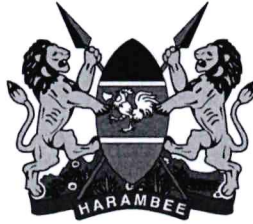


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SNA  
19/11/25*


THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT ON:

THE CONSIDERATION OF THE PENAL CODE  
(AMENDMENT) BILL, 2024  
(NATIONAL ASSEMBLY BILL NO. 53 OF 2024)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 19 NOV 2025	DAY: Wed
TABLED BY:	Hon. Udgon Aminia Member, JhAC
CLERK-AT-THE-TABLE:	Mado Atabo

CLERK'S CHAMBERS  
DIRECTORATE OF DEPARTMENTAL COMMITTEES  
PARLIAMENT BUILDINGS  
NAIROBI

NATIONAL ASSEMBLY  
RECEIVED  
19 NOV 2025  
SPEAKER'S OFFICE  
P. O. Box 318 12, NAIROBI.

NOVEMBER 2025

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## LIST OF ABBREVIATIONS AND ACRONYMS

ALN	-	Anjarwalla and Khanna LLP
CBS	-	Chief of the Order of the Burning Spear
CRPD	-	Convention on the Rights of Persons with Disabilities
EBS	-	Elder of the Order of the Burning Spear
EGH	-	Elder of the Order of the Golden Heart
FORD	-	Forum for the Restoration of Democracy
ICCPR	-	International Covenant on Civil and Political Rights
LSK	-	Law Society of Kenya
MCCP	-	Maendeleo Chap Chap Party
MP	-	Member of Parliament
NGEC	-	National Gender and Equality Commission
ODM	-	Orange Democratic Movement
OGW	-	Order of the Grand Warrior
SDGs	-	Sustainable Development Goals
UDA	-	United Democratic Alliance
UDM	-	United Democratic Movement
UN	-	United Nations
WDM	-	Wiper Democratic Movement
WHO	-	World Health Organization

## **LIST OF ANNEXURES**

- Annexure 1: Adoption Schedule
- Annexure 2: Minutes
- Annexure 3: Penal Code (Amendment) Bill, 2024
- Annexure 4: Advertisement inviting the public to submit memoranda on the Bill
- Annexure 5: Letter from the Clerk of the National Assembly inviting stakeholders to submit views on the Bill
- Annexure 6: Memoranda by Stakeholders

## CHAIRPERSON'S FOREWORD

This Report contains the proceedings of the Departmental Committee on Justice and Legal Affairs on its consideration of the Penal Code (Amendment) Bill (*National Assembly Bill No. 53 of 2024*) which was read a First Time in the House on 4<sup>th</sup> June 2025 and committed to the Committee to facilitate public participation.

The Bill seeks to amend the Penal Code, Cap. 63 to repeal section 226 which provides for the offence of attempted suicide.

In compliance with Article 118(b) of the Constitution and Standing Order 127(3), the Committee placed an advertisement in the print media on 12<sup>th</sup> June 2025 inviting the public to submit memoranda by way of written statements on the Bill. The memoranda were to be received on or before 24<sup>th</sup> June 2025 at 5.00 pm (East African Time). By the close of the submission deadline, the Committee had received four (4) memoranda. In addition, the Committee vide a letter referenced *NA/DDC/JLAC/2025/(116)* dated 7<sup>th</sup> October 2025 invited stakeholders to submit written memoranda on the Bill.

The Anjarwalla and Khanna LLP (ALN), Law Society of Kenya (LSK), National Gender and Equality Commission (NGEC) and Outreach for Action Kenya gave their views on the Bill which the Committee considered in the preparation of this Report.

While considering the Bill, the Committee observed that the High Court, in the case of **Kenya National Commission on Human Rights & 2 others v Attorney General (Constitutional Petition E045 of 2022)**, declared section 226 of the Penal Code as unconstitutional for violating the right to dignity, the right to highest attainable standards of health, the right to equality and freedom from discrimination. The court also held that persons who attempted suicide could be deemed to be suffering from a mental illness and thus lacked the intention (*mens rea*) to commit the crime of attempted suicide. The court held that persons subject to section 226 of the Penal Code were persons suffering from mental illness. Therefore, the Bill seeks to align it with the Constitution and the Mental Health Act. Also, the Bill would promote a mental health approach in assisting such persons.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Bill. The Committee further wishes to thank the ALN, LSK, NGEC and Outreach for Action Kenya for submitting memoranda on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its Consideration of the Penal Code (Amendment) Bill (*National Assembly Bill No. 53 of 2024*).

It is my pleasure to report that the Committee has considered the Penal Code (Amendment) Bill (*National Assembly Bill No. 53 of 2024*) and has the honour to report back to the National Assembly with the recommendation that the **House approves the Bill without amendments.**

**Hon. Murugara George Gitonga, MP**  
**Chairman, Departmental Committee on Justice and Legal Affairs**

# CHAPTER ONE

## I PREFACE

### I.1 Establishment of the Committee

- I. The Departmental Committee on Justice and Legal Affairs is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:
  - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
  - ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
  - iii. *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
  - iv. **To study and review all legislation referred to it;**
  - v. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
  - vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
  - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
  - viii. *To examine treaties, agreements and conventions;*
  - ix. *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
  - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
  - xi. *To examine any questions raised by Members on a matter within its mandate.*

### I.2 Mandate of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider:
  - a) The Judiciary;
  - b) Tribunals;
  - c) Access to Justice;
  - d) Public prosecutions;
  - e) Ethics, Integrity and Anti-corruption;
  - f) Correctional services;
  - g) Community service orders and witness protection;
  - h) Constitutional Affairs;
  - i) Sovereign immunity;
  - j) Elections including referenda;
  - k) Human rights;
  - l) Political parties; and
  - m) The State Law Office including insolvency, law reform, public trusteeship, marriages and legal education.
3. In executing its mandate, the Committee oversees the following Ministries, Departments and Agencies:

- a) The Judiciary;
- b) Judicial Service Commission;
- c) State Department for Correctional Services;
- d) State Law Office and Department of Justice;
- e) State Department for Justice, Human Rights and Constitutional Affairs;
- f) Office of the Director of Public Prosecutions;
- g) Ethics and Anti-Corruption Commission;
- h) Independent Electoral and Boundaries Commission;
- i) Commission on Administrative Justice;
- j) Office of the Registrar of Political Parties;
- k) Witness Protection Agency;
- l) Kenya National Commission on Human Rights;
- m) Kenya Law Reform Commission; and
- n) Council of Legal Education.

### **I.3 Committee Membership**

4. The Committee comprises the following Members:

#### **Chairperson**

Hon. Murugara George Gitonga, CBS, MP  
Tharaka Constituency  
**UDA Party**

#### **Vice-Chairperson**

Hon. Mutuse Eckomas Mwangi, OGW, MP  
Kibwezi West Constituency  
**MCCP Party**

Hon. Gladys Boss, MGH, MP  
Uasin Gishu Constituency  
**UDA Party**

Hon. Maalim Farah, EGH, MP  
Dadaab Constituency  
**WDM-Kenya**

Hon. Onyiego Silvanus Osoro, CBS, MP  
South Mugirango Constituency  
**UDA Party**

Hon. Francis Kajwang' Tom Joseph, CBS, MP  
Ruaraka Constituency  
**ODM Party**

Hon. Wetang'ula Timothy Wanyoyi, CBS, MP  
Westlands Constituency  
**ODM Party**

Hon. (Dr.) Otiende Amollo, SC, EBS, MP  
Rarieda Constituency  
**ODM Party**

Hon. Muchira Michael Mwangi, MP  
Ol Jorok Constituency  
**UDA Party**

Hon. Muchangi Karemba, CBS MP  
Runyenjes Constituency  
**UDA Party**

Hon. Makali John Okwisia, MP  
Kanduyi Constituency  
**FORD-Kenya**

Hon. Mogaka Stephen M., MP  
West Mugirango Constituency  
**Jubilee Party**

Hon. Aden Daud, EBS, MP  
Wajir East Constituency  
**Jubilee Party**

Hon. Siyad Amina Udgoon, MP  
Garissa County (CWR)  
**Jubilee Party**

Hon. CPA Suleka Hulbale Harun, MP  
Nominated Member  
**UDM Party**

#### **1.4 Committee Secretariat**

5. The Committee is facilitated by the following staff:

Mr. Ahmed Salim Abdalla  
**Clerk Assistant I / Head of Secretariat**

Mr. Ronald Walala  
**Senior Legal Counsel**

Mr. Abdikafar Abdi  
**Clerk Assistant III**

Ms. Jael Ayiego  
**Clerk Assistant III**

Mr. Isaac Nabiswa  
**Legal Counsel II**

Mr. Omar Abdirahim  
**Fiscal Analyst I**

Ms. Vivienne Ogega  
**Research Officer III**

Mr. John Nduaci  
**Serjeant-At-Arms**

Mr. Meldrick K. Sakani  
**Audio Assistant**

Ms. Mary Kamande  
**Public Communications Officer III**

Mr. Calvin Karung'o  
**Media Relations Officer III**

Mr. Silas Opanga  
**Hansard Reporter III**

## CHAPTER TWO

### 2 OVERVIEW OF THE PENAL CODE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 53 OF 2024)

#### 2.1 Background

6. The Bill, sponsored by the Hon. Anthony Tom Oluoch, MP, was read a First Time in the House on 4<sup>th</sup> June 2025 (*Annexure 3*). It was thereafter committed to the Committee in line with Standing Order 127(1) of the National Assembly Standing Orders.

#### 2.2 Summary of Legal Provisions

7. The Bill seeks to amend the Penal Code (Cap. 63) to repeal section 226 which provides for the offence of attempted suicide.

8. Section 226 as read with section 36 of the Penal Code provides that any person who attempts to kill himself is guilty of a misdemeanour which is punishable with imprisonment for a term exceeding two years or a fine or both.

## CHAPTER THREE

### 3 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

#### 3.1 Legal Framework on Public Participation

10. 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.”*

11. The National Assembly Standing Order 127 (3) and (3A) stipulates that:

*“(3) The Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism including-*

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

*(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.”*

#### 3.2 Memoranda Received on the Bill

12. Pursuant to the aforementioned provisions of the law, the Committee placed an advertisement in the print media on 12<sup>th</sup> June 2025 (*Annexure 4*) inviting the public to submit memoranda by way of written statements on the Bill. Further, the Committee vide letter referenced *NA/DDC/JLAC/2025/(116)* dated 7<sup>th</sup> October 2025 (*Annexure 5*) invited stakeholders to submit written memoranda on the Bill.

13. To this end, the Committee received four (4) memoranda from the Anjarwalla and Khanna LLP (ALN), Law Society of Kenya (LSK), National Gender and Equality Commission (NGEC) and Outreach for Action Kenya (NGEC). The memoranda are annexed to this Report as *Annexure 6*.

14. The **ALN**, **LSK** and **Outrech for Action Kenya** supported the Bill in its entirety while **NGEC** supported the Bill with additional recommendations.

15. They submitted as follows:

##### 3.2.1 Submissions in support of the Bill

16. **ALN** supported the Bill in its entirety noting the following reasons:

(a) That section 226 of the Penal Code, Cap. 63 was declared unconstitutional by the High Court in *Kenya National Commission on Human Rights and 2 Others v Attorney-General; Director of Public Prosecutions and 3 Others (Interested Parties); Law Society of Kenya (Amicus Curiae) (Constitutional Petition E045 of 2022) [2025] KEHC 6 (KLR) (Constitutional and Human Rights) (9 January 2025) (Judgment)* since it violates Articles 27, 28 and 43 of the Constitution of Kenya.

(b) That section 2 of the Mental Health Act defines a “person with a mental illness” to include a person diagnosed by a qualified mental health practitioner as a person

with suicidal ideation or behaviour. By virtue of this section, therefore, the law recognizes persons with suicidal behaviour as persons suffering from a mental illness hence its criminalization is unconstitutional.

- (c) Section 226 of the Penal Code, Cap. 63 indignifies and disgraces victims of suicide ideation in the eyes of the community for actions beyond their control, a violation of Article 28 of the Constitution. Additionally, the section exposes survivors of suicide and persons with suicidal tendencies to criminal sanction instead of healthcare thereby eroding the right to have the highest attainable standard of health as envisaged in Article 43(1) of the Constitution.

17. While supporting the Bill, **LSK and Outreach for Action Kenya** noted that passing the Bill would enable Kenya, to:

- (a) Align itself with other countries that have taken steps to reduce the global suicide rate by one third by 2030 in line with the United Nations (UN) Sustainable Development Goals (SDGs) and the World Health Organization (WHO) global Mental Health Action Plan.
- (b) Promote a mental health-based approach because individuals who attempt suicide are often in serious psychological distress, suffering from depression, trauma or hopelessness and criminal sanctions penalize suffering rather than addressing its root causes.
- (c) Promote compassion over punishment and reduce stigma and barriers to help-seeking as suicide prevention requires psychological and medical intervention, not prosecution.
- (d) Fulfil its international obligation as a party to treaties such as the Convention on the Rights of Persons with Disabilities (CRPD) and the International Covenant on Civil and Political Rights (ICCPR) which require humane treatment of persons with mental illness. The African Commission on Human and Peoples' Rights also advocates non-punitive responses to mental health crises.
- (e) Align with constitutional considerations including Article 24 on the standards of limitation of rights, Article 27 on freedom from discrimination, Article 28 on the right to dignity and Article 43(1)(a) on the right to the highest attainable standard of health.

### **Committee Observation**

18. The Committee agreed with the submissions of ALN, LSK and Outreach Kenya in support of the Bill.

### **3.2.2 Submissions with Additional Proposals**

19. NGEC supported the Bill in its entirety noting that the High Court had already declared section 226 of the Penal Code, Cap. 63 unconstitutional. In addition, NGEC urged the National Assembly, to:

- (a) Decriminalize the use of narcotic drugs or psychotropic substances by deleting section 5(1)(a) and (b) of the Narcotic Drugs and Psychotropic Substances

(Control) Act, Cap. 245 whose penalty is excessive for persons who are addicted and who still fall back after either paying the fine or serving a jail term. Instead, such person who are mostly youth need medical intervention not incarceration.

- (b) Fast-track implementation of the 2020 Report by the Taskforce on Mental Health (Mental Health and Wellbeing, Towards Happiness and National Prosperity). The Report recommended to Parliament to amend the existing laws to decriminalise suicide as well as substance use and abuse and instead facilitate care. Furthermore, the Report recommended harmonization of substance-use-related laws including the National Authority for the Campaign Against Alcohol and Drug Abuse Act, Cap. 122, Alcoholic Drinks Control Act, Cap. 122, Narcotic Drugs and Psychotropic Substance (Control) Act, Cap. 245 and the Tobacco Control Act, Cap. 245A.

### **Committee Observation**

20. Relating to decriminalization of the use of narcotic or psychotropic substances and recommendations by the Taskforce on Mental Health (Mental Health and Wellbeing, Towards Happiness and National Prosperity), the Committee observed that while the proposals were notable, the matters did not form part of the instant Bill and would therefore be introduced in a separate Bill.

## CHAPTER FOUR

### 4 COMMITTEE OBSERVATIONS

21. Upon reviewing the Bill and the submissions received, the Committee observed that the Bill is a progressive, humane, and constitutionally aligned reform. To ensure decriminalization translates into meaningful prevention and care outcomes, section 2C of the Mental Health Act obligates the national government in collaboration with county governments to develop the necessary physical and technological infrastructure for the care, rehabilitation and provision of health services to persons with mental illness which includes persons with suicidal ideation or behaviour.

**CHAPTER FIVE**

**5 COMMITTEE RECOMMENDATIONS**

22. The Committee, having considered the Penal Code (Amendment) Bill (*National Assembly Bill No. 53 of 2025*) and the submissions from members of the public and stakeholders, recommends that the House **approves the Bill without amendments.**

SIGNED.....  ..... DATE..... *19<sup>th</sup> Nov 2025* .....

**HON. GEORGE GITONGA MURUGARA, CBS, MP**  
**CHAIRMAN**  
**DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS**



Annexure **1** :

## **Adoption Schedule**



## DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

### ADOPTION OF THE COMMITTEE REPORT ON ITS CONSIDERATION OF THE PENAL CODE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 53 OF 2024)

We, the Members of the Departmental Committee on Justice and Legal Affairs have, pursuant to Standing Order 199, adopted this Report of the Committee on its Consideration of the Penal Code (Amendment) Bill (National Assembly Bill No. 53 of 2024) sponsored by the Hon. Anthony Tom Oluoch, MP, and affixed our signatures to affirm our approval and confirm its accuracy, validity and authenticity:

1. Hon. Murugara George Gitonga, CBS, MP - Chairperson

2. Hon. Mutuse Eckomas Mwengi, OGW, MP - Vice Chair

Virtual

3. Hon. Gladys Boss, MGH, MP

4. Hon. Farah Maalim, EGH, MP

5. Hon. Silvanus Osoro Onyiego, CBS, MP

.....

6. Hon. Tom Joseph Francis Kajwang', CBS, MP

.....

7. Hon. Muchangi Karemba, CBS, MP

8. Hon. Timothy Wanyonyi Wetangula, CBS, MP

.....

9. Hon. (Dr.) Otiende Amollo, SC, EBS, MP

.....

10. Hon. Michael Mwangi Muchira, MP

11. Hon. Aden Daud, EBS, MP

.....

12. Hon. John Okwisia Makali, MP

.....

13. Hon. Stephen M. Mogaka, MP

14. Hon. Amina Udgoon Siyad, MP

15. Hon. CPA Suleka Hulbale Harun, MP

.....

Annexure **2** :

## **Minutes**





**THE NATIONAL ASSEMBLY**  
THIRTEENTH PARLIAMENT - FOURTH SESSION-2025  
**DIRECTORATE OF DEPARTMENTAL COMMITTEES**

**MINUTES OF THE 91<sup>ST</sup> SITTING OF THE DEPARTMENTAL COMMITTEE  
ON JUSTICE AND LEGAL AFFAIRS HELD IN COMMITTEE ROOM 17 ON  
TUESDAY 18<sup>TH</sup> NOVEMBER 2025 AT 10:00 AM**

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**PRESENT**

1. Hon. Murugara George Gitonga, MP - *Chairperson*
2. Hon. Mutuse Eckomas Mwangi, OGW, MP - *Vice Chairperson*
3. Hon. Gladys Boss, MGH, MP
4. Hon. Maalim Farah, EGH, MP
5. Hon. Muchangi Karemba, CBS, MP
6. Hon. Muchira Michael Mwangi, MP
7. Hon. Aden Daud, EBS, MP
8. Hon. Mogaka Stephen M. MP
9. Hon. Siyad Amina Udgoon, MP

**ABSENT WITH APOLOGIES**

1. Hon. Onyengo Silvanus Osoro, CBS, MP
2. Hon. Francis Kajwang' Tom Joseph, CBS, MP
3. Hon. (Dr.) Otiende Amollo, SC, EBS, MP
4. Hon. Timothy Wanyonyi Wetangula, MP
5. Hon. Makali John Okwisia, MP
6. Hon. CPA. Sulekha Hulbale Harun, MP

**SECRETARIAT**

- |                        |   |                      |
|------------------------|---|----------------------|
| 1. Mr. Ahmed Salim     | - | Clerk Assistant I    |
| 2. Mr. Abdikafar Abdi  | - | Clerk Assistant III  |
| 3. Ms. Jael Ayiego     | - | Clerk Assistant III  |
| 4. Mr. Walala Ronald   | - | Senior Legal Counsel |
| 5. Mr. Abdirahim Omar  | - | Fiscal Analyst I     |
| 6. Mr. Isaac Nabiswa   | - | Legal Counsel II     |
| 7. Ms. Vivienne Ogega  | - | Research Officer III |
| 8. Mr. Meldrick Sakani | - | Audio Officer        |
| 9. Mr. John Nduaci     | - | Serjeant-at-Arms     |

**AGENDA**

1. Prayers
2. Preliminaries
3. Confirmation of Minutes of previous sittings
4. Matters arising

5. Consideration and adoption of the following report on the Penal Code (Amendment) Bill, (NA Bill no. 53 of 2024) sponsored by Hon. Anthony Tom Oluoch, MP
6. Any Other Business
7. Adjournment / Date of the Next Meeting

**MIN. NO. DDC/JLAC/418/2025: PRELIMINARIES**

The meeting was called to order at twenty-five minutes past ten o'clock followed by a word of prayer from the Chairperson and thereafter Members of the Committee introduced themselves. The agenda of the meeting was adopted, having been proposed by Hon. Maalim Farah, EGH, MP and seconded by Hon. Karemba Muchangi, MP.

**MIN. NO. DDC/JLAC/419/2025: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING**

The agenda was deferred.

**MIN. NO. DDC/JLAC/420/2025: CONSIDERATION OF THE REPORT ON THE PENAL CODE (AMENDMENT) BILL, 2024**

Upon reviewing the Bill and the submissions received, the Committee observed that the Bill is a progressive, humane, and constitutionally aligned reform. To ensure decriminalization translates into meaningful prevention and care outcomes, section 2C of the Mental Health Act obligates the national government in collaboration with county governments to develop the necessary physical and technological infrastructure for the care, rehabilitation and provision of health services to persons with mental illness which includes persons with suicidal ideation or behavior.

**Committee Recommendation**

The Committee, having considered the Penal Code (Amendment) Bill (National Assembly Bill No. 53 of 2025) and the submissions from members of the public and stakeholders, resolved to recommend that the House approves the Bill without amendments.

**Adoption of the Report**

The Committee report was adopted, having being proposed by Hon. Karemba Muchangi, MP and seconded by Hon. Farah Maalim, MP.

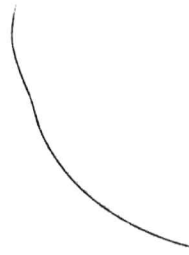
**MIN. NO. DDC/JLAC/421/2025: ADJOURNMENT**

There being no other business, the meeting was adjourned at twenty minutes past eleven o'clock. The next meeting will be held on notice.

SIGNED:  DATE:   
 (CHAIRPERSON HON. MURUGARA GEORGE GITONGA, CBS, MP)

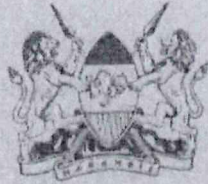
Annexure **3** :

## **Penal Code (Amendment) Bill, 2024**



**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 211 (National Assembly Bills No. 53)*



REPUBLIC OF KENYA

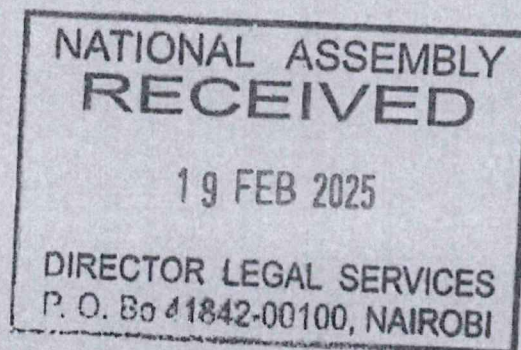
**KENYA GAZETTE SUPPLEMENT**

**NATIONAL ASSEMBLY BILLS, 2024**

**NAIROBI, 29th November, 2024**

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**THE PENAL CODE (AMENDMENT) BILL, 2024**

**A Bill for**

**AN ACT of Parliament to amend the Penal Code**

**ENACTED** by the Parliament of Kenya, as follows—

1. This Act may be cited as the Penal Code (Amendment) Act, 2024. Short title.

2. The Penal Code Cap 63 is amended by repealing section 226. Repeal of section 226 of cap 63

### **MEMORANDUM OF OBJECTS AND REASONS**

The principal object of this Bill is to amend the Penal Code to delete section 266. The proposed amendment will decriminalize suicide and enable attempted suicide to be seen as a serious problem requiring mental health interventions and not be treated as a criminal offence.

Reducing the global suicide rate by one third by 2030 is a target of both the United Nations (UN) Sustainable Development Goals (SDGs) and the World Health Organization (WHO) global Mental Health Action Plan. Various countries have committed to taking measures in this direction.

The World Health Organization (WHO) policy brief on decriminalization of suicide provides that an impediment to meeting this goal is the fact that suicide and suicide attempts remain illegal in at least twenty three countries worldwide. Decriminalization of suicide and suicide attempts represents one critical step governments can take in their efforts to prevent suicide. Further, criminalizing suicide will not prevent people from acting on suicidal thoughts, it simply stops them from reaching out and seeking help in times of acute crisis.

#### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

This Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

#### **Statement of how the Bill concerns county governments**

The Bill does not affect the functions of County governments as set out in the Fourth Schedule to the Constitution and is therefore not a Bill concerning county governments.

#### **Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution**

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 28th November, 2024.

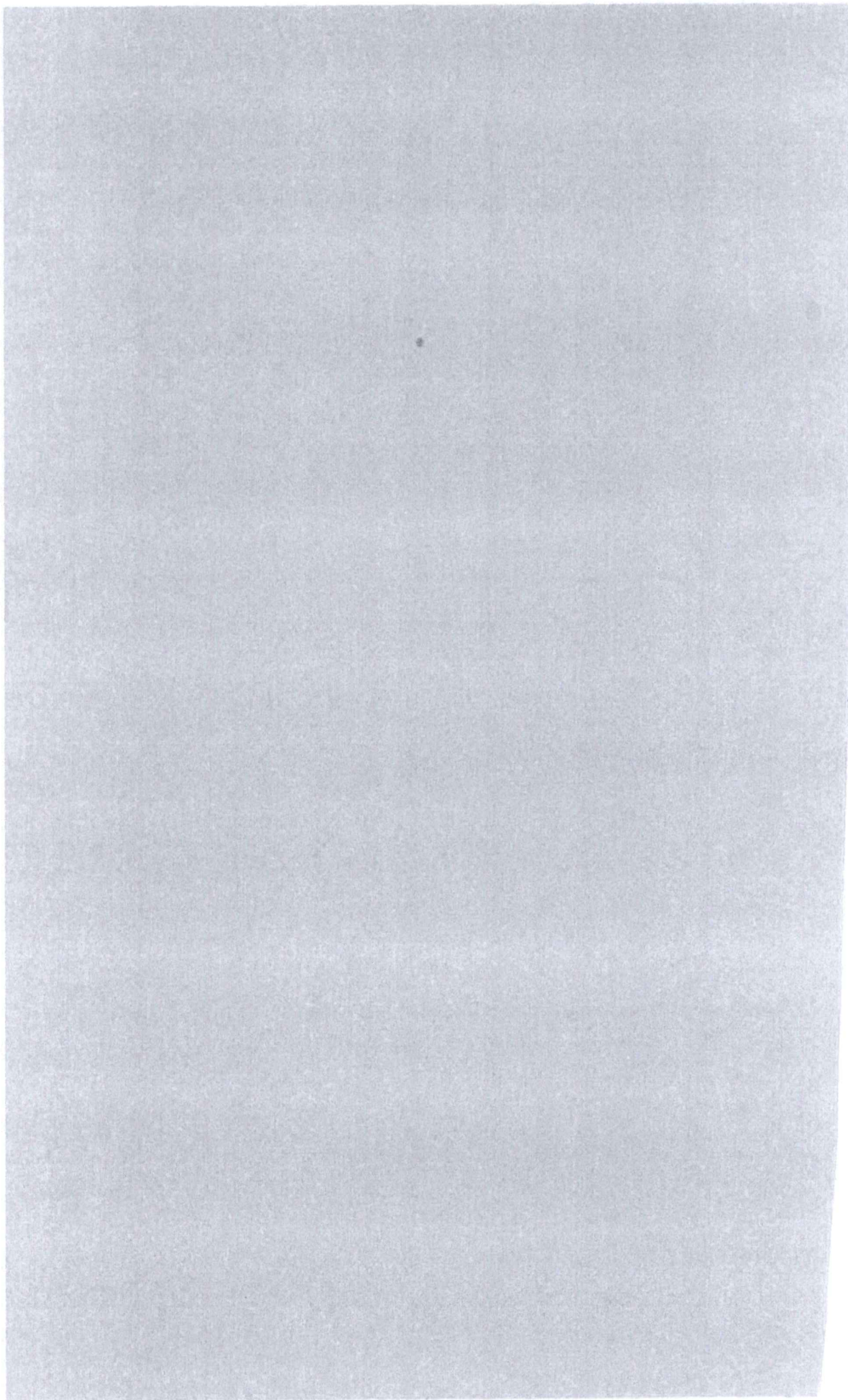
ANTHONY TOM OLUOCH,  
*Member of Parliament.*

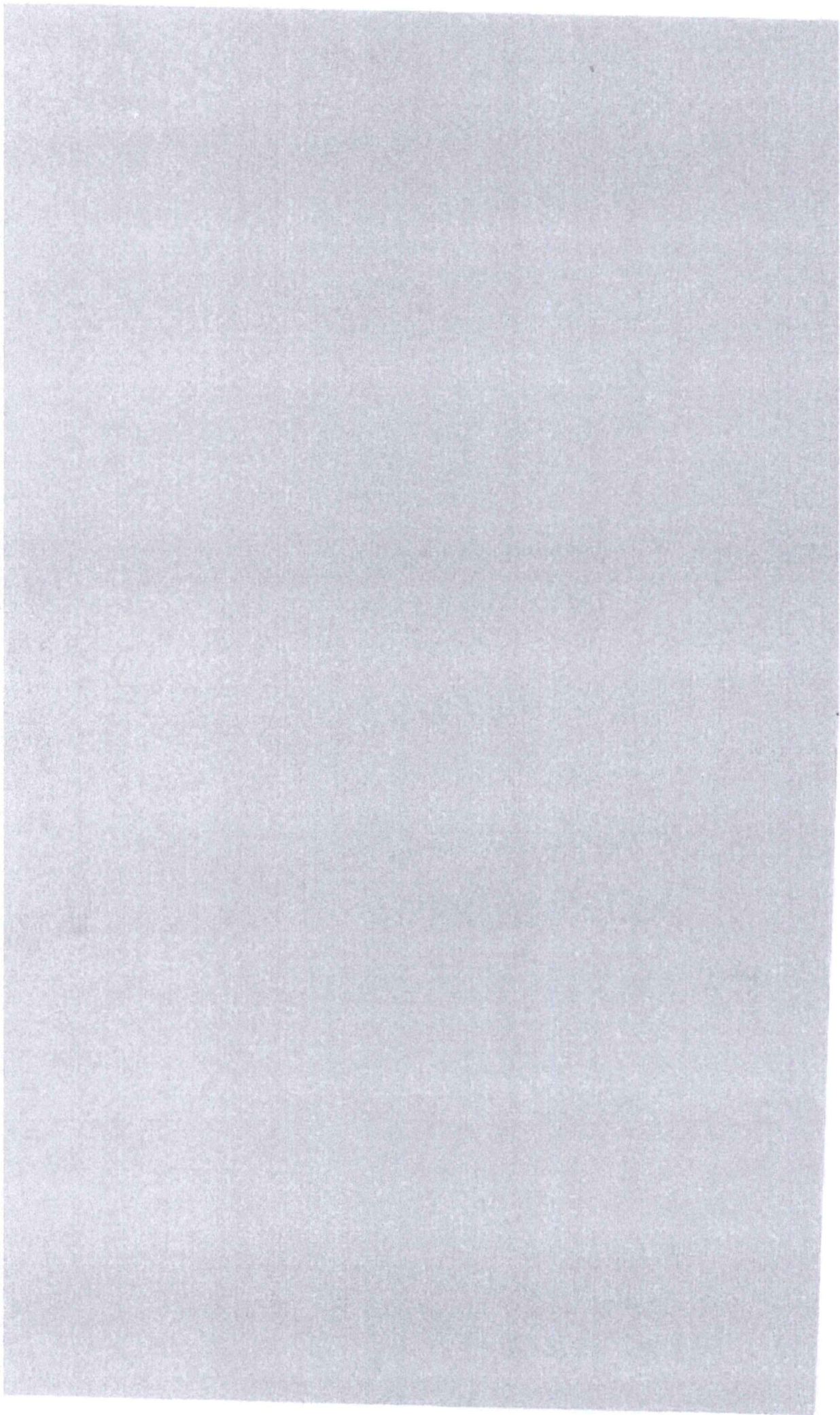
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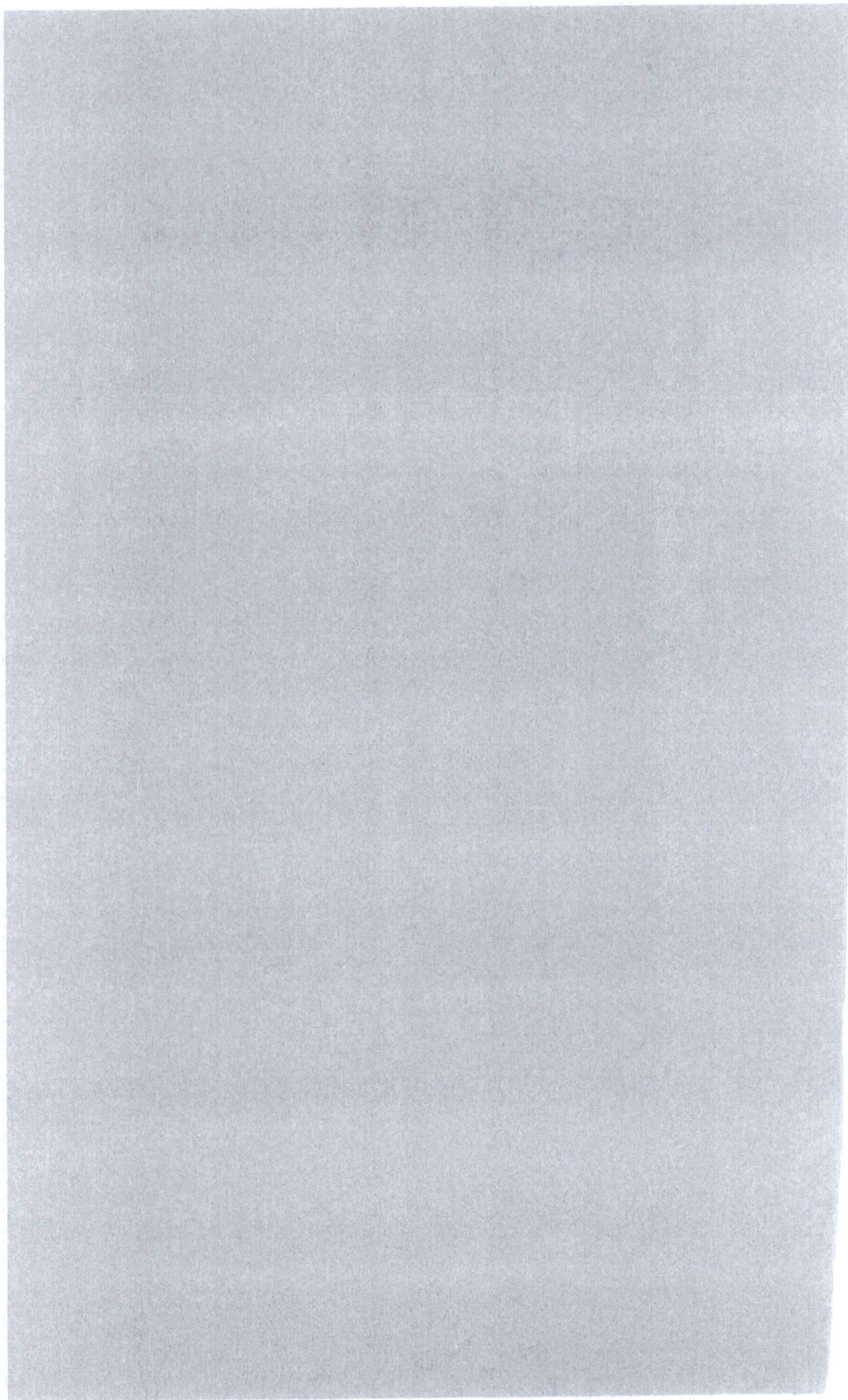
*Section 226 of Cap 63 which it is proposed to amend—*

**226. Attempting suicide**

Any person who attempts to kill himself is guilty of a misdemeanour.





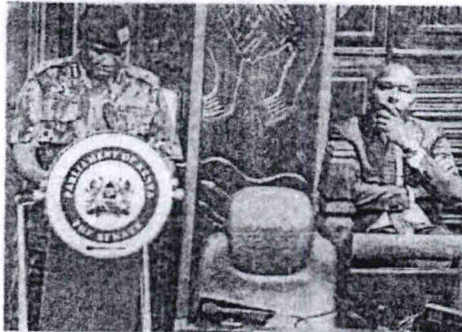


Annexure **4** :

**Advertisement inviting the public to  
submit memoranda on the Bill**

Chronology Mohammed Amin, the DCI boss, contradicted the IG's timeline, saying Ojwang' was booked at 9.32pm

# Senators now accuse Kanja of cover-up in Ojwang death



Inspector-General of Police Douglas Kanja and Interior CS Kipchumba Murkomen at the Senate yesterday. DENNIS ONSONGO/NATION

Police boss says they were misled to claim teacher and blogger hit his head in cell as Ipoa reveals CCTV tampering at station

BY COLLINS OMULO

Senators have questioned Inspector-General of Police Douglas Kanja's account of events surrounding the death of 31-year-old teacher Albert Ojwang' in police custody, accusing him of attempting to cover up the matter.

During a Senate session on Wednesday, lawmakers called for Deputy Inspector-General Eliud Lagat, who filed the complaint

that led to Ojwang's arrest, to step aside pending investigations.

This follows the naming of the police officers involved in the arrest amid allegations that CCTV cameras at Nairobi Central Police Station were tampered with on the night Ojwang' was held. The officers named are Sergeants Sigei and Wesley Kirui, and Police Constables Dennis Kinyoni, Milton Mwanzi, and Boniface Rabudo Rabudo Kirui, and Sigei are attached to Mawego Police Station

in Homa Bay County while Kinyoni and Mwanzi are based in Nairobi.

Kanja told the Senate that the saga began on June 4 when the Directorate of Criminal Investigations (DCI) received a complaint from Mr Lagat, claiming that defamatory content alleging corruption within the National Police Service had been posted about him on the social media platform X.

The case was assigned to cybercrime investigators led by Senior Superintendent of Police Hillary Muta. They identified five suspects - Ojwang', Kevin Moinde, arrested on June 6), Dorcas Mawia,

Douglas Manigiri, and Peter Mbugua. Kanja said Ojwang' was arrested on June 7 in Homa Bay and taken to Nairobi Central Police Station, arriving at 9.17pm. He called his wife at 9.24pm and was booked into a cell at 9.35pm in apparent good physical and mental condition.

However, officers reportedly found him unconscious the following morning and rushed him to Mbagathi Hospital, where he was declared dead on arrival.

Senators questioned this version of events. Migori Senator Eddy Oketch asked: "Who beat Mr Ojwang' to

Our forensic team found that while the CCTV was previously functional, the power cable had been disconnected

Ann Wanjiku, Ipoa vice-chairperson



the condition in which he was found? The IG says he hit his head on the wall - who told him that, and does he still stand by that?"

Nyandarua Senator John Methu queried the decision to take Ojwang' to Mbagathi Hospital rather than the closer and better-equipped Kenyatta National Hospital, while also accusing the IG of shielding his deputy.

Nyamira Senator Okong'o Omogeni urged the IG to provide CCTV footage showing Ojwang's movements from DCI headquarters to the police station. "Why was he booked alone if there was no intention to cover up?"

Kanja, in response, deflected most questions to the Independent Policing Oversight Authority (Ipoa) and the DCI, saying investigations were ongoing. He ad-

mitted that an officer, whom he did not name, had misled the service by stating that Ojwang' hit his head on a wall, prompting an initial NPS statement.

Ann Wanjiku, the Ipoa vice-chairperson, said preliminary findings and a post-mortem ruled out suicide and pointed to a possible cover-up. Ms Wanjiku said that Ipoa found the police station's CCTV system had been tampered with.

"Our forensic team found that while the CCTV was previously functional, the power cable had been disconnected."

Mohammed Amin, the DCI boss, contradicted the IG's timeline, saying Ojwang' was booked at 9.32pm and spoke with his parents at 9.34pm. He said the suspect was in good health and described the arrest as "humane".

Interior Cabinet Secretary Kipchumba Murkomen told the Senate that the government would dedicate all resources to uncover the truth. However, his remarks drew criticism from several senators who called for his resignation.

Kakamega Senator Boni Khalwale said: "You're not fit to hold office. This case could spark national outrage just like the 2011 Tunisia uprising. Resign."

Nandi Senator Samson Cheragei concluded: "The Interior Ministry suffers from a leadership crisis. If anyone should resign, it is Murkomen."



REPUBLIC OF KENYA  
THIRTEENTH PARLIAMENT - FOURTH SESSION (2025)  
THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION  
AND  
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF THE PENAL CODE  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL No. 53 OF 2024)

### INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1) (b) of the Constitution of Kenya requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees, and National Standing Order 127(3) requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, the Penal Code (Amendment) Bill (National Assembly Bill No. 53 of 2024) was read a First Time on 4<sup>th</sup> June 2024 and referred to the Departmental Committee on Justice and Legal Affairs for consideration and reporting to the House;

IT IS NOTIFIED that the Penal Code (Amendment) Bill (National Assembly Bill No. 53 of 2024) is a Bill sponsored by Hon. Anthony Tom Olwoch, MP seeking to amend the Penal Code, Cap. 63 to delete section 226. The proposed amendment seeks to decriminalize the offence of attempted suicide.

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Copies of the Bill are available at the National Assembly Table Office, Main Parliament Buildings and on [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

The memoranda 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 [cna@parliament.go.ke](mailto:cna@parliament.go.ke) to be received on or before Tuesday, 24<sup>th</sup> June 2025 at 5.00 p.m.

S. NJOROGE  
CLERK OF THE NATIONAL ASSEMBLY  
11<sup>th</sup> June 2025

"For the Welfare of Society and the Just Government of the People"

STIMA SACCO

P.O. BOX 75629-00200, Nairobi, Tel: +25470304024/000, Email: [info@stima-sacco.com](mailto:info@stima-sacco.com)  
Website: [www.stima-sacco.com](http://www.stima-sacco.com)

### INVITATION TO TENDER

Stima DT Sacco Society Ltd invites bids from interested and qualified consultants as per the particulars below:-

TENDER NUMBER	TENDER DESCRIPTION	TENDER COMMENCEMENT DATE	TENDER CLOSING DATE AND TIME
ST/OT/MBDS/10/25	Tender for Provision of Bankers Blanket, Electronic/Computer Crime & Professional Indemnity Policy	Thursday 12 <sup>th</sup> June, 2025	Thursday 26 <sup>th</sup> June 2025 at 12:00 Noon
ST/OT/HR/11/25	Request for Proposal for Consultancy Services to Review and Align the Organizational Structure with the 2025-2029 Strategy	Thursday 12 <sup>th</sup> June, 2025	Wednesday 25 <sup>th</sup> June 2025 at 12:00 Noon

Interested eligible bidders may download the tender document from Stima DT Sacco Society website ([www.stima-sacco.com](http://www.stima-sacco.com)) free of charge. Bidders are advised to refer to the website regularly before the closing date for any additional information/clarifications/addenda.

Duly completed documents are to be submitted in plain sealed envelopes, clearly marked with the Tender Number and Tender Name as more particularly described in the Document and addressed to:

Chief Executive Officer  
Stima DT Sacco Society Ltd  
P.O. Box 75629 - 00200  
NAIROBI

Tenders will be opened soon after the closing time in the presence of the candidates' representatives who choose to attend at Stima DT Sacco Boardroom, 2<sup>nd</sup> floor, Stima Sacco Plaza, Mushembeli Road, Parklands, Nairobi.

STIMA DT SACCO SOCIETY LTD  
CHIEF EXECUTIVE OFFICER



**THE NATIONAL ASSEMBLY**  
13<sup>TH</sup> PARLIAMENT - FOURTH SESSION - 2025

**IN THE MATTER OF ARTICLE 118(1) (B) OF THE CONSTITUTION AND  
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF THE  
PENAL CODE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL  
NO. 53 OF 2024)**

**INVITATION TO SUBMIT MEMORANDA**

WHEREAS, Article 118(1) (b) of the Constitution of Kenya requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees, and National Assembly Standing Order 127(3) requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, the Penal Code (Amendment) Bill (National Assembly Bill No. 53 of 2024) was read a First Time on 4<sup>th</sup> June 2024 and referred to the Departmental Committee on Justice and Legal Affairs for consideration and reporting to the House;

IT IS NOTIFIED that the Penal Code (Amendment) Bill (National Assembly Bill No. 53 of 2024) is a Bill sponsored by Hon. Anthony Tom Oluoch, MP seeking to amend the Penal Code, Cap. 63 to delete section 225. The proposed amendment seeks to decriminalize the offence of attempted suicide.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on The Penal Code (Amendment) Bill (National Assembly Bill No. 53 of 2024) to the Departmental Committee on Justice and Legal Affairs.

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**S. NJORGE**  
**CLERK OF THE NATIONAL ASSEMBLY**  
11<sup>th</sup> June 2025

*For the Welfare of Society and the Just Government of the People*

**THE ENERGY ACT, 2019**

**MOMBASA CEMENT LTD**

**APPLICATION FOR ELECTRIC POWER FOR OWN USE**

NOTICE is hereby given that Mombasa Cement Ltd., having its registered office at Mikindani, Mombasa-Nairobi road, Mombasa, P.O Box 83594-80100, Mombasa in the Republic of Kenya, Mombasa Cement Ltd., pursuant to the provisions of Section 119(3) of the Energy Act, 2019, will on 4<sup>th</sup> July 2025, make an application to the Energy & Petroleum Regulatory Authority for the Electric Power **Electric Power Generation Licence**.

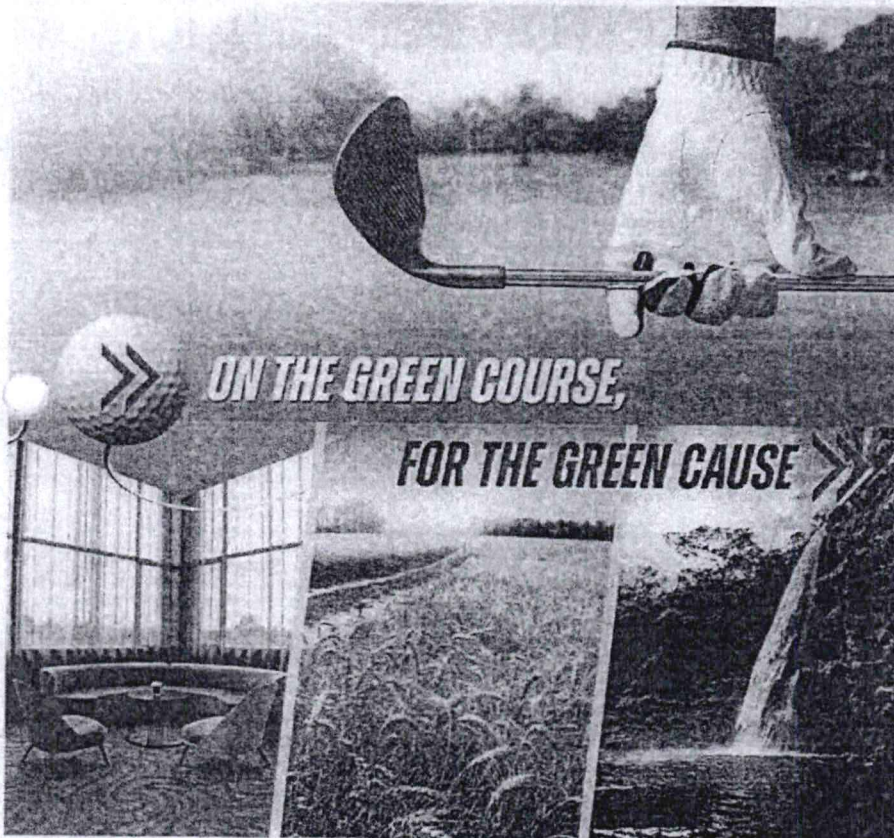
**The cogeneration plant will supply manufacturing loads while enhancing efficiency in the manufacturing process. This generation plant will be in Vipingo at Mombasa Cement manufacturing plant. Waste heat gas recovered in the manufacturing process will be the prime mover of a 13 MW gas turbine.** The grant of the licence will not have adverse effect on any Public or Local Authorities, Companies, persons or bodies of persons within the areas of the undertaking.

A copy of the application (subject to confidentiality considerations) will be available (once lodged) for inspection by the public at the registered office of the applicant.

Any public or local authority, company, person or body of persons desirous of making any representation on or objection to the application must do so by a letter addressed to the Energy & Petroleum Regulatory Authority and marked on the outside of the cover enclosing it "Electric Power Licence Objection", on or before the expiration of Thirty (30) days from the date of application as stated in the notice and a copy of such representation or objection shall be forwarded to the applicant.

Dated 9<sup>th</sup> June 2025

Kirtan H. Patel  
**Director, Mombasa Cement Ltd.**



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The Standard Group PLC

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against climate change and  
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Saturday 14<sup>th</sup> June 2025 • Eldoret Club



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For Sponsorship Contact  
Judy 0722 754259, E-Mail: [Jyego@standardmedia.co.ke](mailto:Jyego@standardmedia.co.ke)  
or  
Clare: 0721 614437, E-Mail: [CBiy@standardmedia.co.ke](mailto:CBiy@standardmedia.co.ke)



REPUBLIC OF KENYA  
THIRTEENTH PARLIAMENT - FOURTH SESSION (2025)  
**THE NATIONAL ASSEMBLY**

**IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION  
AND  
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF THE PENAL CODE  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL No. 53 OF 2024)**

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**WHEREAS**, Article 118(1) (b) of the Constitution of Kenya requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees, and National Assembly Standing Order 127(3) requires House Committees considering Bills to facilitate public participation;

**AND WHEREAS**, the **Penal Code (Amendment) Bill (National Assembly Bill No. 53 of 2024)** was read a First Time on 4<sup>th</sup> June 2024 and referred to the **Departmental Committee on Justice and Legal Affairs** for consideration and reporting to the House;

**IT IS NOTIFIED** that the **Penal Code (Amendment) Bill (National Assembly Bill No. 53 of 2024)** is a Bill sponsored by **Hon. Anthony Tom Oluoch, MP** seeking to amend the Penal Code. Cap. 63 to delete section 226. The proposed amendment seeks to decriminalize the offence of attempted suicide.

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Copies of the Bill are available at the National Assembly Table Office, Main Parliament Buildings and on [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

The memoranda 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 [cna@parliament.go.ke](mailto:cna@parliament.go.ke) to be received on or before **Tuesday, 24<sup>th</sup> June 2025 at 5.00 p.m.**

**S. NJORGE**  
**CLERK OF THE NATIONAL ASSEMBLY**  
*11<sup>th</sup> June 2025*

*"For the Welfare of Society and the Just Government of the People"*

Annexure **5** :

**Letter from the Clerk of the National  
Assembly requesting stakeholders to  
submit views on the Bill**



**THE NATIONAL ASSEMBLY  
OFFICE OF THE CLERK**

P. O. Box 41842-00100  
Nairobi, Kenya  
Main Parliament Buildings

Telephone: +254202848000 ext. 3300  
Email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke)  
[www.parliament.go.ke/the-national-assembly](http://www.parliament.go.ke/the-national-assembly)

When replying, please quote:

Ref: NA/DDC/JLAC/2025/ (116)

7<sup>th</sup> October, 2025

**Dr. David G Kariuki**  
Chief Executive Officer  
Kenya Medical Practitioners & Dentists Council  
Woodlands Rd, Hurlingham  
Nairobi

**Dr. Davji Bhimji Atallah**  
Secretary General  
Kenya Medical Practitioners Pharmacists & Dentists' Union  
5<sup>th</sup> Floor, Blue Violets Plaza, Kindaruma Lane  
Nairobi

**Mr. Abdirahim Ismail, OGW**  
Executive Director  
Inter-religious Council of Kenya  
Mararo Avenue off Gitanga Road  
Nairobi

Dear **Dr. Atallah**

**RE: INVITATION BY THE DEPARTMENTAL COMMITTEE ON JUSTICE  
AND LEGAL AFFAIRS TO SUBMIT VIEWS ON THE PENAL CODE  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 53 OF 2024)  
SPONSORED BY THE HON. ANTHONY OLUOCH, MP**

The Departmental Committee on Justice and Legal Affairs is established pursuant to Standing Order 216 of the National Assembly Standing Orders, and is mandated to *inter alia*, 'study and review all legislation referred to it.'

As you are aware, the Penal Code (Amendment) Bill (National Assembly Bill No. 53 of 2024) sponsored by Hon. Anthony Oluoch, MP is before the Committee for consideration and reporting to the House. The Bill seeks to amend the Penal Code to delete section 266, the proposed amendment will decriminalize suicide and enable attempted suicide to be seen as a serious problem requiring mental health interventions and not be treated as a criminal offence.

Article 118(1)(b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees. Due to the great public interest in the Bill, the Committee resolved to receive written submissions from critical stakeholders.

In this regard, the Committee invites you to send a written submission on the Bill by **Tuesday 14<sup>th</sup> October 2025 at 10:00 am.**

You are requested to prepare your written submissions in a matrix format that indicates the specific clause, proposed amendment and justification. Written submissions may be sent to the Committee through the Office of the Clerk of the National Assembly via email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke).

Hard copies of the Bill are available at the National Assembly Table Office, Main Parliament Building, while an electronic copy may be accessed on the Parliament website: [www.parliament.go.ke/the-national-assembly/house-bills](http://www.parliament.go.ke/the-national-assembly/house-bills) for reference.

Our Liaison Officers on this matter are **Mr. Abdikafar Abdi** who may be contacted on tel. no. **0715456503** or email: [ddc@parliament.go.ke](mailto:ddc@parliament.go.ke).

Yours



**JEREMIAH NDOMBI, MBS**  
**For: CLERK OF THE NATIONAL ASSEMBLY**



**THE NATIONAL ASSEMBLY  
OFFICE OF THE CLERK**

P. O. Box 41842-00100  
Nairobi, Kenya  
Main Parliament Buildings

Telephone: +254202848000 ext. 3300  
Email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke)  
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Secretary General  
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5<sup>th</sup> Floor, Blue Violets Plaza, Kindaruma Lane  
Nairobi

**Mr. Abdirahim Ismail, OGW**  
Executive Director  
Inter-religious Council of Kenya  
Mararo Avenue off Gitanga Road  
Nairobi

Dear **Mr. Abdirahim**

**RE: INVITATION BY THE DEPARTMENTAL COMMITTEE ON JUSTICE  
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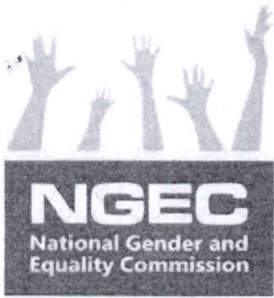
Yours



**JEREMIAH NDOMBI, MBS**  
**For: CLERK OF THE NATIONAL ASSEMBLY**

Annexure **6** :

**Memoranda by Stakeholders**



**National Gender and Equality Commission**

1st Floor, Solution Tech Place, 5 Longonot Road, Upper Hill, Nairobi  
P.O. Box 27512-00506 Nairobi, Kenya.

Landline: +254 (020) 3213100

Mobile: +254(020)375100

Toll Free: 0800720187

Email: [info@ngeckkenya.org](mailto:info@ngeckkenya.org)

[www.ngeckkenya.org](http://www.ngeckkenya.org)

DDC  
25/06/25

Abenayo Wasike

pls process  
26/6/25

24<sup>th</sup> June 2025



Mr. Sakins  
Please deal  
26/06/25

**NATIONAL GENDER AND EQUALITY COMMISSION**

NGEC/CS/LEGAL/VOL. II (12)

Mr. Samuel Njoroge

The Clerk of the National Assembly

Clerk's Chambers

Parliament Building

P.O. Box 41842-00100

NAIROBI

Email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke)

Dear Mr. Njoroge

**COMMENTS ON THE PENAL CODE (AMENDMENT) BILL NO. 53 OF 2024**

Reference is made to your call for the submission of memoranda on The Penal Code (Amendment) Bill, 2024.

In line with its mandate, the Commission presents to you a memoranda analyzing the proposed bill and making proposals where necessary.

Yours

Purity Ngina, PhD, MBS

COMMISSION SECRETARY/ CEO





**MEMORANDA: PENAL CODE (AMENDMENT) BILL No 53 OF 2024**

S/NO	CLAUSE	COMMENTS	RECOMMENDATIONS
I.	The proposed Amendment Bill seeks to amend The Penal Code CAP 63 to delete section 226 to decriminalize the Offence of attempted suicide	<p>The Commission is in full support of the proposal to delete Section 226 so that attempted suicide is no longer considered an offence, to allow people in crisis to seek help</p> <p>The High Court has already declared the said section unconstitutional in HCCHRPET/E045/2022 on 9<sup>th</sup> January, 2025</p> <p><a href="https://icj-kenya.org/wp-content/uploads/2025/01/Constitutional-Petition-No.-E045-of-2022.pdf">https://icj-kenya.org/wp-content/uploads/2025/01/Constitutional-Petition-No.-E045-of-2022.pdf</a></p>	<p>Regarding the triggers of suicide, the Commission would like to call upon the House in addition to decriminalizing attempted suicide to also -;</p> <ol style="list-style-type: none"> <li>1. Consider decriminalizing the use of Narcotic drugs or psychotropic substances by deleting section 5 (1)(a) and (b) of the Narcotic Drugs and Psychotropic Substances (Control) Act, CAP 245.</li> </ol> <p>The penalty for the offence is two hundred fifty thousand shillings or a term of imprisonment of not less than five years or both such fine and imprisonment, which is excessive for persons who are addicted and who still fall back after either paying the fine or serving a jail term.</p>

		<p>The rationale would be the same in that these are persons, mostly youth, who need intervention, and incarceration is not the solution.</p> <p>2. Fast-track the implementation of the report on mental health by the task force, which the President set up following a Cabinet approval in 2020</p> <p><a href="https://mental.health.go.ke/download/mental-health-and-wellbeing-towards-happiness-national-prosperity-a-report-by-the-taskforce-on-mental-health-in-kenya/?wpdmdl=253&amp;refresh=67cef30953a1b1741615881">https://mental.health.go.ke/download/mental-health-and-wellbeing-towards-happiness-national-prosperity-a-report-by-the-taskforce-on-mental-health-in-kenya/?wpdmdl=253&amp;refresh=67cef30953a1b1741615881</a></p> <p>The report states that many Kenyans were specific on the laws, indicating the need to “amend the law to decriminalize suicide” and also to “decriminalize substance use and abuse” to facilitate care</p> <p>The Taskforce also met members of the relevant Parliamentary</p>
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			<p>Committees, and as per the report, the views were well received.</p> <p>The report also recommends that Parliament harmonize substance use-related laws, including the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) Act, the Alcoholic Drinks Control Act, the Narcotic Drugs and Psychotropic Substance (Control) Act, and the Tobacco Control Act.</p>
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### Legal Deficiency in Criminalizing Attempted Suicide

The principle of mens rea is foundational to criminal law, requiring that criminal liability attach only where there exists a "guilty mind" - a deliberate intention to commit a wrongful act. As established in Kenyan jurisprudence and codified in section 9 of the Penal Code:

"Subject to the express provisions of this Code relating to negligent acts and omissions, a person is not criminally responsible for an act or omission which occurs independently of the exercise of his will..."

Section 12 of the Penal Code provides:

"A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is through any disease affecting his mind incapable of understanding what he is doing..."

This creates an internal legal contradiction - if attempted suicide occurs during a mental health crisis (as recognized by the Mental Health Act), then by the Penal Code's own standards, mens rea is absent.

Attempted suicide fundamentally lacks the essential elements of criminal *mens rea* because:

1. **No Intent to Harm Others:** The act is entirely self-directed with no intention to cause harm to society or other individuals
2. **Impaired Mental State:** The Mental Health Act recognizes that persons suffering from mental disorder may be "incapable of expressing himself as willing or unwilling to receive treatment" (section 14)
3. **Medical Emergency, Not Criminal Choice:** The act occurs during a mental health crisis, not as a deliberate criminal decision

Individuals who attempt to take their own lives often do so in the throes of mental illness, extreme psychological pain, or diminished capacity. These circumstances substantially impair their ability to form the requisite criminal intent. Their actions are not motivated by malice, recklessness, or intent to offend the state or society, but rather by an inward-facing, non-criminal urge to escape suffering.

As a result, prosecuting suicide attempts under criminal law contradicts established principles of culpability, rendering the classification of such conduct as a criminal offence both inappropriate and unjust.

From a legal and medical standpoint, suicide and attempted suicide are symptoms of underlying psychological distress or mental illness. Criminal law is ill-suited to address such conditions. A rights-based framework would treat suicide attempts as medical emergencies warranting care, not incarceration.

### Global and Regional Trends

Countries around the world are increasingly recognizing attempted suicide as a **public health issue**, not a criminal one. Examples include:

- **United Kingdom:** Decriminalized attempted suicide through the Suicide Act 1961.

- **India:** Repealed Section 309 of its Penal Code through the Mental Healthcare Act, 2017.
- **Ghana and South Africa:** Are in various stages of legal reform to decriminalize suicide attempts.
- **WHO and UN Guidance:** Both bodies recommend decriminalization to reduce stigma and improve access to mental health services.

### **Benefits To Kenyan Citizens**

#### **1. Alignment with Mental Health Act Framework:**

The amendment will harmonize the Penal Code with the Mental Health Act by reinforcing provisions for voluntary and involuntary patient admission and enabling emergency intervention for individuals experiencing acute mental distress.

#### **2. Human Rights Compliance:**

Decriminalization upholds constitutional rights by affirming the right to health and dignity, protecting individuals from cruel or degrading treatment, and recognizing mental health as equally deserving of legal and medical attention as physical health.

#### **3. From Criminal to Medical Framework:**

The amendment redefines suicide attempts not as crimes warranting punishment but as medical emergencies that require compassionate intervention and professional care.

#### **4. Improved Access to Healthcare:**

The amendment will decriminalize attempted suicide, encouraging individuals to seek mental health support without fear of prosecution, enabling healthcare providers to focus on care rather than criminal reporting, and reducing the stigma surrounding mental illness.

#### **5. Reduced Burden on the Criminal Justice System:**

Resources can be redirected to treatment and prevention rather than prosecution.

### **Justifications For Decriminalization**

The decriminalization of attempted suicide is justified on multiple grounds, including legal, medical, human rights, and public policy considerations, all of which demonstrate that criminal sanctions are inappropriate and counterproductive in addressing suicidal behavior.

The following points outline the key reasons why the proposed amendment is necessary and timely;

## **Medical Evidence**

Decriminalization is supported by medical research showing that attempted suicide is linked to treatable mental health conditions, criminal sanctions are ineffective deterrents, and medical interventions significantly reduce suicide risk.

## **Human Rights Imperatives**

Criminalizing attempted suicide violates the right to health, undermines the dignity of vulnerable individuals, and perpetuates discrimination against those with mental health conditions.

## **Public Health Benefits**

Decriminalization promotes help-seeking behavior, enables improved data collection for suicide prevention, and facilitates more efficient allocation of resources toward healthcare rather than prosecution.

## **Social Justice Considerations**

The reform protects marginalized populations who may be disproportionately affected, minimizes the emotional and legal burden on affected families, and encourages community-based mental health responses over punitive measures.

## **Implementation Considerations**

To ensure that the proposed legal reform yields its intended benefits, the decriminalization of suicide and attempted suicide should be accompanied by coordinated policy, institutional, and service delivery measures. These considerations will ensure that the transition from a punitive to a healthcare-based approach is effective, sustainable, and grounded in the principles of public health and human dignity.

## **Strengthening the Mental Health Care System**

Decriminalization must be supported by deliberate investment in Kenya's mental health infrastructure. This includes:

- **Expansion of Mental Health Services:** Increase access to affordable, community-based and inpatient mental health facilities across counties, especially in underserved areas.
- **Capacity Building for Health Workers:** Provide continuous training and sensitization for healthcare professionals—medical officers, nurses, social workers, and psychologists—on the identification, management, and follow-up of individuals presenting with suicidal ideation or after a suicide attempt.
- **Crisis Intervention and Emergency Care:** Establish and fund national and county-level suicide prevention helplines, mobile crisis response teams, and 24-hour emergency mental health services.

- **Community Sensitization and Education:** Roll out public education campaigns to reduce stigma, promote mental wellness, and encourage individuals to seek help early. Community health volunteers should be integrated into awareness and referral systems.

### **Harmonization with the Mental Health Act**

The operationalization of the amendment must align with and enhance the provisions of the **Mental Health Act (Cap. 248)** to ensure continuity of care and legal coherence. Specific areas of integration include:

- **Admission, Treatment, and Discharge Protocols:** Ensure clear referral pathways and post-crisis care plans for persons admitted under voluntary, involuntary, or emergency circumstances as provided in the Act.
- **Family and Community-Based Support:** Utilize provisions in the Mental Health Act that allow for the care of persons with mental disorders by relatives or guardians, with appropriate oversight, to ensure recovery in familiar, non-institutional environments.
- **Oversight by the Kenya Board of Mental Health:** Strengthen the role of the Board in monitoring facilities, ensuring treatment standards, and investigating complaints related to care of individuals with suicidal behavior.

### **Policy and Legislative Framework Integration**

In addition to legal amendments, the government should develop a **National Suicide Prevention Strategy** that includes clear protocols, resource allocation, and inter-sectoral collaboration among ministries (Health, Education, Interior, Youth, and Social Services). The Mental Health Policy and related regulations should be revised to reflect decriminalization and promote a public health response.

### **Monitoring, Evaluation, and Accountability**

- Establish systems for data collection on suicide and attempted suicide to inform policy and guide targeted interventions.
- Implement regular audits and public reporting mechanisms to assess the impact of decriminalization on healthcare uptake, stigma reduction, and suicide rates.
- Foster civil society and professional body involvement in monitoring and advocacy to ensure transparency and continued improvement in service delivery.

### **Conclusion**

**This memorandum strongly recommends the passage of the Penal Code (Amendment) Bill No. 53 of 2024**, as it represents a compassionate, evidence-based approach to addressing suicide and mental health in Kenya.

The amendment will transform Kenya's legal framework from one that criminalizes mental health crises to one that treats them with the medical attention and human dignity they deserve. This change will save lives, strengthen families, and build a more just and compassionate society.

Mr. Ahmed Salim

pls TNA -  
Awasia  
27/6/25

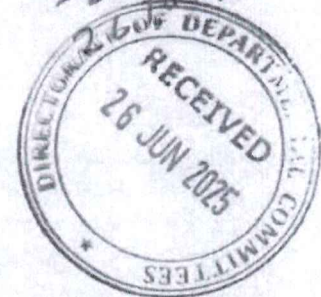
Abenayo Wasike

pls process

26/6/25

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26/6/25



24<sup>th</sup> June, 2025

The Clerk  
National Assembly  
Parliament Buildings  
P.O. Box 41842 – 00100  
Nairobi, Kenya

Dear Sir,

**RE: SUBMISSION OF MEMORANDUM ON THE PENAL CODE (AMENDMENT)  
BILL (NATIONAL ASSEMBLY BILL NO. 53 OF 2024)**

On behalf of *Outreach for Action Kenya*, an organization currently undergoing registration as a Company Limited by Guarantee and committed to civic education, legal reform, and public participation, we hereby submit the enclosed memorandum in respect of the Penal Code (Amendment) Bill (National Assembly Bill No. 53 of 2024).

This memorandum is presented pursuant to the public invitation for comments on the said Bill and reflects our considered position in support of the proposed deletion of Section 226 of the Penal Code, which seeks to decriminalize attempted suicide.

We respectfully request that this memorandum be considered as part of the official public participation record for the Bill.

Thank you for your attention and continued facilitation of public engagement in the legislative process.

Yours faithfully,

Isabella Mandi – Director (*proposed*), OAK

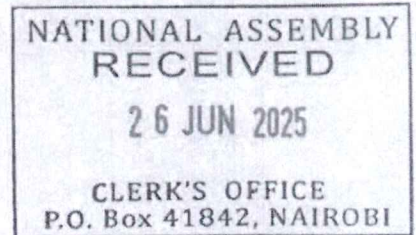
ID No. 13414367  
[ikmanduku@gmail.com](mailto:ikmanduku@gmail.com)  
0722 725 409

Handwritten signature of Isabella Mandi in black ink.

Cliff Nyandusi – Director (*proposed*), OAK

ID No. 39045980  
[cliffnyandusi3@gmail.com](mailto:cliffnyandusi3@gmail.com)  
0725 405 914

Handwritten signature of Cliff Nyandusi in black ink.



**Submitted on Behalf of Outreach For Action Kenya (OAK)\*\***

**\*\*Outreach For Action Kenya (OAK) is currently undergoing registration as a Company Limited by Guarantee under the Companies Act, 2015. The organization is committed to civic education, public policy engagement, and legal reform advocacy in Kenya.**

# MEMORANDUM ON THE PENAL CODE (AMENDMENT) BILL, (NATIONAL ASSEMBLY BILL NO. 53 OF 2024)

## Introduction

This memorandum is submitted in support of the Penal Code (Amendment) Bill (National Assembly Bill No. 53 of 2024), which proposes the deletion of **Section 226** of the Penal Code (Cap. 63), thereby decriminalizing attempted suicide in Kenya. This change reflects a progressive shift toward a health-based, rather than punitive, approach to mental health and aligns Kenya with emerging global standards and best practices.

## Background and Historical Context

The criminalization of attempted suicide in Kenya, under Section 226 of the Penal Code, originates from colonial-era British laws that reflected moral and religious doctrine which condemned suicide as "self-murder." This punitive stance was rooted in outdated perceptions that suicide was a crime against the state and a violation of divine law, rather than a complex mental health issue.

Today, these views are considered archaic and unscientific. The continued penalization of individuals in psychological crisis serves no rehabilitative purpose and deters help-seeking behavior, thereby exacerbating vulnerability.

## Current Legal Framework in Kenya

Section 226 of the Penal Code reads:

*"Any person who attempts to kill himself is guilty of a misdemeanour."*

This provision treats individuals experiencing severe mental distress as criminals rather than patients requiring medical intervention. It criminalizes individuals at their most vulnerable moment, often when they are experiencing mental health disorders such as depression or psychosis.

However, there is in place the **Mental Health Act, Cap. 248**, which aims to:

- Provide care, treatment, and rehabilitation of persons suffering from mental disorders;
- Promote community-based interventions;
- Ensure the protection and management of such persons' estates and well-being

The criminalization of attempted suicide creates a fundamental conflict with the objectives of the Mental Health Act.

There is therefore a clear **inconsistency** between the punitive approach under the Penal Code and the rehabilitative and rights-based approach envisioned in the Mental Health Act.

The proposed amendment to delete Section 226 of the Penal Code is a necessary and progressive reform that aligns Kenya's legal framework with constitutional values, scientific understanding of mental health, and global human rights standards. Decriminalizing attempted suicide will promote compassion over punishment, reduce stigma, and empower individuals to seek timely and appropriate care.

This legislative change, however, must be accompanied by deliberate implementation measures, including the strengthening of mental health systems, alignment with the Mental Health Act, and investment in public education, crisis intervention, and community-based support.

Outreach For Action Kenya welcomes the opportunity to contribute to this critical reform and urges Parliament to pass the Bill in its current form, thereby affirming Kenya's commitment to a rights-based, health-oriented approach to suicide prevention and mental well-being.

**Submitted on Behalf of Outreach For Action Kenya (OAK) \*\* by:**

Isabella Mandi – Director (*proposed*), OAK  
ID No. 13414367  
[ikmmanduku@gmail.com](mailto:ikmmanduku@gmail.com)  
0722 725 409

Cliff Nyandusi – Director (*proposed*), OAK  
ID No. 39045980  
[cliffnyandusi3@gmail.com](mailto:cliffnyandusi3@gmail.com)  
0725 405 914

**Date: 24<sup>th</sup> June, 2025**

*\*\*Outreach For Action Kenya (OAK) is currently undergoing registration as a Company Limited by Guarantee under the Companies Act, 2015. The organization is committed to civic education, public policy engagement, and legal reform advocacy in Kenya.*



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25/06/25



OUR REF: A&K/GEN/2025  
YOUR REF: T.B.A  
DATE: 24 June 2025

The Clerk, National Assembly,  
P.O Box 41842-00100,  
Main Parliament Buildings,  
Nairobi, Kenya



Abenayo Wasike  
H/S process  
ending  
26/6/25

"Advance copy via email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke)"

Dear Sirs,

Re: Submission of Comments on the Penal Code (Amendment) Bill No. 53 Of 2024

We acknowledge receipt of the call for public participation regarding the Penal Code (Amendment) Bill No. 53 Of 2024.

Please find attached our memorandum with comments on the proposed amendment.

We appreciate the opportunity to contribute to this legislative process and are available for any further discussions or clarifications as needed.

Yours faithfully,

*Anjarwalla & Khanna LLP*  
Anjarwalla & Khanna LLP  
Encl.



Mr. Salim  
Please deal  
~~26/06/25~~  
26/06/25

**ANJARWALLA & KHANNA | ALN KENYA COMMENTS TO THE DEPARTMENT COMMITTEE ON JUSTICE AND LEGAL AFFAIRS ON  
THE PENAL CODE (AMENDMENT) BILL NO. 53 OF 2024**

Clause in the Bill	Current provision in the Bill	Proposed recommendation	Justification and rationale
Section 226	The Penal Code Cap 63 is amended by repealing Section 226.	<p>The current Section 226 should be repealed.</p> <p>Reference to Section 266 in the memorandum of objects and reasons has been made erroneously and should be amended to Section 226.</p>	<p>We propose support for the deletion of Section 26 of the Penal Code on the following additional reasons to those furthered in the memorandum accompanying the Bill.</p> <p>Section 226 of the Penal Code Cap 63 was declared unconstitutional by the High Court of Kenya in <i>Kenya National Commission on Human Rights &amp; 2 others v Attorney General; Director of Public Prosecutions &amp; 3 others (Interested Parties); Law Society of Kenya (Amicus Curiae) (Constitutional Petition E045 of 2022) [2025] KEHC 6 (KLR) (Constitutional and Human Rights) (9 January 2025) (Judgment)</i> since it violates Articles 27, 28 and 43 of the Constitution of Kenya, 2010 (the <b>Constitution</b>).</p> <p>By virtue of Section 2 of the Mental Health Act, a “person with mental illness” is defined as a person diagnosed by a qualified mental health practitioner to be suffering from mental illness and includes– (a) a person diagnosed with alcohol or substance use disorder; and (b) a <u>person with suicidal ideation or behaviour</u>. Therefore, the law recognises that persons with suicidal behaviour are persons suffering from mental illness the criminalisation of which is unconstitutional. Persons with suicidal tendencies are victims of mental illness are incapable of possessing the requisite <i>mens rea</i> to commit offences. Section 226 of the Penal Code offends Article 27 of the Constitution by criminalising a mental health issue thereby endorsing discrimination on the basis of health.</p>

			<p>It also indignifies and disgraces victims of suicide ideation in the eyes of the community for actions that are beyond their control which is a violation of Article 28 of the Constitution. Additionally, it exposes the survivors of suicide and persons with suicidal tendencies to criminal sanction instead of healthcare thereby eroding the right to have the highest attainable standard of health envisaged in Article 43 (1) of the Constitution.</p>
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LAW SOCIETY OF KENYA  
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Tel. +254 111 045 300

① Doc  
&  
22/7/25  
② Abenayo Wasike, HoD  
Place before JAC.  
DM 23/07/25

Ahmed Salim  
Pls bring to the  
attention of Committee  
23/07/25

MEMORANDUM

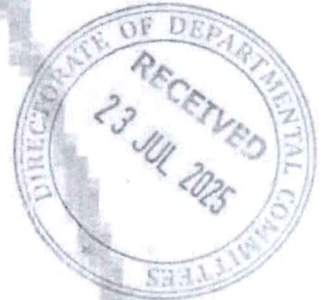
TO

THE NATIONAL ASSEMBLY

ON

THE PENAL CODE (AMENDMENT) BILL NO.53 OF 2024

JULY, 2025



Faith Mony Odhiambo, President Law Society of Kenya

Lavington, opp Valley Arcade,

Gitanga Road P.O Box 72219 - 00200 Nairobi | Kenya

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Email: [president@lsk.or.ke](mailto:president@lsk.or.ke)

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NATIONAL ASSEMBLY  
RECEIVED

21 JUL 2025

CLERK'S OFFICE  
P.O. Box 41842, NAIROBI

## INTRODUCTION.

The Law Society of Kenya is a professional statutory body established under the Law Society of Kenya Act, No. 21 of 2014 with a mandatory membership of all Advocates in Kenya.

The organs of the Society are the General Membership, the Council, the Branches and the Secretariat. The Council is the governing body of the Law Society of Kenya. It comprises a President, a Vice- President and eleven other members, all of whom must be members of the Law Society of Kenya. Council members are elected every two years by the members of the Society by means of a secret ballot conducted in accordance with the Law Society of Kenya Act.

Currently, the Council is comprised of The President, The Vice-president and 11 Council members namely:

- President, Faith Mony Odhiambo
- Vice President, Mwaura Kabata
- General Membership Representatives, Tom K'opere, Teresia Wavinya, Hosea Manwa
- Nairobi Representatives, Gloria Kimani, Irene Otto, Stephen Mbugua
- Up-country Representatives, Vincent Githaiga, Lindah Kiome, Hezekiah Asego, Zulfa Roble
- Coast Representative, Elizabeth Wanjeri
- Secretary/CEO, Florence W. Muturi

One of the statutory objects of the Law Society of Kenya as provided in section 4(a) of the Act is to assist the Government and the courts in all matters affecting legislation in Kenya. Pursuant to this mandate, the LSK submits this memorandum in support of the **Penal Code (Amendment) Bill, National Assembly Bill No. 53 of 2024**, which seeks to delete **Section 226** of the Penal Code (Cap. 63) and thereby decriminalise attempted suicide in Kenya.

## GENERAL COMMENTS.

The principal object of the Penal Code (Amendment) Bill, National Assembly Bill No. 53 of 2024 is to amend the Penal Code to delete section 226 which currently criminalises attempted suicide as a misdemeanour punishable by imprisonment, a fine, or both. The proposed amendment will decriminalise attempted suicide, which is a positive move towards recognising such acts as mental health emergency that require appropriate mental interventions and should not attract criminal liability.

By passing this amendment, Kenya will:

1. Align itself with other countries that have taken steps to reduce the global suicide rate by one third by 2030 in line with the United Nations (UN) Sustainable Development Goals (SDGs) and the World Health Organization (WHO) global Mental Health Action Plan. A push supported by WHO's finding that the criminalisation of suicide and attempted suicide in fact hinders the attainment of SDGs.
2. Promote mental health-based approach, because Individuals who attempt suicide are often in serious psychological distress, suffering from depression, trauma, or hopelessness and criminal sanctions penalise suffering rather than addressing its root causes.
3. Reduce stigma and barriers to help-seeking as suicide prevention requires psychosocial and medical intervention, not prosecution. Criminalisation deters people from seeking help because of fear of arrest or imprisonment while decriminalisation on the other hand encourages early intervention, voluntary treatment, and community-based care.
4. Fulfil its international obligation as a party to treaties such as the Convention on the Rights of Persons with Disabilities (CRPD) and the International Covenant on Civil and Political Rights (ICCPR), which require humane treatment of persons with mental illness. The African Commission on Human and Peoples' Rights also advocates non-punitive responses to mental health crises
5. Align with constitutional considerations including: Article 28 Right to dignity, Article 43(1)(a) Right to the highest attainable standard of health, including

mental health, Article 27 Freedom from discrimination and Article 24 on the standards of limitation of rights.

### **CONCLUSION.**

Decriminalising attempted suicide marks a critical step in recognising the dignity, vulnerability, and humanity of persons in psychological distress. It is a necessary and overdue reform that aligns Kenya's laws with evolving global standards, and the values of the Constitution of Kenya.

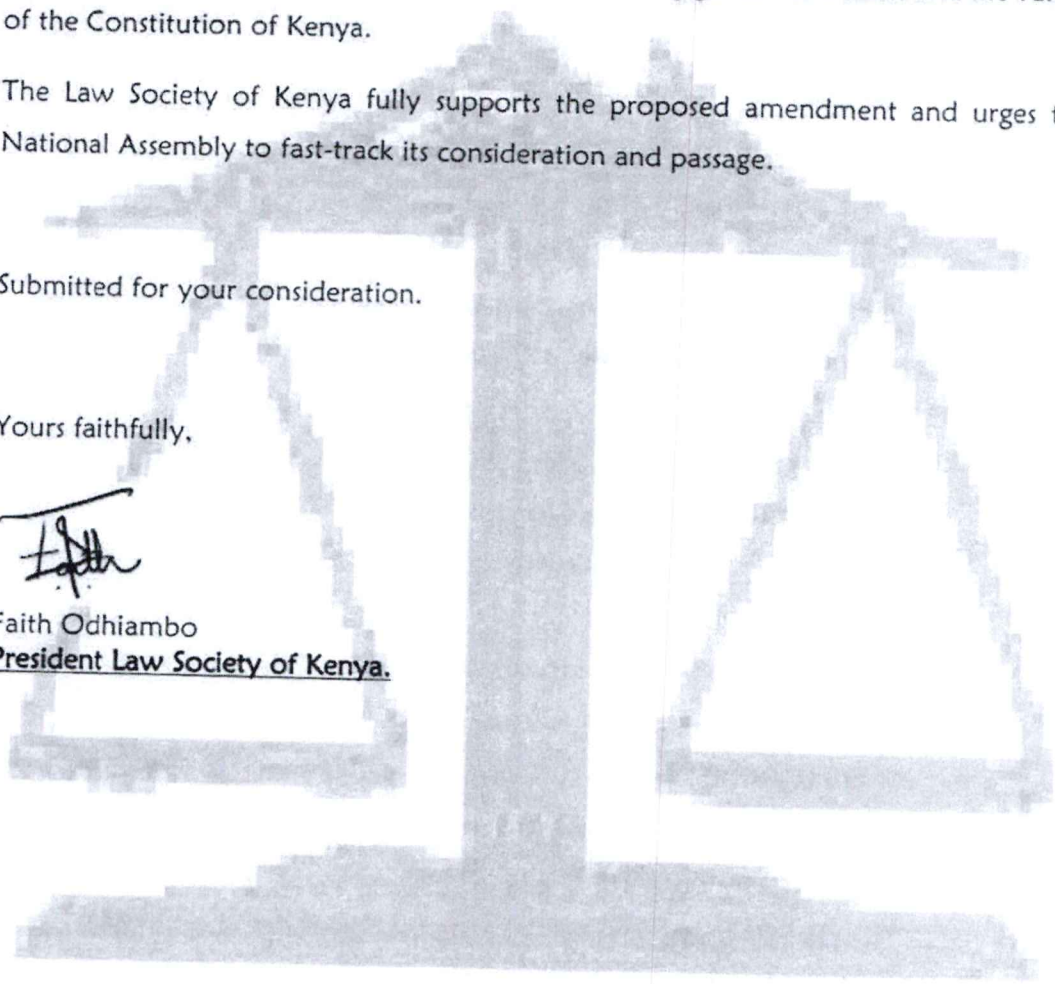
The Law Society of Kenya fully supports the proposed amendment and urges the National Assembly to fast-track its consideration and passage.

Submitted for your consideration.

Yours faithfully,



Faith Odhiambo  
**President Law Society of Kenya.**



*End*

