

Approved for tabling

THE NATIONAL ASSEMBLY		REPUBLIC OF KENYA	
PAPERS LAID		DAY.	
DATE: 15 OCT 2020			
TABLED BY:	Championson-JLAC		
CLERK AT THE TABLE:	Moses Lumina		



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SNA
15/10/2020

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION – 2020

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT

ON THE CONSIDERATION OF THE INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION (AMENDMENT) BILL, 2019 (NATIONAL
ASSEMBLY BILL NO.24)

CLERKS CHAMBERS
DIRECTORATE OF COMMITTEE SERVICES
PARLIAMENT BUILDINGS
NAIROBI
OCTOBER, 2020

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CHAIRPERSON'S FOREWORD

The Independent Electoral and Boundaries Commission (Amendment) Bill, 2019 (National Assembly Bill No.24) underwent First Reading in the National Assembly on 2nd May, 2019 and was immediately committed to the Departmental Committee on Justice and Legal Affairs for review and report to the House pursuant to the provisions of Standing Order 127(1) of the National Assembly Standing Orders..

The Bill seeks to provide for a mechanism of appointing members of the Independent Electoral and Boundaries Commission. As it is presently, the Selection Panel that was established under the First Schedule to the Act stood dissolved upon appointment of the current Members of IEBC and hence there exists a vacuum as to the mechanism of appointing members of IEBC in case of a vacancy or lapse of term of office of any member of the Commission

Pursuant to the provisions of Article 118 of the Constitution and Standing Order 127 (3) the Committee through an advertisement in the local daily newspapers of 9th May, 2019 invited the public to make representations on the Bill. The Committee didn't receive submissions on the Bill.

May I take this opportunity to commend the Committee Members for their devotion and commitment to duty which made the consideration of the Bill successful. May I also express gratitude to the Offices of Speaker and Clerk of the National Assembly for providing direction and the Committee secretariat for providing technical and logistical support.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and duty to present to the House the report of the Committee on the Independent Electoral and Boundaries Commission (Amendment) Bill, 2019 (National Assembly Bill No.24).

Hon. Muturi Kigano, M.P.

CHAPTER ONE

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Departmental Committee on Justice and Legal Affairs derives its mandate from Standing Order No. 216(5) which provides for the functions of Departmental Committees as follows-
 - (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - (b) study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;
 - (c) study and review all legislation referred to it;
 - (d) study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
 - (e) investigate and enquire 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;
 - (f) 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)
 - (g) examine treaties, agreements and conventions;
 - (h) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - (i) consider reports of Commissions and Independent Offices submitted to the House pursuant to provisions of Article 254 of the Constitution; and
 - (j) Examine any questions raised by Members on a matter within its mandate.

2. The Second Schedule of the Standing Orders on Departmental Committees further outlines the Subjects of the Committee, as follows-
 - (a) Constitutional affairs;
 - (b) The administration of law and Justice
 - (c) The Judiciary;
 - (d) Public prosecutions;
 - (e) Elections;
 - (f) Ethics, integrity and anti-corruption; and
 - (g) Human rights.

1.2 Committee Membership

3. The Committee was constituted on Thursday, 14th December, 2017. The current membership is as follows-

Chairperson

Hon. Clement Muturi Kigano, M.P.

Kangema Constituency

Jubilee Party

Vice Chairperson

Hon. (Dr.) Paul Otiende Amollo, M.P

Rarieda Constituency

ODM Party

Hon. Emmanuel Wangwe, M.P.

Navakholo Constituency

Jubilee Party

Hon. Junet Sheikh Nuh Mohamed, M.P

Suna East Constituency

ODM-Party

Hon. John Olago Aluoch, M.P.

Kisumu West Constituency

FORD-Kenya

Hon. George Peter Kaluma, M.P.

Homa Bay Town Constituency

ODM-Party

Hon. Roselinda SoipanTuya, M.P.

Narok County

Jubilee Party

Hon. Josephine Naisula Lesuuda, M.P

Samburu West Constituency

KANU-Kenya

Hon. W. Kamoti Mwamkale, M.P.

Rabai Constituency

ODM-Party

Hon. Zuleikha Hassan, M.P.

Kwale County

ODM-Party

Hon. Jennifer Shamalla, M.P.

Nominated MP

Jubilee Party

Hon. Adan Haji Yussuf, M.P.

Mandera West Constituency

Economic Freedom Party (EFP)

Hon. John Munene Wambugu, M.P.

Kirinyaga Central

Jubilee -Party

Hon. George Gitonga Murugara, M.P.

Tharaka Constituency

Democratic Party (DP)

Hon. Anthony Githiaka Kiai, M.P.

Mukurueni Constituency

Jubilee-Party

Hon. Japheth Mutai, M.P.

Bureti Constituency

Jubilee-Party

Hon. John Kiarie Waweru, M.P.

Dagoretti South Constituency

Jubilee-Party

Hon. Anthony Oluoch, M.P.

Mathare Constituency

ODM-Party

Hon. Robert Gichimu Githinji, M.P.
Gichugu Constituency
Jubilee-Party

1.3 Committee Secretariat

4. The Committee secretariat staff is as follows--

Mr. Abenayo Wasike
Senior Clerk Assistant
Lead Clerk

Mr. Denis Abisai
Principal Legal Counsel I

Ms. Halima Hussein
Clerk Assistant II

Mr. Ahmed Hassan Odhwa
Principal Research Officer

Mr. Omar Abdirahim
Fiscal Analyst III

Ms. Roselyne Ndegi
Serjeant-at-Arms I

Mr. Joseph Okongo
Media Liaison Officer

5. Minutes of sittings of the Committee on the consideration of the Bill. (**Annexure 1**).

CHAPTER TWO

2.0 INTRODUCTION AND BACKGROUND

6. The Bill seeks to amend the First Schedule to the Independent Electoral and Boundaries Commission Act, 2011 in order to provide for a mechanism of appointing Members of the Independent Electoral and Boundaries Commission.
7. The First Schedule to the Act only applied to the recruitment of the current Commissioners and there is therefore need to amend the Act and provide for a selection panel to consider future appointments to the Commission. There currently exists a lacuna in the Act as to the mechanism of appointing Members of IEBC in case of a vacancy or lapse of the term of office of any Member of the Commission.
8. **Clause 1** provides for the Short title of the Bill.
9. **Clause 2** of the Bill provides that the President shall with the approval of the National Assembly appoint a Selection Panel consisting of eleven persons for the purposes of appointment of the Chairperson and or Member of the Commission.
10. The Bill further provides in clause 2 that the Selection panel shall also consist of one person nominated by the National Council of Persons with Disabilities.

CHAPTER THREE

3.0 PUBLIC PARTICIPATION IN REVIEW OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT), (NATIONAL ASSEMBLY BILL NO.24)

11. Through an advertisement on 9th May, 2019 the Committee pursuant to the provisions of Article 118 (1) (b) of the Constitution as read together with Standing Order 127 (3) invited the public to make submissions regarding the Impeachment Procedure Bill (Senate Bill No.15), 2019. (**Annexure 3**).
12. The Committee did not receive any submissions from the Public on the Bill as requested vide the newspaper advisement of 9th May, 2019

3.1 Committee's Observations

13. The Committee observed THAT;

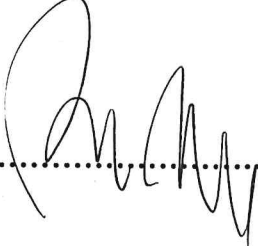
- a) The Bill is similar to the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35) sponsored by the Departmental Committee on Justice and Legal Affairs.
- b) The objective of the Bill is to amend the First Schedule to the IEBC Act, 2011 to provide for a Selection as is the case with the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35).
- c) The Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35) sponsored by the Departmental Committee on Justice and Legal Affairs was passed by the National Assembly and sent to the Senate for concurrence.
- d) The Senate Passed the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35) with amendments on Thursday 23rd July, 2020.
- e) The Committee considered the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35) as passed by the Senate with amendments on Thursday 23rd July, 2020.
- f) The Committee considered the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35) as passed by the Senate with amendments on Thursday 23rd July, 2020 and tabled its report on Thursday 1st October, 2020 recommending that the Senate amendments should be agreed to.

- g) The Committee therefore, resolved that the Independent Electoral and Boundaries Commission (Amendment) Bill, 2019 (National Assembly Bill No.24) sponsored by Hon. Jude Njomo should not be proceeded with since the subject matter it seeks to resolve has been addressed in the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35).

CHAPTER FOUR

4.0 COMMITTEE RECOMMENDATIONS

14. The Committee, having considered the proposed amendment to the First Schedule of the Independent Electoral and Boundaries Commission Act, 2011 recommends to the House that the Independent Electoral and Boundaries Commission (Amendment), Bill, 2019 (National Assembly Bill No.24) should not be proceeded with.

Signed..........Date.....25/10/2020.....

Hon. Muturi Kigano, M.P.

Chairperson, Departmental Committee on Justice and Legal Affairs

ANEEXURE 1

MINUTES

MINUTES OF THE THIRTY FIRST SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON FRIDAY 9TH OCTOBER, 2020 AT 2:00 PM IN WELDONE ROOM, TAMARIND VILLAGE HOTEL, MOMBASA

PRESENT

1. Hon. Clement Muturi Kigano, M.P. - Chairperson
2. Hon. John Olago Aluoch, M.P.
3. Hon. Peter Opondo Kaluma, M.P.
4. Hon. William K. Mwamkale, M.P
5. Hon. Zuleikha Hassan, M.P.
6. Hon. Robert Gichimu Githinji, M.P
7. Hon. Adan Haji Yussuf, M.P
8. Hon. Jennifer Shamalla, M.P.
9. Hon. George G. Murugara, M.P
10. Hon. Anthony G. Kiai, M.P.
11. Hon. Japheth Mutai, M.P.
12. Hon. Anthony Oluoch, M.P.
13. Hon. John M. Wambugu, M.P.
14. Hon. John Kiarie Waweru, M.P.

ABSENT WITH APOLOGIES

1. Hon. (Dr.) Paul Otiende Amollo, M.P - Vice Chairperson
2. Hon. Junet Sheikh Nuh Mohamed, M.P
3. Hon. Emmanuel Wangwe, M.P.
4. Hon. Roselinda Soipan Tuya, M.P.
5. Hon. Josephine Naisula Lesuuda, M.P.

IN ATTENDANCE:

- | | | |
|-----------------------|---|----------------------------|
| 1. Abenayo Wasike | - | Senior Clerk Assistant |
| 2. Mr. Denis Abisai | - | Principal Legal Counsel |
| 3. Mr. Ahmed Odhwa | - | Principal Research Officer |
| 4. Ms. Halima Hussein | - | Second Clerk Assistant |
| 5. Ms. Roselyn Ndegi | - | Sergeant At Arms |

COMMITTEE SECRETARIAT-Mr.

MIN No. 01/2020:

1. The meeting commenced at 2pm with a word of prayer from Hon. John M. Wambugu, M.P. and the program was adopted as filed.

PRELIMINARIES

MIN No.02/2020:-

Agenda was deferred.

CONFIRMATION OF MINUTES

MIN No.03/2020:

CONSIDERATION AND ADOPTION OF REPORT ON INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) (NATIONAL ASSEMBLY BILL NO.24 OF 2019)

The Committee considered and unanimously adopted its report on the Independent Electoral and Boundaries Commission (Amendment) Bill, 2019 (National Assembly Bill No.24) and recommended that the Bill should not be proceeded with since the subject matter it sought to resolve has been addressed in the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35). The adoption was proposed by Hon. Peter Kaluma and seconded by Hon. John Kiarie.

Members observed that;

- a) The Bill is similar to the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35) sponsored by the Departmental Committee on Justice and Legal Affairs.
- b) The objective of the Bill is to amend the First Schedule to the IEBC Act, 2011 to provide for a Selection as is the case with the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35).
- c) The Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35) sponsored by the Departmental Committee on Justice and Legal Affairs was passed by the National Assembly and sent to the Senate for concurrence.
- d) The Senate Passed the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35) with amendments on Thursday 23rd July, 2020.
- e) The Committee considered the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35) as passed by the Senate with amendments on Thursday 23rd July, 2020.
- f) The Committee considered the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35) as passed by the Senate with amendments on Thursday 23rd July, 2020 and tabled its report on Thursday 1st October, 2020 recommending that the Senate amendments should be agreed to.
- g) The Committee therefore, resolved that the Independent Electoral and Boundaries Commission (Amendment) Bill, 2019 (National Assembly Bill No.24) sponsored by Hon.Jude Njomo should not be proceeded with since the subject matter it seeks

to resolve has been addressed in the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35).

MIN No. 04/2020:

PENDING BUSINESS

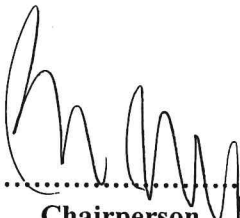
Members were briefed by the secretariat on pending business before the committee. The committee resolved as follows;

- a) To consider the Child Justice Bill by Hon.Millie Odhiambo, MP on Wednesday 14th October, 2020
- b) The committee to undertake another retreat to consider petitions and other business.
- c) The Secretariat to prepare a program on Bills that require Public participation to be conducted from the second week of November, 2020.

MIN No. 05/2020:

ADJOURNMENT

There being no other business to transact, the meeting was adjourned at 4:00pm

Signed.....
Chairperson

Date...15/10/2020.....

ANEEXURE 2
ADOPTION LIST

KENYA NATIONAL ASSEMBLY



Annexure 2

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

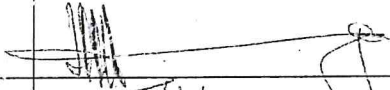
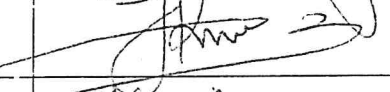


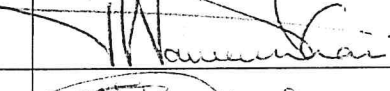


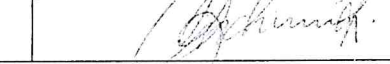
ATTENDANCE REGISTER FOR MEMBERS

DATE... 9/10/2020 START TIME... 2.00 PM END TIME... 4.05 PM

VENUE... TAMARIND VILLAGE

AGENDA... ADOPTION OF IEC REPORT ON AMENDMENT BILL NO. 24 OF 2019

NO.	NAME	SIGNATURE
..	Hon. Clement Muturi Kigano, M.P. -Chairperson	
..	Hon. (Dr.) Paul Otiende Amollo, M.P - Vice-Chairperson	
..	Hon. Emmanuel Wangwe, M.P.	
..	Hon. Junet Sheikh Nuh Mohamed, M.P	
..	Hon. John Olago Aluoch, MP.	
..	Hon. Peter Opondo Kaluma, MP.	
..	Hon. Roselinda Soipan Tuya, MP.	
..	Hon. Mwamkale Kamoti, MP.	
..	Hon. Zuleikha Hassan, MP.	
0.	Hon. Josephine Naisula Lesuuda, M.P.	
1.	Hon. George Gitonga Murugara, MP.	

12.	Hon. Adan Haji Yussuf, MP.	
13.	Hon. Japheth Kiplangat Mutai, MP.	
14.	Hon. Anthony Githiaka Kiai, MP.	
15.	Hon. Jennifer Shamalla, MP.	
16.	Hon. John Kiarie Waweru, MP.	
17.	Hon. John Munene Wambugu, MP.	
18.	Hon. Anthony Oluoch, M.P.	
19.	Hon. Robert Gichimu Githinji, M.P.	

COMMITTEE CLERK



ANEEXURE 3

NEWSPAPER ADVERTISEMENT

FOOD SECURITY

Local links best weapon against hunger

The government has food security as a pillar in its 'Big Four Agenda'. If it is that serious about food security, then its Big Four implementing agencies must consider partnerships with local agricultural and development organisations that have already deeply invested in our farming communities.

In his State of the Nation address earlier this month, President Uhuru Kenyatta made a crucial recognition. He emphasised that ongoing agricultural reforms, in service of the agenda, were 'farmer-centric' and sought to "reduce the cost of food, increase agricultural value-addition and offer incentives for farming".

Indubitably, Kenya's smallholder farmers are the key in delivering food security, at any measure. And governments, donor organisations and development institutions are all in agreement of this fact.

In "Feed Africa", a seminal roadmap for agricultural transformation and food security, the African Development Bank (AfDB) advises governments to place small-scale farmers at the forefront of reforms. It calls for them to not only

include but also collaborate with various stakeholders in national agricultural systems — such as development partners, the private sector, community organisations, and civil society.

Partnering with grassroots organisations gives policymakers a direct connection to farmers. As major food producers in the country, smallholders need support and resources at their disposal to become more efficient. For example, inputs, such as seed and fertiliser, are notoriously bulky and too expensive for farmers to acquire.

If the government worked with agricultural organisations in the villages to supply or distribute inputs, it could guarantee that smallholders receive them, with the associated costs of production lowering overall food prices as the reforms intend.

Operationalise mandate

The Agricultural Sector Growth and Transformation Strategy (ASGTS), which is under review, is how the government intends to operationalise the food security mandate. The ASGTS is aimed at increasing smallholder incomes, boosting



MARIE SHABAYA

Partnering with grassroots organisations gives policymakers a direct connection to farmers."

agricultural production and improving food resilience in the nation's homes.

Implementing the strategy will, undoubtedly, be a major logistical exercise.

About 75 per cent of Kenya's working population are small-scale farmers dispersed across the 47 counties. Interventions, even at the county level, need a tailored approach to succeed. Working with organisations that have similar objectives and established relationships with farming communities would allow government

agencies to seamlessly plug into the sectoral ecosystem, at the grassroots, encouraging outcomes.

If implementers of the ASGTS were to collaborate with such organisations, they could make these long-established relationships and knowledge available to encourage reforms. National programmes can then be tailored to suit local conditions, ensuring efficacy in the long run, while monitoring, in partnership with these groups, can confirm that outcomes are met, even at the grassroots.

Initiatives such as those by the United Nations' World Food Programme (WFP) in partnership with USAid in western Kenya prove that governments can get results when they join forces with local organisations.

The project trains groups of smallholders, who are members of 79 hyper-local organisations, on improved farming methods and minimising post-harvest losses. They then guarantee a market for harvests with farmers combining their produce and selling on to the WFP and the National Cereals and Produce Board (NCPB) in bulk.

Working with similar models, the government can

ensure that farmers reach new markets and, at the same time, sell produce at a higher price. However, to organise farmers, officials need to work with bodies that are based in, or have established trust with, farming communities.

Conversations on realising food security in Kenya, beyond policy mandates, have already aligned on the importance of the public-private partnership nexus.

In his opening remarks at last year's Future of Food Conference in Nairobi, the Chief Administrative Secretary at the Ministry of Agriculture and Irrigation, Dr Andrew Tuimur, noted that "farming is privately driven and the government's role is only to facilitate it".

In accelerating the transformation of the national agriculture sector and, consequently, ensure food security for all Kenyans, Dr Tuimur's words need to be top of the mind. Enabling growth in farming, means working with the wider ecosystem and its stakeholders, in partnership, to deliver on promises made.

Ms Shabaya is an editor and the lead writer at One Acre Fund. marie.shabaya@oneacrefund.org

BORROWING

New budget Kenya need debt lesson

Kenya's annual debt obligation v 2019-20 hit Sh1 trillion for the first exerting more pressure on the cou fiscal plan. According to the Bu Statement for 2019-20 present the National Assembly by Lead Majority Aden Duale last week, repayment will gobble up Sh1.1 tri Sh366.4 billion of that being inte

The government will incur int at Sh215.4 billion and Sh150.9 b on domestic debt and external l respectively, with China Exim l gobbling up Sh37.8 billion and C Development Bank Sh4.7 billion. Recent reports said Kenya would out another loan from China fo standard gauge railway (SGR) pr

It is high time experts educate people about the management of l and debts and how they affect pec lives. If we take out a loan for a dev ment project and can repay it with hitch, that is okay. However, borrow whose terms of repayment overw the country are dangerous. Let TV and radios talk show r and newspaper editors invite on debt management to educate citizenry on the pros and cons of r way borrowing. They should talk a savings, investments, budgeting debt management. That will en that Kenyans are not net borro but savers and the economy will g

Veronica Onjoro, publisher and lecturer. onjoroveronica@yahoo.com



Kenya Post Office Savings Bank Staff Retirement Benefits Scheme

NOTICE OF ANNUAL GENERAL MEETING

NOTICE IS HEREBY GIVEN that the Sixteenth Annual General Meeting of KPOSB Staff Retirement Benefits Scheme (DB) and the Twelfth Annual General Meeting of KPOSB Staff Retirement Benefits Scheme 2007 (DC) will be held at Tin Tin Restaurant KICC, Nairobi on Saturday, 25th May 2019 starting at 2.00 p.m.

AGENDA

A. ORDINARY BUSINESS

- To read the notice convening the meeting.
- To receive the DB Scheme and DC Scheme Chairmen's Report
- To receive reports from the Service Providers as follows:-
 - Fund Manager - STANLIB Ltd
 - Custodian - Standard Chartered Bank
 - Administrator - Zamara Actuaries, Administrators & Consultants Limited
- To receive and consider the audited financial statements for the DB and DC Schemes for the year ended 31st December, 2018 together with the Trustees' and Auditor's reports thereon. - UHY Kenya

B. ANY OTHER BUSINESS

- To transact any other business of the Annual General Meeting for which 14 days' notice has been given.

C. CLOSING REMARKS

- Statement by Member's representative.
- Trust Secretary Closing Remarks.

By order of the Board of Trustee

HANNINGTON OUKO
TRUST SECRETARY

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT - THIRD SESSION

In the matters of consideration by the National Assembly:-

- The Independent Electoral and Boundaries Commission (Amendment) Bill, (National Assembly Bill No. 24 of 2019)
- The Independent Electoral and Boundaries Commission (Amendment) Bill, (National Assembly Bill No. 30 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 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 Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 24 of 2019) seeks to amend the First Schedule to the Independent Electoral and Boundaries Commission Act, 2011 in order to provide for a mechanism of appointing members of the Commission.

The Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 30 of 2019) seeks to reduce the number of Commissioners of the IECB from seven (7) to five (5) including the Chairperson. It further seeks to provide for the selection panel existing in law to carry out recruitment of the Chairperson and Commissioners whenever a vacancy arises in the Commission. The Bill also seeks to provide for the procedure through which the Commission may resolve issues arising from delimitation of boundaries of constituencies and wards.

The above mentioned Bills have undergone First Reading pursuant to Standing Order 127(3). The Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 24 of 2019) stands committed to the Departmental Committee on Justice and Legal Affairs while the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 30 of 2019) stands committed to the Constitutional Implementation Oversight Committee, for consideration and thereafter report to the House.

Pursuant to Article 118 (1)(b) of the Constitution and Standing Order 127, the respective Committees invite 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, 15th May, 2019 at 5.00 pm.

MICHAEL R. SIALAL, EBS
CLERK OF THE NATIONAL ASSEMBLY

ANEEXURE 4

**Departmental Committee on
Justice & Legal Affairs Report on
the Independent Electoral &
Boundaries Commission
(Amendment)(No.3) Bill (N.A Bill
No.35 of 2019)**

Approved for tabling in the House

Paper laid in
the table of the
House on 1/10/2020
J. G. M. ...

REPUBLIC OF KENYA



R. ...
SNA
1/10/2020.

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION – 2020

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT

ON THE CONSIDERATION OF THE INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION (AMENDMENT) (NO.3) BILL (NATIONAL
ASSEMBLY BILL NO.35 OF 2019

CLERK'S CHAMBERS
DIRECTORATE OF COMMITTEE SERVICES
PARLIAMENT BUILDINGS
NAIROBI

OCTOBER, 2020

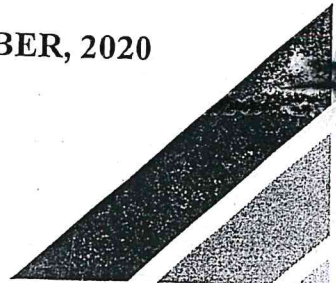


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CHAIRPERSON'S FOREWORD

The Independent Electoral and Boundaries (Amendment) (No.3) Bill, 2019 (National Assembly Bill No.35 of 2019) was passed by the National Assembly and sent to the Senate for concurrence. The Bill was passed by the Senate with amendments and returned to the National Assembly for concurrence. It was committed to the Departmental Committee on Justice and Legal Affairs for review and report to the House pursuant to the provisions of Standing Order 216(5) (c).

The Bill seeks to amend the First Schedule to the Independent Electoral and Boundaries Commission Act, No. 9 of 2011, in order to establish a Selection Panel to oversee the filling of vacant positions in the Independent Electoral and Boundaries Commission.

May I take this opportunity to commend the Committee Members for their devotion and commitment to duty which made the consideration of the Bill successful. May I also express gratitude to the Offices of Speaker and Clerk of the National Assembly for providing direction and the Committee secretariat for providing technical and logistical support.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and duty to present to the House the report of the Committee on the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill (National Assembly Bill No.35 of 2019).

Hon.Muturi Kigano, M.P

CHAPTER 1

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Departmental Committee on Justice and Legal Affairs derives its mandate from Standing Order No. 216(5) which provides for the functions of Departmental Committees as follows-
 - (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - (b) study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;
 - (c) study and review all legislation referred to it;
 - (d) study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
 - (e) investigate and enquire 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;
 - (f) 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)
 - (g) examine treaties, agreements and conventions;
 - (h) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - (i) consider reports of Commissions and Independent Offices submitted to the House pursuant to provisions of Article 254 of the Constitution; and
 - (j) Examine any questions raised by Members on a matter within its mandate.

2. The Second Schedule of the Standing Orders on Departmental Committees further outlines the Subjects of the Committee, as follows-
 - (a) Constitutional affairs;
 - (b) The administration of law and Justice
 - (c) The Judiciary;
 - (d) Public prosecutions;
 - (e) Elections;
 - (f) Ethics, integrity and anti-corruption; and
 - (g) Human rights.

1.2 Committee Membership

3. The Committee was constituted on Thursday, 14th December, 2017. The current membership is as follows-

Chairperson

Hon. Clement Muturi Kigano, M.P.

Kangema Constituency

Jubilee Party

Vice Chairperson

Hon. (Dr.) Paul Otiende Amollo, M.P

Rarieda Constituency

ODM Party

Hon. Emmanuel Wangwe, M.P.

Navakholo Constituency

Jubilee Party

Hon. Junet Sheikh Nuh Mohamed, M.P

Suna East Constituency

ODM-Party

Hon. John Olago Aluoch, M.P.

Kisumu West Constituency

FORD-Kenya

Hon. George Peter Kaluma, M.P.

Homa Bay Town Constituency

ODM-Party

Hon. Roselinda SoipanTuya, M.P.

Narok County

Jubilee Party

Hon. Josephine Naisula Lesuuda, M.P

Samburu West Constituency

KANU-Kenya

Hon. W. Kamoti Mwamkale, M.P.

Rabai Constituency

ODM-Party

Hon. Zuleikha Hassan, M.P.

Kwale County

ODM-Party

Hon. Jennifer Shamalla, M.P.

Nominated MP

Jubilee Party

Hon. Adan Haji Yussuf, M.P.

Mandera West Constituency

Economic Freedom Party (EFP)

Hon. John Munene Wambugu, M.P.

Kirinyaga Central

Jubilee -Party

Hon. George Gitonga Murugara, M.P.

Tharaka Constituency

Democratic Party (DP)

Hon. Anthony Githiaka Kiai, M.P.

Mukurueni Constituency

Jubilee-Party

Hon. Japheth Mutai, M.P.

Bureti Constituency

Jubilee-Party

Hon. John Kiarie Waweru, M.P.
Dagoretti South Constituency
Jubilee-Party

Hon. Anthony Oluoch, M.P.
Mathare Constituency
ODM-Party

Hon. Robert Gichimu Githinji, M.P.
Gichugu Constituency
Jubilee-Party

1.3 Committee Secretariat

4. The Committee secretariat staff is as follows--

Mr. Abenayo Wasike
Senior Clerk Assistant
Lead Clerk

Mr. Denis Abisai
Principal Legal Counsel I

Ms. Halima Hussein
Clerk Assistant II

Mr. Ahmed Hassan Odhwa
Principal Research Officer

Mr. Omar Abdirahim
Fiscal Analyst III

Ms. Roselyne Ndegi
Serjeant-at-Arms I

Mr. Joseph Okongo
Media Liaison Officer

5. Minutes of sittings of the Committee on the consideration of the Bill are attached to this report. (**Annexure 1**).

CHAPTER 2

2.0 BACKGROUND

2.1 The Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill,

2019, National Bill No. 35 of 2019

6. The Bill was sponsored by the Departmental Committee on Justice and Legal Affairs, passed by the National Assembly and was sent to the Senate for concurrence pursuant to the provisions of Standing Order 142 of the National Assembly. The Senate passed the Bill with amendments on Thursday 23rd July, 2020 and returned the same to the National Assembly for concurrence.
7. The Bill as passed by the National Assembly sought to amend the First Schedule to the Independent Electoral and Boundaries Commission Act, No. 9 of 2011, in order to establish a Selection Panel to oversee the filling of vacant positions in the Independent Electoral and Boundaries Commission.
8. The current First Schedule only applied to the recruitment of the current Commissioners and there is therefor need to provide for a selection panel to consider subsequent appointments.
9. Under the Bill as passed by the National Assembly, it was proposed that the selection panel comprises of;
 - 1) Four (4) persons nominated by the Parliamentary Service Commission;
 - 2) Seven (7) other persons nominated by;
 - (a) One (1) person nominated by the Public Service Commission
 - (b) One (1) Person nominated by the Ethics and Anti-Corruption Commission
 - (c) One (1) Person nominated by the Law Society of Kenya
 - (d) One (1) Person nominated by the National Gender and Equality Commission
 - (e) One (1) Person nominated by Kenya National Commission on Human Rights
 - (f) Two (2) persons nominated by the Inter-Religious Council of Kenya.
10. The Current Selection Panel consists of the following;
 - (a) Four (4) persons, being two men and two women, nominated by the Parliamentary Service Commission.
 - (b) One (1) person nominated by the Kenya Conference of Catholic Bishops
 - (c) One (1) person nominated by the National Council of churches of, Kenya;

- (d) One (1) person nominated by the Supreme Council of Kenya Muslims, the National Muslim Leaders Forum and the Council of Imams and Preachers of Kenya;
- (e) One (1) person nominated by the Evangelical Alliance of Kenya; and
- (f) One (1) person nominated by the Hindu Council of Kenya.

CHAPTER 3

3.0 SENATE AMENDMENTS TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) (NO.3) BILL (N.A BILL NO.35 OF 2019)

11. The Senate passed the Bill with amendments that the selection panel should consist of;
- (a) Two men and two women nominated by the Parliamentary Service Commission;
 - (b) One person nominated by the Law Society of Kenya; and
 - (c) Two persons nominated by the Inter-religious Council of Kenya
12. The Senate has also proposed qualifications for a person to be appointed as a member of the selection panel as follows;
- (a) Is a citizen of Kenya;
 - (b) Meets the requirements of leadership and integrity set out in chapter six of the Constitution; and
 - (c) Holds a degree from a university recognized in Kenya.

3.1 Clause by Clause Consideration of the Bill by the Committee

13. The Committee considered the Bill clause by clause and made observations and recommendations as follows-
14. **Clause 1** on short title and commencement time of the Bill.
15. **Committee comment:** The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 1 of the Bill as per the Senate Bill.
16. **Clause 2** on Amendment of the First Schedule to No. 9 of 2011
17. **Committee comment:** The Committee considered the Clause and agreed to the provisions of the Bill as passed by the Senate and recommends that the House passes Clause 1 of the Bill as per the Senate Bill.

CHAPTER 4

4.0 COMMITTEE'S OBSERVATIONS

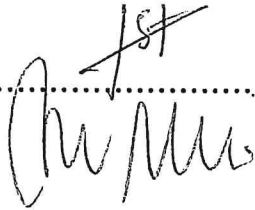
18. The Committee considered the Senate amendments to the Bill and observed that;
- (a) There is no legal framework to deal with emergency cases like filling of vacant positions at IEBC as is the case with the current commission following the resignation of four commissioners.
 - (b) The proposed amendment Bill is relevant and extremely urgent as it may be used as an interim or stop gap measure pending comprehensive reforms on the IEBC.
 - (c) The current commission as constituted by three commissioners lacks capacity and the quorum to make major policy decisions.
 - (d) The Independent Electoral and Boundaries Commission may be paralysed if the Bill is not passed to provide for an avenue to appoint more commissioners.
 - (e) If the Bill is not passed as amended by the Senate, it will be referred to the Mediation Committee which may lead to further delays towards addressing the challenges at IEBC.

CHAPTER 5

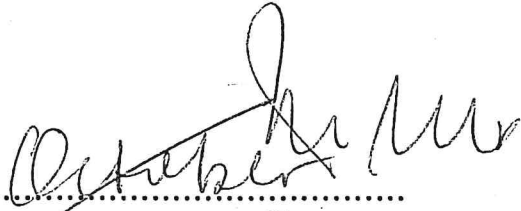
5.0 COMMITTEE'S RECOMMENDATION

19. The Committee, having considered the proposed amendments to the Bill by the Senate, hereby recommends to the National Assembly that Senate amendments to the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill (N.A Bill No.35 of 2019) be agreed to as passed by the Senate on Thursday 23rd July, 2020..

Signed.....

~~1st~~


Date.....

~~October~~

15th October 2020

Hon. Muturi Kigano, M.P.

Chairperson, Departmental Committee on Justice and Legal Affairs

