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TENTH PARLIAMENT – FOURTH SESSION (2010)

THE DEPARTMENTAL COMMITTEE
ON
JUSTICE AND LEGAL AFFAIRS

REPORT ON

EXAMINATION OF ESTIMATES OF 2010/2011 FOR THE FOLLOWING
MINISTRY /DEPARTMENTS FOR:-

VOTE 17- MINISTRY OF JUSTICE, NATIONAL COHESION AND CONSTITUTIONAL
AFFAIRS

VOTE 25 -THE STATE LAW OFFICE

VOTE 26 - THE JUDICIARY

VOTE 33- INTERIM INDEPENDENT ELECTORAL COMMISSION

VOTE 34 – KENYA ANTI-CORRUPTION COMMISSION

VOTE 61 - INTERIM INDEPENDENT BOUNDARIES REVIEW COMMISSION

Clerk's Chambers

Parliament Buildings

July 2010

*Paper laid by
By Hon. Mollie Oboro
on behalf of the
Chairperson of the
Committee*

2/7/10

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PREFACE

Mr. Speaker, Sir,

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

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

The Committee comprises of the following members:-

Hon. Abdikadir Mohammed, M.P	Chairperson
Hon. Millie Odhiambo-Mabona, M.P	Vice-Chairperson
Hon. George Nyamweya, M.B.S. M.P.	
Hon. Amina Abdalla, M.P.	
Hon. Olago Aluoch, M.P.	
Hon. Isaac K.Ruto, E.G.H.M.P.	
Hon. Sophia Noor Abdi, M.P.	
Hon. (Prof)Philip Kaloki, M.P.	
Hon. Mutava Musyimi, M.P	
Hon. Ababu Namwamba, M.P.	
Hon. Njoroge Baiya, M.P.	

Mandate of the Committee

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

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

The Committee oversees the following Ministries/Departments

- i) Ministry of Justice, National Cohesion and Constitutional Affairs
- ii) State Law Office
- iii) The Judiciary
- iv) Kenya Anti-Corruption Commission
- v) Interim Independent Electoral Commission
- vi) Interim Independent Boundaries Commission

Mr. Speaker Sir,

Pursuant to Standing Order 152(1), once laid before the House, the Estimates are committed to the Departmental Committees according to their mandates, for consideration and examination within twenty one days after they were first laid before the House. The Minister for Finance submitted the Estimates for the year 2010/2011 before this House on June 9, 2010. In this regard, the Estimates for the Ministry of Justice, National Cohesion and Constitutional Affairs, State Law Office, Judiciary, Kenya Anti-Corruption Commission, Interim Independent Electoral Commission and the Interim Boundaries Review Commission were committed to the Departmental Committee on Justice and Legal Affairs for examination.

Examination of Estimates

The examination of the Estimates by the Committee was preceded by a comprehensive brief by the National Assembly's Budget office on the crucial areas of the Estimates. Thereafter, the Committee held meetings with the Hon. Minister and the Chief Executive Officers of the other Institutions. During the Meetings, the Minister and the Chief Executives were accompanied by the Permanent Secretary and other technical officers in the respective Institutions. This report is therefore an account of the findings of the Committee on the Estimates for line Ministry and Departments.

The methodology of collecting data and evidence was by way of Meetings with the Minister for Justice, National Cohesion and Constitutional Affairs, the Attorney General, the Registrar of the High Court, the Director, Kenya Anti-Corruption Commission, Chairman, Interim Independent Electoral Commission and the Chairman, Interim Independent Boundaries Review Commission and written and oral evidence by them.

The Committee held a total of seven meetings. The minutes of these meetings are appended to this report.

Key Observation

The Committee observed that the Justice and Law Sector has been neglected and continues to be underfunded. The Judiciary, the third arm of Government, continues to be treated like government ministries thereby scrambling for resources with other departments.

The reforms initiated under the governance sector are key in achieving the Vision 2030 through actions to support the creation of an enabling environment for the economic pillar to flourish and a just and secure environment for the social pillar hence the need to fund the sector accordingly.

Acknowledgements

Mr. Speaker, Sir,

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

The Committee further wishes to thank the Minister for Justice, National Cohesion and Constitutional Affairs, the Attorney General, the Director, Kenya Anti-Corruption Commission, Registrar of the High Court, Chairman, Interim Independent Electoral Commission and the Chairman, Interim Independent Boundaries Review Commission for responding promptly to issues raised by the Committee during the examination of the 2010/2011 Estimates.

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

Mr. Speaker, Sir,

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

Signed.....
HON. ABDIKADIR MOHAMMED, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON JUSTICE & LEGAL AFFAIRS

Date:.....

REPORT ON EXAMINATION OF ESTIMATES FOR THE YEAR 2010/2011

1.0 MINISTRY OF JUSTICE, NATIONAL COHESION AND CONSTITUTIONAL AFFAIRS (VOTE 17)

1.1 Introduction

- i) The Ministry will contribute to Vision 2030 and the Medium Term Plan, 2008-2012 through actions to support the creation of an enabling environment for the economic pillar to flourish and a just and secure environment for the social pillar and also through specific initiatives in and around the political pillar.
- ii) The Ministry's programmes encompass huge portions of the wider governance reforms; they address priority issues related to legal reforms, access to justice, improvement of governance, enhancement of participatory democracy and rule of law. Therefore, the activities implemented within the programmes contribute to the overall objectives of the political pillar which has a strong nexus with the country's poverty alleviation initiatives.
- iii) The Ministry has four key ongoing priority programmes, namely, Governance, Justice, Law and Order, Legal, Ethics and Constitutional Reforms, Human Rights and Legal Education programme.
- iv) The Ministry is also facilitating the operationalization and implementation of other national programmes and projects namely, Constitutional Review Process, Truth, Justice and Reconciliation Commission, Special Tribunal on post election violence, National Cohesion and Integration and the national values systems, on-State Actors Support Programme, Independent Constitutional Dispute Resolution Court and National Legal Aid and Awareness.
- v) The Ministry implementation of the Ministry's programmes and projects will be undertaken by departments and the following institutions namely:-Kenya School of Law(KSL),Kenya National Commission on Human Rights(KNCHR), Committee of Experts(COE),Special Tribunal(ST),Truth, Justice and Reconciliation Commission(TJRC),Interim Constitutional Disputes Resolution Court(ICDRC) and the National Cohesion and Integration Commission(NCIC),Interim Independent Electoral Commission, Interim Independent Boundaries Review Commission and the Kenya Anti-Corruption Commission.

1.2 Allocations for the Financial Year 2010/2011-R 17

- i) The net recurrent estimate of the Ministry for the Financial Year 2010/2011 increased from Kshs 1,987,862,600 in 2009/10 to Kshs. 2,196,025,000 in 2010/11 reflecting a net increase of Kshs.208, 162,400. The Committee was informed that the increase will be utilized in facilitating the resource needs of

Committee of Experts. In addition the Ministry expects to raise Appropriations in Aid (AIA) of Kshs.163, 070,000. There is an increase of Kshs 42,282,000 expected to be realized from operations of expanded programmes at the Kenya School of Law.

The Table below provides a comparative summary of budgets for the estimates for 2009/10 and 2010/11:-

VOTE	2009/10	2010/11	CHANGE
RECURRENT			
GROSS	2,108,650,600	2,359,095,000	250,444,400
A-I-A	120,788,000	163,070,000	42,282,000
NET RECURRENT	1,987,862,600	2,196,025,000	208,162,400
DEVELOPMENT			
GROSS	659,215,812	813,180,000	153,964,188
A-I-A(Donor Support)	479,180,812	666,500,000	187,319,188
NET DEVELOPMENT(GOK)	180,035,000	146,680,000	(-33,355,000)
VOTE 17(NET R&D)	2,167,897,600	2,342,705,000	174,807,400

Source : (Printed Estimates 2010/2011)

1.2.2 Recurrent Expenditure - R.17

Examination of Heads, by the Committee, under Vote R. 17 was as follows:-

i) Head 288: Headquarters: Central Planning Unit

Total proposed expenditure: Kshs.14, 550,298

The Committee noted that there was an increase under Item 3111400 on the Research, feasibility studies, project preparation and design, project supervision from Kshs 250,000 in 2009/10 to Kshs 640,000 in 2010/11.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs.14, 550,298 be allocated to the Ministry for the expenditure proposed on the items under Head 288.

ii) Head 545: Kenya National Commission on Human Rights

Total proposed expenditure: Kshs 105,000,000

The Committee noted with concern that a dispute on Tax payment by the Commissioners is yet to be resolved. It was recommended that the Commissioners serve their full term under the old terms while the proposed taxation should be implemented on the new commissioners or under new terms. The Committee emphasized the need for the Commission to have a

separate vote and also submit an itemized budget for transparency and accountability purposes.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 105,000,000 be allocated to the Ministry for the expenditure proposed on the items under Head 545.

iii) Head 557: Administrative Services

Total proposed net expenditure: Kshs.350, 017,252 and Appropriations In Aid of Kshs 600,000.

The Committee noted that there was a reduction from Kshs 413,251,448 to Kshs 350,017,252 in 2010/11. The decrease was on account of sub head 0002.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 350,017,252 be allocated to the Ministry for the expenditure proposed on the items under Head 557 and the Ministry be allowed to raise Appropriations In Aid amounting to Kshs 600,000.

iv) Head 601: Finance and Procurement Services

Total proposed expenditure: Kshs.9, 263,720

The Committee noted that the allocation had decreased from Kshs 11,075,528 to Kshs 9,263,720. The decrease was on all items except on compensation to all employees.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 9, 263,720 be allocated to the Ministry for the expenditure proposed on the items under Head 601.

v) Head 647: Kenya Law Reform Commission

Total proposed expenditure: Kshs.84, 010,569

The Committee noted that the allocation had decreased from Kshs 92,673,380 to Kshs 84,010,569 in spite of the envisaged workload should the proposed Constitution be adopted.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 84,010,569 be allocated to the Ministry for the expenditure proposed on the items under Head 647.

vi) Head 851: Kenya National Anti-Corruption Steering Committee.

Total proposed expenditure: Kshs.155, 000,000

The Committee observed that this committee continues to receive substantial funds in spite of the fact that the Kenya Ant-Corruption Commission is allocated funds for a similar function of civic education.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 155,000,000 be allocated to the Ministry for the expenditure proposed on the items under Head 851.

vii) Head 035: Truth, Justice and Reconciliation Commission

Total proposed expenditure: Kshs.190,000,000.

The Committee noted the allocation had increased from Kshs.150, 000,000 to Kshs 190,000,000.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 190,000,000 be allocated to the Ministry for the expenditure on Special Law Courts and for the Commission on Truth, Justice and Reconciliation.

viii) Head 037:National Cohesion and Integration Commission

Total proposed expenditure: Kshs.119,135,000

The Committee noted with appreciation the positive contribution the Commission had made in the country. In keeping with its mandate, the Commission had started prosecuting offenders especially those associated with hate speech .

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 119,135,000 be allocated to the Ministry for the expenditure proposed on the items under Head 037.

ix) Head 307:Constitutional Review Commission(Committee of Experts)

Total proposed expenditure: Kshs.700, 000,000

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 700,000,000 be allocated to the Ministry for the expenditure proposed on the items under Head 307.

x) Head 740:Interim Constitutional Dispute Court

Total proposed expenditure: Kshs.160, 000,000

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 160,000,000 be allocated to the Ministry for the expenditure proposed on the items under Head 740.

xi) Head 902:Directorate of Legal Affairs

Total proposed expenditure: Kshs.175,048,161

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 175,048,161 be allocated to the Ministry for the expenditure on the Directorate of Legal affairs and the National Cohesion activities as reflected under Head 902.

xii) Head 648:Kenya School of Law

Total proposed Net expenditure: Kshs.296, 470,000

The Committee observed that Kenya School of Law is capable of raising substantial revenue and that it should be encouraged to be self-sustaining. It was observed that the Institution would require at least three to four years before becoming self-sustaining.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs.296, 470,000 be allocated to the Ministry for the expenditure proposed on the items under Head 648 and the Vote Head be allowed to raise AIA amounting to Kshs. 162,470,000.

1.2.3 Development Expenditure - D.17

The net development allocation for the Ministry increased from Kshs. 182,068,050 in 2008/09 to Kshs 217,035,000 in 2009/10.

Examination of Heads, by the Committee, under Vote D.17 was as follows:-

i) Head 545: Kenya National Commission on Human Rights

Total proposed expenditure: Kshs 30,000,000

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 30,000,000 be allocated to the Ministry for the expenditure proposed on the items under Head 545.

ii) Head 557: Headquarters Administration Services

Total proposed net expenditure: Kshs 282,000,000 and Appropriations in Aid (AIA) amounting to Kshs 270,000,000

The Committee notes that substantial resources in form of appropriations In aid (AIA) will be raised from development partners to finance activities of the Truth, Justice and Reconciliation Commission and the National Cohesion and Integration Commission.

The Committee is agreeable that an amount not exceeding Ksh.282, 000,000 be allocated to this head and that Appropriations In Aid amounting to Kshs 270,000,000 be raised from development partners.

iii) Head 902: Directorate of Legal Affairs

Total proposed net expenditure: Kshs 4,680,000, and Appropriations in Aid (AIA) amounting to Kshs 396,500,000.

The Committee observed that substantial resources in form of appropriations in aid (AIA) will be raised from development partners to support activities under this Head.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs 401,200,000 be allocated to the Ministry for the expenditure proposed on the items under Head 902 and that AIA amounting to Kshs be raised from development partners to finance activities under this Head.

iv) Head 648: Kenya School of Law

Total proposed Net expenditure: Kshs 100,000,000

The Committee notes that this amount would be used for expansion of infrastructure and refurbishment.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs 100,000,000 be allocated to the Ministry for the expenditure proposed on the items under Head 648.

OBSERVATIONS

- a) The Kenya School of Law is capable of raising substantial appropriations in aid once a programme on infrastructure and human development is developed.
- b) The Kenya Law Reform Commission is grossly underfunded.
- c) The Ministry is reviewing the role of the Kenya National Anti- corruption Steering Committee in civic education vis-a-vis that of Kenya Anti-Corruption Commission to avoid duplication.
- d) The activities of the Truth, Justice and Reconciliation Commission had been hampered by credibility crisis suffered within the year.
- e) The Tax dispute affecting the Commissioners of the Kenya National Commission on Human Rights had impacted negatively on the performance of the Commissioners.
- f) The Institutions under Agenda 4 receive funds directly from Treasury.

RECOMMENDATIONS

- a) The Treasury should consider re-allocating funds to the Kenya Law Reform Commission to ensure that it had sufficient funds to handle the envisaged legislation should the proposed Constitution be adopted.
- b) The Kenya School of Law and the Treasury should develop a programme to enable the School become self – reliant.

- c) The activities of Kenya National Anti- Corruption Steering Committee be synchronized with those under the Kenya Anti-Corruption Commission to ensure that there was no duplication of functions.
- d) Payment of tax by Commissioners of the Kenya National Commission on Human Rights be applied to Commissioners on new appointments or on renewed terms.
- e) Funding to institutions under Agenda 4 should be done in consultation with the Ministry so as to determine priority areas.

CONCLUSION

- a) This committee recommends that a sum not exceeding **Kshs 2,196,025,000** be approved for Net recurrent expenditures and recurrent appropriations in aid amounting to **Kshs 163,070,000** be raised to support expenditures under the recurrent vote.
- b) That a sum not exceeding **Kshs146,680,000** be approved for Net development expenditures and development appropriations in aid amounting to **Kshs 666,500,000** be raised to support expenditures under the vote.

STATE LAW OFFICE –VOTE 25

1.1 Introduction

The State Law Office (SLO) has a critical role to play in the political, social and economic development of the Country. Section 26 of the Constitution provides for the Office of the Attorney General (AG) as the Principal Legal Adviser to the Government. The State Law Office under the directions and guidance of the Attorney General provides and promotes 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.

The State Law Office derives its mandate from Section 26 of the Constitution, which provides for the office of the Attorney General in Public Service. The role of the Attorney General is to provide legal services to the Government. The office is mandated to institute and undertake criminal proceedings against any person before any court other than Court Martial.

In addition, the Attorney General offers a wide range of legal services to the public as provided for in statutes and as set out in Presidential Circulars on the organization of the Government from time to time.

The State law Office was funded under the Governance, Justice, Law and Order Sector.

2.1.2 Allocations for the Financial Year 2010/2011

The net estimates of the State Law office for the Financial Year 2010/11 amounts to Kshs 1,103,637,240 as compared to net provisions of Kshs 1,178,800,000 in 2009/10, reflecting a decrease of Kshs 90,162,760. The decrease is mainly due to reduced provision for foreign travel, training, expenses purchase of office furniture and routine maintenance.

The Table below provides a comparative summary of budgets for the estimates for 2009/10- 2010/11:-

VOTE	2009/10	2010/11	INCREASE/DECREASE
RECURRENT			
GROSS	1,178,800,000	1,103,637,240	75,162,760
A-I-A	155,000,000	170,000,000	15,000,000
NET RECURRENT	1,103,800,000	933,637,240	170,162,760
DEVELOPMENT			
GROSS	43,000,000	80,300,000	37,300,000
A-I-A(Donor Support)	-	11,000,000	11,000,000
NET DEVELOPMENT(GOK)	43,000,000	69,300,000	26,300,000

Source : (Printed Estimates 2010/2011)

2.2.2 RECURRENT EXPENDITURE – R-25

Examination of Heads, by the Committee, under Vote R. 25 was as follows:

i) Head 405 :-Finance and Procurement Services

Total proposed expenditure: Kshs.16, 878,796.

The Committee noted that the allocation had decreased from Kshs 18,947,052 in 2009/10 to Kshs 16,878,796. The decrease was attributed to reductions in the allocations for communication and hospitality.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs. 16,878,796 be allocated to the department for the expenditure proposed on the items under Head 405.

ii) Head 582:-Central Planning Unit

Total proposed expenditure: Kshs.8, 214,081

The Committee noted that the allocation had decreased from Kshs 9,220,492 in 2009/10 to Kshs 8,214,081 in 2010/11. The decrease was attributed to reduction in all items.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs. 8, 214,081 be allocated to the department for the expenditure proposed on the items under Head 582.

iii) Head 872:- Headquarters-Administrative services

Total proposed expenditure: Kshs.356,975,524

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs. 356,975,524 be allocated to the Ministry for the expenditure proposed on the items under Head 872 which include expenses for Headquarters administrative Services, Aids Control Unit, Information Communication Technology Unit, Conflict Management, Kenya Copyright board and National Crime Centre.

iv) Head 268:Public Prosecutions Department

Total proposed expenditure: Kshs.159,363,855

The Committee noted that the allocation had decreased from Kshs 169,706,874 in 2009/10 to Kshs 159,363,855 in 2010/11. The decrease was attributed to reduction to compensation to employees.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs. 159,363,855 be allocated to the Ministry for the expenditure proposed on the items under Head 268.

v) Head 269:- Civil Litigation Department

Total proposed expenditure: Kshs.90, 108,264

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs. 90,108,264 be allocated to the Ministry for the expenditure proposed on the items under Head 269.

vi) Head 278:-Treaties and Agreement Department

Total proposed expenditure: Kshs.44, 979,635

The Committee noted the decrease from Kshs 48,354,054 in 2009/10 to 44, 979,635. The decrease was attributed to reduction on the item of foreign travel.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs. 44, 979,635 be allocated to the Ministry for the expenditure proposed on the items under Head 278.

vii) Head 584:-Civil Litigation-Field Services

Total proposed expenditure: Kshs.19, 168,420

The Committee noted that there was an increase from Kshs 17,174,228 in 2009/10 to Kshs 19,168,420 in 2010/11. The increase was attributed to an increase on domestic travel.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs. 44, 979,635 be allocated to the Ministry for the expenditure proposed on the items under Head 584.

viii) Head 588:-Public Prosecutions-Field Services

Total proposed expenditure: Kshs.23, 956,414

The Committee noted that there was an increase from Kshs 22,452,868 in 2009/10 to Kshs 23,956,414 in 2010/11. The increase was attributed to an increase in domestic travel.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs 23,956,414 be allocated to the department for the expenditure proposed on the items under Head 588.

ix) Head 850:-Legislative drafting Department

Total proposed expenditure: Kshs.24, 603,210

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs 23,956,414 be allocated to the department for the expenditure proposed on the items under Head 850.

x) Head 858:-Advocates Complaints Commission

Total proposed expenditure: Kshs.53, 628,717

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs. 53,628,717 be allocated to the department for the expenditure proposed on the items under Head 858.

xi) Head 590:-Registrar General-Field services

Total proposed expenditure:-Kshs 11,639,827

The Committee noted that the allocation had reduced from Kshs 19,288,414 in 2008/09 to Kshs 11,639,827.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs. 11,639,827 be allocated to the department for the expenditure proposed on the items under Head 590.

xii) Head 855:-Registration Services

Total proposed Net expenditure:-Kshs 121,333,430 and appropriations in aid (AIA) amounting to Kshs 136,500,000.

The Committee noted that the net allocation had decreased from Kshs 132,313,305 in 2009/10 to Kshs 121,333,430 in 2010/11.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs 121,333,430 be allocated to the department for the expenditure proposed on the items under Head 855 and that the Vote Head be granted authority to raise appropriations in aid (AIA) amounting to Kshs 136,500,000.

xiii) Head 593 :-Public Trustee Field Services

Total proposed expenditure:-Kshs 24,559,212

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs 24,559,212 be allocated to the Ministry for the expenditure proposed on the items under Head 593.

xiv) Head 891 :- Trustee Services

Total proposed Net expenditure:-Kshs 133,227,855 and appropriations in aid (AIA) of Kshs 18,500,000

The Committee noted that the allocation had decreased from Kshs 143,796,922 million in 2009/10 to Kshs 133,227,855 in 2010/11. The decrease is attributed to reduction on refurbishment of buildings and purchase of office furniture and general equipment.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs 133,227,855 be allocated to the Ministry for the expenditure proposed on the items under Head 891 and that the Vote Head raise appropriations in aid (AIA) amounting to Kshs 18,500,000 to finance items under this Head.

2.2.3 DEVELOPMENT EXPENDITURE – D-25

i) Head 872:Headquarters Administration

The Committee noted that the allocation of Kshs 31,400,000 would go towards grants and transfers to the National Crime and Research Centre.

In addition the Head is set to receive grants in form of Appropriations in Aid (AIA) from Development partners amounting to Kshs 2,292,000.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs 31,400,000 be allocated to the Ministry for the expenditure proposed on the items under Head 872 and that the Vote Head be allowed to raise Appropriations In Aid (AIA) from Development partners amounting to Kshs 2,292,000.

ii) Head 855: Registration Service

Total proposed expenditure:-Kshs.6, 400,000

The allocation is for the purchase of specialised equipment.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs 6,400,000 be allocated to the Ministry for the expenditure proposed on the items under Head 855.

OBSERVATIONS

- a) There is a clear disconnect between the Treasury and the State Law Office
- b) The vote is grossly underfunded compared to other votes performing similar duties.
- c) The low compensation to employees is leading to a high turnover of professional staff especially the State Counsel and Legislative Drafters to other public institutions.
- d) The institution is capable of raising substantial appropriations in aid for services rendered.
- e) The state law office has started establishing legal departments in government ministries and has so far established a total of 22 departments.
- f) The Institution has commenced computerization of its operations and has already automated the Company's Registry and the Public Trustee Department and hopes to develop an online registration and search system that will be incorporated in the new Business Process Management System.
- g) The Institution has completed the development and installation of the Business Process Management System and hopes to extend to Mombasa, Kisumu and Malindi.
- h) The Institution requires to improve its image and educate the public of the many services and benefits at their disposal.
- i) The Institution has made plans to deal with consequential legislation should the proposed Constitution be adopted.

RECOMMENDATIONS

- a) The Treasury should provide funds hitherto approved in 2009 for staff emolument and not factored in the 2010/2011 estimates.
- b) The Treasury considers allowing the institution to raise additional appropriations in aid which they can use to meet some of the shortfalls in financing of activities in various departments.
- c) The Institution mode of payment for services be reviewed so that it can be through banks in order to reduce leakages or any form of misappropriations.

CONCLUSION

- a) This Committee recommends that a sum not exceeding Kshs 933,637,240 be approved for Net recurrent expenditures and recurrent appropriations in aid amounting to Kshs 170,000,000 be raised to support expenditures under the recurrent Vote.
- b) That a sum not exceeding Kshs 37,800,000 be approved for net development expenditure and appropriations in aid amounting to Kshs 2,292,000 be raised to support expenditures under the vote.

3.0 JUDICIARY- VOTE 26

3.1 Introduction

The overall goal of the Judiciary was to increase access to justice thus allowing the rule of Law to flourish for the protection of human rights, democracy and property. To achieve this goal there was need to invest in more personnel, physical infrastructures, equipment and increase allocation for operation and maintenance.

The Judiciary was allocated Kshs 2,170,891,070 against an allocation of Kshs 2,092,700,000 in the previous financial year. The increase of Kshs 78,191,070 is due to enhanced provision for personal emoluments.

VOTE	2009/10	2010/11	CHANGE
RECURRENT			
GROSS	2,638,700,000	2,738,891,070	100,191,070
A-I-A	546,000,000	568,000,000	22,000,000
NET RECURRENT	2,092,700,000	2,170,891,070	78,191,070
DEVELOPMENT			
GROSS	580,501,000	588,550,000	8,049,000
A-I-A(Donor Support)	-	-	-
NET DEVELOPMENT(GOK)	580,501,000	588,550,000	8,049,000

Source :(Printed Estimates2010/2011)

3.1.0 RECURRENT EXPENDITURE –R -26

i) Head 134:- High Court Stations

Total proposed expenditure:-Kshs 91,740,591 and Appropriations in Aid (AIA) amounting to Kshs 160,050,000.

The Committee noted that this was a new head and the unit is expected to collect substantial appropriations in aid (AIA) which is more than the gross expenditure for the Vote Head.

The Committee is agreeable to the proposal by the Registrar that a sum not exceeding Kshs 91,740,591 be allocated to the Department for the expenditure proposed on the items under Head 134 and that the Vote Head be allowed to raise Appropriations In Aid amounting to Kshs. 160,050,000.

ii) Head 203:- Headquarters (General)

Total proposed expenditure:-Kshs 917,988,960

The allocations have increased mainly on other operating expenses and personnel expenses.

The Committee is agreeable to the proposal by the Registrar that a sum not exceeding Kshs 917,988,960 be allocated to the Department for the expenditure proposed on the items under Head 203 and appropriations in aid amounting to Kshs 3,000,000 be raised to finance some of these expenditures.

iii) Head 309:- Court of Appeal

Total proposed expenditure is Kshs 41,595,690

Allocations to this head have doubled on account of utilities and domestic travel.

The Committee is agreeable to the proposal by the Registrar that a sum not exceeding Kshs 27,444,200 be allocated to the Department for the expenditure proposed on the items under Head 309.

iv) Head 344:- Judicial Training Institute

Total proposed expenditure:-Kshs 21,960,097

The Committee observed that there is need to harmonise the activities of the Kenya School of Law and the proposed new Judicial training Institute to avoid duplication of functions.

The Committee is agreeable to the proposal by the Registrar that a sum not exceeding Kshs 21,960,097 be allocated to the Department for the expenditure proposed on the items under Head 344.

v) Head 860:- High Court of Kenya

Total proposed expenditure:-Kshs 399,617,114

The allocations have increased with bulk of the resources going towards compensation to employees.

The Committee is agreeable to the proposal by the Registrar that a sum not exceeding Kshs 399,617,114 be allocated to the Department for the expenditure proposed on the items under Head 860 and that an amount of Kshs 244,000,000 be raised in form of appropriations in aid to finance some of these expenditures.

vi) Head 861:- Magistrates and Kadhi's Courts

Total proposed expenditure:-Kshs 1,180,,303,618

The Committee noted an decrease on the gross allocation from Kshs 1,200,605,052 to Kshs 1,180,303,618.The A.I.A had gone up.

The Committee is agreeable to the proposal by the Registrar that a sum not exceeding Kshs 1,035,353,618 be allocated to the Department for the expenditure proposed on the items under Head 861 and that AIA amounting to Kshs 144,950,000 be raised to finance some of those expenditures.

vii) Head 864:- National Council for Law Reporting

Total proposed expenditure:-Kshs 85,685,000

The Committee is agreeable to the proposal by the Registrar that a sum not exceeding Kshs 85,685,000 be allocated to the Department for the expenditure proposed on the items under Head 864 and that AIA amounting to Kshs 16,000,000 be raised to finance some of these expenses.

3.2.2 DEVELOPMENT- D 26

The Development Vote increased by 1.4% from Kshs 580,501,000 in F/Y 2009/10 to Kshs 588,550,000 in F/Y 2010/11.This reduction will adversely affect the completion and equipping of the income Tax building and automation and also hinder the faster automation of the court processes and systems.

i) Head 860- High Court of Kenya

Total proposed expenditure: - Kshs 317,550,000

The major item of allocation for refurbishment and purchase specialized equipment. The Committee therefore agreed that a sum not exceeding Kshs 317,550,000 be allocated to Department for the expenditure proposed on the items under Head 860.

ii) Head 861-Magistrates and Kadhi's Courts

Total proposed expenditure: - Kshs 271,000,000

These funds are required for completion of various courts all over the country.

The Committee agrees that a sum not exceeding Kshs 271,000,000 be granted to this Vote Head for this purpose.

OBSERVATIONS

- a) There does not appear to be any appreciation/recognition of the role of the Judiciary as a third arm of government.
- b) The Judiciary should prioritise its projects.
- c) Direct banking should be extended to the districts
- d) The refurbishment of former Income Tax Building and its eventual alterations to make it suitable for Judiciary Services has taken long and the cost continues to rise.

RECOMMENDATIONS

- a) The Judiciary must assert its rightful position as a third arm of government by making presentations at the right forums.
- b) The refurbishment and automation of the Income tax building must be concluded without further delay.
- c) The Committee will undertake an inspection tour of the Income tax building.
- d) A curriculum of the Judicial Training Institute should be concluded.

CONCLUSION

This Committee recommends that a sum not exceeding Kshs 2,170,891,070 be approved for Net recurrent expenditures and appropriations in aid amounting to Kshs 568,000,000 be raised to support expenditures under the vote.

That a sum not exceeding Kshs 580,500,000 be approved for net development expenditures to support expenditure under the vote.

4.0 KENYA ANTI-CORRUPTION COMMISSION – VOTE 34

4.1.0 – Introduction

The Kenya Anti-Corruption Commission (KACC) is expected to combat corruptions and economic crime through law enforcement, prevention and public education.

It is mandated to combat and prevent corruption through enforcement of the Law educating the public and enlisting their support against corruption and providing preventive services through promotion/development of good practices to seal loopholes that facilitate corruption.

The net estimate of the Commission for the F/Y 2010/11 amounts to KShs 1,411,000,000 in against an allocation of KShs 1,288,000,000 in the financial year 2009/10. This reflects a net increase of KShs 123,000,000.

The increase is mainly due to enhanced provision for operations and maintenance.

VOTE	2009/10	2010/11	CHANGE
RECURRENT			
GROSS	1,312,950,623	1,421,000,000	108,040,377
A-I-A	24,950,623	10,000,000	14,950,623
NET RECURRENT	1,288,000,000	1,411,000,000	123,000,000
DEVELOPMENT			
GROSS	50,000,000	150,000,000	100,000,000
A-I-A(Donor Support)	-	-	-
NET DEVELOPMENT(GOK)	50,000,000	150,000,000	100,000,000

Source :(Printed Estimates2010/2011)

4.1.1. Recurrent Expenditure –R 34

The Committee is agreeable to the proposal by the Director that a sum not exceeding Kshs. 1,411,000,000 be allocated to the Commission for the expenditure proposed on the items under Vote 34.

4.2.2. Development Expenditure – D 34

The Committee is agreeable to the proposal by the Director that a sum not exceeding Kshs. 150,000,000 be allocated to the Commission for the expenditure proposed on the items under Vote 34.

OBSERVATIONS

- a) The public perception about the Commission remains negative in spite of the commendable job done of recovering stolen assets including land.
- b) The requested resources seem to be in line with the ceilings given and hence it is expected that KACC will execute all the recurrent programmes as planned.
- c) The proposed construction of a Headquarter is on course with the Commission having concluded design works. The Commission was awaiting a report from NEMA after which construction would commence.
- d) There are activities related to anti-corruption education which are also carried out by the Anti-Corruption Steering Committee under vote 17.

RECOMMENDATIONS

- a) KACC should work on its public relations to improve its image and educate the public of its programmes.
- b) The activities of the department on civic education should be reviewed vis-a-vis the activities of the Anti- Corruption Steering Committee to ensure that there was no duplication.
- c) The Commission should adhere to timelines set on the construction of its Headquarters to ensure that costs do not escalate as has happened elsewhere.

CONCLUSION

This Committee recommends that a sum not exceeding Kshs 1,411,000,000 be approved for Net recurrent expenditures and appropriations in aid amounting to Kshs 10,000 be raised to support expenditures under the vote.

That a sum not exceeding Kshs 150,000,000 be approved for net development expenditures to support expenditure under the vote.

5.0 INTERIM INDEPENDENT ELECTORAL COMMISSION – VOTE 33

5.1 Introduction

The Interim Independent Electoral Commission (IIEC) was operationalized through the Kenya Gazette No.4794 of May 8,2009 in line with the Constitution of Kenya (Amendment)Act,2008.

The Mandate of the Commission includes: to deliver free, fair, credible and professionally managed elections at all times and establish the legal and political infrastructure which is crucial in enhancing democracy and achievement of Vision 2030.

The commission was allocated Kshs 5,352,425,200.

- a) Head 570 –General Administration and Planning

Total proposed expenditure:-Kshs 4,261,828,200

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs 4,268,050,000 be allocated to the Commission for the expenditure proposed on the items under Head 570.

- b) Head 733- Registrar of Political Parties
Total proposed expenditure:-Kshs 261,683,120

The Committee is agreeable to the proposal by the Chairman that a sum not exceeding Kshs. 261,683,120 be allocated to the Registrar for the expenditure proposed on the items under Head 733.

c) Head 591 – Regional Election Coordination Services
Total proposed expenditure:-Kshs 821,988,680

The Committee is agreeable to the proposal by the Chairman that a sum not exceeding Kshs 350,400,000 be allocated to the Registrar for the expenditure proposed on the items under Head 591.

OBSERVATIONS

- a) The Commission had established operationalized the secretariat and was working on the structures up to the constituency level.
- b) Independence of the Commission was not absolute since Treasury had control of most of the activities of the Commission.
- c) There were no funds allocated to conducting the referendum.

RECOMMENDATION

A meeting between the Treasury, the Ministry of Justice, National Cohesion and Constitutional Affairs and the Committee resolved the Referendum issue and Treasury undertook to release funds.

CONCLUSION

This Committee recommends that a sum not exceeding Kshs 5,352,425,200. be approved for Net recurrent expenditures to support expenditure under the vote.

6.0 INTERIM INDEPENDENT BOUNDARIES REVIEW COMMISSION-VOTE 61

6.1 Introduction

The Interim Independent Boundaries Review Commission (IIBRC) was created by the Constitution of Kenya (Amendment) Act, No.10 of 2008. The Commission is expected to review boundaries of electoral and administrative boundaries and to make recommendations to Parliament. It was created after the former Electoral Commission of Kenya (ECK) was disbanded and its functions split into two to be performed by Interim Independent Electoral Commission and the Interim Independent Boundaries Review Commission.

The Commission consists of a Chairman and eight Commissioners gazetted vide Gazette Notice NO.4796 of 12th May, 2009.

There is also no development expenditure for this vote.

Total proposed expenditure:-Kshs.380,966,000

The Committee is agreeable to the proposal by the Chairman that a sum not exceeding Kshs 380,966,000 be allocated to the Commission for the expenditure proposed on the items under Vote 61.

OBSERVATIONS

- a) The Commission had undertaken part of its mandate including public hearings.
- b) The time frame is short, supposed to end in December 2010
- c) The Commission had developed structures and had recruited core secretarial staff.

RECOMMENDATION

- a) The Commission should utilize data from other public institutions like the Kenya National Bureau of Statistics to get details on population etc.
- b) The Commission should proceed with its mandate and endeavour to conclude within the stipulated period.
- c) The Commission should consult Treasury on extra funding.

CONCLUSION

This Committee recommends that a sum not exceeding Kshs 380,966,000 be approved for Net recurrent expenditures under R 61.

.....end.....

MINUTES OF THE 26TH SITTING OF THE DEPARTMENTAL COMMITTEE H – ON JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY, JUNE 24,2010 IN THE SMALL DINING HALL,PARLIAMENT BUILDINGS AT 9.30AM.

PRESENT

Hon. Abdikadir Mohamed, M.P.	Chairperson
Hon. Millie Odhiambo-Mabona, M.P.	Vice-Chairperson
Hon. Baiya Njoroge, M.P.	
Hon. Ababu Namwamba, M.P.	
Hon. Olago Aluoch, M.P.	
Hon. Amina Abdalla, M.P.	
Hon. Mutava Musyimi, M.P.	

ABSENT WITH APOLOGY

Hon. Nyamweya George, M.B.S.,M.P
Hon. Isaac Ruto, E.G.H.,M.P.
Hon. Sophia Abdir Noor, M.P.
Hon. (Prof) Philip Kaloki, M.P

IN ATTENDANCE
NATIONAL ASSEMBLY

Mrs.Phyllis Makau	Principal Budget Officer
Mrs. Lucy Wanjohi	Clerk Assistant
Mr. Abenayo Wasike	Third Clerk Assistant

ATTORNEY GENERAL'S CHAMBERS

Dorcas Odour
Fred Mwachi

MIN.NO 98/2010 CONSIDERATION OF THE MUTUAL LEGAL ASSISTANCE
BILL,2009

The meeting started with a word of prayer after which the Chairperson welcomed all to the meeting. He stated that the committee needed clarifications on some clauses in the Bill including clauses on civil liberties, reciprocity, independent authority and why procedures of mutual legal assistance cannot be incorporated in respective laws.

After due discussions it was resolved that further information on what the Committee needed be availed to the Attorney General/s office after which a meeting to consider this matter will be convened.

2010/11

The Chairperson noted that this was the second year when committees were scrutinizing the budget. It is hoped that the participation of Parliament will put the budget into more perspective and improve on the way resources are allocated.

The Principal Budget Officer took the Committee through the printed Estimates of the Ministry of Justice, National Cohesion and Constitutional Affairs, Kenya Anti-Corruption Commission, Judiciary, State Law Office, Interim Independent Electoral Commission and the Interim Independent Boundaries Review Commission (votes 17, 25,26,33,34 and 61).

The Committee noted:

1. Kenya Anti Corruption Commission.

- i) There is no indication of how the Kshs 50million development fund was utilized.
- ii) There is no indication on the cost of the HQ Building or how long construction will take.
- iii) On the development vote, the ceiling given was below by 64% and this would be difficult to realize its target

2. The Judiciary

- i) The requested resources for recurrent expenditure fall short by 11.4%.
- ii) The Committee noted that the Appropriations –in-Aid is not increasing in tandem with collections. There are possibilities of leakages
- iii) There was a need to confirm whether alternative modes of revenue collection has been adopted
- iv) Computerization and automation should progress of court processes
- v) The Committee should establish details on funding to the National Council for Law Reporting.
- vi) On development expenditure, the ministry has been given only 72% of the requested amount thereby putting in jeopardy completion of the Income Tax House project.
- vii) The possibility of ring-fencing funds for projects should be explored.

3. State Law Office.

The committee noted that the allocation was Kshs 1,103,640,000.

- i) The requested resources for recurrent expenditure fall short by 7%

- ii) On development expenditure, the State Law Office was given only 13% of the requested amount. This implies that the Institution will not be able to meet its target. This will require prudence and prioritization of programmes.

4. Ministry of Justice, National Cohesion and Constitutional Affairs

- i) Some of the Institutions can be self financing and this would release some resources for other areas.
- ii) That the Kenya National Anti- corruption Steering Committee is performing civic educational activities on corruption prevention whereas Kenya Anti-Corruption Commission has a division performing similar activities.

5. Interim Independent Electoral Commission

- i) The funds allocated are not adequate to cater for the forthcoming referendum.
- ii) There was need to establish whether the funds allocated for Political Parties was disbursed.
- iii) Have the rules and regulations been developed.

6. Interim Independent Boundaries Review Commission

The major allocations go towards compensation to employees which accounts for more than 60% of the total allocation.

MIN.NO.100 /2010

ADJOURNMENT

And there being no other business, the Chairman adjourned the sitting at thirty minutes past twelve O'clock.

Hon.Abdikadir Mohammed,MP

Signed.....
Chairperson

July 20,2010

Date.....

MINUTES OF THE 27TH SITTING OF THE DEPARTMENTAL COMMITTEE H – ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY ,JUNE 29,2010 IN COMMITTEE ROOM 9,PARLIAMENT BUILDINGS AT 9.30AM.

PRESENT

Hon. Abdikadir Mohamed, M.P. - Chairperson
Hon. Millie Odhiambo-Mabona, M.P. - Vice-chairperson
Hon. Amina Abdalla, M.P.
Hon. Baiya Njoroge, M.P.
Hon. Ababu Namwamba, M.P.
Hon. Nyamweya George, M.P.
Hon. Sophia Abdir Noor, M.P.

ABSENT WITH APOLOGY

Hon. Mutava Musyimi, M.P.
Hon. Isaac Ruto, E.G.H., M.P.
Hon. Olago Aluoch, M.P.
Hon. (Prof) Philip Kaloki, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi Clerk Assistant
Mr. Martin Masinde Fiscal Analyst
Mr. Abenayo Wasike Third Clerk Assistant

TREASURY

Nyamasyo Ndola Budget Officer
Moses Gathu budget Officer

KENYA ANTI-CORRUPTION COMMISSION

Dr. John P. Mutonyi Ag Director
Mr. Wilson K. Shollei Ass. Director-Finance & Administration
Olga Sewe Ag Ass. Director- Legal Services
Dr. Arbogast K. Akidiva Ag Ass. Director – Preventive Services
Jackson Mue Principal Officer
Beatrice Kamau Senior Planning & Budgets Officer
Jason N. Akoyo Planning & Budgets Officer 1

MIN NO.101/2010 - INTRODUCTORY REMARKS

The Chairperson welcomed KACC and invited the Ag. Director to make his presentation.

MIN NO.102 /2010 - PRESENTATION BY THE KENYA ANTI-CORRUPTION COMMISSION.

The highlights of the presentation included:-

i) Functions

- Investigative: - Investigate all corruption and economic crimes, it also includes conduct that is conducive to corruption.
- Preventive functions: - Prevent corruption through a number of activities before it occurs.
- Educative function. To educate the public on dangers of corruption and economic crimes.
- Restitutive function:- Involves the duty of tracing, recovery and restitution of corruptly acquired public property.

ii) Major Achievements

- 100 acres of land belonging to KBC Station cancelled allocations valued at Kshs 1.5 billion
- 60 acres of KWS land disrupted valued at Kshs 200million.
- Property valued at Kshs 1.72 billion recovered
- 15 recovery suits filed valued at Kshs 542million
- 139 cases concluded
- Over 100 persons arraigned in court
- Introduction of Integrity Testing Programme in the Public Sector.
- Kshs 6.27 billion corruptly acquired assets recovered e.g. Grand Regency, Karura Forest, KARI Plots etc.

iii) Challenges

- Staff Complement constraints
- Inadequate Legislation
- Slow judicial process
- Adverse judicial decisions
- Complex nature of corruption

iv) Recurrent Vote

- The Commission was allocated KShs 1,421,000,000 against an allocation of KShs 1,312,950,623 in the F/Y 2009/10 and an actual expenditure of Kshs 1,211,093,107
- The absorption capacity for the F/Y 2009/2010 is 92% in the Recurrent Expenditure.

v) Development Vote

MINUTES OF THE 28TH SITTING OF THE DEPARTMENTAL COMMITTEE H – ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY, JUNE 29,2010 IN COMMITTEE ROOM 9, PARLIAMENT BUILDINGS AT 11.30AM.

PRESENT

Hon. Abdikadir Mohamed, M.P. - Chairperson
Hon. Millie Odhiambo-Mabona, M.P. - Vice - Chairperson
Hon. Amina Abdalla, M.P.
Hon. Baiya Njoroge, M.P.
Hon. Ababu Namwamba, M.P.
Hon. Nyamweya George, M.P.
Hon. Sophia Abdir Noor, M.P.

ABSENT WITH APOLOGY

Hon. Mutava Musyimi, M.P.
Hon. Isaac Ruto, E.G.H., M.P.
Hon. Olago Aluoch, M.P.
Hon. (Prof) Philip Kaloki, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi Clerk Assistant
Mr. Martin Masinde Fiscal Analyst
Mr. Abenayo Wasike Third Clerk Assistant

TREASURY

Nyamasyo Ndola Budget Officer
Moses Gathu Budget Officer

JUDICIARY

Mrs Lydia Achonde Registrar
Mr. David Banda Rapando Deputy Chief Finance Officer
Mr. Dismas Opande Ogot Principal Accounts Controller
Mr. Michael Murungi Ag. Editor-NCLR
Mr. Pascal Othieno Senior Accountant-NCLR

MIN.NO.105/2010

PRESENTATION BY THE JUDICIARY DEPARTMENT

The main highlights of the presentation by the Registrar were:-

i) Underfunding

The Committee noted with concern the perennial underfunding of the Judiciary in complete disregard of the fact that this was the third arm of Government and its contribution to the welfare of this country was as important as the role of the other two

arms. The underfunding had led to delay in administration of Justice due to lack of infrastructure and human resource.

ii) Income Tax Building

The Committee noted with concern the escalating cost of finalizing this building and the length of time it has taken to complete the same. The Registrar explained that the building was ready for occupation after once it has been furnished appropriately.

iii) Automation of Court Processes

The Registrar explained efforts to automate the Court processes had commenced starting with the High Courts throughout the Country but the Judiciary lacked space to house the over 100 employees who are required to work on this programme hence the need to take occupation of the income Tax House.

iv) Revenue Collection

It was confirmed that the Judiciary had started collecting fines through the Kenya Commercial Bank starting from the month of June 2010. Direct banking had commenced in all the 17 High Court Stations. It is expected that this will spread to other courts once funds were available. The Judiciary was still negotiating with the Kenya Commercial Bank on modalities of other stations. The Kenya Revenue Authority had also agreed to open a special account for the Judiciary for collection of fees.

v) National Council for Law Reporting

The Institution was doing a commendable job of revising laws and printing. The funding required was to facilitate its take off after which it should be self-reliant.

Observations

The Judiciary, though a third arm of the Government continues to be treated as a department hence the unrealistic funding that it continues to receive.

Recommendations

- The Judiciary must assert its position as the third arm of government, prioritize its needs and present the same to Treasury
- The Committee will visit the Income Tax House in the company of officials from the Ministry of Public Works.
- The Judiciary should prepare a catalogue of all ongoing projects and forward to the Committee.
- The Judicial Service Bill to be prioritized.

MIN.NO.106/2010

PAPERS LAID

The Registrar of the High Court, Mrs. Lydia Achonde laid the following papers before the Committee:-

- i) *The Judiciary - 2010/11 Printed Estimates.*
- ii) *Request for Supplementary Financial Allocation for the NCLR*

MIN.NO.107/2010

ADJOURNMENT

And there being no other business the meeting ended at forty minutes past one till July 1, 2010 at 9.30am.

Hon.Abdikadir Mohammed,MP

Signed

Chairperson

July 20,2010

Date

MINUTES OF THE 29TH SITTING OF THE DEPARTMENTAL COMMITTEE H – ON JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY JULY 1, 2010 IN COMMITTEE ROOM, 7TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00AM.

PRESENT

Hon. Abdikadir Mohamed, M.P.	-	Chairperson
Hon. Millie Odhiambo-Mabona, M.P.	-	Vice-Chairperson
Hon. Amina Abdalla, M.P.		
Hon. Baiya Njoroge, M.P.		
Hon. Ababu Namwamba, M.P.		
Hon. Mutava Musyimi, M.P.		
Hon. Isaac Ruto, E.G.H., M.P.		
Hon. Olago Aluoch, M.P.		

ABSENT WITH APOLOGY

Hon. Nyamweya George, M.B.S., M.P.
Hon. Sophia Abdir Noor, M.P.
Hon. (Prof) Philip Kaloki, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi	Clerk Assistant
Mr. Martin Masinde	Fiscal Analyst
Mr. Abenayo Wasike	Third Clerk Assistant

TREASURY

Nyamasyo Ndola	Budget Officer
Moses Gathu	Budget Officer

STATE LAW OFFICE

Amos S. Wako, EGH, FCI Arb., SC, MP	Attorney General
Wanjuki Muchemi	Solicitor General
Mrs. Bernice Gachegu	Registrar General
Mrs. Eunice Sawe	Administrator General
Mr. Onesmus Mutua	Senior Deputy Secretary
Mr. Simon Karanja	Accounts Controller
Ahmed Mohammed	State Counsel
Mr. Joseph Mutuma	Finance Officer

MIN.NO.108/2010

PRESENTATION BY THE STATE LAW OFFICE.

The Solicitor General (on behalf of the A.G) gave a brief introduction of the Department, its mandate and the challenges that the office encounters in the execution of its mandate.

The highlights of the presentation were:

i) Underfunding

The State Law Office continues to receive funds way below its budget thereby hampering implementation and completion of projects

ii) Staff Challenges

The Institution has experienced inadequate professional and support staff. Most of the professional staff have left to join other public institution offering better terms and conditions of service. The most affected areas are Legislative drafting and public prosecutions.

iii) Inadequate Office Accommodation:-

The Institution continues to lease premises in most of its stations.

iv) Decentralization of services-

The State Law Office plans to open twenty (20) mini State Law Offices in the next five years for easy access to legal services at the district level.

v) Automation of State Law Office

This remains a challenge due to constraint of funds.

Recommendations

- i) In view of the anticipated Legislation arising out of the proposed Constitution, the Attorney General should seek authority to put all legislative drafters in the country under his watch so that the drafting of the laws can be done and completed within stipulated timelines.
- ii) The Institution should work towards automating all its services

MIN.NO.109 /2010

PAPERS LAID

The Attorney General, Hon. Amos Wako laid the following paper before the Committee:-

A statement on the 2010/11 Printed Estimates to the Justice & Legal Affairs Committee.

MIN.NO.110/2010

ADJOURNMENT

And there being no other business the meeting ended at forty five minutes past eleven o'clock.

SIGNED Hon.Abdikadir Mohammed,MP

 Chairperson

DATE July 20,2010

MINUTES OF THE 30TH SITTING OF THE DEPARTMENTAL COMMITTEE H – ON JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY, JULY 1, 2010 IN COMMITTEE ROOM 7TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12.00.

PRESENT

Hon. Abdikadir Mohamed, M.P.	Chairperson
Hon. Millie Odhiambo-Mabona, M.P.	Vice-Chairperson
Hon. Amina Abdalla, M.P.	
Hon. Baiya Njoroge, M.P.	
Hon. Ababu Namwamba, M.P.	
Hon. Olago Aluoch, M.P.	
Hon. Mutava Musyimi, M.P.	
Hon. Isaac Ruto, M.P.	

ABSENT WITH APOLOGY

Hon. Nyamweya George, M.P.
Hon. Sophia Abdir Noor, M.P.
Hon. (Prof) Philip Kaloki, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi	Clerk Assistant
Mr. Martin Masinde	Fiscal Analyst
Mr. Abenayo Wasike	Third Clerk Assistant

TREASURY

Nyamasyo Ndola	Budget Officer
Moses Gathu	Budget Officer

INTERIM INDEPENDENT BOUNDARIES COMMISSION

Mr. Abdullahi Sharawe	Commissioner
Ms Jedidah Ntoyai	Commissioner
Catherine Kola	Secretary to the Commission
Kipkoech A. Tanui	Deputy Director -Finance

MIN NO.111/2010

PRESENTATION BY THE INTERIM INDEPENDENT BOUNDARIES COMMISSION.

Commissioner Abdullahi Sharawe presented the Annual Estimates on behalf of the Chairman of the Commission. The following were the highlights:-

- The Commission has managed to operationalize the secretariat although there vacant positions
- Acquired office space
- Conducted public hearings across the country to collect views of the stakeholders and the public.
- Development of a communication strategy with the assistance of a consultant.
- Resources To Conclude Mandate
- Attracting and retaining staff
- Meeting expectations of stakeholders and citizens.
- The Commission is yet to undertake survey of electoral and administrative boundaries
- Economic Survey
- Fixing of boundaries
- Funding is purely from the Government
- Outstanding activities must be concluded by December 2010.

Recommendations

- The Commission should liaise with other government departments like the Kenya National Bureau of Standards to obtain data on population etc
- The Commission to hold a meeting with treasury on its critical areas that require funding. The meeting was expected to be held before end of July.

MIN.NO.112 /2010 PAPERS LAID

The Chairman, Interim Independent Boundaries Commission laid the following document before the Committee:-

iii) Memorandum Brief on the 2010/11 Printed Estimates

MIN.NO 113 /2010 ADJOURNMENT

And there being no other business the meeting adjourned at twelve thirty.

Signed	----- Hon.Abdikadir Mohammed,MP ----- Chairperson
Date	----- July 20,2010 -----

MINUTES OF THE 31ST SITTING OF THE DEPARTMENTAL COMMITTEE H – ON JUSTICE AND LEGAL AFFAIRS HELD ON MONDAY, JULY 5, 2010 IN COMMITTEE ROOM 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 9.30AM.

PRESENT

Hon. Abdikadir Mohamed, M.P.	Chairperson
Hon. Millie Odhiambo-Mabona, M.P.	Vice -Chairperson
Hon. Amina Abdalla, M.P.	
Hon. Ababu Namwamba, M.P.	
Hon. Isaac Ruto, M.P.	
Hon. Nyamweya George, M.P.	

ABSENT WITH APOLOGY

Hon. Mutava Musyimi, M.P.
Hon. Baiya Njoroge, M.P.
Hon. Sophia Abdir Noor, M.P.
Hon. Olago Aluoch, M.P.
Hon. (Prof) Philip Kaloki, M.P.

IN ATTENDANCE

Mrs. Lucy Wanjohi
Mr. F.Muthengi
Mr. Abenayo Wasike

NATIONAL ASSEMBLY

Clerk Assistant
Budget Officer
Third Clerk Assistant

INTERIM INDEPENDENT ELECTORAL COMMISSION

Ahmed Issack Hassan	Chairman
James Oswago	C.E.O
Davis Chirchir	Commissioner
Yusuf Nzimbo	Commissioner
Edward karisa	Director
Sellestine Kiuluku	Director-HRD& Administration
Immaculate Kassait	DVREO
Lucy Ndungu	Registrar of Political Parties

MIN.NO.114/2010 PRESENTATION BY THE INTERIM INDEPENDENT ELECTORAL COMMISSION

The Chairman informed the Committee that:-

- The Independence of the Commission was compromised by the Treasury
- The Commission does not even have a Bank Account outside Central Bank

- The Commission was operating on a shoe string budget despite having to cater for programmes that had not been budgeted for like registration of prisoners
- The Commission has conducted country wide voter registration
- The Commission had organized strategic reference materials for the referendum
- The Commission needs to buy vehicles for its field officers for effective supervision of activities of the commission.
- The Commission needed offices for regional coordinators
- The Commission had developed Rules and Regulations for the Political Parties
- Disbursed funds to 45 political parties from the political parties fund
- The Commission had no funds to conduct the referendum

Recommendation

It was resolved that a crisis meeting be held between the key players i.e. the Treasury, the IIEC, the Ministry of Justice and the Committee on Wednesday, July 7,2010 at 3.00pm or Thursday, July 8,2010 at 10.00am to resolve the issue on funds for the forthcoming referendum.

MIN.NO.115/2010

PAPERS LAID

The Chairman, Interim Independent Electoral Commission laid the following document before the Committee:-

- i) Statement by the Chairman on the 2010/11 Printed Estimates*

MIN.NO.116/2010

ADJOURNMENT

And there being no other business the meeting adjourned at thirty minutes past five O'clock.

Signed _____ Hon.Abdikadir Mohammed,MP
 Chairperson

Date _____ July 20,2010

MINUTES OF THE THIRTY SECOND SITTING OF THE DEPARTMENTAL COMMITTEE
H – ON JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY, JULY 5, 2010 IN
COMMITTEE ROOM 5^H FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS
AT 11.45AM.

PRESENT

Hon. Abdikadir Mohamed, M.P.	Chairperson
Hon. Millie Odhiambo-Mabona, M.P.	Vice-Chairperson
Hon. Amina Abdalla, M.P.	
Hon. Olago Aluoch, M.P.	
Hon. Nyamweya George, M.B.S, M.P.	
Hon. Mutava Musyimi, M.P.	
Hon. Sophia Abdir Noor, M.P.	

ABSENT WITH APOLOGY

Hon. Ababu Namwamba, M.P.
Hon. Baiya Njoroge, M.P.
Hon. Isaac Ruto, E.G.H., M.P.
Hon. (Prof) Philip Kaloki, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi	Clerk Assistant
Mr. Abenayo Wasike	Third Clerk Assistant

MINISTRY OF JUSTICE, NATIONAL COHESION AND CONSTITUTIONAL AFFAIRS

Hon. Mutula Kilonzo	Minister
Hon. William Cheptumo	Assistant Minister
Amb. Amina Mohamed	Permanent Secretary
Amb. David M. Mutemi	Director of Administration
Gichira Kibara	Secretary – Justice Ministry
Paul Masinde	Chief Finance Officer
Prof Kulundu Bitonye	CEO/Director-CLE/KSL

TREASURY

Nyamasyo Ndola	Budget Officer
Moses Gathu	Budget Officer

MIN NO. 118/2010 RESENTATION BY THE MINISTRY OF JUSTICE,
NATIONAL COHESION AND CONSTITUTIONAL AFFAIRS.

The Minister, Hon. Mutula Kilonzo, MP accompanied by the Permanent Secretary and other Ministry officials took the Members through programmes and projects that will help the Ministry contribute to Vision 2030 and the Medium Term Plan, 2008-2012 and the Budget Estimates for the Financial Year 2010/2011. The Ministry will contribute through actions to support the creation of an enabling environment for the economic pillar to flourish and a just and secure environment for the social pillar.

The Minister informed the Members that the Ministry has four key ongoing priority programmes namely:-

- Governance Justice Law and Order Sector
- Legal, Ethics, Integrity and Constitutional reforms
- Human Rights programmes
- Legal Education programme

The Ministry is also facilitating the operationalization and implementation of other national programmes and projects including:-

- Constitutional Review process
- Truth, Justice and Reconciliation Commission
- Special Tribunal on post-election violence
- National Cohesion and Integration Commission
- Non-State Actors support programme (NSA-NET)
- Independent Constitutional Dispute Resolution Court
- National Legal Aid and awareness

The Ministry has allocated funds to new projects and programmes as follows:-

- Committee of Experts allocated Kshs 700 million to facilitate civic education on the draft new constitution and winding up costs
- Truth Justice and Reconciliation Commission allocated Kshs 190 million to address historical injustices
- The Independent Constitutional Dispute Resolution Court allocated Kshs 160 million to handle disputes arising from the Constitutional Review Process
- The National Cohesion and Integration Commission has been allocated Kshs 157.37 million to address negative ethnicity and to promote National Cohesion and Integration
- Non State Actors Support Program allocated Kshs 340 This program is funded under the 9th European Development Fund and is expected to end in 2012.
- Integrated Protective Services (Social Justice for Children)

The Minister also stated the Ministry had made preparations in the event that the proposed Constitution as follows:-

- Has held discussions with the Secretary General of the Commonwealth on possible funding
- Discussions with UNDP,USAID,DFID and the Kenya Law Reform to give manpower on legislative drafting
- The Kenya Law Reform is working on the following documents:-
 - Draft Citizen Bill
 - Devolved Government Bill and Report
 - Development of legal framework of vetting of Judges and Magistrates
 - Development of Legal framework to operationalize Vision 2030
 - Legal framework to operationalize police reforms

On taxation of Commissioners of the Kenya National Commission on Human Rights, the Minister informed stated that the Ministry would want the salaries to be enhanced to the level of taxation for the current Commissioners while taxation should be effected on new commissioner.

The CEO ,Kenya School of Law stated that the Institution would be self-reliant in the next three to four years after all the necessary infrastructure and human development had been addressed .The fees collected is ploughed back to costs and cater for backlog of issues. He further stated that they were taking steps to ensure that the School does not compromise on standards.

Recommendations;

- i) The Kenya National Commission on Human Rights (KNCHR) be funded directly by the Treasury for accountability and transparency.
- ii) The Ministry sets up a coordinating body of all the commissions and task forces on reforms currently under way.
- iii) The role of the Anti-corruption Steering Committee be synchronized with that of KACC.The Ministry should also provide any reports done on corruption by the Committee.

MIN.NO 119 /2010

PAPERS LAID

The Minister, Hon Mutula Kilonzo, MP laid the following document before the Committee:-

Ministerial statement on 2010/11 Printed Estimates to the Departmental Committee on Justice & Legal Affairs Committee.

MIN.NO 120 /2010

ADJOURNMENT

And there being no other business the Chairman adjourned the meeting at thirty minutes past five O'clock.

SIGNED Hon.Abdikadir Mohammed,MP

 Chairperson

DATE July 20,2010

MINUTES OF THE 32ND SITTING OF THE DEPARTMENTAL COMMITTEE H – ON JUSTICE AND LEGAL AFFAIRS HELD ON WEDNESDAY ,JULY 7,2010 IN COMMITTEE ROOM 5^H FLOOR,CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 3.00PM.

PRESENT

Hon. Abdikadir Mohamed, M.P.
Hon. Millie Odhiambo-Mabona, M.P.
Hon. Olago Aluoch, M.P.
Hon. Nyamweya George, M.B.S, M.P
Hon. Mutava Musyimi, M.P.
Hon. Sophia Abdir Noor, M.P.

Chairperson
Vice-Chairperson

ABSENT WITH APOLOGY

Hon. Ababu Namwamba, M.P.
Hon. Amina Abdalla, M.P
Hon. Baiya Njoroge, M.P.
Hon. Isaac Ruto, E.G.H., M.P.
Hon. (Prof) Philip Kaloki, M.P

IN ATTENDANCE

Mrs. Lucy Wanjohi
Mr.Abenayo Wasike

NATIONAL ASSEMBLY

Clerk Assistant
Third Clerk Assistant

MIN NO. 121/2010

MEETING WITH TREASURY,IIEC & MJOCA

It was reported that the Treasury had written requesting that the meeting be held on Thursday, July 8, 2010 at 10.00am.

MIN NO. 122/2010

ADOPTION OF REPORT ON 2010/2011 ESTIMATES

It was resolved that copies of the Report be availed to all members for scrutiny before the final adoption.

MIN NO. 123/2010

ADJOURNMENT

And there being no other business the Chairman adjourned the meeting at thirty minutes past three O'clock.

HON.ABDIKADIR MOHAMMED,MP

SIGNED

Chairperson
JULY 20,2010

DATE

MINUTES OF THE 33RD SITTING OF THE DEPARTMENTAL COMMITTEE H – ON JUSTICE AND LEGAL AFFAIRS HELD ON WEDNESDAY, JULY 8, 2010 IN THE MEDIA CENTRE, PARLIAMENT BUILDINGS AT 10.00AM.

PRESENT

Hon. Abdikadir Mohamed, M.P.	Chairperson
Hon. Olago Aluoch, M.P.	
Hon. Mutava Musyimi, M.P.	
Hon. Amina Abdalla, M.P.	
Hon. Baiya Njoroge, M.P.	
Hon. Isaac Ruto, E.G.H., M.P.	

ABSENT WITH APOLOGY

Hon. Millie Odhiambo-Mabona, M.P.
Hon. Nyamweya George, M.B.S, M.P
Hon. Sophia Abdir Noor, M.P
Hon. Ababu Namwamba, M.P.
Hon. (Prof) Philip Kaloki, M.P

IN ATTENDANCE

Mrs. Lucy Wanjohi
Mr. Abenayo Wasike

NATIONAL ASSEMBLY

Clerk Assistant
Third Clerk Assistant

MINISTRY OF JUSTICE, NATIONAL COHESION & CONSTITUTIONAL AFFAIRS

Hon. Mutula Kilonzo	Minister
Amb. Amina Mohamed	Permanent Secretary
Gichira Kibara	Secretary – Justice Ministry

TREASURY

Mr. Joseph Kinyua	Permanent Secretary
Mr. Justus Nyamunga	Director-Economic Affairs

INTERIM INDEPENDENT ELECTORAL COMMISSION

Ahmed Issack Hassan	Chairman
Yusuf Nzimbo	Commissioner
James Oswago	C.E.O

MIN NO. 124/2010 INTRODUCTORY REMARKS

The Chairman stated that the meeting was convened to discuss funding of the referendum in view of the fact that the funds allocated to the IIEC were not sufficient.

MIN NO. 125/2010 PRESENTATION BY TREASURY

The Permanent Secretary thanked the Committee for inviting them to the meeting. He stated that the government was committed to securing funds for the referendum. The Committee was informed that consultative meetings between the Treasury and the IIEC had started wherein the two groups are working on areas where savings can be made. It was observed that the Kshs 2billion requested would be available on time to conduct the referendum.

The Committee agreed that the meetings proceed as arranged.

The Treasury also undertook to approve opening of an account for Non State Actors support programme to deposit funds from the European Development Fund.

MIN NO. 126/2010 ADJOURNMENT

And there being no other business the Chairman adjourned the meeting at thirty minutes past twelve O'clock.

SIGNED HON.ABDIKADIR MOHAMMED,MP

 Chairperson
 JULY 20,2010

DATE -----

MINUTES OF THE 34TH SITTING OF THE DEPARTMENTAL COMMITTEE H – ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY ,JULY 20,2010 IN THE MAIN CONFERENCE ROOM,COUNTY HALL,PARLIAMENT BUILDINGS AT 11.30AM.

PRESENT

Hon. Abdikadir Mohamed, M.P.	Chairperson
Hon. Millie Odhiambo-Mabona, M.P.	Vice -Chairperson
Hon. Ababu Namwamba, M.P.	
Hon. Baiya Njoroge, M.P.	
Hon. Mutava Musyimi, M.P.	
Hon. Amina Abdalla, M.P	

ABSENT WITH APOLOGY

Hon. Olago Aluoch, M.P.
Hon. Isaac Ruto, E.G.H., M.P.
Hon. Nyamweya George, M.B.S, M.P
Hon.Sophia Abdir Noor,M.P
Hon. (Prof) Philip Kaloki, M.P

IN ATTENDANCE

Mrs. Lucy Wanjohi
Mr.Abenayo Wasike

NATIONAL ASSEMBLY

Clerk Assistant
Third Clerk Assistant

MIN NO. 127/2010 ADOPTION OF COMMITTEE REPORT ON EXAMINATION OF ESTIMATES OF 2010/2011 FOR VOTE 17,25,26,33,34,& 61

In adopting the Report, the Committee observed that there was need for a follow-up mechanism to ensure that recommendations made are implemented by the respective bodies.

MIN NO. 128/2010 ADJOURNMENT

And there being no other business the Chairman adjourned the meeting at twenty minutes past twelve O'clock.

SIGNED _____
HON.ABDIKADIR MOHAMMED,MP
Chairperson

DATE _____
July 20,2010

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