



*PAPER LAW*  
*By Hon. Alnoor*  
*Alnoor*  
*M. K. M. K.*  
*17/5/2012*

KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT

FOURTH SESSION (2011)

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THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT ON THE 2012/2013 BUDGET ESTIMATES

FOR

VOTES 117, 125, 126, 163, 134, 203, 201, 165, 168, 169 & 213

Clerk's Chambers,  
Parliament Buildings,  
NAIROBI.

MAY, 2012

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## PREFACE

Mr. Speaker Sir,

The Departmental Committee on Justice and Legal Affairs derives its mandate from provisions of Standing Order No. 198(3) which defines functions of the Committee as being:

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- b) To study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;
- c) To study and review all legislation referred to it;
- d) To study, assess and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objectives;
- e) To investigate and enquire into all matters relating to the assigned ministries and departments as may be deemed necessary, and as may be referred to it by the House or a minister; and
- f) To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

In accordance with Schedule II of the Standing Orders, the Committee is mandated to consider:-

- a) Constitutional Affairs
- b) The administration of law and order (Judiciary, Police, Prisons Department, and Community Service Orders)
- c) Public Prosecutions
- d) Elections
- e) Integrity
- f) Anti-Corruption and Human Rights.

The Committee oversees the following Ministries/Departments:

- a) Ministry of Justice, National Cohesion and Constitutional Affairs
- b) State Law Office
- c) Ethics and Anti-Corruption Commission (EACC)
- d) Independent Electoral and Boundaries Commission (IEBC)
- e) Commission on Implementation of the Constitution (CIC)
- f) Kenya National Commission on Human Rights (KNCHR)
- g) Office of the Director of Public Prosecutions (DPP)
- h) Registrar of Political Parties
- i) Witness Protection Agency (WPA)
- j) Commission on Administrative Justice (CAJ)

#### COMMITTEE MEMBERSHIP

The Committee comprises of the following members:

- |                                       |                    |
|---------------------------------------|--------------------|
| Hon. Ababu Namwamba, M.P.             | - Chairperson      |
| Hon. Njoroge Baiya, M.P.              | - Vice-Chairperson |
| Hon. Abdikadir Mohammed, M.P.         |                    |
| Hon. Millie Odhiambo-Mabona, M.P.     |                    |
| Hon. Mutava Musyimi, M.P.             |                    |
| Hon. George Omari Nyamweya, MBS, M.P. |                    |
| Hon. Amina Abdalla, M.P.              |                    |
| Hon. Olago Aluoch, M.P.               |                    |

Hon. Isaac K. Ruto, EGH, M.P.

Hon. Sophia Abdi Noor, M.P.

Mr. Speaker Sir,

The 2012/2013 estimates of Expenditure were laid in the House on Thursday 26<sup>th</sup> April 2012. The Committee met all the ministries and departments under its purview, in line with Standing Order No. 152 which states in clause (1) that “Upon being laid before the National Assembly, the Annual Estimates shall stand committed to the respective Departmental Committees according to their mandates”, and in clause (2) that “Each Departmental Committee shall consider, discuss and review the Estimates committed to it under this Standing Order and submit its report thereon to the House within twenty-one days after they were first laid before the House.”

Mr. Speaker Sir,

The Committee held seven sittings during this period. It deliberated on the issues raised by the Parliamentary Budget Office together with the submissions made by the ministries and institutions and has made its recommendations.

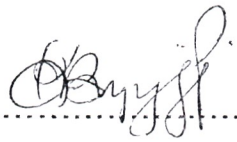
#### Acknowledgements

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate. The Committee also appreciates the Hon. Attorney General, Commissioners, various Accounting Officers and their staff who promptly responded to the Committee’s invitations given the tight schedule encountered during the budget review process.

Mr. Speaker Sir,

It is my pleasant duty and privilege, on behalf of the Departmental Committee on Justice and Legal Affairs, to present and commend this report on the budget estimates for the 2012/2013 financial year, to the House for debate and adoption.

SIGNED:.....



Hon.Njoroge Baiya, M.P.  
VICE-CHAIRPERSON

DATE: 17/5/2012.....

## OVERVIEW

The ministries and departments under the purview of the Departmental Committee on Justice & Legal Affairs are located in the Governance, Justice, Law and Order Sector (GJLOS).

As stated in the Budget Policy Statement (BPS), 'this Sector plays an important role in providing a stable environment for the political, social and economic activities to thrive. Following the promulgation of the new Constitution in August 2010, a number of institutions were established within the Sector while some existing ones were restructured. The newly established institutions are the National Police Service Commission (NPSC), the Constitution Implementation Commission (CIC), and the Office of the Director of Public Prosecutions (ODPP). The Judicial Service Commission was revamped and reconstituted; the IIEC and IEBRC were merged to become the Independent Electoral and Boundaries Commission. The Kenya Anti-Corruption Commission became the Ethics and Anti-Corruption Commission (EACC).'

In the 2011/2012 financial year, the sector received Kshs 105.8 billion; this has now increased to Kshs 120.6 billion in the 2012/2013 financial year. In the medium term, the funding is expected to remain relatively similar. However, the Committee notes that this sector is still woefully underfunded, given its key role in implementation of the Constitution, as will be shown in the observations made upon examination of the individual votes.

As a snapshot, indicated below is the trend for the various agencies covered by the Committee.

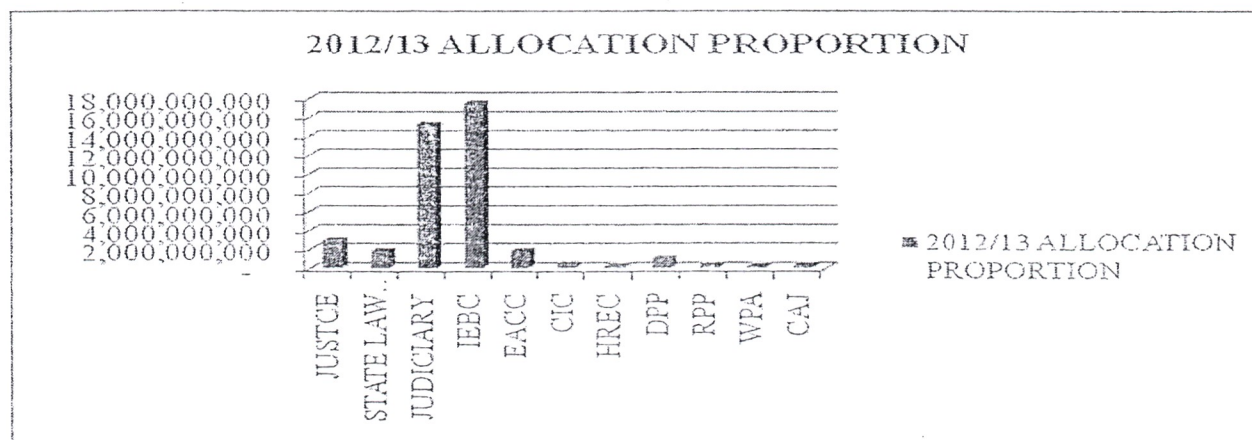
Budget trends for the votes under the oversight jurisdiction of the Justice and Legal Affairs.

Agency FY	2008/09	2009/10	2010/11	2011/12	2012/13
JUSTICE	2,094,415,430	3,192,713,936	3,172,275,000	2,254,650,000	3,044,794,300
STATE LAW OFFICE	1,157,570,000	1,203,900,000	1,143,729,240	1,336,640,000	1,899,390,000
JUDICIARY	2,432,433,200	3,079,800,000	3,327,441,070	7,545,460,000	15,360,000,000
IEBC	2,133,705,000	1,602,000,000	5,883,391,200	7,431,880,000	17,579,498,660

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EACC	1,368,100,000	1,396,420,000	1,421,000,000	1,417,030,000	1,879,030,000
CIC	-	-	-	414,000,000	531,550,000
KNCHR	-	-	-	307,000,000	263,630,000
DPP	-	-	-	490,000,000	1,087,670,000
RPP	-	-	-	-	430,000,000
WPA	-	-	-	-	235,000,000
CAJ	-	-	-	-	350,000,000
TOTAL	9,186,223,630	10,474,833,936	14,947,836,510	21,196,660,000	42,660,562,960

2012/13 budgetary allocations for votes under the oversight jurisdiction of the Justice and Legal Affairs Committee.



It should be noted that the Judiciary, which is also in this sector, now reports directly to Parliament on its budget, being an independent arm of Government. Its estimates were therefore not scrutinized by the Committee during this period.

MINISTRY OF JUSTICE, NATIONAL COHESION AND CONSTITUTIONAL AFFAIRS – VOTE 117

1. The Presidential Circular No. 1/2008 dated 30<sup>th</sup> May 2008 sets out the mandate of this Ministry as:
  - a) Legal Policy
  - b) Policy on Administration of Justice
  - c) Policy on National Cohesion
  - d) Constitutional Affairs
  - e) Constitutional Review and implementation
  - f) The USOC and Anti-Corruption Strategies, Integrity and Ethics
  - g) Political Parties
  - h) Legal Aid and Advisory Services
  - i) Elections
  - j) Kenya Anti-Corruption Commission (KACC)
  - k) Governance, Justice, Law and Order Sector (GJLOS) Co-ordination
  - l) Human Rights and Social Justice
  - m) Truth, Justice and Reconciliation Commission
  - n) Kenya National Commission on Human Rights
  - o) Kenya Law Reform Commission (KLRC)
  - p) Legal Education and the Kenya School of Law
  - q) Public Complaints Standing Committee (Ombudsman)
2. From this mandate, the core functions of the Ministry are summed up in its mission, which is to 'coordinate and facilitate the realization of Democratic governance through protection and enjoyment of fundamental rights and freedoms, creation of a Constitutional Order, promotion of Ethics and Integrity and nurturing a cohesive society.'
3. The Ministry's programmes and projects are implemented by various departments, semi-autonomous government agencies and autonomous Commissions.
4. The Ministry's four current key priority programmes are: Policy, Planning and Management Services, Legal, Ethics, National Cohesion, Human Rights and Constitutional Reforms Programme, Kenya National Integrated Civic Education (KNICE) and Legal Education Programme.
5. The Ministry, in its proposal to Treasury, requested funding of Kshs. 7.34 billion for the 2012/2013 financial year. However, the amount allocated per the estimates, was Ksh. 3,044,194,300 comprising of Ksh. 2,149,234,300 of gross recurrent expenditure (Ksh. 121,000,000 of which is in form of

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Appropriations-in-Aid) and Ksh. 894,960,000 for development expenditure (Ksh. 696,948,350 of which is in form of Appropriation-in-Aid). This total allocation represents a Kshs. 27.8 million decrease from the Kshs. 2.25 billion approved in the 2011/2012 financial year.

6. The Committee noted that this Ministry spends the lowest amount across the Government on employee compensation; it only spends 11% of its recurrent expenditure on employees.
7. The Ministry's absorption rate of funds allocated to it is also good. In this financial year, they have currently spent 92.6% of their total allocation. The under-utilization is due a delay in approval and release of funds in the 2011/2012 supplementary estimates.
8. The net amounts received from the Government (that is, excluding the appropriations-in-aid) for the recurrent vote, Kshs. 2.028 billion, and development vote, Kshs. 198 million, will result in a shortfall of funds for ongoing programmes.
9. It is important to note that the appropriations-in-aid of Kshs. 696,948,350 in the development vote is comprised of external funding from various development partners, specifically UNFPA, GIZ, UNICEF and EDF (European Union). This figure makes up 84% of the development budget, and is of concern especially if these donors are unable to or delay in remitting this money, given the financial challenges being experienced in Europe and the United States, which are the major donors.
10. A number of programmes will either be shelved for the time being or scrapped altogether, due to inadequacy of resources. The most crucial of these programmes are:
  - i. **Governance, Justice, Law and Order Sector Programme:**
    - a) Sub-programme: Kenya National Integrated Civic Education (KNICE), with a funding gap of Kshs. 815.7 million, against Kshs. 1.2 billion requested. Current allocation is Kshs. 384 million.
      - According to the Ministry, this limitation of funding will adversely affect the implementation of sensitization programmes to educate the public on the contents and implications of the Constitution.

- The Ministry requests at least an additional Kshs. 600 million (if not the initial Kshs. 1.2 billion) for this programme to enable civic education in all counties, and cover costs of printing and distributing civic education materials on the Constitution.
- ii. **Legal, Ethics and Constitutional Reform Programme:**
- a) Sub-programme: Legal aid and awareness, with a deficit of Kshs.208.4 million.
  - b) Sub-programme: National Anti-Corruption Steering Committee with a Kshs. 240 million deficit.
  - c) Sub-programme: Kenya Law Reform Commission with a deficit of Kshs. 59.3 million.
  - d) Sub-programme: National Cohesion Department, with a deficit of Kshs. 150.9 million.
  - e) Sub-programme: Legal Education (KSL), with a deficit of Kshs. 98.4 million.
  - f) Sub-programme: Truth, Justice and Reconciliation Commission, with a deficit of Kshs. 107 million.
    - This will affect the Commission's winding up activities.
  - g) Sub-programme: National Cohesion and Integration Commission (NCIC), has a funding gap of Kshs. 544.3 million against a need of Kshs. 797.8 million. Currently has an allocation of Kshs. 253.5 million.
    - This will adversely affect the Commission's operations and activities especially during this electioneering year, and hamper the Commission's efforts in reducing the already evident inter-ethnic tensions during this election period.
    - NCIC will be unable to implement legal and civic education, media campaigns and produce public education materials across all the 47 counties.
    - NCIC will be unable to establish a regional presence.
11. Based on this information, the Committee noted that despite civic education being the second-highest priority activity in the election period after security (as discussed in the sector working groups), it is still not adequately funded.

## Recommendations

1. The Committee notes that civic education has been underfunded and there is need to support the electoral programme through civic education, especially in this electioneering period. The Committee therefore recommends that additional funds be allocated for these activities.
2. The National Cohesion and Integration Commission (NCIC) is underfunded and needs requisite funding especially in this electioneering period to cover the whole country.

## STATE LAW OFFICE – VOTE 125

1. The State Law Office (SLO) has the overall responsibility of providing legal advice to the Government and its agencies. The State Law Office (Office of The Attorney General) is responsible for ensuring that the Kenya Legal System effectively offers opportunity for the activities of the Public and Private Sector to be carried out within the ambit of the Law.
2. The State Law Office highlights its functions as ‘playing a critical role in the political, social and economic development of the country.’ The mandate of the office is set out in Article 156 of the Constitution as: to provide and promote the legal framework for the administration of justice, democracy, rule of law and good governance to flourish and for the protection of human rights, people and property.
3. The core functions of the SLO are:
  - Providing legal services to the National Government;
  - Representing the National Government in courts, tribunals and other alternative dispute resolution forums;
  - Negotiating, drafting and vetting of local and international instruments, treaties and agreements involving the Government and its institutions;
  - Undertaking review of laws, drafting of Bills, Subsidiary Legislation, notices of appointments to State Corporations, Constitutional Offices and Public Offices;
  - Adjudicating complaints made against practicing advocates, firms of advocates, a member or employee thereof and where necessary ensuring that disciplinary action is taken;
  - Reviewing and overseeing legal matters pertaining to registration of Companies, Business Names, Societies, Adoptions and Marriages, Court of Arms and Official Receiver among others; and
  - Reviewing and overseeing legal matters pertaining to the administration of Estates and Trusts (Public Trustee).

4. The total budget for the State Law Office is Ksh. 1,899,390,000 comprising of Ksh. 1,665,390,000 of recurrent expenditure and Ksh. 234,000,000 of development expenditure. There is no Appropriation-in-Aid.
5. The total requested from Treasury was Ksh. 3,619,000,000 during the GJLOS MTEF 2012/2013 – 2014/2015 sector hearings. Therefore, the printed estimate of Ksh. 1,899,390,000 represents 52.4% of the requested amount. This is an increase of Kshs. 562 million from the 2011/2012 financial year.
6. The effect of this limited funding is that the SLO is unable to conduct new programmes or projects in the 2012/2013 financial year. In addition, implementation of some programmes not funded in the 2011/2012 financial year is affected as well. These are:
  - a) Decentralization of Legal Services to Counties: Kshs. 400 million
    - There is need for the necessary infrastructure and human resource at county levels to cope with the anticipated increase in demand for legal services in the County Governments. A Cabinet Memorandum dated 19<sup>th</sup> October 2010 directed the SLO to recruit and deploy four State Counsel per county; this has not been achieved due to budgetary constraints.
  - b) Automation of Registries (Companies, Societies, Advocates Complaints Commission, Civil Litigation, Public Trustee): Kshs. 150 million
  - c) Development of online e-Registration and e-Filing: Kshs. 200 million
  - d) Backup and Recovery System: Kshs. 40 million

There is need for Kshs. 390 million for automation of the State Law Office. This will ease the access to information, increase revenue collection, and reduce the time taken to perform the various registration and administration processes. Automation will also enable real-time retrieval of information from civil litigation records.

7. Despite ensuring that all spending proposals were in line with the sector priorities identified and agreed upon during the GJLOS sector working group, the State Law Office did not receive the necessary funding for several priority areas. In addition, some activities in the 2008-2013 Strategic Plan have to be implemented in phases due to financial constraints.

8. The Committee noted that the major challenges experienced by the State Law Office due to budgetary constraints are:
- a) Lack of adequate capacity – the current staff, especially those in civil litigation, are overstretched. An illustration was given that each state counsel handles 400 files that are worth around Kshs. 1 billion. This affects performance in Court, leading to loss of funds by the Government through adverse judgments. There are only 5 senior legal counsels in the Civil Litigation Department, which is currently handling the following:
    - i. 120 boundary and delimitation cases with a deadline of 10<sup>th</sup> July 2012.
    - ii. Cases of internally displaced persons who are claiming Kshs. 50 billion.
    - iii. Legal redress from revocation of land titles.
    - iv. Claims that are not time bound arising from the expanded Bill of Rights under the new Constitution e.g. Nyayo Chambers torture cases.
    - v. Cases in International Courts and Tribunals (East Africa Court of Justice & African Commission for Human Rights).
    - vi. Increased number of court petitions due to heightened awareness by citizens of their rights.
    - vii. Commercial cases and arbitrations
  - b) Inadequate staff remuneration - Multiple qualified senior counsels are lost due to more attractive salary packages in the public (e.g. Judiciary and Parliamentary legal drafting section) and private sectors.
    - i. Despite the educational background, nature of the duties and overall work being similar to the Judiciary, legal officers in both institutions are not treated equally. Judiciary has upgraded the scheme of service for its officers twice since 2008 while the SLO has not had similar adjustments.
    - ii. Legal Officers cannot be promoted to Senior Principal State Counsel without a Masters Degree, yet similar other agencies only require basic training. As a result, counsels opt to exit the SLO. For instance, at least 17 counsels from the Civil Litigation Department have been

interviewed for positions of Judges of the High Court, and are likely to all be successful. Others have applied for positions in the Ministry of Justice, National Cohesion and Constitutional Affairs which do not require production of a Masters Degree.

## Recommendations

1. The Committee notes that the understaffing of the State Law Office (SLO), especially in the Civil Litigation Department, is a serious miscarriage of justice. The Committee therefore recommends that the State Law Office receive additional funding for attraction, recruitment and retention of lawyers especially to strengthen civil litigation department.
2. As the SLO devolves to the counties, it should consult with the Judiciary on its strategic plan so as to plan its expansion better.
3. The SLO needs to harmonize its terms and conditions of service with other related institutions such as the Judiciary and Office of the Director of Public Prosecutions so as to attract, recruit and retain more of its lawyers.

## ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) – VOTE 134

1. The Commission was formed pursuant to Article 79 of the Constitution and the Ethics and Anti-Corruption Act of 2011. It draws its core functions this Act, Anti-Corruption and Economic Crimes Act of 2003, and most likely, additional provisions as will be outlined in the upcoming Leadership and Integrity Bill of 2012.
2. The mission of the EACC is 'to combat corruption and economic crime through law enforcement, prevention and public education.'
3. It should be noted that this is first year that the Commission is operating independently, having been initially under the Ministry of Justice, National Cohesion and Constitutional Affairs.
4. The Commission, in the 2012/2013 budget estimates, was allocated Kshs. 1,879,030,000 comprising of Ksh. 1,657,030,000 of gross recurrent expenditure (Ksh. 9,000,000 of which is in form of Appropriations-in-Aid) and Ksh. 232,000,000 for development expenditure (Ksh. 32,000,000 of which is in form of Appropriation-in-Aid). This total allocation represents a Kshs. 27.8 million decrease from the Kshs. 2.25 billion approved in the 2011/2012 financial year.
5. EACC has currently absorbed 70% of its funds, as of March 2012. The reasons for under-utilization include: vacant posts that have not been filled, efficient use of resources that led to savings, transitional challenges that affected procurement of goods and services, non-response to tenders for goods and services, and delay in EACC Headquarters project.
6. Due to insufficient funding of EACC, some of the programmes that will be affected include:
  - i. Opening of more regional offices in line with the Constitution, including staff, equipment, vehicles and office refurbishment.
  - ii. Public Service Integrity Testing Programme which has not been fully operationalized.

7. Some of the challenges faced by the EACC in execution of its mandate include:
- i. Transitional Challenges: New EACC Act 2011 and its implementation. A delay in appointment of the Commissioners initially affected procurement at tender level.
  - ii. Adverse court decisions: some of these decisions stop investigations of corruption and recovery/criminal cases.
  - iii. Slow pace of determination of cases in court.
  - iv. Inadequate human resource capacity.
  - v. Transnational investigations – Mutual Legal Aid law
  - vi. Inadequate forensic tools.
  - vii. Appeal by Karen-Langata Residents Association to National Environment Tribunal which stalled construction of the EACC Headquarters project.

#### Recommendations

1. The Committee notes that the existing legislation supporting the work of the Commission is not sufficient to cover all matters pertaining to ethics and anti-corruption. The Committee recommends a review of the policy and legal framework to address this issue.
2. The Committee also heard that EACC had successfully appealed several adverse court rulings, but noted that this information was not known to the public. The Committee recommends that EACC publicizes its successes so as to build public trust.

#### Conclusion

This Committee recommends:

- a) That a sum not exceeding **Kshs. 1,648,030,000** be approved for net recurrent expenditure and appropriations-in-aid amounting to **Kshs. 9,000,000** be raised to support expenditures under the recurrent vote.

- b) That a sum not exceeding Kshs. 200,000,000 be approved for net development expenditure and appropriations-in-aid amounting to Kshs. 22,000,000 be raised to support expenditures under the development vote.

## THE WITNESS PROTECTION AGENCY (WPA) – VOTE 169

1. The Kenya Witness Protection Agency was established as a corporate body under the Kenya Witness Protection Act, Cap 79, Laws of Kenya; it was operationalized on 1<sup>st</sup> September 2008 vide Legal Notice No. 110/2008 dated 19<sup>th</sup> August 2008. The Act was amended in 2010, and the revised regulations came into force on 5<sup>th</sup> August 2011 vide Legal Notice No. 99 of 2011.
2. The WPA was formed for the purpose of providing special protection, on behalf of the State, to witnesses in possession of important information and who are facing potential risk or intimidation due to their co-operation with prosecution and other law enforcement agencies.
3. The functions of the Agency, therefore, include to:
  - i. Establish and maintain a Witness Protection Programme;
  - ii. Determine the criteria for admission to and removal from the witness protection programme;
  - iii. Determine the type of protection measures to be applied;
  - iv. Advise a government ministry, department, agency or any other person on adoption of strategies and measures on witness protection; and
  - v. Perform such functions as may be necessary for the better carrying out of the purpose of this act.
4. This will be the first year for the institution to operate independently from the State Law Office.
5. The WPA has been allocated Kshs. 235,000,000 in the 2012/2013 estimates against a request to Treasury of Kshs. 1.5 billion. The allocation received was only 15% of the amount requested.
6. This will significantly affect the following activities:
  - Compensation to Employees: Kshs. 50 million - the shortfall will not enable WPA to recruit staff needed.

- Procurement of goods and services: Kshs. 6 million - for the necessary tools, equipment and training, plus set up of two regional offices in Mombasa and Eldoret.
  - Witness-related expenditures: Kshs. 458 million - the Kshs. 40 million currently allocated will only provide for 8 witnesses with an average household of five persons, totaling 40 persons. This amount can only provide for witnesses already in the programme, with inability to take in more.
  - Victims Compensation Fund: requires Kshs. 35 million.
  - The Witness Protection Appeals Tribunal: requires Kshs. 20 million.
7. The Committee also notes that due to the nature of its work, being mostly classified, there is need for maintaining its confidentiality. The Agency therefore needs to have its estimates printed as a one-line item.
8. Some of the challenges experienced by the WPA in execution of its mandate include:
- Financial constraints: Agency is underfunded, having received only Kshs. 235 million in the current financial year. This is insufficient, especially where protective action includes relocation of a witness or armed protection for a period of time.
  - Staffing of the Agency: staff remuneration package is under discussion with the Salaries and Remuneration Commission, thus recruitment delayed.
  - Capacity to implement the Act: is a new concept that requires recruitment of qualified staff and training.
  - Witness Protection Agency not known: its role is not known to many stakeholders.

## Recommendations

1. The Committee notes the requests of the Witness Protection Agency. Considering the financial constraints being experienced in the country, and that this is a new institution, the Committee recommends that the WPA should utilize the funds allocated by Treasury and work towards improving their absorption capacity.

2. The Committee also recommends that WPA should receive funding for the four vehicles requested as their operations are hindered without any operational vehicle at the moment.
  
3. The Committee recommends that the WPA should showcase itself to the public so that its importance is understood. This could be done by showing the success of its programmes, and relating performance to resources allocated to it.

## OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS (ODPP) – VOTE 163

1. The office of the Director of Public Prosecutions (ODPP) was created under Article 157 of the Constitution; Sub article (6) (a) to (c) provides for the DPP to exercise state powers of prosecution.
2. This is now an independent office, having previously operated under the State Law Office.
3. The total budget estimates for the Office of the Director of Public Prosecutions is Kshs. 1,087,670,000 comprising of Kshs. 1,007,670,000 of recurrent expenditure and Kshs. 80,000,000 of development expenditure.
4. The allocation is against a request of Ksh. 3,284,000,000, representing only 33% of the total funds that were requested. The ODPP therefore seeks to have its current allocation increased so as to enhance its service delivery.
5. The absorption rate of funds from the 2011/2012 financial year for this office as at March 2012 is 70%. This rate will be at 100% once funds from supplementary estimates are released.
6. The following are the projects/programmes that have been left out of the 2012/2013 estimates due to underfunding:
  - i. Recruitment of additional staff to address current shortage of prosecution and administrative officers. There are currently 95 prosecuting counsel out of a required 920 counsel.
  - ii. Devolution of prosecution services to the counties.
  - iii. Capacity development for both prosecution and administrative staff.
  - iv. Infrastructure development to cater for the expected mandate and increased work load.
  - v. Establishment of a resource centre to facilitate research and sharing of information.

- vi. Establishment of a Prosecutors' Training Institute for training prosecution officers since there is currently no institution that offers such training locally.
7. In addition to increased funding, the ODPP also requests for support and fast-tracking of the National Prosecution Service Bill, which will provide the necessary legal framework to operationalize the office. This bill will come to Parliament in approximately two months.

### Recommendations

1. The Committee recommends that the ODPP needs to develop SMART performance indicators, that is, specific, measurable, achievable, realistic and time-bound targets.
2. The Committee appreciates the constraints the Commission is facing but recommends that the ODPP should implement its programmes in phases. The Commission will be considered for increments in future.

### Conclusion

This Committee recommends:

- a) That a sum not exceeding Kshs. 1,007,670,000 be approved for net recurrent expenditure under the recurrent vote.
- b) That a sum not exceeding Kshs. 80,000,000 be approved for net development expenditure under the development vote.

COMMISSION ON THE IMPLEMENTATION OF THE CONSTITUTION (CIC) –  
VOTE 165

1. The Commission was established under Section 5 of the Sixth Schedule of the Constitution, with the following functions:
  - (a) monitor, facilitate and oversee the development of legislation and administrative procedures required to implement this the Constitution
  - (b) co-ordinate with the Attorney-General and the Kenya Law Reform Commission in preparing, for tabling in Parliament, the legislation required to implement this Constitution;
  - (c) report regularly to the Constitutional Implementation Oversight Committee on
    - (i) progress in the implementation of this Constitution; and
    - (ii) any impediments to its implementation; and
  - (d) work with each constitutional commission to ensure that the letter and spirit of this Constitution is respected.
2. The CIC received Kshs. 531.6 million in the 2012/2013 estimates, against their request for Kshs. 1.1 billion. The previous year's approved estimates totaled Kshs. 414 million.
3. CIC will use the amount allocated to perform core activities, and source for funds for any additional programmes from external donors. CIC is aware that resources are limited and the budget is stretched, so they are willing to work within the given amount.
4. The Committee heard that it cannot be determined at the moment which particular area needs funding to prevent delay in implementation of the Constitution. The challenges that will be faced will relate to the implementation and oversight of the devolution process.
5. The main concerns currently for the Commission are on delays in passing the necessary key legislation (bills) per the Constitutional deadlines, and budgetary constraints hindering civic education activities.

## Recommendations

The Committee commends the CIC for being the only institution willing to work within the budget figure allocated to it, and recommends no changes to its current budgetary allocation.

## Conclusion

This Committee recommends:

- a) That a sum not exceeding Kshs. 531,530,000 be approved for net recurrent expenditure under the recurrent vote.

## KENYA NATIONAL COMMISSION ON HUMAN RIGHTS (KNCHR) – VOTE 201

1. The Commission was initially a statutory body under the Ministry of Justice, National Cohesion and Constitutional Affairs, but is now an independent commission per Article 59 of the Constitution.
2. This is its first year to operate under its own vote.
3. As per its strategic plan, the mandate of KNCHR is to:
  - Reduce impunity.
  - Enhance principles of human rights, especially those contained in the Constitution under the Bill of Rights.
  - Ensure state and non-state actors are responsive to human rights issues.
  - Enhance the institution's capacity.
4. KNCHR received Kshs. 263 million in the 2012/2013 budget estimates against a request of Kshs. 769 million.
5. It should also be noted that the Commission received Kshs. 500 million in the 2011/2012 financial year. The Commission therefore requests sufficient funding to conduct its enhanced mandate under the Bill of Rights.
6. The programmes/activities that will be affected due to this reduced funding are:
  - a. On programming work, there will be less coverage for the Kenyan public on civic education especially the special interest groups such as the marginalized communities, the indigenous people, the women and youth and the people living with disabilities.
  - b. It will lead to low staffing levels which inhibits the performance of the Commission and delivery of its mandate.
  - c. No growth of KNCHR work in the county to enhance the promotion and protection of human rights in the 47 counties.
  - d. Lack of funding will significantly affect the monitoring of the elections in key selected areas which may lead to poor conduct of elections

with dire consequences similar to the Post – Election Violence of 2007/2008

- e. Maintaining the old fleet for the new Commissioners including the chair will make their work very difficult and will increase the overhead costs of the Commission in terms of vehicle maintenance.

### Recommendations

1. The Committee recommends that the KNCHR should consider partnering with or sharing facilities and resources with its sister Commissions (those under Article 59 of the Constitution). This would be useful at the county level in assisting the Commissions to manage their tight budgets, and conduct their work, especially since their functions are related.
2. The Committee recommends that the three Article 59 Commissions should establish specific, measurable modes of communication amongst themselves so as to harmonize their operations due to overlapping mandates.

### Conclusion

This Committee recommends:

- a) That a sum not exceeding Kshs. 263,630,000 be approved for net recurrent expenditure under the recurrent vote.

## COMMISSION ON ADMINISTRATIVE JUSTICE (CAJ) – VOTE 213

1. The Commission on Administrative Justice was established following the enactment of the Commission on Administrative Justice Act 2011, in line with Article 59 of the Constitution.
2. It is now an independent commission with its own vote, formerly operating as the Public Complaints Standing Committee (PCSC) under the Ministry of Justice, National Cohesion and Constitutional Affairs.
3. The mandate of the Commission can be described as:
  - Quasi-judicial mandate to deal with maladministration
  - Ensuring compliance with leadership, integrity and ethics requirements.
  - Litigation and quasi-judicial functions.
  - Reporting obligation.
  - Training of Government ministries, departments and agencies.
  - Resolution of inter-governmental conflicts.
  - Provision of advisory opinions and recommendations.
  - Promotion of Constitutionalism and Human Rights advocacy, and
  - Performance contracting.
4. CAJ's purpose, therefore, is to investigate any abuse of power, manifest injustice and unlawful, oppressive, unfair or unresponsive official conduct. The Act also gives the Commission additional functions in a bid to improve efficiency and timeliness in delivery of public services.
5. The CAJ requested Kshs. 588 million, but was allocated Kshs. 350 million in the 2012/2013 budget estimates.
6. The following are the activities that will be affected by the financing gap:
  - Establishment of the county offices.
  - Public awareness creation on Administrative Justice issues.
  - Support to the public institutions to strengthen complaint handling at institution level.
7. The CAJ did highlight that the public awareness issues and support to public institutions could be funded externally. The CAJ expressed its desire for

additional funding, but if not received, will be innovative in using the funds allocated to it.

## Recommendations

1. The Committee recommends that the CAJ should consider partnering with or sharing facilities and resources with its sister Commissions (those under Article 59 of the Constitution). This would be useful at the county level in assisting the Commissions to manage their tight budgets, and conduct their work, especially since their functions are related.
2. The Committee also recommends that the three Article 59 Commissions should establish specific, measurable modes of communication amongst themselves so as to harmonize their operations due to overlapping mandates.

## Conclusion

This Committee recommends:

- a) That a sum not exceeding Kshs. 350,000,000 be approved for net recurrent expenditure under the recurrent vote.

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC) – VOTE  
203

1. The IEBC was formed under Article 88 of the Constitution, and operationalized by the Independent Electoral and Boundaries Commission Act of 2011.
2. Its mandate, per the Constitution, includes:
  - a. The continuous registration of voters and revision of the voter's roll;
  - b. The delimitation of constituencies and wards;
  - c. The regulation of political parties process;
  - d. The settlement of electoral disputes;
  - e. The registration of candidates for elections;
  - f. Voter education;
  - g. The facilitation of the observation, monitoring and evaluation of elections;
  - h. The regulation of money spent by a candidate or party in respect of any election;
  - i. The development of a code of conduct for candidates and parties;
  - j. The monitoring of compliance with legislation on nomination of candidates by parties.
3. The Commission requested Kshs. 41.4 billion from Treasury. However, the allocation received was Kshs. 17.5 billion in the 2012/2013 budgetary estimates.
4. The IEBC cites numerous challenges that will arise from the shortfall, mostly in relation to the next General Elections set to take place in March 2013. The following activities are those not covered by the amount received:
  - a) Legal, Corporate Image & Governance (Litigation expenses, Polling day oath of secrecy & Electoral operations gazettement): **Kshs. 1.98 billion**
  - b) Voter registration (training of registration officials & transport allowance of registration officials): **Kshs 766 million**

- c) General Elections (Presidential run-off, remuneration of election officials, training of election officials, materials & hire of transport): Kshs. 13.3 billion
  - d) ICT (set up data centre, purchase & installation of ERP system, specialized materials and equipment): Kshs. 3.26 billion
  - e) Voter Education: Kshs. 2.38 billion
  - f) RPP: Kshs 86 million
  - g) Boundaries: Kshs. 90.48 million
  - h) HR & Admin: Kshs. 1.2 billion
  - i) Purchase of 200 vehicles: Kshs. 1.2 billion
5. IEBC requested allocation of its entire request of Kshs. 41.4 billion, less balances of Kshs. 4 billion that will be carried forward from the FY 2011/2012, and less donor funds of Kshs. 2.3 million. Therefore, requested amount comes to Kshs. 35 billion.
6. The Committee was informed that these budget projections were based on an analysis of costs of the 2010 referendum and the multiple by-elections, including election material printing costs, need for voter re-registration and need for acquisition of transparent voting boxes.
7. IEBC further explained the high election costs, working out to a per capita cost of \$15 per person are due to the following factors:
- Post Election Violence
  - Additional polling stations (due to increased number of voters and new constituencies)
  - Capital expenditures (totaling Kshs. 7.78 billion)
  - Voting by Kenyans in the diaspora
  - Voter registration and education
  - Costs of a possible presidential run-off
8. IEBC did highlight that most of these costs are capital expenditures and will only happen once, thus subsequent elections will cost less.
9. The Committee was also informed that Kshs. 613 million had been set aside for police officers providing security at polling stations on Election Day.

10. Further, IEBC also informed the Committee that the polling stations would now number 45,000 up from the 23,000 that were used in 2007. This was to cater for the expected higher number of voters, and the need for more voting booths within each polling station to cater for expanded scope of elections (voting for six people instead of two).

## Recommendations

1. The Committee finds the budget for elections too high and recommends that IEBC utilize creative methods of reducing these costs, especially in view of current budgetary constraints. For example, the IEBC should hire vehicles instead of buying, reduce personnel costs and negotiate with other government departments like the Government Printer, to get subsidized rates.
2. The Committee notes with great concern, the unconscionably high costs relating to electoral and other constitutional matters. The Committee recommends that the stakeholders, that is, Parliament, the Judiciary, the Law Society of Kenya and others, establish a mechanism (by way of legislation) of capping costs related to electoral, governance and other constitutional matters.
3. The Committee recommends that, in future, the IEBC should link its voter register electronically to the Ministry of Immigration & Registration of Persons, so as to update its records each time a person becomes an eligible voter, or a person dies.

## Conclusion

This Committee recommends:

- a) That a sum not exceeding **Kshs. 17,529,498,660** be approved for net recurrent expenditure and appropriations-in-aid amounting to **Kshs. 50,000,000** be raised to support expenditures under the recurrent vote.

## OFFICE OF REGISTRAR OF POLITICAL PARTIES (RPP) -- VOTE 168

1. This Office was established under Section 33 of the Political Parties Act of 2011 as a State Office under Article 260 of the Constitution. It previously operated as an office with the Electoral Commission.
2. The mandate of the Office includes:
  - i. To register, regulate, monitor, investigate and supervise political parties to ensure compliance with the Act;
  - ii. To maintain a register of political parties and symbols of the political parties;
  - iii. To administer the political parties fund.
3. The Committee heard that the Registrar of Political Parties was allocated Kshs. 430 million in the 2012/2013 budget estimates against a request of Kshs. 2.7 billion.
4. The Political Parties Fund received Kshs. 250 million against a request of Kshs. 2.4 billion. According to Section 23 and 24 of the Political Parties Act, 2011, the political parties fund should not be less than 0.3% of the revenue collected by the national government.
5. Projects/activities that were affected by budgetary shortfalls from the estimates include:
  - ICT Networking and Communications Equipment (plus software): Kshs. 40 million
  - Legal Dues (to handle election complaints): Kshs. 7.5 million
  - Political Parties Fund (at least 0.3% of national revenue): Kshs. 250 million

### Recommendations

The Committee recommends that Treasury needs to adhere to the law and allocate the full amount to the Political Parties Fund as stipulated in the Political Parties Act.

### Conclusion

This Committee recommends:

- a) That a sum not exceeding Kshs. 430,000,000 be approved for net recurrent expenditure under the recurrent vote.

## GENERAL OBSERVATIONS

The Committee noted that unlike previous years, in the 2012/2013 financial year estimates, the Treasury did not show the amounts allocated in the previous financial year for each vote. This made it difficult to compare the figures.

Additionally, individual ministries and departments are required to request allocations based on the programmes they aim to conduct. However, the Treasury prepares the budget on a line-by-line basis, which makes it difficult to track what specific cost is related to a particular programme.

## GENERAL RECOMMENDATIONS

The Committee recommends:

- (i) THAT there is need for Treasury to alter the format of the current budget to match the mode of resource allocation requests for more effective monitoring.
- (ii) THAT there should be a harmonization of remuneration of officers in the Judiciary, Ethics and Anti-Corruption Commission, State Law Office, Office of Director of Public Prosecutions and Witness Protection Agency.
- (iii) THAT it should be mandatory for each Government Ministry or Department to have legal counsel and seek legal advice in all matters affecting Government, failing which appropriate sanctions should be applied.
- (iv) THAT the House adopts the recommendations of the Committee on approval of the stipulated amounts under the individual votes.

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END  
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# COMMITTEE MINUTES

MINUTES OF THE 83<sup>RD</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON MONDAY, MAY 7, 2012 IN THE SMALL DINNING ROOM AT PARLIAMENT BUILDINGS AT 3.00 P.M.

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PRESENT

Hon. Njoroge Baiya (Chairing)  
Hon. George Omari Nyamweya, MBS, M.P.  
Hon. Amina Abdalla, M.P.

ABSENT WITH APOLOGY

Hon. Ababu Namwamba, M.P.  
Hon. Abdikadir Mohammed, M.P.  
Hon. Millie Odhiambo-Mabona, M.P.  
Hon. Isaac Ruto, EGH, M.P.  
Hon. Olago Aluoch, M.P.  
Hon. Mutava Musyimi, M.P.  
Hon. Sophia Abdi Noor, M.P.

IN ATTENDANCE

Gichohi Mwaniki  
Josphat Motonu  
Ms. Wanjiru Ndindiri  
Mr. Kimathi Muriithi

KENYA NATIONAL ASSEMBLY

Budget Officer  
Budget Officer  
Third Clerk Assistant  
Parliamentary Intern

MIN.NO. 290/2012

INTRODUCTION

The meeting was opened with a word of prayer and the chair welcomed members and the officers from the budget office.

MIN.NO. 291/2012

BRIEF FROM THE BUDGET OFFICE

The officers from the budget office presented a brief to members to assist them carry out interrogation of the Ministry of Justice and other spending agencies that the committee supervises and scrutinizes including:

- i. The State Law Office
- ii. The Judiciary
- iii. Ethics and Anti-Corruption Commission
- iv. Office of the Director of Public Prosecutions

- v. Commission for the Implementation of the Constitution
- vi. Kenya National Human Rights Commission
- vii. Independent and Electoral Boundaries Commission
- viii. Registration of Political Parties
- ix. Witness Protection Agency
- x. Commission on Administrative Justice

The brief by the budget office was based on the estimates of recurrent and development expenditure for FY 2012/2013 and the medium term. They were guided by the Budget Policy Statement (BPS-2012), the Treasury Circular No.2/2012 of 15<sup>th</sup> March 2012 and the MTEF Sector Working Group Reports for 2012.

The officers highlighted some key elements of the total budget for the financial year 2012/2013. They stated that the total budget estimate was Ksh 1,454,856,588,272 comprising of Ksh. 657,185,449,813 recurrent expenditure, Ksh. 451,683,383,058 for development expenditure and Ksh.345,987,755,401 for Consolidated Fund Services (CFS). They then gave a brief on each of the spending agencies' budget estimates and proposed questions that members may pose to these agencies.

MIN.NO 292/2012

ANY OTHER BUSINESS

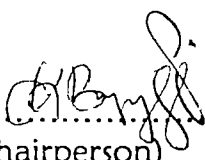
SCRUTINY OF BUDGET ESTIMATES

Members were reminded of the program of meetings to be held within the week.

MIN.NO 293/2012

ADJOURNMENT

There being no other business the Chair adjourned the sitting at five o'clock until Tuesday, May 9, 2012.

Signed: .....  .....  
(Chairperson)

Date: ..... 17/5/12 .....  
.....

MINUTES OF THE 84<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY, MAY 8, 2012 IN THE SMALL DINNING ROOM AT PARLIAMENT BUILDINGS AT 10.00 A.M.

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PRESENT

Hon. Njoroge Baiya – Ag.Chair  
Hon. George Omari Nyamweya, MBS, M.P.  
Hon. Amina Abdalla, M.P.  
Hon. Sophia Abdi Noor, M.P.

ABSENT WITH APOLOGY

Hon. Ababu Namwamba, M.P.  
Hon. Abdikadir Mohammed, M.P.  
Hon. Millie Odhiambo-Mabona, M.P.  
Hon. Isaac Ruto, EGH, M.P.  
Hon. Olago Aluoch, M.P.  
Hon. Mutava Musyimi, M.P.

IN ATTENDANCE

Kasemeliw Nasiuma  
Isaiah Ochelle  
Moses Gathui

MINISTRY OF FINANCE

Ministry of Finance  
Ministry of Finance  
Ministry of Finance

IN ATTENDANCE

Ms. Wanjiru Ndindiri  
Mr. Kimathi Muriithi

KENYA NATIONAL ASSEMBLY

Third Clerk Assistant  
Parliamentary Intern

MIN.NO. 294/2012

INTRODUCTION

The meeting was opened with a word of prayer and the chair welcomed the members and the guests. The purpose of the meeting was to consider the 2012/2013 estimates for the various spending agencies that fall under the purview of the committee.

MIN.NO. 295/2012

PRESENTATION BY THE STATE LAW OFFICE

The first to appear before the committee was the Attorney General Prof.Githu Muigai,M.P who was accompanied by the following officers from the State Law Office;

Wanjuki Muchemi  
Joseph Mutuma  
Peter Kusimba  
David Nderitu

Solicitor General  
State Law Office  
State Law Office  
State Law Office

The A.G presented a statement that outlined the vision mandate, core functions and achievements of the State Law Office. In regard to budget estimates the State Law Office had requested Ksh. 3,420,000,000 but they were allocated Ksh. 1,899,390,000 which is 56% of what was requested. The resultant deficit, the A.G stated, means that the SLO is not able to allocate funds to new projects and programmes in the 2012/2013 financial year. In the previous year certain priority areas were not funded including;

- i. Decentralization of Legal Services to the Counties- Ksh. 400 million required
- ii. Automation of Registries- Ksh. 150 million required
- iii. Development of Online e-registration and e-filing- Ksh.200 million required
- iv. Back up recovery System- Ksh. 40 million required.

He also discussed the following challenges facing his office;

- i. Inadequate professional and support staff
- ii. Inadequate office accommodation
- iii. Slow pace of decentralization of services
- iv. Continued drain of public funds as a result of awards, judgments against the government
- v. Lack of ownership of cases by Ministries and Departments and poor coordination in the management of cases
- vi. Weak inter-agency collaboration

The A.G further stated that due to budget constraints his office has had a problem attracting and retaining experienced legal staff since they are not able to offer good terms and conditions of service. As a result, a number of their most experienced staff are moving to the judiciary and other arms of government that offer better pay packages. It was suggested that salaries in the different arms of government be harmonized. It was also recommended that each ministry should have a budget for its own legal unit with officers seconded by SLO to advise them appropriately in order to avert law suits and loss of public funds in paying awards and judgments against the government.

MIN.NO. 296/2012

PRESENTATION BY THE MINISTRY OF JUSTICE,  
NATIONAL COHESION, AND CONSTITUTIONAL  
AFFAIRS

The Ministry of Justice was represented by the Ag. Permanent Secretary, Mr. Gichira Kibara, who was accompanied by the following officers;

(i)	Maryann Njau-Kimani	Director Legal Affairs
(ii)	Phillip M. Gathuya	Assistant Accountant General
(iii)	Joel Ochwati	Principal Financial Officer
(iv)	Longet Terer	Personal Assistant
(v)	Paul Masinde	Ministry of Justice
(vi)	Amos Mwangi	Kenya School of Law
(vii)	Frank Were	Kenya School of Law

The P.S made a presentation where he indicated that the Ministry's resource requirement for the 2012/2013 Fiscal Year was Ksh. 4,699,000,000 but that it was allocated 65% of this (Ksh. 3,004,194,300).He went on to outline the areas that will be left out of the 2012/2013 estimates that included;

- i. The National Cohesion and Reconciliation Conference- Ksh. 166 million required.
- ii. Mechanism for the implementation of the TJRC recommendations- Ksh. 100 million required.

Other programs that are under funded to the tune of Ksh. 3,245,400,000 include the following;

- i. Governance, Justice, Law and Order reforms-by Ksh. 619,200,000
- ii. Kenya National Integrated Civic Education (KNICE)-by Ksh. 815,700,000
- iii. Legal Aid and Awareness-by Ksh. 208,400,000
- iv. National Anti-Corruption Steering Committee- by Ksh. 240,000,000
- v. Kenya Law Reform Commission-by Ksh. 59,300,000
- vi. National Cohesion Department-by Ksh. 150,900,000
- vii. Legal Education (KSL) - by Ksh.98, 400,000
- viii. Truth Justice and Reconciliation Commission- by Ksh. 107,000,000
- ix. National Cohesion and Integration Commission- by Ksh. 946,500,000

Emphasis was laid on the importance of Civic Education and the role of the National Cohesion and Integration Commission (NCIC) in monitoring hate speech considering the upcoming elections. Members expressed concern that NCIC was allocated the same amount it had been allocated in the previous fiscal year yet this is an election year and more issues under their purview are bound to arise. Member also expressed concern that 84% of the Ministry's development budget is funded by external donors.

MIN.NO. 297/2012

PRESENTATION BY THE ETHICS AND ANTI-CORRUPTION COMMISSION

The following officers of the Ethics and Anti-Corruption Commission (EACC) were present at the meeting with the Committee;

(i)	Arbogast Akidiva	EACC
(ii)	Olga Sewe	Coordinator Legal Services
(iii)	Kennedy Bosire	Coordinator Investigations
(iv)	Nicholas Simani	Principal P.R.O
(v)	Francis Gikonyo	Principal Attorney
(vi)	Jackson Mue	Principal Officer Investigations
(vii)	Vincent Okon'g	Principal Officer Research
(viii)	Jason Akoyo	Principal Budget Officer

The officers began their presentation by outlining the vision, mission, core values, and functions of the commission. They highlighted some of the commission's key achievements in education, capacity building and asset recovery including recovery of property valued at about Ksh. 694,991,044 million. In regard to budgetary estimates the commission had a resource requirement of Ksh. 2,890,000,000 but was allocated 65% of this, that is Ksh. 1,879,030,000. The officers presented certain areas that were left out of the estimates which included;

- i. Opening of more regional offices in line with the Constitution (Staff, equipment, vehicles, and refurbishment of offices)
- ii. The full implementation of the Public Service Integrity Testing Programme.

They further stated that the commission was facing certain challenges including;

- i. Transitional Challenges: The contention surrounding the appointment of Commissioners has greatly hampered procurement, tendering and overall functioning of the commission.
- ii. Adverse Court decisions: Investigation of corruption, recovery of cases of illegally acquired assets as well as prosecution of criminal cases have been affected by adverse court decisions which stop the investigations and the cases.
- iii. Slow pace of determination of cases in court.
- iv. Inadequate human resource capacity.
- v. Transnational investigations.
- vi. Inadequate forensic tools.
- vii. Stalling of the construction of the EACC headquarters due to a case lodged by the Karen-Langata Residents Association.

Members advised the Commission to seek review of the adverse decisions entered against them especially in light of the reforms going on in the judiciary. Members further asked about the progress of the Leadership and Integrity bill and were informed by the officers that the bill was still with the Ministry of Justice.

MIN.NO 298/2012

ADJOURNMENT

There being no other business the Chair adjourned the sitting at one thirty until four o'clock the same day.

Signed: .....  
(Chairperson)

Date: .....  
17/5/12

MINUTES OF THE 85<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY, MAY 8, 2012 IN THE COMMITTEE ROOM 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE AT 4.00 P.M.

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PRESENT

Hon. Njoroge Baiya - Ag.Chair  
Hon. George Omari Nyamweya, MBS, M.P.  
Hon. Sophia Abdi Noor, M.P.

ABSENT WITH APOLOGY

Hon. Ababu Namwamba, M.P.  
Hon. Amina Abdalla, M.P.  
Hon. Millie Odhiambo-Mabona, M.P.  
Hon. Isaac Ruto, EGH, M.P.  
Hon. Abdikadir Mohammed, M.P.  
Hon. Olago Aluoch, M.P.  
Hon. Mutava Musyimi, M.P.

IN ATTENDANCE

Kasemeliw Nasiuma  
Isaiah Ochelle

MINISTRY OF FINANCE

Ministry of Finance  
Ministry of Finance

IN ATTENDANCE

Alice Ondieki  
Peter Mwangi  
Andrew Tanui

WITNESS PROTECTION AGENCY

Witness Protection Agency  
Witness Protection Agency  
Witness Protection Agency

IN ATTENDANCE

Ms. Wanjiru Ndindiri  
Mr. Kimathi Muriithi

KENYA NATIONAL ASSEMBLY

Third Clerk Assistant  
Parliamentary Intern

MIN.NO. 299/2012

INTRODUCTION

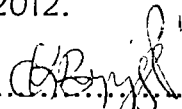
The meeting was opened with a word of prayer and the chair welcomed the members and the officers from the Witness Protection Agency. The purpose of the meeting was to consider the agency's 2012/2013 budget estimates.

Alice Ondieki, the C.E.O began by outlining the vision, mission and functions of the agency. She stated that due to the confidential nature of the matters they deal with, they had been de-linked from the State Law Office the previous year. The agency presented Ksh. 1.58 billion as their resource requirement to treasury but they were allocated only Ksh. 235 million. They subsequently wrote a letter to treasury stating that the amount they were allocated was inadequate and would negatively impact the agencies capacity to carry out its mandate. The agency in the letter requested for a further Ksh. 50 million. Additional funds are required for the following projects;

- i. Establishment of regional offices in Mombasa and Eldoret-currently they only have an office in Nairobi
- ii. Housing, healthcare, and upkeep of witnesses and their dependants- the agency spends 40 million for every 8 witnesses having an average of 5 dependants each. They have 80 files of witnesses needing protection from the agency.
- iii. Establishment of a witness compensation fund.
- iv. Establishment of a witness protection appeals tribunal- this is provided for under the Ethics and Anti-Corruption Act and requires an additional 20 million.

She stated that although they were part of government the dangers their staff are exposed to and the sacrifices they make require that their they be better paid to ensure low staff turnover. This is also important to ensure that the stuff of the agency are motivated and that they are not corruptible. The officers gave 'the number of witnesses protected and that successfully testify in court' as a key performance indicator and stated that they had managed to have one witness protected and successfully testify in a case of significant public interest. The officers also stated that plans were underway to create awareness about the agency through a Public Education and Stakeholders workshop.

There being no other business the Chair adjourned the sitting at six o'clock until Wednesday, May 9, 2012.

Signed: .....  .....  
(Chairperson)

Date: ..... 17/5/12 .....

MINUTES OF THE 86<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON WEDNESDAY, MAY 9, 2012 IN THE MAIN CONFERENCE ROOM AT COUNTY HALL AT 11.30 A.M.

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PRESENT

Hon. Njoroge Baiya – Ag Chair  
Hon. Isaac Ruto, EGH, M.P.  
Hon. Ababu Namwamba, M.P.  
Hon. Amina Abdalla, M.P.  
Hon. Millie Odhiambo-Mabona, M.P.  
Hon. Mutava Musyimi, M.P.

ABSENT WITH APOLOGY

Hon. Abdikadir Mohammed, M.P.  
Hon. Olago Aluoch, M.P.  
Hon. George Omari Nyamweya, MBS, M.P.  
Hon. Sophia Abdi Noor, M.P.

IN ATTENDANCE

Kasemeli W. Nasiuma  
Isaiah Ochelle  
Moses Gathui

MINISTRY OF FINANCE

Ministry of Finance  
Ministry of Finance  
Ministry of Finance

IN ATTENDANCE

Ms. Wanjiru Ndindiri  
Mr. Kimathi Muriithi

KENYA NATIONAL ASSEMBLY

Third Clerk Assistant  
Parliamentary Intern

MIN.NO. 302/2012

INTRODUCTION

The meeting was opened with a word of prayer and the chair welcomed the members and the officers from the Office of the Director of Public Prosecutions (ODPP). The purpose of the meeting was to consider the ODPP's 2012/2013 budget estimates.

MIN.NO. 303/2012

PRESENTATION BY THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECTIONS

The Office of the Director of Public Prosecutions was represented by Keriako Tobiko, the Director of Public Prosecutions, who was accompanied by the following officers;

(i)	Elijah T. Nduati	ODPP
(ii)	Ephraim Ndur	ODPP
(iii)	Paul Ndemo	ODPP

The DPP outlined some of the challenges faced by his office that include the following;

- i. **Structural deficiency in the Legal framework of the ODPP:** the office does not have powers to recruit its own staff or negotiate its terms and conditions of service thereby subjecting it to dependence on the Public Service Commission and treasury. This undermines the independence and autonomy of the office granted to it by the Constitution. The DPP stated that it was for this reason that his office has proposed the enactment of the National Prosecution Service Bill to address this structural deficiency.
- ii. **Unattractive Terms and Conditions of service:** The unattractive remuneration offered to the staff has negatively impacted on its ability to hire and retain the best professionals in the job market leading to staff moving to institutions that offer better terms and conditions.
- iii. **Shortage of Professional and Facilitative Staff:** The current professional staff is a mere 93 as against an optimal requirement of 927 while that of the central facilitation staff is currently 132 as against an optimal of 364. This situation negatively impact on the office's effective and efficient discharge of the prosecutorial function. There is also a mismatch between the number of staff of the ODPP and the judges in the courts. The acceptable ratio is one prosecutor to one judge but currently they are about 383 prosecutors (including police prosecutors) and they are 448 judges. Further each prosecutor is overloaded handing 500 cases on average per year.

The DPP went on to discuss the budgetary estimates stating that the office submitted resource requirements of Ksh. **3.28 billion** and was eventually allocated Ksh. **1.087 billion**. As a result of this under funding they are unable to carry implement the following programs:

- i. Recruitment of additional staff to address the current shortage of prosecution and administrative officers.
- ii. Devolution of the prosecution services to the counties.
- iii. Capacity development both for prosecution and administrative staff.
- iv. Infrastructure development to cater for the expanded mandate and increased work load.

- v. Establishment of a resource centre to facilitate research and sharing of information.
- vi. Establishment of a Prosecutors Training Institute for training prosecution officers.

Members expressed concerns about the issue of police prosecutors and their capacity to carry out prosecutions impartially and effectively under the new constitutional dispensation. The DPP intimated that they were in the process of professionalizing prosecution services and that they had done an audit that found 295 of the police prosecutors experienced and competent enough to be absorbed as prosecution counsel. These would have to resign from the police force and be absorbed as prosecutors answerable to the DPP.

Members further questioned the manner of devolution of the ODPP to the counties since it appeared that certain counties were being left out. The DPP explained that there already exist 16 field offices spread out all over the country and that his office had planned to open 9 additional offices in the next financial year. He reiterated the ODPP's plan to open office in each and every county but he stated that due to budget constraint it is not possible to open offices in all 47 counties immediately. The DPP further added that the expansion into the counties is in line with the expansion plan being pursued by the judiciary so that the two related institutions move in tandem.

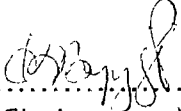
A question was raised concerning the steps the ODPP was taking towards protection of victims of crimes especially sexual and gender based violence. The DPP lauded members' efforts in coming up with the Victims Protection Bill but admitted that currently no proper mechanisms are in place to protect victims. He noted that the Witness Protection Agency is mandated to protect witnesses but at times a victim of a crime is not a witness and thereby does not qualify for protection under their programme.

The DPP stated that he has and will continue to assert his authority especially when it seems to be undermined as it has been in the past by other institutions including the police. He reiterated that he has always acted independently as he is empowered to by the constitution. He further intimated that if his request for more funds is not honored, his office would work, albeit in a limited way, with the resources that they are allocated.

MIN.NO 304/2012

ADJOURNMENT

There being no other business the Chair adjourned the sitting at one o'clock until Thursday, May 10, 2012.

Signed: .....  .....  
(Chairperson)

Date: ..... 17/5/12 .....  
.....

MINUTES OF THE 87<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE  
ON JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY, MAY 10, 2012  
IN THE MAIN CONFERENCE ROOM AT COUNTY HALL AT 10.00 A.M.

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PRESENT

Hon. Njoroge Baiya – Ag Chair  
Hon. Amina Abdalla, M.P.  
Hon. Sophia Abdi Noor, M.P.  
Hon. Abdikadir Mohammed, M.P.  
Hon. George Omari Nyamweya, MBS, M.P.  
Hon. Olago Aluoch, M.P.  
Hon. Millie Odhiambo-Mabona, M.P.  
Hon. Isaac Ruto, EGH, M.P.  
Hon. Mutava Musyimi, M.P.

ABSENT WITH APOLOGY

Hon. Ababu Namwamba, M.P.

IN ATTENDANCE

Kasemeliw Nasiuma  
Isaiah Ochelle  
Moses Gathui

MINISTRY OF FINANCE

Ministry of Finance  
Ministry of Finance  
Ministry of Finance

IN ATTENDANCE

Ms. Wanjiru Ndindiri  
Mr. Kimathi Muriithi

KENYA NATIONAL ASSEMBLY

Third Clerk Assistant  
Parliamentary Intern

MIN.NO. 305/2012

INTRODUCTION

The meeting was opened with a word of prayer and the chair welcomed the members and the guests. The purpose of the meeting was to continue with the consideration of the 2012/2013 estimates for the various spending agencies that fall under the purview of the committee.

MIN.NO. 306/2012

PRESENTATION BY CIC

The Commission was represented by Commissioner Kamotho Waiganjo who was accompanied by the following officers;

Peter Ole Nkuraiya	Secretary/CEO
David Kariuki	Head of Finance
Stephen Kimanathi	Finance Manager
Ambrose Ogango	Finance Officer
Timothy Kariuki	Planning Office
Brian Ikol	Legal

The Commission members stated that in their budget estimates for the FY 2012-2013 they had indicated a resource requirement of Ksh. 544 million but they were allocated Ksh. 424 million by treasury. They indicated the following areas that had a shortfall in funding;

- i. Personal emolument by about 134.5 million
- ii. Domestic Travel to support county visits on devolution and collection of views from the public on bills and policies.
- iii. Bench-marking tours abroad to ensure that pieces of legislation and practices conform to international standards.
- iv. Workshop and forums to share with the public and stakeholders information that earmarks constitutional implementation.
- v. Printing and advertising service that ensures the public is informed of what is going on and their opinions sought.
- vi. Fuel expenses owing to increased travel and prices
- vii. Consultancy and legal fees
- viii. Research expenses necessary to study emerging areas brought about by the new constitution that have not been legislated upon before.

The members of the commission also expressed certain challenges that they were facing in the implementation of the constitution that included the following;

- i. **Lack of Capacity:** although the commission is currently recruiting staff the approval process suffered delays thereby hampering the capacity to absorb resources effectively.
- ii. **Procurement Process:** certain requirements and timelines in the procurement law have led to delays in implementation in view of the dynamic nature of CIC programme activities.
- iii. **Civic education:** the slow rollout of civic education has led to limited capacity of the population to engage on implementation issues.

The commission has received financial support from donors (through funding agreements that they will present to the committee) and they believe that with this as well as the money from treasury they will be able to fulfill their mandate effectively.

MIN.NO. 307/2012      PRESENTATION BY KNCHR

The commission was represented by Mr. Samuel Tolei Acting Chair and was accompanied by;

- |      |               |                      |
|------|---------------|----------------------|
| (i)  | John Wamwanga | Finance Manager      |
| (ii) | Mohamed Hallo | Commission Secretary |

The Ag.Chair began by outlining the mandate of the commission stating the various mechanisms they employ to fulfill their roles. They noted that they had had a successful meeting with the Commission on Administration of Justice as well as the Gender Commission where they clarified the commissions' different mandates, which in many instances were seen to overlap. In regard to the budget estimates the commission had presented their resource requirements as Ksh. 769 million and they expected to receive Ksh. 439 million from the government and Ksh. 330 million from donors. They were however allocated Ksh. 264 million in the estimates from treasury. This shortfall they argued would negatively impact on their activities as follows;

- i. **Slowed Expansion and roll out to the Counties:** Currently they only have 2 regional office in Kitale and Wajir. With the limited funding they are unable to pursue with plans to establish 9 other regional offices.
- ii. **Inability to recruit Staff:** The commission projects that they need 135 staff but they currently employ 80 members of staff due to lack of funds. Being understaffed the commission can not adequately carry out its mandate.
- iii. **Election Monitoring:** The shortfall in funding will mean that the commission's election monitoring activities will be hampered.

Members of the committee requested the commission to give more substantive reporting of its activities based on measurable performance indicators. The members felt this was important in order to see whether splitting the initial commission into 3 separate commissions has had a positive impact on service delivery.

MIN.NO. 308/2012

PRESENTATION BY CAJ

The Commission on Administration of Justice was led by the chair of the commission Otiende Amolo, who was accompanied by the following officers;

Regina Mwatha	Vice Chairperson
Leonard Ngalumo	CEO
D.M Karamo	Assistant Executive Director
Kariuki Kimemia	Financial Officer
Shillah Miriti	Finance Officer

The CAJ presented a brief to the committee in which they outlined aspects of their mandate and functions. They had requested treasury for Ksh. 588,914,000 but they were allocated Ksh. 350,000,000. This shortfall will affect the following areas;

- i. Establishment of County offices
- ii. Public Awareness creation on Administrative Justice issues
- iii. Support to the public institutions to strengthen complaint handling at institutional level.

Members of the committee inquired as to how the commission would adjust its programmes given the funds available. The commission stated that they would;

- i. Look for other partners/ donors to facilitate their programmes
- ii. Implement the rollout into the counties in phases by choosing a few pilot counties per region and start with these first until funds are available
- iii. Facilitate a meeting with other commissions to consider sharing facilities so as to reduce on costs.

The Commission undertook to give a full report of their activities and achievements to the committee in their upcoming biannual report.

MIN.NO. 309/2012

PRESENTATION BY IEBC

The Independent Electoral and Boundaries Commission led by the commission's chairperson Ahmed Issack Hassan who was accompanied by the following officers;

(i)	Lilian Mahiri	Vice Chairperson
(ii)	Albert Bwire	Commissioner
(iii)	James Oswago	CEO
(iv)	Edward Karisa	Director Finance

The IEBC had requested Ksh. 41.4 billion from treasury but were allocated Ksh. 17.5 billion. They therefore have a deficit of Ksh. 23.9 billion that they argued will greatly hamper their activities in facilitating the upcoming general elections. They gave the following justifications for their estimates which were considered to be high;

- i. The budget proposed by IEBC takes into account a run-off which is almost the same as having another general election in terms of costs and materials.
- ii. Massive voter registration must be done to take into account the 80 new constituencies created and to clean the register so as to make the elections more credible
- iii. The budget propose reflects the experience that IEBC has had in conducting the referendum and numerous bi-elections
- iv. The upcoming elections will be extremely complex with voters voting for 6 different posts.
- v. Certain expenses are capital costs and will only be incurred once with the materials being usable in subsequent elections

The IEBC stated that the shortfall in funding will lead to the following area/projects being left out or under funded;

- i. Legal, corporate image and governance-which includes litigation expenses, polling day oath of secrecy and electoral operations gazettment -Kshs 1,989,799,200 required
- ii. Voter registration-which includes training and transport allowance for registration officials-Kshs. 766,085,000 required
- iii. General elections- which includes a presidential run-off, remuneration for election officials, materials and hire of transport-Ksh. 13,364,664,875 required.
- iv. ICT-including set up of a data centre, purchase and installation of ERP system as well as specialized materials and equipment-Ksh. 3,263,015,000 required.

Members cited the Krigler report that states that our elections are among the most expensive. The IEBC was asked to revise the budget in order to bring down the cost of the elections, and present a more realistic budget, that separates capital investments from other expenses. A follow-up meeting would be held on Tuesday, May 15, 2012.

Members also gave suggestions on how savings could be made which included:-

- amending the law to;
  - allowing presiding officers administer oaths on polling day;
  - make it illegal for police and magistrates to charge for election related services they render on Election Day;
  - to put a cap on awards granted in election petition cases; and
- Members also suggested paying allowances to officers at market rates.

MIN.NO. 310/2012      PRESENTATION BY THE REGISTRAR OF  
POLITICAL PARTIES

The registrar of political parties, Mrs. Lucy Ndung'u presented a brief on behalf of her office that gave a brief background of the office and its functions.

The registrar's office had requested Ksh. 273,480,000 in operations expenses and Ksh. 2,400,000,000 for the Political Parties Fund. In the estimates it was allocated Ksh.180, 000,000 for operations and Ksh. 250,000,000 for the Political Parties fund. Areas and project left out due to the resultant deficit include;

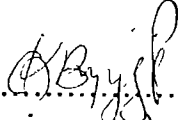
- i. ICT Networking and Communications Equipment-Ksh. 40 million required
- ii. Legal dues-Ksh. 7,500,000 required
- iii. Political Parties Fund-this by law should be no less than 0.3% of the national revenue which is estimated to be 2.4 billion.

Members requested the registrar to give more details on the operations figures to enable the members to scrutinize the spending better. The registrar stated that her office is still operating under the IEBC but is in the process of setting up its own structures.

MIN.NO 311/2012

ADJOURNMENT

There being no other business the Chair adjourned the sitting at two o'clock until Tuesday, May 15, 2012.

Signed: .....  .....  
(Chairperson)

Date: ..... 17/5/12 .....  
.....

MINUTES OF THE 88<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE  
ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY, MAY 15, 2012 IN  
THE COMMITTEE ROOM ON 4<sup>TH</sup> FLOOR AT CONTINENTAL HOUSE AT  
10.00 A.M.

PRESENT

Hon. Njoroge Baiya (Chairing)  
Hon. Amina Abdalla, M.P.  
Hon. Abdikadir Mohammed, M.P.  
Hon. Sophia Abdi Noor, M.P.  
Hon. George Omari Nyamweya, MBS, M.P.  
Hon. Isaac Ruto, EGH, M.P.

ABSENT WITH APOLOGY

Hon. Olago Aluoch, M.P.  
Hon. Millie Odhiambo-Mabona, M.P.  
Hon. Mutava Musyimi, M.P.  
Hon. Ababu Namwamba, M.P.

IN ATTENDANCE

Isaiah Ochelle

MINISTRY OF FINANCE

Ministry of Finance

IN ATTENDANCE

Mrs. Lucy Wanjohi  
Ms. Wanjiru Ndindiri  
Josphat Mutina  
Mr Kimathi Muriithi

KENYA NATIONAL ASSEMBLY

Second Clerk Assistant  
Third Clerk Assistant  
Budget Office  
Parliamentary Intern

MIN.NO. 312/2012

INTRODUCTION

The meeting was opened with a word of prayer and the chair welcomed the members and the IEBC officials. The purpose of the meeting was to follow up on measures taken by the IEBC to cut down on their budget for the FY 2012-2013.

MIN.NO. 313/2012

PRESENTATION BY IEBC

The Independent Electoral and Boundaries Commission were led by the Commission's chairperson Ahmed Issack Hassan who was accompanied by the following officers;

(i)	Albert Bwire	Commissioner
(ii)	Yusuf Nzibo	Commissioner
(iii)	Abdullahi Sharawe	Commissioner
(iv)	James Osurago	CEO
(v)	Edward Karisa	Director Finance
(vi)	E.K Karisa	Finance

MIN.NO 314/2012

REPORT ON THE MOMBASA ATTACK OF IEBC OFFICES

Members were informed of the incident that occurred earlier on in the day where IEBC offices in Mombasa were attacked. The IEBC suspected that the Mombasa Republican Council (MRC) was behind the attack. The commission reminded members of the committee that MRC had in the past disrupted elections in Mombasa. The attackers stole 3 laptops containing data of the commission, and physically destroyed the IEBC office. In addition, the IEBC staff are continuously being intimidated, through SMS messages warning them not to engage in election related activities in Mombasa. The commission has reported the matter to the police commissioner, the Minister of Justice and the Minister of Internal security. The chair of the commission pleaded that this issue be addressed urgently before it escalates any further.

MIN.NO 315/2012

REVIEW OF PROPOSED BUDGET

The IEBC reviewed and rationalized its budget bring down the initial estimate of Ksh.41.4 billion to Ksh.36 billion. The officers stated certain factors that necessitated the high cost;

- i. Capital investments of Ksh. 7.8 billion need to be made to purchase election related items including biometric voter registration equipment, poll books, transparent ballot boxes and vehicles. However, this is a one-off cost and the items can be used in subsequent elections.

- ii. Mass voter registration needs to be carried out as a result of the new constituencies created and so as to have a credible voter register with all the 18 million eligible voters registered.
- iii. The upcoming elections are more complex with an estimated 15 million voters casting ballots for 6 electives positions. Funds need to be available to set up and run 45,000 polling centers if voting is to be completed in one day.
- iv. Voter education must be carried out to avoid having a large number of spoilt votes as witnessed in other elections carried out by the IEBC.
- v. Kenya's in the Diaspora will also be eligible to vote and the IEBC need funds to facilitate this.
- vi. Funds should be available for a presidential run-off election since this would be difficult to plan for and manage were the commission to wait for the results of the first election to begin sourcing funds and making arrangements for the run-off. Alternatively, this cost could be provided from the government contingency fund.

Member asked the commission to indicate were savings had been made from the previous estimates presented to the committee. The IEBC explained that they had made savings in the following areas;

- i. Reduction of the cost of legal expenses from Ksh. 2 billion to Ksh. 484 million by differing these costs to the next financial year.
- ii. Reduction of the cost of voter registration from Ksh. 2 billion to Ksh. 1.6 billion.
- iii. Reduction of the commission's operation costs by differing some elements not directly related to the general elections to the next financial year.

These cost cutting measures resulted in the reduction of the IEBC budget from Ksh. 41.4 billion to Kshs.36 billion. A further reduction would be made by eliminating the cost of the presidential run-off which would bring the total budget to Ksh. 31 billion.

The IEBC in justifying the proposed capital investments stated that the biometric voter registration system would ensure that a credible voter register is developed comprising Kenyan citizens above 18 years of age and eliminating dead voters. The poll books in each polling station would ensure that no one votes more than once in the elections.

Members suggested further reductions in allowances to IEBC officials and public officers including the police who may provide services during the elections. It was agreed that the IEBC may work with donors who may assist in funding voter education and training of staff. However, the core activities of the commission including conducting the elections would be funded entirely by the Government of Kenya.

Members expressed concern that certain communities were being left out in the issuance of ID's. This, the commission argued, fell within the purview of the Ministry in charge of immigrations. The commission also stated that the requirements for eligibility to vote in Kenya would equally apply to the Kenyan's in the diaspora who may wish to vote.

The chair of the IEBC assured members that the money allocated to the commission would be spent well. He however, warned members that the continuous cutting down of the commission's budget may rendering it incapable of fulfilling its mandate.

MIN.NO 316/2012

ADJOURNMENT

There being no other business the Chair adjourned the sitting at noon until Wednesday, May 16, 2012.

Signed: .....  
(Chairperson)

Date: .....17/5/12.....

MINUTES OF THE 89<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE  
ON JUSTICE AND LEGAL AFFAIRS HELD ON WEDNESDAY, MAY 16, 2012  
IN THE COMMITTEE ROOM ON 4<sup>TH</sup> FLOOR AT CONTINENTAL HOUSE  
AT 11.30 A.M.

PRESENT

Hon. Njoroge Baiya (Chairing)  
Hon. Mutava Musyimi, M.P.  
Hon. Isaac Ruto, EGH, M.P.  
Hon. Olago Aluoch, M.P.  
Hon. Sophia Abdi Noor, M.P.  
Hon. Ababu Namwamba, M.P.  
Hon. Amina Abdalla, M.P.  
Hon. George Omari Nyamweya, MBS, M.P.

ABSENT WITH APOLOGY

Hon. Abdikadir Mohammed, M.P.  
Hon. Millie Odhiambo-Mabona, M.P.

IN ATTENDANCE

Mrs. Lucy Wanjohi  
Ms. Wanjiru Ndindiri  
Mr. Josphat Motonu  
Mr. Kimathi Muriithi

KENYA NATIONAL ASSEMBLY

Second Clerk Assistant  
Third Clerk Assistant  
Budget Officer  
Parliamentary Intern

MIN.NO. 317/2012      INTRODUCTION

The meeting was opened with a word of prayer and the chair welcomed the members. The purpose of the meeting was to review, amend and adopt the final report on the 2012/2013 budget estimates for the spending agencies under the purview of the committee.

MIN.NO. 318/2012      REVIEW OF IEBC BUDGET ESTIMATES

The committee agreed that the Ksh 17.5 billion allocated to the Independent Electoral and Boundaries Commission (IEBC) by treasury was reasonable. Members recommended that the following measures be employed to reduce the cost of the elections;

- i. Amendments to the law should be made either to allow presiding officers to administer the oath of secrecy to officials on the Election Day or to do away with the oath of secrecy requirement all together.
- ii. Parliament, the judiciary, the Law Society of Kenya and other stakeholders should work together to put in place legislation that will put a limit to the amount that can be awarded in court cases related to election petitions as well as other governance and constitutional matters.
- iii. Members further recommended that the IEBC maintain the same number of polling centers but increase the voting streams per center and provide thinking booths to allow more people to vote per centre. This would eliminating the need for 45,000 polling center thereby reducing costs, while ensuring that voting takes place in one day.
- iv. The committee further recommended that the IEBC employs other creative methods to save on costs for example;
  - Hiring as opposed to purchasing of vehicles.
  - Reducing personnel cost to economic levels.
  - Seek donor funding to facilitate voter education.
  - Negotiate packages with other government agencies including the Government Printers, for the purchases of election related goods and services at lower rates.

MIN.NO. 319/2012

REVIEW OF THE STATE LAW OFFICE BUDGET ESTIMATES

The committee agreed that the State Law Office was under funded and that this had occasion loss of public funds through payment of awards in court cases. Members recommended additional funding especially to the civil litigation department to facilitate hiring and retention of competent legal staff.

The committee suggested that it be made mandatory for Ministries to seek legal advice from their internal legal departments or from the State Law Office before binding the government to any contracts. This is to avoid law suits and further loss of public funds in meeting litigation expenses.

Member further noted that government lawyers are not paid in accordance to the Advocates Remuneration Orders and are subject to salary scales determined by the public service. The committee recommended

harmonization of salaries of staff in the different arms and agencies of government.

MIN.NO. 320/2012      REVIEW OF THE WITNESS PROTECTION AGENCY BUDGET ESTIMATES

Members recommended that the request by the Witness Protection Agency for money to purchase four vehicles to transport witnesses to court should be considered. Being a new program however it was suggested that additional funding be made in the next financial year once the agency shows how it has utilized the funds it has been allocated in the 2012-2013 financial year.

MIN.NO. 321/2012      REVIEW OF THE MINISTRY OF JUSTICE BUDGET ESTIMATES

Members noted that civic education which falls under this Ministry is grossly under funded despite this being an election year. Members suggested additional funding towards enhancing the Ministry's civic education programme.

MIN.NO. 322/2012      REVIEW OF THE ODPP/CIC/KNCHR/EACC/CAJ BUDGET ESTIMATES

Members on reviewing the estimates of these agencies agreed that the budgets were strained. However, considering the economic situation of the country and all the competing needs it was agreed that it may not be prudent to suggest significant changes to the estimates recommended by treasury.

MIN.NO 323/2012      ADJOURNMENT

There being no other business the Chair adjourned the sitting at half past noon until Thursday, May 17, 2012.

Signed: .....  
(Chairperson)

Date: .....  
17/5/2012

MINUTES OF THE 90<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE  
ON JUSTICE AND LEGAL AFFAIRS MEETING HELD ON THURSDAY, 17<sup>TH</sup>  
MAY 2012 IN THE MEMBERS' LOUNGE, PARLIAMENT BUILDINGS AT  
10.00 A.M.

PRESENT:

Hon. Njoroge Baiya, M.P. (Acting Chair)  
Hon. Ababu Namwamba, M.P.  
Hon. Amina Abdalla, M.P.  
Hon. Millie Odhiambo-Mabona, M.P.  
Hon. George Omari Nyamweya, M.B.S, M.P.  
Hon. Isaac Ruto, E.G.H., M.P.  
Hon. Abdikadir Mohamed, M.P.

ABSENT WITH APOLOGY

Hon. Olago Aluoch, M.P.  
Hon. Sophia Abdi Noor, M.P.  
Hon. Mutava Musyimi, M.P

IN ATTENDANCE

Mrs. Lucy Wanjohi  
Ms. Wanjiru Ndindiri  
Mr. Kimathi Muriithi

NATIONAL ASSEMBLY

Second Clerk Assistant  
Third Clerk Assistant  
Parliamentary Intern

MIN. NO. 324/2012

PRELIMINARIES

The Chairperson called the meeting to order with a word of prayer.

MIN. NO. 325/2012

ADOPTION OF REPORT

The Committee Report on the 2012/2013 budget estimates was discussed, recommendations reviewed and agreed to. The Report was then unanimously adopted.

MIN. NO. 326/2012

ADJOURNMENT

There being no other business, the meeting adjourned at 12.30 P.M.

Signed.....

(VICE-CHAIRPERSON)

Date.....17/5/12.....