

KENYA NATIONAL ASSEMBLY

COMMITTEE SYSTEM

ROLE

PARLIAMENT
OF KENYA
LIBRARY

FUNCTIONS

OPERATIONS

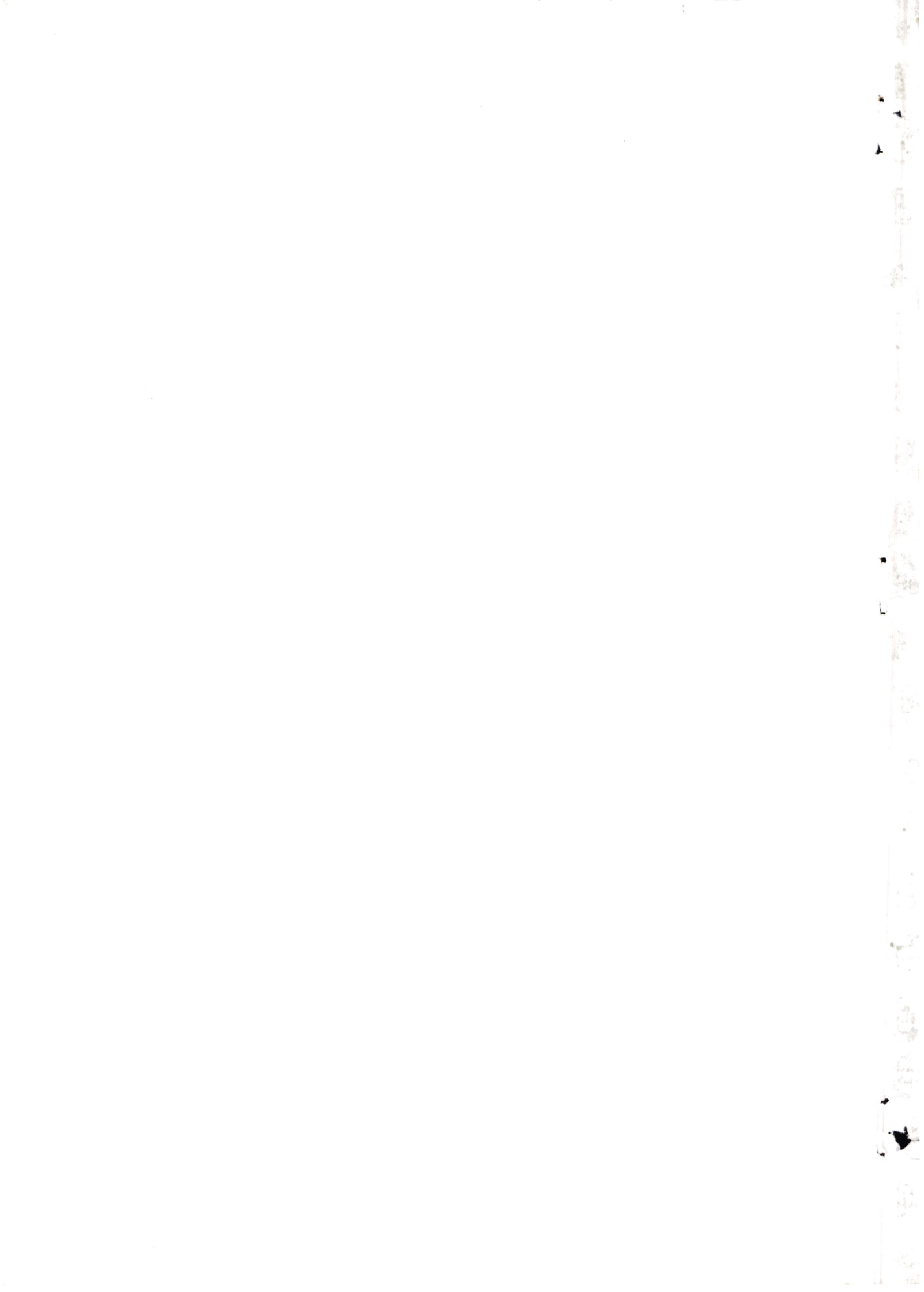
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MANAGEMENT

PRACTICE

PROCEDURE

KENYA SOCIAL CONGRESS (KSC)



MEMORANDUM

REF: KM/39/99

DATE: 10th August, 1999

WORKSHOP ON ROLE, FUNCTIONS AND OPERATIONS OF SELECT COMMITTEES - 10TH AND 11TH AUGUST, 1999 AT SAFARI PARK HOTEL, NAIROBI

1.0 BACKGROUND

1.1 The Kenya National Assembly is modelled on the Westminster and Commonwealth Parliamentary System. This system was adopted and inherited at Independence in 1963, even with a bi-cameral Legislature. The system has undergone some minor changes but the core of the Westminster model has persisted and remained intact to this day. Indeed, some aspects of the Kenya Parliamentary System are based on and derived from those of the British House of Commons. The cases in point here are the procedures relating to Public Petitions and the summoning of witnesses, including Members of Parliament, by Committees of the House.

1.2 The provisions for Public Petitions are to be found under Part XX of the Standing Orders (Nos.163-167) of the National Assembly. The provisions relating to the "**form**" of the Public Petitions which are based on and derived from the British House of Commons are contained in Standing Order No.165. The form of the Public Petitions is mandatory under the provisions of Standing Order No.167. The provisions of Standing Orders Nos.165 and 167 state as follows, respectively:

S.O.No.165. Every member presenting a petition shall take care that the same is in conformity with the usual practice of the House of Commons of Great Britain and Northern Ireland.

S.O.No.167. The House shall reject any petition which is not properly and respectfully worded or does not conform to the rules or usual practice of the House

In Kenya and the younger Commonwealth democracies, the Committee System is still at its infancy stages. Indeed, since independence in 1963, the Kenya National Assembly has had an elaborate Committee System in place, but the Committees have been moribund. In the circumstances, only the Public Accounts and the Public Investments Committee have been active and alive. There have been several **Ad Hoc** Select Committees which have captured the mood of the Nation. These include the Select Committee on the murder of the late Member for Nyandarua North, the Hon. Josiah Mwangi Kariuki, in 1975, the Select Committee on the Tribal Clashes in 1991 and the Select Committee on Corruption in 1998.

1.5 In the past there were no Departmental Committees. These were introduced during the review of the Standing Orders in 1997. In the Westminster and Commonwealth Democracies, the Departmental Committees play a crucial role in the life of Parliament. In Kenya, the newly established Departmental Committees have hardly found their "**feet**" to stand on and are in the throes of serious "**teething**" problems. These teething problems must be addressed urgently in order to determine and establish the role, functions and operations of the Committee System in the Kenya National Assembly.

2.0 **PARLIAMENT**

2.1 The Parliament is the legislative "**arm**" of Government. The other "**arms**" of Government are the Executive and the Judiciary. The three "**arms**" of Government constitute the troika of the organs of State.

2.2 The three organs of the Government have a democratic and mutual relationship to each other ensuring harmony and independence in their functions and operations. This relationship is based on the Principle of Separation of Powers.

2.3 The role of Parliament, **vis-a-vis** the other "**arms**" of Government, is specified in the provisions of the Constitution of Kenya. This role consists of the following functions and powers:

(a) **Legislation:**

The legislative functions and powers of Parliament are specified under Section 30 of the Constitution.

Section 30 provides and states as follows:

Section 30. The legislative power of the Republic shall vest in the Parliament of Kenya, which shall consist of the President and the National Assembly.

(b) **Appropriation**

The appropriation functions and powers of Parliament are specified under Sections 99, 100, 101 and 102 of the Constitution. The Parliament authorises the withdrawal of funds from the Consolidated Fund by an Appropriations Act under Section 99(1) or by a Vote on Account under Section 101 of the Constitution. The Parliament also establishes some public funds (other than Consolidated Fund) for specific purposes under Section 99(2) and the Contingencies Fund under Section 102 of the Constitution.

The appropriation mechanisms and procedures are specified under the provisions of the Standing Orders of the National Assembly as follows:

- (i) General provisions on Supply and Ways and Means (S.O.Nos:132-135).
- (ii) Committee of Ways and Means on the Budget Speech, the Annual Estimates and the Taxation Proposals (S.O.Nos.136-140).
- (iii) Committee of Supply on the Votes of the Ministries Including Gullotine Procedures (S.O.Nos:141-144).

(c) **Expenditure**

The expenditure of public funds by the Government is sanctioned and controlled by the Parliament. When the Government incurs expenditure which is not sanctioned by the Parliament, that expenditure is irregular and *ultra vires* the provisions of the Constitution. The Parliament controls the expenditure of public funds by the Government through the offices of the Controller and Auditor-General under Section 105

of the Constitution and Sections 18 and 19 of the Exchequer and Audit Act, Chapter 412 of the Laws of Kenya.

The Parliament also controls the expenditure of public funds by the State Corporations through the Auditor-General Corporations under the provisions of Sections 29 and 30 of the State Corporations act, Chapter 446 of the Laws of Kenya. Section 105(4) of the Constitution and Section 29 of the State Corporations Act provide and state as follows:

Section 105(4): The Controller and Auditor-General shall submit every report made by him in pursuance of subsection (2) to the Minister for the time being responsible for finance who shall, not later than seven days after the National Assembly first meets after he has received the report, lay it before the Assembly.

Section 29: Neither the Speaker nor any officer of the Assembly shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in the Speaker or such officer by or under this Act or the Standing Orders.

(d) **Policy**

The policies formulated by the Government are expressed through Bills, Budgets and Sessional Papers. The Parliament exercises its legislative function and power over policies expressed through Bill in accordance with the provisions of Section 46 of the Constitution and Standing Orders Nos: 94-115. The Parliament exercises its legislative function and power on policies expressed through the Budgets under the appropriations provisions (Sections 99, 100, 101 and 102) of the Constitution and the Supply and Ways and Means provisions of the Standing Orders (S.O.Nos:132-144). The Parliament also exercises its legislative function and power on policies contained in Sessional Papers through Affirmative or Negative Resolutions adopting or rejecting the policies in the Sessional Papers.

3.0 **COMMITTEE SYSTEM**

3.1 The Committee System is crucial to the function, power and role of Parliament in a democratic society. In the old democracies (e.g. United Kingdom, United States, France, Germany, Scandinavia, Australia, Canada, New Zealand, etc.), the Committee System is well developed. In the New Democracies in Africa, Asia and South America, the Committee system is still in the various stages of "**infancy**" with many teething problems, including political instability and meagre resources.

3.2. In the Kenya Parliament, the Committee System is based on and derived from the provisions of Section 56 and 57 of the Constitution. Sections 56(1)(b) and 57 provide and state as follows:

Section 56(1) Subject to this Constitution, the National Assembly may:

(b) Subject to Standing Orders made under paragraph (a), establish committees in such manner and for such general or special purposes as it thinks fit, and regulate the procedure of any committee so established.

Section 57. Without prejudice to the powers conferred by Section 56, Parliament may, for the purpose of the orderly and effective discharge of the business of the National Assembly, provide for the powers, privileges and immunities of the Assembly and its Committees and Members.

4.0 **COMMITTEES**

4.1 There are various general and special committees established under Section 56 of the Constitution and Section 10 of the National Assembly (Powers and Privileges) Act, Chapter 6 of the Laws of Kenya, which derives from the provisions of Section 57 of the Constitution.

4.2 The various committees are outlined below:

(a) **Committees of the Whole House.**

The Committee of the Whole House are established under the provisions of Standing Orders Nos:126-131. The functions of Committees of the Whole House are specified under the provisions of Standing Orders Nos:103-111 (general), 126-131 (procedure) and 132-144 (Supply and Ways and Means). The Committees of the Whole House consist of all Members present. The Chairman of the Committees of the Whole House is the Deputy Speaker, but the Speaker may chair Committees of the Whole House in the absence of the Deputy Speaker. The Members of the Chairmen's Panel appointed under Standing Order No.10 by the Speaker, may also chair Committees of the Whole House. The Committees of the Whole House are as follows:

- (i) Committee Stage on Bills (S.O.Nos:103-111).
- (ii) Committee of Ways and Means (S.O.Nos:136-140)
- (iii) Committee of Supply (S.O.Nos:141-144).

(b) **Sessional Committees**

The Sessional Committees are established under the provisions of Part XIX of the Standing Orders of the National Assembly.

The Sessional Committees are established at the beginning of each Session as defined under the provisions of Section 123(1) of the Constitution and Standing Order No.2(1). The following are the Sessional Committees established under the Constitution and the Standing Orders.

(i) **House Business Committee (HBC):**

The House Business Committee is established under the provisions of Standing Order No.145. The House Business Committee has a minimum of five and a maximum of twenty members nominated by the House at the commencement of the Session. The Chairman of the House Business Committee is the Leader of Government

Business. The quorum of the House Business Committee is the Chairman and two other Members of the Committee.

The House Business Committee is responsible for the management of the Business of the House from which it derives its name.

(ii) **Public Accounts Committee (PAC):**

The Public Accounts Committee is established under the provisions of Standing Order No.147. The PAC has eleven Members consisting of six Members from the Party in Government and five members from the combined Opposition. The Chairman of the PAC is a member of the combined Opposition elected by the Committee during its first sitting of the Session. The quorum of the PAC is the Chairman and four other Members of the Committee. The PAC is nominated by the House Business Committee at the commencement of the Session. The functions of the PAC include the examination of the accounts and appropriations voted by the House for public expenditure and also other accounts laid before the House. The PAC uses the reports of the Controller and Auditor-General as the basis of the examination of public expenditure. The proceedings of the PAC are similar to those of the Committee of the Whole House. The PAC summons witnesses to give evidence and submits its report to the House for debate and resolution.

(iii) **Public Investments Committee (PIC):**

The Public Investments Committee is established under the provisions of Standing Order No.147. The PIC has eleven Members consisting of six Members from the party in Government and five Members from the combined Opposition. The Chairman of the PIC is a member of the combined Opposition elected by the Committee during its first sitting of the Session. The quorum of the PIC is the Chairman and four other Members of the Committee.

The PIC is nominated by House Business Committee at the commencement of the Session. The functions of the PIC include the examination of the accounts laid before the House on the State Corporations. The PIC uses the reports of the Auditor-General Corporations for its examination of the expenditure and investment of public funds. The PIC does not examine matters of major Government policy, matters of day-to-day administration and matters for which special statute exists regulating the particular public investment.

(iv) **Speaker's Committee:**

The Speaker's Committee is established under the provisions of Standing Order No.150. The Speaker's Committee consists of the Speaker as Chairman, the Minister for Finance, the Minister of State in the Office of the President in charge of public administration and ten other Members both from the Party in Government and the combined Opposition. The Speaker's Committee is nominated by the House Business Committee at the commencement of the Session. The functions of the Speaker's Committee include the management of the welfare of Members and Staff of the National Assembly.

(v) **Standing Orders Committee:**

The Standing Orders Committee is established under the provisions of Standing Order No.152. The SOC consists of the Speaker as Chairman, the Deputy Speaker and ten other Members from both the Party in Government and the combined Opposition. The Members of the SOC are nominated by the House Business Committee at the commencement of the Session. The SOC is responsible for matters relating to the Standing Orders of the House and is required to report to the House from time to time.

(vi) **Library Committee:**

The Library Committee is established under the provisions of Standing Order No.149. The Library Committee comprises the Deputy Speaker as Chairman and ten other Members from both the Party in Government and the combined Opposition. The Members of the Library Committee are nominated by the House Business Committee at the commencement of Session.

The Library Committee is responsible for matters related to the Library and the improvement and use of the Library Services by Members.

(vii) **Catering Committee:**

The Catering Committee was established under a House Resolution of 4th March, 1967. The Members of the Catering Committee include the Speaker, the Clerk, the Serjeant-At-Arms and other Members from both the Party in Government and the combined Opposition. The Catering Committee is nominated by the House Business Committee at the commencement of the Session. The Catering Committee is chaired by a Member elected by the Committee during its first sitting of the Session. The Catering Committee is responsible for the catering services of Parliament. The Resolution establishing the Catering Committee, provides and states as follows: **inter alia:**

Paragraph 3: That there shall be a "Catering Committee" consisting of -

- (a) a Chairman and five members, all being Members of the National Assembly, appointed by the Sessional Committee for each Session of the National Assembly;**
- (b) the Speaker of the National Assembly;**
- (c) the Clerk of the National Assembly; and**

(d) the Serjeant-At-Arms of the National Assembly.

(viii) Committee of Privileges:

The Committee of Privileges is established under the provisions of Section 10 of the National Assembly (Powers and Privileges) Act, Chapter 6 of the Laws of Kenya. The Committee of Privileges comprises the Speaker as Chairman, the Deputy Speaker and ten other Members from both the Party in Government and the combined Opposition. The Committee of Privileges is nominated by the House Business Committee at the commencement of the Session. The Committee of Privileges is responsible for all matters of powers, privileges and immunities of the House, its Committees and Members in accordance with the provisions of Section 57 of the Constitution, the National Assembly (Powers and Privileges) Act, the Standing Orders of the House, the Speaker's Rules and the Conventions and Traditions of Parliament. The quorum of the Committee is six Members including the Chairman. The Committee of Privileges regulates its own procedure in dealing with matters arising within the precincts of Parliament except the Chamber. In accordance with the provisions of Section 12 of the Act, the proceedings of the Committee of Privileges cannot be questioned in any court of law when conducted in accordance with the Act. Section 12 provides and states as follows:

Section 12: "No proceedings or decision of the Assembly or the Committee of privileges acting in accordance with this Act shall be questioned in any court."

(c) Departmental Committees:

The system of Departmental Committees in the Kenya Parliament in its present form is relatively new. It was introduced in the Seventh Parliament after the 1992 Multiparty General Election.

Before that the Departmental Committees were designated as General Purposes Committees. The General Purposes Committees were moribund and only existed in letter within the Standing Orders. The General Purposes Committees had neither the good-will nor the facilities and resources to carry out their functions and mandate.

During the Seventh Parliament, the Departmental Committees did not function at all. Besides the lack of facilities and resources, the Departmental Committees did not do their work because of the political divide between the Party in Government and the combined Opposition on the one hand and within the Parties on the other hand. This situation has persisted with less degree of acrimony in the Eighth Parliament. This welcome development was brought about by the change of the Standing Orders committing Bills to the Departmental Committees after First Reading under the provisions of Standing Order No.101A(1). The only Bills exempted from the committal procedure are Consolidated Fund Bills, Appropriation Bills, Supplementary Appropriation Bills and Constitution of Kenya (Amendment) Bills in accordance with the provisions of Standing Order No.101A(4). The Departmental Committees are required to report to the House within seven days of the committal of the Bills in accordance with the provisions of Standing Order No.101A(3) after which debate on the Second Reading of the Bills takes place on a day appointed by the designated Minister in charge of the matter to which the Bill relates.

The Departmental Committees are established under the provisions of Standing Order No.151. The Members of the Departmental Committees are nominated by the House Business Committee at the commencement of every Parliament and last for the whole life of Parliament. The Departmental Committees comprise a Chairman and ten Members from both the Party in Government and the combined Opposition. The Chairmen of the Departmental Committees are elected from both sides of the House by the respective Committees at the first sitting of the First (or Second) Session of Parliament. The functions of the Departmental Committees are specified under the provisions of Standing Order No.151(4) as follows:

S.O.No.151(4): The functions of the Departmental Committees shall be:-

- (a) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;**
- (b) to study the programme and policy objectives of the Ministries and departments and the effectiveness for implementation;**
- (c) to study and review all legislation after First Reading, subject to the exemptions under Standing Order 101A(4);**
- (d) to study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;**
- (e) to investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister; and**
- (f) to make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.**

The Departmental Committees are specified in the Schedule to the Standing Orders as follows:

- Committee A: Agriculture, Lands and Natural Resources.**
- Committee B: Energy, Communications and Publications.**
- Committee C: Education, Research and Technology.**
- Committee D: Health, Housing, Labour and Social Welfare.**
- Committee E: Administration, National Security and Local Authorities:**
- Committee F: Finance, Planning and Trade.**
- Committee G: Administration of Justice and Legal Affairs.**

Committee H: Defence and Foreign Affairs.

(d) Liaison Committee:

The Departmental Committees are coordinated by the Liaison Committee. The Liaison Committee is established under the provisions of Standing Order No.151A(1). The Members of the Liaison Committee comprise the Deputy Speaker as Chairman and the Chairmen of all the Departmental Committees. The functions of the Liaison Committee are specified under the provisions of Standing Order No.151A(2) as follows:

(2) The Liaison Committee shall:-

- (a) guide and co-ordinate the operations, policies and mandates of the Departmental Committees;**
- (b) deliberate on and apportion the annual operating budget among the Departmental Committees;**
- (c) consider the programme of the Departmental Committees, including their need to travel and sit away from the precincts of the House;**
- (d) deliberate and decide on which reports of the Departmental Committees shall be debated in the House.**

(e) Ad Hoc Select Committees:

The Ad Hoc Select Committees are established under the provisions of Standing Order No.153. The Ad Hoc Select Committee is established by the House to deal with a specific matter expressed in the Motion seeking to establish the Committee. The Motion requires notice except a Motion on a matter of privilege under the provisions of Standing Order No.45(i) or under the proviso of Standing Order No.153 where the House in the course of the proceedings on the matter decides to refer that matter to a Select Committee.

In accordance with the provisions of Standing Order No.154, the Members of the Ad Hoc Select Committee are appointed by the House Business Committee unless the Members are nominated by the

House during the appointment of the Ad Hoc Select Committee. Similarly, the House Business Committee nominates the Chairman of the Ad Hoc Select Committee unless the House nominates the Chairman when appointing the Select Committee. The Ad Hoc Select Committee shall consist of not less than five and not more than fifteen members except with the approval of the House in accordance with the provisions of Standing Order No.154(2).

The mandate of an Ad Hoc Select Committee expires when the Committee reports to the House and the Committee stands dissolved. The most well-known **Ad Hoc** Select Committees established by the Kenya Parliament include the following:

- (i) The Select Committee on the murder of Hon. Josiah Mwangi Kariuki, M.P. for Nyandarua North in 1975.**
- (ii) The Select Committee on the Tribal Clashes in 1991.**
- (iii) The Select Committee on Corruption in 1998.**

5.0 **OPERATIONS**

5.1 The procedure, practice and management of the operations of the Select Committees are stipulated in the provisions of the Constitution, the National Assembly (Powers and Privileges) Act and the Standing Orders. The Standing Orders of the National Assembly are made in pursuance of the provisions of Section 56(1)(a) of the Constitution; while the National Assembly (Powers and Privileges) Act is enacted in pursuance of the provisions of Section 57 of the Constitution.

5.2 The procedure, practice and management of the operations of Select Committees is stipulated in the provisions of Standing Orders Nos.155-162; while the procedure relating to the Committee of Privileges is stipulated under the provisions of Section 10(3), (4), (5) and 12 of the Act.

5.3 These provisions state as follows:

(a) Standing Orders:

- (i) Cessation of Membership or Absence of Member. S.O. No.155:

In the event of any member of a Select Committee ceasing to be a Member of the House or being absent from the country or otherwise unable to act, the House Business Committee may appoint another Member of the House in his place, or, as the case may be, to act in his place during the period of such inability.

- (ii) Chairman to arrange time of first meeting S.O.No.156:

The Chairman of a Select Committee shall arrange a time for the first meeting of the Committee.

- (iii) In absence of Chairman, Select Committee to elect Member to act as Chairman. S.O.No.157:

In absence of Chairman, the Committee shall elect another member of the Committee to act as Chairman in his stead for the period during which he is absent.

- (iv) Chairman's Vote: S.O.No.158:

The Chairman of a Select Committee shall have an original but not a casting vote.

- (v) Quorum S.O.No.159:

The quorum of a select committee shall, unless the House otherwise orders, consist of three members.

- (vi) Procedure: S.O. No.160.

S.O.No.160(1) Save as and to the extent to which the Chairman may in his discretion otherwise direct for the purpose of facilitating full consideration and discussion of the matter referred to the committee, the procedure in a select committee shall as nearly as

possible the same as that in Committee of the Whole House:

Provided that any question arising in a select committee shall be divided by vote and the resolution on any such vote shall constitute the decision of the select committee on that question.

- (2) The Minutes of a select committee shall be kept in the same form as the Votes and Proceedings of a Committee of the Whole House:**

Provided that where a vote on a question is not unanimous the names of the Members voting for and against the question or declining to vote respectively shall be recorded in the minutes.

- (3) A select committee may continue its deliberations although the House is adjourned or Parliament is prorogued.**

- (4) A select committee shall have power to receive evidence.**

- (5) The deliberations of a select committee shall be confined to the matter referred to it by the House and any extension or limitation thereof directed by the House and, in the case of a select committee on amendments.**

- (vii) Premature Publication of Evidence: S.O. No.161.**

S.O.No.161: No evidence received by and no documents presented to a select committee shall be published or otherwise disclosed to any person other than a Member of the House until the report of that committee shall have been presented to the House.

(vii) Report of Select Committee S.O.No.162

S.O.No.162(1):The Report of a select committee shall be signed by the Chairman on behalf of the Committee.

Provided that if the Chairman is absent or is not readily available the committee shall nominate another Member to sign the report on behalf of the committee.

(2) A report of a select committee, together with the minutes of the proceedings of the committee, and with such note or record of any evidence by the committee as the committee may deem fit, shall be laid on the Table of the House by the Chairman of the select committee or by some other member authorised by the committee in that behalf.

(b) National Assembly (Powers and Privileges) Act:

The provisions of the National Assembly (Powers and Privileges) Act on the procedure, practice and management of the operations of the Select Committees under Section 10 of the Act state as follows:

(i) Quorum:

Section 10(3). The quorum of the Committee of Privileges established under sub-section (1) shall be six including the Chairman, but otherwise, subject to this Act, the Committee shall regulate its own meetings and its own procedure.

(4) The Committee of Privileges shall, either of its own motion or as a result of a complaint made by any person, inquire into any alleged breach by any member of the Assembly of the Code of Conduct issued under Section 9, or into any conduct of any member of the Assembly (other than the Chamber) which is alleged to have been intended or likely to

reflect adversely on the dignity or integrity of the Assembly or the member thereof, or to be contrary to the best interests of the Assembly or the members thereof.

(5) The Committee of Privileges shall, after such inquiry as is referred to in sub-section (4), report its findings to the Assembly together with such recommendations as it thinks appropriate.

(ii) Immunity

The proceedings of the Committee of Privileges enjoy parliamentary immunity and privileges under Section 12 of the Act. Section 12 provides and states as follows:

Section 12. No proceedings or decision of the Assembly or the Committee of Privileges acting in accordance with this Act shall be questioned in any court.

(iii) Evidence

The proceedings of the Select Committees of the National Assembly are conducted in camera under the provisions of Standing Order No.160. The proceedings of the Select Committees shall not be divulged to any person except a Member of the House under the provisions of Standing Order No.160. The proceedings of a Select Committee shall not be anticipated or referred to in any debate in the House as required under the provisions of Standing Order No.71.

The Select Committees summon witnesses and takes evidence under the provisions of Section 14 of the National Assembly (Powers and Privileges) Act. The summons to witnesses are notified under the hand of the Clerk issued by the direction of the Speaker in accordance with Section 15(4) of the Act. The summons may be served by an officer of the National Assembly or by a Police Officer under Section 15(3) of the Act. The witnesses who do not reside within four miles of the place of attendance specified in the summons shall receive such sum for expenses as may be prescribed in the Standing Orders under Section 15(2) of the Act. The sum has not been so prescribed in the current Standing Orders.

The witnesses and members of the public may also appear before Select Committees either in person or by advocate and give evidence. The witnesses may give evidence by oral examination or be examined upon oath. The oath may be administered by the Chairman or any other person appointed for that purpose in accordance with the provisions of Section 16 of the Act. Any witness who gives false evidence while on oath is guilty of committing contempt and perjury, and is liable to criminal prosecution under Section of the Penal Code and subject to either fine or imprisonment or both fine and imprisonment.

The witnesses may object to answering questions or producing papers in accordance with the provisions of Section 17(1)and(2) of the Act. The Speaker makes his ruling during the adjournment of the Select Committee. Section 17(1) and (2) provides and states as follows:

- (1) Where any person ordered to attend to give evidence or to produce any paper, book, record or document before the Assembly refuses to answer any question that may be put to him or to produce the paper, book, record or document on the ground that it is of a private nature and does not affect the subject of inquiry, the Speaker may excuse the answering of the question or the production of the paper, book, record or document, or may order the answering or production thereof.**
- (2) Where any person ordered to attend or to give evidence or produce any paper, book, record or document on the ground that it is of a private nature and does not affect the subject of inquiry, the chairman of the committee may report his refusal to the Speaker with the reasons therefor; and the Speaker may thereupon excuse the answering of the question or the production of the paper, book, record or document, or may order the answering or production thereof.**

The witnesses giving evidence before a Select Committee shall have the same right or privilege as before a court of law in accordance with the provisions of Section 18(1) of the Act. With regard to public officers required to give evidence before a Select Committee the provisions of Section 18(2) and (3) are applicable as follows:

Section 18(2). Except with the consent of the President, no public officer shall -

- (a) produce before the Assembly or a Committee any paper, book, record or document, or**
- (b) give evidence before the Assembly or a Committee, relating to the correspondence of any naval, military or air force matter, nor shall secondary evidence be received by or produced before the Assembly or a Committee of the contents of any paper, book, record or document.**

Section 18(3). Except upon the direction of the President, no public officer shall refuse -

- (a) to produce before the Assembly or a Committee any paper, book, record or document; or**
- (b) give evidence before the Assembly or a Committee, relating to the correspondence of any civil department or to any matter affecting the public service; and secondary evidence shall not be received by or produced before the Assembly or a Committee of the contents of any such paper, book, record or document which the President has directed shall not be produced.**

The Members or officers of the Assembly and any other person employed to take minutes of evidence before the Committee shall not give evidence elsewhere in respect of the contents of those minutes of evidence or of the contents of any document laid before that Committee or in respect of any proceedings or examination held before the Committee without special leave first being obtained in accordance with the provisions of Section 19(1) of the Act.

The special leave may be given during a recess or adjournment by the Speaker, or in the absence or other incapacity of the Speaker, by the Clerk of the National Assembly under Section 19(2) of the Act.

The questions relating to evidence and production of documents before a Select Committee shall be determined in accordance with the usage of the United Kingdom Parliament under the provisions of

Section 20 of the National Assembly (Powers and Privileges) Act.
Section 20 of the Act provides and states as follows:

Section 20: Where at any time any question arises in the Assembly or in a Committee in regard to:-

- (a) the right or power of the Assembly or a committee to hear, admit or receive oral evidence; or**
- (b) the right or power of the Assembly or a committee to peruse or examine any paper, book, record or document or to summon, direct or call upon any person to produce any paper, book, record or document before the Assembly or committee; or**
- (c) the right or privilege of any person including a member of the Assembly or committee) to refuse to produce any paper, book, record or document or to lay any paper, book, record or document before the Assembly or Committee, that question shall, subject to the preceding provisions of this Act, and except in so far as express provision is made in those provisions for the determination of that question, be determined in accordance with the usage and practice of the Commons House of Parliament of the United Kingdom.**

6.0 OFFENCES

6.1 The offences of giving false evidence are punishable in accordance with the provisions of Section 21 of the Act, which state as follows:-

Section 21: Any person who before the Assembly or any committee intentionally gives a false answer to any question material to the subject of inquiry, which may be put to him during the course of any examination shall be guilty of an offence under Section 108 of the Penal Code, Chapter 63 of the Laws of Kenya, and liable to the penalty prescribed by the appropriate section for that offence.

6.2 There are also other offences and penalties related to operations of the Select Committees of Parliament. Such offences and penalties also apply to the Parliament itself. These other offences and penalties are specified under the provisions of Section 23 of the National Assembly (Powers and Privileges) Act, which state as follows:

Section 23: Any person who -

- (a) disobeys any order made by the Assembly or a committee for attendance or for production of papers, books, documents or records, unless his attendance or production is excused under Section: or**
- (b) refuses to be examined before, or to answer any lawful and relevant question put by, the Assembly or a committee, unless refusal is excused under section 17; or**
- (c) offers to any member or officer of the Assembly any bribe, fee compensation, gift or reward in order to influence him in his conduct as such member or officer, or for or in respect of the promotion of or opposition to any Bill, resolution, matter, rules or thing submitted to or intended to be submitted to the Assembly or any committee; or**
- (d) assaults, obstructs, molests or insults any member coming to, being within or going from the precincts of the Assembly, or endeavours to compel any member by force, insult or menace to declare himself in favour of or against any proposition or matter pending or expected to be brought before the Assembly or any committee; or**
- (e) assaults, interferes with, molests or obstructs any officer of the Assembly while in the execution of his duty; or**
- (f) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Assembly or any committee while the Assembly or committee is sitting; or**

- (g) **presents to the Assembly or a committee any false, untrue, fabricated or falsified document with intent to deceive the Assembly or committee; or**
- (h) **publishes any false or scandalous libel on the Assembly or its proceedings; or**
- (i) **speaks words defamatory of the Assembly or its proceeding;**

shall be guilty of an offence and liable, on conviction before a subordinate court of the first class, to a fine not exceeding two thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

- 6.3 With regard to the members of a Select Committee of Parliament, it is a criminal offence to accept or receive bribe, gift or reward in order to support or oppose any matter before the Committee. These provisions also apply to Members of the National Assembly in general. In this respect, Section 24 of the National assembly (Powers and Privileges) Act provides and states as follows:

Section 24(1) No Member shall accept or receive either directly or indirectly any bribe, fee, compensation, gift or reward for or in respect of the promotion of or opposition to any Bill, resolution, matter or thing submitted or intended to be submitted for consideration of the Assembly or any Committee.

(2) Any person who acts in contravention of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or to a fine not exceeding ten thousand shillings, or to both such imprisonment and fine, and every bribe, fee, compensation, gift or reward accepted or received by him shall be forfeited.

7.0 **RESIGNATION**

- 7.1 The members of the Select Committee once appointed cannot be removed by the House. There are no provisions in the Standing Orders for the removal of members of the Select Committee by the House, except when such a member ceases to be a member of the

House in accordance with the provisions of Standing Order 155. When a member of the Select Committee is absent from the country or is unable to act for any reason, the HBC can only appoint another member to act during the period of such absence or inability.

7.2 In this respect, Standing Order No. 155 provides and states as follows:

S.O. NO. 155. In the event of any member of a Select Committee ceasing to be a member of the House or being absent from the country or otherwise unable to act, the House Business Committee may appoint another member of the House in his place, or, as the case may be, to act in his place during the period of such absence or inability.

7.3 The only way in which a member of a Select Committee can cease to be a member of such a Committee is by resignation from the Committee on his own volition in accordance with the provisions of Section 121 of the Constitution of Kenya, which states as follows:

Section 121 (1) A person who is appointed, elected or otherwise selected to an office established by or under this Constitution may resign that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or otherwise selected.

Provided that:-

(iii) The resignation of a person from the office of member of the National Assembly or from the office of Chairman or member of a Committee of the National Assembly shall be addressed to the Speaker of the National Assembly.

(2) The resignation of a person from an office as aforesaid shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or a person authorized by that person or authority to receive it.

8.0 **REVIEW**

8.1 In view of the crucial importance of the Parliamentary Committee System in the promotion of multiparty democracy in Kenya and the effective management of the operations of Parliament in the best interests of the country and the people of Kenya, serious and urgent review of the Constitution, the National Assembly (Powers and Privileges) Act and the Standing Orders of the National Assembly is necessary.

8.2 The review may necessitate amendments of the Constitution, the National Assembly (Powers and Privileges) Act and the Standing Orders of the National Assembly. The review should include the following:

(a) **Criteria and Guidelines:**

The House should formulate clear Criteria and Guidelines for the nomination and appointment of the Members of the Select Committees established under the provisions of Part XIX of the Standing Orders of the National Assembly. These Criteria and Guidelines should include the following:

- (i) **Nomination and appointment of all Select Committees shall be approved upon Procedural Motion by an Affirmative Resolution of the House.**
- (ii) **Nomination of Members of Select Committees established under Standing Order No.153 shall be approved and appointed, upon a Procedure Motion, by an Affirmative Resolution of the House; and the Chairmen of such Select Committees shall be elected by the Members of the said Committees unless the House has appointed the Chairmen together with the Members of the Select Committees.**
- (iii) **Members of all the Departmental Committees established under the provisions of Standing Order No. 151 shall be appointed at the commencement of Parliament for two years.**

- (iv) Members shall not serve on more than two Select Committees during the Session.**
- (v) Members shall not serve on more than one Departmental Committee at the same time.**
- (vi) Members shall not serve on the same Select Committees (s) for more than two consecutive sessions.**
- (vii) Every Member shall serve on at least one Sessional Committee and one Departmental Committee during the life of Parliament.**
- (viii) Every Parliamentary Party shall be represented on at least one Select Committee during the Session.**
- (ix) Every Parliamentary Party shall be represented on at least one Departmental Committee in each Session.**
- (x) Select Committees established under Standing Order No.153 shall be required to report to the House within a fixed period of time stipulated in the Motion and Resolution of the House establishing such Select Committee.**

With regard to the nomination and appointment of Select Committees of the British House of Commons, Erskine May Parliamentary Practice (Twenty Second Edition) states, inter alia, as follows:

Select Committees are appointed by the House to perform a variety of functions on the House's behalf. A Select Committee possesses no authority except that which it derives by delegation from the House. Unless the House otherwise orders, the Members of a Select Committee are named by the House upon a Motion of a Member.

Unless, as is sometimes the case, the House makes specific provisions to the contrary in respect of a particular Committee, the appointment of a Select Committee and the nomination of Members must be the subject of separate motions and it is not in order, on the Motion for appointment of a Select Committee,

to discuss the names of the Members who it is proposed, shall compose it.

A motion for the nomination of a Select Committee is usually tabled and moved by a Member of the Government (although amendments may be tabled by other Members). Two sitting days' notice of such a Motion is required.

In strictness a motion ought to be made, and a question put, in respect of each Member proposed as a Member of a Committee, that he be a Member (or another Member) of the Committee. In practice the Speaker puts a single question in respect of all the proposed Members, and, if no objection is taken to any of the proposed names, they are considered to have been accepted by the House.

(b) Public Accounts Committee (S.O.No.147).

The composition of the Public Accounts Committee remained the same both during the Legislative Council and the National Assembly until the amendments made to the Standing Orders during the Seventh Parliament dated 10th November, 1997. The amendments arose from the controversial manner in which the proceedings were conducted by Members of the Party in Government and the combined Opposition.

The present composition of the PAC still remains controversial in the minds of the general public of Kenyans. The former system had worked very well for more than fifty years. The Kenya Parliament enjoyed unique history in parliamentary practice in this respect until the proud legacy was destroyed by the negative politics of brinkmanship and partisanship of the Seventh Parliament.

The composition of the Public Accounts Committee should revert to that which existed for many years and served the country well. It is recommended that the composition of the Public Accounts Committee should consist of a majority of Members of the combined Opposition with the Leader of the Official Opposition or any other Member of the Opposition as the Chairman upon election by the PAC.

The composition of the Public Accounts Committee of the Legislative Council of Kenya in accordance with the provisions of the Standing Orders framed and proposed by the Governor on 10th July, 1952, in exercise of the powers conferred by Article XXIV of the Royal Instructions dated 29th March, 1934, adopted by the Legislative Council on 11th July, 1952 and brought into operation on the 1st day of August, 1952 by the Command of the Acting Governor, Sir, Henry Steven Potter, on the 21st day of July, 1952 was as follows:

1952: S.O.No.158: There shall be a Select Committee, to be designated the Committee of Public Accounts, for the examination of the accounts, showing the appropriation of the sums granted by the Council to meet the public expenditure, and of such other accounts laid before the Council as the Committee may think fit, consisting of an Unofficial Member as Chairman and such other members, not being less than three, who shall be nominated at the commencement of every session:

Provided that a majority of the Members of the Committee shall be Unofficial Members.

The composition of the Public Accounts Committee of the National Assembly remained the same between 1963 and 1997. The relevant Standing Orders provided and stated as follows (1967 and 1997):

1967: S.O.No.147(1). There shall be a Select Committee, to be designated the Public Accounts Committee for the examination of the accounts showing the appropriation of the sum voted by the House to meet the public expenditure, and such other accounts laid before the House as the Committee may think fit. The Public Accounts Committee shall consist of a Chairman and not more than ten Members who shall be nominated by the Sessional Committee at the commencement of every session:

Provided that when the House contains an official opposition party the Chairman and the majority of the members of the Public Accounts Committee shall be Members who are not on the Government side of the House.

The composition of the Public Accounts Committee was changed with the 1997 review of the Standing Orders as follows:

1997: S.O.No.147(1): There shall be a Select Committee to be designated the Public Accounts Committee, for the examination of the accounts showing the appropriation of the sum voted by the House to meet public expenditure and of such other accounts laid before the House as the Committee shall think fit. The Public Accounts Committee shall consist of a Chairman who shall be a Member who does not belong to the parliamentary party which is the ruling party and not more than ten members who shall be nominated by the House Business Committee to reflect the relative majorities of the seats held by each of the parliamentary parties in the National Assembly, at the commencement of every session:

Provided that, the ruling party shall have a majority of not more than two.

(c) **Public Investments Committee (S.O.No.148):**

The composition of the Public Investments Committee (PIC) is exactly the same as the PAC. The composition of the PIC was the same as the PAC until the amendments of the Standing Orders in 1997 for the same reasons as the PAC. This situation should be reviewed so that the composition of the PAC and PIC consist of a majority of Members from the combined Opposition with the Chairman being elected from the Members of the Committees within the combined Opposition.

The effectiveness of the PIC has also been hampered by the exemption of some State Corporations from the State Corporations Act, Chapter 446 of the Laws of Kenya. The exemptions exercised and given under the Act should be cancelled. The PIC should deal with the expenditures and investments of all the State Corporations without exception.

(d) **Library Committee (S.O.No.149):**

The Library Committee is responsible for the management of the parliament Library and Library Services to the Members. The Parliament Library is crucial to the effectiveness of Parliament.

Nevertheless, the Parliament Library is a far cry from the Library of Congress of the United States, the House of Commons of the British Parliament and other democracies.

The Library Committee has been and remained moribund for many years. The Committee hardly holds meetings to deal with issues affecting the Parliament Library and the Library Services to the Members. It is recommended that the Parliament Library be improved and modernised. The Parliament Library should be managed by an effective Library Committee.

(e) **Cessation of Membership (S.O.No.155):**

The House should be in a position to manage and monitor the operations of the Select Committees more effectively than has hitherto been the case to ensure the efficiency of the Committee System. The House should be able to remove members of Select Committees who are not effective or resourceful to the Committee.

(f) **Quorum (S.O.No.159):**

The effectiveness of the Select Committees is adversely affected by failure to raise quorum. The Select Committees often have to adjourn or suspend sittings prematurely for lack of quorum. And yet, the general quorum requirement under Standing Order No.159 is three members out of a total of eleven or fifteen.

The question of quorum of the Select Committees should be reviewed. The attendance should be made more strict. There should be a time limit within which a quorum should be realised. The members who are present after the time limit should be marked absent and forfeit their attendance allowance for the day. The absence of a member of a Select Committee for three consecutive days without the authority of Mr. Speaker should render the membership of such a member liable to cancellation by the House.

In this regard a strict attendance list should be maintained by the office of the Clerk of the National Assembly.

(g) **Procedure (S.O.No.160):**

The procedure of the Select Committees stipulated under Standing Order No.160 should be adhered to strictly to ensure the effectiveness of the Committee System. With regard to the Departmental Committees, the provisions of Standing Order No.101A should be applied in all strictness. Every Bill should be committed to the respective Departmental Committee by the "**designated Minister**" concerned without exception. The exemption of some Bills under Standing Order No.101A(4) should be reviewed and brought in line with the rest of the provisions of the Standing Order.

The procedure of the Select Committees should guard against the tendency to use the Committees of the House for extra parliamentary matters like public seminar and workshops in accordance with the recent Ruling of the Speaker on the Kenya Tea Development Authority Seminar organised by the Centre for Democracy and Governance (CDG) at the Kericho Tea Hotel and the Naro Moro Seminar organised by the Anti-Corruption Committee.

(h) **Premature Publication of Evidence (S.O.No.161):**

There is necessity for the involvement of the general public of the people of Kenya in the governance of the country. There is need for public access to information and transparency in the operations of the Select Committees of Parliament. The interest and involvement of Kenyans in the operations of the Select Committees of Parliament should be encouraged and nurtured.

The provisions of Standing Order No.161 should be reviewed to facilitate public access to information and transparency in the Select Committees. The proceedings of the Select Committees should be open to the media and the Members of the public without compromising the dignity, integrity and impartiality of the Committees and the confidentiality and security of the operations of the Select Committees of Parliament.

9.0 WORKSHOP PRESENTATIONS

- 9.1 The Workshop on the Role, Functions and Operations of Select Committees was held at the Safari Park Hotel in Nairobi on 10th and 11th August, 1999. The Workshop was jointly organised and sponsored by the National Assembly and the Frederick Ebert Foundation (F.E.S.) of Germany to facilitate in-depth reflection and think together on the Select Committee process.
- 9.2 The Workshop was attended by 136 Members of Parliament from all the Parliamentary Parties (KANU, DP, NDP, FORD-K, SDP, SAFINA, FORD-P, KSC, FORD-A, and SPK) including Ministers and Assistant Ministers.
- 9.3 The Workshop was addressed and officially opened by the Speaker of the National Assembly, the Hon. Francis Ole Kaparo, M.P. The Workshop was also addressed by the Clerk of the National Assembly, Mr. Samuel W. Ndindiri. The address by the Deputy Speaker, the Hon. Joab H.O. Omino, M.P. was read by the Hon. David Mwiraria, M.P. of the Democratic Party. The Deputy Speaker, who was the Leader of the Kenya Study Mission to Canada, was away in Ghana leading the Kenya Delegation of the Commonwealth Parliamentary Association (CPA) Branch to the West Africa Regional Conference of the CPA.
- 9.4 The highlights and salient issues of the Speaker's Speech focused on: **THE ROLE AND FUNCTIONS OF SELECT COMMITTEES.**
- 9.5 The speech by Clerk collaborated that of the Speaker and underlined some important aspects and features of **THE PROCEDURE, PRACTICE AND MANAGEMENT OF OPERATIONS OF SELECT COMMITTEES.**
- 9.6 The theme of the Deputy Speaker's speech was: **THE PLACE AND INPUT OF THE SELECT COMMITTEE IN THE GOVERNANCE PROCESS: THEIR POWERS AND MODE OF OPERATIONS (THE CANADIAN PERSPECTIVE).**

• **10.0 WORKSHOP RECOMMENDATIONS**

• 10.1 The Workshop was divided into four Working Groups. The Working Groups were designated as Group 1, Group 2, Group 3 and Group 4. The membership of the Groups was not based on any formula of the representation of the Parliamentary Parties in the House, but rather on the criteria of collective and mutual participation in the general interest of the Select Committees to both the Parliament and the Society.

10.2 The summary of the proceedings and recommendations of the Workshop is attached herewith as Appendix.

• **HON. GEORGE M. ANYONA, M.P.**
• **KITUTU MASABA (KSC)**

KENYA NATIONAL ASSEMBLY EIGHTH PARLIAMENT – THIRD SESSION

WORKSHOP ON THE ROLE, FUNCTIONS AND OPERATIONS OF SELECT COMMITTEES

REPORT OF THE PROCEEDINGS AND RECOMMENDATIONS

SAFARI PARK HOTEL – AUGUST 10 AND 11, 1999

1.0 INTRODUCTION

In parliamentary democracy, the Committee System assume great importance because Parliament as a body cannot by its very nature, have complete oversight over the Government and the whole gamut of its activities. Modern Legislatures have, therefore, created apart from other devices, committees through which they strive to achieve effective surveillance over the Executive arm of the Government. Committees enable members of the public to participate in the legislative and governance processes by sending memoranda or appearing before committees to air their views on the government and give suggestions on how operations of governing could be improved.

The Kenya National Assembly recognizes the important contribution that committees make to the role and functions of Parliament in the scrutiny of Public Policy and activities. Recent innovation has extended this to Departmental Committees to which most Bills are referred after First Reading. As is the case with all new activities, the National Assembly has encountered a few difficulties and uncertainties in making the committees work effectively, and the need for a Seminar to harmonize the operations of Departmental Committees and other committees was long over due.

Consequently on August 10 and 11, 1999 a Workshop for all Members on the Role, Operations and Functions of Committees was held at Safari Park Hotel, Nairobi. The workshop was attended by 150 Members and was jointly sponsored by the Friedrich Elbert Foundation (FEF) and the National Assembly of Kenya. During the Workshop presentations were made by the Speaker of the National Assembly and the Clerk of the National Assembly. The Deputy Speaker made a presentation on behalf of a team of committee chairmen who had visited Canada to familiarize themselves with the Canadian Committee System.

The Workshop came up with Recommendations aimed at streamlining the operations of committees and reinforcing the autonomy and supremacy of Parliament. This report contains the highlights of the presentations and recommendations of the Seminar. The Annex contains the Agenda of the Workshop, the List of Participants in the Plenary and in the Discussion Groups.

2.0 ADDRESS BY THE SPEAKER OF THE NATIONAL ASSEMBLY ON: THE ROLE AND FUNCTIONS OF SELECT COMMITTEE

In his opening remarks, the Speaker said that Parliament was keen on developing the Committee System and especially the operations of Departmental Committees. He noted that, for that reason, seventeen (17) Members including chairpersons of Committees had made a study tour of Canada to learn how the Committee System operates in Canada. The report on the study tour would be discussed in the Workshop. The Speaker outlined the key functions of Committees, noting that they were an extension of those of the House. Further, he stated that Committees performed those roles which the House in its corporate form could not perform, though Committees were limited to the scope of whatever business the House committed to them. The procedure and practice governing their proceedings was basically the same as in the House. Their recommendations, the Speaker further noted, were supposed to be supported by the evidence adduced.

On types of Select Committees, the Speaker informed the Workshop that the Kenya Parliament had provision for three (3) types, namely: standing, departmental and ad hoc Select Committees, he cited examples of each.

Commenting on privilege, powers and immunities of committees he noted that committees were conferred similar powers, immunities and privileges as the House. On impediments to the operation of committees, the Speaker cited among others, the lack of quorum, inability by Members to master and utilize procedure, inadequate resources, lack of sufficient time for the House to deliberate on Committee report, lack of interest by Members in the work of committees and failure by the Executive to respond to Committee recommendations.

The Speaker noted that the situation could be improved through the provision of adequate funding, adequate and skilled staff and interest by Members for committee work.

In summing up, the Speaker urged Members to familiarize themselves with the parliamentary procedure, especially the Standing Orders which would enable them to appreciate the working of the Select Committees while safeguarding their rights, powers and privileges. The Speaker requested the Members to choose between going to the press and getting nothing done and going to the committees and getting things done but without coverage.

3. ADDRESS BY THE CLERK OF THE NATIONAL ASSEMBLY ON: PROCEDURE, PRACTICE AND MANAGEMENT OF OPERATION OF SELECT COMMITTEES

The Clerk noted that the procedure, practice and management of operations of Select Committees were dynamic and a creation of parliamentarians to enable them carry out the duty entrusted on them by the electorate. Procedure, he also noted, was unique in that it encompassed privilege meant to enable Members perform their duties without difficulties. The Workshop was informed that though privilege was protective, it entailed responsibility. The procedure of Select Committees was a creation of the House and the House gave room for the necessary elasticity to allow for smooth transaction of the business of the House and committees only through a substantive Motion. The Clerk informed the Workshop that a large portion of Committees procedure remained unexploited and appealed to parliamentarians to acquaint themselves and make use of the existing procedure. On committee operations, the Workshop heard that they included record of minutes/proceedings, contact with strangers, modalities for execution of mandate and format of reports among others. The Clerk

The following is the summary of the Observations and Recommendations of the Workshop.

6. SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

OBSERVATIONS

1. General

Prior to making specific observations and recommendations on what should be done to improve the operations of Select Committees, the Workshop observed that:-

The supremacy of Parliament should be upheld and that Parliament should play its rightful constitutional role alongside other arms of State. The Executive should not erode the powers of Parliament. To enable Parliament to become independent and perform its duties effectively, a Parliamentary Service Commission should be put in place before the next budget.

Parliament should prepare and control its own budget.

The integrity and dignity of Members of Parliament should be recognized and protected. Members should be self-respecting in order to attract respect from others.

Members should take their work seriously and work as a team in solving national issues without regard to party, ethnic and other considerations.

2. Membership of Select Committees

It should be made possible for every backbencher to serve in at least one Committee and at most two in order for them to understand Parliamentary Business and participate effectively.

There should be gender balance in the composition of Committees and election of Chairpersons and Vice Chair persons.

Members who are not members of a Committee should be free to attend and present any agenda that is relevant to the Committee.

Such Members will not constitute a quorum and will have no voting right. Nominations to Committees should be done by Party Parliamentary Groups. As has been the practice, Committees should elect a Chair-person from amongst themselves. They should also elect a Vice-Chair-person and a Steering Committee comprising the Chair-person, Vice-Chairperson and another member to plan the business of the Committee.

The Chairperson should be empowered to take necessary action to ensure prompt and continued attendance of Sittings of Committees and shall certify to the Accounting Officer the attendance list for the day.

Members who fail to attend three consecutive Sittings without reasonable cause or permission from the Chairperson should be reported to the Speaker under the certificate of the Chairperson for removal from the Committee.

3. Powers of the Committee

- Committees must sit at least once in a Session and all Committees should have sitting programs for a calendar year.
- Committees should make full use of the National Assembly (Powers and Privileges) Act. The Act should be examined in order to make it more effective.

4. Proceedings of the Committee

- The relevant Committee of the House should examine the Standing Orders to make the proceedings of Committees open to the Public and to be televised if possible.
- Members should observe punctuality.
- Committees should determine the issues that should be discussed in Camera.

5. Role and Responsibilities of the Chairperson

- The Chairperson should be truly non-partisan and only vote to break a tie.

6. Committee Staff

- Committees should be provided with at least a Committee Clerk and Research Assistant.
- The Parliamentary Service Commission should be established urgently so that it can acquire from existing government departments and research institutions professional staff to assist Committee staff in their operations.
- The Clerk should prepare a budget and a training program for Committee staff.
- Committees should have offices where Members and parliamentarians can drop messages or consult.

7. Government Responses to Report of Committee

- Government should respond to Reports of Committees within 90 days. The responses should indicate action taken, if any and progress made in the implementation.
- Government should provide quarterly progress reports on the implementation of the Reports of Committees.

8. Scrutiny of the Budgetary Process

- A Sub-committee of the Departmental Committee on Finance, Planning and Trade should be established to deal with budget and estimates.

9. Office of the Controller and Auditor General

This office should be split into two in order for it to function effectively.

- All Committees should have a Vice Chairperson elected by the Members and who should be from a different party from that of the Chairperson. All Committees should have a Steering.
- Committee consisting of Chairperson, and Members of Steering Committee should be elected yearly and outgoing officials should be eligible for re-election. The life of Departmental Committees be two years and Members should be eligible for re-appointment.
- Every backbencher should be given a chance to serve in at least one Committee during the life of Parliament. Any Member who absents himself or herself from three consecutive Sittings without reasonable cause shall be replaced.
- Any Member is entitled to attend the deliberations of Committees but such a Member will not count for quorum and will not be allowed to vote. If such a Member wishes specific issues to be on the agenda, the Member should notify the Steering Committee in advance in writing to enable the said Committee to allocate time.
- Provisions should be introduced in the Standing Orders requiring the Government to give urgent response to recommendations of Committees/the House within 90 days and such response should indicate action taken if any. If the government fails to act on the recommendations of the House then, Parliament may impose any sanctions it deems fit which may include refusal to pass the estimates of that particular Ministry or department.
- All Estimates/Budget must be prepared in consultation and involvement of the departmental committee. Any Ministry that does not involve the relevant Departmental Committee in its estimates/budget will have such estimates/budget rejected by Parliament. Quarterly reports on performance of the budget and implementation of projects should be presented to relevant Departmental Committees
- The Constitution should be amended to empower Parliament to vet appointment of senior public officers.

The Office of Controller and Auditor General should be split into two namely:-

- Office of Controller-General and Office of Auditor-General both to be constitutional offices with a limited term and both should report to Parliament.
- The Office of Auditor-General (Corporation) and the Auditor General Should be merged and both offices to report to Parliament.

Parliament should prepare and handle its own budget which shall not be subject to any amendment by the Treasury

The integrity and dignity of Members of Parliament should be recognized and protected. Members should be self respecting in order to attract respect from others

Members should take work seriously and work as a team in sorting out national issues without regard to party, ethnic and other considerations.

There should be gender balance in composition of committees in election of Chairpersons and Vice Chairpersons.

Nomination to Committees should be done by Party Parliamentary Groups taking into account the interests and qualifications of Members.

The Chairperson should be empowered to take necessary action to ensure prompt and continued attendance of Sittings and shall certify to the Clerk of the House an attendance list of the day.

All Committees should at the beginning of each Session submit a program of work to the Liaison Committee within thirty days of the commencement of the Session.

All Committee Sittings should be open to the public and media subject to the right of the Committee to determine to hear particular evidence in camera.

Committees should make full use of the National Assembly (powers and privileges) Act. The Act should be reviewed to give Parliament adequate powers to deal with contempt of parliament and other offenses.

Chairpersons of Committees should be fully non-partisan and should only vote to break a tie.

There should be a Monitoring and Implementations Committee to follow-up the implementing of resolutions of the House.

An Office of the Public Relations Officer should be established in order to inform the public on important issues and reduce suspicion between Members, the Speaker and the Media.

There should be a time frame for *ad hoc* Select Committees.

Standing Orders should be reviewed with a view to giving majority membership of the watchdog committees to the Opposition parties.

All bills should be referred to the relevant Departmental Committees after First Reading subject to exemptions under Standing Orders No. 101 (A) (4). The Committees should report back to Parliament within fourteen days.

Committee Chairpersons should be given the opportunity to Second all Bills.

7. CONCLUDING SESSION

The Speaker of the National Assembly expressed great satisfaction over incisive and illuminating contributions and recommendations that were arrived at by consensus. This he noted, was an indication that Members valued committee work and supported the need to improve their committee system. He once more called on Members to understand their Standing Orders in order to participate effectively in the business of the House and Committees. He informed the Workshop that plans were under way to organize a Workshop to review all the standing orders of the House.

He thanked all Members for availing themselves despite their busy schedule. He also expressed gratitude for their financial support towards the Workshop.

APPENDIX I

KENYA NATIONAL ASSEMBLY EIGHTH PARLIAMENT – THIRD SESSION (1999)

WORKSHOP ON ROLE, FUNCTIONS AND OPERATIONS OF SELECT COMMITTEES – AUGUST 10 AND 11 1999 AT SAFARI PARK HOTEL, NAIROBI

PROGRAMME

TUESDAY, AUGUST 10, 1999

TIME	-	EVENT
9.00 a.m.	-	9.30 A.M. Arrival of Members
9.30 a.m.	-	10.00 a.m. Address and opening of the Workshop – Speaker of the National Assembly
		<u>Subject</u> The role and functions of Select Committees
9.45 a.m.	-	10.00 a.m. Tea Break
10.00 a.m.	-	10.30 a.m. Address by the Clerk of the National Assembly.
		<u>Subject</u> The procedure, practice and management of Operations of Select Committees.

10.30 a.m. - 11.00 a.m. Address by the Deputy Speaker
(Presentation by the Hon. David Mwiraria,
M.P., Deputy Leader of Study Mission)

Subject

The place and in-put of Select Committees
in governance process: their powers and
mode of operation (the Canadian
perspective)

11.00 a.m. - 12.30 p.m. Discussion Groups

(Discussion Groups to be chaired by
Chairmen of Departmental Committees)

12.30 p.m. - 2.00 p.m. Lunch Break

2.00 p.m. - 4.30 p.m. Discussion Groups continue

4.30 p.m. - 5.00 p.m. Tea Break

END OF THE DAY

WEDNESDAY, AUGUST 11, 1999

9.00 a.m.	-	10.30 a.m.	Discussion Groups
10.30 a.m.	-	11.00 a.m.	Tea Break
11.00 a.m.	-	12.30 p.m.	Reports from Discussion Groups
12.30 p.m.	-	2.00 p.m.	Lunch Break
2.00 p.m.	-	3.30 p.m.	Recommendations
3.30 p.m.	-	4.00 p.m.	Closing Remarks

END OF THE WORKSHOP

APPENDIX II
ATTENDANCE LIST

1. The Hon. K.F.X. ole Kaparo (Speaker)
2. The Hon. David Musila, M.P.
3. The Hon. Owino Achola, M.P.
4. The Hon. J. B. Munyasia, M.P.
5. The Hon. P.K. Mwangi, M.P.
6. The Hon. G.W. Kapten, M.P.
7. The Hon. E.B. Shill, M.P.
8. The Hon. (Mrs) C.K.M. Ngilu, M.P.
9. The Hon. S.K.A. Rotich, M.P.
10. The Hon. C.G. Mokku, M.P.
11. The Hon. A.M.W. Wafula, M.P.
12. The Hon. F.K. Lagat, M.P.
13. The Hon. M.A. Karauri, M.P.
14. The Hon. M. Anyona, M.P.
15. The Hon. R.K.A. Kitur, M.P.
16. The Hon. A. Affey Mohammed, M.P.
17. The Hon. Dr. A.I. Ali, M.P.
18. The Hon. D.L. Khamasi, M.P.
19. The Hon. J.M. Keriri, M.P.
20. The Hon. P.G. Gitonga, M.P.
21. The Hon. E.K. Maitha, M.P.
22. The Hon. A.M. Noor, M.P.
23. The Hon. E.F. Achuka, M.P.
24. The Hon. J.L. Lotodo, M.P.
25. The Hon. A.A.A. Ekirapa, M.P.
26. The Hon. P. A. Kihara, M.P.
27. The Hon. T.O. Onyango, M.P.
28. The Hon. A.M. Nderitu, M.P.
29. The Hon. P.K. Muiruri, M.P.
30. The Hon. F.M. Kanyauchi, M.P.
31. The Hon. W. Kihoro, M.P.
32. The Hon. F.M. Kiunjuri, M.P.
33. The Hon. P.K. Mwangi, M.P.
34. The Hon. Onesmus M. Mboko, M.P.
35. The Hon. Moses Muhia, M.P.

36. The Hon. Fahim Twaha, M.P.
37. The Hon. A. M. Galgalo, M.P.
38. The Hon. D. Mwitaria, M.P.
39. The Hon. M.L. Mkalla, M.P.
40. The Hon. M. Wamae, M.P.
41. The Hon. G.M. Patpai, M.P.
42. The Hon. Kihara O. Mwangi, M.P.
43. The Hon. K.M. Sang, M.P.
44. The Hon. (Mrs) Z. Kittony, M.P.
45. The Hon. M.M. Galgalo, M.P.
46. The Hon. A.C. Kiptoon, M.P.
47. The Hon. J. K. Ngutu, M.P.
48. The Hon. Y.K. Chanzu, M.P.
49. The Hon. E.K. Sumbeiywo, M.P.
50. The Hon. Anyang Nyong'o, M.P.
51. The Hon. M.Y. Haji, M.P.
52. The Hon. J.N. Toro, M.P.
53. The Hon. A.M. Muchiri, M.P.
54. The Hon. W.C. Morogo, M.P.
55. The Hon. J.M. Munyao, M.P.
56. The Hon. M. K. Waitthaka, M.P.
57. The Hon. Khaniri, M.P.
58. The Hon. Z.M. nyangwara, M.P.
59. The Hon. M. A. Weyrah, M.P.
60. The Hon. G.P.O. Orita, M.P.
61. The Hon. D.S.K, Mwenje, M.P.
62. The Hon. R.M. Maore, M.P.
63. The Hon. D.L. Sankori, M.P.
64. The Hon. J.N. Sinyo, M.P.
65. The Hon. Thirikwa Kamau, M.P.
66. The Hon. Otieno Kajwang', M.P.
67. The Hon. J.K.Ombasa, M.P.
68. The Hon. J.K. Kitonga, M.P.
69. The Hon. Mohammed, M.P.
70. The Hon. Wycliffe Osundwa, M.P.
71. The Hon. Martha Karua, M.P.
72. The Hon. Mohamed Shidiye, M.P.
73. The Hon. Suleiman Kamolleh, M.P.
74. The Hon. Dr. Mukhisa Kituyi, M.P.
75. The Hon. Dr. J.P. Wamukoya, M.P.

76. The Hon. S.K. Ole Ntutu, M.P.
77. The Hon. C.D.K. Kirui, M.P.
78. The Hon. S.R.M. Manga, M.P.
79. The Hon. K.A. Kirwa, M.P.
80. The Hon. J.M. Katuku, M.P.
81. The Hon. J.J. Mugalla, M.P.
82. The Hon. J.K. Kibicho, M.P.
83. The hon. S.M. Amin, M.P.
84. The Hon. J.N.O. Agwenyi, M.P.
85. The Hon. P.O. Aringo, M.P.
86. The Hon. J.T. Arap Leting, M.P.
87. The Hon. J.M. Kiria, M.P.
88. The Hon. F.P. Wambua, M.P.
89. The Hon. H.O. Omamba, M.P.
90. The Hon. M.N. Kombo, M.P.
91. The Hon. L.S. Sifuna, M.P.
92. The Hon. P.O. Odoyo, M.P.
93. The Hon. A.N. Kathangu, M.P.
94. The Hon. Dr. Oburu Oginga, M.P.
95. The Hon. D.E. Ethuro, M.P.
96. The Hon. F.M. Kalulu, M.P.
97. The Hon. R.S. Kajembe, M.P.
98. The Hon. Kochale Robert, M.P.
99. The Hon. P.N. Ndwiga, M.P.
100. The Hon. Muhika Mutahi, M.P.
101. The Hon. Maina Njakwe, M.P.
102. The Hon. Dr. Newton W. Kulundu, M.P.
103. The Hon. Darius M. Mbela, M.P.
104. The Hon. Kiraitu Murungi, M.P.
105. The Hon. S.L. Poghio, M.P.
106. The Hon. A.M.A. Badawy, M.P.
107. The Hon. E. E. Morogo, M.P.
108. The Hon. I.N. Kariuki, M.P.
109. The Hon. P.K. Kaindi, M.P.
110. The Hon. Mwai Kibaki, M.P.
111. The Hon. W.O. Ayoki, M.P.
112. The Hon. J. K. Sambu, M.P.
113. The Hon. W.R. ole Ntimama, M.P.
114. The Hon. Dr. A.H. Wako, M.P.
115. The Hon. A.T. Sasura, M.P.

116. The Hon. E.N. Magara, M.P.
117. The Hon. J.M. Kiyonga, M.P.
118. The Hon. K.M. Muriuki, M.P.
119. The Hon. P.S. Shitanda, M.P.
120. The Hon. S.R. Shakombo, M.P.
121. The Hon. G.O. Ngure, M.P.
122. The Hon. (Mrs) T.J. Seii, M.P.
123. The Hon. G.M.A. Ochilo, M.P.
124. The Hon. G. Imanyara, M.P.
125. The Hon. J.A.B Orenge, M.P.
126. The Hon. F.T.O. Ngumo, M.P.
127. The Hon. (Ms) M. Mwachai, M.P.
128. The Hon. K.M.C. Wamwalwa, M.P.
129. The Hon. Njehu Gatabaki, M.P.
130. The Hon. Dr. P.A. Awiti, M.P.
131. The Hon. Mwangi Githioni, M.P.
132. The Hon. J.M. Kikuyu, M.P.
133. The Hon. D.M. Manyara, M.P.
134. The Hon. David Kombe, M.P.
135. The Hon. Basil M. Mwakiringo, M.P.

APPENDIX III

DISCUSSION GROUPS

DISCUSSION GROUP ONE IN JAMBO ROOM

CHAIRMEN	-	Hon. David Musila, M.P. Hon. Owino Achola, M.P.
SECRETARIAT	-	Mr. J.N. Mwangi Mr. S.N. Ruge
HANDSARD	-	Ms Gladys Ingoyi

MEMBERS

1. The Hon. J.B. Munyasia, M.P.
2. The Hon. P.K. Mwangi, M.P.
3. The Hon. G. Kapten, M.P.
4. The Hon. E.B. Shill, M.P.
5. The Hon. (Mrs) C.K.M. Ngilu, M.P.
6. The Hon. S.K.A. Rotich, M.P.
7. The Hon. C.G. Mokku, M.P.
8. The Hon. A.M.W. Wafula, M.P.
9. The Hon. F.K. Lagat, M.P.
10. The Hon. M.A. Karauri, M.P.
11. The Hon. George Anyona, M.P.
12. The Hon. R.K.A. Kitur, M.P.
13. The Hon. Affey A. mohammed, M.P.
14. The Hon. Dr. A.I. Ali, M.P.
15. The Hon. D.L. Khamasi, M.P.
16. The Hon. J.M. Keriri, M.P.
17. The Hon. P.G. Gitonga, M.P.
18. The Hon. E.K. Maitha, M.P.

19. The Hon. A.M. Noor, M.P.
20. The Hon. E.K. Maitha, M.P.
21. The Hon. J.L. Lotodo, M.P.
22. The Hon. A.A.A. Ekiyapa, M.P.
23. The Hon. P.A. Kihara, M.P.
24. The Hon. T.O. Onyango, M.P.
25. The Hon. A.M. Nderitu, M.P.
26. The Hon. P.K. Muiruri, M.P.
27. The Hon. F.N. Kanyauchi, M.P.
28. The Hon. W. Kihoro, M.P.
29. The Hon. F.M. Kiunjuri, M.P.
30. The Hon. P.K. Mwangi, M.P.
31. The Hon. Onesmus M. mboko, M.P.
32. The Hon. Fahim Twaha, M.P.
33. The Hon. Mohammed A. Galgalo, M.P.

DISCUSSION GROUP TWO
IN MT KENYA 'B' ROOM

CHAIRMEN - The Hon. D. Mwiraria, M.P.
- The Hon. Simeon Mkalla, M.P.

SECRETARIAT - Mr. J.N. Bundi
Mrs F. A Abonyo

HANDSARD - Ms Wambui Njoroge

MEMBERS

1. The Hon. M. Wamac, M.P.
2. The Hon. G.M. Parpai, M.P.
3. The Hon. Kihara Mwangi, M.P.
4. The Hon. K.M. Sang, M.P.
5. The Hon. (Mrs) Z. Kittony, M.P.
6. The Hon. M.M. Galgalo, M.P.

7. The Hon. A.C. Kiptoon, M.P.
8. The Hon. J.K. Ngutu, M.P.
9. The Hon. Y.K. Chanzu, M.P.
10. The Hon. F.K. Sumbeywo, M.P.
11. The Hon. Anyang Nyong'o, M.P.
12. The Hon. M.Y. Haji, M.P.
13. The Hon. J.N. Toro, M.P.
14. The Hon. A.M. Muchiri, M.P.
15. The Hon. W.C. Morogo, M.P.
16. The Hon. J.M. Munyao, M.P.
17. The Hon. M.K. Waithaka, M.P.
18. The Hon. Khaniri, M.P.
19. The Hon. Z.M. Nyangwara, M.P.
20. The Hon. A.K. Weirah, M.P.
21. The Hon. G.P.O., Otita, M.P.
22. The Hon. D.S.K. Mwenje, M.P.
23. The Hon. R.M. Maore, M.P.
24. The Hon. D.L. Sankori, M.P.
25. The Hon. J.N. Sinyo, M.P.
26. The Hon. Thirikwa Kamau, M.P.
27. The Hon. Otieno Kajwang', M.P.
28. The Hon. J.K. Ombasa, M.P.
29. The Hon. J.M. Kitonga, M.P.
30. The Hon. Mohammed Affey, M.P.

**DISCUSSION GROUP THREE
IN MT. KENYA 'A' ROOM**

CHAIRPERSONS - Hon. Wycliffe W. Osundwa, M.P.

- Hon. Martha W. Karua, M.P.

SECRETARIAT - Miss Christine Mwambua
- Miss Mary Chesire

HANSARD - Mr. Tom Ongalo

MEMBERS

1. The Hon. Mohammed Shidiye, M.P.
2. The Hon. Suleiman Kamolleh, M.P.
3. The Hon. (Dr.) Mukhisa Kituyi, M.P.
4. The Hon. (Dr.) J.P. Wamukoya, M.P.
5. The Hon. S.K. Ole Ntutu, M.P.
6. The Hon. C.D.K. Kirui, M.P.
7. The Hon. S.R.M. Managa, M.P.
8. The Hon. K.A. Kirwa, M.P.
9. The Hon. J.M. Katuku, M.P.
10. The Hon. J.J. Mugalla, M.P.
11. The Hon. J.K. Kibicho, M.P.
12. The Hon. S.M. Amin, M.P.
13. The Hon. J.N.L. Agwenyi, M.P.
14. The Hon. P.O. Aringo, M.P.
15. The Hon. J. T. Leting, M.P.
16. The Hon. J.M. Kutia, M.P.
17. The Hon. F.P. Wambua, M.P.
18. The Hon. H.O. Omamba, M.P.
19. The Hon. M.N. Kombo, M.P.
20. The Hon. L.S. Sifuma, M.P.
21. The Hon. P.O. Odoyo, M.P.
22. The Hon. A.N. Kathangu, M.P.
23. The Hon. (Dr.) Oburu Odinga, M.P.

24. The Hon. D.E. Ethuro, M.P.
25. The Hon. F. M. Kalulu, M.P.
26. The Hon. R.S. Kajembe, M.P.
27. The Hon. R. Kochale, M.P.
28. The Hon. P.N. Ndwiga, M.P.
29. The Hon. Muhika Mutahi, M.P.
30. The Hon. Maina Njakwe, M.P.

DISCUSSION GROUP FOUR IN MT. KENYA 'D' ROOM

- CHAIRMEN** - The Hon. Newton W. Kalundu, M.P.
 - The Hon. Darius M.L. Mbela, M.P.
- SECRETARIAT** - Miss Anita A.K. Thurairira
 - Mr. Andrew K. Mwendwa
- HANDSAD** - Mr. Kimani Wanyoko

MEMBERS

1. The Hon. Kiraitu Murungi, M.P.
2. The Hon. S.L. Poghiso, M.P.
3. The Hon. A.M.A., Badawy, M.P.
4. The Hon. E.T. Morogo, M.P.
5. The Hon. I.N. Karuki, M.P.
6. The Hon. P.K. Kaindi, M.P.
7. The Hon. Mwai Kibaki, M.P.
8. The Hon. W.O. Ayoki, M.P.,
9. The Hon. J.K. Sambu, M.P.
10. The Hon. W.R. Ole Ntimama, M.P.
11. The Hon. Dr. A.H. Wako, M.P.
12. The Hon. A.T. Sasura, M.P.
13. The Hon. E.N. Magara, M.P.
14. The Hon. J.M. Kiyonga, M.P.
15. The Hon. K.M. Muriuki, M.P.

16. The Hon. P.S. Shitanda, M.P.
17. The Hon. S.R. Shakombo, M.P.
18. The Hon. G.O. Ngure, M.P.
19. The Hon. (Mrs) T. J. Seii, M.P.
20. The Hon. G.M.A. Ochilo, M.P.
21. The Hon. G. Inanyara, M.P.
22. The Hon. J.A.B. Orengo, M.P.
23. The Hon. F.F.O. Ngumo, M.P.
24. The Hon. (Ms) M. Mwachai, M.P.
25. The Hon. M.C.K. Wamalwa, M.P.
26. The Hon. Njelu Gatabaki, M.P.
27. The Hon. P.A. Awiti, M.P.
28. The Hon. M. Githiomi, M.P.
29. The Hon. J. M. Kikuyu, M.P.
30. The Hon. D.M. Manyara, M.P.
31. The Hon. David N. Kombe, M.P.
32. The Hon. Basil M.Mwakiringo, M.P.

REPORTS OF THE PROCEEDINGS AND RECOMMENDATIONS OF THE DISCUSSION GROUPS

DISCUSSION GROUP ONE

The Group considered the three papers presented in the morning, which were:-

- (i) The Role and Functions of Select Committees, by the Speaker of the National Assembly.
- (ii) The Procedure, Practice and Management of Operations of Select Committees, by the Clerk of the National Assembly.
- (iii) The Place and in-put of Select Committees in the governance process, their powers and mode of operation (the Canadian perspective), by the Leader of the Study Mission.

After thorough scrutiny of the presentations and giving consideration to experiences from other Parliaments, the Group came up with the following observations/recommendations.

1. Membership of Committees

A mechanism should be formulated to enable Members indicate the committees they would wish to nerve.

A Selection Committee should be established. This committee would then consider on which committees to place Members, taking into consideration their profession, skills, interest and experience.

The nomination/selection of Members to committees should also reflect party representation in the House.

After the Selection Committee has nominated the Members, a substantive Motion on the membership of committees should be presented to the House for adoption.

In addition there should be a reserve list of possible nominees in case a vacancy arises in a committee.

Members of Departmental Committees should serve for a Session though a Member could be re-appointed.

2. Participation by other Members of Parliament

The Group resolved that the Standing Orders should be amended in order to allow any Member of Parliament and including Ministers and Assistant Ministers to participate in the committee proceedings, save from voting, moving motion or constituting quorum.

3. Public hearing

The Group recommended that all sitting of committees should be open to the public and the Media unless the committees resolves to hear particular evidence in camera.

4. Provision of adequate basic services for Committees

The Group was in agreement with the recommendation made by the Members who visited Canada that, basic facilities such as adequate committee rooms, financial resources, especially research need to be provided to all committees.

In this regard the Group was of the view that the rehabilitation of Continental Building should be expedited in order to get enough committee rooms,

Further, the Group felt that committees should be involved in the preparation of their programs and budget.

5. Election of Vice Chairman

Sub Committees.

The Group was in agreement that committees should be required by the Standing Orders to have a Vice Chairman.

As regards steering Sub-Committees the Group recommended that the Standing Orders be amended to provide for establishing of sub-committees.

6. Government Responses to Committee Reports

This issue was discussed at length and the Group finally recommended that:-

- The Government should respond to committees reports within 3 months.
- Minister should ensure that recommendations falling under their Ministry are implemented.

The Group made the following recommendations:-

7. Parliamentary Functional Structure

Departmental Committees should be involved in the preparations of Estimates by the Minister.

The treasury should discuss Estimates of Expenditure, before the budget, with the Departmental Committee of Finance.

Quarterly reports on the performance of the budget and implementation of projects should be presented to various Departmental Committees.

8. Office of the Controller and Auditor-General

The Committee made the following recommendations:-

- The Office of the Controller
- The Office of the Auditor-General

The Office of the Auditor-General (Corporations) should be constitutionally established.

Parliament should fix a period for which each of the three officers would occupy the office (for instance 10 years).

All the three offices should be under the purview of Parliament.

The three offices should have security of tenure.

The Controller would be required to report to Parliament on any irregularities on quarterly basis.

In addition, the Committee resolved that, in order for the current Controller and Auditor-General to up-date the Government Accounts, he should engage external auditors as provided in the Exchequer and Audit Act.

9. Parliamentary Functional Structure

The Group was of the view that, this issue will be taken care of after the establishment of the Parliamentary Service Commission.

10. Lack of Quorum and Lack of General Interest in work of Parliament

The Group recommended that:-

There should be adequate notice for sittings of Committees.

A weekly or monthly schedule of Committee sittings should be prepared.

Adequate and permanent secretariat should be attached to all Committees.

Nominations into committees should be done in consultation with members as earlier recommended.

A mechanism to replace Members, for instance, a Member missing three consecutive sittings should be replaced.

If quorum is not realized within 45 minutes the sittings should be called off.

Any Member who will have come for a sitting before it has been called off should be paid Attendance Allowance.

11. Powers of the Committee

Committee should be empowered to deal with any witnesses, including Ministers, who fail to appear when summoned.

12. Monitoring/Implementation Committee

A Monitoring/Implementation Committee should be established in order to follow up; resolutions of the House.

4. Members should take their work seriously and work as a team in solving national issues without regard to party, ethnic and other considerations.

After the above general observation, the Group considered the report on the Canadian experience and made the following recommendations on steps to be taken to improve committee operations.

Committee Membership

- ◆ It should be made possible for every backbencher to serve in at least one Committee and at most two Committees in order for them to understand Parliamentary business and participate effectively.
- ◆ There should be gender balance in Committee membership and election of Chairman and Vice Chairman.
- ◆ Members who are not members of a Committee should be free to attend and present any agenda that is relevant to the Committee.

Such Members will not constitute a quorum and will have no voting right.
- ◆ Nomination to Committees should be done by Party Parliamentary Groups.
- ◆ The Chairman should be empowered to take necessary action to ensure prompt and continued attendance of Committee sittings and shall certify for the Accounting Officer the attendance list for the day.
- ◆ Members who fail to attend three consecutive sittings without reasonable cause or permission from the chairman should be reported to the Speaker under the certificate of the chairman for removal from the Committee

Powers of the Committees

- Committees must sit at least once in a Session and all committees should have a sitting program for a calendar year.

- Committees should make full use of the National Assembly (Powers and Privileges) Act. The Act should be examined in order to make it more effective.

Proceedings of the Committee

The relevant Committee of the House should examine the Standing Orders to make the Committee proceedings open to the public and televised if possible.

- Members should observe punctuality.
- Committee would determine issues that should be discussed in camera.

Role and Responsibility of the Chairman

- The Chairman shall be truly non-partisan and only vote when --- breaking a tie.

Committee Staff

- ↑ Committees should be provided with at least a Committee Clerk and Research Assistant.
- ↑ The Parliamentary Service Commission should be established urgently so that it can acquire from existing government departments and research institutions professional staff to assist committees in their operations.
- ↑ The Clerk to prepare a budget and a training program for Committee staff.
- ↑ Committees should have offices where Members and strangers can drop messages or consult.

Government Responses to Committee Report

- ↑ Government should respond to Committee reports within 180 days. The responses should indicate action taken, if any and progress made in the implementation.
- ↑ Government should provide quarterly progress reports on the implementation of the Committee reports.

Scrutiny of the Budgetary Process

- ◆ A sub-Committee of the Committee on Finance, Planning and Trade to be established to deal with budget and estimates.

Office of the Controller and Auditor General

To be split into two in order for it to function effectively.

Office of the Controller

The Office should be charged with overall audit of Government accounts. The occupant of the office of the Auditor-General should report to Parliament, as is the practice in other commonwealth Parliaments. The Auditor-General should be an officer of Parliament.

The Auditor-General should produce quarterly reports so that Parliament deals with current issues and not postmortem reports.

The Auditor-General should have security of tenure.

Public Relations Officer

A Public Relations Office should be established to inform the public on important issues, reduce suspicion between Members, the Speaker and the press. The Press should report to a specific officer instead of roaming around.

DISCUSSION GROUP FOUR

I. Committee Membership

There is a problem of membership especially from the ruling party which has a small number of backbenchers. This has resulted in the party having its members in many committees hence contributing to lack of quorum.

It was suggested that the ruling party could consider conceding some of its committee slots to the minority parties.

II Agenda

The Group pointed out the problem of who generates the agenda.

- ◆ Some Members felt that on some occasions the parliamentary staff have failed to call Sittings even after being requested to do so.
- ◆ The Speaker assured the Members that committees will always sit so long as there is an issue to discuss.
- ◆ In addition, it was suggested that committees should schedule or program their activities for whole year. This will eliminate the problem of lack of agenda.
- ◆ In connection to this issue, it was suggested that provision be made to enable other Members attend and participate in the committee proceedings save for voting, forming of Quorum or generation of agenda. However, such Members will not be eligible for the sitting allowance.

Powers of Committees

- ↑ Members pointed out that on many occasions. Ministers have not taken the work of the committees seriously and sometimes have failed to attend scheduled sittings.
- ◆ Ministers must take committee work seriously. The National Assembly (Powers and Privileges) Act is clear on this.

- ◆ It was pointed out that the term "witness" is sometimes confusing because of its court room connotation and the word 'summons' should be used more often
- ◆ It was felt that the committees have not utilized professionals fully and those who have appeared have had vested interests as stakeholders.

Committee Staff

- ◆ The issue of professional training and competence of Committee Clerk was raised. In response the Clerk of the National Assembly pointed out that intensive training programs have been designed to equip the Clerks with the requisite skills.
- ◆ It was felt that the envisaged Parliamentary Service Commission would enable Parliament to recruit professional staff, as it will be in a position to remunerate them adequately.
- ◆ It was strongly emphasized that the basis for successful parliamentary operations whether in general or in committee will depend on the existence of a Parliamentary Service Commission.
- ◆ The establishment of a Research Division is very crucial and the Committee recommends that it should be established as soon as possible.
- ◆ Lack of Committee facilities such as rooms and equipment has also hampered Committee operations.
- ◆ The Clerk responded by assuring the Members that the Continental Building currently under rehabilitation is scheduled to be ready by July, 2000.

Committee Witness

- ◆ The National Assembly (Powers and Privileges) Act should be amended to cater for stiff penalties for those who fail to heed to committee summons.

- ◆ Parliament should be empowered to prosecute where the judicial system fails to comply with committee recommendations.
- ↑ Committees should conduct their proceedings in public to deter some of the frequent occurrences of misappropriation of public funds.

Committee Reports

- ◆ The Government should be allowed a maximum of 120 days to implement committee recommendations, but each case should be given a time frame
- ◆ By the proposed Implementation Committee.
- ↑ Chairmen of the Committees should be accorded twenty (20) minutes to contribute during debate on a Ministry under the committee's purview.
- ↑ Committees should establish steering committees with a membership of three for the purposes of guiding committee operations.

Quorum

- ↑ It was pointed out that, this is one of the most serious problems effecting all committees of Parliament.
- ◆ It was recommended that, where a member misses three consecutive sittings without apology, then the Member should be removed.
- ↑ Committee Chairmen should ensure that Members do not merely make technical appearances and where necessary they should be mandated to veto Sitting Allowances payable to such Members.

Liaison Committee

- ↑ It was recommended that, the committee sits at least once a month to chart out the programmed of activities of the other Committees.

