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KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT – SECOND SESSION (2008)



**THE DEPARTMENTAL COMMITTEE
ON
ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS**



**REPORT ON

DELIBERATIONS ON THE NOMINATION OF A
COMMISSIONER TO THE KENYA NATIONAL
COMMISSION ON HUMAN RIGHTS**

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

July, 2008

PREFACE

Mr. Speaker, Sir,

The Departmental Committee on Administration of Justice and Legal Affairs is established under Standing Order No. 151; its mandate pursuant to Standing Order 151(4) is:-

- 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 exceptions under Standing Order 101A (4);*
- d) to study, assess and analyze the relative success of 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 all 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 Committee comprises:

- (i) The Hon. Abdikadir Mohammed, MP – Chairman
- (ii) The Hon. Millie Odhiambo, MP
- (iii) The Hon. Olago Aluoch, MP
- (iv) The Hon. Amina Abdalla, MP
- (v) The Hon. Njoroge Baiya, MP
- (vi) The Hon. Alfred Sambu, MP
- (vii) The Hon. George Nyamweya, MP
- (viii) The Hon. Ababu Namwamba, MP
- (ix) The Hon. Isaac Ruto Kiprono, MP
- (x) The Hon. Mutava Musyimi, MP
- (xi) The Hon. Wamalwa Eugene, MP

Background

Mr. Speaker, Sir, the Kenya National Commission on Human Rights Act, 2002 came into force in March 2003. Nine Commissioners to the Kenya National Commission on Human Rights were appointed to office on 29th July 2003 as per the provisions of the Act.

The Commission currently comprises the following nine members:-

- i. Ms. Florence Simbiri Jaoko **Chairperson**
- ii. Mr. Hassan Omar Hassan **Vice Chairperson**
- iii. Dr. Samuel Tororei
- iv. Mr. Lawrence Murugu Mute
- v. M/s. Fatuma Dullo
- vi. Ms. Wambui Kimathi
- vii. Ms. Fatuma Ibrahim
- viii. Ms. Winfred Osimbo Lichuma
- ix. Mr. Maina Kiai

Mr. Speaker, Sir, Section 9 of the Act states that:-

- 9. Unless the appointment of the chairperson or a commissioner is earlier terminated under this Act, a person appointed as the chairperson or as a commissioner shall hold office for a term of five years from the date of appointment and shall be eligible for re-appointment for one further term of a period not exceeding five years:**

Provided that in the case of the initial commissioners, the Commission shall, at its first meeting, elect –

- x. four commissioners whose terms of office shall expire at the end of three years; and**
- xi. four other commissioners whose terms of office shall expire at the end of four years**

from the date of appointment.

Mr. Speaker, Sir, this provision stipulates that commissioners must retire on rotational basis to ensure continuity of the work of the Commission.

The term of one of the Commissioners who balloted for the five year term, expires on 29th July, 2008. This Commissioner who was also the Chairman of the Commission is :

- i. Mr. Maina Kiai

Mandate of the Committee

Mr. Speaker, Sir, pursuant to the provisions of Section 6 of the Kenya National Commission on Human Rights Act, 2002, the National Assembly advertised the vacancies on Friday 6th June 2008 and caused the Departmental Committee on Administration of Justice and Legal Affairs to consider applications for the positions of one commissioner to the Kenya National Commission on Human Rights.

A total of 198 applications were received by the Committee in the stipulated time and three were late. The Committee then established a Sub-Committee consisting of the Hon. Millie Odhiambo, Hon. Olago Aluoch, and Hon. Alfred Sambu. The mandate of the Sub-Committee was to scrutinize the applications and shortlist those who met the minimum qualifications as per the provisions of the Kenya National Commission on Human Rights Act, 2002.

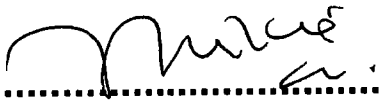
Report of the Sub-Committee

Mr. Speaker, Sir, the Sub-Committee held two sittings during which it short-listed 13 applicants from a total of 198 candidates. The whole Committee then met and adopted the list of the 13 applicants who had been short-listed for interviews on 28th July 2008. The Committee was also unanimous in the criteria and a system of scores which was established by the Sub-Committee, to be used during the interviews, where five (5) points were to be awarded for each of the following topics:


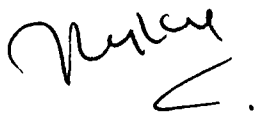
- i. Education Background and Academic qualifications.
- ii. Human Rights working experience.
- iii. General understanding of Human Rights.
- iv. Communication and people skills.
- v. Conceptual skills
- vi. Comparative country experience on Human rights

Mr. Speaker, Sir, on behalf of Members of the Departmental Committee on Administration of Justice and Legal Affairs, I wish to present to the House the Report of the Committee and the names of the

three qualified candidates for further consideration and subsequent adoption by the House.

SIGNED: 

Hon. Millie Odhiambo, MP
Vice-Chairperson, Departmental Committee on
Administration of Justice and Legal Affairs

DATE: 


REPORT ON THE NOMINATION OF COMMISSIONERS TO THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS-INTERVIEWS

The Committee once again went through the criteria for awarding points to the interviewees. Five Members of Parliament conducted the interviews and it was agreed that the maximum points to be awarded for each of the six agreed areas was five. Therefore the total maximum points attainable were 150.

In conducting the interviews each Committee Member was handed a sheet of paper with six rows based on the criteria which had been agreed therebefore. The rows read:-

- i. Educational background;
- ii Human Rights working experience;
- ii. General understanding of Human Rights;
- iii. Communication and People skills
- iv. Conceptual skills and
- v. Comparative country experience relating to international and domestic human rights instruments.

Each Member separately and without consultation was required to award points to each interviewee with respect to the criteria. Immediately after the interviewee left, the secretariat withdrew the score sheets and provided fresh ones for the next candidate. The scores were then added up and the interviewees were ranked as follows:-

	<u>POINTS</u>
1. Dr. Patrick Loch Otieno Lumumba	- 130.5
2. Ndomo Atieno	- 117
3. Kyalo Munyiva Anne	- 115.5
4. Gitu Mburu	- 111.5
5. Mohochi Mukira Samwel	- 105
6. Mue Njonjo	- 105
7. Dr. Nunow Arale Abdirizak	- 100
8. Waqo Dida Halakhe	- 100
9. Prof. Wekesa Moni	- 97.5
10. Mwaseru Mwambi Dominic	- 87.5
11. Chitere Orieko Preston	- 76
12. Kwonyike C. Andrew	- 66.5
13. Ayonga Zablon F.	- 64

Section 11(6) of the Act, also provides that:-

“Where a vacancy occurs in the office of a commissioner, the National Assembly shall nominate a sufficient number of persons to fill the vacancies arising and two additional persons and the President shall, within a period of six months, appoint the required number of commissioners to fill the vacancies out of the total number of nominees.”

Recommendation

The Committee recommends to the House, that in conformity with Section 11(6) of the Act, the following nominees be considered for onward transmission to H.E the President to fill in the vacancy

- i) Dr. Patrick Loch Otieno Lumumba
- ii) M/s Ndomo Atieno
- iii) M/s. Kyalo Munyiva Anne

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MINUTES OF THE NINETEENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON THE ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS HELD ON 28TH JULY 2008, IN COMMITTEE ROOM ON 2ND FLOOR CONTINENTAL HOUSE AT 2.30 P.M.

PRESENT

1. Hon. Millie Odhiambo,MP-----Chairperson
2. Hon. Rev. Mutava Musyimi,MP
3. Hon. Njoroge Baiya , MP
4. Hon. Amina Abdalla,MP
5. Hon. Alfred Sambu,MP

ABSENT WITH APOLOGY

1. Hon. Wamalwa Eugene,MP
2. Hon. George Nyamweya,MP
3. Hon. Isaac Ruto Kiprono,MP
4. Hon. Ababu Namwamba, M.P
5. Hon. Abdikadir Mohammed, MP
6. Hon. Olago Aluoch,M.P

IN ATTENDANCE

1. Mrs. N. Mukunya
2. Hellen Kimaiga

KENYA NATIONAL ASSEMBLY

Principal Clerk/Deputy Director
Parliamentary Intern

MIN. NO. 79/2008: ADOPTION OF THE AGENDA

The Chairlady called the meeting to order at 2.30 p.m and informed the members that there was only one agenda to be dealt and the same was adopted by the members. She informed them that although they have been working the whole morning it was imperative that

they consider and adopt the results of the interviews to enable the Committee to finalize with the issue before the end of the current month.

MIN. NO.80/2008: CONSIDERATION OF THE RESULTS OF THE INTERVIEWS FOR THE POST OF A COMMISSIONER IN KNHRC

The secretariat handed over to Members the added results for each candidate and the Members confirmed the figures and then ranked the candidates according to their merit as hereunder:

1. Dr. Patrick Loch Otieno Lumumba	-	130.5
2. Ndomo Atieno	-	117
3. Kyalo Munyiva Anne	-	115.5
4. Gitu Mburu	-	111.5
5. Mohochi Mukira Samwel	-	105
6. Mue Njonjo	-	105
7. Dr. Nunow Arale Abdirizak	-	100
8. Waqo Dida Halakhe	-	100
9. Prof. Wekesa Moni	-	97.5
10. Mwaseru Mwambi Dominic	-	87.5
11. Chitere Orieko Preston	-	76
12. Kwonyike C. Andrew	-	66.5
13. Ayonga Zablon F.	-	64

RESULTS

At the end of the considerations and discussions, the members agreed with the figures and adopted the results.

The three best candidates were:

- i) Patrick Loch Otieno Lumumba
- ii) Ndomo Atieno
- iii) Anne Munyiva Kyalo

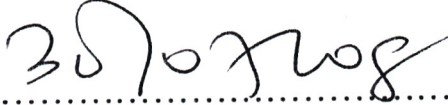
The Chairperson was then mandated to table the three

names in the House for consideration and adoption.

MIN. NO. 81/2008: ADJOURNMENT

There being no other listed business for the day the meeting was adjourned at 3.00 p.m. until 29th July 2008 at 9.00 a.m.

Signed..........
CHAIRMAN

Date..........