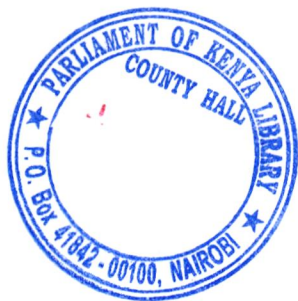


Approved for tabling

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

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ELEVENTH PARLIAMENT - FOURTH SESSION - 2016

REPORT OF

THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS

ON

THE RATIFICATION OF THE MARRAKESH TREATY TO FACILITATE ACCESS TO
PUBLISHED WORKS FOR PERSONS, WHO ARE BLIND, VISUALLY IMPAIRED OR
OTHERWISE PRINT DISABLED.

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

AUGUST 2016

ABBREVIATIONS

KECOBO – Kenya Copyright Board

KPA - Kenya Publishers Associations and Association of the Blind

KUB - Kenya Union for the Blind

MVT - Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled

NGOs – Non-Governmental Organizations

PWDs – Persons living with disability

UNCRPD - the UN Convention on the Rights of Persons with Disabilities

VIPs – Very Important Persons

WBU - World Blind Union

WIPO - World Intellectual Property Organization

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CHAIRS FORWARD

On Tuesday, March 29th, 2016 the Leader of the Majority Party in the National Assembly tabled on the floor of the House The Marrakesh Treaty to facilitate Access to Published Works for persons who are blind, impaired, or otherwise print disabled.

The treaty was thereafter committed to the Departmental Committee on Defence and Foreign Relations to deliberate and make recommendations to the House for consideration and Ratification thereof Pursuant to section 8 of the Treaty Making and Ratification Act, 2012 and the second Schedule of the Standing orders of the National Assembly. Once ratified, the Treaty shall become part of our Kenyan laws as provided for in Article 2(6) of the Constitution, which provides that *“any treaty or convention ratified by Kenya shall form part of the Law of Kenya under this Constitution”*.

The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings.

On behalf of the Committee, it is therefore my pleasant duty and privilege, to lay this report on The Ratification of the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled for consideration and ratification by the House Pursuant to Section 8(4) of the Treaty Making and Ratification Act, 2012 and provisions of Standing Order 199.

Signed  Date:

THE HON. NDUNG’U GETHENJI, MP,
CHAIRPERSON,

DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS

EXECUTIVE SUMMARY

The purpose of this report is to present to the House the consideration and ratification of the Marrakesh Treaty to facilitate Access to Published Works for persons who are blind, impaired, or otherwise print disabled that was tabled on the floor of the House on the March 29th, 2016 by the Leader of the Majority Party in the National Assembly tabled on the floor of the House and subsequently committed to the Departmental Committee on Defence and Foreign Relations for consideration.

During the consideration of the Marrakesh Treaty to facilitate Access to Published Works for persons who are blind, impaired, or otherwise print disabled, the Committee held several Sittings Pursuant to Article 118 (1)(b) of the Constitution on Public Participation and section 8(3) of the Treaty Making and Ratification Act of 2012 with representatives from the Kenya Copyright Board which is a parastatal under the State law Office, the University of Nairobi, the Law Society of Kenya and Kenya Law Reform Commission.

The Treaty will allow authorized entities (usually libraries or NGOs) in one country to send accessible format books directly to authorized entities or blind individuals in another country and allow for the unlocking of digital locks on e-books for the benefit of the blind.

The report concludes by recommending that the house approves the ratification of the Marrakesh Treaty to facilitate access to published works for persons, who are blind, visually impaired or otherwise print disabled as it is in Kenya's national interest.

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

The Departmental Committee on Defence and Foreign Relations is established under Standing Order No. 216. Its mandate pursuant to SO 216 (5) with the following terms of reference: -

- i) *investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and Departments;*
 - ii) *study the programme and policy objectives of the Ministries and Departments and the effectiveness of the implementation;*
 - iii) *study and review all legislation after First Reading subject to the exemptions under Standing Order 101 A (4);*
-
- iv) *study and review all legislation referred to it;*
 - v) *study, assess and analyse the relative success of the Ministries and Departments as measured by the results obtained as compared with its stated objectives;*
 - vi) *investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as may be referred to them by the House or a Minister; and*
 - vii) *make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.*

The Committee is mandated to consider the following subjects: -

- i. Defence
- ii. intelligence,
- iii. foreign relations
- iv. diplomatic and consular services,
- v. international boundaries,
- vi. international relations,
- vii. agreements,
- viii. treaties and
- ix. conventions.

In executing its mandate, the Committee oversees the following government Ministries, departments and or agencies, namely:

- i. Ministry of Defence
 - ii. Ministry of Foreign Affairs
 - iii. The National Intelligence Service
 - iv. The State Department for East African Community Integration.
-

MEMBERS OF THE COMMITTEE

Chairperson **The Hon. Ndungu Gethenji, M.P.**

Vice Chairperson **The Hon. Elias Bare Shill, M.P.**

Members

The Hon. Adan Keynan, CBS, M.P.

The Hon. Jakoyo Midiwo, MGH, M.P.

The Hon. Katoo Ole Metito, EGH, MGH, M.P.

The Hon. Christantus Wamalwa, CBS, M.P.

The Hon. Nyiva Mwendwa, EGH, M.P.

The Hon. Gonzi Rai, MGH M.P.

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The Hon. Lekuton Joseph, OGW, M.P.

The Hon. Joseph Kiuna, M.P.

The Hon. Joseph Gitari, M.P.

The Hon. David Pkosing, M.P.

The Hon. Col (Rtd.) Ali Dido Rasso, MBS, M.P.

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The Hon. Roselinda Soipan, M.P.

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The Hon. David Wafula, M.P.

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The Hon. Abass S. Mohammed, M.P.

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The Hon. Joyce Wanjalay Lay, M.P.

The Hon. Dennitah Ghati, M.P.

The Hon. Elijah Memusi, M.P.

The Hon. Suleiman Murunga, MP

The Hon. Jacob Macharia, MP

COMMITTEE SECRETARIAT

Senior Clerk Assistant	Mr. Oscar Namulanda Wesonga
Clerk Assistant	Mr. Douglas Katho
Clerk Assistant	Ms. Hellen Kina
Legal Counsel	Ms. Colleta Sigilai
Research & Policy Analyst	Mr. Eugene Apaa
Fiscal Analyst	Mr. Edison Odhiambo

RECOMMENDATION

The committee recommends that the house approves the ratification of the Marrakesh Treaty to facilitate access to published works for persons, who are blind, visually impaired or otherwise print disabled as it is in Kenya's national interest.

1.0 INTRODUCTION TO THE RATIFICATION OF THE MARRAKESH TREATY TO FACILITATE ACCESS TO PUBLISHED WORKS FOR PERSONS, WHO ARE BLIND, VISUALLY IMPAIRED OR OTHERWISE PRINT DISABLED.

The Republic of Kenya joined the World Intellectual Property Organisation (WIPO) in 1971. Kenya acceded to the Berne Convention for Protection of Literacy and Artistic Works on March 11, 1993. The Convention came into force on June 11, 1993. The Convention was domesticated through the Copyright Act, Cap 130 laws of Kenya.

Kenya is also a signatory to other copyright treaties like the Universal Copyright Convention, Paris Act, and the Agreement on Trade Related Aspects of Intellectual Property Rights, WIPO Performances and Phonograms Treaty, the WIPO Copyright Treaty and the Beijing Treaty for the Protection of Audio Visual Performances.

The Treaty will allow authorized entities (usually libraries or NGOs) in one country to send accessible format books directly to authorized entities or blind individuals in another country and allow for the unlocking of digital locks on e-books for the benefit of the blind.

1.1 Outline of the Marrakesh Treaty

The Agreement contains 22 articles:

Article	Title	Comments
Preamble	Preamble	It sets out the reasons and aspirations of the Treaty particularly the principle of non-discrimination, equal opportunity, accessibility and full and effective participation and inclusion of society especially rights of persons with disability. The importance of the international copyright system and desiring to harmonise limitations and exceptions with a view to facilitating access to and use of works by persons with visual impairments or with print

		disabilities.
Parties	Contracting Parties	<p>(1) Any member State of WIPO</p> <p>(2) Any intergovernmental organization admitted by the Assembly</p> <p>(3) European Union is eligible to become party to the treaty.</p>
Article 1	Relations to other Conventions and Treaties	The Treaty shall not derogate from any obligations that Contracting Parties have to each other under other treaties nor take away any rights held under other treaties.
Article 2	Definition	Defines key terms as used in the Agreement.
Article 3	Beneficiary persons	The Treaty provides that a beneficiary is a person who; <ul style="list-style-type: none"> a) Is blind; b) Has visual impairment or a perceptual or reading disability;
		<p>or</p> <ul style="list-style-type: none"> c) Is otherwise unable, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading.
Article 4	National Law Limitations and Exceptions regarding accessible format copies	<p>Provides for contracting parties to provide limitations and exceptions to the right of reproduction, distribution and availability to the public.</p> <p>The exceptions or limitations can be done in its national copyright law.</p> <p>National law shall determine whether the exceptions are subject to remuneration.</p>
Article 5	Cross-border exchange of accessible format copies.	<p>Provides availability or distribution of the works by authorized persons in another contracting party.</p> <p>Also provides for authorized entity in a contracting party receiving the material to ensure compliance with its legal system and practices so that the materials are only reproduced, distributed and made available to beneficiaries within that contracting parties</p>

		jurisdiction.
Article 6	Importation of Accessible format copies.	Provides for the right of beneficiary persons or their representatives or authorized persons who can make accessible copy of works to import an accessible format copy without authority of the rights holder.
Article 7	Obligations concerning technological measures.	Provides for contracting parties to put in place adequate legal protection and effective remedies against circumvention of effective technological measures.
Article 8	Respect of privacy.	Provides for contracting parties to protect privacy of beneficiary persons equally as others.
Article 9	Cooperation to Facilitate Cross-border Exchange.	Provides for contracting parties to endeavor to foster cross border exchange of accessible format copies by encouraging voluntary sharing of information to assist authorized entities in identifying one another.
Article 10	General principles of implementation.	Provides for contracting parties to adopt measures necessary to ensure application of the treaty. Parties can fulfil their rights and obligations through limitations and exceptions.
Article 11	General obligations on limitations and exceptions.	Provides for contracting party in coming up with measures to ensure implementation of the treaty on obligations on limitations and exceptions, the parties shall comply with obligations under- 1. Berne Convention; 2. Agreement on Trade-Related Aspects of Intellectual Property Rights and; 3. WIPO Copyright Treaty.
Article 12	Other Limitations and Exceptions.	Provides for contracting party to implement in its national law other copyright limitations and exceptions other than provided under the treaty taking into account their economic status, social and cultural needs.

		For least developed countries their special needs
Article 13	Assembly	Provides for each contracting party to have an Assembly, which shall deal with maintenance and development of the Treaty.
Article 14	International Bureau	Provides for International Bureau of WIPO to perform administrative tasks concerning the Treaty.
Article 15	Eligibility for becoming party to the Treaty	Provides for eligibility for becoming party to the treaty. It includes; any member state of WIPO; any intergovernmental organization admitted by the Assembly; the European Union.
Article 16	Rights and obligations under the Treaty	Provides that each contracting party shall enjoy all the rights and obligations arising from the treaty.
Article 17	Signature of the Treaty	Provides that the treaty shall be open for signature at the diplomatic Conference in Marrakesh and thereafter at the headquarters of WIPO by any eligible party for one year after its adoption.
Article 18	Entry into force.	Provides that the treaty shall enter into force three months after 20 eligible parties referred to in Article 15 have deposited their instruments of ratification or accession.
Article 19	Effective date of becoming party to the treaty	It provides that the 20 parties referred to under Article 19 shall be bound from the date the treaty enters into force. For the other eligible parties under Article 15, from the expiration of the three months from the date on which it has deposited instruments of ratification or accession with the DG of WIPO.
Article 20	Denunciation of the treaty	Provides that any Contracting Party may denounce the treaty by notification addressed to the DG of WIPO.
Article 21	Language of the treaty	Provides that the treaty is signed in a single original in English, Arabic, Chinese, French, Russian and Spanish. The DG of WIPO can on request of an interested party establish the official text in any other language.
Article 22	Depository.	Provides that the DG WIPO is the depository of this treaty.

1.2 Objects and Subject Matter of the Marrakesh Treaty

The Treaty will facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (MVT). It has a clear humanitarian and social development dimension and its main goal is to create a set of mandatory limitations and exceptions for the benefit of the blind, visually impaired and otherwise print disabled (VIPs).

1.3 Constitutional Implications

The Marrakesh Treaty does not propose any amendments to the Constitution.

1.4 National Security Interest Affected

The treaty does not have an effect on the National Security interest

1.5 Obligations imposed on Kenya by the Marrakesh Treaty

The Marrakesh Treaty requires that Contracting Parties fulfill two main obligations when implementing the Treaty at the national level, although they may do so according to their own legal systems. The first is to provide for a limitation or an exception to copyright in order to allow “beneficiaries” and “authorized entities” to undertake any changes needed to make a copy of a work in an accessible format for persons with a print disability. The second is to allow the exchange across borders of those accessible copies produced according to the limitations and exceptions provided in the Marrakesh Treaty, or in accordance with the operation of law.

1.6 Requirements for the Implementation of the Marrakesh Treaty

The Treaty requires the amendment of the Section 26 of the Copyright Act, Cap 130 Laws of Kenya.

1.7 Process leading to adoption of the Marrakesh Treaty

The Treaty was adopted on Friday 27th June 2013. It will enter into force on 31st November 2016 after being ratified by Canada, which would be the 20th WIPO member agreeing to be bound by its provision. Fifty one (51) member states have already signed the treaty. The Cabinet approved the ratification of the Treaty on 31st October 2013.

1.8 Proposed Text of any reservations:

There is no provision for reservation.

1.9 Whether Expenditure of Public Funds will be incurred in implementing the Marrakesh Treaty:

No additional expenditure of Public funds is foreseen in the implementation of the Marrakesh Treaty

2.0 SUBMISSIONS REGARDING THE RATIFICATION OF THE MARRAKESH TREATY TO FACILITATE ACCESS TO PUBLISHED WORKS FOR PERSONS, WHO ARE BLIND, VISUALLY IMPAIRED OR OTHERWISE PRINT DISABLED.

2.1 KENYA LAW REFORM COMMISSION.

The Hon. Josephine Sinyo, a commissioner with the Kenya Law Reform Commission made the following submissions before the committee.

That, the Marrakesh treaty was signed on 28th June 2013 in Morocco. To date, it has been ratified by these countries: India, El Salvador, United Arab Emirates, Uruguay, Mali, Paraguay, Singapore, Argentina, Mexico, Mongolia, the Republic of Korea, Australia, Brazil, Peru, the Democratic People's Republic of Korea, Israel, Chile, Ecuador, Guatemala and Canada. It has been signed by over 60 countries including Kenya which signed it on the 28th June 2013.

More than 90% of all published material is not accessible to the blind or partially sighted. We need to be able to produce these materials in accessible formats, such as Braille, large print or audio editions, but the current copyright rules do not allow this.

This limits the number of books to which blind students can have access to further their studies and training. World Blind Union (WBU), an organization bringing together all organizations of unions of the blind globally, has led the international campaign in partnership with WIPO to achieve the development of the Marrakesh Treaty and put an end to the current thirst for books.

As alluded above, the Marrakesh Treaty has been ratified by 20 countries, the number needed for it to enter into force and allow for an increase of materials in accessible formats through cross-border sharing and the increased production of books in more countries.

The treaty comes into force three months after the 20th ratification, which will be September 30th, 2016. The focus is still on getting every country in the world to ratify the treaty to increase the amount of available accessible books and to ensure that all blind and print disabled people can benefit from the treaty's provisions.

The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (MVT) is the latest addition to the body of international copyright treaties administered by WIPO. It has a clear humanitarian and social development dimension and its main goal is to create a set of mandatory limitations and exceptions for the benefit of the blind, visually impaired and otherwise print disabled (VIPs).

It requires Contracting Parties to introduce a standard set of limitations and exceptions to copyright rules in order to permit reproduction, distribution and making available of published works in formats designed to be accessible to VIPs, and to permit exchange of these works across borders by organizations that serve those beneficiaries.

The Treaty clarifies that beneficiary persons are those affected by a range of disabilities that interfere with the effective reading of printed material. The broad definition includes persons who are blind, visually impaired, or reading disabled or persons with a physical disability that prevents them from holding and manipulating a book.

Only works "in the form of text, notation and/or related illustrations, whether published or otherwise made publicly available in any media", including audio books, fall within the scope of the MVT regime.

Another important element is the role played by authorized entities, which are the organizations in charge of performing the cross-border exchange. The rather broad definition of the term encompasses many non-profit and government entities. They are either specifically authorized or "recognized" by the government as entities that provide many functions including education and information access to beneficiary persons. Authorized entities have the duty to establish and follow their own practices in several areas, including establishing that the persons they serve are

beneficiary persons, providing services only to those persons, discouraging unauthorized uses of copies, and maintaining "due care" in handling copies of works.

The MVT has a clear structure and provides for specific rules regarding both domestic and cross-border limitations and exceptions.

First, it requires Contracting Parties to have a limitation or exception to domestic copyright law for VIPs. The rights subject to such limitation or exception are the right of reproduction, the right of distribution, and the right of making available to the public. Authorized entities may, on a non-profit basis, make accessible format copies, which can be distributed by non-commercial lending or by electronic communication. The conditions for this activity include having lawful access to the work, ~~introducing only those changes needed to make the work accessible, and supplying the~~ copies only for use by beneficiary persons. VIPs may also make a personal use copy where they have lawful access to an accessible format copy of a work. At the domestic level, countries can confine limitations or exceptions to those works that cannot be "obtained commercially under reasonable terms for beneficiary persons in that market." Use of this possibility requires notification to the WIPO Director General.

Second, the MVT requires Contracting Parties to allow the import and export of accessible format copies under certain conditions. Regarding importation, when an accessible format copy can be made pursuant to national law, a copy may also be imported without rights-holder authorization. With reference to exportation, accessible format copies made under a limitation or exception or other law can be distributed or made available by an authorized entity to a beneficiary person or authorized entity in another Contracting Party. This specific limitation or exception requires the exclusive use of the works by beneficiary persons, and the MVT also clarifies that, prior to such distribution or making available, the authorized entity must not know or have reasonable grounds to know that the accessible format copy would be used by others.

The MVT leaves Contracting Parties the freedom to implement its provisions taking into account their own legal systems and practices, including determinations on "fair practices, dealings or uses", provided they comply with their three-step test obligations under other treaties. The three-

step test is a basic principle used to determine whether or not an exception or limitation is permissible under the international norms on copyright and related rights. It includes three elements, any exception or limitation:

- (1) Shall cover only certain special cases;
- (2) Shall not conflict with the normal exploitation of the work; and
- (3) Shall not unreasonably prejudice the legitimate interests of the rights-holder.

There is no requirement to be a member of any other international copyright treaty to join the MVT; membership is open to Member States of WIPO and to the European Community. However, Contracting Parties that receive accessible format copies and do not have obligations to comply with the three-step test under Article 9 of the Berne Convention must ensure that accessible format copies are not redistributed outside their jurisdictions. Also cross-border transfer by authorized entities is not permitted unless the Contracting Party in which the copy is made is a party to the WIPO Copyright Treaty or otherwise applies the three-step test to limitations and exceptions implementing the MVT.

The MVT requires WIPO to establish an "information access point" to allow voluntary sharing of information facilitating the identification of authorized entities. WIPO is also invited to share information about the functioning of the Treaty. In addition, Contracting Parties undertake to assist their authorized entities engaged in cross-border transfer arrangements.

The Treaty establishes an Assembly of the Contracting Parties whose main task is to address matters concerning the maintenance and development of the Treaty. It also entrusts to the Secretariat of WIPO the administrative tasks concerning the Treaty.

How does the Marrakesh Treaty relate to the UN Convention on the Rights of Persons with Disabilities (UNCRPD)?

The Marrakesh Treaty is the second international treaty specifically dealing with persons with disabilities rights, the first being the UNCRPD. The Marrakesh Treaty will help to implement several articles of the UNCRPD, by removing the copyright law barriers to accessible information and culture. Articles 9, 21 and 30 of the UNCRPD are particularly relevant in this context.

What are the Objectives of this Treaty?

The main objective of this Treaty is to help end the “book famine”: the global situation whereby only a limited percent of materials published are available in accessible formats which blind and other print disabled people can read. It does so by allowing blind people and organisations serving them to make and send across national borders accessible books and other copyrighted publications, without the need to ask for the (often unavailable) permission of the author, publisher or other holder of copyright.

What are the Key Elements of this Treaty?

- The Treaty recognises that outdated international and national copyright law acts as a barrier to print disabled people’s access to communication, education and research and scientific knowledge;
- It recognises the shortage of availability of published works in accessible formats;
- It also recognises the importance of appropriate limitations and exceptions to copyright law in order to ensure published works in accessible formats;
- It acknowledges the need to strike a balance between the protection of the rights of the author and larger public interest, particularly education, research and access to information;
- It defines “Works” (in layman’s terms “works” means books and other published material) in a broad way, allowing almost any published work to be transcribed into an accessible format / distributed under its terms;
- It defines “Accessible format” broadly and helpfully;
- It defines in broad terms the organisations that can use the Treaty to make or send accessible books. It calls these organisations “Authorized entities”;
- The people the Treaty is designed to serve, which it terms “beneficiaries”, are broadly defined, and includes those who are blind, visually impaired, or have a perceptual or other reading disability;
- The Treaty allows for the exchange of accessible published works across borders from one authorised entity to another, and also from an authorised entity to an individual;
- The Treaty does not allow authorised entities to use its provisions on a profit making basis.

What is the Significance of this Treaty to Persons with Visual Disabilities?

- This Treaty will help to end the “book famine” print disabled people still face;
- It will speed up the creation and implementation of national copyright exceptions for print disabled people in the many countries which still do not have these;
- It will allow repositories of accessible books, often housed in libraries or blind persons’ organisations, to be shared across national borders. This is vital. At present there is duplication of effort and cost when two such organisations in different countries, but sharing the same language, both make the same book accessible. The Treaty will allow such organisations to pool resources, save money and therefore produce and share a greater number of accessible format Books.

What should National Governments do to implement the Treaty?

- Speedily sign and ratify it;
- Amend or enact national copyright law to include appropriate limitations and exceptions in line with the Treaty;
- Prepare an action plan to implement the Treaty, working with blind people’s and other disability organisations and other relevant stakeholders such as libraries;
- Where possible, provide financial resources to authorised entities and other statutory institutions to help implement the provisions of the Treaty.

Will this Treaty damage the interests of authors, publishers or other copyright holders?

No. There are many safeguards in the Treaty text to ensure that rightsholders’ interests are protected. For instance, the organisations that can use the Treaty-such as blind people’s organisations and libraries- are carefully defined. So too accessible format works and the Treaty’s beneficiaries (print disabled people). What is more, the Treaty text clearly states that the Treaty only allows the making and sending of accessible format books on a not-for profit basis. No organisation can use the Treaty to compete with publishers in the open market.

What is the Role of Publishers under the Terms of the Treaty?

Strictly speaking publishers do not have a role to play in terms of the Treaty. Indeed, the Treaty's provisions are designed to make up for the publishers' failure to publish accessible books. The Treaty protects the rights of publishers and other "rights holders", such as authors, in various ways, to ensure that no harm is done to their interests while using the Treaty to help print disabled people. Of course, WBU would like publishers to publish more and more of their books in accessible formats, so that we have less and less need to use the Treaty to make up for the shortfall.

In conclusion the Kenya Law Reform Commission noted that reading was a human right, but currently not all people can access books or other reading materials. Over 90% of all published material could not be read by blind or print-disabled persons, leading to a "book famine". We need to be able to reproduce published materials into accessible formats, such as Braille, large print, and audio editions, to address the book famine. However, current copyright rules within most countries prevent this. Working with WIPO, the WBU led the international campaign to develop the Marrakesh Treaty that would address this book famine (official treaty name: the Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities).

Coming closer home, the Kenya Union of the Blind (KUB), The National Albino Association and any other groups that were affected by the thirst, hunger and famine for books in accessible formats implore the government to ratify this Treaty. This would enable our realization of the benefits and accruing rights as stipulated in the Bill of Rights of the Constitution, inter-alia: Article 27, 28, 35, 43, 53, 54, 55, 56, 57, 97(1)(c), 98(1)(d), 100 and 177(1)(c).

2.2 SUBMISSIONS BY THE LAW SOCIETY OF KENYA

The President of the Law Society of Kenya gave the following Submissions before the committee regarding the ratification of the treaty. The Law Society of Kenya was fully in support of the ratification of the Marrakesh Treaty because:

1. It was intended to facilitate access to published works by the blind, visual impaired and print disabled

2. The treaty was in line with the principle outlined in the universal declaration of human rights and United Nations convention rights of persons with disability.

In addition to the administration of the Marrakesh treaty the WIPO would be in position to provide legislative advice to the members that requests its support when they are updating the copyright system.

At the stage of legislation members would be able to consider tax concession or waivers to address the issue of cost implication. Tax concession could be made in such a way to make attractive the concept of subsidizing cost. Corporate sponsors could be drawn into this process so that they could fully benefit.

It was important to also note that with three steps test the concern and interest would be taken into account.

- I. The treaty would effectively increase access to books, magazine and print materials for the blind population.
- II. It not only enhances access to education but they would also be able to become professionals in their area of interest.
- III. With ratification Kenya will be opening up huge opportunities for the blind people

2.3 SUBMISSIONS BY MR. EDWARD SIGEI, EXECUTIVE DIRECTOR OF KENYA COPYRIGHT BOARD (KECOBO)

The Executive Director of the Kenya Copyright Board (KECOBO) Mr. Edward Sigei made the following submissions to the committee regarding the ratification of the treaty.

That, the Marrakesh treaty was adopted on June 27 2013 in Morocco. The treaty seeks to facilitate access of published works for persons who are blind, visually impaired and or print disabled.

Millions of books are published annually worldwide and only about 7% were made available to over 285 million blind persons in the world. 90% of blind visually impaired or print disabled live in low income settings in developing countries. 3.5% of Kenya's population comprise of People With Disabilities- PWDs, 25% of whom had visual impairment (2009 Census).

While the Copyright Act provides general exceptions to the Author's right to support the access to educational use, such as material is expensive to prepare and obtain. Therefore the facilitative nature of the Treaty is a welcome relief to support the access to reading material by this group of disabled persons.

The Treaty is the first Copyright treaty to include human rights perspective on the rights of the persons with disabilities. Canada was the 20th Country to ratify in June 2016. The treaty is notified to enter into force on 30th September 2016; three months after the twentieth Nation deposited the Instruments of Ratification. Countries that have acceded/ratified to are; India, El Salvador, United Arabs Emirates, Mali, Uruguay, Paraguay, Singapore, Argentina, Mexico, Mongolia, republic of Korea, Australia, Brazil, Peru, Israel, Chile, Ecuador, Guatemala, Democratic people's Republic of Korea and Canada. Treaty is set to come into force on September 30, 2016. Mali is the only African Country to ratify the treaty.

Purpose of the Marakesh Treaty.

- End book famine for blind persons, visually impaired or otherwise print disabled
- Allowing productions by authorized entities to make them accessible to those benefiting.
- Ensure distribution of accessibly format copies exclusively to beneficiary persons.
- Cross boarder exchange of accessibly format copies.

Obligations

The Kenya Law Reform Commission noted that the Marrakesh Treaty requires contracting parties to fulfill two main obligations.

1. Provision for a limitation or exception to copyright protection in order to allow beneficiaries and authorized entities to undertake any changes needed to make a copy of the work in the accessible format for persons with print disability.
2. To allow for Cross border exchange of those accessible copies produced according to the limitations and exceptions provided in Marrakesh Treaty or accordance to the law.

Benefits of Adherence:

Increase access to books, magazines and other printed materials for world's population of persons with print disabilities.

Improved awareness of challenges faced by the print disabled communities and PWDs

Greater access to education as PWDs are able to access the content but also the educational institutions grant access to accessible format materials

Enhanced social integration and cultural participation, as PWDs will have opportunities to fully participate in cultural development as consumers or content creators.

Poverty alleviation and increased contribution to the national economy as it will provide PWDs with opportunities for professional growth.

In conclusion the Kenya Copyright board recommends that the ratification and domestication of the MVT is long overdue. The Kenya Copyright board undertook consultations with stakeholders, Kenya Publishers Associations (KPA) and Association of the Blind i.e. Kenya Union for the Blind (KUB) for their input towards the ratification and domestication of MVT. Both umbrella groups support this process.

Additional practical measures to support the access would thereafter be taken by the ministries in charge of education, people living with disabilities and libraries.

2.4 SUBMISSIONS BY INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES – UNIVERSITY OF NAIROBI.

Amb. Prof. Maria Nzomo, the Director of the Institute of Diplomacy and International Studies at the University of Nairobi made the following submissions regarding the treaty: -

That the Marrakesh Treaty was an international treaty and as a treaty it was a very generic and it was also supposed to apply to all equally. One of the concerns raised by students and academia recurring was the question of cost implications. There might not be a cost when it comes to the actual domestication and ratification but government responsibility does not end with ratification.

That it was a good treaty and all developing countries must be part of it however there are two main areas of contentious in the Marrakesh Treaty:

1. Commercial availability
2. Need for direct access to accessible copies

Making reference to article 4 Section 4, it was noted that it was not workable because of the following reasons:

1. It put burden on institutions providing reading materials for the visual impaired to check whether the text was already available in the country commercially.
 2. Additional burden on them was to determine whether or not it was available under reasonable terms. The challenge was how institutions determine reasonable.
 3. For institutions that are not made up of trained legal experts and have limited resources both human and financially implementation becomes a great challenge.
-

For such institutions it actually paralyses them and their efforts to assist the visually impaired.

Another problem was compatibility issues, it will be unreasonable especially for developing countries to expect every person with blindness to have access to gadgets such as iPad because they could not afford. The argument on commercial availability was that it was necessary to sensitize the publishers to publish accessible formats of their work.

In conclusion she recommended that Kenya should exercise its ability to not recruit such a clause in the national law as to do that will put the burden to nonprofit organizations providing sensible format copies for literally work

The issue of middle men: beneficiary persons were required to make use of unauthorized entity as a middle man the practical implication might draw off the goodness of the treaty.

The other issue was resource based with a large number of the visually impaired living in the rural areas hence unable to access facilities. There was need for the provision of the necessary software and software devices to ensure all needy people are well catered for.

Thailand was among the first to ratify the treaty, it has a developed a home-grown delivery system, which is an open source and ready to be shared. It has created a much more affordable technology which allows the user to see text and hear text among other options. The Thailand

government is willing to share with other members who have ratified the treaty. This will be good for Kenya if we ratify the treaty.

Another issue of concern touches on the rights of the authors. The treaty was clear that their rights would not be interfered with both commercial and copy-right, but that that was the theory and not the practical. The issues of commercial and copyrights are characterized by misuse more than compliance. She wondered when the mechanisms were going to be put in place to ensure the authors rights were protected.

3.0 COMMITTEE'S OBSERVATIONS

The committee made the following observations:-

- i. The Marrakesh treaty is an attempt to further redefine the boundaries and strengthen the countries to be able to use exemption and limitation provided within the intellectual properties system. There are certain rights in the constitution that are competing for priority, which are right to education and right to information.
- ii. With the treaty in place an opening has been brought in so that cross boarder exchange for accessible format copies is allowed. It will be an obligation of the state to allow cross boarder exchange because resources for the visually impaired are limited.
- iii. With advancement of technology, an issue that is coming up is that people of good sight are also taking advantage and use the version made specifically for the blind people thereby bringing a loss of revenue. In this case the treaty is saying if accessible copies are reproduced for the benefit of people who are not to benefit that is a crime that needs to be dealt with
- iv. Having ratified and domesticated the treaty gives us an opportunity to probably have a way of managing access and giving it a reality by making budget for the visual impaired persons.
- v. The blind people require their rights actualized since they were fundamental rights.

- vi. The treaty requires contracting parties to fulfill their obligations, which include accessible format and cross border exchange. Most countries have not included this in their national act hence are not able to ratify the treaty.
- vii. The copyright law needs to be amended to ensure the owners are not at loss once the treaty is ratified.
- viii. The issue of unconstitutionality needed to be addressed that as soon as this becomes part of the Kenyan law, the fear is that it is going to be raised as a constitutional right particularly under the bill of rights.
- ix. Only one country has ratified the treaty in Africa.

4.0 RECOMMENDATIONS OF THE COMMITTEE

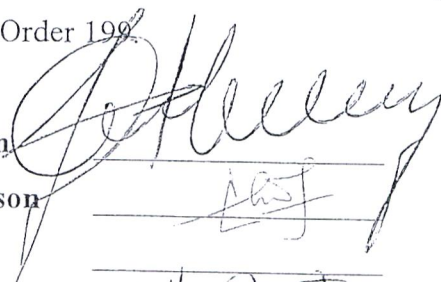
The committee recommends that the house approves the ratification of the Marrakesh Treaty to facilitate access to published works for persons, who are blind, visually impaired or otherwise print disabled as it is in Kenya's national interest.

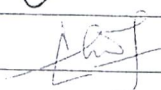
Adoption of the Report

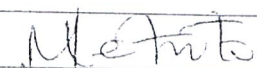
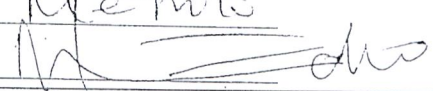
The members of the Departmental Committee on Defence and Foreign Relations have today..... adopted this Report on the Ratification of the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled for consideration and approval by the House Pursuant to Section 8(4) of the Treaty Making and Ratification Act, 2012 and Standing Order 199.


1. The Hon. Ndung'u Gethengi, M.P. – **Chairperson**
2. The Hon. Elias Bare Shill, M.P. – **Vice Chairperson**
3. The Hon. Adan Keynan, CBS, M.P.
4. The Hon. Katoo Ole Metito, EGH, MGH, M.P
5. The Hon. Jakoyo Midiwo, MGH, M.P.

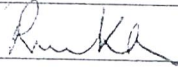
6. The Hon. Christantus Wamalwa, CBS, M.P
7. The Hon. Nyiva Mwendwa, EGH, M.P.
8. The Hon. Gonzi Rai, MGH M.P.
9. The Hon. Wafula Wamunyinyi, M.P
10. The Hon. Lekuton Joseph, M.P.
11. The Hon. Joel Onyancha, MGH, M.P.
12. The Hon. Richard Onyonka, M.P.
13. The Hon. Joseph Kiuna, M.P.
14. The Hon. Joseph Gitari, M.P.
15. The Hon. David Pkosing, M.P.
16. The Hon. Col (Rtd.) Ali Dido Rasso, MBS, M.P.
17. The Hon. Beatrice Nyaga, HSC, M.P.
18. The Hon. John Lodepe Nakara, M.P.
19. The Hon. Roselinda Soipan, M.P.
20. The Hon. Annah N. Gathecha, M.P.
21. The Hon. David Wafula, M.P.
22. The Hon. Elisha Busienei, M.P.
23. The Hon. Abass S. Mohammed, M.P.
24. The Hon. Ibrahim Sane, M.P.




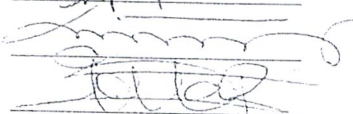


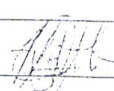



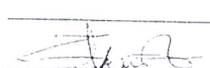


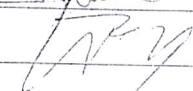







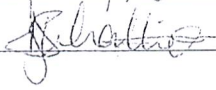


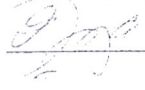





- 25. The Hon. Joyce Wanjalah Lay, M.P.
- 26. The Hon. Dennitah Ghati, M.P.
- 27. The Hon. Memusi Kanchory, MP
- 28. The Hon. Suleiman Murunga, M.P.
- 29. The Hon. Jacob Macharia, M.P.









MINUTES OF THE 40TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS HELD ON THURSDAY 28TH JULY 2016 MEDIA CENTER MAIN PARLIAMENT BUILDINGS AT 10.30AM.

PRESENT

1. Hon. Ndungu Gethenji, M.P- Chairperson
2. Hon. Katoo Ole Metito, EGH, MDH, M.P
3. Hon. Jakoyo Midiwo, MGH, M.P
4. Hon. Christantus Wamalwa, CBS, M.P
5. Hon. Wafula Wamunyinyi, M.P
6. Hon. Lekuton Joseph, M.P
7. Hon. Joseph Kiuna, M.P
8. Hon. Col (Rtd.) Ali Dido Rasso, MBS, M.P
9. Hon. John Lodepe Nakara, M.P
10. Hon. David Wafula, M.P
11. Hon. Abbas S. Mohammed, M.P
12. Hon. Joyce Wanjalah Lay, M.P
13. ~~Hon. Memusi Kanchory, M.P~~
14. Hon. Jacob Macharia, M.P
15. Hon. Richard Onyonka, M.P
16. Hon. Roselinda Soipan, M.P
17. Hon. Ibrahim Sane, M.P
18. Hon. Dennitah Ghati, M.P
19. Hon. Suleiman Murunga, M.P

ABSENT

1. Hon. Elias Bare Shill, M.P- Vice Chairperson
2. Hon. Adan Keynan, CBS M.P
3. Hon. Beatrice Nyaga, HSC, M.P.
4. Hon. Annah N. Gathecha, M.P
5. Hon. Elisha Busienei, M.P
6. Hon. Jacob Macharia, M.P
7. Hon. Joseph Gitari, M.P
8. Hon. Nyiva Mwendwa, EGH, M.P
9. Hon. Joel Onyancha, MGH, M.P
10. Hon. David Pkosing, M.P

IN ATTENDANCE

- | | | |
|----------------------|---|----------------------|
| 1. Mr. Douglas Katho | - | Clerk Assistant III |
| 2. Ms. Hellen Kina | - | Clerk Assistant II |
| 3. Mr. Eugene Apaa | - | Research Officer |
| 4. Ms. Atuza David | - | Parliamentary Intern |

NATIONAL ASSEMBLY

MIN NO. 691/2016: PRELIMINARIES

The Chairperson Hon. Ndungu Gethenji, MP called the meeting to order at ten thirty o'clock in the morning and thereafter the Hon Lekuton Joseph said the prayers.

The agenda items were proposed by Hon. Christantus Wamalwa and seconded by Hon. Jakoyo Midiwo.

The agenda items:

- I. Prayers
- II. Petitions and Pan African Protocol bill
 1. Petition regarding designation of a recruitment center in Navakholo Sub County by the ministry of defence.
 2. Petition presented by Hon. Lati Lelelit, MP on behalf of Murramur residents on alleged compulsory acquisition of land by the Ministry of Defence.
 3. Pan African Protocol Bill
- III. AOB

MIN NO 692/2016: PETITION REGARDING DESIGNATION OF A RECRUITMENT CENTRE IN NAVAKHOLO SUB COUNTY BY THE MINISTRY OF DEFENCE

The petition was presented to the committee by Hon. Emmanuel Wangwe M.P for Navakholo Constituency.

The contexts of the petition were as follows:

- i. **THAT**, Navakholo Sub County became into existence as a district vide Kenya Gazette Notice No. 1779 dated 17th February, 2011. The said Sub-County is headed by a Deputy County Commissioner, with a police Division, Education Office, fully fledged Agricultural Office among all other national administrations offices;
- ii. **THAT**, the said Sub County has three Divisions, namely Bunyala West Division, Navakholo Division and Butsotho North and six locations, yet regrettably the Sub County does not host a recruitment center for the Kenya Defence Forces;
- iii. **THAT**, the current center recruitment center at Bukhungu stadium in Lurambi Sub-County hence forcing recruits to travel long distance to participate in any recruitment exercise;
- iv. **THAT**, the sub county is made up of two major sub tribes and if the recruitment by the Kenya Defence Forces continues to take place at the current location, the community will be disenfranchised and hence causing disunity among the community;
- v. **THAT**, the sub county with a population of 137092 people as per the 2009 population census did not produce any recruit to the Kenya Defence Forces In two consecutive recruitment exercise in 2014 and 2015;
- vi. **THAT**, efforts to have recruitment Centre set up in Navakholo Sub County by the Ministry of Defence has not borne fruit yet;
- vii. **THAT**, the issue in respect of which this petition is made are not pending before any Court of Law, Constitutional or statutory body.

THEREFORE the petitioner recommends that the Cabinet Secretary for Defence sets up a recruitment center in Navakholo Sub County for the purpose of recruiting officers to the Kenya Defence Forces to ensure that youth from the Sub County gets a chance to serve in the Kenya Defence Forces.

The petitioner further explained that he had started pushing for a recruitment center in Navakholo. He further stated that the DCC had written a letter in 2013 requesting for the same but nothing has been done.

MIN NO 694/2016: HONOURABLE MEMBERS OPINIONS ON DESIGNATION OF A RECRUITMENT CENTRE IN NAVAKHOLO SUB COUNTY BY THE MINISTRY OF DEFENCE

The honorable members fully supported the petition as it is in order. They acknowledge that petition is not only about representation but also touched on equity and employment of the people of Navakholo.

The members were also in agreement that the major challenge facing KDF recruitment is profiling of communities especially in cosmopolitan areas.

Members also wanted a clarification from the KDF, as to whether every constituency is a recruitment center as per regulation of KDF. This is because the Honorable member representing the constituency is coming from the ~~the assumption that every sub county must be recruitment center.~~

Members also said that it will be essential to streamline the KDF bill with the National Government and Coordination Act.

Looking at the prayers of the petitioner, the committee members opted to invite the Ministry of Defence to come and engage the committee over the matter affecting Navakholo constituency. The meeting is scheduled for Thursday 4TH of August.

Hon. Emmanuel Wangwe M.P is invited to for the meeting as a friend of the committee.

MIN NO 695/2016: PETITION PRESENTED BY HON. LATI LELELIT, MP ON BEHALF OF MURRAMUR RESIDENTS ON ALLEGED COMPULSARY ACQUISITION OF LAND BY THE MINISTRY OF DEFENCE

The petition was presented to the committee by Hon. Leti Lelelit M.P for Samburu West constituency. The contents of the petition were as follows:

- i. **THAT**, two parcels of land measuring 2,345 and 1,956 acres respectively in the Murramur area were set apart for army use in 1976 by Commissioner of Lands;
- ii. **THAT**, the said parcels were allocated to the Ministry of Defence through a Gazette Notice No. 3210 of 11 November 1977;
- iii. **THAT**, For over thirty years, more than one hundred thousand people permanently reside in Murramur community land, even having three secondary and several primary schools existing;
- iv. **THAT**, on 19th March, 2016 at a meeting between the President and Maa Parliamentary group, the Cabinet Secretary for Interior and Coordination of National Government informed the meeting that he headed the Army Unit that occupied Murramur land was only for temporary training;
- v. **THAT**, out of goodwill, the Samburu County Council allocated 400 hectares in Baragoi, Samburu in 2012 for use by the army, in place of the Murramur land which was already occupied;
- vi. **THAT**, the Murramur Community was never consulted when their land was given to the Ministry of

- Defence as a training ground for the Army;
- vii. **THAT**, despite efforts to resolve the tussle between the Murramur community and the Ministry of Defence, no solution has been found;
 - viii. **THAT**, the issues I respect of which this petition is made are not pending before any Court of Law, or before any Constitutional or statutory body

THEREFORE the petitioner prays that the National Assembly through the Departmental Committees on Lands and Defence and Foreign Relations respectively:

- I. Investigate the issue and recommend that the Cabinet Secretary for Defence reverts ownership of Murramur land back to the local community; and
- II. Makes any other order and/ or direction that it deems fit in the circumstances of the matter for the welfare of the residents of Murramur.

The petitioner explained further that people were settled there even before that army acquired the land.

The land was given to the military in good faith, but now the community has seen the value of the land. The community seeks reversion of their land because the military no longer uses it and the community is developing.

The Ministry of defence has been reluctant to de gazette the land citing that encroachment and trespass cannot be enough reason.

**MIN NO 696/2016: CONSIDERATION OF THE PETITION PRESENTED BY HON. LATI LELELI
T, MP ON BEHALF OF MURRAMUR RESIDENTS ON ALLEGED COMPULSORY ACQUISITION OF LAND BY THE MINISTRY OF DEFENCE**

Members advised the petitioner to make their presentations to both the Ministry of Lands as land is also a key aspect of the petition presented.

The members also agreed that petition is properly put in the committee of Defence and Foreign Relation because it is grabbed land that is being used by the KDF. Therefore the committee needs clarity from the military to address the issue.

1. If the military is making good use of the land,
2. If because of increasing population and development the military is not able to go on with training,

The members were in agreement that if KDF does not need the land then it should be reverted to the community

Looking at the prayers of the petitioner the committee members opted to invite the Ministry of Defence to come and engage the committee over the matter affecting Murramur constituency. The meeting is scheduled for Thursday 4TH of August.

Hon. Lati Lelelit M.P is invited for the meeting as a friend of the committee.

MIN NO 697/2016: REPORT ON THE PROTOCOL TO THE CONSTITUTIVE ACT OF THE AFRICAN UNION RELATING TO THE PAN AFRICAN PARLIAMENT

The Hon. Rachael Shebesh, MP who is also a member of the Pan African Parliament appeared before the committee and made the following submissions regarding the Constitutive act of the Pan African Parliament protocol:

- That the protocol provides that each State Party shall be represented in the Pan African Parliament by an equal number of parliamentarians. The membership of the Pan African Parliament shall be drawn from outside National Parliaments and shall comprise five (5) members elected by each State Party.
- That the protocol Provides that the National Parliament or other deliberative body shall elect from outside its membership, five (5) members of the Pan African Parliament. Further, the representation of each State Party must reflect the diversity of political opinions in each National Parliament or other deliberative body taking into account the number of members from each political party represented in the national Parliament.
- ~~That Sitting members of Parliament shall not be members of the Pan African parliament.~~
- Members were in agreement that the protocol is necessary for the country and that the country needs to ratify it with speed.
- Members also suggested that the members of the National Assembly led by the Hon. Rachael Shebesh should make further presentation if need be together with members of the Pan African Parliament.

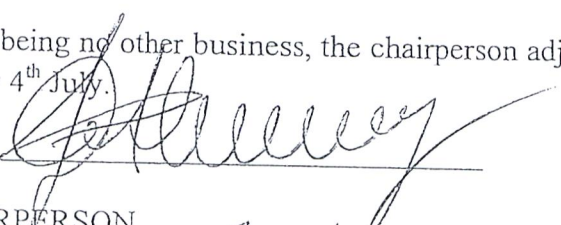
MIN NO 698/2016: ADJOURNMENT

There being no other business, the chairperson adjourned the sitting at 1.00 pm. The next meeting will be on Thursday 4th July.

SIGN

CHAIRPERSON

DATE


30/11/2016

MINUTES OF THE 47TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
DEFENCE AND FOREIGN RELATIONS HELD ON TUESDAY, 16TH AUGUST 2016
COMMITTEE ROOM 12 MAIN PARLIAMENT BUILDINGS AT 10.30AM.

PRESENT

1. Hon. Elias Bare Shill, M.P - Vice Chairperson
2. Hon. Katoo Ole Metito, EGH, MGH, M.P
3. Hon. Christantus Wamalwa, CBS, M.P
4. Hon. Nyiva Mwendwa, EGH, M.P
5. Hon. Col (Rtd.) Ali Dido Rasso, MBS, M.P
6. Hon. Beatrice Nyaga, HSC, M.P.
7. Hon. Joseph Kiuna, M.P
8. Hon. David Wafula, M.P
9. Hon. Abbas S. Mohammed, M.P
10. Hon. Joyce Wanjaloh Lay, M.P

11. Hon. Memusi Kanchory, M.P
12. Hon. Suleiman Murunga, M.P
13. Hon. Lekuton Joseph, M.P
14. Hon. Joseph Gitari, M.P
15. Hon. David Pkosing, M.P
16. Hon. John Lodepe Nakara, M.P
17. Hon. Annah N. Gathecha, M.P

ABSENT

1. Hon. Ndungu Gethenji, M.P - Chairperson
2. Hon. Jakoyo Midiwo, MGH, M.P
3. Hon. Adan Keynan, CBS M.P
4. Hon. Joel Onyancha, MGH, M.P
5. Hon. Wafula Wamunyinyi, M.P
6. Hon. Richard Onyonka, M.P
7. Hon. Ibrahim Sane, M.P
8. Hon. Gonzi Rai, MGH M.P
9. Hon. Elisha Busienei, M.P
10. Hon. Jacob Macharia, M.P
11. Hon. Roselinda Soipan, M.P
12. Hon. Dennitah Ghati, M.P

IN ATTENDANCE

1. Mr. Douglas Katho -
2. Ms. Colleta Silagai -

NATIONAL ASSEMBLY

- Clerk Assistant III
- Legal Counsel

3. Ms. Atuza David - Parliamentary Intern
4. Ms. Shillah Amina - Parliamentary Intern

MIN NO. 717/2016: PRELIMINARIES

The Vice Chairperson Hon. Bare Shill, MP called the meeting to order at Eleven o'clock and thereafter the Hon. Ali Dido Rasso, M.P said the prayers.

The agenda items were proposed and adopted as listed on the notice after being proposed and seconded by Hon. Dido Rasso, MP and Hon Nyiva Mwendwa, MP respectively.

MIN NO 718/2016: THE INTERNATIONAL CRIMES (REPEAL) BILL, 2016

The Hon. Dido Rasso, MP informed the meeting that the Committee had held a workshop to consider the International Crimes(Repeal) Bill, 2015 with key facilitators from the academia, the Law Society of Kenya - LSK, the State Law Office - SLO, the Kenya Law Reform Commission - KLRC, the Ministry of Interior and the Ministry of Foreign Affairs.

The Committee observed that the intent of repealing the International Crimes Act of 2008 was not in order since Kenya had no capacity to try serious crimes against humanity. That Parliament should make a decision to develop mechanism to try such cases locally and to strengthen institutions that will result in a self-cleansing system.

The meeting was in agreement that it would not be possible to repeal the law since that would not automatically withdraw Kenya from the Rome Statutes. That withdrawal from the Rome statutes is the responsibility of the executive and that Kenya is much safe by being a signatory to the treaty that created the Rome statutes.

The Committee resolved to meet with the mover of the Bill before considering its report for tabling.

MIN NO 719/2016: DELIBERATIONS REGARDING THE FOLLOWING PETITIONS BEFORE THE COMMITTEE:-

- a. Petition regarding designation of a recruitment Centre in Navakholo Sub County by the Ministry of Defence.
- b. Petition presented by Hon. Lati Lelelit, MP on behalf of Murramur residents on alleged compulsory acquisition of land by the Ministry of Defence.

The Committee was concerned by the absence of the Cabinet Secretaries for Defence and the Cabinet Secretary for Lands to appear before the Committee to respond to the petitions referred to the Committee.

Remember that paragraph suggests that the both CSes had been invited and failed to turn up which is not the case. This would mean we are fixing ourselves before the Committee.

The Committee resolved to have both the C.S. attend the Committee Sittings on the 23rd Tuesday to respond to the Petitions.

The committee further resolved to visit the land of Murramur on the 26th August, 2016.

MIN NO 720 /2016: CONSIDERATION OF PENDING BUSINESS BEFORE THE COMMITTEE:

a. the report on Somalia and international Boundaries.

The Committee considered the report on Somalia and International Boundaries and noted that most of the recommendations are already being implemented by the executive. The Committee therefore resolved to have the report prepared for tabling.

b. the report on the ratification of the protocol on the Pan African Parliament.

The Committee resolved that since other Members of the Pan African Parliament were unable to appear to reaffirm the submissions made by the Hon. Rachael Shebesh on Thursday, 28th July 2016, the report on the ratification of the protocol to the Constitutive Act of the African Union relating to the Pan African Parliament be unanimously adopted.

c. Treaty: Marrakesh treaty to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled.

The Hon Dido Rasso, MP briefed the Committee on the outcome of the workshop consideration of the report on the ratification of the Marrakesh treaty to facilitate access to published works by the visually impaired.

The Committee was informed that the workshop sought views from the academia, the Law Society of Kenya, the State Law Office and the Copyright Board of Kenya. Arising from the views gathered the Committee considered and unanimously adopted the report on the ratification of the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled.

MIN NO 721 /2016: ANY OTHER BUSINESS

The Vice Chairman informed the Committee that Ministry of Defence and the Ministry of Foreign Affairs would be sponsoring four Members and five Members respectively to the United Nations General Assembly - UNGA at different stages of the Assembly. He further informed the meeting that the Committee would make a request to the Clerk of the National Assembly to sponsor six other Members to attend the UNGA, 2016.

The Members resolved that priority be accorded to those who have not attended any UNGA meeting and also taking into consideration attendance and commitment to Committee activities.

The Following Members were nominated for consideration for the UNGA, 2016: -

1. Hon. Elias Bare Shill, M.P- Vice Chairperson
2. Hon. Ndungu Gethenji, M.P- Chairperson
3. Hon. Christantus Wamalwa, CBS, M.P
4. Hon. Nyiva Mwendwa, EGH, M.P

5. Hon. Joel Onyancha, MGH, M.P
6. Hon. Gonzi Rai, MGH .M.P
7. Hon. Beatrice Nyaga, HSC, M.P.
8. Hon. David Wafula, M.P
9. Hon. Abbas S. Mohammed, M.P
10. Hon. Joyce Wanjalah Lay, M.P
11. Hon. Memusi Kanchory, M.P
12. Hon. Suleiman Murunga, M.P
13. Hon. Lekuton Joseph, M.P
14. Hon. David Pkosing, M.P
15. Hon. Annah N. Gathecha, M.P
16. Hon. Richard Onyonka, M.P
17. Hon. Roselinda Soipan, M.P

~~MIN NO 722/2016: ADJOURNMENT / DATE OF THE NEXT SITTING~~

There being no other business, the Vice Chairperson adjourned the sitting at 1.00 pm. The next meeting would be held on Thursday 18th August, 2016

SIGN


CHAIRPERSON

DATE

30/11/2016