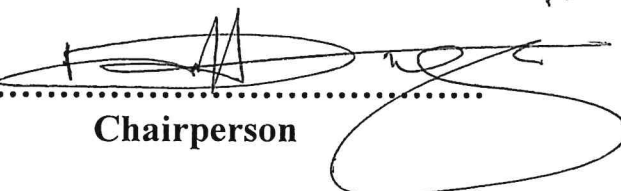
ANY OTHER BUSINESS

The Chairperson informed the meeting that the Committee had received an invitation letter from the Ministry of Foreign Affairs inviting 10 Members of the Committee to attend U.S Embassy sponsored conference in Mombasa from 12th to 15th August, 2021 to deliberate on the Strategic Goods Control (SGC), Bill. He requested Members to confirm the attendance.

MIN No. 93/2021:-

ADJOURNMENT

The Chairperson adjourned the sitting at noon.

Signed.....
Chairperson

Date.....10/8/2021.....



Approved

19/11/2020

REPUBLIC OF KENYA
TWELFTH PARLIAMENT (FOURTH SESSION)

THE NATIONAL ASSEMBLY

PUBLIC PETITION

(No. 41 of 2020)

REGARDING RECOGNITION OF THE PEMBA PEOPLE OF KENYA AS CITIZENS OF
THE REPUBLIC OF KENYA

I, the **UNDERSIGNED**, on behalf of the Pemba People of Kenya;

DRAW the attention of the House to the following: -

- THAT**, the Pemba community whose population in Kenya exceeds 5,000 people are part of the 16 Swahili dialects of the traditional Swahili of Kenya whose root word *Suhailya* means 'people residing on the shores of the ocean';
- THAT**, the Pemba People of Kenya are originally from the eponymous island in the Zanzibar archipelago and were part of the Swahili states from Sokotra all the way to Mozambique and Madagascar;
- THAT**, the Swahili states as established accorded people not only freedom of movement but also equal citizenship rights to settle, farm, marry and trade freely without restrictions which formed the basis of negotiations between the Sultan of Zanzibar and the British Colonial Government on the administration of the Kenyan Coast Ten-Mile Strip;
- THAT**, the Pemba community settled within the Ten-Mile Strip which was part of the Sultanate of Zanzibar and therefore under the sovereignty of the Sultan of Zanzibar and not under the British, and which was officially recognized as a Protectorate of Kenya;
- THAT**, as the British ceded sovereignty over inland Kenya for independence in 1963, so did the Sultanate of Zanzibar cede sovereignty over the Ten-Mile Strip, and subsequently, Kenya became a country comprised of the Ten-Mile Strip where the Pemba community lived as well as the inland protectorate;
- THAT**, the Pemba People were therefore no longer in the Sultanate of Zanzibar but in the newly formed country called Kenya but were unfortunately not listed as part of the indigenous communities of Kenya which has presented huge difficulties in accessing or replacing identity cards;

PUBLIC PETITION

REGARDING RECOGNITION OF THE PEMBA PEOPLE OF KENYA AS CITIZENS OF THE REPUBLIC OF KENYA

7. **THAT**, majority of the Pemba community reside in Kilifi and Kwale where they live without identity and are stateless because they are not recognized in Kenya and have no nationality in Tanzania either, and while the Government of Kenya has accorded varying degrees of recognition of the Makonde Community as well as the Malakote Community of Tana River, the Pemba People of Kenya have not been accorded similar citizenship recognition;
8. **THAT**, failure by the Government of Kenya to recognize the Pemba people of Kenya as citizens continues to cause great anguish and inconvenience to them since they are unable to register their children at birth, they miss out on education, health and other social services, are excluded from employment, are unable to register businesses or to open bank accounts or even to register a phone sim cards, have unrecognized marriages, are compelled to register assets such as land through proxies, and are regularly exposed to arbitrary arrests for falling to carry Identity Cards and for allegedly being in Kenya illegally;
9. **THAT**, the continued delay in the recognition and registration of the stateless communities in Kenya such as the Pemba community by the authorities is in clear breach and violation of both the constitutional and statutory provisions on citizenship in Kenya;
10. **THAT**, efforts to have this matter addressed by the relevant authorities have been futile;
11. **AND THAT**, the matter in respect of which this petition is made is not pending before any Court of Law or Constitutional body.

NOW THEREFORE, your humble petitioners pray that the National Assembly through the Departmental Committee on Administration and National Security: -

- i. Enquires into the matter with a view of securing the urgent recognition of the Pemba People of Kenya as citizens of the Republic of Kenya so as to safeguard their constitutional right as well as recognizing their economic and social contribution to the coastal region and the country at large, and
- ii. Secures the submission of a Report by the Cabinet Secretary for Administration and National Security on measures, including affirmative action programmes, taken by the state to address the plight of stateless persons and communities living in Kenya.

And your **PETITIONERS** will ever pray.

PRESENTED BY

HON. OWEN-BAYA YAA, MP

MEMBER FOR KILIFI NORTH CONSTITUENCY

Date.....19/11/2020.....

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PETITION ON RECOGNITION OF THE PEMBA PEOPLE OF KENYA;
 MEMBERS OF A STATELESS COMMUNITY IN KENYA, LACKING
 IDENTITY AS KENYAN CITIZENS

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PETITION ON RECOGNITION OF THE PEMBA PEOPLE OF KENYA:
MEMBERS OF A STATELESS COMMUNITY IN KENYA, LACKING
IDENTITY AS KENYAN CITIZENS

NAME OF PETITIONER	FULL ADDRESS	SIGNATURE/ THUMB IMPRESSION
ELIAMS / N. S. / HASSAN	DTENDU-	Q. 10-1
HELEMAN AMBLES DEMANTO	K. S. M. M. A. I. G. O.	Q. 10-2
IMAR BAKAR KIMBE	M. A. H. A. N. A.	Q. 10-3
ALIM SULAIMAN HAMADI	T. A. A. I. N. G. E. I.	Q. 10-4
WAP YUSUF SUSA	M. A. Y. A. N. S. U.	Q. 10-5
WAP H. S. I. J. O. H. A.	M. A. S. I. N. G. I.	Q. 10-6
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-7
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-8
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-9
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-10
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-11
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-12
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-13
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-14
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-15
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-16
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-17
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-18
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-19
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-20
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-21
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-22
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-23
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-24
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-25
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-26
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-27
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-28
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-29
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-30
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-31
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-32
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-33
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-34
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-35
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-36
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-37
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-38
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-39
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-40
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-41
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-42
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-43
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-44
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-45
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-46
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-47
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-48
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-49
WAP H. S. I. J. O. H. A.	T. A. A. I. N. G. E. I.	Q. 10-50

PETITION ON RECOGNITION OF THE PEMBA PEOPLE OF KENYA;
 MEMBERS OF A STATELESSNESS COMMUNITY IN KENYA, LACKING
 IDENTITY AS KENYAN CITIZENS

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IDENTITY AS KENYAN CITIZENS

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PETITION ON RECOGNITION OF THE PIEMBA PEOPLE OF KENYA;
 MEMBERS OF A STATELESS COMMUNITY IN KENYA, LACKING
 IDENTITY AS KENYAN CITIZENS

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