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KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT - SECOND SESSION, 2009

REPORT OF
THE PARLIAMENTARY SELECT COMMITTEE
ON
THE REVIEW OF THE CONSTITUTION

ON
NOMINATION OF THE MEMBERS AND DIRECTOR OF
THE COMMITTEE OF EXPERTS

FEBRUARY 2009

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PREFACE

Mr. Speaker, Sir,

Following the enactment of the Constitution of Kenya Review Act (No. 9 of 2008), the National Assembly appointed the Parliamentary Select Committee on the Review of the Constitution through a resolution of the House on Wednesday, December 17, 2008. The establishment of the Parliamentary Select Committee is in accordance with the provisions of Section 7 of the Review Act which states as follows-

- 1. The National Assembly shall establish, in accordance with its standing orders, a Select Committee to be known as the Parliamentary Select Committee on the Review of the Constitution (hereinafter referred to as the "Parliamentary Select Committee") consisting of twenty seven Members, to assist the National Assembly in the discharge of its functions under this Act.*
- 2. In constituting the Parliamentary Select Committee, the National Assembly shall ensure regional and gender balance in the composition of the Committee.*

The Committee comprises the following Members-

| | | |
|--------------------------------------|---|-------------------------|
| The Hon. Mohammed Abdikadir, M.P. | - | Chairperson. |
| The Hon. Ababu Namwamba, M.P. | - | Vice-Chairperson |
| The Hon. Martha Karua, M.P. | | |
| The Hon. Uhuru Kenyatta, M.P. | | |
| The Hon. Mutula Kilonzo, M.P. | | |
| The Hon. David Musila, M.P. | | |
| The Hon. Moses Wetangula, M.P. | | |
| The Hon. Danson Mungatana, M.P. | | |
| The Hon. Wilfred Moriasi Ombui, M.P. | | |
| The Hon. Kambi Kazungu, M.P. | | |
| The Hon. Amina Abdallah, M.P. | | |
| The Hon. Peter Munya, M.P. | | |
| The Hon. Mwangi Kiunjuri, M.P. | | |
| The Hon. Jeremiah Kioni, M.P. | | |
| The Hon. Ekwee Ethuro, M.P. | | |
| The Hon. Isaac Ruto, M.P. | | |
| The Hon. Musalia Mudavadi, M.P. | | |
| The Hon. Chachu Ganya, M.P. | | |
| The Hon. Najib Balala, M.P. | | |
| The Hon. Omingo Magara, M.P. | | |
| The Hon. Sally Kosgei, M.P. | | |

The Report of the Parliamentary Committee on the Review of the Constitution, February 2009

The Hon. William Samoei Ruto, M.P.
The Hon. James Orengo, M.P.
The Hon. Millie Odhiambo, M.P.
The Hon. Sophia Abdi, M.P.
The Hon. Joseph Nkaissey, M.P.
The Hon. Charity Ngilu, M.P.

Subsequent to its appointment, the Parliamentary Select Committee commenced its work immediately. During its first sitting on Friday, December 19, 2008, the Committee elected the Hon. Mohammed Abdikadir M.P. and the Hon. Ababu Namwamba M.P., as Chairperson and Vice-Chairperson, respectively. In total the Committee held ten sittings. The minutes of these meeting are appended to this report.

Thereafter, the Select Committee deliberated on its Terms of Reference relating to advertisements for nomination of members and the director of the Committee of Experts pursuant to the provisions of Part II and the First Schedule of the Constitution of the Kenya Review Act. The advertisements for the positions of the Director and Members of the Committee of Experts were published in the daily newspapers on 5th and 12th January, 2009. The closing date for the applications was 26th January, 2009.

The Committee received and immediately processed all the applications received. In discharging this mandate the Committee received the assistance of a human resource firm, M/s Manpower Services (K) Ltd, pursuant to paragraph 3 of the First Schedule of the Review Act. The human resource firm was procured in accordance with the Public Procurement and Disposal Act (of 2005). The Committee received 260 applications for the positions of Members of the Committee of Experts and 36 applications for the position of Director. Following consideration of the applications received, the Committee nominated six Members of the Committee of Experts and the Director.

Pursuant to the provisions of section 8(4) of the Review Act, the Committee received five names from the Panel of Eminent African Personalities for consideration as members of the Committee of Experts. The Committee considered and ranked the five names as provided for under section 9(2) of the Review Act.

Mr. Speaker Sir, the Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate. The Committee further wishes to thank the the Treasury and in particular the Public Procurement Oversight Authority for the invaluable technical advice extended to it especially during the procurement of the human resource firm. As Chairman, I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks within the stipulated period.

The Report of the Parliamentary Committee on the Review of the Constitution, February 2009

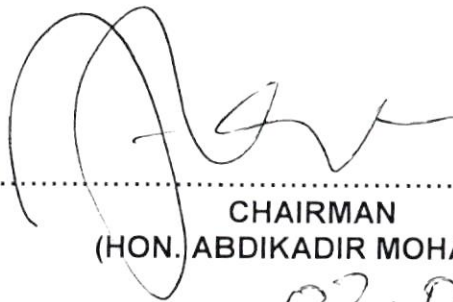
The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts and efficiency made the work of the Committee and the production of this Report possible.

Mr. Speaker, Sir,

On behalf of the Select Committee, I now have the honour and pleasure to present its Report and Recommendations relating to the nomination of persons to the positions of Director and Members of the Committee of Experts to the House for debate and adoption.

Thank You.

Signed



CHAIRMAN
(HON. ABDIKADIR MOHAMMED, MP)

Date: 03.02.09.

1.0 INTRODUCTION

1. Mr. Speaker, Sir, the establishment of the Parliamentary Select Committee on the Review of the Constitution is yet another attempt by this House to provide leadership in the revival of the stalled constitutional review process after the 2005 referendum. There is need for a new Constitution for this country since the current one was made over decades ago at Independence and has failed to address emerging challenges. Kenya's Constitution came into force in 1963 and the General Elections of that year were held under the said Constitution. The Independence Constitution was the result of intense negotiations among political parties on the one hand and the British Government on the other. The Constitution was negotiated against a background of growing demand for political independence by the Kenyan people.
2. Mr. Speaker, Sir, the Independence Constitution became operational on 1st June 1963 and ushered in 'Madaraka' (self-rule) in Kenya. The 1963 General elections were held under this Constitution. Following independence, the Lancaster Constitution underwent a number of amendments some of which resulted in the creation of a strong central government. Since then, the Constitution has been amended on numerous occasions. Most of these amendments led to the concentration of power in the institution of the presidency. As a result the form of the Constitution we have today is markedly different from the Independence Constitution. It is the hope of the Committee that the current efforts will culminate in a new constitutional dispensation for our country.
3. Mr. Speaker, Sir, in 1991 Section 2A of the Constitution was repealed, paving way for multi-party politics and democracy in the country. The introduction of multi-party politics into the democratic life of the people meant that comprehensive constitutional reforms were imperative in order to reflect the new political dispensation. Political parties under the Inter Parties Parliamentary Group (IPPG) Initiative moved to negotiate minimum constitutional reforms prior to the 1997 General elections. The major objective behind the IPPG initiative was to influence minimum constitutional amendments relating to structures, processes and rules of electoral and political participation. Subsequently, the Government in 1997 published and enacted the Constitution of Kenya Review Act, Cap 3A of the Laws of Kenya. This Act sought to establish a Commission, known as Constitution of Kenya Review Commission, to spearhead the comprehensive review of the Constitution.
4. Mr. Speaker, Sir, progress in the constitution review process failed to take root in 1997. However, the Constitution of Kenya Review Commission, CKRC, was formally constituted on 11 November 2000 in accordance with Constitution of Kenya Review Act.

2.0 THE CONSTITUTION OF KENYA REVIEW ACT (1998)

5. Mr. Speaker, Sir, the Review Act envisaged a participatory and inclusive process. The Review process was to be '*by the people of Kenya*'. At this juncture, the journey towards a new Constitution commenced in earnest. The CKRC embarked on a massive country-wide civic education exercise followed by collection of views from the people of Kenya. In the end, the CKRC prepared a report detailing its findings accompanied by a Draft Bill.
6. Mr. Speaker, Sir, the Review Act required the CKRC to present the Draft Bill and the Report to the National Constitutional Conference. Consequently, following the publication of the Commission's Report and Draft Bill, 629 delegates from across Kenya attended the National Constitutional Conference at the Bomas of Kenya in Nairobi. This resulted in the publication of the Draft Constitution of Kenya, 2004, commonly referred to as the Bomas Draft.
7. Mr. Speaker, Sir, the Proposed New Constitution that was presented to Kenyans for ratification in the referendum was rejected. This rejection of the Proposed New Constitution was not an endorsement of the current Constitution. In essence, by rejecting the Proposed New Constitution, the people of Kenya stated that the Proposed New Constitution did not meet their dreams and aspirations for a new Constitution. Thus, the journey towards a new Constitution continues.
8. Mr. Speaker, Sir, efforts to facilitate the completion of the Constitution review process and draw up a new Constitution after the 2005 referendum, made His Excellency, President Mwai Kibaki, to appoint a 15-member Committee of Eminent Persons, chaired by Ambassador Bethwel Kiplagat, in February 2006 to collect views from Kenyan people on '*weaknesses, strengths, successes and/or failures of the constitutional review process and advise the government on the way forward*'. The Kiplagat Committee found that a majority of Kenyans still wanted a new Constitution.
9. Mr. Speaker, Sir, it is without a new Constitution in sight to address the pertinent issues including the conduct of elections, that the country went to the General Elections in December 2007. The country faced a post-election crisis following the disputed presidential election results.
10. Mr. Speaker, Sir, it is in recognition of the existing inadequacies and failures of the Constitution to address emerging issues that the National Dialogue and Reconciliation Committee that mediated on the post-election conflict last year deliberated at length at the subject matter under Agenda item 4. The need for a comprehensive constitutional review ranked high during the mediation process. As a symbol of authority that guarantees peace, security and stability of the

country, Parliament must lead from the front in the constitutional review process. It is in view of this fact that the Constitution of Kenya Review Act (2008) underscores the establishment of the Parliamentary Select Committee on Constitutional Review as an important organ in the constitutional review process.

3.0 THE PARLIAMENTARY SELECT COMMITTEE ON THE REVIEW OF THE CONSTITUTION

11. The Parliamentary Select Committee on the Review of the Constitution is established pursuant to the provisions of the Section 7 of the Constitution of Kenya Review Act, 2008.

12. The mandate and functions of the Select Committee are stipulated under the provisions of the Constitution of Kenya Review Act. The provisions of these sections read as follows-

- i. Section 7(1): to assist the National Assembly in the discharge of its functions under this Act.*
- ii. Section 8(4): The Committee of Experts shall comprise of nine persons nominated by the National Assembly and appointed by the President of whom-*
 - (a) three shall be non-citizens nominated by the National Assembly from a list of five names submitted to the Parliamentary Select Committee by Panel of Eminent African Personalities in consultation with the National Dialogue and Reconciliation Committee; and*
 - (b) six shall be citizens of Kenya nominated by the National Assembly in accordance with the procedure prescribed in the First Schedule.*
- iii. Section 8(7): The Parliamentary Select Committee shall ensure regional and gender balance in the persons recommended for the appointment as members of the Committee of Experts.*
- iv. Section 9(1): The Panel of Eminent African Personalities in consultation with the National Dialogue and Reconciliation Committee shall, within fourteen days of the commencement of the Act, submit the names of the five nominees to the Parliamentary Select Committee, for onward transmission to the National Assembly.*

- v. *Section 9(2): The Parliamentary Select Committee shall rank and provide comments regarding each of the nominees under sub-section (1) to the National Assembly.*
- vi. *Section 14(4): The Minister shall, within seven days of receipt of application, forward the application to the Parliamentary Select Committee of Experts to inquire into the matter.*
- vii. *Section 14(5): The Parliamentary Select Committee shall inquire into the matter and make recommendations to the President as to whether or not the Chairperson or the Member of the Committee of Experts ought to be removed from office.*
- viii. *Section 14(6): In undertaking the inquiry under subsection 5, the Parliamentary Select Committee shall afford the concerned person an opportunity to be heard.*
- ix. *Section 17(1): There shall be a Director of the Committee of Experts who shall be appointed by the Parliamentary Select Committee on such terms and conditions of service as the Parliamentary Select Committee May, in Consultation with the Minister, determine.*
- x. *Section 32(1) (c): The Committee of Experts shall within twenty one days of the expiry of the period provided in paragraph (a) (i), present the draft constitution and the report of the Select Committee for deliberation and consensus building on the contentious issues on the basis of the recommendations of the Committee of Experts.*
- xi. *Section 33(3): The Parliamentary Select Committee shall, within seven days of receipt of the report and the draft constitution under sub section (2), table the report and draft constitution before the National Assembly.*
- xii. *Section 33(6): If the National Assembly fails to approve the draft Constitution in accordance with subsection (4) and (5), a joint meeting between the Parliamentary Select Committee and the Committee of Experts shall be convened by the chair of the Committee of Experts to consider the issue or issues and to make recommendation to the National Assembly.*
- xiii. *Section 34(2): The Attorney General shall not effect any alteration to the draft Constitution, except for editorial*

*purposes, in consultation with the Parliamentary Select Committee.
minister'.*

13. The central role the Parliamentary Select Committee play in the Constitution Review Process has been underscored in Sections 5 and 6 of the Review Act stated thus:-

5. *The organs through which the review of the Constitution shall be completed are-*
 - a) *The Committee of Experts;*
 - b) *The Parliamentary Select Committee;*
 - c) *The National Assembly, and*
 - d) *The referendum.*

6. *In the exercise of the powers or the performance of the functions conferred by this Act, the organs specified in section 5 shall-*
 - a) *ensure that the national interest prevails over regional or sectoral interests;*
 - b) *be accountable to the people of Kenya;*
 - c) *ensure that the review process accommodates the diversity of the people of Kenya including socio-economic status, race, ethnicity, gender, religious faith, age, occupation, learning, persons with disabilities and the disadvantaged;*
 - d) *ensure that the review process-*
 - i. *provides the people of Kenya with an opportunity to actively, freely and meaningfully participate in generating and debating proposals to review and replace the constitution;*
 - ii. *is guided by the principle of stewardship and responsible management;*
 - iii. *is, subject to this Act, conducted in an open manner, and*
 - iv. *is guided by respect for the principles of human rights, equality, affirmative action, gender equity and democracy;*
 - e) *ensure that the outcome of the review process faithfully reflects the wishes of the people of Kenya.*

14. Following its appointment by the House on Wednesday, 17th December, 2008, the Select Committee commenced its work on Friday, 19th December, 2008. For purposes of undertaking its work, the Committee set its own rules relating to the quorum among other issues.

4.0 TERMS OF REFERENCE OF THE PARLIAMENTARY SELECT COMMITTEE

15. The Terms of Reference (TORs) of the Select Committee are drawn from the provisions of the Review Act (2008), as cited above.

5.0 THE ESTABLISHMENT OF THE COMMITTEE OF EXPERTS

16. The Constitution of Kenya Review Act (2008) provides for the establishment and composition of the Committee of Experts in accordance with the provisions of Part II of the Review Act. Section 8(1) states that; ***'There is established a Committee to be known as the Committee of Experts'***. The Committee of Experts is defined under the Act as one of the organs of the review process and through which the review of the constitution is to be completed, in accordance with the provisions of section 5 of the Review Act. The functions and powers of the Committee of Experts are stipulated in part III, sections 23 and 24 respectively. The functions are listed as:-

- (a) identify the issues already agreed upon in the existing draft constitutions;*
- (b) identify the issues which are contentious or not agreed upon in the existing draft constitutions;*
- (c) solicit and receive from the public written memorandum and presentations on the contentious issues;*
- (d) undertake thematic consultations with caucuses, interest groups and other experts;*
- (e) carry out or cause to be carried out such studies, researches and evaluations concerning the Constitution and other constitutions and constitutional systems;*
- (f) articulate the respective merits and demerits of the proposed options for resolving the contentious issues;*
- (g) make recommendations to the Parliamentary Select Committee on the resolution of the contentious issues in the context of greater good of the people of Kenya;*
- (h) prepare a harmonized draft Constitution for presentation to the National assembly;*
- (i) facilitate civic education in order to stimulate public discussion and awareness of the constitutional issues;*

- (j) *liaise with Electoral Commission of Kenya to hold a referendum on the draft Constitution; and*
- (k) *do such other things as are incidental or conducive to the attainment of the objects and principles of the review process.*

The powers of the Committee of Experts are derived from section 24 of the Review Act, which stipulates that;

'The Committee of Experts shall have all powers necessary for the execution of its function under this Act'

17. Pursuant to the provisions of Part II, sections 8(4), 8(7), 9(2) and 9(3); and provisions of the First Schedule of the Review Act, the Parliamentary Select Committee is mandated to constitute the Committee of Experts and its Director as per the nomination procedure also outlined in the First Schedule. Subsequent to these provisions, the Parliamentary Select Committee, through the Kenya National Assembly, advertised for applications for nominations to the Committee of Experts and the Director of Committee of Experts. The advertisements were made in the daily newspapers on 5th and 12th January 2009. The applications closed on 26th January 2009.
18. Prior to this, on December 29, 2008 and January 5, 2009, the Select Committee had invited applications from Human Resource Firms to assist the Committee in accordance with paragraph 3 of the First Schedule of the Review Act which reads as follows-

'The Parliamentary Select Committee shall, within seven days of the expiry of the period prescribed under paragraph 2 and with the assistance of a reputable human resource firm:-

- a) consider all the application received under paragraph 2; and*
- b) recommend to the National Assembly suitably qualified persons for nomination as members of the Committee of Experts.'*

19. On Wednesday, January 14, 2009, the Parliamentary Select Committee received names of five (5) non-Kenyan nominees submitted by the Panel of Eminent African Personalities for consideration as members of the Committee of Experts pursuant to section 8(4) of the Review Act. The foreign experts were:-

- a) Dr. Chaloka Beyani - Zambian
- b) Dr. Julian Thomas Hottinger - Swiss Irish
- c) Prof. Christina Murray - South African
- d) Prof. Brendan O'Leary - Irish
- e) Prof. Frederick E. Ssempebwa - Ugandan

20. At its Sitting on Thursday, January 22, 2009, the Committee deliberated on the selection of three of the five non-Kenyan citizen experts pursuant to section 8(4)(a) of the Review Act. After careful analysis of the experts' qualifications and work experience the Committee agreed by consensus that all the five experts were well qualified. The Committee subsequently proceeded, in accordance with section 10 of the Review Act, to rank the experts as follows-

1. Prof. Christina Murray - South African
2. Dr. Chaloka Beyani - Zambian
3. Prof. Frederick E. Ssempebwa - Ugandan
4. Dr. Julian Thomas Hottinger - Swiss Irish
5. Prof. Brendan O'Leary - Irish American

The Select Committee therefore recommended that Prof. Christina Murray, Dr. Chaloka and Prof. Frederick Ssempebwa be nominated to the Committee of Experts and that, Dr. Julian Thomas Hottinger and Prof. Brendan O'Leary, be retained in a reserve pool.

21. On Monday, 2nd February, 2009, the Select Committee deliberated on the nominations of the Director and Members of the Committee of Experts. A total of nine (9) candidates were shortlisted for the position of the Director out of a total of thirty-six (36) applicants. A total of thirty-six (36) candidates were shortlisted for nominations to the Committee of Experts out of a total of two hundred and sixty (260) applications received. The short listing of the candidates was undertaken with the assistance of Manpower Services (K) Ltd.

22. All the shortlisted candidates for the positions of the Director and Members of the Committee of Experts were interviewed by the Committee. Following deliberations, the Committee recommends the following for nomination-

1. Dr. Ekuru Aukot - Director
1. Hon. Njoki S. Ndungu - Member
2. Ms. Atsango Chesoni - Member
3. Mr. Otiende Amollo - Member
4. Mr. Nzamba Kitonga - Member
5. Mr. Abdirashid Abdullahi Hussein - Member
6. Mr. Bobby M. Mkangi - Member

However, the following Members expressed their reservations on the inclusion of Mr. Abdirashid Abdullahi Hussein on the grounds that he had been gazetted in Gazette Notice No. 698 as a Member of the Tribunal to Review the Terms and Conditions of Service for Members and Employees of the National Assembly.

The Committee noted that Mr. Abdirashid Abdullahi Hussein subsequently resigned by a letter dated 2nd February, 2009, received in the office of the Clerk of the National Assembly on 3rd February, 2009 at 11:00 a.m. The Members are as follows-

1. Hon. Martha Karua, M.P.
2. Hon. Mwangi Kiunjuri, M.P.
3. Hon. Danson Mungatana, M.P.
4. Hon. Mutula Kilonzo, M.P.
5. Hon. Peter Munya, M.P.
6. Hon. Jeremiah Kioni, M.P.
7. Hon. Wilfred Moriasi Ombui, M.P.

The Hon. Amina Abdallah, M.P, abstained from the decision on retention or exclusion of Mr. Abdirashid Abdullahi Hussein.

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MINUTES OF THE FIRST SITTING OF THE PARLIAMENTARY SELECT COMMITTEE ON THE REVIEW OF THE CONSTITUTION HELD IN THE MAIN COMMITTEE ROOM, COUNTY HALL, PARLIAMENT BUILDINGS ON FRIDAY, 19TH DECEMBER, 2008 AT 9.00 A.M

PRESENT

1. The Hon. Martha Karua, M.P.
2. The Hon. Uhuru Kenyatta, M.P.
3. The Hon. Mutula Kilonzo, M.P.
4. The Hon. Mohammed Abdikadir, MP
5. The Hon. David Musila, M.P.
6. The Hon. Moses Wetangula, M.P.
7. The Hon. Danson Mungatana, M.P.
8. The Hon. Wilfred Moriasi Ombui, M.P.
9. The Hon. Kambi Kazungu, M.P.
10. The Hon. Amina Abdallah, M.P.
11. The Hon. Peter Munya, M.P.
12. The Hon. Mwangi Kiunjuri, M.P.
13. The Hon. Jeremiah Kioni, M.P.
14. The Hon. Ekwee Ethuro, M.P.
15. The Hon. Isaac Ruto, M.P.
16. The Hon. Musalia Mudavadi, M.P.
17. The Hon. Ababu Namwamba, M.P.
18. The Hon. Chachu Ganya, M.P.
19. The Hon. Najib Balala, M.P.
20. The Hon. Omingo Magara, M.P.
21. The Hon. Sally Kosgei, M.P.
22. The Hon. William Ruto, M.P.
23. The Hon. James Orengo, M.P.
24. The Hon. Millie Odhiambo, M.P.
25. The Hon. Sophia Abdi, M.P.
26. The Hon. Joseph Nkaiserry, M.P.
27. The Hon. Charity Ngilu, M.P.

IN ATTENDANCE

1. Mr. Patrick G. Gichohi
2. Mr. Stephen Njenga
3. Ms. Eunice Gichangi
4. Mr. Paul Ngetich

NATIONAL ASSEMBLY

- | | |
|---|--------------------------------|
| - | Clerk of the National Assembly |
| - | First Clerk Assistant |
| - | Senior Legal Counsel |
| - | Research Officer |

MIN. NO. 1/2008

PRAYER

The proceedings were opened with a word of prayer.

MIN. NO. 2/2008

INTRODUCTORY REMARKS

The Clerk of the National Assembly made the following remarks:-

- (i) The task of the Clerk during the first sitting is to preside over the election of the Chairperson since the House did not appoint a Chair pursuant to Standing Order 154. The election shall be by secret ballot.
- (ii) The Chair of a Select Committee has an original but not a casting vote pursuant to Standing Order 158.
- (iii) Quorum of a Select Committee is three members as provided by Standing Order 159 which was based on a Committee Membership of 11 but due to the size of the Committee and its mandate, the Committee may consider reviewing its quorum.
- (iv) A Secretariat has been appointed to facilitate the work of the committee.
- (v) The Clerk further enumerated the working documents provided to the Committee as follows:-

(a) Notes on the mandate of the Select Committee including the time-frame

(b) The Constitution of Kenya Review Act, 2008

(c) The Constitution of Kenya (Amendment) Bill, 2008

(d) The National Accord and Reconciliation Act, 2008

(e) The expired Act.

MIN. NO. 3/2008

ELECTION OF CHAIRPERSON

The Clerk invited the nomination of candidates for the election of Chairperson. Two candidates were proposed as follows:-

Hon. Mohammed Abdikadir was proposed by Hon. Mutula Kilonzo and seconded by Hon. Danson Mungatana.

Hon. William Ruto was proposed by Hon. Omingo Magara and seconded by Hon. Musalia Mudavadi.

There being no other nomination, the Clerk conducted the election by issuing a ballot to every member and the ballots having been counted, the results were as follows:-

| | | |
|------------------------------------|----------|-----------------|
| (a) Hon. Mohammed Abdikadir | - | 15 votes |
| (b) Hon. William Ruto | - | 11 votes |
| (c) Spoilt votes | - | 0 votes |

The Clerk then declared Hon. Mohammed Abdikadir duly elected Chairperson. Hon. Abdikadir assumed the Chair.

MIN. NO. 4/2008

REMARKS OF THE CHAIR

The Chairperson thanked members for electing him Chair of the Committee mandated with the noble task of guiding the Constitution of Kenya review process.

He appealed for support from members to ensure that the process is successfully finalized.

MIN. NO. 5/2008

QUORUM DURING COMMITTEE SITTINGS

The Committee resolved that the quorum of the Committee will be 12 (twelve) members comprising 6 (six) members from each side of the two political groups in the coalition government.

MIN. NO. 6/2008 ELECTION OF VICE CHAIRPERSON

Hon. Ababu Namwamba was unanimously elected as the vice-chair of the Committee.

**MIN. NO. 7/2008 COMMENCEMENT DATE OF THE
CONSTITUTION OF KENYA REVIEW ACT, 2008**

The Minister for Justice, National Cohesion and Constitutional Affairs informed the Committee that the Constitution of Kenya Review Act was assented to on 11th December 2008 and shall come into force on 25th December, 2008.

MIN. NO. 8/2008 ANY OTHER BUSINESS

The Committee directed the secretariat to prepare the Terms of Reference for the advertisements to invite applications from persons for nomination to the Committee of Experts pursuant to the First Schedule of the Constitution of Kenya Review Act, 2008.

MIN. NO. 9/2008 ADJOURNMENT

There being no other business for discussion, the Chair adjourned the meeting at Ten minutes past Ten o'clock until Monday, 22nd December, 2008 at 2.30pm.

SIGNED: **HON. MOHAMED ABDIKADIR, MP**
CHAIRPERSON

DATE: **22ND DECEMBER, 2008**

MINUTES OF THE SECOND SITTING OF THE PARLIAMENTARY SELECT COMMITTEE ON THE REVIEW OF THE CONSTITUTION HELD ON MONDAY, 22ND DECEMBER, 2008 IN THE MAIN COMMITTEE ROOM, COUNTY HALL, PARLIAMENT BUILDINGS AT 3.00 PM.

PRESENT

- | | | |
|------------------------------------|---|-------------------------|
| 1. The Hon. Mohammed Abdikadir, MP | - | Chairperson |
| 2. The Hon. Ababu Namwamba, MP | - | Vice Chairperson |
| 3. The Hon. Martha Karua, MP | | |
| 4. The Hon. Omingo Magara, MP | | |
| 5. The Hon. Joseph Nkaiserry, MP | | |
| 6. The Hon. Moses Wetangula, MP | | |
| 7. The Hon. Wilfred Ombui, MP | | |
| 8. The Hon. Najib Balala, MP | | |
| 9. The Hon. Chachu Ganya, MP | | |
| 10. The Hon. Mwangi Kiunjuri, MP | | |
| 11. The Hon. Ekwere Ethuro, MP | | |
| 12. The Hon. Charity Ngilu, MP | | |
| 13. The Hon. Danson Mungatana, MP | | |
| 14. The Hon. Sophia Abdi, MP | | |
| 15. The Hon. Musalia Mudavadi, MP | | |
| 16. The Hon. Sally Kosgei, MP | | |
| 17. The Hon. Peter Munya, MP | | |
| 18. The Hon. Amina Abdalla, MP | | |

ABSENT WITH APOLOGY

1. The Hon. Mutula Kilonzo, MP
2. The Hon. Jeremiah Kioni, MP
3. The Hon. William Ruto, MP
4. The Hon. Millie Odhiambo, MP
5. The Hon. Uhuru Kenyatta, MP
6. The Hon. David Musila, MP
7. The Hon. Kambi Kazungu, MP
8. The Hon. Isaac Ruto, MP
9. The Hon. James Orengo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Stephen Njenga | - | First Clerk Assistant |
| 2. Ms. Eunice Gichangi | - | Senior Legal Counsel |
| 3. Mr. Paul K. Ngetich | - | Senior Research Officer |
| 4. Mr. Zakayo Mogere | - | Second Clerk Assistant |

MIN. NO. 10/2008:

PRAYER

The proceedings were opened with a word of prayer.

MIN. NO. 11/2008:

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Minutes of the first sitting of the Committee were confirmed as a true record of the deliberations and signed by the Chairperson.

MIN. NO. 12/2008:**MATTERS ARISING****Under Min.No.5/2008: Quorum during Committee Sittings**

Members deliberated on a proposal to have the set quorum for the Committee raised to 14 members without consideration of the political groups in the coalition government. The Committee resolved that the quorum earlier agreed of 12 with at least 6 members from either side, be maintained.

MIN. NO. 13/2008:**CONSIDERATION OF PROGRAM OF ACTIVITIES**

(a) The Committee considered the several activities to be undertaken on the commencement of the Constitution of Kenya (Amendment) Act, 2008 and the Constitution of Kenya Review Act, 2008. The immediate tasks relates to the advertisement inviting applications for the following positions:-

- (i) Director and Members of the Committee of Experts;
- (ii) Chairman and Members of the Interim Independent Electoral Commission;
- (iii) Chairman and Members of the Interim Independent Boundaries Review Commission; and
- (iv) Judges of the Interim Independent Constitutional Dispute Resolution Court.

(b) The Committee noted that H.E the President had not assented to the Constitution of Kenya (Amendment) Bill, 2008 and considering the time lines in the above statutes, the Committee approved the content of the advertisements to fill the above positions and resolved as follows:-

- (i) That the advertisement for the positions of Members and Director of the Committee of Experts be placed on 29th December, 2008 and a reprint on 5th January, 2009, in the Daily Nation, the Standard, the Kenya Times, the People Daily and the East African.
- (ii) That the Clerk of the National Assembly writes to the Panel of Eminent African Personalities requesting for names of 5 nominees for consideration for appointment as Members of the Committee of Experts under sections 8 (4)(a) and 9 of the Review Act.
- (iii) That an advertisement inviting applications from reputable human resource firms be placed on 29th December, 2008. The Chairperson and the Vice-chairperson were mandated to work with the Secretariat on the content of the advertisement.
- (iv) That the qualifications of the Chairperson of the Interim Independent Boundaries Review Commission (which have not been provided for) be same as of the other commissioners.
- (v) That suitable candidates for the 3 positions of non-citizen Judges of the Interim Independent Constitutional Dispute Resolution Court be identified in consultation with the Panel of Eminent African Personalities.

MIN. NO. 14/2008:**ANY OTHER BUSINESS**

- (a) A proposal to incorporate the Attorney General as an ex-officio Member of the Select Committee was negated. The Committee resolved to invite Attorney General as and when necessary.
- (b) Deliberations on a proposal to appoint a Communications Officer and a website for the Committee were deferred to the next meeting.

MIN. NO. 15/2008:

ADJOURNMENT

There being no other business for discussion, the Chair adjourned the meeting at twenty five minutes past Four O'clock until Wednesday, 14th January, 2009 at 9.00 am.

SIGNED:

HON. MOHAMED ABDIKADIR, MP

CHAIRPERSON

DATE:

14TH JANUARY, 2009

MINUTES OF THE THIRD SITTING OF THE PARLIAMENTARY SELECT COMMITTEE ON THE REVIEW OF THE CONSTITUTION HELD ON WEDNESDAY, 14TH JANUARY, 2009 IN THE MAIN COMMITTEE ROOM, COUNTY HALL, PARLIAMENT BUILDINGS AT 9.30 AM.

PRESENT

1. The Hon. Mohammed Abdikadir, MP - Chairperson
2. The Hon. Ababu Namwamba, MP - Vice Chairperson
3. The Hon. Martha Karua, MP
4. The Hon. Omingo Magara, MP
5. The Hon. Joseph Nkaiserry, MP
6. The Hon. Wilfred Ombui, MP
7. The Hon. Chachu Ganya, MP
8. The Hon. Mwangi Kiunjuri, MP
9. The Hon. Ekwere Ethuro, MP
10. The Hon. Charity Ngilu, MP
11. The Hon. Danson Mungatana, MP
12. The Hon. Sophia Abdi, MP
13. The Hon. Sally Kosgei, MP
14. The Hon. Amina Abdalla, MP
15. The Hon. Mutula Kilonzo, MP
16. The Hon. Jeremiah Kioni, MP
17. The Hon. Millie Odhiambo, MP
18. The Hon. David Musila, MP
19. The Hon. Kambi Kazungu, MP
20. The Hon. Isaac Ruto, MP
21. The Hon. James Orengo, MP

ABSENT WITH APOLOGY

1. The Hon. Najib Balala, MP
2. The Hon. Uhuru Kenyatta, MP
3. The Hon. Moses Wetangula, MP
4. The Hon. William Ruto, MP
5. The Hon. Musalia Mudavadi, MP
6. The Hon. Peter Munya, MP

IN ATTENDANCE

1. Mrs. Consolata Munga
2. Mr. Stephen Njenga
3. Ms. Eunice Gichangi
4. Mr. Paul K. Ngetich
5. Mr. Zakayo Mogere
6. Ms. Rose Mudibo

NATIONAL ASSEMBLY

- Deputy Director, Committee Services
- First Clerk Assistant
- Senior Legal Counsel
- Senior Research Officer
- Second Clerk Assistant
- Public Relations Officer

MIN. NO. 001/2009:

PRAYER

The proceedings were opened with a word of prayer.

MIN. NO. 002/2009:

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Minutes of the second sitting of the Committee were confirmed as a true record of the deliberations and signed by the Chairperson.

Under Min.No.14/2008: Communications Officer for the Committee

The Committee was informed that the Clerk had appointed Ms. Rose Mudibo, a Public Relations Officer, to the Committee Secretariat to serve as the Communications Officer.

MIN. NO. 004/2009:

CONSIDERATION OF PROGRAM OF ACTIVITIES

The Committee noted that H.E the President had assented to the Constitution of Kenya (Amendment) Act, 2008 on 24th December, 2008 with 29th December 2008 being the commencement date, thus commencing the process of setting up the statutory bodies under the Act.

The Committee deliberated on the program of activities related to the following positions:-

1. Recruitment of a reputable Human Resource firm

- (i) The Committee noted that an advertisement asking Human Resource Firms to bid was made on 29th December, 2008 and reprinted on 5th January 2009 and the applications were being received. The Committee was informed that the deadline will be 19th January 2009.
- (ii) The Committee directed that the Tender Opening Committee opens the bids on 20th January 2009 and that the Tender Board evaluates the bids on 21st January, 2009. The tender should be awarded and notification of award done on 22nd January, 2009.
- (iii) The Committee further directed the Clerk to ask the Treasury for a reduction of the period following notification of award to ensure that the contract is signed on 26th January, 2009.

2. Constitution of the Committee of Experts

- (i) The Committee noted that advertisement for the position of Director and Members of the Committee of Experts was made on 5th and 12th January 2009. The Committee was informed that receipt of applications was on-going and the deadline will be 26th January, 2009.
- (ii) The Committee was informed that pursuant to Section 8 (4) of the Review Act, the Panel of Eminent African Personalities had submitted names of five non-Kenyans for consideration as members of the Committee of Experts as follows:-
 - (a) Mr. Chaloka Beyani (Zambia)
 - (b) Mr. Julian Hottinger (Switzerland/Ireland)
 - (c) Ms. Christina Murray (South Africa)
 - (d) Mr. Brendan O'Leary (Ireland)
 - (e) Mr. Frederick E. Ssempebwa (Uganda)
- (iii) A proposal to present to the House for debate more than six names of the proposed members of the Committee was negated. The Committee agreed to have a reservoir of six additional names.
- (iv) The Committee further noted that according to Paragraph 3 of the First Schedule of the Review Act, the names of Members and Director of the Committee of Experts should be presented to Parliament by 2nd February, 2009.

3. Constitution of Interim Independent Electoral Commission (IIEC)

- (i) The Committee noted that advertisement for the position of Chairperson and Commissioners to the IIEC was made on 9th and 14 January, 2009 and that receipt of applications was on-going with the deadline being 30th January, 2009.
- (ii) The Committee resolved to present the names of the nominees to the House within seven days of the closure of the applications.

4. Constitution of Interim Independent Boundaries Review Commission (IIBRC)

- (i) The Committee noted that advertisement for the position of Chairperson and Commissioners to the IIBRC was made on 9th and 14 January, 2009 and that receipt of applications was on-going with the deadline being 30th January, 2009.
- (ii) The Committee resolved to present the names of the nominees to the House within seven days of the closure of the applications.

5. Constitution of Interim Independent Constitutional Dispute Resolution Court (IICDRC)

- (i) The Committee noted that advertisement for the positions of Judges to the IICDRC was made on 9th and 14 January, 2009 and that receipt of applications was on-going with the deadline being 30th January, 2009.
- (ii) The Committee resolved to present the names of the nominees to the House within seven days of the closure of the applications.

MIN. NO. 005/2009: ANY OTHER BUSINESS

- (i) The Committee deliberated on the draft terms of reference for the human resource firm, and resolved that the whole process of recruitment shall be spearheaded by the Committee with assistance from the Human Resource firms.
- (ii) The Committee resolved to monitor the tender opening, evaluation and awarding process by attending the meeting of the Tender Board.
- (iii) The Committee was informed that the discrepancy in the Constitution of Kenya Review Act, 2008 relating to the reference group will be addressed in the Statute Law (Miscellaneous amendments) Bill scheduled to be introduced in the House.

MIN. NO. 006/2009: ADJOURNMENT

There being no other business for discussion, the Chair adjourned the meeting at thirty minutes past Twelve O'clock until Tuesday, 20th January, 2009 at 9.00 am.

SIGNED: HON. MOHAMED ABDIKADIR, MP

CHAIRPERSON

DATE: 20TH JANUARY, 2009

MINUTES OF THE FOURTH SITTING OF THE PARLIAMENTARY SELECT COMMITTEE ON THE REVIEW OF THE CONSTITUTION HELD ON TUESDAY, 20TH JANUARY, 2009 IN THE MAIN COMMITTEE ROOM, COUNTY HALL, PARLIAMENT BUILDINGS AT 9.30 AM.

PRESENT

1. The Hon. Mohammed Abdikadir, MP - Chairperson
2. The Hon. Ababu Namwamba, MP - Vice Chairperson
3. The Hon. Martha Karua, MP
4. The Hon. Omingo Magara, MP
5. The Hon. Joseph Nkaiserry, MP
6. The Hon. Wilfred Ombui, MP
7. The Hon. Chachu Ganya, MP
8. The Hon. Mwangi Kiunjuri, MP
9. The Hon. Charity Ngilu, MP
10. The Hon. Danson Mungatana, MP
11. The Hon. Sophia Abdi, MP
12. The Hon. Musalia Mudavadi, MP
13. The Hon. Sally Kosgei, MP
14. The Hon. Amina Abdalla, MP
15. The Hon. Mutula Kilonzo, MP
16. The Hon. Kambi Kazungu, MP
17. The Hon. Isaac Ruto, MP
18. The Hon. James Orengo, MP
19. The Hon. Uhuru Kenyatta, MP

ABSENT WITH APOLOGY

1. The Hon. Moses Wetangula, MP
2. The Hon. William Ruto, MP
3. The Hon. Najib Balala, MP
4. The Hon. David Musila, MP
5. The Hon. Ekwee Ethuro, MP
6. The Hon. Jeremiah Kioni, MP
7. The Hon. Millie Odhiambo, MP
8. The Hon. Peter Munya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mrs. Consolata Munga - Deputy Director, Committee Services
2. Mr. Stephen Njenga - First Clerk Assistant
3. Ms. Eunice Gichangi - Senior Legal Counsel
4. Mr. Paul K. Ngetich - Senior Research Officer
5. Mr. Zakayo Mogere - Second Clerk Assistant
6. Ms. Rose Mudibo - Public Relations Officer

MIN. NO. 007/2009:

PRAYER

The proceedings were opened with a word of prayer.

MIN. NO. 008/2009:

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Minutes of the third sitting of the Committee were confirmed by the Members present and signed by the Chairperson.

Under Min.No.004/2009: (1) Recruitment of a reputable Human Resource Firm

The Committee was informed that a request for a reduction of the period following notification of award of a tender was declined by the Director General, Public Procurement Oversight Authority. The Committee resolved to use direct tendering for a firm to assist in recruiting the Director and Members of the Committee of Experts, while other tenders will be awarded in the normal process.

Under Min.No.004/2009: (2) Constitution of the Committee of Experts

The Committee noted with concern that its deliberations on the list of the five non-Kenyans from the Panel of Eminent African Personalities was divulged to the press in contravention of the Standing Orders and a committee resolution. The Committee resolved to comprehensively address the matter in its communication strategy and requested members to adhere to the principle of confidentiality.

MIN. NO. 010/2009:

CONSIDERATION OF APPLICATIONS FROM HUMAN RESOURCE FIRMS

Consideration of applications from human resource firms was deferred to the next meeting to allow for the advertisement of the opening dates of tenders.

MIN. NO. 011/2009:

CONSIDERATION OF THE FIVE (5) NON-KENYAN NOMINEES TO THE COMMITTEE OF EXPERTS

The Committee was informed that the Clerk of the National Assembly had contacted the Panel of Eminent African Personalities on the request for confidentiality of the two names not nominated. The Chairman informed the Committee that he had spoken with the Chief of Staff of the Panel of Eminent African Personalities to further explain the issue of confidentiality. The Committee noted that the names submitted by the Panel of Eminent Personalities did not conform to the principle of gender equity. It was resolved that the Panel be asked to conform with the principle in future.

The Committee deferred the consideration of the five non-Kenyan nominees to the Committee of Experts, to allow Members to go through their CVs and carry out background checks on them. Subsequently, the Committee resolved to deliberate on the nominees on Thursday 22nd January, 2009.

MIN. NO. 012/2009:

CRITERIA OF SELECTION OF NOMINEES TO THE COMMITTEE OF EXPERTS

The Committee deliberated on the draft criteria of selection of nominees to the Committee of Experts and resolved that in addition to provisions of Sections 8(6) and 10 of the Review Act, the following be considered:-

- (i) 5 years of post qualification experience in any of the sector areas
- (ii) Shown merit and ability as reflected in work performance
- (iii) Experience of working in public sector
- (iv) Qualification in more than one area (All Rounder)
- (v) Comparative experience to the Kenyan situation
- (vi) 5 more points for ladies with comparable experience
- (vii) Broad based experience especially in political science including ethnic conflict resolution.

MIN. NO. 013/2009:

ANY OTHER BUSINESS

- (i) The Committee deliberated on the constitutional interpretation of the meaning of 'officers acting or holding offices in the public service' in relation with applications for positions in the bodies set up by the Review Act and the Constitution of Kenya (Amendments) Act, 2008. It was resolved that the meaning of a 'public officer' is as contained in the Public Officers Ethics Act and as such all public officers, including public university lecturers, are not eligible to apply.
- (ii) The Committee deliberated on a letter from the Panel of Eminent African Personalities requesting for terms and conditions of service for Judges of the Interim Independent Constitutional Dispute Resolution Court, to facilitate the search of prospective nominees. The Committee resolved to apply provisions of the Review Act relating to remuneration and allowances of members to other bodies established under the Constitution of Kenya (Amendment) Act, 2008. The Committee also directed the Clerk of the National Assembly to draw the attention of the Permanent Secretary, Ministry of Justice, National Cohesion and Constitutional Affairs to the provisions of section 54 of the Review Act.
- (iii) The Committee deliberated on its communications strategy and resolved that a website for the Committee be set-up and necessary information, as may be agreed by the committee, be uploaded. Such information may include but is not restricted to the following:-
 - (a) The Laws spearheading Committee operations
 - (b) Regulations made by the Committee for smooth running of its operations
 - (c) Press statements of the Committee
 - (d) Names and CVs of appointed experts of various bodies.Further, it was also resolved that the Chairperson be the sole spokesperson for the Committee. Further, the secretariat was tasked to come up with other communication strategies.
- (iv) Members were urged to keep the appointed time for meetings in future to ensure that they start on time.

MIN. NO. 014/2009:

ADJOURNMENT

There being no other business for discussion, the Chair adjourned the meeting at thirty minutes past Eleven O'clock until Thursday, 22nd January, 2009 at 7.30 am.

SIGNED:

HON. MOHAMED ABDIKADIR, MP

CHAIRPERSON

DATE:

27TH JANUARY, 2009

MINUTES OF THE FIFTH SITTING OF THE PARLIAMENTARY SELECT COMMITTEE ON THE REVIEW OF THE CONSTITUTION HELD ON THURSDAY 22ND JANUARY, 2009 IN THE MAIN COMMITTEE ROOM, COUNTY HALL, PARLIAMENT BUILDINGS AT 7.30 AM.

PRESENT

1. The Hon. Mohammed Abdikadir, MP - Chairperson
2. The Hon. Ababu Namwamba, MP - Vice Chairperson
3. The Hon. Martha Karua, MP
4. The Hon. Omingo Magara, MP
5. The Hon. Joseph Nkaiserry, MP
6. The Hon. Wilfred Ombui, MP
7. The Hon. Chachu Ganya, MP
8. The Hon. Mwangi Kiunjuri, MP
9. The Hon. Charity Ngilu, MP
10. The Hon. Danson Mungatana, MP
11. The Hon. Sophia Abdi, MP
12. The Hon. Sally Kosgei, MP
13. The Hon. Amina Abdalla, MP
14. The Hon. Mutula Kilonzo, MP
15. The Hon. Kambi Kazungu, MP
16. The Hon. Isaac Ruto, MP
17. The Hon. James Orengo, MP
18. The Hon. Uhuru Kenyatta, MP
19. The Hon. William Ruto, MP
20. The Hon. David Musila, MP
21. The Hon. Ekwee Ethuro, MP
22. The Hon. Jeremiah Kioni, MP
23. The Hon. Millie Odhiambo, MP
24. The Hon. Peter Munya, MP

ABSENT WITH APOLOGY

1. The Hon. Musalia Mudavadi, MP
2. The Hon. Moses Wetangula, MP
3. The Hon. Najib Balala, MP

IN ATTENDANCE

1. Mrs. Consolata Munga
2. Mr. Stephen Njenga
3. Ms. Eunice Gichangi
4. Mr. Paul K. Ngetich
5. Mr. Zakayo Mogere
6. Ms. Rose Mudibo

NATIONAL ASSEMBLY

- Deputy Director, Committee Services
- First Clerk Assistant
- Senior Legal Counsel
- Senior Research Officer
- Second Clerk Assistant
- Public Relations Officer

MIN. NO. 015/2009:

PRAYER

The proceedings were opened with a word of prayer.

MIN. NO. 016/2009:

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Confirmation of minutes of the fourth sitting of the Committee was deferred to the next meeting.

MIN. NO. 017/2009:

**OPENING OF TENDERS FOR HUMAN
RESOURCE FIRMS**

The tender opening was carried by the Parliamentary Tender Opening Committee in full view of the Members of the Committee and representatives of the tendering firms. Members of the Parliamentary Tender Opening Committee who were present are:-

- (i) Mrs. Mary Kanyiha - Chief Supplies Officer
- (ii) Mr. W.W. Makate - Senior Supplies Officer
- (iii) Mr. Joshua Mose - Accountant
- (iv) Mr. David Kithua - Finance Officer
- (v) Mr. Keith Kisinguh - Supplies Officer

The following persons were present as representatives of the tendering firms:-

- (i) Mr. James Kimondo - Manpower Services (K) Ltd
- (ii) Ms. Winnie Gaceri Njoroge - Lincoln Consulting Ltd
- (iii) Mr. Ben W. Mutui - Global Training Institute
- (iv) Mr. M. Mungai - Bentleys International Consulting Ltd

The Committee observed that the following thirteen (13) firms tendered for the service:-

- (i) Capacity Building & Research Co. Ltd
- (ii) Eldridge Development & Management Consultant
- (iii) LG Bhatia
- (iv) Lincoln Consulting Ltd
- (v) Bentleys International Consulting Ltd
- (vi) Manpower Services Kenya Ltd
- (vii) Euro Cap Consultants Kenya Ltd
- (viii) Leon Bosman & Associates
- (ix) Business Ideas Executive Search Consultants Ltd
- (x) Liege Consultants Ltd
- (xi) Mwaweru Management & Advisory Services
- (xii) Yitzak Associates Ltd
- (xiii) Global Training Institute

After the withdrawal of the representatives of the tendering firms from the room, the Committee deliberated and agreed on broad guidelines (*Committee Paper No. 6*) to be used by the tender evaluation committee. The Committee tasked the Secretariat to rank and give comments on each of the 13 firms for consideration by the Committee later in the day at 6.30 pm.

MIN. NO. 018/2009:

**CONSIDERATION OF THE FIVE (5) NON-
KENYAN NOMINEES TO THE COMMITTEE OF
EXPERTS**

The Committee deliberated on the 5 nominees presented by the Panel of Eminent African Personalities and noted that all of them are highly qualified and experienced for the tasks ahead. However, the Committee noted that gender equity was not observed in the selection

of the 5 nominees. Considering the comparative experience to the Kenyan / African situation and a broad based experience in mediation, diversity of knowledge and decision making, the Committee, by consensus, ranked the 5 nominees as follows:-

- | | | | |
|-------|------------------------------|---|----------------------|
| (i) | Prof. Christina Murray | - | South Africa |
| (ii) | Dr. Chaloka Beyani | - | Zambia |
| (iii) | Prof. Frederick E. Ssempebwa | - | Uganda |
| (iv) | Dr. Julian Thomas Hottinger | - | Switzerland/ Ireland |
| (v) | Prof. Brendan O'Leary | - | Ireland/U.S.A |

MIN. NO. 019/2009:

ADJOURNMENT

There being no other business for discussion, the Chair adjourned the meeting at thirty five minutes past Nine O'clock until 6.30 p.m.

AFTERNOON SESSION - 6.40 P.M

PRESENT

- | | | | |
|-----|---------------------------------|---|------------------|
| 1. | The Hon. Mohammed Abdikadir, MP | - | Chairperson |
| 2. | The Hon. Ababu Namwamba, MP | - | Vice Chairperson |
| 3. | The Hon. Martha Karua, MP | | |
| 4. | The Hon. Omingo Magara, MP | | |
| 5. | The Hon. Wilfred Ombui, MP | | |
| 6. | The Hon. Chachu Ganya, MP | | |
| 7. | The Hon. Mwangi Kiunjuri, MP | | |
| 8. | The Hon. Danson Mungatana, MP | | |
| 9. | The Hon. Sally Kosgei, MP | | |
| 10. | The Hon. Amina Abdalla, MP | | |
| 11. | The Hon. Mutula Kilonzo, MP | | |
| 12. | The Hon. Kambi Kazungu, MP | | |
| 13. | The Hon. Musalia Mudavadi, MP | | |
| 14. | The Hon. Isaac Ruto, MP | | |
| 15. | The Hon. James Orengo, MP | | |
| 16. | The Hon. Uhuru Kenyatta, MP | | |
| 17. | The Hon. William Ruto, MP | | |
| 18. | The Hon. David Musila, MP | | |
| 19. | The Hon. Jeremiah Kioni, MP | | |
| 20. | The Hon. Peter Munya, MP | | |

ABSENT WITH APOLOGY

1. The Hon. Ekwere Ethuro, MP
2. The Hon. Millie Odhiambo, MP
3. The Hon. Joseph Nkaiserry, MP
4. The Hon. Charity Ngilu, MP
5. The Hon. Sophia Abdi, MP
6. The Hon. Moses Wetangula, MP
7. The Hon. Najib Balala, MP

IN ATTENDANCE

1. Mr. P.C.O Omolo
2. Mrs. Consolata Munga
3. Mrs. Mary Kanyihia
4. Mr. Stephen Njenga
5. Ms. Eunice Gichangi

NATIONAL ASSEMBLY

- | | |
|---|-------------------------------------|
| - | Senior Deputy Clerk |
| - | Deputy Director, Committee Services |
| - | Chief Supplies Officer |
| - | First Clerk Assistant |
| - | Senior Legal Counsel |

6. Mr. Paul K. Ngetich - Senior Research Officer
7. Mr. Zakayo Mogere - Second Clerk Assistant
8. Ms. Rose Mudibo - Public Relations Officer

MIN. NO. 020/2009:

**CONSIDERATION OF APPLICATIONS
FROM HUMAN RESOURCE FIRMS**

The Committee was informed that the tender evaluation committee and the Tender Board noted that the criteria for evaluation was not included in the advertisement and that they would not continue with the evaluation. The Committee further heard that the tender evaluation committee and the Tender Board had recommended that:-

- (i) The tender be cancelled and the terms of reference for the consultancy services together with evaluation criteria be developed;
- (ii) In view of the strict timelines in the Review Act, direct procurement be considered to procure the required four human resource firms and a negotiation team be formed under Section 75 of the Public Procurement and Disposal Act, 2005.

Members noted with concern that the tender evaluation committee had recommended cancellation of the tender, to the Tender Board without furnishing the Committee with the evaluation rankings as instructed in the morning session. After deliberations, the Committee resolved that:-

- (i) The Tender Board had made its decision, which decision was final;
- (ii) The Secretariat furnishes the Members with an evaluation of the 13 firms by Friday 23rd January 2009;
- (iii) The Committee reconvenes on Tuesday 27th January 2009 at 7.30 am to propose, deliberate and agree on names of human resource firms for purposes of direct procurement.

MIN. NO. 021/2009:

ADJOURNMENT

There being no other business for discussion, the Chair adjourned the meeting at twenty five minutes past Eight O'clock until Tuesday 27th January, 2009 at 7.30 a.m.

SIGNED:

HON. MOHAMED ABDIKADIR, MP

CHAIRPERSON

DATE:

27TH JANUARY, 2009

MINUTES OF THE SIXTH SITTING OF THE PARLIAMENTARY SELECT COMMITTEE ON THE REVIEW OF THE CONSTITUTION HELD ON TUESDAY, 27TH JANUARY, 2009 IN THE MAIN COMMITTEE ROOM, COUNTY HALL, PARLIAMENT BUILDINGS AT 9.30 AM.

PRESENT

- | | | |
|------------------------------------|---|-------------------------|
| 1. The Hon. Mohammed Abdikadir, MP | - | Chairperson |
| 2. The Hon. Ababu Namwamba, MP | - | Vice Chairperson |
| 3. The Hon. Martha Karua, MP | | |
| 4. The Hon. Musalia Mudavadi, MP | | |
| 5. The Hon. Joseph Nkaiserry, MP | | |
| 6. The Hon. Wilfred Ombui, MP | | |
| 7. The Hon. Mwangi Kiunjuri, MP | | |
| 8. The Hon. Danson Mungatana, MP | | |
| 9. The Hon. Moses Wetangula, MP | | |
| 10. The Hon. Sophia Abdi, MP | | |
| 11. The Hon. Sally Kosgei, MP | | |
| 12. The Hon. Amina Abdalla, MP | | |
| 13. The Hon. Mutula Kilonzo, MP | | |
| 14. The Hon. Kambi Kazungu, MP | | |
| 15. The Hon. James Orengo, MP | | |
| 16. The Hon. William Ruto, MP | | |
| 17. The Hon. David Musila, MP | | |
| 18. The Hon. Millie Odhiambo, MP | | |

ABSENT WITH APOLOGY

1. The Hon. Omingo Magara, MP
2. The Hon. Chachu Ganya, MP
3. The Hon. Charity Ngilu, MP
4. The Hon. Najib Balala, MP
5. The Hon. Isaac Ruto, MP
6. The Hon. Ekwee Ethuro, MP
7. The Hon. Jeremiah Kioni, MP
8. The Hon. Uhuru Kenyatta, MP
9. The Hon. Peter Munya, MP

IN ATTENDANCE

1. Mrs. Consolata Munga
2. Mr. Stephen Njenga
3. Ms. Eunice Gichangi
4. Mr. Paul K. Ngetich
5. Mr. Zakayo Mogere
6. Ms. Rose Mudibo

NATIONAL ASSEMBLY

- | | |
|---|-------------------------------------|
| - | Deputy Director, Committee Services |
| - | First Clerk Assistant |
| - | Senior Legal Counsel |
| - | Senior Research Officer |
| - | Second Clerk Assistant |
| - | Public Relations Officer |

MIN. NO. 022/2009:

PRAYER

The proceedings were opened with a word of prayer.

MIN. NO. 023/2009:

CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS.

Minutes of the fourth and fifth sittings of the Committee were confirmed by the members present and signed by the Chairperson.

MIN. NO. 024/2009:

DELIBERATION OF THE HUMAN RESOURCE FIRMS

The Committee deliberated on proposed list of the following human resource firms to be considered for appointment for consultancy services:-

1. Hawkins Associates Ltd
2. M/S Deloitte and Touche
3. M/S Manpower Services (K) Ltd.
4. M/S K.P.M.G Training Solutions
5. M/S Peak Performance International
6. M/S PriceWaterHouseCoopers

The Committee resolved to invite the above firms to make applications together with the twelve applications received earlier. The firm, Ernst & Young was also added to the list.

The Secretariat was directed to furnish the firms with necessary criteria in writing and request the firms to respond by close of business on Tuesday, 27th January 2009.

The Committee further resolved to consider the applications and recommend the firm to be contracted on Wednesday, 28th January, 2009.

MIN. NO. 025/2009:

CONSIDERATION OF SITTING PROGRAMME FOR THE WEEK.

The Committee deferred consideration of the sitting program until Wednesday, 28 January 2009.

MIN. NO. 026/2009:

ADJOURNMENT

There being no other business for discussion, the Chair adjourned the meeting at thirty minutes past Ten O'clock until Wednesday, 28 January 2009 at 12.30 p.m.

SIGNED:

HON. MOHAMED ABDIKADIR, MP

CHAIRPERSON

DATE:

2ND FEBRUARY, 2009

MINUTES OF THE SEVENTH SITTING OF THE PARLIAMENTARY SELECT COMMITTEE ON THE REVIEW OF THE CONSTITUTION HELD ON WEDNESDAY, 28TH JANUARY, 2009 IN THE OLD CHAMBER, PARLIAMENT BUILDINGS AT 2.40 PM.

PRESENT

1. The Hon. Mohammed Abdikadir, MP - Chairperson
2. The Hon. Ababu Namwamba, MP - Vice Chairperson
3. The Hon. Martha Karua, MP
4. The Hon. Musalia Mudavadi, MP
5. The Hon. Joseph Nkaiserry, MP
6. The Hon. Wilfred Ombui, MP
7. The Hon. Moses Wetangula, MP
8. The Hon. Sophia Abdi, MP
9. The Hon. Amina Abdalla, MP
10. The Hon. Kambi Kazungu, MP
11. The Hon. James Orengo, MP
12. The Hon. David Musila, MP
13. The Hon. Millie Odhiambo, MP

ABSENT WITH APOLOGY

1. The Hon. Omingo Magara, MP
2. The Hon. Chachu Ganya, MP
3. The Hon. Mwangi Kiunjuri, MP
4. The Hon. Danson Mungatana, MP
5. The Hon. Charity Ngilu, MP
6. The Hon. Uhuru Kenyatta, MP
7. The Hon. Sally Kosgei, MP
8. The Hon. Najib Balala, MP
9. The Hon. William Ruto, MP
10. The Hon. Mutula Kilonzo, MP
11. The Hon. Isaac Ruto, MP
12. The Hon. Ekwere Ethuro, MP
13. The Hon. Jeremiah Kioni, MP
14. The Hon. Peter Munya, MP

IN ATTENDANCE

1. Mrs. Consolata Munga
2. Mr. Stephen Njenga
3. Ms. Eunice Gichangi
4. Mr. Zakayo Mogere
5. Ms. Rose Mudibo

NATIONAL ASSEMBLY

- Deputy Director, Committee Services
- First Clerk Assistant
- Senior Legal Counsel
- Second Clerk Assistant
- Public Relations Officer

MIN. NO. 027/2009:

CONSIDERATION OF APPLICATIONS FROM HUMAN RESOURCE FIRMS

The Committee was informed that following the invitation of eighteen human resource firms to apply for consideration to provide consultancy services on 27th January, 2009, the following seven firms responded:-

1. Ernst & Young
2. Liege Consultants Ltd.
3. Manpower Services (K) Ltd.
4. Bentleys International Consulting Ltd.

5. Lincoln Consulting Kenya Ltd.
6. Eurocap Consulting Ltd.
7. Capacity Building and Research Co. Ltd.

The Committee recommended that Manpower Services Ltd and Ernst & Young Ltd. be considered for engagement to assist the Select Committee to undertake its tasks under the Constitution of Kenya Review Act, 2008 and the Constitution of Kenya (Amendment) Act, 2008.

The Committee further resolved that the above recommendation be forwarded to the tender committee for their further action.

MIN. NO. 028/2009: **ADJOURNMENT**

There being no other business for discussion, the Chair adjourned the meeting at fifty minutes past Two O'clock until Friday, 30th January 2009 at 7.30 a.m.

SIGNED: **HON. MOHAMED ABDIKADIR, MP**
CHAIRPERSON

DATE: **2ND FEBRUARY, 2009**

MINUTES OF THE EIGHTH SITTING OF THE PARLIAMENTARY SELECT COMMITTEE ON THE REVIEW OF THE CONSTITUTION HELD ON FRIDAY, 30TH JANUARY, 2009 IN THE MAIN COMMITTEE ROOM, COUNTY HALL, PARLIAMENT BUILDINGS AT 8.50 AM.

PRESENT

1. The Hon. Mohammed Abdikadir, MP - **Chairperson**
2. The Hon. Martha Karua, MP
3. The Hon. Uhuru Kenyatta, MP
4. The Hon. Musalia Mudavadi, MP
5. The Hon. Mwangi Kiunjuri, MP
6. The Hon. Danson Mungatana, MP
7. The Hon. Wilfred Ombui, MP
8. The Hon. Mutula Kilonzo, MP
9. The Hon. Sophia Abdi, MP
10. The Hon. Amina Abdalla, MP
11. The Hon. Kambi Kazungu, MP
12. The Hon. James Orengo, MP
13. The Hon. Millie Odhiambo, MP

ABSENT WITH APOLOGY

1. The Hon. Ababu Namwamba, MP - **Vice Chairperson**
2. The Hon. Joseph Nkaiserry, MP
3. The Hon. David Musila, MP
4. The Hon. Omingo Magara, MP
5. The Hon. Moses Wetangula, MP
6. The Hon. Chachu Ganya, MP
7. The Hon. Charity Ngilu, MP
8. The Hon. Sally Kosgei, MP
9. The Hon. Najib Balala, MP
10. The Hon. William Ruto, MP
11. The Hon. Isaac Ruto, MP
12. The Hon. Ekwee Ethuro, MP
13. The Hon. Jeremiah Kioni, MP
14. The Hon. Peter Munya, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. P. C. O. Omolo - Senior Deputy Clerk
2. Mrs. Consolata Munga - Deputy Director, Committee Services
3. Mr. Stephen Njenga - First Clerk Assistant
4. Ms. Eunice Gichangi - Senior Legal Counsel
5. Mr. Paul Ngetich - Senior Research Officer
6. Mr. Zakayo Mogere - Second Clerk Assistant
7. Ms. Rose Mudibo - Public Relations Officer

MIN. NO. 029/2009:

PRAYER

The proceedings were opened with a word of prayer.

MIN. NO. 030/2009:

CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Confirmation of minutes of the sixth and seventh sittings of the Committee was deferred to the next meeting.

MIN. NO. 031/2009:

REVIEW OF THE QUORUM

The Committee resolved to revise its earlier decision on quorum for the purpose of the meeting, with the concurrence of both political groups, given that one of the groups did not achieve the number set.

MIN. NO. 032/2009:

CONSIDERATION OF THE HUMAN RESOURCE FIRM

The Committee was informed that following its recommendation to the tender committee on Wednesday, 28th January, 2009, the Clerk appointed a negotiation team to negotiate with the proposed two human resource firms.

The Committee was further informed that the negotiation team presented its report to the tender committee which subsequently awarded the consultancy contract to Manpower Services (K) Ltd.

The Committee agreed with the decision of the tender committee.

MIN. NO. 033/2009:

CONSIDERATION OF THE TERMS OF REFERENCE FOR HUMAN RESOURCE FIRM

The Committee considered and agreed on the following Terms of Reference for the human resource firm:

- (i) To prepare for presentation to the Select Committee, proposed criteria and methodology to be utilized in consideration of the applications received.
- (ii) Criteria to be based on relevant statutory provisions.
- (iii) Receive applications and prepare a report detailing:-
 - (a) the number of applications received;
 - (b) the number of applicants with minimum qualifications;
 - (c) the number of applicants who do not meet the minimum qualifications and the reasons thereof; and
 - (d) a technical analytical brief on each applicant;
- (iv) Assist the Select Committee in analyzing all applications received.
- (v) Provide any further assistance as may be required by the Select Committee during the contract period.
- (vi) These terms shall apply *mutatis mutandis* in the procedure for the nomination of members of the Committee of Experts, Interim Independent Electoral Commission, Interim Independent Boundaries Review Commission and the Interim Independent Dispute Resolution Court.

The Committee directed that the human resource firm should adhere to the principle of gender equity and regional representation.

The Committee further directed that the firm should present a list of 24 qualified candidates to be considered for nomination to the Committee of Experts and 6 candidates to be considered for nomination for the post of Director.

MIN. NO. 034/2009:

ADJOURNMENT

There being no other business for discussion, the Chair adjourned the meeting at twenty five minutes past Nine O'clock until Monday, 2nd February, 2009 at 10.00 a.m.

SIGNED:

HON. MOHAMED ABDIKADIR, MP

CHAIRPERSON

DATE:

2ND FEBRUARY, 2009

MINUTES OF THE NINTH SITTING OF THE PARLIAMENTARY SELECT COMMITTEE ON THE REVIEW OF THE CONSTITUTION HELD ON MONDAY, 2ND FEBRUARY, 2009 IN THE MAIN COMMITTEE ROOM, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.35 AM

PRESENT

1. The Hon. Mohammed Abdikadir, MP - **Chairperson**
2. The Hon. Ababu Namwamba, M.P. - **Vice Chairperson**
3. The Hon. Martha Karua, M.P.
4. The Hon. Musalia Mudavadi, M.P.
5. The Hon. Mwangi Kiunjuri, M.P.
6. The Hon. Danson Mungatana, M.P.
7. The Hon. David Musila, M.P.
8. The Hon. Omingo Magara, M.P.
9. The Hon. Wilfred Moriasi Ombui, M.P.
10. The Hon. Mutula Kilonzo, M.P.
11. The Hon. Chachu Ganya, M.P.
12. The Hon. Charity Ngilu, M.P.
13. The Hon. Sally Kosgei, M.P.
14. The Hon. Najib Balala, M.P.
15. The Hon. William Ruto, M.P.
16. The Hon. Sophia Abdi, M.P.
17. The Hon. Amina Abdallah, M.P.
18. The Hon. Kambi Kazungu, M.P.
19. The Hon. Ekwee Ethuro, M.P.
20. The Hon. Jeremiah Kioni, M.P.
21. The Hon. James Orengo, M.P.
22. The Hon. Millie Odhiambo, M.P.

ABSENT WITH APOLOGIES

1. The Hon. Uhuru Kenyatta, M.P.
2. The Hon. Joseph Nkaiserry, M.P.
3. The Hon. Moses Wetangula, M.P.
4. The Hon. Isaac Ruto, M.P.
5. The Hon. Peter Munya, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mrs. Consolata Munga - Deputy Director, Committee Services
2. Mr. Stephen Njenga - First Clerk Assistant
3. Ms. Eunice Gichangi - Senior Legal Counsel
4. Mr. Paul Ngetich - Senior Research Officer
5. Mr. Zakayo Mogere - Second Clerk Assistant
6. Ms. Rose Modibo - Public Relations Officer

IN ATTENDANCE: MANPOWER SERVICES

Francis G. Muhindi - Managing Director

MIN.NO.035/2009: PRAYER

The proceedings were opened with a word a prayer.

MIN.NO.036/2009: CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Minutes of the Sixth, Seventh and Eighth Sittings were confirmed by the Members present and signed by the Chairperson

MIN.NO.037/2009: PRESENTATION BY HUMAN RESOURCE FIRM, MANPOWER SERVICES (K) LTD

The Human resource firm, presented a report on the methodology and the selection process for the Director and Member of the Committee of Experts.

The Committee was informed as follows:-

- (a) Application files were delivered from the office of the Clerk on Friday, 30th January, 2009. These consisted of 260 for Members of the Committee of Experts and 36 for the position of Director.
- (b) Manpower Services (K) Ltd requested the National Assembly to arrange for round the clock police services to secure the premises of Manpower Services due to the sensitivity of the process and that the National Assembly acceded to the request.
- (c) Eight recruitment consultants were mobilized and briefed on the procedure for shortlisting and the requirement they should prepare a list of 24 for the Committee of Experts and 6 for the position of Director.
- (d) After the initial shortlist, the qualified applicants were subjected to national balancing and principle of gender equity.

Manpower Services (K) Ltd presented a short list of 24 candidates for Members of the Committee of Experts and 6 for the position of Director.

Thereupon, the Committee proposed 12 additional names for Members of the Committee of Experts and 3 names for the position of Director and directed that they should be invited for the interview scheduled for the Afternoon.

The Committee undertook to conduct interviews for the 36 applicants for Members of the Committee of Experts and for the 9 applicants for the position of Director.

The Committee resolved to disqualify candidates serving as elected officials of political parties, those who contested during the last general elections and active members of political parties. The last item is to be applied on a case by case basis.

MIN.NO.038/2009: ADJOURNMENT

There being no other business for discussion, the Chair adjourned the meeting at thirty minutes past Twelve O'clock until 2.30 p.m. in the afternoon.

AFTERNOON SITTING AT 2.40 PM

PRESENT

1. The Hon. Mohammed Abdikadir, MP - **Chairperson**
2. The Hon. Ababu Namwamba, M.P. - **Vice Chairperson**
3. The Hon. Martha Karua, M.P.
4. The Hon. Mutula Kilonzo, M.P.
5. The Hon. David Musila, M.P.
6. The Hon. Danson Mungatana, M.P.
7. The Hon. Wilfred Moriasi Ombui, M.P.
8. The Hon. Kambi Kazungu, M.P.
9. The Hon. Amina Abdallah, M.P.
10. The Hon. Peter Munya, M.P.
11. The Hon. Mwangi Kiunjuri, M.P.
12. The Hon. Jeremiah Kioni, M.P.
13. The Hon. Ekwere Ethuro, M.P.
14. The Hon. Musalia Mudavadi, M.P.
15. The Hon. Chachu Ganya, M.P.
16. The Hon. Najib Balala, M.P.
17. The Hon. Omingo Magara, M.P.
18. The Hon. Sally Kosgei, M.P.
19. The Hon. William Ruto, M.P.
20. The Hon. James Orengo, M.P.
21. The Hon. Millie Odhiambo, M.P.
22. The Hon. Sophia Abdi, M.P.
23. The Hon. Charity Ngilu, M.P.

ABSENT WITH APOLOGIES

1. The Hon. Uhuru Kenyatta, M.P.
2. The Hon. Moses Wetangula, M.P.
3. The Hon. Isaac Ruto, M.P.
4. The Hon. Joseph Nkaiserry, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mrs. Consolata Munga - Deputy Director, Committee Services
2. Mr. Stephen Njenga - First Clerk Assistant
3. Ms. Eunice Gichangi - Senior Legal Counsel
4. Mr. Paul Ngetich - Senior Research Officer
5. Mr. Zakayo Mogere - Second Clerk Assistant
6. Ms. Rose Modibo - Public Relations Officer

INATTENDANCE:

MANPOWER SERVICES

Francis G. Muhindi - Managing Director

MIN.NO.039/2009: INTERVIEWS OF APPLICANTS FOR POSITION OF DIRECTOR & MEMBERS OF COMMITTEE OF EXPERTS

The Committee agreed on the question to be asked to the candidates as follows:-

Highest academic, career and professional qualification and what makes candidates appropriate for the job.

The Committee also agreed to allot four minutes to each candidate.

The Committee then conducted interviews for the following candidates for the position of Director in the listed order:-

1. Hon. Wanyiri Kihoro
2. Murshid Abdalla
3. Suzanne S. Chivusia
4. Peter Kopyo
5. Betty Mwenesi
6. John Munuve
7. Njeru Kirira
8. Lucy Kambuni Muthoni
9. John B. Osoro

The Committee also conducted interviews for the following candidates for the positions of Members of Committee of Experts in the listed order:-

1. Njoki Ndung'u
2. Tiyah Galgalo
3. Zaina Rashid
4. Fatuma Mohamed
5. Atsango Chesoni
6. Scholastica Omondi
7. Thomas Maosa
8. Thomas Letangule
9. Dr. Ekulu Aukot
10. Wycliffe A. Kitigin
11. Laban A. Korellach
12. Mwenda Makathimo
13. Lawrence S. Mumba
14. Edah Maina
15. Otiende Amolo
16. Mohamed A. Loo
17. Baldip S. Rihal
18. Nzamba Kitonga
19. Ahmednassir Abdullahi
20. Charles F. Khaminwa
21. Noah C. Chune
22. Ibrahim N. Mwathane

23. Bobby M. Mkangi
24. Anthony K. Njoroge
25. Eric O. Omogeni
26. Abdirashid A. Hussein
27. Dr. Dwasi Jane
28. Joyce M. Majiwa
29. Peris P. Tobiko
30. Catherine Mumma
31. Joseph K. Katwa
32. Dr. Jacinta K. Muteshi

The Committee noted that some of the applicants who had been shortlisted were not available for the interview and agreed to conclude the process due to time constraints. The applicants who did not turn up for the interview are:-

1. Wachira Maina
2. Amb. Raychelle Awuor Omamo
3. Dr. Richard Leakey
4. Hon. J.J. Falana

The Committee resolved to consider candidates interviewed for the positions of Director and Members of the Committee of Experts based on suitability and not only on the position applied for as the required qualifications were similar.

The Committee revised its earlier decision and agreed to consider candidates who contested the 2007 general elections.

The Committee unanimously agreed to nominate Dr. Ekuru Aukot as Director of the Committee of Experts.

The Committee further resolved to nominate the following as Members of the Committee of Experts.

1. Ms. Njoki Ndung'u
2. Ms. Atsango Chesoni
3. Mr. Nzamba Kitonga
4. Mr. Bobby M. Mkangi
5. Mr. Otiende Amolo
6. Mr. Abdirashid A. Hussein

MIN.NO.040/2009: ADJOURNMENT

There being no other business for discussion, the Chair adjourned the meeting at Eight O'clock until Tuesday, 3rd February, 2009 at 12.00 noon.

SIGNED: _____
Hon. Mohammed Abdikadir, MP
(CHAIRMAN)

DATE: _____
3rd February, 2009

MINUTES OF THE TENTH SITTING OF THE PARLIAMENTARY SELECT COMMITTEE ON THE REVIEW OF THE CONSTITUTION HELD ON TUESDAY, 3RD FEBRUARY, 2009 IN THE MAIN COMMITTEE ROOM, COUNTY HALL, PARLIAMENT BUILDINGS AT 12.30 PM.

PRESENT

1. The Hon. Mohammed Abdikadir, MP - Chairperson
2. The Hon. Ababu Namwamba, MP - Vice Chairperson
3. The Hon. Martha Karua, MP
4. The Hon. Omingo Magara, MP
5. The Hon. Wilfred Ombui, MP
6. The Hon. Chachu Ganya, MP
7. The Hon. Mwangi Kiunjuri, MP
8. The Hon. Charity Ngilu, MP
9. The Hon. Danson Mungatana, MP
10. The Hon. Sophia Abdi, MP
11. The Hon. Sally Kosgei, MP
12. The Hon. Amina Abdalla, MP
13. The Hon. Mutula Kilonzo, MP
14. The Hon. Kambi Kazungu, MP
15. The Hon. James Orengo, MP
16. The Hon. Ekwee Ethuro, MP
17. The Hon. Jeremiah Kioni, MP
18. The Hon. Millie Odhiambo, MP
19. The Hon. Peter Munya, MP

ABSENT WITH APOLOGY

1. The Hon. Musalia Mudavadi, MP
2. The Hon. Moses Wetangula, MP
3. The Hon. Najib Balala, MP
4. The Hon. David Musila, MP
5. The Hon. Isaac Ruto, MP
6. The Hon. Uhuru Kenyatta, MP
7. The Hon. William Ruto, MP
8. The Hon. Joseph Nkaiserry, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

- | | | |
|-------------------------|---|-------------------------------------|
| 1. Mrs. Consolata Munga | - | Deputy Director, Committee Services |
| 2. Mr. Stephen Njenga | - | First Clerk Assistant |
| 3. Ms. Eunice Gichangi | - | Senior Legal Counsel |
| 4. Mr. Paul K. Ngetich | - | Senior Research Officer |
| 5. Mr. Zakayo Mogere | - | Second Clerk Assistant |
| 6. Ms. Rose Mudibo | - | Public Relations Officer |

MIN. NO. 041/2009:

PRAYER

The proceedings were opened with a word of prayer.

MIN. NO. 042/2009:

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Minutes of the Ninth Sitting were confirmed by the Members present and signed by the Chairperson.

MIN. NO. 043/2009: MATTERS ARISING

Under Min. No.039/2009: Interviews of Applicants for Position of Director & Members of Committee of Experts

The Committee noted that one of the nominees for the position of members of the Committee of Experts, Mr. Abdirashid Abdullahi Hussein, had been appointed and gazetted as a member of the Tribunal to review the terms and conditions of service of Members and employees of the National Assembly. The Committee was however informed that Mr. Abdirashid had resigned from the position by a letter dated 2nd February 2009 and addressed to the Clerk of the National Assembly. The letter was received by the Clerk on 3rd February 2009, at 11.00 am.

The Committee deliberated on the matter and inquired on whether the applicant is a public officer and thus ineligible for nomination. The following issues arose:-

- i). That the applicant applied for the position on 10th January, 2009.
- ii). That he was gazetted as a member of the Tribunal on 23rd January 2009.
- iii). That he received his letter of appointment as a member of the Tribunal on 28th January 2009.
- iv). That he appeared before the Committee for interview on 2nd February 2009.
- v). That he did not disclose, to the Committee, that he had been appointed to the Tribunal.

The Committee further deliberated on the matter and resolved that the applicant's name be retained as a nominee to the Committee of Experts. The following Members recorded their dissenting views:-

- i) Hon. Martha Karua, MP
- ii) Hon. Mwangi Kiunjuri, MP
- iii) Hon. Danson Mungatana, MP
- iv) Hon. Wilfred M. Ombui, MP
- v) Hon. Mutula Kilonzo, MP
- vi) Hon. Peter Munya, MP
- vii) Hon. Jeremiah Kioni, MP

Hon. Amina Abdalla, MP abstained.

MIN. NO. 044/2009: ADOPTION OF THE REPORT

The Committee considered and adopted the draft report subject to the reservations expressed by Members under Min. No.043/2009, on one of the nominees; Mr. Abdirashid Abdullahi Hussein.

MIN. NO. 045/2009: ADJOURNMENT

There being no other business for discussion, the Chair adjourned the meeting at forty five minutes past One O'clock.

Hon. Mohamed Abdikadir, MP

SIGNED:.....
CHAIRPERSON

3rd February, 2009

DATE:.....