

Approved for tabling in the House,
REPUBLIC OF KENYA

BAT
SNA
8/6/2022

 HARAMBEE	
THE NATIONAL ASSEMBLY	
DATE: 09 JUN 2022 <i>Thursday</i>	
TWELFTH PARLIAMENT – SIXTH SESSION	
TABLED BY:	<i>Hon. Alois Leabornanga MP</i>
CLERK AT THIS TABLE:	<i>G. Chebet</i>
THE NATIONAL ASSEMBLY	

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

EXIT REPORT

FOR

12TH PARLIAMENT

(2017-2022)

**Directorate of Audit, Appropriations and Other Select Committees
National Assembly
Parliament Buildings
NAIROBI**

June, 2022

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ABBREVIATIONS /ACRONYMS

MP: Member of Parliament

CIOC: Constitutional Implementation Oversight Committee

CoK: Constitution of Kenya 2010

CIC: Commission on the Implementation of the Constitution

IGRTC: Intergovernmental Relations Technical Committee

CHAIRPERSON'S FOREWORD

The Constitutional Implementation Oversight Committee is established under Section 4 of the Sixth Schedule to the Constitution (Article 262 -Transitional and Consequential Provisions) which provides for a Parliamentary Select Committee to be referred to as the Constitutional Implementation Oversight Committee (CIOC) responsible for overseeing the implementation of the Constitution of Kenya (2010).

I would like to bring to your attention that the Committee has been successful in executing its mandate, albeit not with a few challenges. It is my sincere wish that Kenyans will be able to benefit from the immense effort Members of the Committee of the 12th Parliament put in to ensure policy and laws are there to make their lives better.

The Committee was able to complete all business before it as documented in this report for reference by the 13th Parliament.

I would like to thank Hon Justin Muturi, EGH the Speaker of the National Assembly and Mr. Michael Sialai, CBS, the Clerk of the National Assembly for facilitating and assisting the Committee in exercising their mandate. I would also like to thank the Honorable Members of the Committee for their dedication and hard work that made it possible to accomplish our mandate. I would lastly thank the Secretariat for their dedicated effort and hard work.



HON. ALOIS M. LENTOIMAGA, M.P.
CHAIRPERSON,
CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

1.0 PREFACE

1.1 Establishment of Committee

1. The power of each House of Parliament to establish committees and to make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its Committees is provided under Art. 124 of the Constitution of Kenya, 2010.
2. The National Assembly Standing Orders has established various Committees of the House with distinct mandates. These Committees under the Directorate of Audit, Appropriations and Other Select Committees play a pivotal role in facilitating the National Assembly fulfill its constitutional mandate of allocation of national revenue, appropriation of funds and oversight over national revenue, expenditure and State organs.
3. Section 4 of the Sixth Schedule to the Constitution (Article 262 - Transitional and Consequential Provisions) provides for a Parliamentary Select Committee to be known as the Constitutional Implementation Oversight Committee (CIOOC) responsible for overseeing the implementation of the Constitution

1.2 Mandate of the Committee

4. The Committee is mandated to oversee the implementation of the Constitution and among other things-
 - i. Shall receive regular reports from the Commission on the Implementation of the Constitution (CIC) on the implementation of the Constitution of Kenya, 2010 including reports concerning: -
 - (a) the preparation of the legislation required by the Constitution and any challenges in that regard;
 - (b) the process of establishing the new commissions;

- (c) The process of establishing the infrastructure necessary for the proper operation of each county including progress on locating offices and assemblies and establishment and transfers of staff.
 - (d) The devolution of powers and functions to the counties under the legislation contemplated in section 15 of the Sixth Schedule;
 - (e) Any impediments to the process of implementing this Constitution.
-
- ii. Coordinate with the Attorney-General, the Commission on the Implementation of the Constitution and relevant Parliamentary committees to ensure the timely introduction and passage of the legislation required by the Constitution; and
 - iii. Take appropriate action on the reports including addressing any problems in the implementation of the Constitution.

1.2 Committee Membership

5. The Committee comprises the following members:-

NO.	NAME	CONSTITUENCY	PARTY
1.	Hon. Alois M. Lentoimaga, M.P. – <i>Chairman</i>	Samburu North	Jubilee Party
2.	Hon. Peter Kaluma, M.P – <i>Vice</i> <i>Chairman</i>	Homa Bay Township	ODM
3.	Hon. (Dr.) Naomi Shaban, M.P.	Taveta	Jubilee Party
4.	Hon. Didmus K. Barasa, M.P.	Kimilili	Jubilee Party
5.	Hon. T. J. Kajwang, M.P.	Ruaraka	ODM
6.	Hon. Purity Ngirici, M.P.	Kirinyaga County	Jubilee Party
7.	Hon. Raphael B. S. Wanjala, M.P.	Budalangi	ODM
8.	Hon. Charles Gimose, M.P.	Hamisi	FORD Kenya
9.	Hon. Peris Tobiko, M.P.	Kajiado East	Jubilee Party
10.	Hon. Joash Nyamache Nyamoko, M.P.	North Mugirango	Jubilee Party
11.	Hon. Abdi Shurie, M.P.	Balambala	Jubilee Party
12.	Hon. Fabian K. Muli, M.P.	Kangundo	Muungano
13.	Hon. (Col.) Geoffrey King'angi, M.P.	Mbeere South	Jubilee Party
14.	Hon. Yussuf Hassan, M.P.	Kamukunji	Jubilee Party
15.	Hon. Halima Mucheke, M.P.	Nominated	Jubilee Party
16.	Hon. Moses Kirirma, M.P.	Central Imenti	Jubilee Party
17.	Hon. Bernard Okoth , M.P.	Kibra	ODM
18.	Hon. Japheth Mutai, M.P.	Bureti	Jubilee Party
19.	Hon. Simon Ng'ang'a King'ara, M.P.	Ruiru	Jubilee Party
20.	Hon. Daniel Rono, M.P.	Keiyo South	Jubilee Party
21.	Hon. Anthony Aluoch, M.P.	Mathare	ODM
22.	Hon. Christine Ombaka, M.P.	Siaya County	ODM
23.	Hon. Catherine Wambilianga, M.P	Bungoma County	FORD-K

2.0 BACKGROUND INFORMATION

2.1 Legal framework

8. Art. 93 (1) of the Constitution of Kenya establishes the Parliament of Kenya which consists of the National Assembly and the Senate. Further, Art 95 provides for the role of the National Assembly amongst others to:
 - (i) Deliberate on and resolve issues of concern to the people;
 - (ii) Enact legislations
 - (iii) Determine allocation of national revenue between the two levels of government the National government and County governments;
 - (iv) Appropriate funds for expenditure by the national government and national State organs;
 - (v) Exercise oversight over national revenue and its expenditure;
 - (vi) Exercise oversight over State organs; and
 - (vii) Review the conduct in the office of the President, Deputy President and other State officers and initiate the process of removal from office.
9. In addition, Art 124 of the Constitution empowers Parliament to establish Committees and to make Standing Orders for the orderly conduct of its proceedings including the proceedings of its Committee.
10. The National Assembly Standing Orders has established various Committees of the House with distinct mandates. These Committees under the Directorate of Audit, Appropriations and Other Select Committees play a pivotal role in facilitating the National Assembly fulfill its constitutional mandate of allocation of national revenue, appropriation of funds and oversight over national revenue, expenditure and State organs.
11. Section 4 of the Sixth Schedule to the Constitution (Article 262 - Transitional and Consequential Provisions) provides for a Parliamentary Select Committee to be known as the Constitutional Implementation Oversight Committee (CIOOC) responsible for overseeing the implementation of the Constitution

3.0 ACHIEVEMENTS

3.1 Committee Sittings

12. In the discharge of its mandate, the Committee held sittings, both in-house and stakeholder engagements as follows;

	January – June	July – December
First session (2017) –		
Second session (2018) –	20 sittings	21 sittings
Third session (2019) –	23 sittings	30 sittings
Fourth session (2020) –	17 sittings	15 sittings
Fifth session (2021) –		16 sittings
Sixth session (2022) –	18 sittings	

3.2 Legislation

3.2.1 Bills

2018

13. The Committee drafted the following legislative proposals and submitted them to Speaker for consideration pursuant to Standing Order No 240 :
- (i) One Constitutional Amendment Bill, 2018 –
 - (ii) The IEBC (Amendment) Bill, 2018
 - (iii) The Public Fundraisings Appeals Bill, 2018
 - (iv) The Elections (Amendment) Bill, 2018
 - (v) Draft Bill on the merger of the Kenya National Commission on Human Rights and the National Gender and Equality Commission, 2018- Proposal forwarded to DLS for drafting.

2019

The Committee introduced the following Bills dealing with the implementation of the Constitution;

- (i) Independent Electoral Boundaries Commission (Amendment) Bill, 2019
- (ii) The Public Fundraising Appeals Bill (N0.2) of 2019;

- (iii) The Elections (Amendment) Bill (NO.30) of 2019;
- (iv) Constitution of Kenya (Amendment) Bill, 2019; (clarify the jurisdiction of High court vis a vis Supreme Court, and protect Members of Parliament from court injunctions)
- (v) Constitution of Kenya (Amendment) Bill, 2019; (Removing Nairobi County as one of the County Governments and placing it under the management of the National Government)
- (vi) The Representation of Special Interest Groups Laws (Amendment) Bill, 2019
- (vii) The Constitution of Kenya (Amendment) No.3 Bill, 2019
- (viii) Kenya National Commission on Human Rights (Amendment) Bill, 2019

2020

The Committee developed the following Bills seeking to amend various articles of the Constitution of Kenya or to implement various provisions of the Constitution:-

- (i) The Referendum Bill (National Assembly Bills No. 11), 2020
- (ii) The Kenya National Commission on Human Rights (Amendment) Bill, 2020
- (iii) The Public Fundraising Appeals Bill, 2019
- (iv) The Constitution of Kenya (Amendment) No.5 Bill, 2019

2021

The Committee developed the following Bills seeking to amend various articles Articles of the Constitution of Kenya or to implement various provisions of the Constitution:-

- (i) The Constitution of Kenya (Amendment) Bill, (National Assembly Bill No. 40) 2020
- (ii) The Elections (Amendment) Bill (National Assembly Bill No. 41 Of 2021)
- (iii) The Election (Campaign Financing (Amendment) Bill (National Assembly Bill No. 37 Of 2021)

3.2.2 Legislative Proposals

14. The Committee introduced in House the following legislative proposals dealing with implementation of the Constitution.
 - (i) The Covid - 19 and other Pandemics Bill, 2020
 - (ii) The Roads Accident Fund Bill, 2020.
 - (iii) The Elections Act Amendment Bill Legislative Proposal.
 - (iv) The Independent Offices Retirement Benefits Bill, Legislative Proposal
 - (v) The Constitution of Kenya (Amendment) Legislative Proposal

3.2 OVERSIGHT

15. The oversight of State organs is amongst the roles assigned to the National Assembly under Art 95 of the Constitution. In fulfillment of this role, the Committee considered the following business.
16. During the 12th Parliament, the Committee considered the following matters related to the mandates of the various Constitutional Commissions and Independent Offices.

3.2.1 Oversight Milestones (Policy, Structural and Administrative)

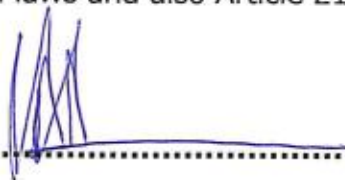
Assets and liabilities of defunct local authorities

17. The Constitutional Implementation Oversight Committee in the execution of its mandate is undertaking an inquiry on the status of assets and liabilities of the defunct local authorities that were handed over or taken over by the County governments after the 2013 General Elections.
18. Following this inquiry, the Intergovernmental Relations Technical Committee went ahead and undertook identification, verification and validation of all assets and liabilities belonging to the defunct local authorities and how they had been dealt with.
19. The IGRTC has prepared a report on the said assets and liabilities including an inventory of all the assets. This has gone a long way in securing the assets of the County governments and ensuring that liabilities that are ascertained are settled.

4.0 CHALLENGES AND OPPORTUNITIES

20. During the 12th Parliament, the Committee noted the following challenges and bottlenecks to the efficient discharge of its mandate
- a. Most often, the Committee was forced to deal with the consequences of non-compliance with the Constitution rather than scrutinizing Legislation to establish those not aligned with the Constitution of Kenya, 2010; an example is a delay in transfer of functions to counties, delay in the passage of the Division of Revenue Bill to allow Counties to develop their budgets.
 - b. Inadequate Committee meeting rooms occasionally led to delays in the conduct of sittings.
 - c. Lack of reliable database and tracking system of legislation and inability to monitor legislative proposals due to lack of a one-stop reference point.
 - d. Challenges in conducting public participation on Bills within the counties; there were instances where members of the public demanded monetary facilitation, threatened Members of the Committee and also declined to give views.
 - e. Often, the Committee is forced to deal with the consequences of non-compliance with the Constitution rather than scrutinizing Legislation to establish those not aligned to the CoK 2010; an example is Article 60 on succession laws and also Article 217.

Signature:



Date:

8/6/2022

HON. ALOIS M. LENTOIMAGA, M.P.

CHAIRPERSON,
CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

