

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT

SECOND SESSION (2014)

**THE DEPARTMENTAL COMMITTEE ON JUSTICE AND
LEGAL AFFAIRS**

REPORT

**ON THE APPROVAL FOR APPOINTMENT OF KAGWIRIA
MBOGORI, SUZANNE SHATIKHA CHIVUSIA, GEORGE
MORARA MONYONCHO, VINCENT SUYIANKA LEMPAA
AND JEDIDAH WAKONYO WARUHIU AS CHAIRPERSON
AND MEMBERS OF THE KENYA NATIONAL COMMISSION
ON HUMAN RIGHTS**

Clerk's Chambers,
Parliament Buildings,
NAIROBI
27TH FEBRUARY, 2014

TABLE OF CONTENTS

TABLE OF CONTENTS.....	2
1.0 PREFACE.....	3
1.1 Committee Membership.....	3
1.2 Mandate of the Committee.....	4
1.3 Nomination of the Chairperson and Members.....	5
1.4 Committee Meetings.....	5
1.5 Acknowledgements.....	5
2.0 BACKGROUND.....	7
2.1 Establishment of the Departmental Committee on Justice and Legal Affairs.....	7
2.2 Qualifications for Appointment.....	7
2.3 Appointment process of the Chairperson and Members.....	8
3.0 APPROVAL OF THE CHAIRPERSON AND MEMBERS.....	11
3.1 Appearance before the Committee by the Nominees.....	11
3.2 Kagwiria Mbogori.....	11
3.3 Suzanne Shatikha Chibusia.....	13
3.4 George Morara Monyoncho.....	15
3.5 Vincent Suyianka Lempaa.....	16
3.6 Jedidah Wakonyo Waruhiu.....	18
4.0 COMMITTEE'S OBSERVATIONS.....	19
5.0 COMMITTEE'S RECOMMENDATIONS	31

1.0 PREFACE

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order No. 216(5), it is my pleasure and duty to present to the House, the Committee's Report on the vetting of the Nominees to the positions of Chairperson and Members of Kenya National Commission on Human Rights.

1.1 Committee Membership

The Committee on Justice and Legal Affairs was constituted by the House on Thursday 16th May, 2013 comprising of the following members:

1. Hon. Samuel Chepkonga, M.P.,Chairperson
2. Hon. Priscilla Nyokabi, M.P.Vice-Chairperson
3. Hon. Muriithi Waiganjo, M.P
4. Hon. Ndirangu Waihenya, M.P
5. Hon. Florence Kajuju, M.P
6. Hon. Kang'ata Irungu, M.P
7. Hon. Benson Mutura, M.P
8. Hon. Olago Aluoch, M.P
9. Hon. John Njoroge M.P
10. Hon. William Cheptumo, M.P
11. Hon. Njoroge Baiya, M.P
12. Hon. Mohamed Abdi, M.P
13. Hon. Kangongo Bowen, M.P
14. Hon. Sammy Koech, M.P
15. Hon. Moses Cheboi, M.P
16. Hon. Paul Bii, M.P
17. Hon. Charles Gimose, M.P
18. Hon. Johanna Ngeno, M.P
19. Hon. Boniface Otsiula, M.P
20. Hon. David Ouma Ochieng, M.P
21. Hon. Neto Agostinho, M.P
22. Hon. Dr. Christine Ombaka, M.P
23. Hon. Kaluma Peter, M.P
24. Hon. Fatuma Ibrahim, M.P
25. Hon. Ben Momanyi Orori, M.P
26. Hon. Munuve Mati John, M.P
27. Hon. Mwamkale Kamoti, M.P
28. Hon. T.J Kajwang', M.P
29. Hon. Mutua Mutemi, M.P

1.2 Committee Mandate

The Departmental Committee on Justice and Legal Affairs derives its mandate from provisions of standing order 216 (5) which outline functions of the Committee as being:

- a) To 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) To study the Programme and policy objectives of ministries and departments and the effectiveness of their implementation;
- c) To study and review all the legislation referred to it;
- d) To study, access and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objectives;
- e) To investigate and inquire into all matters relating to the assigned ministries and departments as may be deemed necessary, and as may be referred to it by the House or a Cabinet Secretary;
- 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 No.204 (Committee on appointments); and
- g) To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

In accordance with Second Schedule of the Standing Orders, the Committee is mandated to consider:-

- a) Constitutional Affairs
- b) The administration of Law and Justice
- c) The Judiciary
- d) Public prosecutions
- e) Elections
- f) Ethics, Integrity and anti-corruption and
- g) Human rights

1.3 Nomination of the Chairperson and Members of the Kenya National Commission on Human Rights

Pursuant to Section 11 (6) of the Kenya National Commission on Human Rights, H.E the President, forwarded to the Speaker of the National Assembly, the name of **Kagwiria Mbogori** as Chairperson and **Suzanne Shatika Chivusia, George Morara Monyoncho, Vincent Suyianka Lempaa and Jedidah Wakonyo Wariuhui** as Members vide letter dated 31st January, 2014 to consider for approval by the Departmental Committee on Justice and Legal Affairs.

On Wednesday 12th February, 2014, the Honourable Speaker in a Communication to the House, informed the House that his office had received the names of Kagwiria Mbogori as Chairperson and Suzanne Shatika Chivusia, George Morara Monyoncho, Vincent Suyianka Lempaa and Jedidah Wakonyo Wariuhui as Members and directed that the names and Curriculum vitae of the said nominees be referred to the Departmental Committee on Justice and Legal Affairs for approval hearings and reporting to the House on or before Thursday 27th February, 2014

1.4 Committee Meetings

The Committee held three Sittings during which the said nominees appeared before the Committee on Tuesday 25th February, 2014 starting at 9.00 a.m and the approval hearing was conducted in accordance with the Public Appointments (Parliamentary Approval) Act No.33 of 2011 for appointment as Chairperson and Members of the KNCHR.

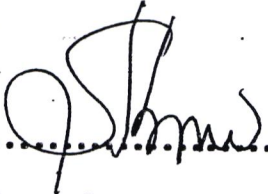
1.5 Acknowledgements

- a. The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate.
- b. The Chairperson of the Committee takes this opportunity to thank all Members of the Committee for their patience, Sacrifice, endurance and Commitment to Public Service under tight schedules which enabled us to complete the task within the stipulated period.
- c. The Committee wishes to record its appreciation for services rendered by the staff of the National Assembly attached to the Committee. Their efforts and

input made the work of the Committee and production of this Report possible.

- d. Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Justice and Legal Affairs, to present and recommend this report on the nomination of Kagwiria Mbogori as Chairperson and Suzanne Shatikha Chivusia, George Morara Monyoncho, Vincent Suyianka Lempaa and Jedidah Wakonyo Wariuhui as Members of the KNCHR to the House for adoption pursuant to Standing Orders of the National Assembly and other enabling provisions of the Law.

Thank you.

Signed..........

Hon. Samuel Chepkong'a, M.P

(Chairperson)

Departmental Committee on Justice and Legal Affairs

Dated this 27th day of February 2014

2.0 BACKGROUND

2.1 Establishment of the Departmental Committee on Justice and Legal Affairs

The Departmental Committee on Justice and Legal Affairs is one of the Departmental Committees established under Standing Order No.216 (1) with the Mandate to consider for approval by the House, appointments of Chairperson and Members of the KNCHR under Section 11(7) of the KNCHR Act, 2011 which requires H.E the President with the approval of the National Assembly, appoint such Members. Section 7(10) of the Public Appointments (Parliamentary Approval) Act 2011, provides that;

“Where the nomination of a candidate is rejected by Parliament, the appointing authority may submit to the relevant House the name of another candidate, and the procedure for approval specified in this Act shall apply accordingly’.

The positions of the Chairperson and Members of the KNCHR are established under Section 9 of the Kenya National Commission on Human Rights Act (No.14 of 2011).The Section provides that;

“The Commission shall consist of a chairperson and four other members appointed in accordance with the Constitution and the provisions of this Act”

2.2 Qualifications for Appointment of Chairperson and Members

A person shall be qualified for appointment as the chairperson of the commission if the person -

- Has knowledge and at least fifteen years experience in matters relating to law and human rights
- Holds a degree from a university recognized in Kenya
- Meets the requirements of Chapter Six of the Constitution.

A person shall be qualified for appointment as a member of the Commission if the person-

- Holds a degree from a university recognized in Kenya
- As knowledge and at least ten years’ experience in matters relating to any of the following fields
 - i. law;
 - ii. public administration;
 - iii. economics and finance;

- iv. gender and social development;
 - v. human rights;
 - vi. management; or
 - vii. social sciences;
- (a) Has had a distinguished career in their respective fields; and
 (b) Meets the requirements of Chapter Six of the Constitution.

A person shall not be qualified for appointment as the Chairperson or a Member if such person-

- Is a member of Parliament or a County Assembly
- Is a member of a local authority
- Is a undischarged bankrupt; or
- Has been removed from office for contravening the provisions of the Constitution or any other law.

2.3 Appointment Process of the Chairperson and Members of the Kenya Nation Commission on Human Rights

- a. The procedure for appointment of chairperson and members is provided for in Section 11(1) of the Kenya National Commission on Human Rights Act (No.14 of 2011) which provides that:
- “Whenever there is a vacancy in the Commission the President shall within fourteen days of the occurrence of the vacancy ,convene a selection panel for the purpose of selecting suitable candidates for appointment as the Chairperson or member of the Commission”.*
- b. Pursuant to provisions under section (11)(5) of the Act, a selection panel was constituted to select the chairperson and members of the KNCHR.The selection panel was guided by the KNCHR Act, 2011 and a judgement delivered on 16th August, 2013 in High Court Petition Number 385 of 2012.
- c. In a meeting held on 13th September,2013 the panel noted that there was a first selection panel which sat in August,2012 and a second selection panel which met in December,2012.
- d. The first selection panel did shortlist eight (8) candidates for the position of Member of the Commission but did not shortlist candidates for the position of Chairperson of the Commission as it did not find three (3) suitable persons as required by the law.
- e. H.E the President could not act on the names forwarded to him by the first panel as an entity known as Consortium for the Empowerment and Development of Marginalised Communities challenged the recruitment

exercise and obtained a conservatory order in High Court petition No385 of 2012.

- f. The conservatory order obtained in High Court Petition No.385 of 2012 was dismissed following a full hearing on 16th August, 2013 allowing the recruitment process to proceed.
- g. The Court reviewed the conservatory order on 28th September, 2012 by allowing the process of appointment of the Chairperson of the Commission to proceed. This paved way to the constitution of the second selection panel.
- h. The second selection panel met on 28th September, 2012 shortlisted and forwarded to the President three (3) candidates for nomination. No further action was done on the nomination exercise. This panel resolved to proceed as follows:
 - i. To submit to H.E the President the eight (8) candidates shortlisted by the first selection panel for nomination as members of the Commission.
 - ii. To submit to the President the three (3) candidates shortlisted by the second panel for nomination of the Chairperson of the Commission and;
 - iii. Advise the Hon. Attorney General to take the necessary steps under section 11(15) of the Act which states that;

“Despite the foregoing provisions of this section, the President, in consultation with the Prime Minister may by notice in the Gazette extend the period specified in respect of any matter under this section by a period not exceeding twenty-one days”

- i. The Ministry of State for Public Service provided facilitation and support to the panel. This included the Secretariat and facilitating advertisements.
- j. The selection process was preceded by advertisement of the position of Chairperson and three Members of the Commission as published in the Daily Nation and Standard Newspaper editions of 6th and 7th August, 2012 respectively.
- k. The candidates to be invited for interview were shortlisted on 22nd August 2012. Three applicants were shortlisted for the position of Chairperson while thirteen (13) applicants were shortlisted for the position of member. Names of all the applicants and shortlisted candidates were published in the Daily Nation and Standard Newspaper editions of 23rd August, 2012.

- l. Interviews of candidates for the position of Chairperson were conducted on 27th August, 2012 and those of Member were conducted on 27th and 28th August, 2012.
- m. The selection panel did not find three (3) persons qualified for appointment to the position of Chairperson. The panel recommended re-advertisement for the post of Chairperson.
- n. The persons whose names and curricula vitae were forwarded to H.E the President for consideration for the position of Chairperson are;
 - i) Mrs. Florence Simbiri-Jaoko
 - ii) Kagwiria Mbogori
 - iii) Mr. Jotham Okombe Arwa

The persons whose names and curricula vitae were forwarded to H.E the President for consideration for the position of Member are:

- i) Henry Omusundi
 - ii) Nelly Awori Matheka
 - iii) Jedidah Wakonyo Waruhiu
 - iv) Naomi Nyambura Wagereka
 - v) Eric O. Ogwang
 - vi) Suzanne Shatikha Chivusia
 - vii) John Kamanda Mucheke
 - viii) George Morara Monyoncho
- o. A letter dated 31st January, 2014 from H.E the President to the Speaker of the National Assembly indicated that H.E the President had, nominated Kagwiria Mbogori as Chairperson of the KNCHR and Suzanne Shatikha Chibusia, George Morara Monyoncho, Vincent Suyianka Lempaa and Jedidah Wakonyo Waruhiu as Members.
 - p. On February 12th, 2014, the Honourable Speaker in a communication to the House referred the names of the nominees to the Departmental Committee on Justice and Legal Affairs for approval hearings and directed the Committee to table its report to the House for consideration on or before Thursday February 27th, 2014.
 - q. The Public was expected to participate in the vetting process through submission of memoranda (affidavit) on the suitability or otherwise of the nominee. On Friday 14th February, 2014, the Clerk of the National Assembly placed an advertisement in the print media inviting the public to submit memoranda by Thursday 20th February, 2014 on the suitability or otherwise of the said nominee pursuant to section 6(9) of the public Appointments (parliamentary Approval) Act 2011:

- r. The Committee perused the report from the Chairperson of the Selection Panel for the Appointment of Chairperson and Members of the Kenya National Commission on Human Rights, information from Ethics and Anti-corruption Commission, Higher Education Loans Board (HELB), Criminal Investigation Department (CID) and the Kenya Revenue Authority (KRA).

3.0 APPROVAL OF THE CHAIRPERSON AND MEMBERS OF KNCHR

In conducting the approval process, the Departmental Committee on Justice and Legal Affairs examined the nominees against the following criteria, amongst others, in accordance with the Public Appointments (Parliament Approval) Act No.33 of 2011.

- (i) Academic qualifications
- (ii) Employment record
- (iii) Professional affiliations
- (iv) Potential conflict of interest
- (v) Knowledge of the relevant subject
- (vi) Overall suitability for the position
- (vii) Tax compliance
- (viii) Integrity and morality
- (ix) Vision, leadership and judicial reforms
- (x) Access to justice
- (xi) Expectations and key priorities

During its Sitting held on Tuesday 25th February, 2014, the Committee orally conducted approval hearings of the nominees for appointment as Chairperson and Members.

3.1 Appearance before the Committee by the Nominees

3.2 Kagwiria Mbogori

The nominee to the position of Chairperson Kagwiria Mbogori appeared before the Justice and Legal Affairs Committee on Tuesday February 25th, 2014 and was informed by the Chairperson that despite inviting Memoranda from the Public on her suitability or otherwise for appointment to position of Chairperson, none had been received at the date of the approval hearings. The nominee responded to questions put to her by members of the Committee as follows;

On self introduction, knowledge, experience, qualification, passion and context within the KNCHR;

She informed the Committee that the position of the Chairperson of the KNCHR is an integral office in so far as citizens' rights and liberties are concerned and is ready to deploy her vast International experience to serve the People of Kenya. She further informed the Committee that:

- She hails from Meru County.
- She is an Advocate of the High Court of Kenya and holds a masters degree in law (LL.M) from the University of Notre Dame, Centre for Civil and Human Rights and a Bachelor of Laws Degree (LL.B) from the University of Nairobi.
- She has worked extensively with the United Nations.
- She is passionate about Human Rights and Justice in Kenya and her brand of advocacy will be a departure from activism.

On Challenges including same Sex Relationships:

- Gay and Lesbianism is a complex and controversial issue morally.
- She will be guided by the Constitution of Kenya and enabling statutes.
- Article 21 of the Constitution does not make sexual orientation as a basis for discrimination.
- Values and principles of the Nation must be considered while confronting the debate on this issue.
- There is no legal basis to support gay and lesbianism but will not hesitate to protect their individual rights enjoyed by other citizens.
- She acknowledged that the task awaiting her is huge but she has what it takes to move forward as complex issues require complex redress.

On Institutional framework, perception and vision:

- She will collaborate with critical institutions such as the Judiciary and Parliament.
- She will ensure the KNCHR has capacity to deliver and discharge its mandate as envisaged under a devolved system of government.
- She will build partnership with other Constitutional Commissions and seek adequate funding to realise uninterrupted discharge of their mandate.
- She will strive to change the perception that one must be combative and militant to achieve success at the Commission.
-

On Post Election Violence (PEV) of 2008 and the International Criminal Court experience regarding Sovereignty of the Country:

- She stated that the Human Rights movement grew tremendously after the Second World War following the atrocities committed by Nazi Germany. The urge to punish the perpetrators of the war curtailed sovereignty of nations because of internationalisation of the conflict through global institutions.
- Treaties and Conventions such as Convention against torture, the Genocide Convention of 1948 and the treaty establishing the ICC have also compromised the sovereignty of states.
- She will ensure compliance with international obligations.

On her long absence from the Country, she stated that:

- At times she was stationed in Nairobi as her duty station and thus closely in touch with events in Country.
- She will have to familiarise with national policies such as gender policy, land policy, human rights policy and national housing policy among others.

On urgent legislation for enforcement of Human Rights, she said that:

- Rights of People with disability should be domesticated through legislation.
- She will be guided by the Constitution on the laws that need implementation.

On Publications and research, she stated that she has published the following:

- Human Rights of Women In Conflict Situations.
- The Rights of 'mistresses' and 'illegitimate children' in Kenya
- Women and the Law in Kenya
- Public perception index in Kenya of the Judiciary
- Existing Legal and Policy Constraints on Media Freedom.

3.3 Suzanne Shatikha Chivusia

The nominee to the position of Member appeared before the Justice and Legal Affairs Committee on Tuesday February 25th, 2014 and was informed by the Chairperson that despite inviting Memoranda from the Public on his suitability or otherwise for appointment to position of Member, none had been received at the date of the approval hearings. The nominee responded to questions put to her by members of the Committee as follows.

On self introduction, knowledge, experience, qualification, passion and context within the KNCHR she stated that:

- She comes from Kakamega County and she is an Advocate of the High Court of Kenya.
- She is currently serving as a researcher in the Commission and will use her experience as an insider to put in place implementable programmes.
- She informed the Committee that the KNCHR is a critical Institution in so far as the Bill of Rights is concerned and is ready to take up her responsibilities as a member if approved by Parliament.

On Rights of Children to free Basic Education she informed members that:

- The basic Education Bill was reviewed by the Commission.
- The Commission has a focal point on Children Rights.
- She is a firm believer in Human Rights and the Environment is conducive for her to raise issues of principle.

On the Police Service Commission Bill before Parliament, She said that:

- There was no adequate public participation on the Bill.
- The Bill does not provide for adequate penalty for Human Rights abuses by police officers.
- The Police should start conducting themselves as police service as envisaged in the Constitution rather than the old style of a police force.

On vision and Challenges, she informed the Committee that:

- The Commission has four regional offices and will strive to partner with other Constitutional Commissions to set-up offices in other parts of the Country.
- The Commission will explore more methods of receiving information besides reliance on hotlines among others.

On the Relationship between the Judiciary, and Parliament, she observed that:

The two arms of Government should respect and complement each other rather than frustrate constitutional roles of another independent institution.

She further stated that Courts should intervene in Parliamentary matters at the end of the process rather than in the middle of the process.

On gay rights she observed that she personally does not approve same sex marriage and marriage in any form although such people can access individual rights such as right to health services, water and education

On what she will contribute to the Commission she said that:

- She will work to set-up a knowledge and information management system to relay information swiftly.
- She will engage more with the National Treasury to raise funds as per the Paris principle that 70 percent should come from government.

3.4 George Morara Monyoncho

The nominee to the position of Member appeared before the Justice and Legal Affairs Committee on Tuesday February 25th, 2014 and was informed by the Chairperson that despite inviting Memoranda from the Public on his suitability or otherwise for appointment to position of Member, none had been received at the date of the approval hearings. The nominee responded to questions put to him by members of the Committee as follows

On self introduction, knowledge, experience, qualification and context within the KNCHR;

He informed the Committee that:

- He is a political scientist, has worked with a number of organisations such as Abantu for Development and youth organisations.
- He is currently employed by the Kenya Human Rights Commission, a non-governmental organisation started in 1991.
- He knows the distinction between KHRC and KNCHR.

On why he wants to move from the NGO world to a Government institution, he stated that he is not motivated by salaries but is driven by the desire to drive the Human rights movement at another level.

On Mau Mau Veterans he informed members that:

- He has been lobbying and presenting their case for the last seven years.
- He has been engaging other groups involved in the struggle for independence from other parts of Country like Western Kenya.
- He has not discriminated against any group and has gone to areas such as Malakisi in Bungoma County gathering for evidence.

- The threshold of the cases is that there must be evidence of torture.
- He will continue with his pursuit for the rights of torture victims such as Mau Mau.
- He has not disclosed the list of Mau Mau compensation claimants on security grounds.
- Some Veterans have been paid while others are in the process of being paid.
- The Victims Lawyers advised the group to file individual claims rather than broad claims against colonialism.
- They had a robust method of identifying victims including perusal of records in detention camps such as Hola.

On Programmes to Pursue Justice and Reparations beyond Mau Mau, he informed members that:

- At the KHRC he started the National memories project to identify people who contributed immensely to the country but have not been recognised or honoured.
- Through the said project they were able to put up a statue in honour to Mekatelili Wa Menza.
- He works closely with the Koitalel Arap Samoei foundation and Dini ya Musambwa associates.
- He is a strong believer in constructive dialogue and this is demonstrated by his ability to engage with police at vigilance House to combat militia groups in Kisii.

On PEV victims, he said that he has been working with IDPS in western Kenya to ensure that they are settled.

On gay Rights he informed members that:

- They are entitled to other rights such as right to life, water and health services among others.
- His intervention will not be to encourage the practise but rather the right to life and guarantees safeguarded by the law.

3.5 Vincent Suyianka Lempaa

The nominee to the position of Member appeared before the Justice and Legal Affairs Committee on Tuesday February 25th, 2014 and was informed by the Chairperson that despite inviting Memoranda from the Public on his suitability or otherwise for appointment to position of Member, none had been received at the

date of the approval hearings. The nominee responded to questions put to him by members of the Committee as follows

On self introduction, knowledge, experience, qualification and context within the KNCHR;

He informed the Committee that:

- He was born in Kajiado County.
- He is an Advocate of the High Court of Kenya.
- His passion for justice started at Kenyatta University where he was an undergraduate Student.
- He was expelled from Kenyatta and was later to sue the University where he was awarded damages for wrongful action against him.
- He worked for KBC as a journalist and reported extensively on issues of Human Rights and Justice.
- He is a litigation counsel at Katiba institute and managing partner of Lempaa and Company Advocates.

On Public Interest Litigation he informed members that he will abide by the Constitutional provisions as per Article 50 which guarantees a fair hearing to all people.

On Economic-Social and Political Rights, he stated:

That Civil and political Rights are immediate and economic and cultural Rights are progressive.

On his multi-disciplinary background he informed members that:

His background in education, Journalism and law will be valuable to the Commission and the Country.

On Maasai land Rights and ownership, he observed that:

- Maasai land rights constitute historical injustices.
- Land should be used as a means of production.
- Will engage the National Land Commission on land ownership.

On the CDF case Pending in Court he informed, members that:

- Katiba institute is the plaintiff in that matter and he believes that the idea Members of Parliament as chair and managers of the fund in conflict with the law and separation of powers.
- CDF should be run by Governors.

On the three arms of Government, he stated that;

- Article 125 of the Constitution empowers Parliament to summon anyone in exercise of its legislative and oversight role.
- A Commissioner should not move from one Commission to another at the expiry of his term.

3.6 Jedidah Wakonyo Waruhiu

The nominee to the position of Member appeared before the Justice and Legal Affairs Committee on Tuesday February 25th, 2014 and was informed by the Chairperson that despite inviting Memoranda from the Public on his suitability or otherwise for appointment to position of Member, none had been received at the date of the approval hearings. The nominee responded to questions put to him by members of the Committee as follows

On self introduction, knowledge, experience, qualification and context within the KNCHR;

- She informed the Committee that she developed keen interest in Human Rights while a student at the University of Nairobi.
- She enrolled with FIDA-Kenya as a member while still a student at the University.
- Has been involved in Human rights for the last twenty three years at both international and national level.
- Worked at the Legal Resource from where she contributed to Constitution of Kenya, 2010.

On vision and Challenges she informed members that:

- A combination of many players such as Judiciary, prisons, civil society among others is critical in combating injustices.
- Challenges start at the time of arrest and prison conditions are the end product of the process.

- Court users Committee is now reflected in the National Administrative Justice system.
- Her transition to the KNCHR will not compromise her work at give her more responsibility to engage at another level.

On the three arms of Government, she observed that:

- The basic principles of separation of powers must be respected.
- The rule of law must prevail
- Citizens' engagement and participation is critical.

On Children's Rights and Parental Responsibility, she stated as follows:

- The Constitution is the best reference.
- Interest of the Child is the primary responsibility of any person involved in Children matters.
- The dual responsibility of parents cannot be compromised.
- Chiefs and DO's are still relevant at the local level.

On Gay Rights, Abortion and Capital punishment she stated as follows;

- The law is very clear on abortion and the right to life.
- Marriage is a Union between man and a woman.
- Gay people should not be discriminated when seeking services such as health since they are part of our national values.
- The last capital punishment was in 1987 and courts should not met out capital punishment any more.
- Those on death row sentences are subjected to cruel and inhuman treatment.

4.0 COMMITTEE'S OBSERVATIONS

4.1 Kagwiria Mbogori

1. The Committee having considered the curriculum vitae of Kagwiria Mbogori and having heard her submissions during the approval hearing, made the following observations on her nomination:-

Education and Professional Training

- Master of Law (LL.M) from the University of Notre Dame, *Centre for Civil and Human Rights, South Bend, LL.M. specialising in International and Regional Human Rights protection systems, International*

Humanitarian Law, Transitional Justice, Feminist Jurisprudence, Gender Perspectives in Anthropology, *et al.*

- *Post-Graduate Diploma in Law, from the Kenya School of Law*
- Bachelor of Laws Degree, University of Nairobi

Work Experience

- United Nations Development Program (UNDP) South Sudan as Chief Technical Advisor, Judiciary of South Sudan.
- United Nations Mission in Liberia (UNMIL) as head of Advisory Unit, Legal & Judicial System Support Division
- United Nations Development Fund for Women (UNIFEM)
- Self employed human rights and governance consultant
- Canadian International Development Agency as governance consultant.
- Kenya Section of the International Commission of Jurists as Executive Director
- Federation of Women Lawyers (FIDA Kenya as senior programme officer
- Jomo Kenyatta University of Agriculture and Technology as a legal officer
- Waweru Gatonye & Company Advocates as a Legal Associate/Litigator

Selected Publications

1. Human Rights of Women In Conflict Situations, Florence Butegwa, Stella Mukasa and Kagwiria Mbogori, WILDAF, 1995.
2. The rights of 'mistresses' and 'illegitimate children' in Kenya; a survey of maintenance and inheritance laws. Unpublished. Honor paper written in partial fulfillment of my LL.M degree, 1997.
3. Women and the Law in Kenya – Unpublished. Paper presented in a series of seminars for women managers in the public sector, 2001.
4. Public Perception Index of the Judiciary, a quarterly publication of ICJ Kenya from 2000-2003, Editor.
5. Existing Legal and Policy Constraints on Media Freedom, Legal Resources Foundation, and Research report, 2003.

Professional Membership

1. Law Society of Kenya, member.
2. Federation of Women Lawyers (FIDA), member.
3. Women in Law and Development in Africa (WILDAF).
4. Nyumbani Home for HIV/AIDS Orphans, Volunteer.
5. Loreto High School, Limuru, Alumni Association.
6. Center for Governance and Development, Board Member.

7. Kenya Section of the ICJ, Member.
8. University of Notre Dame Alumni Club of East Africa, President.

The Committee by majority, found the nominee suitable and qualified for appointment as Chairperson of the Kenya National Commission on Human Rights.

4.2 Suznne Shatikha Chibusia

Education and Professional Training

- i). Master of Arts in International Studies (MA) (University of Nairobi, December 2007) *Majored in* Diplomacy, International Law, International Environmental Law, Social Science Research Methods, International Conflict Management, International Relations, International Economics, International Economic Law and Policy, International Organizations, International Relations of African States, International Political Systems, Language Course/French. *Research Project* 'Actualizing Women's Rights under CEDAW-A Case Study of the Practice of Polygamy in the Kabras Community of Kenya and its Impact on the Human Rights of Women.'
- ii). Postgraduate Diploma (Salzburg Law School on International Criminal Law, Humanitarian Law and Human Rights) August 2007. Focused on international criminal law and international justice, substantive international criminal law and the organisation of international judicial bodies, in particular, the ad hoc Tribunals for the Former Yugoslavia, Rwanda and the International Criminal Court.
- iii). Postgraduate Diploma in Law (The Kenya School of Law, 1992) *Majored in:* Legal Education and Service under Pupilage: qualified as an advocate of the high court of Kenya.
- iv). Bachelor of laws LL.B (Hons) University of Nairobi, 1991
- v). Postgraduate Certificate in The Human Rights of Women (World University Services Austria, in conjunction with Makerere University, Kampala Uganda) 1999.
- vi). The Nominee has several Certificates in the following areas:
 - Certificate in International Human Rights (Canadian Human Rights Foundation, John Abbott College, Canada).

- Certificate in Financial and Project Management (Heinrich Boll Foundation, Nairobi Kenya) 2002.
- Certificate in Basic Security in the Field-Staff Safety, Health and Welfare (UNDP, Khartoum Sudan) 2004.
- Certificate in Team Building and Interpersonal Skills Development (Independent Communications Associates, Nairobi Kenya).
- Certificate in Facilitation Skills (FIDA-Kenya, Nairobi) 2002.
- Certificate in Lay Counseling (New Life SDA Church, Nairobi Kenya) 1997.
- Certificate in Gender and Development (Kenya Institute of Administration Nairobi Kenya) 2001.
- Certificate in Gender and Disability Mainstreaming from the Gender and Disability Development Centre, 2012.
- Certificate in Monitoring and Evaluation-AMREF, Kenya 2012.
- Certificate in Contemporary Public Administration Management-Galilee International Management Institute, Israel 2013.

Topics covered by the nominee included; Policy and best Practice on Mainstreaming Disability in Institutions, Addressing the Gender Based Violence at Workplace, Local/International best Practices of Mainstreaming Gender, Levels of Disability Mainstreaming, Government Policies and Guidelines for Mainstreaming Gender in organization, Gender & Disability Mainstreaming Monitoring & Evaluation best practice.

She is currently the Principal Human Rights Officer/Head of Research and Compliance Department –Kenya National Commission on Human Rights (KNCHR)

The Nominee had previously worked as, Consultant Researcher, Trainer, and Rapporteur, Legal and Evaluation Consultant for Africa Peace Forum (APFO), Legal Consultant/Researcher, National Democratic Institute for International Affairs (NDI), Election Observer under the auspices of the Federation of Women Lawyer and The East African Society of Professional Bodies Association in Kenya, Refugee Status Determination Lawyer, UNHCR; Northern Sudan, Presiding Officer with the Electoral Commission of Kenya, Legal Counsel Federation of Women Lawyers (FIDA) Kenya , Associate Advocate in the Law firms of Asige Keverenge & Anyanzwa Advocates, and Adera & Company Advocates, Mombasa, Legal and Evaluation Consultant for Africa Peace Forum (APFO), 2008 Consultant/Researcher, United States Institute of Peace, 2006 Consultant/Researcher, World Vision International, Consultant, the Coalition on Violence against Women (COVAW)-Kenya, Cradle and Consultant, Refugee Consortium of Kenya (RCK) among others. **Her Publications include: Chivusia S.S 2007 ‘Actualizing Women’s Rights under CEDAW-A Case Study of the Practice of Polygamy in the Kabras Community of**

Kenya and It's Impact on the Human Rights of Women' University of Nairobi, Chivusia S.S and Karogo M. 2006 Police Training Manual on Gender and Human Rights, Nairobi, Chivusia et al, 2006 Handbook on Azande Customary Law (pending publication), Nairobi ,Chivusia et al, 2009 'Citizens' Participation in Implementing the National Accord: A Peoples' Voice on the Electoral Reforms Agenda in Kenya (APFO)
 Chivusia S.S 2007 'Actualizing Women's Rights under CEDAW-A Case Study of the Practice of Polygamy in the Kabras Community of Kenya and It's Impact on the Human Rights of Women' University of Nairobi, Chivusia S.S and Karogo M. 2006 Police Training Manual on Gender and Human Rights, Nairobi, Chivusia et al, 2006 Handbook on Azande Customary Law (pending publication), Nairobi

The Committee by majority, found the nominee suitable and qualified for appointment as Member of the Kenya National Commission on Human Rights.

4.3 George Morara Monyoncho

Education and Professional Training

- University of Windsor, Canada. MA in Political Science
- University of Toronto, Canada. Bachelor of Arts (B.A. Hons.)
- Carleton University, Canada. MA in Legal Studies (EBT)
- Egerton University, Kenya. Three years of Bachelor of Education (B.ED) Degree coursework; Majored in Education, Linguistics and Literature

Work Experience

- Kenya Human Rights Commission as a programme officer in civil and political Rights
- Kenya Human Rights Commission as a programme Officer: Research, Monitoring and Documentation.
- The Commission of Inquiry into Post-Election Violence (CIPEV) as an investigator
- Kenya National Commission on Human Rights (KNCHR) as a Consultant/ Field Researcher.
- Office of the Correctional Investigator (Canada) as a Researcher and Assistant Policy Analyst
- Carleton University, Ottawa, Ontario as a Teaching Assistant/Research Assistant

- The North-South Institute, Ottawa, Ontario as a Researcher (International Trade and Development).
- The University of Windsor, Windsor, Ontario as a Teaching Assistant
- The Law Office of Waldman and Associates, Toronto, Ontario as a Part-time Legal Research Assistant
- Abantu for Development, a Not-for-Profit Organization with offices in London—UK, Accra—Ghana and Nairobi—Kenya as a Gender and Human Rights Community Advocate and Trainer
- The Kenya Human Rights Commission as a Community Mobilizer on the Police Reforms Campaign
- The Release Political Prisoners Pressure Group as a Member of the Executive Committee and General Member

The Committee by majority, found the nominee suitable and qualified for appointment as Member of the Kenya National Commission on Human Rights.

4.4 Vincent Suyianka Lempaa

Education and Professional Training

Master in Laws; International Human Rights Law, University of Essex, 2010-2011, Dissertation title, The Protection and Enforcement of Human Rights in the 2010 Kenyan Constitution.

Diploma in Law: Kenya School of Law: 2008 to 2009. Called to the Bar as an Advocate of the High Court of Kenya on the 11 of March 2010

Bachelor of Laws LLB: University of London External, Degree Programme: 2005 to 2007 University of London awarded on the 1st of August 2007.

Certificate of attendance in International Human Rights Academy: (University of Utrecht)-Netherlands (19th Aug. to 1st Sep 2007.)

Post Graduate Diploma in Mass Communication studies: Award (post Graduate Diploma) University of Nairobi, School of Journalism-Kenya-August 2000-September

Work Experience

Leading Counsel, December 2012 to date 2013, was involved in several petitions before the Constitutional and Human Rights Division of the High Court. Drafted petitions drafted written submission and presented them to court.

Consultant, July- August, 2012 International Center Policy and Conflict (ICPC), researched on transitional justice and reparation on the victims of torture (Compiled a report on the same.)

Advocate of the High Court of Kenya, March 2010 to date, general litigation but majorly in public law and human rights.

Consultant, May-June 2012 International Center Policy and Conflict (ICPC), Leadership and integrity researched on vetting and lustration, compiled a report and facilitated a two day seminar in Nakuru

Consultant, September 2011, International Center Policy and Conflict, developed an Article on the Jurisprudence on the Confirmation of Charges vis- a-vis the Kenyan cases in the International Criminal Court

Consultant, September 2009- January 2010, International Centre for Peace and Conflict, developed a working manual for the Truth Justice and Reconciliation Commission

Legal Editor, 2009 to July 2012, International Centre for Peace and Conflict, editing human rights

Reports,

Translator, 2002-to date, Nation Media Group and Kenya Broadcasting Corporation, translating court stories from English to Kiswahili and from Kiswahili to English

High Court Reporter January 2003 to January 2005, Kenya Broadcasting Corporation Attending court sessions and writing notes, writing Television and Radio script and news editing for both radio and Television

Lecturer May 2007 to date, Jomo Kenyatta University of Science and Technology, Communication Ethics, Law and Human Rights, Preparing the course outline notes lecturing setting and marking exams and grading students at the diploma level.

Chief Legal Editor, January 2005 to date, Kenya Broadcasting Corporation Writing and Editing Court and Tribunal stories for television and radio broadcast

General Reporter, September 2002 to January 2003, Nation Television: Going to the field and collecting news, writing radio and TV scripts and editing February 10, 2005 news.

Coordinator: People Against Torture January 2002 to July 2002 United Nations International Day in Support of Victims of Torture. Organized the event of that year and wrote a comprehensive report.

Freelance journalist: October 2001 July 2002: Writing analytical Pieces and opinions in Local Magazines, Developing news stories from Press releases and statements.
General Reporter

Reporter: August –November 2001, Daily Nation, Attending Political, Social and meetings and press conferences, seminars, listening and taking notes hence filing stories. This also entailed interviews; spot News writing like crime and accidents.

Civic Educator: January 2000 to 2003. Catholic Justice and Peace Commission, Organizing Seminars and talk shops in Nairobi, Narok and Kajiado and Eldoret.

Teacher: Nembu High School, Nairobi, May 1999 to August 1999 Taught English and Literature as a regular teacher in

Administrative Assistance Kenya Farmers Association (K.F.A): November 1992 to July 1994 worked as an administration assistant.

AWARDS

Commonwealth Broadcasting Award in Environment; 2010/2011 Conservation of Mau water tower

International Ford Foundation Fellowship; 2010/2011 8th Cohort,

International Human Rights Academy Scholarship, August 18- September 1st 2007, University of Utrecht, the Netherlands

The Committee having scrutinized the report by the Selection Panel observed that the Nominee was not on the list sent by the Chairman of the Selection Panel to H.E the President for appointment.

In addition the Committee observed that the Nominee did not demonstrate sufficient competence on matters of Human Rights the protection and promotion of which is the mandate of the Committee.

The Committee by majority found the nominee not suitable for appointment as Member of the Kenya National Commission on Human Rights on the following grounds:

- (i) The nominee is not in the list forwarded by the Selection panel to his Excellency the President for appointment.
- (ii) Lack of competence on matters of human rights.

4.5 Jedidah Wakonyo Wariuhi

Education and Professional Training

- i. Masters of Law (LLM) International Human Rights, Refugee and Humanitarian law and Comparative Justice and Penal law systems, Nottingham University, UK.
- ii. Member of the Bar having been duly admitted as an Advocate of the High Court of Kenya.
- iii. Post – graduate diploma in law from the Kenya School of Law
- iv. Bachelor of Laws degree from the University of Nairobi.
- v. Training in lobbying and international advocacy in the UN system in Geneva

Additional training in:

- Resource Mobilization and Networking
- Policy Entrepreneurship - Training in advocacy and policy development and its application in Kenya.
- Human Rights Based approach to Development (HRBAD)
- Corporate governance, directorship and risk management
- Fundraising in the midst of competition and crisis in credibility
- International Human Rights Instruments and their application in Kenya
- Training methodologies for Adult Learners
- International Humanitarian Law and Human Rights.
- Legislative, Regulatory and Administrative drafting, Sunshine Laws, Lexis and Westlaw, Plain Language, Bilingual or Multilingual drafting, Ethic's and Politics' of drafting, human Rights Institutions and Principles of Negotiations.
- International Human Rights Instruments with special focus on torture and forensic investigations.
- Management Skills Development, Policy formulation, public relations and staff management

- Gender, development, planning and politics, feminism history and Developing Terminology's.

Professional Experience

At legal Resources Foundation Trust (LRF), the nominee was involved in:

- Project formulation, leadership and design
- Proposal writing and report writing
- Project monitoring and evaluation
- Programme planning and supervising
- Fundraising and building strategic linkages
- Administrative supervising
- Financial management
- Coordinating and offering link with the Board of Management
- Provide legal assistance and aid
- Profiling of organization

At the UN High commissioner For Refugees (UNHCR)

Branch office, Ghana, she worked as a Protection Officer involving:

- Deputizing and supervising the national Eligibility Officers
- Interviewing, reviewing and follow-up on individual asylum-claims in Ghana
- Training national Eligibility Officers
- Monitoring and analyzing the human rights and security situation in DRC, Rwandan, Burundi and Ugandan for RSD purposes
- Organization for specialized training on the application of 1951 UN Convention's 'Exclusion Clauses'.
- Development of Country Operating Procedures and policy guides for Refugee Determination

At the Branch office for Kenya, she was tasked with:

- Interviewing and evaluating individual asylum-claims in Kenya
- On-the-job legal training of newly recruited Eligibility Officers
- Monitoring and analysing the human rights and security situation in DRC, Rwandan, Burundi and Ugandan for RSD purposes.
- Focal –point for asylum-claims filed by nationals of the a/m countries.
- Organisation of a Refugee Status Determination (RSD) workshop at UNHCR Eligibility Centre on the application of 1951 UN Convention's 'Exclusion Clauses'.
- Presentation of the socio-political situation and background information on the Great Lakes region to the UNHCR Eligibility Centre staff.

Worked with the organization known as People Against Torture (PAT) as a programme officer

- Founder member in the Legal Mobile Clinic, travelling to remote and marginalized areas of Isiolo, Garissa, Kisii and Eldoret.
- Organising grassroots training on legal issues like human rights,
- Para legal training for community leaders in Isiolo.
- Visiting police stations and other detention centres like prison.
- Legal representation of torture survivors in court.
- Visiting of torture survivors in medical institutions for legal assistance, aid and advice.
- Organising pathologist to conduct post mortem on torture victims.
- Giving legal opinions on judicial interventions.
- Proposal development and report writing
- Networking with other community based organisations that focus on development and human rights.

Eligibility Officer for the UNHCR 'Rwandan and Burundian Special Screening Project'

- Interviewing and evaluating individual asylum-claims from Rwanda and Burundi with special focus on the 1994 genocide period
- Providing legal aid and assistance
- Providing input and development of the Country Operating Procedures and policy guides

Programme Officer for Release Political Prisoners Pressure Group (RPP)

- Lobbying and advocacy for the release of political prisoners in Kenya.
- Organising the campaign of the longest and last surviving political prisoner James Apiny Adhiambo.
- Visiting political prisoners in detention centre.
- Legal advises to the families and the political prisoners.
- Legal representation of political prisoners.
- Writing of press statements to pressurise and highlight the plight of political prisoners.
- Co-ordinating with external lawyers to take up pro bono briefs and public interest litigation of political prisoners.
- Social-Legal research on politically motivated judicial cases and precedents.

Volunteer work with the Law Society of Kenya (LSK) in public interest, constitutional reform and human rights committee where she was involved in:

- Monitoring and analysis of the human rights situation in Kenya.
- Organising for seminars and workshops on the constitutional reform process in Kenya.
- Advising the secretariat on unfolding human rights situations and ways of intervening.
- Analysis and review of new Bills introduced in parliament and their impact on the human rights regime.

INTERNATIONAL FEDERATION OF WOMEN LAWYERS (FIDA)
Resource person on Legal Education

- Legal training of women in the grass roots.
- Researcher and report writing on legal precedents that affect the plight of women.
- Monitoring the judicial process on gender related cases.
- Writing of simple publications.
- Monitoring and analysis of the general human rights situation.
- Holding of legal aid day clinics
- providing guidance in policy formulation and issues

NATIONAL COUNCIL OF WOMEN OF KENYA (NCCK)
National Election Observer

- Monitoring the women's campaigns in the rural areas,
- Holding voter education seminars in the villages,
- Monitoring the electoral process,
- Ensuring that women are assisted and vote according to their will,
- Monitoring the transportation and counting of vote

Professional Membership;

Law Society of Kenya (LSK), Federation of Women Lawyers (FIDA Kenya) and International Commission of Jurist (ICJ Kenya)

WRITINGS

Refugee Status determination: Practical Protection for former Child Soldiers in Kenya, LLM Thesis, University of Nottingham, UK, and September 2004
 Drawing the Line between Custom and Cruelty: Female Genital Mutilations." LLB Thesis, University of Nairobi, September 1993

The Nominee has written several papers including;

- a. The protection of human rights of persons deprived of their liberty, presented during the Human Rights Training for Instructors organized by Raoul Wallenberg Institute of Human Rights and Humanitarian Law and Kenya Institute of Administration.
- b. The Role of civil Society in Promoting Rights based Programming by the Government, Paper presented during the Rights Based approach Workshop, Naivasha, Kenya on 7th April 2005
- c. The Rights of the Child, paper presented at the Senior Management Course n Education for District Education Officers (DEO).

The Committee by majority found the nominee suitable and qualified for appointment as Member of the Kenya National Commission on Human Rights.

The Committee made a general observation that in future appointments the selection panel and the appointing authority should consider persons with special interests.

5.0 RECOMMENDATIONS OF THE COMMITTEE

THAT Pursuant to section 11(7) of the Kenya National Commission on Human Rights Act, 2011 and Standing Orders 216(5)(f) and 199, the Committee recommends that:

- i. This House approves Mrs. Kagwiria Mbogori for appointment as Chairperson of the Kenya National Commission on Human Rights.
- ii. This House approves Suzanne Shatikha Chivusia, George Morara Monyoncho and Jedidah Wakonyo Wariuhui for appointment as Members of the Kenya National Commission on Human Rights.
- iii. This House rejects the appointment of Vincent Suyianka Lempaa as Member of the Kenya National Commission on Human Rights on grounds that:
 - The nominee is not in the list forwarded by the Selection panel to his Excellency the President for appointment.
 - Lack of competence on matters of human rights.

~~END~~

ANNEXTURES

MINUTES

MINUTES OF THE 15TH SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE
AND LEGAL AFFAIRS MEETING HELD ON THURSDAY 27TH FEBRUARY 2014 IN
MEDIA CENTRE, PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. Hon. Samuel Chepkong'a, M.P - Chairperson
2. Hon. Priscilla Nyokabi, M.P - Vice Chairperson
3. Hon. Neto Agostinho, M.P
4. Hon. Peter Kaluma, M.P
5. Hon. John M. Waiganjo, M.P
6. Hon. Irungu Kang'ata, M.P
7. Hon. Charles Gimose, M.P
8. Hon. William Cheptumo, M.P
9. Hon. Ben Momanyi, M.P
10. Hon. Fatuma Ibrahim, M.P
11. Hon. Benson Mutura, M.P
12. Hon. Olago Aluoch, M.P
13. Hon. John Njoroge, M.P
14. Hon. David Ochieng, M.P
15. Hon. Dr. Christine Ombaka, M.P
16. Hon. Njoroge Baiya, M.P
17. Hon. Moses Cheboi, M.P
18. Hon. Paul Bii, M.P
19. Hon. T. J. Kajwang, M.P
20. Hon. Florence Kajuju, M.P
21. Hon. Munuve Mati John, M.P

ABSENT WITH APOLOGIES

1. Hon. Ndirangu Waihenya, M.P
2. Hon. Ngeno Johanna, M.P
3. Hon. Kangongo Bowen, M.P
4. Hon. Mohamed Abdi, M.P
5. Hon. Sammy Koech, M.P
6. Hon. Boniface Otsiula, M.P
7. Hon. Mwamkale William Kamoti, M.P
8. Hon. Mutua Mutemi, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

A. M. Wasike

First Clerk Assistant

Hellen Ekadeli

Third Clerk Assistant

Lydia Makaka

Parliamentary Intern

MIN.NO.JLA.65/2014

PRELIMINARIES

The Meeting was called to order and followed by a word of prayer by Hon. Bishop Mutua Mutemi at 10.25 a.m.

MIN.NO.JLA.66/2014

ADOPTION OF MINUTES

Minutes were adopted as follows:

Minutes of 12th Sitting held on 25th February 2014 at 8.30 am were proposed by Hon. Paul Bii and seconded by Hon. Muriithi Waiganjo.

Minutes of 13th Sitting held on 25th February 2014 at 2.30 pm were proposed by Hon. Fatuma Ibrahim and seconded by Hon. Neto Agostinho.

Minutes of 14th Sitting held on 26th February 2014 were proposed by Hon. Paul Bii and seconded by Hon. Muriithi Waiganjo.

MIN.NO.JLA.67/2014
NOMINEES

ADOPTION OF VETTING REPORT ON KNCHR

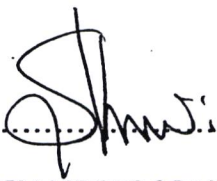
The report was proposed for adoption by Hon. Bishop Mutua Mutemi and seconded by Hon. Florence Kajuju.

The report was adopted by majority of the members present.

MIN.NO.JLA.68/2014

ADJOURNMENT OF THE MEETING

The meeting was adjourned at 11.30 a.m.

SIGNED 

CHAIRPERSON

DATE 27th February, 2014

MINUTES OF THE 13TH SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS MEETING HELD ON TUESDAY 25TH FEBRUARY 2014 IN COMMITTEE ROOM, 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 1.30 P.M.

PRESENT

- | | | |
|--------------------------------|---|------------------|
| 1. Hon. Samuel Chepkong'a, M.P | - | Chairperson |
| 2. Hon. Priscilla Nyokabi, M.P | - | Vice Chairperson |
| 3. Hon. Neto Agostinho, M.P | | |
| 4. Hon. Peter Kaluma, M.P | | |
| 5. Hon. John M. Waiganjo, M.P | | |
| 6. Hon. Irungu Kang'ata, M.P | | |
| 7. Hon. Charles Gimose, M.P | | |
| 8. Hon. William Cheptumo, M.P | | |
| 9. Hon. Ngeno Johanna, M.P | | |
| 10. Hon. Kangongo Bowen, M.P | | |
| 11. Hon. Ben Momanyi, M.P | | |
| 12. Hon. Fatuma Ibrahim, M.P | | |

ABSENT WITH APOLOGIES

1. Hon. Ndirangu Waihenya, M.P
2. Hon. Florence Kajuju, M.P
3. Hon. Benson Mutura, M.P
4. Hon. Olago Aluoch, M.P
5. Hon. John Njoroge, M.P
6. Hon. Njoroge Baiya, M.P
7. Hon. Mohamed Abdi, M.P
8. Hon. Sammy Koech, M.P
9. Hon. Moses Cheboi, M.P
10. Hon. Paul Bii, M.P
11. Hon. Boniface Otsiula, M.P
12. Hon. David Ochieng, M.P
13. Hon. Dr. Christine Ombaka, M.P
14. Hon. Munuve Mati John, M.P
15. Hon. Mwamkale William Kamoti, M.P
16. Hon. T. J. Kajwang, M.P
17. Hon. Mutua Mutemi, M.P

IN ATTENDANCE

A. M. Wasike

Hellen Ekadeli

Lydia Makaka

PRELIMINARIES

NATIONAL ASSEMBLY

First Clerk Assistant

Third Clerk Assistant

Parliamentary Intern MIN.NO.JLA.56/2014

The Meeting was called to order and followed by a word of prayer by the Chairperson at 1.45 a.m.

The Chairperson informed members that the Committee was ready to conduct approval hearings for the remaining nominee to the KNCHR.

MIN.NO.JLA.57/2014 APPROVAL HEARINGS OF NOMINEES TO KNCHR

Jedidah Wakonyo Waruhiu

The nominee to the position of Member appeared before the Justice and Legal Affairs Committee on Tuesday February 25th, 2014 and was informed by the Chairperson that despite inviting Memoranda from the Public on his suitability or otherwise for appointment to position of Member, none had been received at the date of the approval hearings. The nominee responded to questions put to him by members of the Committee as follows

On self introduction, knowledge, experience, qualification and context within the KNCHR;

- She informed the Committee that she developed keen interest in Human Rights while a student at the University of Nairobi.
- She enrolled with FIDA-Kenya as a member while still a student at the University.
- Has been involved in Human rights for the last twenty three years at both international and national level.
- Worked at the Legal Resource from where she contributed to Constitution of Kenya, 2010.

On vision and Challenges she informed members that:

- A combination of many players such as Judiciary, prisons, civil society among others is critical in combating injustices.
- Challenges start at the time of arrest and prison conditions are the end-product of the process.

- Court users Committee is now reflected in the National Administrative Justice system.
- Her transition to the KNCHR will not compromise her work at give her more responsibility to engage at another level.

On the three arms of Government, she observed that:

- The basic principles of separation of powers must be respected.
- The rule of law must prevail
- Citizens' engagement and participation is critical.

On Children's Rights and Parental Responsibility, she stated as follows:

- The Constitution is the best reference.
- Interest of the Child is the primary responsibility of any person involved in Children matters.
- The dual responsibility of parents cannot be compromised.
- Chiefs and DO's are still relevant at the local level.

On Gay Rights, Abortion and Capital punishment she stated as follows:

- The law is very clear on abortion and the right to life.
- Marriage is a Union between man and a woman.
- Gay people should not be discriminated when seeking services such as health since they are part of our national values.
- The last capital punishment was in 1987 and courts should not met out capital punishment any more.
- Those on death row sentences are subjected to cruel and inhuman treatment.

MIN.NO.JLA.58/2014

COMMITTEE'S OBSERVATIONS

Kagwiria Mbogori

The Committee by majority, found the nominee suitable and qualified for appointment as Chairperson of the Kenya National Commission on Human Rights.

George Morara Monyoncho

The Committee by majority, found the nominee suitable and qualified for appointment as Member of the Kenya National Commission on Human Rights.

Suzanne Shatikha Chibusia

The Committee by majority, found the nominee suitable and qualified for appointment as Member of the Kenya National Commission on Human Rights.

Vincent Suyianka Lempaa

The Committee by majority found the nominee not suitable for appointment as Member of the Kenya National Commission on Human Rights

Jedidah Wakonyo Wariuhiu

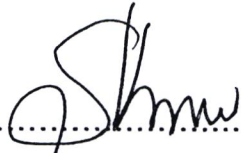
The Committee by majority, found the nominee suitable and qualified for appointment as Member of the Kenya National Commission on Human Rights

MIN.NO.JLA.59/2014

ADJOURNMENT OF THE MEETING

The meeting was adjourned at 3.30 p.m.

SIGNED



CHAIRPERSON

DATE

27th February, 2014

MINUTES OF THE 12TH SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE
AND LEGAL AFFAIRS MEETING HELD ON TUESDAY 25TH FEBRUARY 2014 IN
COMMITTEE ROOM, 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS
AT 8.30 A.M.

PRESENT

1. Hon. Samuel Chepkong'a, M.P - Chairperson
2. Hon. Priscilla Nyokabi, M.P - Vice Chairperson
3. Hon. Florence Kajuju, M.P
4. Hon. Bishop Mutua Mutemi, M.P
5. Hon. Benson Mutura, M.P
6. Hon. John M. Waiganjo, M.P
7. Hon. Peter Kaluma, M.P
8. Hon. Ngeno Johanna, M.P
9. Hon. Olago Aluoch, M.P
10. Hon. T. J. Kajwang, M.P
11. Hon. Njoroge Baiya, M.P
12. Hon. Moses Cheboi, M.P
13. Hon. William Cheptumo, M.P
14. Hon. Fatuma Ibrahim, M.P
15. Hon. David Ochieng, M.P
16. Hon. Paul K. Bii, M.P
17. Hon. Kangongo Bowen, M.P
18. Hon. Neto Agostinho, M.P
19. Hon. Irungu Kang'ata, M.P
20. Hon. John Njoroge, M.P
21. Hon. Charles Gimose, M.P
22. Hon. Ben Momanyi, M.P

ABSENT WITH APOLOGIES

1. Hon. Ndirangu Waihenya, M.P
2. Hon. Mohamed Abdi, M.P
3. Hon. Sammy Koech, M.P
4. Hon. Boniface Otsiula, M.P
5. Hon. Dr. Christine Ombaka, M.P
6. Hon. Munuve M̄ati John, M.P
7. Hon. Mwamkale William Kamoti, M.P

IN ATTENDANCE

A. M. Wasike

Hellen Ekadeli

Lydia Makaka

NATIONAL ASSEMBLY

First Clerk Assistant

Third Clerk Assistant

Parliamentary Intern

MIN.NO.JLA.54/2014

PRELIMINARIES

The Meeting was called to order and followed by a word of prayer by the Chairperson at 8.55 a.m.

The Chairperson informed members that the Committee was ready to conduct approval hearings for nominees to the KNCHR.

He further stated that a report should be tabled on or before 27th February, 2014.

MIN.NO.JLA.55/2014

APPROVAL HEARINGS OF NOMINEES TO KNCHR

Kagwiria Mbogoria

The nominee to the position of Chairperson Kagwiria Mbogori appeared before the Justice and Legal Affairs Committee on Tuesday February 25th, 2014 and was informed by the Chairperson that despite inviting Memoranda from the Public on her suitability or otherwise for appointment to position of Chairperson, none had been received at the date of the approval hearings. The nominee responded to questions put to her by members of the Committee as follows;

On self introduction, knowledge, experience, qualification, passion and context within the KNCHR;

She informed the Committee that the position of the Chairperson of the KNCHR is an integral office in so far as citizens' rights and liberties are concerned and is ready to deploy her vast International experience to serve the People of Kenya. She further informed the Committee that:

- She hails from Meru County.
- She is an Advocate of the High Court of Kenya and holds a masters degree in law (LL.M) from the University of Notre Dame, Centre for Civil and Human Rights and a Bachelor of Laws Degree (LL.B) from the University of Nairobi.
- She has worked extensively with the United Nations.

- She is passionate about Human Rights and Justice in Kenya and her brand of advocacy will be a departure from activism.

On Challenges including same Sex Relationships:

- Gay and Lesbianism is a complex and controversial issue morally.
- She will be guided by the Constitution of Kenya and enabling statutes.
- Article 21 of the Constitution does not make sexual orientation as a basis for discrimination.
- Values and principles of the Nation must be considered while confronting the debate on this issue.
- There is no legal basis to support gay and lesbianism but will not hesitate to protect their individual rights enjoyed by other citizens.
- She acknowledged that the task awaiting her is huge but she has what it takes to move forward as complex issues require complex redress.

On Institutional framework, perception and vision:

- She will collaborate with critical institutions such as the Judiciary and Parliament.
- She will ensure the KNCHR has capacity to deliver and discharge its mandate as envisaged under a devolved system of government.
- She will build partnership with other Constitutional Commissions and seek adequate funding to realise uninterrupted discharge of their mandate.
- She will strive to change the perception that one must be combative and militant to achieve success at the Commission.

On Post Election Violence (PEV) of 2008 and the International Criminal Court experience regarding Sovereignty of the Country:

- She stated that the Human Rights movement grew tremendously after the Second World War following the atrocities committed by Nazi Germany. The urge to punish the perpetrators of the war curtailed sovereignty of nations because of internationalisation of the conflict through global institutions.
- Treaties and Conventions such as Convention against torture, the Genocide Convention of 1948 and the treaty establishing the ICC have also compromised the sovereignty of states.
- She will ensure compliance with international obligations.

On her long absence from the Country, she stated as follow:

- At times she was stationed in Nairobi as her duty station and thus closely in touch with events in Country.

- She will have to familiarise with national policies such as gender policy, land policy, human rights policy and national housing policy among others.

On urgent legislation for enforcement of Human Rights, she said that:

- Rights of People with disability should be domesticated through legislation.
- She will be guided by the Constitution on the laws that need implementation.

On Publications and research, she stated that she has published the following:

- Human Rights Of Women In Conflict Situations.
- The Rights of 'mistresses' and 'illegitimate children' in Kenya
- Women and the Law in Kenya
- Public perception index in Kenya of the Judiciary
- Existing Legal and Policy Constraints on Media Freedom.

Suzanne Shatikha Chibusia

The nominee to the position of Member appeared before the Justice and Legal Affairs Committee on Tuesday February 25th, 2014 and was informed by the Chairperson that despite inviting Memoranda from the Public on his suitability or otherwise for appointment to position of Member, none had been received at the date of the approval hearings. The nominee responded to questions put to her by members of the Committee as follows

On self introduction, knowledge, experience, qualification, passion and context within the KNCHR she stated as follows;

- She comes from Kakamega County and she is an Advocate of the High Court of Kenya.
- She is currently serving as a researcher in the Commission and will use her experience as an insider to put in place implementable programmes.
- She informed the Committee that the KNCHR is a critical Institution in so far as the Bill of Rights is concerned and is ready to take up her responsibilities as a member if approved by Parliament.

On Rights of Children to free Basic Education she informed members as follows:

- The basic Education Bill was reviewed by the Commission.
- The Commission has a focal point on Children Rights.
- She is a firm believer in Human Rights and the Environment is conducive for her to raise issues of principle.

On the Police Service Commission Bill before Parliament, She said as follows:

- There was no adequate public participation on the Bill.
- The Bill does not provide for adequate penalty for Human Rights abuses by police officers.
- The Police should start conducting themselves as police service as envisaged in the Constitution rather than the old style of a police force.

On vision and Challenges, she informed the Committee as follows:

- The Commission has four regional offices and will strive to partner with other Constitutional Commissions to set-up offices in other parts of the Country.
- The Commission will explore more methods of receiving information besides reliance on hotlines among others.

On the Relationship between the Judiciary, and Parliament, she observed that:

The two arms of Government should respect and complement each other rather than frustrate constitutional roles of another independent institution.

She further stated that Courts should intervene in Parliamentary matters at the end of the process rather than in the middle of the process.

On gay rights she observed that she personally does not approve same sex marriage and marriage in any form although such people can access individual rights such as right to health services, water and education .

On what she will contribute to the Commission she said that:

- She will work to set-up a knowledge and information management system to relay information swiftly.
- She will engage more with the National Treasure to raise funds as per the Paris principle that 70 percent should come from government.

George Morara Monyoncho

On self introduction, knowledge, experience, qualification and context within the KNCHR;

He informed the Committee that:

- He is a political scientist, has worked with a number of organisations such as Abantu for Development and youth organisations.

- He is currently employed by the Kenya Human Rights Commission, a non-governmental organisation started in 1991.
- He knows the distinction between KHRC and KNCHR.

On why he wants to move from the NGO world to a Government institution, he stated that he is not motivated by salaries but is driven by the desire to drive the Human rights movement at another level.

On Mau Mau Veterans he informed members that:

- He has been lobbying and presenting their case for the last seven years.
- He has been engaging other groups involved in the struggle for independence from other parts of Country like Western Kenya.
- He has not discriminated against any group and has gone to areas such as Malakisi in Bungoma County gathering for evidence.
- The threshold of the cases is that their must be evidence of torture.
- He will continue with his pursuit for the rights of torture victims such as Mau Mau.
- He has not disclosed the list of Mau Mau compensation claimants on security grounds.
- Some Veterans have been paid while others are in the process of being paid.
- The Victims Lawyers advised the group to file individual claims rather than broad claims against colonialism.
- They had a robust method of identifying victims including perusal of records in detention camps such as Hola.

On Programmes to Pursue Justice and Reparations beyond Mau Mau, he informed members that:

- At the KHRC he started the National memories project to identify people who contributed immensely to the country but have not been recognised or honoured.
- Through the said project they were able to put up a statue in honour to Mekatelili Wa Menza.
- He works closely with the Koitalel Arap Samoei foundation and Dini ya Musambwa associates.
- He is a strong believer in constructive dialogue and this is demonstrated by his ability to engage with police at vigilance House to combat militia groups in Kisii.

On PEV victims, he said that he has been working with IDPS in western Kenya to ensure that they are settled.

On gay Rights he informed members that:

- They are entitled to other rights such as right to life, water and health services among others.

- His intervention will not be to encourage the practise but rather the right to life and guarantees s safeguarded by the law.

Vincent Suyianka Lempaa

On self introduction, knowledge, experience, qualification and context within the KNCHR;

He informed the Committee as follows:

- He was born in Kajiado County.
- He is an Advocate of the High Court of Kenya.
- His passion for justice started at Kenyatta University where he was an undergraduate Student.
- He was expelled from Kenyatta and was later to sue the University where he was awarded damages for wrongful action against him.
- He worked for KBC as a journalist and reported extensively on issues of Human Rights and Justice.
- He is a litigation counsel at Katiba institute and managing partner of Lempaa and Company Advocates.

On Public Interest Litigation he informed members that he will abide by the Constitutional provisions as per Article 50 which guarantees a fair hearing to all people.

On Economic-Social and Political Rights, he stated:

That Civil and political Rights are immediate and economic and cultural Rights are progressive.

On his multi-disciplinary background he informed members that:

His background in education, Journalism and law will be valuable to the Commission and the Country.

On Maasai land Rights and ownership, he observed that:

- Maasai land rights constitute historical injustices.
- Land should be used as a means of production.
- Will engage the National Land Commission on land ownership.

On the CDF case Pending in Court he informed, members that:

- Katiba institute is the plaintiff in that matter and he beliefs that Members of Parliament as patrons are in conflict with the law and separation of powers.

- CDF should be run by Governors.

On the three arms of Government, he stated that;

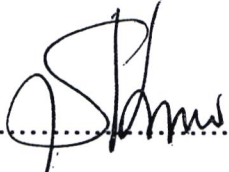
- Article 125 of the Constitution empowers Parliament to summon anyone in exercise of its legislative and oversight role.
- A Commissioner should not move from one Commission to another at the expiry of his term.

MIN.NO.JLA.56/2014

ADJOURNMENT OF THE MEETING

The meeting was adjourned at 12.30 a.m for the next session at 1.30 pm.

SIGNED



CHAIRPERSON

DATE

27th February, 2014.