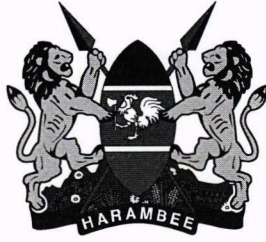


REPUBLIC OF KENYA



*Paper laid on the
table of the Senate
on 1/04/2015.
H. J.*

PARLIAMENT

THE SENATE

ELEVENTH PARLIAMENT

THE STANDING COMMITTEE

ON

LEGAL AFFAIRS AND HUMAN RIGHTS

**A REPORT ON PUBLIC HEARINGS ON THE PUBLIC SERVICE (VALUES &
PRINCIPLES BILL, NATIONAL ASSEMBLY BILL NO. 29 of 2014**

23RD FEBRUARY, 2015

Clerk's Chambers,
First Floor,
Parliament Buildings,
NAIROBI.

Approved
[Signature]
25/3/15
MARCH, 2015

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ABBREVIATIONS

NGO Non-governmental Organization

SEN. Senator

S.O Standing Order

TISA The Institute of Social Accountability

PREFACE

Establishment of the Committee

The Standing Committee on Legal Affairs and Human Rights is established pursuant to the Senate Standing Order 208 and mandated to consider all matters related to constitutional affairs, the organization and administration of law and justice, elections, promotion of principles of leadership, ethics and integrity; and implementation of the provisions of the Constitution on human rights.

Membership of the Committee

The Committee is comprised of the following members;

1. Sen. Amos Wako - Chairperson
2. Sen. Stephen Sang' - Vice Chairperson
3. Sen. Kembi Gitura
4. Sen. Kiraitu Murungi
5. Sen. Fatuma Dullo
6. Sen. Kipchumba Murkomen
7. Sen. Hassan Omar Hassan
8. Sen. Mutula Kilonzo Junior
9. Sen. Judith Sijeny

Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the conduct of the public hearings. The Committee also




EXECUTIVE SUMMARY

The Public Service (Values and Principles) Bill, National Assembly Bill No. 29 of 2014 (Hon. Aden Duale) was read a First Time in the Senate on February 11, 2015. Following the First Reading, the Bill stood committed to the Committee on Legal Affairs and Human Rights for facilitation of public participation. Subsequently, the Committee, Pursuant to Article 118 of the Constitution and Standing Order 130 (4), invited submissions from members of the public on the above Bills via an advertisement on the Daily Nation Newspaper on Tuesday, 17th February, 2015 (see annex). The Committee received both oral and written submissions on the Bills during its meeting with the members of public held on 23rd February, 2015 in the Shimba Hills Hall, First Floor, Kenya International Conference Centre, Nairobi.

expresses its gratitude to members of the public who made submissions, both orally and in writing.

Mr. Speaker Sir,

It is my pleasant duty, pursuant to Standing Order 203, to present a Report of the Standing Committee on Legal Affairs and Human Rights on public hearings held on 23rd February, 2015, on The Public Service (Values and Principles) Bill, 2014.

Signed..........

Date.....18th March 2015.....

SEN. STEPHEN SANG,

VICE-CHAIRPERSON

STANDING COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS.

CHAPTER ONE INTRODUCTION

The Public Service (Values and Principles) Bill, 2014

The Public Service (Values and Principles) Bill is proposed to be enacted to give effect to the provisions of Article 232 of the Constitution regarding the values and principles of public service. The Bill is sponsored by the National Assembly Leader of Majority, Hon. Aden Duale. The drafting of the Bill was spearheaded by the Public Service Commission and to this end, on 22nd August, 2012, a Task Force on Values and Principles of Public Service in Kenya was appointed by the then Minister for Public Service, Hon. Dalmas Otieno.

Pursuant to Standing Order No. 40(3) and (4), the Speaker of the Senate received a message dated 5th December, 2014 from the National Assembly transmitting the Bill to the Senate for concurrence. The Bill was Read a First Time on 11th February, 2015 and was committed to the Committee on Legal Affairs and Human Rights with directions that the Committee facilitates public participation and ‘concludes consideration of the Bill as soon as possible so that the Second Reading is commenced without delay.’

The Bill was committed to the Standing Committee on Legal Affairs and Human Rights for facilitation of public participation. Subsequently, the Committee, Pursuant to Article 118 of the Constitution and Standing Order 130 (4), invited submissions from members of the public on the above Bills via an advertisement on the Daily Nation Newspaper on

Tuesday, 17th February, 2015. The Committee received both oral and written submissions on the Bills during its meeting with the members of public held on 23rd February, 2015 in the Shimba Hills Hall, First Floor, Kenya International Conference Centre, Nairobi.

CHAPTER TWO SUBMISSIONS FROM MEMBERS OF THE PUBLIC

The Committee received submissions on the Public Service (Values & Principles) Bill, 2014 from The Institute for Social Accountability (TISA) and Article 19. The submissions from TISA were received via email to the Office of the Clerk of the Senate on 23rd February 2015. Memoranda from Article 19 signed by Mr. Henry Maina, Director, Article 19 Eastern Africa, were also submitted via email to the Office of the Clerk of the Senate on 23rd February, 2015.

The Institute for Social Accountability (TISA)

The Institute for Social Accountability (TISA) is a civil organisation committed towards the achievement of sound policy and good governance in local development, to uplift livelihoods of especially the poor and marginalized in Kenya. TISA has been operational since March 2008, and is a locally registered Trust that has engaged with various relevant state and non-state actors in the quest to promote effective local governance in Kenya.

Article 19

Article 19 is a Non-Governmental Organisation that campaigns for the right to freedom of expression and freedom of information. It envisages a world where people are free to speak their opinions, to participate in decision-making and make informed choices about their lives. Article 19 was founded in 1987 and is registered and regulated in the UK, Kenya, Bangladesh, Brazil, Mexico, Senegal, Tunisia and the USA.

2.1 Submissions from The Institute for Social Accountability (TISA)

The Institute for Social Accountability proposed the following amendments to the Bill:

1. Clause 8 should expressly state “to give effect to Article 35”

2. Clause 8 should expressly state those categories of information that should be made available to the public. This includes procurement information as provided below:

3. Clause 13(3) on complaints:

- The sanctions should be enforceable within 7 days of the offence being confirmed
- The process of confirming an offence should take a maximum of 21 days
- The complaint and sanctions enforced be made part of the public reporting. This should include the name of the officer
- A schedule of sanctions for non-compliance be presented in the Bill. These could be advisory for adoption by implementing agencies e.g. salary deduction, suspension, community service as some possible sanctions.
- Consider sanctions against public service boards that fail

2.2 Submissions from Article 19

Article 19 were of the opinion that while the Bill seeks to give effect to the values and principles of public service as provided for in the Constitution, it fails to detail how upholding these values and principles should be implemented in practice to the same extent as the African Charter on Values and Principles of Public Service and Administration, which Kenya has ratified.

The following submissions were made:

1. The Bill does not provide for the improvement of the working conditions and employment rights of public service agents beyond appointment and promotion.

Proposal:

- i. Provide for the protection of public service agents' rights to freedom of expression and association as per Chapter IV of the Charter.

- ii. Provide for the establishment of a human resource policy framework as per Chapter V of the Charter.
- iii. Provide for performance-based management, continuous monitoring and evaluation of the performance of public service agents and capacity development as per Articles 20 and 21 of the Charter.

Rationale: Public service and administration should endeavor to establish human resource policy frameworks and plan for effective and efficient operations that will enhance transparency. In order to enhance transparency, the Bill should establish that the recruitment of public service agents should be based on the principles of merit, equality and non – discrimination.

2. The Bill does not detail how public services should be delivered.

Proposal:

- i. Stipulate the necessity of impartiality, fairness and due process in public service delivery, the continuity of public services under all circumstances and adaptability of public services to the needs of users as per Article 3 of the Charter.
- ii. Stipulate that public service and administration shall be organized for easy access to adequate services and that services are delivered closer to users as per Article 5 of the Charter.
- iii. Provide for the establishment of a monitoring and evaluation system to measure the effectiveness of public service delivery as per Article 20 of the Charter.
- iv. Require service charters and institution regulations to set out and require the respect of time-frames as per Article 7 of the Charter. Stipulate the necessity of impartiality, fairness and due process in public service
- v. Require the modernization of public service and administration as per Article 8 of the Charter.

Rationale: Continuous monitoring and evaluation is necessary in order to assess the performance of public service agents in order to determine the levels of efficiency, integrity and accountability. The Draft Bill should by itself adopt principles to guide the implementation and application of its provisions including the prohibitions of all forms of discrimination on any basis; impartiality, fairness and due process in the delivery of public services and effective, efficient and responsible use of resources.

3. Clause 8: The Bill does not provide for access to information provisions beyond responding to information requests in Section 8 of the Bill

Proposal:

- i. Include broader access to information provisions that make making available to users certain categories to information, including:
 - operational information about how the public body functions, including costs, objectives, audited accounts, standards, achievements and so on, particularly where the body provides direct services to the public;
 - information on any requests, complaints or other direct actions which members of the public may take in relation to the public body;
 - the types of information which the body holds and the form in which this information is held, and
 - the content of any decision or policy affecting the public, along with reasons for the decision and background material of importance in framing the decision
- ii. The Bill should provide for strict timelines for processing of information requests and require that any refusals be accompanied by substantive written reasons.

- iii. The Bill should provide for an inclusive right of appeal to an independent administrative body from a refusal by a public body to disclose information.
- iv. The Bill should establish mechanisms for receiving feedback and input and presenting documents in a user-friendly and simplified manner as per Article 6 of the Charter

Rationale: International standards on Right to Information require that information should be made public at the initiative of the public body without waiting for specific requests for information from the public.

4. The Bill does not provide for any specific provisions to prevent corruption

Proposal:

- i. Provide for the prohibition of solicitation, acceptance, receiving directly or indirectly any payment, gift, donation or reward in kind or cash as per Article 10 of the Charter.
- ii. Explicitly provide for public service agents to refrain from decisions, positions, activities and responsibilities where they have vested interests, conflicts of interest etc. as per Article 11 of the Charter.
- iii. Detail the obligations of states to develop strategies to prevent and combat corruption as per Article 12 of the Charter.
- iv. Require public service agents to declare their assets before, during and after their service as per Article 13 of the Charter.

Rationale: The Bill should clearly stipulate norms of incompatibility and conflicts of interest in national laws, and provide that Public Service agents shall not

participate in making decisions or intervene in situations in which they have vested interest in order not to compromise their impartiality.

CHAPTER THREE COMMITTEE OBSERVATIONS

The Committee approved The Public Service (Values and Principles) Bill, 2014 with amendments.

investigated and determined a complaint, the officer responsible for handling the complaint shall give the complainant, in writing, satisfactory reasons as to why the complaint could not be determined within the three months.

- (ii) (3B) Appropriate disciplinary action shall be taken against any officer who is found to have unreasonably delayed in handling a complaint made to the Service Commission.

(b) by deleting sub-clause (4) and substituting therefor the following new clause-

(4) A person aggrieved by the decision of a service Commission may seek judicial redress.

CLAUSE 15

THAT clause 15 of the Bill be amended-

- (a) in sub-clause (1) by deleting the word “satisfactory” appearing immediately after the words ‘a public officer to be’ and substituting therefor the words “exemplary, outstanding or innovative”; and
- (b) in paragraph (b) of sub-clause (2) by deleting the word “satisfactory” appearing immediately after the words ‘public officers who offer’ and substituting therefor the words ‘exemplary, outstanding or innovative’.

CHAPTER THREE COMMITTEE RECOMMENDATIONS

The Committee upon deliberations recommends the following amendments:-

CLAUSE 7

THAT clause 7 of the Bill be amended by deleting sub-clause (6) and substituting therefor the following new paragraph-

- (6) Every public institution shall -
- (a) develop standards for the responsive, prompt, effective, impartial and equitable provision of services;
 - (b) facilitate the introduction of modern and innovative procedures, technologies and systems for the delivery of its services;
 - (c) simplify its procedures and ease formalities related to access and delivery of its services;
 - (d) ensure the adaptability of public services to the needs of users;
 - (e) ensure that its services are delivered closer to users; and
 - (f) develop mechanism for monitoring and evaluating the effectiveness of public service delivery.

CLAUSE 8

THAT Clause 8 of the Bill be amended in sub-clause (2) by inserting the words “and accountability” immediately after the words ‘the promotion of transparency’.

CLAUSE 13

THAT clause 13 of the Bill be amended-

(a) by inserting the following new sub-clauses immediately after sub-clause (3)-

- (i) (3A) If after three months, a service Commission has not

23rd March, 2015

The Clerk of the Senate
Parliament Buildings
NAIROBI

**RE: COMMITTEE STAGE AMENDMENTS TO THE PUBLIC SERVICE
(VALUES AND PRINCIPLES) BILL, 2014**

NOTICE is given that the Committee on Legal Affairs and Human Rights, intends to move the following amendments to the Public Service (Values and Principles) Bill, 2014, at the Committee Stage-

CLAUSE 7

THAT clause 7 of the Bill be amended by deleting sub-clause (6) and substituting therefor the following new sub-clause-

(6) Every public institution shall -

- (a) develop standards for the responsive, prompt, effective, impartial and equitable provision of services;
- (b) facilitate the introduction of modern and innovative procedures, technologies and systems for the delivery of its services;
- (c) simplify its procedures and ease formalities related to access and delivery of its services;
- (d) ensure the adaptability of public services to the needs of the public;
- (e) ensure that its services are delivered closer to the users of the services; and
- (f) develop mechanisms for monitoring and evaluating the effectiveness of public service delivery.

CLAUSE 8

THAT Clause 8 of the Bill be amended in sub-clause (2) by inserting the words “and accountability” at the end of the sub-clause.

CLAUSE 13

THAT clause 13 of the Bill be amended-

(a) by inserting the following new sub-clauses immediately after sub-clause (3)-

- (i) (3A) If after three months a service Commission has not investigated and determined a complaint, the officer responsible for handling the complaint shall give the complainant satisfactory reasons, in writing, for non-compliance
- (ii) (3B) Appropriate disciplinary action shall be taken against any officer who is found to have unreasonably delayed in handling a complaint made to the service Commission.

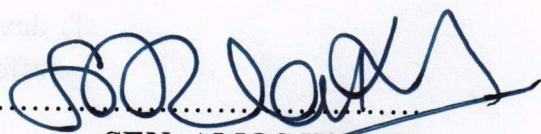
(b) by deleting sub-clause (4) and substituting therefor the following new clause-

(4) A person aggrieved by the decision of a service Commission may seek judicial redress.

CLAUSE 15

THAT clause 15 of the Bill be amended-

- (a) in sub-clause (1) by deleting the word “satisfactory” appearing immediately after the words ‘a public officer to be’ and substituting therefor the words “exemplary, outstanding or innovative”; and
- (b) in paragraph (b) of sub-clause (2) by deleting the word “satisfactory” appearing immediately after the words ‘public officers who offer’ and substituting therefor the words ‘exemplary, outstanding or innovative’.



SEN. AMOS WAKO,
CHAIRPERSON,

COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS.

Mombasa | New learners lose two weeks

Lack of fees locks out Form One students

Schools report low attendance as poor parents fail to raise the required cash

BY LABAN ROBERT
@mokeiralaban
mokeiralaban@gmail.com

School fees and other requirements have locked out Form One students from low income areas, two weeks after the opening date.

At Sacred Heart High School in Mombasa, only 43 of the 135 students who received admission letters had reported for classes yesterday.

Ms Elizabeth Wavinya, a single mother whose daughter is supposed to join the school, said the cost of the items required besides school fees exhausted her savings.

"I had Sh11,000 and I bought a dictionary, Kamusi, Atlas and the uniform, among other things, and remained with Sh5,000. This is not enough for my daughter to be admitted in school," she said.

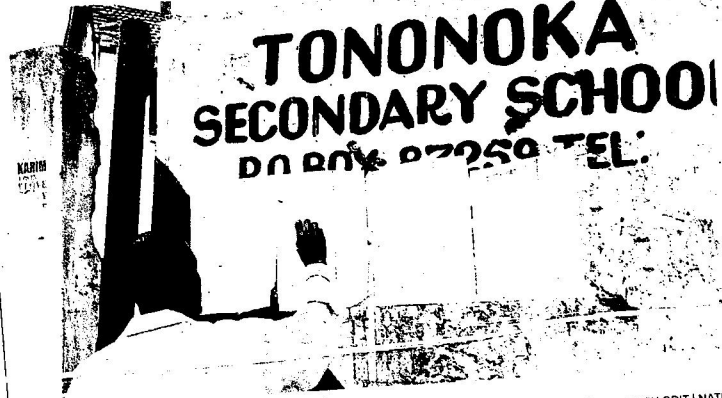
Ms Wavinya said as a result her daughter Rebecca, who scored 274 marks out of the possible 500, was stuck at home.

"The school insists I pay the total fees which I cannot as I have lost my



The school insists I pay the total fees which I cannot as I have lost my job,"

Elizabeth Wavinya, parent



job," she said.

The school's deputy headteacher, Mr Robert Kamau, said most of the parents may be low-income earners but they do not apply for bursaries.

"The Mombasa governor's bursaries were available to all those who applied. Some confess they did not apply. I do not know if this is out of ignorance or belittling the bursaries," he said.

The teacher said clever parents applied for more than one bursary, resulting in their child's fees being paid even for the next academic year.

At Tononoka Secondary School,

196 students were offered places but half the number have not turned up.

Headteacher Joseph Simba told the Nation this was due to school fees problems.

"Parents are looking for money. To raise the fees and cash for the other items is difficult for most students from poor backgrounds," he said.

He also said most of the students who turned up were from private primary schools as those from public schools were used to free education.

KEVIN ODIT | NATION

A parent goes through the list of Form One students admitted to Tononoka Boys Secondary School in Mombasa yesterday.

Taita-Tave
KWS ra
launch j
to track
elephar

BY LUCY MKAN

The Kenya Wildlife Service (KWS) will use a tracking system to monitor the movement of elephants in the area.

Already, two elephants fitted with the device and a GPS satellite tracking system were launched.

"Apart from the information on the elephants, we will also give us data for Mr Kiambi said.

"We monitor our research on elephants. Only authorized personnel can access the research data.

Residents have been reporting the destruction of crops by elephants in the area.

But with the arrival of farmers with their elephants, the KWS has received a lot of information from the farmers about the animals' movement.

REPUBLIC OF KENYA



ELEVENTH PARLIAMENT THE SENATE

STANDING COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS

In the Matter of Consideration of

1. The Intergovernmental Relations (Amendment) Bill, 2014, (Senate Bill No. 36 of 2014)
2. The Office of the County Attorney Bill, 2014, (Senate Bill No. 37 of 2014)
3. The Public Service (Values & Principles) Bill, 2014 (National Assembly Bill No. 29 of 2014)

Article 118 of the Constitution and Standing Order 130 of the Senate Standing Orders.

PUBLIC HEARINGS/ RECEIPT OF MEMORANDA

Following the introduction of the above listed Bills in the Senate, the Bills were committed to the Standing Committee on Legal Affairs and Human Rights for consideration pursuant to standing order 130 of the Senate Standing Orders.

Pursuant to the provisions of Article 118 of the Constitution and standing order 130(4) of the Senate Standing Orders, the Standing Committee on Legal Affairs and Human Rights now invites interested members of the public to submit any representations that they may have on the above listed Bills.

The representations may be made orally or by submission of written memoranda in the following manner:

1. Public Hearings shall be held on **Monday, 23rd February, 2015 from 9:00 a.m. to 1:00 p.m.** in Shimba Hills Hall, First Floor, KICC Building, Nairobi; or
2. Written Memoranda may be forwarded to the Clerk of the Senate, P.O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk, First Floor, Main Parliament Buildings, Nairobi or emailed to csenate@parliament.go.ke, to be received at or before 2.00 p.m., on **Monday, 23rd February, 2015.**

The Bills may be found on the Parliament website at <http://www.parliament.go.ke/plone/senate>.

**J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.**



Invitation to Bidders

UGANDA HIGH COMMISSION, NAIROBI, KENYA

1. The Uganda High Commission, Nairobi, Kenya has allocated funds to be used for renovation works for the Uganda House at Plot No. 209/905/906 Kenya Street, Nairobi Kenya.
2. The Entity invites sealed bids from eligible bidders for the provision of the above mentioned works.
3. Bidding will be conducted in accordance with the open international bidding process in the Government of Uganda's Public Procurement and Disposal Act, 2005.
4. Interested eligible bidders may obtain further information and inspect the documents at the address given below at 8(a) from 8.30am to 4.30pm.
5. The Bidding documents in English may be purchased by interested bidders at the address below at 8(b) and upon payment of a fee of KSh. 100.00 only. The method of payment will be by cash at the Uganda High Commission, Nairobi-Kenya.
6. There shall be a pre-bid meeting at Uganda High Commission Riverside Drive P.O. Box 60853-00200 Nairobi Kenya on the dates indicated in the proposed schedule of pre-bid meeting.
7. Bids must be delivered to the address below at 8(c) at or before 11.30 p.m. on 27th July 2015. Late bids shall be rejected. Bids will be opened in the presence of representatives who choose to attend at the address below at 8(d) on 27th July 2015.
8. (a) Documents may be inspected at: UHC Riverside Drive P.O. Box 60853-00200 Nairobi Kenya
(b) Documents will be issued from: UHC Riverside Drive P.O. Box 60853-00200 Nairobi Kenya
(c) Bids must be delivered to: UHC Riverside Drive P.O. Box 60853-00200 Nairobi Kenya
(d) Address of bid opening: UHC Riverside Drive P.O. Box 60853-00200 Nairobi Kenya
9. The Planned Procurement Schedule (subject to changes) is as follows:

Activity	Date
a. Publish bid notice	17 th February 2015
b. Pre-bidding meeting	24 th February 2015
c. Bid closing date	17 th March 2015
d. Evaluation process	(Within 40 working days from bid closing date)
e. Display and communication of best evaluated bidder notice	(Within 5 working days from bid opening)
f. Contract Signature	(After expiry of at least 10 days from bid opening and approval)

Accounting Officer,
Uganda High Commission,
Nairobi, Kenya.

**MINUTES OF THE 8TH SITTING OF THE STANDING COMMITTEE ON LEGAL AFFAIRS
AND HUMAN RIGHTS HELD ON 17TH MARCH, 2015 AT 10.00 A.M IN THE BOARDROOM ON
2ND FLOOR, KICC BUILDING**

PRESENT

1. Sen. Stephen Sang - Vice-Chairperson (Chairing)
2. Sen. Hassan Omar Hassan
3. Sen. Fatuma Dullo
4. Sen. Mutula Kilonzo Junior
5. Sen. Kipchumba Murkomen

ABSENT WITH APOLOGY

1. Sen. Amos Wako - Chairperson
2. Sen. Kembi Gitura
3. Sen. Kiraitu Murungi
4. Sen. Judith Sijeny

IN ATTENDANCE

SENATE

1. Ms. Judy Ndegwa - Legal Counsel
2. Mr. Mohamed Abdullahi - Committee Clerk
3. Clare Jerotich - Researcher
4. Ms. Carol Kirorei - Committee Clerk

MIN. NO. 40/2015

PRELIMINARIES

The Chairperson called the meeting to order at 11.30 a.m., followed by a prayer.

MIN. NO. 41/2015

ADOPTION OF THE AGENDA

Members adopted the agenda of the sitting after it was proposed by Sen. Dullo and seconded by Sen. Mutula Junior as follows;

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of previous Minutes
4. Matters arising

5. Consideration and adoption of the Committee Public Hearing Report on the **Intergovernmental Relations (amendment) Bill; Public Service (Values & Principles) Bill; and the Office of the County Attorney Bill.**
6. Consideration of ;
 - **Petition to the Senate by Mr. Wachira Kariuki Musa on unfair & unconstitutional treatment by the Institute of Certified public Accountants of Kenya (ICPAK).**
 - **Message from the Chair on the joint sitting of two committees of the houses of parliament vetting the IG and timelines to report back to the houses of parliament.**
 - **Determination and rescheduling of the work planning retreat.**
7. Any Other Business
8. Date of Next Meeting
9. Adjournment

MIN. NO. 41/2015

CONFIRMATION OF PREVIOUS MINUTES

- i. Minutes of the 1st sitting of 2015 were confirmed as a true record of the proceedings after being proposed by Sen. Fatuma Dullo and seconded by Sen. Mutula Junior.
- ii. Minutes of the 4th sitting of 2015 were confirmed as a true record of the proceedings after being proposed by Sen. Mutula Junior and seconded by Sen. Murkomen.
- iii. Minutes of the 7th sitting of 2015 were confirmed as a true record of the proceedings after being proposed by Sen. Hassan and seconded by Sen. Sang.

MIN. NO. 26/2015

CONSIDERATION OF PUBLIC HEARINGS REPORT

1. The InternGovernmental relations (Amendment) Bill

Upon going through the Bill the Committee resolved to postpone the consideration of the report and Bill because the Bureau is an intergovernmental institution by its nature but the subject matter of the Bill is misplaced and could be domiciled in the Unclaimed Assets Act or the NSSF Act but not in the Inter-Governmental Relations Act. The committee therefore, tasked the Secretariat to invite Sen. Chris Obure for a meeting with Committee on Tuesday 24th March, 2015.

2. Public Service (Values and Principles) Bill, 2014

The legal Counsel briefed the committee as follows;

This Bill was referred from the national Assembly in December 2014 and the Senate was in recess. The Bill has a Constitutional deadline of May 2015. The committee proposed the amendments in the 7th Sitting as follow;

CLAUSE 7

THAT clause 7 of the Bill be amended by deleting sub-clause (6) and substituting therefor the following new paragraph-

Every public institution shall -

- (a) develop standards for the responsive, prompt, effective, impartial and equitable provision of services;
- (b) facilitate the introduction of modern and innovative procedures, technologies and systems for the delivery of its services;
- (c) simplify its procedures and ease formalities related to access and delivery of its services;
- (d) ensure the adaptability of public services to the needs of users;
- (e) ensure that its services are delivered closer to users; and
- (f) develop mechanism for monitoring and evaluating the effectiveness of public service delivery

The Committee approved the proposed clause 7

CLAUSE 8

THAT Clause 8 of the Bill be amended in sub-clause (2) by inserting the words "and accountability" immediately after the words 'the promotion of transparency'.

The Committee proposed amendment to include the word "Transparency and Accountability in accordance with the Constitution" immediately after the words 'the promotion of '

CLAUSE 13

THAT clause 13 of the Bill be amended-

- (a) by inserting the following new sub-clauses immediately after sub-clause (3)-
 - (i) (3A) If after three months, a service Commission has not
 - (ii) investigated and determined a complaint, the officer responsible for handling the complaint shall give the complainant, in writing, satisfactory reasons as to why the complaint could not be determined

within the three months.

The Committee proposed amendment to include the words “expeditiously and not more than 3 months unless there is a satisfactory reasons for not responding within 3 months’ immediately after ‘determined a complaint’

(3B) Appropriate disciplinary action shall be taken against any officer who is found to have unreasonably delayed in handling a complaint made to the Service Commission.

(b) by deleting sub-clause (4) and substituting therefor the following new clause-

(4) A person aggrieved by the decision of a service Commission may appeal to the High Court.

The Committee amended clause 13 (4) by substitution the words ‘appeal to High court’ with “seek judicial redress”

CLAUSE 15

THAT clause 15 of the Bill be amended-

(a) in sub-clause (1) by deleting the word “satisfactory” appearing immediately after the words ‘a public officer to be’ and substituting therefor the words “exemplary, outstanding or innovative”; and

(b) in paragraph (b) of sub-clause (2) by deleting the word “satisfactory” appearing immediately after the words ‘public officers who offer’ and substituting therefor the words ‘exemplary, outstanding or innovative’.

The Committee approved the proposed clause 15

The Committee adopted the Report of the Public Hearing on the Public Service (Values & principles) Bill subject to the amendments above after it was proposed by Sen. Kipchumba Murkomen and seconded by Sen. Sang.

3. The Office of the County Attorney Bill, 2014

The Legal counsel briefed the Members on the Bill and the Committee then considered the proposed amendments to the Bill as follows:

Clause 3 of the Bill be Amended by deleting the words “Deputy County Attorney” appearing immediately after the word ‘County legal Counsel’ and substituting therefor the words “County Solicitor” the **Committee approved this amendment.**

Clause 4 of the Bill be amended;-

- a) In paragraph (b) of sub-clause (2) by deleting the words “the Deputy County Attorney” and substituting therefor the words “the County Solicitor”; and
- b) In paragraph (c) of sub clause (2) by inserting the word “Board” immediately after the words ‘County Public Service’ **the Committee approved this amendment.**

Clause 5 of the Bill be deleted and substituted with a new clause as follows;

5 the County Attorney shall be appointed from among persons-

- a) With atleast seven years’ experience as an advocate of the High Court of Kenya; and
- b) Who meets the requirements of chapter six of the Constitution.

The committee approved this proposed amendment.

The Committee resolved to postpone the consideration of the report on the Bill until we receive and consider the memoranda by the Association of County Attorneys.

MIN. NO. 42/2015

CONSIDERATION OF MESSAGE FROM THE SPEAKER

The Legal Counsel briefed the Committee as follows;

It was not anticipated the joint departmental committee vetting of the Inspector General of the Police and further the 14 days’ timeline from the notification of the House of Parliament on the nominee within which the Parliament shall either approve or reject a nominee pursuant to Art. 245(2)(a) of the Constitution read together with section 12 of the National Police Service Act and sections 8 and 9 of the Public Appointments (Parliamentary Approval) Act is too short and the consequence of neither approving nor rejecting with the 14 days’ time frame is the assumption of the Approval of the nominee.

PROPOSALS FOR APPROVAL OF PUBLIC APPOINTMENTS BYBOTH HOUSES OF PARLIAMENT

As noted by the Speaker of the Senate, the timelines set out in the above provisions of the law do not take into account the dual vetting processes to be undertaken by the approval of both Houses of Parliament.

To resolve this challenge, the options below may be considered by the Committee, for proposal to the House.

OPTION 1: FORMATION OF AN *AD HOC* JOINT COMMITTEE TO VET A CANDIDATE

Under this option, upon receipt of the name of a nominee to a public office requiring approval by both Houses, an ad hoc joint Committee comprising a specified number of members from each House.

The Joint Committee would conduct a joint approval hearing and prepare a single report on the suitability of the nominees to be appointed to the office to which the candidate has been nominated.

The report would then be tabled in each House and each House would consider the report and make a decision on the nominee.

If both houses were to approve the nomination, then the nominee would be considered approved for appointment and if both Houses or either House were to reject the nomination, then the nominee would be considered to have been rejected by Parliament.

With this option, the current 14-day period would suffice for purposes of vetting the nominee.

The advantage of this option would be that the report of the joint committee would be a negotiated report and would therefore save on time. The nominee(s) would appear before the one Committee.

On the other hand, the perspectives of the two Houses while vetting the nominee would be lost.

This option would require amendment of the Public Appointments (Parliamentary Approvals) Act and the Standing Orders of Both Houses.

**OPTION 2: SEPARATE VETTING BY EACH HOUSE FOLLOWED BY
MEDIATION IN CASE OF DIFFERENT CONCLUSIONS**

Under this option, a Committee of each House would conduct an independent approval hearing of the nominee and Table its report in its respective House.

If one House were to reject the approval, then the matter would be referred to a Joint Mediation Committee to consider the nomination.

The Joint Mediation Committee would then table a report in each House. If both Houses or either House were to reject the nomination, then the nominee would be considered to have been rejected by Parliament.

The advantage of this option would be that the different perspectives of both Houses would be preserved. The process would however require more time.

This option would require amendment of the National Police service Act, the Public Appointments (Parliamentary Approvals) Act and the Standing Orders of Both Houses.

OPTION 3: SEPARATE VETTING BY EACH HOUSE WITHOUT MEDIATION IN CASE OF DIFFERENT CONCLUSIONS

Under this option, a Committee of each House would conduct an independent approval hearing of the nominee and Table its report in its respective House.

If both Houses or either House were to reject the nomination, then the nominee would be considered to have been rejected by Parliament.

The advantage of this option would be that the different perspectives of both Houses would be preserved. The process would not require more time.

This option would require amendment of the National Police service Act, the Public Appointments (Parliamentary Approvals) Act and the Standing Orders of Both Houses.

The Committee resolved that the secretariat to prepare a report and recommend option 3 of the proposal, amendment of the standing order of the Senate and the national assembly, and the Directorate of Legal Services draft amendment to the relevant Act of parliaments.

MIN. NO. 43/2015 PETITION BY MR. WACHIRA MUSA ON THE UNCONSTITUTION AND UNFAIR TREATMENT BY INSTITUTE OF CHARTERED PUBLIC ACCOUNTANTS OF KENYA (ICPAK)

The petition was presented and referred to the Committee on 2nd October, 2014. The Committee had postponed the consideration of this petition several times due to other urgent legislative business.

The petitioner has a foreign accounting qualification and has some other relevant courses in Mombasa polytechnic. And applied for registration which ICPAK declined without reasons.

The petitioner further confirm that the matter is not pending before any court of law and therefor prays for the Senate to compel ICPAK to register him and compensate him for lost opportunity and income.

The Committee resolved to invite the petitioner and ICPAK to a meeting on Monday 23rd March, 2015.

MIN. NO. 44/2015 ANY OTHER BUSINESS

a) Action planning retreat

The Committee resolved to reschedule its action planning retreat on 27th to 30th March, 2015 at Whitesands Hotel, or Serena Beach Hotel or Swahili Beach Hotel.

b) Nomination of delegation to the 54th annual AALCO session to be held in Beijing, China from 13th – 17th April, 2015.

The Committee nominated Sen. Amos Wako, the Chairperson and either Sen. Kipchumba Murkomen and in case Sen. Murkomen is not available for the trip then Sen. Mutula Kilonzo Junior stands nominated to replace him.

c) Meeting with the Nandi County Assembly Committee on Justice and Legal Affairs.

The Committee resolve to invite the Committees on legal Affairs and Human Rights from the following County Assemblies; Nandi, Elgeyo Marakwet, Busia, and Wajir to a meeting on Tuesday 31st March, 2015 morning and observation of the Senate plenary session from the gallery in the afternoon.

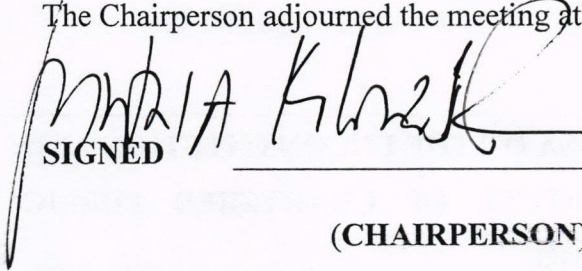
d) Allegation of corruption in the Judges and Magistrates Vetting Board by Mr. Tom Musili.

The Committee resolved to invite Mr. Tom Musili to a closed door meeting scheduled Monday 23rd March, 2015.

MIN. NO. 45/2015

ADJOURNMENT

The Chairperson adjourned the meeting at 12.30p.m.


SIGNED _____ DATE _____
(CHAIRPERSON)

