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REPORT

OF

THE DEPARTMENTAL COMMITTEE ON,

ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS,

ON

DENMARK, NORWAY AND SWEDEN

TOUR

from March 22 to 30, 2004.

Kenya National Assembly
Parliament Buildings,
NAIROBI

April 2004

1.0

PREFACE

Mr. Speaker Sir,

On behalf of the Departmental Committee on Administration of Justice and Legal Affairs (DCG), I hereby lay on the Table of the House a Report of the Committee on fact finding tour to Denmark, Norway and Sweden from March 22 to 30 2004.

2.0

MANDATE

- 2.1 The Committee was constituted at the commencement of the Ninth Parliament pursuant to the provisions of Standing Order 151 and has executed its mandate in strict compliance with the provisions of Standing Order, 151 (1) 4, which mandates the committee;-
- i. 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;
 - ii. to study the programme and policy objectives of the Ministries and departments and the effectiveness for the implementation;
 - iii. to study and review all legislation after First Reading subject to the exemptions under Standing Order 101A(4);
 - iv. to study asses and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;
 - v. 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
 - vi. to make reports and recommendations to the House as often as possible including recommendation of proposed legislation.
- 2.2 The Committee oversees the following Ministry and Departments: -
- i. The Ministry of Justice and Constitutional Affairs,
 - ii. Office of the Attorney General and Public prosecutions; and

iii. The Judiciary, Elections and the Police.

2.3 The Committee comprise the following Members

- i. The Hon. Paul K. Muite, M.P. **(CHAIRMAN)**.
- ii. The Hon. Mirugi Kariuki, M.P.
- iii. The Hon. Kenneth Marende, M.P.
- iv. The Hon. David Were, M.P.
- v. The Hon. Cecil Mbarire, M.P.
- vi. The Hon. Amina Abdalla, M.P.
- vii. The Hon. Jim Choge, M.P.
- viii. The Hon. Gideon Ndambuki, M.P.
- ix. The Hon. Peter Owidi, M.P.
- x. The Hon. Moses Cheboi, M.P.
- xi. The Hon. Enock W. Kibunguchy, M.P.

2.3 I wish to express our gratitude for the valuable information the committee heard and received from stake holders in pursuing the objectives for which it was established i.e. studying, assessing and analysing the relative success of the above Ministries and Departments as measured by the results obtained.

2.4 In this respect the Committee have followed closely the activities of the above Ministries and relevant Departments and its work, especially on the modalities of Vetting Senior Public Officers i.e The Human Rights Commissioners led to a fact finding tour of the Nordic countries from March 22 to 30, 2004 and the production of this report.

3.0

ACKNOWLEDGEMENT

3.1 I would like to record our gratitude to the Ministry of Foreign Affairs and International Cooperation, the Kenya High Commissioner to the Nordic Countries Mr Michael Kinyanjui and Mr Joseph Muchemi to United Kingdom, for facilitating our travel locally and fixing the meetings with the persons and organisations we wanted to discuss with.

3.2 Next and by no means least, our gratitude goes to the Speakers, members and staff of the Parliaments for their warm reception and all the superb arrangements they put in place for us. Further the committee appreciated the, valuable information given on the process of Vetting

Modalities of Senior Public Servants, working of the Ombudsman and the Institutes of Human Rights given by the Governments especially in;-

❖ **Denmark;-**

- i. The Hon Mrs Elizabeth Arnold, M.P. Chairperson Committee of Legal Affairs
- ii. The Hon Per Dargarf, M.P, Member
- iii. Mr Bo Jensen, Head of Department Africa and Danish
- iv. Mr Mortem Kjaerum, Director Danish Institute of Human Rights
- v. Mr Karsten Loiborg, Head, Office of the Danish Ombudsman

❖ **Norway;-**

- i. The Hon Einar Dorun, M.P, Minister for Justice and Police
- ii. The Hon Mrs Hilde Johnson, M.P, Minister for International Development,
- iii. The Hon Trond Helleland ,M.P, Chairman Standing Committee on Justice,
- iv. The Hon Gunn Kevin ajul, M.P. Member
- v. The Hon Finn Kristina Manthinsen, M.P. Member
- vi. The Hon Ann Hellen Rui, M.P. Member
- vii. The Hon Inga Mante Thorkildsen,M.P., Member

❖ **Sweden**

- i. The Hon Susana Christan, M.P. Deputy Chairperson Committee on Justice.
- ii. The Hon Gunnar Stenary, M.P. Member
- iii. The Hon Joe Frans, M.P. Member
- iv. Mr Mats Melin, Chief Parliamentary Ombudsman.
- v. Mrs Agnate Setteberg, International secretary, Ministry of Foreign Affairs.

DENMARK

1.1.1 **INTRODUCTION**

- Denmark has a population of 5,384,384 with a constitutional monarchy and a Parliamentary System of Government.

1.1.2 **THE DANISH CONSTITUTION**

- The Danish Constitution originated from the chieftains rule during the Viking ages. King Frederick VII codified the constitution in 1849. The constitution was amended to provide that a Government must not have a majority in Parliament against it in 1901.
- The Royal family fulfils the role of a neutral mediating link between changing Governments. It is entirely a non-political uppermost superstructure on the Danish machinery of power.
- Denmark is often called the 'Welfare State of Denmark or the Danish model'. One of the prerequisites of the Danish model is free trade and industry with high productivity. The proceeds are heavily taxed, the income tax to the state is progressive.
- With the revenue from taxes and duties the state creates great security for its citizens and subsidises unemployment benefits, dental costs and nursing home accommodation for those no longer able to manage on their own. With the taxes as a tool, an equalization of income is achieved so that everyone has the necessary material framework for living a reasonable life.

1.1.3 **THE POLITICAL SYSTEM**

- Denmark had a bicameral system until 1953. The current Folketing 'Danish Parliament' have 179 seats. Elections are held every four years. However, the Prime Minister may call elections at any time.
- Elections are by proportional representation that 135 seats are allocated on a constituency basis. This ensures an even distribution across the country, with a small advantage to sparsely populated areas, and the voting age is 18 years.
- Forty [40] supplementary seats ensure that parties with perhaps more dispersed support also have a chance of being elected and 3 are nominated by the queen who must possess a certain profession or quality.

- At the opening of the sessional year or after holding a general election, the Folketing appoints members to sit on committees. The individual parties are represented according to the number of seats which they have in the chamber.
- The Folketing have twenty four (24) Standing Committees and each committee is composed of seventeen (17) members. The Folketing can also set up Special Committees to deal with specific individual matters which may not be catered for by the Standing Committees.

1.1.4 CURRENT POLITICAL SITUATION

- The 2001 elections were dominated by two main tendencies; Denmark's future as a welfare state and the influx of immigrants with the associated problems arising from the interaction of Danish tradition and cultural values, language and religion.
- Denmark as a welfare state is threatened by demographic trend towards more young and old people and fewer in the middle group that have to support the rest.

1.1.5 COURT ADMINISTRATION

- In 1846 the Constitution of Denmark was enacted replacing absolute monarchy by democracy. In 1863 King Christian v (five) of Denmark issued a general code of law "Danske Lov" replacing one regional legal regime of the Middle Ages by legal unity in Denmark. The constitution was amended in 1866, 1915, 1920 and 1953 enshrining the separation of the powers of the legislature, the Executive and the Judiciary.
- The Administration of Justice Act of 1916 had numerous amendments, regulating in great detail the Judiciary and the administration of justice in Denmark. The Supreme Court was founded in 1661 and it's the highest court of the Kingdom of Denmark and consists of a president and 18 (eighteen) other judges.
- The court sits in two chambers and both chambers can hear all types of cases in oral proceedings. A case must be heard by at least (five) 5 Supreme Court Judges. If the case merits, seven or more judges may participate.
- The fundamental principles of Danish law can be traced back to the middle ages. The influence of natural law and German jurisprudence played a considerable part as the Danish jurisprudence operates on the basis of a division into public and civil law.

- The Court Administration is headed by a Board of Governors composed of one Supreme Court Judge, two High Court Judges, two County Court Judges, one deputy Judge, two Clerks, one practicing lawyer and two persons with special managerial experience.
- Public law is divided into constitutional law, which concerns the provisions governing the supreme state organs, international law which regulates relations between states, administrative law, criminal law and law procedure.
- Civil law regulates reciprocal relations between citizens and between natural persons and legal persons, e.g. companies and institutions. Important areas in civil law are the law of contracts and torts, the law of property and the law of capacity, family law and the law of wills and succession.

1.1.6 PUBLIC ADMINISTRATION

- Public administration have many tasks being the predominate ones. It makes grants and services available for the citizens, raises taxes and duties, takes part in the comprehensive and detailed control of virtually all areas of life characteristic of Danish society. In particular it ensures that the general rules are observed and that specific permission is given for certain activities which otherwise transgress them.
- The legal rules governing the administration are as in other western European countries characterized by traditional ideals of law and order. The administrative procedure act ensures citizens are heard or otherwise participate in cases concerning them, and there is of ten accesses to administrative review by a superior administrative authority, or possibly an administrative tribunal.

1.1.7 THE OMBUDSMAN

- The institution of the Danish ombudsman had its origins in the Scandinavian social structure. In 1953 motivated by the growing influence of the civil service and with the aim was to create improved guarantees for the 'proper exercise' of the state's civil and military administration the Danish constitution included a provision that the Folketing (Parliament) should elect at least one ombudsman.
- It had been crucial for the importance of the ombudsman that from the outset Parliament allowed the office to adapt to developments, thus

preventing it from becoming set in a 1950s form of regulating relations between state and citizens. The intention was to adapt the ombudsman and his function to the latest developments in the relationship between the civil service and the citizen be extended to all authorities that regulate the circumstances of citizens.

- After each general election, the new Folketing elects an Ombudsman who on its behalf is to oversee the administration.
- The Folketing may dismiss its ombudsman if it loses confidence in him but this has never happened. The Ombudsman has to report to the Folketing, both in the form of an annual report and in connection with specific cases in which he finds errors or deficiencies of major importance.

NORWAY

2.1.1 INTRODUCTION

- Norway has a population of 4, 504,000 with a constitutional monarchy and a legislative power held by a unicameral Parliament, elected every four years.
- The current Government is led by Labour Party which formed a minority Government on March 17, 2000.

2.1.2 THE STORTING

- The Storting, (Norwegian Parliament) was first constituted in 1814 with vested authority.
- The Government is accountable to the Storting and is dependent on retaining its confidence. There are 165 (one hundred and sixty five) representatives in the Storting.
- A constitutional violation which may occur can lead to political consequence which goes as far as to require the resignation of a Minister or even the entire Government. Although none of this is spelled out in the constitution, but the principles were a constitutional precedence.
- Norway is divided into (nineteen) 19 electoral Districts that are conterminous with the counties.
- The number of registered voters in each district forms the basis of the geographical distribution of representatives (seats).
- The electoral system takes into consideration the handicaps of sparsely populated counties far from the seat of national Government in Oslo and gives them more seats by proportion than the central, densely populated counties.

2.1.3 STANDING COMMITTEES

- There are (12) twelve standing committees in the Parliament of Norway.

The Standing Committee on Justice deals with the following issues:

- Judicial system,
- The probation service,
- Persons performing civilian national service,
- Ex gratia payments,
- General legislation relating to the public administration
- The penal code,
- Procedural legislation,
- General legislation and
- Immigration legislation.

2.1.4 THE PARLIAMENTARY OMBUDSMAN

- The duty of the Ombudsman is to ensure that individuals do not suffer injustice at the hands of the public administration. By taking a complaint to the ombudsman, an aggrieved person may obtain a decision through a much easier process.
- The holder of this office is elected by the Storting for four year. The official must possess qualification of a Supreme Court Judge and may not be a member of the Storting.
- The Ombudsman sends an annual report to the Storting, giving an account, among other things cases of general interest.

2.1.5 MINISTRY OF JUSTICE AND THE POLICE

- The Ministry of Justice was established in 1818. The main purpose of the Ministry is to provide for the maintenance and development of the basic guarantees of the rule of law. An overriding objective is to ensure the security of society and of individual citizens.
- The Ministry has approximately 270 employees divided between seven departments, the minister's office and the information unit.

SWEDEN

3.1.1 INTRODUCTION

- Sweden has a population of nine (9) million with a Government in a Constitutional Monarchy System.

3.1.2 THE RIKSDAG (SWEDISH PARLIAMENT)

- The Swedish Parliament known as the Riksdag has three hundred and forty nine (349) Members; the Swedish people go to polls every four years.
- Elections are held under proportional representation. The number of seats allocated to each party is directly proportional to the number of votes received by that party in the general elections.
- A party receiving less than four (4) per cent of the total number of votes cast in the country as a whole may not sit in the Riksdag unless it has polled at least 12 per cent of the votes in a particular constituency.
- The composition of a Government following a general election is determined by the balance of political forces in the Riksdag, which in turns reflects the will of the electorate.
- The speaker confers with party leaders to nominate a candidate for the post of prime minister. The motion is then put to the Riksdag vote, if the proposal is rejected four times in succession then a new General election must be called. If the proposed motion is adopted the newly elected prime minister proceed to form the Government.
- The powers of the Government are vested in the Cabinet, whose size and composition is determined by the prime minister.
- The prime minister and the cabinet colleagues are members of the Riksdag, while they are serving in the Government; however, their parliamentary seats are filled by substitutes chosen from the electoral lists. To be a member of the Government a person must have held Swedish citizenship for at least ten years.
- A constitution provision allows for holding direct referendums, which allow voters to express their views on major political issues. They are normally consultative and the Riksdag is not bound by their results.

- In 1971 the Bicameral System was abolished and a single chamber with (350) three hundred fifty Members was introduced. The organizations of the parliamentary committees were also made. The disadvantages of having an even number of Members become evident in 1973 elections, when the socialist and non-socialist blocs each got 175 seats each. This necessitated a change.
- In 1994 the Riksdag extended the electoral period from three to four years. The budget procedure was made more efficient and now coincides with the calendar year; the Bill is presented and dealt with during the autumn.

3.1.3 THE PARLIAMENTARY OMBUDSMEN

- The Parliamentary Ombudsmen are appointed by the Riksdag and have existed since 1809. It is their task to ensure that, the courts as well as Central and local government authorities, correctly apply the rules to which they are subject to.
- They supervise through inspections of Authorities and inquiries into matters that receive media coverage. The office of the parliamentary ombudsmen is an institution which individuals can turn with complaints about incorrect or inappropriate decisions by courts and Authorities.
- The ombudsmen are also required to work, to remedy shortcomings in existing legislation and approach the Riksdag or the Government directly with proposals for amendments.

OBSERVATIONS

4.1.1 DENMARK

- 1) The Governors are appointed by the Minister for Justice and upon recommendation from a number of organizations as specified in the Court Administration Act of 1998.
- 2) Judges are appointed by the Queen on recommendation from the Minister of Justice as advised by the Judicial Appointments Council which is composed of one Supreme Judge, one High Court Judge, one County Court Judge, one Practicing lawyer and two Members appointed by organisations representing broad spectra of interest in the Danish society.
- 3) The Danish Constitution guarantees Judges absolute independence from the Government and Parliament. Judges can only be removed against their will only, by order of the Special Court of indictment and revision.
- 4) The Ombudsman is not a Member of the Folketing. He hires and fires his own staff and he may request to be relieved of his duties at six month's notice.
- 5) In interpreting the law, the Ombudsman always stress on the intentions of the Folketing. Great importance is attached to human rights and the Danish Constitution.
- 6) The Ombudsman have a supervisory power over the Administration and can criticize faults or negligence, the Ombudsman's statements have no legal force for the Administration, but they are normally complied with.

4.1.2 NORWAY

- 1) When a new Storting first convenes following an election, it elects forty-one (41) representatives i.e one quarter to serve as members of the Lagting. The remaining three quarters become members of the Oldesting.
- 2) In the process of passing legislation, the Storting is divided into two chambers, the Oldesting and the Lagting.
- 3) A bill to be introduced by the Government in the form of a proposition to the Oldesting is the product of an exhaustive preparatory procedure.

- 4) In case of a major item of legislation or an extensive revision of existing law, the Government generally appoints an expert committee or commission to study the matter and submit a report to the ministry in charge of the bill.
- 5) The ministry sends out the draft bill out for official consultations or hearings to give other government bodies and agencies, organizations, institutions and associations an opportunity to make their views known.
- 6) When the statements from the official consultations have been propositioned, it's first submitted to the king of the council and after approval, the royal proposition is submitted to the Oldesting, which normally refers it to the appropriate committee.
- 7) The committee considers the bill and returns it to the Oldesting in form of a recommendation.
- 8) If the Oldesting accepts or amends the recommendations, it's sent to the Lagting in form of an Oldesting resolution. If it is approved, it is sent to the king in Council. When the king has signed it and the prime minister has countersigned it, it becomes law.

4.1.3 SWEDEN

- 1) There were four parliamentary Ombudsmen. The Riksdag elects them for a term of four years. The ombudsmen report annually to the Riksdag and the committee on the constitution examines their report.
- 2) The Ombudsmen investigates the matter and on finding that a matter had not been dealt with correctly, the Ombudsmen usually writes to the authority at fault, criticising its handling.
- 3) In more serious cases, the Ombudsmen request disciplinary measures against the official responsible or bring a criminal action for dereliction of duty. Although criticism by the Ombudsmen does not automatically lead to any rectification of the official decision, which may be criticised.

5.0

RECOMMENDATIONS

The Committee recommends that;-

- i. **A parliamentary vetting Framework with suitable legislation need to be devised to stream line and harmonize vetting process to all public offices prior to appointment.**
- ii. **Constitutional amendments or new enactment should be effected to make the Public Service and other state offices of the Republic fully independent of the Executive, the officers should not service at the lead pleasure of the Executive. Public advertisement and announcements in the media for all the vacancies in the public service for senior positions should be made mandatory by law.**
- iii. **Human resource recruitment agencies with proven track record can be invited to vet and short list candidates for advertised posts alongside members of a relevant Select Committee. Further an independent recruitment agency may vet and shortlist at least three top candidates for each post advertised and then recommend this to the relevant Select Committee.**
- iv. **Based on the criteria set out by the relevant Legislation, the three names of the best qualified candidates may be passed on by the relevant Select Committee, to the appointing authority.**
- v. **For key parastatal positions, independent recruitment panels should short-list, interview and nominate at least three (3) candidates for consideration of appointment by appropriate authority.**
- vi. **This process may retain the key principle of Ministerial or Presidential responsibility while engendering transparency and accountability and strict observance of the Public Officers Ethics Act, while selection at all stages must be demonstrably fair and objective with reference to the needs and requirements of a particular job.**
- vii. **The category of senior public officials that should be independently vetted and scrutinized before appointment and then approved by parliament include:- Permanent Secretaries, Ambassadors/High Commissioners, Managing Directors, Chairpersons, Board members of State corporations and Institutes and commissions.**

HON. C. MBADIRE
Signed
(Acting Chairperson)

Date.....26/7/14

MINUTES OF THE THIRTY-FOURTH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD AT THE MINISTRY OF FOREIGN AFFAIRS, ASIADS PLADS MEETING ROOM NO M5, COPENHAGEN DENMARK ON MONDAY, MARCH 22, 2004 AT 1.30 PM

Members Present

The Hon. Mirugi Kariuki, M.P. **Acting Chairman**
The Hon. Cecily Mbarire, M.P.
The Hon. Kenneth Marende, M.P.
The Hon. David Were, M.P.

Absent with Apology

The Hon. Amina Abdalla, M.P.

In Attendance

NATIONAL ASSEMBLY

Mr J. G. Wanyoike – Clerk Assistant

KENYA HIGH COMMISSION

Mr D. C. Tanui- Charge de Affairs

MIN 123/04 MEETING WITH THE HEAD, DANISH AMBUDSMAN

Mr. Karsten Loiborg Head of Department Office of Danish Ombudsman accompanied by Mrs. Senna Isen, international Secretary, Ministry of Foreign Affairs welcomed the members to Denmark and informed them that:-

- i. The Ombudsman post is normally advertised in the print media. The process is done when a new Parliament is elected after each general election. He has to be an outstanding lawyer, a professional, a political neutral person with civil courage and independent. Further that, he may at any time be dismissed by Parliament should he cease to enjoy its confidence.
- ii. The office of the Danish Ombudsman was established in 1953 as the Act was enacted in 1954. During the 1st and 2nd world wars there was a lot of legislation dealing with social reforms as Denmark was occupied by the Nazis who created a shortage of almost everything.
- iii. The Ombudsman Jurisdiction covers all parts of the country except Court Tribunals, Private Parties or Organizations Courts of Justice

and the Parliament. Anybody may lodge a complaint and anonymous complaints are not accepted.

- iv. The Ombudsman decides whether a complaint offers sufficient grounds for investigation and whether all the administration appeal possibilities have been exhausted.
- v. The Ombudsman investigates cases of Authorities which fall within his jurisdiction and all are obliged to furnish him with information and documents. The Ombudsman may inspect any place of employment and access to premises and he may demand written statements from the authorities.
- vi. The Ombudsman may also investigate as a consequence of complaints or on his own initiative on projects and do inspections e.t.c.
- vii. The Ombudsman investigations outcomes are entitled to be notified to the relevant authority stating his views on a case, make recommendations and recommend that a complaint be granted free legal aid.
- viii. The recommendations are forwarded to parliament for action as stipulated in the Ombudsman Act.
- ix. The office of the ombudsman will celebrate its 50 years in November 2004.

MIN 124/04

ADJOURNMENT

And the time being forty minutes past Three O'clock the Acting Chairman adjourned the sitting.

MIN 125/04

MEETING WITH THE DIRECTOR DANISH INSTITUTE OF HUMAN RIGHTS AT STRATEGIES 56

Mr. Morten Kjaerum Director of Danish Institute of Human rights accompanied Mrs Senna Isen international secretary, Ministry of foreign Affairs Informed the committee that,;-

The Institute was established in 1987 as an independent institution and receives all relevant draft laws.

Its views are considered by Parliament. It also deals with race, ethnic discrimination, minorities, marginalized, disabled and religion etc it's not limited in its work and it may visit any place within the country.

The Institute also consists of an advisory board and the directors term of office is protected. Denmark is a member of the commission on human rights.

MIN 126/04

ADJOURNMENT

And the time being fifty minutes past five o'clock the Acting Chairman adjourned the sitting until Tuesday March 23, 2004.

Signed Ag Chairperson

MINUTES OF THE THIRTY FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD AT THE FOLKETINGET, CHRISTIANBOR DENMARK IN THE LEGAL AFFAIRS COMMITTEE ROOM ON TUESDAY MARCH 23, 2004 AT 10.30 A.M

Members Present

The Hon. Mirugi Kariuki, M.P. **Acting Chairman**
The Hon. Cecily Mbarire, M.P.
The Hon. Kenneth Marende, M.P.
The Hon. David Were, M.P.

Absent with Apology

The Hon. Amina Abdalla, M.P.

In Attendance

NATIONAL ASSEMBLY

Mr J. G. Wanyoike – Clerk Assistant

KENYA HIGH COMMISSION

Mr D. C. Tanui- Charge de Affairs

MIN. NO. 127/04

MEETING WITH THE COMMITTEE ON JUSTICE

Hon. Mrs. Elizabeth Arnold MP, Chairperson Danish Committee of legal Affairs accompanied by the Hon. Per Dalgarf MP informed the Members that;-

- i. There were (24) twenty four Committees in the Danish Parliament which are set up at the opening of each session. Also ad hoc committees to deal with individual matters may be set up.
- ii. Further that an ad hoc Committee may be set up even before the matter in question has been submitted to the Folketing if the Minister concerned or a Member of the Folketing requests the Speaker to do so
- iii. Ordinary Committee meetings are held behind closed doors unless the Committee in question decides otherwise.
- iv. The mandate and functions of the Committees are as those in the Commonwealth Countries. The Standing Orders Committee lays down the rules on the spheres of the competence committees. However, the Folketing may deviate from the rules when referring Bills to other committees.

- v. The Constitutional Act of Denmark of June 05, Article 193 stipulates that the form of Government shall be that of a Constitutional Monarchy, Royal Authority, and also that the Legislative Authority shall be vested in the King and the Folketing conjointly, executive authority shall be vested in the King.
- vi. Judicial authority shall be vested in the Courts of Justice and the body of the Ministers shall form the council of state which shall be presided over by the King except under Clause 8 of the Act. The Queen appoints judges and other Senior Civil Servants.

MIN. NO. 128/04

GUIDED TOUR IN THE DANISH PARLIAMENT

The Members were taken on a guided tour of the Danish Parliament and Buildings and observed that one of two chambers was being used as a party caucus meeting venue.

MIN. NO. 129/04 MEETING WITH THE HEAD OF DEPARTMENT AND AFRICA AND DANISH

Mr. Bo Jensen Head of Department Africa and Danish and Mrs Senna Isen international secretary, Ministry of Foreign Affairs informed the Members that;-

Kenya and Denmark had bilateral relations even before Karen Blixen settled in Kenya and Denmark assists the Kenya Government in water programmes, health, agriculture, roads, Good governance and democracy with more emphasis on ASAL areas.

Denmark will be a member of the Security Council in January, 2005 as it had been an active conflict resolution member in 14 African countries excluding Sudan.

Denmark imports coffee, the Nile Perch and cauliflower from Uganda.

MIN. NO. 130/04

ADJOURNMENT

And the time being Six O'clock the Acting Chairman adjourned the sitting until Wednesday March 24 2004 in Norway

Signed Ag Chairperson

MINUTES OF THE THIRTY SIXTH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD AT THE MINISTRY OF FOREIGN AFFAIRS MINISTER'S BOARDROOM, OSLO NORWAY ON WEDNESDAY, MARCH 24, 2004 AT 2.30 P.M

Members Present

The Hon. Mirugi Kariuki, M.P. **Acting Chairman**
The Hon. Cecily Mbarire, M.P.
The Hon. Kenneth Marende, M.P.
The Hon. David Were, M.P.

Absent with Apology

The Hon. Amina Abdalla, M.P.

In Attendance

NATIONAL ASSEMBLY

Mr J. G. Wanyoike – Clerk Assistant

KENYA HIGH COMMISSION

Mr D. C. Tanui- Charge de Affairs

MIN 131/04

MEETING WITH THE MINISTER FOR FOREIGN AFFAIRS

The Hon. Mrs. Hilde Johnson MP Minister for International Development informed the members that;-

Norway resumed partnership with Kenya in January 2004. That the U. N. Convention on Corruption Resolutions will be ratified in October 2004. Zambia formed a task force on corruption where one former Cabinet Minister had been convicted on corruption and Kenya should not be left behind in the fight against corruption.

The Norwegian Foreign Policy is favourable and suitable to assist Kenya to rebuild its economy.

MIN 132/04

ADJOURNMENT

And the time being five O'clock the Acting Chairman adjourned the sitting until Thursday March 25 2004.

Signed Ag Chairperson

MINUTES OF THIRTY SEVENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD AT THE MINISTRY OF JUSTICE AND POLICE, MINISTER'S BOARDROOM, 7TH FLOOR IN OSLO ON THURSDAY, MARCH 25, 2004 AT 9.30 A. M

Members Present

The Hon. Mirugi Kariuki, M.P. **Acting Chairman**
The Hon. Cecily Mbarire, M.P.
The Hon. Kenneth Marende, M.P.
The Hon. David Were, M.P.

Absent with Apology

The Hon. Amina Abdalla, M.P.

In Attendance

NATIONAL ASSEMBLY

Mr J. G. Wanyoike – Clerk Assistant

KENYA HIGH COMMISSION

Mr D. C. Tanui- Charge de Affairs

MIN 133/04

MEETING WITH THE MINISTER FOR JUSTICE

The Hon. Odd Einar Dorum MP , Minister for justice and Police, informed the Members that;-

- i. The Ministry of Justice was established in 1818 with the main purpose to provide the maintenance and development of the basic guarantees of the rule of law and to ensure the security of society and of individual citizens.
- ii. The main task of the Ministry is to prepare cases for the Government, the King in Council, the storing and help carry out the policies of the Government.
- iii. The Ministry is divided into departments each headed by a Director General i.e. The Information Unit, Analysis Unit, Prison and Probation Department, Polar Affairs Department, Administrative department, The Police Department, Rescue and Emergency Planning Department and the Department of Civil Affairs.

- iv. With 270 employees divided into seven departments. The Ministry established an independent project to combat corruption, money laundering e.t.c.
- v. On May 22, 1902. The penal code, Sub-Article No. 10 was amended accordingly. The Norwegian authority gives high priority to active participation in international co-operation against corruption.
- vi. Develop contact with external agencies and the courts and further give administrative task that affect individual companies, institutions, municipalities, Government agencies and service to the general public.

MIN 134/04

MEETING WITH THE COMMITTEE ON JUSTICE

The Hon. Trond Helleland M.P, Chairman Standing Committee on Justice accompanied by the Hon. Gunn Kevin Ajul, M.P. ,The Hon. Finn Kristina Manthinsen, M.P, The Hon. Anne Helen Rui M.P. and The Hon. Inga Mante Thorkildsen M.P. informed the Members that;-

- i. The Committee on Justice is one of the 12 (twelve) Standing Committees of Parliament and do not play any role in the appointment of judges. The Judicial Service Commission which is composed of old judges makes the recommendations. The Judges tenure of office is guaranteed.
- ii. The Committee mainly deals with matters relating to the Judicial System, the probation service, the police, persons performing civilian national service, other judicial issues, ex gratia payment, general legislation relating to the public administration, the penal code, procedural legislation and general civil legislation.
- iii. In the recruitment of the Ombudsman the legal Committee plays a big role as the Ombudsman is selected, elected, nominated and ratified by Parliament every four years after the legal committee recommendations. The Ombudsman can only be removed from the office after a vote of no confidence by Parliament.
- iv. In his duties the Ombudsman has access to the press and all availed information and materials where ever he visits must be

produced. Most draft Bills are sent to him to scrutinize, make comments which are considered seriously.

- v. The Committee deliberations are closed from the public unless pursuant to Section 21 of the rules and procedure.
- vi. The Minister for Justice normally appears before the Committee.

MIN 135/04

GUIDED TOUR OF PARLIAMENT BUILDINGS

The Members were taken on a guided tour of the Storting Buildings, the Chamber, Committee rooms, the Ministers room and the party group rooms.

MIN 136/04

ADJOURNMENT

And the time being Five O'clock the Acting Chairman adjourned the sitting until Friday March, 26, 2002 in Sweden.

Signed Ag Chairperson

MINUTES OF THIRTY EIGHTH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD AT THE RIKSDAG (SWEDISH PARLIAMENT) COMMITTEE ROOM 4TH FLOOR ON FRIDAY MARCH 26, 2004 AT 9.30 AM.

Members Present

The Hon. Mirugi Kariuki, M.P. **Acting Chairman**
The Hon. Cecily Mbarire, M.P.
The Hon. Kenneth Marende, M.P.
The Hon. David Were, M.P.

Absent with Apology

The Hon. Amina Abdalla, M.P.

In Attendance

NATIONAL ASSEMBLY

Mr J. G. Wanyoike – Clerk Assistant

KENYA HIGH COMMISSION

Mr D. C. Tanui- Charge de Affairs

MIN 137/04

MEETING WITH THE COMMITTEE ON JUSTICE.

Ms Agnate Setter berg of International department sveriges Riksdag (Swedish Parliament) met the Members and took them to the fourth floor committee room of justice. They were met by the Hon. Susanne Christian, M.P. Deputy Chairperson of the Committee, the Hon. Mr Gunner Stenary M.P. political advisor, The Hon. Joe Frans M.P, the Members were informed that;-

- i. The Riksdag holds its ordinary General Elections every fourth year. The Riksdag abandoned the bicameral system in favour of unicameral parliament on January 01, 1921.
- ii. The Riksdag Committee discusses all matters referred to it, not only on Government bills, but also on all the motions introduced with reference to it, even general private members bills.
- iii. The committee obtains statements from authorities, organizations, other committees or from the expert legal advisory body known as the Council on legislation.

- iv. Also the committee may obtain oral information by means of hearings of which unlike other committee meetings it may be open to the media and the general public.,
- v. At the conclusion of the committee deliberations the Members not in the majority record dissenting opinions, while those agreeing with the majority but wishing to declare a certain viewpoint do so in a separate statement.
- vi. The committee presents its standpoint in a printed Committee report to the House. A report is usually laid twice before being debated in the chamber.
- vii. When the matter has been decided, the Government is informed of the outcome by the speaker signing a Riksdag communication.
- viii. It is then the Government task to see to it that the Riksdag decision is put into effect.
- ix. Seven parties represented in the Riksdag and Cabinet Ministers are not members of Parliament.

MIN 138/04

**MEETING WITH THE CHIEF PARLIAMENTARY
OMBUDSMAN**

Mr. Mats Melin, Chief Parliamentary Ombudsman informed the Members that;-

- i. In the Swedish Government the public have access to all Government documents that are lawful.
- ii. The Ombudsman Office was established in 1810 and have access to all Government agencies, Courts of Law, individual issues and can demand any classified document.
- iii. The Ombudsman cannot change what the courts have ruled or what the courts have concluded. He is more focused on procedure. He points out how an issue was not handled properly and has no time limit to receive complaints. He cannot interfere with a matter in court or court of appeal.
- iv. There are four Ombudsmen elected by a new Parliament every four years and each has a specific area of profession i.e.

police and general prosecution and their offices holds more than thirty Lawyers.

MIN 139/04 **LUNCHEON**

Members attended a Luncheon hosed by the Hon. Mr. Mats Melin at Naol restaurant.

AFTERNOON SITTING

Members Present

The Hon. Mirugi Kariuki, M.P. **Acting Chairman**
The Hon. Cecily Mbarire, M.P.
The Hon. Kenneth Marende, M.P.
The Hon. David Were, M.P.

Absent with Apology

The Hon. Amina Abdalla, M.P.

In Attendance

NATIONAL ASSEMBLY

Mr J. G. Wanyoike – Clerk Assistant

KENYA HIGH COMMISSION

Mr D. C. Tanui- Charge de Affairs

MIN 140/04 **TOUR OF PARLIAMENT**

Mrs Ylva da Silvia of international relations, Riksdag took the members on a guided tour of the Riksdag (Parliament Buildings) i.e the two chambers, but only one was being used to transact House business the other was used for party caucus meeting, the Hansard offices, the spectacular Old buildings, which was used by the King; the Prime Minister's residence which was just a stone throw away from the Parliament Buildings.

MIN 141/04

ADJOURNMENT

And the time being Five O'clock the meeting was adjourned to Saturday March 27, 2004.

Signed Ag Chairperson

**MINUTES OF THIRTY NINTH SITTING OF THE DEPARTMENTAL COMMITTEE
ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD AT THE KENYA
HIGH COMMISSION BOARDROOM, SWEDEN ON SATURDAY MARCH 27 2004
AT 10.00 A.M**

Members Present

The Hon. Mirugi Kariuki, M.P. **Acting Chairman**
The Hon. Cecily Mbarire, M.P.
The Hon. Kenneth Marende, M.P.
The Hon. David Were, M.P.

Absent with Apology

The Hon. Amina Abdalla, M.P.

In Attendance

NATIONAL ASSEMBLY

Mr J. G. Wanyoike – Clerk Assistant

MIN 142/04 COURTESY CALL TO THE KENYA HIGH

COMMISSIONER SWEDEN.

H. E Mr Michael Kinyanjui the Kenya High Commissioner to Nordic Countries accompanied by Messrs. Mr D. C. Tanui, charge de Affairs and Mr. F. Korir. Informed the members that due to unavoidable circumstances H. E. the Ambassador was not in position to engage in any official functions in the Nordic Countries but sooner than later he will present his credentials to the queen.

The Ambassador welcomed the members and informed them that as winter had subsided, the weather was changing into spring which was favourable.

The Members echoed their concern that there was no trade attaché in the Nordic countries as there was great potential market for Tea, Coffee and Farms produce in the Nordic countries. There were more Kenyans.

H. E the High Commissioner invited the Members for a luncheon and advised them that the Hon Minister of Justice was out of the country and hence their appointment was not possible.

The members resolved to leave for United Kingdom earlier and resolved to leave for London on Sunday evening.

MIN 143/04 LUNCHEON

H. E. the High Commissioner invited the members for a luncheon at the Hotel; thereafter the members were invited to tour the Stockholm City.

MIN 144/04 ADJOURNMENT

And the time being one o'clock the meeting was adjourned to Sunday March 29, 2004 at 11.00 am.

Signed Ag Chairperson

MINUTES OF FORTIETH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD AT THE KENYA HIGH COMMISSION BOARDROOM, LONDON ON MONDAY MARCH 30 2004 AT 11.00 A.M

Members Present

The Hon. Mirugi Kariuki, M.P. **Acting Chairman**
The Hon. Cecily Mbarire, M.P.
The Hon. Kenneth Marende, M.P.
The Hon. David Were, M.P.

Absent with Apology

The Hon. Amina Abdalla, M.P.

In Attendance

NATIONAL ASSEMBLY

Mr J. G. Wanyoike – Clerk Assistant

MIN 145/04

COURTESY CALL TO THE KENYA HIGH COMMISSIONER

H. E Mr. Joseph Muchemi the Kenya High Commissioner to London accompanied by Messrs. F.J. Mukuru administrative attaché welcomed the Members to United Kingdom and apologized for communication breakdown from Sweden as he had to receive them within a very short notice. The Members informed H.E. that there was more wanting in trade in the Norwegian Countries and wanted to know about London.

H.E. the High Commissioner informed the members that United Kingdom High Commission had more staff and the building had been bought by the Kenya Government. Trade between U.K. and Kenya was high as U.K. was importing many merchandise from Kenya. Further that the old traditional ties were still there.

H.E. the High Commissioner also informed them that, Justice in London is seen to be done as the law is strictly followed to the later. However, due to the short notice, he could not make any possible appointments with any Committee at the House of Common nor the Minister for Justice and legal Affairs, but encouraged the Members to tour London.

The Members were welcomed despite the short notice they had given for the appointments, however they were grateful for the welcome.

MIN 146/04

ADJOURNMENT

And the time being thirty minutes past noon the meeting was adjourned until Nairobi

Signed Ag Chairperson

