



KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT – THIRD SESSION (2009)

**PARLIAMENT
OF KENYA
LIBRARY**

THE DEPARTMENTAL COMMITTEE

ON

ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS

**REPORT ON THE NOMINATION OF COMMISSIONERS TO THE
TRUTH, JUSTICE AND RECONCILIATION COMMISSION.**

Clerks Chambers,
Parliament Buildings,
NAIROBI.

MAY, 2009

PREFACE

Mr. Speaker, Sir,

The Departmental Committee on Administration of Justice and Legal Affairs is established under Standing Order No.151. Its mandate pursuant to Standing Order 151(4) is:-

- 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 the Ministries and departments and the effectiveness for implementation;*
- c) to study and know all legislation after First Reading, subject to the exceptions under Standing Order 101A (4);*
- d) to study, assess and analyze the relative success of Ministries and departments as measured by the results obtained as compared with its stated objective;*
- e) to investigate and inquire into all matters relating to all assigned Ministries and Departments as they may deem necessary, and as may be referred to them by the House or a Minister and;*
- f) to make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

The Committee comprises of the following members:-

- (i) Hon. Abdikadir Mohammed, M.P - Chairperson
- (ii) Hon. Millie Odhiambo, M.P.
- (iii) Hon. George Nyamweya, M.P.
- (iv) Hon. Amina Abdalla, M.P.
- (v) Hon. Olago Aluoch, M.P.
- (vi) Hon. Isaac K.Ruto, M.P.
- (vii) Hon. Alfred Sambu, M.P.
- (viii) Hon. Wamalwa Eugene, M.P.
- (ix) Hon. Mutava Musyimi, M.P
- (x) Hon. Ababu Namwamba, M.P.
- (xi) Hon. Peter Baiya, M.P.

REPORT ON THE NOMINATION OF COMMISSIONERS TO THE TRUTH, JUSTICE AND RECONCILIATION COMMISSION

1.0 BACKGROUND

- 1.11 **Mr. Speaker, Sir**, the Truth, Justice and Reconciliation Act, No.6 of 2008 is an Act of Parliament to provide for the Establishment of the Truth, Justice and Reconciliation Commission and for connected purposes.
- 1.12 Provisions of Part II of the Act deals with the Establishment, Powers and Functions of the Commission.
- 1.13 The membership of the Commission is stipulated in the provisions of section 10 (1) of the Act which states as follows:-

- 1. The Commission shall consist of nine commissioners, of whom –**
 - a) three shall be non-citizens, at least one of whom shall be of opposite gender, selected by the panel of Eminent African Personalities; and**
 - b) six shall be citizens of Kenya selected by the Selection Panel in accordance with the procedure prescribed in the First Schedule.**
- 2. The commissioners appointed under subsection (1) (a) shall be selected by the Panel of Eminent African Personalities for nomination by the National Assembly which shall forward the names of the nominees to the President for appointment.**
- 3. The Commissioners appointed under subsection (1)(b) shall be selected by and recommended in accordance with the procedure prescribed in the First Schedule and appointed by the President.**

1.20 MANDATE OF THE COMMITTEE

- 1.21 **Mr. Speaker, Sir**, the Committees' mandate is limited to nominating nine persons for appointment to the Commission pursuant to the provisions of section 10 of the Truth, Justice and Reconciliation Act and in accordance with the procedure set out in paragraphs 5 & 7 of the First Schedule which states as follows:

5. The National Assembly shall, upon receipt of the recommendations of the selection panel under paragraph 3, nominate nine persons for appointment as commissioners and shall submit the list of nominees to the Minister for onward transmission to the President

7. In nominating or appointing persons as commissioners, the National Assembly and the President shall have regard to gender and regional balance.

1.22 Pursuant to the provisions of section 10 (3) of the Truth, Justice and Reconciliation Act and paragraph 1 the First Schedule, the Selection Panel upon open advertisements, successfully conducted interviews for nomination of commissioners.

1.23 The selection panel considered the applications, ranked the nominees and submitted its report to the National Assembly.

1.24 The Selection Panel comprised the following:-

(i)	Dr. Daniel W. Ichang'i	APSEA
(ii)	Mrs. Florence Simbiri-Jaoko	KNCHR
(iii)	Mr. Evans Monari	LSK
(iv)	Mrs. Nancy Ikinu	KEPSA/FKE
(v)	Mr. Lattif N. Shaban	SUPKEM
(vi)	Mr. Raashmin Chitnis	Hindu Council of Kenya
(vii)	Mr. Isaiah Kubai	COTU/KNUT
(viii)	Mr. Keli Kiilu	KEPSA
(ix)	Dr. Andrew Sulleh Juma	Kenya Medical Association

1.30 COMMITTEES' DELIBERATIONS AND OBSERVATIONS

1.31 At its meeting held on May 21, 2009, the Committee received a summary of fifteen (15) nominees from the Selection Panel and a further three nominees from the Panel of Eminent African Personalities.

1.32 The Committee observed that in accordance with the Truth, Justice and Reconciliation Act, 2008, the Selection Panel had invited applications from persons for nomination as commissioners, had considered the applications, ranked and provided comments regarding each of the finalists and forwarded the nominees to the National Assembly.

1.33 In accordance with Section 10 (1) (a) and (b) paragraph 5 of the First Schedule of the Truth, Justice and Reconciliation Act, 2008, the Committee scrutinized the summaries of the fifteen nominees forwarded by the Selection Panel and confirmed that the nominees were qualified .

1.34 The fifteen nominees were:-

- (i) Amb. Bethuel Kiplagat, MBS
- (ii) Benjamin Nzimbi, MBS
- (iii) Dr. Maria Nzomo, MBS
- (iv) Dr. Elizabeth Muli
- (v) Tom Ojienda
- (vi) Timothy Njoya
- (vii) Dr. Joseph Aluoch
- (viii) Betty Murungi
- (ix) Margaret Shava
- (x) Thomas Letangule
- (xi) Abubakar Zein Abubakar
- (xii) Joyce Miguda Majiwa, OGW
- (xiii) Tecla Namachanja
- (xiv) Maj.Gen. (rtd) Ahmed Sheikh Farah, CBS
- (xv) Dr. Daadab Mohammed

1.35 In keeping with the provisions of the Law, the Committee selected nine persons for nomination taking into consideration the requirements as set out in the relevant provisions of the law namely:-

- a) Knowledge of and at least fifteen (15) years experience in matters relating to human rights law.
- b) Knowledge of and experience in forensic audit, investigations, psycho-sociology, management, religion or gender issues.

1.36 Pursuant to the provisions of paragraph 5 of the first schedule which states that:-

The National Assembly shall, upon receipt of recommendations of the selection panel under paragraph 3, nominate nine persons for appointment as commissioners and shall submit the list of nominees to the Minister or onward transmission to the President” the

Committee nominated nine persons for appointment as commissioners as follows:-

- (i) Amb. Bethuel Kiplagat, MBS
- (ii) Mr.Thomas Letangule
- (iii) Ms Margaret Shava
- (iv) Mr.Tom Ojienda
- (v) Rev.Dr. Timothy Njoya
- (vi) Ms Betty Murungi
- (vii) Mr.Abubakar Zein Abubakar
- (viii) Ms Tecla Namachanja
- (ix) Maj.Gen. (rtd) Ahmed Sheikh Farah, CBS

1.37 The Committee further noted the nominees forwarded by the Panel of Eminent African Personalities as follows:-

- (i) Ms.Getrude Chawatama (Zambia)
- (ii) Mr.Berhanu Dinka (Ethiopia)
- (iii) Mr.Ronald Slye (United States of America)

1.40 RECOMMENDATION

1.41 The Committee recommends to the House, that the following nine (9) nominees be considered and approved for onward transmission to H.E the President to nominate six commissioners to the Truth, Justice and Reconciliation Commission:-

- (i) Amb. Bethuel Kiplagat, MBS
- (ii) Mr.Thomas Letangule
- (iii) Ms Margaret Shava
- (iv) Mr.Tom Ojienda
- (v) Rev.Dr.Timothy Njoya
- (vi) Ms Betty Murungi
- (vii) Mr.Abubakar Zein Abubakar
- (viii) MsTecla Namachanja
- (ix) Maj.Gen. (rtd) Ahmed Sheikh

1.42 The Committee further recommends to the House that the following three (3) nominees forwarded by the African Union Panel of Eminent

MINUTES OF THE FORTIETH SITTING OF THE DEPARTMENTAL COMMITTEE G - ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY , MAY 21, 2009 IN COMMITTEE ROOM 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 9.00 AM.

PRESENT

The Hon. Abdikadir Mohammed, M.P - **Chairperson**
The Hon. Isaac Ruto, M.P
The Hon. Alfred Sambu, M.P
The Hon. Mutava Musyimi, M.P
The Hon. Amina Abdalla, M.P
The Hon. Millie Odhiambo, M.P
The Hon. Nyamweya George, M.P

ABSENT WITH APOLOGY

The Hon. Ababu Namwamba, M.P
The Hon. Olago Aluoch, M.P
The Hon. Baiya Peter, M.P
The Hon. Wamalwa Eugene, M.P

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi	Clerk Assistant
Mr. Peter Kitheka	Parliamentary Intern
Mr. Willis Otieno	Parliamentary Intern

MIN.NO. 165/2009

PRAYER

The meeting started with a word of prayer.

MIN.NO. 166/2009

ADOPTION OF THE AGENDA

The Agenda was amended to include the following two items:

1. Consideration of the Anglo-leasing Contracts
2. Appointment of Directors to the Kenya Anti Corruption Commission

MIN.NO. 167/2009 **CONSIDERATION OF ANGLO-LEASING CONTRACTS**

The Committee noted that this matter had been referred to the Committee for further scrutiny .It was resolved that a Sub-Committee be to scrutinize the contracts and related documents be constituted. It was also noted that the Committee has two months to report back to the House.

**MIN.NO. 168/2009 APPOINTMENT OF ASSISTANT DIRECTORS-
KACC**

The Committee observed that this matter had been pending for sometime and should be dispensed with without further delay to allow KACA to function properly.

**MIN.NO. 169/2009 CONSIDERATION OF NOMINEES TO THE
TRUTH, JUSTICE AND RECONCILIATION COMMISSION**

The Committee observed that in accordance with the Truth, Justice and Reconciliation Act, 2008, the Selection Panel had invited applications from persons for nomination as commissioners. The Selection Panel had also considered the applications, ranked and provided comments regarding each of the finalists and forwarded the nominees to the National Assembly.

In accordance with Section 10 (1) (a) and (b) paragraph 5 of the First Schedule of the Truth, Justice and Reconciliation Act, 2008, the Committee scrutinized the summaries of the fifteen nominees forwarded by the Selection Panel and confirmed that most of the nominees were qualified. The fifteen nominees were:-

1. Amb. Bethuel Kiplagat, MBS
2. Benjamin Nzimbi, MBS
3. Dr. Maria Nzomo, MBS
4. Dr. Elizabeth Muli
5. Tom Ojienda
6. Timothy Njoya
7. Dr. Joseph Aluoch
8. Betty Murungi
9. Margaret Shava
10. Thomas Letangule
11. Abubakar Zein Abubakar
12. Joyce Miguda Majiwa, OGW
13. Tecla Namachanja
14. Maj.Gen. (rtd) Ahmed Sheikh Farah, CBS
15. Dr. Daadab Mohammed

In keeping with the provisions of the Law, the Committee selected nine persons for nomination taking into consideration the requirements as set out in the relevant provisions of the law namely:-

- a) Knowledge of and at least fifteen (15) years experience in matters relating to human rights law (4 Persons)

- b) Knowledge of and experience in forensic audit, investigations, psycho-sociology, management, religion or gender issues (5 Persons).

Pursuant to the provisions of paragraph 5 of the first schedule which states that:-

“The National Assembly shall, upon receipt of recommendations of the selection panel under paragraph 3, nominate nine persons for appointment as commissioners and shall submit the list of nominees to the Minister or onward transmission to the President”

The Committee nominated nine persons for appointment as commissioners as follows:-

<u>Name</u>	<u>Category</u>
(i) Amb. Bethuel Kiplagat, MBS	Conflict Management
(ii) Benjamin Nzimbi, MBS	Religion
(iii) Dr. Elizabeth Muli	Human Rights Law
(iv) Tom Ojienda	Human Rights Law
(v) Timothy Njoya	Religion
(vi) Betty Murungi	Human Rights Law/C/M
(vii) Abubakar Zein Abuba	Conflict Management
(viii) Tecla Namachanja	Gender/cm
(ix) Maj.Gen. (rtd) Ahmed Sheikh Farah, CBS	Conflict Management

Pursuant to the provisions of the Act the Committee also noted the nominees by the Panel of Eminent Persons as follows:

- (i) Judge Getrude Chawatama (Zambia)
- (ii) Mr. Berhanu Dinka (Ethiopia)
- (iii) Mr. Ronald Slye (United States of America)

MIN.NO. 170/2009

ANY OTHER BUSINESS

Report on the Nomination of Commissioners to the National Cohesion and Integration Commission

It was reported that the Committee Report tabled on the floor of the House on April 30, 2009 and debated thereafter had an error on one of the recommended names. The secretariat reported that the name of Dr. Mzalendo Kibunja was

inadvertently included in the final list that was tabled at the expense of Mr.Kiogora Mbogori's name.

MIN.NO. 171/2009

ADJOURNMENT

And there being no other business the meeting was adjourned at fifteen minutes past twelve O'clock.

SIGNED -----


CHAIRPERSON

DATE-----

28.05.09.

MINUTES OF THE FORTY - FIRST SITTING OF THE DEPARTMENTAL COMMITTEE G - ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY , MAY 26, 2009 IN COMMITTEE ROOM 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 10.00 AM.

PRESENT

Hon. Abdikadir Mohammed, MP.
Hon. Sambu Alfred, MP.
Hon. Mutava Musyimi, MP.
Hon. Amina Abdalla, MP.
Hon. Isaac Ruto, MP.
Hon. Nyamweya George, MP.
Hon. Millie Odhiambo, MP.
Hon. Wamalwà Eugene, MP.
Hon. Njoroge Baiya, MP.

Chairperson

ABSENT WITH APOLOGIES

Hon. Olago Aluoch, MP.
Hon. Ababu Namwamba, MP.

IN ATTENDANCE

Ms Consolata Munga	Deputy Director- Committee Services
Mrs. Lucy Wanjohi	Clerk Assistant
Mr. Julius Ariwomoi	Clerk Assistant
Mr. Willis Otieno	Parliamentary Intern.

MIN.NO. 172/09 PRAYER

The Meeting started with a word of prayer.

MIN.NO. 173/09 ADOPTION OF THE AGENDA

The Committee adopted the agenda of the meeting.

MIN.NO. 174/09 CONFIRMATION OF PREVIOUS MINUTES

Confirmation of minutes of the previous sitting was deferred to allow corrections to be made to reflect the accurate deliberations of the meeting.

MIN.NO. 175/09 MATTERS ARISING

Under Min.NO 168/09 - It was observed that the Committee had concluded the matter on the appointment of Assistant Directors to the Kenya Anti-corruption Commission and resolved that a report on the same be prepared to be considered in the next meeting

Under Min.No. 170/09 – It was noted that the matter on the Report for the nomination of Commissioners to the National Cohesion and Integration Commission had been concluded and a memo forwarded to the Speaker.

MIN.NO 176/09 ANGLO LEASING CONTRACTS

The Deputy Director(Committee Services) gave a brief explanation on the work already done by previous committees including investigations on four of the eighteen contracts and a visit to Spain.

The Committee resolved that, a sub-committee be formed to scrutinize previous reports and documents with a view to preparing a work plan and the way forward for the Committee. The following members were nominated to serve in the sub-committee;

- (i) Hon. Alfred Sambu,M.P.
- (ii) Hon. Baiya Peter,MP
- (iii) Hon. Nyamweya George,MP
- (iv) Hon. Olago Aluoch,MP

MIN.NO.177/09 REPORT ON THE NOMINATION OF COMMISSIONERS TO THE TRUTH JUSTICE AND RECONCILIATION COMMISSION

The Committee discussed a draft report on the nomination of Commissioners to the Truth, Justice and Reconciliation Commission and resolved to subject the list of the nominees to further discussion with a view to making appropriate changes, putting into consideration crucial factors that were earlier not considered. It was further agreed that this matter would not be subjected to any further debate.

The Committee agreed by consensus to recommend the following persons;

- (i) Amb. Bethwel Kiplagat
- (ii) Mr. Thomas Letangule
- (iii) Ms. Margaret Shava
- (iv) Mr. Tom Ojienda
- (v) Rev.Dr. Timothy Njoya
- (vi) Ms. Betty Murungi
- (vii) Mr. Abubakar Zein Abubakar

- (viii) Ms. Tecla Namachanja
- (ix) Maj. Gen (rtd) Ahmed Sheikh Farah

MIN.NO. 178/09 ANY OTHER BUSINESS

a) Outstanding Bills

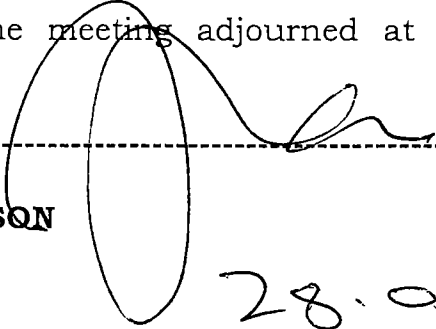
It was agreed that the Committee would consider the Arbitration (Amendment) Bill, 2009 and the Statute Law (Miscellaneous Amendments) Bill, 2009 in its next sitting.

b) Appointment of Assistant Directors-Kenya Anti-Corruption Commission.

It was agreed that a report on the matter would be ready for adoption in the next sitting.

MIN.NO. 179/09 ADJOURNMENT

There being no other business the meeting adjourned at 12.45 pm until Thursday May 28, 2009 at 11.00am.

SIGNED ----- 

CHAIRPERSON

DATE----- 28.05.09 ,

MINUTES OF THE FORTY - SECOND SITTING OF THE DEPARTMENTAL COMMITTEE G - ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY , MAY 28, 2009 IN COMMITTEE ROOM 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 10.00 AM.

PRESENT

Hon. Abdikadir Mohammed,MP.
Hon. Mutava Musyimi, MP.
Hon. Amina Abdalla,MP.
Hon. Isaac Ruto, MP.
Hon. Nyamweya George,MP
Hon. Njoroge Baiya, MP.

Chairperson

ABSENT WITH APOLOGIES

Hon. Olago Aluoch, MP.
Hon. Ababu Namwamba, MP.
Hon. Sambu Alfred, MP.
Hon. Millie Odhiambo, MP.
Hon. Wamalwa Eugene,MP.

IN ATTENDANCE

Mrs. Lucy Wanjohi Clerk Assistant
Mr. Peter Kitheka Parliamentary Intern.

MIN.NO. 180/09 PRAYER

The Meeting started with a word of prayer.

MIN.NO. 181/09 ADOPTION OF THE AGENDA

The Committee adopted the agenda of the meeting.

MIN.NO. 182/09 ADOPTION OF REPORTS

The Committee considered the following two reports and adopted them for tabling in the House:-

1. Report on the Nomination of Commissioners to the Truth, Justice and Reconciliation Commission.
2. Report on the appointment of assistant Directors to the Kenya Anti-Corruption Commission.

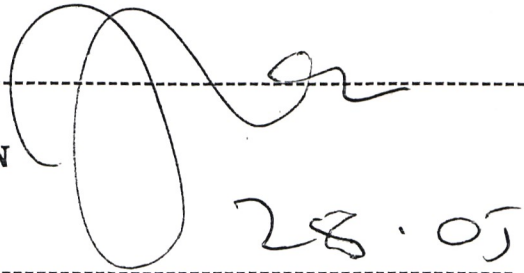
MIN.NO. 183/09

ADJOURNMENT

There being no other business the meeting adjourned at 1.00pm pm until Friday
May 29, 2009 at 11.00am.

SIGNED -----

CHAIRPERSON



DATE-----

28.05.09