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KENYA NATIONAL ASSEMBLY

NINTH PARLIAMENT – SIXTH SESSION (2007)



THE DEPARTMENTAL COMMITTEE
ON
ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS



REPORT ON
DELIBERATIONS ON F.I.D.A NOMINEE TO THE KENYA
ANTI-CORRUPTION ADVISORY BOARD

Clerk's Chambers,
Parliament Buildings
NAIROBI

March, 2007

PREFACE

Mr. Speaker Sir,

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

- a) *to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- b) *to study the programme and policy objectives of the Ministries and departments and the effectiveness for implementation;*
- c) *to study and know all legislation after First Reading, subject to the exceptions under Standing Order 101A (4);*
- d) *to study, assess and analyze the relative success of Ministries and departments as measured by the results obtained as compared with its stated objectives;*
- e) *to investigate and inquire into all matters relating to all assigned Ministries and Departments as they may deem necessary, and as may be referred to them by the House or a Minister and;*
- f) *to make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

The Committee comprises:

- (i) Hon. Paul K. Muite, MP – Chairman
- (ii) Hon. Kenneth Marende, MP
- (iii) Hon. Jim Choge, MP
- (iv) Hon. Amina Abdalla, MP
- (v) Hon. Gideon Ndambuki, MP
- (vi) Hon. Moses Cheboi, MP
- (vii) Hon. Macharia Mukiri, MP
- (viii) Hon. Bifwoli Wakoli, MP
- (ix) Hon. Omingo Magara, MP
- (x) Hon. Zaddock Syong'o, MP
- (xi) Hon. Njoki Ndung'u, MP

Provisions of the Act

Mr. Speaker Sir, the Anti-Corruption and Economic Crimes Act, 2003 became effective from May 02, 2003. The Act provides for the establishment of an Anti-Corruption Advisory Board in Section 16. The nominating bodies are named in Section 16 (2)(a) as the Law Society of Kenya; the Institute of Certified Public Accountants of Kenya; The International Federation of Women Lawyers (FIDA) Kenya Chapter; the Kenya Association of Manufacturers; the Joint Forum of Religious Organizations; the Federation of Kenya Employers; the Kenya Bankers Association; the Central Organization of Trade Unions; the Association of Professional Societies in East Africa; the Architectural Association of Kenya; the Institution of Engineers of Kenya; and the Kenya Medical Association.

Process of nominating the Advisory Board

Mr. Speaker Sir, the procedure of nominating to the Anti-Corruption Advisory Board is provided in the Second Schedule of the Act, which provides as follows:

Paragraph 1 (2) The nominating body shall submit the names of two nominees to the Minister.

(3) The Minister shall submit the names of the nominees to the National Assembly for approval within seven sitting days after receiving them.

(4) The National Assembly shall, within fourteen days after it first meets after receiving the names of the nominees –

(a) consider the nominees and either approve one of the nominees or reject both of them; and

(b) notify the minister as to its approval or rejection under subparagraph (a).

- (5) If the National Assembly approves a nominee, the Minister shall, within fourteen days after receiving the notification of the National Assembly, forward the name of the nominee to the President and the President shall, within fourteen days after receiving the name, appoint the nominee as a member of the Advisory Board.**
- (6) If the National Assembly rejects both nominees submitted by the nominating body, the Minister shall, within fourteen days after receiving the notification of the National Assembly, request the nominating body to submit a new nominee to the Minister and subparagraphs (3), (4), and (5) and this subparagraph apply with necessary modifications with respect to that new nominee.**

Mr. Speaker Sir, on 22nd November 2006 the Minister for Justice and Constitutional Affairs forwarded two names of the International Federation of Women Lawyers (FIDA) Kenya Chapter nominees to the Committee. The two nominees are:-

1) Ms. Muthoni Gichohi

2) Ms. Naomi Nyambura Wagereka

The nomination of the new member has been necessitated by the resignation of Ms. Fatuma Sichale (FIDA representative) from the Advisory Board in 2004.

The Advisory Board is currently constituted as follows:-

	Nominating body	Name
1.	Law Society of Kenya	Eric Okong'o Mogeni
2.	Institute of Certified Public Accountants of Kenya	Richard Boro Ndungu
3.	International Federation of Women Lawyers (FIDA) Kenya Chapter	
4.	Kenya Association of Manufacturers	Allan N. Ngugi (Chairman)
5.	Joint Forum of Religious Organizations	Charles K. Wambugu
6.	Federation of Kenya Employers	Shehnaz Sumar
7.	Kenya Bankers Association	K.K. Bett
8.	Central Organization of Trade Unions	Francis Atwoli
9.	Association of Professional Societies in East Africa	Anna Muchungu
10.	Architectural Association Kenya	Mariamy El- Maawy
11.	Institution of Engineers of Kenya	Prof. A. V. Otieno
12.	Kenya Medical Association	Prof. Miriam Were

Mr. Speaker Sir, the Committee met on Thursday 8th February 2007 and deliberated on the nominees. The Committee considered all nominees and recommends to the House that **Ms. Naomi Nyambura Wageraka** be nominated as a member of the Advisory Board representing the International Federation of Women Lawyers (FIDA) Kenya Chapter.

Mr. Speaker Sir, on behalf of the Departmental Committee on Administration of Justice and Legal Affairs, I wish to present to the House the Report of the Committee and the name of the International Federation of Women Lawyers (FIDA) Kenya Chapter nominee for further consideration and adoption by the House.

SIGNED:.....

Hon. Paul K. Muite, MP
Chairman, Departmental Committee on
Administration of Justice and Legal Affairs

DATE:..... 27th Feb. 2007

The Committee noted that both nominees are qualified in terms of their experiences. However, the Committee unanimously recommended that **Ms. Naomi Nyambura Wagereka** be nominated as a member of the Advisory Board representing the International Federation of Women Lawyers (FIDA) Kenya Chapter.

MINUTE NO.003/2007 ANY OTHER BUSINESS

Members deliberated on a letter from the Kenya National Commission on Human Rights on harassment of 'terror suspects' by the police. Hon. M. Cheboi was mandated to study the matter and advise the Committee on the way forward.

Members deliberated on the events at the East Africa Court of Justice and the nomination of Members to the East Africa Legislative Assembly. Members noted that constitutional and legal issues raised were within the mandate of the Committee and mandated Hon. Z. Syong'oh, Hon. M. Cheboi, Hon. K. Marende and Hon. Njoki Ndung'u to look at the matter and advise the Committee on the way forward.

Members noted that the recent appointment of three judges and the subsequent revocation of their appointments raised serious constitutional and legal issues. The Committee resolved to have a meeting with the **Registrar of High Court** on **Thursday 15th February 2007** at **10.00 am** to apprise Members on the matter.

MINUTE NO.004/2007 ADJOURNMENT

The Chairman adjourned the meeting at fifty minutes past eleven o'clock until Tuesday 13th February 2007 at 10.00 am..

Signed:
(Chairman)
Date: 20/2/07