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REPUBLIC OF KENYA



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TWELFTH PARLIAMENT – FOURTH SESSION, 2020

THE NATIONAL ASSEMBLY

THE DEPARTMENTAL COMMITTEE ON
ADMINISTRATION AND NATIONAL SECURITY

REPORT ON THE PREVENTION OF TERRORISM
(AMENDMENT) BILL (SENATE BILL NO. 20 OF 2018)

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS

JUNE, 2020


	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 23 JUN 2020	
DAY: TUE	
TABLED BY:	LOAA (HON A. KIMANI)
CLERK AT SE-TABLE:	CHAIR - HON P. KOINANGE
	W. KIBINDIRI

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CHAIRPERSON'S FOREWORD

The Prevention of Terrorism (Amendment) Bill, 2018 is a Senate Bill and was read a First Time on Wednesday, June 26, 2019 and thereafter committee to the Senate on National Security and Foreign Relations for review and report to the House. It was published in the Kenya Gazette Supplement No. 104 of 19th July, 2018 and passed by the Senate, with amendments on 12th June, 2019.

The main object of the Bill is to amend the Prevention of Terrorism Act to provide for a duty to institution administrators and regulators in counter terrorism and radicalization.

The Bill also seeks to ensure that measures are put in place to build the resilience of learners through sensitization, building strong support and care networks for students, and working with key institutions to counter ideological challenges in education institutions.

HON. PAUL KOINANGE, M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON
ADMINSTRATION AND NATIONAL SECURITY

PART 1

1. PREFACE

1.1. Mandate of the Committee

1. The Departmental Committee on Administration and National Security is established in accordance with the provisions of Standing Order 216 of the National Assembly. Its mandate as provided for in S.O. 216(5) includes, among others:

- (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 programme 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) *to 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) ; and*

(vii) *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

2. The Committee oversees the Ministry of Interior and Coordination of National Government, Departments and state agencies that deal with National Intelligence, Police Services, Home Affairs activities, Public Administration, Public Service, Prisons and Correctional Services, Immigration, the management of Natural Disasters, and Community Service Orders.

1.2. Committee Membership

3. The Committee was constituted on Thursday, 14th December, 2017 and comprises the following Honourable Members-

Chairperson

Hon. Paul Karuga Koinange, MP
MP for Kiambaa Constituency
Jubilee Party

Vice-Chairperson

Hon. John Waluke, MP
M.P for Sirisia Constituency

Jubilee Party

Hon. Wamunyinyi, Athanas Wafula, MP
MP for Kanduyi Constituency
Ford Kenya Party

Hon. (Dr.) Tecla Tum, MP
MP for Nandi County
Jubilee Party

Hon. Kaluma, George Peter Joseph, MP
MP for Homa Bay Town Constituency
ODM Party

Hon. Josphat Kabinga, MP
MP for Mwea Constituency
Jubilee Party

Hon. (Dr.) Makali Mulu, MP
MP for Kitui Central Constituency
Wiper Party

Hon. Nimrod Mbai, MP
MP for Kitui East Constituency
Jubilee Party

Hon. Theuri George, MP
Mp for Embakasi West Constituency
Jubilee Party

Hon. Ngunjiri Wambugu, MP
MP for Nyeri Town Constituency
Jubilee Party

Hon. Joshua Aduma Owuor, MP
Mp for Nyakach Constituency
ODM Party

Hon. Abdi Shurie Omar, MP
MP for Balambala Constituency
Jubilee Party

Hon. Capt. (Rtd) Didmus Barasa Mutua, MP
MP for Kimilili Constituency
Jubilee Party

Hon. Halima Mucheke, MP
Nominated Member
Jubilee Party

Hon. Col. (Rtd) Geoffrey King'ang'i, MP
MP for Mbeere South Constituency
Constituency

Jubilee Party

Hon. Oku Kaunya, MP
MP for Teso North

ANC Party

Hon. Arbelle, Marselino Malimo, MP
MP for Laisamis Constituency

Jubilee Party

Hon. Ahmed Kolosh Mohamed, MP
MP for Wajir West Constituency

Jubilee Party

Hon. Peter Masara, MP
MP for Suna West Constituency

Independent Party

1.2 Committee Secretariat

4. The Committee Secretariat comprises the following officers-

Mr George Gazemba, ACarb, CPM
Principal Clerk Assistant
Lead Clerk

Mr. Joshua Ondari
Clerk Assistant

Ms. Brigitta Mati
Legal Counsel

Mr. Edison Odhiambo
Fiscal Analyst

Mr. James Muguna
Research Officer

Mr. Yaqub Ahmed
Media Officer

Mr. Rodgers Kilunya
Audio Officer

5. Minutes of sittings of the Committee on consideration of the Prevention of Terrorism (Amendment) Bill, 2019 are attached to this report as *annexture 1*.

PART 2

1.1. INTRODUCTION AND BACKGROUND

1.2. Committal of the Bill to the Departmental Committee on Administration and National Security

6. The Prevention of Terrorism (Amendment) Bill, 2018 was read a first time on Wednesday, June 26, 2019. It was published in the Kenya Gazette Supplement No. 104 of 19th July, 2018 and passed by the Senate, with amendments on 12th June, 2019.

a. Memorandum of objects and reasons of the Bill

7. The main object of the Bill is to amend the Prevention of Terrorism Act to provide for a duty to institution administrators and regulators in counter terrorism and radicalisation.
8. The Bill also seeks to ensure that measures are put in place to build the resilience of learners through sensitization, building strong support and care networks for students, and working with key institutions to counter ideological challenges in education institutions.

PART 3

3. VIEWS FROM THE PUBLIC ON THE BILL

9. The Senate on National Security and Foreign Relations Committee sought the public views on 5th July, 2019 on the Bill and only Muslim Leaders and Institutions that submitted comments on the Bill. In their submission they indicated as follows:- that
- a) The Bill does not provide adequate justification for the proposed amendment to the prevention of terrorism;
 - b) The proposed amendments under section 12F and G makes administrators, teachers, parents and guardians as agents of the state security apparatus with intelligence and investigative roles;
 - c) The amendment seeks to legislate parental responsibility;
 - d) The amendments are discriminatory in nature contrary to the bill of rights;
 - e) The amendment seeks to transfer accountability for radicalization from state agencies to parents, school administrators and teachers;
 - f) The amendments seek to legalize an extra judicial practice that already exists in counter-violent extremism;
 - g) There is no clarity as to what happens in the case of a breach of the mandate, duty and responsibilities of the institution administrators, guardians and parents; and
 - h) The amendments are contrary to the National Strategy to Counter Violent Extremism that seek to have a soft power approach;
 - i) The bill would contravene provisions on the constitution on fair hearing, the right to remain silent and right not give self-incriminating evidence.

PART 4

4. CONSIDERATION OF THE BILL AND ARISING LEGAL ISSUES FOR DETERMINATION

10. The Committee considered the Bill on 25th February, 2020 at a sitting held in the Boardroom on the 2nd Floor Protection House, Parliament Buildings. While considering the Bill, legal issues arose which required determination before the Committee could pronounce itself on whether to agree or disagree with the Senate amendments. The issues were-

- (i) Whether the Bill was a money Bill and what are the provisos in law on money Bills**

- (ii) Whether security is a national or county function and which House should originate legislation on security**
 - a) The implementation of provisions of the Bill requires resources which makes the Bill a money Bill which should not originate from the Senate in accordance to Article 109(5);
 - b) Security is a function of the National Government and the Bill seeks to integrate the County Government in the National Government function contrary to the Fourth Schedule of the Constitution.
 - c) The Committee was in the process of doing a comprehensive review of the Prevention of Terrorism Act, the review would cover the provisions contained in the Bill.

PART 5

5. COMMITTEE OBSERVATIONS, FINDINGS AND CONCLUSIONS

Upon studying the Bill, the Committee made the following observations, findings and conclusions-

- a) The implementation of provisions of the Bill requires some resources which makes the Bill a money Bill which should not originate from the Senate in accordance to Article 109(5);
- b) Security is a function of the National Government and the Bill seeks to integrate the County Government in the National Government function contrary to the Fourth Schedule of the Constitution.
- c) The Committee was in the process of doing a comprehensive review of the Prevention of Terrorism Act, the review would cover the provisions contained in the Bill.

PART 6

6. COMMITTEE RECOMMENDATION

The Committee recommends that **the Bill be rejected for the following reasons**

1. The implementation of provisions of the Bill requires some resources which makes the Bill a money Bill which should not originate from the Senate in accordance to Article 109(5);
2. Security is a function of the National Government and the Bill seeks to integrate the County Government in the National Government function contrary to the Fourth Schedule of the Constitution.
3. The Committee was in the process of doing a comprehensive review of the Prevention of Terrorism Act, the review would cover the provisions contained in the Bill.

Sign..........Date.....23rd June 2020.....

HON PAUL KOINANGE, M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON
ADMINSTRATION AND NATIONAL SECURITY

MINUTES OF THE 10TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON THURSDAY, 27TH FEBRUARY, 2020 AT 10.00 A.M. AT IN BOARDROOM ON 2ND FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDING

PRESENT-

1. Hon. John Waluke, MP *Vice Chairperson*
2. Hon. Wafula Wamunyinyi, MP
3. Hon. Peter George Kaluma, MP
4. Hon. Aduma Owuor, MP
5. Hon. George Theuri, MP
6. Hon. Dr. Tecla Chebet Tum, MP
7. Hon. Josphat Kabinga Wachira, MP
8. Hon. Marselino Malimo Arbelle, MP
9. Hon. Didmus Wekesa Barasa Mutua, MP
10. Hon. Oku Kaunya, MP
11. Hon. Abdi Omar Shurie, MP
12. Hon. Peter Masara, MP
13. Hon. Ahmed Kolosh Mohamed, MP

ABSENT WITH APOLOGIES

1. Hon. Paul Koinange, MP - *Chairperson*
2. Hon. Dr. Makali Mulu, MP
3. Hon. Ngunjiri Wambugu, MP
4. Hon. Geoffrey Kingagi Muturi, MP
5. Hon. Nimrod Mbithuka Mbai, MP
6. Hon. Halima Mucheke, MP

IN ATTENDANCE-

COMMITTEE SECRETARIAT-

1. Mr. George Gazemba - Principal Clerk Assistant II
2. Mr. Joshua Ondari - Clerk Assistant
3. Ms. Brigitta Mati - Legal Counsel

4. Mr. James Oloo

- Support Staff

MIN No. 34/2020:-

**PRELIMINARIES AND COMMUNICATION
FROM THE CHAIRPERSON**

The Chairperson officially welcomed Members to the meeting at 10.15 am with a word of prayer from Hon. Joshua Aduma Owuor, MP.

MIN No. 35/2020:-

**CONSIDERATION OF THE REPORT ON
THE PREVENTION OF TERRORISM
(AMENDMENT) BILL (SENATE BILL NO. 20
OF 2018)**

During the sitting, the Committee considered the report and made the following recommendation as follows:-

The Committee recommends that **the Bill be rejected for the following reasons**

1. The implementation of provisions of the Bill requires some resources which makes the Bill a money Bill which should not originate from the Senate in accordance to Article 109(5);
2. Security is a function of the National Government and the Bill seeks to integrate the County Government in the National Government function contrary to the Fourth Schedule of the Constitution.
3. The Committee was in the process of doing a comprehensive review of the Prevention of Terrorism Act, the review would cover the provisions contained in the Bill.

MIN No. 36/2020:-

**REPORT ON THE LEGISLATIVE PROPOSAL ON
THE IMPLEMENTATION OF GOVERNMENT
ASSURANCES BILL, 2018**

The Committee considered the report and resolved the proposal should not proceed for publication because-

- (1) The proposal tries to establish a framework for scrutiny, tracking, monitoring, evaluation, enforcement and implementation of decisions, pledges decisions and undertakings made to Parliament and County Assemblies. The National Assembly Standing Orders No.209 (2) mandates the Committee on Implementation established to scrutinise the resolutions of the House, petitions and undertakings given by the National Executive;

- (2) Another object of this Bill is to formulate a mechanism that facilitates the follow up of promises made by the political party that forms government. The Committee observed that holding political parties accountable to party manifestos and other roadside declarations may be not be worthwhile as such manifestos need to correspond to the national budget;
- (3) The Proposal restated the role of the Committee on implementation which in exercising its oversight role, it should track, enforce and scrutinise government assurances a role already provided for in the National Assembly Standing orders and the relevant county assembly orders;
- (4) Parliament and county assemblies has the power to monitor, extend and inquire into the actions of the executive and with that power, can amend its standing orders to enhance its powers with regard to overseeing the executive;

MIN No. 37/2020:- **REPORT ON THE PUBLIC PETITION REGARDING STATE OF INSECURITY IN SAMBURU NORTH CONSTITUECNY**

The report was unanimously adopted by the Committee after having been proposed and seconded by Hon. Josphat Kabinga, MP and Hon. Marselino Malimo Arbelle, MP respectively.

MIN No. 38/2020:- **ANY OTHER BUSINESS**

The Committee was to retreat from 1st – 3rd March, 2020 in either Kiambu or Machakos County to consider submissions from stakeholders on the Refugees Bill, 2019.

MIN No. 39/2020:- **ADJOURNMENT**

The Chairperson adjourned the meeting at half past eleven in the morning until Thursday, 27th February, 2020 at 10.00 am.

Signed..........
Chairperson

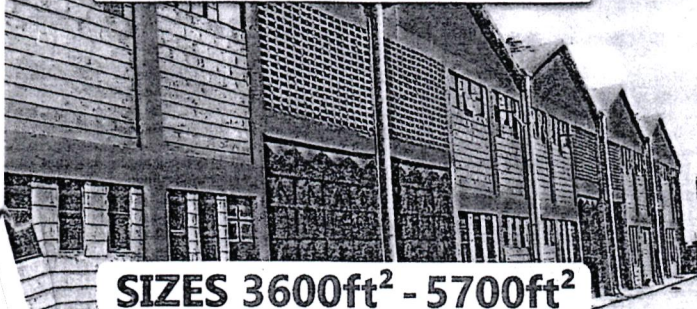
Date.....*23rd June 2020*.....

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REPUBLIC OF KENYA



**THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT - THIRD SESSION**

In the matters of consideration by the National Assembly:-

1. The Prevention of Terrorism (Amendment) Bill (Senate Bill No. 20 of 2018)
2. The Assisted Reproductive Technology Bill (National Assembly Bill No. 34 of 2019)

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". The National Assembly Standing Order 127(3) 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 Prevention of Terrorism (Amendment) Bill (Senate Bill No. 20 of 2018) seeks to amend the Prevention of Terrorism Act to provide for the duty of Institution administrators to counter radicalization. The Bill seeks to ensure that all institution administrators are mandated and charged with the duty of ensuring that measures are put in place in their respective institutions to prevent radicalization and violent extremism.

The Assisted Reproductive Technology Bill (National Assembly Bill No. 34 of 2019) seeks to regulate rights and obligations relating to assisted reproductive technology and with a view to regulating the use of assisted reproductive technologies to aid individuals or couples that have challenges conceiving due to factors associated with infertility. Further, the Bill seeks to regulate the qualifications of health practitioners who administer assisted reproductive technology in order to protect recipients of the services.

The above mentioned Bills have undergone First Reading pursuant to Standing Order 127(3) and stand committed to the Departmental Committee on Administration & National Security and Departmental Committee on Health 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; to be received on or before Thursday 11th July, 2019 at 5.00 pm.

**MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY**



APPOINTMENT TO THE BOARD OF TOTAL KENYA PLC

The Board of Directors of Total Kenya Plc wishes to inform its shareholders, stakeholders and the general public of the following change in the Board of Directors of the Company:-



Ms Lawrendia Gichatha has been appointed as Finance Manager of the Company and as alternate Director to Ms Séverine Julien and Mr Olagoke Aluko with effect from 1 July 2019. She holds a Masters in Business Administration, Strategic Management from Moi University, Kenya and a Degree in Bachelor of Commerce (B.Com.), Accounting from the University of Nairobi, Kenya. She is a qualified and registered member of ICPAK.

Lawrendia has over 15 years of experience in Finance and Accounting and, prior to this appointment, she was the Project Manager at Total Kenya Plc.

She has worked in France for the Marketing & Services branch of the Total Group where she served as a Corporate & Project Finance Manager and SAP Program Manager.

Other positions held in Total Kenya Plc include Controlling Manager, SAP Coordinator and Financial Accountant.

The Board of Directors wishes to extend its gratitude to the outgoing Finance Director, Mr Premanand Dhoomon for his immense contributions to the Company during his tenure and wish him the very best in his new assignment within the Total Group.

BY ORDER OF THE BOARD

**J L G MAONGA
COMPANY SECRETARY**



COUNTY GOVERNMENT OF BUNGOMA

**OFFICE OF THE COUNTY EXECUTIVE COMMITTEE MEMBER
MINISTRY OF LANDS, URBAN/PHYSICAL PLANNING AND HOUSING**

**INVITATION TO PUBLIC PARTICIPATION MEETINGS ON
DRAFT BUNGOMA COUNTY HOUSING POLICY 2019**

Pursuant to the provision of the Constitution of Kenya 2010, Public Finance Management Act 2012, County Government Act 2012, the County Government of Bungoma through the Ministry of Lands, Urban/Physical Planning & Housing hereby invites members of the general Public and all stakeholders to participate and provide their views on the draft Bungoma County Housing Policy 2019.

The public participation meeting will be conducted as scheduled below:-

Sub County	Date	Venue	Time
Webuye East, Webuye West, Tongaren, Kimilili, Mt. Elgon (Kapsokwony)	18 th July 2019	Sipala Friends Church	9:00am-1:00pm
Sirisia, Kabuchai, Mt. Elgon (Cheptais)	19 th July 2019	Sirisia Social Hall	9:00am-1:00pm
Bumula, Kanduyi	22 nd July 2019	Kanduyi Red-cross Hall	9:00am-1:00pm

Members of the public can make their submissions at the venues indicated on the schedule or written memoranda can be sent to:-

**Chief Officer - Lands, Urban/Physical Planning & Housing.
P.O. Box 437-50200,
Bungoma**

E-mail: chiefofficerlands@gmail.com

County Headquarters, Mail Avenue, Bungoma
P.O. Box 437 - 50200, Bungoma
Telephone: 052- 203 0343
Email: info@bungoma.go.ke
Bungoma County
Bungoma, Kenya
www.bungoma.go.ke

Time to act > World is already feeling economic and health effects as crucial medicines become ineffective

Drug resistance puts 10 million lives at risk

Problem is caused by ignorance of the causes of diseases or conditions and self-medication

BY ANGELA OKETCH
@angieoketch
AND AGGREY OMBOKI
*ki@ke.nationmedia.com

More than 10 million people worldwide are at risk of dying from drug-resistant diseases. The effect on the global economy could be as bad as the 2008-2009 financial crisis, and could push 24 million people into poverty by 2030, a groundbreaking report by the UN, international agencies and experts says. The experts demand "immediate, coordinated and ambitious actions to avert a potentially disastrous drug-resistance crisis".

Antibiotic resistance renders a drug ineffective against the targeted bacteria. Misuse of drugs speeds up resistance by pathogens.

Resistance is complex and hard to overcome. It can affect anyone.

More than 40 million antibiotic prescriptions in 2011 in Kenya were unnecessary. The major reasons for antibiotic overuse include patients' ignorance of aetiology (cause of disease or condition), especially those prone to self-medication and buying drugs over the counter.

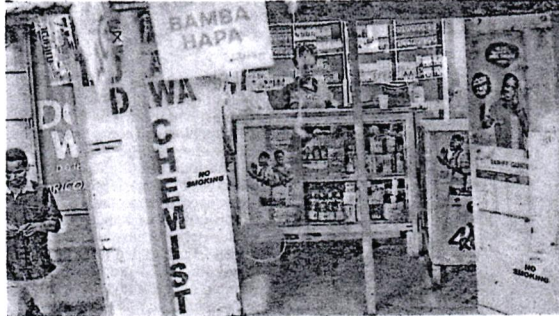


PHOTO | NYT

A pharmacy in Kibera, Nairobi. Increasing availability of over-the-counter antibiotics has accelerated the drugs' inability to kill pathogens.

Currently, at least 700,000 people die each year due to drug-resistant diseases, 230,000 of them from multidrug-resistant tuberculosis.

The median cost of treating a resistant bacterial infection is \$70,000 globally.

More and more common diseases, including those of the respiratory tract, sexually transmitted infections, and urinary tract disorders, are becoming untreatable. Life-saving medical procedures are becoming riskier, while the food systems are increasingly hazardous.

"Antimicrobial resistance is one of the greatest threats we face as

a global community. This report reflects the depth and scope of the response needed. It aims at protecting a century of progress in health," said Ms Amina Mohammed, UN Deputy Secretary-General and co-chair of the organisation's coordination group, IACG.

"It rightly emphasises that there is no time to wait. I urge all stakeholders to act on its recommendations and work urgently to protect our people and planet and secure a sustainable future for all," she added.

The experts said the world is already feeling the economic and health consequences, as crucial medicines

Worrying

DEATHS CAUSED BY DRUG RESISTANCE

World Health Organisation data shows that antimicrobial resistance causes 500,000 deaths yearly.

Neonatal sepsis kills 214,000 children, a third of them due to drug-resistant bacteria. A child dies every five minutes due to an ineffective antibiotic.

Projected annual deaths attributable to antimicrobial resistance by 2050 in Africa stand at 4,150,000, compared with 22,000 in Europe.

some diseases ...," she noted

She said the problem is also common in livestock, adding that people tend to follow a trial-and-error approach. "When a disease is resistant to several antibiotics, it is said to be multidrug resistant. At ILRI, we often find multidrug resistant bacteria in livestock, and people," she said.

A bacterium that is resistant to all the known antibiotics is termed "pan drug resistant". At the moment, only a few exist. Examples are leishmania pneumoniae in the US, and pseudomonas aeruginosa in the UK.

Ms Wieland noted that in Kenya, most people don't adhere to drug withdrawal periods in livestock.

In Ethiopia, a study showed that in some production systems, about 80 per cent of farmers consume milk before the withdrawal period of a cow's course of antibiotics is over.

"The bacteria can remain in meat. If the meat is not handled or cooked properly, the bacteria can spread to humans. The same applies to fertiliser or water containing animal faeces. If a person gets an antibiotic and develops a drug-resistant bacterium in his gut, he can easily spread it to his family, community, or other patients when he visits a health facility," she said.

A while back, Kenyans were upset when American chain Burger King said it would continue selling chicken containing antibiotics in Kenya, but had committed to stop doing so in the US and Canada.

become ineffective, adding that without investment by all countries, future generations will face the impact of antimicrobial resistance.

Recognising that human, animal, food and environmental health are closely interconnected, the report calls for a coordinated, multisectoral "one health" approach. In an earlier interview with Ms Barbara Wieland, team leader of herd health at the International Livestock Research Institute (ILRI), she acknowledged that the problem is growing in Kenya.

"Most of these are the result of people getting treated at hospitals or pharmacies, or from buying drugs and treating themselves without prescriptions. Some drugs no longer work for

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY TWELFTH PARLIAMENT - THIRD SESSION

In the matters of consideration by the National Assembly:-

1. The Public Order (Amendment) Bill (National Assembly Bill No. 14 of 2019)
2. The County Governments (Amendment) Bill (Senate Bill No. 13 of 2018)

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(3) 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 Public Order (Amendment) Bill (National Assembly Bill No. 14 of 2019) seeks to amend the Public Order Act to make provision for organizers of public meetings or public procession leading to loss of property, life or earnings to take responsibility for the loss and compensate the affected persons.

The County Governments (Amendment) Bill (Senate Bill No. 13 of 2018) seeks to amend the County Government Act to provide for additional qualifications of the chairperson of a County Public Service Board.

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; to be received on or before Wednesday 8th May, 2019 at 500 pm.

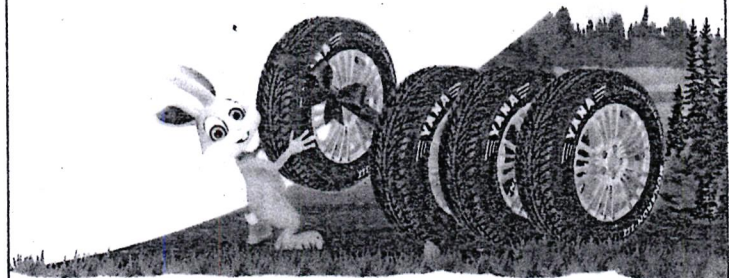
MICHAEL SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY



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23/7/19

② AOCB
please def
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23/7/19

TO: **THE CLERK OF THE NATIONAL ASSEMBLY**
MAIN PARLIAMENT BUILDINGS
NAIROBI

RE: MUSLIM LEADERS AND INSTITUTIONS' MEMORANDUM TO THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY IN THE MATTER OF CONSIDERATION OF THE PREVENTION OF TERRORISM (AMMENDMENT) BILL (SENATE BILL NO. 20 OF 2018)

WE, the undersigned Muslim religious leaders; Muslim institutions and organizations; and civil society groups wish to object in its entirety and totality the above-captioned Bill on the following grounds:

1. The bill does not provide adequate justification for the proposed amendment to the Prevention of Terrorism Act:

Its main object is stated as seeking to amend the Prevention of Terrorism Act to provide for duty of (academic) institution administrators to counter radicalization. It also seeks to ensure that they put in place measures to build resilience of learners through sensitization, building strong support and care networks for students, working with key institutions to counter ideological challenges associated with terrorism.

We aver that the amendments are not justifiable because there is adequate legal framework to deal with all these issues. The Prevention of Terrorism Act in itself is adequate by criminalizing propagation of radical views and also abetting of the same. Also, the Basic Education Act 2013 provides for structures such as guidance and counselling in learning institutions.

2. The amendments under section 12 F and G turn school administrators, teachers, parents and guardians as agents of the state security apparatus with intelligence and investigative roles:

School administrators and parents are not trained (or even paid) to do intelligence gathering. They do not have the capacity or necessary resources to detect radicalization. They surely cannot fill a role that even the security services find difficult to detect despite their mandate and resources.

Further, school administrators do not have the skills and knowledge of what radicalization entails. The definitions on what constitutes radicalization is not well understood and is open to misuse.

① D/Committee
Kindly submit the same
to the Administration and
National Security for
consideration 22/7/19

3. The amendments seek to legislate parental responsibility:

Section **12 G** purports to legislate the roles and responsibilities of a parent. This will not work as parental duty is natural and beyond the law.

4. The amendments are discriminatory in nature contrary to the bill of rights:

Radicalization is a phenomenon that goes beyond institutions of learning. It can occur to individuals in all sectors and therefore creating a specific obligation to only academic administrators is discriminatory.

5. The amendments seek to transfer accountability for radicalization from state agencies to parents, school administrators and teachers:

Crime detection, prevention and investigation is the mandate of the state. Indeed, the social contract demands that the state is responsible for this. Demanding that parents/guardians and teachers take up this responsibility is a breach of this arrangement. The citizens pay taxes and have donated some of their powers to the state and this amendment purports to redesign this arrangement.

6. The amendments seek to legalize an extra-judicial practice that already exists in counter-violent extremism:

The police have used communal punishment and collective guilt before by victimizing parents/guardians and teachers of suspected 'radicals'. They have arrested parents, friends and associates of suspects without any evidence or link to the crime.

These amendments seek to legalize this abhorring and illegal practice by bring about guilt by association. This is contrary to criminal law and constitutional principles.

7. There is no clarity as to what happens in the case of a breach of the 'mandate, duty and responsibilities' of the institution administrators, guardians and parents:

The amendment creates an obligation on parents, school boards etc. but it is not clear as to whether a breach of these obligations creates a liability or even a criminal offence and subsequent punishment.

Laws must have clarity and predictability especially where obligations are imposed on the citizens. These amendments to the Prevention of Terrorism Act do not offer certainty on what constitutes a criminal breach and what the penal consequences are if any.

This opaqueness will lead to abuse of these provisions.


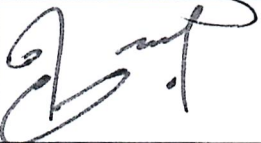



8. The Amendments are contrary to the National Strategy to Counter Violent Extremism (NSCVE) that seek to have a soft power approach to tackling radicalization:

The policy seeks to involve communities rather than alienating them and replace the culture of suspicion with that of genuine openness and community policing.

The amendments through putting punitive obligations will alienate key members of communities- parents and teachers. The bill seeks to alter the design of the NSCVE and will potentially do away with mutual trust and goodwill that the policy was seeking was to inculcate.

9. The bill will contravene provisions on the constitution on fair hearing, the right to remain silent and right not to give self-incriminating evidence:

This offends article 50 (2)(i) and (l) on the right to fair hearing.

	NAME	DESIGNATION	ORGANIZATION	SIGNATURE
1.	Amb. Yussuf Nzibo	Chairman	Supreme Council of Kenya Muslims (SUPKEM)	
2.	Sheikh M.O Warfa	Chairman	Jamia Mosque Committee (JMC)	
3.	Abdullahi Abdi	Chairman	National Muslim Leaders Forum (NAMLEF)	
4.	Sheikh Khalfan Khamis	Chairman	Al-Majlis Ulamaa Kenya	
5.	Mr Munawar Khan	Executive Director	Muslim Education Council	

CONTACT PERSON: ABDULLAHI ABDI
MOBILE: 0722 832 581
EMAIL: aabdiibrahim@gmail.com