

PARLIAMENT
OF KENYA
LIBRARY

DRAFT

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ADMINISTRATION, NATIONAL SECURITY AND LOCAL AUTHORITIES

A REPORT ON THE FACT FINDING VISIT TO THE DEPARTMENT OF IMMIGRATION HEAD OFFICES, LUNGA LUNGA BORDER CONTROL AND SHIMONI SEA PORT IN COAST PROVINCE

Clerks Chambers
Parliament Buildings
Nairobi

August 2004

1.0 Preamble

The Departmental Committee on Administration, National Security and local Authorities is constituted pursuant to the provisions of Standing Order No. 157(1). Its mandate is namely:-

- To investigate, inquire into, and report on all matters relating to the mandate, management, activities administration, operations and estimates of the assigned ministries and departments;
- To study the programme and policy objectives of the Ministries and Departments and the effectiveness for implementation;
- To study and know all legislation after first reading, subject to exceptions under Standing Order 101A (4);
- To study, assess and analyze the relative success of Ministries and departments as measured by the results obtained as compared with its stated objectives;
- To investigate and inquire into all matters relating to all assigned Ministries and Departments as they may deem necessary, and as may be referred to them by the House or a Minister and;
- To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee oversees the operation of following Ministries and Departments:

1. Public Administration and Internal Security
2. National Youth Service
3. National disaster
4. Citizenship and Immigration
5. Local authorities
6. Prisons
7. National Heritage
8. Children
9. Betting and lotteries

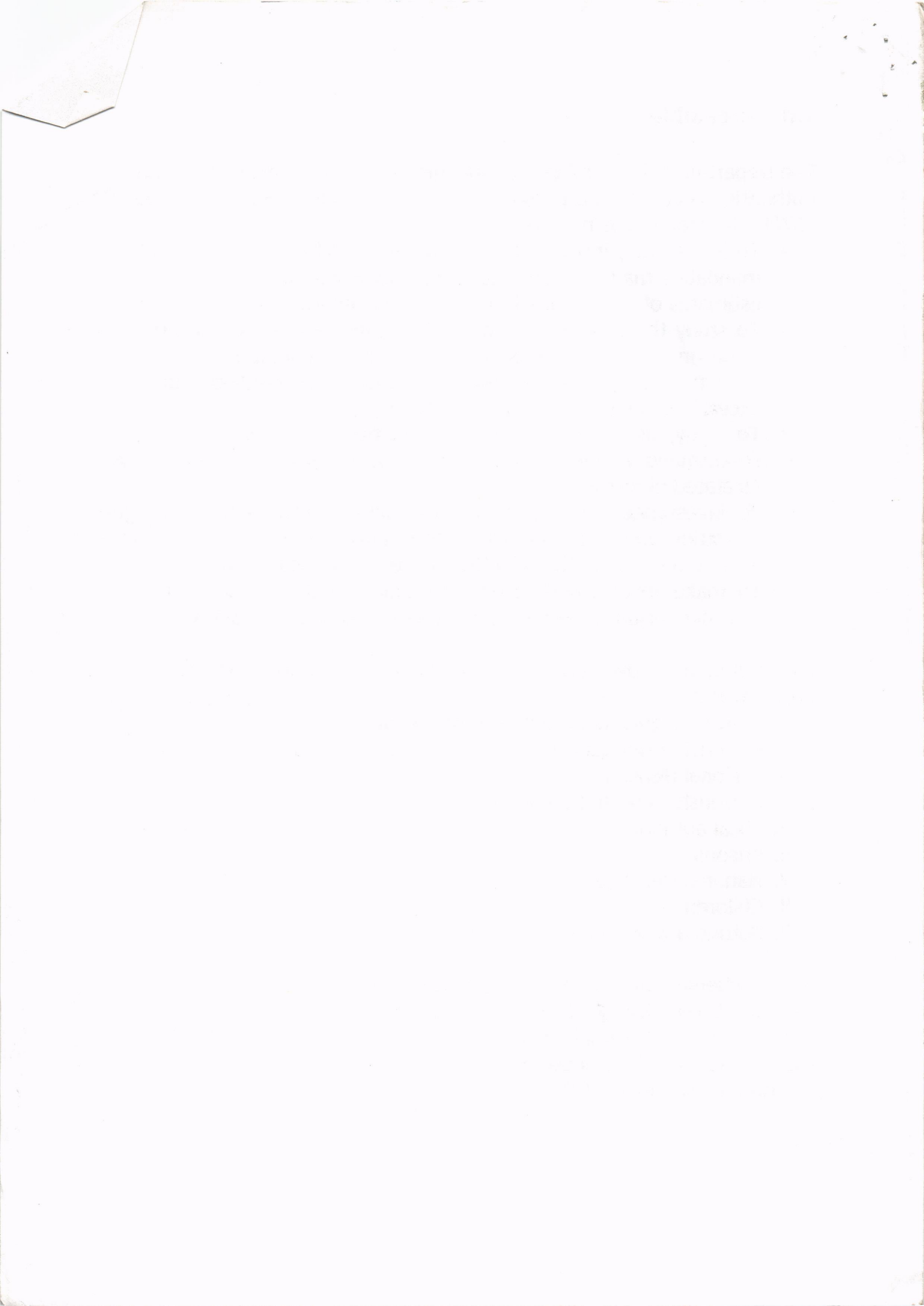
The Membership of the Committee is as follows

The Hon. David Mwenje, M.P. – Chairman

The Hon. Raphael Wanjala, M.P.

The Hon. Ngoyoni Titus Lesumei, M.P.

The Hon. Musa Sirma, M.P



The Hon. Joseph Korir, M.P.
The Hon. Ramadhan Seif Kajembe, M.P.
The Hon. Abdalla Ngozi, M.P.
The Hon. Alfred Nderitu, M.P.
The Hon. Odhiambo Omamba, M.P.
The Hon. Daudi Mwanzia, M.P.
The Hon. Abongotum A. Kamama, M.P.

2.0 Introduction

Following a meeting with the Vice president and Minister for Home Affairs Hon Moody Awori in July 2004, Members made a resolution to make a fact find tour of the offices and border facilities of the Department of Immigration. The Departmental Committee members undertook to tour Immigration Offices in Nairobi on 24th August 2004, and the Coast Regional offices in Mombasa, on 26th to 27th August 2004. The Committee further visited the following border control and Sea Port:

- Lunga Lunga border control, in Kwale District, Coast Province
- Shimoni Sea Port, Kwale District, Coast province.

The Main purpose of the visits was for the Committee Members to familiarize themselves on the day-to-day operations and to be acquainted with the problems and challenges facing the Immigration Department in general. It was also meant to provide a justification for the proposed new project for issuance of tamper-proof passports and visas.

3.0 Visits to the Department of Immigration Head Offices, Nairobi

The following Members undertook the tour

1. The Hon. David Mwenje, M.P. – Chairman
2. The Hon. Raphael Wanjala, M.P.
3. The Hon. Ramadhan Seif Kajembe
4. The Hon. Abdalla Ngozi
5. The Hon. Alfred Nderitu
6. The Hon. Odhiambo Omamba
7. The Hon. Daudi Mwanzia

The secretariat staff included:

1. Mrs. Lucy Wanjohi – Clerk Assistant
2. Mr. Njenga Njuguna – Research Assistant
3. Mr. Urbanus Musyoka – Parliamentary Intern

The Chairman briefed the participants on the purpose of the Committee's visit and then introduced his delegation members. The Principal Immigration Officer (PIO) Mr. Henry Ole Ndiema also introduced his officials. Thereafter, it was resolved that the Committee members be conducted on a tour of the facilities and sections in the head office. The Immigration officials included:

Mr. Henry Ole Ndiema – principal Immigration Officer (PIO);
Mr. Dominic Motindi – Deputy PIO (Administration);
Mr. Joseph K. Ndathi – Deputy Secretary
Mr. Mumo Mbole - Senior Deputy PIO;
Mr. P. Mose - Administration Officer
Mr. Stephen Rintari- Chief Passports Officer
Mr. Swaleh Slim- Deputy Secretary, Ministry of Home Affairs

Among the sections, that the Committee members toured included:

1 Aliens Section:

This deals with registration of refugees and issuance of work permits, endorsements of passports and registration of aliens including children.

2 Physical Immigration Section:

This deals with applications and issuance of travel documents such as passports and temporary passes

3 Registry Section:

This handles filing and data entry. The committee noted that the files occupy a whole floor and no more space is available.

4 Microfilming Section

This section has four (4) microfilm machines and re-registers individuals' files for back up data.

5 Passport Section

It deals with verification of documents and printing of passports. It has one stand-alone computer that is old and obsolete – hence problems of having it serviced whenever it breaks down.

6 Information Technology (IT) Section

This acts as the control room for communications and data management. It has three staff members who are involved in systems development for use by the staff, secure storage of data. It has computer servers that are yet to be connected to the new computer registration system at the Jomo Kenyatta international airport. It is also involved in giving IT solutions to the on going computerization process.

It was noted that the Department required an integrated IT system that could link all its entry points and further enable file tracking to be done expeditiously.

7 Visa Section

It deals with issuance of Visas (both Referred cases and those issued at the points of entry).

8 Kenyanization Section

This section works closely with the Ministry of Labour and is meant to facilitate Kenyans who had acquired necessary skills to get managerial positions held in various foreign owned firms. It deals with opening files for companies and employers, and carries out investigative exercises on companies.

Problems and Challenges

Shortage of Personnel

The Committee was told that the Department is faced with a serious shortage of immigration personnel in its control stations through out the country. Currently it has around 396 immigration officers against an establishment optimal number of 1,800.

Tampering/forgery of Passports and other travel documents

The Committee was informed that the current passports where photos are laminated are open to forgery, tampering, and no foolproof identification of their holders. Members were further alerted that Kenya is required to change it current passport and visa issuance systems to adhere to International Civil Aviation Organization (ICAO) Standards by the year 2005. The Department issues wet stamp visas that are prone to forgeries. The members were informed that there was rampant increase in document forgeries and counterfeiting hence needs to computerize the whole process to curb the problem.

Outdated Recording and Information Management Systems

The Committee observed that Record Management is done manually, making it difficult to process, store and retrieve information. This leads to delays, duplications, inconsistencies, and loss of files and these calls for an urgent computerization of the department.

Inadequate Accommodation

The department has inadequate accommodation in all its premises/offices throughout the country. This is characterized by congestion and poor state of facilities. There are inadequate rooms for effective and confidential operation and in some areas; security of documents is not guaranteed, as there is serious shortage of rooms for filing.

Lack of Fire and Smoke Detectors

Given the fact that the department currently relies on paper files to store crucial data and information, it however lacks smoke and fire detectors for early warnings for hazardous possibilities such as incidences of fire outbreaks whenever they occur.

Inadequate Financial Allocation

The Committee was told that despite the department being one of the very few net income earners for the Treasury, its financial allocation is too small to effectively meet its development and operational expenses. This has severely limited its modernization programme e.g. IT and refurbishment of control points throughout the country.

4.0 Coast Regional Office-Mombasa

The region spans along the entire Coastal Seaboard from the Somalia frontier in the north east down to Tanzania in the southwest. A deputy PIO heads the region, which has eleven (11) work-stations spread throughout the region. An Officer in Charge heads each work-station. These include:

- Mombasa district - Mombasa Regional Office;
Moi International Airport;
Kilindini seaport; and
Mombasa Old port
- Malindi District - Malindi Office
Malindi Airport
- Lamu District - Lamu Border Control
Kiunga
- Kwale District - LungaLunga Border control
Shimoni seaport
- Taita Taveta District - Taveta border control

4.1 Services Offered At the Regional Office, Coast

Similar to the head offices in Nairobi, the Coast regional Immigration office in Mombasa provides the following services, which can be classified into four broad categories:

1. Processing and Issuance of Travel Documents

These include:

- Passports (both regular passports and the East African passport);
- Certificate of identity;
- Temporary permits

2 Physical Immigration Functions

These include:

- Clearance of travelers;
- Issuance of visas;
- Issuance of special passes;
- Issuance of re-entry passes

3 Investigations and Prosecutions

This is applicable to cases, which infringe on the immigration Act Cap 172 and the alien Registration Act Cap 173, laws of Kenya, and specifically to those aliens staying or working in the country without valid permits or passes

4 Registration of Aliens

This is in accordance to Cap 173, Alien Registration Act that in essence, calls for taking stock of foreigners who stay in the country for more than 90 days.

5 Staff Establishment

The Committee was informed that the Coast region had 64 immigration officers and 51 subordinate staff. This number is far below the required optimal number of personnel of at least 100 immigration officers and at least 80 subordinate staff.

6 Operations and Revenue Collection

The Committee was told that as from 1st January to July 31st 2004, the number of new Kenyan passports issued at the regional office is 4,362, realizing a total of Ksh. 8, 688,000. Other immigration services raised Ksh. 10,444,280 as revenue during the same period. On average, 30 passports are issued daily.

Between January and end of July 2004, the total number of passengers who arrived at Moi International airport was 71,316, while those departing stood at 99,722.

The total revenue collected in the region during the same period was Ksh. 162, 522,312.60

Problems and Challenges Facing the Coast Region

1 Lack of Adequate Accommodation Space

Inadequate accommodation and facilities for effective and efficient operation is a major problem. The committee observed that files are thus heaped in some corners all over the place as the tiny registry is full, which implies that documents could mysteriously disappear. There are no rooms for conducting confidential interviews, while officers operate in poor and squeezed environments as the whole place is congested.

2 Financial Allocation

The Committee was told that the department often experience cash flow problems at the District Treasury due to inadequate financial allocations. This is attributed to the fact that the cash fund is too small to cater for the four departments within the Ministry of Home Affairs namely: Prisons,

National Youth Service, Immigration and the Probations departments. The prison and NYS department are clearly, big money spenders and there is need to increase the cash fund allocations in order to ease problems that permeates to the immigration department, a net revenue generator.

3 Lack of Patrol Boats and Surveillance Equipments

The department in spite of taking charge of a large sea frontier lack high-speed motor boats to patrol and monitor the vast sea front, to deter illegal immigrants entering the country who pose a great security threat to Kenyans at large. The Members were notified that the following stations urgently need patrol boats among other surveillance equipments: Kiunga, Lamu, Malindi, Kilindini and Shimoni.

4 Location of Border Points

Some border controls for instance Taveta and Lungalunga are located far into the interior from the territorial borders. The same case applies to Kiunga along the Somalia border. These locations pose a serious national security threat and need to be re-located to at most one kilometer from the common territorial borders.

Similarly new control stations should be put up at Ngomeni in Malindi and Kilifi. This is because Ngomeni is a porous sea point where fishing boats and dhows dock frequently and requires to be manned continuously. As for Kilifi, the Committee was informed that an office is deemed necessary to serve the expansive region between Malindi and Mombasa.

5 Prohibited Immigrants' Room

Moi International Airport (as well as the Regional office) lacks a prohibited immigrants' custody room as recommended by the International Civil Aviation Organization (ICAO). These rooms are necessary as they serve as the holding rooms for offenders awaiting prosecution on a given day.

6 Investigation and Prosecutions

The Department's sections dealing with investigation and prosecution severely lack adequate staff and facilities to effectively follow up and track offenders along the expansive coastal belt. This problem is multiplied throughout the country.

Similarly, the Department is faced with challenges and problems emanating from the Judiciary as immigrant offenders are normally let off with very light fines or penalties. There is need for a review of the penalties to serve as an effective deterrent.

For cases where there is sufficient evidence of a threat to national security for instance, where suspects are involved in terrorism, drugs, firearms and human trafficking, money laundering among others, Members were informed that court injunctions against Ministerial deportation orders were a big setback to the Department's efforts to keep away illegal immigrants. While members generally understood this concern, they however pointed out that there should be an independent body or institution and due process to review and advise the Minister before signing such an order, to avoid abuse of power.

5.0 Lunga Lunga Border Control Point

The Border point is located in Msabweni Division in Kwale District. It links Kenya to Tanzania through Horohoro Border control and to Pemba and Zanzibar Islands. The major activity of this border control point is to regulate the entry and exit for residents and foreigners in the country.

The Committee was informed that main functions of the Border Controls include

- Controlling, regulating and monitoring all visitors coming into and out of the country; that is all passengers between Kenya and Tanzania;
- Issuance of travel documents such as visas and passes to visitors who require them
- Carrying out passport checks to ensure validity- ensures that visitors fill declaration forms. Prohibited immigrants are refused entry

- Carries out deportation of visitors/aliens who have finished serving prison sentences in Kenya.
- Issuance of temporary permits only to those who border Kwale in compliance with EAC agreement.
- Liaise with other government officers in matters of trade and security e.g. illegal entry of foodstuffs, firearms.
- Support for community activities such providing transport service for examination papers to nearby schools during National Examinations, as well as during health campaigns programs etc.

The Committee was informed that the border control handled travelers of various categories such as those with strong Kinship ties, businesspersons, and heavy commercial vehicles carrying goods to and from Kilindini Port in Mombasa.

The Committee was told that during period between January and mid August 2004, the border control had raised Ksh two (2) million through issuance of travel documents. Members were also informed that it raised Ksh. 2.8 million during the year 2003 alone.

(b) Challenges and Problems Experienced

The Committee was informed that the Department of Immigration was faced with various problems at the border control points and which are replicated through out the country's border points.

i) Forged or counterfeit (fake) travel documents

ii) Forged stamp endorsements. An example was cited where by in January 2004, 18 Somali and Ethiopian Nationals who had forged travel documents were arrested and returned to Dodoma for prosecution.

iii) Lack of Electricity

The border control offices currently depend on a generator operated by Kenya Revenue Authority to provide power for scanning documents using Ultra-Violet light machine. However, it was

observed that the generator was switched on for only a few hours a day, and often when a passenger bus checks in with passengers. This had led to problems because sometimes a manual machine (battery operated) had to be used which was not efficient nor quite effective and thus occasioning serious delays especially when passengers came in large numbers at the border.

The Committee however noted that a power supply project to connect the border point from Tanzania was almost complete. The area MP the Hon. Abdalla Ngozi indeed confirmed to the Committee members that electricity will be installed in a short while (before the end of the year) and therefore the problem would be fixed.

(iv) Location of the Control Point

The border control offices are located at Lunga Lunga, which is some six (6) kilometres from the actual boarder with Tanzania at Horo Horo. The Committee noted that there are human settlements in the intervening space. This creates a major national security threat because foreigners and illegal immigrants could get into the country without being noticed.

(v) Telecommunications

The border control relies on outdated operator-assisted telephone system, which is inefficient and tends to breakdown often thus causing serious communication problems between the border point and the head offices as well as other control points.

On the other hand, the mobile operator's network (Safaricom) is only available is quite weak and only in some selected places in the area hence not reliable.

(vi) Porosity of the boarder

The border was said to be very porous due to inadequate policing and lack of adequate equipment, facilities and staff. The Committee was told that to counter this, sharing of information between the

various security personnel and apparatus with the Department was paramount through joint border patrols and control.

(vii) Computerization of Records

The Department lacks adequate computer facilities to process and exchange information with other border control points and the head offices speedily. The committee was informed that some passengers when refused entry at one point e.g. Lunga Lunga could very easily gain entry at a different border point e.g. Shimoni as the various border points are not inter-linked communication wise to share data and information. The problem could only be fixed if all records in the department are computerized and therefore this would allow officers to exchange information and access data online in real-time.

(viii) Inadequate Staffing

The Committee was also informed that the border control point lacked adequate staffing to handle the volume of work efficiently and effectively. Currently, it has only

1. five immigration officers,
2. one clerical officer,
3. one driver and
4. One subordinate staff.

The Committee was told that the optimal number of immigration officers required for the station is ten. Consequently, most officers worked long hours than what is required under the law. The Members were informed that indeed, no leave and day offs had been taken by officers for the last four years, yet they and are not entitled to any compensation. Staff members are thus generally overworked and de-motivated.

(ix) Water Problem

The border control is also faced with a severe water problem due to unavailability of clean potable water.

6.0 Shimon Sea Point

It was opened in year 2000 to promote trade and discourage smuggling of goods and illegal immigrants in to the country. It is also located in the south Coast near Wasini Island and carries out operations such as:

- Receiving passengers from Zanzibar and Pemba islands.
- Receiving foreigners on cruise ships from America
- Issuance of transit visas to foreigners.

The Committee was informed that Shimoni was faced with serious challenges such as:

(a) Lack of adequate staff

It is open for 12 hours a day only due to lack of adequate officers, it has only two officers yet the minimum number of officers it should have is five. The officers available therefore cannot perform their duties efficiently and effectively hence; the sea point is prone to cases of illegal immigrants exploiting this loophole.

(b) Lack of Office Accommodation and Staff Houses

The Department is currently housed by the Fisheries Department as it lacks own premises. Similarly, its officers do not have houses nearby and have had to rent their own houses in a nearby market. This has largely affected their performance as illegal immigrants take advantage to sneak in and out of Kenya especially at night.

(C) Lack of Adequate Facilities and Operational Equipments

The Committee was informed that the Department urgently needed a high-speed motorboat to ensure continuous monitoring of the borders especially the sea front. This was because illegal immigrants could sneak into the country at night through 'Panya" routes if not monitored.

7.0 RECOMMENDATIONS

Following the visit, the Committee noted and made the following Recommendations.

(a) Information Technology

There is an urgent need for computerization of the Department's operations such as database and records to enhance security and ease cross border movement. Computerization will not only reduce incidences of illegal immigrants, but will also increase efficiency by allowing officers to ensure fast issuance of documents, detect forgeries, allow border stations to share information and ensure that records are well managed at the department. It is recommended that an integrated Information Technology system such as VSAT be installed urgently, and designed in such away to allow data, voice and graphic transmission of information simultaneously.

(b) Office Accommodation

The Committee noted that the Department needs adequate office space through out the country in a secure setting to safeguard its records. To improve on services and on security of the vital records of the Department, it is recommended that new offices and buildings be put up urgently in the entire border points where none exists and rehabilitation and/or expansion of old ones.

(c) Operational Equipments and Facilities

To ensure effective monitoring of border controls and sea fronts, the committee recommends that operational modern office equipment, high-speed motorboats and motor vehicles be procured urgently to enhance the effectiveness of the Department.

(d) Personnel

The Committee noted that currently the Department has around 396 immigration officers against the optimal establishment need of 1,800. It was further observed that most of the areas it visited lacked adequate staffing levels and those available usually overstretched their capacities to

do quality work. It is concerned that usually mistakes are bound to arise when work is done quickly and due to fatigue.

The Committee therefore recommends:

1. Recruitment of more personnel to fill in vacant posts and tie in with regional expansion programme going on in the Department;
2. Review and improvement of the scheme, terms and conditions of service of the staff in the Department;

e) Convert the Department into an Independent (Security) Service

The Committee noted that the Department is one of the sensitive security related services of the government, yet it is not officially out-rightly classified as such. It was further noted that the Department is one of the few service establishments which is able to generate own resources. The Committee therefore recommends:

- The Government to consider making the Department an Autonomous Service that is able to plan and run its own budget in order to enhance its operational effectiveness and efficiency;
- Officially accord or Classify the immigration service as one of the security arms due to the sensitive nature of its operational work in reference to national security;

f) Relocation and Expansion of Border Controls

The Committee noted that the present location of some border controls far in land away from the territorial borders posed a threat to national security, for instance LungaLunga, Taveta, Kiunga among others. The Committee therefore recommends that for effective monitoring of the borders there is urgent need to relocate these border control stations to the utmost one kilometer from the territorial borders.

The Committee further recommends that new border control stations be established in some designated points for instance Ngomeni in Malindi District, Vanga in Kwale District, Kilifi in Kilifi District and other porous border points throughout the country to serve as bona fide entry points.

g) Investigation, Prosecution and Deportation

The Committee recommends that the investigatory and prosecution section of the department be strengthened in terms of additional staff and resources including vehicles and other operational equipments to help it investigate and track down offenders who pose threats to Kenya's national security.

Similarly, the Committee expresses its concern regarding the light penalties imposed by the Courts of law on offenders and recommends that these be strengthened to serve as effective deterrent to potential criminals.

At the same time, while agreeing that the Minister for Home Affairs should be mandated to sign Deportation Orders for persons found to pose a serious threat to Kenya's national security, the Committee feels that this should not be left entirely at the discretion of the Minister. An independent due process ought to be put in place to ascertain that this power is not abused.

1) Investigation of the ...

The Commission ... of the ... resources ...

... of the ...

At the same time ...