

REPUBLIC OF KENYA



PARLIAMENT

THE SENATE

ELEVENTH PARLIAMENT

THE STANDING COMMITTEE

ON

LEGAL AFFAIRS AND HUMAN RIGHTS

A REPORT ON PUBLIC HEARINGS HELD ON 9<sup>TH</sup> & 10<sup>TH</sup> APRIL, 2014 ON:-

1. The Political Parties (Amendment) Bill, 2014
2. The County Government Amendment Bill, 2014
3. The County Government (Amendment) (No.2) Bill, 2014
4. The Statute Law Miscellaneous (Amendments) Bill, 2014

Clerk's Chambers,  
First Floor,  
K.I.C.C Buildings,  
**NAIROBI.**

APRIL, 2014

PAPER LAID  
BY SEN. WAKO

19.06.2014

THE SENATE  
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# TABLE OF CONTENTS

ABBREVIATIONS.....	3
PREFACE.....	4
EXECUTIVE SUMMARY.....	7
<b>CHAPTER 1: INTRODUCTION.....</b>	<b>8</b>
1.1 The Political Parties (Amendment) Bill, 2014.....	8
1.2 The County Government Amendment Bill, 2014.....	9
1.3 The County Government (Amendment) (No.2)Bill, 2014.....	9
1.4 The Statute Law Miscellaneous (Amendments) Bill, 2014.....	10
<b>CHAPTER 2: SUBMISSIONS FROM INSTITUTIONS.....</b>	<b>12</b>
2.1 The Political Parties (Amendment) Bill, 2014.....	12
2.2 The County Government Amendment Bill, 2014.....	15
2.3 The County Government (Amendment) (No.2)Bill, 2014.....	16
2.4 The Statute Law Miscellaneous (Amendments) Bill, 2014.....	17
<b>CHAPTER 3: SUBMISSIONS OF MEMBERS OF THE PUBLIC.....</b>	<b>18</b>
<b>CHAPTER 4: SUMMARY OF FINDINGS .....</b>	<b>22</b>
4.1 The Political Parties (Amendment) Bill, 2014.....	22
4.2 The County Government Amendment Bill, 2014.....	24
4.3 The County Government (Amendment) (No.2)Bill, 2014.....	25
4.4 The Statute Law Miscellaneous (Amendments) Bill, 2014.....	25
<b>CHAPTER 5: RECOMMENDATIONS .....</b>	<b>26</b>
Appendices	

## **ABBREVIATIONS**

CIC	Commission for Implementation of the Constitution
CMD	Centre for Multi Party Democracy
IEBC	Independent Electoral and Boundaries Commission
IED	Institute for Education in Democracy

# **PREFACE**

## **Establishment of the Committee**

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

## **Membership of the Committee**

The Committee is comprised of the following members:-

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

## **Acknowledgement**

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the conduct of the public hearings. The Committee also thanks members of the public who made submissions, both orally and in writing.



**Mr. Speaker Sir,**

It is my pleasant duty, pursuant to Standing Order 203, to present a Report of the Standing Committee on Legal Affairs and Human Rights on public hearings held on 9<sup>th</sup> and 10<sup>th</sup> April, 2014, on the Political Parties (Amendment) Bill, 2014; The County Government Amendment Bill, 2014; The County Government (Amendment) (No.2) Bill, 2014; and The Statute Law Miscellaneous (Amendments) Bill, 2014 for consideration by the House.

Signed.....

Date.....16<sup>th</sup> JUNE 2014.

**SEN. AMOS WAKO, EGH, MP**

**CHAIRPERSON.**

## **EXECUTIVE SUMMARY**

The following Bills were read a First Time in the Senate on the dates indicated below:-

- (i) The Political Parties (Amendment) Bill, 2014 (Sen. Dr. Boni Khalwale) on 12/3/2014
- (ii) The County Governments (Amendment) Bill, 2014 (Sen. Dr. Boni Khalwale) on 12/3/2014
- (iii) The County Governments (Amendment) (No.2) Bill, 2014 (Sen. Martha Wangari) on 12/3/2014
- (iv) The Statute Law Miscellaneous (Amendments) Bill, 2014 (Sen. Amos Wako) on 18/3/2014

Following the First Reading of the above listed Bills, they stood committed to the Committee on Legal Affairs and Human Rights for facilitation of public participation. Subsequently, the Committee, Pursuant to Article 118 of the Constitution and Standing Order 130 (4), invited submissions from members of the public on the above Bills via an advertisement on the Daily Nation Newspaper. The Committee received both oral and written submissions on the Bills during its meeting with the members of public held on 9<sup>th</sup> and 10<sup>th</sup> April, 2014 at Kenya International Conference Centre, Nairobi.

The Committee observed that the members of the public did not generally approve of the Political Parties (Amendment) Bill, 2014 and the County Government (Amendment) Bill, 2014 and made proposals for further amendments thereof.

However, members of the public generally approved of the County Government (Amendment) (No. 2) Bill, 2014 with only one comment on the Statute Miscellaneous Amendment Bill, 2014 on The Pyrethrum Act, 2013.

## CHAPTER ONE

## INTRODUCTION

The following Bills stood committed to the Committee on Legal Affairs and Human Rights for facilitation of public participation pursuant to Standing Order 130. They seek to amend various Acts as listed herein below:-

### 1.1 THE POLITICAL PARTIES (AMENDMENT) BILL, 2014

The Political Parties (Amendment) Bill, 2014 seeks to amend **Section 25 of the Political Parties Act, 2011** which Section provides as follows:-

#### ***Distribution of the Fund***

**25.** (1) *The Fund shall be distributed as follows-*

(a) *ninety five per cent of the Fund proportionately by reference to the total number of votes secured by each political party in the preceding general election; and*

(b) *five percent for the administration expenses of the Fund.*

(2) *Notwithstanding subsection (1), a political party shall not be entitled to receive funding from the Fund if-*

(a) *the party does not secure at least five per cent of the total number of votes at the preceding general elections; or*

(b) *more than two-thirds of its registered office bearers are of the same gender.*

(3) *For purposes of subsection (1) (a) and (2) (a), the total number of votes secured by a political party shall be computed by adding the total number of votes obtained in the preceding general election by a political party in the election for the President, members of Parliament, county governors and members of county assemblies.*



## **1.2 THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2014**

The County Governments (Amendment) Bill, 2014 Bill seeks to amend the County Governments Act –No. 17 of 2012 to insert in the Act a schedule setting out the seat or physical location of each of the county governments.

## **1.3 THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2) BILL, 2014**

The County Governments (Amendment) (No.2) Bill, 2014 Bill seeks to amend Section 7 of the County Governments Act, 2012 to ensure that County Assemblies respect the gender rule as espoused under Article 27(8) and Article 177 of the Constitution.

**Section 7 of the County Governments Act, 2012** which the Bill seeks to amend provides as follows:-

### ***Membership of the county assembly***

*7. (1) In addition to the members who are elected under Article 177 (a), or nominated under Article 177 (b) of the Constitution, a county assembly shall comprise—*

*(a) six nominated members as contemplated in Article 177 (c) of the Constitution; and*

*(b) the speaker, who is an ex officio member elected in accordance with Article 178 of the Constitution.*

*(2) The political party nominating persons under subsection (1) shall ensure that—*

*(a) community and cultural diversity of the county is reflected in the county assembly; and*