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REPUBLIC OF KENYA

13TH PARLIAMENT | 5TH SESSION

THE SENATE

STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN
RIGHTS

REPORT ON A PETITION BY MR. MOHAMED U. ALASOW ON THE RE-
INTRODUCTION OF THE ELECTIONS (AMENDMENT) BILL, 2021 TO
PROVIDE FOR ELECTION CANDIDATES' USE OF POPULAR NAMES
ON NOMINATION AND ELECTION BALLOT PAPERS

 07/08/26

APPROVED
RT. HON. SEN
AMASON J. KINGI

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

August, 2026

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LIST OF ABBREVIATIONS AND ACRONYMS

CMD-Kenya	Centre for Multiparty Democracy - Kenya
COG	Council of Governors
ELOG	Election Observation Group
IEBC	Independent Electoral and Boundaries Commission
KNCHR	Kenya National Commission on Human Rights
NGEC	National Gender and Equality Commission

ESTABLISHMENT, MANDATE AND MEMBERSHIP OF THE COMMITTEE

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 comprises -

- | | |
|--|--------------------|
| 1. Sen. Wakili Hillary Sigei, CBS, MP | - Chairperson |
| 2. Sen. Veronica W. Maina, CBS, MP | - Vice-chairperson |
| 3. Sen. Raphael Chimera Mwinzagu, MP | - Member |
| 4. Sen. Karen N. Nyamu, MP | - Member |
| 5. Sen. Andrew Omtatah Okoiti, MP | - Member |
| 6. Sen. (Prof.) Tom Ojienda, SC, MP | - Member |
| 7. Sen. Crystal Kegehi Asige, MP | - Member |
| 8. Sen. Daniel Kitonga Maanzo, EBS, MP | - Member |

Minutes of the Committee in considering the Petition by Mr. Mohamed U. Alasow seeking the re-introduction of the Elections (Amendment) Bill, 2021 are attached to this Report as *Annex 1*.

FOREWORD BY THE CHAIRPERSON

Honourable Speaker,

On Wednesday, 15th July, 2026, the Speaker of the Senate reported that a Petition had been received from Mr. Mohamed U. Alasow, a citizen of the Republic of Kenya based in Wajir, regarding the re-introduction of the Elections (Amendment) Bill, 2021 to allow election candidates' use of popular names. The Petition was subsequently referred to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration, pursuant to provisions of the Petitions to Parliament (Procedure) Act and the Senate Standing Orders.

Honourable Speaker,

The Committee embarked on its consideration of the Petition, whereupon it held a meeting with the Petitioner on 23rd July 2026 to better understand the background, rationale and justification for the proposed amendments. The Committee thereafter undertook a review of the legislative history of the Bill, the legal framework governing the use and change of names by candidates in Kenya, and comparative practice in select jurisdictions, as well as the views expressed by stakeholders during consideration of earlier similar legislative proposals in the 12th Parliament. This analysis is detailed in Chapter Two of this Report.

Honourable Speaker,

Having considered the Petition and undertaken this analysis, the Committee resolved not to accede to the prayers of the Petitioner, and to retain the existing legal framework, under which a candidate wishing to contest a party primary or an election under a name other than that appearing on his or her identification documents is required to formally change his or her name, in accordance with the Registration of Persons Act, Cap. 107, and the Registration of Documents Act, Cap. 285. The reasons for this determination are set out in Chapter Three of this Report.

Honourable Speaker,

I take this opportunity to thank the Petitioner for appearing before the Committee as it assisted in its deliberations and determination on the Petition. I commend the Members of the Committee for their diligence in executing this assignment, and thank the Offices of the Speaker and Clerk of the Senate for the support extended to the Committee which made the consideration of the Petition successful.

Honourable Speaker,

It is now my pleasant duty, pursuant to standing order 238(2) of the Senate Standing Orders, to present the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of a Petition by Mr. Mohamed U. Alasow regarding the proposed re-introduction and enactment of the Elections (Amendment) (No.3) Bill, 2021.

Signed.......... Date..........

**SEN. WAKILI HILLARY KIPROTICH SIGEL, CBS, MP
CHAIRPERSON, STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS
AND HUMAN RIGHTS**

CHAPTER ONE: INTRODUCTION

1.1 Right to Petition Parliament

1. The right to present petitions to public authorities is provided for at Article 37 of the Constitution. Article 119(1) further provides that *‘Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.’*
2. Parliament enacted the Petition to Parliament (Procedure) Act (No. 12 of 2012) to make provision for the procedure for the exercise of this right. Further, Part XXVII of the Standing Orders of the Senate also makes provision of how this right may be exercised.

1.2 Summary of the Petition

3. At the sitting of the Senate held on Wednesday, 15th July 2026, the Speaker of the Senate reported that a Petition had been received from Mr. Mohamed U. Alasow, a Kenyan Citizen based in Wajir County, regarding the re-introduction and enactment of the Elections (Amendment) (No. 3) Bill, 2021 (Senate Bills No. 48 of 2021), to provide for the use of a candidate’s popular or commonly known name (nickname) on nomination and election ballot papers.
4. This was on the basis that, in many parts of Kenya, particularly rural and marginalised areas, voters are more familiar with candidates' popular names than their official names, which leads to confusion, misidentification and rejected ballots.
5. The petitioner argued that the inclusion of popular names on ballot papers would-
 - a) enhance voters' ability to identify the preferred candidates;
 - b) reduce voter confusion and electoral errors;
 - c) strengthen electoral transparency and integrity;
 - d) promote inclusivity, particularly for less literate voters; and
 - e) increase public confidence in the electoral process.
6. Consequently, the Petitioner prayed that Parliament re-introduces the Elections (Amendment) (No. 3) Bill, 2021, that the Bill be prioritized for enactment before the 2027 General Elections, and that relevant institutions prepare for its implementation.

7. Pursuant to standing order 238(1) of the Senate Standing Orders, the Speaker committed the Petition to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration.
8. A copy of the Petition is attached to this Report as *Annex 2*.

1.3 Consideration of the Petition

9. At its sitting held on Thursday, 23rd July, 2026, the Petitioner appeared before the Committee where he briefed the Committee of the background, rationale and justification for the proposed amendments.
10. Thereafter, the Committee considered previous legislative attempts on the use of popular names during elections, the arguments advanced for and against the proposed amendments, and the law and practice in comparative jurisdictions, as detailed in the next Chapter.

CHAPTER TWO: ANALYSIS OF THE PETITION

2.1 Introduction

11. This Chapter contains an overview of previous legislative attempts on the use of popular names during elections, the arguments advanced for and against the proposed amendments, and the law and practice in comparative jurisdictions.

2.2 Legislative History

12. During the term of the 12th Parliament, two separate Bills were introduced in the Senate by Sen. (Eng.) Ephraim Maina, EBS, MP, both seeking to amend the law to permit the use of candidates' popular names during elections, namely-
 - a) the Elections (Amendment) Bill (Senate Bills No. 18 of 2019); and
 - b) the Elections (Amendment) (No. 3) Bill, 2021 (Senate Bills No. 48 of 2021).Copies of the two Bills are attached to this Report as *Annex 3* and *Annex 4*, respectively.
13. The Elections (Amendment) Bill (Senate Bills No. 18 of 2019) proposed amendments to the Elections Act, Cap 7, to-
 - a) define "popular name" in section 2 of the Act;
 - b) allow the inclusion of a candidate's popular name on a ballot paper subject to an application process and approval by the IEBC; and
 - c) amend section 109 to require that regulations made under the Elections Act be approved by the Senate, in addition to the National Assembly.
14. Likewise, the Elections (Amendment) (No. 3) Bill, 2021 (Senate Bills No. 48 of 2021) sought to amend the Elections Act, Cap. 7, to-
 - a) insert definitions of "popular name" and "party primary" in section 2 of the Elections Act;
 - b) insert a new section 32A providing for the use of a popular name on nomination and election ballot papers, subject to an application to and approval by the IEBC and the issuance of a certificate of authorization; and
 - c) amend section 109 to empower the IEBC to prescribe, by regulation, the criteria for the use of a popular name, and to require approval of such regulations by both the National Assembly and the Senate.
15. While both the 2019 and 2021 Bills were passed by the Senate at the Second Reading stage, both Bills lapsed before they could be considered at the Committee of the Whole and Third Reading stage.

2.3 Legal Provisions on Names of Candidates During Elections

16. In the absence of legislation permitting the use of candidates' popular names during party primaries or elections, the existing framework requires that a candidate who wishes to use a popular or commonly known nickname during an election formally changes their name to include that popular name as part of their official name.
17. The **Registration of Documents Act, Cap. 285**, is the primary legal mechanism for formally changing a name in Kenya, through registration of a Deed Poll made under the Registration of Documents (Change of Name) Regulations, issued pursuant to section 40 of the Act.
18. The Deed Poll process itself imposes several evidentiary burdens on the applicant which include-
 - a) a birth certificate must be produced;
 - b) the Deed Poll must be executed before a witness;
 - c) an independent statutory declaration of identity must be sworn by a person who has personally known the applicant for a number of years; and
 - d) a married woman is additionally required to produce either her husband's written consent or an advocate's certificate confirming a permanent separation
19. **The Registration of Persons Act (Cap. 107)** provides the legal framework for the registration of persons and the issuance of national identity cards. Rule 9 of the Registration of Persons Rules prescribes the procedure for reflecting a change of name on a national identity card where the change has already been effected through a registered Deed Poll, marriage or divorce.
20. Under Rule 9, an applicant is required to appear in person before a registration officer, complete the prescribed application form, provide the requisite supporting documents, surrender the existing identity card, pay the prescribed fee and have a new photograph taken before a replacement identity card bearing the new name is issued.
21. **The Elections (General) Regulations, 2012**, prescribes the content and format of nomination certificates and ballot papers. Under regulation 51, the Commission is required to publish a notice of all validly nominated candidates, including each candidate's name, photograph, and symbol, arranged in alphabetical order. Regulation 68 further requires that the names of candidates appear on the ballot

paper in the same order as they appear in the notice published under regulation 51(5), thereby ensuring consistency between the published list of nominated candidates and the ballot paper.

22. Unlike the formal process for changing a person's legal name under the Registration of Documents Act and the Registration of Persons Act, the Elections (Amendment) Bill, 2021 proposed an election-specific mechanism allowing a candidate to apply directly to the IEBC for approval and certification of a popular name for use on nomination and election ballot papers, without requiring the candidate to legally change his or her name.

2.4 Comparative Jurisdictional Analysis

23. The table below presents an overview of provisions from comparative jurisdictions on the use of popular or commonly known nicknames by candidates in elections.

Jurisdiction	Governing Law	What May Appear on the Ballot	Application/Evidentiary Standard	Refusal Grounds & Limits
Philippines	Omnibus Election Code (Batas Pambansa Blg. 881), s.74; COMELEC (Commission on Elections of Philippines) Resolution No. 9984 (2013), Rule 2, s.4.	One nickname or stage name by which the candidate is generally or popularly known in their locality, shown in addition to the legal name on the certificate of candidacy and the ballot.	Declared by the candidate on the certificate of candidacy; no separate proof-of-usage filing required, but COMELEC reviews the declaration before printing ballots.	COMELEC may refuse or cancel the certificate of candidacy where the nickname is filed to mock the election process, or to cause confusion through similarity.
Canada	Canada Elections Act, S.C. 2000, c.9, ss.66(1)(a) (i.1), 66(4), 67(4)-(5).	A name by which the candidate is “commonly known”, appearing on the ballot in place of the candidate's given names.	Candidate must file documentary proof of common usage of the name with the returning officer at the time of nomination; the standard is proof of usage, not general public popularity.	The Chief Electoral Officer reviews the requested name to ensure it cannot be confused with the name of a registered political party before it is approved for the ballot.

			Elections Canada requires at least two supporting documents, to establish common usage of the requested name; at least one of these must originate from a third party rather than from the candidate personally, and both must pre-date the issuing of the election writ, so that a name cannot be manufactured for the purposes of a single election. A requested name that could easily be confused with a registered party's name is refused.	
Australia	Commonwealth Electoral Act 1918; Electoral Act 1992 (ACT).	Only the candidate's own enrolled name, or a commonly accepted abbreviation or truncation of it.	The name used must match, or be a recognised variation of, the name under which the candidate is enrolled as an elector; the Australian Electoral Commission checks this against the electoral roll.	Genuine nicknames or stage names unconnected to the candidate's legal or enrolled name are barred outright; there is no discretion to admit them.
United Kingdom	Representation of the People Act 1983, Sch.1, r.6 & r.14, as amended by the Electoral	A commonly used forename or surname, different from (or used differently to) the candidate's	Stated by the candidate on the nomination paper; the returning officer reviews it before	The returning officer may refuse the commonly used name if its use is likely to mislead or confuse

	Administration Act 2006, s.21 and the Elections Act 2022, s.10.	registered legal names, appearing on the ballot instead of the legal name.	the statement of persons nominated is published.	electors, or if it is obscene or offensive, and must give written reasons for the refusal.
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24. Additionally, in the US State of Florida, candidates are permitted to have a nickname printed on the ballot alongside their legal name, provided it is a name by which they are generally known or have used as part of their legal name, and requires a sworn affidavit and supporting documents as proof. Descriptive titles (such as Dr., Professor, or Colonel) are prohibited unless multiple candidates have similar names that would reasonably cause voter confusion.
25. Likewise, in the US State of Texas, candidates can use a nickname as part of their name on the ballot, provided they swear an oath that the nickname does not constitute a slogan and does not indicate any political, economic, social, or religious view or affiliation. Furthermore, the candidate must have been commonly known by this nickname for at least three years prior to the election.

2.5 Concerns Raised Regarding the use of Popular Names in Elections

26. During consideration of the Elections (Amendment) Bill (Senate Bills No. 18 of 2019) and the Elections (Amendment) (No. 3) Bill, 2021 (Senate Bills No. 48 of 2021), several stakeholders raised objections or concerns regarding the proposed amendments. Among these were-

a) Independent Electoral and Boundaries Commission (IEBC)

27. The IEBC warned that allowing popular names could disrupt the uniformity, size, and cost of ballot papers, as there was no proposed limit to the number or length of popular names a candidate could use. They raised concerns over alphabetical arrangement rules on ballots, potential multiplicity/duplication of the same popular name by different candidates, and the risk of candidates submitting obscene or offensive names. They also noted that the proposed timelines conflicted with the submission of symbols for independent candidates.

b) Kenya National Commission on Human Rights (KNCHR)

28. KNCHR questioned whether an individual could temporarily change their name just for an election and revert afterward, and whether a candidate sworn in could use their popular name. They also highlighted the risk of voter confusion if a

candidate adopts a popular name associated with a specific political party but later shifts parties.

c) *Kariobangi Paralegal Network*

29. This stakeholder argued that candidates with popular names could deny their identity in legal proceedings or courts and expressed concern that candidates could use popular names to incite or radicalize supporters if defeated, recommending instead that candidates simply change their legal identity documents.

d) *ELOG & Mzalendo*

30. These stakeholders took the position that allowing popular names via this amendment was "tantamount to over-legislating" and suggested that candidates should simply follow the existing laws regarding the formal change of names.

2.6 Reasons Cited in Support of the Proposed use of Popular Names

31. On the other hand, various stakeholders provided several justifications in favour of the proposed amendments. These included-

- a) ***Promoting Inclusivity and Equality:*** The National Gender and Equality Commission (NGEC) supported the reform, noting that candidates from special interest groups are often primarily known by their popular names, and that the amendments would reduce administrative red tape and promote equality of participation.
- b) ***Safeguarding the Sanctity of the Vote:*** The Council of Governors (CoG) and Centre for Multiparty Democracy (CMD-Kenya) both supported the provisions, noting that using a popular name would not compromise the sanctity of the electoral process.
- c) ***Realizing Constitutional Rights:*** Proponents of the 2019 Bill argued that restricting candidates to unfamiliar official names forces them to expend resources popularizing their legal names, and hinders both the candidate's right to contest freely and the public's right to freely express their will, as contemplated under Article 38 of the Constitution.

2.7 Matters Considered by the Committee

32. In considering the Petition by Mr. Alasow, the Committee considered the following matters arising from the legal provisions, comparative analysis, and views expressed during consideration of the earlier legislative proposals on the use of popular names by candidates during elections.

- a) ***Prevalence of the problem*** - There is no readily available data on how widespread the problem is or whether it has caused rejected ballots, voter confusion or votes being cast for the wrong candidate, given that Kenyan ballots already include the candidate's official name, photograph and symbol.
- b) ***Meaning and Proof of a Popular Name*** - The 2021 Bill defined a popular name broadly as a name by which a candidate is known to the public but which does not appear on the candidate's identity card or passport, without stating how widely or how long the name must have been used or if the name was created mainly for the election, or what evidence a candidate must provide. In contrast, the US State of Texas requires a candidate must have been commonly known by the nickname for at least three years prior to the election.
- c) ***Relationship with the Candidate's Official Name*** - A popular name would not amount to a formal legal change of name, but would instead create an election-specific name approved by the IEBC while the candidate retains the official name on the identity card or passport, with no clarity on whether the popular name would appear only on the ballot or also on nomination forms, Gazette notices, results forms and other election documents.
- d) ***Unclear Scope*** – It is unclear from both the 2019 and 2021 Bills, as well as the current Petition, whether the proposal would apply to general elections, by-elections, party primaries, party-list nominations, or all categories of elective office.
- e) ***Comparative analysis indicates controlled use of commonly used names***- Comparative jurisdictions support controlled use of commonly used names rather than an unrestricted right. Canada requires documentary proof that the candidate is commonly known by the requested name; the United Kingdom permits refusal where the name is misleading, confusing, obscene or offensive; the Philippines allows one locally recognised nickname; while Australia permits only recognised abbreviations, truncations or variations of the candidate's enrolled name.

CHAPTER THREE: OBSERVATIONS

3.1 Committee Observations

33. Having considered the Petition, received the testimony of the Petitioner, and undertaken an analysis of the issues raised in the Petition as set out at Chapter Two of this Report, the Standing Committee on Justice, Legal Affairs and Human Rights observed as follows with regard to the proposed re-introduction and enactment of the Elections (Amendment) (No. 3) Bill, 2021 (Senate Bills No. 48 of 2021) –
- a) that the specific provisions of the Elections Act which the two Bills sought to amend have since been repealed or spent, such that the 2021 Bill cannot be re-introduced in its original form and would, in any event, require to be redrafted afresh;
 - b) that there is no demonstrated evidence of the prevalence or scale of voter confusion or misidentification of candidates arising from the use of official names on ballot papers, particularly given that Kenyan ballot papers already display a candidate's official name, photograph and party symbol as safeguards against misidentification;
 - c) that the definition of "popular name" proposed in the Bill is broad and unqualified, lacking any evidentiary threshold, minimum period of prior use, or safeguard against a name being adopted solely for purposes of a single election, unlike the more rigorous standards applied in comparative jurisdictions such as Canada, the United Kingdom, Australia and the State of Texas;
 - d) that the Bill does not clarify the relationship between a candidate's popular name and official name, including whether the popular name would be required to appear alongside the official name on all nomination and election documents, or the scope of elections and nomination processes to which it would apply;
 - e) that the existing legal framework under the Registration of Persons Act and the Registration of Documents Act already provides candidates with an established, verifiable and accountable mechanism through which to adopt and use a name of their choosing in an election, including a popular or commonly known name, upon formally changing their name.

CHAPTER FOUR: RECOMMENDATION

4.1 Committee Recommendation

34. Arising from its Observations as set out in the preceding Chapter, the Standing Committee on Justice, Legal Affairs and Human Rights resolved **not to accede** to the prayers by the Petitioner, and to retain the existing legal framework, under which a candidate wishing to contest a party primary or an election under a name other than that appearing on his or her national identity card or passport is required to formally change his or her name in accordance with the procedure set out under the Registration of Persons Act, Cap. 107 of the Laws of Kenya and the Registration of Documents Act, Cap. 285 of the Laws of Kenya.
35. Consequently, the Committee recommends that the Petition by Mr. Mohamed U. Alasow, seeking the re-introduction and enactment of the Elections (Amendment) (No. 3) Bill, 2021, **be declined**.

LIST OF ANNEXES

- Annex 1:* Minutes of the Committee in considering the Petition
- Annex 2:* Copy of the Petition
- Annex 3:* Copy of the Elections (Amendment) Bill (Senate Bills No. 18 of 2019)
- Annex 4:* Copy of the Elections (Amendment) (No. 3) Bill, 2021 (Senate Bills No. 48 of 2021).

***Annex 1: Minutes
of the Committee
in considering the
Petition***



13TH PARLIAMENT | 5TH SESSION

MINUTES OF THE 304TH SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON THURSDAY, 23RD JULY, 2026 AT 8.00 A.M., VIRTUALLY, VIA THE ZOOM ONLINE MEETING PLATFORM

PRESENT

- | | |
|--|---------------|
| 1. Sen. Wakili Hillary Sigci, CBS, MP | - Chairperson |
| 2. Sen. Andrew Omtatah Okoiti, MP | - Member |
| 3. Sen. Daniel Kitonga Maanzo, EBS, MP | - Member |
| 4. Sen. (Prof.) Tom Ojienda, SC, MP | - Member |
| 5. Sen. Crystal Kegchi Asige, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--------------------------------------|--------------------|
| 1. Sen. Veronica W. Maina, CBS, MP | - Vice-chairperson |
| 2. Sen. Raphael Chimera Mwinzagu, MP | - Member |
| 3. Sen. Karen Njeri Nyamu, MP | - Member |

SECRETARIAT

- | | |
|-------------------------|--|
| 1. Mr. Charles Munyua | - Principal Clerk Assistant II |
| 2. Mr. Boniface Kiambi | - Senior Clerk Assistant (<i>Taking Minutes</i>) |
| 3. Mr. Malcolm Ngugi | - Senior Legal Counsel |
| 4. Ms. Faith Wangui | - Legal Counsel II |
| 5. Ms. Angela Bonaya | - Clerk Assistant III |
| 6. Mr. Jackson Matheshe | - Research Officer III |
| 7. Ms. Linet Asoka | - Research Officer III |
| 8. Mr. Josphat Ngeno | - Media Relations Officer III |
| 9. Mr. Zenton Williams | - Audio Officer |
| 10. Mr. John Lekampule | - Serjeant-at-Arms |

IN ATTENDANCE / PETITIONERS

- | | |
|-----------------------|--------------|
| 1. Mr. Mohamed Alasow | - Petitioner |
| 2. Mr. Laban Omusundi | - Petitioner |

MIN. NO. 1041/2026

PRELIMINARIES

The meeting was called to order at ten minutes past eight O'clock and opened with a word of Prayer.

MIN. NO. 1042/2026

ADOPTION OF THE AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Daniel Kitonga Maanzo, EBS, MP and seconded by Sen. Andrew Omtatah Okoiti, MP.

MIN. NO. 1043/2026

**PETITION BY MR. MOHAMED ALASOW
REGARDING THE RE-INTRODUCTION OF THE
ELECTIONS (AMENDMENT) BILL, 2021**

The Committee commenced consideration of the Petition by Mr. Mohamed Alasow regarding the proposed re-introduction of the Elections (Amendment) Bill, 2021, on the inclusion of candidates' popular or commonly known names on ballot papers alongside their official names.

Upon invitation by the Chairperson, the Petitioner took Members through the background, rationale and justification for the proposed amendments.

During deliberations, Members-

- a) noted that the current legal framework requires candidates' official names to appear on ballot papers, while also providing a legal process through which individuals may formally change their names; and
- b) considered the proposal that candidates' popular or commonly known names could be included on ballot papers alongside their official names, in a manner similar to the use of symbols by independent candidates, without necessitating a formal change of name.

Thereupon, the Committee resolved to resume consideration of the Petition the following week, at which it would consider the legal and policy implications of the proposed amendments.

MIN. NO. 1044/2026

**PETITION BY MR. LABAN OMUSUNDI
REGARDING THE LIMITATION OF TENURE OF
NOMINATED MEMBERS OF COUNTY
ASSEMBLIES (MCAS) TO ONE TERM**

The Committee commenced consideration of the Petition by Mr. Laban Omusundi regarding the proposed limitation of tenure for nominated Members of County Assemblies (MCAs) to one term.

Upon invitation by the Chairperson, the Petitioner took Members through the background, rationale and justification for the proposed amendments.

During its deliberations, Members-

- a) noted concerns regarding the nomination process, including the need to ensure that nominees meet the constitutional and statutory requirements for nomination; and

- b) examined the proposal to limit the tenure of nominated Members of County Assemblies to one term as a measure to promote inclusivity and provide opportunities for broader representation.

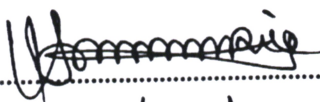
Thereupon, the Committee resolved to resume consideration of the Petition the following week, at which it would consider the legal and policy implications of the proposed amendments.

MIN. NO. 1045/2026 **ANY OTHER BUSINESS**

- i) Members were informed that the Liaison Committee was scheduled to meet the following week to deliberate on and apportion budgets to Committees for FY 2026/2027. This would inform preparation of the Committee's work plan and schedule of activities for the coming months.
- ii) Members were urged to avail themselves in Plenary during the afternoon sitting for that day, at which the Referendum Bill, 2026 (Senate Bills No. 3 of 2026) would be moved for debate at Second Reading stage.

MIN. NO. 1046/2026 **ADJOURNMENT**

The Chairperson adjourned the meeting at twelve minutes past nine O'clock. The next meeting will be held on Tuesday, 28th July, 2026 at 8:00 a.m.

SIGNED: 

DATE: 06/08/2026



13TH PARLIAMENT | 5TH SESSION

MINUTES OF THE 306TH SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON THURSDAY, 30TH JULY, 2026 AT 8.00 A.M. VIA THE ZOOM ONLINE MEETING PLATFORM

PRESENT

- | | |
|--|-----------------------------------|
| 1. Sen. Wakili Hillary Sigci, CBS, MP | - Chairperson (<i>Chairing</i>) |
| 2. Sen. Veronica W. Maina, CBS, MP | - Vice-chairperson |
| 3. Sen. Andrew Omtatah Okoiti, MP | - Member |
| 4. Sen. (Prof.) Tom Ojienda, SC, MP | - Member |
| 5. Sen. Daniel Kitonga Maanzo, EBS, MP | - Member |
| 6. Sen. Crystal Kegehi Asige, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--------------------------------------|----------|
| 1. Sen. Raphael Chimera Mwinzagu, MP | - Member |
| 2. Sen. Karen Njeri Nyamu, MP | - Member |

SECRETARIAT

- | | |
|-------------------------|---|
| 1. Mr. Charles Munyua | - Principal Clerk Assistant II |
| 2. Mr. Malcom Ngugi | - Senior Legal Counsel |
| 3. Ms. Faith Wangui | - Legal Counsel II |
| 4. Ms. Angela Bonaya | - Clerk Assistant III (<i>Taking Minutes</i>) |
| 5. Mr. Jackson Matheshe | - Research Officer III |
| 6. Ms. Linet Aseka | - Research Officer III |
| 7. Mr. Josphat Ngeno | - Media Relations Officer |
| 8. Mr. Zenton Williams | - Audio Officer |

MIN. NO. 1051/2026 **PRELIMINARIES**

The meeting was called to order at twenty-four minutes past eight O'clock and opened with a word of Prayer.

MIN. NO. 1052/2026 **ADOPTION OF THE AGENDA**

The Agenda of the meeting was adopted having been proposed by Sen. Daniel Kitonga Maanzo, EBS, MP and seconded by Sen. Andrew Omtatah Okoiti, MP.

MIN. NO. 1053/2026

PETITION BY MR. MOHAMED ALASOW
REGARDING THE RE-INTRODUCTION OF THE
ELECTIONS (AMENDMENT) BILL, 2021

The Committee resumed consideration of the captioned Petition and was taken through a brief on previous legislative attempts on the use of popular names during elections, the arguments advanced for and against the proposed amendments, and the law and practice in comparative jurisdictions.

Following deliberations, the Committee resolved to decline the prayers sought in the Petition and to retain the *status quo*, whereby a candidate wishing to use a popular or commonly known nickname in a party primary or election would be required to undergo a formal change of name as provided for in the Registration of Documents Act, Cap. 285 and the Registration of Persons Act, Cap. 107 of the Laws of Kenya.

Thereupon, the Committee directed the Secretariat to prepare the draft Report on the Petition for consideration and adoption.

MIN. NO. 1054/2026

PETITION BY MR. LABAN OMUSUNDI
REGARDING THE LIMITATION OF TENURE OF
NOMINATED MEMBERS OF COUNTY
ASSEMBLIES (MCAS) TO ONE TERM

The Committee resumed consideration of the captioned Petition and was taken through a brief on the legal framework governing elections of Members of County Assemblies via Party Lists, the arguments advanced for and against the proposal to cap the number of terms for which one may be nominated, the relevant judicial pronouncements, and the law and practice in comparative jurisdictions.

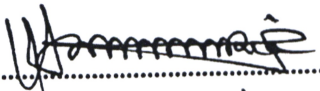
Following deliberations, the Committee resolved to decline the prayers sought in the Petition and to retain the current legal framework, whereby the question of how many terms a person may be nominated as a Member of County Assembly is left to the discretion of the nominating political party.

Thereupon, the Committee directed the Secretariat to prepare the draft Report on the Petition for consideration and adoption.

MIN. NO. 1055/2026

ADJOURNMENT

The Chairperson adjourned the meeting at fifteen minutes past nine O'clock. The next meeting would be held on Tuesday, 4th August, 2026 at 8:00 a.m.

SIGNED:

DATE:06/08/2026.....



13TH PARLIAMENT | 5TH SESSION

MINUTES OF THE 308TH SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON THURSDAY, 6TH AUGUST, 2026 AT 8.00 A.M. VIA THE ZOOM ONLINE MEETING PLATFORM

PRESENT

- | | |
|---------------------------------------|--------------------|
| 1. Sen. Wakili Hillary Sigci, CBS, MP | - Chairperson |
| 2. Sen. Veronica W. Maina, CBS, MP | - Vice-Chairperson |
| 3. Sen. Raphael Chimera Mwinzagu, MP | - Member |
| 4. Sen. Andrew Omtatah Okoiti, MP | - Member |
| 5. Sen. (Prof.) Tom Ojienda, SC, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--|----------|
| 1. Sen. Karen Njeri Nyamu, MP | - Member |
| 2. Sen. Daniel Kitonga Maanzo, EBS, MP | - Member |
| 3. Sen. Crystal Kegehi Asige, MP | - Member |

SECRETARIAT

- | | |
|-------------------------|--|
| 1. Mr. Charles Munyua | - Principal Clerk Assistant II |
| 2. Mr. Boniface Kiambi | - Senior Clerk Assistant (<i>Taking Minutes</i>) |
| 3. Mr. Malcolm Ngugi | - Senior Legal Counsel |
| 4. Ms. Faith Wangui | - Legal Counsel II |
| 5. Ms. Angela Bonaya | - Clerk Assistant III |
| 6. Mr. Jackson Matheshe | - Research Officer III |
| 7. Ms. Linet Aseka | - Research Officer III |
| 8. Mr. Josphat Ngeno | - Media Relations Officer |
| 9. Mr. Zenton Williams | - Audio Officer |

MIN. NO. 1062/2026

PRELIMINARIES

The meeting was called to order at sixteen minutes past eight O'clock and opened with a word of Prayer.

MIN. NO. 1063/2026

ADOPTION OF THE AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. (Prof.) Tom Ojienda, SC, MP and seconded by Sen. Veronica W. Maina, CBS, MP.

MIN. NO. 1064/2026

CONFIRMATION OF MINUTES

- a) The Minutes of the 305th Sitting were confirmed as a true record of the proceedings having been proposed by Sen. (Prof.) Tom Ojienda, SC, MP and seconded by Sen. Andrew Omtatah Okoiti, MP.
- b) The Minutes of the 307th Sitting were confirmed as a true record of the proceedings having been proposed by Sen. (Prof.) Tom Ojienda, SC, MP and seconded by Sen. Andrew Omtatah Okoiti, MP.

MIN. NO. 1065/2026

MATTERS ARISING

Under Min. 1049/2026 and Min. 1059/2026 – Consideration of Legislative Proposals from IEBC, ORPP, JCE and PPDT

Members were informed that, following consultations between the Chairperson of the Committee and the Chairperson of the counterpart Committee in the National Assembly, it was resolved that the two Committees hold a joint retreat to consider all pending election-related legislation including the legislative proposals received from IEBC, ORPP, JCE and PPDT.

Thereupon, the Committee resolved that-

- a) the joint retreat with the National Assembly Departmental Committee on Justice and Legal Affairs be held on 10th to 13th September, 2026, in Naivasha, Nakuru County; and
- b) the technical teams from IEBC, ORPP, JCE and PPDT be invited to the said retreat to provide input and clarifications as may be required by the Committees.

Under Min. 1060/2026 – Committee Budgets for FY 2026/2027

Members were informed that the itemised work plan of the Committee for the FY 2026/2027 was being prepared and would be scheduled for consideration at the next meeting.

In the meantime, it was resolved that the Committee proceeds with the fact-finding visit to Narok and Bomet Counties on 1st to 4th October, 2026 to consider the Statement sought by Sen. Catherine Mumma, MP regarding the criminalization and re-victimization of survivors of Female Genital Mutilation (FGM), particularly in Bomet and Narok counties.

MIN. NO. 1066/2026

**PETITION BY MR. MOHAMED ALASOW
REGARDING THE RE-INTRODUCTION OF THE
ELECTIONS (AMENDMENT) BILL, 2021**

The Committee was taken through and considered the draft Report on the Petition, including the Committee observations and recommendation.

Thereupon, the Committee adopted the Report having been proposed by Sen. (Prof.) Tom Ojienda, SC, MP and seconded by Sen. Veronica W. Maina, CBS, MP.

MIN. NO. 1067/2026

PETITION BY MR. LABAN OMUSUNDI & 2
OTHERS REGARDING THE LIMITATION OF
TENURE OF NOMINATED MEMBERS OF
COUNTY ASSEMBLIES (MCAS) TO A SINGLE
TERM OF FIVE YEARS

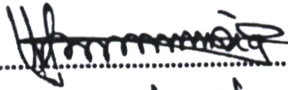
The Committee was taken through and considered the draft Report on the Petition, including the Committee observations and recommendation.

Thereupon, the Committee adopted the Report having been proposed by Sen. Veronica W. Maina, CBS, MP and seconded by Sen. (Prof.) Tom Ojienda, SC, MP.

MIN. NO. 1068/2026

ADJOURNMENT

The Chairperson adjourned the meeting at thirty-nine minutes past eight O'clock. The next meeting would be held on Tuesday, 8th September, 2026 at 8.00 a.m.

SIGNED:

DATE:06/08/2026.....

Annex 2: Copy of the Petition

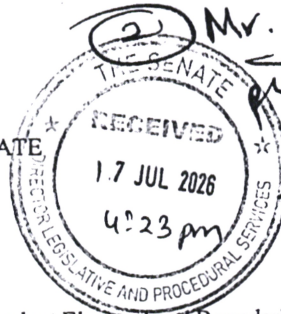
MOHAMED U ALASOW
ID 25292381
Wajir County, Kenya
Email: mohamedsiraj1000@gmail.com Tel: 0729012722

Date: 31-03-2026



THE CLERK OF THE NATIONAL ASSEMBLY
Parliament Buildings
P.O. Box 41842-00100
Nairobi, Kenya

THE CLERK OF THE SENATE
Parliament Buildings
P.O. Box 41842-00100
Nairobi, Kenya



CC:

- The Chairperson, Independent Electoral and Boundaries Commission (IEBC)
- The Attorney General, Republic of Kenya
- The Speaker of the National Assembly
- The Speaker of the Senate

**RE: PETITION FOR THE RE-INTRODUCTION OF THE ELECTIONS
(AMENDMENT) BILL, 2021**

Dear Sir/Madam,

I, the undersigned, a concerned citizen of the Republic of Kenya, hereby respectfully submit this petition to request the re-introduction and enactment of the Elections (Amendment) Bill, 2021. This petition is grounded in the Constitution of Kenya, particularly:

- Article 1 (Sovereignty of the People)
- Article 10 (National Values and Principles of Governance)
- Article 38 (Political Rights)
- Article 81 (General Principles for the Electoral System)

The proposed amendment seeks to allow candidates contesting for elective positions to include their popular or commonly known names (nicknames) on the ballot papers during elections.

JUSTIFICATION

In many parts of Kenya, particularly in rural and marginalized areas, voters are more familiar with candidates' popular names rather than their official names. This often leads to confusion, misidentification, and rejected ballots.

③ Mr. Chaniz (CDLPS)

Mr. Chaniz (CDLPS)
Mr. Chaniz (CDLPS)
21/4/26

CDLPS
Please lead
MA
20/4/26

The inclusion of popular names will:

- Enhance voter identification of candidates
- Reduce voter confusion and electoral errors
- Promote inclusivity, especially among less literate voters
- Strengthen electoral transparency and integrity
- Increase public confidence in elections

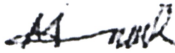
PRAYER

I humbly pray that:

1. Parliament re-introduces the Elections (Amendment) Bill, 2021
2. The Bill be prioritized before the 2027 General Elections
3. Relevant institutions prepare for its implementation

This reform is essential in ensuring inclusive and accessible democratic processes.

Yours faithfully,



MOHAMED U ALASOW

***Annex 3: Copy of
the Elections
(Amendment) Bill,
2019 (Senate Bills
No. 18 of 2019)***

SPECIAL ISSUE

Kenya Gazette Supplement No. 144 (Senate Bills No. 18)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2019

NAIROBI, 14th August, 2019

CONTENT

Bill for Introduction into the Senate—

PAGE

The Elections (Amendment) Bill, 2019 267

THE ELECTIONS (AMENDMENT) BILL, 2019

A Bill for

AN ACT of Parliament to amend the Elections Act to allow the use of a candidate's popular name on a nomination or election ballot paper; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Elections (Amendment) Act, 2019.

Short title.

2. Section 2 of the Elections Act, in this Act referred to as “the principal Act” is amended by inserting the following new definition immediately after the definition of the word “polling station”—

Amendment of section 2 of No. 24 of 2011.

“popular name” a name by which a candidate is known to the public but which does not appear in the candidate's national identity card or passport;

3. The principal Act is amended by inserting the following new section immediately after section 32—

Insertion of new section 32A in No. 24 of 2011.

Use of popular name on nomination and election ballot papers.

32A. (1) A candidate's popular name may be included on a ballot paper for purposes of a party primary or an election.

(2) A candidate shall apply to the Commission, in the prescribed form, for the inclusion of the candidate's popular name in terms of subsection (1)—

- (a) in the case of a party candidate, no later than twenty-one days before the submission of names under section 31(2B);
- (b) in the case of an independent candidate, at the time of submission of the candidate's symbol under section 32(1)(a);

(3) The Commission shall, within seven days of receipt of an application under subsection (2), notify the candidate of its decision in writing.

(4) Where the Commission approves the use of a candidate's popular name under subsection (3)—

- (a) the Commission shall issue the candidate a certificate to prove that the Commission has authorised the use of the popular name in terms of this Act; and
- (b) the candidate's popular name shall appear on a nomination or election ballot paper—
 - (i) in the format approved by the Commission;
 - (ii) on the documents relating sections 31(2A), (2B), 2(C) and 2(D), 33(1)(c) and (2) and 86(1)(c); and
 - (iii) on any other document originating from the candidate, candidate's party or the Commission.

4. Section 109 of the principal Act is amended—

- (a) in subsection (3) by inserting the words “and the Senate” immediately after the words “the National Assembly”; and
- (b) in subsection (4) by inserting the words “and the Senate” immediately after the words “the National Assembly”.

Amendment of
section 109 of
No. 24 of 2011.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons

The purpose of this Bill is to amend the Elections Act, No. 24 of 2011, to allow a candidate to be presented to the electorate on party primary or election ballot papers in the way in which the candidate has chosen to familiarize himself or herself to the electorate.

Currently, the law only permits the use of a candidate's official name as it appears in the register of voters and in the candidate's identification documents. A candidate who wishes to have his or her popular name included on a ballot paper has to go through the lengthy process of officially changing his or her name through the procedures set out under the Registration of Persons Act, Cap 107, the Registration of Documents Act, Cap. 285 and the Rules and Regulations made under the two Acts.

The ultimate goal of an election is to ensure that the electorate choose their preferred leaders in a free and fair environment. Name recognition thus becomes an important aspect of a free and fair election and should be enabled to the fullest extent. It ensures that a voter easily identifies his or her preferred candidate on a ballot and therefore votes in the way he or she intended. Candidates should therefore not be unduly restricted in the way they present themselves to the electorate on the ballot and other election-related material as this hinders the realization the candidates' right to, without unreasonable restrictions, contest in an election and the electorate's right to free expression of their will, as contemplated under Article 38 of the Constitution.

This Bill therefore seeks to provide for the inclusion of a candidate's popular name on a ballot paper while at the same time safeguarding the sanctity of the electoral process.

Further, to ensure that this flexibility does not prejudice a free and fair election in any way, the Independent Electoral and Boundaries Commission would be required to approve the use of a popular name in an election.

The Bill also proposes to amend section 109 of the Elections Act to ensure compliance with Articles 94(5) of the Constitution in the approval of Regulations made pursuant to the proposed new clauses, and the Elections Act in general.

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

The Bill delegates legislative power to the Independent Electoral and Boundaries Commission to enable the Commission to determine the conditions that may limit the use of a popular name on a ballot paper.

The Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

Under Article 110(1) of the Constitution, a Bill concerning county governments includes a Bill relating to the election of members of a county assembly or a county executive. This Bill seeks to amend the Elections Act to allow the use of a candidate's popular name on nomination and ballot papers. This includes a candidate who contests in a county assembly or in a gubernatorial election.

The Bill is therefore one that concerns county governments in terms of Article 110(1)(a) of the Constitution.

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

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

Dated the 4th July, 2019

EPHRAIM MAINA,
Senator.

Section 2 of No. 24 of 2011 which it is proposed to amend—

2. Interpretation

In this Act, unless the context otherwise requires—

“adult” has the meaning assigned to it in Article 260 of the Constitution;

“agent” means a person duly appointed by—(a) a political party or an independent candidate for the purposes of an election under this Act; or (b) a referendum committee for the purposes of a referendum under this Act, and includes a counting agent and a tallying agent;

“ballot box” means a transparent container with a slot on the top sufficient to accept a ballot paper in an election or in a referendum but which prevents access to the votes cast until the closing of the voting period;

“ballot paper” means a paper used to record the choice made by a voter and shall include an electronic version of a ballot paper or its equivalent for purposes of electronic voting;

“biometric” means unique identifiers or attributes including fingerprints, hand geometry, earlobe geometry, retina and iris patterns, voice waves, DNA, and signatures;

“campaign period” means the period specified as such in the notice issued by the Commission in relation to an election;

“candidate” means a person contesting for an elective post;

“Commission” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“constituency” means one of the constituencies into which Kenya is divided under Article 89 of the Constitution;

“constituency register” means the register of voters compiled in respect of each constituency by the Commission;

“county” means one of the counties into which Kenya is divided under Article 6(1) of the Constitution and specified in the First Schedule of the Constitution;

“county assembly” means a county assembly constituted in accordance with Article 177 of the Constitution;

“county election” means one of the election of a county governor or a member of a county assembly;

“disability” has the meaning assigned to it in Article 260 of the Constitution;

“election” means a presidential, parliamentary or county election and includes a by-election;

“electoral area” means a constituency, a county or a ward;

“election court” means the Supreme Court in exercise of the jurisdiction conferred upon it by Article 163(3)(a) or the High Court in the exercise of the jurisdiction conferred upon it by Article 165(3)(a) of the Constitution or the Resident Magistrate’s Court designated by the Chief Justice in accordance with section 75 of this Act;

“election material” means ballot boxes, ballot papers, counterfoils, envelopes, packets statements and other documents used in connection with voting in an election and includes information technology equipment for voting, the voting compartments, instruments, seals and other materials and things required for the purpose of conducting an election;

“election offence” means an offence under this Act;

“elections officer” means a person appointed by the Commission for the purposes of conducting an election under this Act;

“election period” means the period between the publication of a notice by the Commission for a presidential, parliamentary or county election under sections 14, 16, 17 and 19 and the Gazettement of the election results;

“election results” means the declared outcome of the casting of votes by voters at an election;

“harambee” means the public collection of monies or other property in aid or support of a cause or a project;

“identification document” means a Kenyan national identification card or a Kenyan passport;

“illegal practice” means an offence specified in Part VI; “independent candidate” means a candidate for presidential, parliamentary or county elections who is not a member of a political party;

“integrated electronic electoral system” refers to a system that includes biometric voter registration, biometric voter identification and electronic result transmission system.

“nomination” means the submission to the Commission of the name of a candidate in accordance with the Constitution and this Act;

“nomination day” in respect of an election, means the day gazetted at least sixty days before an election by the Commission as the day for the nomination of candidates for that election;

“observer” means a person or an organisation accredited by the Commission to observe an election or a referendum;

“parliamentary election” means the election of one or more members of Parliament;

“party list” means a party list prepared by a political party and submitted to the Commission pursuant to and in accordance with Article 90 of the Constitution and sections 28, 34, 35, 36 and 37;

“petition” means an application to the election court under the Constitution or under this Act;

“political party” has the meaning assigned to it in Article 260 of the Constitution;

“polling station” means any room, place, vehicle or vessel set apart and equipped for the casting of votes by voters at an election;

“presidential election” means an election of a President in accordance with Articles 136, 139(1)(b) and 146(2)(b) of the Constitution;

“public officer” has the meaning assigned to it in Article 260 of the Constitution;

“public resources” include—

- (a) any vehicle, or equipment owned by or in the possession; or
- (b) premises owned or occupied by, any government, state organ, statutory corporation or a company in which the Government owns a controlling interest; “referendum” means a poll held under Part V;

“referendum committee” means a national or a parliamentary constituency committee comprising of persons intending to support or oppose a referendum question;

“referendum officer” means a person appointed by the Commission for the purpose of conducting a referendum;

“referendum question” means a question upon which voters shall vote in a referendum as specified in section 49;

“registration officer” means a person appointed by the Commission for the purpose of preparing a register of voters;

“Register of Voters” means a current register of persons entitled to vote at an election prepared in accordance with section 3 and includes a register that is compiled electronically;

“returning officer” means a person appointed by the Commission for the purpose of conducting an election under this Act;

“supporter” means a voter who supports the nomination of a candidate;

“vessel” includes any ship, boat or any other description of vessel used in navigation;

“voter” means a person whose name is included in a current register of voters;

“voter’s card” deleted by Act No. 12 of 2012, Sch.;

“voting period” means the period specified as such in the notice issued by the Commission in relation to an election;

“ward” means an electoral area within a county delimited in accordance with Article 89 of the Constitution.

Section 109 of No. 24 of 2011 which it is proposed to amend—

109. Regulations

(1) The Commission may make regulations generally for the better carrying out of the purposes and provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations to—

- (a) prescribe the manner in which registers of voters shall be compiled and the manner in which they shall be revised;
- (b) prescribe the procedure for registration and issuance of voters cards and provide for the progressive registration of Kenyan citizens living abroad prisoner;
- (c) to provide for the regulation of the process by which parties nominate candidates for elections;
- (d) to provide for the manner of nomination, allocation and re-allocation of special seats and mechanisms for resolving disputes arising out of such nomination, allocation and re-allocation;
- (e) prescribe the procedure for making and determining claims to be registered and objections to registration;

- (f) authorize any registration officer to consider or determine any application, claim, objection or appeal, to summon any person to appear before them and give evidence on oath, and to administer an oath for that purpose and to order the production of any document relevant to any issue which the officer is required to consider and determine;
- (g) provide for the division of constituencies into units for the purpose of the registration of voters;
- (h) prescribe the conditions under which elections may be held in accordance with the provisions of the Constitution, this Act or any other written law relating to elections;
- (i) prescribe the amount of the deposit to be paid by or on behalf of candidates at all elections and the circumstances in which the deposit may be forfeited;
- (j) provide for the appointment of officers to preside at polling stations;
- (k) prescribe the facilities to be provided at polling stations and the persons who may be admitted to polling stations;
- (l) prescribe the place and manner in which votes may be cast and the construction and scaling of ballot boxes and provide for the issue of ballot papers to voters;
- (m) provide for the manner in which, and the person by whom any question as to the identity of any person claiming the right to vote shall be determined;
- (n) provide for the manner in which a voter who is not able to read or write may vote or be assisted in voting;
- (o) provide for the manner in which a voter with special needs including a person with a disability may vote or be assisted in voting;
- (p) prescribe the procedure to be followed in the counting of votes and the circumstances in which votes may be rejected by a returning officer as being invalid;
- (q) prescribe conditions for the use of private motor vehicles, vessels or buildings at elections;
- (r) prescribe the facilities to be provided during the electoral process and in particular, for voting by electronic machines and

the persons entitled so to vote and the circumstances in which persons may so vote;

- (s) provide for the allocation by the Commission, in a just and equitable manner of the use of state owned radio and television broadcasting services during any election period;
- (t) prescribe the procedure to be adopted by the public in making representations for the alteration of electoral area boundaries;
- (u) prescribe the forms which may be used under this Act and the fees in respect of anything to be done under this Act;
- (v) prescribe the procedure for advance voting for special categories including patients admitted in hospital, pastoralists, armed forces, elections officers and other citizens of Kenya providing essential services;
- (w) prescribe the procedure for voting for citizens residing outside Kenya;
- (x) provide for complaints resolution mechanisms and for the manner of settlement of electoral disputes;
- (y) provide for the conduct of election observers, the media, monitors and evaluators and organisations carrying out civic and voter education;
- (z) provide with reasonable grounds for the postponement of elections;
 - (aa) provide for mechanisms for carrying out effective voter education;
 - (bb) provide for the mode of declaration of the result of an election;
 - (cc) prescribe the manner of enforcing the Electoral Code of Conduct; or
 - (dd) provide for the conduct of campaigns during a referendum or an election;
 - (ee) provide for the financing of campaigns during a referendum or an election;
 - (ff) prescribe anything which is required to be prescribed or is necessary or desirable for the better giving effect to this Act.

(2) The power to make regulations conferred on the Commission under this Act shall be—

- (a) for the purpose and objective of giving effect to the Constitution and this Act;
- (b) limited to the nature and scope specifically stipulated in the Constitution and this Act; and
- (c) based on the general principles and standards contained in the Constitution and this Act.

(3) The power to make regulations shall be exercised only after a draft of the proposed regulations has been approved by the National Assembly, at least four months preceding a general election: Provided that this applies to the first general election under this Act.

(4) The Commission shall publish in the Gazette, not later than sixty days prior to the date of a general election, the regulations approved by the National Assembly under subsection (3).

***Annex 4: Copy of
the Elections
(Amendment) (No.
3) Bill, 2021
(Senate Bills No.
48 of 2021)***

SPECIAL ISSUE

Kenya Gazette Supplement No. 161 (Senate Bills No. 48)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2021

NAIROBI, 20th August, 2021

CONTENT

Bill for Introduction into the Senate—

PAGE

The Elections (Amendment) (No. 3) Bill, 2021 1209

**THE ELECTIONS (AMENDMENT) (No. 3) BILL,
2021**

A Bill for

**AN ACT of Parliament to amend the Elections Act to
allow the use of a candidate's popular name in an
election; and for connected purposes**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Elections (Amendment) (No. 3) Act, 2021.

Short title.

2. Section 2 of the Elections Act, in this Act referred to as “the principal Act” is amended by inserting the following new definitions immediately after the definition of the word “polling station” —

Amendment of section 2 of No. 24 of 2011.

“popular name” means a name by which a candidate is known to the public, but which does not appear in the national identity card or passport of the candidate; and

“party primary” means the process by which a political party elects or selects a candidate for a forthcoming general election or by-election.

3. The principal Act is amended by inserting the following new section immediately after section 32—

Insertion of new section 32A in No. 24 of 2011.

Use of popular name on nomination and election ballot papers.

32A. (1) A candidate's popular name may be included on a ballot paper for purposes of a party primary or an election.

(2) A candidate shall apply to the Commission, in the prescribed form, for the inclusion of the candidate's popular name in terms of subsection (1)—

(a) in the case of a party candidate, no later than twenty-one days before the submission of names under

section 31(2B);

- (b) in the case of an independent candidate, at the time of submission of the candidate's symbol under section 32(1) and (1A);

(3) The Commission shall, within seven days of receipt of an application under subsection (2), notify the candidate of its decision in writing.

(4) Where the Commission approves the use of a candidate's popular name under subsection (3)—

- (a) the Commission shall issue the candidate a certificate to prove that the Commission has authorised the use of the popular name in terms of this Act; and
- (b) the candidate's popular name shall appear on a nomination or election ballot paper—
 - (i) in the format approved by the Commission;
 - (ii) on the documents relating sections 31(2A), (2B), 2(C) and 2(D), 33(1)(c) and (2) and 86(1)(c); and
 - (iii) on any other document originating from the candidate, candidate's party or the Commission in relation to that nomination or election.

4. Section 109 of the principal Act is amended—

Amendment of
section 109 of
No. 24 of 2011.

- (a) in subsection (1) by inserting the following new paragraph immediately after paragraph (c)—
 - (ca) prescribe the criteria for the use of a popular name during a party primary or an election;
- (b) in subsection (3) by inserting the words “and the Senate” immediately after the words “the

National Assembly”; and

- (c) in subsection (4) by inserting the words “and the Senate” immediately after the words “the National Assembly”.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons

The purpose of this Bill is to amend the Elections Act, No. 24 of 2011, to allow a candidate to be presented to the electorate on party primary or election ballot papers in the way in which the candidate has chosen to familiarize himself or herself to the electorate.

Currently, the law only permits the use of a candidate's official name as it appears in the register of voters and in the candidate's identification documents. A candidate who wishes to have his or her popular name included on a ballot paper has to go through the lengthy process of officially changing his or her name through the procedures set out under the Registration of Persons Act, Cap 107, the Registration of Documents Act, Cap. 285 and the Rules and Regulations made under the two Acts.

The ultimate goal of an election is to ensure that the electorate choose their preferred leaders in a free and fair environment. Name recognition thus becomes an important aspect of a free and fair election and should be enabled to the fullest extent. It ensures that a voter easily identifies his or her preferred candidate on a ballot and therefore votes in the way he or she intended. Candidates should therefore not be unduly restricted in the way they present themselves to the electorate on the ballot and other election-related material as this hinders the realization the candidates' right to, without unreasonable restrictions, contest in an election and the electorate's right to free expression of their will, as contemplated under Article 38 of the Constitution.

This Bill therefore seeks to provide for the inclusion of a candidate's popular name on a ballot paper while at the same time safeguarding the sanctity of the electoral process.

Further, to ensure that this flexibility does not prejudice a free and fair election in any way, the Independent Electoral and Boundaries Commission would be required to approve the use of a popular name in an election.

The Bill also proposes to amend section 109 of the Elections Act to ensure compliance with Articles 94(5) of the Constitution in the approval of Regulations made pursuant to the proposed new clauses, and the Elections Act in general.

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

The Bill delegates legislative power to the Independent Electoral and Boundaries Commission to enable the Commission to determine the conditions that may limit the use of a popular name on a ballot paper.

The Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

Under Article 110(1) of the Constitution, a Bill concerning county governments includes a Bill relating to the election of members of a county assembly or a county executive. This Bill seeks to amend the Elections Act to allow the use of a candidate's popular name on nomination and ballot papers. This includes a candidate who contests in a county assembly or in a gubernatorial election.

The Bill is therefore one that concerns county governments in terms of Article 110(1)(a) of the Constitution.

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

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

EPHRAIM MAINA,
Senator.

Section 2 of No. 24 of 2011 which it is proposed to amend—

2. Interpretation

In this Act, unless the context otherwise requires—

“adult” has the meaning assigned to it in Article 260 of the Constitution;

“agent” means a person duly appointed by— (a) a political party or an independent candidate for the purposes of an election under this Act; or (b) a referendum committee for the purposes of a referendum under this Act, and includes a counting agent and a tallying agent;

“ballot box” means a transparent container with a slot on the top sufficient to accept a ballot paper in an election or in a referendum but which prevents access to the votes cast until the closing of the voting period;

“ballot paper” means a paper used to record the choice made by a voter and shall include an electronic version of a ballot paper or its equivalent for purposes of electronic voting;

“biometric” means unique identifiers or attributes including fingerprints, hand geometry, earlobe geometry, retina and iris patterns, voice waves, DNA, and signatures;

“campaign period” means the period specified as such in the notice issued by the Commission in relation to an election;

“candidate” means a person contesting for an elective post;

“Commission” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“constituency” means one of the constituencies into which Kenya is divided under Article 89 of the Constitution;

“constituency register” means the register of voters compiled in respect of each constituency by the Commission;

“county” means one of the counties into which Kenya is divided under Article 6(1) of the Constitution and specified in the First Schedule of the Constitution;

“county assembly” means a county assembly constituted in accordance with Article 177 of the Constitution;

“county election” means one of the election of a county governor or a member of a county assembly;

“disability” has the meaning assigned to it in Article 260 of the Constitution;

“election” means a presidential, parliamentary or county election and includes a by-election;

“electoral area” means a constituency, a county or a ward;

“election court” means the Supreme Court in exercise of the jurisdiction conferred upon it by Article 163(3)(a) or the High Court in the exercise of the jurisdiction conferred upon it by Article 165(3)(a) of the Constitution or the Resident Magistrate’s Court designated by the Chief Justice in accordance with section 75 of this Act;

“election material” means ballot boxes, ballot papers, counterfoils, envelopes, packets statements and other documents used in connection with voting in an election and includes information technology equipment for voting, the voting compartments, instruments, seals and other materials and things required for the purpose of conducting an election;

“election offence” means an offence under this Act;

“elections officer” means a person appointed by the Commission for the purposes of conducting an election under this Act;

“election period” means the period between the publication of a notice by the Commission for a presidential, parliamentary or county election under sections 14, 16, 17 and 19 and the Gazettement of the election results;

“election results” means the declared outcome of the casting of votes by voters at an election;

“harambee” means the public collection of monies or other property in aid or support of a cause or a project;

“identification document” means a Kenyan national identification card or a Kenyan passport;

“illegal practice” means an offence specified in Part VI; “independent candidate” means a candidate for presidential, parliamentary or county elections who is not a member of a political party;

“integrated electronic electoral system” refers to a system that includes biometric voter registration, biometric voter identification and electronic result transmission system.

“nomination” means the submission to the Commission of the name of a candidate in accordance with the Constitution and this Act;

“nomination day” in respect of an election, means the day gazetted at least sixty days before an election by the Commission as the day for the nomination of candidates for that election;

“observer” means a person or an organisation accredited by the Commission to observe an election or a referendum;

“parliamentary election” means the election of one or more members of Parliament;

“party list” means a party list prepared by a political party and submitted to the Commission pursuant to and in accordance with Article 90 of the Constitution and sections 28, 34, 35, 36 and 37;

“petition” means an application to the election court under the Constitution or under this Act;

“political party” has the meaning assigned to it in Article 260 of the Constitution;

“polling station” means any room, place, vehicle or vessel set apart and equipped for the casting of votes by voters at an election;

“presidential election” means an election of a President in accordance with Articles 136, 139(1)(b) and 146(2)(b) of the Constitution;

“public officer” has the meaning assigned to it in Article 260 of the Constitution;

“public resources” include—

- (a) any vehicle, or equipment owned by or in the possession; or
- (b) premises owned or occupied by, any government, state organ, statutory corporation or a company in which the Government owns a controlling interest; “referendum” means a poll held under Part V;

“referendum committee” means a national or a parliamentary constituency committee comprising of persons intending to support or oppose a referendum question;

“referendum officer” means a person appointed by the Commission for the purpose of conducting a referendum;

“referendum question” means a question upon which voters shall vote in a referendum as specified in section 49;

“registration officer” means a person appointed by the Commission for the purpose of preparing a register of voters;

“Register of Voters” means a current register of persons entitled to vote at an election prepared in accordance with section 3 and includes a register that is compiled electronically;

“returning officer” means a person appointed by the Commission for the purpose of conducting an election under this Act;

“supporter” means a voter who supports the nomination of a candidate;

“vessel” includes any ship, boat or any other description of vessel used in navigation;

“voter” means a person whose name is included in a current register of voters;

“voter’s card” deleted by Act No. 12 of 2012, Sch.;

“voting period” means the period specified as such in the notice issued by the Commission in relation to an election;

“ward” means an electoral area within a county delimited in accordance with Article 89 of the Constitution.

Section 109 of No. 24 of 2011 which it is proposed to amend—

109. Regulations

(1) The Commission may make regulations generally for the better carrying out of the purposes and provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations to—

- (a) prescribe the manner in which registers of voters shall be compiled and the manner in which they shall be revised;
- (b) prescribe the procedure for registration and issuance of voters cards and provide for the progressive registration of Kenyan citizens living abroad prisoner;
- (c) to provide for the regulation of the process by which parties nominate candidates for elections;
- (d) to provide for the manner of nomination, allocation and re-allocation of special seats and mechanisms for resolving disputes arising out of such nomination, allocation and re-allocation;
- (e) prescribe the procedure for making and determining claims to be registered and objections to registration;

- (f) authorise any registration officer to consider or determine any application, claim, objection or appeal, to summon any person to appear before them and give evidence on oath, and to administer an oath for that purpose and to order the production of any document relevant to any issue which the officer is required to consider and determine;
- (g) provide for the division of constituencies into units for the purpose of the registration of voters;
- (h) prescribe the conditions under which elections may be held in accordance with the provisions of the Constitution, this Act or any other written law relating to elections;
- (i) prescribe the amount of the deposit to be paid by or on behalf of candidates at all elections and the circumstances in which the deposit may be forfeited;
- (j) provide for the appointment of officers to preside at polling stations;
- (k) prescribe the facilities to be provided at polling stations and the persons who may be admitted to polling stations;
- (l) prescribe the place and manner in which votes may be cast and the construction and scaling of ballot boxes and provide for the issue of ballot papers to voters;
- (m) provide for the manner in which, and the person by whom any question as to the identity of any person claiming the right to vote shall be determined;
- (n) provide for the manner in which a voter who is not able to read or write may vote or be assisted in voting;
- (o) provide for the manner in which a voter with special needs including a person with a disability may vote or be assisted in voting;
- (p) prescribe the procedure to be followed in the counting of votes and the circumstances in which votes may be rejected by a returning officer as being invalid;
- (q) prescribe conditions for the use of private motor vehicles, vessels or buildings at elections;
- (r) prescribe the facilities to be provided during the electoral process and in particular, for voting by electronic machines and

the persons entitled so to vote and the circumstances in which persons may so vote;

- (s) provide for the allocation by the Commission, in a just and equitable manner of the use of state owned radio and television broadcasting services during any election period;
- (t) prescribe the procedure to be adopted by the public in making representations for the alteration of electoral area boundaries;
- (u) prescribe the forms which may be used under this Act and the fees in respect of anything to be done under this Act;
- (v) prescribe the procedure for advance voting for special categories including patients admitted in hospital, pastoralists, armed forces, elections officers and other citizens of Kenya providing essential services;
- (w) prescribe the procedure for voting for citizens residing outside Kenya;
- (x) provide for complaints resolution mechanisms and for the manner of settlement of electoral disputes;
- (y) provide for the conduct of election observers, the media, monitors and evaluators and organisations carrying out civic and voter education;
- (z) provide with reasonable grounds for the postponement of elections;
- (aa) provide for mechanisms for carrying out effective voter education;
- (bb) provide for the mode of declaration of the result of an election;
- (cc) prescribe the manner of enforcing the Electoral Code of Conduct; or
- (dd) provide for the conduct of campaigns during a referendum or an election;
- (ee) provide for the financing of campaigns during a referendum or an election;
- (ff) prescribe anything which is required to be prescribed or is necessary or desirable for the better giving effect to this Act.

(2) The power to make regulations conferred on the Commission under this Act shall be—

- (a) for the purpose and objective of giving effect to the Constitution and this Act;
- (b) limited to the nature and scope specifically stipulated in the Constitution and this Act; and
- (c) based on the general principles and standards contained in the Constitution and this Act.

(3) The power to make regulations shall be exercised only after a draft of the proposed regulations has been approved by the National Assembly, at least four months preceding a general election: Provided that this applies to the first general election under this Act.

(4) The Commission shall publish in the Gazette, not later than sixty days prior to the date of a general election, the regulations approved by the National Assembly under subsection (3).