

By the Chairperson of the  
Departmental Committee  
on Justice & Legal Affairs  
on Tuesday 19.10.2010



# KENYA NATIONAL ASSEMBLY

## TENTH PARLIAMENT - FOURTH SESSION (2010)

### THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

### REPORT ON THE APPOINTMENT OF NOMINEES TO THE JUDICIAL SERVICE COMMISSION

Clerk's Chambers  
Parliament Buildings

October, 2010



## PREFACE

**Mr. Speaker, Sir,**

The Departmental Committee on Justice and Legal Affairs was constituted on June 17<sup>th</sup> 2009 and has executed its mandate in accordance with the provisions of Standing Order, 198(3) which mandates the Committee to;

- 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 on Ministries and Departments and the effectiveness of the implementation;
- c) to Study and review all legislation referred to it;
- d) to study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- e) to investigate and enquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister; and
- f) to make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee comprises of the following members:-

Hon. Ababu Namwamba, M.P.

Chairperson

Hon.Njroge Baiya,MP

Vice-Chairperson

Hon. Abdikadir Mohammed, M.P

Hon. Millie Odhiambo-Mabona, M.P

Hon. George Nyamweya, M.B.S. M.P.

Hon. Amina Abdalla, M.P.

Hon. Olago Aluoch, M.P.  
Hon. Isaac K.Ruto, E.G.H.M.P.  
Hon. Sophia Noor Abdi, M.P.  
Hon. (Prof)Philip Kaloki, M.P.  
Hon. Mutava Musyimi, M.P  
Hon. Njoroge Baiya, M.P.

### **Mandate of the Committee**

According to Schedule II of the Standing Orders, the Committee is mandated to consider:-

- i) Constitutional Affairs.
- ii) The administration of law and order (Judiciary, police and prisons department, community service orders).
- iii) Public prosecutions.
- iv) Elections.
- v) Integrity and:
- vi) Anti-corruption and human rights.

### **The Committee oversees the following Ministries/Departments**

- i) Ministry of Justice, National Cohesion and Constitutional Affairs

ii) State Law Office

iii) The Judiciary

iv) Kenya Anti-Corruption Commission

v) Interim Independent Electoral Commission

vi) Interim Independent Boundaries Commission

**Committee meetings**

The Committee held one meeting on 19<sup>th</sup> October 2010 and interviewed the two nominees elected by the Kenya Judges and Magistrates Association to represent them in the Judicial Service Commission. The minutes of this meeting are appended to this report. The two nominees were:

1. The Honourable Mr. Justice Isaac Lenaola; and
2. Honourable Emily Ominde.

The Committee undertook the vetting process as required in the Constitution and approved the two nominees for appointment to the Judicial Service Commission.

**Acknowledgements**

**Mr. Speaker, Sir,**

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate. The Committee further wishes to express its appreciation to the two nominees who appeared before it on short notice and who were very cooperative throughout the vetting process.

**Mr. Speaker, Sir,**

It is now my pleasant duty, on behalf of the Committee to present and commend this report to the House for adoption.

Signed.....



HON. ABABU NAMWAMBA MP

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON JUSTICE  
& LEGAL AFFAIRS

Date:.....

19 / 10 / 2010

## VETTING PROCESS FOR THE MEMBERS OF THE JUDICIAL SERVICE COMMISSION

The Judicial Service Commission is established under Article 171(1) of the Constitution and consists of-

- (a) The Chief Justice who shall be the chairperson of the Commission;
- (b) One Supreme Court Judge elected by the Judges of the S supreme Court;
- (c) One Court of Appeal Judge elected by the Judges of the Court of Appeal;
- (d) One High Court Judge and one magistrate, one a woman and one a man, elected by the members of the association of judges and magistrates;
- (e) The Attorney-General;
- (f) Two advocates, one a woman and one a man, each of whom has at least fifteen years experience elected by the members of the statutory body responsible for the professional regulation of advocates;
- (g) One person nominated by the Public Service Commission;
- (h) One woman and one man to represent the public not being lawyers appointed by the President with the approval of the National Assembly;

The Chief Registrar of the Judiciary shall be the Secretary to the Commission.

It is against this background that the Committee received the two nominees under Article 171(2)(d) for vetting and onward transmission to the President for appointment. The Committee held one meeting on 19<sup>th</sup> October 2010 to vet the two nominees. In conducting the vetting process, the Committee examined the candidates against the following areas amongst others-

- (1) Education,

- (2) Employment record,
- (3) Professional Associations,
- (4) Published writings,
- (5) Public office, political activities and affiliations,
- (6) Potential conflict of interest.

The Committee recommends and forwards the following persons for appointment to the Judicial Service Commission as representatives of the High Court judges and the magistrates, respectively-

3. The Honourable Mr. Justice Isaac Lenaola; and
4. Honourable Emily Ominde.

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**MINUTES OF THE 43RD SITTING OF THE DEPARTMENTAL COMMITTEE H -  
ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY , OCTOBER 19 2010 IN  
COMMITTEE ROOM 9,PARLIAMENT BUILDINGS AT 10.00A.M**

**PRESENT**

Hon. Ababu Namwamba, M.P. - **Chairperson**  
Hon. Baiya Njoroge, M.P. **Vice-Chairperson**  
Hon. Olago Aluoch, M.P.  
Hon. Abdikadir Mohamed, M.P.  
Hon. Millie Odhiambo-Mabona, M.P.  
Hon. Mutava Musyimi, M.P.  
Hon. Sophia Abdir Noor, M.P.  
Hon. Nyamweya George, M.B.S, M.P

**ABSENT WITH APOLOGY**

Hon. Isaac Ruto, E.G.H., M.P.  
Hon. Amina Abdalla, M.P

**IN ATTENDANCE**

Mrs. Lucy Wanjohi  
Mr. Abenayo Wasike  
Miss Annete Bosibori

**NATIONAL ASSEMBLY**

Clerk Assistant  
Third Clerk Assistant  
Parliamentary Intern

**MIN NO. 162/2010**

**INTRODUCTORY REMARKS**

The Chairperson informed the members that the Kenya Judges and Magistrates Association had forwarded its nominees to the National Assembly for approval.

**MIN NO. 163/2010**

**VETTING OF NOMINEES**

The Committee received the two nominees that under Article 171(2)(d) for vetoing and onward transmission to the president for appointment. In conducting the vetting process, the Committee examined the candidates against the following areas amongst them;

- (1) Education,
- (2) Employment record,

- (3) Professional Associations,
- (4) Published writings,
- (5) Public office, political activities and affiliations,
- (6) Potential conflict of interest.

The Committee recommends and forwards the following persons for appointment to the Judicial Service Commission as representatives of the High Court Judges and the Magistrates, respectively;

1. The Hon. Mr. Justice Isaac Lenaola; and
2. Honourable Emily Ominde

MIN NO. 1642010

ADJOURNMENT

And there being no other business the Chairman adjourned the SITTING AT TWO TWENTY.

SIGNED            HON. ABABU NAMWAMBA, M.P  
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   Chairperson  
   OCTOBER 19, 2010  
DATE                -----