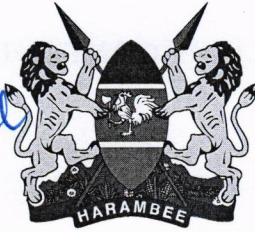


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STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND
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REPORT ON THE ALTERNATIVE DISPUTE RESOLUTION BILL
(SENATE BILLS NO. 34 OF 2021)

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

Approved
Jmm
31/03/2022

Rt Hon Speaker
You may approve
for tabling
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March, 2022

31 MAR 2022

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Chairman

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Chairman

21/03/22

FOREWORD BY THE CHAIRPERSON

1. The Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021) seeks to put in place a legal framework to govern the settlement of certain civil disputes by conciliation, mediation and traditional dispute resolution.
2. The Bill was published on 12th May, 2021 and was read a First Time in the Senate on 6th July, 2021, following which it stood committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration.
3. The Committee considered the Bill at length. A call for submission of memoranda was placed in two newspapers with national circulation on Friday, 9th July, 2021. The advertisement was also posted on the Parliament website and social media platforms. In response to the advertisement, the Committee received written submissions from twenty-six stakeholders which were considered by the Committee in making its recommendations on the Bill.
4. Additionally, on 20th September, 2021, the Committee held a daylong hybrid public hearing on the Bill, where a total of twenty-three stakeholders and members of the public presented their submissions. These included the Kenya National Commission on Human Rights, Commission on Administrative Justice, National Steering Committee for the Implementation of the Alternative Justice Systems Policy, Mediation Accreditation Committee of the Judiciary, Chartered Institute of Arbitrators, Nairobi Centre for International Arbitration, Institute of Chartered Mediators and Conciliators, Mediation Training Institute East Africa, and the Law Society of Kenya, among others.
5. A notable thread in the submissions by key stakeholders was a request to the mover of the Bill, and to the Committee, to have the Bill withdrawn. This was on the basis that the process of developing a National Alternative Dispute Resolution Policy was at an advanced stage, and this would subsequently inform drafting of legislation on the various forms and aspects of alternative dispute resolution.
6. Arising from this, and following extensive deliberations with the mover of the Bill, the Committee recommends that consideration of the Bill be not proceeded with. An opportunity may be accorded to the Mover to move the Bill at Second Reading stage, and have Senators make their contributions, following which the Mover would withdraw the Bill before the Question on Second Reading of the Bill is put.

7. Additionally, the Committee recommends that the Attorney General be required to submit to Parliament the National Alternative Dispute Resolution Policy, together with any draft Bills thereon, within forty-five days of tabling of this Report. This is to address instances where Parliament is requested to drop consideration of a Bill to await conclusion of the policy process by the Executive, which then ends up taking inordinately long to be concluded.
8. The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to it in undertaking this important assignment. The Committee further wishes to thank stakeholders and members of the public who participated during the public hearing as well as those who submitted written memoranda on the Bill.
9. It is now my pleasant duty, pursuant to standing order 143(1), to present a Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021).

Signed.....

Date 29th March 2022

**SEN. ERICK OKONG'O MOGENI, SC, MP,
CHAIRPERSON,
STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN
RIGHTS**

PREFACE

The Standing Committee on Justice, Legal Affairs and Human Rights is established pursuant to the Senate Standing Order 212 and 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.'



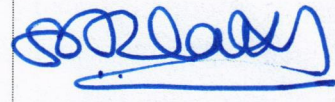

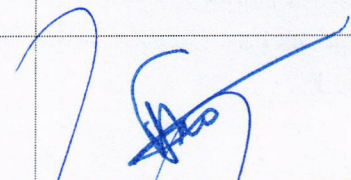
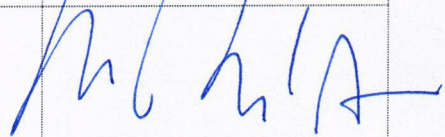

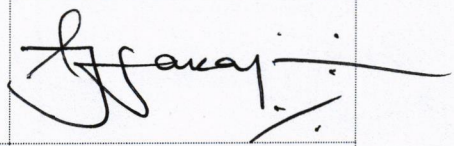

The Committee is comprised of –

- 1) Sen. Erick Okong'o Mogeni, SC, MP - Chairperson
- 2) Sen. (Canon) Naomi Jillo Waqo, MP - Vice Chairperson
- 3) Sen. Amos Wako, EGH, EBS, SC, FCI Arb, MP
- 4) Sen. James Orengo, EGH, SC, MP
- 5) Sen. Fatuma Dullo, CBS, MP
- 6) Sen. Mutula Kilonzo Junior, CBS, MP
- 7) Sen. (Dr) Irungu Kang'ata, CBS, MP
- 8) Sen. Johnson Sakaja, CBS, MP
- 9) Sen. Isaac Ngugi Githua, MP

The Minutes of the Sittings of the Committee in considering the Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021) are attached to this Report collectively as *Annex 1*.

**ADOPTION OF THE ALTERNATIVE DISPUTE RESOLUTION BILL
(SENATE BILLS NO. 34 OF 2021)**

We, the undersigned Members of the Senate Standing Committee on Justice, Legal Affairs and Human Rights, do hereby append our signatures to adopt this Report –

Sen. Erick Okong'o Mogeni, SC, MP	-Chairperson	
Sen. (Canon) Naomi Jillo Waqo, MP	-Vice-Chairperson	
Sen. Amos Wako, EGH, EBS, SC, FCI Arb, MP	-Member	
Sen. James Orengo, EGH, SC, MP	-Member	
Sen. Fatuma Dullo, CBS, MP	-Member	
Sen. Mutula Kilonzo Junior, CBS, MP	-Member	
Sen. Irungu Kang'ata, CBS, MP	-Member	
Sen. Johnson Sakaja, CBS, MP	-Member	
Sen. Isaac Ngugi Githua, MP	-Member	

CHAPTER ONE: INTRODUCTION

A. Background on the Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021)

1. The Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021) is sponsored by Sen. (Arch) Sylvia Mueni Kasanga, MP. A copy of the Bill is attached to this Report as *Annex 2*.
2. The Bill was published on 12th May, 2021 and was read a First Time in the Senate on 6th July, 2021. Following the First Reading in the Senate, it stood committed, pursuant to Standing Order 140 (1), to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration.
3. Before publication of the Bill on 12th May, 2021, the Bill had initially been introduced in the Senate and read a First Time on 19th September, 2019. However, before the passage by the Senate, the High Court in Petition No. 284 of 2019 held that the concurrence process under Article 110(3) of the Constitution is mandatory and is a condition precedent before any House of Parliament can consider a Bill. The court further ordered the immediate cessation of consideration of all Bills that were pending before either House, and for which joint concurrence by the Speakers of both Houses could not be demonstrated, in order to allow such Bills to be subjected to the mandatory joint concurrence process contemplated under Article 110(3) of the Constitution.
4. As part of implementing the Court decision, it was determined that concurrence as required under the Constitution could not be demonstrated in respect of this Bill. The Bill was withdrawn and republished in compliance with the Court orders in Petition No. 284 of 2019.

B. Justification for the Bill

5. There is currently no comprehensive legislation in Kenya governing the resolution of disputes by mediation, conciliation, and traditional dispute resolution. The law is scattered in several pieces of legislation, such as Part VI of the Civil Procedure Act and the Intergovernmental Relations Act. This is despite the fact that resolution of disputes forms part and parcel of everyday life in a society and the court process in the country is, in most cases, time consuming and expensive for many parties.

6. The goal of having robust alternative dispute resolution mechanisms is to guarantee peace, enable trade and investment, and contribute to the economic, social, and political development of the country. This will also ensure that all persons access justice, obtain remedy for grievances in line with human rights standards. The Bill therefore seeks to implement articles 48 and 159(2)(c) of the Constitution of Kenya, 2010 with respect to enhancing access to justice and promoting the use of alternative dispute resolution mechanisms in resolving disputes.

C. Objective of the Bill

7. The Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021) seeks to put in place a legal framework for the settlement of certain civil disputes by conciliation, mediation and traditional dispute resolution and provide for the guiding principles applicable.

D. Overview of the Bill

8. To achieve the above objective, the Bill proposes the following—

(i) Application of the Bill

9. Part I provides for the interpretation, the object, application, and guiding principles of alternative dispute resolution. It sets out the disputes that can be resolved through mediation, conciliation, or traditional dispute resolution.
10. It also sets out the disputes that will be exempted from the application of the Act. These include disputes concerning interpretation of the constitution, claims for violation, infringement or denial of a fundamental right, disputes governed by the Arbitration Act, election disputes, and disputes involving public interest.

(ii) Accreditation and registration of mediators and conciliators

11. Part II of the Bill provides for accreditation and registration of mediators and conciliators by setting out the qualifications for registration of a person as a mediator and conciliator; consideration of application for registration and revocation of registration; and setting out a code of conduct to govern mediators, conciliators, and traditional dispute resolvers.

(iii) Process of mediation and conciliation

12. Part III of the Bill provides for mediation and conciliation by setting out circumstances under which a dispute pending in court may be referred to conciliation or mediation; voluntary submission of disputes for conciliation or mediation by parties.
13. It further provides for the commencement of mediation or conciliation; the role of the parties in the alternative dispute resolution process; appointment and obligations of mediator or conciliator; confidentiality of the mediation or conciliation process; and conclusion of the process.

(iv) Traditional dispute resolution

14. Part IV provides for traditional dispute resolution by providing for registration of traditional dispute resolvers; how a dispute resolution process starts and how it comes to an end.

(v) Recognition of settlement agreements

15. Part V contains provisions on the recognition of settlement agreements by courts; instances when the court may reject a settlement agreement; stay of proceedings and the need for advocates to advise parties to a dispute to consider subjecting it to alternative dispute resolution in the first instance.

(vi) Miscellaneous provisions

16. Part VI contains miscellaneous provisions including the suspension of limitation period for alternative dispute resolution process; payment of expenses to the mediator or conciliator or traditional dispute resolver or expert or any other relevant party; and the making of rules for the better carrying into effect the provisions of the Act.

(vii) Consequential Amendments

17. Part VII contains consequential amendments to various Acts of Parliament that will arise as a result of the enactment of the Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021). The Acts to be amended to align them with the Bill are the Nairobi Centre for International Arbitration Act and the Civil Procedure Act.

E. Consequences of the Bill

18. This Bill creates a mechanism for the resolution of disputes through means alternative to courts of law. This will result in increased access to justice, the reduction of backlog of cases in courts and contribute to less costly and party-centered resolution of disputes thereby implementing Articles 48 and 159(2)(c) and (3) of the Constitution as regards access to justice.

CHAPTER TWO: PUBLIC PARTICIPATION

A. Invitation and consideration of stakeholder submissions on the Bill

19. The Standing Committee on Justice, Legal Affairs and Human Rights, pursuant to Article 118 of the Constitution and Senate Standing Order 140, invited submissions from members of the public on the Bill via an advertisement placed in the *Daily Nation* and *Standard* newspapers on Friday, 9th July, 2021 (*Annex 3*). The advertisement was also posted on the Parliament website and social media platforms.
20. In response to the advertisement, the Committee received written and oral submissions from twenty-six stakeholders. These were –
 - 1) Kenya National Commission on Human Rights
 - 2) Commission on Administrative Justice
 - 3) National Steering Committee for the Implementation of the Alternative Justice Systems Policy
 - 4) Mediation Accreditation Committee (Judiciary)
 - 5) Chartered Institute of Arbitrators, Kenya Branch
 - 6) Council of Governors
 - 7) Nairobi Centre for International Arbitration
 - 8) Law Society of Kenya
 - 9) Federation of Women Lawyers (FIDA-Kenya)
 - 10) Law Society of Kenya, Nairobi Branch
 - 11) Mombasa Law Society
 - 12) Institute of Chartered Mediators and Conciliators
 - 13) Mediation Training Institute East Africa
 - 14) The Young Bar Association
 - 15) Women in Alternative Dispute Resolution
 - 16) Dispute and Conflict Resolution International
 - 17) Association of Professional Societies in East Africa
 - 18) Legal Resources Foundation
 - 19) Kenya Christian Professionals Forum
 - 20) Kenya National Chamber of Commerce and Industry
 - 21) Kenya National Council of Elders
 - 22) Victoria N. Simiyu Okata, Advocate
 - 23) Tabitha Joy Raore, Advocate
 - 24) John Mwendwa, Advocate
 - 25) Wilberforce Odhiambo Akello, Advocate
 - 26) Anna Konuche, Advocate

Copies of the written submissions are attached to this Report collectively marked as *Annex 4*.

21. Additionally, on 20th September, 2021, the Committee held a hybrid public hearing meeting at Tribe Hotel, Kiambu County, where a total of twenty-three stakeholders and members of the public presented their submissions.
22. The Committee proceeded to consider the Bill and the submissions received thereon, as set out in the matrix attached to this Report as *Annex 5*.

B. Summary of Stakeholder submissions proposing withdrawal of the Bill

23. Notable among the submissions received by the Committee were those of key stakeholders who urged that the Bill be not proceeded with, primarily to allow for the formulation and adoption of a policy framework for alternative dispute resolution, which would then inform drafting of a Bill on ADR. Highlights of the said submissions are set out below –

a) Nairobi Centre for International Arbitration (NCIA)

24. The NCIA informed the Committee that the Attorney-General appointed a National Steering Committee for the formulation of the National ADR Policy to, among others, oversee the process for formulation of a national policy on alternative dispute resolution, and propose appropriate reforms to the legal and institutional framework for alternative dispute resolution. The Steering Committee developed a policy framework and made legislation legislative proposals, and the same are awaiting consideration by Office of the Attorney General. NCIA observed that there is need for conclusion of the process for formulation of a proposed National Alternative Dispute Resolution Policy to precede legislation on ADR.
25. On referral of cases by courts to alternative dispute resolution, NCIA submitted that there is existing legislation within the Civil Procedure Act and Rules on reference of matters to Mediation and proposed that it is preferable that changes be made to the Civil Procedure Act if the provisions therein are inadequate.
26. There is diversity of culture in mediation. For example, in some, the parties prepare the agreement, while in others, a mediator does point out possible options for the settlement. In some jurisdictions that distinction may be what separates mediation from conciliation. This unique diversity should not be collapsed into the one method

as proposed in Part III. NCIA proposed that all options for concluding a mediation settlement agreement should be provided.

b) Commission on Administrative Justice

27. The Commission observed that it would be important to consider a holistic approach involving both Houses of Parliament and all stakeholders on all legislative proposals aimed at ensuring effective operationalization of Article 159(2)(c) of the Constitution for the following reasons –

- i) there is a Mediation Bill, 2020 introduced in the National Assembly; and
- ii) there is in existence a National ADR Policy which was developed by the NCIA. Hence best practices on law making dictates that policy should ideally precede legislation.

c) The Registrar, Mediation Accreditation Committee – Judiciary

28. Proposed that the entire Part IV which provide traditional dispute resolution be deleted and that the application of the proposed Bill to Traditional Dispute Resolution Mechanisms be removed from the Bill altogether

d) The National Steering Committee for the Implementation of the Alternative Justice Systems Policy (NASCI-AJS Committee)

29. NASCI-AJS Committee was appointed by the Hon. Chief Justice on 9th December, 2020 to implement the Alternative Justice System (AJS) Policy which seeks to mainstream into the formal justice system traditional, informal justice systems and other informal mechanisms used to ensure access to justice in Kenya. The committee singled out one main concerns about the current Bill which is that it takes the form of regulation rather than facilitation of the different forms of ADR including AJS.

30. In this regard, three aspects of the ADR Bill were highlighted –

- i) Clauses 31 and 32 of the ADR Bill are potentially unconstitutional and strategically unwise for at least four reasons, namely –
 - a) places on advocates and disputants the obligation to promote ADR in Article 159 of the Constitution, which responsibility the Constitution places on the Judiciary;
 - b) require parties to utilize ADR and only resort to the court system where those attempts fail. This violates the principle of voluntariness which is inherent in Article 159(2)(c) of the Constitution;

- c) create the perception that ADR (including AJS) will be unable to resolve the majority of the cases presented to the Courts by anticipating that if all disputes are presented for ADR or AJS, there will still be a big percentage of cases which will end up in Court. Additionally, they do not distinguish cases which are not amenable for ADR or AJS resolution which, by law, must be determined in Court or before certain tribunals;
 - d) impose criminal sanctions on lawyers for doing that which they are trained and licensed to do, represent their clients in Court. Rather than pursue this route, the ADR Bill should provide incentives for parties and their lawyers to choose ADR or AJS; and
 - c) do not take into account practical realities lawyers face before commencing suits on behalf of their clients – including the statute of limitations; the need for immediate Court protection or reliefs; the futility of pursuing ADR or AJS for the specific dispute, etc.
- ii) The requirement that a “Traditional Dispute Resolver” shall be acquainted with “customary law” is unwise and untenable since most AJS do not solely use “customary law” in resolving dispute. They often utilize a dialectical ken of normative principles drawn from anthropological, community, “modern”, constitutional and other borrowed normative orders. Additionally, to require the Center to prepare and maintain a list of traditional dispute resolvers as provided under clause 27(2) might be viewed as impermissible regulation since there are literally hundreds of thousands of AJS fora and mechanisms where disputes are resolved every day.
- iii) In attempting to capture all forms of ADR in a single Bill, the ADR Bill misses the complexity of AJS which is excellently captured in the AJS Policy. In particular, like its previous version, the Bill begins with an assumption that there is a closed category of ADR mechanisms which it seeks to capture and bring within the gaze of the law. The object of the Bill should be the opposite: to acknowledge, as the Constitution does, that there are many mechanisms of accessing justice outside Court and find ways to facilitate and promote them in a way which aggrandizes the values of the Constitution without undermining human rights.

31. Consequently, the NaSCI-AJS recommended that the Bill be withdrawn at this time and that it be subjected to more robust and wider engagement with stakeholders. In the alternative, NaSCI-AJS recommended that all references to AJS and TDRM in the Bill be removed.

e) The Council of Governors

32. The Council of Governors submitted that the Judiciary in collaboration with the Nairobi Centre for International Arbitration finalized the Alternative Dispute Resolution Policy and presented the same to the Attorney-General. It was recommended that the Senate awaits the outcome of the Policy to align the Bill to the Policy.

f) The Chartered Institute of Arbitrators (CIArb) – Kenya Branch

33. The Chartered Institute of Arbitrators (CIArb) observed that --
- i) There is need for some form of regulations, but care must be taken not to turn the process into a technical and rigid process;
 - ii) There is need to consider the practicability to regulate traditional dispute resolution process and process to certify dispute resolver under customary law;
 - iii) The Bill has not addressed adjudication as a mechanism of dispute resolution; and
 - iv) Under the Nairobi Centre for International Arbitration Act, NCIA trains and provide accreditation. Other institutions provide training but now NCIA will be responsible for accreditation. This may raise issues of discrimination in favour of NCIA trainees.

g) Mombasa Law Society

34. Observed that the Bill is not in conformity with the provisions of Article 159 of the Constitution. The Constitution is clear that judicial authority is vested in the Judiciary by the sovereign people of our country. While alternative dispute resolution is encouraged in Article 159(2) (c), this Bill now comes in to make the judicial process its alternative and pushes it to the periphery. As such, it undermines the right to access the judiciary which is the fundamental method of dispute resolution as per the constitution and further erodes the independence of the judiciary which must be upheld.
35. Further, the Mombasa Law Society noted that the Bill as drafted has not taken into consideration the provisions of Article 27, 28, 32 and 48 of the Constitution which safeguard equality and freedom from discrimination, human dignity, freedom of conscience, religion, belief and opinion, and access to justice.

36. On traditional dispute resolvers, it was noted that the same needs further clarity especially in light of our diverse social backgrounds.

h) The Legal Resource Foundation Trust (LRF)

37. The Bill in its design is an affront to the constitution for the following reasons;

- i) The Bill undermines the Judiciary in a way that endangers the principle of separation of powers by shifting the role of the judiciary as envisaged under Article 159 of the Constitution of Kenya on promoting ADR to legal practitioners, advocates.
- ii) It creates an institution to oversee application of ADR in dispute resolution outside of the framework contemplated under Chapter 10 of the Constitution.

38. The Bill, by seeking to regulate through registration traditional dispute resolvers offends succinct recommendations in the AJS Policy which was launched on 27th August 2020 by the Chief Justice and for which a National Steering Committee on Implementation of Alternative Justice Systems (AJS) Policy has already been put in place.

i) The Institute of Chartered Mediators and Conciliators (ICMC)

39. ICMC made general comments observing that the Bill appears to have been drafted without consultation and participation of relevant stakeholders and professionals in the field. There is therefore need for inclusive participation of relevant stakeholders to broaden the scope for proper administration of the alternative dispute resolution practice.

40. Additionally, it was submitted that the Nairobi Centre for International Arbitration (NCIA) primarily deals with arbitration and it is not properly constituted hence lacking crucial expertise in all alternative dispute resolution practices. As such, NCIA cannot oversee the practice and set standards in line with international best practices as provided in the Bill.

j) The Law Society of Kenya – Nairobi Branch

41. The LSK – Nairobi Branch made general comments suggesting that –

- i) If the Bill was to be an all-inclusive ADR Bill, it should focus on giving general policies and governance direction so as to create consistency and allow specific and dedicated bills such as AJS Bill and Mediation and Conciliation Bill to be enacted thereafter either in the rules or in Acts specific to each type

of dispute resolution. This is because, the different ADR methods require a lot of specificity and one framework may be unable to cover them all. In the alternative, the current Bill be transformed to a Mediation and Conciliation Bill as opposed to its current reference which is a term with an extremely wide scope.

- ii) Being the first ADR Bill, the Bill should acknowledge the forms of ADR and give definitions and general guidelines, but not go into the nitty-gritties such as accreditation and registration. This will be best covered in Rules.
- iii) Part IV on Traditional Dispute Resolution be discarded, given the competence of traditional dispute resolvers cannot be ascertained as customary rules are not coded. It is close to impossible to legislate on TDR. Further, there is no provision for registration of the traditional dispute resolvers and their regulation.
- iv) The Bill refers to conciliation whereas Article 159 talks of reconciliation. Within the ambit of ADR conciliation and reconciliation are two different processes. The Bill ought to specify which process is being referred to.
- v) Provisions in the ADR Bill and the Mediation Bill should be harmonised to avoid duplication and conflict.
- vi) That the Bill does not take note of the difference between court annexed mediation and self-referred mediation all through different provisions. This is a recipe for confusion.

k) Mr. Wilberforce Odhiambo Okello

42. The Bill ought to be relooked as it violates the constitution, the independence of court system, the role of courts and judicial system and the contractual freedom of parties in the following ways –

- i) it violates and contradicts various statutes including the provisions of Civil Procedure Act, Civil Procedure Rules, Advocates Act, Land Act 2012, Land Registration Act 2012, Arbitration Act 1995, Public Procurement laws, Labour Relations Act, the Small Claims Act, Fair Administration Act etc All these must be amended to give effect to the impugned Bill.
- ii) the Bill is a claw back to the constitutional rights as it seeks to make mediation mandatory as opposed to voluntary nature of alternative dispute resolution mechanism, ousts Kenya from the adversarial legal system, and seeks to prevent claimants from filing claims against Government.
- iii) the Bill offends the structural architecture of the courts, and it seeks to slow and reduce the efficacy and efficiency in resolution of commercial disputes by adding another layer or restriction before approaching court which will elongate the dispute resolution processes.

- iv) Part IV which provides for Traditional Dispute Resolution purports to regulate Traditional Justice Systems without taking into consideration the diverse cultures containing their unique traditional dispute resolution mechanisms. To formalize the traditional dispute resolution mechanisms and register the Dispute Resolvers is basically an affront and violation of the fundamental rights to culture as opined under Article 44 of the Constitution.
- v) Part V is unconstitutional as clauses 31,32 ,33 ,34,35 and 36 of the Bill abrogates fundamental rights and Bill of Rights and particularly Article 22 of the Constitution as they seek to restrict access to justice, they inhibit legal representation is contravention of Article 49 of the Constitution, they destroy the principle of advocate client confidentiality and violates article 50 of the Constitution, violates the advocate client confidentiality, and also the Part abrogates and violates the independence of judiciary and purport to place alternative dispute resolution above judicial system and processes.

l) Ms Anna Konuche, Advocate

43. Opposes the Bill on the following grounds –

- i) It is unconstitutional to force all disputants to adopt a specific way of dispute settlement;
- ii) It is unconstitutional to force advocates to advise their clients in a certain manner;
- iii) Not all disputes can be solved through ADR;
- iv) The creation of the so-called conciliators is a concept that has not been well thought out;
- v) The requirement of resorting to customary law does not make sense where we do not have a codified law known as customary law; and
- vi) This law by design will render lawyers jobless and irrelevant.

m) The Young Bar Association

44. The Young Bar Association (TYBA) observed that the ADR Bill seeks to supplant, instead of supplementing the law and the work of lawyers by providing that a party to a dispute shall take reasonable measures to resolve the dispute through alternative dispute resolution before resorting to a judicial process. They were of the view that submission to Alternative Dispute Resolution should be voluntary and that it should be the court's discretion to determine whether to refer a case to mediation, conciliation, or arbitration, and it should do so on a case-to-case basis, without legislators fettering that discretion with hard and fast rules like the ones the ADR Bill proposes.

45. As a result, the following recommendations were made so as to bring the Bill in line with the law and the best interests of all stakeholders –
- i) Make submission to ADR mechanisms voluntary instead of making it mandatory;
 - ii) Allow lawyers the discretion to devise the best strategies for the resolution of client's problems without strong-arming them to direct clients to ADR;
 - iii) Provide for legal training to be the primary qualification for conciliators and mediators in addition to any other competencies that the Nairobi International Centre for Dispute Resolution may deem fit; and
 - iv) Redirect the resources committed to mounting a court-independent ADR system to developing a court-connected ADR system.

CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

A. The Committee made the following observations—

46. Article 48 of the Constitution obligates the State ensure every Kenyan access justice and that costs, if required, shall be reasonable and shall not impede access to justice. Additionally, Article 159(2)(c) and (3) obligates the courts and tribunals to promote alternative forms of dispute resolution. Article 159(2)(c) and (3) of the Constitution states as follows –

(2) In exercising judicial authority, the courts and tribunals shall be guided by the following principles—

(a) ...

(c) alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted, subject to clause (3);

(3) Traditional dispute resolution mechanisms shall not be used in a way that—

(a) contravenes the Bill of Rights;

(b) is repugnant to justice and morality or results in outcomes that are repugnant to justice or morality; or

(c) is inconsistent with this Constitution or any written law.

47. In addition to the Constitutional provisions, arbitration is comprehensively provided under the Arbitration Act No 4 of 1995. The other forms of alternative dispute resolution have not been comprehensively provided though they are provided for in bits and pieces under various legislations. These legislations include Part VI of the Civil Procedure Act Cap. 21 of the laws of Kenya which provide for court mandated mediation and the Intergovernmental Relations Act No 2 of 2012 which provide for resolution of intergovernmental disputes by use of alternative dispute resolution processes.

48. The administration of justice in the country faces various challenges including physical access, prohibitive cost and cases take long before they are determined. Further, there exist various processes outside of court involved in the resolution of disputes. Such processes include by use of chiefs, faith-based personnel, community led as well as trained professional such as mediators.

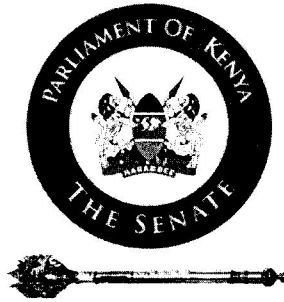
49. Whereas arbitration and court mandated mediation are anchored in law, all other alternative dispute resolution processes by, for example, chiefs, faith-based personnel, community led as well as trained professional such as mediators are not regulated by law. Therefore, the Alternative Dispute Resolution Bill, 2021 seek to fill a gap in our law with a view to not only ensure access to justice for all but justice is done.
50. Among the views received from stakeholders were submission from more than eight stakeholders who appealed to the Committee for withdrawal of the Bill primarily to allow for the formulation and adoption of a policy framework for alternative dispute resolution, which would then inform drafting of a Bill on ADR. These views are discussed in the preceding Chapter of this Report.
51. The Committee further observed in the year 2020, the Mediation Bill was introduced in the National Assembly. However, in February 2022, the Mediation Bill was withdrawn in order to allow further consultations and incorporation of additional input from the National Steering Committee on ADR Policy.
52. Standing order 154(1) of the Senate Standing Orders provides that ‘Either before the commencement of business or on the Order of the Day for any stage of the Bill being read, the Senator in charge of a Bill may, without notice, claim to withdraw the Bill.’

B. The Committee Recommendations

53. Arising from the above observations, and following consultations with the sponsor of the Bill, the Standing Committee on Justice, Legal Affairs and Human Rights recommends that –
 - a) the Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021) be **not** proceeded with, and that the sponsor **withdraws** the Bill, pursuant to standing order 154 of the Senate Standing Orders; and
 - b) the Attorney-General to submit to Parliament, within forty-five (45) days of tabling of this Report, the National Alternative Dispute Resolution Policy.

ANNEXES

- Annex 1:** Minutes of the Committee in considering the Bill.
- Annex 2:** Copy of the Alternative Dispute Resolution Bill, 2021
- Annex 3:** Advertisement for submission of memoranda placed in the *Nation* and *Standard* newspapers on Friday, 9th July, 2021.
- Annex 4:** Copies of stakeholder submissions on the Bill.
- Annex 5:** Matrix on consideration of public submissions on the Bill.



TWELFTH PARLIAMENT | SIXTH SESSION

MINUTES OF THE THIRTY FOURTH SITTING OF THE SENATE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON THE ZOOM ONLINE MEETING PLATFORM, ON TUESDAY, 22ND MARCH, 2022, AT 10:30 AM.

PRESENT

- | | |
|--|-----------------------------------|
| 1. Sen. Erick Okong'o Mogeni, SC, MP | - Chairperson (Chairing) |
| 2. Sen. (Canon) Naomi Jillo Waqo, MP | - Vice Chairperson |
| 3. Sen. Fatuma Dullo, CBS, MP | - Member |
| 4. Sen. Mutula Kilonzo Junior, CBS, MP | - Member |
| 5. Sen. (Dr.) Irungu Kang'ata, CBS, MP | - Member |
| 6. Sen. Isaac Ngugi Githua, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--|----------|
| 1. Sen. Amos Wako, EGH, EBS, SC, FCI Arb, MP | - Member |
| 2. Sen. James Orengo, EGH, SC, MP | - Member |
| 3. Sen. Johnson Sakaja, CBS, MP | - Member |

SECRETARIAT

- | | |
|-------------------------|---|
| 1. Mr. Charles Munyua | - Clerk Assistant |
| 2. Mr. Moses Kenyanchui | - Legal Counsel |
| 3. Mr. Mitchell Otoro | - Legal Counsel |
| 4. Mr. Said Osman | - Research Officer |
| 5. Mr. Kennedy Owuoth | - Fiscal Analyst |
| 6. Ms. Purity Orutwa | - Clerk Assistant (<i>Taking minutes</i>) |
| 7. Mr. James Kimiti | - Hansard/ Audio Officer |
| 8. Ms. Hawa Abdi | - Serjeant at Arms |
| 9. Ms. Sandra Alusa | - Intern |
| 10. Mr. Titus Michubu | - Pupil |

MIN. NO. 180/2022

PRAYER

The sitting commenced with a word of prayer by the Vice Chairperson.

MIN. NO. 181/2022 **ADOPTION OF THE AGENDA**

The Committee adopted the agenda of the Sitting, having been proposed by Sen. Mutula Kilonzo Junior, CBS, MP and seconded by Sen. (Dr.) Irungu Kang'ata, CBS, MP.

MIN. NO. 182/2022 **THE POLITICAL PARTY PRIMARIES BILL (SENATE BILLS NO. 35 OF 2020)**

The Committee considered and adopted the Report on the Political Party Primaries Bill (Senate Bills No. 35 of 2020), having been proposed by Sen. Mutula Kilonzo Junior, CBS, MP and seconded by Sen. Isaac Ngugi Githua, MP.

MIN. NO. 183/2022 **THE ALTERNATIVE DISPUTE RESOLUTION BILL (SENATE BILLS NO.34 OF 2021)**

The Committee considered and adopted the Report on the Alternative Dispute Resolution Bill (Senate Bills No.34 of 2021), having been proposed by Sen. (Dr.) Irungu Kang'ata, CBS, MP and seconded by Sen. (Canon) Naomi Jillo Waqo, MP.

MIN. NO. 184/2022 **THE ELECTION (AMENDMENT) (NO.2) BILL (SENATE BILLS NO. 43 OF 2021)**

The Committee considered and adopted the Report on the Election (Amendment) (No.2) Bill (Senate Bills No. 43 of 2021) having been proposed by Sen. (Canon) Naomi Jillo Waqo, MP and seconded by Sen. Mutula Kilonzo Junior, CBS, MP.

MIN. NO. 185/2022 **THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO. 46 OF 2021)**

The Committee considered and adopted the Report on the Constitution of Kenya (Amendment) Bill (Senate Bills No. 46 of 2021), having been proposed by Sen. Mutula Kilonzo Junior, CBS, MP and seconded by Sen. Isaac Ngugi Githua, MP.

MIN. NO. 186/2022 **PETITION ON AMENDMENT TO THE CONSTITUTION OF KENYA AND OTHER RELEVANT LAWS ON THE ELECTION OF A DEPUTY PRESIDENT AND A DEPUTY GOVERNOR**

The Committee considered and adopted the Report on a Petition by Taratisio Ireri Kawe, regarding proposed amendments to the Constitution and various statutes on the election of a Deputy President and Deputy Governor, whenever such a position became vacant. The Report was proposed by Sen. (Dr.) Irungu Kang'ata, CBS, MP and seconded by Sen. Mutula Kilonzo Junior, CBS, MP.

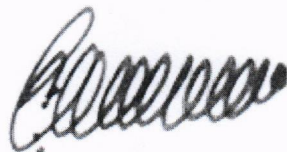
MIN. NO. 187/2022 ANY OTHER BUSINESS

Members were informed that the following meetings were scheduled for Wednesday and Thursday that week, and that the respective stakeholders had confirmed attendance. Consequently, Members were urged to avail themselves for the meetings –

No.	Date	Time	Meeting
a)	Wednesday, 23 rd March, 2022	8.00 am	Meeting with the Attorney General and the Law Society of Kenya to consider a Statement sought by Sen. Samson Cherarkey, MP on unqualified persons practicing as Advocates in various private companies.
b)	Thursday, 24 th March, 2022	8.00 am	Meeting with the Chairperson of the Independent Electoral and Boundaries Commission to discuss the status of preparedness for the 2022 General Elections.

MIN. NO. 188/2022 ADJOURNMENT

The meeting was adjourned at 11:14am. The next meeting was scheduled for Wednesday, 23rd March at 8:00 am.

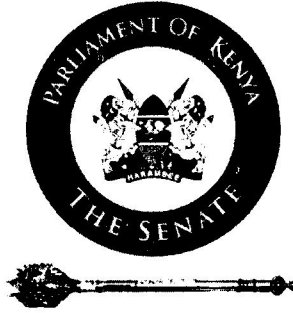


SIGNED:
(CHAIRPERSON)

DATE: 30/03/2022

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TWELFTH PARLIAMENT | FIFTH SESSION

MINUTES OF THE NINETY-SIXTH SITTING OF THE SENATE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD AT WHITESANDS BEACH RESORT, IN MOMBASA COUNTY, ON FRIDAY, 26TH NOVEMBER, 2021 AT 10.00 A.M.

PRESENT

- | | |
|--|-----------------------------------|
| 1. Sen. Erick Okong'o Mogeni, SC, MP | - Chairperson (Chairing) |
| 2. Sen. Amos Wako, EGH, EBS, SC, FCI Arb, MP | - Member |
| 3. Sen. Fatuma Dullo, CBS, MP | - Member (V) |
| 4. Sen. (Dr.) Irungu Kang'ata, CBS, MP | - Member |
| 5. Sen. Isaac Ngugi Githua, MP | - Member (V) |

ABSENT WITH APOLOGY

- | | |
|--|--------------------|
| 1. Sen. (Canon) Naomi Jillo Waqo, MP | - Vice Chairperson |
| 2. Sen. James Orengo, EGH, SC, MP | - Member |
| 3. Sen. Mutula Kilonzo Junior, CBS, MP | - Member |
| 4. Sen. Johnson Sakaja, CBS, MP | - Member |

SECRETARIAT

- | | |
|-------------------------|---|
| 1. Dr. Johnson Okello | - Director, Legal Services |
| 2. Ms. Mercy Thanji | - Legal Counsel |
| 3. Mr. Charles Munyua | - Clerk Assistant |
| 4. Mr. Said Osman | - Research Officer |
| 5. Mr. Moses Kenyanchui | - Legal Counsel |
| 6. Ms. Lucianne Limo | - Media Relations Officer |
| 7. Mr. Javan Nang'eyo | - Sergeant at Arms |
| 8. Ms. Purity Orutwa | - Clerk Assistant (<i>Taking Minutes</i>) |
| 9. Ms. Hawa Abdi | - Sergeant at Arms |
| 10. Mr. James Kimiti | - Hansard Officer |

MIN. NO. 462/2021

PRAYER

The sitting commenced with a word of prayer by Sen. Fatuma Dullo, CBS, MP.

MIN. NO. 463/2021

ADOPTION OF THE AGENDA

The Committee adopted the agenda of the Sitting, having been proposed by Sen. (Dr.) Irungu Kang'ata, CBS, MP and seconded by Sen. Isaac Ngugi Githua, MP.

MIN. NO. 464/2021

JUDGMENT BY THE COURT OF APPEAL IN CIVIL APPEAL NO. E084 OF 2021 - SPEAKER OF THE NATIONAL ASSEMBLY OF THE REPUBLIC OF KENYA & ANOTHER Vs SENATE OF THE REPUBLIC OF KENYA & 12 OTHERS

The Committee was taken through a brief on the Judgment delivered by the Court of Appeal on 19th November, 2021 in Civil Appeal No. E084 of 2021 - *Speaker of the National Assembly of the Republic of Kenya & Another Vs Senate of the Republic of Kenya & 12 Others*.

It was noted that the Judgment had greatly eroded the gains made in the Judgment delivered by the High Court on 29th October 2020 in HC Petition No. 284 of 2019. Consequently, it was resolved that an appeal be preferred to the Supreme Court on the aspects of the Court of Appeal Judgment that the Senate was dissatisfied with.

In this regard, the Committee directed the legal team to file the Notice of Appeal within the required timelines. The Committee would convene at a later date to consider the draft Petition and Record of Appeal to be filed at the Supreme Court.

MIN. NO. 465/2021

THE ALTERNATIVE DISPUTE RESOLUTION BILL (SENATE BILLS NO. 34 OF 2021)

The Committee noted that, due to the extensive public and stakeholder submissions received on the Bill, it was important that the matrix be considered at a physical sitting during which at least five Members were present, to enable decisions to be made on the respective clauses of the Bill.

Consequently, further consideration of the Bill was deferred.

MIN. NO. 466/2021

THE LIFESTYLE AUDIT BILL, (SENATE BILL NO. 36 OF 2021)

The Committee noted that, due to the extensive public and stakeholder submissions received on the Bill, it was important that the matrix be considered at a physical sitting during which at least five Members were present, to enable decisions to be made on the respective clauses of the Bill.

Consequently, further consideration of the Bill was deferred.

MIN. NO. 467/2021

- I) THE ELECTION (AMENDMENT) BILL (SENATE BILLS NO. 42 OF 2021);**
- II) THE ELECTION (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 43 OF 2021); AND**
- III) THE ELECTION (AMENDMENT) (NO 3) BILL (SENATE BILLS NO. 48 OF 2021).**

The Committee noted that a public hearing on the three Bills was scheduled to be held in Nairobi on 3rd December, 2021. The Committee further resolved to explore the possibility of undertaking public hearings on the Bills, at selected regions outside Nairobi, in January, 2022.

MIN. NO. 468/2021


THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO. 46 OF 2021).

The Committee resolved to explore the possibility of undertaking public hearings on the Bills, in Kitui County and other selected regions, in January, 2022.

MIN. NO. 469/2021

ADJOURNMENT

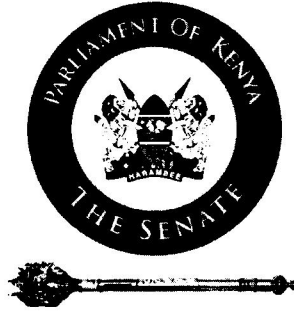
There being no other business, the meeting was adjourned at 12.45 pm. The next sitting will be held on Friday, 26th November, 2021 at 2.00 pm, in Mombasa County.



SIGNED:

(CHAIRPERSON)

DATE: 30/03/2022



TWELFTH PARLIAMENT | FIFTH SESSION

MINUTES OF THE SEVENTY-THIRD SITTING OF THE SENATE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD AT TRADEMARK HOTEL, KIAMBU COUNTY, ON MONDAY, 20TH SEPTEMBER, 2021 AT 12.10 P.M.

PRESENT

1. Sen. Erick Okong'o Mogeni, SC, MP - Chairperson (V)
2. Sen. (Canon) Naomi Jillo Waqo, MP - Vice Chairperson (**Chairing**)
3. Sen. Fatuma Dullo, CBS, MP - Member
4. Sen. Mutula Kilonzo Junior, CBS, MP - Member

ABSENT WITH APOLOGY

1. Sen. Amos Wako, EGH, EBS, SC, FCI Arb, MP - Member
2. Sen. James Orengo, EGH, SC, MP - Member
3. Sen. Irungu Kang'ata, CBS, MP - Member
4. Sen. Johnson Sakaja, CBS, MP - Member

IN ATTENDANCE

a) Sponsor of the Bill

1. Sen. (Arch) Sylvia Kasanga, MP

b) Mediation Accreditation Committee (Judiciary)

1. Hon Caroline Kendagor - Deputy Registrar
2. Hon Moses Wanjala - Deputy Registrar

c) National Steering Committee for the Implementation of the Alternative Justice Systems Policy

1. Dr. Stephen Ouma Akoth - Vice Chairperson
2. Prof. Winifred Kamau - Member

d) Nairobi Centre for International Arbitration

1. Mr. John Ohaga SC - Chairperson, National Steering Committee for Formulation of ADR Policy (V)
2. Mr. Lawrence Muiruri - Registrar/CEO
3. Ms. Lorna Kerubo - Senior Capacity Building Officer

e) Kenya Christian Professionals Forum

1. Vincent Kimutai Kimosop
2. John Dadu Hinzano

f) Institute of Chartered Mediators and Conciliators/Mediation Training Institute East Africa

1. Kevin Kokebe
2. Everlyne Owuor

g) Dispute and Conflict Resolution International

1. Justice (Rtd) Lee Muthoga

h) Association of Professional Societies in East Africa

1. Mr. Felix Owaga Okatch – Chairman
2. Mr Shafiq Taibjee
3. Mr Collins Kowuor

i) Legal Resources Foundation

1. Job Mwaura - Ag. Programs Coordinator and Monitoring and Evaluation Specialist
2. Timothy Mwichigi - Project Manager, PLEAD

j) Individuals

1. Ms. Victoria N. Simiyu Okata, Advocate
2. Dr. Esther Muiruri

SECRETARIAT

1. Mr. Charles Munyua - Clerk Assistant
2. Mr. Said Osman - Research Officer
3. Mr. Moses Kenyanchui - Legal Counsel
4. Ms. Sylvia Nasambu - Clerk Assistant
5. Mr. Javan Nang'eyo - Senior Serjeant at Arms
6. Ms. Lucianne Limo - Media Relations Officer
7. Ms. Purity Orutwa - Clerk Assistant (*Taking Minutes*)
8. Mr. James Ngusya - Serjeant at Arms
9. Mr. James Kimiti - Hansard Officer

MIN. NO. 356/2021

PRAYER

The sitting commenced with a word of prayer by the Vice Chairperson.

MIN. NO. 357/2021

ADOPTION OF THE AGENDA

The Committee adopted the agenda of the Sitting, having been proposed by Sen. Fatuma Dullo, CBS, MP and seconded by Sen. Mutula Kilonzo Junior, CBS, MP.

MIN. NO. 358/2021

**PUBLIC HEARING ON THE ALTERNATIVE DISPUTE
RESOLUTION BILL (SENATE BILL NO. 34 OF 2021) -
RESUMPTION**

The Vice Chairperson welcomed the stakeholders who had appeared before the Committee to present their submissions on the Alternative Dispute Resolution Bill (Senate Bill No. 34 of 2021).

Thereupon, the Committee proceeded to receive submissions from –

- a) Mediation Accreditation Committee (Judiciary);
- b) National Steering Committee for the Implementation of the Alternative Justice Systems Policy;
- c) Nairobi Centre for International Arbitration;
- d) Kenya Christian Professionals Forum;
- e) Institute of Chartered Mediators and Conciliators/Mediation Training Institute East Africa;
- f) Dispute and Conflict Resolution International;
- g) Association of Professional Societies in East Africa;
- h) Legal Resources Foundation; and
- i) Two Individuals

Copies of the written submissions by the said stakeholders are annexed to these Minutes.

MIN. NO. 359/2021

ADJOURNMENT

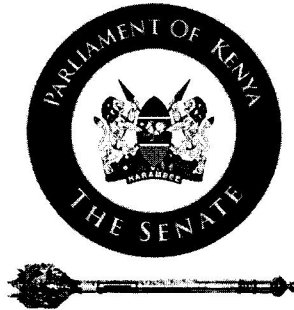
There being no other business, the meeting was adjourned at 2.50 pm. The next sitting will be held on Tuesday, 21st September, 2021 at 8.00 am.



SIGNED:

(CHAIRPERSON)

DATE: 30/03/2022



TWELFTH PARLIAMENT | FIFTH SESSION

MINUTES OF THE SEVENTY-SECOND SITTING OF THE SENATE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD AT TRADEMARK HOTEL, KIAMBU COUNTY, ON MONDAY, 20TH SEPTEMBER, 2021 AT 9.00 A.M.

PRESENT

1. Sen. Erick Okong'o Mogeni, SC, MP - Chairperson (V)
2. Sen. (Canon) Naomi Jillo Waqo, MP - Vice Chairperson (**Chairing**)
3. Sen. Fatuma Dullo, CBS, MP - Member
4. Sen. Mutula Kilonzo Junior, CBS, MP - Member

ABSENT WITH APOLOGY

1. Sen. Amos Wako, EGH, EBS, SC, FCI Arb, MP - Member
2. Sen. James Orengo, EGH, SC, MP - Member
3. Sen. Irungu Kang'ata, CBS, MP - Member
4. Sen. Johnson Sakaja, CBS, MP - Member

IN ATTENDANCE

a) Sponsor of the Bill

1. Sen. (Arch) Sylvia Kasanga, MP

b) Commission on Administrative Justice

1. Ms. Florence Mumbi - Director, Complaints, Legal and Investigations
2. Ms. Faith Sialai - Senior Legal Officer

c) Law Society of Kenya, Nairobi Branch

1. Ms. Helene Namisi - Vice Chairperson
2. Ms. Angela Munga-Mwadumbo - Convener, Mediation Bar Bench Group

d) The Young Bar Association

1. Mr. Manwa Hosea - Chairperson
2. Ms. Teresiah Wavinya - Member
3. Mr. Misare Willis - Member

e) Chartered Institute of Arbitrators, Kenya Branch

1. Ms. Jane S. Mwangi - Managing Partner, Robson Harris

f) Federation of Women Lawyers (FIDA-Kenya)

1. Ms. Sandra Oyombe - Member

g) Mombasa Law Society

1. Ms. Muthoni Kirutiri - Secretary General

SECRETARIAT

1. Mr. Charles Munyua - Clerk Assistant
2. Mr. Said Osman - Research Officer
3. Mr. Moses Kenyanchui - Legal Counsel
4. Ms. Sylvia Nasambu - Clerk Assistant
5. Mr. Javan Nang'eyo - Senior Serjeant at Arms
6. Ms. Lucianne Limo - Media Relations Officer
7. Ms. Purity Orutwa - Clerk Assistant (*Taking Minutes*)
8. Mr. James Ngusya - Serjeant at Arms
9. Mr. James Kimiti - Hansard Officer

MIN. NO. 352/2021 PRAYER

The sitting commenced with a word of prayer by Sen. Fatuma Dullo, CBS, MP.

MIN. NO. 353/2021 ADOPTION OF THE AGENDA

The Committee adopted the agenda of the Sitting, having been proposed by Sen. Mutula Kilonzo Junior, CBS, MP and seconded by Sen. Fatuma Dullo, CBS, MP.

MIN. NO. 354/2021 PUBLIC HEARING ON THE ALTERNATIVE DISPUTE RESOLUTION BILL (SENATE BILL NO. 34 OF 2021)

The Vice Chairperson welcomed the stakeholders who had appeared before the Committee to present their submissions on the Alternative Dispute Resolution Bill (Senate Bill No. 34 of 2021)

Thereupon, the Committee proceeded to receive submissions from –

- a) Sen. (Arch) Sylvia Kasanga, MP – the Sponsor of the Bill;
- b) Commission on Administrative Justice;
- c) Law Society of Kenya, Nairobi Branch;
- d) The Young Bar Association;
- e) Chartered Institute of Arbitrators, Kenya Branch;
- f) Federation of Women Lawyers (FIDA-Kenya); and
- g) Mombasa Law Society.

Copies of the written submissions by the said stakeholders are annexed to these Minutes.