

The African Court of Justice and Human & Peoples' Rights

Situation in Amooti

Prosecutor v General Chikumbi

Confirmation of Charges Hearing

Pre-Trial Chamber II

1. The State of Marawiyo and the Republic of Kibara are neighbouring countries on the Mwangaza peninsula, continent of Chambara. The State of Marawiyo is a constitutional monarchy, while the Republic of Kibara is a republic. Both nations are part of a regional body called Usafira Union (UU), which functions similarly to the African Union (AU) and has developed the same regional treaties. The State of Marawiyo gained independence from its colonial power, Janga, in 1962. Queen Nia, who led the Zana Movement during the independence struggle, played a pivotal role in securing the nation's freedom and became the first monarch of the State of Marawiyo. Since then, the monarchy has been hereditary, with Queen Nia's descendants succeeding her. For several generations, the State of Marawiyo was ruled as an absolute monarchy until the reign of the 5th monarch, King Juma. It was during his rule that the country transitioned into a constitutional monarchy, curbing the powers of the crown. Upon King Juma's passing, his son, King Kato, ascended the throne and is the current monarch of the State of Marawiyo.
2. In contrast, the Republic of Kibara operates as a democratic republic where presidential elections are held every five years. It is considered one of the most powerful nations on the continent of Chambara, both militarily and economically, boasting a GDP of \$1.45 trillion. The Republic of Kibara gained its independence in 1958, also from the colonial rule of Janga. The independence struggle was spearheaded by the Kibara Support Forces (KSF), under the leadership of General Adebayo. Following independence, the KSF transitioned into a political party, taking power with a strong focus on peace and security. The party has since maintained a dominant presence in the Republic of Kibara's parliament, holding a majority of the seats.
3. Both States are parties to the UN Charter and have ratified all UN and UU treaties, with the exception of the Republic of Kibara that is not a party to the *Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights* (the Malabo Protocol). Both States have signed and ratified the Vienna Convention on the Law of Treaties (VCLT), the four Geneva Conventions of 1949, Additional Protocols 1 & 2, United Nations Convention on the Law of the Sea (UNCLOS), International Covenant on Civil & Political Rights (ICCPR), The International Covenant on Economic Social and Cultural Rights (ICESCR), and The African Charter on Human and Peoples' Rights. The State of Marawiyo *is* a party to the Malabo Protocol which came into force on 29th March

2020 after 32 states ratified it. The two states are not parties to any other relevant multilateral treaty.

4. In the 2002 election, the KSF lost to the newly-formed Kalimansha Democratic Party (KDP), led by President Danjuma, who campaigned on a platform focused on economic growth. This shift came after the Republic of Kibara had experienced economic decline due to poor policies. The KDP was widely credited with revitalising the economy. By this time, General Chikumbi, the grandson of General Adebayo, had become the leader of the KSF. Determined to return his party to power, General Chikumbi pledged to take whatever steps necessary. Under his leadership, the KSF resorted to violent tactics, including the abduction and bombing of vehicles belonging to senior officials of KDP. The aim was to highlight KDP's inability to protect its own members, thus undermining public confidence in the government's ability to ensure the safety of its citizens.
5. President Danjuma was outraged by the actions of the KSF and officially declared the movement a terrorist organisation. In response, the government swiftly arrested and imprisoned its leaders under the Republic of Kibara's Anti-Terrorism Law. Many others, including General Chikumbi, went into hiding to evade capture.
6. The State of Marawiyo and the Republic of Kibara both sit on the Gulf of Kibur, an area of the Kibur Sea, which is 20 nautical miles across between the two States. Accordingly, the territorial sea of each State extends 10 nautical miles out from their respective coastal baselines. 10 miles out from each State, at the outer edge of their territorial seas, lies the island of Amooti, an area believed to be rich in untapped oil and gas deposits. Consequently, the Republic of Kibara has been negotiating concession agreements with various exploration companies to explore and potentially extract these resources.
7. In December 2022, Prime Minister Tsegaye of the State of Marawiyo announced that the government had prioritised the fight against climate change. This decision was prompted by rising sea levels in the Kibur Sea, which had caused Marawiyo to lose part of its coastal land, which is low-lying farmland and flood plain. In response, Marawiyo ratified the United Nations Framework Convention on Climate Change (UNFCCC) and officially submitted its instruments of ratification to the UN Secretary-General on January 20, 2023. Shortly after ratifying the UNFCCC, the government enacted a domestic law affirming that the baseline established in 1992, when Marawiyo became a party to UNCLOS, would remain unchanged, despite the rising sea levels' impact on the coastline. The law was passed one week after the ratification to assert that no alterations had been made to the nation's baseline. A few weeks later, the Republic of Kibara officially ratified the UNFCCC. Unlike Marawiyo, Kibara's coastline is made up of high cliffs, meaning that the state has been unaffected by rising sea levels.
8. On 15 February 2023, President Danjuma of the Republic of Kibara announced that state officials had discovered that rising sea levels due to climate change had shifted the baselines of Kibara and Marawiyo. This adjustment, he said, placed Amooti, including oil deposits around the island, exclusively within the Republic of Kibara's territorial waters,

prompting the government to declare that no foreign entity was permitted to explore the area. The announcement sent shock waves through the State of Marawiyo, where the hashtag #stopthesteal began trending on social media. In response, the State of Marawiyo recalled its own ambassador from the Republic of Kibara, expelling all Kibaran diplomats and severing diplomatic relations. Despite an exchange of *notes verbales* between the two states, no resolution was reached, and the State of Marawiyo eventually filed a case before the International Court of Justice (ICJ) regarding the Amooti area. The ICJ has accepted jurisdiction in the case but is yet to issue a decision.

9. On 1 April 2023, the State of Marawiyo deployed its Navy Special Forces, part of the Marawiyo People's Defense Forces (MPDF), into the Amooti area. A significant number of aircraft carriers and nuclear submarines were positioned strategically within the waters around Amooti. King Kato, flanked by the Prime Minister Tsegaye and the Cabinet, made a live public address, declaring that no part of the State of Marawiyo's territory would ever be surrendered. He warned that anyone attempting to challenge the State of Marawiyo's territorial integrity would face the full strength of the MPDF.
10. The following day, demonstrations erupted in the Republic of Kibara, with protesters urging President Danjuma to take immediate action. The crowds, largely composed of Gen Z youth, were chanting "Reject Marawiyo's invasion." President Danjuma remained silent for two days as the protests spread across the country. When he finally addressed the nation, he called for calm and reminded citizens that the dispute was already before the ICJ. However, his response only fueled the demonstrators' anger, and their chants soon shifted to "Danjuma must go."
11. Twelve hours after President Danjuma's speech, General Chikumbi of the KSF released a recorded video that quickly went viral on social media. In the video, he called on the youth to take up arms and expel the "invaders." He reminded the public that the KSF had fought for independence, not for it to be taken away by the State of Marawiyo. This message further inflamed the demonstrators, who began marching toward the Presidential State House. Tensions escalated as protesters clashed with police officers attempting to block their advance. Although the police used tear gas and other riot control agents to disperse the crowds, the sheer number of demonstrators made it impossible to contain them. The protesters eventually reached the gates of the Presidential State House, forcing President Danjuma to be moved to safety in an underground bunker.
12. As protesters took control of the State House, the KSF declared themselves the interim government representing the people of the Republic of Kibara. The crowd cheered and celebrated as General Chikumbi and his forces marched into the capital. He proceeded directly to the Presidential Office, located on Abay Street, just 800 metres from the State House. In his first address to the media, General Chikumbi called on young people to visit the former offices of the KSF, which had been closed when the group was labelled a terrorist organisation. He urged them to join the KSF for training in preparation to fight against the "invaders." Meanwhile, in a video message sent to media outlets, President

Danjuma, speaking from the bunker, insisted that his government remained the legitimate authority of the Republic of Kibara and was still in charge. This led to confusion among the populace, divided between supporters of President Danjuma, who were primarily from his home region, and those rallying behind the KSF.

13. On 22 June 2023, the KSF conducted a naval ambush attack in waters around Amooti, led by Colonel Demisse, a 23-year-old soldier who had been among the young recruits trained by the KSF. With a strong physique and a reputation for military intelligence, Colonel Demisse had quickly risen through the ranks to become a Colonel in the KSF ranks. The target of the attack was the *Semien* Liner, a large commercial vessel with 250 citizens of Marawiyo on board, which KSF military intelligence mistakenly determined to be an MPDF warship that was involved in cutting undersea communications cables. At the time of the attack, the *Semien* was slowly making its way across Amooti Bay, half a mile off the Amooti coastline. The nearest KSF warship issued an order to the *Semien*, via radio, to stop and lay anchor so that the KSF could visit and search the ship. However, this order was ignored by the *Semien*'s captain. Subsequently, utilising a Manta Ray unmanned undersea vehicle (UUV) for the mission, the KSF launched an anti-surface missile assault against the ship. As part of the attack, the KSF also launched a wave of Shahed 136 drones, a kind of loitering munition equipped with fully-autonomous AI target-selection software. Unfortunately, the KSF military intelligence official authorizing the attack, under the command of Colonel Demisse, failed to recognize that the *Semien* was in fact a civilian vessel. The attack resulted in significant damage at the back of the vessel, leading to the tragic loss of 51 lives. Due to faulty target acquisition by the AI software built into the Shahed drones, a large number of the drones also missed their target, with several crashing into buildings on Amooti coastline, destroying a hotel and a water desalination plant.
14. The *Semien* liner was owned by Fadhili Integrated Services Ltd (FIS) which was a company registered in the Republic of Kibara. But at the time of the attack the *Semien* liner was flying the flag of the State of Marawiyo. Upon realising that the *Semien* liner was a commercial vessel, the KSF decided to board it. They separated the persons on board by gender, binding the men on the upper deck while placing the women in separate rooms. Additionally, the KSF brought three ballistic missile launchers aboard, strategically positioning them around the ship to enable firing in any direction when necessary.
15. The attack received the condemnation of the Usafira Union Peace & Security Council as well as the UN Security Council. King Kato in his address to the UU Assembly of Heads of State and Government condemned such an action and noted that the KSF were using the civilians in the *Semien* liner as human shields. In response the Republic of Kibara's ambassador to the UU noted that the ship had trespassed in the territory of the Republic of Kibara and that the holding of those civilians was within the domestic laws of the Republic of Kibara to curb illegal entry into its territory.
16. The MPDF initiated Operation Linda which was meant to save the detained civilians as well as attack the KSF. They launched strategic strikes on KSF ships within the Amooti

area. One of the MPDF's nuclear submarines launched an underwater missile on a KSF submarine causing partial damage to it. Prime Minister Tsegaye, in an interview on the sidelines of the UU Assembly of Heads of State and Government, noted that the King has given an authorisation for a military operation of a magnitude never seen before in the next two days if the KSF did not release the civilians in the *Semien* liner. General Chikumbi described it as a bluff, by invaders who would suffer defeat at the hands of the KSF's army of patriots.

17. In order to evade a nuclear catastrophe the Conflict Prevention and Early Warning Division of the Usafira Union initiated a mediation between the parties. A ceasefire was agreed upon and a deal was agreed to have the civilians released in exchange for the agreement to deescalate the risk of nuclear attack. It was also agreed that the Usafira Union would send peacekeeping troops to the Amooti area and maintain the area pending the determination of the case by the ICJ. No State was permitted to have any troops within the area. The Republic of Kibara ratified the Malabo Protocol thereafter on 4 August 2023.
18. On 2 January 2024, a report released by Faida Independent Association Express (FIAE) indicated that the KSF had recruited children believed to be between the age of 13 and 14. Some of these children were involved in the 22 June attack. The report in fact noted that Colonel Demisse who led the attack was actually 14 years old rather than 23 years old. Further the report had obtained the messages sent between Colonel Demisse and General Chikumbi on 24 June 2023 which showed that General Chikumbi was being updated about every action ongoing.
19. Two days after the release of the report, a video was published by the Thandiwe Press, an independent media station in Kibara, which showed interviews with female members of the KSF who were involved in the attack on the *Semien* liner. The KSF women were explaining that on 8 December 2023, under the orders of Colonel Demisse, they were enslaved by undisciplined male KSF soldiers once aboard of the *Semien* Liner. They indicated that they were forced to have sexual intercourse without consent with their assigned husbands, to cook for them, to wash them and to nurse the injured. One KSF soldier, in fact 14 year old girl, indicated that she was gang raped when she refused to do any of these acts under the orders of Colonel Demisse, which led to the others, who were also between the age of 13 and 14, being compelled to carry out the same acts. The girl also indicated in the video that she had just found out that she was pregnant. This was confirmed by a medical report that also was leaked to the Thandiwe Press.
20. Later that day General Chikumbi dismissed the report and the video as exaggerated; he indicated that the female soldiers were in fact part of the specialist 'Kibara Tigers' Unit of the KSF, but the ones involved in the 22 June 2023 operation were all adults of 18 years old or above. Additionally he pointed out that the women had, in fact, attempted to seduce and treat the male KSF soldiers as their husbands and as such any sexual acts were entirely consensual.

21. In September 2024, General Chikumbi decided to put an end to the conflict and started peace negotiations with both the representative of the State of Marawiyo and President Danjuma. On 24 October 2024, General Chikumbi, President Danjuma and King Kato signed a peace agreement ending the conflict. The peace agreement provided that the Amooti area would remain under the UU Peacekeeping forces and that amnesties would be granted to anyone who took part in the hostilities in the Amooti area, including KSF Soldiers and their leaders or agents. Similarly, President Danjuma was to take back the reins of power as the legitimate president and also that KSF would be removed from the list of terrorist organisations. Based on President Danjuma's request, a Truth and Reconciliation Commission was created to ensure the establishment of the truth. It was tasked with publishing a report before the end of January 2025.
22. On 25 November 2024, the Republic of Kibara's parliament adopted Law No.7 on National Reconciliation, which was later confirmed by the Constitutional Court. Article 1 established the scope of application of the law:

Anyone who took part in the hostilities in the Amooti area shall be granted amnesty for all activities related to hostilities in the period between June 2023 and the adoption of the present law, subject to Article 3. All ongoing investigations and prosecutions will be terminated, and any criminal sanctions will be revoked, provided that the conditions set out in Article 3 are met.

Article 3 contains a set of conditions for granting amnesties. In order for any individual to receive an amnesty, the following conditions must be met:

- a) **Disarmament:** *Persons affiliated with the KSF shall surrender all their weapons at the closest police stations.*
- b) **Public apology to the victims:** *the public apology shall be conducted during sessions organised by the current government for that purpose.*
- c) **Judicial control:** *the individual shall then appear before a judge who will assess whether the pre-conditions have been met and decide whether an amnesty shall be granted.*

Individuals failing to comply with any of the requirements remain liable to be prosecuted before the Republic of Kibara courts for any alleged crimes they have committed.

23. General Chikumbi, who was originally seen as a hero for fighting the State of Marawiyo, was condemned as the mastermind behind the attack on the *Semien* liner and all the subsequent crimes committed by the KSF Soldiers onboard. To protect himself against any potential criminal prosecution, he decided to seek the amnesty protection provided under Law No.7. On 23 December 2024, General Chikumbi apologised to the victims for the atrocities committed by KSF and explained that he wished he had known about the *Semien*

liner and had been able to prevent its attack. He explained though that the sexual allegations were not true and stuck to his position that they were consensual. A judge confirmed his amnesty on 27 December 2024.

24. On 3 January 2025, Marawiyo referred the situation in the Amooti area since June 2023 to the African Court of Justice and Human and Peoples' Rights (ACJHPR). On 15 January 2025, the Prosecutor announced the opening of a preliminary examination into the situation concerning Amooti area for the alleged war crimes of: directing an attack on the civilian population, based on the attack of the *Semien* liner on 22 June 2023; committing sexual slavery, based on the facts that the KSF had turned the women captives into wives; recruitment of child soldiers, based on the facts surrounding the Kibaran Tigers Unit involved in the 22 June 2023 attack; and the use of civilians as human shields.
25. On 14 February 2025, the ACJHPR Prosecutor requested Pre-Trial Chamber II (PTC II) to issue a warrant of arrest for General Chikumbi on the basis that there existed reasonable grounds to believe that he was responsible for war crimes, referring, among others, to Exhibit 1.
26. On 16 March 2025, based on PTC II arrest warrant General Chikumbi surrendered himself to the court.
27. On 1 April 2025, the Defense Counsel of General Chikumbi filed an application:
 - A. challenging the territorial jurisdiction of the Court;
 - B. requesting the PTC II to declare the case inadmissible, in light of the Law No.7 adopted by the parliament and the judgment confirming General Chikumbi's amnesty; and
 - C. submitting that General Chikumbi cannot be criminally responsible within the meaning of article 46(B)(3) of the Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights (Malabo Protocol).
28. PTC II requested the Prosecutor and the Defense to submit written observations on the request presented no later than 2 May 2025. PTC II decided to hold a single joint hearing on confirmation of charges as well as the question of admissibility and jurisdiction.
29. As a result of the current challenge, the established agenda for the PTC's hearing is the following:
 - a) Whether the case against General Chikumbi falls within the jurisdiction of the Court?
 - b) Whether the case against General Chikumbi is admissible, particularly whether the amnesty can be invoked before the Court?
 - c) Whether there are reasonable grounds to believe that General Chikumbi is criminally responsible under Article 46(B)(3) of the Malabo Protocol for the following war crimes under Article 28D?

- i. Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities, AND intentionally directing attacks against civilian objects;
- ii. Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
- iii. Utilising the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;

EXHIBIT 1

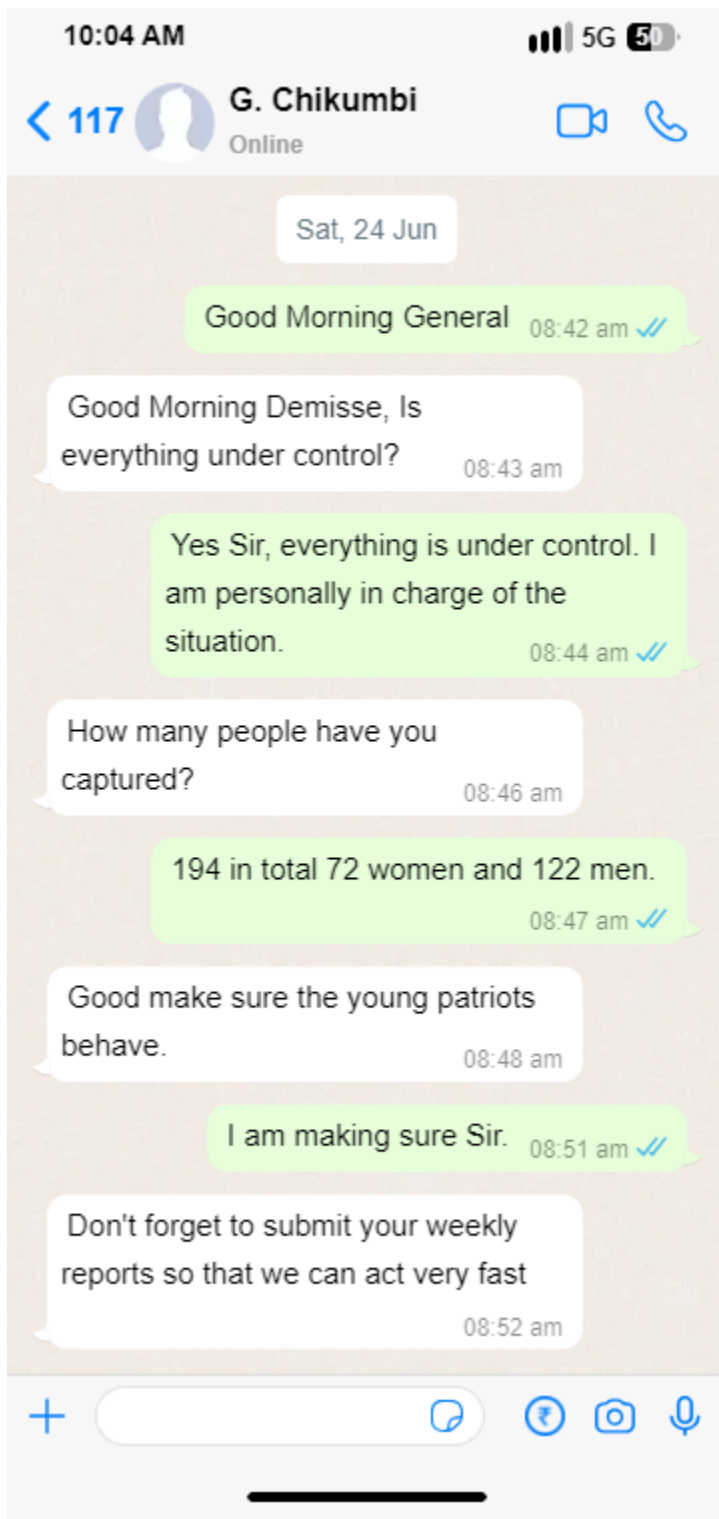


EXHIBIT 2

