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KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT - THIRD SESSION (2009)

THE DEPARTMENTAL COMMITTEE
ON
JUSTICE AND LEGAL AFFAIRS

REPORT ON EXAMINATION OF

ESTIMATES OF 2009/10 FOR THE FOLLOWING MINISTRY/DEPARTMENTS:-

- VOTE 17 - THE MINISTRY OF JUSTICE, NATIONAL COHESION
AND CONSTITUTIONAL AFFAIRS
- VOTE 25 - STATE LAW OFFICE
- VOTE 26 - 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
NAIROBI

July, 2009

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

The Committee comprises 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 2009/2010 before this House on June 10, 2009. This was followed by reconstitution of Committees and the said Estimates stood committed to the newly constituted committees. 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 nine sittings. The minutes of these meetings are appended to this report.

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 Interim Independent Boundaries Review Commission for responding promptly to issues raised by the Committee during the examination of the 2009/2010 Estimates. As Chairman, I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks within the stipulated period.

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:.....29.09.09.....

REPORT ON EXAMINATION OF ESTIMATES FOR THE YEAR 2009/2010:

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, National Cohesion and Integration Commission, Non-State Actors support programme and the Independent Constitutional Dispute Resolution Court.
- v) The Ministry has seven institutions under its jurisdiction,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).

1.2 Allocations for the Financial Year 2009/2010-R 17

- i) The net recurrent estimate of the Ministry for the Financial Year 2009/2010 increased from Kshs 1,516,855,350 in 2008/09 to Kshs. 2,016,002,600 in 2009/10 reflecting a net increase of Kshs.499, 147,250. The Committee was informed that the increase will be utilized in facilitating the various commissions and committees under the Ministry. In addition the Ministry expects to raise Appropriations In Aid (AIA) of Kshs 177,588,000. Bulk of the

AIA will 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 2008/09 and 2009/10:-

VOTE	2008/09	2009/10	CHANGE
RECURRENT			
GROSS	1,617,455,350	2,193,590,600	576,135,250
A-I-A	100,600,000	177,588,000	76,988,000
NET RECURRENT	1,516,855,350	2,016,002,600	499,147,250
DEVELOPMENT			
GROSS	596,310,421	999,123,336	402,812,915
A-I-A(Donor Support)	414,242,371	745,088,336	330,845,965
NET DEVELOPMENT(GOK)	182,068,050	217,035,000	34,966,950

Source : (Printed Estimates 2009/2010)

1.2.2 Recurrent Expenditure - R.17

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

i) **Head 288: Headquarters: Central Planning Unit**

Total proposed expenditure: Kshs.17,649,642

The Committee noted that there was an increase under Item 3111000 on the Purchase of Office Equipment and General Equipment from Kshs 520,700 in 2008/09 to Kshs 1,177,380 in 2009/10. This was attributed to the Commissions and Committees under the Ministry.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding **Kshs. 17,649,642** 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 emphasized the need for the Commission to have a separate vote for accountability purposes. The Committee further requested that in future the Commission should submit an itemized budget.

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.408, 139,514 and Appropriations In Aid of Kshs 600,000.

The Committee noted that there was a reduction from Kshs 513,357,162 to Kshs 408,139,514 in 2009/10. The decrease was on account of sub head 0237.

National Cohesion has been transferred to another Head.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding **Kshs. 408,139,514** 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.11, 032,028

The Committee noted that the allocation had increased from Kshs 10,408,618 to Kshs 11,032,028. The increase was attributed to training and travel.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding **Kshs. 11,032,028** 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.89, 511,014

The Committee is agreeable to the proposal by the Minister that a sum not exceeding **Kshs. 89, 511,014** 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 there is need to harmonise the activities of the Kenya National Anti-Corruption Steering Committee and those of the Kenya Anti-Corruption Commission to avoid duplication and to enhance clarity and efficiency in the fight against corruption.

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.146, 775,000

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 146,775,000 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.102,360,000

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 102,360,000 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.519,560,000

The committee observed that no allocations had been made for any referendum under this vote and thus if there is any need for one the ministry of finance would have to provide.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 519,560,000 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.116,480,000

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 116,480,000 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.210,495,402

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 210,495,402 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.134, 000,000

The Committee observed that Kenya School of Law is capable of raising substantial revenue and that it should be encouraged to be self-sufficient.

The Committee is agreeable to the proposal by the Minister that a sum not exceeding Kshs. 134,000,000 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. 176,988,000

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 13,600,000 Million and Appropriations in Aid (AIA) amounting to Kshs 520,798,336

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.13, 600,000 be allocated to this head and that appropriations in aid amounting to kshs 520,198,336 be raised from development partners.

iii) Head 647: Kenya Law Reform Commission

Total proposed expenditure: Kshs 50,000,000

The Committee notes that an expenditure of Kshs.46, 000,000 will be for research, feasibility studies, project preparation and design and project supervision and Kshs 4,000,000 will be for refurbishment of buildings.

The Committee is agreeable that a sum not exceeding Kshs 50,000,000 be granted for Head 647.

iv) **Head 902: Directorate of Legal Affairs**

Total proposed net expenditure: Kshs 39,435,000 and Appropriations in Aid (AIA) amounting to ksh.261, 290,000

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. 39,435,000 be allocated to the Ministry for the expenditure proposed on the items under Head 902 and that AIA amounting to kshs 261,290,000 be raised from development partners to finance activities under this Head.

v) **Head 648: Kenya School of Law**

Total proposed Net expenditure: Kshs 84,000,000

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 84,000,000** be allocated to the Ministry for the expenditure proposed on the items under Head 648.

OBSERVATIONS

- a) That Kenya School of Law is capable of raising substantial appropriations in aid.
- b) 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.

RECOMMENDATIONS

- a) Kenya School of Law should raise adequate resources from its activities and become self - reliant.
- b) That 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..
- c) That the Kenya National Commission on Human Rights (KNCHR) be funded directly by the Treasury for accountability and transparency.

CONCLUSION

- a) This committee recommends that a sum not exceeding **Kshs 2,016,002,600** be approved for Net recurrent expenditures and recurrent appropriations in aid amounting to **Kshs 177,588,000** be raised to support expenditures under the recurrent vote.
- b) That a sum not exceeding **Kshs 217,035,000** be approved for Net development expenditures and development appropriations in aid amounting to **Kshs 782,088,336** be raised to support expenditures under the vote.

2.0 STATE LAW OFFICE -VOTE 25

2.1 Introduction

- i) 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.
- ii) The SLO 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.
- iii) The State law Office was funded under the Governance, Justice, Law and Order Sector.

2.1.2 Allocations for the Financial Year 2009/2010

- iv) The net estimates of the State Law office for the Financial Year 2009/10 amounts to Kshs 1,011,600,000 as compared to net provisions of Kshs 921,447,090 in 2008/09, reflecting an increase of Kshs 90,152,910. The increase is mainly due to provisions for emoluments, operations and maintenance.
- v) The Table below provides a comparative summary of budgets for The estimates for 2008/09 2009/10:-

VOTE	2008/09	2009/10	INCREASE/DECREASE
RECURRENT			
GROSS	1,031,447,090	1,123,600,000	92,152,910
A-I-A	110,000,000	112,000,000	2,000,000
NET RECURRENT	921,447,090	1,011,600,000	90,152,910
DEVELOPMENT			
GROSS	43,000,000	80,300,000	
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 2009/2010)

2.2.2 RECURRENT EXPENDITURE - R-25

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

i) Head 405 :-Finance and Procurement Services

Total proposed expenditure: Kshs.19, 013,240

The Committee noted that the allocation had decreased from Kshs 20,132,924 in 2008/09 to Kshs 19,013,240. 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. 19,013,240** 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.9, 220,492

The Committee noted that the allocation had increased from Kshs 8,565,372 in 2008/09 to Kshs 9,220,492. The increase was attributed to allocations for training and research.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding **Kshs. 9,220,492** be allocated to the department for the expenditure proposed on the items under Head 582.

iii) Head 872:- Headquarters-Administrative services:-Kshs 353,009,939

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding **Kshs. 353,009,939** 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.172,856,784

The Committee noted that the allocation had decreased from Kshs 179, 492,714 in 2008/09 to Kshs 172,856,784. The decrease was as a result of the expiry of contracts for prosecutors hired on contract and their terms had expired.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding **Kshs. 172,856,784** 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.95,234,332

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding **Kshs. 95,234,332** 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.46, 779,252

The Committee noted the increase from Kshs 41,085,640 in 2008/09. The increase was attributed to personnel emoluments, foreign travel and training. The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding **Kshs.46, 779,252** 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.17, 474,228

The Committee noted that there was an increase from Kshs 17,085,383 in 2008/09 to Kshs 17,474,228 in 2009/10. The was attributed to compensation to employees.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs.17, 474,228 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.22, 454,868

The Committee noted that there was a decrease from Kshs 27,049,440 in 2008/09 to Kshs 22,454,868 in 2009/10. The decrease was attributed to compensation to employees.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs **22,454,868** 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.27, 493,644

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs **27,493,644** 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.56, 046,250

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs.56, 046,250 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 10,457,948

The Committee noted that the allocation had reduced from Kshs 19,288,414 in 2008/09 to Kshs **10,457,948**.The reduction was attributed decrease on personal emoluments.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs. **10,457,948** 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 34,693,808 and appropriations in aid (AIA) amounting to Kshs 94,000,000.

The Committee noted that the net allocation had increased from Kshs 11,222,905 in 2008/09 to Kshs 34,693,808.The increase was attributed to increase in personal emoluments.

The Committee noted that the appropriations in aid (AIA) were almost constant for the last few years. The Attorney General (AG) informed the members that the Vote Head was capable of raising additional appropriations in aid (AIA) but was being constrained by the ceilings by the Treasury.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding **Kshs 34, 693,808** 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 94,000,000.

xiii) Head 593 :-Public Trustee Field services

Total proposed expenditure:-Kshs 23,713,080

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding **Kshs 23,713,080** 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 123,154,135 and appropriations in aid (AIA) of Kshs 18,000,000

The Committee noted that the allocation had increased from Kshs 108million in 2008/09 to Kshs 141million in 2009/10. The increase was attributed to increase in personal emoluments.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding **Kshs123, 154,135** 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 18,000,000 to finance items under this Head.

2.2.3 DEVELOPMENT EXPENDITURE - D-25

i) Head 872:Headquarters Administration

The Committee noted that the allocation had increased from **Kshs 29,000,000** in 2008/09 to **Kshs 41,300,000**. The increase was attributed to rehabilitation and refurbishment of buildings at the headquarters. In addition the Head is set to receive grants in form of Appropriations In Aid (AIA) from Development partners amounting to kshs11, 000,000.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding Kshs 41,300,000 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 11,000,000.

ii) **Head 855: Registration Services**

The Committee noted that the allocation had doubled from Kshs 14,000,000 in 2008/09 to Kshs 28,000,000 in 2009/10. The increase was attributed to the ongoing computerization of the companies Registry to ease registration of documents.

The Committee is agreeable to the proposal by the Attorney General that a sum not exceeding **Kshs 28,000,000** be allocated to the Ministry for the expenditure proposed on the items under Head 855.

Observations

- a) That the vote is underfunded compared to other votes performing similar duties.
- b) That low compensation to employees is leading to a high turn over of qualified staff especially the state counsel.
- c) That the institution is capable of raising substantial appropriations in aid for services rendered.
- d) That the state law office did not have the capacity to provide legal advice to the government ministries
- e) That the state law office was docile in its outlook and operations.

Recommendations

- a) That 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.
- b) The mode of payment for services be reviewed so that it can be through banks in order to reduce leakages or any form of misappropriations.
- c) That government ministries employ in-house State Counsel
- d) That public prosecution be transferred to be under the Director of Public Prosecutions.
- e) That a sum not exceeding 0. 1%, an equivalent to Kshs 1million under Head 582, Item 2210400, be reduced from the State Law Office budget.

Conclusion

- a) This Committee recommends that a sum not exceeding **Kshs 1,011,600,000** be approved for Net recurrent expenditures and recurrent appropriations in aid amounting to **Kshs 112,000,000** be raised to support expenditures under the recurrent Vote.

- b) That a sum not exceeding Kshs 69,300,000 be approved for net development expenditure and appropriations in aid amounting to kshs11,000,000 be raised to support expenditures under the vote.

3.0 JUDICIARY- VOTE 26

3.1 Introduction

1. 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.
2. The Judiciary was allocated Kshs 1,953,300,000 against an allocation of Kshs 1,482,233,200 in the previous financial year. The increase of Kshs 630,866,800 is due to the introduction of a new Judicial Pension Scheme and an increase on staff with recruitment of five hundred clerks.

VOTE	2008/09	2009/10	CHANGE
RECURRENT			
GROSS	2,013,233,200	2,499,300,000	486,066,800
A-I-A	531,000,000	546,000,000	15,000,000
NET RECURRENT	1,482,233,200	1,953,300,000	471,066,800
DEVELOPMENT			
GROSS	436,700,000	580,500,000	143,800,000
A-I-A(Donor Support)	-	-	-
NET DEVELOPMENT(GOK)	436,700,000	580,500,000	143,800,000

Source : (Printed Estimates2009/2010)

3.1.0 RECURRENT EXPENDITURE -R -26

i) Head 134 :- High Court Stations

Total proposed expenditure:-Kshs 112,189,287 and appropriations in aid (AIA) amounting to Kshs 152,950,000

The Committee noted that this was a new head 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 112, 189,287 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 152,950,000.

ii) Head 203:- Headquarters (General)

Total proposed expenditure:-Kshs 879,185,859

The Committee noted that this was a new head with the bulk of the money earmarked for employer contributions to compulsory national social security schemes and employer contributions to compulsory health insurance schemes taking Kshs 268,000,000 and Kshs 172,800,000 respectively.

The Committee is agreeable to the proposal by the Registrar that a sum not exceeding Kshs 879,185,859 be allocated to the Department for the expenditure proposed on the items under Head 203 and appropriations in aid amounting to Kshs 2,100,000 be raised to finance some of these expenditures.

iii) Head 309:- Court of Appeal

Total proposed expenditure is Kshs 27,444,200.

The Committee noted that this was a new head and major expenditures are on domestic travel and other transportation costs.

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 20,062,097

The Committee noted that this was a new head meant to cater for the establishment of a Judicial Training Institute.

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 as the two institutions will be offering legal training.

The Committee is agreeable to the proposal by the Registrar that a sum not exceeding **Kshs 20,062,097** 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 337,907,292

The Committee noted a decrease under this head attributed to the introduction of new heads.

The Committee is agreeable to the proposal by the Registrar that a sum not exceeding **Kshs 337,907,292** be allocated to the Department for the expenditure proposed on the items under Head 860 and that an amount of Kshs 238,000,000 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 1,039,826,265.

The Committee noted an increase on the gross allocation from Kshs 888,944,432 to Kshs 1,039,826,265 while A.I.A was decreasing. The increase was attributed to personal emoluments for basic salaries and allowances.

The Committee is agreeable to the proposal by the Registrar that a sum not exceeding **Kshs 1,039,826,265** be allocated to the Department for the expenditure proposed on the items under Head 861 and that AIA amounting to Kshs 137,950,000 be raised to finance some of those expenditures.

vii) Head 864:- National Council for Law Reporting

Total proposed expenditure:-Kshs 82,685,000.

The Committee is agreeable to the proposal by the Registrar that a sum not exceeding **Kshs 82,685,000** be allocated to the Department for the expenditure proposed on the items under Head 864 and that AIA amounting to Kshs 15,000,000 be raised to finance some of these expenses.

3.1.1 DEVELOPMENT- D 26

The Development Vote increased by 35% from Kshs 436,700,000 in F/Y 2008/09 to Kshs 580,500,000 in F/Y 2009/10.

i) Head 860- High Court of Kenya

Total proposed expenditure: - Kshs 300,500,000

The Committee noted that the funds were needed to refurbish the former income tax building. They noted the project has taken too long and a lot of funds have been used. However, the Committee also agreed with the Registrar that it was important that the refurbishment work is completed urgently so that there is more space for the institution to adequately perform.

The Committee therefore agreed that a sum not exceeding **Kshs 300,500,000** 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 280,000,000

These funds are required for completion of various courts all over the country. The Committee agrees that a sum not exceeding **Kshs 280,000,000** be granted to this Vote Head for this purpose.

OBSERVATIONS

- a) That this vote is underfunded yet it discharges important services.
- b) That the refurbishment of former Income Tax Building and its eventual alterations to make it suitable for Judiciary Services has proved to be too expensive.
- c) That there is a possibility that the Judiciary is capable of raising substantial appropriations in aid. However, this has been constrained by the mode of payment which may be leading to leakage of funds.

RECOMMENDATIONS

- a) The Treasury reviews the mode of payment for services in Judiciary and allow it to collect additional resources which they can use to meet shortfalls in funding.
- b) The refurbishment of the above mentioned building should be fast tracked and completed during this financial year.
- c) The activities of the Kenya School of Law be harmonized with the proposed new Judicial Training Institute to avoid duplication of functions.

CONCLUSION

- a) This Committee recommends that a sum not exceeding Kshs 1,953,300,000 be approved for Net recurrent expenditures and appropriations in aid amounting to **Kshs 546,000,000** be raised to support expenditures under the vote.
- b) 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. - Introduction

The Kenya Anti-Corruption (KACC) is expected to combat corruptions and economic crime through law enforcement, prevention and public education. It is mandated to conduct 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 Commission was allocated **KShs 1,345,420,000** in F/Y 2009/10 against an allocation of KShs 1,148,938,270 in the financial year 2008/09' The increase is due to filling of vacant posts as well as payments for terminal dues for the director and assistant directors.

4.1. 1.Recurrent Expenditure -R 34

The Committee is agreeable to the proposal by the Director that a sum not exceeding **Kshs. 1,346,420,000** be allocated to the Commission for the expenditure proposed on the items under Vote 34.

OBSERVATIONS

- a) That the vote is over funded.
- b) That there are activities related to anti-corruption education which is also carried out by the Anti-Corruption Steering Committee under vote 17.

RECOMMENDATIONS

That there is need to review the activities of the department on civic education on corruption vis-a-vis the activities of the Anti- Corruption Steering Committee to ensure that there was no duplication.

CONCLUSION

- a) This Committee recommends that a sum not exceeding **Kshs 1,338,000,000** be approved for Net recurrent expenditures and appropriations in aid amounting to **Kshs 8,420,000** be raised to support expenditures under the vote.
- b) That a sum not exceeding **Kshs 50,000,000** 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 1,251,000,000**.

i) Head 570 -Secretariat

Total proposed expenditure:-Kshs 630,000,000

The Committee is agreeable to the proposal by the Minister that a sum not exceeding **Kshs 630, 600,000** be allocated to the Commission for the expenditure proposed on the items under Head 570.

ii) Head 733- Registrar of Political Parties

Total proposed expenditure:-Kshs 270,000,000

The Committee noted that the amount allocated to political parties was not adequate. The Members further requested the Registrar to ensure that only bona fide parties were allocated the funds.

The Committee is agreeable to the proposal by the Chairman that a sum not exceeding **Kshs. 270,000,000** be allocated to the Registrar for the expenditure proposed on the items under Head 733.

iii) Head 591 - District Election Coordination

Total proposed expenditure:-Kshs 350,400,000

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) That resources for a possible referendum have not been voted for under this vote.
- b) That there was a possibility of the political parties fund being disbursed to undeserving parties.

RECOMMENDATION

- a) The Treasury should consider allocating funds for the referendum.
- b) The Registrar of Political Parties develops rules and regulations to facilitate in the distribution of funds to the political parties.

CONCLUSION

This Committee recommends that a sum not exceeding Kshs 1,251,000,000 be approved for Net recurrent expenditures to support expenditure under the vote.

5.0 INTERIM INDEPENDENT BOUNDARIES REVIEW COMMISSION- VOTE 61

5.1 Introduction

The Interim Independent Boundaries Review Commission (IIBRC) was created by the Constitution of Kenya (Amendment) Act, 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.

This is a new body that was established after the disbanding of the Electoral Commission of Kenya, (ECK) and it therefore does not have elaborate structures hence there's only 1 head in the whole vote, i.e. General Administrations & Planning. There is also no development expenditure for this vote.

Total proposed expenditure:-Kshs 351,000,000.

The Committee is agreeable to the proposal by the Chairman that a sum not exceeding Kshs 351,000,000 be allocated to the Commission for the expenditure proposed on the items under Vote 61.

CONCLUSION

This Committee recommends that a sum not exceeding Kshs 351,000,000 be approved for Net recurrent expenditures under R 61.

-----END-----

MINUTES OF THE SECOND SITTING OF THE DEPARTMENTAL COMMITTEE
H - ON JUSTICE AND LEGAL AFFAIRS HELD ON WEDNESDAY, JULY 15, 2009 IN
COMMITTEE ROOM 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT
BUILDINGS AT 9.00AM.

PRESENT

Hon. Abdikadir Mohamed, M.P. - Chairperson
Hon. Amina Abdalla, M.P.
Hon. Baiya Njoroge, M.P.
Hon. Ababu Namwamba, M.P.

ABSENT WITH APOLOGY

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

IN ATTENDANCE
NATIONAL ASSEMBLY

Mrs. Phyllis Makau	Principal Budget Officer
Mrs. Lucy Wanjohi	Clerk Assistant
Mr. Willis Otieno	Parliamentary Intern

MIN.NO.06/2009 BRIEFING BY THE OFFICE OF THE FISCAL
ANALYSIS: ANNUAL ESTIMATES-2009/10

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). A summary of the breakdown of the Recurrent and Development expenditure is as follows:-

The Committee raised concerns as follows:

1. Kenya Anti Corruption Commission.

- i) It was observed that the allocation was a one line item with no details. It was agreed that the Commission should provide an itemized budget giving details of how the Kshs 1.3billion will be expended.
- ii) The rationale of allocating Kshs 50 million for the construction of a Headquarter in view of the temporary nature of the Commission should be given.

2. Judicial Department.

- i) Judicial training Institute - Why a new institute when the Kenya School of Law was offering legal training and was receiving funding from the Government too.
- ii) The Committee should establish details on funding to the National Council for Law Reporting.
- iii) Magistrates/Kadhis courts -Why start new projects when old ones are not complete.
- iv) Why is the Income Tax Court House taking long to complete.

3. State Law Office.

The committee noted that the allocation has increased from Kshs 921 million in 2008/09 to Kshs 1.2 billion in 2009/10.

- i) Under the Public Trustee Department main issue is why the erratic trend in allocations for expenses in medium term.
- ii) Under the Registration Services head, they should explain why the AIA has remained at Kshs 90, 000,000.00 over the medium term.
- iii) Under Public Trustee field services head, they should also explain why the decrease in personnel emoluments. Could it be that they are laying off or transferring people?
- iv) Under the head of Headquarters there is an increase from Kshs 29,000,000.00 to Kshs 52,000,000.00. Increment is marked in allocations for refurbishment of building at Headquarters.
- v) One further issue arising is the need for an explanation in allocations to semi autonomous government agencies under this department. These include; Kenya Copyright Board, National Council for Law Reporting and Advocates Complaints Commission.

4. Ministry of Justice, National Cohesion and Constitutional Affairs

- i) That Kenya School of Law is capable of raising substantial appropriations in aid.
- 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) This was a one line item and the Commission should provide an itemized budget.
- ii) It was observed that no funds had been allocated for a referendum and the funds allocated the Commission could not cater for such an exercise.

6. Interim Independent Boundaries Review Commission

This was a new Vote with a specific timeline.

MIN.NO.07 /2009

ADJOURNMENT

The Chairman adjourned the sitting at 10.30am to allow the Kenya Anti-Corruption Commission to appear before the Committee.

Hon.Abdikadir Mohammed, M.P

Signed.....
Chairperson

July 29, 2009

Date.....

**MINUTES OF THE THIRD SITTING OF THE DEPARTMENTAL COMMITTEE H -
ON JUSTICE AND LEGAL AFFAIRS HELD ON WEDNESDAY, JULY 15,2009 IN
COMMITTEE ROOM 5TH FLOOR,CONTINENTAL HOUSE, PARLIAMENT
BUILDINGS AT 10.30AM.**

PRESENT

Hon. Abdikadir Mohamed, M.P. - Chairperson
Hon. Amina Abdalla, M.P.
Hon. Baiya Njoroge, M.P.
Hon. Ababu Namwamba, M.P.

ABSENT WITH APOLOGY

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

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Phyllis Makau Principal Budget Officer
Mrs. Lucy Wanjohi Clerk Assistant
Mr. Willis Otieno Parliamentary Intern

TREASURY

Nyamasyo Ndola Budget Officer

KENYA ANTI-CORRUPTION COMMISSION

1. Justice (RTD) Aaron G. Ringera, EBS Director
2. Mr. Wilson K. Shollei Ass. Director - Finance & Administration
3. Olga Sewe Principal Attorney Legal Services
4. Francis Gikonyo Principal Officer - Civil Litigation
5. Vincent Okong'o Principal Officer - Research & Planning
6. Dr. Arbogast K. Akidiva Principal Officer - Education
7. Nicholas Simani Principal Officer - Public Relations
8. Jackson Mue Senior Analyst - Intelligence
9. Beatrice Kamau Senior Planning & Budgets Officer
10. Jason N. Akoyo Planning & Budgets Officer 1

MIN NO.08 /2009 - PRESENTATION BY THE KENYA ANTI-CORRUPTION COMMISSION.

On the Commission's request that the presentation be made in camera, the Chairman stated that in the spirit of accountability and transparency, the meeting was open to the public and the press.

The Director then proceeded to give his presentation as follows:-

i) Functions

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

ii) Major Achievements

- i) It has investigated 498 corruption cases and forwarded the files to the AG for prosecution.
- ii) Has recovered assets worth over 4.55 billion.
- iii) Over 250 arraigned persons in court
- iv) It has filed 398 recovery suits in court valued at approximately 5 billion shillings.
- v) It has filed numerous applications to search premises and investigate accounts.

iii) Recurrent Vote

- i) The Commission was allocated KShs 1,345,420,000 against an allocation of KShs 1,148,938,270 in the F/Y 2008/09'
- ii) The increase of about KShs 51million is due filling of vacant posts as well as payments for terminal dues for the director and assistant directors.
- iii) The increase of KShs 50 million to cater for serving summon orders in newspapers, legal dues, increase in costs of rent ,utilities ,fuel and maintenance, domestic travel, court attendances out of Nairobi,Ex - gratia payments and replacement of office equipment and purchase of back-up and data storage equipment
- iv) The absorption capacity for the F/Y 2008/09 is 93% and unspent funds of 7%.

- v) The unspent funds on the recurrent expenditure was due to a delay in the appointment of assistant directors a delay in appointment of a new Board and delay in the release of GJLOS Funds.

iv) Development Vote

- i) The actual expenditure for the F/Y 2008/09 is 4%
- ii) The Commission did not spend 96% of its development vote.
- iii) The unutilized funds were as a result of lack of design works for the HQ which was composed of four parts with the last component getting concluded in June 2009.

v) Challenges(Law Enforcement)

The Director informed the Committee that the Commission experienced many challenges including:-

- i) A Hostile Judicial climate.
- ii) Transfer of special magistrates designed to handle corruption cases.
- iii) Political pressure.
- iv) Inadequate whistle blower protection-The Witness Protection law is inadequate and should be improved.
- v) Absence of documentary evidence to support case.
- vi) Lack of prosecutorial powers.
- vii) Inadequate legislation
- viii) Inability to improve terms of service for staff since they are all on contract and;
- ix) Congestion at Integrity centre building.

While interrogating the Estimates the Members noted with concern that:-

- i) The Commission had not provided an itemized budget in the spirit of accountability and transparency to which the Commission undertook to provide one before July 21,2009.
- ii) The Commission, under Development Vote, Head 546 had an allocation of KShs 50 Million for construction of a building. The Director informed the members that the money was for construction of a building for the Commission. He explained that the Commission was a tenant in the Integrity Centre Building and the Building was not designed for its operations and would require modifications to suit their specifications. He further explained that the Commission had already bought five (5) acres of land in Karen at a cost of KShs 50million and construction of the building would commence in January 2010

and be completed in 2012. The estimated cost of the building was Kshs 800million.

- iii) Under Head 546 on the Recurrent Vote, where the Commission has indicated receipt of Kshs 5million, the Director stated that the Commission employs prudent financial management where it has negotiated with commercial banks on interest rates on any money deposited in commission accounts.
- iv) Under Head 546, on the Kshs 20million indicated as receipts not classified elsewhere, the Committee sought to know details of this item. The Director stated that this was an accumulation of interest from previous years and the amount does not appear in the 2009/010 estimates since the year had not ended. The Commission had authority from treasury to keep the money.
- v) The Director assured members that in the process of intelligence gathering, the commission did not infringe on the rights of individuals. The Commission had good working relations with the Attorney General while its difficult to cooperate with the Judiciary due to its perceived independence.
- vi) The Committee sought to establish the impact the Commission had made on the public since only 50% of its resources got to the public. The Director informed the Committee that as a result of its public education program, there is improved service delivery in the public sector. The Rapid Response Initiative was introduced as a result of the anti corruption campaign. In terms of revenue, misappropriation of government resources is on the decline because the Commission has assisted to seal the loopholes of siphoning funds from the government. The Commission had also enhanced public awareness and intolerance to corruption but it would take time before such initiatives are visible.
- vii) In response to a concern on whether the Commission has a national corruption index in which it can demonstrate how it has brought down corruption, the Director informed the Members that the Commission intends to start ranking institutions in the near future. The Director further informed the Committee that it has no formal partnership with the Transparency International, but some of its findings inform the Commission's investigations. In respect to other anti-corruption agencies, the Commission has interagency partnerships with the Police and Kenya Revenue Authority.
- vi) The Commission has also enlisted Community Based Organizations through its outreach program to help in the fight against corruption. It has also trained facilitators at the local levels to mobilize communities in the fight against corruption. Internationally, the Commission is in partnership with other International agencies to help fight cross border corruption.
- vii) The Commission informed Committee that its area of focus is majorly in CDF, LATF, all devolved funds, Weigh bridges and the road sector generally. The strategy is to deal with the petty corruption to fight corruption perceptions in the eyes of the public.

MINUTES OF THE FOURTH SITTING OF THE DEPARTMENTAL COMMITTEE H
- ON JUSTICE AND LEGAL AFFAIRS HELD ON WEDNESDAY, JULY 15,2009 IN
COMMITTEE ROOM 5TH FLOOR,CONTINENTAL HOUSE, PARLIAMENT
BUILDINGS AT 11.30AM.

PRESENT

Hon.Abdikadir Mohammed,M.P	Chairperson
Hon.Amina Abdalla,M.P	
Hon.Njoroge Baiya,M.P	
Hon.Ababu Namwamba,M.P	

ABSENT WITH APOLOGY

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

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi	Clerk Assistant
Mrs. Phyllis Makau	Principal Budget Officer
Mr. Willis Otieno	Parliamentary Intern

TREASURY

Nyamasyo Ndola	Budget Officer
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JUDICIARY

Mrs Lydia Achonde	Registrar
Mr.David Banda Rapando	Deputy Chief Finance Officer
Mr.Dismas Opande Ogot	Principal Accounts Controller

MIN.NO.10 /2009 PRESENTATION BY THE JUDICIARY DEPARTMENT

The Registrar took the Members through the mandate of the Judiciary and the Estimates for the F/Y 200/010.She informed the Committee that:-

3. 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.

4. The Judiciary was allocated Kshs 1,953,300,000 in 2009/10 against an allocation of Kshs 1,482,233,200 in the previous financial year. The increase of Kshs 630,866,800 is due to the introduction of a new Judicial Pension Scheme and an increase on staff with recruitment of five hundred clerks'
5. The operations and maintenance expenses increased by 2% from the previous year due to an allocation of Kshs 50million meant for hiring Commissioners of Assize. Consequently the allocation on O& M decreased by Kshs 35 million or a 5% decrease.
6. Grants to other government institutions increased by 52% due to an allocation of Kshs 20million to the newly established Judiciary Training Institute and an increase in the allocation to the National Council for Law Reporting.
7. Although the judiciary lacks adequate transport facilities the removal of allocation of Kshs 110million will hamper the operations of the Judiciary. Vehicles are used to visit prisons, scenes of crimes, conducting mobile courts in Arid and Semi-arid areas. Furthermore, there are eight(8) High Court judges who do not have official vehicles while the Court of Appeal Judges have vehicles that are over ten (10) years old thereby making it expensive to maintain them.
8. The Development vote increased by 35% from Kshs 436,700,000 to 580,500,000 .The increase is caused by an allocation of Kshs 200,000,000 "*ring-fenced*" for ICT for automation of the court processes and systems. This addition of "*ring-fenced*" funds has caused a increase of Kshs 85million development vote. However the project has denied funds to other important projects like the completion of the Income Tax Court House which got only Kshs 71million against the requested amount of Kshs 150million. The Committee was informed that this was a four year project where over Kshs 790million had already been utilized towards renovation of the Building.

The Committee interrogated the Estimates and raised issues as follows:

1. Members sought to know why the Judiciary had introduced a new Head 344 to cater for a Judicial Training Institute when the Government was funding the Kenya School of Law, a fully fledged institution that offered legal studies. Members said that the Judiciary should have utilized the facilities to train members of the Bar. The Registrar informed the Committee that the Institute was a product of extensive consultations with stakeholders in the Justice sector and was modeled to cater for the needs of members of the bar. It would also train station heads on accounting matters to improve accountability on AIA. The Institute housed at the Post Bank Training Institute is in the spirit of separation of powers.
2. Under Vote 864 where there has been an allocation of Kshs 82,685,00 to the National Council for Law Reporting, the members were informed that this was not a new item since in the past the allocation was under Judiciary. The new

head was made separate for accountability purposes. The NCLR was the only support system of the bench since they captured all the amendments to the Laws and maintained other materials needed by the Bench.

3. The members were informed that the AIA remained constant due to inadequacies on the part of Judicial Officers headings various stations .The Judiciary had written to Treasury seeking authority to have clients' deposit money directly into the Banks.
4. Under Development Vote 860 the committee expressed concern at the allocation of Kshs 70million against an allocation of Kshs 200million towards ICT.Members were informed that the building was 95% complete and Kshs 130million was needed to complete it. The Committee was informed that the allocation on ICT was intertwined with the completion of the Building and ICT would only be useful if the house was completed since the ICT program was to be implemented in the new Building.

The Committee observed that:

- The Budget of the Judiciary has been going down over the years thereby affecting important programs.
- The Judiciary should consider using the Kenya School of Law to offer training to members of the bench instead of starting a new institute.
- The Committee will recommend that the Judiciary be permitted to direct clients make payment to commercial banks and only present slips to court.

The Committee asked the Judiciary to provide a report on achievements made by the Judiciary against their allocations.

MIN.NO.11/2009 PAPERS LAID

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

- i) *The Judiciary - 2009/10 Printed Estimates.*
- ii) *Strategic Plan - 2008-2012*

MIN.NO.12/2009 ADJOURNMENT

And there being no other business the meeting ended at forty five minutes past twelve to allow the State Law Office appear before the Committee.

Hon.Abdikadir Mohammed,MP

Signed -----

Chairperson

July 29,2009

Date -----

**MINUTES OF THE FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE H -
ON JUSTICE AND LEGAL AFFAIRS HELD ON WEDNESDAY, JULY 15,2009 IN
COMMITTEE ROOM 5TH FLOOR,CONTINENTAL HOUSE, PARLIAMENT
BUILDINGS AT 1.00PM.**

PRESENT

Hon. Abdikadir Mohamed, M.P. - **Chairperson**
Hon. Amina Abdalla, M.P.
Hon. Baiya Njoroge, M.P.
Hon. Ababu Namwamba, M.P.

ABSENT WITH APOLOGY

Hon. Millie Odhiambo-Mabona, M.P. - **Vice-Chairperson**
Hon. Mutava Musyimi, M.P.
Hon. Nyamweya George, M.B.S., M.P.
Hon. Isaac Ruto, E.G.H., M.P.
Hon. Sophia Abdir Noor, M.P.
Hon. Olago Aluoch, M.P.
Hon. (Prof) Philip Kaloki, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi Clerk Assistant
Mrs. Phyllis Makau Principal Budget Officer
Mr. Willis Otieno Parliamentary Intern

TREASURY

Nyamasyo Ndola Budget Officer

STATE LAW OFFICE

Amos S.Wako, EGH, FCI Arb., SC, MP Attorney General
Muthoni kimani, MBS Snr. Deputy Solicitor General
Mrs. Bernice Gachegu Registrar General
Mrs. Eunice Sawe Administrator General
Mr. Onesmus Mutua Ag. Senior Deputy Secretary
Mr. David Nderitu Chief Accountant
Mrs. Rosemary Kariuki Ass. Director, Human Resource
Mr. Patrick Njoroge Prin Infor. & Com Technology Officer
Mr. Joseph Mutuma Deputy Chief Finance Officer
Mr. Mark Kimutai Economist
Mr. James Waweru Principal State Counsel

The Attorney General gave a brief introduction of the Department, its mandate and the challenges that the office encounters in the execution of its mandate after which he invited the Senior Deputy Solicitor-General to present the Estimates.

The Senior deputy Solicitor-General informed the Committee that:-

The recurrent expenditure for the financial year 2009/10 increased from ksh.921.447,090 to ksh.1, 123.6million.This includes an A.I.A of Kshs 112,000,000.00

The department has lost most of its personnel to other government agencies and to the private sector because of better remunerative packages accorded by those other entities. The estimates left out certain crucial programs being pursued by the SLO. These including:

- The decentralization of legal services program (Kshs50 million)-Twenty(20) mini State Law Offices are projected to be opened over a period of five (5)years
- The Witness Protection Program (Kshs 300 million)- This is intended to operationalize the Kenya Witness Protection Act 2006
- The automation of registries countrywide (Kshs 75 million)-This is intended to improve service delivery.

The total net required for the implementation of these programs is Kshs 1.6 billion but a net of Kshs 1 billion has been allocated to the SLO in the annual estimates.

1. The department has not budgeted for new projects due to underfunding
2. The department recommends that the Treasury re looks at the amount allocated to witness protection program while adequate resources should also be availed to the Kenya Copyright Board and the National Crime Research Center. These bodies are currently using state counsels who should be doing other work at the SLO thereby accelerating staff shortages rampant in the SLO.
3. The department suffers from lack of adequate office space for its personnel although part of the problem of space was addressed when the Directorate of Public Prosecutions was moved to the NSSF building.
4. It is within the strategic plan that over a 2-3 year period police prosecutors should be done away with. This plan is supported by the police department as well. Police should not prosecute because at times they bring prosecutions even where there is no concrete

evidence to warrant prosecutions. There is therefore the need to strengthen and make the Directorate of Public Prosecutions independent.

5. The electronic registration of companies is already on going. The only challenge is that there are many companies that date back to 1905 and thus need for scanning their files to make them digital and this takes time and resources.
6. Most funds allocated to the State Law Office are under the head marked headquarters because most of the operations, utility bills are paid at the main office. Some payments are paid to personnel from the departments from the HQ fund.
7. The SLO is considering having clients make payments to commercial banks and only present their banking slips. This will reduce leakages.
8. The amount of AIA of the SLO is based on the ceiling accorded to it by the treasury. Treasury has given the SLO a ceiling of up to 110 million. The consequence has been to maintain it at 90 million. In the last financial year, more than 110 million was collected. If possible Treasury should be requested to permit the SLO to expend some of this money.

The Committee interrogated the Estimates and raised issues as follows:

1. Under Head 593, it was explained that the budget of the Public Trustee is going down because of the restructuring program and transfers that have been undertaken and not because of layoffs.
2. Under Head 269, it was explained that the major problem in civil cases being handled by the department is in the ownership of those cases where the ministries feels that the Attorney General should own the cases and not the respective line ministries. This at times lead to ministries failing to avail witnesses in the cases leading to judgment being entered against the government.
3. To alleviate these problems, ministries are now in the process of hiring state counsels who will deal with their legal matters in collaboration with the State Law Office.
4. A sensitization workshop will be conducted to enlighten ministries on their role in prosecutions of matters.
5. In all the corruption cases, where the SLO has ascertained that there is sufficient evidence cases have been taken to court. Problems arise more in the judicial department especially when magistrates are transferred in the middle of cases.
6. 95 % of files that are referred by the KACC to the AG are approved for prosecutions and they are alive in court. Where there is no sufficient evidence, the SLO has directed that further investigations be undertaken before prosecutions are commenced. Accordingly the prosecutorial powers to the Kenya Anti-Corruption Commission will not in any way change the problems faced at the Judiciary.

The Committee observed that:-

- Treasury should allow clients to make payments to commercial banks directly to reduce leakages.

**MINUTES OF THE SIXTH SITTING OF THE DEPARTMENTAL COMMITTEE H -
ON JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY, JULY 16,2009 IN
COMMITTEE ROOM 2ND FLOOR,CONTINENTAL HOUSE, PARLIAMENT
BUILDINGS AT 9.30AM.**

PRESENT

Hon. Abdikadir Mohamed, M.P.	Chairperson
Hon. Amina Abdalla, M.P	
Hon. Baiya Njoroge, M.P.	
Hon. Ababu Namwamba, M.P.	
Hon. Olago Aluoch, M.P.	

ABSENT WITH APOLOGY

Hon. Millie Odhiambo-Mabona, M.P.
Hon. Mutava Musyimi, M.P.
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. Phylis Makau	Principal Budget Officer
Mrs. Lucy Wanjohi	Clerk Assistant
Mr. Willis Otieno	Parliamentary Intern

**MINISTRY OF JUSTICE ,NATIONAL COHESION AND CONSTITUTIONAL
AFFAIRS**

Hon. William Cheptumo	Assistant Minister
Amb.Amina Mohamed	Permanent Secretary
Amb.David M.Mutemi	Director of Administration
Paul Masinde	Chief Finance Officer
Samuel Gitau	Deputy Chief Economist

TREASURY

Nyamasyo Ndola	Budget Officer
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**MIN NO. 16 /2009 REPRESENTATION BY THE MINISTRY OF JUSTICE,
NATIONAL COHESION AND CONSTITUTIONAL AFFAIRS.**

The Assistant Minister, Hon. William Cheptumo, 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 2009/010.

The Ass. Minister informed the Members that :-

1. The Ministry had received a net recurrent allocation of **Kshs 2,016,002,600** for the F/Y 2009/010 as compared with an allocation of **Kshs 1,516,855,350** in the previous year reflecting an increase of **Kshs 499,147,250**. The increase will be utilized in facilitating the various commissions and committees under Agenda four(4).
2. There is an increase of **Kshs 76,880,000** in Appropriation -In-Aid which is expected from expanded programmes at the Kenya School of Law.
3. The net development allocation increased from **Kshs 182,068,050** to **Kshs 217,035,000** in 2009/10.
4. Donor support increased from **Kshs 414,242,371** to **Kshs 745, 088,336** million in this financial year.
5. The Ministry has allocated funds to new projects and programmes as follows:-
 - Committee of Experts allocated **Kshs 519** million-to facilitate the drafting of a new Constitution
 - Truth Justice and Reconciliation Commission allocated **Kshs 100** million- to address historical injustices
 - Special Tribunal has been allocated **Kshs 46.775** million- to implement the recommendations of Waki Commission
 - The Independent Constitutional Dispute Resolution Court allocated **Kshs 116.48** million-to handle disputes arising from the Constitutional Review Process
 - The National Cohesion and Integration Commission has been allocated **Kshs 102.36** million- to address negative ethnicity and to promote National Cohesion and Integration
 - Non State Actors Support Program allocated **Kshs 261.3** million. This program is funded by the European Development Fund and is expected to end in 2012.
6. In the financial year 2007/08 the absorption rate for recurrent expenditure was 88 %, while the absorption rate for development expenditure in the same period was 60 %. In the financial year 2008/09 the absorption rate for recurrent expenditure was 90% while that for development expenditure was 32 %. The absorption rate in this period was affected by the freezing of aid by donors (GJLOS) following the post election violence and complex procurement procedures.

7. The Ministry had a financing gap of **Kshs 2,526,180,000** affecting ongoing and new projects in the Governance, Justice Law and Order Sector, Legal, Ethics and Constitutional Reforms, Constitutional Review Process and other new commissions.
8. The Kenya School of Law has had an allocation of Kshs 394,988,000 against an allocation of Kshs 221,199,981 in the previous year. The school has embarked on an expansion programme to eventually become self-sustaining.
9. The Kenya National Commission on Human Rights has a budget of Kshs 135,000,000 against one of Kshs 115,000,000 in the previous year.

After examination of the Estimates, the Committee expressed concerns in the following areas:

1. Under Head 648, the members were concerned that while the A.I.A of the Kenya School of Law had increased from Kshs 100million to Kshs 176million, the school continued to receive funds from the Government. The members were informed that the School was expanding its infrastructure with the aim of becoming self-reliant.
2. Under Head 557, the increase on the budget on hospitality and office supplies was because the Ministry was expected to provide and furnish office space for the National Cohesion Commission and the Truth Justice and Reconciliation Commission. It was explained that the money allocated to these commissions cannot be enough to buy furniture. The allowances for commissioners to the commissions formed under the ministry are paid from the consolidated fund and not the amounts allocated to them.
3. Under Head 545, the Kenya National Commission on Human Rights, the allocation remained constant at Kshs 105,000,000 since the treasury is of the perception that the commission attracts a lot of money from donors thus the reluctance to increase their allocation. The commission is greatly valued by the government with its Chairperson being a member of the task forces on Judicial and Police Reforms. The KNHCR has been resisting attempts to present an itemized budget
4. Under Head 851, the Ministry got Kshs 155,000,000 for the Corruption Steering Committee. Members observed that this was a duplication of roles since this is the sole mandate of KACC. The Minister explained that the Committee is not duplicating the role of KACC but complimenting the Commission. The Committee had done better than the KACC in creating awareness and educating the public on corruption. It has covered over 42 districts, done various periodicals, produced TV programs all in an effort at public education and awareness.
5. Under Head 902 the Committee noted that the Ministry had an item on National Cohesion Department. The Committee was informed that the Ministry had a role to play on National Cohesion and had already recruited staff up to the

level of Assistant Director, had developed a concept paper on national cohesion where all stakeholders are expected to be engaged. The concept includes a Council of elders, youths and women with a National Elders Conference under preparation. The Elders to the Conference will be from the whole nation having been identified by a task force.

6. On the Ministry was of view that the School of Law should be used in training judicial officers but the judiciary felt that it needed its own institute independent of the ministry.
7. The Ministry supports prosecutions being undertaken by the office of public prosecutions in place of the police. The police should continue investigating the cases.
8. Under Head 740, the Minister explained that the allocations made to the special tribunal was done in anticipation that a tribunal would be set up. The amount is only sufficient for setting up the tribunal and not for its entire operation.
9. The Non State Actors Agency is financed by the European Union. A project management facilitation unit is being set up and will be independent of the ministry. The Process will undergo various stages including civic education, capacity building while funding will be on presentation of proposals. Program will run until the end of 2012. Total budget will be 6.5 million Euros. The current budget of 251 million shillings is to operationalise the project management facilitation unit.
10. The committee of experts was initially housed at the KICC and after they were sworn in they rejected the offices and the ministry had to get alternative accommodation for them and this took a while.

The Committee made the following recommendations;

- That the Kenya National Commission on Human Rights (KNCHR) be funded directly by the Treasury for accountability and transparency.
- Ministry should follow up with Treasury on additional funding for the KNHCR and not to leave funding to this important national institution to donors.
- The KNHCR should provide an itemized budget of its expenditure.
- That the Ministry coordinates with the Treasury and the Electoral Commission on funds for the referendum (2 billion under vote 7).
- That the Ministry sets up a coordinating body of all the commissions and task forces on reforms currently under way.
- That 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.N0 17 /2009

PAPERS LAID

The Assistant Minister, Hon William Cheptumo,MP laid the following document before the Committee:-

- i) *Ministerial statement on 2009/10 Printed Estimates to the Justice & Legal Affairs Committee.*

MIN.N0 18 /2009

ADJOURNMENT

And there being no other business the meeting adjourned at 11.30 until 12 O'clock to allow the IIBRC to appear.

Hon.Abdikadir Mohammed,MP

SIGNED

Chairperson

July 29,2009

DATE

**MINUTES OF THE SEVENTH SITTING OF THE DEPARTMENTAL COMMITTEE
H - ON JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY, JULY 16,2009 IN
COMMITTEE ROOM 2ND FLOOR,CONTINENTAL HOUSE, PARLIAMENT
BUILDINGS AT 12.00.**

PRESENT

Hon. Abdikadir Mohamed, M.P.	Chairperson
Hon. Amina Abdalla, M.P	
Hon. Baiya Njoroge, M.P.	
Hon. Ababu Namwamba, M.P.	
Hon. Olago Aluoch, M.P.	

ABSENT WITH APOLOGY

Hon. Millie Odhiambo-Mabona, M.P.
Hon. Mutava Musyimi, M.P.
Hon. Nyamweya George, M.P
Hon. Isaac Ruto, M.P.
Hon. Sophia Abdir Noor, M.P.
Hon. (Prof) Philip Kaloki, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi	Clerk Assistant
Mrs. Phylis Makau	Principal Budget Officer
Mr. Willis Otieno	Parliamentary Intern

TREASURY

Nyamasyo Ndola	Budget Officer
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INTERIM INDEPENDENT BOUNDARIES COMMISSION

Mr.Andrew Ligale	Chairman
Mr.Abdullahi Sharawe	Commissioner
Ms Jedidah Ntoyai	Commissioner
Mr.Ezekiel Abang	Secretary to the Commission

MIN NO.19/2009

**PRESENTATION BY THE INTERIM INDEPENDENT
BOUNDARIES COMMISSION.**

The Chairman welcomed the Chairman of the Interim Independent Boundaries Commission and his team after which he was invited to present the Budget of the Commission. The Chairman informed the members that:-

- The Commission was created by the Constitutional (Amendment) Act 2008.
- Members of the Commission were appointed in May 2009 and started working in June 2009.
- Its main mandate is to review boundaries of constituencies and other administrative units and make appropriate recommendations to the Parliament.

Programs:-2009/010

The Commission has come up with the following program of activities;

- Acquisition of office space and furniture
- Sourcing of skeleton staff.
- Participation in two induction courses.
- Finalization of a work plan and concept paper.

The Commission proposes to engage in the following activities in the

- General administrative and finance including recruitment.
- Research activities
- Public hearings in all regions
- Comparative studies with other jurisdictions which involve foreign tours.
- Survey and mapping of electoral boundaries.

Budgetary Estimates

The Chairman further informed the Committee that:-

- During the F/Y 2008/09, the Ministry of Justice, National Cohesion and Constitutional Affairs was allocated Kshs 57 million for the Commission
- In the F/Y 2009/10, the Commission has been allocated a total of Kshs 351 million against a requested amount of Kshs 1.3 billion leading to a financing gap of KShs 949,000,000.

The Committee asked the Commission to provide the Committee with an itemized budget on how they intend to expend the allocation.

It was observed that:-

- The Commission is in the process of acquiring new office space
- The Commission has presented a draft bill for consideration
- The Commission may request for extension of time due to the volume of work and further delays caused in appointment of Commissioners.

MIN.N0.20 /2009

PAPERS LAID

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

iii) Memorandum Brief on the 2009/10 Printed Estimates

MIN.N0 21 /2009 ADJOURNMENT

And there being no other business the meeting adjourned at 3.15 until July 17, 2009 at 9.30am.

Hon. Abdikadir Mohammed, MP

Signed

Chairperson

July 29, 2009

Date

**MIN.NO.22/2009 PRESENTATION BY THE INTERIM INDEPENDENT
ELECTORAL COMMISSION OFFICE OF REGISTRAR OF
POLITICAL PARTIES**

The Chairman informed the Committee that:-

- The commission was allocated 1.2 billion shillings
- The Commission is an interim body created by an the Constitution and has a mandate running for a period of 24 months or when a new constitution comes in place whichever comes first.
- The commission had requested the head of the civil service to give it skeleton technical staff to help it establish. These came from staff that had helped in the task force that was set up to wind up the previous electoral body. The commission is currently in the process of recruiting new staff and has contracted a human resource consultant to do the recruitment..
- Commission has had a meeting with the political parties who are of view that voter registration should be conducted countrywide immediately. The cost of such an exercise was not factored in this year's budget.
- There are also by elections which the commission may be involved in. On average a by election costs 50 million to organize.
- Commissions has also inherited election petitions that were filed against its predecessor and this requires money to defend.
- Training of election officials in Bomachoge and Shinyalu constituencies has been finalized. Currently registration of voters is and civic education taking place in the two constituencies.
- When the budget was prepared, the commission was not involved. It only became part of the exercise at the last minute. Commission is of view that the allocation made to it is grossly inadequate to meet its programs.
- Recruiting staff, providing ICT in the offices to help in data collection and tallying requires a lot of money
- Programs such as national registration of voters and a civic education program will be directly funded by the treasury when they are being implemented.
- Commission did not put an actual amount on emoluments because staff of the former body were sent away. Problem is that in the eyes of the commission the former body was overstaffed. A one line budget item was put due to this constraint.
- Staff to be recruited will be on a permanent basis or on a contract of 3 years. This is still under discussions.
- NSSF contributions went up because of payment of sums due to the former staff who opted to retire. Commission is of view that the figure is too high and it need be reviewed.

- The commission has agreed with the treasury that any further by elections that may arise in the interim before a new budget, shall be treated as programs to be directly funded by treasury.
- Commission recommends that the 71 districts be retained and clusters be set up in the new districts. Some of the new districts may not be viably run as independent coordination offices.
- Budget for the district coordinators has doubled because the mandate of the coordinators will be enhanced in the current set up. The coordinators will need to have a lot of movement to the newly created administrative units.
- In the interim period, the 71 districts will be used but in the long term, commission may adopt a constituency approach I setting up its coordination offices.

MIN.NO.23/2009

REGISTRAR OF POLITICAL PARTIES.

The Registrar, Political Parties informed the Committee that:-

- The Office is established by the Political Parties Act and it is to work under the Body that is charged with conducting elections in the country.
- The Office has skeleton staff since it is just being set up.
- The Office got a letter from the government indicating that it cannot operate on a permanent basis until the Electoral Commission is made permanent.
- Structures of auditing political parties have been set up. Will be through annual audits by the Auditor general. Further parties will be required to file their annual returns.
- Need to refurbish office because of lack of a registry, no computers or other office equipment. When the office operated previously such facilities had not been acquired.
- In the last financial year, office collected around 21 million shillings in AIA from political parties. This financial year, the amount will considerably go down since the only avenue of raising fund is now limited to searches which are not done by many people.
- The amount of shillings 21 million was banked in an account belonging to the former ECK. The money must have been returned to the treasury.

Political Parties Fund.

- This fund currently has an allocation to the tune of 200 million shillings. Office will liaise with the Commission to open an account to deposit this money. The Registrar will be given mandate to distribute this money as per regulations to be made.

- The Office is currently making regulations to govern this fund. Fund may be spent before the regulations are made if it takes to long for regulations to be made.
- There is no projected time frame within which to disburse the funds.

After hearing the presentation by the Commission, the Committee directed as follows;

- Commission to liaise with treasury and Justice Ministry to set up plans on how the amount of 2 billion shillings set aside in the estimates is to be utilized.
- Commission in collaboration with treasury and Justice Ministry to come up with contingency plans for holding a referendum should a draft constitution be ready in this financial year.
- Commission to report on the status of NSSF contributions which they felt is exorbitant.
- Commission to give itemized estimates of its expenditures.
- That the Office of Registrar of Political Parties is a permanent feature regardless of the term limitation of the Commission.
- The Registrar of Political Parties to come up with a time schedule when disbursement of the funds shall be effected.
- Registrar to come up with regulations on the Political Parties Fund before any disbursement is done.
- The Commission is to furnish the Committee with a report by Tuesday the 21st July 2009 covering the issues raised by the Committee.

MIN.NO.24/2009

PAPERS LAID

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

- i) *Statement by the Chairman on the 2009/10 Printed Estimates*

MIN.NO.25/2009

ADJOURNMENT

And there being no other business the meeting adjourned at twelve thirty until Monday the 20th July 2009 at 9.00am.

Hon.Abdikadir Mohammed,MP

Signed -----
Chairperson

Date -----
July 29,2009

timely legal counsel to government ministries, thereby leading to the Government losing cases.

Consequently, the Committee resolved that the budget to the State Law Office be reduced by 0.1% from Head 582 (foreign travel).this should serve as an indicator that the Committee is dissatisfied with the department's performance.

The Committee further resolved that Public Prosecutions be delinked from the Police to ensure effectiveness.

Vote 26 - in approving the budget to the Judiciary, the Committee resolved to hold a meeting with the Chief Justice on the Reforms necessary in the Judicial Sector.

Vote 33 - Interim Independent Electoral Commission

In approving the budget the Committee noted that resources for a referendum had not been provided for and agreed that a recommendation to that effect be made,

Vote 34 - In approving the Budget, the Committee noted that the Commission was wrong in prioritizing the building of a Headquarters when its core mandate was not performing well.

Vote 61 - the Budget to the Interim Independent Boundaries Review Commission was approved.

MIN.NO.26/2009

ANY OTHER BUSINESS

The Chairman reported that he had received a report from the Kenya national Commission on Human Rights on the Post 2007 Election violence "On the Brink of a Precipice" and had requested the Commission to provide copies for all members of the Committee.

MIN.NO.27/2009

ADJOURNMENT

And their being no other business the Chairman adjourned the sitting at thirty minutes past twelve until a later date.

Hon.Abdikadir Mohammed, M.P

Signed

Chairperson

July 29, 2009

Date.....

**MINUTES OF THE TENTH SITTING OF THE DEPARTMENTAL COMMITTEE H
- ON JUSTICE AND LEGAL AFFAIRS HELD ON WEDNESDAY , JULY 28,2009 IN
COMMITTEE ROOM 5TH FLOOR,CONTINENTAL HOUSE, PARLIAMENT
BUILDINGS AT 12.30PM.**

PRESENT

Hon. Abdikadir Mohamed, M.P. Chairperson
Hon. Isaac Ruto, E.G.H, M.P.
Hon. Amina Abdalla, M.P
Hon. Ababu Namwamba, M.P.
Hon. Sophia Abdir Noor, M.P.
Hon. Olago Aluoch, M.P.

ABSENT WITH APOLOGY

Hon. Millie Odhiambo-Mabona, M.P.
Hon. Mutava Musyimi, M.P.
Hon. Nyamweya George, M.B.S., M.P
Hon. Baiya Njoroge, M.P.
Hon. (Prof) Philip Kaloki, M.P

IN ATTENDANCE

Mrs. Lucy Wanjohi
Mr. Willis Otieno

NATIONAL ASSEMBLY

Clerk Assistant
Parliamentary Inter

MIN.NO.28/2009

**ADOPTION OF REPORT:ESTIMATES -2009/10-
VOTES,17,25,26,33,34 & 61**

The Committee adopted the report of Annual Estimates for 2009/10 for Votes 17,25,26,33,34 and 61 for tabling in the House.

MIN.NO.29/2009

ANY OTHER BUSINESS

Work plan/Committee Budget

A draft of the Work plan/Committee Budget was distributed to the members and will be considered in the next Committee meeting.

MIN.NO.30/2009

ADJOURNMENT

And their being no other business the Chairman adjourned the sitting at forty five minutes past twelve until a later date.

Hon. Abdikadir Mohammed, MP
Signed
Chairperson

July 29, 2009
Date.....