



ANNEX 2

MINUTES

MINUTES OF THE FIRST SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON TUESDAY, 12TH JULY, 2016 IN THE MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS, AT 10.00A.M.

1. Sen. James Orengo, EGH, MP,	- Co-Chairperson
2. Sen. Kiraitu Murungi, EGH, MP,	- Co-Chairperson
3. Sen. Kipchumba Murkomen, MP,	- Member
4. Sen. Beatrice Elachi, CBS, MP,	- Member
5. Sen. Johnson Muthama, MP,	- Member
6. Sen. Mutula Kilonzo Jnr, MP,	- Member
7. Sen. (Dr.) Boni Khalwale, MBS, MP,	- Member
8. Hon. (Dr.) Naomi Shaban, EGH, MP,	- Member
9. Hon. Moses Kuria, HSC, MP,	- Member
10. Hon. (Eng.) Mohamed M. Mahamud CBS, MP	- Member
11. Hon. Junet Mohamed, MP,	- Member
12. Hon. Mishu Mboko, MP,	- Member
13. Hon. (Dr.) Eseli Simiyu, MP,	- Member

Hon. Jimmy Angwenyi, MP, - Member

1. Mr. Mohamed Ali Mohamed	- Director, Speakers Office, Senate
2. Ms. Eunice Gichangi	- Director, Legal Services, Senate
3. Ms. Florence Atenyo-Abonyo	- Director, Committees Services, N/A
4. Mr. Njenga Njuguna	- Director, Committees Services, Senate
5. Mr. Boniface Lenairoshi	- Principal Clerk Assistant I, Senate
6. Mr. John Mutega	- Principal Clerk Assistant II, N/A
7. Mr. Ahmed Odhwa	- Senior Research Officer
8. Ms. Kavata Musyoka	- Clerk Assistant II, Senate
9. Mr. Ronald Walala	- Legal Counsel II, N/A
10. Ms. Judy Ndegwa	- Legal Counsel II, Senate
11. Ms. Noelle Chelagat	- Media Relations Officer
12. Mr. Solomon M. Liria	- Senior Serjeant-At-Arms, N/A
13. Mr. Abdi Salat	- Senior Serjeant-At-Arms, N/A

MIN.NO. JPSC/IEBC/01/12/7/2016

PRELIMINARIES

The meeting was called to order at 11.10a.m. and commenced with a word of prayer. Introductions of Members and staff present followed immediately thereafter.

MIN.NO. JPSC/IEBC/02/12/7/2016

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Hon. Johnson Muthama, MP and seconded by Hon. Moses Kuria, MP.

MIN.NO. JPSC/IEBC/03/12/7/2016

REMARKS BY THE CO-CHAIRPERSON

Sen. Kiraitu Murungi, Co-Chairperson, in his remarks called on Members of the Committee to discharge their mandate in a bipartisan manner with a view of ensuring that the mandate of the Committee was fulfilled. He further observed that it was important that in fulfilling its mandate, the Committee delivers a process that would ensure honest, free and fair elections. Sen. Kiraitu further stated that the Co-Chairs would work to facilitate the Committee in the discharge of its functions.

Sen. James Orengo, Co-Chairperson, in his remarks observed that the Motion establishing the Joint Committee envisaged that the process should deliver honest, transparent, free and fair elections in 2017. He further noted that the Committee was a bipartisan Committee of both Houses of Parliament and urged Members to rise above their party affiliations and participate in the discussions and engagements with Kenyans on matters related to the Independent Electoral and Boundaries Commission in a bipartisan manner.

Members observed that the exercise before the Joint Committee was critical and despite the fact that the membership was drawn from different coalitions in Parliament, the interests of the country were paramount.

MIN.NO. JPSC/IEBC/04/12/7/2016

TERMS OF REFERENCE FOR THE JOINT COMMITTEE

Sen. Orengo, Co-Chairperson, took the Members through the Terms of Reference of the Joint Committee. In deliberations on the Terms of Reference-

- (a) Members noted that the thirty-day period within which the Committee was required to operate ran from 12th July, 2016 (the first sitting day of the Committee) to 12th August, 2016;
- (b) Members resolved that there would be two joint rapporteurs; one from each Coalition;
- (c) with regard to the role of the joint rapporteurs and engagement of experts, a sub-committee comprising Sen. Kipchumba Murkomen, and Sen. Mutula Kilonzo Jr was constituted to consider these matters with the secretariat and to report to the Committee at the next meeting;
- (d) The secretariat should report on the extent and manner of public participation by the Joint Committee at the next sitting.
- (e) Draft rules of procedure for the Joint Committee would be developed by the secretariat for circulation to Members by Wednesday, 13th July, 2016.

MIN.NO. JPSC/IEBC/05/12/7/2016

CONSIDERATION OF AN INDICATIVE
PROGRAMME OF EVENTS

The Joint Committee considered the Indicative Programme of Events and approved the same with amendments to the effect that-

- (a) between 4th and 5th August, 2016, the Secretariat would prepare the draft Report and draft Bill or Bills;
- (b) between 6th to 9th August, 2016, the Committee would hold a Retreat to consider the draft Report and draft Bill or Bills and to adopt the same.

MIN.NO. JPSC/IEBC/06/12/7/2016

PREPARATORY RETREAT

The Joint Committee deliberated on the need to hold a one- day retreat to consider the following matters-

- (a) a work-plan for the Joint Committee;
- (b) rules of procedure for the Joint Committee;
- (c) development of issues and questions for the public hearings and for consideration by the Committee;
- (d) scope of public participation and stakeholders engagement; and,
- (e) preparation of a framework for public hearings.

It was resolved that a one-day preparatory retreat be organized for Friday, 15th July, 2016 within Nairobi to consider the above issues.

MIN.NO. JPSC/IEBC/07/12/7/2016

ANY OTHER BUSINESS

(a) Communication

Members deliberated on this matter and resolved that the Co-Chairpersons would be the spokespersons of the Committee and would jointly issue a press statement at the end of each meeting of the Committee.

(b) Petition for the Removal of Independent Electoral and Boundaries Commission and Bills for Amendment of Election Laws

The meeting deliberated on the matter of the Petition for the removal of the Independent Electoral and Boundaries Commission that was before the Departmental Committee on Justice and Legal Affairs of the National Assembly. Concerns were raised that consideration of the Petition by the Committee would interfere with the execution of the mandate of the Joint Committee and that the two Committees of Parliament could be operating at cross purposes. Similar concerns were also raised on the Bills for Amendment of Election Laws that were before the National Assembly. Some Members proposed that the Bills be pended to allow the Joint Committee to conclude its work.

Members resolved that the Co-Chairpersons engage the Speakers of the two Houses of Parliament on these issues before the Retreat. It was further resolved that the Speakers of the two Houses of Parliament and the Leadership of the Houses be invited to the Retreat scheduled for Friday, 15th July, 2016.

MIN.NO. JPSC/TEBC/08/12/7/2016

ADJOURNMENT AND DATE OF NEXT
MEETING

The meeting was adjourned at 1.30 p.m. The next meeting shall be held on Wednesday, 13th July, 2016 at 11.00 a.m.

Signed.....

Sen. James Orengo, EGH, MP
CO-CHAIRMAN

Date... 16th August 2016

Signed.....

Sen. Kiraitu Murungi, EGH, MP
CO-CHAIRMAN

Date... 16/8/16

MINUTES OF THE SECOND SITTING OF THE JOINT PARLIAMENTARY
SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON
WEDNESDAY, 13TH JULY, 2016 IN THE COMMITTEE ROOM NO. 07, MAIN
PARLIAMENT, PARLIAMENT BUILDINGS, AT 11.10 A.M.

1. Sen. James Orengo, EGH, MP	- Co-Chairperson
2. Sen. Kiraitu Murungi, EGH, MP	- Co-Chairperson
3. Sen. Kipchumba Murkomen, MP	- Member
4. Sen. Beatrice Elachi, CBS, MP	- Member
5. Sen. Johnson Muthama, MP	- Member
6. Sen. (Dr.) Boni Khalwale, MBS, MP	- Member
7. Sen. Mutula Kilonzo Jnr, MP	- Member
8. Hon. (Dr.) Naomi Shaban, EGH, MP	- Member
9. Hon. (Eng.) Mohamed M. Mahamud CBS, MP	- Member
10. Hon. (Dr.) Eseli Simiyu, CBS, MP	- Member
11. Hon. Moses Kuria, HSC, MP	- Member
12. Hon. Junet Mohamed, MP	- Member
13. Hon. Mishu Mboko, MP	- Member

Hon. Jimmy Angwenyi, MP - Member

1. Ms. Eunice Gichangi
2. Ms. Florence Atenyo-Abonyo
3. Mr. Njenga Njuguna
4. Mr. Boniface Lenairoshi
5. Mr. John Mutega
6. Mr. Ahmed Odhwa
7. Mr. Solomon M. Liria
8. Major (Rtd.) Reuben Kimosop
9. Ms. Kavata Musyoka

- Director, Legal Services, Senate
- Director, Committees Services, N/A
- Director, Committees Services, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant II, Senate

10. Mr. Ronald Walala
11. Ms. Judy Ndegwa
12. Ms. Mary Luka Lemerelle
13. Ms. Noelle Chelagat
14. Ms. Fiona Musili

- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer

MIN.NO. JPSC/IEBC/09/13/7/2016 **PRELIMINARIES**

The meeting was called to order at 11.10 a.m. and commenced with a word of prayer.

MIN.NO. JPSC/IEBC/10/13/7/2016 **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after being proposed by Hon. Mishu Mboko, MP and seconded by Sen. Beatrice Elachi, MP.

MIN.NO. JPSC/IEBC/11/13/7/2016 **CONFIRMATION OF PREVIOUS MINUTES
OF THE FIRST MEETING HELD ON 12TH
JULY, 2016**

The minutes of the First sitting of the Joint Committee held on 12th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Eng.) Mohamed Maalim Mahamud, MP and seconded by Sen. Mutula Kilonzo Jnr., MP.

MIN.NO. JPSC/IEBC/12/13/7/2016 **MATTERS ARISING**

Under MIN.No.JPSC/IEBC/04/12/7/2016(c): it was reported that the Sub-Committee working on the role of the joint rapporteurs and engagement of experts met and would be making a presentation at the meeting as the matter was a substantive agenda item for the meeting.

Under MIN.No.JPSC/IEBC/04/12/7/2016(d): it was reported that a draft framework for public participation had been prepared and would be presented to the Joint Committee at the retreat scheduled for Friday, 15th July, 2016.

Under MIN.No.JPSC/IEBC/04/12/7/2016(e): it was reported that Rules of Procedure for the Joint Committee had been prepared and would be considered at the retreat scheduled for Friday, 15th July, 2016.

Under MIN.No.JPSC/IEBC/06/12/7/2016: the meeting was informed that preparations for the one-day retreat were on course and Members would be informed of the venue of the retreat once the procurement of the same was finalized.

Under MIN.No.JPSC/IEBC/07/12/7/2016(b): the meeting was informed that the two co-chairpersons had not yet met the Houses leadership but would be meeting them in due course.

The Joint Committee was taken through the Report of the Subcommittee on Engagement of Experts and Joint Rapporteurs and members noted that-

- (a) The Motion envisaged three types of Experts namely:
 - (i) Experts who might be engaged by the Joint Committee and be facilitated by the Parliamentary Service Commission;
 - (ii) Experts who might be engaged by each coalition separately and be facilitated by the respective Coalition; and
 - (iii) Experts who might be appearing at the public hearings either representing certain stakeholders or making their own submissions.
- (b) Members resolved that the Joint Committee may, with the approval of the Speakers of Parliament, engage such experts as it may deem necessary. The experts must bear the requisite qualifications to enable the Joint Committee interrogate the various Thematic Areas on furtherance of its mandate on a need to need basis and the competence and qualifications of these experts must accord to the thematic areas to be agreed upon;
- (c) Each coalition may engage experts to advise it during the proceedings of the Joint Committee. The participation of experts in the meeting shall be determined on a case by case basis;
- (d) The Joint Committee resolved that each coalition shall provide a rapporteur;
- (e) The terms of reference of the Joint Rapporteurs shall be to:
 - (i) transmit the daily summaries of the proceedings of the Joint Committee to their respective coalitions;
 - (ii) report to the plenary on general proceedings of the Joint Committee as the Co-Chairpersons may direct;
 - (iii) provide expert advice to their respective Co-chairpersons as may be needed; and
 - (iv) work with the secretariat in preparation of the report of the Joint Committee and any draft Bill(s).

The Joint Committee was taken through the proposed thematic areas and observed that the areas were a good starting point. The meeting agreed to consider the themes in details during the retreat scheduled for Friday, 15th July, 2016.

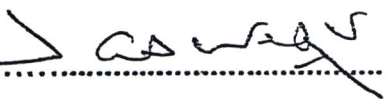
MIN.NO. JPSC/IEBC/15/13/7/2016 DRAFT PREPARATORY RETREAT
PROGRAMME

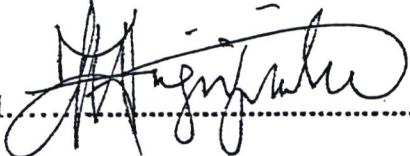
The Joint Committee deliberated on draft preparatory retreat programme and approved the same with amendment to the effect that the registration starts at 8.30a.m. and the opening remarks be made from 9.00a.m.

The Joint Committee resolved that the Speakers, Majority Leaders and Minority Leaders of the two Houses of Parliament be invited to the retreat.

MIN.NO. JPSC/IEBC/16/13/7/2016 ADJOURNMENT AND DATE OF NEXT
MEETING

And there being no other business, the meeting was adjourned at 1.15 p.m. Members would be notified of the next meeting.

Signed.....

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/08/2016.....

Date.....16/08/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE THIRD SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON FRIDAY, 15TH JULY, 2016 IN MT. KENYA CONFERENCE ROOM C, SAFARI PARK HOTEL, AT 10.18A.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 10. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 11. Hon. Moses Kuria, HSC, MP | - Member |
| 12. Hon. Mishi Mboko, MP | - Member |

APOLOGY

- | | |
|----------------------------|----------|
| 1. Hon. Jimmy Angwenyi, MP | - Member |
| 2. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Hon. Francis Nyenze, EGH, MP
2. Hon. Moses Wetangula, EGH, MP

IN ATTENDANCE

1. Mr. Apollo Mboya
2. Mr. James Mamboleo
3. Ms. Eunice Gichangi
4. Mr. Njenga Njuguna
5. Mr. Boniface Lenairoshi
6. Mr. John Mutega
7. Mr. Ahmed Odhwa

PARLIAMENTARY LEADERSHIP

- Minority Leader, National Assembly
- Minority Leader, Senate

PARLIAMENT

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition
- Director, Legal Services, Senate
- Director, Committees Services, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer

8. Mr. Solomon M. Liria
9. Maj. (Rtd.) Reuben Kimosop
10. Ms. Kavata Musyoka
11. Mr. Ronald Walala
12. Ms. Judy Ndegwa
13. Ms. Mary Luka Lemerelle
14. Ms. Noelle Chelagat
15. Ms. Fiona Musili

- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer III

MIN.NO. JPSC/IEBC/17/15/7/2016 PRELIMINARIES

The meeting was called to order at 10.18 am and commenced with a word of prayer by Sen. James Orengo.

Thereafter the two Joint Rapporteurs, Mr. Apollo Mboya, Joint Rapporteur, CORD Coalition and Mr. James Mamboleo, Joint Rapporteur, Jubilee Coalition were introduced to the Members.

A concern was raised with regard to the absence of some of the invited Leadership of Parliament at the Joint Retreat yet the Joint Committee needed the houses leadership to give guidance on the ongoing inquiry into the IEBC by the Departmental Committee on Justice and Legal Affairs with members noting that the presence of the Leaders at the Retreat was important more so in light of the matter of the ongoing inquiry into the IEBC by the Departmental Committee on Legal Affairs of the National Assembly and re-affirm support for the on-going work by the Joint Committee.

MIN.NO. JPSC/IEBC/18/15/7/2016 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted by consensus.

MIN.NO. JPSC/IEBC/19/15/7/2016 WELCOME REMARKS BY THE CO-CHAIRPERSONS OF THE JOINT COMMITTEE

In his welcome remarks, Sen. Orengo, Co-chairperson, took Members through the history of the establishment of the Committee and reminded Members that the Motion for the establishment of the Committee had been carefully negotiated so as to ensure that the Committee delivered sound mechanisms and a legal framework that would facilitate free and fair elections in 2017. He stated that it was critical that the Joint Committee delivers on its mandate more so noting previous experiences with elections that had resulted in violence.

Sen. Kiraitu, Co-chair, stated that one of the reasons the Committee had been constituted was due to the public outcry. He further reiterated on the centrality of free and fair elections to peace and security. He emphasized on the need to commit to ensuring the success of the Committee so as to ensure that the electoral laws and systems were in place to guarantee free and fair elections in 2017 and beyond. He emphasized on the need for teamwork and non-partisanship in the workings of the Joint Committee in light of the heavy responsibility on the Committee and the tight schedule.

MIN.NO. JPSC/IEBC/20/15/7/2016

REMARKS BY THE SENATE DEPUTY
MAJORITY LEADER

On behalf of the Senate Majority Leader, Sen. Murkomen, Senate Deputy Majority Leader, stated that the processes leading to the establishment of the Joint Committee were negotiated. The intended outcome was to determine solutions to the concerns raised by members of the public on the ability of IEBC to deliver free and fair elections and to interrogate the existing legal framework on the electoral processes and their ability to facilitate free and fair elections.

With regard to the ongoing processes before the Departmental Committee on Justice and Legal Affairs, Sen. Murkomen stated that the leadership of Senate was in active consultation to ensure that the work of the Joint Committee, which was a negotiated process, was not going to be undermined by any other processes in the National Assembly or elsewhere.

MIN.NO. JPSC/IEBC/21/15/7/2016

REMARKS BY THE NATIONAL ASSEMBLY
MINORITY LEADER

Hon. Francis Nyenze, the National Assembly Minority Leader commenced by congratulating the Members for their nomination and appointment to the Joint Committee. He stated that the Joint Committee was accountable to the public if the process failed. The Members had been appointed by their respective Coalitions due to the rich wealth of information and knowledge they had to see the process through. He stated that peace was critical and that the effects of the post-election violence were not an occurrence that anyone wished to experience again. He reiterated the support of the National Assembly leadership towards the process and encouraged the Joint Committee to conduct wide consultations with stakeholders.

MIN.NO. JPSC/IEBC/22/15/7/2016

REMARKS BY THE NATIONAL ASSEMBLY
DEPUTY MAJORITY LEADER

Hon. Naomi Shaban, the National Assembly Deputy Majority Leader made remarks on behalf of the National Assembly Majority Leader. She emphasized that it was critical to remember the path that Kenyans walked, in particular during the 2008 post-election violence. She noted that Kenyans had suffered immensely during the post-election violence and that it had been the worst time in Kenya's history. She therefore urged that it was critical to do everything possible to avoid the said occurrences. She stated that political will to the process was critical and that any leader should desist from making any statements in public that might be seen to cause divisions among Kenyans.

MIN.NO. JPSC/IEBC/23/15/7/2016

REMARKS BY THE SENATE MINORITY
LEADER

Sen. Moses Wetangula, the Leader of Minority in the Senate, noted that the Joint Committee was a formidable team, and that the members should work together as a team. He further noted that in other countries where electoral processes failed, the failure led to rebellion and generated into costly consequences.

He informed members that during the negotiation processes to establish a Joint Committee on IEBC, one of the key and cardinal issues was that any other processes that were ongoing to reform IEBC must be stopped to facilitate the Joint Committee to deliver on its mandate. He therefore urged that JLAC terminates its proceedings and gives the Joint Committee an

opportunity to conduct the inquiry into IEBC. He reiterated the support of the CORD Coalition and its principals to the process.

MIN.NO. JPSC/IEBC/25/15/7/2016

ADJOURNMENT AND DATE OF NEXT
MEETING

There being no further business, the meeting was adjourned at 11.20 a.m.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....

16/08/2016

Signed.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....

16/08/2016

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE FOURTH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON FRIDAY, 15TH JULY, 2016 IN MT. KENYA CONFERENCE, ROOM C, SAFARI PARK HOTEL, AT 11.44 A.M

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 10. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 11. Hon. Moses Kuria, HSC, MP | - Member |
| 12. Hon. Mishi Mboko, MP | - Member |
| 13. Hon. Junet Mohamed, MP | - Member |

APOLOGY

- | | |
|-------------------------|----------|
| Hon. Jimmy Angwenyi, MP | - Member |
|-------------------------|----------|

IN ATTENDANCE

- Rt. Hon. Sen. Ekwee Ethuro, EBS, EGH

PARLIAMENTARY LEADERSHIP

- Speaker of the Senate

IN ATTENDANCE

1. Mr. Apollo Mboya
2. Mr. James Mamboleo

JOINT RAPPORTEUR

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

3. Ms. Eunice Gichangi
4. Mr. Njenga Njuguna
5. Mr. Boniface Lenairoshi
6. Mr. John Mutega
7. Mr. Ahmed Odhwa
8. Mr. Solomon M. Liria
9. Maj. (Rtd.) Reuben Kimosop
10. Ms. Kavata Musyoka
11. Mr. Ronald Walala

- Director, Legal Services, Senate
- Director, Committees Services, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant II, Senate
- Legal Counsel II, N/A

- | | |
|-----------------------------|----------------------------|
| 12. Ms. Judy Ndegwa | - Legal Counsel II, Senate |
| 13. Ms. Mary Luka Lemerelle | - Clerk Assistant III, N/A |
| 14. Ms. Noelle Chelagat | - Media Relations Officer |
| 15. Ms. Fiona Musili | - Research Officer |

MIN.NO. JPSC/IEBC/26/15/7/2016 PRELIMINARIES

The meeting was called to order at 11.44 am by Sen. Kiraitu, Co-chair.

MIN.NO. JPSC/IEBC/27/15/7/2016 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted by consensus

MIN.NO. JPSC/IEBC/28/15/7/2016 CONSIDERATION OF RULES OF PROCEDURE FOR THE JOINT COMMITTEE

The Secretariat took members through the Rules of Procedure which were adopted, subject to the following amendments-

- (a) That the interpretation of the terms "expert" and "rapporteur" be provided;
- (b) That decisions of the Committee be made by consensus or by two-thirds of the total membership of the Joint Committee;
- (c) That time be allocated for receipt of oral views from the public; and
- (d) That views be received by the Committee at one central location in Nairobi.

Members further observed the need to-

- (a) Guide the members of public on the structure of making written submissions;
- (b) Facilitate persons with disabilities both in form of access to information and access to the venue;
- (c) Distinguish and separate Memoranda on allegations and those on the other thematic areas.
- (d) Distinguish between allegations against the Commissioners and the Secretariat.

It was resolved that the Rules of Procedure as adopted be presented to the Members at the next meeting of the Committee.

MIN.NO. JPSC/IEBC/29/15/7/2016 ADOPTION OF A WORK PLAN FOR THE JOINT COMMITTEE

The Secretariat took Members through the revised Work Plan. The following observations were made-

- (a) Before the public hearings, the Joint Committee shall hold preparatory meetings and go through any Memoranda received;
- (b) It was noted that there was need to start engaging stakeholders and reviewing any existing documents as soon as possible;
- (c) The public required a seven days' notice to make submissions.
- (d) The Joint Committee should start reviewing the existing legal and policy issues.
- (e) The IEBC will be invited to respond to any allegations after the Committee received them from the public.

MIN.NO. JPSC/IEBC/30/15/7/2016 CONSIDERATION OF KEY THEMATIC AREAS AND DEVELOPMENT OF ISSUES AND QUESTIONS FOR PUBLIC HEARING

The Committee instructed the Secretariat to commence research on the thematic areas, as adopted.

Sen. Orengo further presented a proposal on the thematic areas from CORD for consideration by the Joint Committee. Members resolved that the proposal be used to enrich the document on thematic areas as adopted by the Committee.

Members further resolved to establish Sub-committees to consider the thematic areas.

MIN.NO. JPSC/IEBC/31/15/7/2016 **IDENTIFICATION OF STAKEHOLDERS FOR STAKEHOLDERS ENGAGEMENT**

The list of stakeholders was presented to the Joint Committee and it was resolved that meetings with the stakeholders involved in the negotiation process commence on 18th July, 2016.

MIN.NO. JPSC/IEBC/32/15/7/2016 **PREPARATION OF FRAMEWORK FOR PUBLIC HEARINGS**

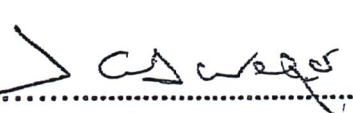
The Secretariat was advised to review the framework of public hearings and present it at the next meeting.

MIN.NO. JPSC/IEBC/33/15/7/2016 **REMARKS BY THE SPEAKER OF THE SENATE**

The Speaker of the Senate congratulated the Members of the Committee for their election and nomination to the Committee and went on to state that it was critical for the Joint Committee to show solidarity for the work of the Committee. He observed that as was tradition for Parliament the provide solutions during times of conflict in the country, Parliament must rise and provide leadership on this matter as well. He emphasized that the outcome of the process would demonstrate to the public that Parliament was an institution that provided solutions to problems and issues facing the country. With regard to the ongoing process by the Justice and Legal Affairs Committee, the Speaker undertook to ensure that the matter was resolved and did not interfere with the work of the Joint Committee.

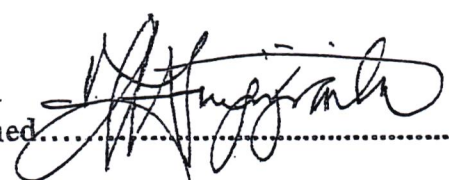
MIN.NO. JPSC/IEBC/34/15/7/2016 **ADJOURNMENT AND DATE OF NEXT MEETING**

There being no further business, the meeting was adjourned at 14.23 pm and the date for the next meeting was scheduled for Monday, 18th July, 2016.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/08/2016.....

Signed.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/08/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE FIFTH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON MONDAY, 18TH JULY, 2016 IN SENATE CHAMBER, PARLIAMENT BUILDINGS, AT 10.30 A.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 7. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. (Dr.) David Eseli Simiyu, CBS, MP | - Member |
| 10. Hon. Moses Kuria, HSC, MP, | - Member |
| 11. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 12. Hon. Mishi Mboko, MP | - Member |
| 13. Hon. Junet Mohamed, MP | - Member |

APOLOGY

- | | |
|-------------------------|----------|
| Hon. Jimmy Angwenyi, MP | - Member |
|-------------------------|----------|

IN ATTENDANCE

1. Rev. Canon Peter Karanja
2. Bishop Alfred Rotich
3. Mr. Adan Wachu
4. Mr. Joseph M. Kilioba
5. Most Rev. Jackson Ole Sapit
6. Rev. (Dr.) Julius Karanja Kimani
7. Mr. Martin Omwange
8. Mr. Papoi Gregory
9. Dr. Nelson Makanda
10. Rev. Joseph Ntombura
11. Fr. Charles Odira
12. Bishop Joseph Obanyi
13. Mr. Joseph Ng'etich
14. Mr. Hussein Shariff Omar

INTER-RELIGIOUS FORUM

- | |
|---|
| - General Secretary, NCCK |
| - Kenya Conference of Catholic Bishops (KCCB) |
| - Supreme Council of Kenya Muslims (SUPKEM) |
| - PEFA/NCCK |
| - NCCK |
| - NCCK |
| - NCCK |
| - NCCK |
| - NCCK |
| - NCCK |
| - KCCB |
| - NCCK |
| - NCCK |
| - SUPKEM |

15. Mr. Latiff Shaban
16. Mr. Abdalla M. Kamwana
17. Mr. Ochieng M. Khairalla
18. Mr. Henry Njagi

- SUPKEM
- SUPKEM
- NCKK
- NCKK

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

JOINT RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Ms. Florence Abonyo
3. Mr. Njenga Njuguna
4. Mr. Boniface Lenairoshi
5. Mr. John Mutega
6. Mr. Ahmed H. Odhwa
7. Mr. Solomon M. Liria
8. Maj. (Rtd.) Reuben Kimosop
9. Mr. Abenayo Wasike
10. Ms. Kavata Musyoka
11. Mr. Ronald Walala
12. Ms. Judy Ndegwa
13. Ms. Mary Luka Lemerelle
14. Ms. Noelle Chelagat
15. Ms. Clare J. Kidombo
16. Ms. Fiona Musili
17. Ms. Martha Ndukuyu

PARLIAMENT

- Director, Legal Services, Senate
- Director, Committees Services, N/A
- Director, Committees Services, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer
- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/35/18/7/2016 PRELIMINARIES

The meeting was called to order at 10.30 a.m. and commenced with a word of prayer from Co-Chairman, Sen. Kiraitu Murungi, MP.

Introductions of Members of the Joint Committee present and religious leaders representing the National Council of Churches of Kenya (NCKK), the Supreme Council of Kenya Muslims (SUPKEM) and the Kenya Conference of Catholic Bishops followed.

Co-chairman, Sen. James Orengo apprised the religious leaders on the mandate and terms of reference of the Committee.

MIN.NO. JPSC/IEBC/36/18/7/2016 PUBLIC HEARINGS/ SUBMISSIONS

Upon invitation of Sen. Kiraitu Murungi, Co-Chairman, Bishop Alfred Rotich of the Kenya Conference of Catholic Bishops (KCCB) made submissions on behalf of the KCCB and NCKK to the Joint Committee and submitted their written Memorandum titled "*Response by KCCB and NCKK to the Invitation by the Joint Parliamentary Select Committee with Regard to the Independent Electoral and Boundaries Commission*".

Mr. Adan Wachu, on behalf of SUPKEM, associated himself with the submissions made by KCCB and NCKK and informed the meeting that they were part of the Multi-Sectoral Forum that was scheduled to hold a meeting on 19th and 20th July, 2016. The Multi-Sectoral Forum would present a joint Memorandum after its meeting.

Rev. Canon Peter Karanja, on behalf of the NCKK, underscored the importance of a free and fair electoral process as being key to peace and stability. He informed the Joint Committee that some of the IEBC Commissioners had indicated that were willing to vacate office if an agreeable exit plan was in place.

Members thanked the religious leaders for their submissions and their role in the negotiations leading to the establishment of the Joint Committee. The following issues were raised in deliberations-

- (a) the religious leaders were urged to focus on and align the discussions at the meeting of the Multi-Sectoral Forum to the mandate of the Committee as set out in the Motion establishing the Committee as well as the thematic areas identified by the Committee;
- (b) Members urged the religious leaders to ensure that the recommendations from the Multi-Sectoral Forum were practical and implementable and that where possible, the Forum presents proposals for legislative reform in form of draft Bills; and,
- (c) On the matter of the Petition pending before the National Assembly's Departmental Committee on Justice and Legal Affairs, Members requested the religious leaders to reach out to the Chairperson and Members of the Committee so as to ensure that the work and the mandate of the Joint Committee were not compromised. The religious leaders informed the Members that they were already in communication with the Chairman of the Committee and would be holding consultations with the Committee on the matter.

The religious leaders informed the Committee that they would present further submissions to the Committee after the conclusion of the Multi-Sectoral Forum and further undertook to ensure that the deliberations at the Forum were aligned to the thematic areas identified by the Committee.

The Co-chairpersons undertook to attend the opening session of the meeting of the Multi-Sectoral Forum on 19th July, 2016.

MIN.NO. JPSC/IEBC/37/18/7/2016

ADJOURNMENT AND DATE OF NEXT MEETING

There being no further business, the meeting was adjourned at 12.40 pm, to re-convene at 2.00 p.m. on the same day.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....

16/07/2016

Signed.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....

16/07/2016

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE SIXTH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON MONDAY, 18TH JULY, 2016 IN THE SENATE CHAMBER, PARLIAMENT BUILDINGS, AT 2.30 P.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP | - Member |
| 4. Sen. Johnson Muthama, MP | - Member |
| 5. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 6. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 7. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 8. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 9. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 10. Hon. Moses Kuria, HSC, MP | - Member |
| 11. Hon. Mishi Mboko, MP | - Member |
| 12. Hon. Junet Mohamed, MP | - Member |

APOLOGY

- | | |
|--------------------------------|----------|
| 1. Sen. Kipchumba Murkomen, MP | - Member |
| 2. Hon. Jimmy Angwenyi, MP | - Member |

IN ATTENDANCE

1. Bishop David Oginde
2. Mr. Ombaka Vincent
3. Mr. John Warari Wakabu
4. Mrs. Connie W. Kivuti
5. Mr. N. S. Roopra
6. Mr. Kamal Gupta
7. Mr. N. S. Roopra
8. Mr. Nitin Malde
9. Mr. Suryankant Challa

INTER-RELIGIOUS FORUM

- | |
|---------------------------------------|
| - Evangelical Alliance of Kenya (EAK) |
| - EAK |
| - EAK |
| - EAK |
| - Hindu Council |
| - Hindu Council |
| - Hindu Council |
| - Hindu Council |
| - Hindu Council |

IN ATTENDANCE

Mr. George N. Gathuka

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

- IEBC

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Njenga Njuguna
3. Mr. Boniface Lenairoshi
4. Mr. John Mutega
5. Mr. Ahmed H. Odhwa
6. Mr. Solomon M. Liria
7. Maj. (Rtd.) Reuben Kimosop
8. Mr. Abenayo Wasike
9. Ms. Kavata Musyoka
10. Mr. Ronald Walala
11. Ms. Judy Ndegwa
12. Ms. Mary Luka Lemerelle
13. Ms. Noelle Chelagat
14. Ms. Clare J. Kidombo
15. Ms. Fiona Musili
16. Ms. Martha Ndukuyu

PARLIAMENT

- Director, Legal Services, Senate
- Director, Committees Services, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer
- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/38/18/7/2016

PRELIMINARIES

The meeting was called to order at 2.30 p.m. and commenced with a word of prayer by Sen. James Orengo, Co-chairperson.

Introductions of the Members of the Joint Committee present and representatives of the Hindu Council and the Evangelical Alliance of Kenya (EAK) followed.

Sen. Kiraitu Murungi, Co-chairperson, apprised the religious leaders on the mandate and terms of reference of the Committee as contained in the Motion establishing the Joint Committee.

MIN.NO. JPSC/IEBC/39/18/7/2016

PUBLIC HEARINGS/ SUBMISSIONS

Upon invitation by Sen. James Orengo, Bishop David Oginde made submissions on behalf of the Evangelical Alliance of Kenya (EAK) to the Joint Committee and highlighted their written Memorandum titled "*Memorandum to the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commission*" dated 18th July, 2016".

In their submissions, the Evangelical Alliance of Kenya submitted as follows-

1. In thematic area 1 EAK submitted that-

- (a) on the issue of integrity on IEBC Commissioners, EAK held the view that, some IEBC officials might have received bribes from Messrs Christopher Smith and Nicholas Smith of Smith and Ouzman Limited which supplied election materials during the 2013 general elections since the two have been convicted on account of giving bribes; and

- (b) Despite there being no allegations proved against the IEBC Commissioners, they had lost their credibility, more so with the management of the 2013 General Elections caused by the failure of BVR Kits without any reasonable explanation.

2. In thematic area 2 EAK submitted that-

- (a) though the provided for procedure for the removal of the IEBC is the one stipulated under Article 251 of the Constitution of Kenya, EAK held the view that, in light of the prevailing circumstance, the tribunal process would be time consuming. In light of the prevailing public circumstances, there should be a dignified negotiated political exit for all the IEBC Commissioners and investigation of the alleged impropriety on the affected individual Commissioner follows.
- (b) on part of the IEBC Secretariat, EAK submitted that, the senior management should be subjected to vetting and those found culpable be relieved of their duties.

3. In thematic area 3 EAK submitted that-

- (a) a new IEBC should be put in place at least ten months to the elections to enable them prepare;
- (b) with regard to composition of the new IEBC, EAK recommended that the new IEBC should be comprised of seven (7) Commissioners appointed as follows:
- three (3) persons appointed by the main political parties through a competitive process;
 - three (3) persons appointed by the religious bodies in Kenya through a competitive process; and
 - one (1) persons appointed by the civil society organizations in Kenya through a competitive process.
- (c) the terms of office of the IEBC Commissioners should remain the same and be made in such a way that their terms end on a rotational basis to safeguard institutional memory; and
- (d) the Chairperson should have a professional rather than political background as observed by the Kriegler Commission.

4. In thematic area 4, EAK submitted that:

- (a) Registration of persons should be done in school once a student completes form four, to enable all eligible persons to vote;
- (b) Development of a single identification document to be used for all purposes, i.e as an ID and in voting;
- (c) The voting process should be digitalized so that Kenyans are allowed to vote for their preferred candidates from anywhere in the country. This will increase transparency in elections;
- (d) IEBC should use of census to verify registration statistics;
- (e) Voter education be prioritized and conducted in collaboration with existing community, religious and social organizations;
- (f) IEBC should be funded to develop nomination guidelines and oversee the political party nominations in order to ensure transparency in the process;
- (g) There should be equitable access to resources during campaigns and political party agents should be restricted from making political pronouncements on behalf of political parties outside Parliament and political party meetings;

- (h) There should be a strict campaign funding policy with provisions to limit the finds and to require disclosure of the source of funds. This will increase transparency in campaign funding;
- (i) In order to create confidence in the use of ICT in elections, there should be training and testing of technology for use in elections. Additionally, IEBC should be prepared to revert to manual in the event that technology fails during an election;
- (j) Allocation of special seats be done before elections;
- (k) Community groups as well as ICT agents for different political parties be allowed to observe elections; and
- (l) The 14 days provided under Article 140(2) the Constitution for the Supreme Court to hear and determine a Petition challenging the election of the President-Elect should be extended from 14 to 21 days.

The Hindu Council informed the meeting that they were part of the Multi-Sectoral Forum (MSF) spearheaded by the inter-religious leaders and that their views would be incorporated in the comprehensive MSF's submission. They however emphasized the need for a well-managed election as an instrument that can guarantee peace and stability. They further asserted that appointment of IEBC Commissioners should be based on merit.

Members appreciated the submissions made by the EAK and the Hindu Council. Members however urged the EAK to consider further the matter of the composition of the IEBC and the involvement of political parties in the appointment processes. The EAK and Hindu Council were urged to align their submissions along the four (4) Thematic Areas set out by the Joint Committee.

The EAK informed the Members that the submission made was preliminary and that EAK would be filing a substantive submission through the MSF platform at a later date.

MIN.NO. JPSC/IEBC/40/18/7/2016

ANY OTHER BUSINESS

Media Coverage

Members resolved that the secretariat would prepare Press Briefs after the meetings of the Committee for the media.

MIN.NO. JPSC/IEBC/41/18/7/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 4.45 p.m. until Tuesday, 19th July, 2016 at 10.00 a.m.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date..... 16/8/2016

Signed.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date..... 16/8/2016

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

**MINUTES OF THE SEVENTH SITTING OF THE JOINT PARLIAMENTARY
SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON TUESDAY, 19TH
JULY, 2016 IN THE SENATE CHAMBER, PARLIAMENT BUILDINGS, AT 11.00 A.M.**

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP | - Member |
| 4. Sen. Kipchumba Murkomen, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 10. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 11. Hon. Moses Kuria, HSC, MP | - Member |
| 12. Hon. Mishi Mboko, MP | - Member |
| 13. Hon. Junet Mohamed, MP | - Member |

APOLOGY

- | | |
|-------------------------|----------|
| Hon. Jimmy Angwenyi, MP | - Member |
|-------------------------|----------|

IN ATTENDANCE

1. Mr. Patrick Obath
2. Mr. Samuel Mwale
3. Ms. Carole Kariuki
4. Mr. Keli Kiilu
5. Mr. Walter O. Ookek
6. Ms. Esther Muigai

**KENYA PRIVATE SECTOR ALLIANCE
(KEPSA)/MKENYA DAIMA**

- KEPSA/Mkenya Daima
- KEPSA/Mkenya Daima
- KEPSA/Mkenya Daima
- KEPSA/Mkenya Daima
- KEPSA/Mkenya Daima
- KEPSA/Mkenya Daima

IN ATTENDANCE

1. Mr. Samwel Mohochi
2. Ms. Elsy Saina
3. Ms. Anne Nderi
4. Mr. Victor Odhiambo
5. Mr. Edgar Kavulavu

**INTERNATIONAL COMMISSION
OF JURISTS (ICJ- KENYA)**

- Executive Director
- Deputy Executive Director, ICJ
- Programme Officer, ICJ
- ICJ- Kenya
- ICJ – Kenya

IN ATTENDANCE

Mr. Felix Odhiambo

IN ATTENDANCE

Mr. George N. Gathuka

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Njenga Njuguna
3. Mr. John Mutega
4. Mr. Ahmed H. Odhwa
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Ms. Kavata Musyoka
8. Mr. Ronald Walala
9. Ms. Judy Ndegwa
10. Ms. Noelle Chelagat
11. Ms. Clare J. Kidombo
12. Ms. Fiona Musili
13. Ms. Martha Ndukuyu

ELECTORAL INSTITUTE FOR SUSTAINABLE DEMOCRACY IN AFRICA - EISA

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION - IEBC

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

PARLIAMENT

- Director, Legal Services, Senate
- Director, Committees Services, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Media Relations Officer
- Research Officer
- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/42/19/7/2016 PRELIMINARIES

The meeting was called to order at 11.30 am and commenced with a word of prayer from Sen. Kiraitu Murungi, Co-chairperson.

Introductions of the Members of the Committee present and representatives of the Kenya Private Sector Alliance (KEPSA)/Mkenya Daima, the International Commission of Jurists (ICJ- Kenya) and the Electoral Institute for Sustainable Democracy in Africa (EISA) ensued.

MIN.NO. JPSC/IEBC/43/19/7/2016 PUBLIC HEARINGS/ SUBMISSIONS

A. Kenya Private Sector Alliance (KEPSA)/Mkenya Daima

Upon invitation by Sen. Kiraitu Murungi, Co-chairperson, Mr. Patrick Obath made submissions on behalf of the Kenya Private Sector Alliance (KEPSA) /Mkenya Daima highlighting their written Memorandum titled "*Mkenya Daima's Presentation to the Public Hearing of the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commission on Tuesday 19th July, 2016 at the Mini Chamber, First Floor, County Hall, Parliament Buildings, Nairobi, between 10.00am and 12.00Noon*".

KEPSA/Mkenya Daima submitted-

1. On thematic area 1 that-
 - (a) The selection process should ensure that the IEBC Commissioners are completely free from interference; and
 - (b) IEBC Commissioners should be nominated from non-state actors such as the business community, civil society and faith based organisations at a 60/40 ratio consisting of 2 from business community, 2 from faith based organisations, 2 from civil society and 4 from political parties according to majority.

2. On thematic area 3 that-
 - (a) IEBC should have a minimum 5 Commissioners, maximum 7 of outstanding character, exemplary leadership, track record and strategic decision making, to retire on a rotational basis, to ensure continuity;
 - (b) There should be regional balance in the appointment of IEBC commissioners to reduce potential of bias;
 - (c) The IEBC secretariat should remain lean and maintain a skeleton team of staff, and the bulk of the secretariat's role should be sub-contracted to independent entities that can hire, train and contract staff and hold them to account on the professional management of elections;
 - (d) The IEBC secretariat should consist of a professional center with a lean regional structure all characterized by personal integrity beyond reproach, non-partisanship and with knowledge, skill and experience aligned to the specific goal; and
 - (e) The IEBC secretariat should oversee a minimum of two and a maximum of three elections and at any given time, the top members of the secretariat should have the experience of overseeing at least one election.

3. On thematic area 4 that-
 - (a) Voter registration should be carried out alongside the registration of persons, where a person indicates the place where they want to vote. This will help in reducing the cost of double registration;
 - (b) Parliament should demand an annual report that includes number of persons by county and electoral ward eligible for National registration based on the latest official population statistics, number of people who have applied for registration, number of people registered during the year, number of ID cards that have been collected, and the specific measures by the National Registration Bureau to improve coverage of registration and collection of ID Cards;
 - (c) Voter education should be an integral part of civic education and delivered as part of social investment by media and Civil Society Organisation. They also proposed that there be set up peace committees in all constituencies to help mediate peace in the warring communities;
 - (d) A substantive Registrar of Political Parties be appointed in order to strengthen the management of political parties and enforcement of the Political Parties Act. This will help avoid sham nominations which undermine the overall integrity of the process;
 - (e) Training and guidelines be provided for the stakeholders in campaign management;
 - (f) There should be transparency in campaign financing with a disclosure as to the source of campaign funds;
 - (g) Databases for the national registration of persons and voter registration be integrated;

- (h) Mobile CCTV be installed at the entrance of every polling station which will be supported by the electrification of schools which are the polling stations.
- (i) The ballot boxes be fitted with electronic counters and scanners;
- (j) Procure services of an independent assurance party to assist validation of the results before they are announced;
- (k) Any candidate or party cited by IEBC and independent observers as having interfered with or disrupted voting and or counting, should face severe penalties, including being banned from political or state office for life;
- (l) Political Parties should be free to maintain their own tallying centers but prohibited from announcing any results;
- (m) Allocation of special seats should be done equally among the various stakeholders;
- (n) There should be a framework for the accreditation of other observers and monitors, with specific provisions to manage the conduct or public pronouncement of such observers;
- (o) The process from voter registration to post election review should be seamless.
- (p) Mechanisms should be provided for the coordination, collaboration and sharing of results by the different observer missions;
- (q) Dispute Resolution should be based primarily on the evidence obtained throughout the process, from bias or deliberate disenfranchisement in voter registration, counting and tallying of results, and ultimately, declaration of the wrong winner;
- (r) Resolution of disputes be insulated from unnecessary interference. This can be done by providing the Political Parties Tribunal with sufficient resources and capacity to address disputes arising from political nominations; and
- (s) Sufficient time be provided for dispute resolution from party nominations and most punitive consequences imposed on any person or political party that interferes with such dispute resolution.

B. International Commission of Jurists (ICJ)

Upon invitation by Sen. Kiraitu Murungi, Co-chairperson, Mr. Samwel Mohochi, Executive Director, ICJ made submissions on behalf of the International Commission of Jurists to the Committee highlighting their written Memorandum titled *"Submissions on the Independent Electoral and Boundaries Commission and Electoral Process submitted to the Joint Parliamentary Select Committee of the National Assembly and Senate"*.

ICJ submitted-

1. In thematic area 1 that-

- (a) The failing voters register evidenced by discrepancies between the manual and electronic voter registers, might be an indication of lack of credibility on the part of the commission.
- (b) IEBC might not have taken reasonable measures to ensure that the mode of elections management adopted is efficient, cost effective and falls within the principles articulated under Article 81 of the Constitution. This affected their credibility.
- (c) IEBC failed to investigate some electoral malpractices and pre-election offences against some offenders. Its selective handling of disputes has failed to inspire confidence in the eyes of the public.

2. In thematic area 2 that-

- (a) The committee should seek the opinion of the Commissioners with offer from their end as to how best they can vacate office.
- (b) There should be a concrete counter proposals by the executive.
- (c) There should be a sober negotiation and arriving at a middle ground with sacrifices made by all leaders including the IEBC Commissioner and members.
- (d) The EACC should fast track investigations into the allegations of procurement of BVR equipment.

3. In thematic area 4 that-

- (a) Voter registration should be continuous and incorporate registration of Diaspora voters.
- (b) The technology adopted should be identified through a broadly consultative process and be based on equally broad consensus.
- (c) The technology must be tested and piloted well before a general election to avoid cases of failed technology during a general election.
- (d) Election managers must be properly trained on the use of technology adopted ahead of an election.
- (e) Election observation should be done as a continuous process before and after an election.
- (f) There should be a revision of the EDR Rules ahead of the 2017 elections.
- (g) The period of hearing the presidential election petitions be increased from 14 days to 21 days.
- (h) Article 88(4)(e) of the Constitution on the function of IEBC to hear disputes relating to pre-elections and nominations be amended to confer this to other dispute resolution agencies.

C. Electoral Institute for Sustainable Democracy in Africa (EISA)

Upon invitation by Sen. Kiraitu Murungi, Co-chairperson, Mr. Felix Odhiambo Owuor, on behalf of the Electoral Institute for Sustainable Democracy in Africa (EISA), made submissions to the Committee highlighting their written Memorandum titled "*Review of the Legal and Administrative Framework for Elections*".

EISA submitted-

1. On thematic area 3 that-

- (a) The IEBC Commissioners should be non-executive; and
- (b) Code of conduct for IEBC Commissioners and staff be reviewed to provide for establishment of Committees, their terms of reference and their accountability mechanisms.

2. On thematic area 4 that-

- (a) There should be a comprehensive framework for the implementation of voter registration for diaspora;
- (b) Section 2 of the Elections Act 2011 be amended by deleting the definition of the 'principal register of voters';
- (c) IEBC should shift to a new voter registration system that is more aligned to other citizen registration databases, particularly that related to the national ID card and,

- when implemented, to the proposed Integrated Population Registration System (IPRS);
- (d) The relevant provisions of the Elections Act and the relevant regulations be recast to align voter registration with election operations;
 - (e) The provisions on budget processes be recast to provide the mechanism for budget making by IEBC by providing among others, details on comprehensive planning, consultations with key stakeholders and publication of plans;
 - (f) Once a budget is approved by the commission it should be submitted to the Treasury and Parliament for adoption without variations.
 - (g) There be a strict mechanism for financial controls;
 - (h) The IEBC Commission should enact a policy for prudent financial management;
 - (i) IEBC procurement plans should be published and subjected to scrutiny by stakeholders;
 - (j) The IEBC (Fund) Regulations be revised to elaborate on the audit process, establishment of a commission level audit and compliance committee comprising at least two observers drawn from civil societies and the PPLC;
 - (k) Regulations on human resource management making specific provisions on appointment, disciplinary and termination of personnel, be developed, enacted and published;
 - (l) The EVIDs be replaced with more reliable and portable machines;
 - (m) There should be training on and testing of all electronic gadgets;
 - (n) There be provided adequate time for procurement at IEBC;
 - (o) IEBC should take the initiative to fully own the process, develop comprehensive specification and develop a reliable system, engage political parties and other actors during the entire process, allow adequate window for planning, testing, training and deployment;
 - (p) Use of technology must be aligned to the legal procedures governing key aspects of election;
 - (q) Regulations 76, 77 and 78 of the Elections (General) Regulations 2012 be amended to provide conclusive determination of ballots at polling stations, and amend the relevant electoral forms in line with this;
 - (r) Regulation 80 be recast to provide for automatic recount at the motion of the Presiding Officer where it is found that the ballots cast exceeds the number of voters in the principal register, or where there is 100% voter turnout, or where the difference between the two leading candidates is less than 1%;
 - (s) There be mandatory filling in of form 34 as required by the Regulations, and accounting and publication of results to be done at the county level.
 - (t) Regulations should be clear and specify the integration of technology in the transmission and tallying;
 - (u) There is need for legal reform including constitutional reform to harmonize jurisdictions over electoral disputes;
 - (v) Jurisdiction over party primaries be vested in the Political Parties Disputes Tribunal, and jurisdiction over disputes related to presentation of papers, be vested in the IEBC;
 - (w) Regulation 18 in the Electoral Code of Conduct be amended to redefine the time when it comes into force, to be at least two weeks to the date of political party

primaries and for purposes of referenda, at least two weeks to the date when the referendum question is to be gazzetted;

- (x) Section 76 of the Election Act be amended to align it with the corresponding timeframe for presidential petitions provided for in Article 140 of the Constitution;
- (y) The Court of Appeal should have the final appellate jurisdiction with respect to other elective offices except for the presidential elections and be alive to the implications of the appeal process especially in exercising its power to remit a matter back to the trial courts;
- (z) It should be clarified in the petition rules whether the determination of the allegations by the election court should extend to criminal trial;
- (aa) The provisions of the Petition Rules and the Elections Act with regard to scrutiny on application by the respondent should be harmonized;
- (bb) Time frame for resolution of presidential petition be revised to between 60 and 90 days; and
- (cc) Petition rules be revised to provide more consistency in determining the cost in election petitions.

Members appreciated the submissions made by KEPSA/Mkenya Daima, ICJ and EISA. Following discussions on the submissions received, the stakeholders undertook to present further Memoranda to the Joint Committee.

MIN.NO. JPSC/IEBC/44/19/7/2016 **ANY OTHER BUSINESS**

Petition before the Departmental Committee on Justice and Legal Affairs

The Co-chairpersons informed the meeting that that any proceedings relating to the Petition for the removal of the Commissioners of the Independent Electoral and Boundaries Commission that was before the Departmental Committee on Justice and Legal Affairs of the National Assembly would not interfere in any way with the mandate of the Joint Committee since the Joint Committee had a wider mandate.

MIN.NO. JPSC/IEBC/45/19/7/2016 **ADJOURNMENT AND DATE OF NEXT MEETING**

The meeting was adjourned at 1.50 pm, to re-convene at 3.00 pm the same day.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRPERSON

Date.....16/8/2016.....

Signed.....
SEN. KIRATI MURUNGI, EGH, MP
CO-CHAIRPERSON

Date.....16/8/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

**MINUTES OF THE EIGHTH SITTING OF THE JOINT PARLIAMENTARY
SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON TUESDAY,
19TH JULY, 2016 IN MINI CHAMBER, COUNTY HALL, PARLIAMENT
BUILDINGS, AT 3.00 P.M.**

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orenge, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP | - Member |
| 4. Sen. Kipchumba Murkomen, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 7. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Moses Kuria, HSC, MP | - Member |
| 10. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 11. Hon. Mishi Mboko, MP | - Member |
| 12. Hon. (Dr.) Eseli Simiyu, MP | - Member |
| 13. Hon. Junet Mohamed, MP | - Member |

APOLOGY

- | | |
|-------------------------|----------|
| Hon. Jimmy Angwenyi, MP | - Member |
|-------------------------|----------|

IN ATTENDANCE

1. Ms. Josephine Mongare
2. Ms. Kagwiria Mbogori
3. Ms. Patricia Nyaundi
4. Ms. Brenda Dora
5. Mr. Felix Odhiambo
6. Mr. Patrick Obath
7. Mr. Samwel Mohochi
8. Ms. Sandra Musoga Waswa
9. Mr. Achero David

STAKEHOLDERS

- Chairperson, Federation of Women Lawyers (FIDA)
- Chair, Kenya National Commission on Human Rights (KNCHR)
- KNCHR
- East Africa Commission on Human Rights
- Electoral Institute for Sustainable Democracy in Africa (EISA)
- Kenya Private Sector Alliance (KEPSA)/Mkenya Daima
- Executive Director, International Commission of Jurists (ICJ)
- Article 19 East Africa
- Article 19 East Africa

10. Ms. Roseline Odede
11. Mr. Shatikha Chivusia
12. Mr. George Morara
13. Mr. Dominic Kabiru
14. Ms. Anne Mary Okotoyi
15. Ms. Patience Nyange
16. Ms. Elsy Saina
17. Mr. Victor Odhiambo Akuom
18. Ms. Anne Nderi
19. Ms. Esther Muigai
20. Mr. Walter O. Ookek
21. Mr. Tirop Kitur
22. Mr. George N. Gathuka

- Federation of Women Lawyers
- Kenya National Commission on Human Rights
- Kenya National Commission on Human Rights
- Kenya National Commission on Human Rights
- Kenya National Commission on Human Rights
- Kenya National Commission on Human Rights
- International Commission of Jurists
- International Commission of Jurists
- International Commission of Jurists
- Kenya Private Sector Alliance/Mkenya Daima
- Kenya Private Sector Alliance/Mkenya Daima
- Information
- Independent Electoral and Boundaries Commission

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Ms. Florence Abonyo
3. Mr. Njenga Njuguna
4. Mr. John Mutega
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Noelle Chelagat
13. Ms. Clare J. Kidombo
14. Ms. Fiona Musili
15. Ms. Martha Ndukuyu

PARLIAMENT

- Director, Legal Services, Senate
- Director, Committees Services, N/A
- Director, Committees Services, Senate
- Principal Clerk Assistant II, N/A
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer
- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/46/19/7/2016

PRELIMINARIES

The meeting was called to order at 3.00 pm and commenced with a word of prayer by Sen. James Orengo, Co-chairperson.

Introductions of the Members of the Joint Committee present and stakeholders followed. Se. Orengo informed the meeting that the stakeholders who had pending presentations carried forward from the morning session would be the first to present.

MIN.NO. JPSC/IEBC/47/19/7/2016

PUBLIC HEARINGS/ SUBMISSIONS

1. Kenya Private Sector Alliance/Mkenya Daima

Mkenya Daima concluded their submission by stating that, the so called allegations against the IEBC Commissioners were not specific though there was lack of public trust on the Commissioners. They undertook to submit a comprehensive memorandum to the Committee.

2. International Commission on Jurists

The International Commission on Jurists recommended that there should be a negotiated exit of the IEBC Commissioners and the new Commission to be appointed should be lean and serve on a part time basis.

ICJ further recommended that IEBC Commissioners be reduced from 9 to 5. ICJ also recommended that there be a strong secretariat and lean Commission whose mandate is limited to policy and oversight.

3. Kenya National Commission on Human Rights (KNCHR)

Upon invitation by Sen. James Orengo, the Chairperson of the Kenya National Commission on Human Rights (KNCHR), Ms. Kagwiria Mbogori made submissions to the Joint Committee in terms of the Memorandum titled "*Memorandum on the Election Reforms in Kenya*". Among other issues, the KNCHR informed the Joint Committee that:-

- (a) They were cognizant of the fact that the public perception on the credibility, integrity and independence of the IEBC commissioners was a major threat to delivery of credible, free, and fair 2017 general elections;
- (b) The removal of IEBC Commissioners should be done within the law as stipulated under Article 251 of the Constitution;
- (c) There is public perception of unequal distribution on the issuance of Identification Cards, issues on voter registration and distributions of Biometric Voter Registration (BVR) kits;
- (d) IEBC should put in place measure to ensure prisoners register as voters and given opportunity to vote;
- (e) IEBC should be supported and facilitated to undertake comprehensive and timely voter education by providing adequate resources;
- (f) IEBC should work closely with Registrar of Political Parties to ensure compliance with the law by the political parties;
- (g) Allocation of special seats should be transparent, accountable and credible to avoid 2013 scenario where it alleged that it was marred with irregularities prompting key actors to seek recourse in the courts;
- (h) Parliament must immediately enact a mechanism to implement the two third-gender principle as part of the electoral reforms; and
- (i) Considering there was overlap between Political Parties Dispute Tribunal (PPDT), IEBC Dispute Resolution Tribunal and the Courts, the KNCHR proposed that all disputes emanating from political primaries should be handled PPDT.

4. Federation of Women Lawyers (FIDA)

Upon invitation by Sen. James Orengo, the Chairperson of the Federation of Women Lawyers-Kenya (FIDA), Ms. Josephine Mong'are made submissions to the Joint Committee in terms of the Memorandum titled "*Memorandum to the Joint Parliamentary Select Committee on Matters Related to the Independent Electoral and Boundaries Commission dated 19th July, 2016*". In their submissions, FIDA:

- (a) urged the Joint Committee to respect the outcome of the report of the Departmental Committee on Justice and Legal Affairs Committee on Petition on Removal IEBC.
- (b) supported the restructuring of the IEBC within the law and preservation of the dignity of the Commissioners.
- (c) recommended that, the term of the IEBC Commissioners should expire two years before the next general election to avoid a Commission that will handle more than one general election.
- (d) recommended that voters' registration should be linked with the issuance of national Identity Cards.
- (e) asserted that IEBC and the Registrar of political parties should be accorded real powers to enable them sanction and punish those involved in electoral malpractices.

5. Society for International Development

Upon invitation by Sen. James Orengo, the Society for International Development, made submissions to the Joint Committee in terms of the Memorandum titled "*Society for International Development Presentation by invitation before the Parliamentary Select Committee on Matters Related to the Independent Electoral and Boundaries Commission dated 19th July, 2016*".

The Society informed the Joint Committee that:

- (a) That the current IEBC Commissioners should be engaged to resign since the process provided for Article 251 of the Constitution requires a lengthy process and granted that the next general elections were twelve months away, the removing the Commissioners through a tribunal would plunge the country into a crisis.
- (b) In reconstituting the Commissioners and reforming the IEBC, there should be no party representation and no/or minimal disruption to the IEBC secretariat.
- (c) There should be enhanced synergy between IEBC and the Political Parties Dispute Resolutions Tribunal in dealing with party nominations.
- (d) There is need for the enactment of regulations on campaign financing.

6. Article 19

Upon invitation by Sen. James Orengo, Ms. Sandra Musoga and Mr. Achero David, on behalf Article 19, made submissions to the Joint Committee in terms of the Memorandum titled "*Article 19 Submission to the Joint Parliamentary Select Committee on Matters Relating IEBC*".

The Article 19 informed the Joint Committee that, replacing the IEBC Commissioners without reforming the Commission itself would be counter-productive and recommended

that only commissioners and the secretariat implicated in any corruption allegation should step aside. They alleged that, the electoral agency lacks of impartiality.

Article 19 further submitted:

1. On thematic area 1 that-
 - (a) Alleged failure of IEBC to carry out civil education on voter registration, discrepancies posted in commission's website with over 2500 Forms 34 missing the unwillingness of the Commission to provide comprehensive forensic audit report of the 2013 general elections with supporting materials such as complete forms 34, 35 and 36 and the issues raised about IEBC's financial accountability affect its credibility;
 - (b) The budget of IEBC is the highest in the continent;
 - (c) IEBC's competence and credibility is undermined by alleged failing voter register;
 - (d) Alleged discrepancies in the total number of registered voters show that IEBC is not ready to conduct forthcoming elections due to failure of by the Secretariat and Commissioners to fulfill their Constitutional mandates;
 - (e) In 2013 General Elections, IEBC allegedly did not take the necessary measures which raised questions with regard to the independence and credibility of the elections; and
 - (f) Credibility of IEBC has been undermined by the heavy mention of its commissioners in the chicken gate scandal.
2. On thematic area 3 that Article 19 proposed that a selection panel approved by Parliament to recruit Commissioners should be formed.
3. On Thematic Area 4 that-
 - (a) Voter registration, registration of persons and death registration processes be merged;
 - (b) IEBC be allowed to continue with voter registration immediately after every general election;
 - (c) Newly registered voters be allowed to participate in subsequent by-elections;
 - (d) There be established an IEBC-owned television station for purposes of transmitting and sharing information related to elections, its work and voter education;
 - (e) Other media should be made public owned with the capacity to reach all Kenyans, their operations regulated by law, and only be allowed to operate on a non-partisan and unbiased basis when broadcasting information on political parties and elections;
 - (f) There should be clear and open processes for procurement and use of ICT materials; and
 - (g) IEBC should work towards building public confidence for the use of the procured ICT tools.

7. Transparency International

Upon invitation by Sen. James Orengo, the Transparency International (TI) made submissions to the Joint Committee in terms of the Memorandum titled "*Submission to the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commission dated 19th July, 2016*". TI informed the Joint Committee that-

- (a) many Kenyans had lost confidence in IEBC Commissioners but its removal should be within the law and each Commissioner should be held accountable individually;
- (b) the appointment of commissioners should be within the law devoid of a political process;
- (c) the number of the IEBC Commissioners should be reduced from 9 to 5;
- (d) a substantive Registrar of Political Parties should be appointed;
- (e) issuance of Identification Cards and voter registration should be synchronized; and
- (f) electoral offenders should be excluded from taking part in elections.

8. Civil Society Reference Group

Upon invitation by Sen. James Orengo, Ms. Njeri Kabeberi, on behalf the Civil Society Reference Group, made submissions to the Joint Committee. The Civil Society Reference Group made allegations to the effect that, as currently constituted, IEBC lacks impartiality and cannot be trusted with conducting the 2017 General Elections.

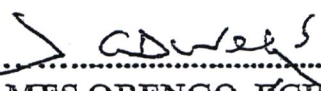
CS-RG submitted on Thematic Area 1 that-

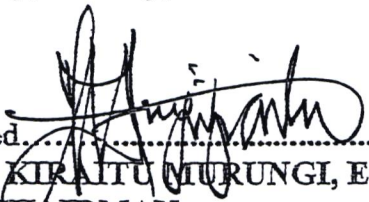
- a) IEBC lacks credibility due to alleged failure of IEBC to carry out civil education on voter registration, discrepancies posted in commission's website with over 2500 Forms 34 missing the unwillingness of the Commission to provide comprehensive forensic audit report of the 2013 general elections with supporting materials such as complete forms 34, 35 and 36 and the issues raised about IEBC's financial accountability affect its credibility; and
- b) IEBC Commissioners are not impartial. This is evidenced by the fact that in their Affidavit of Presidential Election Petition, 2013; the Chairman rather than showing neutrality gave a scathing attack on the petitioner, referring to him as a 'perennial loser', and the affidavit has not been revoked since.

MIN.NO. JPSC/IEBC/48/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 6.10 pm until Wednesday, 20th July, 2016 at 10.00 am.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Signed.....
SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016

Date.....16/8/2016

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE NINTH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON WEDNESDAY, 20TH JULY, 2016 IN MINI CHAMBER, PARLIAMENT BUILDINGS, AT 10.30 A.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Johnson Muthama, MP | - Member |
| 4. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 5. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 6. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 7. Hon. Moses Kuria, HSC, MP | - Member |
| 8. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 9. Hon. Mishi Mboko, MP | - Member |
| 10. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 11. Hon. Junet Mohamed, MP | - Member |

APOLOGY

- | | |
|----------------------------------|----------|
| 1. Sen. Kipchumba Murkomen, MP | - Member |
| 2. Sen. Beatrice Elachi, CBS, MP | - Member |
| 3. Hon. Jimmy Angwenyi, MP | - Member |

IN ATTENDANCE

1. Prof. Githu Muigai, EGH, SC
2. Ms. Lynda Murila
3. Mr. Tom Odede
4. Ms. Maryan Njau

IN ATTENDANCE

1. Ms. Lucy Ndungu
2. Ms. Rebecca Wahu

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC

OFFICE OF THE ATTORNEY GENERAL & DEPARTMENT OF JUSTICE OFFICE

- Attorney General
- State Counsel
- State Counsel
- State Counsel

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES

- Registrar of Political Parties
- Office of Registrar of Political Parties

RAPPOORTEURS

- Joint Rapporteur, CORD Coalition

2. Mr. James Mamboleo

- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Njenga Njuguna
3. Mr. Boniface Lenairoshi
4. Mr. John Mutega
5. Mr. Ahmed H. Odhwa
6. Mr. Solomon M. Liria
7. Maj. (Rtd.) Reuben Kimosop
8. Mr. Abenayo Wasike
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Noelle Chelagat
13. Ms. Clare J. Kidombo
14. Ms. Fiona Musili
15. Ms. Martha Ndukuyu

PARLIAMENT

- Director, Legal Services, Senate
- Director, Committees Services, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer
- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/49/20/7/2016 PRELIMINARIES

The meeting was called to order at 10.30 a.m. and commenced with a word of prayer from Co-Chairman, Sen. Kiraitu Murungi MP.

Introductions of the Members of the Joint Committee present and Office of the Attorney General and the Office of the Registrar of Political Parties followed.

Co-chairman, Sen. Kiraitu Murungi apprised the Attorney General and Registrar of Political Parties on the mandate and terms of reference of the Committee as contained in the Motion establishing the Joint Committee.

MIN.NO. JPSC/IEBC/50/20/7/2016 PUBLIC HEARINGS /SUBMISSIONS

1. Office of the Attorney-General and Department of Justice

Upon invitation by Sen. James Orengo, Hon. (Prof).Githu Muigai, The Attorney-General made submissions to the Joint Committee as per his statement titled "*Attorney General's statement on the inquiry by the joint Parliamentary Committee on the matters Relating to the Independent Electoral and Boundaries Commission (IEBC).*"

In addition to the Statement, the Attorney-General responded to members concerns as follows-

- (a) That the Office of the Attorney-General has oversight and policy responsibility over the IEBC and had not received any material on the question of credibility or integrity of any of the IEBC Commissioners;
- (b) That the Office of the Attorney-General had received materials on chicken-gate investigations from the Serious Fraud Office of the United Kingdom and had handed them to the EACC. The AG undertook to assist the Joint Committee in getting the said materials if need be;

- (c) The removal of commissioners under Article 251 of the Constitution through a tribunal would be time consuming and his Office would prefer a negotiated exit of the IEBC Commissioner as was the case with EACC previously. The AG alluded that, through a tribunal, a petition must be filled with the National Assembly against each Commissioner of the IEBC disclosing the misconduct and culpability of each of them;
- (d) On re-constitution of the IEBC, the AG noted that there was need to amend the IEBC Act as the provision on selection panel is the same as it was during the Coalition Government. He observed that there is a Bill before the National Assembly to amend the said Act; and
- (e) He drew the attention of the Joint Committee to the fact that, there were only 383 days to the next General Elections and based on the Kriegler's recommendations, the electoral body should be in place 24 months before the Elections - hence question of time the IEBC needs to be in place-unless the need to alter the date for the General Elections.

The Attorney General rounded up his submissions by informing the Joint Committee that, his Office had been part of Multi-Sectoral Forum that had been meeting for the last two and half years on electoral reforms, electoral disputes resolution mechanisms, voter education, two-third gender principle, special interest groups, and marginalized groups. The report of the consultation would be appended to the memorandum. The AG further asserted that an extension of election date would not alter the presidential term to occasion a referendum. He further asserted that, his office was ready to provide legislative drafters to assist the Joint Committee as may be needed. He indicated that his office would prepare and submit a more detailed memorandum for consideration by the Joint Committee.

Members appreciated the submissions made by the Attorney-General

2. Registrar of Political Parties

Upon invitation by Sen. James Orengo, the Acting Registrar of Political Parties, Ms. Lucy Ndungu, made submissions to the Joint Committee as per the Memorandum titled "*Submission to the Joint Parliamentary Select Committee on Matters relating to the IEBC*" dated 20th July, 2016. She informed the Joint Committee that, she would only make submissions on thematic area 4.

In her submission, the Registrar of Political Parties stated that:

- (a) The electoral laws should be in place one year to an election;
- (b) Political parties should continuously be involved in IEBC activities at national and county levels;
- (c) On voter registration, the Principal Register should be updated quarterly and shared with political parties regularly. This should be provided for in legislation. IEBC should sensitize political parties on the registration of voters to enable them disseminate information to the public;
- (d) On voter education, the curriculum and programme should be shared with political parties on a quarterly basis;
- (e) On nomination of candidates, the Registrar recommended that Articles 182 and 88(d) and (k) on nomination of candidates be operationalized. IEBC should

- come up with clear timelines on political party nominations which should be shared by all stakeholders;
- (f) On campaign management, section 8(4)(i) of Campaign Financing Act should be operationalized. Regulations should be developed to monitor use of public resources;
 - (g) On voting process, there should be consultations on the location of polling stations;
 - (h) On transmission of results, it should be done at all stages. The County Returning Officer should also announce presidential elections result in the county so that Kenyans know whether the twenty-five percent has been attained;
 - (i) On allocation of special seats, there should be guidelines on preparation of party lists; and,
 - (j) On dispute resolutions mechanism there should be clarity on the point of reference.

Members appreciated the submissions by the Acting Registrar of Political Parties, then sought the following clarifications-

- (a) Failure to have a substantive Registrar of Political Parties appointed.
- (b) Involvement of political parties in the voter registration.
- (c) Whether IEBC should be involved in party nominations
- (d) Announcement of Presidential results at county level.
- (e) The number of political parties which have been de-registered for non-compliance with the Political Parties Act.
- (f) Failure of the Registrar of Political Parties to bring sanity in political parties.
- (g) How to deal with people who have been put on the party list submitted to IEBC and jump ship to campaign for other political parties.

The Registrar responded as follows-

- (a) Pursuant to sections 45 and 51 of Political Parties Act, the current registrar will remain until a new Registrar of Political Parties is appointed.
- (b) Political parties should be involved in the procurement of technology used in voter-registration and allowed opportunity to audit the process and undertake verification.
- (c) That IEBC would be better placed to conduct party Primaries.
- (d) Transmission of results-statement need to be issued by the county returning officer for continuity to declare the 25% threshold at the county level.
- (e) In respect of deregistration of political parties that fail to comply with the Act, the Registrar explained that, her office had in mind that the 15 per cent of the Fund going to political parties would have ensured they establish offices. However, the 0.3% meant for Political Parties Fund has not allocated.
- (f) Political parties have a duty under section 14 of the Political Parties Act to remove any person who has gone against the party constitution.

However, the Registrar of Political Parties advised the members that most issues raised would be best addressed by the members of the Independent Electoral and Boundaries Commission. The Registrar urged Members of Parliament to support her office to receive the 0.3 percent as provided in the Constitution.

The submissions to be made by representatives of political parties in-attendance were deferred to the following week.

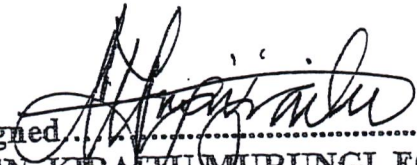
MIN.NO. JPSC/IEBC/51/20/7/2016

ADJOURNMENT AND DATE OF NEXT
MEETING

The meeting was adjourned at 2.12 p.m. to convene again at 3.00 pm the same day.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed.....
SEN. KRATU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE TENTH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON WEDNESDAY, 20TH JULY, 2016 IN MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS, AT 3.15 P.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Johnson Muthama, MP | - Member |
| 4. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 5. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 6. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 7. Hon. Jimmy Angwenyi, MP | - Member |
| 8. Hon. Moses Kuria, HSC, MP | - Member |
| 9. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 10. Hon. Mishi Mboko, MP | - Member |
| 11. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 12. Hon. Junet Mohamed, MP | - Member |

APOLOGY

- | | |
|----------------------------------|----------|
| 1. Sen. Beatrice Elachi, CBS, MP | - Member |
| 2. Sen. Kipchumba Murkomen, MP | - Member |

IN ATTENDANCE

1. Justice David K. Maraga
2. Justice Mohammed Ibrahim
3. Justice Kihara Kariuki
4. Ms. Stella Ngali Mutuku
5. Mr. Richard Mwongo
6. Ms. Lillian Marika

JUDICIARY COMMITTEE ON ELECTIONS (JCE)

- Chairman
- Acting Presiding Judge, Supreme Court & Member
- President of the Appeal Court & Member
- Member
- Member
- Secretary

IN ATTENDANCE

1. Ms. Winfred Lichuma
2. Mr. Sylvester Mbithi
3. Ms. Joyce Mutiso

NATIONAL GENDER AND EQUALITY COMMISSION, (NGEC)

- Chairperson
- Legal Officer
- Programme Officer

4. Mr. Abduraham M Hassan

- Senior Clerical Officer

IN ATTENDANCE

Prof. Gitile Naituli

IN ATTENDANCE

1. Ms. Sophia Lepuchirit
2. Mr. Halakhe Waqo
3. Mr. Mwaniki Gachoka
4. Dr. Dabar Abai Maalim
5. Mr. Michael Mubea
6. Mr. Abdi Mohamud
7. Mr. David Kaboro
8. Mr. Karichi Marimba

IN ATTENDANCE

1. Mr. Kyalo Mbobu
2. Mr. T. N. Estambale
3. Mr. James Atema
4. Mr. Paul Ngotho

IN ATTENDANCE

Mr. George N. Gathuka

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Ms. Florence Abonyo
3. Mr. Njenga Njuguna
4. Mr. John Mutega
5. Mr. Ahmed H. Odhwa
6. Mr. Solomon M. Liria
7. Maj. (Rtd.) Reuben Kimoşop
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Noelle Chelagat
13. Ms. Clare J. Kidombo
14. Ms. Fiona Musili

NATIONAL COHESION AND INTEGRATION COMMISSION (NCIC)

- Commissioner

ETHICS AND ANTI-CORRUPTION COMMISSION, (EACC)

- Vice-Chairperson
- Chief Executive Officer
- Commissioner
- Commissioner
- Deputy Chief Executive Officer
- Director, Investigations
- Legal Officer
- Head, Corporate Communications

POLITICAL PARTIES DISPUTE TRIBUNAL

- Chairman, Political Parties Disputes Tribunal
- Chief Executive Officer/ Secretary, PPDT
- Member, PPDT
- Member, PPDT

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

- IEBC

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

PARLIAMENT

- Director, Legal Services, Senate
- Director, Committees Services, N/A
- Director, Committees Services, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer
- Research Officer

MIN.NO. JPSC/IEBC/52/20/7/2016 PRELIMINARIES

The meeting was called to order at 3.15 pm and commenced with a word of prayer by Sen. James Orengo, Co-chairperson.

Introductions of the Members of the Joint Committee present and stakeholders ensued.

MIN.NO. JPSC/IEBC/53/20/7/2016 PUBLIC HEARINGS/ SUBMISSIONS**1. Judiciary Committee on Elections**

Upon invitation by Co-chairman, Sen. James Orengo, Hon. Justice David Maraga, on behalf of the Judiciary Committee on Elections, submitted the contents of a letter dated 20th July, 2016 to the Joint Committee referenced *"Invitation to a Public Hearing of the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commissions"*.

In addition to their presentation, the Judiciary Committee on Elections recommended the following provisions for amendment-

- (a) Article 140(2) of the Constitution, to extend the period within which the Presidential Petitions should be determined from 14 to 30 days.
- (b) Article 163(4) of the Constitution and Sections 75(4) and 85A of the Elections Act to provide for a two tier system and have only one right of appeal.
- (c) Article 88(4)(e) of the Constitution which vests the IEBC with jurisdiction to resolve pre-election electoral disputes including disputes arising from party nominations to vest the Political Parties Disputes Tribunal (PPDT) with exclusive jurisdictions to determine pre-election nomination disputes.
- (d) Article 90 of the Constitution, to provide for National Council of Persons with disability.
- (e) Section 6(2) of the Elections Act, to provide for voter registration to end at least 90 days before general elections.
- (f) Section 16(3) of the Elections Act, to provide for automatic stay of by-elections pending appeal to avoid wastage of public funds when orders of stay are granted after IEBC has printed ballot papers and incurred huge costs in preparation for by-elections following nullification of elections.
- (g) Section 76(1) of the Elections Act to provide for publication of the election results in the Gazette within 2 to 3 days of the announcement of results by the Returning Officers.

Members appreciated the submissions by the Judiciary Committee on Elections (JCE). The JCE undertook to submit a further memorandum.

2. Ethics and Anti-Corruption Commission (EACC)

The Vice-Chairperson of the Ethics and Anti-Corruption Commission, Ms. Sophia Lepuchirit, accompanied by Commissioners - Mr. Mwaniki Gachoka, Ms. Rose Mghoi Macharo, Dr. Dabar Abai Maalim, and the Chief Executive Officer, Mr. Halakhe Waqo

among other officers, appeared before the Joint Committee and requested for more time to prepare in order to make comprehensive submissions. Members acceded to their request and resolved to have them appear before the Joint Committee on Monday, 25th July, 2016.

3. Political Parties Disputes Tribunal (PPDT)

Upon invitation by Co-chairman, Sen. Kiraitu Murungi, Mr. Kyalo Mbobu, on behalf of the Political Parties Disputes Tribunal (PPDT) made submissions to the Joint Committee and submitted a written Memorandum titled "*Submissions from Political Parties Disputes Tribunal (PPDT) to the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commission dated, July 20, 2016*".

In their submissions the PPDT indicated that they had identified two key issues that needed consideration by the Joint Committee namely- jurisdiction in electoral dispute resolution; and, timelines for the resolutions of nomination disputes.

With regard to 'Jurisdiction in Electoral Dispute Resolution', the PPDT recommended that Article 88(4)(e) of the Constitution, Section 4 of the Independent Electoral and Boundaries Commission Act and Section 74(1) of the Elections Act be amended to remove the jurisdiction over resolution of nomination disputes from the IEBC, and bestow the same on the PPDT.

With regard to the issue of 'timelines for the resolutions of nomination disputes' the PPDT recommended that the seven days allocated to resolve nomination disputes should be increased to fourteen days.

Members appreciated the submission by the PPDT. Members urged the PPDT to look into the possibility of the Political Parties to establishing their own dispute resolution mechanisms.

4. Submissions by the National Cohesions & Integration Commission and the National Gender & Equality Commission

Submissions from the National Cohesions and Integration Commission and the National Gender and Equality Commission were deferred to Thursday, 21st July, 2016.

MIN.NO. JPSC/IEBC/54/20/7/2016

ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 6.20 pm. The date of the next meeting was determined to be Thursday, 21st July, 2016 at 11.00 am.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Signed.....
SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016

Date.....16/8/2016



PARLIAMENT OF KENYA

**MINUTES OF THE ELEVENTH SITTING OF THE JOINT PARLIAMENTARY
SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON
THURSDAY, 21ST JULY, 2016 IN MINI CHAMBER, COUNTY HALL,
PARLIAMENT BUILDINGS, AT 12.00 NOON**

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP | - Member |
| 4. Sen. Kipchumba Murkomen, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 7. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. Moses Kuria, HSC, MP | - Member |
| 11. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 12. Hon. Mishi Mboko, MP | - Member |
| 13. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 14. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Ms. Winifred Lichuma
2. Mr. Simon Ndubai
3. Ms. Gumato Ukur
4. Ms. Florence Wachira
5. Mr. Paul Kuria
6. Mr. Sylvester Mbithi
7. Ms. Jackline Nekeša

STAKEHOLDERS

- Chairperson, National Gender & Equality Commission, (NGEC)
- Commissioner NGEC
- Commissioner, NGEC
- Commissioner, NGEC
- Acting Chief Executive Officer, NGEC
- Legal Officer, NGEC
- Programme Officer, NGEC

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

RAPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Njenga Njuguna

PARLIAMENT

- Director, Legal Services, Senate
- Director, Committees Services, Senate

3. Mr. Boniface Lenairoshi	- Principal Clerk Assistant I, Senate
4. Mr. John Mutega	- Principal Clerk Assistant II, N/A
5. Mr. Solomon M. Liria	- Senior Serjeant-At-Arms, N/A
6. Maj. (Rtd.) Reuben Kimosop	- Senior Serjeant-At-Arms, Senate
7. Mr. Ahmed H. Odhowa	- Senior Research Officer
8. Ms. Kavata Musyoka	- Clerk Assistant II, N/A
9. Mr. Ronald Walala	- Legal Counsel II, N/A
10. Ms. Judy Ndegwa	- Legal Counsel II, Senate
11. Ms. Mary Luka Lemerelle	- Clerk Assistant III, N/A
12. Ms. Noelle Chelagat	- Media Relations Officer
13. Ms. Clare J. Kidombo	- Research Officer
14. Ms. Fiona Musili	- Research Officer
15. Ms. Martha Ndukuyu	- Hansard Reporter

MIN.NO. JPSC/IEBC/55/21/7/2016 PRELIMINARIES

The meeting was called to order at 12.00 noon and commenced with a word of prayer by Co-chairman, Sen. James Orengo.

Introductions of the Members of the Joint Committee present and the representatives of the National Gender and Equality Commission followed.

MIN.NO. JPSC/IEBC/56/21/7/2016 SUBMISSIONS BY THE NATIONAL GENDER AND EQUALITY COMMISSION

Upon invitation by Co-chairman, Sen. James Orengo, Ms. Winfred Lichuma, Chairperson of the National Gender and Equality Commission made submissions to the Joint Committee in terms of the Memorandum titled "*Submissions by the Gender and Equality Commission to the Joint Parliamentary Select Committee on Matters Related to the Independent Electoral and Boundaries Commission*".

NGEC submitted on thematic area 4 that-

- (a) Voter registration should be continuous reduce cost of mass voter registration;
- (b) IEBC should develop guidelines to regulate political party nominations/ primaries, in fulfilment of its constitutional mandate;
- (c) IEBC and stakeholders should strive to improve on the general preparedness for the elections including ensuring timely procurement and testing of systems and procedures;
- (d) Election management staff should be prepared to mainstream issues of SIGs in the election process and work on identifying ways through which certain classes of SIGs such as visually impaired and the physically disabled can be facilitated at every polling station to cast votes on priority basis;
- (e) IEBC should use easily distinguishable colours in ballot papers and boxes to avoid confusion;
- (f) Polling booths should be designed to allow PWDs to be able to vote in comfort and in secrecy;
- (g) IEBC staff should take induction courses on the handling of different classes of SIGs and work on identifying ways of through which certain classes of SIGs such as the visually impaired and the physically disabled can always be facilitated at every station. This includes ensuring that voter education materials are available in braille and the services of sign language interpreters are always available;

- (h) Parliament should pass the law to implement the 2/3 gender rule. Failure to pass the law before 27th August, 2016, one can petition the court to have Parliament dissolved;
- (i) IEBC should invest in a secure efficient and robust approach to counting, tallying and timely transmission of results whilst maintaining of the same;
- (j) Allocation of special seats should be done strictly from party lists which shall be submitted to IEBC before the general election;
- (k) Accreditation of all observers should be done, at least three months to election. Accredited observers should be allowed to participate in elections observation and monitoring without restrictions, in order to boost accountability and transparency;
- (l) Political parties should conduct nominations within a reasonable time frame to allow for adequate time for resolution of any disputes arising; and,
- (m) Amendment to the electoral legal framework should be carried out at least 6 months to the General Election thus the current Parliament should not make any amendments after February, 2017.

Following the submission, Members sought the following clarifications:

- a) Whether NGEC had any allegations on IEBC Commissioners;
- b) Why NGEC held the view that it would not be feasible to hold General Elections in August 2017 in the event the IEBC Commissioners are replaced;
- c) How the new IEBC Commissioners should be selected and who should sit in the Selection Panel selecting the Commissioners;
- d) The understanding of NGEC on "special seats".

NGEC responded to the issues raised and stated as follows:

- a) NGEC was not in receipt of any allegations from any person/s or institution/s against IEBC Commissioners or the Secretariat;
- b) NGEC held the view that in event IEBC is reconstituted, a new Commission would require at least twenty-four months to prepare adequately for a General Elections;
- c) The law was categorical on their selection of IEBC Commissioners;
- d) IEBC should formulate rules to regulate the nomination of special seats and establish mechanisms to guide elections for party's lists.

In concluding their submissions, NGEC informed the meeting that they concurred with the Attorney-General's submissions that a negotiated exit of the IEBC Commissioners would be a better option than that of through a tribunal. Employment laws should be followed to the letter when dealing with the Secretariat. They also undertook to furnish the Joint Committee with a revised memorandum.

MIN.NO. JPSC/IEBC/57/21/7/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 2.00 pm to reconvene at 3.00pm the same day.

Signed.....
SEN. JAMES ORENGO, EGH, MP

Signed.....
SEN. KIRAITU MURUNGI, EGH, MP

CO-CHAIRMAN

Date.....16/8/2016.....

CO-CHAIRMAN

Date.....16/8/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

**MINUTES OF THE TWELVETH SITTING OF THE JOINT PARLIAMENTARY
SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON
THURSDAY, 21ST JULY, 2016 IN MINI CHAMBER, PARLIAMENT BUILDINGS,
AT 3.00 P.M.**

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP | - Member |
| 4. Sen. Johnson Muthama, MP | - Member |
| 5. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 6. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 7. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 8. Hon. Jimmy Angwenyi, MP | - Member |
| 9. Hon. (Eng.) Mohamed M. Mahmud CBS, MP | - Member |
| 10. Hon. Mishi Mboko, MP | - Member |
| 11. Hon. Junet Mohamed, MP | - Member |

APOLOGY

- | | |
|------------------------------------|----------|
| 1. Sen. Kipchumba Murkomen, MP | - Member |
| 2. Hon. (Dr.) Eseli Simiyu CBS, MP | - Member |
| 3. Hon. Moses Kuria, HSC, MP | - Member |

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Njenga Njuguna
3. Mr. Boniface Lenairoshi
4. Mr. John Mutega
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa

PARLIAMENT

- Director, Legal Services, Senate
- Director, Committees Services, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate

- | | |
|-----------------------------|----------------------------|
| 11. Ms. Mary Luka Lemerelle | - Clerk Assistant III, N/A |
| 12. Ms. Noelle Chelagat | - Media Relations Officer |
| 13. Ms. Fiona Musili | - Research Officer |
| 14. Ms. Martha Ndukuyu | - Hansard Reporter |

MIN.NO. JPSC/IEBC/58/21/7/2016 PRELIMINARIES

The meeting was called to order at 3.00 p.m. and commenced with a word of prayer from Co-Chairperson, Sen. James Orengo MP.

Senator Kiraitu Murungi, MP, Co-Chairperson informed the meeting that they had convened to consider a draft programme for the public hearings for the week commencing Monday 25th July, 2016. Members were taken through the draft programme and approved it.

Members were informed that the IEBC had written a letter requesting rescheduling of their invitation from Thursday, 28th to Wednesday, 26th July, 2016. After deliberations, Members resolved that the IEBC appears before the Joint Committee on Monday 1st, August, 2016 after meeting all the stakeholders.

MIN.NO. JPSC/IEBC/59/21/7/2016 SCHEDULES OF SUB-COMMITTEES

Members approved the establishment of three sub-committees on the four thematic areas as follows:

Sub-Committee 1: Thematic Area 1 and 2

1. Sen. James Orengo,MP - Co-Chairperson
2. Sen. Kiraitu Murungi ,MP - Co-Chairperson
3. Hon.(Dr.) Eseli Simiyu,MP
4. Hon. Moses Kuria,MP

Sub-Committee 2: Thematic Area 3

1. Hon.(Eng) Mohammed Mahmud
2. Hon. Junet Mohamed, MP,
3. Hon. Jimmy Angwenyi, MP,
4. Sen.Mutula Kilonzo Jnr.MP

Sub-Committee 3: Thematic Area 4

1. Sen. Johnson Muthama, MP,
2. Sen. Beatrice Elachi, CBS, MP,
3. Hon.(Dr.) Naomi Shaban MP,
4. Sen. (Dr.) Boni Khalwale,M.P, MBS, MP,
5. Sen. Kipchumba Murkomen, MP,
6. Hon. Mishi Mboko, MP,

The Co-Chairpersons informed members that they will introduce four experts to join the Secretariat in the next meeting.

MIN.NO. JPSC/IEBC/60/21/7/2016

ADJOURNMENT AND DATE OF NEXT
MEETING

The meeting was adjourned at 4.45 p.m. The next meeting would be held on Friday, 22nd July, 2016 at 9.00 am.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed.....
SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

MINUTES OF THE THIRTEENTH SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)
HELD ON FRIDAY, 22ND JULY, 2016 IN MINI CHAMBER, PARLIAMENT
BUILDINGS, AT 9.00 A.M.

<u>RESERVE</u>	
1. Sen. James Orengo, EGH, MP	- Co-Chairperson
2. Sen. Kiraitu Murungi, EGH, MP	- Co-Chairperson
3. Sen. Johnson Muthama, MP	- Member
4. Sen. Mutula Kilonzo Jnr, MP	- Member
5. Sen. (Dr.) Boni Khalwale, MBS, MP	- Member
6. Hon. (Dr.) Naomi Shaban, EGH, MP	- Member
7. Hon. (Eng.) Mohamed M. Mahmud CBS, MP	- Member
8. Hon. Mishu Mboko, MP	- Member
9. Hon. (Dr.) Eseli Simiyu, MP	- Member
10. Hon. Junet Mohamed, MP	- Member
11. Sen. Kipchumba Murkomen, MP	- Member
12. Hon. Jimmy Angwenyi, MP	- Member

1. Sen. Beatrice Elachi, CBS, MP - Member
2. Hon. Moses Kuria, HSC, MP - Member

1. Mr. Otiende Amollo
2. Mr. Vincent Chelale
3. Mr. Edward Okello
4. Ms. Samantha Argwings Kodhek
5. Mr. Leonard Ngaluma

1. Hon. Peter Munya
2. Hon. (Prof.) Kivutha Kibwana
3. Hon. John M. Mruttu
4. Hon. Kinuthia Mbugua

- Chairperson.

- Chairman, CoG/ County Governor, Meru
- County Governor, Makueni
- County Governor, TaitaTaveta
- County Governor, Nakuru

5. Ms. Jacqueline Mogeni
6. Ms. Jacqueline Makena
7. Ms. Rosemary Njaramba
8. Ms. Anne Mukii

- Chief Executive Officer, CoG

IN ATTENDANCE

Prof. Gitile Naituli

NATIONAL COHESION AND INTEGRATION COMMISSION (NCIC)

- Commissioner

IN ATTENDANCE

1. Mr. Omweri Angima
2. Mr. John Wamagata
3. Ms. Alice Ndirangu

CENTER FOR MULTI-PARTY DEMOCRACY (CMD)

IN ATTENDANCE

Mr. George N. Gathuka

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

- Legal Counsel

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Njenga Njuguna
3. Mr. Boniface Lenairoshi
4. Mr. John Mutega
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Ahmed H. Odhwa
8. Mr. Abenayo Wasike
9. Ms. Kavata musyoka
10. Mr. Ronald Walala
11. Ms. Judy Ndegwa
12. Ms. Mary Luka Lemerelle
13. Ms. Noelle Chelagat
14. Ms. Clare J. Kidombo
15. Ms. Fiona Musili
16. Ms. Martha Ndukuyu

PARLIAMENT

- Senior Deputy Clerk, Senate
- Director, Committees Services, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Senior Research Officer
- Clerk Assistant I
- Clerk Assistant, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, Senate
- Media Relations Officer
- Research Officer
- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/61/22/7/2016

PRELIMINARIES

The meeting was called to order at 9.25 a.m. and commenced with a word of prayer from Co-Chairman, Sen. James Orenge, MP.

Thereafter introductions of Members of the Joint Committee present and stakeholders were then done Co-chairperson, Sen. Kiraitu Murungi highlighted the terms of reference of the Joint Committee.

MIN.NO. JPSC/IEBC/62/22/7/2016 **PUBLIC HEARINGS /SUBMISSIONS**

1. Commission on Administrative Justice (CAJ)

Upon invitation by Sen. Kiraitu Murungi, the Chairman, Commission on Administrative Justice, Dr. Otiende Amollo, made submissions to the Joint Committee highlighting their written Memorandum titled "*Submissions on Matters Relating to the Independent Electoral and Boundaries Commission (IEBC).*"

On thematic area 1, CAJ submitted that issues relating to legality, legitimacy and integrity of the IEBC Commissioners had been raised and public confidence in the IEBC was very low hence might impact on free, fair and credible General Elections in 2017.

On thematic area 2, CAJ argued that IEBC Commissioners should be implored upon to voluntarily resign by end of August, to get full benefits and qualify for consideration to other public offices.

On thematic area 3 CAJ submitted that-

- (a) IEBC should have nine Commissioners of whom three or four should be non-Kenyans;
- (b) The next IEBC Commissioners should be treated as transitional Commissioners; and
- (c) Appointment of new IEBC Commissioners should be expedited and conducted by a broad based multi-sectoral agency panel rather than political parties for impartiality and professionalism.

On thematic area 4 CAJ submitted that-

- (a) IEBC should ensure that political parties conduct transparent and competitive nominations;
- (b) IEBC should operationalise election laws including the campaign financing law in accordance with Article 88 of the Constitution and Section 4 of Independent Electoral and Boundaries Commission Act;
- (c) IEBC should consult broad on the technology to be used, have it tested and piloted before the General Election to avoid cases of failure during elections;
- (d) Strict timelines on elections observation should be provided to avoid issues arising from elections observations;
- (e) The 14 days provided for in the Constitution for determination of Presidential election Petitions should be maintained;
- (f) A law should be put in place to empower the court to declare the winning candidate without having fresh elections; and

- (g) The Supreme Court should exercise jurisdiction only on the Presidential elections disputes and other election petitions should terminate at the Court of Appeal.

Members of the Joint Committee sought clarifications and responses were given as follows- as follows:

- (a) CAJ submitted a report to IEBC on election malpractices by candidates but IEBC took no action. He promised to submit the report to the Joint Committee at a later date;
- (b) Lifestyle audit of Commissioners and other holders of independent offices should be done periodically rather than limited to the time of appointment to offices;
- (c) The IEBC must have only one voters register;
- (d) Persons disqualified by the Constitution and any other law should not be qualified by the IEBC to contest in elections at any level;
- (e) The Joint Committee should make recommendations to address all the matters as provided for in the Motion establishing it;
- (f) The fourteen (14) days for the Supreme to conclude the Presidential election Petition should not be extended to thirty (30) days. Allowing too many interlocutory applications and procedural matters might have caused the time limitation experienced in processing the last presidential election petition. They further submitted that extension of time for even a week would prolong anxiety and even tension in the country;
- (g) The transition process should commence immediately upon submission of notices of intention to leave, by the IEBC Commissioners;
- (h) Article 251 of the Constitution does not contemplate removal of all the Commissioners;
- (i) The best option for the Commissioner's exit from office is voluntary vacation with a retirement package for the remainder of their term;
- (j) Vetting of the Secretariat of the IEBC should only be for the staff who are adversely mentioned in official reports; and
- (k) With regards to the composition of the IEBC, CAJ submitted that the geo-political situation in Kenya necessitated the current number of Commissioners as well as including non-Kenyans to work as commissioners. Due to the prevailing mistrust, there is need to infuse instant confidence in IEBC, in preparation for 2017 elections. For instance, in the defunct Committee of Experts, the judges and magistrates vetting board, and the Kriegler Commissions, non-Kenyans were appointed.

CAJ submitted an advisory opinion that was prepared before establishment of the Joint Committee. Hence the Committee requested that CAJ submits a more updated one.

2. Council of Governors (COG)

Upon invitation by Sen. Kiraitu Murungi, the Chairman of Council of Governors, Hon. Peter Munya made submissions to the Joint Committee highlighting his Memorandum

titled "*Memorandum on Matters of the Joint Parliamentary Committee on Matters Relating to the Independent Electoral and Boundaries Commission*".

The CoG submitted-

1. On thematic area 1 that-
 - (a) There was a need to instill public confidence in the electoral process; and
 - (b) The threshold for removal may not have been met despite the allegations but critical voices from religious leaders, civil society groups and political leadership should be listened to.
2. On thematic area 2 that-

IEBC Commissioners should be urged to voluntarily resign by end of August, to get full benefits and qualify for consideration to other public offices.
3. On thematic area 3 that-
 - (a) The IEBC Commissioners should serve to oversee only one General Election;
 - (b) The Commissioners should serve on a part time basis, except during the General Election year when they should serve on a full time basis;
 - (c) The selection panel should comprise critical stakeholders in the electoral process;
 - (d) The persons nominated by the political parties should not be holders of any elective posts or be staff of any legislative assembly;
 - (e) Recruitment of Commissioners should be done by an selection panel comprising of-
 - 2 people nominated by the largest party or coalition in the National Assembly;
 - 2 people nominated by the second largest party in the National Assembly;
 - 1 person nominated by the CoG;
 - 1 person nominated by an umbrella body representing religious institutions;
 - 1 person nominated by an umbrella body representing the private sector, eg APSEA;
 - 1 person nominated by an umbrella body representing Civil Society Organizations (CSOs); and
 - 1 representative nominated by the Public Service Commission and Council of County Public Service Boards.
4. On thematic area 4 that-

- (a) In order to boost transparency and integrity of the process, IEBC should use BVR and on the day of elections only Electronic Voter Identification should be applied. Further, IEBC should adopt use of scanners to record elections;
- (b) The deployment of Returning Officers and Presiding Officers should be through open balloting by the persons concerned in the presence of political party agents and observers;
- (c) The presiding officers should be swapped immediately prior to elections to avoid capture;
- (d) Only one electoral results form should be filled and adoption of use of a scanner to scan the filled forms;
- (e) There should be video recording of the counting and the results announcement at all polling stations. Party agents and observers should be allowed to video record the counting and results declaration process;
- (f) IEBC should train its staff on the specific roles on voting day to facilitate them to support and coordinate the voting process accordingly;
- (g) There should be early procurement of ICT equipment and thorough testing of their efficiency;
- (h) Allocation of seats should be on the basis of total votes received by political party as opposed to total seats won;
- (i) Internal Party mechanisms should be used as the first tier of dispute resolution and the Political Parties Dispute Tribunal as second tier;
- (j) IEBC should not be involved in political party nominations; and
- (k) The period for the Supreme Court to hear and determine presidential election petition should be changed from the current 14 days to 30 days to give the Supreme Court adequate time to deal with the matters raised.

In addition to the Memorandum, the Chairperson of CoG submitted that:

- (a) CoG had no allegations against the IEBC Commissioners but they should exit because the public and several sectors of the society had lost trust in them. However, removal of the Commissioners under Article 251 of the Constitution is not the best option and recommends a negotiated exit of the Commissioners;
- (b) CoG was of the view that, if the extended new date for the General Election would be within the fifth year, then there would be no need of a referendum;
- (c) The President can be involved in setting up the Selection Panel to determine who the IEBC Commissioners shall be;
- (d) The Supreme Court has jurisdiction to entertain electoral disputes from all levels because elections are a constitutional matter; and
- (e) Political parties should help to realize the gender rule by nominating women to constitute at least a third of their candidates.

3. The Centre for Multi-Party Democracy (CMD)

Upon invitation by Sen. Kiraitu Murungi, Mr. Omweri Angima, on behalf of the Center for Multi-Party Democracy made submissions highlighting his memorandum titled "*Memorandum to the Joint Parliamentary Committee on Matters Relating to the Independent Electoral and Boundaries Commission*"

CMD submitted-

(1) On Thematic Area 3 that-

(a) Section 5(1) of the IEBC Act should be amended to reduce the number of Commissioners to a maximum of five.

(b) Paragraph 1 of the Schedule to the IEBC Act should be amended to read as follows-

Political parties' representation in the selection panel should not be confined Jubilee and Cord coalitions and parties outside these two formations should be included as follows-

(a) One person nominated by the majority party or coalition in the National Assembly;

(b) One person nominated by the minority party or coalition in the National Assembly;

(c) One person nominated by parties that are neither in the majority nor in the minority coalitions;

(d) One person nominated by civil societies;

(e) One person nominated by faith based organizations;

(f) One person nominated by persons living with disabilities; and

(g) One person nominated to represent the Public Service Commission.

(c) The IEBC Commissioners should serve on a full time basis;

(d) The exit of the Commissioners should be staggered. Three Commissioners should be appointed first and the remaining two vacancies be filled within six months to provide continuity at the expiry of the terms of other Commissioners; and

(e) IEBC Secretariat should be fully empowered to manage and administer elections.

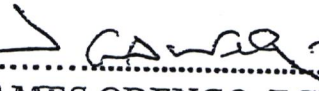
On thematic area 4 CMD submitted that the drafting and subsequent gazettelement of the campaign financing regulations should be fast tracked and operationalized.

Members resolved to seek any clarification if need be at a later date and thanked CMD for its submissions.

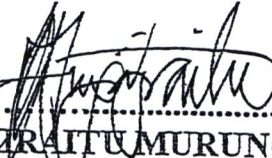
MIN.NO.JPSC/IEBC/63/22/7/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 1.30 p.m. until Monday 25th July, 2016 at 10.00 a.m.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed.....
SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

**MINUTES OF THE FOURTEENTH SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)
HELD ON MONDAY, 25TH JULY, 2016 IN MINI CHAMBER, PARLIAMENT
BUILDINGS, AT 11.45 A.M.**

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. (Eng.) Mohamed M. Mahmud CBS, MP | - Member |
| 11. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 12. Hon. Moses Kuria, HSC, MP | - Member |
| 13. Hon. Mishi Mboko, MP | - Member |
| 14. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Mr. Keriako Tobiko
2. Mr. Nicholas K. Mutuku
3. Mr. Paul Ndemo

IN ATTENDANCE

1. Mr. Philip Kinisu
2. Ms. Sophia Leprichirit
3. Dr. Dabar Abdi Maalim
4. Mr. Mwaniki Gachoka
5. Ms. Rose Mghoi M. M.
6. Mr. Halakhe D. Wako
7. Mr. Michael Mubea
8. Mr. Abdi Mohamud

**OFFICE OF THE DIRECTOR OF
PUBLIC PROSECUTIONS**

- Director of Public Prosecutions
- Deputy Director of Public Prosecutions
- Senior Asst. Director of Public Prosecutions

**ETHICS AND ANTI-CORRUPTION
COMMISSION**

- Chairman
- Vice-Chairperson
- Commissioner
- Commissioner
- Commissioner
- Secretary/Chief Executive Officer
- Deputy Chief Executive Officer
- Director, Investigations

IN ATTENDANCE

Mr. George N. Gathuka

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

- Legal Officer

IN ATTENDANCE

JOINT RAPPORTEURS

- | | |
|--------------------------|---------------------------------------|
| 1. Mr. Apollo Mboya, HSC | - Joint Rapporteur, CORD Coalition |
| 2. Mr. James Mamboleo | - Joint Rapporteur, Jubilee Coalition |

IN ATTENDANCE

JOINT COMMITTEE EXPERTS

- | | |
|-------------------------|--------------------------------|
| 1. Mr. Kamotho Waiganjo | - Constitutional Lawyer |
| 2. Mr. Vincent Mutai | - Law Lecturer, Moi University |

IN ATTENDANCE PARLIAMENT

- | | |
|-------------------------------|---------------------------------------|
| 1. Ms. Eunice Gichangi | - Senior Deputy Clerk, Senate |
| 2. Mr. Boniface Lenairoshi | - Principal Clerk Assistant I, Senate |
| 3. Mr. John Mutega | - Principal Clerk Assistant II, N/A |
| 4. Mr. Ahmed H. Odhwa | - Senior Research Officer |
| 5. Mr. Solomon M. Liria | - Senior Serjeant-At-Arms, N/A |
| 6. Maj. (Rtd.) Reuben Kimosop | - Senior Serjeant-At-Arms, Senate |
| 7. Mr. Abenayo Wasike | - Clerk Assistant I, N/A |
| 8. Ms. Kavata Musyoka | - Clerk Assistant II, Senate |
| 9. Mr. Ronald Walala | - Legal Counsel II, N/A |
| 10. Ms. Judy Ndegwa | - Legal Counsel II, Senate |
| 11. Ms. Mary Luka Lemerelle | - Clerk Assistant III, N/A |
| 12. Ms. Noelle Chelagat | - Media Relations Officer |
| 13. Ms. Clare J. Kidombo | - Research Officer |
| 14. Ms. Fiona Musili | - Research Officer |
| 15. Ms. Martha Ndukuyu | - Hansard Reporter |

MIN.NO. JPSC/IEBC/64/25/7/2016

PRELIMINARIES

The meeting was called to order at 11.45 a.m. and commenced with a word of prayer from Co-Chairman, Sen. Kiraitu Murungi, MP.

Introduction of the Members of the Joint Committee present and representatives of the Office of the Director of Public Prosecutions and Ethics and Anti-Corruption Commission followed.

Co-Chairperson, Sen. James Orengo informed the Committee that the National Treasury, Auditor General, Office of the Director of Public Prosecutions and the Ethics and Anti-Corruption Commission had been invited to make submissions to the Committee. The meeting was informed that the Cabinet Secretary, National Treasury and the Auditor General had sent apologies of their unavailability and they would be willing to be re-scheduled to another date.

1. Office of the Director of Public Prosecutions (ODPP)

Upon invitation by the Co-Chairperson, Sen. James Orengo, the Director of Public Prosecutions Mr. Keriako Tobiko made submissions to the Joint Committee as follows:

- (a) THAT the notice given for them to appear before the Joint Committee was too short for them to prepare a written submission;
- (b) THAT the Office of the Director of Public Prosecutions had not allegations against IEBC Commissioners or the Secretariat;
- (c) However the Office of the DPP had two matters before them namely - the procurement of Electronic Voters Identification System (EVID) and the *Chicken-gate* scandal;
- (d) THAT they had received files on the "Chicken-gate" matter from the EACC and the matter was under active consideration and as such the DPP could not divulge information on an active matter since this could be prejudicial; and,
- (e) THAT the Office of the DPP was ready to assist the Joint Committee under the limit of the law.

The Joint Committee asked the DPP to produce evidence to support that the argument that the two matters were under active consideration. In his response, the DPP tabled charge sheets for the same.

Members agreed that the DPP appears again before the Joint Committee on Friday, 29th July, 2016 at 10.00a.m.

2. Ethics and Anti-Corruption Commission

Upon invitation by the Co-Chairperson, Sen. James Orengo, the Chairman of the Ethics and Anti-Corruption Commission (EACC) Mr. Philip Kinisu made submissions to the Joint Committee highlighting their written Memorandum titled "*Report to the Joint Parliamentary Select Committee on Matters Related to the Independent Electoral and Boundaries Commission dated 25th July, 2016*".

The Chairman of the EACC informed the meeting that the EACC had received thirty (30) complaints touching on IEBC, fourteen (14) of which are related to the procurement of the Biometric Voter Registration (BVR) kits and Electronic Voter Register Device (EVID), supply of Lanterns and supply of Ballot Papers by Smith and Ouzman Ltd. Two files (solar lanterns and EVID) are pending in court, the files on ballot papers were forwarded to the DPP, while the file on BVR is pending response.

The EACC submitted that in the completed investigations, there was sufficient evidence to support allegations against several members of the Secretariat. On part of the IEBC Commissioners, EACC responded that it had not received sufficient evidence to support allegations against the Commissioners.

EACC was asked to furnish the Joint Committee with the minutes that approved the procurements. EACC informed the meeting that, they had asked IEBC to develop a procurement plan to avoid last minute procurements.

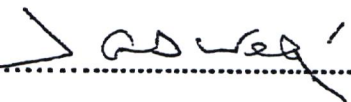
The meeting asked EACC to confirm whether they would be furnishing the Joint Committee with the chicken-gate related documents handed to them from the United Kingdom. EACC responded that they would be unable as the matter was under active consideration.

Members felt that the submission by the EACC was not sufficient and asked them to file additional submissions and appear before the Joint Committee on Friday, 29th July, 2016 at 10.00a.m.

MIN.NO.JPSC/IEBC/66/25/7/2016

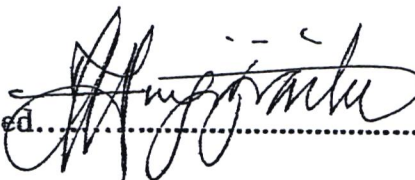
ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 2.55 p.m. to reconvene at 3.30 p.m. on the same day.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016

Signed.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

**MINUTES OF THE FIFTEENTH SITTING OF THE JOINT PARLIAMENTARY
SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON MONDAY,
25TH JULY, 2016 IN MINI CHAMBER, PARLIAMENT BUILDINGS, AT 3.50 P.M.**

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 11. Hon. Moses Kuria, HSC, MP | - Member |
| 12. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 13. Hon. Mishi Mboko, MP | - Member |
| 14. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Rt. Rev. Cornelius Korir
2. Rev. Canon Peter Karanja
3. Archbishop Timothy Ndambuki
4. Rev. Canon Rosemary Mbogo
5. Rt. Rev. Julius Wanyoike
6. Rev. (Dr.) Julius Karanja
7. Mr. Joseph Ngetich
8. Mr. Sam Kingi
9. Mr. Charles Sawanda
10. Ms. Phyllis Kamau
11. Ms. Veronicah Muchiri
12. Most. Rev. Kivuva Masinde
13. Most. Rev. Zaccheus Okoth
14. Mr. Martin Omwange
15. Ms. Beatrice Odere
16. Ms. Florence Rotich

MULTI-SECTORAL FORUM (MSF)

- KCCB
- NCCK
- NCCK
- NCCK
- NCCK
- NCCK
- NCCK
- NCCK
- NCCK
- NCCK
- KCCB
- KCCB
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- KCCB
- KCCB

17. Mr. Aden Wachu
18. Bishop. (Dr.) John Warari
19. Mr. Wilfred Amalemba
20. Dr. Festus Njagi
21. Mr. Kevin Osido
22. Mr. Suba Churchill
23. Mr. Cyprian Orina
24. Mr. Anderson Gitonga
25. Mr. Brian Weke
26. Mr. Marcus Ingeye
27. Mr. Deacon Andrew Okoth
28. Mr. Francis Kuria
29. Mr. Rolex Mwamba
30. Mr. Joel Daniel
31. Prof. Anne C.K. Ewa
32. Hon. Marere Wamwachai
33. Ms. Sophia Jerotich

- SUPKEM
- E.A.K
- E.A.K
- SDA Church
- County Governance Watch
- Civil Society Reference Group
- Future of Kenya Foundation
- UDPK
- IED/ELOG
- IED/ELOG
- OAIC/K
- IRCK
- IRCK
- UCSPAK
- N.V.P
- N.V.P
- N.V.P

IN ATTENDANCE

1. Mr. Philip Obonyo
2. Ms. Petronila Were
3. Ms. Joyce Mwambingu
4. Mr. Julius Mwangi
5. Mr. Alfayo Agufana
6. Mr. Joseph Omukhana
7. Mr. Bernard Opiyo
8. Mr. Geoffrey Osoti
9. Mr. Dick Kamau
10. Mr. Collins Ondigo
11. Mr. Dickens Menya

IN ATTENDANCE

Mr. George N. Gathuka

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Marnboleo

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Ahmed H. Odhowa
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop

POLITICAL PARTIES LIASON COMMITTEE (PPLC)

- Chairperson, PPLC
- PPLC
- PPLC
- PPLC
- PPLC
- PPLC
- PPLC
- PPLC
- PPLC
- PPLC

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

- Legal Counsel

JOINT RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate

- | | |
|-----------------------------|------------------------------|
| 7. Mr. Abenayo Wasike | - Clerk Assistant I, N/A |
| 8. Ms Kavata Musyoka | - Clerk Assistant II, Senate |
| 9. Mr. Ronald Walala | - Legal Counsel II, N/A |
| 10. Ms. Judy Ndegwa | - Legal Counsel II, Senate |
| 11. Ms. Mary Luka Lemerelle | - Clerk Assistant III, N/A |
| 12. Ms. Noelle Chelagat | - Media Relations Officer |
| 13. Ms. Clare J. Kidombo | - Research Officer |
| 14. Ms. Fiona Musili | - Research Officer |
| 15. Ms. Martha Ndukuyu | - Hansard Reporter |

MIN.NO. JPSC/IEBC/ 67/25/7/2016 PRELIMINARIES

The meeting was called to order at 3.50 p.m. and commenced with a word of prayer from Co-Chairman, Sen. Kiraitu Murungi MP.

Introductions of the Members of the Joint Committee and representatives of the Multi-Sectoral Forum and Political Parties Liaison Committee present followed.

The two co-chairmen apprised the stakeholders on the mandate and terms of reference of the Joint Committee as contained in the Motion of its establishment.

MIN.NO. JPSC/IEBC/68 /25/7/2016 PUBLIC HEARINGS /SUBMISSIONS

1. Multi Sectoral Forum (MSF)

Upon invitation by Co-Chairman, Sen. Kiraitu Murungi, the MSF made submissions to the Joint Committee highlighting their written Memorandum titled "*Memorandum to the Joint Parliamentary Select Committee on Matters Relating to the IEBC and Electoral Process Presented by the Participants of the Multi Sectoral Forum.*" The MSF also tabled a draft Bill on electoral reforms titled '*The Elections Laws (Amendment) Bill, 2016*'

MSF submitted-

1. On thematic area 1 that as a result of the allegations and the recent demonstrations that the heightened emotions against the IEBC Commissioners, the body as currently constituted does not enjoy the confidence of Kenyans to manage and deliver credible elections in 2017.
2. On thematic area 3 that:
 - (a) The number of IEBC Commissioners should remain at nine.
 - (b) The IEBC Act should be amended to remove the provision that the Chairperson of the Commission must be a person who is qualified to hold the office of Judge of the Supreme Court.
 - (c) The Joint Parliamentary Select Committee should facilitate the establishment of the selection panel which consists of:
 - 2 representatives:- 1 appointed by the coalition with a majority number of members in Parliament, and 1 by the coalition with a minority number of members in Parliament;
 - 1 representative of non-parliamentary political parties appointed through the Political Parties Liaison Committee;
 - 1 representative of the Law Society of Kenya;

- 3 representatives nominated by religious institutions;
 - 1 representative of women; and,
 - 1 representative of Civil Society Organisations (CSOs) involved in the promotion of democracy and management of elections.
- (d) The appointment of new IEBC Commissioners should to be staggered with five to be appointed immediately, and the other four after the 2017 elections and for them to serve on a part time basis.
- (e) KNCHR Act should be amended to include provisions that, “the Commission will investigate and cause to be prosecuted any person who seeks to use non-constitutional means to force removal of members of constitutional Commissions”.
- (f) An Electoral Fund should be established to give the IEBC independence and autonomy in budgeting, planning, execution of mandate and accountability to the people of Kenya.

3. On thematic area 4 that-

- (a) The new IEBC Commissioners should facilitate the auditing, updating and verification of the voters register.
- (b) The phrase ‘regular’ used in the Elections Act, with regard to updating of the voters’ register should be revised to indicate the period within which the register will be updated, preferably, a period of 6 months.
- (c) The law should be changed to require that the voters’ register be gazetted at least 3 months before voting day.
- (d) The IEBC should work with other stakeholder to provide voter education, and carry out other processes in order to make the electoral process more credible.
- (e) The Registrar of Political Parties and the IEBC should ensure that the political party nominations are carried out and done by only the registered members of the political party.
- (f) The IEBC should be responsible for supervising the nominations for elective positions for political parties that receive state funds.
- (g) Use of ICT in elections should be based on principles including-
- time requirement and verification for the use of electoral technology.
 - capacity and competence of commission staff and stakeholders to operate the electronic equipment.
 - transparency and integrity in the procurement, testing, and verification of the electronic equipment and systems.
 - cost implication in the use of the technologies.
- (h) There should be an amendment or deletion of Article 88(1)(e) of the Constitution so that the jurisdiction to hear and determine disputes relating to or arising from nominations be solely vested in the Political Parties Dispute Tribunal.
- (i) Jurisdiction over disputes relating to presentation of nomination papers to the IEBC should be vested in the IEBC.

Members appreciated the comprehensive work done by the MSF and for clarification on the following issues to facilitate better understanding of the proposals in the Memorandum and the Bill;

- (a) Specific information on women nomination methodology;
- (b) The MSF justification of their proposal to retain nine IEBC commissioners;
- (c) MSF recommendations on use of ICT in the electoral process;
- (d) The MSF proposal to audit staff;
- (e) MSF view of on allocation of special seats;
- (f) MSF proposal on staggered appointments of IEBC Commissioners;
- (g) Auditing of IEBC Budget to understand the cost of general elections;
- (h) Overwhelming evidence on loss of public confidence to replace demonstrations that heightened emotions; and,
- (i) Whether final results be announced at the polling stations.

The meeting was informed that based on context and history of 2008 Post-Election Violence (PEV), religious leaders had to initiate dialogue to avert any electoral crisis in the August 2017 general elections.

On the size of the commission, the MSF felt that since the IEBC Commissioners will be employed on part time basis nine was a reasonable number.

On the announcement of the final results at the polling station MSF was of the view that announcing results did not implying declaration of results and the Constitution was clear on the same. The meeting was informed that the recommendations to assist in procurement (ICT systems) were elaborated in the draft bill

The meeting resolved that some of the issues raised would be responded to in writing by the Multi Sectoral Forum.

2. Political Parties Liason Committee (PPLC)

Upon invitation by Sen. James Orengo, the chairperson PPLC, Mr. Philip Obonyo submitted a memorandum titled '*submission of views to the joint parliamentary select committee on matters relating to the Independent Electoral and Boundaries Commission (IEBC)*'

PPLC also informed the meeting that, individual political parties would make submissions because they have varying views to share with the Committee.

PPLC submitted on thematic area 4 that-

- a) Stringent laws should be put in place on how to prosecute and convict electoral officers who breach the electoral laws.
- b) The national ID card should be modified to be the voting card, where one side has the Citizen's identity information and the other side to have the voter's registration information.
- c) The election system should be digitized.
- d) A new voters' register should be compiled with the active collaboration and participation of the political parties as is the case in Ghana.

- e) The IEBC should give a final and certified voter registration document to all political parties 30 days to the General Election.
- f) The IEBC together with PPLC should come up with an agreeable formula for voter and civic education.
- g) The IEBC should enforce the laws with regard to fair media coverage to all the political players.
- h) The IEBC and PPLC should meet at least once a month to be updated on the current electoral activities and the immediate plans they intend to undertake. This will allow PPLC give their input for the IEBC plans.
- i) Elections should be staggered and done in two consecutive days to have election of county representatives on one day and the election of national representatives on the following day.
- j) The PPLC should be involved in all electoral stages from procurement of election materials to tallying and announcements of the final results in an election or by election.
- k) The Elections Act should be amended to lift the education restrictions barring candidates from vying in different political positions, since it limits the choice of voters, in violation of article 38 of the constitution.

In response to concerns raised by members, they informed members that;

- a) Sixty two (62) political parties had been registered with the Registrar of Political Parties.
- b) The PPLC is established under section 38 of the Political Parties Act and all represents the views of the political parties.
- c) PPLC was of the view that ways should be explored to synchronize the national identity card and voter's card.

The Committee however noted that the memorandum submitted by PPLC was not tailored to the thematic areas and did not address specific issues within the mandate of the Joint Committee as per the motion. PPLC was requested to submit a more comprehensive memorandum along the thematic areas set out by the Joint Committee.

MIN.NO. JPSC/IEBC/ 69/25/7/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 7.15 p.m. until Tuesday, 26th July, 2016 at 10.00 a.m.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed.....
SEN. KIRATI MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE SIXTEENTH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON TUESDAY, 26TH JULY, 2016 IN MINI CHAMBER, PARLIAMENT BUILDINGS, AT 10.30 A.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP | - Member |
| 4. Sen. Johnson Muthama, MP | - Member |
| 5. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 6. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 7. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 8. Hon. Jimmy Angwenyi, MP | - Member |
| 9. Hon. Moses Kuria, HSC, MP | - Member |
| 10. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 11. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 12. Hon. Mishi Mboko, MP | - Member |
| 13. Hon. Junet Mohamed, MP | - Member |

APOLOGY

- | | |
|-----------------------------|----------|
| Sen. Kipchumba Murkomen, MP | - Member |
|-----------------------------|----------|

IN ATTENDANCE

1. Hon. Stephen Ngelu
2. Ms. Gladys Sisina
3. Ms. Regina Mutheu
4. Mr. Daniel Ngetich

COUNTY ASSEMBLIES FORUM

- Speaker, County Assembly of Makueni
- CAF
- CAF
- CAF

IN ATTENDANCE

1. Mr. Reuben M. Kimotho
2. Mr. Leonard Nang'ole

NATIONAL REGISTRATION BUREAU

- Director
- Senior Assistant Director

IN ATTENDANCE

1. Mr. Kipkoech A. Tanui
2. Mr. Fredrick Riaga
3. CPA Edwin Makori

INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF KENYA

- Convenor, Legislations
- Senior Manager
- Chief Manager

4. CPA Georgina Malombe
5. Mr. Elias Wakhisi
6. Mr. Hillary Onami

- Manager
- Public Policy & Governance Officer
- Manager

IN ATTENDANCE

Mr. George N. Gathuka

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

IN ATTENDANCE

1. Mr. Kamotho Waiganjo
2. Mr. Vincent Mutai

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Ahmed H. Odhwa
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Noelle Chelagat
13. Ms. Clare J. Kidombo
14. Ms. Fiona Musili
15. Ms. Martha Ndukuyu

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

- Legal Officer

JOINT RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

JOINT COMMITTEE EXPERTS

- Constitutional Lawyer
- Law Lecturer, Moi University

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer
- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/70/26/7/2016PRELIMINARIES

The meeting was called to order at 10.30a.m. and commenced with a word of prayer by Co-Chairman, Sen. Kiraitu Murungi, MP.

Introductions of Members of the Joint Committee present, representatives of the County Assemblies Forum, National Registration Bureau and Institute of Certified Public Accountants of Kenya (ICPAK) followed.

Co-chairman Sen. Orengo apprised the groups in attendance on the mandate and terms of reference of the Committee as contained in the Motion establishing the Joint Committee.

1. The County Assemblies Forum

Upon invitation, by Co-Chairperson Sen. James Orengo, the Speaker of the County Assembly of Makueni and Executive Committee Member of the County Assemblies Forum, Mr. Stephen Ngelu, on behalf of the County Assemblies Forum made submissions to the Joint Committee highlighting their written Memorandum titled "*Memorandum on Matters relating to the IEBC and Electoral Process*"

CAF submitted on thematic area 4 that-

- (a) Voter registration should be a continuous exercise.
- (b) The voters register should be availed for scrutiny.
- (c) There should be civic education conducted in relation to registration.
- (d) The election for the Members of the County Assemblies should be in March 2018 since the Constitution provides for the MCAs' term of office as five years.

CAF emphasized that undertaking the elections of MCAs in August 2017 would deny those in office eight months, and informed the committee that they had filed a petition in court on interpretation and determination of the same. However, the Joint Committee observed that the Courts had already ruled that the dates for the next general elections shall be in August, 2016.

The Speaker for Makueni County Assembly clarified that the views presented were of the CAF. CAF held the view that the current IEBC should continue in office since recruiting and inducting a new one to effectively conduct general elections in August 2017 would be time barred. CAF also clarified that Parliament has the constitutional mandate to determine the number of nominated Members of the County Assemblies.

2. National Registration Bureau

Upon invitation by Co-chairperson Sen. James Orengo, the Director of National Registration Bureau made submissions to the Joint Committee highlighting their written Memorandum titled "*Memorandum to the Joint Parliamentary Committee on Matters Relating to the Independent Electoral and Boundaries Commission*"

National Registration Bureau submitted on thematic area 4 that-

- (a) once the Government introduces a multi-purpose, chip based, electronic identity card which will support e-Government and e-Commerce functions, IEBC should use the same card for registration and e-voting.
- (b) the IEBC should conduct an extensive and massive voter registration exercise before the 2017 general elections.
- (c) IEBC should make use of data held by the National Registration Bureau.
- (d) the Delivery of identity cards and enrollment of voters should be undertaken concurrently.
- (e) the IEBC should carry out sustained sensitization and mobilization campaigns in order to reach out the eligible voters in the short-term.

- (f) the IEBC's Automated Fingerprint Identification Systems (AFIS) should be used to verify and cross-match the fingerprints of voters during the voting process, and its database be used during the voting exercise, to match of fingerprints of the voter against the database. This will help eliminate the allegations and suspicion of ghost voters.
- (g) the IEBC should perfect the use of technology in voter registration, transmission of data, storage and management of data.
- (h) the IEBC should use systems that ensure personalization and capture of data and management.

Members of the Joint Committee sought clarifications on following issues:

- (a) The views of the National Registration Bureau on the 9.2million unregistered voters despite them having identity cards;
- (b) The views of the National Registration Bureau on the possibility of synchronizing the national identity card with voter's card;
- (c) The projected 2.7 million deaths that could still be in the voters' register; and
- (d) Whether centralization of identity cards issuance in Nairobi is the best policy to conduct the process.

The National Registration Bureau responded that:

- a) With regard to the 9.2million unregistered voters despite having identity cards, NRB held the view that this would be easily addressed by having an integrated registration system. An integrated system would also address the issue of centralized issuance of IDs.
- b) NRB responded that the statistics indicating 2.7 million deaths statistics are derived from the Kenya Bureau of Statistics.

The Joint Committee resolved to postpone submissions by the Institute of Certified Public Accountants of Kenya (ICPAK) to the afternoon of the same day at 3.00p.m.

MIN.NO. JPSC/IEBC/72/26/7/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 1.50 p.m. to reconvene again at 3.00 p.m. the same day.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Signed.....
SEN. KIRANTU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Date.....16/8/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE SEVENTEENTH SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)
HELD ON TUESDAY, 26TH JULY, 2016 IN MINI CHAMBER, PARLIAMENT
BUILDINGS, AT 3.00 P.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP, | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP, | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP, | - Member |
| 4. Sen. Johnson Muthama, MP, | - Member |
| 5. Sen. Kipchumba Murkomen, MP, | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP, | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP, | - Member |
| 8. Hon. Jimmy Angwenyi, MP, | - Member |
| 9. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 10. Hon. Moses Kuria, HSC, MP, | - Member |
| 11. Hon. Mishi Mboko, MP, | - Member |
| 12. Hon. (Dr.) Eseli Simiyu, CBS, MP, | - Member |
| 13. Hon. Junet Mohamed, MP, | - Member |

APOLOGY

- | | |
|-----------------------------------|----------|
| Hon. (Dr.) Naomi Shaban, EGH, MP, | - Member |
|-----------------------------------|----------|

IN ATTENDANCE

1. Mr. Francis Atwoli
2. Mr. Charles Omanga
3. Mr. Barasa Adams

IN ATTENDANCE

1. Mr. Mbage Nganga
2. Mr. Joash Dache, MBS
3. Mr. Peter Musyimi

IN ATTENDANCE

1. Mr. Kipkoech A. Tanui
2. Mr. Fredrick Riaga

**CENTRAL ORGANIZATION OF TRADE
UNIONS**

- Secretary General
- Legal Officer
- Personal Assistant to the Secretary General

KENYA LAW REFORM COMMISSION

- Chairman
- Chief Executive Officer
- Principal Legal Officer

**INSTITUTE OF CERTIFIED PUBLIC
ACCOUNTANTS OF KENYA (ICPAK)**

- Convener, Legislations
- Senior Manager

3. CPA Edwin Makori
4. CPA Georgina Malombe
5. Mr. Elias Wakhisi
6. Mr. Hillary Onami

IN ATTENDANCE

1. Ms. Cecilia Khamete
2. Ms. Mildred Nzau

IN ATTENDANCE

1. Mr. Charles Taabu Okumu
2. Mr. Kizzito Ouma
3. Mr. George Mungau Okonji
4. Ms. Sarah Maalim Alio

IN ATTENDANCE

Mr. George N. Gathuka

IN ATTENDANCE

1. Prof. Herman Manyora
2. Mr. Barasa Kundu Nyukuri
3. Mr. Alfred Ndambiri
4. Mr. Moses Mwangi

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

IN ATTENDANCE

1. Mr. Kamotho Waiganjo
2. Mr. Vincent Mutai

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Solomon M. Liria
5. Maj. (Rtd.) Reuben Kimosop
6. Mr. Ahmed H. Odhwa
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Noelle Chelagat
13. Ms. Clare J. Kidombo

- Chief Manager
- Manager
- Public Policy & Governance Officer
- Manager

YOUTH AGENDA

- Programmes Officer
- Programmes Officer

BUNGE LA WAZALENDU

- Chairman
- Speaker
- Member
- Governor

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

- Legal Counsel

INDIVIDUALS

- Lecturer, University of Nairobi
- A Member of the Public
- Mr. Barasa Nyukuri's Lawyer
- A Member of the Public

JOINT RAPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

JOINT COMMITTEE EXPERTS

- Constitutional Lawyer
- Law Lecturer, Moi University

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Senior Research Officer
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer

14. Ms. Fiona Musili
15. Ms. Martha Ndukuyu

- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/73/26/7/2016 **PRELIMINARIES**

The meeting was called to order at 3.15 p.m. and commenced with a word of prayer by Co-Chairman, Sen. James Orengo.

Thereafter introductions of the Members of the Joint Committee present and stakeholders were done. Co-chairman Sen. Kiraitu Murungi apprised the stakeholders present on the mandate and terms of reference of the Committee as contained in the Motion establishing the Joint Committee.

MIN.NO. JPSC/IEBC/74/26/7/2016 **PUBLIC HEARINGS /SUBMISSIONS**

1. Institute of Public Accountants of Kenya (ICPAK)

Upon invitation, by Co-Chairperson Sen. James Orengo, Mr. Kipkoech Tanui, on behalf ICPAK made submissions to the Joint Committee highlighting their memorandum titled, *"ICPAK Submissions to the Joint Parliamentary Committee on Matters Relating to the Independent Electoral and Boundaries Commission"*.

ICPAK submitted-

1. On thematic area 2 that-

- (a) IEBC Commissioners should vacate office in a process to be guided by a dignified political settlement. In light of the constitutional timelines, the settlement needs to be politically negotiated; and
- (b) Mechanisms for vetting senior staff of the Commission be agreed upon, framework within which it should be implemented and a timeframe that does not affect the operations of the Commission in light of the pending general elections.

2. On thematic area 4 that-

- (a) Citizens should be allowed to register as voters automatically at the time of obtaining National ID Cards and there be no restrictions as to the physical place to register as a voter;
- (b) The Registrar of Political Parties should be professionalized, to have better regulation of Political Parties;
- (c) Party nomination should be properly managed through proper regulations under the Political Parties Act;
- (d) Voting should be made mandatory for all registered citizens, to address voter apathy. Over 26 countries have taken this route e.g. Brazil and Philippines; and
- (e) There should be law to criminalize voting or attempt to vote twice and setting the penalty at a jail term for a period not exceeding 2 years or a fine not exceeding KSh. 500,000 or both.

ICPAK highlighted that voting should be mandatory and IEBC Commissioners should be contracted on a part time basis. ICPAK emphasized that, in the spirit of good corporate governance, IEBC Commissioners should only play a policy role while the Secretariat implements those policies.

ICPAK clarified that the IEBC Chairperson should not necessarily be a lawyer because; the role of the Chairperson should be to provide leadership.

ICPAK further explained that voting should be made mandatory since it is a civic duty.

ICPAK also emphasized on the need to have IEBC Commissioner appointed on a staggered basis.

2. Central Organization of Trade Unions (COTU)

Upon invitation by Co-chairperson Sen. James Orengo, the Secretary General COTU, Mr. Francis Atwolimade submissions to the Joint Committee highlighting their memorandum titled, "*Central Organization of Trade Unions, COTU (K) Memorandum to the Joint Parliamentary Committee on Matters Relating to the Independent Electoral and Boundaries Commission (IEBC)*".

COTU submitted-

1. On thematic area 1 that-

- (a) The IEBC is faced by corruption allegations and they should therefore be relieved of their duties and new commissioners appointed since Commissioners are public officers and Article 73 of the Constitution places on them a responsibility to serve the public interest;
- (b) The IEBC Commissioners have moral obligation to give way if public has lost confidence in them without infringing on their individual rights;
- (c) The Secretariat should be vetted to determine their suitability to continue serving in the Commission;
- (d) The Secretariat not found to be suitable should be relieved of their duties; and
- (e) The vetting exercise should be structured in such a manner not to compromise the preparations for 2017 elections.

2. On thematic area 3 that-

- (a) IEBC Commissioners should serve on a part-time basis for a non-renewable term of 5 years. This will reduce the interference of the IEBC Commissioners with the duties of the Secretariat;
- (b) Appointment dates of the Commissioners should be staggered; and
- (c) The senior management of IEBC should be appointed on contractual terms, and the rest of the staff to be on a permanent and pensionable basis.

3. On Thematic Area 4 that-

- (a) Voter registration should be made compulsory;
- (b) Parliament should ensure there are enough funds for voter education;
- (c) Nominations should be done in accordance with the provisions of the Elections Act and the Political Parties Act;

- (d) Technology used in elections must be properly procured, tried and tested and able to be used on Election Day or relay the information without a hitch;
- (e) Results at the national tallying center should be a true reflection of the polling station results;
- (f) Relaying of the results to the tallying centers should be secured;
- (g) IEBC together with other arms of government and enabling laws should provide acceptable criteria of nominating workers' representatives in the National Assembly, preferably by granting the most representative workers union in the Country the right to nominate such a person, pursuant to article 97 of the Constitution; and
- (h) PPDT, established under section 39 of the Political Parties Act, 2011 is an independent tribunal with 5 part-time commissioners on a five-year non-renewable term, and falls under the Judiciary. Its purpose is to fairly and expeditiously resolve disputes arising from political parties with regard to membership. It should therefore be sufficiently funded to dispense its mandate.

Asked how the proposed eight IEBC Commissioners in their submission should be picked, COTU asserted that they should be picked from each of the former eight provinces. IEBC emphasized that the re-constitution of IEBC should not be tied to an election date.

COTU urged the Joint Committee to ensure they come up with a framework of re-constituting IEBC Commissioners.

3. Kenya Law Reform Commission (KLRC)

Upon invitation by Co-chairperson Sen. James Orengo, the Chairman, Kenya Law Reform Commission, Mr. Mbage Nganga made submissions on behalf of the KLRC to the Joint Committee highlighting their memorandum titled "*Kenya Law Reform Commission Submissions to the Parliamentary Select Committee on IEBC Tuesday, 26th July, 2016*".

KLRC submitted-

1. On thematic area 3 that-

(a) The IEBC Act be amended to-

- reduce the number of Commissioners to between three and five;
- make the Commissioners part time to give effect to Article 250 of the Constitution;
- provide for staggered appointment of Commissioners so that their tenures do not lapse at the same time. This will take care of ensuring that at any given time, there is institutional memory;
- allow for the process of recruitment of new Commissioners at least six months before expiry of the term of sitting Commissioners; and
- provide for resignation of Commissioners, of the Independent Offices (Appointment) Act to include constitutional Commissions for purposes of vacation of office. The law currently does not have provisions as to resignation of commissioners.

- (b) Segregate issues of Commissioners from those of the Secretariat to give effect to Article 236 of the Constitution on protection and non-victimization of public officers.
- (c) It will be inimical to public policy to send the entire secretariat home, since massive resources have been spent to train the secretariat.

2. On thematic area 4 that-

- (a) Parliament should pass the Elections (Amendment) Bill, 2016, which was drafted by KLRC; and
- (b) There should be a review of the Supreme Court Presidential Election Petition Rules to-
 - Make it easier for the Court to entertain applications for amicus curiae besides the Attorney General who enjoys a constitutional right in this regard; and
 - Require the court to give reasons for the decision it makes pursuant to a petition. The Court need not give a detailed judgment but there should be substance to justify its decision at the time of delivering the judgment.

Members of the Committee sought to know why KLRC differed in opinion with the Judiciary on a proposed amendment to raise the period set to consider the Presidential Petition from 14 to 30 days, KLRC explained that this would give room to abuse and create anxiety with the country.

KLRC offered to assist the Joint Committee with legislative drafting services.

4. Kenya National Association for the Deaf (KNAD)

Upon invitation by Co-chairperson Sen. James Orengo, the representatives of the Kenya Association of the Deaf made submissions to the Joint Committee. The Association submitted to the Joint Committee that accessibilities facilities and sign languages should be provided in all polling stations.

KNAD made general submissions on inclusion of the persons with disability in the electoral process, especially deaf persons. They submitted that-

- (a) In preparation of civic and voter education, the deaf people should be involved by having a sign language interpreters;
- (b) In nominating representatives for persons with disabilities, deaf persons should get representation. The deaf have unique needs and need representation in Parliament;
- (c) When using the media in publicizing electoral events and materials, there should be a sign language interpreter for the deaf audience;
- (d) IEBC should facilitate voters with disability by availing among others, braille voting materials for the blind and sign language interpreters for the deaf;
- (e) IEBC should allow the Kenya National Association for the Deaf to appoint sign language interpreters during transmission of results; and
- (f) Some interpreters that have been hired before, do not interpret correctly and as a result, the deaf persons do not understand.

5. Professor Herman Manyora

Upon invitation by Co-chairperson Sen. James Orengo, Professor Herman Manyora made submissions to the Joint Committee highlighting their memorandum titled "*Presentation to the Parliamentary Select Committee on IEBC*" dated 26th July, 2016.

Prof. Manyora made the following observations to support his view that IEBC Commissioners should not go-

- (a) There is no time, considering the legal hurdles and other Constitutional timelines that make it impossible to remove the Commissioner and be in time for elections in August 2017. This has two legal implications:
 - Enormous legal challenges and timelines will have to be surmounted.
 - Legal challenges may arise in constitution of a new Commission.
- (b) There is bound to be complications brought about by involvement of political parties in recruitment process because they are interested parties;
- (c) Preparation required by the new team will require more time than is available after the long process leading to having a new team of commissioners;
- (d) Disbandment sets bad precedence in that every time there is a disagreement we alter the Constitution and destabilize the institutions; and
- (e) Amending the Constitution to change election date may not be simple and straightforward.

Prof. Herman held the view that a Committee should be set up to work with IEBC in delivering a credible election.

6. Youth Agenda

Upon invitation by Co-chairperson Sen. James Orengo, Ms. Cecilia Khamete, on behalf of Youth Agenda, made submissions to the Joint Committee highlighting their memorandum titled, "*Memorandum to the Joint Parliamentary Select Committee on on Matters Relating to the IEBC and Electoral Process Presented by the Youth Agenda on 26th July, 2016*".

In their oral submission to the Joint Committee, Youth Agenda submitted that-

- (a) Whether the allegations are verified or not, the IEBC Commissioners must leave office since there has been loss of confidence in the IEBC. The term of the Commission also ends during an election cycle that might lead to a crisis;
- (b) The process of removal under Article 251 of the Constitution may not be practical due to the timelines. However, the JPSC should negotiate the terms to remove the commissioners from office;
- (c) IEBC should synchronize both the manual and electronic voter registers;
- (d) IEBC should device specific methodologies on how to target the 900,000 eligible new voters every year to ensure that every young person exercises their right to vote;
- (e) IEBC should work closely with civil society stakeholders to provide voter education; and
- (f) IEBC Election Code of Conduct Enforcement Committee should be strengthened to be able to enforce its mandate.

7. Bunge la Wazalendo

Upon invitation by Co-chairperson Sen. James Orengo, Mr. Charles Taabu Okumu, on behalf of Bunge la Wazalendo, made submissions to the Joint Committee highlighting their memorandum titled "*Submissions of Views to the Joint Parliamentary Select Committee on on Matters Related to the Independent Electoral and Boundaries Commission (IEBC)-2016*".

Bunge la Mzalendo submitted that-

- (a) There were credibility issues noted at grass root research work whereby *Wanjiku* openly questioned IEBC credibility to handle 2017 elections;
- (b) Poor performance of BVR kits exposed credibility issues of the Commission;
- (c) IEBC failed to listen to the outcry of *Wanjiku* as they offered open solutions;
- (d) Age groups of presiding clerks are questionable. All presiding clerks should be over 35 years;
- (e) IEBC failed in voter registration countrywide;
- (f) IEBC has failed to link up with the relevant county organs to facilitate successful civil education; and
- (g) Diaspora has been left behind in terms of voter registration.

Due to limited time, the Joint Committee resolved to postpone the submission by Mr. Barasa Kundu Nyukuri to the following day.

MIN.NO. JPSC/IEBC/75/26/7/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 7.25 p.m. The next meeting shall be held on Wednesday, 27th July, 2016 at 10.00 a.m.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed.....
SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE EIGHTEENTH SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION
(IEBC) HELD ON WEDNESDAY, 27TH JULY, 2016 IN MINI CHAMBERS,
COUNTY HALL, PARLIAMENT BUILDINGS, AT 11.00 A.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP, | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP, | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP, | - Member |
| 4. Sen. Johnson Muthama, MP, | - Member |
| 5. Sen. Mutula Kilonzo Jnr, MP, | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP, | - Member |
| 7. Hon. (Dr.) Naomi Shaban, EGH, MP, | - Member |
| 8. Hon. Moses Kuria, HSC, MP, | - Member |
| 9. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 10. Hon. Jimmy Angwenyi, MP, | - Member |
| 11. Hon. Mishi Mboko, MP, | - Member |
| 12. Hon. (Dr.) Eseli Simiyu, CBS, MP, | - Member |
| 13. Hon. Junet Mohamed, MP, | - Member |
| 14. Sen. Kipchumba Murkomen, MP, | - Member |

IN ATTENDANCE

1. Mr. Lameck B. Achika
2. Mr. Dennis T. Kariuki
3. Mr. Francis Gichjire
4. Mr. Sammy Kimungunyi

OFFICE OF THE AUDITOR GENERAL

- Director of Audit
- Director of Audit
- Manager
- Manager

IN ATTENDANCE

1. Mr. Mulle Musau
2. Ms. Elayne Okaya
3. Ms. Elizabeth Kirema
4. Mr. Washington Oloo
5. Ms. Faith Wachira
6. Ms. Caroline Ndebu
7. Mr. Kennedy Kimani
8. Mr. Fred Omwanda
9. Ms. Sarah Mehta
10. Mr. Kennedy Karuga
11. Mr. Eusebius Atamallo

ELECTIONS OBSERVER GROUP (ELOG)

- Co-ordinator, ELOG
- Director, ELOG
- Deputy Executive Director, ELOG
- Programme Officer, ELOG
- Programme Assistant, ELOG
- Programme Officer, ELOG
- Programme Head, ELOG
- Programme Officer, ELOG
- Programme Officer, ELOG
- Programme Coordinator, ELOG
- Liaison, ELOG

12. Mr. Mwebi M.
13. Mr. Eustace Kinyua
14. Mr. Emmanuel Tendet
15. Mr. Marcus Ageyo

- ICT Consultant, ELOG
- Programme, ELOG
- Programme, ELOG
- Programme, ELOG

IN ATTENDANCE

Mr. Julius Ogony

COMPUTER SOCIETY OF KENYA

- Council Member

IN ATTENDANCE

Mr. George N. Gathuka

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

- IEBC

IN ATTENDANCE

1. Mr. Barasa Kundu Nyukuri
2. Mr. Alfred Ndambiri
3. Mr. Harrison Kinyanjui
4. Mr. Godfrey Osotsi

MEMBERS OF THE PUBLIC

- Member of the Public
- Mr. Barasa Nyukuri's Lawyer
- An Advocate of the High Court
- Amani National Congress

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

JOINT RAPPORTEUR

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo

JOINT COMMITTEE EXPERTS

- Expert, CORD Coalition
- Expert, Jubilee Coalition

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Solomon M. Liria
5. Maj. (Rtd.) Reuben Kimosop
6. Mr. Ahmed H. Odhwa
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Clare J. Kidombo
13. Ms. Fiona Musili
14. Ms. Martha Ndukuyu
15. Ms. Noelle Chelagat

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Senior Research Officer
- Clerk Assistant I
- Clerk Assistant II
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer

MIN.NO. JPSC/IEBC/76/27/7/2016 PRELIMINARIES

The meeting was called to order at 11.00 a.m. and commenced with a word of prayer from Co-Chairman, Sen. Kiraitu Murungi, MP.

Thereafter introduction of the Members of the Joint Committee present and stakeholders present was done. The Co-chairman, Sen. Kiraitu Murungi, M.P apprised the stakeholders on the mandate and terms of reference of the Committee as contained in the Motion establishing the Joint Committee.

MIN.NO. JPSC/IEBC/77/27/7/2016 **PUBLIC HEARINGS**

1. Mr. Nyukuri Kundu Barasa

Mr. Barasa Nyukuri made submissions to the Joint Committee highlighting his memorandum titled "*In the matter for the removal of the Chairperson and eight Commissioners of IEBC*"

Barasa Nyukuri submitted-

1. On thematic area 1 that the members of the Commission failed to prepare and regularly revise the principal voters register contrary to Article 88(4)(a) and (b) of the Constitution. This therefore shows lack of credibility.
2. On thematic area 3 that the number of Commissioners of IEBC should be reduced to 3-5, to enable them focus more on policy matters.
3. On thematic area 4 that-
 - (a) IEBC should institute a policy of dealing decisively with critical election law breaches;
 - (b) Amend the law to put the prosecutorial powers with regard to election offences before the DPP;
 - (c) IEBC should relinquish its jurisdiction over nomination disputes to the PPDT;
 - (d) IEBC should ensure strict compliance with the electoral laws;
 - (e) IEBC should be split into Independent Electoral Commission and an *ad hoc* Independent Boundaries Commission, which will sit every 8 years; and
 - (f) The law should be amended to change the electoral system to either a pure Proportional Representation System or a proper Mixed Member Proportional Representation System to address the gender rule and affirmative action principle in Articles 27 and 81 of the Constitution.

Mr. Nyukuri informed the Joint Committee that his submissions were on matters of electoral reforms that are required at IEBC. He alleged that IEBC lended election machines to Burundi without adhering to the requisite law. He also alleged that the current Chief Executive Officer of IEBC, Mr. Ezra Chiloba, paid suppliers to the tune of Kshs. 258 million after variation of the contract an amount his predecessor had declined to pay. He further alleged that some of the election materials were delivered long after the polls of 2013.

Mr. Nyukuri also submitted that since it would take inordinately long to remove IEBC through a tribunal, the Joint Committee should explore a settlement pursuant to Article 159 (2)(c) on alternative dispute resolution.

2. Advocate Harrison Kinyanjui

Mr. Harrison Kinyanjui, an Advocate of the High Court of Kenya made submissions to the Joint Committee as contained in his letter to the Clerk of the National Assembly dated 20th July, 2016.

Mr. Kinyanjui submitted that the Joint Committee had no jurisdictions on thematic area No 1 and 2. He further gave the view that, the Commissioners of IEBC or any other constitutional commission can only be removed under Article 251 of the Constitution. He opined that any adverse recommendation of members of IEBC might be challenged in the High Court for interpretation as provided under Article 165 (3) (d) of the Constitution.

3. Election Observation Group (ELOG)

Upon invitation by Co-chairman, Sen. Orengo, the Elections Observation Group made submission to the Joint Committee highlighting their memorandum titled, *"Memorandum on the IEBC and on other Electoral Reforms submitted to the Joint Parliamentary Select Committee on IEBC"*.

ELOG submitted-

1. On thematic area 1 that-

- (a) The independence of the Commission was questioned when it failed to pass the procurement test of the BVR Kits which prompted the Government to intervene. This Government intervention dented the independence and credibility of the Commission;
- (b) Failure of BVR, EVID and RTS created a lack of transparency and expected efficiency that contributed to loss of trust among a section of Kenyans;
- (c) IEBC Commissioners have been implicated in chicken-gate scandal;
- (d) Opinion polls show that public confidence in the Commission is as low as 30%; and
- (e) Various stakeholders including political parties, civil societies and religious groupings have expressed lack of confidence in IEBC.

2. On thematic area 2 that-

- (a) The Joint Committee should consider provisions of Chapter Six of the Constitution and particularly Article 73(a)(iv) and come up with a negotiated strategy for all the nine Commissioners to leave office; and
- (b) The negotiated strategy should provide for compensation for the remaining period.

(c) On thematic area 3 that-

- (d) There is need to have a lean Commission of 5 Commissioners serving on a full time basis, composed of professionals in the area of elections, governance and democracy;
- (e) Not more than 2/3 of the Commissioners should be of the same gender, and at least one Commissioner should be a person with disability;

(f) Appointment of IEBC Commissioners to be staggered to have all five appointed to oversee the 2017 general elections, with the chairperson and deputy chairperson having an initial longer periods than the other three Commissioners. All the Commissioners should have an eventual fixed term of six years; and

(g) There should be a nine member selection panel to be composed of- one member nominated by KEPSA; one member nominated by COTU-Kenya; three members nominated by religious sector; one from people with disabilities; one member from JSC; two members from Civil Society Organization; and two joint secretaries, one from the Public Service Commission, the other from AG's office, as *ex officio* members.

3. On Thematic Area 4 that-

a) IEBC should develop a repository of the voters' signatures or thumb prints, to avoid what happened with the signatures collected for the Okaa Kenya Campaign when IEBC could not verify the signatures.

b) Material used for voter education should be accessible to persons with disability.

c) IEBC Voters Register should not be used by political parties to conduct primaries. Instead, parties should compile a credible party list verifiable by the Registrar of Political Parties and the party members before the primaries.

d) IEBC should make public the audit report on the use of the electoral technology during 2013 general elections.

e) Procurement for the technology to be used in 2017, be completed by December 2016.

f) The court gave an interpretation of the 50%+1 vote threshold, to be calculated in relation to the total valid votes cast. This should be incorporated in article 138(4)(c) of the Constitution.

g) Political Parties Act should be amended to ensure affirmative action seats truly enhance participation of the youth, persons with disability, minority groups and women, and that non-representative and illegitimate persons do not get nominated to take up these seats.

h) The period of time set to hear and determine the presidential petition should be increased from 14 days to 30 days.

i) The Supreme Court should hear only presidential petition. Other electoral disputes to end at the Court of Appeal.

4. Computer Society of Kenya (CSK)

Upon invitation by Co-chairman, Sen. Orengo, the representatives of the Computer Society of Kenya made submission to the Joint Committee highlighting their memorandum titled, "*Memorandum to the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commission (IEBC)*".

The Computer Society of Kenya's submission only covered thematic area 4. CSK submitted that IEBC should always involve independent ICT advisers at the beginning of the planning process. This planning process should have disaster management system in place.

CSK further submitted that-

- (a) IEBC should co-opt members of CSK as part of the independent advisers to provide technical advice as contemplated in section 12 of the Act, as well as to be observers during the procurement for electoral technology;
- (b) Hardware, software, and telecommunication systems of the IEBC should be audited, before, during and after elections by organisations such as Information Systems Audit and Control Association (ISACA);
- (c) There should be physical inspection of the hardware procured by IEBC, as well as detailed documentation of software requirements;
- (d) User Acceptance Testing (UAT) must be evidenced against test cases by signed documents. There should be a procedure of identifying who are the users to be involved in the testing process;
- (e) Software Quality Audit (SQA) must be done to ensure it delivers what the client desires;
- (f) For credible transmission and declaration of results, the transmission logs must be available to verify the success or failure of the process. The polling station logs and tallying center logs must be the same;
- (g) IEBC must ensure that all media houses and press groups are briefed and receive results from one source;
- (h) IEBC must have an approved Disaster Management Plan to show how recovery and business continuity shall be achieved in all key areas of voter operations in case of a disaster. These are sites where IEBC can move to in case of a disaster;
- (i) IEBC should have power back up for all polling stations;
- (j) Redundant hardware, especially servers, in place in case the ones they use fail.
- (k) Redundant telecommunication lines such as SITA lines should be an option;
- (l) IEBC should have a credible backup system, both online and offline; and
- (m) IEBC staff should have requisite technical and operational knowledge, skills and expertise to manage/operate the voter system in place.

5. East African Centre for Law and Justice (EACLJ)

Upon invitation by Co-chairman, Sen. Orengo, the representatives of the East Africa Center for Law and Justice made submission to the Joint Committee highlighting their memorandum titled, "*Memorandum to the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commission (thematic area 3)*".

EACJ highlighted their submissions from their memorandum-

1. On thematic area 3 that-

- (a) To avoid a conflict of interest where the President nominates the majority of members to a selection panel meant to select Commissioners who will oversee his re-election, the nominees should be subjected to a transparent competitive selection process;
 - (b) It would be unfair to appoint the National Assembly to rule independently, as there have been concerns over the possible collusion of members of the National Assembly with the electoral body. Therefore, the process of removing IEBC Commissioners on grounds of impartiality, should be determined by the Court; and
 - (c) Only three to five Commissioners should form the IEBC as per PAC's recommendation.
2. On thematic Area 4 that-
- (a) IEBC should use the media as we have now, and also use of the religious institutions, educational institutions and community development groups to conduct voter education;
 - (b) Political parties must invest in software that will be linked to the Office of the Registrar of Political Parties and to the IEBC to enhance efficiency in tallying and transmission of results as well as provision of party lists to the Office of the Registrar of Political Parties and the IEBC;
 - (c) There should be guidelines on how much can be spent on mass media so that greater campaign emphasis is done at the grassroots interacting with the votes rather than expensive TV and print media campaigns;
 - (d) Voting should be made electronic and should be backed by online systems, so that tallying can be real time;
 - (e) There should be separate election dates for the president and for the National Assembly and county assemblies;
 - (f) Tallying centers should have round the clock closed circuit TV so that all activities at the centers can be recorded clearly;
 - (g) Election petitions should be heard and determined within a reasonable time after the elections;
 - (h) Whoever is declared winner should go ahead and be sworn in and function in office pending the determination of the petition. Once the court has made its determination of the matter, if there is need to substitute leaders, the court should clearly say so;
 - (i) Election petitions should only be appealable from the court of initial jurisdiction once. If the court with superior jurisdiction over the other comes to a conclusion on a matter, the decision of the higher court should be final, and there is no right of further appeal; and
 - (j) The Office in the Registrar of Political Parties has a tribunal that should be the final arbiter in matters of nomination to avoid clogging the court with urgent applications. The composition of the tribunal should be flexible, so that if there

are many matters to be heard, the Registrar can call up more people to form several panels of the tribunal to hear and determine matters simultaneously.

6. The Office of the Auditor General

Members were informed that the Auditor General was out of the Country and he was to be represented by a Mr. Dennis Kariuki, Director of Audit in his office. He submitted a memorandum titled "*Auditor General's presentation to the Joint Parliamentary Select Committee on matters relating to IEBC*"

Members were concerned that the memorandum was not comprehensive enough to address issues under consideration by the Joint Committee. The Joint Committee resolved to step down representatives and resolved that the Auditor General himself appear before them on 29th July, 2016.

7. Hon. Kabando wa Kabando

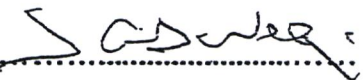
The Joint Committee was informed that the Hon. Kabando wa Kabando had made written submissions to the Joint Committee vide a memorandum titled "*Memorandum on Electoral Reforms Submitted by Honourable Kabando wa Kabando, Member of Parliament for Mukurweini Constituency*".

MIN.NO. JPSC/IEBC/78/27/7/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 2.00 p.m. to reconvene again at 3.00 p.m. the same day.

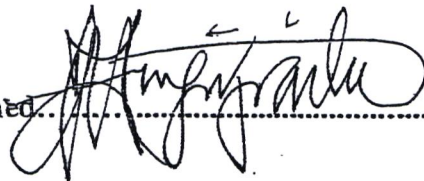
Signed,



SEN. JAMES ORENKO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed,



SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

**MINUTES OF THE NINETEENTH SITTING OF THE JOINT PARLIAMENTARY
SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON
WEDNESDAY, 27TH JULY, 2016 IN MINI CHAMBERS, COUNTY HALL,
PARLIAMENT BUILDINGS, AT 3.00 P.M.**

1. Sen. James Orengo, EGH, MP
2. Sen. Kiraitu Murungi, EGH, MP
3. Sen. Beatrice Elachi, CBS, MP
4. Sen. Kipchumba Murkomen, MP
5. Sen. Johnson Muthama, MP
6. Sen. Mutula Kilonzo Jnr, MP
7. Sen. (Dr.) Boni Khalwale, MBS, MP
8. Hon. (Dr.) Naomi Shaban, EGH, MP
9. Hon. Jimmy Angwenyi, MP
10. Hon. (Eng.) Mohamed M. Mahmud CBS, MP
11. Hon. (Dr.) Eseli Simiyu, CBS, MP
12. Hon. Moses Kuria, HSC, MP
13. Hon. Mishi Mboko, MP
14. Hon. Junet Mohamed, MP

- [illegible]

1. Mr. Henry Rotich, EGH
2. Mr. Kasembeli W. Nasiuma
3. Ms. Isabella Kogei

- Cabinet Secretary
- Assistant Director Budget
- Parliamentary Liaison Officer

1. Dr. Shem Ochuodho
2. Eng. Chris Njenga
3. Mr. Humphrey Lumadede

- Chairman
- Member
- Member.

Mr. Hannington Gaya

- Chairman

1. Archbishop (Dr.) Gerry Kibarabara
2. Ms. Susan Maina

- Chairman
- Member

3. Ms. Consolata Gitonga

- Member

IN ATTENDANCE

1. Hon. Peter Kaluma
2. Mr. Kibe Mungai
3. Mr. Daniel Njenga Mwangi
4. Mr. Joseph Amisi Omukanda
5. Mr. Godfrey Osotsi
6. Mr. Mr. Zack Kinuthia,
7. Mr. Mark Musa
8. Mr. Okiya Omtata
9. Mr. Njoroge Waweru
10. Mr. Fredrick Odhiambo
11. Mr. Antony Ojee

IN ATTENDANCE

Mr. George N. Gathuka

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

IN ATTENDANCE

Mr. Vincent K. Mutai

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Solomon M. Liria
5. Maj. (Rtd.) Reuben Kimosop
6. Mr. Ahmed H. Odhowa
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Clare J. Kidombo
13. Ms. Fiona Musili
14. Ms. Martha Ndukuyu
15. Ms. Noelle Chelagat

MIN.NO. JPSC/IEBC/79/27/7/2016

The meeting was called to order at 3.30 p.m. and commenced with a word of prayer from Co-Chairman, Sen. James Orengo, MP.

INDIVIDUALS

- Member of Parliament, Homa Bay Town Constituency
- Advocate of the High Court of Kenya
- National IDPS Forum
- Maendeleo Party
- Amani National Congress (ANC)
- Consortium of NGOs
- Kenya Young Patriots
- A member of the Public
- A member of the Public
- A member of the Public
- A member of the Public

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

- Legal Counsel

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

JOINT COMMITTEE EXPERTS

- Expert, CORD Coalition

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Senior Research Officer
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer

PRELIMINARIES

Introductions of the Members of the Joint Committee present and stakeholders was done. Sen. James Orengo, M.P appraised the meeting on the mandate and terms of reference of the Committee as contained in the Motion establishing the Joint Committee.

MIN.NO. JPSC/IEBC/80/27/7/2016 **PUBLIC HEARINGS SUBMISSIONS**

1. The Cabinet Secretary, National Treasury

Upon invitation by Sen. James Orengo, M.P, the Cabinet Secretary, Mr. Henry Rotich made submission to the Joint Committee on Thematic Area 4.

The Cabinet Secretary confined his submissions to budget matters related to election funding. He submitted that-

- a) expenditure controls are usually over-run because of unanticipated activities;
- b) he had received the IEBC election procurement plan for 2017 general election and further stated that planning of acquisition of key election items was critical;
- c) the Kenyan election is expensive perhaps because of the number of elections; and,
- d) the 2013 general elections did cost Kshs. 13 Billion.

He recommended that-

- a) a leaner electoral body with efficient secretariat and part-time commissioners would be more preferable;
- b) elections at different levels should be staggered;
- c) IEBC should not outsource legal services since it has a directorate of legal services;
- d) the current IEBC structure & staff establishment at the top level management is bloated needs review for the proper functioning of the same; and
- e) voter registration should be synchronized with the registration of persons.

The Cabinet Secretary responded the meeting that he had advised the IEBC on a wide range of issues key among them, the need for policy and legal reforms. He added that the National Treasury facilitated funding of equipment in the last election due to constraint of time and urgency of the equipment but the technical specifications of the equipment was the responsibility of IEBC.

With regard to pending Bills owed by IEBC, the Cabinet Secretary stated that, IEBC made last minute decisions that led to budget. He added that, pending bills does not imply incompetence or corruption.

The Cabinet Secretary confirmed that a letter tabled by one of the members of the Committee addressed to the IEBC advising on austerity measure, was indeed from his office.

The Cabinet Secretary confirmed to the Joint Committee that, he funds would be availed to settle payments for the IEBC commissioners in the event they wish to vacate office voluntarily. These payments could be drawn from the contingency fund as unforeseen expenditure.

The Cabinet Secretary promised to provide a written Memorandum to the Committee by Friday, 29th July, 2016.

2. Submissions by Hon. Peter Kaluma, M.P

On Thematic Area 1, Hon. Peter Kaluma submitted that-

- a) On the question of the integrity of IEBC, Hon. Kaluma informed the meeting that UK Serious Fraud Office and UK Courts have implicated some Commissioners including the Chairman of the IEBC in the "Chicken-gate" scandal;
- b) EACC had refused to prosecute the IEBC Commissioners implicated in Chicken-gate scandal but instead chose to engage in unending court proceedings;
- c) IEBC had lost necessary trust without which they cannot continue to serve from a substantial portion of the Kenyan people;
- d) Mr. Ahmed Issack Hassan and members of the IEBC Commission had made remarks and acted in a manner that left no doubt that they were biased against the Minority Coalition; and
- e) Owing to the fact that, the power to declare results of the presidential election was vested in the Chairperson of IEBC under Article 138(10) of the Constitution vis a vis the Chairman of IEBC's (Mr. Hassan) remarks about the Rt. Hon. Raila Odinga that he was a perennial loser of elections the Chairman had manifested open impartiality.

On Thematic Area 2 he submitted that-

- a) IEBC Commissioners who agree to vacate from office in public interest should be paid emoluments for the remainder of the term;
- b) Commissioners who are culpable should be subjected to both criminal process and removal procedures under the Constitution; and
- c) It was also possible to remove the Commissioners from office by legislation.

On Thematic Area 3 he submitted that-

- a) The number of IEBC Commissioners should be reduced;
- b) Political parties should be involved in the composition of IEBC. In the United States and the United Kingdom, members of the electoral body are nominated by political parties; and
- c) Commissioners should serve on a part time basis and only to deal with policy and general strategy directions and leaving the day to day operations of the Commission to a strengthened secretariat.

On Thematic Area 4 he submitted that-

- a) With biometric Voter Registration (BVR), all necessary individual biodata is recorded and as such, there is no need for one to have an Identity Cards in order to vote;
- b) Registration of Identity Cards and Voter registration should be integrated;
- c) IEBC should benchmark with jurisdiction that run electronic voting and results transmission system to secure tamper proof system for Kenya;
- d) Laws should be enacted to make future voting electronic. This will help deal with dead voters voting;

- e) A legislation should be enacted to obligate declaration of presidential results to be within 15 hours of close of polling;
- f) The Elections Act should be amended to make results announced by Returning Officers at the 290 Constituencies the final results of the elections;
- g) Declaration of final results should be devolved to the constituency level;
- h) A law should be enacted to make it a crime punishable by death for an election officer to declare wrong results; and
- i) The amount of time provided for under article 140 of the Constitution to determine presidential Petitions, be increased from 14 days to 30 days. From the experience in the last elections, 14 days were not enough for the determination of the petition.

3. Submissions by Mr. Okiya Omtata

Mr. Okiya Omtata submitted that-

- a) IEBC flouted procurement procedures in the procurement of BVR, EVID kits, ballot papers and general electronic materials such as indelible marker pens, solar powered lanterns and polling station banners;
- b) IEBC Commissioners failed to competently discharge the constitutional mandate of the Independent Electoral and Boundaries Commission;
- c) Result Transmission Systems (RTS) were procured in rush through International Foundation on Electoral System (IFES) without going on a proper international open tender;
- d) IEBC failed to deploy in the election transmission system, satellite phones whose procurement was cancelled at the last minute when the item was surreptitiously removed from a list without reasons;
- e) The Commission irregularly favoured FACE Technologies in the procurement of Electronic Voter Identification Devices (EVID);
- f) The Commission should consider using technology for the entire electoral process and removing human beings. Mr. Omtata argues that machines are more efficient than human being;
- g) Results for the presidential elections should be declared at county level rather than at the national level with a view to reduce rigging;
- h) Article 138 should be amended to make the President a representative of the counties. He alleged that IEBC lacks a procurement plan; and
- i) The Presidency should be de-tribalised so that for one to be a President, they need to mobilise counties rather than tribes.

4. Submissions by Media Owners Association of Kenya

The Media Owners Association of Kenya submitted that they agree with the presentation of Hon. Peter Kaluma. They further submitted that-

- a) Process of vacation of office by the IEBC Commissioners and its secretariat must be seen to be impartial and independent of government or other influences;
- b) IEBC Commissioners should serve for a term that enables them to serve at most two electoral cycles. The Commissioners should retire by rotation;
- c) The IEBC Commissioners should serve full time. Their term should always end on the second year after the prior election; and

- d) A credible selection panel ought to be established for nominating IEBC Commissioners, consisting of: eminent professional societies such as Law Society of Kenya; media industry; faith based organisations; civil society; and, business community.

5. Kenya Diaspora Alliance (KDA)

On Thematic Area 1, KDA submitted that during the last elections, when a Former Minister for Justice said there was a resolution by the Cabinet for Diaspora not to vote, IEBC appeared to have largely taken cue. IEBC does not seem to have financial independence in terms of budget allocation. KDA alleged that the IEBC was involved in the Chicken-gate scandal. Individual IEBC Commissioners and Officials found culpable should be asked to voluntarily vacate office, failure to which, credible prosecutions should be conducted.

On Thematic Area 4 KDA submitted that-

- a) IEBC should be provided adequate resources and infrastructure to register eligible Diaspora voters this year;
- b) IEBC should conduct civic and voter education for the voters in Diaspora;
- c) IEBC or a credible electoral administrator should oversee the nominations. There should be provisions regarding the nomination of representatives from Diaspora among the "Special Interest Groups", by political parties;
- d) There should be a cap on the campaign financing. The cap should be enacted and strictly complied with;
- e) A specific "*Diaspora Electoral Law*" should be put in place to facilitate the voting in Diaspora. Such a law should provide for the different unique factors in the Diaspora constituency, including but not limited to registration, time zone differences, diverse privacy and data protection legislations in host countries, etc;
- f) Electoral technologies, including electronic voter register should be used; and
- g) Competent, competitively sourced or referenced experts, both locally and abroad, with impeccable integrity should be brought on board to manage the systems.

6. Mr. Kibe Mungai, Advocate of the High Court of Kenya

Mr. Kibe Mungai expressed his agreement with the proposals made by Okiya Omtata. He urged the Joint Committee to abide with the Constitution in making whichever decisions they come up with.

Mr. Mungai further submitted that, based on Chicken gate convictions in England, bungled procurement of election materials and the failure of ETR system in 2013 elections, the Committee should recommend to AG or any other appropriate persons to file a petition against IEBC Commissioners on the grounds of contravention of Chapter Six of the Constitution.

Mr. Mungai also submitted that, Article 251 of the Constitution should be amended to introduce two paragraphs (f) and (g) as follows-

- (f) Loss of confidence based on actual or perceived lack of credibility, impartiality, integrity and independence by the public and political class.*
- (g) Clause (f) above shall lapse after the second General Election under this Constitution unless two thirds of the Members of Parliament (National Assembly and Senate) votes to retain the Clause within one year after the said general election.*

7. Kenya Youth Patriots

Kenya Youth Patriots submitted that-

- a) The selection panel should have 2 persons, being one man and one woman, nominated by majority coalition in Parliament; 2 persons, being one man and one woman, nominated by minority coalition in Parliament; 1 person nominated by the Public Service Commission; 1 person nominated by the Ethics and Anti-Corruption Commission; and 1 person nominated by the Law Society of Kenya;
- b) Information should be prepared and disseminated to voters indicating what steps are being taken by IEBC officials; and
- c) IEBC should have the sole authority to announce, after verification, the final presidential elections at the national level.

8. Amani National Congress

ANC tabled their written memorandum and recommended that-

- a) Article 140(2) should be amended to increase the presidential election petition duration from 14 days to 30 days;
- b) Nomination to Parliament and county assemblies via party lists should be done after the general elections;
- c) Sec. 5(1) of the IEBC Act should be amended to reduce the number of Commissioners to the minimum number of 3; and
- d) Vacation of office by IEBC Commissioners should be by way of a negotiate settlement. The method under article 251 of the Constitution is long as it requires 9 tribunals to be set up.

9. Maendeleo Party

Maendeleo Party submitted that the IEBC lacked the capacity to adhere to the spirit and rule of law. They based this allegation on that a member of Maendeleo party was nominated on a ticket from another Party. The presenter alleged that this is a violation of the requirement by law, that a person cannot be a member of more than one Political Party.

10. Kenya Patriotic Party

Kenya Patriotic Party submitted that the Constitution be amended to have a Parliamentary system rather than a Presidential one.

Kenya Patriotic Party further submitted that the 2017 elections be extended for 7 months to allow room for credible elections.

KPP finally submitted that the move to force out IEBC Commissioners out of Office is unconstitutional and undemocratic.

11. United Christian Churches of Kenya

On behalf of the United Christian Churches of Kenya, Archbishop Kibarabara submitted-

- a) The allowances for holders of elective positions should be reduced;
- b) The elective positions should be reduced;
- c) Legislation should be passed to regulate conduct of elections;
- d) The Committee should deal with individual commissioners and not the IEBC as a whole; and
- e) There needs to be law enforcement to ensure that IEBC has power to stop politicians from violating electoral processes.

12. Hon. Jackson Mwalulu, Former Member of Parliament for Taita Taveta Constituency

Hon. Jackson Mwalulu submitted that-

- a) Taking into consideration the time constraints, something should be done to ensure the elections in August 2017 are free and fair;
- b) IEBC Commissioners must leave office for there to be peaceful elections. In their departure, there should be a negotiated deal to have them compensated; and
- c) When constituting the new IEBC professional bodies and representatives of persons with disability should be given a chance to nominate people. The dominant political parties should be given two slots each and the PSC be given one slot.

13. Mr. Njoroge Wawere, A Member of the Public

Mr. Njoroge Waweru, a member of the public made submissions and proposed that IEBC should be disbanded because of its shortcomings. He alleged that the IEBC Chairperson is prejudiced based on his affidavit in the Supreme Court Presidential Petition.

14. Mr. Fredrick Odhiambo, A Member of the Public

Mr. Fredrick Odhiambo submitted that elections results from polling stations should be transmitted directly to the national tallying Centre.

MIN.NO. JPSC/IEBC/81 /27/7/2016

ADJOURNMENT AND DATE OF
NEXT MEETING

The meeting was adjourned at 8.15 p.m. until Thursday 28th July, 2016 at 10.00 a.m.

Signed.....

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Date.....16/8/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE TWENTIETH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON THURSDAY, 28TH JULY, 2016 IN MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS, AT 11.05 A.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 6. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 7. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 8. Hon. Jimmy Angwenyi, MP | - Member |
| 9. Hon. (Eng.) Mohamed M. Mahmud CBS, MP | - Member |
| 10. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 11. Hon. Moses Kuria, HSC, MP | - Member |
| 12. Hon. Mishi Mboko, MP | - Member |
| 13. Hon. Junet Mohamed, MP | - Member |

APOLOGY

- | | |
|---------------------------|----------|
| Sen. Johnson Muthama, MP, | - Member |
|---------------------------|----------|

IN ATTENDANCE

1. Mr. Paul Mwangi
2. Mr. Edwin Ng'onga
3. Dr. Oduor Ong'wen
4. Mr. Norman Magaya
5. Mr. Anthony Oluoch
6. Mr. Tony Muturi
7. Mr. Jared Omach
8. Dr. Tom Mutia
9. Mr. Elvis Ambuka

IN ATTENDANCE

1. Hon. Elias Bare Shill
2. Mr. Onyango Oloo
3. Ms. Veronica Maina

CORD COALITION

- Team Leader
- ICT Head
- Chief Executive Officer, ODM
- Chief Executive Officer, CORD
- Advocate of the High Court of Kenya
- Legal Affairs, CORD
- Researcher, CORD
- Development Consultant, CORD
- CORD

JUBILEE COALITION

- Team Leader
- Secretary General, TNA
- Secretary General, Jubilee

4. Mr. Franklin Mwendani
5. Mr. Antony Kaara
6. Mr. Kamau Mbugua
7. Mr. Kenneth N. Mburu
8. Mr. Hillary K. Sigei
9. Mr. Joseph Mathai

- Legal Officer, Jubilee
- Legal Committee Member
- Advocate of the High Court of Kenya
- Advocate of the High Court of Kenya
- Advocate of the High Court of Kenya
- Executive Director, TNA

IN ATTENDANCE

1. Mr. Kennedy Kihara
2. Mr. Abdikadir Mohamed
3. Mr. Jasper Mbiuki
4. Ms. C. K. Ngoyoni
5. Mr. M. Kaburu

PRESIDENCY

- Public Administrative Secretary
- Senior Advisor
- Secretary, Legal Affairs
- Legal Officer
- Legal Assistant

IN ATTENDANCE

Mr. George N. Gathuka

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

- IEBC

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo
3. Mr. Wachira Maina
4. Mr. Bobby Mkangi

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert
- Expert

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Ahmed H. Odhwa
5. Mr. Abenayo Wasike
6. Mr. Ronald Walala
7. Ms. Judy Ndegwa
8. Ms. Mary Luka Lemerelle
9. Ms. Clare J. Kidombo
10. Ms. Fiona Musili
11. Ms. Martha Ndukuyu
12. Ms. Noelle Chelagat
13. Mr. Solomon M. Liria
14. Maj. (Rtd.) Reuben Kimosop

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Clerk Assistant I
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate

MIN.NO. JPSC/IEBC/82/28/7/2016

PRELIMINARIES

The meeting was called to order at 11.05 a.m. and commenced with a word of prayer from Co-Chairman, Sen. James Orengo, MP.

Introductions of the Members of the Joint Committee present and representatives of the Coalition for Reforms and Democracy (CORD) and the Jubilee Coalition followed.

Sen. James Orengo, M.P took the meeting through the mandate of the Joint Committee.

MIN.NO. JPSC/IEBC/83/28/7/2016 **PUBLIC HEARINGS - SUBMISSIONS BY**
THE COALITION FOR REFORMS AND
DEMOCRACY (CORD)

Upon invitation by Sen. Kiraitu Murungi, M.P, the Mr. Paul Mwangi, the Team Leader of the CORD representatives, assisted by Mr. Edwin Ng'onga, Dr. Oduor Ong'wen, Mr. Norman Magaya and Anthony Oluoch made submissions to the Joint Committee highlighting their written memorandum titled "*Coalition for Reforms and Democracy (CORD): Memorandum on IEBC and Electoral Reforms in Kenya*" dated 28th July, 2016.

1. On thematic area 1, CORD made the following submissions:

- (a) That CORD was not seeking to establish criminal or civil liability on any person neither were they seeking to regard any electoral disputes that they have had in the past and present. They further noted that they would not only be indicating that there are particular commissioners who have incurred responsibility personally for their actions, but also that the performance of the commission is too dismal that every member of that commission must take responsibility for its failures.
- (b) As indicated in the Public Accounts Committee (PAC) and the Auditor-General's Reports, there was a lot of interference on the part of the secretariat, commissioners and political players in identifying the right company to procure the items.
- (c) That there was persistent and endemic corruption in electoral procurement as shown below:
 - Carry-over corruption: IEBC is tainted by the allegations of widespread corruption made by officials of Smith and Ouzman against its Commissioners and the staff.
 - Malpractices in procurement of EVID. Here, they submitted that the system was designed to fail. On several occasions during plenary meetings and tender committee meetings, the IEBC commissioners and the secretariat went against the decisions made by the tender committee, the expert advice of the International Foundation for Electoral Systems, and an independent consultant who were retained by IEBC. The Commission procured a laptop based EVID that lacked the necessary internal memory and a connectivity platform for cross authentication of biometric information of all voters. They further submitted that sometime between 10th and 21st January, six plenary sessions attended by the Chairman, commissioners and the secretariat of the IEBC made illegal decisions of procuring a laptop-based device and therefore procured an additional 3,000 laptop devices, and that those decisions were not anchored anywhere contractually or in law. The Commission thus procured inappropriate technology that was not going to either cross-authenticate or authenticate any voter. The CORD Coalition further submitted that the former Director of ICT, Dismas Ong'ondi, had advised the IEBC commissioners not to procure the electronic EVIDs because they were

bound to fail. He had further indicated that the said EVIDs lacked 3G connectivity for cross-authentication of voters and the commission and the commissioners went against Ronald Macdonald's advice to procure the EVIDs.

- Further on, the Commission procured two single sourced Results Transmission System that were in-house developed despite the International Foundation for Electoral Systems donating a similar system that has worked in close to 90 electoral jurisdictions including India. This system however failed.

(d) CORD further submitted the following allegations against Commissioner Ahmed Isaac Hassan, Chairperson of the IEBC and former Chairperson of the defunct IIEC:

- acting singly, he procured legal services for presidential election petition in 2013.
- As a chair of IIEC, he compromised public interest by accepting gifts (namely costs and upkeep) from Smith and Ouzman, an IEBC contractor thereby bringing indignity to the office and undermining public confidence in the integrity of his office.
- Ignoring expert advice from IFES and not disclosing it to fellow commissioners that the EVID contract should be cancelled thereby leading to misuse and waste of public resources.
- Overall responsibility for deceiving the public with reference to acquisition of voting equipment on voter registration and vote tallying.

(e) CORD further also made the following allegations against Current Chief Executive Officer of, Mr. Ezra Chiloba:

- That Mr. Ezra Chiloba made payments amounting to Kshs. 258 million to Face Technologies without a valid contract.
- Failed to demonstrate honesty in the conduct of public affairs, engaging activities that amount to abuse of office; failing to accurately and honestly represent information to the public; failed to maintain high standards of performance and level of professionalism.

(f) CORD also alleged that, the Former CEO, Mr. James Oswago:

- had been named as a beneficiary of the Smith and Ouzman commissions/ bribes;
- cancelled BVR kits without reference to the Tender Committee;
- sent a "Due Diligence Committee" to India to assess bidder whom the Kenyan High Commission in India had already notified the IEBC was unsuitable; and,
- failed to exercise his authority in the best interest of the public, failed to take personal responsibility for the reasonably foreseeable consequences of his personal actions, did not carry out the duties of the office efficiently and honestly in a transparent and accountable manner and failed to act

professionally and in a manner that maintains the public confidence in the integrity of his office.

(g) CORD alleged that, Mr. Dismas Ongóni and Mr. Edward Karisa:

- represented IEBC in Joint Technical Committee which oversaw government to government procurement of BVR kits;
- failed to safeguard the public interest and that of the IEBC leading to loss of public funds through expensive loan; and,
- participated in the decision to allow direct procurement against the advice of the Attorney-General.

(h) It was also CORD's submissions that, IEBC is guilty of the following violations:

- permitted acquisition of phones, projectors and BVR kits through quotations rather than competitive bidding;
- failed as a whole to provide policy guidance and oversight to the secretariat;
- approved irregular variations and supply of laptops rather than handheld devices; and,
- Members of the IEBC Tender Committee individually and jointly flouted procurement regulations and failed to act in the best interest of the public.

2. On thematic area 2, CORD submitted that the exit of commissioners should not be approached by way of Article 251 of the Constitution. CORD submitted that the current circumstances were clearly unprecedented circumstances and they therefore the way to go is by way of a negotiated settlement. They added that whether or not somebody else finds them culpable is something that another branch of Government is perfectly empowered and entitled to do.

3. On thematic area 3, CORD submitted that once the current commissioners vacate office, the Commission should be reconstituted on the basis of parliamentary strength in the current Parliament by political parties therein, and that once the Commission is reconstituted the members of staff and the directorates should be vetted afresh.

4. On thematic area 4, CORD submitted as follows:

- (a) On voter registration, that it would be necessary to have compatibility and systems in place between IEBC and the Registrar of Persons so that once a Kenyan has received his identity card, then his biometric information is co-shared between IEBC and the Registrar of Persons. Additionally, there is need to co-share infrastructure to ensure that all information of eligible voters is shared so that all accurate biometric information of Kenyans is centrally stored. The only additional medium would be a connectivity platform that cross-authenticates you with the master database at both the IEBC and the Registrar of Persons. Additionally, the IEBC database should be linked to the Registrar of Deaths so that they are automatically able to delete from the register anybody who has been registered as having passed on.

- (b) On voter education, that the IEBC should identify competent organisations and work with them in developing the voter education curriculum in voter education.
- (c) On use of technology, that there was no need to subject any Kenyan to go to a polling station to register as a voter, and that Kenyans would be enthusiastic to register as voters if an online platform was availed. The same technology can also be used to cross-authenticate them once they have nominated where they want to vote. Additionally, Kenyans should be exposed to opportunities of developing applications for results transmission systems because they are key stakeholders in the electoral process.
- (d) On transmission of results, that pursuant to Article 86 of the Constitution the only way to have a system that is accurate and verifiable is through technology. Transmission of results should be technologically based. It should be a system that shares. Additionally, once the results have been announced at a polling station, they must be publicised to the agents, the media and the respective political parties. The assumption that is made on the issue of declaration of votes is that integrity is directly proportional to the level of responsibility, so that the person least trusted with election results is the Presiding Officer (PO). They further proposed that we must look for trustworthy POs. and also trust that the POs are going to have the integrity to give a proper result and thus remove the power that the senior officers have in terms of changing the results.
- (e) That election monitoring is an integral part in securing a proper election, and that there should be a public-funded election monitoring group that would have largely the clergy and other stakeholders. That would minimise the disputes that arise.
- (f) That the IEBC should not be involved in nominations of candidates for political parties.
- (g) That disputes arising out of nomination of candidates or internal management of parties should be outside the province of the IEBC, and that the Political Parties Dispute Tribunal should be completely divorced from the IEBC because it does not fall under the co-mandate of the IEBC.
- (h) On presidential petitions, that the timelines given were really punishing both to the petitioners, respondents, bench and everybody who was involved, and as such the timelines should be changed from 14 to 60 days. This would leave ample time to do research, gather evidence and put together a petition.

Members sought clarification from the CORD representatives on the following issues:

- (a) Whether CORD was of the view that IEBC had an incompetent ICT Department;
- (b) Their views on sharing of records between National Registration Bureau and IEBC;
- (c) How EVIDs could be used to curb inordinately high turn-outs in some areas;
- (d) CORD's view on relaying poll results from the polling stations;
- (e) CORD's proposal of not involving only the small parties in the constitution of the selection panel to select new IEBC Commissioners;

- (f) Whether there is time to radically change the infrastructure of the electoral process;
- (g) Whether amendments to the election laws would lead to free and fair elections;
- (h) Would a manual process meet the threshold set out in the Constitution; and,
- (i) Should the IEBC Commissioners not alleged to have committed any wrong vacate from office;

CORD responded as follows:

- (a) THAT IEBC had a competent ICT department but the Commissioners failed to adhere to the EVID specifications of the given by the technical personnel. CORD recommended that the laptop device should be dropped.
- (b) THAT IEBC should co-share the biometric details in the custody of National Registration Bureau.
- (c) THAT results announced at polling stations should be declared as final and shared with the agents and the public.
- (d) THAT if there was good political will, there is enough time to restructure the IEBC and put a new set of Commissioners immediately.
- (e) THAT the amendments to elections law alone would not be enough to reform the electoral process without changing the current team of IEBC Commissioners.
- (f) THAT a manual process is not even envisaged in the Constitution since it is not simple, neither is it verifiable nor transparent. CORD responded that IEBC should rely on experts and use technology.
- (g) THAT there was need to ensure that party lists are developed early enough, with specific reference to marginalized groups.

CORD further submitted that the Elections Act should be repealed in its entirety to create a new electoral infrastructure that is coherent both internally and in its application. They also proposed an amendment to the Registration of Persons Act, the Political Parties Act, the National Police Service Act, the Public Order Act and the Leadership and Integrity Act.

MIN.NO. JPSC/IEBC/84 /28/7/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 1.50 p.m. to reconvene at 3.00 p.m. the same day.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE TWENTY FIRST SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE
INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD
ON THURSDAY, 28TH JULY, 2016 IN MINI CHAMBERS, COUNTY HALL,
PARLIAMENT BUILDINGS, AT 3.25 P.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP | - Member |
| 4. Sen. Johnson Muthama, MP | - Member |
| 5. Sen. Kipchumba Murkomen, MP | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. (Eng.) Mohamed M. Mahmud CBS; MP | - Member |
| 11. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 12. Hon. Moses Kuria, HSC, MP | - Member |
| 13. Hon. Mishi Mboko, MP | - Member |
| 14. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Hon. Francis Ole Kaparo, EGH
2. Hon. Morris Dzoro
3. Dr. Joseph Nasongo
4. Ms. Linda Ochiel

**NATIONAL COHESION AND
INTEGRATION COMMISSION**

- Chairman
- Member
- Member
- Member

IN ATTENDANCE

1. Hon. Elias Bare Shill
2. Mr. Onyango Oloo
3. Ms. Veronica Maina
4. Mr. Franklin Mwendani
5. Mr. Antony Kaara
6. Mr. Kamau Mbugua
7. Mr. Kenneth N. Mburu
8. Mr. Hillary K. Sigei
9. Mr. Joseph Mathai

JUBILEE COALITION

- Team Leader
- Secretary General, TNA
- Secretary General, Jubilee
- Legal Officer, Jubilee
- Legal Committee Member
- Advocate of the High Court of Kenya
- Advocate of the High Court of Kenya
- Advocate of the High Court of Kenya
- Executive Director, TNA

IN ATTENDANCE

1. Mr. Abdikarir Mohamed
2. Mr. Kennedy Kihara
3. Mr. Jasper Mbiuki
4. Ms. C. K. Ngoyoni
5. Mr. M. Kaburu

IN ATTENDANCE

Mr. George N. Gathuka

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

IN ATTENDANCE

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo
3. Mr. Wachira Maina
4. Mr. Bobby Mkangi

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Ahmed H. Odhwa
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Clare J. Kidombo
13. Ms. Fiona Musili
14. Ms. Martha Ndukuyu
15. Ms. Noelle Chelagat

MIN.NO. JPSC/IEBC/85/28/7/2016

PRESIDENCY

- Senior Advisor
- Public Administrative Secretary
- Secretary, Legal Affairs
- Legal Officer
- Legal Assistant

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

- IEBC

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert
- Expert

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer

PRELIMINARIES

The meeting was called to order at 3.25 p.m. and commenced with a word of prayer from Co-Chairman, Sen. Kiraitu Murungi, MP.

Introductions of the Members of the Joint Committee present and representatives of the National Cohesion and Integration Commission followed.

Sen. James Orengo, M.P took the meeting through the mandate of the Joint Committee.

Upon invitation by Sen. James Orengo, M.P, the Hon. Francis ole Kaparo, on behalf of the NCIC, made submissions contained in a letter to the Joint Committee of Ref. No. NCIC/ADM/IC/VOL.1(29) dated 27th July, 2016 "*Submission on Views on Matters Relating to the Independent Electoral and Boundaries Commission*".

NCIC Chairman informed the Joint Committee that they had tabled a written memorandum and he would only highlight key issues. He began by giving a brief history of electoral reforms in Kenya. He stated that since the re-introduction of multi-party democracy in Kenya, there has been push for electoral reforms every ten years.

He highlighted the events of 1998 leading up to the IPPG process, the 2007/2008 post-election violence leading to the disbandment of the ECK and formation of IIEC and subsequently IEBC.

The NCIC Chairman emphasized on the need to observe the law in the re-constitution of IEBC. He raised his concern over whether the Constitution is being obeyed. He urged the Committee to be mindful of the rights of the Kenyans holding positions of Commissioners and secretariat at the IEBC.

NCIC Chairman urged the Joint Committee to ensure that there is no vacuum in the transition of the IEBC, and new commissioners should assume office as the current commissioners leave.

The Chairman of NCIC informed the Joint Committee that amendments to the NCIC Act had been prepared in order to help curb the hatred and suspicion which arise during the electoral period. He urged the Committee and Parliament at large to consider the Bill and pass it so as to empower NCIC in dispensing its mandate especially during the electoral period.

Members of the Joint Committee sought clarification on the following matters-

- (a) Deficiencies experienced by NCIC in carrying out their mandate.
- (b) The line drawn between the mandate of NCIC and the politics in the country.
- (c) The level of preparedness of NCIC in dealing with hate speech.
- (d) What can be done to reduce the levels of tribalism?

In response to the above matters, the Chairman of NCIC informed the Committee that the major stumbling block to dispensing the mandate of NCIC, especially in this electioneering period was the lack of sufficient funds. He appealed to Parliament to allocate sufficient budgetary allocation to NCIC so that there can be sufficient resources and training to help deal with incitement and for NCIC to successfully implement its mandate. He informed the Committee of the role of social media in perpetrating hate speech and the fact that NCIC did not have a single cybercrime expert.

MIN.NO. JPSC/TEBC/87/28/7/2016

PUBLIC HEARINGS SUBMISSIONS BY
THE JUBILEE COALITION

Upon invitation by Sen. James Orengo, M.P, Mr. Onyango Oloo, on behalf of the Jubilee Coalition requested that their submissions be deferred to the following day at 3.00 p.m. The Joint Committee deliberated on the matter and resolved that the Jubilee submissions be made at 11.00 a.m. the following day.

MIN.NO. JPSC/TEBC/88 /28/7/2016

ADJOURNMENT AND DATE OF NEXT
MEETING

The meeting was adjourned at 4.50 p.m. The next meeting was scheduled for Friday, 29th July, 2016 at 11.00 a.m.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....

16/8/2016

Signed.....

SEN. KIRATTU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....

16/8/2016

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE TWENTY SECOND SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON FRIDAY, 29TH JULY, 2016 IN MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS, AT 11.00 A.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orendo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP | - Member |
| 4. Sen. Johnson Muthama, MP | - Member |
| 5. Sen. Kipchumba Murkomen, MP | - Member |
| 6. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 7. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. (Eng.) Mohamed M. Mahmud CBS, MP | - Member |
| 11. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 12. Hon. Mishi Mboko, MP | - Member |
| 13. Hon. Junet Mohamed, MP | - Member |

PRESENT

- | | |
|---------------------------|----------|
| Hon. Moses Kuria, HSC, MP | - Member |
|---------------------------|----------|

IN ATTENDANCE

1. Hon. Elias Bare Shill
2. Mr. Onyango Oloo
3. Mr. Davis Chirchir
4. Mr. Kamau Mbugua
5. Mr. Kenneth N. Mburu
6. Mr. Hillary K. Sigei
7. Mr. Franklin Mwendani
8. Mr. Antony Kaara
9. Mr. Joseph Mathai
10. Mr. Edwin Mwendu
11. Mr. Arnold Maliba
12. Mr. John Kamama
13. Mr. George Thuku
14. Mr. Maur Bwanamaka

JUBILEE COALITION

- Team Leader
- Secretary General, TNA
- Member
- Advocate of the High Court of Kenya
- Advocate of the High Court of Kenya
- Advocate of the High Court of Kenya
- Legal Officer, Jubilee
- Legal Committee Member
- Executive Director, TNA
- ICT Specialist
- Governance Specialist
- National Chairman, Party of National Unity
- Governance
- CCU Chairperson

IN ATTENDANCE

1. Mr. Abdikarir Mohamed
2. Mr. Kennedy Kihara
3. Mr. Jasper Mbiuki
4. Ms. C. K. Ngoyoni
5. Mr. M. Kaburu

IN ATTENDANCE

Mr. George N. Gathuka

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

IN ATTENDANCE

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo
3. Mr. Boobby Mkangi

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Ahmed H. Odhwa
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Clare J. Kidombo
13. Ms. Fiona Musili
14. Ms. Martha Ndukuyu
15. Ms. Noelle Chelagat

PRESIDENCY

- Senior Advisor
- Public Administrative Secretary
- Secretary, Legal Affairs
- Legal Officer
- Legal Assistant

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

- IEBC

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer

MIN.NO. JPSC/IEBC/89/29/7/2016

PRELIMINARIES

The meeting was called to order at 11.15 a.m. and commenced with a word of prayer from Co-Chairman, Sen. Kiraitu Murungi, MP.

Co-chairman Sen. Kiraitu apprised the representatives of the Jubilee Coalition on the mandate and terms of reference of the Committee as contained in the Motion establishing the Joint Committee.

Upon invitation by Sen. James Orengo, M.P, the Hon. Elias Bare Shill, the Team Leader of the CORD representatives, assisted by Mr. Onyango Oloo, Secretary General of the National Alliance Party made submissions to the Joint Committee and submitted their written memorandum titled "*The Jubilee Party Memorandum to the Joint Parliamentary Committee on Matters Relating to the Independent Electoral and Boundaries Commission (IEBC)*"

Slightly, before submissions by the Jubilee Coalition, Sen. (Dr.) Bóni Khalwale, M.P sought to know whether the officials from the Presidency were part of the Jubilee coalition. It was clarified that they were not part of the Jubilee coalition but they were not to make any submissions.

Co-chairperson Sen. James Orengo invited the Jubilee Coalition to proceed with the submissions. Mr. Onyango Oloo highlighted on the Memorandum and informed members that the coalition has no specific allegation against any member of the commission.

On thematic area 1, Jubilee Coalition submitted that the allegations which had been made against IEBC Commissioners were vague and a cleverly orchestrated and sustained smear campaign and were solely designed to destroy the public's confidence in IEBC.

On thematic area 2, the Jubilee Coalition submitted that although there were no sufficient grounds warranting removal of IEBC, there was nonetheless a need to reconstitute IEBC since the term of the Commission expires on 8th November, 2017. According to the Coalition, this will ensure smooth transition and succession planning in the event there is a run-off and subsequent by elections and is also in line with the *Advisory Opinion on Succession Planning in State and Public Offices* by the Commission on Administrative Justice. In this regard, the Coalition made the following recommendations:

- (a) Reconstitution of IEBC should be done partially to avoid loss of institutional memory, experience and expertise.
- (b) Appointment dates of the new Commissioners should be staggered, such that their terms expire at different times.
- (c) The Committee comes up with a framework for early exit that will accord the current Commissioners, including the Commission Secretary, the liberty to voluntarily retire from office for purposes of addressing succession and avoidance of eminent risk of the lacuna that may be created with the entire Commission's term expiring with the middle of the election process.
- (d) Any Commissioner including the Commission Secretary who chooses to voluntarily retire should do so with full benefits upon resignation in line the legal opinion and any guidelines offered by the Hon. AG and the National Treasury.

- (e) The number of Commissioners be retained at nine.

On thematic area 3, the Coalition submitted as follows:

- (a) The number of Commissioners of IEBC should remain nine.
- (b) On the appointment, term of office and removal of the Commissioners and the Secretariat of IEBC, the Jubilee Coalition submitted that political players should not be involved in the recruitment of the selection panel and that the President should therefore graciously cede his legally mandated responsibility of appointing 4 members of the selection panel which should comprise of four persons competitively recruited by the Public Service Commission; three persons nominated by religious institutions in (that is, one from NCCK, one from Catholic and one from SUPKEM). The Public Service Commission should be the secretariat for recruitment. The Coalition further added that the nominee should not be an MP, Senator, Governor, MCA or staff of any legislative assembly and all Commissioners should serve on a full time basis.

On voter registration, the Coalition submitted as follows:

- (a) The existing voter register be retained as it is.
- (b) IEBC should ensure continuous voter registration.
- (c) The law be amended to allow persons with waiting cards to be registered as voters.
- (d) Amend sub-section 2A of the Elections Act, 2011 to allow for inspection of voters register to be within 90 days from the date of notice for a general election

On voter education, the Coalition submitted as follows:

- (a) IEBC should develop an integrated voter education curriculum.
- (b) IEBC to partner with non-state actors to provide for voter education.
- (c) Law to oblige Parliament to provide adequate funding for voter education.
- (d) IEBC to take advantage of digital migration to create a TV Channel for continuous civic education and engagement.

On nomination of candidates, the Coalition submitted as follows:

- (a) Registrar of Political Parties should continuously update political parties' membership lists.
- (b) IEBC should develop basic minimum guidelines and standards that political party nominations should adhere to.
- (c) The law should be amended to empower the Registrar of Political Parties to ensure compliance by political parties of nomination guidelines.
- (d) All party nominations should be done on the same day.
- (e) Political party nominations should be managed by IEBC.

- (f) The law should be amended to provide that any person that participates and loses in the nomination process not be allowed to participate in the nomination of another party and that should such a person desire to participate in elections, they should do so as an independent candidates.

On campaign management, the Coalition submitted as follows:

- (a) There should be effective enforcement of the electoral code of conduct by all responsible parties.
- (b) IEBC should ensure that all timelines in the Elections Act, Political Parties Act and Campaign Financing Act are aligned.
- (c) IEBC should ensure strict adherence to the Election timelines.
- (d) Amendment to Election laws be capped six months prior to a general election.

On use of ICT in elections, the Coalition submitted that the electoral processes should be digitized to the fullest extent possible and that ICT equipment should be procured thorough testing of their efficiency.

On the voting process, the Coalition submitted as follows:

- (a) Polling stations should not have more than 700 voters per voting station.
- (b) Political parties should be accorded opportunity to make representation on Constituency Returning Officers before they assume office.
- (c) Presiding officers should be swapped immediately prior to elections to avoid capture by political operatives.
- (d) There should be video recording of the counting and results announcement at the polling stations

On allocation of special seats, the Coalition submitted that the seats be allocated on the basis of total votes received by a political party as opposed to total seats won and that the party lists be submitted after the General Election.

On dispute resolution, the Coalition submitted that internal party mechanism should be the first tier in dispute resolution and that Political Parties Dispute Tribunal should be second tier. It was their view that IEBC should not get involved in political party nomination disputes except upon issuance of nomination certificates.

As regards the time for determination of Presidential election petition, the Coalition submitted that should be no change in the time provided for in the presidential election petitions.

Members sought clarifications on:

- (a) How to effect the proposed staggered appointment of IEBC Commissioners.
- (b) The view of the Coalition on election date.
- (c) Affidavit by the IEBC chairperson was not proper in the circumstances of the time. This was with reference to the Supreme Court Petition in 2013.

- (d) Possibility of undertaking voter registration afresh and how to effect mass voter registration in a months' time to the general election
- (e) Jubilee's views on tallying and transmission of polls' results.
- (f) The possibility of conducting all party nominations concurrently in the same day and the possibility of IEBC to manage party primaries for the sixty-two registered polities.
- (g) The Coalition understanding of the provisions of Article 177 of the Constitution in context of their proposals that the term of the first County Assembly should expire in March, 2018.

The Jubilee Coalition responded to some issues as follows;

- (a) In response to question (a), the Coalition stated that the IEBC Commissioners should be appointed on a staggered basis to allow them to retire at different times.
- (b) In response to question (b), the Coalition stated that the date of the next general election should remain as August 2017.
- (c) In response to question (c), the Coalition stated that the affidavit sworn by the Chairperson of the Commission in the Supreme Court Petition was based on the current circumstances at the time.
- (d) In response to question (d), the Coalition stated that the voters' registered should be maintained and improved.
- (e) In response to question (e), the Coalition stated that the tallying and transmission of the results should be done in accordance with the law.
- (f) In response to question (f), the Coalition stated that by conducting the political party primaries concurrently would reduce party hoping.
- (g) In response to question (g), the Coalition stated that the next General election should be held in August 2017 as per the Constitution.

Co-chair Sen. James Orengo thanked the Jubilee Coalition for their comprehensive memorandum and informed them they could submit more information should they deem it necessary to do so. He assured the Coalition that the Committee had adopted a bipartisan approach and would benefit from their submission.

MIN.NO. JPSC/IEBC/91 /29/7/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 2.45 p.m. to reconvene again at 3.30 p.m. the same day.

Signed.....

**SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN**

Date.....16/8/2016

Signed.....

**SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN**

Date.....16/8/2016

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE TWENTY THIRD SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON FRIDAY, 29TH JULY, 2016 IN MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS, AT 3.00 P.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orengo, EGH, MP, | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP, | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP, | - Member |
| 4. Sen. Johnson Muthama, MP, | - Member |
| 5. Sen. Kipchumba Murkomen, MP, | - Member |
| 6. Sen. Mutula Kilonzo Jnr, MP, | - Member |
| 7. Sen. (Dr.) Boni Khalwale, MBS, MP, | - Member |
| 8. Hon. Jimmy Angwenyi, MP, | - Member |
| 9. Hon. (Eng.) Mohamed M. Mahmud CBS, MP | - Member |
| 10. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 11. Hon. Moses Kuria, HSC, MP, | - Member |
| 12. Hon. Mishi Mboko, MP, | - Member |
| 13. Hon. Junet Mohamed, MP, | - Member |

PRESENT

- | | |
|-----------------------------------|----------|
| Hon. (Dr.) Naomi Shaban, EGH, MP, | - Member |
|-----------------------------------|----------|

IN ATTENDANCE

1. Mr. Keriako Tobiko
2. Ms. Dorcas Oduor
3. Mr. Jacob Ondara
4. Mr. Paul Ndemo

IN ATTENDANCE

1. Mr. Edward Ouko
2. Mr. Lameck Achika

IN ATTENDANCE

1. Mr. Phillip Kinisu

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

- Director of Public Prosecutions
- Deputy Director of Public Prosecutions
- Deputy Director of Public Prosecutions
- Senior Assistant Director of Public Prosecutions

OFFICE OF THE AUDITOR GENERAL

- Auditor General
- Director of Audit

ETHICS AND ANTI-CORRUPTION COMMISSION

- Chairman

2. Ms. Sophia Lepuchirit
3. Ms. Rose Mghoi
4. Dr. Dabar Abai Maalim
5. Mr. Mwaniki Gachoka
6. Mr. Halakhe Waqo
7. Mr. Michae Mubea
8. Mr. Patrick Owiny
9. Mr. David K Too
10. Mr. David Kaboro
11. Mr. Pascal Mweu

- Vice-Chairperson
- Commissioner
- Commissioner
- Commissioner
- Chief Executive Officer
- Deputy Chief Executive Officer
- Deputy Director
- Senior Legal Officer
- Legal Officer
- Assistant Director

IN ATTENDANCE

Mr. George N. Gathuka

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

IN ATTENDANCE

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo
3. Mr. Boobby Mkangi

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Ahmed H. Odhwa
5. Mr. Abenayo Wasike
6. Ms. Kavata Musyoka
7. Mr. Ronald Walala
8. Ms. Judy Ndegwa
9. Ms. Mary Luka Lemerelle
10. Ms. Clare J. Kidombo
11. Ms. Fiona Musili
12. Ms. Martha Ndukuyu
13. Ms. Noelle Chelagat
14. Mr. Solomon M. Liria
15. Maj. (Rtd.) Reuben Kimosop

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

- Legal Counsel

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Clerk Assistant I
- Clerk Assistant II
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate

MIN.NO. JPSC/IEBC/92/29/7/2016

PRELIMINARIES

The meeting was called to order at 3.15 p.m. and commenced with a word of prayer from Co-Chairman, Sen. Kiraitu Murungi, MP.

Thereafter introduction of Members of the Joint Committee present and stakeholders was done. Co-chairman, Sen. James Orengo, M.P apprised the stakeholders on the mandate and

terms of reference of the Committee as contained in the Motion establishing the Joint Committee.

MIN.NO. JPSC/IEBC/93/29/7/2016 **PUBLIC HEARINGS SUBMISSIONS**

Director of Public Prosecutions

Upon invitation by Sen. James Orengo, the Director of Public Prosecutions Mr. Keriako Tobiko presented a memorandum titled "*The Joint Parliamentary Select Committee on matters relating to the Independent Electoral and Boundaries Commission*".

The DPP informed the Committee that his office had submitted a presentation that has made reference to a number of reports and publication that may be relevant to the work of the Committee and proceeded to make recommendations on how to deal with electoral and election-related offences. In this regard, the DPP made the following recommendations-

- a) Electoral laws should be reviewed with a view of restricting the mandate of IEBC to conducting and managing elections and give the DPP prosecutorial mandate over electoral offences;
- b) Different electoral offences should be investigated into by a specialized division of the DCI or EACC where the matters concern corruption;
- c) Section 87(1) of the Elections Act should be amended to ensure that the ODPP may also direct other agencies, other than the Inspector General to undertake investigations;
- d) Timelines to deal with electoral offences should be set to be within a year of the Commission of the offence, and to be tried on a day to day basis;
- e) Judiciary should create specialized ad hoc courts to deal with election offences;
- f) Section 68 of the Elections Act should be amended to provide for clear mechanisms to be put in place to prevent, detect, investigate and prosecute the offence of using public resources during elections; and
- g) The law should be amended to provide for enhanced penalties for electoral offence to be an imprisonment term range between 6-10 years or a fine between five and ten million. Where personal injury or financial loss has been suffered, restitution should be made to the victim.

Auditor-General

Upon invitation by Sen. James Orengo, M.P, the Auditor-General Mr. Edward Ouko made submissions highlighting a memorandum titled, "*Presentation before the Joint Parliamentary Committee*". He informed the Committee that he would be addressing them on thematic areas number one and number two.

On thematic area 4, the Auditor-General made the following recommendations-

- a) IEBC should clearly restructure and reorganize itself in a way that will foster proper internal checks and balances and above all, harness professionalism;

- b) As for finance, IEBC should address internal controls to avoid weaknesses observed in previous audits;
- c) In addition to annual budget, IEBC should take cognizance of other sources of funding that should be firmed up well in advance of the budget cycle and should be approved by Parliament; and
- d) There should be professionalized and adequately staffed in a manner that proper procurement planning and execution can be assured.

On thematic area 1, the Auditor-General sought clarification from the Co-Chairs on what exactly his office was to commend on credibility, integrity and independence of IEBC. According to him, his office had nothing to comment on the said area as his office only deals with documentation and facts and therefore for them to give comments would be tantamount to giving unsubstantiated perceptions.

Ethics and Ant-Corruption Commission

Upon invitation by Sen. James Orengo, the Chairperson of Ethics and Anti-Corruption Commission, Mr. Phillip Kinisu assisted by Commissioner Mwaniki Gachoka made submissions highlighting their memorandum titled, *"Submissions of the Ethics and Anti-Corruption Commission to the Joint Select Parliamentary Committee on matters relating to the Independent Electoral and Boundaries Commission"*

On thematic area 1, the EACC informed the meeting that they had received various reports touching on IEBC related to procurement of electoral materials and allegations of corruption touching on Commissioners and Secretariat. The status of those reports as at the date of their submission was as follows-

- a) 14 reports that relate to BVR, EVID, supply of solar lanterns and supply of ballot papers by Smith and Ouzman were investigated under four files. Two files are pending in court, one has been forwarded to DPP and one is pending response on mutual legal assistance;
- b) Two reports were referred to IEBC for administrative action;
- c) 14 reports are pending under investigations;
- d) In the completed investigations, there was sufficient evidence to support allegations against several members of the secretariat.;
- e) There has however been no sufficient evidence against the Commissioners; and
- f) It became clear from the investigations that procurements were hurriedly carried out in the last minute prior to 2013 elections that resulted in contravention of procurement laws, regulations and procedures.

On thematic area 4, EACC submitted that-

- a) Since conduct of elections is not an emergency, preparations should be done throughout between the election years to avoid last minute rush;
- b) IEBC should submit and share their comprehensive procurement plan and budget with relevant stakeholders such as Parliament and Treasury to ensure timely resource allocation and implementation;

- c) Section 13(2) of the Leadership and Integrity Act should be amended to entrench the requirement that those seeking elective positions should submit their declaration forms and certificates of good conduct; and
- d) Leadership and Integrity Act should be amended to provide mechanisms of removal of MPs and MCAs for violation of Chapter Six of the Constitution.

Members appreciated the three submissions and raised the followings issues-

- a) Whether while the Ethics and Anti-Corruption Commission is submitting investigation reports to the Director of Public Prosecutions they attach all the background information including all persons mentioned in the report;
- b) Whether the Auditor General vetted the pending bills for payment by IEBC;
- c) Why the EACC could not provide the Joint Committee with evidence supplied to them by the Serious Fraud Office, United Kingdom;
- d) That the EACC letter to Attorney-General was giving him legal opinion rather than seeking direction; and
- e) Whether it would be prudent and neat to have a stand-alone legislation on electoral offences?

EACC responded as follows-

- a) All related documents to related to each case had been forwarded to the DPP;
- b) The Auditor General does not vet pending bills;
- c) It could not provide to the Joint Committee the evidence supplied to them by the Serious Fraud Office, United Kingdom since the matter was under active investigation; and
- d) The EACC recommended that it was critical to have a stand-alone legislation on electoral offences.

MIN.NO. JPSC/IEBC/94 /29/7/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 7.10 p.m. The next meeting was scheduled for Monday, 1st August, 2016 at 11.00 a.m.

Signed:.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....

16/8/2016

Signed:.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....

16/8/2016

MINUTES OF THE TWENTY FOURTH SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)
HELD ON MONDAY, 1ST AUGUST, 2016 IN MINI CHAMBER, PARLIAMENT
BUILDINGS, AT 11.15 A.M.

1. Sen. James Orendo, EGH, MP
2. Sen. Kiraitu Murungi, EGH, MP
3. Sen. Beatrice Elachi, CBS, MP
4. Sen. Johnson Muthama, MP
5. Sen. Kipchumba Murkomen, MP
6. Sen. (Dr.) Boni Khalwale, MBS, MP
7. Sen. Mutula Kilonzo Jnr, MP
8. Hon. Jimmy Angwenyi, MP
9. Hon. (Dr.) Eseli Simiyu, CBS, MP
10. Hon. Moses Kuria, HSC, MP
11. Hon. (Eng.) Mohamed M. Mahmud CBS, MP
12. Hon. Mishi Mboko, MP
13. Hon. Junet Mohamed, MP

[illegible]

Hon. (Dr.) Naomi Shaban, EGH, MP

- Member

1. Mr. Ahmed Issack Hassan
2. Ms. Lilian Mahiri-Zaja
3. Mr. Albert C.O Bwire
4. Amb.(Dr.) Yusuf Nzibo
5. Eng. Abdullahi Sharawe
6. Mr. Thomas Letangule
7. Ms. Galma Godana
8. Mr. Mohammed Alawi
9. Ms. Muthoni Wangai
10. Mr. Ezra Chiloba

[illegible]

11. Ms. Betty Sungura Nyabuto
12. Ms. Maryan H. Maryan
13. Ms. Immaculate Kasait
14. Ms. Praxedes Tororey
15. Mr. James Mahati
16. Ms. Selestina Kaluku
17. Ms. Decima M'Mayi
18. Mr. Rasi Masuchi
19. Mr. Benard Nyachio
20. Mr. Andrew Limo
21. Mr. George N. Gathuka

- Deputy Chief Executive Officer
- Deputy Chief Executive Officer
- Director of Election Operations & Voter Registration
- Director of Legal & Corporate Affairs
- Director, ICT
- Director
- Director
- Director
- Warehouse & Logistics Manager
- Manager
- Legal Counsel

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo
3. Mr. Bobby Mkangi

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutege
4. Mr. Ahmed H. Odhwa
5. Mr. Abenayo Wasike
6. Mr. Solomon M. Liria
7. Maj. (Rtd.) Reuben Kimosop
8. Mr. Abenayo Wasike
9. Ms. Kavata Musyoka
10. Mr. Ronald Walala
11. Ms. Judy Ndegwa
12. Ms. Mary Luka Lemerelle
13. Ms. Clare J. Kidombo
14. Ms. Fiona Musili
15. Ms. Martha Ndukuyu
16. Ms. Noelle Chelagat
17. Maj. (Rtd.) Reuben Kimosop

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Clerk Assistant I
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer
- Senior Serjeant-At-Arms, Senate

MIN.NO. JPSC/IEBC/95/1/8/2016

PRELIMINARIES

The meeting was called to order at 11.15 a.m. and commenced with a word of prayer by Co-Chairman, Sen. Kiraitu Murungi, MP.

Introductions of Members of the Joint Committee and of the Commissioners and Secretariat of the Independent and Electoral Boundaries Commission (IEBC) present ensued.

The Co-chairman, Sen. Kiraitu Murungi, briefed members of the IEBC on the mandate and terms of reference of the Committee as contained in the Motion establishing the Joint Committee.

The Co-chair, Sen. Kiraitu Murungi, explained to the IEBC that the Joint Committee was operating within strict timelines and that was the notice given to the Commission to appear before them was short.

Co-Chairman, Sen. James Orengo also joined Sen. Kiraitu Murungi in welcoming the members of IEBC and informed them that other stakeholders had appeared before the Committee and given their views on the four Thematic Areas which Sen. Kiraitu Murungi had read out. He invited the IEBC to suggest the manner in which they would want to address the Committee.

MIN.NO. JPSC/IEBC/96/1/8/2016

PUBLIC HEARINGS /SUBMISSIONS BY
THE INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION (IEBC)

Upon invitation, the IEBC Chairman, Mr. Issack Hassan informed the Joint Committee that they had initially prepared their response based on the letter dated 19th July, 2016. He informed the Committee that having reviewed the terms of reference of the Joint Committee; they had a preliminary objection to raise on Thematic Areas 1 and 2 and especially in view of the contents of the letter dated 29th July, 2016. Their preliminary objection was as follows:

- a) THAT the Terms of Reference No. 1 and No. 2 of the Joint Committee were contrary to the express provisions of Article 251 of the Constitution which sets out grounds and mechanisms of removal of commissioners. Article 251 enables the National Assembly to receive any allegations from the public against the Commission and that the Commission was aware that at the time the process began, National Assembly was not in receipt of any allegations against the Commission.
- b) THAT the Joint Committee of the National Assembly and the Senate had gone out and solicited for allegations against the IEBC Commissioners in a manner not contemplated under Article 251 of the Constitution. He said that the Committee had become a petitioner who had collected allegations against the Commission, summarised them in a letter and was inviting the Commission to respond to them.
- c) THAT the proceedings of the Joint Committee violated Article 50 as read together with Article 25 of the Constitution since Article 251 of the Constitution had contemplated a situation where only members of the National Assembly would hear the allegations brought against the Commissioners, and not members of the Senate who comprised the Joint Committee.

The IEBC Chairperson emphasized that a Petition to the National Assembly was the only mechanism available to the public for removal of IEBC Commissioners and invited the Co-Chairpersons of the Joint Committee to make a determination on the preliminary objection as set out here above.

The Co-chairman, Sen. Orengo asked the IEBC Chairperson to address the Joint Committee further on the issues raised in their letter dated 1st August, 2016. The IEBC Chairperson explained that their submissions related to the letter dated 29th July, 2016, and that the IEBC wanted the Committee to make a determination on the preliminary objection raised in their letter dated 1st August, 2016. He stated that it was only proper for the Committee to first and foremost determine the preliminary objection before they could address them on the substantive issues.

After seeking the concurrence of the members of the Committee, the Co-chairs resolved adjourned the sitting to facilitate consultation on the preliminary objection and make a considered ruling on the same. The ruling was set to be delivered at 3.00 p.m. on the same day.

MIN.NO. JPSC/IEBC/97/1/8/2016 ADJOURNMENT

There being no other business, the meeting was adjourned at 12.05 p.m. to convene again at 3.00 p.m. on the same day

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed.....
SEN. KRANTU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE TWENTY FIFTH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON MONDAY, 1ST AUGUST, 2016 IN MINI CHAMBER, PARLIAMENT BUILDINGS, AT 3.30 P.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP | - Member |
| 4. Sen. Johnson Muthama, MP | - Member |
| 5. Sen. Kipchumba Murkomen, MP | - Member |
| 6. Sen.(Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 11. Hon. Moses Kuria, HSC, MP | - Member |
| 12. Hon. (Eng.) Mohamed M. Mahmud CBS, MP | - Member |
| 13. Hon. Mishi Mboko, MP | - Member |
| 14. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Mr. Ahmed Issack Hassan
2. Ms. Lilian Mahiri-Zaja
3. Mr. Albert C.O Bwire
4. Amb.(Dr.) Yusuf Nzibo
5. Eng. Abdullahi Sharawe
6. Mr. Thomas Letangule
7. Ms. Galma Godana
8. Mr. Mohammed Alawi
9. Ms. Muthoni Wangai
10. Mr. Ezra Chiloba
11. Ms. Betty Sungura Nyabuto
12. Ms. Maryan H. Maryan

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

- Chairperson
- Vice-Chairperson
- Commissioner
- Commissioner
- Commissioner
- Commissioner
- Commissioner
- Commissioner
- Secretary & Chief Executive Officer
- Deputy Chief Executive Officer
- Deputy Chief Executive Officer

13. Ms. Immaculate Kasait

14. Ms. Praxedes Tororey

15. Ms. Selestina Kaluku

16. Mr. James Mahati

17. Ms. Decima M'Mayi

18. Mr. Rasi Masuchi

19. Mr. Benard Nyachio

20. Mr. Andrew Limo

21. Mr. George N. Gathuka

- Director of Election Operations &
Voter Registration

- Director of Legal & Corporate Affairs

- Director

- Director, ICT

- Director

- Director

- Warehouse & Logistics Manager

- Manager

- Legal Counsel

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC

2. Mr. James Mamboleo

RAPPORTEURS

- Joint Rapporteur, CORD Coalition

- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Mr. Vincent K. Mutai

2. Mr. Kamotho Waiganjo

3. Mr. Bobby Mkangi

JOINT COMMITTEE EXPERTS

- Expert

- Expert

- Expert

IN ATTENDANCE

1. Ms. Eunice Gichangi

2. Mr. Boniface Lenairoshi

3. Mr. John Mutega

4. Mr. Ahmed H. Odhwa

5. Mr. Solomon M. Liria

6. Maj. (Rtd.) Reuben Kimosop

7. Mr. Abenayo Wasike

8. Ms Kavata Musyoka

9. Mr. Ronald Walala

10. Ms. Judy Ndegwa

11. Ms. Mary Luka Lemerelle

12. Ms. Clare J. Kidombo

13. Ms. Fiona Musili

14. Ms. Martha Ndukuyu

15. Ms. Noelle Chelagat

PARLIAMENT

- Senior Deputy Clerk, Senate

- Principal Clerk Assistant I, Senate

- Principal Clerk Assistant II, N/A

- Senior Research Officer

- Senior Serjeant-At-Arms, N/A

- Senior Serjeant-At-Arms, Senate

- Clerk Assistant I, N/A

- Clerk Assistant II, Senate

- Legal Counsel II, N/A

- Legal Counsel II, Senate

- Clerk Assistant III, N/A

- Research Officer

- Research Officer

- Hansard Reporter, N/A

- Media Relations Officer

MIN.NO. JPSC/TEBC/98/1/8/2016

PRELIMINARIES

The meeting was called to order at 3.30 p.m. and it commenced with a word of prayer by Co-Chairman, Sen. James Orengo, MP.

RULING ON THE PRELIMINARY
OBJECTION RAISED BY IEBC ON THE
INVITATION TO APPEAR BEFORE THE
JOINT COMMITTEE THROUGH A
LETTER DATED 29TH JULY, 2016

The two Co-chairpersons, on behalf of the Joint Committee delivered the ruling on the preliminary objection raised by the commissioners, titled: "*Ruling on the Preliminary Objection raised by the Independent Electoral and Boundaries Commission on the Invitation to appear before the Joint Parliamentary Committee on Matters Relating to the Independent Electoral and Boundaries Commission Dated 29th July, 2016*".

The ruling underscored the following in respect of the preliminary objection which was:

- (a) The Joint Select Committee was established in recognition of the sovereign power of the people of Kenya under Article 1 of the Constitution which may be exercised either directly or indirectly through democratically elected representatives in accordance with the Constitution.
- (b) In establishing the Joint Committee, Parliament recognized that a section of Kenyans had raised issues of credibility, integrity and independence of the IEBC, the electoral process and the electoral laws.
- (c) With respect to the objection to the jurisdiction of the Joint Committee, the Co-chairperson stated as follows:
 - (i) Articles 194, 195 and 196 of the Constitution conferred jurisdiction on Parliament to inquire into any matter in execution of its representative, legislative and oversight mandate.
 - (ii) The Constitution under Article 124(2) contemplates establishment of joint committees of Parliament and therefore the Joint Select Committee was not a committee of the National Assembly as contemplated in Article 251 of the Constitution and Standing Order 230(3) of the National Assembly Standing Orders.
 - (iii) The motion passed by the respective Houses of Parliament does not mandate the Committee to remove the Commissioners of IEBC under Article 251 of the Constitution but to recommend legal mechanisms for the vacation of office of the Commissioners and the Secretariat.
 - (iv) Article 251 of the Constitution does not provide for a myriad of other ways in which the Commission may vacate office apart from removal.
- (d) As to whether the Joint Committee had gone out and solicited for allegations against the Commissioners of IEBC, the committee ruled that it had invited other stakeholders to give their views on the four thematic areas and that the IEBC, like other stakeholders, had been invited to appear before the Committee to make representations on any or all the thematic areas and that it could choose to respond to the allegations leveled against its Commissioners severally or jointly or not to respond to those allegations.

- (e) On the question as to whether the process violates rights of the IEBC Commissioners to fair trial as contemplated under Article 50 as read together with Article 25 of the Constitution, the Joint Committee reiterated that their mandate and process was independent and distinct from the process of removal of a Member of the Commission contemplated under Article 251 of the Constitution.

Upon conclusion of the reading of the ruling, the IEBC Commissioners requested for some time off to consult on how they were going to proceed, which request was acceded to. After resuming, the Chairman of the IEBC informed the Committee that after consultation, IEBC had decided to be subject to the ruling.

MIN.NO. JPSC/IEBC/100/1/8/2016 SUBMISSIONS BY IEBC

The IEBC Chairman informed the meeting that IEBC was not going to respond to the allegations addressed to them by the Joint Committee but any individual Commissioners touched by the allegations were free to respond to allegations specific to them. The informed the meeting that they would be submitting on Thematic Areas 3 and 4.

On thematic area 3, the IEBC Chairman made the following submissions:

- (a) All Constitutional Commissions and independent offices have power to recruit their own staff, with incidental powers to discipline and to dismiss. To vest this power on other agencies would be anomalous.
- (b) The number of the IEBC Commissioners should remain at nine and it would be proper that some serve full-time while others part-time as other countries like Namibia and South Africa are now moving towards having full-time commissioners as opposed to part-time commissioners.

On thematic area 4, the IEBC Vice-Chairperson submitted that:

- (a) The Commission, in 2015, developed its strategic plan for the next five years. The plan is anchored on three interrelated pillars, namely: managing elections, institutional transformation and public trust and participation.
- (b) The Commission had unveiled 2015/2017 Elections Operations Plan (EOP) which is a three year road map towards the delivery of free, fair and credible election in 2017 and on whose basis the National Treasury and Parliament had allocated adequate resources in the current Financial Year towards 2017 General Elections.
- (c) IEBC had registered 14.3 million voters of which some were captured biometric and other 36,000 non-biometric, all in the 24,563 registration centers. There were also 2,637 voters in the East African Community region.
- (d) Updating of the voters register was expected to continue until 10th March, 2017.

On behalf of IEBC, Commissioner Thomas Letangule informed the Joint Committee that:

- (a) IEBC started Continuous Voter Registration (CVR) in 2014 and had registered 181,018 voters. He also stated that the Commission had plans to have the register

of voters inspected at the ward and constituency levels. He also made the following proposals in respect to voter registration:

- Alteration of the election timelines by increasing the period for key electoral activities to respond to challenges of the 2013 General Elections.
- Increase of the period after the certification of the register from the current 14 days to the election to 30 days in order to avail more time to print the register and loading of its soft copy into electronic voter identification device and dissemination to the returning officers.

(b) On whether fresh registration of voters should be undertaken, he submitted that the law anticipated that fresh registration of voters should be done at intervals of not less than 8 years and not more than 12 years after the Commission reviews the names and boundaries of the Constituencies in accordance with Article 89(2) of the Constitution. He also added that such an exercise would demand a huge capital investment and time which the Commission may not have for the next General Election.

On behalf of IEBC, Commissioner Ms. Kule Godana submitted that:

- (a) The Commission would be accrediting voter education providers to roll out continuous outreach programmes at county, constituency and ward levels.
- (b) IEBC had proposed amendments to the Election Act to address the gaps in the nomination process and to improve the process of nomination by providing adequate time to the Commission and political parties to prepare for the elections.
- (c) Following the post-election evaluation, the Commission introduced pre-nomination meeting with the candidates whose aim is to provide an opportunity to Returning Officers to explain to the candidates the qualifications and the requirements for election.
- (d) IEBC was reviewing and consolidating the elections manual which has a component of nomination and entire election process and that would help election officials.
- (e) IEBC had proposed in the election regulations a standard electoral format for submission of names of candidates and photos by political parties and independent candidates in order to enhance efficiency.

Commissioner Mohamed Alawi Husun, on behalf of IEBC, made the following submissions:

- (a) Regulation to operationalise Election Campaign Finance Act had been worked on with the input of the stakeholders and was set to be tabled in the National Assembly on or before 7th August, 2016.
- (b) IEBC was enhancing both internal and external communication to improve implementation of publicity and media programme, corporate image and public trust.

- (c) IEBC had embarked on an ICT revitalization programme that seeks to ensure 2017 General Elections are credible. He informed the meeting that IEBC had restructured its ICT department to improve efficiency.
- (d) The Commission had entered into support and maintenance contract for BVR system to enable smooth running of the voter registration process.
- (e) The Commission was in the process of acquiring new Electronic Voter Identification Device (EVID) for purposes of verification.
- (f) The Commission was in the process of upgrading voter management system and would be conducting frequent testing of critical electoral system, at least six months before the next General Election.
- (g) The Commission had embarked on the improvement of polling process including the management of the polling stations.
- (h) Election Act should be amended to have the number of voters per polling station to be at most 700.

On the transmission and declaration of results, Commissioner Ms. Muthoni Wangai informed the Joint Committee that IEBC had developed a draft on the Elections Result Management Framework (ERF) which details the process of counting, announcing, tallying and declaration of results at different levels from the polling station to the national tallying centre.

MIN.NO.JPSC/IEBC/101/01/8/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 6.00 p.m.until Tuesday 2nd August, 2016 at 11.00 a.m.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed.....
SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE TWENTY SIXTH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON TUESDAY, 2ND AUGUST, 2016 IN COUNTY HALL, GROUND FLOOR, PARLIAMENT BUILDINGS, AT 10.00 A.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP | - Member |
| 4. Sen. Johnson Muthama, MP | - Member |
| 5. Sen. Kipchumba Murkomen, MP | - Member |
| 6. Sen.(Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 11. Hon. Moses Kuria, HSC, MP | - Member |
| 12. Hon. (Eng.) Mohamed M. Mahmud CBS, MP | - Member |
| 13. Hon. Mishi Mboko, MP | - Member |
| 14. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Mr. Ahmed Issack Hassan
2. Ms. Lilian Mahiri-Zaja
3. Mr. Albert C.O Bwire
4. Amb.(Dr.) Yusuf Nzibo
5. Eng. Abdullahi Sharawe
6. Mr. Thomas Letangule
7. Ms. Galma Godana
8. Mr. Mohammed Alawi
9. Ms. Muthoni Wangai
10. Mr. Ezra Chiloba
11. Ms. Betty Sungura Nyabuto
12. Ms. Maryan H. Maryan
13. Ms. Immaculate Kasait

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

- | |
|---------------------------------------|
| - Chairperson |
| - Vice-Chairperson |
| - Commissioner |
| - Commissioner |
| - Commissioner |
| - Commissioner |
| - Commissioner |
| - Commissioner |
| - Commissioner |
| - Secretary & Chief Executive Officer |
| - Deputy Chief Executive Officer |
| - Deputy Chief Executive Officer |
| - Director of Election Operations & |

14. Ms. Praxedes Tororey
15. Ms. Selestina Kaluku
16. Mr. James Mahati
17. Mr. Joram Rukambe
18. Mr. Andrew Limo
19. Mr. Benard Nyachio
20. Mr. George N. Gathuka

- Voter Registration
- Director of Legal & Corporate Affairs
- Director
- Director, ICT
- Chief Internal Auditor
- Manager
- Warehouse & Logistics Manager
- Legal Counsel

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Mr. Kamotho Waiganjo
2. Mr. Bobby Mkangi
3. Mr. Maina Wachira

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Ahmed H. Odhwa
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Clare J. Kidombo
13. Ms. Fiona Musili
14. Ms. Martha Ndukuyu
15. Ms. Noelle Chelagat

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer

MIN.NO. JPSC/IEBC/102/02/8/2016

PRELIMINARIES

The meeting was called to order at 10.10 a.m. and commenced with a word of prayer by Co-Chairman Sen. Kiraitu Murungi, MP.

MIN.NO. JPSC/IEBC/103/02/8/2016

MEETING WITH IEBC COMMISSIONERS AND SECRETARIAT

Members of the Joint Committee held closed door consultations with the Chairperson and eight members of the Independent Electoral and Boundaries Commission.

MIN.NO. JPSC/IEBC/104/02/8/2016

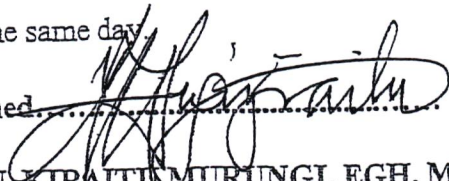
ADJOURNMENT

The meeting was adjourned at 1.00 p.m. until 3.00p.m. the same day

Signed.....

SEN. JAMES ORENKO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016

Signed.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016

MINUTES OF THE TWENTY SEVENTH SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)
HELD ON TUESDAY, 2ND AUGUST, 2016 IN MINI CHAMBER, PARLIAMENT
BUILDINGS, AT 3.15 P.M.

1. Sen. James Orengo, EGH, MP	- Co-Chairperson
2. Sen. Kiraitu Murungi, EGH, MP	- Co-Chairperson
3. Sen. Beatrice Elachi, CBS, MP	- Member
4. Sen. Johnson Muthama, MP	- Member
5. Sen. Kipchumba Murkomen, MP	- Member
6. Sen. (Dr.) Boni Khalwale, MBS, MP	- Member
7. Sen. Mutula Kilonzo Jnr, MP	- Member
8. Hon. (Dr.) Naomi Shaban, EGH, MP	- Member
9. Hon. Jimmy Angwenyi, MP	- Member
10. Hon. (Dr.) Eseli Simiyu, CBS, MP	- Member
11. Hon. Moses Kuria, HSC, MP	- Member
12. Hon. (Eng.) Mohamed M. Mahmud CBS, MP	- Member
13. Hon. Mishi Mboko, MP	- Member
14. Hon. Junet Mohamed, MP	- Member

1. Mr. Ahmed Issack Hassan
2. Ms. Lilian Mahiri-Zaja
3. Mr. Albert C.O Bwire
4. Amb.(Dr.) Yusuf Nzibo
5. Eng. Abdullahi Sharawe
6. Mr. Thomas Letangule
7. Ms. Galma Godana
8. Mr. Mohammed Alawi
9. Ms. Muthoni Wangai
10. Mr. Ezra Chiloba
11. Ms. Betty Sungura Nyabuto

- Chairperson
- Vice-Chairperson
- Commissioner
- Commissioner
- Commissioner
- Commissioner
- Commissioner
- Commissioner
- Secretary & Chief Executive Officer
- Deputy Chief Executive Officer

12. Ms. Maryan H. Maryan
13. Ms. Immaculate Kasait

14. Ms. Praxedes Tororey
15. Ms. Selestina Kaluku
16. Mr. James Mahati
17. Mr. Joram Rukambe
18. Mr. Andrew Limo
19. Mr. Benard Nyachio
20. Mr. George N. Gathuka

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

IN ATTENDANCE

1. Mr. Kamotho Waiganjo
2. Mr. Bobby Mkangi

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Ahmed H. Odhwa
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Clare J. Kidombo
13. Ms. Fiona Musili
14. Ms. Martha Ndukuyu
15. Ms. Noelle Chelagat

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

IN ATTENDANCE

3. Mr. Kamotho Waiganjo
4. Mr. Bobby Mkangi
5. Mr. Maina Wachira

- Deputy Chief Executive Officer
- Director of Election Operations & Voter Registration
- Director of Legal & Corporate Affairs
- Director
- Director, ICT
- Chief Internal Auditor
- Manager
- Warehouse & Logistics Manager
- Legal Counsel

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

JOINT COMMITTEE EXPERTS

- Expert
- Expert

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Ahmed H. Odhwa
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Clare J. Kidombo
13. Ms. Fiona Musili
14. Ms. Martha Ndukuyu
15. Ms. Noelle Chelagat

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer

MIN.NO. JPSC/IEBC/105/02/8/2016

PRELIMINARIES

The meeting was called to order at 3.15 p.m. and commenced with a word of prayer by the Co-Chairman, Sen. James Orengo.

MIN.NO. JPSC/IEBC/106/02/8/2016

PUBLIC HEARINGS /SUBMISSIONS BY THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

Upon invitation by Co-chairperson, Sen. Kiraitu Murungi, the Chairperson of the IEBC Commission Mr. Ahmed Issack Hassan informed the members that following the ruling of the Joint Committee, the IEBC had elected not to comment on thematic areas 1 and 2.

The IEBC Chairman requested that the specific IEBC Commissioners and staff adversely mentioned in allegations vide the Committee's letter 29th July, 2016, be allowed to file a written response to the allegations. In view of the above, the IEBC Commission expunged paragraphs 9 – 24 of the memorandum dated 1st August, 2016

Members of the Joint Committee made various comments and sought clarification from the Commission on the following:

- (a) Explanation by the Commission on system failures during the 2013 general election and plans for its improvement;
- (b) Why the IEBC could not use biometric data National Registration Bureau for voter registration as proposed by the National Treasury and the Registrar of Persons;

- (c) Whether presidential elections results should be declared at the polling stations or at the national level;
- (d) Whether it was possible to have a new voters register.
- (e) The prudence of having a stand-alone legislation on electoral offences;
- (f) The efficacy of the Political Parties Disputes Tribunal solving electoral disputes currently handled by the IEBC;
- (g) The reasons why IEBC only consulted the ruling coalition in development of the strategic plan;
- (h) The allegations that the IEBC failed to act on the advice of ICT experts on impending technology failure before the election;
- (i) The IEBC's proposal on curbing party hopping in political parties;
- (j) Action taken by IEBC regarding advisory letter in 2014 by the Cabinet Secretary, National Treasury on the management of the last general election.
- (k) The IEBC's view on ballot stuffing.
- (l) The possibility of involving Political Parties in verification of the ICT system before deployment by the IEBC during elections;
- (m) Whether the mandate of the Commission is too wide for its capacity;
- (n) The IEBC's view on Article 140 of the Constitution with regard to extending the time set to hear and determine a presidential Petition in the Supreme Court;
- (o) How elections can be staggered;
- (p) The over-deployment of police officers in polling stations and the national tallying center;
- (q) Whether it time for a legislation compelling every adult to vote to be enacted so as to cure the problem of low voter turnout; and
- (r) The IEBC's view on curtailing the Supreme Court's jurisdiction to hear and determine other election petitions apart from the presidential election petition.

The Commission responded to some of the above issues as follows;

- (a) In response to question (a), the Commission stated that the USSD system used in 2013 General Elections may have failed due to factors such as the switch from one system to another and the crushing of the server. This was an improvement from the Short Messages platform. IEBC had since improved in the system as can be seen from the thirty-nine by-elections subsequently conducted by the commission.
- (b) In response to question (b), the Commission stated that the Biometric data under the National Registration Bureau (NRB) could not be relied upon since the Bureau is a government directorate under the Executive which is an interested party in the electoral process.
- (c) In response to question (c), the Commission stated that it would be possible for the Presidential results to be announced at constituency and county level but declaration of the final results must be done at the national level.
- (d) In response to question (d), the Commission stated that it was not advisable to undertake fresh voter registration as this would consume a lot of time and require additional budgetary allocation. Instead, the Commission said that what needed to be done was periodic registration of voters. The IEBC has a plan to conduct voter

registration during School holidays. Periodic voter registration is better than continuous registration. The Committee should not recommend a new register but instead propose measures to clear the register of dead voters.

- (e) In response to question (o), the Commission stated that staggering of elections is possible if the Constitution is amended. National elections should be separated from County elections. This is because the number of elections conducted in one day is a burden to election officials and a cause of fatigue that could result to counting errors.
- (f) In response to question (m), the Commission stated that it had conducted elections for a number of institutions such as like Football clubs and LSK at their own cost. So it could as well conduct nominations for political parties. Nevertheless, Political Parties have never approached IEBC to conduct their primaries. However, it was observed that IEBC conducting party primaries would not be advisable.
- (g) With respect to question (p), the Commission stated that there was no military presence in the tallying centre, and that there were only officers who were tasked to guard the station.
- (h) With respect to question (q), the Commission stated that what was required was enough publicity on voter registration and voting.
- (i) With respect to question (r), the Commission stated that there should be an end to litigation, and that the Supreme Court should concentrate on the presidential election petitions only.

It was agreed that the IEBC could submit further written submissions in areas where the Commissioners may deem necessary.

MIN.NO. JPSC/IEBC/107/02/8/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 4.45 p.m. to Wednesday 3rd August, 2016 at 11.00 a.m.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

MINUTES OF THE TWENTY EIGHTH SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)
HELD ON WEDNESDAY, 3RD AUGUST, 2016 IN MINI CHAMBER,
PARLIAMENT BUILDINGS, AT 11.15 A.M.

1. Sen. James Orengo, EGH, MP	- Co-Chairperson
2. Sen. Kiraitu Murungi, EGH, MP	- Co-Chairperson
3. Sen. Beatrice Elachi, CBS, MP	- Member
4. Sen. Johnson Muthama, MP	- Member
5. Sen. Kipchumba Murkomen, MP	- Member
6. Sen. (Dr.) Boni Khalwale, MBS, MP	- Member
7. Sen. Mutula Kilonzo Jnr, MP	- Member
8. Hon. (Dr.) Naomi Shaban, EGH, MP	- Member
9. Hon. Jimmy Angwenyi, MP	- Member
10. Hon. (Dr.) Eseli Simiyu, CBS, MP	- Member
11. Hon. Moses Kuria, HSC, MP	- Member
12. Hon. (Eng.) Mohamed M. Mahmud CBS, MP	- Member
13. Hon. Mishi Mboko, MP	- Member
14. Hon. Junet Mohamed, MP	- Member

1. Mr. Issack Hassan
2. Ms. Lilian Mahiri-Zaja
3. Mr. Albert C.O Bwire
4. Amb.(Dr.) Yusuf Nzibo
5. Eng. Abdullahi Sharawe
6. Mr. Thomas Letangule
7. Ms. Galma Godana
8. Mr. Mohammed Alawi
9. Ms. Muthoni Wangai
10. Mr. Ezra Chiloba

[illegible]

11. Ms. Betty Sungura Nyabuto
12. Ms. Maryan H. Maryan
13. Ms. Immaculate Kasait
14. Ms. Praxedes Tororey
15. Ms. Selestina Kaluku
16. Mr. James Mahati
17. Mr. Joram Rukambe
18. Mr. Andrew Limo
19. Mr. Benard Nyachio
20. Mr. George N. Gathuka

- Deputy Chief Executive Officer
- Deputy Chief Executive Officer
- Director of Election Operations & Voter Registration
- Director of Legal & Corporate Affairs
- Director
- Director, ICT
- Chief Internal Auditor
- Manager
- Warehouse & Logistics Manager
- Legal Counsel

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Mr. Kamotho Waiganjo
2. Mr. Bobby Mkangi
3. Mr. Maina Wachira

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Ahmed H. Odhwa
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
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11. Ms. Mary Luka Lemerelle
12. Ms. Clare J. Kidombo
13. Ms. Fiona Musili
14. Ms. Martha Ndukuyu
15. Ms. Noelle Chelagat
- 16.

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer

MIN.NO. JPSC/IEBC/108/03/8/2016

PRELIMINARIES

The meeting was called to order at 11.15 a.m. and commenced with a word of prayer by Co-Chairman Sen. Kiraitu Murungi, MP.

MIN.NO. JPSC/IEBC/109/03/8/2016

REMARKS BY CO-CHAIRPERSONS

Co-Chairman Sen. James Orengo on behalf of the Joint Committee made the following remarks-

1. That the sitting was the last public hearing session and commended the IEBC Commissioners and the Secretariat for attending committee meetings as scheduled.
2. The Joint Committee could still receive written memorandum a further submission from the IEBC until Thursday 4th August, 2016.
3. That throughout the public hearings there has been a consistent call that the Joint Select Committee comes up with a dignified settlement in relation to thematic area 2 in recognition of the fact that the Select Committee cannot pretend to be a judicial body.
4. The proposal that the Committee should consider a dignified negotiated settlement was held by virtually all the stakeholders and particularly the Multi-Sectoral Forum (MSF) which consisted of more than 62 groups.
5. That the Attorney-General, Prof. Githu Muigai, the Chairperson of the Commission on Administrative Justice (CAJ), Mr. Otiende Amolo, and the Cabinet Secretary, National Treasury were among some of the stakeholders who submitted to the Joint Committee and made a case for vacation from office through dignified negotiated settlement.

The Co-Chairperson, Sen. James Orengo, then put to the Commissioners the question as to whether out of their own free will they would accept a dignified negotiated settlement in the event the Joint Select Committee, in consultation with other agencies, comes up with such settlement.

The Co-Chairperson, Sen. Kiraitu Murungi, reiterated Sen. James Orengo's remarks and read to the Commission the stakeholder views contained in the memorandum submitted by the Commission of Administrative Justice (CAJ) where they had noted that IEBC Commissioners should voluntarily resign in the interest of the nation.

MIN.NO. JPSC/IEBC/110/03/8/2016

REMARKS BY THE IEBC COMMISSIONERS

The Chairman of the IEBC thanked the Joint Committee for its objectivity in the process and stated that the interests of the country were bigger than those of the nine Commissioners. He assured members that the Commissioners would accept any dignified settlement as the best option to resolve the IEBC matter. He emphasized that the Country is greater than individuals, and should invest in institutions for posterity.

He informed the Committee that the Commission had prepared for the elections, complete with a strategic plan and an Election Operation Plan (EOP) which was the roadmap for the next General Elections.

All the eight members of the Commission individually confirmed the statement by their Chairperson and stated that they were ready for a dignified settlement as they had discharged their mandate and served the country with dignity as follows-

Mr. Isaack Hassan, Chairperson, *"We should not focus too much on the headlines of today and tomorrow, but look at the judgment of history. There are only eight Commissioners plus the Chairman. We are very few and the country is bigger than all of us. If a political settlement is reached, and which requires what you have read from the stakeholders, I have said this before, and I can confirm again that the Commission will not be a stumbling block and stem on the way of the settlement. I also want to assure you that our staff, the Commissioners and I are people who are patriotic and part of this country. We want to help the country in having a smooth and peaceful election. We also mean well for the country and we have repeatedly said that elections are too important to be left to the IEBC alone. All of you as political leaders have a role to play to ensure that we have peaceful and credible elections in the country."*

Ms. Mahiri- Zaja, Vice Chairperson, *"I fully subscribe to the words and statements of my chairman. We took an oath of office. We uphold the principles in the Constitution. We have served the country with great honour and we appreciate the leadership this Committee has shown in the process."*

Mr. Thomas Letangule, Commissioner, *"One of the strengths of this Commission has been the cohesive team that we are. We have never voted on any single item. We always agree by consensus. Therefore I can confirm that what our chairman has said is what we have all agreed. We will not be a stumbling block to any political settlement reached. We will stand by that."*

Mr. Mohamed Alawi, Commissioner, *"I confirm that I stand by what my chairman has said. I also want to state that this Commission has served this country diligently and selflessly. It is in our interest that this country grows. I will not stand on the way of a dignified settlement."*

Ms. Kule Galma Godana, Commissioner, *"I underline what our chairman has said. He said everything on our behalf. As Commissioner Alawi has said, we started serving this country as Commissioners with one accord-to serve this country to our best and do it with transparency and all the Commitment that is necessary to take Kenya to the next level in terms of the electoral process. Another thing is that this country needs to invest in institutions and make them stronger. It should not bring down institutions every time and just look for solutions to a problem without thinking about tomorrow. Just as the Commissioners have said, the staff is prepared, devoted, strong and able. They should be allowed to work. People say that there comes a time when the country is greater than an individual. The country is always greater than an individual. If we have to provide a way for the country to move on, I have no objection."*

Ms. Muthoni Wangai, Commissioner, "I would like to support what chairman has said. We shall not stand in the way of political settlement. I just want to underwrite that this Commission has done its work very well. It is difficult to appreciate that a political environment is what makes a democratic country great. So, we shall be supportive of any political settlement and also hope that being the first Commission after promulgation of the Constitution 2010 and the Houses of Parliament; being the first Houses after promulgation, we will not go down in history in destroying any important institutions set up under that. Instead, we take this opportunity to build this institution and others. Perhaps, most of the times you see the Commissioners but even as we work, we wish to acknowledge that we have staff and the staff have done a very big and good job. That is why we are all here today peacefully."

Mr. Albert C.O Bwire, Commissioner, "I want to mention a few things before I concur with my chairman. First, I confirm that I am a nationalist. Mimi ni mzalendo kamili. I confirm that I am available for any other national duty that this country will bestow on us. Having said that, I concur with what the chairman has said."

Mr. Yussuf Nzibo, Commissioner, "I thank the Co-chairs, the Committee and the nation. We have served with dignity and we leave with dignity. I confirm what my Chairman has said. It has been a privilege serving as a Commissioner and also serving this country in various capacities. I leave with my head high."

Mr. Abdulahi Sharawe, Commissioner, "I totally agree with the statements of my Chairman."

WAY FORWARD

The Co-Chairmen thanked the IEBC Commissioners for putting the interests of the Country first opting for the dignified settlement.

Subsequently, the Joint Committee resolved to hold a retreat to prepare a report for tabling within the stipulated time as per the Motion establishing the Joint Committee. Members resolved to have an in-house sitting with the Secretariat at 4.00 pm to plan for the same.

MIN.NO. JPSC/IEBC/111/03/8/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 12.40 p.m. until 4.00 p.m. the same day.

Signed.....
SEN. JAMES ORENGO, EGH, MP

Signed.....
SEN. KIRAITU MURUNGI, EGH, MP

CO-CHAIRMAN

Date.....16/8/2016

CO-CHAIRMAN

Date.....16/8/2016

MINUTES OF THE TWENTY NINTH SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)
HELD ON WEDNESDAY, 3RD AUGUST, 2016 IN MINI-CHAMBER,
PARLIAMENT BUILDINGS, AT 4.00 P.M.

1. Sen. James Orengo, EGH, MP
2. Sen. Kiraitu Murungi, EGH, MP
3. Sen. Beatrice Elachi, CBS, MP
4. Sen. Johnson Muthama, MP
5. Sen. Kipchumba Murkomen, MP
6. Sen.(Dr.) Boni Khalwale, MBS, MP
7. Sen. Mutula Kilonzo Jnr, MP
8. Hon. (Dr.) Naomi Shaban, EGH, MP
9. Hon. Jimmy Angwenyi, MP
10. Hon. Moses Kuria, HSC, MP
11. Hon. (Eng.) Mohamed M. Mahmud CBS, MP
12. Hon. (Dr.) Eseli Simiyu, CBS, MP
13. Hon. Mishi Mboko, MP
14. Hon. Junet Mohamed, MP

- [illegible]

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Ahmed H. Odhowa
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Noelle Chelagat

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Research Officer
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer

13. Ms. Clare J. Kidombo
14. Ms. Fiona Musili
15. Ms. Martha Ndukuyu

- Research Officer
- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/112/03/8/2016 PRELIMINARIES

The meeting was called to order at 4.15 p.m. and commenced with a word of prayer by Co-Chairman Sen. James Orengo, MP.

The Co-Chairperson informed members that the purpose of the meeting was to disagree on the way forward following the successful conclusion of public hearings.

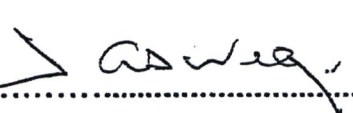
MIN.NO. JPSC/IEBC/113/03//8/2016 REPORT WRITING

The Co-Chairpersons informed members that-

1. Plans had been put in place to hold a retreat at Windsor Golf Hotel and Country Club from Sunday 7th August, 2016.
2. Members of the Secretariat would check in on Thursday 4th August 2016.
3. The first meeting would be held on Sunday 7th August, 2016 at 2.00 pm to confirm all minutes pending confirmation followed by consideration of issues to be submitted by the Sub-Committee.
4. The Sub-Committee led by Sen. Kipchumba Murkomen and Sen. Mutula Kilonzo Jnr. would meet on Thursday 4th August, 2016 at 11.00 a.m. and come up with issues captured from public hearings.
5. The Secretariat including Rapporteurs and Experts should come up with draft issues before the meeting with the Sub-Committee at 11.00 a.m.

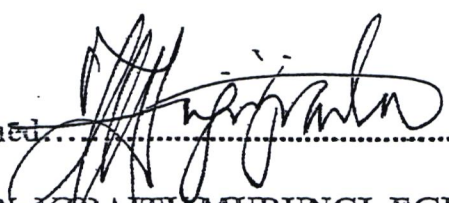
MIN.NO. JPSC/IEBC/114/03/8/2016 ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 4.30 p.m. The next meeting was scheduled to be held on Sunday, 7th August, 2016 at 2.00p.m.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016

Signed.....

SEN. KERAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016

MINUTES OF THE THIRTIETH SITTING OF THE JOINT PARLIAMENTARY
SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON MONDAY,
8TH AUGUST, 2016 IN OAK ROOM, WINDSOR HOTEL AND COUNTRY CLUB
AT 9.00 A.M.

1. Sen. James Orengo, EGH, MP	- Co-Chairperson
2. Sen. Kiraitu Murungi, EGH, MP	- Co-Chairperson
3. Sen. Kipchumba Murkomen, MP	- Member
4. Sen. Beatrice Elachi, CBS, MP	- Member
5. Sen. Johnson Muthama, MP	- Member
6. Sen.(Dr.) Boni Khalwale, MBS, MP	- Member
7. Sen. Mutula Kilonzo Jnr, MP	- Member
8. Hon. (Dr.) Naomi Shaban, EGH, MP	- Member
9. Hon. Jimmy Angwenyi, MP	- Member
10. Hon. Moses Kuria, HSC, MP	- Member
11. Hon. (Dr.) Eseli Simiyu, CBS, MP	- Member
12. Hon. Mishi Mboko, MP	- Member
13. Hon. Junet Mohamed, MP	- Member

Hon. (Eng.) Mohamed M. Mahmud CBS, MP - Member

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo
3. Mr. Bobby Mkangi
4. Mr. Wachira Maina

- Expert
- Expert
- Expert
- Expert

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Solomon M. Liria
5. Maj. (Rtd.) Reuben Kimosop
6. Mr. Abenayo Wasike
7. Ms. Kavata Musyoka
8. Mr. Ronald Walala
9. Ms. Judy Ndegwa
10. Ms. Mary Luka Lemerelle
11. Ms. Noelle Chelagat
12. Ms. Clare J. Kidombo
13. Ms. Fiona Musili
14. Ms. Martha Ndukuyu

PARLIAMENT OF KENYA

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer
- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/115/08/8/2016 PRELIMINARIES

The meeting was called to order at 9.30 a.m. and commenced with a word of prayer by the Co-Chairman, Sen. James Orengo.

The Co-chairman (Sen. Orengo) then informed members that the experts had been working on a matrix of issues for consideration by the Committee. He further informed them that the experts would take the members through the matrix, and the meeting would thereafter be adjourned to allow for consultations on various issues.

MIN.NO.JPSC/IEBC/116/08/8/2016 PRESENTATIONS OF MATRIX ON THEMATIC AREAS

The experts requested the members of the Joint Committee to give directions on how to proceed under Thematic Area No. 1, considering that the IEBC had already agreed to vacate office upon the conclusion of a negotiated settlement.

Members were taken through the Matrix attached covering Thematic Areas No. 2, 3 & 4.

Following presentation of the matrix to the Joint Committee by the experts, the Co-Chairman, Sen. James Orengo, directed that members be given more time to interrogate the issues contained therein during break-out sessions, and make their comments at the subsequent meeting.

MIN.NO. JPSC/TEBC/117/08/8/2016

ADJOURNMENT AND DATE OF NEXT
MEETING

The meeting was adjourned at 12.00 p.m. to convene again at 3.00 p.m. the same day.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Signed.....
SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date..... 16/8/2016 Date..... 16/8/2016

THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION

ISSUES ARISING FROM THE THEMATIC AREAS

Thematic Area 1: Allegations against Commissioners and the Secretariat of the Independent Electoral and Boundaries Commission.

Thematic Area 2: Recommendations on legal mechanisms for the vacation from office of the current Commissioners and the Secretariat of the Independent Electoral and Boundaries Commission in accordance with the Constitution.

ISSUES ARISING		OPTION(S) FOR CONSIDERATION	OBSERVATIONS
(a)	Mode of vacation from the office of Commissioners	Negotiated exit	• The terms of the exit would have to comply with the Constitution and involve the National Treasury, the Salaries and Remuneration Commission and the Attorney-General and address issue of no prejudice exit. • Any payment would require appropriation by the National Assembly in order to allow the Controller of Budget to release funds. • Need to insulate against Court challenge on the basis of legality and whether it is prudent use of public funds. • The transition to new Commissioners would have to be anchored in law and stipulate how the process of fresh appointments will be done seamlessly.
(b)	Mode of vacation from the office of Secretary/CEO	(1) Negotiated exit	• The CEO's exit can be negotiated in the same manner as the Commissioners since he was the Commission Secretary.

	ISSUES ARISING	OPTION(S) FOR CONSIDERATION	OBSERVATIONS
		(2) Exit for cause	• The IEBC Act vests the power of appointment and removal of the CEO in the Commission. • The new Commission should manage the exit process.
		(3) Retention on the basis of existing contract	• The current CEO has an existing contract with the Commission and can only be removed for cause.
(c)	Method of vacation from office of other employees of the Commission	(1) Vetting of staff in senior positions of Director and above for competence and capacity by the Commission	• Vetting of all staff of the Commission may -- at present- destabilize the Commission and affect preparedness for the August 2017 elections if the process is lengthy or challenged in Court. • If vetting is to be done it should be left to the new Commission to be undertaken within a set time before the elections. • The process may, however, be challenged if it appears as seeking to achieve a predetermined end that conflicts with terms of contract and provisions of the Employment Act.
		(2) Using the existing internal disciplinary mechanisms of the Commission	• This would ensure stability within the secretariat of the Commission which is important as the country heads to the next elections. • It would also be appropriate to design mechanisms to strengthen the Commission's staff -- partly to address problems of staff demotivation and uncertainty. The new Commission may even wish to conduct a staff satisfaction survey to address the human resource challenges facing the Commission.. • For the future, the new Commission may conduct a staff rationalization process.

Thematic Area 3: Recommendations on legal, policy and institutional reforms to strengthen the Independent Electoral and Boundaries Commission so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner.

ISSUES ARISING		OPTION(S) FOR CONSIDERATION	OBSERVATIONS
1.	Composition Number of Commissioners	(1) Retaining nine commissioners (2) A smaller Commission of three to five members	• Offers more flexibility on nature and tenure of Commissioners, number of groups represented, diversities in the country • However, it also keeps the political nature of IEBC intact. • The large numbers also make it easier to stagger the appointments of Commissioners • Changes nature of IEBC from a political body to a more expert Commission • Enhances efficiency in the Commission
2.	Appointment of Commissioners When to commence recruitment process	At least six months before expiry of the term of sitting Commissioners	• This would require to be anchored in law especially to provide for a seamless transition from the current commissioners to the new commissioners. • This allows time to resolve any recruitment issues that may arise during the process, and resolve the issues before sitting commission vacates office.
(f)	Recruitment of Commissioners	(1) Direct appointment by political parties	• Option of political party appointment would conflict with the Constitution and may require referendum-see <i>Kivuitu vs AG and Anor</i> • There would be need to determine the process to be used by the political parties in the identification of suitable candidates – should this be a competitive process? • There would be need to determine the political parties to be involved: majority and minority party in Parliament? How to accommodate parties not represented in Parliament?

	ISSUES ARISING	OPTION(S) FOR CONSIDERATION	OBSERVATIONS
		(2) Recruitment by a multi-stakeholder selection panel	• This option safeguards the independence of the commission (most submissions supported an independent selection panel process) • For the new Commission, the key consideration would be the limited time involved and whether the selection panel route would further lengthen the recruitment of new Commissioners. • There would be need to agree how the panel itself will be constituted – issues of number of members of the panel (an odd number, perhaps 7 or 9 members) and qualifications of panel members. • Once the panel has been selected, it must itself agree on the actual process that it will use including how to apply the constitutional and statutory criteria for commissioners and how to weigh the individual criterion. The processes of confirmation and appointment must then follow • Secretariat service may be provided by the Public Service Commission
		(3) Recruitment by a recruitment firm	• This would shorten the selection process especially for the new Commission. • The firm would forward 2 to 3 names for each commissioner position which would be forwarded to Parliament.
		(4) Recruitment by the Public Service Commission	• On this option, questions may arise in terms of public confidence.
(g)	Qualifications	For Chairperson	• The Chairperson of the Commission should be a person who is qualified to hold the office of Judge of the Supreme Court because the Commission performs quasi-judicial functions • However, some presenters desired to liberalize these qualifications and allow non-lawyers to chair the Commission.
		For other Commissioners	• The qualifications to be retained as set out in the IEBC Act save for the requirement on citizenship.

	ISSUES ARISING	OPTION(S) FOR CONSIDERATION	OBSERVATIONS
		Question of citizenship	Article 78(3)(a) of the Constitution allows for non-citizens to be members of Commissioners and therefore interested foreigners can apply.
3.	Nature of Tenure		
(a)	Staggered term	Appointment of some Commissioners before the next election and others after the election	- Five commissioners could be appointed shortly after the next reforms and the remaining four after 12-24 months. - This would ensure retention of institutional memory. - There would be need to prescribe the timelines for recruitment and appointment of the second batch of Commissioners.
(b)	Full-time or Part-time	(1) All Commissioners to be full-time	- Various factors should influence the decision: workload in the electoral calendar and activities, recurring activities e.g. frequent by-elections, ongoing voter education, continuous voter registration or continuing electoral law reforms. - There is a judgment call to be made whether activities are intense or frequent enough in Kenya to justify a full time commission. - One complaint in Kenya has been that Commissioners interfere with operational decisions: it is probably because their full time presence in the offices during low-workload periods invites temptation to "do something."
(c)		(2) All Commissioners to be part-time-	- Where election dates are fixed- as it is in presidential systems like ours- the electoral cycle is predictable and the Electoral Commission has little inter-election activity to work on, it is logical to have part-time commissioners - Part-time commissioners should be paid only their sitting allowances and perhaps a modest retainer. Botswana pays a sitting allowance but Namibia tops up the sitting allowances with a monthly retainer (Compare with the Kenya Law Reform Commission).

ISSUES ARISING	OPTION(S) FOR CONSIDERATION	OBSERVATIONS
	(3) Chair and Vice-Chair to be full-time	This is the model employed in Ghana
	(4) Commissioners to be full-time only during the election period	There would be need to specify how long before the election.
	(5) Some Commissioners to be part-time while others are full-time	Consider statutory balloting by IEBC to decide which of the commissioners will be full-time in sequences of two years for the six years of a Commissioner's term of office.
	Vacation from office Need to clearly provide for other situations when Commissioners and the Secretary may vacate office— (a) resignation (b) death (c) under Article 75 of the Constitution	this is currently not provided for in the law
(d)	Executive or non-executive commissioners (1) Executive (2) Non-executive	- Craft roles for commissioners that combine both oversight and operational roles - Commissioners would be executive directors - Clearly separate the roles of the Commissioners and the Secretariat - Commissioners have responsibility over strategy, election planning and oversight. - Functional leadership and operational execution to be the domain of the secretariat led by chief executive officer.
(e)	Retirement versus election years How to ensure that the retirement of Commissioners does not coincide with election years	If we apply the term of the Commissioners using the current timeline, the Commission that will be constituted this year will preside over 2 elections cycle. After that, it will take another 30 years (5 commission cycles for such an occurrence)
4. Transparency and Accountability in the Commission		
(f)	Closed or open meetings Open meetings	Open the plenary meetings of the Commission to the public: it would build confidence if critical matters like discussions on the IEBC's procurement plans or those evaluating the

ISSUES ARISING		OPTION(S) FOR CONSIDERATION	OBSERVATIONS
			specifications for BVR, EVID and RTS are open to the public. If such meetings are made statutorily open, the Commission should publicize the dates when those meetings take place.
		Closed meetings	Some deliberations on sensitive matters should be held in confidence but critical decisions should be publicized.
(g)	Performance audits	With internal and external components	A sound performance audit would have internal and external components: the internal component looks into institutional policies and records, interviews with commissioners and staff- whilst the external elements focus on cost-benefit analyses and stakeholder feedback.
(h)	Linkage between the IEBC and political parties	Strengthen the Political Parties Liaison Committee	Strengthen the Committee so that it is an effective link between the IEBC and political parties

THEMATIC AREA 4

Thematic Area 4: Recommendations on legal, policy and institutional reforms to improve the electoral system and processes so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner.

ISSUES		OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
VOTER REGISTRATION			
(h)	How to achieve an accurate, comprehensive and complete register of	(1) Using the Civil register to construct a voters' register and assign constituencies when registration of	However, voter registration should be separated from civil registration system as not everyone who gets an ID card is in the country or desires to vote.

	ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
	voters.	voters opens.	• The role of voter registration resides with IEBC. The National Registration Bureau should share information with IEBC who will then register the constituency of the voter. • The Executive consists of players in elections and integrating the two functions creates room for a potential conflict of roles.
		(2) Use the voter's register as the civil register.	• The Constitution requires the IEBC to register voters so it may be easier to enfold the voters' register into the civil register. • If adopted, it dispenses with the need for a constitutional amendment to make registration under the Registration of Persons Act the official voters' registration. • Both registers would then have the same platform, e-citizen, and would have applications and use beyond voter registration and would have interactive capabilities, allowing voters to move constituencies electronically and to access election information on an e-vote portal on e-citizen.
		(3) Amendment of the Constitution to remove the requirement for registration as a voter and provide that anyone whose name is on the civil registry has the right to vote on production of the appropriate ID.	• This will require an amendment to the Constitution and a referendum as it touches on Article 88 of the Constitution.
(i)	Fresh Voter Register	(1) Developing a new voter register.	• There are allegations of irregularities in the existing voters' register. • This would entail a vast logistical costly and time consuming exercise of registering afresh all those

OBSERVATIONS AND RECOMMENDATIONS		
ISSUES	OPTION(S) FOR CONSIDERATION	who had registered in 2013 and bringing new voters to the register.
	(2) Clean-up of the current voter register by the IEBC and conducting mass voter registration exercises.	- Fresh registration of voters will be a costly one with the risk that the number of registered voters may end up being less than what we have because of a number of factors such as apathy and may prejudice election timelines. - A clean-up of the existing register by the IEBC focused on ensuring that it is both transparent and accountable may complement registration of new voters. - There may be need to amend the Elections Act to increase the period for closing register before elections from the current 60 days to 90 days to allow complete compilation of register.
	(3) Clean-up and independent verification of the current voter register by the IEBC and conducting mass voter registration exercises.	- A clean-up and independent verification or audit of the register would be a "middle ground" between going to elections with a flawed register and creating an entirely new register. - The exercise would need to be undertaken by a highly professional and credible panel. - The waiting card has no security features. It is also not recognized as an official identification document and the law should be amended to disallow its use in elections.
(j) Waiting Cards	(1) Disallow the use of waiting cards as a document to be used for registration. (2) A database of those holding waiting cards should be developed and the holders allowed to vote.	
(k) Acquisition of National Identity Cards (IDs)	(1) Acquisition of the document should be devolved to the counties. (2) ID cards should be given to all	There is need for the provision of an adequate budgetary allocation and logistical support to the

ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
	students leaving form four.	
	(3) The National Registration Bureau to improve coverage of ID issuance and collection	National Registration Bureau to facilitate effective registration and issuance of IDs. - Simple guidelines for vetting applicants for IDs especially in border constituencies should be developed. - The law should Provide a legal period within which an ID must be issued after approval of an application. - There is need for the voters register to be final on the day of receipt of nominations.
(l) Continuous Registration of Voters	IEBC should comply with the timelines provided for the compilation of the voter register, inspection by the public and gazetting of the final register before elections.	
(m) Mandatory Registration of all Eligible Voters	All citizens should participate in the political processes of the country in order to ensure that the government elected reflect the diversity of the people of Kenya and address voter apathy.	Voter registration should not be mandatory citizens should be allowed to exercise the option to choose to register or not as currently is.
(n) Right of Prisoners to Vote	Registration of all prisoners	The Registration of prisoners should be implemented and regular reports provided to Parliament.
(o) Verification and Scrutiny of the Register	(1) IEBC publishes, on quarterly basis, new entries into the register	There is need to ensure that the mode of verification adopted ensures the integrity of the register and does not deny persons the right to vote.
	(2) There be continuous auditing, updating and verification of the voters register.	There should be a ninety-day period for the verification and scrutiny of the register.
	(3) IEBC develop a repository of the voters' signatures or thumb prints.	
	(4) Verification of the voters register include the verification of biometric	

OBSERVATIONS AND RECOMMENDATIONS		
ISSUES	OPTION(S) FOR CONSIDERATION	
	data.	
(p) Diaspora Voters	IEBC to avail resources and the infrastructure necessary to register eligible citizens in the diaspora for the next election.	o Gazette regulations on the progressive realization of registration of Kenyans in the diaspora.
(q) Accountability of the Commission to Parliament.	This oversight function should be done within the normal framework of reporting and oversight of government functions	o The Constitution outlines adequate reporting mechanisms for all Commissions to Parliament.
VOTER EDUCATION		
1. Adequate Budgetary Allocation	Allocation of adequate resources to ensure the conduct of meaningful voter education initiatives throughout the country before the elections.	- o The IEBC should develop an effective voter education curriculum through a consultative forum with political parties and other stakeholders. - o The commission can then embark on a sustained voter education campaign in collaboration with appropriate stakeholders. - o The National Treasury has indicated that it allocated the IEBC adequate funding for all its activities including voter education.
2. Integration of Voter Education into the Wider Civic Education Programme.	Anchoring voter education initiatives within the wider national civic education programme.	
3. Engagement and Building of Partnerships with Other Stakeholders	(1) The Commission partner with non-state actors including political parties to provide voter education.	o The IEBC should partner with political parties in voter education. Voter education can be conducted jointly with political parties or political parties can be facilitated to conduct segments of voter education on their own.
	(2) The Commission outsource the	o Where necessary, the IEBC can outsource the role of

	ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
		voter education function while retaining overall supervision.	voter education.
4.	Delivery of Voter Education through Innovative Platforms and Social Media	(1) The Commission relay voter education through audio, visual, internet, sms, whatsapp, twitter and print media to reach every person aged eighteen years and above. (2) The Commission hire sign language interpreters. (3) The Commission conduct civic and voter education for the voters in the diaspora using the available cost-effective communication technologies	• IEBC should innovatively employ all electronic, print and other media platforms to ensure the widest audience and penetration of voter education.
		The Commission establish a television station owned for purposes of voter education.	• Regulations should be developed to deal with diaspora voters in the area of voter education. • A study needs to be conducted to determine the cost-effectiveness of developing an IEBC media channel as compared to the other options available for voter education.
6.	Timeliness for Voter Education	(1) Extension of the current ninety days period allocated for voter education. (2) The voter education should be continuous voter education.	• Voter education should be continuous and matched to the themes relevant to the electoral calendar.
		NOMINATIONS AND REGISTRATION OF CANDIDATES	
1.	Supervision and Conduct of Political Party Nominations.	(1) IEBC to regulate the conduct of nominations; political parties to conduct the actual nomination process. (2) IEBC to conduct the nomination exercise at the cost of political	• IEBC is mandated under the Constitution to conduct party nominations. It can conduct nominations with funds from the Political Parties Fund or other budgetary allocation. • Political Parties may also hire IEBC to conduct the

OBSERVATIONS AND RECOMMENDATIONS

ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
	parties. (3) IEBC to conduct the nomination exercise funded by the Exchequer.	• nominations at their own cost. • A conflict of interest may arise with regard to IEBC's role in nominations and also in dispute resolution.
2.	Date(s) for nominations by political parties	It may be prudent to require that nomination processes conclude at least sixty days before the election.
3.	Timelines for Nomination Processes	• Amendments with regard to timelines should be concluded at least six months before the August 2017 election as they may affect preparations for the elections.
	(1) The processes conclude forty-five days before the election as currently provided. (2) The processes conclude ninety days before the election (3) The processes conclude one hundred and eighty days (six months) before the election.	
4.	Gender Representation in Nomination Processes	• Nominations should be used to the greatest extent possible to help achieve the two-thirds gender principle. • Political parties should work with IEBC and other stakeholders to make the electoral environment more conducive for women candidates. • Fiscal incentives may be given to political parties to from the Political Parties Fund to encourage their implementation of the principle.
5.	Registration of Political Party Members	• Only registered members of a political party should be allowed to participate in party nominations. • The Registrar of Political Parties should continuously update party membership lists. • Members of political parties should be issued with party cards and only membership lists should be used for party nominations as opposed to the voter register.

	ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
6.	Rules on Nomination Processes	Development and publication of nomination guidelines.	• Party nomination rules should be published to provide for penalties to nomination offences and stipulate how to treat party nomination certificates issued in contravention with the rules. • Failure to comply with the Political Parties Act should lead to sanctions prescribed under the Act, including deregistration. • In the event IEBC is not the body conducting the nominations, parties should use their own technology to conduct nominations.
7.	Management and Funding of Nomination Processes	Enhancement of funding for political parties to include funds for the purpose of enabling the IEBC to conduct nominations for parties funded by the State.	
	CAMPAIGN MANAGEMENT		
1.	Regulation of campaigns and capping of the campaign period	Set parameters for campaigns, and engraining those rules and regulations in the law Strengthen of intelligence capacity of law enforcement agencies to effectively deal with campaign malpractices Restrict campaigns to three (3) months only Restrict political party agents from making political pronouncements outside Parliament and political party meetings, to prevent premature campaigns	
2.	Enforcement of the code of conduct	Effective enforcement of the electoral code of conduct by all responsible parties such as political parties, Independent Electoral and Boundaries	

ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
	Commission, the Registrar of Political Parties, the media council, the Inspector General, the Director of Public Prosecution and the National Cohesion and Integration Commission	
	The Independent Electoral and Boundaries Commission develops regulations for the enforcement of the code of conduct.	• Campaign regulations should be published to regulate- (i) Use of campaign funds and sources; (ii) Media coverage of campaigns; (iii) Campaign offences and their penalties; and (iv) Reporting and use of campaign funds by political parties.
3.	Campaign financing: Regulation of sources of funds and caps on expenditure	
	Candidates should be given strict guidelines on how much funding they can use from their personal resources and how they can fundraise from supporters	
	A cap on campaign financing should be enacted and strictly complied with.	
	A campaign financing policy should be established and that there should be disclosure on the sources of funds used.	
	Operationalization of Article 88 (4) (i) on campaign financing and Article 92 (h) in terms of developing regulations and monitoring tools on use of public resources.	
	Enact the appropriate legislation to curb voter bribery.	
	Enhance the institutional capacity to implement the Election Campaign Financing Act No. 42 of 2013 and seek	Mandate political parties to report on sources, amounts and utilization of finances and other resources used during election on a quarterly basis.

	ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
		partnership in monitoring spending. Strengthen institutions such as the Central Bank of Kenya to give it capacity to track money from the hands of politicians as well as curb the circulation of illegal money during campaigns.	
	PUBLICITY AND THE MEDIA		
1.	Equity in media coverage	(1) A multi-sectoral agreement on allocation of airtime to political parties (2) Monitoring mechanisms /tools for airtime allocation by media houses	(0) Campaign regulations should provide for media coverage and conduct during campaigns.
2.	Sensitivity in content	Media should be sensitive to the content of news that reaches the public during the election period	
3.	Code of conduct	All media actors should to sign a code of conduct to guide their engagements in the electoral process.	
4.	Role of IEBC and the media in voter education	Continuous sensitization and mobilization campaigns to encourage voter registration and create awareness and educate Kenyans on the electoral processes.	
5.	Disclosure of media owners	There should be regular disclosure of real media owners; a law distinguishing media ownership and political engagement be enacted.	
6.	Media conduct during the campaign period	Impartiality in reporting and in-depth discussion on relevant issues	

OBSERVATIONS AND RECOMMENDATIONS		
ISSUES	OPTION(S) FOR CONSIDERATION	
7. Inclusion of persons with disabilities	The media, in publicizing electoral events and materials should take into account different categories of persons with disabilities, for example, they should include a sign language interpreter for the deaf audience.	
8. Election polls	(1) Prohibit the publication of electoral poll results ten days before the elections and to include the management of exit polls. (2) Publication of the Election Polls Act amended to provide for enforcement mechanisms including: setting up of a Political Opinion Polling Regulation Authority as is the case in the United Kingdom	Electoral polls should be regulated during the campaign period.
9. Rules of engagement between the IEBC and the media	Formulate rules of engagement between the IEBC and the media with regard to elections with regard to the voting process and vote tallying and coverage rules.	
USE OF INFORMATION COMMUNICATION TECHNOLOGY IN ELECTIONS		
1. Adoption of ICT in the voting process	Adopt electronic voting	- Make a decision in principle on whether the electoral system to be used in 2017 is going to be fully technology-based. If technology-based then the system must comply with the Constitution. If technology makes an election more opaque than a manual one, it could be deemed unconstitutional - If technology fails there should be a protocol for

	ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
			defining how to handle the failure and have a backup. • IEBC should switch to handheld devices instead of laptop-based devices which have a battery life of eight hours and are therefore more reliable • Integrate BVR and EVID before the 2017 elections
2.	Legal and regulatory framework on elections technology	No real options and alternatives were offered by stakeholders about the design and regulation of an electronic voting system.	• Parliament should establish a technical group to go into the design of legislation on technology to be used in elections and the regulations relating to ICT. The recommendations of the proposed technical group may be adopted by IEBC. • Provide the legal mandate for electronic voting technologies in both the IEBC Act and in the Elections Act and leave the specification of the technical requirements to the Commission through regulations. • Amendments to the laws to include: testing and certification; audit mechanisms and conduct; status of audit records versus electronic records; transparency requirements; data storage and security; voter identification; and access to source codes; and physical and procedural aspects of the voting or counting process, among others. • There should be specific parameters, regulations for user testing, training, validation and the use of BVR, EVID and ERT should be set in regulations. • The system should identify the safeguards that are necessary to manage all the risks that have already been identified and if the system fails- it must fail safe, that is, failure must be within pre-defined and pre-accepted limits.
3.	Timely and Transparent	There should be early and transparent	• Due to the limited amount of time, IEBC should

OBSERVATIONS AND RECOMMENDATIONS		
ISSUES	OPTION(S) FOR CONSIDERATION	
Procurement of Election Technology	procurement of elections technology to ensure that the testing and training of staff	identify essential technology which must be used in the 2017 elections - Fast track the procurement of any devices but ensure there is enough time to test them and train staff - Where appropriate, use alternative procurement methods
VOTING PROCESS		
1. Ensure peace, law and order at polling stations	Ensure a secure, peaceful, orderly, tightly controlled and independently monitored voting process and especially the counting of votes at the polling station.	
2. Monitoring and validation of election results	Political Parties Act be amended to provide for political party funding for election agents (one agent per polling station) to reduce cases of malpractices	
3. Mainstream issues of special interest groups	The issues of persons with disability be mainstreamed in the voting process	Persons with disability can be identified during the registration process to ensure that polling stations have the ability to cater for them during the voting process.
4. Training of polling officials	The IEBC should ensure comprehensive training of polling officials to ensure proper management of elections.	
5. Limit number of voters per polling station	The number of people per polling station should be limited (700 or 500)	
6. Passage of laws relating to elections	Laws, regulations and procedures relating to elections should be finalized and passed before the election.	

	ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
7.	Staggering of elections	The election of the six representatives should be staggered in two elections	This would require a constitutional amendment and should be flagged for considerations at a later date.
8.	Video recording at polling centers	There should be video recording of the counting and the results announcement at all polling stations.	
9.	Voting of Kenyans living outside Kenya (the diaspora)	Explore electronic voting for Kenyans in the diaspora the Elections Act be amended to provide for a mechanism and framework within which registration of citizens in the diaspora will be undertaken	
10.	Consequences for withdrawal from the electoral process	The Elections Act be amended to provide that any person withdrawing beyond a particular stage in the electoral process be subject to penalties, taking into consideration the financial implications undertaken by the Commission in preparation for the election.	
11.	Mandatory Voting	Voting should be mandatory for registered citizens	Voters cannot be forced to vote.
	TRANSMISSION AND DECLARATION OF ELECTION RESULTS		
1.	Use an electronic transmission system	(1) the Independent Electoral and Boundaries Commission should use a thoroughly tested real-time election results relay system (2) Enough time should be allowed for ICT agents to audit the transmission system to ensure	

	ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
		transparency and credibility. (3) Use the government open data portal (4) Maintain the current system of transmission and declaration of results	
2.	Announcement and declaration of results to the public	The IEBC should have the sole authority to declare, after verification, the final presidential elections at the national level.	The ANNOUNCEMENTS of the results for the presidential election to be at the polling centre and the DECLARATION at the national level.
3.	Place of declaration of results	(1) Place of declaration of results: polling station or constituency, county or national levels, as the case may be. (2) Amend the Elections (General) Regulations, 2012 to provide for automatic recount at the motion of the Presiding Officer where it is found that; (i). the votes cast exceed the number of voters in the principal register, or; (ii). where there is 100% voter turnout; or (iii). where the difference between the two leading candidates is less than 1%.	- Pursuant to Articles 86 (b) and (c) and 138 of the Constitution, all results should be announced at polling stations but tallying and declaration at respective Returning Officers with Presidential election Returning Officers at IEBC National Tallying Centre ; or <i>Alternatively</i> - Final declaration by the Returning Officer at Constituency level of all the results of the elections up to that point. This may require constitutional amendment and legal and practical issues arise; or <i>Alternatively</i> - Final declaration should be at the polling station and the results can only be contested in court. - This raises questions on the effect of the declaration of results at polling stations on court petitions. How

	ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
			many people will be put as respondents if there is a petition?
4.	Persons with disabilities	Appoint sign language interpreters during transmission of results.	
5.	Time limit for vote counting and declaration of results	(1) Ensure that voter/staff distribution at polling station is done in such a way to ensure vote counting is complete within six (6) hours of closure, and all results sent within 24 hours of start of the voting process. (2) Enact a law to obligate declaration of presidential results within 15 hours of close of polling.	
6.	Training of agents on results transmission	Due to the technical nature of transmission of results the IEBC should facilitate the training of chief party agents at constituency level who will in turn train their agents at lower levels.	
7.	Valid votes versus votes cast	Article 138(4) (a) of the Constitution be amended to include the word 'valid' immediately before the words 'votes cast'.	
	ALLOCATION OF SPECIAL SEATS		
1.	Implementation of the two-thirds gender principle	That there be more concerted efforts to ensure implementation of the provisions of Article 81 of the Constitution on ensuring that not more than two-thirds of the members of elective public bodies shall be of the same gender.	That fiscal incentives be used to encourage political parties to nominate more women for election along the lines of section 25(2) of the Political Parties Act which provides that a political party shall not be entitled to receive funding from the Political Parties Fund if more than two-thirds of its registered office bearers are of the same gender.

	ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
			• That there are pending Constitution (Amendment) Bills in Parliament that have been introduced in Parliament to address the implementation of the two-thirds gender principle. • This is the present position under the Constitution.
2.	Time for submission of party lists	(1) That party lists be submitted before an election in accordance with Article 90 of the Constitution. (2) That party lists be submitted after an election.	• This would require an amendment to the Constitution. • It is proposed that this be flagged for future/ long-term consideration.
3.	Publication of party lists	That party lists be published and publicized to allow stakeholders to keep track of nominations and dissuade arbitrary changes to the party lists. That the allocation of special seats be on the basis of total votes received by political parties as opposed to total seats won so as to ensure equality of the vote.	
4.	Formula for allocation of special seats	That political parties be allowed to recall nominated members who are not satisfactorily representing their interests.	
5.	Recall of nominated members	(1) That mechanisms be put in place to ensure that affirmative action seats are set aside for youth, persons with disabilities, minority groups and women.	
6.	Ensuring inclusivity in the process of nomination to party lists		• That fiscal incentives be used to encourage political parties to ensure inclusivity in the process of nomination to party lists along the lines of section 25(2) of the Political Parties Act which provides that a political party shall not be entitled to receive funding

	ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
			from the Political Parties Fund if more than two-thirds of its registered office bearers are of the same gender.
		(2) That political parties ensure that the process of nomination to party lists is democratic and competitive.	
7.	Representation of Kenyans living abroad	That there be provisions regarding the nomination of representatives from the diaspora among the "special interest groups" by political parties.	
	ELECTION OBSERVATION MONITORING AND EVALUATION		
1.	Inclusion in election observation, monitoring and evaluation	That more organizations be invited to act as observers during a general election.	
2.	Election observer reports	(1) That observers be obligated to share their reports with IEBC.	
3.		(2) That recommendations from observer reports be considered for implementation in subsequent elections.	
4.	Post-election audit	That a multi-agency team be formed to conduct a post-election audit.	
5.	Use of technology in election monitoring and evaluation	That Closed Circuit Television (CCTV) or audio recordings be used to record the goings on at polling stations.	
6.	Training and capacity building of observers	This would give credence to their reports and manage their conduct particularly their public utterances.	
	ELECTION DISPUTE RESOLUTION		

	ISSUES	OPTION(S) FOR CONSIDERATION	OBSERVATIONS AND RECOMMENDATIONS
1.	Timelines for the resolution of presidential election disputes	(1) Retention of the 14 day period for determination of a presidential petition. (2) Increase of the number of days for determination of a presidential petition from 14 days to 30/ 45/ 60 days.	• Maintain period for determination of presidential petition to within 14 days to manage uncertainty. • Extend period to 30 days to ensure adequate preparation of parties. • This would require an amendment to the Constitution. • It is proposed that this be flagged for future/ long-term consideration.
2.	Jurisdiction to determine pre- election disputes – IEBC or Political Parties Disputes Tribunal?	(1) Article 88(4)(e) of the Constitution and section 74 of the Elections Act vest the IEBC with the responsibility of settling disputes relating to or arising from nominations save for election petitions. (2) Amend Article 88(4)(e) to vest exclusive jurisdiction to determine pre-election nomination disputes on the Political Parties Dispute Tribunal with a view to restricting the IEBC to the core mandate of conducting and managing elections.	This would require a constitutional amendment and should be flagged for considerations at a later date. • This would require an amendment to the Constitution. • It is proposed that this be flagged for future/ long-term consideration.
3.	Limitation of right of appeal	(1) That there be a restriction on the available avenues of appeal with regard to the determination of election petitions. (2) Amend Article 163(4) of the Constitution and section 75(4) and 85A of the Elections Act to provide for a two-tier system	• This would require an amendment to the Constitution. • It is proposed that this be flagged for future/ long-term consideration

ISSUES	OPTION(S) FOR CONSIDERATION (allow only one right of appeal in electoral disputes).	OBSERVATIONS AND RECOMMENDATIONS

ISSUES TOUCHING ON ELECTORAL OFFENCES

	ISSUES ARISING	OBSERVATIONS AND RECOMMENDATIONS
1.	Election offences	
(a)	Offence of bribery (Section 64 of the Elections Act)	• This provision is too long and convoluted and that the elements of the crime are too wide and vague. • The mental element for that crime is difficult to discern. • The offence of bribery should be simplified with its mental element stated as intention to procure or prevent the casting of a vote at an election
(b)	The Offence of Treating (section 62 of the Elections Act)	• It was also proposed that section 62 of the Elections Act be deleted and the elements of the offence of treating be included in the offence of bribery.
(c)	The Offence of Undue Influence (section 63 of the Elections Act)	• This offence is complex and widely drafted and the compound nature of the offence makes it difficult to prosecute. • It was proposed that the offence be broken down into three components- • <i>pressure and duress</i>: to include any means of intimidation, whether it involves physical violence or the threat of it and duress should be defined to include any form of physical intimidation or harassment; • <i>Trickery</i>: to cover devices and contrivances such as publishing a document masquerading as a rival campaign's; and • <i>Abuse of a position of influence</i>: where a special relationship of power and dependence exists

ISSUES ARISING	OBSERVATIONS AND RECOMMENDATIONS
	between the person exerting the influence and the voter.
(d) Use of Public Resources During Elections	It was proposed that law be amended to provide that advertisements shall not carry any symbol of a political party or the names or photographs of any Minister or leader of any political party.
(e) Interpretation of Section 87 of the Elections Act	- Section 87 of the Elections Act provides for deletion from the register of voters, the name of a person who is disqualified from being registered in that register of voters, after a finding that the person has committed an electoral offence. - The issues that arise are whether a person's should be removed from the voters register upon a finding of "guilt" by an electoral court while Article 83 of the Constitution provides that a person is ineligible to vote if "convicted" of an electoral offence. - Interpretation and implementation of Section 87 of the Elections Act was considered extensively in the case of <i>Musikari Nazi Komo v Moses Masika Wetangula & 2 others [2013] eKLR (at the High Court)</i> which was appeal in the Court of Appeal in Civil Appeal No. 443 of 2013 and finally in the Supreme Court in Supreme Court Petition No. 12 of 2014. - It was recommended that the provision be reformulated so as to delimit the respective mandates of the election Court and the ordinary criminal Court.
2. (f) Legislation on electoral legislation	Legislation on electoral offences - Electoral related offences in Kenya are found in a number of legislations. The Director of Public Prosecutions observed that that this situation is not ideal as an electoral law that is fragmented is not accessible. He further stated that due to the fragmentation, there are sometimes inconsistencies between the electoral law and election-related provisions in other laws - It was therefore recommended that the current laws governing electoral offences should be consolidated into a single, unified, consistent legislative framework for ease of interpretation, implementation and adjudication.
3. (g) Role of the IEBC in matters touching on electoral offences and prosecutorial mandate of the IEBC	Role of the IEBC in matters touching on electoral offences - Section 4(1) of the Independent Electoral and Boundaries Commission Act confers on the Commission the powers of investigation and prosecution of electoral offences by candidate, political parties or their agents pursuant to Article 157(2) of the Constitution. - It was submitted that the Commission lacks the "capacity and resource" to deal with electoral malpractices and offences. - It was further observed the investigation of offences created potential for conflict of interest as the

	ISSUES ARISING	OBSERVATIONS AND RECOMMENDATIONS
		some offences are committed by electoral officers. This view was proposed that the law should be amended to expressly provide vest prosecutorial powers with regard to election offences in the Office the Director of Public Prosecutions.
4.	Delays in dealing with electoral offences	
(h)	Proposal to expedite the consideration and determination of electoral offences	- It was recommended the timelines be imposed for the consideration of electoral offences (one year). - Like corruption and economic crimes cases, electoral offences should be tried on a day to day basis until conclusion. - Agencies should report election offences as soon as they happen and should not wait until the end of the electioneering period. - The Judiciary should create specialized ad hoc courts to deal with election offences.
5.	Lack of Effective inter-Agency collaboration and capacity constraints	
(i)	Proposals to enhance interagency cooperation and capacity	- The agencies involved in electoral matters include the Independent Electoral and Boundaries Commission, the Police, the Judiciary, the National Cohesion and Integration Commission and the Office of the Director of Public Prosecution. - Create mechanisms for coordination, and information sharing mechanisms - Enhanced funding during the election period
6.	Deterrent Measures on Electoral Offence	
(j)	Proposals for enhancing penalties	- In Kenya, the existing measures and penalties do not adequately deter perpetrators of electoral offenders. - The sentences range between 2-6 years and the fines range between 1 million to 5 million shillings. - The sentence be enhanced to range between six and ten years and fines of between five and ten million or both. - In addition to the criminal sanction, where the criminal conduct has occasioned a quantifiable financial loss or personal injury, compensation be awarded or restitution made to the victim
7.	Public collections	
(k)	Amendment to the Public Collections Act, Cap. 106	Amendment or re-enactment of the Public Collections Act to regulate <i>Harambees</i> during elections and to enhance the penalties.

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE THIRTY FIRST SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)
HELD ON MONDAY, 8TH AUGUST, 2016 IN OAK ROOM, WINDSOR HOTEL
AND COUNTRY CLUB AT 3.00 P.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen.(Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. Moses Kuria, HSC, MP | - Member |
| 11. Hon. (Eng.) Mohamed M. Mahmud CBS, MP | - Member |
| 12. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 13. Hon. Mishi Mboko, MP | - Member |
| 14. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo
3. Mr. Bobby Mkangi
4. Mr. Wachira Maina

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert
- Expert

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega

PARLIAMENT OF KENYA

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A

- | | |
|-------------------------------|-----------------------------------|
| 4. Mr. Solomon M. Liria | - Senior Serjeant-At-Arms, N/A |
| 5. Maj. (Rtd.) Reuben Kimosop | - Senior Serjeant-At-Arms, Senate |
| 6. Mr. Abenayo Wasike | - Clerk Assistant I, N/A |
| 7. Ms. Kavata Musyoka | - Clerk Assistant II, Senate |
| 8. Mr. Ronald Walala | - Legal Counsel II, N/A |
| 9. Ms. Judy Ndegwa | - Legal Counsel II, Senate |
| 10. Ms. Mary Luka Lemerelle | - Clerk Assistant III, N/A |
| 11. Ms. Noelle Chelagat | - Media Relations Officer |
| 12. Ms. Clare J. Kidombo | - Research Officer |
| 13. Ms. Fiona Musili | - Research Officer |
| 14. Ms. Martha Ndukuyu | - Hansard Reporter |

MIN.NO. JPSC/IEBC/118/08/8/2016 PRELIMINARIES

The meeting was called to order at 3.30 p.m. and commenced with a word of prayer by the Co-Chairman, Sen. James Orengo.

**MIN.NO. JPSC/IEBC/119/08/8/2016 RACHIER & AMOLLO ADVOCATES'
LETTER TO THE JOINT COMMITTEE
ACTING FOR MR. JAMES OSWAGO,
FORMER SECRETARY/ CHIEF
EXECUTIVE OFFICER, IEBC**

The attention of Members was drawn to the contents of a letter written by Rachier and Amollo Advocate acting for the former Secretary/Chief Executive Officer of the IEBC, Mr. James Oswago, requesting that he be allowed to make representations, as he had been adversely mentioned by various stakeholders in their submissions.

Members observed that if no response was given to the letter, and if Mr. James Oswago was not allowed to participate, then he may argue that he was denied an opportunity to make representations before the Joint Committee. It was however noted that he was a former member of the secretariat, and that the Joint Committee only had the mandate to deal with and make recommendations on current members of the secretariat. The Joint Committee therefore agreed that it was too late to invite the former Secretary of the IEBC, Mr. James Oswago to appear before them.

**MIN.NO. JPSC/IEBC/120/08/8/2016 SECONDMENT OF TECHNICAL
OFFICERS TO THE JOINT COMMITTEE**

Members were informed that the Office of the Attorney-General and Department of Justice, the Office of the Director of Public Prosecutions, the Judiciary Committee on Elections, the Kenya Law Reform Commission and IEBC had offered to second some officers to provide technical input and assistance to the Committee as prepares its final report and draft Bill(s).

The Joint Committee resolved that the secretariat makes contact with the institutions so that they can send the officers to help the secretariat. Members observed that thematic

areas no 3 and 4 were quite broad, and that there was need to invite the above institutions immediately.

The Committee also observed that submissions had been made on the need for ICT regulations and that it would be necessary to get experts in that area.

The Committee also resolved that each coalition provides the Committee with two ICT experts, and that the ICT experts would liaise with the IEBC's Director of ICT in advising the Committee on issues related to the use ICT in the electoral process.

MIN.NO. JPSC/IEBC/121/08/8/2016 ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 4.00 p.m.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

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REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE THIRTY SECOND SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION
(IEBC) HELD ON TUESDAY, 9TH AUGUST, 2016 IN THE OAK ROOM,
WINDSOR GOLF HOTEL AND COUNTRY CLUB AT 3.00 P.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP, | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP, | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP, | - Member |
| 4. Sen. Johnson Muthama, MP, | - Member |
| 5. Sen. Kipchumba Murkomen, MP, | - Member |
| 6. Sen. Mutula Kilonzo Jnr, MP, | - Member |
| 7. Sen. (Dr.) Boni Khalwale, MBS, MP, | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP, | - Member |
| 9. Hon. Moses Kuria, HSC, MP, | - Member |
| 10. Hon. (Eng.) Mohamed M. Mahamud CBS, MP, | - Member |
| 11. Hon. Jimmy Angwenyi, MP, | - Member |
| 12. Hon. Mishi Mboko, MP, | - Member |
| 13. Hon. (Dr.) Eseli Simiyu, CBS, MP, | - Member |
| 14. Hon. Junet Mohamed, MP, | - Member |

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

JOINT RAPPORTEUR

- Joint Rapporteur
- Joint Rapporteur

IN ATTENDANCE

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo
3. Mr. Wachira Maina
4. Mr. Bobby Mkangi

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert
- Expert

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Solomon M. Liria
5. Maj. (Rtd.) Reuben Kimosop
6. Mr. Ahmed H. Odhwa
7. Mr. Abenayo Wasike

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Senior Research Officer
- Clerk Assistant I

8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Clare J. Kidombo
13. Ms. Fiona Musili
14. Ms. Martha Ndukuyu
15. Ms. Noelle Chelagat

- Clerk Assistant II
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer

MIN.NO. JPSC/TEBC/122/9/8/2016 PRELIMINARIES

The meeting was called to order at 3.00 pm and commenced with a word of prayer from Co-Chairman, Sen. Kiraitu Murungi, MP.

MIN.NO. JPSC/TEBC/123/9/8/2016 NON-CONTENTIOUS ISSUES

Co-Chairman, Sen. James Orengo, MP, invited Hon. Moses Kuria, MP, to take Members through the following issues as agreed by both coalitions-

- (i) **Announcement, collating and declaration of Presidential result:** Presidential results to be announced at polling station, collated at constituency level and declared at the national election center by the National Returning Officer;
- (ii) **Public advertising for the selection panel:** No time to advertise publicly for members of a selection panel; and,
- (iii) **Use of Information, Communication and Technology in the elections:** Full and seamless automation – use of Biometric Voter Registration (BVR), Electronic Voter Identification Device, (EVID) and Results Transmission System, (RTS).

Following deliberations on the above matters, the Joint Committee noted that the use of full and seamless Information, Communication and Technology during the 2017 elections would not be feasible. However, the Members observed and recommended that the use of ICT in the next general elections be used for registration, identification and transmission of results (BVR, EVID and RTS).

MIN.NO. JPSC/TEBC/124/9/8/2016 ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 4.15 p.m. to reconvene at 5.00 p.m. of the same day.

Signed.....

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....

Date.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE THIRTY THIRD SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION
(IEBC) HELD ON TUESDAY, 9TH AUGUST, 2016 IN THE OAK ROOM,
WINDSOR GOLF HOTEL AND COUNTRY CLUB AT 5.00 P.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orenge, EGH, MP, | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP, | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP, | - Member |
| 4. Sen. Johnson Muthama, MP, | - Member |
| 5. Sen. Mutula Kilonzo Jnr, MP, | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP, | - Member |
| 7. Hon. (Dr.) Naomi Shaban, EGH, MP, | - Member |
| 8. Hon. Moses Kuria, HSC, MP, | - Member |
| 9. Hon. (Eng.) Mohamed M. Mahamud CBS, MP, | - Member |
| 10. Hon. Jimmy Angwenyi, MP, | - Member |
| 11. Hon. Mishi Mboko, MP, | - Member |
| 12. Hon. (Dr.) Eseli Simiyu, CBS, MP, | - Member |
| 13. Hon. Junet Mohamed, MP, | - Member |
| 14. Sen. Kipchumba Murkomen, MP, | - Member |

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

JOINT RAPPOREUR

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo
3. Mr. Wachira Maina
4. Mr. Bobby Mkangi

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert
- Expert

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Solomon M. Liria
5. Maj. (Rtd.) Reuben Kimosop
6. Mr. Ahmed H. Odhwa
7. Mr. Abenayo Wasike

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Senior Research Officer
- Clerk Assistant I

8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Clare J. Kidombo
13. Ms. Fiona Musili
14. Ms. Martha Ndukuyu
15. Ms. Noelle Chelagat

- Clerk Assistant II
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Research Officer
- Research Officer
- Hansard Reporter, N/A
- Media Relations Officer

MIN.NO. JPSC/IEBC/125/9/8/2016 PRELIMINARIES

The meeting was called to order at 5.00 pm and commenced with a word of prayer from Co-Chairman, Sen. James Orendo, MP.

MIN.NO. JPSC/IEBC/126/9/8/2016 SUMMARY OF KEY ISSUES

Co-Chairman, Sen. Kiraitu Murungi, MP, invited Sen. Mutula Junior, MP, to take Members through the following issues that were contentious between the two coalitions, as tabulated below-

	ISSUE	CORD POSITION	JUBILEE POSITION
1.	Composition of the panel	No selection panel	A selection panel consisting of the 2 members of the Parliamentary Service Commission who are not sitting Members of Parliament, 2 representing the Public Service Commission, 1 representing the Catholic Church, 1 representing NCKK, 1 representing the Hindu Council of Kenya, 1 representing the Evangelical Association of Kenya and 1 representing SUPKEM (nine members)
2.	Commissioners	5 or 7 full-time Commissioners as follows – If five: 2 from the Majority Party or Coalition, 2 Minority Party or Coalition and one from civil society as chair If seven: 3 from the Majority Party or Coalition, 3 from the Minority Party or Coalition and one from civil society as chair	Nine full-time Commissioners selected through a public process by a selection panel
3.	Presidential Petition	IEBC should supply the Supreme Court with all material and documents used to declare a Presidential result, automatically, within 48 hours	IEBC should supply all the party agents with all material and documents used to declare a Presidential result, automatically, immediately after the election
4.	Party nominations		IEBC should be funded by the Exchequer to conduct party nominations, Party nominations to be conducted latest

	ISSUE	CORD POSITION	JUBILEE POSITION
			90 days before elections All party nominations to be held on the same day at a single venue Parties should forward to IEBC all the names of their candidates for nominations seven days before the nominations. After forwarding the names, a candidate cannot change their party nor can they stand as an independent candidate
5.	Party list		Submit party list after general elections subject to interpretation of Article 90(2)

During the discussions the following issues arose-

- a) It was not feasible to do any amendment to the Constitution of Kenya. However, amendments could be done after the 2017 elections. Further, there are some constitutional amendments that can be done to facilitate free and fair elections without interfering with the date of elections. Such amendments can be made to Articles 90 and 140 of the Constitution of Kenya;
- b) Members of the Cord Coalition noted that for integrity to be maintained at the next election, there was need to conduct a fresh voter register to do away with issues of unreported deaths and double registration amongst other things. On the other hand the Jubilee Coalition stated that there was no time to conduct a fresh voter register. The law provides for continuous registration of voters and two massive voter registration exercises had already been conducted. Engaging a reputable audit firm to clean up the voter register would be the most feasible solution to the issue;
- c) With respect to composition of the panel and the Commissioners, the Jubilee Coalition noted that the process needed to be devoid of politics and in particular political parties needed not play a role in the matter. The proposals by the Cord Coalition contravened Articles 10, 249 (2)(b) and 250 (4) of the Constitution. In addition to this, precedence had already been established on public participation hence providing that political parties provide candidates was against the tenets of public participation. However the Cord Coalition stated that the representation from political parties in such commissions happens elsewhere in the world and it has worked well hence it should not be an issue;
- d) The issue of the presidential petition, Members noted that the views of the respective coalitions could be merged;
- e) Members noted that the issue of party hopping should not be allowed;
- f) Conducting party nominations on the same day would be feasible; and

- g) Some Members noted that the current law favors independent candidates thus it should be reviewed to apply across all candidates.

Resolutions by the Joint Committee-

- (i) With regards to the issue of Constitutional amendment, the Committee instructed that the experts and Secretariat review the submissions made by the Judiciary Committee on Elections and any other submissions that may have been made on the matter by stakeholders and present options for the Joint Committees consideration; and
- (ii) The Secretariat and experts conduct research on best practices across the world and review submissions made with regards to composition of the panel and Commissioners and present options for the Joint Committees consideration at its next sitting.

MIN.NO. JPSC/TEBC/127/9/8/2016

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 7.15 p.m. the next meeting would be held the following day at 12 noon.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date..... 16/8/2016

Signed.....

SEN. KIRATU MURUNGI, EGH, MP
CO-CHAIRMAN

Date..... 16/8/2016

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE THIRTY FOURTH SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)
HELD ON WEDNESDAY, 10TH AUGUST, 2016 IN OAK ROOM, WINDSOR
HOTEL AND COUNTRY CLUB AT 1.00 P.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. Moses Kuria, HSC, MP | - Member |
| 11. Hon. (Eng.) Mohamed M. Mahmud CBS, MP | - Member |
| 12. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 13. Hon. Mishi Mboko, MP | - Member |
| 14. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo
3. Mr. Bobby Mkangi
4. Mr. Wachira Maina

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert
- Expert

IN ATTENDANCE

1. Mr. Abenayo Wasike

PARLIAMENT OF KENYA

- Clerk Assistant I, N/A

2. Mr. Solomon M. Liria
3. Maj. (Rtd.) Reuben Kimosop
4. Ms. Kavata Musyoka
5. Ms. Judy Ndegwa
6. Ms. Noelle Chelagat
7. Ms. Martha Ndukuyu

- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant II, Senate
- Legal Counsel II, Senate
- Media Relations Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/128/10/8/2016 PRELIMINARIES

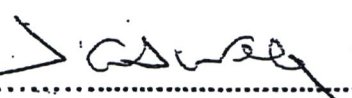
The meeting was called to order at 1.00 p.m. and commenced with a word of prayer by Co-Chairman, Sen. Kiraitu Murungi.

MIN.NO.JPSC/IEBC/129 /10/8/2016 DRAFT ELECTIONS OFFENCES BILL, 2016

Co-Chairman Sen. James Orengo advised members to familiarize themselves with the draft Election Offences Bill 2016 and have it considered at a later meeting of the Joint Committee.

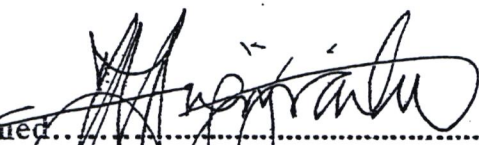
MIN.NO. JPSC/IEBC/130/08/8/2016 ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 1.30 p.m to convene again at 2.30 p.m. the same day.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016

Signed.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE THIRTY FIFTH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON WEDNESDAY, 10TH AUGUST, 2016 IN OAK ROOM, WINDSOR HOTEL AND COUNTRY CLUB AT 3.00 P.M.

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen.(Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. Moses Kuria, HSC, MP | - Member |
| 11. Hon. (Eng.) Mohamed M. Mahmud CBS, MP | - Member |
| 12. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 13. Hon. Mishi Mboko, MP | - Member |
| 14. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

IN ATTENDANCE

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo
3. Mr. Bobby Mkangi
4. Mr. Wachira Maina

RAPPORTEURS

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert
- Expert

IN ATTENDANCE

1. Mr. Abenayo Wasike
2. Ms. Kavata Musyoka
3. Ms. Judy Ndegwa
4. Ms. Noelle Chelagat
5. Ms. Martha Ndukuyu
6. Mr. Solomon M. Liria
7. Maj. (Rtd.) Reuben Kimosop

PARLIAMENT OF KENYA

- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, Senate
- Media Relations Officer
- Hansard Reporter
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate

MIN.NO. JPSC/IEBC/131/10/8/2016 PRELIMINARIES

The meeting was called to order at 3.00 p.m. and commenced with a word of prayer by Co-Chairman, Sen. James Orengo.

The Co-Chair informed the Committee that there were speculations in some sections of the media depicting that the Committee was going to fail and urged the members of the Committee to forge ahead together in a constructive manner for the sake of the Country.

The Co-Chair informed the Committee that the experts were tasked to address the Committee on the outstanding contentious issues but requested for the indulgence of the Committee to defer the matter on the Selection Panel and Voters Register to allow for further consultation by the Coalition.

Co-Chairman Sen. Kiraitu Murungi informed members that the Committee should stand together and exercise maximum tolerance and flexibility to achieve the goals and should not be seen to dampen the spirit of the Country but give the country a better mood. The Co-Chair acceded to the request by Sen. James Orengo to defer the issue on the Selection Panel and Voter Register.

MIN.NO. JPSC/IEBC/132/10/8/2016 CONSIDERATIONS OF CONTENTIOUS ISSUES.

The Experts to the Committee addressed the committee on contentious issues that the two coalitions had agreed on in principle. The Contentious issues addressed were on Constitutional amendments, Presidential Petition and Party Nominations.

On Constitutional amendments

The mandate of the committee is to propose changes to the law to facilitate the conducting of a free and fair election and not necessarily to approach the issue with a barrier to constitutional amendments. The Committee should identify what requires Constitutional amendments and time required to effect the amendments to facilitate a free and fair elections.

On Presidential Petition - Supply of documents to the Supreme Court-

The process is acknowledged with other elections and for as long as it does not prejudice the process of facilitating the speedy disposition of any litigation before the court, it is only prudent that it should be applied *mutatis mutandis* to the presidential petition. IEBC

is required to present the Presidential Election Declaration to the Chief Justice and requesting for the supporting documents of such declarations should not be unreasonable and should be acted upon.

On Party Nominations, Members were informed that-

There is merit in the propositions and need for further intraparty discussions. Under Article 38 of the Constitution, political rights are human rights. Limitations under Article 24 of the Constitution need to conform to constitutional norms. There is need to balance free and fair nominations that should not taint the democratic content of the final elections. Individual parties should come up with decisions that are fair and within the democratic content of a fair and free election.

Members raised the following issues-

- a) Whether regulations restricting party hopping will be unjustifiable limitation.
- b) There will be conflict of roles for the IEBC conducting nomination and dispute resolution.
- c) Party hopping is a serious challenge.
- d) Article 88(4) (K) of the Constitution provides role of IEBC to monitor compliance with legislation required under Article 82 (1) (b).
- e) There seems to be consensus on the need to prevent party-hopping and this should be possible because Political parties are creatures of the constitution
- f) Requirement for publication of all people participating in nominations at a specific date may help lock out party hoppers.
- g) Any person is eligible to stand as an independent candidate under Article 85 of the Constitution.
- h) Law on party hopping can be applied to other candidates with the exception of Independent candidates.
- i) There will be challenges to conduct party nominations on the same day.

Response from the Experts-

- a) Certain limitations can be put in a party constitution but may not be put as a statutory bar.
- b) The Constitution assigns certain roles to IEBC and transferring some of the roles to other institutions may require a constitutional amendment.
- c) A party can have a clause in its constitution to disallow acceptance of party hoppers.
- d) Nominations by parties are configured differently making it not practical to be conducted on the same day.
- e) It is possible for party Constitutions to have a provision barring party hopping.
- f) Parties have no control over individuals who have resigned and left respective parties for others.

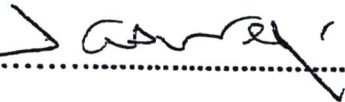
The Committee advised experts to consider members concerns and propose concrete proposals on contentious issues agreed upon in principle.

MIN.NO. JPSC/IEBC/133/08/8/2016 ANY OTHER BUSINESS.

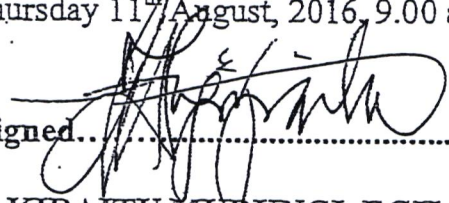
The Committee discussed the issue of confidentiality on the business before the Committee and it was resolved that a press conference be held on Thursday, 11th August, 2016 to inform the country on the tremendous progress made by the Committee.

MIN.NO. JPSC/IEBC/134/08/8/2016 ADJOURNMENT AND DATE OF NEXT MEETING.

The meeting was adjourned at 5.15p.m until Thursday 11th August, 2016, 9.00 a.m

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Signed.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Date.....16/8/2016.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE THIRTY SIXTH SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION
(IEBC) HELD ON FRIDAY, 12TH AUGUST, 2016 IN THE OAK ROOM,
WINDSOR GOLF HOTEL AND COUNTRY CLUB AT 12.00 P.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orengo, EGH, MP, | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP, | - Co-Chairperson |
| 3. Sen. Beatrice Elachi, CBS, MP, | - Member |
| 4. Sen. Johnson Muthama, MP, | - Member |
| 5. Sen. Mutula Kilonzo Jnr, MP, | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP, | - Member |
| 7. Hon. (Dr.) Naomi Shaban, EGH, MP, | - Member |
| 8. Hon. Moses Kuria, HSC, MP, | - Member |
| 9. Hon. (Eng.) Mohamed M. Mahamud CBS, MP, | - Member |
| 10. Hon. Jimmy Angwenyi, MP, | - Member |
| 11. Hon. Mishi Mboko, MP, | - Member |
| 12. Hon. (Dr.) Eseli Simiyu, CBS, MP, | - Member |
| 13. Hon. Junet Mohamed, MP, | - Member |
| 14. Sen. Kipchumba Murkomen, MP, | - Member |

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

JOINT RAPPORTEUR

- Joint Rapporteur, CORD Coalition
- Joint Rapporteur, Jubilee Coalition

IN ATTENDANCE

1. Mr. Vincent K. Mutai
2. Mr. Kamotho Waiganjo
3. Mr. Wachira Maina
4. Mr. Bobby Mkangi

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert
- Expert

IN ATTENDANCE

1. Mr. Julius Mugonyi
2. Mr. James Muhati
3. Mr. Edwin Muonga

ICT RESOURCE PERSONS

- Computer Society of Kenya
- Director ICT, IEBC
- ODM Secretariat

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate

3. Mr. John Mutega	- Principal Clerk Assistant II, N/A
4. Mr. Solomon M. Liria	- Senior Serjeant-At-Arms, N/A
5. Maj. (Rtd.) Reuben Kimosop	- Senior Serjeant-At-Arms, Senate
6. Mr. Ahmed H. Odhowa	- Senior Research Officer
7. Mr. Abenayo Wasike	- Clerk Assistant I
8. Ms. Kavata Musyoka	- Clerk Assistant II
9. Mr. Ronald Walala	- Legal Counsel II, N/A
10. Ms. Judy Ndegwa	- Legal Counsel II, Senate
11. Ms. Mary Luka Lemerelle	- Clerk Assistant III, N/A
12. Ms. Clare J. Kidombo	- Research Officer
13. Ms. Fiona Musili	- Research Officer
14. Ms. Martha Ndukuyu	- Hansard Reporter, N/A
15. Ms. Noelle Chelagat	- Media Relations Officer

MIN.NO. JPSC/IEBC/135/12/8/2016 PRELIMINARIES

The meeting was called to order at 12.30 pm and followed by a word of prayer by Sen. Kiraitu Murungi, Co-Chairperson.

MIN.NO. JPSC/IEBC/136/12/8/2016 USE OF ICT IN ELECTIONS

Upon invitation by Co-chairperson, Sen. Kiraitu Murungi, the ICT Resource Persons engaged by the Joint Committee made a presentation on the use of ICT in Elections.

The ICT Resource Persons presented on the following five sub-topics:

- (1) Use of BVR, EVID, Nomination system and RTS
- (2) Previous challenges on IEBC electoral system
- (3) Current status of IEBC ICT system
- (4) Recommendations for 2017 elections
- (5) Timelines for having recommendations in place

(1) Use of BVR, EVID, Nomination System and RTS

The current election system consists of BVR, EVID, Nomination and RTS systems.

- (a) BVR are used to uniquely register a voter and avoid duplicate records in the register.
- (b) EVID are used to uniquely identify a voter at the polling station and help to prevent multiple voting and avoid "ghost" voters.
- (c) RTS are used to electronically transmit results from polling stations to constituency, county and national tallying centre.
- (d) An automated Nomination system enables political parties upload details of nominated candidates and their supporters.

(2) Previous challenges on IEBC Electoral System

With regard to previous challenges on IEBC electoral system, the ICT Resource Persons informed the Joint Committee that-

- (a) Late introduction of technologies to the electoral process left limited time to follow laid down Standard Operating Procedures (SOPs) and policies for acquisition and implementation of the systems.
- (b) Lack of adequate infrastructure such as power, hardware, software, telecommunication to support the electoral system.

- (c) Non-conformity of the deployed election system to the original technical specifications, i.e. the EVID procured was not the same as what was in the original specification.
- (d) Lack Disaster Recovery and Business Continuity Plan to counter any system failures.
- (e) Lack of legal framework and SOPs to guide on the ICT electoral system. (Lack of a national ICT standards regulatory framework)
- (f) Inadequate skilled or trained personnel to manage/operate the election system.
- (g) Lack of Information Security Policy to protect election data and information.
- (h) Lack of interoperability and integration of various legacy electoral systems.
- (i) Lack of defined framework for technical stakeholder engagement and participation in planning, procurement, testing and implementation of the system.
- (j) Lack of election system audit mechanism before, during and after elections.
- (k) Slow system response to users at the polling stations during elections.
- (l) There was no capacity building done for IEBC by the system developer in terms of use, configuration, upgrade, maintenance and sustainability of the election system.

(3) Current Status of the IEBC ICT System

On the issues of the current status of the IEBC ICT system, the ICT Resource Persons informed the Joint Committee that-

(a) Hardware

- There are 15,000 BVR kits. Out 15,000 BVR kits only 8,000 are functional. However, there is need to upgrade some parts of the 8,000 kits to make them fully functional for the coming elections. Statistically, these 8,000 translate to 5 BVR kits per ward (1,450 wards country-wide).
- There are 34,600 EVIDS. Out 34,600 only 22,500 are functional. However, the functionality of these 22,500 is not fully guaranteed (failure rate is 1 out of 3) due to tare and ware, taking into consideration the average life span of electronic devices is 3 years.
- There are 40,000 Mobile Phones. Out of 40,000 phones only 15,000 are available. The models in stock (Nokia 1100 and Nokia 1680) are out of production.
- The current servers (procured in 2010) are due for replacement.

(b) Software

- RTS was developed for IEBC through a technical support assistance by International Foundation for Electoral System (IFES) – consultancy.
- BVR software. IEBC recently signed a 5 year Service Level Agreement (SLA) for support and maintenance.
- Tallying software. There is no tallying software.
- IEBC Portal, Internet and Web services need to be upgraded to enhance result display.
- Voter database. This runs on Oracle database and is functional.
- Nomination system, which is used for management of election candidates should be upgraded.

(c) Infrastructure

- The location of IEBC offices within CBD poses a lot of risks, threats and hazards to its ICT operations.
- Data Centre Facility. The current data centre facility is hosted in the current premises at a position which is a major risk.
- Currently IEBC does not have a Disaster Recover site.
- The current Wide Area Network (WAN) covers only 17 regional offices.
- The current result transmission network is only provided by one service provider. This is a risk.

(4) Recommendations for 2017 Elections

With regard to recommendations for the 2017 general elections, the ICT Resource Persons informed the Joint Committee that:

(a) Legislation on ICT standards for electoral systems should be enacted to address the following areas: Accessible; Secure; Verifiable; Transparent; Auditable; Modular/Scalable; AND, Universal (not specific to individual system or provider).

(b) ICT Governance

- (i) The ICT Governance within IEBC must be standard and define all SOPs. The Governance should address the following:
- (ii) There should be access to source codes and maintenance of the source codes.
- (iii) There should be a clear policy on acquisition and disposal of ICT assets and systems.
- (iv) Information security. There should be a policy on data and information storage, access, dissemination and disposal.
- (v) Systems audit and audit reporting. There should independent periodic systems audit before, during and after elections, and audit reporting. This should be done by a reputable independent systems audit institution.
- (vi) Data retention and disposal. The recommended period is 7 years.
- (vii) IEBC should ensure there is an up to date inventory of all electoral systems assets.
- (viii) IEBC should setup a permanent ICT oversight technical committee of all stakeholders.

(c) Hardware

- (i) Acquire adequate equipment's for voter registration, identification and results transmission.
- (ii) Acquire adequate servers.

(d) Infrastructure

- (i) The electoral infrastructure and systems should be procured, tested and deployed in good time for stakeholder UAT.
- (ii) There should be a multi-sectoral approach (no single player) to telecommunication service provision.
- (iii) IEBC should obtain GPS coordinates of all polling stations for purposes of connectivity mapping.
- (iv) The current data centre should re-located to an acceptable location.

- (v) The current Wide Area Network (WAN) should be expanded to cover all IEBC regional offices.
- (e) Disaster Recovery and Business Continuity Planning
 - (i) IEBC must implement a primary data centre and a secondary data centre with an automated failure change-over between the two.
 - (ii) IEBC must develop and implement a Disaster Management Plan.
 - (iii) IEBC premises should be re-located from the CBD.
 - (iv) IEBC must develop and implement a Business Continuity Plan (BCP). This must cover a recovery site, including redundancy of power backup, redundant hardware, software, network and telecommunication. IEBC must ensure that all systems are governed by SLAs from reputable institutions.
- (f) IEBC Staff Capacity Building

There must a structured and scheduled capacity building program for ICT skills and knowledge transfer for IEBC staff and stakeholders to operate and use the electoral systems.
- (g) Voter Registration, Verification and Validation
 - (i) All stakeholders holding information on Kenyan citizens (in country and diaspora) should avail the same to IEBC electronically for cross-referencing. (Legislate)
 - (ii) IEBC should have a clear policy for maintaining the voter register, i.e. removal of dead voters, addition of new voters, transfer of voters between polling stations and blacklisting of voters. (Legislate)
 - (iii) There should be a provision for online inspection and identification of voters register by individual voters. This can be done through a public portal.
 - (iv) Voter register verification by voters shall be by biometrics only. Voters should visit regional IEBC to authenticate their details.
 - (v) IEBC should have an integrated election system to handle voter registration, voter validation and identification at the polling station and result transmission, including scanning of the signed poll result forms with unique transmission identification marks.
 - (vi) IEBC should positively identify all voters before accessing the polling stations. This will enhance security of the polling stations by keeping away unidentified and unwanted persons.
 - (vii) The only recommended method for a voter identification shall be through EVID. Failure to which a voter shall not be allowed to vote.
- (h) Nomination System
 - i) Nomination system should be made web-based to enable various political parties upload nominated candidates and supporters' information.
- (i) RTS
 - (i) All poll results should be transmitted electronically.
 - (ii) Online tallying (Form 34) should be available through a public URL portal.

- (iii) The polling result forms should be available to the public through a public portal.

(5) Timeframe for having recommendations in place

NO.	ITEM	TIMEFRAME	ACTION
1	Legislation of ICT Standards		Legal Team
2	Disaster Recovery and Business Continuity Plan	4 Months	IEBC
3	IEBC and Stakeholders Staff Capacity Building on election ICT system	4 Months but continuous	IEBC/Stakeholders
4	Voter Registration and Validation System	8 Months (Buying) 2 Months (Leasing)	IEBC
5	Nomination System	8 Months	IEBC
6	Telecommunication network	6 Months	IEBC/Service Providers
7	RTS	8 Months	IEBC/Service Providers
8	Hardware and Software acquisition	Minimum 1 Year before election date	IEBC

Recommendations of the Joint Committee on Use of ICT in Elections

With regard to the use of ICT in Elections, the Joint Committee recommended that-

- (a) the ICT systems used be impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent;
 - (b) the processes for the identification, procurement and deployment of ICT systems be conducted in an open and transparent manner; and
 - (c) no new technology should be introduced in the election process later than one year before an election.
- (a) section 44 of the Elections Act be amended to require the use of technology in the electoral process;
 - (b) pursuant to sections 44 and 109 of the Elections Act, the Independent Electoral and Boundaries Commission, in consultation with all relevant stakeholders, including political parties, agencies or institutions, makes regulations to govern the use of technology in the elections, and that the regulations be tabled in Parliament within thirty days from the date of enactment of the Election Laws (Amendment) Bill;
 - (c) the regulations to be made provide for, among other things-
 - (i) acquisition and disposal of ICT assets and systems;
 - (ii) testing and certification of the system;
 - (iii) mechanisms for the conduct of a system audit;
 - (iv) data storage and information security;
 - (v) data retention and disposal;
 - (vi) access to electoral system software source codes;
 - (vii) development and implementation of a disaster recovery and operations continuity plan;
 - (viii) telecommunication service provision;

- (ix) inventory of ICT assets and systems;
 - (x) capacity building of staff of the Commission and stakeholders on the use of technology in the electoral process;
 - (xi) telecommunication network for voter validation and result transmission; and
 - (xii) the establishment of an ICT oversight technical committee comprising of key stakeholders.
- (d) for purposes of the 2017 General Elections, the technology to be applied shall be for registration, identification and results transmission (BVR, EVID and RTS);
- (a) the Independent Electoral and Boundaries Commission puts in place mechanisms to ensure-
- (i) Electronic submission of names and other information required in the nomination processes;
 - (ii) Electronic transmission of all poll results; and
 - (iii) Polling result forms be made available to the public through a public portal; and
 - (iv) Voter identification through biometrics.
- (b) the Independent Electoral and Boundaries Commission ensures that the necessary hardware and software are in place to support the use of technology in the 2017 General Elections;
- (c) the Independent Electoral and Boundaries Commission, in consultation with all relevant agencies and institutions, ensures the timely procurement of appropriate equipment;
- (d) all procurement of ICT equipment for the 2017 General Election to be concluded at least eight months before the election.
- (e) all existing equipment and any new equipment procured be transparently tested and deployed in good time in readiness for the next General Elections;
- (f) the equipment to be used in the election be tested sixty (60) days before the next General Elections;
- (g) a structured and scheduled capacity building programme be put in place and implemented for training of staff and other stakeholders on the technology to be used in the electoral process; and,
- (h) the Independent Electoral and Boundaries Commission urgently puts in place a Disaster Recovery and Business Continuity Plan.

MIN.NO. JPSC/IEBC/137/12/8/2016

ADJOURNMENT AND DATE OF
NEXT MEETING

The meeting was adjourned at 3.00 p.m. to was scheduled to reconvene at 5.00 p.m. on the same day.

Signed.....

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....

Date.....

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE THIRTY SEVENTH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON FRIDAY, 12TH AUGUST, 2016 IN THE OAK ROOM, WINDSOR GOLF HOTEL AND COUNTRY CLUB AT 5.00 P.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. Moses Kuria, HSC, MP | - Member |
| 11. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 12. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 13. Hon. Mishi Mboko, MP | - Member |
| 14. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

JOINT RAPPORTEURS

- Joint Rapporteur
- Joint Rapporteur

IN ATTENDANCE

1. Mr. Kamotho Waiganjo
2. Mr. Vincent Mutai
3. Mr. Wachira Maina
4. Mr. Bobby Mkangi

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert
- Expert

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Solomon M. Liria
5. Maj. (Rtd.) Reuben Kimosop
6. Mr. Abenayo Wasike

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A

7. Ms. Kavata Musyoka	- Clerk Assistant II, Senate
8. Mr. Ronald Walala	- Legal Counsel II, N/A
9. Ms. Judy Ndegwa	- Legal Counsel II, Senate
10. Ms. Mary Luka Lemerelle	- Clerk Assistant III, N/A
11. Ms. Noelle Chelagat	- Media Relations Officer
12. Ms. Clare J. Kidombo	- Research Officer
13. Ms. Fiona Musili	- Research Officer
14. Ms. Martha Ndukuyu	- Hansard Reporter

MIN.NO. JPSC/IEBC/138/12/8/2016 PRELIMINARIES

The meeting was called to order at 5.00 p.m. and commenced with a word of prayer by Co-Chairman, Sen. Kiraitu Murungi, MP.

MIN.NO. JPSC/IEBC/139/12/8/2016 PRESENTATION BY THE EXPERTS OF THE JOINT COMMITTEE ON VOTER REGISTRATION

Upon invitation by the Co-Chairperson Sen. James Orengo, the team of experts comprising of Mr. Kamotho Waiganjo and Mr. Wachira Maina made a presentation to the Committee on the Voter Registration.

The Experts presented to the Joint Committee the following three options to resolve the question of voter registration:

- (a) Determination of the threshold of error that would lead to a fresh voter registration. The results from the audit should be the determining factor in the action to be taken with regard to the voters register whether to do a clean-up or a fresh voter registration.
- (b) Audit of the existing voters register by random sampling and system audit and
- (c) In the event that the threshold set at option (a) above, is not met, and there needs to be a fresh voters register, the exercise should be concluded by May 4th, 2017.

The Experts explained to the Members that for the forensic audit, the current Commission should be able to kick-start the process since they will contract the services of an independent auditor, preferably one accredited by Information System Audit and Control Association (ISACA). The forensic audit will be aimed at finding out the issues of breach of security in the register, dead voters, underage voters and double registration, if any.

The Experts informed the Joint Committee on the need to make immediate decisions on this matter so as not to interfere with the timelines of the August 2017 general elections.

Members appreciated the presentation and recommended that it be merged with the presentation by the ICT Resource Persons that had been tabled earlier before the Joint Committee.

Members were also informed that:

- (a) There can be more than one audit, before and after the mass voter registration, so long as the exercise ends on or before 4th May, 2017.
- (b) The threshold should be determined either by legislation or by a political decision.

- (c) The clean-up of the register should not be pegged on the audit but should be undertaken regardless of the audit.
- (d) The audit should be aimed at revealing the structural problems in the electoral process.
- (e) The forensic audit will give the guidance on what action should be taken. The audit should be done to disclose exactly what the problem with the current register is and
- (f) There would be need to develop a legal framework to deal with the proposal on audit.

Recommendation of the Joint Committee

With regard to Voter Registration, the Joint Committee recommended that-

- (a) for purposes of the 2017 General Elections-
 - (i) The Independent Electoral and Boundaries Commission engages a professional reputable firm to conduct an audit of the Register of Voters. The audit should be completed not later than 30th November, 2016.
 - (ii) The Commission should submit the Audit Report to Parliament within fourteen days of receipt of the Report; and
 - (iii) The Commission should implement the recommendations of the audit and thereafter report to the National Assembly and the Senate on such implementation within thirty days of receipt of the audit report.
- (b) the Elections Act be amended to enable the Commission, whenever necessary, to conduct an audit of the Register of Voters for the purpose of verifying the accuracy of the Register, updating the Register and recommending mechanisms to enhance the accuracy of the Register.
- (c) for purposes of the conduct of the audit and in the future for the maintenance of the Register of Voters, the National Registration Bureau, the Kenya Citizens and Foreign Nationals Management Service and all other relevant agencies and institutions that hold information on Kenyan citizens should avail the information to the Independent Electoral and Boundaries Commission electronically for cross-referencing and information sharing.
- (d) the Elections Act be amended to increase the period for verification of the Register of Voters and scrutiny and closing of the register before elections from the current sixty (60) days to ninety (90) days and further, that verification of the Register of Voters be only by means of biometric voter data. and that this be done at the polling stations;
- (e) the Independent Electoral and Boundaries Commission makes provision for online inspection of the Register of Voters by individual voters through a public portal;
- (f) the Independent Electoral and Boundaries Commission ensures that the registration of prisoners as voters for presidential elections is implemented and that a progress report on this matter be included in the Commission's Annual Report to the President and Parliament submitted under Article 254 of the Constitution;
- (g) the Independent Electoral and Boundaries Commission ensures that mechanisms and targets for the progressive realization of registration of Kenyans abroad as voters are put in place and that a progress report on this matter be included in the Commission's Annual Report to the President and Parliament submitted under

Article 254 of the Constitution;

- (h) the Elections Act be amended by deleting section 5(3A) and (3B) to disallow the use of an acknowledgment of registration certificate for National Identity Card (waiting card) in elections;
- (i) the National Registration Bureau facilitates the expeditious issuance of Identity Cards and, in particular, that-
 - (i) in the case of a fresh application for an identity card, the application be processed within a period of thirty (30) days; and
 - (ii) in the case of an application for replacement of an identity card, the application be processed within a period of fourteen (14) days;
- (j) the National Registration Bureau develops simple guidelines for vetting of applicants for issuance of Identification Cards.

MIN.NO. JPSC/TEBC/140/12/8/2016 **ADJOURNMENT AND DATE OF NEXT MEETING**

The meeting was adjourned at 6.30 p.m. to and was scheduled to reconvene at 7.00 p.m. on the same day.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date..... 16/8/2016

Signed.....
SEN. KIRANTU MURUNGI, EGH, MP
CO-CHAIRMAN

Date..... 16/8/2016

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE THIRTY EIGHTH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON FRIDAY, 12TH AUGUST, 2016 IN THE OAK ROOM, WINDSOR GOLF HOTEL AND COUNTRY CLUB AT 7.00 P.M.

PRESENT

- | | |
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| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. Moses Kuria, HSC, MP | - Member |
| 11. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 12. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 13. Hon. Mishi Mboko, MP | - Member |
| 14. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Mr. Apollo Mboya, HSC
2. Mr. James Mamboleo

JOINT RAPPORTEURS

- Joint Rapporteur
- Joint Rapporteur

IN ATTENDANCE

1. Mr. Kamotho Waiganjo
2. Mr. Vincent Mutai
3. Mr. Wachira Maina
4. Mr. Bobby Mkangi

JOINT COMMITTEE EXPERTS

- Expert
- Expert
- Expert
- Expert

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Solomon M. Liria
5. Maj. (Rtd.) Reuben Kimosop

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate

- | | |
|-----------------------------|------------------------------|
| 6. Mr. Abenayo Wasike | - Clerk Assistant I, N/A |
| 7. Ms. Kavata Musyoka | - Clerk Assistant II, Senate |
| 8. Mr. Ronald Walala | - Legal Counsel II, N/A |
| 9. Ms. Judy Ndegwa | - Legal Counsel II, Senate |
| 10. Ms. Mary Luka Lemerelle | - Clerk Assistant III, N/A |
| 11. Ms. Noelle Chelagat | - Media Relations Officer |
| 12. Ms. Clare J. Kidombo | - Research Officer |
| 13. Ms. Fiona Musili | - Research Officer |
| 14. Ms. Martha Ndukuyu | - Hansard Reporter |

MIN.NO. JPSC/IEBC/141/12/8/2016 PRELIMINARIES

The meeting was called to order at 7.00p.m. and commenced with a word of prayer by Co-Chairman, Sen. Kiraitu Murungi, MP.

MIN.NO. JPSC/IEBC/142/12/8/2016 CONSIDERATION OF OUTSTANDING ISSUES FOR DELIBERATION BY THE JOINT COMMITTEE

(1) Political Parties Nominations

The Joint Committee deliberated on the issues of Political Parties Nominations and recommended that-

- (a) at the request of a political party, the IEBC should conduct and supervise party nominations in accordance with Article 88 of the Constitution;
- (b) party nominations should be conducted at least sixty (60) days before elections;
- (c) That the IEBC should publish the dates of nomination of all political parties in the Kenya Gazette;
- (d) political parties should forward to the IEBC the names of their candidates for nomination fourteen (14) days before the nominations and that the IEBC should publish the names in the Kenya Gazette within Seven days;
- (e) independent candidates should forward their names to the IEBC fourteen (14) days before the nomination date in the same manner as candidates participating in the party nominations;
- (f) after the names of candidates are forwarded to the IEBC, candidates should not change their parties;
- (g) any amendments with regard to timelines for the nomination processes should be concluded at least six months before the August, 2017 General Elections so as not to interfere with preparations for the elections;
- (h) the Office of the Registrar of Political Parties should continuously update party membership lists so that only registered members are allowed to participate in party nominations;
- (i) fiscal incentives should be put in place in the law to encourage the implementation of the two-thirds gender principle in the nomination processes by political parties; and,
- (j) the sanctions prescribed in the Political Parties Act should be enforced by the Registrar of Political Parties.

(2) **Selection Panel for the Appointment of Chairperson and Members of the IEBC**
The Joint Committee deliberated on the issues of Selection Panel for the Appointment of the Chairperson and Members of the IEBC and recommended that:

- (1) A Selection Panel for the appointment of the Chairperson and Members of the IEBC and the panel should comprise of:
- (a) four persons; being two men and two women nominated by the Parliamentary Service Commission;
 - (b) one person representing the Kenya Conference for Catholic Bishops;
 - (c) one person representing the National Council of Churches in Kenya;
 - (d) one person nominated by the Supreme Council of Kenya Muslims, the National Muslim Leaders Forum and the Council of Imams and Preachers of Kenya;
 - (e) one person representing the Evangelical Alliance of Kenya; and,
 - (f) one person representing the Hindu Council of Kenya.

(3) **The Secretariat of the Selection Panel for the Appointment Chairperson and Members of IEBC**

The Joint Committee deliberated on the above matter of a Secretariat to the Selection Panel and resolved that the Parliamentary Service Commission should provide the secretariat services and facilities required by the Selection Panel in performance of its functions.

(4) **Composition of the New IEBC**

The Joint Committee deferred deliberations on the above to allow for further consultations within the CORD coalition.

MIN.NO. JPSC/IEBC/143/12/8/2016 ALLEGATIONS AGAINST THE IEBC SECRETARIAT

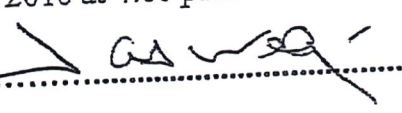
The Joint Committee deliberated on allegations leveled against some members of the IEBC Secretariat and recommended that the internal administrative mechanism of the Commission should be used to discipline those who are found culpable.

MIN.NO. JPSC/IEBC/144/12/8/2016 ANY OTHER BUSINESS
Parliamentary Oversight of the Electoral Process

The Joint Committee recommended that there was need for Parliament to have a standing Committee to oversee the implementation of the recommendations on the electoral process within the next one year.

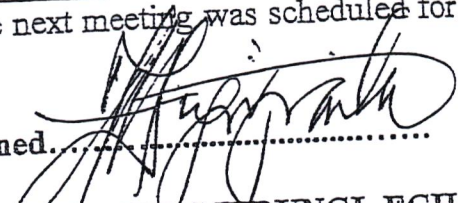
MIN.NO. JPSC/IEBC/145/12/8/2016 ADJOURNMENT & DATE OF NEXT MEETING

The meeting was adjourned at 9.00 p.m. The next meeting was scheduled for Sunday, 14th August, 2016 at 4.00 p.m.

Signed.....

SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed.....

SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

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REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE THIRTY NINTH SITTING OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON MONDAY, 15TH AUGUST, 2016 IN THE COMMITTEE ROOM 3-4, WINDSOT GOLF HOTEL AND COUNTRY CLUB, AT 12.30 P.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. Jimmy Angwenyi, MP | - Member |
| 9. Hon. Moses Kuria, HSC, MP | - Member |
| 10. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 11. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 12. Hon. Mishi Mboko, MP | - Member |
| 13. Hon. Junet Mohamed, MP | - Member |

APOLOGY

- | | |
|----------------------------------|----------|
| Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
|----------------------------------|----------|

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Mr. Solomon M. Liria
5. Maj. (Rtd.) Reuben Kimosop
6. Mr. Abenayo Wasike
7. Ms. Kavata Musyoka
8. Mr. Ronald Walala
9. Ms. Judy Ndegwa
10. Ms. Mary Luka Lemerelle
11. Ms. Noelle Chelagat
12. Ms. Clare J. Kidombo
13. Ms. Fiona Musili
14. Ms. Martha Ndukuyu

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer
- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/146/12/8/2016 PRELIMINARIES

The meeting was called to order at 12.45p.m. and commenced with a word of prayer from Co-Chairman, Sen. Kiraitu Murungi, MP.

**MIN.NO. JPSC/IEBC/147/12/8/2016 COMPOSITION OF THE NEW
INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION (IEBC)**

The Joint Committee deliberated on the matter of composition of the Independent Electoral and Boundaries Commission and in particular- the number of Commissioners; and, terms of service of the Commissioners.

The Joint Committee agreed that the number of Commissioners be retained at nine (9) but working on a part-time basis except in the year of election. Deliberations ensued with convincing and compelling reasons of having either the Commissioners working on full time basis or on part time basis.

The matter was thereafter deferred pending further consultations from the respective coalitions.

**MIN.NO. JPSC/IEBC/148/12/8/2016 ADJOURNMENT AND DATE OF NEXT
MEETING**

The meeting was adjourned at 1.15 p.m. to reconvene again at 2.30 p.m. on the same day.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016

Signed.....
SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

**MINUTES OF THE FORTIETH SITTING OF THE JOINT PARLIAMENTARY
SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION (IEBC) HELD ON MONDAY,
15TH AUGUST, 2016 IN THE COMMITTEE ROOM 3-4, WINDSOR GOLF
HOTEL AND COUNTRY CLUB, AT 6.20 P.M.**

PRESENT

- | | |
|---|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. Jimmy Angwenyi, MP | - Member |
| 9. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 10. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 11. Hon. Mishi Mboko, MP | - Member |
| 12. Hon. Junet Mohamed, MP | - Member |

APOLOGY

- | | |
|----------------------------------|----------|
| Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| Hon. Moses Kuria, HSC, MP | - Member |

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Ms. Elizabeth Muhia
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Noelle Chelagat
13. Ms. Clare J. Kidombo
14. Ms. Fiona Musili

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Principal Legal Counsel II, Senate
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer
- Research Officer

MIN.NO. JPSC/IEBC/149/15/8/2016 PRELIMINARIES

The meeting was called to order at 6.20p.m. and commenced with a word of prayer from Co-Chairman, Sen. Kiraitu Murungi, MP.

MIN.NO. JPSC/IEBC/150/15/8/2016 CONSIDERATION OF THE RECOMMENDATIONS IN THE DRAFT REPORT

The Joint Committee deliberated on the recommendations of the Report under the four Thematic Areas as follows-

1. **Under Thematic Area 1** on Allegations against Commissioners and the Secretariat of the Independent Electoral and Boundaries Commission, specifically on their credibility; impartiality; integrity; and, independence, the Committee made no findings on the allegations.
2. **Under Thematic Area 2** on Recommendations on legal mechanisms for the vacation from office of the current Commissioners and the Secretariat of the Independent Electoral and Boundaries Commission in accordance with the Constitution, the Committee recommended-
 - (a) That a dignified vacation from office of the current Commissioners of the Independent Electoral and Boundaries Commission be negotiated and agreed upon in accordance with the law within two weeks of the adoption of this Report of the Committee by Parliament;
 - (b) That the current Commissioners leave office when the new Commissioners are sworn-in, which should not be later than 30th September, 2016; and
 - (c) That in respect of the Secretariat of the Commission, the existing human resource policies and capacity building mechanisms of the Commission be applied, as appropriate, by the new Commission.
3. **Under Thematic Area 3** on Recommendations on legal, policy and institutional reforms to strengthen the Independent Electoral and Boundaries Commission so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner, the Committee recommended-
 - (a) That the number of Commissioners of the Independent Electoral and Boundaries Commission be retained at nine working on part-time basis except during the election year (twelve months before the date of the election).
 - (b) That for the appointment of the Commissioners, a Selection Panel be established and appointed by the President, consisting of-
 - (i) four persons, being two men and two women, nominated by the Parliamentary Service Commission;
 - (ii) one person nominated by the Kenya Conference of Catholic Bishops (KCCB);
 - (iii) one person nominated by the National Council of Churches of

- Kenya (NCCCK);
- (iv) one person nominated by the Evangelical Alliance of Kenya; and
- (v) one person nominated by the Supreme Council of Kenya Muslims (SUPKEM), the National Muslim Leaders Forum (NAMLEF) and the Kenya Council of Imams and Preachers of Kenya; and
- (vi) one person nominated by the Hindu Council of Kenya;
- (c) That the Parliamentary Service Commission provides secretariat services to the Selection Panel;
- (d) That mechanisms be put in place to provide for staggered appointment of the Commissioners so that the expiry dates of their terms fall at different times;
- (e) That on the roles of the Commission vis-à-vis the Secretariat-
 - (i) The Commissioners be responsible for strategy, policy direction and oversight;
 - (ii) The Secretariat implements policies designed by the Commissioners and performs day-to-day administrative functions of the Commission;
- (f) That in light of the fast-approaching date of the next General Elections, the processes relating to the appointment of the new Commissioners be undertaken with expedition and be concluded by 30th September, 2016;
- (g) That for the future, the processes of recruitment of new Commissioners be commenced at least six months before the expiry of their term; and
- (h) That the Independent Elections and Boundaries Commission Act be amended to include provisions on vacation from office by the Commissioners other than by way of removal from office in line with similar legislation.

4. Under Thematic Area 4, the Committee made recommendations in the following areas-

(a) Voter Registration

- (1) That for purposes of the 2017 General Elections-
 - a. The Independent Electoral and Boundaries Commission engages a professional reputable firm to conduct an audit of the Register of Voters. The audit should be completed not later than 30th November, 2016.
 - b. The Commission should submit the Audit Report to Parliament within fourteen days of receipt of the Report; and
 - c. The Commission should implement the recommendations of the audit and thereafter report to the National Assembly and the Senate on such implementation within thirty days of receipt of the audit report.
- (2) That the Elections Act be amended to enable the Commission, whenever necessary, to conduct an audit of the Register of Voters for the purpose of verifying the accuracy of the Register, updating the Register and recommending mechanisms to enhance the accuracy of the Register.
- (3) That for purposes of the conduct of the audit and in the future for the maintenance of the Register of Voters, the National Registration Bureau, the

Kenya Citizens and Foreign Nationals Management Service and all other relevant agencies and institutions that hold information on Kenyan citizens should avail the information to the Independent Electoral and Boundaries Commission electronically for cross-referencing and information sharing.

- (4) That the Elections Act be amended to increase the period for verification of the Register of Voters and scrutiny and closing of the register before elections from the current sixty (60) days to ninety (90) days and further, that verification of the Register of Voters be only by means of biometric voter data and that this be done at the polling stations;
- (5) That the Independent Electoral and Boundaries Commission makes provision for online inspection of the Register of Voters by individual voters through a public portal;
- (6) That the Independent Electoral and Boundaries Commission ensures that the registration of prisoners as voters for presidential elections is implemented and that a progress report on this matter be included in the Commission's Annual Report to the President and Parliament submitted under Article 254 of the Constitution;
- (7) That the Independent Electoral and Boundaries Commission ensures that mechanisms and targets for the progressive realization of registration of Kenyans abroad as voters are put in place and that a progress report on this matter be included in the Commission's Annual Report to the President and Parliament submitted under Article 254 of the Constitution;
- (8) That the Elections Act be amended by deleting section 5(3A) and (3B) to disallow the use of an acknowledgment of registration certificate for National Identity Card (waiting card) in elections;
- (9) That the National Registration Bureau facilitates the expeditious issuance of Identity Cards and, in particular, that-
 - (a) in the case of a fresh application for an identity card, the application be processed within a period of thirty (30) days; and
 - (b) in the case of an application for replacement of an identity card, the application be processed within a period of fourteen (14) days;
- (10) That the National Registration Bureau develops simple guidelines for vetting of applicants for issuance of Identification Cards.

(b) Voter Education

That the Independent Electoral and Boundaries Commission-

- (1) Partners with other agencies and non-state actors in the provision of voter education; and
- (2) Ensures the inclusion of Persons With Disabilities when carrying out voter education.

(c) Nomination and Registration of Candidates

- (1) That at the request of a political party, the Independent Electoral and Boundaries Commission shall conduct and supervise party nominations in accordance with Article 88 of the Constitution;

- (2) That the names of party candidates and independent candidates who will contest in a general election be submitted to the Commission at least sixty (60) days before the election;
- (3) That political parties forward to the Independent Electoral and Boundaries Commission the names of their candidates for nomination twenty-one days before the nominations and that the Independent Electoral and Boundaries Commission publishes the names in the Kenya Gazette within seven days of receipt;
- (4) That the Independent Electoral and Boundaries Commission publishes the dates of party primaries of all political parties in the Kenya Gazette;
- (5) That list of party members be submitted to the Commission at least 90 days before the date of the general election;
- (6) That independent candidates forward their names to the Independent Electoral and Boundaries Commission fourteen (14) days before the nomination date in the same manner as candidates participating in the party nominations;
- (7) That after the names of candidates are forwarded to the Independent Electoral and Boundaries Commission, a candidate who change their parties shall not be eligible to contest in an election as a candidate of the new party or as an independent. That any amendments with regard to timelines for the nomination processes be concluded at least six months before the August 2017 General Elections so as not to interfere with preparations for the elections;
- (8) That the Office of the Registrar of Political Parties continuously updates party membership lists so that only registered members are allowed to participate in party nominations;
- (9) That party membership lists be used for party primaries as opposed to the voter register;
- (10) That the Political Parties Act be further amended to provide for fiscal incentives be put in place in the law to encourage the implementation of the two-thirds gender principle in the nomination processes by political parties; and
- (11) That the sanctions prescribed in the Political Parties Act be enforced by the Registrar of Political Parties and that the Office of the Registrar of Political Parties be strengthened to enable the Office to effectively carry out its functions.

(d) Publicity and Media

That the Independent Electoral and Boundaries Commission-

- (1) Liaises with the Media Council in developing and implementing Regulations on media coverage and conduct during campaigns as well as electoral polls; and
- (2) Mainstreams the needs of persons with disabilities in the publications of the Commission on election matters.

(e) Use of Information Communication Technology in Elections

(1) Guiding Principles for Use of ICT

- (a) That the ICT systems used be impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent;

- (b) That the processes for the identification, procurement and deployment of ICT systems be conducted in an open and transparent manner; and
- (c) That no new technology should be introduced in the election process later than one year before an election.

(2) Legislative Framework for ICT

- (a) That section 44 of the Elections Act be amended to require the use of technology in the electoral process;
- (b) That pursuant to sections 44 and 109 of the Elections Act, the Independent Electoral and Boundaries Commission, in consultation with all relevant stakeholders, including political parties, agencies or institutions, makes regulations to govern the use of technology in the elections, and that the regulations be tabled in Parliament within thirty days from the date of enactment of the Election Laws (Amendment) Bill;
- (c) That the regulations to be made provide for, among other things-
 - (i) acquisition and disposal of ICT assets and systems;
 - (ii) testing and certification of the system;
 - (iii) mechanisms for the conduct of a system audit;
 - (iv) data storage and information security;
 - (v) data retention and disposal;
 - (vi) access to electoral system software source codes;
 - (vii) development and implementation of a disaster recovery and operations continuity plan;
 - (viii) telecommunication service provision;
 - (ix) inventory of ICT assets and systems;
 - (x) capacity building of staff of the Commission and stakeholders on the use of technology in the electoral process;
 - (xi) telecommunication network for voter validation and result transmission; and
 - (xii) the establishment of an ICT oversight technical committee comprising of key stakeholders.

(3) ICT for the 2017 General Elections and Beyond

- (a) That for purposes of the 2017 General Elections, the technology to be applied shall be for registration, identification and results transmission (BVR, EVID and RTS);
- (b) That the Independent Electoral and Boundaries Commission puts in place mechanisms to ensure-
 - (i) Electronic submission of names and other information required in the nomination processes;
 - (ii) Electronic transmission of all poll results; and
 - (iii) Polling result forms be made available to the public through a public portal; and
 - (iv) Voter identification through biometrics.

- (c) That the Independent Electoral and Boundaries Commission ensures that the necessary hardware and software are in place to support the use of technology in the 2017 General Elections;
- (d) That where procurement of new equipment may be necessary, the Independent Electoral and Boundaries Commission, in consultation with all relevant agencies and institutions, ensures the timely procurement of appropriate equipment;
- (e) That all procurement of ICT equipment for the 2017 General Election to be concluded at least eight months before the election.
- (f) That all existing equipment and any new equipment procured be transparently tested and deployed in good time in readiness for the next General Elections;
- (g) That the equipment to be used in the election be tested sixty (60) days before the next General Elections;
- (h) That a structured and scheduled capacity building programme be put in place and implemented for training of staff and other stakeholders on the technology to be used in the electoral process; and
- (i) That the Independent Electoral and Boundaries Commission urgently puts in place a Disaster Recovery and Business Continuity Plan.

(f) Voting Process

- (1) That the Elections Act be amended to limit the number of voters in each polling station to a maximum of five hundred (500); and
- (2) That the Independent Electoral and Boundaries Commission puts in place adequate arrangements to facilitate voting by persons with disabilities.

(g) Transmission and Declaration of Election Results

- (1) That the Elections Act be amended to provide for the electronic transmission of the tabulated results of an election for the President from a polling station to the national tallying centre.
- (2) That the Elections (General) Regulations, 2012 be amended to provide for all relevant forms for the transmission and declaration of results.

(h) Allocation of Special Seats

The Committee recommends that in order to ensure transparency in the allocation of special seats, regulation 54(8) of the Elections (General) Regulations, 2012 be amended to require that the Independent Electoral and Boundaries Commission publishes the party lists submitted by political parties under Article 90 of the Constitution forty-five days before the General Elections..

(i) Election Observation, Monitoring and Evaluation

That the Independent Electoral and Boundaries Commission accredits election observers and monitors in good time before an election so as to facilitate the work of the observers and monitors.

(j) Dispute Resolution (Including Nomination and Petitions)

That the matter of the filing of a petition challenging the election of a President-elect under Article 140 of the Constitution and serving the Independent Electoral and Boundaries Commission to deliver documents supporting the presidential election results to the petitioner be pended for further consultations within the respective coalitions.

(k) Election Offences

- (1) That a 'stand-alone' Elections Offences Bill consolidating all elections offences be enacted;
- (2) That the rendition of the offence of bribery under section 62 of the Elections Act be simplified;
- (3) That the offence of treating be deleted from the Elections Act and that its elements be incorporated in the offence of bribery;
- (4) That section 4(1) of the Elections Act that mandates the Independent Electoral and Boundaries Commission to investigate and prosecute election offences by candidates, political parties or their agents under be deleted so that the function resides with the Office of the Director of Public Prosecutions; and
- (5) That section 87 of the Elections Act be amended to provide clarity on the procedures relating to the submission and disposal of a report of an election court following its determination on whether an election offence is likely to have been committed.

The Committee further recommended that the law be amended to provide for the commencement of prosecution for electoral offences within twelve months of the date of the election to which the offence relates. In the case of an offence arising out a determination of an electoral court under section 87 of the Elections Act, the twelve months to run from the date of the final judgement.

5. Other Recommendations

The Committee recommended that Parliament establishes a mechanism by which it shall oversight the implementation of the recommendations in this Report and the electoral processes until the 2017 General Elections.

MIN.NO. JPSC/IEBC/151/15/8/2016 ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 11.00 p.m. The next meeting was scheduled for Tuesday, 16th August, 2016 at 10.00 a.m.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date..... 16/8/2016

Signed.....
SEN. KIRAITU MURUNGI, EGH, MP
CO-CHAIRMAN

Date..... 16/8/2016

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

MINUTES OF THE FORTY FIRST SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)
HELD ON TUESDAY, 16TH AUGUST, 2016 IN THE COMMITTEE ROOM 3-4,
WINDSOR GOLF HOTEL AND COUNTRY CLUB, AT 4.00 P.M.

PRESENT

- | | |
|--|------------------|
| 1. Sen. James Orengo, EGH, MP | - Co-Chairperson |
| 2. Sen. Kiraitu Murungi, EGH, MP | - Co-Chairperson |
| 3. Sen. Kipchumba Murkomen, MP | - Member |
| 4. Sen. Beatrice Elachi, CBS, MP | - Member |
| 5. Sen. Johnson Muthama, MP | - Member |
| 6. Sen. (Dr.) Boni Khalwale, MBS, MP | - Member |
| 7. Sen. Mutula Kilonzo Jnr, MP | - Member |
| 8. Hon. (Dr.) Naomi Shaban, EGH, MP | - Member |
| 9. Hon. Jimmy Angwenyi, MP | - Member |
| 10. Hon. (Eng.) Mohamed M. Mahamud CBS, MP | - Member |
| 11. Hon. (Dr.) Eseli Simiyu, CBS, MP | - Member |
| 12. Hon. Moses Kuria, HSC, MP | - Member |
| 13. Hon. Mishi Mboko, MP | - Member |
| 14. Hon. Junet Mohamed, MP | - Member |

IN ATTENDANCE

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Ms. Elizabeth Muhia
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Noelle Chelagat
13. Ms. Clare J. Kidombo
14. Ms. Fiona Musili
15. Ms. Martha Ndukuyu

PARLIAMENT

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Principal Legal Counsel II, Senate
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant II, Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer
- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/152/16/8/2016 PRELIMINARIES

The meeting was called to order at 4.00p.m.

MIN.NO. JPSC/IEBC/153/16/8/2016 REMARKS BY THE CO-CHAIRPERSONS

The two Co-Chairmen of the Joint Committee, in addressing the media, made the following remarks-

Co-chairperson Sen. James Orengo informed the media that the Joint Committee had agreed as follows-

1. The current IEBC Commissioners have agreed to vacate office voluntarily;
2. Following that undertaking by the IEBC Commissioners, the Joint Committee proceeded with recommending legal mechanisms for filling the vacancy to be created;
3. The New Commission should be made up of seven (7) Commissioners, who should serve on a full time basis;
4. In light of the fast-approaching date of the next General Elections, the processes relating to the appointment of the new Commissioners should be undertaken expeditiously to be concluded by 30th September, 2016;
5. The roles of the Commissioners and those of the IEBC Secretariat should be delineated to avoid functional overlaps. The Commissioners shall be responsible for strategy, policy direction and oversight; while the Secretariat shall implement policies designed by the Commissioners and performs day-to-day administrative functions of the Commission.

Co-chairperson Sen. Kiraitu Murungi, informed the media that the Joint Committee had further agreed as follows-

1. The selection panel shall comprise of-
 - (a) four persons, being two men and two women, nominated by the Parliamentary Service Commission;
 - (b) one person nominated by the Kenya Conference of Catholic Bishops (KCCB);
 - (c) one person nominated by the National Council of Churches of Kenya (NCCK);
 - (d) one person nominated by the Evangelical Alliance of Kenya; and
 - (e) one person jointly nominated by the Supreme Council of Kenya Muslims (SUPKEM), the National Muslim Leaders Forum (NAMLEF) and the Kenya Council of Imams and Preachers of Kenya; and
 - (f) one person nominated by the Hindu Council of Kenya;
2. The Parliamentary Service Commission shall provide the secretariat to the selection panel.
3. In future, the processes of recruitment of new Commissioners be commenced at least six months before the expiry of their term.
4. The Independent Elections and Boundaries Commission Act be amended to include provisions on vacation from office by the Commissioners other than by

- way of removal from office as is provided in similar legislation.
5. The current register will be cleaned up through a forensic audit by a professional reputable firm.
 6. The Joint Committee agreed that legislations should be enacted to bar party hoping.
 7. Report shall be signed by the leadership of the two Houses and presented to the Leadership of the respective Coalitions for them to indicate their concurrence with the Report.

MIN.NO. JPSC/IEBC/154/16/8/2016 **ADJOURNMENT AND DATE OF NEXT MEETING**

The meeting was adjourned at 4.40 p.m. The next meeting was scheduled for 5.25 p.m. the same day.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....

16/8/2016

Signed.....
SEN. KIRATI MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....

16/8/2016

MINUTES OF THE FORTY SECOND SITTING OF THE JOINT
PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)
HELD ON TUESDAY, 16TH AUGUST, 2016 IN THE COMMITTEE ROOM 3-4,
WINDSOR GOLF HOTEL AND COUNTRY CLUB, AT 5.25 P.M.

1. Sen. James Orenge, EGH, MP	- Co-Chairperson
2. Sen. Kiraitu Murungi, EGH, MP	- Co-Chairperson
3. Sen. Kipchumba Murkomen, MP	- Member
4. Sen. Beatrice Elachi, CBS, MP	- Member
5. Sen. Johnson Muthama, MP	- Member
6. Sen. (Dr.) Boni Khalwale, MBS, MP	- Member
7. Sen. Mutula Kilonzo Jnr, MP	- Member
8. Hon. (Dr.) Naomi Shaban, EGH, MP	- Member
9. Hon. Jimmy Angwenyi, MP	-Member
10. Hon. (Eng.) Mohamed M. Mahamud CBS, MP	- Member
11. Hon. (Dr.) Eseli Simiyu, CBS, MP	- Member
12. Hon. Moses Kuria, HSC, MP	- Member
13. Hon. Mishi Mboko, MP	- Member
14. Hon. Junet Mohamed, MP	- Member

1. Ms. Eunice Gichangi
2. Mr. Boniface Lenairoshi
3. Mr. John Mutega
4. Ms. Elizabeth Muhia
5. Mr. Solomon M. Liria
6. Maj. (Rtd.) Reuben Kimosop
7. Mr. Abenayo Wasike
8. Ms. Kavata Musyoka,
9. Mr. Ronald Walala
10. Ms. Judy Ndegwa
11. Ms. Mary Luka Lemerelle
12. Ms. Noelle Chelagat
13. Ms. Clare J. Kidombo
14. Ms. Fiona Musili
15. Ms. Martha Ndukuyu

- Senior Deputy Clerk, Senate
- Principal Clerk Assistant I, Senate
- Principal Clerk Assistant II, N/A
- Principal Legal Counsel II, Senate
- Senior Serjeant-At-Arms, N/A
- Senior Serjeant-At-Arms, Senate
- Clerk Assistant I, N/A
- Clerk Assistant Senate
- Legal Counsel II, N/A
- Legal Counsel II, Senate
- Clerk Assistant III, N/A
- Media Relations Officer
- Research Officer
- Research Officer
- Hansard Reporter

MIN.NO. JPSC/IEBC/155/16/8/2016 PRELIMINARIES

The meeting was called to order at 5.25 p.m. and commenced with a word of prayer by Co-Chairman, Sen. Kiraitu Murungi, MP.

MIN.NO. JPSC/IEBC/156/16/8/2016 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

The minutes of the Second sitting of the Joint Committee held on 13th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Eng.) Mohamed Maalim Mahamud, MP and seconded by Sen. Mutula Kilonzo Jnr., MP.

The minutes of the Third sitting of the Joint Committee held on 15th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Dr.) David Eseli Simiyu, MP and seconded by Sen. Beatrice Elachi, MP.

The minutes of the Fourth sitting of the Joint Committee held on 15th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Sen. Johnson Muthama, MP and seconded by Hon. (Dr.) Naomi Shaban, MP.

The minutes of the Fifth sitting of the Joint Committee held on 18th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Eng.) Mohamed Maalim Mahamud, MP and seconded by Sen. (Dr.) Boni Khalwale., MP.

The minutes of the Sixth sitting of the Joint Committee held on 18th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Dr.) Naomi Shaban, MP and seconded by Sen. Mutula Kilonzo Jnr., MP.

The minutes of the Seventh sitting of the Joint Committee held on 19th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. Mishi Mboko, MP and seconded by Sen. Kipchumba Murkomen, MP.

The minutes of the Eighth sitting of the Joint Committee held on 19th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. Moses Kuria MP and seconded by Sen. Johnson Muthama, MP.

The minutes of the Ninth sitting of the Joint Committee held on 20th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-

Chairpersons after being proposed by Hon. Junet Mohamed, MP and seconded by Sen. Beatrice Elachi, MP.

The minutes of the Tenth sitting of the Joint Committee held on 20th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. Mishi Mboko, MP and seconded by Hon. (Dr.) Naomi Shaban, MP.

The minutes of the Eleventh sitting of the Joint Committee held on 21st July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Eng.) Mohamed Maalim Mahamud, MP and seconded by Sen. (Dr.) Boni Khalwale, MP.

The minutes of the Twelfth sitting of the Joint Committee held on 21st July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Sen. Beatrice Elachi, MP and seconded by Hon. Jimmy Angwenyi, MP.

The minutes of the Thirteenth sitting of the Joint Committee held on 22nd July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. Jimmy Angwenyi, MP and seconded by Sen. Johnson Muthama, MP.

The minutes of the Fourteenth sitting of the Joint Committee held on 25th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. Mishi Mboko, MP and seconded by Sen. Johnson Muthama, MP.

The minutes of the Fifteenth sitting of the Joint Committee held on 25th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Dr.) Boni Khalwale and seconded by Hon. (Eng.) Mohamed Maalim Mahamud, MP.

The minutes of the Sixteenth sitting of the Joint Committee held on 26th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. Moses Kuria, MP and seconded by Hon. Mishi Mboko MP.

The minutes of the Seventeenth sitting of the Joint Committee held on 26th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Sen. (Dr.) Boni Khalwale, MP and seconded by Hon. Moses Kuria, MP.

The minutes of the Eighteenth sitting of the Joint Committee held on 27th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-

Chairpersons after being proposed by Sen. Kipchumba Murkomen, MP and seconded by Hon. Mishi Mboko., MP.

The minutes of the Nineteenth sitting of the Joint Committee held on 27th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Eng.) Mohamed Maalim Mahamud, MP and seconded by Sen. Mutula Kilonzo Jnr., MP.

The minutes of the Twentieth sitting of the Joint Committee held on 28th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Dr.) Naomi Shaban, MP and seconded by Sen. Kipchumba Murkomen., MP.

The minutes of the Twenty First sitting of the Joint Committee held on 28th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Sen. Beatrice Elachi, MP and seconded by Hon. Junet Mohamed, MP.

The minutes of the Twenty Second sitting of the Joint Committee held on 29th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Sen. Kipchumba Murkomen, MP and seconded by Hon. (Dr.) Eseli Simiyu, MP.

The minutes of the Twenty Third sitting of the Joint Committee held on 29th July, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. Mishi Mboko, MP and seconded by Sen. Beatrice Elachi, MP.

The minutes of the Twenty Fourth sitting of the Joint Committee held on 1st August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Sen. Mutula Kilonzo Jnr., MP and seconded by Hon. (Eng.) Mohamed Maalim Mahamud, MP.

The minutes of the Twenty Fifth sitting of the Joint Committee held on 1st August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. Mishi Mboko, MP and seconded by Sen. Kipchumba Murkomen., MP.

The minutes of the Twenty Sixth sitting of the Joint Committee held on 2nd August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. Moses Kuria, MP and seconded by Sen. (Dr.) Boni Khalwale., MP.

The minutes of the Twenty Seventh sitting of the Joint Committee held on 2nd August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by

the Co-Chairpersons after being proposed by Hon. (Dr.) Naomi Shaban, MP and seconded by Sen. Johnson Muthama, MP.

The minutes of the Twenty Eighth sitting of the Joint Committee held on 3rd August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Sen. Kipchumba Murkomen, MP and seconded by Hon. Junet Mohamed, MP.

The minutes of the Twenty Ninth sitting of the Joint Committee held on 3rd August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. Junet Mohamed, MP and seconded by Sen. Beatrice Elachi, MP.

The minutes of the Thirtieth sitting of the Joint Committee held on 8th August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Dr.) Naomi Shaban, MP and seconded by Sen. Mutula Kilonzo Jnr., MP.

The minutes of the Thirty First sitting of the Joint Committee held on 8th August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Sen. Beatrice Elachi, MP and seconded by Hon. Mishi Mboko, MP.

The minutes of the Thirty Second sitting of the Joint Committee held on 9th August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Sen. (Dr.) Boni Khalwale, MP and seconded by Hon. (Eng.) Mohamed Maalim Mahamud, MP

The minutes of the Thirty Third sitting of the Joint Committee held on 9th August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Eng.) Mohamed Maalim Mahamud, MP and seconded by Sen. Mutula Kilonzo Jnr., MP.

The minutes of the Thirty Fourth sitting of the Joint Committee held on 10th August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Sen. Beatrice Elachi, MP and seconded by Hon. Junet Mohamed, MP.

The minutes of the Thirty Fifth sitting of the Joint Committee held on 10th August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. Jimmy Angweny, MP and seconded by Sen. Mutula Kilonzo Jnr., MP.

The minutes of the Thirty Sixth sitting of the Joint Committee held on 12th August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-

Chairpersons after being proposed by Hon. Moses Kuria, MP and seconded by Sen. Johnson Muthama, MP.

The minutes of the Thirty Seventh sitting of the Joint Committee held on 12th August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. Junet Mohamed, MP and seconded by Hon. (Dr.) Naomi Shaban, MP.

The minutes of the Thirty Eighth sitting of the Joint Committee held on 12th August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Dr.) Eseli Simiyu, MP and seconded by Sen. Kipchumba Murkomen., MP.

The minutes of the Thirty Ninth sitting of the Joint Committee held on 15th August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Hon. (Eng.) Mohamed Maalim Mahamud, MP and seconded by Sen. Johnson Muthama, MP.

The minutes of the Fortieth sitting of the Joint Committee held on 15th August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Sen. Johnson Muthama, MP and seconded by Hon. Jimmy Angwenyi, MP.

The minutes of the Forty First sitting of the Joint Committee held on 16th August, 2016 were confirmed as a true record of the deliberations of that meeting and signed by the Co-Chairpersons after being proposed by Sen. Johnson Muthama, MP and seconded by Hon. (Eng.) Mohamed Maalim Mahamud., MP.

MIN.NO. JPSC/IEBC/157/16/8/2016 ADOPTION OF THE FINAL REPORT

Co-chairperson Sen. Kiraitu Murungi informed the members that the meeting had been convened to adopt the final report of the Joint Committee.

The meeting considered the recommendations contained in the draft Report and adopted the same with amendments.

The Joint Committee approved and adopted the following recommendations:

1. Thematic Area 1

Allegations against Commissioners and the Secretariat of the Independent Electoral and Boundaries Commission, specifically on—

- (a) ***Credibility;***
- (b) ***Impartiality;***
- (c) ***Integrity; and***
- (d) ***Independence.***

Recommendations of the Committee

The Committee took into account the following factors-

- (1) The provisions of the Constitution and the law on the process for disposal of allegations against the Commissioners and the Secretariat;
- (2) The views received from the public and the stakeholders;
- (3) The time remaining to the August 2017 General Elections;
- (4) The need to ensure stability, public confidence and an orderly transition in the Commission; and
- (5) The offer by the Commissioners to vacate from office in the event of a negotiated settlement;

The Committee made no findings on the allegations against members of the Commission and the Secretariat.

2. Thematic Area 2

Recommendations on legal mechanisms for the vacation from office of the current Commissioners and the Secretariat of the Independent Electoral and Boundaries Commission in accordance with the Constitution.

Recommendations of the Committee

The Committee recommends as follows-

- (a) That a dignified vacation from office of the current Commissioners of the Independent Electoral and Boundaries Commission be negotiated and agreed upon in accordance with the law within two weeks of the adoption of this Report of the Committee by Parliament;
- (b) That the current Commissioners leave office when the new Commissioners are sworn-in, which should not be later than 30th September, 2016; and
- (c) That in respect of the Secretariat of the Commission, the existing human resource policies and capacity building mechanisms of the Commission be applied, as appropriate, by the new Commission.

3. Thematic Area 3

Recommendations on legal, policy and institutional reforms to strengthen the Independent Electoral and Boundaries Commission so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner.

Recommendations of the Committee

The Committee recommends as follows -

- (1) That the number of Commissioners of the Independent Electoral and Boundaries Commission be seven and that the Commissioners serve on a full-time basis;
- (2) That for the appointment of the first Commissioners upon the coming into force of the section, a Selection Panel be established and appointed by the President, consisting of-
 - (a) four persons, being two men and two women, nominated by the Parliamentary Service Commission;
 - (b) one person nominated by the Kenya Conference of Catholic Bishops

- (KCCB);
- (c) one person nominated by the National Council of Churches of Kenya (NCCCK);
- (d) one person nominated by the Evangelical Alliance of Kenya; and
- (e) one person nominated by the Supreme Council of Kenya Muslims (SUPKEM), the National Muslim Leaders Forum (NAMLEF) and the Kenya Council of Imams and Preachers of Kenya; and
- (f) one person nominated by the Hindu Council of Kenya;
- (3) That the Parliamentary Service Commission provides secretariat services to the Selection Panel;
- (4) That the law be amended to provide for the appointment of a new Selection Panel which shall be responsible for the appointment of future Commissioners under the Act.
- (5) That on the roles of the Commission vis-à-vis the Secretariat-
 - (i) The Commissioners shall perform their functions in accordance with the Constitution and, in particular, shall be responsible for strategy, policy direction and oversight;
 - (ii) The Secretariat implements policies designed by the Commissioners and performs day-to-day administrative functions of the Commission;
- (6) That in light of the fast-approaching date of the next General Elections, the processes relating to the appointment of the new Commissioners be undertaken with expedition and be concluded by 30th September, 2016;
- (7) That for the future, the processes of recruitment of new Commissioners be commenced at least six months before the expiry of their term; and
- (8) That the Independent Elections and Boundaries Commission Act be amended to include provisions on vacation from office by the Commissioners other than by way of removal from office in line with similar legislation.

4. Thematic Area 4

Recommendations on legal, policy and institutional reforms to improve the electoral system and processes so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner.

Recommendations of the Committee

(a) Voter Registration

The Committee recommends as follows –

- (1) That for purposes of the 2017 General Elections-
 - a. The Independent Electoral and Boundaries Commission engages a professional reputable firm to conduct an audit of the Register of Voters for the purpose of verifying the accuracy of the Register, updating the Register and recommending mechanisms to enhance the accuracy of the Register;
 - b. The audit in (a) above be completed not later than 30th November, 2016.
 - c. The Commission submits the Audit Report to Parliament within

fourteen days of receipt of the Report; and

- d. The Commission implements the recommendations of the audit and thereafter reports to the National Assembly and the Senate on such implementation within thirty days of receipt of the Audit Report.

- (2) That the Elections Act be amended to enable the Commission to conduct an audit of the Register of Voters for the purpose of verifying the accuracy of the Register, updating the Register and recommending mechanisms to enhance the accuracy of the Register.
- (3) That for purposes of the conduct of the audit and in the future for the maintenance of the Register of Voters, the National Registration Bureau, the Kenya Citizens and Foreign Nationals Management Service and all other relevant agencies and institutions that hold information on Kenyan citizens should avail the information to the Independent Electoral and Boundaries Commission electronically for cross-referencing and information sharing.
- (4) That the Elections Act be amended to increase the period for verification of the Register of Voters and scrutiny and closing of the register before elections from the current sixty (60) days to ninety (90) days;
- (5) That verification of the Register of Voters be only by means of biometric voter data and that this be done at the polling stations;
- (6) That the Independent Electoral and Boundaries Commission makes provision for online inspection of the Register of Voters by individual voters through a public portal;
- (7) That the Independent Electoral and Boundaries Commission ensures that the registration of prisoners as voters for presidential elections is implemented and that a progress report on this matter be included in the Commission's Annual Report to the President and Parliament submitted under Article 254 of the Constitution;
- (8) That the Independent Electoral and Boundaries Commission ensures that mechanisms and targets for the progressive realization of registration of Kenyans abroad as voters are put in place and that a progress report on this matter be included in the Commission's Annual Report to the President and Parliament submitted under Article 254 of the Constitution;
- (9) That the Elections Act be amended by deleting section 5(3A) and (3B) to disallow the use of an acknowledgment of registration certificate for National Identity Card (waiting card) in elections;
- (10) That the National Registration Bureau facilitates the expeditious issuance of Identity Cards and, in particular, that-
 - (a) in the case of a fresh application for an identity card, the application be processed within a period of thirty (30) days; and
 - (b) in the case of an application for replacement of an identity card, the application be processed within a period of fourteen (14) days;
- (11) That the National Registration Bureau develops simple guidelines for vetting of applicants for issuance of Identification Cards.

(b) Voter Education

The Committee recommends that the Independent Electoral and Boundaries Commission-

- (1) Partners with other agencies and non-state actors in the provision of voter education; and
- (2) Ensures the inclusion of Persons With Disabilities when carrying out voter education.

(c) Nomination and Registration of Candidates

The Committee recommends as follows-

- (1) That list of party members be submitted to the Commission at least 90 days before the date of the general election;
- (2) That party membership lists be used for party primaries;
- (3) That political parties forward to the Independent Electoral and Boundaries Commission the names of their candidates for nomination twenty-one days before the nominations and that the Independent Electoral and Boundaries Commission publishes the names in the *Kenya Gazette* within seven days of receipt;
- (4) That the Independent Electoral and Boundaries Commission publishes the dates of party primaries of all political parties in the *Kenya Gazette*;
- (5) That the names of party candidates and independent candidates who will contest in a general election be submitted to the Commission at least sixty (60) days before the election;
- (6) That independent candidates forward their names to the Independent Electoral and Boundaries Commission fourteen (14) days before the nomination date in the same manner as candidates participating in the party nominations;
- (7) That after the names of candidates are forwarded to the Independent Electoral and Boundaries Commission, a candidate who changes their party shall not be eligible to contest in an election as a candidate of the new party or as an independent candidate.
- (8) That any amendments with regard to timelines for the nomination processes be concluded at least six months before the August, 2017 General Elections so as not to interfere with preparations for the elections;
- (9) That at the request of a political party, the Independent Electoral and Boundaries Commission shall conduct and supervise party nominations in accordance with Article 88 of the Constitution;
- (10) That the Office of the Registrar of Political Parties continuously updates party membership lists so that only registered members are allowed to participate in party nominations;
- (11) That the Political Parties Act be further amended to provide for fiscal incentives be put in place in the law to encourage the implementation of the two-thirds gender principle in the nomination processes by political parties; and
- (12) That the sanctions prescribed in the Political Parties Act be enforced by the Registrar of Political Parties and that the Office of the Registrar of Political Parties be strengthened to enable the Office to effectively carry out its functions.

(d) Publicity and Media

The Committee recommends that the Independent Electoral and Boundaries Commission-

- (1) Liaises with the Media Council in developing and implementing Regulations on media coverage and conduct during campaigns as well as electoral polls; and
- (2) Mainstreams the needs of persons with disabilities in the publications of the Commission on election matters.

(e) Use of Information Communication Technology in Elections

The Committee recommends as follows-

(1) Guiding Principles for Use of ICT

- (a) That the ICT systems used be impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent;
- (b) That the processes for the identification, procurement and deployment of ICT systems be conducted in an open and transparent manner; and
- (c) That no new technology should be introduced in the election process later than one year before an election.

(2) Legislative Framework for ICT

- (a) That section 44 of the Elections Act be amended to require the use of technology in the electoral process;
- (b) That pursuant to sections 44 and 109 of the Elections Act, the Independent Electoral and Boundaries Commission, in consultation with all relevant stakeholders, including political parties, agencies or institutions, makes regulations to govern the use of technology in the elections, and that the regulations be tabled in Parliament within thirty days from the date of enactment of the Election Laws (Amendment) Bill;
- (c) That the regulations to be made provide for, among other things-
 - (i) acquisition and disposal of ICT assets and systems;
 - (ii) testing and certification of the system;
 - (iii) mechanisms for the conduct of a system audit;
 - (iv) data storage and information security;
 - (v) data retention and disposal;
 - (vi) access to electoral system software source codes;
 - (vii) development and implementation of a disaster recovery and operations continuity plan;
 - (viii) telecommunication service provision;
 - (ix) inventory of ICT assets and systems;
 - (x) capacity building of staff of the Commission and stakeholders on the use of technology in the electoral process;
 - (xi) telecommunication network for voter validation and result transmission; and
 - (xii) the establishment of an ICT oversight technical committee comprising of key stakeholders.

(3) ICT for the 2017 General Elections and Beyond

- (a) That for purposes of the 2017 General Elections, the technology to be applied shall be for registration, identification and results transmission (BVR, EVID and RTS);
- (b) That the Independent Electoral and Boundaries Commission puts in place mechanisms to ensure-
 - (i) Electronic submission of names and other information required in the nomination processes;
 - (ii) Electronic transmission of all poll results; and
 - (iii) Polling result forms be made available to the public through a public portal; and
 - (iv) Voter identification through biometrics.
- (c) That the Independent Electoral and Boundaries Commission ensures that the necessary hardware and software are in place to support the use of technology in the 2017 General Elections;
- (d) That where procurement of new equipment may be necessary, the Independent Electoral and Boundaries Commission, in consultation with all relevant agencies and institutions, ensures the timely procurement of appropriate equipment;
- (e) That all procurement of ICT equipment for the 2017 General Election to be concluded at least eight months before the election.
- (f) That all existing equipment and any new equipment procured be transparently tested and deployed in good time in readiness for the next General Elections;
- (g) That the equipment to be used in the election be tested sixty (60) days before the next General Elections;
- (h) That a structured and scheduled capacity building programme be put in place and implemented for training of staff and other stakeholders on the technology to be used in the electoral process; and
- (i) That the Independent Electoral and Boundaries Commission urgently puts in place a Disaster Recovery and Business Continuity Plan.

(f) Voting Process

The Committee recommends as follows-

- (1) That the Elections Act be amended to limit the number of voters in each polling station to a maximum of five hundred (500); and
- (2) That the Independent Electoral and Boundaries Commission puts in place adequate arrangements to facilitate voting by persons with disabilities.

(g) Transmission and Declaration of Election Results

The Committee recommends that the Elections Act be amended to provide for the electronic transmission of the tabulated results of an election for the President from a polling station to the constituency and national tallying centres.

(h) Allocation of Special Seats

The Committee recommends that in order to ensure transparency in the allocation of special seats, regulation 54(8) of the Elections (General) Regulations, 2012 be amended to require that the Independent Electoral and Boundaries Commission publishes the party lists submitted by political parties under Article 90 of the Constitution forty-five days before the General Elections.

(i) Election Observation, Monitoring and Evaluation

The Committee recommends that the Independent Electoral and Boundaries Commission accredits election observers and monitors in good time before an election so as to facilitate the work of the observers and monitors.

(j) Dispute Resolution (Including Nomination and Petitions)

The Committee recommends that within forty-eight hours of the service of a petition challenging the election of a President-elect under Article 140 of the Constitution, the Independent Electoral and Boundaries Commission delivers documents supporting the presidential election results to the Supreme Court.

(k) Election Offences

The Committee recommends as follows-

- (1) That a 'stand-alone' Elections Offences Bill consolidating all elections offences be enacted;
- (2) That the rendition of the offence of bribery under section 62 of the Elections Act be simplified;
- (3) That the offence of treating be deleted from the Elections Act and that its elements be incorporated in the offence of bribery;
- (4) That section 4(1) of the Elections Act that mandates the Independent Electoral and Boundaries Commission to investigate and prosecute election offences by candidates, political parties or their agents under be deleted so that the function resides with the Office of the Director of Public Prosecutions; and
- (5) That section 87 of the Elections Act be amended to provide clarity on the procedures relating to the submission and disposal of a report of an election court following its determination on whether an election offence is likely to have been committed.
- (6) That the law be amended to provide for the commencement of prosecution for electoral offences within twelve months of the date of the election to which the offence relates. In the case of an offence arising out a determination of an electoral court under section 87 of the Elections Act, the twelve months to run from the date of the final judgement.

5. OTHER RECOMMENDATIONS

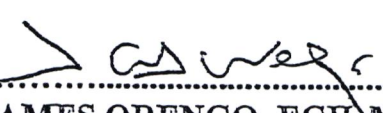
The Committee recommends that Parliament establishes a mechanism by which it shall oversight the implementation of the recommendations in this Report and the electoral processes until the 2017 General Elections.

The Joint Committee further approved the Election Laws (Amendment) Bill, 2016 and the Election Offences Bill, 2016.

Members appended their signatures on page 13 of the Report as an indication of their concurrence with the contents of the Report. Subsequently, the meeting agreed that the Report be tabled in the two Houses on Thursday, 18th August, 2016.

MIN.NO. JPSC/TEBC/158/16/8/2016 ADJOURNMENT

The meeting was adjourned at 7.00 p.m.

Signed.....
SEN. JAMES ORENGO, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

Signed.....
SEN. KIBATI MURUNGI, EGH, MP
CO-CHAIRMAN

Date.....16/8/2016.....

ANNEX 3

MOTION

Approved

B
SNA
30/6/16



30 JUN 2016

REPUBLIC OF KENYA

ELEVENTH PARLIAMENT - (FOURTH SESSION)

THE NATIONAL ASSEMBLY

NOTICE OF MOTION

ON THE ESTABLISHMENT OF A JOINT PARLIAMENTARY SELECT
COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION

THAT:

ACKNOWLEDGING that the sovereign power of the People of Kenya may be exercised directly or indirectly through their democratically elected representatives and that the People's sovereign power shall be exercised only in accordance with the Constitution;

RECOGNIZING that through pronouncements, sections of the Kenyan society have raised issues on the credibility, impartiality, integrity and independence of the Independent Electoral and Boundaries Commission, the electoral processes and the electoral law;

APPRECIATING the need to have the August 2017 general elections conducted by a body enjoying the broad confidence of most Kenyans;

NOW THEREFORE in accordance with the provisions of Article 1(1) and (2) of the Constitution of Kenya and Rule 9 of the Houses of Parliament (Joint Sittings) Rules, the National Assembly **RESOLVES** that:-

1. The two Houses of Parliament establish a joint select committee consisting of fourteen (14) members, seven (7) each from the two Coalitions in Parliament.
2. The mandate of the said joint select committee shall be to:
 - (a) Inquire into the allegations against the Independent Electoral and Boundaries Commission (IEBC) Commissioners and the Secretariat;
 - (b) On the findings of (a) above may recommend legal mechanisms for the vacation from office of the current Commissioners of the Independent Electoral and Boundaries Commission and Secretariat in accordance with the Constitution;

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- (c) Recommend legal, policy and institutional reforms to strengthen the Independent Electoral and Boundaries Commission and improve the electoral system and processes so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner; and
- (d) On the basis of the findings and recommendations in (a), (b) & (c) prepare a report and a draft Bill or draft Bills.

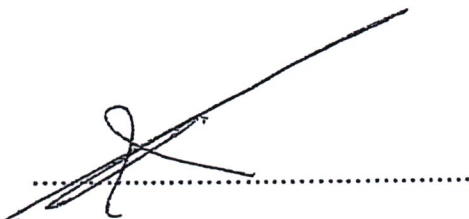
THE NATIONAL ASSEMBLY FURTHER RESOLVES THAT:-

- 3. The Joint Select Committee shall report to Parliament within 30 days;
- 4. The leaders of the two coalitions agree to issue statements separately to support the final report and Draft Bill or Bills;
- 5. The Majority and Minority leaders in Parliament will signify the approval of the final report and draft Bill or Bills by affixing their signatures thereon prior to presentation to Parliament;
- 6. The joint select committee shall have two Co-chairs each appointed by the respective Coalitions;
- 7. The Coalitions shall provide joint rapporteurs to the Joint Select Committee, but the official record will be the parliamentary hansard;
- 8. The joint select committee and each coalition may engage experts, professionals and such other technical resource persons as they may deem necessary;
- 9. The parliamentary Clerk's office shall provide secretarial services in accordance with the Standing Orders;
- 10. The Committee shall receive views from experts, members of the public, the business community, civil society, religious groups, political parties, county governments and any other persons on matters relating to the Independent Electoral and Boundaries Commission and the electoral process;
- 11. Each member of the joint select committee shall have one vote. Decisions in the select committee shall be made by two-thirds majority vote;
- 12. The Committee shall formulate its own rules of procedure; and
- 13. The Joint Select Committee shall comprise the following members drawn from the two Coalitions in Parliament:
 - 1. Hon. (Dr.) Naomi Shaban
 - 2. Hon. (Eng.) Mohamud Mohamed Maalim
 - 3. Hon. Jimmy Angwenyi

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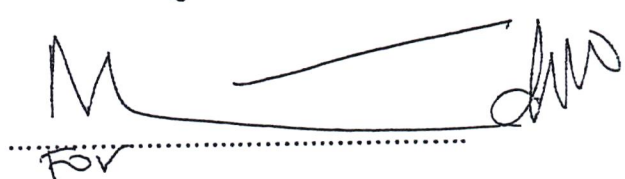
4. Hon. Moses Kuria
5. Hon. David Eseli Simiyu
6. Hon. Junet Mohammed
7. Hon. Mishi Mboko
8. Sen. Kiraitu Murungi (Co-chair)
9. Sen. James Orengo (Co-chair)
10. Sen. Kipchumba Murkomen
11. Sen. Beatrice Elachi
12. Sen. Johnson Muthama
13. Sen. Mutula Kilonzo Jnr
14. Sen. (Dr.) Boni Khalwale



HON. ADEN DUALE, EGH, MP
Leader of the Majority Party

Date: 30/6/2016

JAKOYO MADIWO



HON. FRANCIS NYENZE, EGH, MP
Leader of the Minority Party

Date: 30/06/16

File copy

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You are dealing
30/06/16



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT - (FOURTH SESSION)

THE SENATE

MOTION

ON THE ESTABLISHMENT OF A JOINT PARLIAMENTARY SELECT
COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION:

THAT:

ACKNOWLEDGING that the sovereign power of the People of Kenya may be exercised directly or indirectly through their democratically elected representatives and that the People's sovereign power shall be exercised only in accordance with the Constitution;

RECOGNIZING that through pronouncements, sections of the Kenyan society have raised issues on the credibility, impartiality, integrity and independence of the Independent Electoral and Boundaries Commission, the electoral processes and the electoral law;

APPRECIATING the need to have the August 2017 general elections conducted by a body enjoying the broad confidence of most Kenyans;

NOW THEREFORE in accordance with the provisions of Article 1(1) and (2) of the Constitution of Kenya and Rule 9 of the Houses of Parliament (Joint Sittings) Rules, the Senate **RESOLVES** that:-

1. The two Houses of Parliament establish a joint select committee consisting of fourteen (14) members, seven (7) each from the two Coalitions in Parliament.
2. The mandate of the said joint select committee shall be to:
 - (a) Inquire into the allegations against the Independent Electoral and Boundaries Commission (IEBC) Commissioners and the Secretariat;
 - (b) On the findings of (a) above may recommend legal mechanisms for the vacation from office of the current Commissioners of the Independent Electoral and Boundaries Commission and Secretariat in accordance with the Constitution;

- (c) Recommend legal, policy and institutional reforms to strengthen the Independent Electoral and Boundaries Commission and improve the electoral system and processes so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner; and
- (d) On the basis of the findings and recommendations in (a), (b) & (c) prepare a report and a draft Bill or draft Bills.

THE SENATE FURTHER RESOLVES THAT:-

1. The joint select committee shall report to Parliament within 30 days;
2. The leaders of the two coalitions agree to issue statements separately to support the final report and Draft Bill or Bills;
3. The Majority and Minority leaders in parliament will signify the approval of the final report and draft Bill or Bills by affixing their signatures thereon prior to presentation to Parliament;
4. The joint select committee shall have two Co-chairs each appointed by the respective Coalitions;
5. The Coalitions shall provide joint rapporteurs to the Joint Select Committee, but the official record will be the parliamentary hansard;
6. The joint select committee and each coalition may engage experts, professionals and such other technical resource persons as they may deem necessary;
7. The parliamentary Clerk's office shall provide secretarial services in accordance with the Standing Orders;
8. The Committee shall receive views from experts, members of the public, the business community, civil society, religious groups, political parties, county governments and any other persons on matters relating to the Independent Electoral and Boundaries Commission and the electoral process;
9. Each member of the joint select committee shall have one vote. Decisions in the select committee shall be made by two-thirds majority vote;
10. The Committee shall formulate its own rules of procedure; and
11. The Joint Select Committee shall comprise the following members drawn from the two Coalitions in Parliament:
 1. Sen. Kiraitu Murungi (Co-chair)
 2. Sen. James Orengo (Co-chair)
 3. Sen. Kipchumba Murkomen
 4. Sen. Beatrice Elachi
 5. Sen. Johnson Muthama

6. Sen. Mutula Kilonzo Jnr
7. Sen. (Dr.) Boni Khalwale
8. Hon. (Dr.) Naomi Shaban
9. Hon. Jimmy Angwenyi
10. Hon. Moses Kuria
11. Hon. (Eng.) Mohamud Mohamed Maalim
12. Hon. Junet Mohammed
13. Hon. Mishi Mboko
14. Hon. David Eseli Simiyu

ANNEX 4

ADVERTISEMENT FOR PUBLIC HEARING AND SUBMISSION OF MEMORANDA

REPUBLIC OF KENYA



PARLIAMENT OF KENYA
ELEVENTH PARLIAMENT

**SUBMISSION OF VIEWS TO THE JOINT PARLIAMENTARY SELECT
COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION**

On Tuesday, 5th July, 2016 and Wednesday, 6th July, 2016, the Senate and the National Assembly, respectively, established a Joint Parliamentary Select Committee on matters relating to the Independent Electoral and Boundaries Commission. The mandate of the Committee is as follows:-

- (a) Inquire into the allegations against the Independent Electoral and Boundaries Commission (IEBC) Commissioners and the Secretariat;
- (b) On the findings of (a) above may recommend legal mechanisms for the vacation from office of the current Commissioners of the Independent Electoral and Boundaries Commission and Secretariat in accordance with the Constitution;
- (c) Recommend legal, policy and institutional reforms to strengthen the Independent Electoral and Boundaries Commission and improve the electoral system and processes so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner; and
- (d) On the basis of the findings and recommendations in (a), (b) & (c) prepare a report and a draft Bill or draft Bills.

The Committee is further required to receive views from experts, members of the public, the business community, civil society, religious groups, political parties, county governments and any other persons on matters relating to the Independent Electoral and Boundaries Commission and the electoral process.

In accordance with its mandate, the Committee now invites members of the public to make **DISTINCT** representations on any or all of the following Thematic Areas-

1. Thematic Area 1:

Allegations against Commissioners and the Secretariat of the Independent Electoral and Boundaries Commission, specifically on-

- (a) Credibility;
- (b) Impartiality;
- (c) Integrity; and
- (d) Independence.

2. Thematic Area 2:

Recommendations on legal mechanisms for the vacation from office of the current Commissioners and the Secretariat of the Independent Electoral and Boundaries Commission in accordance with the Constitution.

3. Thematic Area 3:

Recommendations on legal, policy and institutional reforms to strengthen the Independent Electoral and Boundaries Commission so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and

transparent manner. The submissions should address the following issues-

- (a) Composition of the Independent Electoral and Boundaries Commission and the Secretariat; and
- (b) Appointment, term of office, terms of service and removal from office of the Commissioners and the Secretariat of the Independent Electoral and Boundaries Commission.

4. Thematic Area 4:

Recommendations on legal, policy and institutional reforms to improve the electoral system and processes so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner. The submissions should address the following issues-

- (a) Voter registration;
- (b) Voter education;
- (c) Nomination and registration of candidates;
- (d) Campaign management;
- (e) Publicity and media;
- (f) Use of Information Communication Technology in elections;
- (g) Voting process;
- (h) Transmission and declaration of election results;
- (i) Allocation of special seats;
- (j) Election observation, monitoring and evaluation; and
- (k) Dispute resolution (including nomination and petitions).

The representations may be made orally or by submission of written Memoranda in the following manner-

1. Public Hearings shall be held between **Monday, 25th July, 2016 and Tuesday, 26th July, 2016**, both days inclusive, in the Mini Chamber, First Floor, County Hall, Parliament Buildings, Nairobi between **10.00 am and 1.00 pm**;
2. Written Memoranda may be forwarded to the **Clerk of the Senate/Secretary, Parliamentary Service Commission** or the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk of the Senate/Secretary, Parliamentary Service Commission** or the **Office of the Clerk of the National Assembly, First Floor, Main Parliament Buildings, Nairobi**, or emailed to csenate@parliament.go.ke or clerk@parliament.go.ke, to be received on or before **Friday, 22nd July, 2016 at 5.00 p.m.**

**MLA MOHAMED,
FOR: CLERK OF THE SENATE/
SECRETARY OF THE
PARLIAMENTARY SERVICE
COMMISSION.**

**MICHAEL R. SIALAI,
EBS,
FOR: CLERK OF THE
NATIONAL ASSEMBLY.**

ANNEX 5

RULES OF PROCEDURE OF THE COMMITTEE

**JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS RELATING
TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION**

RULES OF PROCEDURE

Citation

1. These Rules may be cited as the Rules of Procedure for the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commission.

Interpretation

2. In these Rules unless the context otherwise requires—

“Clerks” means the Clerk of the National Assembly and the Clerk of the Senate and includes any person for the time being performing the duties of the Clerk of the National Assembly or the Clerk of the Senate;

“Committee” means the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commission;

“Houses” means the National Assembly and the Senate;

“Speakers” means the Speaker of the National Assembly and the Speaker of the Senate; and

“Standing Orders” means the Standing Orders of the National Assembly and the Standing Orders of the Senate.

Chairing of the Committee

3. (1) The Committee shall have two Co-Chairpersons each appointed by the respective Coalitions.

(2) In any meeting where any of the Co-Chairpersons is absent, the members of the Committee from the Coalition whose Co-Chairperson is absent shall nominate a member

of the Committee from that Coalition to take the chair in place of the Co-Chairperson who is absent.

Duties of Co-Chairpersons

4. The Co-Chairpersons of the Committee shall—

- (a) preside at meetings of the Committee;
- (b) be the spokespersons of the Committee; and
- (c) perform such other functions and exercise such other powers as may be necessary to give effect to the mandate of the Committee.

Quorum

5. The quorum of a meeting of the Committee shall be ten members of the Committee, including the Co-Chairpersons.

Notice of meetings

6. A notice of a meeting of the Committee shall be issued by the Clerks to all members of the Committee indicating the date, time, venue and agenda of the meeting.

Sittings of the Committee

7. (1) A sitting of the Committee shall be held on such date, at such time and at such venue as shall be determined by the Co-Chairpersons.

(2) A sitting of the Committee may be convened in accordance with paragraph (1) on a request made by at least ten members of the Committee.

Sub-committees of the Committee

8. The Committee may establish such sub-committees as it may consider necessary for the proper discharge of its functions.

Decisions of the Committee

9. (1) Decisions of the Committee shall be made by—

- (a) consensus among the members of the Committee; or
- (b) a two-thirds majority vote of all the members of the Committee.

(2) Each member of Committee shall have one vote.

Public access and participation

10. (1) The Committee shall receive views from experts, members of the public, the business community, civil society, religious groups, political parties, county governments and any other persons on matters relating to the Independent Electoral and Boundaries Commission and the electoral process.

(2) For the purposes of paragraph (1), the Committee shall inform the public of the date, time and venue for the receipt of written or oral views.

(3) The proceedings of the Committee shall be open to the public but the Committee may—

- (a) allocate time for the receipt of oral views; and
- (b) conduct its proceedings *in camera* where appropriate.

Media and broadcasting

11. The Broadcasting Rules set out in the First Schedule of the Standing Orders shall apply to the proceedings of the Committee.

Report of the Committee and draft Bills

12. (1) The Committee shall conclude its proceedings and table its report and any draft Bill or Bills in Parliament within thirty days.

(2) The report and draft Bill or Bills of the Committee shall be adopted by a two-thirds majority of all the members of the Committee and shall be signed by the Co-Chairpersons on behalf of the Committee.

(3) The Leaders of the Majority Party and the Leaders of the Minority Party in Parliament shall signify the approval of the report and draft Bill or Bills by affixing their signatures thereon prior to presentation to Parliament.

(4) The report and draft Bill or Bills of the Committee shall be tabled in each House by the respective Leader of the Majority Party, the Leader of the Minority Party or a member of the Committee.

Engagement of experts, professionals and technical resource persons

13. (1) Committee may, by resolution and with the approval of the Speakers of Parliament, engage such experts, professionals and such other technical resource persons as it may deem necessary in furtherance of its mandate.

(2) The engagement shall be on a need basis and the competence and qualifications of the experts, professionals and such other technical resource persons shall accord to the thematic areas adopted by the Committee.

(3) Each coalition may engage experts, professionals and such other technical resource persons as it may deem necessary to advise it during the proceedings of the Committee.

(3) For the purposes of paragraph (3), the Committee shall, from time to time, determine the number of such experts, professionals and such other technical resource persons and their admission to the Committee.

Rapporteurs and Clerks of the Committee

14. (1) The Coalitions shall provide joint rapporteurs to the Committee; one from each Coalition.

(2) The joint rapporteurs shall—

(a) transmit the daily summaries of the proceedings of the Committee to their respective Coalitions;

(b) report to the plenary, at such time or times as the Co-Chairpersons may direct, on the general proceedings of the Committee;

(c) provide expert advice to their respective Co-Chairpersons, where required; and

- (d) work with the Clerks of Parliament in the preparation of the report of the Committee and any draft Bill or Bills.
- (3) The official record of the proceedings of the Committee shall be the Parliamentary Hansard.
- (4) The Clerks of Parliament shall provide secretarial services to the Committee in accordance with the Standing Orders.

Standing Orders to apply

15. (1) Without limiting the effect of anything contained in these Rules, the Standing Orders relating to select committees shall be applied, but the Co-Chairpersons may jointly give directions in instances where the Standing Orders of the two Houses are at variance.
- (2) In all cases where matters are not expressly provided for by these Rules or by the Standing Orders, any procedural question shall be decided by the Co-Chairpersons.
- (3) The decisions made in paragraph (2) shall be based on the Constitution of Kenya, statute law and the usages, forms, precedents, customs, procedures and traditions of the Parliament of Kenya and other jurisdictions to the extent that these are applicable to Kenya.

Amendment of Rules

16. (1) A Member may propose an amendment to these Rules.
- (2) The Committee may pass an amendment to these rules by a two-thirds majority vote of all the members of the Committee.

ANNEX 6

**LETTER INVITING THE INDEPENDENT
ELECTORAL AND BOUNDARIES
COMMISSION TO APPEAR BEFORE THE
JOINT PARLIAMENTARY COMMITTEE
ON MATTERS RELATING TO THE
INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION
DATED 29TH JULY, 2016**

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 221291
Fax: 243694
E-mail: cSenate@parliament.go.ke
clerk@parliament.go.ke



Clerk's Chambers
Parliament Buildings
P. O. Box 41842 -00100
NAIROBI, Kenya

PARLIAMENT
OFFICE OF THE CLERKS

Ref: JPSC/CORR/2016/52

29th July, 2016

Mr. Ahmed Issack Hassan, EBS,
The Independent Electoral
and Boundaries Commission,
Anniversary Towers, 6th Floor,
P. O. Box 45371 - 00100,
NAIROBI

29 JUL 2016

*Received 7 volumes
of documents
[Signature]
Time 8:10 PM*

Dear

**RE: INVITATION TO APPEAR BEFORE THE JOINT PARLIAMENTARY
COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION**

Previous correspondence on this matter refers.

As you are aware the Joint Parliamentary Select Committee on matters relating to the Independent Electoral and Boundaries Commission has been conducting public hearings and receiving memoranda on the matters set out in its mandate as set out in the attached Motion. The mandate of the Committee is as follows—

- (a) Inquire into the allegations against the Independent Electoral and Boundaries Commission (IEBC) Commissioners and the Secretariat;
- (b) On the findings of (a) above may recommend legal mechanisms for the vacation from office of the current Commissioners of the Independent Electoral and Boundaries Commission and Secretariat in accordance with the Constitution;
- (c) Recommend legal, policy and institutional reforms to strengthen the Independent Electoral and Boundaries Commission and improve the electoral system and processes so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner; and

- (d) On the basis of the findings and recommendations in (a), (b) & (c) prepare a report and a draft Bill or draft Bills.

The Committee was further required to receive views from experts, members of the public, the business community, civil society, religious groups, political parties, county governments and any other persons on matters relating to the Independent Electoral and Boundaries Commission and the electoral process, which it has continued to do in accordance with the thematic areas set out in the advert to public, which is attached.

In the course of its proceedings, the Committee has received the following allegations against the members and the Secretariat of the Commission—

(1) Credibility

- (a) That the Commission is culpable of opaque and negligent management of electoral data including mis-tallying of results; losing crucial information and not complying with the principles under Articles 10 and 35 of the Constitution on the transparency and accountability and release of public information (*The particulars are contained in the Memorandum and annexures submitted by the Coalition for Reforms and Democracy*);
- (b) That Kenyans have lost confidence in the ability of the Commission as currently constituted to conduct credible elections (*The particulars are contained in the Memoranda submitted by the Multi Sectoral Forum, the Elections Observation Group, the Evangelical Alliance of Kenya, the Youth Agenda, FIDA-Kenya, Hon. Peter Kaluma, M. P., the Central Organization of Trade Unions, the Commission on Administrative Justice, Amani National Congress, Bunge la Wazalendo, Barasa Nyukuri, International Governance Institute, Intellectus Consultancy and the Civil Society Reference Group*);
- (c) That the members of the Commission failed to exercise their authority in a manner that was consistent with the purposes and objects of the Constitution, that demonstrated respect for the people, that brought honour to the nation and dignity to the office and that promoted public confidence in the integrity of their office as required under Article 73(1) of the Constitution (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy, the Commission on Administrative Justice and the Central Organization of Trade Unions*);
- (d) That the Commission collectively failed to act in the best interests of the public, failed to take personal responsibility for the reasonably foreseeable consequences of its actions, did not carry out the duties of the office efficiently and honestly or in a transparent and accountable manner and failed to act professionally and in a manner that maintains public confidence in the integrity of the office (*The*

particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy);

- (e) That the members of the various Tender Committees of the Commission collectively failed to act in the best interests of the public, failed to take personal responsibility for the reasonably foreseeable consequences of its actions, did not carry out the duties of the office efficiently and honestly or in a transparent and accountable manner and failed to act professionally and in a manner that maintains public confidence in the integrity of the office (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy);*
- (f) That, notwithstanding the catastrophic events after the 2007 elections, the Commission has been unable or unwilling to reform its practices in order to guarantee the integrity of the electoral system (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy);*
- (g) That the Commission failed to safeguard the public interest leading to loss of funds through expensive loans (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy);*
- (h) That the failure of technology in the 2013 General Elections hugely dented the image of the Commission (*The particulars are contained in the Memorandum submitted by Amani National Congress);*
- (i) That the credibility of the Commission has been undermined by the mention of sections of the Commission in the "Chickengate" scandal (*The particulars are contained in the Memoranda submitted by the International Commission of Jurists, Kenya Section, Article 19 and the Civil Society Reference Group);*
- (j) That the members of the Commission failed to competently discharge the constitutional mandate of the Independent Electoral and Boundaries Commission (*The particulars are contained in the Memoranda submitted Mr. Okiya Omtatah Okoiti, Mr. Barasa Nyukuri and the International Commission of Jurists, Kenya Section);*
- (k) That the members of the Commission failed to prepare and regularly revise the principal voters register contrary to Article 88(4)(a) and (b) of the Constitution (*The particulars are contained in the Memoranda submitted by Mr. Barasa Nyukuri, Bunge la Wazalendo and the International Commission of Jurists, Kenya Section);*

- (l) That even with a biometric system, the Commission has not maintained a credible and verifiable voters register, did not know the total number of voters, left out some registered voters from the national voters roll, had more than one final register which it had not fully cleaned up and had lost some data which it had never managed to find out how it disappeared and had never recovered the data (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (m) The Commission staff were negligent in doing their job and they had messed up the data because some voters had fingerprints and photos which did not match their names and other data captured electronically (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (n) That the accuracy of the register was compromised by the existence of multiple registers and loss of data due to staff negligence (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (o) That the members of the Commission failed to train Commission personnel prior to the deployment of Information Communication Technology in the March, 2013 General Elections (*The particulars are contained in the Memorandum submitted by Mr. Barasa Nyukuri*);
- (p) That the members of the Commission failed to investigate and prosecute candidates, political parties or their agents for electoral offences contrary to section 4 of the Independent Electoral and Boundaries Commission Act, 2011 (*The particulars are contained in the Memoranda submitted by Mr. Barasa Nyukuri and the International Commission of Jurists, Kenya Section*);
- (q) That the members of the Commission failed to publicize election results and maintain a publicly available audit trail of the results (*The particulars are contained in the Memorandum submitted by Mr. Barasa Nyukuri*);
- (r) That the members of the Commission failed to regulate political parties during nominations and campaigns for the 2013 General Elections, contrary to the provisions of Articles 88(4)(d), 91 and 92 of the Constitution (*The particulars are contained in the Memorandum submitted by Mr. Barasa Nyukuri*);
- (s) That the members of the Commission failed to conduct voter education contrary to Article 88(4)(g) of the Constitution (*The particulars are contained in the Memoranda submitted by Mr. Barasa Nyukuri and Bunge la Wazalendo*);

- (t) That the members of the Commission failed to facilitate the observation, monitoring and evaluation of elections contrary to Article 88(4)(h) (*The particulars are contained in the Memoranda submitted by Mr. Barasa Nyukuri and Bunge la Wazalendo*);
- (u) That the Commission failed to obtain value for public money spent in the procurement of Biometric Voter Registration (BVR) Kits used for the March, 2013 elections (*The particulars are contained in the Memorandum submitted by the Auditor General*);
- (v) That the Commission failed as a whole to provide policy guidance and oversight to the Secretariat (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (w) That the Commission failed to obtain value for public funds spent in the procurement of Electronic Voter Identification Devices (EVIDs) used for the March, 2013 General Elections (*The particulars are contained in the Memorandum submitted by the Auditor General*); and
- (x) That nearly forty months after the 2013 General Election and only twelve months to the 2017 General Election, the Commission has yet to release a complete set of results for all elective offices (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*).

(2) **Impartiality**

- (1) That the Commission recruited the staff of the Commission through favouritism and nepotism (*The particulars are contained in the Memorandum submitted by Mr. Barasa Nyukuri*);
- (2) That the Commission exhibited bias against the Petitioner in the Presidential Petition filed after the March, 2013 General Elections (*The particulars are contained in the Memoranda submitted by Article 19, Hon. Peter Kaluma, M. P. and the Civil Society Reference Group*);
- (3) That the Commission distributed Biometric Voter Registration Kits in an unfair manner during voter registration (*The particulars are contained in the Memorandum submitted by Article 19*);
- (4) That the Commission irregularly favoured FACE Technologies in the procurement of Electronic Voter Identification Devices (*The particulars are contained in the Memorandum submitted by Mr. Okiya Omtatah Okiiti*);

- (5) That the Commission's selective handling of disputes has failed to inspire confidence in dealing with political parties and members of the public (*The particulars are contained in the Memorandum submitted by the International Commission of Jurists, Kenya Section*);
 - (6) That the Commission has shown bias against the one of the communities in the area surrounding Maseno (*The particulars are contained in the Memorandum submitted by the Luhya Community surrounding Maseno*);
 - (7) That during the 2012 discussion on boundaries review and delimitation, despite written pleas to the Commission by Kenyans living in the diaspora, the Commission ignored and did not consider the plea for the creation of five diaspora constituencies (*The particulars are contained in the Memorandum submitted by the Kenya Diaspora Alliance*); and
 - (8) That the Commission excluded Kenyans in the diaspora from their voter education and registration exercises (*The particulars are contained in the Memoranda submitted by the Kenya Diaspora Alliance*).
- (3) **Integrity**
- (1) That the Commission is culpable of persistent and endemic corruption in electoral procurement (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy and Amani National Congress*);
 - (2) That the Commission is culpable of manipulation and mismanagement of the Voter's Register (*The particulars are contained in the Memorandum and annexures submitted by the Coalition for Reforms and Democracy*);
 - (3) That officials of the Interim Independent Electoral Commission, including Commissioner Issack Hassan on at least one occasion were accommodated and their expenses paid by Smith and Ouzman during their visits to the United Kingdom and information on rival bids was supplied to Smith and Ouzman by their agent Trevy Oyombra thereby adding verisimilitude to his claims that he was acting on behalf of officials in the Interim Independent Electoral Commission (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
 - (4) That the Interim Independent Electoral Commission under its Chairman's watch systematically overpaid for procurement of election materials (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);

- (5) That corruption and corruption-related offences were committed in the course of the procurement of the electronic voting equipment for the 2013 General Election as set out in the decision of the Public Procurement Administrative Review Board in the case of *Avante International Technology Inc. and 2 Others v. The Independent Electoral and Boundaries Commission*, the Special Audit on the Procurement of Electronic Voting Devices for the 2013 General Election by the Commission conducted by the Auditor General and the Report of the Public Accounts Committee on the Special Audit Report of June 2014 on the Procurement of Electronic Voting Devices for the 2013 General Election (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (6) That the Commission approved irregular variations and supply of laptops rather than handheld devices (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (7) That the Commission allowed direct procurement against the advice of the Attorney General (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (8) at the Commission conducted an election that was flawed and a complete fraud. (*The particulars are contained in the Memorandum and annexures submitted by Mr. Okiya Omtatah Okiiti*);
- (9) That the Commission failed to properly account for Kshs. 2.53 Billion appropriated by Parliament for the March, 2013 General Elections (*The particulars are contained in the Memorandum and annexures submitted by Mr. Okiya Omtatah Okiiti*);
- (10) That the Commissioners lack integrity as a result of their involvement in the "Chickengate" scandal (*The particulars are contained in the Memoranda submitted by the International Commission of Jurists, Kenya Section, the Evangelical Alliance of Kenya, Article 19, the Kenya Diaspora Alliance, the Commission on Administrative Justice, the Luhya Community surrounding Maseno and Mr. Mulatya Ndungi*);
- (11) That the Commission engaged in "rushed" or "induced" or "emergency" procurements for essential items and equipment especially in the run-up to an

election. (*The Particulars are contained in the Memorandum submitted by the Ethics and Anti-Corruption Commission*);

- (12) The Commissioners in their management of the transmission and tallying of results in the last election can only be explained on the basis of willful and deliberate violation of the Constitution, gross misconduct or incompetence on a level that warrants removal (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (13) The Commission has deliberately concealed information on elections violating the transparency and accountability requirements and making it impossible to cross-check the announced results against each other (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (14) That there were widespread irregularities and illegalities in the last General Election that were eventually allowed to stand (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (15) That there was dishonest revision and doctoring of election results in the last general election (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (16) That in the last General Election, there were many instances in which the electoral laws were willfully broken and already announced results were unlawfully changed (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*); and
- (17) That the members of the various Tender Committees of the Commission were individually and jointly culpable for flouting procurement regulations as detailed in the Auditor General Special Audit Report and the Public Accounts Committee Report (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*).

(4) **Independence**

That the Commission failed to make independent decisions on the date of the 2013 General Elections, the diaspora vote, the procurement of the Biometric Voter Registration (BVR) Kits and the donation of BVR Kits for the Burundi elections (*The particulars are contained in the Memoranda submitted by Mr. Barasa*

Nyukuri, the International Commission of Jurists, Kenya Section, the Kenya Diaspora Alliance, the Elections Observation Group and Bunge la Wazalendo).

Specific Allegations against the Commissioners and the Secretariat touching on Credibility and Integrity

The Committee received following specific allegations against individual Commissioners and members of the Secretariat—

(1) Mr. Ahmed Issack Hassan, Chairman

- (a) That the Chairman irregularly singly procured legal services for the presidential petition in 2013 (*The Particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy and Mr. Barasa Nyukuri*);
- (b) That as Chairman of the Interim Independent Electoral Commission, the Chairman compromised public interest by accepting gifts (*The Particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (c) That the Chairman ignored expert advice from IFES and did not disclose it to fellow Commissioners that the EVID contract should be cancelled, thereby leading to the misuse and waste of public resources (*The Particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (d) That the Chairman failed to provide leadership, was involved in the operations of the Secretariat and had vested interests in the Commission (*The particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*);
- (e) That the Chairman takes overall responsibility for deceiving the public with reference to acquisition of voting equipment (including lobbying members of the secretariat) on voter registration and vote tallying (*The Particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy*); and
- (f) That the Chairman engaged in irregular procurement of Biometric Voter Registration (BVR) Kits by the Commission from Sanfran Morpho Canada through Canadian Commercial Corporation by way of single sourcing at a cost of Kshs. 6.2 Billion (*The Particulars are contained in the Memoranda and annexures submitted by the Ethics and Anti-Corruption Commission*).

(2) Mr. Thomas Letangule, Commissioner

That the Commissioner engaged in irregular procurement of Biometric Voter Registration (BVR) Kits by the Commission from Sanfran Morpho Canada through Canadian Commercial Corporation by way of single sourcing at a cost of Kshs. 6.2 Billion (*The Particulars are contained in the Memoranda and annexures submitted by the Ethics and Anti-Corruption Commission*).

(3) **Mr. Mohamed Alawi, Commissioner**

That the Commissioner engaged in irregular procurement of Biometric Voter Registration (BVR) Kits by the Commission from Sanfran Morpho Canada through Canadian Commercial Corporation by way of single sourcing at a cost of Kshs. 6.2 Billion (*The Particulars are contained in the Memoranda and annexures submitted by the Ethics and Anti-Corruption Commission*).

(4) **Mr. Ezra Chiloba, Secretary and Chief Executive Officer**

- (a) That the current Secretary and Chief Executive Officer of the Commission is incompetent (*The particulars are contained in the Memorandum submitted by Mr. Barasa Nyukuri*); and
- (b) That the current Secretary made irregular payments of Kshs. 258 Million to Face Technologies without a valid contract (*The Particulars are contained in the Memoranda and annexures submitted by the Coalition for Reforms and Democracy and Mr. Barasa Nyukuri*).

(5) **Ms. Betty Sungura Nyabuto, Deputy Secretary**

- (a) That Ms. Sungura chaired the Tender Committee which awarded a contract for transporting elections material to an unregistered company at an exorbitant price (*The particulars are contained in the Memorandum submitted by Mr. Barasa Nyukuri*); and
- (b) That Ms. Sungura engaged in irregular procurement of Biometric Voter Registration (BVR) Kits by the Commission from Sanfran Morpho Canada through Canadian Commercial Corporation by way of single sourcing at a cost of Kshs. 6.2 Billion (*The Particulars are contained in the Memoranda and annexures submitted by the Ethics and Anti-Corruption Commission*).

(6) **Ms. Immaculate Kassait, Director of Election Operations & Voter Registration**

- (a) That Ms. Kassait played a role and was responsible for the delayed preparation of a faulty principal voters register used for the March, 2013 General Elections (*The particulars are contained in the Memorandum submitted by Mr. Barasa Nyukuri*); and
- (b) That Ms. Kassait engaged in irregular procurement of Biometric Voter Registration (BVR) Kits by the Commission from Sanfran Morpho Canada through Canadian Commercial Corporation by way of single sourcing at a cost of Kshs. 6.2 Billion (*The Particulars are contained in the Memoranda and annexures submitted by the Ethics and Anti-Corruption Commission*).

(7) **Ms. Praxedes Tororey, Director of Legal & Corporate Affairs**

That Ms. Tororey played a role and was responsible for the payment of legal fees to firms procured irregularly and under unclear circumstances contrary to Article

227 of the Constitution and the Public Procurement and Disposal Act, 2005 (*The particulars are contained in the Memorandum submitted by Mr. Barasa Nyukuri*).

(8) **Mr. Bernard Nyachio**

That Mr. Nyachio engaged in irregular procurement of Biometric Voter Registration (BVR) Kits by the Commission from Sanfran Morpho Canada through Canadian Commercial Corporation by way of single sourcing at a cost of Kshs. 6.2 Billion (*The Particulars are contained in the Memoranda and annexures submitted by the Ethics and Anti-Corruption Commission*).

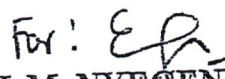
Copies of all Memoranda submitted to the Committee are attached for your reference.

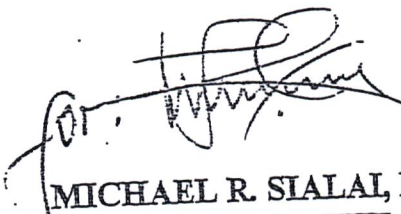
The Joint Parliamentary Select Committee invites the Commissioners, the Commission Secretary, the Deputy Commission Secretaries, the Directors, the members of the Commission and the Secretariat who were specifically cited and any other relevant officers to appear before the Committee during its proceedings on Monday, 1st August, 2016 at 11:00 a.m. in the County Hall Chamber, 1st Floor, County Hall, Nairobi.

Kindly do provide thirty (30) copies of your submissions on the above cited allegations and any or all of the Thematic Areas attached. A soft copy should also be sent to cenate@parliament.go.ke or clerk@parliament.go.ke.

TAKE NOTE that should you choose not to attend before the Committee on the date and time specified in this Invitation, the Committee, and thereafter Parliament, shall proceed with this matter in accordance with the Constitution and the law, without further reference to you.

Yours

For: 
J. M. NYEGENYE, CBS,
CLERK OF THE SENATE/
SECRETARY, PARLIAMENTARY
SERVICE COMMISSION.


MICHAEL R. SIALAL, EBS,
FOR: CLERK OF THE
NATIONAL ASSEMBLY.

Cc: 1. Mr. Thomas Letangule, Commissioner,
Independent Electoral and Boundaries Commission,
Anniversary Towers, 6th Floor,
P. O. Box 45371 - 00100,
NAIROBI

2. **Mr. Mohamed Alawi, Commissioner,**
Independent Electoral and Boundaries Commission,
Anniversary Towers, 6th Floor,
P. O. Box 45371 – 00100,
NAIROBI
3. **Mr. Ezra Chiloba,**
Secretary/Chief Executive Officer,
Independent Electoral and Boundaries Commission,
Anniversary Towers, 6th Floor,
P. O. Box 45371 – 00100,
NAIROBI
4. **Ms. Betty Sungura,**
Deputy Secretary,
Independent Electoral and Boundaries Commission,
Anniversary Towers, 6th Floor,
P. O. Box 45371 – 00100,
NAIROBI
5. **Ms. Immaculate Kassait,**
Director of Election Operations & Voter Registration,
Independent Electoral and Boundaries Commission,
Anniversary Towers, 6th Floor,
P. O. Box 45371 – 00100,
NAIROBI
6. **Ms. Praxedes Tororey,**
Director of Legal & Corporate Affairs,
Independent Electoral and Boundaries Commission,
Anniversary Towers, 6th Floor,
P. O. Box 45371 – 00100,
NAIROBI
7. **Mr. Bernard Nyachio,**
Independent Electoral and Boundaries Commission,
Anniversary Towers, 6th Floor,
P. O. Box 45371 – 00100,
NAIROBI
8. Members of the various Tender Committees of the Commission.

ANNEX 7

**LETTER BY THE INDEPENDENT
ELECTORAL AND BOUNDARIES
COMMISSION TO THE JOINT
PARLIAMENTARY SELECT COMMITTEE
ON MATTERS RELATING TO
THE INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION RAISING
PRELIMINARY OBJECTIONS
DATED 1ST AUGUST, 2016**



URGENT

Mr. Mutiga

For correspondence

files.

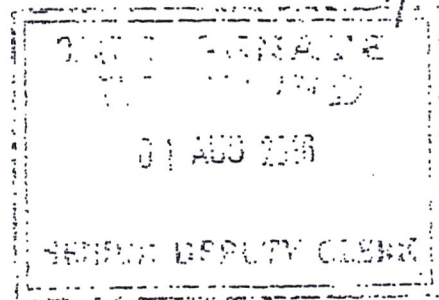
1st August, 2016

8/08/16

REF: IEBC/CON/7/1(5)

Mr. J. M. Nyegenye, CBS
The Clerk of the Senate/Secretary,
Parliamentary Service Commission

Mr. Michael R. Sialai, EBS
For: Clerk of the National Assembly



Dear Sirs,

**RE: INVITATION TO A PUBLIC HEARING OF THE JOINT PARLIAMENTARY
SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION**

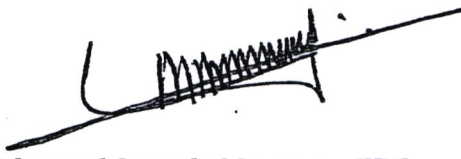
I am receipt of your letter Ref. JPSC/CORR/2016/52 inviting myself, Commissioners and Senior Members of the Secretariat to appear before the Joint Parliamentary Committee on 1st August, 2016.

Reference is made to two letters received by the Independent Electoral and Boundaries Commission (hereinafter the Commission) concerning the subject matter. We wish to respond to the letter dated 19th July 2016 Ref. JPSC/CORR/2016/35 on the various thematic areas.

With respect to the letter dated 29th July, 2016, and which was delivered to the Commission at 8.10 p.m. on Friday we wish to make the following objections:

1. Having reviewed the Terms of Reference of this Committee, the Commission would like to raise its objection to this Committee's Terms of Reference number 1 and 2. It is apparent that one of the outcomes of this process is to come up with reasons for the removal of commissioners of the IEBC and further to propose a mechanism of their removal. The Terms of Reference 1 and 2, are therefore contrary to the express provisions of Article 251 of the Constitution which sets out grounds and mechanism of removal of commissioners.

2. Whereas Article 251 of the Constitution enables the National Assembly to receive allegations from the public at large, which allegations if the National Assembly finds merit, may lead to the removal of commissioners, the Commission notes that at the beginning of this process, the National Assembly was not in receipt of any allegations. What the National Assembly and Senate have done is to go out and solicit for allegations against the Commissioners in a manner not contemplated under Article 251 of the Constitution.
3. Article 251 of the Constitution vests the National Assembly with an important role in the constitutional process for the removal of commissioners of IEBC. That role is to hear petitions that have been brought for the removal of commissioners. The Joint Select Committee of Parliament, which includes members of the National Assembly, has participated in the collection and collation of allegations for the removal of commissioners of IEBC. If the same National Assembly were to proceed to hear a petition on the grounds that it has collected for the removal of commissioners of the IEBC, that will be a violation of the right to fair hearing for commissioners, which right is protected under Article 50 as read with Article 25 of the Constitution. A petition is the only mechanism available to the public for removal of commissioners of the IEBC.
4. The Commission invites the Joint Committee to make a determination on the preliminary objections.



Ahmed Issack Hassan, EBS
CHAIRPERSON

ANNEX 8

RULING ON THE PRELIMINARY OBJECTION RAISED BY THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION DATED 1ST AUGUST, 2016

**RULING ON THE PRELIMINARY OBJECTION RAISED BY THE
INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION ON THE
INVITATION TO APPEAR BEFORE THE JOINT PARLIAMENTARY
COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION DATED 29TH JULY, 2016**

1. The Senate and the National Assembly on Tuesday, 5th July 2016 and Wednesday, 6th July 2016, respectively, approved a motion that established a Joint Parliamentary Select Committee on matters relating to the Independent Electoral and Boundaries Commission (IEBC). The mandate of the Committee is as follows—
 - (a) Inquire into the allegations against the Independent Electoral and Boundaries Commission (IEBC) Commissioners and the Secretariat;
 - (b) On the findings of (a) above may recommend legal mechanisms for the vacation from office of the current Commissioners of the Independent Electoral and Boundaries Commission and Secretariat in accordance with the Constitution;
 - (c) Recommend legal, policy and institutional reforms to strengthen the Independent Electoral and Boundaries Commission and improve the electoral system and processes so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner; and
 - (d) On the basis of the findings and recommendations in (a), (b) & (c) prepare a report and a draft Bill or draft Bills.
2. The Committee was further required to receive views from experts, members of the public, the business community, civil society, religious groups, political parties, county governments and any other persons on matters relating to the Independent Electoral and Boundaries Commission and the electoral process.

3. Pursuant to the Motion, by a letter dated 19th July, 2016, the Committee, through the Clerks of both Houses of Parliament, wrote to the Chair of the Commission inviting the Commission to make distinct representations on any or all of the following Thematic Areas-

Thematic Area 1:

Allegations against Commissioners and the Secretariat of the Independent Electoral and Boundaries Commission, specifically on—

- (a) Credibility;
- (b) Impartiality;
- (c) Integrity; and
- (d) Independence.

Thematic Area 2:

Recommendations on legal mechanisms for the vacation from office of the current Commissioners and the Secretariat of the Independent Electoral and Boundaries Commission in accordance with the Constitution.

Thematic Area 3:

Recommendations on legal, policy and institutional reforms to strengthen the Independent Electoral and Boundaries Commission so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner. The submissions should address the following issues—

- (a) Composition of the Independent Electoral and Boundaries Commission and the Secretariat; and
- (b) Appointment, term of office, terms of service and removal from office of the Commissioners and the Secretariat of the Independent Electoral and Boundaries Commission.

Thematic Area 4:

Recommendations on legal, policy and institutional reforms to improve the electoral system and processes so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner. The submissions should address the

following issues—

- (a) Voter registration;
- (b) Voter education;
- (c) Nomination and registration of candidates;
- (d) Campaign management;
- (e) Publicity and media;
- (f) Use of Information Communication Technology in elections;
- (g) Voting process;
- (h) Transmission and declaration of election results;
- (i) Allocation of special seats;
- (j) Election observation, monitoring and evaluation; and
- (k) Dispute resolution (including nomination and petitions).

4. The Commission was invited to a meeting with the Committee which was initially slated for Wednesday, 27th July, 2016. In subsequent letters, dated, 22nd July, 2016 and 26th July, 2016, the date of the meeting was postponed to Monday, 1st August, 2016 and it was further clarified that the invitation was extended to the Commissioners, the Commission Secretary/Chief Executive Officer and all the senior staff of the Commission.
5. By a further letter dated 29th July, 2016, the Committee, informed the Commission that in the course of its proceedings, the Committee had received various allegations against the Members and the Secretariat of the Commission. The allegations were set out in the letter which was copied to all Commissioners and members of the Secretariat who were specifically cited.
6. By a letter dated 1st August, 2016, the Chairperson of the Commission wrote to the Clerks of Parliament raising the following objections with respect to the letter dated 29th July, 2016, and we quote-

- (1) Having reviewed the terms of reference of this Committee, the Commission would like to raise its objections to this Committee's terms of reference

Number 1 and 2. It is apparent that one of the outcomes of this process is to come up with reasons for the removal of Commissioners of the IEBC and further to propose a mechanism of their removal. The Terms of reference 1 and 2 are therefore contrary to the express provisions of Article 251 of the Constitution which sets out grounds and mechanism of removal of commissioners.

- (2) Whereas Article 251 of the Constitution enable the National Assembly to receive allegations from the public at large, which allegation if the National Assembly finds merit, may lead to the removal of commissioners, the Commission notes that at the beginning of this process, the National Assembly was not in receipt of any allegations. What the National Assembly and the Senate have done is to go out and solicit for allegations against the Commissioners in a manner not contemplated under Article 251 of the Constitution.
- (3) Article 251 of Constitution vests the National Assembly with an important role in the constitutional process for the removal of commissioners of IEBC. That role is to hear petitions that have been brought for the removal of commissioners. The Joint Select Committee of Parliament, which includes members of the National Assembly, has participated in the collection and collation of allegations for the removal of commissioners of the IEBC. If the same National Assembly were to proceed to hear a Petition on the grounds that it has collected for the removal of Commissioners of IEBC, that will be a violation of the right to fair hearing for commissioners, which right is protected under Article 59 as read with Article 25 of the Constitution. A Petition is the only mechanism available to the public for removal of commissioners of the IEBC.

7. The Commission invited the Joint Committee to make a determination on the preliminary objections.

→ CS



8. From the letter and the oral submissions made by the Commission the following are the issues requiring determination by the Co-Chairpersons of the Committee-

- (1) Whether the Terms of Reference as cited in Thematic Area 1 and 2 are contrary to the express provisions of Article 251 of the Constitution which sets out grounds and mechanisms of removal of commissioners;
- (2) Whether the National Assembly and the Senate have through the processes undertaken by the Committee gone out and solicited for allegations against the Commissioners in a manner not contemplated under Article 251 of the Constitution; and
- (3) Whether the participation of Members of the National Assembly in the Committee violates the rights of the Commissioners to a fair hearing contemplated under Article 50 of the Constitution as read with Article 25 of the Constitution as a Petition is the only mechanism available to the public for removal of Commissioners.

9. Before addressing these specific and weighty issues raised by the Commission, it is important to recall the events leading to the establishment of this Committee which are set out in the Motion as adopted by both Houses of Parliament. Parliament in the Motion, acknowledged that pursuant to Article 1 of the Constitution, all sovereign power belongs to the people of Kenya and may be exercised directly or indirectly through their democratically elected representatives in accordance with the Constitution. Parliament further recognized that through pronouncements, sections of the Kenyan society had raised issues on the credibility, integrity and independence of the Commission, the electoral processes and the electoral law. It is on this basis the Houses then resolved, in accordance with Article 1(1) and (2) of the Constitution and Rule 9 of the Houses of Parliament (Joint Sittings) Rules to establish the Committee. ..

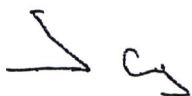
10. The first aspect of the preliminary objection by the Commission is whether the Terms of Reference as cited in Thematic Area 1 and 2 are contrary to the express provisions of Article 251 of the Constitution which sets out grounds and mechanisms of removal of commissioners from office.
11. It is important to state, at the outset, that Parliament in the execution of its representative, legislative or oversight mandate and in accordance with Articles (1), 94, 95 and 96 of the Constitution has the jurisdiction to inquire into any matter. For this purpose, Article 124(1) of the Constitution, empowers each House of Parliament to establish Committees. Further, pursuant to Article 124(2) of the Constitution, Parliament may establish joint committees consisting of Members of both Houses of Parliament.
12. The Joint Parliamentary Select Committee is therefore a joint committee established pursuant to Article 124 (2) of the Constitution and the Standing Orders of both Houses of Parliament with the mandate of inquiring into the matters set out in the Motion. The Joint Committee is therefore not established pursuant to Article 251 of the Constitution and is therefore not the Committee of the National Assembly contemplated under standing order 230(3) of the National Assembly Standing Orders.
13. Further, it is instructive to note that the Motion as passed by both Houses of Parliament does not speak to the question of removal from office in accordance with Article 251 of the Constitution but rather mandates the Committee, where appropriate, to recommend "*legal mechanisms for the vacation from office, of the current commissioners*". The mandate of the Committee is not restricted to the matter of vacation from office of the Commissioners and the Secretariat. A significant portion of the mandate of the Committee extends to legal, policy and institutional reforms to strengthen the Commission and to improve the electoral system and processes. The role of the Joint Committee is therefore a role that is much broader than that contemplated of a committee established standing order 230(3) of the National

Assembly Standing Orders to consider a Petition for the removal of a Commissioner pursuant to Article 251 of the Constitution.

14. It is further important to observe that Article 251 of the Constitution provides for removal from office for the grounds enumerated in Article 251(1) but does not provide for the myriad of other means by which a commissioner may vacate office otherwise than by removal.
15. On the question of whether the National Assembly and the Senate have through the processes undertaken by the Committee gone out and solicited for allegations against the Commissioners in a manner not contemplated under Article 251 of the Constitution, first, as we have stated above, the proceedings of this Committee are not proceedings undertaken in terms of Article 251 of the Constitution and are not, of themselves, intended to result in the removal of any or all of the Commissioners in accordance with Article 251 of the Constitution.
16. Additionally, in the preamble to the Motion, Parliament recognized that there were pronouncements which were in the public domain and through which sections of society had raised issues on the credibility, impartiality, integrity and independence of the Commission. The Motion as passed by Parliament therefore required the Committee to "*inquire into the allegations against the Independent Electoral and Boundaries Commission, Commissioners and the Secretariat*". In this regard, the Committee was mandated to receive views from the public generally on any such allegations.
17. In the course of its proceedings, the Committee received a number of allegations against Commissioners and the Secretariat of the Commission. In accordance with the rules of natural justice, the Committee resolved to forward all such allegations to the Commission so as to give the Commission an opportunity to respond to any of the allegations. These are the allegations set out in the letter dated 29th July, 2016. In that

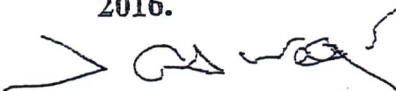
letter as well as in previous letters to the Commission, the Commission, like all other stakeholders who were invited to appear before the Committee, was invited to appear before the Committee and to make representations on any or all of the Thematic Areas identified by the Committee. The Commission would therefore be within its rights to make representations on all, some or none of the Thematic Areas. Indeed, some of the persons and institutions who appeared before the Committee, restricted themselves to specific Thematic Areas which they felt competent to address. It is for this reason that the letter to the Commission, just like that of other stakeholders, was an invitation to appear and make representations and not a summons to appear.

18. On the question of whether the participation of Members of the National Assembly in the Committee violates the rights of the Commissioners to a fair hearing contemplated under Article 50 of the Constitution as read with Article 25 of the Constitution as a Petition is the only mechanism available to the public for removal of Commissioners, we have already established above that the mandate and processes of this Committee are independent of and distinct from the processes for removal of a member of a commission under Article 251 of the Constitution. Consequently the objection by the Commission that the discharge of the mandate of this Committee would affect any processes under Article 251 if any were to be set in motion is premature and anticipatory.
19. The upshot of this therefore, is that the Commission, in accordance with the rules of natural justice, has been informed of the allegations received by the Committee against the Commission generally, specific Commissioners and specific members of the Secretariat. It is therefore open to the Commission, its Commissioners or its Secretariat to respond to these allegations. It is equally open to the Commission to opt not to respond to these allegations and to instead make representations on any of the other Thematic Areas.



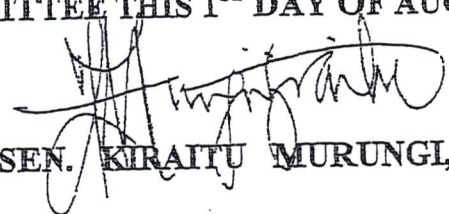
20. We shall therefore proceed in this manner and we shall start by asking the Commission to indicate how it wishes to proceed.

MADE ON BEHALF OF THE COMMITTEE THIS 1ST DAY OF AUGUST,
2016.


SEN. JAMES ORENGO, EGH, MP

MP

CO-CHAIRPERSON


SEN. KIRAITU MURUNGI, EGH,

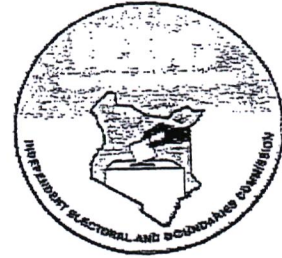
CO-CHAIRPERSON

1ST AUGUST, 2016

ANNEX 9

**LETTER BY THE INDEPENDENT
ELECTORAL AND BOUNDARIES
COMMISSION TO THE JOINT
PARLIAMENTARY SELECT COMMITTEE
ON SPECIFIC ALLEGATIONS AGAINST
THE COMMISSION AND THE
SECRETARIAT TOUCHING ON
CREDIBILITY AND INTEGRITY
DATED 3RD AUGUST, 2016**

81
CONFIDENTIAL



REF: IEBC/CONF/7/1(6)

3rd August 2016

Mr. Justin Bundi,
Clerk of the National Assembly,
Parliament Buildings,
P.O. Box 41842-00100
NAIROBI.

Mr Jeremiah Nyegenye
Clerk of the Senate,
Parliament Buildings,
P.O. Box 41842-00100
NAIROBI.

① D/Committees
forward to the ^{Joint} Committee
Inward
Out
4/8/16

② - MUTEA
- WASIKO
pl. deep
FA 05/8

Dear Sirs,

RE: SUBMISSIONS BY THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION TO THE JOINT PARLIAMENTARY SELECT COMMITTEE ON SPECIFIC ALLEGATIONS AGAINST THE COMMISSION AND THE SECRETARIAT TOUCHING ON CREDIBILITY AND INTEGRITY

Reference is made to the letter ref JPSC/CORR/2016/52 and dated 29th July, 2016 detailing allegations against the Chairperson and Members of the Commission as well as Secretariat Staff.

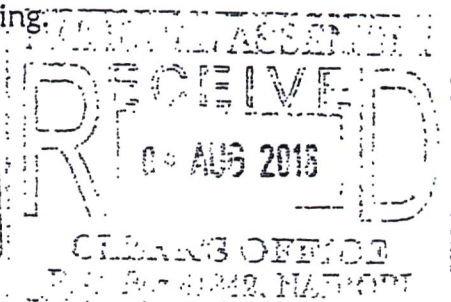
On the specific allegations raised in the letter above referenced, the specific persons mentioned would wish to proceed and respond as below:

1. Mr. Ahmed Issack Hassan, Chairman

- a) It has been alleged that the Chairman of IEBC engaged in irregular procurement of biometric Voter Registration (BVR) kits from Sanfran Morpho Canada through Canadian Commercial Corporation by way of single sourcing.

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I wish to clarify that this procurement was the subject of investigations in the Special Audit Report conducted by the Office of the Auditor General. It is now public knowledge that I challenged the credibility of the Special Audit Report through the Court and obtained a court order expunging my name from the said report. The same was highlighted in the Justice Legal Affairs Committee of National Assembly, when I appeared before them in the Nyukuri petition. The Auditor General has since confirmed the Court Order.

- b) It has also been alleged that I irregularly singularly procured legal services for the presidential petition in 2013.

Having perused the allegations contained in Nyukuri's petition of 7th June 2016, I noticed that he makes general claims without particulars. I wish to state that following the 2013 General Elections, a total of 188 petitions were filed across the country. The Commission engaged a total of 44 Law Firms to defend its interests drawn from the Commission's database of prequalified lawyers in line with the Public Procurement and Disposal Act, 2005.

Payment of legal fees relating to petitions following the 2013 General Election, were made in accordance with the law. As a matter of fact, both the National Treasury and the Auditor General undertook an audit of the same and did not make any adverse findings. In addition, this matter was discussed at Justice Legal Affairs Committee, which acknowledged efforts made by the Commission to manage legal fees relating to election petitions.

- c) It has been alleged that as Chairman of IIEC I compromised public interest by accepting gifts.

I wish to state that the issue around Chickengate was investigated by the Ethics and Anti-Corruption Commission. It is now public knowledge that I have since been vindicated on this matter.

- d) It has also been alleged that I ignored expert advice from IFES and did not disclose it to my fellow commissioners that the EVID contract should be cancelled, thereby leading to misuse and waste of public resources.

I wish to clarify the allegation is unfounded and there are no particulars to proof otherwise.

- e) It has also been alleged that I deceived the public in the acquisition of voting on voter registration and vote tallying equipment.

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I wish to clarify that the allegations too are unfounded and there are also no particulars to support this allegations

In conclusion, my response is that the allegations presented before this Committee against myself are malicious, unfounded and lack particulars and I would pray that this Committee finds no merit in these allegations.

Signed by:



AHMED ISSACK HASSAN

Dated 2nd August 2016

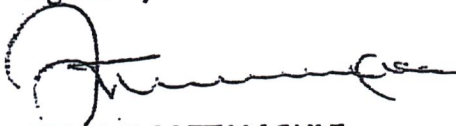
2. Thomas Letangule, Commissioner

It has been alleged that acting in the capacity of a Commissioner of the Independent electoral and Boundaries Commission, I engaged in the irregular procurement of Biometric Voter Registration (BVR) kits from Sanfran Morpho Canada through Canadian Commercial Corporation by way of single sourcing at a cost of 6.2 Billion particulars of which are contained in the Ethics and Anti-corruption Commission (EACC) submission to the Joint Parliamentary Select Committee.

I have perused the allegations submitted before this Committee and I have found no particulars on any of the allegations raised other than mere mentions in the EACC matrix report detailing the list of cases and status of the cases being undertaken by the EACC. It is worth noting that in its submission to the Committee, the EACC at page 16 exonerates me when it stated that there was no evidence obtained to support the allegations raised against Commissioners and secretariat currently in office.

It must be said that BVR transaction under reference was a Government-to-Government procurement between the Government of Kenya and the Government of Canada where the Commission and myself in particular played no role in either identifying the vendor, negotiations with the vendor or in issuing of specifications to the tender.

Signed by:



THOMAS LETANGULE

Dated 2nd August 2016

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3. Mohammed Alawi, Commissioner

It has been alleged that acting in the capacity of a Commissioner of the Independent electoral and Boundaries Commission, I engaged in the irregular procurement of Biometric Voter Registration (BVR) kits from Sanfran Morpho Canada through Canadian Commercial Corporation by way of single sourcing at a cost of 6.2 Billion particulars of which are contained in the Ethics and Anti-corruption Commission (EACC) submission to the Joint Parliamentary Select Committee.

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Signed by:



MOHAMED ALAWI

Dated 2nd August 2016

4. Ezra Chiloba, Chief Executive Officer/Commission Secretary

It has been alleged that as the Chief Executive Officer (CEO), I made irregular payments of Kshs. 258 Million to M/S Face Technologies.

I wish to clarify that the allegation was first raised by the Parliamentary Account Committee (PAC) of the National Assembly. The PAC's decision on was purportedly based on Special Audit on the BVR, EVID, RTS and the Universal Kit undertaken by the Auditor General in 2014. However, it should be pointed out that the Special Audit Report did not cover the payment of KShs. 258 million to Face Technology since the payment was made in FY 2014/2015 long after the Special Audit had been completed. What this means is that PAC prematurely made a finding on payment that the Auditor General himself had not reviewed. If PAC had any concerns on the payment, the best recommendation would have

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been to direct the Auditor General to review it as opposed to passing judgement. Notwithstanding the finding by PAC, the Auditor General reviewed the payment during the audit of the FY 2014/2015 financial statement. With respect to the procurement of 4,600 EVIDs he makes the following observations:

- i. The Contractor submitted invoice dated 6 February 2013¹ amounting to USD 4,628,746, which was validated as a pending bill by The National Treasury's Internal Audit. The National Treasury issued additional funding amounting to Kshs 388,562,633 (USD 4,628,746) for the payment of the pending obligation.
- ii. However, the incoming CEO reviewed the invoices and considered that there was no adequate ground to support the invoice claim amounting to USD 2,075,572, therefore, paid USD 2,553,174.80 (Kshs 259,020,516.80) to discharge the obligation during financial year 2014/2015.
- iii. In the circumstance, the responsibility for the procurement of the additional electronic voter identification devices rests with the past management.

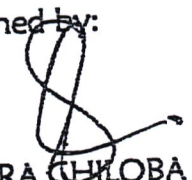
When appearing before the Justice Legal Affairs Committee on 30th June 2016, the Auditor General reaffirmed his position as follows:

The payment of 258 million shillings by the current CEO was for clearance of pending bills as advised by the National Treasury. These were bills incurred by his predecessor. He had to make decisions based on inherited processes and therefore he is not part of the report under consideration.

I wish to also state that, following the due diligence that I undertook even after approvals had been made, the Commission was able to save taxpayers USD. 2,075,572.00.

The Joint Committee is hereby requested to discard the allegations, as they do not have a basis.

Signed by:


EZRA CHIKOBA

Dated 2nd August 2016

¹ Correct date should be 26 February 2013.

5. Ms. Betty Sungura Nyabuto, Deputy Commission Secretary/CEO

- a) It has been alleged that I chaired the Tender Committee that awarded a contract for transporting elections material to an unregistered company at an exorbitant price (The Particulars are contained in the Memorandum submitted by Mr. Barasa Nyukuri).

I wish to clarify that I chaired the Tender Committee meeting No. 39 held on 13th February 2013, at 12 noon and deliberated the 'Awarding of hire for transport for General Election Tender' under agenda No. 6. I wish to confirm that we never awarded a contract to any company called ALHAMDUL COMPANY.

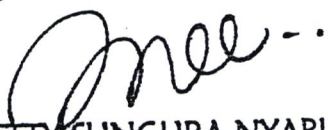
Indeed, all the companies that were awarded by the Tender Committee were registered. All the awarded companies submitted the following: Copy of Registration certificate/ Certificate of incorporation and Tax Compliance Certificate and PIN. Further, all responsive bidders who met the preliminary stage requirements, were subjected to a technical evaluation before moving to the financial evaluation stage.

The allegation that the Tender Committee awarded the Tender at an exorbitant price is unfounded as the Tender Committee only awarded as per the Evaluation Report. The lowest evaluated bidders were awarded by the Tender Committee as provided by the Public Procurement and Disposal Act. Therefore the particulars in the memorandum under reference are unfounded, untrue and unwarranted and should be dismissed.

- b) That I engaged in irregular procurement of Biometric Voter Registration (BVR) kits by the Commission from Safran Morpho Canada through Canadian Commercial Corporation by way of single sourcing at a cost of KSH 6.2 Billion particulars of which are found in the EACC report submitted to the Joint Parliamentary Select Committee.

I wish to state that I joined the Commission on 21st August 2012. By that time, the BVR procurement was in process. I wish to clarify and make correction that I was not involved in any way in the procurement of the BVR kits as alleged in the letter of invitation. This allegation should therefore be dismissed.

Signed by:



BETTY SUNGURA-NYABUTO

Dated 2nd August 2016

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6. Ms. Immaculate Kassait - Director Voter Registration and Electoral Operations (DVREO)

- a) It is alleged that I played a role and was responsible for the delayed preparation of a faulty principal voters register used for the March, 2013 General Elections.

I wish to clarify to you that as the DVREO, I am not responsible for processing and production of the voter register. My role is to coordinate the development and overseeing the implementation of voter registration strategies and work plan and overseeing execution of approved voter registration inspection plan.

I further wish to state in the implementation of voter registration as stipulated by Section 5,6,7 and 8 of the Elections Act 2011, the Commission has approved procedures. The procedure stipulates; the enrolment of voters i.e. the data collection, data processing, production and inspection.

The process of data collection is undertaken by Registration Officers/Assistant in the field under the supervision of DVREO while data processing and register production is done by Directorate of Information Communication and Technology (DICT) As part of the planning in October 2012, DVREO organized an approved National Conference that brought together all Registration Officers to plan for Voter Registration. During the workshop the timeline for voter registration workflow process, monitoring, feedback training and logistics were discussed.

*Following the **Government-to-Government** agreement, the DVREO developed an approved timeline for Biometric Voter Registration (BVR) roll out. The roll out included the Voter Registration work breakdown structure in terms of how data was to be captured and uploaded to the database before production of the register.*

The Registration of voters using BVR took place from 18 November, to 19th December 2012. The register data processing and production was to be progressive. However, due to the delay in the data processing and production, there was no feedback to the field and we had to await final data processing. The data on enrolment of voters was submitted on time.

At the end of registration IEBC registered 14,388,781 voters (14,352,545 biometric and 36,236 non-biometric) in 24,563 registration centers (2,637 in Diaspora in

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record 30 days. This is the principal register of voters after the inspection, which was used in the 2013 General elections.

The above is a demonstration that I did my work diligently and within the timeline.

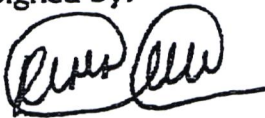
- b) It is alleged that I engaged in irregular procurement of Biometric Voter Registration (BVR) kits by the Commission from Sanfran Morpho Canada through Canadian Commercial Corporation by way of single sourcing at a cost of Kshs. 6.2 Billion.

I noted that the allegations are found in the memorandum by the EACC. It must be said that BVR transaction under reference was a Government-to-Government procurement between the Government of Kenya and the Government of Canada. I further wish to note that in the Special Audit Report conducted by the Office of the Auditor General on BVR never found me culpable.

Having perused through the same memorandum, I find no particulars in support of the allegations. It is worth noting that in its submission to the Committee, the EACC at page 16 exonerates me when it stated that there was no evidence obtained to support the allegations raised against Commissioners and secretariat currently in office.

Therefore the allegations are unfounded and should be dismissed with the contempt they deserve.

Signed by:



IMMACULATE KASSAIT,

Dated 2nd August 2016

7. Ms. Praxedes Tororey (Director Legal and Public Affairs)

It is alleged that I was responsible for payment of legal fees to firms procured irregularly and under unclear circumstances contrary to Article 227 of the Constitution and the Public Procurement and Disposal Act, 2005.

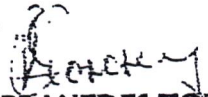
Having perused the allegations contained in Nyukuri's petition of 7th June 2016, I noticed that he makes general claims without particulars. I wish to state that following the 2013 General Elections, a total of 188 petitions were filed across the country. The Commission engaged a total of 44 Law Firms to defend its interests drawn from the Commission's database of prequalified lawyers in line with the Public Procurement and Disposal Act, 2005.

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Payment of legal fees relating to petitions following the 2013 General Election, were made in accordance with the law. As a matter of fact, both the National Treasury and the Auditor General undertook an audit of the same and did not make any adverse findings. In addition, this matter was discussed at Justice Legal Affairs Committee, which acknowledged efforts made by the Commission to manage legal fees relating to election petitions.

I therefore find the allegations spurious, unfounded in law, lack merit and are borne out of malice aimed at harming my professional reputation. I pray that the Committee dismisses the allegation.

Signed by:


MS. PRAXEDES TOROREY
Dated 2nd August 2016

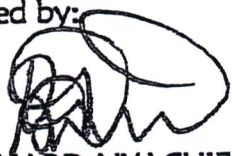
8. Mr. Bernard Nyachieo (Manager Warehouse)

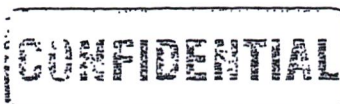
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I noted that the allegations are found in the memorandum by the EACC. Having perused through the same memorandum, I find no particulars in support of the allegations. It is worth noting that in its submission to the Committee, the EACC at page 16 exonerates me when it stated that there was no evidence obtained to support the allegations raised against Commissioners and secretariat currently in office.

Signed by:


BERNARD NYACHIEO
Dated 2nd August 2016

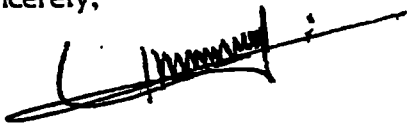


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As the Committee retreats to finalise its report, it should endeavour to protect the Constitution and promote democratic governance of the Republic. We urge this Committee to be guided by the Constitution and the law and not other extraneous considerations. We ask you for justice; justice in accordance with the law and the Constitution.

Forwarded on my behalf and on behalf of the aforementioned members of the Commission and the Secretariat.

Sincerely,

A handwritten signature in black ink, appearing to read 'AHMED ISSACK HASSAN', written over a horizontal line.

**AHMED ISSACK HASSAN
CHAIRPERSON**

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ANNEX 9A

REPORT OF THE PANEL OF EXPERTS ON INFORMATION AND COMMUNICATION TECHNOLOGY

USE OF ICT IN 2017 ELECTIONS

Issues

1. Use of BVR, EVID, Nomination system and RTS
2. Previous challenges on IEBC electoral system
3. Current status of IEBC ICT system
4. Recommendations for 2017 elections
5. Timelines for having recommendations in place

1. Use of BVR, EVID, Nomination System and RTS

The current election system consists of BVR, EVID, Nomination and RTS systems.

- a) **BVR** – a system for registering voters based on their fingerprints and facial features.

Objective: to uniquely register a voter and avoid duplicate records in the register.

- b) **EVID** – a system to uniquely identify a voter at the polling station.

Objective: to prevent multiple voting and avoid “ghost” voters.

- c) **RTS** – results transmission system.

Objective: to electronically transmit results from polling stations to constituency, county and national tallying centre.

- d) **Nomination system** – the system automates the process of nomination of election candidates.

Objective: to enable political parties upload details of nominated candidates and their supporters.

2. Previous challenges

- a) Late introduction of technologies to the electoral process left limited time to follow laid down Standard Operating Procedures (SOPs) and policies for acquisition and implementation of the systems, e.g. procurement, testing, sign-offs, audit, training, etc.
- b) Lack of adequate infrastructure (power, hardware, software, telecommunication, etc.) to support the electoral system.
- c) Non-conformity of the deployed election system to the original technical specifications, i.e. the EVID procured was not the same as what was in the original specification.
- d) Lack Disaster Recovery and Business Continuity Plan to counter any system failures.
- e) Lack of legal framework and SOPs to guide on the ICT electoral system. (Lack of a national ICT standards regulatory framework)
- f) Inadequate skilled or trained personnel to manage/operate the election system.
- g) Lack of Information Security Policy to protect election data and information.

- h) Lack of interoperability and integration of various legacy electoral systems.
- i) Lack of defined framework for technical stakeholder engagement and participation in planning, procurement, testing and implementation of the system.
- j) Lack of election system audit mechanism before, during and after elections.
- k) Slow system response to users at the polling stations during elections.
- l) There was no capacity building done for IEBC by the system developer in terms of use, configuration, upgrade, maintenance and sustainability of the election system.

3. Current Status

a) Hardware

- There are 15,000 BVR kits. Out 15,000 BVR kits only 8,000 are functional. However, there is need to upgrade some parts of the 8,000 kits to make them fully functional for the coming elections. Statistically, these 8,000 translate to 5 BVR kits per ward (1,450 wards country-wide).
- There are 34,600 EVIDS. Out 34,600 only 22,500 are functional. However, the functionality of these 22,500 is not fully guaranteed (failure rate is 1 out of 3) due to tare and ware, taking into consideration the average life span of electronic devices is 3 years.
- There are 40,000 Mobile Phones. Out of 40,000 phones only 15,000 are available. The models in stock (Nokia 1100 and Nokia 1680) are out of production.
- The current servers (procured in 2010) are due for replacement.

b) Software

- RTS was developed for IEBC through a technical support assistance by International Foundation for Electoral System (IFES) – consultancy.
- BVR software. IEBC recently signed a 5 year Service Level Agreement (SLA) for support and maintenance.
- Tallying software. There is no tallying software.
- IEBC Portal, Internet and Web services need to be upgraded to enhance result display.
- Voter database. This runs on Oracle database and is functional.
- Nomination system, which is used for management of election candidates should be upgraded.

c) Infrastructure

- i) The location of IEBC offices within CBD poses a lot of risks, threats and hazards to its ICT operations.
- ii) Data Centre Facility. The current data centre facility is hosted in the current premises at a position which is a major risk.
- iii) Currently IEBC does not have a Disaster Recover site.
- iv) The current Wide Area Network (WAN) covers only 17 regional offices.
- v) The current result transmission network is only provided by one service provider. This is a risk.

4. Recommendations for 2017 Elections

Legislate the ICT standards for electoral systems to address the areas mentioned below.

a) There should be no new technology introduced in the election process at-least one (1) year before the election

b) The electoral ICT systems used should be:

- i) Accessible
- ii) Secure
- iii) Verifiable
- iv) Transparent
- v) Auditable
- vi) Modular/Scalable
- vii) Universal (not specific to individual system or provider)

c) ICT Governance

- i) The ICT Governance within IEBC must be standard and define all SOPs. The Governance should address the following:
- ii) There should be access to source codes and maintenance of the source codes.
- iii) There should be a clear policy on acquisition and disposal of ICT assets and systems.
- iv) Information security. There should be a policy on data and information storage, access, dissemination and disposal.
- v) Systems audit and audit reporting. There should independent periodic systems audit before, during and after elections, and audit reporting. This should be done by a reputable independent systems audit institution.
- vi) Data retention and disposal. The recommended period is 7 years.
- vii) IEBC should ensure there is an up to date inventory of all electoral systems assets.
- viii) IEBC should setup a permanent ICT oversight technical committee of all stakeholders.

d) Hardware

- i) Acquire adequate equipment's for voter registration, identification and results transmission.
- ii) Acquire adequate servers.

e) Infrastructure

- i) The electoral infrastructure and systems should be procured, tested and deployed in good time for stakeholder UAT.
- ii) There should be a multi-sectoral approach (no single player) to telecommunication service provision.
- iii) IEBC should obtain GPS coordinates of all polling stations for purposes of connectivity mapping.
- iv) The current data centre should re-located to an acceptable location.

- v) The current Wide Area Network (WAN) should be expanded to cover all IEBC regional offices.
- f) Disaster Recovery and Business Continuity Planning
 - i) IEBC must implement a primary data centre and a secondary data centre with an automated failure change-over between the two.
 - ii) IEBC must develop and implement a Disaster Management Plan.
 - iii) IEBC premises should be re-located from the CBD.
 - iv) IEBC must develop and implement a Business Continuity Plan (BCP). This must cover a recovery site, including redundancy of power backup, redundant hardware, software, network and telecommunication. IEBC must ensure that all systems are governed by SLAs from reputable institutions.
- g) IEBC Staff Capacity Building
 - i) There must a structured and scheduled capacity building program for ICT skills and knowledge transfer for IEBC staff and stakeholders to operate and use the electoral systems.
- h) Voter Registration, Verification and Validation
 - i) All stakeholders holding information on Kenyan citizens (in country and diaspora) should avail the same to IEBC electronically for cross-referencing. *(Legislate)*
 - ii) IEBC should have a clear policy for maintaining the voter register, i.e. removal of dead voters, addition of new voters, transfer of voters between polling stations and blacklisting of voters. *(Legislate)*
 - iii) There should be a provision for online inspection and identification of voters register by individual voters. This can be done through a public portal.
 - iv) Voter register verification by voters shall be by biometrics only. Voters should visit regional IEBC to authenticate their details.
 - v) IEBC should have an integrated election system to handle voter registration, voter validation and identification at the polling station and result transmission, including scanning of the signed poll result forms with unique transmission identification marks.
 - vi) IEBC should positively identify all voters before accessing the polling stations. This will enhance security of the polling stations by keeping away unidentified and unwanted persons.
 - vii) The only recommended method for a voter identification shall be through EVID. Failure to which a voter shall not be allowed to vote.
- i) Nomination System
 - i) Nomination system should be made web-based to enable various political parties upload nominated candidates and supporters' information.

j) RTS

- i) All poll results should be transmitted electronically.
- ii) Online tallying (Form 34) should be available through a public URL portal.
- iii) The polling result forms should be available to the public through a public portal.

k) Timeframe for having recommendations to be in place

NO.	ITEM	TIMEFRAME	ACTION
1	Legislation of ICT Standards		Legal Team
2	Disaster Recovery and Business Continuity Plan	4 Months	IEBC
3	IEBC and Stakeholders Staff Capacity Building on election ICT system	4 Months but continuous	IEBC/Stakeholders
4	Voter Registration and Validation System	8 Months (Buying) 2 Months (Leasing)	IEBC
5	Nomination System	8 Months	IEBC
6	Telecommunication network	6 Months	IEBC/Service Providers
7	RTS	8 Months	IEBC/Service Providers
8	Hardware and Software acquisition	Minimum 1 Year before election date	IEBC

