

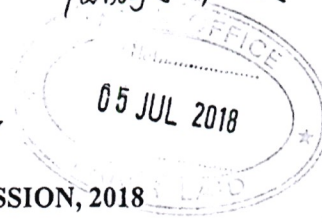
Approved for tabling. ~~Pat~~ SNA
4/7/18

REPUBLIC OF KENYA



paper read by the
Chairperson JKAC
m.p.f

Tuesday 5.7.2018



THE NATIONAL ASSEMBLY

TWELTH PARLIAMENT – SECOND SESSION, 2018

THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT ON THE PETITION FOR CHANGE OF THE CONSTITUTION TO
ALLOW FOR EQUITABLE REPRESENTATION OF ELECTORATE AND
FULFILLMENT OF GENDER PARITY IN LEGISLATURE BY MR. EZEKIEL
NJERU NAMU

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

JULY, 2018

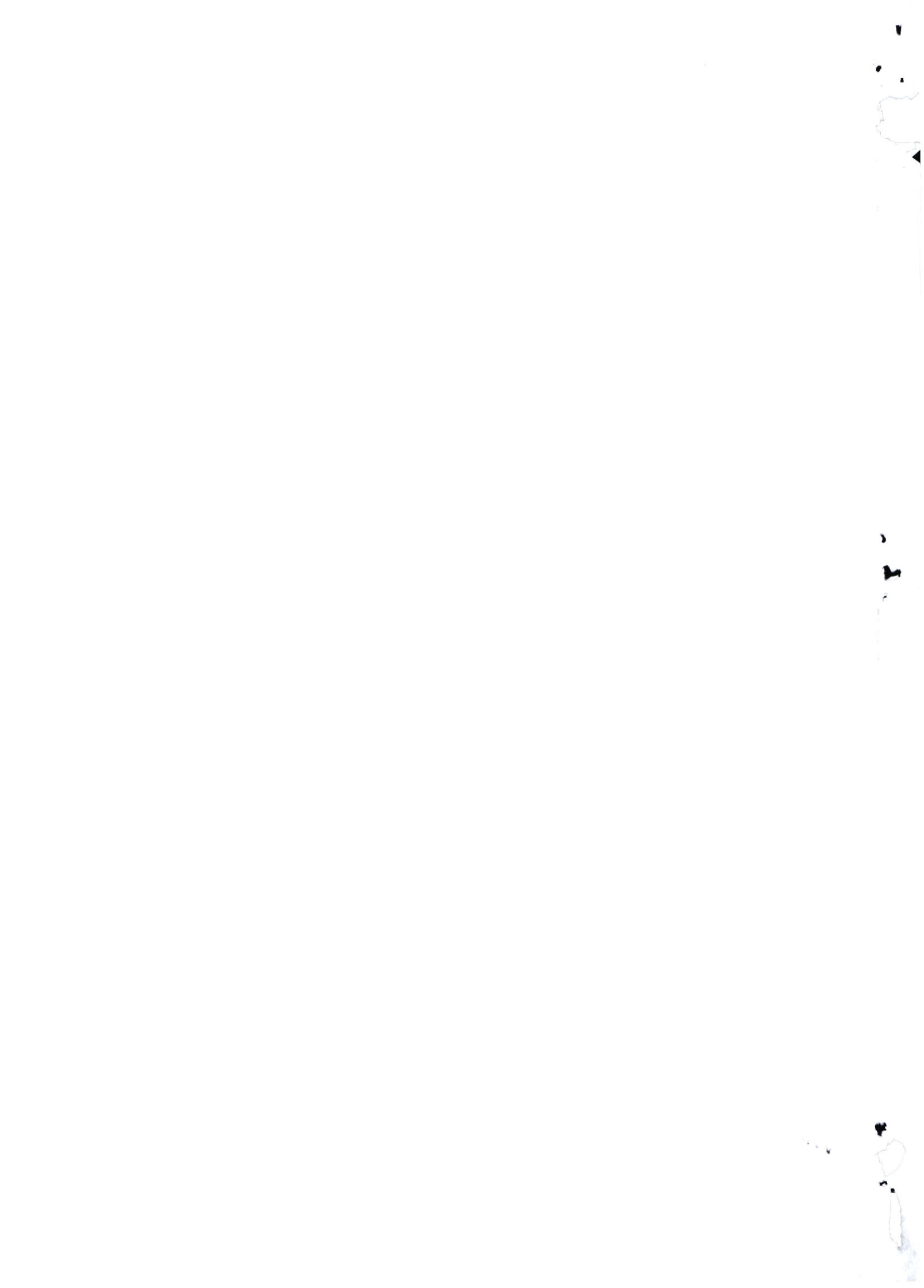


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LIST OF ABBREVIATIONS AND ACRONYMS

ATP	-	Advocates Training Programme
CLE	-	Council for Legal Education
KACE	-	Kenya Advanced Certificate of Education
KCSE	-	Kenya Certificate of Secondary Education
KSL	-	Kenya School of Law
LLB	-	Bachelor of Laws (Latin: Legum Baccalaureus)
MP	-	Member of Parliament

CHAIRPERSONS FOREWORD

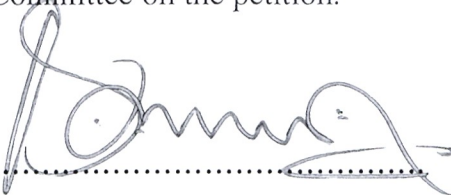
The Petition was conveyed to the House by the Deputy Speaker, Hon. Moses Cheboi, M.P. on 24th April 2018. This was in accordance with the provisions of Standing Order 225 (2) (b). The Petitioner prays that the National Assembly exercises its legislative authority under Article 95(2) and 256(1) of the constitution by introducing and passing a Bill to amend the Second Schedule of the Kenya School of Law Act, 2012 on admission requirement to the Advocates Training Programme (ATP) to provide for admission and training as advocate at the Kenya School of Law for progressive students who have attained LLB degree.

After conveyance to the House, the Petition was committed to the Departmental Committee on Justice and Legal Affairs for consideration and reporting to the House within sixty (60) days pursuant to the provisions of Standing Order 227.

While considering the petition, the Committee held a total of two (2) sittings. The Petitioner, Mr. Peter Githaiga Munyeki appeared before the Committee on 17th May, 2018 in Committee Room 12, Main Parliament Buildings and made submissions in support of his petition. The Committee considered and unanimously adopted its report at a sitting held on 13th June, 2018 in Parliament Buildings.

May I take this opportunity to express gratitude to the Committee Members for their devotion and commitment to duty, the Offices of Speaker and Clerk of the National for providing leadership and guidance and finally the Committee Secretariat for providing technical and logistical support. Indeed, their efforts made the consideration of the petition and production of this report successful.

On behalf of the Committee, and pursuant to the provisions of Standing Order 199 (6) of the National Assembly Standing Orders, it's my duty to table in the House a report of the Committee on the petition.

Signed.....

Hon. William Cheptumo, MP
Chairperson, Departmental Committee on Justice and Legal Affairs

Date.....04.07.018.....

CHAPTER ONE

PREFACE

1.1. Mandate of the Committee

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.*

The second schedule of the Standing Orders on Departmental Committees further outlines the subjects of the Committee, as follows-

- (i) Constitutional affairs;
- (ii) 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

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

Hon. William Cheptumo, M.P.	–	<i>Chairperson</i>
Hon. Alice Muthoni Wahome, M.P.	–	<i>Vice Chairperson</i>
Hon. John Olago Aluoch, 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. 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.		
Hon. Zuleikha Hassan, M.P.		

1.3. Committee Secretariat

Mr. George Gazemba	-	Senior Clerk Assistant and Head of Secretariat
Mr. Denis Abisai	-	Principal Legal Counsel I
Ms. Doreen Karani	-	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

CHAPTER TWO

2.0 EVIDENCE

The Committee commenced its consideration of the Petition by meeting the Petitioner on 17th May, 2018. During the meeting, the Petitioner adduced both oral and written evidence in support of his petition.

2.1 Submissions by the Petitioner, Mr. Peter Githaiga Munyeki

In his petition, Mr. Peter Githaiga Munyeki, sought to draw the attention of the House to the following-

- (i) That the Kenya School of Law Act, No. 26 of 2012, fails to recognize the plight of progressive students of law by denying them admission to the Kenya School of Law to train as advocates. The Kenya School of Law Act, 2012 only allows students who have achieved a grade of B Plain in English/Kiswahili in addition to having acquired a mean grade of C+ in KCSE;
- (ii) The Legal Education Act, No. 27 of 2012, which regulates Legal Education in Kenya provides for progressive learning of law in Kenya. The Legal Education (Accreditation and Legal Assurance) Regulations, 2016 provides for avenues of progressive learning of legal education in Kenya. Thus, if a student has not acquired the mean grade of C+ in KCSE and B plain in English or Kiswahili he or she can still pursue a degree in law if he acquires a law diploma or if he acquires another degree or three principal passes in KCSE;
- (iii) The problem arises because there is a disconnect that, whereas students who acquired a C+ in KCSE with a B plain in English or Kiswahili will after acquiring an LLB be admitted to the Kenya School of Law to train as advocates, the progressive students don't have that privilege to train as Advocates in Kenya despite having been admitted, learnt and graduated with LLB degrees. This potentially makes their LLB degrees worthless despite having invested both time and money in acquiring the degree. It is not in debate that every law student dream when learning law is to be admitted to the bar to practice law;
- (iv) There is danger that a career as an Advocate is pegged only on achievements of KCSE grades rather than passion, willingness and interest to learn law and thus rendering the legal profession to be a career of the elite. A student who may have pursued his secondary education in marginalized areas where standards of education are inadequate may never achieve his dream of becoming an Advocate simply because he did not achieve a grade of B Plain in either English or Kiswahili;

- (v) Further danger arises where a student may have performed well in KCSE overall and attained sufficient marks to join university but may not have attained the stipulated B Plain in English or Kiswahili and thus cannot pursue the legal profession. The mandatory grade B Plain in English or Swahili is discriminative. Students who achieve English or Swahili grades A, B, or C in KCSE can perfectly communicate therefore the requirement for a minimum grade B in English or Swahili in bad faith as it bars good students from pursuing to be trained as advocates;
- (vi) Efforts to address this issue have been made via constitutional petition number 566 of 2017 *Peter Githaiga Munyeki vs Kenya School of Law*, whereby, the learned Judge ruled that only students who attained an LLB degree after having achieved a grade B Plain in English or Swahili qualify for admission to the Kenya School of Law to train as Advocates as required under the Kenya School of Law Act. That decision rendered degrees attained through progressive learning to be almost worthless; and
- (vii) The issues in respect of which the petition is made are not pending before any court of law or constitutional or legal body.

The petitioner prayed that Parliament amends the Kenya School of Law Act, 2012 in its second schedule on admission requirements to the Advocates Training Program to cater for and allow progressive students who have attained their LLB degrees to be admitted and trained as advocates at the Kenya School of Law.

CHAPTER THREE

COMMITTEE FINDINGS AND RECOMMENDATIONS

3.1 Committee Findings

The Committee made the following observations from the evidence adduced in the meetings -

1. That the Legal Education Act (No. 27 of 2012) establishes the Council for Legal Education with mandate to regulate legal education and training in Kenya and is therefore the body responsible for setting and enforcement of standards of legal education in Kenya. Section 8 of the Legal Education Act provides as follows-

(1) The functions of the Council shall be to—

- (a) regulate legal education and training in Kenya offered by legal education providers;*
- (b) licence legal education providers;*
- (c) supervise legal education providers;*
- (d) advise the Government on matters relating to legal education and training;*
- (e) recognise and approve qualifications obtained outside Kenya for purposes of admission to the Roll;*
- (f) administer such professional examinations as may be prescribed under section 13 of the Advocates Act.*

(2) Without prejudice to the generality of subsection (1), the Council shall, with respect to legal education providers, be responsible for setting and enforcing standards relating to the—

- (a) accreditation of legal education providers for the purposes of licensing;*
- (b) curricula and mode of instruction;*
- (c) mode and quality of examinations;*
- (d) harmonization of legal education programmes; and*
- (e) monitoring and evaluation of legal education providers and programmes.*

(3) In carrying out its functions under subsection (2), the Council shall—

- (a) make Regulations in respect of requirements for the admission of persons seeking to enroll in legal education programmes;*

(b) establish criteria for the recognition and equation of academic qualifications in legal education;

(c) formulate a system for recognizing prior learning and experience in law to facilitate progression in legal education from lower levels of learning to higher levels;

(d) establish a system of equivalencies of legal educational qualifications and credit transfers;

(e) advise and make recommendations to the Government and any other relevant authority on matters relating to legal education and training that require the consideration of the Government;

2. The provisions of Section 8 of the Legal Education Act supersede any other conflicting provisions of another written law. Section 8(4) provides that-

(4) Where any conflict arises between the provisions of this section and the provisions of any other written law for the time being in force, the provisions of this section shall prevail.

3. The Council for Legal Education Act stipulates the various minimum qualifications required for admission to different categories of legal education courses, that is Diploma, Bachelors Degree, Masters Degree and the Advocates Training Programme.

4. That Section 13 of the Advocates Act, outlines the professional and academic qualifications for admission as an Advocate of the High Court of Kenya, including a degree in Law, and having passed the examinations required set by the Council for Legal Education and pupillage.

5. That in exercise of its powers, the Council for Legal Education enacted the Legal Education (Accreditation and Quality Assurance) Regulations in 2016 setting out the admission requirements for enrollment to an undergraduate degree program as-

The minimum admission requirements for an undergraduate degree programme in law shall be---

(a) a mean grade of C+ (Plus) in the Kenya Certificate of Secondary Education examination or its equivalent with a minimum grade of B Plain in English or Kiswahili;

(b) at least three Principal Passes in the Kenya Advanced Certificate of Education examination;

(c) a degree from a recognised university; or

(d) a credit pass in a diploma in law examination from an accredited institution.

The minimum requirements for admission to the Advocates' Training Programme shall be—

- (a) a Bachelor of Laws (LLB) degree from a recognised university;*
- (b) where applicable, a certificate of completion of a remedial programme;*
- (c) proof of academic progression in accordance with paragraphs 3(certificate programme) and 4(Diploma programme) of this Schedule; and*
- (d) a certificate of completion of the Pre-Bar Examination*

6. That the Kenya School of Law enjoys monopoly as the sole institution that offers the Advocates Training Program in Kenya as it trains persons for admission as advocates pursuant to section 4(2) (a) of the Kenya School of Law Act. The Admission requirements are set out under the Second Schedule to the KSL Act as-

The Admission requirements will be as follows—

(a) Admission Requirements into the Advocates Training Programme

(1) A person shall be admitted to the School if—

(a) having passed the relevant examination of any recognized university in Kenya, or of any university, university college or any other institution prescribed by the Council, holds or becomes eligible for the conferment of the Bachelor of Laws (LLB) degree of that university, university college or institution; or

(b) having passed the relevant examinations of a university, university college or other institutions prescribed by the Council of Legal Education, holds or has become eligible for the conferment of the Bachelor of Laws Degree (LLB) in the grant of that university, university college or other institution—

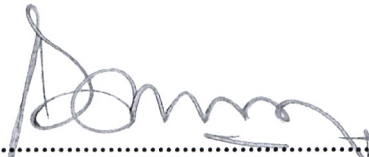
- (i) attained a minimum entry requirement for admission to a university in Kenya; and*
- (ii) obtained a minimum grade B (plain) in English Language or Kiswahili and a mean grade of C (plus) in the Kenya Certificate of Secondary Education or its equivalent; and*
- (iii) has sat and passed the pre-Bar examination set by the school.*

7. That there is indeed a discrepancy between the Kenya School of Law Act and the Legal Education Regulations as regards the requirements for admission to the Advocates Training Programme in that whereas the Legal Education Regulations allow for a certificate of completion of a remedial programme or proof of academic progression in accordance with paragraphs 3 (certificate programme) and 4 (Diploma programme), the Kenya School of Law does not recognize progressive learning or remedial programmes.
8. That in view of the court jurisprudence, the discrepancy needs to be urgently addressed in view of the fact that numerous students who attend the undergraduate programmes though remedial programmes or progressive learning with a view to being admitted to practice as advocates are adversely affected by inadmissibility to the Kenya School of Law that is currently the sole institution that is accredited to offer the Advocates Training Programme.

3.2 Committee Recommendations

In response to the prayers by the Petitioner, the Committee recommends as follows-

1. The Petition has merit in that there is a conflict between the Kenya School of Law Act and the Legal Education Act and Regulations made thereunder but the Committee cannot admit it at this point in time since the Attorney-General has constituted a Taskforce to comprehensively address issues facing the Kenya School of Law;
2. The Attorney-General has constituted a Taskforce on legal sector reforms that is required to address the challenges on training of Advocates and admission requirements as part of its terms of reference. The Taskforce should be allowed to complete its work and report to the Attorney General and Parliament on the proposed amendments to be effected.
3. Taking into cognizance that the Council for Legal Education plays a regulatory and supervisory role in the legal education sector, there is urgent need to harmonise the Kenya School of Law Act and the Legal Education Act and any conflicting laws and regulations relating to legal education in Kenya to avert a crisis in the sector.
4. There is need to urgently address the issues raised in the Petition through substantive amendments to be effected once the Taskforce discharges its mandate.

Sign.......... Date.....07-07-18.....

Hon. William Cheptumo, M.P.
Chairman, Departmental Committee on Justice and Legal Affairs

ANNEXURE 1

(Adoption List)

KENYA NATIONAL ASSEMBLY







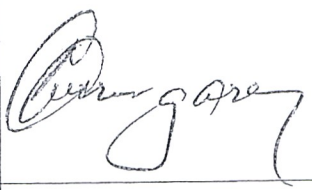


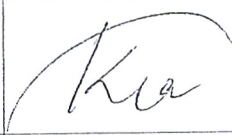
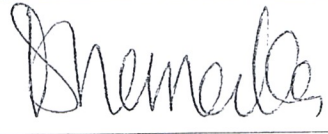
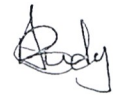


DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

ATTENDANCE REGISTER FOR MEMBERS

DATE... 13/6/18 TIME... 11:30am.....

VENUE... Committee Room 9.....

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 Tuyu, MP.	
5.	Hon. Ben Momanyi, MP.	
6.	Hon. William Kamoti, MP.	
7.	Hon. Charles Gimose, MP.	

8.	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.	

GEORGE GAZEMBA, ACI Arb
 For: CLERK OF THE NATIONAL ASSEMBLY



ANNEXURE 2

(Minutes of the Committee Sitings)

**MINUTES OF THE FORTIETH SITTING OF THE DEPARTMENTAL
COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY, 17TH
MAY, 2018 AT 10:00 A.M. IN THE COMMITTEE ROOM 12, MAIN PARLIAMENT
BUILDING**

PRESENT-

Hon. William Cheptumo, M.P.	-	Chairperson
Hon. Alice Muthoni Wahome, M.P.	-	Vice Chairperson
Hon. Roselinda Soipan Tuya, M.P.		
Hon. John Olago Aluoch, M.P.		
Hon. Beatrice Adagala, M.P.		
Hon. Adan Haji Yussuf, M.P.		
Hon. George G. Murugara, M.P.		
Hon. Anthony G. Kiai, M.P.		
Hon. Japheth Mutai, M.P.		

ABSENT WITH APOLOGIES-

Hon. Ben Momanyi Orori, M.P.
Hon. William K. Mwamkale, M.P.
Hon. Charles Gimose, M.P.
Hon. Peter O. Kaluma, M.P.
Hon. John M. Wambugu, M.P.
Hon. Gladys Boss Shollei, CBS, M.P.
Hon. Jennifer Shamalla, M.P.
Hon. Johana Ng'eno, M.P.
Hon. Zuleikha Hassan, M.P.
Hon. John Kiarie Waweru, M.P.

IN ATTENDANCE

PETITIONERS

Mr. Ezekiel Njeru Namu	-	Petitioner
Mr. Mohamed Mohamud Sheikh	-	Petitioner
Mr. Peter Githaiga Munyeki	-	Petitioner

COMMITTEE SECRETARIAT

Ms. Halima Hussein	-	Third Clerk Assistant
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Ms. Doreen Karani	-	Legal Counsel
Mr. Abdirahim Omar	-	Fiscal Analyst
Mr. Ian Otieno	-	Audio Officer

MIN No. 145/2018:

PRELIMINARIES

The Chairperson called the meeting to order at 10:00a.m which was followed by a word of prayer from Hon. Yussuf Haji, MP and a round of introduction.

MIN No.146/2018:

MEETING WITH PETITIONERS

Petition by Mr. Ezekiel Njeru Namu for amendment of the Constitution to allow for equitable representation of electorate and fulfillment of gender parity in Legislature

Mr. Ezekiel Njeru Namu appeared before the Committee and submitted that Parliament-

- a) Amends the constitution by repealing Article 97 section 1 (a) to increase the number of constituencies to three hundred.
- b) Creates mega-constituencies composed of three constituencies in which three candidates, one of which is from other gender and representing a single constituency shall offer a joint candidature for election and upon election represent their constituencies.
- c) Amends the constitution by repealing article 98 section 1 (b) and eliminate the position of nominated woman senator.
- d) Creates Mega-counties by pairing all counties except for Nairobi in which two candidates each from other gender and representing individual counties shall offer themselves for election on joint candidature.
- e) Amends the Constitution to repeal article 177 section 1 (b) to eliminate the position of nominated member a county assembly special seat for gender.
- f) Creates mega-wards composed of three wards for purpose of election in which tree candidates one of which is from other gender and each representing a single ward shall offer a joint candidature for election and upon election shall represent a ward in the County Assembly.
- g) Amends Article 120 (1) of the Constitution to allow for the adoption of African languages in County Assembly was practicable.
- h) Amends the Constitution to increase the term of senator to seven years and
- i) Amends the Constitution to increase the term of National Assembly to six years.
- j) Reduces the presidential term to four years to coincide with that of the County Assembly.
- k) Reduces the term of County Assembly to four years to coincide with the presidential term.
- l) Amends the Elections Act to remove all academic qualifications for election as members of National Assembly, Senate and Members of County Assembly.

Upon hearing him, the Committee directed that the petitioner submits written submissions to expound on his prayers.

Petition by Mr. Peter Githaiga Munyeki to parliament to amend the Kenya School of Law Act 2012 Second schedule

Mr. Peter Githaiga Munyeki appeared before the Committee and made submissions to the effect that Parliament amends the Kenya School of Law Act, 2012 in its second schedule on admission requirements to the Advocates Training Program to cater and allow progressive students who have attained their Bachelor of Laws degree to be admitted and trained as advocates at the Kenya School of Law.

Petition by Mr. Mohamud Mohamed Sheikh regarding introduction and passage of a bill to amend the constitution to set the age limit of eligibility to run for election as President of the Republic of Kenya at seventy (70) years

Mr. Mohamud appeared before the Committee and made the following prayers-

- a) Parliament amends Article 137 of the Constitution of Kenya 2010 on the qualifications for eligibility to run for election as president and to set the retirement age of the president at the age of 70 years
- b) Parliament enacts legislation specifically dealing with qualifications for election as president and the office of presidency in general and precisely limiting Article 38 of the Constitution.
- c) The proposed amendments do operate *mutatis mutandis* to the qualifications and disqualification of the Deputy President.

MIN No. 147/2018:

ADJOURNMENT

There being no other business to transact, the chairperson adjourned the meeting at 7.00 p.m.

Signed.....

Chairperson

Date.....


MINUTES OF THE FIFTEITH SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON WEDNESDAY, 13TH JUNE 2018 AT 11:30 A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDING

PRESENT-

Hon. William Cheptumo, M.P.	-	Chairperson
Hon. Alice Muthoni Wahome, M.P.	-	Vice Chairperson
Hon. John Olago Aluoch, M.P.		
Hon. William K. Mwamkale, M.P.		
Hon. Charles Gimose, M.P.		
Hon. John M. Wambugu, M.P.		
Hon. George G. Murugara, M.P.		
Hon. Jennifer Shamalla, M.P.		
Hon. Beatrice Adagala, M.P.		
Hon. Anthony G. Kiai, M.P.		
Hon. Gladys Boss Shollei, CBS, M.P.		
Hon. Adan Haji Yussuf, M.P.		

ABSENT WITH APOLOGIES-

Hon. Ben Momanyi, MP.
Hon. Roselinda Soipan Tuya, M.P.
Hon. Peter O. Kaluma, M.P.
Hon. John Kiarie Waweru, M.P.
Hon. Johana Ng'eno, M.P.
Hon. Zuleikha Hassan, M.P.
Hon. Japheth Mutai, M.P.

IN ATTENDANCE

COMMITTEE SECRETARIAT

Mr. George Gazemba	-	Senior Clerk Assistant
Ms. Doreen Karani	-	Legal Counsel II
Ms. Halima Hussein	-	Third Clerk Assistant
Ms. Fiona Musili	-	Research Officer
Mr. Omar Abdirahim	-	Fiscal Analyst

MIN No. 177 /2018:

PRELIMINARIES

The Chairperson called the meeting to order at 10:00 a.m. which was followed by a word of prayer from Hon. Alice Wahome, M.P.

MIN No. 178/2018:

**CONSIDERATION AND ADOPTION OF THE DRAFT
REPORT ON THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) BILL, 2018**

The Committee considered and adopted its report on the Statue Law (Miscellaneous Amendments) Bill, 2018 (National Assembly Bills No. 12). The adoption of the report was proposed by Hon. George Murugara and seconded by Hon Jennifer Shamalla. Hon John Olago Aluoch dissented to the proposed amendment to section 15(1) of the Judicial Service Act, 2011. The amendment provides for approval of members of the Judicial Service Commission by the National Assembly prior to their appointment by the President.

MIN No. 179/2018:

**CONSIDERATION AND ADOPTION OF REPORT ON A
PETITION BY MR. PETER GITHAIGA MUNYEKI ON
PROPOSED AMENDMENTS TO THE KENYA
SCHOOL OF LAW ACT**

The Committee considered and adopted its report on a petition by Mr. Peter Githaiga Munyeki on proposed amendments to the Kenya School of Law Act, 2012 (No. 26 of 2012) and unanimously adopted it. The adoption of the report was proposed by Hon. George Murugara and seconded by Hon. Beatrice Adagala.

In the report, the Committee observed and recommended as follows-

1. The Petition had merit in that there is a conflict between the Kenya School of Law Act and the Legal Education Act and Regulations made thereunder. The Committee however noted that the Attorney-General had constituted a Taskforce on legal sector reforms whose mandate was to address the challenges on training of Advocates and admission requirements. The Committee was of the considered opinion that the Taskforce should be allowed to complete its work and report to the Attorney-General and Parliament on the proposed amendments to be effected;
2. Taking into cognizance that the Council for Legal Education plays a regulatory and supervisory role in the legal education sector, there is urgent need to harmonise the Kenya School of Law Act and the Legal Education Act and any conflicting laws and regulations relating to legal education in Kenya to avert a crisis in the sector;
3. There was need to urgently address the issues raised in the Petition through substantive amendments to be effected once the Taskforce discharges its mandate.

MIN No. 180/2018:

**CONSIDERATION AND ADOPTION OF REPORT ON A
PETITION BY MR. EZEKIEL NJERU NAMU TO
AMEND VARIOUS ARTICLES OF THE
CONSTITUTION OF KENYA**

The Committee considered and unanimously adopted its report on a petition by Mr. Ezekiel Njeru Namu to amend various Articles of the constitution of Kenya. The adoption of the report was proposed by Hon. William Kamoti Mwamkale and seconded by Hon. John Wambugu.

The Committee observed that the petition lacked merit thereby recommending to the House that it be rejected.

MIN No. 181/2018: **CONSIDERATION AND ADOPTION OF REPORT ON A PETITION BY MR. MOHAMED MOHAMUD SHEIKH TO SET AGE LIMIT FOR CONTESTING FOR THE SEAT OF PRESIDENT AT SEVENTY (70) YEARS**

The Committee considered and unanimously adopted its report on a petition by Mr. Mohamed Mohamud Sheikh proposing to set age limit for contesting for the seat of President at seventy (70) years. The adoption of the report was proposed by Hon. Jennifer Shamalla and seconded by Hon. John Olago Aluoch.

The Committee observed that the petition lacked merit thereby recommending to the House that it be rejected.

MIN No 182/2018: **ADJOURNMENT**

There being no other business to transact, the Chairperson adjourned the meeting at 12.55 p.m. until Thursday, 14th June, 2018 at 10.00 a.m. in the Boardroom on 2nd Floor, Continental House, Parliament Buildings.

Signed.....

Chairperson

Date.....

ANNEXURE 3

(Copy of the Petition)

REPUBLIC OF KENYA



TWELFTH PARLIAMENT
(SECOND SESSION)
THE NATIONAL ASSEMBLY

PETITION

(No.016 of 2018)

CONVEYANCE OF A PETITION ON THE REVIEW OF SECOND
SCHEDULE OF THE KENYA SCHOOL OF LAW ACT, 2012

Honourable Members,

Pursuant to Standing Order 225 (2) (b), I wish to convey to the House that my office is in receipt of a Petition signed by one Mr. Peter Githaiga Munyeki, a resident of Kajiado County. The Petitioner is praying that National Assembly exercises its legislative authority under Article 95 (2) and 256 (1) of the Constitution, by introducing and passing a Bill to amend the Second Schedule of the Kenya School of Law Act, 2012.

Honourable Members,

The Petitioner contends that Kenya School of Law Act No.26 of 2012 fails to recognize the plight of progressive students of Law by denying them right to admission to the Kenya School of Law to train as advocates. He cites that the Kenya School of Law Act only admits students who have achieved a grade of B (plain) in English or Swahili in addition to having acquired a mean grade of C+ in Kenya Certificate of Secondary Education. The Petitioner contends that the requirement is an impediment to the students who have acquired a Bachelors of Law Degree (LLB), but who nonetheless scored a lower grade in KCSE, in addition to attaining a diploma in law. He also alleges that the move is contrary to the Legal Education Act, 2012, which regulates legal education in Kenya and provides for progressive learning of Law.

Honourable Members,

The Petitioner therefore prays that National Assembly amends Second Schedule of the Kenya School of Law Act, 2012 on Admission requirement to the Advocates Training Programme (ATP) to provide for admission and training as advocate at the Kenya School of Law for progressive students who have attained LLB degree.

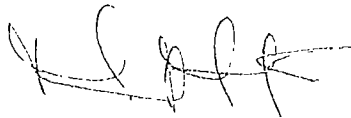
11/11/2018

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Honourable Members,

This Petition therefore stands committed to the Departmental Committee on Education and Research for consideration. The Committee is requested to undertake to hear the Petitioner, consider the Petition and report its findings to the Petitioner and the House in accordance with Standing Order 227 (2). The Committee is also at liberty to introduce a Bill to the House, proposing amendments to the Kenya School of Law Act, 2012 as proposed by the Petitioner.

I, Thank you!



THE HON. MOSES CHEBOI, CBS, MP
DEPUTY SPEAKER OF THE NATIONAL ASSEMBLY

Tuesday, April 24th 2018

(2) Ms Eunice Ochieng

Kindly forward the petition

15/1/2012

DL S w advise. inf

To: National Assembly of the Republic of Kenya,

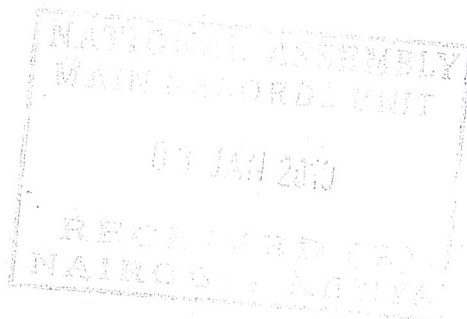
C/O The Clerk,

Kenya National Assembly,

Parliament Buildings,

P.O Box 41842-00100,

Nairobi.



4/1/18

RE: PETITION TO PARLIAMENT UNDER ARTICLES 119 & 37 OF THE CONSTITUTION; PETITION TO PARLIAMENT TO AMEND THE KENYA SCHOOL OF LAW ACT 2012 SECOND SCHEDULE.

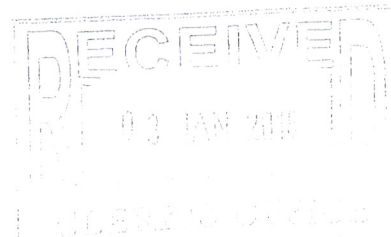
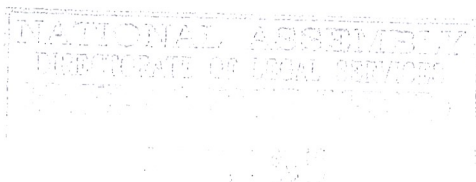
I PETER GITHAIGA MUNYEKI ID NO 23603718 A citizen of the republic of Kenya, a resident of Kajiado county and a holder of an LLB from Mount Kenya University in Kenya.

DRAW the attention of the House to the following:

That the Kenya school of Law Act No 26 of 2012 fails to recognize the plight of progressive students of Law by denying them admission to the Kenya school of Law to train as advocates. The Kenya school of Law Act 2012 only allows students who have achieved a grade of B(plain) in English/Swahili in addition to having acquired a mean grade of C+ in KCSE.

The Legal Education Act no 27 of 2012 which regulates Legal education in Kenya provides for progressive learning of Law in Kenya. The Legal Education Act 2012 through the Accreditation and Legal Assurance regulations 2016 provides for avenues of progressive learning of legal education in Kenya. Thus if a student has not acquired the mean grade of C+ in kcse and B(plain) in English/Swahili he can still pursue an LLB if he acquires a law diploma or if he acquires another degree or 3 principal passes in KACE.

The problem arises because there is a disconnect that whereas students who acquired a C+ in KCSE with a B(plain) in English/Swahili will after acquiring an LLB be admitted to the Kenya School of Law to train as advocates, the progressive students don't have that privilege to train as advocates in Kenya despite having been admitted, learnt and graduated for LLB degrees with those joining KCSE and therefore potentially making their LLB degrees worthless despite having invested both time and money in acquiring the degree. It is not in debate that every law student dream when learning law is to be admitted to the bar to practice Law.



**RE:PETITION TO PARLIAMENT UNDER ARTICLES 119 & 37 OF THE
CONSTITUTION;PETITION TO PARLIAMENT TO AMEND THE KENYA SCHOOL
OF LAW ACT 2012 SECOND SCHEDULE.**

Therefore there is a danger that a career as an advocate will be pegged only on achievements of KCSE grades rather than a passion, willingness and interest to learn Law and thus rendering advocates to be a career of the elite thus a student who may have learnt his secondary education in marginalized areas where standards of education maybe inadequate may never achieve his dream of becoming an advocate because simply he did not achieve a grade of B(plain) in either English/Swahili.

Further danger arises where a student may have performed very well in KCSE overall and attained university marks but may have not gotten B(plain)in English/Swahili and thus he dreams of being an advocate evaporate.The import of having a mandatory grade B(plain) in English/Swahili is therefore for discriminative purposes.Students who achieve English/Swahili grades A,B or C in KCSE can perfectly communicate with each other and therefore that import was in bad faith as it bar good students from persuing to be trained as advocates.

THAT

Efforts to address this issue have been made by the filling of a constitutional petition No 566 of 2017 Peter GithaigaMunyeki vs Kenya School of Law,whereby the judge ruled that only students who attained an LLB degree after having achieved a grade B(plain) in English/Swahili shall be admitted to the Kenya school of Law to train as advocates.The decision rendered progressive students degrees almost worthless.

THAT

I can confirm that the issues in respect of which the petition is made are not pending before any court of law,or constitutional or legal body.

HEREFORE your humble petitioner Pray that Parliament-

Amends the Kenya School of Law Act 2012 second schedule Admission requirements to the Advocates Training Programme(ATP) to cater and allow progressive students who have attained their LLB degrees to be admitted and trained as advocates at the Kenya School of Law.

And your PETITIONER will ever Pray.

RE:PETITION TO PARLIAMENT UNDER ARTICLES 119 & 37 OF THE
CONSTITUTION;PETITION TO PARLIAMENT TO AMEND THE KENYA SCHOOL
OF LAW ACT 2012 SECOND SCHEDULE.

NO	NAME OF PETITIONER	ADDRESS	NATIONAL ID	SIGNATURE
1	Peter GithaigaMunyeki	52043-00200 nrb 0720-764561	23603718	