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REPUBLIC OF KENYA

THE SENATE

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THIRTEENTH PARLIAMENT | FOURTH SESSION

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

PARLIAMENT
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LIBRARY

REPORT ON THE CULTURE BILL, 2024
(NATIONAL ASSEMBLY BILLS NO. 12 OF 2024)

PAPERS LAID	
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CLERK AT THE TABLE	Angela

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Clerk's Chambers,
The Senate,
Parliament Buildings,
NAIROBI.

SEPTEMBER, 2025

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LIST OF ABBREVIATIONS/ACRONYMS

AI	Artificial Intelligence
AU	African Union
CEWG	Creative Economy Working Group
CMOs	Community Management Organisations
DCI	Directorate of Criminal Investigations
INTERPOL	International Police
IP	Intellectual Property
IPLCs	Indigenous Peoples and Local Communities
IPRS	Intellectual Property and Rights
NATHEPA	National Traditional Medicine Practitioners Association
NEMA	National Environment and Management Authority
NGEC	National Gender and Equality Commission
PWDs	Persons with Disabilities
SANS	South African National Society (SANS)
SMS	Short Message Service
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization.
WIPO	World Intellectual Property Organization

PRELIMINARIES

Establishment and Mandate of the Committee

The Standing Committee on Labour and Social Welfare is established pursuant to standing order 228 of the Senate Standing Orders. The Committee is mandated to consider all matters related to manpower and human resources planning, pensions, gender, culture, social welfare, youth affairs, the National Youth Service, children's welfare, national heritage, betting, lotteries, sports, public entertainment, public amenities, and recreation.

The Committee oversights four ministries as follows –

1. The Ministry of Labour and Social Protection;
    a) State Department for Labour and Skills Development; and
    b) State Department for Social Protection and Senior Citizens Affairs.
2. The Ministry of Public Service, Human Capital Development and Special Programs;
    a) State Department for Public Service and Human Capital Development; and
    b) State Department for Special Programs.
3. The Ministry of Youth Affairs, Creative Economy and Sports;
    a) State Department for Youth Affairs and Creative Economy; and
    b) State Department for Sports.
4. The Ministry of Gender, Culture and Children Services;
    a) State Department for Gender Affairs and Affirmative Action;
    b) State Department for Culture, the Arts and Heritage; and
    c) State Department for Children Services.

The Committee also oversights the following institutions under the State Department for Public Investments and Assets Management in the National Treasury -

a) The department of pension;
b) The Retirement Benefits Authority;
c) The Local Authorities Provident Fund;

d) Public Service Superannuation Scheme; and

e) The Civil Servants Accident Claim Fund.

The Committee also oversights the following Commissions and State Corporations –

a) The Public Service Commission;

b) The Salaries and Remuneration Commission;

c) National Gender & Equality Commission;

d) The Commissioner of Sports & Sports Registrar; and

e) Permanent Presidential Music Commission.

Membership of the Committee

The Committee membership is as follows –

1. Sen. Julius Recha Murgor, CBS, MP - Chairperson
2. Sen. Crystal Kegehi Asige, MP - Vice Chairperson
3. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP - Member
4. Sen. Erick Okong'o Mogeni, SC, CBS, MP - Member
5. Sen. Alexander Munyi Mundigi, MP – Member
6. Sen. Joe Nyutu, MP - Member
7. Sen. Lenku Seki Ole Kanar, MP - Member
8. Sen. Miraj Abdullahi Abdulrahman, MP - Member
9. Sen. Beth Syengo MP - Member

CHAIRPERSON'S FOREWORD

The Culture Bill, 2024 (National Assembly Bills No. 12 of 2024) was passed by the National Assembly on 12th June, 2025 and subsequently transmitted to the Senate. The Bill was read a First Time in the Senate on 16th July, 2025 and referred to the Standing Committee on Labour and Social Welfare to facilitate public participation and consider the views and recommendations of the public when it submits its report to the Senate.

Hon. Speaker,

Pursuant to Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committee published an advertisement in the Daily Nation and Standard Newspapers on Thursday, 24th July, 2025 inviting members of the public to submit written memoranda to the Committee on the Bill. The advertisement was also posted on the Parliament website and social media platforms. Following the call for submissions, the Committee received written memoranda from stakeholders. The Committee held a public hearing session with targeted stakeholders and members of the Public on Thursday, 7th August, 2025.

The Committee proceeded to consider the Bill extensively and observed that the Bill represents a fundamental constitutional mandate to protect Kenya's cultural heritage and ensure community compensation. The Bill's comprehensive approach in establishing national cultural databases, creating compensation mechanisms for community cultural use, setting up permit systems for research and export and criminalizing cultural theft and misappropriation, provides the foundational legal architecture that has been missing in Kenya's cultural governance landscape.

Without this Bill, communities remain vulnerable to unchecked biopiracy, cultural appropriation and exploitation of their traditional knowledge systems, while county governments operate without synchronized frameworks, potentially leading to conflicting policies and weakened protection. However, the Bill requires fundamental restructuring

specially from state-centric to community-centered governance to truly fulfil its mandate of recognizing communities as primary cultural custodians rather than subjects of regulation.

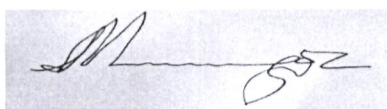
The Committee recommends that the Bill be passed without any amendments.

Hon. Speaker,

I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the Bill successful. I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this assignment.

Hon. Speaker,

It is now my pleasant duty, pursuant to standing order 148 (1) of the Senate Standing Orders, to present the Report of the Standing Committee on Labour and Social Welfare on the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024).



Signed ..... **Date: Tuesday, 16th September, 2025**

SEN. JULIUS RECHA MURGOR, CBS, MP

CHAIRPERSON, STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

CHAPTER ONE: INTRODUCTION

1.0 BACKGROUND INFORMATION

1. The Culture Bill, 2024 (National Assembly Bills No. 12 of 2024) was passed by the National Assembly on 12th June, 2025 and subsequently referred to the Senate. The Bill was read a First Time in the Senate on 16th July, 2025 and referred to the Standing Committee on Labour and Social Welfare to facilitate public participation to consider the views and recommendations of the public when it submits its report to the Senate.

2. In accordance with the provisions of Article, 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committee invited interested members of the public to submit any representations that they may have on the Bill by way of written memoranda. The invitations were made vide advertisements which appeared in the Star and the Daily Nation Newspapers on Thursday, 24th July, 2025. Further, the Committee scheduled a public hearing with targeted stakeholders and members of the public on Thursday, 7th July, 2025.

1.1 OVERVIEW OF THE BILL

3. The Bill seeks to give effect to Article 11 of the Constitution by promoting all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, mass media, publications and other aspects of cultural heritage. The Bill further seeks to ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage and also provides a clear framework to guide national cultural development.

4. The Bill is divided into four parts consisting of 33 clauses and one schedule. The following are the key highlights of the bill.

1.1.1 Key definitions in the Bill

5. The Bill provides comprehensive definitions of key terms including –

    a) **Culture** – this is defined to mean the set of distinctive spiritual, material, intellectual and emotional features of a community or social group, including lifestyle, social interactions, value systems, traditions and beliefs, language, ideas, customs, codes, institutions, works of art, rituals and ceremonies;

b) **Cultural property** – means property which, on religious or secular grounds, is specifically designated as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to the following categories: rare collections; products of archaeological excavations; elements of artistic or historical monuments; buildings and architectural designs; objects of ethnological interests; original works of art and engravings; rare manuscripts; archives; articles of furniture; and musical instruments;
c) **Cultural heritage** –- includes tangible cultural heritage (movable, immovable, underwater), intangible cultural heritage, natural heritage with cultural aspects, and heritage in armed conflict; and
d) **National Expressions** — means expressions that have cultural content with national resonance that result from creativity of individuals, groups or societies.

1.1.2 Roles of the National Government in the Bill

6. The Bill provides for the roles of the Cabinet Secretary as –

a) development of national policies, regulations and standards on cultures and cultural heritage;
b) promotion of diverse cultures, cultural heritage and cultural expressions including protection, safeguarding, preservation, conservation and rehabilitation;
c) monitoring compliance with standards and regulations concerning culture and cultural heritage;
d) management of national cultural institutions established by or under the control of the national government;
e) prescribing regulations and standards to guide cultural databases and development of county cultural facilities;
f) implementing bilateral and multilateral agreements on culture;
g) promoting national values, social cohesion and national identity; and
h) performing any other function as may be necessary for the purposes of the Act.

1.1.3 Roles of county governments in the Bill

7. The County governments in their part, shall –

a) promote, protect and manage cultural activities and facilities as well as public entertainment and infrastructure for culture and cultural heritage at the county level in line with national policy;

b) enact county policies and laws for the promotion of cultural activities and facilities;
c) promote cultural activities, public entertainment and infrastructure for cultural heritage and cultural expression at the county level; and
d) develop and manage a county database of cultural activities.

1.1.4 Institutional measures for cultural management

8. The Bill establishes a comprehensive cultural database system where –

a) the Cabinet Secretary, in consultation with county governments, shall establish and maintain a database on culture and heritage including registered cultural practitioners, groups and associations;
b) the Cabinet Secretary shall develop a system for collecting and preserving information on culture and cultural heritage; and
c) the Cabinet Secretary shall prescribe standards for compatibility with the national database and data to be submitted by county governments.

1.1.5 Compensation for use of cultural heritage

9. The Bill provides for compensation mechanisms where –

a) the Cabinet Secretary shall, in consultation with relevant stakeholders and county governments, establish mechanisms for determination and payment of compensation or royalties to communities for use of their culture and cultural heritage;
b) determination of compensation shall consider factors including economic and cultural value, impact on community economy, type of use, derivative works, state investment, environmental effects, and potential for large-scale use;
c) the share of royalties between government levels, communities and individuals shall be prescribed by regulations;
d) the Cabinet Secretary shall establish registers of cultural property and cultural practitioners, groups and associations; and
e) the Cabinet Secretary shall also prescribe regulations to combat illicit trafficking of cultural property.

1.1.6 Exceptions to compensation requirements

10. The Bill provides exceptions where compensation may be exempted or limited in the public interest for –

    a) non-commercial use including teaching, research, exhibition, reporting current events, and judicial proceedings;
    b) use that doesn't restrict normal community usage, development, exchange, or transmission of cultural heritage; and
    c) recording or reproduction in public archives for safeguarding purposes.

1.1.7 Registration requirements under the Bill

11. The Bill provides for a complementary two-tier registration system –

    a) persons wishing to register cultural properties may either apply to county government or to the Cabinet Secretary in the prescribed manner;
    b) registration shall be granted where the property historically belongs to the applicant community, is not subject to ownership controversy, complies with identification criteria, and registration serves public interest;
    c) the Cabinet Secretary shall consult relevant county governments before registration; and
    d) county governments must notify the Cabinet Secretary of registrations for inclusion in the national database.

1.1.8 Provisions for research and export of cultural property

12. The Bill establishes permit systems for –

    a) **Research** - persons desiring to conduct research on cultural property in the national database must apply to the Cabinet Secretary, who shall consult property owners before determination; and
    b) **Export/Import/Transfer** - persons, communities or social groups wishing to loan, export, import or transfer cultural property must apply to the Cabinet Secretary, who shall consider security, spiritual/cultural value, fragility, rarity, economic value, insurance, loaning period, and international treaties.

1.1.9 Protection measures provided for cultural heritage

13. The Bill provides comprehensive protection through –

a) power for the Cabinet Secretary to prescribe cultural property that cannot be sold or exported;
b) regulations for promotion and protection of endangered cultural expressions;
c) restrictions on interference with archaeological heritage without proper permits;
d) prohibition of activities that would unreasonably endanger cultural heritage; and
e) seizure provisions for cultural heritage recovered without permits, stolen, imported/exported without permits, or unlawfully transferred.

1.1.10 Offences created under the Bill

14. The Bill outlines several offences including –

a) **General offences** - stealing, wrongful possession, selling without permit, trafficking, forgery, fraud, damaging cultural expressions, failing to report danger, exporting without permit, unauthorized removal (penalty: fine up to 1,000,000/= shillings or 5 years imprisonment, or to both);
b) **Non-compliance with registration conditions** (penalty: fine up to 50,000 /= shillings or 6 months' imprisonment or to both);
c) **Research without permit** (penalty: fine up to 1,000,000/= shillings or 2 years imprisonment);
d) **Loaning without permit** (penalty: fine up to 200,000 shillings or 2 years imprisonment or to both);
e) **Intentional damage/destruction of inventoried cultural property** (penalty: 5,000,000 /= shillings or to 5 years imprisonment or to both);
f) **Counterfeiting and misrepresentation** (penalty: fine up to 500,000 shillings or 5 years imprisonment);
g) **Using images without consent** (penalty: fine up to 200,000 shillings or 2 years imprisonment);
h) False information (penalty: fine up to 50,000 shillings or 6 months imprisonment); and
i) Obstructing officers (penalty: fine up to 50,000 shillings or 6 months imprisonment).

1.1.11 National cultural institutions covered

15. The Bill's Schedule lists national cultural institutions to be managed by the National Government -
    a) Kenya Cultural Centre;
    b) National Libraries;
    c) National Museums of Kenya; and
    d) Kenya National Archives and Documentation Service.

1.1.12 Funding

16. While the Bill does not establish a specific fund, it provides for –
    a) publication of schedules of levies, charges or fees in the Gazette;
    b) payment of prescribed fees for registration and other services; and
    c) the Memorandum notes that enactment may occasion additional expenditure of public funds.

1.1.13 Transitional provisions

17. The Bill includes transitional provisions ensuring -
    a) existing licenses and permits remain valid as if issued under the new Act;
    b) existing inventories and registers continue to be valid;
    c) existing agreements between government and other persons regarding cultural protection continue to bind parties; and
    d) agreements contravening the new Act become null and void to the extent of contravention.

1.1.14 Powers delegated under the Bill

18. The Bill delegates legislative powers to the Cabinet Secretary to make regulations for -
    (a) prescribing information to be captured in registers;
    (b) prescribing forms under the Act;
    (c) prescribing criteria for identification of cultural property;
    (d) prescribing manner of loaning cultural property;
    (e) prescribing standards for maintenance, presentation and storage of cultural objects;
    (f) prescribing compensation and royalty payments;
    (g) prescribing research relating to culture; and
    (h) generally, for better carrying out the Act's purposes.

1.2 SITUATIONAL ANALYSIS

19. Following independence, Kenya's culture management was characterized by a centralized approach that oftenmarginalized indigenous knowledge systems. The colonial legacy of viewing African culture through a Western lens persisted, with institutions like the National Museums of Kenya primarily serving as repositories rather than living cultural centers. This period saw the establishment of cultural institutions but limited community participation in cultural governance.

20. The promulgation of Kenya's 2010 Constitution marked a paradigm shift in culture management. Article 11 mandated the state to promote all forms of national and cultural expression while ensuring communities receive compensation for the use of their cultural heritage. This constitutional provision recognized culture as a fundamental right and established the foundation for devolved cultural governance.

21. The Constitution mandated County governments to keep custody and promote cultural activities, leading to the establishment of cultural policies, community cultural centers, museums, and art galleries at the county level. This devolution represented a radical departure from the centralized colonial model, attempting to restore cultural ownership to communities.

22. The journey from colonial cultural management to the current framework reflects Kenya's broader democratization process, with the Culture Bill 2024 potentially serving as the legislative capstone to this transformation.

23. Culture represents one of the most complex and multifaceted concepts in human understanding, encompassing the totality of learned human behavior and meaning-making systems. To fully comprehend culture, Edward B. Tylor established the first formal anthropological definition of culture in his seminal work "Primitive Culture" (1871), defining it as "that complex whole which includes knowledge, belief, art, morals, law, custom, and any other capabilities and habits acquired by man as a member of society".[1]
24. Modern anthropologists have identified seven basic elements that are critical to any theory of culture: Culture is learned; Culture uses symbols; Cultures are dynamic, always adapting and changing; Culture is integrated with daily experience; Culture

[1] Tylor, E. B. (1871). Primitive culture: Researches into the development of mythology, philosophy, religion, language, art, and custom (Vols. 1–2). London: John Murray.

shapes everybody's life; Culture is shared; Understanding culture involves overcoming ethnocentrism.

25. UNESCO approaches culture as encompassing "the whole complex of distinctive spiritual, material, intellectual and emotional features that characterize a society or social group," including not only arts and literature but also "ways of life, the fundamental rights of the human being, value systems, traditions and beliefs."

26. As referenced in the Culture Bill 2024 comprehensively Culture being "the set of distinctive spiritual, material, intellectual and emotional features of a community or social group, including lifestyle, social interactions, value systems, traditions and beliefs, language, ideas, customs, codes, institutions, works of art, rituals and ceremonies." This definition reflects contemporary understanding by encompassing both tangible and intangible elements while emphasizing the holistic nature of cultural systems.

27. Culture may serve several critical functions such as –

    a) Identity: Providing individuals with a sense of belonging and self-understanding
    b) Meaning Creation: Offering frameworks for interpreting experience and existence
    c) Social Coordination: Establishing norms and expectations that enable group cooperation
    d) Knowledge Transmission: Preserving and passing on accumulated wisdom and skills
    e) Adaptation: Enabling human groups to adjust to diverse environments and circumstances
    f) Innovation: Providing the foundation for creative expression and problem-solving

1.3 LEGISLATIVE FRAMEWORK AND LEGAL COHERENCE ANALYSIS

28. The Bill is a strategic mosaic weaving multiple statutes into a coherent framework for modern Kenyan culture and heritage management. The below two tables show how the Culture Bill, 2024 interrelates with Kenya's broader legal and policy ecosystem.

1.3.1 Key Legislative Instruments and Statues

Act / Instrument	Connection to the Culture Bill, 2024
Constitution of Kenya, 2010	Anchors the Bill under Article 11 (culture as foundation of the nation) and Schedule 4, which allocates cultural matters to both national and county governments.
National Museums and Heritage Act, 2006	The Act focuses on physical heritage however, the Culture Bill looks at holistic heritage preservation. Its functions are redistributed to newly created institutions and devolved structures for a modernized, participatory heritage framework. Adds intangible and living heritage (arts, crafts, ceremonies)
Protection of Traditional Knowledge and Cultural Expressions Act, 2016	Aligns with provisions on recognition, consent, and benefit-sharing for communities whose intangible heritage or traditional knowledge is used.
Community Land Act, 2016	Intersects through community-held cultural sites, shrines, and landscapes—ensuring community rights and cultural continuity in land governance.
Environmental Management and Coordination Act (EMCA)	Supports the integration of cultural landscapes and sacred sites into broader environmental conservation strategies. Collaboration between NEMA and the Cultural Authority will be crucial in harmonizing environmental and cultural governance, especially in land-use planning, community rights, and sustainable development.

Basic Education Act, 2013	Enables the integration of cultural studies into basic education curricula; supports cultural literacy from early education levels.
Universities Act, 2012	Strengthens links between higher learning institutions and cultural research, documentation, and innovation through partnerships and funding.
Science, Technology and Innovation (STI) Act, 2013	Aligns with the Bill's support for cultural research, preservation technologies, digital archiving, and the promotion of cultural innovation ecosystems.
Copyright Act, 2001	Intersects with protection of creative and artistic works, especially community-generated content and performances.
Creative Economy Framework & Creative Economy Act (Draft 2024)	Closely connected through shared objectives of monetizing culture, protecting creators, and growing the cultural industries sector.
WIPO (World Intellectual Property Organization) Agreements	The Bill aligns with Kenya's obligations under WIPO treaties, especially around protection of folklore, cultural expressions, and traditional knowledge.
County Governments Act, 2012	Guides devolution of cultural services—counties are assigned mandates for museums, registries, and heritage conservation in the Bill.
Kenya Cultural Centre Act	Reinforced under national cultural infrastructure policy, particularly in regard to hubs, festivals, and training spaces.
Kenya National Library Service Bill, 2023	Integrates cultural literacy and documentation at the county level through coordinated library and archival development.
Creative Economy Support Bill, 2024	Tied through grants, incentives, and legal support to artists, performers, and culture-based enterprises.

Films and Stage Plays Act	Engaged indirectly through regulation of performance spaces, festivals, and use of cultural expressions in media.
Kenya Heroes Act, 2014	Complements provisions recognizing cultural icons and their contributions to national identity.
UNESCO Conventions (e.g. 2003 ICH, 1972 WHC)	The Bill reflects international obligations to safeguard intangible and tangible heritage, as outlined by UNESCO cultural conventions Kenya has ratified.

1.3.2 Key Policies frameworks

Policy / Framework	**Relevance to the Culture Bill, 2024**
Kenya Vision 2030	Anchors culture as a key component of the social and political pillars—recognizing heritage, arts, and creativity as drivers of national pride and economic growth.
National Culture and Heritage Policy (2009)	Forms the foundational policy being updated and legislated; the Bill concretizes and enforces many of its broad principles through structured institutions and devolved roles.
Sessional Paper No. 1 of 2006 on Cultural Policy	The Bill is a direct legislative response to this policy, aiming to modernize and harmonize the fragmented cultural governance landscape.
National Policy on Traditional Knowledge, Genetic Resources and Folklore	Closely linked in the Bill's recognition of community ownership, prior informed consent, benefit-sharing, and safeguarding intangible cultural assets.
National Education Sector Strategic Plan (NESSP)	Reinforces the inclusion of culture and heritage in formal education curricula and learning environments, especially within competency-based frameworks.

Kenya National Digital Master Plan (2022–2032)	Intersects through the digitization of cultural content, archives, and knowledge systems—aligning with the Bill's provisions on digital culture and innovation.
National Museums of Kenya Strategic Plan	The Bill expands and repositions NMK within a broader cultural infrastructure framework, including decentralization and collaboration with counties.
National Land Policy (2009)	Ties in through protection of cultural landscapes, sacred sites, and historical territories especially under community and trust land governance.
National Environment Policy (2013)	Overlaps with the Bill's focus on cultural landscapes, indigenous knowledge systems, and integration of heritage in environmental impact planning.
National Industrialization Policy Framework	Connects via the creative economy and cultural industries agenda—using culture to create jobs, IP, and domestic products with global reach.
Creative Economy Policy (Draft 2022–2024)	The Bill reinforces this policy's agenda to formalize, finance, and protect creatives, especially in music, fashion, crafts, film, and cultural tourism.
National Gender and Equality Policy	Promotes inclusive cultural participation—particularly in ensuring that women, youth, and marginalized communities are protected and empowered in cultural spaces.
Youth Development Policy (2019)	The Bill aligns by nurturing youth cultural expression, skills development, and enterprise through county and national cultural institutions.
National Social Protection Policy	Recognizes cultural practitioners—especially aging artists, knowledge holders, and custodians—as a vulnerable group deserving social welfare and recognition.

UNESCO 2003 Convention on Safeguarding Intangible Cultural Heritage	Embedded in the Bill's frameworks for community recognition, safeguarding practices, rituals, languages, oral traditions, and transmission systems.
UNESCO 2005 Convention on Cultural Diversity	The Bill enshrines principles of cultural pluralism, supporting diverse expressions through legislation, funding, and policy safeguards.
UNESCO 1972 World Heritage Convention	Aligns with the identification, protection, and sustainable use of tangible heritage—including world heritage sites like Lamu, Lake Turkana, and sacred forests.
AU Agenda 2063	The Bill echoes continental calls to decolonize heritage, empower African cultures, and promote creative economies as central to inclusive growth.
WIPO Development Agenda	Supports community control, IP rights, and benefit-sharing in line with WIPO's framework on traditional knowledge and genetic resources.
UN Sustainable Development Goals (SDGs)	Touches on multiple goals—especially SDG 4 (education), SDG 11 (inclusive cities and cultural heritage), SDG 8 (decent work and creative industries), and SDG 16 (inclusive societies).

1.3.3 Policy Issues and Gaps

29. The following are the policy issues and gaps –

    a) **Weak Compensation Framework:** Royalty-sharing mechanisms lack specificity, and broad exemptions for "public interest" use may undermine fair community benefits.
    b) **Centralization Risks:** Excessive rule-making power vested in the Cabinet Secretary contradicts devolution principles, side-lining county autonomy.
    c) **Funding Gaps:** No dedicated fund for implementation, relying on ad hoc fees, risking under-resourcing at county levels.

d) **Enforcement Challenges:** Harsh penalties for offenses lack clarity on enforcement capacity, especially for illicit trafficking and county-level compliance.
e) **Regulatory Fragmentation:** Fails to harmonize with existing laws (e.g., Heritage Act, IP laws), creating potential conflicts and inefficiencies.
f) **Community Consent Ambiguity:** No clear process for obtaining community approval before commercializing cultural heritage, risking exploitation, and
g) **Data Management Risks:** National database system lacks safeguards against misuse of sensitive cultural information.

30. **Other concerns include the failure by the Bill** to address the critical need for transparent, community-driven Collective Management Organizations (CMOs) to handle royalties, risking the same inefficiencies, corruption, and exclusion seen in Kenya's music and arts sectors, leaving communities vulnerable to exploitation despite compensation promises.

31. There's also a notable silence on climate-linked cultural loss, despite growing threats to coastal, pastoralist, and forest-based cultural assets from environmental degradation.

32. Notably, the Bill advances a digital culture agenda but does not adequately address data sovereignty, digital ethics, or intellectual property in AI-driven cultural spaces. In education, though cultural inclusion is encouraged, the alignment with curriculum reforms is still rhetorical, lacking real mandates or resourcing guidelines for integration at both basic and tertiary levels.

33. Finally, the creative economy gets applause, but without tax incentives, IP security, or funding ecosystems, artists remain hustlers, not entrepreneurs. The Bill speaks of inclusivity, but offers no structural answers to gendered erasure, urban bias, or generational disconnects.

1.4 COMPARATIVE ANALYSIS

34. South Africa offers a compelling model of how a devolved governance structure can be used to manage culture effectively, inclusively and sustainably. Despite South Africa's colonization beginning in 1652 and culminating in 1879, it wasn't until 1911 that the first heritage legislation was enacted, prompted by the South African National Society (SANS) to prevent the export of rock art. Continued pressure from SANS led to the 1923 Natural, Historical and Monuments Act, which worked alongside the

earlier Bushmen Relics Protection Act and established a commission to register and protect significant monuments.

35. This framework influenced heritage laws in Botswana and Zimbabwe. Though apartheid from 1948 reinforced colonial oppression, it also highlighted the determination of African communities to preserve their cultural heritage[2].

36. Anchored in the National Heritage Resources Act (NHRA) of 1999, the country has devolved cultural management responsibilities to the provincial level, while maintaining strong national oversight through the South African Heritage Resources Agency (SAHRA). Each province has a functional heritage authority (PHRA), empowered to manage local heritage sites, enforce preservation rules, and collaborate with communities. The clarity of roles between national and provincial levels—backed by statute—has greatly minimized jurisdictional conflict, a risk still looming in Kenya's 2024 Culture Bill due to its vague intergovernmental framework.

37. The Department of Sports, Arts and Culture (DSAC) serves as South Africa's national-level cultural governance body, responsible for setting policies and standards, managing international treaties (including UNESCO conventions), maintaining the National Traditional Knowledge Database, and auditing provincial compliance to ensure alignment with constitutional mandates.[3]

38. While the Provincial Heritage Resources Authorities (PHRAs) serve as decentralized bodies that implement national cultural policies at the local level. Their key functions include approving all commercial use of cultural assets (e.g., films, tourism, or crafts featuring indigenous designs), maintaining provincial registries of traditional knowledge, and distributing 30% of cultural royalties to local development projects while ensuring compliance with national standards.

39. The country funds its cultural preservation through a 2% Cultural Levy applied to heritage site admissions, film/photo permits, and cultural exports4, supplemented by private sector partnerships like the De Beers San Art Fund, which supports indigenous artists (Republic of South Africa, 2018; South African Cultural Observatory, 2023).

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[2] Report of the National Assembly of the Culture bill, 2024
file:///C:/Users/USER/Downloads/Report%20of%20the%20Sports%20and%20Culture%20on%20its%20Consideration%20of%20the%20Culture%20Bill(%20National%20Assembly%20Bill%20%20No.%2012%20of%202024).pdf

[3] Republic of South Africa. (2018). Cultural Promotion Act, 2018 (Act No. 12 of 2018). Government Gazette No. 41956. https://www.gov.za/documents/cultural-promotion-act

[4] Republic of South Africa. (2018). Cultural Promotion Act.

40. South Africa's Draft National Policy Framework for Heritage Memorialization further strengthens its digital cultural governance by mandating digitization of archives, cultural artifacts, and oral histories, with standards for metadata and custodianship. It recognizes that in the digital age, memory must not only be preserved but protected from erasure, manipulation, and commercial exploitation. Kenya's Bill, though ambitious in vision, lacks concrete digital strategies—particularly on data ownership, algorithmic bias, and AI-generated cultural content. Drawing from South Africa, Kenya should introduce robust digital heritage protocols, supported by both national policy and county-level implementation.

41. Community involvement is also structurally embedded in South Africa's model. Advisory councils, including indigenous voices, play a key role in provincial decisions, from memorialization to benefit-sharing in cultural tourism. This ensures that heritage is not managed from above but co-owned by those who live it. Kenya's Bill touches on community rights but fails to make participation enforceable or binding. Borrowing from South Africa, Kenya should legislate inclusive heritage boards and consent-based benefit-sharing frameworks at the county level.

42. South Africa's Traditional Knowledge Councils (TKCs)—comprising 50%+ community representatives—approve all local cultural projects and manage 60% of royalties through community trust funds, while the remaining 40% supports provincial (30%) and national (10%) cultural initiatives. Users apply via an online portal, with TKCs reviewing applications within 30 days before Provincial Heritage Resources Authorities (PHRAs) issue licenses, ensuring transparent payments through the National Arts Council system5.Having quotas or representation thresholds for women, youth, and historically marginalized communities in these council or boards is essential.

43. South Africa combats cultural heritage crimes through its Art and Antiquities Crime Unit—a specialized police force trained in forensic tracking, INTERPOL coordination, and community-led operations, supported by provincial Heritage Rangers who monitor exports and conduct raids. Mandatory training covers digital cataloguing (using block chain registries) and legal prosecution, while a public tip line to report heritage crimes incentivizes whistle-blowers with rewards. This system reduced trafficking by 40% (2018-2023) with a 92% conviction rate, offering Kenya a proven model to adapt through its DCI and county-level enforcement.

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[5] Nwauche, E. (2020). Safeguarding Indigenous Heritage. Oxford UP.

44. To Strengthen enforcement in the Culture Bill (2024), the legislation can adopt specialized provisions modelled after South Africa's success by establishing a Heritage Crimes Unit under the DCI with officers trained in INTERPOL protocols and forensic tracking. Deploy County Heritage Wardens—local experts to monitor sites and inspect exports. Create a block chain registry for artifacts and an SMS tip line with whistle-blower rewards. Fast-track prosecutions in Specialized Magistrate Courts with mandatory minimum sentences. These amendments would align with Kenya's Anti-Counterfeit Act while empowering communities as frontline defenders of their heritage.

45. Moreover, South Africa's environmental-cultural integration—such as dual designation of sacred forests—offers Kenya a path to address the missing link between climate change and heritage conservation.[6] Finally, South Africa's inclusion of women, youth, and minorities in cultural governance structures should inspire Kenya to embed diversity mandates in all representative bodies created by the Bill.

[6] Mkhize, N. (2022). Sacred natural sites, law and the protection of indigenous spiritual values in South Africa. Journal of Environmental Law, 34(1), 89–110. https://doi.org/10.1093/jel/eqac002

CHAPTER TWO: OVERVIEW OF PUBLIC PARTICIPATION ON THE BILL

2.0 COMMITTEE UNDERTAKINGS

46. The Committee held a total of four (4) meetings on the Bill, where it met with various stakeholders and considered the submissions. The Minutes of the meeting are annexed to this Report (Appendix 2).

47. The Committee published an advertisement in the daily newspapers on Thursday, 24th July, 2025, inviting members of the public to submit written memoranda on the Bill. The advertisement was also posted on the Parliament website and social media platforms. A copy of the advertisement is annexed to this Report (Appendix 4).

48. Copies of the written submissions are attached to this Report as Appendix 6. Additionally, a matrix analyzing the stakeholder submissions clause-by-clause is annexed as Appendix 5. The Committee proceeded to consider the Bill extensively, together with the stakeholder submissions received thereon.

2.1 EMERGING THEMES FROM STAKEHOLDER SUBMISSIONS

2.1.1 Community-Centred Cultural Governance

49. The Economic and Social Rights Centre-Hakijamii and Community Based Organizations of Narok County strongly supports the Culture Bill's constitutional mandate under Article 11 but identifies critical structural gaps that could perpetuate marginalization of Indigenous Peoples and Local Communities (IPLCs) as cultural custodians. The organizations argue that while the Bill aims to protect Kenya's cultural foundation, it centralizes excessive authority in the Cabinet Secretary without guaranteeing meaningful community participation and fails to establish community-managed compensation mechanisms through a Cultural Royalties Fund.

50. The National Traditional Medicine Practitioners Association (NATHEPA-Kenya) expressed that the Cabinet Secretary should involve cultural practitioners in decision-making rather than managing affairs in isolation.

51. Njuri Ncheke, the Supreme Council of Ameru Elders mentioned the overarching demand for the Bill to explicitly recognize traditional authorities as equal partners in cultural governance rather than subjects of state regulation, emphasizing that effective traditional knowledge protection must be "built around existing traditional

structures" and respect indigenous peoples' right to self-determination through their established customary law frameworks.

52. The wish the involvement of the National Council of Elders in national cultural governance alongside the Cabinet Secretary and also creating self-regulatory mechanisms for culture practitioners similar to other professions.

2.1.2 Environmental Protection and Climate Resilience

53. Members of the communities present raised concerns regarding the adverse impacts of environmental degradation and loss of biodiversity, which are exacerbated by climate change. These environmental challenges threaten the livelihoods, cultural heritage, and sustainability of many indigenous and rural communities. They emphasized the need for the Bill to incorporate strong provisions for environmental conservation, climate adaptation strategies and the protection of natural resources critical to community survival.

2.1.3 Cultural and Community Identity Recognition

54. Stakeholders present highlighted that certain ethnic and cultural groups remain unrecognized in formal government records, which limits their access to constitutional rights, representation and inclusion in national cultural programs. Recognition in law would ensure these communities have equal opportunities for preservation of heritage, access to cultural funding, and participation in decision-making processes that affect them. This concern is addressed in the Bill through the establishment of a national cultural registry which provides an official mechanism for registering these communities.

55. In addition, the National Gender and Equality Commission (NGEC) recommended broadening the definition of "community" to encompass persons and groups legally residing in Kenya, including asylum seekers and refugees, thereby ensuring inclusivity and equal protection under the law.

2.1.4 Economic opportunities inherent in culture

56. The submission from the Creative Economy Working Group (CEWG) which is a network of 18 cultural and creative sector institutions, strongly supports the Culture Bill 2024 while advocating for significant enhancements to unlock Kenya's economic potential through cultural and creative industries.

57. The group commends the Bill's social dimension but argues it inadequately addresses the economic opportunities inherent in culture, proposing the addition of an entire new section on "Promotion of Cultural and Creative Industries" that would establish Cabinet Secretary mandates to develop strategies for film, music, publishing, fashion, visual arts, and digital content sectors, create incentive schemes including grants and tax reliefs, and require counties to develop creative economy strategies with local hubs and incubation centres.

2.1.5 Regulation of Cultural Importation and Exportation

58. The public submissions raised the need for clearer regulation of imported and exported cultural items, including artifacts, traditional attire, and other cultural expressions. This would help protect local heritage from exploitation, prevent the illegal trade of cultural assets and promote ethical exchange of cultural knowledge between communities and nations.

2.1.6 Traditional Justice Systems

59. Members of the public urged that the Bill should formally acknowledge and safeguard indigenous dispute-resolution mechanisms, which have historically provided effective conflict mediation within communities. Recognition would require setting clear parameters for these systems to align with constitutional principles, human rights standards, and the formal judicial framework.

60. The memorandum from Njuri Ncheke, the Supreme Council of Ameru Elders, supports the Culture Bill 2024 while advocating for fundamental recognition of traditional governance and justice systems as primary custodians and regulators of cultural heritage and traditional knowledge.

61. The organization positions itself as an effective traditional justice system with proven capabilities in traditional knowledge protection, benefit-sharing frameworks, and community governance, arguing that their customary approaches should not be viewed as inferior to statutory structures but worked with to build accountability systems.

2.1.7 Traditional Medicine and Healing Practices

62. The memoranda stressed the importance of protecting legitimate traditional healers, whose practices are rooted in indigenous knowledge, while differentiating them from harmful or exploitative practices categorized as witchcraft. This distinction is necessary to prevent stigmatization of culturally valuable healing methods while ensuring public safety.

63. Participants called for the inclusion of traditional medicine in the formal healthcare system, with appropriate regulation, certification, and integration into national health policies. This would allow communities to preserve medicinal heritage while ensuring safety and scientific validation of treatments.

64. National Traditional Medicine Practitioners Association (NATHEPA-Kenya) expresses strong support and advocates for the formal recognition and integration of traditional herbal medicine as a core component of Kenya's cultural identity. The organization proposes several critical amendments including: officially recognizing traditional medicine practices as cultural property under the Bill's definitions, establishing a National Traditional Medicine Practitioners Directory and regulatory board for self-governance and quality assurance, creating a protected national database of medicinal plants and practitioners.

2.1.8 Cultural Integrity and Protection of Harmful Practices

65. Submissions emphasized the need for the Bill to distinguish between cultural practices (which are adaptive and evolving) and traditions (which may be more rigid), ensuring that outdated or harmful customs such as female genital mutilation (FGM) are expressly prohibited. The approach would promote cultural growth while safeguarding human rights and well-being.

66. The National Gender and Equality Commission (NGEC) proposed the inclusion of a new term, "retrogressive cultural practices," in the definitions and also in Section 4 of the Bill. This is to strengthen protection for women against harmful practices such as early marriage, female genital mutilation (FGM), widow cleansing, and the denial of inheritance rights.

67. Some stakeholders noted the cultural significance of male circumcision ceremonies traditionally conducted in community settings, which also serve as forums for

imparting moral, cultural and societal values. The shift to hospital-based procedures risks eroding this cultural heritage, prompting calls for cultural-sensitive health interventions that preserve symbolic and educational aspects of the practice.

68. In many communities, the event is more than surgery, it is a social milestone. These ceremonies often involve storytelling, mentorship and instruction about moral behaviour, cultural identity and responsibilities within the community. They proposed policy frameworks that respect cultural traditions while maintaining medical safety standards.

2.1.9 Legal Clarity and Consistency

69. Concerns were raised about the inconsistencies and ambiguities in the Bill's provisions on offences, which could lead to misinterpretation, selective enforcement or legal loopholes. The recommendation was to revise and harmonize these provisions to ensure uniform interpretation and fair application of the law. In the submission by Njuri Ncheke, the Supreme Council of Ameru Elders, they stated the need to harmonize penalties with offenses while removing licensing requirements for activities (as opposed to developments) at cultural properties.

70. The Ministry of Education proposed that the Bill should explicitly define "modern culture" to provide clarity in implementation, especially in education, media, and cultural policy. A precise definition would help reconcile contemporary societal values with traditional heritage in a way that fosters national unity.Technical concerns were raised about inconsistencies within the Bill's provisions, particularly between Section 14 and Section 11, and similarly in Sections 15 and 17. These inconsistencies risk creating legal uncertainty and enforcement challenges, and should be addressed through careful legislative drafting and alignment.

71. Additionally, CEWG recommends critical definitional improvements including adding "artist" and "tangible cultural heritage" definitions, strengthening the "prior informed consent" definition to eliminate loopholes, expanding safeguarding measures to include tangible heritage, incorporating additional constitutional articles as guiding principles, establishing data protection regulations aligned with existing laws, and mandating local server storage for cultural databases to strengthen heritage protection.

72. Njuri Ncheke, the Supreme Council of Ameru Elders proposed extensive amendments including: expanding definitions of "cultural practices" and "cultural

property" to encompass traditional medicine, medicinal herbs, sacred forests, traditional discoveries and natural resources.

2.1.10 Land Rights and Cultural Survival

73. Land ownership, use and management were highlighted as critical cultural and survival issues by members of the public. In some cases, displacement, encroachment and unresolved disputes over ancestral lands threaten the very existence of minority groups. The Bill should incorporate safeguards to protect communal land rights, ensure fair dispute resolution, and recognize the role of land in cultural continuity.

74. The Ammiiru Community Cultural Stakeholders Association submission noted that Kenya's administrative structure is clearly defined — historically as eight provinces under the Land Commission of 1962 and currently as forty-seven counties under the Constitution of 2010. Stakeholders emphasized that political actors should not create new regions or reclassify communities outside this established framework. Concerns were also raised by certain communities regarding potential territorial encroachment, underscoring the need to respect existing boundaries and safeguard community integrity.

2.1.11 Safeguarding and Revitalizing Cultural Heritage

75. Communities called for a holistic approach to preserving cultural heritage, one that safeguards both sacred spaces. Traditional shrines and other spiritual landmarks are living symbols of ancestral wisdom, belief systems and historical continuity. Likewise, indigenous languages are vessels of unique worldviews, oral traditions and communal knowledge. Both face threats from modernization, neglect and commercialization, risking the erosion of identity and collective memory.

76. Participants additionally urged for legal protection of sacred sites to shield them from destruction, encroachment or exploitation and for policy measures that prioritize indigenous languages in public broadcasting, education and official communication. Together, these measures would not only preserve tangible and intangible heritage but also affirm the dignity, continuity and resilience of cultural identities in the face of change.

CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.0 COMMITTEE OBSERVATIONS ON THE BILL

77. Upon review of the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024) and consideration of the stakeholder submissions received, the Committee made the following key observations-

a) The Bill aligns with Article 11 of the Constitution, which mandates the promotion of culture and heritage. However, excessive centralization of power risks undermining county governments' role in cultural governance.
b) While the Bill introduces royalty mechanisms for cultural heritage use, it lacks clear benefit-sharing formulas between communities, counties and the national government, as well as mandatory prior informed consent requirements to prevent the unchecked commercial exploitation of cultural assets.
c) The need to secure sustainable funding to avoid the risk of underfunding county-level initiatives especially in marginalized regions.
d) While harmful practices (e.g., early marriages and FGM) are condemned, the Bill does not proactively empower or protect explicitly marginalized groups such as women, youth and PWDs in cultural governance.
e) There are no explicit safeguards against climate-related cultural loss as well as no protection of AI-generated cultural content to prevent misuse.
f) The Bill promotes digital archiving but fails to address data sovereignty.
g) The Culture Bill 2024 operates within a complex ecosystem of existing interconnected Acts, policies and international conventions from the Constitution to UNESCO treaties and county governance laws requiring comprehensive harmonization to avoid conflicting mandates and jurisdictional overlaps.

3.1 COMMITTEE RECOMMENDATIONS

78. Arising from the above observations, the Committee recommends that the Senate passes the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024) without any amendments.

LIST OF APPENDICES

Appendix 1: Minutes of the Committee sittings

Appendix 2: Copy the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024), Bill

Appendix 3: Advertisement as published in the Daily Nation and Star Newspapers

Appendix 4: Public Participation Matrix

Appendix 5: Copies of the Stakeholders' Submissions

ANNEX 1:

SIGNED MINUTES OF THE COMMITTEE SITTINGS.

MINUTES OF THE FIFTY-FIRST (51st) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD IN COMMITTEE ROOM 3, BUNGE TOWER ON TUESDAY, 22ND JULY, 2025 AT 11.00 A.M.

MEMBERS PRESENT

1. Sen. Julius Recha Murgor, CBS, MP - **Chairperson**
2. Sen. Crystal Asige, MP - **Vice-Chairperson**
3. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP - Member
4. Sen. Alexander Munyi Mundigi, MP - Member
5. Sen. Lenku Seki Ole Kanar, MP - Member- *virtually*
6. Sen. Miraj Abdulahi Abdulrahman, MP - Member
7. Sen. Beth Syengo, MP - Member- *virtually*

APOLOGIES

1. Sen. Erick Okong'o Mogeni, SC, CBS, MP - Member

SECRETARIAT

1. Ms. Mwanate Shaban - Principal Clerk Assistant II
2. Ms. Florence Waweru - Clerk Assistant II
3. Mr. Jackson Wekesa - Legal Counsel II
4. Ms. Ndindi Kibathi - Research Officer III
5. Ms. Nigma Abdi - Research Officer III
6. Ms. Joy Kyalo - Fiscal Analyst
7. Mr. Kelvin Lomenen - Media Officer
8. Mr. Nick Arusei - Audio Officer
9. Ms. Zahra Mohammed - DSEC, Intern
10. Mr. James Ngusya - Serjeant-at-arms

MIN/SEN/SCLSW/291/2025: PRAYERS

The meeting was called to order by the Chairperson at 11.16 a.m. followed by a word of prayer.

MIN/SEN/SCLSW/292/2025: ADOPTION OF AGENDA

The agenda was adopted after being proposed by Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP and seconded by Sen. Crystal Asige, MP as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Consideration of a Petition by Mr. Titus Thuku Njoroge on purported dismissal by the Africa Inland Church (AIC) of Kenya and non- payment of arrears (***Committee Paper No.35***);
4. Consideration of the Culture Bill, 2024 (National Assembly Bills No.12 of 2024); (***Committee Paper No.36***)
5. Any Other Business; and
6. Date of the Next Meeting and Adjournment.

MIN/SEN/SCLSW/293/2025: CONSIDERATION OF A PETITION BY MR. TITUS THUKU NJOROGE ON PURPORTED DISMISSAL BY THE AFRICA INLAND CHURCH (AIC) OF KENYA AND NON-PAYMENT OF ARREARS

A. Committee briefing

1. The Committee was briefed on Committee Paper No. 35,on a Petition submitted by Mr. Titus Thuku Njoroge regarding alleged unfair dismissal and non-payment of salary arrears by the Africa Inland Church (AIC) Kenya and that was read at a Sitting of the Senate held on Wednesday, 9th July, 2025 and committed to the Committee.
2. The Committee was informed that the Petitioner claimed he had been employed on permanent and pensionable terms but was later informed by the employer that he was on a two-year contract. He further alleged that he had not received his salary and allowances from October 2024 to April 2025, despite continuing to discharge his duties. The Petitioner also claimed that his roles were reassigned to another person without notice, and that no formal communication had been issued regarding his termination.
3. Further, that the Petitioner had reported the matter to the Ministry of Labour and Social Protection, through the Directorate of Labour at the Murang'a County Labour Office, where a conciliation process was undertaken, but that he was dissatisfied with the outcome. It was noted that the Petitioner had furnished relevant documentation, including an appointment letter and the conciliation report.

B. Committee comments and observations

The Committee observed the following-

1. **Formal Receipt of Documents-** The Committee noted the importance of proper documentation and resolved that all documents submitted by the petitioner be formally received, acknowledged, and stamped by the Office of the Clerk for purposes of official record and reference.
2. **Referral to Established Labour Dispute Resolution Mechanisms-** The Committee observed that the dispute had already been subjected to the conciliation process under the Ministry of Labour and Social Protection. It was agreed that the petitioner should be advised to exhaust the established labour dispute resolution mechanisms—beginning with internal processes, conciliation by a labour inspector, and, if necessary, referral to the Employment and Labour Relations Court—before seeking further Senate intervention.
3. **No Immediate Need for a Meeting with the Employer-** The Committee was of the view that a meeting with the employer was not necessary at this stage, given that the petitioner initiated the complaint and the conciliation process was still ongoing. It was agreed that the process should be allowed to proceed to conclusion before any further action is considered.

C. Committee resolutions

The Committee resolved as follows-

1. **Receipt of Documents-** That the Office of the Clerk formally receive, acknowledge, and stamp all documents submitted by the Petitioner for record and reference purposes.
2. **Communication to the Petitioner-** That the Committee communicates to the Petitioner, advising him to actively pursue and conclude the conciliation process with his employer, the Africa Inland Church (AIC), through the Ministry of Labour and Social Protection.
3. **Engagement with AIC-** That the Committee writes to AIC Kenya, urging them to engage in good faith with the Petitioner with a view to resolving the dispute amicably, and to communicate the outcome of such engagement to both the Ministry of Labour and Social Protection and the Committee.
4. **Timelines for Resolution-** That the Committee sets a period of **two (2) weeks** within which the Africa Inland Church (AIC) and the Petitioner are to engage in conciliation through the Ministry of Labour and Social Protection and report the outcome to both the Ministry and the Committee.

MIN/SEN/SCLSW/294/2025: CONSIDERATION OF THE CULTURE BILL, 2024, (NATIONAL ASSEMBLY BILLS NO.12 OF 2024)

A. Committee briefing

1. The Committee was briefed on Committee Paper no. 36 on the Culture Bill, 2024, which was read for the First Time in the Senate and committed to the Committee on Wednesday, 16th July 2025.
2. The Committee was informed that the Bill seeks to address the current legislative gaps in the protection, promotion, and management of cultural heritage and expressions in Kenya. It was noted that the existing legal provisions are fragmented and insufficient, and that the Culture Bill, 2024, seeks to establish a comprehensive legal and policy framework in line with Article 11 of the Constitution, which recognizes culture as the foundation of the nation and as the cumulative civilization of the Kenyan people.
3. The key objectives of the Bill include, promoting all forms of national and cultural expression; Ensuring communities receive compensation or royalties for the use of their cultures and cultural heritage and providing a structured framework for national cultural development.
4. The Bill defines important terms such as "culture," "cultural property," "cultural heritage," and "national expressions," and outlines the distinct but complementary roles of national and county governments in cultural policy, preservation, and development.
5. Further, the Committee was briefed on the substantive provisions of the Bill, including:
    a) The establishment of a national cultural database system;
    b) Compensation mechanisms for the use of cultural heritage, with exceptions for non-commercial or public interest uses;
    c) A two-tier registration system for cultural properties;
    d) A permit system for cultural research, and for the import, export, and transfer of cultural property;
    e) Provisions for the protection of cultural heritage, and a framework of offenses and penalties for contraventions; and
    f) Inclusion of key national cultural institutions such as the Kenya Cultural Centre and the National Museums of Kenya.

B. Committee Comments and observations

The Committee observed the following-

1. **Public Participation Requirements**- The Committee noted the constitutional and procedural obligation under Article 118 of the Constitution and Standing Order

145(5) to facilitate public participation in the legislative process. Accordingly, the Committee observed that invitations for submission of written memoranda on the Bill will be published in two national daily newspapers, after which a public hearing with targeted stakeholders and members of the public will be conducted.

2. **Timeline for Reporting to the Senate-** The Committee further observed that, in line with Standing Order 148 of the Senate Standing Orders, it is required to table its report on the Bill to the Senate within thirty (30) calendar days from the date of committal. Consequently, the Committee noted that the final report must be submitted by Thursday, 16th August 2025.

C. Committee resolutions

The Committee resolved as follows-

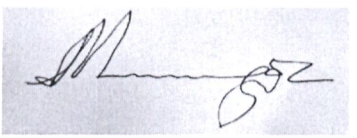
1. That public participation/hearing on the Bill be scheduled for Thursday, 7th August 2025; and
2. That targeted stakeholders be invited to submit written memoranda and participate in the public hearing.

MIN/SEN/SCLSW/295/2025: ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCLSW/296/2025 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 12.30 p.m. with the next meeting being on notice.



SIGNATURE.....

(CHAIRPERSON: SEN. JULIUS RECHA MURGOR, CBS, MP)

DATE: Thursday, 4th September, 2025.

MINUTES OF THE FIFTY-SEVENTH (57TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD IN MINI-CHAMBER, FIRST FLOOR, COUNTY HALL BUILDING ON THURSDAY, 7TH AUGUST, 2025 AT 11.00 A.M.

MEMBERS PRESENT

1. Sen. Julius Recha Murgor, CBS, MP - **Chairperson**
2. Sen. Crystal Asige, MP - **Vice-Chairperson**
3. Sen. Alexander Munyi Mundigi, MP - Member
4. Sen. Lenku Seki Ole Kanar, MP - Member- *virtually*
5. Sen. Miraj Abdulahi Abdulrahman, MP - Member- *virtually*
6. Sen. Beth Syengo, MP - Member

APOLOGIES

1. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP - Member
2. Sen. Erick Okong'o Mogeni, SC, CBS, MP - Member
3. Sen. Joe Nyutu, MP - Member

SECRETARIAT

1. Ms. Mwananate Shaban - Principal Clerk Assistant II
2. Ms. Florence Waweru - Clerk Assistant II
3. Mr. Jackson Wekesa - Legal Counsel II
4. Ms. Nigma Abdi - Research Officer III
5. Ms. Joy Kyalo - Fiscal Analyst III
6. Mr. Kelvin Lomenen - Media Officer
7. Mr. Nick Arusei - Audio Officer
8. Ms. Zahra Mohammed - DSEC, Intern

10.Mr. James Ngusya - Serjeant-at-arms

IN-ATTENDANCE

A. MINISTRY OF GENDER, CULTURE AND CHILDREN SERVICES

1. Ms. Hanna Cheptumo,	- Cabinet Secretary
2. Ms. Umir Bashir	- Principal Secretary
3. Ms. Daniella Adalla	- Personal Assistant
4. Dr. Kiprop Lagat	- Director
5. Mr. Julus Manzi	- Deputy Director
6. Mr. George Njoroge	- Deputy Director

B. MINISTRY OF EDUCATION

1. Mr. Frank Mukuna	- Director, TVET
2. Mr. George Osimbo	- Senior TVET, Officer

C. MAU MAU WAR VETERANS' ASSOCIATION

See attached attendance list- several representatives from various Counties

D. EL SOMEEK COMMUNITY

1. Mr. Arapmwok Psambu	- Chairman
2. Mr. Francis Chemwor	- Chairman

E. SIAYA TRADITIONAL HEALTH PRACTIONERS

1. Mr. David Wata	- Chairman

F. KOONY COMMUNITY

1. Ms. Kasisi Margret	- Official

E. NATIONAL TRADITIONAL HEALTH PRACTITIONERS' ASSOCIATION

See attached attendance list

F. NJURI- NCHEKE SUPREME COUNCIL OF AMERU ELDERS

See attached attendance list.

MIN/SEN/SCLSW/323/2025: PRAYERS

The meeting was called to order by the Chairperson at 11.30 a.m. followed by a word of prayer.

MIN/SEN/SCLSW/324/2025: ADOPTION OF AGENDA

The agenda was adopted after being proposed by Sen. Miraj Abdulahi Abdulrahman, MP and seconded by Sen. Beth Syengo, MP, as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Public hearing on the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024) ***(Committee Paper No.45)*;**
4. Any Other Business; and
5. Date of the Next Meeting and Adjournment.

MIN/SEN/SCLSW/325/2025: PUBLIC HEARING ON THE CULTURE BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2024.

A. Committee briefing

1. The Committee was briefed on Committee Paper No. 45 regarding the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024). Members were informed that the Bill, which seeks to give effect to Article 11 of the Constitution, promote cultural expression, and ensure communities receive compensation or royalties for the use of their cultures and cultural heritage, had been read a First Time in the Senate on Wednesday, 16th July 2025 and committed to the Standing Committee on Labour and Social Welfare for consideration and facilitation of public participation.
2. It was noted that the Committee had invited written memoranda from the public through advertisements published in the Standard and Daily Nation Newspapers on Thursday, 24th July 2025 and scheduled a public hearing with targeted stakeholders and members of the public for Thursday, 7th August 2025. Pursuant to Standing Order 148, the Committee is required to submit its report to the Senate within thirty days of the Bill's committal, by Friday, 15th August 2025.
3. Following the briefing, the invitees were ushered in after a reorganisation of the seating arrangements necessitated by the large number of participants, and a round of introductions thereafter ensued.

B. Submissions received

1. **Ministry of Gender, Culture and Children Services**
   a) They submitted that the Culture Bill, 2024, was informed by Article 11 of the Constitution of Kenya, which recognizes culture as the foundation of the nation. The ministry noted that since Independence, Kenya has lacked a comprehensive legal framework to integrate culture into the National Development Agenda. They also stated that traditional values and morals have been eroded, leading to poor national ethos and the exploitation of cultural diversity.
   b) That the Bill is intended to address these issues and also to facilitate the implementation of international conventions and treaties that Kenya has ratified, such as the UNESCO Convention on the Protection of the World Cultural and Natural Heritage of 1972.

c) that if the Bill is enacted, it will also facilitate the implementation of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural property of 1970, which Kenya ratified in April 2024.
d) In light of this, they unequivocally supported the Culture Bill, 2024, and sought the support of the Standing Committee on Labour and Social Welfare for its enactment.

2. **Ministry of Education**

a) The Ministry of Education submitted that it supports the enactment of the Bill into law, subject to a few amendments. They consider culture to be an integral part of human development that expresses diversity, shapes character and fosters cohesion and interpersonal relationships.
b) They proposed the following amendments:

i. **Defining "Modern Culture"**: They suggested defining "Modern culture" as contemporary culture that includes art, literature, music, fashion, social norms, and technological advancements. They noted that this form of culture is not static but dynamic and encompasses aspects of social change, equality, human rights, and social media.
ii. **Integrating Indigenous Knowledge**: The ministry proposed inserting a new function for the Cabinet Secretary to collaborate with the Cabinet Secretary for Education to integrate indigenous knowledge into educational curricula and research. They also suggested collaboration with the County Executive Committee Member for the same purpose.
iii. **Rectifying Inconsistencies**: The ministry noted an inconsistency in Section 14, which gives the Cabinet Secretary the sole mandate to register a cultural property but also involves the County government in the reasons for refusal to register. They requested that similar inconsistencies in sections 15 and 17 also be rectified.

3. **Mau Mau War Veterans' Association**

a) As a representative body from various counties submitted that the National Heritage and Museums Bill (No. 18 of 2013) and the forthcoming Culture Bill, 2024, provide a legal framework for the recognition and protection of the country's cultural heritage. They observed that most counties are homes to rich mosaic of sacred landscapes, historical sites, and ancestral shrines that have remained unprotected and undocumented for decades.
b) The association noted that, under these laws, communities would have the opportunity to apply for their cultural sites to be gazetted as national heritage sites, thereby making them eligible for UNESCO recognition and potential international support. They recommended that sites such as Chetambe Fort, the Lumboka War Zone, and Elijah Masinde's Shrine be prioritised for heritage documentation, mapping, and nomination.

4. **Koony Community**

The Koony Community submitted, that their primary concern was formal recognition. They emphasised the need for legal and policy measures to acknowledge their identity, protect their cultural heritage, and ensure inclusion in national cultural and development programmes, as well as to avoid the loss of their cultural identity.

5. **El Someek Community**

a) The community submitted that they sought formal recognition through publication in the Kenya Gazette to ensure accurate population data, tailored social programmes, and cultural protection. They identified themselves as a pastoralist, hunter-gatherer community native to the slopes of Mt Elgon and highlighted their dedication to conserving indigenous trees, wildlife, and ecological balance.

b) They further submitted that several cultural expressions required protection, including—traditional regalia for both men and women with ceremonial and social significance; unique cuisine comprising traditional foods that had sustained their identity; traditional medicine in the form of herbal remedies considered comparable to Chinese and Indian natural healing systems; historic landmarks such as sacred caves on Mt Elgon, which they wished to be recognised as heritage landmarks; and the traditional beverage "Busaa," which they requested be exempted from standard alcohol laws and honoured as a heritage item.

c) On institutional measures, the community proposed the documentation and integration of local languages into the school curriculum; the establishment of a cultural management committee to oversee cultural resources, particularly sacred sites like the Mt Elgon caves; the development of legal mechanisms to safeguard their cultural assets from unauthorised use or exploitation; and the introduction of safeguards to protect cultural practices, provided they did not conflict with justice or morality. They also urged that all minority groups, especially the El Someek, be granted formal and legal recognition.

6. **National Traditional Health Practitioners' Association**

a) NATHEPA submitted their full support for the Bill, while emphasizing several key points and recommendations.

b) They urged the formal recognition and integration of traditional herbal medicine into national health and cultural frameworks. They advocated for the recognition of traditional medicine schools as legitimate centers for preserving indigenous knowledge.

c) They also proposed the creation of a National Traditional Medicine Practitioners Directory to safeguard professional standards and the official recognition of NATHEPA as the representative and regulatory body for practitioners in Kenya.

d) They submitted specific amendments, including the inclusion of "traditional medicine practice" as a "cultural practice" in the bill's definition of cultural

property and the establishment of a Traditional and Indigenous Practitioners Regulatory Board to enable self-regulation.

7. **Njuri- Ncheke Supreme Council of Ameru Elders**

a) The Njuri Ncheke stated that they were the custodians of the Ameru people's traditional knowledge, culture, customs, and traditions.

b) They welcomed the Culture Bill as a positive step but urged that the final version should strengthen the role of traditional justice structures and respect the living traditions of their people.

c) They highlighted the role of the Njuri Ncheke Traditional Justice System (TJS) as an effective, culturally appropriate, and flexible framework built on existing traditional structures. They noted that it regulates access to traditional knowledge, manages benefit-sharing agreements, and helps prevent its commodification.

d) They emphasized that the bill should explicitly recognize the role of traditional leaders in safeguarding cultural practices.

e) They stated that the bill needed to align with existing customary law frameworks, since cultural expression was inseparable from traditional justice and governance systems.

f) They recommended that the bill include safeguards to protect indigenous cultural expressions and practices from unauthorized use or commercialization, with communities granted legal standing to challenge misuse.

g) They proposed that the bill promote intergenerational transfer of knowledge through community-based education and language preservation.

h) They stressed that adequate and equitable funding was necessary for successful implementation, especially in rural areas where cultural practices were most vibrant.

i) On Article 2 (Part I - Preliminary), they stated that the definitions of "cultural practices" and "cultural property" omitted key elements such as traditional medicine, medicinal trees, sacred natural sites, traditional discoveries, and natural resources. They recommended amending the definition of "tangible cultural heritage" to include these.

j) On Article 3 (Part I - Preliminary), they proposed an additional sub-article to ensure a working partnership with traditional institutions.

k) On Article 5 (Part II - Management of Culture), they requested that the National Council of Elders (NCOE) be involved in developing and implementing cultural policies and argued that powers of the Cabinet Secretary should be shared, with cultural practitioners allowed to self-regulate.

l) On Article 20(h) (Part III - Offences and Penalties), they noted that criminalizing activities at cultural properties without a license would hinder them and other cultural organizations from using their own spaces and

undermine freedom of assembly. They suggested that licensing apply only to developments, not activities.

m) On general penalties (Part III), they observed that the prescribed penalties were not proportional to the offences and needed revision and harmonization.

C. Committee comments and observations

The Committee observed the following-

1. **Clarity in Registration Procedures** -The Committee noted stakeholder concerns regarding the need for clearer provisions on the registration of cultural property, to ensure consistency, transparency, and accessibility for all communities.
2. **Recognition of Modern Cultural Expressions**-Members observed the importance of explicitly recognising modern cultural expressions such as contemporary art, literature, music, fashion, social norms, and digital media as part of Kenya's evolving cultural landscape.
3. **Cultural Funding and Resource Allocation**-Public contributions underscored the need for dedicated cultural funding to support preservation initiatives, promote cultural events, and safeguard heritage sites.
4. **Protection of Indigenous Languages**-The Committee noted strong public calls for the preservation and promotion of indigenous languages, including their integration into education systems and documentation for future generations.
5. **Respect for Sensitive Cultural Practices**-Members acknowledged the need to respect sensitive cultural practices, such as traditional rites including circumcision, while ensuring that such practices are conducted in compliance with the law, human rights, and public health standards.
6. **Unity and Community Values**-Citizens urged that the Bill should promote national unity while safeguarding community values and traditions, ensuring cultural policies remain inclusive and respectful of Kenya's diversity.
7. **Cultural Dress and Attire**-The Committee recognised the significance of traditional attire as an expression of cultural identity, and noted proposals to preserve and promote the wearing of cultural dress during public functions, festivals, and official events.
8. **National Day Celebrations** -Members observed the need to incorporate diverse cultural performances, exhibitions, and attire displays into national day celebrations as a way of fostering unity and promoting Kenya's cultural heritage.
9. **Legislative Inclusivity** -The Committee reaffirmed its commitment to transparent and inclusive lawmaking, ensuring that views from public participation will inform final revisions of the Culture Bill, 2024, before it is tabled in the Senate for debate.
10. **Public Engagement with County Governments and the Ministry** – The Committee encouraged members of the public to actively engage with their respective county governments and the Ministry responsible for culture on matters affecting cultural preservation, promotion, and policy implementation. Members emphasised that such grassroots participation is essential for identifying local priorities, safeguarding heritage, and ensuring effective integration of community needs into both county and national cultural programmes.

D. Committee resolution

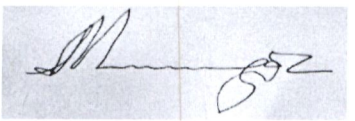
The Committee resolved to consider all submitted memoranda and encouraged those who made oral presentations to also submit their views in written form.

MIN/SEN/SCLSW/326/2025: ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCLSW/327/2025 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 1.35 p.m. with the next meeting being on notice.



SIGNATURE.....
(CHAIRPERSON: SEN. JULIUS RECHA MURGOR, CBS, MP)

DATE: Thursday, 4th September, 2025

MINUTES OF THE SIXTY- FOURTH (64TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD IN TAMANISHA BOARDROOM, SAROVA WHITESANDS HOTEL, MOMBASA COUNTY ON THURSDAY, 4TH SEPTEMBER, 2025 AT 10.00 A.M.

MEMBERS PRESENT

1. Sen. Julius Recha Murgor, CBS, MP - **Chairperson**
2. Sen. Crystal Asige, MP - **Vice-Chairperson**
3. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP - Member
4. Sen. Alexander Munyi Mundigi, MP - Member
5. Sen. Miraj Abdulahi Abdulrahman, MP - Member

APOLOGIES

1. Sen. Erick Okong'o Mogeni, SC, CBS, MP - Member
2. Sen. Lenku Seki Ole Kanar, MP - Member
3. Sen. Joe Nyutu, MP - Member
4. Sen. Beth Syengo, MP - Member

SECRETARIAT

1. Ms. Mwanate Shaban - Principal Clerk Assistant II
2. Ms. Florence Waweru - Clerk Assistant II
3. Mr. Jackson Wekesa - Legal Counsel II
4. Ms. Ndindi Kibathi - Research Officer III
5. Mr. Nick Arusei - Audio Officer
6. Ms. Alice Nanyama - Executive Secretary, DSEC
7. Mr. James Ngusya - Serjeant-at-arms

MIN/SEN/SCLSW/354/2025: PRAYERS

The meeting was called to order by the Chairperson at 10.15 a.m. followed by a word of prayer.

MIN/SEN/SCLSW/355/2025: ADOPTION OF AGENDA

The agenda was adopted after being proposed by Sen. Crystal Asige, MP and seconded by Sen. Alexander Munyi Mundigi, MP, as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of minutes of the 45th, 46th, 47th, 48th, 50th, 51st, 52nd, 53rd, 54th, 55th, 56th, 57th and 59th Sittings;
4. Matters arising from previous minutes;
5. Consideration of Public Submissions on the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024)
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MIN/SEN/SCLSW/356/2025: CONFIRMATION OF MINUTES

1. The Minutes of the 45th Sitting held on Thursday, 26th June, 2025 at 10.00 a.m. were confirmed to be a true record of the deliberations having been proposed by Sen. Crystal Asige, MP and seconded by Sen. Alexander Munyi Mundigi, MP;
2. The Minutes of the 46th Sitting held on Thursday, 26th June, 2025 at 12.00 p.m. were confirmed to be a true record of the deliberations having been proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. Crystal Asige, MP;
3. The Minutes of the 47th Sitting held on Thursday, 26th June, 2025 at 2.30 p.m. were confirmed to be a true record of the deliberations having been proposed by proposed by Sen. Crystal Asige, MP and seconded by Sen. Alexander Munyi Mundigi, MP;
4. The Minutes of the 48th Sitting held on Friday, 27th, June, 2025 at 10.00 a.m. were confirmed to be a true record of the deliberations having been proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. Crystal Asige, MP;
5. The Minutes of the 50th Sitting held on Thursday, 17th July, 2025 at 11.00 a.m. were confirmed to be a true record of the deliberations having been proposed by Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP and seconded by Sen. Alexander Munyi Mundigi, MP;
6. The Minutes of the 51st Sitting held on Tuesday, 22nd, July, 2025 at 11.00 a.m. were confirmed to be a true record of the deliberations having proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. Crystal Asige, MP;
7. The Minutes of the 52nd Sitting held on Thursday, 24th July, 2025 at 11.00 a.m. were confirmed to be a true record of the deliberations having been proposed by proposed by Sen. Crystal Asige, MP and seconded by Sen. Alexander Munyi Mundigi, MP;
8. The Minutes of the 53rd Sitting held on Tuesday, 29th July, 2025 at 9.00 a.m. were confirmed to be a true record of the deliberations having been proposed by Sen. Crystal Asige, MP and seconded by Sen. Alexander Munyi Mundigi, MP;
9. The Minutes of the 54th Sitting held on Thursday, 31st July, 2025 at 11.00 a.m. were confirmed to be a true record of the deliberations having been proposed by

Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP and seconded by Sen. Alexander Munyi Mundigi, MP;

10. The Minutes of the 55th Sitting held on Monday, 4th August, 2025 at 10.00 a.m. were confirmed to be a true record of the deliberations having been proposed by proposed by Sen. Miraj Abdulahi Abdulrahman, MP and seconded by Sen. Alexander Munyi Mundigi, MP;
11. The Minutes of the 56th Sitting held on Tuesday, 5th August, 2025 at 11.00 a.m. were confirmed to be a true record of the deliberations having been proposed by proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. Crystal Asige, MP;
12. The Minutes of the 57th Sitting held on Thursday, 7th August, 2025 at 11.00 a.m. were confirmed to be a true record of the deliberations having been proposed by proposed by Sen. Crystal Asige, MP and seconded by Sen. Alexander Munyi Mundigi, MP;
13. The Minutes of the 58th Sitting held on Wednesday, 20th August, 2025, at 10.00 a.m. were confirmed to be a true record of the deliberations having been proposed by proposed by Sen. Miraj Abdulahi Abdulrahman, MP and seconded by Sen. Alexander Munyi Mundigi, MP
14. The Minutes of the 59th Sitting held on Wednesday, 20th August, 2025, at 12.00 p.m. were confirmed to be a true record of the deliberations having been proposed by proposed by Sen. Miraj Abdulahi Abdulrahman, MP and seconded by Sen. Alexander Munyi Mundigi, MP;

MIN/SEN/SCLSW/357/2025: MATTERS ARSING FROM PREVIOUS MINUTES

Under Ex. MIN/SEN/SCLSW/335/2025: MEETING WITH VARIOUS STAKEHOLDERS TO DELIBERATE ON THE PETITION REGARDING THE PAYMENT OF TERMINAL DUES AND UNREMITTED DEDUCTIONS TO MAZIWA SACCO

1. The Legal Counsel confirmed that a fine of Ksh. 500,000 had been imposed on the Cabinet Secretary for the Ministry of Cooperatives and Micro, Small and Medium Enterprises Development and that he had been re-summoned to appear before the Committee on Tuesday, 23rd September, 2025; and
2. The Committee was informed that the staff from KEMRI had requested, through the Chair to meet the Committee on their statement. The Secretariat was directed to schedule a meeting on the same.

MIN/SEN/SCLSW/358/2025: CONSIDERATION OF PUBLIC SUBMISSIONS ON THE CULTURE BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2024)

A. Committee briefing

1. The Committee noted that the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024), was read a First Time in the Senate on Wednesday, 16th July 2025, and subsequently committed to the Standing Committee on Labour and Social Welfare for consideration.

2. That in line with Article 118 of the Constitution and Standing Order 145 of the Senate Standing Orders, the Committee acknowledged that it facilitated public participation by inviting written memoranda from interested members of the public, and that advertisements were placed in the Standard and Daily Nation newspapers on Thursday, 24th July 2025, with submissions scheduled to be received by Tuesday, 5th August 2025, at 5:00 p.m.
3. Further, a public hearing was held on Thursday, 7th August 2025, engaging targeted stakeholders and members of the public to receive their views on the Bill. All memoranda received were matrixed to guide the Committee's consideration and deliberations.
4. The Committee considered the submissions from the various stakeholders and the public and made recommendations as outlined in the matrix annexed.

B. <u>Committee comments and observations</u>

The Committee observed the following and further gave its views and justifications as indicated in the matrix attached.

1. The Committee noted that the Culture Bill, 2024, provides an important framework for the protection, promotion, and management of Kenya's cultural heritage, in line with Article 11 of the Constitution. The Committee emphasized that culture in Kenya is both dynamic and diverse, and that legal provisions must strike a balance between safeguarding traditional heritage and recognizing contemporary cultural expressions.
2. The Committee observed that the Bill appropriately defines key concepts such as modern culture, artists, tangible and intangible cultural heritage, cultural expression, safeguarding, and retrogressive cultural practices, providing clarity for implementation. The Committee also stressed the importance of incorporating provisions on free, prior, and informed consent to ensure meaningful participation and protection of communities whose cultural heritage is utilized.
3. The Committee further observed that the Bill recognizes communities as the primary custodians of culture and encourages collaboration with traditional institutions and governance systems. It also supports mechanisms for the protection of sacred sites, cultural landscapes, and ritual spaces, which are vital to the spiritual and cultural identity of Indigenous communities.
4. While the Bill centralizes certain administrative functions with the Cabinet Secretary, the Committee noted that constitutional safeguards ensure public participation and community involvement in decision-making, including matters of registration, use, and compensation for cultural heritage. Proposals that overlapped with existing legislation, particularly in the areas of health or creative industries, were deemed unnecessary and rejected.
5. The Committee highlighted the importance of robust data protection measures, including local hosting of cultural databases, to safeguard sensitive cultural information and support accountability. Overall, the Committee welcomed the Bill's comprehensive approach, while emphasizing the need for clarity in definitions, inclusive participation, and the protection of both tangible and intangible aspects of Kenya's cultural heritage.

MIN/SEN/SCLSW/359/2025: ANY OTHER BUSINESS

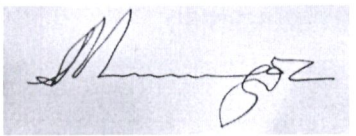
1. The Committee resolved as follows-

   i. To hold an online meeting within the September, 2025, recess to review and deliberate on the proposed Committee Stage amendments to the Culture Bill, 2024; and
   ii. To develop a comprehensive Committee Report on the Bill, incorporating the proposed amendments, public submissions, and stakeholder views, for tabling before the Senate.

2. There was no other business.

MIN/SEN/SCLSW/360/2025 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 1.30 p.m. in readiness for the next meeting.



SIGNATURE: .....

(CHAIRPERSON: SEN. JULIUS RECHA MURGOR, CBS, MP)

DATE: Monday, 22nd September, 2025

ANNEX

PUBLIC PARTICIPATION MATRIX
THE CULTURE BILL, 2024
(NATIONAL ASSEMBLY BILL NO. 12 OF 2024)

List of Stakeholders

1. Ministry of Gender
2. Ministry of Education
3. Ministry of Youth and Creative Economy
4. National Gender & Equality Commission (NGEC)
5. Creative Economy Working Group (CEWG) - 18 member institutions
6. National Traditional Medicine Practitioners Association (NATHEPA)
7. Njuri Ncheke Supreme Council of Ameru Elders
8. Wanga Cultural Heritage CBO
9. The Economic and Social Rights Centre-Hakijamii & Community Based Organizations Of Narok County (Elongo CBO; Orkila Orok; Entashata Loita CBO; Green Horizons CBO; Soralo CBO; Naidip; Nyeff CBO; Ncnrn
10. Nabongo Council of Elders
11. Wanga Elders Council
12. Mau Mau Children Post Colonial Elites
13. The Ammirrû Community Cultural Stakeholders Association (ACCSA)

PART I - PRELIMINARY					
1.			Modern culture - refers to contemporary culture encompassing art, literature, music, fashion, social norms and technological advancements.	Under modern culture are aspects of social change, equality, human rights, fashion, social media, etc., that cannot be wished away. It is premised on the principle that culture is not static but dynamic.	ACCEPT WITH MODIFICATIONS - While recognizing cultural dynamism is constitutionally sound under Article 11, the definition needs clearer parameters. Recommend refining to specify that "modern culture" includes contemporary expressions that are consistent with constitutional values and human rights, avoiding overly broad language that could dilute protection of traditional heritage.
2.					ACCEPT - This UNESCO-aligned definition provides

					internationally recognized standards and comprehensive coverage. It strengthens legal certainty and aligns with Kenya's treaty obligations. The broad but precise definition appropriately captures various forms of artistic expression. ACCEPT -shorten
3.			'tangible cultural heritage' is not defined although 'intangible cultural 'the physical cultural resources		ACCEPT - Essential definition that fills a critical gap. Creates legal certainty and enables effective protection mechanisms. The comprehensive definition covering buildings, monuments, artifacts, and objects of archaeological/scientifi c significance is legally

					sound and practically necessary. ACCEPT
4.			Definition of 'prior informed consent' This definition can be tightened further as follows: *prior informed consent" means the giving of, by the prospective user, complete and accurate information, and based on that information, consent that is express, unequivocal, free, specific and an informed indication by a statement or by a clear affirmative action of the concerned communities, signifying agreement to the use of their cultures, cultural heritage and cultural property.*	It is important not to leave loopholes in the definition.	ACCEPT - This enhanced definition aligns with international best practices and constitutional requirements for meaningful consent. The detailed specification of consent requirements provides stronger legal protection for communities and reduces ambiguity in implementation. *Accept with amendment, check PWD ACT definition.*
5.			Definition of	Tangible heritage ought to be safeguarded, just like intangible	ACCEPT

			'safeguarding' excludes measures for tangible cultural heritage. Include measures to ensure viability of 'tangible cultural Heritage.	heritage. Actions related to seizure are described in Article 19 of the Bill.	- Logically sound to include tangible heritage in safeguarding measures. However, recommend ensuring consistency with existing heritage protection frameworks and clarifying the relationship between safeguarding and seizure provisions to avoid legal conflicts.
6.			"Community" means a culturally homogeneous and consciously distinct group of people who share any of the following attributes— a) common ancestry; b) similar culture or mode of livelihood or language; c) geographical space; d) ecological space; or ommunity of interest;		REJECT— The additional definition is superfluous as what has been provided is sufficient..

7.			Proposed new term— "Retrogressive cultural practices" Retrogressive and retrogressive cultural practices are outdated social norms that negatively impact individuals and include harmful practices including female genital mutilation child marriages widow cleansing and inheritance.		ACCEPT- It is necessary to include the definition to prevent harmful cultural practices. ACCEPT
8.			Proposed new term— "Cultural Expression" Cultural expression refers to the way individuals and groups articulate their experiences values and perspectives through various creative forms. It encompasses a wide range of practices including art music dance literature and more collecting the unique identities and traditions of	In the proposed law in clauses 5(1) (b) and (g) but not interpreted.	ACCEPT— Cultural expression needs to be defined. It is used in the Bill. ACCEPT

			different communities.		
9.					
10.		**HAKI JAMII**	f the Constitution)—		REJECT— The proposal is misplaced. REJECT
11.			Provide for traditional medicine		REJECT- Medicine and health related issues are better legislated through the appropriate health laws which are proper laid laws. REJECT
12.					REJECT- Medicine and health related issues are better legislated through the appropriate health laws. REJECT

13.					ACCEPT It is necessary to recognize and partner with traditional institutions and governance systems. ACCEPT
14.					ACCEPT- There is need for a more comprehensive scope om the objectives of the Bill. ACCEPT
15.			Unclear Role and Legal Recognition of Cultural Custodians—		ACCEPT- This is a well reasoned proposition that puts culture in the hands of the people and their communities. ACCPET

16.	**Clause 4**		Proposed to amend clause 4 (1)(b) by inserting after the phrase "cultures" the following phrase, "that are not retrogressive and oppressive"	The proposed amendment seeks to clarify and emphasize that the law will only recognize cultures that are positive and not inconsistent with the constitution and other laws especially towards the special interest groups. Clause 4 (2) stresses only on inconsistency with the Bill of Rights which is too general and may not be obvious to beneficiaries of the proposed law.	ACCEPT – This is a well-intentioned proposition and ought to be accepted in order to limit the proliferation of retrogressive cultures and practices. ACCEPT
17.	**Clause 4 –**		**Some relevant Articles excluded** Consider including Articles 33, 44, 56, 57 of the Constitution	The additional principles embody vital guidance.	ACCEPT- The missing Articles 33- Freedom of Expression; 44- Language & Culture; 56- Minorities &marginalized groups; 57- Older members of society, are relevant to culture and will improve the Bill.

					ACCEPT
18.	**Clause 5 – Role**		Include by inserting immediately after 'L' a new function of the Cabinet Secretary to read: 'In collaboration with the Cabinet Secretary for Education integrate indigenous knowledge into educational curricula and research." 'In collaboration with the County Executive Committee Member integrate and harness indigenous knowledge into educational curricula and research.'		ACCEPT— The proposal is reasonable as indigenous knowledge ought to be recognised in our culture and integrated into the curriculum. REJECT- Culture in Kenya in fragmented and the proposition is impracticable.
19.					REJECT- Their specific recognition as

					stakeholders is not necessary. REJECT
20.					REJECT- The recognition and participation of stakeholders is a foregone conclusion constitutional requirement. REJECT
21.					ACCEPT- Community cultural centres are vital for the realisation of holistic culture. REJECT
22.			Governance—		REJECT- The recognition and participation of stakeholders is a constitutional requirement.

					REJECT
23.			Governance—	regulatory functions— registration—without	REJECT- The recognition and participation of stakeholders is a constitutional requirement. REJECT
24.	**Clause 9 –**				ACCEPT It is necessary to recognize and partner with traditional institutions and governance systems in

					determination of compensation for use of culture to the extent that they are consistent with the Constitution. ACCEPT
25.			Mechanism—		REJECT- Establishment of a Fund will run contrary to the provision of Article 114 of the Constitution. REJECT
26.			Informed Consent (FPIC)—		ACCEPT— Making FPIC mandatory is essential and is a good governance measure. ACCEPT

27.	**Clause 14 –**		Rectify section 14 on 'refusal to register' to be consistent with section 11. Section 11 gives the sole mandate to register a cultural property into the national database to the Cabinet Secretary whereas section 14 now brings in the County government as a party in giving reasons for refusal to register.		REJECT— County government should remain as an essential party on refusal to register. REJECT
28.					REJECT— There exists a Creatives Economy Support Bill 2024 which can adequately cater for the support of creative industries. REJECT
29.					REJECT- Medicine and health related issues are better

					legislated through the appropriate health laws. REJECT
30.					REJECT- Medicine and health related issues are better legislated through the appropriate health laws.
31.					REJECT- Medicine and health related issues are better legislated through the appropriate health laws.
32.			Landscapes—	heritage and offers no express protection for sacred sites, ritual spaces, or intangible cultural landscapes which are critical to many Indigenous communities' spiritual and	ACCEPT— P r o t e c t i o
33.					REJECT-

					Fines and Penalties ought to be punitive. REJECT
34.					REJECT- Fines and Penalties ought to be punitive. REJECT
35.					REJECT- Fines and Penalties ought to be punitive. REJECT
36.					REJECT- Let every person seek approval before conducting any significant development in order to preserve culture, REJECT
37.					REJECT- Communities can initiate enforcement Article 22 of the Constitution gives

					every person the locus to institute court proceedings claiming that a right has been violated. Private prosecution is a recognized remedy. REJECT *ADR
38.					ACCEPT- Data related to culture ought to be protected through regulations. Regulation on emerging technologies in relation to data is necessary. ACCEPT
39.			Data protection: Mandate counties and National government to ensure servers are locally stored. Due to the strategic importance of the databases in this Bill, consider mandating counties and national government to ensure		ACCEPT- Hosting the data locally is a sound proposal for the security and national sovereignty in relation to culture. ACCEPT

			that all databases and servers in this Bill are locally stored as per section 50 of the Data Protection Act		
40.					REJECT

GENERAL SUBMISSIONS

1. **The State Department for Youth Affairs and Creative Economy proposes eight key amendments to strengthen the Culture Bill, 2024:**

   (i) **Create a National Culture Fund** - Establish dedicated financing through royalties, government budgets, and international grants to support cultural initiatives sustainably.
   (ii) **Add National Dress Provisions** - Include mechanisms for developing national attire incorporating diverse ethnic elements, with local production incentives.
   (iii) **Strengthen Royalty Framework** - Specify minimum percentages (5-10% of profits), centralized registry, and arbitration mechanisms for fair compensation.
   (iv) **Enhance Indigenous Protection** - Expand database for mandatory registration of indigenous knowledge with intellectual property-like protections and language preservation programs.
   (v) **Include Digital Culture** - Add sections on digital cultural heritage, cyber-appropriation protection, and support for contemporary arts like film, music, and gaming.
   (vi) **Improve Enforcement** - Empower counties and communities with monitoring roles, increase penalties for repeat offenders to KShs 5 million.
   (vii) **Mandate Cultural Education** - Require heritage modules in school curricula funded by the culture fund.
   (viii) **Align with International Treaties** - Better incorporate UNESCO conventions and African Union frameworks.

2. **Haki Jamii The Economic And Social Rights Centre-Hakijamii & Community Based Organizations Of Narok County (Elongo CBO; Orkila Orok; Entashata Loita CBO; Green Horizons CBO; Soralo CBO; Naidip; Nyeff CBO; Ncnrn**

The Culture Bill, 2024, brings to life Article 11 of the Constitution, where the Constitution recognises culture as the foundation of the nation and as the cumulative civilization of the Kenyan people. The same provision also outlines the State's responsibilities in adherence to this, which include promotion, recognition, protection and compensation for use. However, the Bill exhibits structural gaps that, if unaddressed, may undermine its constitutional purpose and result in the continued marginalization and exploitation of cultural custodians—especially Indigenous Communities. They Include:

Gap: Omission of Cultural Education and Intergenerational Knowledge Transmission

Justification: The Bill is silent on promoting indigenous languages, oral histories, or intergenerational transfer of cultural knowledge. This contradicts the objective of safeguarding living heritage and constrains cultural continuity.

Recommendation: Include a provision mandating integration of indigenous knowledge into national and county education curricula, and support for community-run cultural learning centres.

3. Mau Mau Children Post Colonial Elites

The Mau Mau War Veterans Association, are grateful to the Senate for the opportunity to participate in the submission and public hearing process concerning the Culture Bill, 2024. They appreciate the recognition of our historical role and welcome the initiative to consider compensation for royalties derived for the use of our culture and heritage activities. They also commend the efforts to establish a clear and structured framework to guide the development and preservation of national culture.

4. National Gender and Equality Commission

The Commission recommends to Parliament to make a decision —either reject the current proposed law or propose a repeal to the existing Act. The latter applies if there are valid grounds for repealing. A point of departure is that, the existing law, Cap 281A, recognizes indigenous seeds as part of traditional farming (the same is recognized by the Constitution as culture in Article 11(3)(b)).

The Commission is aware that many farmers face difficulty with Section 8 and Section 10(4) of the Seeds and Plant Variety Act CAP 326 which criminalizes and prohibits farmers from selling or exchanging seeds that are not registered, yet a majority of farmers in Kenya are small scale farmers and vulnerable to multitude of factors (climatic, market dynamics, skills and technology, food loss, wildlife, etc.). In totality, the proposed Bill does not implement Article 11(3)(b).

5. The Ammîrrû Community Cultural Stakeholders Association (ACCSA).

The organization, led by Rev. Dr. Stephen A. Mugambi Mwithimbu, presents seven key recommendations:

i. **Protection of Vernacular Languages** - Mandatory use in churches, media, business, and education
ii. **Recognition of Official Boundaries** - Acknowledge Kenya's eight regions and 47 counties as legally established
iii. **Protection of Cultural Institutions** - Safeguard traditional organizations like Njûri Incheke and Mûgwe sovereignty
iv. **Redress of Historical Injustices** - Address land boundary and cultural encroachment issues
v. **Integration of Traditional Medicine** - Create regulatory council for traditional healers within the health system
vi. **Protection of Medicinal Knowledge** - Establish national database to prevent bio-piracy
vii. **Cultural Infrastructure Development**-Establish County museums, libraries, and annual cultural festivals.

6. **Tony Mochama**
To bring to life Article 11 of the 2010 Constitution and promote LITERATURE, do publications and get mass media excited on this Cultural BILL, I have a very simple but ingenious suggestion, that will set the reading and writing public on fire about this BILL across Kenya.
   (i) Put aside a mere KShs 25 million as an annual Cultural Grant.
   (ii) (i) Award TEN writing prizes, each one worth just Shs 1 million, for four best novels of the year, three best individual poetry collections, and two best published plays **- for a total of Shs 10 million.** These should reflect our Kenyan l*ifestyle, social interactions, customs, codes,* and all ten artistic works be judged on their excellent language, originality and creative ideas.
   (iii)(ii) Set aside SIX million shillings yearly for four cultural research projects (Shs 1.5 million each) that will capture our traditions, rituals, ceremonies, history and travel-scapes, all four to be captured in writing. (iii) Then set another Shs 4 million for the PRINTING of **all 14 works.**
   (iv)(iv) Finally, work with a globally associated organisation like PEN International (the local Kenya Chapter) to judge the projects on their merits, with emeritus in the arts and academia as compensated judges. An organisation like PEN could also put together the **Annual Literary Prize Gala** - and this would capture countrywide attention even as it brings the BEST of literature & cultural works
   (v) (*Shs 5 million would cover this last part*).

(vi) In this way, for a small investment (Shs 25 M), the **Cultural Bill through its grants** would help literary artists, bring our living culture to life through the very BEST of our works, and by being there, year after year after year, be a FOREVER legacy for its Sponsors.

**All the general comments were rejected by the Committee.*

MINUTES OF THE SIXTY- EIGHTH (68TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD VIRTUALLY ON ZOOM ONLINE PLATFORM ON TUESDAY, 16TH SEPTEMBER, 2025 AT 10.00 A.M.

MEMBERS PRESENT

1. Sen. Julius Recha Murgor, CBS, MP - **Chairperson**
2. Sen. Alexander Munyi Mundigi, MP - Member
3. Sen. Lenku Seki Ole Kanar, MP - Member
4. Sen. Joe Nyutu, MP - Member
5. Sen. Beth Syengo, MP - Member

APOLOGIES

1. Sen. Crystal Asige, MP - **Vice-Chairperson**
2. Sen. Erick Okong'o Mogeni, SC, CBS, MP - Member
3. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP - Member
4. Sen. Miraj Abdulahi Abdulrahman, MP - Member

SECRETARIAT

1. Ms. Mwanate Shaban - Principal Clerk Assistant II
2. Ms. Florence Waweru - Clerk Assistant II
3. Mr. Jackson Wekesa - Legal Counsel II
4. Ms. Ndindi Kibathi - Research Officer III
5. Ms. Nigma Adow - Research Officer III
6. Mr. Nick Arusei - Audio Officer
7. Mr. Francis Mutulu - Media Officer

MIN/SEN/SCLSW/376/2025: PRAYERS

The meeting was called to order by the Chairperson at 10.21 a.m. followed by a word of prayer.

MIN/SEN/SCLSW/377/2025: ADOPTION OF AGENDA

The agenda was adopted after being proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. Beth Syengo, MP as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of the minutes of the 60th - 67th Sittings;
4. Matters arising from previous minutes;
5. Consideration of the Committee stage amendments on the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024) (***Committee Paper 48***);
6. Consideration and Adoption of the Report of the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024);
7. Any Other Business; and
8. Date of the Next Meeting and Adjournment.

MIN/SEN/SCLSW/378/2025: CONFIRMATION OF THE MINUTES

Agenda item was deferred owing to the composition of Members present.

MIN/SEN/SCLSW/379/2025: CONSIDERATION OF THE COMMITTEE STAGE AMENDMENTS ON THE CULTURE BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2024)

A. Committee briefing

1. The Committee was briefed on Committee Paper 48, regarding the proposed Committee Stage amendments to the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024), as outlined-

a) **CLAUSE 3**

THAT clause 3 of the Bill be amended—

(a) by inserting the following new paragraphs immediately after paragraph (b)

(ba) develop a working partnership with traditional institutions and governance systems that protect and promote culture and traditional knowledge; and

(bb) promote establishment of communities centers as sanctuaries for cultural heritage;

(b) in paragraph (c) by inserting the words "as primary custodians of culture and heritage" immediately after the words "that communities".

b) **CLAUSE 4**

THAT clause 4 of the Bill be amended in subclause (1) by —

(a) inserting the figures "33, 44, 56, 57" immediately after the figure "27" in paragraph (a); and

(b) inserting the words "that are not retrogressive and oppressive" immediately after the words "all cultures" in paragraph (b).

c) **CLAUSE 5**

THAT clause 5 of the Bill be amended in subclause (1) by inserting the words "and community" immediately after the words "of national" in paragraph (k).

d) **CLAUSE 10**

THAT clause 10 of the Bill be amended in subclause (2) by inserting the word "documented" immediately after the words "the prior".

e) **CLAUSE 17**

THAT clause 17 of the Bill be amended by inserting the words "sacred sites," immediately after the words "of culture,".

f) **CLAUSE 18**

THAT clause 18 of the Bill be amended in subclause (2) by inserting words ",sacred sites" immediately after the words "cultural heritage".

g) **CLAUSE 33**

THAT clause 33 of the Bill be amended—

(a) in subclause (2) by inserting the words "in compliance with the Data Protection Act" immediately after the words "the registers" in paragraph (a).

(b) by inserting the following new paragraph immediately after paragraph (f) -

(fa) prescribing storage of databases and servers relating to cultural heritage.

h) **CLAUSE 2**

THAT clause 2 of the Bill be amended —

(a) in the definition of "prior informed consent" by deleting the existing definition and substituting therefor the following new definition—

"prior informed consent" means the giving of, by the prospective user, complete and accurate information, and based on that information, consent that is express, unequivocal, free, specific and an informed indication by a statement or by a clear affirmative action of the concerned communities, signifying agreement to the use of their cultures, cultural heritage and cultural property;

(b) in the definition of "safeguarding" by inserting the words "tangible and" immediately after the words "viability of the".

(c) by inserting the following new definitions in their proper alphabetical sequence —

"artist" means any person who creates or gives creative expression to, or re-creates works of art, who considers his artistic creation to be an essential part of his life, who contributes in this way to the development of art and culture and who is or asks to be recognized as an artist, whether or not he is bound by any relations of employment or association;

"cultural expression" refers to the way individuals and groups articulate their experiences values and perspectives through various creative forms encompassing art, music, dance, literature and more reflecting the unique identities and traditions of different communities;

"modern culture" means contemporary culture encompassing art, literature, music, fashion, social norms and technological advancements that are consistent with constitutional values and human rights;

"retrogressive cultural practices" means outdated social norms that negatively impact individuals and include harmful practices including female genital mutilation, child marriages, widow cleansing and discriminatory burial and inheritance practices;

"tangible cultural heritage" means the physical cultural resources produced, maintained and transmitted across generations including buildings and historic places, monuments, artefacts and objects significant to the archaeology, architecture, science or technology of a specific culture.

B. Committee observation and resolution

The Committee resolved to drop the proposed amendments and pass the bill without amendments. This was proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. Beth Syengo, MP.

MIN/SEN/SCLSW/380/2025: CONSIDERATION AND ADOPTION OF THE REPORT OF THE CULTURE BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2024)

1. The Committee considered the Report on the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024), and resolved not to propose any committee stage amendments to the Bill; and

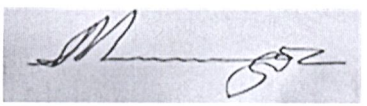
2. The Report on the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024) was adopted having been proposed by Sen. Beth Syengo, MP and seconded by Sen. Alexander Munyi Mundigi, MP.

MIN/SEN/SCLSW/381/2025: ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCLSW/382/2025 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 10.38 a.m. the next meeting being on notice.



SIGNATURE.....

(CHAIRPERSON: SEN. JULIUS RECHA MURGOR, CBS, MP)

DATE: Tuesday, 23rd September, 2025

ANNEX 2:

COPY OF THE BILL.



REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS

(*Bill No. 12 of 2024*)

THE CULTURE BILL, 2024

(A Bill published in the Kenya Gazette Supplement No. 12 of 2024 and passed by the National Assembly, with amendments, on June 12th, 2025)

N.A. /B/No. 12/2024

THE CULTURE BILL, 2024

ARRANGEMENT OF CLAUSES

Clauses

PART I—PRELIMINARY

1—Short title.

2—Interpretation.

3—Object and purpose of the Act.

4—Guiding principles.

PART II—MANAGEMENT OF CULTURE

5—Role of the National Government.

6—Role of County Governments.

7—Establishment of cultural database.

8—Access to information.

9—Compensation for use of culture and cultural heritage.

10—Exceptions and limitations to compensation for use of culture and cultural heritage.

11—Export, import and transfer of inventoried cultural property.

12—Application to conduct research.

13—Application for registration.

14—Refusal to register.

15—Cancellation of registration.

16—Validity of registration.

17—Recognition and promotion of culture, cultural heritage and cultural property by public entities.

18—Protection of culture, cultural heritage and cultural property.

19—Seizure and disposition of tangible cultural heritage.

PART III—OFFENCES AND PENALTIES

20—Offences.

21—Non-compliance with conditions of registration.

22—Undertaking research without a permit.

23—Loaning without a permit.

24—Damage or destruction of inventoried cultural property.

25—Wrongful possession of cultural property.

26—Counterfeiting and misrepresentation of cultural property.

27—Using images without consent.

28—False or misleading information.

29—Willfully obstructing or impeding an officer.

PART IV—GENERAL PROVISIONS

30—Fees, charges and levies to be published in the *Gazette.*

31—General penalty.

32—Transitional provisions.

33—Regulations.

SCHEDULE

National Cultural institutions

THE CULTURE BILL, 2024

A Bill for

AN ACT of Parliament to give effect to Article 11 (3) (a) of the Constitution; to provide for the protection and promotion of culture and the cultural heritage of communities; and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Culture Bill, 2024. Short title.

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

"art" means the physical manifestation of the internal creative impulse influenced by culture and expressed, in the form of literature, performing arts, culinary arts, media arts, or visual arts;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to culture;

"community" means a culturally homogeneous and consciously distinct group of people who share any of the following attributes—

(a) common ancestry;

(b) similar culture or mode of livelihood or language;

(c) geographical space;

(d) ecological space; or

(e) community of interest;

"community of interest" means the possession or enjoyment of common rights, privileges or interests and living in the same place or having some apparent association;

"cultural property" means property which, on religious or secular grounds, is specifically designated as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to the following categories—

(a) rare collections;

(b) products of archaeological excavations;

(c) elements of artistic or historical monuments;

(d) buildings and architectural designs;

(e) objects of ethnological interests;

(f) original works of art and engravings;

(g) rare manuscripts;

(h) archives;

(i) articles of furniture; and

(j) musical instruments;

"cultural heritage" means—

(a) tangible cultural heritage including—

(i) movable cultural heritage;

(ii) immovable cultural heritage; and

(iii) underwater cultural heritage;

(b) intangible cultural heritage;

(c) natural heritage including natural sites with cultural aspects such as cultural landscapes, physical, biological or geological formation; or

(d) heritage in the event of armed conflict;

"cultural industries" means an industry that produces and distributes goods and services centred around tangible or intangible artistic and creative outputs such as texts, symbols and images;

"cultural practitioner" means a person who manifests any cultural knowledge and skills especially in regard to traditional and customary practices of a particular ethnic or other cultural group;

"culture" means the set of distinctive spiritual, material, intellectual and emotional features of a community or a social group, and includes the lifestyle, social interactions, value systems, traditions, beliefs, language, ideas, customs, codes, institutions, works of art, rituals and ceremonies;"

"intangible cultural heritage" means the practices, representations, expressions, knowledge, skills and cultural spaces associated with a community, social group or individual and recognized as part of the community, social group or individual's cultural heritage;

"national expressions" means expressions that have cultural content with national resonance that result from creativity of individuals, groups or societies;

"prior informed consent" means the giving of, by the prospective user, complete and accurate information, and based on that information, the prior acceptance, by the concerned communities, to the use of their cultures, cultural heritage and cultural property;

"protection" means a measure aimed at, adopted or implemented for the promotion, preservation, safeguarding and enhancement of cultures, cultural heritage and cultural property; and

"safeguarding" means any measure taken by a county, community, social group or individual, aimed at ensuring the viability of the intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non-formal education, as well as the revitalization of the various aspects of such heritage.

Object and purpose of the Act.

3. The object and purpose of this Act is to—

(a) give effect to Article 11 of the Constitution;

(b) promote all forms of national culture, cultural heritage and cultural property through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage;

(c) ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage; and

(d) provide a framework to guide national cultural development.

Guiding

4. (1) In the performance of functions and exercise of

powers under this Act, State organs, State officers, other public officers and any other persons shall— principles.

(a) be guided by the national values and principles set out in Articles 10, 27, 201 and 232 of the Constitution; and

(b) give equal recognition, dignity and respect to all cultures, including cultures of minorities or marginalized peoples.

(2) Notwithstanding the provisions of this Act, culture and cultural heritage shall not be inconsistent with the Bill of Rights set out in Chapter Four of the Constitution.

PART II—MANAGEMENT OF CULTURE

5. (1) The Cabinet Secretary shall be responsible for— Role of the National Government.

(a) development of national policies and regulations and standards on cultures and cultural heritage and expressions;

(b) promotion of the diverse cultures, cultural heritage and cultural property including protection, safeguarding, preservation, conservation and rehabilitation of cultures, cultural heritage and cultural expressions;

(c) monitoring compliance with standards and regulations concerning culture and cultural heritage;

(d) management of national cultural institutions established by or under the control of the national government;

(e) prescribing regulations and standards to guide cultural databases and for development of county cultural facilities and activities;

(f) prescribing regulations and standards to guide the development of cultural facilities and activities;

(g) implementing bilateral and multilateral agreements on culture;

(h) in consultation with institutions specializing in statistics, collecting, processing and maintaining

national statistical data on cultural heritage;

(i) developing mechanisms for restitution and repatriation of illegally acquired cultural property;

(j) establishment of linkages with institutions undertaking research on Kenya's cultures and cultural heritage;

(k) establishment of national cultural centres for promotion of cultural participation and fostering of creativity;

(l) promoting national values, social cohesion and national identity; and

(m) performing any other function as may be necessary for the purposes of this Act.

(2) The institutions set out in the Schedule shall be managed by the national government.

Role of county governments.

6. County governments shall—

(a) promote, protect and manage cultural activities and facilities at the county level in line with the national policy;

(b) enact county policies and laws for the promotion of cultural activities and facilities;

(c) establishment and management of county cultural institutions;

(d) in consultation with institutions specializing in statistics, collecting, processing and maintaining county statistical data on cultural heritage;

(e) promote cultural activities, public entertainment and infrastructure for culture and cultural heritage at the county level; and

(f) develop and manage a county database of cultural activities.

Establishment of cultural database.

7. (1) The Cabinet Secretary, in consultation with county governments, shall establish and maintain a database on culture and heritage including a database of registered cultural practitioners, groups and associations.

(2) The Cabinet Secretary shall, in consultation with

county governments, develop a system for collecting and preserving information on culture and cultural heritage.

(3) The Cabinet Secretary shall prescribe the standards for compatibility with the national database and data to be submitted by county governments for the national database of culture and cultural heritage.

Access to information.

8. (1) Any person shall have the right to the information held in the national database of culture and cultural heritage:

Provided that it is not information protected by this Act or any other written law.

(2) A person who requires a copy of the information in the database may be given such a copy after the payment of a reasonable fee as may be prescribed by regulations made under this Act.

Compensation for use of culture and cultural heritage.

9. (1) The Cabinet Secretary shall, in consultation with relevant stakeholders and county governments, establish mechanisms for the determination and payment of compensation or royalties to communities for the use of the communities' culture and cultural heritage.

(2) The determination of compensation or royalties shall be guided by, among other things—

(a) the impact of the culture or cultural heritage on the economy of the community;

(b) the economic value of the culture or cultural heritage;

(c) the cultural value of the culture or cultural heritage;

(d) whether or not the culture or cultural heritage shall be used continuously or periodically;

(e) whether or not the culture or cultural heritage will be subject to derivative works and the type of ownership of the derivative works;

(f) the type and amount of investment by a State organ in the culture or cultural heritage;

(g) the effect of the use of the culture or cultural

heritage on the environment; and

(h) the potential for large scale use of the culture or cultural heritage.

(3) The share of the royalties or compensation between the two government levels, the communities and individuals shall be prescribed by the Cabinet Secretary in Regulations.

(4) In establishing mechanisms under subsection (1) the Cabinet Secretary shall—

(a) establish a register of cultural property;

(b) establish a register of cultural practitioners, groups and associations; and

(c) prescribe regulations to combat illicit trafficking of cultural property.

(5) The Cabinet Secretary shall, in consultation with the departments responsible for industrial property and copyright, develop guidelines for the payment of compensation or royalties to the national or county governments, as the case may be, and to, communities, social groups and individuals for the use of cultural property, knowledge or heritage.

Exceptions and limitations to compensation for use of culture and cultural heritage.

10. (1) Notwithstanding the provisions of section 9, the mechanisms for compensation for the use of culture and cultural heritage may, in the public interest, exempt from or limit the requirement to compensate for use of a culture or cultural heritage—

(a) where the exemption or limitation does not restrict or impede the normal usage, development, exchange, dissemination or transmission of the culture or cultural heritage by the members of the community according to the community's norms;

(b) where the exemption or limitation is for the purposes of non-commercial use of the culture or cultural heritage including for teaching, research, exhibition, the reporting of current events and during judicial determination; or

(c) where the exemption or limitation is for the

purposes of making a recording or reproduction of the culture or cultural heritage in a public archive or inventory for safeguarding.

(2) A person who intends to use a culture or cultural heritage shall obtain the prior informed consent of the owner or owners of the culture or cultural heritage and acknowledge their ownership of the culture or cultural heritage and the geographical place where the culture or cultural heritage is practiced or occurs.

(3) A person who uses or intends to use a culture or cultural heritage shall do so in a manner that is compatible with fair practice, and is not offensive or derogatory to the owner or owners of the culture or cultural heritage.

Export, import and transfer of inventoried cultural property.

11. (1) A person, community or social group whose cultural property has been entered in national database of culture and cultural heritage, and wishes to loan, export, import and transfer such property locally or internationally, shall apply to the Cabinet Secretary in the prescribed form for approval.

(2) In determining an application under this section, the Cabinet Secretary shall have regard to—

(a) the security of the cultural property;

(b) the spiritual, cultural or sentimental value of the cultural property;

(c) the fragility of the cultural property;

(d) the rarity of the cultural property;

(e) the cultural property's economic value;

(f) whether or not the cultural property is insured;

(g) the loaning period;

(h) whether the cultural property has any prescribed restrictions placed on it; and

(i) international treaties or conventions relating to culture or cultural heritage which Kenya has ratified.

(3) The Cabinet Secretary shall, if he or she approves the loan, export, import or transfer of the cultural property,

issue a certificate of authorisation in the form prescribed by regulations made under this Act.

(4) A person shall not export out of Kenya any cultural property which has been unlawfully acquired or recovered.

Application to conduct research.

12. (1) Notwithstanding any approval, permit or license granted under any other written law, a person who desires to conduct research regarding any cultural property that has been entered in the national database of culture and cultural heritage shall apply to the Cabinet Secretary in the prescribed manner, and the application shall be accompanied by such information or documentation as the Cabinet Secretary may prescribe.

(2) The Cabinet Secretary shall consult the owner of a cultural property before the relevant authority makes a determination regarding an application under this section.

Application for registration.

13. (1) A person who wishes to register a property as a cultural property under this Act shall apply to the county government or the Cabinet Secretary in the prescribed manner:

Provided that an application made to the Cabinet Secretary shall only be done after the property has been registered by a county government.

(2) An application under subsection (1) shall be accompanied by such information or documentation as may be prescribed by Regulations made under this Act.

(3) The county government or the Cabinet Secretary, as the case may be, shall, upon payment of the prescribed fees, register the property as cultural property where, after consideration of an application under subsection (1) and after such investigation and enquiry as may be necessary, the county government or the Cabinet Secretary, as the case may be, is satisfied that—

(a) the property in respect of which the application is made—

(i) historically belongs to the community, social group or individual seeking registration;

(ii) is not the subject of controversy regarding ownership;

(iii) complies with identification criteria set by the Cabinet Secretary; or

(iv) is of cultural interest to more than one social group and an agreement has been reached by the interested groups regarding registration;

(b) the person is engaged in cultural development or the arts; and

(c) registration of such property is not contrary to public interest.

(4) The Cabinet Secretary or the county government, as the case may be, shall make regulations to guide the registration process under this section at the national government level or the county government level, as the case may be.

(5) The Cabinet Secretary shall consult the relevant county government before registering a property under this Act.

(6) Each county government shall, upon registering a property as a cultural property or entity, as the case may be, shall notify the Cabinet Secretary of the registration and such notification shall contain the relevant details of the registration and, soon thereafter, the Cabinet Secretary shall cause the information to be entered in the national database.

Refusal to register.

14. Where the Cabinet Secretary or county government refuses to register a property or institution under section 11, the Cabinet Secretary or county government shall provide the applicant, in writing, with the reasons for such refusal.

Cancellation of registration.

15. (1) The Cabinet Secretary or county government may cancel the registration of a cultural property if the Cabinet Secretary or county government is satisfied that—

(a) the holder of a registered cultural property has, in connection with the registration, contravened or failed to comply with a condition relating to the registration;

(b) it is contrary to the public interest that such

cultural property to remain registered; or

(c) the applicant gave false or misleading information to obtain registration of the property.

(2) Before the registration of a cultural property is cancelled, the Cabinet Secretary or the county government shall notify in writing the holder of the registered cultural property of the intention to cancel the registration, specifying the grounds for the intended cancellation in the notification, and invite the holder to make representations in respect of the intended cancellation.

Validity of registration.

16. The register of cultural property and the certificate of registration issued in respect of the registration of a cultural property shall lapse on the cancellation of registration under section 15.

Recognition and promotion of culture, cultural heritage and cultural property by public entities.

17. The Cabinet Secretary shall develop Regulations to determine the criteria for the recognition and promotion of culture, cultural heritage and cultural property.

Protection of culture, cultural heritage and cultural property.

18. (1) The Cabinet Secretary shall prescribe, by notice in the *Gazette*, cultural property that shall not be sold or exported.

(2) The Cabinet Secretary shall develop regulations for the promotion and protection of endangered culture, cultural heritage and cultural property.

(3) A person who discovers an archaeological heritage shall not interfere with it:

Provided that a county government has permitted that person to disturb that archaeological heritage and the Cabinet Secretary has issued that person with a license.

(4) The Cabinet Secretary and the county government shall not approve any activity or development to be undertaken in an area where there is or might be a cultural heritage if it appears that the activity or development shall unreasonably endanger or damage the cultural heritage.

Seizure and disposition of tangible cultural heritage.

19. (1) A tangible cultural heritage shall be subject to seizure if—

(a) it has been recovered without a valid permit;

(b) it has been stolen, imported or exported without a

permit; or

(c) unlawfully transferred to the ownership of another person.

(2) A seized cultural heritage under this Act shall be registered, protected and stabilised.

PART III—OFFENCES AND PENALTIES

Offences.

20. (1) A person commits an offence if that person—

(a) steals or is wrongfully in possession of a cultural property protected under this Act or under any other written law;

(b) sells a cultural property protected under this Act or under any other written law without a permit or license;

(c) transfers, without a permit or license, or traffics in a cultural property protected under this Act or under any other written law;

(d) aids or abets another person to steal, sell or otherwise be wrongfully in possession of a cultural property protected under this Act or under any other written law;

(e) commits forgery or fraud with the intent to have an article declared an article of cultural interest;

(f) damages a cultural property;

(g) does not report imminent danger to a cultural expression;

(h) conducts an activity or development at a cultural property or cultural heritage site without the requisite permit or license;

(i) exports a cultural property without a permit or a license; or

(j) removes or attempts to remove without authorization any cultural property.

(2) A person who commits an offence under this section shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years, or to both.

(3) The court may, in addition to any penalty it may impose under this section—

(a) direct that any expenses incurred for the repair or replacement of a cultural object as a consequence of the commission of an offence under this section be paid by the offender;

(b) order the restitution of a cultural property protected under this Act or under any other written law to its rightful owner; or

(c) make an order for the forfeiture of the proceeds or profits from the commission of the offence.

Non-compliance with conditions of registration.

21. Any person whose property or association has been registered and who fails to comply with the conditions of registration under this Act commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months.

Undertaking research without a permit.

22. Any person who undertakes research under this Act without a research permit issued under this Act commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years.

Loaning without a permit.

23. A person who loans a cultural property contrary to the provisions of this Act commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years.

Damage or destruction of inventoried cultural property.

24. Any person who intentionally damages or destroys an inventoried cultural property or artifact commits an offence and shall, on conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

Wrongful possession of cultural property.

25. A person who is found in possession of cultural property to which he or she has no lawful right commits an offence.

Counterfeiting and misrepresentation of cultural property.

26. Any person who—

(a) produces an object or assists another person to

produce an object with the intention of presenting it as a genuine cultural property; or

(b) knowingly misrepresents an object to be a cultural property,

commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years.

Using images without consent.

27. (1) Any person who uses an image of a cultural property without the written prior informed consent of the owner of that cultural property commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years.

(2) The burden of proof shall, under this section, lie on the person alleging to have obtained the written prior informed consent.

(3) The Cabinet Secretary shall take such measures as may be necessary to ensure payment for use of images of cultural property where such images have been or are being used without consent outside Kenya.

False or misleading information.

28. A person commits an offence if he or she knowingly provides false or misleading information and shall be liable, on conviction, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months.

Wilfully obstructing or impeding an officer.

29. Any person who willfully obstructs or impedes any person in the exercise of any of the powers, or in the performance of any of the duties conferred or imposed upon him or her by this Act commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months.

PART IV—GENERAL PROVISIONS

Fees, charges and levies to be published in the *Gazette*.

30. (1) Where this Act stipulates levies, charges or fees for any services or for use of facilities, the Cabinet Secretary shall publish a schedule of the levies, charges or fees in the *Gazette*.

(2) The schedule of charges shall come into force on the date specified therein, which shall be at least thirty days

following publication in the *Gazette*.

General penalty.

31. A person convicted of an offence under this Act for which no other penalty is prescribed shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.

Transitional provisions.

32. (1) Any license or permit issued by the Cabinet Secretary in regard to a cultural object before the commencement of this Act shall continue to be valid as if it had been issued under this Act.

(2) Any inventory or register of culture and cultural heritage in existence before the commencement of this Act shall continue to be valid as if it had been established or kept under this Act.

(3) Any agreement or contract entered into between the Government and any other person regarding the protection and promotion of culture and the cultural heritage of communities shall continue to bind the parties as if the agreement or contract had been made under this Act.

(4) Any agreement or contract entered into by the Government with any other person regarding the protection or promotion of culture and the cultural heritage of communities before the commencement of this Act that contravenes any provision of this Act shall, on commencement of this Act, become null and void to the extent of that contravention.

Regulations.

33. (1) The Cabinet Secretary may make regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations—

(a) prescribing the information to be captured in the registers;

(b) prescribing the forms under this Act;

(c) prescribing the criteria for the identification of cultural property;

(d) prescribing the manner in which the loaning of cultural property shall be undertaken;

(e) prescribing the standards for the maintenance, presentation and storage of cultural objects;

(f) prescribing compensation on use of community cultures and payment of royalties;

(g) prescribing the manner of interlinkage with research institutions in regards to research relating to culture; and

(h) generally for the better carrying out of the purposes and provisions of this Act.

SCHEDULE *(Section 5(2))*

National Cultural Institutions

1. Kenya Cultural Centre
2. National Libraries
3. National Museums of Kenya
4. Kenya National Archives and Documentation Service
5. Bomas of Kenya

I certify that this printed impression is a true copy of the Bill passed by the National Assembly on the 12th June, 2025.

Clerk of the National Assembly

Endorsed for presentation to the Senate in accordance with the provisions of Standing Order 142 of the National Assembly Standing Orders.

Wetangula

Speaker of the National Assembly

ANNEX 3:

ADVERTISMENT AS PUBLISHED IN THE DAILY NATION AND STANDARD NEWSPAPERS.

Raila faces defections over deal with Ruto

- Nairobi Senator Edwin Sifuna reveals simmering tensions in ODM.
- Former PM under pressure from within for supporting Kenya Kwanza.

BRIAN OTIENO, NAIROBI

Former Prime Minister Raila Odinga is facing a rebellion within his Orange Democratic Movement party over his association with President William Ruto.

Raila risks defections from his party, driven by lawmakers who oppose a memorandum of understanding between ODM and Ruto's United Democratic Alliance.

Equally contributing to the friction is Raila's commitment to support the President until 2027. Explosive revelations by Nairobi Senator Edwin Sifuna, also ODM secretary general, show Raila faces a growing push to abandon Ruto.

In an interview on *Citizen TV* on Tuesday, Sifuna contradicted Raila's position to support Ruto until 2027, which he termed 'unfortunate' and a cause of constant confusion within the opposition outfit.

He painted his resistance, driven by other politicians within ODM, as aimed at "rescuing" the party from sinking with Ruto, who Sifuna believes will lose the next election.

"If a decision is taken to support President William Ruto for 2027, that is something I cannot personally abide by, and I am sure everybody would respect that," said Sifuna, adding that he would resign as secretary general if his party were to back Ruto. "But since that decision has not been made, I am holding out that there is still time for us to correct course."

In an interview on *NTV* on Sunday, Raila finally admitted to being a part of Ruto's "broad-based" government, a position he said would not change until 2027. "We did not say we are going to work with UDA beyond 2027. Those are issues we will discuss at the appropriate time, and the decision will be made by party members."

He would also leave the door open for a sixth stab at the presidency, which Sifuna argued would be dented if Raila were to stick with Ruto until the next polls, citing the need to prepare adequately. "Preparation for elections take time. The worry would be that we would lose that opportunity to not only extricate ourselves from this unpopular regime, but also to explain to the people what we have been doing with Ruto all these years," said Sifuna, who touted Ruto's ouster in 2027 as an urgent agenda.



ODM leader Raila Odinga at a past function in Homa Bay County. (File, Standard)

The Nairobi senator, who has been critical of Ruto, attracting enemies within ODM, described the opposition party as a force for good that risks tainting its legacy by associating with the current regime, which he accused of committing atrocities against Kenyans.

"My position has always been that ODM stands a very good chance of winning the elections in 2027," said Sifuna. "We have good people in this party who can run the country."

His remarks are reminiscent of similar warnings about Raila's handshake with former President Uhuru Kenyatta, which made the former prime minister blamed for some of the failures of the Jubilee government, partly contributing to Raila's loss to Ruto in 2022.

Saboti MP Caleb Amisi, who said he had opposed Raila's 2018 handshake with Uhuru, argued that ODM's values do not marry with UDA's, and warned that he could defect from ODM if it were to decide to back Ruto's re-election. "We left all other parties, 92 of them, because ODM stood on ideologies that we thought would transform this country," said Amisi. "We have gone against the ideologies we stood for (by associating with Ruto)."

Sifuna and Amisi belong to a faction within ODM christened ODM-in-opposition, which also features Embakasi East MP Babu Owino and Siaya Governor James Orengo, among other politicians. A different faction, ODM-in-government, has openly endorsed Ruto's re-election bid.

"We hold onto the MoU our leader signed with the President at the KICC, not anyone else is saying out there, which is their right," said Makadara MP George Aladwa. "We are firmly behind Ruto and we will not move from here."

National Treasury Cabinet Secretary John Mbadi, formerly ODM's chairperson, said Sifuna should respect the hierarchy within ODM. "Between the Party Leader and the Secretary General, whose decision is final?" Ramogi TV quoted Mbadi as saying. "I'm glad he clarified those are his personal opinions."

Political commentator Herman Manyora argued that amid public pressure, Raila could be pushed to abandon Ruto, but warned that the former PM could lose allies if he does not tame the dissent within ODM.

[Additional report by Omondi Powel]
bowino@standardmedia.co.ke

COUNTY GOVERNMENT OF BUNGOMA

MINISTRY OF FINANCE AND ECONOMIC PLANNING

NOTICE FOR DRAFT FINANCE BILL 2025 PUBLIC PARTICIPATION

The Bungoma County Finance Bill, 2025 seeks to provide for revision of various taxes, fees and charges for the services, and other revenue raising measures by the County Government; and for matters incidental thereto.

Article 201(a) of the Constitution of Kenya provides that "There shall be openness and accountability, including public participation in financial matters". Further, Section 115 of the County Government Act provides that "Public Participation in the County planning Processes shall be mandatory."

Members of the public are invited to participate and give their views on the Draft Finance Bill 2025.

The Bill can be accessed from the County website at **www.bungoma.go.ke**. Written submissions can be forwarded to the County Secretary; P.O. Box 437-50200 Bungoma, hand delivered to the Office of the County Secretary, Masinde Muliro Stadium or the nearest Office of the Ward Administrator; or emailed to **info@bungoma.go.ke** to be received on or before **31st July, 2025.**

CAROLINE KHALAYI MAKALI
COUNTY EXECUTIVE COMMITTEE MEMBER - FINANCE AND ECONOMIC PLANNING.

www.bungoma.go.ke

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT | FOURTH SESSION

THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA AND PUBLIC HEARING

THE CULTURE BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2024)

The **Culture Bill, 2024 (National Assembly Bills No. 12 of 2024)** was read a First Time in the Senate on Wednesday, 16th July, 2025 and thereafter stood committed to the Standing Committee on Labour and Social Welfare for consideration. The Committee is required, under standing order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bill and to take into account the views and recommendations of the public when the Committee makes its report to the Senate.

The Bill seeks to give effect to Article 11 of the Constitution by promoting all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, mass media, publications and other aspects of cultural heritage. The Bill further seeks to ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage and also provides a clear framework to guide national cultural development.

In accordance with the provisions of Article 118 of the Constitution and standing order 145(5) of the Senate Standing Orders, the Standing Committee on Labour and Social Welfare now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P.O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to **clerk.senate@parliament.go.ke** and copied to **laboursocialwelfarecomm.senate@parliament.go.ke** to be received on or before **Wednesday, 6th August, 2025 at 5.00 p.m.**

In addition, the Committee will hold a public hearing on the Bill on **Thursday, 7th August, 2025** at the **Mini Chamber, First Floor, County Hall Building, Nairobi** at **11.00 a.m.** Members of the public are welcome to attend the hearing.

The Bill and a digest that summarizes the contents and context of the Bill may be accessed on the Parliament website at **http://www.parliament.go.ke/the-senate/house-business/bills**.

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

'New Kenya' He acknowledges public frustrations, but defends his administration's 'bold and ambitious reform agenda'

Stop 'wash wash' politics, Ruto rebukes opposition

President says 'Ruto must go'slogan is empty rhetoric that will not solve the problems in Kenya

BY MERCY SIMIYU

President William Ruto has challenged the opposition to give constructive criticism and better solutions for the country's problems.

He dismissed critics' chants of "Ruto must go!" as empty rhetoric. He likened the rhetoric to "wash wash" scams.

"If you have a better plan than mine for the economy, health, creating jobs and education, then you should be bold enough and tell us," he said.

"Let us have that conversation. Kenyans deserve honesty from all of us. Shouting is not enough. Criticism is not enough. Show us your plan," he said.

The President spoke yesterday during the bell-ringing ceremony to commemorate the listing of the Linzi Asset-Backed Security at the Nairobi Securities Exchange (NSE).

Dr Ruto acknowledged public frustrations, but defended his administration's "bold and ambitious reform agenda".

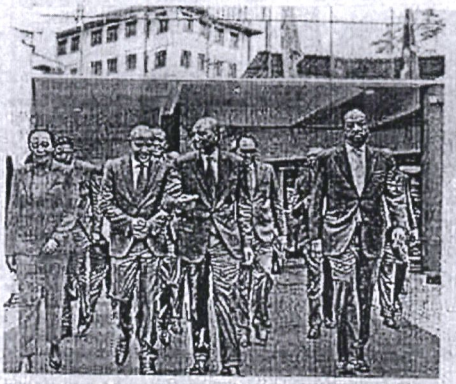
"Yes, I made promises. Yes, I took on difficult challenges. And I would do it again. This was not a mistake—it was deliberate and intentional. We must merge leadership with national ambition," the President said.

"For far too long, we made peace with mediocrity. That's how slums became homes, hunger became normal, health became a privilege, and jobs became a status symbol. I promised to change that—and that change is happening," he added.

The Head of State scoffed at calls to reverse key reforms such the Social Health Insurance Fund that replaced the National Health Insurance Fund (NHIF), the housing levy and the revamped education funding model.

"The more I listen to them, the more they sound like a broken record: 'Let's go back to NHIF'—the same NHIF that never worked. 'Let's go back to the old funding model'—the one that crippled our education system. 'Let's abolish affordable housing'—and keep letting slums grow. 'Let's do away with SHIF'—and make healthcare a privilege again," Dr Ruto said.

"They sound like people who are too comfortable with the status quo and afraid of progress. But I will not back down. I made a solemn commitment to lead from the front and I intend to keep it," he added.



President William Ruto, Defence CS Soipan Tuya (left), Treasury CS John Mbadi (2nd left) and NSE Chairperson Kiprono Kittony at the NSE yesterday. PHOTO | PCS

The President urged Kenyans to assess his administration fairly and allow time for reforms to take root.

"Pause. Reflect. Think. Give me a chance and judge me fairly when the time comes. This is not a gamble or an experiment—it's a disciplined, determined effort. We are building a new Kenya one that dares to dream big, push harder, and break free from mediocrity," he said.

Addressing growing calls for his resignation, he maintained that leadership transitions should be based on ideas, not slogans.

"I listened to another group of friends, fellow Kenyans, saying 'Ruto must go!' We have a great nation, and it is our duty to make it even greater. I also listened to a gentleman who recently retired after working for 40 or 50 years, saying Kenya is a failed State. And I asked myself: so, you worked for 40 years in a failed State? You now want to be President of a country you don't believe in? Really?"

> Pause. Reflect. Think. Give me a chance and judge me fairly when the time comes. This is not a gamble or an experiment—it's a disciplined, determined effort
>
> President William Ruto

Dr Ruto highlighted key economic achievements under his leadership.

"Our economy is stabilising. We have moved from being the eighth-largest economy in Africa to sixth. Inflation has dropped from 9.6 per cent in 2022 to 3.8 per cent today. The shilling has strengthened and stabilised at 129 to the dollar, down from 165.

mesimiyu@ke.nationmedia.com

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT | FOURTH SESSION

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

KTDA

KENYA TEA DEVELOPMENT AGENCY (HOLDINGS) LTD

INVITATION TO TENDER

TENDER REFERENCE	KTDA/104/2025
TENDER DESCRIPTION	TENDER FOR SUPPLY AND INSTALLATION OF DOCK LEVELLERS, GALVANISED ROLLER SHUTTERS AND DOCK BUMPERS TO CHAI TRADING COMPANY LTD WAREHOUSING COMPLEX (PHASE 2)
TENDER REGISTRATION FEE	Kenya Shillings 3,000
MODE OF PAYMENT	Cash or Bankers Cheque payable to Kenya Tea Development Agency (H) Ltd, to be Deposited into the Agency's Bank Account at any Family Bank branch- Account Number: 065000006071 Branch: Corporate-KTDA Plaza, Moi Avenue Nairobi

Chai Trading Company Limited (CTCL), a wholly- owned subsidiary of Kenya Tea Development Agency (Holdings) Ltd is currently constructing a warehousing facility at Miritini, Mombasa County. The scope comprises of 4 No. warehouses, each requiring several dock levelers, galvanized roller shutters and dock bumpers to the offloading areas. Thus, the company invites sealed tender(s) for supply, delivery and installation of dock levelers, galvanized roller shutters and dock bumpers for the proposed CTCL warehousing complex site.

Interested eligible bidders may obtain a detailed tender document from the procurement office, on third floor Majani Plaza, Koinange Street, Nairobi during office hours upon payment of the non- refundable tender fee. The tender document may also be requested by emailing: **procurement@ktdateas.com**

Tender document in sealed envelope marked with the tender description and reference should be addressed to :

The Chief Executive Officer
KTDA Holdings Limited
Majani Plaza, Koinange Street
NAIROBI, Kenya

Completed document should be deposited in the tender box at the reception on Ground Floor, Majani Plaza, Koinange Street Nairobi, so as to be received not later than 12th **August 2025** at **9.30 am.** Tender opening shall be on the same day.

The tender opening shall be virtual through a video link. Bidders shall be provided with the login credentials before the tender opening

KTDA/CTCL reserves the right to accept or reject any or all applications without the obligation to assign any reason for the decision.

Canvassing will lead to automatic disqualification from the tendering process.

PETER MUNGAI
Ag. GROUP HEAD - PROCUREMENT AND LOGISTICS

Kenya Tea Development Agency - Holdings Limited
@KTDATea
Tel: +254 020 3227000 - 2 / 221441/2/3/4
0722 952402/7, 0722 203451/2, 0733 913580, 0733 363647
E-mail: info@ktdateas.com / Site: www.ktdateas.com

ANNEX 4:

PUBLIC PARTICIPATION MATRIX

THE SENATE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE
PUBLIC PARTICIPATION MATRIX
THE CULTURE BILL, 2024
(NATIONAL ASSEMBLY BILL NO. 12 OF 2024)

List of Stakeholders

1. Ministry of Gender
2. Ministry of Education
3. Ministry of Youth and Creative Economy
4. National Gender & Equality Commission (NGEC)
5. Creative Economy Working Group (CEWG) - 18 member institutions
6. National Traditional Medicine Practitioners Association (NATHEPA)
7. Njuri Ncheke Supreme Council of Ameru Elders
8. Wanga Cultural Heritage CBO
9. The Economic And Social Rights Centre-Hakijamii & Community Based Organizations Of Narok County (Elongo CBO; Orkila Orok; Entashata Loita CBO; Green Horizons CBO; Soralo CBO; Naidip; Nyeff CBO; Ncnrn
10. Nabongo Council of Elders
11. Wanga Elders Council
12. Mau Mau Children Post Colonial Elites
13. The Ammirrû Community Cultural Stakeholders Association (ACCSA)

	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE DETERMINATIONS
PART I - PRELIMINARY					
1.		**Ministy of Education**	Modern culture - refers to contemporary culture encompassing art, literature, music, fashion, social norms and technological advancements.	Under modern culture are aspects of social change, equality, human rights, fashion, social media, etc., that cannot be wished away. It is premised on the principle that culture is not static but dynamic.	ACCEPT WITH MODIFICATIONS - While recognizing cultural dynamism is constitutionally sound under Article 11, the

					definition needs clearer parameters. Recommend refining to specify that "modern culture" includes contemporary expressions that are consistent with constitutional values and human rights, avoiding overly broad language that could dilute protection of traditional heritage. ACCEPT
2.	**Part I - Preliminary**	**CEWG**	Define 'artist' as 'any person who creates or gives creative expression to, or re-creates works of art, who considers his artistic creation to be an essential part of his life, who contributes in this way to the development of art and culture and who is or asks to be recognized as an artist, whether or not he is bound by any relations of employment or association.'	This definition is derived from UNESCO recommendation concerning status of artist and provides international standard.	ACCEPT - This UNESCO-aligned definition provides internationally recognized standards and comprehensive coverage. It strengthens legal certainty and aligns with Kenya's treaty obligations. The broad but precise definition appropriately captures various forms of artistic expression. ACCEPT -shorten
3.	**Part I - Preliminary**	**CEWG**	'tangible cultural heritage' is not defined although 'intangible cultural heritage is defined.	Tangible heritage provides a concrete basis for ideas, and can validate them. Defining them establishes parameters around which	ACCEPT - Essential definition that fills a critical gap. Creates legal certainty and enables effective

			Define tangible cultural heritage as 'the physical cultural resources produced, maintained and transmitted across generations. It includes buildings and historic places, monuments, artefacts, etc., which are considered worthy of preservation for the future. These can be objects significant to the archaeology, architecture, science or technology of a specific culture. Tangible cultural heritage has a physical presence.	they can be safeguarded.	protection mechanisms. The comprehensive definition covering buildings, monuments, artifacts, and objects of archaeological/scientific significance is legally sound and practically necessary. ACCEPT
4.	**Part I - Preliminary**	**CEWG**	Definition of 'prior informed consent' This definition can be tightened further as follows: *prior informed consent" means the giving of, by the prospective user, complete and accurate information, and based on that information, consent that is express, unequivocal, free, specific and an informed indication by a statement or by a clear affirmative action of the concerned communities, signifying agreement to the use of their cultures, cultural heritage and cultural property.*	It is important not to leave loopholes in the definition.	ACCEPT - This enhanced definition aligns with international best practices and constitutional requirements for meaningful consent. The detailed specification of consent requirements provides stronger legal protection for communities and reduces ambiguity in implementation.

					Accept with amendment, check PWD ACT definition.
5.	**Part I - Preliminary**	**CEWG**	Definition of 'safeguarding' excludes measures for tangible cultural heritage. Include measures to ensure viability of 'tangible cultural Heritage.	Tangible heritage ought to be safeguarded, just like intangible heritage. Actions related to seizure are described in Article 19 of the Bill.	ACCEPT - Logically sound to include tangible heritage in safeguarding measures. However, recommend ensuring consistency with existing heritage protection frameworks and clarifying the relationship between safeguarding and seizure provisions to avoid legal conflicts.
6.	**Part I - Preliminary**	**NGEC**	"Community" means a culturally homogeneous and consciously distinct group of people who share any of the following attributes— a) common ancestry; b) similar culture or mode of livelihood or language; c) geographical space; d) ecological space; or e) community of interest; Amend by inserting after the line (e) the following-; Community also includes all persons or groups legally living in Kenya	The proposed amendment intends to recognize the culture of other persons who are not citizens including refugees and asylum seekers. This is in recognition of their rights.	REJECT— The additional definition is superfluous as what has been provided is sufficient..

7.	**Part I - Preliminary**	**NGEC**	Proposed new term— "Retrogressive cultural practices" Retrogressive and retrogressive cultural practices are outdated social norms that negatively impact individuals and include harmful practices including female genital mutilation child marriages widow cleansing and inheritance.	The term has not been interpreted. A proposed application is made under 4 (1) (b)	ACCEPT- It is necessary to include the definition to prevent harmful cultural practices. ACCEPT
8.	**Part I - Preliminary**	**NGEC**	Proposed new term— "Cultural Expression" Cultural expression refers to the way individuals and groups articulate their experiences values and perspectives through various creative forms. It encompasses a wide range of practices including art music dance literature and more collecting the unique identities and traditions of different communities.	In the proposed law in clauses 5(1) (b) and (g) but not interpreted.	ACCEPT— Cultural expression needs to be defined. It is used in the Bill. ACCEPT
9.	**Part I - Preliminary**	**CEWG**			
10.	**Part I - Preliminary**	**HAKI JAMII**	Incomplete/ erroneous interpretation (This Act gives effect to Article 11 (3)	Align with the accompanying Bills Digest. Bill covers more than royalties for	REJECT— The proposal is misplaced.

			(a) of the Constitution)— Rewrite to: This article gives effect to Article 11 of the Constitution	communities	REJECT
11.	**Clause 2 - Cultural Property**	**NATHEPA**	Provide for traditional medicine	Traditional medicine is a core component of Kenya's cultural identity and deserves institutional support and protection.	REJECT- Medicine and health related issues are better legislated through the appropriate health laws which are proper laid laws. REJECT
12.	**Clause 2 - Cultural Property**	**Njuri Ncheke**	Amend tangible cultural heritage to include traditional medicine, medicinal trees and herbs, seeds varieties, foods and recipes, various vegetables, various minerals, forests with sacred traditional shrines, traditional discoveries and inventions, natural resources like salt licks and wetlands.	To enhance protection, ownership and sharing of proceeds from the exploitation, exchange, or export of the same.	REJECT- Medicine and health related issues are better legislated through the appropriate health laws. REJECT
13.	**Clause 3 - Objects and Purpose**	**Njuri Ncheke**	Add sub clause (e) on "develop a working Partnership with Traditional institutions and governance systems that recognizes their role in protection and promotion of culture and traditional knowledge."	Traditional institutions play crucial role in cultural preservation and should be formally recognized.	ACCEPT It is necessary to recognize and partner with traditional institutions and governance systems. ACCEPT

14.	**Clause 3 - Objects and Purpose**	**Wanga Groups**	Add objectives: promote cultural tourism; provide opportunity for children and youth to learn about culture of their communities; promote establishment of community centres as sanctuaries for cultural heritage; support research and training; support development of indigenous skills; provide opportunity for value additions in pottery, basketry, beadwork, music.	Current objectives insufficient to address comprehensive cultural development needs.	ACCEPT- There is need for a more comprehensive scope om the objectives of the Bill. ACCEPT
15.	**Clause 3 - Objects and purpose of the Act**	**Haki Jamii**	Unclear Role and Legal Recognition of Cultural Custodians— Amend Clause 3 to expressly affirm the role of communities as primary custodians of their culture and heritage, and to guarantee their participation in all decisions affecting the same.	While Clause 3 states that the Bill seeks to give effect to Article 11 of the Constitution, it fails to explicitly recognize Indigenous Communities as custodians of culture. This omission weakens community claims over intangible cultural heritage and traditional knowledge systems.	ACCEPT- This is a well reasoned proposition that puts culture in the hands of the people and their communities. ACCPET
16.	**Clause 4 – Guiding Principles**	**NGEC**	Proposed to amend clause 4 (1)(b) by inserting after the phrase "cultures" the following phrase, "that are not retrogressive and oppressive"	The proposed amendment seeks to clarify and emphasize that the law will only recognize cultures that are positive and not inconsistent with the constitution and other laws especially towards the special interest groups. Clause 4 (2) stresses only on inconsistency with the Bill of Rights	ACCEPT – This is a well-intentioned proposition and ought to be accepted in order to limit the proliferation of retrogressive cultures and practices. ACCEPT

				which is too general and may not be obvious to beneficiaries of the proposed law.	
17.	**Clause 4 – Guiding Principles**	**CEWG**	**Some relevant Articles excluded** Consider including Articles 33, 44, 56, 57 of the Constitution	The additional principles embody vital guidance.	ACCEPT- The missing Articles 33- Freedom of Expression; 44- Language & Culture; 56- Minorities &marginalized groups; 57- Older members of society, are relevant to culture and will improve the Bill. ACCEPT
Part II - Management of Culture					
18.	**Clause 5 – Role of National Government**	**Ministry of Education**	Include by inserting immediately after 'L' a new function of the Cabinet Secretary to read: 'In collaboration with the Cabinet Secretary for Education integrate indigenous knowledge into educational curricula and research." 'In collaboration with the County Executive Committee Member integrate		ACCEPT— The proposal is reasonable as indigenous knowledge ought to be recognised in our culture and integrated into the curriculum. REJECT- Culture in Kenya in fragmented and the proposition is impracticable.

			and harness indigenous knowledge into educational curricula and research.'		
19.	**Clause 5 - Role of National Government**	**Njuri Ncheke**	Amend to ensure involvement of the National Council of Elders (NCOE) in the formulation, development and implementation of national policies and regulations, standards on cultures and cultural heritage, and expressions.	The exclusion of culture holders and practitioners is problematic. Like other professionals, they should be allowed self-regulation.	REJECT- Their specific recognition as stakeholders is not necessary. REJECT
20.	**Clause 5 - Role of National Government**	**NATHEPA**	Cabinet Secretary should not manage national cultural affairs in isolation but should be required to involve cultural holders and practitioners as key stakeholders in decision-making.	Need for inclusive decision-making process that involves actual practitioners.	REJECT- The recognition and participation of stakeholders is a foregone conclusion constitutional requirement. REJECT
21.	**Clause 5 - Role of National Government**	**Wanga Groups**	Amend Item 5 (k) to read "Support establishment of community cultural centres for promotion of cultural heritage."	Community-level support is essential for grassroots cultural preservation.	ACCEPT- Community cultural centres are vital for the realisation of holistic culture. REJECT
22.	**Clause 5 Role of the National Government**	**Haki Jamii**	Lack of Community Representation in Cultural Governance— Amend Clause 5 to include provisions requiring consultation with registered community cultural	The Clause assigns extensive powers tothe Cabinet Secretary on matters of cultural policy, standards, registration, research, and compensation. However, it	REJECT- The recognition and participation of stakeholders is a constitutional requirement.

			institutions or councils in all matters involving the use, preservation, and regulation of community culture and heritage.	does not provide for structured community participation or accountability frameworks in the exercise of these powers.	REJECT
23.	**Clauses 5, 7,9, & 33 Role of the National Government; Establishment of Cultural Database Compensation for Use of Culture and Cultural Heritage Regulations**	**Haki Jamii**	Lack of Community Representation in Cultural Governance— Include provisions establishing community-based cultural representative bodies to participate in the development of regulations, registers, compensation guidelines, and cultural policies.	The Bill centralizes authority in the Cabinet Secretary across all critical regulatory functions—including policy formulation, compensation standards, research oversight, and cultural registration—without guaranteeing participatory mechanisms for Indigenous Peoples and Local Communities (IPLCs). This structure is inconsistent with Article 10 (public participation), Article 174(c) (devolution), and Article 11(3)(a) (recognition of communities as cultural custodians).	REJECT- The recognition and participation of stakeholders is a constitutional requirement. REJECT
24.	**Clause 9 – Compensation for use of culture and cultural heritage**	**Njuri Ncheke**	Amend to include the Traditional governance and justice institutions in the establishment of mechanism for the determination and payment of compensation or royalties to communities for the use of the communities' culture and cultural heritage.	Communities must have legal standing to challenge misappropriations and receive fair compensation.	ACCEPT It is necessary to recognize and partner with traditional institutions and governance systems in determination of compensation for use of culture to the extent that

					they are consistent with the Constitution. ACCEPT
25.	**Clause 9 Compensation for use of culture and cultural heritage**	**Haki Jamii**	Absence of a Community-Managed Royalty or Compensation Mechanism— Establish a Cultural Royalties and Compensation Fund, jointly managed by the national government and elected community representatives, and anchored in Clause 9.	Clause 9 provides a framework for determining and paying compensation or royalties. However, it lacks provisions for a statutory fund, co-management mechanisms, or guaranteed benefit-sharing with the cultural custodians.	REJECT- Establishment of a Fund will run contrary to the provision of Article 114 of the Constitution. REJECT
26.	**Clauses 10, 12 & 27** **Exceptions and Limitations to Compensation for use of Culture and Heritage;** **Application to Conduct Research** **Using Images Without Consent**	**Haki Jamii**	Weak Protection for Free, Prior and Informed Consent (FPIC)— Amend relevant clauses to require documented FPIC before any authorization involving cultural property or intangible heritage. Establish penalties for failure to obtain FPIC.	While the Bill defines FPIC (Clause 2)and refers to it in select provisions (Clause 10, Clause 27), it does not make FPIC a mandatory prerequisite for research (Clause 12), loan/export (Clause 11), or registration decisions. Moreover, FPIC is not enforceable through a clear procedural framework	ACCEPT— Making FPIC mandatory is essential and is a good governance measure. ACCEPT
27.	**Clause 14 – Refusal to Register**	**Ministry of Education**	Rectify section 14 on 'refusal to register' to be consistent with section 11. Section 11 gives the sole mandate		REJECT—

			to register a cultural property into the national database to the Cabinet Secretary whereas section 14 now brings in the County government as a party in giving reasons for refusal to register. Rectify the same inconsistency in sections 15 and 17.		County government should remain as an essential party on refusal to register. REJECT
28.	**New Part**	**CEWG**	Add new part: "PROMOTION OF CULTURAL AND CREATIVE INDUSTRIES" with provisions for: 1) Cabinet Secretary to develop strategies to promote cultural and creative industries; 2) Create incentive schemes including grants, tax reliefs, and funding programs; 3) County governments to develop cultural policies and creative economy strategies.	Kenya can benefit from creativity and innovation by deliberately investing in enabling cultural and creative industries policies, infrastructure, and institutional capacities.	REJECT— There exists a Creatives Economy Support Bill 2024 which can adequately cater for the support of creative industries. REJECT
29.	**New Provision**	**NATHEPA**	Establish Traditional and Indigenous Practitioners Regulatory Board similar to other professional bodies to enable self-regulation and uphold standards.	Traditional medicine practitioners need professional recognition and self-regulation mechanisms like other professions.	REJECT- Medicine and health related issues are better legislated through the appropriate health laws. REJECT
30.		**NATHEPA**	Create National Traditional Medicine Practitioners Directory to safeguard professional standards and	Public needs access to certified and reputable traditional medicine practitioners.	REJECT- Medicine and health related issues are better legislated

			enable public access to certified practitioners.		through the appropriate health laws.
31.	**Clause 17**	**NATHEPA**	Cabinet Secretary, in consultation with proposed National Culture Practitioners Regulatory Board, should develop regulations outlining clear criteria for recognition and promotion of traditional medicine practitioners.	Clear criteria needed for professional recognition and promotion of traditional practices.	REJECT- Medicine and health related issues are better legislated through the appropriate health laws.
32.	**Clause 17 & 18** **Recognition and Promotion of Culture, Cultural Heritage and Cultural Property by public entities** **Protection of culture, cultural heritage and cultural property.**	**Haki Jamii**	No Protection for Sacred and Intangible Cultural Landscapes—Amend Clause 18 to include explicit recognition and protection of sacred natural sites, cultural landscapes, and ritual spaces, including community-nominated sites for gazettement.	Although Clause 18 addresses protection, it focuses on tangible heritage and offers no express protection for sacred sites, ritual spaces, or intangible cultural landscapes which are critical to many Indigenous communities' spiritual and cultural identity.	ACCEPT— Protection sacred sites, ritual spaces, or intangible cultural landscapes are critical to many Indigenous communities' spiritual and cultural identity. The proposal is therefore valid. ACCEPT
Part III - Offences and Penalties					
33.	**Part III - Offences and Penalties**	**Njuri Ncheke**	The prescribed penalties are not matching the offences. They need to be revised and harmonized.	Current penalty structure is disproportionate and needs review for fairness.	REJECT- Fines and Penalties ought to be punitive. REJECT
34.		**NATHEPA**	Prescribed penalties are not proportionate to the offences.	Need for fairness and clarity in penalty structure.	REJECT-

			Recommend review and harmonization of these provisions.		Fines and Penalties ought to be punitive. REJECT
35.		**Wanga Groups**	A fine of Ksh 5 million is too high for majority Kenyans.	Penalties should be reasonable and proportionate to the economic capacity of citizens.	REJECT- Fines and Penalties ought to be punitive. REJECT
36.	**Clause 20(h)**	**Njuri Ncheke**	Amend to recognize that Traditional governance and justice institutions have their own cultural heritage sites, cultural centers and shrines, where they reserve the right of utilization and development without interference.	Traditional institutions need protection for their sacred sites and cultural centers.	REJECT- Let every person seek approval before conducting any significant development in order to preserve culture, REJECT
37.	**Clause 26 & 27 Counterfeiting & Misrepresentation of Cultural Property using Images Without Consent**	**Haki Jamii**	Limited Safeguards Against Cultural Misappropriation and Misrepresentation Create a provision empowering registered communities or cultural councils to initiate enforcement proceedings or complaints directly to relevant authorities or tribunals.	The Bill criminalizes unauthorized use and misrepresentation but does not establish community-driven enforcement mechanisms or a complaints process. Remedies are fully reliant on state prosecution, which may not reflect community priorities or urgency.	REJECT- Communities can initiate enforcement Article 22 of the Constitution gives every person the locus to institute court proceedings claiming that a right has been violated. Private prosecution is a recognized remedy. REJECT *ADR
38.	**Clause 33 - Regulations**	**CEWG**	Include regulations on data protection which align with the Data	Data protection is important in safeguarding cultural heritage,	ACCEPT-

			Protection Act and section 18(2)(g) of the Protection of Traditional Knowledge and Cultural Expressions Act. Include regulations on technologies for documentation, including emerging technologies.	especially with digital documentation.	Data related to culture ought to be protected through regulations. Regulation on emerging technologies in relation to data is necessary. ACCEPT
39.	**Clause 33 - Regulations**	**CEWG**	Data protection: Mandate counties and National government to ensure servers are locally stored. Due to the strategic importance of the databases in this Bill, consider mandating counties and national government to ensure that all databases and servers in this Bill are locally stored as per section 50 of the Data Protection Act	This will strengthen protection of cultural heritage	ACCEPT- Hosting the data locally is a sound proposal for the security and national sovereignty in relation to culture. ACCEPT
40.	**General**	**Wanga Groups**	Change title from "Culture Bill" to "Cultural Heritage Bill."	Better reflects the comprehensive scope of the legislation.	REJECT

GENERAL SUBMISSIONS

1. **The State Department for Youth Affairs and Creative Economy proposes eight key amendments to strengthen the Culture Bill, 2024:**

   (i) **Create a National Culture Fund** - Establish dedicated financing through royalties, government budgets, and international grants to support cultural initiatives sustainably.
   (ii) **Add National Dress Provisions** - Include mechanisms for developing national attire incorporating diverse ethnic elements, with local production incentives.

(iii) **Strengthen Royalty Framework** - Specify minimum percentages (5-10% of profits), centralized registry, and arbitration mechanisms for fair compensation.

(iv) **Enhance Indigenous Protection** - Expand database for mandatory registration of indigenous knowledge with intellectual property-like protections and language preservation programs.

(v) **Include Digital Culture** - Add sections on digital cultural heritage, cyber-appropriation protection, and support for contemporary arts like film, music, and gaming.

(vi) **Improve Enforcement** - Empower counties and communities with monitoring roles, increase penalties for repeat offenders to KShs 5 million.

(vii) **Mandate Cultural Education** - Require heritage modules in school curricula funded by the culture fund.

(viii) **Align with International Treaties** - Better incorporate UNESCO conventions and African Union frameworks.

2. **Haki Jamii The Economic And Social Rights Centre-Hakijamii & Community Based Organizations Of Narok County (Elongo CBO; Orkila Orok; Entashata Loita CBO; Green Horizons CBO; Soralo CBO; Naidip; Nyeff CBO; Ncnrn**

The Culture Bill, 2024, brings to life Article 11 of the Constitution, where the Constitution recognises culture as the foundation of the nation and as the cumulative civilization of the Kenyan people. The same provision also outlines the State's responsibilities in adherence to this, which include promotion, recognition, protection and compensation for use. However, the Bill exhibits structural gaps that, if unaddressed, may undermine its constitutional purpose and result in the continued marginalization and exploitation of cultural custodians—especially Indigenous Communities. They Include:

Gap: Omission of Cultural Education and Intergenerational Knowledge Transmission

Justification: The Bill is silent on promoting indigenous languages, oral histories, or intergenerational transfer of cultural knowledge. This contradicts the objective of safeguarding living heritage and constrains cultural continuity.

Recommendation: Include a provision mandating integration of indigenous knowledge into national and county education curricula, and support for community-run cultural learning centres.

3. **Mau Mau Children Post Colonial Elites**

The Mau Mau War Veterans Association, are grateful to the Senate for the opportunity to participate in the submission and public hearing process concerning the Culture Bill, 2024. They appreciate the recognition of our historical role and welcome the initiative to

consider compensation for royalties derived for the use of our culture and heritage activities. They also commend the efforts to establish a clear and structured framework to guide the development and preservation of national culture.

4. National Gender and Equality Commission

The Commission recommends to Parliament to make a decision —either reject the current proposed law or propose a repeal to the existing Act. The latter applies if there are valid grounds for repealing. A point of departure is that, the existing law, Cap 281A, recognizes indigenous seeds as part of traditional farming (the same is recognized by the Constitution as culture in Article 11(3)(b)).

The Commission is aware that many farmers face difficulty with Section 8 and Section 10(4) of the Seeds and Plant Variety Act CAP 326 which criminalizes and prohibits farmers from selling or exchanging seeds that are not registered, yet a majority of farmers in Kenya are small scale farmers and vulnerable to multitude of factors (climatic, market dynamics, skills and technology, food loss, wildlife, etc.). In totality, the proposed Bill does not implement Article 11(3)(b).

5. The Ammîrrû Community Cultural Stakeholders Association (ACCSA).

The organization, led by Rev. Dr. Stephen A. Mugambi Mwithimbu, presents seven key recommendations:

i. **Protection of Vernacular Languages** - Mandatory use in churches, media, business, and education
ii. **Recognition of Official Boundaries** - Acknowledge Kenya's eight regions and 47 counties as legally established
iii. **Protection of Cultural Institutions** - Safeguard traditional organizations like Njûri Incheke and Mûgwe sovereignty
iv. **Redress of Historical Injustices** - Address land boundary and cultural encroachment issues
v. **Integration of Traditional Medicine** - Create regulatory council for traditional healers within the health system
vi. **Protection of Medicinal Knowledge** - Establish national database to prevent bio-piracy
vii. **Cultural Infrastructure Development** - Establish county museums, libraries, and annual cultural festivals.

6. **TONY MOCHAMA**

To bring to life Article 11 of the 2010 Constitution and promote LITERATURE, do publications and get mass media excited on this Cultural BILL, I have a very simple but ingenious suggestion, that will set the reading and writing public on fire about this BILL across Kenya.

(i) Put aside a mere KShs 25 million as an annual Cultural Grant.

(ii) (i) Award TEN writing prizes, each one worth just Shs 1 million, for four best novels of the year, three best individual poetry collections, and two best published plays - **for a total of Shs 10 million.** These should reflect our Kenyan l*ifestyle, social interactions, customs, codes,* and all ten artistic works be judged on their excellent language, originality and creative ideas.

(iii)(ii) Set aside SIX million shillings yearly for four cultural research projects (Shs 1.5 million each) that will capture our traditions, rituals, ceremonies, history and travel-scapes, all four to be captured in writing. (iii) Then set another Shs 4 million for the PRINTING of **all 14 works.**

(iv)(iv) Finally, work with a globally associated organisation like PEN International (the local Kenya Chapter) to judge the projects on their merits, with emeritus in the arts and academia as compensated judges. An organisation like PEN could also put together the **Annual Literary Prize Gala** - and this would capture countrywide attention even as it brings the BEST of literature & cultural works

(v) (*Shs 5 million would cover this last part*).

(vi)In this way, for a small investment (Shs 25 M), the **Cultural Bill through its grants** would help literary artists, bring our living culture to life through the very BEST of our works, and by being there, year after year after year, be a FOREVER legacy for its Sponsors.

**All the general comments were rejected by the Committee.*

ANNEX 5:

COPIES OF STAKEHOLDER SUBMISSIONS.

REPUBLIC OF KENYA

MINISTRY OF GENDER, CULTURE AND CHILDREN SERVICES
Office of the Cabinet Secretary

Telephone:
Email Address: cs@gender.go.ke

When replying please quote:

KNLS Building
P.O. Box 30221-00100
Upper hill
NAIROBI, KENYA

Ref. No.: MGCAH/CS/SEN/9 VOL.1

4th August, 2025

J. M. Nyegenye, CBS
Clerk of the Senate
Office of the Clerk of the Senate
Clerk's Chambers
Parliament Buildings
P O Box 41842-00100
NAIROBI

05 AUG 2025

(2) DDSEC (KK)
Kindly deal
05/08/25

(1) DSEC.
Note and deal.
5/08/2025

STAKEHOLDER ENGAGEMENT ON THE CULTURE BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 12 OF 2024)

Reference is made to the above subject and your letter Ref: SEN/DSEC/DISSC/SCLSW/2025/184 dated 23rd July, 2025 receipt of which is acknowledged.

As the Committee is aware, the Culture Bill, 2024, was informed by Article 11 of the Constitution of Kenya, which recognizes culture as the foundation of the nation and cumulative civilization of the Kenyan people. It commits the Government to promote all forms of national and cultural expressions and ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage. Since Independence, Kenya has never enacted a comprehensive legislative framework to support the integration of culture and cultural heritage in the National Development Agenda. Therefore, Kenya is yet to fully harness the potential of culture, cultural property, cultural heritage, creative industries and Kenya's cultural diversity to promote and enhance socio-cultural, political and economic development. Furthermore, Kenya's traditional values and morals have been seriously eroded leading to poor national ethos, national pride and unity, and the exploitation of cultural diversity to foment ethnic animosity and division. Through the enactment of the Culture Bill, 2024, Kenya shall be in a position to address these issues in a systematic and comprehensive fashion.

Ms. Mwanate.
Kindly deal.
6/08/25

THE SENATE
RECEIVED
05 AUG 2025
DIRECTOR LEGAL SERVICES

The Culture Bill, 2024, is also intended to facilitate the implementation of international conventions and treaties that have been ratified by Kenya including the International Convention on Economic, Social and Cultural Rights of 1966, the UNESCO Convention on the Protection of the World Cultural and Natural Heritage of 1972, and the UNESCO Convention of the Safeguarding of Intangible Cultural Heritage of 2003. If the Bill is enacted, it will also facilitate the implementation of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural property of 1970 that Kenya ratified in April 2024.

In light of the foregoing, the Ministry unequivocally supports the Culture Bill, 2024 and seeks the support of the Standing Committee on Labour and Social Welfare in the enactment of the Culture Bill, 2024, to ensure that culture, cultural property and cultural heritage are embedded in all spheres of National Development Agenda.

HANNA WENDOT CHEPTUMO
CABINET SECRETARY

Copy to: **Ms. Ummi Bashir, CBS**
Principal Secretary
State Department Culture, the Arts & Heritage
KNLS Building
P.O. Box 49849-00100
NAIROBI

THE SENATE
RECEIVED
07 AUG 2025
CLERK'S OFFICE

REPUBLIC OF KENYA
MINISTRY OF EDUCATION
Office of the Cabinet Secretary

Telephone: Nairobi (020) 3318581
Email: cabinetsecretarymoe@gmail.com
Website: www.education.go.ke

Jogoo House "B"
Harambee Avenue
P. O. BOX 30040 – 00100
NAIROBI - Kenya

THE SENATE
RECEIVED
08 AUG 2025
DEPUTY CLERK

When replying please quote

Ref. MOE/DTE8/13

7th August 2025

J.M Nyegenye, CBS
The Clerk of the Senate
P.O Box 41842 - 00100
NAIROBI

Dear Mr. Nyegenye,

Ms. Muranate
Kindly deal.
Kobati
11/08/2025

DSFC; DLG
Kindly deal.
EG 08/08/2025

VIEWS ON THE CULTURE BILL, 2024

1. The Ministry of Education supports the enactment of the Culture Bill 2024 into law with the following amendments. It is our considered opinion that culture is an integral segment of human development in expressing diversity, shaping character and sometimes destinies. It plays a key role in fostering cohesion and interpersonal relationships. The proposed bill is therefore long overdue.

Define and include

a. Modern culture - refers to contemporary culture encompassing art, literature, music, fashion, social norms and technological advancements. Under modern culture are aspects of social change, equality, human rights, fashion, social media, etc., that cannot be wished away. It is premised on the principle that culture is not static but dynamic.

b. Include by inserting immediately after 'L' a new function of the Cabinet Secretary to read:

   'In collaboration with the Cabinet Secretary for Education integrate indigenous knowledge into educational curricula and research.'

   'In collaboration with the County Executive Committee Member integrate and harness indigenous knowledge into educational curricula and research.'

2. Rectify section 14 on 'refusal to register' to be consistent with section 11. Section 11 gives the sole mandate to register a cultural property into the national database to the

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08 AUG 2025
DIRECTOR COMMITTEE SERVICES
(DSEC)

SGS

Cabinet Secretary whereas section 14 now brings in the County government as a party in giving reasons for refusal to register.

Rectify the same inconsistency in sections 15 and 17.

Yours Sincerely,

Dr. Esther Thaara Muoria, PhD, CBS
FOR: CABINET SECRETARY

THE SENATE
RECEIVED
18 AUG 2025
DEPUTY CLERK

THE SENATE CLERKS OFFICE
RECEIVED
18 AUG 2025
P.O Box 41842 - 00100, NAIROBI

REPUBLIC OF KENYA

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Email: ps@youth.go.ke
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P.O. Box 34303 - 00100
NAIROBI

Ref. No. MOYACES/SDYACE/1/63

15th August, 2025

J.M. Nyegenye, CBS
Clerk of the Senate
Parliament Buildings
P.O Box 41842-00100
NAIROBI

RE: STAKEHOLDER ENGAGEMENT ON THE CULTURE BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2024)

Reference is made to your letter Ref.SEN/DSEC/SCLSW/2025/185 dated 23rd July, 2025 on the above subject matter.

The State Department for Youth Affairs and Creative Economy hereby submit views on the Stakeholder Engagement on the Culture Bili, 2024 for your further necessary action.

Dr. Josephine Etenyi, PhD
FOR: PRINCIPAL SECRETARY

THE SENATE
RECEIVED
18 AUG 2025
DIRECTOR COMMITTEE SERVICES
(DSEC)

2) DDSEC (VK)
Kindly deal
18/08/2025

1) DSEC
Kindly deal.
18/08/2025

3) Ms. Mwanate
Kindly deal.
19/08/2025

STAKEHOLDER ENGAGEMENT ON THE CULTURE BILL, 2024
(NATIONAL ASSEMBLY BILLS NO. 12 OF 2024)

Background

The Culture Bill, 2024 (National Assembly Bill No. 12 of 2024) is a proposed piece of legislation in Kenya aimed at giving effect to Article 11(3)(a) of the Kenyan Constitution, which requires Parliament to enact laws recognizing and promoting Kenyan culture as the foundation of the nation. The bill seeks to establish a comprehensive legal framework for the preservation, promotion, and regulation of Kenya's cultural heritage, including ensuring communities benefit from the use of their cultures through compensation or royalties.

Key Objectives

- Promote all forms of national and cultural expression, such as literature, arts, traditional celebrations, science, communication, mass media, publications, libraries, and other cultural heritage.
- Safeguard indigenous knowledge, languages, fabrics, traditional innovations, and align with global treaties Kenya has ratified.
- Provide a structured framework to guide national cultural development while protecting endangered cultural expressions and heritage.

Main Provisions

- **Management of Culture**: Outlines the creation of a national cultural database, access to cultural information, registration of cultural properties, and research into cultural heritage. It also addresses compensation for the use of cultural property and the promotion of cultural expressions and indigenous technologies.
- **Protection Mechanisms**: Prohibits activities that endanger cultural heritage without approval, requires permits for interfering with archaeological sites, and allows for the seizure of tangible cultural heritage if it's imported, exported, or transferred without valid permits. The Cabinet Secretary can prescribe regulations for protecting endangered cultural elements.
- **Offences and Penalties**: Defines offences like theft, damage, wrongful possession, or unauthorized export of cultural property, with penalties ranging from fines up to Kshs. 1 million, imprisonment up to life, or both. A general penalty of up to Kshs. 100,000 fine or one year imprisonment applies to unspecified offences.
- **General Rules**: Includes transitional provisions for existing licenses, requirements to publish fees in the Gazette, and empowers the Cabinet Secretary to make implementing regulations.

Roles of National and County Governments

- **National Government (Cabinet Secretary for Culture)**: Develops national policies, standards, and regulations; promotes diverse cultures through protection, preservation, and rehabilitation; monitors compliance; manages national cultural institutions (e.g., Kenya Cultural Centre, National Museums of Kenya, National Libraries, and Kenya National Archives); maintains the national cultural database; implements international agreements; and promotes national values and social cohesion.
- **County Governments**: Promote and manage cultural activities and facilities at the local level in line with national policies; enact county-specific laws and policies; develop cultural infrastructure; maintain county databases of cultural activities; and register cultural properties, notifying the national government for inclusion in the central database.

Institutions and Funds

- **Institutions**: The bill reinforces existing national cultural institutions, such as the Kenya Cultural Centre, National Museums of Kenya, National Libraries, and Kenya National Archives and Documentation Service, to be managed by the national government.
- **Funds and Compensation**: No new dedicated funds are created, but it establishes mechanisms for determining and paying royalties or compensation to communities for the use of their cultural heritage, with shares prescribed in regulations by the Cabinet Secretary. It also sets up a register of cultural property and practitioners/groups/associations.

Current Status

The bill was passed by the National Assembly and introduced in the Senate in mid-July 2025 for concurrence. The Senate's Labour and Social Welfare Committee invited public submissions by August 6, 2025, and held a public hearing on August 7, 2025, in Nairobi, where discussions focused on topics like protecting indigenous knowledge, regulating royalties, establishing a national dress, and aligning with international treaties. The bill remains under review in the Senate following the public participation process, with additional views still welcome via the committee.

STAKEHOLDER ENGAGEMENT ON THE CULTURE BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2024)

Recommendations for Further Improvement of the Culture Bill, 2024

Based on the bill's current provisions and broader analyses of similar cultural legislation, here are targeted recommendations to enhance the bill's effectiveness, inclusivity, and impact. These suggestions aim to address potential gaps in protection, implementation, and adaptation to modern challenges while building on the bill's strong foundation in promoting Kenyan cultural heritage.

1. Establish a Dedicated National Culture Fund

- **Rationale**: The bill outlines mechanisms for royalties and compensation to communities but does not create a specific fund to manage these resources or support cultural initiatives. This could lead to inconsistent funding and reliance on ad-hoc government allocations, which have historically underfunded cultural sectors in Kenya.
- **Recommendation**: Introduce a National Culture Fund, financed through royalties, government budgets, and international grants, to support preservation efforts, cultural education, and infrastructure. This fund could be administered by an independent board with community representation to ensure transparency and equitable distribution. Similar models, like South Africa's National Heritage Council Fund, have proven effective in sustaining cultural programs.
- **Potential Impact**: This would provide sustainable financing, addressing concerns raised in public submissions about communities not benefiting adequately from their cultural resources, both tangible and intangible.

2. Incorporate Provisions for a National Dress and Symbolic Cultural Elements

- **Rationale**: Public discussions emphasized the "lack of a national dress" as a gap in promoting national identity and unity. The bill promotes cultural expressions but does not specify mechanisms for developing or protecting national symbols, leaving room for cultural dilution or external appropriation.
- **Recommendation**: Add clauses mandating the Cabinet Secretary, in consultation with counties and communities, to develop guidelines for a national dress or attire that incorporates diverse ethnic elements. This could include incentives for local production of traditional fabrics and penalties for unauthorized commercial use.
- **Potential Impact**: It would foster national pride and economic opportunities in the textile sector, while aligning with Article 11 of the Constitution on cultural promotion.

3. Strengthen Regulations on Royalties and Compensation

- **Rationale**: While the bill requires compensation for cultural property use, the process for determining, collecting, and distributing royalties lacks detail, potentially leading to disputes or exploitation, as noted in hearing discussions on regulating royalties.
- **Recommendation**: Specify a royalty framework with minimum percentages (e.g., 5-10% of profits from cultural commercialization) and a centralized registry for claims. Include arbitration mechanisms involving community elders or representatives to resolve disputes, and mandate annual audits for transparency.
- **Potential Impact**: This would ensure fair benefits to indigenous communities, reducing inequalities and encouraging cultural sharing without fear of loss.

4. Enhance Protection for Indigenous Knowledge, Languages, and Innovations

- **Rationale**: The bill safeguards indigenous elements but could be more proactive in addressing threats like language extinction (e.g., over 10 Kenyan languages are endangered) and biopiracy of traditional innovations, topics central to public input.
- **Recommendation**: Expand the national cultural database to include mandatory registration of indigenous knowledge systems, with intellectual property-like protections. Integrate language preservation programs, such as incentives for county-level education in local dialects, and align explicitly with international agreements like the Nagoya Protocol on genetic resources.
- **Potential Impact**: This would prevent cultural erosion and position Kenya as a leader in indigenous rights, potentially attracting global funding for heritage projects.

5. Include Digital and Contemporary Cultural Expressions

- **Rationale**: The bill focuses on traditional heritage but overlooks digital culture, such as online content creation, NFTs of cultural artifacts, or social media's role in cultural dissemination—emerging issues not fully covered in current drafts.
- **Recommendation**: Add sections on digital cultural heritage, including protections against cyber-appropriation and support for digital archives. Promote contemporary arts like film, music, and gaming through tax incentives or grants for creators using cultural themes.
- **Potential Impact**: This would make the bill future-proof, supporting Kenya's growing creative economy (valued at over Kshs. 100 billion annually) and appealing to younger generations.

6. Improve Enforcement and Penalties with Community Involvement

- **Rationale**: Penalties exist for offences like unauthorized export of cultural property, but enforcement relies heavily on national institutions, potentially sidelining local communities and leading to weak implementation.
- **Recommendation**: Empower County governments and community-based organizations with monitoring roles, including joint patrols for heritage sites. Increase penalties for repeat offenders (e.g., escalating fines up to Kshs. 5 million) and introduce restorative justice options, like community service in cultural preservation.
- **Potential Impact**: Greater local buy-in would enhance compliance, reducing illegal activities and building trust in the law.

7. Mandate Cultural Education and Public Awareness

- **Rationale**: The bill promotes cultural expressions but lacks integration with education systems, missing an opportunity to embed cultural values in national curricula.
- **Recommendation**: Require the Ministry of Education to incorporate cultural heritage modules in schools and universities, with funding from the proposed culture fund. Launch national awareness campaigns on cultural rights and benefits.
- **Potential Impact**: This would cultivate long-term appreciation and preservation, addressing generational knowledge gaps highlighted in public forums.

8. Ensure Alignment with International Treaties and Best Practices

- **Rationale**: While the bill references global treaties, it could better incorporate specifics from UNESCO conventions or African Union frameworks, as discussed in the hearing.
- **Recommendation**: Include an annex listing ratified treaties (e.g., UNESCO 2003 Convention on Intangible Cultural Heritage) with compliance reporting requirements. Benchmark against successful laws like Nigeria's Cultural Policy to add provisions on cross-border cultural exchanges.
- **Potential Impact**: This would strengthen Kenya's international standing and access to global resources for cultural development.

These recommendations, if adopted, could make the bill more robust and responsive.

STAKEHOLDER ENGAGEMENT ON THE CULTURE BILL, 2024
(NATIONAL ASSEMBLY BILLS NO. 12 OF 2024)

Benefits to the Youth

The Culture Bill, 2024, if passed into law, holds significant potential to benefit Kenyan youth by promoting cultural heritage, creating economic opportunities, and fostering identity and social cohesion. Drawing from the bill's provisions, public discussions during the Senate hearing, and broader analyses of Kenya's cultural and creative sectors, here are specific ways the youth (typically aged 15-35, who make up about 35% of Kenya's population) stand to gain, along with considerations to maximize these benefits.

1. Economic Opportunities in the Creative and Cultural Industries

- **How It Benefits Youth**: The bill promotes cultural expressions such as literature, arts, music, film, and traditional innovations, which align with Kenya's growing creative economy, valued at over Kshs. 100 billion annually. Youth, who dominate sectors like music, fashion, and digital content creation, can access new income streams through:
- **Royalties and Compensation**: The bill's provisions for royalties from cultural property use (e.g., traditional designs in fashion or music) ensure young creators and communities benefit financially.
- **Support for Cultural Entrepreneurship**: By promoting cultural activities and infrastructure, the bill indirectly supports youth-led startups in areas like event management, cultural tourism, and digital archiving.
- **Example**: A young designer using traditional Maasai beadwork patterns could receive royalties or funding to scale their business, protecting their work from exploitation.
- **Maximizing Impact**: The bill should include specific grants or incubators for youth-led cultural startups, potentially through the proposed National Culture Fund, to ensure accessibility for young entrepreneurs without capital.

2. Job Creation and Skill Development

- **How It Benefits Youth**: The bill's emphasis on cultural institutions (e.g., Kenya Cultural Centre, National Museums) and county-level cultural programs creates demand for roles like curators, archivists, cultural educators, and event organizers—fields appealing to youth. Training programs for managing cultural databases or preserving heritage (e.g., digitizing archives) can equip youth with marketable skills.
- **Example**: Young tech-savvy individuals could be employed to develop and manage the national cultural database or create digital content for museums, aligning with Kenya's push for digital jobs.

- **Maximizing Impact**: Introduce youth-targeted vocational training in cultural heritage management, possibly in partnership with institutions like the Kenya Utalii College, to address unemployment (youth unemployment rate is around 15%).

3. Preservation and Promotion of Indigenous Knowledge and Languages

- **How It Benefits Youth**: The bill safeguards indigenous knowledge and languages, which are at risk of extinction (e.g., over 10 Kenyan languages are endangered). Youth can engage in revitalization efforts, such as creating content in local languages (e.g., music, apps, or social media campaigns), fostering cultural pride and relevance.
- **Example**: A young content creator could develop a YouTube series or podcast in a language like Suba or El Molo, supported by county cultural programs, preserving heritage while building a career.
- **Maximizing Impact**: The bill could mandate partnerships with universities and tech platforms to offer scholarships or grants for youth developing language-based digital tools, ensuring engagement with modern platforms.

4. Cultural Identity and Social Cohesion

- **How It Benefits Youth**: By promoting national values and diverse cultural expressions, the bill helps youth connect with their heritage, countering the influence of cultural globalization. This is critical for a generation often exposed to Western media via platforms like TikTok and YouTube. The bill's focus on a potential national dress or symbols (raised in public hearings) can foster unity and pride among young Kenyans.
- **Example**: Youth participating in cultural festivals or competitions (e.g., traditional dance or storytelling) can gain a sense of belonging, reducing alienation and social issues like crime, which affect urban youth disproportionately.
- **Maximizing Impact**: Incorporate youth-focused cultural events or social media campaigns (e.g., #KenyaCultureChallenge) to make heritage trendy and accessible, encouraging participation.

5. Digital Opportunities and Modern Cultural Expressions

- **How It Benefits Youth**: While the bill focuses on traditional heritage, its promotion of cultural expressions can extend to digital spaces where youth thrive, such as content creation, gaming, and NFTs. Protecting digital cultural assets (e.g., digitized art or music) can empower young creators to monetize their work globally.
- **Example**: A young Kenyan artist could create NFTs based on traditional motifs, protected under the bill's intellectual property provisions, and sell them on global platforms, tapping into the $2 billion global NFT market.

- **Maximizing Impact**: Add explicit provisions for digital cultural heritage, including protections against cyber-appropriation and support for youth to access global digital markets, addressing a gap in the current draft.

6. Educational and Leadership Opportunities

- **How It Benefits Youth**: The bill's framework for cultural promotion can integrate with education systems, offering youth opportunities to learn about and lead in cultural preservation. County-level cultural programs could involve youth in leadership roles, such as managing local festivals or heritage sites.
- **Example**: A young graduate could lead a county's cultural database project or serve as a cultural ambassador, gaining skills and recognition.
- **Maximizing Impact**: Mandate youth representation in cultural boards or committees at national and county levels, ensuring their voices shape policy implementation.

7. Protection Against Cultural Exploitation

- **How It Benefits Youth**: The bill's penalties for unauthorized use of cultural property (e.g., fines up to Kshs. 1 million or life imprisonment for severe offences) protect young creators from exploitation by corporations or foreign entities. This is vital for youth in fashion, music, or design who often face intellectual property theft.
- **Example**: A young musician incorporating Kalenjin rhythms into their work would be protected from unauthorized sampling, ensuring fair compensation.
- **Maximizing Impact**: Simplify the process for youth to register their cultural works in the national database and access legal support for claims, possibly through free legal clinics.

Challenges and Recommendations to Ensure Youth Benefits

While the bill offers these opportunities, its success for youth depends on implementation. Potential challenges include limited funding, urban-rural disparities, and low awareness among youth. To address these:

- **Youth-Specific Programs**: Create youth-focused grants or mentorships within the bill's framework, possibly via the proposed National Culture Fund, to ensure accessibility.
- **Digital Outreach**: Use platforms like X or TikTok to inform youth about the bill's opportunities, leveraging Kenya's high social media penetration (over 10 million active users).
- **County-Level Engagement**: Ensure County governments prioritize youth in cultural programs, addressing urban bias where rural youth (over 60% of Kenya's youth population) might be sidelined.

Conclusion

The Culture Bill, 2024, can empower Kenyan youth by providing economic, educational, and cultural opportunities while protecting their creative outputs. By fostering pride in heritage and creating pathways for innovation, it aligns with the aspirations of a tech-savvy, culturally conscious generation. To fully realize these benefits, the Senate should consider amendments incorporating youth-specific provisions.

STAKEHOLDER ENGAGEMENT ON THE CULTURE BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2024)

How the Culture Bill, 2024 Will Benefit Youth in Kenya

The Culture Bill, 2024 (National Assembly Bill No. 12 of 2024) primarily focuses on preserving, promoting, and protecting Kenya's cultural heritage in line with Article 11 of the Constitution. While the bill does not explicitly mention "youth" or target young people directly, its provisions create significant indirect benefits for Kenya's youthful population (over 74% under 35 years old). Youth, who often drive innovation in creative industries, digital media, and entrepreneurship, stand to gain through economic opportunities, educational enhancements, cultural identity strengthening, and community-level compensation. These benefits align with broader government efforts in the creative economy, as highlighted in public discussions and related initiatives. Below, are key ways the bill could positively impact youth, based on its provisions and potential applications.

1. Economic Opportunities in Creative and Cultural Industries

- The bill promotes all forms of national and cultural expression, including literature, arts, traditional celebrations, mass media, publications, and libraries (Clause 3(b)). It empowers the Cabinet Secretary to develop policies for recognizing and promoting these expressions, including indigenous technologies (Clauses 5(1)(b) and 17).
- **Benefits for Youth**: Kenya's youth are heavily involved in creative sectors like music, film, fashion, and digital content creation, which contribute over Kshs. 100 billion annually to the economy. By fostering these areas, the bill could create jobs and entrepreneurial avenues, such as youth-led startups using cultural motifs in fashion or apps based on indigenous innovations. For instance, government support through bodies like the Kenya Copyright Board (KECOBO) and Kenya Film Commission already provides royalties, training, and bursaries to young creatives, and the bill's framework would amplify this by integrating cultural promotion into national policy. This aligns with initiatives like the Film Empowerment Programme and Kalasha Awards, enabling youth to monetize talents and build sustainable livelihoods.

2. Innovation and Skill Development

- Provisions emphasize promoting indigenous technologies and safeguarding intangible cultural heritage, including through research and development (Clauses 17 and 18(2)). County governments are tasked with promoting cultural activities and infrastructure (Clause 6(a), (c)).
- **Benefits for Youth**: With high youth unemployment (around 38% poverty headcount), the bill encourages innovation by protecting and promoting traditional knowledge, which young people can adapt into modern solutions—

like tech apps for cultural tourism or sustainable products from indigenous fabrics. This could lead to grants, incubators, or funds for youth-led projects, similar to existing talent and technology funds proposed in demographic discussions. Youth could also access training via cultural facilities, boosting skills in areas like digital media and entrepreneurship, as seen in government commitments to creative economy hubs.

3. Educational and Cultural Identity Enhancement

- The bill supports transmission of cultural heritage through formal and non-formal education, with exemptions for non-commercial educational use of cultural materials (Clauses 2, 3(b), and 10(1)(b)). It also promotes libraries and cultural facilities as educational resources (Clauses 5(1)(e), (f)).
- **Benefits for Youth**: Amid generational knowledge gaps, this could integrate cultural education into school curricula, helping youth (58.9% under 25) build a strong sense of identity and national pride. Access to libraries and programs could enhance learning in arts and heritage, preparing young people for careers in media or tourism. Public forums, like intergenerational dialogues, show youth pushing for policy inclusion, and the bill's focus on endangered cultures could empower them to lead preservation efforts.

4. Community Compensation and Equitable Benefits

- Mechanisms for royalties and compensation to communities for cultural use are established, with regulations for fair distribution (Clauses 9(1), (5)).
- **Benefits for Youth**: Young community members, including artists and innovators, could receive shares of royalties from commercialized cultural assets (e.g., traditional music or designs). This addresses exploitation concerns, providing financial stability and incentivizing youth participation in cultural economies. Linked initiatives, like agreements with platforms such as Facebook and TikTok, aim to help youth monetize content, potentially amplified by the bill's protections.

Potential Challenges and Broader Context

While these benefits are promising, realization depends on implementation, including regulations by the Cabinet Secretary and county-level execution. It complements related laws like the Creative Industries Bill, 2024, which directly supports creatives through funds and incentives. Youth activism, as seen in recent protests, underscores the need for such bills to address unemployment and inclusion. Overall, the bill positions culture as a foundation for youth empowerment, turning heritage into economic and social assets.

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NATIONAL GENDER AND EQUALITY COMMISSION

NGEC/CS/LEGAL/VOL.II (15)

6th July 2025

Jeremiah. M. Nyegenye, CBS
The Clerk of the Senate
Clerk's Chambers
Parliament Building,
P.O. Box 41842-00100
NAIROBI

clerk.senate@parliament.go.ke

Mr. Mwanate
Kindly deal
12/8/2025

THE SENATE CLERKS DIRECTORATE
RECEIVED
11 AUG 2025
P.O. BOX 41842 - 00100, NAIROBI

DSEC.
Note and deal.
11/8/2025

Dear Mr. Nyegenye, CBS

COMMENTS ON THE CULTURE BILL (NATIONAL ASSEMBLY BILLS) NO.12 OF 2024

Reference is made to your call for the submission of memorandum on the Culture Bill (National Assembly Bill No 12 of 2024)

In line with its mandate, the Commission presents to you memorandum analyzing the proposed bill and making proposals for amendment where necessary. In this memorandum, the Commission bring to your attention to an existing law- Protection of Traditional Knowledge And Cultural Expressions Cap 281 that seeks to implement Articles 11, 40 and 69 of the Constitution. This may cause conflict, duplication or unnecessary divergence. We further note that the bill doesn't seek to repeal the CAP281. Indeed, both legal instruments are domiciled in the Ministry responsible for culture.

Yours

Purity Ngina, PhD, MBS
COMMISSION SECRETARY/ CFO

THE SENATE
RECEIVED
12 AUG 2025
DIRECTOR COMMITTEE SERVICES
(DSEC)

cc. labourssocialwelfarecomm.senate@parliament.go.ke

THE SENATE
RECEIVED
11 AUG 2025
DIRECTOR LEGAL SERVICES

"Gender Equality and Non-Discrimination"

MEMORANDA: THE CULTURE BILL NATIONAL ASSEMBLY BILL NO 12 OF 2024

S/No	Clause	Provisions of the clause	Proposed Amendment	Rationale
1.	Interpretations	"Community" means a culturally homogeneous and consciously distinct group of people who share any of the following attributes— (a) common ancestry; (b) similar culture or mode of livelihood or language; (c) geographical space; (d) ecological space; or (e) community of interest;	Amend by inserting after the line (e) the following-; Community also includes all persons or groups legally living in Kenya	The proposed amendment intends to recognize the culture of other persons who are not citizens including refugees and asylum seekers. This is in recognition of their rights.
	Proposed new terms	Proposed term " Retrogressive cultural practices"	**"Retrogressive and retrogressive cultural practices"** are outdated social norms that negatively impact individuals and include harmful practices including female genital mutilation, child marriages, widow cleansing and inheritance	The term has not been interpreted. A proposed application is made under clause 4(1)(b).

		Cultural expression	Cultural expression refers to the ways individuals and groups articulate their experiences, values, and perspectives through various creative forms. It encompasses a wide range of practices, including art, music, dance, literature, and more, reflecting the unique identities and traditions of different communities	Applied in the proposed law in clauses 5(1) (b) and (g) but not interpreted.
2.	Clause 4	(l) In the performance of functions and exercise of powers under this Act, State organs, State officers, other public officers, and any other persons shall -; (a) be guided by the national values and principles set out in Articles 10, 27, 201 and 232 of the Constitution; and (b) give equal recognition, dignity, and respect to all cultures, including cultures of minorities or marginalized peoples. (2) Notwithstanding the provisions of this Act, cultural activities, expressions, and practices shall not be inconsistent with the Bill of Rights set out in Chapter Four of the Constitution.	Propose to amend clause 4(1)(b) by inserting after the phrase "cultures" the following phrase "that are not retrogressive and oppressive"	The proposed amendment seeks to clarify and emphasize that the law will only recognize cultures that are positive and not inconsistent with the Constitution and other laws, especially towards the special interest groups Clause 4(2) stresses only on inconsistency with the Bill of Rights which is too general and may not be obvious to beneficiaries of the proposed law.

Advisory

The Commission recommends to Parliament to make a decision –either reject the current proposed law or propose a repeal to the existing Act. The latter applies if there are valid grounds for repealing. A point of departure is that, the existing law, Cap 281 A, recognizes indigenous seeds as part of traditional farming (the same is recognized by the Constitution as culture in Article 11(3)(b)).

The Commission is aware that many farmers face difficulty with Section 8 and Section 10(4) of the Seeds and Plant Variety Act CAP 326 which criminalises and prohibits farmers from selling or exchanging seeds that are not registered, yet a majority of farmers in Kenya are small scale farmers and vulnerable to multitude of factors (climatic, market dynamics, skills and technology, food loss, wildlife, etc). In totality, the proposed Bill does not implement Article 11(3)(b).

Subject Submission of Legislative Memorandum on the Culture Bill, 2024 (National Assembly Bill No. 12 of 2024)

From Esrc <esrc@hakijamii.com>

To clerk senate <clerk.senate@parliament.go.ke>

Cc
laboursocialwelfarecomm senate <laboursocialwelfarecomm.senate@parliament.go.ke>, 'Ijait Aluku' <ijait@hakijamii.com>, valentine@hakijamii.com <valentine@hakijamii.com>

Date Thursday August 14, 2025 9:14:56 AM

THE SENATE
RECEIVED
14 AUG 2025
DIRECTOR COMMITTEE SERVICES
(DGAC)

THE CLERK OF THE SENATE
RECEIVED
14 AUG 2025
P.O. Box 41842 - 00100, NAIROBI

(2) DSEC (VK)
Kindly deal
15/08/2025

(1) DSEC
Kindly Send
14/08/2025

Mr. Jeremiah Nyegenye
The Clerk of the Senate
Parliament Buildings
P.O. Box 41842 – 00100
NAIROBI

Dear Mr. Nyegenye,

We trust this email finds you well.

Please find attached our formal submission on the **Culture Bill, 2024 (National Assembly Bill No. 12 of 2024)** for the attention of the Senate Standing Committee on Labour and Social Welfare, in line with the public participation process currently underway.

(3) Florence
Kindly deal
15/08/25

The memorandum presents clause-specific comments and recommendations aimed at strengthening the Bill's alignment with Article 11 of the Constitution, particularly regarding the recognition of communities as cultural custodians, equitable benefit-sharing, and participatory governance in cultural policy.

We respectfully request that this submission be considered during the Committee's deliberations and incorporated into the final report to the Senate. Should any clarification or further engagement be required, we remain available to support the process.

Warm Regards,

Lucy Wangari
Administrator
Economic & Social Rights Centre-Hakijamii
Yaya Court, Suite 8, along Chania Avenue
Mobile: 0726-527 876
Email: wangari@hakijamii.com; esrc@hakijamii.com
Web Site: www. hakijamii.com

THE SENATE
RECEIVED
15 AUG 2025
DIRECTOR COMMITTEE SERVICES
(DSEC)

Attachments
LEGISLATIVE MEMORANDUM ON THE CULTURE BILL 2024.pdf (147 kB)



LEGISLATIVE MEMORANDUM ON THE CULTURE BILL 2024 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2024

TO:

THE SENATE

FROM:

THE ECONOMIC AND SOCIAL RIGHTS CENTRE-HAKIJAMII

AND

COMMUNITY BASED ORGANIZATIONS OF NAROK COUNTY

(ELONGO CBO; ORKILA OROK; ENTASHATA LOITA CBO; GREEN HORIZONS CBO; SORALO CBO; NAIDIP; NYEFF CBO; NCNRN)

7TH AUGUST 2025

I. INTRODUCTION

This memorandum presents targeted comments on the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024), currently under consideration by the Senate Standing Committee on Labour and Social Welfare. It is submitted in line with Article 118 of the Constitution of Kenya, which provides for public participation in the legislative process, and Standing Order 145(5) of the Senate Standing Orders.

The observations herein are informed by a close reading of the Bill as published, and reflect the perspective of stakeholders concerned with the protection of Indigenous Peoples and Local Communities (IPLCs), particularly their cultural rights and custodianship roles as envisioned under Article 11 of the Constitution.

2. GENERAL CONCERNS

The Culture Bill, 2024, brings to life Article 11 of the Constitution, where the Constitution recognises culture as the foundation of the nation and as the cumulative civilization of the Kenyan people. The same provision also outlines the State's responsibilities in adherence to this, which include promotion, recognition, protection and compensation for use.

However, the Bill exhibits structural gaps that, if unaddressed, may undermine its constitutional purpose and result in the continued marginalization and exploitation of cultural custodians—especially Indigenous Communities. They Include:

Gap: Omission of Cultural Education and Intergenerational Knowledge Transmission

Justification: The Bill is silent on promoting indigenous languages, oral histories, or intergenerational transfer of cultural knowledge. This contradicts the objective of safeguarding living heritage and constrains cultural continuity.

Recommendation: Include a provision mandating integration of indigenous knowledge into national and county education curricula, and support for community-run cultural learning centers

3. SPECIFIC CONCERNS

CLAUSE	PROVISION	GAP	HAKIJAMII PROPOSAL	JUSTIFICATION
Preliminary	Interpretation	Incomplete/ erroneous interpretation (This Act gives effect to Article 11 (3) (a) of the Constitution)	• Rewrite to: This article gives effect to Article 11 of the Constitution	• Align with the accompanying Bil Digest. • Bill covers more than royalties fc communities
3	Object and purpose of the Act	Unclear Role and Legal Recognition of Cultural Custodians	• Amend Clause 3 to expressly affirm the role of communities as primary custodians of their culture and heritage, and to guarantee their participation in all decisions affecting the same.	• While Clause 3 states that the Bill seek to give effect to Article 11 of th Constitution, it fails to explicitl recognize Indigenous Communities a custodians of culture. This omissio weakens community claims ove intangible cultural heritage an traditional knowledge systems.
5	Role of the National Government	Lack of Community Representation in Cultural Governance	• Amend Clause 5 to include provisions requiring consultation with registered community cultural institutions or councils in all matters involving the use, preservation, and regulation of community culture and heritage.	• The Clause assigns extensive powers t the Cabinet Secretary on matters c cultural policy, standards, registratior research, and compensation. However, does not provide for structure community participation c accountability frameworks in th exercise of these powers.

5, 7, 9, & 33	Role of the National Government Establishment of Cultural Database Compensation for Use of Culture and Cultural Heritage Regulations	Lack of Community Representation in Cultural Governance	• Include provisions establishing community-based cultural representative bodies to participate in the development of regulations, registers, compensation guidelines, and cultural policies.	• The Bill centralizes authority in th Cabinet Secretary across all critic regulatory functions—including olic formulation, compensation st rd research oversight, and cultur registration—without guaranteein participatory mechanisms f Indigenous Peoples and Loc Communities (IPLCs). This structure inconsistent with Article 10 (publ participation), Article 174((devolution), and Article 11(3)((recognition of communities as cultur custodians).
9	Compensation for use of culture and cultural heritage	• Absence of a Community-Managed Royalty or Compensation Mechanism	• Establish a Cultural Royalties and Compensation Fund, jointly managed by the national government and elected community representatives, and anchored in Clause 9.	• Clause 9 provides a framework determining and paying compensa or royalties. However, it lacks provis for a statutory fund, co-managemer mechanisms, or guaranteed benefi sharing with the cultural custodians.

10, 2 & 27	Exceptions and Limitations to Compensation for use of Culture and Heritage Application to Conduct Research Using Images Without Consent	• Weak Protection for Free, Prior and Informed Consent (FPIC)	• Amend relevant clauses to require documented FPIC before any authorization involving cultural property or intangible heritage. Establish penalties for failure to obtain FPIC.	• While the Bill defines FPIC (Clause 2 and refers to it in select provisions (Clause 10, Clause 27), it does not make FPIC a mandatory prerequisite for research (Clause 12), loan/export (Clause 11), or registration decisions. Moreover, FPIC is not enforceable through a clear procedural framework.
17 & 18	Recognition and Promotion of Culture, Cultural Heritage and Cultural Property by public entities Protection of culture, cultural heritage and cultural property.	• No Protection for Sacred and Intangible Cultural Landscapes	• Amend Clause 18 to include explicit recognition and protection of sacred natural sites, cultural landscapes, and ritual spaces, including community-nominated sites for gazettement.	• Although Clause 18 addresses protection, it focuses on tangible heritage and offers no express protection for sacred sites, ritual spaces, or intangible cultural landscapes which are critical to many Indigenous communities' spiritual and cultural identity.

26 & 27	Counterfeiting and Misrepresentation of Cultural Property Using Images Without Consent	• Limited Safeguards Against Cultural Misappropriation and Misrepresentation	• Create a provision empowering registered communities or cultural councils to initiate enforcement proceedings or complaints directly to relevant authorities or tribunals.	• The Bill criminalizes unauthorized us and misrepresentation but does nc establish community-drive enforcement mechanisms complaints process. Remedies are full reliant on state prosecution, which ma not reflect community priorities c urgency.



LEGISLATIVE MEMORANDUM ON THE CULTURE BILL 2024 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2024

TO:

THE SENATE

FROM:

THE ECONOMIC AND SOCIAL RIGHTS CENTRE-HAKIJAMII

AND

COMMUNITY BASED ORGANIZATIONS OF NAROK COUNTY

(ELONGO CBO; ORKILA OROK; ENTASHATA LOITA CBO; GREEN HORIZONS CBO; SORALO CBO; NAIDIP; NYEFF CBO; NCNRN)

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Justification: The Bill is silent on promoting indigenous languages, oral histories, or intergenerational transfer of cultural knowledge. This contradicts the objective of safeguarding living heritage and constrains cultural continuity.

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5	Role of the National Government	Lack of Community Representation in Cultural Governance	• Amend Clause 5 to include provisions requiring consultation with registered community cultural institutions or councils in all matters involving the use, preservation, and regulation of community culture and heritage.	• The Clause assigns extensive powers to the Cabinet Secretary on matters of cultural policy, standards, registration, research, and compensation. However, it does not provide for structured community participation or accountability frameworks in the exercise of these powers.

5, 7, 9, & 33	Role of the National Government Establishment of Cultural Database Compensation for Use of Culture and Cultural Heritage Regulations	Lack of Community Representation in Cultural Governance	• Include provisions establishing community-based cultural representative bodies to participate in the development of regulations, registers, compensation guidelines, and cultural policies.	• The Bill centralizes authority in the Cabinet Secretary across all critical regulatory functions—including policy formulation, compensation standards, research oversight, and cultural registration—without guaranteeing participatory mechanisms for Indigenous Peoples and Local Communities (IPLCs). This structure is inconsistent with Article 10 (public participation), Article 174(c) (devolution), and Article 11(3)(a) (recognition of communities as cultural custodians).
9	Compensation for use of culture and cultural heritage	• Absence of a Community-Managed Royalty or Compensation Mechanism	• Establish a Cultural Royalties and Compensation Fund, jointly managed by the national government and elected community representatives, and anchored in Clause 9.	• Clause 9 provides a framework for determining and paying compensation or royalties. However, it lacks provisions for a statutory fund, co-management mechanisms, or guaranteed benefit-sharing with the cultural custodians.

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26 & 27	Counterfeiting and Misrepresentation of Cultural Property Using Images Without Consent	• Limited Safeguards Against Cultural Misappropriation and Misrepresentation	• Create a provision empowering registered communities or cultural councils to initiate enforcement proceedings or complaints directly to relevant authorities or tribunals.	• The Bill criminalizes unauthorized use and misrepresentation but does not establish community-driven enforcement mechanisms or a complaints process. Remedies are fully reliant on state prosecution, which may not reflect community priorities or urgency.

MEMORANDUM ON THE CULTURE BILL, 2024
(National Assembly Bills No. 12 of 2024)

Submitted to: The Senate Committee on Cultural Affairs

From: The Indigenous El Someek Community of Mt Elgon region, Trans-Nzoia County

Date: Wednesday, 16th July, 2025

1. Introduction

We, the Indigenous El Someek people of Mt Elgon, respectfully acknowledge and appreciate the invitation extended by the Senate Committee to present our views on the Culture Bill, 2024. This memorandum outlines our appeal for formal recognition, preservation of cultural heritage, and institutional support to safeguard our distinct identity.

2. Request for Formal Recognition

- We seek official identification of the El Someek community through publication in the Kenya Gazette.

- Such recognition will enable accurate population data, the design of tailored social programs, and rightful cultural protection.

- Without formal acknowledgment, all efforts to preserve our heritage remain incomplete.

3. Cultural and Environmental Heritage

- Historical Settlement: We are a pastoralist, hunters and gatherers community native to the slopes of Mt Elgon.

- Environmental Protection: We are known for our dedication to conserving indigenous trees, wildlife, and ecological balance.

- Climate Action: We advocate for inclusion in environmental campaigns, offering ancestral knowledge as a resource for sustainable development.

4. Cultural Expressions Requiring Protection

- Traditional Regalia: Our male and female attire carries ceremonial and social significance.

- Unique Cuisine: Traditional foods have nourished and sustained our identity across generations.

- Traditional Medicine: Our herbal remedies are comparable in sophistication to Chinese and Indian systems of natural healing.

5. Historic and Cultural Landmarks

- Warrior Legacy: Traditional weaponry reflects cultural resilience and deserves preservation.

- Shelter Architecture: Indigenous housing designs featuring sustainable materials merit revival and documentation.

- Sacred Caves: Spiritual and communal sites such as the Mt Elgon caves deserve recognition as heritage landmarks.

6. Institutional Proposals

- Language Preservation: Local languages should be documented and integrated into the school curriculum. Without language, culture cannot be effectively preserved.

- Community Management: Establish a cultural management committee to oversee resources, especially sacred sites like the Mt Elgon caves.

- Cultural Centers: Develop centers near El Someek settlements for cultural research, education, and celebrations.

- Intellectual Property Protection: Legal mechanisms must safeguard our cultural assets, with penalties for unauthorized use or exploitation.

- Traditional Beer Preservation: Busaa, a cultural beverage, should be exempt from standard alcohol laws and honored as a heritage item.

- Anti-Discrimination Safeguards: Cultural practices must be protected, provided they do not conflict with principles of justice or morality.

- Recognition of Minority Communities: All minority groups, especially the El Someek, must be granted formal and legal recognition.

- National Cultural Day: Establish a dedicated day for cultural exhibitions, ceremonies, and inter-community celebration.

7. Conclusion

The El Someek community seeks only fairness, acknowledgment, and inclusion. Our traditions offer meaningful contributions to Kenya's cultural and ecological tapestry. We urge the Senate to consider our proposals with the reverence and sincerity they warrant.

Prepared by:

The Elders and Representatives of the El Someek Community

Mt Elgon Region, Trans-Nzoia County

Signature: .....

Francis Chemwor Psomnken
Chairman, El Someek Community
Contact: +254 711 353 535

MERU COUNTY



THARAKA- NITHI COUNTY



AMMÎÎRRÛ COMMUNITY CULTURAL STAKEHOLDERS ASSOCIATION (ACCSA)
P.O. Box 1380 – 60200, MERU, Kenya
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MOTTO: AMMÎÎRRÛ TÛGWAATANNÎREENNI!

Rev. Dr Stephen A. Mugambi Mwithimbu, HSC, Ph.D.
General Secretary,
Cell-phone No.- +254 722214265 / +254 755544418
Email:mwithimbukarema@gmail.com
P. O. Box 1380 – 60200.
MERU, Kenya.

Wednesday, 6th August, 2025

Clerk of the Senate,
Parliament Buildings,
Email:clerk.senate@parliament.go.ke
P. O. Box 41842- 00100,
NAIROBI, Kenya.

(Att: J. M. Nyegenye, CBS)

Dear Sir,

REF: SUBMISSION OF MEMORANDUM
NATIONAL ASSEMBLY BILLS
(Bill No. 12 of 2024)
THE CULTURE BILL 2024

The Ammîîrrû Community Cultural Stakeholders Association (ACCSA) wish to congratulate and commend the National Assembly of the Republic of Kenya for the patriotic idea of The Culture Bill 2024. We wish to humbly appeal to the Senate to carefully consider and legalize all the views and Memoranda, which will be presented during the ***"Submission of Memoranda and Public Hearing The Culture Bill, 2024"*** on Thursday, 7th August, 2024 starting from11.00 am.

1. First, ***one of the major concerns*** of the Ammîîrrû Community Cultural Stakeholders Association is **"The Protection of Vernacular Languages"** pertaining to, spoken in or written in the Native Languages of various Communities of Kenya as per The Constitution of Kenya 2010: National, Official and Other Languages; Article 7 (3) ***"The State shall –***

a) Promote and protect the diversity of language of the people of Kenya; and
b) Promote the development and use of indigenous languages, Kenyan Sign language, Braile and other communication formats and technologies accessible to persons with disabilities"

(i) It should be mandatory for all Churches to write their respective Liturgies in the Vernacular Language where they operate.

(ii) The local TV and Radio Stations should protect and use Vernacular Language of the locality from where they are operating.

(iii) Business Promotions and Marketing should be done through the local vernacular of the area of operation.

(iv) Cultural Groups and Vernacular Languages must be protected from encroachment and subsequent extermination by whatever party/ parties.

(v) School Curriculum must provide for teaching and learning Vernacular not only at Primary School levels, but also at higher education levels within each Ethnic Group's jurisdiction along the National Language and Official Language - Kiswahili and English Languages, without discrimination or employment of Vernacular killing mechanisms.

(vi) Each County must have Museum(s) and Libraries to promote Culture.

(vii) Annual County and Regional Cultural Festivals should be held to promote and entrench Vernacular Languages and Cultural Heritage.

2. Second, we know that the Republic of Kenya is subdivided into eight (8) Regions (Provinces) created by the Land Commission of 1962 and forty-seven (47) Counties created by the Constitution of Kenya 2010: First Schedule (Article 6 [1]). Any other formations of boundaries created by unauthorized group(s) must be considered illegal and unconstitutional; e.g. Mt. Kenya is a geographical site situated in Eastern Region, ***NOT*** in Central Region as some politicians would like Kenyans to perceive by creating deliberate illusions that ***"New Region" is in Central Region.***

3. Third, this Law should prohibit and safeguard Cultural Organizations and Cultural Institutions, or Cultural Bodies which should be used to ensure Mediation and Reconciliation, e.g. Njûri Încheke, the Institutions of Mûkîamma and sovereignty of Mûgwe; Nabongo; the King of Pokomo; Kaya; Myoot; etc.

4. Fourth, this New Law should direct the redress of all Historical Injustices, especially those related to Land Boundaries; Cultural and Vernacular Encroachments for all the Communities in Kenya.

5. Fifth, the Constitution of Kenya 2010 Article 11 (2) (b) "recognize the role of science and indigenous technologies in the development of the Nation; and (c) promote intellectual property rights of the people of Kenya." There are doubts the ***African Traditional Natural Medicine and Practices*** fall under ***science and indigenous technologies.*** This New Law should create positive provisions not only ***to recognize them***, but to create a ***Regulatory Council,*** which will be empowering Traditional Natural Medicine Practitioners to be ***Self-Regulating Sector and then be integrated*** into the Health System of the Republic of Kenya.

6. Sixth, The National Database of Medicinal; African Traditional Natural Medicine and Practitioners; and Natural Products should be protected by this New Law to curb and curtail ***Bio-piracy*** and enhance "Obligations in respect of Environment Rights" (Article 70); Agreements relating to Natural Resource (Article 71) and Legislation relating to the Environment (Article 72) of the Constitution of Kenya 2010.
7. Finally, we wish to conclude by thanking our National Assembly, once more, for taking this ***liberating legal framework.***

Your humble Servant,

AMMÎIRRÛ COMMUNITY CULTURAL STAKEHOLDERS ASSOCIATION (ACCSA)
06 AUG 2025
P.O. Box 7380 - 60200, MERU

Rev. Dr. Stephen A. Mugambi Mwithimbu, HSC, PhD.
Secretary General,
AMMÛRRÛ COMMUNITY CULTURAL STAKEHOLDERS ASSOCIATION

Cc.

laboursoialwelfarecomm.senate@parliament.go.ke

creative economy working group

Box 66872-00800
NAIROBI

1st August 2025

Office of the Clerk of the Senate
1st Floor, Main Parliament Buildings
Box 41842-00100
Nairobi.
Email: clerk.senate@parliament.go.ke

c.c. laboursocialwelfarecomm.senate@parliament.go.ke

RE: SUBMISSION ON THE CULTURE BILL 2024

The Creative Economy Working Group (CEWG) is grateful to the Senate Standing Committee on Labour and Social Welfare for giving us the opportunity to make submissions on the Culture Bill, 2024 (National Assembly Bill No. 12 of 2024). CEWG is a network of institutions and individuals working in the culture and creative sector advocating for the development of facilitative policy and legislative frameworks for the advancement of culture, arts and media in Kenya. The network has been engaged in the development of the National Culture Policy and Bill at different stages and provided input. We support the Culture Bill, 2024, and would like to make additional input to enhance it.

The following are the institutional members of the Creative Economy Working Group:

1. Twaweza Communications (Convenor)
2. The GoDown Arts Centre
3. Performing Arts Ltd
4. The Creatives Garage
5. Book Bunk Trust
6. The Orature Collective
7. CLAW-IT
8. Go Sheng Services
9. Docubox – EADFF
10. Content House
11. Buni Media
12. CINE Arts Afrika

PART (...) - PROMOTION OF CULTURAL AND CREATIVE INDUSTRIES

1. The Cabinet Secretary shall, in consultation with county governments and relevant stakeholders, develop and implement strategies to promote cultural and creative industries, including film, music, publishing, fashion, visual arts, design, digital content, and other cultural goods and services.

2. The Cabinet Secretary may, in consultation with county governments and in collaboration with relevant public and private entities, create incentive schemes including grants, tax reliefs, and funding programs to support cultural and creative enterprises.

3. The Cabinet Secretary may make regulations prescribing measures to give effect to this Part, including funding mechanisms, eligibility criteria, and partnership frameworks

4. County governments shall develop and implement county cultural policies and creative economy strategies, in consultation with local stakeholders, aligned with national standards; and shall establish and support local creative economy hubs, incubation centres, and marketplaces for cultural and creative products.

Article	Issue	Proposal	Rationale
PART 1: Preliminary Interpretation	**'artist' not defined, although 'art' is defined**	**Define artist as** 'any person who creates or gives creative expression to, or re-creates works of art, who considers his artistic creation to be an essential part of his life, who contributes in this way to the development of art and culture and who is or asks to be recognized as an artist, whether or not he is bound by any relations of employment or association.	This definition is derived from the UNESCO (https://www.unesco.org/en/legal-affairs/recommendation-concerning-status-artist).
	'tangible cultural heritage' is not defined	**Define tangible cultural heritage as** 'the physical cultural resources produced,	Tangible heritage provides a concrete basis for ideas, and can validate them. Defining them

	cultural heritage		
Guiding principles (4) (a)	**Some relevant articles excluded**	Consider including Articles 33, 44, 56, 57 of the Constitution	The additional principles embody vital guidance
33(2) - Regulations	Regulations on data protection which align with the Data Protection Act and section 18(2)(g) of the Protection of Traditional Knowledge and Cultural Expressions Act not included	Include regulations on data protection which align with the Data Protection Act and section 18(2)(g) of the Protection of Traditional Knowledge and Cultural Expressions Act Include regulations on the technologies to be used in documentation, including the use of emerging technologies to document and archive cultural heritage	Data protection is important in safeguarding cultural heritage
	Data protection: Mandate counties and national government to ensure servers are locally stored	Due to the strategic importance of the databases in this Bill, consider mandating counties and national government to ensure that all databases and servers in this Bill are locally stored as per section 50 of the Data Protection Act	This will strengthen protection of cultural heritage

Sincerely

Kimani Njogu, Ph.D
Chair
Creative Economy Working Group.

TO:
The Clerk of the Senate
P.O. Box 41842–00100
Nairobi, Kenya
Email: clerk.senate@parliament.go.ke
CC: laboursocialwelfarecomm.senate@parliament.go.ke

FROM:
CHRISANTUS ONTIRI BIGUTU
ID NO: 30232863
PHONE: 0705715536

EMAIL: chrisantusb@gmail.com

DATE: JULY 25TH, 2025;

SUBJECT: *Memorandum on the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024)*

1. Introduction
I submit this memorandum pursuant to the Senate's invitation for public participation in the consideration of the Culture Bill, 2024. I appreciate the opportunity to contribute to the development of legislation that aims to promote and protect Kenya's rich and diverse cultural heritage.

2. General Support for the Bill
I commend the Senate for recognizing the importance of giving effect to Article 11 of the Constitution, which affirms culture as the foundation of the nation and as the cumulative civilization of the Kenyan people. The Bill is a welcome step in ensuring national identity, inclusivity, and cultural pride.

3. Key Recommendations and Concerns

a. Recognition and Compensation of Cultural Communities
While the Bill rightly proposes compensation or royalties for communities for the use of their cultures and heritage, I recommend that:

- A **clear, enforceable framework** be established to guide how such compensation will be calculated, managed, and disbursed.
- The Bill should mandate the establishment of a **National Cultural Rights Tribunal** to handle disputes related to exploitation, appropriation, or compensation.
- The Bill should prioritize **community-led consent processes** before any cultural elements are used commercially.

b. Protection of Indigenous Knowledge and Cultural Expressions

- The Bill should explicitly provide for the protection of indigenous languages, traditional medicine, folklore, and rituals.
- It should mandate partnerships with elders, local custodians, and cultural practitioners in documentation and preservation processes.

c. Support for Emerging Cultural Practitioners

- Provisions should be made for the **creation of national and county-level cultural funds** to support artists, writers, filmmakers, and other creative workers, especially the youth.
- Affirmative support should be given to marginalized communities and persons living with disabilities to participate in cultural activities.

d. Implementation and Oversight Mechanisms

- The Bill should establish a **National Cultural Council** with representation from counties, cultural institutions, academia, and practitioners to oversee implementation.
- Regular audits and public reporting on progress and challenges in cultural development should be mandated.

4. Conclusion

Culture is a living force that binds our past, present, and future. The Culture Bill, if strengthened and implemented effectively, can ensure that Kenya's cultural heritage is not only preserved but also contributes to economic growth, social unity, and national pride.

I urge the Senate to incorporate the above recommendations into the final version of the Bill.

Yours faithfully,

CHRISANTUS ONTIRI BIGUTU
CONTACT: 0705715536

EMAIL: chrisantusb@gmail.com



LEGISLATIVE MEMORANDUM ON THE CULTURE BILL 2024 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2024

TO:

THE SENATE

FROM:

THE ECONOMIC AND SOCIAL RIGHTS CENTRE-HAKIJAMII

AND

COMMUNITY BASED ORGANIZATIONS OF NAROK COUNTY

(ELONGO CBO; ORKILA OROK; ENTASHATA LOITA CBO; GREEN HORIZONS CBO; SORALO CBO; NAIDIP; NYEFF CBO; NCNRN)

7TH AUGUST 2025

I. INTRODUCTION

This memorandum presents targeted comments on the Culture Bill, 2024 (National Assembly Bills No. 12 of 2024), currently under consideration by the Senate Standing Committee on Labour and Social Welfare. It is submitted in line with Article 118 of the Constitution of Kenya, which provides for public participation in the legislative process, and Standing Order 145(5) of the Senate Standing Orders.

The observations herein are informed by a close reading of the Bill as published, and reflect the perspective of stakeholders concerned with the protection of Indigenous Peoples and Local Communities (IPLCs), particularly their cultural rights and custodianship roles as envisioned under Article 11 of the Constitution.

2. GENERAL CONCERNS

The Culture Bill, 2024, brings to life Article 11 of the Constitution, where the Constitution recognises culture as the foundation of the nation and as the cumulative civilization of the Kenyan people. The same provision also outlines the State's responsibilities in adherence to this, which include promotion, recognition, protection and compensation for use.

However, the Bill exhibits structural gaps that, if unaddressed, may undermine its constitutional purpose and result in the continued marginalization and exploitation of cultural custodians—especially Indigenous Communities. They Include:

Gap: Omission of Cultural Education and Intergenerational Knowledge Transmission

Justification: The Bill is silent on promoting indigenous languages, oral histories, or intergenerational transfer of cultural knowledge. This contradicts the objective of safeguarding living heritage and constrains cultural continuity.

Recommendation: Include a provision mandating integration of indigenous knowledge into national and county education curricula, and support for community-run cultural learning centers

3. SPECIFIC CONCERNS

CLAUSE	PROVISION	GAP	HAKIJAMII PROPOSAL	JUSTIFICATION
Preliminary	Interpretation	Incomplete/ erroneous interpretation (This Act gives effect to Article 11 (3) (a) of the Constitution)	• Rewrite to: This article gives effect to Article 11 of the Constitution	• Align with the accompanying Bills Digest. • Bill covers more than royalties for communities
3	Object and purpose of the Act	Unclear Role and Legal Recognition of Cultural Custodians	• Amend Clause 3 to expressly affirm the role of communities as primary custodians of their culture and heritage, and to guarantee their participation in all decisions affecting the same.	• While Clause 3 states that the Bill seeks to give effect to Article 11 of the Constitution, it fails to explicitly recognize Indigenous Communities as custodians of culture. This omission weakens community claims over intangible cultural heritage and traditional knowledge systems.
5	Role of the National Government	Lack of Community Representation in Cultural Governance	• Amend Clause 5 to include provisions requiring consultation with registered community cultural institutions or councils in all matters involving the use, preservation, and regulation of community culture and heritage.	• The Clause assigns extensive powers to the Cabinet Secretary on matters of cultural policy, standards, registration, research, and compensation. However, it does not provide for structured community participation or accountability frameworks in the exercise of these powers.

5, 7, 9, & 33	Role of the National Government Establishment of Cultural Database Compensation for Use of Culture and Cultural Heritage Regulations	Lack of Community Representation in Cultural Governance	• Include provisions establishing community-based cultural representative bodies to participate in the development of regulations, registers, compensation guidelines, and cultural policies.	• The Bill centralizes authority in the Cabinet Secretary across all critical regulatory functions—including policy formulation, compensation standards, research oversight, and cultural registration—without guaranteeing participatory mechanisms for Indigenous Peoples and Local Communities (IPLCs). This structure is inconsistent with Article 10 (public participation), Article 174(c) (devolution), and Article 11(3)(a) (recognition of communities as cultural custodians).
9	Compensation for use of culture and cultural heritage	• Absence of a Community-Managed Royalty or Compensation Mechanism	• Establish a Cultural Royalties and Compensation Fund, jointly managed by the national government and elected community representatives, and anchored in Clause 9.	• Clause 9 provides a framework for determining and paying compensation or royalties. However, it lacks provisions for a statutory fund, co-management mechanisms, or guaranteed benefit-sharing with the cultural custodians.

10, 12 & 27	Exceptions and Limitations to Compensation for use of Culture and Heritage Application to Conduct Research Using Images Without Consent	• Weak Protection for Free, Prior and Informed Consent (FPIC)	• Amend relevant clauses to require documented FPIC before any authorization involving cultural property or intangible heritage. Establish penalties for failure to obtain FPIC.	• While the Bill defines FPIC (Clause 2) and refers to it in select provisions (Clause 10, Clause 27), it does not make FPIC a mandatory prerequisite for research (Clause 12), loan/export (Clause 11), or registration decisions. Moreover, FPIC is not enforceable through a clear procedural framework.
17 & 18	Recognition and Promotion of Culture, Cultural Heritage and Cultural Property by public entities Protection of culture, cultural heritage and cultural property.	• No Protection for Sacred and Intangible Cultural Landscapes	• Amend Clause 18 to include explicit recognition and protection of sacred natural sites, cultural landscapes, and ritual spaces, including community-nominated sites for gazettement.	• Although Clause 18 addresses protection, it focuses on tangible heritage and offers no express protection for sacred sites, ritual spaces, or intangible cultural landscapes which are critical to many Indigenous communities' spiritual and cultural identity.

26 & 27	Counterfeiting and Misrepresentation of Cultural Property Using Images Without Consent	• Limited Safeguards Against Cultural Misappropriation and Misrepresentation	• Create a provision empowering registered communities or cultural councils to initiate enforcement proceedings or complaints directly to relevant authorities or tribunals.	• The Bill criminalizes unauthorized use and misrepresentation but does not establish community-driven enforcement mechanisms or a complaints process. Remedies are fully reliant on state prosecution, which may not reflect community priorities or urgency.

Evans Ombongi <ombongie5@gmail.com> Aug 6

To clerk senate, laboursocialwelfarecomm senate

In relation to the subject matter.

1.The bill should include that the government establishes an academy, a National Academy for Culture and Tourism Administration for efficient management of that sector, including digital construction (or presentation) of all national cultural heritage,formulating and packaging cultural content and finding or devising ways of exporting or inducing other countries to come and learn it, thereby generating national income

The world is a global village where in the process of cultural exchange, we should borrow a leaf or best practice and apply the knowledge one acquires on the way. Whenever our leaders, all leaders, visit other jurisdictions, they should also carry along whatever they learn and implement it, esp. in terms of efficient leadership and management of public resources, increasing productivity etc. This views are based on comparative analysis/research out there.

2.Setting up the proposed national Council/commission for Kiswahili is overdue. But my view is that instead of setting up such n entity separately, senate should recommend creation of the Academy proposed in 1 above, then the kiswahili council can fall under it- in fact it will work better because learning kiswahili will then form part of the content or packages for international "students"- who can be government officials, cultural and tourist administrators, policy makers or managers etc- whenever they are eventually tooled to come.

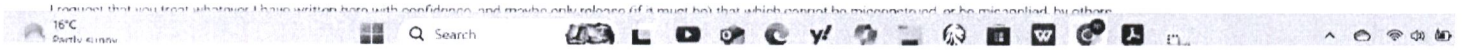
Senate, and indeed entire government,should seek to know what happens in this , I would say, neglected, and least understood, cultural sector, for various reasons:

i)For instance, "sports", arts and social devt fund i believe was a brainchild of the culture department, which was seeking a fund for issuing either loans or grants to cultural creative artists to empower them- instead, it was manipulated somewhere in the works, made a different entity altogether and its effectiveness and focus diluted, and worse, the parent state dept(s) were made inferior to it -they now have to go seeking funding from it, after very lenghty and cumbersome processes. Isnt this ironical? Isnt it ironical that parastatals, including sasdef, which are creatures of departments, are always awash with huge amounts of money, even when those department or depts themselves are broke- and inoperational, for many months on end? I think this trend should be reversed

Moreso, its my honest opinion that sasdef, just like many others, provides a conduit for embezzling funds- I am not so sure there is real transparency in it, esp from its internal senior officers. secondly, counties have found it to be an escape route from their responsibilities and are misusing it. How can a county govt be allocated 150m shs for "cultural festival"- a single event, from sasdef, yet culture is a fully devolved function and a cre duty of counties? Check its not one- many counties e.g last yr were allocated hundreds of millions, yet when the core dept wants money, theres zero.In the end such creations or "funds" end up just end up deviating completely from the focus of the mooters and end being just an unnecessary increase of red tape, bureacracy and cash cows.

The culture sector is quite ignored. But if the academy Ive suggested was to be created with good thinking ideas and execution (while involving good minds with an idea), it will and should be able to make a big economic impact-and be understood well as perhaps the most vital sector-unlike today where culture is least understood- even by people in positions of authority, just like maybe issues of environment are not well appreciated, leave alone climate change- that'll even be anathema.

I request that you treat whatever I have written here with confidence, and maybe only release (if it must be) that which cannot be misconstrued, or be misapplied, by others.



Tony Mochama <tonyadamske@gmail.com> Aug 7 ★

To clerk senate

Cc laboursocialwelfarecomm senate

First of all congratulations to Hon. Kimani Ichungwah for the introduction of this bill.

To bring to life Article 11 of the 2010 Constitution and promote LITERATURE, do publications and get mass media excited on this Cultural BILL. I have a very simple but ingenious suggestion, that will set the reading and writing public on fire about this BILL across Kenya.

Put aside a mere KShs 25 million as an annual Cultural Grant.

(i) Award TEN writing prizes, each one worth just Shs 1 million, for four best novels of the year, three best individual poetry collections, and two best published plays - **for a total of Shs 10 million.** These should reflect our Kenyan *lifestyle, social interactions, customs, codes,* and all ten artistic works be judged on their excellent language, originality and creative ideas.

(ii) Set aside SIX million shillings yearly for four cultural research projects (Shs 1.5 million each) that will capture our traditions, rituals, ceremonies, history and travel scapes, all four to be captured in writing. (iii) Then set another Shs 4 million for the PRINTING of **all 14 works.**

(iv) Finally, work with a globally associated organisation like PEN International (the local Kenya Chapter) to judge the projects on their merits, with emeritus in the arts and academia as compensated judges. An organisation like PEN could also put together the **Annual Literary Prize Gala** - and this would capture countrywide attention even as it brings the BEST of literature & cultural works.

(Shs 5 million would cover this last part).

In this way, for a small investment (Shs 25 M), the **Cultural Bill through its grants** would help literary artists, bring our living culture to life through the very BEST of our works, and by being there, year after year after year, be a FOREVER legacy for its Sponsors.

Thank you.

Tony Mochama.

Journalist, Poet, Lawyer & most award winning Kenyan author.

(of 50 & below) of our generation (who lives for our cultural arts)

(It's a pity to always, in our own cocoons, struggle to run workshops, connect younger writers to MFAs in the northern hemisphere, on our lanesome own - and Cultural Grants within this BILL would be oxygen to making it alive, beyond museums).

https://maasailandwriters.com/?fbclid=IwY2xjawMBLBdleHRuA2FlbQIxMABicmlkETBlTXlxcnhTNFNGSGM1Sko2AR7_FugNhTJdOCl3OO2oVUpgjYE38NiTwBOHjbc_fon3gREL_tfk7dCelPM1xA_aem_HWjUvS_o9cehiFoqT5ZO-g

Evans Ombongi <ombongie5@gmail.com> Aug 6

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I request that you treat whatever I have written here with confidence, and maybe only release (if it must be) that which cannot be misconstrued, or be misapplied, by others.

16°C
Partly sunny
Search

J.M NYEGENYE CBS

CLERK OF THE SENATE

P.O BOX 418-00100

NAIROBI

REF THEME

THE CULTURE BILL 2024 (NATIONAL ASSEMBLY BILLS NO.12 OF 2024)

Sir I would support the bill and here participate to keep our communities culture heritage to continue at all levels.

Sir I would only be brief point by point because most of honorable members understand its culture format.

- Having read article 11 of the constitution of promoting cultural heritage. My main aim is to deal with boy child traditional passage should be more modernize fully healthy by qualified doctors as veted by elders. Our culture identity must always remain as per its culture. The amendments should come from elders without eradicating its culture.
- Sir to set up this bill each sub county will set up its own cultural Centre for passage rite and other activities. This is because private lands are diminishing population is growing and no more forest. Most of communities still have chance to set aside the community land for this urgent matter now.
- The said main Centre will strengthen our culture activities, tourists' attraction. Big compound will create more structures for attraction. Our diaspora boys may attend for more culture awareness.
- Apart from main Centre the community should have more land where by each group will build temporary living home whereby after graduation they destroy. This is the place to stay teaching, training and also the room for doctor and instructors fully protected.
- Most of cultural activities encourage covered areas with natural trees. Therefore the culture heritage will automatically boost up the ministry of forests to plant more trees in that community land and will be up maintain.
- The said cultural Centre will be opened according to the elders, whereby seminars meetings in all level will be carried out. Even the girl child can

have more cultural reflections specially now no more FGM but other good habits should be maintained and this is to train and understand. Our worry now most of the tribes are losing mother tongue and this is the only place we can come to coach.

- The community elders will hear the opportunity to maintain this cultural Centre and call any urgent declaration can call may be prayer place or any other matters.

Sir it is my prayer to pass this bill as where I come from the individual parents don't have areas enough for their children passage and have a community land enough for this cultural heritage expandition.

Thank you so much

From

Ezekiel k. cheruiyot ID NO: 6455004

Sign _____

Cont. 0727521553

5/8/2025

Lembus mogotio location

Mogotio Sub County

Baringo county/

MIGORI COUNTY, KISUMU COUNTY, HOMA BAY COUNTY AND SIAYA COUNTY

7TH AUGUST 2025

SUBMISSION OF MEMORANDUM AND PUBLIC HEARING FOR THE CULTURE BILL 2024

{NATIONAL ASSEMBLY BILL NO.12 OF 2024}

OFFICE OF THE CLERK OF THE SENATE ASSEMBLY

THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

1. Background of North Kavirondo & South Kavirondo

Name & origins: During colonial rule, the collective region of the Luhya (Bantu Kavirondo) and Luo (Nilotic Kavirondo) was termed "Kavirondo," referring to the communities around the Winam Gulf (formerly Kavirondo Gulf)

Etymologies: Popular Swahili origin "kaa virondo" ("sitting on heels") is likely folk interpretation. A more plausible derivation is from Kalenjin Kap-Kirondo—"place of reeds." Historian Alfred T. Matson supports this origin

Ethnic divisions: Bantu Kavirondo (Luhya, Kisii) in the North/West, Nilotic Kavirondo (Luo) in the lakeside region to the South; each with distinct languages and cultural practices

2. BIOGRAPHIES OF SELECTED SITES

Ancestral & Historic Sites

Kit Mukayi (Seme)

A renowned ancestral site of the Luo, Kit Mukayi is associated with Luo creation myths—the birthplace of the first man, K'Akumu. A sacred culturally significant location visited by traditional groups (though UNESCO status not confirmed in sources).

Fort Ternan

A colonial-era railway settlement named after an Irish paleontologist. Also known for nearby fossil-rich formations—important for old vertebrate palaeontology, though not UNESCO-listed.

Ombiri Makach

Likely local sacred shrines; insufficient published detail found in available sources for full biography.

Abindu Rock (Kisumu)

Believed to be a ritual council site for Luo elders. No UNESCO designation noted.

Got Oriri, Kanan Historical Site, Luanda Magere Monument

Luanda Magere Monument commemorates a legendary Luo warrior reputed invincible—after sacrifice. A cultural heritage landmark, but not yet UNESCO-listed.

Kanan may refer to early Luo settlement areas.

Got Oriri possibly refers to traditional fishing or settlement zones.

UNESCO Sites

There are no official UNESCO World Heritage Sites in the Kavirondo region. Status relates more to national and local heritage recognition rather than global listing.

3. Paramount Chiefs: Wanga Kingdom & Colonial Administration

Pre-colonial and colonial leadership: The Wanga Kingdom (Luhya), based in Mumias (Kakamega County), installed Nabongo Mumia as paramount chief under colonial indirect rule over North Kavirondo, which included Luhya and adjacent communities

Mumia collaborated with British officials like Frederick Lugard and Hobley, collecting taxes, mobilizing labor, and enforcing colonial land policies. Some factions (e.g. Tiriki, Kabras) resisted Wanga authority

4. Map of Kavirondo

The carousel above includes maps showing the Winam (Kavirondo) Gulf, escarpment, and relative locations of Nyanza and Western region—helping visualize North vs. South Kavirondo .

5. Historical Injustice of Nyanza Province – Land and Rights

Colonial policies led to land alienation from communities north of Lake Victoria—areas later resettled with Luo under settlement schemes (e.g. Muhoroni) after independence—representing historical land injustice recognized in legal petitions (e.g. Fort Ternan to Kibos corridor) where original land owners petitioned constitutional courts for restitution

Kenya Law Injustice also manifested through forced labor, heavy taxation, and displacement under colonial indirect rule structures.

6–11: Short Notes on Sites

Due to limited open online information, much remains undocumented or recognized at local/community level rather than national archives.

County-wise Historical Sites

MIGORI COUNTY

Nyang'ondho, Suna Migori, Olampwe: local communities with historical significance, possibly linked to early Luo migration routes.

Sori Town, Macalder Mine, God Kweru Shrine: heritage places with oral history and local rituals.

HOMA BAY COUNTY

Simbi Nyaima: legendary crater lake said to have swallowed a village; rich in Luo folklore.

Rusinga Island, Mfangano Island: islands with rock art, early Luo settlements, and Christian mission heritage.

Homa Bay Hills, Thimnich Ohinga (Desert Forest): ecological and cultural landscapes holding sacred status.

SIAYA COUNTY

Jaramogi Oginga Odinga Mausoleum: memorial of Kenya's first Vice-President.

Achieng Oneko: sites tied to one of the Kapenguria six independence activists.

Olua Sacred Trees, God Ramogi worship sites, Kokelo Cultural heritage, Lake Kanyabondi: significant within Luo cosmology and tradition.

CONCLUSION

Kavirondo—historic region around Winam Gulf—was home to both Bantu (Luhya) and Nilotic (Luo) groups. Under colonial rule, traditional structures such as the Wanga Kingdom were integrated through indirect rule, with leaders like Nabongo Mumia playing central roles. Although no Kavirondo sites are currently UNESCO-listed, many ancestral and cultural places—Kit Mukayi, Luanda Magere Monument, Simbi Nyaima—are deeply significant locally.

The legacy of historical injustice, particularly land alienation from Western to Nyanza region, continues to influence regional politics and land restitution efforts.

THE COUNTY TOURISM BILL, 2024

A Bill for

AN ACT of Parliament to provide for the development, management, marketing and promotion of local tourism by county governments; the regulation of sustainable local tourism and related activities and services; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the County Tourism Act, 2024.

Interpretation.

2. In this Act—

"Authority" means the Tourism Regulatory Authority established under section 4 the Tourism Act;

No. 28 of 2011.

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to tourism;

"county executive committee member" means the county executive committee member responsible for matters relating to tourism in the respective county;

"local tourism" —

(a) means the tourism activities and services set out under the Schedule; and

(b) includes tourism activities based on local cultural identity, beliefs, practices and values with the participation of local communities;

"National Environment Management Authority" means the National Environment Management Authority established under section 7 of the Environmental Management and Co-ordination Act;

No. 8 of 1999.

"National Museums of Kenya" means the National Museums of Kenya established under section 3 of the National Museums and Heritage Act;

No. 6 of 2006

"special local tourism management area" means an area designated as a special tourism management area under section 6;

"Tribunal" means the Tourism Tribunal established under section 87 of the Tourism Act; and

"tourism" means the activities of a person travelling to and staying in a place outside his or her usual abode for more than twenty-four hours, but not more than one consecutive year, for leisure, business or other purpose, not being a work related activity remunerated from within the place visited;

Application.

3. This Act shall apply to local tourism within a respective county.

Responsibilities of the Cabinet Secretary.

4. The Cabinet Secretary shall, for the effective implementation of this Act—

(a) formulate guidelines on–

(i) sustainable practices relating to local tourism and recommend to the Council of County Governors best practices for the promotion of local tourism; and

(ii) uniform standards for the promotion of local tourism;

(b) develop a framework for the monitoring and evaluation of programmes and activities on local tourism by county governments; and

(c) make recommendations to county governments based on monitoring and assessment of tourist activities and services to enhance continuous improvement and adherence to principles of sustainable tourism.

5. (1) Each county executive committee member shall —

(a) at least once every five years, formulate a local tourism strategy for the development, marketing and management of the respective tourism sectors;

(b) market the county as a desirable tourist destination;

(c) encourage and facilitate the sustainable development of local tourism in the county;

(d) formulate guidelines and prescribe measures for sustainable local tourism in the county;

(e) identify local tourism market needs and trends within the county and advise the Authority and tourism stakeholders accordingly;

(f) regulate local tourism activities and services within the county in accordance with the national tourism strategies;

(g) issue, suspend or revoke licences for local tourism activities and services;

(h) monitor and assess local tourism activities and services within the county to enhance continuous improvement and adherence to sound principles and practices of sustainable tourism; and

(i) perform any other functions that are necessary for the implementation of this Act.

(2) A county executive committee member shall, in discharging the functions under this Act, facilitate public participation.

Special local tourism management area.

6. (1) A county executive committee member may, by notice in the County *Gazette* and upon conducting public participation in the county, designate an area as a special local tourism management area where the county executive committee member considers the area to be—

(a) of archaeological, ecological or historical significance; or

(b) of cultural or spiritual significance.

(2) In designating a special local tourism management area under subsection (1), the county executive committee member—

(i) shall consult the National Environment Management Authority and the National Museums of Kenya; and

(ii) may restrict local tourism operators or local tourism activities in the designated area.

Licence.

7. (1) A person shall not undertake any local tourism activity unless that person applies for, and obtains a licence in accordance with this Act.

(2) A person who intends to conduct a local tourism activity shall submit an application for a licence to the county executive committee.

(3) An application for a licence under subsection (2) shall—

(a) be made in writing and in the prescribed form;

(b) contain such information as may be prescribed by the respective county legislation; and

(c) be submitted together with the prescribed fee and such other information as may be prescribed in the respective county legislation.

(3) The fee prescribed under subsection (2) shall not exceed the maximum amount prescribed in regulation by the Cabinet Secretary. No. 8 of 1999.

(4) A county executive committee member shall, in considering an application, have regard to-

(a) the local tourism strategy;

(b) the protection of fragile environmental resources, ecosystems and habitats;

(c) an environmental impact assessment licence issued under Part VI of the Environmental Management and Co-ordination Act;

(d) any representations received from members of the public regarding the application; and

(e) any recommendation or approval that may be made or submitted by any other relevant authority.

(5) Upon considering an application, the county executive committee member may—

(a) grant an application for a licence unconditionally;

(b) grant the application subject to such conditions as may be imposed under the respective county licensing legislation; or

(c) refuse the application.

(6) The county executive committee member may refuse to issue a licence to an applicant where—

(a) the applicant has submitted false or misleading information in the application;

(b) the applicant does not meet the conditions for licensing prescribed under this Act or under any other written law; or

(c) the application does not comply with the requirements imposed under this Act or any other applicable law.

(7) The county executive committee member shall inform the applicant of the decision under subsection (5) within seven days from the date of the decision of the committee member.

Conditions for issuance of licence.

8. (1) A licensee shall be required to observe the following conditions in addition to those that may be imposed by the county executive committee member or under the respective county legislation-

(a) to provide the service or carry out the business specified in the licence;

(b) to comply with all applicable laws and the conditions for issuance of the licence;

(c) in the case of a body corporate, to provide, the county executive committee member with information with respect to any change in its directorship or shareholding;

(d) to pay such fees as may be prescribed; and

(e) to maintain, and where required, submit to the county executive committee member such information as may be necessary for the continued licensing of the licence holder.

(2) A county executive committee member shall, unless the circumstances or facts relating to the application vary and the county executive committee member considers it proper, impose the same conditions for the issuance of the same type of licence.

Duration of a licence.

9. (1) A licence issued under this Act shall expire on 31st December of the year in respect of which it is issued.

(2) The county executive committee member shall specify, in county legislation, the duration of the licence in

the licence issued under this Act and may prescribe different validity periods for the various classes of licences that are issued under this Act.

Renewal of a licence.

10. (1) An application for the renewal of an existing licence shall be made at least two months before the expiry date of the existing licence.

(2) Where an application for the renewal of a licence is not lodged within two months immediately preceding its expiry, the county executive committee member may consider such application upon payment of such additional fee as may be prescribed in the respective county legislation.

Transfer of licence.

11. (1) A licence issued under this Act may be transferred by the holder to another person only in respect of the local tourism activity in relation to which that licence was issued.

(2) Where a licence is transferred under this section, the person to whom it is transferred and the person transferring it shall, in writing, jointly notify the county executive committee member of the transfer within thirty days after the transfer.

(3) Where no joint notification of a transfer is given in accordance with subsection (2), the licence shall be deemed not to have been transferred.

(4) A transfer of a licence under this section shall take effect on the date the county executive committee member is notified of that transfer.

Suspension of a licence.

12. The county executive committee member may, subject to section 14, suspend a licence issued under this Act where—

(a) a licensee is being investigated in relation to an offence under this Act;an allegation of misconduct has been made against a licensee;

(b) the licensee made a false declaration in the application for the licence; or

(c) a licensee has contravened a provision of this Act or any other relevant county legislation.

Cancellation of a licence.

13. A county executive committee member shall, subject to section 14, cancel a licence where a licensee —

(a) is convicted of an offence under this Act;

(b) ceases to be qualified for the issue of a licence under this Ac or the respective county legislation;

(c) ceases to carry on the business with respect to which the licence was issued;

(d) contravenes the conditions for the issuance of the licence or the provisions of this Act or the respective county legislation; or

surrenders the licence to the relevant licensing authority together with a notice setting out a request that the licence be revoked.

Representation to the county executive committee member.

14. (1) The county executive committee member shall not suspend a license under section 12 or cancel a licence under section 13 (a) to (d) unless the county executive committee member issues to the licensee at least thirty days notice of the intention to suspend or cancel the licence and has provided the licensee with an opportunity to make a representation to the county executive committee member.

(2) A licensee who is not satisfied with a decision made under subsection (1) may appeal to the Tribunal within twenty eight days from the date of receipt of the decision.

Effect of suspension or cancellation.

15. A person whose licence has been suspended or cancelled shall not engage in the local tourism activity in respect of which the licence was granted during the duration of suspension or after cancellation.

Registers.

16. (1) The county executive committee member shall keep and maintain a register of —

(a) all licences issued under this Act;

(b) local tourism facilities, activities and services licensed under this Act; and

(c) all public and private sector institutions or associations involved in local tourism or related activities and services in the county.

(2) The county executive committee member shall provide the Authority with updated copies of registers kept and maintained under this section every month.

(3) A register kept and maintained under this section shall be open for inspection by members of the public during official working hours at offices designated by the county executive committee member on the payment of a fee prescribed by the county executive committee member.

Offences.

17. (1) A person who—

(a) breaches or fails to comply with the provisions of this Act or the respective county legislation;

(b) breaches or fails to comply with any of the terms or conditions of a licence issued under this Act or the respective county legislation;

(c) obstructs a person in the execution of powers or duties the respective county legislation;

(d) knowingly or recklessly makes a statement or representation which is false;

(e) knowingly or recklessly furnishes a document or information required under this Act which is false; or

(f) knowingly or recklessly uses or furnishes a fake or forged or invalid licence or a licence that has been altered without authorization

commits an offence.

(2) A person who is found guilty of an offence under subsection (1) is liable, on conviction, —

(a) in the case of a natural person, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment; and

(b) in the case of a body corporate, to a fine not exceeding two million shillings.

(3) Where a body corporate is found guilty of an offence under this Act, every principal officer of that corporation is deemed to have committed an offence and is liable, on conviction, to a fine not exceeding five hundred

thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Regulations.

18. (1) The Cabinet Secretary may, in consultation with the Council of County Governors, make Regulations for the better carrying out of the provisions of this Act.

(2) In particular and without prejudice to the generality of the power conferred by subsection (1), the Cabinet Secretary shall make Regulations prescribing —

(a) the parameters for fees payable on application for the issuance, renewal or variation of a license under this Act by county governments;

(b) anything which is required to be prescribed or is necessary to give effect to this Act.

County legislation.

19. (1) A county may enact county legislation to make provision for local tourism in the respective county.

(2) In particular and without prejudice to the generality of the power under subsection (1), a county may enact county legislation prescribing —

(a) the conditions which a licence may be granted or issued under this Act;

(b) the procedures and forms for the application for a licence;

(c) the classes of licence that may be issued by the respective county executive committee member;

(d) such further criteria for the issuance, transfer or cancellation of a licence;

(e) the fees payable for the issuance or renewal of a license under this Act;

(f) the process of appeal of the decision of the respective county executive committee member; or

(g) such further provisions as may be necessary for the implementation of this Act and the effective conduct of local tourism in the respective county.

Conflict of laws. No. 28 of 2011.

20. Where a provision of the Tourism Act is inconsistent with the provisions of this Act, the provisions of this Act shall prevail.

21. Section 7 of the Tourism Act is amended by inserting the following new subsection immediately after subsection (1) — Amendment to No. 28 of 2011.

(1A) In discharging its functions under subsection (1)(c), the Authority shall not issue, vary or renew licences for activities classified as local tourism activities under this Act or any other law.

SCHEDULE

Schedule

[section 2]

LOCAL TOURISM ACTIVITIES AND SERVICES

(a) Class "A" enterprises —

(i) hotels;

(ii) members club;

(iii) motels;

(iv) inns;

(v) hostels;

(vi) health and spa resorts;

(vii) tree houses;

(viii) floatels;

(ix) service flats;

(x) service apartments;

(xi) beach cottages;

(xii) holiday cottages;

(xiii) tented camps;

(xiv) bandas;

(xv) cultural homes and centres;

(xvi) villas;

(xvii) homestays;

(xviii) guest houses; and

(xix) cottages and private residences engaged in guest house services.

(b) Class "B" enterprises —

(i) water sports;

(ii) balloon operators; and

(iii) boat excursions.

(c) Class "C" enterprises —

(i) game fishing outfitters; and

(ii) amusement parks.

(d) Class "D" enterprises —

(i) local traditional boat operators;

(ii) curio vendors;

(iii) general vendors; and

(iv) beach operators.

(e) Class "F" enterprises –

(i) restaurants; and

(ii) other food and beverage services.

(f) Class "G" enterprises. entertainment facilities.

(g) Class "H" enterprises: conference and event services.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principle object of the Bill is to provide for the development, management, marketing, promotion and licensing of local tourism by county governments. The Bill also seeks to amend the Tourism Act, No. 28 of 2011, in order to make provisions for local tourism and involve counties in the development, management, marketing and regulation of local tourism.

This is in view of the fact that whereas paragraph 7(d) of Part 2 of the Fourth Schedule to the Constitution designates local tourism as a function of county governments, no national legislation makes provision for local tourism and its development, management, marketing, promotion or licensing.

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

Section 15 of the Bill delegates legislative powers to the Cabinet Secretary responsible for tourism, who is required to make regulations for the better carrying out of the provisions of the Bill, once enacted, in consultation with the Council of County Governors.

The Bill does not limit fundamental rights and freedoms.

Statement of how the Bill concerns County Governments

The Bill concerns county governments in that it contains provisions relating to the development, management, marketing and regulation of local tourism. Paragraph 7(d) of Part 2 of the Fourth Schedule to the Constitution designates local tourism as a function of county governments.

The Bill therefore affects the functions and powers of county governments in terms of 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The Bill deals with matters other than those listed in the definition of a money bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 11th June, 2024.

BETTY BATULI MONTET,
Senator.

Section 7 of No. 28 of 2011 which it is proposed to amend –

Functions of the Authority.

12. (1) The functions of the Authority shall be to—

(a) formulate guidelines and prescribe measures for sustainable tourism throughout the country;

(b) regulate tourism activities and services countrywide, in accordance with the national tourism strategy;

(c) register, licence and grade all sustainable tourism and tourist-related activities and services including cottages and private residences engaged in guest house services;

(d) develop and implement, in consultation with relevant stakeholders, criteria for standardization and classification of tourism facilities and services;

(e) develop and regulate, in consultation with the ministry for the time being responsible for matters relating to education, tourism and hospitality curriculum, examination and certification;

(f) develop and implement a code of practice for the tourism sector;

(g) ensure the development and implementation of high quality tourism sector;

(h) vet and recommend expatriates seeking employment in the tourism and hospitality sector;

(i) monitor and assess tourist activities and services to enhance continuous improvement and adherence to sound principles and practices of sustainable tourism,

(j) undertake, annually, an assessment and audit of tourism activities and services, measures and initiatives at the national level, and prepare and publish an annual national tourism sector status report, in consultation with the Minister and the relevant lead agencies; and

(k) perform any other functions that are ancillary to the object and purpose for which the Authority is established.

(2) The Minister shall, in each financial year, lay a national tourism sector status report published under subsection (1)(j) before the National Assembly, as soon as reasonably practicable after its publication, where the National Assembly is in session, or where not in session, within twenty one days of the day the National Assembly next sits after the publication

2025

MEMORANDUM ON THE CULTURE BILL NO. 12 OF 2024

THE SENATE

PARLIAMENT OF KENYA

NJURI NCHEKE SUPREME COUNCIL OF AMERU ELDERS
P.O BOX

MEMORANDUM ON THE CULTURE BILL NO. 12 OF 2024:

Memorandum

From: Njuri Ncheke, Supreme Council of Ameru Elders
To: The Senate, Parliament of Kenya
Date: 30 July 2025
Subject: Position on the Proposed Culture Bill

1.0. Introduction

The Njuri Ncheke are the custodians of the Ameru traditional knowledge, culture, customs, and traditions, and have developed a system of customs and practices for protecting their traditional knowledge that includes the use of community sanctions and oaths to govern disclosure of traditional knowledge. They deserve the right to safeguard this knowledge from misappropriation. Moreover, the Njuri Ncheke are customary governance or legal systems of traditional knowledge holders and the first port of call for disputes (including land, family, and political) in the community.

Njuri Ncheke welcomes the introduction of the Culture Bill as a step toward affirming and preserving the rich cultural heritage of our nation. As custodians of indigenous knowledge systems and traditional justice mechanisms, we recognize the importance of legislation that acknowledges and protects cultural identity, languages, rituals, and customary law.

The Culture Bill holds the potential to reaffirm the dignity, identity, and wisdom of traditional communities. We urge lawmakers to ensure that the final version of the bill strengthens the role of traditional justice structures and respects the living traditions of our people.

1.2. The Role of Njuri Ncheke Traditional Justice System (TJS) in Traditional Knowledge Protection

Njuri Ncheke is a traditional governance and justice system (TJS) for traditional knowledge protection, that stands out as a common framework for traditional knowledge protection. The Njuri Ncheke comprises respected people as the custodians of knowledge, culture, traditions, and community values. The wealth of knowledge that the Njuri Ncheke institution holds enables them to play a crucial role in the 'devolved government. Among the responsibilities are:

1. Njuri Ncheke is effective and culturally appropriate in traditional knowledge protection, because traditional knowledge 'goes to the core of indigenous people and local communities' identity and right to self-determination' and thus 'any protection measure should be built around its existing traditional structure.
2. Njuri Ncheke is 'flexible, socially negotiable and hence, more practical' and 'should not be viewed and treated as being inferior to statutory institutional structures but should be worked with to build systems of accountability.
3. Njuri Ncheke approach to traditional knowledge protection can secure self-determination, cultural and ecological integrity and build systems of accountability in traditional knowledge governance, especially in regulating access to the knowledge.
4. Njuri Ncheke plays a crucial mediating role in governing access to traditional knowledge and benefit-sharing frameworks, and has the 'potential to mediate external interventions into local contexts, and articulate between local and extra-local social and political processes.

5. Njuri Ncheke has 'decision-making levels designed to respond to issues regarding allocation, use and management of resources.
6. Njuri Ncheke is reliable in the development of community bio-cultural protocols, the grant of free prior informed consent (FPIC) to use a community's traditional knowledge, and in carrying out inventory of traditional knowledge, and sacred natural sites.
7. Njuri Ncheke traditional justice system (TJS) is a custodial institution and can play a role in determining who can access traditional knowledge, what type of traditional knowledge, how traditional knowledge is to be gathered and stored, and under what terms and conditions.
8. Njuri Ncheke regulate access to traditional knowledge, supports and conforms to the principle of self-determination by providing an equitable access and benefit sharing framework anchored on customary laws, and that abhors unregulated access to traditional knowledge.
9. Njuri Ncheke anchors all benefit-sharing agreements on the customary laws of the relevant community thus limiting the commodification of traditional knowledge.
10. Knowledge,' Safeguarding measures aim at preserving aspects of Traditional knowledge through photographs, sound recordings, films and manuscripts, itineraries, cultural mapping, video recordings, and the preservation of artefacts in libraries and museums. 'Safeguarding' engenders the identification, documentation, transmission, revitalization, and promotion of Traditional knowledge to ensure its continued existence and viability.

2.0. GUIDING PRINCIPLES:

The guiding principles of our memorandum in brief include:

1. **Recognition of Traditional Authorities**
   The bill should explicitly recognize the role of traditional leaders in safeguarding cultural practices and norms. Their consultative and leadership functions must be embedded in both the development and implementation of cultural policies.
2. **Integration with Customary Law**
   There is a need to ensure coherence between the Culture Bill and existing customary law frameworks. Cultural expression cannot be isolated from traditional systems of justice, dispute resolution, and community governance.
3. **Protection from Misappropriation**
   Safeguards must be included to protect indigenous cultural expressions, symbols, and practices from unauthorized use, commercialization, or distortion. Communities must have legal standing to challenge such misappropriations.
4. **Cultural Education and Transmission:**
   The bill should promote intergenerational transmission of cultural knowledge by supporting community-based education initiatives, language preservation programs, and partnerships with traditional institutions.
5. **Resource Allocation:**
   Implementation of the bill's objectives will require adequate funding. Resources must be equitably distributed, especially to rural areas where traditional cultural practices are most vibrant but often least supported.

3.0. KEY CONCERNS AND RECOMMENDATIONS:

The contentious sections of the bill include:

1. **PART I- PRELIMINARY; Article 2: There are serious omissions in the definition and interpretation of "Cultural practices" and "Cultural property." The following have not been mentioned or listed;** Traditional medicine, medicinal trees

and herbs, seeds varieties, foods and recipes, various vegetables, various minerals, forests with sacred traditional shrines, traditional discoveries and inventions, natural resources like salt licks and wetlands. Article 2**(a) Tangible cultural heritage s**hould be amended to include this to enhance protection, ownership and sharing of proceeds from the exploitation, exchange, or export of the same.

2. **PART I- PRELIMINARY; Article 3: Objects and purpose of the Act:** Amend to add sub article (e); on, develop a working Partnership with Traditional institutions and governance systems that recognizes their role in protection and promotion of culture and traditional knowledge.
3. **PART I- PRELIMINARY; Article 4 (b):** All provisions and policies in the Culture Bill No. 12, 2024, must conform to this provision
4. **PART II – MANAGEMENT OF CULTURE: Article 5(a):** on the role of national government, should be amended to ensure involvement of the National Council of Elders (NCOE) in the formulation, development and implementation of national policies and regulations, standards on cultures and cultural heritage, and expressions. The amendment will share the powers bestowed on the Cabinet Secretary of Culture to manage and regulate cultural matters. The exclusion of the Culture holders and practitioners. Like other professionals, they should be allowed self-regulation. A mechanism should be enacted for culture practitioners to regulate themselves interms of standards and practice.
5. **Article 5 (f):** Amend the wording to include capacity building to Traditional Governance and justice systems in the development of cultural facilities and activities
6. **Article 5 (g):** Amend the wording to make the government a lead agent. Highlight the role of specific traditional governance and justice systems in these agreements which touch on their rights and interests.
7. **PART II – MANAGEMENT OF CULTURE; Article 5 (h), (j), (k) Article 6(c), (d), Article 7 (2):** Amend the wording to highlight the involvement, role and capacity building of the Traditional Governance and justice systems in the research on cultural heritage.
   The purpose is to safeguard and protect indigenous cultural expressions, symbols, and practices from unauthorized use, commercialization, or distortion. Communities must have legal standing to challenge such misappropriations.
8. **PART II – MANAGEMENT OF CULTURE; Article 9,** Amend the wording to include the Traditional governance and justice institutions in the establishment of mechanism for the determination and payment of compensation or royalties to communities for the use of the communities' culture and cultural heritage.
   The purpose will be to explicitly recognize the role of traditional leaders in safeguarding cultural practices, norms, indigenous cultural expressions, symbols, and practices from unauthorized use, commercialization, or distortion. Communities must have legal standing to challenge such misappropriations
9. **PART II – MANAGEMENT OF CULTURE; Article 10, on exceptions and limitations to compensation for use of culture and cultural heritage:** Amend the wording to involve the Traditional governance and justice systems in the composition of an appeals mechanism to protect their rights and interests, and eliminate the risk of reversing the gains awarded under Article 9.

10. **PART II – MANAGEMENT OF CULTURE; Article 15:** Amend 15(2) to accord the Traditional governance and justice institutions powers to examine any appeals of their community member on registration or cancellation of a cultural property.
    The purpose is to alleviate the risk of placing Traditional knowledge unintentionally in the public domain, thus necessitating the need for protection in the legal sense through protection measures that include; compensation; social recognition of certain rights (e.g. the right to be asked for consent; right to be acknowledged as creators or descendants or share benefits); safeguarding; and maintaining, preserving and controlling access.
11. **PART III – OFFENCES AND PENALTIES; Article 20(h);** Amend the wording to recognize that the Traditional governance and justice institutions have their own cultural heritage sites, cultural centers and shrines, where they reserve the right of utilization and development without interference by local or national authorities.
    The prescribed penalties are not matching the offences. They need to be revised and harmonized.
12. **PART IV: GENERAL PROVISIONS; Article 33(1):** Amend the wording to require the Cabinet Secretary to involve all stakeholders, especially the national and regional communities' Traditional governance and justice institutions on carrying out the provisions of this Act

4.0. Other considerations

The Culture Bill, 2024 contemporary endeavor should be to restore Culture and Traditions. It is essential for the legislators to navigate these impacts mindfully, preserving and respecting cultural diversity while leveraging technology to enrich cultural understanding and appreciation. The Bill should aspire to:-

1. Foster Cultural awareness and education and understanding within the family and community.
- Encourage learning about our own cultural heritage and traditions, as well as those of others.
- This can be done through storytelling, sharing family histories, visiting museums, participating in cultural events, and promoting cultural education in schools.

2. Preservation and documentation of preserving cultural traditions through documentation and archiving.
- Encourage family members to record oral histories, document traditional practices, and collect artifacts or memorabilia that represent your culture.
- Utilize digital tools and platforms for archiving and sharing this cultural knowledge with future generations.

3. Encourage active participation in cultural activities and traditions.
- Attend local cultural events, festivals, and celebrations to experience and engage with your culture firsthand.
- Encourage family members to actively participate in traditional practices, such as cooking traditional meals, learning traditional dances or music, and participating in community rituals.

4. Foster intergenerational connections:
- Facilitate intergenerational connections to pass down cultural knowledge and traditions.
- Encourage older family members to share their wisdom and experiences with younger generations.
- Create opportunities for mentoring and learning traditional skills from older family members, fostering a sense of pride and continuity in cultural practices.

5. Technology for cultural promotion:

- Leverage technology to promote and share your culture and traditions. Utilize social media platforms, websites, blogs, and online forums to showcase cultural heritage, share stories, and engage with others who have similar interests.
- Use technology to reach a wider audience and raise awareness about your culture and its significance.

6. Collaborate with cultural organizations, museums, and community centers to support initiatives focused on preserving and promoting cultural traditions.

- Participate in cultural workshops, classes, or exhibitions that celebrate your heritage.
- Engage in partnerships that allow for the sharing of knowledge, resources, and expertise in cultural preservation and revitalization efforts.

7. Incorporate culture into everyday life:

- Infuse cultural elements into your everyday life to ensure that traditions remain a vibrant part of your family's identity.
- This can include incorporating traditional cuisine into meals, decorating your home with cultural artifacts or symbols, observing traditional holidays or rituals, and using traditional language or dialects in daily conversations.

8. Promote cultural exchange and dialogue:

- Encourage cultural exchange and dialogue with other communities and cultures.
- Participate in intercultural events, organize cultural exchange programs, and foster connections with people from diverse backgrounds.
- This promotes mutual respect, understanding, and appreciation of different cultures, strengthening cultural identities while embracing diversity.

9. Engage youth and future generations in cultural activities and decision-making processes.

- Provide opportunities for them to actively participate, express their perspectives, and contribute to cultural preservation efforts.
- Encourage youth-led initiatives, workshops, and projects that allow them to explore and reinterpret cultural traditions in a way that resonates with their generation.

10. Emphasize the value of face-to-face interactions in a digital world:

- Emphasize the value of face-to-face interactions for preserving and transmitting cultural traditions.
- Encourage family members to engage in meaningful conversations, storytelling, and shared experiences without digital distractions.
- Create dedicated time for bonding and cultural activities that promote personal connections and foster a sense of belonging.

11. Clause 20(h) of the bill criminalizes any activity or development at a cultural property without a licence. This clause will make it hard for Njuri Ncheke and other cultural organizations to do activities at their properties without a license. And this undermines the constitutional freedom of assembly. The necessity for licenses should be for developments and not for conduct of activities at a cultural property.
12. Clause 2 of the bill does not list/mention traditional medicine and this is a serious omission.
13. Under clause 5, the cabinet secretary in charge of culture has been given powers among others to manage and regulate cultural matters excluding culture holders and practitioners. Like other professionals, the culture practitioners should be allowed self-regulation. A regulatory body Is required to be put in place for culture practitioners to regulate themselves in terms of standards and practice.
14. Part III of the bill which addresses offenses and penalties, the prescribed penalties are not matching the offenses this needs to be revised and harmonized.

Thanking you in advance

Kindly oblige

WASHINGTON MBAYA MUTHAMIA

SECRETARY GENERAL PROGRAMMES

NJURI NCHEKE SUPREME COUNCIL OF AMERU ELDERS

Wanga Cultural Heritage
Community Based Organization
Alphonce Hotel, Lumino Road,Mumias

4th August, 2025

The Clerk
Senate,
Parliament

Dear Sir/Madam,

RE: SUBMISSION OF MEMORANDUM ON THE CULTURE BILL, 2024

On behalf of the Management Committee of the Wanga Cultural Heritage Community Based Organization (CBO), Nabongo Council of Elders and Wanga Elders Council, I herewith forward to you the attached Memorandum.

We are based in Western Kenya and are not able to attend the hearings on 7th August. However, should there be need, we will avail ourselves for face-to-face meeting with members of your Committee for discussion and clarification of views presented in our above memorandum.

We are ready to work with your committee to strengthen the Bill.

Yours Sincerely

Preston A. Chitere
Emeritus (Retired) Professor, University of Nairobi and
Patron, Wanga Cultural Heritage CBO
E-Mail: pchitere15@gmail.com,
Website: www.alphoncemumiahotel, mumias
Mobile: 0722761410

MEMORANDUM

ON

THE CULTURE BILL, 2024

(NATIONAL ASSEMBLY BILLS NO. 12 OF 2024)

BY

WANGA CULTURAL HERITAGE CBO

NABONGO ELDERS' COUNCIL AND

WANGA ELDERS' COUNCIL

SUBMITTED TO THE SENATE COMMITTEE ON CULTURAL HERITAGE

NATIONAL PARLIAMENT, NAIROBI

CONTACT PERSON:

Prof. Preston, A. Chitere, (Emeritus and Retired Professor, University of Nairobi), Alphonce Hotel, Lumino Road, Mumias, Mobile: 0722761410, E-mail: pchitere15@gmail.com

AUGUST, 2025

1. Background

We, the representatives of leaders of the:

Name of Civil Society Organization	Representatives
Wanga Cultural Heritage CBO	Prof. Preston Chitere - Patron Mr. Philip Rupia Akwanalo - Secretary Mr. Mumia Aukah - Member
Nabongo Council of Elders	Mr. Adu Makau Mudenyo - Member
Wanga Council of Elders	Mr. Andrew Okoyo Okumu - Chairperson Mr. Qassim Mukoya Kupuoni - Secretary

Met at Mumias Cultural Centre, Mumias Town on Friday, 1st August 2025.

Agenda of the Meeting: Review and comment on the Culture Bill, 2024 as requested by Kenya's Senate.

Printed copies of the Bill provided a basis for the meeting's deliberations.

The meeting observed major gaps and a faulty orientation of the Bill which formed the basis for the recommendations below.

2. General comments

National versus County Levels: The Bill currently depicts dominance of the national level. There are many phrases of the type.... "The CS will....," "The CS will....". There is need to emphasize the devolved level of counties rather than the National level. Cultural heritage is an asset of ethnic communities found in counties. The heritage is diverse and varies from county-to-county owing to different ethnic groups. The Bill should leave enough room for county legislations on their unique cultural heritages.

The National level should oversight, facilitate and support cultural heritage work of the counties through research, funding and capacity building.

Language as an Element of Culture: This is an important aspect of culture and a heritage of communities, yet it is not mentioned in this Bill. Whereas English and Swahili are our national languages, use of local languages need to be encouraged at community and county level to provide proper grounding of people, especially children and youth in their mother tongue.

History of communities: This is not mentioned by the Bill. Culture evolves through history overtime. Thus, culture can be better understood from temporal dimension of periods of the past. History of a community needs to be documented and updated to provide an effective basis for understanding of its culture and cultural heritage.

Aesthetics Culture (*uhondo*): This is not mentioned in the Bill, but it is part of the culture of a society. It refers to forms of art, folklore, dance and drama that express the ideals, aspirations, dreams, values and attitudes of members of a society.

Coordination structure: Kenya's Constitution 2010 devolved culture and cultural heritage to counties (Chapter 11, article 174 on objects of devolution and Schedule 4, part 2, item 4). Consequently, apart from the National Coordination Board/Council, there is need for a coordination Board/Council in each county. National Board would comprise representatives from county boards/councils. County Board would comprise representatives from communities and their Civil Society Organizations (CSOs).

Socio-cultural studies/Profiles: In the late 1990s, the Institute of African Studies of the University of Nairobi headed at the time by the late Professor of History, Prof. Gideon Were carried out socio-cultural studies/profiles of all Kenyan districts. The profiles are very rich with information on history, beliefs and religion, language and literature, traditional education, political and legal institutions, social structure, indigenous health care, music and dance, recreation, provision of shelter and material culture of ethnic communities of each of the then districts of Kenya. The profiles can be found at the Institute's library at Museum Hill, Nairobi. Other secondary sources of information include anthropological studies by Gunther Wagner, Allan Jacobs, Levine and Levine and Shackleton. Contemporary studies by John Osogo and Major Mukhule and other are also useful. A review of these and other related documents can provide insights for strengthening of this Bill

3. Substantive comments

Traditional institutions of governance: These institutions are not mentioned in the Bill. They include those of Nabongo among the Wanga people of Western Kenya, Laibon among the Maasai and Njuri Njeke among the Meru. The institutions ensured peace and stability, arbitrated disputes, protected citizens and ensured unity of the communities. The institutions still exist and should be recognized by being mentioned. The role these institutions play in their communities should also be mentioned in the Bill.

Cultural monuments (forts): These are not mentioned in the Bill. For example, among the Wanga and among other Luhya sub-tribes, there were monuments known as *tsingoba* which were fortified with ditches, stones and shrubs with separate residential places for Nabongo, common people and soldiers. Today in Mumias area, Imanga, Shikulu, Shimuli and Shiembekho fortifications and Chetambe in Bungoma still exist. Similar monuments exist among the Tiriki sub-tribe of the Luhya, among the Mijikenda known as *Kayas* and among other Kenyan people. They include foundries formerly used for production of iron items such as hoes, spears, arrows and slashers as well as religious shrines and graveyards.

The monuments need to be re-claimed, re-built and conserved and serve as sanctuaries for cultural heritage.

They could help form a tourist circuit between several ethnic communities and thereby create livelihoods for residents able to establish home camps.

Community resources: Culture as a way of life occurs in context of resources such as land, water, hills and forests with their flora and fauna. A comprehensive Bill on cultural heritage needs to recognize these resources and their importance in shaping the culture of the community. A few examples include, the Maasai who agitated for recognition as part owners of National Parks located in their areas and for the need for a share of the revenue generated by the parks. There was a lot of acrimony relating to the Titanium project in Kwale when families had to be moved to give way for the project. Mumias sugar scheme acquired 5000 Ha from the Wanga community. An initial lease of 33 years expired, and the community is demanding its land back. The road from Nakuru-Elgeyo Marakwet-West Pokot to Marich Pass funded by KNHA faced a lot of problems from the Pokot people. KENHA argued that Pokot land was not registered and could not be compensated. Pokot people argued contrarily that it was their land bequeathed to them by their ancestors and that they had to be compensated. The struggles of the Ogiek and Njemps (Il-chamus) over their land and religious shrines are well known. These problem of community resources is very sensitive and needs to be given careful attention in this Bill.

Cultural practices and events (non-material culture): These are not mentioned in the Bill. The practices and events are guided by norms, beliefs and values of the community. The practices are evident in marriages, birth and naming of children, death and associated ceremonies, health practices, food production and consumption and circumcision. There were also proverbs, folklore, stories, songs and dance and traditional sport.

Communities had their seasonal or periodic calendars of the practices and events such as circumcision ceremony among the Bukusu and other Luhya sub-tribes.

Cultural artefacts (material culture): These are not clearly mentioned in the Bill, they include,

- House sizes, shapes and decorations
- Iron tools such as spears, hoes, slashers, arrows
- Pottery such as various types of pots and dishes
- Basketry such as baskets, mats,
- Wooden tools such as stools
- Making of beads among ethnic groups such as the Maasai
- Skin and feathers such as drums like *isikuti* and headgear (*shimwata*)
- Types of clay known as *ipala* used for smearing and decorating houses and human faces and bodies in ceremonies such as circumcision.

The Bill needs to encourage value additions to some of these artefacts such as pottery, basketry and beadwork and thereby enhance livelihoods of families that depend on them.

Registration and Digitization: The Bill indicates that this function is to be done by the National level. Since culture is a way of life of diverse ethnic communities in Kenya, its registration and digitization should start at county level. Only those cultural items which are of national importance should be recommended by counties for registration at National level. In other words, there should be two registration centres—the county for all forms of its cultural heritage and the national level for selected elements of the cultural heritage which are of national importance.

Research and capacity building: This is not mentioned in the Bill. There is need for the Bill to emphasize the need for establishment of a research and training centre on cultural heritage. Research on history and indigenous knowledge of communities will help their documentation and up-dating. Revival, conservation and sustainability of various aspects of cultural heritage will require establishment of a centre for the purpose.

Funding of cultural heritage: This is not mentioned in the bill. Cultural heritage work will only be done if money is availed for doing it. Usually, the Department of Social Development and Culture has been very poorly funded and has not been able to oversight, support and facilitate cultural heritage activities.

Botanical gardens: Communities occur within contexts of known habitats that shape their culture. This is not mentioned in the Bill. Yet intensive human settlement in western Kenya has destroyed the former natural habitat. Apart from Kakamega and Malaba forests, the rest of the landscape is occupied by homesteads. Varius types of grasses, shrubs and trees which existed in the past are more-or-less extinct. There is need for the Bill to encourage communities and individuals to establish and maintain botanical gardens with the local fauna and flora. These could serve as sources of herbal medicine and recreation and provide livelihood to families.

Sanctuaries: Within context of varied communities, are fauna of various types which have meaning to their way of life. In western Kenya, bird and snake sanctuaries are absent and many bird and snake species which existed in the past are becoming extinct. Among the Luhya and Luo, quails had space in the lives of people as food and in sacrifices. Guinea fowls were also important. Reptiles such as the Black Mamba snake which used to be common in western Kenya are becoming extinct, yet its venom could be exported and provide livelihood to many families. Sanctuaries, if encouraged by this Bill could enrich community life and provide livelihoods to groups and families.

Indigenous skills and knowledge: This is not mentioned in the Bill, yet indigenous skills in pottery, basketry, beadwork, music and sport such as wrestling and bull fighting could, through value additions, ensure livelihoods of many families.

Cultural festivals: These are not mentioned in the Bill, yet globally and even in Kenya such festivals are being carried out. In Kenya, Turkana, Maragoli, Kabras and many other groups carry out such festivals. In cities such as Nairobi, there have been "Luo or Mulembe Night" festivals which bring together members of such communities and enable them to interact and share food, song and dance. Similar festivals which may be narrowly focused on some aspect of culture or broad encompassing many aspects are held in Britain, the U.S.A. and in many countries.

4. Specific comments

Item	Current as Stated in the Bill	We Recommend:
Title of Bill	"Culture" Bill	"**Cultural Heritage**" Bill
PART I	**PRELIMINARY**	
Page 334 (b)	Similar culture or mode of livelihood or language	"**Common** language"
Page 334 (e)	Community of interest	"**Common** interest"
Page 334	Community interest means...	"**common** interest....
Page 334	Cultural property means...	"cultural **asset**"....
Page 335	Cultural heritage means... -Tangible cultural heritage -Intangible cultural heritage	-Tangible heritage are those elements of culture which are visible (material culture) whether movable or immovable, e.g., tables, chairs, buildings, etc. -Intangible refers to elements of culture that are not visible (non-material culture) such as norms, beliefs, values and practices
Page 335, last para	Culture means the set of.....of a community or a social group.....	Culture means the way of life of a community or a social group and includes both material and non-material or tangible and intangible aspects
Page 336, 3rd para, last sentence	...., to the use of their culture, cultural heritage and cultural property	....to the use of their cultural heritage and its various elements
Page 336, 4th para, last sentence	...and enhancement of culture, cultural heritage and cultural property, and	...and enhancement of cultural heritage, and
Page 336,	**Article 3.** The Object and purpose of this Act	**Add the following to the stated objectives:** -Promote cultural tourism -Provide opportunity for children and youth to

		learn about culture of their communities -Promote establishment of community centres to serve as sanctuaries for cultural heritage -Support research and training in cultural heritage -Support development of indigenous skills and talents in music, art, sports and crafts -Provide opportunity for value additions in pottery, basketry, beadwork, music and other indigenous sports
PART II: MANAGEMENT OF CULTURE		
Page 337	Items 5 (e) and (f)	Combine the two items
Page 337	Item 5 (h)	In consultation with **counties and** institutions.....
Page 338	Item 5 (k)	**Support** establishment of **community** cultural centres for promotion of cultural **heritage**
Page 338	Item 6 (d)	In consultation with.....and maintaining **and managing** county....
Page 338	Item 6 (f)	Delete this item
Page 338	Item 7 (1)	The **counties** shall establish and maintain.....
Page 338	Item 7 (2)	**Guided by the National government**, county governments **shall** develop.....
Page 339	Item 7 (3)	**Guided by the National government, counties** shall.....
Page 339	Item 8 (1)	Any person.....held in the **county and** national
Page 339	Item 9 (1)	The Cabinet Secretary.....county governments, prepare guidelines for: (a) Determination and payment.....cultural heritage **(b) Criteria for categorization of cultural assets as national assets**
Page 340	Item 9 (4)	In establishing.....(1) **each county** shall **(a)** Establish a register of **cultural heritage assets** (b) Establish a register of **individuals and CSOs** cultural.....
Page 340	Item 9 (5)	The **counties** shall....of compensation or royalties to communities, social groups...for use of cultural **assets**, knowledge or heritage Add 9 (6) **The CS shall develop guidelines for compensation of cultural items designated as national assets**
Page 342	Item 13 (1)	A person **or a group** who wishes..... Provided that an application.....has been registered **as a national asset** **Item 13 (3) (a) (iii)** complies with identification.....set by the **county and** Cabinet Secretary Item 13 (3) (b) the person **or group** is

		engaged..... Item 13 (5) The Cabinet Secretary shall....before registering property **as a national asset** .... Item 13 (6) Each county government shall, upon **categorizing** property as a **national** property.....notify the Cabinet Secretary of the **asset** and such.....details of the **asset** and,.....
Page 344	Item 17	The Cabinet Secretary.....the recognition and promotion of **national heritage** cultural property
Page 344	Item 18	The Cabinet Secretary.....Gazette, **national** cultural.....
PART III	**OFFENCES AND PENALTIES**	
Page 346	Article 24	A fine of Ksh 5 million is too high for majority Kenyans

Annex 1

The Wanga Cultural Heritage CBO and its Certificate of Registration

The Wanga Cultural Heritage is a Community Based Organization (CBO). It is a self-help people's and non-profit organization established and registered under Kenya's Ministry of Gender, Sports and Social Development. The CBO's goal is to: "Up-date documentation of history and cultural practices and artefacts as well as re-claim, revive and conserve cultural monuments (forts) of the Wanga kingdom". The CBO also seeks to organize and hold periodic ceremonies such as festivals which reflect the kingdom's cultural heritage calendar. The operations of the CBO are guided by its Constitution. The Management Committee (MC) comprises: Chairperson, Secretary, Treasurer, Committee Members and Patron. The CBO holds a Bank Account with Equity Bank, Mumias Branch.

Certificate No. 02405

Republic of Kenya

MINISTRY OF LABOUR AND SOCIAL PROTECTION
STATE DEPARTMENT FOR SOCIAL PROTECTION
DEPARTMENT OF SOCIAL DEVELOPMENT

Certificate of Registration of Community Based Organization (CBO)

This is to Certify that

WANGA CULTURAL HERITAGE COMMUNITY BASED ORGANIZATION
Group Name / Project

TOWNSHIP Sub-Location / Ward	NABONGO Location	MUMIAS CENTRAL Division
MUMIAS WEST Sub-County	MUMIAS WEST Constituency	KAKAMEGA County
DSS/MMW/CBO/0105/2023 Registration No.		28/04/2023 Date of Registration

Is registered with the Department of Social Development by:

Name REUBEN TONUI
County / Sub County Social Development Officer

28/04/2023
Date of Issue

Signature

Kenya Vision 2030

Kenya (·) VISION 2030

Note: *The Contents of this Certificate should not be erased, altered or defaced in any way.*

RENEWAL	DATE	STAMP/SIGNATURE
Year 2	28/11/2023	
Year 3		
Year 4		
Year 5		
Year 6		
Year 7		

MEMORANDUM ON THE CULTURE BILL, 2024
(National Assembly Bills No. 12 of 2024)

Submitted to: The Senate Committee on Cultural Affairs

From: The Indigenous El Someek Community of Mt Elgon region, Trans-Nzoia County

Date: Wednesday, 16th July, 2025

1. Introduction

We, the Indigenous El Someek people of Mt Elgon, respectfully acknowledge and appreciate the invitation extended by the Senate Committee to present our views on the Culture Bill, 2024. This memorandum outlines our appeal for formal recognition, preservation of cultural heritage, and institutional support to safeguard our distinct identity.

2. Request for Formal Recognition

- We seek official identification of the El Someek community through publication in the Kenya Gazette.

- Such recognition will enable accurate population data, the design of tailored social programs, and rightful cultural protection.

- Without formal acknowledgment, all efforts to preserve our heritage remain incomplete.

3. Cultural and Environmental Heritage

- Historical Settlement: We are a pastoralist, hunters and gatherers community native to the slopes of Mt Elgon.

- Environmental Protection: We are known for our dedication to conserving indigenous trees, wildlife, and ecological balance.

- Climate Action: We advocate for inclusion in environmental campaigns, offering ancestral knowledge as a resource for sustainable development.

4. Cultural Expressions Requiring Protection

- Traditional Regalia: Our male and female attire carries ceremonial and social significance.

- Unique Cuisine: Traditional foods have nourished and sustained our identity across generations.

- Traditional Medicine: Our herbal remedies are comparable in sophistication to Chinese and Indian systems of natural healing.

5. Historic and Cultural Landmarks

- Warrior Legacy: Traditional weaponry reflects cultural resilience and deserves preservation.

- Shelter Architecture: Indigenous housing designs featuring sustainable materials merit revival and documentation.

- Sacred Caves: Spiritual and communal sites such as the Mt Elgon caves deserve recognition as heritage landmarks.

6. Institutional Proposals

- Language Preservation: Local languages should be documented and integrated into the school curriculum. Without language, culture cannot be effectively preserved.

- Community Management: Establish a cultural management committee to oversee resources, especially sacred sites like the Mt Elgon caves.

- Cultural Centers: Develop centers near El Someek settlements for cultural research, education, and celebrations.

- Intellectual Property Protection: Legal mechanisms must safeguard our cultural assets, with penalties for unauthorized use or exploitation.

- Traditional Beer Preservation: Busaa, a cultural beverage, should be exempt from standard alcohol laws and honored as a heritage item.

- Anti-Discrimination Safeguards: Cultural practices must be protected, provided they do not conflict with principles of justice or morality.

- Recognition of Minority Communities: All minority groups, especially the El Someek, must be granted formal and legal recognition.

- National Cultural Day: Establish a dedicated day for cultural exhibitions, ceremonies, and inter-community celebration.

7. Conclusion

The El Someek community seeks only fairness, acknowledgment, and inclusion. Our traditions offer meaningful contributions to Kenya's cultural and ecological tapestry. We urge the Senate to consider our proposals with the reverence and sincerity they warrant.

Prepared by:

The Elders and Representatives of the El Someek Community

Mt Elgon Region, Trans-Nzoia County

Signature: .....

Francis Chemwor Psomnken
Chairman, El Someek Community
Contact: +254 711 353 535

National
Traditional
Health
Practitioners
Association

NATHEPA
P.O BOX 811-40200KISII
CELL: 0726 525 525
CELL: 0721 696 075
nathepa91k@gmail.com

06/08/2025

NATHEPA - KENYA.

OUR MEMORANDUM ON: 2024

THE CULTURE BILL, 2024(NATIONAL ASSEMBLY BILL NO: 12 OF).

Kenyan culture treatments have been practiced since time immemorial without official guidelines or policies to assist or regulate the traditional medicine and practitioners.

Nathepa was formed, we are thankful to the senate for bringing this bill and we are in full support of what they are doing. We wish to submit that we cannot be separated from our culture because we are our culture.

Under part ii management of culture, article 5, there is also formed full department of traditional medicine and traditional medicine practitioners to deal with the registration of practitioners regulate the practice and maintain national data on the cultural treatment systems.

I advocate for the recognition and support of traditional medicine schools as centers of indigenous knowledge preservation, research, and training. Additionally, we call for the establishment of a national Traditional medicine practitioner's directory to safeguard professional standards and facilitate public access to certified practitioners.

Signed:

These submissions were done by the chairman

National traditional medicine practitioners association.

Paul Okibo

National Traditional Health Practitioners Association

NATHEPA
P.O BOX 811-40200KISII
CELL: 0726 525 525
CELL: 0721 696 075
nathepa91k@gmail.com

06/08/2025

NATHEPA - KENYA.

OUR MEMORANDUM ON:

THE CULTURE BILL, 2024(NATIONAL ASSEMBLY BILL NO: 12 OF 2024).

We, the members of the **National Traditional Medicine Practitioners Association – NATHEPA (Kenya)**, wish to express our sincere appreciation to the Government of Kenya for its ongoing efforts to streamline cultural and traditional practices in the country.

We further extend our gratitude to the drafters of the current **Culture Bill** under discussion, for their deep understanding of the Kenyan people's culture, traditions, norms, and values.

Having thoroughly reviewed the proposed Bill, we respectfully submit this memorandum **in full support** of the proposed Culture Bill, while emphasizing the following key points and recommendations:

1. Recognition and Integration of Traditional Herbal Medicine

We urge the formal recognition and integration of **traditional herbal medicine** into national health and cultural frameworks. Traditional medicine is a core component of Kenya's cultural identity and deserves institutional support and protection.

2. Support for Traditional Medicine Schools

We advocate for the **recognition and support of traditional medicine schools** as legitimate centers for the preservation of indigenous knowledge, research, and training.

3. Establishment of a National Directory

We propose the creation of a **National Traditional Medicine Practitioners Directory**, aimed at safeguarding professional standards and enabling the public to access certified and reputable practitioners.

4. Official Recognition of NATHEPA

We propose the **official recognition of the National Traditional Health Practitioners Association (NATHEPA)** as the representative and regulatory body for traditional medicine practitioners in Kenya. This will ensure:

- Ethical practice
- Quality assurance
- Protection and transmission of traditional knowledge to future generations

5. Amendments to Specific Articles in the Culture Bill

a) ***Part I – Preliminary, Article 2 (Definition of Cultural Property)***

We recommend the inclusion of **"traditional medicine practice"** as a **cultural practice** under the definition of cultural property.

b) ***Part I – Preliminary, Article 2 (Sub-section d: Heritage in Terms of Armed Conflict)***

We submit that **cultural industries** should explicitly include **traditional medicine manufacturing centers** across Kenya.

c) ***Part II – Management of Culture, Article 5***

We submit that the **Cabinet Secretary responsible for culture** should not manage national cultural affairs in isolation. Instead, they should be **required to involve cultural holders and practitioners** as key stakeholders in decision-making.
Additionally, we propose the **establishment of a Traditional and Indigenous Practitioners Regulatory Board**, similar to other professional bodies, to:

- Enable self-regulation
- Uphold standards and ethics in traditional practice

d) ***National Database of Medicinal Plants and Practitioners***

We recommend the creation and legal protection of a **comprehensive national database** of:

- Traditional medicinal plants
- Registered practitioners
- Indigenous treatment systems

  This database should be governed and protected under the Bill.

e) ***Part II, Article 17***

We propose that the Cabinet Secretary, in **consultation with the proposed National Culture Practitioners Regulatory Board**, develop regulations that outline clear **criteria for the recognition and promotion** of traditional medicine practitioners and cultural treatment systems.

f) ***Part III – Offences and Penalties***

We submit that the **prescribed penalties are not proportionate to the offences**. We recommend a **review and harmonization** of these provisions to ensure fairness and clarity.

Conclusion

We reaffirm our **support for the Culture Bill** and humbly urge the inclusion of the above recommendations to ensure the **recognition, protection, and promotion of traditional medicine practices** as an integral part of Kenya's rich cultural heritage.

Signed,

National Traditional Medicine Practitioners Association (NATHEPA – Kenya)

Date: **6th August 2025**

NAME OF THE ORGANIZATION: THE KENYA SENIOR CITIZENS WELFARE ASSCIATON OF RETIRED OLDER PERSONS – WEST POKOT COUNTY 22170/18/03/003
DATE ESTABLISHED – 30/3/2000- 2020 (20 YEARS)

DATE REGISTERED WITH GOVERNMENT AUTHORITY 18/03/2003 UNDER SECTION 10 SOCIETIES ACT OF KENYA AS RETIREES MANAGED ORGANIZATION.

THEIR MOTTO: RETIRED BUT NOT TIRED

CORE MANDATE: TO LEND SUPPORT TO RETIREES IN SAFE GUARDIAN THEIR RIGHTS AND PROMOTING CAUSES FOR THEIR GENERAL WELFARE AND FOR GREATER MEASURES OF SOCIAL JUSTICE.

CONTACT PERSON: **MR. NICHOLAS DOMOKWANG**
SECRETARY GENERAL
PHONE: 0700460601/ 0742213514

PHYSICAL ADDRESS: **P.O BOX 15-30600**
KAPENGURIA
RIFT VALLEY PROVINCE, KENYA

EMAIL: kenyasenior@yahoo.com

DATED 6TH AUGUST 2025



THE KENYA SENIOR CITIZENS WELFARE ASSOCIATION OF RETIRED PERSONS FOR DEVELOPMENT ORGANIZATION (C.B.O) WEST POKOT COUNTY P.O BOX 15-30600 KAPENGURIA –KENYA –
Email: kenyaseniorcitizens@gmail.com

MOBILE PHONE NO.: 0742-213-514 - SECRETARY GENERAL

Date : 30th January 2024

When replying please quote
Ref. No. WPC/KSC/GEN.C/2

TO:
J.M NYENGENYE CBS
CLERK TO THE SENATE,
MAIN PARLIAMENT BUILDING,
P.O BOX 41542-00100
NAIROBI – KENYA
Email: clerksenate@parliament.go.ke

REF: THE INVITATION FOR SUBMISSION OR MEMORANDA AND PUBLIC HEARING

THE CULTURE BILL 2024 (NATIONAL ASSESSMENT BILLS No. 12 or 2024

I am pleased to inform you that we have read through advertisement in the standard news paper of July 24th 2025 concerning the above subject matter, the Bill No. 12 of 2024 (National Assembly Bills Above)

Our organization quoted to above will be represented by their secretary General Mr. Nicholas Muryo Domokwang ID No: 0242057 and Mobile phone No: 0742-213-514 Email: secretary@seniorcitizens@yahoo.com.

He will present the pension memorandum during the day from this county during the hearing of the bills on 7th August 2025 at the Mini-chamber first hour county Hall b/d Nairobi – Kenya.

The cultural heritage and values, the shrines and respects cultural places like Pokot Hills, rivers, traditional religion.

Yours faithfully,

Jacob Pkorir Lorema
Chairman West Pokot County

Cc.
Labour Social Welfare Community
senate@parliament.go.ke

THE SENIOR CITIZENS/ RETIRED PUBLIC SERVANTS WHO FALLS UNDER THE MINISTRY OF LABOUR AND SOCIAL PROTECTION REQUEST THE SENATE PARLIAMENT TO KINDLY: -

a) To recognize and appreciate them for their devotion to make this country, so that the Government can implement for us Constitution 2010 Article 21 (3) inclusivity of all ages. To senior in committees and BOM of institutions.

b) Request that Government review and increase Government pensioners from the current date and rates of increase 3.6 – 15,000.00 PM minimum to 3.61% Ref: WPC/KSC/PNC/7 of 27/06/2024 (petitions that the last review of government pensions was in July 2005 – up to this day Thursday.

c) The policy recognizes the older person have a lot of potential in terms of skills, knowledge and experience. To TAP on their skills and competence for the benefit of the society and development and development of the entire Nation through volunteer work.

d) Kenya is a sovereign state and all retired servants who need care and protection belong to Kenya government through established Government policies for retirement of civil servants and for also next of deceased pensioners to alleviate poverty, abuses and injustices because they lack basic needs to sustain their lives, food, water, medical care services.

Petition that, increases up from the 3% 6,800.00 PM 2005 we earn today to the new senate – 3061% - 15,000.00 PM this year August 2025 – 20years for H.E William Ruto/ Kithure Kindiki.

Kenya Kwanza Government worked out here bellow: -

That: a Pension = 6,800.00PM

Request for increase of 120x59%
-6,800=100%
-$\frac{120x590x6,800}{100}$
= 8,200 + 6,800
= 15,000.00 per Month – for common Cadre Retirees

e) That: Government through its ministry of labour and social protection reinstate grants we used to provide groups operating in the for use if their

activities the like U.N international on 01/ 10/2025 we require 500 elections of us members.

f) That: retirees be granted status of heroes and heroness's for having served their county fruits of which Kenyans enjoy today. 2 extend invitation for senior citizens during the national celebration days.

That: senate amend the pensions (increase) Cap 189 to release funds from the cost of living and starvation.

That: we pray that there should be a periodical review of pensions and other retirement benefits to retirees from the year 2005 July 1st onwards inclusivity of all ages.

That: 1991-2005 – and those who retired after 2005 July don't earn the same they are of the same group.

Please we request senate parliament to correct as per S.R.C recommendations to harmonize those who retired from 1991 -2005 so as to enjoy the same as 2005 retirees who earn better pensions.

Yours faithfully,

Jacob Lorema
Chairman
West Pokot County Senior Citizens

POKOT ELDERS



BUNGOMA COUNTY, KAKAMEGA COUNTY AND VIHIGA COUNTY

7TH AUGUST 2025

SUBMISSION OF MEMORANDUM AND PUBLIC HEARING FOR THE CULTURE BILL 2024 {NATIONAL ASSEMBLY BILL NO.12 OF 2024}

OFFICE OF THE CLERK OF THE SENATE ASSEMBLY

THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE.

ABSTRACT / INTRODUCTORY SUMMARY

The former **Western Province**, especially **Bungoma County**, is home to a diverse range of **cultural, historical, and natural landmarks** that reflect centuries of indigenous heritage, colonial resistance, spiritual identity, and environmental interdependence. These sites—ranging from volcanic hills and waterfalls to colonial resistance forts and sacred groves—are central to the collective memory of communities such as the **Bukusu, Tachoni, and Sabaot**.

However, many of these cultural sites remain **unprotected, undocumented, or legally unrecognized**, despite their immense historical and spiritual value. Due to **historic injustices**, colonial-era land dispossession, and weak cultural policies, these places are increasingly vulnerable to land degradation, urban expansion, and loss of traditional ownership.

The upcoming reading of the **Culture Bill 2024 (National Assembly Bill No. 12 of 2024)** on **7th August 2025** presents a critical opportunity to change this trajectory. The Bill seeks to **safeguard Kenya's cultural and natural heritage**, giving communities a stronger role in protecting, managing, and benefiting from their ancestral lands and sites.

This document compiles **14 culturally significant sites** across Bungoma County, providing a merged narrative that explains each location's **historical significance and current cultural relevance**. It is intended as a foundation for **legal recognition, policy advocacy, and cultural restitution** under the evolving national framework.

1. Mt. Elgon National Park — Bungoma / Trans-Nzoia

Mount Elgon is a vast, ancient shield volcano straddling the Kenya-Uganda border, reaching 4,321 m at its summit. The Kenyan side, protected since 1968, features dense montane forests, mineral-rich caves such as Kitum, and wildlife like elephants, forest hogs, and over 300 bird species. Spiritually, it is revered by both the **Bukusu and Sabaot** communities, who consider it a sacred mountain. Today, it serves not only as a national park but also as a **symbol of ancestral connection**,

resistance, and ecological wealth—making it a key cultural and environmental site in western Kenya.

2. Kabuchai Hills — Kabuchai

The Kabuchai Hills are volcanic ridges rising up to 2,100 m, located east of Kimilili. These forested formations are woven into **Bukusu oral history**, often associated with ancestral spirits and rainmaking rituals. Though underdeveloped for formal tourism, they offer panoramic views, natural beauty, and spiritual calm. They represent both a **natural landmark** and a **sacred cultural space**, whose continued neglect reflects wider historical injustices of land exclusion and spiritual marginalization.

3. Chetambe Fort Ruins — Webuye

Situated on a hill in Webuye, Chetambe Fort was built by **Tachoni leader Omwami Chetambe Ifile** as a fortified resistance stronghold against British colonial forces in 1895. The site featured deep defensive trenches and multiple gates, but it fell to British bombardment and Swahili-led troops, leading to hundreds of Bukusu and Tachoni deaths. Today, the trenches remain partially visible, obscured by vegetation, and the site stands as a powerful **testament to colonial resistance**. It remains spiritually and historically sacred, though lacking formal protection or recognition.

4. Mwibale wa Mwanja (Namakanda Rock) — East Sang'alo

Mwibale wa Mwanja is a striking volcanic rock formation rising over 300 ft in East Sang'alo. Revered by locals, it is said to be a spiritual site featuring hidden springs, caves (such as Mbinga), and panoramic views stretching across Bungoma to Tororo in Uganda. Its towering presence makes it both a **natural monument** and a **spiritual sanctuary**, connected to **ancestral worship and traditional storytelling**. Its neglect in cultural records reflects the broader need for legal recognition of living heritage landscapes.

5. Mwikupo Waterfalls — East Sang'alo, River Nzoia

Located along River Nzoia at the base of the Sang'alo hills, Mwikupo Waterfalls is a lesser-known natural treasure. Surrounded by lush forest and nourished by hill-fed springs, it provides water, serenity, and ecological beauty. While underdeveloped and undocumented, it holds deep **local value as a sacred water source** and retreat site, blending **spiritual cleansing practices** with natural attraction—symbolizing the intersection of **culture and ecology** in rural Bungoma.

6. Sikele Sya Mulia — West Sang'alo

Though not well documented, **Sikele Sya Mulia** is known locally as a spiritual and possibly ceremonial site in West Sang'alo. The name suggests a link to sacred spaces, likely used in **initiation rites, ancestral communication, or peace rituals**. Its existence within oral tradition points to a need for **inclusive cultural mapping** that validates sites through community memory, even in the absence of colonial or state documentation.

7. Musikoma Hills — Kanduyi

Musikoma Hills, located near Kanduyi in Bungoma, are a series of low-elevation forested ridges known for scenic walks and local gathering. While not formally protected, they are part of **community heritage landscapes** and may have connections to past **land boundaries, rituals, or agricultural traditions**. Their informal use and oral significance mark them as candidates for conservation and cultural reclamation under emerging cultural protection laws.

8. Buteyo Miti Park — Bungoma

Established in 1969 near Sang'alo Institute, Buteyo Miti Park is a 32-acre ecological and cultural haven. It features indigenous tree species, Bukusu-style huts, medicinal plant gardens, and walking trails. It functions as an arboretum and a **living classroom of indigenous knowledge**, preserving not just trees but also

cultural memory. The park embodies the fusion of **environmental conservation and Bukusu cultural preservation**, making it a model for other counties.

9. Sang'alo Hill — Near Bungoma Polytechnic

Sang'alo Hill lies beside the Bungoma Technical Polytechnic and serves as a local landmark. Though modest in size, it is embedded in community life, possibly linked to traditional ceremonies or educational activities. Its elevation, visibility, and spiritual feel make it a candidate for designation as a **cultural reserve and educational site** under the proposed legislation.

10. Lumboka Memorial War Zone — Bumula (South Bukusu)

Lumboka was one of the **main resistance sites** where Bukusu warriors confronted British colonial forces in 1895. The battle resulted in massive casualties before the fall of the fort, which was later followed by the attack on Chetambe. Although no formal memorial marks the site today, it remains **sacred in community memory**, calling for preservation as a **memorial and educational space** that honors the legacy of anti-colonial resistance.

11. Chief Paramount Sudi Namachanja Mausoleum — Mateka

Located in Mateka, this mausoleum is believed to be the final resting place of Chief Sudi Namachanja, a significant Bukusu figure, possibly during or post the colonial era. The site holds **political and ancestral importance**, and represents **traditional leadership heritage**. Without formal protection, such burial sites face risk of erasure despite their symbolic weight in Bukusu governance history.

12. Elijah Masinde wa Nameme (Dini ya Msambwa) — Maeni

Elijah Masinde (1911–1987) founded **Dini ya Msambwa**, a grassroots religious and political movement that opposed colonialism, Western religions, and post-colonial injustice. His shrine in Maeni is a place of pilgrimage for followers, who

view him as a prophet and defender of **spiritual independence**. His movement is central to the discussion of **indigenous religious rights**, and his burial site must be protected as both **heritage and sacred ground**.

13. Welekha Hills — Chiliba

Located in Chiliba, Welekha Hills are relatively undocumented but hold **oral significance** among local communities. These hills may serve as ecological markers, boundary lands, or sacred spaces associated with seasonal rituals or ancestral myths. Their quiet disappearance from official records is emblematic of how many sacred sites are slipping away without recognition.

14. Mabanga and Mianga — Bloodshed Sites

Mabanga and Mianga are referred to in oral history as sites of **historical violence**, possibly involving colonial conflict or inter-clan strife. Though undocumented, the memory of **bloodshed and spiritual loss** remains vivid in local storytelling. These sites deserve solemn recognition and **ritual reintegration** into protected heritage landscapes under Kenya's new cultural policies.

CONCLUSION & RECOMMENDATIONS

Securing Bungoma's Cultural Future through Law and UNESCO

Bungoma County is home to a rich mosaic of **sacred landscapes, historical sites, ancestral shrines, battlefields, and spiritual movements**—each deeply rooted in the identity and memory of the **Bukusu, Tachoni, Sabaot**, and other indigenous communities. Yet for decades, these sites have remained **unprotected, undocumented**, or undervalued by national policy, leaving them vulnerable to **encroachment, neglect, or total loss**.

The **National Heritage and Museums Bill (No. 18 of 2013)** and the forthcoming **Culture Bill 2024 (National Assembly Bill No. 12 of 2024)** offer an unprecedented legal framework for the **recognition, protection, and restitution** of Kenya's cultural heritage—especially **community-owned and spiritually significant sites**.

Through these laws:

- Communities can apply to have their cultural sites **gazetted as national heritage sites**.
- Bungoma's sites become eligible for **UNESCO recognition and international support**.
- Local cultural knowledge, rituals, and traditions can be **safeguarded and passed down**.
- Communities stand to benefit from **legal ownership, tourism revenue, international visibility, and cultural dignity**.

Sites like **Chetambe Fort, Lumboka War Zone, Elijah Masinde's Shrine, Mwibale wa Mwanja, Kabuchai Hills, and Buteyo Miti Park** should be prioritized for **heritage documentation, mapping, and nomination**—both nationally and internationally.

Recommendations

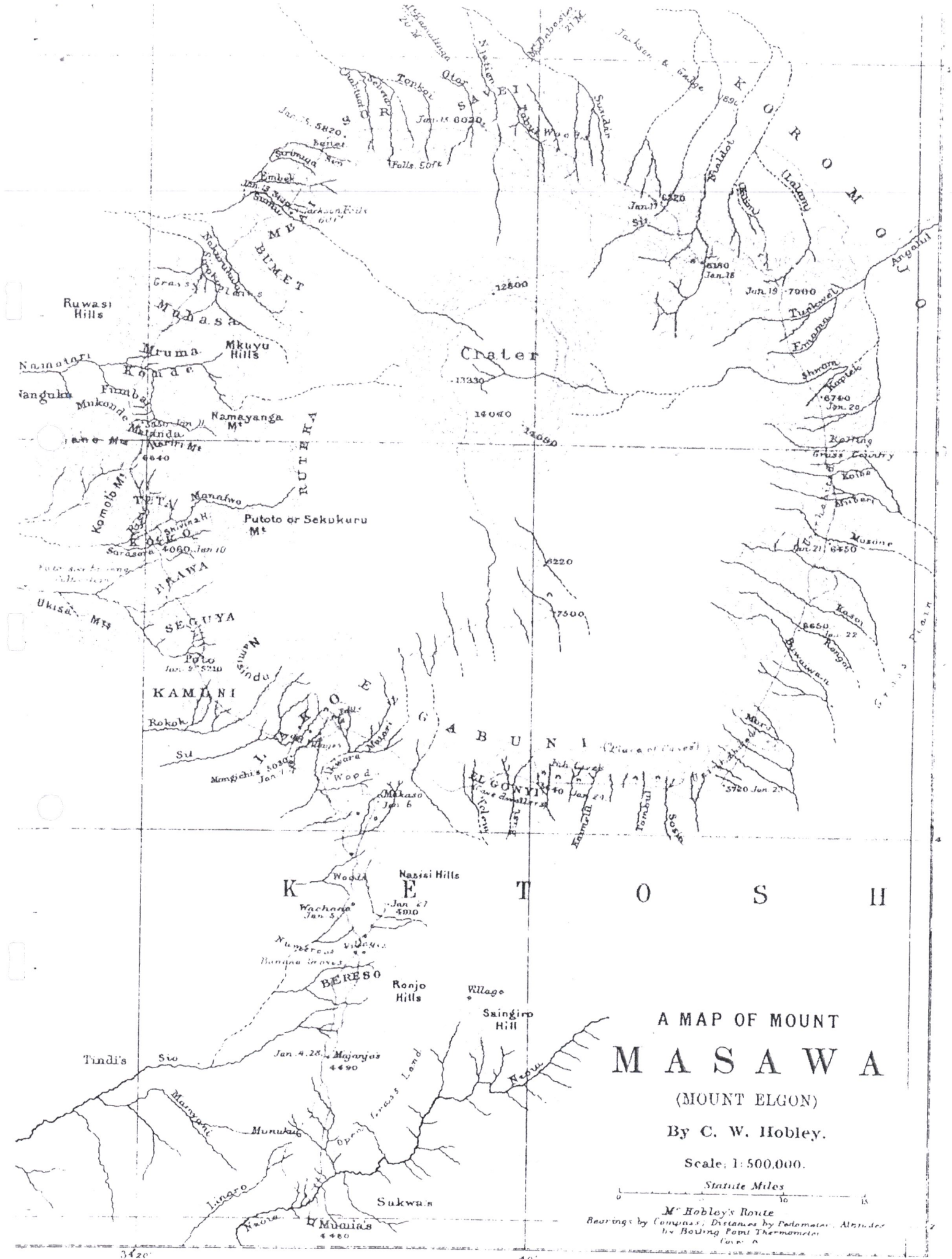
1. **Gazettement:** Fast-track legal protection of all 14 listed sites under the Museums and Heritage Act.

2. **Community Involvement:** Form local heritage committees to manage and monitor sacred sites.
3. **UNESCO Pathway:** Work with the Ministry of Culture and National Museums of Kenya to list key sites on the **UNESCO Tentative List**.
4. **Documentation:** Compile oral histories, rituals, photos, and maps as supporting material for heritage claims.
5. **Cultural Education:** Promote heritage awareness in schools, polytechnics, and local festivals.

Final Word

If protected and promoted properly, Bungoma's cultural and natural heritage can become not just a source of **community pride and identity**, but also a **catalyst for sustainable development, cultural justice**, and **international recognition**. The **future of these sites lies in the decisions made today.**

Let us ensure they are preserved **not only in memory—but in law, land, and legacy**.


A MAP OF MOUNT
MASAWA
(MOUNT ELGON)
By C. W. Hobley.
Scale: 1:500,000.
Statute Miles
Mr Hobley's Route
Crater
Ruwasi Hills
Mukuyu Hills
Putoto or Sekukuru Mt
Nasisi Hills
Ronjo Hills
Saingiro Hill
Sukwais
Mudias
4480
Majanjas
4490
Wachanja
4010
Sasawa
4060
Poto
5210
Mbakaso
5030
Kokoi
6450
Kasoi
5720
Kapteki
6740
Tuikwel
7000
Kaptalel
6320
Kapkuro
6180
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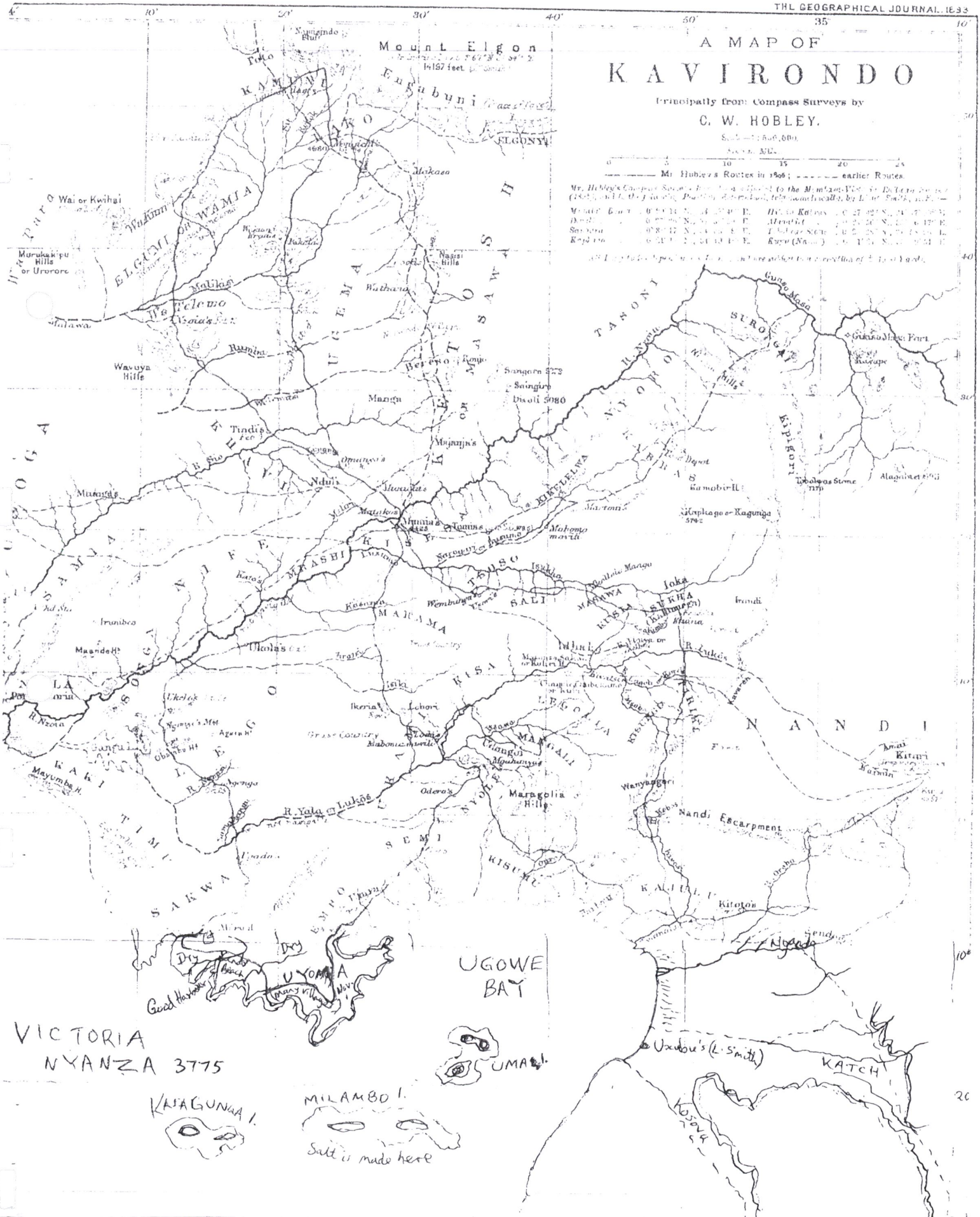
P. 444 KAVIRONDO – 1898 C. W. Hobley
(Tribal distribution)


A MAP OF
KAVIRONDO
Principally from Compass Surveys by
C. W. HOBLEY.
Mount Elgon
14157 feet
ELGONYI
KAVIRONDO
Wakhungu
Malakisi
Nasasi Hills
Wavuya Hills
Bungoma
Mangu
Tindiss
Mumia's
Ndunis
Mutaitas
Mahomo
Kamobir II.
Kaphagoe or Kaguniga
5742
Maxton's
Ibwaras Stone
Alagwet
Kipkoni
Irumbes
Maande Hl.
Ulolas
Ikeria
Lehori
Mabonic
Ulango
Maragolia Hills
Nandi Escarpment
Kitotos
Wanyagori
Kimuri
Yala or Lukos
R. Nzoia
Mayumba H.
Agoya's Mt.
Grass Country
Forest
Dry Beach
Good Harbour
UYOMA
UGOWE BAY
UMA I.
VICTORIA NYANZA 3775
KANAGUNA I.
MILAMBO I.
Salt is made here
Usoga's (L. Smith)
KATCH
Ngondo
Sendy
Kosoi
Tasoni
Suroti
Nyoro
Kisumu
Kavirondo
Nandi
Kalenjin
Tiriki
Kisa
Maragoli
Tsotso
Sali
Kisii
Semi
Sakwa
Timbora
Ukolik
Ikolik
Ikoli
Ikoma
Kisumu
Kisa
Kisii
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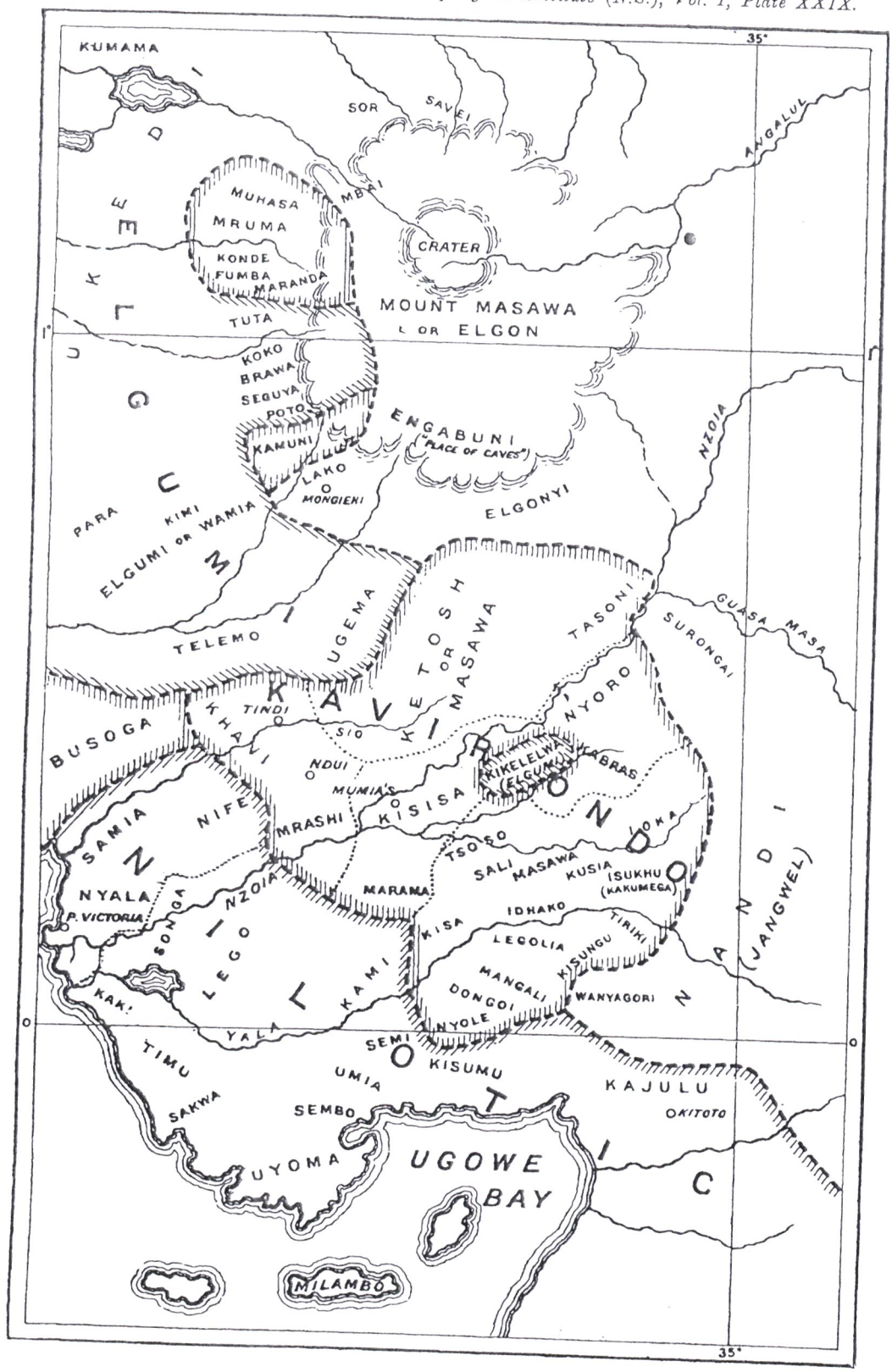
VOCABULARIES FROM KAVIRONDO — 1899 C.W. Hobley

Journal of the Anthropological Institute (N.S.), Vol. I, Plate XXIX.



MAP OF KAVIRONDO AND NEIGHBOURING COUNTRY, BRITISH EAST AFRICA.

(The names of all the tribes !) Tribal distribution and their positions on the map

[NB: Elgon is the popular name for the mountain — 1897 C.W. Hobley

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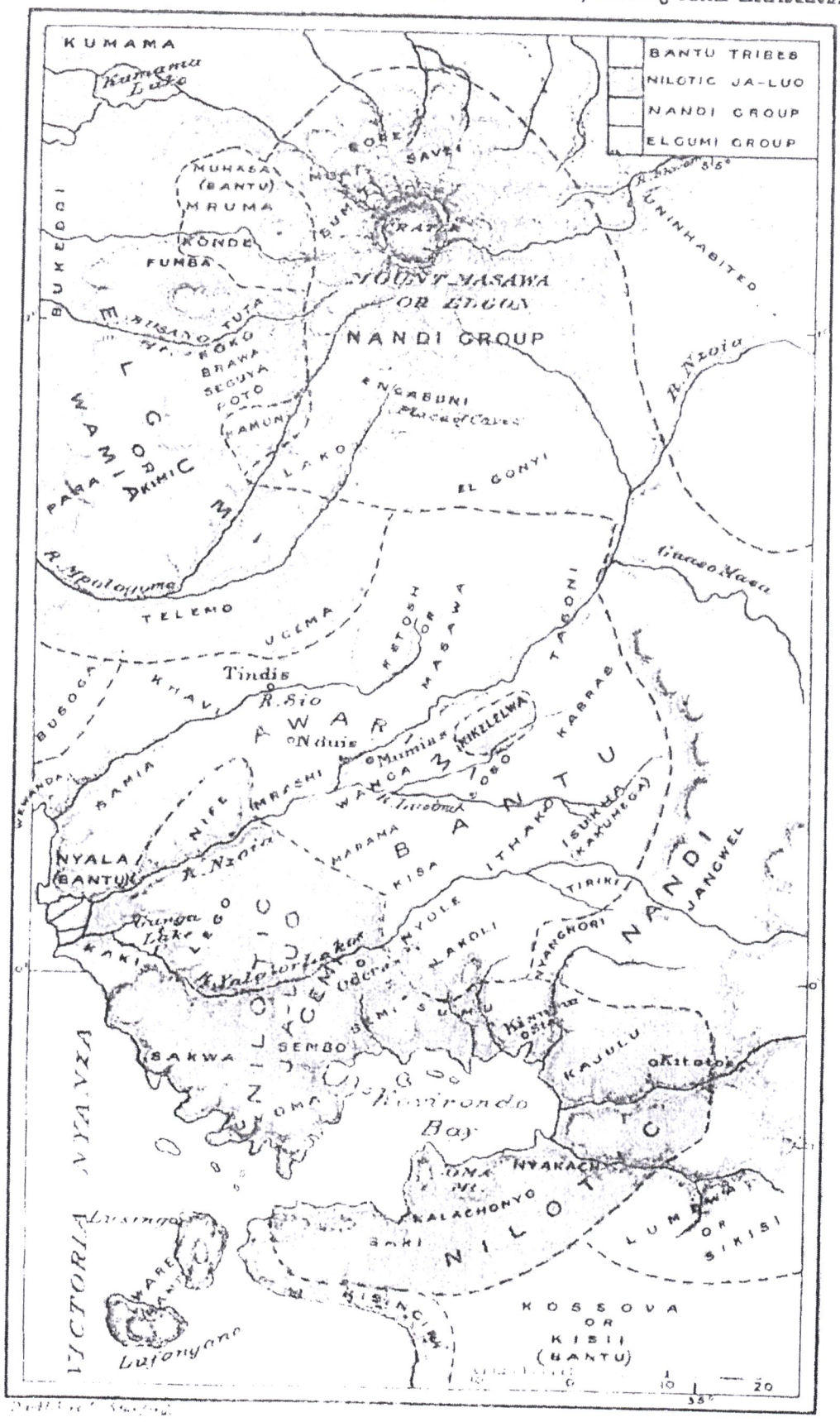
EASTERN UGANDA — 1902 C.W. Hobley
KAVIRONDO — Tribal distribution

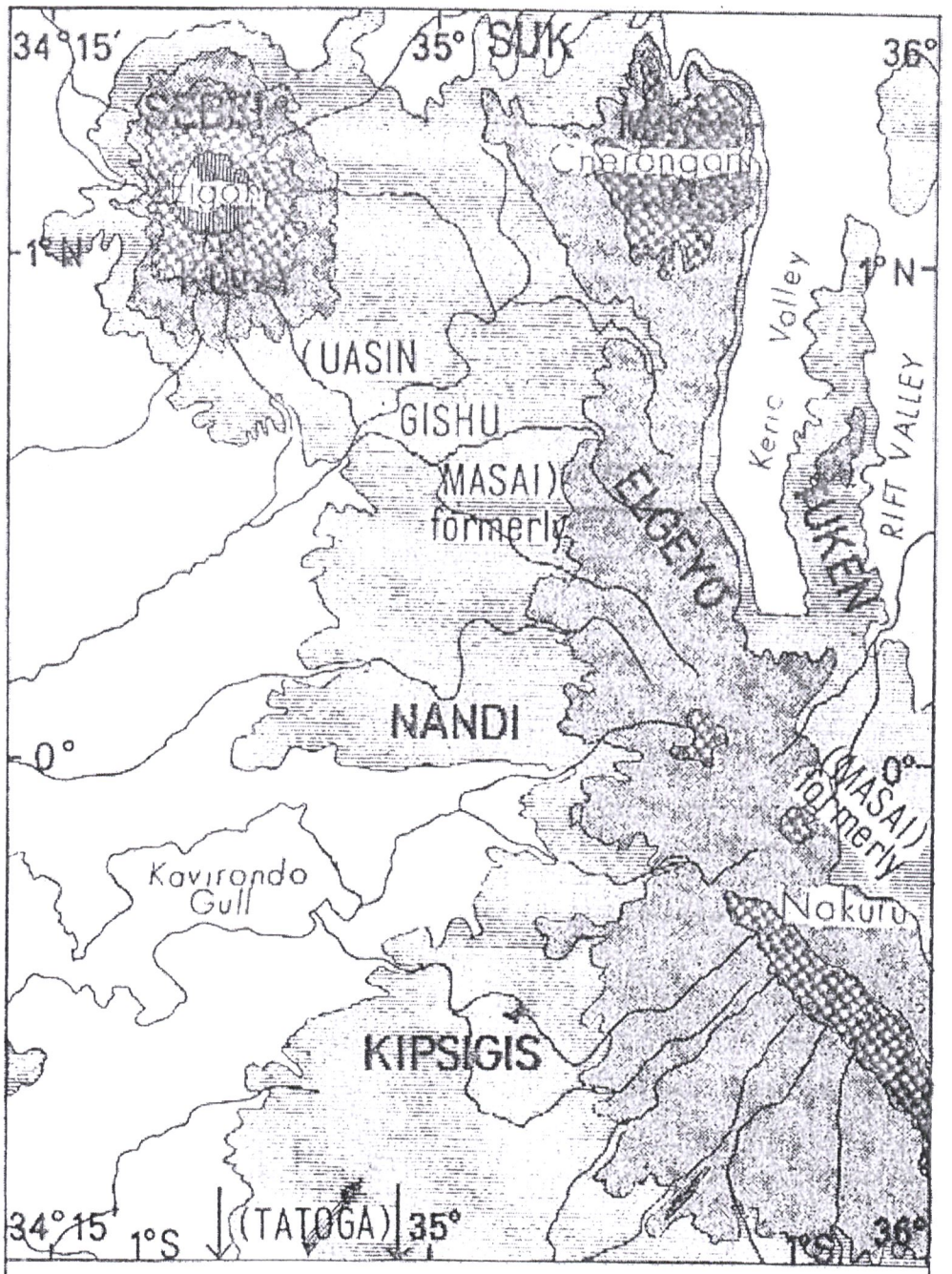
HOBLEY. EASTERN UGANDA. Plate I.

Map of KAVIRONDO and neighbouring country, Brit. E. Africa, showing racial distribution.



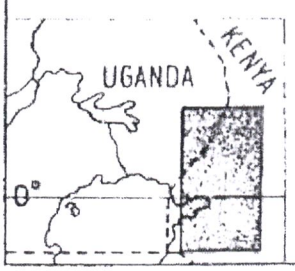
(NB. Elgon is the popular name for the mountain — 1897 C.W. Hobley)

The Sirikwa — The Uganda Journal 1964,
p. 103 J. M. Weatherby, B. E. Kipkorir and J. E. G. Sutton



THE PRINCIPAL KALENJIN TRIBES

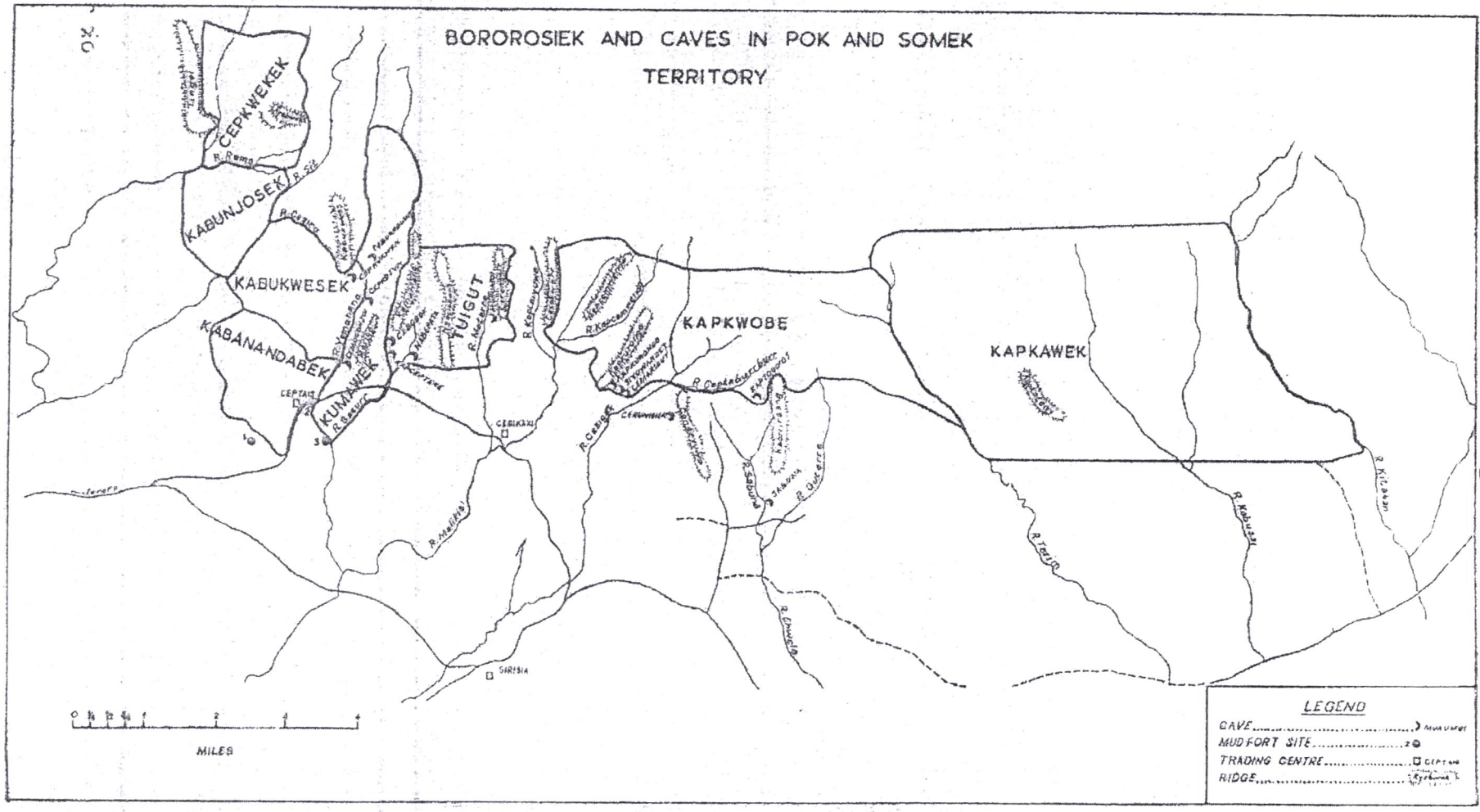
Other Nilo-Hamitic tribes in brackets



Miles
0 10 20 30 40

ALTITUDE

- Above 12,000 Feet (4,000m)
- 9,000 to 12,000 Feet (3,000m)
- 7,000 to 9,000 Feet (2,333m)
- 5,000 to 7,000 Feet (1,666m)



p. 96

Among the Southern Groups of the Sebei-Speaking Peoples – The Uganda Journal 1966, J. M. Weatherby

SPECIAL ISSUE

Kenya Gazette Supplement No. 134 (Senate Bills No. 37)

REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2024

NAIROBI, 12th July, 2024

CONTENT

Bill for Introduction into the Senate—

PAGE

The County Tourism Bill, 2024 729

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

THE COUNTY TOURISM BILL, 2024

A Bill for

AN ACT of Parliament to provide for the development, management, marketing and promotion of local tourism by county governments; the regulation of sustainable local tourism and related activities and services; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the County Tourism Act, 2024.

Interpretation.

2. In this Act—

"Authority" means the Tourism Regulatory Authority established under section 4 the Tourism Act; No. 28 of 2011.

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to tourism;

"county executive committee member" means the county executive committee member responsible for matters relating to tourism in the respective county;

"local tourism" —

(a) means the tourism activities and services set out under the Schedule; and

(b) includes tourism activities based on local cultural identity, beliefs, practices and values with the participation of local communities;

"National Environment Management Authority" means the National Environment Management Authority established under section 7 of the Environmental Management and Co-ordination Act; No. 8 of 1999.

"National Museums of Kenya" means the National Museums of Kenya established under section 3 of the National Museums and Heritage Act; No. 6 of 2006

"special local tourism management area" means an area designated as a special tourism management area under section 6;

"Tribunal" means the Tourism Tribunal established under section 87 of the Tourism Act; and

"tourism" means the activities of a person travelling to and staying in a place outside his or her usual abode for more than twenty-four hours, but not more than one consecutive year, for leisure, business or other purpose, not being a work related activity remunerated from within the place visited.

Application.

3. This Act shall apply to local tourism within a respective county.

Responsibilities of the Cabinet Secretary.

4. The Cabinet Secretary shall, for the effective implementation of this Act—

(a) formulate guidelines on–

(i) sustainable practices relating to local tourism and recommend to the Council of County Governors best practices for the promotion of local tourism; and

(ii) uniform standards for the promotion of local tourism;

(b) develop a framework for the monitoring and evaluation of programmes and activities on local tourism by county governments; and

(c) make recommendations to county governments based on monitoring and assessment of tourist activities and services to enhance continuous improvement and adherence to principles of sustainable tourism.

5. (1) Each county executive committee member shall —

(a) at least once every five years, formulate a local tourism strategy for the development, marketing and management of the respective tourism sectors;

(b) market the county as a desirable tourist destination;

(c) encourage and facilitate the sustainable development of local tourism in the county;

(d) formulate guidelines and prescribe measures for sustainable local tourism in the county;

(e) identify local tourism market needs and trends within the county and advise the Authority and tourism stakeholders accordingly;

(f) regulate local tourism activities and services within the county in accordance with the national tourism strategies;

(g) issue, suspend or revoke licences for local tourism activities and services;

(h) monitor and assess local tourism activities and services within the county to enhance continuous improvement and adherence to sound principles and practices of sustainable tourism; and

(i) perform any other functions that are necessary for the implementation of this Act.

(2) A county executive committee member shall, in discharging the functions under this Act, facilitate public participation.

Special local tourism management area.

6. (1) A county executive committee member may, by notice in the County *Gazette* and upon conducting public participation in the county, designate an area as a special local tourism management area where the county executive committee member considers the area to be—

(a) of archaeological, ecological or historical significance; or

(b) of cultural or spiritual significance.

(2) In designating a special local tourism management area under subsection (1), the county executive committee member—

(i) shall consult the National Environment Management Authority and the National Museums of Kenya; and

(ii) may restrict local tourism operators or local tourism activities in the designated area.

Licence.

7. (1) A person shall not undertake any local tourism activity unless that person applies for, and obtains a licence in accordance with this Act.

(2) A person who intends to conduct a local tourism activity shall submit an application for a licence to the county executive committee.

(3) An application for a licence under subsection (2) shall—

(a) be made in writing and in the prescribed form;

(b) contain such information as may be prescribed by the respective county legislation; and

(c) be submitted together with the prescribed fee and such other information as may be prescribed in the respective county legislation.

(3) The fee prescribed under subsection (2) shall not exceed the maximum amount prescribed in regulation by the Cabinet Secretary. No. 8 of 1999.

(4) A county executive committee member shall, in considering an application, have regard to—

(a) the local tourism strategy;

(b) the protection of fragile environmental resources, ecosystems and habitats;

(c) an environmental impact assessment licence issued under Part VI of the Environmental Management and Co-ordination Act;

(d) any representations received from members of the public regarding the application; and

(e) any recommendation or approval that may be made or submitted by any other relevant authority.

(5) Upon considering an application, the county executive committee member may—

(a) grant an application for a licence unconditionally;

(b) grant the application subject to such conditions as may be imposed under the respective county licensing legislation; or

(c) refuse the application.

(6) The county executive committee member may refuse to issue a licence to an applicant where—

(a) the applicant has submitted false or misleading information in the application;

(b) the applicant does not meet the conditions for licensing prescribed under this Act or under any other written law; or

(c) the application does not comply with the requirements imposed under this Act or any other applicable law.

(7) The county executive committee member shall inform the applicant of the decision under subsection (5) within seven days from the date of the decision of the committee member.

Conditions for issuance of licence.

8. (1) A licensee shall be required to observe the following conditions in addition to those that may be imposed by the county executive committee member or under the respective county legislation-

(a) to provide the service or carry out the business specified in the licence;

(b) to comply with all applicable laws and the conditions for issuance of the licence;

(c) in the case of a body corporate, to provide, the county executive committee member with information with respect to any change in its directorship or shareholding;

(d) to pay such fees as may be prescribed; and

(e) to maintain, and where required, submit to the county executive committee member such information as may be necessary for the continued licensing of the licence holder.

(2) A county executive committee member shall, unless the circumstances or facts relating to the application vary and the county executive committee member considers it proper, impose the same conditions for the issuance of the same type of licence.

Duration of a licence.

9. (1) A licence issued under this Act shall expire on 31st December of the year in respect of which it is issued.

(2) The county executive committee member shall specify, in county legislation, the duration of the licence in

the licence issued under this Act and may prescribe different validity periods for the various classes of licences that are issued under this Act.

Renewal of a licence.

10. (1) An application for the renewal of an existing licence shall be made at least two months before the expiry date of the existing licence.

(2) Where an application for the renewal of a licence is not lodged within two months immediately preceding its expiry, the county executive committee member may consider such application upon payment of such additional fee as may be prescribed in the respective county legislation.

Transfer of licence.

11. (1) A licence issued under this Act may be transferred by the holder to another person only in respect of the local tourism activity in relation to which that licence was issued.

(2) Where a licence is transferred under this section, the person to whom it is transferred and the person transferring it shall, in writing, jointly notify the county executive committee member of the transfer within thirty days after the transfer.

(3) Where no joint notification of a transfer is given in accordance with subsection (2), the licence shall be deemed not to have been transferred.

(4) A transfer of a licence under this section shall take effect on the date the county executive committee member is notified of that transfer.

Suspension of a licence.

12. The county executive committee member may, subject to section 14, suspend a licence issued under this Act where—

(a) a licensee is being investigated in relation to an offence under this Act;an allegation of misconduct has been made against a licensee;

(b) the licensee made a false declaration in the application for the licence; or

(c) a licensee has contravened a provision of this Act or any other relevant county legislation.

Cancellation of a licence.

13. A county executive committee member shall, subject to section 14, cancel a licence where a licensee —

(a) is convicted of an offence under this Act;

(b) ceases to be qualified for the issue of a licence under this Ac or the respective county legislation;

(c) ceases to carry on the business with respect to which the licence was issued;

(d) contravenes the conditions for the issuance of the licence or the provisions of this Act or the respective county legislation; or

surrenders the licence to the relevant licensing authority together with a notice setting out a request that the licence be revoked.

Representation to the county executive committee member.

14. (1) The county executive committee member shall not suspend a license under section 12 or cancel a licence under section 13 (a) to (d) unless the county executive committee member issues to the licensee at least thirty days notice of the intention to suspend or cancel the licence and has provided the licensee with an opportunity to make a representation to the county executive committee member.

(2) A licensee who is not satisfied with a decision made under subsection (1) may appeal to the Tribunal within twenty eight days from the date of receipt of the decision.

Effect of suspension or cancellation.

15. A person whose licence has been suspended or cancelled shall not engage in the local tourism activity in respect of which the licence was granted during the duration of suspension or after cancellation.

Registers.

16. (1) The county executive committee member shall keep and maintain a register of —

(a) all licences issued under this Act;

(b) local tourism facilities, activities and services licensed under this Act; and

(c) all public and private sector institutions or associations involved in local tourism or related activities and services in the county.

(2) The county executive committee member shall provide the Authority with updated copies of registers kept and maintained under this section every month.

(3) A register kept and maintained under this section shall be open for inspection by members of the public during official working hours at offices designated by the county executive committee member on the payment of a fee prescribed by the county executive committee member.

Offences.

17. (1) A person who—

(a) breaches or fails to comply with the provisions of this Act or the respective county legislation;

(b) breaches or fails to comply with any of the terms or conditions of a licence issued under this Act or the respective county legislation;

(c) obstructs a person in the execution of powers or duties the respective county legislation;

(d) knowingly or recklessly makes a statement or representation which is false;

(e) knowingly or recklessly furnishes a document or information required under this Act which is false; or

(f) knowingly or recklessly uses or furnishes a fake or forged or invalid licence or a licence that has been altered without authorization

commits an offence.

(2) A person who is found guilty of an offence under subsection (1) is liable, on conviction, —

(a) in the case of a natural person, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment; and

(b) in the case of a body corporate, to a fine not exceeding two million shillings.

(3) Where a body corporate is found guilty of an offence under this Act, every principal officer of that corporation is deemed to have committed an offence and is liable, on conviction, to a fine not exceeding five hundred

thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Regulations.

18. (1) The Cabinet Secretary may, in consultation with the Council of County Governors, make Regulations for the better carrying out of the provisions of this Act.

(2) In particular and without prejudice to the generality of the power conferred by subsection (1), the Cabinet Secretary shall make Regulations prescribing —

(a) the parameters for fees payable on application for the issuance, renewal or variation of a license under this Act by county governments;

(b) anything which is required to be prescribed or is necessary to give effect to this Act.

County legislation.

19. (1) A county may enact county legislation to make provision for local tourism in the respective county.

(2) In particular and without prejudice to the generality of the power under subsection (1), a county may enact county legislation prescribing —

(a) the conditions which a licence may be granted or issued under this Act;

(b) the procedures and forms for the application for a licence;

(c) the classes of licence that may be issued by the respective county executive committee member;

(d) such further criteria for the issuance, transfer or cancellation of a licence;

(e) the fees payable for the issuance or renewal of a license under this Act;

(f) the process of appeal of the decision of the respective county executive committee member; or

(g) such further provisions as may be necessary for the implementation of this Act and the effective conduct of local tourism in the respective county.

Conflict of laws. No. 28 of 2011.

20. Where a provision of the Tourism Act is inconsistent with the provisions of this Act, the provisions of this Act shall prevail.

Amendment to No. 28 of 2011.

21. Section 7 of the Tourism Act is amended by inserting the following new subsection immediately after subsection (1) —

(1A) In discharging its functions under subsection (1)(c), the Authority shall not issue, vary or renew licences for activities classified as local tourism activities under this Act or any other law.

SCHEDULE

Schedule

[section 2]

LOCAL TOURISM ACTIVITIES AND SERVICES

(a) Class "A" enterprises —

(i) hotels;

(ii) members clubs;

(iii) motels;

(iv) inns;

(v) hostels;

(vi) health and spa resorts;

(vii) tree houses;

(viii) floatels;

(ix) service flats;

(x) service apartments;

(xi) beach cottages;

(xii) holiday cottages;

(xiii) tented camps;

(xiv) bandas;

(xv) cultural homes and centres;

(xvi) villas;

(xvii) homestays;

(xviii) guest houses; and

(xix) cottages and private residences engaged in guest house services.

(b) Class "B" enterprises —

(i) water sports;

(ii) balloon operators; and

(iii) boat excursions.

(c) Class "C" enterprises —

(i) game fishing outfitters; and

(ii) amusement parks.

(d) Class "D" enterprises —

(i) local traditional boat operators;

(ii) curio vendors;

(iii) general vendors; and

(iv) beach operators.

(e) Class "F" enterprises —

(i) restaurants; and

(ii) other food and beverage services.

(f) Class "G" enterprises: entertainment facilities.

(g) Class "H" enterprises: conference and event services.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principle object of the Bill is to provide for the development, management, marketing, promotion and licensing of local tourism by county governments. The Bill also seeks to amend the Tourism Act, No. 28 of 2011, in order to make provisions for local tourism and involve counties in the development, management, marketing and regulation of local tourism.

This is in view of the fact that whereas paragraph 7(d) of Part 2 of the Fourth Schedule to the Constitution designates local tourism as a function of county governments, no national legislation makes provision for local tourism and its development, management, marketing, promotion or licensing.

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

Section 15 of the Bill delegates legislative powers to the Cabinet Secretary responsible for tourism, who is required to make regulations for the better carrying out of the provisions of the Bill, once enacted, in consultation with the Council of County Governors.

The Bill does not limit fundamental rights and freedoms.

Statement of how the Bill concerns County Governments

The Bill concerns county governments in that it contains provisions relating to the development, management, marketing and regulation of local tourism. Paragraph 7(d) of Part 2 of the Fourth Schedule to the Constitution designates local tourism as a function of county governments.

The Bill therefore affects the functions and powers of county governments in terms of 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The Bill deals with matters other than those listed in the definition of a money bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 11th June, 2024.

BETTY BATULI MONTET,
Senator.

Section 7 of No. 28 of 2011 which it is proposed to amend –

Functions of the Authority.

12. (1) The functions of the Authority shall be to—

(a) formulate guidelines and prescribe measures for sustainable tourism throughout the country;

(b) regulate tourism activities and services countrywide, in accordance with the national tourism strategy;

(c) register, licence and grade all sustainable tourism and tourist-related activities and services including cottages and private residences engaged in guest house services;

(d) develop and implement, in consultation with relevant stakeholders, criteria for standardization and classification of tourism facilities and services;

(e) develop and regulate, in consultation with the ministry for the time being responsible for matters relating to education, tourism and hospitality curriculum, examination and certification;

(f) develop and implement a code of practice for the tourism sector;

(g) ensure the development and implementation of high quality tourism sector;

(h) vet and recommend expatriates seeking employment in the tourism and hospitality sector;

(i) monitor and assess tourist activities and services to enhance continuous improvement and adherence to sound principles and practices of sustainable tourism;

(j) undertake, annually, an assessment and audit of tourism activities and services, measures and initiatives at the national level, and prepare and publish an annual national tourism sector status report, in consultation with the Minister and the relevant lead agencies; and

(k) perform any other functions that are ancillary to the object and purpose for which the Authority is established.

(2) The Minister shall, in each financial year, lay a national tourism sector status report published under subsection (1)(j) before the National Assembly, as soon as reasonably practicable after its publication, where the National Assembly is in session, or where not in session, within twenty one days of the day the National Assembly next sits after the publication.

MEMORANDUM TO THE SENATE COMMITTEE

Subject

Promoting the Socio-Economic and Cultural Benefits of Kiambu County's Documented Cultural Heritage Sites under the Culture Bill 2024 — A submission from the Mau Mau War Veterans Association and the Kikuyu Community

1. Introduction.

Honourable Members of the Senate Committee,

We submit with respect this memorandum on behalf of the Mau Mau War Veterans Association in Kiambu County and the broader Kikuyu community. Following the passage of the Culture Bill 2024 by the Parliament of Kenya—which strengthens legal recognition, protection, and utilization of cultural heritage—this submission outlines how our community can derive tangible benefits from legally documented cultural heritage sites located within Kiambu County. These benefits span cultural revitalization, education, community empowerment, peace and reconciliation, local enterprise, tourism revenue, and historical justice.

We also provide a reference list of 15 documented cultural heritage sites in Kiambu County, as identified in recent mapping efforts by Kiambu County government and the National Museums of Kenya .

2. Legal Context — Culture Bill 2024.
The Culture Bill 2024 establishes:
Mandatory gazettement and legal protection of cultural heritage sites, including community-managed monuments.
Provisions for community consultation, participation, and benefit-sharing in cultural heritage management.
Local content and employment requirements for heritage-related tourism, research, and management.
Mechanisms for revenue-sharing from entrance fees, interpretive centres, guided tours, and heritage branding.
Strengthened penalties against encroachment, vandalism, and illegal exploitation of heritage assets.

These provisions empower County-level and community actors such as the Mau Mau Veterans to engage directly in recognition, governance, and sustainable use of heritage properties within Kiambu.

3. Kiambu County Heritage Ecosystem.

In collaboration with the National Museums of Kenya (NMK), Kiambu County has identified and mapped dozens of cultural heritage landmarks over recent years . These encompass sites of Kikuyu traditional religious significance, colonial resistance, artistic and educational institutions, wetlands, and natural-archaeological features.

Notable ongoing efforts include rehabilitation of Mugo wa Kibiru historical shrine in Thika, which preserves Kikuyu prophetic and freedom-struggle heritage and has been the focus of fencing, interpretive signage, and infrastructure works . Additionally, the County has linked heritage mapping to revenue potential and ublic awareness campaigns .

4. Reference List — 15 Documented Cultural Heritage Sites in Kiambu County

Below are 15 legally documented or gazetted heritage sites within Kiambu County, either listed officially by NMK or mapped by the County government:

1. Church of the Torch (Thogoto, Kikuyu) – gazetted national monument (since 2008)

2. Mensa Monument – colonial-era site near Thogoto

3. Watson Scott Memorial – early missionary-era site

4. Ngecha Art Centre – community cultural centre

5. Banana Hill Art Gallery – artist community site

6. Paradise Lost Caves / Sanctuary (Misarara, Kiambu) – Late Stone Age archaeological caves; site museum operations established

7. Mau Mau caves – known hide-outs of freedom fighters during the liberation struggle

8. Ondiri Wetland (Ondiri Swamp) – highest-altitude peatbog, ecologically and culturally significant

9. Fort Smith – colonial military site mapped in county records

10. Old Italian Church – remains of World War II Italian POW facility chapel

11. Italian Prisoners of War pillars – architectural remains from WWII era camps

12. Mugumo Gardens / Mugo wa Kibiru site (Thika) – Kikuyu spiritual-prophetic site and independence symbolic shrine

13. Manguo Swamp – wetland with cultural stories and biodiversity value

14. Mwanya wa Ruhuho – cultural site mapped in county documentation

15. Aramati Thingira Centre – Kikuyu men's lodge / teaching centre, traditional cultural space

As additional context, Kiambu's County mapping listed also: Ngegu Cow Horns Community Programme, Fort Smith, Kame Nkuruma tree & Mau Gallows (Kiingeero) among others .

5. Community Benefits and Proposed Activations.

a) Cultural Revitalization & Education

Establish community-led cultural centres at sites like Mugo wa Kibiru or Aramati Thingira, where elders and veterans can pass on Kikuyu traditions, proverbs, songs, and maũndũ to youth and visitors.

Collaborate with NMK and local schools to integrate field visits and curriculum around these sites: e.g. Mau Mau caves, Paradise Lost caves, Ngecha Art Centre.

b) Tourism & Local Enterprise

Under Culture Bill, community can register as heritage enterprise operator to run guided tours, craft sales, cultural performances at sites such as Banana Hill Art Gallery, Ngecha, Mugumo Gardens and others.

Revenue-sharing schemes: site admission fees, tour packages, artisan markets, food stalls, childcare.

c) Veteran Empowerment & Historical Justice

Mau Mau veterans can serve as site narrators and custodians, recounting liberation stories at Mau Mau caves and Mugo wa Kibiru shrine.

Create an interpretive guided-walk experience recounting struggle history, Kikuyu prophecy, and colonial resistance.

Use revenues to support veteran welfare funds, scholarships, health services.

d) Environmental Stewardship & Sustainability

Protect ecologically sensitive sites like Ondiri Wetland, Manguo Swamp, Fourteen Falls & Chania Falls (nearby), by forming community-based conservation committees.

Promote bird-watching, ecological tours, and community education about wetland value, turning them into income sources while preserving biodiversity.

e) Branding & Heritage-based Events

Launch an annual Kikuyu Cultural Heritage Festival, under the Bill's provisions, rotating venues among Kiambu sites (Mugo Gardens, Ngecha, Paradise Lost), featuring storytelling, song, dance, crafts, food, and educational exhibitions.

Use branding rights to monetize local crafts and cultural products (e.g., Aramati Thingira workshops producing beadwork, cow-horn carvings).

f) Capacity Building & Governance

Train community groups in heritage site management, account-keeping, hospitality, under NMK and County partnerships.

Form 'Mau Mau Heritage Trust' or community board to oversee operations, share profits transparently, and liaise with County govt and NMK.

g) Legal Protection & Land Security

Use provisions in Culture Bill to accelerate gazettement processes for the sites, including boundaries and legal titles protecting sites from encroachment and land grabbers, especially for Mugo wa Kibiru, Mau Mau caves, and wetlands.

Veterans and elders to be named as community trustees, strengthening their rights in court.

6. Equity & Inclusion Principles.

nsure gender inclusion: women's groups (e.g. cow-horn craft makers, art centre members) participate as co-managers and beneficiaries.

Involve youth organizations and MCA/ward representatives to ensure local accountability.

Veterans, women, youth and elders form multi-stakeholder boards to govern each site under County-supported trust structure.

7. Budgeting & Implementation Roadmap.

Component Activities Timeframe (from Bill enactment)

Gazettement & Legal recognition Submit documents to NMK/Heritage Council; community land mapping 6 months
Rehabilitation & fencing Infrastructure at Mugo wa Kibiru; interpretive signage at others 12 months
Capacity-building & training Train 100 veterans/community guides; management workshops 6–9 months

Site activation & branding	Launch site tours; artisan market; festival	12–18 months
Monitoring & revenue sharing	Regular audits; profit disbursement to community/veterans	annually from year 2

Funding sources may include County budget allocations, donor grants (e.g. UNESCO, cultural NGOs), heritage trust funds, and revenue reinvestment under the Bill.

8. Anticipated Outcomes.

By implementing this plan, we anticipate:

Positive economic impact: job creation for veterans, guides, artisans; revenue from tourism; micro-enterprises at sites.

Cultural revitalization: youth engaged in Kikuyu oral traditions, crafts, and history.

Historical justice: veterans recognized and included in storytelling of liberation sites; enhanced dignity.

Conservation gains: protected wetlands, cave systems, shrines; environmental awareness.

Social cohesion: inter-generational engagement via cultural events and education.

County revenue: through shared admission fees, event tourism, external visitors.

9. Recommendations to the Committee.

We respectfully request the Senate Committee to recommend:

1. Prioritization of Kiambu County's community-nominated sites (the 15 listed above) in the national gazettement process under Culture Bill 2024.

2. Official inclusion of Mau Mau War Veterans Association representatives and Kikuyu elders in site-management and advisory councils.

3. Allocation by the national and county governments of seed funding for rehabilitation of key sites (e.g. Mugo wa Kibiru, Paradise Lost Caves).

4. Support for the establishment of an annual Kikuyu Cultural Heritage Festival hosted in Kiambu.

5. Technical assistance via NMK for training community-based heritage managers, guide certification, and branding of heritage-based products.

10. Conclusion.

... conclusion, the Culture Bill 2024 provides a powerful legal framework for communities like ours to reclaim, preserve, and benefit from our indigenous heritage. Kiambu County holds rich cultural treasure—sites like Mau Mau caves, Mugo wa Kibiru shrine, Paradise Lost Caves, and Ondiri Wetland—that embody Kikuyu history, identity, and ecological value. With proper legal protection, community inclusion, and enterprise models, our community can generate sustainable income, preserve our traditions, empower veterans, and contribute to county and national economic growth.

We humbly urge the Committee to support enactment and implementation that ensures these sites are protected, community-led, and benefit the Kikuyu people and Mau Mau veterans of Kiambu County.

Submitted respectfully by:
Mau Mau War Veterans Association, Kiambu County
On behalf of the Kikuyu community of Kiambu

References: Kiambu County mapping and NMK documentation of heritage sites ; NMK and County rehabilitation plans for Mugo wa Kibiru ; Paradise Lost caves archaeological recognition ; Ondiri Wetland ecological heritage status.

2025 MEMORANDUM PREPARED AND PRESENTED TO CLERK,SENATE ASSEMBLY DURING PUBLIC HEARING ON 07/08/2025 BY WEST POKOT MSUK/SUK COUNTY DOCUMENT MMVAS 7142 MEMBERS PEOPLE INCLUDED DISABILITY WIDOWS/WIDOWERS .

THE WEST POKOT MSUK/SUK COUNTY KENYA 2025

MEMORUNDUM ABOUT LOSS OF ANCESTOR HOME LAND ,RETURN TO POKOT MSUK/SUK SILK/POKOT THE KAPKAI SIX FARMS APPROVED SUK REVERVE.LR NO.6 by the Governor Brooke Pomphat AND REPARATIONS EQUIVALENT TO current price of Land of an Acre :-1,000,000/= and above .

1. PROMISED LAND :- Settlement schemes in Kenya 1962-2016
   Article :- Return of Suk reverse farms -approved by colonial Governor Robert Phemphat and signed the official Gazette on 17thJn .1939 to allocate the poor Suk/Pokot farms in TransNzoia District-Silk/Pokot Homeland Vice:

   1. L.r. No. 5771
   2. L.r. No. 2039
   3. L.r. No. 2033
   4. L.R. No. 2037
   5. L.R. No. 5772
   6. L.R. No .Crown Land At Katikomor.

2. During the visit of Governor General,1952-1955, 22-27/07/1956 and the Pokot Leadership asked him about the promised Lands (6) farms which are Dejure in (West Suk) West Pokot and De factor in Trans Nzoia District.

" The Nature Land claims will continue to Ranckle -Qoute by Sir ,Everlyn Boring, C.M.G the Governor during the tour of West suk District 1956) Ni ya Musambwa movement 1948-1950.
We the Suk / Pokot sons of victims who still alive take charge and given the compensations from the British Government and ensure that compansation goes to all affected homes and families of victims who are still alive allows the country.

1. Likas Pkech leader of the Msambwa from 1948-1950
2. Chemosop Atotor leader of the Msambwa from 1948-1950 from West Suk District.

We begin with :

- The Historical Kapenguria Museum -In the Kapenguria headquarters of the West Pokot Msuk/Suk county -The KAPENGURIA SIX HEROES

of Kenya Independence Country stated in,April 1952 to October 1953 : namely as follows;

1. Jomo Kenyatta
2. Fred Kubai
3. Achieng Oneko
4. Bildad Kaggai
5. Kiugu Karumba
6. Paul Ngei

We ,the members of the West pokot Msuk/Suk County MMWAS listed here below have met and proposed that the following historical Roads and Site to remain -In the community preservation in order to protect and maintain the community shrines currently in Cheptulel, Lomut(Simar) and Muino (Sintai).

2. Mtelo Hill snow capped (Sekerr) , 3.Kogho -Hill protects Forests destruction -Ecosystem -(7)Protect Forest and Ecosystem .

4.(Lorsuk) -Alale Pokot North (8) Lelan Forest -Kapkanya - Kamolokon Forests) ICY and Snowy during raining seasons and providing community about the importance of Ecosystem .Education civil Education Kongelai Forest -created by BW.York and his house.

5.Protect River sources from destruction of forests level at Korengou muing / embo but M. Marakwet and Kapsait for River Muruny which flows through to Lodwar Katilu and Swon Rivers from elgon and Kosey Sook, Hows thro. Kositey .

2. The Recommend that ,the site -Museum be managed to put up modern by professional senior citizens of the county -(5) Members (1) From each sub -county ,Kopokogh -Alale Pokot Msuk/Suk North ,(2) Pokot Msuk/Suk Central (3) Pokot Msuk/Suk West (4) Pokot Msuk/Suk South Lelan ,Pokot Msuk/Suk South (2) Kipkomo ,Chepareria Constituency ,(4) Employment 30/30.

3. The Mnagement Committee will Put up six statues of the Heroes and Their names funds from National Museum /Nairobi and from friends and international donors /Agencies MMWUAS,

II . The members also recommended that communities Shrines be recognized and activated and promoted for the purpose of maintaining communitys tradition and customs ,cultural ceremonies protecting their

lives ,knowledge to the young generation and unity among the tribe by the recognized village elders of that location.Who will be performing the culture acting to tradition naums .

1. The pokot Msuk/Suk council of Elders Housing Coorporation who fall under Cooperative Societies,asking assistant of funds from any organization MMVAS and well wishers to finish buying their house at makutano.

2. Pokot Msuk/Suk elders Housing Co-operative Society Limited;

   REGISTRATION NO CS/23494
   This 22nd day of November 2018 to date .

3. Elder are custodian Customary Law of peace promotion among other Neighbouring communities " Hakuna Matata Kenya "

   a) SHRINES SIMAR - In Cheptulel -Krenkon ,Chepkokegh Shrines Muino in the Month of Preserved and Protected.
   b) SHRINES -IN Sook Tamugh -Parmechon Kisonowon -(Grave of agiant Masai).
   c) SHRINE S -In Lomut -Pokot Msuk/Suk Central -(KPAS):-Mars Grave of Pokot Msuk/Suk circumcision Graduants were killed by Maasai resolved to Honour the dead sports and protect the Area as.
   d) Kisonowon -Lounon giants Maasai Grave in Chepareria be preserved and protected for cultural merit .

III. Tourists Area : Members resolved that Nasolot Game Reserved be reverted from Government Game Department to the Community to take care of their area and the wild life -Nasolot for under the wildlife for it doesn't benefit the community this to gain income from tourism to develop the area of
Nasolot,school ,Secondary ,Tender roads ,health centre in that remote area.

IV KAMATIRA Detainess forest- The members of the MMWAKAS -noted that KAMATIRA /TAMPALAL Forests was planted by detained Musambwa while in their prison serving

their sentences .(Community manager -Musambwa in West Msuk/ Suk) Pokot county suffered torture ,Imprisonment for no reasons but, Merely-" because they belonged to the Musambwa religion movement in 1950.Several of them short and killed in Kollewa.While the Mau Mau movement was also tortured in various detained Camps ,that the British Compensate sons and daughters of their grand fathers 1919 quit and loss the Ancestral land in Trans nzoia and those killed and detained ,in Kamatira ,Longek in East Uganda ,those three taken to Kismayu and Garissa whwre only 3 detained return after independent one died there.

e) Compensate losses of livestock mobilized by colonial police to fund special force stationed in Kinyang for 10years operations and supervision -Pokot Msuk/Suk tribe created and fund the present special force /G.S.U ,these be compensented at the price of 10,000 per head of cattles .

f) Livestock Holding arounds previously set aside for grazing schemes in Kongelai Area for livestock demonstration farms for sheep/Goats and Oxen the Agricultural department recommended that these lands be refunded to community to make use of them manage it for the benefit of the community pyramid -Konyang'aa -Paramad -Road .

g) Konyang,a -Kanyarkwat -Miskwony community tender Roads .

SOWO GENERATION ROAD IN WEST MSUK/SUK (POKOT) SUK CENTRAL SIGOR 1944-1946.

- Sowo (Generation) road was constracted by Hand by Sowo Generation knowledge and Experience without being paid anything by British Leadership .
- Grandsons and Granddaughter be compensented fully, and the road be named Sowo/Mau mau road and reconstructed by the MMWVAS members .Group Organization.

WEST POKOT KAPENGURIA SIX
APRIL 1952 TO OCTOBER 1953

1.Jomo Kenyatta

2.Fred Kubai

3.Achieng Oneko

4.Bildard Kaggia

5.Kungu Karumba

6.Paul Ngei



WEST POKOT COUNTY KAPENGURIA MESEUM



WEST POKOT COUNTY KAPENGURIA MUSEUM



COMMUNITY BENEFITS PARTICIPATION MEETING AT ELDORET COUNTY HALL



COMMUNITY BENEFITS PARTICIPATION AT KITALE SHOW GROUND



POKOT ELDERS



SOWO WOMAN AT HER HOMESTEAD



SOWOYON SON JULIUS MATALA

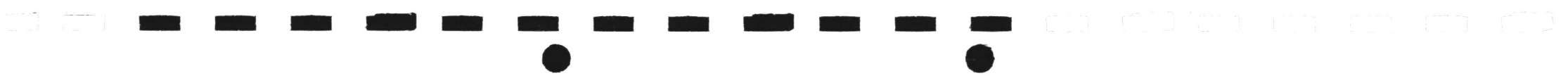


FOREST

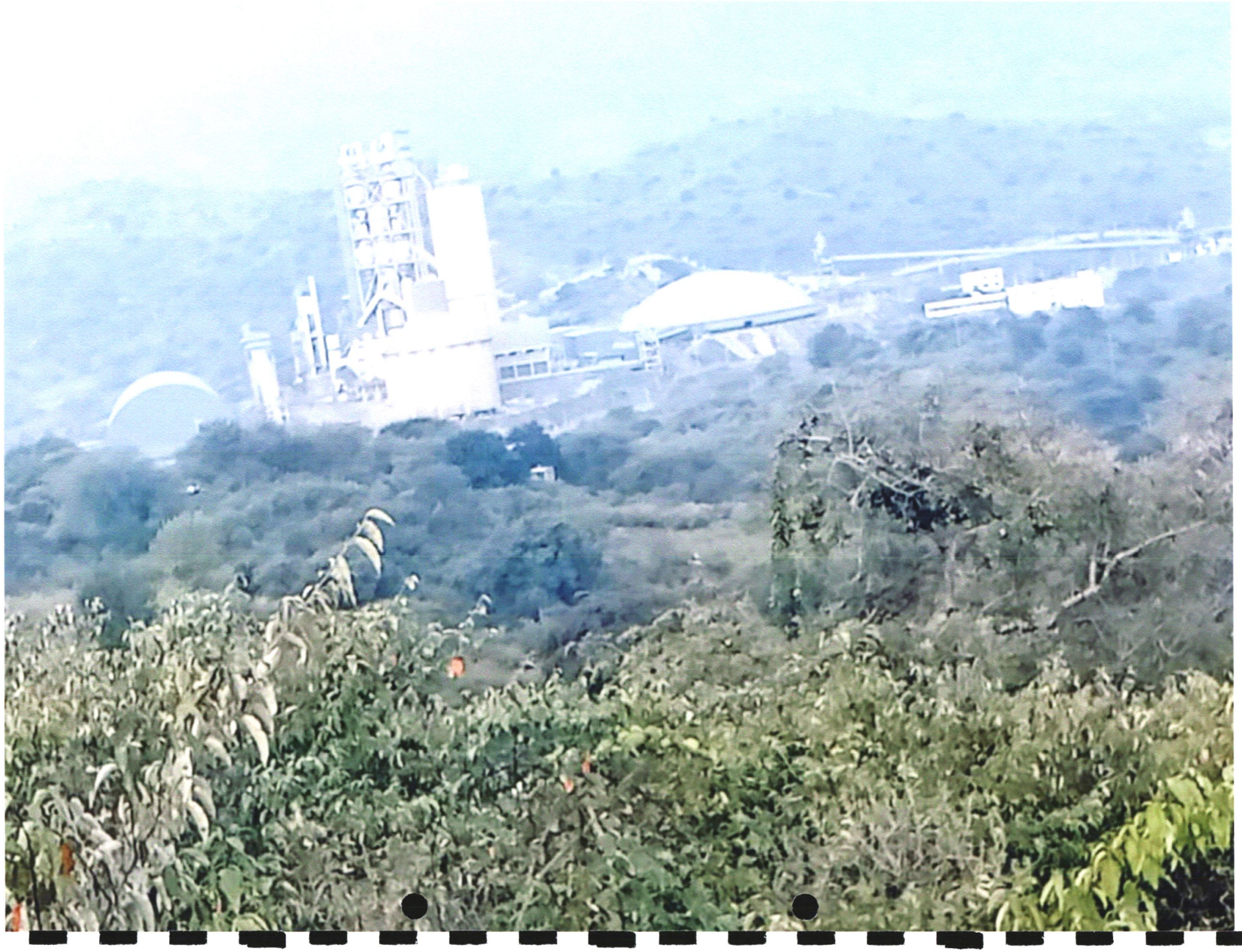


MORPUS HILL IN KIPKOMO





SEBIT CEMENT FACTORY



1944-1946 SOWO ROAD CHEPKAUN MARICH-SIGOR-LOTONGOT-LOKORI-KOLOA



POKOT WOMEN AND MEN SEARCHING FOR GOLD AT MARICH RIVER



KOGHO HILL AT POKOT CENTRAL



POKOT ELDERS HOUSING COPERATIVE SOCIETY LIMITED

REGISTRATION No. CS/23494

This 22nd Day of November 2018 to date



POKOT TIOS/TYOS 3 DAYS TO GRADUATE FROM CHILDHOOD TO ADDULT HOOD



BE CAREFUL


Don't boast on your position,
remember satan was one of
the most favourable angels.
ugin

MMV ASSOCIATES CLG

MAU MAU WAR VETERNS ASSOCIATION

NYANZA REGION - KISUMU COUNTY

MEMORANDUM

NYANZA REAGION PARTICIPATION IN MAU MAU MOVEMENT

The **Mau Mau rebellion** (1952–1960), also known as the **Mau Mau uprising**, **Mau Mau revolt**, or **Kenya Emergency**, was a war in the British Kenya Colony (1920–1963) between the Kenya Land and Freedom Army (KLFA), also known as the Mau Mau, and the British authorities.[9] Dominated by Kikuyu, Meru and Embu fighters, the KLFA also comprised units of Kamba[10] and Maasai who fought against the European colonists in Kenya — the British Army, and the local Kenya Regiment (British colonists, local auxiliary militia, and pro-British Kikuyu).

Early British contact with the Luo was indirect and sporadic. Relations intensified only when the completion of the Uganda Railway had confirmed British intentions and largely removed the need for local alliances. In 1896, a punitive expedition was mounted in support of the Wanga ruler Mumia in Ugenya against the Kager clan led by Ochieng Ger III, otherwise known as Gero. Over 200 were quickly killed by a Maxim gun. Another 300 people in the Uyoma resistance were killed by an expedition led by Sir Charles Horbley (Bwana Obila Muruayi) when they were confiscating Luo cattle to help feed the Indian workers who were building the Uganda railway. Following these clashes, Luo spiritual leaders advised the people to actively cooperate with the British. By 1900, the Luo chief Odera was providing 1,500 porters for a British expedition against the Nandi.[51] The British set up regional headquarters first at Mumias then at Kisumu. They worked to submit the Luo to colonial control and administration. Within a few decades, traditional leaders and political structures were replaced by colonial chiefs.

The apparent acquiescence to British colonial rule was shattered by a movement known as Mumboism that took root in South Nyanza. In 1913, Onyango Dunde of central Kavirondo proclaimed to have been sent by the serpent goddes of Lake Victoria, Mumbo to spread his teachings. The colonial government recognized this movement as a threat to their authority because of the Mumbo creed. Mumbo pledged to drive out the colonialists and their supporters and condemned their religion. Since violent resistance had been proven to be futile as the Africans were outmatched technologically, this

KORANDO AMOS OBONDO
CHAIRMAN
MAU MAU VETERANS ASSOCIATES CLG.
KISUMU COUNTY
0721163536

movement focused on anticipating the end of colonialism, rather than actively inducing it. This movement was classified as a millennialist cult. Mumboism spread amongst the Luo and the Kisii people. The Colonial authorities suppressed the movement by deporting and imprisoning adherents in the 1920s and 1930s.[56]

The earliest modern African political organization in Kenya Colony sought to protest pro-settler policies, and increased taxes on Africans and the despised *Kipande* (Identifying metal band worn around the neck). Mass meetings were organized separately by Luo people in Kavirondo and the Kikuyu people in Nairobi. A strike at the CMS mission school in Maseno was organised by Daudi Basudde. He raised concerns about the damaging implications on African land ownership by switching from the East African Protectorate to the Kenya Colony. A series of meetings dubbed *Piny Owacho* (Voice of the People) culminated in a large mass meeting held in December 1921 advocating for individual title deeds, getting rid of the *Kipande* system and a fairer tax system. Bound by the same concerns, James Beauttah, one of the founders of the Kikuyu Central Association initiated an alliance between the Kikuyu and Luo communities

Jaramogi Oginga Odinga

started the Luo Thrift and Trading Corporation (LUTATCO) after noting that Luo business owners, who were the most financially independent Africans, loathed education. He also sought to uplift the economic status of the Luo community whilst proving that education was useful for business. The LUTATCO office was the first African owned building in Kisumu Town. One of the many business ventures it engaged in included the publication of African Nationalist newspapers including Achieng Oneko's vernacular newspaper *Ramogi* and Paul Ngei's radical newspaper *Uhuru Wa Africa*. For his efforts he was appointed as *'Ker'* or Chief of the Luo Union, an organisation that represented the interests of the greater Luo Peoples in East Africa. Oginga Odinga would become a Key political figure in Kenya. He first ventured into politics when he joined the Kenya African Union. Harry Thuku, a pioneering Kikuyu politician, founded the Kenya African Study Union in 1944 which later became the Kenya African Union. This was an African nationalist organisation that demanded amongst other things, access to white owned land. It was multitribal. Jomo Kenyatta became president of KAU in 1947. In an effort to gain nationwide support of KAU, Jomo Kenyatta visited Kisumu in 1952. His effort to build up support for KAU in Nyanza inspired Oginga Odinga, the *Ker* (chief) of the Luo Union to join KAU and delve into politics

ACHIENG ONEKO



Achieng Oneko.

One of the Kapenguria Six

The Luo generally were not dispossessed of their land by white settlers, avoiding the fate that befell the pastoral ethnic groups inhabiting the Kenyan "White Highlands". Many Luo played significant roles in the struggle for Kenyan independence, but the people were relatively uninvolved in the Mau Mau Uprising (1952–60). Instead, they used their education to advance the cause of independence peacefully. An intense propaganda campaign by the colonial government effectively discouraged other Kenyan communities, settlers and the international community from sympathising with the movement by emphasising on real and perceived acts of barbarism perpetrated by the Mau Mau. Although a much smaller number of Europeans lost their lives compared to Africans during the uprising, each individual European loss of life was publicised in disturbing detail, emphasising elements of betrayal and bestiality.

As a result, the protest was mainly supported by the Kikuyu who began the uprising. Luo supporters of Mau Mau and those deemed by the colonial government to support it were imprisoned as well. Most notably, Ramogi Achieng Oneko, a KAU leader and one of the Kapenguria six. Barack Obama's grandfather, Hussein Onyango Obama, was involved in the African nationalist movement. He was imprisoned and tortured by the colonial authorities on suspicions that he was involved in the Mau Mau rebellion.

Argwings Kodhek



Luo lawyer Argwings Kodhek, the first East African to obtain a law degree, became known as the Mau Mau lawyer as he would successfully defend Africans accused of Mau Mau crimes pro bono.

He made a name for himself and went down in record as one of the first Kenyans to leave the nation for further studies abroad in the 1940s.

Born in Nyawara, Gem, currently under Siaya County, Argwings Kodhek was also one of the first Kenyans to marry a white lady, the first one probably being Jomo Kenyatta who married Briton Edna Clarke for a few years.

Commonly referred to as 'Agwinge' by his remaining tribesmen, Kodhek was educated at St Mary's Yala and then the Maseno School before he joined Makerere University.

In 1947, he moved to the University of South Wales on a scholarship and returned to the country in 1951, after graduating as a lawyer and a social scientist.

Coming at a time when the British colonialists had completely dominated the nation, he overcame all odds to set kick off his legal practice, most of his clients being Mau Mau freedom fighters who had been arrested in the forests trying to push out the white settlers.

The highly aggressive lawyer criss-crossed colonial courts fighting for the convicts and became the lawmaker for Gem when Kenya gained independence in 1963.

He died in a mysterious accident in January 29, 1969 in a road that now bears his name, 'Argwings Kodhek Road' in Nairobi.

NYANZA REGION HISTORICAL SITES

Kit-Mikayi

Kit-Mikayi, also spelled **Kit Mikayi**, **Kitmikayi**, or **Kitmikaye**, is a dramatic rock formation standing approximately **120 metres high**, located **29 km west of Kisumu** in western Kenya. The site lies **about 1 km from the Kisumu-Bondo road**, with the entrance located near **N'gop-Ngeso Primary School** and the signboard visible at **Kit Mikayi Primary School**.

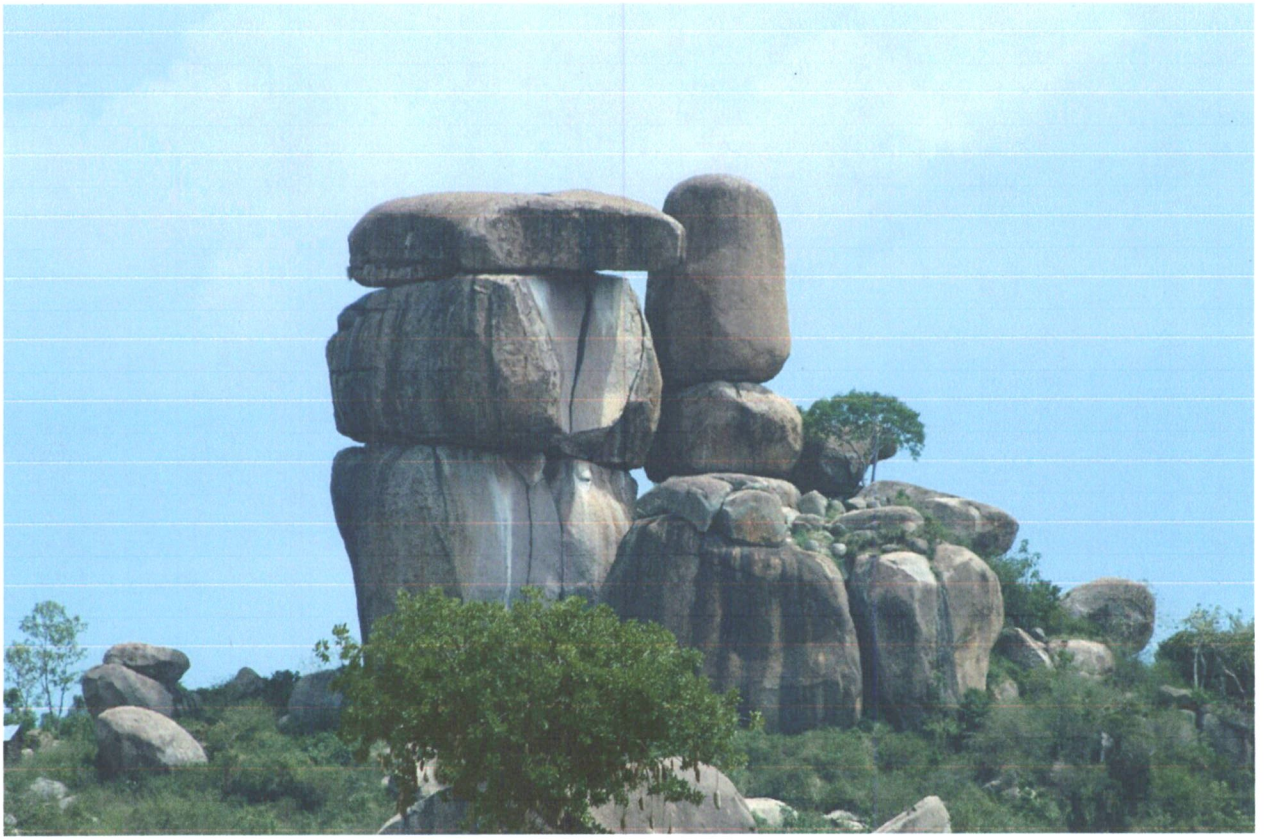
In **Dholuo**, the Luo language, *Kit Mikayi* means "the stone of the first woman" or "stone of the first wife."

Kit-Mikayi — also spelled **Kit Mikayi**, **Kitmikayi**, and **Kitmikaye** — is a rock formation, a tor, around 120 m high[1] situated about 29 km west of the town of Kisumu in western Kenya. It is about 1 km from the Kisumu-Bondo road. The sign board is on the gate of Kit Mikayi primary school and entrance is via N'gop-Ngeso primary school.

Kit-mikayi means "the stone of the first woman",[2] or "stone of the first wife",[1] in Dholuo, the Luo language.

Legends

The legend behind Kit Mikayi, which in Luo dialect means "the stone of the first wife", is that: Long time ago, there was an old man by the name Ngeso who was in great love with the stone. Every day when he woke up in the morning, he could walk into the cave inside the stone and stay there the whole day, and this could force his wife to bring him breakfast and lunch every day. The old man became passionately in love with this stone to the extent that when people asked his wife his whereabouts, she would answer that he has gone to his first wife (Mikayi) hence the stone of the first wife (Kit Mikayi).



Kit -Mikayi

Songhor Prehistoric Site

The **Songhor Prehistoric Site** is one of Kenya's most significant fossil localities, located in **Nyando Sub-County**, **Nyanza Province**, near Fort Ternan in western Kenya. Known for its remarkable **Miocene** fossil discoveries dating back to about **19 million years ago**, Songhor offers invaluable insights into the evolution of primates and mammals in East Africa. The site, covering **78 acres**, was **gazetted in 1982** and is part of the **greater Lake Victoria Basin fossil corridor**.

LWANDA MAGERE

Folklore of the Luo peoples of Kenya speaks of a mighty warrior known as **Lwanda Magere**. He was born in the year 1720 to Abonyo Wuod Omolo and his mother, Nyabera. After his mother died during his birth, he was taken into the care of his grandmother, Rapondi. His father died in one of the numerous wars with their Nandi neighbors when Magere was barely a teenager. He belonged to the Sidho clan in Kano, on the shores of Lake Victoria. The Sidho clan occupies the present-day sugar belt at the foot of the Nandi escarpment. He possessed unearthly powers, and his flesh was made of stone. He deflected arrows, spears and clubs, making him invincible during war. He was famously known for his capability to tear an entire army apart on his own.

Story The traditional Luo enemies at the time were the jo Lang'o, the Luo name for the Kalenjin community. The Lang'o, tired of being defeated in war by the Luo, sat down with Nandi elders to discuss the issue and came to the conclusion that they would give Lwanda Magere the woman Maryann to marry, claiming it was a gesture of peace. Maryann's real role was to find out how to defeat him. Though the Luo elders advised him not to marry her, Luanda Magere did not heed their advice.

After many attempts, Maryann was successful when, one day, he fell ill and called for Maryann to take care of him. Luanda instructed her to cut his shadow with a knife and administer the medicine. She was surprised when she saw his shadow bleed. That night, she crept out of Lwanda's home, ran back to her people and told them her husband's weakness.

They then attacked the Luo. The Luo fought fiercely and Lwanda killed so many Nandi warriors that they decided to retreat. As they were running, one Nandi warrior remembered that Lwanda's strength was in his shadow. He stood at a hill and threw his spear at Lwanda's shadow. Luanda Magere fell down and died, and his body turned to stone.

As is the case with many myths, the story comes with several variations depending on the source material.

Legacy

A site in Sidho, near Awasi in the former Nyando District of Kenya, has a stone revered as the spot where Luanda Magere died. Legend has it that Luo warriors sharpened their blades on the shrine before battles.[1] People come from far and wide to conduct rituals and prayers at the site. Luanda Magere is still celebrated among the Luo through song and dance, and several animated shorts have been created based on the story.

Lake Kanyaboli

Lake Kanyaboli is a lake in Siaya County, Kenya and has an elevation of 1,147 metres. Lake Kanyaboli is situated nearby to the village Kadimu, as well as near Nyalaji.



Nyamgondho Wuod Ombare



A traditional Luo homestead.

Mai wuod Ombare, also known as Nyamgondho wuod Ombare, meaning Nyamgondho son of Ombare, is a legend among the Luo people of Kenya. He lived between the late 14th and 15th centuries on the shores of Lake Victoria in the present-day Nyandiwa Village, Gwassi Location, Suba District, Kenya. He migrated from Tanzania and belonged to the Waturi tribe.

He came from a poor, God-fearing family of fishermen who earned a living by fishing in Lake Victoria. They used to set fish traps called Mgondho in Luo every evening. One morning, he found a strange ugly woman trapped in his nets. He was frightened and wanted to throw her back, but she requested him to take her to his home and light a fire for her and her goat to warm themselves and promised to make him wealthy on the condition that he told no one where he found her.

He was very kind to the woman nicknamed Nyar Migondho (the daughter of Migondo) and later agreed to marry him. Nyamgondho continued to work very hard and, through the supernatural luck brought by his new wife and her goat, began accumulating riches, including large herds of goats, sheep and cattle.

As his wealth increased over the years, he grew proud and married many wives and began frequenting drinking places. Nyar Migondo never objected but cautioned him against ever reminding her where he found her.

One day, Nyamgondho came home late and was very drunk. All the wives refused to open the door for him. In anger, he shouted to the first wife (mikayi) and told her that she had forgotten that he had saved her from drowning and locked him out too. The harsh words upset his wife but opened the door for him and vowed to revenge.

The following morning, she took her walking stick, smoking pipe and flute and told Nyamgondho that she was returning to where she came from, alongside all the wealth she had brought. She blew her flute, and all the livestock followed her back into Lake Victoria.

Seeing all he possessed disappearing into the lake, Nyamgondho stood puzzled and sad at the shore of the great Nam Lolwe (Luo name for Lake Victoria), rested his chin on his walking stick and mysteriously turned into a tree.

To this day, one can still see the footprints of Nyamgondho's family, the animals entering the lake, and the tree he transformed into. Some people believe that the water flowing above the footsteps has medicinal powers, and they travel far and wide to collect it.

However, Where Nyamgondho's first wife came from remains unknown to this day, but legend has it that she was a goddess. People believe that she performed many other supernatural acts on the shores of Lake Victoria, including the sinking of Simbi Nyaima in Kendu Bay.

Thimlich Ohinga

Thimlich Ohinga is a unique stone-walled settlement located in **Migori County**, approximately **181 km south of Kisumu** and **46 km northwest of Migori town**, near **Macalder Mines**. Perched on a gentle slope in Nyanza Province, this extraordinary site has been recognized globally and is listed on the **UNESCO World Heritage List**.

The name *Thimlich Ohinga* translates to "a frightening dense forest" in **Dholuo**, a Nilotic language spoken by the Luo community. The dry-stone structures, known as *Ohingni*, were built without mortar, using skillfully placed stones ranging from **1.5 to 4.5 metres** in height.



GOR MAHIA

Thelegendary Luo Magician

Gor Mahia is fondly remembered among the Luo people of Kenya for his use of magic and miraculous power to rule the people. Gor was the son of Ogada and Atoka Nyokado from Kanyada. He was the grandson to Ogallo whom he is believed to have inherited his powers from.

After his birth records tell that it was difficult to differentiate whether he was a spirit or a human being. He however grew up as any other normal child alongside his siblings.

How Gor Mahia Inherited His Powers from His Grandfather, Ogallo

When Gor was 5-years-old, his grandfather summoned all the children of Ogada to bless them. Ogallo, his grandfather had a ceremonial bull slaughtered and he gave each child a piece of meat as a way of blessing them.

When it was Gor's turn to receive the blessing from his grandfather, something unusual happened. Ogallo gave his grandchild Gor his mother's ashes to bury in her hut. Gor's mother had died when he was still a young boy.

It was from this act that Gor's powers were born. Moving forward the young man did miraculous things that surprised the whole community including his own grandfather who had blessed him. From his powerful deeds he was given the name 'Mahia' which means lethal and strange.

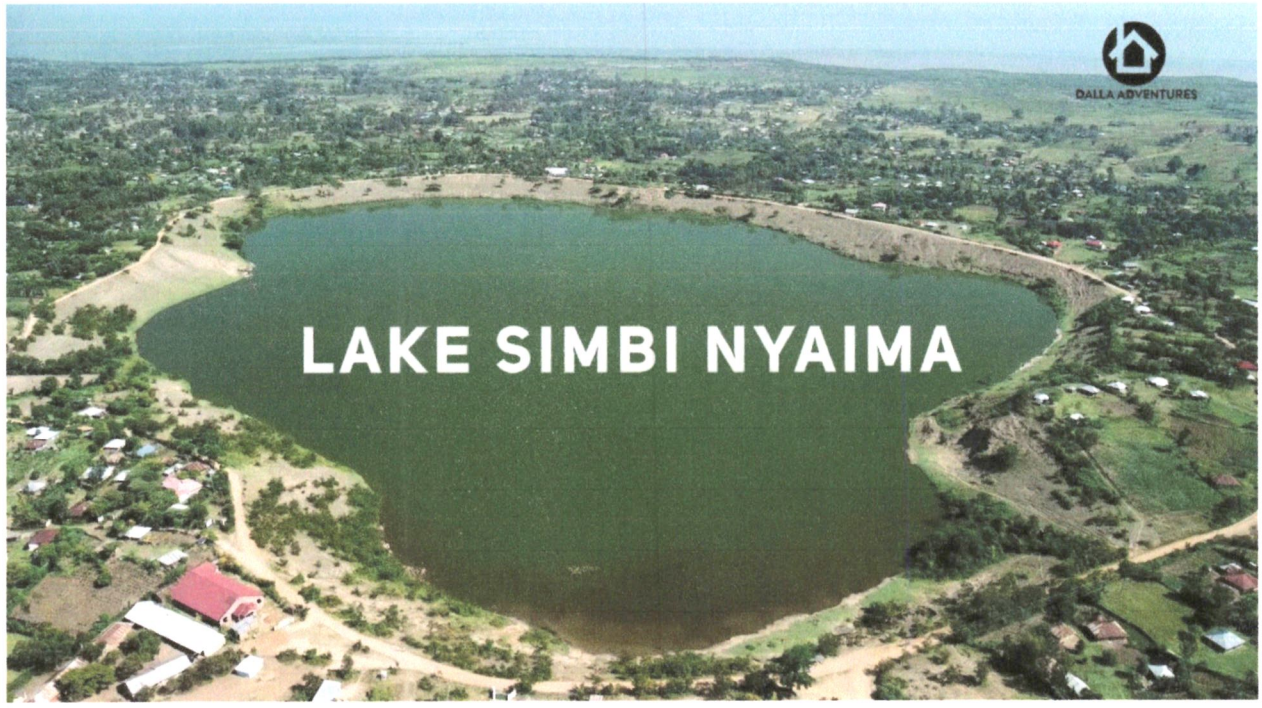
One of the major prophecies that he is remembered of todate is his prophesying where he saw 'baby-like' creatures that were unstoppable. This made him travel to Karungu to caution the warriors against interfering with the said creatures. Although the warriors were known for conjuring all the battles Gor cautioned them that should they try to interfere with the creatures they would all be defeated. Luckily they adhered to his warning and were saved from the awaiting destruction.

His legacy lives on

Many decades after Gor's death, Kenyans continue to honor his legacy through ~~Gor Mahia FC~~, a prominent football club in Kenya. Like the magician this club has proved unbeatable over decades. The Luo people of Kenya still believe in the powers of their late magician. For this reason herbalists in this community still visit his grave todate to partake in the powers.

Lake Simbi Nyaima

Lake Simbi, a small but ecologically significant soda lake in western Kenya, lies within **Homa Bay County**. Known for its mythic origin story, the lake has spiritual and historical significance among the Luo community and is famed for its dramatic seasonal transformations. **Lake Simbi**, sometimes called **Lake Simbi Nyaima**, is primarily recognized as a vital habitat for a variety of migratory birds, including large flocks of flamingos. Despite its small size, this sanctuary is an important refuge for biodiversity, combining ecological value with cultural heritage to create an attraction that appeals to nature enthusiasts, birdwatchers, and cultural tourists.



TRANS-NZOIA COUNTY

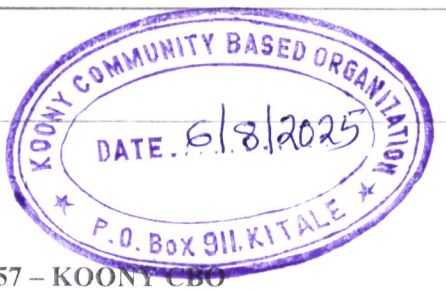
KOONY COMMUNITY

(KOONY COMMUNITY BASED ORGANIZATION)

7TH AUGUST 2025

SUBMISSION OF MEMORANDUM AND PUBLIC HEARING FOR THE CULTURE BILL 2024 NATONAL BILLS NO.12 OF 2024)

OFFICE OF CLERK OF SENATE ASSEMBLY THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE



P.O BOX 911-30200 KITALE - CALL 0706445257 – KOONY CBO

Serial No. CBO o5802

REPUBLIC OF KENYA

THE COMMUNITY GROUP REGISTRATION ACT
(No. 30 of 2022)

CERTIFICATE OF REGISTRATION
COMMUNITY BASED ORGANIZATION (CBO)

This is to CERTIFY that

KOONY CBO — Group Name/Project

CBO — Type of Group

KIBOROA — Sub-Location/Ward

KIBOROA — Location

SABOTI — Division

DSD/26/138/02/3948 — Certificate/Registration No.

SABOTI — Constituency

SABOTI — Sub-County

TRANS NZOIA — County

21ST FEBRUARY, 2024 — Date of Registration

has been duly registered by the Directorate of Social Development pursuant to and in accordance with the provisions of the Community Groups Registration Act, No. 30 of 2022 by:

SOCIAL DEVELOPMENT OFFICER
TRANS-NZOIA WEST SUB-COUNTY
22 FEB 2024
P. O. Box 1807-30200, KITALE

Name EDWARD LEKORIA

For: Director of Social Development

Signature

22ND FEBRUARY, 2024

Date of issue

KENYA VISION 2030
TOWARDS A GLOBALLY COMPETITIVE AND PROSPEROUS NATION

Generation 2023

Note: *The Contents of this Certificate should not be erased, altered or defaced in any way.*

RENEWAL	DATE	STAMP/SIGNATURE
YEAR 2	24TH DECEMBER, 2023	SOCIAL DEVELOPMENT OFFICER TRANS-NZOLA WEST SUB-COUNTY 24 DEC 2023 P.O. Box 1807-30200, KITALE
YEAR 3	20TH FEBRUARY 2024	SOCIAL DEVELOPMENT OFFICER TRANS-NZOLA WEST SUB-COUNTY 20 FEB 2024 P.O. Box 1807-30200, KITALE
YEAR 4	20TH FEBRUARY, 2025	SOCIAL DEVELOPMENT OFFICER TRANS-NZOLA WEST SUB-COUNTY 20 FEB 2025 P. O. Box 1807-30200, KITALE
YEAR 5		
YEAR 6		
YEAR 7		



KOONY COMMUNITY MEMORUNDUM – 7th August 2025 ON THE CULTURE BILL, 2024

(NATIONAL ASSEMBLY BILL NO. 12 OF 2024)

TO
THE OFFICE OF THE CLERK SENATE ASSEMBLY
THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

Gratitude to the Government of Kenya for coming up with The Culture Bill 2024 which will provide a legal framework to promote and protect the country's cultural heritage, giving effect to Article 11 of the Constitution as it aims to foster national and cultural expression through various forms like literature, arts, traditional celebrations, and media, also ensuring communities benefit from the use of their cultural heritage by providing for compensation or royalties and establishing policies to support the creative economy, empower cultural practitioners, and addressing issues like the restitution of cultural heritage.

As Koony community this is our input towards the proposed 2024 culture Bill.

1. Promotion of Cultural Expression:
The bill to promote all forms of cultural expression, including literature, arts, traditional celebrations, and media in all kenyan communities cultural heritages and also to ensure that these expressions are consistent with the Bill of Rights, emphasizing the importance of cultural activities and practices of all ages aligning with fundamental rights.

2. Protection of Cultural Heritage:
The bill to protect Kenya's cultural heritage, encompassing both tangible (physical artifacts, historical sites) and intangible (traditional knowledge, folklore) aspects.
The bill to address issues like the restitution and repatriation of cultural property that may have been illegally removed from the country or its communities.

3. Community Benefit and Compensation:
The bill should ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage, so as to empower communities by recognizing their ownership and contributions to the cultural landscape.

4. Support for the Creative Economy:
The bill should establish policies to support the creative economy, which includes various artistic and cultural industries.
This support could involve measures like providing resources, training, and market access for cultural practitioners and businesses.



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5. Devolved Governance:
The bill should use devolved governance for localized culture policies, suggesting that cultural development to be addressed at the community level as well as county and nationally using community cultural talented and specialised experts in various specific concerned areas of the culture not just any other person.
This approach will ensure that cultural policies are relevant and responsive to the specific needs and contexts of different communities.

6. Cultural and Creative Hubs:
The bill should establish national cultural and creative hubs, which could serve as centers for cultural activities, exhibitions, and creative development.
These hubs could play a vital role in promoting cultural exchange, education, and economic opportunities.

The following roles of the National Government that are outlined in the Bill should involve various stakeholders including the various communities from diverse cultures in all the process for easier implementation.

The Cabinet Secretary and the various expert stakeholders to be responsible for:

(a) Development of national policies, regulations and standards on cultures and cultural heritage;
(b) Promotion of diverse cultures, cultural heritage and cultural expressions including protection, safeguarding, preservation, conservation and rehabilitation;
(c) Monitoring compliance with standards and regulations concerning culture and cultural heritage;
(d) Management of national cultural institutions established by or under the control of the national government;
(e) Prescribing regulations and standards to guide cultural databases and development of county cultural facilities;
(f) Implementing bilateral and multilateral agreements on culture;
(g) Promoting national values, social cohesion and national identity; and
(h) Performing any other function as may be necessary for the purposes of the Act.

The following roles of the county governments under the Bill should include various communities and expert stakeholders in all areas such that they with the County governments should take part in the process for easier and realistic implementation as they:

(a) promote, protect and manage cultural activities and facilities as well as public entertainment and infrastructure for culture and cultural heritage at the county level in line with national policy;

(b) Enact county policies and laws for the promotion of cultural activities and facilities;
(c) Promote cultural activities, public entertainment and infrastructure for cultural heritage and cultural expression at the county level; and
(d) Develop and manage a county database of cultural activities.

Institutional measures have to be put in place for cultural management as
The Bill should establish a comprehensive cultural database system where:
(a) The Cabinet Secretary, in consultation with county governments and relevant stakeholders should establish and maintain a database on culture and heritage including registered cultural Practitioners, groups and associations;
(b) The Cabinet Secretary should develop a system for collecting and preserving Information on culture and cultural heritage; and
(c) The Cabinet Secretary should prescribe standards for compatibility with the national Database and data to be submitted by County Governments.

The Bill to address compensation for use of cultural heritage by providing for compensation mechanisms where:
(a) The Cabinet Secretary should, in consultation with relevant stakeholders and county governments, establish mechanisms for determination and payment of compensation or royalties to communities for use of their culture and cultural heritage;
(b) Determination of compensation should consider factors including economic and cultural value, impact on community economy, type of use, derivative works, state investment, environmental effects, and potential for large-scale use;
(c) The share of royalties between government levels, communities and individuals should be prescribed by regulations;
(d) The Cabinet Secretary should establish registers of cultural property and cultural practitioners, groups and associations; and
(e) The Cabinet Secretary should also prescribe regulations to combat illicit trafficking of cultural property.

The Bill should provide exceptions where compensation may be exempted or limited in the public interest for:
(a) Non-commercial use including teaching, research, exhibition, reporting current events, and judicial proceedings;
(b) Use that doesn't restrict normal community usage, development, exchange, or transmission of cultural heritage;
(c) Recording or reproduction in public archives for safeguarding purposes.
What are the registration requirements under the Bill?

The Bill should provide a complementary two-tier registration system:

(a) Persons wishing to register cultural properties may either apply to county government or to the Cabinet Secretary in the prescribed manner;

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(b) Registration to be granted where the property historically belongs to the applicant Community, is not subject to ownership controversy, complies with identification Criteria, and registration serves public interest;
(c) The Cabinet Secretary to consult relevant county governments before registration; and
(d) County governments must notify the Cabinet Secretary of registrations for inclusion in the national database.
What provisions exist for research and export of cultural property?

The Bill should establish permit systems for:

(a) Research - persons desiring to conduct research on cultural property in the national database should apply to the Cabinet Secretary, who shall consult property owners before determination;
(b) Export/Import/Transfer - persons, communities or social groups wishing to loan, export, import or transfer cultural property must apply to the Cabinet Secretary, who shall consider security, spiritual/cultural value, fragility, rarity, economic value, insurance, loaning period, and international treaties.

The Bill to provide comprehensive protection through:
(a) Power for the Cabinet Secretary to prescribe cultural property that cannot be sold or Exported;
(b) Regulations for promotion and protection of endangered cultural expressions;
(c) Restrictions on interference with archaeological heritage without proper permits;
(d) Prohibition of activities that would unreasonably endanger cultural heritage;
(e) Seizure provisions for cultural heritage recovered without permits, stolen, imported/exported without permits, or unlawfully transferred.

The Bill to implement the outlines of several offences.

The Bill's Schedule lists of national cultural institutions to be managed by the National Government:
1. Kenya Cultural Centre;
2. National Libraries;
3. National Museums of Kenya; and
4. Kenya National Archives and Documentation Service.

The Bill should provides for:
(a) Publication of schedules of levies, charges or fees in the Gazette;
(b) Payment of prescribed fees for registration and other services;

The Bill should include transitional provisions ensuring:
(a) Existing licenses and permits remain valid as if issued under the new Act;
(b) Existing inventories and registers continue to be valid;

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KOONY COMMUNITY LAND CLAIM ON HISTORICAL INJUSTICES – 7th August 2025 ON THE CULTURE BILL, 2024

(NATIONAL ASSEMBLY BILL NO. 12 OF 2024)

A. Background:

The Koony community, the original tribe in Trans-Nzoia County in the Kenyan nation, lived on the slopes, forests, caves, and adjacent plains of Mt. Elgon for thousands of years, until our predicament which began immediately after the Berlin conference of scramble and partition of Africa, 1884 – 85 which took effect from 1895 to date.
We owned all land and kept thousands of livestock before the coming of white settlers to the said land.
The conducive climate, reliable rainfall, and fertile soil attracted the white settlers to grab all land and displace the Koony community forcibly and brutally out of their ancestral land.

The Carter commission had referred to the "Land problems of the Elgony Koony" – another tribe of the then Trans Nzoia Province – Native Evidence before the commission at Kitale. That this tribe is also called the Elgoni or Koony.

Chief Arap Kasisi had asserted to the commission that "*Kitale is the center of his original country. That all his tribe Koony lived across this country (Trans-Nzoia) as far as Moiben.That they lived as far as Cherangany Hills and Kapenguria.That their boundary was actually at the "boma" at Kapenguria.That they lived actually across the present Uganda border(across Suam river)"*

Note: That carter Land Commission positive Kony recommendations were never honored to date.

Koony Community of Mt Elgon had wonderful scenery of natural beauty all around the Mountain e.g

Kitum Cave

This is the most well-known cave in the area, extending 165 meters into the mountain. It's often referred to as the "Elephant Cave" because elephants frequent it to access the salt deposits on the walls.

Chepnyalil Cave:
Located further north, this cave is smaller (26m deep, 54m wide) and is associated with surface water streams. It shows evidence of past human activity, including soot on the walls.

Making'eny Cave:
This cave is known for its scenic beauty and the waterfall that forms the source of the Making'eny River.

Kamariny Cave:

Also known as Kapsetany Community Cave, it's located near Endebess and is accessible for weekend adventures. It features a small waterfall and a natural dam.

These caves are not only geological wonders but also hold cultural, spiritual and historical significance for the local community.

Loss of Land:

The Koony people of the Mt. Elgon region experienced significant losses under British colonial rule, primarily through the displacement and dispossession of their ancestral lands. This involved forced relocation from fertile areas to less productive lands, creating long-standing grievances and tensions. Here's a more detailed breakdown:

The British colonial government actively displaced the Koony from arable land in the Trans-Nzoia district and on Mt. Elgon to make way for European settlers.

Forced Relocation:

The Koony were moved to areas to other areas and countries which were less desirable for agriculture and pastoralism.

Economic Disruption:

The displacement disrupted their superior well organized culture where every age was catered for by the culture for the good of the society and strangers. Pastoralism was their only economic activity.

Unfulfilled Compensation Claims:

While the Kenya Land Commission acknowledged the Koony's grievances and outlined compensation procedures, these were never implemented, adding to their sense of injustice.

Long-Term Tensions:

The land alienation and subsequent failure to address the issue contributed to long-standing ethnic tensions between the Koony and other groups, particularly the Bukusu, in the Mt. Elgon region.

Post-Colonial Struggles:

The post-colonial government further alienated Koony land by converting it to Agricultural Development Corporation farms and gazetting it as forest land.

All the above have greatly distorted the Koony Culture in many ways which calls for urgent restoration, restitution, re - establishment and compensation of their lands, Natural resources and economic disruptions.

Trans Nzoia County has significant forest cover, primarily located in the Mount Elgon ecosystem and Cherangany Hills. These forests are vital for the county's climate and water catchment, but have experienced a decline in recent years due to human activities.

These forests are crucial for regulating the county's climate and acting as water catchments for major lakes like Turkana and Victoria.

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Forest Cover:
While the specific percentage of forest cover in 2024 is not mentioned, it was reported to be 13.16% in 2024. In 2013, it was 17%, but has since reduced to 15.1% due to human activities.
Specific Forests:
Mount Elgon Forest Reserve, Kitale Town Forest Reserve, Sikhendu Forest Reserve, and Kapolet Forest Reserve are mentioned as significant forest areas in the county.

Threats:
Human activities, including deforestation, pose a significant threat to the county's forest cover.
The community calls for collaborative effort to preserve their forest heritage.

When the Koony community receives justice and her culture restored then peace and joy will proceed from Trans Nzoia to the ends of the earth fulfilling the scripture.

Isaiah 62:1-4
For Zion's sake I will not keep silent,
and for Jerusalem's sake I will not be quiet,
until her righteousness goes forth as brightness,
and her salvation as a burning torch.
2The nations shall see your righteousness,
and all the kings your glory,
and you shall be called by a new name
that the mouth of the LORD will give.
3You shall be a crown of beauty in the hand of the LORD,
and a royal diadem in the hand of your God.
4You shall no more be termed Forsaken,[a]
and your land shall no more be termed Desolate,[b]
but you shall be called My Delight Is in Her,[c]
and your land Married;[d]
for the LORD delights in you,
and your land shall be married.

B. The Issues and Challenges:

- We were displaced by the white settlers from the present Trans-Nzoia County, including the former larger Trans-Nzoia Districts before independence, including the former larger division of Trans-Nzoia ceded to the former larger Bungoma District and parts of the former Lugari division of Uasin-Gishu District. These were ceded to the former larger Kakamega District and made into Luhya schemes and transferred in 1962 to the then newly created Western Province.

Note: Trans-Nzoia District was a district created by the whites from Uasin-Gishu District in 1930, across (Trans) Nzoia River, into Lugari region up to Moiben.

- Koony people were displaced and scattered to all corners of the continent of Africa and others were converted to slaves in their own ancestral land.
- **a)** 1912: *W.H. Hoey* and *H.C. Kirk* were the first two European settlers in Trans-Nzoia.
- **b)** 1914: The year of *Koony Kuenda operation* – eviction out of Trans-Nzoia to all African reserves, e.g., West Suk (Pokot), Narok, Turkana, Sudan, Ethiopia, Congo, and Uganda.
  DC Col. John Watkins moved the Koony community out of Trans-Nzoia to pave way for European settlement.
- *Note:* We became the first Internally Displaced Persons (IDPs) and Externally Displaced Persons (EDPs) in Kenya without any compensation to date.
- **c)** 1932: Koony community leader *Chief Arap Kasisi.* together with other 7 Koony elders appeared before the *Carter Land Commission* for land compensation over Trans-Nzoia District.
  There were lots of discussions, suggestions, and recommendations by the commission which were never implemented.
- **d)** 1963: At Kenya's independence, the Koony were outside their ancestral land, languishing in abject poverty, marginalized, discriminated, and in hostile environments. Here is where our ancestral land changed from white settlers to black Kenyan settlers.

- **iii)** Post-independence skewed settlement policies and laws followed, yet the British Government agreed to provide US$100 million to Kenya for settling **land historical injustices. Koony community did not benefit in the settlement schemes in the district or elsewhere were allocated since 1963 to date save for kitalale scheme averagely two and a half acres each family and without title deeds to date since 1994.**
- **iv)** The Koony community do not have a County of their own, therefore seriously lack financial muscle to pursue historical land injustices – e.g., land, culture, and other natural resources.
- **v)** The community does not enjoy devolution in the County in terms of sharing resources, social, political, and economic distribution – being second after Bukusu in population.
  We have very few of our people who are employed in the county.
  We feel terribly marginalized, discriminated, and oppressed in what we know and believe is our own mother ancestral land – **Trans-Nzoia** (*Chapkeilel*) which means "white house" or "Holy Land."
- **vi)** Many of our people have no Kenya Identification Cards because they are believed to be foreigners by the present governing authorities in the county.
- **vii)** Divide and Rule method has been applied politically upon this community through creation of boundaries, making the community a minority in either counties of **Bungoma** and **Trans-Nzoia**.

C. ATTEMPTS TO SOLVE THE CHRONIC ISSUES:

- This community has sought for justice for a century or more without success.
- We have faced the following commissions all in vain:

KOONY COMMUNITY BASED ORGANIZATION
(C.B.O)
DATE.....
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a) 1932 – **Carter Kenya Land Commission** on 8th October 1932.
Paramount Chief Arap Kasisi Kwembei of the Koony community, duly affirmed, stated: *"My tribe is Koony. My tribe lived across this country as far as..." Moiben, Cheranganyi Hills, Kapenguria, Kitale is the Centre of my original country*

b) 1962: The Kenya Regional Boundaries Commission
Regional Boundaries Commission turned down all Koony community to be administered in Kitale.

c) 1992: Kiliku Report on tribal land clashes.
Leaders' views were that Mt. Elgon sub (Bungoma district) to be administered in Trans Nzoia district of Rift Valley Province.

d) 1998: The Akiwumi Commission on tribal clashes - Recommended that they have their own district (County).
e) 2002: Njonjo Land Commission
f) 2002: Constitution of Kenya Review commission
g) 2004: Ndung'u Report on Irregular/Illegal Public Land Allocation
h)2006:U.N.O special Rapporteur in Human rights-Mr Rodolfo Stavenhagen
i)2009:The Kenya National Land Policy
j)2010:The current constitution of Kenya –National Land Commission(NLC)
K)2011:Truth Justice and Reconcilliation Commission(TJRC)
L2011:Mabanga peace accord Bukusu were given grace period of up to 60 days (2 months) to eveidence of land ownership in Bungoma and Trans-nzoia failure Koony community to pursue redness of their ancestral land.

NOTE: That several of our people/group or individuals have petitioned the mandated National Land Commission(NLC)without success except acknowledging letters without meeting the groups concerned for recommendations and implementations to conclude the chronic claims injustice
e.g.
Koony council of Elders – Trans-Nzoia County (CBO) (Claim Ref. No. NLC/HLI/1169/2018).
Koony Indigenous Council (CBO) Claim Ref. No. NLC/HLI/133/2017

We do not know what criteria used by NLC since some claims Ref. No. NLC/HLI/500s/2018 have been already dealt with without following 1st come first served.

D.THE WAY FORWARD AND PRAYERS

Through the NLC (National Land Commission) the Government can resolve historical land injustices through:

i) Restitution: The Government has the capacity to restore Trans-Nzoia to the Koony Community just as the Kenya Constitution affirms that at the end of 99 years of Land Lease the land automatically falls back to the original owners of which are the vulnerable Koony Community. This does not mean that there shall be mass displacement of the present

inhabitants of Trans-Nzoia. There shall be rules and conditions whereby everybody will be peaceful together with his/her wealth / possessions.

ii) Resettlement: our landless people can be resettled in the remaining ADC farms in the County e.g.
Sabwani ADC LR NO. 2993/2
Olingotongo Complex ADC LR Nos 5337/3, 5345/1, 5722, 9078/2.

ZEA ADC, Namandala ADC, Japata ADC, Kature ADC, Nai ADC, Chorlim ADC, Chepchoina ADC. Others can be allocated the former X-white settlers farms with LR Nos which were politically gazetted into forest lands and added to Mt. Saboti forest in 1978 eg Keidllund Sorens Farm LR No 6692/2, Wallop Farm LR No. 11122. Others are: LR Nos 9433, 7069/1, 1683, 6469, 643/R, 6443/2, 6992/2, 6992/1, 9434, 7404, most of which were ADC after independence. They can be degazetted and allocated to the vulnerable Koony community to cushion their long-term suffering.

iii) Redistribution: The Government can revoke fraudulently acquired public land in the county and allocate them to the community.

iv) Compensation: The Kenya government to consider what compensation is fit for Koony community for losing all its land.
The British Government to be:
very strongly to compensate the community for the atrocities and deaths and conditions they exposed to the Koony without cause.

v) Reparation: The government can make reparation (rehabilitation) to community through provision of social infrastructure by building better roads, schools, health facilities in areas where they occupy today and through affirmative action offer special job opportunities, business plots in county trading centres and,
scholarships both at county and national government.

The Government of Kenya through the NLC to speedily engage this community in dealing with historical land injustices by creating Land Task Force to solve the issue amicably once and for all.

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CONCLUSION

In a nutshell, there are many issues that have never been addressed to suit the problems of the Koony Community by the Government of Kenya through the National Land Commission and yet they are captured in the 2010 Constitution of Kenya but not implemented to date touching on Koony tribe in Trans-Nzoia County such as:

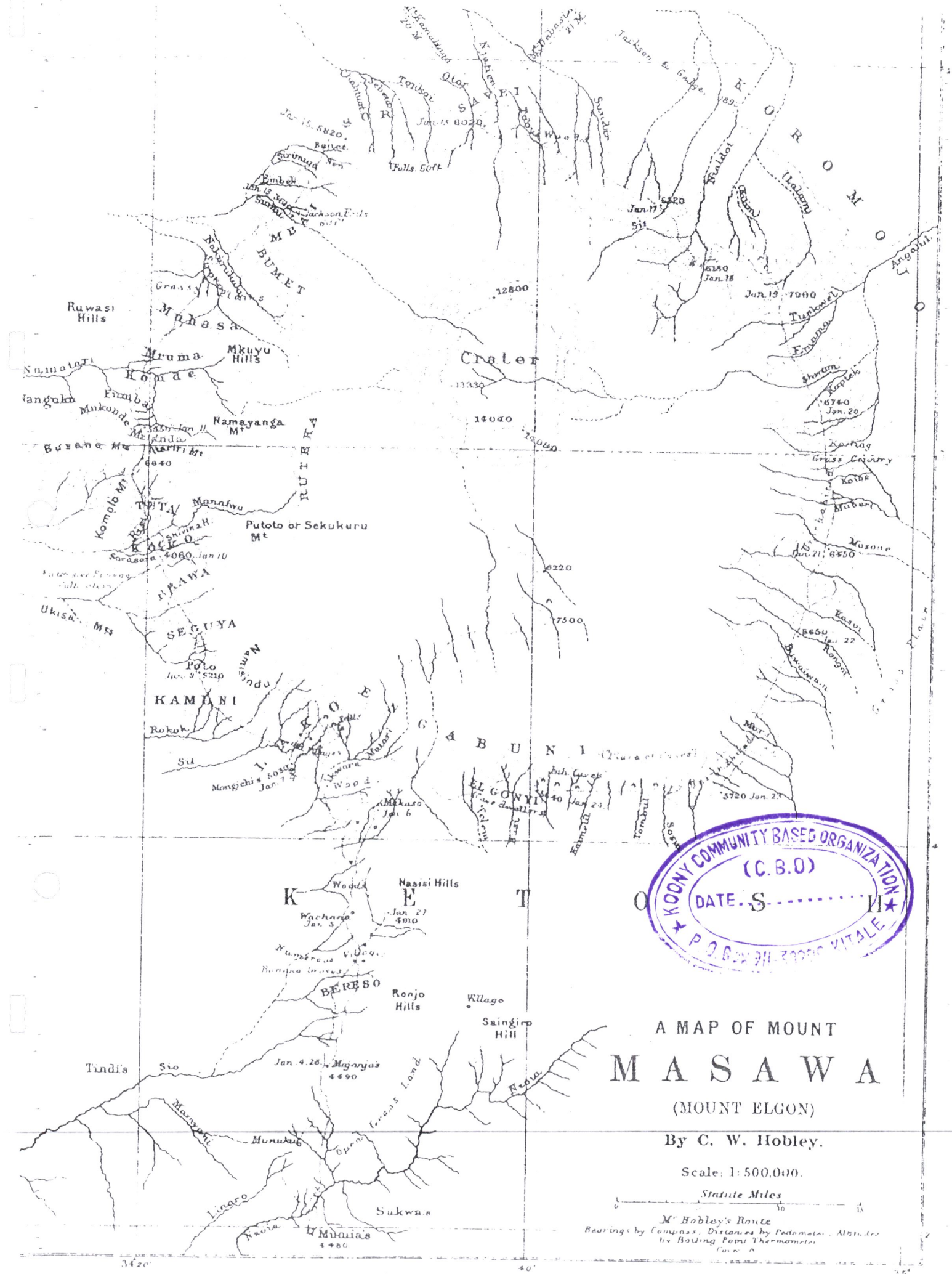
Historical Land Injustices Commissions e.g.:

- 1932 Carter Land Commission
- 1992 Kiliku Report
- 1998 Akiwumi Commission
- 2000 Njonjo Commission
- 2004 Ndung'u Commission
- 2011 Truth and Justice and Reconciliation Commission

When these commissions are revisited and their recommendation implemented, surely justice and the service will have prevailed and great will be the joy of the Koony community.

Isaiah 62:1-4

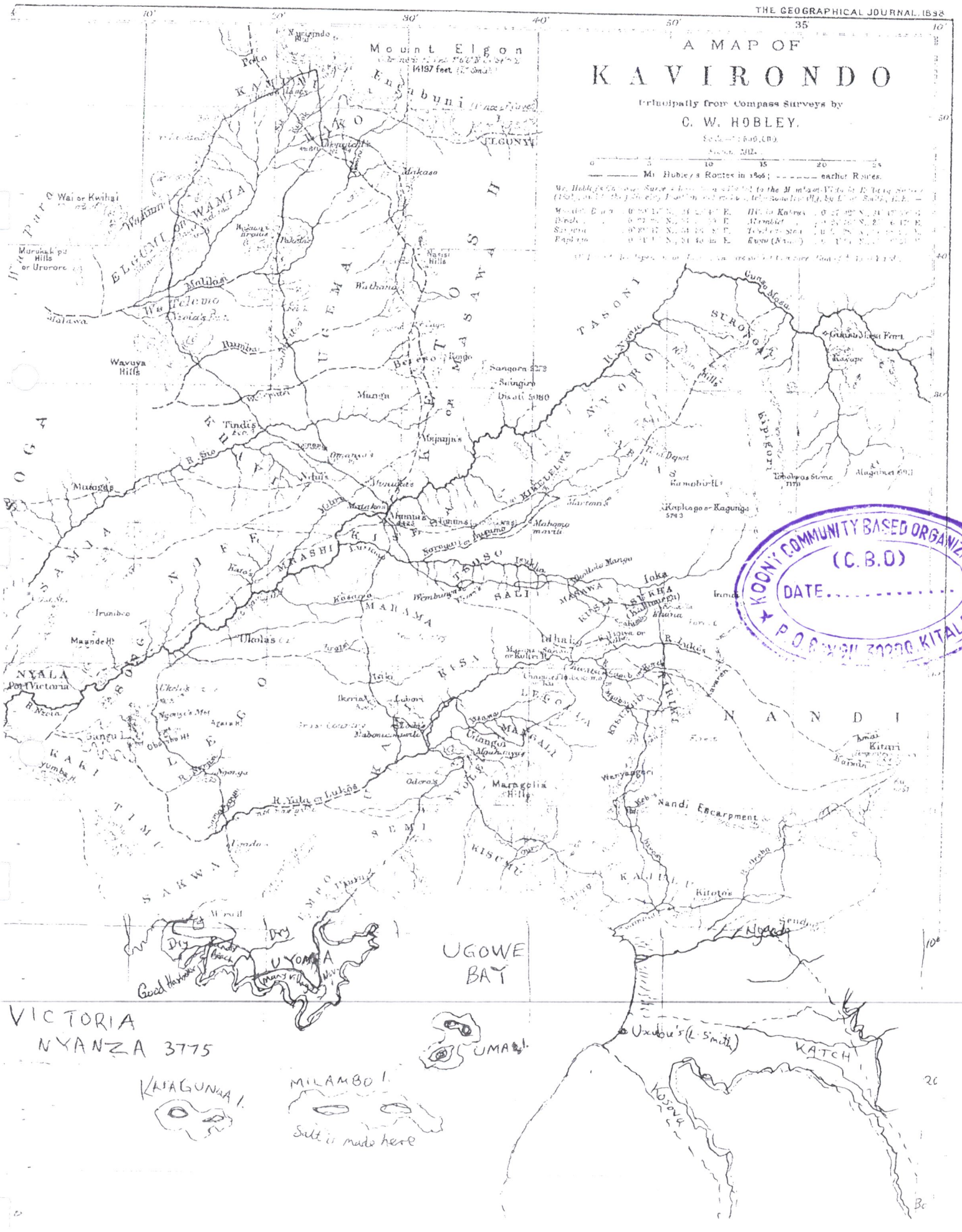
For Zion's sake I will not keep silent,
and for Jerusalem's sake I will not be quiet,
until her righteousness goes forth as brightness,
and her salvation as a burning torch.
2The nations shall see your righteousness,
and all the kings your glory,
and you shall be called by a new name
that the mouth of the LORD will give.
3You shall be a crown of beauty in the hand of the LORD,
and a royal diadem in the hand of your God.
4You shall no more be termed Forsaken,[a]
and your land shall no more be termed Desolate,[b]
but you shall be called My Delight Is in Her,[c]
and your land Married;[d]
for the LORD delights in you,
and your land shall be married.



Notes on A Journey Round Mt. Masawa or Elgon – 1897 C. W. Hobley.

NB. The popular name for the mountain is Mt Elgon – 1897 C W Hobley.

P. 444 KAVIRONDO – 1898 C.W. Hobley
(Tribal distribution)



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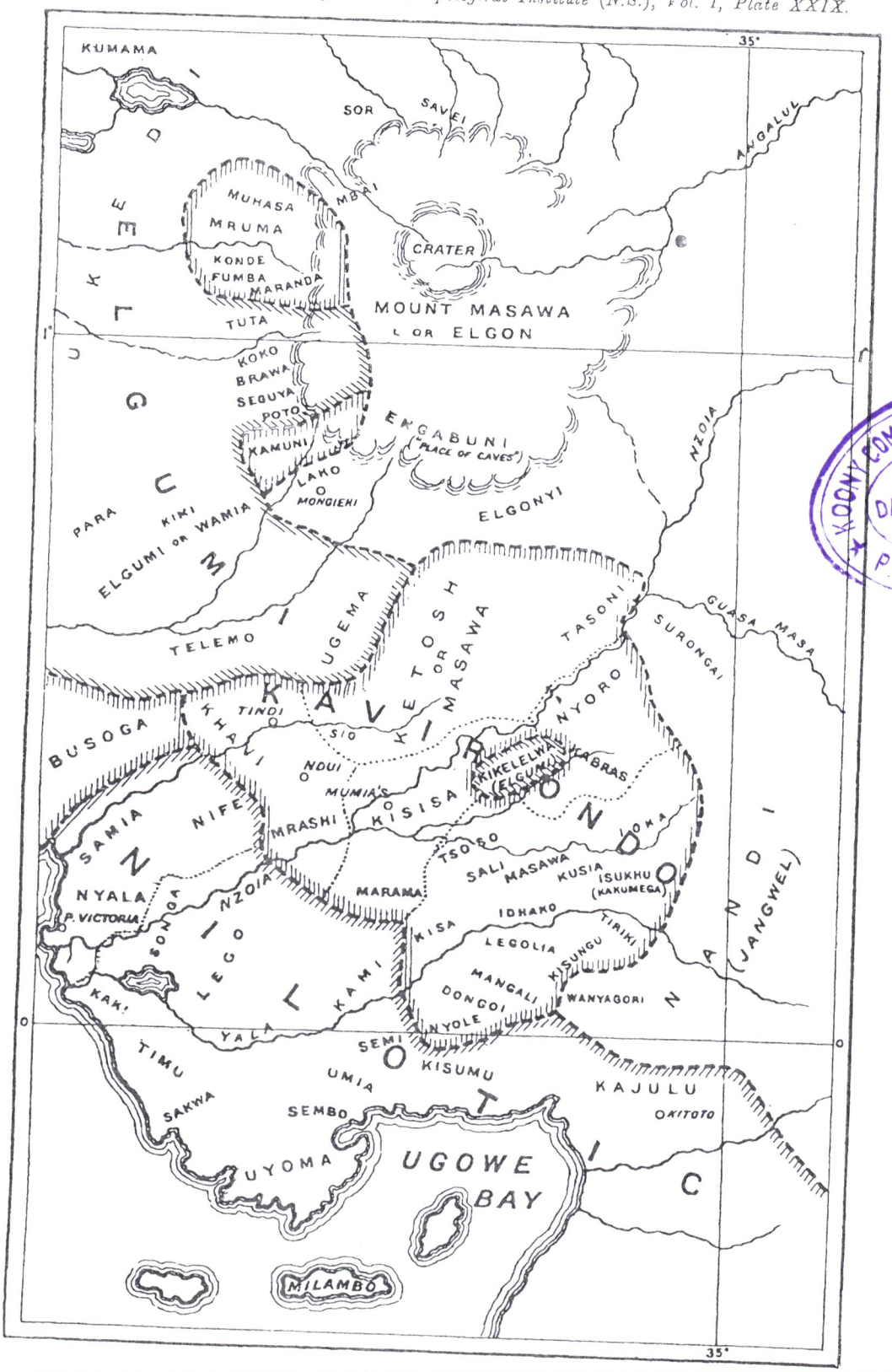
VOCABULARIES FROM KAVIRONDO — 1899 C.W. Hobley

Journal of the Anthropological Institute (N.S.), Vol. I, Plate XXIX.



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MAP OF KAVIRONDO AND NEIGHBOURING COUNTRY, BRITISH EAST AFRICA.

(The names of all the tribes !) Tribal distribution and their positions on the map

[NB: Elgon is the popular name for the mountain — 1897 C.W. Hobley

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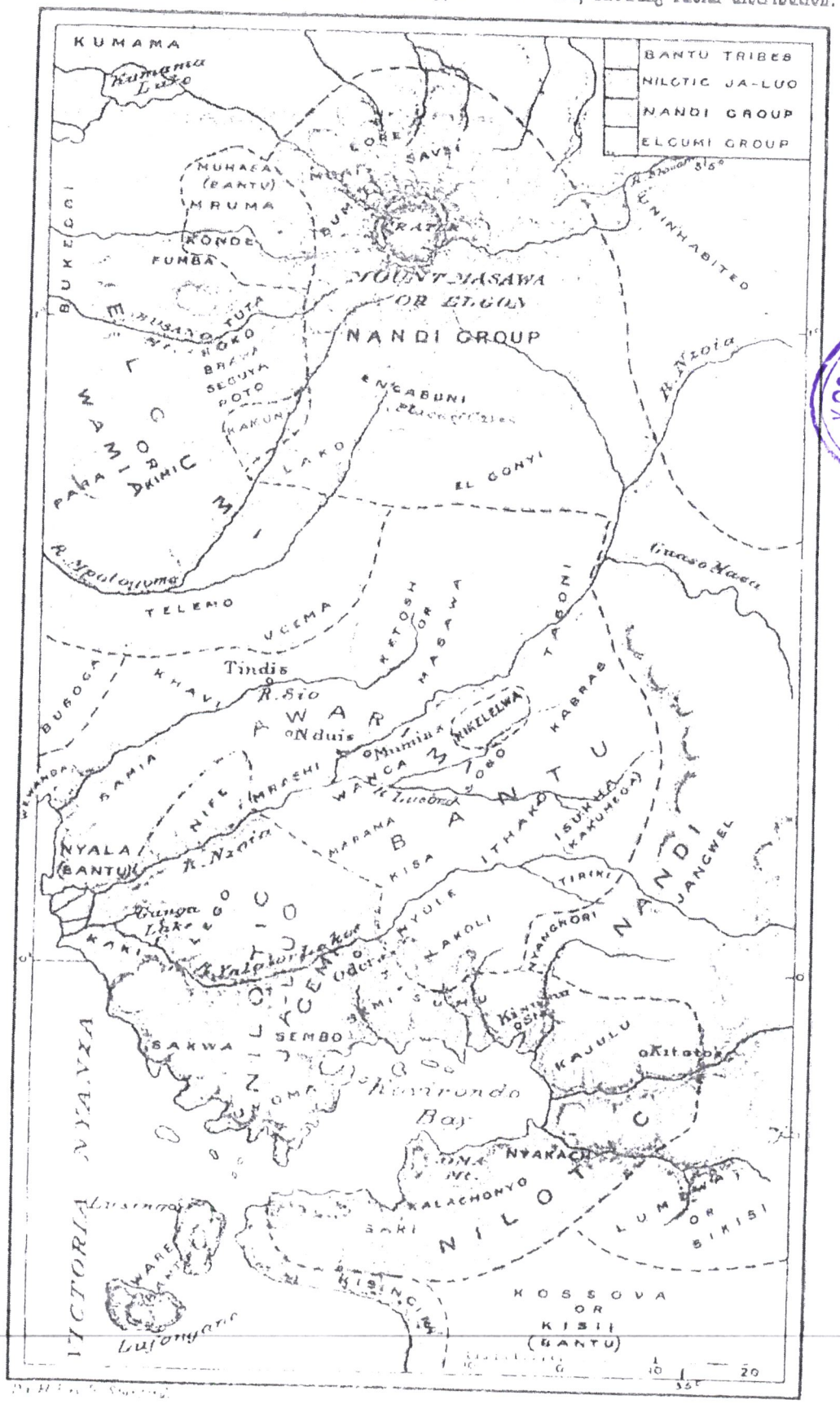
EASTERN UGANDA — 1902 C. W. Hobley
KAVIRONDO — Tribal distribution

HOBLEY. EASTERN UGANDA.

Plate I.

Map of KAVIRONDO and neighbouring country, Brit. E. Africa, showing racial distribution.



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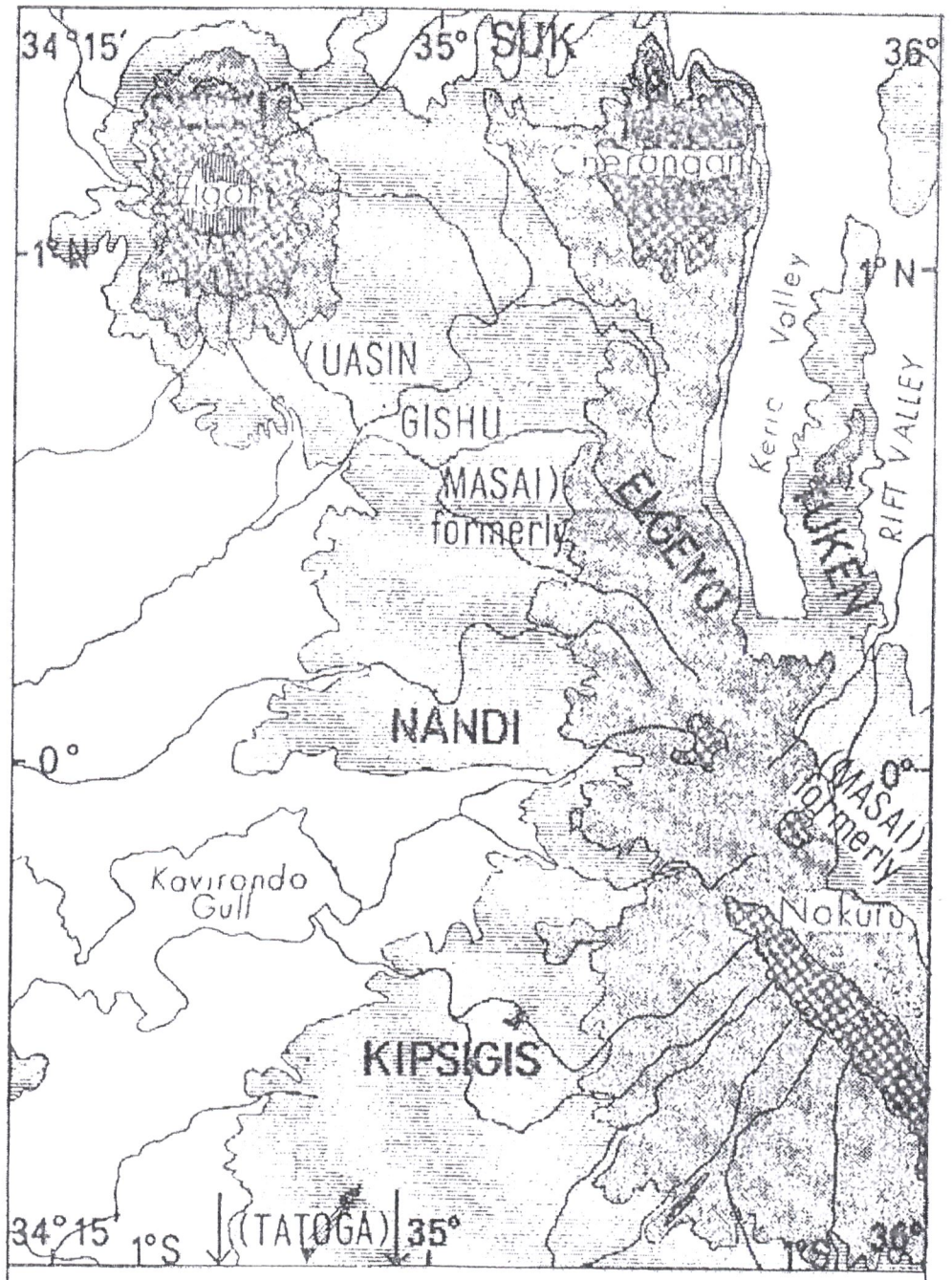
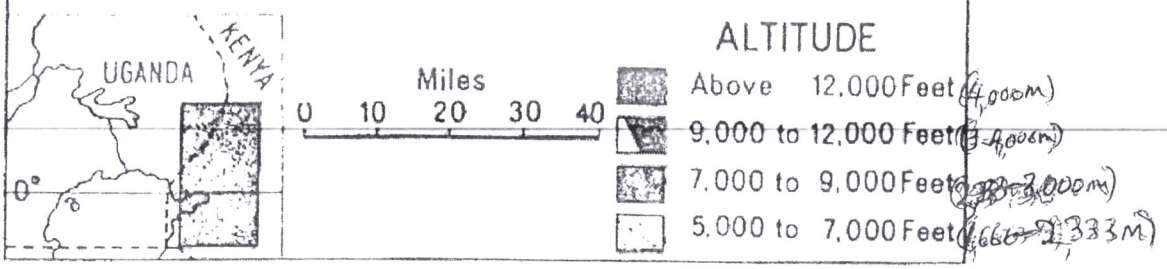
(NB. Elgon is the popular name for the mountain — 1897 C. W. Hobley)

The Sirikwa — The Uganda Journal 1964,
p. 70 ?
J. M. Weatherby, B. E. Kipkorir and J. E. G. Sutton



THE PRINCIPAL KALENJIN TRIBES

Other Nilo-Hamitic tribes in brackets



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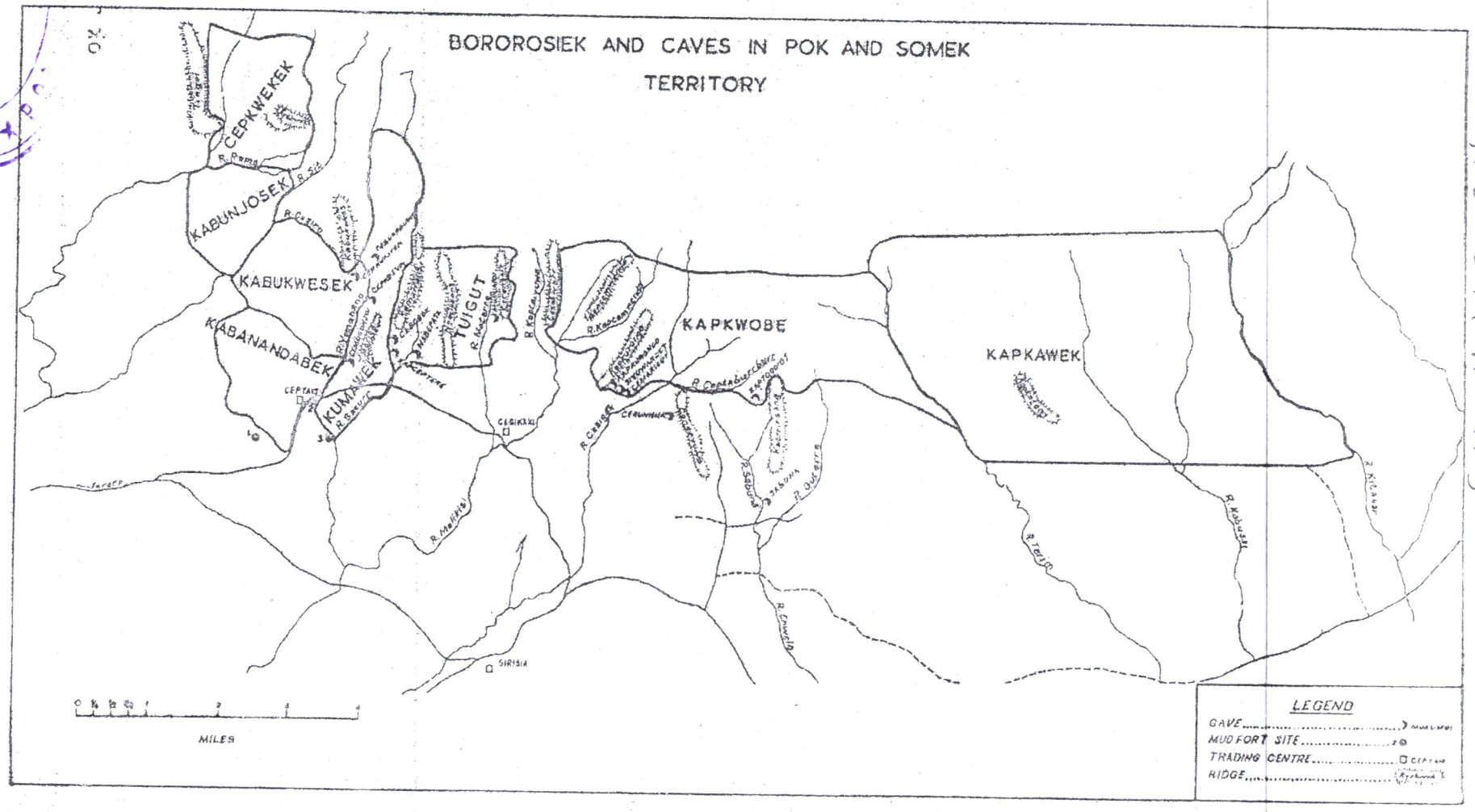

A Preliminary Note on the Structure of Cave and Bororiet Among the Southern Groups of the Sebei-Speaking Peoples – The Uganda Journal 1966, J. M. Weatherby

p. 96

SPECIAL ISSUE

Kenya Gazette Supplement No. 134 (Senate Bills No. 37)

REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2024

NAIROBI, 12th July, 2024

CONTENT

Bill for Introduction into the Senate--

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The County Tourism Bill, 2024 729

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

THE COUNTY TOURISM BILL, 2024

A Bill for

AN ACT of Parliament to provide for the development, management, marketing and promotion of local tourism by county governments; the regulation of sustainable local tourism and related activities and services; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the County Tourism Act, 2024.

Interpretation.

2. In this Act—

"Authority" means the Tourism Regulatory Authority established under section 4 the Tourism Act; No. 28 of 2011.

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to tourism;

"county executive committee member" means the county executive committee member responsible for matters relating to tourism in the respective county;

"local tourism" —

(a) means the tourism activities and services set out under the Schedule; and

(b) includes tourism activities based on local cultural identity, beliefs, practices and values with the participation of local communities;

"National Environment Management Authority" means the National Environment Management Authority established under section 7 of the Environmental Management and Co-ordination Act; No. 8 of 1999.

"National Museums of Kenya" means the National Museums of Kenya established under section 3 of the National Museums and Heritage Act; No. 6 of 2006

"special local tourism management area" means an area designated as a special tourism management area under section 6;

"Tribunal" means the Tourism Tribunal established under section 87 of the Tourism Act; and

"tourism" means the activities of a person travelling to and staying in a place outside his or her usual abode for more than twenty-four hours, but not more than one consecutive year, for leisure, business or other purpose, not being a work related activity remunerated from within the place visited.

Application.

3. This Act shall apply to local tourism within a respective county.

Responsibilities of the Cabinet Secretary.

4. The Cabinet Secretary shall, for the effective implementation of this Act—

(a) formulate guidelines on–

(i) sustainable practices relating to local tourism and recommend to the Council of County Governors best practices for the promotion of local tourism; and

(ii) uniform standards for the promotion of local tourism;

(b) develop a framework for the monitoring and evaluation of programmes and activities on local tourism by county governments; and

(c) make recommendations to county governments based on monitoring and assessment of tourist activities and services to enhance continuous improvement and adherence to principles of sustainable tourism.

5. (1) Each county executive committee member shall —

(a) at least once every five years, formulate a local tourism strategy for the development, marketing and management of the respective tourism sectors;

(b) market the county as a desirable tourist destination;

(c) encourage and facilitate the sustainable development of local tourism in the county;

(d) formulate guidelines and prescribe measures for sustainable local tourism in the county;

(e) identify local tourism market needs and trends within the county and advise the Authority and tourism stakeholders accordingly;

(f) regulate local tourism activities and services within the county in accordance with the national tourism strategies;

(g) issue, suspend or revoke licences for local tourism activities and services;

(h) monitor and assess local tourism activities and services within the county to enhance continuous improvement and adherence to sound principles and practices of sustainable tourism; and

(i) perform any other functions that are necessary for the implementation of this Act.

(2) A county executive committee member shall, in discharging the functions under this Act, facilitate public participation.

Special local tourism management area.

6. (1) A county executive committee member may, by notice in the County *Gazette* and upon conducting public participation in the county, designate an area as a special local tourism management area where the county executive committee member considers the area to be—

(a) of archaeological, ecological or historical significance; or

(b) of cultural or spiritual significance.

(2) In designating a special local tourism management area under subsection (1), the county executive committee member—

(i) shall consult the National Environment Management Authority and the National Museums of Kenya; and

(ii) may restrict local tourism operators or local tourism activities in the designated area.

Licence.

7. (1) A person shall not undertake any local tourism activity unless that person applies for, and obtains a licence in accordance with this Act.

(2) A person who intends to conduct a local tourism activity shall submit an application for a licence to the county executive committee.

(3) An application for a licence under subsection (2) shall—

(a) be made in writing and in the prescribed form;

(b) contain such information as may be prescribed by the respective county legislation; and

(c) be submitted together with the prescribed fee and such other information as may be prescribed in the respective county legislation.

(3) The fee prescribed under subsection (2) shall not exceed the maximum amount prescribed in regulation by the Cabinet Secretary. No. 8 of 1999.

(4) A county executive committee member shall, in considering an application, have regard to—

(a) the local tourism strategy;

(b) the protection of fragile environmental resources, ecosystems and habitats;

(c) an environmental impact assessment licence issued under Part VI of the Environmental Management and Co-ordination Act;

(d) any representations received from members of the public regarding the application; and

(e) any recommendation or approval that may be made or submitted by any other relevant authority.

(5) Upon considering an application, the county executive committee member may—

(a) grant an application for a licence unconditionally;

(b) grant the application subject to such conditions as may be imposed under the respective county licensing legislation; or

(c) refuse the application.

(6) The county executive committee member may refuse to issue a licence to an applicant where—

(a) the applicant has submitted false or misleading information in the application;

(b) the applicant does not meet the conditions for licensing prescribed under this Act or under any other written law; or

(c) the application does not comply with the requirements imposed under this Act or any other applicable law.

(7) The county executive committee member shall inform the applicant of the decision under subsection (5) within seven days from the date of the decision of the committee member.

Conditions for issuance of licence.

8. (1) A licensee shall be required to observe the following conditions in addition to those that may be imposed by the county executive committee member or under the respective county legislation-

(a) to provide the service or carry out the business specified in the licence;

(b) to comply with all applicable laws and the conditions for issuance of the licence;

(c) in the case of a body corporate, to provide, the county executive committee member with information with respect to any change in its directorship or shareholding;

(d) to pay such fees as may be prescribed; and

(e) to maintain, and where required, submit to the county executive committee member such information as may be necessary for the continued licensing of the licence holder.

(2) A county executive committee member shall, unless the circumstances or facts relating to the application vary and the county executive committee member considers it proper, impose the same conditions for the issuance of the same type of licence.

Duration of a licence.

9. (1) A licence issued under this Act shall expire on 31st December of the year in respect of which it is issued.

(2) The county executive committee member shall specify, in county legislation, the duration of the licence in

the licence issued under this Act and may prescribe different validity periods for the various classes of licences that are issued under this Act.

Renewal of a licence.

10. (1) An application for the renewal of an existing licence shall be made at least two months before the expiry date of the existing licence.

(2) Where an application for the renewal of a licence is not lodged within two months immediately preceding its expiry, the county executive committee member may consider such application upon payment of such additional fee as may be prescribed in the respective county legislation.

Transfer of licence.

11. (1) A licence issued under this Act may be transferred by the holder to another person only in respect of the local tourism activity in relation to which that licence was issued.

(2) Where a licence is transferred under this section, the person to whom it is transferred and the person transferring it shall, in writing, jointly notify the county executive committee member of the transfer within thirty days after the transfer.

(3) Where no joint notification of a transfer is given in accordance with subsection (2), the licence shall be deemed not to have been transferred.

(4) A transfer of a licence under this section shall take effect on the date the county executive committee member is notified of that transfer.

Suspension of a licence.

12. The county executive committee member may, subject to section 14, suspend a licence issued under this Act where—

(a) a licensee is being investigated in relation to an offence under this Act;an allegation of misconduct has been made against a licensee;

(b) the licensee made a false declaration in the application for the licence; or

(c) a licensee has contravened a provision of this Act or any other relevant county legislation.

Cancellation of a licence.

13. A county executive committee member shall, subject to section 14, cancel a licence where a licensee —

(a) is convicted of an offence under this Act;

(b) ceases to be qualified for the issue of a licence under this Ac or the respective county legislation;

(c) ceases to carry on the business with respect to which the licence was issued;

(d) contravenes the conditions for the issuance of the licence or the provisions of this Act or the respective county legislation; or

surrenders the licence to the relevant licensing authority together with a notice setting out a request that the licence be revoked.

Representation to the county executive committee member.

14. (1) The county executive committee member shall not suspend a license under section 12 or cancel a licence under section 13 (a) to (d) unless the county executive committee member issues to the licensee at least thirty days notice of the intention to suspend or cancel the licence and has provided the licensee with an opportunity to make a representation to the county executive committee member.

(2) A licensee who is not satisfied with a decision made under subsection (1) may appeal to the Tribunal within twenty eight days from the date of receipt of the decision.

Effect of suspension or cancellation.

15. A person whose licence has been suspended or cancelled shall not engage in the local tourism activity in respect of which the licence was granted during the duration of suspension or after cancellation.

Registers.

16. (1) The county executive committee member shall keep and maintain a register of —

(a) all licences issued under this Act;

(b) local tourism facilities, activities and services licensed under this Act; and

(c) all public and private sector institutions or associations involved in local tourism or related activities and services in the county.

(2) The county executive committee member shall provide the Authority with updated copies of registers kept and maintained under this section every month.

(3) A register kept and maintained under this section shall be open for inspection by members of the public during official working hours at offices designated by the county executive committee member on the payment of a fee prescribed by the county executive committee member.

Offences.

17. (1) A person who—

(a) breaches or fails to comply with the provisions of this Act or the respective county legislation;

(b) breaches or fails to comply with any of the terms or conditions of a licence issued under this Act or the respective county legislation;

(c) obstructs a person in the execution of powers or duties the respective county legislation;

(d) knowingly or recklessly makes a statement or representation which is false;

(e) knowingly or recklessly furnishes a document or information required under this Act which is false; or

(f) knowingly or recklessly uses or furnishes a fake or forged or invalid licence or a licence that has been altered without authorization

commits an offence.

(2) A person who is found guilty of an offence under subsection (1) is liable, on conviction, —

(a) in the case of a natural person, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment; and

(b) in the case of a body corporate, to a fine not exceeding two million shillings.

(3) Where a body corporate is found guilty of an offence under this Act, every principal officer of that corporation is deemed to have committed an offence and is liable, on conviction, to a fine not exceeding five hundred

thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Regulations.

18. (1) The Cabinet Secretary may, in consultation with the Council of County Governors, make Regulations for the better carrying out of the provisions of this Act.

(2) In particular and without prejudice to the generality of the power conferred by subsection (1), the Cabinet Secretary shall make Regulations prescribing —

(a) the parameters for fees payable on application for the issuance, renewal or variation of a license under this Act by county governments;

(b) anything which is required to be prescribed or is necessary to give effect to this Act.

County legislation.

19. (1) A county may enact county legislation to make provision for local tourism in the respective county.

(2) In particular and without prejudice to the generality of the power under subsection (1), a county may enact county legislation prescribing —

(a) the conditions which a licence may be granted or issued under this Act;

(b) the procedures and forms for the application for a licence;

(c) the classes of licence that may be issued by the respective county executive committee member;

(d) such further criteria for the issuance, transfer or cancellation of a licence;

(e) the fees payable for the issuance or renewal of a license under this Act;

(f) the process of appeal of the decision of the respective county executive committee member; or

(g) such further provisions as may be necessary for the implementation of this Act and the effective conduct of local tourism in the respective county.

Conflict of laws. No. 28 of 2011.

20. Where a provision of the Tourism Act is inconsistent with the provisions of this Act, the provisions of this Act shall prevail.

21. Section 7 of the Tourism Act is amended by inserting the following new subsection immediately after subsection (1) — Amendment to No. 28 of 2011.

(1A) In discharging its functions under subsection (1)(c), the Authority shall not issue, vary or renew licences for activities classified as local tourism activities under this Act or any other law.

SCHEDULE Schedule

[section 2]

LOCAL TOURISM ACTIVITIES AND SERVICES

(a) Class "A" enterprises —
  (i) hotels;
  (ii) members clubs;
  (iii) motels;
  (iv) inns;
  (v) hostels;
  (vi) health and spa resorts;
  (vii) tree houses;
  (viii) floatels;
  (ix) service flats;
  (x) service apartments;
  (xi) beach cottages;
  (xii) holiday cottages;
  (xiii) tented camps;
  (xiv) bandas;
  (xv) cultural homes and centres;
  (xvi) villas;
  (xvii) homestays;
  (xviii) guest houses; and
  (xix) cottages and private residences engaged in guest house services.

(b) Class "B" enterprises —
  (i) water sports;
  (ii) balloon operators; and
  (iii) boat excursions.

(c) Class "C" enterprises —
  (i) game fishing outfitters; and
  (ii) amusement parks.

(d) Class "D" enterprises —
  (i) local traditional boat operators;

(ii) curio vendors;

(iii) general vendors; and

(iv) beach operators.

(e) Class "F" enterprises –

(i) restaurants; and

(ii) other food and beverage services.

(f) Class "G" enterprises: entertainment facilities.

(g) Class "H" enterprises: conference and event services.

MAU MAU CHILDREN POST COLONIAL ELITES

PARTNERS:

* MAU MAU WAR VETERANS ASSOCIATES
* MAU MAU INDIGENOUS KNOWLEDGE
* JEREMIAH MUGI FOUNDATION
* MMV ASSOCIATES CLG

02/08/2025

TO:
SENATE COMMITTEE ON LABOUR AND SOCIAL WELFARE
PARLIAMENT BUILDINGS
PARLIAMENT ROAD
P.O. BOX 41842–00100
NAIROBI, KENYA

Dear Sir/Madam,

RE: SUBMISSIONS OF MEMORANDA THE MAU MAU LIBERATION STRUGGLE MOVEMENT BILL, CULTURE BILL 2024 (NATIONAL ASSEMBLY BILL NO. 12 OF 2024) & RELATED LEGAL INSTRUMENTS

---

1. INTRODUCTION

This memorandum is submitted in reference to several parliamentary and legislative instruments seeking to recognize, commemorate, and institutionalize the historical significance and socio-economic rights of the Mau Mau War Veterans, through the introduction and adoption of a private bill entitled **"The Mau Mau Liberation Struggle Movement Bill."**

The Mau Mau War Veterans Association hereby presents this memorandum to the Standing Committee on Justice, Legal Affairs and Human Rights in light of:

- The **Report of the Departmental Committee on Sports, Culture and Tourism** on its consideration of **Public Petition No. 002 of 2019**,
- The **Notice of Petition Seeking Leave of the House** to introduce a **Private Bill**,
- The **Mau Mau Liberation Struggle Movement Bill No. 2018**,
- The **Statutory Instruments (Amendment) Bill, Senate Bill No. 10 of 2024**,
- And in reference to constitutional, statutory and international obligations to protect and promote cultural identity, historical justice, and national heritage.

---

2. LEGAL & POLICY FRAMEWORKS

2.1 Constitutional Provisions

- **Article 11 (1)–(3)**: Recognizes culture as the foundation of the nation and obligates the state to promote and protect cultural heritage.
- **Article 27**: Guarantees equality and freedom from discrimination, including redress for historical injustices.
- **Article 43 & 56**: Guarantees the right to social protection and affirmative action for marginalized groups.

2.2 Statutory Instruments

- **Kenya Heroes Act No. 5 of 2014**
- **The National Honours Act No. 11 of 2013**
- **The Culture Bill, 2024**
- **The Public Benefit Organizations Act No. 18 of 2013**
- **Legal Notice No. 148 of 29th August 2003** – which first acknowledged the Mau Mau movement as freedom fighters.

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3. OBJECTIVES OF THE MAU MAU LIBERATION STRUGGLE MOVEMENT BILL

The proposed bill seeks to:

- Officially recognize the **Mau Mau Liberation Movement** as a **foundational part of Kenya's independence history**.
- Establish a **state-sponsored Mau Mau Liberation Movement Foundation** to facilitate reparations, memorials, and intergenerational knowledge transfer.
- Promote economic empowerment through shareholding and asset ownership, including a proposed **65% stake acquisition in Kenya Pipeline Company** for the benefit of Mau Mau veterans and descendants.
- Institutionalize August 29 as a **National Liberation Heroes Day**.

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4. NATIONAL TO INTERNATIONAL FRAMEWORK ALIGNMENT

4.1 International Level

- The **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)** obligates member states to provide reparations and protect indigenous historical justice movements.
- Aligns with **UNESCO's 2003 Convention on the Safeguarding of Intangible Cultural Heritage**.
- Global development budget for cultural and human rights causes stands at over **USD 550 Trillion**. Kenya must position its historical institutions to attract a share of this.

4.2 National Level

- Anchor the bill under the **National Treasury's strategic economic development and memorialization framework**.
- Leverage **Treasury Bonds and Treasury Bills** as financing instruments to monetize heritage and create a **national veterans fund**.

4.3 County Level

- Empower counties to create **Heritage and Liberation Museums**, cultural centers, and Mau Mau community development boards.

4.4 Sub-County and Ward Level

- Establish **Ward-Based Heroes' Resource Centres**.
- Initiate youth empowerment programs to integrate history with innovation and entrepreneurship under **ward-specific Mau Mau Trust Funds**.

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5. ECONOMIC EMPOWERMENT FRAMEWORK

5.1 Treasury Bond Framework

- Government to issue a **sovereign heritage bond** to mobilize funds for the benefit of war veterans.
- Part of proceeds to facilitate **purchase of 65% stake in Kenya Pipeline Company** on behalf of Mau Mau War Veterans Trust.

5.2 Public Benefit Organization (PBO) Accreditation

- Recognition of the **Mau Mau War Veterans Association** as a public benefit organization under the **Public Benefit Organizations Act No. 18 of 2013**, granting access to donor funding, tax exemptions, and social investment frameworks.

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6. RECOMMENDATIONS TO THE COMMITTEE

We humbly request the committee to:

1. Support the **Leave of the House** to introduce the **Mau Mau Liberation Struggle Movement Bill** as a private bill, pursuant to standing orders.
2. Recommend fast-tracking of the bill through the Senate and National Assembly under **Article 256** of the Constitution.
3. Engage relevant state ministries (Culture, Treasury, Defense, and Heritage) for **inter-ministerial support**.
4. Recommend inclusion of **economic, historical, and social empowerment mechanisms** such as heritage bonds and veterans' shareholding in public corporations.
5. Facilitate alignment of the bill with international legal instruments and obligations under the **African Union Charter on Human and Peoples' Rights** and the **UN cultural conventions**.
6. Promote **public participation at all governance levels**, especially among descendant communities.

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7. CONCLUSION

This memorandum is not only a legislative submission but a **national call for historical justice, cultural recognition, and economic redress**. The legacy of the Mau Mau Liberation Struggle is a cornerstone of Kenya's freedom, and this bill provides the platform to institutionalize that legacy while ensuring social justice for the heroes and their descendants.

Prepared by:



JAMES NJUGUNA MAHURIA
DIRECTOR GENERAL
MMV ASSOCIATES CLG

Approved for tabling. BM SNA 3/4/19

REPUBLIC OF KENYA

PARLIAMENT OF KENYA LIBRARY

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

REPORT ON THE CONSIDERATION OF PUBLIC PETITION SEEKING LEAVE OF THE HOUSE TO INTRODUCE A PRIVATE BILL ENTITLED THE MAU MAU LIBERATION STRUGGLE, MOVEMENT BILL PRESENTED BY THE MAU MAU WAR VETERANS ASSOCIATION

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 03 APR 2019
TABLED BY: Majority Party Whip Hon Benjamin W
Miram Made

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

APRIL, 2019

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CHAIRPERSON'S FOREWORD

The Public Petition seeking leave of the House to introduce a Private Bill entitled the Mau Mau Liberation Struggle Movement Bill by the Mau Mau War Veterans Association was reported to the House by the Speaker in accordance with Standing Order 225 (2) (b) on 14th February, 2019. The Petition dated 1st November, 2018 prays "that the National Assembly through the Departmental Committee on Sports, Culture and Tourism:

(i) Consider and appreciate the Mau Mau Liberation Struggle Movement whose leaders, activists and adherents through struggle bearing tears, sweat and blood, recovered our independence from the terrifying jaws of colonial power, at midnight on 12th December, 1963.

(ii) Considers the need for Mau Mau Liberation Struggle Movement to a source of National history and the movement's useful information to generations to come; and

(iii) To grant leave to the Petitioners to introduce a Private Bill to the Kenya National Assembly, in accordance with the National Assembly Standing Orders Part XX on Private Bills."

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules, which enabled us to complete the tasks within the stipulated period.

The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Sports, Culture and Tourism to present this report to the House pursuant to the provisions of Standing Order 227 (2).

Hon. (Dr.) Victor Munyaka, M.P.

EXECUTIVE SUMMARY

This report contains the Committee's proceedings during the hearing of the Public Petition seeking leave of the House to introduce a private Bill entitled the Mau Mau Liberation Struggle, Movement Bill presented to the National Assembly by the Mau Mau War Veterans Association and reported to the House by the Speaker on 14th February, 2019. While considering the Petition, the Committee noted the following:

1. THAT the Mau Mau War Veterans Association is a fellowship of Mau Mau Freedom fighters from the Republic of Kenya, who consistently and persistently participated in the heroic Mau Mau freedom struggle.
2. THAT, the Matters in respect of which the Petition is made are not pending in any court of law or constitutional or legal body.
3. THAT, Petitioners have enclosed their Private Bill titled The Mau Mau Liberation Struggle Movement Bill, 2018. In the Memorandum of Objects and Reasons, the Petitioners indicate that the objective of the Bill is to provide a legal framework for the recognition of the Mau Mau Liberation Struggle Movement and the declaration that the pre-independence resistance by the Mau Mau Freedom fighters was legitimate course that led to the independence of Kenya.
4. THAT, the objects and purpose of the Bill are as follows:
   a) Provide for the recognition of the Mau Mau Liberation Struggle Movement;
   b) Provide for declaration that the pre-independence struggle by the Mau Mau veterans was a legitimate course that led to the independence of Kenya; and
   c) Provide a framework to facilitate public knowledge on the role of the Mau Mau liberation struggle movement in the liberation of Kenya from colonialism.
5. THAT, there exist the Mau Mau Governing Council of Kenya, registered on 13th November, 2013 under the Societies Act to front their agenda on recognition and advance their interest.
6. THAT, the Bill addresses the issue of recognition and declaration that the pre-independence struggle by the Mau Mau was legitimate course that led to the independence of Kenya and to provide for a framework to facilitate knowledge on their

role during pre-independence period which has been sufficiently addressed in other Acts.

Having considered the Petition and the proposed Bill, the Committee notes that the objectives of the private Bill have been sufficiently catered for through other legislations including the Constitution of Kenya 2010, the Kenya Heroes Act, 2014, the National Honours Act, 2013, the Public Archives and Documentation Service Act and the National Museums and Heritage Act.

1.0 MANDATE OF THE COMMITTEE

The Departmental Committee on Sports, Culture and Tourism is one of the fifteen departmental committees of the House established pursuant to Article 124 of the Constitution of Kenya 2010 and Standing Order 216 of the National Assembly and mandated to:

(a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;

(b) Study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.

(c) study and review all legislation referred to it;

(d) study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;

(e) investigate and 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;

(f) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (*Committee on Appointments*); and

Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

1.1 COMMITTEE MEMBERSHIP

The committee comprises of the following members:-

The Hon. (Dr.) Victor Kioko Munyaka, M.P.

Member of Parliament for Machakos Town Constituency

Chairperson Departmental Committee on Sports, Culture and Tourism

Jubilee Party

The Hon. (Dr.) Korei Ole Lemein, M.P.

Member of Parliament for Narok South Constituency

Vice-Chairperson Departmental Committee on Sports, Culture and Tourism

Jubilee Party

The Hon. Christopher Omulele, M.P.

Member of Parliament for Luanda Constituency

Member Departmental Committee on Sports, Culture and Tourism

Orange Democratic Movement Party (ODM)

The Hon. (Dr.) Christine Ombaka, M.P.

Member of Parliament for Siaya County

Member Departmental Committee on Sports, Culture and Tourism

Orange Democratic Movement Party (ODM)

The Hon. Cyprian Kubai Iringo, M.P.

Member of Parliament for Igembe Central Constituency

Member Departmental Committee on Sports, Culture and Tourism

Jubilee Party

The Hon. Jones Mlolwa, M.P.

Member of Parliament for Voi Constituency

Member Departmental Committee on Sports, Culture and Tourism

Orange Democratic Movement Party (ODM)

The Hon. Daniel Wanyama Sitati, M.P.

Member of Parliament for Webuye West Constituency

Member Departmental Committee on Sports, Culture and Tourism

Jubilee Party

The Hon. Benard Masaka Shinali, M.P.

Member of Parliament for Ikolomani Constituency

Member Departmental Committee on Sports, Culture and Tourism

Jubilee Party

The Hon. (Prof.) Jacqueline Oduol, M.P.

Nominated Member of Parliament

Member Departmental Committee on Sports, Culture and Tourism

Orange Democratic Movement Party (ODM)

The Hon. (Dr.) Tecla Chebet Tum, M.P.

Member of Parliament for Nandi County

Member Departmental Committee on Sports, Culture and Tourism

Jubilee Party

The Hon. Jane Jepkorir Kiptoo Chebaibai, M.P.

Member of Parliament for Elgeyo Marakwet County

Member Departmental Committee on Sports, Culture and Tourism

Jubilee Party

The Hon. Lydia Haika Mnene Mizighi, M.P.

Member of Parliament for Taita Taveta County

Member Departmental Committee on Sports, Culture and Tourism

Jubilee Party

The Hon. George Risa Sunkuyia, M.P.

Member of Parliament for Kajiado West Constituency

Member Departmental Committee on Sports, Culture and Tourism

Jubilee Party

The Hon. Annie Wanjiku Kibeh. M.P.

Member of Parliament for Gatundu North Constituency

Member Departmental Committee on Sports, Culture and Tourism

Jubilee Party

The Hon. Sylvanus Maritim, M.P.

Member of Parliament for Ainamoi Constituency

Member Departmental Committee on Sports, Culture and Tourism

Jubilee Party

The Hon. Jeremiah Lomorukai, M.P.

Member of Parliament for Loima Constituency

Member Departmental Committee on Sports, Culture and Tourism

Orange Democratic Movement Party (ODM)

The Hon. Charles Ngusya Nguna, M.P.

Member of Parliament for Mwingi West Constituency

Member Departmental Committee on Sports, Culture and Tourism

Wiper Democratic Party (WDP)

The Hon. Titus Mukhwana Khamala, M.P. (Bishop)

Member of Parliament for Lurambi Constituency

Member Departmental Committee on Sports, Culture and Tourism

Amani National Congress Party (ANC)

The Hon. Charles Kamuren, M.P.

Member of Parliament for Baringo South Constituency

Member Departmental Committee on Sports, Culture and Tourism

Jubilee Party

1.1 COMMITTEE SECRETARIAT

Second Clerk Assistant	-	Helen Kina
Third Clerk Assistant	-	Fredrick Otieno
Legal Counsel II	-	Salem Lorot
Research Officer III	-	Vitus Okech
Fiscal Analyst	-	Catherine Gati
Media Relations Officer	-	Martin Mutua
Sergeant At-Arms	-	Sheila Chebotibin

1.2 Observations

Having thoroughly considered the Petition and the proposed Bill, together with the submissions by the State Department for Heritage, Kenya Law Reform Commission and the Office of the Attorney General, the Committee observed that:

1. The Government through the Ministry of Sports, Culture and Heritage has undertaken several initiatives to ensure national heroes and heroines, including Mau Mau freedom fighters, are honoured and the role they played remains in the minds of Kenyans who now enjoy enormous freedoms as a result.
2. The Bill lacks in substance as it does not have any provision that seeks to substantially provide for the Mau Mau Liberation Struggle Movement. Throughout the Bill, there is no provision that outlines any special interests or any form of award to the Mau Mau veterans other than a simple declaration that the struggle was a just means of liberating Kenya from colonial occupation and subjugation. It would have been more fulfilling if the Bill contained provisions on interests accrued to the Mau Mau Veterans that comes with declarations.
3. The objectives of the Bill have been sufficiently catered for through other legislations including the Constitution of Kenya 2010, the Kenya Heroes Act, 2014, the National Honours Act, 2013, the Public Archives and Documentation Service Act and the National Museums and Heritage Act. However, if the Petitioners opine that certain issues are not comprehensively provided for, they may propose amendments to the said existing laws to be incorporated.

4. The Kenya Heroes Act, 2014 and the National Honours Act, 2013 sufficiently cater for the recognition, appreciation and to a large extent financial assistance to heroes and heroines at a national level. The National Heroes' Fund under the Kenya Heroes Act when operationalized will benefit the Mau Mau and other freedom fighters and Heroes.

1.3 Recommendation

After considering the Petition and the proposed Bill and having made the above observations, the Committee made the following recommendations:

1. The objectives of the Bill have been sufficiently catered for through existing legislations hence there is no need of Private Bill. However, if the Petitioners opine that certain issues are not comprehensively provided for, they may propose amendments to the said existing laws.
2. Under the Petitioners prayer on appreciating the Mau Mau Liberation Struggle Movement whose leaders, activists and adherents through struggle bearing tears, sweat and blood, recovered our independence from the terrifying jaws of colonial power, at midnight on 12th December, 1963, the Committee recommends that this has been substantially provided for by the preamble of the Constitution of Kenya 2010, the Kenya Heroes Act, 2014 and the National Honours Act, 2013; hence there is no need for another legislation.
3. On the Prayer to consider the need for Mau Mau Liberation Struggle Movement to a source of National history and the movement's useful information to generations to come, the Committee recommends that this prayer has been catered for by the provisions of the Public Archives and documentation Service Act and the National Museum and Heritage Act; hence no need for another legislation.
4. On the prayer to grant leave to the Petitioners to introduce a Private Bill to the Kenya National Assembly, in accordance with the National Assembly Standing Orders Part XX on Private Bills, the Committee recommends that the House does not grant leave for the Petitioners to introduce the Private Bill.
5. The Committee further recommends that the Kenya Heroes Act No. 5 of 2014 be operationalized to be able to address the needs of heroes.

2.0 INTRODUCTION

2.1 Background Information

Article 119(1) of the Constitution provides that every person has a right to Petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation. This particular provision is operationalized by the Petitions to Parliament (Procedure) Act, 2012 and Standing Orders 219 and 220.

The Public Petition seeking leave of the House to introduce a private Bill entitled the Mau Mau Liberation Struggle, Movement Bill by the Mau Mau War Veterans Association was reported to the House by the Speaker in accordance with Standing Order 225 (2) (b) and Standing Order 159 on 14th February, 2019 and the Petition to Parliament (Procedure) Act, 2012. In accordance with Standing Order 227, the Petition was referred to the Departmental Committee on Sports, Culture and Tourism for consideration and reporting to the House.

2.2 The Petition

The Petitioners wished to draw the attention of the House to the following:-

i) **THAT,** the Mau Mau War Veterans Association is a fellowship of Mau Mau Freedom Fighters from the Republic of Kenya, who consistently and persistently participated in the heroic Mau Mau freedom struggle;

ii) **THAT,** the notable resistance against colonial domination. was bravely started by our forefathers, triggering the real independence recovery struggle for the people of Kenya, by the Mau Mau Liberation Struggle Movement;

iii) **THAT,** without the gallant dedication of the patriotic heroes and heroines through tears, sweat and blood, Kenyans would not have got freedom and justice they enjoy today;

iv) **THAT,** many freedom fighters around the land of Kenya, were imprisoned with hard labour, detained in remote islands, tortured and ill-treated, women were raped and denied sufficient food and medical facilities;

v) **THAT,** the Mau Mau Heroic Liberations Struggle Mass Movement, which liberated Kenya, from colonial dictatorship and ill treatment, ushering in self-determination, social

economic and education freedoms, has never been officially appreciated, recognized and declared, that it was the just legitimate means of liberating Kenya from colonial occupation and subjugation;

vi) **THAT,** matters in respect of which the Petition is made are not pending before any court of law or constitutional or legal body;

vii) **THAT,** the National Assembly, through the Departmental Committee on Sports, Culture and Tourism:-

a) Consider and appreciate the Mau Mau Liberation Struggle Movement whose leaders, activists and adherents through struggle bearing tears, sweat and blood, recovered our independence from the terrifying jaws of colonial power, at midnight on 12th December, 1963.

b) Considers the need for Mau Mau Liberation Struggle Movement to a source of National history and the movement's useful information to generations to come; and

c) To grant leave to the Petitioners to introduce a Private Bill to the Kenya National Assembly, in accordance with the National Assembly Standing Orders Part XX on Private Bills.

2.3 The Bill

It is important to note that a Private Bill can only be introduced in the House through a Petition. The Petition should be accompanied by a copy of the Bill in accordance with Standing Order 159. The Petitioners enclosed their Private Bill titled The Mau Mau Liberation Struggle Movement Bill, 2018. In the Memorandum of Objects and Reasons, the Petitioners indicate that the objective of the Bill is to provide a legal framework for the recognition of the Mau Mau Liberation Struggle Movement and the declaration that the pre-independence resistance by the Mau Mau Freedom fighters was legitimate course that led to the independence of Kenya.

The objects and purpose of the Bill are as follows:

a) Provide for the recognition of the Mau Mau Liberation Struggle Movement;

b) Provide for declaration that the pre-independence struggle by the Mau Mau veterans was legitimate course that led to the independence of Kenya; and

c) Provide a framework to facilitate public knowledge on the role of the Mau Mau liberation struggle movement in the liberation of Kenya from colonialism.

3.0 SUBMISSIONS AND EVIDENCE

Having been seized of the Petition, the Committee invited the Petitioners, State Department of Heritage, Kenya Law Reform Commission and the Office of the Attorney General for consultative meetings and comments on the Petition and proposed Bill.

3.1 Petitioners – Mau Mau War Veterans Association

The Mau Mau War Veterans Association led by their Chairperson Shujaa Hon. (Dr.) Gitu Wa Kahengeri, OGW appeared before the Committee on 12th March, 2019 and made the following submissions:

1. **THAT,** the Mau Mau War Veterans Association is a fellowship of Mau Mau Freedom Fighters from the Republic of Kenya, who consistently and persistently participated in the heroic Mau Mau freedom struggle;
2. **THAT,** the notable resistance against colonial domination, was bravely started by our forefathers, triggering the real independence recovery struggle for the people of Kenya, by the Mau Mau Liberation Struggle Movement;
3. **THAT,** without the gallant dedication of the patriotic heroes and heroines through tears, sweat and blood, Kenyans would not have got freedom and justice they enjoy today;
4. **THAT,** many freedom fighters around the land of Kenya, were imprisoned with hard labour, detained in remote islands, tortured and ill-treated, women were raped and denied sufficient food and medical facilities;
5. **THAT,** the Mau Mau Heroic Liberations Struggle Mass Movement, which liberated Kenya, from colonial dictatorship and ill treatment, ushering in self-determination, social economic and education freedoms, has never been officially appreciated, recognized and declared, that it was the just legitimate means of liberating Kenya from colonial occupation and subjugation;
6. **THAT,** matters in respect of which the Petition is made are not pending before any court of law or constitutional or legal body;
7. **THAT,** the National Assembly through the Departmental Committee on Sports, Culture and Tourism:-

    d) Consider and appreciate the Mau Mau Liberation Struggle Movement whose leaders, activists and adherents through struggle bearing tears, sweat and blood,

recovered our independence from the terrifying jaws of colonial power, at midnight on 12th December, 1963.

e) Considers the need for Mau Mau Liberation Struggle Movement to a source of National history and the movement's useful information to generations to come; and

f) To grant leave to the Petitioners to introduce a Private Bill to the Kenya National Assembly, in accordance with the National Assembly Standing Orders Part XX on Private Bills.

Shujaa Hon. Dr. Gitu further reiterated that they don't deny that other Kenyans participated in the liberation struggle and that Mau Mau Movement was a representative liberation struggle. Since it was an Association, it was possible to get the distribution of membership.

On the title of the Bill, the Petitioner indicated that the Mau Mau movement was widely recognized and that despite the name all communities are included. The Mau Mau movement was the one that liberated the country.

The Petitioners indicated that several countries have recognized their heroes. For instance, in Zimbabwe, the ZANU-PF had been recognized; in Angola, FRELIMO Movement had been recognized; in South Africa, the ANC had been recognized and in Uganda, NRM had been recognized.

3.2 Submissions by the State Department of Heritage

The Principal Secretary State Department of Heritage, Ms. Josephta O. Mukobe, CBS appeared before the Committee and made the following submissions:

1. The Government through the Ministry of Sports, Culture and Heritage has undertaken several initiatives to ensure national heroes and heroines, including Mau Mau freedom fighters, are honoured and the role they played remains in the minds of Kenyans who now enjoy enormous freedoms as a result.
2. In 2003, the government issued Legal Notice No. 148 dated 29th August, 2003, which lifted the ban on the Mau Mau movement. This made it possible to recognize and honour the freedom fighters.

3. Some of the undertakings by the Ministry in regard to recognizing and honoring freedom fighters include:
    i. Recognition of the Kapenguria six, namely – Mzee Jomo Kenyatta, Paul Ngei, Bildad Kaggia, Achieng' Oneko, Kungu Karumba and Fred Kubai.
    ii. The Ministry has constructed mausoleums for the late Paul Ngei, Bildad Kaggia, Achieng' Oneko and Kisoi Munyao who hoisted the Kenyan flag on top of Mt. Kenya on the eve of independence.
    iii. Monuments have been constructed for Dedan Kimathi and Tom Mboya in Nairobi
    iv. Construction of Koitale Arap Samoei Cultural Education Centre and development of the Heroes Corner at Uhuru Gardens in Langata.
    v. The Ministry has provided state burial to some heroes like the late Kisoi Munyao and Achieng' Oneko.
4. The Ministry developed the National Heroes Bill which was later enacted to Kenya Heroes Act No. 5 of 2014. This Act provides for the recognition of heroes, establishes a criteria for the identification, selection and honouring of heroes. It also provides for the establishment of the National Heroes Council.
5. Mashujaa Day creates an opportunity to honour heroes by presenting them and highlighting the role they played before the citizens of this nation and the world, for this day I set aside for that purpose. Over 200 freedom fighters have so far been honoured over the past Mashujaa Days. The freedom fighters are usually allocated more slots on this day. Though the Mau Mau's are in different factions, the ministry considers representatives from all factions. The Ministry has also made some effort to consolidate the various factions of Mau Mau with a view to bringing harmony and avoid more disintegration.
6. A number of freedom fighters have been decorated with Presidential Honours and Awards. During the 2018 Madaraka Day celebrations, the President awarded some veterans with the Order of the Grand Warrior (OGW) for their role in the fight against colonialism.
7. The Statutory provisions that provide for recognition of heroes include:

a) Constitution of Kenya 2010

The Constitution as the supreme law acknowledges the national heroes. In the Preamble, the Constitution declares honour for those who heroically struggled to bring freedom and justice to our land. It further sets aside Mashujaa Day as one of the country's National days. Article 132

(4) (c), under functions of the President, gives power to confer honours in the name of the people and the Republic.

b) Kenya Heroes Act No. 5 of 2014

This Act was enacted to provide for the recognition of heroes; to establish criteria for the identification, selection and honouring of national heroes; to provide for the categories of heroes; to provide for the establishment of the National Heroes Council and for connected purposes. It defines who a hero is and provides for the identification and declaration of heroes under Sections 2 and 22 respectively.

The strength of this Act is that, it provides an avenue for nomination on the suitable persons, who may be recommended for declaration as heroes and involves public participation and such nominations are put through a vetting process by the National Heroes Council. This ensures that recognition of heroes is not arbitrarily awarded or conferred to undeserving persons.

The Act provides for the establishment of a National Heroes' Fund, which may be used for the benefit of national heroes who are in need of financial assistance and their dependants. When operationalized, the fund will address the needs of heroes.

c) The National Honours Act No. 11 of 2013

The Act was enacted to give effect to and establish procedures and mechanisms for conferring of national honours by the President. While the Act confers recognition by the President to certain persons, not all heroes may be conferred national honour. Under **Section 2(1)** "national honour" is defined to mean an official recognition, decoration, status or award conferred by the President in terms of Article 132 (4) (c) of the Constitution.

Both Acts, sufficiently cater for the recognition, appreciation and to a large extent financial assistance to heroes and heroines on a national level. The Kenya Heroes Act when operationalized will benefit the Mau Mau, other freedom fighters and Heroes.

8. The Ministry's considered opinion is that, the existing laws are adequate in addressing the prayers sought in the Petition However, if the Petitioners opine that certain issues are not comprehensively provided for, they may propose amendments to the said existing laws and the Ministry can incorporate them.

The National Heroes Council once operationalized will cater for identification, nomination and vetting of proposed heroes (Mau Mau veterans inclusive) and ways of recognizing, awarding and compensating all national heroes.

9. The Ministry is of the opinion that, introduction of the Mau Mau Liberation Struggle Movement Bill 2018, will cause fragmentation of the Kenya Heroes Act No. 5 of 2014. The Ministry notes that the Bill has been submitted by one of the many Mau Mau factions thus, raising a likelihood of other factions presenting other Bills or even heroes in other categories presenting similar proposals.

3.3 Submissions by the Office of the Attorney General

The Office of the Attorney General submitted the following comments to the Committee, that:

1. The applicable law for the recognition of heroes and the identification, selection and honouring of national heroes, is contained in the National Honours Act (No. 11 of 2013) and the Kenya Heroes Act (No. 5 of 2014).
2. The object of the **National Honours Act, 2013** is to give effect to, and establish procedures and mechanisms for, conferring of national honours by the President under Article 132 (4) (c) of the Constitution and for connected purposes. Section 4 (a) of the Act provides that a person who has exhibited or exhibits exemplary qualities, actions or achievements of heroism, sacrifice, bravery, patriotism or leadership for the defence, benefit or betterment of the country or a country shall merit the conferment of a national honour.
3. Sections 5, 6 and 7 of the Act provide for the establishment and membership of advisory committees, while section 8 provides for the functions of the committees including receiving and considering representations from any person, body, unit, association of persons or corporation recommending a person for the conferment of a national honour under the Act; and recommending to the President persons, bodies, units, associations of persons or corporations that may be considered for conferment of a national honour under the Act.
4. The Kenya Heroes Act, 2014 was assented to by the President on the 29th April, 2014. It was to be commenced by Gazette Notice. To date, it is yet to be commenced in the manner

contemplated under section 1 of the Act. The object of the Act is the recognition of heroes; to provide for the categories of heroes; to provide for the establishment of the National Heroes Council and for connected purposes. It provides for the establishment of the National Heroes Council an section 4 (1) and the Council's functions at section 5 including the identification and recommendation of national heroes. and the conduct and facilitating of civic education in order to stimulate public discussion and awareness on pertinent issues relating to national heroes.

5. With respect to the substance of the Petition by the Mau Mau War Veterans Association, both statutes provide for the appreciation, recognition and declaration of Mau Mau War Veterans as national heroes who merit the conferment of national honours by the President. However, in view of the fact that the Kenya Heroes Act, 2014 has not been commenced, it is not applicable in this instance.

6. From the foregoing, therefore, although the Petitioners have properly approached the National Assembly and the matter can be addressed through a Private Bill, the Petitioners' objectives as set out in the proposed Mau Mau Liberation Struggle Movement Bill can be addressed under the provisions of the National Honours Act, 2013.

3.4 Submissions by the Kenya Law Reform Commission

Mr. Mathew Kimanzi, Deputy Director Legislative Services, Kenya Law Reform Commission accompanied by Ms. Juliet Ajwang, Legal Officer, appeared before the Committee and made the following submission:

Overall outlook and object of the Bill

Generally the Bill lacks in substance as it does not have any provision that seeks to substantially provide for the Mau Mau Liberation Struggle Movement. This is illustrated as follows:

(i) Under the interpretation clause, the Bill vaguely defines 'Mau Mau Liberation Movement' and 'Mau Mau Veteran' in an attempt to spotlight what or whose interests it seeks to address. It does not establish the Movement hence making it appear as an indistinct concept rather than a group of people seeking recognition.

(ii) Throughout the Bill, there is no provision that outlines any special interests or any form of award to the Mau Mau veterans other than a simple declaration that the struggle was a just means of liberating Kenya from colonial occupation and subjugation. It would have been more fulfilling if the Bill contain provisions on interests accrued to the Mau Mau Veterans that comes with declarations.

(iii) The Object of the Bill is to:

(a) Provide for the recognition of the Mau Mau Liberation Struggle Movement;

(b) Provide for declaration that the pre-independence struggle by the Mau Mau veterans was legitimate course that led to the independence of Kenya; and

(c) Provide a framework to facilitate public knowledge on the role of the Mau Mau liberation struggle movement in the liberation of Kenya from colonialism.

The objectives of the Bill have been sufficiently catered for through other legislations such as the Constitution of Kenya 2010, the Kenya Heroes Act, 2014, the National Honours Act, 2013, the Public Archives and Documentation Service Act and the National Museums and Heritage Act.

(iv) The Bill under clause 5 on application states that, *the Kenya National Heroes Act shall apply to this Act with the necessary modification.* The recognition of this Act under the Bill is well-intentioned and confirms that the Mau Mau Veterans acknowledges the existence of legislation that caters for such matters and that there is no ostensible legal gap in addressing the recognition of efforts of the freedom fighters. If there is an aspect that they would wish to address through legislation, it is advisable to amend the Kenya Heroes Act.

(v) The provisions of clause 6 of the Bill are a replica of what is provided for under the Kenya Heroes Act, 2014 and the National Museums and Heritage Act, No. 6 of 2006 hence serves no purpose.

4.0 COMMITTEE'S OBSERVATIONS

Upon analyzing the Petition and through interaction with the Petitioners, State Department for Heritage. Office of the Attorney General and the Kenya Law Reform Commission, the Committee makes the following observations:

1. The Government through the Ministry of Sports, Culture and Heritage has undertaken several initiatives to ensure national heroes and heroines, including Mau Mau freedom fighters, are honoured and remembered for the role they played by Kenyans who now enjoy enormous freedoms as a result.
2. The Bill lacks in substance as it does not have any provision that seeks to substantially provide for the Mau Mau Liberation Struggle. In the entire Bill, there is no provision that outlines any special interests or any form of award to the Mau Mau veterans other than a simple declaration that the struggle was a just mean of liberating Kenya from colonial occupation and subjugation. It would have been more fulfilling if the Bill contained provisions on interests accrued to the Mau Mau Veterans that come with declarations.
3. The objectives of the Bill have been sufficiently catered for through other legislations including the Constitution of Kenya 2010, the Kenya Heroes Act, 2014, the National Honours Act, 2013, the Public Archives and Documentation Service Act and the National Museums and Heritage Act. However, if the Petitioners opine that certain issues are not comprehensively provided for, they may propose amendments to the said existing laws to be incorporated.
4. The Kenya Heroes Act, 2014 and the National Honours Act, 2013 sufficiently cater for the recognition, appreciation and to a large extent financial assistance to heroes and heroines on a national level. The National Heroes' Fund established under the Kenya Heroes Act when operationalized will benefit the Mau Mau, other freedom fighters.

5.0 COMMITTEE RECOMMENDATION

After considering the Petition and the proposed Bill, the Committee made the following recommendations:

1. The objectives of the Bill have been sufficiently catered for through existing legislations hence there is no need of Private Bill. However, if the Petitioners opine that certain issues are not comprehensively provided for, they may propose amendments to the said existing laws.
2. Under the Petitioners Prayer on appreciating the Mau Mau Liberation Movement whose leaders, activists and adherents led to gaining of our independence from the colonialists, on 12th December, 1963, the Prayer has been substantially provided for by the preamble of the Constitution of Kenya 2010, the Kenya Heroes Act, 2014 and the National Honours Act, 2013; hence there is no need for another legislation.
3. On the Prayer to consider the need for Mau Mau Liberation Movement to a source of National history and the movement's useful information to generations to come, the Prayer has been catered for by the provisions of the Public Archives and documentation Service Act and the National Museum and Heritage Act; hence no need for another legislation.
4. On the Prayer to grant leave to the Petitioners to introduce a Private Bill to the Kenya National Assembly, in accordance with the National Assembly Standing Orders Part XX on Private Bills, the Committee recommends that the House does not grant leave for the Petitioners to introduce their Private Bill.
5. The Kenya Heroes Act No. 5 of 2014 be operationalized to be able to address the needs of heroes.

Signed: ..... **Date:** 02.04.19

(THE HON. (DR.) VICTOR KIOKO MUNYAKA, M.P.)

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

MINUTES OF THE 22ND SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM HELD ON TUESDAY 2ND APRIL, 2019 IN COMMITTEE ROOM 12, NEW WING, MAIN, PARLIAMENT BUILDINGS AT 12:15 PM

PRESENT

1. The Hon. (Dr.) Korei Ole Lemein, MP. - Vice Chairperson
2. The Hon. Christopher Omulele, MP
3. The Hon. Kubai Iringo. MP.
4. The Hon. Daniel Wanyama Sitati, MP.
5. The Hon. Jones Mlolwa, MP.
6. The Hon. (Dr.) Tecla Chebet Tum, MP.
7. The Hon. Titus Mukhwana Khamala, MP.
8. The Hon. Charles Ngusya Nguna, MP.
9. The Hon. Sylvanus Maritim, MP.
10. The Hon. George Risa Sunkuyia, MP.

APOLOGY

1. The Hon. (Dr.) Victor Kioko Munyaka, MP. - Chairperson
2. The Hon. Dr. Christine Ombaka, MP.
3. The Hon. Benard Masaka Shinali, MP.
4. The Hon. (Prof.) Jacqueline Oduol, MP.
5. The Hon. Lydia Haika Mnene Mizighi, MP.
6. The Hon. Jeremiah Lomorukai, MP.
7. The Hon. Annie Wanjiku Kibeh, MP.
8. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP
9. The Hon. Charles Kamuren, MP.

IN-ATTENDANCE

NATIONAL ASSEMBLY

1. Ms. Helen Kina - Second Clerk Assistant
2. Mr. Fredrick Otieno - Third Clerk Assistant

3.	Mr. Martin Mutua	-	Media Relations Officer
4.	Mr. Vitus Okech	-	Research Officer
5.	Ms. Christine Maeri	-	Audio Officer
6.	Mr. Onesmus Kiragu	-	Sergeant At-Arms

MIN.NO.NA/SCT/2019/087: PRELIMINARIES

The Vice Chairperson called the meeting to order at fifteen minutes past twelve O'clock followed by a prayer.

MIN.NO.NA/SCT/2019/088: CONFIRMATION OF MINUTES

1. Minutes of the 17th sitting held on 12th March, 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. (Dr.) Tecla Chebet Tum, MP and Seconded by the Hon. George Sunkuyia, MP.
2. Minutes of the 18th sitting held on 13th March, 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Jones Mlolwa, MP and Seconded by the Hon. (Dr.) Tecla Chebet Tum, MP.
3. Minutes of the 19th sitting held on 19th March, 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Daniel Wanyama, MP and Seconded by the Hon. Kubai Iringo, MP.
4. Minutes of the 20th sitting held on 21st March, 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Sylvanus Maritim, MP and Seconded by the Hon. George Sunkuyia, MP.
5. Minutes of the 21st sitting held on 26th March, 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. George Sunkuyia, MP and Seconded by the Hon. Christopher Omulele, MP.

MIN.NO.NA/SCT/2019/089: CONSIDERATION AND ADOPTION OF THE REPORT ON CONSIDERATION OF THE PUBLIC PETITION SEEKING LEAVE OF THE HOUSE TO INTRODUCE A PRIVATE BILL BY THE MAU MAU WAR VETERANS ASSOCIATION

The Committee considered and unanimously adopted the report. The Secretariat were directed to prepare the report for tabling.

MIN.NO.NA/SCT/2019/091: SCHEDULE OF ACTIVITIES FOR THE MONTH OF APRIL

The Committee considered and adopted the following schedule for the month of April, 2019:

ACTIVITY	SUB-ACTIVITY	DATE
Pending Business before the Committee	i) Consideration of any Pending Business before the Committee	April, 2019
	ii) Tabling of inspection visit reports and report on consideration of Public Petition by Mau Mau Veterans	4th April, 2019
	Adoption of the Mau Mau Petition Report	2nd April 2019.
Budget Implementation Review	BUDGET IMPLEMENTATION REREAT	
	KICC, Bomas of Kenya KTB	8th – 12th April, 2019 Kisumu County
	Tourism Regulatory Authority Tourism Research institute board Tourism Finance Cooperation	18th - 21st April , 2019 Mombasa County
	Kenya Utaliii College council Brand Kenya National Museums of Kenya	25th – 28th , 2019 Malindi County
		25th – 29th April, 2019
Reports	Tabling of the Reports	30th April, 2019

MIN.NO.NA/SCT/2019/091: ANY OTHER BUSINESS

The Hon. Christopher Omulele, MP informed the meeting that the Hon. Lydia Haika, MP had lost her father and requested Members to stand with her in prayers and support. It was resolved that the Members contribute Kshs. 10,000 each in support of the Hon. Lydia Haika. Hon. Maritim was nominated to coordinate and contributions to be forwarded to Hon. Jones Mlolwa, MP.

MIN.NO.NA/SCT/2019/092: ADJOURNMENT

There being no other business, the meeting was adjourned at twenty minutes past one O'clock.

SIGN: ..... **DATE:** 02.04.19

CHAIRPERSON

MINUTES OF THE 18TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM HELD ON WEDNESDAY 13TH MARCH, 2019 IN THE COMMTTEE ROOM ON 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:30 AM

PRESENT

1. The Hon. (Dr.) Victor Kioko Munyaka, MP. - Chairperson
2. The Hon. Kubai Iringo, MP.
3. The Hon. Benard Masaka Shinali, MP.
4. The Hon. (Dr.) Tecla Chebet Tum, MP.
5. The Hon. Charles Ngusya Nguna, MP.
6. The Hon. Jones Mlolwa, MP.

APOLOGY

1. The Hon. (Dr.) Korei Ole Lemein, MP. - Vice Chairperson
2. The Hon. Christopher Omulele, MP
3. The Hon. Lydia Haika Mnene Mizighi, MP.
4. The Hon. George Risa Sunkuyia, MP.
5. The Hon. Jeremiah Lomorukai, MP.
6. The Hon. Sylvanus Maritim, MP.
7. The Hon. (Prof.) Jacqueline Oduol, MP.
8. The Hon. Titus Mukhwana Khamala, MP.
9. The Hon. Daniel Wanyama Sitati, MP
10. The Hon. Annie Wanjiku Kibeh, MP
11. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP
12. The Hon. Dr. Christine Ombaka, MP.

IN-ATTENDANCE - KENYA LAW REFORM COMMISSION

1. Mr. Mathew Kimanzi - Deputy Director, Legislative Services
2. Ms. Juliet Ajwang - Legal Officer

IN-ATTENDANCE

NATIONAL ASSEMBLY

1.	Mr. Douglas Katho	-	Clerk Assistant III
2.	Mr. Salem Lorot	-	Legal Counsel II
3.	Ms. Jane Serem	-	Audio Officer

MIN.NO.NA/SCT/2019/071: PRELIMINARIES

The Chairperson called the meeting to order at five minutes to Eleven O'clock followed by a prayer.

MIN.NO.NA/SCT/2018/072: SUBMISSIONS BY MR. MATHWEW KIMANZI, THE DEPUTY DIRECTOR – LEGISLATIVE SERVICES AT KENYA LAW REFORM COMMISSION WITH REGARD TO THE PETITION ON THE WELFARE OF THE MAU MAU LIBERATION STRUGGLE MOVEMENT

The Deputy Director for Legislative Services at the Kenya Law Reform Commission appeared before the Committee and made submissions regarding the petition on the welfare of the Mau Mau Liberation Struggle Movement.

The Committee heard that the Mau Mau was accepted by the Colonialists since it did not have any academic connotations and that each community in Kenya in their own ways were had a description of the Mau Mau for instance Kambas used it as anti-destocking campaign way back in 1938; the coast understood it as an acronym of Mzungu Arudi Ulaya Mwafrika Apate Uhuru and many other Communities.

The Committee was informed that the Kenya Heroes Act of 2014; the constitutional provisions; the Public Archives and Documentation Act, the National honors Act, the Museum Act, the Society Act and many other statutes permits the petitioners to take more legalistic approach for recognitions rather than asking parliament to allow for a private Bill.

The Committee took cognisant that the Mau Mau has several factions and proposed that a general name be adopted to include all the liberation struggled to give it a national outlook for all the freedom fighters. This was because all the freedom fighters played a part in liberation of Kenya from the hands of the colonialists.

The Committee also resolved to invite the Attorney General to provide his submission on the Petition before making a final determination on the 20th March, 2019.

MIN.NO.NA/SCT/2018/073: ADJOURNMENT

There being no other business, the meeting was adjourned at fifty minutes past One O'clock.

SIGN: ..... DATE: 07.09.19

CHAIRPERSON

MINUTES OF THE 17TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM HELD ON WEDNESDAY 12TH MARCH, 2019 IN THE COMMTTEE ROOM ON 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:30 AM

PRESENT

1. The Hon. (Dr.) Victor Kioko Munyaka, MP. - Chairperson
2. The Hon. George Risa Sunkuyia, MP.
3. The Hon. Kubai Iringo, MP.
4. The Hon. Benard Masaka Shinali, MP.
5. The Hon. (Dr.) Tecla Chebet Tum, MP.
6. The Hon. Titus Mukhwana Khamala, MP.
7. The Hon. Charles Ngusya Nguna, MP.
8. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP
9. The Hon. Jones Mlolwa, MP.

APOLOGY

1. The Hon. (Dr.) Korei Ole Lemein, MP. - Vice Chairperson
2. The Hon. Christopher Omulele, MP
3. The Hon. Lydia Haika Mnene Mizighi, MP.
4. The Hon. Jeremiah Lomorukai, MP.
5. The Hon. Sylvanus Maritim, MP.
6. The Hon. (Prof.) Jacqueline Oduol, MP.
7. The Hon. Daniel Wanyama Sitati, MP
8. The Hon. Annie Wanjiku Kibeh, MP
9. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP
10. The Hon. Dr. Christine Ombaka, MP.

IN-ATTENDANCE - Ministry of Sports, Culture and Heritage

1. Ms. Josephta Mukobe, CBS- Principal Secretary State Department of Heritage
2. Ms. Juliet Ajwang - Legal Officer

IN-ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Clerk Assistant I
2. Mr. Salem Lorot - Legal Counsel II
3. Ms. Jane Serem - Audio Officer

MIN.NO.NA/SCT/2019/067: PRELIMINARIES

The Chairperson called the meeting to order at five minutes to Eleven O'clock followed by a prayer. The Agenda of the meeting was adopted having being proposed by Hon. Kubai Iringo, MP and seconded by Hon. Benard Masaka Shinali, MP.

MIN.NO.NA/SCT/2018/068: SUBMISSIONS BY PETITIONERS

Shujaa Gitu Wa Kahengeri on behalf of the Petitioners submitted that:-

a) Mau Mau War Veterans Association is a fellowship of Mau Mau freedom fighers from whole the republic who consistently and persistently participated in the heroic Mau Mau freedom struggle
b) The resistance was against colonial domination which led to Kenya gaining independence
c) The independence struggle was fought by many communities in the Country including inhabitants of Taveta , Turkana , Nandi counties among other communities
d) Many freedom fighters in the country were imprisoned with hard labor, tortured and women raped.
e) That Mau Mau Struggle movement which participate in liberating Kenya from the colonial masters has never being recognized nor appreciated
f) What petitioners are requesting is the Mau Mau liberation movement be recognized as the movement that liberated Kenya from the colonial York.
g) The Petitioners prayed that the House
    I. Consider and appreciate the Mau Mau liberation struggle movement whose leaders and adherents through a struggle bearing tears and sweat recovered our independence from the colonial powers
    II. Consider Mau Mau liberation movement to be a source of History for the country for the generation to come
    III. Grant leave to the Petitioners to introduce a Private Members Bill to the National Assembly in accordance with Standing Orders Part XX

MIN.NO.NA/SCT/2018/069: SUBMISSIONS BY STATE DEPARTMENT HERITAGE

Ms. Josephta Mukobe, CBS Principal Secretary State Department of Heritage while appearing before the Committee, submitted that:-

In 2003 the Government issued Legal Notice No. 148 dated 29th August 2003, which lifted the ban on the Mau Mau movement. This made it possible to recognize and honour the freedom fighters.

The Ministry Sports, Culture and Heritage in 2007 established a Taskforce to undertake data collection countrywide on the criteria and modalities of honouring national heroes and heroines. The taskforce recommended that the Government and Parliament put in place legislation on heroes and heroines.

As a result of the Taskforce, the Ministry developed the National Heroes Bill, which was later enacted to Kenya Heroes Act No. 5 of 2014. This Act provides for the recognition of heroes, establishes a criteria for the identification, selection and honouring of heroes. It also provides for the establishment of the National Heroes Council.

The Government through the Ministry of Sports, Culture and Heritage has undertaken several initiatives to ensure our national heroes and heroines, including Mau Mau freedom fighters, are honoured and the role they played remains in the minds of Kenyans who now enjoy enormous freedoms as a result.

Some of the undertakings by the Ministry in regard to recognizing and honoring freedom fighters:-

1. Recognition of the Kapenguria six, namely – Mzee Jomo Kenyatta, Paul Ngei, Bildad Kaggia, Achieng' Oneko, Kungu Karumba and Fred Kubai.
2. The Ministry has constructed mausoleums for the late Paul Ngei, Bildad Kaggia, Achieng' Oneko and Kisoi Munyao who hoisted the Kenyan flag on top of Mt Kenya on the eve of independence.
3. Monuments have been constructed for Dedan Kimathi and Tom Mboya in Nairobi.
4. Construction of Koitalel arap Samoei Cultural Education Centre and development of the Heroes Corner at Uhuru Gardens in Langata.

5. The ministry has provided state burial to some heroes like the late Kisoi Munyao and Achieng' Oneko.

The Constitution of Kenya 2010 provides for Mashujaa Day, a day created to soley honour our heroes by presenting them and highlighting the role they played before the citizens of this nation and the world, for this day is set aside for that purpose. Over 200 freedom fighters have so far been honoured over the past Mashujaa Days. The freedom fighters are usually allocated more slots on this Day. Though the Mau Mau's are in different factions the Ministry considers representatives from all factions.

The Ministry has also made some effort to consolidate the various factions of Mau Mau with a view to bringing harmony and avoid more disintegration.

During the commemorations of heroes, the Ministry offers logistical support including ensuring that the freedom fighters attend these functions by providing for the transport, especially during commemorations for the late Field Marshal Dedan Kimathi which is held annually in the month of February.

A number of freedom fighters have been decorated with Presidential Honours and Awards. During the 2018 Madaraka Day celebrations, the President awarded some veterans with the Order of the Grand Warrior (OGW) for their role in the fight against colonialism.

The Government believes that through the Constitution of Kenya 2010, Kenya Heroes Act No. 5 of 2014, The National Honours Act No. 11 of 2013 and Legal Notice No. 148 dated 29th August 2003, the Petitioners prayers will be answered adequately.

On the matter regarding the Proposals on whether the Petitioners' prayers can be addressed through a Private Bill. The Ministry is of the considered opinion that

i. The existing laws are adequate in addressing the prayers sought in the Petition. However, if the petitioners opine that certain issues are not comprehensively provided for, they may propose amendments to the said existing laws and the Ministry can incorporate them.

ii. The National Heroes Council once operationalized will cater for identification, nomination and vetting of proposed heroes (Mau Mau veterans inclusive) and ways of recognizing, awarding and compensating all national heroes.

iii. The introduction of the Mau Mau Liberation Struggle Movement Bill 2018, will cause fragmentation of the Kenya Heroes Act No. 5 of 2014. We note that the Bill has been submitted by one of the many Mau Mau factions thus, raising a likelihood of other factions presenting other Bills or even heroes in other categories presenting similar proposals

iv. Once operationalized and sufficiently funded, the Kenya Heroes Act No. 5 of 2014 will adequately answer the Petitioner's prayers.

Committee Observation

a) Mau Mau movement has several factions all claiming to be the authentic representation of the struggle movement

b) There is need to adopt a general name to include all the liberation struggled to give it a national outlook for all the freedom fighters.

c) There is need to amend the Heroes Act to accommodate the wishes of the Petitioners if the existing legislation are sufficient

MIN.NO.NA/SCT/2018/070: ADJOURNMENT

There being no other business, the meeting was adjourned at fifty minutes past One O'clock.

SIGN: ..... **DATE:** 12·4·19

CHAIRPERSON

MINUTES OF THE 15TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM HELD ON TUESDAY 5TH MARCH, 2019 IN THE BOARDROOOM, 2ND FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 12:20 NOON

PRESENT

1. The Hon. (Dr.) Victor Kioko Munyaka, MP. - Chairperson
2. The Hon. (Dr.) Korei Ole Lemein, MP. - Vice Chairperson
3. The Hon. Dr. Christine Ombaka, MP.
4. The Hon. Kubai Iringo, MP.
5. The Hon. Benard Masaka Shinali, MP.
6. The Hon. Daniel Wanyama Sitati, MP.
7. The Hon. (Prof.) Jacqueline Oduol, MP.
8. The Hon. (Dr.) Tecla Chebet Tum, MP.
9. The Hon. George Risa Sunkuyia, MP.
10. The Hon. Titus Mukhwana Khamala, MP.
11. The Hon. Annie Wanjiku Kibeh, MP.
12. The Hon. Jeremiah Lomorukai, MP.
13. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP

APOLOGY

1. The Hon. Christopher Omulele, MP
2. The Hon. Jones Mlolwa, MP.
3. The Hon. Charles Ngusya Nguna, MP.
4. The Hon. Sylvanus Maritim, MP.
5. The Hon. Lydia Haika Mnene Mizighi, MP.
6. The Hon. Charles Kamuren, MP.

IN-ATTENDANCE

NATIONAL ASSEMBLY

1. Ms. Helen Kina - Second Clerk Assistant
2. Mr. Fredrick Otieno - Third Clerk Assistant
3. Mr. Salem Lorot - Legal Counsel II
4. Mr. Abdiqani - Audio Officer

MIN.NO.NA/SCT/2019/059: PRELIMINARIES

The Chairperson called the meeting to order at twenty minutes past twelve O'clock followed by a prayer. He then thanked the Members who participated in the Marsabit inspection visit and assured the Committee that all the inspection visits that were cancelled will still be undertaken at appropriate date that will be chosen by the Committee.

MIN.NO.NA/SCT/2019/060: PRESENTATION BY THE LEGAL COUNSEL ON THE PUBLIC PETITION REGARDING THE WELFARE OF THE MAU MAU LIBERATION STRUGGLE MOVEMENT

The Legal Counsel briefed the Committee as follows:

1. The Petitioner's prayers are as follows:
    a) That Parliament considers and appreciates the Mau Mau Liberation Struggle Movement whose leaders, activists and adherents through a struggle bearing tears, sweat and blood recovered our independence from the terrifying jaws of colonial power, at midnight on 12th December 1963,
    b) That Parliament considers the need for Mau Mau Liberation Struggle Movement to be a source of national history and the movement's useful information, to generations to come;
    c) That the Petitioners are granted leave to introduce a Private Bill to the Kenya National Assembly, in accordance with the National Assembly Standing Orders Part XX on Private Bills.
2. The Petitioners have enclosed their Private Bill titled The Mau Mau Liberation Struggle Movement Bill, 2018. In the Memorandum of Objects and Reasons, the Petitioners indicate that the objective of the Bill is to provide a legal framework for the recognition of the Mau Mau Liberation Struggle Movement and the declaration that the pre-independence resistance by the Mau Mau Freedom fighters was legitimate course that led to the independence of Kenya.
3. The objects and purpose of the Bill are stated as follows:
    a) Provide for the recognition of the Mau Mau Liberation Struggle Movement;
    b) Provide for declaration that the pre-independence struggle by the Mau Mau veterans was a legitimate course that led to the independence of Kenya; and

c) Provide a framework to facilitate public knowledge on the role of the Mau Mau liberation struggle movement in the liberation of Kenya from colonialism.

4. It is important to note that a Private Bill can only be introduced in the House through a Petition. The Petition should be accompanied by a copy of the Bill. Standing Order 159 provides as follows—

Petition for leave

159. (1) No private Bill shall be introduced unless a Petition for the same, headed by the short title of the Bill, and signed by the parties, being promoters of the Bill, or some of them, has been previously presented to the House with a copy of the Bill annexed.

(2) The Clerk shall scrutinize petitions presented to the House and where, after such scrutiny, the Clerk is not satisfied that the provisions of this Part have been complied with, the Clerk shall so report to the Speaker.

(3) The promoters shall deposit with the Clerk a sufficient number of copies of the Petition with the Bill annexed, for distribution to Members and on receipt of such copies, the Clerk shall forthwith avail a copy to every Member.

(4) The Petition shall be read at the first sitting of the House after it is so deposited and thereupon the question "That, the promoters be granted leave to proceed" shall be put forthwith and decided without amendment or debate.

The role of the Committee

5. The role of the Committee in relation to this Petition has been spelt out by the Speaker in his Conveyance. The Committee is expected **to find out whether a Private Bill is the appropriate way to address the prayers of the Petitioners. If the Committee would have been satisfied that a Private Bill would be the appropriate way, then it should, upon tabling the Report, move a Motion asking the House to grant leave for the introduction of a Private Bill on the subject.**

6. A *Private Bill* is any Bill, which is intended to affect or benefit some particular person, association or corporate body whereas a *Public Bill* is a Bill which is intended to affect the public generally, or a section of the public.

7. In seeking to find out whether a Private Bill is the appropriate way the Petitioners would have used to address their prayers, the Committee will need to ask the following questions:

   i. Could the prayers have been addressed through other means other than a Private Bill?

   ii. To what extent does the Kenya Heroes Act, 2014 address the concerns of the Petitioners in so far as their recognition is concerned?

   iii. Are the provisions of the Private Bill adequate in addressing the concerns of the Petitioners?

8. The questions above are addressed below.

i. Could the prayers have been addressed through other means other than a Private Bill?

A Private Bill is any Bill, which is intended to affect or benefit some particular person, association or corporate body. In this respect, the Mau Mau Liberation Struggle Movement Bill, 2018 seeks to affect or benefit the Mau Mau veterans, although there is also a component of the Bill facilitating public knowledge on the role of the Mau Mau liberation struggle movement in the liberation of Kenya from colonialism. These issues would be better provided for in a Private Bill.

ii. To what extent does the Kenya Heroes Act, 2014 address the concerns of the Petitioners in so far as their recognition is concerned?

In the Bill, it is provided that the Kenya Heroes Act, 2014 shall apply with necessary modifications. Since some of the objects of the Bill are on the recognition of the Mau Mau war veterans, it will be of importance for the Committee to find out from the Mau Mau war veterans their views on the applicability of the Kenya Heroes Act, 2014 to their recognition and whether there are any gaps in that law.

iii. Are the provisions of the Private Bill adequate in addressing the concerns of the Petitioners?

Having looked at the Bill, it chiefly provides for the recognition of the Mau Mau Liberation Struggle Movement and provides for a framework to facilitate public knowledge on the role of the Mau Mau Liberation struggle movement in the liberation of Kenya from colonialism. There will be need to enhance the Bill further. For instance, apart from the

declaration on the role and importance played by the Mau Mau veterans there is a need to further provide for the framework to facilitate public knowledge and similar issues.

Way forward for the Committee

9. In the Speaker's Conveyance, the Committee is expected to find out whether a Private Bill is the appropriate way to address the prayers of the Petitioners. If the Committee would have been satisfied that a Private Bill would be the appropriate way, then it should, upon tabling the Report, move a Motion asking the House to grant leave for the introduction of a Private Bill on the subject.

10. Before the Committee concludes its report, it should invite the Petitioners, the Cabinet Secretary for Sports and Heritage, and other stakeholders.

MIN.NO.NA/SCT/2019/061: COMMITTEE CONCERNS/OBSERVATIONS

The Committee made the following observations, that:

1. It was noted that the title of the Bill does not reflect the face of the Nation considering that Mau Mau was formed around Mount Kenya region and there are many Kenyans form other regions who fought for liberation and were not members of Mau Mau. The title of the Bill could have been drafted to be inclusive to cater for all those who fought for the country from all the regions in Kenya.
2. It was noted that the Bill itself is not comprehensive enough to address the interest of the petitioners, hence if deemed viable by the Committee, then there will be a need to enhance the Bill further. For instance, apart from the declaration on the role and importance played by the Mau Mau veterans there is a need to further provide for the framework to facilitate public knowledge and similar issues.
3. The Committee was concerned whether the Mau Mau Veterans were not catered for in the current Kenya Heroes Act and the motive of the petitioners since all the heroes and heroines were to be covered by the existing Act.
4. Further, the Committee was concerned know who are the exact Mau Mau Veterans if they still exist, how they would be identified and the inner interest that could have led to the proposal to have the Bill.
5. The Committee felt it was important to understand the motive of the Bill and whether the current Kenya Heroes Act has gaps and does not cover the Mau Mau Veterans.

The Committee resolved to invite the following institutions for further consultations on the petition and the Bill:

i. The Petitioners
ii. The Ministry of Sports and Heritage
iii. The Office of the Attorney General
iv. The Kenya Law Reforms Commission

MIN.NO.NA/SCT/2019/062: ADJOURNMENT

There being no other business, the meeting was adjourned at forty two minutes past one O'clock.

SIGN: ..... **DATE:** 26.03.19

CHAIRPERSON

Directorate of Legislative & Procedural Services (NA)
The Table Office

E M O

TO : DIRECTOR, COMMITTEE SERVICES (NA)

FROM : THE HEAD OF TABLE OFFICE DEPARTMENT

DATE : FEBRUARY 14, 2019

SUBJECT : PUBLIC PETITION

The following Petition was conveyed to the House, today, Thursday, February 14, 2019: -

- Petition on the regarding the welfare of the Mau Mau Liberation Struggle Movement.

Enclosed please find the Petition for your necessary action.

RANA K. TIAMPATI

(Encls.)

Copy to: -

1. Clerk of the National Assembly
2. Director of Legislative and Procedural Services
3. Director, Committee Services

14/2/19

REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)
THE NATIONAL ASSEMBLY

PUBLIC PETITION

(No.002 of 2019)

ICE OF A PETITION SEEKING LEAVE OF THE HOUSE TO A PRIVATE BILL ENTITLED THE MAU MAU LIBERATION STRUGGLE, MOVEMENT BILL

Honourable Members,

Standing Order 225 (2) (b) requires that the Speaker reports to the House any Petition other than those presented through a Member. I therefore wish to convey to the House that my office is in receipt of a Petition from members of the Mau Mau War Veterans Association seeking for leave of the House for the introduction of a Private Bill.

Honourable Members,

You may wish to note that this Petition is not an ordinary one as the Petitioners are asking for leave of the House to introduce a Private Bill aimed at providing for the recognition of the role of *Mau Mau Liberation Struggle Movement*. The draft legislation attached to the Petition is proposing to among other things, to acknowledge in law, the role of the *Movement* in the fight for Kenya's independence and to provide for the documentation of t history and activities of the *Movement* for posterity. The Petition does cor with the provisions of SO 159 (1) which states that "*No private Bill sh introduced unless a Petition for the same, headed by the short title of*

and signed by the parties, being promoters of the Bill, or some

been previously presented to the House with a copy of the Bill an

Hounorable Members

You all appreciate that the Mau Mau Veterans played a key role in liberation of this country from colonialism. Therefore it would be appropriate to recognise and appreciate their efforts in the fight for the Country's independence.

Honourable Members,

Pursuant to the provisions of Standing Order 227, this Petition now stands committed to the Departmental Committee on Sports, Culture and Tourism for consideration. The Committee is advised to prioritize the Petition, accord hearing to the Petitioners and assist the House to determine whether the prayers by the Petitioners would properly be addressed by way of a Private Bill in terms Part Twenty (XX) of the Standing Orders. Should the Committee find that a Private Bill is the appropriate way to address the prayers, the Committee should, upon tabling the Report move a Motion asking the House to grant leave for the introduction of a Private Bill on the subject.

Thank you!

THE HON. JUSTIN B. MUTURI, EGH, MP

SPEAKER OF THE NATIONAL ASSEMBLY

THURSDAY, 14TH FEBRUARY 2019

Mau Mau War Veterans Association

ARDHI KUJITAWALA

MASHUJAA

Mr. Karuru
Pse Study and Report
CNA
18/12/18

Your Ref
Your Ref
S OFFICE

MAU LIBERATION STRUGGLE MOVEMENT BILL 2018.

LAVE TO INTRODUCE A PRIVATE BILL IN ACCORDANCE WITH THE ASSEMBLY STANDING ORDERS PART XX PRIVATE BILLS.

IONAL ASSEMBLY OF KENYA.

THE UNDERSIGNED CITIZENS OF KENYA,ON BEHALF OF 61330 MAU MAU WAR VETERANS , FROM ALL REGIONS OF THE REPUBLIC OF KENYA:-

SUBMIT THE FOLLOWING MATTERS OF FACT, PERTAINING TO **MAU MAU LIBERATION STRUGGLE MASS MOVEMENT.**

2. THAT WE ARE A FELLOWSHIP OF MAU MAU FREEDOM FIGHTERS FROM THE WHOLE REPUBLIC OF KENYA,WHO CONSISTENTLY AND PERSISTENTLY PARTICIPATED IN HEROIC MAU MAU FREEDOM STRUGGLE.

3. THAT THE NOTABLE RESISTENCE AGAINST COLONIAL DOMINATION ,WAS F STARTED BY OUR FOREFATHERS ,**TRIGGERING THE REAL INDEPENDEN** STRUGGLE FOR THE PEOPLE OF KENYA , BY THE MAU MAU LIBERATIO MOVEMENT.

4. THAT WITHOUT THE GALLANT DEDICATION OF THE PARTIOTIC HF THROUGH TEARS,SWEAT AND BLOOD ,KENYANS WOULD NOT H JUSTICE ,THEY ENJOY TODAY.

5. THAT MANY FREEDOM FIGHTERS AROUND THE LAND OF WITH HARD LABOUR, DETAINED IN REMOTE ISLANDS, WOMEN WERE RAPED AND DENIED SUFFICIENT FOOT

MAU MAU WAR VETERAN MAS DATE: CELL: 0702

P.O. Box 3782 - 01000 Thika, Kenya Cell: 0702

Mau Mau War Veterans Association

MASHUJAA

Our R LIBERATION STRUGGLE MOVEMENT BILL 2018

U HEROIC LIBERATIONS STRUGGLE MASS MOVEMENT, WHICH
, FROM COLONIAL DICTATORSHIP AND ILLTREATMENT ,USHERING IN,
INATION, SOCIAL ECONOMIC AND EDUCATION FREEDOMS, HAS NEVER
N OFFICIALLY APPRECIATED, RECOGNISED AND DECLARED , THAT IT WAS THE

JUST LEGITIMATE MEANS OF LIBERATING KENYA FROM COLONIAL OCCUPATION AND SUBJUGATION.

7. THAT MATTERS IN RESPECT OF WHICH WE MAKE THIS PETITION ARE NOT PENDING BEFORE ANY COURT OF LAW OR CONSTITUTIONAL OR LEGAL BODY.

PETITION :

HEREFORE YOUR HUMBLE PETITIONERS PRAY PARLIAMENT.

CONSIDER AND APPRECIATE THE MAU MAU LIBERATION STRUGGLE MOVEMENT WHOSE LEADERS , ACTIVISTS AND ADHERENTS THROUGH A STRUGGLE BEARING TEARS,SWEAT AND BLOOD,RECOVERED OUR INDEPENDENCE FROM THE TERRIFYING JAWS OF COLONIAL POWER, AT MIDNIGHT ON 12TH DECEMBER 1963.

CONSIDERING THE NEED FOR MAU MAU LIBERATION STRUGGLE MOVEMENT TO BE A SOURCE OF NATIONAL HISTORY AND THE MOVEMENT'S USEFUL INFORMATION , TO GENERATIONS TO COME,WE PRAY THE PARLIAMENT

TO GRANT LEAVE TO THE PETITIONERS TO INTRODUCE A PRIVATE BILL TO THE KEN NATIONAL ASSEMBLY ,IN ACCORDANCE WITH THE NATIONAL ASSEMBLY STANDING ORDERS PART XX PRIVATE BILLS.

MAU MAU WAR VETERANS ASSOCIATION
MASHUJAA
DATE.....
CELL: 0702 216194
P.O. Box 3782 - 01000 Thika, Kenya

P.O. Box 3782 - 01000 Thika, Kenya Cell: 0722 612 463
0702 216 194

Mau Mau War Veterans Association

ARDHI KUJITAWALA

MASHUJAA

Our Ref:.....

Your Ref:.....

THE MAU MAU LIBERATION STRUGGLE MOVEMENT BILL 2018.

IE PROPOSED BILL IS HEREBY ANNEXED TO THIS PETITION.

IE TITLE OF THE BILL SHALL BE: - "MAU MAU LIBERATION STRUGGLE MOVEMENT BILL 2018"

	NAME OF PETITIONER	FULL ADDRESS	NATIONAL ID NO.	SIGNATURE
	SHUJAA HON. DR. GITU WA KAHENGERI OGW	P.O. Box 3782 01000 THIKA	0352156	Gitu
	MICHAEL MUNGAI KIMANI	P.O Box 115 WANGIGE.	11266283	
	JOSEPH NKAIWATEI OLELARUS	P.O Box 117 NAROK	0095547	
	FRANCIS MUSYOKA MUTISO	P.O Box 571-9100 MACHAKOS	16046719	
	M'MBURUGU M MARETE	P.O Box 11 TIMAU	8884021	
	GRACE NYAMBURA NGUGI	P.O Box 3782 THIKA.	3067022	Grace
	ANSSELIMINA RWAMBA NYAGA	P.O Box 148 MANYATTA.	35233355	Nyaruma
	SAMUEL KANYUIRO	P.O Box 779 EMBU	29194425	Kanyuiro

OFFICIAL CONTACT: email:gituwakahengeri@gmail.com

SHUJAA HON .DR. GITU WA KAHENGERI OGW

P O BOX 3782 – 01000 THIKA

P.O. Box 3782 - 01000 Thika, Kenya Cell: 0722 612 463
0702 216 194

Mau Mau War Veterans Association

MASHUJAA

Our Ref:.....

Your Ref:.....

THE MAU MAU LIBERATION STRUGGLE, MOVEMENT BILL 2018

ARRANGEMENT OF CLAUSES

Clauses

1 – Short Title

2 – Interpretation

3 – Declaration

4 – Object and purpose of the Act.

5 – Application

6 – Regulations

MAU MAU WAR VETERANS ASSOCIATION
MASHUJAA
DATE: 1-11-2018
CELL: 0702 216194
P.O. Box 49256 - 00100, NAIROBI

P.O. Box 3782 - 01000 Thika, Kenya Cell: 0722 612 463
0702 216 194

Mau Mau War Veterans Association

ARDHI KUJITAWALA

Our Ref:.....

Your Ref:.....

MASHUJAA

THE MAU MAU LIBERATION STRUGGLE, MOVEMENT BILL ,2018

A Bill for

AN ACT of parliament to provide for the recognition of Mau Mau Liberation Struggle movement ; the declaration that the pre-independence liberation struggle by the Mau Mau freedom fighters was a legitimate course that led to the independence of Kenya and for connected purposes.

ENACTED by the Parliament of Kenya, as follows-

Short title

1.This Act may be cited as the Mau Mau Liberation Struggle Movement Act,2018

Interpretation

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

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for national heritage;

"Mau Mau Liberation Struggle Movement" means the political or underground struggle waged against colonialism by Kenyans which resulted in the recovery of the independence of Kenya at midnight on 12th December 1963;

"Mau Mau veteran" means any person who heroically participated consistently and persistently in the liberation struggle in order to bring about the independence of Kenya, notwithstanding that he or she was reallocated to other liberation struggle functions or duties including dependants;

Declaration

3 That the Mau Mau wars of resistance in Kenya , From Namanga to Moyale and from The Indian Ocean Mombasa to Busia ,and the ultimate armed struggle was a just means of liberating Kenya from colonial occupation and subjugation.

MAU MAU WAR VETERANS ASSOCIATION MASHUJAA DATE: 1-13-2018 CELL: 0702 216194 P.O. Box 49865 - 00100, NAIROBI

P.O. Box 3782 - 01000 Thika, Kenya Cell: 0722 612 463
0702 216 194

Mau Mau War Veterans Association

ARDHI KUJITAWALA

MASHUJAA

Our Ref:.....

Your Ref:.....

THE MAU MAU LIBERATION STRUGGLE, MOVEMENT BILL ,2018

Objects and Purpose of the Act

4. The object and purpose of this Act is to-

a) Provide for the recognition of the Mau Mau liberation struggle movement.

b) Provide for Declaration that the pre – independence struggle by the Mau Mau War Veterans was a legitimate course that led to the independence of Kenya; and

c) Provide a framework to facilitate public knowledge on the role of the Mau Mau liberation struggle Movement in the liberation of Kenya from colonialism

Application

5. The Kenya National Heroes Act shall apply to this Act with the necessary modifications

REGULATIONS

18. (1) The cabinet Secretary in consultation with the petitioners shall make regulations for the better carrying out of the provisions of this Act;

(2) Without prejudice to the generality of subsection (1) the regulations may provide for –

a) The nature of artifacts of the Mau Mau which are cultural and human interest;

b) Mechanisms to facilitate research and dissemination of knowledge in the cultural heritage of Kenya and that of the Mau Mau Liberation Struggle.

c) The forms and fees for the purposes of this Act

MAU MAU WAR VETERANS ASSOCIATION
MASHUJAA
DATE 1-11-2018
CELL: 0702 216194
P.O. Box 3782 - 01000 Thika

P.O. Box 3782 - 01000 Thika, Kenya Cell: 0722 612 463
0702 216 194

Mau Mau War Veterans Association

ARDHI KUJITAWALA

Our Ref:.....

Your Ref:.....

MASHUJAA

THE MAU MAU LIBERATION STRUGGLE, MOVEMENT BILL ,2018

MEMORANDUM OF OBJECTS AND REASONS

The objective of this Bill is to provide a legal framework for the recognition of the Mau Mau Liberation Struggle Movement and declaration that the pre – independence resistance by the Mau Mau Freedom fighters was legitimate course that led to the independence of Kenya.

This will create public awareness on the pre-independence struggle by the Mau Mau Liberation Struggle Movement which liberated Kenya from colonialism and led to Kenya's independence

The Bill does not infringe or limit and fundamental rights or freedoms.

The Bill does not concern County governments

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

MAU MAU WAR VETERANS ASSOCIATION
MASHUJAA
DATE: 1-11-2018
Cell: 0702 216194
P O Box 3782 - 01000, NAIROBI

Dated 15th of October 2018

P.O. Box 3782 - 01000 Thika, Kenya Cell: 0722 612 463
0702 216 194

MINISTRY OF SPORTS, CULTURE AND HERITAGE
STATE DEPARTMENT FOR CULTURE AND HERITAGE

Telegrams: "MOSCA" Kencom Hse, Nairobi
Tel: +254-020-2251164/005, 2250576
Fax: 254-020-316187
Website: www.sportculture.go.ke
Email:infor@sportscultue.go.ke
When replying, please quote:

P.O. Box 49849 – 00100
Nairobi, Kenya

REF. : **REF : MSCA 1/29 Vol 1**

Jeremiah W. Ndombi
National assembly
Parliament Building
P.O. Box 41842-00100
NAIROBI

12th March 2019

Dear Jeremiah

PETITION BY MAU MAU WAR VETARANS ASSOCIAION TO INTRODUCE A PRIVATE BILL ENTITILED THE MAU MAU LIBERATION STRUGGLE MOVEMENT BILL 2018

Reference is made to your letter Ref.NA/DCS/SCT/2019(022) dated 6th March, 2019 on the above subject matter.

Forwarded hereby please find our presentation for your perusal and further guidance.

Yours Sincerely

Josephta O. Mukobe, (Ms.), CBS
PRINCIPAL SECRETARY

RESPONSE TO PETITION BY MAU MAU WAR VETERANS ASSOCIATION TO INTRODUCE A PRIVATE BILL ENTITLED THE MAU MAU LIBERATION STRUGGLE MOVEMENT BILL 2018

The Mau Mau War Veterans have submitted a Petition to the National Assembly seeking leave to introduce a Private Bill entitled The Mau Mau Liberation Struggle Movement Bill, 2018 in accordance to the provisions of Standing Order 159. The Parliamentary Departmental Committee on Sports, Culture and Tourism has invited this Ministry to give a presentation on the proposed Private Bill. The Ministry wishes to respond as follows:

a) INTRODUCTION

The Government through the Ministry of Sports, Culture and Heritage has undertaken several initiatives to ensure our national heroes and heroines including Mau Mau freedom fighters, are honoured and the role they played remains in the minds of Kenyans who now enjoy enormous freedoms as a result.

In 2003 the Government issued Legal Notice No. 148 dated 29th August 2003, which lifted the ban on the Mau Mau movement. This made it possible to recognize and honour the freedom fighters.

Some of the undertakings by the Ministry in regard to recognizing and honoring freedom fighters:-

1. Recognition of the Kapenguria six, namely – Mzee Jomo Kenyatta, Paul Ngei, Bildad Kaggia, Achieng' Oneko, Kungu Karumba and Fred Kubai.
2. The Ministry has constructed mausoleums for the late Paul Ngei, Bildad Kaggia, Achieng' Oneko and Kisoi Munyao who hoisted the Kenyan flag on top of Mt Kenya on the eve of independence.
3. Monuments have been constructed for Dedan Kimathi and Tom Mboya in Nairobi.
4. Construction of Koitalel arap Samoei Cultural Education Centre and development of the Heroes Corner at Uhuru Gardens in Langata.
5. The ministry has provided state burial to some heroes like the late Kisoi Munyao and Achieng' Oneko.

The Ministry in 2007 established a Taskforce for country wide data collection on criteria and modalities of honouring national heroes and heroines. The taskforce recommended that the Government and Parliament put in place legislation on heroes and heroines.

As a result, the Ministry developed the National Heroes Bill which was later enacted to Kenya Heroes Act No. 5 of 2014. This Act provides for the recognition of heroes, establishes a criteria for the identification, selection and honouring of heroes. It also provides for the establishment of the National Heroes Council.

Mashujaa Day creates an opportunity to honour our heroes by presenting them and highlighting the role they played before the citizens of this nation and the world, for this day is set aside for that purpose. Over 200 freedom fighters have so far been

honoured over the past Mashujaa Days. The freedom fighters are usually allocated more slots on this Day. Though the Mau Mau's are in different factions the Ministry considers representatives from all factions. The Ministry has also made some effort to consolidate the various factions of Mau Mau with a view to bringing harmony and avoid more disintegration.

During the commemorations of heroes, the Ministry offers logistical support including ensuring that the freedom fighters attend these functions by providing for the transport, especially during commemorations for the late Field Marshal Dedan Kimathi which is held annually in the month of February.

A number of freedom fighters have been decorated with Presidential Honours and Awards. During the 2018 Madaraka Day celebrations, the President awarded some veterans with the Order of the Grand Warrior (OGW) for their role in the fight against colonialism.

b) **Statutory provisions that provide for recognition of heroes, their strengths and weaknesses.**

The Government has systems that answer to the needs of the Petitioners. These include;

i. Constitution of Kenya 2010

ii. Kenya Heroes Act No. 5 of 2014

iii. The National Honours Act No. 11 of 2013

iv. Legal Notice No. 148 dated 29th August 2003

1. Constitution of Kenya

The Constitution as the supreme law acknowledges the national heroes. In the Preamble the Constitution declares honour for those who heroically struggled to bring freedom and justice to our land. It further sets aside Mashujaa Day as one of the country's National days. Article 132 (4)(c), under Functions of the President, gives power to confer honours in the name of the people and the Republic.

By providing for heroes and heroines in the Country's supreme law, this is a clear indication that the country recognizes and honours all those who have sacrificed their lives for the betterment of the society.

2. Kenya Heroes Act No. 5 of 2014

This Act was enacted to provide for the recognition of heroes; to establish criteria for the identification, selection and honouring of national heroes; to provide for the categories of heroes; to provide for the establishment of the National Heroes Council

and for connected purposes. It defines who a hero is and provides for the identification and declaration of heroes under Sections 2 and 22 respectively.

The strength of this Act is that, it provides an avenue for nomination on the suitable persons, who may be recommended for declaration as heroes and involves public participation and such nominations are put through a vetting process by the National Heroes Council. This ensures that recognition of heroes is not arbitrarily awarded or conferred to undeserving persons.

The Act under section 4 provides for the establishment of a National Heroes Council which shall be a body corporate. Section 5 outlines the functions of the Council that include among others; to formulate and implement policy relating to national heroes and; identify and recommend national heroes. The Ministry is working towards the operationalization of the Council and there is a budgetary provision of Kshs. 50 Million in the FY 2019/2020. It is worth noting, that the proposed allocation will facilitate operationalization of the Council, but may not adequately cater for the needs of the heroes as envisaged in the Act.

The Act provides for the establishment of a National Heroes' Fund, which may be used for the benefit of national heroes who are in need of financial assistance and their dependants.

When operationalized, the fund will address the needs of heroes. However, it may be prone to mismanagement where the intended purpose to which it was created is abused. Stringent measures need to be exercised while dealing with this fund.

3. The National Honours Act No. 11 of 2013

The Act was enacted to give effect to and establish procedures and mechanisms for conferring of national honours by the President. While the Act confers recognition by the President to certain persons, not all heroes may be conferred national honour. Under Section 2(1) "national honour" is defined to mean an official recognition, decoration, status or award conferred by the President in terms of Article 132(4)(c) of the Constitution.

Both Acts, sufficiently cater for the recognition, appreciation and to a large extent financial assistance to heroes and heroines on a national level. The Kenya Heroes Act when operationalized will benefit the Mau Mau, other freedom fighters and Heroes.

c) Proposals on whether the Petitioners' prayers can be addressed through a Private Bill.

The Ministry's considered opinion is that, the existing laws are adequate in addressing the prayers sought in the Petition. However, if the petitioners opine that certain issues are not comprehensively provided for, they may propose amendments to the said existing laws and the Ministry can incorporate them.

The National Heroes Council once operationalized will cater for identification, nomination and vetting of proposed heroes (Mau Mau veterans inclusive) and ways of recognizing, awarding and compensating all national heroes.

The Ministry is of the opinion that, introduction of the Mau Mau Liberation Struggle Movement Bill 2018, will cause fragmentation of the Kenya Heroes Act No. 5 of 2014. We note that the Bill has been submitted by one of the many Mau Mau factions thus, raising a likelihood of other factions presenting other Bills or even heroes in other categories presenting similar proposals.

From the foregoing, the Ministry recommends that the Kenya Heroes Act No. 5 of 2014, be operationalized and sufficiently funded, since it addresses the Petitioner's prayers.

KENYA LAW REFORM COMMISSION

When replying please quote
KLRC/RES/45/VOL.

27th March, 2019

The Clerk of the National Assembly
Clerk's Chambers
Parliament Buildings
NAIROBI

(Attn. Jeremiah Ndombi)

Dear Jeremiah,

RE: REVIEW OF THE MAU MAU LIBERATION STRUGGLE MOVEMENT BILL, 2018

Please refer to the above matter and your letter thereon.

Below please find the Commission's comments on the Mau Mau Liberation Struggle Movement Bill, 2018.

I. Background

The Kenya Law Reform Commission (the Commission) is in receipt of a letter from the National Assembly dated 6th March, 2019 inviting the Commission to attend a meeting with the Departmental Committee on Sports, Culture and Tourism. The purpose of the meeting was to consider a petition by the *Mau Mau* Veterans who had submitted a petition to the National Assembly seeking leave to introduce a Private Bill entitled the *Mau Mau* Liberation Struggle Movement Bill, 2018(the Bill) in accordance with the provisions of Standing Order 159.

This memorandum is issued in furtherance of the Commission's mandate, to keep under review all the law and recommend its reform to ensure, among others, that the law systematically develops in compliance with the values and principles enshrined in the Constitution and that the law is consistent, harmonized, just, simple, accessible, modern and cost-effective in application.

The *Mau Mau* Veterans have proposed the Bill which seeks to provide a legal framework

the pre-independence resistance by the Mau Mau Freedom fighters was a legitimate course that led to the independence of Kenya.

Further, the Bill is meant to create awareness on the pre-independence struggle by the *Mau Mau* Liberation Struggle Movement which liberated Kenya from colonialism and led to Kenya's independence.

II. Analysis of the *Mau Mau* Liberation Struggle Movement Bill, 2018.

In our analysis, we shall limit our comments on—

(a) overall outlook and object of the Bill; and

(b) viability of the Bill *vis-a-vis* other statutory provisions on recognition of heroes, their strengths and weaknesses.

(a) Overall outlook and object of the Bill.

The Bill contains6 clause: the Short title, Interpretation, Declaration, Object and purpose of the Act, Application and Regulations.

Generally, the Bill lacks in substance as it does not have any provision that seeks to substantially provide for the *Mau Mau* Liberation Struggle Movement. This is further illustrated below.

(i) Under the interpretation clause, the Bill vaguely defines '*Mau Mau* Liberation Struggle Movement' and '*Mau Mau* Veteran' in an attempt to spotlight what or whose interests it seeks to address. It does not establish the Movement hence making it appear as an indistinct concept rather than a group of people seeking recognition.

(ii) Throughout the Bill, there is no provision that outlines any special interests or any form of award to the *Mau Mau* veterans other than a simple *declaration that the struggle was a just means of liberating Kenya from colonial occupation and subjugation.* It would have been more fulfilling if the Bill contain provisions on interests accrued to the *Mau Mau* Veterans that comes with the Declaration.

(iii) The object of the Bill is to –

(a) provide for recognition of the *Mau Mau* liberation struggle movement;

(b) provide for declaration that the pre-independence struggle by the *Mau Mau* Veterans was a legitimate course that led to the independence of Kenya; and

(c) provide a framework to facilitate public knowledge on the role of the *Mau Mau* liberation struggle Movement in the liberation of Kenya from colonialism.

The objectives of the Bill have been sufficiently catered for through other legislation as discussed below.

(iv) The Bill under clause 5 on application states that, *the Kenya National Heroes Act shall apply to this Act with the necessary modification*. The recognition of this Act under the Bill is well-intentioned and confirms that the *Mau Mau* veterans acknowledges the existence of legislation that caters for such matters and that there is no ostensible legal gap in addressing the recognition of efforts of the freedom fighters. If there is an aspect that they would wish to address through legislation, it is advisable to amend the Kenya Heroes Act.

(v) Clause 6 provides for the power of the cabinet secretary to make regulations. It states that, the regulations may provide for –

(a) the nature of artefacts of the *Mau Mau* which are cultural and human interest;

(b) mechanisms to facilitate research and dissemination of knowledge in the cultural heritage of Kenya and the *Mau Mau* Liberation Struggle.

(c) the forms and fees for the purpose of the Act.

These provisions are a replica of what is provided for under the Kenya Heroes Act, 2014 and the National Museum and Heritage Act, No. 6 of 2006 hence serves no purpose.

(b) Viability of the Bill *vis-a-vis* other statutory provisions on recognition of heroes, their strengths and weaknesses.

The object of the Bill is to –

(a) provide for recognition of the *Mau Mau* liberation struggle movement,

(b) provide for declaration that the pre-independence struggle by the *Mau Mau* Veterans was a legitimate course that led to the independence of Kenya; and

(c) provide a framework to facilitate public knowledge on the role of the *Mau Mau* liberation struggle Movement in the liberation of Kenya from colonialism.

From the above, the purpose of the Bill has already been addressed through other legislation, these include –

No.	Legislation	Provision
1.	Constitution of Kenya 2010	The preamble *We, the people of Kenya—* *HONOURING those who heroically struggled to bring freedom and justice to our land;* By virtue of this provision in the Constitution, *Mau Mau* veterans have been recognized and honoured.

		Article 9 - National symbols and national days *(3) The national days are--* (b) *Mashujaa Day, to be observed on 20th October.* Mashujaa Day is meant for celebrating, remembering and honouring heroes including *Mau Mau* and other Kenyans who participated in the independence struggle.[2]
2.	The Kenya Heroes Act, 2014[3]	The purpose of this Act is to provide for the *recognition of heroes*; to establish criteria for the identification, selection and honouring of national heroes; to provide for the categories of heroes; to provide for the establishment of the National Heroes Council and for connected purposes The *Mau Mau* veterans may apply to the Council for further recognition.
3.	The National Honours Act, 2013[4]	This Act seeks to give effect to and establish procedures and mechanisms for conferring of national honours by the President under Article 132(4)(c) of the Constitution. The Act provides that A person shall merit the conferment of a national honour if the person is — a. a person who exhibited or exhibits exemplary qualities, *actions or achievements of heroism, sacrifice, bravery, patriotism or leadership for the defense, benefit or betterment of the country or a county*; b. a person who has made *an exemplary contribution to the country or a county in the economic, social, scientific, academic, public administration, governance, sports, journalism, business, security or other fields*; *(d) A person who has otherwise brought honour, glory or pride.to the Republic.* By all means, the *Mau Mau* veterans fall under this

[2] Chapter Two, Constitution of Kenya 2010; Article 9
[3] No. 5 of 2014

		description and quality for recognition under this Act
4.	The Public Archives and Documentation Service Act[5]	This Act establishes the Kenya National Archives and Documentation Service and provides for the preservation of public archives and public records. The Act empowers the Director or an officer of the Kenya National Archives and Documentation Service to acquire, or accept gifts or testamentary bequests or loans of, any document, book, record, or other material of any *description of historical or other value, or any copy or replica thereof which he considers should be added to the public archives.* The objective of the Bill on facilitation of public knowledge on the role of *Mau Mau* veterans in the liberation of Kenya from colonialism, has been taken care by this provision since the National Archives preserves this information for purposes of historical heritage.
5.	The National Museum and Heritage Act[6]	This Act provides for the identification, protection, conservation and transmission of the cultural and natural heritage of Kenya. The knowledge on the role of *Mau Mau* liberation struggle movement in the liberation of Kenya from colonialism may also be preserved under this Act.

Additionally, the *Mau Mau* Governing Council of Kenya, registered on 13th November, 2013under the Societies Act to front their agenda on recognition and advance their interests.

III. Conclusion

Having looked at the provisions of the proposed Bill against the Acts discussed above, our opinion is as follows –

(a) The contents of the Bill lacks in substance. There is no real issue the Bill seeks to address.

(b) The Bill only addresses the issue of *recognition* and declaration that the pre-independence struggle by the *Mau Mau* Veterans was a *legitimate course* that led to the independence of Kenya and to provide for a *framework to facilitate knowledge* on their role during pre-independence period. These issues have been sufficiently addressed by the above mentioned Acts

As always, we thank you for your continued support to the Commission.

Yours Sincerely,

Joash Dache, MBS
Secretary/CEO

(2) Hero
Pls deal
FA
20/3/19

(1) D/Cmts
19/3/19

REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

AG/LDD/206/1/13

18th March, 2019

Mr. Michael Sialai EBS
Clerk of the National Assembly
Clerk's Chambers
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

RECEIVED
19 MAR 2019
CLERK'S OFFICE

(3) Amesen
Pls note
FA
20/3/19

RE: THE MAU MAU LIBERATION STRUGGLE MOVEMENT BILL, 2018

This has reference to your letter dated the 6th March, 2019 and Ref. No. NA/DCS/SCT/2019 (022) regarding the invitation by the Departmental Committee on Sports, Culture and Tourism to address the Committee on the proposed Mau Mau Liberation Struggle Mass Movement Bill, 2018 scheduled for the 13th March, 2019.

First and foremost, I convey my apologies for my inability to appear before the Committee as scheduled. The proposed meeting coincided with one before the Senate Standing Committee on Justice, Legal Affairs and Human Rights that had been scheduled earlier and which ran from 10:00 a.m. to about 1:00 p.m. We had requested the Committee Clerk for additional time but unfortunately, this request was not granted. Consequently, I hereby submit my views on the proposed petition for your consideration.

We have considered the contents of your letter and the annexures thereon and arrive at the following issues to be determined and examine them as hereunder:

(a) What is the applicable law in respect of the recognition of heroes, and what are the strengths and weakness of the applicable law?

The applicable law for the the recognition of heroes and the identification, selection and honouring of national heroes, is contained in the National Honours Act (No. 11 of 2013) and the Kenya Heroes Act (No. 5 of 2014).

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DEPARTMENT OF JUSTICE
CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUEP.O. Box 55057-00200, Nairobi Kenya TEL. Nairobi 2224029/ 2240337
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ISO 9001:2008 Certified

The National Honours Act, 2013 was assented to by the President on the 14th January, 2013 and commenced on the 25th January, 2013. The object of the Act is to give effect to, and establish procedures and mechanisms for, conferring of national honours by the President under Article 132 (4) (c) of the Constitution and for connected purposes. Section 4 (a) of the Act provides that a person who has exhibited or exhibits exemplary qualities, actions or achievements of heroism, sacrifice, bravery, patriotism or leadership for the defence, benefit or betterment of the country or a county shall merit the conferment of a national honour.

Sections 5, 6 and 7 of the Act provide for the establishment and membership of advisory committees while section 8 provides for the functions of the committees, including receiving and considering representations from any person, body, unit, association of persons or corporation recommending a person for the conferment of a national honour under the Act; and recommending to the President persons, bodies, units, associations of persons or corporations that may be considered for conferment of a national honour under the Act 3.

Section 11 provides for the posthumous conferment of national honours while section 15 (2) provides that until regulations contemplated under section 14 of the Act are made, the President may confer national honours of the types, categories or classes existing prior to commencement of this Act and the procedures applicable to such conferment shall continue to apply.

The Kenya Heroes Act, 2014 was assented to by the President on the 29th April, 2014. It was to be commenced by Notice in the *Gazette*. To date, it is yet to be commenced in the manner contemplated under section 1 of the Act.

The object of the Act is the recognition of heroes; to establish criteria for the identification, selection and honouring of national heroes; to provide for the categories of heroes; to provide for the establishment of the National Heroes Council and for connected purposes. It provides for the establishment of the National Heroes Council at section 4 (1) and the Council's functions at section 5 including the identification and recommendation of national heroes, and the conduct and facilitating of civic education in order to stimulate public discussion and awareness on pertinent issues relating to national heroes.

Part IV of National Heroes Act, 2014 also provides for the procedure for the identification and declaration of national heroes and the criteria for the identification, selection and honouring of national heroes as set out in the First Schedule to the Act.

With respect to the substance of the petition by the Mau Mau War Veterans Association, both statutes provide for the appreciation, recognition and declaration of Mau Mau War Veterans as national heroes who merit the conferment of national

honours by the President. However, in view of the fact that the Kenya Heroes Act, 2014 has not been commenced, it is not applicable in this instance.

(b) Can the petitioners' prayers be addressed through a Private Bill?

The petitioners have approached the National Assembly under the provisions of Part XX of its Standing Orders which provides for Private Bills. A "Private Bill" is defined in Standing Order 2 (1) as any Bill which is intended to affect or benefit some particular person, association or corporate body. To the extent that the petitioners have approached the National Assembly in the form of the Mau Mau War Veterans Association, on behalf of all Mau Mau War veterans, in our considered opinion, the petition is properly before the National Assembly and petitioners' proposal can be addressed through a Private Bill.

We consulted the Ministry of Sports and National Heritage regarding this matter and were informed that the Ministry had constituted a team to address the issues raised by the Mau Mau War Veterans Associations. Among the matters the Ministry intended to address was the operationalisation of the Kenya Heroes Act, 2014, with a view to establishing the National Heroes Council to address the issues raised by the petitioners.

From the foregoing, therefore, although the petitioners have properly approached the National Assembly and the matter can be addressed through a Private Bill, the petitioners' objectives as set out in the proposed Mau Mau Liberation Struggle Movement Bill can be addressed under the provisions of the National Honours Act, 2013. The petitioners enjoy the opportunity to petition the relevant advisory committee regarding the appreciation, recognition and declaration of all Mau Mau War Veterans as national heroes. Furthermore, as clause 5 of the petitioners' Bill provides, the petitioners recognise the adequacy of the National Honours Act, 2013 buy extending its application, with the necessary modifications, to the proposed Bill. In our considered opinion, the provisions of the Act are adequate to address the issues raised by the petitioners and the objectives of the Mau Mau Liberation Struggle Movement Bill.

P. Kihara Kariuki
ATTORNEY-GENERAL

Copies to: Mr. Kennedy Ogeto EBS
Solicitor-General

The Principal Secretary
State Department for National Heritage
Ministry of Sports and National Heritage
NAIROBI

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

ADOPTION OF THE REPORT ON CONSIDERATION OF THE PUBLIC PETITION SEEKING LEAVE OF THE HOUSE TO INTRODUCE A PRIVATE BILL BY THE MAU MAU WAR VETERANS ASSOCIATION

We, the undersigned Hon. Members of the Departmental Committee on Sports, Culture and Tourism, today 2nd April, 2019 do hereby affix our signatures to this **Report on the Consideration of the Public Petition seeking leave of the House to introduce a Private Bill by the Mau Mau War Veterans Association** to affirm our approval and confirm its accuracy, validity and authenticity:-

1.	The Hon. (Dr.) Victor Kioko Munyaka, MP.	
2.	The Hon. (Dr.) Korei Ole Lemein, MP.	
3.	The Hon. Christopher Omulele, MP.	
4.	The Hon. (Dr.) Christine Ombaka, MP.	
5.	The Hon. Cyprian Kubai Iringo, MP.	
6.	The Hon. Jones Mlolwa. MP	
7.	The Hon. Daniel Wanyama Sitati, MP.	
8.	The Hon. Benard Masaka Shinali, MP.	
9.	The Hon. (Prof.) Jacqueline Oduol, MP.	
10.	The Hon. (Dr.) Tecla Chebet Tum, MP.	
11.	The Hon. Jane Jepkorir Kiptoo Chebaibai, MP.	
12.	The Hon. Lydia Haika Mnene Mizighi, MP.	
13.	The Hon. George Risa Sunkuyia, MP.	
14.	The Hon. Annie Wanjiku Kibeh, MP.	
15.	The Hon. Sylvanus Maritim, MP.	
16.	The Hon. Jeremiah Lomurukai, MP.	
17.	The Hon. Charles Ngusya Nguna, MP.	

18.	The Hon. Titus Mukhwana Khamala, MP.	
19.	The Hon. Charles Kamuren, MP	

COS

Recommended for approval for tabling -

15/05/2024

15 MAY 2024

Rt. Hon. Speaker
You may approve for tabling
J. M. Nyegenye, C.B.S.,
Clerk of the senate/ secretary, PSC
Date 15/05/24

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT | THIRD SESSION

THE SENATE

STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS

REPORT ON THE STATUTORY INSTRUMENTS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 10 OF 2024)

21/5/2024
Chairperson
JLHRC
Chemp

16/05/24

Clerk's Chambers,
The Senate,
Parliament Buildings
NAIROBI.

May, 2024

DC- EG
Forwarded and recommended for approval for tabling
15/05/2024.

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LIST OF ABBREVIATIONS/ACRONYMS

KLRC	Kenya Law Reform Commission
SEN	Senator

PRELIMINARIES

Establishment and Mandate of the Committee

The Standing Committee on Justice, Legal Affairs and Human Rights is established under the Standing Orders of the Senate and is mandated *'to consider all matters relating to constitutional affairs, the organization and administration of law and justice, elections, promotion of principles of leadership, ethics, and integrity; agreements, treaties and conventions; and implementation of the provisions of the Constitution on human rights.*

Membership of the Committee

The Committee is comprised of –

1)	Sen. Wakili Hillary Kiprotich Sigei, MP	- Chairperson
2)	Sen. Raphael Chimera Mwinzagu, MP	- Vice-Chairperson
3)	Sen. Fatuma Adan Dullo, CBS, MP	- Member
4)	Sen. William Cheptumo Kipkiror, CBS, MP	- Member
5)	Sen. Hamida Kibwana, MP	- Member
6)	Sen. Catherine Muyeka Mumma, MP	- Member
7)	Sen. Veronica W. Maina, MP	- Member
8)	Sen. Karen Njeri Nyamu, MP	- Member
9)	Sen. Andrew Omtatah Okoiti, MP	- Member

Minutes of the Committee in considering the Statutory Instruments (Amendment) Bill, 2024 (Senate Bills No. 10 of 2024) are attached to this Report as ***Annex 1***.

FOREWORD BY THE CHAIRPERSON

Hon. Speaker,

The Statutory Instruments (Amendment) Bill, 2024 (Senate Bills No. 10 of 2024) was introduced in the Senate by way of First Reading on Wednesday, 17th April, 2024 and thereafter stood committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration.

Hon. Speaker,

The Bill seeks to amend the Statutory Instruments Act, Cap. 2A to provide the timelines for the making of regulations to ensure implementation of laws passed by Parliament. The Bill proposes to insert a new section 24A in the Statutory Instruments Act to require a person responsible for the making of regulations to make the regulations within twelve months, where the enabling statute has not set the timelines for the making of regulations. Where a person fails to make regulations within the required timelines, the person commits an offence punishable with a fine of five hundred thousand shillings. The Bill also empowers any person to petition Parliament where regulations have not been made within the required timeline, and even submit a copy of the proposed regulations with their petition.

Hon. Speaker

Pursuant to Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee proceeded to undertake public participation on the Bill. In that regard, the Committee published an advertisement in the *Daily Nation* and *Standard* newspapers on Friday, 19th April, 2024 inviting members of the public to submit written memoranda to the Committee on the Bill. Additionally, the Committee sent invitations to key stakeholders inviting them to submit their comments on the Bill.

The Committee received written memoranda from the Kenya Law Reform Commission, Office of the Attorney General and the Political Parties Liaison Committee. The proposed amendments in this Report are therefore the product of extensive consultations that have taken place to ensure that we have a good law in place that will stand the test of time.

Hon. Speaker,

I wish to thank the Office of the Speaker and the Clerk of the Senate for the logistical and technical support accorded to the Committee during consideration of the Bill. The

Committee further wishes to thank the Stakeholders who submitted written comments on the Bill.

Hon. Speaker,

It is now my pleasant duty, pursuant to Standing Order 148 (1) of the Senate Standing Orders, to present the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the Statutory Instruments (Amendment) Bill, 2024 (Senate Bills No. 10 of 2024).

Signed ..... Date 14/05/2024

SEN. WAKILI HILLARY KIPROTICH SIGEI, MP
CHAIRPERSON, STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS

ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS ON THE STATUTORY INSTRUMENTS (AMENDMENT) BILL (SENATE BILLS NO. 10 OF 2024)

We, the undersigned Members of the Standing Committee on Justice, Legal Affairs and Human rights, do hereby append our signatures to adopt this Report.

No	Name	Signature
1.	Sen. Wakili Hillary Kiprotich Sigei, MP *(Chairperson)*	
2.	Sen. Raphael Chimera Mwinzagu, MP *(Vice-Chairperson)*	
3.	Sen. Fatuma Adan Dullo, CBS, MP	
4.	Sen. William Cheptumo Kipkiror, CBS, MP	
5.	Sen. Hamida Kibwana, MP	
6.	Sen. Catherine Muyeka Mumma, MP	
7.	Sen. Veronica W. Maina, MP	
8.	Sen. Karen Njeri Nyamu, MP	
9.	Sen. Andrew Omtatah Okoiti, MP	

CHAPTER ONE: INTRODUCTION

1.1 Introduction

1. The Statutory Instruments (Amendment) Bill, 2024 (Senate Bills No. 10 of 2024) was introduced in the Senate by way of First Reading on Wednesday, 17th April, 2024 and thereafter stood committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration. A copy of the Bill as read at First Reading is attached to the Report as ***Annex 2***.

1.2 Objects of the Bill

2. The main object of this Bill is to amend the Statutory Instruments Act, Cap. 2A to provide the timelines for the making of regulations to ensure implementation of laws passed by Parliament. The Bill proposes to insert a new section 24A in the Statutory Instruments Act to require a person responsible for the making of regulations to make the regulations within twelve months, where the enabling statute has not set the timelines for the making of regulations. Where a person fails to make regulations within the required timelines, the person commits an offence punishable with a fine of fine hundred thousand shillings. The Bill also empowers any person to petition Parliament where regulations have not been made within the required timeline, and even submit a copy of the proposed regulations with their petition.

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

4. The enactment of the Bill does not occasion additional expenditure or charge of the public funds.

1.3 Overview of the Bill

5. The Bill proposes the following amendments –

Clause 2 inserts a new section 24A which seeks to create timelines for making of statutory instruments. The new section provides that statutory instruments be made within twelve months of commencement of the Parent Act unless a different timeline is provided in that Act. Additionally, if the statutory instrument is not made within that timeline, any person may petition Parliament and provide a copy of his/her proposed statutory instrument for consideration. Failure to

make a statutory instrument shall be an offence punishable with a fine of up to Ksh. 500,000, and the fine may not be paid out of public funds.

1.4 Consequences of the Bill

6. Once enacted, regulation making authorities will have timelines within which to enact regulations, failure to which they may be prosecuted for an offence and fined if found liable.

CHAPTER TWO: PUBLIC PARTICIPATION ON THE BILL

2.1 Introduction

7. Pursuant to Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee proceeded to undertake public participation on the Bill. In that regard, the Committee published an advertisement in the *Daily Nation* and *Standard* newspapers on Friday, 19th April, 2024 inviting members of the public to submit written memoranda to the Committee on the Bill. Additionally, the Committee sent invitations to key stakeholders inviting them to submit their comments on the Bill. A copy of the advertisement is attached as ***Annex 4.***

8. Additionally, the Committee sent invitations to key stakeholders inviting them to submit their comments on the Bill.

9. In response to the advertisement and invitations, the Committee received written submissions from three stakeholders, the Kenya Law Reform Commission, the Attorney General and the Political Parties Liaison Committee.

10. A copy of the said submissions is attached as ***Annex 5,*** with a summary thereon in the form of a matrix attached as ***Annex 6***.

2.2 Overview of Stakeholder Submissions on the Bill

(a) The Kenya Law Reform Commission

11. The Kenya Law Reform Commission in their written submissions on Statutory Instruments (Amendment) Bill (Senate Bill No. 10 of 2024), concurred with the amendment proposed in the Bill noting that the introduction of timelines for statutory instruments is aligned with existing laws and policies and promotes consistency and coherence within the legal framework.

12. The Commission further noted that setting deadlines will hold regulation making authorities accountable for their work and enhance their service delivery by preventing excessive bureaucracy or administrative inertia, which can slow down delivery of public goods and services.

(b) The Attorney General

13. The Office of the Attorney General, in their written submissions, opposed the amendment citing the challenges that may arise due to implementation of the same.

14. The Attorney General was of the view that regulation making is a complex process that requires resource mobilisation and public participation making it difficult to accomplish within one year due to the financial implications.

15. Additionally, they were of the view that while an Act may require regulations to be put in place, in some instances it might not be prudent to make regulations due to lack of necessity. Regulations should therefore be made on a need basis in the implementation of the regulations.

16. Further, they noted that the Bill seeks to make it an offence if a person responsible for making regulations fails to do so, but however, some instruments are made by cabinet secretaries and it may be difficult to convict a cabinet secretary for not making regulations within the given timelines, especially, if the reasons for not making the regulations are valid.

(c) The Political Parties Liaison Committee

17. The Political Parties Liaison Committee submitted in favour of the amendments contained in the Bill. They noted that the proposals advanced are progressive and if enacted into law, will help address the inherent problems faced by various organisations tasked with implementing the law.

18. They noted that the proposed amendments will cure the uncertainty that surrounds the formulation of regulations that have made most Acts inoperable.

CHAPTER THREE: COMMITTEE OBSERVATIONS

3.1 Committee Observations

19. Having considered the Bill and the submissions received thereon, the Committee made the following observations—

(a) that it is necessary that the exercise of delegated authority to make legislation be done within a reasonable timeline;

(b) that contrary to some of the stakeholder views, it is not necessarily difficult for regulation making authorities to make regulations within twelve months, as there have been regulations which have been made within a shorter duration of time especially where the Executive has a keen interest in a particular manner. It is therefore necessary that timelines be set so that the regulation making authority does not cherry-pick what regulations to make and which ones to ignore;

(c) that regulations, in some instances, give "flesh" to a particular legislation, hence failure to enact regulations often renders a statute inoperable and therefore making it not achieve its intended purpose;

(d) that the fine imposed on persons who fail to enact regulations is too low and should be enhanced so that it acts as a deterrent, and the lower limit should be set at not less than Kenya shillings five hundred thousand;

(e) that the Bill does not clearly provide for how draft regulations submitted by a person who petitions Parliament will be dealt with.

20. The Committee therefore observed amendments to the Bill would be required provide for—

(a) how draft regulations submitted by a person who petitions Parliament will be dealt with; and

(b) the enhanced penalty for failure to make regulations.

21. The text of the proposed amendments is attached as ***Annex 7***.

CHAPTER FOUR: COMMITTEE RECOMMENDATION

4.1 Committee Recommendation

22. Having considered the Statutory Instruments (Amendment) Bill, 2024 (National Assembly Bills No. 10 of 2024) and the submissions received thereon, the Standing Committee on Justice, Legal Affairs and Human Rights recommends that the Senate **passes the Bill with amendments** as proposed by the Committee.

LIST OF ANNEXES

Annex 1: Minutes of the sittings of the Committee in considering the Bill

Annex 2: Copy of the Statutory instruments (Amendment) Bill (Senate Bills No. 10 of 2024) as was introduced in the Senate by way of First Reading on Wednesday, 17th April, 2024

Annex 3: Advertisement published in the *Daily Nation* and *Standard* Newspapers on Friday, 19th April, 2024

Annex 5: Copies of Stakeholders Submissions on the Bill

Annex 6: Matrix on the Committee's consideration of Stakeholders Submissions

Annex 7: Text of the proposed Committee amendments to the Bill

ANNEX 1: Minutes of the sittings of the Committee in considering the Bill

13TH PARLIAMENT | 3RD SESSION

MINUTES OF THE 125TH SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON THURSDAY, 3RD MAY, 2024 AT 09.00 A.M IN COMMITTEE ROOM 5, 1ST FLOOR, PARLIAMENT BUILDINGS

PRESENT

1.	Sen. Wakili Hillary Kiprotich Sigei, MP	- Chairperson *(Chairing)*
2.	Sen. Fatuma Adan Dullo, CBS, MP	- Member
3.	Sen. Andrew Omtatah Okoiti, MP	- Member
4.	Sen. Karen Njeri Nyamu, MP	- Member

ABSENT WITH APOLOGY

1.	Sen. Raphael Chimera Mwinzagu, MP	- Vice-Chair
2.	Sen. William Cheptumo Kipkiror, CBS, MP	- Member
3.	Sen. Catherine Muyeka Mumma, MP	- Member
4.	Sen. Veronica W. Maina, MP	- Member
5.	Sen. Hamida Ali Kibwana, MP	- Member

SECRETARIAT

1.	Mr. Charles Munyua	- Senior Legal Counsel
2.	Mr. Moses Kenyanchui	- Legal Counsel I
3.	Ms. Lilian Waweru	- Legal Counsel II
4.	Ms. Lynn Aseka	- Clerk Assistant III
5.	Ms. Angela Bonaya	- Clerk Assistant III (*Taking Minutes*)
6.	Mr. Josphat Ng'eno	- Media Relations Officer III
7.	Ms. Judith Aoka	- Assistant Audio Officer
8.	Mr. Abadallah Mbore	- Serjeant-At-Arms

MIN. NO. 116/2024 PRELIMINARIES

The Chairperson called the meeting to order at thirty-one minutes past nine O'clock and opened with a word of prayer.

MIN. NO. 117/2024 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Veronica W. Maina, MP and seconded by Sen. Andrew Omtatah Okoiti, MP.

MIN. NO. 118/2024 MEETING WITH THE SOLICITOR-GENERAL AND THE KENYA LAW REFORM COMMISSION TO DELIBERATE ON: THE STATUTORY INSTRUMENTS (AMENDMENT) BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 2 OF 2023); THE STATUTORY INSTRUMENTS (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 3 OF 2024); AND THE STATUTORY INSTRUMENTS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 10 OF 2024)

The Committee resumed consideration of the captioned Bills and was informed of the need to reopen the draft report on the Statutory Instruments (Amendment) Bill, 2023 (National Assembly Bills No. 2 of 2023) in order to consider the Bill alongside the Statutory Instruments (Amendment) Bill, 2024 (National Assembly Bills No. 3 of 2024) that stood committed to the Committee and they are all proposing amendments to the Statutory Instruments Act.

Members were informed that both the Office of the Attorney General and the Kenya Law Reform Commission had conveyed apologies for the meeting, with the KLRC having submitted its written comments, while those of the AG's Office were expected later in the day.

Thereupon, Members were taken through a Brief and Matrix indicating the amendments contained in each Bill and how they aligned on conflicted with the amendments proposed in the other Bills.

The Committee took note of the Brief, and resolved that consideration of the Bills resume at the upcoming Committee retreat, to take into account the comments from the AG's Office and the KLRC. The Committee would thereafter adopt its Report/s thereon on the said Bills.

MIN. NO. 119/2024 ADJOURNMENT

The Chairperson adjourned the meeting at three minutes past ten O'clock. The next meeting was scheduled to be held on Friday, 3rd May, 2024 at nine O'clock in Mombasa County.

SIGNED: .....

DATE: 14/08/2024

13TH PARLIAMENT | 3RD SESSION

MINUTES OF THE 129TH SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON SATURDAY, 4TH MAY, 2024 AT 2.00 P.M AT THE SERENA RESORT & SPA HOTEL, MOMBASA COUNTY

PRESENT

1.	Sen. Wakili Hillary Kiprotich Sigei, MP	- Chairperson *(Chairing)*
2.	Sen. Raphael Chimera Mwinzagu, MP	- Vice-Chairperson
3.	Sen. Veronica W. Maina, MP	- Member
4.	Sen. Karen Njeri Nyamu, MP	- Member
5.	Sen. Andrew Omtatah Okoiti, MP	- Member

ABSENT WITH APOLOGY

1.	Sen. Fatuma Adan Dullo, CBS, MP	- Member
2.	Sen. William Cheptumo Kipkiror, CBS, MP	- Member
3.	Sen. Hamida Ali Kibwana, MP	- Member
4.	Sen. Catherine Muyeka Mumma, MP	- Member

SECRETARIAT

1.	Mr. Njenga Njuguna	- Director, Governance & Accountability Committees
2.	Mr. Hassan Odhowa	- Head of Department, Governance Committees
3.	Ms. Lilian Waweru	- Legal Counsel II
4.	Ms. Lynn Aseka	- Clerk Assistant III
5.	Ms. Angela Bonaya	- Clerk Assistant III (*Taking Minutes*)
6.	Mr. Josphat Ng'eno	- Media Relations Officer III
7.	Ms. Judith Aoka	- Assistant Audio Officer
8.	Mr. Abadallah Mbore	- Serjeant-At-Arms

MIN. NO. 138/2024 PRELIMINARIES

The Chairperson called the meeting to order at fifteen minutes past two O'clock and opened with a word of prayer.

MIN. NO. 139/2024 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Veronica W. Maina, MP and seconded by Sen. Andrew Omtatah Okoiti, MP.

MIN. NO. 140/2024 **CONSIDERATION OF THE DRAFT COMMITTEE REPORT ON THE STATUTORY INSTRUMENTS (AMENDMENT) BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 2 OF 2023) AND THE STATUTORY INSTRUMENTS (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 3 OF 2024)**

The Committee was taken through the draft Report on the Statutory Instruments (Amendment) Bill, 2023 (National Assembly Bills No. 2 of 2023) and the Statutory Instruments (Amendment) Bill, 2024 (National Assembly Bills No. 3 of 2024) with the proposed amendments incorporated as observations and recommendations at chapters three and four of the Report.

Thereafter, the Committee adopted the Report, having been proposed by Sen. Raphael Chimera Mwinzagu, MP and seconded by Sen. Andrew Omtatah Okoiti, MP.

MIN. NO. 141/2024 **CONSIDERATION OF THE DRAFT COMMITTEE REPORT ON THE STATUTORY INSTRUMENTS (AMENDMENT) BILL, 2024 (SENATE BILL NO. 10 OF 2024)**

The Committee was taken through the draft Report on the Statutory Instruments (Amendment) Bill, 2024 (Senate Bill No. 10 of 2024) with the proposed amendments incorporated as observations and recommendations at chapters three and four of the Report.

Thereafter, the Committee adopted the Report, having been proposed by Sen. Raphael Chimera Mwinzagu, MP and seconded by Sen. Andrew Omtatah Okoiti, MP.

MIN. NO. 142/2024 **ADJOURNMENT**

The Chairperson adjourned the meeting at twenty minutes past four O'clock. The next meeting was scheduled to be held on the Wednesday, 8th May, 2024 at eight O'clock in Parliament.

SIGNED: .....

DATE: 09/05/2024.....

ANNEX 2: Copy of The Statutory instruments (Amendment) Bill (Senate Bills No. 10 of 2024)

SPECIAL ISSUE

Kenya Gazette Supplement No. 52 (Senate Bills No. 10)

REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2024

NAIROBI, 7th March, 2024

CONTENT

Bill for Introduction into the Senate –

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PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL, 2024

A Bill for

AN ACT of Parliament to amend the Statutory Instruments Act to provide for the timelines within which statutory instruments shall be made; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows —

Short title.

1. This Act may be cited as the Statutory Instruments (Amendment) Act, 2024.

Insertion of new section 24A to No. 23 of 2023.

2. The Statutory Instruments Act is amended by inserting the following new section immediately after section 24 —

Timelines for making of statutory instrument.

24A. (1) A regulatory-making authority shall make a statutory instrument within the period provided for under the enabling legislation.

(2) If the enabling legislation does not provide the timelines within which a statutory instrument is to be made, the regulatory-making authority shall make the statutory instrument within twelve months from the date of commencement of the enabling legislation.

(3) If a regulatory-making authority fails to make a statutory instrument within the specified time, any person may petition Parliament and where possible together with a draft of the statutory instrument for consideration.

(4) A person who without a reasonable cause fails to make a statutory instrument within the required timelines commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings.

(5) A person liable for an offence under subsection (4) shall be personally liable for the fine and public funds shall not be used to pay such a fine.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons

The principal object of the Bill is to amend the Statutory Instruments Act, Cap. 2A to provide the timelines for the making of regulations to ensure implementation of laws passed by Parliament. The Bill proposes to insert a new section 24A in the Statutory Instruments Act to require a person responsible for the making of regulations to make the regulations within twelve months, where the enabling legislation has not set the timelines for the making of regulations. Where a person fails to make regulations within the required timelines, the person commits an offence punishable with a fine of five hundred thousand shillings.

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

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

Statement on how the Bill concerns county governments

Statutory Instruments are a form of delegated legislation, at the National and County Governments. Statutory Instruments are crucial at both levels of government as they give effect to a number of provisions usually contained in the Parent Act. The Bill is therefore a Bill concerning county governments as County Executives and County Assemblies are central in the processing of statutory instruments in order to actualize a number of functions and powers as contained in Part 2 of the Fourth Schedule to the Constitution.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

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

Dated the 6th March, 2024.

AARON CHERUIYOT,
Senate Majority Leader.

STEWART MADZAYO,
Senate Minority Leader.

ANNEX 3: Advertisement Published in the *Daily Nation* and *Standard Newspapers* on Friday, 19th April, 2024

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT | THIRD SESSION

THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

At the sitting of the Senate held on Wednesday, 17th April, 2024, the Bills listed below were introduced in the Senate by way of First Reading and thereafter stood committed to the Standing Committee on Justice, Legal Affairs and Human Rights -

a) The Statutory Instruments (Amendment) Bill (National Assembly Bills No. 5 of 2023);
b) The Election Offences (Amendment) Bill (Senate Bills No. 9 of 2024);
c) The Statutory Instruments (Amendment) Bill (Senate Bills No. 10 of 2024);
d) The Elections (Amendment) Bill (Senate Bill No. 11 of 2024); and
e) The Political Parties (Amendment) Bill (Senate Bills No. 13 of 2024).

Pursuant to the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committee now invites interested members of the public to submit any representations that they may have on the Bills by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to clerk.senate@parliament.go.ke and copied to senatejlahrc@parliament.go.ke, to be received on or before **Friday, 3rd May, 2023 at 5.00 p.m.**

The Bills may be accessed on the Parliament website at http://www.parliament.go.ke/the-senate/house-business/bills.

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

ANNEX 4(a): Kenya Law Reform Commission (KLRC)

KENYA LAW REFORM COMMISSION

"A Vibrant Agency for Responsive Law Reform"
Telegrams: "LAWREFORM" NAIROBI
Telephone: Nairobi, +254-20-2241186/2241201
Fax: +254-20-2225786
www.info@klrc.go.ke

KENYA LAW REFORM COMMISSION
REINSURANCE PLAZA
3RD FLOOR
TAIFA ROAD
P.O. Box 34999-00100
NAIROBI, KENYA

When replying please quote

Ref. No. KLRC/8/86(33)
2nd Date

1st May, 2014 20

The Clerk,
Clerks Chambers
The Senate
Parliament Buildings
P O Box 41842 – 00100
Nairobi
clerk.senate@parliament.go.ke

Dear Clerk,

RE: SCRUTINY OF THE STATUTORY INSTRUMENTS (AMENDMENT) BILLS - [NATIONAL ASSEMBLY BILLS NO. 2 OF 2023, NATIONAL ASSEMBLY BILL NO. 3 OF 2024; SENATE BILL NO. 15 OF 2024; SENATE BILL NUMBER 10 OF 2024]

The above refers.

Under Section 6 (1) (c) of the Kenya Law Reform Commission Act, No. 19 of 2013, KLRC is mandated to provide advice technical assistance and information to the national and county governments with regard to the reform or amendment of a branch of the law.

Further, KLRC is mandated to keep under review all the law and recommend its reform to ensure that it conforms to the letter and spirit of the Constitution, that it systematically develops the law in compliance with the values and principles enshrined in the Constitution and to ensure that the law is consistent, harmonized, just, simple, accessible, modern and cost effective in application. KLRC is also required to ensure that in reviewing the law the respect for and observance of treaty obligations in relation to international instruments that constitute part of the law of Kenya by virtue of Article 2(5) and (6) of the Constitution is upheld.

In light of this, KLRC hereby forwards its comments in consideration of the aforementioned Statutory Instruments (Amendment) Bills. Please find the comments attached to this letter.

We conclude by stating that KLRC is committed to ensuring that legislation is drafted to the highest standards possible to promote their legal effectiveness, clarity and intelligibility to anticipated users.

As always, we thank you for your continued cooperation.
Yours sincerely,

for JOASH DACHE, MBS
SECRETARY/ CEO

KENYA LAW REFORM COMMISSION COMMENTS ON BILLS BEFORE THE SENATE PROPOSING AMENDMENTS TO THE STATUTORY INSTRUMENTS ACT

Section of the SIA	The Statutory Instruments (Amendment) Bill, 2023 (NA Bills No. 2 of 2023)	The Statutory Instruments (Amendment) Bill, 2024 (NA Bills No. 3 of 2024)	The Statutory Instruments (Amendment) Bill, 2024 (Senate Bills No. 10 of 2024)	The Statute Law (Miscellaneous Amendments) Bill, 2024 (Senate Bills No. 15 of 2024)	Comments
11	Insertion of new subsections immediately after subsection (4)	Insertion of new subsections immediately after subsection (4)			The requirement by the Committee to the regulation making authority under the proposed subsection (5) should be accompanied by a requirement to re-publish the statutory instrument. Section 11 as a whole should also be reviewed because there are regulation making authorities that are not under a Cabinet Secretary. **Rationale:** A statutory instrument which has not been laid before the House in accordance with Section 11(1) ceases to have effect immediately after the last day it was supposed to have been laid before the House. For it to be properly laid before the House again, it has to be published or re-published.

Section of the SIA	The Statutory Instruments (Amendment) Bill, 2023 (NA Bills No. 2 of 2023)	The Statutory Instruments (Amendment) Bill, 2024 (NA Bills No. 3 of 2024)	The Statutory Instruments (Amendment) Bill, 2024 (Senate Bills No. 10 of 2024)	The Statute Law (Miscellaneous Amendments) Bill, 2024 (Senate Bills No. 15 of 2024)	Comments
12	Deletion of subsection (3)	Deletion of some words appearing in subsection (3)			Deletion of section 12(3) will mean that that the Chief Justice will be required to lay Rules of Court before Parliament. Rules of Court govern procedures for conduct of business in courts, nature of pleadings and court fees. In other jurisdictions including Zambia and Botswana there are specific provisions requiring that Rules of Court shall not be laid before Parliament. **Rationale:** It is not necessary to delete Section 12 (3) of Cap 2A since it is intended to ensure separation of powers between Judiciary and the Legislature. It is proposed to retain the section as is.
18	Renumbering the existing provision as subsection (1)				Aligned with numbering provisions in drafting.
	Insertion of a new subsection immediately after subsection (1)				We welcome this amendment. It brings clarity to the procedure for annulment. Legislation is required to be clear and concise. **Rationale:**

Section of the SIA	The Statutory Instruments (Amendment) Bill, 2023 (NA Bills No. 2 of 2023)	The Statutory Instruments (Amendment) Bill, 2024 (NA Bills No. 3 of 2024)	The Statutory Instruments (Amendment) Bill, 2024 (Senate Bills No. 10 of 2024)	The Statute Law (Miscellaneous Amendments) Bill, 2024 (Senate Bills No. 15 of 2024)	Comments
					The verb "deemed" as used under current Section 18, can be considered subjective because it often involves interpretation, opinion, or judgment rather than objective measurement or observation. When you say something is "deemed" to be true, safe, appropriate, etc., it generally reflects a perspective or conclusion drawn by someone or some group, which could vary depending on the context or criteria used.
19	Renumbering the existing provision as subsection (1)	Deletion of the section and substitution with a new section			Aligned with numbering provisions in drafting.
	Insertion of a new subsection immediately after subsection (1)				There is need to harmonize section 19 as it currently stands with the proposal to insert a new 19(2) requiring publication of revocation of a statutory instrument. **Rationale:** Section 19 already provides that the regulation-making authority shall publish the revocation

Section of the SIA	The Statutory Instruments (Amendment) Bill, 2023 (NA Bills No. 2 of 2023)	The Statutory Instruments (Amendment) Bill, 2024 (NA Bills No. 3 of 2024)	The Statutory Instruments (Amendment) Bill, 2024 (Senate Bills No. 10 of 2024)	The Statute Law (Miscellaneous Amendments) Bill, 2024 (Senate Bills No. 15 of 2024)	Comments
					within fourteen days. The new proposal means that the revocation will be required to be published twice by two different agencies.
Heading to Part V		Deletion of the heading and substitution with a new one		Deletion of the heading and substitution with a new one	It is not clear what the proposed amendment is intended to achieve.
21		Repeal of the section		Repeal of the section	We note that this section is already expunged from the statute book. We also note that there are cases in court regarding the repeal of this section. That notwithstanding we give our rationale for the value of expiration of statutory instruments below. **Rationale:** Automatic expiration ensures that statutory instruments are regularly reviewed to assess their continued relevance, effectiveness and alignment with current conditions. This process

Section of the SIA	The Statutory Instruments (Amendment) Bill, 2023 (NA Bills No. 2 of 2023)	The Statutory Instruments (Amendment) Bill, 2024 (NA Bills No. 3 of 2024)	The Statutory Instruments (Amendment) Bill, 2024 (Senate Bills No. 10 of 2024)	The Statute Law (Miscellaneous Amendments) Bill, 2024 (Senate Bills No. 15 of 2024)	Comments
					helps to keep the legal framework updated and responsive to changing societal needs. The sunset process typically involves public consultation and review, promoting accountability and transparency. Over time, statutory instruments can lead to unintended consequences or create loopholes. Automatic expiration provides an opportunity to address these issues, allowing stakeholders to identify problems and propose changes to improve the regulatory framework. As technology, society, and the economy evolve, statutory instruments may need adjustment to stay relevant.
					Automatic expiration encourages adaptation by forcing a periodic reevaluation of the appropriateness of existing rules in light of new

Section of the SIA	The Statutory Instruments (Amendment) Bill, 2023 (NA Bills No. 2 of 2023)	The Statutory Instruments (Amendment) Bill, 2024 (NA Bills No. 3 of 2024)	The Statutory Instruments (Amendment) Bill, 2024 (Senate Bills No. 10 of 2024)	The Statute Law (Miscellaneous Amendments) Bill, 2024 (Senate Bills No. 15 of 2024)	Comments
					developments. Regulatory capture occurs when regulation making authorities gain undue influence over the regulatory process, leading to stagnation or bias in favor of certain interests. Regular expiration helps combat this by encouraging fresh perspectives and reducing the chances of entrenched interests dominating the regulatory landscape.

23	Deletion of subsection (1) and substitution with a new subsection				This is very welcome. It standardizes process for all statutory instruments.
24	Deletion of some words and replacement with new words	Deletion of some words and replacement with new words			Review of limitations for penal clauses for breach of statutory instruments is welcome. **Rationale:** The current restriction of statutory instrument penalty, not exceeding twenty thousand shillings or term of imprisonment not exceeding six months is out of sync with the economic status and other penalties in the statute book.
27		Insertion of a new subsection immediately after subsection (2)			Refer to our comments on Section 21.
New Section				Insertion of a new section 21A immediatel y after section 21	Refer to our comments on Section 21.
New Section			Insertion of a new section 24A immediately after section 24		We welcome this proposed amendment. **Rationale:** Timelines help ensure that new statutory instruments are aligned with existing laws and policies. This promotes consistency and coherence within the legal

					framework. Setting deadlines holds regulation making authorities accountable for their work. Statutory instruments operationalize statute; they are the oil and cogs in the engines. This means that service delivery by Government will not be affected due to absence of the statutory instrument. Timelines help prevent excessive bureaucracy or administrative inertia, which can slow down delivery of public goods and services.

ANNEX 4(b): Office of the Attorney General

REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

Our Ref: AG/LDD/32/1/8

2nd May, 2024

Mr. J. M. Nyegenye, CBS
The Clerk of the Senate
Clerk's Chambers, Parliament Buildings
P. O. Box 41842-00100
NAIROBI

RE: PROPOSED AMENDMENTS TO THE STATUTORY INSTRUMENTS ACT, (CAP. 2A)

Reference is made to your letter dated the 26th April, 2024 and referenced SEN/DGAC/DGC/JLAHRC/2024/16(a) requesting this Office for comments on the following proposed Bills that seek to amend various provisions of the Statutory Instruments Act, (Cap. 2A)--

(a) The Statutory Instruments (Amendment) Bill, 2023 (National Assembly Bills No. 2 Of 2023);

We have reviewed the proposed legislation and noted that we submitted our comments to the National Assembly on a letter dated 26th March, 2024 and our comments were considered by the National Assembly and incorporated.

(b) The Statutory Instruments (Amendment) Bill, 2024 (National Assembly Bills No. 3 Of 2024);

We have reviewed the proposed legislation and noted the amendment bears similarities to the Statutory Instruments Act (Amendment) Bill, 2023 (National Assembly Bills No. 3 of 2023) and submitted our comments on the same to the National Assembly vide letter dated 11th March, 2024 and our comments were considered by the National Assembly and incorporated, where applicable.

(d) The Statute Law (Miscellaneous Amendments) Bill, 202 (Senate Bills No. 15 of 2024)

Following a scrutiny of the contents, we note that the provisions the Bill seeks to amend have been adequately provided for under the Statutory Instruments (Amendment) Bill, 2024 (National Assembly Bills No. 2 Of 2024).

THE SENATE
RECEIVED
06 MAY 2024
DIRECTOR LEGAL SERVICES

SHERIA HOUSE, HARAMBEE AVENUE
P.O. Box 40112-00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/0711944555/0729909999
E-MAIL: info@statelaw.office.ke.go.ke WEBSITE: www.attorney-general.go.ke
DEPARTMENT OF JUSTICE
COOPERATIVE BANK HOUSE, HAILE SELASSIE AVENUE, P.O. Box 56057-00200, Nairobi. TEL: Nairobi 2224021/2241557
E-MAIL: ps@justice.go.ke WEBSITE: www.justice.go.ke

ISO 9001: 2008 Certified

(d) The Statutory Instruments Act (Amendment) Bill, 2023 (Senate Bills No. 10 Of 2024).

Meanwhile, we have scrutinized the constitutionality of the proposed Statutory Instruments Act (Amendment) Bill, 2024 (Senate Bills No. 10 Of 2024) and whether it contravenes existing legislation. We note that the proposed Bill does not offend the Constitution, however we object the proposed amendment and our comments are set in the matrix below—

Section of the Statutory Instruments Act (Cap. 2A)	The Statutory Instruments Act (Amendment) Bill, 2024 (Senate Bills No. 10 Of 2024):	Comments
24	Insertion of a new section 24A immediately after section 24	The Bill proposes that Statutory Instruments should be made within twelve months and if the responsible person fails to make the statutory instruments within the provided timeline, the person commits an offence punishable with a fine of five hundred thousand shillings. Regulation making process is a complex process that requires resource mobilization and public participation making it difficult to accomplish within one year due to the financial implications. Secondly, while an Act may require Regulations to be put in place, in some instances it might not be prudent to make the Regulations due to lack of necessity. Furthermore, the Bills seeks to make it an offence if a person responsible for making Regulations fails to do so, however, some Statutory Instruments are made by Cabinet Secretaries and it may be difficult to convict a Cabinet Secretary for not making Regulations within the given timelines especially if the reasons for not making the Regulations are valid. It's our view that statutory instruments be made on a need

	basis in the implementation process of the legislation. We therefore object the proposed amendment due the challenges that may arise.

Consequently, we note that the proposed amendments emanate from the same Act, we therefore recommend all the proposed amendments to be merged under one Bill which is the Statutory Instruments Act (Amendment) Bill, 2023 (National Assembly Bills No. 2 Of 2023) instead of three separate pieces of legislation.

HON. ~~SHADRACK J.~~ MOSE
SOLICITOR-GENERAL

Copy to: Hon. J. B.N. Muturi, EGH
Attorney-General

ANNEX 4(c): The Political Parties Liaison Committee

PPLC
POLITICAL PARTIES LIAISON COMMITTEE

THE SENATE RECEIVED CLERK'S OFFICE SENATE

POLITICAL PARTIES LIAISON COMMITTEE (PPLC)

C/o Office of the Registrar of Political Parties, Lions Place, 1st Floor.
Karuna Close, Waiyaki Way, Westland's
P.O Box 1131-00606, Sarit Centre, Nairobi, Kenya.
Email: pplcparties@gmail.com

SECRETARY 03 MAY 2024 PSC

THE SENATE RECEIVED 03 MAY 2024 DEPUTY CLERK

Ref; fin.com PB04-03/05/24 03rd May 2024

Mr. Jeremiah M. Nyegenye, CBS
Clerk of the Senate
PARLIAMENT BUILDINGS.

(1) DGAC
DLG
Kindly deal
03/05/2024

Dear Sir,

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL, 2024 PROPOSALS

The Political Parties Liaison Committee (PPLC) appreciates this opportunity to give feedback on the proposed amendments to the Statutory Instruments Act. We appreciate the efforts of the National Dialogue Committee (NADCO) and indeed the Senate for formulating and processing this Bill for public input.

Background of PPLC

The Political Parties Liaison Committee is a tripartite dialogue platform comprising all the fully registered political parties in Kenya, the Office of the Registrar of Political Parties, and the Independent Electoral and Boundaries Commission.

Introduction

(2) HOD-Govern
Lead Clerk-JL
Kindly Sec
03/05/2024

The Senate introduces the Statutory Instruments (Amendment) Bill, 2024 that seeks to:

i) Create timelines for Regulations to be made where the enabling legislation is silent.
ii) Creates an offence where a person obligated to formulate the Regulations fails to do so.

These amendments stem from the presentations made by various stakeholders before the National Dialogue Committee hearings. We believe that these amendments will cure the endemic problem of having laws passed without having Regulations to operationalize them.

The proposals advanced, are progressive and if adopted by Parliament and enacted into law, will help address the inherent problems faced by various organizations tasked with implementing the law.

Yours Sincerely,

Hon. Evans Misati,
CHAIRPERSON - PPLC

POLITICAL PARTIES LIAISON COMMITTEE PPLC Date 03/05/24 P.O. BOX 1131-00606 NAIROBI

THE SENATE RECEIVED 03 MAY 2024 DIRECTOR COMMITTEE SERVICES (DGAC)

Clause	Issue / What the Bill Provides	Proposal/Recommendations
2 **Timelines for making of statutory instruments**	The Bill seeks to introduce Section 24A in the Act to provide the timelines for the making of regulations to ensure the implementation of laws passed by Parliament. The regulatory-making body/person is obligated to make the regulations within twelve months in cases where the enabling legislation has not set the timelines for the making of regulations. Where a person fails to make regulations within the required timelines, the person commits an offence punishable with a fine of five hundred thousand.	We are in agreement with the proposed amendments as they will cure the uncertainty that surrounds the formulation of Regulations that have made most Acts of Parliament inoperative.

ANNEX 5: Matrix on the Committee's Consideration of the Stakeholder Submissions

THE SENATE

MATRIX

THE STATUTORY INSTRUMENT (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 10 OF 2024)

Stakeholders:

1. Kenya Law Reform Commission (KLRC)
2. Attorney General (AG)
3. Political Parties Liaison Committee (PPLC)

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
2	KLRC	The KLRC supports the amendment.	Introduction of timelines for statutory instruments is aligned with existing laws and policies and promotes consistency and coherence within the legal framework, and setting deadlines will hold regulation making authorities accountable for their work and enhance their service delivery by preventing excessive bureaucracy or administrative inertia, which can slow down delivery of public goods and services.	The Committee agrees with the stakeholder's views.

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
	AG	The AG opposes the amendment.	Implementation of the amendment may be a challenge because— (a) regulation making is a complex process that requires resource mobilisation and public participation making it difficult to accomplish within one year due to the financial implications; (b) while an Act may require regulations to be put in place, in some instances it might not be prudent to make regulations due to lack of necessity. Regulations should therefore be made on a need basis in the implementation of the regulations; and (c) the Bill seeks to make it an offence if a person responsible for making regulations fails to do so, but however, some instruments are made by cabinet secretaries and it may be difficult to convict a cabinet secretary for not making regulations within the given timelines, especially, if the reasons for not making the regulations are valid.	The Committee disagrees with the stakeholder's views, and notes that it is necessary that the exercise of delegated authority to make legislation be done within a reasonable timeline. It is not difficult for the executive to make regulations within twelve months, as there have been regulations which have been made within a shorter duration of time where the Executive has a keen interest in a particular manner. It is therefore necessary that timelines be set so that the regulation making authority does not cherry-pick what regulations to make and which ones to ignore.
	PPLC	The PPLC supports the amendment.	The proposals advanced are progressive and if enacted into law, will help address the inherent problems faced by various organisations tasked with	The Committee agrees with the stakeholder's views.

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
			implementing the law and will cure the uncertainty that surrounds the formulation of regulations that have made most Acts inoperable.	

ANNEX 6: Text of proposed Committee stage amendments to the Bill

9th May, 2024

The Clerk of the Senate
Parliament Buildings
NAIROBI

RE: COMMITTEE STAGE AMENDMENTS TO THE STATUTORY INSTRUMENTS (AMENDMENT) BILL, SENATE BILLS NO. 10 OF 2024

NOTICE is given that Sen. Wakili Hillary Kiprotich Sigei, Chairperson to the Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Statutory Instruments (Amendment) Bill, Senate Bills No. 10 of 2024, at the Committee Stage —

CLAUSE 2

THAT clause 2 of the Bill be amended in the proposed new section 24A by—

(a) deleting the proposed subsection (3);

(b) deleting the proposed subsection (4) and substituting therefor the following new subsection —

"(4) If a regulation making authority, without a reasonable cause, fails to make a statutory instrument within the required timelines, the person in charge of that regulation making authority commits an offence and is liable, on conviction, to a fine not less than five hundred thousand shillings and not exceeding two million shillings.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clause—

Insertion of new section 24B to Cap 2A.

3. The Statutory Instruments Act is amended by inserting the following new section 24B—

Petition to make a statutory instrument.

24B. (1) If a regulation making authority fails to make a statutory instrument within the specified time, any person may petition Parliament and may where possible, submit the petition together with a draft of the statutory instrument for consideration.

(2) The petitions presented shall be considered in accordance with the relevant Act relating to petitions to Parliament.

(3) If the relevant House allows a petition submitted under subsection (1), the Clerk of that House shall submit a copy of the report of resolution to the regulation making authority within seven days of

adoption, together with a copy of the draft statutory instrument, if any was submitted by the petitioner, for implementation.

(4) The regulation making authority shall implement the resolutions of the House within sixty days of receipt of the report or resolution of the House under subsection (3).

Dated ..... 14/5/24 ..... 2024.

Wakili Hillary Kiprotich Sigei,
Chairperson,
Standing Committee on Justice, Legal Affairs and Human Rights.

SPECIAL ISSUE

Kenya Gazette Supplement No. 49 (National Assembly Bills No. 12)

REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2024

NAIROBI, 5th March, 2024

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Bill for Introduction into the National Assembly—

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The Culture Bill, 2024 331

NATIONAL ASSEMBLY
DIRECTORATE OF LEGAL SERVICES
RECEIVED
19 MAR 2024
P. O. Box 41842 - 00100,
NAIROBI

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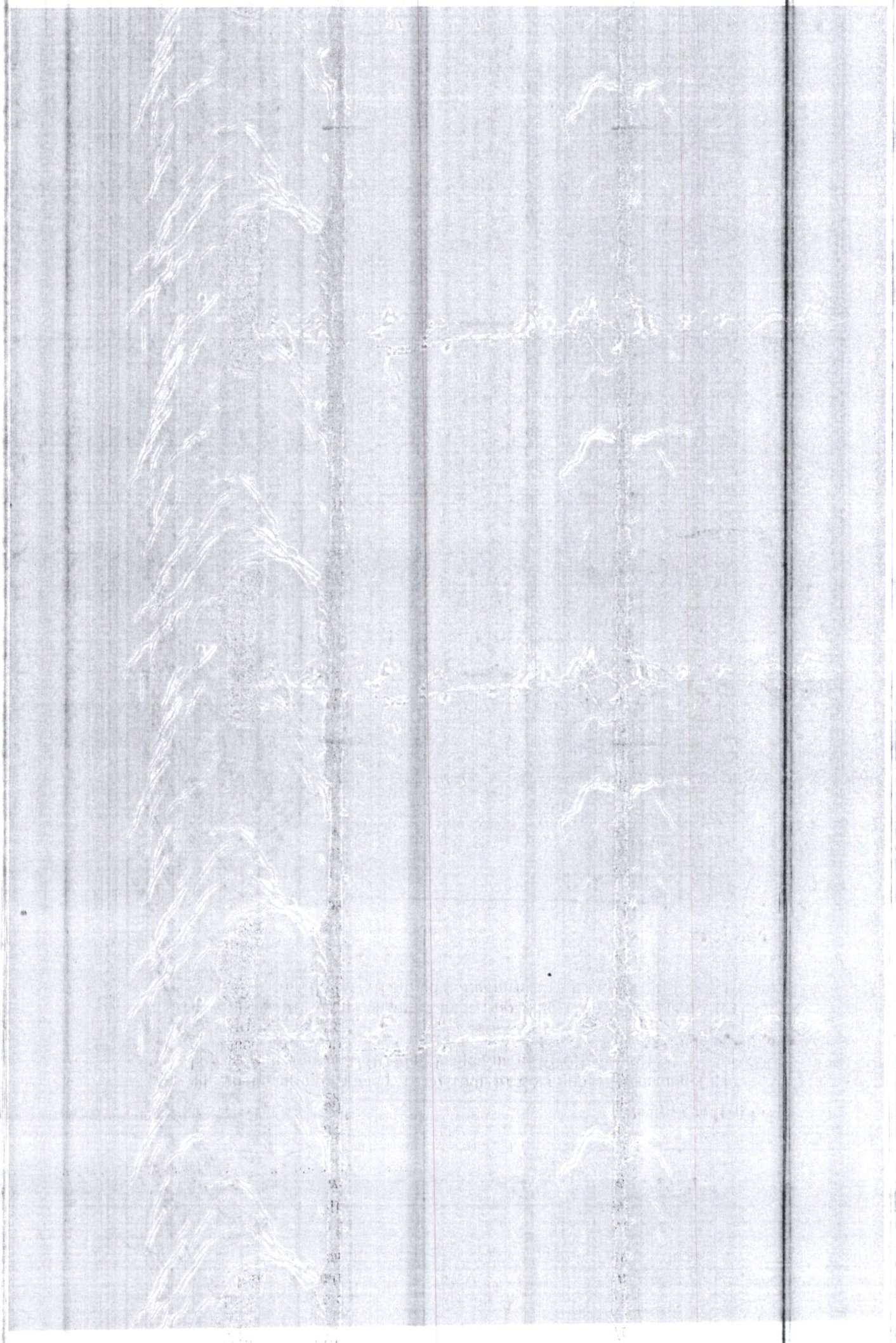


THE CULTURE BILL, 2024

ARRANGEMENT OF CLAUSES

Clauses

PART I—PRELIMINARY

1—Short title

2—Interpretation

3—Object and purpose of the Act

4—Guiding principles

PART II—MANAGEMENT OF CULTURE

5—Role of the National Government

6—Role of County Governments

7—Establishment of cultural database

8—Access to information

9—Compensation for use of cultural property

10—Exceptions and limitations to compensation for use of culture and cultural heritage.

11—Export, import and transfer of cultural property

12—Application to conduct research.

13—Application for registration

14—Refusal to register

15—Cancellation of registration

16—Validity of registration

17—Recognition and promotion of cultural expressions and indigenous technologies by public entities

18—Protection of cultural heritage and expressions

19—Seizure and disposition of tangible cultural heritage

PART III—OFFENCES AND PENALTIES

20—Offences

21—Non-compliance with conditions of registration

22—Undertaking research without permit

23—Loaning without a permit

24—Damage or destruction of inventoried cultural property.

25—Wrongful possession of cultural property.

26—Counterfeiting and misrepresentation of cultural property

27—Using image without consent

28—False and misleading information

29—Willfully obstructing or impeding an officer

PART IV—GENERAL PROVISIONS

30—Fees, charges and levies to be published in the *Gazette*

31—General penalty

32—Transitional provisions

33—Regulations

SCHEDULE

National Cultural institutions

THE CULTURE BILL, 2024

A Bill for

AN ACT of Parliament to give effect to Article 11 (3) (a) of the Constitution; to provide for the protection and promotion of culture and the cultural heritage of communities; and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Culture Bill, 2024.

Interpretation.

2. In this Act unless the context otherwise requires—

"art" means the physical manifestation of the internal creative impulse influenced by culture and expressed, in the form of literature, performing arts, culinary arts, media arts, or visual arts;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to culture;

"community" means a culturally homogeneous and consciously distinct group of people who share any of the following attributes—

(a) common ancestry;

(b) similar culture or mode of livelihood or language;

(c) geographical space;

(d) ecological space; or

(e) community of interest;

"community of interest" means the possession or enjoyment of common rights, privileges or interests and living in the same place or having some apparent association;

"cultural property" means property which, on religious or secular grounds, is specifically designated as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to the following categories—

(a) rare collections;

(b) products of archaeological excavations;

(c) elements of artistic or historical monuments;

(d) buildings;

(e) objects of ethnological interests;

(f) original works of art and engravings;

(g) rare manuscripts,

(h) archives;

(i) articles of furniture; and

(j) musical instruments;

"cultural expression" means those expressions that result from the creativity of individuals, groups and societies and that have cultural content and may communicate a cultural symbolic meaning or convey a cultural value;

"culture" means the set of distinctive spiritual, material, intellectual and emotional features of a community or a social group, and includes the lifestyle, social interactions, value systems, traditions and beliefs;

"cultural heritage" means—

(a) tangible cultural heritage including—

(i) movable cultural heritage;

(ii) immovable cultural heritage; and

(iii) underwater cultural heritage;

(b) intangible cultural heritage;

(c) natural heritage including natural sites with cultural aspects such as cultural landscapes, physical, biological or geological formation; or

(d) heritage in the event of armed conflict;

"cultural industries" means an industry that produces and distributes goods and services centred around tangible or intangible artistic and creative outputs such as texts, symbols and images;

"cultural practitioner" means a person who manifests any cultural knowledge and skills especially in regard to

traditional and customary practices of a particular ethnic or other cultural group;

"intangible cultural heritage" means the practices, representations, expressions, knowledge, skills and cultural spaces associated with a community, social group or individual and recognized as part of the community, social group or individual's cultural heritage;

"national expressions" means expressions that have cultural content with national resonance that result from creativity of individuals, groups or societies;

"prior informed consent" means the giving of, by the prospective user, complete and accurate information, and based on that information, the prior acceptance, by the concerned communities, to the use of their cultures, cultural heritage and cultural property;

"protection" means a measure aimed at, adopted or implemented for the promotion, preservation, safeguarding and enhancement of cultures, cultural heritage and expression; and

"safeguarding" means any measure taken by a county, community, social group or individual, aimed at ensuring the viability of the intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non-formal education, as well as the revitalization of the various aspects of such heritage.

Object and purpose of the Act.

3. The object and purpose of this Act is to—

(a) give effect to Article 11 of the Constitution;

(b) promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage;

(c) ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage; and

(d) provide a framework to guide national cultural development.

Guiding principles.

4. (1) In the performance of functions and exercise of powers under this Act, State organs, State officers, other public officers and any other persons shall—

(a) be guided by the national values and principles set out in Articles 10, 27, 201 and 232 of the Constitution; and

(b) give equal recognition, dignity and respect to all cultures, including cultures of minorities or marginalized peoples.

(2) Notwithstanding the provisions of this Act, cultural activities, expressions and practices shall not be inconsistent with the Bill of Rights set out in Chapter Four of the Constitution.

PART II—MANAGEMENT OF CULTURE

Role of the National Government.

5. (1) The Cabinet Secretary shall be responsible for—

(a) development of national policies and regulations and standards on cultures and cultural heritage and expressions;

(b) promotion of the diverse cultures, cultural heritage and cultural expressions including protection, safeguarding, preservation, conservation and rehabilitation of cultures, cultural heritage and cultural expressions;

(c) monitoring compliance with standards and regulations concerning culture and cultural heritage;

(d) management of national cultural institutions established by or under the control of the national government;

(e) prescribing regulations and standards to guide cultural databases and for development of county cultural facilities and activities;

(f) prescribing regulations and standards to guide the development of cultural facilities and activities;

(g) implementing bilateral and multilateral agreements on culture;

(h) promoting national values, social cohesion and national identity; and

(i) performing any other function as may be necessary for the purposes of this Act.

(2) The institutions set out in the Second Schedule shall be managed by the national government.

Role of county governments.

6. County governments shall—

(a) promote, protect and manage cultural activities and facilities at the county level in line with the national policy;

(b) enact county policies and laws for the promotion of cultural activities and facilities;

(c) promote cultural activities, public entertainment and infrastructure for cultural heritage and cultural expression at the county level; and

(d) develop and manage a county database of cultural activities.

Establishment of cultural database.

7. (1) The Cabinet Secretary, in consultation with county governments, shall establish and maintain a database on culture and heritage including a database of registered cultural practitioners, groups and associations.

(2) The Cabinet Secretary shall, in consultation with county governments, develop a system for collecting and preserving information on culture and cultural heritage.

(3) The Cabinet Secretary shall prescribe the standards for compatibility with the national database and data to be submitted by county governments for the national database of culture and cultural heritage.

Access to information.

8. (1) Any person shall have the right to the information held in the national database of culture and cultural heritage:

Provided that it is not information protected by this Act or any other written law.

(2) A person who requires a copy of the information in the database may be given such a copy after the payment of a reasonable fee as may be prescribed by regulations made under this Act.

Compensation for use of culture and cultural heritage.

9. (1) The Cabinet Secretary shall, in consultation with relevant stakeholders and county governments, establish mechanisms for the determination and payment of compensation or royalties to communities for the use of the communities' culture and cultural heritage.

(2) The determination of compensation or royalties shall be guided by, among other things—

(a) the impact of the culture or cultural heritage on the economy of the community;

(b) the economic value of the culture or cultural heritage;

(c) the cultural value of the culture or cultural heritage;

(d) whether or not the culture or cultural heritage shall be used continuously or periodically;

(e) whether or not the culture or cultural heritage will be subject to derivative works and the type of ownership of the derivative works;

(f) the type and amount of investment by a State organ in the culture or cultural heritage;

(g) the effect of the use of the culture or cultural heritage on the environment; and

(h) the potential for large scale use of the culture or cultural heritage.

(3) The share of the royalties or compensation between the two government levels, the communities and individuals shall be prescribed by the Cabinet Secretary in Regulations.

(4) In establishing mechanisms under subsection (1) the Cabinet Secretary shall—

(a) establish a register of cultural property;

(b) establish a register of cultural practitioners, groups and associations; and

(c) prescribe regulations to combat illicit trafficking of cultural property.

(5) The Cabinet Secretary shall, in consultation with the departments responsible for industrial property and copyright, develop guidelines for the payment of compensation or royalties to the national or county governments, as the case may be, and to, communities, social groups and individuals for the use of cultural property, knowledge or heritage.

Exceptions and limitations to compensation for use of culture and cultural heritage

10. (1) Notwithstanding the provisions of section 9, the mechanisms for compensation for the use of culture and cultural heritage may, in the public interest, exempt from or limit the requirement to compensate for use of a culture or cultural heritage—

(a) where the exemption or limitation does not restrict or impede the normal usage, development, exchange, dissemination or transmission of the culture or cultural heritage by the members of the community according to the community's norms;

(b) where the exemption or limitation is for the purposes of non-commercial use of the culture or cultural heritage including for teaching, research, exhibition, the reporting of current events and during judicial determination; or

(c) where the exemption or limitation is for the purposes of making a recording or reproduction of the culture or cultural heritage in a public archive or inventory for safeguarding.

(2) A person who intends to use a culture or cultural heritage shall obtain the prior informed consent of the owner or owners of the culture or cultural heritage and acknowledge their ownership of the culture or cultural heritage and the geographical place where the culture or cultural heritage is practiced or occurs.

(3) A person who uses or intends to use a culture or cultural heritage shall do so in a manner that is compatible with fair practice, and is not offensive or derogatory to the owner or owners of the culture or cultural heritage.

Export, import and transfer of inventoried cultural property

11. (1) A person, community or social group whose cultural property has been entered in national database of culture and cultural heritage, and wishes to loan, export, import and transfer such property locally or internationally,

shall apply to the Cabinet Secretary in the prescribed form for approval.

(2) In determining an application under this section, the Cabinet Secretary shall have regard to—

(a) the security of the cultural property;

(b) the spiritual, cultural or sentimental value of the cultural property;

(c) the fragility of the cultural property;

(d) the rarity of the cultural property;

(e) the cultural property's economic value;

(f) whether or not the cultural property is insured;

(g) the loaning period;

(h) whether the cultural property has any prescribed restrictions placed on it; and

(i) international treaties or conventions relating to culture or cultural heritage which Kenya has ratified.

(3) The Cabinet Secretary shall, if he or she approves the loan, export, import or transfer of the cultural property, issue a certificate of authorisation in the form prescribed by regulations made under this Act.

(4) A person shall not export out of Kenya any cultural property which has been unlawfully acquired or recovered.

Application to conduct research

12. (1) Notwithstanding any approval, permit or license granted under any other written law, a person who desires to conduct research regarding any cultural property that has been entered in the national database of culture and cultural heritage shall apply to the Cabinet Secretary in the prescribed manner, and the application shall be accompanied by such information or documentation as the Cabinet Secretary may prescribe.

(2) The Cabinet Secretary shall consult the owner of a cultural property before the relevant authority makes a determination regarding an application under this section.

Application for registration.

13. (1) A person who wishes to register a property or person as a cultural property or entity, as the case may be, under this Act, shall apply to the county government or the Cabinet Secretary in the prescribed manner:

Provided that an application made to the Cabinet Secretary shall only be done after the property or person, as the case may be, has been registered by a county government.

(2) An application under subsection (1) shall be accompanied by such information or documentation as may be prescribed by Regulations made under this Act

(3) The county government or the Cabinet Secretary, as the case may be, shall, upon payment of the prescribed fees, register the property or person as cultural property where, after consideration of an application under subsection (1) and after such investigation and enquiry as may be necessary, the county government or the Cabinet Secretary, as the case may be, is satisfied that—

(a) the property in respect of which the application is made—

(i) historically belongs to the community, social group or individual seeking registration;

(ii) is not the subject of controversy regarding ownership;

(iii) complies with identification criteria set by the Cabinet Secretary; or

(iv) is of cultural interest to more than one social group and an agreement has been reached by the interested groups regarding registration;

(b) the person is engaged in cultural development or the arts; and

(c) registration of such property is not contrary to public interest.

(4) The Cabinet Secretary or the county government, as the case may be, shall make regulations to guide the registration process under this section at the national government level or the county government level, as the case may be.

(5) The Cabinet Secretary shall consult the relevant county government before registering a property or a person under this Act.

(6) Each county government shall, upon registering a property or a person as a cultural property or entity, as the case may be, shall notify the Cabinet Secretary of the registration and such notification shall contain the relevant details of the registration and, soon thereafter, the Cabinet Secretary shall cause the information to be entered in the national database.

Refusal to register.

14. Where the Cabinet Secretary or county government refuses to register a property or institution under section 11, the Cabinet Secretary or county government shall provide the applicant, in writing, with the reasons for such refusal.

Cancellation of registration.

15. (1) The Cabinet Secretary or county government may cancel the registration of a cultural property if the Cabinet Secretary or county government is satisfied that—

(a) the holder of a registered cultural property has, in connection with the registration, contravened or failed to comply with a condition relating to the registration;

(b) it is contrary to the public interest that such cultural property to remain registered; or

(c) the applicant gave false or misleading information to obtain registration of the property.

(2) Before the registration of a cultural property is cancelled, the Cabinet Secretary or the county government shall notify in writing the holder of the registered cultural property of the intention to cancel the registration, specifying the grounds for the intended cancellation in the notification, and invite the holder to make representations in respect of the intended cancellation.

Validity of registration.

16. The register of cultural property and the certificate of registration issued in respect of the registration of a cultural property shall lapse on the cancellation of registration under section 15.

Recognition and promotion of cultural expressions by public entities.

17. The Cabinet Secretary shall develop Regulations to determine the criteria for the recognition and promotion of cultural expressions as national expressions.

Protection of cultural heritage and expressions.

18. (1) The Cabinet Secretary shall prescribe, by notice in the *Gazette*, cultural property that shall not be sold or exported.

(2) The Cabinet Secretary shall develop regulations for the promotion and protection of endangered cultural expressions and cultural heritage.

(3) A person who discovers an archaeological heritage shall not interfere with it:

Provided that a county government has permitted that person to disturb that archaeological heritage and the Cabinet Secretary has issued that person with a license.

(4) The Cabinet Secretary and the county government shall not approve any activity or development to be undertaken in an area where there is or might be a cultural heritage if appears that the activity or development shall unreasonably endanger or damage the cultural heritage.

Seizure and disposition of tangible cultural heritage.

19. (1) A tangible cultural heritage shall be subject to seizure if—

(a) it has been recovered without a valid permit;

(b) it has been stolen, imported or exported without a permit; or

(c) unlawfully transferred to the ownership of another person.

(2) A seized cultural heritage under this Act shall be registered, protected and stabilised.

PART III—OFFENCES AND PENALTIES

Offences.

20. (1) A person commits an offence if that person—

(a) steals or is wrongfully in possession of a cultural property protected under this Act or under any other written law;

(b) sells a cultural property protected under this Act or under any other written law without a permit or license;

(c) transfers, without a permit or license, or traffics in a cultural property protected under this Act or under any other written law;

(d) aids or abets another person to steal, sell or otherwise be wrongfully in possession of a cultural property protected under this Act or under any other written law;

(e) commits forgery or fraud with the intent to have an article declared an article of cultural interest;

(f) damages a cultural expression;

(g) does not report imminent danger to a cultural expression;

(h) fails to apply for a permit or a license to conduct an activity or development at a place that has a cultural expression or heritage;

(i) exports a cultural expression without a permit or a license; or

(j) removes or attempts to remove without authorization any cultural property.

(2) A person convicted of an offence under this section shall be liable on conviction to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding two years or both.

(3) The court may, in addition to any penalty it may impose under this section—

(a) direct that any expenses incurred for the repair or replacement of a cultural object as a consequence of the commission of an offence under this section be paid by the offender;

(b) order the restitution of a cultural property protected under this Act or under any other written law to its rightful owner; or

(c) make an order for the forfeiture of the proceeds or profits from the commission of the offence.

Non-compliance with conditions of registration.

21. Any person whose property or association has been registered and who fails to comply with the conditions of registration under this Act commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months.

Undertaking research without a permit.

22. Any person who undertakes research under this Act without a research permit issued under this Act commits an offence and is liable on conviction to a fine not exceeding one million shillings or imprisonment for a term not exceeding ten years.

Loaning without a permit.

23. A person, who loans a cultural property contrary to the provisions of this Act, commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding two years.

Damage or destruction of inventoried cultural property.

24. Any person who intentionally damages or destroys an inventoried cultural property or artifact commits an offence and shall, on conviction, be liable to imprisonment for life.

Wrongful possession of cultural property.

25. A person who is found in possession of cultural property to which he or she has no lawful right commits an offence.

Counterfeiting and misrepresentation of cultural property.

26. Any person who—

(a) produces an object or assists another person to produce an object with the intention of presenting it as a genuine cultural property; or

(b) knowingly misrepresents an object to be a cultural property,

commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years.

Using images without consent.

27. (1) Any person who uses an image of a cultural property without the written prior informed consent of the owner of that cultural property commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding two years.

(2) The burden of proof shall, under this section, lie on the person alleging to have obtained the written prior informed consent.

(3) The Cabinet Secretary shall take such measures as may be necessary to ensure payment for use of images of

cultural property where such images have been or are being used without consent outside Kenya.

False or misleading information.

28. A person commits an offence if he or she knowingly provides false or misleading information and shall be liable, on conviction, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months.

Wilfully impeding or obstructing a person.

29. Any person who willfully obstructs or impedes any person in the exercise of any of the powers, or in the performance of any of the duties conferred or imposed upon him or her by this Act commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months.

PART VI—GENERAL PROVISIONS

Fees and levies to be published in the *Gazette*.

30. (1) Where this Act stipulates levies, charges or fees for any services or for use of facilities, the Cabinet Secretary shall publish a schedule of the levies, charges or fees in the *Gazette*.

(2) The schedule of charges shall come into force on the date specified therein, which shall be at least thirty days following publication in the *Gazette*.

General penalty.

31. A person convicted of an offence under this Act for which no other penalty is prescribed shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or both.

Transitional provisions.

32. (1) Any license or permit issued by the Cabinet Secretary in regard to a cultural object before the commencement of this Act shall continue to be valid as if it had been issued under this Act.

(2) Any inventory or register of culture and cultural heritage in existence before the commencement of this Act shall continue to be valid as if it had been established or kept under this Act.

(3) Any agreement or contract entered into between the Government and any other person regarding the protection and promotion of culture and the cultural heritage of communities shall continue to bind the parties as if the agreement or contract had been made under this Act.

(4) Any agreement or contract entered into by the Government with any other person regarding the protection or promotion of culture and the cultural heritage of communities before the commencement of this Act that contravenes any provision of this Act shall, on commencement of this Act, become null and void to the extent of that contravention.

Regulations.

33. (1) The Cabinet Secretary may make regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations—

(a) prescribing the information to be captured in the registers;

(b) prescribing the forms under this Act;

(c) prescribing the criteria for the identification of cultural property;

(d) prescribing the manner in which the loaning of cultural property shall be undertaken;

(e) prescribing the standards for the maintenance, presentation and storage of cultural objects;

(f) prescribing compensation on use of community cultures and payment of royalties;

(g) prescribing research relating to culture we need to capture this in a way that recognizes the role of the body in charge of research in Kenya; and

(h) generally for the better carrying out of the purposes and provisions of this Act.

SCHEDULE *(Section 5(2))*

National Cultural Institutions

1. Kenya Cultural Centre
2. National Libraries
3. National Museums of Kenya
4. Kenya National Archives and Documentation Service

MEMORANDUM OF OBJECTS AND REASONS

The Culture Bill, 2024, has been made to give effect to Article 11 of the Constitution as well as to provide for the promotion and protection of culture and cultural heritage of communities in Kenya. It is divided into four Parts consisting of 33 clauses and one Schedule.

Part I of the Bill (clauses 1–4) provides for preliminary matters including the interpretation of key terms; guiding principles of the Bill; and the object and purpose of the Bill.

Part II of the Bill (clauses 5–19) provides for the management of culture in Kenya and delineates the functions of both the national government and the county governments. It also provides for the establishment of a cultural database, access to information relating to the management of culture in Kenya, compensation to individuals, groups or communities for the use of cultural properties, research into culture and cultural heritage and the registration of cultural properties. It also provides for the recognition and promotion of cultural expressions and indigenous technologies by public entities, the protection of cultural heritage and expressions, and the protection of endangered communities and cultures.

Part III of the Bill (clauses 20–29) provides for offences and penalties in relation to culture, cultural heritage and cultural properties.

Part IV of the Bill (clauses 30–33) makes general provisions in relation to fees and charges, a general penalty, the power to make Regulations under the Act and transitional matters.

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

The Bill delegates legislative powers to the Cabinet Secretary but does not limit fundamental rights and freedoms.

Statement that the Bill concerns county governments

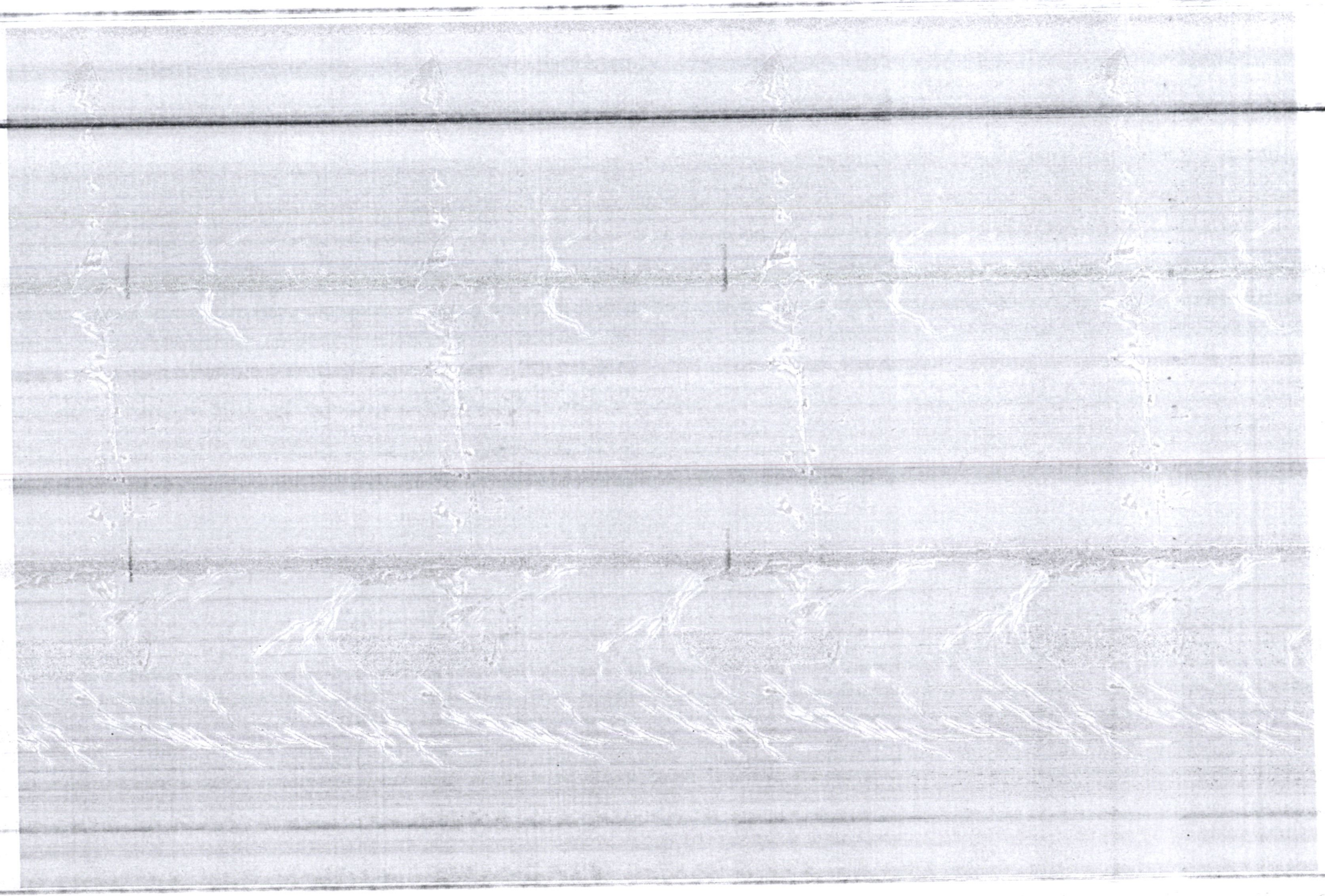
Pursuant to paragraph 4 of Part 2 of the Fourth Schedule to the Constitution, cultural activities is a function of county governments. Consequently, the Bill contains provisions that affect the functions and powers of the county governments in terms of Article 110 (1)(a) of the Constitution.

Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 13th February, 2024.

KIMANI ICHUNG'WAH,
Leader of Majority Party.



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THE PRIVATISATION ACT, 2023

No. 11 of 2023

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4—Limitation of application.

5—Guiding principles of the Act.

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THE PRIVATISATION ACT, 2023

AN ACT of Parliament to provide a regulatory framework for the privatisation of public entities; to establish the Privatisation Authority; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Privatisation Act, 2023.

Interpretation.

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

"Authority" means the Privatisation Authority established under section 8;

"Board" means the Board of the Authority constituted under section 10;

"Cabinet Secretary" means the Cabinet Secretary to the National Treasury;

"Corporation Secretary" means the Corporation Secretary appointed in accordance with section 17;

"Managing Director" means the Managing Director of the Authority appointed under section 16;

"national government-linked corporation" means a corporation in which the National Government or a national government entity is a shareholder with less than fifty per centum of the share capital of the corporation;

"privatisation" means a transaction that results in a transfer, other than to a public entity, of the assets and or liabilities of a public entity including the shares in a public entity;

"privatisation programme" means the privatisation programme provided for under section 19;

"privatisation proposal" means a proposal provided for under section 30;

"public entity" includes —

(a) a national government-linked corporation;

(b) a subsidiary of a national government corporation; or

(c) a state corporation within the meaning of the State Corporations Act; Cap. 446.

"Review Board" means the Privatisation Review Board established under section 47; and

"secondary market" means a financial market in which previously issued financial instruments such as shares and other marketable securities are traded.

Objects and purpose of the Act.

3. The objects and purpose of this Act are to—

(a) provide for the establishment of the Privatisation Authority; and

(b) streamline the regulatory and institutional framework for the implementation of a privatisation.

Limitation of application.

4. This Act shall not apply to—

(a) sale of shares in the secondary market;

(b) sale of shares by a social security fund, compensation fund, superannuation fund, insurance fund or endowment fund under public control for the benefit of its contributors;

(c) sale of new shares to existing shareholders through a rights issue;

(d) any balance sheet reorganisation which may lead to dilution of the percentage of shares held by a public entity; or

(e) sale or transfer of shares by a county government.

Guiding principles of the Act.

5. The implementation of this Act shall be guided by the following principles—

(a) the national values and principles of governance set out under Article 10 of the Constitution;

(b) the principles of public finance provided under Article 201 of the Constitution;

(c) the promotion of participation by Kenyans in the sustainable development and protection of the economy;

(d) transparency and accountability;

(e) efficiency and sustainability; and

(f) cost effectiveness and value for public resources.

Purpose of privatisation.

6. The purpose of a privatisation undertaken under this Act shall be to—

(a) encourage more participation of the private sector in the economy by shifting the production and delivery of products and services from the public sector to the private sector;

(b) improve the infrastructure and the delivery of public services through the involvement of private capital and expertise;

(c) reduce the demand for government resources;

(d) generate additional revenue for the government through compensation for privatisations;

(e) improve the regulation of the economy by reducing conflicts between the public sector's regulatory functions and commercial functions;

(f) broaden the base of ownership in the Kenyan economy by encouraging private ownership of entities;

(g) improve the efficiency of the Kenyan economy by making it more responsive to market forces; and

(h) enhance and develop the capital markets in Kenya.

PART II — CO-ORDINATION AND OVERSIGHT OF PRIVATISATION MATTERS

Role of Cabinet Secretary.

7. The Cabinet Secretary shall have the following functions under this Act—

(a) providing policy direction on matters related to privatisation;

(b) coordinating the adherence to national, regional and international obligations relating to privatisation;

(c) developing and formulating the privatisation programme; and

(d) overseeing the administration of this Act.

Privatisation Authority.

8. (1) There is established an authority to be known as the Privatisation Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

(a) suing and being sued;

(b) taking, purchasing, charging and disposing of movable and immovable property;

(c) entering into contracts; and

(d) doing or performing all other things necessary for the proper discharge of its functions under this Act which may be lawfully done or performed by a body corporate.

Functions of the Authority.

9. The Authority shall—

(a) advise the government on all aspects of privatisation of public entities;

(b) facilitate the implementation of government policies on privatisation;

(c) implement the privatisation programme;

(d) implement specific privatisation proposals in accordance with the privatisation programme;

(e) collaborate with other organisations, within or outside Kenya, as it may consider appropriate in furtherance of the objects of this Act;

(f) prepare long-term divestiture sequence plan;

(g) monitor and evaluate the implementation of privatisation programs in Kenya;"

(h) take such measures as are necessary to ensure that the provisions of this Act are complied with; and

(i) perform any other functions under this Act or any other legislation as may be conferred, from time to time, on the Authority.

Board of the Authority.

10. (1) The Authority shall be managed by a Board which shall consist of—

(a) a chairperson appointed by the President;

(b) the Principal Secretary to the National Treasury or a representative designated in writing;

(c) the Principal Secretary in the Ministry responsible for matters relating to investment promotion or a representative designated in writing;

(d) the Attorney General or a representative designated in writing;

(e) the secretary to the State Corporations Advisory Committee or a representative designated in writing;

(f) four other persons, not being public officers, appointed by the Cabinet Secretary through a competitive process, each possessing a degree in either economics, accounting, finance or any other relevant degree from a recognized institution and having ten years of work experience of which five shall be at senior management level in a relevant field;

(g) the Managing Director of the Authority, who shall be an *ex-officio* member of the Board with no voting rights.

(2) The chairperson and members of the Board appointed under subsection (1)(f) shall hold office for a term of three years and may be eligible for reappointment for one further term of three years.

(3) In the appointment of the Board, the appointing authority shall ensure that the membership reflects gender and regional balance and an appropriate mix of skills and competencies required to achieve the functions of the Board.

Functions of the Board.

11. (1) The Board shall—

(a) ensure the proper and effective performance of the functions of the Authority;

(b) determine the mission, vision, purpose and core values of the Authority;

(c) set and oversee the overall strategy and approve policies of the Authority; and

(d) ensure availability of adequate resources for the achievement of the Authority's objectives.

(2) In the performance of its functions under subsection (1), the Board shall have power to—

(a) subject to the approval of the Cabinet Secretary, invest any of the Authority's funds that are not immediately required for the purposes of this Act;

(b) monitor and evaluate the performance of the Authority;

(c) open and operate bank accounts for the funds of the Authority in accordance with the Public Finance Management Act, 2012; No. 18 of 2012.

(d) receive any grants, gifts, donations or endowments on behalf of the Authority; and

(e) in consultation with the relevant agencies, determine and specify the terms and conditions for the appointment and emoluments of the staff of the Authority.

Vacancy in the Board.

12. (1) The office of the chairperson or a member of the Board shall become vacant if the holder—

(a) dies;

(b) resigns from office by notice in writing addressed to the appointing authority;

(c) is removed from office on any of the following grounds—

(i) absence from three consecutive meetings of the Board without a reasonable explanation;

(ii) incapacitation due to prolonged physical or mental illness and inability to discharge the duties of his or her office;

(iii) failure to comply with the provisions of this Act relating to disclosure of interest;

(iv) being adjudged bankrupt or entering into a composition scheme or arrangement with his or her creditors;

(v) being convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months; or

(vi) being otherwise unable or unfit to discharge the functions of his or her office.

(2) Where a vacancy occurs in the membership of the Board, the appointing authority shall appoint a new member in accordance with the provisions of this Act.

Conduct of business and affairs of the Board.

13. The conduct of the business and affairs of the Board shall be as set out in the First Schedule.

Delegation by the Board.

14. The Board may, by resolution either generally or in a particular case, delegate to a subcommittee of the Board or to a member, officer, employee or agent of the Authority, the exercise of any of the powers or performance of any of the functions of the Board.

Remuneration of the members.

15. The chairperson and members of the Board, other than the Managing Director, shall be paid out of the funds of the Authority such allowances or other remuneration as the Cabinet Secretary, on the advice of the Salaries and Remuneration Commission, determines.

Managing Director.

16. (1) There shall be a Managing Director of the Authority who shall be competitively recruited and appointed by the Board on such terms as may be specified in the instrument of appointment.

(2) The Managing Director shall, under the direction of the Board, be responsible for—

(a) the day-to-day management of the affairs of the Authority;

(b) the exercise and performance of the objectives, functions and duties of the Authority, and the general administration of the Authority; and

(c) performing such other duties as may be determined by the Board.

(3) A person shall be qualified to be appointed as the Managing Director if the person—

(a) holds a degree in either economics, accounting, finance, or any other relevant degree from a recognized institution;

(b) has ten years of work experience of which five shall be at senior management level in a relevant field;

(c) meets the requirements of Chapter six of the Constitution.

(4) The Managing Director shall be appointed for a term of four years and may be eligible for reappointment for one further term not exceeding four years.

Corporation Secretary.

17. (1) There shall be a Corporation Secretary who shall be competitively recruited and appointed by the Board on such terms as the Board, on the advice of the Salaries and Remuneration Commission, determines.

(2) The Corporation Secretary shall—

(a) provide secretariat services to the Board;

(b) record and keep minutes and other records of the Board;

(c) ensure that members of the Board are aware of all relevant laws affecting the Authority; and

(d) carry out such other functions as may be assigned from time to time by the Board or the Managing Director.

(3) The Corporation Secretary shall be responsible to the Managing Director.

Staff of the Authority.

18. The Authority shall have such staff as it may require for the proper discharge of its functions under this Act, on such terms and conditions of service as the Board may determine.

PART III — PRIVATISATION PROGRAMME

Privatisation programme.

19. (1) There shall be a programme to be known as the privatisation programme.

(2) The privatisation programme shall —

(a) be formulated by the Cabinet Secretary in accordance with this Act and approved by the Cabinet;

(b) be annually audited and reported on;

(c) specify the public entities identified and approved for privatisation, and

(d) serve as the basis upon which a privatisation shall be undertaken.

Consultation in formulation of the programme.

20. (1) During the formulation of the privatisation programme, the Cabinet Secretary shall make appropriate

consultations with persons who are likely to be affected by the privatisation of a public entity.

(2) The persons envisaged under subsection (1) shall include—

(a) persons with expertise in fields relevant to the entities to be included in the privatisation programme;

(b) organisations representing persons who are likely to be affected by the proposed privatisation; and

(c) members of the public.

Identification of entities for the programme.

21. (1) The Cabinet Secretary shall identify and determine the entities to be included in the privatisation programme.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary shall, in the identification and determination of entities for privatisation, take into consideration—

(a) the relevant government policies in respect of privatisation;

(b) the strategic priorities and policy goals to be achieved by the privatisation;

(c) the strategic nature of the public entity to be privatised;

(d) the need to avoid a privatisation that may result in an unregulated monopoly;

(e) the need to avoid a privatisation that may accord the new owners' special protection or access to credit on concessionary terms as a result of the National Government's sovereign status;

(f) the extent of regulatory adjustments required;

(g) the need to reduce budget drain on government resources;

(h) the expected benefits to be gained from a proposed privatisation; and

(i) any other relevant consideration.

Ratification by the National Assembly.

22. (1) Upon approval of the privatisation programme by Cabinet, the Cabinet Secretary shall submit the approved privatisation programme to the National Assembly for ratification before implementation of the programme.

(2) The request for ratification under subsection (1) shall be accompanied by an explanatory memorandum indicating—

(a) a brief description of the public entity to undergo privatisation;

(b) a brief explanation of the reasons for undertaking the privatisation;

(c) the benefits to be gained from the proposed privatisation including the estimated revenue to be obtained; and

(d) any other relevant information.

(3) The National Assembly shall, within sixty days after receipt of privatisation programme under subsection (1), —

(a) consider the programme guided by principles of good governance, the criteria for identification of entities specified under section 21 and any other relevant consideration;

(b) either—

(i) ratify part or all of the programme for implementation; or

(ii) refuse to ratify part or all the programme and notify the Cabinet Secretary for reconsideration stating the reasons for the refusal; and

(c) notify the Cabinet Secretary of its decision.

(4) The Cabinet Secretary shall, upon receipt of the refusal under subsection (3)(b)(ii), consider the decision and may resubmit the same privatisation programme to the National Assembly for ratification.

(5) Where the National Assembly does not make a decision under subsection (3) within ninety days, the

privatisation programme shall be deemed to have been ratified.

Publication of programme.

23. The privatisation programme ratified under section 22 shall be published in the Kenya *Gazette*.

Validity of the programme.

24. (1) A privatisation programme shall be valid for a period not exceeding five years from the date of *gazettement*.

(2) Notwithstanding subsection (1), the Cabinet Secretary may extend the validity of the privatisation programme for a period not exceeding twelve months.

(3) If, on expiry of the programme under subsection (1) or at the expiration of the extended period under subsection (2), the implementation of the programme has not been completed, the Cabinet Secretary may include the affected entities in another privatisation programme formulated and approved in accordance with this Act.

Amendment of the programme.

25. (1) The Cabinet Secretary may amend the privatisation programme and the provisions of this Part relating to formulation and approvals shall apply with respect to any such amendments.

(2) A privatisation that entails the transfer of a public interest in a public entity shall not be implemented unless it is included in the privatisation programme.

PART IV — IMPLEMENTATION OF THE PRIVATISATION PROGRAMME

Preliminaries

Implementation of the programme.

26. The privatisation programme shall be implemented by the Authority in accordance with this Act.

Eligibility in a privatisation.

27. (1) Any person, whether Kenyan or non-Kenyan, is eligible to participate in a privatisation:

Provided that this section shall not affect the application of any other law imposing restrictions on participation by non-Kenyans.

(2) Notwithstanding subsection (1), the Cabinet Secretary may direct the Authority to—

(a) limit participation in any privatisation to Kenyans; or

(b) ensure that there is a specified minimum level of participation by Kenyans in any privatisation.

(3) A national government-owned entity is not eligible to participate in a privatisation.

(4) Subsection (3) shall not prevent a social security fund, compensation fund, superannuation fund, insurance fund or endowment fund under government control from purchasing shares for the benefit of its contributors.

Steering Committee.

28. (1) For each privatisation, there shall be a steering committee to implement the privatisation on behalf of the Authority subject to any directions of the Authority.

(2) A steering committee shall comprise the following members—

(a) the members of the Authority described in paragraphs (b) and (c) of section 10(1);

(b) the Principal Secretary of the ministry with responsibility over the asset or service being privatised; and

(c) such members of the Authority as the Authority specifies.

Methods of privatisation.

29. The methods of privatisation shall include—

(a) initial public offer of shares;

(b) sale of shares by public tender;

(c) sale resulting from the exercise of pre-emptive rights; or

(d) such other method determined by the Cabinet.

Privatisation proposal

Privatisation proposal.

30. (1) Where an entity has been identified for privatisation under this Act, the Authority shall prepare a privatisation proposal on the entity.

(2) The privatisation proposal shall specify—

(a) the purpose for the establishment or existence of the entity to be privatised and the extent to which that purpose or operation has been met including any inadequacies in meeting that purpose;

(b) any rights or other entitlements and resources that have been provided to meet the purpose for the establishment or existence of the entity to be privatised;

(c) any recommendations for continuing to meet the purpose for establishment or existence of the entity to be privatised;

(d) the financial position of the entity to be privatised;

(e) the recommended method of privatisation;

(f) the estimated costs of implementing the proposed privatisation;

(g) any recommendations for dealing with the employees directly affected by the proposed privatisation including any benefits they are entitled to;

(h) where applicable, a recommendation on how to undertake socio-economic investments to the host community;

(i) the benefits to be gained from the proposed privatisation;

(j) a work plan for the proposed privatisation;

(k) any information relating to the repeal, amendment or enactment of any law for the proposed privatisation to be carried out;

(l) any proposals on how Kenyans can participate in the transaction; and

(m) any other relevant information.

Approval of privatisation proposal.

31. (1) For each privatisation included in the privatisation programme, the Authority shall make a specific proposal for privatisation to the Cabinet Secretary.

(2) The Cabinet Secretary shall present the privatisation proposal specified in subsection (1) to the Cabinet for approval.

Implementation of a finalised privatisation.

32. (1) Upon approval of a privatisation proposal under section 31, the determined and approved method of

privatisation shall be effected in the manner specified in the Second Schedule.

(2) The method of privatisation specified in section 29(d) shall be effected in the manner determined by the Cabinet.

Valuation

Valuation required for each privatisation.

33. (1) The Authority shall undertake a business and assets valuation for each privatisation, to assist in the implementation of the privatisation proposal.

(2) The valuation shall be performed by a qualified person appointed by the Authority.

Restrictions and obligations on entities scheduled for privatisation

Application of restrictions.

34. The restrictions set out under this Part shall begin to apply upon publication of privatisation programme under section 23.

General restrictions.

35. A public entity to which this Act applies shall not—

(a) allow the assets of the public entity to be dissipated;

(b) incur any liabilities or procure any assets, other than in the ordinary course of business, without the prior written approval of the Cabinet Secretary; or

(c) disclose information, other than publicly, if there is a reasonable risk that the disclosure would give an advantage to a person who might compete in the privatisation.

Control of investments.

36. A public entity undergoing privatisation shall not undertake any new capital investment or disposal, other than those under ordinary course, had been approved prior to the entry into the privatisation programme, or are critical to business continuity, unless approved by the Cabinet and ratified by the National Assembly.

No credit on sale of shares.

37. The public entity undergoing privatisation shall not extend credit or provide financing for the purchase of the shares.

Obligation for record keeping.

38. A public entity undergoing privatisation shall—

(a) keep up-to-date business records and books of accounts;

(b) continue to operate in its ordinary course of business without prejudice to the Government or potential purchaser;

(c) maintain an up-to-date register of all fixed assets; and

(d) document all legal and other obligations of the entity.

PART V — PRIVATISATION AGREEMENT

Privatisation agreement.

39. Upon approval and implementation of a privatisation under Part IV, an agreement to give effect to a privatisation shall not be binding unless executed by the registered owner of the shares and countersigned by the Cabinet Secretary.

Limits on when agreement may be signed.

40. (1) An agreement to give effect to a privatisation shall not be signed until the period for filing an objection has lapsed.

(2) Where an objection or appeal has been lodged in accordance with section 45 or 46, the agreement to give effect to the privatisation shall not be executed until—

(a) a determination with respect to the objection or appeal has been made; and

(b) the time for filing a notice of appeal has expired without such a notice being filed.

Regulation of monopolies.

No. 12 of 2010.

41. Where a proposed privatisation may result in an unregulated monopoly, the Authority shall, subject to the Competition Act —

(a) ensure that the agreement to give effect to the privatisation provides for the regulation of the monopoly; and

(b) seek the approval of the Cabinet Secretary on the agreement.

Publication of finalised privatisation.

42. (1) After an agreement to give effect to a privatisation becomes binding on the public entity, the

Authority shall promptly publish a notice of the privatisation in the Kenya *Gazette*.

(2) The notice under subsection (1) shall specify—

(a) a description of the entity being privatised;

(b) a summarised description of the transaction used to give effect to the privatisation;

(c) the names and addresses of the persons to whom the shareholding is being transferred:

Provided that this paragraph shall not apply to a privatisation undertaken through initial public offer of shares; and

(d) such other information as the Authority considers appropriate.

PART VI — PROCEEDS OF PRIVATISATION

Proceeds from sale of direct government shareholding.

43. Any proceeds from the sale of a direct National Government shareholding shall be paid into the Consolidated Fund.

Proceeds from the sale of a public entity's shareholding.

44. Any proceeds from the sale of a public entity's shareholding shall be deposited in a special interest-bearing account established for that public entity's privatisation in order to protect the erosion of the balance sheet of the public entity and the proceeds shall be credited into the Consolidated Fund Account within ninety days.

PART VII — OBJECTIONS AND APPEALS

Objections.

45. (1) Any person aggrieved by the determination of the Authority under this Act or implementation of the privatisation programme may lodge an objection.

(2) An objection under this section shall be lodged and determined in accordance with the Procedures set out in the Third Schedule.

Appeals.

46. (1) Any person aggrieved by the determination of the Authority under section 45 may appeal to the Privatisation Review Board.

(2) An appeal under this section shall be lodged and determined in accordance with the Procedures set out in the Third Schedule.

(3) A person aggrieved by the decision of the Review Board in an appeal under this section may appeal to the High Court.

Establishment of the Privatisation Review Board.

47. There is established a board to be known as the Privatisation Review Board to determine disputes and appeals under this Act or any other written law.

Members of the Review Board.

48. (1) The Review Board shall consist of the following members appointed by the Cabinet Secretary—

(a) a chairperson who shall be an accredited arbitrator registered with the Chartered institute of Arbitrators (Kenyan Chapter) and with at least ten years' experience in commercial dispute resolution; and

(b) four other persons, not being public officers or employees of the Authority, possessing relevant knowledge and experience in privatisation related matters.

(2) A member of the Review Board shall hold office for a term of—

(a) five years in the case of the chairperson; and

(b) three years in the case of any other member, and may be eligible for re-appointment for one further term.

(3) A person shall be qualified for appointment under subsection (1) if that person—

(a) is a citizen of Kenya;

(b) holds a degree in a relevant field from a university recognised in Kenya;

(c) is a member in good standing of the relevant professional association; and

(d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

Vacancy in the Review Board.

49. The office of the chairperson or a member of the Review Board shall become vacant—

(a) at the expiration of the term of office of the chairperson or member;

(b) where the chairperson or a member dies or resigns from office;

(c) if the chairperson or member is otherwise unable or unfit to discharge the functions of his office; or

(d) if the chairperson or member accepts any office the holding of which would make him or her ineligible for appointment to the office of member of the Review Board.

Secretary to the Review Board.

50. The Cabinet Secretary shall designate a public officer to be the secretary to the Review Board.

Conduct of proceedings of the Review Board.

51. Unless otherwise provided, the Review Board shall regulate its own procedures.

Remuneration of the Review Board.

52. The chairperson and members of the Review Board shall be paid such remuneration or allowances as the Cabinet Secretary may, in consultation with the Salaries and Remuneration Commission, determine.

Conflict of interest.

53. Where the chairperson or a member of the Review Board has a direct or indirect interest in a matter before the Review Board, the chairperson or member shall declare the interest and shall not participate in any proceedings of the Review Board on the matter.

PART VIII — FINANCIAL PROVISIONS

Funds of the Authority.

54. The funds of the Authority shall consist of—

(a) monies appropriated by the National Assembly for the purposes of the Authority;

(b) monies accruing to or vesting in the Authority in the course of the exercise of its powers or the performance of its functions;

(c) grants, donations, bequests or other gifts made to the Authority; and

(d) monies from any other source provided for, donated or loaned to the Authority.

Financial year.

55. The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

Annual estimates.

56. (1) At least three months before the commencement of each financial year and in accordance with the Public Finance Management Act, 2012, the Board

No. 18 of 2012.

shall cause to be prepared the estimates of revenue and expenditure of the Authority for the financial year.

(2) The annual estimates shall provide for all the estimated expenditure of the Authority for the financial year, and in particular, shall provide for—

(a) the payment of salaries, allowances and other charges in respect of the staff of the Authority;

(b) the payment of pensions, gratuities and other charges in respect of the staff of the Authority;

(c) the maintenance of buildings, other equipment and other property of the Authority; and

(d) the acquisition, maintenance, repair and replacement of the equipment and other movable or immovable property of the Authority.

Accounts and audit.

57. (1) The Board shall cause to be kept proper books of accounts of the income, expenditure, assets and liabilities undertakings, activities, transactions and other business of the Authority.

(2) The accounts of the Authority shall be audited in accordance with the Public Audit Act, 2015. No. 34 of 2015.

PART IX — MISCELLANEOUS PROVISIONS

Annual report.

58. (1) Within three months after the end of each financial year, the Authority shall prepare and submit to the Cabinet Secretary an annual report of the Authority for the immediately preceding financial year.

(2) The report under subsection (1) shall include information on—

(a) the operations of the Authority for the immediately preceding financial year;

(b) activities undertaken under the privatisation programme in each financial year; and

(c) any other relevant information.

(3) The annual report submitted under subsection (1) shall form part of the annual report on privatisation which shall be tabled in Parliament by the Cabinet Secretary.

Records.

59. The Authority shall maintain updated records of each privatisation undertaken under this Act.

Protection from personal liability.

60. No matter or action done by a member of the Board or by any officer, employee, or agent of the Authority shall, if the matter or action is done in good faith in the execution of the functions, powers or duties of the Authority under this Act, render the member, officer, employee or agent personally liable to any action, claim or demand.

(2) The provisions of subsection (1) shall not relieve the Authority of any liability to pay compensation or damages for any injury or damage caused by the exercise of any power under this Act or any other written law or by the failure, wholly or partially, of any works.

Information to the Authority.

61. (1) In the implementation of this Act, a public entity to which this Act applies, shall provide the Authority with such information as may be necessary to effectively implement the privatisation.

(2) The information given, furnished or maintained or required to be given, furnished or maintained under this Act shall be true, complete and accurate.

(3) Any information required under subsection (1) shall be submitted to the Authority within fourteen days of receipt of a request for information.

(4) Any person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

Confidential information.

62. (1) Any information issued to or sought by the Authority under this Act is confidential and shall not be disclosed unless with the written approval of the Authority.

(2) No person carrying out duties or responsibilities under this Act shall disclose any information or other data of a confidential nature obtained by virtue of their said authority, duties and responsibilities to any other person without the approval of the Authority.

Offences.

63. A person who—

(a) falsifies or omits material information from the privatisation proposal;

(b) provides false or misleading information that results in a wrong or erroneous valuation of an entity to be privatised;

(c) provides false or misleading information to a person carrying out a duty or function under this Act;

(d) discloses insider information, otherwise than in the performance of their duties and under this Act or with the written consent of the Authority, that may give an advantage to a person who might compete in the privatisation;

commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years and payment of an equivalent amount of the gain made or loss incurred.

Regulations.

64. The Cabinet Secretary may make Regulations generally for the better carrying out of the provisions of this Act.

PART X — REPEALS, SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation of Part.

65. (1) In this Part—

"Commission" means the Privatisation Commission established under the repealed Act;

"repealed Act" means the Privatisation Act, 2005; and

No. 2 of 2005.

"Tribunal" means the Privatisation Appeals Tribunal established under the repealed Act.

(2) The Authority shall be the successor to the Commission existing immediately before the commencement of this Act.

Repeal of No. 2 of 2005.

66. The Privatization Act, 2005 is repealed.

Transitional provisions.

67. (1) Any rights and obligations of the Commission existing at the commencement of this Act shall, by virtue of this subsection, vest in the Authority.

(2) Any reference in any written law, document or instrument to the Commission shall be deemed to be a reference to the Authority.

(3) Any rights and obligations vested in or enforceable by or against the Commission shall, by virtue of this subsection, be vested in, or become enforceable by or against the Authority.

(4) Any asset and liabilities held or imposed on the Commission shall, by virtue of this subsection vest in the Authority.

Ongoing privatisations.

68. (1) Upon commencement of this Act, the privatisation of entities published under Gazette Notice No. 8739 of 14th August, 2009 shall lapse.

(2) Notwithstanding subsection (1), any ongoing privatisation under the repealed Act shall be determined and finalised in accordance with this Act.

Members of the Commission.

69. Any person who was a member of the Commission immediately before the commencement of this Act shall be deemed to be a member of the Board of the Authority for the unexpired period of that person's tenure.

Staff of the Commission.

70. Any person who immediately before the commencement of this Act was an officer or employee of the Commission shall be deemed to be a member of staff of the Authority based on the terms and conditions of engagement.

Members of the Tribunal.

71. Any person who was a member of the Tribunal immediately before the commencement of this Act shall be deemed to be a member of the Review Board for the unexpired period of that person's tenure.

FIRST SCHEDULE

(s. 13)

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. Meetings

(1) The Board shall hold at least four meetings in every financial year.

(2) The notice for a meeting of the Board shall be in writing, and shall be for a period of at least seven days from the expected day of the meeting.

(3) The chairperson shall preside over all meetings and in the absence of the chairperson, a person elected by the Board at the meeting for that purpose shall preside.

(4) The chairperson may, on the written request made by at least half of the members of the Board and within seven days of the request, convene an extraordinary meeting at such time and place as the chairperson may appoint.

(5) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Board.

2. Conflict of interest and disclosure

(1) If a person is present at a meeting of the Board or any committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after becoming aware of the conflict and in any case at the commencement of the meeting, declare such interest.

(2) The person making the disclosure of interest under subsection (1) shall not, unless the Board or committee otherwise directs, take part in any consideration or, discussion of, or vote on any question touching on the matter.

(3) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(4) No member of the Board or officer, employee or agent of the Authority shall enter into a service contract or trade with the Authority.

3. Quorum

The quorum for the conduct of business at a meeting of the Board shall be two-thirds of all the total members of the Board.

4. Resolution of the Board

A decision of the Board shall be by a majority of the members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall have a casting vote.

5. Rules of procedure

Subject to this Act, the Board shall determine the procedure for the conduct of its business and cause to be kept records of minutes of its proceedings and decisions.

SECOND SCHEDULE

(s. 32)

METHODS OF PRIVATISATION

1. Initial public offering of shares

Where the selected method of privatisation is through initial public offer of shares, the offering of shares shall be undertaken in accordance with the Capital Markets Act, Cap 485A.

2. Sale of shares by public tendering

Where the selected method of privatisation is through sale of shares by public tendering, the following procedure shall apply—

Invitation of expression of interest

(1) The Authority shall prepare a notice inviting interested persons to submit expressions of interests.

(2) The notice inviting expressions of interests shall specify—

(a) a brief description of the entity to be privatized;

(b) the eligibility and qualifications necessary to be invited to submit a proposal;

(c) an explanation of where and when the expressions of interests shall be submitted;

(d) information on the timelines for closure of bids; and

(e) any other relevant information

(3) The Authority shall advertise the notice inviting the expressions of interests in the Government tenders' portal, or on the Authority's website and in at least two newspapers of nationwide circulation.

Evaluation of EOIs

(4) The Managing Director shall constitute a technical committee, of not less than three persons and not more than five persons to evaluate successfully submitted bids.

(5) Upon closure of the period for submission of bids, the committee constituted under paragraph (4) shall evaluate the successfully submitted bids in accordance with the procedures and criteria set out in the expressions of interests.

(6) Upon completion of the evaluation, the Managing Director shall submit to the Board a detailed report of all shortlisted persons for its approval within seven days after the evaluation.

Request for Proposal to qualified persons

(7) Upon approval of the evaluation report by the Board, the Managing Director shall—

(a) issue all shortlisted persons with a request for proposal; and

(b) concurrently notify persons not shortlisted of the outcome of the evaluation indicating the reasons thereof.

(8) The shortlisted persons referred to under subparagraph 7(a) shall fill and submit their proposal within twenty one days of receipt of the request for proposal.

(9) The request for proposal referred to under subparagraph 7(a) shall set out the following—

(a) instructions for the preparation and submission of the proposal;

(b) evidence of qualifications of the persons submitting the proposal;

(c) an explanation of where and when proposals shall be submitted;

(d) a statement of the period during which proposals shall remain valid; and

(e) the procedures and criteria to be used to evaluate and compare the proposals.

Evaluation of proposals

(10) The Managing Director shall constitute a technical committee of not less than three persons and not more than five persons to evaluate successfully submitted request for proposals.

(11) Upon closure of the period for submission of request for proposals, the committee constituted under paragraph (10) shall, within thirty days of opening of the proposals, evaluate the successfully submitted request for proposals in accordance with the procedures and criteria set out in the request for proposals.

(12) The successful proposal shall be the responsive proposal with the highest ranked bidder, subject to the reserve price.

(13) Upon completion of the evaluation, the Managing Director shall, within twenty one days, submit to the Board a detailed report containing a summary of the evaluation and comparison of tenders for approval.

(14) The recommendations of the Board under paragraph (13), together with a draft agreement, shall, within seven days, be submitted to the Cabinet Secretary for approval.

Notification to tenderers

(15) Upon approval by the Cabinet Secretary, the Managing Director shall, within seven days, notify the successful tenderer and concurrently notify the unsuccessful tenderers of the outcome of the tender indicating the reasons thereof.

3. Sale resulting from the exercise of pre-emptive rights

(1) Where the selected method of privatisation is through sale resulting from the exercise of pre-emptive rights, the sale shall be undertaken in accordance procedure specified in the respective entity's constituting instruments.

(2) Where the constituting instruments of the entity do not provide a procedure for exercising and sale of a pre-emptive right, the provisions of the relevant laws shall apply.

THIRD SCHEDULE

(*S. 45*)

THE ADMINISTRATIVE PROCEDURES FOR THE ADMINISTRATION OF OBJECTIONS AND APPEALS UNDER THE PRIVATISATION ACT

1. Citation

These procedures may be cited as the Administrative Procedures for the Administration of Objections and Appeals under the Act.

2. Definitions

In these Procedures, unless the context otherwise requires—

"Act" means the Privatisation Act, 2023;

"Authority" means the Privatisation Authority;

'Review Board" means the Privatisation Review Board;

"working day" means a day other than a Saturday, Sunday or public holiday.

3. Objections

(1) Pursuant to section 45 of the Act, any person aggrieved by the determination of the Authority or the implementation of the privatisation programme may lodge an objection.

(2) An objection under paragraph (1) shall be made in writing to the Authority—

(a) within fifteen days of the determination by the Authority;

(b) indicating the details of the person lodging the objection;

(c) stating precisely grounds and reasons for the objection; and

(d) provide such other relevant information as may be necessary to support the application.

(3) Where an objection meets the criteria under paragraph 3(2), the Authority shall make a determination within fifteen days of receipt of complete application.

(4) Upon making a determination under paragraph 3(3), the Authority shall notify the objector of its decision indicating the reasons for the decision.

4. Appeals

(1) Pursuant to section 46 of the Act, any person aggrieved by the determination of the Authority in an objection may appeal to the Privatisation Review Board.

(2) An appeal shall be lodged with the Review Board by notice of appeal within fifteen days of receipt or notification of the determination by the Authority.

(3) The notice of appeal shall —

(a) be signed by the appellant;

(b) state the appellant's initial objection;

(c) be accompanied by a copy of the decision of the Authority in the objection; and

(d) concisely set out the grounds for the appeal.

(4) The notice of appeal shall be filed with the Review Board within fifteen days of receipt or notification of the determination and a copy served on the Authority.

(5) The Authority shall file a response to the notice of appeal with the Review Board within fifteen days after being served with the notice of appeal.

(6) The Review Board shall hear and determine the appeal within thirty days of receipt of response to the notice of appeal from the Authority and notify the applicant and the Authority of its decision stating the reasons thereof.

(7) On determination of a matter on appeal, the Review Board may—

(a) annul anything done in the privatisation process, including annul the privatisation process in its entirety;

(b) issue directions with respect to anything to be done or repeated in the privatisation process; or

(c) order the payment of costs between the parties to the appeal.

5. Further appeal

(1) Pursuant to section 46 of the Act, a person aggrieved by the decision of the Review Board in an appeal under this section may appeal to the High Court.

(2) An appeal to the High Court shall be made within fifteen days of receipt or notification of the determination by the Review Board.

6. Conduct of procedures

Unless otherwise provided, the Review Board shall determine its own procedure.

7. Powers of the Review Board

The Review Board shall have the power to issue directions to secure the attendance of persons, require the production of documents and require a party to provide security for costs as a condition of participating in an appeal.

8. Amendment of the Schedule

The Cabinet Secretary may, by notice in the Kenya *Gazette*, amend this Schedule.

REPUBLIC OF KENYA

KENYA DEVELOPMENT CORPORATION

THE WORLD BANK

CALL FOR APPLICATIONS

SUPPORTING ACCESS TO FINANCE AND ENTERPRISE RECOVERY (SAFER) FUND

The Kenya Development Corporation Limited (KDC) is a State Corporation established in 2020 to facilitate industrial and socio-economic development in Kenya by providing long-term financing and other financial, investment and business advisory services in target sectors of the economy.

KDC seeks to partner with regulated financial institutions to support viable MSMEs through the SAFER Fund. The objective of the Fund is to unlock lending to MSMEs post the COVID -19 crisis and beyond to support recovery and growth of enterprises. This entails wholesaling loans to regulated Participating Financial Institutions (PFIs) meeting the set criteria and who are focused on lending to MSMEs in all sectors of the economy.

The Corporation invites loan applications from interested **Savings & Credit Cooperatives regulated by the SACCO Societies Regulatory Authority, Micro Finance Banks regulated by the Central Bank of Kenya, and Tier III Commercial Banks focusing on MSME lending** to apply for the SAFER Fund by complying with the following terms;

HOW TO APPLY;

- Login in to Kenya Development Corporation Website: **https://kdc.go.ke/**
- Click Safer portal;
- Download mandatory requirements form provided for reference and compliance;
- Accept the terms and conditions to comply with the Non-Disclosure Agreement requirement;
- Create account;
- Fill in the required details, attach the required documents as per the provided application tabs and submit.
- All attachments must be in **PDF format**.

NOTE.

1. All loan applications will be done **ONLINE** as per the requirements in the **SAFER portal.**
2. Hard copies will **NOT** be accepted.
3. The online loan application will be open for **30 working Days**, commencing from **20th March 2024 to April 30th 2024 Midnight.**

DIRECTOR GENERAL
KENYA DEVELOPMENT CORPORATION LIMITED

MINISTRY OF CO-OPERATIVES AND MICRO, SMALL AND MEDIUM ENTERPRISES (MSMEs) DEVELOPMENT
State Department for Micro, Small and Medium Enterprises(MSMEs) Development

Ministry of Investments, Trade and Industry
State Department for Investment Promotion

The National Treasury & Planning
The National Treasury

KENYA 2030

REPUBLIC OF KENYA

KENYA DEVELOPMENT CORPORATION

THE WORLD BANK

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Ministry of Investments, Trade and Industry

The National Treasury & Plannin
The National Treasury

KENYA 2030

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT | FOURTH SESSION

THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA AND PUBLIC HEARING

THE CULTURE BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2024)

The **Culture Bill, 2024 (National Assembly Bills No. 12 of 2024)** was read a First Time in the Senate on Wednesday, 16th July, 2025 and thereafter stood committed to the Standing Committee on Labour and Social Welfare for consideration. The Committee is required, under standing order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bill and to take into account the views and recommendations of the public when the Committee makes its report to the Senate.

The Bill seeks to give effect to Article 11 of the Constitution by promoting all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, mass media, publications and other aspects of cultural heritage. The Bill further seeks to ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage and also provides a clear framework to guide national cultural development.

In accordance with the provisions of Article 118 of the Constitution and standing order 145(5) of the Senate Standing Orders, the Standing Committee on Labour and Social Welfare now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P.O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to **clerk.senate@parliament.go.ke** and copied to **labour socialwelfarecomm.senate@parliament.go.ke** to be received on or before **Wednesday, 6th August, 2025 at 5.00 p.m.**

In addition, the Committee will hold a public hearing on the Bill on **Thursday, 7th August, 2025** at the **Mini Chamber, First Floor, County Hall Building, Nairobi** at **11.00 a.m.** Members of the public are welcome to attend the hearing.

The Bill and a digest that summarizes the contents and context of the Bill may be accessed on the Parliament website at **http://www.parliament.go.ke/the-senate/house-business/bills**.

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

SPECIAL ISSUE

Kenya Gazette Supplement No. 186 (Acts No. 11)

REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

ACTS, 2023

NAIROBI, 13th October, 2023

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THE PRIVATISATION ACT, 2023

No. 11 of 2023

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Date of Commencement: 27th October, 2023

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THE PRIVATISATION ACT, 2023

AN ACT of Parliament to provide a regulatory framework for the privatisation of public entities; to establish the Privatisation Authority; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Privatisation Act, 2023.

Interpretation.

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

"Authority" means the Privatisation Authority established under section 8;

"Board" means the Board of the Authority constituted under section 10;

"Cabinet Secretary" means the Cabinet Secretary to the National Treasury;

"Corporation Secretary" means the Corporation Secretary appointed in accordance with section 17;

"Managing Director" means the Managing Director of the Authority appointed under section 16;

"national government-linked corporation" means a corporation in which the National Government or a national government entity is a shareholder with less than fifty per centum of the share capital of the corporation;

"privatisation" means a transaction that results in a transfer, other than to a public entity, of the assets and or liabilities of a public entity including the shares in a public entity;

"privatisation programme" means the privatisation programme provided for under section 19;

"privatisation proposal" means a proposal provided for under section 30;

"public entity" includes —

(a) a national government-linked corporation;

(b) a subsidiary of a national government corporation; or

(c) a state corporation within the meaning of the State Corporations Act; Cap. 446.

"Review Board" means the Privatisation Review Board established under section 47; and

"secondary market" means a financial market in which previously issued financial instruments such as shares and other marketable securities are traded.

Objects and purpose of the Act.

3. The objects and purpose of this Act are to—

(a) provide for the establishment of the Privatisation Authority; and

(b) streamline the regulatory and institutional framework for the implementation of a privatisation.

Limitation of application.

4. This Act shall not apply to—

(a) sale of shares in the secondary market;

(b) sale of shares by a social security fund, compensation fund, superannuation fund, insurance fund or endowment fund under public control for the benefit of its contributors;

(c) sale of new shares to existing shareholders through a rights issue;

(d) any balance sheet reorganisation which may lead to dilution of the percentage of shares held by a public entity; or

(e) sale or transfer of shares by a county government.

Guiding principles of the Act.

5. The implementation of this Act shall be guided by the following principles—

(a) the national values and principles of governance set out under Article 10 of the Constitution;

(b) the principles of public finance provided under Article 201 of the Constitution;

(c) the promotion of participation by Kenyans in the sustainable development and protection of the economy;

(d) transparency and accountability;

(e) efficiency and sustainability; and

(f) cost effectiveness and value for public resources.

Purpose of privatisation.

6. The purpose of a privatisation undertaken under this Act shall be to—

(a) encourage more participation of the private sector in the economy by shifting the production and delivery of products and services from the public sector to the private sector;

(b) improve the infrastructure and the delivery of public services through the involvement of private capital and expertise;

(c) reduce the demand for government resources;

(d) generate additional revenue for the government through compensation for privatisations;

(e) improve the regulation of the economy by reducing conflicts between the public sector's regulatory functions and commercial functions;

(f) broaden the base of ownership in the Kenyan economy by encouraging private ownership of entities;

(g) improve the efficiency of the Kenyan economy by making it more responsive to market forces; and

(h) enhance and develop the capital markets in Kenya.

PART II — CO-ORDINATION AND OVERSIGHT OF PRIVATISATION MATTERS

Role of Cabinet Secretary.

7. The Cabinet Secretary shall have the following functions under this Act—

(a) providing policy direction on matters related to privatisation;

(b) coordinating the adherence to national, regional and international obligations relating to privatisation;

(c) developing and formulating the privatisation programme; and

(d) overseeing the administration of this Act.

Privatisation Authority.

8. (1) There is established an authority to be known as the Privatisation Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

(a) suing and being sued;

(b) taking, purchasing, charging and disposing of movable and immovable property;

(c) entering into contracts; and

(d) doing or performing all other things necessary for the proper discharge of its functions under this Act which may be lawfully done or performed by a body corporate.

Functions of the Authority.

9. The Authority shall—

(a) advise the government on all aspects of privatisation of public entities;

(b) facilitate the implementation of government policies on privatisation;

(c) implement the privatisation programme;

(d) implement specific privatisation proposals in accordance with the privatisation programme;

(e) collaborate with other organisations, within or outside Kenya, as it may consider appropriate in furtherance of the objects of this Act;

(f) prepare long-term divestiture sequence plan;

(g) monitor and evaluate the implementation of privatisation programs in Kenya;"

(h) take such measures as are necessary to ensure that the provisions of this Act are complied with; and

(i) perform any other functions under this Act or any other legislation as may be conferred, from time to time, on the Authority.

Board of the Authority.

10. (1) The Authority shall be managed by a Board which shall consist of—

(a) a chairperson appointed by the President;

(b) the Principal Secretary to the National Treasury or a representative designated in writing;

(c) the Principal Secretary in the Ministry responsible for matters relating to investment promotion or a representative designated in writing;

(d) the Attorney General or a representative designated in writing;

(e) the secretary to the State Corporations Advisory Committee or a representative designated in writing;

(f) four other persons, not being public officers, appointed by the Cabinet Secretary through a competitive process, each possessing a degree in either economics, accounting, finance or any other relevant degree from a recognized institution and having ten years of work experience of which five shall be at senior management level in a relevant field;

(g) the Managing Director of the Authority, who shall be an *ex-officio* member of the Board with no voting rights.

(2) The chairperson and members of the Board appointed under subsection (1)(f) shall hold office for a term of three years and may be eligible for reappointment for one further term of three years.

(3) In the appointment of the Board, the appointing authority shall ensure that the membership reflects gender and regional balance and an appropriate mix of skills and competencies required to achieve the functions of the Board.

Functions of the Board.

11. (1) The Board shall—

(a) ensure the proper and effective performance of the functions of the Authority;

(b) determine the mission, vision, purpose and core values of the Authority;

(c) set and oversee the overall strategy and approve policies of the Authority; and

(d) ensure availability of adequate resources for the achievement of the Authority's objectives.

(2) In the performance of its functions under subsection (1), the Board shall have power to—

(a) subject to the approval of the Cabinet Secretary, invest any of the Authority's funds that are not immediately required for the purposes of this Act;

(b) monitor and evaluate the performance of the Authority;

(c) open and operate bank accounts for the funds of the Authority in accordance with the Public Finance Management Act, 2012; No. 18 of 2012.

(d) receive any grants, gifts, donations or endowments on behalf of the Authority; and

(e) in consultation with the relevant agencies, determine and specify the terms and conditions for the appointment and emoluments of the staff of the Authority.

Vacancy in the Board.

12. (1) The office of the chairperson or a member of the Board shall become vacant if the holder—

(a) dies;

(b) resigns from office by notice in writing addressed to the appointing authority;

(c) is removed from office on any of the following grounds—

(i) absence from three consecutive meetings of the Board without a reasonable explanation;

(ii) incapacitation due to prolonged physical or mental illness and inability to discharge the duties of his or her office;

(iii) failure to comply with the provisions of this Act relating to disclosure of interest;

(iv) being adjudged bankrupt or entering into a composition scheme or arrangement with his or her creditors;

(v) being convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months; or

(vi) being otherwise unable or unfit to discharge the functions of his or her office.

(2) Where a vacancy occurs in the membership of the Board, the appointing authority shall appoint a new member in accordance with the provisions of this Act.

Conduct of business and affairs of the Board.

13. The conduct of the business and affairs of the Board shall be as set out in the First Schedule.

Delegation by the Board.

14. The Board may, by resolution either generally or in a particular case, delegate to a subcommittee of the Board or to a member, officer, employee or agent of the Authority, the exercise of any of the powers or performance of any of the functions of the Board.

Remuneration of the members.

15. The chairperson and members of the Board, other than the Managing Director, shall be paid out of the funds of the Authority such allowances or other remuneration as the Cabinet Secretary, on the advice of the Salaries and Remuneration Commission, determines.

Managing Director.

16. (1) There shall be a Managing Director of the Authority who shall be competitively recruited and appointed by the Board on such terms as may be specified in the instrument of appointment.

(2) The Managing Director shall, under the direction of the Board, be responsible for—

(a) the day-to-day management of the affairs of the Authority;

(b) the exercise and performance of the objectives, functions and duties of the Authority, and the general administration of the Authority; and

(c) performing such other duties as may be determined by the Board.

(3) A person shall be qualified to be appointed as the Managing Director if the person—

(a) holds a degree in either economics, accounting, finance, or any other relevant degree from a recognized institution;

(b) has ten years of work experience of which five shall be at senior management level in a relevant field;

(c) meets the requirements of Chapter six of the Constitution.

(4) The Managing Director shall be appointed for a term of four years and may be eligible for reappointment for one further term not exceeding four years.

Corporation Secretary.

17. (1) There shall be a Corporation Secretary who shall be competitively recruited and appointed by the Board on such terms as the Board, on the advice of the Salaries and Remuneration Commission, determines.

(2) The Corporation Secretary shall—

(a) provide secretariat services to the Board;

(b) record and keep minutes and other records of the Board;

(c) ensure that members of the Board are aware of all relevant laws affecting the Authority; and

(d) carry out such other functions as may be assigned from time to time by the Board or the Managing Director.

(3) The Corporation Secretary shall be responsible to the Managing Director.

Staff of the Authority.

18. The Authority shall have such staff as it may require for the proper discharge of its functions under this Act, on such terms and conditions of service as the Board may determine.

PART III — PRIVATISATION PROGRAMME

Privatisation programme.

19. (1) There shall be a programme to be known as the privatisation programme.

(2) The privatisation programme shall —

(a) be formulated by the Cabinet Secretary in accordance with this Act and approved by the Cabinet;

(b) be annually audited and reported on;

(c) specify the public entities identified and approved for privatisation; and

(d) serve as the basis upon which a privatisation shall be undertaken.

Consultation in formulation of the programme.

20. (1) During the formulation of the privatisation programme, the Cabinet Secretary shall make appropriate

consultations with persons who are likely to be affected by the privatisation of a public entity.

(2) The persons envisaged under subsection (1) shall include—

(a) persons with expertise in fields relevant to the entities to be included in the privatisation programme;

(b) organisations representing persons who are likely to be affected by the proposed privatisation; and

(c) members of the public.

Identification of entities for the programme.

21. (1) The Cabinet Secretary shall identify and determine the entities to be included in the privatisation programme.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary shall, in the identification and determination of entities for privatisation, take into consideration—

(a) the relevant government policies in respect of privatisation;

(b) the strategic priorities and policy goals to be achieved by the privatisation;

(c) the strategic nature of the public entity to be privatised;

(d) the need to avoid a privatisation that may result in an unregulated monopoly;

(e) the need to avoid a privatisation that may accord the new owners' special protection or access to credit on concessionary terms as a result of the National Government's sovereign status;

(f) the extent of regulatory adjustments required;

(g) the need to reduce budget drain on government resources;

(h) the expected benefits to be gained from a proposed privatisation; and

(i) any other relevant consideration.

Ratification by the National Assembly.

22. (1) Upon approval of the privatisation programme by Cabinet, the Cabinet Secretary shall submit the approved privatisation programme to the National Assembly for ratification before implementation of the programme.

(2) The request for ratification under subsection (1) shall be accompanied by an explanatory memorandum indicating—

(a) a brief description of the public entity to undergo privatisation;

(b) a brief explanation of the reasons for undertaking the privatisation;

(c) the benefits to be gained from the proposed privatisation including the estimated revenue to be obtained; and

(d) any other relevant information.

(3) The National Assembly shall, within sixty days after receipt of privatisation programme under subsection (1), —

(a) consider the programme guided by principles of good governance, the criteria for identification of entities specified under section 21 and any other relevant consideration;

(b) either—

(i) ratify part or all of the programme for implementation; or

(ii) refuse to ratify part or all the programme and notify the Cabinet Secretary for reconsideration stating the reasons for the refusal; and

(c) notify the Cabinet Secretary of its decision.

(4) The Cabinet Secretary shall, upon receipt of the refusal under subsection (3)(b)(ii), consider the decision and may resubmit the same privatisation programme to the National Assembly for ratification.

(5) Where the National Assembly does not make a decision under subsection (3) within ninety days, the

privatisation programme shall be deemed to have been ratified.

Publication of programme.

23. The privatisation programme ratified under section 22 shall be published in the Kenya *Gazette*.

Validity of the programme.

24. (1) A privatisation programme shall be valid for a period not exceeding five years from the date of *gazettement*.

(2) Notwithstanding subsection (1), the Cabinet Secretary may extend the validity of the privatisation programme for a period not exceeding twelve months.

(3) If, on expiry of the programme under subsection (1) or at the expiration of the extended period under subsection (2), the implementation of the programme has not been completed, the Cabinet Secretary may include the affected entities in another privatisation programme formulated and approved in accordance with this Act.

Amendment of the programme.

25. (1) The Cabinet Secretary may amend the privatisation programme and the provisions of this Part relating to formulation and approvals shall apply with respect to any such amendments.

(2) A privatisation that entails the transfer of a public interest in a public entity shall not be implemented unless it is included in the privatisation programme.

PART IV — IMPLEMENTATION OF THE PRIVATISATION PROGRAMME

Preliminaries

Implementation of the programme.

26. The privatisation programme shall be implemented by the Authority in accordance with this Act.

Eligibility in a privatisation.

27. (1) Any person, whether Kenyan or non-Kenyan, is eligible to participate in a privatisation:

Provided that this section shall not affect the application of any other law imposing restrictions on participation by non-Kenyans.

(2) Notwithstanding subsection (1), the Cabinet Secretary may direct the Authority to—

(a) limit participation in any privatisation to Kenyans; or

(b) ensure that there is a specified minimum level of participation by Kenyans in any privatisation.

(3) A national government-owned entity is not eligible to participate in a privatisation.

(4) Subsection (3) shall not prevent a social security fund, compensation fund, superannuation fund, insurance fund or endowment fund under government control from purchasing shares for the benefit of its contributors.

Steering Committee.

28. (1) For each privatisation, there shall be a steering committee to implement the privatisation on behalf of the Authority subject to any directions of the Authority.

(2) A steering committee shall comprise the following members—

(a) the members of the Authority described in paragraphs (b) and (c) of section 10(1);

(b) the Principal Secretary of the ministry with responsibility over the asset or service being privatised; and

(c) such members of the Authority as the Authority specifies.

Methods of privatisation.

29. The methods of privatisation shall include—

(a) initial public offer of shares;

(b) sale of shares by public tender;

(c) sale resulting from the exercise of pre-emptive rights; or

(d) such other method determined by the Cabinet.

Privatisation proposal

Privatisation proposal.

30. (1) Where an entity has been identified for privatisation under this Act, the Authority shall prepare a privatisation proposal on the entity.

(2) The privatisation proposal shall specify—

(a) the purpose for the establishment or existence of the entity to be privatised and the extent to which that purpose or operation has been met including any inadequacies in meeting that purpose;

(b) any rights or other entitlements and resources that have been provided to meet the purpose for the establishment or existence of the entity to be privatised;

(c) any recommendations for continuing to meet the purpose for establishment or existence of the entity to be privatised;

(d) the financial position of the entity to be privatised;

(e) the recommended method of privatisation;

(f) the estimated costs of implementing the proposed privatisation;

(g) any recommendations for dealing with the employees directly affected by the proposed privatisation including any benefits they are entitled to;

(h) where applicable, a recommendation on how to undertake socio-economic investments to the host community;

(i) the benefits to be gained from the proposed privatisation;

(j) a work plan for the proposed privatisation;

(k) any information relating to the repeal, amendment or enactment of any law for the proposed privatisation to be carried out;

(l) any proposals on how Kenyans can participate in the transaction; and

(m) any other relevant information.

Approval of privatisation proposal.

31. (1) For each privatisation included in the privatisation programme, the Authority shall make a specific proposal for privatisation to the Cabinet Secretary.

(2) The Cabinet Secretary shall present the privatisation proposal specified in subsection (1) to the Cabinet for approval.

Implementation of a finalised privatisation.

32. (1) Upon approval of a privatisation proposal under section 31, the determined and approved method of

privatisation shall be effected in the manner specified in the Second Schedule.

(2) The method of privatisation specified in section 29(d) shall be effected in the manner determined by the Cabinet.

Valuation

Valuation required for each privatisation.

33. (1) The Authority shall undertake a business and assets valuation for each privatisation, to assist in the implementation of the privatisation proposal.

(2) The valuation shall be performed by a qualified person appointed by the Authority.

Restrictions and obligations on entities scheduled for privatisation

Application of restrictions.

34. The restrictions set out under this Part shall begin to apply upon publication of privatisation programme under section 23.

General restrictions.

35. A public entity to which this Act applies shall not—

(a) allow the assets of the public entity to be dissipated;

(b) incur any liabilities or procure any assets, other than in the ordinary course of business, without the prior written approval of the Cabinet Secretary; or

(c) disclose information, other than publicly. if there is a reasonable risk that the disclosure would give an advantage to a person who might compete in the privatisation.

Control of investments.

36. A public entity undergoing privatisation shall not undertake any new capital investment or disposal, other than those under ordinary course, had been approved prior to the entry into the privatisation programme, or are critical to business continuity, unless approved by the Cabinet and ratified by the National Assembly.

No credit on sale of shares

37. The public entity undergoing privatisation shall not extend credit or provide financing for the purchase of the shares.

Obligation for record keeping.

38. A public entity undergoing privatisation shall—

(a) keep up-to-date business records and books of accounts;

(b) continue to operate in its ordinary course of business without prejudice to the Government or potential purchaser;

(c) maintain an up-to-date register of all fixed assets; and

(d) document all legal and other obligations of the entity.

PART V — PRIVATISATION AGREEMENT

Privatisation agreement.

39. Upon approval and implementation of a privatisation under Part IV, an agreement to give effect to a privatisation shall not be binding unless executed by the registered owner of the shares and countersigned by the Cabinet Secretary.

Limits on when agreement may be signed.

40. (1) An agreement to give effect to a privatisation shall not be signed until the period for filing an objection has lapsed.

(2) Where an objection or appeal has been lodged in accordance with section 45 or 46, the agreement to give effect to the privatisation shall not be executed until—

(a) a determination with respect to the objection or appeal has been made; and

(b) the time for filing a notice of appeal has expired without such a notice being filed.

Regulation of monopolies.

No. 12 of 2010.

41. Where a proposed privatisation may result in an unregulated monopoly, the Authority shall, subject to the Competition Act —

(a) ensure that the agreement to give effect to the privatisation provides for the regulation of the monopoly; and

(b) seek the approval of the Cabinet Secretary on the agreement.

Publication of finalised privatisation.

42. (1) After an agreement to give effect to a privatisation becomes binding on the public entity, the

Authority shall promptly publish a notice of the privatisation in the Kenya *Gazette*.

(2) The notice under subsection (1) shall specify—

(a) a description of the entity being privatised;

(b) a summarised description of the transaction used to give effect to the privatisation;

(c) the names and addresses of the persons to whom the shareholding is being transferred:

Provided that this paragraph shall not apply to a privatisation undertaken through initial public offer of shares; and

(d) such other information as the Authority considers appropriate.

PART VI — PROCEEDS OF PRIVATISATION

Proceeds from sale of direct government shareholding.

43. Any proceeds from the sale of a direct National Government shareholding shall be paid into the Consolidated Fund.

Proceeds from the sale of a public entity's shareholding.

44. Any proceeds from the sale of a public entity's shareholding shall be deposited in a special interest-bearing account established for that public entity's privatisation in order to protect the erosion of the balance sheet of the public entity and the proceeds shall be credited into the Consolidated Fund Account within ninety days.

PART VII — OBJECTIONS AND APPEALS

Objections.

45. (1) Any person aggrieved by the determination of the Authority under this Act or implementation of the privatisation programme may lodge an objection.

(2) An objection under this section shall be lodged and determined in accordance with the Procedures set out in the Third Schedule.

Appeals.

46. (1) Any person aggrieved by the determination of the Authority under section 45 may appeal to the Privatisation Review Board.

(2) An appeal under this section shall be lodged and determined in accordance with the Procedures set out in the Third Schedule.

(3) A person aggrieved by the decision of the Review Board in an appeal under this section may appeal to the High Court.

Establishment of the Privatisation Review Board.

47. There is established a board to be known as the Privatisation Review Board to determine disputes and appeals under this Act or any other written law.

Members of the Review Board.

48. (1) The Review Board shall consist of the following members appointed by the Cabinet Secretary—

(a) a chairperson who shall be an accredited arbitrator registered with the Chartered institute of Arbitrators (Kenyan Chapter) and with at least ten years' experience in commercial dispute resolution; and

(b) four other persons, not being public officers or employees of the Authority, possessing relevant knowledge and experience in privatisation related matters.

(2) A member of the Review Board shall hold office for a term of—

(a) five years in the case of the chairperson; and

(b) three years in the case of any other member, and may be eligible for re-appointment for one further term.

(3) A person shall be qualified for appointment under subsection (1) if that person—

(a) is a citizen of Kenya;

(b) holds a degree in a relevant field from a university recognised in Kenya;

(c) is a member in good standing of the relevant professional association; and

(d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

Vacancy in the Review Board.

49. The office of the chairperson or a member of the Review Board shall become vacant—

(a) at the expiration of the term of office of the chairperson or member;

(b) where the chairperson or a member dies or resigns from office;

(c) if the chairperson or member is otherwise unable or unfit to discharge the functions of his office; or

(d) if the chairperson or member accepts any office the holding of which would make him or her ineligible for appointment to the office of member of the Review Board.

Secretary to the Review Board.

50. The Cabinet Secretary shall designate a public officer to be the secretary to the Review Board.

Conduct of proceedings of the Review Board.

51. Unless otherwise provided, the Review Board shall regulate its own procedures.

Remuneration of the Review Board.

52. The chairperson and members of the Review Board shall be paid such remuneration or allowances as the Cabinet Secretary may, in consultation with the Salaries and Remuneration Commission, determine.

Conflict of interest.

53. Where the chairperson or a member of the Review Board has a direct or indirect interest in a matter before the Review Board, the chairperson or member shall declare the interest and shall not participate in any proceedings of the Review Board on the matter.

PART VIII — FINANCIAL PROVISIONS

Funds of the Authority.

54. The funds of the Authority shall consist of—

(a) monies appropriated by the National Assembly for the purposes of the Authority;

(b) monies accruing to or vesting in the Authority in the course of the exercise of its powers or the performance of its functions;

(c) grants, donations, bequests or other gifts made to the Authority; and

(d) monies from any other source provided for, donated or loaned to the Authority.

Financial year.

55. The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

Annual estimates.

No. 18 of 2012.

56. (1) At least three months before the commencement of each financial year and in accordance with the Public Finance Management Act, 2012, the Board

shall cause to be prepared the estimates of revenue and expenditure of the Authority for the financial year.

(2) The annual estimates shall provide for all the estimated expenditure of the Authority for the financial year, and in particular, shall provide for—

(a) the payment of salaries, allowances and other charges in respect of the staff of the Authority;

(b) the payment of pensions, gratuities and other charges in respect of the staff of the Authority;

(c) the maintenance of buildings, other equipment and other property of the Authority; and

(d) the acquisition, maintenance, repair and replacement of the equipment and other movable or immovable property of the Authority.

Accounts and audit.

57. (1) The Board shall cause to be kept proper books of accounts of the income, expenditure, assets and liabilities undertakings, activities, transactions and other business of the Authority.

(2) The accounts of the Authority shall be audited in accordance with the Public Audit Act, 2015. No. 34 of 2015.

PART IX — MISCELLANEOUS PROVISIONS

Annual report.

58. (1) Within three months after the end of each financial year, the Authority shall prepare and submit to the Cabinet Secretary an annual report of the Authority for the immediately preceding financial year.

(2) The report under subsection (1) shall include information on—

(a) the operations of the Authority for the immediately preceding financial year;

(b) activities undertaken under the privatisation programme in each financial year; and

(c) any other relevant information.

(3) The annual report submitted under subsection (1) shall form part of the annual report on privatisation which shall be tabled in Parliament by the Cabinet Secretary.

Records.

59. The Authority shall maintain updated records of each privatisation undertaken under this Act.

Protection from personal liability.

60. No matter or action done by a member of the Board or by any officer, employee, or agent of the Authority shall, if the matter or action is done in good faith in the execution of the functions, powers or duties of the Authority under this Act, render the member, officer, employee or agent personally liable to any action, claim or demand.

(2) The provisions of subsection (1) shall not relieve the Authority of any liability to pay compensation or damages for any injury or damage caused by the exercise of any power under this Act or any other written law or by the failure, wholly or partially, of any works.

Information to the Authority.

61. (1) In the implementation of this Act, a public entity to which this Act applies, shall provide the Authority with such information as may be necessary to effectively implement the privatisation.

(2) The information given, furnished or maintained or required to be given, furnished or maintained under this Act shall be true, complete and accurate.

(3) Any information required under subsection (1) shall be submitted to the Authority within fourteen days of receipt of a request for information.

(4) Any person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

Confidential information.

62. (1) Any information issued to or sought by the Authority under this Act is confidential and shall not be disclosed unless with the written approval of the Authority.

(2) No person carrying out duties or responsibilities under this Act shall disclose any information or other data of a confidential nature obtained by virtue of their said authority, duties and responsibilities to any other person without the approval of the Authority.

Offences.

63. A person who—

(a) falsifies or omits material information from the privatisation proposal;

(b) provides false or misleading information that results in a wrong or erroneous valuation of an entity to be privatised;

(c) provides false or misleading information to a person carrying out a duty or function under this Act;

(d) discloses insider information, otherwise than in the performance of their duties and under this Act or with the written consent of the Authority, that may give an advantage to a person who might compete in the privatisation;

commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years and payment of an equivalent amount of the gain made or loss incurred.

Regulations.

64. The Cabinet Secretary may make Regulations generally for the better carrying out of the provisions of this Act.

PART X — REPEALS, SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation of Part.

65. (1) In this Part—

"Commission" means the Privatisation Commission established under the repealed Act;

"repealed Act" means the Privatisation Act, 2005; and No. 2 of 2005.

"Tribunal" means the Privatisation Appeals Tribunal established under the repealed Act.

(2) The Authority shall be the successor to the Commission existing immediately before the commencement of this Act.

Repeal of No. 2 of 2005.

66. The Privatization Act, 2005 is repealed.

Transitional provisions.

67. (1) Any rights and obligations of the Commission existing at the commencement of this Act shall, by virtue of this subsection, vest in the Authority.

(2) Any reference in any written law, document or instrument to the Commission shall be deemed to be a reference to the Authority.

(3) Any rights and obligations vested in or enforceable by or against the Commission shall, by virtue of this subsection, be vested in, or become enforceable by or against the Authority.

(4) Any asset and liabilities held or imposed on the Commission shall, by virtue of this subsection vest in the Authority.

Ongoing privatisations.

68. (1) Upon commencement of this Act, the privatisation of entities published under Gazette Notice No. 8739 of 14th August, 2009 shall lapse.

(2) Notwithstanding subsection (1), any ongoing privatisation under the repealed Act shall be determined and finalised in accordance with this Act.

Members of the Commission.

69. Any person who was a member of the Commission immediately before the commencement of this Act shall be deemed to be a member of the Board of the Authority for the unexpired period of that person's tenure.

Staff of the Commission.

70. Any person who immediately before the commencement of this Act was an officer or employee of the Commission shall be deemed to be a member of staff of the Authority based on the terms and conditions of engagement.

Members of the Tribunal.

71. Any person who was a member of the Tribunal immediately before the commencement of this Act shall be deemed to be a member of the Review Board for the unexpired period of that person's tenure.

FIRST SCHEDULE

(s. 13)

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. Meetings

(1) The Board shall hold at least four meetings in every financial year.

(2) The notice for a meeting of the Board shall be in writing, and shall be for a period of at least seven days from the expected day of the meeting.

(3) The chairperson shall preside over all meetings and in the absence of the chairperson, a person elected by the Board at the meeting for that purpose shall preside.

(4) The chairperson may, on the written request made by at least half of the members of the Board and within seven days of the request, convene an extraordinary meeting at such time and place as the chairperson may appoint.

(5) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Board.

2. Conflict of interest and disclosure

(1) If a person is present at a meeting of the Board or any committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after becoming aware of the conflict and in any case at the commencement of the meeting, declare such interest.

(2) The person making the disclosure of interest under subsection (1) shall not, unless the Board or committee otherwise directs, take part in any consideration or, discussion of, or vote on any question touching on the matter.

(3) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(4) No member of the Board or officer, employee or agent of the Authority shall enter into a service contract or trade with the Authority.

3. Quorum

The quorum for the conduct of business at a meeting of the Board shall be two-thirds of all the total members of the Board.

4. Resolution of the Board

A decision of the Board shall be by a majority of the members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall have a casting vote.

5. Rules of procedure

Subject to this Act, the Board shall determine the procedure for the conduct of its business and cause to be kept records of minutes of its proceedings and decisions.

SECOND SCHEDULE

(s. 32)

METHODS OF PRIVATISATION

1. Initial public offering of shares

Where the selected method of privatisation is through initial public offer of shares, the offering of shares shall be undertaken in accordance with the Capital Markets Act, Cap 485A.

2. Sale of shares by public tendering

Where the selected method of privatisation is through sale of shares by public tendering, the following procedure shall apply—

Invitation of expression of interest

(1) The Authority shall prepare a notice inviting interested persons to submit expressions of interests.

(2) The notice inviting expressions of interests shall specify—

(a) a brief description of the entity to be privatized;

(b) the eligibility and qualifications necessary to be invited to submit a proposal;

(c) an explanation of where and when the expressions of interests shall be submitted;

(d) information on the timelines for closure of bids; and

(e) any other relevant information

(3) The Authority shall advertise the notice inviting the expressions of interests in the Government tenders' portal, or on the Authority's website and in at least two newspapers of nationwide circulation.

Evaluation of EOIs

(4) The Managing Director shall constitute a technical committee, of not less than three persons and not more than five persons to evaluate successfully submitted bids.

(5) Upon closure of the period for submission of bids, the committee constituted under paragraph (4) shall evaluate the successfully submitted bids in accordance with the procedures and criteria set out in the expressions of interests

(6) Upon completion of the evaluation, the Managing Director shall submit to the Board a detailed report of all shortlisted persons for its approval within seven days after the evaluation.

Request for Proposal to qualified persons

(7) Upon approval of the evaluation report by the Board, the Managing Director shall—

(a) issue all shortlisted persons with a request for proposal; and

(b) concurrently notify persons not shortlisted of the outcome of the evaluation indicating the reasons thereof.

(8) The shortlisted persons referred to under subparagraph 7(a) shall fill and submit their proposal within twenty one days of receipt of the request for proposal.

(9) The request for proposal referred to under subparagraph 7(a) shall set out the following—

(a) instructions for the preparation and submission of the proposal;

(b) evidence of qualifications of the persons submitting the proposal;

(c) an explanation of where and when proposals shall be submitted;

(d) a statement of the period during which proposals shall remain valid; and

(e) the procedures and criteria to be used to evaluate and compare the proposals.

Evaluation of proposals

(10) The Managing Director shall constitute a technical committee of not less than three persons and not more than five persons to evaluate successfully submitted request for proposals.

(11) Upon closure of the period for submission of request for proposals, the committee constituted under paragraph (10) shall, within thirty days of opening of the proposals, evaluate the successfully submitted request for proposals in accordance with the procedures and criteria set out in the request for proposals.

(12) The successful proposal shall be the responsive proposal with the highest ranked bidder, subject to the reserve price.

(13) Upon completion of the evaluation, the Managing Director shall, within twenty one days, submit to the Board a detailed report containing a summary of the evaluation and comparison of tenders for approval.

(14) The recommendations of the Board under paragraph (13), together with a draft agreement, shall, within seven days, be submitted to the Cabinet Secretary for approval.

Notification to tenderers

(15) Upon approval by the Cabinet Secretary, the Managing Director shall, within seven days, notify the successful tenderer and concurrently notify the unsuccessful tenderers of the outcome of the tender indicating the reasons thereof.

3. Sale resulting from the exercise of pre-emptive rights

(1) Where the selected method of privatisation is through sale resulting from the exercise of pre-emptive rights, the sale shall be undertaken in accordance procedure specified in the respective entity's constituting instruments.

(2) Where the constituting instruments of the entity do not provide a procedure for exercising and sale of a pre-emptive right, the provisions of the relevant laws shall apply.

THIRD SCHEDULE

(S. 45)

THE ADMINISTRATIVE PROCEDURES FOR THE ADMINISTRATION OF OBJECTIONS AND APPEALS UNDER THE PRIVATISATION ACT

1. Citation

These procedures may be cited as the Administrative Procedures for the Administration of Objections and Appeals under the Act.

2. Definitions

In these Procedures, unless the context otherwise requires—

"Act" means the Privatisation Act, 2023;

"Authority" means the Privatisation Authority;

'Review Board" means the Privatisation Review Board;

"working day" means a day other than a Saturday, Sunday or public holiday.

3. Objections

(1) Pursuant to section 45 of the Act, any person aggrieved by the determination of the Authority or the implementation of the privatisation programme may lodge an objection.

(2) An objection under paragraph (1) shall be made in writing to the Authority—

(a) within fifteen days of the determination by the Authority;

(b) indicating the details of the person lodging the objection;

(c) stating precisely grounds and reasons for the objection; and

(d) provide such other relevant information as may be necessary to support the application.

(3) Where an objection meets the criteria under paragraph 3(2), the Authority shall make a determination within fifteen days of receipt of complete application.

(4) Upon making a determination under paragraph 3(3), the Authority shall notify the objector of its decision indicating the reasons for the decision.

4. Appeals

(1) Pursuant to section 46 of the Act, any person aggrieved by the determination of the Authority in an objection may appeal to the Privatisation Review Board.

(2) An appeal shall be lodged with the Review Board by notice of appeal within fifteen days of receipt or notification of the determination by the Authority.

(3) The notice of appeal shall —

(a) be signed by the appellant;

(b) state the appellant's initial objection;

(c) be accompanied by a copy of the decision of the Authority in the objection; and

(d) concisely set out the grounds for the appeal.

(4) The notice of appeal shall be filed with the Review Board within fifteen days of receipt or notification of the determination and a copy served on the Authority.

(5) The Authority shall file a response to the notice of appeal with the Review Board within fifteen days after being served with the notice of appeal.

(6) The Review Board shall hear and determine the appeal within thirty days of receipt of response to the notice of appeal from the Authority and notify the applicant and the Authority of its decision stating the reasons thereof.

(7) On determination of a matter on appeal, the Review Board may—

(a) annul anything done in the privatisation process, including annul the privatisation process in its entirety;

(b) issue directions with respect to anything to be done or repeated in the privatisation process; or

(c) order the payment of costs between the parties to the appeal.

5. Further appeal

(1) Pursuant to section 46 of the Act, a person aggrieved by the decision of the Review Board in an appeal under this section may appeal to the High Court.

(2) An appeal to the High Court shall be made within fifteen days of receipt or notification of the determination by the Review Board.

6. Conduct of procedures

Unless otherwise provided, the Review Board shall determine its own procedure.

7. Powers of the Review Board

The Review Board shall have the power to issue directions to secure the attendance of persons, require the production of documents and require a party to provide security for costs as a condition of participating in an appeal.

8. Amendment of the Schedule

The Cabinet Secretary may, by notice in the Kenya *Gazette*, amend this Schedule.