

REPUBLIC OF KENYA

Paper Laid



KENYA NATIONAL ASSEMBLY

*By the chairman of
Departmental
Committee Hon
Asman Kamana
on Wednesday
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ELEVENTH PARLIAMENT – FIRST SESSION - 2013

REPORT OF THE
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL
SECURITY ON THE CONSIDERATION OF THE NATIONAL POLICE SERVICE
(AMENDMENT) BILL, 2013, AND THE NATIONAL POLICE SERVICE
COMMISSION (AMENDMENT) BILL, 2013



CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

SEPTEMBER, 2013

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PREFACE

Mr. Speaker, Sir,

The Parliamentary Departmental Committee on Administration and National Security was constituted pursuant to the provisions of Standing Order No. 216(1) of the National Assembly and has executed its mandate in accordance with the provisions of the said Standing Order 216 (5), which mandates the Committee to, inter alia;

- (i) study and review all legislation referred to it;*
- (ii) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

Mr. Speaker,

The Committee, according to Schedule II of the Standing Orders, examines the following subjects:

- i) Public Administration
- ii) National security
- iii) Internal Security
- iv) Immigration
- v) Prisons Service
- vi) National Youth Service, and;
- vii) Natural disasters

The Committee oversees the following Ministries and Departments:

- i) The Presidency (Cabinet Services & State Affairs)
- ii) Ministry of Interior and Coordination of National Government
- iii) Public Service Commission
- iv) National Police Service Commission
- v) Independent Policing Oversight Authority

Mr. Speaker, Sir,

The following are the Members of the Committee:

The Hon. Asman Kamama, MGH, OGW, MP - **Chairperson**
 The Hon. Alois M. Lentoimaga, MP - **Vice Chairperson**
 The Hon. Dalmás Otieno, EGH, MP
 The Hon. Ababu Namwamba, EGH, MP
 The Hon. Joseph Lekuton, MP
 The Hon. Alice Wahome, MP
 The Hon. Zakayo K. Cheruiyot, MP
 The Hon. Timothy W. Wetangula, MP

The Hon. Patrick Ole Ntutu, MP
 The Hon. Ali Isaack Shaaban, MP
 The Hon. Samuel Moroto, MP
 The Hon. Humphrey Njuguna, MP
 The Hon. Francis K. Mwangangi, MP
 The Hon. Rashid J. Bedzimba, MP
 The Hon. David Gikaria, MP
 The Hon. Mohamed Shidiye, MP
 The Hon. Jane Machira, MP
 The Hon. Ibrahim Abdi Saney, MP
 The Hon. Joseph O. Ndiege, MP
 The Hon. (Maj. Rtd.) John K. Waluke, MP
 The Hon. Wanjiku Muhia, MP
 The Hon. Akuja Protus Ewesit, MP
 The Hon. Joseph M. Kahangara, MP
 The Hon. Ahmed Abdikadir Ore, MP
 The Hon. Grace Kiptui, MP
 The Hon. George Theuri, MP
 The Hon. James Bett, MP
 The Hon. Benard Shinali, MP

Mr. Speaker,

The National Police Service (Amendment) Bill, 2013 and the National Police Service Commission (Amendment) Bill, 2013, underwent the First Reading on Tuesday, 23rd July, 2013 and were effectively committed to the Committee on Administration and National Security, as provided for in Standing order 127(1).

A procedural motion was moved to reduce the publication period of the Bills from fourteen to seven days. The reduction of the publication period for the Bills was meant to fast-track their processing and ensure that they could be returned to the House for debate as soon as the Committee concluded their scrutiny.

Pursuant to Article 118(b) and Standing Order 127(3) which require public participation and involvement in the legislative and other business of Parliament and its Committees, a notification was placed in the mainstream print media on 25th July, 2013, informing the public that the Committee was considering amendments to the National Police Service Act 2011, and the National Police Service Commission Act, 2011, and inviting them to submit any representations they might have on the proposed amendments.

Mr. Speaker, Sir,

The Committee held a total of eighteen meetings. A number of the meetings were held with stakeholders during the scrutiny of the Bills. Some of the stakeholders included;

- i) Commission on the Implementation of the Constitution (CIC)
- ii) The Independent Policing Oversight Authority (IPOA)
- iii) The National Police Service Commission
- iv) The Inspector General of Police
- v) Kenya National Commission on Human Rights (KNCHR)
- vi) The Kenya Law Reform Commission
- vii) The Attorney General's Office
- viii) The Ministry of Interior and Coordination of National Government
- ix) The Kenya Private Sector Alliance (KEPSA)
- x) Kenya Citizens Group comprising:-
 - Katiba Institute;
 - Independent Medico-Legal Unit (IMLU);
 - Kenya Human Rights Commission (KHRC);
 - Usalama Forum;
 - Constitution and Reform Education Consortium (CREC); and,
 - URAIA.

The Committee also received written memoranda from the public and the private sector. Persons who sent memoranda included Mr. Julius E. Indeché of P.O. Box 43785 – 00100, Nairobi. The Committee received written Memoranda from CIC, KNCHR, KEPSA and Kenya Citizens Group.

Mr. Speaker,

The recent controversy surrounding the Office of the Inspector General of Police and National Police Service Commission, over the perceived duplication of the roles of the above Offices has hindered effective service delivery by the police to the public. The object of these two Bills is therefore, to harmonize the mandates of the two Offices, as well as remove any aspects of overlap of law between the two.

Mr. Speaker, Sir,

In examining the Bills, the Committee noted that some proposed amendments especially the involvement of the Cabinet Secretary in human resource matters of the National Police Service and the National Police Service Commission would greatly erode the independence of these institutions; which is in contravention of Chapter 15 of the Constitution.

The Committee proposed that in the appointment of the Inspector General of Police, a competitive process should be put into place. Such appointment should go through a Selection Panel that shall interview several candidates, forward three names to the President who shall pick one name and send it to Parliament for vetting and approval.

The Committee also observed that the in removing the Inspector General of Police from office after a petition, it was necessary for the President to set up a tribunal to give a fair hearing before the name was forwarded to Parliament for recommendation. This would ensure that the petition was justified; and that a fair hearing was accorded to the person being considered for removal.

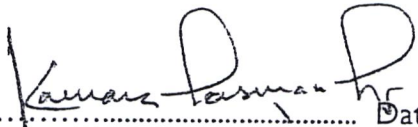
It was further observed that the quorum of the membership of the National Police Service Commission was increased from five to six. However, the Committee proposed that at least two members of the uniformed service ought to be present in any given meeting of the Commission. This will ensure decisions made by the Commission are inclusive of the views and recommendations of the National Police Service.

Mr. Speaker,

The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings. The Committee wishes to thank all the stakeholders for their participation and meticulous scrutiny of the Bills during their engagement with the Committee. Lastly, the Committee is grateful to the Ministry of Interior and Coordination of National Government for initiating, drafting and publishing the Bills whose importance cannot be gainsaid.

Mr. Speaker, Sir,

On behalf of the Committee, and pursuant to Standing Order III (2), it is my pleasant duty to table in the House the Report of the Departmental Committee on Administration and National Security on its scrutiny of the National Police Service (Amendment) Bill, 2013 and the National Police Service Commission (Amendment) Bill, 2013.

Signed.....  Date..... 25/9/2013

Hon. Asman Kamama, MGH, OGW, MP
Chairman, Departmental Committee on Administration and National Security

COMMITTEE'S CONSIDERATION OF THE NATIONAL POLICE SERVICE (AMENDMENT) BILL, 2013

The Committee deliberated on the Bill as follows;

- Clause 1 to - Clause 3 - Agreed to
- Clause 4 - Proposed amendment
- Clause 5 to - Clause 8 - Agreed to
- Clause 9 to - Clause 10 - Proposed amendment
- Clause 11 - Agreed to
- Clause 12 - Proposed amendment
- Clause 13 to - Agreed to
- Clause 14 - Proposed amendment
- Clause 15 to - Clause 16 - Agreed to
- Clause 17 - Proposed amendment
- Clause 18 to - Clause 21 - Agreed to
- Clause 22 - Proposed amendment
- Clause 23 - Clause 33 - Agreed to
- Clause 34 - Proposed amendment
- Clause 35 to - Clause 53 - Agreed to
- Clause 54 - Proposed amendment
- Clause 55 - Agreed to
- Title - Agreed to

COMMITTEE'S PROPOSED AMENDMENTS ON THE NATIONAL POLICE SERVICE (AMENDMENT) BILL, 2013

The Committee proposes the following amendments to the National Police Service Commission (Amendment) Bill, 2013;

CLAUSE 4

THAT, clause 4 be deleted.

CLAUSE 9

THAT, clause 9 be amended, in the proposed new section 8A(5), by inserting the words "in writing" immediately after the word "direction".

CLAUSE 10

THAT, clause 10 be amended by deleting paragraph (d).

CLAUSE 12

THAT, clause 12 be amended by deleting subsection (2) of the proposed new section 12 and substituting therefor the following new subsections—

“(1) The President shall, within fourteen days after a vacancy occurs in the office of the Inspector-General, constitute a selection panel comprising one person from each of the following bodies, respectively—

- (a) the Office of the President;
- (b) the Public Service Commission;
- (c) the National Police Service Commission;
- (d) the Independent Policing Oversight Authority;
- (e) the Kenya National Commission on Human Rights;
- (f) the National Gender and Equality Commission; and
- (g) the Law Society of Kenya.

(2) The Public Service Commission shall—

- (a) convene the first meeting of the selection panel, at which the members of the selection panel shall elect a chairperson from among their number; and
- (b) provide the selection panel with such facilities and other support as it may require for the discharge of its functions.

(3) The selection panel shall, within seven days of its convening, by advertisement in at least two daily newspapers of national circulation, invite applications from persons who qualify for nomination and appointment as the Inspector-General.

(4) The selection panel shall—

- (a) consider the applications received under subsection (3) to determine their compliance with the provisions of the Constitution and this Act;

- (b) shortlist the applicants;
- (c) publish the names of the shortlisted applicants and the qualified applicants in at least two daily newspapers of national circulation;
- (d) conduct public interviews of the shortlisted persons;
- (e) shortlist three qualified applicants; and,
- (f) forward the names of the qualified persons under paragraph (e) to the President.

(5) The President shall, within fourteen days of receipt of the names of successful applicants forwarded under subsection (4)(f), nominate a person for appointment as the Inspector-General and submit the name of the nominee to Parliament.”

CLAUSE 14

THAT, clause 14 be deleted and replaced with the following new clause—

Amendment
of section 15
of No. 11 of
2011.

14. Section 15 of the principal Act is amended—

- (a) in subsection (2), by deleting the word “Commission” and substituting therefor the words “Independent Policing Oversight Authority”;
- (b) by deleting subsection (3) and substituting therefor the following new subsection—

“(3) The Independent Policing Oversight Authority shall, within fourteen days of receipt of a petition under subsection (2), consider the petition and, if at least two thirds of the members present and voting agree that it discloses a ground under subsection (1), the Independent Policing Oversight Authority shall recommend to the President the removal of the Inspector-General”;

- (c) by deleting subsection (4);
- (d) by deleting subsection (5) and substituting therefor the following new subsection—

“(5) On receiving a petition under subsection (3), the President—

- (a) shall, within fourteen days of receipt of the petition, appoint a tribunal in accordance with subsection (6); and
- (b) may suspend the Inspector General, as the case may be, pending the outcome of the petition”;

- (e) by deleting subsection (7) and substituting therefor the following new subsections—

“(7) The tribunal shall, within fourteen days, investigate the matter, report on the facts and make a recommendation to the President.

(7A) The President shall consider the recommendation of the tribunal and if necessary, recommend to Parliament the removal of the Inspector-General.”

CLAUSE 17

THAT, clause 17 be amended by deleting subsection (1) of the proposed new section 21 and substituting therefor the following new subsection—

“(1) There is established a Service Board which shall consist of the Inspector-General, the two Deputy Inspectors-General, the Director of Criminal Investigation Department and the head of human resource of the Service.”

CLAUSE 22

THAT, clause 22 be amended by deleting paragraph (b).

CLAUSE 34

THAT, clause 34 be amended—

- (a) in the proposed new section 80A(1), by deleting the words “the Cabinet Secretary in consultation with the Inspector-General” and substituting therefor the words “the Commission”;
- (b) in the proposed new section 80A(3), by deleting the words “Cabinet Secretary” and substituting therefor the word “Commission”.

CLAUSE 54

THAT, clause 54(c) be amended by adding the following words:- “ through use of justifiable force” after the words “protection of life and property”.

COMMITTEE’S CONSIDERATION OF THE NATIONAL POLICE SERVICE COMMISSION (AMENDMENT) BILL, 2013

The Committee deliberated on the Bill as follows;

Clause 1 to	- Clause 2 - Agreed to
Clause 3	- Proposed amendment
Clause 4	- Agreed to
Clause 5	- Proposed amendment
Clause 6	- Agreed to
Clause 7	- Proposed amendment
Clause 8	- Agreed to
Title	- Agreed to

COMMITTEE’S PROPOSED AMENDMENTS ON THE NATIONAL POLICE SERVICE (AMENDMENT) BILL, 2013

The Committee proposes the following amendments to the National Police Service Commission (Amendment) Bill, 2013;

CLAUSE 3

THAT, clause 3 be amended in paragraph (a), by deleting the words “and approval of the Cabinet Secretary” appearing in the proposed new paragraph (a).

CLAUSE 5

THAT, clause 5 be deleted.

CLAUSE 7

THAT, clause 7 be deleted and replaced with the following new clause—

Amendment of the Second Schedule of No. 30 of 2011. **7.** The principal Act is amended in the Second Schedule by deleting paragraph 3 and substituting therefor the following new paragraph—

Quorum. **3.** The quorum of meetings of the Commission shall be six members, who shall include—

- (a) the four members appointed under Article 246(2)(a)(i) and (iii) of the Constitution; and
- (b) any two of the members appointed under Article 246(2)(b) and (c).

MINUTES OF THE 20TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 23RD JULY 2013, IN THE BOARDROOM, 11TH FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS, AT 10.30 AM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH,OGW,MP - Chairperson
2. The Hon. Alois M. Lentoimaga, MP - Vice Chairperson
3. The Hon. Dalmás Otieno, EGH, MP
4. The Hon. Ababu Namwamba, EGH, MP
5. The Hon. Jane Machira, MP
6. The Hon. Akuja Protus Ewesit, MP
7. The Hon. Timothy W. Wetangula, MP
8. The Hon. Wanjiku Muhia, MP
9. The Hon. Mohamed Shidiye, MP
10. The Hon. Humphrey Njuguna, MP
11. The Hon. Benard Shinali, MP
12. The Hon. James Bett, MP
13. The Hon. George Theuri, MP
14. The Hon. Grace Kiptui, MP
15. The Hon. Zakayo K. Cheruiyot, MP
16. The Hon. Francis K. Mwangangi, MP
17. The Hon. Samuel Moroto, MP
18. The Hon. David Gikaria, MP
19. The Hon. Joseph Kahangara, MP
20. The Hon. Patrick Ole Ntutu, MP
21. The Hon. Ahmed Abdikadir Ore, MP
22. The Hon. Joseph O. Ndiege, MP
23. The Hon. Joseph Lekuton, MP

ABSENT WITH APOLOGY

1. The Hon. Ibrahim Abdi Saney, MP
2. The Hon. Rashid J. Bedzimba, MP
3. The Hon. Shaaban Ali Issack, MP
4. The Hon. (Maj. Rtd.) John K. Waluke, MP
5. The Hon. Alice Wahome, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Michael Karuru - Principal Legal Counsel
3. Mr. Philemon Riaga - Parliamentary Intern

MIN. NO. 86/2013 - PRELIMINARY

The Meeting was called to order at fifteen minutes after eleven o'clock. A prayer was said. The agenda of the day was adopted after being proposed by the Hon. Wanjiku Muhia, MP, and seconded by the Hon. George Theuri, MP.

MIN. NO 87/2013 - CONFIRMATION OF MINUTES

Confirmation of minutes of the previous sittings was deferred to a later date.

MIN. NO. 88/2013 - DELIBERATIONS ON THE DROUGHT MANAGEMENT AUTHORITY BILL, 2013

The Committee agreed to consider the above Bill on Tuesday 30th July 2013. This was to give the members enough time to deliberate on the substantive agenda of the day - the Police Bills.

MIN. NO. 89/2013 - DELIBERATIONS ON THE NATIONAL POLICE SERVICE COMMISSION (AMENDMENT) BILL, 2013 AND THE NATIONAL POLICE SERVICE (AMENDMENT) BILL, 2013

The Committee agreed on the need for more time to go through the proposed amendments before giving its inputs on the two Bills. The Members resolved to reconvene on Thursday 25th July 2013, to acquaint themselves with the two Bills and make their contributions.

The meeting further agreed to meet the Commission on the Implementation of the Constitution (CIC) on Thursday 25th July 2013 to seek their position on the above Bills.

MIN. NO. 90/2013 - INDUCTION SEMINAR

The Committee proposed to undertake an Induction Seminar on 13th to 16th August 2013, in Pangoni Beach Hotel in Mombasa.

MIN. NO. 91/2013 - ANY OTHER BUSINESS

The Chairperson informed the meeting that the proposed weekly briefings with the Interior Ministry on security related issues would commence on Tuesday 30th July 2013.

The Committee agreed to meet the author of the two Bills, the Ministry of Interior and Coordination of National Government, to share with the Committee their reasons behind the amendments. This would be done after meeting CIC and consideration of memoranda from the public.

The Meeting further agreed that the Cabinet Secretary, Ministry of Lands, Housing and Urban Development should be reminded to furnish the Committee with the Report on the partitioning project on the building occupied by the National Police Service Commission failure to which, she be summoned to appear before the Committee over the same report.

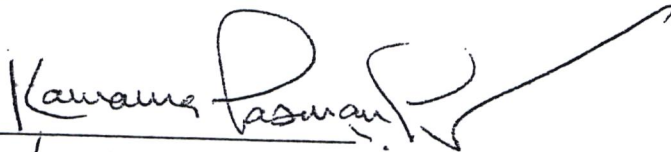
MIN. NO. 92/2013 - ADJOURNMENT

There being no other business, the meeting was adjourned at forty minutes after twelve O'clock. The next meeting would be held on Thursday, 25th July 2013, in the Boardroom, 2nd floor, Protection House, at 10.00 am.

Signed:

Chairperson:

Date:



24/9/2013

MINUTES OF THE 21ST SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 25TH JULY 2013, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDING, AT 10.30 AM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH,OGW,MP - Chairperson
2. The Hon. Alois M. Lentoimaga, MP - Vice Chairperson
3. The Hon. Dalmas Otieno, EGH, MP
4. The Hon. Alice Wahome, MP
5. The Hon. Akuja Protus Ewesit, MP
6. The Hon. Timothy W. Wetangula, MP
7. The Hon. Wanjiku Muhia, MP
8. The Hon. Humphrey Njuguna, MP
9. The Hon. Benard Shinali, MP
10. The Hon. James Bett, MP
11. The Hon. George Theuri, MP
12. The Hon. Grace Kiptui, MP
13. The Hon. Zakayo K. Cheruiyot, MP
14. The Hon. Francis K. Mwangangi, MP
15. The Hon. Samuel Moroto, MP
16. The Hon. David Gikaria, MP
17. The Hon. Patrick Ole Ntutu, MP
18. The Hon. Ahmed Abdikadir Ore, MP
19. The Hon. Joseph O. Ndiege, MP
20. The Hon. Jane Machira, MP
21. The Hon. Joseph Lekuton, MP
22. The Hon. Ibrahim Abdi Saney, MP
23. The Hon. Rashid J. Bedzimba, MP
24. The Hon. Shaaban Ali Issack, MP
25. The Hon. (Maj. Rtd.) John K. Waluke, MP

ABSENT

1. The Hon Ababu Namwamba, MP
2. The Hon. Joseph Kahangara, MP
3. The Hon. Mohamed Shidiye, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga – Principal Clerk Assistant.
2. Mr. Philemon Riaga – Parliamentary Intern

IN ATTENDANCE – COMMISSION ON THE IMPLEMENTATION OF THE CONSTITUTION

1. Mr. Charles Nyachae – Chairperson
2. Ms. Elizabeth Muli – Vice - Chairperson

MIN. NO. 93/2013 – PRELIMINARY

The meeting was called to order at eleven O'clock. Prayers were said, followed by introductions. The agenda of the day was adopted after being proposed by the Hon. Benard Shinali, MP, and seconded by the Hon. Akuja Protus Ewesit, MP.

MIN. NO. 94/2013 – PRESENTATION BY THE COMMISSION ON THE IMPLEMENTATION OF THE CONSTITUTION

During interaction with the Committee, the CIC Vice-Chairperson took Members through the proposed amendments to the two Bills, as follows;

National Police Service (Amendment) Bill 2013

Clause No.	Proposed amendment in the Bill	Recommendation	Justification
Clause 3	Amendment to section 2 of the NPS Act.	Definition of— (a) APS; (b) DIG; (c) Gazetted officer; (d) IG; and (e) KPS; Adopted.	With regard to the definition of a gazetted officer: Managerial responsibility must have the authority and mandate to issue orders. Amendment will facilitate the independent command of the IG- Article 245(2)(b)
New proposal	Amendment to section 5 of the NPS Act.	Delete the words "composition of the"	It is not possible at the moment to attain the dictates of section 5 as provided with regard to the composition owing to recruitments done prior to the promulgation of the Constitution that did not comply with the gender principle. This removal of the reference to "composition" ensures that the Service is not in violation while requiring it, to apply the principle with respect to all new appointments.
New proposal	Amendment to 7(2) and (3) of the NPS Act.	Vetting of officers to be moved to the transition part of the Act.	Improvement of formatting and logical flow of the Act.
Clause 7	Amendment to section 7 of the NPS Act	Insert a new subsection (4) to read as follows: The Commission shall in consultation with the Cabinet Secretary, develop criteria and regulations to guide the exercise of vetting of officers referred to under subsection (1).	This amendment accords with the Fourth Schedule Part I (7) where the Cabinet Secretary has a role on matters of setting standards of recruitment, training of police and use of police services. Vetting should ensure that the service officers can meet the requisite standards.
Clause 17	New section.	Establishes a Service Board, comprising of the IG, DIG-KPS, DIG-APS and co-opt the Director CID and other Directors as may be necessary. Service Board may establish committees. In those committees may co-opt into their membership any person to whose expertise or knowledge could add value to the Service Decisions of the Service Board are binding on the Service. Decision of the Service Board to be communicated by the IG. Service Board to maintain records, minutes and resolutions of all its meetings. Service Board to appoint a	The amendment is necessary to give effect to article 245 that establishes the command structure of NPS by creating a forum that allows the top command of the NPS to meet and agree on the NPS recommendations constituting the recommendations of KP and AP that shall be submitted to NPSC for consideration. Functions of the Service Board (a) receive and act on reports submitted to the Service Board by the Cabinet Secretary, the IG, the DIGs or Director-CID; (b) facilitate coordination of all police operations; (c) advise the IG on day to day operations and administration of the Service; (d) advice the IG on matters relating to distribution and deployment in the Service (e) determine the recommendations of the service on

		secretary of the Board from amongst the officers of the Service	recruitment, promotions, transfers and discipline for submission to NPSC.
Clause 10 (b)	Amendment to section 10(1)(l) of the NPS Act.	In (l) insert the words "on the recommendation of the Service Board "	The earlier proposals on the establishment of the Service's Council provide a forum for effective command and a structure to facilitate consultation in the Service.
Clause 10(c)	Section 10(1)(m) of the NPS Act.	Delete paragraph (m) Insert the words "including compensation to victims of police misconduct"	Amendment is to collapse sub-clause (m) and (t) which provide for the same matter.
New proposal.	Section 10 (2) of the NPS Act.	Insert paragraph (r) immediately after words subsection (1)	Editorial and for clarity.
Clause 10(e)	Section 10(3) of the NPS Act.	Insert the words "on enlistment" immediately after the words "police officer"	For clarity and to ensure officers get the service orders upon recruitment.
Clause 11	Amendment to section 11(2)(f) of the NPS Act.	Proposal not adopted. Retain at "senior superintendent" as is provided for in the Act.	Appreciating the command structure, the position of superintendent is low however moving it to assistant inspector-General of police is way to high and limiting the scope of qualified and capable applicants for the position of DIG.
Clause 12	Amendment to section 12 of the NPS Act.	Remove the reference to NPSC.	The role of the Commission in the appointment of the IG is not necessary. Article 245(2) does not recognize the role of the Commission in the appointment of the IG. The Constitution states that "The IG is appointed by the President with the approval of Parliament" See provision on the appointment of all other Security organs heads e.g. under the NIS Act on the appointment of DG or KDF on the appointment of CDF or VCDF or Service Commanders. The amendment is necessary to give effect to Article 245(2) and to harmonize with the other security organs. Further, to resolve the interrelationship qualms between the IG and NPSC due to misconception that the IG is an employee of the NPSC therefore subordinate to NPSC.
Clause 13	Amendment to Section 13(7) of the NPS Act.	Delete (7) For purposes of appointment of the Deputy Inspector General before the establishment of the Commission, the procedure set out in the Third Schedule shall apply, except that the provisions in the Schedule requiring approval by Parliament shall not apply."	This is a sunset clause and has been superseded by events.
Clause 14	Amendment to section 15 of NPS Act	Amendment adopted but recommend to delete the words 'shall recommend to Parliament the removal of the Inspector General' and replace with provision for the appointment of a tribunal to consider petition and the President's power to dismiss as set out in article 132(2).	The amendment gives effect to article 132(2) of COK, 2010 that empowers the President to dismiss the state officers that the Constitution requires the President to appoint. The removal of the Inspector General does not require the role of Parliament. Only the appointment of the IG requires the approval of Parliament. It is important to note that the appointment and removal of the

			<p>Inspector general as a substantive state office is provided for in the NPS Act. The office of IG in NPS Act is not the office of a member of the NPSC which is provided for in a separate Act; the NPSC Act. The removal of the IG under NPS Act is completely different from the removal of civilian members of the NPSC.</p> <p>Article 251(1) of COK, 1010 provides for the removal process for members of Commissions with the exception of ex officio members. These are those members who are in office by virtue the office they hold. For example, members of commissions have a six-year term of office. However, the IG has a four year term of office. In four years time, the current IG will cease to be a member of NPSC and be replaced with the incoming IG. A removal process is not necessary for the IG because his or her membership is based on another office for which the procedure for removal is already provided for. Other commissions similarly affected include Judicial Service commission (CJ and AG), CRA (PS, Finance), SRC (Cabinet Secretary, Finance and AG.)</p> <p>Propose that similar provisions to those provided for the removal of Director General, NIS under section 10(2-4) of the NIS Act be included.</p>
Clause 16	Section 18 of the NPS Act.	<p>Proposal adopted: but recommend the following addition</p> <p>(A) where the term ends before retirement period, officer should have the option of being redeployed to the larger public service</p> <p>(B) transition by providing for the effective period within which the five year terms commences for the current DIGs</p>	To harmonize with other security organs for example section 10 of NIS Act.
Clause 19	Amendment to section 23(m) of the NPS Act.	Delete the word "or the Commission"	To avoid interference with the independent command of the IG. NPSC has no mandate to assign duties to the DIGs. Violates article 245.
Clause 22(a)	Amendment to section 29(2) and 29(3) of the NPS Act.	<p>Insert a provision on the term of office of the Director CID and provide for the determination of salary in consultation with the SRC. Subsection (3)</p> <p>Director to service for 5 years and renewable once.</p> <p>Similar provisions as those of the DIGs for reappointment and deployment to the larger public service if he or she has not attained the retirement age should be included.</p>	This is an omission in the Act. State officers have terms of office.
Clause 22(b)	Amendment to section 29(4)(e) and (f) of the NPS Act	Insert the words "security intelligence" immediately after the word "policing"	This is a necessary requirement to hold the position of the Director CID.
Clause 22(c)	Amendment to section	Insert the words "in respect of the	To ensure clarity of role of the Director in

	29(8)(b)(i) of the NPS Act.	Directorate*	relation to the functions of the DIGs responsible for the Services.
Clause 23	Amendment to section 30(7) of the NPS Act.	Delete (7) which states as follows: "For purposes of appointment of the Director of Criminal Investigations before the establishment of the Commission, the procedure set out in the Third Schedule shall apply with necessary modifications, except that the provisions in the Schedule requiring approval by Parliament shall not apply.	This is a sunset clause that is no longer relevant.
Clause 24	Amendment to section 31(3)(c) of the NPS Act.	Delete the words "excluding the person under investigations"	The Director is not a member of the Commission so the words serve no purpose. Amendment is for clarity purposes..
Clause 24(b)	Amendment to section 31(6) of the NPS Act.	Insert a provision after subsection (6) to address the issue of temporary absence of the Director. A person not below the rank of senior superintendent to act for a period not exceeding 3 months.	To ensure there is no lacuna. And to harmonize with other provisions in the Act on acting capacity in case of incapacitation.
Clause 25	Amendment to section 40(8) of the NPS Act.	By inserting the words "through regulation" immediately after the word "The IG may"	To provide for the modality of establishment of units in a manner that is transparent and accountable and gives effect to article 10. The regulations will provide for refining the organization and functioning of those units.
Clause 26	Amendment to 41(8) of the NPS Act.	Delete the words "in consultation with the Commission" substitute therefore the words "in consultation with the Chairperson of Council of County Governors"	The Commission's mandate under article 246(3) does not include county policing authority matters.
Clause 26	Amendment to section 41(9)(e) of the NPS Act.	Delete paragraph (e) and substitute therefore new (e)— "provide oversight of the budget of the county policing authority referred to earlier in the section	The scope of oversight on the budget was way beyond the mandate of the authorities. Other state organs and agencies undertake such oversight. Limiting the scope to the funds of the authority is sufficient.
Clause 26	Amendment to section 41(9)(f) of the NPS Act.	Delete the words "county police"	Such does not exist. Editorial.
Clause 26	Amendment to section 41(9)(g) of the NPS Act.	Inert the words "provide for a platform through which the public participates on all aspects relating to county policing policy"	Editorial to correct the typo.
Clause 26	Amendment to 41(9)(h) of the NPS Act.	Delete (h). It has been collapsed and provided for under (g) above.	For clarity purposes
Clause 28(a)	Amendment to 49(7) of the NPS Act.	Delete the words "that apply" appearing at the end of the sentence.	For clarity purposes.
Clause 28(b)	Amendment to section 49(12) of the NPS Act.	Delete the word "Police" and substitute therefore "Service"	Clarity purposes.
Clause 29	Amendment to 50(1) of the NPS Act.	Insert the words "relevant" immediately before the words "Deputy Inspector-General"	For clarity purposes and since there are two DIGs.
Clause 31	Amendment to section 65(1) of the NPS Act.	Delete the words "or inspector"	The definition of the phrase "Gazetted officer" includes the inspector.
Clause 31	Amendment to section 65(3) of the NPS Act.	Delete the words "the head of the Kenya Police Service in the county" and substitute therefore the words "the head of the National Police Service"	For clarity and consistency
Clause 32	Amendment to section 72 of the NPS Act.	Delete section 72 and substitute therefore the following new section	For clarity purposes. To increase accountability.

		72 72(1) If it appears expedient in the interests of public order and safety so to do, the Inspector-General with the approval of the NSC may request the NPSC to appoint persons to be special police officers for such period and within such area as may be considered necessary. (2) Such officer shall, during the period of service as a special police officer, be deemed to be a police officer for the purposes of this Act (2) Upon request by the Inspector-General, the Commission shall appoint the officers referred to under subsection (1).	To recognize the roles of the IG, National Security Council and the NPSC under the Constitution.
Clause 33	Amendment to section 76(1) of the NPS Act.	Subject the section to any other written law.	This is in recognition of roles of other organs e.g. PS
Clause 36	Amendment to section 83(b)(ii) of the NPS Act.	Delete the words "employment and substitute therefore the word "service"	For clarity purposes
Clause 37	Amendment to section 87(4) of the NPS Act.	Not adopted.	The proposal in the Bill adds no value as it merely recasts and rearranges subsection (4)
Clause 37	Amendment to section 87(6) of the NPS Act.	Adopted delete the word "Commission" and substituting therefore the words "Inspector-general- Insert a new subsection (6A) that requires that the recommendations under subsection (6) are submitted to the Commission.	The Constitution recognizes the role of the Commission as to exercises disciplinary control over the NPS. Article 246(3).
New proposal.	Amendment to section 87(9) of the NPS Act.	Insert the words " and other competent investigative or oversight authorities" at the end of the sentence.	The amendment widens the scope of accountability and redress.
Clause 39(c)	Amendment to 89(4) of the NPS Act.	Insert a proviso that: Provided that such an officer is not of a senior rank to the presiding officer" at the end of the sentence. Address gender language in the section and the Act generally.	To avoid complicating the proceedings given that the Service is hierarchical.
Clause 42	Amendment to section 110 of the NPS Act.	Agreed to the amendment to subsection (2). NSC To determine the strength of the reserve Amendment to subsection (7) delete the words in consultation with the Commission.	The Commission has no role under subsection (2) and in subsection (7) the Commission approves the curriculum so no role in actual training.
Clause 43	Amendment to section 110B of the NPS Act.	Adopted by making the following changes: Delete the words "and consultation with the Inspector-General " and substitute with "by the NPS through the IG"	Amendment accords with the command structure of NPS.
Clause 44	Amendment to section 111 of the NPS Act.	Amendment replacing the Commission with Inspector general in consultation with the Commission is not adopted.	Recruitment is the mandate of NPSC under article 246(3).

		Proposed that the clause be amended by deleting the words "enlisted and trained."	Enlistment and training are not the mandate of NPSC.
Clause 53	Amendment to the Third Schedule	Adopted by deleting the Third Schedule	No longer useful. Overtaken by events as the Commission has been established.
Clause 54	Amendment to the Sixth Schedule	Proposed amendments are rejected in entirety.	The existing provisions in the Act reflect international best practice on human rights and comply with the right to the protection of the right to life as set out in article 26. Proposed amendments go beyond the scope of what force can be used to defend life and authorizes the use of force to prevent prison escape. Prison escape can be addressed through administrative measures rather than use of force. The proposed amendment shall authorize extra-judicial killings by Police in Kenya.
INSERT	In the regulation making clause	That the IG shall within six months after coming into force of this Act develop the structure of the command in the county.	The office of county commander is new and there is need to set out the command structure in the county in relation to this office.

National Police Service Commission (Amendment) Bill 2013

No.	Proposed amendment	Recommendation	Justification
Clause 2(a)	Amendment to section 10 (1)(a) of the NPSC Act.	Amendment adopted with modification: recommended that the clause be amended by recognizing that it is not the role of NPSC but the role of the National Government Executive under the Fourth Schedule Part I(7) to set standards and qualifications: Delete the words: "standards or qualifications required" and limit the function of the Commission to HR policies.	In line with the Constitution 246(3) and Part I (7) of the Fourth Schedule.
Clause 2(b)	Amendment to section 10(1)(g)(i) of the NPSC Act	Amendment adopted but recommended that: Insert a provision that disciplinary proceedings either by the IG or the Commission, shall not be affected by any criminal or civil action brought under (ii)	
Clause 2	Amendment to section 10(1)(j) of the NPSC Act	Delete paragraph (j) Proposed that paragraph (j) is not a function of the Commission.	This is not an Article 246 function of the NPSC. It is a function of the DIGs under sections 23 and 26 of the NPS Act. It is likely to cause conflict in exercise of mandate.
Clause 2(d)	Amendment to paragraph	Amendment adopted:	The amendment restricts the exercise of the

	(k) of the NPSC Act	insert the words "on matters relating to"	function to within constitutional limits of article 246(3).
New proposal	Amendment to section 10 (1)(n) of the NPSC Act	Amend by deleting the words " the organization, administration and"	The NPSC mandate under article 246(3) only relates to personnel practices. Other matters fall under the mandate of the IG and DIGS.
Clause 2(e)	Amendment to section 10(1)(r) of the NPSC Act	Proposed that the same be deleted it as it is not the function of NPSC.	Not an Article 246(3) functions. This is a function of the DIGs under sections 23 and 26 of the NPS Act. It is likely to cause conflict on exercise of mandates.
Clause 2(f)	Amendment to section 10(4) of the NPSC Act	To delete the clause in totality as proposed in the Bill	Efficiency and effectiveness of the Service are not matters under Article 246. They are functions of the DIGs under the NPS Act. Matters relating to quality and standard are given in the Fourth Schedule to the National Government. The same should be deleted as provided in the Bill.
Clause 3(a)	Amendment to Section 10(1)(a)	Adopted save for the words, "and approval of the Cabinet Secretary"	The inclusion of the requirement for the approval of the Cabinet Secretary subjects the NPSC to the Cabinet Secretary in exercise of its unfettered constitutional mandate. The requirement for approval of a person external to the NPSC violates article 249(2) and 246(3) of COK, which does not require NPSC to seek approval from the cabinet Secretary in exercise of its mandate.
	Amendment to section 10(4) of the NPSC Act	Adopted save to delete the words "limited to" and substitute therefore the words "shall mean" In clause (c) delete the words "Inspector-General" and substitute therefore the word "Commission". In paragraph (g) insert "hear and determine appeals on disciplinary matters"	For clarification of roles with respect to disciplinary control under article 246. The NPSC exercises disciplinary control under article 246(3) by prescribing procedures which are implemented by the IG and the NPSC monitors compliance. To clarify the nature of appeals and hearings are those that relate to the functions of NPSC under article 246(3).
Clause 5	Amendment to Section 17 of the Principal Act	Proposed amendment is rejected.	Amendment directly violates article 252(1)(c). NPSC is a chapter 15 Commission and has the right to recruit its own staff without the consent of the Cabinet Secretary.
New proposal	Amendment to clause 28 (n) of the NPSC Act	Delete paragraph (n)	This issue of vetting is substantively provided for in the NPS Act and that is where the regulations should sit. Regulations must anchor on a function set out in the parent Act. Vetting is not provided for in the NPSC Act but in the NPS Act section 7.
New proposal.	Insert a clause providing for mandatory number of meetings that all members are required to attend	Propose that Commission holds a minimum of six meetings a year to address matters relating to promotions, appointments, transfers, promotions and discipline. Propose further amendment that provides that any member that fails to attend at least three of the mandatory	Amendment is necessary to ensure that the Commission makes determination as a full commission on the matters falling under its mandate and to penalize any attempt to paralyze the Commission from performing its functions by failure to attend by some members.

		<p>meetings shall be deemed to have violated the law and committed gross misconduct which shall be grounds for removal from office in accordance with article 251.</p> <p>Propose that a notice of meetings is issued and that regulations on conduct of meetings be prepared by the Commission with a timeline of three months from enactment of amendment bill.</p>	
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MIN. NO. 95/2013 - ADJOURNMENT

There being no other business, the meeting adjourned at forty minutes after twelve o'clock. The next meeting would be held on Tuesday, 30th July 2013, in the Boardroom, 2nd Floor, Protection House, at 10.00 am, 11.30 am and 4.30 pm, respectively.

Signed:

Chairperson



Date

24/9/2013

MINUTES OF THE 22ND SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 30TH JULY, 2013, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, AT 10.00 AM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Alois M. Lentoimaga, MP - Vice Chairperson
3. The Hon. Dalmas Otieno, EGH, MP
4. The Hon. Ababu Namwamba, EGH, MP
5. The Hon. Jane Machira, MP
6. The Hon. Akuja Protus Ewesit, MP
7. The Hon. Ahmed Abdikadir Ore, MP
8. The Hon. Joseph O. Ndiege, MP
9. The Hon. Wanjiku Muhia, MP
10. The Hon. Humphrey Njuguna, MP
11. The Hon. Benard Shinali, MP
12. The Hon. Joseph Kahangara, MP
13. The Hon. (Maj. Rtd.) John K. Waluke, MP
14. The Hon. James Bett, MP
15. The Hon. Ibrahim Abdi Saney, MP
16. The Hon. Francis K. Mwangangi, MP
17. The Hon. Rashid J. Bedzimba, MP
18. The Hon. Shaaban Ali Isaack, MP
19. The Hon. George Theuri, MP
20. The Hon. Grace Kiptui, MP
21. The Hon. Alice Wahome, MP
22. The Hon. David Gikaria, MP

ABSENT WITH APOLOGY

1. The Hon. Mohamed Shidiye, MP
2. The Hon. Samuel Moroto, MP
3. The Hon. Timothy Wetangula, MP
4. The Hon. Zakayo K. Cheruiyot, MP
5. The Hon. Patrick Ole Ntutu, MP
6. The Hon. Joseph Lekuton, MP

IN ATTENDANCE – NATIONAL POLICE SERVICE COMMISSION AND COMMISSION FOR THE IMPLEMENTATION OF THE CONSTITUTION

1. Mr. Johnstone Kavulundi – Chairperson (NPSC)
2. Ms. Esther Chui Colombini – Vice-Chairperson (NPSC)
3. Mr. Ronald L. Musengi – Commissioner (NPSC)
4. Ms. Mary Owuor – Commissioner (NPSC)
5. Ms. Elizabeth Muli – Vice Chairperson – CIC

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Philemon Riaga - Parliamentary Intern

MIN.NO. 96/2013 – PRELIMINARY

The meeting was called to order at forty minutes after ten O'clock. A prayer was said followed by introductions. The agenda of the day was adopted after being proposed by the Hon. Dalmas Otieno, EGH, MP, and seconded by the Hon. Benard Shinali, MP.

MIN.NO. 97/2013 – PRESENTATION BY THE NATIONAL POLICE SERVICE COMMISSION

The Chairman of the National Police Service Commission informed the Committee that;

The Commission was concerned over the absence of Inspector General of Police and his two Deputies as they were also members of the Commission. The Amendments were largely acceptable to the Commission save for a few provisions stated in their proposed recommendation;

National Police Service Commission (Amendment) Bill, 2013

S/No.	Clause in original Act	Proposed	NPSC Recommendation
1	4. Membership of Commission	Delete 'other than ex officio'. Amendment violates Articles 77(1) and 250 (6)	Retain original. As the IG and DIGs full time engaged in policing duties; thus they cannot work full time for the Commission, as opposed to the other 6 Commissioners.
2	10(l)(a). Functions of the Commission	Insert requirement to seek recommendation of the IG and approval of Cabinet Secretary	The approval of the Cabinet Secretary on the core mandate of the Commission is geared towards executive control of the Commission. Recommendation of the IG is retrogressive as the IG is part of the Commission. The IG would interfere with the collegiate decision of the Commission.
3	10(l)(k). Functions of the Commission	The proposal ousts the Commission from its mandate over disciplinary matters.	Re-phrase the proposed amendment by adding the words "on matters relating to discipline, transfers, promotion and appointments immediately after the words "of the service".
4	17. Appointment of Commission staff	Commission can only appoint staff with the consent of the Cabinet Secretary	This proposed amendment should be deleted. It infringes on the independence of the Commission and violates Articles 249 and 252 (1) (c).
5	28. Regulations	Delete (n) that the Commission can draft regulations on vetting of applicants.	Being the body overseeing recruitment (core mandate) it follows it is the Commission that should make these regulations on vetting of applicants. To thus retain 28 (n).
6	2 nd Schedule	The quorum is increased to 6, instead of 5.	A quorum of 6 will make it effectively impossible for the Commission to function. The IG and 2 DIGs are often not

available for meetings. Further, they can abstain from meetings and ensure that decisions are not taken. A quorum of 6 which translates to 2/3 membership will effectively cripple the functioning of the Commission.

National Police Service (Amendment) Bill 2013

	Clause in original Act	Changes proposed	NPSC Recommendation
1	5. Gender regional and ethnic balance	No amendment is proposed.	Amend the section 5 of the Act by deleting the words "so far as is reasonably practicable". The Section violates Article 232 (1) (g) (h) (i) and 238 (2) (d)
2	12. Appointment Of IG	President nominates, Parliament approves. Role of Commission is deleted.	The role of the Commission in inviting applications for the post of the IG, interviewing applicants and recommending shortlisted candidates to the President for nominating the IG ensures transparency, fairness and impartiality. The proposed amendment would violate Articles 10 and 232. Independent oversight over recruitment process is essential.
3	15. Removal of IG.	Someone can petition to the President, who shall recommend Parliament to remove IG. Role of the Commission is removed.	The independent oversight of the Commission over members of the service including the IG is its core mandate as given under Article 246 (3) (b). The petition to start removal proceedings should be directed to the Commission and the process should be as given in Section 15. 2ndly, the proposed amendment allows the President to remove the IG without constituting a Tribunal. This infringes on the security of tenure and independence of the IG as guaranteed under Article 245 (2) and places the IG at the mercy of the Executive.
4	22(2). Amendment of the rank structure.	IG can recommend to the Cabinet Secretary to amend rank structure. Commission is ousted.	The IG is an interested party and the tendency would be to restore a long command structure, an aspect specifically mentioned in the Ransley Report as a major problem hindering efficiency of the Service. Commission should retain its role

			and indeed, the IG being part of the Commission, can propose and move an amendment so that a proper decision for amendment is derived. To thus retain the original section.
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MIN.NO. 98/2013 – COMMITTEES POSITION

The Committee Members stated that;

The ranking structure squarely rests with the National Police Service Commission as it plays Human Resource functions. The Bill should be re-drafted to do away with ex-officio members of the Commission.

The Inspector General of Police and his two Deputies should be full time members of the Commission. They should also attend the Commission's meetings except when the Commission is set to meet over the National Police Service recommendations.

The security intelligence requirement should not be applicable as it will lock out members of the Police Service.

The involvement of the Cabinet Secretary, Interior and Coordination of National Government would have been restricted to Policy matters only as he is likely to interfere with the independency of the Commission.

The situations where legal force can be used is already catered for in the National Police Service Act.

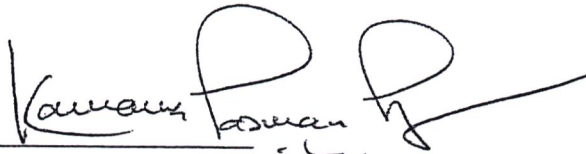
The further reiterated that the quorum be maintained at six but the IG or one of the Deputy Inspector Generals, should always be present in the Commission's meeting.

MIN.NO.99/2013 – ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting adjourned at forty five minutes after twelve O'clock. The date and venue for the next meeting would be communicated to Members.

Signed:

Chairperson:



Date:

24/9/2013

MINUTES OF THE 23RD SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 31ST JULY, 2013, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, AT 10.00 AM

MEMBERS PRESENT

1. The Hon. Alice Wahome, MP - Chairing
2. The Hon. Alois M. Lentoimaga, MP - Vice Chairperson
3. The Hon. Dalmas Otieno, EGH, MP
4. The Hon. Ababu Namwamba, EGH, MP
5. The Hon. Jane Machira, MP
6. The Hon. Akuja Protus Ewesit, MP
7. The Hon. Ahmed Abdikadir Ore, MP
8. The Hon. Joseph O. Ndiege, MP
9. The Hon. Wanjiku Muhia, MP
10. The Hon. Humphrey Njuguna, MP
11. The Hon. Benard Shinali, MP
12. The Hon. Joseph Kahangara, MP
13. The Hon. James Bett, MP
14. The Hon. Francis K. Mwangangi, MP
15. The Hon. Rashid J. Bedzimba, MP
16. The Hon. Shaaban Ali Isaack, MP
17. The Hon. George Theuri, MP
18. The Hon. Grace Kiptui, MP
19. The Hon. Timothy Wetangula, MP
20. The Hon. Mohamed Shidiye, MP
21. The Hon. David Gikaria, MP

ABSENT WITH APOLOGY

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Samuel Moroto, MP
3. The Hon. Zakayo K. Cheruiyot, MP
4. The Hon. Patrick Ole Ntutu, MP
5. The Hon. (Maj. Rtd.) John K. Waluke, MP
6. The Hon. Ibrahim Abdi Saney, MP
7. The Hon. Joseph Lekuton, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Philemon Riaga - Parliamentary Intern

IN ATTENDANCE – KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

1. Ms. Patricia Nyaundi – Commission's Secretary
2. Ms. Edna Nyalofi – KNCHR
3. Mr. Samson Omondi – KNCHR
4. Mr. Josephine Muchilwa – KNCHR

MIN.NO. 100/2013 – PRELIMINARY

The meeting was called to order at forty minutes after ten o'clock. A prayer was said followed by introductions. The agenda of the day was adopted after being proposed by the Hon. Grace Kiptui, MP, and seconded by the Hon. Akuja Protus Ewesit, MP.

MIN.NO. 101/2013 – PRESENTATION BY THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

During KNCHR's presentation to the Committee, Members were informed that:-

Section 8 and 22 of the National Police Service Act and Section 10 of the National Police Service Commission Act seek to introduce amendments that expand the definition of what 'overall and independent Command of the service entails so as to include (a) all matters auxiliary to and touching on the command and discipline of the service and (b) a requirement that 'Promotion of, transfer of and disciplinary action taken on a member of the Service on matters relating to article 246(3) of the Constitution, shall be on the recommendation and upon consultation with the Inspector General'.

KNCHR'S opinion:

1. Article 246 is clear on the mandate of the National Police Service Commission. In so far as the proposed amendments seek to transfer the mandate of the National Police Service Commission to the Inspector General, they are unconstitutional.
2. KNCHR noted that Article 8 and 10 of the National Police Service Act provide the Inspector general with complete, absolute and unfettered control over the operational mandate of the police service. The reforms in the National Police Service as captured in the Constitution and the National Police Service Act and the National Police Service Commission Act are transformative and are meant to provide the framework for transforming the Police from a force to a service. The proposed amendments in so far as they seek to consolidate power in the office of the Inspector General are **retrogressive**.
3. The proposed amendments appear not to be informed by the fact that the Inspector General and his two deputies are members of the National Police Service Commission. It is not tenable therefore for the Inspector General to step out of the Commission and then be consulted by the Commission as proposed in the draft Bill.
4. Article 246(2) provides for the membership of the Commission. Sub Articles (b) and (c) require that the Inspector General and his two deputies be members of the Commission. Section 4 of the National Police Service Commission Act provides for the membership of the Commission and in (2) states that there shall be ex officio members, but is silent on who these are. Paragraph 3(2) of the Second Schedule of the Act provides that the Inspector and the two Deputies are the Ex Officio members.

The Commission therefore recommends the amendment of **Section 4(2)** of the National Police Service Commission Act to read;

The chairperson and the members of the Commission, other than members under 246(b) and (c) of the Constitution, shall serve on a full-time basis.

The Commission further recommends that Paragraph 3 of the Second schedule be amended by deleting sub

paragraph (2) and by amending sub paragraph (1) as follows;

The quorum of meetings of the Commission shall be five members, who shall include two members appointed under Article 246 (2) (b) and (c).

5. A careful reading of the Acts as they exist will demonstrate that the law already caters for the mischief that is intended to be addressed;

On discipline provided for under Part X of the Act:- The Act establishes an Internal Affairs Unit to oversee discipline within the Force, whose membership comprises senior officers in the Service.

Section 10(k) of the National Police Service Commission Act provides that the Commission shall hear and determine appeals from the members of the Service. It is clear therefore that the administration of discipline of members of the Service is within the ambit of the Service and the Commission only performs a supervisory role.

On Employment - prior to the enactment of the current Act, the Constitution of Kenya 1963 (Amended 2008) provided under Section 108 that; the power to appoint persons to hold or act in offices in the Kenya Police Force (except the office of Commissioner of Police), including the power to confirm appointments, the power to exercise disciplinary control over persons holding or acting in those offices and the power to remove those persons from office shall vest—

- (a) in the case of offices of or above the rank of Assistant Inspector, or such rank other than the rank of Assistant Inspector as may be specified for the purposes of this section by or under an Act of Parliament, in the Public Service Commission;
- (b) in the case of offices below the rank of Assistant Inspector or such other rank as may be specified as aforesaid, in the Commissioner of Police. The current constitutional dispensation transfers these powers and consolidates them under the National Police Service Commission.

Section 10(2) of the National Police Service Commission Act provides; subject to the provisions of the Constitution or any written law, the Commission may delegate to the concerned Inspector-General the recruitment, appointment and promotion of police officers under the rank of sergeant.

Reference to the existing Force Standing Orders, which are currently undergoing review, and specifically Chapters 19, 23, 24 will show that there was in existence a mechanism to deal with promotions, transfers and appointments of officers within the service. The current law simply improves on this by requiring that these actions be carried out in accordance with Article 10 and Chapter 6 of the Constitution.

Owing to the foregoing the Commission recommended the following;

- I. That the National Police Service Commission be directed to immediately finalize the regulations as provided for under Section 28 of the Act.
- II. Having made the regulations under Section 28, the National Police Service Commission considers delegating its powers as provided for under Section 10(2) of the Act.

The Commission further submitted that if the National Police Service Commission proceeds in the manner

proposed there shall be absolutely no basis upon which to amend the Acts.

6. Section 89 to include additional punishments;
In advising against the inclusion of Confinement to barracks and police lines, the Commission brought to the attention of the Committee that the confinement is often in cells and the punishment is often cruel, inhuman and dehumanizing.

With regards to the reduction of Salary and payment of a fine KNCHR strongly voiced their objection.

7. Sixth Schedule B – only use of firearms by the Police when life and property is threatened, should be rejected

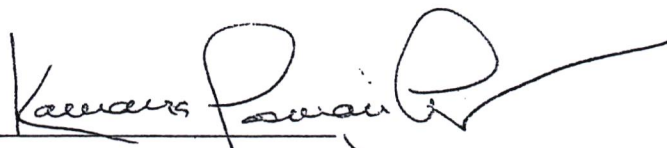
Article 3 of the United Nations Code of Conduct for Law Enforcement Officials states that "Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty."

MIN.NO.102/2013 – ADJOURNMENT

There being no other business, the meeting adjourned at thirty minutes after twelve O'clock. The next meeting would be held on Thursday, 1st August 2013, in the Boardroom, 2nd Floor, Protection House, at 10.00 am.

Signed:

Chairperson:



Date

24/9/2013

MINUTES OF THE 24TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 1ST AUGUST, 2013, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, AT 10.00 AM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Dalmas Otieno, EGH, MP
3. The Hon. Ababu Namwamba, EGH, MP
4. The Hon. Alice Wahome, MP
5. The Hon. Jane Machira, MP
6. The Hon. Akuja Protus Ewesit, MP
7. The Hon. Ahmed Abdikadir Ore, MP
8. The Hon. Joseph O. Ndiege, MP
9. The Hon. Wanjiku Muhia, MP
10. The Hon. Humphrey Njuguna, MP
11. The Hon. Benard Shinali, MP
12. The Hon. (Maj. Rtd.) John K. Waluke, MP
13. The Hon. Francis K. Mwangangi, MP
14. The Hon. Rashid J. Bedzimba, MP
15. The Hon. George Theuri, MP
16. The Hon. Grace Kiptui, MP
17. The Hon. Mohamed Shidiye, MP
18. The Hon. Samuel Moroto, MP
19. The Hon. Joseph Lekuton, MP

ABSENT WITH APOLOGY

1. The Hon. Alois M. Lentoimaga, MP - Vice Chairperson
2. The Hon. James Bett, MP
3. The Hon. Zakayo K. Cheruiyot, MP
4. The Hon. Patrick Ole Ntutu, MP
5. The Hon. Joseph Kahangara, MP
6. The Hon. David Gikaria, MP
7. The Hon. Timothy Wetangula, MP
8. The Hon. Shaaban Ali Isaack, MP
9. The Hon. Ibrahim Abdi Saney, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk
2. Mr. Philemon Riaga - Parliamentary Intern

IN ATTENDANCE – ATTORNEY GENERAL'S OFFICE

Ms. Marion Mureithi

MIN.NO. 103/2013 – PRELIMINARY

The meeting was called to order at forty minutes after ten o'clock. Prayers were said followed by introductions. The agenda of the day was adopted after being proposed by the Hon. Ahmed Abdikadir Ore, MP and seconded by the Hon. Wanjiku Muhia, MP.

MIN.NO. 104/2013 - PRESENTATION BY THE ATTORNEY GENERAL'S REPRESENTATIVE

The Committee Members were taken through the two Bills. The Committee made the following observations;

- I. The need to give the Inspector General of Police security of tenure. Upon receipt of a petition, the President should communicate to the National Assembly with fourteen days after he is convinced the petitioner has a case against the Inspector General. The National Assembly would in turn dispose off the petition within seven days.
- II. The public should be involved in the appointment of Inspector General of Police. The job should be advertised and a competitive selection process undertaken.
- III. The Service Board (Clause 17 new section 21), should consist of five persons; the Inspector General of Police, his two Deputies, Director of Criminal Investigation and the overall officer in charge of personnel within the Service.
- IV. The meeting further agreed to deliberate more over the increased use of firearms by the police as contained in the proposed amendment of the 6th schedule.

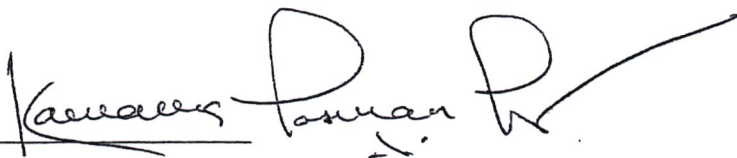
MIN.NO.105/2013 – ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting adjourned at twenty minutes after twelve O'clock. The next meeting would be held on Tuesday, 6th August 2013, in the Boardroom, 2nd Floor, Protection House, at 10.00 am.

Signed:

Chairperson:

Date:


24/9/2013

MINUTES OF THE 25TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 6TH AUGUST, 2013, IN COMMITTEE ROOM, 4TH FLOOR, CONTINENTAL HOUSE, AT 10.00 AM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP – Chairperson
2. The Hon. Alois M. Lentoimaga, MP – Vice Chairperson
3. The Hon. Dalmas Otieno, EGH, MP
4. The Hon. Alice Wahome, MP
5. The Hon. Akuja Protus Ewesit, MP
6. The Hon. Ababu Namwamba, EGH, MP
7. The Hon. Ahmed Abdikadir Ore, MP
8. The Hon. Joseph Lekuton, MP
9. The Hon. Joseph O. Ndiege, MP
10. The Hon. Timothy Wetangula, MP
11. The Hon. Wanjiku Muhia, MP
12. The Hon. Zakayo K. Cheruiyot, MP
13. The Hon. Benard Shinali, MP
14. The Hon. (Maj. Rtd.) John K. Waluke, MP
15. The Hon. Francis K. Mwangangi, MP
16. The Hon. Joseph Kahangara, MP
17. The Hon. Rashid J. Bedzimba, MP
18. The Hon. George Theuri, MP
19. The Hon. Grace Kiptui, MP
20. The Hon. Mohamed Shidiye, MP
21. The Hon. Samuel Moroto, MP
22. The Hon. David Gikaria, MP

ABSENT

1. The Hon. James Bett, MP
2. The Hon. Patrick Ole Ntutu, MP
3. The Hon. Jane Machira, MP
4. The Hon. Shaaban Ali Isaack, MP
5. The Hon. Ibrahim Abdi Saney, MP
6. The Hon. Humphrey Njuguna, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk
2. Mr. Philemon Riaga - Parliamentary Intern

IN ATTENDANCE – IPOA

1. Mr. Macharia Njeru – Chairman, IPOA
2. Mr. Tom Kagwe – IPOA

MIN.NO. 106/2013 – PRELIMINARY

The meeting was called to order at forty minutes after ten o'clock. Prayer was said followed by introductions. The agenda of the day was adopted after being proposed by the Hon. Joseph Lekuton, MP and seconded by the Hon. Francis Mwangangi, MP

MIN.NO. 107/2013 - PRESENTATION BY IPOA

The Chairman of IPOA informed the Committee that the Authority was opposed to amendments of the following sections of the National Police Service Commission, and the National Police Service:-

NATIONAL POLICE SERVICE COMMISSION

- i) Sec. 3 (a) – the involvement of the Cabinet Secretary in the affairs of the NPSC is tantamount to encroaching on the independence of the Commission.
- ii) Sec 5 – with consent of the Cabinet Secretary. This is unconstitutional. NPSC is an independent Office set up in the Constitution and therefore cannot be controlled from other quarters. The amendment is against Article 249 2(b) of the Constitution.
- iii) Make IG and his two deputies full Members of the NPSC instead of the ex-officio status held previously.

NATIONAL POLICE SERVICE

IPOA was opposed to the amendments proposed in Section 10 (c) and (d).

IPOA proposed that sec. 10 'm' and 't' should be retained as they are in the original Act.

Clause 54 ought to be deleted altogether as it gives the police immense powers over the use of firearms. IPOA advised that the insertion of this amendment might introduce arbitral killings of people by the police.


MIN.NO.108/2013 – ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting adjourned at twenty minutes after twelve O'clock. The next meeting would be held on Tuesday, 6th August 2013, in the Boardroom, 2nd Floor, Protection House, at 10.00 am.

Signed:

Chairperson:

Date:


24/9/2013

MINUTES OF THE 25TH B SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 6TH AUGUST, 2013, IN COMMITTEE ROOM, 4TH FLOOR, CONTINENTAL HOUSE, AT 4.30 PM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP – Chairperson
2. The Hon. Alois M. Lentoimaga, MP – Vice Chairperson
3. The Hon. Dalmas Otieno, EGH, MP
4. The Hon. Alice Wahome, MP
5. The Hon. Akuja Protus Ewesit, MP
6. The Hon. Ahmed Abdikadir Ore, MP
7. The Hon. Joseph Lekuton, MP
8. The Hon. Joseph O. Ndiege, MP
9. The Hon. Timothy Wetangula, MP
10. The Hon. Zakayo K. Cheruiyot, MP
11. The Hon. Benard Shinali, MP
12. The Hon. Francis K. Mwangangi, MP
13. The Hon. Joseph Kahangara, MP
14. The Hon. Rashid J. Bedzimba, MP
15. The Hon. George Theuri, MP
16. The Hon. Grace Kiptui, MP
17. The Hon. Mohamed Shidiye, MP
18. The Hon. Samuel Moroto, MP
19. The Hon. David Gikaria, MP

ABSENT

1. The Hon. Ababu Namwamba, EGH, MP
2. The Hon. James Bett, MP
3. The Hon. Patrick Ole Ntutu, MP
4. The Hon. Wanjiku Muhia, MP
5. The Hon. Jane Machira, MP
6. The Hon. Shaaban Ali Isaack, MP
7. The Hon. Ibrahim Abdi Saney, MP
8. The Hon. Humphrey Njuguna, MP
9. The Hon. (Maj. Rtd.) John K. Waluke, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk

IN ATTENDANCE – MINISTRY OF INTERIOR & INSPECTOR GENERAL OF POLICE

1. Mr. Mutea Iringo, EBS – Principal Secretary, Ministry of Interior
2. Mr. Victor Okioma – Deputy Principal Secretary, Ministry of Interior
3. Mr. David Kimaiyo, CBS – Inspector General of Police
4. Mrs. Grace Kaindi – Deputy Inspector General of Kenya Police
5. Mr. Samuel Arachi – Deputy Inspector General of Administration Police
6. Mr. Ndegwa Muhoro – Director of Criminal Investigation Department

MIN.NO. 109/2013 – PRELIMINARY

The meeting was called to order at forty five minutes after four o'clock. A prayer was said followed by introductions. The agenda of the day was adopted after being proposed by the Hon. Joseph Lekuton, MP and seconded by the Hon. Mohamed Shidiye, MP

MIN.NO. 110/2013 - PRESENTATION BY INSPECTOR GENERAL OF POLICE

The Inspector General of Police made his presentation to the Committee as follows:-

NATIONAL POLICE SERVICE (AMENDMENT) BILL 2013

NATIONAL POLICE SERVICE ACT. NO. 11A OF 2011

- (1) **Clause 4:** The proposed deletion of number 247 would be fatal since the Directorate of Criminal Investigation is created under article 247. Further other police services can be created. Proposal: Number 247 should be retained.
- (2) **Clause 9:** 8A (4) Add the word 'and the Director of Directorate of Criminal Investigations' immediately after the words 'Deputy Inspectors General'

JUSTIFICATION

The directorate is semi-autonomous organization as per section 28 of National Police Service. The Director of Directorate of Criminal Investigation is answerable directly to Inspector General and not anybody else. If the words 'and the DCI' are left out, it means that the Inspector General will be executing his command by issuing lawful orders, directives or instructions to the Directorate through the Deputy Inspector General Kenya Police which in effect will be going against section 28 of the National Police Service Act.

8A(5). Amend section 8(5) by adding the following words after the words National Police Service 'such direction shall be in writing'.

- (3) **Clause 14:** AMENDMENT OF SECTION 15 OF NO.11A OF 2011 (REMOVAL OF INSPECTOR GENERAL)

The office of Inspector General is an independent office as provided for under Article 245(1)(b). Under Article 246(2)(b) Inspector General is a member of the National Police Service Commission.

The two above articles clearly demonstrates that Inspector General is Independent and he is a full member of the Police Service Commission.

The procedure and ground of removal of holders of independent office and members of any Commission is provided for in the Constitution under article 251(1)(2)(3)(4)(5)(6)(7).

This article has been operational under section 15 (1)(2)(3)(4)(5)(6) of the National Police Service Act where under section 15 (2)(3) the police service commission is given the powers to receive a petition of any person wishing the removal of the Inspector General instead of the National Assembly as provided in the Constitution 251(2).

Under clause 14(2)(3) of proposed National Police Service (Amendment) bill 2013 the Police Service Commission has been replaced with the President.

Both procedures in the old and the proposed amendment offend the provisions of article 251 (2)(3)(4)(5)(6)(7) on the ground that Inspector General holds an independent office and he is a member of Police Service Commission and his removal should be guided by article 251(2)(3)(4)(5)(6)(7) and not otherwise but if the Inspector General is taken in the commission as an ex-officio which should not be the case, then the provision in the Act and the proposed amendments in the National Police Service Amendment Bill (2013) are not unconstitutional.

Add clause 14A ON THE NATIONAL POLICE SERVICE AMENDMENT BILL 2013 TO COVER THE AMENDMENT OF SECTION 17(2)(3)(4). ON THE REMOVAL OF THE DEPUTY INSPECTOR GENERAL TO READ:

14A: Amend section 17(2)(3)(4) of the National Police Service Act No. 11A by deleting the entire section 17(2)(3)(4) and replacing it with the entire provision provided for under article 251(2)(3)(4) a,b,(5)a,b,c,(6)(7)of the Constitution on the procedure of the removal of Deputy Inspector General.

JUSTIFICATION

Under article 246(2)(c) both the Deputy Inspector General of the National Police Service Commission are Not ex-officio members of the National Police Service Commission But full time members and therefore their removal from office should be covered by the provision of article 251(2)(3)(4)(5)(6)(7) on holders of independent office and members of commission. The provisions provided for under the current National Police Service Act Section 17(2)(3)(4) are unconstitutional.

RECOMMENDATION

Adapt the procedures captured under article 251(2)(3)(4)(5)(6)(7) of the constitution regarding the removal of the Inspector General and the two Deputy Inspector General as full time commissioners of National Police Service Commission and not those proposed in the National Police service (Amendment) bill 2013 and the current section 17(2)(3)(4)(5)of the National Police Service Act.

It should be replaced with the provision of the Constitution under article 251(2)(3)(4)(5)(6)(7). Inspector General of Police is an holder of an independent office and they are all full time commissioners in the National Police Service Commission including the two Deputy Inspector General. They are not ex-officio in the commission and their removal should be as provided for under article 251(2)(3)(4)(5)(6)(7) for all the three.

- (4) **Clause 17: Establishment of a Service Board** 21(1) Add the words 'and the Director of Directorate of Criminal Investigations' after the words 'both the Deputy Inspectors General'.

JUSTIFICATION

From the functions of the service board which is provided for under proposed section 21(2), it is impracticable to deal with the Directorate matters in terms of operation, day to day administration,

distribution and deployment of personnel and the determination of the recommendation of the service on recruitment, promotion, transfer and discipline, through the Deputy Inspector General Kenya Police as envisaged in the proposal.

The omission totally negates the provision of section 28 of the National Police Service Act which makes the directorate to be under command and control of the Inspector General and nobody else.

The Director of the Directorate doesn't fall under those members who can be co-opted under proposed section 21(4) as he is suppose to be a substantive member of the service board. The directorate is a key component of the National Police Service and play a critical role in the security of the Nation and its head should be a member of the service board.

- (5) **Clause 18:** Section 22(2) Amend section 22(2) by adding the following words after the words First Schedule 'with exemption of Inspector General'.

JUSTIFICATION

This exception will bring clarity that the highest rank in the Kenya Police Service is the Deputy Inspector General.

- (6) **Clause 20:** Amend section 25(1) by adding the following words after the words First schedule 'with exemption of Inspector General'.

JUSTIFICATION

This exception will bring clarity that the highest rank in the Administration Police Service is the Deputy Inspector General.

- (7) **Clause 31:** Section 65 (3) (b) of the Principle Act: the words "the Head of KPS in the County" should not be substituted with the words 'the Head of National Police Service' but with 'the Head of respective Service at the County'.
- (8) **Clause 46:** Section 113 of the Principle Act: there is no provision of Head of National Police. Recommendation: Replace with "the Head of the respective services in the county".
- (9) **Clause 55:** Add (mm) - committing an act, conduct, disorder or neglect to the prejudice of good order and discipline.
- (10) **Amend section 116(1)** by adding the following words after the word 'vote' in subsection (1) and remove the full stop to read: 'and the Inspector General of the National Police Service shall be the accounting officer of the National Police Service'.

NATIONAL POLICE SERVICE COMMISSION (AMENDMENT) BILL, 2013

- (1) Clause 7 (a) Amendment of the second schedule of No. 30 of 2011 of the National Police Service Commission Act.

Delete the word "two members" appearing before words "appointed under" and substitute it with the words "four members" also add the following words after the roman No. (iii) and any of the two members appointed under Article 246 (2) (b) (c). This amendment will ensure that at least in every Commission sitting, two members shall be from the uniform staff where representation is key.

(2) Voting: Amendment of the second schedule section 4 on voting.

Delete the entire section 4 on voting and replace with the following:-

'The decision of the Commission shall be by consensus.

MIN.NO.111/2013 – ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting adjourned at twenty minutes after twelve O'clock. The next meeting would be held on Tuesday, 6th August 2013, in the Boardroom, 2nd Floor, Protection House, at 10.00 am.

Signed:

Chairperson: Kenneth Posner 

Date: 24/9/2013

MINUTES OF THE 26TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 8TH AUGUST, 2013, IN THE COMMITTEE ROOM, 4TH FLOOR, CONTINENTAL HOUSE, AT 10.30 AM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Dalmas Otieno, EGH, MP
3. The Hon. Ababu Namwamba, EGH, MP
4. The Hon. Alice Wahome, MP
5. The Hon. Jane Machira, MP
6. The Hon. Ahmed Abdikadir Ore, MP
7. The Hon. Joseph O. Ndiege, MP
8. The Hon. Wanjiku Muhia, MP
9. The Hon. Benard Shinali, MP
10. The Hon. Joseph Kahangara, MP
11. The Hon. Francis K. Mwangangi, MP
12. The Hon. Ibrahim Abdi Saney, MP
13. The Hon. Shaaban Ali Isaack, MP
14. The Hon. George Theuri, MP
15. The Hon. Grace Kiptui, MP
16. The Hon. Timothy Wetangula, MP
17. The Hon. Mohamed Shidiye, MP
18. The Hon. Samuel Moroto, MP
19. The Hon. (Maj. Rtd.) John K. Waluke, MP
20. The Hon. Zakayo K. Cheruiyot, MP
21. The Hon. Joseph Lekuton, MP
22. The Hon. David Gikaria, MP

ABSENT

1. The Hon. Alois M. Lentoimaga, MP - Vice Chairperson
2. The Hon. Rashid J. Bedzimba, MP
3. The Hon. James Bett, MP
4. The Hon. Humphrey Njuguna, MP
5. The Hon. Akuja Protus Ewesit, MP
6. The Hon. Patrick Ole Ntutu, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Philemon Riaga - Parliamentary Intern

MIN.NO. 112/2013 – PRELIMINARY

The meeting was called to order at eleven O'clock. Prayers were said. The agenda of the day was adopted after being proposed by the Hon. Ahmed Abdikadir Ore, MP and seconded by the Hon. Grace Kiptui, MP.

MIN.NO. 113/2013 –CONSIDERATION OF MEMORANDA FROM THE PUBLIC

The Committee deliberated three memoranda from the Citizens of Kenya, Kenya Private Sector Alliance and one from an individual, Mr. Julius E. Indeche.

On memorandum by Mr. Julius E. Indeche of Nairobi, the Committee noted it had no material facts as it was mainly based on the misunderstanding that the Bills were purposely transferring the powers of the National Police Service Commission to the National Police Service.

The Committee was however in agreement with some of the submissions in the memoranda by the Kenya Citizens and Kenya Private Sector and agreed to invite the petitioners to appear before the Committee and furnish it with a summarized specific amendments giving justification for the Amendments. The date and venue for the proposed deliberation would be communicated to Members.

MIN.NO.114/2013 – ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting adjourned at twenty minutes after one O'clock. The next meeting would be held on Wednesday, 14th August 2013, in Pangoni Beach Hotel Mombasa, at 9.00 am.

Signed:

Chairperson:



Date:

24/9/2013

MINUTES OF THE 27TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 20TH AUGUST, 2013, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, AT 10.00 AM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Dalmas Otieno, EGH, MP
3. The Hon. Alice Wahome, MP
4. The Hon. Joseph O. Ndiege, MP
5. The Hon. Wanjiku Muhia, MP
6. The Hon. Benard Shinali, MP
7. The Hon. Ahmed Abdikadir Ore, MP
8. The Hon. Grace Kiptui, MP
9. The Hon. Joseph Kahangara, MP
10. The Hon. Francis K. Mwangangi, MP
11. The Hon. Ibrahim Abdi Saney, MP
12. The Hon. Shaaban Ali Isaack, MP
13. The Hon. George Theuri, MP
14. The Hon. Samuel Moroto, MP
15. The Hon. James Bett, MP
16. The Hon. Akuja Protus Ewesit, MP
17. The Hon. Zakayo K. Cheruiyot, MP

ABSENT

1. The Hon. David Gikaria, MP
2. The Hon. Joseph Lekuton, MP
3. The Hon. Ababu Namwamba, EGH, MP
4. The Hon. Alois M. Lentoimaga, MP - Vice Chairperson
5. The Hon. Rashid J. Bedzimba, MP
6. The Hon. Jane Machira, MP
7. The Hon. Mohamed Shidiye, MP
8. The Hon. Humphrey Njuguna, MP
9. The Hon. (Maj. Rtd.) John K. Waluke, MP
10. The Hon. Timothy Wetangula, MP
11. The Hon. Patrick Ole Ntutu, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Philemon Riaga - Parliamentary Intern

MIN.NO. 115/2013 – PRELIMINARY

The meeting was called to order at fifteen minutes after ten O'clock. Prayers were said. The agenda of the day's meeting was adopted after being proposed by the Hon. Samuel Moroto, MP, and seconded by the Hon. Francis Mwangangi, MP.

MIN.NO.116/2013–MEETING WITH THE KENYA PRIVATE SECTOR ALLIANCE AND KENYA CITIZENS GROUP

The Chairman informed the Committee Members that the meetings that were scheduled for the day with KEPSA and Kenya Citizens Groups, respectively, had been postponed to be held on 27th August, 2013. Therefore the Committee would continue to examine memoranda submitted by the public, and ensure that it met all the stakeholders, in order to ensure that all views from them were incorporated in the final report.

The Chairman also reported that the induction workshop held in Mombasa between 13-16 August was very successful. He thanked the Members for the huge turnout and their participation. He further stated that the Committee was deeply concerned and alarmed by the escalating violence in parts of Turkana and North Eastern regions, and indicated that the Committee would soon visit these regions to assess the security situation.

MIN.NO.117/2013 – ANY OTHER BUSINESS

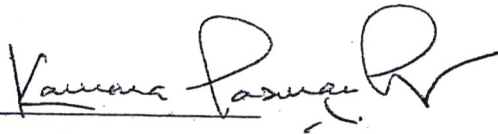
There was no other business under this item.

MIN.NO.118/2013 – ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting adjourned at twenty five minutes after eleven O'clock. The next meeting would be held on Tuesday, 27th August 2013, in the Boardroom, 2nd floor, Protection House, at 10.00 am.

Signed:

Chairperson:



Date:

24/9/2013

MINUTES OF THE 27TH B SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 27TH AUGUST, 2013, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, AT 10.00 AM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Dalmas Otieno, EGH, MP
3. The Hon. Alice Wahome, MP
4. The Hon. Joseph O. Ndiege, MP
5. The Hon. Wanjiku Muhia, MP
6. The Hon. Benard Shinali, MP
7. The Hon. Joseph Kahangara, MP
8. The Hon. Francis K. Mwangangi, MP
9. The Hon. Ibrahim Abdi Saney, MP
10. The Hon. Shaaban Ali Isaack, MP
11. The Hon. George Theuri, MP
12. The Hon. Samuel Moroto, MP
13. The Hon. James Bett, MP
14. The Hon. Akuja Protus Ewesit, MP
15. The Hon. Zakayo K. Cheruiyot, MP

ABSENT

1. The Hon. Alois M. Lentoimaga, MP – Vice-Chairperson
2. The Hon. David Gikaria, MP
3. The Hon. Joseph Lekuton, MP
4. The Hon. Ababu Namwamba, EGH, MP
5. The Hon. Rashid J. Bedzimba, MP
6. The Hon. Ahmed Abdikadir Ore, MP
7. The Hon. Jane Machira, MP
8. The Hon. Grace Kiptui, MP
9. The Hon. Mohamed Shidiye, MP
10. The Hon. Humphrey Njuguna, MP
11. The Hon. (Maj. Rtd.) John K. Waluke, MP
12. The Hon. Timothy Wetangula, MP
13. The Hon. Patrick Ole Ntutu, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Philemon Riaga - Parliamentary Intern

IN ATTENDANCE – KENYA PRIVATE SECTOR ALLIANCE

1. Mr. Samuel Matano – RVR/KEPSA
2. Mr. Shuab Adam HSC – J.I.C.A
3. Ms. Joyce Misoi – Kenya Minerals

4. Mr. Ric Peregrino – Mwongozo EA
5. Ms. Georgina Wachuka – KAM
6. Mr. Antony Weru – KEPSA
7. Mr. Wafula Nabutola – NCBDA
8. Ms. Judy Nemaïsa – KEPSA
9. Mr. Ndirangu Gichinga – KEPSA

MIN.NO. 119/2013 – PRELIMINARY

The meeting was called to order at thirty minutes after ten O'clock. Prayers were said. The agenda of the day was adopted after being proposed by the Hon. George Theuri, MP and seconded by the Hon. Wanjiku Muhia, MP.

MIN.NO. 120/2013 – SUBMISSION BY THE KENYA PRIVATE SECTOR ALLIANCE

The Chairman, Kenya Private Sector Alliance informed the Committee Members of the Committee that;

Their engagement started at the beginning of the drive to reform the Police, immediately after 2007 General Elections. Police must be subjected to checks and balances and must be answerable to Kenyans. The submission was driven by the belief that security is the foundation of human development.

Proposed amendments to National Police Service (Amendment) Bill, 2013

1. **Section 3 (d)** – the proposal should be amended to read "...Article 245(2)..."
Justification - article 245(1) of the Constitution establishes the office of the Inspector General whereas Article 245(2) makes provision for the appointment of the Inspector General.
2. **Section 4** - the provision under the Act should be **retained**.
3. **Section 8** - the section should be **deleted**.
Justification - the section is inconsistent with the provisions of Article 246(3) of the Constitution which grants the Commission the sole powers to exercise disciplinary control over and remove persons holding or acting in offices within the service.
4. **Section 9** – the provision under the Act should be **retained**.
Justification - includes ways and means of involving the community in County policing initiatives (non-exclusivity)
5. **Section 10** - the section should be **amended** by requiring the Inspector General to take into account the recommendations of the Commission and not of his two deputies and the Director of Criminal investigations.
Justification - by requiring the Inspector General to take into account the recommendations of his junior officers would be like to grant him absolute powers. Proper checks can only be achieved by a superior body (independent) or a body which lies at the same level with the one to be checked
6. **Section 15** – should be **deleted**.
Justification - this amounted to shifting of power from the Commission (which is an institution) to the Inspector General (an individual) and duplication of roles. The Inspector General is a member of the Commission and the advice of the Commission, as provided for in the Act, would suffice.
7. **Section 27** - the provision should be amended to retain the provision under the Act.
Justification - shifting role to the National Security Council is in itself without ground. The Constitution clearly sets the functions of both the National Security Council and the National Police Service Commission under Articles 240 and 246 respectively.
8. **Section 28** - introduces new sections 110a and 110Bb that should be **deleted**.

Justification – the provisions seek to undermine the powers given to the Commission by the Constitution by giving the Inspector General absolute powers to recommend and be consulted by the Commission on any matter relating to the recruitment and deployment of Police reserve officers. The provisions are inconsistent with the letter and spirit of the Constitution.

9. Section 29 - KEPSA proposed that the position in the Act be **retained**.

Justification - the Inspector General is a member of the Commission and there is no ground in giving an individual unnecessary power to develop rules and regulations for the recruitment and training of Police Reserves

10. Section 32 - the proposal should be amended to **retain** the position in the Act.

Justification – the proposal amounts to duplication of offices which serve no purpose other than prestige that comes with the difference in title.

Proposed amendments to National Police Service Commission (Amendment) Bill, 2013

Section 10 (1) (a): the proposed amendment to Section 10 (1) (a) requiring the Commission to act "in consultation with the Inspector-General" is an anomaly i.e. the IG would already have participated in decision-making on those matters within the Commission. KEPSA proposed the amendment to read as follows: "develop and keep under review all matters relating to human resources policies and standards or qualifications required of members of the Service".

Section 10(1) (g): should be deleted as it bars the Commission from undertaking investigations on criminal matters.

On proposed amendment under (ii), the National Police Service Commission would carry out disciplinary investigations and be able to recommend prosecution where it identifies violation of any written law creating a criminal offence or civil liability.

KEPSA position on new sub-section 10(1) (g) (i) : in the course of investigations, the National Police Service Commission may identify offence as rightly identified under proposed amendment **10(1) (g) (ii)**. Therefore, it's superfluous to bar the Commission from carrying out criminal investigations since this would very well be the result and outcome of an administrative disciplinary investigation the Commission is empowered and mandated to investigate. However the sub-section should add that such recommendation shall be made to the Director of Public Prosecutions in respect of criminal matters.

The sub-section should, therefore, read as follows: "where, in the course of disciplinary investigations the Commission identifies violation of any written law, whether civil liability or criminal offence, the Commission shall, as **appropriate recommend to the Director of Public Prosecution**, the prosecution of the offender in accordance with the law".

Section 10(4): The amendment limits disciplinary control envisaged under Article 246(3) (a) to the specific issues set out under sub-paragraphs (a) to (f) of the proposed amendment to Section 10 (4).

KEPSA position: the operational Paragraph 10 (4) should not make reference to "shall be limited" and should instead read "**shall refer to**". An amendment Bill, or an Act of Parliament, cannot limit the application of the Constitution; it can only elaborate the provision(s) of the Constitution to give effect to its realization, operationalization and implementation.

Proposed new Section 10(4) (e) and (f): the two sub-paragraphs (e) and (f) would have the effect of vesting the exercise of disciplinary control in the National Police Service on the IG. The role of the Commission – in relation to disciplinary control – would only be limited to the development and prescription of disciplinary procedures and

mechanisms; review and ratification of the Inspector-General's disciplinary actions; and, consistent with the proposed Section 10(1) (k), to "hear and determine appeals from members of the Service".

KEPSA position: two sub-paragraphs contradict and are in violation of Article 246 of the Constitution which vests disciplinary action, amongst others, on the Commission and not the IG. The proposed amendment would, therefore, be null and void to the extent of its inconsistency with the Constitution unless Article 246 is amended.

The proposed amendment under Section 10 (5) should be limited to "independent command" and should read as follows: ~~"Notwithstanding anything to the contrary contained in this Act, the functions of the Commission shall not extend beyond any matter auxiliary to and touching on the independent command of the Service"~~.

Second Schedule: The amendment should be rejected because it was in contradiction and violated the express provisions of Article 246(2) (b) and (c) of the Constitution which clearly identify that the membership of the National Police Service Commission includes the IG and his two deputies from the National Police Service and the Administration Police.

Issues raised by the Committee

The Committee Members pointed out that;

The notion that the Bill sought to transfer the powers of the Commission to the Inspector General a creation of the media as the two offices were in agreement with a number of proposals in the amendments.

The Committee had engaged a number of stakeholders and would incorporate their views in their final report to the house for adoption.

They were concerned about the way the City of Nairobi was being policed.

Members noted that they were in agreement with a number of issues in the two amendments Bills.

The Committee was concerned by the failure by KEPSA to consistently remit taxes to the Central Government to enable the government to deliver on its key mandates i.e. provision of security to the citizens.

The Committee implored on KEPSA to commission a research to find out how best the country would achieve the envisioned 24 hour economy.

Response by KEPSA

The Kenya Private Sector Alliance stated as follows;

A study was conducted which came up with a proposed lighting project and installation of CCTV cameras in the city that in turn led to decrease in insecurity.

Community policing needed to be strengthened if a vision for a secure nation was to be realized.

There was an urgent need to transform Nairobi city into a 24 hour economy. A pilot project put in place before had proved it was possible to have a 24 hour economy.

KEPSA had conducted a security research in the city of Nairobi in 2011 but the recommendations had not been fully implemented.

With emerging mining projects in the country, proper security structures needed to be put into place.

KEPSA further urged the Committee to come up with legislation aimed at formalizing corporation between the private security agency and National Police Service that would enhance sharing of information and available facilities.

MIN.NO.121/2013 – ANY OTHER BUSINESS

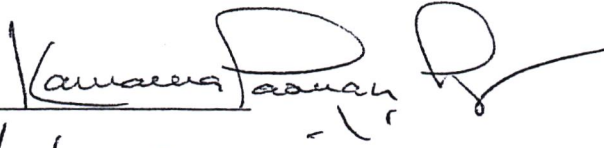
The Committee agreed to have future regular engagements with KEPSA on security related issues.

MIN.NO.122/2013 – ADJOURNMENT

There being no other business, the meeting was adjourned at thirty minutes after twelve O'clock. The next meeting would be held on Tuesday, 27th August 2013, in the Boardroom, 2nd floor, Protection House, at 2.30 pm.

Signed:

Chairperson:



Date:

24/9/2013

MINUTES OF THE 28TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 27TH AUGUST, 2013, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, AT 2.30 PM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Dalmas Otieno, EGH, MP
3. The Hon. Alice Wahome, MP
4. The Hon. Joseph O. Ndiege, MP
5. The Hon. Wanjiku Muhia, MP
6. The Hon. Benard Shinali, MP
7. The Hon. Joseph Kahangara, MP
8. The Hon. Francis K. Mwangangi, MP
9. The Hon. Ibrahim Abdi Saney, MP
10. The Hon. Shaaban Ali Isaack, MP
11. The Hon. George Theuri, MP
12. The Hon. Samuel Moroto, MP
13. The Hon. James Bett, MP
14. The Hon. Akuja Protus Ewesit, MP

ABSENT

1. The Hon. Alois M. Lentoimaga, MP - Vice Chairperson
2. The Hon. David Gikaria, MP
3. The Hon. Joseph Lekuton, MP
4. The Hon. Ababu Namwamba, EGH, MP
5. The Hon. Rashid J. Bedzimba, MP
6. The Hon. Ahmed Abdikadir Ore, MP
7. The Hon. Jane Machira, MP
8. The Hon. Grace Kiptui, MP
9. The Hon. Mohamed Shidiye, MP
10. The Hon. Humphrey Njuguna, MP
11. The Hon. (Maj. Rtd.) John K. Waluke, MP
12. The Hon. Timothy Wetangula, MP
13. The Hon. Zakayo K. Cheruiyot, MP
14. The Hon. Patrick Ole Ntutu, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Philemon Riaga - Parliamentary Intern

MIN.NO. 123/2013 – PRELIMINARY

The meeting was called to order at fifty minutes after two O'clock. Prayers were said. The agenda of the day's meeting was adopted after being proposed by the Hon. Alice Wahome, MP and seconded by the Hon. Joseph Kahangara, MP.

MIN.NO. 124/2013 – MEETING WITH THE CITIZENS OF KENYA GROUP

The Committee was informed that the Kenya Citizen Group had requested for the meeting to be rescheduled. After deliberations, the Members agreed to meet the Citizens of Kenya Group on Wednesday, 28th August 2013, at 10.00 am, in the same venue.

MIN.NO.125/2013 – ANY OTHER BUSINESS

The Members proposed to undertake local trips to assess security situation in the volatile areas such as. Mandera and Todonyang in Turkana County. Members proposed to also visit local prisons in Naivasha, Kodiaga and Kitale. To that extend, the Committee agreed to visit Mandera and Todonyang in Turkana, on 5th and 6th September 2013.

The following Members were proposed for the Mandera – Todonyang trip;

Hon. Asman Kamama, MP, Hon. Alice Wahome, MP, Hon. Benard Shinali, MP, Hon. Ibrahim Abdi Saney, MP, Hon. Ahmed Abdikadir Ore, MP, Hon. Shaaban Ali Isaack, MP, and Hon. Francis Mwangangi Kilonzo, MP.

The Committee further agreed to hold a meeting with the traffic police department as well as the Ethics and Anti Corruption Commission on allegations of corruption in the traffic department.

MIN.NO.126/2013 – ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting adjourned at forty minutes after three O'clock. The next meeting would be held on Wednesday, 28th August 2013, in the Boardroom, 2nd floor, Protection House, at 10.00 am.

Signed:

Chairperson: 

Date: 24/9/2013

Additionally that section of the Amendment Bill proposes to delete s41 (9) (h), which states that one of the functions of the County Policing Authorities is to "facilitate public participation on county policing policy". The subsection should not be deleted as public participation in policy formulation is important, and useful in improving responsive policing and police –public relations. The amendments be rejected.

Clause 32 - the proposed amendment to s72 of the NPS Act will remove the powers of the Commission to appoint special police officers. The proposal obscures the clear delineation of responsibilities between the Commission and the National Police Service that the Constitution establishes. The amendments should be rejected.

Clause 34 - the amendment proposes the inclusion of a new s80A that establishes a "Service Examination Board" made up of members directly appointed by the Cabinet Secretary and the Inspector-General. The group concurred that the amendment would undermine the Commission whose functions are set clearly in the Constitutional thus no need for replication. The amendments should be rejected.

Clause 39 - the amendment proposes more like militaristic punishments that are not necessary for a civilian police force as exists in Kenya. The current list of disciplinary action is sufficient. The amendments should be rejected

Clause 43 - the Bill proposes to add new sections regarding the Police Reserve. The group was concerned about the inclusion of s110C (a) and submit that the phrase "on the recommendation and" infringes on the constitutionally assigned recruitment role of the Commission as set out in Article 246(3)(a). For a democratic policing system it is fundamental that the Commission retains that power. The phrase "on the recommendation and" be removed.

Clause 49 – the amendment should be rejected as it seeks to remove the professional discretion of the Commission (that includes the Inspector-General and the deputies) which should prepare the regulations regarding recruitment and training of the police. Additionally, Article 254(4) of the Constitution sets out that the Cabinet Secretary may give a direction to the Inspector-General (not the Commission) in relation to policy. Giving the Cabinet Secretary the power to develop regulations for standards of recruitment and training is overstepping this constitutional mandate.

Use of Firearms

Clause 41 - the proposed amendment would provide the Inspector-General with the power to make regulations regarding the use of firearms by foreign police services working in Kenya. Foreign police officers should be subject to all the laws and regulations of Kenyan police, and hence should follow the laws regarding use of firearms set out in the Sixth Schedule to this Act. The amendments should be rejected

Clause 54 - the proposed amendment would change the regulations regarding when the police can use firearms. They amendment be rejected as the current Schedule 6 sufficiently empowers the police to use firearms.

The Group further noted that In no circumstance is use of firearms allowed to protect property, or to stop an escape – unless it is strictly unavoidable in order to protect life.

Transparency and Accountability

Section 128 Clause 50 - the amendment would change the law so that the Police Standing Orders would not have to be gazetted, and hence would not be public knowledge hence should be rejected.

Proposals to the National Police Service Commission amendment Bill, 2013

Lastly, the amendment to s10 (4) should be rejected. This amendment proposed to limit the constitutional mandate of the Commission to exercise disciplinary control over the Service to merely developing and monitoring disciplinary

procedures, rather than actually recommending disciplinary measures that the Inspector-General of Police must implement. These amendments should be rejected.

In the alternative, Section 3 (a) should be rejected, 3 (b) should be rejected, 3(c) be reworded to read "*hear and determine appeals from members of the service in relation to disciplinary matters or matters relating to transfers, promotions and appointments.*"

Sub-sections 3 (d) 3 (e) and 3(f) be rejected.

Clause 17 - this amendment would mean that the Commission would require the approval of the Cabinet Secretary prior to appointing officers and staff. These amendments should be rejected.

Clause 6 - this amendment would delete the power of the Commission to make regulations regarding the vetting of police officers. These amendments should be rejected.

Second Schedule of the Principal Act Clause 7 of the Bill - this amendment would increase the number of members required for a quorum to six, instead of five. Given that high powered individuals make up the committee, including the IGP, it is probable that committee members will not be able to attend every meeting. To ensure it is practical for the Commission to carry out its functions a quorum of five should be retained. These amendments should be rejected.

Recommendations;

1. The proposed amendments to the two Bills be rejected in their entirety.
2. The NPSC and the NPS be accorded the support and independence required to fulfil their legal and constitutional mandates
3. Extensive public discussion should be held on the issue of what, if any, police reform should take place.

Committee's Reactions;

The Committee informed the Group that;

The Inspector General of Police should be set free to enjoy independent control over the National Police Service.

The current crop of criminals was focused on properties hence denying the police from using firearms to protect the property will pose a danger to the Service. The Committee further noted that the firearm should only be used when it's justifiable.

The Committee is yet to meet and come up with a common position on the proposed amendments contrary to speculations that the Committee had endorsed the amendments.

The Committee also inquired on the group's take on having the Inspector General of Police as the Chairperson of the National Police service Commission as witnessed in the other independent Commissions like the Judicial Service Commission and the rationale behind having 9 Members of the Commission on full time contract.

Response to Committee's concerns

The Kenya Citizens Group further informed the Committee that:-

The Inspector General's job should be advertised and a competitive recruitment process done.

The complexity of security docket cannot allow the Inspector General to chair the National Police Service Commission as is the practice in other independent commissions.

The overlapping mandates in Article 245 and 246 will be cured by having the Inspector General of Police or one of his Deputies as substantive Members of the Commission.

The Public must be involved in the process of hiring of the Inspector General of Police.

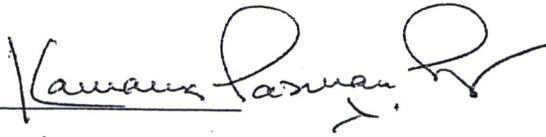
Having 9 Members of the Commission on full time basis is indeed cost inefficient thus there's need to reduce the number of Commissioners on full time contract to two. The group prevailed upon the Committee to come up with the relevant legislation on the proposal.

MIN.NO.129/2013 – ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting was adjourned at forty five minutes after twelve o'clock. The next meeting would be held on Thursday, 29th August 2013, in the Boardroom, 2nd floor, Protection House, at 10.00 am.

Signed:

Chairperson:



Date:

24/9/2013

MINUTES OF THE 30TH A SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 29TH AUGUST, 2013, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, AT 10.00 A`M

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Alice Wahome, MP
3. The Hon. Joseph O. Ndiege, MP
4. The Hon. Benard Shinali, MP
5. The Hon. Joseph Kahangara, MP
6. The Hon. Francis K. Mwangangi, MP
7. The Hon. Shaaban Ali Isaack, MP
8. The Hon. George Theuri, MP
9. The Hon. Samuel Moroto, MP
10. The Hon. Zakayo K. Cheruiyot, MP
11. The Hon. Humphrey Njuguna, MP
12. The Hon. Joseph Lekuton, MP
13. The Hon. Akuja Protus Ewesit, MP

ABSENT

1. The Hon. Alois M. Lentoimaga, MP - Vice Chairperson
2. The Hon. Dalmas Otieno, EGH, MP
3. The Hon. Wanjiku Muhia, MP
4. The Hon. David Gikaria, MP
5. The Hon. James Bett, MP
6. The Hon. Ibrahim Abdi Saney, MP
7. The Hon. Rashid J. Bedzimba, MP
8. The Hon. Ahmed Abdikadir Ore, MP
9. The Hon. Jane Machira, MP
10. The Hon. Grace Kiptui, MP
11. The Hon. Ababu Namwamba, EGH, MP
12. The Hon. Mohamed Shidiye, MP
13. The Hon. (Maj. Rtd.) John K. Waluke, MP
14. The Hon. Timothy Wetangula, MP
15. The Hon. Patrick Ole Ntutu, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

The Hon. Onesmus Kimani Ngunjiri, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Philemon Riaga - Parliamentary Intern

MIN.NO. 130/2013 – PRELIMINARY

The meeting was called to order at twenty five minutes after ten o'clock. Prayer was said. The agenda of the day was adopted after being proposed by the Hon. Zakayo K. Cheruiyot, MP and seconded by the Hon. Benard Shinali, MP.

MIN.NO. 131/2013 – KENYA LAW REFORM COMMISSION SUBMISSION

The Committee was informed that the Kenya Law Reform Commission had requested for the meeting to be pushed to 2.30 pm. The Committee agreed to meet the Commission at 2.30 pm in the same venue.

MIN.NO.132/2013 – ANY OTHER BUSINESS

The Chairperson notified the Members about the presence of Hon. Onesmus Kimani Ngunjiri, MP (Bahati Constituency) and informed them that, the Committee was in receipt of his letter requesting for the Committee's assistance over harassment by traffic Police Officers in Nakuru that led to revocation of his firearms and withdrawal of his security aides. He then welcomed him to present his case before the Committee.

In his submission, the member stated that;

While buying building materials in a hardware shop in Nakuru town, he was confronted by a Traffic Police Officer who later demanded Kshs. ten thousand fine for parking on undesignated area. According to him, the place was a parking zone. A scuffle ensued as the female officer was joined by her male counterparts who manhandled the Member.

He later recorded a statement at Central Police Station but the statement was not recorded in Occurrence Book. The officers denied him a P3 form yet the female police officer who attacked him was given.

He was taken to court at 5.00 pm where he was charged with traffic offence. The Officers charged him with assault and gave him the option for a bond but he was later detained in the police cells till the following morning when he was informed that his security aides had been recalled and that his firearms had also been withdrawn.

He was further informed that he had been holding the same firearms illegally yet according to him he had been in the possession of them for the last 21 years.

He wrote to the Cabinet Secretary, Ministry Interior and Coordination of National Government who advised to see the Inspector General but since then he has not been able to meet him over the same. The incident has put his life in danger thus the matter should be treated with urgency.

Committee's Response;

The Committee advised him to request for a statement from the Ministry of Interior over his predicament in the hands of Police Officers and that he cooperate with the Police on the issue of the firearms since the matter is already before the court

The Members agreed to seek the Minister's and Inspector General's intervention over mistreatment of Members of Parliament and the public by police officers

The meeting resolved that a letter be written to the Minister and the Inspector General of Police over the withdrawal of Hon. Ngunjiri's security aides and that the Independent Policing Oversight Authority be notified to carry out a thorough investigation on the allegations.

MIN.NO.133/2013 – ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting adjourned at thirty minutes after eleven o'clock. The next meeting would be held on Thursday, 29th August 2013, in the Boardroom, 2nd Floor, Protection House, at 2.30 pm.

Chairperson: Karuna Paswan

Date: 24/9/2013

MINUTES OF THE 30TH B SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 29TH AUGUST, 2013, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, AT 2.30 PM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Alice Wahome, MP
3. The Hon. Joseph O. Ndiege, MP
4. The Hon. Benard Shinali, MP
5. The Hon. Joseph Kahangara, MP
6. The Hon. Francis K. Mwangangi, MP
7. The Hon. Shaaban Ali Isaack, MP
8. The Hon. George Theuri, MP
9. The Hon. Samuel Moroto, MP
10. The Hon. Zakayo K. Cheruiyot, MP
11. The Hon. Akuja Protus Ewesit, MP

ABSENT

1. The Hon. Alois M. Lentoimaga, MP - Vice Chairperson
2. The Hon. Joseph Lekuton, MP
3. The Hon. Humphrey Njuguna, MP
4. The Hon. Dalmás Otieno, EGH, MP
5. The Hon. Wanjiku Muhia, MP
6. The Hon. David Gikaria, MP
7. The Hon. James Bett, MP
8. The Hon. Ibrahim Abdi Saney, MP
9. The Hon. Rashid J. Bedzimba, MP
10. The Hon. Ahmed Abdikadir Ore, MP
11. The Hon. Jane Machira, MP
12. The Hon. Grace Kiptui, MP
13. The Hon. Ababu Namwamba, EGH, MP
14. The Hon. Mohamed Shidiye, MP
15. The Hon. (Maj. Rtd.) John K. Waluke, MP
16. The Hon. Timothy Wetangula, MP
17. The Hon. Patrick Ole Ntutu, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Philemon Riaga - Parliamentary Intern

IN ATTENDANCE – KENYA LAW REFORM COMMISSION

Mr. Peter Musyimi - Principal Legal Officer (KLRC)

MIN.NO. 134/2013 – PRELIMINARY

The meeting was called to order at three o'clock. Prayer was said followed by introduction. The agenda of the day was adopted after being proposed by the Hon. George Theuri, MP and seconded by the Hon. Joseph O. Ndiege, MP. The Chairperson then welcomed Mr. Musyimi to make his submission.

MIN.NO. 135/2013 – KENYA LAW REFORM COMMISSION SUBMISSION

National Police Service Commission Amendment Bill, 2013;

The Principal Legal Officer (KLRC) stated that;

Unlike other Independent Commissions, the National Police Service Commission's mandates seems to extend beyond personnel and discipline matters hence the need to clearly define the term 'disciplinary control'.

It was clear that the Commission's mandates leans towards 'disciplinary control' while the Inspector General tackles 'command and actual discipline'.

The Inspector General and his two deputies should be substantive members of the Commission as opposed to section 4 and section 3 of the second schedule of National Police Service Commission Act that referred to them as ex officio members.

The quorum for Commission's meetings should be maintained at 6 as it will allow the Commission to transact its business in the presence of Inspector General of Police or one of his Deputies.

On appointment of staff of the Commission (section 17), the Commission should be given full mandate to employ its staff. The Provision for consulting Cabinet Secretary would water down the National Police Service Commission mandates.

National Police Service Amendment Bill, 2013

The term Independent Command (Article 245 (2) (b) of the Constitution) needs to be defined (Section 8A) in the context of a disciplined Service and an Independent Commission.

On appointments, the Inspector General of Police needs to be nominated by the President with approved of the National Assembly. The involvement of the Commission in the appointment of Inspector General has led to an impression that the Inspector General is an employee of the Commission.

Removal of Inspector General from office by the Commission should be changed to President who would recommend removal of Inspector General to the National Assembly.

One of the Deputy Inspector Generals should take charge of the Service in the absence of Inspector General as opposed to Section 16 of National Police Service Act that gives the President Powers to appoint the Cabinet Secretary to act in the absence of Inspector General of Police.

Ranking structures of the Service be done with the advice of the Inspector General.

The term of office of Director of Criminal Investigation should be changed to 5 years and provide for eligibility for re-appointment for one more term.

Membership of County Policing Authority should include the National Intelligence Service. The appointment of special police officers be given to Inspector General of Police with approval of National Security Council.

Penalties for disciplinary offences section 89 be expanded to include; confinement in barracks, reduction of salary by 1/3 for 3 months; and fine not exceeding 1/3 of salary.

Conditions as to use of firearms should be expanded to include; protection of life and property, prevention of escape of a person in custody and prevention of rescue of a person in custody.

MIN.NO.136/2013 – ANY OTHER BUSINESS

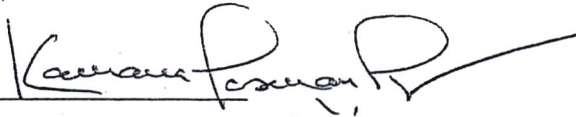
There was no other business under this item.

MIN.NO.137/2013 – ADJOURNMENT

There being no other business, the meeting was adjourned at forty minutes after three o'clock. The next meeting would be held on Monday, 2nd August 2013. The venue and time will be communicated to Members.

Signed:

Chairperson:



Date:

24/9/2013

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP – Chairperson
2. The Hon. Alois M. Lentoimaga, MP – Vice-Chairperson
3. The Hon. Alice Wahome, MP
4. The Hon. Dalmas Otieno, EGH, MP
5. The Hon. Francis K. Mwangangi, MP
6. The Hon. Shaaban Ali Isaack, MP
7. The Hon. Ababu Namwamba, EGH, MP
8. The Hon. George Theuri, MP
9. The Hon. Samuel Moroto, MP
10. The Hon. Zakayo K. Cheruiyot, MP
11. The Hon. Wanjiku Muhia, MP
12. The Hon. Mohamed Shidiye, MP
13. The Hon. Rashid J. Bedzimba, MP
14. The Hon. James Bett, MP
15. The Hon. (Maj. Rtd.) John K. Waluke, MP
16. The Hon. Joseph O. Ndiege, MP
17. The Hon. Benard Shinali, MP

ABSENT

1. The Hon. Timothy Wetangula, MP
2. The Hon. David Gikaria, MP
3. The Hon. Patrick Ole Ntutu, MP
4. The Hon. Ibrahim Abdi Saney, MP
5. The Hon. Ahmed Abdikadir Ore, MP
6. The Hon. Humphrey Njuguna, MP
7. The Hon. Joseph Kahangara, MP
8. The Hon. Jane Machira, MP
9. The Hon. Grace Kiptui, MP
10. The Hon. Akuja Protus Ewesit, MP
11. The Hon. Joseph Lekuton, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga – Principal Clerk Assistant
2. Mr. Philemon Riaga – Parliamentary Intern

MIN.NO. 138/2013 – PRELIMINARY

The meeting was called to order at forty five minutes after two O'clock. Prayers were said. The agenda of the day was adopted after being proposed by the Hon. Wanjiku Muhia, MP and seconded by the Hon. Mohamed Shidiye, MP.

MIN.NO. 139/2013 – CONFIRMATION OF MINUTES

Confirmation of Minutes of the previous sitting was deferred to a later date.

MIN.NO.140/2013 – CONSIDERATION OF DRAFT AMENDMENTS TO THE POLICE BILLS

The Committee was informed that the Directorate of Legal Services was in the process of redrafting the proposed Committee amendments to the two Police Bills. The Committee therefore resolved to continue with the deliberations on the Bills the following day on Tuesday, 17th September, 2013, at 4.00pm.

MIN.NO.141/2013 – ANY OTHER BUSINESS

The Committee was informed that funds for the first quarter on local travel had been exhausted. However, it was resolved that the Committee shall still continue with plans to visit Mandera.

The Committee also deliberated on claims of harassment of the Hon. Wanjiku Muhia, MP, by City Council 'askaris'. The Committee resolved to forward the claim to the Speaker of National Assembly for him to take necessary action in as far as protection and upholding of Members dignity was concerned.

The Committee would also request for a statement on the Jomo Kenyatta International Airport's fire tragedy, which had a security aspect to it.

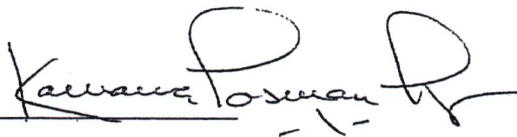
The Chairman also reported that he would be tabling the Assumption of Office from the Office of the President Transition Committee, during the week.

MIN. NO. 142/2013 – ADJOURNMENT

There being no other business, the meeting was adjourned at thirty five minutes after eleven O'clock. The next meeting would be held on Tuesday, 17th September 2013, in the Boardroom, 2nd floor, Protection House, at 4.00 pm.

Signed:

Chairperson:



Date:

21/9/2013

MEMBERS PRESENT

1. The Hon. Alois M. Lentoimaga, MP – Vice-Chairperson(Chairing)
2. The Hon. Asman Kamama, MGH, OGW, MP – Chairperson
3. The Hon. Alice Wahome, MP
4. The Hon. Dalmas Otieno, EGH, MP
5. The Hon. Francis K. Mwangangi, MP
6. The Hon. Benard Shinali, MP
7. The Hon. Shaaban Ali Isaack, MP
8. The Hon. George Theuri, MP
9. The Hon. Samuel Moroto, MP
10. The Hon. Zakayo K. Cheruiyot, MP
11. The Hon. Wanjiku Muhia, MP
12. The Hon. Mohamed Shidiye, MP
13. The Hon. Rashid J. Bedzimba, MP
14. The Hon. James Bett, MP
15. The Hon. (Maj. Rtd.) John K. Waluke, MP
16. The Hon. Timothy Wetangula, MP
17. The Hon. Joseph Lekuton, MP
18. The Hon. Patrick Ole Ntutu, MP

ABSENT

1. The Hon. Joseph O. Ndiege, MP
2. The Hon. David Gikaria, MP
3. The Hon. Ibrahim Abdi Saney, MP
4. The Hon. Joseph Kahangara, MP
5. The Hon. Ahmed Abdikadir Ore, MP
6. The Hon. Jane Machira, MP
7. The Hon. Grace Kiptui, MP
8. The Hon. Humphrey Njuguna, MP
9. The Hon. Akuja Protus Ewesit, MP
10. The Hon. Ababu Namwamba, EGH, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga – Principal Clerk Assistant
2. Mr. Wycliffe Nyangate – Parliamentary Intern

MIN.NO.143/2013 – PRELIMINARY

The meeting was called to order at forty five minutes after four O'clock. Prayers were said. The agenda of the day was adopted as the true business for the day.

MIN.NO. 144/2013 – CONFIRMATION OF MINUTES

Confirmation of minutes of the previous sitting was deferred to another day.

MIN.NO.145/2013 – CONSIDERATION OF DRAFT AMENDMENTS TO THE POLICE BILLS

The Committee deliberated on the proposed amendments to the Police Bills, as follows:-

The National Police Service (Amendment) Bill, 2013

CLAUSE 4

THAT, clause 4 be deleted.

CLAUSE 9

THAT, clause 9 be amended, in the proposed new section 8A(5), by inserting the words "in writing" immediately after the word "direction".

CLAUSE 10

THAT, clause 10 be amended by deleting paragraph (d).

CLAUSE 12

THAT, clause 12 be amended by deleting subsection (2) of the proposed new section 12 and substituting therefor the following new subsections—

"(1) The President shall, within fourteen days after a vacancy occurs in the office of the Inspector-General, constitute a selection panel comprising one person from each of the following bodies, respectively—

- (a) the Office of the President;
- (b) the Public Service Commission;
- (c) the National Police Service Commission;
- (d) the Independent Policing Oversight Authority;
- (e) the Kenya National Commission on Human Rights;
- (f) the National Gender and Equality Commission; and
- (g) the Law Society of Kenya.

(2) The Public Service Commission shall—

- (a) convene the first meeting of the selection panel, at which the members of the selection panel shall elect a chairperson from among their number; and
- (b) provide the selection panel with such facilities and other support as it may require for the discharge of its functions.

(3) The selection panel shall, within seven days of its convening, by advertisement in at least two daily newspapers of national circulation, invite applications from persons who qualify for nomination and appointment as the Inspector-General.

(4) The selection panel shall—

- (a) consider the applications received under subsection (3) to determine their compliance with the provisions of the Constitution and this Act;
 - (b) shortlist the applicants;
 - (c) publish the names of the shortlisted applicants and the qualified applicants in at least two daily newspapers of national circulation; and
 - (d) conduct public interviews of the shortlisted persons;
 - (e) shortlist three qualified applicants; and
 - (f) forward the names of the qualified persons under paragraph (e) to the President.
- (5) The President shall, within fourteen days of receipt of the names of successful applicants forwarded under subsection (4)(f), nominate a person for appointment as the Inspector-General and submit the name of the nominee to Parliament."

CLAUSE 14

THAT, clause 14 be deleted and replaced with the following new clause—

14. Section 15 of the principal Act is amended—

(a) in subsection (2), by deleting the word "Commission" and substituting therefor the words "Independent Policing Oversight Authority";

(b) by deleting subsection (3) and substituting therefor the following new subsection—

"(3) The Independent Policing Oversight Authority shall, within fourteen days of receipt of a petition under subsection (2), consider the petition and, if at least two thirds of the members present and voting agree that it discloses a ground under subsection (1), the Independent Policing Oversight Authority shall recommend to the President the removal of the Inspector-General";

(c) by deleting subsection (4);

(d) by deleting subsection (5) and substituting therefor the following new subsection—

"(5) On receiving a petition under subsection (3), the President—

(a) shall, within fourteen days of receipt of the petition, appoint a tribunal in accordance with subsection (6);

and

- (b) may suspend the Inspector General, as the case may be pending the outcome of the petition”;
- (e) by deleting subsection (7) and substituting therefor the following new subsections—

“(7) The tribunal shall, within fourteen days, investigate the matter, report on the facts and make a recommendation to the President.

(7A) The President shall consider the recommendation of the tribunal and if necessary, recommend to Parliament the removal of the Inspector-General”

CLAUSE 17

THAT, clause 17 be amended by deleting subsection (1) of the proposed new section 21 and substituting therefor the following new subsection—

“(1) There is established a Service Board which shall consist of the Inspector-General, the two Deputy Inspectors-General, the Director of Criminal Investigation Department and the head of human resource of the Service.”

CLAUSE 22


THAT, clause 22 be amended by deleting paragraph (b).

MIN.NO.146/2013 – ANY OTHER BUSINESS

There was no other business under this item.

MIN.NO. 147/2013 – ADJOURNMENT

There being no other business, the meeting adjourned at thirty minutes after six O'clock. The next meeting would be held on Thursday, 19th September, 2013, in the Boardroom, 2nd floor, Protection House, Parliament Buildings, at 10 am.

Signed: Chairperson  Date: 24/9/2013

MINUTES OF THE 33RD SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 19TH SEPTEMBER, 2013, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, AT 10.00 AM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP – Chairperson
2. The Hon. Alois M. Lentoimaga, MP – Vice-Chairperson
3. The Hon. Alice Wahome, MP
4. The Hon. Dalmas Otieno, EGH, MP
5. The Hon. Francis K. Mwangangi, MP
6. The Hon. Shaaban Ali Isaack, MP
7. The Hon. George Theuri, MP
8. The Hon. Samuel Moroto, MP
9. The Hon. Zakayo K. Cheruiyot, MP
10. The Hon. Wanjiku Muhia, MP
11. The Hon. Mohamed Shidiye, MP
12. The Hon. Joseph O. Ndiege, MP
13. The Hon. Rashid J. Bedzimba, MP
14. The Hon. Ibrahim Abdi Saney, MP
15. The Hon. Jane Machira, MP
16. The Hon. Benard Shinali, MP
17. The Hon. Patrick Ole Ntutu, MP

ABSENT WITH APOLOGY

1. The Hon. Ahmed Abdikadir Ore, MP
2. The Hon. Timothy Wetangula, MP

ABSENT

1. The Hon. David Gikaria, MP
2. The Hon. Joseph Kahangara, MP
3. The Hon. Joseph Lekuton, MP
4. The Hon. Grace Kiptui, MP
5. The Hon. Humphrey Njuguna, MP
6. The Hon. Akuja Protus Ewesit, MP
7. The Hon. James Bett, MP
8. The Hon. Ababu Namwamba, EGH, MP
9. The Hon. (Maj. Rtd.) John K. Waluke, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Philemon Riaga – Parliamentary Intern

MIN.NO.148/2013 – PRELIMINARY

The meeting was called to order at forty minutes after ten O'clock. Prayers were said. The agenda of the day was adopted as the true business for the day after having been proposed by the Hon. Ibrahim Abdi Saney, MP and seconded by the Hon. Rashid J. Bedzimba, MP.

- (b) any two of the members appointed under Article 246(2)(b) and (c).

MIN.NO.151/2013 – ANY OTHER BUSINESS

The Committee resolved to invite the Cabinet Secretary, Interior Ministry, the Inspector General of Police, the Independent Policing Oversight Authority and the Director of Criminal Investigation to clarify on the National Police Service County Command hierarchy; non response to statements made to Ministry by individual Members of Parliament on major security issues in the country; and, the incessant terrorist related attacks and inter-clan conflicts in Mandera and Moyale.

The meeting would be held the following day on Friday, 20th September, 2013, in the Committee Room, 4th floor, Continental House, Parliament Buildings, at 11 am.

MIN.NO. 152/2013 – ADJOURNMENT

There being no other business, the meeting adjourned at thirty minutes after twelve O'clock. The next meeting shall be held on Friday, 20th September 2013, in the Committee room, 4th Floor, Continental House, at 11.00 am.

Signed:

Chairperson: 

Date: 24/9/2013

MIN.NO. 149/2013 – CONFIRMATION OF MINUTES

Confirmation of minutes of the previous sitting was deferred to another day.

MIN.NO.150/2013 – CONSIDERATION OF DRAFT AMENDMENTS TO THE POLICE BILLS

The Committee deliberated on the proposed amendments to the Police Bills, as follows:-

The National Police Service (Amendment) Bill, 2013 [Continuation]

CLAUSE 34

THAT, clause 34 be amended—

- (a) in the proposed new section 80A(1), by deleting the words "the Cabinet Secretary in consultation with the Inspector-General" and substituting therefor the words "the Commission";
- (b) in the proposed new section 80A(3), by deleting the words "Cabinet Secretary" and substituting therefor the word "Commission".

CLAUSE 54

THAT, clause 54(c) be amended by adding the following words:- " through justifiable force" after the words "protection of life and property".

The National Police Service Commission (Amendment) Bill, 2013

CLAUSE 3

THAT, clause 3 be amended in paragraph (a), by deleting the words "and approval of the Cabinet Secretary" appearing in the proposed new paragraph (a).

CLAUSE 5

THAT, clause 5 be deleted.

CLAUSE 7

THAT, clause 7 be deleted and replaced with the following new clause—

7. The principal Act is amended in the Second Schedule by deleting paragraph 3 and substituting therefor the following new paragraph—

3. The quorum of meetings of the Commission shall be six members, who shall include—

- (a) the four members appointed under Article 246(2)(a)(i) and (iii) of the Constitution; and

Confirmation of minutes of the previous sitting was deferred to another day.

MIN.NO.160/2013 – ADOPTION OF THE DRAFT REPORT ON THE PROPOSED AMENDMENTS TO THE POLICE BILLS

After holding a press briefing on the Westgate Mall terror attack, the Members unanimously agreed to defer the meeting to the following day, Tuesday, 24th September, 2013 in the Boardroom, 2nd floor, Protection House at 10.00 am. This was in view of circumstances of the terror, where Members felt it was critical to adjourn the meeting in order to join the Speaker of the National Assembly in addressing the Westgate Mall tragedy, which was a matter of urgent national importance.

MIN.NO.161/2013 – ANY OTHER BUSINESS

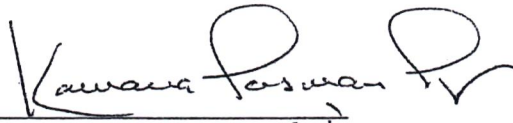
There was no other business under this item.

MIN.NO. 162/2013 – ADJOURNMENT

There being no other business, the meeting adjourned at thirty minutes after twelve O'clock. The next meeting shall be held on Tuesday, 24th September 2013, in the Boardroom, 2nd floor, Protection House, at 11.00 am.

Signed:

Chairperson:



Date:

24/9/2013

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP – Chairperson
2. The Hon. Alice Wahome, MP
3. The Hon. Dalmas Otieno, EGH, MP
4. The Hon. Timothy Wetangula, MP
5. The Hon. Shaaban Ali Isaack, MP
6. The Hon. George Theuri, MP
7. The Hon. Samuel Moroto, MP
8. The Hon. Zakayo K. Cheruiyot, MP
9. The Hon. Wanjiku Muhia, MP
10. The Hon. Mohamed Shidiye, MP
11. The Hon. Joseph O. Ndiege, MP
12. The Hon. Ibrahim Abdi Saney, MP
13. The Hon. Jane Machira, MP
14. The Hon. Grace Kiptui, MP
15. The Hon. Joseph Kahangara, MP
16. The Hon. (Maj. Rtd.) John K. Waluke, MP
17. The Hon. David Gikaria, MP
18. The Hon. James Bett, MP
19. The Hon. Benard Shinali, MP

ABSENT

1. The Hon. Alois M. Lentoimaga, MP – Vice-Chairperson
2. The Hon. Ahmed Abdikadir Ore, MP
3. The Hon. Francis K. Mwangangi, MP
4. The Hon. Rashid J. Bedzimba, MP
5. The Hon. Patrick Ole Ntutu, MP
6. The Hon. Joseph Lekuton, MP
7. The Hon. Humphrey Njuguna, MP
8. The Hon. Akuja Protus Ewesit, MP
9. The Hon. Ababu Namwamba, EGH, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Philemon Riaga – Parliamentary Intern

MIN.NO.158/2013 – PRELIMINARY

The meeting was called to order at three O'clock. Prayers were said. The agenda of the day was adopted as the true business for the day after having been proposed by the Hon. Wanjiku Muhia, MP and seconded by the Hon. James Bett, MP.

MIN.NO. 159/2013 – CONFIRMATION OF MINUTES

MINUTES OF THE 36TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 24TH SEPTEMBER, 2013, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, AT 10.00 AM

MEMBERS PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP – Chairperson
2. The Hon. Alice Wahome, MP
3. The Hon. Dalmás Otieno, EGH, MP
4. The Hon. Francis K. Mwangangi, MP
5. The Hon. Shaaban Ali Isaack, MP
6. The Hon. George Theuri, MP
7. The Hon. Samuel Moroto, MP
8. The Hon. Zakayo K. Cheruiyot, MP
9. The Hon. Wanjiku Muhia, MP
10. The Hon. Joseph O. Ndiege, MP
11. The Hon. Benard Shinali, MP
12. The Hon. Timothy Wetangula, MP
13. The Hon. Ahmed Abdikadir Ore, MP
14. The Hon. (Maj. Rtd.) John K. Waluke, MP
15. The Hon. Joseph Kahangara, MP
16. The Hon. Humphrey Njuguna, MP
17. The Hon. Grace Kiptui, MP
18. The Hon. Akuja Protus Ewesit, MP
19. The Hon. David Gikaria, MP
20. The Hon. James Bett, MP

ABSENT

1. The Hon. Alois M. Lentoimaga, MP – Vice-Chairperson
2. The Hon. Joseph Lekuton, MP
3. The Hon. Ababu Namwamba, EGH, MP
4. The Hon. Mohamed Shidiye, MP
5. The Hon. Rashid J. Bedzimba, MP
6. The Hon. Ibrahim Abdi Saney, MP
7. The Hon. Patrick Ole Ntutu, MP
8. The Hon. Jane Machira, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Philemon Riaga – Parliamentary Intern

MIN.NO.163/2013 – PRELIMINARY

The meeting was called to order at thirty minutes after eleven O'clock. Prayers were said. The agenda of the day was adopted as the true business for the day after having been proposed by the Hon. James Bett, MP and seconded by the Hon. (Maj. Rtd) John K. Waluke, MP. The Chairperson then informed the Committee that he had been briefed by the Cabinet Secretary Interior and Coordination of National Government about the ongoing security operation at Westgate Mall.

MIN.NO. 164/2013 – CONFIRMATION OF MINUTES

Minutes of the sixteenth sitting were confirmed as the true records for that meeting after being proposed by the Hon. Benard Shinali, MP, and seconded by the Hon. Joseph Kahangara, MP.

Minutes of the seventeenth sitting were confirmed as the true records for that meeting after being proposed by the Hon. Grace Kiptui, MP and seconded by the Hon. Timothy Wetangula MP.

Minutes of the seventeenth B sitting were confirmed as the true records for that meeting after being proposed by the Hon. Akuja Protus Ewesit and seconded by the Hon. Grace Kiptui, MP.

Minutes of the eighteenth sitting were confirmed as the true records for that meeting after being proposed by the Hon. Wanjiku Muhia, MP. and seconded by the Hon. Wanjiku Muhia, MP.

Minutes of the nineteenth sitting were confirmed as the true records for that meeting after being proposed by the Hon. Zakayo K. Cheruiyot, MP and seconded by the Hon. Humphrey Njuguna.

Minutes of the twentieth sitting were confirmed as the true records for that meeting after being proposed by the Hon. Joseph O. Ndiege, MP and seconded by the Hon. George Theuri, MP.

Minutes of the twenty first sitting were confirmed as the true records for that meeting after being proposed by the Hon. George Theuri, MP and seconded by the Hon. Alice Wahome, MP.

Minutes of the twenty second sitting were confirmed as the true records for that meeting after being proposed by the Hon. (Maj. Rtd) John K. Waluke, MP and seconded by the Hon. Wanjiku Muhia, MP.

Minutes of the twenty third sitting were confirmed as the true records for that meeting after being proposed by the Hon. Wanjiku Muhia, MP and seconded by the Hon. Benard Shinali, MP.

Minutes of the twenty fourth sitting were confirmed as the true records for that meeting after being proposed by the Hon. Grace Kiptui, MP and seconded by the Hon. Samuel Moroto, MP.

Minutes of the twenty fifth sitting were confirmed as the true records for that meeting after being proposed by the Hon. Joseph O. Ndiege, MP and seconded by the Hon. Francis K. Mwangangi, MP.

Minutes of the twenty fifth B sitting were confirmed as the true records for that meeting after being proposed by the Hon. Zakayo k. Cheruiyot, MP and seconded by the Hon. Joseph Kahangara, MP.

Minutes of the twenty sixth sitting were confirmed as the true records for that meeting after being proposed by the Hon. Francis K. Mwangangi, MP and seconded by the Hon. Benard Shinali, MP.

Minutes of the twenty Seventh sitting were confirmed as the true records for that meeting after being proposed by the Hon. Dalmás Otieno EGH, MP and seconded by the Hon. Alice Wahome, MP.

Minutes of the twenty Seventh B sitting were confirmed as the true records for that meeting after being proposed by the Hon. Joseph O. Ndiege, MP and seconded by the Hon. George Theuri, MP.

Minutes of the twenty eighth sitting were confirmed as the true records for that meeting after being proposed by the Hon. Samuel Moroto, MP and seconded by the Hon. Alice Wahome, MP.

Minutes of the twenty ninth sitting were confirmed as the true records for that meeting after being proposed by the Hon. Francis K. Mwangangi, MP and seconded by the Hon. Wanjiku Muhia, MP.

Minutes of the thirtieth sitting were confirmed as the true records for that meeting after being proposed by the Hon. Joseph O. Ndiege, MP and seconded by the Hon. Zakayo k. Cheruiyot, MP.

Minutes of the thirtieth B sitting were confirmed as the true records for that meeting after being proposed by the Hon. Geroge Theuri, MP and seconded by the Hon. Benard Shinali, MP.

Minutes of the thirty first sitting were confirmed as the true records for that meeting after being proposed by the Hon. Shabaan Ali Isaack, MP and seconded by the Hon. (Maj. Rtd.) John K. Waluke, MP.

Minutes of the thirty second sitting were confirmed as the true records for that meeting after being proposed by the Hon. Timothy Wetangula, MP and seconded by the Hon. George Theuri, MP.

Minutes of the thirty third sitting were confirmed as the true records for that meeting after being proposed by the Hon. Samuel Moroto, MP and seconded by the Hon. Joseph O. Ndiege, MP.

MIN.NO.165/2013 – MATTERS ARISING

Under Minute no. 66/2013, of the 16th Sitting of the Committee, Members agreed that a follow up be done on whether the amendments to the National Flag, Emblems and Names (Amendment), Bill 2013 by National Assembly were in harmony with those of the Senate.

Under Minute no. 71/2013 of the 17th Sitting of the Committee, the Committee resolved to issue summons to Hon. Caharity Ngilu, Cabinet Secretary, Lands, Housing and Urban Development, over failure to furnish the Committee with a report on the partitioning of a building to house the National Police Service Commission, whose costing had been questioned by the Members.

Under Minute no. 75/2013 of the 17th B Sitting of the Committee, the Chairperson informed the Committee that due to busy schedule of the Ministry of Interior and Coordination of National Government, the proposed weekly briefings of security issues had not been going on. To that end, the Members tasked the Chairperson to meet the Minister over the issue and report back to the Committee.

Further, the Committee resolved that the Cabinet Secretary Interior Ministry provides a report on the Jomo Kenyatta International Airport fire tragedy. The Committee also resolved that the Interior Ministry Cabinet Secretary provides it with an interim report on the Westgate siege by suspected terrorists on 21st September, 2013. The Committee would thereafter hold a joint sitting with the Committee on Defence and Foreign Relations to discuss the matter on how the National Intelligence Service can detect and prevent such tragedies in future.

Under Minute no. 83/2013 of the 19th Sitting of the Committee, the Committee noted that the Forensic Laboratory had never been finalized due to inadequate funding, and resolved to pursue the matter with the Cabinet Secretary, Interior, and his counterpart in the National Treasury.

Further, the Cabinet secretary should inform the Committee on the status of the Liaison officer who had been tasked to handle matters of the Committee within the Ministry especially on processing of statements.

Under Minute no. 132/2013 of the 30th Sitting of the Committee, the Members resolved to revisit the matter of withdrawal of security officers attached to the Hon. Onesmus Kimani Ngunjiri, MP, over claims that he had assaulted a police officer.

Under Minute no. 141/2013 of the 31st Sitting of the Committee, Members wished to know the status of harassment of the Hon. Wanjiku Muhia, MP, by City 'Askaris' in September, 2013. The Chairman reported that he had sought the intervention of the Speaker of the National Assembly, and would make a follow up on the action taken that afternoon.

MIN.NO.166/2013 – ADOPTION OF THE DRAFT REPORT ON THE PROPOSED AMENDMENTS TO THE POLICE BILLS

After making the necessary corrections, the Members adopted the report, after being proposed by the Hon. Zachary Cheruiyot, MP, and seconded by the Hon. Joseph O. Ndiege, MP. However some Members of the Committee recorded dissenting views to Clause 54(c) of the National Police Service (Amendment) Bill, 2013; on the use of firearms by police in the protection of life and property. They were the Hon. Alice Wahome, MP, the Hon. Wanjiku Muhia, MP, the Hon. Timothy Wetangula, MP, the Hon. Benard Shinali, MP, and the Hon. (Maj. Rtd.) John K. Waluke, MP.

MIN.NO.167/2013 – ANY OTHER BUSINESS

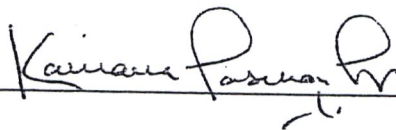
There was no other business under this item.

MIN.NO. 168/2013 – ADJOURNMENT

There being no other business, the meeting adjourned at forty minutes after one O'clock. The venue and time for the next meeting shall be communicated to Members.

Signed:

Chairperson:



Date: 24/9/2013