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REPUBLIC OF KENYA



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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FIFTH SESSION – 2021

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

REPORT ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO. 40 OF 2020)

<b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE:</b> 28 SEP 2021	<b>DAY:</b> Tuesday
<b>TABLED BY:</b>	vice-chairperson implementation oversight committee
<b>CLERK-AT THE-TABLE:</b>	Getrude Chebet

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

SEPTEMBER 2021

## ABBREVIATIONS AND ACRONYMS

AG	Attorney-General
CEC	County Executive Committee
MCA	Member of County Assembly
MP	Member of Parliament
CIOC	Constitutional Implementation Oversight Committee
CS	Cabinet Secretary
PS	Principal Secretary
UK	United Kingdom

## CHAIRPERSON'S FOREWORD

The Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 40 of 2020) is a Bill to amend the Constitution by parliamentary initiative, sponsored by the Constitutional Implementation Oversight Committee through its Chairperson Hon Jeremiah Kioni, MP. It was published on 20<sup>th</sup> November 2020 and introduced in the National Assembly through first reading on 22<sup>nd</sup> December, 2020. Pursuant to Standing Orders 127(1) of the National Assembly Standing Orders, the Bill was committed to the Constitutional Implementation Oversight Committee for consideration and facilitation of public participation.

The Bill seeks to amend the Constitution in order to allow the President to appoint Cabinet Secretaries from among Members of Parliament. The Bill further seeks to enable the President to assign the Attorney-General the duties of a Cabinet Secretary. The amendments moreover, seek to ensure that the Cabinet shall be collectively responsible to the National Assembly for all things done by or under the authority of the President in the execution of his office. These amendments are proposed to be effected in Article 152(3), (2) and (5) of the Constitution.

The Bill finally seeks to amend Article 179 of the Constitution to allow a county governor to appoint members of the county assembly as members of the county executive committee. The amendment to Article 179 further seeks to ensure that members of the county executive committee shall be accountable to the people through the County Assembly.

During its Sitting held on 27<sup>th</sup> July, 2021, the Constitution Implementation and Oversight Committee resolved to undertake public hearings on the Bill. Subsequently, in accordance with Article 118(1)(a) of the Constitution that provides that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees, advertisements for public hearings in various counties and requesting for submission of memoranda on the Bill were made in the Daily newspapers on 28<sup>th</sup> July, 2021 and 13<sup>th</sup> August, 2021.

The Committee held public hearings in the Counties of Nairobi, Machakos, Makueni, Mombasa, Kisumu, Kakamega, Kilifi, Uasin Gishu, Elgeyo Marakwet, Nakuru, Nyandarua, Wajir and Turkana during which members of the public either individually or representing institutions and organizations made oral presentations and/ or submitted memoranda which the Committee took into account while considering the Bill.

May I take this opportunity to commend the Committee Members for their devotion and commitment to duty in the consideration of the Bill. I further express my gratitude to the Offices of Speaker and Clerk of the National for providing technical and logistical support to the Committee while considering the Bill.

## 1.0 PREFACE

### 1.1. Establishment of the Committee

1. The Constitutional Implementation Oversight Committee (CIOOC) is a National Assembly Select Committee established under Section 4 of the Sixth Schedule to the Constitution of Kenya. The Committee is responsible for overseeing 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

2. The Committee consists of the following Members-

- 1) The Hon. Jeremiah Kioni, M.P. - **Chairman**
- 2) The Hon. Peter Kaluma, M.P. - **Vice- Chairman**
- 3) The Hon. Yusuf Hassan Abdi, M.P.
- 4) The Hon. T.J Kajwang', M.P.
- 5) The Hon. (Dr.) Christine Ombaka, M.P.
- 6) The Hon. Raphael B. S. Wanjala, M.P.
- 7) The Hon. Peris Tobiko, CBS, M.P.
- 8) The Hon. Abdi Shurie, M.P.
- 9) The Hon. Simon Ng'ang'a King'ara, M.P.

## 2.0 BACKGROUND AND HIGHLIGHTS OF THE BILL

### 2.1 Background

5. The Constitutional Implementation Oversight Committee is mandated under section 4 of the sixth schedule of the Constitution to prepare any legislation required to implement the Constitution and address any impediments to the process of implementation of the Constitution of Kenya.
6. The Committee in the execution of its mandate undertook the task of auditing the Constitution, Statutes enacted to operationalize the Constitution and existing government policies to establish the status of implementation of the Constitution and any gaps existing in the Constitution that could be hampering implementation or impediments to full realization of the letter and spirit of the Constitution.
7. The separation of powers doctrine is a fundamental principle of law that maintains that all three organs of government remain separate. This requires that the judiciary, the executive and the legislature all remain distinct from each other to ensure that the different arms of government do not encroach upon the mandate of the other. The rationale of the separation of powers is often associated with the rationale of checks and balances and with the rationale of the dispersal of power generally in a constitutional system.
8. The 2010 Constitutional dispensation was a shift in the architecture of governance and nature of the operations of the Legislature and its relationship with the two other arms of government. The shift especially affected the composition and relationship between the legislature and the executive, as for the first time in the Country's history and since the 1963 Independence Constitution, Members of the Executive were no longer part of the Membership of Parliament and therefore did not take part in parliamentary matters except when invited to respond to issues raised.

Executive Committee Members took long to be responded to and in most cases, involved a lot of back and forth in cases where supplementary questions were raised.

14. The Committee therefore resolved to prepare a law to amend the Constitution of Kenya, 2010 to address the above gaps so as to enhance accountability of the Executive to the people. The Committee developed the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 40), of 2020 to address the mischief.
15. The Bill seeks to amend the Constitution in order to allow the President to appoint Cabinet Secretaries from among Members of Parliament. The amendment further seeks to allow the President to assign the Attorney-General the duties of a Cabinet Secretary. The amendments moreover, seek to ensure that the Cabinet shall be collectively responsible to the National Assembly for all things done by or under the authority of the President in the execution of his office.
16. The Bill further seeks to amend Article 179 of the Constitution to allow the County Governor to appoint Members of the County Assembly (MCAs) as Members of the County Executive Committee (CEC). The amendment to Article 179 further seeks to ensure that members of the county executive committee shall be accountable to the people through the county assembly.
17. The Bill also seeks to enhance accountability of the Cabinet to the people. This is because Cabinet Secretaries will now be in Parliament and County Executive Committee Members in the County Assemblies and they will be required to respond to questions and issues affecting the public directly.
18. The Bill will also lead to reduced cost of running the government. This is because, the MPs and MCAs who will serve as Cabinet Secretaries (CS) and CECs will only be entitled to a responsibility allowance in addition to their legislative salaries. Also reduced will be the cost of personnel attached to Cabinet secretaries and other facilities like vehicles and the attendant operational expenses.

“(6A) A member of a county executive committee shall attend before a committee of the assembly when required by the committee, and answer any question concerning a matter for which the member of the county executive committee is responsible.”

(c) by inserting the following new clause immediately after clause (7)–

“(7) Members of a county executive committee shall–

(a) act in accordance with this Constitution; and

(b) provide the county assembly with full and regular reports concerning matters under their control.”

organizations made presentations and/ or submitted memoranda which the Committee took into account while considering the Bill.

29. In view of the limited time available, and to ensure that all the above counties were covered, the Committee resolved that the Members of the Committee would establish sub-committees consisting of a maximum of eleven Members to go and facilitate public hearings in the various Counties concurrently.
30. In response to the Committee's advert and invitation, the members of the public either individually or representing institutions and organizations made oral presentations and/ or submitted memoranda.
31. A comprehensive list of members of the public who attended the public hearings in the various counties is attached to this report as annexure 4.

### **3.3 Summary of Views from the Public hearings**

32. The Committee observed that the Members of the Public in all the Counties the Committee visited had almost similar reasons for supporting the Bill and opposing it. Below is a summary of the views received from the members of the public both in support for, opposition to and general comments with some having recommendations for amendments:

#### **Grounds for supporting the Bill**

33. The Committee observed that a small number (about 20%) of the persons who presented their views gave no substantive reasons for their support or opposition to the amendments. However, a vast majority of the public who attended the hearings expressed support to the proposed amendments to Article 152, 153, 156 and 179 on the following grounds:
  - a) The amendments proposed would enhance accountability of the Cabinet and the County Executive Committee Members to the people. This is because Cabinet Secretaries would be Members of Parliament and County Executive Members in



- h) That the Cabinet Secretaries who are appointed from outside Parliament and the CECs are not accessible to the people unlike Members of Parliament and MCAs because, they felt that they owe allegiance only to their appointing authorities.
- i) That the CSs and CECs who are appointed from the legislatures would be more responsive to issues affecting the citizenry as they are directly accountable to the public.
- j) That in the present scenario where both the CSs and Principal Secretaries (PS) in the national government and CECs and Chief Officers in the case of county governments were technocrats, there tended not to exist proper division of labour and they on many occasions undermined each other.

#### **Grounds for opposing the Bill**

34. The Committee noted the following as the main reasons given by those who opposed the Bill -

- a) That the Attorney General already had a huge constitutional mandate of offering effective legal advice to the Executive. Assigning the AG the functions of Cabinet Secretary would interfere with the current roles as the AG would be strained in performing the functions of giving legal advice at the same time discharging Cabinet roles ;
- b) The current office of the Attorney General had failed to discharge its functions under the constitution and thus there was no need to give additional responsibilities to that office. The Attorney General should be left to run the state law office and not a Ministry;
- c) That if Cabinet Secretaries or CECs were appointed from the legislators, they would tend to favour their Constituencies or Wards in case of MCAs while implementing development projects;
- d) That giving the President powers to appoint Cabinet Secretaries from among Members of Parliament would be adding more powers to the presidency which the Constitution of Kenya, 2010 had tried to address;
- e) That having Members of the Executive in Parliament would compromise the independence of Parliament thus adversely affect the oversight role of the legislature, thereby eroding the fundamental principle of separation of powers.
- f) The justification given that having Members of Parliament and Members of County Assemblies as part of Cabinet and County Executive Committees would

- (c) That in the appointment process to the Cabinet and County Executive Committees there should be skills match to ensure individuals are only appointed to head Ministries in which they possess the relevant technical skills.
- (d) It was proposed that the Minimum educational requirement to be appointed to the Cabinet and County Executive Committees should be a degree from a university recognized in Kenya and the Commission for University Education to verify such degrees.
- (e) The issue of qualification to vie for Member of Parliament and County Assemblies was raised in view of the proposed amendments and majority of the public were against any proposal to lower the academic qualifications from a degree. This was justified on the basis that effective oversight could not be undertaken without requisite educational and technical competencies.
- (f) Some members of the public were of the view that the office of Deputy Cabinet Secretary/assistant ministers should be introduced. In the circumstances, a Cabinet Secretary could be appointed from within Parliament, and the Deputy should be a person who is not a Member of Parliament.
- (g) That there should be regional balance in the appointment of the Cabinet Secretaries and CECs so that all parts of the country and county feel represented in the appointments.
- (h) Members raised issue with regards to representation of Minorities that is women, youth and persons with disabilities and the need for Parliament to ensure compliance of the same at the point of vetting of Cabinet and CEC nominees.
- (i) That there should be reduction in the retirement age of public servants including Ministers and CECs so as to allow the young people who have the requisite educational qualifications to get employment.
- (j) Others who supported the Bill were however of the opinion that an amendment be introduced to ensure that the appointees are from elected MPs and MCAs only.
- (k) Some members of the public proposed that the title for Cabinet Secretaries should be changed to Cabinet Ministers as was before since the word “secretary” connoted a person charged with secretarial duties.

		collectively responsible to the National Assembly for all things done under the authority of the President in the execution of his office	“or her” after the word “his” or put a full stop after the word “President” and deleting all the words after that.	which didn’t affect the substance of the Bill
Kenya Law Reform Commission (KLRC)	Amendment of Article 179(2) of the Constitution to the effect that County executive committee members shall be appointed from among members of the county assembly	<p>The amendment would transform Kenya from a Presidential to a Parliamentary democracy and therefore there is need for clear policy direction on alignment of all aspects relating to the Presidential system including clear division of powers between the Legislature, Executive and Judiciary.</p> <p>That further experience had shown that the level of academic qualification of members of county assemblies were lower than those held by members of the county executive committee</p>	<p>The amendment would transform Kenya from a Presidential to a Parliamentary democracy and therefore there is need for clear policy direction on alignment of all aspects relating to the Presidential system including clear division of powers between the Legislature, Executive and Judiciary.</p> <p>That further experience had shown that the level of academic qualification of members of county assemblies were lower than those held by members of the county executive committee</p>	<p>The Committee observed that the proposed amendments were seeking to transform Kenya from the pure Presidential system of government due to the limitations the system had faced to a Hybrid system of government.</p> <p>Regarding academic qualification of members of county assembly (MCA), the Committee observed that this was a matter to within the purview of statutory legislation and not the Constitution and that the Elections Act had already provided a minimum academic qualification for one to contest as an MCA</p>
Attorney General	<b>Amendment of Article 152</b> of the		That the proposed amendment should be	The Committee observed that it had followed the

## **4.0 PROCESSING OF A BILL TO AMEND THE CONSTITUTION THROUGH PARLIAMENTARY INITIATIVE**

### **4.1 Amendment of a Bill to amend the Constitution through parliamentary initiative**

36. The Speaker of the National Assembly in a communication dated 20<sup>th</sup> August 2015, has previously ruled on issue of processing Bills to amend the constitution via parliamentary initiative and reiterated the position that amendment of such a Bill may not be permissible.

- (i) The Speaker observed that the Constitution sets out a distinct procedure for the consideration and passage of Bills to amend the Constitution different from that prescribed for ordinary legislation.
- (ii) First, and with regard to amendments through parliamentary initiative, such a Bill is not to address any other matter apart from consequential amendments to legislation arising from it. Secondly, the Bill cannot be read for a Second time until at least ninety days have lapsed since its First Reading to allow for public discussion of its contents.
- (iii) Thirdly, the Bill requires passage by not less than two thirds majority in both Houses of Parliament at both its Second and Third Readings. Lastly the Bill is to be assented into law within thirty days of its passage. This process deliberately excludes additional processes such as concurrence between the two Speakers on whether the Bill concerns Counties, use of mediation committees to harmonize differing views between the Houses and reservations by the President to the content of a Bill.
- (iv) Nothing would have been easier for the framers of our Constitution than expressly importing into, or at the very least referencing the amendment procedure applicable to ordinary legislation under Articles 109 to 123 of the Constitution into the framework provided under Article 256. Articles 3 and 10 of the Constitution and Standing Order 47(3) oblige the Speaker to respect, uphold and defend the Constitution.
- (v) The former Constitution of Kenya imposed explicit limits on the nature of interventions that the House could make with regard to the content of a Bill to amend the Constitution. Section 47 (4) of the former Constitution provided that—

*a. When a Bill for an Act of Parliament to alter this Constitution has been introduced into the National Assembly, no alterations shall be made in it*

Constitution would not as he had earlier stated be subjected to mediation, as it is a process prescribed for ordinary legislation. Articles 111 and 112 of the Constitution further extrapolates this by providing that only special and ordinary Bills may be subjected to mediation processes.

(xi) A Bill to amend the Constitution is clearly NOT one of the Bills under Article 111 or 112 of the Constitution which invites the application of mediation processes. Further, as he had stated earlier the Constitution is a document belonging to the people of Kenya and not to the Houses of Parliament. In this regard therefore, if mediation processes were to apply to Bills seeking to amend the Constitution, this would negate the very essence to which the Constitution was made. Article 113(4) of the Constitution as read with Standing Order 149(6) provides that if a mediation Committee fails to agree on a version of the Bill to be presented to both Houses for approval, the Bill would be deemed to have been defeated and negatived.

(xii) A Bill to amend the Constitution may be termed as one that forms part of the engine which seeks to propel the aspirations of Kenyans as a people. Consequently, the drafters of the Constitution could not have intended to dilute or hamper any avenue or channel for Kenyans to do so by subjecting a Bill to amend the Constitution to mediation processes which have the potential of ending in a *cul de sac* where the mediation Committee fails to agree on a version of the Bill.

(xiii) Finally a reading of Article 256 of the Constitution clearly reveals that while the Constitution does not expressly disallow amendments to a Bill proposing to amend any of its Articles, it deliberately discouraged such amendments, unless there is anything extraordinary in the proposed Bill that would require application of the extraordinary measures.”

#### **4.2 Role of Public Participation in a Bill to amend the Constitution through parliamentary initiative**

37. Public participation is a key component of Kenya’s constitutional architecture. Article 10 of the Constitution requires public participation as part of every public policy, law making and governance process in the country. Public participation is also a requirement of the legislative process under the Constitution. Article 118(1)(b) mandates Parliament to “*facilitate public participation and involvement in the legislative and other business of Parliament and its committees.*”

*of inclusion in the national polity, promote the achievement of the goals of transformation.”*

41. From the foregoing, there are certain elements of the duty of the legislature to facilitate public participation that emerge. The first element encompassed by this duty is the requirement that the legislature must provide meaningful opportunities for public participation in its legislative processes. The converse, therefore, is that where it is demonstrable that no such meaningful opportunities for public participation was available to the public, then the legislature would be considered to have failed to discharge the burden of facilitating public participation in its legislative processes.
42. The second element is the requirement that the legislature ought to ensure that the people have the ability to take advantage of the opportunities that are availed for public participation. In other words, the constitutional obligation on the Legislature to facilitate public participation is not supposed to be in vain. A legislation enacted or even amended without taking into consideration the constitutional obligations of public participation would be considered invalid as per Article 2(4) of the Constitution which provides that *“any law including customary law, that is inconsistent with this Constitution is void to the extent of the inconsistency, and any act or omission in contravention of the Constitution is invalid”*.
43. The above case has influenced Kenyan courts in dealing with the issue of public participation. One of the most exhaustive expositions on the issue is the case of *Robert N. Gakuru & Others v Governor Kiambu County & 3 others*<sup>2</sup>. In this case, the Kiambu Finance Act of 2013 was challenged in court for non-compliance with the constitutional requirement of public participation. The case revolved around the nature and scope of public participation in the legislative process. The court reiterated that *“public participation plays a central role in both legislative and policy functions of the Government whether at the National or County level. It applies to the processes of legislative enactment, financial management and planning and performance management.”*

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<sup>2</sup> [2014] eKLR

## 5.0 OBSERVATIONS AND RECOMMENDATIONS

### 5.1 OBSERVATIONS

46. The committee observed the following:-

- (a) That regarding the view that the Attorney General already had huge constitutional mandate and shouldn't be added more responsibilities of a Cabinet secretary, the Committee was of the view that despite the AG having a constitutional mandate as principal legal adviser of the government, there was a lacuna in law that required the Attorney General to be assigned responsibilities of a Cabinet Secretary without being appointed a CS.
- (b) Regarding the view that if CSs and CECs were appointed from the Legislature, they would tend to favour their wards and constituencies in development projects, the Committee was of the opinion that the legislature being the body charged with budget making, it would ensure balanced development in the areas of representation by enforcing the provisions of the Public Finance Management Act.
- (c) That the argument by a section of the public that there was need to create more job opportunities to other Kenyans other than legislators would negate the objective of the Committee to reduce wage bill and the cost of running the government so that the saved resources could be applied towards development projects.
- (d) Regarding the views raised that there was need to set minimum academic qualifications at degree level for one to be appointed a CS or CEC, and that most MPs and MCAs did not have the requisite academic qualifications and skills, the Committee found that the current Parliament and most County Assemblies were constituted by persons with high academic credentials and skills mix that would allow them to serve in all departments of government.
- (e) That further, Article 99 of the Constitution sets the qualifications for one to be eligible for elections as a Member of Parliament and abrogates the educational requirements to the ambit of legislation and the same is addressed in the Elections Act which sets the minimum of a degree to be a Member of Parliament or Member of County Assembly.
- (f) Pursuant to the communication by the Hon. Speaker on 20<sup>th</sup> August 2015 (annex 7), the Speaker guided the House that no amendments could be proposed in regards to a Bill to amend the Constitution unless there is anything extraordinary in the proposed Bill that would require application of the extraordinary measures;
- (g) In view of the Committee's finding on the various issues above and the Speaker's ruling of 20<sup>th</sup> August, 2015, the committee did not adopt the further amendments proposed by the public.



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REPUBLIC OF KENYA

ELEVENTH PARLIAMENT- (THIRD SESSION)

THE NATIONAL ASSEMBLY

COMMUNICATIONS FROM THE CHAIR

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**ON WHETHER A BILL TO AMEND THE CONSTITUTION MAY BE  
AMENDED BY THE HOUSE**

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**Honourable Members,**

You may recall that on Wednesday, August 4, 2015 during the morning sitting, the Member for Ainabkoi, the Hon. Samuel Chepkong'a while contributing to the Second Reading of the Constitution of Kenya (Amendment) Bill, National Assembly Bill No 1 of 2015, sought guidance of the Speaker on whether the House can amend a Bill seeking to amend the Constitution. During the same sitting, the Leader of the Majority Party also sought guidance of the Speaker on whether that particular Bill will require the approval of the people of Kenya by way of a referendum as contemplated under Articles 255 and 256(5)(a).

**Honourable Members,** You are aware that the said Bill which is proposed by the Member for Ugenya, the Hon. David Ochieng' is proposing to amend Articles 101(1), 136(2)(a), 177(1)(a) and 180(1) of the Constitution of Kenya relating to the date of the general elections for Members of Parliament, the President, members of County Assemblies and Governors. From the onset, it is clear that to me that the scope of some of the matters submitted for guidance, particularly on the issue of referendum is beyond matters of procedure and traditions of this House and has implication beyond Parliament. In this regard, even as I make my determination known to the House, I am conscious that my findings are limited to one of my cardinal roles of facilitating the transaction of business in the National Assembly.

Let me start with the first question of whether **a Bill to amend the constitution can be amended in the House.** To begin with, **Hon. Members,** I wish to restate to the House the provisions of Article 256 of the Constitution relating to amendment of the Constitution through parliamentary initiative which is the option preferred by the Member for Ugenya in his Bill, state and I quote—



**Honourable Members,** From the foregoing, nothing would have been easier for the framers of our Constitution than expressly importing into, or at the very least referencing the amendment procedure applicable to ordinary legislation under Articles 109 to 123 of the Constitution into the framework provided under Article 256. Articles 3 and 10 of the Constitution and Standing Order 47(3) oblige the Speaker to respect, uphold and defend the Constitution. I am guided by this particular duty in my considered opinion that the provisions of Article 256 of the Constitution are worded deliberately. **Indeed,** as was well noted by the Hon. Member for Ainabkoi, the Hon. Chepkong'a the former Constitution of Kenya imposed explicit limits on the nature of interventions that the House could make with regard to the content of a Bill to amend the Constitution. Section 47 (4) of the former Constitution provided that, and I quote—

***When a Bill for an Act of Parliament to alter this Constitution has been introduced into the National Assembly, no alterations shall be made in it before it is presented to the President for his assent, except alterations which are certified by the Speaker to be necessary because of the time that has elapsed since the Bill was first introduced into the Assembly.***

The only change that could be made to a Bill to amend the Constitution at that time was corrections to references to time and dates and such change could be made only upon the certification of the necessity for the change by the Speaker.

**Honourable Members,** you will agree with me that it would be imprudent for the Speaker, or indeed this House, to assume that the exclusion of the above limits from the current Constitution is interpreted as allowing room for amendment to a Bill proposing to amend it. The custom and tradition of our democracy has been to restrict amendments to the Constitution. I see no reason to depart from this practice as the Speaker cannot rely on allegory or allusion in guiding this House.

Indeed, Members will note that the Preamble to the Constitution highlights that the people of Kenya adopted, enacted and gave the Constitution to themselves and to future generations. The sanctity of the Constitution as a social contract between the people of Kenya and not a document belonging to the Houses of Parliament, nor any other organ for that matter, is to be jealously safeguarded at every turn and any process of its amendment is delicate and can only be undertaken with reference to a definite procedure that deviates from the ordinary . While Parliament has been given the power to amend the Constitution, we should be mindful that the Constitution belongs to the people of this Republic and treating the process of its amendment to be akin to an ordinary legislation subverts the collective will of the People. In this regard, it is expected that any person intending to amend the Constitution must be very clear and precise on what he or she is intending to alter, but not to change mind while in the process. It is my strong view that any proposal to amend the Constitution should be preceded by

to amend any of its Articles, it deliberately **discouraged** such amendments, unless there is anything extraordinary in the proposed Bill that would require application of the extraordinary measures . In this regard, I am constrained **NOT** to allow any amendment to the Bill proposed by the Member for Ugenya or indeed any of the other four Bills proposing to amend the Constitution. This now settles the first question.

**Honourable Members,** On the second question of whether the Bill proposed by the Member for Ugenya should be subjected to a referendum, several weighty matters were canvassed. In particular, there has been debate , on whether the Bill has the effect of extending the term of office of the President in terms of Article 255(1)(f) of the Constitution an argument that has been advanced in this House, in the previous House and elsewhere. The determination of whether this particular Bill should be subjected to a referendum is tied to first establishing what exactly the term of office of the President is. In my gracious attempt to do this, allow me to refer to Article 142(1) of the Constitution which provides that and I quote “ the President shall hold office for a term beginning on the date on which the President was sworn in, and ending when the person next elected President in accordance with Article 136(2) is sworn in”. It should not escape our minds that the current President was sworn in on the 9<sup>th</sup> of April, 2013. A reading of this provision does not therefore expressly state what is the term of office of the President. Further, a reading of the interpretation clause of the Constitution under Article 260 does not also answer the fundamental question of what is really the term of office of the President as that explanation is not included in the definitions. However, a quick perusal of the Constitution and in particular Articles 136(2)(a),146(4)(a) and 177(1)(a) and (4) is perhaps the closest one would get in determining or rather construing what is the term of office of the President. Article 136(2)(a) provides that an election of the President shall be held on the same day as a general election of the Members of Parliament, being the second Tuesday in August of every fifth year. This provision seems to suggest that the term of office of the President is five years. Further, Article 146(4)(a) provides that if the Deputy President assumes office where there is a vacancy in the office of the President, such person shall be deemed to have served for a full term as a President if at the date which the person assumed office, more than two and half years remain before the date of the next regular scheduled election. Reference to the period of two and half years, which connotes a full half of a term of five years seems to solidify the provisions of Article 136 that the term of office of the President is indeed five years. Article 177(1)(a) and (4) 180(1) as read together with Article 136 also indicate that the term of office of the President is five years as it provides that the term of a county assembly is five years. Indeed, the members of county assemblies are elected on the same day as a general election of the Members of Parliament, being the second Tuesday in August of every fifth year the same day which, as already discussed, the President is also elected.

**Hon. Members,** I have no intention of deviating from this longstanding Commonwealth practice which in our case, and as stated earlier is espoused in Article 165 of the Constitution. It is also important to state that, in the process of amending the Constitution by Parliamentary Initiative, the responsibility of the Speakers ends when they jointly present the Bill to the President for assent together with a ***certificate that the Bill has been passed by Parliament in accordance with Article 256.*** Indeed, the particular duty of determining that question of whether or not the Bill proposed by the Member for Ugenya should be subjected to a referendum is vested in other competent authorities including the President under Article 256(5)(a) of the Constitution.

In summary therefore, on the two questions, it is my finding -

(i) **THAT,** I will not allow any amendment to the Bill proposed by the Member for Ugenya or indeed any of the other four published Bills proposing to amend the Constitution; and,

(ii) **THAT,** the determination as to whether a Bill proposing to amend the Constitution requires the approval by a referendum in terms of Articles 255 and 256 of the Constitution is outside the purview of the Speaker.

The House is therefore guided accordingly.

**I Thank you!**

**THE HON. JUSTIN B.N. MUTURI, E.G.H, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

**August 20, 2015**

# THE NATIONAL ASSEMBLY

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## TWELFTH PARLIAMENT – FIFTH SESSION – 2021

### CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE (CIOC)

#### PUBLIC HEARINGS IN VARIOUS COUNTIES OF THE REPUBLIC

1. Article 118 of the Constitution obligates Parliament to facilitate public participation and involvement of the public in the legislative and other business of Parliament and its committees. The Committee while processing the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 40) of 2020, organized public hearings in 13 Counties in the Republic of Kenya in order to afford members of the public an opportunity to give their views on the Bill to the Committee.
2. In view of the number of counties the Committee intended to cover and the limited time available, the Committee resolved that the Members of the Committee constitute themselves into sub- committees to undertake the public hearings concurrently in the various Counties the Committee had identified.
3. The Committee through the office of the Clerk of the National Assembly advertised the plan to hold public hearings in the Daily Nation and Standard Newspapers of Wednesday, 28<sup>th</sup> July, Friday, 13<sup>th</sup> August and Friday, 10<sup>th</sup> September, 2021. The Committee also sent invitations to the respective County Governors and County Assemblies to attend and participate in the hearings and also requested the respective County Commissioners' offices to invite members of the general public.
4. In response to the Committee's advert and invitation, members of the public either individually or representing institutions and organizations attended the public hearings and made oral presentations and/ or submitted memoranda.
5. The Committee undertook the public hearings in the following Counties on the dates and venues indicated below:
  - i. Kakamega on Friday, 13<sup>th</sup> August, 2021 at the Kakamega Social Hall;
  - ii. Kisumu on Saturday, 14<sup>th</sup> August, 2021 at the Tom Mboya Labour College;
  - iii. Uasin Gishu on Friday, 13<sup>th</sup> August, 2021 at the Eldoret Social Hall;

### **Grounds for supporting the Bill**

10. The members of the public who supported the Bill raised the following grounds in support of the Bill:
- a) That the amendments proposed would enhance accountability of the Cabinet and the County Executive Committees to the people. This is because Cabinet Secretaries would be Members of Parliament and County Executive Committee Members would be Members of County Assemblies and they would be required to respond to questions and issues affecting the public directly.
  - b) The proposed amendments would create individual responsibility on persons appointed to the Cabinet and County Executive Committees as they would not only be answerable to the appointing authority, that is, the President and respective Governors but also the citizenry. Noting these persons would also be elected leaders; the threat of losing their elective positions would help to ensure they effectively discharged their mandate and are not detached from the public.
  - c) Members of Parliament and Members of County Assemblies are more aware of issues facing the public as they relate directly with members of their constituencies and wards. In this regard they would be better placed if appointed as members of the Cabinet and the County Executive Committees to understand and initiate viable solutions to the issues affecting the citizenry at the grassroots level as opposed to the current structure where the Cabinet Secretaries are technocrats with no link with members of public at the lowest unit of administration.
  - d) The Bill would help to reduce the cost of running the government through reduction of the wage bill. This is attributed to the fact that MPs and MCAs who serve as Cabinet Secretaries and CECs would only be entitled to a responsibility allowance in addition to their salaries, unlike the current structure where they are entitled to salaries. The amendments would also reduce the cost of personnel attached to Cabinet secretaries and other facilities like vehicles and the related operational expenses.
  - e) That allowing the Attorney General to perform the functions of a Cabinet Secretary would enable him to head a Ministry of Justice which co-ordinates all justice, law and order sector related issues.

### **Grounds for opposing the Bill**

11. The Committee observed the following as the main reasons given by those who opposed the Bill-

- (a) There were proposals that the Bill be amended with regards to the proposed amendment to Article 152, so that the President is allowed to appoint fifty per cent (50%) of the cabinet from Parliament and the other fifty percent from persons who are not Members of Parliament. That this would enable the President where necessary, to appoint persons with specialized technical skills.
- (b) That in the appointment process to the Cabinet and County Executive Committees there should be skills match to ensure individuals are only appointed to head Ministries in which they possess the relevant technical skill.
- (c) That the Minimum educational requirements to be appointed to the Cabinet and County Executive Committees should be a degree from a University recognized in Kenya and the Commission for University Education to have mandate of verifying such degrees and one to possess at least five (5) years post qualification experience.
- (d) That the qualification to vie for Member of Parliament and Member of County Assembly be maintained at a minimum of a Bachelor's degree on basis that effective oversight could not be undertaken without requisite educational and technical competencies.
- (e) Some members of the public were of the view that the office of Deputy Cabinet Secretary/assistant ministers should be introduced. In the circumstances a Cabinet Secretary would be appointed from within Parliament and the Deputy should be a person who is not a Member of Parliament.
- (f) Members raised issue with regards to representation of Minorities that is women, youth and persons with disability and the need for Parliament to ensure compliance of the same at the point of vetting of the Cabinet nominees.

**b) Kakamega and Kisumu Counties**

**13. Members of the sub-committee were the following:**

- (i) Hon. Peter Kaluma, M.P.- Vice Chairperson
- (ii) Hon. (Dr.) Christine Ombaka, M.P
- (iii) Hon. T.J. Kajwang, M.P.
- (iv) Hon. Raphael Wanjala, M.P.
- (v) Hon. Daniel Rono, M.P.
- (vi) Hon. Bernard Okoth, M.P.
- (vii) Hon Simon Ng'ang'a King'ara, M.P.
- (viii) Hon. Anthony Oluoch, M.P.

- a) That the Attorney General has not performed his duties effectively and adding more duties to the office would lead to continued poor performance.
- b) That as it is now, Members of Parliament and MCAs are already over-burdened by their work and adding to them more responsibilities would result in one of the duties being neglected including the Constituencies;
- c) That currently, most MPs and MCAs do not possess the requisite academic qualifications, knowledge and skills to perform the task of Cabinet Secretaries and CECs;
- d) That appointing CSs and CECs from the legislature would compromise the doctrine of separation of powers and affect the performance of the oversight role of the legislature;
- e) That the law would result in a conflict of interest as the legislators who are law makers would be the same ones to implement the laws and projects; and
- f) That there were 349 MPs currently in the National Assembly and 67 Senators and appointing about 23 of them as Cabinet Secretaries would compromise the integrity of Parliament.

#### **General observations by members of the public**

16. The Committee in the conduct of the public hearings noted the following general issues that were raised concerning Bill and other related legislation-

- (g) That there was need to have a provision in the law requiring the appointing authorities to appoint the Cabinet Secretaries and CECs from across the country and to have the face of Kenya in the cabinet and not just from one region or ethnicity;
- (h) That there was need for an amendment to have a mixed cabinet with a percentage coming from among Members of Parliament and another section from outside Members of Parliament in order to allow the appointing authorities to source for any specialized skills required that may not be in the legislature.
- (i) That the effective date for the law should be after the next general elections in order to allow the current governments to serve their terms uninterrupted.
- (j) It was proposed that the Minimum educational requirement to be appointed the Cabinet and County Executive Committees should be a degree from a university

- c) Members of Parliament and Members of County Assemblies are more aware of issues facing the public as they relate directly with members of their constituencies and wards. In this regard they would be better placed if appointed as members of the Cabinet and the County Executive Committees to understand and initiate viable solutions to the issues affecting the general public at the grassroots level as opposed to the current structure where the Cabinet Secretaries are technocrats with no link with members of the public.
- d) The Bill would help to reduce the cost of running the government through reduction of the wage bill. This is attributed to the fact that MPs and MCAs who serve as Cabinet Secretaries and CECs would only be entitled to a responsibility allowance in addition to their salaries, unlike the current structure where they are entitled to salaries.
- e) There was need for the Attorney General to be able to perform the functions of a Cabinet Secretary to be able to offer effective legal advice to the President and the government.

### **Grounds of Opposition**

20. The Committee observed the following were the main reasons some members of the public gave while opposing the Bill:-

- a) The Attorney General (AG) had a constitutional mandate of offering effective legal advice to the Executive. Assigning the AG the functions of a Cabinet Secretary would interfere with the current roles as the AG would be strained in performing the functions of giving legal advice and at the same time discharging Cabinet roles.
- b) Parliament under the current Constitution had effective tools to ensure accountability at the first instance through vetting to ensure that competent persons would be appointed to the Cabinet and County Executive Committees and at the second instance through impeachment motions and motions for removal. There was therefore no need for the amendments to increase accountability.
- c) There was need to give job opportunities to other Kenyans and not give all public offices to elected leaders. Further the current structure ensured that persons with relevant technical skills, experience and education were appointed to manage Ministries thereby increasing the quality of service delivery.
- d) There were no safeguards in the Bill to ensure only Members of Parliament and Members of County Assemblies with the required educational and technical skills would be appointed. As it stood for example in Counties some Members of County Assemblies lacked post secondary school qualifications and limiting the Governor to pick from such



- d) That CSs and CECs appointed from the legislatures would be more responsive and would respond to issues affecting the public more promptly since they could be present in Parliament or County assemblies when the issues were raised.
- e) That the Attorney General should in addition to being assigned cabinet secretarial duties, be an ex officio of Parliament so that he is able to get issues concerning the public directly and be able to balance the law and politics.

### **Grounds of opposition to the Bill**

24. Members of the public who opposed the Bill gave the following grounds in in opposition:

- a) That the Bill if enacted would result in conflict of interest and interference of the independence of the legislature by the Executive.
- b) That most Members of the County Assembly did not have the requisite academic qualifications to be County Executive Committee Members which would adversely affect service delivery.
- c) That appointing MPs and MCAs to be CSs and CECs respectively would result in the legislatures being compromised by the Executive.
- d) That assigning the Attorney General (AG) cabinet secretarial duties would compromise the independence of the office.
- e) That the current office of the Attorney General had failed in its mandate thus assigning the AG more duties would be counterproductive.
- f) That in the larger Northern part of Kenya, restricting appointment of the Cabinet and County executive committee from the legislature will lead to continued marginalization of the women because as a result of the patriarchal nature of the culture, women are rarely considered for leadership positions.
- g) That the best way to save resources is not appointing CSs and CECs from the legislatures but reducing corruption and reducing number of Cabinet Secretaries since most of the functions being performed by the National Government had been devolved to county governments.

### **e) Wajir County on 27<sup>th</sup> August, 2021**

25. Members of the sub- Committee were the following:

- a) That majority of the MPs and MCAs are not technocrats and therefore appointing them to the cabinet would adversely affect performance of their duties;
- b) That most Members of the County Assembly did not have the requisite academic qualifications to be County Executive Committee Members;
- c) That appointing MPs and MCAs to be CSs and CECs respectively would reduce job employment opportunities and deny many educated youth employment.
- d) That assigning the Attorney General (AG) cabinet secretarial duties would compromise the independence of the office.
- e) That the current office of the Attorney General had failed in its mandate thus assigning the AG more duties would be counterproductive.
- f) That in the larger Northern part of Kenya, restricting appointment of the Cabinet and County executive committee from the legislature will lead to continued marginalization of the women because as a result of the patriarchal nature of the culture, women are rarely considered for leadership positions.
- g) That the Bill if enacted into law would compromise the principle of separation of powers between the legislature and the executive and thus affect the oversight role of the legislature.

**f) Turkana County on Tuesday 31<sup>st</sup> August, 2021**

**29. Members of the sub- Committee were the following:**

- (i) Hon. Jeremiah Kioni, M.P. - Chairman
- (ii) Hon. Bernard Okoth, M.P.
- (iii) Hon. Daniel Rono, M.P.
- (iv) Hon. Yusuf Hassan Abdi, M.P.
- (v) Hon. Simon King'ara, M.P.
- (vi) Hon. (Dr.) Christine Ombaka, M.P.
- (vii) Hon. Charles Gimose, M.P.
- (viii) Hon. Japheth Mutai, M.P.
- (ix) Hon. Joash Nyamoko, M.P.
- (x) Hon. Anthony Oluoch, M.P.

- b) Attorney General (AG) already had a huge constitutional mandate of offering effective legal advice to the Executive. Assigning the AG the functions of Cabinet Secretary would interfere with the current roles as the AG would be strained in performing the functions of giving legal advice at the same time discharging Cabinet roles.
- c) The assignment of the role of a Cabinet Secretary to the Attorney General may affect the independence of the judiciary noting the Attorney General is also a member of the Judicial Service Commission. There is potential for conflict of interest in performance of his legal advisory role due to the additional role that the Bill proposes.

### **General observations by members of the public**

33. The Committee in the conduct of the public hearings noted the following general issues that raised concerning Bill and other related legislation-

- (a) That there was need for regional balance in the appointment of members of Parliament and MCAs to the Cabinet and to be CECs respectively so that all Kenyans feel represented;
- (b) That there was need for matching skills and expertise with the portfolio a particular MP or MCA is given to head;
- (c) That appointments be from elected leaders only to avoid scenarios where the President and Governor nominate and appoint their cronies only;
- (d) The County Government Act or the relevant legislation on appointment of County Executive Committees be reviewed to ensure that County Governors appoint and or replace members of the County Executive Committee within a certain period of a vacancy occurring in the position;
- (e) There were proposals that certain public offices including that of a chief be elective positions as opposed to appointive.
- (f) There were proposals that the office of the Cabinet Secretary is renamed to Cabinet Minister and the office of Deputy or Assistant Minister be established;
- (g) That the law setting the minimum qualification of a degree for MPs and MCAs may prevent some marginalized areas of the country from having representation in the cabinet thus need for its revision; and
- (h) Some members of the public urged the Committee and Parliament in general to fast-track the enactment of a Bill to implement the two third gender principle.

- c) The Bill would help to reduce cost of running the government through reduction of the wage bill.

### **Grounds for opposing the Bill**

37. The Committee observed the following as the main reasons those who opposed the Bill gave:-

- a) Parliament under the current Constitution had effective tools to ensure accountability at the first instance through vetting to ensure that competent persons would be appointed to the Cabinet and County Executive Committees and at the second instance through motions for removal. There was therefore no need for the amendments to increase accountability.
- b) As opposed to amending the Constitution, statute law ought to be amended to ensure attendance of Cabinet Secretaries to Parliament and vest individual responsibility for actions taken that undermine their offices and Parliament.
- c) The proposed amendment would affect the principle of separation of powers which is a key feature in the 2010 Constitution. The Executive and Legislature ought to be separate and perform functions independently of each other. Further the process of impeachment under the constitution and removal from office of such appointees would be affected and otherwise negatively compromised if the Executive were to be intertwined with the legislature.

### **h) Nairobi County**

**38. Members of the sub- Committee were the following:**

- (i) Hon. Jeremiah Kioni, M.P. - Chairman
- (ii) Hon. Peter Kaluma, M.P. – Vice-Chairman
- (iii) Hon. Raphael Wanjala, M.P.
- (iv) Hon. Daniel Rono, M.P.
- (v) Hon. Catherine Wambilianga, M.P.
- (vi) Hon. Simon King'ara
- (vii) Hon. Anthony Oluoch, M.P.
- (viii) Hon. Bernard Okoth, M.P.

- i) That if CSs and CECs were appointed from the legislatures, response to issues raised affecting the public would be prompt.

**Grounds in opposition to the Bill**

41. The Committee observed the following as the main reasons those who opposed the Bill gave:-
  - a) That the Bill if enacted would lead to split loyalties with the legislatures at a cross roads on whom between the Speaker and the head of the Executive they should be loyal to.
  - b) That the Attorney General should be independent and politically neutral and assigning him cabinet secretarial duties will interfere with the independence of the office.
  - c) That CSs and CECs should remain to be appointed from technocrats since allocating the MPs and MCAs such executive powers would give them powers to begin intimidating the President and Governors hence affecting service delivery.
  - d) The proposed amendment would affect the principle of separation of powers which is a key feature in the 2010 Constitution. The Executive and Legislature ought to be separate and perform functions independently of each other. Further the process of impeachment under the constitution and removal from office of such appointees would be affected and otherwise negatively compromised if the Executive were to be intertwined with the legislature.

**MINUTES OF THE THIRTIETH SITTING (FIFTH SESSION) OF THE  
CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE HELD ON  
WEDNESDAY, 15<sup>TH</sup> SEPTEMBER, 2021 IN BARAZA 2 CONFERENCE ROOM,  
WHITE SANDS HOTEL, MOMBASA AT 11.00 A.M.**

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**PRESENT**

1. The Hon. Jeremiah Kioni, M.P. - Chairman
2. The Hon. Peter Kaluma, M.P. - Vice- Chairman
3. The Hon. T.J Kajwang', M.P.
4. The Hon. Raphael B. S. Wanjala, M.P.
5. The Hon. Charles Gimose, M.P.
6. The Hon. Abdi Shurie, M.P.
7. The Hon. Japheth Mutai, M.P.
8. The Hon. Daniel Rono, M.P.
9. The Hon. Simon Ng'ang'a King'ara, M.P.
10. The Hon. Anthony Oluoch, M.P.
11. The Hon. (Col.) Geoffrey Kingangi, M.P.
12. The Hon. Benard Okoth, M.P.
13. The Hon. Halima Mucheke, M.P.
14. The Hon. Joash Nyamoko, M.P.
15. The Hon. Purity Ngirici, M.P.
16. The Hon. Didmus Barasa, M.P.
17. The Hon. Catherine Wambilianga, M.P.

**APOLOGIES**

1. The Hon. (Dr.) Naomi Shaban, M.P.
2. The Hon. (Dr.) Christine Ombaka, M.P.
3. The Hon. Yusuf Abdi, M.P.
4. The Hon. Fabian K. Muli, M.P.
5. The Hon. Peris Tobiko, M.P.
6. The Hon. Moses Kirima, M.P.

**SECRETARIAT**

1. Mr. Edward Libendi - Senior Legal Counsel/CIOC Clerk
2. Ms. Lynette Otieno - Legal Counsel 1
3. Mr. Eugene Apaa - Research Officer
4. Mr. Michael Chege - Senior ICT Officer

**MIN.NO.CIOC/2021/75      ANY OTHER BUSINESS AND ADJOURNMENT**

Members agreed that there was need to re-introduce the Road Accident Fund Bill which had been rejected by the Budget and Appropriations Committee during publication scrutiny.

There being no other business, the meeting was adjourned at ten minutes to one O'clock (12.50 pm).

**SIGN**.....  
**THE HON. JEREMIAH KIONI, M.P.**

**DATE** 12/09/2021.....  
**CHAIRPERSON**

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE  
RETREAT IN MOMBASA FROM 13<sup>TH</sup> TO 17<sup>TH</sup> SEPTEMBER, 2021

**ADOPTION LIST**  
ATTENDANCE REGISTER

Date: 15/9/2021  
9.00 am - 1.00 pm  
Venue: White Sands Hotel

	HON. MEMBER	SIGNATURE
1.	Hon. Jeremiah Kioni, M.P. (Chairman)	
2.	Hon. Peter Kaluma, M.P (Vice Chairman)	
3.	Hon. (Dr.) Naomi Shaban, M.P	
4.	Hon. (Dr.) Christine Ombaka, M.P.	
5.	Hon. Yussuf Hassan, M.P.	
6.	Hon. Raphael B. S. Wanjala, M.P	
7.	Hon. Charles Gimose, M.P.	
8.	Hon. T.J Kajwang, M.P	
9.	Hon. Peris Tobiko, M.P.	
10.	Hon. Anthony Oluoch, M.P.	
11.	Hon. Abdi Shurie, M.P.	





REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT – FIFTH SESSION

In the matter of consideration by the National Assembly:-  
The Constitution of Kenya (Amendment) Bill,  
(National Assembly Bill No. 40 of 2020)

RE-ADVERTISEMENT  
PUBLIC HEARINGS/SUBMISSION OF MEMORANDA

Article 118 (1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of the Parliament and its Committees". The National Assembly Standing Order 127 requires the Select Committee to which a Bill is committed to facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House.

The Constitution of Kenya (Amendment) Bill, (National Assembly Bill No. 40 of 2020) seeks to amend the Constitution of Kenya in order to allow the President to appoint Cabinet Secretaries from among Members of Parliament and to allow the President to assign the Attorney-General duties of a Cabinet Secretary. The Bill further seeks to amend the Constitution to allow County Governors to appoint Members of the County Executive Committee from among Members of the County Assembly.

The Constitution of Kenya (Amendment) Bill, (National Assembly Bill No. 40 of 2020) has undergone First Reading pursuant to Standing Order 126 and is committed to the Constitutional Implementation Oversight Committee for consideration, to facilitate public participation and thereafter report to the House.

Further to the notification for public hearings and request for submission of memoranda advertisements on the aforementioned Bill, that appeared in both the Daily Nation and Standard Newspapers of Wednesday, 28<sup>th</sup> July, 2021, the National Assembly wishes to inform that:-

- 1. The public hearing which was scheduled for Monday, 23<sup>rd</sup> August, 2021 at County Hall, Nairobi County has been rescheduled to Monday, 20<sup>th</sup> September, 2021 at Charter Hall, City Hall Building.
- 2. Pursuant to the provisions of Article 118(1)(b) of the Constitution of Kenya and Standing Order 127(3), the Committee will be conducting public hearing on the aforementioned Bill in the said venue from 10.00 am to 3.00 pm.

Due to the need to comply with the Ministry of Health, COVID-19 containment measures, members of the public are encouraged to prepare written memoranda on the Bill and submit to the Committee at the above-mentioned venue during the scheduled public hearings. Representations may also be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi or emailed to [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke), to be received on or before Friday, 17<sup>th</sup> September, 2021 at 5:00 pm.

The soft copy of the Bill can be accessed from the parliamentary website at [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

MICHAEL R. SIALAI, CBS  
CLERK OF THE NATIONAL ASSEMBLY  
10<sup>th</sup> September, 2021



EXPRESSION OF INTEREST



Beer, Spirits Distributors and KBL Staff Shop Management  
Kenya Breweries Limited (KBL) is a subsidiary of East African Breweries Limited (EABL), the region's leading branded alcohol beverage business with an outstanding collection of brands that range from beer, spirits and adult non-alcoholic drinks (ANADs) reaffirming our standing as a total adult beverage (TAB) company. East African Breweries Limited is part of Diageo Plc, a global leader in beverage alcohol.

With a state-of-the-art manufacturing plant and superb distribution networks, delivery of the highest quality brands to consumers, is a key objective.

The KBL brewery in Ruaraka, Nairobi is also home to UDV (Kenya) Limited which operates a spirit's distillery that manufactures, exports, and imports a range of high-quality spirits.

KBL and UDV have opportunities for:

- a) **Emerging Business distributors**  
(Senator Keg and mainstream spirits) within Nairobi and Nyeri Counties as follows:
  - Nairobi area 1 - covering Mukuru (Kwa Njenga, Kwa Reuben, Kayaba), Enterprise Road and South B area.
  - Nairobi area 2 - covering Baba Dogo, Kasarani and Zimmerman
  - Nyeri covering Karatina
- b) **Mainstream distributors**  
(Bottled beer and full spirits portfolio) in the following areas:
  - a. Nairobi County covering Highridge, Westlands, Kileleshwa, Kangemi, Uthiru and Kabete.

In addition, we wish to invite expression of interest from interested individuals for the management of the KBL staff shop located within the Kenya Breweries factory at Ruaraka.

- A. **Minimum requirements for the Mainstream Distributor**
  - Ability to obtain an appropriate Bank guarantee – (minimum Kshs. 65 million)
  - Ability to raise appropriate start-up capital (cash) – (minimum Kshs. 25 million)
  - Ability to avail distribution vehicles with adequate carrying capacity – Minimum three 9-tonne trucks, three 7-tonne trucks, two 5-tonne trucks, two motorbikes for home deliveries.
  - A Warehouse facility comprising a minimum of 10,000 square feet.
- B. **Minimum requirements for the Emerging Business distributors**
  - Ability to obtain appropriate bank guarantee – (minimum Kshs. 15 million)
  - Ability to raise appropriate start-up capital – (minimum Kshs. 6.5 million)
  - Ability to avail distribution vehicles with adequate carrying capacity as stipulated by KBL and/or UDV – minimum three, 7-tonne trucks.
  - A warehouse facility comprising a minimum of 5,000 square feet.
- C. **Requirements for the management of KBL staff shop:**
  - Ability to obtain appropriate bank guarantee – (minimum Kshs. 4 million)
  - Ability to raise appropriate start-up capital – (minimum Kshs. 2 million)
  - Ability to avail two (2) motorbikes to facilitate the provision of the services including home deliveries.
  - A robust ERP system in place.
  - A proper organisational structure – team with a minimum of two (2) years' experience in Customer service, telesales and/or call centre management.

In addition, the applicants should demonstrate the following:

- a) A commitment to dedicate themselves to this business in a hands-on manner with a clear succession plan.
- b) A track record of high degree of integrity and business ethics, and a satisfactory record of performance, and must not have been notified by any county or national agency of competent jurisdiction that their standing in any matters whatsoever would preclude them from participating in a contract.
- c) A passion for high performance and growth, including ability to overcome challenges to achieve growth and dedication to high customer service standards and strong business relationship.
- d) A good understanding of emerging trends in route to market/route to consumer.
- e) Should have a minimum of three (3) years of strong sales or general business expertise, including door-to-door selling.
- f) Entrepreneurs' who have a solid IT set-up and can demonstrate the same.

Interested applicants should send their Expression of Interest including the following information:

- 1. Contact information.
- 2. Application letter, clearly indicating the market of interest and distribution experience.
- 3. Copy of certificate of incorporation, memorandum and articles of association for the applicant and PIN Certificate, list of current directors, tax clearance certificate, Certificate of Good conduct, CRB Clearance certificate for the company and individual directors and shareholders of the company, current business license or other applicable licenses.
- 4. State working capital and sources of funding available; including but not limited to cash, bank guarantee, overdraft facilities and any other appropriate sources.
- 5. A demonstration of ability to acquire the required business licenses from local authority and/or National Government.
- 6. Proof of secure warehousing.
- 7. A report detailing suitability to be a KBL/UDV distributor including but not limited to a demonstration of good understanding of the area(s) applied for and ability to provide a clear organisational structure with capable workforce.
- 8. Business Referees (including their contacts).

Expressions of Interest should be enclosed in a sealed envelope and addressed to:

The Commercial Director  
Kenya Breweries Limited/ UDV (Kenya) Limited  
KBL Corporate Offices at Garden City Business Park-5<sup>th</sup> Floor  
P.O. Box. 30161-00100  
Nairobi, Kenya.

The expression of interest may also be emailed to the following address: [kenyabreweries@eabl.com](mailto:kenyabreweries@eabl.com) by the deadline stipulated below.  
NB: Maximum size per email is 5MB

Expressions of Interest should reach the Commercial Director not later than 24<sup>th</sup> September 2021 at 1700 hours and should be deposited in the Tender box located at the KBL Corporate Offices at Garden City Business Park reception clearly marked "Expression of Interest for Keg, Bottled Beer & Spirits Distributors or Expression of Interest for the management of the KBL staff shop."

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT – FIFTH SESSION

In the matter of consideration by the National Assembly:-  
The Constitution of Kenya (Amendment) Bill, (National Assembly Bill No. 40 of 2020)

PUBLIC HEARINGS/SUBMISSION OF MEMORANDA  
RE-ADVERTISEMENT

Article 118 (1)(b) of the Constitution provides that: "Parliament shall facilitate public participation and involvement in the legislative and other business of the Parliament and its Committees." The National Assembly Standing Order 127 requires the Select Committee to which a Bill is committed to facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House.

The Constitution of Kenya (Amendment) Bill, (National Assembly Bill No. 40 of 2020) seeks to amend the Constitution of Kenya in order to allow the President to appoint Cabinet Secretaries from among Members of Parliament and to allow the President to assign the Attorney-General duties of a Cabinet Secretary. The Bill further seeks to amend the Constitution to allow County Governors to appoint Members of the County Executive Committee from among Members of the County Assembly.

The Constitution of Kenya (Amendment) Bill, (National Assembly Bill No. 40 of 2020) has undergone First Reading pursuant to Standing Order 126 and is committed to the Constitutional Implementation Oversight Committee for consideration, to facilitate public participation and thereafter report to the House.

With reference to the notification for public hearings and request for submission of memoranda advertisements on the aforementioned Bill, that appeared in both the Daily Nation and Standard Newspapers of Wednesday 28<sup>th</sup> July 2021, the National Assembly wishes to inform that:-

1. The public hearings which were scheduled for Friday, 20<sup>th</sup> August 2021 at Nakuru Old Town Hall, in Nakuru County and Saturday, 21<sup>st</sup> August, 2021 at Nyanjira Social Hall, Nyanjira County have been rescheduled as indicated hereunder.
2. Pursuant to the provisions of Article 118(1)(b) of the Constitution of Kenya and Standing Order 127(3), the Constitutional Implementation Oversight Committee will be conducting public hearings on the aforementioned Bill in the following additional Counties from 10.00 am to 3.00 pm as indicated below:-

COUNTY	VENUE	DATE
1. Wajir	Wajir ICT Hall	Friday, 27 <sup>th</sup> August, 2021
2. Turkana	Lokitama Hall, Lodwar	Tuesday, 31 <sup>st</sup> August, 2021
3. Nakuru	St. Francis Xavier Catholic Church Hall, Nalvasha	Monday, 6 <sup>th</sup> September, 2021
4. Nyanjira	St. Anthony Catholic Church Hall, Engineer	Tuesday, 7 <sup>th</sup> September, 2021

Due to the need to comply with the Ministry of Health COVID-19 containment measures, members of the public are encouraged to prepare written memoranda on the Bill and submit to the Committee at the above-mentioned venues during the scheduled public hearings. Representations may also be forwarded to the Clerk of the National Assembly, P.O. Box 41942-00100, Nairobi or emailed to [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke) to be received on or before Friday, 3<sup>rd</sup> September, 2021 at 5:00 pm.

The soft copy of the Bill can be accessed from the parliamentary website at [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

MICHAEL R. SIALA, CBS  
CLERK OF THE NATIONAL ASSEMBLY  
13<sup>th</sup> August, 2021



Your solid financial partner

Finance House  
Loha Street  
P.O. Box 30483-00100  
Nairobi Kenya  
Teller: 0254-20-250399  
Tele: 22562  
Cable: DEVBANK KE  
E-mail: [dbk@devbank.com](mailto:dbk@devbank.com)  
Telephone: 3340401/2/3  
3340479/3340416  
3340428/3340198  
Mobile: 0725 243980

TENDER NOTICE

Development Bank of Kenya wishes to invite bids from eligible firms as indicated below.

No.	Tender number	Tender name	Eligibility
1.	DBK/PROC/02/2021	Provision of External Audit Services	Open

Interested and eligible candidates may collect tender documents from the offices of Development Bank of Kenya Limited, Finance House 16<sup>th</sup> floor Procurement Office during normal office hours (08.00 hours to 04.30 hours). A complete set of tender document can also be downloaded and viewed for free from the bank's website [www.devbank.com](http://www.devbank.com). Bidders who download the tender documents from the website must forward their particulars immediately to [procurement@devbank.com](mailto:procurement@devbank.com) email address

Completed tender documents comprising of both Technical and Financial bids enclosed in a plain sealed envelope addressed as below, marked with above tender number and name and be deposited in the tender box located at the reception area of Development Bank of Kenya-16<sup>th</sup> Floor, Loha street on or before **26<sup>th</sup> August 2021** at 10.00 hours East African Time.

Ag. Chief Executive Officer  
Development Bank of Kenya Limited  
P.O Box 30483-00100  
Nairobi, Kenya

The bids will be opened immediately thereafter in the presence of the candidates representatives who choose to attend at the Boardroom located at 15<sup>th</sup> Floor of Finance House Building, in strict compliance to COVID -19 protocols. Kindly note one (1) representative will be allowed per bidder  
Late bids will not be accepted

DBKL is regulated by Central Bank of Kenya

LIRBNOI  
Please note  
FOA  
16/8/21

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT - FIFTH SESSION

In the matter of consideration by the National Assembly-  
The Constitution of Kenya (Amendment) Bill, (National Assembly Bill No. 40 of 2020)

PUBLIC HEARINGS/SUBMISSION OF MEMORANDA

Article 118 (1)(b) of the Constitution provides that, 'Parliament shall facilitate public participation and involvement in the legislative and other business of the Parliament and its Committees'. The National Assembly Standing Order 127 requires the Select Committee to which a Bill is committed to facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House.

The Constitution of Kenya (Amendment) Bill, (National Assembly Bill No. 40 of 2020) seeks to amend the Constitution of Kenya in order to allow the President to appoint Cabinet Secretaries from among Members of Parliament and to allow the President to assign the Attorney-General duties of a Cabinet Secretary. The Bill further seeks to amend the Constitution to allow County Governors to appoint Members of the County Executive Committee from among Members of the County Assembly.

The Constitution of Kenya (Amendment) Bill, (National Assembly Bill No. 40 of 2020) has undergone First Reading pursuant to Standing Order 126 and is committed to the Constitutional Implementation Oversight Committee for consideration, to facilitate public participation and thereafter report to the House.

Pursuant to the provisions of Article 118(1)(b) of the Constitution of Kenya and Standing Order 127(3), the Committee will be conducting public hearings on the aforementioned Bill in the following Counties from 16.00 am to 5.00 pm as indicated below:

COUNTY	VENUE	DATE
Uasin Gishu	Eldoret Social Hall	Friday 13 <sup>th</sup> August, 2021
Kakamega	Kakamega Social Hall	Friday 13 <sup>th</sup> August, 2021
Elgeyo Marakwet	Iten Social Hall	Saturday 14 <sup>th</sup> August, 2021
4. Kisumu	Hew Nyanza Regional Headquarters	Saturday 14 <sup>th</sup> August, 2021
5. Mombasa	Kenya School of Government Hall	Friday 20 <sup>th</sup> August, 2021
6. Hakiuna	Hakiuna Old Town Hall	Friday 20 <sup>th</sup> August, 2021
7. Machakos	Machakos Stadium	Friday 20 <sup>th</sup> August, 2021
8. Kilifi	Makio Kanamai Social Hall	Saturday 21 <sup>st</sup> August, 2021
9. Nyandarua	Nyandarua Social Hall	Saturday 21 <sup>st</sup> August, 2021
10. Makeni	Makeni Social Hall, Wote	Saturday 21 <sup>st</sup> August, 2021
11. Nairobi	County Hall, Parliament Buildings	Monday, 23 <sup>rd</sup> August, 2021

Due to the need to comply with the Ministry of Health, COVID-19 containment measures, members of the public are encouraged to prepare written memoranda on the Bill and submit to the Committee at the above-mentioned venues during the scheduled public hearings. Representations may also be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi or emailed to [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke), to be received on or before Monday, 23<sup>rd</sup> August, 2021 at 5:00 pm.

The soft copy of the Bill can be accessed from the parliamentary website at [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

MICHAEL R. SIALAL, CBS  
CLERK OF THE NATIONAL ASSEMBLY  
28<sup>th</sup> July, 2021

**ST. PAUL'S KIBABII DIPLOMA TEACHERS' TRAINING COLLEGE**  
P. o Box 931, BUNGOMA TEL: 0789916967, 0704474375, 0212125836  
E-mail: [stpaulskibabii@gmail.com](mailto:stpaulskibabii@gmail.com), [kibabiidtt@yahoo.com](mailto:kibabiidtt@yahoo.com) Website: [Kibabii.ac.ke](http://Kibabii.ac.ke)  
ISO 9001:2015 Certified

TENDER NOTICE

Tenders are invited for supply and delivery of the following goods and services for the 2021 /2022 Financial Year.

S/NO	CATEGORY	ITEM DESCRIPTION	ELIGIBILITY
1	KDITC/01/021-022	Supply of Human Medicine	Reserved
2	KDITC/02/021-022	Supply of Fresh Meat , 3 Bundles	Preferred
3	KDITC/03/021-022	Supply of Stationery	Reserved
4	KDITC/04/021-022	Supply of Computer Cartridges	Reserved
5	KDITC/05/021-022	Supply of Maize and Beans	Open
6	KDITC/06/021-022	Supply of staff uniform, 2 Bundles	Reserved
7	KDITC/07/021-022	Supply of Sugar	Open
8	KDITC/08/021-022	Supply of Rice	Open
9	KDITC/09/021-022	Supply of Boarding Items	Open
10	KDITC/10/021-022	Supply of Hardware Items	Open
11	KDITC/11/021-022	Supply of Electrical Items	Open
12	KDITC/12/021-022	Supply of Disinfectant and detergents	Reserved
13	KDITC/13/021-022	Supply of Fresh Bread	Open
14	KDITC/14/021-022	Supply of Firewood	Open
15	KDITC/15/021-022	Supply of Fresh vegetables	Reserved
16	KDITC/16/021-022	Supply of Fresh fruits	Reserved
17	KDITC/17/021-022	Supply of Fresh Milk	Open
18	KDITC/18/021-022	Supply of Motor Fuel , Lubricants & Oil	Open
<b>Category B- Services</b>			
19	KDITC/19/021-022	Provision of Printing Works	Reserved
20	KDITC/20/021-022	Provision of Toilet emptying Services	Reserved
21	KDITC/21/021-022	Provision of fumigation services	Preferred
22	KDITC/22/021-022	Repair and Service of Computers, Printers, & Photocopying Machines 2 slots	Preferred
23	KDITC/23/021-022	Repair and Maintenance of College Vehicles	Open
24	KDITC/24/021-022	Provision of Sanitary Units	Reserved
25	KDITC/25/021-022	Repair of Furniture, houses& Related Services	Preferred

**Note**  
Reserved means only Women, youth and persons with disability registered by the National Treasury are eligible to apply. Preferred means women, youth and Persons with Disability registered by the National Treasury will be given priority during evaluation. Open means any Bidder may apply.

Each set of tender document can be downloaded by interested bidders from our college Website [www.kibabii.ac.ke](http://www.kibabii.ac.ke). Completed tender Documents enclosed bearing Tender Number should be addressed to the undersigned, posted or deposited in a Tender Box outside the Entrance of the Administration Office at Tuuti Campus so as to reach not later than 13<sup>th</sup> August, 2021 at 10.00 am. Opening shall be done immediately after closing in the presence of Bidders or their Representatives in attendance, if they wish to, at ST. PAUL'S KIBABII DIPLOMA TEACHERS' TRAINING COLLEGE ASSEMBLY HALL TUUTI CAMPUS.

The Principal,  
St. Paul's Kibabii Diploma Teachers Training College,  
P.O Box 931-50210,  
Bungoma.

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**REPUBLIC OF KENYA  
COUNTY GOVERNMENT  
OF LAIKIPIA**

DEPARTMENT OF AGRICULTURE, LIVESTOCK AND FISHERIES  
P.O. BOX 1271-10400, NANYUKI

**RE-ADVERTISEMENT**

The County Government of Laikipia invites interested and eligible tenderers for the tender as indicated below:

NO.	TENDER NO.	ITEM DESCRIPTION	ELIGIBLE BIDDERS	BID BOND	CLOSE DATE
1	LCO/DALF/EU/001/R/2020/2021/2022	DESIGN, MANUFACTURE, SUPPLY, DELIVERY, INSTALLATION, TESTING AND COMMISSIONING OF THREE MAIZE DRYERS AT SIPILI, KINAMBA AND MUTANGA IN LAIKIPIA WEST	OPEN	200,000	4/08/2021

Bidding documents with details can be obtained from Laikipia county website [www.laikipia.go.ke](http://www.laikipia.go.ke)

Only bidders meeting criteria indicated in the bid documents shall be considered for further evaluation.

Special category groups are required to fill in tender declaration form.

**Note:**

- Individual quotation to be done for each dryer site.
- Bid Bond to be submitted two days (2) before the closure of the tender for registration at the head of procurement office during working hours.

Duly completed tenders should be submitted on or before 4<sup>th</sup> August, 2021 at 11.00 AM and be deposited in tender box placed outside the procurement office in Nanyuki County Offices opposite quickmart supermarket.

HEAD OF SUPPLY CHAIN MANAGEMENT  
LAIKIPIA COUNTY GOVERNMENT

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 13/8/2020 County ... KAKAMEGA ... Venue: KAKAMEGA SOCIAL HALL

	NAME	ID CARD NO	SIGNATURE
1.	VINCENT SHISIA MWACHI	9258784	
2.	SHEIKH IDRIS LUVARE MOHAMMED	9730046	
3.	Shem Etanyi Atembo	7147463	
4.	Fredrick Muchwami	24752942	
5.	DESMOND OKUTAH	33172615	
6.	JOEL OMINO OYALO	14657569	
7.	Vonic Liyali	25929043	
8.	RASHID WITUKA ELORA	16657309	
9.	ZERRICK O. KEYA	22220128	
10.	ERICK ONDIECH	13863753	
11.	NICHOLAS LUMURU	11417804	
12.	SARAH ASHIKHOKWA	22700507	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 13/8/2021 County: KAKAMEGA Venue: KAKAMEGA SOCIAL HALL

	NAME	ID CARD NO	SIGNATURE
1.	EMILY MWANIKI	8041496	
2.	HARRIET MUTHINDI	25795665	
3.	VIOLIN Mwendocrani	9667091	Violin
4.	IRINE MUNITSI	11472445	IRINE
5.	GIBSON ANDAYI	20580746	
6.	Auxilia Nyamwonga	5779709	
7.	WANDERA JOHNSTONE	4240065	
8.	KIZITO MUTOKA	12695768	
9.	VIRGINIA KHAMALA	21807601	
10.	ANDIKA L. MILCENT	27939508	
11.	Billa Khalisia	09258099	
12.	GRACE Khasiala	12350808	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 13/8/2021 County: KAKAMEGA Venue: KAKAMEGA SOCIAL HALL

	NAME	ID CARD NO	SIGNATURE
1.	PETER K. MAINA	21347386	
2.	JETWA T. MAINA	5121858	
3.	CAREN AWINJA	24538283	
4.	ROBERT RAMALIAN NTABIA	10001789	
5.	NELLY CHEROBEN	26373220	
6.	Simon Andala	22993791	
7.	Luvayo K. Mariana	30224162	
8.	MuHAMMED K' MUMANI	24848834	
9.	ABBALLAH M. HASSAN	22457344	
10.	Bernard Mubungi	20182079	
11.	Margaret Mubungi	7967434	
12.	Bernard Hiya Mubungi	13351444	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 13/8/2021 County: KAKAMEGA Venue: KAKAMEGA SOCIAL HALL

	NAME	ID CARD NO	SIGNATURE
1.	ALICE E. SHAGO	3437964	
2.	MARY ELIJAH	1939249	
3.	ALEX MWENDO OREMO	6296439	
4.	SAMUEL L MASHETI	0711201382	
5.	S: Rives Ken Kibet	welkoba	S. R. W.
6.	DINAH N. NYANGOLI	6654565	
7.	ROSEMARY ODHIAMBO	6614695	
8.	REV. FAUSTUS MPALE	8009791	
9.	SILVESTER LUKHUMWA	24394502	
10.	CATHERINE MUHEI	13051275	
11.	SHADRACK BUKACHI	22180627	
12.	VINCENT MUJALE	22226208	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 14/8/2022 County: KISUMU Venue: P.M.M. BOYA COLLEGE

	NAME	ID CARD NO	SIGNATURE
1.	Sette Odhiambo Ojwang	20134220	
2.	JOHNA ODERO NTALENO	21473871	
3.	ESHER AMINO OYAHICO	29582795	
4.	SEPHANIA OJITO	0250719	
5.	Moses ABIRA	4831279	
6.	EMMA ACHIENG KOMILO	23282450	
7.	BETTY AKINYI OWANGA	7019461	
8.	MOSES AYUB ODHIAMBO	32016612	
9.	RUTH HELINA OTIENO	13231147	
10.	FATIMA UHAMIS BILAL	11499422	
11.	Wanjugu Mickel	20640497	
12.	Carolyn Othman Agiero	14481262	



REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:  
The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 14/8/21. County KISUMU..... Venue: D.M.M. BOYA COLLEGE

	NAME	ID CARD NO	SIGNATURE
1.	HERDON D. YALO	11499691	
2.	JUSTINE A. OMBIRO	23275398	
3.	FREDERICK OBOYO OMBIRO	23835063	
4.	Roselyne Orunga	11232315	
5.	Cardinal Elias Womonyo	3951856	
6.	Irene Mbori	23084394	
7.	Celile Oyomo Mwarie	9041804	
8.	ROSE ABONDO	13603005	
9.	Sandra Nixon Othman	22554627	
10.	Nick McDonwast	21839958	
11.	Drika Michael	21942646	
12.	PAUL O. OGAZO	0257145	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 14/8/2021 County: KISUMU Venue: DOM MBOYA COLLEGE

	NAME	ID CARD NO	SIGNATURE
1.	ODOKO F. MINDA	9182441	
2.	CALLEB OWIND NGAR	11382435	
3.	Immaculate Rael Kidenda	25590312	
4.	KILLEN OMONDI	7486555	
5.	HASSAN HUSSEIN FARJALAH	0797942259	
6.	SOLOMON NYAIDHO ABOK	0901082	
7.	JULIUS O. OMBOGI	10034067	
8.	STEVE O. OTIENO	14453006	
9.	VINCENT OTIENO	25246156	
10.	DOMINICK O. ADEMBA	7018027	
11.	LICKENS O. LARE CSD	22214482	
12.	FATUMA R. MBUGUA	11388765	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 27/8/21 County: WAJIR Venue: Wajir ICT Hall

	NAME	ID CARD NO	SIGNATURE
1.	Ambra Abdi Osman	0038254	
2.	AAANU Gerard	002578	
3.	JIMAC IBRAHIM	3883 0723	
4.	Mohamed Abdullahi	2533 6252	
5.	SAFI ABHULIHI	13699174	
6.	Ahmed Abdullahi Osman	4884539	
7.	Bashir Sulaiman	0177284	
8.	SARUS A. DUIS	8760065	
9.	Mohamed Munin	0017380	
10.	Sugal Medey Ibrahim	36481446	
11.	ALI MUHAMMED OSMAN	27465170	
12.	Noor M. OTHOWAI	2524 5998	
13.	Abey HUSSEIN	11573015	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 27/8/20 County: Wajir Venue: Wajir ICT Hall

	NAME	ID CARD NO	SIGNATURE
1.	Abdulahman Hafow Abdullahi	4877582	[Signature]
2.	Mohamed Dakane Maahm	24677087	[Signature] 071443024
3.	Abdi Mohamed maahm	21620407	[Signature] 0720339641
4.	Abdi Dubow Bulle	21613285	[Signature] 0726994350
5.	Mohamed Abdullahi	39819447	[Signature]
6.	TAWAKAL HASSAN JAMAA	13699334	[Signature]
7.	Mohammed ABDIKABIR	28025838	[Signature]
8.	ABDIHAKIM RASHID	30409149	[Signature]
9.	Abdullahi Ragow Nur	22335378	[Signature]
10.	Abdikadir Samad Nour	29768308	[Signature]
11.	ABUKAR ADAN AHMED	0036160	[Signature]
12.	Mohamed Aden Gedi	30333390	[Signature]
13.	Abi Mohamed Ahmed	27702990	[Signature]

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REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 27/8/20 County: WAJIR Venue: Wajir ICT Hall

	NAME	ID CARD NO	SIGNATURE
1.	ZAKARIYA ABDI DABAD	39468258	
2.	FUNIS - MOHAMED - ABDI	23933239	
3.	ZEYNABA HUSSEIN DEER	2114435	
4.	SURAI YUSSUF ADAN	0195027	
5.	Muhsin Mohamedi acaale	35601000	
6.	Fardousa Bishar Mohamed	29383746	
7.	ISMATC ABDULAH	22779229	
8.	MICHAEL GAKINJA MBUGUA	10244548	
9.	John Njugi Kamem	13337174	
10.	AMGES SHEIK MU	8494679	
11.	MOHAMED OMAR MOHAMED	23904554	
12.	YUSSUF ARKAW SHEIKH	24867243	
13.	DAUD ADAN ARSI	26792291	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 27/8/20 County ... Wajir ... Venue: Wajir ICT Hall

	NAME	ID CARD NO	SIGNATURE
1.	MOHAMMED HASSAN	22531789	
2.	DAUD MAHAMUD	22948767	
3.	ABDINOOR MAHAMMED	20504828	
4.	AHMED MAKIBAR	8493265	
5.	AHMEDDIN ABDIRAHMAN	214057335	
6.	JIBRU IBRAHIM	13699321	
7.	GIELE ANNO ARAH	575860	
8.	AHMEDKHEIR SALAT BOU	28295969 2959	
9.	Ahmed Mohamed	22936680	
10.	Mohamed Hassan	21258724	
11.	Ali OSMAN	37451998	
12.			
13.			

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

1. The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 31/8/21 County TURKANA Venue: LOKIRIAMA HALL

	NAME	ID CARD NO	SIGNATURE
1.	PHILIP LOBOLIA EKAMA	11513145	
2.	ENOCH EKULAN	4782356	
3.	LAWRENCE E. EKURU	12911346	
4.	Patrick Lorwon	8738730	
5.	Abraham M. Lukwony	4783411	
6.	Arthur Topos LOPEA	9529185 <del>7111</del>	
7.	JEREMIAH E. EKAL	24565660	
8.	SAREM J. MOETO	21882914	
9.	ARATTA KARY	37366062	
10.	FRANK NANGIRO NYANGA	28898232	
11.	CHARLES EKAL	12911877	
12.	EREGAE E. EMULEN	10125897	
13.	PHILIP E LOBELU	5992359	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

1. The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 31/8/21 County: TURKANA Venue: Lokichama Hall

	NAME	ID CARD NO	SIGNATURE
1.	Benjamin Ebeyo	8287374	
2.	JOSEPHINE AKIRU EKUNDU	10907540	
3.	PENINDA TOPOKE	23502066	
4.	DAMARIS AKAI LOKATOROT	33921188	
5.	LIMANGOLE WYCLIFFE EKARU	34620375	
6.	ANDREW MURUMA	07496337	
7.	ISAAC ALICHO	22732184	
8.	COLLINS IKONE	32115687	
9.	FRANCIS W EITON	22993170	
10.	ELIUD N ALIPEA	20030556	
11.	ERASTUS E LOTULYA	22991104	
12.	EKAI ROBERT MWYA	31241316	
13.	JAMES ETABO EWOI	26236224	



REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:  
The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 6/9/21. County ... NAKURU ..... Venue: ... NAIVASHA .....

	NAME	ID CARD NO	SIGNATURE
1.	Bishop J. M. Mutunga	8309110	<i>[Signature]</i>
2.	Peter Mbiye	11309571	<i>[Signature]</i>
3.	CAROLINE A. Omboti	22839164	<i>[Signature]</i>
4.	TIMOTHY SINDIGA	12788250	<i>[Signature]</i>
5.	JAYCE LIZILANI MUEMA	27313486	<i>[Signature]</i>
6.	Virginia Wairimu Kimani	11188969	<i>[Signature]</i>
7.	Patrick Aben Nyabicha	13623526	<i>[Signature]</i>
8.	Francis AMBURU	13300670	<i>[Signature]</i>
9.	MARY NYANCHAMA	27752445	<i>[Signature]</i>
10.	HENRY NYABUTO	11356849	<i>[Signature]</i>
11.	DAVID MUGASA	5750708	<i>[Signature]</i>
12.	Peter Njuguna K	0237383	<i>[Signature]</i>
13.	JOSEPH N MWARUA	6846328	<i>[Signature]</i>

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:  
The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 6/9/21 County ..... NAIROBI ..... Venue: NAIROBI .....

	NAME	ID CARD NO	SIGNATURE
1.	Roaneg Mugwo Gachoni	88718838	
2.	Denis Kamau Gitara	31894982	
3.	KELVIN KAMU MUGUNA	36352054	
4.	ENALYNE KARAMBU	29044894	
5.	ERASTIUS MWANGI MUTURI	22194391	
6.	Charles O. Kasuku	21703278	
7.	KAHURA JOSEPH	22138100	
8.	BIBAN MWANGI	10507696	
9.	Silas Wanjala	24276375	
10.	Absalom Mukimusy	21836173	
11.	Naureen Ngaa'si	27002247	
12.	MARY MUTUNGA MUTISO	11647294	
13.	Sambu Chris	24308166	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 7/9/21. County: NYANDARUA..... Venue: ENGINEER (NYANDARUA COUNTY)

	NAME	ID CARD NO	SIGNATURE
1.	NOAH TONY KIBET	2029484	
2.	DAVID MUCHERU MUGHA	22651261	
3.	JOHN KURIA KIIRU	13210863	
4.	JOHN NJIHA MBAIA	9813250	
5.	PETER MACHARIA NGICHU	11435424	
6.	DANIEL MWANGI NJOROGE	0607794	
7.	RASE WAMBUI MUGAMBI	3681238	
8.	DAMES NJIHA KURIA	11206386	
9.	<del>SAMUEL KIRURU</del>	2957379	
10.	MICHAEL KIRERU KINGORI	2957430	
11.	BENSON NJUGUNA NGANGA	20327384	
12.	DAVID GIETHA MWANGI	5776406	
13.	FRANKS MAINA KIERI	25614339	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:  
The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 7/9/21. County: NYANDARUA..... Venue: ENGINEER.....

	NAME	ID CARD NO	SIGNATURE
1.	MWANGI WAMBUU	22502027	MAD
2.	Walter Mwangi	10709049	
3.	Peter Mwangi	11267225	
4.	THOMAS KURIA	20095896	TH.
5.	Philip Mwangi	13130021	
6.	Murari Hagegi	22751333	
7.	Mwangi Wambui	13128138	
8.	JOHN CHEGE	2008892	John
9.	PETER MURIGI	22937630	
10.	ANN KAMUNYU	24772659	
11.	MARGARET NTHAMBIKA	26197507	
12.	Manyan Mwathi	31867601	
13.	Kevin Wambui	22836339	

Machakos & Makueni Counties  
REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

1. The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 20/8/20 County ... Machakos Venue: ... Town Stadium

	NAME	ID CARD NO	SIGNATURE
1.	JOSEPH NZUSUO KIILU	11039492	<i>[Signature]</i>
2.	DANIEL MURRAY	2992006	<i>[Signature]</i>
3.	BENEDETA KIVINYA	26977588	<i>[Signature]</i>
4.	GRACE M. MALUVU	5762494	<i>[Signature]</i>
5.	Julius Kyalo	12537890	<i>[Signature]</i>
6.	Justus Kimbu	1162586	<i>[Signature]</i>
7.	FATH MOSES	24327166	<i>[Signature]</i>
8.	Joseph Kioko	23401938	<i>[Signature]</i>
9.	Ruth Nditu	9936044	<i>[Signature]</i>
10.	Prof James Kyalo	20115159	<i>[Signature]</i>
11.	REV. STEPHEN NATHANIA	9344513	<i>[Signature]</i>
12.	Jacob M. Wambua	2994338	<i>[Signature]</i>
13.	MORRIS MUNDIAO JOHN	12722421	<i>[Signature]</i>

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

1. The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 20/8/2021 County ... Machakos Venue: Stadium

	NAME	ID CARD NO	SIGNATURE
1.	John Mwaniki	3194352	
2.	ABDI JUMBA	2318639	
3.	IMAM ANAS AZ. ABDI AZHAR	12960969	
4.	Fauza Muri	21639867	
5.	MULI MUTISO	7407217	
6.	PATRICK MESTOKA KUKWAK	1325121	
7.	BIIME HAMISI	0536766	
8.	SAFIA S.M KITHUKU	0534933	
9.	Agenia W. Kaburu	02162969	
10.	THOMAS M. MUTISO	8383846	
11.	ALEX NDAMBURI	13422605	
12.	CAROLINE-N. STEPHEN	14430394	
13.	GRACE MULLANDI	4416316	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

1. The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 20/8/2021 County Madakos Venue: Stadium

	NAME	ID CARD NO	SIGNATURE
1.	Dr. Edward Ndinga	10968268	
2.	Bishop Dr. Nicholas Muli	8833622	
3.	GOSHUA M. KARANJA	7272016	
4.	HARIRUDCE M. MUMYAD	22134730	
5.	PATRICIA K OTHIROK	25246564	
6.	JOSEPH NZAU MUTUNGA	22607022	
7.	ELIZABETH K. MWANGANGI	11725539	
8.	JOYCE NI MUEMA	10288939	
9.	ANGELA H DAVID	14471619	
10.	KEVIN KITUSA NZYOKI	36986677	
11.	CALEB GICHANGO MURIGI	36896663	
12.	EUGENE MAMBO KIEO	38173449	
13.	DOMINIC M. ADINO	9345190	

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

1. The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 21/8/21 County ... MARDENI ... Venue: ... NOTE SOCIAL HALL

	NAME	ID CARD NO	SIGNATURE
1.	URBANUS KIROKO	20056746	
2.	JUSTINA N. MUVEVA	3152507	
3.	Joseph K. Kivasa	6418434	
4.	BENEDICT M. KATISHI	2994209	
5.	RAPHAZZ M. KAVUTHA	2994122	
6.	FRANCIS KILONZO	271291991	
7.	JOHN NDUNDA MUSILA	2993009	
8.	John Kikuyu Musyimi	2992122	
9.	BENSON KYULI	1464658	
10.	JAMES W. MUTIE	5091190	
11.	CHARLES K. MAINGI	9344733	
12.	MICHAEL M. MBIITHI	1083654	
13.	JOSEPH KIROKO	13616945	



REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

1. The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 21/8/2021 County ... Makueni ... Venue: Wote Social Hall

	NAME	ID CARD NO	SIGNATURE
1.	STANLEY K. MWANZA	16042523	<i>[Signature]</i>
2.	<del>PAUL</del> MARTIN M. KUNYA	11404930	<i>[Signature]</i>
3.	AUGUSTIN N. MURWA	11053343	<i>[Signature]</i>
4.	NAONGA NAONYE	1327119	<i>[Signature]</i>
5.	ALICE N. MUSA	8966815	<i>[Signature]</i>
6.	PAULINE H. KILONZO	1851568	<i>[Signature]</i>
7.	SALOME K. MUSYOKI	11811615	<i>[Signature]</i>
8.	JOSEPH MUTANA KYEENE	2229872	<i>[Signature]</i>
9.	DOMINIC MUTINDA KIKUVI	9783934	<i>[Signature]</i>
10.	Daniel Musembi Kilonzi	33219178	<i>[Signature]</i>
11.	Jeremich M. Mbatia	10819239	<i>[Signature]</i>
12.	JOSEPH M. WAMBUA	11939535	<i>[Signature]</i>
13.	ROSEPHELA MAINGI	7797833	<i>[Signature]</i>

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 20/9/21 County: Nairobi City Venue: Charter Hall, City Hall

	NAME	ID CARD NO	SIGNATURE
1.	Njoroge Waweru		[Signature]
2.	JANE O. OSORE	6092391	[Signature]
3.	PEMINAH KARUGA	0844365	[Signature]
4.	MARGAET WANJIRU	3577537 <del>3577357</del>	MW 2
5.	JACOB DKUMU	20045161	[Signature]
6.	Munira Ambayi	26052026	[Signature]
7.	THOMAS K. MAINA	21183941	[Signature]
8.	JOEL N. MWANDELI	7544557	[Signature]
9.	MAINA CATIHO	7869108	[Signature]
10.	DAVID AGEESA	12674016	[Signature]
11.	KISITO OYUKI NYANSONG	23806243	[Signature]
12.	JAMES MAINA KIBUYI	10962119	[Signature]
13.	JOSEPH MUKANIKI	2302991	[Signature]

	NAME	ID CARD NO	SIGNATURE
1.	MOHAMED SOMBA	05050061	<del>MS</del>
2.	NAVIA KARIE	12522824	Rini
3.	BRAMUEL AMATA	6503512	Austorek
4.	DANIEL OWINDO	23656399	ID
5.	KEVIN ONGWANO	23934041	<del>W</del>
6.	MBOYA MARCHAEC	33020444	N
7.	Brian Shem	26878958	<del>B</del>
8.	WYCLIFFE ODERO	31044037	<del>W</del>
9.	STEVEY OCHIENG	24862924	<del>S</del>
10.	Paul Wakomo	21981959	<del>P</del>
11.	ROBERT MWANGI	13540442	<del>R</del>
12.	MILLICENT AUMOR	21115339	<del>M</del>
13.	RUTH MUGHI KIRO	25114550	Ruth
14.	ELLY OTIENO	25059572	Elly
15.	RECHMOND SORUIT	20060578	<del>R</del>
16.	Joseph Omondo	28373243	<del>J</del>
17.	Bish. Sammy IMBUKA	10027623	<del>S</del>

Name: E. Libendo  
 Committee Clerk

Signature: [Signature]

REPUBLIC OF KENYA



TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

PUBLIC HEARINGS ON CONSIDERATION OF:

The Constitution of Kenya (Amendment) Bill, (No. 40) of 2020

Date: 20/9/21 County Nairobi City Venue: Charter Hall, City Hall

	NAME	ID CARD NO	SIGNATURE
1.	CHARLES OKUMU	13577118	
2.	Edward Pioke Makori	22952963	
3.	ISMAILWALE E. SHUHAMA	22677616	
4.	MOSES MWANGI K.	29320910	
5.	ESTHER KAMAU	9332528	
6.	JOSEPH C. OGUETA	7094492	
7.	MOSES OCHANDA	0360119	
8.	JULIUS OLEWERO	25502753	
9.	LILIAN A. AROO	25403507	
10.	ONESIMUS MUSGI	7954517	
11.	GEOFFREY OWINO	14665609	
12.	ANNE KARIMI	12989719	
13.	MOSES MAKEGE	7895594	

	NAME	ID CARD NO	SIGNATURE
1.	Jedidah Wanjiru	0326683	Jedidah
2.	Jane Wanjiru	0723312747	Jane
3.	FREDRICK KARANI	0722659771	Fredrick
4.	Agala Caxton	21851590	Agala
5.	John Onono	070353439	John
6.	<del>Hon Catherine Wbitianga</del>		
7.	George Okonji.	3327473	Okonji.
8.	JAMES M. KAMAU	7571927	James M. Kamau
9.	ANN NJOKI	22019700	Ann Njoki
10.	Lydia Ndinda	30937367	Lydia
11.	ALI MOHAMMED	3354899	Ali Mohamed
12.	JUMA SAID	32241951	Juma Said
13.	Francis Mwangi	11290652	Francis Mwangi
14.	VINCENT OCHIENG	22132116	Vincent Ochieng
15.			
16.			
17.			

Name:.....  
Committee Clerk

Signature .....

③ Guesen  
 Please note  
 FM  
 13/9/21

② LIBENSI  
 Please deal  
 FM  
 13/9/21



REPUBLIC OF KENYA  
 OFFICE OF THE ATTORNEY-GENERAL  
 &  
 DEPARTMENT OF JUSTICE

Our Ref: AG/LDD/11/01/1/92  
 Your Ref: KNA/DAA&OSC/CIOC/2021(24)

10<sup>th</sup> September, 2021

The Clerk of the National Assembly  
 Clerk's Chambers  
 Parliament Buildings  
 P.O. Box 41842-00100  
 NAIROBI

① D/AA SC  
 Please deal  
 FM  
 10/09/21

RE: SUBMISSIONS ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL  
 (NATIONAL ASSEMBLY BILL NO. 40 OF 2020)

This has reference to your letter dated the 18<sup>th</sup> August, 2021, under Ref. KNA/DAA&OSC/CIOC/2021(24) regarding the request for submission on the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 40 of 2020), which is currently before the National Assembly's Constitutional Implementation Oversight Committee.

Having reviewed the proposed Bill, we make our submissions as hereunder:

Provision in the Bill	Stakeholder proposal	Rationale
2. Amendment of Article 152 of the Constitution.	The proposed amendment should be approved at a referendum.	The proposed deletion and replacement of clause (3) of Article 152 of the Constitution, to provide that the President shall appoint Cabinet Secretaries from among members of Parliament, shall affect the oversight functions of Parliament under Articles 95 (5) and 96 (4) in respect of the President, Deputy President, State officers (including Cabinet Secretaries) and State organs, and, consequently, falls under the ambit of Article 255 (1) (h).
3. Amendment	The proposed	The proposed insert on a new clause (2A) in

SHERA HOUSE, KARAMBEE AVENUE  
 P.O. BOX 60100, NAIROBI, KENYA. TEL: +254 20 2227461/2351355/0719445665/0722329995  
 E-MAIL: info.state.law.offices@kenya.go.ke WEBSITE: www.attorney-general.go.ke

THE NATIONAL ASSEMBLY  
 RECEIVED  
 13 SEP 2021  
 DIRECTOR  
 AUDIT / APPROPRIATIONS / SELECT COMMITTEES

DEPARTMENT OF JUSTICE  
 CO-OPERATIVE BANK HOUSE, HAILLE SELASSIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Number 2224027, 2240237  
 E-MAIL: legal@justice.go.ke WEBSITE: www.justice.go.ke

RECEIVED  
 10 SEP 2021  
 DEPUTY CLERK  
 P.O. BOX 41842 - 00100, NAIROBI

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# KENYA LAW REFORM COMMISSION



"A Vibrant Agency for Responsive Law Reform"

Telegrams: "LAWREFORM" NAIROBI  
 Telephone: Nairobi, +254-20-2241186/2241201  
 Fax: +254-20-2225786  
 www.info@klrc.go.ke

When replying please quote

Ref. No. KLRC/RES/45  
 and Date



KENYA LAW REFORM COMMISSION  
 REINSURANCE PLAZA  
 3RD FLOOR  
 TAIFA ROAD  
 P.O. Box 34999-00100  
 NAIROBI, KENYA

30<sup>th</sup> August, 2021



*① D/DC 1/9/21*

*② LIBENPI*

*Please deal from 01/2/91*

**Mr. Michael R. Sialai, EBS**  
 Clerk of the National Assembly  
 Clerk's Chambers  
 National Assembly  
 NAIROBI

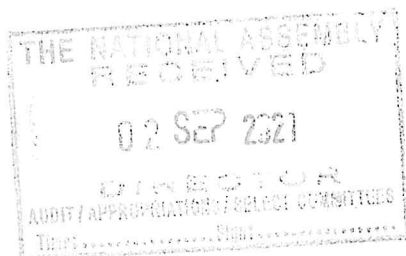
Dear *Michael,*

**RE: SUBMISSIONS ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL 2020, (NATIONAL ASSEMBLY BILL NO.40 OF 2020)**

Your letter Ref. KNA/DAA&OSC/CIOC/2021(24) dated 18<sup>th</sup> August, 2021 refers.

The Kenya Law Reform Commission has studied the proposals in the Constitutional Amendment Bill and submits the following memorandum to the Constitutional Implementation Oversight Committee (CIOC):

PROVISION IN THE BILL	STAKEHOLDER PROPOSAL	RATIONALE
1. Amendment of Article 152 of the Constitution by deleting Clause (3) and substituting therefor a Clause to the effect that the President shall appoint Cabinet Secretaries from among Members of Parliament.	1.1 This amendment would effectively transform Kenya from a Presidential to Parliamentary democracy and there is therefore a need for a clear policy direction on how to align all aspects relating to the Presidential system including the clear division of	1.2 Whereas there is no one right way of organizing government, most democracies adopt either a Presidential or Parliamentary system (either purely as in the USA and UK respectively, or a varied mix as in France). • In pure Presidential



all the things done by or under the authority of the President in the execution of his office.	democracy.	accountable to Parliament.
4. Amendment of Article 156 (4) of the Constitution by inserting a new paragraph to the effect that the Attorney-General may perform the functions of a Cabinet Secretary as assigned by the President.	<ul style="list-style-type: none"> <li>• See proposal under No. 2 above</li> </ul>	<ul style="list-style-type: none"> <li>• See rationale under No. 2 above</li> </ul>
5. Amendment of Article 179 (2) of the Constitution by deleting paragraph (b) and substituting therefor a new paragraph to the effect that members of the county executive committee shall be appointed from among members of the county assembly.	<ul style="list-style-type: none"> <li>• See proposals for national level Cabinet under 1, above.</li> <li>• Experience has shown that the level of qualifications of members of county assemblies are lower than those hitherto held by members of the county executive committee who are professionals. This might occasion capacity challenges in the discharges of functions at the devolved level.</li> </ul>	<ul style="list-style-type: none"> <li>• It is rational to harmonize the features of Cabinet at the two levels of governance, subject to the concerns pointed out.</li> </ul>
6. Amendment of Article 179 of the Constitution by inserting a new Clause requiring county executive committee members to act in accordance with the Constitution and to provide the assembly with full and regular reports concerning matter under their control.	<ul style="list-style-type: none"> <li>• This amendment is not necessary since it emphasizes what is apparent.</li> <li>•</li> </ul>	<ul style="list-style-type: none"> <li>• An equivalent of what is proposed under Article 153 of making the county executive committee to be accountable to the county assembly would suffice.</li> </ul>





# NATIONAL COUNCIL OF CHURCHES OF KENYA

Jumuia Place, Lenana Road, P. O. Box 45009 - 00100 GPO Nairobi [Tel: +254 20 2721249, 2690814 /10/11,  
0721-388277; 0714 606971/34, 0733758736 E-mail: gsoffice@nccck.org | Website: www.nccck.org

*GENERAL SECRETARIAT*

## **MEMORANDUM BY THE NATIONAL COUNCIL OF CHURCHES OF KENYA TO THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE (CIOC) OF THE NATIONAL ASSEMBLY ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL 2020**

**SEPTEMBER 2021**

Michael R Sialai, CBS  
Clerk of the National Assembly  
P. O. Box 41842, 00100  
NAIROBI

### **1. Preamble**

The National Council of Churches of Kenya (NCCCK) is a committed promoter of constitutionalism and the rule of law, and has been a lead actor in this sector for more than 100 years. Besides fighting for the rights of workers and conscription of boys, the NCCCK in the early days was a key driver in the formulation of the Devonshire White Paper. In the leadup to independence, the NCCCK made contribution to and supported the drafting of the Constitution. From the early 1980s, the NCCCK strongly championed for constitutional review when few other institutions could voice the interests of the citizens. Upon promulgation of the Constitution of Kenya 2010, the NCCCK alongside other faith institutions committed to support its implementation and to continue advocating for good governance, peace and cohesion in the country.

The NCCCK therefore appreciates the role of the Legislature (National Assembly, Senate and County Assemblies) in formulating and enacting legislation that promote justice and constitutionalism. We are therefore pleased to submit our views through this Memorandum on the Constitution of Kenya (Amendment) Bill 2020.

ways has the implementation of the Constitution of Kenya 2010 been impeded by lack of these provisions? The NCKK recommends that this Committee expounds to Kenyans the role that the proposed amendments will play in attainment of letter and intent of the Constitution of Kenya 2010.

This is essential in view of the fact that the proposed amendments will require to be presented to Kenyans in a referendum.

#### **4. Relationship to the BBI Amendment Bill**

The NCKK has noted that appointment of Cabinet Secretaries and County Executive Committee members from Parliament and County Assemblies respectively were part of the proposals made in the Constitution of Kenya (Amendment) Bill 2020 that was developed through the Building Bridges Initiative process.

Through the ruling made on August 20, 2021, the Court of Appeal affirmed the decision of the High Court which enjoined presentation of the Bill in a referendum.

The NCKK strongly recommends against piecemeal constitution amendment proposals that are seemingly aimed at side-stepping the Court of Appeal ruling.

#### **5. Need to Focus on Elections 2022**

The NCKK appreciates that Kenya is a mere 10 months away from the next constitutionally scheduled elections, which should happen on August 9, 2022. Historically, elections in Kenya are intensely engaging at emotional, financial and ethno-social levels. They are often characterized by high levels of anxiety and tension, often demanding full attention of all actors.

It is for this reason that the Executive Committee of the NCKK on June 11, 2021 urged the promoters of the Building Bridges Initiative to postpone the proposed constitution review process to until after the 2022 General Elections. The postponement would accord all Kenyans adequate time and understanding to effectively participate in the process.

The NCKK makes the same strong recommendation to this Committee, that discussions on amendment of the Constitution be postponed and be engaged in after the 2022 General Elections. This is the moral, just and responsible option especially in a situation where the proposed amendments will require that a referendum is held.

We indeed request this Committee, and Parliament by extension, to suspend this particular amendment, and other Bills seeking amendment of the Constitution, for the time being. Full attention should be put on implementation of Article 81 of the

## **NCKK MEMBER CHURCHES**

1. Africa Brotherhood Church
2. African Christian Churches and Schools
3. African Church of the Holy Spirit
4. African Independent Pentecostal Church of Africa
5. African Interior Church
6. African Israel Niveneh Church
7. African Orthodox Church of Kenya
8. Anglican Church of Kenya
9. Church of Africa Sinai Mission
10. Church of Christ in Africa
11. Church of God East Africa
12. Coptic Orthodox Church
13. Episcopal Church of Africa
14. Evangelical Lutheran Church of Kenya
15. Free Methodist Church in Kenya
16. Free Pentecostal Fellowship in Kenya
17. Friends Church in Kenya
18. Full Gospel Churches of Kenya
19. Kenya Assemblies of God
20. Kenya Evangelical Lutheran Church
21. Kenya Mennonite Church
22. Lyahuka Church of East Africa
23. Maranatha Faith Assemblies
24. Methodist Church in Kenya
25. National Independent Church of Africa
26. Overcoming Faith Center Church of Kenya
27. Pentecostal Evangelical Fellowship of Africa
28. Presbyterian Church of East Africa
29. Reformed Church of East Africa
30. Salvation Army
31. Scriptural Holiness Mission
32. Zion Harvest Mission

## **NCKK ASSOCIATE MEMBERS**

1. Bible Society of Kenya
2. Christian Churches Education Association
3. Christian Health Association of Kenya
4. Christian Hostels Fellowship
5. Fellowship of Christian Unions
6. Kenya Ecumenical Church Loan Fund
7. Kenya Students Christian Fellowship



Received in Machakos  
on Friday, 20th  
August, 2021

The office of the Chairman,  
Evangelical Alliance of Kenya  
Machakos County  
P.O. Box 452 - 00204,  
+ 254 734 559 599  
[www.eakenya.org](http://www.eakenya.org),  
[bishopmulli@gmail.com](mailto:bishopmulli@gmail.com)

20.08.2021

The chairman

Constitutional Implementation oversight committee

Re: National Amendment bill no.40 -2020

### Cabinet Secretaries

We hereby propose that cabinet secretaries be appointed by Mr. President from the National assembly.

- 1.This is because Member of parliament are elected by the community and have heart beat of the community,
- 2.It will be saving kenya economy

### County Executive officer

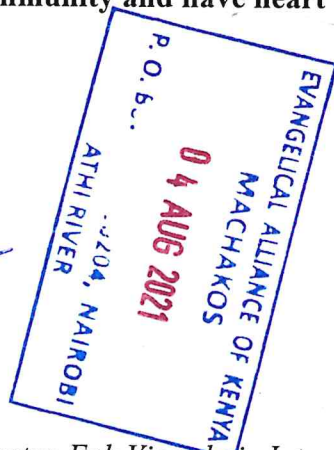
We here by propose that the Governor be appointing county executives from the county assembly

- 1.This is because Mcas are elected by the community and have heart beat of the community,
- 2.It will be saving county Finances

Yours in His exciting Service

**Bishop Dr.Nicholas Mulli**

(Chairman-Eak mks county,National board director-Eak,Vice chair-Intereligious council of kenya-mks county,General Oversser-Champions of Christ Chrch International)





**OFFICE OF THE PRESIDENT  
MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL  
GOVERNMENT  
STATE DEPARTMENT FOR INTERIOR AND CITIZEN SERVICES**

Telephone: 21009 and 21983 - 90100  
Email Address: [cc.machakos@interior.go.ke](mailto:cc.machakos@interior.go.ke)

Fax No. 044-21999

When replying please quote:

REF: CC/L&O/SF/3/19/VOL.1/4

DATE: 19<sup>th</sup> August, 2021

**OFFICE OF THE COUNTY COMMISSIONER  
P. O. Box 1-90100  
MACHAKOS**

- E.A.K  
MACHAKOS COUNTY
- Inter Religious Council Of Kenya  
MACHAKOS COUNTY

**RE: RE: PUBLIC HEARINGS ON THE CONSTITUTION OF KENYA  
(AMENDMENT) BILL, (NATIONAL ASSEMBLY BILL NO.40) 2020 IN  
MACHAKOS COUNTY ON FRIDAY 20TH AUGUST 2021**

Appended below please find a letter from the National Assembly dated 12<sup>th</sup> August 2021 on the above subject.

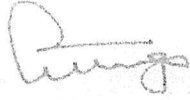
*"The Constitutional Implementation Oversight Committee is a Select Committee of the National Assembly established under section 4 of the Sixth Schedule to the Constitution of Kenya, 2010 and is mandated with overseeing the implementation of the Constitution and considering impediments, if any, to the process of constitutional implementation.*

*The Committee is scheduled to conduct public hearings on the Constitution of Kenya (Amendment) Bill, (National Assembly Bill No.40 of 2020) in Machakos County on Friday, 20th August, 2021 at the Youth Centre.*

*The Constitution of Kenya (Amendment) Bill, (National Assembly Bill No.40 of 2020) seeks to amend the Constitution of Kenya in order to allow the President to appoint Cabinet Secretaries from among Members of Parliament and to allow the President to assign the Attorney-General duties of a Cabinet Secretary. The Bill further seeks to amend the Constitution to allow County Governors to appoint Members of the County Executive Committee from among Members of the County Assembly.*

*The purpose of this letter is to kindly invite you for the said public hearing. More over you are encourage to come with written memoranda to present during the hearing to avoid gathering for long hours."*

Thank you for your continued support.

A handwritten signature in dark ink, appearing to read 'J. O. Ondego', written in a cursive style.

J. O. ONDEGO  
COUNTY COMMISSIONER  
MACHAKOS COUNTY



**TURKANA BIO-ALOE ORGANIZATION  
(TUBAE)**

**P.O. BOX 409-30500 LODWAR,**

E-mail: [info@tubaeturkanapeople.org](mailto:info@tubaeturkanapeople.org) / Website:

[www.tubaeturkanapeople.org](http://www.tubaeturkanapeople.org) Twitter: @tubaeturkanapeople

Facebook: Tubaeturkanapeople YouTube:

[Info@tubaeturkanapeople.org](mailto:Info@tubaeturkanapeople.org)

**Telephone no. 0729 153 352 /0798 992 528 /0772 521 900**

*"Premier organization promoting human rights and social accountability for sustainable society."*

**Date: 31<sup>st</sup> August, 2021**

To: **National Assembly of the Republic of Kenya,**

C/O The Clerk,

Kenya National Assembly,

Parliament Buildings,

P.O. Box 41842-00100,

Nairobi.

**RE: MEMORANDUM TO PARLIAMENT UNDER ARTICLES 119 & 37 OF THE CONSTITUTION; PARLIAMENT (PROCEDURE) ACT OF 2012; AND STANDING ORDERS NO 219& 223 OF THE NATIONAL ASSEMBLY ON CoK 2010 ARTICLE 255-257 AMENDMENTS TO THE KENYA CONSTITUTION 2010.**

**TUBAE is community initiative runned** by citizens of Kenya based in Turkana County, representing the Small Scale Farmers; Grassroots CSOs on Good Governance and Human Rights, working towards realization and respect to **Article 43** of CoK 2010 **"Economic and Social Rights"** and entire Chapter 4, 6 and Preamble of our CoK 2010. We wish to state that it is in the public interest we lodge this MoU at time when our constitution is facing resistance of amendment and more so lack of political goodwill to realization of its goodies.

**We draw the attention of the House to the following:**

Contextual Background of Kenya's **Constitutional Journey: Taking Stock** of its gains and challenges \*

RE: MEMORANDUM TO PARLIAMENT UNDER ARTICLES 119 & 37 OF THE CONSTITUTION; PARLIAMENT (PROCEDURE) ACT OF 2012; AND STANDING ORDERS NO 219& 223 OF THE NATIONAL ASSEMBLY ON CoK 2010 ARTICLE 255-257 AMENDMENTS TO THE KENYA CONSTITUTION 2010.



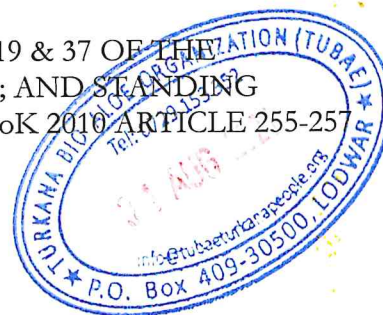
## A. Historical Overview and Background

Kenya being a former British colony that attained internal self- rule on 1<sup>st</sup> June, 1963 following negotiations between Kenyan leaders and the then British colonial government at Lancaster House. Negotiations had taken place for a period of three years, between 1960 and 1963, with Kenyan representatives being drawn from the two major political parties then, the Kenya African national Union (KANU) and the Kenya African Democratic Union (KADU). Full independence was achieved on 12<sup>th</sup> December, 1963. Since independence, Kenya has had three constitutions namely; the Independence Constitution, the 1964 Constitution and the 2010 Constitution, which is currently in force. **At independence, the parliamentary structure was bi-cameral, with checks and balances over executive power. The independence constitution was well crafted and fitted with safeguards, checks and balances that fully embraced democracy, rule of law and the concept of separation of powers.** Outstanding features of this constitution included; **the distribution of power between the centre and the regions arising from the creation of a semi-federal system of government, a bi-cameral parliament consisting of a fully elected House of Representatives and a Senate, clear provisions separating power between the three arms of government, provisions allowing political pluralism, a judiciary that was fully competent and independent and provisions regarding the Bill of Rights.**

Ideological differences on how the country should be run began to emerge, and so in 1964, Kenya began the dangerous path that corroded the very principles the independence constitution stood for. The path that tore the concept of democracy to pieces through 38 hasty, self-propagating amendments aimed almost solely at centralizing and consolidating power in the executive. So drastic and numerous were these amendments that the independence constitution completely lost its identity and became known, for over 40 years, as the 1964 constitution. **The first amendment in 1964 repealed the position of Prime Minister and created the office of the Executive President who became Head of State,** replacing the Queen and Head of Government, in place of the Prime Minister. This was the first in a series of amendments that led to the concentration of power in the Presidency. KADU dissolved and merged with KANU and Kenya became a *de facto* one party state. Concentrating power in the executive gave the **President power to appoint the Cabinet without consultation or parliamentary approval. It also gave him the power to appoint the Chief Justice,<sup>2</sup> Judges as well as the Attorney General<sup>3</sup> (who held office at his pleasure).** Puisne judges were appointed on the recommendation of the Judicial Service Commission, whose members comprised of purely presidential appointees.<sup>4</sup> To further compound the issue, it was the responsibility of the President to appoint the chairperson and other commissioners to the Electoral Commission.<sup>5</sup>

**The Constitution of Kenya Amendment Act (Act No 7 of 1982) was enacted in June 1982 and it introduced the notorious Section 2A which turned Kenya into a *de jure* one party state.** Barely two months later in August a section of the military attempted to overthrow the government by staging a coup d'etat. **The years following the coup up until 1991 were characterized by government crackdowns on political 'dissidents', political assassinations, detention and torture of activists crusading for constitutional reform, as well as the flight of pro-reform academics, students and politicians.**

RE: MEMORANDUM TO PARLIAMENT UNDER ARTICLES 119 & 37 OF THE CONSTITUTION; PARLIAMENT (PROCEDURE) ACT OF 2012; AND STANDING ORDERS NO 219& 223 OF THE NATIONAL ASSEMBLY ON CoK 2010 ARTICLE 255-257 AMENDMENTS TO THE KENYA CONSTITUTION 2010.





## B. The Clamour for Constitutional Reform

The year 1991 saw the beginning of the Clamour for constitutional reform. Violent demonstrations, protests, mass action and public rallies fired up the reform wave in the country. Parliamentary parties and civil societies formed forums to agitate constitutional change. It was in the same year that the single-party constitutional rule was repealed. 1992 witnessed the first multi-party elections being conducted even though power did not change hands. There was also the formation of the National Convention Assembly which was formed to lobby for comprehensive constitutional reform in Kenya.

In 1994 the agitation heightened under the auspices of the Citizens Coalition for Constitutional Change Movement. **The Constitution of Kenya Review Commission (CKRC) Act was passed in 1997, and later amended in 1998 to create a more people-driven review process.** The CKRC began collecting the views of Kenyans in the year 2000, an exercise that lasted almost two years. It delivered the first draft constitution in 2004 referred to as the Bomas Draft. The government rejected it and instead prepared another draft constitution (the Wako draft, named after the then Attorney General) in 2005. It greatly watered down the Bomas draft. The people rejected it in a referendum in 2005 times of BANANA (Ndizi) and ORANGE (Chunga).

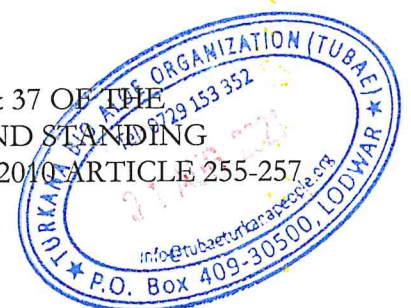
Following the near-collapse of the state in 2007 due to an extremely flawed electoral process, it was agreed that constitutional reform was a long-pending issue that needed to be dealt with conclusively. In 2008, Parliament enacted the Constitution of Kenya (Amendment Act) 2008 and the Constitution of Kenya Review Act 2008, the latter of which established a Committee of Experts (COE) to oversee drafting of a new constitution. This was delivered in 2010. Even after inauguration of 2010 constitution preceding elections followed same trends lead to handshake.

### Highlights of the 2010 Constitution

The 2010 Constitution was approved by more than 67% of the population through a referendum conducted the same year. It was officially promulgated on the 27<sup>th</sup> August, 2010. Why over 67%?

1. Devolved government with 47 Counties,
2. a bi-cameral Parliament with the National Assembly and Senate comprising elected and nominated members,
3. Political pluralism with guidelines for political parties and provisions for democratic space,
4. Clear separation of powers; independent judicial appointments vetted by an independent Judicial Service Commission and Parliament,
5. Revised electoral procedures and redress mechanisms in case of electoral disputes,
6. An Independent Electoral and Boundaries Commission approved by Parliament,
7. A comprehensive and modern Bill of Rights covering first to third generation rights,
8. Monism, which recognizes international instruments that Kenya has ratified as sources of law,
9. Provisions on public finance and sharing/devolution of resources and
10. Provisions on leadership and integrity.

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#### D. Taking Stock: Where Are We?

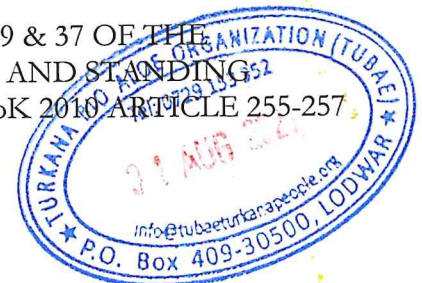
Kenya was classified a middle-income country after a reassessment of its economy increased by 25.3%. The country therefore becomes Africa's ninth largest economy. This jump in the economy was driven by agriculture, which is the back-bone of the economy. Other factors included the manufacturing and real estate sectors. Kenya has the biggest economy in the East African Community (EAC), the regional economic block comprising Burundi, Kenya, Rwanda, Tanzania and Uganda. Kenya is also a member of the Common Market for East and Southern Africa (COMESA). The Kenyan economy has the largest GDP in Southeast and Central Africa. Kenya has a diverse population with an estimated 42 different communities. The country has a young population, with 73% of residents aged below 30 years because of rapid population growth, from 2.9 million to 40 million inhabitants over the last century.

Adoption of the CoK 2010 constitution brought with it a major paradigm shift in the way the country's administrative and other power was exercised. Though it has been five years since the Constitution became law, the transition process has not been without its shortcomings. Implementation has not been a simplistic progress, but one that has called for enactment of new legislation, alignment of existing legislation with the Constitution, restructuring of government organs and institutions, restructuring to devolution, development of new policies and re-directing old policies and the creation of commissions, institutions and independent bodies. All of these have had teething and prevailing problems.

The hallmark of the transition has been the introduction of devolved government, which has not been altogether a smooth process. It would however be dishonest and perhaps unfair however to classify the transition as bleak or fledgling. If anything, the World Bank recognizes that Kenya's decentralization is among the most rapid and ambitious devolution processes going on in the world, with new governance challenges and opportunities as the country sets up new county governments from scratch. Devolution is indeed a transformative aspect of the Constitution, and it has seen the distribution and transfer of power, responsibilities and resources from central government to local units which are then vested with both functions and decision-making powers. Further, devolution is classified as among the national values and principles of governance that are binding on all state organs, state officers and public officers whenever any of them applies or interprets the Constitution, any law or when they make or implement policy decisions.

According to the Constitution, the objects of the devolution of government are, to promote democratic and accountable exercise of power, to foster national unity by recognizing diversity, to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them, to recognize the right of communities to manage their own affairs and to further their development,<sup>30</sup> to protect and promote the interests and rights of minorities and marginalized communities,<sup>31</sup> to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya,<sup>32</sup> to ensure equitable sharing of national and local resources throughout Kenya,<sup>33</sup> to facilitate the decentralization

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of State organs, their functions and services, from the capital of Kenya,<sup>34</sup> and to enhance checks and balances and the separation of powers.<sup>35</sup>

County governments first came into force following the 2013 election. Setting them up was not an easy process and the major issues that have come up include, resource distribution from central government; resource management at county level, audit reporting procedures and capacity building of county institutions, most notably the County Assemblies. Devolution is also plagued with the problem of regional inequalities and the need to put in place revenue-generating ventures that will enable the counties in some degree to be self-reliant. This necessarily calls for proper technical capacity and fiscal planning skills. Besides financial resources, there is need for human skills with which to identify county development bottlenecks, to transform national policy into local strategies and costed plans, and to implement the same. The principal aim of devolution is to allow public participation. Unfortunately, this has also been a great challenge partly due to insufficient civic education and awareness among members of the public on the elements of devolution, resource sharing and accountable government.

As with all matters governance, there is always a lesson to be learned, and if Kenya was to pick lessons concerning devolution, then the following would be key; -

**First:** That regardless of the motivation behind it, devolution must be undertaken with full understanding of cost implications, implications, risks as well as a good idea of can or cannot work.

**Secondly:** Devolution may not be the answer to all of Kenya's economic growth problems, issues related to equitable distribution of wealth or redressing the ills of the past. If anything, in cases of unequal natural resource allocation, then devolution may only make things worse.

**Third:** It may not be particularly wise to institute devolution units that adhere too closely to ethnic, language or religious lines. The sharing of economic output in a country that is endowed differently in different regions is a critical concern that should not be overlooked, and

**Fourth:** Sharing of revenues should be well thought out and structured take in to consideration the past prolonged years of marginalization and exploitation.

**Legislative framework:** In the policy and legislative framework brought about the establishment of multiple Commissions and independent bodies to exercise functions and mandates necessary to bring into operation different elements of the Constitution. These include the Kenya National Human Rights and Equality Commission (now the National Gender and Equality Commission), the National Land Commission, the Independent Electoral and Boundaries Commission, the Parliamentary Service Commission, the Judicial Service Commission, the Commission on Revenue Allocation, the Public Service Commission, the Salaries and Remuneration Commission, the Teachers Service Commission and the National Police Service Commission.

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**Schedule 5: The most abused by Parliament. Kenyans should blame National Assemblies for failure to adhere to Schedule 5** of the Constitution which gives a five-year timetable for the implementation of specific aspects of the Constitution. The Commission for Implementation of the Constitution (CIC) is established with the mandate to monitor, facilitate and oversee the development of legislation and administrative procedures required to implement the Constitution. The Constitution also establishes the **Constitutional Implementation Oversight Committee (CIOC)**, which is a select committee of parliament responsible for **overseeing the implementation of the Constitution**. These bodies are expected to work with the Kenya Law Reform Commission, Parliament, the Ministry of Justice and the Attorney General's Chambers.

The Commission has been engaged in the monitoring and evaluation of Constitutional implementation at national and county level. Challenges in the overall implementation of the Constitution were identified as being; -

Violation by parliament of the principle of Separation of Powers evidenced by parliamentary interference in the implementation of programs by the Executive and other State Organs,

Passing of legislation without consultation with the Senate, and threatening the constitutional capacity of the Judiciary.

Partial compliance with the requirements of Chapter six of the constitution regarding leadership and integrity,

Persistent and widespread lack of public participation in review and development of policy and legislation, planning and budget formulation,

Delayed service delivery at county level due to delays on formulation and approval of county budgets, Delay in the review and development of priority and legislation by some ministries and

Delay in the implementation of land reforms due to persistent conflict between the national Land Commission and the Ministry of Lands.<sup>41</sup>

**Using Schedule 5 of the Constitution as the yardstick to measure compliance in terms of developing legislation to bring into operation different aspects of the Constitution, it is evident that very good progress has been made in terms of compliance. Based on a total of 57 Articles in the Constitution, different legislative Acts of parliament are at different levels of development or enactment to bring these provisions into operation.**

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**E. Proposed Amendment to CoK 2010:**

CoK 2010	PROPOSAL
Article 10	CoK should embrace Regional and Continental integration in attaining development, prosperity and prosperity for all Kenyans
Article 11	Allow new Economic model based on value creation and provision of equitable opportunities for all the people, promotes industrialization and support SMEs
Article 80	Constitution should provide for the effective and expeditious investigation, prosecution and trial of cases involving leadership. This to empower DCI, DPP and EACC this cases are resolved within 2 years.
Article 82	Legislation should be in place to sanctions Political parties adhere to 2/3 gender rule. Lists of nominated candidates comply with the principle.
Article 87	Electorate disputes. Law exist but need to be strengthened; Amended” Parliament to enact legislation to establish mechanisms for timely settling of electoral disputes; This should also apply to disputes arising from NOMINATION of candidates by a political party
Article 88	Electronic media accepted as one of the means of issuing service through which an election petition can be served
Article 89	Creation of new constituencies: done by IEBC parameters remained population and land mass
Article 90	Special Seats: Both NAs and CAs nomination be drawn from the party Nomination lists on basis of the total votes received not political sycophants/ cronies
Article 140	Supreme court petition period – increased from 14 to 30 days
Article 151	Need to create Premier position and 2 Deputies PM- Coordinate and supervise gvt functions. Nominated by the president
Article 152	Mixed cabinet - MPs and technocrats
Article 153	Establish Deputy Ministers offices to Deputize Cabinet Ministers
Article 154	PS appointed by the president from the list by the Public service commission not direct appointments
Article 157	DPP Qualifications be same as for the appointment as Judge of the court of Appeal
Article 164	Court of Appeal: President of court of appeal to a single 5 yr term.
Article 165	High court : principle judge term be one and 5 years
Article 172	Functions of JSC need for creation of Judiciary Ombudsman office appointed by the president and

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	approved by the senate. Functions Receive and conduct inquiries into complains against judges, registrars, magistrates and other judicial officers; sensitize and promote engagement with public on the role and performance of judiciary, improve transparency 7 accountability; prepare regular reports to JSC and an annual report to parliament.
Article 179	County executives power clarity; County governors has the power to dismiss or reassign their CECMs. also appoint MCAs to Executives 50%
Article 180	Election of county governor and Deputy Governor: in enhancing realization of 2/3 rule the Candidate of the county governor, in nominating a deputy, to consider a person who is not of the same gender.
Article 237	Need to establish youth commission to, among others, promote the implementation of the youth rights.
Article 243	DCI to be made 3 <sup>rd</sup> arm of the National police service
Article 248	Reduce number of commissioners from 9 to 7 addressing recurrent expenditures of commissions and also promoting lean commissions

**HEREFORE**, your humble petitioner Pray that the above proposed amendments be in cooperated in the final documents.



**MR. ELIUD EMER**  
**EXECUTIVE DIRECTOR**



- TUBAE MoU File

RE: MEMORANDUM TO PARLIAMENT UNDER ARTICLES 119 & 37 OF THE CONSTITUTION; PARLIAMENT (PROCEDURE) ACT OF 2012; AND STANDING ORDERS NO 219& 223 OF THE NATIONAL ASSEMBLY ON CoK 2010 ARTICLE 255-257 AMENDMENTS TO THE KENYA CONSTITUTION 2010.

Received at Makueni Social Hall, Wote at 12:30 PM  
VIEWS OF KNUJI - MAKUENI  
FR

**MEMORANDA ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL, NO. 40 OF 2020, PRESENTED TO THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE SITTING AT MAKUENI SOCIAL HALL (WOTE TOWN) – MAKUENI COUNTY ON SATURDAY 21<sup>ST</sup> AUGUST, 2021.**

For good governance separation of powers among the various arms of government, i.e. the Executive, the Judiciary and the Legislature is paramount. Separation of powers is importance as it helps prevent abuse of power by providing checks and balances, it also promotes efficient service delivery while enhancing accountability in governance. Separation of powers promotes transparency and openness in government dealings while at the same time, it ensures that no arm of the government interferes with the other.

To ensure proper separation of powers, Cabinet Secretaries should not be appointed from among Members of parliament and neither should County Executive committee members be appointed from among members of the county assembly.

The constitution of Kenya (2010) should not be changed for the convenience of the political class but should be implemented fully for the benefit of the citizens of the country. We as citizens of the country do not support the Constitution of Kenya (Amendment) Bill (National Assembly Bill No 40 of 2020).

A Legislature in which large numbers of members hold Cabinet Secretary offices is likely to be a pliant legislature. The power to appoint members of the legislature to Cabinet Secretary post gives the head of government president/Governor leverage over the Legislature/County assembly. Supporters can be rewarded, and opponents and critics sidelined. This patronage power may weaken the legislature as a co-equal branch of government and weaken the separation of the powers.

Being a member of a legislature/County assembly is a busy job. In addition to plenary debates and committee work, members have to stay in touch with constituents, interest groups and party activists. They may have to travel a long way between the legislature and their home constituencies.

Being a Cabinet Secretary is also a full-time job. Trying to combine these two roles can lead to even highly competent people being overstretched, and neglecting one or both of these roles.

Having to appoint Cabinet Secretary/Executive Committee members from among MPs/MCAs significantly reduces the pool of available candidates. There may be insufficient members with the right skillset or personal profile. If Cabinet Secretary are appointed from outside the legislature, they may be chosen on the basis of their specialist skills, qualifications and experience—enabling the appointment of 'technocratic' cabinets. Moreover, the ability to draw ministers from outside of parliament may make it easier to ensure balanced geographic, religious, ethnic or gender representation at the ministerial level.

On the basis of the above, we totally reject the amendment bill since it erodes the fundamental benefits of separation of powers in the governance of the country. The clear there be clear separation of roles between the Executive and the Legislature. Politicians should not serve in the Executive, but the appointing authority should seek for technocrats outside Legislature for un biased, accountable and efficient service delivery to the citizenry.



MOU - on The Constitution of Kenya Amendment  
(Bill No. 40 of 2020) presented on Saturday 21<sup>st</sup> August, 2021  
at Makueni Social Hall, Wote.

In view of the above mentioned Bill, I would suggest the President be allowed to appoint his Cabinet Members from both Members of Parliament and outside Parliament. This would create a sense of competition between both sides and improve performance and service delivery. Those appointed should also have qualifications relevant to the duties they are assigned to. On the same note, by allowing the President assign the Attorney General duties of a Cabinet Secretary, I am of the view that would interfere with his performance of the duties given by the constitution and therefore be overbroadened.

As regards amendment of the Constitution to allow Governors to appoint members of the County Assembly, I suggest that should be done to give way for the Governors to carry out that exercise smoothly. Once members of the County Executive Committee are appointed from among Members of County Assembly they would be more conversant with the problems facing their electorate hence work hard.

By Joseph K. Kiwasu

Manager, Kiatine Village,  
Unoa Sub-Location.  
Contact: 0711345948

Received ~~At~~ Makueni Social Hall  
Wote at 12:30 PM.

*[Signature]*