

**REPUBLIC OF KENYA**



**PARLIAMENT OF KENYA**

**ELEVENTH PARLIAMENT – FOURTH SESSION**

**REPORT OF THE JOINT COMMITTEE ON NATIONAL COHESION  
AND EQUAL OPPORTUNITY ON THE VISIT TO AUSTRALIA AND  
NEW ZEALAND FROM 9<sup>TH</sup> – 25<sup>TH</sup> OCTOBER 2015**

Clerk's Chambers  
Parliament Buildings  
Nairobi.

**November 2015**

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## **1.0 PREFACE**

### **1.1 Mandate of the Committee**

**Honorable Speaker,**

The Joint Committee on National Cohesion and Equal Opportunity is established under the Standing Orders of the two (2) Houses of Parliament in order to, among others:

- 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); and examine the activities and administration of all Ministries, departments and statutory bodies in so far as they relate to the rights and welfare of the groups referred to under paragraph (c).

### **1.2 Committee Membership**

**Honorable Speaker,**

The Joint Committee comprise of the following Members:

1. Hon. Johnson Sakaja, M.P. (**Chairperson**)
2. Sen. Hargura Godana, MP (Vice Chairperson)
3. Sen. Abdirahman Hassan, MP
4. Sen. Christopher M. Obure, MP
5. Sen. Karue Muriuki, MP
6. Sen. Moses Kajwang', MP
7. Hon. James Gordon Rege, MP
8. Hon. Mohamed Elmi, MP
9. Hon. Maison Leshoomo, MP
10. Sen. Peter Mositet, MP
11. Sen. Emma G. Mbura, MP
12. Sen. Mike Mbuvi Sonko, MP
13. Hon. Kimani Ngunjiri, MP
14. Sen. Stephen Sang, MP
15. Hon. Roba Duba, MP
16. Sen. Ali Bulle, MP
17. Hon. Francis Mwangangi, MP
18. Hon. Moses Injendi, MP
19. Sen. Beatrice Elachi, MP
20. Sen. Isaac Melly, MP
21. Hon. Zipporah Jesang, MP
22. Hon. Grace Kipchoim, MP
23. Sen. Agnes Zani, MP
24. Hon. Mohamed Diriye, MP
25. Sen. Henry Tiolo Ndiema, MP
26. Hon. Rose Museo Mumo, MP
27. Sen. Godliver Omondi, MP
28. Hon. George W. Mallan Omondi, M.P
29. Hon. Peris Tobiko, M.P.
30. Hon. Elijah Memusi, M.P.

### **1.3 Committee Deliberations on the visit to Australia and New Zealand**

**Honorable Speaker,**

This report emanates from a visit by a delegation of the Joint Committee on National Cohesion and Equal opportunity to Australia and New Zealand undertaken between 9<sup>th</sup> October and 25<sup>th</sup> October, 2015 to acquaint itself with the working of national institutions that deal with issues of social cohesion and integration.

The delegation comprised of the following members of Parliament: -

1. Hon. Johnson Sakaja, M.P. (**Chairperson & Leader of the Delegation**)
2. Sen. Hargura Godana, MP (Vice Chairperson)
3. Hon. James Gordon Rege, MP
4. Hon. Kimani Ngunjiri, MP
5. Sen. Beatrice Elachi, MP
6. Hon. Zipporah Jesang, MP
7. Sen. Agnes Zani, MP
8. Hon. George W. Mallan Omondi, M.P
9. Hon. Peris Tobiko, M.P.

### **1.4 Objectives of the committee visits**

**Honorable Speaker,**

The objective of these visits was for the Committee to acquaint itself with the working of national institutions that deal with issues of social cohesion and integration in the countries visited. Of particular interest to the Committee was to study:-

1. Mechanisms put by the Government to protect the rights of indigenous groups and ensuring equal distribution of resources to all sections of the society.
2. Legislative measures put in place to promote harmonious co-existence across all section of the society; and
3. Role of other non-governmental agencies that complement the work of the state in fostering inclusivity in the society.

During the visits, the Committee interacted with its counterpart parliamentary Committee that deals with matters pertaining to indigenous Affairs, National Cohesion, Equal Opportunity and Human Rights.

### **1.5 Acknowledgement**

**Honorable Speaker,**

The Committee extends its appreciation to the offices of the Speakers and the Clerks of the Parliament for the support accorded to it in the execution of its mandate and the opportunity accorded to its members to undertake the study visit to Australia and New Zealand culminating in the production of this report.

Finally, I wish to express my appreciation to the Honorable Members of the Joint Committee who took part in the study visit and preparation of this report, the Ministry of Foreign Affairs and International Trade through the Kenyan High Commission in Canberra for securing and facilitating appointments with various government agencies.

### **1.6 Adoption of the report**

**Honorable Speaker,**

The Committee held Sittings during which Members considered the draft report on the international Visit to Australia and New Zealand in accordance with the Standing Orders and the Constitution. The minutes of these Sittings are appended to this report.

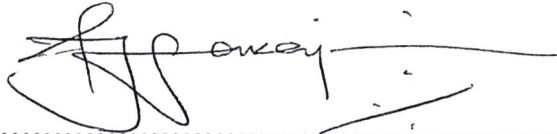
I would like to point out that the Committee was in agreement with the general observations and recommendations of the members who were in the delegation. However, the Committee proposed further recommendations as contained in the Committee report. All Members present adopted the Report unanimously. The Committee also resolved to submit the Report in the House.

**Honorable Speaker,**

It is therefore my pleasant duty and privilege, On behalf of the members of the Joint Committee on National Cohesion and Equal Opportunity and pursuant to the provisions of Standing Orders

of both houses of Parliament, I now have the honour to table the report of the joint committee on national cohesion and equal opportunity visit to Australia and New Zealand before the house, and commend it to the House for debate and adoption.

Thank you



**SIGNED** .....

**HON. JOHNSON SAKAJA, MP**  
**CHAIRPERSON, JOINT COMMITTEE ON NATIONAL COHESION**  
**AND EQUAL OPPORTUNITY**

**SIGNED** .....

**SEN. HARGURA GODANA, MP**  
**VICE- CHAIRPERSON, JOINT COMMITTEE ON NATIONAL COHESION**  
**AND EQUAL OPPORTUNITY**

**DATE**.....

## **2.0 BACKGROUND OF THE STUDY VISIT**

National Cohesion, equal opportunity has been elusive in Kenya since independence and perhaps even before then. The divisions in our country, lack of equality and equity led to serious violence in 2008, when the election outcome was given as the reason for violence which had however erupted along ethnic lines. This gave a big mirror for Kenya to look into itself and assess its unity as a country as envisaged the wise words and prayer in our national anthem and the Constitution.

Improving the equality and equity in resource allocation, employment opportunities and other natural resources among the people of Kenya is central to meeting the challenges of achieving national cohesion and equal opportunities for the growing population, creating more wealth, reducing poverty and managing the degradation of natural resources. A concerted effort has to be made in addressing the country's vulnerability to conflicts and disputes arising from its diversity in traditions, cultural practices and resource allocation among the communities.

Over the last four years and especially after the enactment of the new constitution in 2010, numerous laws, policies and efforts have been made and developed in order to improve Kenya's chances of remaining a stable, united and prosperous country. All this reformist laws, policies and other relevant efforts that will be made the future, need to be assessed, compared and integrated with other success laws and policies in other jurisdictions to see the extend to which they can go give effect to the principles and values of the constitution in respect to promoting national cohesion and integration, equity, equality and non-discrimination. The obligations to promote equality, national cohesion, non-discrimination, including on ethnic grounds, also stem from an array of international law, which are now part of the law of Kenya according to article 2 (5-6) of the Constitution.

Attaining food security in Kenya is paramount. As a country, Kenya has over the years experienced difficult times as a result its inability to attain food security status for its population. This has stunted economic transformation and is the subject of debates that have placed doubts as to whether the country will be achieve its goal of industrialization envisaged in the Vision 2030.



It has been noted that Turkey has a large and growing food and agriculture industry that corresponds to 9 percent of the overall gross value-added (GVA) and 25 percent of the employment levels in the country. The strengths of the industry include the size of the market in relation to the country's young population, a dynamic private sector economy, substantial tourism income and a favorable climate.

Turkey has a population of 76 million people and is growing with a rising income. This makes Turkey one of the largest markets in its region, and the changing consumer habits of the younger generation boost domestic consumption. Consequently, Turkey's food industry has registered steady growth in recent years, with Turkish consumers becoming increasingly demanding, driven by the multitude of choices offered by mass grocery retail outlets. Rising disposable income and changing consumption patterns, along with the increase in the number of females in full-time employment, have all led to an increase in interest as regards packaged and processed food, such as ready-to-eat meals and frozen food.

### **3.0 STUDY VISIT TO AUSTRALIA**

Australia is a developed country with a prosperous multicultural society and excellent results in many international comparison of national performance such as human development, quality of life, health care, life expectancy, public education, economic freedom and the protection of civil liberties and political rights. Australia has six States- New South Wales, Queensland, South Australia, Tasmania, Victoria, and Western Australia. Each State has its own legislature or parliament and the head of government in each State is the Premier.

The Joint Committee on National Cohesion and Equal opportunity visited Australia to meet and interact with various Australian stakeholders connected to, in one way or another, National Cohesion and Equalization of opportunity. These were varied range from state to non-state actors.

The Committee settled on Australia for a study visit because it is the home of a global heritage, strong traditions of liberal democracy, an independent judiciary and a robust media, which have sufficiently protected the rights, and freedoms of all the people.

Australia is also a signatory to a number of UN Conventions relating to human rights, discrimination and the need to treat people fairly, all of which have been enshrined in various domestic statutes. These include the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

Aboriginal and Torres Strait Islander peoples are the most disadvantaged peoples in Australia. This is in addition to people of diverse sexuality, sex or gender, people with a disability, women, people who are culturally or linguistically diverse, people living in regional or remote locations, the elderly and the young who experience higher rates of social inequity, discrimination and disadvantage. This begs the question of the Government's overall approach to Aboriginal and Torres Strait Islander disadvantage, which was the main focus of this study.

The study tour comprised of a combination of visits to institutions and bodies and meetings with Australian counterparts. The Committee was interested in studying the Mechanisms put in place by the Government of Australia to protect the rights of Aboriginal and Torres Strait Islander people and other indigenous groups. The committee further understood how the government ensures equal distribution of resources to all sections of the society.

The Committee focused its attention into understanding the role of the National Governance; issues of government income, revenue sharing and the role of the Australian Human Rights and Equal Opportunity Commission (HREOC). The committee sought to know, the role of the Human Rights and Equal Opportunity Commission (HEROC). The Committee was particularly interested to hear about the situation of indigenous rights in Australia; the investigative powers of HREOC and how the commission addresses public grievance.

The committee was also interested to find what building blocks have been put in place targeted at different areas of disadvantage and how were such building blocks put in place. And whether

such building blocks are anchored in the law and what was the process through which such anchoring took place. The committee sought to know how the Australian government ensures that sufficient resources are allocated to implementation of various efforts towards equalization of opportunities.

The Committee also attempted to acquaint itself with the legislative measures that have been put in place by the Australian Parliament to promote harmonious co-existence across all the sections of the society. The Committee specifically raised issues around the legislative efforts that have been put in place to address the challenges posed by the policies, which directly and indirectly discriminate against Aboriginal and Torres Strait Islander peoples.

The committee also studied the legislative protections and institutional framework that have been put in place to ensure compliance with international Human Rights treaties and statutes. The committee understood the general oversight responsibility that Parliament in Australia has over institutions that address equality and discrimination.

To fully understand these issues, the committee had meetings with the following institutions among others:-

- I. Parliament of Australia: The House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs
- II. Australian Human Rights Commission: Human Rights and Equal Opportunity Commission
- III. The Human Rights Council of Australia, which is one of the organizations, committed to promoting universal human rights for all without discrimination.
- IV. The Council for Aboriginal Reconciliation
- V. Visit to Kenya High Commission in Canberra
- VI. Meeting with the Department of Social Services at the Kenya High Commission
- VII. Visit to Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS).

## **4.0 STUDY VISIT TO NEW ZEALAND**

New Zealand is situated in the South Pacific Ocean, between latitude 34°S and 47°S. The country runs roughly north-south with mountain ranges down much of its length. Its two main islands (North and South) cover 266,200 sq km (103,735 sq miles), about the size of Japan or California and slightly larger than Great Britain.

### **4.1 Natural environment**

New Zealand's separation from other land masses about 100 million years ago allowed many ancient plants and animals to survive and evolve in isolation. Complementing our unique flora and fauna (principally birds, of which the best known is the flightless kiwi, New Zealand's unofficial national symbol) is a landscape that contains an unrivalled variety of landforms. In a couple of days drive it is possible to see everything from mountain ranges to sandy beaches, lush rainforests, glaciers and fiords and active volcanoes.

### **4.2 History**

The Māori were New Zealand's first settlers. They made an epic journey from the legendary Hawaiki, probably in Polynesia to the north of New Zealand, about 1000 years ago. The great explorer Kupe, who legend says first discovered New Zealand, named the new land Aotearoa – Land of the Long White Cloud.

The first documented European to discover New Zealand was Dutch navigator Abel Tasman, who came here in 1642 in search of the fabled great southern continent. More than 125 years later, in 1769, Captain James Cook claimed it for Britain and produced a map of the country.

New Zealand has a unique traditional bicultural heritage and history. The first settlers were Māori who created waka regions based on their landing point and inland migration patterns. The Māori societal structure – iwi, hapū and whānau – belonging, identity of the Māori have a unique culture with customs and values that continue today.

The arrival of European whalers, sealers, traders and later settlers brought a period of struggle for many iwi groups as people fought for land and power. The impact of colonisation and

assimilation saw Māori alienated from their land, culture and language. This historical context has contributed to the inequity that we see in Māori society today. The Last 2 – 3 decades has been the Māori renaissance. Māori are re-designing their future. The Māori organisational, economic and educational development has led to the emerging Māori dynamic and wealth creation.

The Māori see the way to the future lies in collectivisation across education, business, and health, and politics, legal and environmental issues being involved in both national and local politics lifting the social fabric of our society. The Māori Asset Base is estimated to be near \$42 Billion. According to an economist Dr Ganesh Nana the Māori asset base can be so much more through a better export regime and that it will grow through a more savvy approach by Iwi and Māori business and that a sound Māori economy will mean a sound New Zealand economy

The Maori's ultimate goal is in Understanding their past to inform their future; Educated in both Māori world and the wider world. Local, regional, national and international players.

The Maori have politically positioned to assist people's progression, lifting social and economic fabric of Māori society and Ensuring a Māori world, for Māori, by Māori. The Maori are very clear that the future lies firmly with the young.

The Maori want everyone to know something about them. The Maori have a distinctive culture and have their own distinctive language. The Maori are politically savvy whereas on the indigenous front the Māori are active participants and are interested in other cultures, other people. The Māori also have stories of struggle and determination

The committee visited the following institutions to learn more about the Maori's in New Zealand:-

- i. Ministry Foreign Affairs and Trade
- ii. Office of Treaty Settlement
- iii. Visit to Waitangi Tribunal
- iv. Meeting with Maori Affairs Select Committee
- v. Meeting with the Speaker of the House, Rtd. Hon David Carter

- vi. Parliament of New Zealand Introduction to the House and watch Question Time.
- vii. Meeting with Hon Andrew Bailey, Chair of Africa Parliamentary Friendship Group
- viii. Office of Ethnic Communities, Department of Internal Affairs with a focus on social cohesion, policies and activities.
- ix. Visit to Human Rights Commission of New Zealand,
- x. Visit to Te Puni Kokiri – Realizing Maori potential.

### **Parliament of New Zealand**

New Zealand has a unicameral Parliament consisting of a House of Representatives elected for a term of up to three years. The House is elected using the mixed member proportional representation voting system. Normally there are 120 members of the House of Representatives, of which 70 are directly elected and 50 are drawn from party lists.

Currently, there are seven political parties represented in the House. The National Party has formed a minority Government and has confidence and supply agreements with the ACT Party, the Māori Party, and the United Future Party. The Labour Party is the main opposition party. Other parties represented in the House are the Green Party, and New Zealand First.

The New Zealand Parliament follows the Westminster tradition of parliamentary practice and procedure, although some aspects of our practice and procedure have been adapted to suit New Zealand requirements.

New Zealand has no single written constitution or law that is higher than the laws passed in Parliament. Our constitutional rules are contained in a number of Acts of Parliament, documents issued under the authority of the Queen, relevant English and United Kingdom Acts of Parliament, common law, and unwritten constitutional conventions.

## 5.0 COMMITTEE OBSERVATION

The Committee made the following observations:-

- i. The Australian High Commission was established in 1986 by an act of the federal Parliament. It is an independent statutory organization and report to the federal Parliament through the Attorney General.
- ii. The Australian Parliament has a Standing Committee on Indigenous Affairs consisting of six government Members and four non-government Members appointed under Standing Orders of the federal parliament and may inquire into and report on any matter referred to it by either the House or a Minister, including any pre-legislation proposal, bill, motion, petition, vote or expenditure, other financial matter, report or document.
- iii. The Department of Social Services of the Australian government aspires to be Australia's pre-eminent social policy agency whose mission is to improve the lifetime wellbeing of people and families in Australia.
- iv. The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) is a world-renowned research, collections and publishing organisation that promote knowledge and understanding of Aboriginal and Torres Strait Islander cultures, traditions, languages and stories, past and present
- v. Te Puni Kōkiri means a group moving forward together. As the name implies, seeks to harness the collective talents of Māori to produce a stronger New Zealand.
- vi. The Treaty of Waitangi Act 1975 established the Waitangi Tribunal in New Zealand in 1975. The Tribunal is a permanent commission of inquiry charged with making recommendations on claims brought by Māori relating to actions or omissions of the Crown that potentially breach the promises made in the Treaty of Waitangi.
- vii. The New Zealand Human Rights Commission was set up in 1977 and works under the Human Rights Act 1993. Its purpose is to promote and protect the human rights of all

people in Aotearoa New Zealand. The Human Rights Commission work for a free, fair, safe and just New Zealand, where diversity is valued and human dignity and rights are respected.

- viii. New Zealand is one of the most ethnically diverse countries with about 213 ethnic groups that call New Zealand home. This diversity helps New Zealand to move forward economically, socially and culturally.
- ix. The Office of Ethnic Communities formerly known as the Office of Ethnic Affairs work has been evolving to reflect the changing nature and needs of New Zealand society, making the most of the ethnic diversity that requires New Zealand to look ahead and make choices about where New Zealand should put its efforts.
- x. In an increasingly complex world New Zealand is confronting many challenges and opportunities to fully embrace the notion of inclusiveness and full participation to leverage the social and economic benefits of ethnic diversity. Office of Ethnic Communities works toward ensuring the benefits of ethnic diversity are realized and the challenges are mitigated.

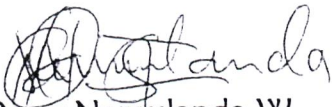


## **6.0 COMMITTEE RECOMMENDATIONS**

The Committee recommends the following to the house:-

1. The Executive to reorganize government functions so as to merge the department of National Cohesion and the department of conflict management and thereafter transfer these functions to the National Cohesion and Integration Commission.
2. The National parliament to fasttrack the review of the NCI Act to broaden its mandate with statutory responsibility to ensure the observance of social cohesion, prevention of violent extremist and to enhance respect and acceptance of diversity.
3. The National Cohesion and Integration Act to incorporate commitments to strengthen the activities which are not limited to Reconciliation, our Disability, Ethnic diversity and Equality and thereafter streamlined and intensified in all government agencies.



Oscar Namulanda W. – Senior Clerk Assistant  
For: CLERK OF THE NATIONAL ASSEMBLY

