

REPUBLIC OF KENYA



PARLIAMENT

ELEVENTH PARLIAMENT - FIRST SESSION

THE NATIONAL ASSEMBLY

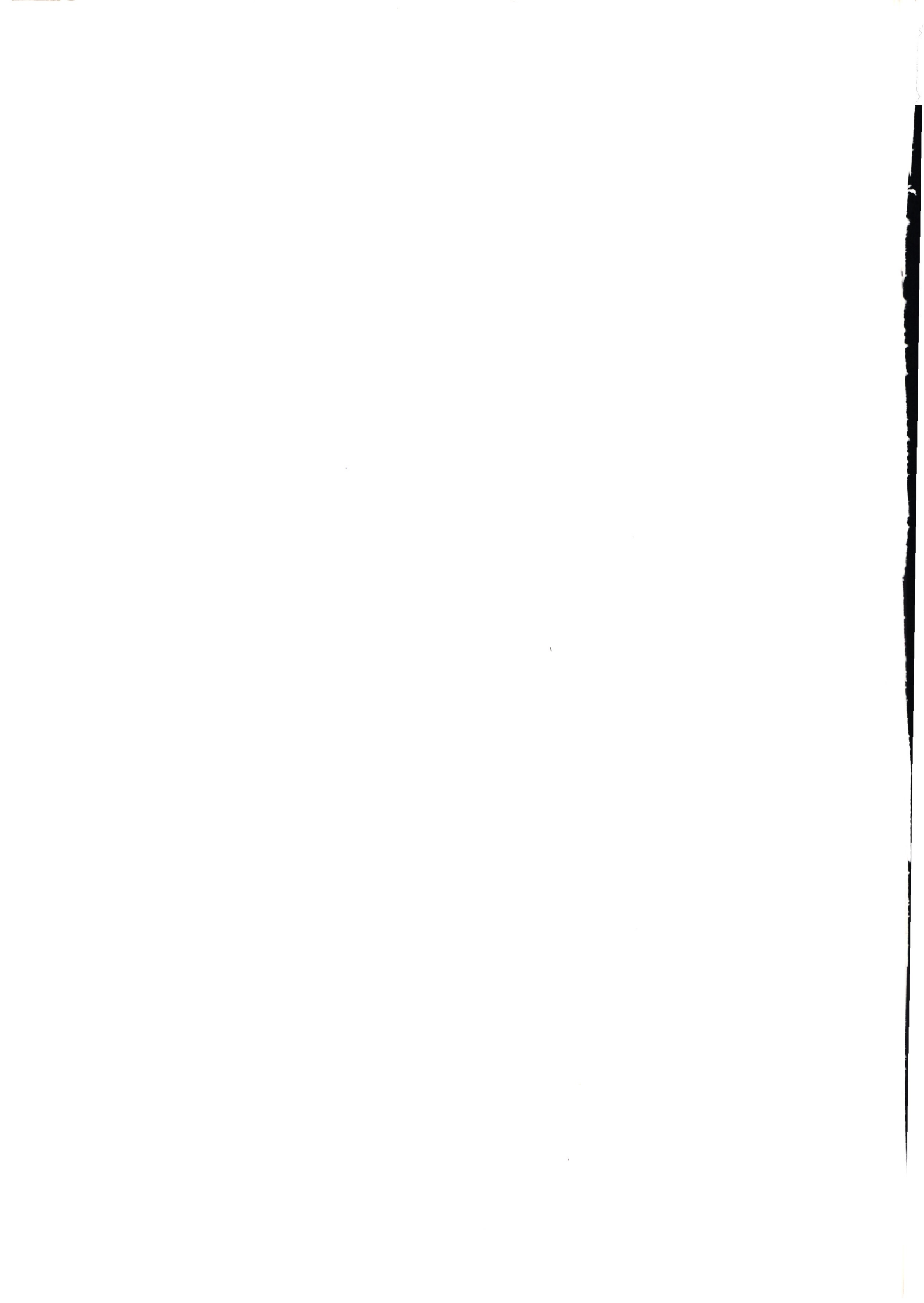
DIRECTORATE OF LEGISLATIVE & PROCEDURAL SERVICES

(TABLE OFFICE)

**REPORT
OF THE
FIRST SESSION**

MARCH - DECEMBER, 2013

The Clerk's Chambers
Kenya National Assembly,
Parliament Buildings,
Nairobi, Kenya



**REPORT
OF THE
FIRST SESSION**

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FOREWORD

The Constitution of Kenya, 2010 heralded a shift in the system of governance from a mixed system with a single legislative chamber to a presidential system with a bicameral legislature. This bicameral legislature, comprising the National Assembly and Senate, was constituted in March 2013 upon the country's general elections. The Report of the First Session of the Eleventh Parliament, (11th) outlines the strides taken by the National Assembly in fulfillment of its Legislative mandate.

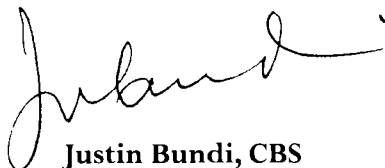
For a start, the Assembly took over the implementation of the Constitution from the Tenth (10) Parliament by passing the only two Constitutional Bills pending. In this regard, The Media Council Bill, 2013 and the Kenya Information and Communications (Amendment) Bill, 2013 were considered and passed by the House within the timelines stipulated by the Constitution. During the official opening of the Houses on 16th April, 2013, the Executive outlined their priority policies that required enactment of various pieces of legislation within the first Session. Indeed, the list was long and appeared insurmountable due to other business and annual deliberative processes that the House was scheduled to undertake. In this regard, the House has had an extremely busy schedule which has enabled it consider a total of forty five (45) Bills at various stages. Out of this number, twenty one (21) bills have been passed and assented to while another three (3) are awaiting Committee of the Whole House. A further nineteen (19) are lined up for the rigorous processes of the *Second (2nd) Reading*. The Session also saw the Statute Law Miscellaneous (Amendment) Bill, 2013 defeated at the *Second Reading*. The House is yet to consider two (2) Bills that were received from the Senate during the second last day of the Session. The President also referred back to the Assembly, the Kenya Information and Communications (Amendment) Bill, 2013 and the Insurance (Amendment) Bill, 2013. The former was considered and passed before the end of the Session. However, since the President's reservations on the Insurance (Amendment) Bill, 2013 was received when the House was on recess, it is envisaged that the Bill will be reconsidered during the next Session.

The House also vetted various nominees for appointment to state and public offices. The Session has not been without emerging issues. With the new governance system, Members have had to seek answers to matters affecting their respective Constituencies through Statements; a new phenomenon provided for in the Standing orders. Needless to say, this area has presented numerous challenges hence the ongoing efforts to actualize the provisions of Article 153(3) and (4) of the Constitution in a more pragmatic manner. The Session has also seen an upsurge in Public Petitions with many of them touching on infrastructure and human rights. The Committees have risen to the occasion in their endeavor to address the increasing public petitions. In addition, the Session has witnessed amendments to House Rules of Procedure, a record three (3) times to address some of the challenges presented by the expanded membership of the Assembly. The amendments also ensured that Bills before the House do not lapse with the Session of the House.

The County Assemblies have continued to look to the National Assembly for technical support in various matters which are completely new to them; consequently, the Offices of the Speaker and that of the Clerk have played a key role in assisting the County Assemblies lay a firm foundation by training Members of the County Assemblies and staff, including arranging attachments for staff and visits by members of County Assemblies. The nascent Centre for Parliamentary Studies facilitated most of the training programmes with officers of the House providing part of the faculty.

The Session has had its fair share of challenges occasioned by limited infrastructure and shortage of staff due to increased Membership. However, the Parliamentary Service Commission has committed to expeditiously addressing these challenges by providing adequate facilities to members and recruiting more staff.

As we look forward to the Second Session, the lessons learnt during the First Session will go a long way in nurturing our bicameralism and indeed making the House most efficient, effective and even more lively. It also my desire that this Report becomes an invaluable reference for Members of the Assembly and other stakeholders who might need a quick reference to the work of the National Assembly in the First Session of the 11th Parliament.



Justin Bundi, CBS

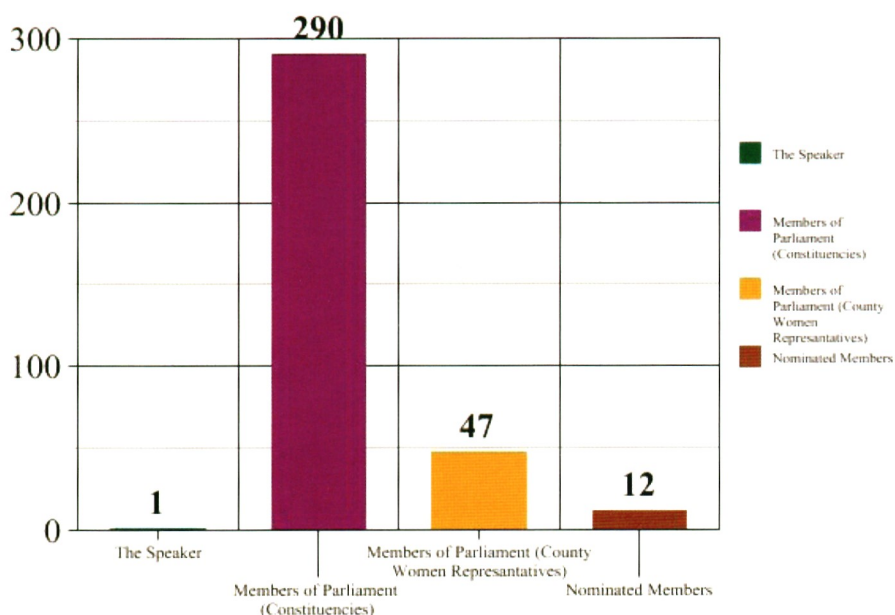
CLERK OF THE NATIONAL ASSEMBLY

December, 2013

I. SWEARING IN OF MEMBERS

On the 4th of March, 2013, Kenya held its first general elections under the Constitution of Kenya (2010) ushering in a Bicameral Parliament. This realised the election of the President, 290 Members of Parliament representing constituencies and 47 County Women Representatives. Shortly after this election, 12 Members representing parliamentary political parties were nominated to the House. The National Assembly would now consist of;

Composition of the National Assembly-Bicameral Parliament



That is:-

- The Speaker
- 290 Members of Parliament representing constituencies
- 47 County Women Representatives
- 12 Nominated members

Under the new Constitution, the Attorney General is no longer an *ex officio* member of the National Assembly in line with the separation of powers principle.

Article 126(2) of the Constitution provides that;

“Whenever a new House is elected, the President, by notice in the Gazette, shall appoint the place and date for the first sitting of the new House, which shall be not more than thirty days after the election.”

On the 21st of March, 2013, his Excellency the incumbent President, Mwai Kibaki notified that the First Sitting of the National Assembly would be held in the National Assembly Chambers at the main Parliament Buildings, Nairobi on Thursday, 28th March, 2013 starting at 9.00 a.m. (Legal Notice 55 of 21.3.2013). On Thursday, March 28th 2013, the National Assembly met for the first time at 9.00 a.m. at Parliament Buildings. The proceedings were opened with a prayer read by the Clerk. In his remarks, the Clerk welcomed Members to the very first sitting of the 11th Parliament and congratulated them for their election.

The Clerk read the notification of the President as published in the *Gazette*, laid the list of persons elected as Members to the National Assembly on the Table of the House in accordance with Standing Order 3(1)(a) and (b) respectively.

During the Second Part of the First Session, the House conducted swearing in (Administration of Oath) for four (4) Members namely:- the Member for Kibwezi West Constituency, the Hon.(Dr.) Patrick M. Musimba, the Member for Matungulu Constituency, the Hon. Stephen Mule and the Member for Lunga Lunga Constituency, the Hon. Khatib Abdalla Mwashetani, who were re-elected after losing their seats through court petitions challenging their initial election on 4th March, 2013; and the new Member for Bonchari, the Hon. Oroo Oyioka, who was declared a Member of Parliament after he won the petition.

Administration of Oath

Under Article 74 of the Constitution, no person shall assume or perform any functions of a State office before taking or subscribing to the oath or affirmation of office which means that, unless members have been sworn in, they are not able to elect the Speaker or Deputy Speaker. In order to comply with the provisions of the Constitution, the first business of a new House, therefore, is to administer Oath or Affirmation of Office to Members under Standing Order 3(2). It is important to note that this is a deviation from past practice in previous Parliaments where the election of Speaker and Deputy Speaker was conducted before the swearing in of Members.

Procedure

On a point of order, the Member for Garissa Township, Hon. Aden Duale requested the House to allow the 349 Members to be sworn in, in either batches of five, ten or twelve due to the large number of Members and the pending election of the Speaker and Deputy Speaker after the swearing in. Since there was no consensus on this proposal, the Clerk made his **first ruling** by guiding that the Swearing in would be done in accordance with the provisions of Standing Order 3 (2). The Oath was administered in order of persons with disabilities, members with the longest cumulative period of service in the National Assembly, members with the longest cumulative period of service in the National Assembly and Senate, members with the longest cumulative period of service in the Senate, all other members in alphabetical order.

Having gone through the entire list, the Clerk confirmed that all members on the list and present in the House had been sworn in. The Session was suspended at 1.48pm to resume at 2.30pm and proceed with the election of the Speaker and Deputy Speaker.

Election of Speaker and Deputy Speaker

Article 106(2) (a) of the Constitution provides that the Office of the Speaker shall become vacant when a new House of Parliament first meets after an election. Acting under the powers conferred by Standing Order No.5; the Clerk notified the general public of a vacancy in the Office of the Speaker of the National Assembly. In the same *Gazette* notice, he invited interested persons and subsequently issued nomination forms for the election of the Speaker. Completed application forms were to be returned to him by 9.00 a.m. on Tuesday, 26th March, 2013.

Election of Speaker

At the deadline for returning nomination forms, four candidates fulfilled the requirements and were validly nominated. The Clerk guided the Members on the voting process as follows:-

- Each Member would receive one ballot paper at a time at the Table and proceed to cast the vote by placing "X" in the space provided for, opposite the name of the candidate he or she wished to vote for. A Member who, before the conclusion of a ballot had marked his paper in error could, by returning it to the Clerk, obtain another in its place. The first one would be cancelled and destroyed. When all Hon. Members present had voted, the parliamentary staff would unlock the box, examine and count the ballot papers and thereafter the Clerk would announce the results of the vote."
- Under Standing Order 7, *"a person shall not be elected a Speaker unless supported by votes of two-thirds of all Hon. Members. If no candidate is supported by votes of two-thirds of all Members, the candidates who receive the highest and second highest number of votes in the ballot shall alone stand for election in a further ballot and the candidate who receives the highest number of votes in the further ballot shall be elected."*
- Following Standing Order 6, the ballot box was displayed, sealed and voting proceeded by secret ballot. The Clerk confirmed that all members present had voted and called the agents for the two candidates to observe the counting.

The **Hon. Justin B. N. Muturi** was elected Speaker on the Second round of ballot and the Clerk thereupon administered the Oath of Allegiance to the Speaker-elect.

Election of Deputy Speaker

The Speaker then took the Chair, the mace was raised and he proceeded to give his maiden speech after which he guided the House on the procedure of electing the Deputy Speaker. He thereupon conducted the process of electing the Deputy Speaker. Three candidates had been duly nominated. The Speaker accordingly declared the **Hon. (Dr.) Joyce Cherono Laboso, MP**, elected Deputy Speaker of the National Assembly after being so elected on the first ballot. The Speaker administered the oath to her accordingly and thereafter adjourned the House at 7.30pm.

It is also important to note that the election of the Speaker and Deputy Speaker took an unprecedented short period as compared to previous Parliaments where the Sitting would run past midnight.

II. OPENING OF THE 11TH PARLIAMENT

Parliament was officially opened on 16th of April 2013 at the National Assembly Chamber in Parliament Buildings by H.E. the President. It was the first joint sitting of the two Houses. The President was escorted to the Chamber by the Speakers of the two Houses, the National Assembly and the Senate together with their deputies. The Speaker of the National Assembly sat on the President's right side while the Speaker of the Senate sat on the President's left side. When delivering the address, the President was heard in silence which meant that debate did not follow thereafter. After the Presidential address, the House was adjourned. The President and other invited guests were hosted to a reception at Parliament grounds.

Standing Order 24(5) provides that: “whenever the President delivers an Address, a Member may as soon as is practicable thereafter, lay the Address on the Table of the House following the reading of such Address.” The debate on the Motion is limited to four days. The Leader of Majority Party, Hon. Adan Duale laid the Presidential Address on the Table of the House on 17th of April, 2013.

III. INDUCTION PROGRAMME

The first Induction workshop for the 349 Members of the National Assembly was held at the Safari Park Hotel on April 11 – 12, 2013. The objectives of the workshop were to keep the Members abreast with the operations of the new bicameral legislature and the House rules of procedure with particular reference to parliamentary practices and procedures. The Members were inducted on the following topics:

- General Etiquette, Decorum and International Relations
- Mandate and functions of the National Assembly including organization structures
- Members facilities and services
- National Assembly Rules and Procedure
- Overview of Management and Operations of the Constituencies Development
- The Committee system
- The Legislative Process
- The Oversight role of the National Assembly in the budget making process and procedures
- The role and functions of the Centre for Parliamentary Studies and Training (CPST) in Capacity Development
- The Serjeant -at-Arms office

And the second induction workshop for all the Members of the National Assembly was held in Leisure Lodge Resort from September 9th - 12th, 2013. The Members were inducted on the following -

- An effective Legislature
- The Legislative Business: Who’s Agenda?
- Effective Parliamentary Oversight
- Public Engagement and Political Communication
- Devolution and Managing the Transition

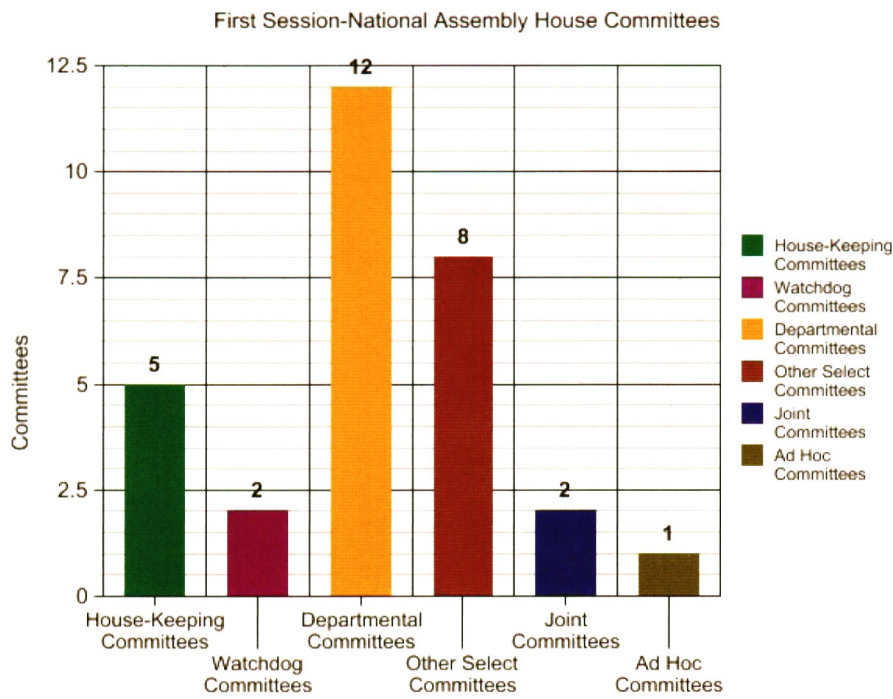
IV. PARLIAMENTARY BUSINESS

The Legislative Calendar

Pursuant to Standing Order 28, the House Business Committee determined the Parliamentary (National Assembly) Calendar and the said calendar were approved by the House on April 24th 2013. The Calendar outlines Sitting sessions for debate and recess dates for each year. Standing Order 27 provides that the National Assembly sessions will begin on the second Tuesday of February with the Official Opening of Parliament, and end on the first Thursday of December. The Constitution gives the responsibility exclusively to Parliament to determine its own Calendar unlike in the past where the President controlled the calendar of Parliament, summoning and proroguing Parliament at his discretion.

In that connection, the First Session of the 11th Parliament ended on Thursday, December 5th, 2013 and the House was adjourned until Tuesday, February 11, 2014 at 2.30p.m.

V. HOUSE COMMITTEES



Formation of House Committees

Pursuant to the Standing orders of the National Assembly, there are 29 Committees, divided into Departmental (Standing Committees) and Select Committees. The House Business Committee and the Committee on Selections were constituted on the 17th of April, 2013 while Departmental Committees were formed on 20th May, 2013. In the new Constitutional dispensation, Committees are an essential part of the legislative process.

The Committees' oversight government operations, identify issues suitable for legislative review, and recommend courses of action to the Executive and the House. The Implementation Committee thereafter follows on implementation status. The Classification of Committees of the House is outlined in Annex I, herein attached.

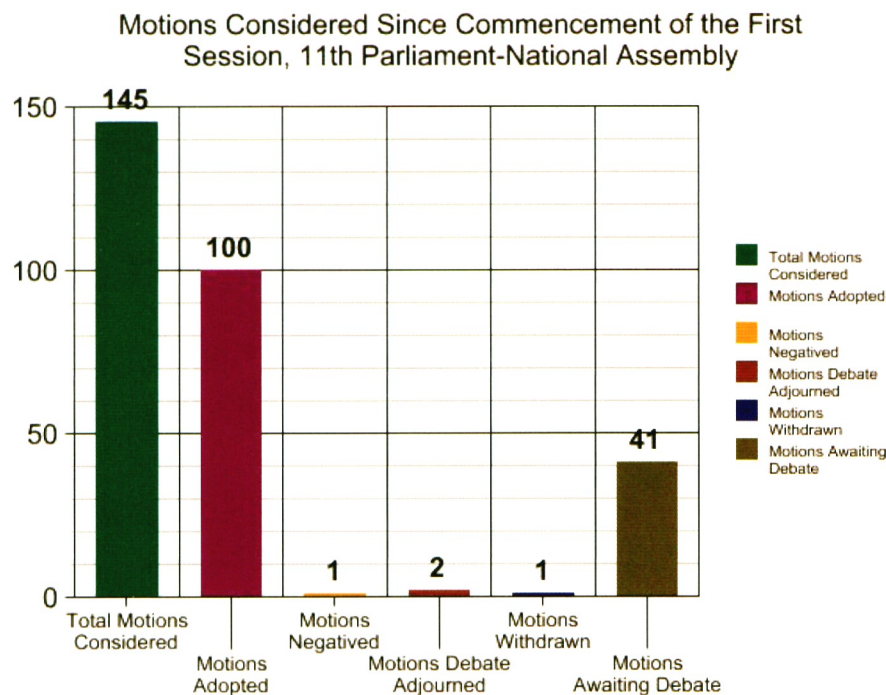
Ad Hoc Committees

The first Ad Hoc Committee in the 11th Parliament was constituted on July 10, 2013 to comprehensively investigate, inquire into all matters relating to Khat (Miraa), consider and review all research findings and make recommendations to the House within ninety days.

The Committee submitted its final report to the House on December 5th, 2013; after an extension of reporting time from the initial ninety (90) days to one hundred and fifty (150) days by the House.

VI. MOTIONS

The House has considered a total of one hundred and forty five (145) motions consisting of procedural, general, special and other motions. The House has adopted one hundred (100) motions, negatived one (1), debate on two (2) motions was adjourned, and a further motion was withdrawn while the House is yet to debate forty one (41) motions. Members continue to propose other Motions for debate.



All Motions adopted by the House have been forwarded to the executive and other relevant institutions for action and implementation.

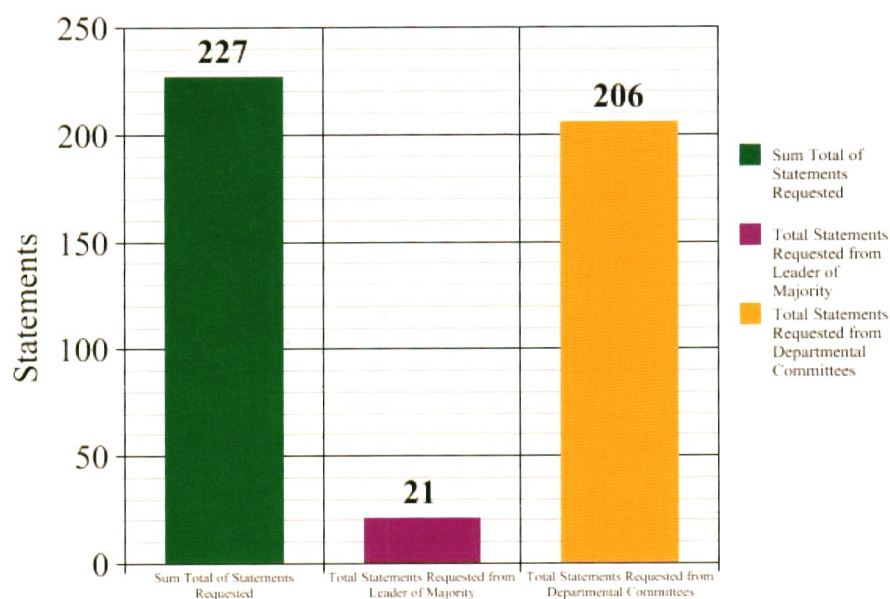
VII. STATEMENTS

During this Session, Members have made requests for statements from either the Leader of Majority or the Chairpersons of Departmental Committees pursuant to Standing Order 44(2) (b) and (c) respectively.

There have been a total of two hundred and twenty seven (227) requests for statements; twenty one (21) have been directed to the Leader of Majority and two hundred and six (206) directed to Chairs of Committees. The practice of requesting for statements started in the Eighth Parliament, and involved Members rising on a point of order to request for Statements by way of Questions. This was limited to matters of urgent national importance, and would be responded by Ministers in the Plenary. In the Tenth Parliament, this was codified in the 2008 Standing Orders and was renamed as 'Statements'.

In a Speaker's communication dated June 12, 2013, the Speaker declared that such practice was 'history', and informed Members of the apparent shift from a Parliamentary system to a Presidential system, which sees the interaction between the Executive and the Legislature limited to Parliamentary Committees.

Statements Considered During the First Session- 11th Parliament, National Assembly



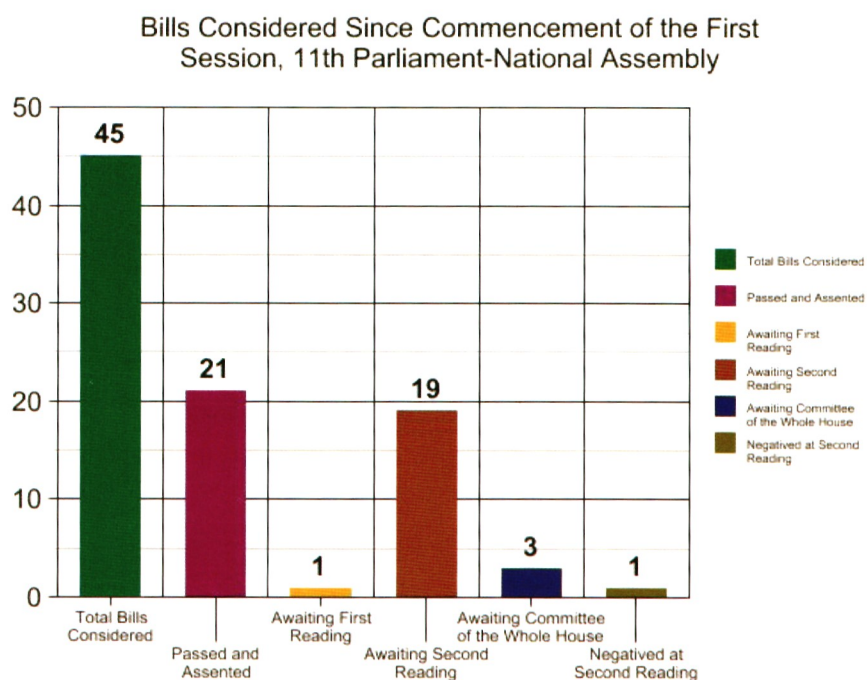
The Speaker noted that the use of Standing Order 44 by Members was evolving into a mode for re-introduction of Questions in the House, yet it is clear that no Member, Chairs of Committees or even the Leader of Majority can hold brief for the Executive.

The Speaker in the same Communication delivered a guide to the House on the Request of Statements by Members and stated that:

- Where a Member of the House Business Committee designated by the Committee presents and lays on the Table a statement, such a statement must be strictly restricted to informing the House of the business of the week;
- Where the Leader of the Majority Party or the Leader of the Minority Party makes a statement relating to their responsibilities in the House or the activities of a Committee, such a statement is restricted to their responsibilities. However, the Leader of Majority may respond to matters of an urgent national scope arising from the statements sought, which should not be more than two (2) on any particular Thursday.
- Where a Member requests for a statement from a Committee Chairperson, such a request will be done on Thursdays on the floor of the House. The Chairs of the Committee will be required to take over the requests and prioritize them according to the Committee's programme. The Speaker further directed that a Member who requests a statement is expected to attend the meeting of the Committee and also interrogate the matter requested. The Committee may choose to report to the House by way of a Statement or a Report in response. If such a report is adopted by the House, it will form part of the resolution of the House for the Committee on Implementation to follow up.

VIII. BILLS

The following Bills were considered in the House:



Passed and Assented:

1. The Division of Revenue Bill, 2013;
2. The Supplementary Appropriation Bill, (No. 2), 2013;
3. The Appropriation Bill, (No. 2),(Bill No. 11),2013;
4. The Constituencies Development Fund (Amendment) Bill, 2013;
5. The County Allocation of Revenue Bill, 2013;
6. The Value Added Tax Bill, 2013;
7. The Tax Appeals Tribunal, 2013;
8. The Kenya Deposits Insurance(Amendment) Bill, 2013;
9. The Microfinance (Amendment) Bill, 2013;
10. The Finance Bill, 2013;
11. The Agriculture, Fisheries and Food (Amendment) Bill, 2013;
12. The Kenya Information and Communications (Amendment) Bill, 2013(Presidential Memorandum);
13. The Truth, Justice and Reconciliation (Amendment) Bill, 2013;
14. The Media Council Bill, 2013;
15. The Election Campaign Financing Bill,2013;
16. The Wildlife Conservation and Management Bill, 2013;
17. The National Social Security Fund Bill,2013;
18. The Matrimonial Property Bill, 2013;
19. The Capital Markets (Amendments) Bill, 2013;
20. The Insurance(Motor Vehicle Third party Risk) Bill, 2013;and
21. The Vetting of Judges and Magistrates (Amendment) Bill, 2013

a. Awaiting First Reading:

1. The Persons with Disability(Amendment) Bill, 2013;

b. Awaiting Second Reading:

1. The Retirement Benefits (Deputy President and Designated State Officers) Bill, 2013;
2. The Marriage Bill, 2013;
3. The Constitution of Kenya (Amendment) Bill, 2013;
4. The Constitution of Kenya (Amendment) (No. 2) Bill, 2013;
5. The Counsellors, Psychologists and Psychotherapists Bill, 2013;
6. The Parliamentary Society of Kenya Bill, 2013
7. The Fertilizers and Animal Foodstuffs (Amendment) Bill, 2013
8. The Public Procurement and Disposal (Amendment) Bill, 2013
9. The Military Veterans Bill, 2013
10. The Statute Law (Miscellaneous Amendments)(National Assembly Bill No. 32) (No.2) Bill 2013
11. The Kenya Qualifications Framework Bill, 2013
12. The Protection Against Domestic Violence Bill, 2013
13. The Law Society of Kenya Bill, 2013
14. The National Flag, Emblems and Names (Amendment) Bill, 2013;
15. The Value Added Tax(Amendment) Bill, 2013;
16. The Physiotherapists Bill, 2013;
17. The National Police Service (Amendment)Bill,2013;
18. The National Flag, Emblems and Names (Amendment), Bill, 2013 (Senate); and
19. The County Governments (Amendment) (No.2) Bill, 2013 (Senate)

c. Negatived at the Second Reading:

1. Statute Law Miscellaneous (Amendment) (National Assembly Bill No.34) (no.1) Bill, 2013

d. Awaiting Committee of the Whole House

1. The Insurance (Amendment) Bill, 201(Presidential Memorandum)
2. The Kenya Heroes Bill, 2013;
3. The National Police Service Commission (Amendment) Bill, 2013;

IX. APPROVAL OF SUBSIDIARY LEGISLATION/TREATIES FOR RATIFICATION/DEPLOYMENT OF MILITARY PERSONNEL

During this Session, the House carried out the following three functions, which are unique to its role and responsibilities:-

- i. Pursuant to Article 2 of the Constitution, the House has received, for consideration and approval treaties and various bilateral agreements with International Countries. The State Department of Devolution and Planning and the State Department of Sports, Culture and Arts requested approval of two (2) sets of regulations, i.e. the Public Finance Management Act (Uwezo) regulations and the National Honours Regulations respectively. The House approved the Uwezo Regulations pursuant to the Public Finance Management Act Sections 24, 25 and 205, apart from approving the regulations; the House also approved the establishment of the Uwezo Fund, a public fund. The National Honours Regulations, 2013 were referred to the Committee on Labour and Social Welfare for consideration.
- ii. The House also received request for approval of three sets of treaties and agreement on Climate change and Air services agreement between the Republic of Kenya and other states. The House is set to approve for ratification, the Doha Amendments to the Kyoto protocol, under the United Nations Framework Convention

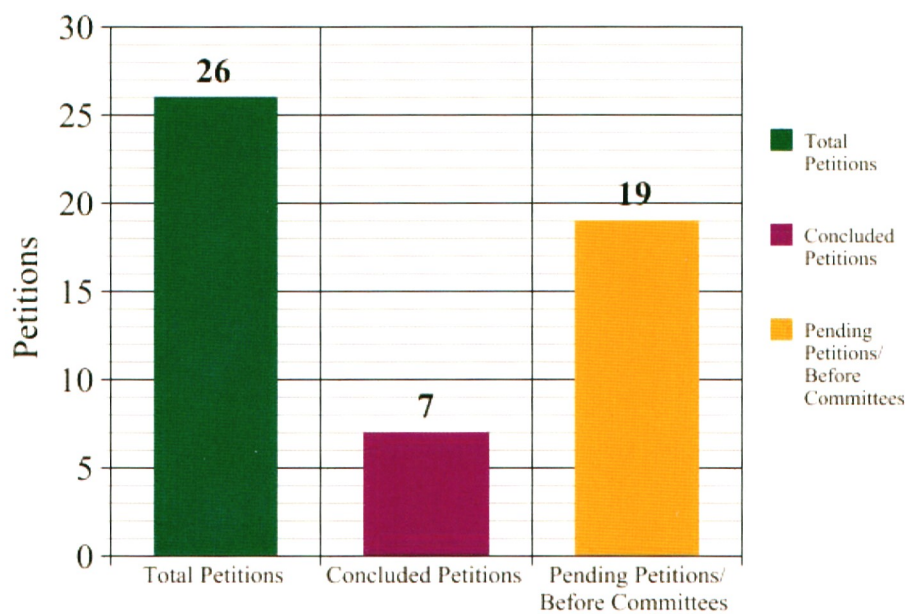
on Climate Change, of which the Republic of Kenya is a signatory. The Treaty was referred to the Committee on Environment and Natural Resources. The Air Services agreements, which involved Kenya and Mozambique, Kenya and Angola, Kenya and Canada, and Kenya and Kuwait, were all referred to the Committee on Transport for consideration. The agreements are pending before the said departmental committees.

- iii. On the 5th of December, 2013, the House received a request from the President, for its concurrence for the deployment of Kenya Defense Forces to assist in restoring peace and order in Marsabit, Samburu, West Pokot and Turkana. Pursuant to the provisions of Article 241(3) (c) of the Constitution, the House approved the request by the Head of State for deployment of Kenya Defence Forces.

X. PETITIONS

During this Session, the House has received twenty six (26) petitions; out of which eighteen (18) have been presented by Members on behalf of the public and eight (8) have been conveyed to the House by the Honourable Speaker on behalf of the Public. Seven (7) Petitions have been concluded while the rest are pending before the relevant Departmental.

**Petitions Considered During the First Session-
11th Parliament, National Assembly**



In an unprecedented move, on May 2nd 2013, the House heard a petition presented by the Member for Igembe South (Hon Linturi), pursuant to Article 251 and Standing Order 230, which provides for a petition for removal of a member of a Constitutional Commission. It was subsequently referred to the Committee on Delegated Legislation. The Committee considered the aspect of the Petition dealing with Gazette Notices while the remainder of this petition is still before the Committee. Herein attached in Annex III, is the list of all petitions received by the House in the First Session.

XI. VETTING AND APPROVAL OF APPOINTEES TO PUBLIC OFFICES

In line with relevant provisions of the Constitution of Kenya, 2010 and the House Standing Orders, the National Assembly has vetted and considered the appointment of several state officers. The vetting and consideration for approval of Presidential appointments of State Officers by Parliament is a provision of the new Constitutional dispensation. These appointments are:-

a) Cabinet Secretaries

In conformity with the requirements of the Constitution (2010) and House Standing Orders, the vetting of Cabinet Secretaries was undertaken by the Committee on Appointments on the 14th May, 2013 and the 5th June, 2013 respectively. The First Report of the Committee considered the appointments of sixteen (16) Cabinet Secretaries, while the Second Report considered the appointments of the remaining two (2) Cabinet Secretaries.

Pursuant to Article 152(2) of the Constitution, H.E. the President, through the acting Secretary to the Cabinet and Head of Public Service forwarded to the Clerk of the National Assembly, the names of the sixteen (16) nominees vide a letter dated 30th April, 2013 for vetting by the Committee on Appointments and consideration for approval by the National Assembly for appointment as Cabinet Secretaries. First list of nominees is herein annexed as Annex II.

Subsequently, H.E. the President forwarded, the names of the remaining two (2) nominees vide a letter dated 23rd May 2013 for vetting by the Committee on Appointments and consideration for approval by the National Assembly for appointment as Cabinet Secretaries. The Second list of nominees is herein annexed as Annex II

The Committee Tabled its reports on the 14th May, 2013, and 5th June, 2013 respectively. The nominees were subsequently approved by the House and their names forwarded to H.E. the President for formal appointment.

b) Principal Secretaries

Pursuant to Standing Order 42 (1), on 11th June, 2013, the Speaker of the National Assembly conveyed a message to the House from H.E. the President regarding the nominations for approval by Parliament and subsequent appointment of twenty six (26) Principal Secretaries. In line with the provisions of Standing 216 (5) (f), Departmental Committees vetted the nominees from their relevant State Departments under their respective Ministries, and tabled reports in the House pursuant to provisions of Standing Order 199 on the 25th June, 2013. The National Assembly subsequently approved all the twenty six (26) nominees and forwarded their names to H.E. the President for formal appointments as Principal Secretaries in their respective State Departments. The List is herein attached as Annex IV.

c) Secretary to the Cabinet

On 15th May, 2013, pursuant to Standing Order 42 (1) the Speaker of the National Assembly conveyed a message to the House from H.E. the President that Mr Francis Thuita Kimemia had been nominated to serve in the position of Secretary to the Cabinet. Article 154 (2) (a) confers upon the President the power to nominate, and subject to approval by the National Assembly, appoint the Secretary to the Cabinet.

Subsequently, the Departmental Committee on Administration and National Security undertook the vetting process for the Secretary to the Cabinet nominee and tabled a report for adoption by the House on the 28th May, 2013. The nominee

was subsequently approved by the House and formally appointed by H.E. the President as the Secretary to the Cabinet.

d) Solicitor General

Pursuant to the provisions of Section 9 (2) of the Office of Attorney General Act and provisions of Standing Order 216 (5)(f), the Departmental Committee on Justice and Legal Affairs vetted and tabled a report in the House for debate and approval of the nomination of Mr. Njee Muturi by H.E. the President as the Solicitor General. The National Assembly subsequently approved Mr. Njee Muturi's nomination as the Solicitor General and his name forwarded to H.E. the President for formal appointment.

e) Foreign Judges and Magistrates

Pursuant to the provisions of section 9(13), of the Vetting of Judges and Magistrates Act, No. 2 of 2011, H.E. the President through the Secretary to the Cabinet, forwarded to the Clerk of the National Assembly the three (3) names of the foreign judges nominees vide a letter dated May 27, 2013, for vetting by the Committee on Justice and Legal Affairs and consideration for approval by the National Assembly for appointment as Members of the Vetting of Judges and Magistrates Board. In line with the provisions of Sub-section (8) of section (9) of the Vetting of Judges and Magistrates Act, No. 2 of 2011, and Standing Orders 216 (5) (f), the Committee on Justice and Legal Affairs vetted the three nominees and tabled a report in the House June 18, 2013 for debate and subsequent approval or rejection. The National Assembly subsequently approved the nomination of the three (3) foreign Judges as Members of the Judges and Magistrates Vetting Board and their names were forwarded to H.E. the President for formal appointment. Their names are herein attached as Annex V.

f) Deputy Chief Justice

Pursuant to the provisions Standing Order 216 (5) (f) and Article 166 (1) (a) of the Constitution, which requires the President to appoint the Chief Justice and deputy Chief Justice in accordance with the recommendation of the Judicial Service Commission (JSC), subject to House approval; the Committee on Justice and Legal Affairs vetted and tabled a report in the House on the Vetting of the Deputy Chief Justice nominee, Mrs. Kalpana Rawal.

This followed a Communication from the Speaker dated 15th May, 2013, directing that the relevant Committee undertake the process. The National Assembly subsequently approved Mrs. Kalpana Rawal's nomination as the Deputy Chief Justice and her name forwarded to H.E. the President for formal appointment. This also marked a departure from the past, where the appointment of Judges was an exclusive prerogative of the President.

g) Chairperson - NACADA

Pursuant to Section 6(a) (1) of the National Authority for the Campaign against Alcohol and Drug Abuse Act, 2012, the House approved Mr. John Mututho, EBS for appointment as Chairperson of the National Authority for Campaign against Alcohol and Drug Abuse (NACADA)

h) Chairperson and Members –Teachers Service Commission

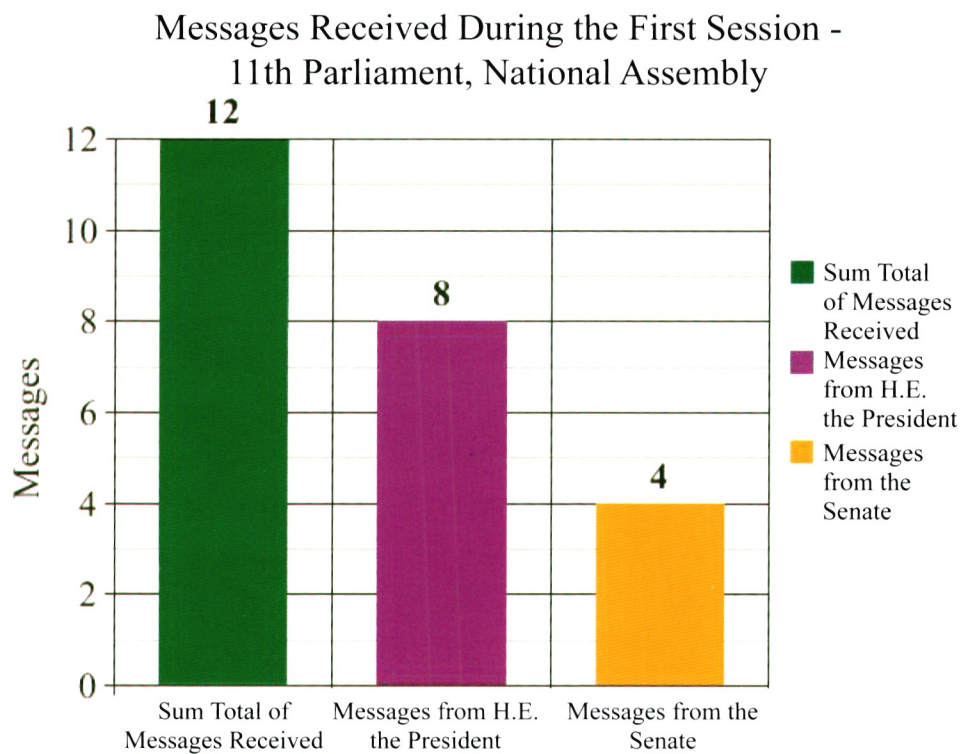
The House considered and rejected a Report of the Departmental Committee on Education, Research and Technology on the appointment of Chairperson and Members of the Teachers Service Commission. The names of nominees were therefore returned to the President for further action.

i) Member, Salaries and Remuneration Commission

The House considered and approved the National Police Service Nominee to the Salaries and Remuneration Commission.

XII. MESSAGES

Under the new Constitutional dispensation, communication between the Assembly and the Senate and the Assembly and the Executive is executed through messages.



So far the Assembly has received twelve (12) messages, eight (8) from the President and four (4) from the Senate. The Messages from the President have been forwarding nominees for appointment to various public positions. One message from the Senate was on the appointment of Senators and Members of the National Assembly to the Parliamentary Service Commission, another was on the Division of Revenue Bill, 2013. A further Message was on the nomination of Senators and Members of the National Assembly to the Pan African Parliament while the latest message was forwarding the Public Finance Management (Uwezo Funds) Regulations and National Honours Regulations, 2013.

XIII. COMMUNICATION

The Speaker continues to guide the House on various matters through Communications from the Chair pursuant to Standing Order 40. So far the Speaker has issued thirty one (31) communications on various topical issues ranging from procedural to maintaining of decorum in the House. The most notable communications regarding:-

- a.) Formation of committees of the Assembly;
- b.) Procedure under order No. 8 and Order No. 9 in the Order paper;
- c.) Consideration of the Division of Revenue Bill, 20103;
- d.) Consideration of estimates by Committees;
- e.) Statements as provided by Standing Order No. 44(2);
- f.) Approval of annual estimates;
- g.) Consideration of appropriation Bill, 2013;
- h.) Status of Bills as relates to Article 110 of the Constitution;
- i.) Lack of decorum and gross disorderly conduct in the House and breach of the Standing Order;
- j.) Nominees to various state offices, among others.

XIV. EMERGING ISSUES

a) Public Access and Participation

The new Constitutional dispensation has introduced the phenomena of public participation in the manner in which Parliament conducts its business by way of its sittings and committees. Article 118 of the constitution specifically provides that Parliament is to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

This has been seen in practice by way of Committees opening up their sittings. In cases where the Departmental Committees are conducting any vetting, the public has been given an opportunity to send in their views through Memorandums.

In the light of public participation, we have seen incidences that may be regarded as 'extreme cases' of public participation, through the 'Occupy Parliament' movement carried out by the Civil Society in protest to the Members' move to nullify the gazzettment by the Salaries and Remuneration Commission on the salaries of Members of Parliament.

b) Challenges on Removal of Question Time

The removal of question time has led to frustration of Members whose efforts to raise specific matters concerning their Constituencies have been defeated. This raises a great concern, as there is now no clear avenue on how Members can address specific issues arising in their Constituencies on the floor of the House, unless such matters affect the Country as a whole.

c) Liaison between the Senate and National Assembly

There has been a simmering diversity between the Senate and National Assembly regarding the marshalling of business between the two Houses. This was witnessed during debate on the Division of Revenue Bill 2013. There are also ambiguities on the understanding of the legislative functions of the Senate. Indeed, the Senate had formally challenged the commencement of First reading of eight bills by the Assembly without prior consultations between the two Speakers. The Assembly Speaker, in communication delivered to the House on July 3rd, 2013, conveyed that, in his considered opinion, Articles 109, 110, 111, 112, and 114 of the Constitution read together with the Fourth Schedule confines the legislative role of the Senate to Bills affecting the **functions and powers of county governments**.

In an unprecedented move, the Senate petitioned the Supreme Court seeking advisory on its role in the Division of Revenue Bill, 2013. The Supreme Court delivered an advisory stating that the Senate has a role to play in the Division of Revenue Bill. Indeed these are interesting times and this might just be but the beginning of things to come.

d) Challenge of expanded House Membership

With an increased Membership and with over 70 per cent of Members being new and as such not yet properly acquainted with the Standing Orders, there have been incidents of gross misconduct among Members. The most recent was during the Second reading of the Appropriations Bill, where the House had to be suspended for one hour due to Gross Disorder under Standing Order 112.

e) Management of Reports on Statements Requests

The House is currently seeking a viable way of harmonizing response to Statements by various Committees as requested by Members. The House Leadership is currently working on a way forward regarding the structure for responses on requests for Statements by Members, which can be done either through reports or a Statement by the concerned Committee.

f) Physical Facilities

With the increased membership, physical facilities of the Assembly have been stretched to the limit thereby compounding effective operation of House Committees and affecting members' working environment. It is noted that the parliament service commission has addressed this by renting extra offices and rooms at the KICC and Harambee Plaza.

g) Approval of Subsidiary Legislation

This is a new phenomenon where the Statutory Instruments Act, 2012 and the House Rules envisage the House approving Subsidiary legislation by merely ensuring that it conforms with laid down parameters. However this is still a developing area that will require monitoring and improvement to ensure that the House does not get involved in passing of Subsidiary Legislation, a function clearly delegated to the Cabinet Secretary.

XV. CONCLUSION

Since 1963 Kenya's Parliament has undergone various transformations. The 2010 Constitution introduced fundamental changes to governance structures in Kenya. This necessitated the shift from Unicameralism to Bicameralism, thus birthing the two House model in Kenya. Subsequently, the National Assembly has evolved into an institution of indisputable, countervailing power to the Executive arm of Government, capable of undertaking its mandate fully. The 11th Parliament came into force with increased oversight authority perhaps more than its predecessors. The change from a Parliamentary (Westminster Model) to a Presidential system of governance means Parliamentary business will henceforth be conducted mainly through Committees of the House.

Thus, the oversight authority of the National Assembly has been expanded greatly, with extended control over critical national processes such as the Budgeting process, public appointments, and national legislation amongst others. In terms of legislation, the Constitution implementation process requires that the National Assembly pass a number of outstanding Bills to enforce provisions of the 2010 Constitution. Gratitude must however be given to the 10th Parliament for setting

in motion the formulation and passage of several key Constitution implementation Legislations. The 11th Parliament will naturally pick up from where the 10th Parliament left the implementation process.

The 11th Parliament also finds itself more opened up to public oversight and participation. The Constitution recognizes that Parliament exercises delegated power from the people and thus cannot legislate against the wishes of the people. This is emphasized by the fact that Kenyan people are now assured of the right to recall non-performing legislators. Public Participation in law making is now mandatory. It is a Constitutional requirement for transparency and openness in the handling of public affairs.

As the 11th Parliament celebrates its achievements since the commencement of the First Session, it must also reflect on the road ahead. Undoubtedly, Parliament remains at the forefront in transforming the country into a more democratic nation. As the National Assembly finds its footing under the new Constitutional dispensation, more is certainly expected of it. The House has already played a pivotal role in the vetting and approval or rejection of nominees to Public Offices as required by the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, other enabling Acts, relevant provisions of the Constitution and House Standing Orders.

.....END.....

ANNEXURES

ANNEX I - COMMITTEES OF THE NATIONAL ASSEMBLY

1. HOUSE-KEEPING COMMITTEES (5)

- a) House Business Committee
- b) Liaison Committee
- c) Committee of Privileges
- d) Procedure and House Rules Committee
- e) Catering & Health Club Committee

2. WATCHDOG OR INVESTIGATORY COMMITTEES (2)

- a) Public Accounts Committee
- b) Public Investments Committee

3. DEPARTMENTAL COMMITTEES (12)

- a) Administration and National Security
- b) Agriculture, Livestock and Co-operatives
- c) Defense and Foreign Relations
- d) Education, Research and Technology
- e) Energy, Communication and Information
- f) Environment and Natural Resources
- g) Finance, Planning and Trade
- h) Health
- i) Justice and Legal Affairs
- j) Labour and Social Welfare
- k) Lands
- l) Transport, Public Works and Housing

4. OTHER SELECT COMMITTEES (8)

- a) Committee on Selection
- b) Committee on Appointments
- c) Budget and Appropriations Committee
- d) Committee on Implementation
- e) Committee on Delegated Legislation
- f) Committee on Regional Integration
- g) Constitutional Implementation Oversight Committee
- h) Constituencies Development Fund Committee

5. JOINT COMMITTEES (2)

- a) The Joint Committee on National Cohesion and Equal Opportunity
- b) The Joint Committee on Parliamentary Broadcast and Library

TOTAL - 29 COMMITTEES

ANNEX II – FIRST LIST OF CABINET NOMINEES

a.) The First list of nominees was as follows:-

1. Eng. Michael Kamau (Transport and Infrastructure)
2. Phyllis Chepkosgei (East Africa Affairs, Commerce and Tourism)
3. Prof. Judy Wakhungu (Environment, Water and Natural Resources)
4. Dr. Hassan Wario (Sports, Culture and Arts)
5. Prof. Jacob Kaimenyi (Education)
6. Felix Kosgey (Agriculture, Livestock and Fisheries)
7. Najib Balala (Mining)
8. Charity Ngilu (Lands, Housing and Urban Development)
9. Adan Abdulla Mohammed (Industrialization and Enterprise Development)
10. Anne Waiguru (Devolution and Planning)
11. Fred Matiangi (Information, Communication and Technology)
12. James Wainaina (Health)
13. Davis Chirchir (Energy and Petroleum)
14. Amb. Amina Mohamed (Foreign Affairs)
15. Henry Rotich (National Treasury)
16. Amb. Raychelle Omamo (Defence)

b.) The Second list of nominees was as follows:-

1. Samuel Kazungu Kambi (Labour, Social Security and Services)
2. Joseph J. Ole Lenku (Interior and Coordination of National Government)

ANNEX III – PETITIONS

1. Removal of the Chairperson & Commissioners as members of the Salaries & Remuneration Commission
2. Non-pavement of Mbombo-Kiria-Gatara Road, in Kiharu Constituency, Murang'a County;
3. Abolition of Class 8 Examination Fees and Introduction of Free School Feeding Programme for all Public Primary School Pupils;
4. Construction of speed bumps and establishment of rumble strips between Madeya and Rangala Trading centres along Kisumu- Busia Highway;
5. Provision of a pedestrian crossing on the Nairobi Northern Bypass;
6. Clarification on the ownership of these schools and any other sponsored by the Asian Community in Westlands Constituency;
7. Lack of registration and employment of these teachers by the TSC, plus payment of salaries below the minimum wage;
8. Objection to proposed amendments in the National Police Service Act, 2011 & the National Police Service Commission Act, 2011;
9. Tarmacking of Malindi-Salagate Road (C103);
10. Reduction of the Government's recurrent and expenditure and increment of development expenditure;
11. The environmental hazards posed by Athi River Mining Company Ltd;
12. Enforcement of a court order in winding up Case No. 10 of 1987;
13. The imminent collapse of the Sugar Industry in Western Kenya;
14. Compensation and recognition of Hon. Kenneth Matiba;
15. Removal of Ahmednasir Abdullahi and Others from the Judicial Service Commission;
16. Discharge SPTE Enock Mkanda from the Defence Forces;
17. Eviction of Muthanga Farmers from their land;
18. Compensation of the Victim/Survivors of the 7th August, 1998 bomb blast in Nairobi, Kenya;
19. VAT levied on Tips and Gratuity in the Hospitality Industry;
20. Rights of persons detained, held in custody or imprisoned;
21. Re-carpeting of the Komarock Road;
22. Tarmacking of the Gatiiguru-McVast-Matangini - Ithanga, Kiarathani, Miyuu ya Ng'ang'a- Mukuyu Road;
23. Proposed amendments to the Public Benefit Organization Act, 2013 and the Kenya Information Communication (Amendment) Bill, 2013;
24. Redesigning and alignment of Lesseru-Kitale Marich Pass(A1) Road;
25. Tarmacking of Mukurueni-Gakonya Road(D429/E5590) and Rutune-Mahuaini(E554) Road; and
26. Tarmacking of Mukuyu-Githambo Road(D440).

ANNEX IV - LIST OF PRINCIPAL SECRETARIES

Mariam El Maawy	Lands
Dr. Wilson Songa	Industrialization & Enterprise
Josephtha Mukobe	Coordination
Eng. Joseph K.Njoroge	Energy and Petroleum
Prof. Colletta Akinyi Suda	Science and Technology
James Teko Lopoyetum	Water
Eng. John Kipngetich Mosonik	Infrastructure
Eng. Karanja Kibicho	Foreign Affairs
Mr. John Konchella	Devolution
Mr. Ali Noor Ismail	Labour
Dr. Belio Kipsang	Education
Dr. Kamau Thugge	Treasury
Mr. Nduva Muli	Transport
Dr. Khadijah Kassachom	Livestock
Mr. Mutea Iringo	Interior
Sicily Kanini Kariuki	Agriculture
Prof. Japheth Micheni Ntiba	Fisheries
Amb. Monica Kathina Juma	Defence
Dr. Ibrahim M. Mohamed	Commerce and Tourism
Prof. Fred H.K.Segor	Health
Mr. Joseph Musuni Tiampaty	Information and Communication
Amb. Richard Ekai Titus	Mining
Mr. Patrick Omutia	Sports, Culture & The Arts
Mwanamaka Amani Mabruki	East African Community
Eng. Peter Oganga Magiti	Planning
Mr. Richard Lesirian Lesiyampe	Environment & Natural Resources

ANNEX V - FOREIGN JUDGES

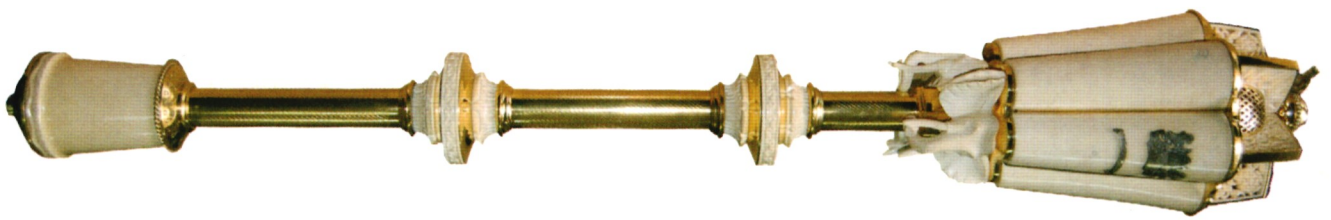
The three Foreign judges approved to the Vetting Board are:-

1. Hon. Justice (Rtd) Barnabas Albert Semalta of Tanzania;
2. Hon. Lady Justice A.E.N. Mpagi-Mahigeine of Uganda; and,
3. Hon. Justice Joseph Asoka Nihal De Silva of Sri Lanka.

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Published by:
The Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842 – 00100 GPO
Nairobi, Kenya
Tel: 254-20-2221291/2848000
Email: clerk@parliament.go.ke