

REPUBLIC OF KENYA



Paper laid on the table of the House by Sen. Kiligo Juv on 25th June 2015

PARLIAMENT

THE SENATE

ELEVENTH PARLIAMENT

THE STANDING COMMITTEE

ON

LEGAL AFFAIRS AND HUMAN RIGHTS

A REPORT ON PUBLIC HEARINGS ON THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2014

23<sup>RD</sup> FEBRUARY, 2015



Clerk's Chambers,  
First Floor,  
Parliament Buildings,  
**NAIROBI.**

MAY, 2015

② Approved  
~~[Signature]~~  
24/6/15  
SSN

① Hon. Speaker  
You may approve.  
[Signature]  
25/6/15

③ DDLPS  
Schedule for tabling  
[Signature]  
24/06/15

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## ABBREVIATIONS

SEN	Senator
S.O.	Standing Order
TISA	The Institute of Social Accountability

## **PREFACE**

### **Establishment of the Committee**

The Standing Committee on Legal Affairs and Human Rights is established pursuant to the Senate Standing Order 208 and mandated to consider all matters related to constitutional affairs, the organization and administration of law and justice, elections, promotion of principles of leadership, ethics and integrity; and implementation of the provisions of the Constitution on human rights.

### **Membership of the Committee**

The Committee is comprised of the following members;


1. Sen. Amos Wako - Chairperson
2. Sen. Stephen Sang' - Vice Chairperson
3. Sen. Kembi Gitura
4. Sen. Kiraitu Murungi
5. Sen. Fatuma Dullo
6. Sen. Kipchumba Murkomen
7. Sen. Hassan Omar Hassan
8. Sen. Mutula Kilonzo Junior
9. Sen. Judith Sijeny

### **Acknowledgement**

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the conduct of the public hearings. The Committee also expresses its gratitude to members of the public who made submissions, both orally and in writing.

**Mr. Speaker Sir,**

It is my pleasant duty, pursuant to Standing Order 203, to present a Report of the Standing Committee on Legal Affairs and Human Rights on public hearings held on 23<sup>rd</sup> February, 2015, on The Intergovernmental Relations (Amendment) Bill, 2014.

Signed..........

Date.....19/05/2015.....

**SEN. STEPHEN SANG**

**VICE-CHAIRPERSON**

**STANDING COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS.**

## **EXECUTIVE SUMMARY**

The Intergovernmental Relations (Amendment) Bill, 2014 (Sen. Christopher Obure) was read a First Time in the Senate on 3/12/2014. Following the First Reading of the Bill, it stood committed to the Committee on Legal Affairs and Human Rights for facilitation of public participation. Subsequently, the Committee, Pursuant to Article 118 of the Constitution and Standing Order 130 (4), invited submissions from members of the public on the above Bill via an advertisement on the Daily Nation Newspaper on Tuesday, 17<sup>th</sup> February, 2015. The Committee received both oral and written submissions on the Bill during its meeting with the members of public held on 23<sup>rd</sup> February, 2015 in the Shimba Hills Hall, First Floor, Kenya International Conference Centre, Nairobi.

**The Intergovernmental Relations (Amendment) Bill, 2014**

The Intergovernmental Relations (Amendment) Bill is sponsored by Sen. Christopher Obure. Its aim is to amend the Intergovernmental Relations Act No. 2 of 2012, in order to provide for the establishment of County Public Compensation Bureau in every county. The functions of the bureaus shall include receiving all claims for unsettled monetary and non-monetary awards emanating from the residents of the county, ensuring that claims for unsettled awards are supported by the requisite documents and following-up and expediting the processing of claims for unsettled awards with the relevant authorities and agencies.

## **CHAPTER TWO SUBMISSIONS FROM MEMBERS OF THE PUBLIC**

The Committee received submissions on the Intergovernmental Relations (Amendment) Bill, 2014 from the The Institute for Social Accountability (TISA).

### **2.1. Submissions from The Institute for Social Accountability (TISA)**

TISA supported the move to establish intergovernmental forums. However, they raised concern about the cumulative cost of these forums combined with the institutions established under devolved government at both levels. They proposed that allowances payable to any public institution will not exceed 5% of recurrent expenditure in a single financial year.

### **CHAPTER THREE COMMITTEE OBSERVATIONS**

The Committee, at its sitting held on 17<sup>th</sup> March, 2015 observed that the amendments proposed under the Intergovernmental Relations (Amendment) Bill, 2014 should not be domiciled in the Intergovernmental Relations Act No. 2 of 2012, as it does not concern intergovernmental matters. The Committee resolved to invite the sponsor of the Bill, Sen. Chris Obure to a meeting on Tuesday, 24<sup>th</sup> March, 2015. The Committee advised the Sen. Obure to withdraw the Bill, pursuant to Standing Order 145; and he took the Committee's advice.

## **CHAPTER FOUR      COMMITTEE RECOMMENDATIONS**

The Committee upon deliberations recommended that the amendments proposed under the Intergovernmental Relations (Amendment) Bill, 2014 be domiciled in a different Act and not the Intergovernmental Relations Act No. 2 of 2012, as it does not concern intergovernmental matters.

# APPENDICES

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 139 (Senate Bills No. 36)*



REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**SENATE BILLS, 2014**

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**NAIROBI, 12th September, 2014**

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**CONTENT**

Bill for Introduction into the Senate—

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**THE INTERGOVERNMENTAL RELATIONS  
(AMENDMENT) BILL, 2014**

**A Bill for**

**AN ACT of Parliament to amend the  
Intergovernmental Relations Act**

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

1. This Act may be cited as the Intergovernmental Relations (Amendment) Act, 2014.

Short title

2. The Intergovernmental Relations Act, in this Act referred to as the “principal Act”, is amended in section 2 by inserting the following new definitions in the proper alphabetical sequence—

Amendment of  
section 2 of No. 2  
of 2012

“Bureau” means a County Public Compensation Bureau established under section 29A;

“claims for unsettled monetary awards” include claims—

- (a) for retirement benefits;
- (b) for social security benefits;
- (c) relating to accidents or injuries sustained at work places;
- (d) arising from insurance compensation matters;
- (e) for compensation for death, injury or damage occasioned by wildlife;
- (f) emanating from irregular dismissals from employment; and
- (g) in respect of unsettled court awards.

“claims for unsettled non-monetary awards” include claims for which no monetary value is attached to the compensation, such as restitution awards in land disputes; and

“defaulting institution or person” means an institution or person against whom a Bureau has lodged a claim under this Act.

3. The principal Act, is amended by inserting the following new Part immediately after Part III—

Insertion of new part.

**PART IIIA—ESTABLISHMENT OF COUNTY PUBLIC COMPENSATION BUREAUS**

Establishment of public compensation bureaus.

**29A.** There is established, in each county, a County Public Compensation Bureau, which shall comprise—

- (a) the chairperson of the Commission on Administrative Justice or a representative of the chairperson, who shall be the chairperson of the Bureau;
- (b) one person nominated by the Governor of the county who shall be the vice-chairperson;
- (c) one person nominated by the county assembly service board;
- (d) the leader of the majority party or coalition of parties in the county assembly;
- (e) the leader of the minority party or coalition of parties in the county assembly;
- (f) the chairperson of the Maendeleo ya Wanawake organization in the county;
- (g) one representative of the labour movement nominated by the Central Organization of Trade Unions in Kenya;
- (h) one public officer nominated by the Attorney – General;
- (i) one representative of the Kenya National Union of Teachers;
- (j) two persons of either gender nominated by the Bureau to represent the youth and persons living with disabilities; and

new

Functions of the  
Bureaus.

(k) the secretary of the county public service board, who shall be the chief executive officer and the secretary to the Bureau and who shall not have a right to vote.

**29B.** (1) The Bureau shall—

- (a) receive claims for unsettled monetary and non-monetary awards emanating from the residents of the county;
- (b) create a database of the claims received under paragraph (a);
- (c) ensure that all claims for unsettled monetary and non-monetary awards are supported by the requisite documents;
- (d) inquire into complaints of abuse of power, unfair treatment, oppressive or unresponsive official conduct relating to offices of the County Government, the national Government and other State institutions within the county;
- (e) authenticate the claims received and all supporting documents within fourteen days of receipt of the claims;
- (f) follow-up and expedite the processing of the claims for unsettled awards with the relevant authorities and agencies;
- (g) keep the claimants informed of the status of their claims;
- (h) facilitate the resolution of disputes between the claimants and the relevant authorities and agencies; and
- (i) perform any other function that may be conferred by this Act or by any other legislation.

(2) A Bureau shall forward claims to settle a monetary or non-monetary award to the respective person or institution said to have failed or neglected to settle the claim through registered mail or through any other official means.

(3) A Bureau shall have powers equivalent to that of a High Court to summon and enforce the attendance of any person to appear before it to give evidence or to provide information to the Bureau.

Meetings of the  
Bureaus.

**29C.** (1) A Bureau shall meet at least three times a year.

(2) Subject to this Act, a Bureau shall regulate the procedure to be applied to its meetings.

(3) A meeting of a Bureau shall be chaired by the chairperson and in the absence of the chairperson, the vice-chairperson shall chair the meeting.

(4) In the absence of both the chairperson and the vice-chairperson, the members present shall elect a member to chair the meeting.

(5) The quorum for a meeting of a Bureau shall be five members.

Secretariat of  
Bureaus.

**29D.** The secretary of a Bureau shall provide the necessary administrative and technical support to the Bureau.

Reporting by  
Bureaus.

**29E.** A Bureau shall submit an annual report to the Senate, the National Assembly, the Commission on Administrative Justice, the National Treasury, the Attorney-General and the respective county assemblies.

Settlement of claims.

**29F.** (1) Upon receipt of a claim under paragraph (a) of section 29B (1), the Bureau shall issue a notice to the defaulting institution or person, requiring the institution or person to settle the claim within a period of three months.

(2) If at the expiry of the three months under sub-section (1) the defaulting institution or person has not settled the claim, the defaulting institution or person shall be liable—

- (a) in the case of a monetary claim, to a penalty of thirty-six percent per annum of the amount of the claim which shall be paid to the person who lodged the claim; and
- (b) in the case of a non-monetary claim, to imprisonment for a term not exceeding six months and the person shall be deemed to be unfit to hold a public office.

Non-money Bill  
status.

**29G.** (1) For the avoidance of doubt, nothing in this Act is intended to or may be construed as providing for or dealing with—

- (a) taxes;
- (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
- (c) the appropriation, receipt, custody, investment or issue of public money;
- (d) the raising or guaranteeing of any loan or its repayment; or
- (e) matters incidental to any of those matters.

(2) There may be established a fund which shall consist of the monies specified under subsection (3).

(3) Any expenses that may be occasioned in the implementation of this Act shall be provided from—

- (a) such gifts, grants or donations as may be given;
- (b) such monies as may, in the future, be provided by the National Assembly for defraying the

expenses incurred in the implementation of this Act; and

- (c) such other monies that may lawfully accrue in the discharge of the functions under this Act, not being monies accruing pursuant to Article 114 of the Constitution.

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of the Objects and Reasons for the Bill**

The principal object of this Bill is to amend the Intergovernmental Relations Act, No. 2 of 2012, in order to provide for the establishment of a County Public Compensation Bureau in every County. The functions of the Bureaus shall include receiving all claims for unsettled monetary and non-monetary awards emanating from the residents of the County, ensuring that claims for unsettled awards are supported by the requisite documents and following-up and expediting the processing of claims for unsettled awards with the relevant authorities and agencies.

### **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 on how the Bill concerns county governments**

The Bill concerns county governments in terms of Article 110(1)(a) of the Constitution as it contains provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

It establishes County-based Bureaus whose functions are facilitated by the county governments.

### **Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution.**

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 13th August, 2014.

**CHRISTOPHER OBURE,**  
*Chairman,*  
*Senate Ad Hoc Committee on Establishment of Public*  
*Compensation Bureaus.*

*Section 2 of Act No. 2 of 2012 which it is proposed to amend—*

2. In this Act, unless the context otherwise requires—

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to intergovernmental relations;

“competencies” means powers given to a public authority in respect of a specific activity, which is key to ensuring the provision of a public service and includes powers of planning, regulating, setting standards, constructing, financing, managing, monitoring and evaluating, sanctioning or intervening in any way to ensure that a function is discharged;

“Council” means the Council of County Governors established under section 19;

“level of government” means the national and county level of government;

“Secretariat” means the Intergovernmental Relations Secretariat established under section 15;

“Summit” means the National and County Government Co-ordinating Summit established under section 7;

“Technical Committee” means the Intergovernmental Relations Technical Committee established under section 11.

Nairobi | Construction of the road expected to take 36 months

# Outer Ring plot owners seek leeway

The 13km road had an initial width of 38 metres, according to 1960 records

BY DENNIS ODUNGA  
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dodunga@ke.nationmedia.com

Property owners reluctant to cede some of their land towards the expansion of Outer Ring Road risk being locked out of business.

The National Land Commission warned those insisting on compensation to think beyond monetary gains and allow the Kenya Urban Roads Authority to do its work.

NLC Vice-Chairperson Abigail Mbagaya-Mukolwa who was accompanied by commissioners Silas Kinoti and Rose Musyoka said the proposed service and a parking area on the road was important for the future of area residents.

The commissioners spoke yesterday during a review of grants and disposition hearings at the National Hospital Insurance Fund Building.

It follows revelations that some plot owners in Fedha and Tassia Estates had converted them from residential to commercial use.

"When subdivisions were done, the

We are in support of the project and that is why some of us moved up to nine metres from the beacons"

Mbaria Mbugua, a plot owner on Outer Ring Road



FILE | NATION  
A fuel station on Outer Ring Road. Petrol stations and retail businesses are among the enterprises to suffer losses should access points to main roads be closed.

plots were purely residential. There was no access to the main road. Now that you have put up commercial enterprises, it will be to your advantage if you surrender some portions," Mr Kinoti said.

The property owners and their lawyers said they were willing to surrender the seven metres from the road but asked for compensation.

One of them, Mbaria Mbugua, said it is the same government that sold to them the plots yet it knew of plans to expand the road.

"We are in support of the project and that is why some of us moved up to nine metres from the beacons," he said.

Petrol stations and retail business premises are among the enterprises

likely to suffer losses should the government decide to close access points to the main roads while the road is under construction.

The road had a width of 38 metres at the initial design stage in 1960 as per records produced by Kura.

President Uhuru Kenyatta commissioned the road last month and the work is expected to take three years. The 13-kilometre road stretches from the Ruaraka-Thika Road junction to the Taj Mall roundabout in Embakasi.

The Sh8.5 billion project funded by the African Development Bank involves construction of two lanes in each direction, service roads, 10 footbridges, non-motorised pavements and six interchanges.

Nairobi >

# Court orders church to provide water for tenants

BY MAUREEN KAKAH

A man and his two sons who live in a house owned by a church were yesterday granted orders compelling their landlord to supply them with water.

Mr George King'iri Wanjohi and his sons, who are not named in the suit documents but are identified as SWK and IWK, claimed their landlord had denied them the right to water which other tenants have.

Lived for four months

They cited Kiambu's St James Cathedral of the Anglican Church, agents Paragon Property Consultants and the Kiambu County Government as respondents.

High Court judge Roselyn Aburil issued the orders compelling the church and county government to connect water to the house in which Mr King'iri and his sons have lived for four months.

The church and county government were not in court.

"Since the parties have not appeared for inter partes directions, I issue an order compelling the church, its agent and county government to forthwith connect the complainant's house with running water," ruled Justice Aburil.

REPUBLIC OF KENYA



## ELEVENTH PARLIAMENT THE SENATE

### STANDING COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS

#### In the Matter of Consideration of

1. The Intergovernmental Relations (Amendment) Bill, 2014, (Senate Bill No. 36 of 2014)
2. The Office of the County Attorney Bill, 2014, (Senate Bill No. 37 of 2014)
3. The Public Service (Values & Principles) Bill, 2014 (National Assembly Bill No. 29 of 2014)

Article 118 of the Constitution and Standing Order  
130 of the Senate Standing Orders.

### PUBLIC HEARINGS/ RECEIPT OF MEMORANDA

Following the introduction of the above listed Bills in the Senate, the Bills were committed to the Standing Committee on Legal Affairs and Human Rights for consideration pursuant to standing order 130 of the Senate Standing Orders.

Pursuant to the provisions of Article 118 of the Constitution and standing order 130(4) of the Senate Standing Orders, the Standing Committee on Legal Affairs and Human Rights now invites interested members of the public to submit any representations that they may have on the above listed Bills.

The representations may be made orally or by submission of written memoranda in the following manner:

1. Public Hearings shall be held on **Monday, 23<sup>rd</sup> February, 2015 from 9:00 a.m. to 1:00 p.m. in Shimba Hills Hall, First Floor, KICC Building, Nairobi;** or
2. Written Memoranda may be forwarded to the **Clerk of the Senate, P.O. Box 41842-00100, Nairobi,** hand-delivered to the **Office of the Clerk, First Floor, Main Parliament Buildings, Nairobi** or emailed to **cSenate@parliament.go.ke,** to be received **at or before 2.00 p.m., on Monday, 23<sup>rd</sup> February, 2015.**

The Bills may be found on the Parliament website at <http://www.parliament.go.ke/plone/senate>.

**J. M. NYEGENYE, CBS,  
CLERK OF THE SENATE.**



### Invitation to Bidders

#### UGANDA HIGH COMMISSION, NAIROBI, KENYA

1. The Uganda High Commission, Nairobi, Kenya has allocated funds to be used for the acquisition of renovation works for the *Uganda House at Plot No. 209/905/906 Kenyatta Avenue and Standard Street, Nairobi Kenya.*
2. The Entity invites sealed bids from eligible bidders for the provision of the above works.
3. Bidding will be conducted in accordance with the open international bidding method contained in the Government of Uganda's Public Procurement and Disposal Act, 2014 and is open to all bidders.
4. Interested eligible bidders may obtain further information and inspect the bidding documents at the address given below at 8(a) from 8.30am to 4.30pm.
5. The Bidding documents in *English* may be purchased by interested bidders on the submission of a written application to the address below at 8(b) and upon payment of a non-refundable fee of *USD 100.00 only.* The method of payment will be *by cash at the Uganda High Commission (UHC) Office in Nairobi- Kenya.*
6. There shall be a pre-bid meeting at Uganda High Commission Riverside Drive, P.O Box 60853-00200 Nairobi Kenya on the dates indicated in the proposed schedule in this notice.
7. Bids must be delivered to the address below at 8(c) at or before *11.30am on 17<sup>th</sup> March 2015.* All bids must be accompanied by a bid security of *Ksh. 4,200,000.* Bid securities must be valid until *27<sup>th</sup> July 2015.* Late bids shall be rejected. Bids will be opened in the presence of the bidders' representatives who choose to attend at the address below at 8(d) at *12.00 noon on 17<sup>th</sup> March 2015.*
8. (a) Documents may be inspected at: UHC Riverside Drive P.O Box 60853-00200 Nairobi  
(b) Documents will be issued from: UHC Riverside Drive P.O Box 60853-00200 Nairobi  
(c) Bids must be delivered to: UHC Riverside Drive P.O Box 60853-00200 Nairobi  
(d) Address of bid opening: UHC Riverside Drive P.O Box 60853-00200 Nairobi
9. The Planned Procurement Schedule (subject to changes) is as follows:

Activity	Date
a. Publish bid notice	17 <sup>th</sup> February 2015
b. Pre-bidding meeting	24 <sup>th</sup> February 2015
c. Bid closing date	17 <sup>th</sup> March 2015
d. Evaluation process	(Within 40 working days from bid closing date)
e. Display and communication of best evaluated bidder notice	( Within 5 working days from Contracts Committee award)
f. Contract Signature	(After expiry of at least 10 working days from display of the best evaluated bidder notice and Attorney General's approval).

Accounting Officer,  
Uganda High Commission,  
Nairobi, Kenya.

**MINUTES OF THE 8<sup>TH</sup> SITTING OF THE STANDING COMMITTEE ON LEGAL AFFAIRS  
AND HUMAN RIGHTS HELD ON 17<sup>TH</sup> MARCH, 2015 AT 10.00 A.M IN THE BOARDROOM ON  
2<sup>ND</sup> FLOOR, KICC BUILDING**

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**PRESENT**

1. Sen. Stephen Sang - Vice-Chairperson (Chairing)
2. Sen. Hassan Omar Hassan
3. Sen. Fatuma Dullo
4. Sen. Mutula Kilonzo Junior
5. Sen. Kipchumba Murkomen

**ABSENT WITH APOLOGY**

1. Sen. Amos Wako - Chairperson
2. Sen. Kembi Gitura
3. Sen. Kiraitu Murungi
4. Sen. Judith Sijeny

**IN ATTENDANCE**

1. Ms. Judy Ndegwa - Legal Counsel
2. Mr. Mohamed Abdullahi - Committee Clerk
3. Clare Jerotich - Researcher
4. Ms. Carol Kirorei - Committee Clerk

**SENATE**

**MIN. NO. 40/2015**

**PRELIMINARIES**

The Chairperson called the meeting to order at 11.30 a.m., followed by a prayer.

**MIN. NO. 41/2015**

**ADOPTION OF THE AGENDA**

Members adopted the agenda of the sitting after it was proposed by Sen. Dullo and seconded by Sen. Mutula Junior as follows;

**AGENDA**

1. Prayer
2. Adoption of the Agenda
3. Confirmation of previous Minutes
4. Matters arising

5. Consideration and adoption of the Committee Public Hearing Report on the **Intergovernmental Relations (amendment) Bill; Public Service (Values & Principles) Bill; and the Office of the County Attorney Bill.**
6. Consideration of ;
  - **Petition to the Senate by Mr. Wachira Kariuki Musa on unfair & unconstitutional treatment by the Institute of Certified public Accountants of Kenya (ICPAK).**
  - **Message from the Chair on the joint sitting of two committees of the houses of parliament vetting the IG and timelines to report back to the houses of parliament.**
  - **Determination and rescheduling of the work planning retreat.**
7. Any Other Business
8. Date of Next Meeting
9. Adjournment

#### **MIN. NO. 41/2015**

#### **CONFIRMATION OF PREVIOUS MINUTES**

- i. Minutes of the 1<sup>st</sup> sitting of 2015 were confirmed as a true record of the proceedings after being proposed by Sen. Fatuma Dullo and seconded by Sen. Mutula Junior.
- ii. Minutes of the 4<sup>th</sup> sitting of 2015 were confirmed as a true record of the proceedings after being proposed by Sen. Mutula Junior and seconded by Sen. Murkomen.
- iii. Minutes of the 7<sup>th</sup> sitting of 2015 were confirmed as a true record of the proceedings after being proposed by Sen. Hassan and seconded by Sen. Sang.

#### **MIN. NO. 26/2015**

#### **CONSIDERATION OF PUBLIC HEARINGS REPORT**

##### **1. The InternGovernmental relations (Amendment) Bill**

Upon going through the Bill the Committee resolved to postpone the consideration of the report and Bill because the Bureau is an intergovernmental institution by its nature but the subject matter of the Bill is misplaced and could be domiciled in the Unclaimed Assets Act or the NSSF Act but not in the Inter-Governmental Relations Act. The committee therefore, tasked the Secretariat to invite Sen. Chris Obure for a meeting with Committee on Tuesday 24<sup>th</sup> March, 2015.

##### **2. Public Service (Values and Principles) Bill, 2014**

The legal Counsel briefed the committee as follows;

This Bill was referred from the national Assembly in December 2014 and the Senate was in recess. The Bill has a Constitutional deadline of May 2015. The committee proposed the amendments in the 7<sup>th</sup> Sitting as follow;

## ***CLAUSE 7***

**THAT** clause 7 of the Bill be amended by deleting sub-clause (6) and substituting therefor the following new paragraph-

Every public institution shall -

- (a) develop standards for the responsive, prompt, effective, impartial and equitable provision of services;
- (b) facilitate the introduction of modern and innovative procedures, technologies and systems for the delivery of its services;
- (c) simplify its procedures and ease formalities related to access and delivery of its services;
- (d) ensure the adaptability of public services to the needs of users;
- (e) ensure that its services are delivered closer to users; and
- (f) develop mechanism for monitoring and evaluating the effectiveness of public service delivery

**The Committee approved the proposed clause 7**

## ***CLAUSE 8***

**THAT** Clause 8 of the Bill be amended in sub-clause (2) by inserting the words “and accountability” immediately after the words ‘the promotion of transparency’.

**The Committee proposed amendment to include the word “Transparency and Accountability in accordance with the Constitution” immediately after the words ‘the promotion of ’**

## ***CLAUSE 13***

**THAT** clause 13 of the Bill be amended-

(a) by inserting the following new sub-clauses immediately after sub-clause (3)-

- (i) (3A) If after three months, a service Commission has not
- (ii) investigated and determined a complaint, the officer responsible for handling the complaint shall give the complainant, in writing, satisfactory reasons as to why the complaint could not be determined

within the three months.

**The Committee proposed amendment to include the words “expeditiously and not more than 3 months unless there is a satisfactory reasons for not responding within 3 months’ immediately after ‘determined a complaint’**

(3B) Appropriate disciplinary action shall be taken against any officer who is found to have unreasonably delayed in handling a complaint made to the Service Commission.

(b) by deleting sub-clause (4) and substituting therefor the following new clause-

(4) A person aggrieved by the decision of a service Commission may appeal to the High Court.

**The Committee amended clause 13 (4) by substitution the words ‘appeal to High court’ with “seek judicial redress”**

### ***CLAUSE 15***

**THAT** clause 15 of the Bill be amended-

(a) in sub-clause (1) by deleting the word “satisfactory” appearing immediately after the words ‘a public officer to be’ and substituting therefor the words “exemplary, outstanding or innovative”; and

(b) in paragraph (b) of sub-clause (2) by deleting the word “satisfactory” appearing immediately after the words ‘public officers who offer’ and substituting therefor the words ‘exemplary, outstanding or innovative’.

**The Committee approved the proposed clause 15**

**The Committee adopted the Report of the Public Hearing on the Public Service (Values & principles) Bill subject to the amendments above after it was proposed by Sen. Kipchumba Murkomen and seconded by Sen. Sang.**

### **3. The Office of the County Attorney Bill, 2014**

The Legal counsel briefed the Members on the Bill and the Committee then considered the proposed amendments to the Bill as follows:

Clause 3 of the Bill be Amended by deleting the words “Deputy County Attorney” appearing immediately after the word ‘County legal Counsel’ and substituting therefor the words “County Solicitor” the **Committee approved this amendment.**

Clause 4 of the Bill be amended;-

- a) In paragraph (b) of sub-clause (2) by deleting the words “the Deputy County Attorney” and substituting therefor the words “the County Solicitor”; and
- b) In paragraph (c) of sub clause (2) by inserting the word “Board” immediately after the words ‘County Public Service’ **the Committee approved this amendment.**

Clause 5 of the Bill be deleted and substituted with a new clause as follows;

5 the County Attorney shall be appointed from among persons-

- a) With atleast seven years’ experience as an advocate of the High Court of Kenya; and
- b) Who meets the requirements of chapter six of the Constitution.

**The committee approved this proposed amendment.**

**The Committee resolved to postpone the consideration of the report on the Bill until we receive and consider the memoranda by the Association of County Attorneys.**

**MIN. NO. 42/2015**

### **CONSIDERATION OF MESSAGE FROM THE SPEAKER**

The Legal Counsel briefed the Committee as follows;

It was not anticipated the joint departmental committee vetting of the Inspector General of the Police and further the 14 days’ timeline from the notification of the House of Parliament on the nominee within which the Parliament shall either approve or reject a nominee pursuant to Art. 245(2)(a) of the Constitution read together with section 12 of the National Police Service Act and sections 8 and 9 of the Public Appointments (Parliamentary Approval ) Act is too short and the consequence of neither approving nor rejecting with the 14 days’ time frame is the assumption of the Approval of the nominee.

### ***PROPOSALS FOR APPROVAL OF PUBLIC APPOINTMENTS BYBOTH HOUSES OF PARLIAMENT***

As noted by the Speaker of the Senate, the timelines set out in the above provisions of the law do not take into account the dual vetting processes to be undertaken by the approval of both Houses of Parliament.

To resolve this challenge, the options below may be considered by the Committee, for proposal to the House.

#### **OPTION 1:       FORMATION OF AN *AD HOC* JOINT COMMITTEE TO VET A CANDIDATE**

Under this option, upon receipt of the name of a nominee to a public office requiring approval by both Houses, an ad hoc joint Committee comprising a specified number of members from each House.

The Joint Committee would conduct a joint approval hearing and prepare a single report on the suitability of the nominees to be appointed to the office to which the candidate has been nominated.

The report would then be tabled in each House and each House would consider the report and make a decision on the nominee.

If both houses were to approve the nomination, then the nominee would be considered approved for appointment and if both Houses or either House were to reject the nomination, then the nominee would be considered to have been rejected by Parliament.

With this option, the current 14-day period would suffice for purposes of vetting the nominee.

The advantage of this option would be that the report of the joint committee would be a negotiated report and would therefore save on time. The nominee(s) would appear before the one Committee.

On the other hand, the perspectives of the two Houses while vetting the nominee would be lost.

This option would require amendment of the Public Appointments (Parliamentary Approvals) Act and the Standing Orders of Both Houses.

**OPTION 2: SEPARATE VETTING BY EACH HOUSE FOLLOWED BY  
MEDIATION IN CASE OF DIFFERENT CONCLUSIONS**

Under this option, a Committee of each House would conduct an independent approval hearing of the nominee and Table its report in its respective House.

If one House were to reject the approval, then the matter would be referred to a Joint Mediation Committee to consider the nomination.

The Joint Mediation Committee would then table a report in each House. If both Houses or either House were to reject the nomination, then the nominee would be considered to have been rejected by Parliament.

The advantage of this option would be that the different perspectives of both Houses would be preserved. The process would however require more time.

This option would require amendment of the National Police service Act, the Public Appointments (Parliamentary Approvals) Act and the Standing Orders of Both Houses.

**OPTION 3: SEPARATE VETTING BY EACH HOUSE WITHOUT MEDIATION IN CASE OF DIFFERENT CONCLUSIONS**

Under this option, a Committee of each House would conduct an independent approval hearing of the nominee and Table its report in its respective House.

If both Houses or either House were to reject the nomination, then the nominee would be considered to have been rejected by Parliament.

The advantage of this option would be that the different perspectives of both Houses would be preserved. The process would not require more time.

This option would require amendment of the National Police service Act, the Public Appointments (Parliamentary Approvals) Act and the Standing Orders of Both Houses.

**The Committee resolved that the secretariat to prepare a report and recommend option 3 of the proposal, amendment of the standing order of the Senate and the national assembly, and the Directorate of Legal Services draft amendment to the relevant Act of parliaments.**

**MIN. NO. 43/2015 PETITION BY MR. WACHIRA MUSA ON THE UNCONSTITUTION AND UNFAIR TREATMENT BY INSTITUTE OF CHARTERED PUBLIC ACCOUNTANTS OF KENYA (ICPAK)**

The petition was presented and referred to the Committee on 2<sup>nd</sup> October, 2014. The Committee had postponed the consideration of this petition several times due to other urgent legislative business.

The petition has a foreign accounting qualification and has some other relevant courses in Mombasa polytechnic. And applied for registration which ICPAK declined without reasons.

The petitioner further confirm that the matter is not pending before any court of law and therefor prays for the Senate to compel ICPAK to register him and compensate him for lost opportunity and income.

**The Committee resolved to invite the petitioner and ICPAK to a meeting on Monday 23<sup>rd</sup> March, 2015.**

**MIN. NO. 44/2015 ANY OTHER BUSINESS**

**a) Action planning retreat**

The Committee resolved to reschedule its action planning retreat on 27<sup>th</sup> to 30<sup>th</sup> March, 2015 at Whitesands Hotel, or Serena Beach Hotel or Swahili Beach Hotel.

**b) Nomination of delegation to the 54<sup>th</sup> annual AALCO session to be held in Beijing, China from 13<sup>th</sup> – 17<sup>th</sup> April, 2015.**

The Committee nominated Sen. Amos Wako, the Chairperson and either Sen. Kipchumba Murkomen and incase Sen. Murkomen is not available for the trip then Sen. Mutula Kilonzo Junior stands nominated to replace him.

**c) Meeting with the Nandi County Assembly Committee on Justice and Legal Affairs.**

The Committee resolve to invite the Committees on legal Affairs and Human Rights from the following County Assemblies; Nandi, Elgeyo Marakwet, Busia, and Wajir to a meeting on Tuesday 31<sup>st</sup> March, 2015 morning and observation of the Senate plenary session from the gallery in the afternoon.

**d) Allegation of corruption in the Judges and Magistrates Vetting Board by Mr. Tom Musili.**


The Committee resolved to invite Mr. Tom Musili to a closed door meeting scheduled Monday 23<sup>rd</sup> March, 2015.

**MIN. NO. 45/2015**

**ADJOURNMENT**

The Chairperson adjourned the meeting at 12.30p.m.

**SIGNED**

  
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**(CHAIRPERSON)**

**DATE**

\_\_\_\_\_ 19/5/15

**MINUTES OF THE 11<sup>TH</sup> SITTING OF THE STANDING COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON 24<sup>TH</sup> MARCH, 2015 AT 10.00 A.M IN THE BOARDROOM ON 2<sup>ND</sup> FLOOR, KICC BUILDING**

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**PRESENT**

1. Sen. Mutula Kilonzo Junior - (Chairing)
2. Sen. Amos Wako - Chairperson
3. Sen. Hassan Omar Hassan
4. Sen. Fatuma Dullo

**ABSENT WITH APOLOGY**

1. Sen. Stephen Sang - Vice-Chairperson
2. Sen. Kembi Gitura
3. Sen. Kiraitu Murungi
4. Sen. Kipchumba Murkomen
5. Sen. Judith Sijeny

**IN ATTENDANCE**

**SENATORS**

1. Sen. Christopher Obure - Senator for Kissi County and Sponsor of the Bill

**IN ATTENDANCE**

**SENATE**

1. Mr. Mohamed Abdullahi - Committee Clerk

**MIN. NO. 52/2015**

**PRELIMINARIES**

The Chairperson called the meeting to order at 10.30 a.m., followed by a prayer.

**MIN. NO. 53/2015**

**ADOPTION OF THE AGENDA**

Members adopted the agenda of the sitting after it was proposed by Sen. Dullo and seconded by Sen. Hassan as follows;

**AGENDA**

1. Prayer
2. Adoption of the Agenda
3. **Meeting with Sen. Christopher Obure, the sponsor of the Inter-Governmental Relations (Amendments) Bill 2014**
4. Any Other Business
5. Date of Next Meeting
6. Adjournment

**MIN. NO. 54/2015**

**THE INTER-GOVERNMENTAL RELATIONS  
(AMENDMENTS) BILL 2014**

The Chair called upon the Secretariat to brief the Committee. Upon invitation the Committee Clerk informed the Committee that the Public hearing report of the Inter-Governmental Relations (Amendments) Bill 2014 is due for tabling but in the Committee in its 8<sup>th</sup> Sitting resolved that the Bill is creates an inter-governmental structure but the subject matter is not Inter-governmental in nature hence the need to either domicile the amendment Bill in a more relevant Act such the Unclaimed Assets Act or publish as an standalone Bill. In either the case the sponsor of the Bill or the Chair if it is a committee can withdraw the Bill at any stage with the permission of the Speaker pursuant to standing order 145.

The chair informed the Senator that the establishment of the Compensation Bureau is a very good idea and Art 189 of the Constitution distilled functions between the levels of Government.

Sen. Obure informed the committee that the Bill was a result of the Ad hoc Committee on Royalties tabled in the house. Kenya from all walks of life are award damages and compensation by the Government every day and they don't get their dues in good time or they don't get at all reason being that most of the beneficiaries come from far flank County and they cannot travel to Nairobi to claim their damages. It is therefore, agreeable to withdraw the Bill and introduced as a separate Bill and not an amendment of a principal Act.

After deliberations the Committee resolved that the Sponsor of the Bill, Sen. Obure to withdraw the Bill before it is read a second time.

**MIN. NO. 55/2015**

**ANY OTHER BUSINESS**

There being no any other business the Committee resolved to adjourn the meeting.

**MIN. NO. 56/2015**

**ADJOURNMENT**

The Chairperson adjourned the meeting at 11.45p.m.

**SIGNED**



**DATE**

19/5/15

**(CHAIRPERSON)**

**MINUTES OF THE 14<sup>TH</sup> SITTING OF THE STANDING COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON WEDNESDAY, 6<sup>TH</sup> MAY, 2015 AT 11.00 A.M IN THE SMALL BOARDROOM ON 4<sup>TH</sup> FLOOR, KICC BUILDING**

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**PRESENT**

1. Sen. Stephen Sang - Vice Chairperson (Charing)
2. Sen. Judith Sijeny
3. Sen. Kembi Gitura
4. Sen. Fatuma DulloSen.
5. Sen. Kipchumba Murkomen
6. Sen. Kiraitu Murungi

**ABSENT WITH APOLOGY**

1. Sen. Amos Wako -Chairperson
2. Sen. Mutula Kilonzo Junior
3. Sen. Hassan Omar Hassan

**IN ATTENDANCE**

1. Ms. Gloria Wawira
2. Ms. Caroline Kirorei
3. Ms. Claire Kidombo
4. Ms. Judy Ndegwa

**SENATE**

- Committee Clerk
- Committee Clerk
- Research officer
- Legal Counsel

**MIN. NO. 65/2015**

**PRELIMINARIES**

The Chairperson called the meeting to order at 11.00 a.m., followed by a prayer.

**MIN. NO. 66/2015**

**ADOPTION OF THE AGENDA**

Members adopted the agenda of the sitting after it was proposed by Sen. Judith Sijeny and seconded by Sen. Fatuma Dullo as follows;

**AGENDA**

1. Prayer
2. Adoption of the Agenda
3. Consideration and adoption of reports
  1. *Report on public hearings on The Intergovernmental Relations (Amendment) Bill, 2014 and The Office of the County Attorney Bill, 2014*
  2. *Report to Hon. Jeremiah Kioni on the Petition on the boundary dispute between Laikipia and Nyandarua counties*

3. *Report on petition on the alleged unfair, discriminatory and unconstitutional treatment of Mr. Wachira Kariuki Musa by ICPAK*
4. Any other Business
5. Date of Next Meeting
6. Adjournment

#### MIN. NO. 67/2015      CONSIDERATION OF REPORTS

##### **1. Report on public hearings on The Intergovernmental Relations (Amendment) Bill, 2014 and The Office of the County Attorney Bill, 2014**

The Committee considered the report and made the following recommendations.

- i.) That each bill have a separate report prepared for it.
- ii.) *Clause 7 of the office of the County Attorney Bill 2014*

**Proposal:** That 7 (c) and 7 (g) be merged

**Agreed to**

**Proposal:** That in 7 (i) the word 'shall' be replaced with 'may'

**Agreed to**

The Committee adopted the Report.

##### **2. Report to Hon. Jeremiah Kioni on the Petition on the boundary dispute between Laikipia and Nyandarua counties.**

The Committee considered the report and resolved that the matter would be addressed through the motion moved by Sen, Mutula Kilonzo Jr to create a Commission to address boundary dispute in Kenya.

The Committee adopted the Report.

##### **3. Report on petition on the alleged unfair, discriminatory and unconstitutional treatment of Mr. Wachira Kariuki Musa by ICPAK**

The Committee considered the report and resolved that the matter is *sub judice* and therefore it could not be considered by the Committee.

#### MIN. NO. 68/2015                      ANY OTHER BUSINESS

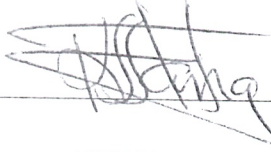
There being no any other business the Committee resolved to adjourn the meeting.

MIN. NO. 69/2015

ADJOURNMENT

The Chairperson adjourned the meeting at 11.45p.m.

SIGNED



DATE

9/5/15

(CHAIRPERSON)