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28/8/18

REPUBLIC OF KENYA



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by the Chairperson,  
Departmental Committee  
on Justice and  
Legal Affairs on  
Tuesday

THE NATIONAL ASSEMBLY

12<sup>TH</sup> PARLIAMENT – SECOND SESSION

PARLIAMENT  
OF KENYA  
LIBRARY

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

28<sup>th</sup> August 2018

REPORT ON:

CONSIDERATION OF THE CONSTITUTION OF KENYA  
(AMENDMENT) (NO.2) BILL, 2018  
(NATIONAL ASSEMBLY BILLS NO. 5)

VOLUME 1

Directorate of Committee Services,  
National Assembly,  
Parliament Buildings,  
**NAIROBI**

August, 2018

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## ABBREVIATIONS AND ACRONYMS

CBO	Community Based Organization
CEDAW	Convention on Elimination of All Forms of Discrimination Against Women
CMD	Centre for Multi-Party Democracy
CRAWN TRUST	Community Advocacy and Awareness Trust
CREAW	Centre for Rights and Awareness
FIDA Kenya	Federation of Women Lawyers in Kenya
ICCPR	International Covenant on Civil and Political Rights
MP	Member of Parliament
SDGs	Sustainable Development Goals
UNDHR	United Nations Declaration on Human Rights
WEL	Women Empowerment Link
WUSETE	Women United for Social Economic and Total Empowerment

## LIST OF ANNEXURES

### VOLUME 1 OF THE REPORT

- Annexure 1:** Minutes of Committee sittings on consideration of the Bill and adoption of report
- Annexure 2:** Report adoption attendance list
- Annexure 3:** Copy of newspaper advertisement of 20<sup>th</sup> and 21<sup>st</sup> March, 2018 inviting the public to submit memoranda on the Bill
- Annexure 4:** Copy of newspaper advertisement of 9<sup>th</sup> May, 2018 inviting the public to public hearings on the Bill
- Annexure 5:** Matrix on public submissions on the Bill

### VOLUME 2 OF THE REPORT

- Annexure 6:** Written memoranda by the public on the Bill
- Annexure 7:** List of members of the public and institutions/organizations who attended the public hearings.

## CHAIRPERSON'S FOREWORD

The Constitution of Kenya (Amendment) (No. 2) Bill, 2018 (National Assembly Bills No. 5), on the change of election date, underwent First Reading on 14<sup>th</sup> March 2018. Thereafter, the Bill was committed to the Committee on Justice and Legal Affairs to review and report to the House pursuant to the provisions of Standing Order 216(5)(c).

Pursuant to the provisions of Article 118 of the Constitution of Kenya and Standing Order 127(3) of the National Assembly Standing Orders, the Committee through local daily newspapers of 20<sup>th</sup> and 21<sup>st</sup> March, 2018 published an advertisement inviting the public to submit memoranda on the Bill and received memoranda. The Committee pursuant to local daily newspapers of 9<sup>th</sup> May, 2018 conducted public hearings on the Bill in selected counties.

The public hearings took place in Nairobi, Machakos, Mombasa, Kisumu, Kakamega, Uasin Gishu, Nakuru, Nyeri, Isiolo, Wajir and Turkana during which members of the public either individually or representing institutions and organizations made oral presentations and/or submitted memoranda. The Committee took into account all written memoranda and oral submissions received while considering the Bill.

The report of the Committee on the Bill is in two Volumes, Volume I is the main report on the consideration of the Bill and contains analysis of the Bill, public participation process, observations and recommendation among others. Volume II contains memoranda on the Bill as submitted by the public as well as list of members of the public who attended public hearings.

May I take this opportunity to commend the following for their efforts which made consideration of the Bill and reporting to the House successful-

- (i) Committee Members for their devotion and commitment to duty;
- (ii) The Speaker and Clerk of the National Assembly for providing leadership and direction; and
- (iii) 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's my privilege and duty to present to the House a report of the Committee on the Constitution of Kenya (Amendment) (No. 2) Bill 2018 (National Assembly Bills No. 5).

Signed..........this...14...day of...August...2018

**HON. WILLIAM CHEPTUMO, M.P.**

**Chairperson, Departmental Committee on Justice and Legal Affairs**

## 1. PREFACE

### 1.1. 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-
  - (i) Constitutional affairs;
  - (ii) The administration of law and Justice
  - (iii) The Judiciary;
  - (iv) Public prosecutions;
  - (v) Elections;
  - (vi) Ethics, integrity and anti-corruption; and

(vii) Human rights.

### **1.2. Committee Membership**

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

Hon. William Cheptumo, M.P.	-	<b><i>Chairperson</i></b>
Hon. Alice Muthoni Wahome, M.P.	-	<b><i>Vice Chairperson</i></b>
Hon. John OlagoAluoch, M.P.		
Hon. Roselinda Soipan Tuya, M.P.		
Hon. Charles Gimose, M.P.		
Hon. Johana Ng'eno, M.P.		
Hon. William Kamoti Mwamkale, M.P.		
Hon. Ben Orori Momanyi, M.P.		
Hon. Peter Opondo Kaluma, M.P.		
Hon. Zuleikha Hassan, M.P.		
Hon. Jennifer Shamalla, M.P.		
Hon. Beatrice Adagala, M.P.		
Hon. Gladys Boss Shollei, CBS, M.P.		
Hon. John Munene Wambugu, M.P.		
Hon. George Gitonga Murugara, M.P.		
Hon. Anthony Githiaka Kiai, M.P.		
Hon. John Kiarie Waweru, M.P.		
Hon. Japheth Mutai, M.P.		
Hon. Adan Haji Yussuf, M.P.		

### **1.3. Committee Secretariat**

Mr. George Gazemba	-	Principal Clerk Assistant II
Mr. Denis Abisai	-	Principal Legal Counsel I
Ms. Doreen Karani	-	Legal Counsel II
Mr. Salem Lorot	-	Legal Counsel II
Ms. Halima Hussein	-	Clerk Assistant III
Ms. Fiona Musili	-	Research Officer III
Mr. Omar Abdirahim	-	Fiscal Analyst III
Mr. James Macharia	-	Media Liaison Officer
Ms. Roselyne Ndegi	-	Serjeant-at-Arms
Mr. Richard Sang'	-	Serjeant-at-Arms
Mr. Ian Otieno	-	Audio Officer

4. Minutes of sittings of the Committee on the consideration of the Bill are attached to this report as annexure 1.

## **2. ANALYSIS OF THE BILL**

### **2.1 Memorandum of objects and reasons of the Bill**

#### **The Constitution of Kenya (Amendment) (No. 2) Bill 2018 (National Assembly Bill No. 5)**

5. Prior to the promulgation of the Constitution in 2010, elections were traditionally held in December. Thereafter, the Constitution was enacted in 2010 with Articles 101(1) (election of members of the National Assembly), Article 136 (2) (election of the President), Article 177(1) (election of Members of County Assemblies) and Article 180(1) (election of Governors) stipulating the date of the general election of the aforementioned representatives as the second Tuesday of August of every fifth year after the previous general election.
6. An attempt to change the election date to December was made through a Bill sponsored by Hon. David Ochieng then Member of Parliament for Ugenya in the Eleventh Parliament. Though the Departmental Committee on Justice and Legal Affairs recommended to the House to pass the Bill as provided for by the Member, the House failed to realize the two-thirds majority support required to pass it under Article 256(1) (d) of the Constitution of Kenya.
7. The principal objective of the Bill is to amend Articles 101 (1), 136 (2) (a), 177 (1) (a) and 180 (1) of the Constitution by changing the existing date of general elections for Members of Parliament, the President, Members of County Assemblies and the county governors and deputy county governors from second Tuesday of August in every fifth year to third Monday in December in every fifth year.
8. The Bill seeks to introduce a new date for conducting a general election that would be more favourable to Kenya's circumstances.
9. The amendment is to ensure that the date of elections reflects the unique circumstances and tradition of Kenya. The current date for the general elections unduly disrupts the education calendar and most importantly the conduct of national examinations in case of either a fresh election or a "run-off" or an invalidation of a Presidential election.
10. The amendment further seeks to restore the tourism high season and the aspirations of a section of Kenyans who are not able to get time out of their busy schedules to take part in the general elections at their places of preference. The amendment will also clarify and put to rest all doubts regarding the exact date of the next general elections and the term of the current Parliament.
11. The Bill concerns county governments within the meaning of Article 110 of the Constitution. The enactment of this Bill will occasion additional expenditure of public funds.



12. The Bill was read a first time on 14<sup>th</sup> March, 2018 and immediately committed to the Committee for review and report to the House in line with the provisions of Standing Order 216(5)(c) of the National Assembly Standing Orders. While reviewing the Bill, the Committee was required by Article 118 (1) (a) and (b) as well as Standing Order 127(3) to facilitate public participation in the review of the Bill.

Article 118(1)(a) and (b) of the Constitution provides as follows-

*“118(1) Parliament shall-*

- (a) conduct its business in an open manner, and its sittings and those of committees shall be open to the public; and*
- (b) facilitate public participation and involvement in the legislative and other business of Parliament and its Committees”*

Standing Order 127(3) provides as follows-

*“The Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through appropriate mechanisms including-*

- (a) inviting submission of memoranda;*
- (b) holding public hearings;*
- (c) consulting relevant stakeholders in a sector; and*
- (d) consulting experts on technical subjects”*

13. The Clerk of the National Assembly accordingly put up advertisements in the local dailies on 20<sup>th</sup> and 21<sup>st</sup> March 2018 (see annex 3) calling for submission of memoranda and received memoranda. The Committee pursuant to local daily newspapers of 9<sup>th</sup> May, 2018 (see annex 4) conducted public hearings on the Bill in selected counties countrywide. The public hearings took place in Nairobi, Machakos, Mombasa, Kisumu, Kakamega, Uasin Gishu, Nakuru, Nyeri, Isiolo, Wajir and Turkana during which members of the public either individually or representing institutions and organizations made oral presentations and/or submitted. The Committee took into account all public views while considering the Bill.

## **2.2. Clauses in the Bill**

### **2.2.1 Proposed amendment to Article 101 of the Constitution**

Clause 2 of the Bill seeks to amend Article 101 of the Constitution of Kenya by deleting the words “second Tuesday in August” appearing in clause (1) and substituting therefor the words “third Monday in December”.

### **2.2.2 Proposed amendment to Article 136 of the Constitution**

Clause 3 of the Bill seeks to amend Article 136 of the Constitution of Kenya in clause (2) by deleting the word “second Tuesday in August” appearing in paragraph (a) and substituting therefor the words “third Monday in December”.

### **2.2.3 Proposed amendment to Article 177 of the Constitution**

Clause 4 of the Bill seeks to amend Article 177 of the Constitution of Kenya in clause (1) by deleting the words “second Tuesday in August” appearing in paragraph (a) and substituting therefor the words “third Monday in December”.

### **2.2.4 Proposed amendment to Article 180 of the Constitution**

Clause 5 of the Bill seeks to amend Article 180 of the Constitution in clause (1) by deleting the words “second Tuesday in August” and substituting therefor the words “third Monday in December”.

## **3 PUBLIC PARTICIPATION IN THE REVIEW OF THE BILL**

### **3.1 Legislative provisions on public participation**

14. Article 118 (1) (b) of the Constitution of Kenya provides as follows-

*“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees”*

15. Standing Order 127(3) provides as follows-

*“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 recommendations to the House”*

### **3.2 Methodology used by the Committee in public participation**

16. In line with the provisions of Article 118(1)(b) of Constitution and Standing Order 127(3), the Departmental Committee on Justice and Legal Affairs, in the local daily newspapers of 20<sup>th</sup> and 21<sup>st</sup> March, 2018 invited the public to submit written memoranda on the Bill and received memoranda. Further and pursuant to an advertisement in the local daily newspapers of 9<sup>th</sup> May, 2018, the Committee conducted public hearings on the Bill in selected counties.

17. In addition to receiving memoranda from the public and in order to facilitate comprehensive public participation, the Committee undertook public hearings in eleven strategically located counties to obtain views from different regions of the Country as follows-

- (i) Nairobi County to seek views from the capital city and its environs;
- (ii) Machakos County to seek views from the lower Eastern region and environs;
- (iii) Mombasa County to seek views from the Coastal region;
- (iv) Kisumu County to seek views from the Nyanza region;

- (v) Kakamega County to seek views from the Western region;
- (vi) Turkana County to seek views from the North Rift valley region;
- (vii) Uasin Gishu County to seek views from the Central Rift Valley region;
- (viii) Nakuru County to seek views from the central Rift Valley region;
- (ix) Nyeri County to seek views from the Central Kenya region;
- (x) Isiolo County to seek views from the Upper Eastern region; and
- (xi) Wajir County to seek views from the North Eastern Region.

18. In order to conveniently cover as many counties as possible in public participation taking into account, the Committees' tight work schedule, timelines and logistical challenges, the Committee constituted five (5) sub-committees which conducted hearings concurrently in various counties.

**a) Nairobi, Machakos and Mombasa Counties**

19. The Members of the sub-committee who conducted hearings in these counties were-

- (i) Hon. George Gitonga Murugara, M.P. - chairing
- (ii) Hon. Beatrice Adagala, M.P.
- (iii) Hon. William Kamoti Mwamkale, M.P

20. The hearings were held at County Hall, Parliament Buildings (Nairobi County), Youth Centre (Machakos County) and Kenya School of Government Meeting Hall (Mombasa County) on 23<sup>rd</sup>, 24<sup>th</sup> and 25<sup>th</sup> May, 2018 respectively.

**b) Kisumu, Kakamega and Uasin-Gishu Counties**

21. The sub-committee Members who conducted hearings in these counties were-

- (i) Hon. John Olago Aluoch, M.P.- Chairing
- (ii) Hon. Ben Orori Momanyi, M.P.
- (iii) Hon. Peter Opondo Kaluma, M.P.
- (iv) Hon. John Munene Wambugu, M.P.
- (v) Hon. Anthony Githiaka Kiai, M.P.

22. The public hearings were held at Tom Mboya College (Kisumu County), Magharibi Hall (Kakamega County) and Eldoret County Hall (Uasin Gishu County) on 23<sup>rd</sup>, 24<sup>th</sup> and 25<sup>th</sup> May, 2018 respectively.

**c) Nakuru, Nyeri and Isiolo Counties**

23. The sub-committee who conducted hearings in these counties were-

- (i) Hon. Alice Wahome, M.P.- Chairing
- (ii) Hon. Adan Haji Yussuf, M.P
- (iii) Hon. Jennifer Shamalla, M.P.
- (iv) Hon. Andrew Gimose, M.P.

(v) Hon. Japheth Mutai, M.P.

24. The public hearings were held at Old Town Hall (Nakuru County), IFAD Hall (Nyeri County) and Catholic Church Hall (Isiolo County) on 23<sup>rd</sup>, 24<sup>th</sup> and 25<sup>th</sup> May 2018 respectively.

**d) Wajir County**

25. Members of the sub- committee who conducted the hearing in this county were-

- (i) Hon. George Gitonga Murugara, M.P.- Chairing
- (ii) Hon. Beatrice Adagala, M.P.
- (iii) Hon. Adan Haji Yussuf, M.P.
- (iv) Hon. Japheth Mutai, M.P.
- (v) Hon. Anthony Githiaka Kiai, M.P.

26. The public hearing was held at the Wajir ICT Hall (Wajir County) on 28<sup>th</sup> May 2018.

**e) Turkana County**

27. Members of the sub-committee who conducted the public hearing in this county were-

- (i) Hon. John Olago Oluoch, M.P.- Chairing
- (ii) Hon. William Kamoti Mwamkale, M.P
- (iii) Hon. Jennifer Shamalla, M.P

28. The hearing was held at Lodwar Vocational Training Centre on 28<sup>th</sup> May 2018.

**3.3 Sources of views**

29. Several members of the public either individually or representing institutions and organizations submitted their views to the Committee by way of written and oral submissions.

30. Indeed, the turnout at the public hearings was overwhelming as during the four (4) days when the Committee visited the various counties, one thousand eight hundred and forty-five (1845) persons and fifty-nine (59) institutions and or groups turned up.

31. The institutions that made presentations (written and oral) to the Committee include-

- (i) Amani National Congress Women's League- Mombasa
- (ii) Center for Human Rights and Democracy
- (iii) Centre for Enhancing Democracy in Good Governance
- (iv) Centre for Multi-Party Democracy (CMD)

- (v) Centre for Rights and Awareness (CREAW)
- (vi) Chamber of Commerce
- (vii) Council of Imams
- (viii) Council of Elders of Isiolo and Borana
- (ix) Eco- Ethics International
- (x) Federation of Women Lawyers of Kenya (FIDA K)
- (xi) Groots Kenya
- (xii) Hummingbird Group
- (xiii) Isiolo Women Social Accountability Group
- (xiv) Isukha Makuti Group
- (xv) Kenya Girl Guides Association
- (xvi) Kenya National Union of Teachers (County Chapters)
- (xvii) Kenya Scouts Association
- (xviii) Kisumu County Technical working group
- (xix) Komesi Women Network- Kacheliba
- (xx) Lonaman CBO Group
- (xxi) Maendeleoya Wanawake Organization
- (xxii) Nakuru County Women Leaders
- (xxiii) National Women Steering Committee
- (xxiv) Pambazuko la Wanawake Magharibi
- (xxv) Political Parties Liaison Committee
- (xxvi) Sauti ya Wanawake- Pwani
- (xxvii) Soroptimist International Union of Kenya
- (xxviii) Transparency International
- (xxix) United Green Movement
- (xxx) Uraia Trust
- (xxxi) Women Empowerment Link (WEL)
- (xxxii) Women Political Alliance
- (xxxiii) Women United for Social Economic and Total Empowerment (WUSETE)
- (xxxiv) Women Visionary Group

32. A comprehensive list of members of the public who attended the public hearings in the various counties is in Volume II of the report.

33. The written submissions received are in Volume II of the report. Additionally, a matrix noting the general comments in support of or against the amendment is attached to this Volume of the report as annexure 6. The matrix also documents various proposed amendments to the Bills by members of the public and institutions.

34. As illustrated in the matrix (Volume II), in analysing the views received from the public, the Committee members categorised views raised by the public as follows:

- (i) Views in support of the amendments;
- (ii) Views opposed to the amendments;
- (iii) Proposed amendments to the Bill; and
- (iv) General views from the public not relating to the amendments.

### 3.4 Views from the public

35. A total of one hundred and forty-seven (147) persons or institutions/ groups submitted either oral or written submissions in support of the amendments while fifty-nine (59) persons or institutions/ groups rejected the proposals in the Bill. Analysis of these submissions shows that there is an overwhelming support for change of the election date to the third Monday in December.

36. In summary, the Committee received views as follows:

<b>Source</b>	<b>Comments in support of amendments</b>	<b>Comments against amendments</b>
<b>Institutions</b>	26	8
<b>Individuals</b>	121	51
<b>Total</b>	147	59
<b>Percentage of total views received</b>	<b>71.4%</b>	<b>28.6%</b>

37. The Committee observed that a large number (about 60%) of the persons who presented their views did not give substantive reasons for their support or opposition to the amendments. However, those who supported the amendments averred as follows-

- a) The December election date would be less disruptive to the academic calendar for secondary and primary schools. Students ordinarily sit the national examinations in the third term of an academic year which normally comes after the August vacation. The public was of the view that the date of the general elections would be best suited to be scheduled in December as students had long finished their examinations. The August date had also proven inconvenient to students because most public schools are used as polling stations;
- b) A date in December would be convenient and would increase voter turnout because most Kenyans are ordinarily on holiday or have travelled upcountry to vote;
- c) The December date was historically sound as it had been successfully tried and tested many times before; and
- d) The December date was ideal due to favourable weather conditions unlike August when it is rainy and farmers are engaged in agricultural activities.

38. The Committee observed that while some members of the public did not give reasons for objecting to the amendments, those who gave reasons cited the following-

- a) The August election date was ideal as it was in tandem with the commencement of the Government financial year which commences in July;
- b) Those who may have registered as voters in areas of their ordinary residence normally travel for holidays or to the rural areas and are unable to vote in their areas of residence;
- c) The proposed amendment was for selfish political reasons as it would effectively increase the term of the current Parliament;
- d) In the past, some of the elections held in December had resulted in post-election violence;
- e) The academic calendar could be modified if need be to accommodate an August general election date.
- f) The month in which general elections are held did not matter as long as the elections were free and fair.

#### **4 CONSIDERATION OF THE PROPOSED AMENDMENTS BY THE COMMITTEE**

##### **4.1.1 Proposed amendment to Article 101 of the Constitution**

Clause 2 of the Bill seeks to amend Article 101 of the Constitution of Kenya by deleting the words “second Tuesday in August” appearing in clause (1) and substituting therefor the word “third Monday in December”.

##### Observation

The Committee observed that the effect of the amendment if passed would be a change of election date for Members of Parliament to the third Monday of December of every fifth year after previous general elections.

##### **4.1.2 Proposed amendment to Article 136 of the Constitution**

Clause 3 of the Bill seeks to amend Article 136 of the Constitution of Kenya in clause (2) by deleting the word “second Tuesday in August” appearing in paragraph (a) and substituting therefor the words “third Monday in December”.

##### Observation

The Committee observed that the effect of the amendment if passed would be a change of the election date for Members of County Assemblies to the third Monday of December of every fifth year after the previous general elections.

#### **4.1.3 Proposed amendment to Article 177 of the Constitution**

Clause 4 of the Bill seeks to amend Article 177 of the Constitution of Kenya in clause (1) by deleting the words “second Tuesday in August” appearing in paragraph (a) and substituting therefor the words “third Monday in December”.

##### **Observation**

The Committee observed that the effect of the amendment if passed would be a change of the election date for the President to the third Monday of December of every fifth year after the previous general elections.

#### **4.1.4 Proposed amendment to Article 180 of the Constitution**

Clause 5 of the Bill seeks to amend Article 180 of the Constitution is amended in clause (1) by deleting the words “second Tuesday in August” and substituting therefor the words “third Monday in December”.

##### **Observation**

The Committee observed that the effect of the amendment if passed would be a change of the election date for County Governors and Deputy Governors to the third Monday of December of every fifth year after the previous general elections.

### **4.2 Public submissions and proposed amendments**

- (a) Mr. Douglas Kwalelo of Kakamega proposed that general elections should be staggered to different dates for the respective elective positions. He submitted that having elections of Presidential, parliamentary and other elective positions on the same day was cumbersome and that it may be one of the factors fuelling tension in the country.
- (b) Mr. Yabbesh Onyanha proposed that the electioneering period should be shortened to one week and that the voting day should be increased to six days with each day for the elections for each seat.

## **5 COMMITTEE OBSERVATIONS**

### **5.1 Committee Observations**

The Committee observed as follows-

- (a) The Hon. Speaker in his communication of 20<sup>th</sup> August 2015 guided that no amendments could be proposed to a Bill seeking to amend the Constitution unless there was something extraordinary in the Bill that would require application of extraordinary measures;



- (b) In view of the Hon Speaker's ruling of 20<sup>th</sup> August, 2015, the Committee did not adopt further amendments based on the public views;
- (c) The members of the public who appeared before the Committee to present their views overwhelmingly supported change of election date to December;
- (d) The Committee considered the various reports prepared during the Constitution of Kenya review process, including the report by the Committee of Experts on constitutional reforms, the report of the Commission for Constitution Reform of Kenya, the final report of the Constitution of Kenya Review Commission and noted that the reports did not elaborate on the rationale for the change of the date of general elections from December to August.

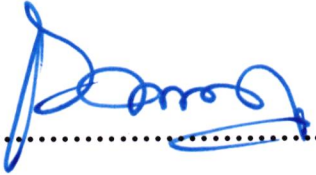
## **6. RECOMMENDATION**

The Committee recommends that the proposed amendments in the Bill be agreed to by the House without amendments.

### **6.0. DISSENTING OPINION**

Hon. Peter Opondo Kaluma M.P. registered a dissenting opinion to the report on the following grounds-

- (a) The date of the general elections was changed from December to August following extensive public participation and consultation leading up to the promulgation of the Constitution of Kenya, 2010;
- (b) The memorandum of objects and reasons in the Bill evinces no good reasons to revert the date of general elections to December;
- (c) The amendments have the effect of altering the term of office of the President and as such, pursuant to Article 255, the Bill therefore ought to be first subjected to a popular referendum prior to adoption by the House;
- (d) People should vote for leaders in areas they reside full time as opposed to voting for leaders in areas where they are on holiday in December;
- (e) The Presidential election process including petition should be concluded in a year general elections are held to avoid a situation where two years are affected by elections.

SIGNED..........this <sup>14<sup>th</sup></sup>.....day of.....<sup>August</sup>.....2018

**HON. WILLIAM CHEPTUMO, M.P.**  
**Chairperson, Departmental Committee on Justice and Legal Affairs**

# **ANNEXURE 1**

(Minutes of Committee sittings)

**MINUTES OF THE SIXTY-THIRD SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY, 7<sup>TH</sup> AUGUST, 2018 AT 10:00 A.M. IN THE COMMITTEE ROOM ON 10<sup>TH</sup> FLOOR, HARAMBEE CO-OPERATIVE PLAZA**

**PRESENT**

- |                                    |   |                         |
|------------------------------------|---|-------------------------|
| 1. Hon. William Cheptumo, M.P.     | - | <b>Chairperson</b>      |
| 2. Hon. Alice Muthoni Wahome, M.P. | - | <b>Vice Chairperson</b> |
| 3. Hon. John Olago Aluoch, M.P.    |   |                         |
| 4. Hon. Ben Momanyi, MP.           |   |                         |
| 5. Hon. Peter O. Kaluma, M.P.      |   |                         |
| 6. Hon. Beatrice Adagala, M.P.     |   |                         |
| 7. Hon. Jennifer Shamalla, M.P.    |   |                         |
| 8. Hon. Anthony G. Kiai, M.P.      |   |                         |
| 9. Hon. George G. Murugara, M.P.   |   |                         |
| 10. Hon. Adan Haji Yussuf, M.P.    |   |                         |

**ABSENT WITH APOLOGIES**

1. Hon. William K. Mwamkale, M.P.
2. Hon. Charles Gimose, M.P.
3. Hon. Johana Ng'eno, M.P.
4. Hon. Zuleikha Hassan, M.P.
5. Hon. Japheth Mutai, M.P.
6. Hon. Gladys Boss Shollei, CBS, M.P.
7. Hon. Roselinda Soipan Tuya, M.P.
8. Hon. John M. Wambugu, M.P.
9. Hon. John Kiarie Waweru, M.P.

**IN ATTENDANCE**

**COMMITTEE SECRETARIAT**

- |                     |   |                       |
|---------------------|---|-----------------------|
| Ms. Naserian Lotuai | - | Third Clerk Assistant |
| Ms. Doreen Karani   | - | Legal Counsel II      |
| Ms. Fiona Musili    | - | Research Officer III  |

**MIN No. 222 /2018:-**

**PRELIMINARIES**

The Chairperson called the meeting to order at 10:23 a.m. which was followed by a word of prayer from himself.

**MIN No. 223/2018:-**

**CONFIRMATION OF MINUTES**

- a) Minutes of the 35<sup>th</sup> sitting held on 2<sup>nd</sup> May, 2018 at 11.00 a.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. George Murugara, M.P. and seconded by Hon. John Olago Aluoch, M.P.
- b) Minutes of the 36<sup>th</sup> sitting held on 3<sup>rd</sup> May, 2018 at 10.00 a.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. Anthony Kiai, M.P. and seconded by Hon. Jennifer Shamalla, M.P.
- c) Minutes of the 38<sup>th</sup> sitting held on 16<sup>th</sup> May, 2018 at 10.00 a.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. George Murugara, M.P. and seconded Hon. Anthony Githiaki Kiai, M.P.
- d) Minutes of the 39<sup>th</sup> sitting held on Thursday, 16<sup>th</sup> May, 2018 at 2.30 p.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. John Olago Aluoch, M.P. and seconded by Hon. Anthony Kiai, M.P.
- e) Minutes of the 40<sup>th</sup> sitting held on 17<sup>th</sup> May, 2018 at 11.00 a.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. George Murugara, M.P. and seconded by Hon. John Olago Aluoch, MP.
- f) Minutes of the 41<sup>st</sup> sitting held on 18<sup>th</sup> May at 10.00 a.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. John Olago Aluoch, M.P. and seconded by Hon. Anthony Kiai, M.P.
- g) Minutes of the 42<sup>nd</sup> sitting held on 18<sup>th</sup> May at 2.00 p.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. Anthony Kiai, M.P. and seconded by Hon. John Olago Aluoch, M.P.
- h) Minutes of the 43<sup>rd</sup> sitting held on 19<sup>th</sup> May, 2018 at 10.00 a.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. Anthony Kiai, M.P. and seconded by Hon. John Olago Aluoch, M.P.
- i) Minutes of the 45<sup>th</sup> sitting held on 19<sup>th</sup> May, 2018 at 2.00 p.m. were confirmed as true record of the proceedings and signed by the Chairperson after being proposed by Hon. Jennifer Shamalla, MP and seconded by Hon. Peter Kaluma, M.P.
- j) Minutes of the 46<sup>th</sup> sitting held on 5<sup>th</sup> June, 2018 at 10.00 a.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. Jeniffer Shamalla, M.P. and seconded by Hon. George Murugara, M.P.
- k) Minutes of the 47<sup>th</sup> sitting held on 6<sup>th</sup> June, 2018 at 11.00 a.m. were confirmed as true record of the proceedings and signed by the Chairperson after being proposed by Hon. John Olago Aluoch, M.P. and seconded by Hon. Jennifer Shamalla, M.P.

- l) Minutes of the 48<sup>th</sup> sitting held on 7<sup>th</sup> June, 2018 at noon were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. Anthony Kiai, M.P. and seconded by Hon. Jennifer Shamalla, M.P.
- m) Minutes of the 49<sup>th</sup> sitting held on 13<sup>th</sup> June, 2018 at 11.30 a.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. Jennifer Shamalla, M.P. and seconded by Hon. George Murugara, M.P.
- n) Minutes of the 50<sup>th</sup> sitting held on 14<sup>th</sup> June, 2018 at 11.00 a.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. Jennifer Shamalla, M.P. and seconded by Hon. George Murugara, M.P.
- o) Minutes of the 51<sup>st</sup> sitting held on 14<sup>th</sup> June at 3.00 p.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. George Murugara, M.P. and seconded by Hon. Jennifer Shamalla, M.P.
- p) Minutes of the 52<sup>nd</sup> sitting held on 19<sup>th</sup> June, 2018 at 11.00 a.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. John Olago Aluoch, M.P. and seconded by Hon. Anthony Kiai, M.P.
- q) Minutes of the 53<sup>rd</sup> sitting held on 21<sup>st</sup> June, 2018 at 3.30 p.m. were confirmed as true record of proceedings and signed by the Chairperson after being proposed by Hon. John Olago Aluoch, M.P. and seconded by Hon. Jennifer Shamalla, M.P.

**MIN No. 224 /2018:-**

**MATTERS ARISING**

Under Minutes of the 52<sup>nd</sup> sitting that took place on 14<sup>th</sup> June 2018, it was noted that Hon. Jennifer Shamalla, M.P. was recorded as being absent instead of present.

**MIN No. 225/2018:-**

**CONSIDERATION AND ADOPTION OF REPORT ON THE CONSTITUTION OF KENYA (AMENDMENT) (No. 2) BILL, 2018, (NATIONAL ASSEMBLY BILLS NO. 5)**

The Committee considered and adopted its report on the Constitution of Kenya (Amendment) (No. 2) Bill, 2018 (National Assembly Bills No. 5) seeking to change the general election date from second Tuesday of August to third Monday of December in every year of election. Hon. Peter Kaluma M.P. registered his dissenting opinion on the report on the following grounds-

- (a) The date of the general elections was changed from December to August following extensive public participation and consultation leading up to the promulgation of the Constitution of Kenya in the year 2010;
- (b) The memorandum of objects and reasons in the Bill evinces no good reasons to revert the date of general elections to December;

- (c) The amendments have the effect of altering the term of office of the President and pursuant to Article 255 of the Constitution of Kenya, the Bill should be subjected to a popular referendum prior to adoption by the House;
- (d) Kenyans should vote for leaders in areas they reside full time or better part of their time as opposed to voting in areas where they are on holiday in December;
- (e) The Presidential election process including petition challenging results should be concluded in the year the general elections are held to avoid a situation where two (2) years are affected by the elections.

**MIN No. 226/2018:-**                      **CONSIDERATION AND ADOPTION OF REPORT ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS No. 4)**

The Committee considered and adopted its report on the Constitution of Kenya (Amendment) Bill, 2018 (National Assembly Bill No. 4). Hon. Peter Kaluma M.P. registered a dissenting view to the report on the following grounds-

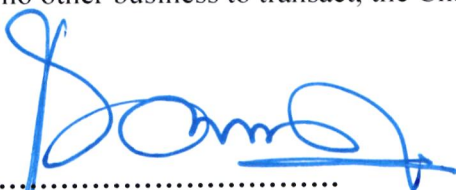
- a) Article 27(8) of the Constitution requires the State to take legislative measures to ensure the implementation of the principle that no more than two-thirds of the members of elective positions shall be of the same gender. The import of this requirement is that Parliament should enact legislation to implement the principle and not by way of amendment to the Constitution.
- b) The Bill proposes realization of the two-thirds gender principle by way of nomination which is not democratic.

**MIN No. 227 /2018:- ANY OTHER BUSINESS**

The Committee considered a request from Hon. Dennitah Ghati, HSC, M.P. to appear before it to make representations on clause 3(a) of the Constitution of Kenya (Amendment) Bill (No. 2), 2018 (National Assembly Bills No. 4) and resolved that she appears on Thursday, 9<sup>th</sup> August 2018 at 10.00 a.m.

**MIN No. 228/2018:-**                      **ADJOURNMENT**

There being no other business to transact, the Chairperson adjourned the meeting at 11.30 pm.

Signed.....  
  
 Chairperson

Date.....  
 14.08.18

**MINUTES OF THE SIXTY-SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY, 2<sup>ND</sup> AUGUST, 2018 AT 10:30 A.M. IN THE BOARDROOM ON SECOND FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS**

**PRESENT:-**

- |                                   |   |                         |
|-----------------------------------|---|-------------------------|
| 1. Hon. William Cheptumo, M.P.    | - | <b>Chairperson</b>      |
| 2. Hon. Alice Wahome, M.P.        | - | <b>Vice Chairperson</b> |
| 3. Hon. Peter O. Kaluma, M.P.     |   |                         |
| 4. Hon. John Olago Alouch, MP.    |   |                         |
| 5. Hon. William K. Mwamkale, M.P. |   |                         |
| 6. Hon. Jennifer Shamala, M.P.    |   |                         |
| 7. Hon. Beatrice Adagala, M.P.    |   |                         |
| 8. Hon. Anthony G. Kiai, M.P.     |   |                         |
| 9. Hon. Japheth Mutai, M.P.       |   |                         |
| 10. Hon. Adan Yussuf Haji, M.P.   |   |                         |

**ABSENT WITH APOLOGY**

1. Hon. Roselinda SoipanTuya, MP.
2. Hon. Ben Momanyi Orori, M.P.
3. Hon. Johana Ngeno, M.P.
4. Hon. Zulekha Hassan, M.P.
5. Hon. Charles Gimose, M.P.
6. Hon. Gladys Boss Shollei, CBS, MP.
7. Hon. George G. Murugara, M.P.
8. Hon. John Kiarie Waweru, M.P.
9. Hon. John M Wambugu, M.P.

**IN ATTENDANCE**

**NATIONAL ASSEMBLY**

- |                       |   |                              |
|-----------------------|---|------------------------------|
| 1. Mr. George Gazemba | - | Principal Clerk Assistant II |
| 2. Ms. Doreen Karani  | - | Legal Counsel II             |
| 3. Ms. Halima Hussein | - | Clerk Assistant III          |
| 4. Ms. Fiona Musili   | - | Research Officer III         |
| 5. Mr. Abdirahim Omar | - | Budget Officer III           |

**MIN No. 217/2018:-**

**PRELIMINARIES**

The chairperson called the meeting to order at 10:30 a.m. which was followed by a word of prayer by himself.



**MIN No. 218 /2018:-**

**CONFIRMATION OF PREVIOUS MINUTES**

Confirmation of previous Minutes was deferred to the next sitting.

**MIN No. 219/2018:**

**CONSIDERATION OF THE DRAFT REPORT ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2018 ON CHANGE OF GENERAL ELECTION DATE FROM AUGUST TO DECEMBER**

The Committee considered the draft report on the public hearings on the Constitution of Kenya Amendment Bill, 2018 on the change of the date of the General Election from August to December during which-

- (i) The Legal Counsel informed the Committee that pursuant to the Speaker's ruling during the 11<sup>th</sup> Parliament, he guided that the question as to whether the enactment of the Bill would result in extension of the term of the President and Parliament thereby necessitating a referendum could only be determined by the High Court;
- (ii) The secretariat presented to the Committee a breakdown in figures and percentages on the public participation during the public hearings.

The adoption of the report was deferred to the next sitting though Hon. Peter Opondo Kaluma indicated that he would be dissenting to the amendment to change the election date on the following grounds-

- (a) The date of the general elections was changed from December to August following extensive public participation leading up to the promulgation of the Constitution of Kenya, 2010;
- (b) The memorandum of objects and reasons in the Bill evinces no good reasons to revert the date of general elections to December;
- (c) The amendments would alter the term of the President and pursuant to Article 255 of the constitution, the Bill ought to be first subjected to a popular referendum prior to adoption by the House.

The Committee noted that there was need for Parliament to legislate laws to govern public participation after experiencing instances during hearings where the public became unruly demanding to be paid for attending hearings.

**MIN No. 220/2018:-**

**ANY OTHER BUSINESS**

The Committee discussed the following matters and agreed as follows;

- a) Appearance by the Attorney-General before the Committee on 2<sup>nd</sup> August, 2018 to respond to a question by Hon. Ndindi Nyoro on the late Hon. Kenneth Matiba's delayed compensation following a court award be postponed to Tuesday, 14<sup>th</sup> August, 2018 on request by the Attorney-General.

- b) To discuss foreign trips to be undertaken during the current financial year at the next sitting.

**MIN No. 221/2018:**

**ADJOURNMENT**

There being no other business to transact, the Chairperson adjourned the meeting at 12.10 p.m. until Tuesday 7<sup>th</sup> August, 2018 at 10 a.m. at a venue to be communicated.

Signed.....

  
Chairperson

Date.....

14.08.018

**MINUTES OF THE SIXTY-FIRST SITTING OF THE DEPARTMENTAL COMMITTEE  
ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY, 31<sup>ST</sup> JULY, 2018 AT 11:00  
A.M. IN MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS**

**PRESENT:-**

- |                                       |   |          |
|---------------------------------------|---|----------|
| 1. Hon. Gladys Boss Shollei, CBS, MP. | - | Chairing |
| 2. Hon. John Olago Aluoch, M.P.       |   |          |
| 3. Hon. Peter O. Kaluma, M.P.         |   |          |
| 4. Hon. Charles G. Gimose, M.P.       |   |          |
| 5. Hon. William K. Mwamkale, M.P.     |   |          |
| 6. Hon. Jennifer Shamala, M.P.        |   |          |
| 7. Hon. John M. Wambugu, M.P.         |   |          |
| 8. Hon. Beatrice Adagala, M.P.        |   |          |
| 9. Hon. Anthony G. Kiai, M.P.         |   |          |

**ABSENT WITH APOLOGIES**

- |                                    |   |                  |
|------------------------------------|---|------------------|
| 1. Hon. William Cheptumo, M.P.     | - | Chairperson      |
| 2. Hon. Alice Muthoni Wahome, M.P. | - | Vice Chairperson |
| 3. Hon. Roselinda Soipan Tuya, MP. |   |                  |
| 4. Hon. Ben Momanyi Orori, M.P.    |   |                  |
| 5. Hon. Johanna Ng'eno, M.P.       |   |                  |
| 6. Hon. Zuleikha Hassan, M.P.      |   |                  |
| 7. Hon. George G. Murugara, M.P.   |   |                  |
| 8. Hon. Adan Yussuf Haji, M.P.     |   |                  |
| 9. Hon. John Kiarie Waweru, M.P.   |   |                  |
| 10. Hon. Japheth K. Mutai, M.P.    |   |                  |

**IN ATTENDANCE**

**NATIONAL ASSEMBLY**

- |                       |   |                              |
|-----------------------|---|------------------------------|
| 1. Mr. George Gazemba | - | Principal Clerk Assistant II |
| 2. Mr. Salem Lorot    | - | Legal Counsel II             |
| 3. Ms. Halima Hussein | - | Clerk Assistant III          |
| 4. Ms. Fiona Musili   | - | Research Officer III         |
| 5. Mr. Abdirahim Omar | - | Budget Officer               |

**MIN No. 213/2018:-**

**PRELIMINARIES**

The chairperson called the meeting to order at 11:00 am which was followed by a word of prayer by herself.

**MIN No. 214/2018:-**

**CONFIRMATION OF PREVIOUS MINUTES**

Confirmation of previous Minutes was deferred to the next sitting.

**MIN No. 215/2018:-**

**CONSIDERATION OF THE DRAFT REPORT ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2018 ON CHANGE OF GENERAL ELECTION DATE FROM AUGUST TO DECEMBER**

Mr. Salem Lorot, Legal Counsel II took the Committee through the draft report and matrix on public hearings on the Constitution of Kenya Amendment Bill, 2018 on the change of the general elections date from August to December. The hearings were conducted in the counties of Nairobi, Machakos, Mombasa, Nakuru, Nyeri, Isiolo, Eldoret, Kakamega, Lodwar, Wajir and Kisumu in May, 2018 to collate public views on the Bill.

The Committee observed as follows-

- (i) Most of the groups which made submissions on the Bill were politically organized;
- (ii) Change of election date may mean extension of the term of President and Parliament which require referendum;
- (iii) There was need to sensitize the public through voter education on its role and importance of participating in the law-making process after the public in some of the counties demanded to paid for attending hearings.

The Committee resolved as follows-

- (i) The percentage of the public hearing coverage and how the public was invited to give views be captured in the report;
- (ii) Historical background and the guidelines on how the current general election date was arrived at be indicated in the report to guide the Committee on decision making; and
- (iii) The adoption of the report be deferred pending confirmation by the Legal Counsel whether the Bill's enactment would extend the term of the President and Parliament and if so, whether a referendum was necessary.

**MIN No. 216/2018:**

**ADJOURNMENT**

There being no other business to transact, the Chairperson adjourned the meeting at 1:00pm.

Signed.....

Chairperson

Date.....14.08.018

# **ANNEXURE 2**

(Members signed report adoption list)

KENYA NATIONAL ASSEMBLY






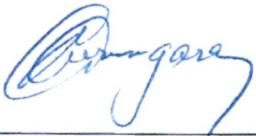







DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

ATTENDANCE REGISTER FOR MEMBERS

DATE 7<sup>th</sup> August 2012 TIME 10.40 am.

VENUE 10<sup>th</sup> floor Harambee.

NO.	NAME	SIGNATURE
1.	Hon. William Cheptumo, M.P. – Chairperson	
2.	Hon. Alice Wahome, MP. - Vice Chairperson	
3.	Hon. John Olago Aluoch, MP.	
4.	Hon. Roselinda Soipan Tuya, MP.	
5.	Hon. Ben Momanyi, MP.	
5.	Hon. Mwamkale William Kamoti, MP.	
7.	Hon. Charles Gimose, MP.	
3.	Hon. Zuleikha Hassan, MP.	

9.	Hon. Johana Ngeno Kipyegon, MP.	
10.	Hon. Peter Opondo Kaluma, MP.	
11.	Hon. John Kiarie Waweru, MP.	
12.	Hon. George Gitonga Murugara, MP.	
13.	Hon. Adan Haji Yussuf, MP.	
14.	Hon. Japheth Kiplangat Mutai, MP.	
15.	Hon. Anthony Githiaka Kiai, MP.	
16.	Hon. Jennifer Shamalla, MP.	
17.	Hon. Beatrice Adagala, MP.	
18.	Hon. John Munene Wambugu, MP.	
19.	Hon. Boss Shollei, CBS, MP.	

for: 

**GEORGE GAZEMBA, ACIarb**  
**For: CLERK OF THE NATIONAL ASSEMBLY**

# **ANNEXURE 3**

(Copy of newspaper advertisement of 20<sup>th</sup> and 21<sup>st</sup> March, 2018 inviting the public to submit memoranda on the Bill)



GOVERNANCE

# Rethink governance to grow economy

Kenya has lived in denial of a narrow economic policy crisis and always painted a rosy picture of growth. It seems to lack leadership with courage, vision and political conviction to accept the nature of its economic policy and instead chooses the easy pacifying route.



NDUNGU'U WAINAINA

The public has been demanding an end to irresponsible and corrupt public finance management but the political system has been intransigent in response."

The government knows the depth of corruption and inflated payments of goods and services within but has adamantly refused to purge graft. It keeps skirting this fact and inventing rhetoric to avoid tackling it head-on.

Our political system is criminally corrupt: It is about looting and plundering national wealth and resources. It does not produce, expand and grow the economy but extracts what is available. Sadly, leadership with the foresight and will to challenge this tradition remains elusive.

The public has been demanding an end to irresponsible and corrupt public finance management but the political system has been intransigent in response.

Top political leadership must purge corruption and reduce deficit. It is time the government shed its

government programmes and spending be cut before increasing taxes.

Further, it is important to streamline the national planning policy to put county plans at the heart of development and growth with greater devolution of power and resources with stringent accountability.

The counties need to be remarkably effective at instigating and delivering mega projects. This would create jobs, help businesses to flourish and allow active exploration of opportunities to deliver new infrastructure programmes leveraging investment from pension funds, attracting inward investment and pursuing greater freedom to be active in the bond markets.

There has to be a crystal-clear vision of the role of the government in the economy with political conviction and determination to act and the following immediate measures suffice.

First, rationalise and peg public officers' earnings on performance and productivity and ensure no official is in private employ.

Secondly, effectively and substantially reduce the cost of government. There are many unnecessary

governmental agencies and parastatals. The government must bite the bullet. It is people who produce the goods and services.

Thirdly, the governance system must be drastically rationalised, restructured and harmonised to accord with and respect devolution, streamlining machinery, reducing size and trimming costs. The public sector is nothing more than an overhead; it does not add to the economy. It is a burden.

**Snoop on citizens**

Fourth, the government should focus only on things that are within its purview. A significant number of government personnel and resources are devoted to non-productive activities — such as using its size and power to snoop on citizens rather than emancipate them through superior education, healthcare, security and such other critical social services.

Fifth, redefine economic and social policy to invest in counties to expand, diversify and build a technologically innovative, knowledge-based more equitable and inclusive economy.

Sixth, make corruption in government the most punitive venture. A large

public sector inhibits development of a vibrant private sector and government-linked agencies actively compete with and stunt development.

Finally, redefine and transform the civil service into a highly productive, innovative, responsive and objective one that competently supports the well-being and prosperity of the country and turn the development vector from a narrow, consumption-based economy into a broad, well-grounded knowledge investment-oriented one.

With a new constitutional order, adoption of a devolved system of governance and service delivery, together with escalating global competition, Kenya should build a civil service based on professionalism, efficiency and integrity with a high standard of discipline, skills and accountability. Such a civil service is the transforming and propelling engine for advancement of the country's economics, security and governance.

Mr Wainaina is executive director, International Center for Policy and Conflict. Email: [nwainaina@icpcafrica.org](mailto:nwainaina@icpcafrica.org) Twitter: @NdunguWainaina

ENVIRONMENT

## Dialogue and education will save forests

Our forests and tree cover constitute a valuable socio-economic resource that should be nurtured. But that will not happen unless all understand what is at stake and their role in the effort to reclaim the forests and economically usable land.

Continuous education and dialogue for communities living off forests, most of whom rely on grapevine misinformation about the government's "ill intentions", is necessary. To ensure a critical mass of the citizenry is pro-conservation, environmental education should permeate through the rank and file.

Our investment in this resource cannot be left to cartels, whose only interest is immediate gain. Notably, we have a law cited in several statutes. And we have institutions to administer and enforce that law. After the ongoing forest audit is complete, the war against logging, charcoal burning and other reckless human activities must be relentless.

Technologies meant to shift demand for fuel from charcoal — such as biogas, geothermal and solar — need to be upscaled to relieve pressure from wood as the primary source of energy.

SUSAN KABATHI, agricultural scientist. [Suzannaairobi@gmail.com](mailto:Suzannaairobi@gmail.com)

REPUBLIC OF KENYA



NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT - SECOND SESSION

In the Matter of consideration by the National Assembly -  
The Constitution of Kenya (Amendment) (No. 2) Bill, 2018

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". Standing Order 127(3) provides that, "the Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account views and recommendations of the public when the Committee makes its report to the House".

The Constitution of Kenya (Amendment) (No. 2) Bill, 2018 seeks to amend Articles 101 (1), 136 (2) (a), 177 (1) (a) and 180 (1) of the Constitution of Kenya by changing the existing date for the general election of Members of Parliament, the President, Members of County Assembly, Governors and their deputies from the second Tuesday of August in every fifth year to third Monday of December in every fifth year.

The Constitution of Kenya (Amendment) (No. 2) Bill, 2018 has undergone First Reading as stipulated in the Standing Orders of the House. The Bill, having been read for the First time, stood committed to the Departmental Committee on Justice and Legal Affairs for consideration and report to the House.

Pursuant to Article 118(1)(b) and Standing Order 127(3), the Committee invites the Public to submit representations they may have on the said Bill. 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 23<sup>rd</sup> April, 2018 at 5.00pm.

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY



AFRICAN REINSURANCE CORPORATION  
SOCIÉTÉ AFRICAINE DE RÉASSURANCE

TENDER NOTICE

The African Reinsurance Corporation (Africa Re) is the leading pan-African reinsurance company and the largest re-insurer in Africa and the Middle East in terms of net reinsurance written premiums. Headquartered in Lagos (Nigeria) with diplomatic status in its current 41 African member countries, Africa Re operates through six (6) Regional Offices across Africa: Casablanca (Morocco), Abidjan (Côte d'Ivoire), Nairobi (Kenya), Lagos (Nigeria), Cairo (Egypt) and Port Louis (Mauritius) and two (2) Contact Offices in Addis Ababa (Ethiopia) and Kampala (Uganda). The Corporation has also two (2) Subsidiary Companies (Africa Re South Africa Limited and Africa Retakafu) in Johannesburg (South Africa) and in Cairo (Egypt).

African Reinsurance Corporation invites applications from suitably qualified companies to provide the following services:

Reference	Nature of Service
TN001	Maintenance of Property and Supervision of Other Service Providers
TN002	Cleaning Services
TN003	Maintenance of Electrical & Mechanical Installations
TN004	Maintenance of Fire Fighting Equipment, Fire Alarm & Sprinkler System
TN005	Maintenance of Pumps & Plumbing System
TN006	Maintenance of Power Generating Sets
TN007	Security & Alarm Response Services
TN008	Maintenance of OTIS Lifts

The Tender document, with detailed specifications may be obtained from the Administrative Officer at Africa-Re Centre on 6<sup>th</sup> Floor during normal working hours between 10.00 am and 3.00 p.m. upon payment of a non-refundable fee of Kshs 8,000.00. Payment should be made by "Banker's Cheque" in favour of "African Reinsurance Corporation".

Completed Tender documents are to be enclosed in plain sealed envelopes, indicating the appropriate Reference as indicated above and addressed to:

The Chairman  
Tender Committee  
African Reinsurance Corporation  
Africa-Re Centre, Hospital Road, Upper Hill P. O. 62328 - 00200, Nairobi, Kenya

Tender documents should be placed in the tender box provided at the 6th floor reception at Africa Re Centre on or before 6<sup>th</sup> April 2018 at 4.30 pm.

Tenders will be opened on 9<sup>th</sup> April 2018 and all Tenderers shall be contacted on the success or otherwise of their tender.

Assistant Director Finance & Administration

REPUBLIC OF KENYA



**NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT – SECOND SESSION**

**In the Matter of consideration by the National Assembly –  
The Constitution of Kenya (Amendment) (No. 2) Bill, 2018**

**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". Standing Order 127(3) provides that, "the Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account views and recommendations of the public when the Committee makes its report to the House".

The Constitution of Kenya (Amendment) (No. 2) Bill, 2018 seeks to amend Articles 101 (1), 136 (2) (a), 177 (1) (a) and 180 (1) of the Constitution of Kenya by changing the existing date for the general election of Members of Parliament, the President, Members of County Assembly, Governors and their deputies from the second Tuesday of August in every fifth year to third Monday of December in every fifth year.

The Constitution of Kenya (Amendment) (No. 2) Bill, 2018 has undergone First Reading as stipulated in the Standing Orders of the House. The Bill, having been read for the First time, stood committed to the Departmental Committee on Justice and Legal Affairs for consideration and report to the House.

Pursuant to Article 118(1)(b) and Standing Order 127(3), the Committee invites the Public to submit representations they may have on the said Bill. 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 23<sup>rd</sup> April, 2018 at 5.00pm.

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



REPUBLIC OF KENYA  
COUNTY GOVERNMENT OF LAMU



**EXPRESSION OF INTEREST FOR PURCHASE OF LAND/HOUSE**

**EXTRACTION TENDER NO. CGL/EOI/002/2017-2018**

The County intends to purchase land / house for His Excellency Governor of Lamu as follows: -

S/No.	Description	Specific Conditions
01	Purchase of Land / House	1. Minimum one (1) Acre 2. Accessible to the ocean 3. Located in either Mkomani or Shella Wards in Lamu County 4. Preference shall be to a land with built in house and a servant quarter.

The following general conditions must be met: -

- i. Topography of the land must be met
- ii. Free from any encumbrances
- iii. Ownership documents must be valid
- iv. Transferability must be immediate
- v. Should be free from illegal settlers

**Criteria for Eligibility**

- i. Detailed description of the land
- ii. Proof of ownership of land
- iii. Valid copy of Title Deed or Confirmation Certificate from adjudication Section (where registration has not been done).
- iv. Name of individual/firm who will participate in the EOI
- v. Copies of National Identification card and PIN certificate for individuals

**Requirements**

Interested individuals should submit their Expression of Interest that will include the following: -

- i. Certified copy of ID and
- ii. Certificate of Good Conduct.

Interested individuals may request for clarification on this qualification for up to seven (7) days before submission date.

County Secretary  
County Government of Lamu  
P.O. Box 74-80500  
Tel: 0715555111/0772576122  
LAMU  
email: [jnfo@lamu.go.ke](mailto:jnfo@lamu.go.ke)

**Submission**

The EOI documents/form may be downloaded from the website: [www.lamu.go.ke](http://www.lamu.go.ke) filled and deposited at the County Headquarters, Blue House Office so as to be received on or before Wednesday 28<sup>th</sup> March, 2018 at 10.30 a.m.

HEAD OF SUPPLY CHAIN MANAGEMENT SERVICES – COUNTY GOVERNMENT OF LAMU.

**The 5th Annual  
DEVOLUTION  
CONFERENCE | 2018**

**SUSTAINABLE, PRODUCTIVE,  
EFFECTIVE AND EFFICIENT  
GOVERNMENTS FOR RESULTS DELIVERY**

Welcome to the 5th Annual Devolution Conference  
Date: 23rd-27th April 2018  
Venue: Kakamega High School in Kakamega County

**BOOK  
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NOW!!**

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**COUNCIL OF GOVERNORS  
48 Governments 1 Nation**

# **ANNEXURE 4**

(Copy of newspaper advertisement of  
18<sup>th</sup> May, 2018 inviting the public to  
hearings on the Bill in selected counties)

REPUBLIC OF KENYA



**NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT – SECOND SESSION**

In the Matter of consideration by the National Assembly –  
National Government Estimates of Revenue and Expenditure for FY – 2018/2019  
Articles 127(6)(c), 173(3) and 221(1) of the Constitution

**PUBLIC HEARINGS/SUBMISSION OF MEMORANDA**

In line with Article 221(1) of the Constitution, the Estimates for National Government, Judiciary, and Parliament were submitted to the National Assembly for consideration.

Pursuant to the provisions of Article 221(4) & (5) of the Constitution, the Budget and Appropriations Committee now invites interested members of the public to submit any representations that they may have on the Estimates of Revenue and Expenditure for the Financial Year 2018/2019. The representations may be made orally or by submission of written memoranda in the following manner:-

- Written Memoranda may be forwarded to the Clerk of 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), [pbo@parliament.go.ke](mailto:pbo@parliament.go.ke), to be received on or before Thursday 24<sup>th</sup> May, 2018.
- Public Hearings shall be held in the following twelve (12) designated centers on the dates indicated below from 9.00 am. to 2.00 pm:-

COUNTY	VENUE	DATE
West Pokot	Mtelo Hall- Kapenguria Town	Monday 21 <sup>st</sup> May, 2018
Bungoma	Red Cross Hall- Bungoma Town	Tuesday 22 <sup>nd</sup> May, 2018
Kirinyaga	C.C.S Hall, Mwea Town	Monday 21 <sup>st</sup> May, 2018
Tharaka-Nithi	Trans-National Teachers Sacco Hall- Chuka Town	Tuesday 22 <sup>nd</sup> May, 2018
Makueni	Kelvian Hotel- Wote Town	Monday 21 <sup>st</sup> May, 2018
Kajiado	Empeut Resort -Kajiado Town	Tuesday 22 <sup>nd</sup> May, 2018
Nairobi	Dagoretti South Empowerment Centre	Wednesday 23 <sup>rd</sup> May, 2018
Migori	IFAD Hall -Migori Town	Monday 21 <sup>st</sup> May, 2018
Nyamira	Gesima Market Centre	Tuesday 22 <sup>nd</sup> May, 2018
Marsabit	Catholic Church Hall- Marsabit Town	Monday, 21 <sup>st</sup> May, 2018
Nakuru	Merica Hotel- Nakuru Town	Wednesday 23 <sup>rd</sup> May, 2018
Mombasa	Tononoka Hall- Mombasa Town	Thursday 24 <sup>th</sup> May, 2018

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA



**NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT – SECOND SESSION**

- In the matters of consideration by the National Assembly:-
- The Constitution of Kenya (Amendment) Bill, 2018 on the Two-Thirds Gender Principle.
  - The Constitution of Kenya (Amendment) Bill, 2018 on the change of the General Election date from August to December.

**RE-ADVERTISEMENT  
NOTICE ON PUBLIC HEARINGS BY THE DEPARTMENTAL  
COMMITTEE ON JUSTICE AND LEGAL AFFAIRS**

The Constitution of Kenya (Amendment) Bill, 2018 on the two-thirds gender principles seeks to amend the Constitution of Kenya to ensure that the membership of the National Assembly and the Senate conforms to the two-thirds gender principle as provided for in Article 81(b) of the Constitution. The Bill seeks to give effect to the two-thirds gender principle through the creation of special seats that will ensure that the gender principle is realized in Parliament over a period of twenty (20) years from the next General Election.

The Constitution of Kenya (Amendment) Bill, 2018 on the change of the General Election date from August to December seeks to amend Articles 101 (1), 136 (2)(a), 177 (1) (a) and 180 (1) of the Constitution of Kenya by existing date for the General Election for Members of Parliament, President, Members of the County Assembly, Governors and their Deputies from the second Tuesday of August in every fifth year to 3<sup>rd</sup> Monday of December in every fifth year.

Pursuant to 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." and Standing Order 127 (3) which provides that, "the Department of Committee to which a Bill is committed shall facilitate public participation and shall consider views and recommendations of the public when the Committee makes its report to the House." the Committee will hold public hearings on the said two bills as indicated on the schedule below:-

DATE	TIME	COUNTY	VENUE
Wednesday 23 <sup>rd</sup> May, 2018	10.00 am	Nairobi Kisumu Nakuru	County Hall, Parliament Buildings Tom Mboya Labour Hall Old Town Hall
Thursday 24 <sup>th</sup> May, 2018	11.00 am	Machakos Kakamega Nyeri	Machakos Youth Centre Magharibi Hall IFAD Hall
Friday 25 <sup>th</sup> May, 2018	11.00 am	Mombasa Eldoret Isiolo	Kenya School of Government Eldoret County Hall Catholic Church Hall
Monday 28 <sup>th</sup> May, 2018	11.00 am	Wajir Lodwar	Baraza Park Lodwar Vocational Training Centre

The Clerk of the National Assembly therefore invites interested members of the public and organisations to attend the public hearings and submit their views or make oral presentations regarding the two Bills.

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY



**TRADEMARK EAST AFRICA (TMEA)  
ADVERTISEMENT**

**INVITATION TO TENDER FOR APPOINTMENT TO  
FRAMEWORK AGREEMENTS**

TITLE: PROVISION OF AUDIT SERVICES FOR TRADEMARK EAST AFRICA  
NUMBER: TMEA/FWA/CS/001

TradeMark East Africa (TMEA) is a multi-donor funded, not-for-profit organisation, established in 2010 to promote regional trade and prosperity in East Africa. (TMEA) wishes to appoint service providers to a framework agreement whose expertise shall be called upon via competition and contracts awarded from time to time amongst the service providers on the framework agreement, in response to specific defined pieces of work.

Two individual Framework Agreements will be established for the following requirements:

- Lot 1: Provision of Country Based Audit services.
- Lot 2: Provision of Regional Audit services.

Each Framework Agreement is open to bidders as indicated in each Framework Agreement bid document. The successful bidders shall be appointed to each Framework for a period up to 3 years. Both Framework Agreement bid documents and specific requirements can be obtained at <https://www.trademarkea.com/get-involved/procurement/>. All queries, quoting the specific Framework Title and Number, should be emailed to [frameworks@trademarkea.com](mailto:frameworks@trademarkea.com)

The closing date for submission of tenders is 8 June 2018. Interested and qualified bidders MUST submit their bids via the TMEA Procurement mail box at the address [frameworks@trademarkea.com](mailto:frameworks@trademarkea.com) and all attachments must be 10 MB or less.

TMEA cannot answer any query relating to this tender 7 days or less prior to the submission deadline.

**The Standard**  
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Open Weekdays 8.00am - 5.00pm

I&M Building, Banda Street, Ground Flr.  
[classifiedads@standardmedia.co.ke](mailto:classifiedads@standardmedia.co.ke) ☎ 0719 01 2555, 2909, 2910 @AdsCentre

# **ANNEXURE 5**

(Matrix on public submissions on the  
Bill)

**MATRIX ON THE VIEWS OF THE PUBLIC REGARDING THE CONSTITUTION OF KENYA  
(AMENDMENT) (NO 2) BILL, 2018 (NATIONAL ASSEMBLY BILLS No. 5) BY HON. CHRIS  
WAMALWA.**

**(Change of Election Date from August to December)**

This matrix contains the summarized views/submissions by members of the public received by the Departmental Committee on Justice and Legal Affairs by way of written memoranda or oral submissions during public hearings on the Constitution of Kenya (Amendment) (No. 2) Bill, 2018 (National Assembly Bills No. 5) held in the Counties of Nairobi, Machakos, Mombasa, Nakuru, Nyeri, Isiolo, Uasin Gishu, Kakamega, Turkana, Wajir and Kisumu.

<b>NAIROBI COUNTY</b>	
<b>COMMENTS IN SUPPORT OF AMENDMENTS</b>	<b>COMMENTS AGAINST AMENDMENTS</b>
<p align="center"><b>Institutions</b></p> <ol style="list-style-type: none"> <li>1. Federation of Women Lawyers in Kenya (FIDA-Kenya) supported the amendments on grounds that August is unsuitable owing to the disruption of education or school calendar.</li> <li>2. Women Empowerment Link (WEL) supported the amendments.</li> <li>3. Centre for Rights Education and Awareness (CREAW) supported the amendments.</li> <li>4. Uraia Trust supported the amendments.</li> <li>5. Hummingbird group supported the amendments.</li> </ol> <p align="center"><b>Individuals</b></p> <ol style="list-style-type: none"> <li>6. Mr. Simon Karanu supported the amendments because the holding elections in Kenya in August was disruptive.</li> </ol>	<p align="center"><b>Institutions</b></p> <ol style="list-style-type: none"> <li>1. Centre for Multiparty Democracy opposed the amendments.</li> <li>2. Women Political Alliance opposed the amendments on the grounds that elections dates do not matter.</li> </ol> <p align="center"><b>Individuals</b></p> <ol style="list-style-type: none"> <li>3. Dr. Juliet Kimemia in her personal capacity opposed the amendment on the grounds of dim historical experience.</li> </ol>

<p>4. Ms. Sophie Dola was of the personal opinion that the election date does not matter as the voting should be done from anywhere in the world.</p> <p>5. Political Parties Liaison representative in her personal capacity opposed the amendments.</p> <p>6. Ms Emma Odongo opposed the amendments because the election date is spelled out in the Constitution and that the date doesn't matter.</p> <p>7. Mr. John Ayieko from Dagoretti South Constituency opposed the amendments.</p> <p>8. Ms. Beatrice Karwitha opposed the amendments on the grounds that it was unnecessary.</p> <p>9. Ms. Editah Adhiambo opposed the amendments on the grounds that holding an election in December will disrupt the end year.</p>	
<b>MACHAKOS COUNTY</b>	
<b>COMMENTS AGAINST AMENDMENTS</b>	<b>COMMENTS IN SUPPORT OF AMENDMENTS</b>
<p style="text-align: center;"><b>Institutions</b></p> <p>10. Mr Fred Ithau from Uraia Trust Machakos opposed the amendments on grounds that the school calendar can always be modified if there is a need.</p> <p style="text-align: center;"><b>Individuals</b></p> <p>11. Mr. Timothy Mutua opposed the amendments because December is a rainy season and this will hinder persons with</p>	<p style="text-align: center;"><b>Institutions</b></p> <p>7. Women United for Social Economic and Total Empowerment (WUSETE) supported the amendments,</p> <p>8. Women Visionary Group, Machakos Self Help Group supported the amendments.</p> <p>9. Kenya Girl Guides Association, supported the amendment because August elections were disruptive to the school calendar, and inconvenient to students as public schools were used as polling stations.</p> <p style="text-align: center;"><b>Individuals</b></p>

<p>10. Mr. Humphrey Kabindu supported the amendments.</p> <p>11. Ms. Beth, a person living with disability, supported the amendments but proposed the inclusion of youth, women and persons with disability. She supported the date to be changed to early December.</p> <p>12. Ms Catherine Mathi supported the amendments.</p> <p>13. Iman Anas Ali supported the amendments and was of the view that it is less disruptive to the education sector and January will always bring a fresh start with a fresh government.</p> <p>14. Ms. Rachel Nzive supported the amendments on the grounds that elections held in August disrupted the school calendar and were inconvenient because public schools are utilized as polling stations.</p> <p>15. Ms. Nzuki supported the amendments.</p> <p>16. Ms. Salome Muthama, a children officer, supported the amendments.</p> <p>17. Ms. Susan Kyengo supported the amendments.</p> <p>18. Mr. Albanus Mutune supported the amendments.</p>	<p>disabilities from participating in the elections.</p> <p>12. Mr. Sadique Macharia opposed the amendments because holding elections in August would be in tandem with the commencement of the financial year.</p> <p>13. Ms. Lydiah Omollo opposed the amendments and proposed the election date of August should remain due to financial year and that the month of December is busy.</p> <p>14. Ms. Charity Ndolo opposed the amendments.</p> <p>15. Ms Margaret Njeri opposed the amendments.</p>
<b>MOMBASA COUNTY</b>	
<b>COMMENTS IN SUPPORT OF AMENDMENTS</b>	<b>COMMENTS AGAINST AMENDMENTS</b>
<p><b>Institutions</b></p> <p>19. Sauti ya Wanawake Pwani, supported the amendments since August elections disrupt the school calendar</p> <p>20. FIDA Kenya (Mombasa Chapter), supported the amendments</p> <p>21. ECO- Ethics International supported the amendment stating that holding elections in August was disruptive to</p>	<p><b>Institutions</b></p> <p>16. United Green Movement did not support amendment of the election date as they believed it was for selfish political reasons. They believed that December elections don't experience a huge turnout because it is during the Christmas festivities and that most Kenyans travel upcountry for holidays.</p>



the school calendar

22. Maendelo ya Wanawake, supported the amendment stating that holding elections in August was disruptive to the school calendar.

#### **Individuals**

23. Ms. Jackline Ndunge supported the amendments because schools are used as polling stations.

24. Ms. Maneno supported the amendments.

25. Ms. Naima Achieng supported the amendments and was of the view that election date does not matter and that it may be changed since the locals remain to vote and non-locals often leave owing to security fears.

17. ANC Womens League opposed the amendments.

18. Lonaman CBO group opposed the amendments. Soroptimist International Mombasa opposed the amendments.

#### **Individuals**

19. Mr. Omar Komora opposed the amendments as August date is preferable.

20. Mr. Ferry Abubakar opposed the amendments.

21. Ms. Hawa Salim opposed the amendments.

22. Mr. Lucas opposed the amendments as it will interfere with Christmas celebrations.

23. Mr. Wekesa Godfrey opposed the amendments as it was for the benefit of Members of Parliament to increase their term.

24. Mr. Amos Ezro opposed the amendments since youth have in the past been used to perpetrate violence.

25. Ms. Zalia Atur opposed the amendments on the grounds that the residents immigrate to other areas to vote yet they live in Lodwar.

26. Ms. Susan, a person with hearing impairment, opposed the amendments.

27. Mr. Samson Ibei resident opposed the amendments on grounds that it will extend the term of the 12<sup>th</sup> Parliament. It will also interfere with Christmas festivities. Further, the financial year will be interfered with as the election issues are being tackled.

28. Mr. Duncan Aroro opposed the amendments and requested that in nominations women and PWDs should also receive majority numbers.

29. Mr. John Nyaperi opposed the amendments.

<p>30. Ms. Jennifer Etowoi, a teacher, opposed the amendments on the grounds that in August, the schools are on holiday whereas December is leave season. Those who may have registered in areas they reside leave to the rural areas and are unable to vote.</p> <p>31. Ms. Margaret, area chief of Lodwar, proposed that August be retained for President and the rest for other five elections.</p>	
<b>TURKANA COUNTY</b>	
<b>COMMENTS IN SUPPORT OF AMENDMENTS</b>	<b>COMMENTS AGAINST AMENDMENTS</b>
<p><b>Institutions</b></p> <p>26. Kenya Scouts Association, represented by Mr. Moses Etelei, County Chairman, supported the amendments because elections held in August attract teachers who work for IEBC and neglect teaching hence adversely affecting the examinations results.</p> <p><b>Individuals</b></p> <p>27. Ms. Julia Chang, a student from Lodwar, agreed that the election date should be moved to December</p> <p>28. Joseph, a student at the Lodwar Technical Training Institute supported the change of election date to early December</p> <p>29. David Ekichelar, a comedian, supported the amendments.</p> <p>30. Mr. Analepe Amener Gregory supported the amendments because the August date interferes with the school calendar.</p> <p>31. Ms. Agnes Silowa supported the change of election date</p>	<p><b>Institutions</b></p> <p>No institutions presented views opposing the amendments</p> <p><b>Individuals</b></p> <p>No individuals presented views opposing the amendments</p>

for the reason that the August date interferes with the school calendar.

32. Mr. Enoch Ethule supported the change of election date because the institutions used are schools and August disrupts the school calendar.

33. Mr. Dominic Emase supported the change of election date to December.

34. Mr. Emmanuel Mpendwa Edeke supported the change of election date as August date interferes with school examination calendar.

35. Mr. Gabriel an elder supported the amendments since the December date as it is a date that is in tandem with Kenya's traditions.

36. Mr. Suleiman Eka Loturu supported the change of election date as the December date is historically sound.

37. Ms. Esther Ng'ing'ina, an elder, supported the change in the election date change.

38. Ms. Elizabeth, an elder, supported the change in the election date.

39. Lawrence, area chief of Loima, supported the amendments on the grounds that the August date has only been applied once. He observed that the December date has been tried and tested over time and it had worked. In August, elections interfere with learning.

40. Mr. Daniel Ewaton supported amendments in order to avert election-based violence

**NAKURU COUNTY**

<b>COMMENTS IN SUPPORT OF AMENDMENTS</b>	<b>COMMENTS AGAINST AMENDMENTS</b>
<p><b>Institutions</b></p> <p>41. Ms. Rose Koech, on behalf of Maendeleo ya Wanawake in Rongai, Nakuru, supported the amendments on the grounds that parents will have an opportunity of being with their children when elections are held in December and that elections in December would not interfere with the education of children in school.</p> <p><b>Individuals</b></p> <p>42. Ms. Anne Kamau supported the amendments on the ground that holding elections in December would be favourable because schools would have been closed and it would be convenient to vote.</p> <p>43. Mr. Luka Pkorir supported the amendments on the ground that holding elections in August is hectic and that conducting elections in December is convenient so that a new year starts on a clean slate.</p> <p>44. Ms. Achieng Maggie supported the amendments on the ground that conducting elections during the December holidays is convenient and that it allows the Government to organize its affairs.</p> <p>45. Ms. Veronica Nyambura supported the amendments.</p> <p>46. Mr. Robert Orwata supported the amendments.</p> <p>47. Ms. Florence Chepkorir supported the amendments.</p> <p>48. Mr. Gichangi supported the amendments on the ground that voters will be available in December to vote.</p> <p>49. Ms. Chemtai supported the amendments.</p> <p>50. Ms. Anna supported the amendments on the ground that holding elections in December does not interfere with the</p>	<p><b>Institutions</b></p> <p>No institutions presented comments against the amendments</p> <p><b>Individuals</b></p> <p>32. Mr. Wycliffe Agesa opposed the amendments on the ground that it is disrupts the country's academic calendar and the religious values of Christians.</p> <p>33. Mr. John Kamande opposed the amendments on the following grounds—</p> <p>a) The month of December is a high-peak tourism season and holding elections in this month will affect the country's revenues</p> <p>b) The academic calendar and the budget can be adjusted if need be</p> <p>34. Mr. Daniel Murugu opposed the amendments on the grounds that holding elections either in August or December was unfavourable. He also suggested that the amendments should be shelved until census is conducted.</p> <p>35. Mr. Maurice Otieno opposed the amendments on the ground that the month of December is dedicated to Christians and that it should be reserved for families and quiet meditation.</p> <p>36. Mr. Michael Gitau opposed the amendments on the following grounds—</p>

<p>academic calendar of students.</p> <p>51. Hon. Charity Kathambi Chepkwony, Member of Parliament for Njoro Constituency, supported the amendments.</p>	<p>a) Elections in August do not interfere with the academic calendar because August is a holiday period for students</p> <p>b) Conducting elections in December is expensive to the ordinary Kenyan</p> <p>37. Mr. Peter opposed the amendments on the following grounds—</p> <p>a) Conducting elections in August is preferable since it is at the beginning of a new financial year</p> <p>b) The month of December has a lot of functions, including Christmas for Christians</p>
<p><b>NYERI COUNTY</b></p>	
<p><b>COMMENTS IN SUPPORT OF AMENDMENTS</b></p>	<p><b>COMMENTS AGAINST AMENDMENTS</b></p>
<p><b>Institutions</b></p> <p>52. Ms. Veronica Wangari Maina, on behalf of Maendeleo ya Wanawake at Nyeri supported the amendments because an election held in December will not interfere with the academic calendar and performance of students.</p> <p>53. Mr. Sheikh Gulel, on behalf of Council of Imams, supported the amendments.</p> <p><b>Individuals</b></p> <p>54. Mr. Derrick Mukundi supported the amendments but proposed that elections in December should be held on the first Tuesday of December.</p> <p>55. Mr. Joseph Gatonga supported the amendments.</p> <p>56. Mr. Charles Wachira Muthengi supported the amendments</p>	<p><b>Institutions</b></p> <p>No institutions presented comments against the amendments</p> <p><b>Individuals</b></p> <p>No individuals presented comments against the amendments</p>
<p><b>COMM AMEN</b></p>	

but proposed that elections should be held on the first week of December on the following grounds—

- Kenya was affected economically in last year's elections (2017)
- Elections in December would not affect Kenya's tourism sector
- Elections in December would not affect students in schools

57. Mr. Raphael Wanyeki Mbuthia supported the amendments on the following grounds—

- December has a favourable weather for elections unlike August
- More voters will be available in December than August

Also, Mr. Wanyeki proposed that elections should be conducted after Christmas in order not to ruin the Christmas festivities.

58. Mr. Ndung'u Muchai supported the amendments but proposed that elections should be conducted on the 2<sup>nd</sup> Tuesday of December.

59. Mr. Simon Njugi Rukwaro supported the amendments but proposed that elections should be on the second Tuesday of December.

60. Ms. Margaret Wanjiru supported the amendments because voters would be available during December holiday festivities.

61. Ms. Elizabeth Muthui supported the amendments on the grounds that last year's elections that were held in August disrupted the academic calendar.

62. Mr. Dickson K. Wacira, from Nyeri Central, supported the amendments in order to increase the voter turnout because of the historical holiday mood of the final week of

December and year.

**ISIOLO COUNTY**

**COMMENTS IN SUPPORT OF AMENDMENTS**

**Institutions**

No institutions presented in support the amendments

**Individuals**

63. Mr. Mohamed Godana supported the amendments.
64. Mr. Jackson Ndegere supported the amendments.
65. Ms. Rose Waititu supported the amendments.
66. Mr. Hassan Mbagacho supported the amendments.
67. Ms. Elizabeth supported the amendments.
68. Ms. Halima Dullo supported the amendments.
69. Mr. Omar Godana supported the amendments but proposed that elections be held on the first week of December.
70. Ms. Njeri supported the amendments.
71. Mr. Abdullahi Hassan supported the amendments on the grounds that holding elections in December will enable parents to be with their children during election period and that December is relatively safe.

**COMMENTS AGAINST AMENDMENTS**

**Institutions**

38. Mr. Abdullahi, on behalf of the Chairman of Council of Elders of Isiolo and Borana, opposed the amendments on the following grounds that election in December is expensive as Kenyans will incur unnecessary cost in paying for sitting MPS, Governors, Senators and Members of County Assemblies for additional months from August to December

**Individuals**

39. Mr. Francis Njuguna opposed the amendments.
40. Ms. Hellan Kathure opposed the amendments.
41. Mr. Dabaso Boru opposed the amendments on the grounds that in December the weather in Isiolo is not favourable for elections and that the amendments are selfish.
42. Mr. Annab Kassim opposed the amendments.
43. Mr. Hassan Abdi opposed the amendments.
44. Ms. Betsy Mburuku opposed the amendments on the grounds that the experimentation on August elections needs to be given more time and that December is a festive season.
45. Mr. John Long'eya opposed the amendments.
46. Mr. Japheth Muthama opposed the amendments.
47. Mr. Katama Kura opposed the amendments.
48. Mr. George Kiriki opposed the amendments on the grounds that August is favourable to pastoralists since that is the time that there is enough pasture.

<p>72. Ms. Shoba Libau supported the amendments but proposed that elections be held on the first week of December.</p> <p>73. Mr. Mohamed Rashid supported the amendments.</p> <p>74. Pastor Wambua supported the amendments.</p> <p>75. Mr. Rahman supported the amendments but proposed that elections should be held on the first week of December.</p> <p>76. Mr. Gufu supported the amendments.</p> <p>77. Ms. Consolata Lomilio supported the amendments but proposed that elections should be held in the first week of December.</p> <p>78. Ms. Rukia Waqo supported the amendments.</p> <p>79. Ms. Raukia Salim supported the amendments.</p> <p>80. Mr. Ondiek Matunda supported the amendments but indicated that those to be elected in December should not be paid for the period from August to December.</p> <p>81. Mr. Mohamed Issa Musa supported the amendments on the grounds that in December students would have finished their exams.</p> <p>82. Ms. Risper Ntwiki supported the amendments on the grounds that in December schools are closed and that the December holidays are longer.</p> <p>83. Mr. Hussein supported the amendments.</p> <p>84. Mr. Waqo supported the amendments.</p>	<p>49. Ms. Valentine Nyaguthii, a former contestant for the position of a Member of a County Assembly, opposed the amendments on the grounds that August is the most convenient time to conduct elections and that elections would not spill over to the following year.</p> <p>50. Mr. Paul Muthuri opposed the amendments.</p> <p>51. Ms. Glory Kajuju opposed the amendments on the ground that the election date affects only a day.</p> <p>52. Mr. Rashid Wario opposed the amendments on the following grounds—</p> <p>a) Even if elections were to be conducted in December, Kenyans would still be inconvenienced</p> <p>b) In December, roads in Isiolo are impassable</p> <p>53. Ms. Caroline Gatwiri opposed the amendments.</p> <p>54. Mr. Gabriel Mudibwe opposed the amendments.</p>
<b>WAJIR COUNTY</b>	
<b>COMMENTS IN SUPPORT OF AMENDMENTS</b>	<b>COMMENTS AGAINST AMENDMENTS</b>
<p><b>Institutions</b></p> <p>85. Mr. Abdulrahman Muhammad, Chairman of Chamber of Commerce, supported the amendments.</p>	<p><b>Institutions</b></p> <p>55. Mr. Mohamed Dagale, Chairman of Peace Elders in Wajir South, opposed the amendments.</p>



<p>86. Mr. Mohammed Mahamud, the Chairman of Jubilee Party in Wajir, supported the amendments.</p> <p>87. Mr. Abdi Farah Omar, the Chairperson for the Disabled in Wajir, supported the amendments.</p> <p>88. Mr. Noor Mohammed, Executive Secretary of Kenya National Union of Teachers in Wajir, supported the amendments.</p> <p><b>Individuals</b></p> <p>89. Mr. Aden Garad supported the amendments.</p> <p>90. Ms. Fatuma, a person with disability, supported the amendments.</p> <p>91. Mr. Abdi Abdullahi Kullow, supported the amendments.</p> <p>92. Mr. Nicmo Araj supported the amendments.</p> <p>93. Ms. Rukia Abdile, a former nominated Member of County Assembly (2013) and a former councilor (2007), supported the amendments.</p> <p>94. Ms. Hassanali supported the amendments.</p> <p>95. Ms. Fatuma Abdullahi from Wajir East supported the amendments.</p> <p>96. Mr. Mohamed Abdikarim supported the amendments.</p> <p>97. Mr. Ahmed Hajj Aldas supported the amendments.</p> <p>98. Mr. Mohamed Issa supported the amendments.</p> <p>99. Mr. Ali Bulle, an elder from Wajir East, supported the amendments.</p> <p>100. Ms. Sarah from Wajir East supported the amendments.</p> <p>101. Mr. Abdullahi Sheikh supported the amendments.</p> <p>102. Mr. Issak Bullo Osman from Wajir South supported the amendments.</p> <p>103. Mr. Mshaa Ali supported the amendments.</p> <p>104. Mr. Mohamed Abdi supported the amendments.</p>	<p><b>Individuals</b></p> <p>56. A representative from Wajir West opposed the amendments because December is accident-prone and full of drunkardness.</p> <p>57. Mr. Dahala Abdi opposed the amendments because in December the roads are impassable.</p>
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**UASIN GISHU COUNTY**

<b>COMMENTS IN SUPPORT OF AMENDMENTS</b>	<b>COMMENTS AGAINST AMENDMENTS</b>
<p><b>Institutions</b></p> <p>105. Ms. Winnie Maru of Maendeleo ya wanawake supported the amendments.</p> <p>106. Ms. Rael Koech of the center for Human Rights and democracy supported the amendments.</p> <p><b>Individuals</b></p> <p>107. Mr. Isaac Kotut supported the amendments.</p> <p>108. Mrs. Chepkok Moera supported the amendments.</p> <p>109. Mr. Duncan Khaamba supported the amendments.</p> <p>110. Ms. Mary Kuket supported the amendments</p> <p>111. Ms. Gladys Bublbul, a business woman, supported the change of the election dates but proposed that the elections should be held on the first week of December to allow business people to continue with their business during the festive seasons.</p> <p>112. Ms. Habiba Dudu supported the amendments.</p> <p>113. Ms. Carolyn Cherich supported the amendments.</p> <p>114. Mr. Robert Misoï supported the amendments.</p> <p>115. Ms. Counsellor Chemase supported the amendments.</p> <p>116. Mr. Ronald Kiprop supported the amendments.</p> <p>117. Ms. Ann Kandie supported the amendments.</p> <p>118. Ms. Macrena Kebenei supported the amendments.</p> <p>119. Mr. Benard Kemboi supported the amendment but was of the opinion that the specific election should be staggered depending on the position.</p> <p>120. Mr. Kennedy Kiptoo supported the amendments.</p>	<p><b>Institutions</b></p> <p>No institutions made comments against the amendments</p> <p><b>Individuals</b></p> <p>58. Major Sei of Moiben Constituency was of the view that there was no need of changing the constitution, but urged Kenyans and the relevant institutions to ensure that there were free and fair elections.</p> <p>59. Mr. Nyambane was opposed to the change of the election date on the grounds that the authors of the current constitution had considered all the viable dates and settled on August. He further stated that there was a need for Kenyans to give the current constitution time to mature before attempting to amend.</p>

<p>121. Ms. Celine Misoi supported the amendments.  122. Mr. Vitalis Baraza supported the amendments.  123. Ms. Elizabeth Lagat supported the amendments.  124. Ms. Jane Waithera supported the amendments.  125. Ms. Cecilia Kiptoo supported the amendments.  126. Mr. Bob Ronoh supported the amendments.  127. Ms. Rose Sitati supported the amendments.  128. Mr. Peter Singoe supported the amendments.  129. Ms. Leah Chebet supported the amendments on the grounds that having elections in August destabilizes the school calendar and December was more favorable.  130. Mr. Charles Chabari supported the amendments on the grounds that December was favorable to farmers who would have harvested their produce unlike August when they are busy preparing the crops.</p>	
<b>KAKAMEGA</b>	
<b>COMMENTS IN SUPPORT OF AMENDMENTS</b>	<b>COMMENTS AGAINST AMENDMENTS</b>
<p><b>Institutions</b>  131. Groots Kenya supported the amendments on the grounds that in August schools are still in session and elections always disrupt the school programme. Further that in December as opposed to August parents would be with their children and be able to take care of them and ensure their safety in instances where election skirmishes may erupt.  132. Mr. Winfred Mugesia, County Chairperson for Maendeleo ya Wanawake Kakamega, supported the change of the election date on the grounds that</p>	<p><b>Institutions</b>  No institutions made comments against the amendments</p>

historically the nation has held elections in December and changing the date to December has proved not to be conducive to the nation and therefore reverting back to December seems to be the better option.  
133. Mr. Vincent of Isukha Makuti Group supported the amendments.

**Individuals**

- 134. Mr. Jimase Ndeti supported the amendments.
- 135. Ms. Wilfreda Masista supported the amendments.
- 136. Mr. Savana Enock supported the amendments on the grounds that December period is one when most families were together and few people were working; this in his view would allow voters to travel to their respective voting centers with ease and be able to exercise their democratic duty of electing various officer holders.
- 137. Ms. Alice, an aspiring Member of Parliament for Vihiga Constituency, supported the amendment.
- 138. Ms. Khadija Juma supported the amendments.
- 139. Mr. Alfred Mucheka Baraka supported the amendments.
- 140. Ms. Mary Amalemba supported the amendments.
- 141. Ms. Carolyne Ingosi supported the amendments.
- 142. Mr. John Wetatomia supported the amendments.
- 143. Ms. Violet Muhatia supported the amendments.
- 144. Mr. Mambo Erick supported the amendments.
- 145. Mr. Shamalla Wafula supported the amendments.

**Individuals**

No institutions made comments against the amendments

**KISUMU COUNTY**

The public was of the view that the issue concerning amendments to the election date was a preserve of the President and the Rt Hon. Raila Amolo Odinga and did not make any submissions.

**COMMENTS IN SUPPORT RECEIVED VIA WRITTEN MEMORANDUM/ DID NOT APPEAR BEFORE COMMITTEE**

146. **Mzalendo trust**, a non-partisan entity, supported the amendment of the election date as most people travel upcountry and prefer voting there. Most schools close in Mid-November hence sufficient time to prepare polling stations that are mostly schools by IEBC.
147. **Mr. Yabresh Onyancha** supported the amendments

**GENERAL COMMENTS NOT RELATING TO THE AMENDMENTS IN QUESTION**

1. Ms. Achieng Maggie proposed that women should be involved more in peace initiatives.
2. Mr. Mwinyi indicated that the public hearings should have an interpreter to assist people with hearing impairments.

<b>GROUP/PERSON</b>	<b>PROPOSAL/ AMENDMENT</b>	<b>RATIONALE</b>	<b>COMMENTS</b>
Mr. Douglas Kwalelo of Kakamega and a pastor	He proposed that the elections should be staggered on different dates for the respective elective positions	Having elections of Presidential, parliamentary and other elective positions held on the same day was cumbersome and that it may be one of the factors that was fueling tension in the	The committee did not adopt the amendment

Mr. Onyancha	Yabbesh	He proposed that electioneering period should be shortened to one week. This means that the voting days would be increased to six days with each day for the election for each seat.	nation	The committee did not adopt the amendment
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