



PARLIAMENT
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KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT

FIRST SESSION

THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS
REPORT ON THE TRUTH, JUSTICE AND RECONCILIATION
(AMENDMENT) BILL, 2013

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

OCTOBER, 2013

1.0 PREFACE

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order No. 199, it is my pleasure and duty to present to the House, the Committee's Report on proposed amendment to the Truth, Justice and Reconciliation (Amendment), Bill 2013.

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. Ken Okoth, M.P
28. Hon. T.J Kajwang', M.P
29. Hon. Mutua Mutemi, M.P

1.2 Mandate of the Committee

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, assess 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 Committee Meetings

The Committee held one sitting on 17th September, 2013 during which the Truth, Justice and Reconciliation (Amendment) Bill, 2013 was considered in accordance with the standing orders of the National Assembly.

The Truth, Justice and Reconciliation (Amendment) Bill, 2013 was read a first time on 6th August, 2013 and stood committed to the Committee. The National Assembly adjourned and went on recess on 15th August, 2013 and thus the Committee did not proceed and report as expected. ~~2012~~. This Report contains deliberations of the Committee on the Bill and the rationale behind the proposed amendment

Finally it is now my pleasant duty and privilege, on behalf of the Departmental Committee on Justice and Legal Affairs, to introduce this report to the House, so that it may enrich debate on the Bill.

SIGNED.....

Hon. Samuel Chepkong'a, MP

(Chairperson)

Committee on Justice and Legal Affairs

DATE..18/10/2013.....

PROPOSED AMENDMENT TO THE TRUTH, JUSTICE AND RECONCILIATION
(AMENDMENT) BILL, 2013

Sec 3: THAT section 3 be amended by inserting the words;

“Provided that any such consideration shall not interfere with the context, text, form and substance of the report” immediately after the word “consideration” appearing in section 3 of the amendment Bill.

Rationale:

The Committee feels the proposed amendment will protect the substance of the report from possible alteration and empowers Parliament to debate the report on merit.

MINUTES OF THE 33RD SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS MEETING HELD ON TUESDAY 17TH SEPTEMBER, 2013 IN THE BOARDROOM 9TH FLOOR, HARAMBEE PLAZA, PARLIAMENT BUILDINGS AT 10.00 A.M

PRESENT

Hon. Samuel Chepkong'a, MP - **Chairperson**
Hon. Priscilla Nyokabi, MP - **Vice Chairperson**
Hon. Paul Bii, MP
Hon. Mutua Mutemi (Bishop) , MP
Hon. Benson Mutura, MP
Hon. Mohamed Abdi Haji, MP
Hon. William Cheptumo, MP
Hon. Olago Aluoch, MP
Hon. Muriithi Waiganjo, MP
Hon. David Ouma Ochieng, MP
Hon. T.J. Kajwang', MP
Hon. Kaluma Peter, MP
Hon. Sammy Koech, MP

ABSENT

Hon. Kangongo Bowen, MP
Hon. Neto Agostinho, MP
Hon. Florence Kajuju, MP
Hon. Fatuma Ibrahim Ali, MP
Hon. Njoroge Baiya, MP
Hon. Boniface Otsiula, MP
Hon. Kang'ata Irungu, M
Hon. Ken Okoth, MP
Hon. Johanna Ngeno, MP
Hon. Moses Cheboi, MP
Hon. John Njoroge Chege, MP
Hon. Charles Gimose, MP
Hon. Ndirangu Waihenya, MP
Hon. Ben Momanyi Orori, MP
Hon. Munuve Mati John, MP
Hon. Dr. Christine Ombaka, MP

IN ATTENDANCE

National assembly

Abenayo Wasike.....Committee Clerk.

Moses Owuor..... SUNY-Kenya

Bosire Nyamori..... SUNY - Kenya

MIN.NO.161 /2013

PRELIMINARIES

The meeting started at 10.20 a.m with a word of prayer by the Chairperson.

- Members adopted the agenda of the meeting as attached.
- The Vice-Chairperson reported that the Clerk of the National Assembly had agreed for the Committee to have a retreat with stakeholders on the Marriage and the Matrimonial property Bills, 2013 on 26th – 28th September 2013.

**MIN. NO. 162 /2013 CONSIDERATION OF THE ELECTION CAMPAIGN
FINANCING BILL, 2013**

Members considered the Bill *clause by clause* and made the following observations;

CLAUSE 1

Retained

CLAUSE 2

Retained

CLAUSE 3

Retained

CLAUSE 4

Retained

CLAUSE 5

THAT Clause 5 be amended to extent the period to six months.

Consideration of the Bill was suspended as members needed adequate time to make informed contributions.

- Members observed that they need to give consultants more time to develop a background paper and provide Bill analysis for members to appreciate the rationale behind the proposed legislation.
- Mr.Awuor proposed that SUNY will organize a one day workshop in Nairobi on Monday 23rd September, 2013 to address issues raised by members.

**CONSIDERATION OF THE TRUTH, JUSTICE AND RECONCILIATION
(AMENDMENT) BILL, 2013**

Members observed that the proposed amendments may alter the substance of the TJRC report and thus emphasized caution to safeguard the intention of the parent Act.

CLAUSE 1

Retained

CLAUSE 2

Retained

CLAUSE 3

THAT Clause 3 be amended by inserting the words;

“Provided that any such consideration shall not interfere with the context, text, form and substance of the report” immediately after the word “consideration” appearing in section 3 of the amendment Bill.

Rationale:

The Committee feels the proposed amendment will protect the substance of the report from possible alteration and empowers Parliament to debate the report on merit.

CLAUSE 4

Retained

CLAUSE 5

Retained

MIN.NO.163/2013 ANY OTHER BUSINESS

The following members were appointed to host a judicial delegation from South Sudan.

Hon. Samuel Chepkong'a - Chairperson

Hon. Peter Kaluma

Hon. Muriithi Waiganjo

Hon. Bishop Mutua Mutemi

MIN.NO.164/2013 ADJOURNMENT

The meeting was adjourned at 12.20 p.m

Signed.....


Chairperson

Date.....
18/5/2013

MINUTES OF THE 34TH SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS MEETING HELD ON WEDNESDAY 2ND OCTOBER 2013 IN COMMITTEE ROOM 9 MAIN PARLIAMENT BUILDINGS AT 4.00 P.M

PRESENT

Hon. Samuel Chepkong'a, MP - **Chairperson**
Hon. Priscilla Nyokabi, MP - **Vice Chairperson**
Hon. Paul Bii, MP
Hon. Mutua Mutemi (Bishop) , MP
Hon. Benson Mutura, MP
Hon. Mohamed Abdi Haji, MP
Hon. William Cheptumo, MP
Hon. Muriithi Waiganjo, MP
Hon. David Ouma Ochieng, MP
Hon. Neto Agostinho, MP
Hon. Florence Kajuju, MP
Hon. Fatuma Ibrahim Ali, MP
Hon. Boniface Otsiula, MP
Hon. Kang'ata Irungu, M
Hon. Ken Okoth, MP
Hon. Moses Cheboi, MP
Hon. Ndirangu Waihenya, MP
Hon. Munuve Mati John, MP

ABSENT

Hon. Kangongo Bowen, MP
Hon. Njoroge Baiya, MP
Hon. Johanna Ngeno, MP
Hon. John Njoroge Chege, MP
Hon. Charles Gimose, MP
Hon. Ben Momanyi Orori, MP
Hon. Dr. Christine Ombaka, MP
Hon. Olago Aluoch, MP
Hon. T.J. Kajwang', MP
Hon. Kaluma Peter, MP
Hon. Sammy Koech, MP

IN ATTENDANCE

National assembly

Alice Kitur

MIN.NO.165/2013

PRELIMINARIES

The meeting started at 4.15 pm after a word of prayer.

- Members present adopted the agenda.
- The agenda was adoption of the Report on TJRC (Amendment) Bill,2013

MIN. NO.166/2013

ADOPTION OF THE REPORT

- Members unanimously adopted the Report as a true reflection of the Committee's considerations.
- The Report was proposed by Hon. Bishop R. Mutemi and seconded by Hon.Kang'ata Irungu.

MIN.NO.167/2013

ADJOURNMENT

There being no any other business, the meeting was adjourned at 4.45 p.m to 8th October, 2013.

Signed.....

Chairperson

Date.....18/10/13.....