

REPUBLIC OF KENYA



THE SENATE

PAPERS LAID	
DATE	04/08/2021
TABLED BY	Chair
COMMITTEE	Security
CLERK AT THE TABLE	David

TWELFTH PARLIAMENT – FIFTH SESSION

STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND  
FOREIGN RELATIONS

REPORT ON THE NATIONAL FLAG, EMBLEMS AND NAMES (AMENDMENT)  
(SENATE BILLS NO. 36) BILL, 2020.

CS  
Recommended for  
approval for tabling -  
EJ 02/08/21

Clerk's Chambers,  
The Senate,  
Parliament Buildings,  
NAIROBI

RT. Hon. Speaker  
You may approve  
for tabling.  
0000  
02/08/21  
Approve of  
[Signature] July, 2021  
3/2/2021



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## PREFACE

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### Mr. Speaker, Sir

1. The Standing Committee on National Security, Defence and Foreign Relations was constituted in December, 2017 during the First Session of the Twelfth (12<sup>th</sup>) Parliament pursuant to the provisions of the Senate Standing Order No. 187.

The Committee is mandated to consider all matters relating to: *national security and foreign relations, disaster reduction and preparedness, home affairs, defence, immigration and international relations.*

2. In executing its mandate, the Committee oversees the Ministries of;
  - (i). Interior and Coordination of National Government;
  - (ii). Defence; and
  - (iii). Foreign Affairs.

3. The Committee comprises of the following Members-

(i). Sen. Fred Outa, MP	<b>Vice Chairperson</b>
(ii). Sen. Fatuma Dullo, CBS, MP	Member
(iii). Sen. Judith Pareno, MP	Member
(iv). Sen. Beatrice Kwamboka, MP	Member
(v). Sen. Mithika Linturi, MP	Member
(vi). Sen. (Eng.) Mohamed M. Mohamud, CBS, MP	Member
(vii). Sen. Moses Wetang'ula, EGH, MP	Member
(viii). Sen. Wario Golich Juma, MP	Member

### Mr. Speaker Sir,

The National Flag, Emblems and Names (Amendment) Bill, 2020 is a Bill sponsored by Sen. (Dr.) Agnes Zani, MP. It was published on 4<sup>th</sup> December, 2020. The Bill was read a the first time on 4<sup>th</sup> March, 2021 and stood committed to the Standing Committee on National Security, Defence and Foreign Relations.



The principal objective of this legislative proposal is to amend the National Flag, Emblems and Names Act, Cap. 99 of the Laws of Kenya so as to safeguard the National Anthem from abuse upon the expiry of the timeline of fifty years as provided for under section 25 (2) of the Copyright Act, 2001.

(i). **Background**

The National Flag, Emblems and Names Act, Cap. 99, Laws of Kenya was enacted in 1963 to among others, prevent the improper use of the National Flag and of certain emblems, names, words and *likenesses* for professional and commercial purposes and to prohibit the display of certain flags. On the other hand, the Copyright Act, No. 12 of 2001 makes provision for copyright in literary, musical and artistic works, audio-visual works, sound recordings and broadcasts.

Section 25 of the Copyright Act, 2001 provides copyright in works of Government and international bodies. Section 25 (2) provides that copyright conferred on a literary, musical, dramatic or artistic work of the Government and international bodies shall subsist until the end of the expiration of fifty (50) years from the end of the year in which it was first published.

The Bill, therefore, seeks to amend the National Flag, Emblems and Names Act, Cap. 99 Laws of Kenya and the Copyright Act, 2001 to safeguard the National Anthem from abuse upon the expiry of fifty (50) years. The Bill also seeks to ensure that the National Anthem's copyright is perpetually vested in the Government.

(ii). **Overview of the Bill**





a) **The National Flag, Emblems and Names Act, CAP. 99**

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The Bill proposes to amend the National Flag, Emblems and Names Act to vest the copyright in the National Anthem, other national symbols and any works or music relating to the National Anthem or national symbols that are eligible for copyright in the Government.

b) **The Copyright Act, No. 12 of 2001.**

The Bill further provides for amendment of Copyright Act to ensure that copyright in the National Anthem and other national symbols are subject to the National Flags, Emblems and Names Act, 2020.

(iii). **Consequences of the Bill**

The Bill will vest the copyright in the National Anthem, Flag, Emblems and Names in the National Government perpetually. This will consequently vest the copyright of county symbols in the respective County Governments in perpetuity, in line with Section 4 of the County Governments Act, 2012 and the provisions of the National Flag, Emblems and Names Act, 2020.

**Mr. Speaker, Sir**

Pursuant to Standing Order 140 (5) of the Senate Standing Orders, the Standing Committee on National Security, Defence and Foreign Relations facilitated public participation and invited the public to submit memorandum on Thursday, 18<sup>th</sup> March, 2021 by 5.00 p.m. No memorandum was received on the Bill.



Pursuant to Standing Order 143 (1) of the Senate Standing Orders, the Committee therefore submits its report on the Bill with no amendments proposed.

**Mr. Speaker Sir,**

I wish to express my gratitude to my colleagues for their thoughtful input and contributions during the Committee’s deliberations on the Bill. The Committee is further indebted to the Offices of the Speaker and the Clerk of the Senate for facilitating efforts that led to the production of this report. The Committee also wishes to recognize the commitment and dedication of the Committee secretariat that made the work of the Committee and the production of this report possible.

**Mr. Speaker Sir,**

It is now my distinguished pleasure and duty, to table the report of the Standing Committee on National Security, Defence and Foreign Relations in regard to the National Flag, Emblems and Names (Amendment) Bill, 2020.



**SIGNATURE.....**

**SEN. FRED OUTA, MP  
ACTING CHAIRPERSON**

**21<sup>st</sup> JULY, 2021**

**DATE.....**



**ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS.**

We the undersigned Members of the Senate Standing Committee on National Security, Defense and Foreign Relations of the Senate, do hereby append our signatures to adopt the Report-

- 1) Sen. Fred Outa, MP - **Ag. Chairperson** 
- 2) Sen. Fatuma Dullo, CBS, MP 
- 3) Sen. Judith Pareno, MP 
- 4) Sen. Beatrice Kwamboka, MP 
- 5) Sen Mithika Linturi, MP 
- 6) Sen. (Eng.) Mohammed M. Mohamud, CBS, MP 
- 7) Sen. Moses Wetang'ula, EGH, MP 
- 8) Sen. Wario Golicha Juma, MP 



## Observations

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That the objective of the bill is to amend the National Flag, Emblems and Names Act, Cap. 99 of the laws of Kenya to safeguard the National Anthem from abuse upon the expiry of the timeline of fifty years as provided for under section 25(2) of the Copyright Act, 2001

