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REPUBLIC OF KENYA



NATIONAL ASSEMBLY

NINTH PARLIAMENT – SECOND SESSION

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

REPORT ON

**DELIBERATIONS ON THE NOMINATION OF COMMISSIONERS
TO THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS**

**PARLIAMENT BUILDINGS
NAIROBI**

JUNE, 2003

PREFACE

Introductory remarks:

Mr. Speaker Sir, the Departmental Committee on The Administration of Justice and Legal Affairs is established under Standing Order No.151. This Committee is charged with the mandate of Constitutional affairs and the administration of law and justice among others. Its functions as provided in Standing Order No.151 (4) are:

- (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 of the implementation;
- (c) to study and review all legislation after First Reading, subject to the exemptions under Standing Order 101 A (4);
- (d) To study, assess, and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with its objectives;
- (e) to investigate and inquire into all matters relating to the assigned Ministries and departments as they may be deemed 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 recommendations of proposed legislation.

The following are the Members of the Committee: -

The Hon. Paul K. Muite, M.P – **Chairperson**
The Hon. Amina Abdalla, MP
The Hon Mirugi Kariuki MP
The Hon. Kenneth Marende MP
The Hon. David Were, M.P
The Hon. Jim Choge, M.P.
The Hon. Peter Owidi, M.P.
The Hon Cecily Mbarire, M.P.
The Hon. Moses Cheboi, M.P.
The Hon. Gideon Ndambuki, M.P.
The Hon. Enock Kibunguchy, M.P.

Mandate of the Committee

On April 23, 2003, pursuant to the provisions of Section 6 (3) and (4) of the National Commission on Human Rights Act, 2003, the National Assembly caused the Departmental Committee on The Administration of Justice and Legal Affairs to consider applications for the positions of commissioners to the Kenya National Commission on Human Rights.

The mandate of the Committee as provided by the Act is as follows:

- (i) Consider all applications received as provided by Section 2 of the Act**
- (ii) Recommend to the National Assembly twelve suitably qualified persons for nomination as Commissioners.**

Mr. Speaker Sir, on behalf of the Members of the Departmental Committee on The Administration of Justice and Legal Affairs I wish to present to the House the Report of the Committee and the names of the twelve qualified persons for further consideration by the House.

Appointment of a Sub-Committee

On receiving the applications, the Committee established a Sub-Committee consisting of the Hon. Mirugi Kariuki, M.P., the Hon. Amina Abdalla, M.P. and the Hon. Kenneth Marende, M.P. The mandate of the sub-committee was to scrutinize the applications and shortlist those who met the minimum qualifications as per the provisions of the Kenya National Commission on Human Rights Act, 2003.

Report Of The Sub-Committee

Mr. Speaker Sir, the sub committee held three sittings during which it short-listed 126 applicants from a total of 844 applications. The Committee was unanimous on the Criteria and a system of scores which was established by the Sub-committee, where one point was accorded for any of the following:

- Academic qualifications and work experience relevant to the field of Human Rights.
- International and National advocacy in Human Rights matters.
- Trainers on human rights,
- Work with marginalized groups such as the physically challenged and pastoralists.
- Experience from working with HIV / AIDS
- Working with organizations dealing with distressed persons for example, battered women, torture victims, abused children e.t.c.

Report On The Interview Of The Candidates

The Sub-Committee submitted its Report to the Committee short-listing 126 names. The Committee selected 32 names from this list and conducted interviews out of which the Committee selected 12 names to be recommended to the House. Three (3) applicants from each region were selected depending on the score awarded by the sub-Committee while six were selected from the special category. Special category i.e. gender, physically challenged and youth. The

Committee awarded scores to determine each interviewee's performance using the following criteria; presentation, human rights record, vision and knowledge on International Human Rights Instruments, with a maximum average of 20 points each.

Recommendation.

The Committee recommends to the House the following 12 applicants to be considered by the House for onward transmission to H.E. the President who will appoint nine persons out of the twelve to serve as Commissioners. These are Messrs:

Mavisi Violet Khadi	-WESTERN PROVINCE
Philip Tirop Kitur	-RIFT VALLEY PROVINCE
Khelifa Khalifa	-COAST PROVINCE
Fatuma Ibrahim Ali	-NORTH EASTERN PROVINCE
Maina Kiai	-NAIROBI PROVINCE;
Maurice Odawo Onduru	-NYANZA PROVINCE
Wahu Kaara	-CENTRAL PROVINCE;
Godana Doyo Adhi	-EASTERN PROVINCE;
Catherine M. Muuma	-SPECIAL (gender);
Hassan Omar Hassan;	-SPECIAL (youth)
Lawrence M. Mute; and	- SPECIAL (Disability)
Wambui Kimathi.	- SPECIAL (Gender)

Mr. Speaker Sir, the Committee further resolved to make special mention of Mr. Wallace Gichere whom it also interviewed. Mr. Gichere, a journalist of international repute and a human rights activist is now confined to a wheelchair as a result of severe injuries sustained when he was thrown from the window of his third floor flat and hit the ground with his head. He represents the face of torture. He sustained injuries on his head. The Committee was of the view that an appropriate placing by the commission at its secretariat would be most suitable in giving the commission a human face and as reminder of what this country must never again allow to happen.

Conclusion

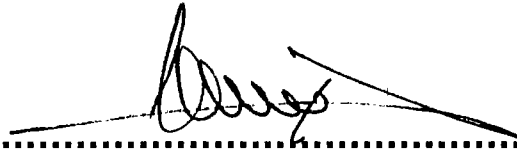
Mr. Speaker Sir, while deliberating on these nominations, the Committee was strictly guided by the provisions of the Act particularly Section 6 (8) which provides as follows: -

"In nominating or appointing persons as Commissioners, the National Assembly and the President shall have regard to: -

- (a) Kenya's ethnic, geographical, cultural, political, social and economic diversity;**

- (b) The principle of gender equity.**

Mr. Speaker Sir, the Committee further seeks the indulgence of the House to table its Report after the 30 days required by the Act. It is my pleasure to recommend the Report to the House for adoption.

Signed: 
.....
HON. PAUL KIBUGI MUIITE, M.P.
CHAIRMAN
DEPARTMENTAL COMMITTEE ON ADMINISTRATION
OF JUSTICE AND LEGAL AFFAIRS

Date: 2/7/2003

The Secretariat was requested to tabulate the applications breaking them down according to regions, disability, gender and other statutory requirements.

MINUTE NO. 35/2003

DATE OF THE NEXT SITTING

Members agreed to meet after the sub-Committee completes its work.

MINUTE NO.36/2003

ADJOURNMENT

And the time being 5.30p.m. The Chairman adjourned the Sitting till further notice

SIGNED

CONFIRMED.....

(Chairman)

DATE01.07.03.....

- 9. Wallace Gichere
- 10. Fatuma Ibrahim
- 11. Pamela N. Okola
- 12. Wambui Kimathi

This selection was on the basis of the CVs and prior to interviews. The Committee also agreed to await the Report from the Sub-Committee before making a final decision.

The Secretariat was requested to prepare a draft report on the deliberations to be tabled before the House.

MIN.NO.38/2003:

ADJOURNMENT

And the time being 3.30 p.m. the Chairman adjourned the Sitting till further notice.

SIGNED

CONFIRMED.....
(CHAIRMAN)

DATE.....01.07.03.....

MINUTES OF THE FOURTEENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD IN THE MAIN CONFERENCE HALL, COUNTY HALL, PARLIAMENT BUILDINGS ON FRIDAY, MAY 30, 2003 AT 8.30 A.M.

PRESENT:

The Hon. Paul K. Muite, M.P. -Chairman
 The Hon. Gideon Ndambuki, M.P.
 The Hon. Moses Cheboi, M.P.
 The Hon. Enock W. Kibunguchy, M.P.
 The Hon. Cecily Mbarire, M.P.
 The Hon. Amina Abdalla, M.P.
 The Hon. Peter Owidi, M.P.
 The Hon. Kenneth Marende, M.P.

ABSENT WITH APOLOGY

The Hon. Jim Choge, M.P.
 The Hon. Mirugi Kariuki, M.P.
 The Hon. David Were, M.P.

IN ATTENDANCE:

Mr. David K. Ziah

NATIONAL ASSEMBLY

-Clerk Assistant 1.

MIN.NO.39 /2003:

DELIBERATIONS ON NOMINATION OF COMMISSIONERS

After deliberations and the Report by the Sub-Committee, the Committee decided that it was desirable to conduct interviews before making the final selection. A decision was made to invite 30 applicants for the interviews. The 30 selected for interviews represented the top 3 applicants from each region as ranked by the Sub-Committee. The following are the applicants selected for the interview

MONDAY 9TH JUNE, 2003		
NO.	NAME	PROVINCE
1.	MAVISI VIOLET KHADI	WESTERN
2.	KENNEDY WANJALA WAFULA	WESTERN
3.	ROBERT TUTTI ASWANI	WESTERN
4.	MARTHA KARAMBU KOOME	EASTERN
5.	Prof. ONESMUS K. MUTUNGI	EASTERN
6.	GODANA DOYO ADHI	EASTERN
7.	PHILIP TIROP KITUR	RIFT VALLEY
8.	PETR LOCHAKAI ODUKAN	RIFT VALLEY
9.	TOROREI SAMUEL KIPNG'ETICH ARAP	RIFT VALLEY
10.	HASSAN OMAR HASSAN	YOUTH

FRIDAY 13TH JUNE, 2003		
11.	Dr. NAOMI KIPURI	RIFT VALLEY
12.	MWERO WA MKALLA	COAST
13.	MARIAM MWANYOTA SHIGHADI	COAST
14.	KHELIFA KHALIFA	COAST
15.	NAZLIN UMAR FAZALDIN RAJPUT	NAIROBI
16.	WAFULA BUKE	NAIROBI
17.	MAINA KIAI	NAIROBI
18.	FATUMA IBRAHIM ALI	NORTH EASTERN
19.	WALLACE GICHERE	SPECIAL (physically handicapped)
20.	IBRAHIM GOLLO WOCHÉ	SPECIAL (youth)
MONDAY 16TH JUNE, 2003		
21.	ABDIKADIR HUSSEIN MOHAMED	NORTH EASTERN
22.	ADAN D. MUHAMED	NORTH EASTERN
23.	ODHIAMBO F. OKELLO	NYANZA
24.	Dr. PAMELA NEREA OKOLA	NYANZA
25.	CATHRINE MUYEKA MUUMA	SPECIAL
26.	WAHU KAARA	CENTRAL
27.	WAMBUI KIMATHI	CENTRAL
28.	FRANCIS MACHIRA APOLLOS	CENTRAL
29.	MAURICE ODAWO ONDURU	NYANZA
30.	LAWRENCE MURUGU MUTE	SPECIAL

The interview dates were Monday, June 09, 2003, Friday, June 13, 2003 and Monday, June 16, 2003. The interviewees were to be grouped into three groups of ten each and the interviews would start from 9.00 am on each day.

MINUTE NO. 40/2003:

ANY OTHER BUSSINESS

- (a) Members were grateful to the sponsorship by the United States International Development Agency, which enabled some Members of the Committee to participate during the International Conference on Corruption held in Korea. It was however observed that in future, the organization has to channel these arrangements through the Committee. A letter was to be prepared to the Director, to express the Committee's sentiments.
- (b) The issue of foreign trips came up for discussion and it was agreed that it is the Committee to select, which Member will travel to which country.
- (c) On the trip to Korea, Members were informed that the Speaker had given priority to the National Constitutional Conference and that the Members who attended the Conference had been sponsored by USAID.

MINUTE NO. 41/2003: DATE OF THE NEXT SITTING

A committee Sitting was schedule for Monday, June 09,2003 at 8.30 a.m.

MINUTE NO 42/2003: ADJOURMENT

The Chairman adjourned the Sitting at 11.30 p.m.

CONFIRMED.....SIGNED.....
(Chairman)

DATE.....01.07.03.....

**MINUTES OF THE FIFTHTEENTH SITTING OF THE DEPARTMENTAL COMMITTEE
ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD IN THE MAIN
CONFERENCE HALL, COUNTY HALL, PARLIAMENT BUILDINGS ON MONDAY,
JUNE 9, 2003 AT 8.30A.M.**

PRESENT

The Hon. Paul Kibugi Muita, M.P.
The Hon David Were, M.P.
The Hon. Moses Cheboi, M.P.
The Hon. Gideon Ndambuki, M.P.
The Hon. E.W. Kibunguchy, M.P.
The Hon. Peter O. Owidi, M.P.
The Hon. Mirugi Kariuki, M.P.
The Hon. Kenneth Marende, M.P.
The Hon. Amina Abdalla, M.P.

-Chairman

ABSENT WITH APOLOGY

The Hon. Jim Choge, MP.
The Hon. Cecily Mbarire, M.P.

IN ATTENDANCE: NATIONAL ASSEMBLY

Mr. David K. Ziah Clerk Assistant 1.

MIN.NO: 43 /2003:

**INTERVIEWS FOR THE NOMINATION OF
COMMISSIONERS FOR THE KENYA NATIONAL
HUMAN RIGHTS COMMISSION.**

The Committee decided on a set of criteria for awarding points to the interviewees. It was agreed that points would be awarded for presentation, human rights record, vision and knowledge on international human rights instruments, with a maximum average of 20 points per interviewee. The Committee then interviewed the first 8 applicants. In conducting the interviews each Committee Member was handed a sheet with the four columns for presentation, human rights record, vision and knowledge on international human rights instruments. Each Member separately and without consultation was required to award points each interviewee with respect to the criteria. Immediately after the interview, the secretariat collected the score sheet and averaged the points. The interviewees then scored points as follows:

NAME	CATEGORY	AV. MARKS
Mavisi Violet Khadi	Western Province	13.6
Kenneth Wanjala Wafula	Western Province	10.6
Robert Tuti Aswani	Western Province	9.9
Peter Odukan Lochakai	Rift valley Province	6.4
Philip Tirop Kitur	Rift valley Province	15.4
Godana Doyo Adhi	Eastern Province	13
Khelifa Khalifa	Coast Province	11.2
Samuel Tororei Kipng'etich	Special category-visually impaired	13.9

MINUTE NO. 44 /2003:

DATE OF THE NEXT SITTING

The committee sitting was scheduled for Friday June 13, 2003 at 8.30 a.m.

MINUTE NO. 45 /2003:

ADJOURNMENT

The Chairman adjourned the Sitting at 2 p.m.

CONFIRMED..... SIGNED.....

(Chairman)

01.07.03

DATE.....

MINUTES OF THE SIXTEENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD IN THE MAIN CONFERENCE HALL, COUNTY HALL, PARLIAMENT BUILDINGS ON FRIDAY, JUNE 13, 2003 AT 8.30A.M.

PRESENT

The Hon. Paul Kibugi Muite, M.P.
The Hon David Were, M.P.
The Hon. Moses Cheboi, M.P.
The Hon. Jim Choge, MP.
The Hon. Cecily Mbarire, M.P.
The Hon. E.W. Kibunguchy, M.P.
The Hon. Peter O. Owidi, M.P.
The Hon. Mirugi Kariuki, M.P.
The Hon. Kenneth Marende, M.P.
The Hon. Amina Abdalla, M.P

-Chairman

ABSENT WITH APOLOGY

The Hon. Gideon Ndambuki, M.P.

IN ATTENDANCE: NATIONAL ASSEMBLY

Mr. David K. Ziah

Clerk Assistant 1.

MIN.NO: 46 /2003:

INTERVIEWS FOR THE NOMINATION OF COMMISSIONERS FOR THE KENYA NATIONAL HUMAN RIGHTS COMMISSION.

After deliberations the Committee agreed to interview an additional two applicants, Messrs Praxedes Tororey and Prof. Kamuti Kiteme on Monday June 16, 2003.

The Committee interviewed nine applicants. The interviewees scored points as follows:

NAME	CATEGORY	AV. MARKS
Naomi Kipury	Rift Valley	10.1
Mwero wa Mkalla	Coast	8.9
Mariam Mwanyota	Coast	7
Hassan Omar Hassan	Youth	15.9
Nazlin U.F. Rajput	Nairobi	11.94
Fatuma Ibrahim Ali	North Eastern	14.4
Wafula Buke	Nairobi	15.2
Ibrahim Gollo Woche	Eastern	13.3
Wallace Gichere	Special	10

MINUTE NO. 47 /2003:

DATE OF THE NEXT SITTING

The committee sitting was scheduled for Monday June 16, 2003 at 8.30 a.m.

MINUTE NO. 48 /2003:

ADJOURNMENT

The Chairman adjourned the Sitting at 1.15 p.m.

SIGNED

CONFIRMED.....

(Chairman)

01.07.03

DATE.....

At the end of the interviews the committee requested the secretariat to compute the results and arrange them per province and category for easy reference. It was also agreed that one applicant be selected for each province; 4 applicants will then be selected from the special category to make a total of twelve.

MINUTE NO. 50 /2003:

ANY OTHER BUSSINESS

The Committee rejected the list for not being gender sensitive and the Minister for Justice and Constitutional Affairs was to be notified as per the requirement of the Second Schedule and Sub Paragraph 7 of Paragraph 1 of the Anti Corruption and Economic Crimes Act, 2003

MINUTE NO. 51 /2003:

DATE OF THE NEXT SITTING

The Committee Sitting was scheduled for Friday June 20 2003 at 9. a.m.

MINUTE NO. 52 /2003:

ADJOURNMENT

The Chairman adjourned the Sitting at 1.15 p.m.

SIGNED

CONFIRMED.....

(Chairman)

01.07.03

DATE.....

Special Interest (Visually Handicapped)	Lawrence M. Mute	14.6
Special Interest (Physically Handicapped)	Wallace Gichere	10
Special Interest	Catherine M. Muuma	15.8

The Committee resolved to complete deliberations on Eastern and Central Provinces during the next sitting.

MIN.NO: 54 /2003:

LOCAL TRIPS

The Committee was informed about the tentative program for the trip to Northern Kenya that had been drafted. Following a suggestion that the trip be split into two due to its length, the Committee resolved that further discussion on the issue be postponed to the next sitting.

MINUTE NO: 55 /2003:

DATE OF THE NEXT SITTING

The committee sitting was scheduled for Tuesday June 24, 2003 at 10.00 a.m.

MINUTE NO. 56 /2003:

ADJOURNMENT

The Chairman adjourned the Sitting at 10.30.a.m.

SIGNED

CONFIRMED.....

(Chairman)

DATE01.07.03.....

**MINUTES OF THE EIGHTEENTH SITTING OF THE DEPARTMENTAL
COMMITTEE ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS
HELD IN THE MAIN CONFERENCE HALL, COUNTY HALL, PARLIAMENT
BUILDINGS ON TUESDAY JUNE 24, 2003 AT 10.00 AM.**

PRESENT:

The Hon. Paul Kibugi Muite, M.P. **-Chairman**
 The Hon. Jim Choge, MP.
 The Hon. Moses Cheboi, M.P.
 The Hon. Gideon Ndambuki, M.P.
 The Hon David Were, M.P.
 The Hon. Cecily Mbarire, M.P.
 The Hon. Mirugi Kariuki, M.P.
 The Hon. Peter O. Owidi, M.P.
 The Hon. Kenneth Marende, M.P.
 The Hon. Amina Abdalla, M.P.

ABSENT:

The Hon. E.W. Kibunguchy, M.P.

IN ATTENDANCE: NATIONAL ASSEMBLY

Mr. David K. Ziah -Clerk Assistant 1.

MIN.NO: 57 /2003:

**DELIBERATIONS ON THE NOMINATION
OF COMMISSIONERS FOR THE KENYA
NATIONAL HUMAN RIGHTS
COMMISSION.**

The Committee resolved that the following nominees be submitted to Parliament for consideration as commissioners of the Kenya Human Rights Commission:-

CATEGORY	NAME	AV. POINTS
Western Province	Mavisi Violet Khadi	13.6
Rift Valley Province	Philip Tirop Kitur	15.4
Coast Province	Khelifa Khalifa	11.2
North Eastern Province	Fatuma Ibrahim Ali	14.4
Nairobi Province	Maina Kiai	17.1
Nyanza Province	Maurice Odawo Onduru	14.7
Eastern Province	Godana Doyo Adhi	13
Central	Wahu Kaara	15.3

Province		
(Youth)	Hassan Omar Hassan	15.9
(Visually Handicapped)	Lawrence M. Mute	14.6
Special	Wambui Kimathi	15.2
Special	Catherine M.Muuma	15.8

The Committee further agreed to recommend the Commission once formed to appoint Wallace Gichere as part of the secretariat due to the fact that though he may not be able to serve as commissioner in the Human Rights commission, he represents the true face of torture. Finally, the Committee resolved to maintain strict confidentiality on the results of the nominations as concerns had been raised that details on the issue seemed to be leaking out to members of the public.

MINUTE NO. 58 /2003:

LOCAL TRIPS

Regarding the local trip to Northern Kenya, it was noted that there was need to visit prisons in the area and especially in Mombasa to investigate the number of people in remand awaiting appeal. It was also added that impromptu visits to various Police stations and Courts of Law would help provide a real picture of the conditions of places of custody as well as the efficiency of the Judiciary.

MINUTE NO. 59 /2003:

OVERSEAS TRIPS

The Members deliberated on the issue of proposed trips overseas and decided that the following would travel to the East:

EAST

The Hon. Paul Kibugi Muite, M.P.

The Hon. Moses Cheboi, M.P.

The Hon. Peter O. Owidi, M.P.

The Hon. Amina Abdalla, M.P.

The Hon. E.W. Kibunguchy, M.P.

WEST

The Hon. Kenneth Marende, M.P.

The Hon. Jim Choge, MP.

The Hon. Gideon Ndambuki, M.P.

The Hon David Were, M.P.

The Hon. Cecily Mbarire, M.P.
The Hon. Mirugi Kariuki, M.P.

MINUTE NO. 60 /2003:

ANY OTHER BUSINESS

Members discussed issues related to the American and British Commission on terrorist threats in Kenya. Members were concerned that diplomats had contrary to defense regulations officiated at functions at military barracks. Members of parliament cannot be allowed into military quarters without permission from the Minister of Internal Security.

It was agreed that a ministerial statement on the matter be sought and a sub committee consisting of The Hon. Kenneth Marende, M.P, The Hon. Mirugi Kariuki, M.P and The Hon. Amina Abdalla, M.P. was constituted to get all the facts regarding the terrorist threats made to Kenya. The Sub- committee was also mandated to study the suppression of terrorism Bill and come up with a report.

MINUTE NO. 61 /2003:

DATE OF THE NEXT SITTING

Date of next meeting by notice.

MINUTE NO. 62 /2003:

ADJOURNMENT

And the time being 11.30 am, the Chairman adjourned the meeting.

SIGNED

CONFIRMED.....

(Chairman)

01.07.03

DATE.....

