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THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT- THIRD SESSION

COMMITTEE ON NATIONAL COHESION AND EQUAL OPPORTUNITY

REPORT ON A BENCHMARKING VISIT TO SOUTH AFRICA

	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 09 APR 2024	DAY: TUE
TABLED BY: CLERK AT THE TABLE:	Hon. Haji Yussuf, MP Chairperson, National Cohesion and Equal Opp April, 2024 Anno Shibuko

The Directorate of Audit, Appropriations and
General Purpose Committees
Clerk's Chambers
Parliament Buildings
NAIROBI



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EXECUTIVE SUMMARY

The National Cohesion and Equal Opportunity Committee established under the guidance of the National Assembly Standing Order 212C, conducted a benchmarking visit to South Africa which took place from 26th March to 2nd April, 2023. The Committee sought to learn from South Africa's execution of policies and strategies that foster national cohesion and equal opportunities.

The delegation, led by Hon. Charles Ong'ondo Were, MP., included other Members of Parliament and staff, and intended to learn and implement ideas, policies and methods that have enabled South Africa to maintain diversity and strengthen representation of marginalized groups. The purpose of the visit was to examine institutional frameworks, engage with Commissions dedicated to equality and benchmark best practices for strengthening the Committee's mandate back home.

The delegation had extensive meetings with two key Commissions in South Africa; the Commission for Gender Equality (CGE) and the Commission for the Protection of Cultural, Religious and Linguistic Communities (CRL). The CGE outlined its structure, mandates and legal frameworks, highlighting its role in promoting, safeguarding and evaluating gender equality. The CRL provided insights into its constitutional mandate, organizational structure and objectives, which include promoting respect for cultural, religious and linguistic community rights and fostering national unity.

Overall, the benchmarking visit to South Africa gave the Kenyan team excellent insights into effective structures and practices for promoting equality and diversity. Based on the foregoing, the Committee among other recommendations, generally recommends that the Parliamentary Broadcasting Unit should evaluate the expansion of Parliamentary broadcasts in Swahili to enhance accessibility, while the Ministry of Gender, Culture, The Arts & heritage is to draft a policy mediating cultural conflicts, aiming to strengthen community unity.

Further, the National Gender and Equality Commission (NGEC) should be tasked to develop and implement a monitoring system for gender policy and to restructure its operational model in line with South Africa's CGE, focusing on legal, research and public education sectors to effectively address gender issues.

This report contains the results of the Committee's successful benchmarking visit in South Africa where it held insightful discussions with the Commission for Gender Equality and the Commission for the Protection of Rights of Cultural, Religious and Linguistic Communities.

The Committee wishes to thank the offices of the Speaker and the Clerk of the National Assembly for their support in the execution of its mandate. The Committee also appreciates the delegation Secretary's input in preparing this report.

Finally, I wish to express my appreciation to the Honorable Members who constituted the delegation for their valuable and insightful contributions throughout the benchmarking visit to South Africa, which took place from the 26th of March to the 2nd of April, 2023.


HON. YUSSUF ADAN HAJI, DSM, MP.

LIST OF ABBREVIATIONS AND ACRONYMS

ACHPR	African Charter on Human and People's Rights
BPA	Beijing Platform for Action
CC's	Community Councils
CEDAW	Convention on the Elimination of Discrimination against Women
CEO	Chief Executive Officer
CGE	Commission for Gender Equality
CRL	Cultural Religious and Linguistic Communities
LCSR	Legal Services and Conflict Resolution
MP	Member of Parliament
NCC	National Consultative Conference
NGEC	National Gender Equality Commission
PBU	Parliamentary Broadcasting Unit
PEE	Public Education and Engagement
PEI	Public Education and Information
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act
PFMA	Public Finance Management Act
RPD	Research and Policy Development
SADC	Southern African Development Community

1. PREFACE

1. The Committee on National Cohesion and Equal Opportunity is established under the Standing Order 212C of the National Assembly.

1.1. Mandate of the Committee

2. The mandate of the Committee includes *inter alia*:
 - i. monitor and promote measures relating to policy and program initiatives in pursuit of peace and national cohesion;
 - ii. investigate, inquire into and report on all matters relating to inter community cohesion;
 - iii. monitor and promote measures designed to enhance the equalization of opportunities and improvement in the quality of life and status of all persons, including persons who are marginalized on the basis of gender, age, disability, health status, ethnic, racial, cultural or religious background or affiliation or any other such ground;
 - iv. investigate, inquire into and report on all matters relating to discrimination and or marginalization of persons referred to under sub-paragraph(c);
 - v. make proposals to Parliament including legislative proposals for the protection, equalization of opportunities and promotion of the welfare of the groups referred to under sub-paragraph (c); and
 - vi. examine the activities and administration of all state departments and statutory bodies in so far as they relate to the rights and welfare of the persons referred to under sub-paragraph (c).

1.2. Committee Membership

	Name	Constituency	Party
1.	Hon. Yussuf Adan Haji, DSM, MP. (Chairperson)	Mandera West	United Democratic Movement (UDM)
2.	Hon. Liza Chelule Chepkorir, MP. (Vice-Chairperson)	Nakuru (CWR)	United Democratic Alliance (UDA)
3.	Hon. Yusuf Hassan Abdi, MP.	Kamukunji	Jubilee Party (JP)
4.	Hon. Harrison Garama Kombe, MP.	Magarini	Orange Democratic Movement (ODM)
5.	Hon. Charles Kamuren, MP.	Baringo South	United Democratic Alliance (UDA)
6.	Hon. Charles Ong'ondo Were, MP.	Kasipul	Orange Democratic Movement (ODM)
7.	Hon. Edward Oku Kaunya, MP.	Teso North	Orange Democratic Movement (ODM)
8.	Hon. Joseph Samal Lomwa, MP.	Isiolo North	Jubilee Party (JP)
9.	Hon. Martin Peters Owino, MPH, MP.	Ndhiwa	Orange Democratic Movement (ODM)
10.	Hon. Eng. Paul Nzengu, MP.	Mwingi North	Wiper Democratic Movement Kenya (WDM-K)
11.	Hon. Agnes Mantaine Pareyio, MP.	Narok North	Jubilee Party (JP)
12.	Hon. Duncan Maina Mathenge, MP.	Nyeri Town	United Democratic Alliance (UDA)
13.	Hon. Fredrick Lusuli Ikana, MP.	Shinyalu	ANC Party
14.	Hon. Irene Nyakerario Mayaka, MP.	Nominated	Orange Democratic Movement (ODM)
15.	Hon. Jane Wangechi Kagiri, MP.	Laikipia (CWR)	United Democratic Alliance (UDA)
16.	Hon. Joseph Hamisi Denar, MP.	Nominated	ANC Party
17.	Hon. Joseph Iraya Wainaina, MP.	Nominated	United Democratic Alliance (UDA)
18.	Hon. Mary Maingi, MP.	Mwea	United Democratic Alliance (UDA)
19.	Hon. Monicah Muthoni Marubu, MP.	Lamu (CWR)	Independent
20.	Hon. Onesmus Ngogoyo Nguro, MP.	Kajiado North	United Democratic Alliance (UDA)
21.	Hon. Teresia Wanjiru Mwangi, MP.	Nominated	United Democratic Alliance (UDA)

1.3. Committee Secretariat

Ms. Angelina Naserian Lotuai
Clerk Assistant -Lead Clerk/Head of the Secretariat

Ms. Kathleen Nanzala
Clerk Assistant III

Ms. Sharon Cheruto
Hansard Reporter

Ms. Audrey Andala
Legal Counsel II

Mr. Peter Atsiaya
Media Relations Officer

Ms. Joanne Naneu
Research Officer III

Ms. Margaret Wanjiku Wainaina
Public Communications Officer

Mr. John Ng'anga
Audio Officer

Mr. Luka Mutua
Sergeant-at-Arm

2. INTRODUCTION

2.1 Background

3. Article 127 of the Constitution of Kenya establishes the Parliamentary Service Commission which is mandated to provide services and facilities in order to ensure the efficient and effective functioning of the Parliament.
4. In furtherance of Article 127 of the Constitution, the National Assembly Standing Orders makes provision for Committees. Specifically, Standing Order 212 C establishes the Select Committee on National Cohesion and Equal Opportunity. The Committee is mandated to monitor and promote measures designed to enhance equalization of opportunities and improvement in the quality of life and status of all persons, including persons who are marginalized on the basis of gender, age, disability, health status, ethnic, racial, cultural or religious background or affiliation or any other such ground. The Committee is also mandated to make proposals to Parliament including legislative proposals for the protection, equalization of opportunities and promotion of the welfare of these groups.
5. At its meeting held on Tuesday, 29th November 2022, the Committee resolved to undertake a benchmarking visit to South Africa in order to apprise itself on the international principles, policies and strategies implemented in the country that are strategic to the mandate of the Committee.
6. Through a letter dated 22nd March, 2023, the Kenya High Commission in South Africa wrote to the Ministry of Foreign Affairs, inviting the Committee for a weeklong study visit with the Commission for Gender Equality and the Commission for the Protection of Rights of Cultural, Religious and Linguistic Communities of the Republic of South Africa from 26th March to 2nd April 2023.

2.2 Delegation Membership

7. The Committee acceded to the request to undertake the study visit and was represented by the following members and accompanying staff:
 - i. The Hon. Charles Ong'ondo Were, MP. – **Leader of Delegation.**
 - ii. The Hon. Mary Maingi, MP.
 - iii. The Hon. Irene Mayaka Nyakerario, MP.
 - iv. Ms. Joanne Naneu – Research Officer III/Delegation Secretary.

2.3 Objective of the Study Visit

8. The delegation was expected to:
 - i. Identify principles, policies and strategies that have enabled South Africa to uphold their reputation for recognition and respect for diversity;
 - ii. Study and inquire the institutional frameworks that have responded to the country in improving diversity;
 - iii. Inquire into ways of promoting representation of marginalized groups especially with regards to the obligation by Parliament in ensuring passage of laws that promote equitable representation;
 - iv. Hold meetings with Commissions that deal with matters pertaining to ensure equality regardless of gender or ethnicity; and
 - v. Benchmark on the best practices that would enhance the Committee to discharge its mandate in a more effective and efficient manner.

2.4 Activities of the Study Visit

9. The Committee undertook the following activities:
 - i. Held discussions with the Chairperson, Commissioners, Chief Executive Officer and the Secretariat of the Commission for Gender Equality; and
 - ii. Held discussions with the Chairperson, Commissioners, Chief Executive Officer and the Secretariat of the Commission for the Protection of Rights of Cultural, Religious and Linguistic Communities.

3. PRESENTATION HIGHLIGHTS OF THE VISIT

3.1 Meeting with the Commission for Gender Equality (CGE) in South Africa

10. The delegation commenced its activities by meeting with the Chairperson of the Commission, Advocate Nthabiseng Sepanya-Mogale who was accompanied by Commissioners, the Chief Executive Officer (CEO) and Secretariat of the Commission.
11. The delegation was informed that the Commission for Gender Equality (CGE) was established in line with the provisions of Section 187 of the Constitution of the Republic of South Africa in order to promote respect for gender equality and the protection, development and attainment of gender equality. The CGE is a Constitutional entity relied upon to strengthen Constitutional democracy and this is premised on the desire for a free and equal society in all fundamental and material aspects of life.
12. On the organizational structure, the Commission is composed of a mix of full and part time Commissioners, with a Chairperson and Deputy Chairperson which forms the Executive Authority in terms of the Public Finance Management Act (PFMA). The Chief Executive Officer (CEO) is an invited ex-officio member of the Commission in plenary meetings. The CEO is the accounting officer under the PFMA, accountable to the Commissioners for the day-to-day functioning of the organisation. The CEO appoints staff to support these operations and functions of the Commission.
13. The mandate of the Commission includes the following:
 - i. Monitoring and evaluation of policies and practices of Government, private sector and other organisations to ensure that they promote and protect gender equality;
 - ii. Public education and information;
 - iii. Reviewing existing and upcoming legislations from a gender perspective;
 - iv. Investigating inequality;
 - v. Commissioning research and making recommendations to Parliament or other authorities;
 - vi. Investigating complaints on any gender related issues; and
 - vii. Monitoring and reporting on South Africa's compliance with International and regional conventions and protocols the country is a state party to.
14. The Commission's mandate is guided by the following Acts and International Instruments:
 - i. Commission for Gender Equality (CGE) Act 39 of 1996;
 - ii. Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) of 2000;

- iii. Southern African Development Community (SADC) Protocol on Gender and Development;
- iv. African Charter on Human and People's Rights (ACHPR);
- v. Convention on the Elimination of Discrimination Against Women (CEDAW); and
- vi. Beijing Platform for Action Plan (BPA) 1995.

15. The Commission has four departments namely:

i. Legal Department

- The Commission's Legal Department has been set up to investigate gender related complaints and evaluate laws, customs, practices and indigenous law, personal and family law affecting gender equality or status of women that are in force or proposed by Parliament.

ii. Research Department

- The Research Department facilitates the Commission's involvement in partnership initiatives such as race conferences, policy workshops etc., and supplying input to and updating the Commission with current developments in gender equality locally and internationally.

iii. Public Education and Information Department (PEI)

- The PEI department develops, conducts and manages information and education programmes to foster public understanding of matters pertaining to the promotion of gender equality and the role and activities of the Commission.

iv. Parliamentary Liaison Unit

- This unit was established to give effect to the broad mandate of the Commission which is to promote, protect, develop and attain gender equality.

16. The Commission for Gender Equality promotes, protects, monitors and evaluates gender equality through research, public education, policy development, legislative initiatives, effective monitoring and litigation. It also ensures South Africa is a society free from all forms of gender oppression and inequality.

3.2 Meeting with the Commission for Protection of Rights of Cultural, Religious & Linguistic Communities (CRL) in South Africa

17. The delegation met with the Chairman of the Commission, Professor David Luka Mosoma who was accompanied by Commissioners, the Chief Executive Officer (CEO) and the Secretariat of the Commission.
18. The Commission for Protection Of Rights Of Cultural, Religious & Linguistic Communities (CRL) is a Constitutional body established in terms of the South African Constitution of 1996. Its Constitutional mandate is to strengthen the Constitutional democracy. The Commission was established in order to protect and promote the cultural, religious, and linguistic community rights. Its mandate is achievable through both proactive and reactive approaches.
19. On the Organizational structure, the Commission is composed of full and part time Commissioners, with a Chairperson and Deputy Chairperson who are carefully selected from various cultural, religious and linguistic communities in an effort to reflect the diversity that makes up the South African society. A Chief Executive Officer (CEO) is appointed who works extensively for the Commission as the head of the Public Education and Engagement Unit and as the accounting officer of the Commission. The CEO is responsible for the organisation, control and management of all staff, including persons seconded to the Commission from any organ of state.
20. The objectives of the Commission include the following:
 - i. To promote respect for and further the protection of the rights of cultural, religious and linguistic communities;
 - ii. To promote and develop peace, friendship, humanity, tolerance and national unity among and within cultural, religious and linguistic communities, on the basis of equality, non-discrimination and free association;
 - iii. To foster mutual respect among cultural, religious and linguistic communities;
 - iv. To promote the right of communities to develop their historically diminished heritage; and
 - v. To recommend the establishment or recognition of community councils.
21. The following legal frameworks are relevant to the CRL's functions:
 - i. The Constitution of South Africa, 1996; and
 - ii. Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act, 2002.

22. The CRL Rights Commission is made up of various operational programmes that drive its work. The work of these units are overseen by Committees which comprise of the CRL Commissioners. The Office of the CEO is mandated to oversee the implementation and monitoring of all the Commission's programmes and projects and these include:

- i. Research and Policy Development (RPD)
 - The Commission has a research and policy development unit as part of its programmes. The research unit plays a critical role to analyze, unpack issues related to culture, religion and languages as well as to inform programmes and policy issues that may affect or impact a community's cultural, religious and linguistic rights. The Commission through this program, equips itself in engaging with various organs of state and private institutions in relationship to policy and legislative matters.
- ii. Legal Services and Conflict Resolution (LCSR)
 - The CRL Act gives powers to the Commission to investigate and report on any issue concerning the rights of CRL communities and to mediate the disputes related to matters of culture, religion and languages. The investigation process is done through receiving and registration of complaints and requests.
- iii. Public Education and Engagement (PEE)
 - The Public Education and Engagement unit is one of the key units running the programmes of the Commission which undertakes public engagements or educational roles in communities to highlight the diverse cultures and religious beliefs that make up the South African society. The work done by this unit helps foster understanding, appreciation, respect and tolerance among various communities.
- iv. Community Councils (CC's)
 - The Act advocates for the establishment of Community Councils which are the local or community-based structures or organizations that are actively involved with cultural, religious or linguistic rights of communities. To be recognized as a community council, an organization must register with the Commission in order to be recognized as CRL Rights Community at their localities.
- v. National Consultative Conference (NCC)
 - The Act requires that the Commission holds two National Consultative Conferences in each term. The conferences serve as a platform to review progress on the work of the Commission and afford community councils to register community issues with

regards to culture, religion and language rights. These National Consultative Conferences help to advance an understanding and appreciation of the diversity of cultural, religious and linguistic communities and their rights in South Africa.

vi. Finance, Corporate Services, Communication and Marketing

- These units provide support to the Commission in matters of compliance, support and public profile.

23. The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities aims to have a united South African nation that protects and promotes the cultural, religious and linguistic rights of all its diverse communities.

4. GENERAL OBSERVATIONS

24. The delegation made the following observations:

1. The South African Parliament encourages linguistic diversity by translating proceedings into vernacular languages and actively promoting these languages through television shows and other programmes;
2. The delegation noted Kenya's absence of an equivalent body comparable to South Africa's CRL, which effectively safeguards the rights of the people and promotes national unity and tolerance;
3. The visit to the South Africa's Commission for Gender Equality (CGE) provided insight into the Organization's structure and its efforts to promote, protect and evaluate gender equality. This includes monitoring Government policies, examining legislations, investigating complaints and ensuring compliance with international conventions;
4. The delegation noted the effectiveness of CGE's divisions such as Legal, Research, Public Education and Parliamentary Liaison, in addressing gender-related issues and fostering equality;
5. During the meeting with the Commission for the Protection of Cultural, Religious and Linguistic Communities (CRL), the delegation witnessed the Commission's role in safeguarding and promoting the rights of diverse communities, as well as its approach to building peace, tolerance and national unity; and
6. The delegation emphasized the CRL's systematic approach to cultural, religious and linguistic disputes and its role in engaging the community through public education and engagement initiatives.

5. COMMITTEE RECOMMENDATIONS

25. Arising from the above observations, the delegation made the following recommendations:

- (1) Within six months of the adoption of this report, the Parliamentary Broadcasting Unit (PBU) should assess the feasibility of disseminating Parliamentary sessions in Swahili through various radio and television stations across the country. This initiative aims to broaden accessibility and engagement by ensuring that Parliamentary discourse is accessible to a wider and diverse audience, improving transparency, inclusivity and public participation in the democratic process;
- (2) The Ministry of Gender, Culture, The Arts & Heritage through the State Department for Culture, the Arts and Heritage should develop a policy for resolving and mediating cultural, religious and linguistic disputes in Kenya, with the goal of enhancing community ties and national unity, the policy should be presented to the Committee on National Cohesion and Equal Opportunity within 180 days, upon tabling of this report;
- (3) Kenya's National Gender and Equality Commission (NGEC) should create and implement a thorough monitoring policy system to assess Government policies and legislations from a gender perspective, similar to South Africa's CGE approach, to ensure compliance with gender equality norms and international conventions, the policy should be presented to the Committee on National Cohesion and Equal Opportunity within 180 days, upon tabling of this report; and
- (4) The National Gender and Equality Commission (NGEC) should develop structures and operational policies of South Africa's CGE to improve its functional capability such as the formulation of specialized sections for Legal Research, Public Education and Parliamentary Liaison, that will collaborate to solve gender-related concerns, the policy should be presented to the Committee on National Cohesion and Equal Opportunity within 180 days, upon tabling of this report.

SIGNED.....



THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 09 APR 2024	DAY: TUE
TABLED BY: [Signature]	Hon. Haji Yussuf, MP Chair, National Cohesion
DATE: 9/04/2024	
CLERK-AT-THE-TABLE:	Anno Shibuko

HON. YUSSUF ADAN HAJI, DSM, MP.

CHAIRPERSON, COMMITTEE ON NATIONAL COHESION AND EQUAL OPPORTUNITY



Report of the Committee's Benchmarking Visit- Johannesburg, South Africa, from 26th March - 2nd April, 2023






**COMMITTEE ON NATIONAL COHESION AND EQUAL OPPORTUNITY
13TH PARLIAMENT – THIRD SESSION 2024**

ADOPTION LIST

Date 6th March 2024 Venue Committee Room 2nd floor Continental House
Agenda Consideration and Adoption of the Report on the
Learning Mission to Ethiopia

No.	NAME	SIGNATURE
1.	The Hon. Yussuf Adan Haji, DSM, MP -Chairperson	
2.	The Hon. Liza Chelule Chepkorir, MP. -Vice Chairperson	
3.	The Hon. Yusuf Hassan Abdi, MP	
4.	The Hon. Harrison Garama Kombe, MP.	
5.	The Hon. Charles Kamuren, MP.	
6.	The Hon. Charles Ong'ondo Were, MP.	
7.	The Hon. Edward Kaunya Oku, MP.	
8.	The Hon. Joseph Samal Lomwa MP.	
9.	The Hon. Martin Peters Owino MPH, MP.	
10.	The Hon. Eng. Paul Nzengu, MP.	
11.	The Hon. Agnes Pareyio Mantaine, MP.	
12.	The Hon. Duncan Maina Mathenge, MP.	

No.	NAME	SIGNATURE
13.	The Hon. Fredrick Lusuli Ikana, MP.	
14.	The Hon. Irene Nyakerario Mayaka, MP.	
15.	The Hon. Jane Wangechi Kagiri, OGW, MP.	
16.	The Hon. Joseph Iraya Wainaina OGW, MP.	
17.	The Hon. Joseph Hamisi Denar, MP.	
18.	The Hon. Mary Maingi, MP.	
19.	The Hon. Muthoni Marubu, MP.	
20.	The Hon. Onesmus Ngogoyo Nguro, MP.	
21.	The Hon. Teresia Wanjiru Mwangi, MP.	

MIN.NO. /NCEO/2024/059: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed and seconded by Hon. Duncan Mathenge, MP and Hon. Martin Peters Owino, MP. respectively.

MIN.NO. /NCEO/2024/060: CONFIRMATION OF MINUTES

Agenda deferred.

**MIN.NO. /NCEO/2024/061: MEETING WITH THE MANAGING DIRECTOR,
KENYA POWER AND LIGHTING COMPANY ON
EMPLOYMENT DIVERSITY**

The Committee noted that the meeting had been rescheduled to Thursday, 28th March 2024.

The Committee deliberated on the non-appearance of public institutions such as KRA and KPLC on numerous occasions and whether the Committee should summon the management to compel appearance.

The Committee resolved to give KRA a chance to appear for the meeting scheduled for 14th March 2024 failure to which the Committee will make a ruling on the way forward.

**MIN.NO. /NCEO/2024/062: CONSIDERATION AND ADOPTION OF THE
SECOND REPORT ON EMPLOYMENT DIVERSITY
IN PUBLIC INSTITUTIONS**

The Committee considered and adopted the Second Report on Employment Diversity in Public Institutions with amendments having been proposed and seconded by Hon. Mary Maingi, MP. and Hon. Duncan Maina Mathenge, MP. The amendments are as follows:

GENERAL OBSERVATIONS

1. There is significant ethnic imbalances in the composition of staff at various levels where some ethnic groups are overrepresented while others are underrepresented. This could lead to perceptions of bias, unequal opportunities and potential conflicts, however Article 232(1) (h) of the Constitution of Kenya, 2010 expressly provides that the public service should be representative of the diverse Kenyan communities;

MINUTES OF THE 12TH SITTING OF THE COMMITTEE ON NATIONAL COHESION AND EQUAL OPPORTUNITY HELD ON THURSDAY, 7TH MARCH 2024 IN THE NGCDF BOARDROOM, 10TH FLOOR, HARAMBEE SACCO PLAZA AT 10:30 AM

PRESENT

1. The Hon. Yussuf Adan Haji DSM, MP. - Chairperson
2. The Hon. Liza Chelule Chepkorir, MP. - Vice Chairperson
3. The Hon. Yusuf Abdi Hassan, MP
4. The Hon. Harrison Garama Kombe, MP.
5. The Hon. Duncan Maina Mathenge, MP.
6. The Hon. Martin Peters Owino MPH, MP
7. The Hon. (Dr.) Joseph Iraya Wainaina OGW, MP.
8. The Hon. Joseph Hamisi Denar, MP
9. The Hon. Fredrick Lusuli Ikana, MP.
10. The Hon. Mary Maingi, MP.

APOLOGIES

1. The Hon. Charles Kamuren, MP.
2. The Hon. Charles Ong'ondo Were, MP.
3. The Hon. Eng. Paul Nzengu, MP.
4. The Hon. Agnes Pareyio Mantaine, MP
5. The Hon. Joseph Samal Lomwa, MP.
6. The Hon. Edward Kaunya Oku, MP.
7. The Hon. Irene Nyakerario Mayaka, MP.
8. The Hon. Jane Wangechi Kagiri, OGW, MP
9. The Hon. Muthoni Marubu, MP.
10. The Hon. Onesmus Ngogoyo Nguro, MP.
11. The Hon. Teresia Wanjiru Mwangi, MP

SECRETARIAT

1. Ms. Naserian Lotuai - Clerk Assistant I
2. Ms. Kathleen Nanzala - Clerk Assistant III
3. Ms. Joanne Naneu - Research Officer III
4. Ms. Audrey Andala - Legal Counsel II
5. Mr. John Nganga - Audio Officer
6. Mr. Luka Mutua - Sergeant-at-Arms

MIN.NO. /NCEO/2024/058:

PRELIMINARIES

The meeting was called to order at 10:45a.m and prayers said by the Hon. Liza Chelule, M.P.

2. Gender imbalances persist across multiple institutions, with men being overrepresented in many cases, especially in Senior Management Levels. This reflects a lack of gender equality and hinders the full participation of women in decision-making processes;
3. There are noticeable age differences in the personnel makeup, with older people frequently holding important leadership roles. This prevents innovation and the adoption of new methods and technologies, thus **mentoring** programmes must be established to ensure a smooth transition.
4. Board Members of public institutions are not recruited in the same manner as employees and are mostly nominees/representatives of **various interests groups**, however it is worth noting that the composition of most Board Members is from highly represented communities in the country and there is usually very little diversity within the Board;
5. All institutions indicate the representation of Persons with Disabilities (PWDs) is minimal, falling short of the Constitutional requirement of at least 5%. This underscores a lack of inclusivity and accommodation for Persons with Disabilities (PWDs);
6. **Most** public institutions are not fully compliant with Constitutional provisions regarding diversity. This non-compliance reflects a failure to adhere to the highest law of the land;
7. Some institutions report challenges in attracting diverse talent due to limited outreach efforts and lack of targeted strategies to appeal to individuals from underrepresented groups;
8. The report indicates significant gender disparities in leadership roles, with fewer women in senior positions. This reflects a gender bias in career progression and decision-making roles within institutions;
9. **Most** public institutions appear to have a history of perpetuating the status quo without making significant efforts to address diversity and inclusion issues. This institutional inertia can impede progress;
10. **Most** public institutions lack transparency in reporting on diversity metrics which can hinder public accountability and trust;
11. There was a consistent pattern of exclusion of some communities among all institutions that appeared before the Committee and in most institutions, it is visible that some communities have been excluded from employment at all cadres which then violates the articles of the **Constitution on cohesion and equity**. The discourses of exclusion and marginalization are responsible for continued lack of cohesion and unity among Kenyan communities;

12. The findings of the audit report demonstrate that historical injustice and lack of cohesion in Kenya is a major issue in addressing inequalities in the civil service requires strong political will and commitment and demands of the recognition that Kenya as a nation is far more important than any single ethnic community.
13. It is only by taking a pro-active political solution and deploying resources to the relevant segments of the Kenyan society that we shall create a "One Kenya, One People" and be able to recognize our diversity as a resource;
14. Most of the institutions that appeared before the Committee submitted that they do not receive applicants from some communities or persons with disabilities hence their low representation;
15. Despite the provisions of Article 54 (2) of the Constitution of Kenya, 2010 that requires that Persons with Disabilities should make up at least five per cent (5%) of the workforce, none of the institutions interviewed have complied;
16. Majority of the regional institutions have the local community as the majority community; however, it is also worth noting that local communities are mostly found in the lower cadre jobs which have a low pay and are therefore less likely to attract communities from far flung areas;
17. There was a freeze on employment in most public institutions which made it hard to bring in new employees despite some institutions being understaffed. However, institutions are allowed to replace employees who exit either through natural attrition or otherwise; and
18. Section 7 of the National Cohesion and Integration Act, 2008 obligates all public establishments to ensure representation of Kenya's diversity *by having no more than one third of staff from the same ethnic group*. It is worth noting that there are ethnic communities with the highest representation in the country of the national population. The Committee proposes to amend this section of the Act by having no more than one-fifth of staff so as to reflect the proportion of ethnic representation in the country.

GENERAL RECOMMENDATIONS

The following changes were made during the meeting: That

- (1) Within six (6) months of the adoption of this report, the **Public Service Commission** and the National Cohesion and Integration Commission (NCIC) should establish robust diversity and inclusion policies that target and rectify disparities related to ethnicity, gender, age and disabilities. These policies must feature specific objectives, detailed action

plans and effective accountability measures to ensure meaningful progress and results. The report should be submitted annually;

- (2) Within six (6) months of the adoption of this report, public institutions should develop and implement an ethnic diversity and regional policy in their recruitment and promotion. This policy should give effect to the values and principles of Article 232 (g) (h) (i) of the Constitution and should include proactive measures to attract a diverse pool of candidates. The policy should be presented to the Committee on National Cohesion and Equal Opportunity Committee for review;
- (3) Within six (6) months of the adoption of this report, the National Gender and Equality Commission (NGEC) should collaborate with public institutions to prioritize gender mainstreaming efforts to enhance the presence of women across various organizational hierarchies, particularly in leadership roles. This may entail implementing mentorship programs, fostering leadership development initiatives and gender sensitive policies;
- (4) Within six (6) months of the adoption of this report, the National Youth Council should spearhead initiatives to promote the active participation of the youths in decision-making processes by creating opportunities for their engagement, providing training and establishing mentorship programs to empower the voices of young individuals in shaping policies and programs;
- (5) Within six (6) months of the adoption of this Report, the Public Service Commission should implement a mandatory policy for the appointing body for Members of Boards or Council to adhere to the requirements of Article 232 of the Constitution of Kenya, 2010 that requires that there should be diversity in public institutions. The policy should be submitted to the National Cohesion and Equal Opportunity Committee for a comprehensive assessment and evaluation to ensure its effectiveness in promoting inclusive representation and equitable opportunities;
- (6) Within six (6) months of the adoption of this report, the Public Service Commission should oversee the implementation of oversight mechanisms to guarantee adherence to Constitutional diversity requirements within public institutions. Accountability measures should be enforced for institutions that fail to meet these requirements, ensuring that diversity standards are upheld and respected;

- (7) Within six (6) months of the adoption of this report, the Public Service Commission should facilitate the redeployment of personnel to different institutions to guarantee adequate representation of all communities within the civil service. This action aims to enhance diversity and inclusivity in the public sector workforce;
- (8) Within six (6) months of the adoption of this report, public institutions should liaise with the Public Service Commission (PSC) through the Directorate of Personnel Management as the central posting authority, to affirmatively correct the anomaly of their staff establishment so as to comply with Section 7 (2) of the National Cohesion and Integration Act, 2008;
- (9) Within six (6) months of the adoption of this report, the National Cohesion and Equal Opportunity Committee should amend the National Cohesion and Integration Act, 2008 to oblige the Head of the Public Service to quarterly report to the Committee on the staff establishment with specific emphasis on how ethnic and marginalized groups are represented;
- (10) By six months of the adoption this report, the twenty (20) institutions should proactively implement Article 56 (2) of the Constitution mandating the representation of marginalized groups within their workforce. These institutions should adopt recruitment strategies, including deliberate head-hunting policy for the marginalized groups because some of these communities have internalized the logic of self-exclusion and therefore do not apply for jobs even when they are qualified due to long periods of marginalization;
- (11) Within six (6) months of the adoption of this report, the Public Service Commission should develop a policy for addressing ethnic diversity in the public service as a benchmark in performance contracting to guide regular review of how each institution is addressing diversity; and
- (12) Within six (6) months of the adoption of this report, the National Cohesion and Equal Opportunity Committee should formulate legislation that would reduce the inequalities in the civil service. In this respect, the Committee should consider including the amendments in the National Cohesion and Integration Bill, 2023 to align with the most recent 2019 census data reflecting the national population percentage of each ethnic community.

Committee Resolution

The Committee resolved to recommend that institutions use the Kenya National Bureau of Statistics (KNBS) classification of communities to maintain uniformity in submissions made to the Committee. To write to KNBS to provide a detailed list of the same.

**MIN.NO. /NCEO/2024/063: CONSIDERATION AND ADOPTION OF THE
REPORT ON THE STUDY VISIT TO SOUTH
AFRICA**

The Committee considered and adopted the Report having been proposed and seconded by Hon. Yusuf Hassan Abdi, MP. and Hon. (Dr) Joseph Iraya Wainaina, OGW, MP. respectively. With the following amendments: That

- (1) Within six months of the adoption of this report, the Parliamentary Broadcasting Unit (PBU) should assess the feasibility of disseminating Parliamentary sessions in Swahili through various radio and television stations across the country. This initiative aims to broaden accessibility and engagement by ensuring that Parliamentary discourse is accessible to a wider and diverse audience, improving transparency, inclusivity and public participation in the democratic process;
- (2) The Ministry of Gender, Culture, The Arts & Heritage through the State Department for Culture, the Arts and Heritage should develop a policy for resolving and mediating cultural, religious and linguistic disputes in Kenya, with the goal of enhancing community ties and national unity, the policy should be presented to the Committee on National Cohesion and Equal Opportunity within 180 days, upon tabling of this report;
- (3) Kenya's National Gender and Equality Commission (NGEC) should create and implement a thorough monitoring policy system to assess Government policies and legislations from a gender perspective, similar to South Africa's CGE approach, to ensure compliance with gender equality norms and international conventions, the policy should be presented to the Committee on National Cohesion and Equal Opportunity within 180 days, upon tabling of this report; and
- (4) The National Gender and Equality Commission (NGEC) should develop structures and operational policies of South Africa's CGE to improve its functional capability

such as the formulation of specialized sections for Legal Research, Public Education and Parliamentary Liaison, that will collaborate to solve gender-related concerns, the policy should be presented to the Committee on National Cohesion and Equal Opportunity within 180 days, upon tabling of this report.

MIN.NO. /NCEO/2024/064: ADJOURNMENT

The meeting was adjourned at 1:10 p.m. The next meeting will be on notice.

SIGNED.......... DATE12/03/2024.....

HON. YUSSUF ADAN HAJI, DSM, MP

CHAIRPERSON