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Paper laid by the  
Hon. Kelly  
Chairperson, D/Committee  
on Education & Research  
m of  
01/8/2018

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SECOND SESSION

DEPARTMENTAL COMMITTEE ON EDUCATION AND  
RESEARCH

REPORT ON THE PETITION ON PROPOSED AMENDMENTS  
TO THE UNIVERSITIES ACT TO ALTER THE VOTING  
SYSTEM IN ELECTION OF REPRESENTATIVES OF  
UNIVERSITIES' STUDENT COUNCILS

Directorate of Committee Services  
Clerk's Chambers  
National Assembly

July 2018

## 1.0 PREFACE

**Mr. Speaker Sir,**

The Departmental Committee on Education and Research is established under the National Assembly Standing Order 216.

### 1.1 Mandate of the Committee

The Committee is mandated, among others, to: -

- i) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- ii) study the programmes and policy objectives of Ministries and departments and the effectiveness of the implementation;
- iii) study and review all legislation referred to it;
- iv) study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;
- v) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- vi) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (*Committee on Appointments*);
- vii) examine treaties, agreements and conventions;
- viii) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- ix) consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
- x) examine any questions raised by Members on a matter within its mandate.

### 1.2 Committee Membership

The Committee comprises of the following Members :-

1. Hon. Julius Melly, MP - **Chairperson**
2. Hon. Amos Kimunya, EGH, MP - **Vice - Chairperson**
3. Hon. Moses Malulu Injendi, MP
4. Hon. Geoffrey Makokha Odanga, MP
5. Hon. (Dr.) Pamela Ochieng, MP
6. Hon. (Eng.) Nzambia Thuddeus Kithua, MP
7. Hon. (Prof.) Zadoc Abel Ogutu, MP
8. Hon. Catherine Wambilyanga, MP

9. Hon. Eric Muchangi Njiru, MP
10. Hon. Eve Obara, MBS, MP
11. Hon. Jackson Lekumontare, MP
12. Hon. Jerusha Mongina Momanyi,
13. Hon. John Oroo Oyioka, MP
14. Hon. Joseph Kipkosgei Tonui, MP
15. Hon. Lilian Cheptoo Tomitom, MP
16. Hon. Omboko Milemba, MP
17. Hon. Peter Lochakapong, MP
18. Hon. Wilson Sossion, MP
19. Hon. Wilson Kipngetch Kogo, MP

### **Committee Secretariat**

The Committee secretariat comprise the following officers

1. Mr. Daniel Mutunga - Principal Clerk Assistant I
2. Mr. Philip Lekarkar - Clerk Assistant III
3. Mr. Eric Kanyi - Fiscal Analyst
4. Ms. Anneceta Gacheri - Research Officer
5. Ms. Emma Esendi - Legal Counsel
6. Mr. Nimrod Ochieng - Audio Officer
7. Ms. Catherine Mukunyi - Serjeant At Arms
8. Ms. Winnie Kiziah - Media Relations

### **1.3 Committal of Petition**

Pursuant to Standing Order 220 and Section 4(1b) of the Petition to Parliament (Procedure) Act CAP 7C, Mr. John Wangai and Mr. Antony Manyara on 7<sup>th</sup> November, 2017 presented a public petition to the House.

The Petition was referred to the Departmental Committee on Education and Research on 14<sup>th</sup> December, 2018 pursuant to Standing Order 227 for consideration. (**ANNEX 1**)

The petitioners sought the House's intervention on implementation of 2013-2017 Collective Bargaining Agreement and appropriation of funds for 2017 -2021 Collective Bargaining Agreement. Specifically, the Petitioners prayed that the National Assembly through the Committee to:

- (i) *That the National Assembly to amend Sub-section Sections 18b (1c), (1d) and (1e) of the Universities (Amendment) Act to modify from electoral College system of voting to popular vote system*
- (i) *That pursuant to Article 94 (4) of the Constitution which provides for that Parliament shall protect the Constitution and promote the democratic governance of the Republic, the National Assembly considers this petition.*



#### **1.4 Committee Proceedings**

In considering the Petition, the Committee the committed the petition to University Sub-Committee of consisting the following members.

1. Hon. Moses Injendi, MP - Chairperson
2. Hon. (Dr.) Pamela Ochieng, MP - Vice- chairperson
3. Hon. Geoffrey Odanga, MP
4. Hon. Julius Melly, MP
5. Hon. (Eng.) Nzambia Kithua, MP
6. Hon. Wilson Sossion, MP
7. Hon. Lilian Tomitom, MP

The sub-committee held a total of five (5) sittings in which it closely received oral and written submissions and examined evidence from the following witnesses –

1. **The Cabinet Secretary, Ministry of Education**
2. **The Petitioners Mr. John Wangai and Universities Students Organisation Officials.**

The Sub-committee thereafter presented the Report to the Whole Committee for adoption.

The records of evidence adduced, documents and notes received by the Committee form the basis of the Committee's observations/findings and recommendations as outlined in the Report and can be obtained in the Parliament Library.

#### **COMMITTEE GENERAL OBSERVATIONS**

The Committee observed that:

1. **The petition challenges the amendments introduced to the Universities Act in particular Section 18 (1C), (1D), and (1E) which introduced changes to the manner of election of student leaders in the universities. Section 18 amended Section 41 of the University 2012, and of introduced Sub-sections (1A), (1B), (1C), (1D), (1E), (1F), (1G), (1H) and (1I) to Section 41 of the Act. The amendments have to do with student governance and leadership in the universities.**
2. **The Committee observed that issues in respect of which the petition is made are pending before court of appeal and therefore discussion on the matter would be sub-judice.**
3. **Universal suffrage is facilitated at the Faculty level where every student participates in the election of the delegates, three delegates per faculty who then participate in the election on University students' organisation officials.**
4. **That universal suffrage can be enhanced through proportionate representation of the faculties at the electoral college where the number of delegates per faculty would be determined by the overall population of students in the particular faculty.**



## COMMITTEE GENERAL RECOMMENDATIONS

In response to the prayers sought by the Petitioners, the Committee **rejects** the proposed amendment to the Universities Act, 2012 to alter the voting system in election of representatives of universities students' council on the grounds that:

- (i) **Universal suffrage is facilitated at the Faculty level where every student participates in the election of the delegates, three delegates per faculty who then participate in the election on University students' organisation officials. This guarantees and allows democratic and broad participation of students in determining members of students' council.**
- (ii) **That the amendments contained in section 18 (1C), (1D) and (1E), do not in any way violate the petitioners' or other students' rights since the students still have the right to elect their councils as it has been in the past, in that the students in each campus, Schools or Faculty will conduct elections to elect their student council directly through universal suffrage.**

### 1.5 Acknowledgement

The Committee wishes to record its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitation in fulfilment of its mandate. The Committee is also grateful to Ministry of Education and all the witnesses who adduced evidence before it. Further, the Committee is grateful to the staff of the National Assembly for the services they rendered to the Committee. It is their commitment and dedication to duty that made the work of the Committee and production of this Report possible.

**Hon. Speaker,**

On behalf of the Members of the Departmental Committee on Education and Research, I beg to table the Report on pursuant to Standing Order 227.

Sign.....

Date.....

**HON. JULIUS MELLY, MP**  
**CHAIRPERSON, DEPARTMENTAL COMMITTEE ON EDUCATION AND**  
**RESEARCH**

## **2.0 CONSIDERATION OF THE PETITION**

The Petitioners drew the attention of the House to the following prayers as in the petition annex 1.

## **2.1 SUBMISSIONS BY WITNESSES**

### **SUBMISSIONS BY THE CABINET SECRETARY FOR MINISTRY OF EDUCATION**

**The Cabinet Secretary, Ministry of Education Amb (Dr.) Amina Mohammed accompanied by the Principal Secretary State Department for University Education and Research Prof. Micheni Ntiba, Cabinet Administrative Secretary Mr. Simon Kachapin Ministry officials Mr. Peter Okwayo, Johnstone Nyanumba, Johnstone Nyanumba, Ms. Ann Kaiga , Mr. Philip Kinara, Mr. Isaac Thuita appeared before the Committee on 15<sup>th</sup> March, 2018 to adduce evidence on the petition regarding amendment of Section 18 (1c) (1d) and (1e) of the Universities (Amendment) Act. No. 48 of 2016 to modify from the electoral vote to the popular vote, pursuant to articles 37 and 119 of the Constitution, the Petition to Parliament (Procedure) Act and Standing Order 230 of the National Assembly Standing Orders.**

The Cabinet Secretary informed the Committee as follows:

The amendments to the Universities Act, 2012 sought to strengthen governance structures established by the Act streamlining the process of electing student leaders in the universities among others.

The amendment bill was subjected to all parliamentary processes and many consultative meetings were held with relevant stakeholders. The President assented to the Universities amendment bill on 23<sup>rd</sup> December 2016 and subsequently it came into effect on 13<sup>th</sup> January, 2017.

The Ministry had received a report from the Commission on Administrative Justice (CAJ) forwarding their findings after student unrest broke out after April, 2016 students leaders' elections at the University of Nairobi. CAJ undertook investigations into perceived mishandling of University of Nairobi students' elections and subsequent riots of April, 2018.

The report emphasized on proper students' elections in view of the fact that SONU leadership is perceived as preparatory ground for national politics hence the high profile campaign strategies contestants employ. The report further established that excessive amount of money is given to students during the campaigns and interference in students governance by politicians.

### **Court Case**

Petitioners Were Samuel & 14 others filed a Constitutional petition No. 17 of 2017 in the matter of Universities (amendment) Act No. 48 of 2016 against the Attorney General, the Cabinet Secretary of Education, Science and Technology and the Commission for University Education.

They obtained conservatory order on 25<sup>th</sup> January 2017 suspending sections of 18 (1c), (1d), and (1e) of the Universities Act 2016 pending the inter-parties hearing of the notice of motion.



The order had the effect of stopping students elections in Kisii University, Kenyatta University, Jomo Kenyatta University of Agriculture and Technology scheduled to take place on various dates between 7<sup>th</sup> January 2017 and 3<sup>rd</sup> February 2017. The matter was dismissed when it came up for full hearing; however the petitioners filed a notice of appeal in the Court of Appeal.

### **Committee Observation**

The Committee observed that issues in respect of which the petition is made are pending before court of appeal and therefore any further discussion on the matter would be sub-judice.

### **2.2.2 SUBMISSION BY PETITIONER MR. JOHN WANGAI**

**The Petitioner Mr. John Wangai accompanied by other University Students' Organisation official namely Mr. Amran Wandere (Chairperson Egerton University), Mr. Ndegwa Alex (Chairperson Strathmore University), Ms. Judy Koech (Finance Secretary TUK), Mr. Boit Robin (Kenya University Student Organisation Chairperson) and Mr. Emmanuel Ole Ntome (KUSO Legal Affairs representative) appeared before the Committee on 17<sup>th</sup> April, 2018 to present the petition.**

**The Petitioners informed the Committee as follows:**

1. The petitioners seek the amendment of Sections 18 (1C), 18 (1D),18(1E) of the Universities Amendment Act, No. 48 of 2016.
2. The aforementioned articles regulate how student elections in universities are to be conducted.
3. The petitioners seek the repeal of the new electoral college system and the enforcement of the popular vote system.

### **Background of the Matter**

4. Following violent student protests in universities, subsequent electoral malpractices and the existence of perennial student leaders in universities, the Majority Leader of the 11th Parliament (National Assembly), Hon. Aden Duale, moved the Universities Amendment Bill in the National Assembly which became the Universities Amendment Act upon assent by the President in 2016 to curb the aforementioned issues.
5. On 24th January 2017, a number of student leaders jointly filed a petition at the High Court of Nairobi challenging the constitutionality of sections 18 (1C), 18 (1D),18(1E) of the Universities Amendment Act, stating that the sections violated their bill of rights and sought a permanent injunction barring the application and enforcement of the aforesaid sections.
6. On 22nd September 2017, the Honourable Judge Mwita dismissed the suit as having no merit.
7. The petitioners then a filed a petition to the National Assembly pursuant to Articles 37 and 119 of the Constitution of Kenya.



## **Submissions**

8. The petitioners assert the following grounds for the consideration of this petition:
  - i) Legitimacy of the Student Associations.
  - ii) Fair Representation and Democratic Participation of University Students.
  - iii) Independence of the Student Associations.
  - iv) Fair and Transparent Elections.
  - v) General Principles for the Electoral System.

## **Legitimacy of the Students' Associations**

9. Generally, the role of students' associations in universities is to represent the interests of the student population, to engage the university management on the issues facing the student population and to be a voice for each student.
10. Political legitimacy is grounded on the acceptance of an authority by the governed. The enacted electoral college system creates a small representative electorate, comprising of three representatives from each electoral college, that determines the members of the students' association.
11. In so far as the representative electorate is elected through a popular vote, the interests and aspirations of the entire student population is not reflected in the final vote as the representatives are only bound by their own political choices.
12. Therefore, the students' associations elected under the current Universities Amendment Act are only a reflection of the interests of the representatives of the electoral colleges and do not reflect the majority aspirations and interests of the students' population.
13. The role and function of these Students Associations are hence limited as they may easily fail to control their sphere of influence - the student population - having lacked the political legitimacy from them.
14. The petitioners, in putting the legitimacy concerns in context, give the example of Kenyatta University which has around 78,000 students. In the previously held student election at the university, only 33 representatives of the student population elected the current student association.
15. Students' Association members of a 73,000-student campus elected by 33 students can barely assert any authority or perform any role as concern the student population.
16. The petitions assert that just like the national electoral system, political legitimacy of university students' associations can only be attained through a popular vote.

### **Fair Representation**

17. The petitioners assert that the right to fair representation is a legal principle that envisions the representation of people in good faith and without discrimination.
18. The petitioners assert that the electoral college system under the Universities Amendment Act does not constitute as good faith as the student population is not
19. afforded the opportunity to elect members of the students' association who reflect their interests and aspirations.
20. The Petitioners assert that the electoral college system discriminates against the majority student population by empowering students' associations elected by a small representative electorate who may not make political choices based on the interests and aspirations of the entire student population.
21. The petitions therefore assert that the Universities Amendment Act does not create a student election mechanism encompassing fair representation.

### **Democratic Participation**

22. The petitioners assert that the provisions of the Universities Amendment Act restrict the democratic participation of university students across the country.
23. The petitioners assert that democratic participation involves the broad participation of constituents in a democratic system.
24. The petitioners assert that the provisions of the Universities Amendment Act that create an electoral college system does not allow the broad participation of students in determining members of students' association but only a few representatives who are not bound by the interests or political choices of the student population.
25. The petitioners assert that the system created by the act does not give university students the opportunity to make meaningful contribution to decision making in their universities as they do not participate broadly in the election of the students' association.
26. The petitioners assert that a similar system enacted under the United States constitution provides for the selection of electors (electoral college representatives) by the candidate's political party and the electors vote in accordance with the political party's candidate.
27. The petitioners assert that such a system guarantees democratic participation as the interests of a substantial majority is reflected in the final vote unlike the enacted provisions of the Act where the representatives are not bound by the political choice of the majority.
28. The petitioners assert the aforementioned provisions of the Universities Amendment Act limit the democratic participation of the student population.

### **Independence of the Students Associations**

29. *Article 81 e(ii) of the Constitution of Kenya 2010* stating the general principles for an electoral system provides that elections should be free and fair and should be free from violence, intimidation, improper influence or corruption
30. The Electoral college system gives the University administration the contestants and external players an opportunity to interfere with the elections' integrity and ultimately the independence of the students' association.
31. This opportunity is accorded by virtue of the small number of delegates and makes it easy to entice, intimidate or improperly influence them to vote for a specific candidate.
32. If then the candidate whom the University administration prefers wins then he will be subject to control by the University Administration hence he/she will not serve the interest of the students the best way.
33. It is a reasonable construction that the small number of electors (representatives) will turn the election process to a bidding process that favours the highest bidder rather than the candidate with the highest ideals.

### **Comparative Analysis of Students' Elections with the National Elections**

34. *Section 18 (II) of the Universities Amendment Act* provides that an election conducted pursuant to the aforementioned sections shall comply with the general principles of the Kenyan Electoral system under article 81 of the Constitution.
35. This then sets the standard of the students' elections to be as that of the national elections. It is then discriminatory that the students' elections are conducted through an electoral college system while the national elections which should be its canon, inspiration and model is by popular vote which translates to the requirement for the principle of Universal suffrage by *Article 81(d) of the Constitution*.
36. The principle of universal suffrage cannot be said to be effectively actualized through the Electoral College system. In a population of ten thousand students five hundred voters cannot be said to be a fair representation of the whole population. This principle should not be met by formality but be seen to have been met.
37. It is a reasonable inference that the delegates elected without them declaring whose candidature they are supporting would not ultimately represent the voice of the students but rather their own or someone else other than the students.

### **PRAYERS**

38. The petitioners seek that the National Assembly repeals sections 18 (1C), 18 (1D),18(1E) of the Universities Amendment Act, No. 48 of 2016.
39. The petitioners seek that the National Assembly enforce the popular vote system in



universities in empowering students' associations to effectively represent the interests and aspirations of the student populations.

40. The petitioners seek that the National Assembly, if reluctant to repeal the sections to enforce the popular vote, to amend the sections to reflect an electoral college system similar to the United States where the electors are a representation of a substantial majority of the student population.
41. The petitioners seek that the National Assembly addresses this issue as a matter of urgency.

### **Committee Observations**

The Committee observed that:

- i) Universal suffrage is facilitated at the Faculty level where every student participates in the election of the delegates, three delegates per faculty who then participate in the election on University students' organisation officials.
- ii) There is need for proportionate representation of the faculties at the electoral college where the number of delegates per faculty is determined by the overall population of Students in the particular faculty.

### **3.0 COMMITTEE OBSERVATIONS**

The Committee observed that:

- 1. The petition challenges the amendments introduced to the Universities Act in particular Section 18 (1C), (1D), and (1E) which introduced changes to the manner of election of student leaders in the universities. Section 18 amended Section 41 of the University 2012, and of introduced Sub-sections (1A), (1B), (1C), (1D), (1E), (1F), (1G), (1H) and (1I) to Section 41 of the Act. The amendments have to do with student governance and leadership in the universities.**
- 2. The Committee observed that issues in respect of which the petition is made are pending before court of appeal and therefore any discussion on the matter would be sub-judice.**
- 3. Universal suffrage is facilitated at the Faculty level where every student participates in the election of the delegates, three delegates per faculty who then participate in the election on University students' organisation officials.**
- 4. That universal suffrage can be enhanced through proportionate representation of the faculties at the electoral college where the number of delegates per faculty would be determined by the overall population of students in the particular faculty.**

#### **4.0 COMMITTEE RECOMMENDATIONS**

In response to the prayers sought by the Petitioners, the Committee **rejects** the proposed amendment to the Universities Act, 2012 to alter the voting system in election of representatives of universities students' council on the grounds that:

- 1. Universal suffrage is facilitated at the Faculty level where every student participates in the election of the delegates, three delegates per faculty who then participate in the election on University students' organisation officials. This guarantees and allows democratic and broad participation of students in determining members of students' council.**
- 2. It is reasonable that the delegates elected without them declaring whose candidature they are supporting would ultimately represent the voice of the students and not someone else other than the students.**
- 3. That the amendments contained in section 18 (1C), (1D) and (1E), do not in any way violate the petitioners' or other students' rights since the Students still have the right to elect their councils as it has been in the past, in that the Students in each campus, Schools or Faculty will conduct elections to elect their student council directly through universal suffrage.**

**ADOPTION OF ON THE PETITION ON PROPOSED AMENDMENT TO THE UNIVERSITIES ACT TO ALTER THE VOTING SYSTEM IN ELECTION OF REPRESENTATIVE OF UNIVERSITIES STUDENT COUNCIL**

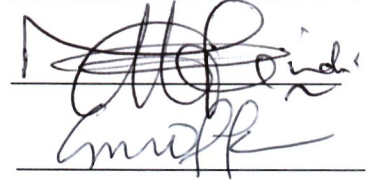
**We the undersigned, hereby affix our signatures to this Report to affirm our approval**

1. Hon. Julius Melly, MP - Chairperson



2. Hon. Amos Kimunya, EGH, MP - Vice-Chairperson

3. Hon. Moses Malulu Injendi, MP



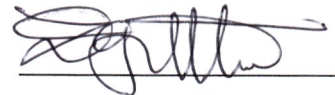
4. Hon. Geoffrey Makokha Odanga, MP

5. Hon. (Dr.) Pamela Ochieng, MP

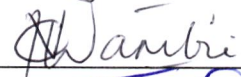
6. Hon. (Eng.) Nzambia Thuddeus Kithua, MP



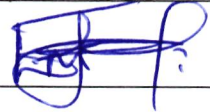
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8. Hon. Catherine Wambilyanga, MP



9. Hon. Eric Muchangi Njiru, MP



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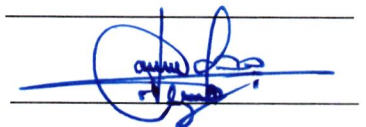
16. Hon. Omboko Milemba, MP

17. Hon. Peter Lochakapong, MP

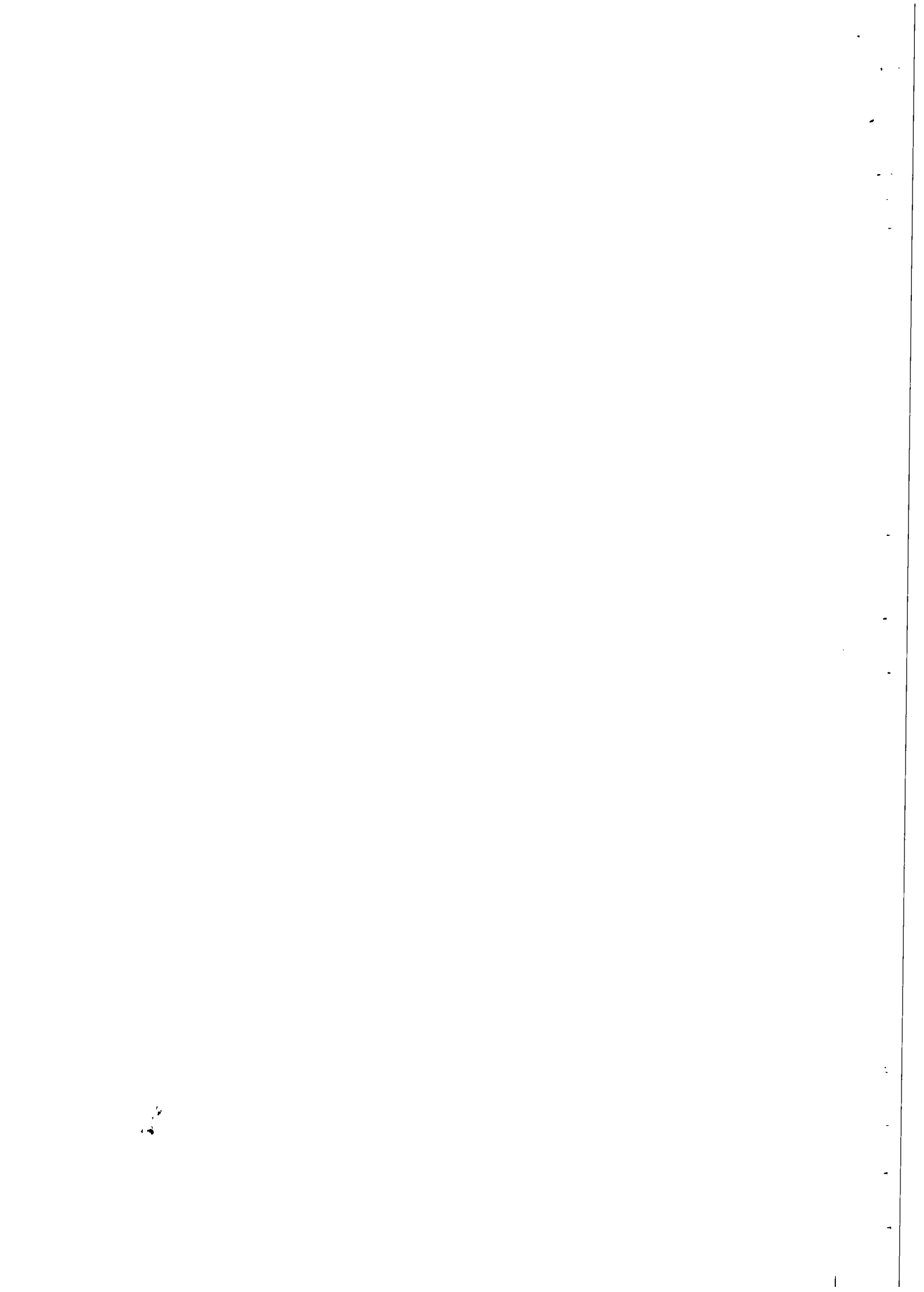


18. Hon. Wilson Sossion, MP

19. Hon. Wilson Kipngetich Kogo, MP



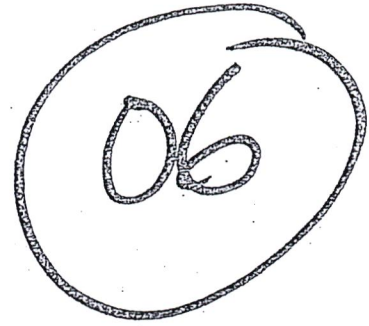




# **ANNEXURE I - PETITION**







TWELFTH PARLIAMENT  
(FIRST SESSION)  
THE NATIONAL ASSEMBLY

PETITION

(No. 006 of 2017)

CONVEYANCE OF A PETITION ON PROPOSED AMENDMENT TO THE  
UNIVERSITIES ACT TO ALTER THE VOTING SYSTEM IN ELECTION OF  
REPRESENTATIVE OF UNIVERSITIES STUDENT COUNCIL

Honourable Members,

Standing Order 225 (2) (b) requires that the Speaker reports to the House, any Petition other than those presented through a Member. I therefore wish to convey to the House that my office has received a Petition signed by Mr. John Wangai and Mr. Antony Manyara. The Petitioners are proposing amendments to the Section 18 (b) of the Universities (Amendment) Act of 2016 to provide for election of representatives of Universities Student Council through popular vote.

Honourable Members,

The petitioners contend that Section 18b (1C), (1D) and (1E) of the Universities (Amendment) Act of 2016 contravenes Article 10(2) of the Constitution on national values and principles of governance. They claim that this Section of the Act does not promote democracy and participation of the people, equity, social justice, inclusiveness, equality, human rights, protection of the marginalized, good governance, integrity, transparency and accountability. The Petitioners further aver that collegial voting by three representatives from each faculty does not represent the will of the majority and that the Electoral College is easy to manipulate.

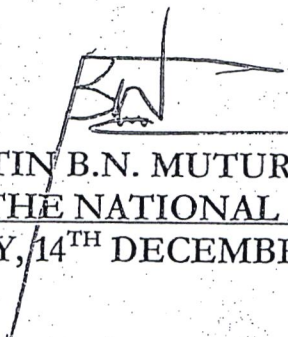
Honourable Members,

The Petitioner therefore prays that the National Assembly reviews the Section 18b (1C), (1D) and (1E) of the Universities (Amendment) Act of 2016 to provide for popular vote system in election of representatives of Universities Student Council.

Honourable Members,

This Petition stands committed to the Departmental Committee on Education and Research for consideration. I urge the Committee upon appointment of its membership by the House and election of chairperson and vice chairperson, to engage the Petitioner, address the Petitioners' prayers and submit a report to the House within sixty days in accordance with Standing Order 227 (2).

I, Thank you!



THE HON. JUSTIN B.N. MUTURI, E.G.H, MP  
SPEAKER OF THE NATIONAL ASSEMBLY  
THURSDAY, 14<sup>TH</sup> DECEMBER, 2017



*AgDLs*

*advise conf*

*8/11*

PETITION TO THE NATIONAL ASSEMBLY FOR THE AMENDMENT OF SECTION 18, SUB-SECTION 18b (1C), (1D) AND (1E) OF THE UNIVERSITIES (AMENDMENT) ACT, NO.48 OF 2016 TO MODIFY FROM THE ELECTORAL VOTE TO THE POPULAR VOTE, PURSUANT TO ARTICLES 37 AND 119 OF THE CONSTITUTION, THE PETITION TO PARLIAMENT (PROCEDURE) ACT AND STANDING ORDER 230 OF THE NATIONAL ASSEMBLY STANDING ORDERS

TO: THE CLERK OF THE NATIONAL ASSEMBLY,  
PARLIAMENT BUILDINGS,  
P.O BOX 41842 – 00100,  
NAIROBI.

NATIONAL ASSEMBLY  
MAIN RECORDS UNIT  
07 NOV 2017  
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NAIROBI - KENYA

We the undersigned petitioners being citizens of the Republic of Kenya pursuant to Articles 37 and 119 of the Constitution, The petition to parliament (procedure) Act and Standing Order 230 of The National Assembly Standing Orders –

DRAW the attention of the House to the following –

1. THAT Article 2(4) of the constitution stipulates 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 this constitution is invalid.
2. THAT Article 3(1) provides that every person has an obligation to respect, uphold and defend this constitution
3. THAT Article 10(1b) provides that the national values and principles of governance in this article binds all state organs ,state officers ,public officers and all persons whenever any of them enacts, applies or interprets any law.
4. THAT Article 10 (2) provides the national values and principles of governance which include ;
  - (a)Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people,
  - (b)Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized.
  - (c)Good governance, integrity, transparency and accountability

NATIONAL ASSEMBLY  
DIRECTORATE OF LEGAL SERVICES  
**RECEIVED**  
08 NOV 2017  
P.O. Box 41842 - 00100,  
NAIROBI

**RECEIVED**  
07 NOV 2017



PETITION TO THE NATIONAL ASSEMBLY FOR THE AMENDMENT OF SECTION 18, SUB-SECTION 18b (1C), (1D) AND (1E) OF THE UNIVERSITIES (AMENDMENT) ACT, NO.48 OF 2016 TO MODIFY FROM THE ELECTORAL VOTE TO THE POPULAR VOTE, PURSUANT TO ARTICLES 37 AND 119 OF THE CONSTITUTION, THE PETITION TO PARLIAMENT (PROCEDURE) ACT AND STANDING ORDER 230 OF THE NATIONAL ASSEMBLY STANDING ORDERS

5. THAT Sub-sections 18b (1C), (1D) and (1E) of the Universities (Amendment) Act, No.48 of 2016, are in contravention of Article 10(2) of the Constitution as it does not promote democracy and participation of the people, equity, social justice, inclusiveness, equality, human rights, non-discrimination, protection of the marginalised, good governance, integrity, transparency and accountability.
6. THAT collegial voting by three representatives from each faculty of the institution doesn't represent the real will of the majority people as it is in a democracy.
7. THAT the electoral college is easy to manipulate as one can easily bribe half of the total number of the people plus one to win any seat whereas in popular vote one can't bribe every voter, making the collegial voting non-transparent, non-accountable, not promoting democracy and participation of the people.
8. THAT the financially unstable and marginalised groups are disadvantaged in case other financially able aspirants engage in electoral malpractices like bribing voters who are the members of the electoral college thus not promoting equity, social justice, equality, human rights and non-discrimination.
9. THAT Article 21(1) provides that it is a fundamental duty of the state and every state organ to observe, protect, respect, promote and fulfil the rights and fundamental freedoms in the bill of rights.
10. THAT Article 21(3) provides that all state organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, person with disabilities, children, youth, members of minority or marginalised communities and members of particular ethnic, religious or cultural communities.
11. THAT Sub-sections 18b (1C), (1D) and (1E) of the Universities (Amendment) Act are in contravention of Sub section 18b (1i) of the same act.
12. THAT the legality of the Universities (Amendment) Act was questioned in the high court of Kenya by student leaders, contesting the term limits

PETITION TO THE NATIONAL ASSEMBLY FOR THE AMENDMENT OF SECTION 18, SUB-SECTION 18b (1C), (1D) AND (1E) OF THE UNIVERSITIES (AMENDMENT) ACT, NO.48 OF 2016 TO MODIFY FROM THE ELECTORAL VOTE TO THE POPULAR VOTE, PURSUANT TO ARTICLES 37 AND 119 OF THE CONSTITUTION, THE PETITION TO PARLIAMENT (PROCEDURE) ACT AND STANDING ORDER 230 OF THE NATIONAL ASSEMBLY STANDING ORDERS

on grounds that the amended laws have taken their power to elect their leaders. The court declined to quash the Universities (Amendment) Act 2016 saying that there was public participation before the law was amended. Though issue of collegial voting was not satisfactory looked into.

13. THAT the issues raised in respect of this petition are not pending before any court of law or other constitutional or legal body.

THEREFORE your humble petitioner pray that the National Assembly;

14. THAT pursuant to Article 94(4) of the Constitution which provides that parliament shall protect this constitution and promote the democratic governance of the republic, the National Assembly considers this petition.

15. THAT the National Assembly to amend Sub-sections 18b (1c), (1d) and (1e) of the Universities (Amendment) Act to modify from the Electoral College system of voting to popular vote system.

Name of the 1<sup>st</sup> petitioner.....

JOHN WANGAI

Signature.....



Address.....

P.O. BOX 57354 - 00200 CITY SQUARE.

Id Number.....

3354 7010

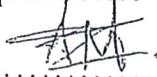
Date.....

7<sup>th</sup> / 11 / 2017.

Name of the 2<sup>nd</sup> petitioner.....

Antony Manyara

Signature.....



Address.....

Id Number.....

30244 250

PETITION TO THE NATIONAL ASSEMBLY FOR THE AMENDMENT OF SECTION 18, SUB-SECTION 18b (1C), (1D) AND (1E) OF THE UNIVERSITIES (AMENDMENT) ACT, NO.48 OF 2016 TO MODIFY FROM THE ELECTORAL VOTE TO THE POPULAR VOTE, PURSUANT TO ARTICLES 37 AND 119 OF THE CONSTITUTION, THE PETITION TO PARLIAMENT (PROCEDURE) ACT AND STANDING ORDER 230 OF THE NATIONAL ASSEMBLY STANDING ORDERS

Date.....7/11/2017.....



## **ANNEXURE 1 - MINUTES**

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**MINUTES OF THE 3<sup>RD</sup> SITTING OF THE SUB-COMMITTEE ON UNIVERSITY EDUCATION OF THE COMMITTEE ON EDUCATION & RESEARCH HELD ON THURSDAY, 15<sup>TH</sup> MARCH 2018 IN BOARD ROOM, 4<sup>TH</sup> FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS 11:00 AM**

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**PRESENT**

1. Hon. Moses Injendi, MP □ - **Chairperson**
2. Hon. (Dr.) Pamela Ochieng, MP - **Vice Chairperson**
3. Hon. Julius Melly, MP
4. Hon. Geoffrey Odanga, MP
5. Hon. Oroo Oyioka, MP
6. Hon. Eric Muchangi, MP

**ABSENT WITH APOLOGY**

7. Hon. Jerusha Momanyi, MP
8. Hon. (Eng.) Nzambia Kithua, MP
9. Hon. Lilian Tomitom, MP
10. Hon. Wilson Sossion, MP

**NATIONAL ASSEMBLY SECRETARIAT**

1. Mr. Daniel Mutunga - Principal Clerk Assistant I/Presiding Officer
2. Mr. Philip Lekarkar - Clerk Assistant III
3. Ms. Emma Esendi - Legal Counsel II
4. Mr. Nimrod ochieng' - Audio Officer
5. Ms. Catherine mukunyi - Sejeant-at-arms
6. Ms. Winnie Kiziah - Media Relations Officer

**MINISTRY OF EDUCATION**

1. Amb (Dr.) Amina Mohammed - Cabinet Secretary, Ministry of Education
2. Prof. Micheni Ntiba - PS, State Department for University Education
3. Mr. Simon Kachapin - Cabinet Administrative Secretary, MOE
4. Mr. Peter Okwayo - SA, MOE
5. Johnstone Nyanumba - US
6. Ms. Ann Kaiga - Legal Officer, MOE
7. Mr. Philip Kinara - Economist, MOE
8. Mr. Thuita Isaac - Deputy Director, MOE

**MIN.NO. 10/UNI-EDUC/2018: PRELIMINARIES**

The Chair called the meeting to order at 11:10 am.

The Chair welcomed the officials from the Ministry to the meeting and a round of introduction was done.

**MIN.NO. 011/UNI-EDUC/2018:CONFIRMATION OF MINUTES**

Confirmation of the previous minutes was deferred to the next meeting.



**MIN. NO. 12/UNI-EDUC/2018: PETITION CONCERNING THE 2013 – 2017 AND 2017 - 2021 COLLECTIVE BARGAINING AGREEMENTS SIGNED BETWEEN UNIVERSITY ACADEMIC STAFF UNION AND INTER PUBLIC UNIVERSITIES' COUNCIL CONSULTATIVE FORUM (IPUCCF)**

**The Cabinet Secretary, Ministry of Education informed the Committee as follows:-**

Following the industrial action experienced in the year 2017 the unions representing all staff in the public universities in liaison with the Inter-Public Universities Consultative Forum (IPUCCF) entered into Collective Bargaining Agreement (CBA) and a return to work formula was agreed upon.

In the 2013-2017 CBA Kshs. 10 billion was provided for the four year cycle covering basic salary, house allowances that was to be paid in arrears from 1<sup>st</sup> July, 2013.

The Government settled the Kshs 10 billion in two installments with the first one of Kshs. 4.775 billion being released to the universities during the first supplementary budget of the 2016/2017 financial year. The remaining second installment of Kshs. 5.225 billion was released to the universities at the beginning of the current financial year 2017/2018. The Ministry has since paid all salary arrears and factored the increment in the budget going forward.

The parties agreed to start negotiations for the 2017 – 2021 CBA and finalize by 31<sup>st</sup> January, 2018. The consultations started in January 2018 and are still going on. During the consultations the staff unions presented their proposals and expected a response from IPUCCF.

Further consultations were held in February 2018 between the Principal Secretaries of the National Treasury and the State Department for University Education and Research (Ministry of Education) where it was agreed that all public universities submit payroll data for analysis by the National Treasury. This would be the decision making on the counter offer to be communicated to IPUCCF. The process is ongoing and once completed the counter offer will be communicated to IPUCCF to kick start the negotiations once again.

Job evaluation for exercise was conducted for lecturers and other staff in the universities by the Salaries and Remuneration Commission and preliminary results communicated to each university but the process is yet to be finalized. UASU has however filed a case in court contesting job evaluation for university academic staff. This has therefore hampered the finalization of the job evaluation and therefore denying SRC an opportunity to advise on an appropriate counter offer.

As consultations with IPUCCF and the National Treasury were going on the universities staff unions issued a seven day strike notice from 21<sup>st</sup> February, 2018 which expired on 28<sup>th</sup> February, 2018 and thus commencing the withdrawal of services in public universities.

IPUCCF filed Employment Labour Relations Court (ELRC) case number 257 of 2018 in Employment and Labour Relations Court (IUPCCF versus UASU) and named the Ministry

of Education, the National Treasury, Ministry of Labour, Attorney General and Salaries and Remuneration Commission as interested parties. IPUCCF and the interested parties were urging the court to declare the strike illegal and unprotected to enable parties to start the negotiation process, table and resolve the dispute once and for all. The judgment is expected to be delivered on 16<sup>th</sup> March, 2016.

From the foregoing, it is clear that the National CBA for 2013-2017 that covers basic salary and house allowance has been fully implemented to date. However, IPUCCF has reported that public universities have outstanding pension for 2010 – 2013 and 2013 – 2017 CBA's totalling Kshs. 4 billion. The other allowances and terms and conditions of service are covered under local institutions CBA with each of the three with respective university councils.

From the above it is clear that the Government has not refused to negotiate with the unions but there are various huddles such as the UASU court case on job evaluation results and the declaration of an industrial strike that has kept away the parties from the negotiation table for the Ministry to give a counter offer. The job evaluation exercise would form a good basis for any CBA negotiations and ensure harmony within the public sector. The payroll data requested from the universities is still streaming in.

The Ministry welcomes efforts by the Committee on Education and Research on appropriation of funds to enable finalization of the 2017 -2021 CBA and clearance of outstanding Kshs 4 billion of employer pension contributions arrears for 2010 – 2013 and 2013 – 2017.

Whereas the Government policy provides for provision of mortgages and car loans for public servants including public universities, the existing guidelines required universities to set aside funds for the same within their available budgets.

On Wednesday 14<sup>th</sup> March, 2018 there were demonstrations at the Ministry of Education headquarters and where discussions were held on the way forward and later the Cabinet Secretary addressed the Union members.

### **Committee Observations**

#### **The Committee observed that:**

- 1. Public universities have outstanding pension for 2010 – 2013 and 2013 – 2017 CBA's totalling Kshs. 4 billion. The other allowances and terms and conditions of service are covered under local institutions CBA with each of the three with respective university councils. Further some universities have reverted to the old payment structure despite receiving allocation for the implementation of the 2013- 2107 CBA.**
- 2. The Internal CBA's signed between the individual Universities and local unions creates disparity in the allowances of the lecturers and other university staff. The internal CBA's should be harmonized across all universities.**
- 3. The Framework of the negotiations has many levels which makes the voice of the Unions gets lost. There is a need to have the Unions representations at higher**



levels of negotiations thus an all inclusive negotiation committee needs to be set-up

4. The negotiations for the 2017 -2021 Collective Bargaining Agreement had commenced however it stalled when the Unions called for industrial action partly due to the contested job evaluation for exercise conducted for lecturers and other staff in the universities by the Salaries and Remuneration Commission which is yet to be finalized

#### **Committee Resolutions**

##### **The Committee:**

1. Directed the Cabinet Secretary to order for conduct pay roll analysis of all universities and undertake a thorough audit of Kshs. 10 billion disbursed to the universities to implement the 20.17 -2021 Collective Bargaining Agreement.
2. Directed the Cabinet Secretary to call for a conference on the Status of Kenya universities to address the quality of University education and the perennial challenges affecting the universities.

#### **MIN. NO.13/UNI-EDUC/2018: RESPONSE TO THE PETITION BY MR. JOHN WANGAI TO THE NATIONAL ASSEMBLY ON THE AMENDMENT OF SECTIONS 18 (1B), (1C), (1D) AND (1E) OF THE UNIVERSITIES (AMENDMENT) ACT NO. 48 OF 2016**

The Cabinet Secretary informed the Committee as follows:

The amendment was moved by the Leader of Majority in the National Assembly and the amendments sought to strengthen governance structures established by the Act streamlining the process of appointing student leaders in the universities among others.

The amendment bill was subjected to all parliamentary processes and many consultative meetings were held with relevant stakeholders. The President assented to the Universities amendment bill on 23<sup>rd</sup> December 2016 and subsequently it came into effect on 13<sup>th</sup> January, 2017.

The Ministry had received a report from the Commission on Administrative Justice (CAJ) forwarding their findings after student unrest broke out after April, 2016 students leaders elections at the University of Nairobi. CAJ undertook investigations into perceived mishandling of University of Nairobi students elections and subsequent riots of April, 2018.

The report emphasized on proper students elections in view of the fact that SONU leadership is perceived as preparatory ground for national politics hence the high profile campaign strategies contestants employ. The report further established that excessive amount of money is given to students during the campaigns and interference in students governance by politicians.

#### **Court Case**



Petitioners Were Samuel & 14 others filed a Constitutional petition No. 17 of 2017 in the matter of Universities (amendment) Act No. 48 of 2016 against the Attorney General, the Cabinet Secretary of Education, Science and Technology and the Commission for University Education.

They obtained conservatory order on 25<sup>th</sup> January 2017 suspending sections of 18 (1c), (1d), and (1e) of the Universities Act 2016 pending the inter-parties hearing of the notice of motion.

The order had the effect of stopping students elections in Kisii University, Kenyatta University, Jomo Kenyatta University of Agriculture and Technology scheduled to take place on various dates between 7<sup>th</sup> January 2017 and 3<sup>rd</sup> February 2017. The matter was dismissed when it came up for full hearing; however the petitioners filed a notice of appeal in the Court of Appeal.

#### **Committee Observations**

**The Committee observed that issues in respect of which the petition is made are pending before court of appeal and therefore any further discussion on the matter would be sub-judice.**

#### **MIN. NO.13/UNI-EDUC/2018: ANY OTHER BUSINESS**

No other business arose

#### **MIN. NO.14/UNI-EDUC/2018: ADJOURNMENT**

There being no other business the meeting was adjourned at 1.20 pm. The next meeting will be held on Tuesday 20<sup>th</sup> March, 2018 at 10.00 am.

Signed.....

**Hon. Moses Malulu Injendi, MP**

**(Sub-Committee Chairman)**

Date.....

**MINUTES OF THE 6<sup>TH</sup> SITTING OF THE SUB-COMMITTEE ON UNIVERSITY EDUCATION OF THE COMMITTEE ON EDUCATION & RESEARCH HELD ON THURSDAY, 17<sup>TH</sup> APRIL 2018 IN BOARD ROOM, 2<sup>ND</sup> FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS 10:00 AM**

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**PRESENT**

1. Hon. Moses Injendi, MP - **Chairperson**
2. Hon. (Dr.) Pamela Ochieng, MP - **Vice Chairperson**
3. Hon. Geoffrey Odanga, MP
4. Hon. Amos Kimunya, MP, EGH
5. Hon. Geoffrey Makhoka Odanga, MP
6. Hon. (Eng.) Nzambia Kithua, MP
7. Hon. Zadoc Abel Ogutu, MP
8. Hon. Catherine Wambilianga, MP
9. Hon. Eve Obara, MP
10. Hon. Jackson Lekumontare, MP
11. Hon. Oroo Oyioka, MP
12. Hon. Peter Lochakapong

**ABSENT WITH APOLOGY**

13. Hon. Julius Melly, MP
14. Hon. Lilian Tomitom, MP
15. Hon. Wilson Sossion, MP

**NATIONAL ASSEMBLY SECRETARIAT**

1. Mr. Daniel Mutunga - Principal Clerk Assistant I/Presiding Officer
2. Mr. Philip Lekarkar - Clerk Assistant III
3. Ms. Emma Esendi - Legal Counsel II
4. Mr. Nimrod ochieng' - Audio Officer
5. Ms. Catherine mukunyi - Sejeant-at-arms
6. Ms. Winnie Kiziah - Media Relations Officer

**PETITIONERS**

1. Mr. John Wangai - 1<sup>st</sup> Petitioner
2. Mr. Amran Wandere - Chairperson Egerton University,
3. Mr. Ndegwa Alex - Chairperson Strathmore University
4. Ms. Judy Koech - Finance Secretary TUK
5. Mr. Boit Robin - Kenya University Student Organisation Chairperson
6. Mr. Emmanuel Ole Ntome - KUSO Legal Affairs representative

**MIN.NO. 24/UNI-EDUC/2018: PRELIMINARIES**

The Chair called the meeting to order at 10:10 am.

The Chair welcomed the officials from the petitioners to the meeting and a round of introduction was done.

**MIN.NO. 25/UNI-EDUC/2018: CONFIRMATION OF MINUTES**

Confirmation of the previous minutes was deferred to the next meeting.

**MIN. NO. 26/UNI-EDUC/2018: SUBMISSION BY PETITIONERS**

The Petitioner Mr. John Wangai accompanied by other University Students' Organisation official namely Mr. Amran Wandere (Chairperson Egerton University), Mr. Ndegwa Alex (Chairperson Strathmore University), Ms. Judy Koech (Finance Secretary TUK), Mr. Boit Robin (Kenya University Student Organisation Chairperson) and Mr. Emmanuel Ole Ntome (KUSO Legal Affairs representative) appeared before the Committee and presented the petition.

**The Petitioners informed the Committee as follows:**

1. The petitioners seek the amendment of Sections 18 (1C), 18 (1D),18(1E) of the Universities Amendment Act, No. 48 of 2016.
2. The aforementioned articles regulate how student elections in universities are to be conducted.
3. The petitioners seek the repeal of the new electoral college system and the enforcement of the popular vote system.

**Background of the Matter**

4. Following violent student protests in universities, subsequent electoral malpractices and the existence of perennial student leaders in universities, the Majority Leader of the 11th Parliament (National Assembly), Hon. Aden Duale, moved the Universities Amendment Bill in the National Assembly which became the Universities Amendment Act upon assertion by the President in 2016 to curb the aforementioned issues.
5. On 24th January 2017, a number of student leaders jointly filed a petition at the High Court of Nairobi challenging the constitutionality of sections 18 (1C), 18 (1D),18(1E) of the Universities Amendment Act, stating that the sections violated their bill of rights and sought a permanent injunction barring the application and enforcement of the aforesaid sections.
6. On 22nd September 2017, the Honourable Judge Mwita dismissed the suit as having no merit.
7. The petitioners then a filed a petition to the National Assembly pursuant to Articles 37 and 119 of the Constitution of Kenya.

**Submissions**

8. The petitioners assert the following grounds for the consideration of this petition:
  - i) Legitimacy of the Student Associations.



- ii) Fair Representation and Democratic Participation of University Students.
- iii) Independence of the Student Associations.
- iv) Fair and Transparent Elections.
- v) General Principles for the Electoral System.

### **Legitimacy of the Students' Associations**

9. Generally, the role of students' associations in universities is to represent the interests of the student population, to engage the university management on the issues facing the student population and to be a voice for each student.
10. Political legitimacy is grounded on the acceptance of an authority by the governed. The enacted electoral college system creates a small representative electorate, comprising of three representatives from each electoral college, that determines the members of the students' association.
11. In so far as the representative electorate is elected through a popular vote, the interests and aspirations of the entire student population is not reflected in the final vote as the representatives are only bound by their own political choices.
12. Therefore, the students' associations elected under the current Universities Amendment Act are only a reflection of the interests of the representatives of the electoral colleges and do not reflect the majority aspirations and interests of the students' population.
13. The role and function of these Students Associations are hence limited as they may easily fail to control their sphere of influence - the student population - having lacked the political legitimacy from them.
14. The petitioners, in putting the legitimacy concerns in context, give the example of Kenyatta University which has around 78,000 students. In the previously held student election at the university, only 33 representatives of the student population elected the current student association.
15. Students' Association members of a 73,000-student campus elected by 33 students can barely assert any authority or perform any role as concern the student population.
16. The petitions assert that just like the national electoral system, political legitimacy of university students' associations can only be attained through a popular vote.

### **Fair Representation**

17. The petitioners assert that the right to fair representation is a legal principle that envisions the representation of people in good faith and without discrimination.
18. The petitioners assert that the electoral college system under the Universities

- Amendment Act does not constitute as good faith as the student population is not
19. afforded the opportunity to elect members of the students' association who reflect their interests and aspirations.
  20. The Petitioners assert that the electoral college system discriminates against the majority student population by empowering students' associations elected by a small representative electorate who may not make political choices based on the interests and aspirations of the entire student population.
  21. The petitions therefore assert that the Universities Amendment Act does not create a student election mechanism encompassing fair representation.

### **Democratic Participation**

22. The petitioners assert that the provisions of the Universities Amendment Act restrict the democratic participation of university students across the country.
23. The petitioners assert that democratic participation involves the broad participation of constituents in a democratic system.
24. The petitioners assert that the provisions of the Universities Amendment Act that create an electoral college system does not allow the broad participation of students in determining members of students' association but only a few representatives who are not bound by the interests or political choices of the student population.
25. The petitioners assert that the system created by the act does not give university students the opportunity to make meaningful contribution to decision making in their universities as they do not participate broadly in the election of the students' association.
26. The petitioners assert that a similar system enacted under the United States constitution provides for the selection of electors (electoral college representatives) by the candidate's political party and the electors vote in accordance with the political party's candidate.
27. The petitioners assert that such a system guarantees democratic participation as the interests of a substantial majority is reflected in the final vote unlike the enacted provisions of the Act where the representatives are not bound by the political choice of the majority.
28. The petitioners assert the aforementioned provisions of the Universities Amendment Act limit the democratic participation of the student population.

### **Independence of the Students Associations**

29. *Article 81 e(ii) of the Constitution of Kenya 2010* stating the general principles for



an electoral system provides that elections should be free and fair and should be free from violence, intimidation, improper influence or corruption

30. The Electoral college system gives the University administration the contestants and external players an opportunity to interfere with the elections' integrity and ultimately the independence of the students' association.
31. This opportunity is accorded by virtue of the small number of delegates and makes it easy to entice, intimidate or improperly influence them to vote for a specific candidate.
32. If then the candidate whom the University administration prefers wins then he will be subject to control by the University Administration hence he/she will not serve the interest of the students the best way.
33. It is a reasonable construction that the small number of electors (representatives) will turn the election process to a bidding process that favours the highest bidder rather than the candidate with the highest ideals.

#### **Comparative Analysis of Students' Elections with the National Elections**

34. *Section 18 (11) of the Universities Amendment Act* provides that an election conducted pursuant to the aforementioned sections shall comply with the general principles of the Kenyan Electoral system under article 81 of the Constitution.
35. This then sets the standard of the students' elections to be as that of the national elections. It is then discriminatory that the students' elections are conducted through an electoral college system while the national elections which should be its canon, inspiration and model is by popular vote which translates to the requirement for the principle of Universal suffrage by *Article 81(d) of the Constitution*.
36. The principle of universal suffrage cannot be said to be effectively actualized through the Electoral College system. In a population of ten thousand students five hundred voters cannot be said to be a fair representation of the whole population. This principle should not be met by formality but be seen to have been met.
37. It is a reasonable inference that the delegates elected without them declaring whose candidature they are supporting would not ultimately represent the voice of the students but rather their own or someone else other than the students.

#### **PRAYERS**

38. The petitioners seek that the National Assembly repeals sections 18 (1C), 18 (1D), 18(1E) of the Universities Amendment Act, No. 48 of 2016.
39. The petitioners seek that the National Assembly enforce the popular vote system



in universities in empowering students' associations to effectively represent the interests and aspirations of the student populations.

40. The petitioners seek that the National Assembly, if reluctant to repeal the sections to enforce the popular vote, to amend the sections to reflect an electoral college system similar to the United States where the electors are a representation of a substantial majority of the student population.

41. The petitioners seek that the National Assembly addresses this issue as a matter of urgency.

**Committee Observations**

The Committee observed that:

- i) Universal suffrage is facilitated at the Faculty level where every student participates in the election of the delegates, three delegates per faculty who then participate in the election on University students' organisation officials.
- ii) There is need for proportionate representation of the faculties at the electoral college where the number of delegates per faculty is determined by the overall population of Students in the particular faculty.

**Committee General Observations**

This section provides for the summary of the Committee's Observations on the Petition as hereunder: -

- 1. The Committee observed that issues in respect of which the petition is made are pending before court of appeal and therefore any further discussion on the matter would be sub-judice.
- 2. Universal suffrage is facilitated at the Faculty level where every student participates in the election of the delegates, three delegates per faculty who then participate in the election on University students' organisation officials.
- 3. That universal suffrage can be enhanced through proportionate representation of the faculties at the electoral college where the number of delegates per faculty is determined by the overall population of students in the particular faculty.

**MIN. NO. 27/UNIV -EDUC/2018:**


**ANY OTHER BUSINESS**

No other business arose

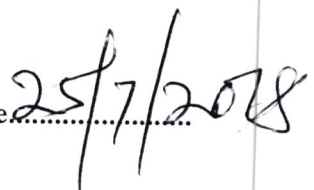
**MIN. NO.95/UNIV -EDUC/2018: ADJOURNMENT**

There being no other business the meeting was adjourned at 12:20 pm. The next meeting will held on notice.

Signed.....



Date.....



**Hon. Moses Malulu Injendi, MP**  
**(Sub-Committee Chairman)**

