

Approved for tabling ~~Bat~~ SWA

30/4/19

REPUBLIC OF KENYA



*Paper laid by  
the Hon. Mansa Kamanda  
Chair, Committee on  
Opposition and Equal  
Opportunities  
Njoroge  
Mans Kamanda  
30/4/2019*

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TWELFTH PARLIAMENT - THIRD SESSION - 2019

THE NATIONAL ASSEMBLY

REPORT OF THE SELECT COMMITTEE ON NATIONAL COHESION AND EQUAL OPPORTUNITY ON THE CONSIDERATION OF THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) NATIONAL ASSEMBLY BILLS NO. 12 OF 2019

Directorate of Committee Services,  
Clerk's Chambers  
Parliament Buildings,  
NAIROBI

APRIL, 2019

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 30 APR 2019	DAY
TABLED BY:	Hon. Mansa Kamanda Chair, Committee on Opposition and Equal Opportunities
CLERK AT THE TABLE:	Jemima K. Ochieng

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## ACRONYMS/ ABBREVIATIONS

KLRC - Kenya Law Reform Commission

NCIC - National Cohesion and Integration Commission

## CHAIRPERSON'S FOREWORD

The National Cohesion and Integration (Amendment) National Assembly Bills No. 12 of 2019 was read a First Time on March 27, 2019 and committed to the Select Committee on National Cohesion and Equal Opportunity for consideration pursuant to the provisions of Standing Order 127(1). The Bill seeks to amend section 17 of the National Cohesion and Integration Act, 2008 which deals with the procedure of appointing Commissioners.

The term for the previous Commission expired in August 2018, subsequently the Committee started the process of recruitment of new Commissioners as provided in section 17(1) (a) and (b) of the National Cohesion and Integration Act,( No. 12 of 2008) read together with the First Schedule to the Act. The Committee in consultation with the Cabinet secretary for interior and Coordination of National Government , shortlisted a total number of 54 candidates who were to be subjected to interviews by the committee for purposes of recommending to the National Assembly suitably qualified persons for nomination as commissioners.

On 7<sup>th</sup> November, 2018 Mr. Okiya Omtatah filed a Petition challenging the process of appointment of Commissioners by the Committee and the Court suspended the process on 9<sup>th</sup> November, 2019 awaiting judgement on the case. The judgement made on 14<sup>th</sup> January, 2019 ruled that NCIC is a public office and the appointment of its Commissioners falls under the purview of the Public Service Commission. The recruitment of Commissioners is still pending to date. It is in this regard, that the Committee resolved to amend the National Cohesion and Integration Act of 2008 to be aligned with the Constitutional principle of separation of powers.

In consideration of this Bill, the Committee invited comments from the Public, the Attorney-General and the Kenya Law Reform Commission. The Committee also held a meeting with the National Cohesion and Integration Commission, the institution mandated to implement the Act.

The Committee sincerely thanks the Offices of the Speaker and the Clerk of the National Assembly for the immense and timely technical and logistical support accorded to it in the execution of its mandate. I also thank all the Members of the Committee and the secretariat for their commitment and hard work which enabled us to complete the tasks related to the scrutiny of the proposed amendments and compilation of this report.

The Committee is also grateful to stakeholders who made submissions both oral and written in relation to the consideration of the Bill.

On behalf of the Select Committee on National Cohesion and Equal Opportunity and pursuant to provisions of Standing Order 127 (4), it is my pleasant privilege and honor to present the Report of the Committee on its consideration of the National Cohesion and Integration (Amendment) Bill National Assembly Bills No. 12 of 2019.

Hon. Maina Kamanda, EGH, M.P

## EXECUTIVE SUMMARY

This report details the consideration of National Cohesion and Integration (Amendment) Bill National Assembly Bills No. 12 of 2019. The Bill was read a First Time on March, 27 2019 and committed to the Select Committee on National Cohesion and Equal Opportunity for consideration, pursuant to the provisions of Standing Order 127(1).

In considering the Bill, the Committee facilitated public participation through adverts in the major dailies on April 10, 2019 requesting for submission of memoranda from the public on the subject. The Committee also requested for comments from the Kenya Law Reform Commission and the Attorney-General.

The Committee noted that the proposed amendments are intended to change the procedure of appointing Commissioners to the National Cohesion and Integration Commission, to be aligned with Constitutional principle of separation of powers. The proposed amendments are also meant to clarify the role of the Chairperson therefore enhancing the effectiveness of the Commission.

The Committee also notes that the term for the previous Commissioners of the NCIC expired in August, 2018 and the recruitment of the Commissioners was suspended following a Petition filed by Mr. Okiya Omtatah in November, 2018. This has hampered optimal functioning of the Commission. Fast tracking of this Bill will therefore enable appointment of Commissioners as soon as it is practicable.

## 1.0 PREFACE

### 1.1 Establishment and Mandate of the Committee

The Committee on National Cohesion and Equal Opportunity is established under the Standing Order No. 212 C of the National Assembly.

The Committee is mandated with among other things to:

- (a) monitor and promote measures relating to policy and program initiatives in pursuit of peace and national cohesion;
- (b) investigate, inquire into and report on all matters relating to inter community cohesion;
- (c) monitor and promote measures designed to enhance the equalization of opportunities and improvement in the quality of life and status of all persons, including persons who are marginalized on the basis of gender, age, disability, health status, ethnic, racial, cultural or religious background or affiliation or any other such ground; and,
- (d) investigate, inquire into and report on all matters relating to discrimination and or marginalization of persons referred to under sub-paragraph (c).

## 1.2 Membership of the Committee

### Chairperson

Hon. Maina Kamanda, EGH, M.P.  
Nominated Member of Parliament  
Jubilee Party

### Vice- Chairperson

Hon. Ekomwa Lomenen, M.P  
Turkana South Constituency  
Jubilee Party

### Members

Hon. Adan W. Keynan, CBS, M.P  
Eldas Constituency  
Jubilee Party

Hon. Jayne Njeri Wanjiru Kihara, M.P.  
Naivasha Constituency  
Jubilee Party

Hon. Maison Leshoomo, M.P  
Women Representative - Samburu County  
Jubilee Party

Hon. Rose Museo, M.P  
Women Representative - Makueni County  
Wiper Democratic Movement Kenya Party

Hon. Daniel Wanyama Sitati, M.P.  
Webuye West Constituency  
Jubilee Party

Hon. Joyce Korir Chepkoech, M.P.  
Women Representative - Bomet County  
Jubilee Party

Hon. Benjamin Gathiru Mwangi  
Embakasi Central Constituency  
Jubilee Party

Hon. Jerusha Mongina Momanyi, M.P.  
Women Representative - Nyamira County  
Jubilee Party

Hon. Stephen Mule, MP  
Matungulu Constituency  
Wiper Democratic Movement Kenya Party

Hon. Rahab Mukami Wachira, M.P.  
Women Representative - Nyeri County  
Jubilee Party

Hon. Charles Ong'ondo Were, MP  
Kasipul Constituency  
Orange Democratic Movement Party

Hon. Mukwe James Lusweti, MP  
Kabuchai Constituency  
Ford Kenya Party

Hon. Edward Oku Kaunya, MP  
Teso North Constituency  
Amani National Party

Hon. Mohamed Hire Garane, M.P.  
Lagdera Constituency  
Kenya National African Union Party

Hon. Jane Jepkorir Chebaibai, M.P  
Women Representative - Elgeyo Marakwet  
County  
Jubilee Party

Hon. Wilson Kogo, M.P  
Chesumei Constituency  
Jubilee Party



Hon. Prof. Zadock Abel Ogutu, M.P.  
Bomachoge Borabu Constituency  
Independent Party

Hon. Prof. Jacqueline Oduol, M.P.  
Nominated Member of Parliament  
Orange Democratic Movement Party

### 1.3 Committee Secretariat

Ms. Tracy Chebet Koskei

Mr. Abdifatah Bule

Ms. Emma Essendi

Ms. Annceta Gacheri

Clerk Assistant I

Clerk Assistant III

Legal Counsel I

Research Officer III

## 2.0 INTRODUCTION

The National Cohesion and Integration (Amendment) Bill (National Assembly Bill No. 12 of 2019) was read a First Time on March 27, 2019 and thereafter committed to the Select Committee on National Cohesion and Equal Opportunity for consideration pursuant to the provisions of Standing Order 127(1).

The Bill seeks to amend section 17 of the National Cohesion and Integration Act, 2008 which deals with the procedure of appointing Commissioners.

## 3.0 GENERAL OVERVIEW OF THE PROPOSED AMENDMENTS

The proposed amendments intend to achieve the following in brief:

### **Section 17 of the Act on the Membership of the Commission**

The Bill proposes to change the procedure for appointment of Commissioners to the National Cohesion and Integration Commission where it is proposed that the President nominates the Commissioners and the National Assembly approves the nominations as opposed to the current position whereby the National Assembly nominates the Commissioners and the President appoints them.

### **Insertion of new section 17A on the powers of the Chairperson**

This new section deals with the powers of the Chairperson.

### **Section 18 on qualifications of Commissioners**

The Bill outlines the requirements for a person to qualify as a commissioner in terms of experience as regards number of years, relevant disciplines and educational background.

### **Section 19 on Term of Office**

This amendment extends the term of office of the Commissioners to six years and are not eligible for re-appointment as opposed to the current three year term with a possible extension of another three years.

### **First Schedule**

This amendment transfers the recruitment process to a selection panel facilitated by the Cabinet Secretary who oversees the Commission, which forwards fifteen names to the President. The President nominates one person for appointment as Chairperson and seven persons for appointment as Members of the Commission and shall forwards the names to the National Assembly for approval.

#### 4.0 PUBLIC PARTICIPATION AND COMMENTS FROM STAKEHOLDERS

Pursuant to Standing Orders 127(3) and (3A) of the National Assembly which provide that, “*The Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its report to the House*”, the Committee requested for comments from the public in two major dailies on April 10, 2019. The Committee, however, did not receive any Memoranda.

The Committee also requested for comments from the Kenya Law Reform Commission (KLRC) and the Attorney General on the Bill. The Committee only received comments from the KLRC.

#### 4.1 COMMENTS FROM THE NATIONAL COHESION AND INTEGRATION COMMISSION

The Committee held a meeting with the National Cohesion and Integration Commission on 23<sup>rd</sup> April, 2019. The Commission supported the proposed amendments and submitted that the proposed amendments on the procedure for recruitment of Commissioner would be similar to that used by Constitutional Commissions. The Commission further submitted that the amendment on the powers of the Chairperson would give clarity to his or her role in the Commission.

4.2 REVIEW AND ANALYSIS OF COMMENTS FROM THE KENYA LAW REFORM COMMISSION (KLRC)

Section	Proposed Amendments	Proposal by KLRC	Analysis
18	Qualifications of commissioners	Separate the qualification for appointment of Chairperson and other members of the Commission. This is to ensure a seamless procedure for appointment of both the Chairperson and members of the Commission.	The only distinction in qualification of Chairperson and members is five years' experience in the case of a chairperson and two years' experience in the case of a commissioner. This may not necessitate a separate clause for qualification of the chairperson.
19	Term of office	The Chairperson should be given a six year non-renewable term whereas the other members should be given a five year non-renewable term. This is for purposes of continuity in the Commission.	The Commission has a Secretariat which will serve as the institutional memory of the Commission.
First Schedule	FIRST SCHEDULE [Section 17, Act No. 25 of 2015, Sch.] PROCEDURE FOR NOMINATING COMMISSIONERS BY THE NATIONAL ASSEMBLY	(a) The selection panel should forward three names for consideration by the President for appointment of one of them as the Chairperson.  (b) The selection panel should also forward fifteen names for consideration by the President for appointment of seven of them as members.	The President should be given the leeway to choose the Chairperson and Commissioners from the whole list of fifteen persons.

## 5.0 COMMITTEE OBSERVATIONS

The Committee observed the following:-

- I. The proposed amendments change the procedure of appointing Commissioners to be aligned with the Constitutional principle of separation of powers;
- II. The proposed amendments introduce a new section which clarifies the role of the Chairperson in the Commission;
- III. The proposed amendments enhance the requirements for a person to qualify as a Commissioner to enhance the effectiveness of the Commission;
- IV. The term for the previous Commissioners of the NCIC expired in August, 2018 and the recruitment of the Commissioners was suspended following a Petition filed by Mr. Okiya Omtatah in November, 2018. This has hampered optimal functioning of the Commission. Fast tracking of this Bill will therefore enable appointment of Commissioners as soon as it is practicable; and,
- V. The term for the Chief Executive Officer is set to lapse in July, 2019, given that the Commission does not have Commissioners, the Committee recommends that the term for the Chief Executive Officer be extended until new Commissioners are in Office.

## 6.0 COMMITTEE'S RECOMMENDATIONS

The Committee having considered the Bill and the submissions from the stakeholders makes the following recommendations:

Clause 1 – Agreed to

Clause 2 – Agreed to

Clause 3 – Agreed to

Clause 4 – Agreed to

Clause 5 – Agreed to

Clause 6

THAT clause 6 of the Bill be amended in the proposed First Schedule by inserting the words “who shall not be the Chairperson” immediately after the word “Commission” in paragraph 2 (e).

Signed.......... Date..... 30/4/2019.....

Hon. Maina Kamanda, EGH, M.P

Chairperson,

Select Committee on National Cohesion and Equal Opportunity

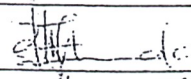



COMMITTEE ON NATIONAL COHESION AND EQUAL OPPORTUNITY

Register for the adoption of the Report on the National Cohesion and Integration  
(Amendment) Bill, 2019

	NAME	SIGNATURE
1.	The Hon. Maina Kamanda, EGH, M.P.- Chairperson	
2.	The Hon. Ekomwa Lomenen, M.P-Vice Chairperson	
3.	The Hon. Dr. Adan W. Keynan, CBS, M.P.	
4.	The Hon. Maison Leshoomo, M.P	
5.	The Hon. Rose Museo, MP	
6.	The Hon. Daniel Wanyama Sitati, M.P.	
7.	The Hon. Mohamed Hire Garane, M.P.	
8.	The Hon. Benjamini Gathiru Mwangi, M.P	
9.	The Hon. Jayne Njeri Wanjiru Kihara, M.P.	
10.	The Hon. Wilson Kipngetch Kogo, M.P.	
11.	The Hon. Jerusha Mongina Momanyi, M.P.	
12.	The Hon. Rahab Mukami Wachira, M.P.	
13.	The Hon. Prof. Zadoc Abel Ogutu, M.P.	
14.	The Hon. Jane Jepkorir Chebaibai, M.P	
15.	The Hon. Prof. Jacqueline Oduol, MP	
16.	The Hon. Charles Ong'ondo Were, MP	
17.	The Hon. James Mukwe Lusweti, MP	
18.	The Hon. Joyce Korir Chepkoech, M.P.	



19.	The Hon. Stephen Mule, MP	
20.	The Hon. Edward Oku Kanya, MP	
21.	The Hon. Enoch Kibunguchy, MP	

**MINUTES OF THE 16<sup>TH</sup> SITTING OF THE COMMITTEE ON NATIONAL COHESION AND EQUAL OPPORTUNITY HELD ON TUESDAY, 23<sup>RD</sup> APRIL, 2019 IN THE COMMITTEE ROOM 12, MAIN PARLIAMENT BUILDINGS AT 11.30 AM**

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**PRESENT**

1. The Hon. Maina Kamanda, EGH, M.P - Chairperson
2. The Hon. (Prof.) Jacqueline Oduol, MP
3. The Hon. Edward Oku Kaunya, MP
4. The Hon. Benjamin Gathiru Mwangi, M.P.
5. The Hon. (Prof.) Zadock Abel Ogutu, M.P
6. The Hon. Daniel Wanyama Sitati, M.P.
7. The Hon. Wilson Kipngetch Kogo, M.P
8. The Hon. Mukwe James Lusweti, MP
9. The Hon. Rahab Mukami Wachira, M.P
10. The Hon. Stephen Mule, M.P

**ABSENT WITH APOLOGY**

1. The Hon. Ekomwa Lomenen, M.P - Vice-chairperson
2. The Hon. Dr. Adan W. Keynan CBS, M.P
3. The Hon. Charles Were, MP
4. The Hon. Charles Were, MP
5. The Hon. Joyce Korir Chepkoech, M.P
6. The Hon. Jayne Njeri Wanjiru Kihara, M.P
7. The Hon. Jane Jepkorir Chebaibai, M.P.
8. The Hon. Mohamed Hire Garane, M.P.
9. The Hon. Jerusha Mongina Momanyi, M.P
10. The Hon. Rose Museo, MP
11. The Hon. Maison Leshoomo, M.P

**ABSENT**

The Hon. Dr. Enoch Kibunguchy, M.P

**IN ATTENDANCE**

**NATIONAL COHESION AND INTEGRATION COMMISSION (NCIC)**

1. Mr. Hassan Mohammed - Chief Executive Officer
2. Mr. Kyalo Mwengi - Head of Legal Service, NCIC
3. Mr. Guyo Liban - Assistant Director, Peace Building
4. Mr. James Wanyande - Legal Officer

SECRETARIAT

1. Ms. Chebet Koskei – First Clerk Assistant
2. Mr. Abdifatah Bule – Third Clerk Assistant
3. Ms. Emma Essendi – Legal Counsel I

MIN. NO. NA/NC&EO/036/2019: PRAYERS

The meeting was called to order at 11.35 am after which a prayer was said. This was followed by introductions.

MIN. NO. NA/NC&EO/037/2019: CONFIRMATION OF MINUTES

The Agenda was deferred to the next sitting.

MIN. NO. NA/NC&EO/038/2019: Considerations of the comments by the Kenya law reform commission on the National Cohesion and Integration Amendment Bill, 2019

The Chief Executive Officer Submitted that the Commission supported the proposed amendment to the procedure for recruitment of Commissioner as they would be similar to that used by Constitutional Commissions. The Commission further submitted that the amendment on the powers of the chairperson would give clarity to his or her role in the Commission.


Committee resolution

Following deliberation, the Committee resolved to propose a further amendment to the bill as follows: Under the Membership of the selection panel, that the person nominated by the National Gender and Equality Commission should not be a Commissioner. This is because the Chairperson of the National Gender and Equality Commission is and Ex-Officio Member of the National Cohesion and Integration Commission. Including Commissioners in the panel would result to a conflict of interest.

MIN. NO. NA/NC&EO/039/2019: ANY OTHER BUSINESS

MIN. NO. NA/NC&EO/039/2019: ADJOURNMENT

Having concluded the business of the day, the meeting was adjourned at 12.50 pm. The next meeting will be on notice.

SIGNATURE.....

DATE..... 30/4/2019

(HON. MAINA KAMANDA, EGH, M.P - CHAIRPERSON)

**MINUTES OF THE 17<sup>TH</sup> SITTING OF THE COMMITTEE ON NATIONAL COHESION  
AND EQUAL OPPORTUNITY HELD ON THURSDAY, 25<sup>TH</sup> APRIL, 2019 IN THE  
COMMITTEE ROOM 12, MAIN PARLIAMENT BUILDINGS AT 11.30 AM**

**PRESENT**

1. The Hon. Maina Kamanda, EGH, M.P - Chairperson
2. The Hon. Edward Oku Kaunya, MP
3. The Hon. Benjamin Gathiru Mwangi, M.P.
4. The Hon. (Prof.) Zadock Abel Ogutu, M.P
5. The Hon. Daniel Wanyama Sitati, M.P.
6. The Hon. Mukwe James Lusweti, MP
7. The Hon. Jane Jepkorir Chebaibai, M.P.

**ABSENT WITH APOLOGY**

1. The Hon. Ekomwa Lomenen, M.P - Vice-chairperson
2. The Hon. Dr. Adan W. Keynan CBS, M.P
3. The Hon. Charles Were, MP
4. The Hon. Charles Were, MP
5. The Hon. Rahab Mukami Wachira, M.P
6. The Hon. Joyce Korir Chepkoech, M.P
7. The Hon. Jayne Njeri Wanjiru Kihara, M.P
8. The Hon. Mohamed Hire Garane, M.P.
9. The Hon. Jerusha Mongina Momanyi, M.P
10. The Hon. Stephen Mule, M.P
11. The Hon. Rose Museo, MP
12. The Hon. Maison Leshoomo, M.P-
13. The Hon. (Prof.) Jacqueline Oduol, MP
14. The Hon. Wilson Kipngetich Kogo, M.P

**ABSENT**

The Hon. Dr. Enoch Kibunguchy, M.P

**IN ATTENDANCE**

**SECRETARIAT**

1. Ms. Chebet Koskei - First Clerk Assistant
2. Mr. Abdifatah Bule - Third Clerk Assistant
3. Ms. Emma Essendi - Legal Counsel

The meeting was called to order at 11.40 am after which a prayer was said. This was followed a rc of introductions.

MIN. NO. NA/NC&EO/041/2019: CONFIRMATION OF MINUTES

The Agenda was deferred to the next sitting.

MIN. NO. NA/NC&EO/042/2019: CONSIDERATIONS OF THE COMMENTS BY THE KENYA LAW REFORM COMMISSION ON THE THE NATIONAL COHESION AND INTEGRATION (AMENDMENT)BILL, 2019

The Committee considered the comments and resolved as follows:

**Section 18 on the Qualifications of commissioners**

The KLRC proposed that the qualification for appointment as Chairperson and other members of Commission should be in separate clauses.

The Committee rejected the proposal and resolved that it was not necessary to have separate clause

**Section 19 on the Term of Office**

The KLRC proposed that the Chairperson should be given a six year non-renewable term whereas other members should be given a five year non-renewable term. This is for purposes of continuity i the Commission.

The Committee rejected the proposal as the Commission has a Secretariat which will serve as the institutional memory of the Commission.


**FIRST SCHEDULE**

The KLRC proposed that that the appointment of the chairperson and other members of Commission should be distinct and separate. Therefore, the KLRC proposed that the selection p should forward three names for consideration by the President for appointment of one of them as Chairperson. The panel should also forward fifteen names for consideration by the President appointment of seven of them as members.

The Committee rejected this proposal and resolved that the President should be given the leewa choose the Chairperson and Commissioners from the whole list.

un MIN. NO. NA/NC&EO/043/2019: ADJOURNMENT

Having concluded the business of the day, the meeting was adjourned at 12.50 pm. The next meeting will be on notice.

SIGNATURE..........

DATE.....20/4/2019.....

(HON. MAINA KAMANDA, EGH, M.P - CHAIRPERSON)

MINUTES OF THE 18<sup>TH</sup> SITTING OF THE COMMITTEE ON NATIONAL COHESION  
AND EQUAL OPPORTUNITY HELD ON TUESDAY, 30<sup>TH</sup> APRIL, 2019 IN THE MEMBERS  
LOUNGE, MAIN PARLIAMENT BUILDINGS AT 11.30 AM

---

**PRESENT**

1. The Hon. Maina Kamanda, EGH, M.P - Chairperson
2. The Hon. Ekomwa Lomenen, M.P - Vice-chairperson
1. The Hon. (Prof.) Jacqueline Oduol, MP
2. The Hon. Edward Oku Kaunya, MP
3. The Hon. Benjamin Gathiru Mwangi, M.P.
4. The Hon. (Prof.) Zadock Abel Ogutu, M.P
5. The Hon. Daniel Wanyama Sitati, M.P.
6. The Hon. Wilson Kipngetich Kogo, M.P
7. The Hon. Mukwe James Lusweti, MP
8. The Hon. Jayne Njeri Wanjiru Kihara, M.P
9. The Hon. Jerusha Mongina Momanyi, M.P
10. The Hon. Jane Jepkorir Chebaibai, M.P.
11. The Hon. Charles Were, MP
12. The Hon. Stephen Mule, M.P
13. The Hon. Charles Were, MP

**ABSENT WITH APOLOGY**

1. The Hon. Dr. Adan W. Keynan CBS, M.P
2. The Hon. Rahab Mukami Wachira, M.P
3. The Hon. Joyce Korir Chepkoech, M.P
4. The Hon. Mohamed Hire Garane, M.P.
5. The Hon. Rose Museo, MP
6. The Hon. Maison Leshoomo, M.P

**ABSENT**

The Hon. Dr. Enoch Kibunguchy, M.P

**IN ATTENDANCE**

**SECRETARIAT**

1. Ms. Chebet Koskei - First Clerk Assistant
2. Mr. Abdifatah Bule - Third Clerk Assistant
3. Ms. Emma Essendi - Legal Counsel

MIN. NO. NA/NC&EO/044/2019:

PRAYERS

The meeting was called to order at 11.35 am after which a prayer was said.

MIN. NO. NA/NC&EO/045/2019: CONFIRMATION OF MINUTES

The Agenda was deferred to the next sitting.

MIN. NO. NA/NC&EO/046/2019: CONSIDERATIONS AND ADOPTION OF THE REPORT ON THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL, 2019

The Committee considered and adopted the Report on the National Cohesion and Integration Amendment Bill, 2019 as proposed and seconded by the Hon. Benjamin Gathiru Mwangi, M.P. and Hon. Charles Were, MP respectively as follows:-

**Committee Observations**

The Committee observed the following:-

- I. The proposed amendments change the procedure of appointing Commissioners to be aligned with the Constitutional principle of separation of powers;
- II. The proposed amendments introduce a new section which clarifies the role of the Chairperson in the Commission;
- III. The proposed amendments enhance the requirements for a person to qualify as Commissioner to enhance the effectiveness of the Commission;
- IV. The term for the previous Commissioners of the NCIC expired in August, 2018 and the recruitment of the Commissioners was suspended following a Petition filed by Mr. Oki Omtatah in November, 2018. This has hampered optimal functioning of the Commission. Fast tracking of this Bill will therefore enable appointment of Commissioners as soon as is practicable; and,
- V. The term for the Chief Executive Officer is set to lapse in July, 2019, given that the Commission does not have Commissioners, the Committee recommends that the term of the Chief Executive Officer be extended until new Commissioners are in Office.



Politics. Voters consider "King Bibi" versus "Bibi fatigue"

# Israelis vote to decide on PM's record reign

Novice ex-general Gantz could stop fifth term for Netanyahu.

By Reuters Jerusalem

Israelis voted yesterday in an election that could hand right-wing Prime Minister Benjamin Netanyahu a record fifth term or see him dethroned by an ex-general who has pledged clean government and social cohesion.

During the campaign leading up to polling day, the rival parties waged a vitriolic online battle, accusing each other of corruption, fostering rigour and being soft on security.

Mr Netanyahu's closest rival in the campaign was Benny Gantz, a former chief of the armed forces. Mr Gantz's centrist Blue and White party, which includes other former



A combination picture shows Benny Gantz (left), leader of Blue and White party voting at a polling station in Rosh Ha'ayin and Israel's Prime Minister Benjamin Netanyahu voting at a polling station in Jerusalem, yesterday. (Reuters)

generals, has challenged Netanyahu's hitherto unrivalled national security credentials.

After an election eve visit to the Western Wall, Netanyahu, 69, voted at a polling station in Jerusalem yesterday morning, accompanied by his wife, Sara. "This is truly the essence of democracy and we should be

blessed with it," he said, shaking hands with election officials and posing for selfies. "With God's help the State of Israel will prevail. Thank you very much. Go to vote."

Casting his vote in Rosh Ha'ayin near Tel Aviv, Gantz, 59, said: "This is a day of hope, a day of unity. I look into eve-

ryone's eyes and know that we can connect."

After the election Israel's president, Reuven Rivlin, will consult the leaders of every party represented in the Knesset and select the person he believes has the best chance of forming a government.

Polling stations opened at 7am (0400 GMT) across the country and closed at 10pm (1900 GMT). The victor may not be decided immediately. No party has ever won an outright majority in the 120-seat parliament, meaning days or even weeks of coalition negotiations lie ahead.

One factor may be the turnout of voters from Israel's 21 per cent Arab minority. Many were angered by Israel's nation-state law, passed in 2018, which declared that only Jews have the right of self-determination in the country. Netanyahu supported the legislation.



## India. 11 million face eviction, displacement

At least 11 million people in India risk being uprooted from

their homes and land as authorities build highways and airports and cordon off forests, activists said yesterday, undermining a Government push to provide housing for all citizens by 2022. The estimate includes about 19 million indigenous families whose land claims under the Forest Rights Act have been rejected, said advocacy group Housing and Land Rights Network. Last year, authorities demolished at least 114 houses every day, evicting about 23 people every hour. [Reuters]

## Brussels. Bloc faces resistant China for talks

Chinese Premier Li Keqiang and EU institution leaders met in Brussels yesterday for an annual EU-China summit that the bloc has seized on to pressure Beijing over trade and investment. After years of offering free access to its markets, the EU is losing patience with the slow pace of Beijing's own market liberalisation. It is also growing concerned over

state-led Chinese companies' dominance of some EU markets and acquisitions of strategic industries. European Commission President Jean-Claude Juncker said the summit "would not be simple". "We will explain that in Europe we are insisting that European firms in China should enjoy the same rights as Chinese firms in Europe," he said in a speech before the meeting. EU's newly assertive stance has made it difficult to agree a final summit declaration. [Reuters]

## US. Pompeo bans 16 Saudis from entry

US Secretary of State Mike Pompeo has banned 16 Saudi from entering the United States over the death of Saudi journalist Jamal Khashoggi, the US State Department has said. In a

statement, the State Department said that Mr Pompeo was publicly designating the individuals "for their roles in the murder of Jamal Khashoggi". Mr Khashoggi was murdered inside the Saudi consulate in Turkey's Istanbul in October 2018. Riyadh initially denied any knowledge of the killing. [Xinhua]

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT - THIRD SESSION

In the matters of consideration by the National Assembly:-

1. The Narcotics Drugs and Psychotropic Substances (Control) (Amendment) Bill (National Assembly Bill, 2019)
2. The National Disaster Management (Authority) Bill (National Assembly Bill, 2019)

**SUBMISSION OF MEMORANDA**

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and of Parliament and its Committees". The National Assembly Standing Order 127(5) provides that, "the Departmental Committee to which a Bill is committed shall facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House".

The Narcotics Drugs and Psychotropic Substances (Control) (Amendment) Bill, 2019 seeks to amend the Narcotics Drugs and Psychotropic Substances (Control) Act, No. 4 of 1994 in order to: enhance the penalties of the offence of trafficking narcotic drugs; define who law enforcement officers are in respect to the Act; and prescribe offences for a law enforcement officer who aids or abets or is an accessory to any offence under the Act.

The National Disaster Management (Authority) Bill (National Assembly Bill, 2019) seeks to establish a centralized system of responding to and managing disasters in the country.

The above mentioned Bills have undergone First Reading pursuant to Standing Order 127(3) and stands committed to the Departmental Committee on Administration and National Security for consideration and thereafter report to the House.

Pursuant to Article 118 (1)(b) of the Constitution and Standing Order 127, the Committee invites interested members of the public to submit any representations they may have on the said Bills. The Submissions may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Building, Nairobi; or emailed to [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke); to be received on or before Tuesday, 16<sup>th</sup> April, 2019 at 5:00 pm.

MICHAEL SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT - THIRD SESSION

In the matters of consideration by the National Assembly:-

1. The Employment (Amendment) Bill (National Assembly Bill, 2019)
2. The National Cohesion and Integration (Amendment) Bill (National Assembly Bill, 2019)

**SUBMISSION OF MEMORANDA**

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and of Parliament and its Committees". The National Assembly Standing Order 127(5) provides that, "the Departmental Committee to which a Bill is committed shall facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House".

The Employment (Amendment) Bill (National Assembly Bill, 2019) seeks to amend the Employment Act, 2007 in order to afford pre-adoptive leave to parents who apply for the adoption of children who are not their natural children born to them by birth.

The National Cohesion and Integration (Amendment) Bill (National Assembly Bill, 2019) seeks to amend section 17 of the National Cohesion and Integration Act, 2008 which deals with the procedure of appointing Commissioners.

The above mentioned Bills have undergone First Reading pursuant to Standing Order 127(3) and stands committed to the Departmental Committee on Labour & Social Welfare and the Select Committee on National Cohesion & Equal Opportunity respectively for consideration and thereafter report to the House.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and Standing Order 127(3), the respective Committees invite members of the Public to submit representations they may have on the said Bills. The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke); to be received on or before Tuesday, 16<sup>th</sup> April, 2019 at 5:00 pm.

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY

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# KENYA LAW REFORM COMMISSION



"Independent Agency for responsive Law Reform"

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NAIROBI, KENYA

① Dico-1400  
88  
11/04

10<sup>th</sup> April, 2019

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

② CHEBET  
pls deal  
HA  
15/4/19

(Attn: Serah Kioko)

Dear Serah,

③ CHEMUNGI  
pls handle  
HA  
15/4/19

RE: CONSIDERATION OF THE NATIONAL COHESION AND INTERGRATION  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.12 OF 2019)

Please refer to the above subject matter and your letter thereon.

Enclosed herewith please find the Commission's comments on the Proposed Amendments to the National Cohesion and Integration Act (NCIA) for further action.

As always, we thank for your continued support to the Commission.

Yours sincerely,

Joash Dache, MBS  
CEO/SECRETARY

Encls.





**COMMENTS ON THE PROPOSED AMENDMENTS TO THE NATIONAL  
COHESION AND INTEGRATION ACT (NCIA)**

Clause	Recommendation	Justification
<p>Clause 2 of the National Cohesion and Integration (Amendment) Bill, 2019, proposes to amend section 17 of the National Cohesion and Integration Act, No. 12 of 2008 to provide for the procedure of appointment of the chairperson and members of the Commission. Similarly, the Bill proposes to amend section 18 of the Act to provide for the qualifications for appointment as a Commissioner, however, it does not provide for qualifications for appointment as the chairperson but instead only provides for the qualifications for appointment as a Commissioner.</p> <p>Subsection 18(1), is drafted in specific terms i.e. ....<i>that a person is qualified for appointment as a commissioner.</i> Therefore the qualifications as proposed are applicable to a person to be appointed as a Commissioner and not the chairperson.</p> <p>Further, under subsection 18(2), the Bill proposes to provide for</p>	<p>Separate the qualifications for the appointment as a member of the Commission from the qualifications for appointment as the chairperson of the Commission.</p> <p>It is not enough to provide for the disqualification for appointment as the chairperson and fail to provide for the qualifications.</p>	<p>This is to ensure a seamless procedure for appointment of both the chairperson and the members of the Commission.</p>

<p>the disqualifications for appointment as a chairperson or Commissioner.</p>		
<p>Under clause 7 of the First Schedule to the Bill, the selection panel is mandated to shortlist fifteen persons qualified for appointment <i>as members of the Commission</i>. The Bill however, does not state that the fifteen candidates shortlisted for appointment also qualifies for consideration for appointment as the chairperson but mandates the President under clause 8 of the Schedule to appoint from amongst the fifteen a chairperson and members of the Commission.</p>	<p>The standard practise has been that, the appointment of the chairperson and members of a Commission/ Board should be distinct and separate.</p> <p>Therefore, in addition to the provision of separate qualifications for appointment as a chairperson and member of the Commission, the Bill should mandate the section panel established under clause 2 of the Schedule, to provide for a separate list of persons to be appointed as the chairperson and member of the Commission. In this regard, we recommend that for the appointment of the chairperson, the selection panel to forward three names to the President for consideration. The President shall have the discretion to appoint one person out of the three names submitted. For</p>	<p>This is to ensure good corporate governance, through transparency and accountability where the chairperson is able to offer leadership. Similarly, the submission of separate names to the President by the selection panel is in line with the standard practise on the appointment of members and chairperson. of a Commission/ Board.</p>

	<p>appointment of the members of the Commission on the other hand, we recommend that the number fifteen be retained, out of which the President shall have the discretion to appoint seven persons to be members of the Commission.</p>	
<p>The Bill proposes to amend section 19 of the NCI Act to provide for the tenure of office of the Commissioners from the current three-year renewable term to a fixed six-year non renewable term.</p>	<p>In order to ensure continuity of the Commission, we recommend that the Commissioners be granted a five-year non renewable term while the chairperson be granted a six-year non renewable term.</p>	<p>This is for transition purposes and to ensure continuity in the Commission.</p>

